



ISSUES PAPER

PROJECT: Development a model law on Amnesty for Uganda

Distribution: Technical working group members

The Uganda Law Reform Commission was established by the Uganda Law reform Commission Act, Cap 25 of the Laws of Uganda and later enriched in the Constitution of the Republic of Uganda 1995.

The core mandate of the Commission is to study and keep under constant review the Acts and other laws comprising the laws of Uganda with a view to making recommendations for their systematic improvement, development, modernization and reform. In order to achieve the objective, it is imperative that as broad a spectrum of Ugandan society as possible is consulted and permitted to participate in the reform process especially during the course of research and investigations.

A cardinal tool used by the Commission in carrying out consultations and investigations are the Issues Papers.

The primary purpose of an Issues paper is to churn out key issues identified, articulate them and where possible generate ideas on how the issues can be addressed.

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LIST OF ACRONYMS

AZAPO	Azanian Peoples Organization
CEDAW	Convention on the Elimination of all forms of Discrimination
CRC	Convention on the Rights of a Child
DPP	Director of Public Prosecutions
ICC	International Criminal Court
ICCP	International Convention on Civil and Political Rights
ICD	International Crimes Division.
ICGLR	International Conference on the Great Lakes Region
ICRC	International Red Cross Society
LRA	Lord Resistance Army
MoJCA	Ministry and Constitutional Affairs
OPCRC	Optional Protocol to the Convention on the Rights of a child
SGBV	Sexual Gender Based Violence
ULS	Uganda Law Society
UN	United Nations
UPDA	Uganda Peoples Democratic Party
UPDF	Uganda Peoples Defense Forces
USAID	United States Agency for International Development

CHAPTER ONE: INTRODUCTION AND BACKGROUND TO THE STUDY

1.1 Introduction

Uganda enacted the Amnesty Act in 2000, to provide for an amnesty for Ugandans involved in Acts of a warlike nature in various parts of the country and for other related purposes. The Act which was originally in operation for six months¹ declared an amnesty in respect of any Ugandan who at any time since the 26th day of January, 1986 engaged in or was engaging in war or armed rebellion against the government of the Republic of Uganda. A person in respect of who the amnesty is granted is not to be prosecuted or subjected to any form of punishment for the participation in the war or rebellion for any crime committed in the cause of the war or armed rebellion. The act also established an amnesty Commission for purposes of demobilization, reintegration and reconciliation in the areas affected by war.

The Amnesty Act of 2000 has been in place for the past fourteen years. The Act which played a major role in restoring calm in various conflict affected areas within Uganda expired in May 2012. However, in May 2013 the Act was extended for two more years until 2015. The implementation of the Amnesty Act is however faced by challenges in its application and operation.

In order to address the challenges faced in the implementation of the Act, the Uganda Law Reform Commission, in partnership with the Uganda Law Society, the Justice and Reconciliation Project and the Law Development Centre have undertaken an initiative to jointly review the legal and policy frameworks pertaining to amnesty in Uganda with a view to making proposals that will feed into to the national transitional Justice policy framework that is being developed for Uganda. The initiative will specifically review the Amnesty Act and conduct consultations with relevant stakeholders to obtain proposals for legal and policy reform in the area of amnesty. The study seeks to develop proposals that will offer appropriate redress to past atrocities and human rights abuses, ensure accountability, serve justice and promote reconciliation. The study also intends to draft a model law for amnesty in Uganda.

1.1.1 Definition amnesty

According to Black's Law Dictionary,² amnesty is a sovereign act of oblivion for past acts, granted by a government to all persons (or to certain persons) who have been guilty of crime or delict, generally political offenses, treason, sedition, rebellion and often conditioned upon their return to obedience and duty within a prescribed time.

The Amnesty Act broadly defines amnesty as 'pardon, forgiveness, exemption or discharge from criminal prosecution or any other form of punishment by the State' to:

¹ Section 17 awards power to the Minister to extend the duration by statutory instrument

² Henry Campbell Black, M. A, 'Black's Law Dictionary, Definitions of the Terms and Phrases of American and English Jurisprudence, (Revised Fourth Edition by the Publisher's Editorial Staff ST. PAUL, MINN. WEST PUBLISHING CO.1968) Ancient and Modern'

... any Ugandan who has at any time since the 26th day of January, 1986 engaged in or is engaging in war or armed rebellion against the government of the Republic of Uganda by (a) actual participation in combat; (b) collaborating with the perpetrators of the war or armed rebellion; (c) committing any other crime in the furtherance of the war or armed rebellion; or (d) assisting or aiding the conduct or prosecution of the war or armed rebellion.³

Amnesty has also been defined as “a form of forgiveness, granted by governments, for crimes committed against a public interest.”⁴ The United Nations⁵ uses the word “amnesty” to refer to legal measures that have the effect of:-

- (a) Prospectively barring criminal prosecution and, in some cases, civil actions against certain individuals or categories of individuals in respect of specified criminal conduct committed before the amnesty’s adoption; or
- (b) Retroactively nullifying legal liability previously established.

From the above definitions it can be understood that an amnesty is a pardon that may be supported by law barring criminal prosecution and in some cases, civil actions against certain individuals who committed crimes against a specific sovereign government. Therefore, amnesties also retroactively nullify any legal liability that may previously have been established.⁶

Some international forums however highlight the need to distinguish pardons from amnesties. A pardon does not expunge the underlying conviction but exempts a convicted person from serving his or her sentence.⁷ The Amnesty Act of Uganda is broad and includes a pardon. Under The Act, Amnesty means pardon, forgiveness, exemption or discharge from criminal prosecution or any other form of punishment by the State⁸. The Amnesty Commission has to date granted amnesty to over 26,200 rebels within the scope of this definition.⁹ Out of this number about approximately 13,000 individuals were part of the LRA, the rebel outfit that actively contributed to the 20 year insurgency in Northern Uganda.

It is important to acknowledge that amnesties are largely political processes, not specifically grounded in human rights law, and they are therefore used as a negotiating tool to bring about semblance of peace, or seizure to hostilities in armed conflict situations. As such, they seemingly give precedence to peace over justice. Be that as it may, the role of amnesties in bringing an end to periods of prolonged conflict cannot be overstated. In order to reap from the full range of benefits that this intervention tool has to offer, it is necessary to have amnesties carefully designed as was observed by the United Nations Secretary General “carefully crafted amnesties can help in the return and reintegration” of displaced persons and former fighters in the aftermath of conflict and “should be encouraged”.¹⁰

1.1.2 Types of Amnesty laws

There are different types of amnesties including *conditional*, *de facto* and *blanket amnesties*.

A conditional amnesty entails the act of a government releasing or protecting a person or persons from prosecution for wrongdoings based on certain conditions. This may for example remove the benefits of amnesty conferred upon former rebels who choose to once again take up arms.¹¹ A conditional amnesty

³ Amnesty Act 2000, s 3(1).

⁴ Bassiouni, Introduction to International Criminal Law, Martinus Nijhoff, International Criminal Law Series, 2012, 938.

⁵ United Nations, Rule-of-Law tools for post-conflict states Amnesties, page 5

⁶ United Nations Office of the High Commissioner for Human Rights, *Rule-of-Law Tools for Post-Conflict States: Amnesties*, HR/PUB/09/1 (New York, NY: UN OHCHR, 2009), 5.

⁷ According to the UN Tool on Amnesty pardon refers to an official act that exempts a convicted criminal or criminals from serving his, her or their sentence(s) in whole or in part without expunging the underlying conviction.

⁸ Act Section 2 of Amnesty Act 2000.

⁹ Is the Uganda Amnesty Commission still relevant? The Independent Magazine, (February 17-23 2012).

¹⁰ *ibid*, 26.

¹¹ *ibid*, 7.

could also remove criminal liability for some offences or offenders whilst allowing prosecutions to remain possible for crimes or offenders excluded from the amnesty's scope.¹²

A blanket amnesty is one which unilaterally exempts broad categories of serious human rights offenders from prosecution.¹³ Several writers have opined that Uganda extends a blanket amnesty under the Amnesty Act in spite of the fact that this position fosters impunity.¹⁴ The Amnesty Act of 2000, granted amnesty to any rebel who had taken up arms since 1986. It lapsed in May 2012, but was re-enacted in May 2013. As such, no prosecution of war criminals in Uganda has taken place to date.

De facto amnesties do not explicitly rule out criminal prosecution or civil remedies, but may have a similar effect by effectively foreclosing prosecutions.¹⁵

It is important to note however that a national amnesty does not bar international courts from exercising their jurisdiction.¹⁶ Amnesty laws that pose an obstacle to prosecution of human rights violations and prevent a remedy, leading to total impunity for crimes have been found to be invalid and incompatible with a State's international obligations. International law and practice confirm that national laws must not prevent a State from fulfilling its international obligations. The Inter-American Court on Human Rights has repeatedly heard cases dealing with the implications of national amnesties on a State party's duty to investigate and prosecute crimes.¹⁷ The Inter-American Commission and the Court have a rich jurisprudence in this area given the historical context in Latin America whereby a number of countries have adopted amnesty laws (self-amnesties) following periods of human rights violations by repressive regimes in an effort to shield officers from accountability for violations. In such situations, cases have been brought to the Inter-American Commission and Court for adjudication. The issue of amnesty has been considered and decisions adopted as early as 1999 by both the Commission and the Court.

