

# **SODANN**

**INTERNATIONAL CRIMINAL COURT- ICC  
ICC YOUTH SEMMINAR HELD AT SODANN  
OFFICES ON TUESDAY OCTOBER 4, 2011**

**A SUMMARY REPORT  
SOROTI DEVELOPMENT ASSOCIATION & NGOs  
NETWORK**

## **A brief from the Coordinator- SODANN**

In his opening speech, he welcomed all the youths to the seminar and gave a brief background of SODANN. Soroti Development Association & NGOs Network (SODANN) was formed in 1994 to

organize and enable a collective voice of civil society organisations and community groups in the then Soroti District. SODANN serves all groups of people regardless of economic, religious, ethnic and political inclinations.

*SODANN's thematic areas include;*

- Human rights and Governance
- Transitional Justice.
- Information exchange and Networking
- NGO Capacity Building

*Mission of SODANN*

The mission of SODANN is to “Enhance the effectiveness of civil society in Teso to reduce poverty through capacity building and Policy Advocacy”.

### **Basics on human rights**

Human rights are entitlements that every person possesses by virtue of being human. Human rights

are not given by the state or an individual and cannot be taken away by anybody. They are put in Law

for purposes of enforcement and the state has the obligation to protect the rights of its citizens and

ensure that they enjoy their rights. Furthermore, not all rights are absolute; one can be deprived of

some rights such as the right to liberty through a competent court of law. One can be imprisoned if he

or she has committed a crime and is proved guilty.

In as much as rights are legal entitlements that cannot be taken away from a person by anybody or the

state, the contradictions of rights and responsibilities is still a big challenge as many youths have shunned their responsibility to work, behave well, and avoid risky behaviour or situations that bring

one in conflict with the law. One can be punished and deprived of the right to liberty if he/she misbehaved, committed a crime or engaged in activities that are in conflict with the law.

ICC seeks to promote the fundamental rights of justice, security and human dignity and Uganda has

shown a high degree of complementarity with the work on ICC. It has created crimes division of the

high court; it enacted the ICC Act and is trying a suspect with a case of international nature. This efforts need to be consolidated over time.

In 2007-2009, SODANN trained various stakeholders for example; the Army, Police, Local Council

leaders and the youths were covered under Councillors on issues of human rights, access to justice

and the rule of law in Teso. Since 2007 to date, SODANN is focussing on the issues of; Transitional

justice, NGO Capacity building, human rights and governance.

In conclusion, he informed the youths that SODANN has a Resource Centre that would greatly enable students to excel since it is well equipped with very useful books on human rights, gender, health, and development studies among others. He encouraged them to come and read so as to add their knowledge. After giving the above brief, he invited Mr. Otim the National coordinator ICC outreach programme- Kampala to talk to the youths about ICC.

*SODANN Resource Centre well equipped*

*with books ranging from Democracy,*

*Human Rights, Gender, Development,*

*Training Manuals, and Ordinary and*

*Advanced level books.*

*Youths paying attention to the facilitators*

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### **What is ICC?**

The International Criminal Court (“the ICC” or “the Court”) is a permanent international court established to investigate, prosecute and try individuals accused of committing the most serious crimes of concern to the international community as a whole, namely the crime of genocide, crimes against humanity and war crimes. It was formed in 1998 but it entered into force on 1 July 2002, 60 days after the 60th ratification needed to create the Court. It was received on April 11th at a special event at the United Nations, when 10 countries simultaneously deposited their instruments of ratification.

### **Structure of ICC**

The ICC is composed of four organs: the Presidency, the Chambers, the Office of the Prosecutor and the Registry. Each of these organs has a specific role and mandate.

### **Crimes handled by ICC**

The mandate of the Court is to try individuals rather than States, and to hold such persons accountable

for the most serious crimes of concern to the international community as a whole namely;

- Genocide

According to the Rome Statute, “genocide” means any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group: killing members of the group, causing serious bodily or mental harm to members of the group, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part and imposing measures intended to prevent births within the

group among others.

