

Statement on Behalf of the Human Rights Network – Uganda (HURINET)
8th Assembly of States Parties to the Rome Statute of the International Criminal Court

Mohammed Ndifuna, HURINET (Uganda), *Member of the International NGO Coalition for the ICC*

Mr. President, Excellencies, Ladies and Gentlemen,

My name is Mohammed Ndifuna. I am the Executive Director of Human Rights Network-Uganda, one of the Steering Committee members of the Coalition for the ICC. For close to 21 years, populations in Northern Uganda have grappled with hardships imposed on them by the insurgency staged by the Lords Resistance Army (LRA) against the reigning National Resistance Movement (NRM). The conflict in this part of the country has occasioned diverse and massive human rights violations against affected populations both in Uganda and other neighboring countries of Southern Sudan, Democratic Republic of Congo and the Central African Republic, among others. Violations have taken the form of abductions, mutilations, killings, rape and gender violence as a whole.

In the face of this conflict, a large portion of the population was forced into Internally Displaced People's Camps whose conditions have been described as frugal and squalid with extremely inadequate facilities. For this reason, the Northern Ugandan situation has been described as one of the worst human crises in the world.

Amidst all this, victims of this 21 year old rebellion have yet to receive justice as perpetrators of these crimes continue to walk free with impunity. Despite the numerous approaches undertaken by the government with the support of regional and international partners to end this conflict, the insurgency is far from over, notwithstanding the relative peace in the region at the moment. In recent years, specialized military campaigns have been staged against the LRA, at the same time that peace talks with the LRA have been initiated in vain. With increasing criticism directed at the government for failing to end the conflict, the government formerly sought the intervention of the ICC in December 2003.

After a series of investigations of both the Uganda People's Defence Forces (UPDF) and the LRA, the Court has since issued indictments for the top five LRA commanders, although these warrants have yet to be executed. Significantly however, the warrants have served the purpose of bringing the LRA to the negotiating table. The Juba peace talks can be said to have been prompted by the impending arrests of the top LRA commanders. It is of note that the top LRA leadership at Juba insisted on the scrapping of the indictments as part of the agreement; however, this was not as easily said as done, and both parties failed to reach a concrete comprehensive peace settlement at Juba.

It is important to note that while the Juba Peace talks significantly contributed to the prevailing peace in Northern Uganda, their success would have posed many challenges. At Juba, various avenues for peace and accountability were proposed. These ranged from traditional justice mechanisms to truth commissions to criminal prosecutions, notwithstanding the continued existence of laws such as the Amnesty Act that guarantees amnesty to surrendering combatants. In sum, one could describe Uganda's current national legal framework as lacking and inadequate for coping effectively with post conflict realities.

Moreover, while there is an ICC bill being negotiated in parliament, it has yet to be passed into law. This consequently makes it difficult to try the LRA in national courts. It should be noted that the domestication of the ICC Statute would be a very positive step towards fighting impunity. This would clearly set a hierarchy such that those accused of serious crimes would be tried in accordance with the Statute while the rest would be subject to other mechanisms. Given that Uganda is one of the countries where persons in positions of leadership have committed grotesque violations with impunity, domestication of the Statute would send a positive message to present and future leaders that they can no longer commit these crimes with impunity. It would finally mark the beginning of accountability to victims for atrocities committed against them.

Given that 1) Uganda was the first country to refer a situation to the ICC 2), Uganda is scheduled to host the ICC review conference in 2010 and 3) Uganda is currently a non-permanent member of the UN Security Council that referred the Darfur situation to the court, states parties to the ICC should stress the importance to the Ugandan government of domesticating the Statute ahead of the Review Conference in 2010. On the part of civil society, a number of appeals have been made to the government to domesticate the statute, and up until today the state has failed to comply. The voices of others states parties would therefore serve to amplify civil society voices regarding the domestication of the Rome Statute.

The growing propaganda that the Court is anti-Africa as a result of recent court activities in Africa needs to be demystified. In particular African countries that have ratified the statute have a critical role to play in changing these perceptions among other African countries by making the court relevant to their people. .

States parties should also cooperate with the ICC to effect the arrests of Joseph Kony and other top commanders of the LRA indicted by the Court as they continue to roam from state to state. Apprehending and trying the suspects before the court is significant to justice and accountability for crimes visited on the people of northern Uganda and neighboring countries by the LRA. Being a war between two parties, states parties should also pursue and recommend for investigation the Uganda

People's Defence Forces (UPDF) for alleged atrocities. This way the Court will be forecast as impartial and independent.

In sum, it can be said that the institution and operations of the court have already began to steer prospects of peace and justice in the right direction, not only in Uganda but the world over. There have been significant achievements in terms of peace in Northern Uganda and Darfur as a result of mere indictments. One can only imagine what it could be like with the Court fully functional with pronouncements on accountability and reparations. At the moment, there are 110 ratifications and 139 signatures to the statute. These illustrate the renewed commitment of states to fight impunity and to ensure peace, justice and accountability for serious crimes against humanity.

Thank you.