



General Assembly

Distr.
GENERAL

A/HRC/12/18/Add.1
21 August 2009

ENGLISH
Original: ENGLISH/FRENCH

HUMAN RIGHTS COUNCIL
Twelfth session
Agenda item 2

**ANNUAL REPORT OF THE UNITED NATIONS HIGH COMMISSIONER
FOR HUMAN RIGHTS AND REPORTS OF THE OFFICE OF THE
HIGH COMMISSIONER AND THE SECRETARY-GENERAL**

**Office of the United Nations High Commissioner for Human Rights
analytical study on human rights and transitional justice**

Addendum*

Inventory of human rights and transitional justice aspects of recent peace agreements

* Late submission.

Introduction

In resolution 9/10 the Human Rights Council requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to prepare an inventory of the human rights and transitional justice aspects of recent peace agreements. This addendum is submitted pursuant to that request and reproduces selected human rights and transitional justice provisions in post-2000 peace agreements, memoranda of understanding and other relevant agreements.

BURUNDI

Dar-es-Salaam Agreement on Principles towards Lasting Peace, Security and Stability in Burundi

(18 June 2006)

Article 1: The history of Burundi and the ethnic question

...

1.3 The Truth and Reconciliation Commission shall be called the Truth, Forgiveness, and Reconciliation Commission. Its mission shall be to establish the facts regarding the dark periods of our history and to identify the responsibility of the different individuals with a view to forgiveness and reconciliation among the Burundi. It should reflect the broadest representation of the Burundi society in its political, social, ethnic, religious and gender aspects.

1.4 Popular consultations shall be organised from grassroots level to the top. Its establishment, the plan of its composition, its missions and functioning will be consecrated by national legislation.

Article 2: Provisional immunity for the members of the Palipehutu-FNL and its transformation into a political party

1. From the start of the effective implementation of the ceasefire, the members of the Palipehutu-FNL shall enjoy provisional immunity.¹

...

Annexure “B”

The transformation or ongoing reform and modernisation of the Defence and Security Forces shall be subject to ongoing national dialogue by all people of Burundi to ensure that the Forces shall always be subject to the national agenda in Burundi for democracy, peace, justice, reconciliation, security, stability, development and prosperity.

¹ On 18 June 2006, in a letter to all signatories of the agreement, the Acting Special Representative of the Secretary-General reiterated the United Nations position of non-recognition of amnesty for crimes of genocide, war crimes and crimes against humanity.

Arusha Peace and Reconciliation Agreement for Burundi
(28 August 2000)

Protocol I: Nature of the Burundi conflict, problems of genocide and exclusion and their solutions

Article 6: Principles and measures relating to genocide, war crimes, and other crimes against humanity

Political principles and measures

1. Combating the impunity of crimes.
2. Prevention, suppression and eradication of acts of genocide, war crimes and other crimes against humanity, as well as violations of human rights, including those which are gender-based.
- ...
7. Erection of a national monument in memory of all victims of genocide, war crimes and other crimes against humanity, bearing the words "NEVER AGAIN".
8. Institution of a national day of remembrance for victims of genocide, war crimes and other crimes against humanity, and taking of measures that would facilitate the identification of mass graves and ensure a dignified burial for the victims.

Principles and measures in the area of justice

9. Enactment of legislation to counter genocide, war crimes and other crimes against humanity, as well as human rights violations.
10. Request by the transitional Government for the establishment by the United Nations Security Council of an International Judicial Commission of Inquiry on genocide, war crimes and other crimes against humanity responsible for:
 - (a) Investigating and establishing the facts relating to the period from independence to the date of signature of the Agreement;
 - (b) Classifying them;
 - (c) Determining those responsible;
 - (d) Submitting its report to the United Nations Security Council ...
11. Request by the Government of Burundi for the establishment by the United Nations Security Council of an international criminal tribunal to try and punish those responsible should the findings of the report point to the existence of acts of genocide, war crimes and other crimes against humanity.

Article 7: Principles and measures relating to exclusion

1. Constitutional guarantees of the principle of the equality of rights and duties for all citizens, men and women, and all the ethnic, political, regional and social components of Burundian society.
2. Combating conflict-generating injustices of all kinds.
3. Banning of all political or other associations advocating ethnic, regional, religious or gender discrimination or ideas contrary to national unity.

Article 8: Principles and measures relating to national reconciliation

1. A national commission known as the National Truth and Reconciliation Commission shall be established. This Commission shall have the following functions:

(a) Investigation

The Commission shall bring to light and establish the truth regarding the serious acts of violence committed during the cyclical conflicts which cast a tragic shadow over Burundi from independence (1 July 1962) to the date of signature of the Agreement, classify the crimes and establish the responsibilities, as well as the identity of the perpetrators and the victims. However, the Commission shall not be competent to classify acts of genocide, crimes against humanity and war crimes;

(b) Arbitration and reconciliation

... the Commission shall, upon completion of its investigations, propose to the competent institutions or adopt measures likely to promote reconciliation and forgiveness, order indemnification or restoration of disputed property, or propose any political, social or other measures it deems appropriate.

