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Proposals threaten International Criminal Court's independence

Amnesty International is today calling on states to reject proposals which could seriously undermine the integrity of the Rome Statute and deeply politicize the International Criminal Court (ICC). The amendments are being considered at the first Review Conference of the Rome Statute which concludes in Kampala this week.

“States must first and foremost ensure that this first Review Conference strengthens the system of international criminal justice,” said Claudio Cordone, interim Secretary General of Amnesty International. “The current negotiations are failing to safeguard the independence of the Court, an independence that was hard fought and won 12 years ago in Rome.”

Delegates appear to be moving towards a compromise that would authorize the United Nations Security Council, a political body, to control which crimes of aggression the Court could investigate and prosecute. This outcome would risk shattering the Court's independence achieved in Rome and open the door to the politicization of its work and attacks against its credibility.

State representatives in Kampala are also seeking to prevent the Court from investigating and prosecuting new crimes by nationals of countries which have not ratified the Rome Statute, or by nationals of states that have ratified the Statute but not accepted the amendment being negotiated in Kampala. This change would apply to the crime of aggression and some war crimes in non-international armed conflicts.

“If the Court is prevented from investigating and prosecuting new crimes, by nationals of countries which have not ratified the Rome Statute, it will lead to a two-tier system of justice,” said Claudio Cordone. “States that have been amongst the Court's strongest supporters are now leading negative proposals that would remove the independence of the Court and its ability to decide whether an act of aggression has been committed.”

The meeting in Kampala is also failing to take the opportunity to delete Article 124 of the Rome Statute which allows states to declare that the Court cannot investigate and prosecute war crimes committed by its nationals for the first seven years. This was initially included as a transitional provision in Rome on the condition that it would be reviewed at the Review Conference in Kampala.

“A small number of delegates are opposing the deletion of Article 124, widely seen as providing a seven-year licence to kill, going against the very purpose of the Rome Statute – to end impunity for these crimes,” said Claudio Cordone. “It must be deleted or, at the very least, the Review Conference must set a date in the very near future when it will expire permanently from the Rome Statute.”

The Review Conference being held in Kampala is due to formally close on 12 June.