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Interviewees

Achiro Alice, Anena Lily Grace ad Ajok Florence, women leaders in northern Uganda (Interviews conducted on 15 May 2012 in Gulu)

Alex Ajiji, Registrar of the ICD (interviewed on 26 Jan 2011 in Kampala)

Christine Akumu Okot and Mwa Chris officers of local government of Gulu and Pader districts (Interviews conducted on 10 August 2010 and 22 Oct 2011 in Gulu)

Frank Onapito Ekomoliot, former Presidential Press Secretary (interviewed on 4 Jan 2011 in Kampala)

Ismene Zarifis, Transitional Justice Advisor, JLOS Uganda (Interviewed 12 Feb 2012)

Jeroline Akubo, senior legal with the Uganda Law Reform Commission (conducted on 15 Feb 2011 and 22 Feb 2012 in Kampala)

Joan Kagezi, Senior Principal State Attorney in charge of war crime prosecutions (Interviewed on 18 Jan 2011; 13 Feb 2011 and 22 March 2011 in Kampala)

Justice Elizabeth Nahamya, Judge of the ICD (interviewed on 26 Jan 2011, 24 Feb 2012 in Kampala)

Justice Onega, chairman of the Amnesty Commission (interviewed on 14 Jan 2011 and 10 June 2010 in Kampala)

Ladit Omong of Obiya (interviewed 15 Feb 2008 in Gulu)

Ladit Opoka Vanango of Paicho (interviewed 12 Feb 2008 in Amuru)

Ladit Oweka Layii of Lacor IDP camp (interviewed 20 Feb 2008 in Gulu)

Maria Kamara, ICC Outreach Officer based in Kampala (interviewed on 24 Jan 2011, 25 June 2010 in Kampala)

Mzee Obama Adam of Lacor (interview conducted on 13 Feb 2008 in Gulu)

Ochora Walter, Resident District Commander of Gulu, (Interview conducted in Gulu on 10 February 2008)

Rachel Odoi – Musoke, Senior Principal Advisor with JLOS (Interviewed on 18 Jan 2011, 20 Nov 2010 and 3 March 2011 in Kampala)

Rwot Apige of Paicho (interviewed 12 Feb 2008 in Amuru)

Rwot Otinga Otto Yayi of Lamogi (interviewed on 12 February 2008 in Lacor IDP camp)

Ten former child soldiers (ages between 15 and 21) living in GUSCO reception centre (Focus group discussion on 18 February 2008 in Gulu)

Twelve returnees (ages 14 to 23) (in a focus group discussion in Pabbo IDP camp on 21 February 2008 in Amuru)

ANNEXURE A

AGREEMENT ON ACCOUNTABILITY AND RECONCILIATION & ANNEXURE



AGREEMENT ON ACCOUNTABILITY AND RECONCILIATION

BETWEEN THE GOVERNMENT OF THE REPUBLIC OF UGANDA AND THE LORD'S RESISTANCE ARMY/MOVEMENT JUBA, SUDAN

This Agreement, between the Government of Uganda (The Government) and the Lord's Resistance Army/Movement (LRA/M) (herein referred to as the Parties), witnesseth that:

PREAMBLE

WHEREAS THE PARTIES:

HAVING BEEN engaged in protracted negotiations in Juba, Southern Sudan, in order to find just, peaceful and lasting solutions to the long-running conflict, and to promote reconciliation and restore harmony and tranquillity within the affected communities and in Uganda generally;

CONSCIOUS of the immense, pain, suffering, injury and adverse socio-economic and political impacts of the conflict, and of the serious crimes, human rights violations; and recognising the need to honour the victims by promoting lasting peace with justice;

COMMITTED to preventing impunity and promoting redress in accordance with the Constitution and international obligations and recalling, in this connection, the requirements of the Rome Statute of the International Criminal Court (ICC) and in particular the principle of complementarity;

DRIVEN by the need for adopting appropriate justice mechanisms, including customary processes of accountability, that would resolve the conflict while promoting reconciliation and convinced that this Agreement is a sound basis for achieving that purpose;

GUIDED BY the Objective Principle of the Constitution, which directs that there shall be established and nurtured institutions and procedures for the resolution of conflicts fairly and peacefully; and further recalling the Constitutional duty on the courts of Uganda to promote reconciliation between contesting parties;

NOW THEREFORE THE PARTIES AGREE as follows:

1. DEFINITIONS

Unless the context suggests otherwise, the following words and phrases shall have the meaning assigned thereto:

“Ailuc” refers to the traditional rituals performed by the Madi to reconcile parties formerly in conflict, after full accountability.

“Alternative justice mechanisms” refers to justice mechanisms not currently administered in the formal courts established under the Constitution.

“the conflict” means the Northern and North-eastern Uganda conflict, and includes the impacts of that conflict in the neighbouring countries.

“Constitution” means the Constitution of the Republic of Uganda.

“Culo Kwor” refers to the compensation to atone for homicide as practiced in Acholi and Lango cultures, and any other forms of reparation for any other purposes, after full accountability.

“Gender” refers to the two sexes, men and women, within the context of society.

“Government” means the Republic of Government of Uganda.

“Kayo Cuk” refers to the traditional accountability and reconciliation processes practiced by the Langi communities after full accountability and reconciliation has been attained between parties formerly in conflict, after full accountability.

“Mato Oput” refers to the traditional ritual performed by the Acholi after full accountability and reconciliation has been attained between parties formerly in conflict, after full accountability.

“Reconciliation” refers to the process of restoring broken relationships and re-establishing harmony.

“**Tonu ci Koka**” refers to the traditional rituals performed by the Madi to reconcile parties formerly in conflict, after full accountability;

“**Victims**” means persons who have individually or collectively suffered harm as a consequence of crimes and human rights violations committed during the conflict.

2. COMMITMENT TO ACCOUNTABILITY AND RECONCILIATION

- 2.1. The Parties shall promote national legal arrangements, consisting of formal and non formal institutions and measures for ensuring justice and reconciliation with respect to the conflict.
- 2.2. The accountability processes stipulated in this Agreement shall relate to the period of the conflict. However, this clause shall not prevent the consideration and analysis of any relevant matter before this period, or the promotion of reconciliation with respect to events that occurred before this period.
- 2.3. The Parties believe that a comprehensive, independent and impartial analysis of the history and manifestations of the conflict, especially the human rights violations and crimes committed during the course of the conflict, is an essential ingredient for attaining reconciliation at all levels.
- 2.4. The Parties agree that at all stages of the development and implementation of the principles and mechanisms of this Agreement, the widest possible consultations shall be promoted and undertaken in order to receive the views and concerns of all stakeholders, and to ensure the widest national ownership of the accountability and reconciliation processes. Consultations shall extend to state institutions, civil society, academia, community leaders, traditional and religious leaders, and victims.
- 2.5. The Parties undertake to honour and respect, at all times, all the terms of this Agreement which shall be implemented in the utmost good faith and shall adopt effective measures for monitoring and verifying the obligations assumed by the Parties under this Agreement.

3. PRINCIPLES OF GENERAL APPLICATION

- 3.1. Traditional justice mechanisms, such as *Culo Kwor*, *Mato Oput*, *Kayo Cuk*, *Ailuc* and *Tonu ci Koka* and others as practiced in the communities affected by the conflict, shall be promoted, with necessary modifications, as a central part of the framework for accountability and reconciliation.

Conduct of Proceedings

- 3.2. The Parties recognise that any meaningful accountability proceedings should, in the context of recovery from the conflict, promote reconciliation and encourage individuals to take personal responsibility for their conduct.
- 3.3. With respect to any proceedings under this Agreement, the right of the individual to a fair hearing and due process, as guaranteed by the Constitution, shall at all times be protected. In particular, in the determination of civil rights and obligations or any criminal charge, a person shall be entitled to a fair, speedy and public hearing before an independent and impartial court or tribunal established by law.
- 3.4. In the conduct of accountability and reconciliation processes, measures shall be taken to ensure the safety and privacy of witnesses. Witnesses shall be protected from intimidation or persecution on account of their testimony. Child witnesses and victims of sexual crimes shall be given particular protection during proceedings.

Cooperation within proceedings

- 3.5. The Parties shall promote procedures and approaches to enable individuals to cooperate with formal criminal or civil investigations processes and proceedings. Cooperation may include the making of confessions, disclosures and provision of information on relevant matters. The application of any cooperation procedures shall not prejudice the rights of cooperating individuals.
- 3.6. Provisions may be made for the recognition of confessions or other forms of cooperation to be recognised for purposes of sentencing or sanctions.