In this context, the transitional National Assembly may pass a law or laws providing a framework for granting an amnesty consistent with international law for such political crimes as it or the National Truth and Reconciliation Commission may find appropriate;

Protocol II: Democracy and good governance

Article 18: Combating impunity during the transition

1. In accordance with Protocol I to the Agreement, the transitional Government shall request the establishment of an International Judicial Commission of Inquiry which will investigate acts of genocide, war crimes and other crimes against humanity and report thereon to the Security Council of the United Nations.
2. In accordance with Protocol I to the Agreement, a National Truth and Reconciliation Commission shall be established to investigate human rights abuses, promote reconciliation and deal with claims arising out of past practices relating to the conflict in Burundi.

3. The transitional Government shall scrupulously fulfil the commitments contained in Protocol IV to the Agreement concerning the repatriation and resettlement of refugees and *sinistrés* as well as the restitution of property, including land, belonging to such persons.

[See also Protocol II, Article 3 (Charter of Fundamental Rights) for further provisions pertaining to human rights and transitional justice].

CÔTE D'IVOIRE

Accra III Agreement on Côte d'Ivoire (30 July 2004)

Article 13: Human rights

The Ivorian parties recognise that restoration of long-term peace and stability requires respect for human rights and the rule of law. In this regard, they agree to cooperate fully with the International Commission of Inquiry, which has been established in accordance with the Linas-Marcoussis Agreement to look into the human rights violations committed in Côte d'Ivoire since the beginning of the crisis on 19 September 2002.

Linas-Marcoussis Agreement (23 January 2003)

Annex: Programme of the Government of National Reconciliation

Section VI: Rights and freedoms of the individual

1. The Government of National Reconciliation will immediately set up a National Human Rights Commission to ensure protection of rights and freedoms in Côte d'Ivoire ...
2. The Government of National Reconciliation will call for the establishment of an international board of enquiry to investigate and establish the facts throughout the national territory in order to identify cases of serious violations of human rights and international humanitarian law since 19 September 2002.
3. Based on the report by the international board of enquiry, the Government of National Reconciliation will determine which cases should be brought to justice in order to put an end to impunity. The Round Table particularly condemns the actions of the "death squads" and those giving them orders as well as those carrying out summary executions throughout the country, and considers that those guilty of and those aiding and abetting these acts must be brought to justice before an international criminal jurisdiction.

DEMOCRATIC REPUBLIC OF CONGO

Peace Agreement between the Government and the Congrès national pour la défense du peuple (CNDP) (23 March 2009)

Article 3: Amnesty

3.1 In order to promote national reconciliation, the Government commits itself to promulgating an Amnesty Act covering the period from June 2003 up to the date on which the Act is promulgated, and which should be in compliance with international law.

...

3.3 Given that CNDP has expressed concerns regarding some provisions of the Amnesty Bill, as adopted by the National Assembly, in particular, the definition of the acts covered by the amnesty which CNDP views as being restrictive, it is agreed that the Government will convey those concerns to Parliament for its consideration.

Article 4: National reconciliation mechanisms

4.1 The parties commit themselves to maintaining the momentum of reconciliation, of instilling peace in hearts and minds and of ensuring the harmonious co-existence of communities as the overriding requirement of good governance. In this respect:

(a) The parties agree that the Government may establish a national reconciliation mechanism entrusted with defining and conducting the policy of reconciliation between all Congolese, men and women alike, and of combating xenophobia; ...

Article 10: Reform of the army and the security services

10.1 The parties agree that the far-reaching reform of the army and security services of the Democratic Republic of Congo is a priority.

...

10.3 The Government, which is aware of this need and already working on it, commits itself to undertaking the reform of the army and the security services as an immediate priority.

...

Article 12: Specific issues

12.5 Without prejudice to the law and principles of equality, all misappropriated property must be returned to its owners, whether legal entities or individuals. In addition to the traditional arrangements for the settlement of disputes of this nature, the parties agree on the rapid establishment of permanent local conciliation committees.

...

12.7 The Government commits itself to providing support for war-wounded, and for the orphans and widows of former members of CNDP, a list of whom shall be submitted by CNDP.

Acte d'engagement, North Kivu/Acte d'engagement, South Kivu
(21 January 2008)

Article 3: Humanitarian principles and respect for human rights

Strict observance of the rules of international humanitarian law and human rights, in particular:

- Cessation of all forms of violence, abuses, discrimination and exclusion directed against civilians, particularly women and children, the elderly and the disabled

...

- Return of property to its owners, whether natural or legal persons

Article 4: Political and judicial guarantees

The Government of the Democratic Republic of the Congo, taking note of this *Acte d'engagement* and at the request of CNDP, Politico-Military Movement, PARECO/N-K, Mai-Mai Kasindien, Mai-Mai Kifuafua, Mai-Mai Vurondo, Mai-Mai Mongol, UJPS, Mai-Mai Rwenzori and Simba, undertakes, in accordance with the relevant recommendation of the Conference for Peace, Security and Development in North and South Kivu:

1. To submit to Parliament a draft Amnesty Law in respect of acts of war and insurrection, covering the period from June 2003 to the date of promulgation of the Law, not including war crimes, crimes against humanity and genocide

Inter-Congolese Negotiations: the Final Act (The Sun City Agreement)
(2 April 2003)

Resolution DIC/CPJ/06: Relating to the abolition of special courts and the reform of military justice

WE, the Participants at the Inter-Congolese Political Negotiations, ...