Leading case-law in the Inter-American system has found that States have a fundamental duty to "use the means at its disposal to carry out a serious investigation of violations within its jurisdiction, to identify those responsible, to impose the appropriate punishment and to ensure the victim adequate compensation."¹⁸ The I/A Court declared invalid a blanket amnesty in Peru in 2001, which was found to discourage investigations and deny any remedy to the victims; the Court then held that, "all amnesty provisions, provisions on prescription and the establishment of measures designed to eliminate responsibility are inadmissible, because they are intended to prevent the investigation and punishment of those responsible for serious human rights violations."¹⁹ This judgment set precedent for the entire region and was followed by several others. The I/A Court has since declared the amnesty laws in Chile, Argentina and El Salvador to be incompatible with the State's duty to prosecute crimes and human rights violations

¹² Louise Millender, "Linkages between TJ Mechanisms," e-mail message to Kendra A. Hefti-Rossier, August 1, 2013.

¹³ United Nations Office of the High Commissioner for Human Rights, Rule-of-Law Tools for Post-Conflict, 8.

¹⁴ Sharon Esther Nakandha and Kendra Alexia Hefti-Rossier, 'Towards a comprehensive & holistic transitional justice Policy for Uganda: Exploring linkages between transitional justice mechanisms' (Avocats Sans Frontières August 2013).

¹⁵ *ibid.*

¹⁶ Sharon Esther Nakandha and Kendra Alexia Hefti-Rossier, 'Towards a comprehensive & holistic transitional justice Policy for Uganda: Exploring linkages between transitional justice mechanisms' (Avocats Sans Frontières August 2013).

¹⁷ Up to 2008, the Inter-American Court has issued judgments in no less than 10 cases dealing with the legality of amnesty laws and the States' obligations to investigate prosecute and punish human rights violations. For its part, the Inter-American Commission on Human Rights has decided this issue in no less than 13 cases, especially during the late 1980's and early 1990s before establishment of the I/A Court and during its early years of operation.

¹⁸ *Velasquez Rodriguez v. Honduras*, I/A Court Judgment of July 29, 1988 (Ser.C) No.4, para.174.

¹⁹ *Barrios Altos v. Peru*, I/A Court Judgment of March 14, 2001 (Ser.C) No.75, para 41-44.; *Loayza Tamayo v Peru*, I/A Court Judgment (Reparations) (ser C) No.42 (1998) 168, ("states...may not invoke existing provisions of domestic law, such as the Amnesty Law in this case, to avoid complying with their obligations under international law.").

as well as²⁰ the duty to respect and ensure rights under the American Convention on Human Rights. The states were ordered to strike out the law where a duty to prosecute human rights violations and crimes was seen to be frustrated.²¹

While it is acknowledged that many types of amnesties have been adopted across the world, unconditional amnesties with no accompanying accountability measures are particularly problematic in terms of States' compliance with international obligations. In recognition of this incompatibility, several countries²² have adopted legislation prohibiting amnesties for the most serious crimes or that contain explicit exceptions to general amnesties for crimes under international law."²³

1.2 Background to Amnesty law in Uganda

Uganda has used amnesty laws since its independence to respond to political crises, often with some success. It was used by Idi Amin in 1978 to encourage exiles to return to Uganda.²⁴ In 1987, the government, following its seizure of power, offered amnesty to all opposing forces who surrendered, including those directly involved in the fighting and those who supported the combatants politically or financially, and those who had worked for former regimes in the police, army, prisons and security forces.²⁵ However, the statute excluded 'heinous crimes', which Article 2 classed as genocide, murder, kidnapping and rape.²⁶ This amnesty was introduced for a three-month period, and then was renewed for a further three months, before lapsing.²⁷ This amnesty is credited with the surrender of several thousand Uganda People's Democratic Army (UPDA) combatants, which led to the Pece Accord 1988 between the Ugandan government and the UPDA.²⁸ More recently, in 1996, presidential pardons were promised for 'ordinary fighters' of the LRA and the West Nile Bank Front who surrendered voluntarily and disarmed before 31 May 1997.²⁹ This offer of pardon was accompanied by a renewed military campaign and the threat of prosecution for rebel fighters who were captured by government forces. Rebels were informed of the pardons by the delivery of thousands of letters by the Ugandan army to rebel camps inside Zaire (now the DRC) and Sudan. In August 1997, a similar programme of pardons for surrendering ADF rebels was announced.³⁰

²⁰ Selling Justice Short: Why Accountability matters for peace, HRW report (2009), 17.

²¹ Castillo Paez v Peru , I/A Court Judgment (ser C) No.34 (1997); Barrios Altos Case , I/A Court Judgment (ser C) No 74 (2001); La Cantuta v Peru , I/A Court Judgment (ser C) No.162 (2006); Almonacid-Arellano et al v Chile, I/A Court Judgment (ser C) No.154 (2006).

²² Democratic Republic of Congo, Ivory Coast, Ethiopia, and Venezuela.

²³ The Transitional Justice Working Group, 'The Amnesty Law (2000) Issues Paper Review' (April 2012) 11.

²⁴ Louise Mallinder, 'Uganda at a Crossroads: Narrowing the Amnesty?' Working Paper No. 1 from beyond legalism: Amnesties, transition and conflict transformation institute of criminology and criminal justice Queen's (University Belfast March 2009).

²⁵ Barney Afako, 'Reconciliation and Justice: "Mato Oput" and the Amnesty Act' in Okello Lucima (ed), *Accord: Protracted Conflict, Elusive Peace: Initiatives to end the violence in northern Uganda* (Conciliation Resources, London, UK 2002)

²⁶ Amnesty Statute, No. 6 (1987).

²⁷ Dennis Pain, "*The Bending of Spears*": *Producing Consensus for Peace and Development in Northern Uganda* (International Alert, London 1997).

²⁸ Barney Afako, 'Reconciliation and Justice: "Mato Oput" and the Amnesty Act' in Okello Lucima (ed), *Accord: Protracted Conflict, Elusive Peace: Initiatives to end the violence in northern Uganda* (Conciliation Resources, London, UK 2002).

²⁹ Barney Afako, 'Reconciliation and Justice: "Mato Oput" and the Amnesty Act' in Okello Lucima (ed), *Accord: Protracted Conflict, Elusive Peace: Initiatives to end the violence in northern Uganda* (Conciliation Resources, London, UK 2002).

³⁰ Moses Serwanga and John Nzinjah, 'ADF Offered Amnesty' *New Vision* (Kampala 1 August 1997).

At the end of October 1997, the president began to move from this policy of presidential pardons for surrendering rebel fighters towards an enacted amnesty law for all rebel groups and their leaders.³¹ He announced the change in policy on amnesty on his return from a Commonwealth heads of government meeting and admitted that he was now willing to accept the amnesty because of 'big pressure' from international actors, such as USAID which had recently published a report calling on Museveni to negotiate with the LRA.³² Eventually the Amnesty Act was passed unanimously by Parliament³³ and came into force in January 2000. This Act has been amended four times, in 2002, 2003, and 2006 and most recently in 2008. The Act lapsed in May 2012. In May 2013, it was extended for two more years until 2015.

1.3 The practice of amnesty in Uganda and International Law

The hallmark of the Amnesty Act of Uganda, 2000 is the immunity it extends to rebels shielding them from the prospect of facing prosecution, regardless of the crimes they committed during armed rebellion, in exchange for their surrender. Whereas the Act is applauded for the role it has played in the restoration of peace in the conflict-affected region of northern Uganda, it is necessary to assess its relevance in Uganda's peace building process as well as to align the concerns regarding its compatibility with Uganda's international legal obligations with the *victim* expectations.³⁴

There is growing consensus that a State's discretion to adopt amnesty legislation is subject to certain limitations that are necessary to combat impunity.³⁵ It is increasingly the concern of nations that a culture of impunity and a legacy of past crimes that go unaddressed are likely to undermine a lasting peace. It follows therefore that the adoption of domestic amnesties that seek to extend immunity from accountability should be framed in accordance with permissible limits and without compromising the rule of law and the realization of justice.

The United Nations Policy concerning amnesties is grounded in the core principles that have been endorsed by the United Nations System as a whole, which observe that States must (a) ensure that those responsible for serious violations of human rights and humanitarian law are brought to justice and (b) assure victims an effective right to a remedy, including reparation.³⁶

Internationally, there is contention as to whether amnesty should be accepted or not. The argument for amnesty is based on peaceful return of combatants, reconciliation and reintegration in the society *inter alia*. Those who argue against amnesty opine that there should be no reward for violations of human right especially where crimes of genocides and grave breaches of the law are involved. Under International Humanitarian Law, in cases of non-international armed conflicts amnesties for legitimate acts of war are

³¹ Henry Wasswa, 'Museveni favors Amnesty for Rebels in northern Uganda but no Talks' *Associated Press* (Kampala 29 October 1997).

³² Louise Mallinder, 'Uganda at a Crossroads: Narrowing the Amnesty?' Working Paper No. 1 from beyond legalism: Amnesties, transition and conflict transformation institute of criminology and criminal justice Queen's (University Belfast March 2009).

³⁴ In a preliminary consultation meeting with Opio Nicholas, he was of the view was that while amnesty has made an important contribution to facilitating peace, the Act cannot continue in its current form as it is affecting the implementation of meaningful justice for victims by undermining accountability mechanisms for international crimes, impacting on ongoing criminal justice processes and condoning impunity for sexual and gender based crimes.

