

ANNEX A

Public

Statement of Mr Lyandro Komakech

My name is Lyandro Komakech. I am a public servant, political scientist, and human rights defender. I am widely published on issues of traditional and transitional justice in Uganda, and the political, and socio-economic reforms necessary for the creation of effective states, institutions and regional integration that are people-centered and can sustain democracy and the rule of law. I was the Member of Parliament for Gulu Municipality between 2016 and 2022. I am also a victim of the conflict in Northern Uganda.

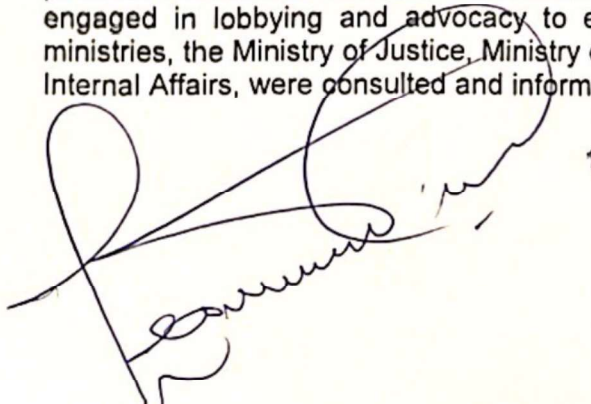
As a member of this community, I have lived through the conflict, and its aftermath. During those years, the community in the north was not living, as much as surviving, and really fighting to survive. We lived a life of resistance, in our school life, and in our normal life. Our friends were taken, and we watched as both sides of the conflict brutalised the civilian population.

After school, I first studied to become a teacher, but this felt removed from what was happening in our region. I thought to myself that in Northern Uganda we were living through a struggle, and I needed tools to be part of this struggle. I enrolled in a Bachelor of Arts in Social Sciences, International Relations and Diplomatic Studies at Makerere University. I later went on to complete a Masters of Arts in International Relations and Diplomatic Studies, Conflict and Security. My professional life in its various forms has kept these topics at its centre.

After university, I became active in youth politics. In 1995, my uncle told me that there would be a new Constitution drafted, and that young people were needed to contribute to that process. In the end, the 1995 Constitution muzzled freedom of expression and association and it was the young people who became advocates for resuscitating individual freedoms. I joined the Uganda Young Democrats and was elected as Vice-President, then President. Our goal was to contribute to the restoration of multi-party democracy in Uganda. It was a dangerous time to be advocating or to be seen to be advocating against the Government, but we were determined to claw back these freedoms that had been stripped.

Eventually the Constitutional Court restored the multi-party system. I entered parliament as a Member of Parliament in May 2016 and remained until May 2022. I engaged with many different communities and parishes in Gulu and engaged in large scale consultations, reporting always back to the Government. I introduced two private members' bills, the Human Rights Defenders and Protection Bill and the National Legal Aid Bill. I also became deeply involved in how we would resolve conflicts in Uganda and move towards a situation of sustainable peace. In this context, I became involved in the progress of the National Transitional Justice Policy, which formed the basis for the Transitional Justice Bill now introduced into parliament.

This process of moving towards a comprehensive transitional justice framework has been the result of sustained efforts by many lawmakers, individuals and civil society organisations, who believe that a comprehensive approach to transitional justice will contribute to sustainable peace and development following decades of conflict. The process included the formation of a national Transitional Justice Working Group, which engaged in lobbying and advocacy to ensure that the cross-section of relevant ministries, the Ministry of Justice, Ministry of Education, Ministry of Health, Ministry of Internal Affairs, were consulted and informed about the importance and impact of the



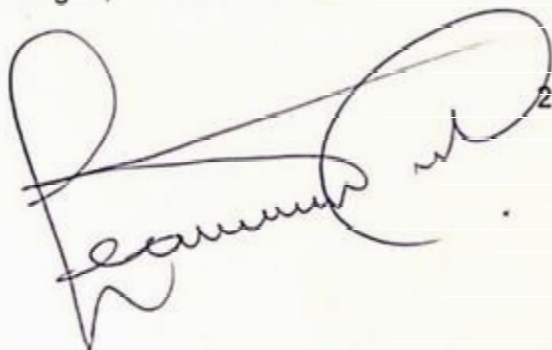
proposed policy. I remember becoming emotional on the floor of parliament when addressing the issue of women who were abducted and their children born in captivity in the DRC and Sudan. We were advocating for efforts to be made - while the bigger issues were being resolved - to ensure support for these women to return, for their children to have access to education and citizenship and for the National Registration Bureau to act to ensure these children were not stateless.