...

DECIDE

1. The abolition of special courts, especially military courts, throughout the national territory;
2. The reform of military courts, especially in that they must no longer have the authority to judge civilians and must guarantee the right to appeal and the right to defence of the individuals under their jurisdiction in accordance with the relevant provisions to international legal instruments ratified by the DRC.

Resolution ICD/CPR/01: Relating to the restitution of property seized and/or confiscated from individuals and property stolen from the State

WE, the Participants at the Inter-Congolese Political Negotiations, ...

...

DECIDE AS FOLLOWS

1. The Transitional Government is tasked with restoring, with immediate effect and unconditionally, all property seized and/or illegally confiscated from individuals, and with returning State property stolen by the individuals.
2. The Transitional Government must restore the legal rights of those whose fixed property has been occupied without title or legal right.
3. The Transitional Government will, at the same time, appoint a Parliamentary Commission with the necessary legal and logistic means to ensure that this mission entrusted to the Transitional Government is strictly carried out. This Commission will be empowered to receive and assess of victims, and see to it that their rights are restored.

Resolution DIC/COR/04: On the institution of a “Truth and Reconciliation” Commission

WE, the Participants at the Inter-Congolese Political Negotiations, ...

...

AGREE TO THE FOLLOWING

1. Resolve to set up, at the close of the ICD, an independent commission to be called the “National Truth and Reconciliation Commission” to be tasked with the responsibility of re-establishing the truth, and promoting peace, justice, forgiveness and national reconciliation.
2. Adopt the decision that such a Commission should be set up at national, provincial and local levels.
3. Task the Commission to, in particular, identify the nature, causes and extent of the political crimes and large-scale violations of human rights committed in the DRC, since the country’s accession to independence.
4. Declare that the political crimes and large-scale violations of human rights committed outside the national territory but related to the political conflicts within the DRC will also fall under the jurisdiction of the Commission.
5. Affirm that the Commission will be responsible for deciding the fate of the victims of the said crimes, for hearing them, and taking all the necessary measures to compensate them and completely restore their dignity.

Resolution DIC/CPR/05: On the establishment of an international criminal court

WE, the Participants at the Inter-Congolese Political Negotiations, ...

...

RESOLVE that a request be made to the UN Security Council by the Transitional Government with a view to establishing an International Criminal Court for the Democratic Republic of Congo, endowed with the necessary competence to take cognisance of crimes of genocide, crimes against humanity, war crimes and mass violations of human rights committed or presumed committed since 30 June 1960 as well as those committed or presumed committed during the two wars of 1996 and 1998.

INDONESIA

**Memorandum of understanding between the Government
of the Republic of Indonesia and the Free Aceh Movement
(15 August 2008)**

Article 1.4: Rule of law

...

1.4.5 All civilian crimes committed by military personnel in Aceh will be tried in civil courts in Aceh.

Article 2: Human rights

...

2.2 A Human Rights Court will be established for Aceh.

2.3 A Commission for Truth and Reconciliation will be established for Aceh by the Indonesian Commission of Truth and Reconciliation with the task of formulating and determining reconciliation measures.

Article 3.1: Amnesty

3.1.1 Government of Indonesia will, in accordance with constitutional procedures, grant amnesty to all persons who have participated in GAM activities as soon as possible and not later than within 15 days of the signature of this MoU.

Article 3.2: Reintegration into society

...

3.2.4 Government of Indonesia will allocate funds for the rehabilitation of public and private property destroyed or damaged as a consequence of the conflict to be administered by the authorities of Aceh.

3.2.5 Government of Indonesia will allocate suitable farming land as well as funds to the authorities of Aceh for the purpose of facilitating the reintegration to society of the former combatants and the compensation for political prisoners and affected civilians. The authorities of Aceh will use the land and funds as follows:

...

(c) All civilians who have suffered a demonstrable loss due to the conflict will receive an allocation of suitable farming land, employment or, in the case of incapacity to work, adequate social security from the authorities of Aceh.

3.2.6 The authorities of Aceh and Government of Indonesia will establish a joint Claims Settlement Commission to deal with unmet claims.

The Moluccas Agreement in Malino (Malino II)

(14 February 2002)

... the two sides have agreed:

...

- To establish a national independent investigation team to investigate among others, the tragic incident on January 19, 1999, the Moluccas Sovereign Front (Front Kedaulatan Maluku-FKM), Republic of South Moluccas (Republik Maluku Selatan-RMS), Christian Republic of South Moluccas (Kristen Republik Maluku Selatan-Kristen RMS), jihad warrior (laskar jihad), Christ Warrior (laskar Kristus), coercive conversion, and human rights violation [sic]

KENYA

Kenya National Dialogue and Reconciliation: Truth, Justice and Reconciliation Commission

(4 March 2008)

The Parties to the Kenyan National Dialogue and Reconciliation agree to the following general parameters and principles ...

A Truth, Justice, and Reconciliation Commission (“the Commission”) will be created through an Act of Parliament, which will be adopted by the legislature within the next four weeks.