³⁵ Principle 22, Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity states that; States should adopt and enforce safeguards against any abuse of rules such as those pertaining to amnesty.

³⁶ The Universal Declaration of Human Rights proclaims: "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law" (art. 8). Other relevant United Nations principles are cited in the Basic Principles and Guidelines on the Right to a Remedy and Reparation. See, OHCHR; Rule of Law Tools for Post Conflict States: Amnesties

encouraged at the end of hostilities to permit combatants to return home and reintegrate into society.³⁷ Nevertheless, amnesties are not justifiable for actions that violate the rules of armed conflict.³⁸ Under customary law there can be no amnesty for crimes of genocide and grave breaches of the laws of war.

Uganda is party to several international human rights frameworks that create obligations for the Government to address the gross violation of human rights including the Genocide Convention,³⁹ the four Geneva Conventions and the additional Protocols.⁴⁰ Uganda has also ratified all of the core international human rights treaties,⁴¹ with the exception of the International Convention on the Protection of all Persons from Enforced Disappearances, as well as other significant treaties like the Optional Protocol to the Convention on the Rights of the Child (CRC) on the use of Children in Armed Conflict (OPCR-C-II). Uganda ratified the ICC Rome Statute in 2002 and the Paris Principles and Commitments of 2007⁴² on the role of children in armed forces or groups.⁴³

Regionally, Uganda has also ratified treaties that impose certain human rights obligations to ;(i) investigate serious crimes (ii) bring the alleged perpetrators to justice and (iii) grant redress to the victims of such crimes. They include the constitutive acts of the African Union and the East African Community, the International Great Lakes Conference Protocols and most significantly the African Charter on Human and People's Rights,⁴⁴ the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (the Maputo Protocol)⁴⁵ and the African Charter on the Rights and Welfare of the Child and its corresponding protocol. The instruments impose a series of obligations on the State of Uganda with regard to protecting human rights and instituting measures to ensure accountability for conflict related crimes. Some of the instruments particularly highlight accountability for crimes experienced by women that are negatively impacted with the award of amnesty.

It has been argued that international and regional instruments Uganda has ratified do not automatically become part of Ugandan law unless they are specifically incorporated through an Act of Parliament. Whereas this might be true to some extent, it does not absolve Uganda from its international legal obligations.⁴⁶ It is also important to note that several of the above mentioned treaties ratified by Uganda have been accorded legal effect through the enactment of domestic implementing legislation including the Constitution of Uganda's bill of rights (Chapter 4) and the Children Act 1996 among others.

³⁷ Fred Marguš v. Croatia, the European Court of Human Rights

³⁸ Abdulsamet Yaman v. Turkey, the European Court of Human Rights 2 November 2004 .

³⁹ The 1948 Convention on the Prevention and Punishment of the Crime of Genocide (Articles I & IV: obligation to punish).

⁴⁰ ICRC Treaties and Documents for Uganda, Available at:

<http://www.icrc.org/ihl.nsf/Pays?ReadForm&c=UG>, Last accessed on 20 September 2014

⁴¹ United Nations Treaty Collection System, Available at:

<http://treaties.un.org/pages/Treaties.aspx?id=4&subid=A&lang=en>,> Accessed on 20 September 2014

⁴² The Paris commitments to protect children from unlawful recruitment or use by armed forces or armed groups and the Paris principles and guidelines on children associated with armed forces or armed groups were adopted at the international conference 'Free children from war' in Paris, February 2007 – 100 member states have endorsed the commitments, including Uganda.

⁴³ According to the Paris Principles, children involved in armed conflict should first and foremost be considered as victims – but this does not exclude them from a process of accountability for crimes committed, where necessary.

⁴⁴ Art. 7.1 (a) of the African Charter recognizes victims' right to a remedy for violations of fundamental rights

⁴⁵ Art. 11 (3) of the Protocol commits State Parties to protecting civilians including women during armed conflict and ensuring perpetrators of war crimes, genocide and/or crimes against humanity are brought to justice before a competent criminal jurisdiction.

⁴⁶ Article 27 Internal law and observance of treaties; a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty. This rule is without prejudice to article 46.

Additionally, the Geneva Conventions Act of 1964 domesticates the four principal Geneva Conventions while the ICC Act 2010 domesticates the Rome Statute. The ICC Act allows Ugandan courts to try crimes against humanity, war crimes and genocide defined under the Rome Statute.⁴⁷ The Rome Statute contains specific reference to gender-based violence as a possible war crime and crime against humanity. Included in this definition are rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and “any other form of sexual violence of comparable gravity.”⁴⁸ The Statute establishes an important model for defining sexual and gender-based crimes in international law.

(a) Obligations to investigate and prosecute crimes

It is the obligations of Uganda as a signatory to the aforementioned treaties to conduct an effective investigation and if necessary ensure prosecution of gross violations such as torture and similar cruel, inhuman or degrading treatment; extrajudicial, summary or arbitrary executions, slavery and enforced disappearance, including gender-specific violations such as rape.

The International Covenant on Civil and Political Rights (ICCPR) for example under Article 2(3), states that each State party must ensure that any person whose rights or freedoms have been violated have an effective remedy. The Human Rights Committee has also interpreted the Covenant ‘to require States parties to take effective steps to investigate violations of human rights recognized as criminal and to bring to justice those who are responsible for these violations.’⁴⁹

Principle 19 of the Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity (Updated Set of Principles) similarly states that:-

States shall undertake prompt, thorough, independent and impartial investigations of violations of human rights and international humanitarian law and take appropriate measures in respect of the perpetrators, particularly in the area of criminal justice, by ensuring that those responsible for serious crimes under international law are prosecuted, tried and duly punished.

Similarly, the Rome Statute recognizes crimes against humanity among the most serious crimes of concern to the international community as a whole, which must not go unpunished and whose effective prosecution must be ensured by States, either through instituting criminal proceedings against suspected perpetrators in their own courts or by sending the suspects to the ICC for prosecution.

In addition, amnesties that prevent prosecution of war crimes, also known as serious violations of international humanitarian law committed during non-international armed conflicts, are inconsistent with States’ obligations set forth under Common Article 3 of the four Geneva Conventions of 1949 and the Protocol relating to the Protection of Victims of Non-International Armed Conflict (Additional Protocol II).

(b) Accountability for conflict related SGBV

Uganda is party to a number of regional instruments that seek to protect the rights of SGBV victims during and post conflict. These include the Pact on Security, Stability and Development in the Great Lakes Region (Great Lakes Pact) developed by the International Conference on the Great Lakes Region (ICGLR) of which Uganda is a member . The Great Lakes Pact entered into force in June 2008 and incorporates ten protocols including the Protocol on the Prevention and Suppression of Sexual Violence against Women and Children. Objectives of this Protocol include providing protection for women and children against impunity for sexual violence and establishing a legal framework under which Member States undertake to prosecute and punish perpetrators of sexual violence in the Great Lakes Region.⁵⁰

⁴⁷ Rome Statute of the International Criminal Court, 17 July 1998, A/CONF.183/9.

⁴⁸ *ibid*, art.7 (1).

⁴⁹ As cited in OHCHR, rule of law tools for Post-Conflict States, Amnesty, p21

⁵⁰ Protocol on the Prevention and Suppression of Sexual Violence against Women and Children, art. 2 (1, 2), 30 November 2006.

The African Charter on Human and Peoples' Rights,⁵¹ and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, commonly known as the Maputo Protocol⁵² which Uganda has ratified commits State Parties to protecting civilians including women during armed conflict and ensuring perpetrators of war crimes, genocide and/or crimes against humanity are brought to justice before a competent criminal jurisdiction.⁵³ In addition to these regional human rights instruments, Uganda has ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),⁵⁴ which provides a global framework for the protection of women's rights. Article 2 of CEDAW establishes an important framework for delivering justice to victims and survivors of conflict including establishing legal protection of the rights of women on an equal basis with men and ensuring through competent national tribunals and other public institutions the effective protection of women against any act of discrimination.⁵⁵

(c) The right to effective remedy and reparation

Amnesties have a potential to alienate victims as such, states that are committed to the observance of human rights principles are generally required to "provide effective remedies to victims of gross violations of human rights and serious violations of humanitarian law, including reparation,"⁵⁶ and may not abrogate these duties through the operation of an amnesty.

Several key human rights treaties obligate states to provide an adequate and effective remedy to those persons whose rights and freedoms have been violated under the respective treaty.⁵⁷

The *Basic Principles and Guidelines on the Right to a Remedy and Reparation*⁵⁸ affirm a general duty of States to "provide effective remedies to victims, including reparation," for victims of gross violations of international human rights law and serious violations of international humanitarian law and provide detailed guidelines on the nature of this obligation⁵⁹.

The Updated set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity (Updated set of Principles) likewise reaffirm the right of victims of human rights violations to "have access to a readily available, prompt and effective remedy"⁶⁰ and to obtain reparation⁶¹. Accordingly, the Updated Set of Principles provide that: "Amnesties and other measures of clemency shall be without effect with respect to the victims' right to reparation..."⁶²

(d) The right to truth

⁵¹ Uganda ratified the African Charter on Human and Peoples' Rights on 10 May 1986.

⁵² Uganda ratified the Maputo Protocol on 22 July 2010.

⁵³ Maputo Protocol, art.11 (3).

⁵⁴ Uganda ratified CEDAW on 22 July 1985.