Legal representation

- 3.7. Any person appearing before a formal proceeding shall be entitled to appear in person or to be represented at that person's expense by a lawyer of his or her choice. Victims participating in proceedings shall be entitled to be legally represented.
- 3.8. Provision shall be made for individuals facing serious criminal charges or allegations of serious human rights violations and for victims participating in such proceedings, who cannot afford representation, to be afforded legal representation at the expense of the State.

Finality and effect of proceedings

- 3.9. In order to achieve finality of legal processes, accountability and reconciliation procedures shall address the full extent of the offending conduct attributed to an individual. Legislation may stipulate the time within which accountability and reconciliation mechanisms should be undertaken.

- 3.10. Where a person has already been subjected to proceedings or exempted from liability for any crime or civil acts or omissions, or has been subjected to accountability or reconciliation proceedings for any conduct in the course of the conflict, that person shall not be subjected to any other proceedings with respect to that conduct.

4. ACCOUNTABILITY

- 4.1. Formal criminal and civil justice measures shall be applied to any individual who is alleged to have committed serious crimes or human rights violations in the course of the conflict. Provided that, state actors shall be subjected to existing criminal justice processes and not to special justice processes under this Agreement.
- 4.2. Prosecutions and other formal accountability proceedings shall be based upon systematic, independent and impartial investigations.
- 4.3. The choice of forum for the adjudication of any particular case shall depend, amongst other considerations, on the nature and gravity of the offending conduct and the role of the alleged perpetrator in that conduct.
- 4.4. For purposes of this Agreement, accountability mechanisms shall be implemented through the adapted legal framework in Uganda.

5. LEGAL AND INSTITUTIONAL FRAMEWORK

- 5.1. The Parties affirm that Uganda has institutions and mechanisms, customs and usages as provided for and recognised under national laws, capable of addressing the crimes and human rights violations committed during the conflict. The Parties also recognise that modifications may be required within the national legal system to ensure a more effective and integrated justice and accountability response.
- 5.2. The Parties therefore acknowledge the need for an overarching justice framework that will provide for the exercise of formal criminal jurisdiction, and for the adoption and recognition of complementary alternative justice mechanisms.
- 5.3. Alternative justice mechanisms shall promote reconciliation and shall include traditional justice processes, alternative sentences, reparations, and any other formal institutions or mechanisms.
- 5.4. Insofar as practicable, accountability and reconciliation processes shall be promoted through existing national institutions and mechanisms, with necessary

modifications. The Parties shall consult on the need to introduce any additional institutions or mechanisms for the implementation of this Agreement.

- 5.5. The Parties consider that the Uganda Human Rights Commission and the Uganda Amnesty Commission are capable of implementing relevant aspects of this Agreement.

Legislative and policy changes

- 5.6. The Government will introduce any necessary legislation, policies and procedures to establish the framework for addressing accountability and reconciliation and shall introduce amendments to any existing law in order to promote the principles in this Agreement.

6. FORMAL JUSTICE PROCESSES

- 6.1. Formal courts provided for under the Constitution shall exercise jurisdiction over individuals who are alleged to bear particular responsibility for the most serious crimes, especially crimes amounting to international crimes, during the course of the conflict.
- 6.2. Formal courts and tribunals established by law shall adjudicate allegations of gross human rights violations arising from the conflict.

Sentences and Sanctions

- 6.3. Legislation shall introduce a regime of alternative penalties and sanctions which shall apply, and replace existing penalties, with respect to serious crimes and human rights violations committed by non-state actors in the course of the conflict.
- 6.4. Alternative penalties and sanctions shall, as relevant: reflect the gravity of the crimes or violations; promote reconciliation between individuals and within communities; promote the rehabilitation of offenders; take into account an individual's admissions or other cooperation with proceedings; and, require perpetrators to make reparations to victims.

7. RECONCILIATION

- 7.1. The Parties shall promote appropriate reconciliation mechanisms to address issues arising from within or outside Uganda with respect to the conflict.
- 7.2. The Parties shall promote collective as well as individual acts and processes of reconciliation shall be promoted at all levels.

7.3. Truth-seeking and truth-telling processes and mechanisms shall be promoted.

8. VICTIMS

- 8.1. The Parties agree that it is essential to acknowledge and address the suffering of victims, paying attention to the most vulnerable groups, and to promote and facilitate their right to contribute to society.
- 8.2. The Government shall promote the effective and meaningful participation of victims in accountability and reconciliation proceedings, consistently with the rights of the other parties in the proceedings. Victims shall be informed of the processes and any decisions affecting their interests.
- 8.3. Victims have the right of access to relevant information about their experiences and to remember and commemorate past events affecting them.
- 8.4. In the implementation of accountability and reconciliation mechanisms, the dignity, privacy and security of victims shall be respected and protected.

9. REPARATIONS

- 9.1. Reparations may include a range of measures such as: rehabilitation; restitution; compensation; guarantees of non-recurrence and other symbolic measures such as apologies, memorials and commemorations. Priority shall be given to members of vulnerable groups.
- 9.2. The Parties agree that collective as well as individual reparations should be made to victims through mechanisms to be adopted by the Parties upon further consultation.
- 9.3. Reparations may be ordered to be made by perpetrators as part of penalties and sanctions in accountability proceedings.

10. GENDER

In the implementation of this Agreement, a gender-sensitive approach shall be promoted and in particular, implementers of this Agreement shall strive to prevent and eliminate any gender inequalities that may arise.

11. WOMEN AND GIRLS

In the implementation of this Agreement it is agreed to:

- (i) Recognise and address the special needs of women and girls.
- (ii) Ensure that the experiences, views and concerns of women and girls are recognised and taken into account.
- (iii) Protect the dignity, privacy and security of women and girls.
- (iv) Encourage and facilitate the participation of women and girls in the processes for implementing this agreement.

12. CHILDREN

In the implementation of this Agreement it is agreed to:

- (i) Recognise and address the special needs of children and adopt child-sensitive approaches.
- (ii) Recognise and consider the experiences, views and concerns of children.
- (iii) Protect the dignity, privacy and security of children in any accountability and reconciliation proceedings.
- (iv) Ensure that children are not subjected to criminal justice proceedings, but may participate, as appropriate, in reconciliation processes.
- (v) Promote appropriate reparations for children.
- (vi) Encourage and facilitate the participation of children in the processes for implementing this Agreement.

13. RESOURCES

The Government will avail and solicit resources for the effective implementation of this Agreement.

14. OBLIGATIONS AND UNDERTAKINGS OF THE PARTIES

The Parties:

- 14.1. Expeditiously consult upon and develop proposals for mechanisms for implementing these principles.

- 14.2. Ensure that any accountability and reconciliation issues arising in any other agreement between themselves are consistent and integrated with the provisions of this Agreement.

The Government:

- 14.3. Adopt an appropriate policy framework for implementing the terms of this Agreement.
- 14.4. Introduce any amendments to the Amnesty Act or the Uganda Human Rights Act in order to bring it into conformity with the principles of this Agreement.
- 14.5. Undertake any necessary representations or legal proceedings nationally or internationally, to implement the principles of this Agreement.
- 14.6. Address conscientiously the question of the ICC arrest warrants relating to the leaders of the LRA/M.
- 14.7. Remove the LRA/M from the list of Terrorist Organisations under the Anti-Terrorism Act of Uganda upon the LRA/M abandoning rebellion, ceasing fire, and submitting its members to the process of Disarmament, Demobilisation, and Reintegration.
- 14.8. Make representations to any state or institution which has proscribed the LRA/M to take steps to remove the LRA/M or its members from such list.

The LRA/M:

- 14.9. The LRA/M shall assume obligations and enjoy rights pursuant to this Agreement.
- 14.10. The LRA/M shall actively promote the principles of this Agreement.

15. ADOPTION OF MECHANISMS FOR IMPLEMENTING THIS AGREEMENT

- 15.1. The Parties shall negotiate and adopt an annexure to this Agreement which shall set out elaborated principles and mechanisms for the implementation of this Agreement. The annexure shall form a part of this Agreement.
- 15.2. The Parties may agree and the Mediator will provide additional guidance on the matters for the Parties to consider and consult upon in the interim period, in developing proposals for mechanisms for implementing this Agreement.

16. COMMENCEMENT

This Agreement shall take effect upon signature.

IN WITNESS WHEREOF the duly authorized representatives of the parties have hereunto appended their respective signatures at Juba, South Sudan, this 29th day of June 2007.

