

Key Note Speech
von Staatsministerin Katja Keul
anlässlich Eröffnung des Seminars
„Review of the Rome Statute of the International Criminal Court: Strengthening the Court’s Jurisdiction for the Crime of Aggression”

(Den Haag, 23.04.2024)

Excellencies, lieber Botschafter Nunn, Esteemed professors, guests from academia and civil society,

Ladies and Gentlemen,

It is my pleasure and honor to be here today with you in The Hague – and to welcome you to what is probably one of Germany’s most beautiful ambassadorial residencies.

Thank you, Ambassador Nunn, for opening your house for so many legal experts and discussions on international criminal law that will be fostered by our esteemed panellists, moderators, and guests today.

We join today to exchange ideas on a most relevant topic:

Almost 14 years ago, delegates from all over the world held their breath.

In the nightly hours of June 11, 2010, the States Parties of the Rome Statute of the International Criminal Court agreed to a historic compromise:

The Kampala Amendments, which aim to define and include a war of aggression or any act of aggression under the ICC’s jurisdiction.

Many of you who present today, have also been present 14 years ago in Kampala, like for instance Claus Kreß and Matthew Gillett, as well as Christian Wenaweser, whom we expect via video link later this afternoon and who played a most decisive role in Kampala as the then-President of the Assembly of States Parties.

The Review Conference of Kampala in 2010 marks an important breakthrough that transformed into punishable law an act that we all know to be wrong:

The “*planning, preparation, initiation or execution*” of a war, or any other “act of aggression” that qualifies as a manifest violation of the Charter of the United Nations by the person directing or effectively exercising control over that aggressor State.

In other words: a crime committed by the leaders of a State attacking another State by an act of aggression.

Ladies and Gentlemen,

With these “Kampala Amendments” to the Rome Statute, the international community started to fulfil a promise that was made 65 years before the Kampala conference and almost 80 years before today.

It is the promise that former Supreme Court Justice Robert H. Jackson made at the opening of the Nuremberg trials in November 1945 in his capacity as Chief Prosecutor.

I quote:

“The ultimate step in avoiding periodic wars, which are inevitable in a system of international lawlessness, is to make statesmen responsible to law.

And let me make clear that while this is first applied against German aggressors, the law includes, and if it is to serve a useful purpose it must condemn, aggression by other nations, including those which sit here now in judgment.”

Highlighting these two sentences, only years later, the international community enabled Jackson’s wish and promise into the Rome Statute in a multilateral treaty in 1998, creating the legal base of the ICC and its jurisdiction.

The Rome Statute already included the crime of aggression, but States Parties were, at first, not able to agree neither on a specific definition of the crime of aggression nor on the ICC’s jurisdiction over this fourth core crime.

It was only the Kampala Review Conference and the perseverance and goodwill of all involved in negotiating its Amendments, which brought to life a compromise on how to prosecute and define acts of aggression.

I will not disguise the limits the Kampala Amendments left for us to resolve:

Even though the ICC can exercise jurisdiction over the crime of aggression since the activation of Kampala as of 17 July 2018, this shall only apply if both the State whose nationality the suspect holds and the State on whose territory the aggression took place have accepted the

International Criminal Court’s jurisdiction and ratified the Kampala Amendments of 2010.

Ladies and Gentlemen,

From Nuremberg to Rome to The Hague to Kampala – there is a clear line of descendancy in the coming of age of international criminal law.

Along this road from Nuremberg to Kampala, the world has added step by step to the way we punish core crimes.

Altogether we are already a group of 44 ratifying States to Kampala – and it is my belief that we are not at the end of the road.

On the contrary, the promise to hold accountable all those guilty of atrocious crimes is yet to be fully brought into being.

I am convinced that to fulfil that promise, we must

- First and foremost, work together to have even more States sign and ratify the Rome Statute. And let me use the opportunity to stress my satisfaction that with Armenia we are now 124 States who have done so.
- Secondly, widen the circle of States who have signed and ratified the Kampala Amendments.
- And thirdly, work with the same perseverance and goodwill to review to the best of our abilities the Kampala Amendments in 2025, when another review is mandated.

In order to keep that promise – to hold responsible the statesmen *planning, preparing, initiating, executing an act of aggression* against another country – the States Parties to the Rome Statute have agreed by consensus in Kampala to “*review the amendments on the crime of aggression seven years after the beginning of the Court’s exercise of jurisdiction*”.

And while we must still decide as States Parties how to bring forth that review, it is also our duty as States Parties to embrace this review in the spirit of consensus and with the aim to reply to the questions that Kampala left unanswered.

Some of these questions we will start to try to answer together today during this seminar:

- While Panel I will explore the legacy of Kampala as well as the opportunities and challenges to review the Rome Statute on the Crime of Aggression,
- Panel II will dive deeply into the legal options that lay before us during such a review,
- And, finally, Panel III will hopefully help us better understand how to reach an even wider audience across the world for the 2025 review process.

Ladies and Gentlemen,

Today, together with you and with a view to this review process, we hope to bring together States Parties, foremost scholars, and civil society to openly discuss the opportunities and challenges the mandated Kampala review may bring.

International Criminal Law undergoes developments, and it is a special strength of International Criminal Law that it is shaped not only by fundamental principles, but by those who apply it!

In the speech, Foreign Minister Baerbock delivered in January 2023 exactly here in the Hague, she advocated that the ICC’s jurisdiction should be expanded to the crime of aggression and that the court’s jurisdiction be extended to all four core crimes:

To treat the crime of aggression as an equal to genocide, crimes against humanity, and war crimes.

One key message may seem worn out, but to me it also stands in Jackson’s legacy:

“There is no peace without justice!”

Consequently, Annalena Baerbock thereafter also initiated a Group of Friends among States Parties to lend our support to the review process on the margins of the UN General Assembly in New York last September 2023.

She also underlined our staunch support for the International Court of Justice and for the international rule of law.

Together with now 32 members in this Group and our wish to enlarge it much further, we want to strongly support a process that will lead us to the mandated review in 2025.

Let today's seminar and discussions be led in this spirit and let it be a strong and visible sign for our advocacy of the importance and significance of International Criminal Law.

We have deliberately decided to make this seminar not a closed workshop among members of the Group of Friends, but to extend invitations to all States Parties.

This is because we understand this effort to be a truly inclusive one – regardless of any State's formal pertaining to a regional group or to its current ratification of Kampala or even the Rome Statute.

We wish to involve all interested parties, also in order to avoid what some have called “double standards”.

Rome and Kampala have shown:

Team spirit, open exchange and constructively working together can improve international criminal law, strengthen its legitimacy, and foster accountability.

It is our wish to try to form today, and together with you, a forum of trust.

And it is my hope that we will all walk away from this seminar in the afternoon with new ideas and new approaches in mind, ready to tackle a foremost issue in the future review process.

Ladies and Gentlemen,

The promise of Nuremberg that “law must condemn aggression by other nations” is a promise that goes beyond any nation's particular interest; it is a promise that reminds us that all those leaders responsible for war and its atrocities must be held accountable; it is a promise that calls upon us all to work together in good faith to make the best of laws in order to avoid the worst of wars.

I wish us all a fruitful and promoting exchange among friends and partners.

Thank you!