⁵⁵ CEDAW, art.2(c).

⁵⁶ General Assembly resolution 60/147, annex, para. 3 (d)

⁵⁷ Article 8 of the Universal Declaration of Human Rights, article 2 of the International Covenant on Civil and Political Rights, article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination, article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and article 39 of the Convention on the Rights of the Child, and of international humanitarian law as found in article 3 of the Hague Convention respecting the Laws and Customs of War on Land of 18 October 1907 (Convention IV), article 91 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 June 1977,⁹ and articles 68 and 75 of the Rome Statute of the International Criminal Court, as well as regional treaties such as the African Charter on Human and Peoples' Rights, article 7.

⁵⁸ General Assembly resolution 60/147, annex.

⁵⁹ (para. 3 (d)).

⁶⁰ (principle 32)

⁶¹ (principle 31)

⁶² (Principle 24 (b))

The right to truth telling is linked to the State's duty to conduct effective investigations into serious violations of human rights and the right to an effective judicial remedy. The right to the truth about gross human rights violations and serious violations of humanitarian law is an inalienable and autonomous right, recognized under international law and cannot be compromised through the adoption of blanket amnesty.⁶³

The Updated set of the UN Principles re-affirms the inalienable right to know the truth vis-à-vis gross human rights violations and serious crimes under international law.⁶⁴ The former UN Commission on Human Rights has also made reference to the right to know and ensure that amnesty "is not an obstacle to the search for the truth and the punishment of the guilty".⁶⁵ In its resolution 2005/66, it also recognized "the importance of respecting and ensuring the right to the truth so as to contribute to ending impunity and to promote and protect human rights".⁶⁶

The International Committee of the Red Cross (ICRC) has also affirmed the right to truth as a norm of customary international law applicable in both international and non international armed conflict, which obligates "each party to the conflict to take all feasible measures to account for persons reported missing as a result of armed conflict and provide their family members with any information it has on their fate."⁶⁷ Article 32 of the Additional Protocol I to the Geneva Conventions, of 12 August 1949 recognizes the right to the truth for relatives of missing persons, including the victims of enforced disappearance.

Given various sources of international human rights, criminal and humanitarian law, blanket amnesties are generally inconsistent with the obligation of States to provide accountability for serious crimes under international law and are no longer acceptable. As noted by the Special Court for Sierra Leone, one consequence of the nature of grave international crimes against humanity is that States can, under international law, exercise universal jurisdiction over such crimes.⁶⁸

1.4 The relevance of Amnesty in Uganda today

There is no customary or treaty rule prohibiting amnesties.⁶⁹ According to Belfast Guidelines,⁷⁰ Amnesties are used for a wide range of purposes during ongoing conflicts and repression or as part of political transitions. At different stages, positive objectives of amnesties can include; encouraging combatants to surrender and disarm, persuading authoritarian rulers to hand over power, building trust between warring factions, facilitating peace agreements, releasing political prisoners, encouraging exiles to return; and providing an incentive to offenders to participate in truth recovery or reconciliation programmes.

⁶³ See, OHCHR study on the right to the truth (E/CN.4/2006/91).

⁶⁴ Principle 2 of the UN Set of Principles also declares that "[e]very person has the inalienable right to know the truth about past events concerning the perpetration of heinous crimes and about the circumstances and reasons that led, through massive or systematic violations, to the perpetration of those crimes." While Principle 4 thereof articulates that "[i]rrespective of any legal proceedings, victims and their families have the imprescriptibly right to know the truth about the circumstances in which violations took place and, in the event of death or disappearance, the victims' fate".

⁶⁵ UN Commission on Human Rights, *Situation of human rights and fundamental freedoms in Chile.*, 8 March 1989, E/CN.4/RES/1989/62, available at: <<http://www.unhcr.org/refworld/docid/3b00f0c62c.html>>, para 7 (b)

⁶⁶ (para. 1).

⁶⁷ Rule 117 in ICRC, *Customary International Humanitarian Law, Volume I, Rules*, Cambridge Press University, 2005, p. 421.

⁶⁸ See *Prosecutor v. Morris Kallon and Prosecutor v. Brima Bazzy Kamara*, paras. 70 and 67, See also Principle 7 of the Princeton Principles on Universal Jurisdiction (2001).

⁶⁹ W. Burke-White, "Reframing Impunity: Applying Liberal International Law Theory to an Analysis of Amnesty Legislation" (2001)42 *Harvard International Law Journal* 467.

⁷⁰ Belfast Guidelines on amnesty and accountability

The UN Policy on the other hand states that amnesties that seek to restore human rights must be designed with a view to ensuring that they do not restrict the rights restored or perpetuate the original violations.⁷¹ Accordingly, amnesties are only impermissible if they:

- a) prevent the prosecution of individuals who may be criminally responsible for war crimes, genocide, crimes against humanity or gross violations of human rights, including gender specific violations;
- b) interfere with victims' right to an effective remedy, including reparation; or
- c) Restrict victims' and societies' right to know the truth about violations of human rights and humanitarian law.⁷²

Jurisprudence from both the Inter-American Human Rights System and the African Commission on Human and Peoples Rights reinforce this generally-accepted rule that amnesties may contravene victims' rights to truth, justice and a remedy, and foster impunity if not designed to promote victims' rights.⁷³

Some domestic jurisdictions such as South Africa have upheld the legitimacy of amnesty laws. In the case of **Azanian Peoples Organization (AZAPO) and Others versus The President of the Republic of South Africa**⁷⁴, the applicants sought an order declaring Section 20 (7) of the Promotion of National Unity and Reconciliation Act 34 of 1995 unconstitutional because it permitted the Committee on Amnesty to grant amnesty to a perpetrator of an unlawful act associated with a political objective and committed prior to 6th December 1993. The Court disagreed with the applicant's position and held that *amnesty for criminal liability was permitted by the epilogue because without it there would be no incentive for offenders to disclose the truth about past atrocities. In their opinion, the truth might unfold* with such an amnesty, assisting in the process of reconciliation and reconstruction. This ruling portrays a direct linkage between amnesty and other transitional justice processes. It is important to note that although the South African amnesty process was a unique form of amnesty that has not exactly been replicated elsewhere, amnesty could therefore be viewed as a tool that can promote not only peace but reconciliation as well.

In the case of **Fred Marguš v. Croatia** wherein Margus applied to the European Court of Human Rights, the court held that the practice of utilizing amnesties at the end of hostilities to enable or support contentious peace processes and to encourage combatants to lay down their arms on the basis of guarantees of non-prosecution should be viewed as a tool that promotes peace and reconciliation.

Under the Belfast Guidelines, Guideline 6 Paragraph (b)⁷⁵ notes that no international convention explicitly prohibits amnesty laws.⁷⁶ Article 6(5) of Additional Protocol II to the Geneva Conventions, which relates to non-international armed conflicts, *encourages* states to "grant the broadest possible amnesty to persons who have participated in the armed conflict" at the end of hostilities.

During the past thirty years, amnesty laws have remained a key component of peace negotiations around the world. However, from the late 1990s, reliance on amnesty laws to promote peace and reconciliation has become increasingly controversial⁷⁷. Be that as it may, the potential impact of amnesty laws on

⁷¹ *ibid.*

⁷² United Nations Office of the High Commissioner for Human Rights, Rule-of-Law Tools for Post-Conflict, 11.

⁷³ Avocats Sans Frontières, *Amnesty: An 'Olive Branch' in Justice?* Amnesty Advocacy Tool for Uganda, Kampala, 2012

⁷⁴ CCT 17/96 Constitutional Court 25th July 1996.

⁷⁵ The Belfast Guidelines on Amnesty and Accountability 2013.

⁷⁶ William W. Burke-White, "Reframing Impunity: Applying Liberal International Law Theory to an Analysis of Amnesty Legislation," Harvard Law School, 2002, 467.

⁷⁷ Louise Mallinder: *The Role of Amnesties in Conflict transformation*, as at https://www.academia.edu/177046/The_Role_of_Amnesties_in_Conflict_Transformation_on_10th_November_2014.

different levels of conflict transformation cannot be underscored. This study will explore how amnesty is perceived in Uganda and how amnesty as a tool may be adapted to facilitate inclusive restorative processes, promote truth recovery, enforce restorative outcomes, and provide reparations.

1.5 Statement of the problem

The implementation of Uganda's Amnesty Act is faced with several challenges ranging from its application to its implementation to the status of the Act within the context of the international human rights frameworks. These challenges are discussed in detail here below:-

Application of Amnesty law: Section 3 of Amnesty Act 2000 declares amnesty for any Ugandan who at any time since the 26th day of January 1986 was engaged in or was engaging in war or armed rebellion against the Government of the Republic of Uganda. This type of amnesty that offers legal protection against any criminal liability irrespective of the nature of crime committed is referred to as, '*blanket amnesty*'. The trend in international law is to strike down blanket amnesties due to the fact that they protect perpetrators from prosecution for war crimes, crimes against humanity, genocide and other serious violations including gender and sexually based international crimes of international humanitarian law. In practice, UN bodies have repeatedly adopted a position against amnesties regarding the most serious crimes on the understanding that amnesties shall not apply to them. The blanket nature of amnesty under section 3 of the Amnesty Act is, in practice, incompatible with international standards as it has been interpreted to cover any crimes that are related to the armed conflict, including serious violations of human rights and humanitarian law, contrary to international customary and treaty obligations.

