

AMNESTY INTERNATIONAL

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Uganda: Amnesty International calls for an effective alternative to impunity

Amnesty International today expressed its deep concern about reports that the Ugandan government is in the process of bargaining away the rights of victims of crimes against humanity and war crimes during political negotiations currently taking place in southern Sudan to end the armed conflict in northern Uganda. The organization is again calling for the government of Uganda to reconsider measures it is taking to establish a system of impunity for crimes committed on both sides during the two decade-long conflict between the Lord's Resistance Army and government forces and instead to establish a comprehensive strategy to address impunity ensuring that victims are granted justice and full reparation to address their suffering.

Concerns about offers to "protect" those subject to the International Criminal Court arrest warrants

Amnesty International is particularly dismayed by the recent reported statements by President Museveni offering "protection" to five senior leaders of the Lord's Resistance Army who have been charged by the International Criminal Court with crimes against humanity and war crimes, including murder, sexual enslavement and forced enlisting of children to serve as child soldiers.

The independent Court, which was requested by the Ugandan government to undertake the investigations on the basis that national authorities were unable to deliver justice for crimes under international law committed in the region, has responded promptly to ensure justice for the people of northern Uganda. Disturbingly, instead of providing its fullest support and cooperation for the Court's work, the government is now seeking to undermine the justice it called on the Court to ensure. In doing so, it has attempted to use the Court as a political tool in its negotiations with the Lord's Resistance Army.

Amnesty International notes that the government has no authority to offer "protection" to any person charged by the International Criminal Court. Indeed, any such efforts would violate Uganda's obligations under international law. Only the Court has the ability to revoke its arrest warrants. The Court, which is mandated to bring to justice those accused of the worst crimes known to humanity, would have no power to revoke arrest warrants on grounds that it might assist political negotiations to end the armed conflict. Following President Museveni's statements, the Court Prosecutor has called on states, including Uganda and Sudan, to execute the arrest warrants stating "the best way to stop the conflict and restore security to the region is to arrest the top leaders." The African Commission on Human and Peoples' Rights has also expressed its support of the Court's efforts "to bring those responsible of war crimes in Northern Uganda to justice"" Other states, including the United States of America, have called upon Uganda and Sudan to arrest these persons.

Amnesty International reiterates the call it made in October 2005 following the issuing of the arrest warrants for Uganda, Sudan and other states -- including the Democratic Republic of the Congo, where the accused are believed to be located -- to ensure that the five men are arrested and surrendered to the International Criminal Court as soon as possible. In addition, the organization is urging the Court and the international community, including the United Nations Mission in the Democratic Republic of Congo (MONUC), to continue to pursue the arrest of the five men and any other persons for whom the Court issues arrest warrants. Other states are also urged to exercise universal jurisdiction over other persons suspected of crimes under international law in northern Uganda, investigating them and, if there is sufficient admissible evidence, prosecuting them in their courts.

Concerns about offers of a new amnesty

Amnesty International is also deeply concerned that the Ugandan government is again offering an amnesty to all other Lord's Resistance Army members that would grant them impunity from prosecution before Ugandan courts for crimes under international law, including crimes against humanity, war crimes and torture.

Amnesty International strongly opposes the adoption of a new amnesty for such crimes since amnesties for crimes under international law are prohibited by international law. Furthermore, such amnesties are in direct violation of the Constitutive Act of the African Union, which expressly includes among its principles the condemnation and rejection of impunity. Amnesties are not binding on the International Criminal Court or national courts, including courts of other countries exercising universal jurisdiction. The implications of amnesties are of course broader than legal issues. Without justice, the rights and needs of victims are often forgotten.

Although some contend that justice should be sacrificed for peace, there is no conclusive evidence that such impunity measures bring sustainable peace. In Sierra Leone, the Lomé amnesty for crimes under international law failed to prevent continued and escalated violence. In northern Uganda, an existing amnesty law has failed to stop crimes or to bring about peace. Amnesty International has called for that law to be repealed.

In contrast, the example of the former Yugoslavia demonstrates that justice can co-exist with peace initiatives, as reflected in the Dayton Agreement, and can even promote peace through establishing accountability to deter future crimes. Amnesty International believes that a similar approach should be adopted in all cases where crimes under international law are committed.

An alternative -- a comprehensive strategy to address all crimes committed in the conflict

Amnesty International calls on the government not to undermine justice and the rights of victims in the course of the political negotiations to end the conflict. Instead, the organization urges the government to strive for sustainable peace by addressing the crimes committed by the Lord's Resistance Army and government forces during the conflict by establishing a comprehensive national strategy that ensures justice, truth and full reparations to victims, including crimes of sexual violence and violence against children. The strategy should recognize that children above the age of criminal responsibility who committed crimes under international law were also victims of crimes themselves, including abduction, sexual violence and use as child soldiers, mitigating factors which need to be taken into account in any criminal proceedings. An effective program would have to be developed in consultation with civil society, including both men and women, to ensure that judicial proceedings concerning children fully respect both international law and standards concerning juveniles and the rights of other victims and be part of an effective strategy to rehabilitate the children and reintegrate them into society.

All measures must be implemented in a manner that is fully consistent with international law and respecting the rights of women. The strategy should include the following measures, which could be effectively supplemented and complemented by proposed traditional justice mechanisms:

Ensuring that all those responsible for crimes under international law committed in the conflict are

brought to justice before national courts, thereby bringing justice to victims and establishing an effective deterrent to future crimes.

Establishing effective mechanisms to provide full reparations to victims to help them rebuild their lives. Ensuring that courts deal with those recruited as children by the LRA and the Uganda People's Defence Forces (UPDF) who served as child soldiers are dealt with in a manner which fully respects international law and standards concerning juvenile justice, taking into account mitigating factors such as abduction and duress, and ensuring reparations, as part of a broader program of rehabilitation and reintegration of child soldiers.

Develop effective mechanisms to establish the truth about the crimes committed during the conflict by allowing those affected to tell their stories.