The Commission will inquire into human rights violations, including those committed by the state, groups, or individuals. This includes but is not limited to politically motivated violence, assassinations, community displacements, settlements, and evictions. The Commission will also inquire into major economic crimes, in particular grand corruption, historical land injustices, and the illegal or irregular acquisition of land, especially as these relate to conflict or violence. Other historical injustices shall also be investigated.

The Commission will inquire into such events which took place between December 12, 1963 and February 28, 2008. However, it will as necessary look at antecedents to this date in order to understand the nature, root causes, or context that led to such violations, violence, or crimes.

The Commission shall receive statements from victims, witnesses, communities, interest groups, persons directly or indirectly involved in events, or any other group or individual; undertake investigations and research; hold hearings; and engage in activities as it determines to advance national or community reconciliation. The Commission may offer confidentiality to persons upon request, in order to protect individual privacy or security, or for other reasons ...

No blanket amnesty will be provided for past crimes. Individual amnesty may be recommended by the Commission in exchange for the full truth, provided that serious international crimes (crimes against humanity, war crimes, or genocide) are not amnestied, nor persons who bear the greatest responsibility for crimes covered by the Commission.

The Commission will complete its work and submit a final report within two years. The final report shall state its findings and recommendations, which will be submitted to the President and will be made public in fourteen days and tabled in Parliament.

...

In keeping with international best practices, and to ensure broad public trust in and ownership of the process of seeking the truth, the national members of the Commission shall be chosen through a consultative process ...

**Kenya National Dialogue and Reconciliation:
Commission of Inquiry on Post-Election Violence**
(4 March 2008)

The Parties to the National Dialogue and Reconciliation, together with the Panel of Eminent African Personalities (The Panel), agree to the establishment of a *Commission of Inquiry on Post-Election Violence* (Commission of Inquiry).

This Commission of Inquiry will be a non-judicial body mandated (i) to investigate the facts and surrounding circumstances related to acts of violence that followed the 2007 Presidential Election, (ii) investigate the actions or omissions of State security agencies during the course of the violence, and make recommendation as necessary, and (iii) to recommend measures of a legal, political or administrative nature, as appropriate, including measures with regard to bringing to justice those persons responsible for criminal acts. The Commission of Inquiry aims to prevent any repetition of similar deeds and, in general, to eradicate impunity and promote national reconciliation in Kenya.

**Kenya National Dialogue and Reconciliation: Agenda
Item Three - How to Resolve the Political Crisis
(14 February 2008)**

...

III: Regarding the need for a political settlement to resolve the current crisis, we agree on the following points:

...

A political settlement is necessary to manage a broad reform agenda and other mechanisms that will address the root causes of conflict.

Such reforms and mechanisms will comprise, but are not limited to, the following:

- Comprehensive Constitutional reforms

...

- A truth, justice and reconciliation commission
- Identification and prosecution of perpetrators of violence
- Respect for human rights
- Police reform
- Legal and Judicial reforms

...

The implementation of the following reforms should commence urgently in concert with reforms of Agenda Item Three. However, these processes may continue beyond the timeline of the next election.

...

- Land reform
- Tackling poverty and inequity, as well as combating regional development imbalances, particularly promoting equal access to opportunity

...

- Reform of the Public Service
- Strengthening of anti-corruption laws/public accountability mechanisms

...

- Addressing issues of accountability and transparency

Kenya National Dialogue and Reconciliation: public statement
(4 February 2008)

...

2: With Respect to Immediate Measures to Promote Reconciliation, Healing and Restoration

...

(h) A Truth, Justice and Reconciliation Commission that includes local and international jurists should be established.

...

(i) Welcome and encourage the United Nations High Commissioner for Human Rights investigatory team.

LIBERIA

**Peace Agreement between the Government of Liberia, the Liberians
United for Reconciliation and Democracy, the Movement for Democracy
in Liberia and Political Parties**
(18 August 2003)

...

Article XIII: Truth and Reconciliation Commission

1. A Truth and Reconciliation Commission shall be established to provide a forum that will address issues of impunity, as well as an opportunity for both the victims and perpetrators of human rights violations to share their experiences, in order to get a clear picture of the past to facilitate genuine healing and reconciliation.
2. In the spirit of national reconciliation, the Commission shall deal with the root causes of the crises in Liberia, including human rights violations.
3. This Commission shall, among other things, recommend measures to be taken for the rehabilitation of victims of human rights violations.

Article XXXIV: Amnesty

The National Transitional Government of Liberia shall give consideration to a recommendation for general amnesty to all persons and parties engaged or involved in military activities during the Liberian civil conflict that is the subject of this Agreement.

[See also Article 12 (Human Rights) for further provisions pertaining to human rights and transitional justice].

NEPAL

Comprehensive Peace Agreement between the Government of Nepal and the Communist Party of Nepal (22 November 2006)

...

Article 3: Political, Economic, Social Transformation and Conflict Management

...

3.5 To carry out an inclusive, democratic and progressive restructuring of the state by ending the current centralized and unitary form of the state in order to address the problems related to women, Dalit, indigenous people, Janajatis, Madheshi, oppressed, neglected and minority communities and backward regions by ending discrimination based on class, caste, language, gender, culture, religion, and region.

3.6 To gradually implement by deciding through mutual agreement a minimum common program for the economic and social transformation to end all forms of feudalism.