State obligation to investigate and prosecute crimes:

The International Covenant on Civil and Political Rights (ICCPR) to which Uganda is signatory, states that each State party must ensure that any person whose rights or freedoms have been violated has an effective remedy⁷⁸. However, the Amnesty Act guarantees that reporters "*shall not be prosecuted or subjected to any form of punishment for the participation in the war or rebellion for any crime committed in the cause of the war or armed rebellion.*"⁷⁹ Granting amnesty for serious crimes is a clear violation of the State's international legal obligation to prosecute and punish perpetrators of the most serious crimes. This is a matter of concern to both the victims and the international community as a whole.

Accountability and the right to truth: The right to truth originates in the Geneva Conventions and has since been developed through the jurisprudence of the Inter American Commission on Human Rights in the context of the disappeared, and in particular, in recognition of the of the victims and their families to know the fate of their loved ones⁸⁰. In 1997 the Commission on Human Rights adopted a set of Principles for the protection and promotion of human rights through action to combat impunity⁸¹. The principles emphasize that a person has a right to know the truth about what happened to him/her and that society as a whole has both a right to know and a responsibility to remember. As part of the measures a State must undertake to protect the right to know, the State is required to "ensure the preservation of, and access to, archives concerning violations of human rights and humanitarian law"⁸².

⁷⁸ under Art. 2(3),

⁷⁹ Section 3

⁸⁰ Melanie Klinker and Ellie Smith: The Right to truth, Appropriate Forum and the International Criminal Court: Natalia Szabalewska and Sascha –Dominik Bachman; Current Issues in Transitional Justice at page 4.

⁸¹ E/CN.4/Sub.2/1997/20/Rev.1, annex II.

⁸² *ibid.* Principle 5.

The Law and Practice on Amnesty in Uganda does not impose any requirements on reporters to make any disclosures thereby foreclosing an opportunity for the perpetrators to contribute to the victims understanding of what happened to them and why it happened. The amnesty application is limited in space and in effect, only requiring that the reporter give a broad indication as to which rebel group he or she participated in and what types of activities the person was involved in (direct combat, collaboration, etc).

Making disclosure a pre-condition for the grant of amnesty would serve to enhance our amnesty's legitimacy and legality⁸³. The Belfast Guidelines recommend that where appropriate, prior conditions for amnesty should require individual participation in post conflict mechanisms⁸⁴.

The rights of victims to an effective remedy

In stipulating that no form of punishment can be imposed by the State against reporters⁸⁵, Uganda's Amnesty Act interferes with victim's right to an effective remedy. A strict interpretation of this provision is that victims are precluded from obtaining civil remedies⁸⁶ or redress from administrative bodies which include truth commissions, public inquiries or officially mandated restorative justice processes for the violations they have suffered. This position violates the ICCPR⁸⁷ and the right to an effective remedy under the Ugandan Constitution⁸⁸

Human rights courts and the UN Basic Principles and Guidelines recognize that victims' access to justice can be fulfilled through access to administrative bodies including truth commissions, public inquiries or officially mandated restorative justice processes⁸⁹. Restorative justice offers a form of accountability through which offenders are identified, required to answer for their actions or omissions, and may be required to comply with some of sanctions, such as apologies, community service or other measures designed to repair as much as possible the damage they have caused. Depending on the design of a restorative justice process, different measures may be required to protect the interests of victims and facilitate their meaningful participation in the process.⁹⁰

⁸³ The Belfast Guidelines suggest that this could be achieved through requiring amnesty beneficiaries to participate in mechanisms to comply with a state's obligations to investigate crimes, hold offenders accountable, provide reparations to victims and prevent further violations.

⁸⁴ Guideline 11 of Belfast Guidelines on Amnesty and Accountability. Transitional Justice Institute, University of Ulster. <http://www.transitionaljustice.ulster.ac.uk/documents/TheBelfastGuidelinesonAmnestyandAccountability.pdf>

⁸⁵ Section 3(2) provides that a person in respect of whom an amnesty is declared shall not be prosecuted or subjected to any form of punishment for participation in the war or rebellion for any crime committed in the cause of the war or armed rebellion.

⁸⁶ UN Position on Uganda Amnesty Act 2000, Submission to the Minister of Internal Affairs, May 2012.

⁸⁷ Article 2(3)

⁸⁸ The Uganda Constitution Article 50 (1) of the Constitution stipulates thus: '[A]ny person who claims that a fundamental or other right or freedom guaranteed under this Constitution has been infringed or threatened, is entitled to apply to a competent court for redress which may include compensation

⁸⁹ Loius Mallinder: Amnesties, Prosecutions and Victims' Right to Justice, Guest Post, , Rights Northern Ireland, February 18th 2014. <http://rightsni.org/2014/02/amnesties-prosecutions-and-victims-right-to-justice/>

⁹⁰ Loius Mallinder: Amnesties, Prosecutions and Victims' Right to Justice, Guest Post, , Rights Northern Ireland, February 18th 2014. <http://rightsni.org/2014/02/amnesties-prosecutions-and-victims-right-to-justice/>

Coordination between the institutions that handle matters of amnesty

There are challenges in coordination between the institutions that handle matters of amnesty and there are no regulations to that effect. The Amnesty Act gives power to the army, police, Local government, judiciary and religious leaders to receive reporters⁹¹ and to the DPP to investigate a reporter to establish whether or not the offence for which the person is charged is not one for which amnesty has been declared under section(3) of the Amnesty Act.⁹² These institutions are strategically placed to play a complimentary role in the promotion of justice and accountability. In practice the Amnesty Commission and the DPP are closely linked in their operations with the police and the Uganda peoples defense forces. However, no clear procedural guidelines have been established to streamline the operations of these institutions. This sometimes results in uncoordinated actions.

Operations of the Amnesty Commission

The Amnesty Commission carries a broad mandate under the Act. This entails monitoring programs of demobilization, reintegration and resettlement of reporters.⁹³ However, the Commission suffers large setbacks in the execution of its mandate. The Commission is underfunded and this greatly affects its operations. Limitations are also brought about by absence of a mechanism to coordinate data and operations of other implementers of the Act. The Commissions is also affected by the fact that the amnesty process faces opposition on many fronts.

1.5 Justification for the study

Uganda's Amnesty Act as amended has been observed as a 'blanket amnesty' that seeks to offer the grant of amnesty to all perpetrators irrespective of the crimes committed be it crimes against humanity, war crimes, genocides inter alia. The non-discriminate award of amnesty for all crime categories under the amnesty law contradicts the Constitution guarantees that the Government of Uganda shall protect its citizens and enforce equal treatment and protection under the law⁹⁴ and the right to a fair hearing⁹⁵. Additionally, the powers of the DPP to institute criminal proceedings without direction and control⁹⁶ are curtailed by the restriction against charging any person for offences stipulated under Section 2 (s. 3 (2) and (3)) of the Amnesty Act. There is need therefore to bring the Amnesty Act into conformity with Uganda's Constitution in that regard.

Uganda signed the Rome Statute in 1999, and ratified it in June 2002⁹⁷. Uganda subsequently enacted the International Criminal Court Act⁹⁸ and established an International Crimes Division in the spirit of the Juba Peace Agreement of reconciliation and accountability. As a signatory to these commitments, Uganda has multiple obligations under international law to respond to mass violence perpetrated during the LRA conflict, to protect human rights and to restore peace and stability. With respect to gross violations of human rights and international crimes, Uganda's obligations are: to investigate what happened and who was responsible; to prosecute those responsible; to provide remedies for victims; to prevent the recurrence of the crimes and abuses; and to ensure the effective protection of human rights for the

⁹¹ Section 4(1) and (2).

⁹² Section 3(3) and 3(2) provide for the powers of the DPP to prosecute offences other than those which are excluded (pardonable offences).

⁹³ Section 8 of the Amnesty Act 2000.

⁹⁴ Article.21

⁹⁵ Article 28 (1).

⁹⁶ Article. 120 (3).

⁹⁷ The 68th State Party to the Rome Statute.

⁹⁸ 2010.

future. These obligations correspond to victims' rights to truth, justice, reparations and guarantees of non-recurrence.

Amnesties may play a major role in assisting in the process of reconciliation and reconstruction. In the South African case of *Azanian Peoples Organization (AZAPO) and Others versus the President of the Republic of South Africa*⁹⁹, court took cognizance of the fact that amnesty for criminal liability is permitted by the epilogue because without it there would be no incentive for offenders to disclose the truth about past atrocities¹⁰⁰.

Uganda is obligated under international law to ensure that matters of amnesty are handled in a manner that encourages the protection and observance of human rights. Where an amnesty blocks the possibility of criminal prosecutions, at face value, this would seem to breach a victims' right to justice. However, the case law of international courts indicates two areas of flexibility in the legal standards. These include the notion of an "effective remedy" which entails a thorough and effective investigation capable of leading to the identification and punishment of those responsible¹⁰¹. The phrase 'capable of leading to' describes the quality of the investigation, rather than imposing an obligation on the state to prosecute and punish those responsible. Furthermore, in *Brecknell v United Kingdom*¹⁰², the court found that victims have 'no absolute right ... to obtain a prosecution or conviction'. Human rights courts and the UN Basic Principles and Guidelines recognize that victims' access to justice can be fulfilled through access to administrative bodies including truth commissions, public inquiries or officially mandated restorative justice processes¹⁰³.

