



**SEMINAR ON INTERNATIONAL CRIMINAL JUSTICE, CHALLENGES FOR DOMESTIC
PROSECUTIONS AND PROGRAMMES FOR VICTIMS' ACCESS TO JUSTICE AND
REPARATIONS**

Thursday 26, September 2013

Parliament Conference Hall, Parliament of Uganda

DRAFT OUTCOME DOCUMENT (Open for input and feedback)

Preamble

On 26 September 2013, a vast group of Ugandan Members of Parliament from all political parties and the relevant Committees convened in the Main Hall of Parliament, upon invitation of the Legal and Parliamentary Affairs Committee and the Parliamentarians for Global Action (PGA) Uganda National Group and at the presence of H.E. Honorable Rebecca Kadaga, Speaker of the Parliament of Uganda. The purpose of this seminar was to discuss with relevant stakeholders, actors, institutions and experts the steps that need to be taken to give full effect in to the principle of *complementarity* in Uganda, which regulates the relationship between the primary responsibility of States to put an end to impunity for crimes against humanity and war crimes and the complementary responsibility of the International Criminal Court (ICC).

53 MPs and over 70 representatives from the judiciary, the legal professions, NGOs and Government participated in this National Seminar on domestic prosecutions of international crimes, remedies for victims and complementarity with the ICC. Over 230 students and faculty members attended the public lecture at Makerere University Law School on 27th of September, which PGA had organized with the purpose to introduce the PGA complementarity project to the broader public. As a result of these activities and their impact, 29 MPs from Uganda joined PGA as new members.

Having heard the eloquent statements by some of the most prominent Ugandan authorities in this crucial domain, including

- the presiding Judge of the International Crimes Division of the High Court of Uganda,
- the former Ugandan Judge of the International Criminal Court (currently serving in the Special Tribunal for Lebanon),

- the Head of International Crimes Unit in the Directorate of Public Prosecutions (DPP),
- the Transitional Justice Advisor to the Justice Law and Order sector (JLOs) of the Govt. of Uganda,
- the Minister in charge of Political Mobilisation of the Govt. of Uganda,
- the Ugandan experts on gender equality, women rights and transitional justice from leading civil society organisations,
- representatives of the legal professions and the Amnesty Commission,
- the cooperation adviser of the Office of the Prosecutor of the ICC, and
- other stakeholders who interacted formally and informally with Members of Parliament;

the Members of Parliament attending the Seminar decided to commit themselves to take action on the following points/priorities/ matters, determined to maximise the extraordinary potential and reservoir of expertise that already exist in Uganda:

Action Points:

- 1) The Transitional Justice policy drafted by the JLOs shall be urgently adopted as a “policy” by Cabinet and should be promptly transmitted to Parliament for consideration of its aspects and components that may necessitate urgent legislative and other parliamentary action, especially – but not limited to – the following priorities:
 - 1) The setting up of a national programme to protect witnesses and victims, preferably on the basis of a few legislative principles upon which Parliament could take immediate action to direct the Executive;
 - 2) The setting up of a national programme for the reparation of victims and survivors of the most serious crimes, with the aim of maximizing existing resources, studies, surveys and activities carried out by the central Government, decentralized authorities, international agencies and donors, research institutes and NGOs;
 - 3) Undertake a reform to the amnesty commission procedures to make sure that amnesty *does not* apply to Rome Statute crimes (crimes against humanity, genocide and war crimes), bearing in mind that child soldiers and former child soldiers turned adults shall *not* be selected for prosecution as they are victims of war crimes and they require to be subjected to mandatory rehabilitation and re-education programmes in order to be re-introduced to non-violent and constructive psycho-social relationships (*see also point 3 below*);
 - 4) Undertake necessary steps to harmonise traditional justice processes with the overall need to ensure that the rights of victims and affected communities are respected, thus leaving to formal prosecutorial processes only persons bearing individual criminal responsibility, with intent and unhindered knowledge, for the most serious crimes.
- 2) The Members of the PGA Uganda National Group will analyze the provisions of the draft budget for justice, the fight against impunity and victims that will be presented for

the year 2014 with the view of proposing comments or submitting input aimed at increasing and strengthening the capacity of the State apparatus to counter impunity, assist victims and promote justice, truth-telling, reconciliation and crime-prevention.

- 3) Section 2(2) of the Amnesty Act, which provides that a person who qualifies for and is awarded amnesty “[...] 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” has to be modified or amended to make sure that Rome Statute crimes are excluded from this amnesty provisions. However, several PGA Members are of the view that the underlined provision does *not* cover crimes under international law (or Rome Statute crimes), which, by definition, cannot be subjected to an amnesty (the matter is before the Ugandan Supreme Court for determination in the context of the “Kwoyelo case”). An interpretative statement or a legislative amendment to the Amnesty Act to provide that amnesty may *not* apply to Rome Statute crimes shall be prepared to be on the safe side. Civil Society organizations in Uganda and Members of PGA should also take measures to support a reform of the amnesty procedures to make sure that there are “conditioned amnesties” linked to the fulfillment of the rights of victims and protecting in all circumstances the rights of children (who must be recognised as victims of the crimes of enslavement and of recruitment, conscription and/or use of children into armed forces).
- 4) In order to ensure that Uganda (and Africa) remains fully engaged within the Rome Statute system, thus recognizing the essential role that the ICC plays as ultimate, residual mechanism in the genuine fight against impunity, Uganda (and African States) shall make sure that all efforts within the Rome Statute system are for the ultimate benefit of the victims, who are the ones who suffer, need to be protected and have access to justice. Any effort to “pull-off” or withdraw from the Rome Statute shall be rejected, and justice shall not be postponed or delayed or subordinated to political considerations. In this respect, and taking into account the policies of their political parties, MPs will take action with relevant media and informational campaigns.

Political Reaffirmation of Commitment

Notwithstanding the ongoing tensions between African Union Member States and the ICC, the entire group PGA Uganda Group, chaired by Hon. Stephen Tashobya (Chair of the Committee on Legal and Parliamentary Affairs) and consisting of leading MPs from all four Parties in Parliament reiterated their support for the ICC, the fight against impunity, domestic prosecutions and other mechanisms of justice, truth-telling and reparation to strengthen Uganda’s transition to durable, stable peace.

*THE COMPLEMENTARITY PROJECT FOR DRC, UGANDA AND KENYA RECEIVES THE SUPPORT OF
THE **JOHN D. AND CATHERINE T. MACARTHUR FOUNDATION***

On-line access to PGA ICC Campaign:

<http://www.pgaction.org/programmes/ilhr/overview.html>

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