

**Complementarity Plenary,**

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**Check Against Delivery**

Good afternoon distinguished delegates, Your Excellency President Kaba, Ambassadors, Minister Wallstrom, Prosecutor Bensouda, Court officials, fellow panelists and colleagues. Thank you to the governments of Sweden and Botswana for dedicating this plenary to complementarity for sexual and gender-based crimes. Focusing on this issue comes at an important juncture - as the ICC enters its second decade of operations and as the demand from victims of these crimes for access to justice grows louder and more urgent.

We often hear that rape is an effective tool in war but we rarely hear why or how this form of violence is so strategic.

From our perspective rape is so effective because it relies on pre-existing norms and standards regarding gender inequality to create a breakdown within the community; to fracture individual and family networks; to splinter social and cultural connections; and to assert ethnic and political supremacy through the use of acts already legitimized as the means of expressing dominance, that is – through sexualized violence, most commonly rape, predominantly against women.

This is the ideal moment to review our assumptions and re-energise our strategies about what is possible and what is needed to further the dual tracks of justice through the ICC and implementation of the positive obligation to prosecute sexual violence bestowed upon the Court by the Rome Statute, and the primary track of strengthening responses at the domestic level to pursue accountability for acts of sexual violence as international crimes.

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## **Women's Initiatives for Gender Justice**

For those of you who don't know the Women's Initiatives for Gender Justice, we are an international women's human rights organisation that advocates for accountability for sexual and gender based crimes through the International Criminal Court and domestic mechanisms, and promotes the principles of gender justice within formal peace negotiations, and in post-conflict transitional justice reconciliation processes. We have been working in armed conflict situations since 2004, supporting the voice, capacity, strategies, leadership and mobilisation of women's rights, transitional justice and peace activists in armed conflicts.

For more than a decade we have partnered with grassroots women's rights organisations, victim/survivor networks, in countries with situations under investigations by the ICC and specifically we work in Uganda, the Democratic Republic of the Congo, Sudan and Libya. Our programmes include:

- Access to justice for conflict affected communities with a focus on those with least access, namely women, indigenous communities, young people affected by conflict and in that respect we work with female former child soldiers and those abducted by armed militias in the DRC and Uganda;
- Documenting sexual and gender-based crimes for the purposes of supporting domestic and/or international accountability processes (DRC and Libya);
- Victims assistance programmes supporting survivors of sexual violence to access medical services, psychosocial and livelihood programmes. This project assists almost 1,000 victims/survivors of sexual violence per year to access medical support and other assistance, with 80% of the participants also requiring, and being supported to access, surgeries for rape-related injuries.
- Reform of national policies, domestic transitional justice agendas and legal frameworks to bring these into alignment with international standards such as CEDAW and the

Rome Statute regarding the recognition of sexual and gender-based crimes and gender-justice benefits for women in post-conflict periods.

With more than 6000 grassroots members, partners and associates in armed conflict situations along with a large number of other regional and international actors and allies, we are together building a global constituency for gender justice.

I have described all of this to say that it is from this experience and drawing on the views, perspective and aspirations of our grassroots partners, that my comments on this panel are shaped.

There are three observations I would like to offer today regarding strengthening accountability for sexual violence in armed conflict.

**The first observation** is that in our view domestic progress on gender-justice can only be achieved by partnering with local actors, grassroots women's organisations, and investing in local communities. This has been one of the guiding principles we adopted from the outset of our country-based programmes. For example, in our programme documenting SGBCs, we train and collaborate with local women's rights advocates who themselves implement the documentation missions, conduct the interviews with victims/survivors. Rather than the sending in external actors and limiting the role of local advocates to identifying victims/survivors or locations of mass crimes, the programme benefits from the leadership, knowledge, and credibility of local organisations who, like the community whose suffering they are documenting, have also experienced the conflict and crimes. If we don't invest in local partners, we diminish the legacy of accountability by limiting the number of effective advocates who will continue this work well after the international actors have come and gone.

The long term benefits of supporting and up-skilling the leadership local advocates who in time will be able to undertake good quality documentation on sexual violence crimes, who will use this to advocate for domestic accountability, who will be able to assist domestic and international investigators, and who respond to victims/survivors needs for medical and other

assistance, is ultimately how we believe the impunity gap is closed and an effective global movement for gender justice is built.