This study will analyze the application of restorative justice within the transitional justice processes elsewhere in the world with a view to draw upon the restorative justice theory and experiences of amnesty processes so as to identify elements for consideration in designing a "restorative amnesty" for the Ugandan context.

1.6 Objectives of the project

The study shall be guided by the following specific objectives:-

- (a) to examine the application of amnesty law in Uganda;
- (b) to examine State obligations to investigate and prosecute perpetrators under international and domestic law;
- (c) to examine the role of complimentary mechanisms in ensuring accountability and reintegration;
- (d) to identify institutional challenges relating to operation of the amnesty Act with view to improving their effectiveness;
- (e) to identify implementation challenges relating to the operation of the amnesty Act; and
- (f) To develop a model law on amnesty.

⁹⁹ The applicants sought for an order from the Constitutional Court declaring s 20(7) of the Promotion of National Unity and Reconciliation Act 34 of 1995 unconstitutional.

¹⁰⁰ CCT 17/96 Constitutional Court, 25 July 1996

¹⁰¹ Aksoy Vs Turkey Application no. 21987/93 European Court of Human Rights 1996.

¹⁰² Application no. 32457/04 European Court of Human Rights

¹⁰³Loiuse Mallinder: Amnesties, Prosecutions and Victims' Right to Justice, Guest Post, , Rights Northern Ireland,February 18th 2014. <http://rightsni.org/2014/02/amnesties-prosecutions-and-victims-right-to-justice/>

1.7 Scope of the study

The study will consider a number of issues including the following:-

- (a) the application of the Amnesty law;
- (b) in-depth analysis of Uganda's obligations to investigate and prosecute war crimes;
- (c) in-depth analysis of complimentary practices for accountability in cases of amnesty;
- (d) the rights of victims of crimes versus peace and reconciliation and reintegration;
- (e) institutional challenges relating to operation of the amnesty Act with view to improving their effectiveness; and
- (f) implementation challenges relating to the operation of the amnesty Act.

1.8 Methodology for undertaking the study on Amnesty

1.8.1 Study design

The study will be undertaken using purely qualitative methods of data collection. This method is intended to solicit facts, views, perceptions and opinions from stakeholders at all levels of implementation as well as the communities and beneficiaries. Besides primary data collection, a review of relevant documents will be done to supplement as well as triangulate data from the primary sources.

1.8.2 Study Area

Consultations will be undertaken in the 5 regions of Uganda namely, Northern, Western, Eastern and Central region. In all a total of 10 districts will be visited countrywide and they include Kasese and Mbarara, Mbale and Soroti, Gulu and Lira, Arua and Adjumani, Luwero and Kampala.

1.8.3 Population and sample selection

The study will be undertaken among stakeholders who have knowledge and experience in dealing with amnesty related issues. Respondents will be purposively identified for consultation, in particular, from relevant government institutions including the Judiciary, Ministry of Justice and Constitutional Affairs, Uganda Human Rights Commission, Uganda Human Rights Commission. Non state institutions will also be consulted. Communities directly affected by conflict and those where former combatants have been resettled will also be consulted.

1.8.4 Methods of Data collection

Data will be collected through documentary review (an on-going process), working group meetings, key informant interviews, community dialogues, consensus building workshops and a national validation workshop.

Literature relevant to the study will be reviewed including: source documents, reports, publications all of which are intended to help generate evidence based and specific recommendations. In addition, key informant's interviews will be conducted to explore further and gain a deeper understanding by verifying earlier information, correcting earlier misinterpretations, filling gaps and soliciting their personal comments.

Dialogues will also be held with communities that were affected by conflict and with communities where reporters have been resettled to gain an understanding of their attitudes and perceptions towards the question under study.

1.8.5 Entry and Data analysis

Data will be coded according to thematic categories and will be analyzed manually. The thematic results will be interpreted and backed up by the use of verbatim responses recorded during the study to provide evidence and proof of views perceptions and opinions of the respondents on the subject under study. It is against this information that the final report will be prepared.

1.9 Expected output

The expected key output is a study report.

1.10 Procedure for implementation

The process of literature review will be on-going until the final report is produced. The consultation tools will be developed simultaneously with the development of the issues paper and will be refined further, prior to the consultations at the training of researchers and after the pre-testing respectively. Preliminary preparations for the consultations will be undertaken to notify the districts, identify the respondents and the study sites. It will also be used to schedule appointments, establish vital information to ensure the collection of meaningful and adequate data prior to the field consultations.

1.10.1 Duration

The study will be undertaken over a period of ten months.

1.10.2 Planned Activities

The following activities are planned to be undertaken:-

- (a) Desk review
- (b) Working group meetings (to prepare consultation paper and instruments)
- (c) Departmental meeting to acquaint members with the issues paper
- (d) Commissioners meeting to discuss the study documents and approve process
- (e) Working group meeting with key stakeholders to discuss the study documents and make an input
- (f) Pretesting of Instruments
- (g) Pre-visits
- (h) Consultations
- (i) Preparation of draft report
- (j) Departmental meeting – to update and provide information to staff
- (k) Commissioners meeting to approve the draft report
- (l) National Validation workshops
- (m) Finalization of the study report**

1.10.3 Project Activities

The activities to be carried out under the project are as follows:-

- (a) Desk Review of the Amnesty Law;** this shall involve research about the Ugandan Amnesty Law and its implications on Uganda's international commitments generally. A team of researchers shall be engaged for this purpose.
- (b) Public Dialogue/Consultations on the Amnesty Act;** We will work with existing civil society initiatives to obtain the communities opinions about the Amnesty Law and processes and how best the law can be reformed to suit the interests of the affected communities. This shall be done in collaboration with the Justice and Reconciliation Project which does research and advocacy to understand and explain the interests, needs, concerns and views of communities affected by conflict. This organization has undertaken several projects in the war affected communities in Northern Uganda.
- (c) Public Dialogue/consultations on amnesty in the communities;** we shall, also dialogue with the communities on the plight of the victims and how their needs can be reconciled with the law and

practice within the overall framework of transitional justice programs. This shall also be done in collaboration with the Justice and Reconciliation Project.

1.10.4 Proposed taskforce

The Amnesty Commission, Ministry of Justice and Constitutional Affairs (MoJCA), DPP, Uganda People Defence Forces (UPDF), Uganda Police Force (UPF), the Judiciary, Legal practitioners, Law Development Centre, Uganda Law Society(ULS), Makerere University, Advocates San Frontiers, Foundation of Human Rights Initiatives and Refugee Law Project.

CHAPTER TWO: ISSUES FOR CONSIDERATION

2.1 Introduction

The Amnesty Act of Uganda 2000 is applauded for the role it has played in the restoration of peace in the conflict-affected region of northern Uganda. However it is necessary to assess its relevance in Uganda's peace building process as well as to address; the concerns regarding its compatibility with Uganda's international legal obligations and the *victim* expectations.¹⁰⁴

There is a growing consensus that a State's discretion to adopt amnesty legislation is subject to certain limitations that are necessary to combat impunity.¹⁰⁵ It is increasingly the concern of nations that a culture of impunity and a legacy of past crimes that go unaddressed are likely to undermine a lasting peace. It follows therefore that the adoption of domestic amnesties that seek to extend immunity from accountability should be framed in accordance with permissible limits and without compromising the rule of law and the realization of justice.

Internationally, there is contention as to whether amnesty should be accepted or not. The argument for amnesty is based on peaceful return of combatants, reconciliation and reintegration in the society¹⁰⁶ *inter alia*. Those who argue against amnesty opine that there should be no reward for violations of human rights especially where crimes of genocides and grave breaches of the law are involved. Under International Humanitarian Law, in cases of non-international armed conflicts amnesties for legitimate acts of war are encouraged at the end of hostilities to permit combatants to return home and reintegrate into society. Nevertheless, amnesties are not justifiable for actions that violate the rules of armed conflict. Under customary law there can be no amnesty for crimes of genocide and grave breaches of the laws of war.

Uganda is a party to several international human rights frameworks that create obligations for the States to address the gross violation of human rights including the Genocide Convention, the four Geneva Conventions and the additional Protocols. Uganda has also ratified all of the core international human rights treaties, with the exception of the International Convention on the Protection of all Persons from Enforced Disappearances, as well as other significant treaties like the Optional Protocol to the Convention on the Rights of the Child (CRC) on the use of Children in Armed Conflict (OPCRC-II). Uganda ratified the

¹⁰⁴ In a preliminary consultation conducted by the ULRC it was pointed out by the majority of respondents that while amnesty has made an important contribution to facilitating peace, the Act cannot continue in its current form as it is affecting the implementation of meaningful justice for victims by undermining accountability mechanisms for international crimes, impacting on ongoing criminal justice processes and condoning impunity for sexual and gender based crimes.

¹⁰⁵ Principle 22, Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity states that; States should adopt and enforce safeguards against any abuse of rules such as those pertaining to amnesty.

¹⁰⁶ *Abdulsamet Yaman v. Turkey and Fred Margus v. Croatia* (European Courts of Human Rights)

ICC Rome Statute in 2002 and the Paris Principles and Commitments of 2007 on the role of children in armed forces or groups.