Dr S Kagoda
Permanent Secretary
Ministry of Internal Affairs
Acting Head of the Government
of Uganda Delegation

Mr. Martin Ojul
Leader of the LRA/M Delegation

WITNESSED BY:

H.E Lt. Gen. Riek Machar Teny-Dhurgon (PhD)
Vice President, Government of Southern Sudan and
Mediator of the Government of Uganda - Lord's Resistance Army/Movement Peace
Talks

H.E Japheth R Getugi
For the Government of the Republic of Kenya

H.E Ali I Siwa
For the Government of the United Republic of Tanzania

ANNEXURE TO THE AGREEMENT ON ACCOUNTABILITY AND RECONCILIATION

This Annexure to the Agreement on Accountability and Reconciliation signed between the Government of the Republic of Uganda (the Government) and the Lord's Resistance Army/Movement (LRA/M) (the Parties) on 29th June 2007 (the Principal Agreement) provides as follows:

THE PARTIES:

HAVING SIGNED the Principal Agreement by which the parties committed themselves to implementing accountability and reconciliation with respect to the conflict;

PURSUANT TO the terms of the Principal Agreement calling for the adoption of mechanisms for implementing accountability and reconciliation;

HAVING CARRIED OUT broad consultations within and outside Uganda, and in particular, with communities that have suffered most as a result of the conflict;

HAVING ESTABLISHED through consultations under Clause 2.4 of the Principal Agreement, that there is national consensus in Uganda that adequate mechanisms exist or can be expeditiously established to try the offences committed during the conflict;

RECALLING their commitment to preventing impunity and promoting redress in accordance with the Constitution and international obligations, and recalling, in this connection, the requirements of the Rome Statute of the International Criminal Court (ICC) and in particular the principle of complementarity;

CONFIDENT that the Principal Agreement embodies the necessary principles by which the conflict can be resolved with justice and reconciliation and consistent with national and international aspirations and standards;

NOW THEREFORE AGREE as follows:

Primacy of the Principal Agreement

1. This Annexure sets out a framework by which accountability and reconciliation are to be implemented pursuant to the Principal Agreement, provided that this Annexure shall not in any way limit the application of that Agreement, whose provisions are to be implemented in full.

2. The Government shall expeditiously prepare and develop the necessary legislation and modalities for implementing the Principal Agreement and this Annexure ('the Agreement').

3. The Government, under clause 2 above, shall take into account any representations from the parties on findings arising from the consultations undertaken by the Parties and any input by the public during the legislative process.

Inquiry into the Past and related matters (*Principal Agreement: clauses 2.2 & 2.3*)

4. The Government shall by law establish a body to be conferred with all the necessary powers and immunities, whose functions shall include:

- (a) to consider and analyse any relevant matters including the history of the conflict;
- (b) to inquire into the manifestations of the conflict;
- (c) to inquire into human rights violations committed during the conflict, giving particular attention to the experiences of women and children;
- (d) to hold hearings and sessions in public and private;
- (e) to make provision for witness protection, especially for children and women;
- (f) to make special provision for cases involving gender based violence;
- (g) to promote truth-telling in communities and in this respect to liaise with any traditional or other community reconciliation interlocutors;
- (h) to promote and encourage the preservation of the memory of the events and victims of the conflict through memorials, archives, commemorations and other forms of preservation;
- (i) to gather and analyse information on those who have disappeared during the conflict;
- (j) to make recommendations for the most appropriate modalities for implementing a regime of reparations, taking into account the principles set out in the Principal Agreement;
- (k) to make recommendations for preventing any future outbreak of conflict;
- (l) to publish its findings as a public document;
- (m) to undertake any other functions relevant to the principles set out in this Agreement.

5. In the fulfilment of its functions, the body shall give precedence to any investigations or formal proceedings instituted pursuant to the terms of this Agreement. Detailed guidelines and working practices shall be established to regulate the relationship between the body and any other adjudicatory body seized of a case relating to this Agreement.

6. The body shall be made up of individuals of high moral character and proven integrity and the necessary expertise for carrying out its functions. In particular, its composition shall reflect a gender balance and the national character.

Legal and Institutional Framework (*Principal Agreement: Part 5*)

7. A special division of the High Court of Uganda shall be established to try individuals who are alleged to have committed serious crimes during the conflict.

8. The special division of the High Court shall have a registry dedicated to the work of the division and in particular, shall make arrangements to facilitate the protection and participation of witnesses, victims, women and children.

9. For the proper functioning of the special division of the court in accordance with the agreed principles of accountability and reconciliation, legislation may provide for:

- (a) The constitution of the court;
- (b) The substantive law to be applied;
- (c) Appeals against the decisions of the court;
- (d) Rules of procedure;
- (e) The recognition of traditional and community justice processes in proceedings.

Investigations and Prosecutions (*Principal Agreement: Part 4*)

10. The Government shall establish a unit for carrying out investigations and prosecutions in support of trials and other formal proceedings as envisaged by the Principal Agreement.

11. The unit shall have a multi-disciplinary character.

12. The Director of Public Prosecutions shall have overall control of the criminal investigations of the unit and of the prosecutions before the special division.

13. Investigations shall:

- (a) Seek to identify individuals who are alleged to have planned or carried out widespread, systematic, or serious attacks directed against civilians;
- (b) Reflect the broad pattern of serious crimes and violations committed during the conflict;
- (c) Give particular attention to crimes and violations against women and children committed during the conflict.

14. Prosecutions shall focus on individuals alleged to have planned or carried out widespread, systematic, or serious attacks directed against civilians or who are alleged to have committed grave breaches of the Geneva Conventions.

Cooperation with Investigations and Proceedings (*Principal Agreement: clauses 3.5 & 3.6*)

15. Rules and procedures shall regulate the manner in which an individual may cooperate with any investigations and proceedings arising from this Agreement, by disclosure of all relevant information relating to:

- (a) His or her own conduct during the conflict;
- (b) Details which may assist in establishing the fate of persons missing during the conflict;
- (c) The location of land mines or unexploded ordnances or other munitions; and,
- (d) any other relevant information. Provided that a person shall not be compelled to disclose any matter which might incriminate him or her.

Reparations (*Principal Agreement: clauses 6.4 & 9*)

16. The Government shall establish the necessary arrangements for making reparations to victims of the conflict in accordance with the terms of the Principal Agreement.

17. Prior to establishing arrangements for reparations, the Government shall review the financial and institutional requirements for reparations, in order to ensure the adoption of the most effective mechanisms for reparations.

18. In reviewing the question of reparations, consideration shall be given to clarifying and determining the procedures for reparations.

Traditional Justice (*Principal Agreement: clause 3.1*)

19. Traditional justice shall form a central part of the alternative justice and reconciliation framework identified in the Principal Agreement.

20. The Government shall, in consultation with relevant interlocutors, examine the practices of traditional justice mechanisms in affected areas, with a view to identifying the most appropriate roles for such mechanisms. In particular, it shall consider the role and impact of the processes on women and children.

21. The Traditional Justice Mechanisms referred to include:

- i. Mato Oput in Acholi, Kayo Cuk in Lango, Ailuc in Teso, Tonu ci Koka in Madi and Okukaraba in Ankole; and
- ii. Communal dispute settlement institutions such as family and clan courts.

22. A person shall not be compelled to undergo any traditional ritual.

Provisions of General Application

23. Subject to clause 4.1 of the Principal Agreement, the Government shall ensure that serious crimes committed during the conflict are addressed by the special Division of the High Court; traditional justice mechanisms; and any other alternative justice mechanism established under the Principal Agreement, but not the military courts.

24. All bodies implementing the Agreement shall establish internal procedures and arrangements for protecting and ensuring the participation of victims, traumatised individuals, women, children, persons with disabilities and victims of sexual violence in proceedings.

25. In the appointment of members and staff of institutions envisaged by the Agreement, overriding consideration shall be given to the competences and skills required for the office, and gender balance shall be ensured.

26. The Mediator shall from time to time receive or make requests for reports on the progress of the implementation of the Agreement.