3.7 To adopt a policy of implementing a scientific land reforms program by ending feudal land ownership ...

3.9 To adopt policy [sic] of establishing the rights of all citizens to education, health, housing, employment and food security.

Article 3.10 To adopt policy [sic] of providing land and other economic protection to socially and economically backward classes including landless squatters, bonded laborers and pastoral farmers.

Article 5.2: Situation Normalization Measures

...

5.2.4 Both sides agree to form a National Peace and Rehabilitation Commission to establish peace in the society by normalizing adverse situation generated by armed conflict and to carry out relief for and rehabilitate people victimized and displaced by war, and to carry forward the tasks related to this through the Commission.

5.2.5 Both sides agree to set up a High-level Truth and Reconciliation Commission through mutual agreement in order to investigate truth about people seriously violating human rights and involved in crimes against humanity, and to create an environment of reconciliations in the society.

Article 7.1: Human Rights

...

7.1.2 Both sides agree to create an atmosphere for the Nepali people to enjoy their civil, political, economic, social and cultural rights and are committed to create an atmosphere where such rights are not violated in the future under any condition.

7.1.3 Both sides express the commitment that impartial investigation and action would be carried according to law against people responsible creating obstructions to the exercise of the rights envisaged in the letter of agreement and ensure that impunity will not be tolerated. Apart from this, they also ensure the right of the victims of conflict and torture and the family of disappeared to obtain relief.

Article 7.5: Economic and Social Rights

7.5.1 Both parties are committed to respect and protect the individual's right to livelihood through freely chosen or accepted employment.

7.5.2 Both parties are committed to respecting and guaranteeing the rights of food security to all the people. They guarantee that there would be no interference in the transportation, use and distribution of food, food products and food grains.

7.5.3 Both parties acknowledge that the citizens' right to health should be respected and protected. Both parties will not obstruct the supply of medicine, assistance and health related campaigns, and express commitment to treatment and rehabilitation of the people injured in course of the conflict.

7.5.4 Acknowledging that the right to education should be ensured and respected, both parties are committed to maintaining appropriate academic environment in educational institutions. Both sides agree to guarantee that the right to education will not be impeded. They agree to put to an end, on an immediate basis, to activities like taking the educational institutions under control and using them, abducting teachers and students, taking them under control and disappearing them, and to not to establish barracks in a way that it would impede them.

7.5.5 Both sides agree that the private property of any individual will not be seized or usurped, except when permitted by law.

7.5.6 Both sides believe in giving continuity to production by not disturbing the industrial climate in the country, respecting the right of collective bargaining and social security in industrial institutions, encouraging industrial institutions and laborers to solve the problem in peaceful manner if any problem arises between them and respect the right to work determined by the International Labor Organization.

Decisions of the Seven Party Alliance (SPA) - Maoist Summit Meeting
[Unofficial Translation]
(8 November 2006)

Article 1: Relating to the Implementation of Past Agreements

...

2. A high-level commission to investigate and publicize the whereabouts of citizens that were alleged to be disappeared by the State and the Maoists in past shall be constituted.
3. The process of returning the houses, land and properties occupied in past shall be accelerated ...

Article 4: Relating to the Management of the Victims of Conflict

1. Provisions shall be made for providing appropriate relief, recognition and resettlement for the family members of those killed in the course of the conflict and for those injured and rendered handicapped and disabled.
2. Relief shall be provided to the family members of those who have been disappeared as determined by an inquiry commission appointed for the purpose.
3. Special programs shall be carried out for the rehabilitation of people displaced during the course of the armed conflict; for relief in case of private and public properties destroyed and for the reconstruction of the damaged infrastructure.
4. A high-level Truth and Reconciliation Commission shall be constituted on the basis of consensus for establishing the facts on those involved in gross violation of human rights and those who committed crimes against humanity in the course of the armed conflict and for creating an environment of reconciliation in the society.

PHILIPPINES

Second Oslo Joint Statement
(3 April 2004)

...

5. On the indemnification of victims of human rights violations of the Marcos regime

The GRP reported that in consonance with its obligation under Article 5 of Part III of the CARHRIHL to indemnify victims of human rights violations of the Marcos regime, the GRP's Presidential Agrarian Reform Council adopted Executive Committee Resolution No. 2003-93-04 expressing GRP's policy to leave a sufficient amount of at least PhP 8 billion from the recovered Marcos ill-gotten wealth to compensate such victims.

...

Furthermore, the GRP shall exert its utmost initiative to obtain passage of an administration bill for the compensation of martial law victims of human rights violations satisfactory to the victims, giving priority to the successful plaintiffs in the Human Rights Litigation against Marcos who shall be indemnified without further delay and in the most expeditious manner.

Oslo Joint Statement
(14 February 2004)

6. Indemnification of the Victims of Human Rights Violations Under the Marcos Regime

In keeping with its obligation under Articles 3, 4 and 5 of Part III of CARHRIHL, and taking into consideration the Swiss Supreme Court Decision of 10 December 1997, the GRP undertakes to preserve at least PhP8 billion (approximately USD 150 million) plus interest and earnings from the USD 684 million forfeited Marcos ill-gotten wealth to be deposited in the form of US dollars ... From this amount and such additional amounts as may be necessary, the GRP shall indemnify martial law victims of human rights violations, giving priority to the successful plaintiffs in the Human Rights Litigation against Marcos who shall be indemnified without further delay and in the most expeditious manner.