2.2 Issues for consideration

2.2.1 Application of Amnesty law

International jurisprudence has taken on a rather fine distinction on the question of amnesty in comparison to domestic jurisdictions. The generally accepted international human rights law position is that amnesties are incompatible with general human rights guidelines. In 1994, the United Nations Human Rights Committee, in its General Comment No. 20 on Article 7 of the International Convention on Civil and Political Rights stated that amnesties are incompatible with States obligations to investigate.¹⁰⁷ However, the UN tool on amnesty in post conflict situations clearly highlights the impermissibility of amnesties only when they:-

- (a) Prevent prosecution of individuals who may be criminally responsible for war crimes, genocide, crimes against humanity or gross violations of human rights, including gender specific violations;
- (b) Interfere with victims' right to an effective remedy, including reparation; or
- (c) Restrict victims' and societies' right to know the truth about violations of human rights and humanitarian law.¹⁰⁸

In Uganda, Section 3 of Amnesty Act 2000 declares amnesty for any Ugandan who at any time since the 26th day of January 1986 was engaged in or was engaging in war or armed rebellion against the Government of the Republic of Uganda. Such reporter is only issued an amnesty certificate as prescribed in the regulations to the Act after he or she has renounced and abandoned involvement in the war or armed rebellion and surrendered any weapons in his or her possession. Further, Section 2A of the Amnesty (amendment) Act, 2006 introduced a new aspect to the amnesty law when it provided:

“Notwithstanding the provisions of section 2 of the Act a person shall not be eligible for grant of amnesty if he or she is declared not eligible by the Minister by statutory instrument by statutory instrument made with the approval of Parliament.”

The Constitutional Court interpreted these two provisions as follows:

“...The DPP can still prosecute persons who are declared ineligible for amnesty by the Minister responsible for Internal Affairs or those who refuse to renounce rebellion. He can also prosecute any Government agents who might have committed grave breaches of the Geneva Conventions Act, if any. The Amnesty Act unlike the South Africa Truth and Reconciliation Act did not immunize all wrongdoers...”¹⁰⁹

The inclusion of Section 2A of the Amnesty Amendment Act is what informed the decision of the Constitutional Court of Uganda when it declared that Uganda does not offer blanket amnesty. The fact that Members of Parliament prevented the Minister of Internal Affairs from effecting his powers under Section 2A, thereby granting a de facto blanket amnesty, was not examined by the Court.

¹⁰⁷ The committee has noted that some States have granted amnesty in respect of acts of torture. Amnesties are generally incompatible with the duty of States to investigate such acts; to guarantee freedom from such acts within their jurisdiction and to ensure that they do not occur in the future. States may not deprive individuals of the right to an effective remedy, including compensation and such full rehabilitation as may be possible.

¹⁰⁸ *ibid.*

¹⁰⁹ One should nevertheless recall that if the South African amnesty did offer amnesty to offenders from both state and non-state groups, this was an individual and conditional process. Offenders had to apply and comply with conditions and only 1,117 were finally granted amnesty.

Subsequent amendments to the Act have since been adopted. The 2006 amendment makes reference to persons who may be found to be ineligible for Amnesty. It states:

'a person shall not be eligible for grant of amnesty if he or she is declared not eligible by the Minister by statutory instrument made with the approval of parliament.'

This amendment however does not stipulate the criteria by which individuals may be considered to be ineligible for amnesty, nor does it make the designation of ineligibility of amnesty under certain circumstances mandatory by law. Consequently, the conditions for declaring an individual ineligible for amnesty are unclear and the powers to do so remain discretionary.

The amendment does not specifically indicate that persons suspected of crimes against humanity, war crimes or gross violations of human rights can be found ineligible for amnesty, as Uganda's obligations under international law would dictate. In effect, amnesty under the Amnesty Act may be granted to any and all those who renounce rebellion, regardless of the nature of crimes an individual has committed. It remains to be seen whether any person will be declared ineligible for amnesty. It is opined that such a declaration is long overdue as there was agreement from Government that this would happen before the International Crimes Division (ICD) commenced operations.

Issues

- (a) *Whether the amnesty law should specifically indicate persons suspected of crimes against humanity, war crimes or gross violations of human rights as ineligible for the grant of amnesty.***
- (b) *Whether the Amnesty law should be revised to include a list in its schedule, offences that are grave in nature and if committed would prevent the reporter from getting amnesty.***
- (c) *Whether Amnesty law should expand on the conditions for the grant of amnesty under section 3 of the amnesty Act, to wit, renouncing and abandoning of the rebellion.***
- (d) *Whether the amnesty law should stipulate the criteria by which individuals may be considered to be ineligible for amnesty or make the designation of ineligibility of amnesty under certain circumstances mandatory by law.***
- (e) *Whether amnesty law should consequently outline conditions for declaring an individual ineligible for amnesty and whether the powers to do so should remain discretionary.***
- (f) *Who should be the beneficiaries of amnesty Act?***

2.2.2 Uganda's obligations to investigate and prosecute crimes

Taking into account the various treaties and customary law obligations mentioned above, the Amnesty Act as it stands now is in violation of the State's international obligations under human rights and humanitarian law. In particular, the blanket nature of amnesty as understood under the Amnesty Act is, in practice, incompatible with international standards by seeking to extend amnesty to any individual who has renounced rebellion irrespective of the crimes committed.

Article 3 of the Geneva Convention, which is also part of customary law and applicable in cases of non-international armed conflicts, ensures protection of rights of civilians and any violation of these rights would constitute war crimes. The Amnesty Act contravenes international law because in practice it has barred from prosecution persons who could be responsible for war crimes, crimes against humanity and gross violations of human rights. This is because the Act guarantees that reporters *"shall not be prosecuted or subjected to any form of punishment for the participation in the war or rebellion for any crime committed in the cause of the war or armed rebellion."*¹¹⁰

The blanket amnesty permitted under Uganda's Amnesty Act seems to have been interpreted to cover any crimes that are related to the armed conflict, including serious violations of human rights and humanitarian law, contrary to international customary and treaty obligations. Granting amnesty for

¹¹⁰ Amnesty Act, Section 3

serious crimes is a clear violation of the State's international legal and domestic obligation to prosecute and punish perpetrators of the most serious crimes of concern to the international community as a whole.

An amendment made to the Amnesty Act in 2006¹¹¹ was an attempt by the Government of Uganda to address some of the inconsistencies between the Amnesty Act and the country's domestic and international obligations, especially those arising from the ratification of the Rome Statute in 2002. However, the amendment did not make reference to the criteria by which individuals may be considered to be ineligible for amnesty, nor did it make the designation of ineligibility of amnesty a requirement by law. Consequently, the power to declare an individual ineligible for amnesty remains at the discretion of the Minister and Parliament. To date no individual has been declared ineligible.

Under the Juba Peace Agreement on Accountability and Reconciliation, the Government committed itself to "introduce amendments to the Amnesty Act....in order to bring it into conformity with the principles of the Agreement."¹¹² Despite the creation of the International Crimes Division, it is clear that the Amnesty Act continues to provide for impunity. The absence of a specific declaration of those individuals deemed to be ineligible hampers the ability of the ICD to hear cases against those alleged to have committed serious crimes during the conflict. Yet the ICD's work in securing accountability and justice for victims, is crucial to demonstrate the Republic of Uganda's compliance with international agreements on this matter and to which it is a party.

The Amnesty Act also contradicts Uganda's obligations arising from the Rome Statute. Based on Uganda's referral of the LRA case to the ICC in 2005, there are still four pending ICC arrest warrants against top LRA commanders. If any of the four indicted LRA members were captured, it would be very difficult for the Government of Uganda to call on the principle of complementarity to try these persons in Uganda through the ICD. This is because the Amnesty Act would effectively prevent the Government from pursuing prosecution and this could be interpreted as a sign of the State's inability or unwillingness to prosecute such crimes.

The Amnesty Act also presents real challenges for the future of prosecution of individuals suspected of committing gross violations of human rights in Uganda and in the neighbouring countries of Sudan, Democratic Republic of Congo (DRC) and the Central African Republic (CAR). Victims groups in many of these countries are seeking justice and calling for their governments to put in place accountability measures including prosecutions for LRA combatants. Many former combatants however have returned to Uganda and obtained Amnesty and are now actually serving in the Uganda People's Defense Forces. If any of the neighboring countries were to call for extradition of some of these persons that would present a real challenge to Uganda. Meanwhile, the Government's commitment to extradite any such individuals to face prosecution for alleged crimes outside Ugandan jurisdiction will likely be put to test.

The blanket amnesty granted under the Amnesty Act is not internationally binding and would not bar prosecution of individuals implicated for such crimes in foreign jurisdictions acting under the principle of universal jurisdiction. It therefore does not absolve such individuals obtaining amnesty from facing criminal liability in any other country with universal jurisdiction.

Issues

(a) *Whether by offering blanket amnesty under Amnesty Act 2000 irrespective of the nature of crimes committed, Uganda is violating its obligations under international and domestic law to investigate and prosecute crimes.*

¹¹¹ The amendment gave the Minister of Internal Affairs the power to present to parliament a list of individuals who could not be eligible for amnesty.

¹¹² Agreement on Accountability and Reconciliation between the Government of the Republic of Uganda and the Lord's Resistance Army/Movement, 29 June 2007, Clause 14.4.

