

Arrest warrants against Joseph Kony and the top LRA leaders

The International Bar Association (IBA) has called on the Ugandan Government to act decisively to enforce the outstanding arrest warrants issued by the International Criminal Court (ICC) against Joseph Kony and the other indicted leaders of the Lord's Resistance Army (LRA) in Uganda. The IBA further encouraged the UN Security Council (UNSC), states, parties and the entire international community to put pressure on the Ugandan government to enforce the outstanding arrest warrants and comply with its obligation to cooperate with the court. In addition, the IBA strongly urged the Sudanese and all other governments of adjoining countries to refrain from providing a safe haven to Joseph Kony and the LRA.

The IBA's call came in the wake of media reports that Joseph Kony had again delayed the final signing of the historic Juba peace agreement due to his continuing fear that he may be surrendered to the International Criminal Court (ICC) in The Hague. This latest failure to sign is viewed by some as a last-ditch attempt to force President Museveni categorically to request that the ICC withdraw the arrest warrants or risk jeopardising the entire peace deal. Furthermore, there are unconfirmed allegations that Okot Odhiambo, one of the LRA leaders indicted by the Court has been killed, fuelling suggestions that the entire peace process is likely to be derailed.

In this regard, Mark Ellis, IBA executive director, commented: 'The victims of the egregious atrocity perpetrated against innocent civilians in Northern Uganda can no longer await the effluxion of time before justice is done. Peace agreement or not, the warrants issued by the ICC must be respected and enforced by the Government of Uganda. The priority of President Museveni must now be accountability on behalf of the victims. The UNSC, states, parties and the entire international community should strongly encourage the Ugandan government to act decisively in enforcing the outstanding arrest warrants against Joseph Kony and the top LRA leaders.'

In an attempt finally to seal the long awaited peace deal, the Ugandan Government had included in the latest annexure to the Peace Agreement, a proposal to set up a Special Division of the Ugandan High Court for the trial of war crimes and crimes against humanity. President Museveni had been at pains to convince members of the international community that the creation of a Special Division to try serious crimes together with the use of the traditional justice mechanisms were sufficient to demonstrate that Uganda now had the capacity to try Joseph Kony and the LRA leaders and would no longer require ICC intervention. However, although the annex has substantial provisions on trials, provisions to ensure adherence to international fair trial standards and adequate penalties are lacking. In March 2008, the judges of Pre-Trial Chamber II to which the cases of Kony and the other LRA leaders are assigned, wrote to the Ugandan Government requesting detailed information regarding the implications of the annexure to the agreement on the execution of the arrest warrants issued by the court.

Richard Goldstone, co-chair of the IBA Human Rights Institute and former chief prosecutor of the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the former Yugoslavia (ICTY) commented: 'While efforts by the Ugandan Government to create a Special Division of the High Court to try war crimes and crimes against humanity are laudable, there is still no credible indication that the Ugandan justice system presently has the capacity to try Joseph Kony and the other LRA leaders according to internationally acceptable standards. The absence of specific provisions in the annexure to the peace agreement which guarantee adherence to international fair trial standards and appropriate sentences without amnesties are cause for concern. The requirements of the Rome Statute for deferral to national proceedings would not be satisfied.'

Justice Goldstone further adds: 'In those circumstances and in light of recent developments, deferral of the proceedings before the ICC is not an option that should be pursued at this time. President Museveni should instead seek rigorously to enforce the arrest warrants against Joseph Kony and the other indictees in keeping with Uganda's obligation under the Rome Statute to cooperate with the court.'