Part of the National Transitional Justice Policy was, of course, to ensure that our traditions did not remain subjugated to the practices and laws of the former colonial power. It is well known that traditional leaders in Northern Uganda were at the forefront of working with the Government to restore peace after the conflict, leading to increased recognition and understanding that our traditional justice is what helps communities have the resilience needed to recover from situations of mass violence. The Government authorised further research on this question and a study was conducted by the Ugandan Law Reform Commission. This study informed the Government that formal justice mechanisms must be complemented by traditional mechanisms. We are now beginning to see the incorporation and recognition of our customary laws into the traditional jurisprudence, with the aim of perfecting the blend between African traditions and the laws in place.

In Northern Uganda, for example, we believe that if you kill a person, your entire community assumes responsibility for this act, in a form of collective responsibility and it leads to a traditional trial. In the event that it is demonstrated to be true that the killing took place, compensation is then provided, and traditional processes are undertaken to rebuild the trust between the communities. This traditional framework is at odds with the processes at the ICC for example, which are deeply individual, and incorporate none of the reconciliation and traditional processes that lead to sustainable and peaceful inter-community relations.

In 2023, I was appointed as a regional facilitator and oversaw the repatriation of LRA returnees from the Central African Republic to Uganda. This process was long and complex, and was a component of ongoing efforts aimed at reconciliation and peace. There are many different actors involved in this broad process, both within governments and civil society. I was selected to put together a framework for the repatriation and work with these varied stakeholders for bringing former LRA commanders home. I had to push for an amendment to the Amnesty Law, for example, because it had expired. As part of this process, I spent a month in the bush living with these LRA commanders, building trust, to facilitate their return. This was obviously all done with the knowledge and blessing of the Ugandan Government.

Each of these experiences, from living through the conflict, to being instrumental in the passage of the National Transitional Justice Policy, and facilitating the return of LRA commanders, has given me an insight into the views of the communities on how decades of violence inflicted on themselves and their families can properly be brought to a close. The ICC is now proposing to hold a confirmation of charges hearing in the case against Joseph Kony, who until now remains in the bush. This raises the question of whether this hearing is in the interests of the affected communities in Northern Uganda, and will contribute to the development of a real and lasting peace through dialogue, rather than death.



In my view, the ICC's intervention at this critical stage is self-interested, and risks destabilising ongoing efforts for sustainable peace. For a start, it will frustrate the current ongoing initiatives to repatriate LRA commanders, including Joseph Kony, to Uganda. In my view, if Joseph Kony hears that the ICC will move against him in absentia, he will simply choose to die in the bush. The ICC's involvement will thus mean Joseph Kony will never emerge, and an important opportunity will be lost and the extremely sensitive work of so many stakeholders will be wasted.

There are other risks to the ICC's intervention in the Joseph Kony case. We have seen the challenge that has arisen out of the Dominic Ongwen's reparations order being affected by the new order in the Kwoyelo's case which is more generous. Instead efforts should be focused on the adoption of the guiding national law on Transitional Justice and ensuring the appropriation of funds to implement reparations for all affected victims, throughout Uganda, beginning with government commitment on Ongwen's reparation order. In my view, this sequencing will have a better conflict sensitive approach and stability in the reparation process.

Signed:

Date:

Lyandro Komakech as a scholar has publications that include among others a working paper titled: *Tradition in Transition; Drawing from the old to develop a jurisprudence for dealing with Uganda's legacy of violence*. A book chapter on *Exploring the Place of traditional justice in post-conflict Uganda*, Co-author of *Compendium of Conflicts in Uganda*, Policy Brief on *The Place for Engendered Traditional Justice in Uganda's Jurisprudence*. A Book Chapter on *Traditional Justice as a Form of Adjudication in Uganda* in a book titled: *Where Law Meets Reality; Forging an African Transitional Justice and Rapid Assessment Report of Refugee Influx in Northern Uganda 2015*.