IN WITNESS WHEREOF the duly authorized representatives of the Parties have signed this Annexure in Juba on the 19th day of February 2008

.....
Hon. Ruhakana Rugunda (Dr) Dr David Nyekorach Matsanga
Minister of Internal Affairs and Leader of the LRA/M Delegation
Head of GoU Delegation

WITNESSED BY:

.....
H.E. Lt. General Riek Machar Teny-Dhurgon (PhD)
Vice President, Government of Southern Sudan
And Chief Mediator of the Peace Talks

.....
H.E. André M Kapanga (PhD)
For the Government of the Democratic Republic of Congo

.....
H.E. Japheth R. Getugi
For the Government of the Republic of Kenya

.....
H.E. Nsavike G. Ndatta
For the Government of the United Republic of Tanzania

.....
H.E. Francisco Caetano Madeira
For the Government of the Republic of Mozambique

.....
Lt. Gen. (Rtd.) Gilbert Lebeko Ramano
For the Government of the Republic of South Africa

.....
H.E. Jan Ledang
For the Government of Norway

.....
Ms Anna Sundström
Political Advisor to the EU Special Representative for the Great Lakes Region,
For the European Union

.....
Mr Timothy R. Shortley
Senior Advisor to the Assistant Secretary of State for African Affairs,

For the Government of the United States of America

ANNEXURE B

THE NATIONAL RECONCILIATION BILL, 2009

MEMORANDUM

The purpose of this Bill is to enact a law to provide a framework for a national reconciliation process in Uganda and address the historical causes underlying violent conflicts and widespread or systematic violations or abuses of human rights. These aims shall be accomplished by examining the legacies of past violations and abuses of human rights which were committed in Uganda from independence in 1962 to the date of assent, including all their relevant antecedents and circumstances. This law shall be known as the “National Reconciliation Act,” and shall mandate the creation of a National Reconciliation Forum with the authority to recommend reparations for victims of human rights violations, hold perpetrators accountable, recommend measures to prevent the future violation of human rights, design and conduct symbolic nation-wide reconciliation activities, and provide for other related matters.

THE NATIONAL RECONCILIATION BILL, 2009

ARRANGEMENT OF CLAUSES

THE NATIONAL RECONCILIATION BILL, 2009

PREAMBLE

Whereas the nation is inspired by Objective III of our National Objectives and Directive Principles of State Policy in the 1995 Constitution that: *“every effort shall be made to integrate all peoples of Uganda while at the same time recognizing the existence of their ethnic, religious, ideological, political and cultural diversity,”* and that: *“there shall be established and nurtured institutions and procedures for the resolution of conflicts fairly and peacefully”*;

AND

Mindful that the nation, since its independence and up to the present day, has been confronted with violent conflicts and widespread and systematic violations or abuses of human rights as well as socio-economic losses;

AND

Considering that the civil conflicts were generally characterized by gross violations and abuses of human rights and the widespread commission of war crimes and crimes against humanity in further violation of international humanitarian law and standards;

AND

Convinced that national peace, security, unity and reconciliation are indispensable to the attainment of national development goals and objectives and to ensuring growth, prosperity and regional integration;

AND

Considering also that Uganda has, in the past, taken measures to address such violations by establishing policies for the purpose of achieving closure with regards to past oppression, while simultaneously working toward national security, unity, peace and reconciliation;

AND

Aware that the 1995 Constitution of the Republic of Uganda mandates building a better future through the establishment of a socioeconomic and political order based on the principles of trust and respect for the human rights of all the peoples of Uganda irrespective of sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability;

AND

Recognising that national healing and reconciliation will be greatly enhanced by a process that seeks to establish the truth through public dialogue regarding the nature, causes, and consequences of violent conflict and the impact these continue to have on the Ugandan nation;

AND

Recalling that in the course of the Juba peace talks the government of Uganda recognized the need for an overarching national justice and reconciliation framework, including alternative justice mechanisms such as traditional reconciliation and truth telling processes, alternative sentencing, reparations and any other formal institutions or mechanisms;

AND

Recalling that the government of Uganda also recognized that a comprehensive, independent and impartial analysis of the history and manifestations of the conflict,

including the human rights violations, abuses and crimes committed during its course, is an essential ingredient for attaining reconciliation at all levels;

AND

Reaffirming the commitment of the Ugandan people to peace, justice, unity, national healing and reconciliation and the general principles of human and peoples' rights as enshrined in Chapter IV of the Constitution of the Republic of Uganda, the African Charter on Human and Peoples Rights, the Rome Statute establishing the International Criminal Court the Charter of the United Nations and the Universal Declaration of Human Rights, and other international conventions and protocols relating to the rights and protections of women, children and minorities, to which Uganda is a party.

NOW THEREFORE, Parliament hereby enacts this law to provide a framework for achieving national reconciliation and to address the historical causes underlying violent conflicts and widespread and systematic violations or abuses of human rights.

BILL NO... 2009
The National Reconciliation Bill 2009

A Bill for an Act

ENTITLED

THE NATIONAL RECONCILIATION ACT, 2009

An Act to:

Provide for the establishment of a National Reconciliation Forum ("Forum") with a mandate to direct an independent national reconciliation process in Uganda by examining the causes, nature and extent of violent conflicts and widespread and systematic violations or abuses of human rights from independence in 1962 to the date of assent including all its relevant antecedents and circumstances, and taking into account the perspectives of the victims and the motives and perspectives of the persons and institutions responsible for creating and perpetuating this legacy; and provide for other related matters.

BE IT ENACTED BY Parliament of the Republic of Uganda as follows:

PART I – PRELIMINARY

A. Title and Commencement

1. This Act may be cited as the "National Reconciliation Act, 2009".

2. This Act shall come into force on the date of assent.

B. Interpretation

In this Act, unless the context otherwise requires –

“Act” means the National Reconciliation Act.

“Amnesty” means forgiveness, exemption or discharge from criminal prosecution or any other form of punishment by the State for acts or omissions for which amnesty is available under this Act.

“Amnesty Committee” refers to the committee of the Forum responsible for determining if an individual is entitled to amnesty under this Act.

“Appropriate justice mechanisms” refer to formal justice mechanisms, traditional justice, religious arbitration and other alternative justice mechanisms deemed appropriate by the Forum.

“Armed forces and groups” refers to any full or part-time members or agents of the state and its respective auxiliaries, or any armed groups not under the control of the state.

“Chairperson” means the Chairperson of the National Reconciliation Forum, Amnesty Committee, or Investigation Committee as the case may be established under this Act.

“Conflict” refers to the acts, omissions or offences the Forum is authorized to investigate under this Act.

“Constitution” means the Constitution of the Republic of Uganda, 1995.

“Date of assent” means the date this Act shall come into force.

“Human rights abuses” refers to violations of human rights perpetrated by non-state actors.

“Human rights violations” refers to violations of human rights perpetrated by state actors, including groups or individuals not officially affiliated with the state but under its de facto control.

“Investigation Committee” refers to the committee of the Forum responsible for conducting investigations under this Act.

“Joint Committee” refers to a committee of Parliament of the Republic of Uganda established for the purposes of fulfilling the objectives of this Act.

“Minister” means the Minister responsible for Justice.

“Selection Committee” means the committee selected to nominate members of the Forum.

“Perpetrators” refer to persons or institutions directly and indirectly implicated in the organisation, financing, directing, or execution of crimes, in the course of the conflict.

“President” means the President of the Republic of Uganda.

“Regions” refer to the four regions of Uganda: northern, eastern, western and central.

“Reparations” refer to any remedy or any form of compensation, symbolic or ex-gratis payment, restitution, rehabilitation or recognition, reconciliation, satisfaction or guarantee of non-repetition made in respect to victims.

“Victims” refer to persons, groups or institutions affected directly or indirectly as a result of human rights violation, abuses, or damage in the course of the conflicts resulting in physical harm, mental injury, emotional affliction, or economic losses.

PART II – THE FORUM

A. National Reconciliation Forum

There shall be established a National Reconciliation Forum with such mandate and powers as provided for under this Act.

B. Structure of the Forum

The Forum shall:

1. Operate on both a national and regional level; and
2. Subject to its mandate and for the purpose of carrying out its functions, have powers to operate throughout the country with support from existing institutions including the Amnesty Commission, the Human Rights Commission, local government, traditional justice institutions, and faith-based institutions.

C. Powers of the Forum

1. The Forum shall have all powers reasonable and necessary to carry out its mandate, including but not limited to, the power to hold hearings, take statements, summon witnesses, conduct searches and seize relevant documents, issue warrants, preserve documents, determine eligibility and grant or deny amnesty, conduct investigations including exhumations and forensic examinations, identify perpetrators, and issue a final report and recommendations

2. The regional offices shall be considered organs of the Forum and shall have such authority as delegated to them by the Forum.

D. Time Frame for the Forum

The Forum shall be established within three months from the date of assent. After all members of the Forum have been selected, the Forum shall be given three months preparatory period within which to facilitate activities necessary for the commencement of its core functions. Commencing with the end of the preparatory period, anyone having standing to present a matter to the Forum shall have five years in which to do so beyond that date. The Forum shall conclude its consideration of any pending matters within six months of the end of the five-year filing period. The Forum shall have one year beyond the end of the filing period to write and publicize its report to the citizens of Uganda.

E. Extension of Tenure

Parliament may by resolution and on request from the Forum, extend the Forum's tenure for an additional period of three months at a time only, for good cause(s) shown. In no case shall such a request for extension be given for more than two times.

