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ICC Conference wants jurisdiction over Wars of Aggression except for members of UN Security Council!

The Review Conference of the International Criminal Court that concluded on June 12th in Kampala, Uganda voted to give the court potentially the right to prosecute political and military leaders who wage wars of aggression *so long* as this is sanctioned by the UN Security Council.

Three of the five UNSC members - America, Russia and China - have refused to ratify the ICC Treaty (the Rome Statute) and do not recognise the right of the court to prosecute their own government officials and military personnel. Britain and France are ICC signatories, but they would also be able to veto any attempt to put their leaders on trial for waging wars that violate the UN Charter. It is worth recalling in this context that soon after the ICC was established, the late British foreign secretary, Robin Cook, who was instrumental in helping to establish the organisation, famously declared in response to the suggestion that it might one day turn its attentions to Britain: ***"The ICC is not a court set up to bring to book prime ministers of the United Kingdom or presidents of the United States"***.

The ICC chief prosecutor, Luis Moreno-Ocampo, has refused to respond to thousands of demands that he take action against the UK government for alleged crimes that do come within the current legal remit of the court. That is to say, crimes committed post July 1st 2002 when the Rome Statute came into effect that he could in theory open an investigation in relation to the Iraq war.

The glaring contradiction and hypocrisy at the heart of the ICC's relationship with the UNSC should come as no surprise to those who have an understanding of the powerful political forces that control and dictate the agenda of the court. *ICCwatch* maintains that the ICC is one manifestation of the way in which the nations of Africa and other developing countries are being subjected to a new and more subtle form of colonialism.

Under this proposed extension of the ICC's jurisdiction, the UNSC would be able to direct the court's prosecutor to initiate proceedings against citizens of countries that have not signed up to the Rome Statute, in violation of article 34 of the 1969 UN Vienna Convention that confirmed that no treaty could be binding on a nation state that had not signed up to it. This is the basis on which the ICC has indicted President al-Bashir of Sudan for other alleged crimes.

Traditionally, waging a war of aggression was considered the ultimate international crime. It formed the central charge in the prosecution of Nazi leaders at the Nuremberg Tribunal. However, over the past 20 years the most powerful nations in the World have awarded themselves the right to initiate wars of aggression, most notably in the case of the former Yugoslavia and Iraq. The principle of the equal right

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of all nations to enjoy sovereignty and peace has effectively been illegally and unilaterally torn up by Britain and the NATO affiliates, together with the UN Security Council members. The international rule of law is now effectively dead. Articles 1 and 2 of the UN Charter which commit the international community to respect national sovereignty have been abandoned in all but name.

The decision by the ICC Review Conference to grant the court jurisdiction in this area will be voted on by the Assembly of States Parties, the body composed of delegates from the signatory states, in 2017. There is thus no democratic oversight of the ICC by elected representatives of the member countries and this body can unilaterally extend the court's powers.

For more information concerning ICCwatch's critique of the International Criminal Court, please refer to www.iccwatch.org

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