SOMALIA

**Agreement between the Transitional Federal Government of Somalia (TPG)
and the Alliance for the Re-Liberation of Somalia (ARS)**
(9 June 2008)

9. A High Level Committee, chaired by the UN, should be established within fifteen (15) days of the signing of this Agreement to follow up on issues relating to the political cooperation between the Parties and concerns over justice and reconciliation. These issues will be discussed at a conference to be organized by 30 July 2008.

SUDAN

Eastern Sudan Peace Agreement
(14 October 2006)

Article 19: General principles for resolving economic, social and cultural issues

...

47. The State shall develop policies and strategies to ensure social justice among all the people of Sudan.

...

51. Education is a right for every citizen. The State shall ensure free and compulsory education at the primary level and work to eradicate illiteracy.

52. The State shall promote public health and guarantee equal access and free primary health care to all citizens.

53. Every citizen shall have the right to acquire or own property as regulated by law. No private property may be expropriated except by law for the public interest and is entitled for prompt and fair compensation.

Article 33: Consultative conference on Eastern Sudan Peace Agreement

...

138. The CC ESPA shall have the following aims:

(a) Publicizing and mobilizing support for the ESPA;

(b) Building up momentum and providing a conducive atmosphere for the timely and effective implementation of the ESPA;

(c) Providing a forum for all stakeholders to present their observations and recommendations to the national and Eastern Sudan authorities;

...

140. All the stakeholders, including community and traditional leaders, political parties, civil society organizations, trade unions, professionals, religious leaders, business leaders, and members of the diaspora shall participate in the CC ESPA. There shall be adequate and effective representation of women and youth.

[See also Article 6 (Human rights and fundamental freedoms) for further provisions pertaining to human rights and transitional justice].

Darfur Peace Agreement (5 May 2006)

...

Article 17: Concepts and general principles for wealth sharing

...

97. All Sudanese citizens have equal rights to:

(a) Freedom from hunger;

(b) Sustainable livelihood;

(c) Safe drinking water;

(d) Access to quality education;

- (e) Access to health services and other social services;
- (f) Adequate access to public utilities and infrastructure;
- (g) Equitable development and employment opportunities;
- (h) Free access to markets;
- (i) Security of property;
- (j) Promotion and protection of cultural heritage;
- (k) Restitution of property for those affected by conflict; and
- (l) Judicial review of administrative actions that affect livelihood.

...

109. The women of Darfur are involved in all areas of activity and constitute the bulk of the labour force, especially in the agricultural and animal resource sectors. In addition, women are heads of households particularly among refugees, the internally displaced persons and migrants. Women's situation in all these areas has been worsened by the war, which has had a particularly deleterious impact on women and children, especially in relation to their means of livelihood. There is a need, therefore, for a special focus on the specific situation of women and for providing concrete measures to address their concerns, as well as ensuring their equal and effective participation in committees, commissions and bodies established pursuant to this Agreement.

110. Recognition of traditional rights (including "hawakeer") and historical rights in land is essential to establish a secure and sustainable basis for livelihood and development in Darfur. This Agreement sets out the mechanisms for recognizing and protecting those rights.

Article 20: Development and management of land and natural resources

...

159. All displaced persons and other persons arbitrarily or unlawfully deprived of rights to land shall have those rights restored to them. No person or group of persons shall be deprived of any traditional or historical right in respect of land or access to water without consultation and compensation on just terms.

Article 21: Urgent programs for internally displaced persons (IDPs), refugees and other war-affected persons and compensation for war-affected persons

...

194. Displaced persons have the right to restitution of their property, whether they choose to return to their places of origin or not, or to be compensated adequately for the loss of their property, in accordance with international principles.

195. DRRC and the relevant authorities shall establish restitution procedures, which must be simple, accessible, transparent and enforceable. All aspects of the restitution claims process, including appeals procedures, shall be just, timely, accessible, free of charge, and age and gender sensitive. The procedures shall contain positive measures to ensure that women are able to participate on a fully equal basis in the process.

...

199. The Parties agree that war-affected persons in Darfur have an inalienable right to have their grievances addressed in a comprehensive manner and to receive compensation. Restitution and compensation for damages and losses shall necessitate massive mobilization of resources.

200. The Parties agree on the establishment of an independent and impartial Compensation Commission to deal, without prejudice to the jurisdiction of courts, with claims for compensation by people of Darfur who have suffered harm, including physical or mental injury, emotional suffering or human and economic losses, in connection with the conflict.

Article 29: Final security arrangements for Darfur

...

446. Reform shall include, but not be limited to, the following security institutions, particularly those that have expanded or changed composition or mandate during the conflict in Darfur:

- (a) The Popular Defense Forces;
- (b) The Border Intelligence Units;
- (c) The State (GoS) Police and its subsidiary departments ...

Chapter IV. Darfur-Darfur dialogue and consultation

Article 31

458. The Darfur-Darfur Dialogue and Consultation (DDDC) shall be a conference in which representatives of all Darfurian stakeholders can meet to discuss the challenges of restoring peace to their land, overcoming the divisions between communities, and resolving the existing problems to build a common future.

