



UGANDA VICTIMS' FOUNDATION
C/o Africa Youth Initiative Network
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STATEMENT ON THE NEED FOR REPARATIONS AND GUIDING PRINCIPLES FOR VICTIMS OF CRIMES PERPETRATED IN UGANDA

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The Uganda Victims' Foundation formerly the Uganda Victims' Rights Working Group (U-VRWG) is a coalition of human rights and civil society NGOs in Uganda working with victims and on victims' rights issues. The objectives of the Foundation are to lobby and advocate for victims' rights especially with respect to the conflict in the greater north of Uganda. The group was formed in 2006 following an International meeting of the Victims' Rights Working Group and has since developed position statements on victims' needs and rights all available at www.vrwg.org/uvf.

The Uganda Victims' Foundation;

RECALLS that Uganda has gone through a turbulent history of political upheaval and violence in which state and non state actors have been involved in perpetrating Gross violations of International Human Rights Law and Serious violations of International Humanitarian Law against civilians without remedy and reparation;

RECOGNISES that Uganda is going through a process of transitioning from serious armed conflict in the greater North to a peaceful environment and as a part of this transitional process, the Government of Uganda participated in talks with the LRA delegations at Juba which recommended under the Protocol on Accountability and Reconciliation the need for the provision of reparations for victims of crimes among other things;

APPRECIATES that Government of Uganda has taken measures aimed at restoring livelihoods in the greater northern Uganda and other hitherto conflict ridden areas in her development initiatives such as PEAP, and PRDP.

AWARE that numerous victims of Gross violations of International Human Rights Law and Serious Violations of International Humanitarian Law have suffered and continue to suffer prejudices, loss of life and property, pain and suffering without any acknowledgement on the part of the state and non state actors of the victimisation suffered during the violent wars and conflicts and no provision of reparations;

MINDFUL that victims of Gross violations of International Human Rights Law and Serious Violations of International Humanitarian Law have rights to remedy and reparations as set out in the *UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights law and Serious Violations of International Humanitarian Law, 2005* notwithstanding whether a perpetrator of crimes has been identified or not as spelt out in the *Declaration of the Basic Principle of Justice for victims of crime and Abuse of power, 1985*;

INVITES the Government of Uganda, her partners and other stakeholders in - discussing the questions relating to remedy and reparations for victims referred to above to:

- A) Take steps and measures in the absence of any perpetrators being identified and held responsible for the widespread victimisation, to recognise the victims of the conflict in the greater north and provide for the right to remedy and reparation;
- B) Consider defining reparations to include repairing harm; rebuilding broken relations; and truth telling;
- C) Consider developing a reparations policy and guidelines with immediate effect and no later than a period of six months and to fundraise and initiate reparations for victims within a period of two years;
- D) Recognise that while the right to reparations is an individual right, reparations can also be collective in some circumstances;
- E) Ensure that reparation policies and guidelines fully conform with international standards on the right to remedy and reparations.
- F) involve all Ugandan citizens in the reparation process to ensure there is ownership of the process as a guarantee of non repetition.

DRAWS ATTENTION to;

General Principles necessary for reparations;

1. Inclusiveness: Measures to ensure victims are not brought on board at the last minute must be put in place. Similarly, mechanisms to ensure effective and meaningful participation of victims must be defined and provided for, in particular with regards to the participation of women, children and vulnerable groups. These should be alive to

the needs to protect dignity of those participating, and avoid situations likely to cause re-traumatisation.

2. Informed consent: victims should be informed on their rights and give their informed consent to apply for and participate in the reparation processes.
3. Sensitivity: the reparations process should be informed and sensitive to gender needs, child needs and PWD needs in order to facilitate their effective and meaningful participation.
4. Non discrimination and Equality: the process of reparations should be guided by the principle of non discrimination and equality for all victims applying for reparations. With this principle victims will appreciate that they are respected and that their suffering has been recognised.
5. Transparency: Reparation processes must be undertaken within well spelt out guidelines and directives for all those engaging with the process and be fully transparent. Victims must be properly informed about the procedures to access reparation process, the mechanisms involved, as well as the necessary proofs required etc.
6. Victims: the term victim for purposes of reparations must be defined in precise terms to enable those considering themselves as such to satisfy oneself that they meet the specifications and hence qualify for an award of reparations.
It is recommended that any definition of a victim for purposes of reparations should adopt the meaning defined in the *UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights law and Serious Violations of International Humanitarian Law, 2005*; which state that victims are:

Persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law. Where appropriate, and in accordance with domestic law, the term "victim" also includes the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimisation.

