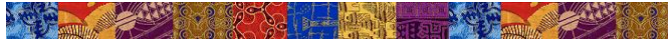


## Women's Initiatives for Gender Justice



### Gender Justice and the ICC

#### General Debate

#### ICC Review Conference, 1 June 2010

Brigid Inder,  
Executive Director  
Women's Initiatives for Gender Justice

Thank you Mr President, Honourable State Delegates and other esteemed participants to this very important 10-year review of the Rome Statute, and of the work of the ICC as a mechanism for justice, a deterrent for crimes and a beacon of hope for victims/survivors around the world.

My name is Brigid Inder, I am the Executive Director of the Women's Initiatives for Gender Justice. We are an international women's human rights organization advocating for the prosecution of gender-based crimes, where there is evidence such crimes have been committed, in each situation under investigation by the ICC. We work closely with women most affected by the conflicts before the Court and as such we have extensive country-based programmes in Uganda, the Democratic Republic of the Congo (DRC), Sudan, and the Central African Republic (CAR).

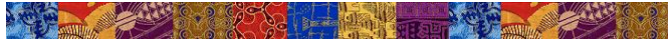
The Women's Initiatives for Gender Justice has a long history with the ICC, with the involvement of our predecessor, the Women's Caucus for Gender Justice, in the negotiations of the Rome Statute and the integration of gender issues within this seminal global treaty.

Since 2004 the Women's Initiatives has been working closely with the ICC in monitoring its institutional and substantive progress from a gender perspective, advocating for the prosecution of gender based crimes, providing gender training for various divisions of the Court, and supporting assistance for women through the work of the Trust Fund for Victims. In 2006 we were the first NGO to file before the Court and we are to date the only international women's human rights organisation to have been recognised with *amicus curiae* status by the ICC.

So, this is a Court we know well, an institution we care about deeply with a mandate whose integrity and possibilities we value.

Over the last six years the Women's Initiatives has held many workshops with women's rights activists, victims/survivors and peace advocates in four situations under ICC investigation. From Bangui to Goma, from Pader to Nyala, women most affected by these conflicts speak about the need for justice as a means to improve their lives, restore their communities and transform their countries.

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### **Women want prosecutions, implementation, prevention and a voice in all of it.**

What do we mean by that?

Women want domestic and international prosecutions for gender based crimes, implementation of the Rome Statute by their own governments as well as the ICC, prevention of conflict and violence against women, and a voice at the table for Peace Talks, as well as acceptance as key stakeholders, key partners, and full citizens in the implementation of peace agreements.

Women have had enough of peace-related impunity. We want justice with peace, with reconciliation, with reparations, we want accountability including forms which can be transformative - where the finding of guilt or innocence is accompanied by efforts to transform both communal and gender relations.

The work of the ICC is considered paramount. Because for many it is their greatest hope, for some perhaps their only chance for justice, for someone to be held accountable for what happened to them, with the hope that this should not happen to others.

Gender-based crimes have been charged by the Office of the Prosecutor (OTP) in four situations under investigation and in five out of eight cases brought by the OTP. In the three cases with charges so far confirmed, two have included some charges for gender-based crimes.

Gender-based crimes are being investigated and charged, but these crimes, unlike others charged by the Court, are facing challenges. In the two cases where confirmation hearings have been held and gender-based crimes have been charged, 60% of the gender-based charges have been confirmed, with significant charges dropped and some charges confirmed by a majority of the Judges, not by unanimous decisions.

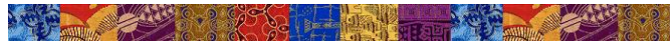
There is no other category of charges which have faced these challenges. It would appear the strategy underpinning these charges is still under development and not yet robust enough to sustain the charges and that perhaps modest judicial concepts of gendered violence are being applied in their interpretation.

### **Complementarity**

Women around the world are amongst the strongest supporters of this court, this is particularly true in situations where women have limited legal rights and where the Court could exercise its jurisdiction under the principle of complementarity.

In many of the countries within which the ICC is currently working or could open operations, women have limited human and legal rights especially in relation to physical integrity and the

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prevention of violence. The absence of relevant or effective legislation preventing violence against women, laws which actively condone forms of gender based violence, the low numbers of convictions for rape and other forms of sexual violence, discriminatory requirements for corroboration in relation to rape, masculinised interpretations of 'consent' and 'coercion', inadequate police investigations, discriminatory attitudes on the bench... can all conspire to create a state of unwillingness and inability to genuinely prosecute gender based crimes.

In such circumstances, the commission of gender based crimes in the absence of a legal system able, willing and likely to prosecute these crimes, is a justifiable criteria on its own, for the ICC to open an investigation under the principle of complementarity.

The prosecution of rape and other forms of violence against women by the ICC in these situations would be particularly significant because it would demonstrate that the Court recognises the legal rights of women even when they are denied by the laws and practices of their own country and it would also assist with future domestic prosecutions of non-conflict related rape and other forms of violence.

### **State Responsibility**

The ICC maybe the most important Court in the world for women in armed conflict situations, why? Because it is the only Court in the world with the explicit mandate and positive obligation to prosecute gender-based crimes, in every conflict situation, without exception, every time.

But the weight of this responsibility lies first and foremost with states, with our governments, with those whom we elect or those who assume to govern. Domestic prosecutions of crimes potentially within the jurisdiction of the ICC should be frequent and should always comply with the standards outlined in the Rome Statute. Such compliance must include not only the Statute but also its related documents specifically the ICC Elements of Crimes and Rules of Procedure and Evidence. This set of Statute documents together embody the legal standards and intentions of equality before the law.

National compliance with the highest standards of international criminal justice for victims, communities, witnesses and accused is vital if universality is to be achieved and if prosecutions are to act as a deterrent to the future commission of acts of genocide, war crimes, crimes against humanity and possibly aggression.

While the ICC must provide the models, and needs to forge the global benchmarks for prosecuting these acts including gender based crimes, it is states which must provide an end to the day-to-day experience of impunity.

Thank you