F. Immunity of Members and Staff of Forum

A member of the Forum or any employee or other person performing any authorized function of the Forum shall not be personally liable to any civil proceedings for any act done in good faith in the performance of those functions.

G. Seal of the Forum

The Forum shall have a common seal the use of which shall be authenticated by signature of the Chairperson or other authorised member of the Forum.

H. Traditional, Cultural and Religious Institutions

The Forum shall co-ordinate with appropriate justice and reconciliation institutions within different communities to promote community truth-telling and reconciliation at the grassroots and community levels and makes recommendations establishing the terms of reconciliation within the regions and across borders where appropriate.

PART III – MANDATE AND FUNCTIONS OF THE FORUM

Considering and analysing any matter relevant to violent conflicts and to widespread or systematic violations or abuses of human rights including their history, facilitating and directing, and/or initiating enquiries into manifestations of conflicts including human rights violations and abuses, documenting such violations and abuses, determining motives and pattern, gathering and receiving evidence of violations and abuses, determining who can file complaints, restoring the human dignity of victims by giving them the opportunity to tell their stories and the acknowledgement by perpetrators, adopting its own rules and procedures, designing witness protection mechanisms, coordinating its activities with the Amnesty Commission and the Human Rights Commission, referring cases to traditional cultural institutions, referring cases to alternative justice and reconciliation mechanisms, preparing reports, creating an independent and objective historical record, making recommendations on the appropriate mechanisms for reconciliation, reintegration, reparations and rehabilitation measures to victims, initiating legal, institutional and other reforms, and designing and conducting symbolic reconciliation activities.

A. Jurisdiction

The Forum shall have jurisdiction over all matters within its mandate that occurred from 9 October 1962 to the date of assent, provided that:

1. The matters in question occurred within the geographical limits of the Republic of Uganda without regard to the nationality of the participants; or
2. Either the victims or perpetrators were citizens of the Republic of Uganda without regard to where in the world the acts in question occurred.
3. Notwithstanding the above, the Forum shall have power to admit for hearing and documentation purposes, any relevant incidents, violations or abuses that took place before 9 October 1962 and remain unaddressed.

B. Promotion of National Peace, Unity and Reconciliation

The Forum shall exercise such functions as are relevant for the realisation of its mandate, including but not limited to:

1. Facilitating and, where necessary, initiating or coordinating enquiries into the history of conflicts and documentation of:
 - a) Violations and abuses of human rights, violation of land rights and destruction of land and other economic crimes, privileges, powers and authority in Uganda permitting systematic patterns of violation, giving particular attention to the experiences of women, children and vulnerable groups, especially as pertains to gender-based violations.
 - b) The fate of individuals who have disappeared during conflicts.

2. The nature, causes, extent, and the manifestations of conflicts including violations and abuses of human rights, including massacres, gender-based violence, murder, extra-judicial killings, disappearances, economic crimes, factors leading to the perpetuation of these conflicts and any other form of crime perpetrated in the cause of violent conflicts during the specified period, and the root causes, circumstances, factors, context, motives and perspectives which led to such violations or abuses.
3. Identifying those responsible and determine whether the violations or abuses within the Forum's mandate were the result of deliberate planning by those responsible.
4. Conducting investigations, including exhumations, forensic examinations, and holding hearings.
5. Helping restore the human dignity of victims and promoting reconciliation by providing an opportunity for victims, perpetrators and other witnesses, to give an account of the violations and abuses suffered.
6. Promoting reconciliation and reintegration through truth telling in communities through cooperation with any traditional or other community reconciliation interlocutors.
7. Seeking assistance from traditional, cultural, religious and other leaders to facilitate the public sessions and resolve local conflicts.
8. Soliciting the assistance of foreign governments and individuals, organisations, governmental departments or non-resident Ugandans; obtaining records, documents or any other information from any sources including government authorities; and compelling the production of such information where necessary.
9. Establishing procedures and arrangements for ensuring the participation of victims, and designing witness protection mechanisms on a case-by-case basis.
10. Referring specific or general matters to traditional cultural institutions or other alternative justice mechanisms, where appropriate.
11. Promoting and encouraging the preservation of the memory of the events and victims of the conflict through memorials, archives, commemorations and other forms of preservation.
12. Publishing a comprehensive and public final report setting out the Forum's activities and findings including recommendations with regard to preventing future conflicts.
13. Making recommendations to the Government of Uganda and other actors with regard to the most appropriate modalities for implementing a regime of reparations and rehabilitations, taking into account the needs of victims and perpetrators for psycho-social or other rehabilitative services.

14. Designing reconciliation initiatives and conducting symbolic reconciliation activities in collaboration with relevant institutions throughout the nation and encouraging or facilitating inter-communal reconciliations initiatives.

PART IV – COMPOSITION OF THE FORUMS AND COMMITTEES

A. Selection Committee

1. There shall be a five member Selection Committee responsible for selecting members of the Forum. At least two members shall be women. The composition of this committee shall reflect a regional balance and comprise highly qualified persons of integrity drawn from academia, civil society organizations, faith based institutions, cultural institutions and other professions. This committee shall be appointed by the Parliament of the Republic of Uganda using the following criteria:

- a) citizens of diverse professional backgrounds;
- b) proven integrity and credibility;
- c) non-partisan;

2. No serving elected official, employee of a local or the central government, a member of the armed forces, or a person previously convicted of a felony shall be appointed to the Selection Committee.

3. The Selection Committee shall be constituted within thirty (30) days from the date of assent and shall serve for such period necessary to select members of the Forum. It shall be paid such remuneration and allowances determined by the appointing authority as reasonably necessary for them to perform their duties.

4. Information concerning the selection of the Selection Committee and members of the Forum shall be widely publicized in the national press and other media to inform the public of its critical role in the national reconciliation process.

B. Membership of the Forum

The Forum shall comprise thirteen (13) members, with not less than seven (7) women. One shall be from the Amnesty Commission, one from the Human Rights Commission, three from academia and civil society and two from each of the four regions. These members shall be selected by the Selection Committee in the following manner.

1. The Amnesty Commission and the Human Rights Commission shall each nominate two candidates within sixty (60) days of the date of assent. Within thirty (30) days

thereafter, the public shall contribute its views concerning the nominees to the Selection Committee. Within fifteen (15) days thereafter, the Selection Committee shall select one person from each Commission to serve as members.

2. Three members of the Forum shall be representatives of academia and civil society. Members of academia and civil society shall nominate candidates within thirty (30) days of the date of assent. Within thirty (30) days thereafter, the public shall contribute its views concerning the nominees to the Selection Committee. The Selection Committee shall make its selection within fifteen (15) days thereafter.

3. Each region shall have two members, at least one of who shall be a woman. Those members shall be persons from that region. The Selection Committee shall within eighty (80) days of the date of assent conduct a nationwide sensitization and selection process across all regions to inform the public about the Forum and inviting nominations. The public shall nominate candidates within ninety (90) of the date of assent. The Selection Committee shall make its selection within fifteen (15) days thereafter.

4. Within thirty (30) days of the selection of the Forum, the Parliament of the Republic of Uganda sitting in a special session or otherwise, shall approve those selected to serve as members of the Forum; provided, however, that Parliament shall reject any member who does not meet the criteria set forth in Part IV(C) In that event, the Selection Committee shall choose another member pursuant to Part IV(F).

C. Criteria

The members of the Forum shall be persons of high moral character, proven integrity, and good educational background. They shall be persons who can be trusted to remain impartial in the performance of their functions, and who will enjoy the confidence of the people of Uganda. Upon appointment, members shall renounce their membership in political parties. No serving elected official, employee of a local or the central government, a member of the armed forces, or a person previously convicted of a felony shall be appointed to the Forum.

D. Terms of Employment, Tenure, Resignation and Removal

1. Members of the Forum shall be employed by the Government of Uganda and shall render services on a full basis. They shall be remunerated in an amount comparable but not less than a commissioner serving on a Commission of Inquiry. Their remuneration shall not be reduced during the term of that member's service on the Forum.

2. All Forum members shall hold office for the full duration of the Forum unless terminated in accordance with this Act.

3. Notwithstanding the above, a Forum member may at any time resign by tendering his or her resignation in writing upon giving a 30-day notice to the Chairperson of the Forum; and if it is the Chairperson who is resigning, to the Chief Justice.

4. A Forum member may be removed from the Forum only by following existing procedures and substantive grounds for the removal of Judicial Officers under the Constitution of the Republic of Uganda.

E. Chairperson and Vice-Chairperson

1. Members shall designate from amongst themselves one of the members as the Chairperson, and another as the Vice Chairperson.