- Crimes against Humanity

“Crimes against humanity” include any of the following acts committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: murder, extermination, enforced disappearance of persons, torture, rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity

- War crimes.

“War crimes” include grave breaches of the Geneva Conventions and other serious violations of the laws and customs applicable in international armed conflict and in conflicts "not of an international character" listed in the Rome Statute, when they are committed as part of a plan or policy or on a large scale. These prohibited acts include: intentionally directing attacks against the civilian population, intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historical monuments or hospitals, rape, sexual slavery, and forced pregnancy or any other form of sexual violence among others.

*However*, ICC cannot investigate crimes that were committed before July 1, 2002.

In Uganda, the Chief Prosecutor of the International Criminal Court (ICC), Luis Moreno-Ocampo, has

determined that there is a reasonable basis to open an investigation into the situation concerning Northern Uganda, following the referral of the situation by Uganda in December 2003. The decision

to open an investigation was taken after thorough analysis of available information in order to ensure

that requirements of the Rome Statute are satisfied.

***The Coordinator- SODANN together with a team from ICC addressing youths in SODANN Board room***

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According to ICC, the following five (5) persons are suspected to have committed; war crimes & crimes against humanity in Uganda:

1. Joseph Kony
2. Okot Odhiambo
3. Vincent Otti
4. Dominic Ongwen
5. Lukwiya

For Lukwiya’s case, it was previously believed that he was dead but when ICC carried out investigations, exhumed his body and DNA tests were done on it, the results were negative. So ICC believes that Lukwiya is still alive.

**Update of the work of ICC in Africa**

ICC is not only in Uganda but it’s in; Kenya, Libya, and Darfur among others.

In Darfur, Bashir is one of the suspects issued with the arrest warrant because of the crimes

committed like rape and racism deliberately directed to the blacks. These crimes have been found to satisfy the level of war crimes and crimes against humanity. ICC on the other hand, does not try everyone; instead it comes to pick the big fish. It is therefore the responsibility of the situation country to deal with other crimes that do not fall under the ICC crimes bracket.

- *In Uganda*: arrest warrants were unsealed in October 2005 for LRA commanders Joseph Kony, Vincent Otti, Okot Odhiambo, Dominic Ongwen, and Raska Lukwiya.

However, Otti and Lukwiya reported to have died. However preliminary investigations on DNA by ICC have not confirmed the death of Lukwiya.

- *In Kenya*: the suspects named in the first case are William Ruto, Member of Parliament and former Minister of Education; Henry Kosgey, Minister of Industrialization; and Joshua Arap Sang, a radio journalist. They are each accused of three counts of crimes against humanity, related to murder, forcible population transfers, and “persecution.” Those named in the second case are Francis Muthaura, head of the public service, secretary to the Cabinet, and chairman of the National Security Advisory Committee; Uhuru Kenyatta, deputy prime minister and minister of finance (and the son of Kenya’s founding leader Jomo Kenyatta); and Mohamed Hussein Ali, former commissioner of the Kenyan police. They are each accused of five counts of crimes against humanity, related to murder, forcible population transfers, rape, “persecution,” and “other inhumane acts.”

- *In Libya*: on June 27, ICC judges issued arrest warrants for Libyan leader Muammar al Qadhafi, his son Sayf al Islam al Qadhafi, and intelligence chief Abdullah al Senussi, having found “reasonable grounds” to believe that they are responsible for crimes against humanity, including murder and “persecution.”

ICC recognises the rights of victims and that at the end of every passing of the guilt verdict, the persons affected should be reparated. The facilitator further said that; they value the youth because

they are important people in society and it was on this note that he opened up the floor for discussions.