[See also Article 3 (Human rights and fundamental freedoms) for further provisions pertaining to human rights and transitional justice].

Declaration of Principles for the Resolution of the Sudanese Conflict in Darfur

(5 July 2005)

10. Rehabilitation and reconstruction of Darfur is a priority; to that end, steps shall be taken to compensate the people of Darfur and address grievances for lives lost, assets destroyed or stolen, and suffering caused.

...

12. Aiming at sustainable development, environmental degradation, water resources and land use shall be addressed. Tribal Land ownership rights (hawakeer) and other historical rights shall be affirmed within their historical borders. Traditional mechanisms in Darfur will be considered consistent with the provisions of the National Constitution.

The Comprehensive Peace Agreement between the Government of the Republic of the Sudan and the Sudan People's Liberation Movement/Sudan People's Liberation Army

Chapter V: The resolution of the conflict in Southern Kordofan and Blue Nile States
(26 May 2004)

...

Article 3: Popular Consultation

...

3.1 Popular consultation is a democratic right and mechanism to ascertain the views of the people of Southern Kordofan/Nuba Mountains and Blue Nile States on the comprehensive agreement reached by the Government of Sudan and the Sudan People's Liberation Movement.

Chapter II: Power Sharing
(26 May 2004)

Article 1.6. Human Rights and Fundamental Freedoms

1.6.1 The Republic of the Sudan, including all levels of Government throughout the country, shall comply fully with its obligations under the international human rights treaties to which it is or becomes a party. These include the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, the Slavery Convention of 1926, as amended, and the related Supplementary Convention, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the International Convention Against Apartheid in Sports, the Convention Relating to the Status of Refugees and the Related Protocol, and the African Charter on Human and People's Rights. The Republic of the Sudan should endeavor to ratify other human rights treaties which it has signed.

1.6.2 The rights and freedoms to be enjoyed under Sudanese law, in accordance with the provisions of the treaties referred to above, include in particular the following:

...

1.6.2.13 Freedom from Discrimination

The law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

1.6.2.16 Equal Rights of Men and Women:

(a) The equal right of men and women to the enjoyment of all civil and political rights set forth in the International Covenant on Civil and Political Rights and all economic, social, and cultural rights set forth in the International Covenant on Economic, Social and Cultural Rights shall be ensured;

(b) The human rights and fundamental freedoms embodied in the International Covenant on Civil and Political Rights (ICCPR) shall also be reflected in the Interim National Constitution. No derogation from these rights and freedoms shall be made under the Constitution or under the ICCPR except in accordance with the provisions thereof and only with the approval of the Presidency and the National Legislation, as required by Section 2.3.14 herein;

(c) These human rights and fundamental freedoms shall be monitored by the Human Rights Commission specified in paragraph 2.10.1.2 herein.

Chapter III: Wealth Sharing

(7 January 2004)

Article 1: Guiding Principles in Respect of an Equitable Sharing of Common Wealth

...

1.4 The sharing and allocation of wealth emanating from the resources of the Sudan shall ensure that the quality of life, dignity and living conditions of all the citizens are promoted without discrimination on grounds of gender, race, religion, political affiliation, ethnicity, language, or region. The sharing and allocation of this wealth shall be based on the premise that all parts of Sudan are entitled to development.

Chapter I: The Machakos Protocol

(20 July 2002)

...

Part A: Agreed Principles

...

Article 1.5.2

Find a comprehensive solution that addresses the economic and social deterioration of the Sudan and replaces war not just with peace, but also with social, political and economic justice which respects the fundamental human and political rights of all the Sudanese people.

TOGO
Global Political Agreement
(2 June 2006)

...

Article 4: The problem of impunity

4.1 All delegations recognize that impunity for acts of political violence is a serious phenomenon that has been ever-present in Togo, particularly during the electoral processes of 1958 to 2005. They consider that all the vital forces of the country should combat it in unison.

4.2 With regard to the solutions to be sought, delegations emphasized that the phenomenon is complex and that it requires both fact-finding measures, acts of reconciliation and provisions such as to promote justice and the rule of law.

In this threefold perspective:

- (a) The National Dialogue calls for the establishment of a Commission to shed light on the acts of political violence committed during the period from 1958 to the present day, and to study relief measures for the victims;
- (b) The National Dialogue recommends that the public authorities should utilize the services of men and women of all backgrounds who have the competence, integrity and spirit of independence necessary to ensure the proper functioning of the courts and tribunals, the judicial police and other institutions responsible for eradicating impunity.

...

Article 7: Establishment of a permanent framework for dialogue and consultation on matters of national interest

The parties to the Dialogue all recognize the desirability of creating a permanent framework for dialogue and consultation on matters of national interest. They agree that the establishment of its terms of reference, its membership and its operating procedures should be the subject of thorough study.

UGANDA*

Agreement on Implementation and Monitoring Mechanisms
(29 February 2008)

...

36. During the Transitional Period, the Government shall urgently take the necessary steps to establish national mechanisms of accountability and reconciliation as are provided for in the Agreement on Accountability and Reconciliation. In this regard, the Government shall give priority to commencing criminal investigations and establishing the special division of the High Court.