2. If both the Chairperson and the Vice-Chairperson are absent or unable to perform their duties, the other members shall from among their number nominate an Acting Chairperson for the duration of such absence or incapacity.

3. The duties of the person then serving as the Chairperson shall include, but not be limited, to the following:

- a) chairing all meetings and hearings of the Forum;
- b) supervise the administrative functions of the Secretariat;
- c) represent the Forum;
- d) undertake any other such duties set forth in this Act.

F. Vacancy in the Forum

If a member resigns, is removed from office or dies, the Forum shall in consultation with the Chief Justice fill in the vacancy by appointing a new member from the representative group from which that member was originally selected.

G. Staffing of the Forum and Consultants

1. A national secretariat shall be established to render technical, professional, administrative and clerical assistance to the Forum. It shall comprise such sections or units and staff or consultants of diverse professional background as are relevant to the work of the Forum.

2. The Secretariat shall establish a traditional justice liaison section, staffed by persons highly qualified with respect to traditional justice mechanisms who shall liaise with victims, perpetrators and their families or communities to encourage or facilitate the use of alternative traditional reconciliation and truth telling mechanisms.

3. The national secretariat shall be headed by an Executive Secretary selected by the Forum who shall serve the Forum as Secretary and be responsible for the daily administrative and operational functioning of the Forum. The Forum shall establish such

offices and employ such staff, on such terms and conditions, as it may deem necessary and appropriate for the conduct of its mandate under this Act.

4. The persons employed by the Forum shall receive such remunerations, allowances, and other employment benefits, and shall be appointed on such terms and conditions and for such periods as the Forum may determine.

5. Funds shall be allocated to contract independent consultants for the purpose of examining specific issues as they arise and shall be allocated for the creation of a data base to assist in the processing, storage, organisation and analysis of witness statements, documents, investigations and other necessary matters.

H. Amnesty Committee

1. There is hereby established an Amnesty Committee comprised of five members. Its members shall be appointed by the Forum Chairperson after consultations with the other members of the Forum.

2. The Amnesty Committee shall consist of a Chairperson who shall be a member of the Forum. The other four members need not be members of the Forum. However, they shall meet the criteria for appointment of members of the Forum pursuant to Part V (C).

3. Any application for amnesty shall be decided by any three members of the Amnesty Committee selected by the Committee's Chairperson.

I. Investigation Committee

1. There is hereby established a committee to be known as the Investigation Committee. Its members shall be appointed by the Chairperson after consultations with the other members of the Forum.

2. The Investigation Committee shall consist of a Chairperson who shall be a member of the Forum and two additional members who have specialized knowledge in investigating complex societal and criminal conflicts. Those two members need not be members of the Forum.

J. Financial Support

1. The work of the Forum shall be financed from the consolidated fund but it may accept grants and assistance from international donors and agencies. The national secretariat shall adopt a system of sound financial management policies in conformity with the public finance regulations and internationally acceptable principles and accounting practices to ensure prudent and efficient management of funds.

2. The Forum shall be self-accounting and may deal directly with the Minister responsible for finance in relation to its finances, which shall be charged on the Consolidated Fund.

PART V – HEARINGS AND PROCEDURES OF THE FORUM AND ITS COMMITTEES

A. General

1. The Forum shall have no jurisdiction to admit for hearing and grant amnesty in respect of any crime that falls within the jurisdiction of the War Crimes Division of the High Court, until such time as the Director of Public Prosecution shall advise the Forum that it will not prosecute the said person before the War Crimes Division.

2. Time and place of meetings

a) The Forum shall hold as many public hearings as possible in the different regions taking into account the number of violations or abuses reported, public interest, logistics, and access to and safety of witnesses.

b) A meeting of the Forum shall be held at a time and place determined by the Chairperson or, in the absence or inability of such Chairperson, by the Vice-Chairperson or, in the absence or inability of both, the Acting Chairperson.

3. Quorum

The quorum for all meetings of the Forum shall not be less than five members and not less than three members for any hearing.

4. Standing

Anybody with knowledge, direct or indirect, of any matters within the mandate of the Forum shall have standing to initiate proceedings by filing a complaint with the mandate of the Forum. This includes natural persons, groups of persons, and institutions. The Forum may also initiate investigations based on information that becomes available to it.

B. Amnesty Committee Hearings and Procedures

1. Applications for granting of amnesty and eligibility

a) Subject to Part V (A) (1), a person is eligible for amnesty, if the said applicant proves that the acts, omissions, or offenses for which amnesty is sought;-

(i) falls within the mandate of the Forum; and

(ii) the applicant has made a full disclosure of all relevant facts.

b) The Committee shall grant amnesty in respect of those acts, omissions, or offences for which the applicant has made full disclosure; provided, however that if it is subsequently determined the applicant failed to disclose all acts for which he would otherwise have been eligible for amnesty, he shall be barred from presenting a new amnesty application for those acts.

c) In considering whether or not to grant amnesty for a particular act, omission or offence the Committee shall consider the following::

(i) the motive of the person who committed the act;

(ii) the legal and factual nature of the act, omission or offence, including the gravity of the act;

(iii) whether the act was committed in the execution of an order of, or on behalf of, or with the approval of, the organization, institution, government, non-governmental political movement or body of which the person who committed the act was a member, an agent or a supporter; and

(iv) the relationship between the act and the political objective pursued or the effect on the public, and in particular the directness and proximity of the relationship and the proportionality of the act to the objective pursued, but does not include any act committed by the applicant who acted-

(aa) for personal gain, provided that an act by any person who acted and received money or anything of value as an informer of any political actor or an organization who was terrorizing the public, shall not be excluded only on the grounds of that person having received money or anything of value for his or her information; or

(bb) out of personal malice, ill-will or spite directed against the victim of the acts committed.

d) Any person who wishes to apply for amnesty shall, within the five-year filing period of the Forum's existence, submit such an application to the Forum in the prescribed form.

e) The Committee shall give priority to applications of persons in custody for offenses, acts, or omissions for which the applicant is seeking amnesty.

f) Once the Committee concludes its investigation, the Committee may-

(i) either

inform the applicant that the application does not relate to an act for which amnesty is available; and, in the absence of the applicant and without holding a hearing refuse the application and inform the applicant accordingly; or

(bb) afford the applicant the opportunity to make a further submission;

(ii) if it is satisfied that-

the acts set forth in the application are ones for which amnesty is available; and

(bb) there is no need for a hearing; then

(cc) grant amnesty and inform the applicant accordingly; provided however, that reasonable notice is first given to any known victims who shall be afforded an opportunity to first express their views before the decision is made.

g) If an application has not been dealt with as set forth immediately above, the Committee shall-

(i) in the prescribed manner, notify the applicant and any victim or person implicated, or having an interest in the application, of the place where and the time when the application will be heard;

(ii) inform the applicant and victims of their right to be present at the hearing and to testify, adduce evidence and submit any article to be taken into consideration;

(iii) either grant or deny the amnesty application;

(iv) if either the applicant or any victim cannot afford legal representation, the Committee shall provide that person a legal representative

h) The Committee may consider jointly individual applications in respect of any particular act, omission or offence to which such applications relate.

If the act or omission which is the subject of the application constitutes the ground of any claim in civil proceedings instituted against the person who submitted that application, the court hearing that claim may at the request of such person, if it is satisfied that the other parties to such proceedings have been informed of the request and afforded the opportunity to address the court or to make further submissions in this regard, suspend those proceedings pending the consideration and disposal of the application.

j) If the person who submitted an application is charged with any offence constituted by the act or omission to which the application relates, or is standing trial upon a charge of having committed such an offence, the Committee may request the appropriate authority to postpone the proceedings pending the consideration and disposal of the application for amnesty.

k) (i) Prior to or in the absence of a public hearing, all information in the possession of the Committee, shall be confidential for the life of the Forum; provided, however, that with respect to an application being handled without a public hearing, any victim of the applicant who is commenting on the application pursuant to Part (B)(1) e)(ii)(cc) shall have access to the file.

(ii) The confidentiality referred to in the preceding paragraph shall lapse when a hearing is scheduled.

l) The Committee shall inform the applicant and, if possible, any victim, of the decision of the Committee to grant or deny amnesty to such person in respect of a specified act and the Committee shall submit to the Forum a record of the proceedings.

m) No statements or testimony given by one applying for amnesty, either in the amnesty application, statements to the Investigation Committee or testimony before the Amnesty Committee, or in any other forum proceeding may be used directly or indirectly against the applicant in any criminal or civil proceeding.

