

**Nigeria: The Proposed Law On Genocide
By All Africa
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A proposal by the federal government for a law to punish genocide, war crimes and crimes against humanity, has been generating intense discussion among concerned Nigerians.

According to reports, the government forwarded to the Senate the Crimes against Humanity, War Crimes, Genocide and Related Offences Bill 2012.

Spokesman for the Senate Senator Enyinnaya Abaribe was quoted as saying that the legislation was 'anticipatory in nature' and that it had been referred to the Senate Committee on Rules and Business, which would later present it for a debate.

The proposed law is essentially a move to domesticate the Rome Statute - the treaty that established the International Criminal Court (ICC) in 1998. Some 120 countries are currently party to the statute, which came into force on July 1 2002. Under it, the ICC can only investigate and prosecute the core international crimes of genocide, crimes against humanity, war crimes and crime of aggression in situations where states are unable or unwilling to do so themselves.

Minister of Information Labaran Maku said that though Nigeria is a signatory to the statute, the country had not been able to domesticate it before now and that doing so would give additional benefit of demonstrating to the international community that Nigeria was playing its part in the global fight against such crimes.

There is no doubt that the country faces severe internal security challenges. In this respect the government deserves support in whatever instrument it feels will help it in confronting them head-on.

What is however not exactly clear is how the domestication of the Rome Statute would aid the government's effort to fight violent crimes in the land? This is because the new proposal suggests, wrongly, the absence of extant laws the government can utilize to fight the internal menace. This is not necessarily an opposition to the domestication of the Rome Statute but a note that the nation's current problem with fighting violent crimes may not necessarily be due to the absence of relevant laws.

In fact given the pervasive sentiment among the units of the federation, there is a danger that the proposed law could become captive of domestic politics, which is often defined by the country's fault lines.

This is especially so given the contestations around the concepts of 'Crimes against humanity', 'War Crimes' and 'Genocides' even among legal scholars.

How will the government overcome the definitional issues in a fractious society like Nigeria, where mutual suspicion seems to have become second-nature to many citizens across regional divides? And how will it convince sceptics that it is not merely looking for an excuse to handover political opponents to the ICC to deal with because it possibly lacks the courage to do so here or fears the possible backlash of using our extant laws to deal with such people?

The suspicion with which many people see the proposal is not helped by the fact that for most people the ICC is an instrument that is usually used in dealing with countries that have just emerged from wars or ethnic cleansing.

As bad as our security challenge has been, Nigeria is neither at war nor has there been ethnic cleansing, which begs the question of the real, as opposed to the 'anticipatory', intention of the proposed law.

While those who instigate and sponsor religious and inter-communal conflicts must be fished out and severely punished, it is doubtful whether the instrument of ICC is needed to achieve that goal. If existing

laws cannot do the job, it is doubtful that domesticating the Statute of Rome will do it for the country. At a time when the country is not at war to make such legislation important, its real intention has therefore not been sufficiently explained; the government needs to throw more light on it.

Nigerian laws are dynamic and flexible enough invoke to punish most forms of crimes. The persistence, and in some cases the deepening of these crimes, is not because there are no laws to fight them; it is because either the laws are not being effectively utilised or the issues that give rise to those crimes require a multi-pronged approach that will go beyond laws to socio-economic and political intervention.

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