**2. The second observation** I would like to make is the importance of working with local decision-makers. Many of the barriers to domestic accountability for sexual violence crimes require the support of political leaders, the participation of the judiciary, the involvement of traditional elders, and the cooperation of the security sector to find solutions. Working with decision-makers is a long term commitment and we have found in the DRC, Uganda and Sudan that by increasing their awareness and knowledge of gender-based violence, they can become motivated to act in support of gender-justice outcomes. This approach expands and deepens the base of support for domestic responses to sexual violence making changes in this area more sustainable and less likely to be one-off crisis-driven reactions.

**3. The third observation**, is that despite the scale of these crimes, accountability for conflict-related sexual violence continues to be exceptional and elusive and too often, impunity for these crimes continues to be guaranteed through Amnesty laws.

Let me give you an example from Uganda which is emblematic of both challenges and solutions to overcoming barriers national level.

In the implementation of the Ugandan Amnesty Act, complete amnesty was extended to members of the LRA without requiring individuals to make a full declaration of the acts they had committed or the incidents they may have witnessed; and no crimes including sexual violence, were excluded from qualification under the amnesty regime. Our local partners in northern Uganda, many of whom were themselves victims/survivors of the LRA-related conflict, were persistent in their critique of the limitations of the Act including that victims and victimised communities did not even receive an apology from returnees through the amnesty process. They also noted the unequal treatment of those who received amnesty with the

perception amongst the community that former LRA commanders were treated better than those abducted especially female former abductees.

The granting of amnesty guaranteed impunity and therefore it did not shift the stigma of shame away from the survivors to the perpetrators of these crimes.

This was the situation until a challenge to the interpretation of the Amnesty Act was brought by the Director of Public Prosecutions (DPP) with the support of the Ugandan Attorney General. This challenge was mounted in the context of the case against Thomas Kwoyelo, former LRA commander, who had applied for amnesty and according to the Ugandan Constitutional Court was eligible to be pardoned. The appeal of this decision was heard before the Ugandan Supreme Court which in April of this year ruled that the Amnesty Act does not impinge upon the prosecutorial powers of the DPP. This cleared the way for the case against Kwoyelo, the first in relation to the 25 year LRA-related conflict, to resume.

Perhaps most importantly, the Supreme Court decision provided much needed guidance and clarity regarding the crimes for which amnesty in Uganda cannot apply which now includes acts of sexual violence as crimes for which an individual would not be eligible for amnesty. This is a ground-breaking judgment within the Ugandan context. And it is also an example of the legal process working and rising to the challenge, despite resource and other constraints, to grapple with domestic accountability for conflict-related sexual violence. The issues were not considered too complex to resolve nor too trivial to address. Rather than changing the legal framework, the legal process was allowed to take its course and as such, the judiciary interpreted the law taking international legal standards into account and applying these, without modification, to the Ugandan context. This is a success story.

When the domestic legal system demonstrates to victims/survivors of sexual violence that it works, that it can transcend political interests, protects witnesses and ensure a rigorous

process, in other words when it shows it is credible, it provides a reason for victims/survivors to report acts of sexual violence and participate in the formal legal process.

I take this opportunity to congratulate Uganda, Mike Chabita and his colleagues for their important work on this case and I would like to acknowledge here the work of the late Joan Kagezi who was head of the war crimes and anti-terrorism division with the DPP and who argued this issue before the Supreme Court. Joan was assassinated in Kampala in March of this year and at the time of her death she was prosecuting a high profile terrorism case involving suspects in the 2010 bombings in Kampala. Joan was a courageous and brilliant lawyer, and was a close friend of the Women's Initiatives and our partners in the greater north of Uganda.

Obviously Amnesty Laws are not the only challenge at the domestic level to the accountability for sexual violence as international crimes. And yet despite the challenges, it is critical to invest in this area. The pursuit of justice at the domestic level has the potential to benefit the largest number of victims/survivors and it locates the justice process in the heart of communities victimised by mass crimes and armed conflict. Importantly, it acknowledges wrong doing within the communal and gender context within which the crimes occurred and this is especially important for crimes of sexual violence- such acknowledgement has the potential to contribute to greater realization of women as right-bearing citizens worthy of legal recognition and protection.

It is evident that the real battle-ground for gender justice is at the domestic level –in the local courts, at the neighborhood police stations, amongst national legislators and in the local media.