



UGANDA VICTIMS FOUNDATION

**C/o Africa Youth Initiative Network,
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STATEMENT ON THE INTERNATIONAL CRIMES BILL OF 2009

4th November 2009

The Uganda Victims Foundation (UVF) is a coalition of human rights and civil society NGOs in Uganda working with victims and on victims' rights issues. The objectives of the UVF are to lobby and advocate for victims' rights especially with respect to the conflict in northern Uganda. The group was formed in 2006 following an International meeting of the Victims' Rights Working Group in London and a second in Kampala attended by participants and representatives of about seven NGOs working with victims who acknowledged the absence of an independent victims' rights advocacy group in the country. UVF is a registered charity in Uganda.

The members of the UVF, having met at Lira, northern Uganda from 2nd to 4th November 2009 to consider, discuss and analyze the International Crimes Bill of 2009, resolve as follows:

RECALLING the International Crimes Bill of 2009, a Bill proposed for enactment into an Act entitled THE INTERNATIONAL CRIMINAL COURT ACT of 2006; which is intended to give effect to the Rome Statute of the International Criminal Court; to provide for offences under the law of Uganda corresponding to offences within the jurisdiction of that court; and for connected matters;

APPLAUDING the efforts of the Government of Uganda and the civil society in drafting the International Crimes Bill of 2009;

RECOGNISING the continued concerns, efforts and calls for an end to impunity for the most serious crimes of international concern in Uganda;

MINDFUL of the delicate nature of the achievements of the peace process in Juba and Uganda's international legal obligations to the International Criminal Court with respect to the LRA indicted persons; and

DETERMINED to continue to promote the rights of victims of the most serious crimes especially regarding their fundamental rights to be informed, to be treated with respect for their dignity, to be protected, and to participate in and access justice for the crimes suffered.

THE UVF CALLS UPON THE GOVERNMENT OF UGANDA TO ENACT THE International Crimes Bill of 2009, NOTING THAT:

In respect of the War Crimes Division (WCD) of the High Court:

- 1) There would be no ownership of the process if the WCD is based solely in Kampala;
- 2) The country lacks sufficient competently trained personnel in delivering justice such as investigators, judges and prosecutors;
- 3) The timeframe of January 1986 does not cover all the mass crimes committed in Uganda's history;
- 4) The WCD should have authority to try both officers of the UPDF and the LRA;
- 5) The proposed law lacks provisions on reparations for victims and a special trust fund for victims.

In respect to victim rights and their concerns:

- 1) The proposed law has inadequate provisions for guaranteeing and protecting rights of victims;

In respect of other stakeholders:

- 1) The Bill does not recognise a role to be played by civil society groups representing victims;

THE UVF THEREFORE RECOMMENDS:

- 1) The Act should apply across the board to both rebels and government officials/military;
- 2) A criterion should be provided for in the law to determine the different categories of accused persons depending on the gravity

- of the offences for which they are accused, and which justice mechanism would apply to them.
- 3) Given the special international nature of the crimes coming before the WCD, a structure similar to the ICC should be upheld and adhered to for the WCD;
 - 2) Provisions guaranteeing and protecting victim rights should be incorporated into the Act on protection issues, participation and access to information;
 - 3) Whilst it is recognised that the Ugandan legal system does not normally provide for victims to participate in criminal proceedings (other than as witnesses) or to be legally represented, the UVF is of the firm belief that the special nature of the crimes coming before the WCD merits significantly greater involvement of victims in the process. In particular, victims should be able to address the WCD on issues that concern them and there should be provision for legal representation of the victims in the WCD. Representation and free legal aid should be given to the victims;
 - 4) Provisions on reparation and a special trust fund for victims should be included;
 - 5) Confidentiality principle and protection of victims and witnesses should be included in the law;
 - 6) There should be provision within the law to appeal the decision of the DPP if he or she fails to take up a matter or loses interest in a particular case;
 - 7) The bill must ensure that the concerns of the victims are addressed when the accused persons are given bail.
 - 8) Civil society groups representing victims should have a role to play in the process;
 - 9) Publication and dissemination of information should be regular by the WCD;
 - 10) WCD should coordinate with other actors (such as civil society organisations) while remaining independent and autonomous;
 - 11) The composition of the judges should be both national and international to promote impartiality and to build competence;
 - 12) The WCD should be run on a circuit basis throughout the areas where the victims come from to encourage ownership, transparency and acceptance of outcomes;
 - 13) The number of judges should be increased in view of the volume of cases to be tried and concluded in view of delivering timely justice to the victims;
 - 14) Specialised training should be afforded to all officials of the WCD to increase competence;
 - 15) The timeframe should be extended back further to 1980 and onwards; Given that the crimes over which the WCD has

competence are all pre-existing crimes recognised under international law, the WCD should also have the ability to consider, on a case-by-case basis, crimes of international concern which predate 1980, to the extent that evidence is available;

- 16) Provision in the law should be made for seizing, freezing, forfeiture, confiscation of assets of accused persons;
- 17) The DPP should be subjected to a strict vetting process administered by Parliament and the Public Service Commission;
- 18) Possibility of granting a death penalty should be removed from the International Crimes Bill; and