Principles necessary to guide the reparations process;

1. Safety and security: owing to the nature of the conflict in the greater north of Uganda the reparations process should appropriately be guided by the need for the physical and psychological safety and security of victims, witnesses, perpetrators' family members and community at large.
2. Consent of victims and witnesses: the reparations process should proceed from the basis of informed consent of victims and witnesses. All victim communities being the subject of a reparations process must be informed adequately of the entire process to facilitate decisions taken on the basis of knowledge.

3. Confidentiality: mindful of the process likely to be of a public nature for purposes of promoting proper accountability and transparency, the need for confidentiality in certain cases requiring protection of some victims and witnesses is paramount and must be appropriately considered. Adequate, independent and well funded protection systems will need to be developed and put in place to that effect.
4. Participation: as a human rights approach, victims and witnesses of crimes referred to above need to be involved and engaged to facilitate ownership of the reparations process. Mechanisms must be developed to allow for effective and meaningful victim participation during the process.
5. The reparation process should ensure that the "do no harm principle" is applied and that no further harm is created for the victims
6. Access to relevant information: research shows that victims in Uganda often lack information on their basic rights hence the reparations process must have mechanisms developed to enhance victims' proper access to information relating to;
 - a) Individual rights
 - b) developments on reparation
 - c) gaps that exists
 - d) ways to access and participate in the process

In disseminating that information, efforts should be made to find creative ways to ensure it reaches all victims, for exemple through the use of local languages, children friendly versions...
7. Awareness about special interest group: conflicts are often characterised by serious and grave violations perpetrated against some groups such as children, women and elderly. A reparations process therefore must be aware of the existence of special interest groups unlikely to have access and/or audience before a body charged with reparations. These interest groups include;
 - a) victims of sexual violence
 - b) abducted children
 - c) child victims and witnesses
8. Consideration of scale, gravity of harm suffered: Mindful of the extent of victimisation, it is recommended that the scale and gravity of crimes suffered be considered.

Principles necessary to guide the effective enforcement and implementation of reparations:

1. Well defined forms of reparation: owing to the situation on the ground a reparations process must in addition to the well recognised forms of reparation namely Compensation, Rehabilitation and Restitution, define in explicit terms any additional forms that may be recognised such as satisfaction and non repetition.
2. Representative composition: the structure of the reparation body that will be established must be representative in nature. Specifically the body should be gender,

elderly and persons with disability sensitive and include representatives from victims' communities and civil society.

3. There should be a bottom up well laid structure
 - a. this could help with monitoring
 - b. structures in villages would ensure an adequate flow of information
 - c. having an established structure would ensure credibility of the information shared.
4. The reparation body should pre identify potential hurdles for specific groups to benefit and access reparations. In particular, challenges to women and children to access reparation due to existing property and other family laws should be identified and adequate solutions designed.
5. Individual and group/collective victims: In as much as there are many individual victims, there may be situations of group/collective victims. The reparations process must not be blind to this factor rather it must be alive to this situation and when individual or collective victims are give reparations, there must be a mechanism developed to ensure the right individuals are beneficiaries.
6. Monitoring and Evaluation: Mechanisms to monitor and evaluate the implementation and impact of reparations to specific interest groups such as women and other vulnerable groups must be developed and taken into account from the early phases of a reparations process. The body overseeing implementation of reparations should be neutral and independent.
7. Continual consultations: It is believed that the station in life of the various victims may change over time and therefore it is necessary that continuous consultations be undertaken with victims and organisations working with victims to be up-to-date.
8. Reparations Fund: Government should create a budget line for reparations, management and incidental costs. The fund should be permanently established to respond to reparations issues likely to arise in future. In doing the government should take the lead by demonstrating its commitment and thereafter may reach out to other actors for funding including donors, well wishers and also proceeds from the assets of person found guilty of serious international crimes. Should external donor support be sought, the funds should be channelled through the national body who will be implementing reparations as opposed to international organisation to ensure the maximum impact of reparations and make it distinct from general development and assistance projects.
9. Respect for rights of the accused/convict and those of his family: The process of tracing/seizing assets of convicted person for purposes of court ordered reparations, should not in any way be made to infringe on the rights of the family of a convicted person because doing so will militate against basic human rights principles.