2. Grant of Amnesty and effect thereof

a) The Committee shall forthwith by proclamation in the Gazette make known the full names of any person to whom amnesty has been granted, together with sufficient information to identify the act, omission or offence in respect of which amnesty has been granted.

b) Subject to the provisions of Part 5 (B), this Act, no person who has been granted amnesty in respect of an act, omission or offence shall be criminally or civilly liable in respect of such act, omission or offence.

c) Where amnesty is granted to the applicant, such amnesty shall have no influence upon the criminal liability of any other person contingent upon the liability of the applicant.

d) If any person-

(i) has been charged with and is standing trial in respect of an offence constituted by the act or omission in respect of which amnesty is granted in terms of this section; or

(ii) has been convicted of, and is awaiting the passing of sentence in respect of or is in custody for the purpose of serving a sentence imposed in respect of, an offence constituted by the act or omission in respect of which amnesty is so granted, the criminal proceedings shall forthwith upon publication of the proclamation in the Gazette become void or the sentence so imposed shall upon such publication lapse and the person so in custody shall forthwith be released.

e) If any person has been granted amnesty in respect of any act or omission that formed the grounds of a civil judgment which was delivered at any time before the granting of the amnesty, the publication of the proclamation in the Gazette shall not affect the

operation of the judgment in so far as it applies to that person and the applicant shall be obligated to respond to the judgment as if no amnesty application had been granted.

f) Where any person has been convicted of any offence constituted by an act or omission associated for which amnesty has been granted, any entry or record of the conviction shall be deemed to be expunged from all official documents or records and the conviction shall for all purposes, including the application of any Act of Parliament or any other law, be deemed not to have taken place: provided that the Committee may recommend to the authority concerned the taking of such measures as it may deem necessary for the protection of the safety of the public.

3. Refusal of amnesty and effect thereof

a) If the Committee has refused any application for amnesty, it shall as soon as possible notify-

(i) the applicant and any victims known to the Committee; and

(ii) the Forum, in writing of its decision and the reasons for its refusal.

b) If any criminal or civil proceedings were suspended pending a decision on an application for amnesty, and such application is refused, the court concerned shall be notified within fifteen days..

c) No adverse inference shall be drawn by the court concerned from the fact that the proceedings that were suspended pending a decision on an application for amnesty are subsequently resumed.

4. Authority of the Forum respecting Amnesty determination

The Forum shall not have any authority to review any grant or denial of amnesty.

C. Investigation Committee Procedures

1. The Investigation Committee shall conduct all investigations required by the Forum in furtherance of its mandate, including the interviewing of potential witnesses, victims and alleged perpetrators, the gathering of documentary evidence and any other investigations requested by the Forum. For the purposes of this section, the investigative authority of the Forum and this Committee are identical.

2. To ensure the narratives of those affected by the conflicts are told, the Committee shall have its statement takers in each region record the narratives of persons willing to share their experiences.

3. Subject to this Act, no article or information obtained by the Committee shall be made public, and no person except a member of the Committee and the Forum, shall have access to such article or information until such time as the Forum or the Committee

determines that it may be made public or until the commencement of any hearing which is not held *in camera*.

Powers of Forum with regard to investigations and hearings

3. a) The Forum and this Committee may for the purposes of or in connection with the conduct of an investigation or the holding of a hearing, as the case may be-

(i) at any time before the commencement or in the course of such investigation or hearing conduct an inspection *in loco*;

(ii) by notice in writing, require that any individual, governmental or non-governmental organization preserve any documents or class of documents and not remove them from a designated place until such time as the Forum gives notice for the production of any such documents pursuant to this Act;

(iii) by notice in writing call upon any person who is in possession of or has the custody of or control over any article or other thing which in the opinion of the Forum is relevant to the subject matter of the investigation or hearing to produce such article or thing to the Forum.

b) Subject to this Act, the Forum may retain any article or other thing so produced for a reasonable time;

(i) by notice in writing call upon any person to appear before the Forum and to give evidence or to answer questions relevant to the subject matter of the hearing;

(ii) in accordance with this Act seize any article or thing which in the opinion of the Forum is relevant to the subject matter of the investigation or hearing.

c) A notice compelling the attendance of a witness or the production of any document or article shall specify the time when and the place where the person to whom it is directed shall appear. It shall be signed by a member of the Forum, shall be served by a member of the staff of the Forum or by a designated official by delivering a copy thereof to the person concerned or by leaving it at such person's last known place of residence or business, and shall specify the reason why the article is to be produced or the evidence is to be given.

d) If the Forum is of the opinion that the production of any article in the possession or custody or under the control of the State, or any department or division thereof may adversely affect any intended or pending hearings or the conduct of any investigations, the Forum shall take steps aimed at the prevention of any undue delay in or the disruption of such investigation or hearings.

4. The Forum may require any person who in compliance with a requirement in terms of this section appears before it to take the oath or to make an affirmation and may through the Chairperson or any member of the staff of the Forum administer the oath to or accept an affirmation from such person.

Compellability of witnesses and inadmissibility of incriminating evidence given before Forum

5. a) Any person who is questioned by the Forum in the exercise of its powers in terms of this Act, or who has been subpoenaed to give evidence or to produce any article at a hearing of the Forum shall, subject to the provisions of this Act, be compelled to produce any article or to answer any question put to him or her with regard to the subject-matter of the hearing notwithstanding the fact that the article or his or her answer may incriminate someone.

b) Subject to the provisions of this Act, the existing laws of evidence regarding privilege as applicable to a witness summoned to give evidence in a criminal case in a court of law shall apply.

c) Any person appearing before the Forum shall be entitled to peruse any article, which was produced by him or her, as may be reasonably necessary to refresh his or her memory.

Entry upon premises, search for and seizure and removal of certain articles or other things

7. a) The Forum or its authorized representative may on the authority of a search warrant, issued under this Act enter upon any premises in or upon which any article or thing-

(i) which is concerned with or is upon reasonable grounds suspected to be concerned with any matter which is the subject of any investigation in terms of this Act;

(ii) which contains, or is upon reasonable grounds suspected to contain, information with regard to any such matter, is or is upon reasonable grounds suspected to be, and may be required on the authority of a search warrant, issued under this Act.

(aa) inspect and search such premises and there make such inquiries as he or she may deem necessary;

(bb) examine any article or thing found in or upon such premises;

(cc) make copies of or extracts from any such article found upon or in such premises;

(dd) seize any article or thing found upon or in such premises which he or she upon reasonable grounds suspects to be an article or thing mentioned in paragraph 7 (a) (i) and (ii) above;

(ee) after having issued a receipt in respect thereof, remove and retain such article or thing for a reasonable period for the purpose of further examination or, make copies thereof or extracts there-from, provided that any article or thing that has been so removed, shall be returned as soon as possible after the purpose of such removal has been accomplished.

(ii) An entry or search warrant referred to in this Act shall be issued by the Chairman of the Forum or any person acting on his/her behalf.

(iii) The power conferred by this section is in addition to, and does not limit or restrict, a power conferred by any other provision of this Part.

c) A warrant issued under this Act shall be executed by day unless the person who issues the warrant authorizes the execution thereof by night at times, which shall be reasonable

d) Any person executing a warrant in terms of this section shall immediately before commencing with the execution-

(i) identify himself or herself to the person in control of the premises, if such person is present, and hand to such person a copy of the warrant or, if such person is not present, affix such copy to a prominent place on the premises;

(ii) supply such person at his or her request with particulars regarding his or her authority to execute such a warrant.

8. a) Any person who on the authority of a warrant issued under the provisions of this Act enter upon to search any premises, may use such force as may be reasonably necessary to overcome resistance to such entry or search.

b) No person may enter upon or search any premises unless he or she has audibly demanded admission to the premises and has notified the purpose of his or her entry, unless such person is upon reasonable grounds of the opinion that any article or thing may be destroyed if such admission is first demanded and such purpose is first notified.

9. A warrant issued under this Act may be issued on any day and shall be of force until-

a) it is executed; or

b) it is cancelled by the person who issued it or, if such person is not available, by any person with like authority; or

- c) after the expiry of three months from the day of its issue; or
- d) the purpose for the issuing of the warrant has lapsed, whichever may occur first.

10. Power to take photographs of accused persons or related property

a) The Forum or its authorized representative may cause photographs to be taken of any person or property under investigation, in lawful custody or reasonable suspicion for any incident under investigation or relevant to such investigations.

b) If any such person, when required to do so, refuse to allow those photographs to be taken to the satisfaction of the Forum or its authorized person, he or she commits an offence and is liable on conviction to a fine not exceeding 25 currency points or to imprisonment for three months; and, after conviction

D. Forum Hearings and Procedures

1. Hearings open to the public

a) The hearings of the Forum and Amnesty Committee shall be open to the public whenever consistent with other provisions of this Act.

b) The Forum may, at its absolute discretion, direct sufficient witness protection measures during public proceedings in cases where the physical or mental security of alleged perpetrators, victims, or witnesses is deemed to be at risk.

