



# UGANDA VICTIMS FOUNDATION

P.O.Box 20 Lira, Adyel Division, Lira District

## POSITION STATEMENT ON RELEVANCE AND MODALITIES OF AMNESTY LAW IN THE POST CONFLICT SITUATION IN UGANDA

**August, 2012.**

**Uganda Victims Foundation** (UVF) sitting at Gulu from 30<sup>th</sup> August to 1<sup>st</sup> September 2012 in one of its activities to discuss the issue of amnesty and its relevance in the post conflict situation in Uganda today resolved to present its position on the issue of amnesty for further engagement with Government and other stakeholders and agencies by adopting the following statement;

**Mindful** that Part II of the Amnesty Act, Cap 294 Laws of Uganda, as amended in 2006, lapsed by the declaration of the Minister vide Statutory Instrument No. 34 of 2012 dated 23<sup>rd</sup> May 2012 and in so doing abolished the possibility of persons involved in war or armed rebellion against the government of Uganda from receiving pardon and immunity from prosecution;

**Aware** that through the provisions of the Amnesty Act, approximately over 26,000 Ugandans were amnestied, demobilised, and reintegrated into the communities;

**Recognising** that the Amnesty was established with a view to end the war and bring peace to Uganda and enable families to be re united and perpetrators to renounce rebellion;

**Noting**, that some abducted persons including children and women still remain in captivity;

**Conscious** that amnesties for international crimes and serious violations of human rights are not permissible under international law and further that as a signatory to several international legal instruments the State of Uganda is under obligation to respect and promote the observance of the provisions of these legal instruments that discourage

amnesty for serious crimes and make it mandatory to investigate and prosecute such crimes;

**Highlighting** that the Amnesty Act 2000, as amended in 2006 in Uganda did not contain considerations pertaining to victims nor were victims involved and consulted prior to its adoption;

**Recalling** recent consultations with victims of serious crimes perpetrated in the greater north of Uganda whose outcome is compiled in the July 2012 report from UVF and the Greater North Coalition on Truth Seeking and Reparations during which the majority of respondents believed that amnesty ought to be conditional;<sup>1</sup>

**Alive** to the post conflict situation and processes pertaining to the promotion of peace, justice and accountability on account of which some civil society petitions have been submitted for a fresh comprehensive legislation providing for amnesty;

**Invites the government and relevant stakeholder to consider the following:**

**1) Outstanding issues of Amnesty under the 2000 Law:**

- a) UVF notes that some abducted children who escaped from their captors were treated as combatants and in ignorance received amnesty certificates even when they did not engage in war or armed rebellion against the government and as a result have a record tagged to them which prejudices them in the eyes of the public.

Thus UVF calls for:

- b) All such individuals in (a) above issued with amnesty certificates to be identified, the record to be corrected and the certificates withdrawn in the spirit of treating them as formerly abducted child victims who do not need to be amnestied if they have not committed crimes.
- c) Public outreach and sensitisation to be undertaken for these individuals to ensure that no fears are raised and or created about the likelihood of being prosecuted or their personal security being threatened.

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<sup>1</sup> See Greater North Coalition on Truth Seeking and Reparation and UVF, *A report of consultations with victims in Uganda's Greater North, seeking Truth, Remedy and Reparations for serious crimes and violations*, July 2012, available at [http://www.vrwg.org/UVF/UVF%20REPORT%20final\\_7.18.12.pdf](http://www.vrwg.org/UVF/UVF%20REPORT%20final_7.18.12.pdf)

1(1) **UVF NOTES** that some individuals who have been amnestied but contest the amnesty should be made aware of the possibility to seek court redress on such matters.

**2) Grant of Amnesty under new legislation:**

UVF acknowledges the continued debate and civil society petitions for reinstatement of amnesty under an improved framework and further notes that amnesty may still be relevant and needed considering that:

- I) there may be real hostilities that are still ongoing in Uganda and in other parts of the world involving Ugandan nationals;
- II) It could play a role in ending war, maintaining peace and promoting reconciliation.

