



REPUBLIQUE DU SENEGAL
Un Peuple – Un But – Une Foi
Ministère de la Justice



**Cour
Pénale
Internationale**
**International
Criminal
Court**

L'Assemblée des États Parties
The Assembly of States Parties



Celebration of International Criminal Justice Day

International Criminal Justice against Sexual and Gender-Based Crimes

Dakar, 16 July 2016, at the Almadies Hotel

CONCEPT NOTE

1. BACKGROUND AND JUSTIFICATION

More than fifty years since the Second World War, and after many vicissitudes, the international community succeeded in creating a permanent court, enabling the punishment of tormentors, preventing collective amnesia and deterring potential criminals from committing war crimes, genocide and other crimes against humanity. On 17 July 1998, following an international conference in Rome attended by representatives of 148 countries, the Statute establishing the International Criminal Court (ICC) was adopted by 120 States.

The idea of prosecuting individuals for particularly heinous crimes by invoking higher principles of humanity dates back to the Middle Ages and the first laws of war. The creation of the ICC is the result of a long and tentative process that began at the start of the XXth century.

The Court's basic role is to punish the perpetrators of the most serious crimes against international humanitarian law whenever the State having jurisdiction over a criminal is unable or unwilling to do so; hence the concept of complementarity. This principle of international criminal law, which is enshrined in the opening lines of the Rome Statute, respects the sovereignty of States by creating an unprecedented relationship between domestic courts and tribunals and the Court; it strikes a balance between their respective jurisdictions and the primary responsibility of States to prosecute and punish perpetrators of international crimes.

The 17th of July, the Day of International Criminal Justice, falls on the anniversary of the adoption of the Rome Statute on 17 July 1998, the founding Treaty of the International Criminal Court, whose aim is to protect individuals against genocide, crimes against humanity, war crimes and the crime of aggression. The date was chosen by the Assembly of States Parties during the Rome Statute Review Conference in Kampala (Uganda) in 2010.

It represents an opportunity for all defenders of justice to promote the rights of victims and to help prevent crimes which threaten world peace, security and well-being by fulfilling the promise of effective and independent international justice.

As part of the events to celebrate this day, on 16 July 2016, the President of the Assembly of States Parties to the Rome Statute of the International Criminal Court (ICC), H.E. Mr. Sidiki KABA, is organising a high-level conference on "International Criminal Justice against Sexual and Gender-Based Crimes".

This key topic will serve as a backdrop to discussions on current issues in international criminal justice, and in particular will provide an opportunity for an objective discussion of a number of issues relating to the way this scourge is addressed.

Such acts of sexual violence are grave crimes that shock our collective conscience, in that they involve the use of force by a person in a position of power against a defenceless individual. They are not only crimes under most countries' domestic law, but also violations of human rights, further aggravated, in situations of armed conflict or of occupation, by the fact that they also violate international humanitarian law.

The statutory provisions and case law of the international criminal tribunals for the former Yugoslavia and Rwanda, the Special Court for Sierra Leone, the Extraordinary Chambers in the Courts of Cambodia, and the Rome Statute of the International Criminal Court collectively define sexual violence to include rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence of comparable gravity, which may include indecent assault, trafficking, inappropriate medical examinations and improper body searches.

The Security Council has also recognised that sexual violence can constitute a war crime and a crime against humanity or an element of the crime of genocide, and in resolution 1820 (2008) it also recognised that sexual violence can constitute a threat to international security.

The fight against this scourge requires in particular a high degree of coordination within the international community and a global determination to ensure that the perpetrators of such crimes be held responsible for their acts, thus helping to prevent their recurrence. The support of states and of civil society is crucial, in that a heightened level of cooperation will enable all parties to work together effectively and efficiently. It is also essential to strengthen coordination with civil society organisations working with victims and collecting information on these crimes. The whole world must support the fight to eradicate these sexual and gender-based crimes, for only a joint effort will enable us to prevent them. In short, these are grave crimes, punishable under international law, to which we must put a stop. Hence the choice of this topic.

2. OBJECTIVES

In choosing this topic, the objective was to identify difficulties and limitations on stakeholder cooperation in the fight against sexual and gender-based crimes, to improve both understanding of these crimes and the manner in which they are addressed both at

domestic level and before international courts and tribunals, and to raise awareness among local populations of the importance of reporting such crimes.

3. THEMATIC APPROACH

The general theme was chosen with the intention of revisiting the issue of access to justice for victims of sexual and gender-based crimes and of strengthening their position, which requires more than mere laws and policies targeting these heinous crimes. It is not about giving such crimes a higher priority, but about drawing attention to how sensitive they are, and to the need for a response at the level which such atrocious acts demand.

Initially, participants will have an opportunity to reflect generally on international criminal law in an introductory panel, before taking part in more specific discussions.

This first panel will, in particular, provide an opportunity to revisit the emergence of international criminal justice, the contribution of civil society to this long battle, the ICC and its various organs and the legal characterisation of sexual and gender-based crimes as crimes against humanity, crimes of torture and elements of genocide.

The second panel, on the approach of international courts and tribunals to sexual and gender-based crimes, will favourise discussions on investigation, and the prosecution and trial of such crimes, as well as on the potential role of civil society at this stage.

The third panel, on good practice and national experience in the prosecution and trial of sexual and gender-based based crimes, will assess the various procedures applicable to these crimes and outline future perspectives.

4. PROCEEDINGS

Guided by three moderators and a rapporteur, the day's activities will be interactive and participatory, with addresses on specific topics and question-and-answer sessions on the presentations. Panels will be created according to areas of competence. Views expressed on the topic during the panel discussions will be summarised in a report. The introductory addresses and the proceedings of the three panels will be set out in a general report, prepared by the rapporteur.

5. EXPECTED OUTCOMES

The day is expected to provide a unique opportunity for interaction, hopefully leading to a commitment to further cooperation and collaboration by stakeholders in ensuring that

these crimes do not go unpunished. It is thus anticipated that relevant proposals will be presented to the President of the Assembly of States Parties in the course of the programme.

6. PARTICIPANTS

The seminar will be attended by approximately 150 participants, including experts, academics, judges, lawyers, members of civil society from various countries, partner institutions and others. Technical, scientific, institutional and financial partners will be invited. Locally, members of government, religious and customary authorities, civil society and members of parliament will also be invited.