



HURINET – Uganda



Uganda Coalition on the ICC (UCICC)

PRESIDENT OMAR HASSAN AL-BASHIR'S FAILED VISIT TO ZAMBIA

On 15th December Sudan's president Omar Hassan Al-Bashir had been invited by the president of Zambia, His Excellency Rupiah Banda to attend the special summit of the International Conference on the Great Lakes Region in Lusaka to which he had responded positively. This invitation comes at a time when Al Bashir has visited two countries Chad and Kenya which are state parties to the Rome Statute.

Al Bashir has been issued two arrest warrants, one of 2009 on war crimes and crimes against humanity and the other of 2010 on genocide committed in Sudan's Western Region of Darfur.

As a state party to the Rome statute, Zambia is required to cooperate with the Court and this includes execution of arrest warrants since the ICC has no police and therefore depends on the member states to enforce its order. During the Review Conference in Uganda from May 31 to June 11, 2010 Zambia had shown support to the ICC by submitting an actual pledge to the Court in which it stated the steps to be taken to ratify the Agreement on Privileges and Immunities of the ICC.

Earlier on, Zambia had refused to take a stand on its position with regard to arresting Bashir. On 14th December, the President of Zambia through the press deliberately refused to respond to local and International media queries on whether he was going to arrest and handover Bashir to ICC because Sudan had not confirmed the participation of Bashir at the conference. However, the question that remains unanswered is why Al Bashir did not attend the Conference?

Considering the step that was taken by Zambia at the Review Conference and its action of inviting Bashir it shows how the African States are not willing to cooperate with the ICC. During the recently concluded African Union Summit in Kampala, the AU had requested the ICC to defer Bashir's arrest warrant until at later time. Some officials have cited the AU decision calling for non-cooperation in the arresting Bashir as grounds for inviting him to Zambia. The Chief Government spokes person Lieutenant General Ronnie Shikapwasha had confirmed that Zambia was not going to arrest Bashir because AU had not found him guilty on the crimes alleged to have been committed in Darfur.

HURINET-U and UCICC notes these developments have implications that should not be lost of the stakeholders in the international criminal justice system:

- (a) That deliberate refusal by President of Zambia, His Excellency Rupiah Banda to take a stand on his position with regard to arresting Bashir and the response by the Chief Government Spokes person shows a dangerous ambivalence among African leaders that threaten to perpetuate impunity on the African Continent.
- (b) The decision of Bashir not go to Zambia even if he was invited shows that the AU resolution of non-cooperation has little impact

We therefore recommend that:

- (a) African States and governments should cooperate with the Court by executing the arrest warrants issued so as to fight impunity rather than well coming fugitives of the Court. Failure by the states to do so betrays the concerns and interests of victims of international crimes.
- (b) The AU should disassociate herself from the resolution not to cooperate with the ICC and African states should arrest Bashir if he visits any African State.
- (c) The civil society and the international community should put more pressure on any African State which wants to invite any person indicted by the ICC so as to end impunity.
- (d) The ICC should maintain the arrest warrants. Where as Al Bashir still remains at large, the arrest warrants have severely limited his space and freedom of movement. This has been demonstrated by the many visits that Al Bashir has had to cancel for fear of arrest.

Dated at Kampala this 17th day of **December 2010**.



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