**Press Statement 8th October, 2013.**

**SUPPORT FOR THE INTERNATIONAL CRIMINAL COURT AT THE AFRICAN UNION SUMMIT ON 11TH -12TH OCTOBER, 2013**

Recently, the relationship between the ICC and some African government has faced renewed challenges as the ICC’s case against Kenya’s Vice-president, for crimes committed during Kenya’s post-election violence in 2007-2008 have progressed. This has led to the scheduling of the AU extraordinary summit and questions over whether some African ICC states may be considering withdrawal from the Rome Statute.

The withdrawal from the ICC would send the wrong signal about Africa’s commitment to promoting human rights and fighting impunity. It will also be of grave consequences for civilians in Africa who tend to bear the brunt of serious crimes committed in violation of international law.

The ICC remains the only permanent criminal court with the authority to act when a state with jurisdiction is unable or unwilling to investigate or prosecute. Nigeria Coalition for the ICC and other Civil Society Organizations working on international justice appreciate the importance of ensuring access to justice.

A key criticism raised by some African leaders is that the court is targeting Africa. While the ICC’s cases are entirely from Africa, the majority came before the court as a result of requests by the states where the crimes were committed especially in Uganda, Democratic Republic of Congo, Central African Republic, Côte d’Ivoire and Mali. Libya and Darfur, Sudan were referred by the United Nations Security Council, with the support of its African members. Kenya is the only situation where the Office of the Prosecutor of ICC acted on its own initiative, but only with the approval of an ICC Pre-Trial Chamber after Kenya failed to take action to ensure justice domestically.

We recognize that international justice currently operates unevenly across the globe. In some situations, powerful governments are able to shield their citizens and the citizens of their allies from the ICC’s authority by not joining the ICC or using their veto power at the Security Council to block referrals of situations to the court.

We will continue to work with the Nigerian Government and other partners to ensure consistency in the application of international justice, including pressing against double standards at the Security Council. But undercutting justice for crimes where it is possible, because justice is not yet possible in all situations, risks emboldening those who might commit grave crimes. Working to expand, rather than contract, the membership of the ICC is a key step in widening access to justice and sending the message that no one is above the law.

The ICC’s role in Kenya underscores the court’s role as a crucial court of last resort, and we urge the Nigerian Government to signal support for this process to run its course.

Kenya’s leaders in 2008 initially agreed to set up a special tribunal to try cases related to the post-election violence, which claimed more than 1100 lives, destroyed livelihoods, and displaced more than a half-million people. But when efforts to create the tribunal or to move forward cases in ordinary courts failed, the ICC prosecutor opened an investigation. This had been recommended by a national commission of inquiry set up as part of an African Union-mediated agreement to end the violence.

Although the African Union, at the initiative of Kenya and Uganda, called for a “referral” of the ICC’s cases to a national mechanism in Kenya at its May 2013 summit, such referral is only for the ICC judges to decide on the basis of a legal challenge to the ICC, known as an admissibility challenge. However, the ICC judges in 2011 rejected a challenge by the Kenyan government in these cases in view of a lack of genuine national investigations and prosecutions. Even since that decision there have not been serious efforts within Kenya to mount investigations and prosecutions of the post-election violence.

Kenya has put governments in an awkward position by pressing for action to avoid the ICC’s cases for crimes committed in Kenya while having failed to avail itself of the legal procedures for the court to authorize such a move based on credible domestic investigation and prosecution. If adopted, a recent resolution by the Kenyan parliament to repeal the country’s International Crimes Act also would mean that the country **would lose an important tool for the domestic prosecution of international crimes**.

African states have been some of the most important supporters of the creation and effective functioning of the ICC. African states played an active role at the negotiation to establish the court, and 34 states, a majority of African Union members, have now become ICC states parties. African governments have sought the ICC’s assistance to carry out investigations and prosecutions, and Africans are among the highest level of ICC’s officials and staff and serve as judges at the court.

In this context, we urge the Nigerian Government to work to ensure support within Africa for the ICC and its critical role in the fight against impunity, including in Kenya. This includes signalling at African Union meetings, in public comments, and in bilateral discussions with other African governments that the court represents a vital instrument in the fight against impunity.

Nigeria Coalition for the International Criminal Court (NCICC), urge the Federal Government of Nigeria to affirm its support for the International Criminal Court (ICC) and its treaty, the Rome Statute during the Extraordinary African Union summit on the ICC scheduled for 10th -11th October, 2013.

We would welcome the chance to discuss this important issue further and civil society organizations with offices in your country will be in contact to set up a meeting on these matters.

Yours Sincerely,

**Chino Obiagwu**, Chair Steering committee of NCICC

**Dr Abiola Akiyode**, Vice Chair NCICC

**Oby Nwankwo**, Treasurer NCICC