- (b) Whether Amnesty Act 2000 should be amended to include conditions to be fulfilled by reporters before such reporters are granted amnesty.**
- (c) What are the stringent conditions that should be considered?**

2.2.3 The rights of victims to an effective remedy versus peace, reconciliation and reintegration

Uganda's Amnesty Act stipulates¹¹³ that no form of punishment can be imposed by the State against reporters. This position interferes with victim's right to an effective remedy because it bars victims from seeking a civil *or other* ¹¹⁴remedy for the violations they have suffered¹¹⁵. This violates Uganda's obligations under the ICCPR and guarantees of the right to effective remedy under the Constitution.

The balance between amnesties and prosecutions is often the most controversial aspect of transitional justice policymaking. The decision is often presented as an either/or choice between justice and impunity. However, amnesties can be designed in ways that seek to respect the right of victims to justice¹¹⁶. Human rights courts and the *UN Basic Principles and Guidelines* recognize that victims' access to justice can be fulfilled through access to administrative bodies (e.g. truth commissions, public inquiries or officially mandated restorative justice processes). Within Northern Ireland, the case law of the European Court of Human Rights requires that these processes be independent, prompt, effective and accessible to the family and sufficient public scrutiny¹¹⁷.

Restorative justice recognizes that harming others creates responsibilities for offenders to right their wrongs. In this way, restorative justice offers a form of accountability through which offenders are identified, required to answer for their actions or omissions, and may be required to comply with some of sanctions, such as apologies, community service or other measures designed to repair as much as possible the damage they have caused. Depending on the design of a restorative justice process, different measures may be required to protect the interests of victims and facilitate their meaningful participation in the process¹¹⁸. Uganda is thereby faced with an opportunity to redesign the amnesty in a way that seeks to respect the right of victims to justice by offering redress through complimentary restorative justice mechanisms and or access to administrative bodies.

Issue

- a) Does the amnesty Act undermine the victims' rights to an effective remedy?**
- b) Whether the amnesty process infringes upon a victims right to an effective remedy?**
- c) What processes can be employed alongside the grant of amnesty to uphold the victim's right to effective remedy? What other measures could be anchored within the amnesty process?**
- d) How are victims turned perpetrators treated for the purposes of remedies and reparations?**
- e) Whether beneficiaries of amnesty have a right to an effective remedy reparations? How would it be effected?**
- f) Who voices the interests of victims? How are victims identified?**
- g) How can victims be involved in the process of granting an application?**
- h) Who should give the victims a remedy?**

¹¹³ Section 3(2)

¹¹⁴ Emphasis ours.

¹¹⁵ UN Position on Uganda's Amnesty Act 2000.

¹¹⁶ Louise Mallinder, *Amnesties, Prosecutions and Victims' Right to Justice, Rights, Northern Ireland*: February 18, 2014

¹¹⁷ *ibid*

¹¹⁸ *ibid*

2.2.4 Accountability and the right to truth

The Amnesty Act additionally compromises the victims' right to truth as set out under the UN Updated Set of Principles. The law does not impose any requirements on the reporters for disclosure about their participation in the conflict. The application for amnesty is therefore limited in space and in effect, as it only requires that the reporter give a broad indication as to which rebel group he or she participated in and what types of activities the person was involved in (direct combat, collaboration, etc). For those children that went through reception centers, the practice was actually that the centre staff would fill out the amnesty forms and then give the forms to the children to sign without properly explaining the objective and implications of the amnesty process.¹¹⁹

Victims of gross violations of human rights and serious violations of international humanitarian law, and their families, have the right to an effective remedy. This includes the right to know the truth about the abuses they have suffered, including the identity of perpetrators, the causes that gave rise to the violations, and, if appropriate, the ultimate fate or whereabouts of the forcibly disappeared. This right has been recognized in legal decisions by courts in several countries as well as by international judicial bodies. While its core elements are well established, the right to the truth continues to evolve and may be characterized differently in various legal systems¹²⁰.

The right to the truth should be pursued through both judicial and non judicial proceedings. The state should attempt to establish the truth about abuses and violations regardless of whether criminal trials are immediately possible. Knowing the truth "to the fullest extent possible" includes attempting to establish: the identity of perpetrators, the causes that led to abuses, the circumstances and facts of violations, the ultimate fate and whereabouts of victims in the event of enforced disappearances¹²¹

While courts can certainly be used to establish facts, they may present certain unavoidable limitations: The judiciary may be temporarily unable to hold effective trials if a state is failing or enduring civil unrest. Trials may be limited to notorious cases or to the most easily identifiable perpetrators, thus neglecting many victims. Trials establish the facts using judicial techniques, which may be inadequate to acknowledge the personal, cultural, or psychological experiences of victims. As such, Non judicial measures may be required to satisfy the right to the truth. These may include:

- Establishing truth commissions and other non-judicial commissions of inquiry
- Reinforcing the laws protecting the freedom of information and expression
- Forms of remembrance and commemoration, such as memorials and museums

Establishing the truth about what happened and who is responsible for serious crimes helps communities to understand the causes of past abuse and end it. Without accurate knowledge of past violations, it is difficult for a society to prevent them from happening again. The truth can assist in the healing process

¹¹⁹ Interview with one of the legal practitioners in Kampala, August 27th 2014.

¹²⁰ ICTJ: Truth Seeking: Elements of creating an effective truth Commission ; 2013.

<http://www.ictj.org/publication/truth-seeking-elements-creating-effective-truth-commission>

¹²¹ United Nations Human Rights Commission, Human Rights Resolution 9/11, "Right to the truth," September 24, 2008, A/HRC/RES/9/1.

after traumatic events; restore personal dignity, often after years of stigmatization; and safeguard against impunity and public denial.¹²²

The study shall consider how the amnesty process can be strategically employed to effectuate the right to truth through complimentary non judicial remedies.

Issues

- a) *Whether the victims of crimes and the community as a whole are entitled to truth telling and accountability from reporters as means to promote peaceful reintegration in the communities?*
- b) *Whether truth telling should be a precondition for the grant of amnesty.*

2.2.5 Institutional and implementation challenges

The operations of the Amnesty Commission have been sustained over the years by the statutory instruments extending the Act. This state of affairs greatly hampers the operations of the Commission in light of funding, planning and programming. This mainly stems from the fact that the operations of the Commission are tied to the tenure of the Act, which is temporary. Section 17 of the Act provides that the Act shall on expiry, be extended by statutory instrument. A study conducted by Foundation for Human rights initiative (FHRI)¹²³ reveals that the commission is ineffective in carrying out its mandate in totality. This could be ascribed to a wide range of factors including funding deficiencies and limited capacity.

The Commissions operations inordinately focus on the perpetrator and disregard the victim's needs. For instance, the award of amnesty is also not linked to other accountability mechanisms such as reconciliation, documentation, traditional justice mechanisms and truth telling. This makes the process of reintegration a challenge. The Communities feel that they have been unfairly treated as the Government offers amnesty and support to reporters without their involvement, creating tension and animosity.

The grant of amnesty has been misapplied in order to enable resettlement of all categories of returnees. This includes children and their mothers who did not willfully participate in the rebellion but were themselves victims of the war, abducted to support the combatants as servants and wives. Some returnees are child-soldiers; these do not require a pardon because they are not criminally responsible under the laws of Uganda. In spite of the fact that there is no legal basis for granting amnesty from prosecution for the different categories of abductees, many are subjected to the award of amnesty as a precursor to being reintegrated and obtaining resettlement packages.

Additionally, because the amnesty process disproportionately focuses on former combatants without sufficient regard to the needs of their victims. The grant of Amnesty is directly linked to demobilization and reintegration, this creates a scenario where a number of returnees, in particular former abductees and forced wives who may not be willing to go through the amnesty process to obtain amnesty certificates are excluded from demobilization and reintegration programmes. This ultimately affects community reconciliation in the broader transitional justice context.

The resettlement initiative is also lacking in the aspect of psycho social support, which would go a long way in enabling effective reintegration. The focus is currently on the material needs of a returnee, by provision of shelter and other basics as well as skills training. The needs of returnee women especially those returning with children born in captivity are largely unaddressed. Others suffer from disease including vaginal fistula and sexually transmitted disease these are not specifically tackled. Other questions like access to land are also left unaddressed.

¹²² ICTJ supra.

¹²³ July / August 2012.

Whereas the Amnesty commission is mandated to coordinate sensitization of the general public on Amnesty law¹²⁴, no comprehensive strategy has been made to engage the communities that were victims of the war on matters of amnesty. This has created undue suspicion about amnesty among the victims and a hostile environment for the reporters. There are no comprehensive outreach programs to target the victim communities on the role and mandate of the commission and the law and policy on Amnesty.

Issues

- (a) ***Whether the Amnesty Commission can be independently established.***
- (b) ***Whether the implementation of the Amnesty Law can be made inclusive of victims needs***
- (c) ***Whether there is need for complimentary remedies to prosecution for purposes of enhancing accountability for violations.***
- (d) ***Whether there is need for separate interventions for former captives and abductees that did not willingly participate in rebellion.***
- (e) ***Whether the interventions provided for under the Amnesty Act can be revisited to offer more holistic interventions.***
- (f) ***Whether the coordination between the institutions that handle matters of amnesty can be improved upon.***
- (g) ***How can Amnesty process be integrated into the TJ policy?***

2.3 Conclusion

The Amnesty Act presently prescribes blanket amnesty to all crimes committed thereby creating the identified challenges which include falling short of the international commitments to which Uganda is signatory as well as our very own Constitutional obligations. The continued validity of Uganda's Amnesty Act needs to be reviewed and harmonized with other transitional justice processes in Uganda.

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