2. Proceedings *in camera*

a) An application for proceedings to be held *in camera* may be brought by any witness.

b) Where the Forum or Amnesty Committee directs that the public or any part thereof shall not be present at any proceeding, it may direct that:

(i) No information relating to that proceeding or any part thereof shall be made public in any manner, provided, however, that any such information may be given to the Director of Public Prosecutions with respect to a potential future prosecution within the jurisdiction of any court; and

(ii) No person may in any manner make public any information revealing the identity of any party to the proceedings for whom the order to hold *in camera* hearings was designed to protect, provided however, that the Forum may identify the name of any alleged perpetrator who it determines bears significant responsibility for any of the conflicts covered by its mandate.

3. Attendance of witnesses

The Forum shall have the power to compel attendance and the production of any documents or any person for interviews by the Investigation Committee or to testify at any hearing called by the Forum or Amnesty Committee in a manner consistent with the Act.

4. Compelled witness

a) Any person who has been summoned or called upon to appear before the Forum or Amnesty Committee may appoint a legal representative or, if he cannot afford one, the Forum shall pay the reasonable expense incurred by the witness.

5. A right of appeal is available in the following situations only:

a) A victim or one who has applied for amnesty may appeal the Amnesty Committee's decision to the High Court.

b) Any decision of the Forum with respect to the issuances of summons, searches and seizures and the productions of documents may be appealed to the appropriate court in the same manner as if it had arisen under any law in Uganda.

6. Guiding principles on victims and witnesses

When dealing with alleged victims and perpetrators, the Forum shall be guided by the following principles:

a) All alleged victims and perpetrators shall be treated with compassion and respect for their dignity;

b) All alleged victims and perpetrators shall be treated equally, without regard to race, ethnicity, religion, language, sex, gender social group, ability, nationality or age;

c) Procedures dealing with alleged victims and perpetrators shall be expeditious and fair.

d) Appropriate measures shall be taken to minimise inconvenience to alleged victims, perpetrators and witnesses and, when necessary, to protect their privacy and safety and that of their families. The Forum shall take sufficient measures to allow victims to communicate in the language of their choice. Where necessary, an interpreter will be provided by the forums.

7. Confidentiality of information

a) Every member and every staff member of the Forum shall keep in strict confidence any information which comes to his or her knowledge by virtue of their office or association with the Forum, and shall take an oath or affirmation of that duty.

b) The Forum shall not release or communicate any of the information it acquires during the course of its existence to any individual or institution except as is necessary to carry out its mandate.

8. Grant of immunity

The Forum shall have the discretion to grant use immunity from prosecution so that testimony given before the Forum or statements given to a Forum investigator cannot be used against that witness in a subsequent criminal proceeding as evidence. Use immunity shall not prevent the Director of Public Prosecutions from using such statements to develop leads or for background purposes in developing criminal cases or establish the crime base in cases of war crimes and crimes against humanity.

9. Obstruction and interference

Any person who wilfully obstructs or otherwise interferes with the work of the Forum or any of their members or officers engaged in the discharge of their functions under this Act commits an offence and shall be liable on conviction to a fine of not less than 20 currency points or a term of imprisonment not less than three months, or both.

10. Once the final report is issued, the Forum shall cause a record to be kept of its proceedings and all documents in its possession arising out of its work. In addition to the final report, its written summaries, audiovisual summaries and electronic communications, all verbatim or other record of the statements of witnesses in hearings (except those made *in camera*) of the Forum or Amnesty Committee along with the documents referred to in the hearings shall be available to the public under any law relating to Access to Information

11. Identification of responsible persons

During the course of hearings or in the final report, the Forum shall have the right to name individuals or institutions it concludes bear significant responsibility for any of the conflicts covered by its Mandate; provided, however, that the Forum first notify the person or institution to be named and provide a reasonable opportunity to object to that proposed naming and the basis of that request. Notwithstanding the above provision, a person or institution shall not be named unless evidences supporting such conclusion is corroborated by at least two sources; the implicated person or institution shall be given the opportunity to make a statement setting out his or her version of the facts or submit a document in rebuttal for inclusion in the file within 14 days from date of notice.

PART VI – INDEPENDENCE OF THE FORUM

A. Independence

1. The Forum, its members and every member of staff shall function without political or other bias or interference and shall, unless this Act expressly otherwise provides, be independent and separate from any party, government, administration or any other person or body.

2. Every member shall:

a) Notwithstanding any personal opinion, preference or former party affiliation, serve impartially and independently and perform his or her duties in good faith and without fear, favour, bias or prejudice;

b) Serve in a full- or part-time capacity in preference to any other duty or obligation arising out of any other employment or occupation or the holding of any other office;

c) No members shall:

(i) Through association, statement, action or in any other manner jeopardize his or her independence, or in any other manner harm the credibility, impartiality or integrity of any forum;

(ii) Make private use of or profit from any confidential information gained as a result of his or her membership of any forum; or

(iii) Divulge any such information to any other person except in the course of the performance of his or her functions as a member.

B. Fair Hearing and Conflict of Interest

1. If at any stage during the course of a proceeding or other meeting of the Forum it appears that a member has or may have a pecuniary or personal interest or is acquainted with any witness likely to come before that forum which could cause a conflict of interest in the performance of his or her functions, that member shall forthwith disclose the nature of his or her interest and absent him- or herself from the meeting so as to enable the remaining members to decide whether the member should be precluded from participating in the meeting by reason of that interest.

2. If the member fails to disclose any potential conflict of interest and the non-disclosure is subsequently discovered, all decisions previously taken which could be tainted or otherwise affected by the conflict of interest must be reviewed without the participation of the member concerned. Where, upon review, a decision appears to have been affected by the conflict of interest, it should be varied or set aside.

3. The same meeting dedicated to determining whether a conflict of interest took place shall also decide what disciplinary steps to take against the offending member in

instances where the said member failed to disclose the conflict of interest at the earliest opportunity.

PART VII – REPORTING AND RECOMMENDATIONS

A. Reporting and Recommendations

1. The Forum shall simultaneously submit a final report at the end of its tenure to the President and Parliament, and shall have the report published both in the Official Gazette and any electronic media websites established by the Forum. The Forum may also prepare a summary report of not more than 300 pages, an audiovisual documentary, and any other kind of electronic communication to assure the work of the Forum gains wide public and international distribution.

2. The Final report, in addition to such other matters the Forum deems appropriate, shall:

- a) Detail all aspects of the Forum’s work, including investigations, hearings, findings and the emerging impartial historical record;
- b) Contain conclusions regarding the needs of victims, as well as recommendations regarding public memorials and prosecution;
- c) Make recommendations for reparations for victims;
- d) Identify those individuals who bear particular responsibilities for the conflicts that are the subjects of the Forum’s mandate; and
- e) Recommend the steps that should be taken, including new legislation, changes in government policy and changes to the law, to assure that the horrors visited on the citizens of Uganda never recur.

B. Final Responsibilities

1. The Amnesty Commission, Uganda Human Rights Commission, Courts of Judicature and other Governmental organs like the IGG, DPP, UPDF and the Police force etc, shall faithfully and diligently consider the implementation of the recommendations of the report that are directed to such bodies and encourage or facilitate the implementation of any recommendations that may be directed to others.

2. The President shall immediately upon receiving the report of the Forum appoint a reparation committee to faithfully consider implementing the recommendations of the Forum and Parliament shall appoint a Joint Committee to supervise the implementation of these recommendations.

3. The Forum shall in collaboration with all political, cultural and religious leaders conduct a nation-wide symbolic reconciliation, as part of its mandated reconciliation activities and encourage or facilitate, inter-communal reconciliation symbolic activities, within the different communities through out the nation.

PART VIII – GENERAL

A. Conflicting Provisions of Other Legislation

The provisions of this Act shall be interpreted in such a manner so as not to contradict any other law. In the event where contradiction is inevitable, this Act shall prevail.

B. General Offences and Punishment

Any person who wilfully makes confidential information available, reveals identity of any confidential witness, performs acts prejudicial to proceedings before the Forum, bears false witness or does anything in the course of Forum proceedings which, if done in a court of law, would constitute contempt of court, commits an offence and shall on conviction be liable to a fine of 20 currency points or to imprisonment for a period of three months, or to both such fine and imprisonment