



June 26, 2008

Hon. David Emerson
Minister of Foreign Affairs
Government of Canada
125 Sussex Drive
Ottawa, ON, Canada
K1A 0G2

By fax: 613-996-9709

Dear Minister Emerson,

The Canadian Centre for International Justice (CCIJ) is writing to express our concern about the role the Government of Canada appears to be playing with regard to a proposal that the UN Security Council prevent the arrest and surrender of persons suspected of crimes against humanity and war crimes on a horrific scale in northern Uganda by requesting that the International Criminal Court (ICC) defer their prosecution.

It has come to our attention that the Government of Canada has stated in a paper circulated to members of the UN Security Council that it is open "in principle, to extending Canadian support" to a possible request by Uganda to invoke Article 16 of the Rome Statute of the International Criminal Court (Rome Statute) to defer the Uganda cases for a renewable 12-month period.

As you know, charges have been laid and arrest warrants issued by the ICC against three members of the notorious Lord's Resistance Army (LRA), including LRA Commander Joseph Kony. The atrocities alleged constitute both war crimes and crimes against humanity, including rape, murder, enslavement, sexual enslavement, and the forced enlisting of children under the age of 15. These are among the most serious crimes of international concern, crimes for which it is essential that there be both justice and deterrence.

In the context of the conflict in northern Uganda, justice has at times been portrayed as an obstacle to peace, in large part because of the threats made by the LRA that there will be no meaningful engagement in the peace process unless the ICC's cases are halted. On the contrary, it is the strong view of the CCIJ, and other Canadian and international human rights organizations, that justice must be treated as an integral part of the process of ending the violence in northern Uganda that is terrorizing and victimizing so many. It is the failure of the international community to have taken effective steps over the past two years to arrest and

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surrender the LRA suspects that has led to the renewed crimes in northern Uganda, the Democratic Republic of the Congo, the Central African Republic and southern Sudan. Past experience has demonstrated that lasting peace without justice is rare; allowing those accused of planning and carrying out these atrocities to escape justice will very likely lead to continued instability and further crimes against humanity and war crimes in Uganda and will do nothing to support the healing of the individuals and groups affected.

The CCIJ is also very concerned about the long-term consequences of a potential Security Council deferral in this situation. The vision of the ICC and other international justice mechanisms is that they will end the culture of impunity that throughout history has allowed the perpetration of massive human rights abuses against millions of people with virtually no consequences. A Security Council deferral in this situation will undermine the global efforts of the past two decades to change this culture, in which Canada played a leading role, sending a message that it is continues to be possible even for those allegedly most responsible for the abuses to escape justice.

This is not in the interests of international peace and security, and not in the interests of long-term supporters of conflict prevention and international justice such as Canada. This is particularly true in light of the option under Article 19 of the Rome Statute that would allow the LRA suspects and Uganda to challenge the admissibility of the cases by seeking to demonstrate that Uganda was able and willing genuinely to prosecute the suspects at the national level for crimes against humanity and war crimes in competent, independent and impartial courts.

Depriving the International Criminal Court of this opportunity could seriously weaken its ability to contribute to deterrence of the worst possible crimes, not only in Uganda, but also in other countries around the world.

The CCIJ asks that Canada continue to provide global leadership in supporting the International Criminal Court, which it helped to create, and other mechanisms of justice. This is of critical importance in both the short-term and long-term efforts to end violence and the pervasive violations of international human rights in Uganda and in many other conflict situations globally.

Sincerely,

Jayne Stoyles
Executive Director