

The Prosecutor of the International Criminal Court
Mr. Luis Moreno Ocampo
Maanweg 174
PO Box 19519
2500 CM The Hague
The Netherlands

Re. Key issues regarding the investigations in northern Uganda

Gulu / Kampala, 1 April 2004

Dear Sir,

On February 1, a delegation of Civil Society representatives from Uganda, led by His Grace Archbishop John Baptist Odama, met with you in London. Civil Society in Uganda warmly welcomed this meeting and recognises the step your office has taken to address the situation in northern Uganda.

Civil Society Organisations working in northern Uganda would like to compliment the steps taken so far by the Court in looking at issues of impunity resulting from the conflict in northern Uganda, which has gone on for 18 years. In particular, the willingness expressed by your office to closely cooperate with civil society actors demonstrated your readiness to maintain neutrality and impartiality.

We as Civil Society Organisations condemn in the strongest terms the atrocities committed during the 18 year war in northern Uganda and call upon the Lord's Resistance Army to stop all attacks on the civilian population and accept all efforts aimed at resolving the conflict by peaceful means.

While supporting your efforts at initiating an investigation into alleged crimes committed by the LRA leadership, we have a number of concerns that could affect the process of your investigations, as well as a possible peaceful outcome of the conflict.

A number of organisations has indicated that they are interested to cooperate with the ICC. These organisations, and others, have come together recently to discuss the pending investigation and develop our viewpoints.

Regarding the investigations of the LRA leadership, we would like to underline the following key issues for your attention:

1. *Timing of the investigation:* it is the opinion of many civil society actors that the timing for the investigations is not appropriate. While considering that in many other situations there cannot be peace without justice, in this particular case we believe that justice will come at the expense of sustainable peace. It is credible that the investigations will have a negative effect on peace negotiations and will further decrease the confidence the LRA has in the

Government of Uganda. Direct and indirect victims to the conflict first and foremost wish to see peace, and an end to the war. Civil society actors believe that the investigation at this stage in time does not serve the interest of justice, in particular the interests of the victims. An investigation by the ICC in itself will not bring an end to the conflict, which is the main desire of the population of northern Uganda. While the conflict is still active, and atrocities are still being committed, the Government of Uganda has a responsibility to protect its own citizens, and should therefore explore all other options to provide this protection for the time being.

2. *Complimentarity*: there are issues related to the requirement of complimentarity that have not yet been satisfactorily explained. These include the question whether the Government of Uganda is indeed incapable of prosecuting the LRA alone, as the national court system is functioning. It is therefore not clear why the Government of Uganda would be unwilling to carry out a prosecution and trial in Uganda.

Furthermore, there are reconciliation initiatives in place in northern Uganda aimed at restorative justice. Communities in northern Uganda have indicated repeatedly that they believe in these reconciliation mechanisms, including for the top LRA commanders. The role played by the Cultural and Religious Leaders is paramount in this respect. The ICC has indicated that it is willing to consider traditional justice mechanisms as well as the national ones. This should be further looked into and encouraged. While the temporal limitation of the Court is understood, other mechanisms could be more suitable to address all aspects of the war which has waged since 1986, not only the last two years.

3. *Scope of investigations*: CSOs in northern Uganda believe that, while condemning the atrocities committed by the LRA, all armed groups have committed crimes within the jurisdiction of the ICC. It is therefore recommended that the investigations, if they go ahead at this stage, look at all aspects of the 18-year war in northern Uganda, and not only at one of the parties. This is necessary to get the full cooperation from all victims of the war.
4. *Security and protection*: the ICC should pay sufficient attention to all aspects of security and protection related to the pending investigation. More information is necessary about security measures put in place for the people of northern Uganda who will be asked to testify before the court, as well as for the NGOs providing information to the Court.

Also, there is a need to look at the protection of the children who are currently in captivity, and what the implications of the investigation will be on them. This also includes children who escaped or were rescued from the LRA, or were released by the LRA. There are reasons to believe that children will be

increasingly targeted and will bear the brunt of any retaliation by the LRA. We therefore strongly recommend a comprehensive risk assessment focussing on child protection to be carried out prior to the process of investigation

5. *Public relations*: It is strongly recommended to the Court that it employs an active and effective press and media strategy to change the current perception of bias. A public statement from the Prosecutor that his Office will investigate all sides to the conflict would be warmly welcomed. Such a statement will also reinforce the willingness of the people to cooperate with the ICC.

We are of course willing to discuss the issues mentioned above in more detail with you and your colleagues.

Yours sincerely,

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[organisation 2]

[organisation 3]

[organisation 4]

etc.