Accordingly and in the event that new legislation for amnesty is to be considered for debate and adoption, UVF calls for the following to be considered:

- a) Amnesty for international crimes including genocide, crimes against humanity, war crimes, and serious violations of human rights including torture, slave trade and slavery, piracy and other crimes should not be considered. Any crime for which the State has undertaken to investigate and prosecute under a treaty to which it is a signatory should also be excluded from amnesty. All individuals, whether public or private officials, who have committed such crimes, should not be entitled to amnesty.
- b) Applications for amnesty in respect of non serious crimes should be conditioned in addition to renouncing rebellion to include:
  - I) Committing to and giving a true account of the individual contribution/participation in the outlawed activities.
  - II) Seeking pardon from the wronged person/s.
  - III) Respecting the victim/victims' family' views on the request for pardon.
  - IV) Committing to take part in any reparative processes.
- c) All amnesty hearing processes should be public, allow for victims affected or harmed by the Applicant to participate and should promote public accountability and transparency.
- d) Amnesty should only be granted once save in very rare occasions for instance where a person is re-abducted.

- e) The terms “victim” and “perpetrator” should be defined for purposes of any proceedings involving amnesty. UVF recommends that the definition of a victim as set out under 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*, should be adopted.
- f) Any new amnesty legislation should have a clear end date in order to provide clarity to both victims and perpetrators.

### **3) Principles in administering amnesty:**

- a) Access to Information: information on all amnesty processes, proceedings to be undertaken, venues for such proceedings, and protection mechanisms available for victims should be made public in both official and local languages. Adequate sensitisation should be undertaken.
- b) Representation: Victims and those working with them should participate in the discussions leading up to the establishment of any amnesty legislation and be represented in any body charged with granting amnesty. Such body should be fully independent from government’s interference.

### **4) Amnesty and Reintegration**

UVF notes that the Amnesty Act 2000 linked the application of amnesty to the provision of the reintegration package, to be provided by the Demobilisation and Reintegration Team. Such linkage had the negative effect of creating mixed emotions about the packages amongst victims. Accordingly, UVF suggests that reintegration packages should not be linked to the seeking of amnesty.

### **5) Amnesty and Truth telling:**

UVF notes that the Amnesty Act 2000 in Uganda did not require persons seeking amnesty to provide a full and truthful account of the crimes committed, thus prevented victims and communities from an important opportunity to learn the truth about what happened. UVF stresses that in the event that amnesty is incorporated in the development of the transitional justice policy in Uganda, the State should ensure it is linked with truth telling mechanisms.

### **6) Amnesty and Reparation:**

UVF notes that while linked, the issues of amnesty and reparation remain distinct, with different goals at heart. Nevertheless, UVF notes that one of the criticisms of

the previous Amnesty Act 2000 among victims is the fact that no reparations have been provided to the victims.

Informed of the ongoing process to develop policy and legislation on reparations for victims of crimes, UVF recommends as we have done before that an independent fund be established from which resources may be drawn for the benefit of victims and to manage the concerns of victims that perpetrators have been 'awarded packages' while they have not. In that regard, UVF reaffirms its recommendations contained in its statement on Reparation issued in 2011 and additionally recognises that priority may need to be given to the most vulnerable victims.<sup>2</sup>

**For more information please contact UVF Coordinator at [onchri@yahoo.com](mailto:onchri@yahoo.com)**

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<http://www.vrwg.org/smartweb/about-vrwg/uvf>

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<sup>2</sup> See UVF statement on the Need for Reparations and Guiding Principles for Victims of Crimes perpetrated in Uganda, 6 May 2012, available at [http://www.vrwg.org/UVF/2011\\_UVFStatementonReparation.pdf](http://www.vrwg.org/UVF/2011_UVFStatementonReparation.pdf)