### **Reactions by the Youths**

The following questions arose during the discussion;

#### **QN: Why is ICC targeting only African countries?**

ICC is not only targeting African countries but it is all over the world. ICC is concerned with countries that have accepted the Court’s jurisdiction and these are in all continents, including Africa. Three of the four situations currently under investigation were referred by African states themselves.

*Youths in Soroti interacting on ICC operations  
and development at SODANN offices*

Between 2003 and 2005 the Democratic Republic of the Congo, Uganda, and the Central African Republic referred situations on their own territory to the ICC.

Lastly, the United Nations Security Council referred the fourth situation, Darfur, by resolution under

Chapter VII of the UN Charter, as provided for by Article 13 of the Rome Statute.

In addition, African countries made great contributions to the establishment of the Court and influenced the decision to have an independent Office of the Prosecutor. In 1997 the Southern African

Development Community (SADC) was very active in supporting the proposed Court and its declaration on the matter was endorsed in February 1998 by the participants of the African Conference meeting in Dakar, Senegal through the 'Declaration on the Establishment of the International Criminal Court'. At the Rome Conference itself the most meaningful declarations about

the Court were made by Africans. Without African support the Rome Statute might never have been

adopted. In fact 43 African countries are currently signatories of the Rome Statute, of which 30 are

parties to the Statute, making Africa the most heavily represented region in the Court's membership.

**QN: Can ICC operate in a country which is not a member to it?**

Yes, ICC can operate in a country which is not her member this happens in such a way that if the UN

invites court to go and work in your country for example; Ivory Coast, Sudan and Libya are not members to ICC but the UN under the UN declaration invited her.

**QN: Can ICC try crimes committed by Government or by a group of individuals or inter states?**

No, ICC only prosecutes individuals, not groups or States. Any individual who is alleged to have committed crimes within the jurisdiction of the ICC may be brought before the ICC. In fact, the Prosecutor's prosecutorial policy is to focus on those who, having regard to the evidence gathered,

bear the greatest responsibility for the crimes, and does not take into account any official position that

may be held by the alleged perpetrators.

**QN: Before the war, Libya was a peaceful country, why does the UNATO come in to fight?**

There was an appraising that came in Benghazi, Libyans used excessive force that led to the commission of crimes of international nature. So by the time UNATO came in; Libyans had killed

thousands of people, initially they were protecting the civilians but later begun killing others that's

why UNATO came in to protect civilians from aerial bombardment.

**QN: What happens when ICC issues an arrest warrant to a head of state and the government refuses to release that person?**

No one is exempt from prosecution because of his or her current functions or because of the position he or she holds at the time the crimes concerned were committed. Acting as a Head of State or Government, minister or parliamentarian does not exempt anyone from criminal responsibility before the ICC. In some circumstances, a person in a position of authority may even be held responsible for crimes committed by those acting under his or her command or orders. The relevant example is the case of government officials in Kenya indicted by ICC.

**QN: How does ICC compensate the abducted children?**

First and foremost; the word is not compensation but reparation, ICC only investigates the responsible persons. Reparations are awarded when a guilty verdict has been secured. However, ICC has put in place a Trust Fund that is providing reparations even before the guilt verdict.

**QN: How do cases come before the ICC Court?**

Cases come before ICC through referrals made by the state, the prosecutor may on its own initiate investigations, UN Security Council may refer cases to ICC and CSOs can bring to the attention of the prosecutor a situation for investigation. However, any state party to the Rome Statute can request the Prosecutor to carry out an investigation. A state not party to the Statute can also accept the jurisdiction of the ICC with respect to crimes committed in its territory or by one of its nationals, and request the Prosecutor to carry out an investigation. The United Nations Security Council may also refer a situation to the Court.

In conclusion, the facilitator thanked all the youths who had turned up for this ICC meeting and he appealed to Judith that such foras should continue. He further said that SODANN has a well-equipped library and believes that if one spent even 30 minutes only reading this literature that could make a difference. The meeting was officially closed at 5:10 p.m.