37. On the basis of the steps taken under clause 36 of this Agreement, the Government shall request the UN Security Council to adopt a resolution under Chapter VII of the Charter of the United Nations, requesting the International Criminal Court to defer all investigations and prosecutions against the leaders of the Lord's Resistance Army.

Implementation Protocol to the Agreement on Comprehensive Solutions
(22 February 2008)

Victims and Vulnerable Groups

26. The Parties agree that the Government shall develop and implement a policy for the support and rehabilitation of the victims of the conflict.

27. The policy for the support of victims and vulnerable persons and the mechanisms for its implementation shall be consistent with the principles and mechanisms relating to the Agreement on Accountability and Reconciliation.

28. The policy shall include, and the Government shall establish, a special fund for victims, out of which reparations shall be paid, including reparations ordered to be paid by an institution established pursuant to the Agreement on Accountability and Reconciliation.

Annexure to the Agreement on Accountability and Reconciliation
(19 February 2008)

Inquiry into the past and related matters

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

- (a) To consider and analyse any relevant matters including the history of the conflict;

* The Agreement on Implementation and Monitoring Mechanisms, the Implementation Protocol to the Agreement on Comprehensive Solutions, and the Agreement on Accountability and Reconciliation were signed by the parties. The Final Peace Agreement was not signed.

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

...

Legal and Institutional Framework

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

...

Investigations and Prosecutions

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

...

13. Investigations shall:

- (a) Seek to identify individuals who are alleged to have planned or carried out widespread, systematic, or serious attacks directed against civilians;

(b) Reflect the broad pattern of serious crimes and violations committed during the conflict;

(c) Give particular attention to crimes and violations against women and children committed during the conflict.

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

...

Reparations

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

...

Traditional Justice

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

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

Agreement on Accountability and Reconciliation

(29 June 2007)

...

2. COMMITMENT TO ACCOUNTABILITY AND RECONCILIATION

2.1 The Parties shall promote national legal arrangements, consisting of formal and non-formal institutions and measures for ensuring justice and reconciliation with respect to the conflict.

2.2 The accountability processes stipulated in this Agreement shall relate to the period of the conflict. However, this clause shall not prevent the consideration and analysis of any relevant matter before this period, or the promotion of reconciliation with respect to events that occurred before this period.

2.3 The Parties believe that a comprehensive, independent and impartial analysis of the history and manifestations of the conflict, especially the human rights violations and crimes committed during the course of the conflict, is an essential ingredient for attaining reconciliation at all levels.

2.4 The Parties agree that at all stages of the development and implementation of the principles and mechanisms of this Agreement, the widest possible consultations shall be promoted and undertaken in order to receive the views and concerns of all stakeholders, and to ensure the widest national ownership of the accountability and reconciliation processes. Consultations shall extend to state institutions, civil society, academia, community leaders, traditional and religious leaders, and victims.

...

3. PRINCIPLES OF GENERAL APPLICATION

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

...

3.4 In the conduct of accountability and reconciliation processes, measures shall be taken to ensure the safety and privacy of witnesses. Witnesses shall be protected from intimidation or persecution on account of their testimony. Child witnesses and victims of sexual crimes shall be given particular protection during proceedings.

...

4. ACCOUNTABILITY

4.1 Formal criminal and civil justice measures shall be applied to any individual who is alleged to have committed serious crimes or human rights violations in the course of the conflict. Provided that, state actors shall be subjected to existing criminal justice processes and not to special justice processes under this Agreement.

...

5. LEGAL AND INSTITUTIONAL FRAMEWORK

5.1 The Parties affirm that Uganda has institutions and mechanisms, customs and usages as provided for and recognised under national laws, capable of addressing the crimes and human rights violations committed during the conflict. The Parties also recognise that modifications may be required within the national legal system to ensure a more effective and integrated justice and accountability response.

5.2 The Parties therefore acknowledge the need for an overarching justice framework that will provide for the exercise of formal criminal jurisdiction, and for the adoption and recognition of complementary alternative justice mechanisms.

5.3 Alternative justice mechanisms shall promote reconciliation and shall include traditional justice processes, alternative sentences, reparations, and any other formal institutions or mechanisms.

5.4 Insofar as practicable, accountability and reconciliation processes shall be promoted through existing national institutions and mechanisms, with necessary modifications. The Parties shall consult on the need to introduce any additional institutions or mechanisms for the implementation of this Agreement.

...

7. RECONCILIATION

...

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

8. VICTIMS

8.1 The Parties agree that it is essential to acknowledge and address the suffering of victims, paying attention to the most vulnerable groups, and to promote and facilitate their right to contribute to society.

8.2 The Government shall promote the effective and meaningful participation of victims in accountability and reconciliation proceedings, consistently with the rights of the other parties in the proceedings. Victims shall be informed of the processes and any decisions affecting their interests.

8.3 Victims have the right of access to relevant information about their experiences and to remember and commemorate past events affecting them.

9. REPARATIONS

9.1 Reparations may include a range of measures such as: rehabilitation; restitution; compensation; guarantees of non-recurrence and other symbolic measures such as apologies, memorials and commemorations. Priority shall be given to members of vulnerable groups.

9.2 The Parties agree that collective as well as individual reparations should be made to victims through mechanisms to be adopted by the Parties upon further consultation.

9.3 Reparations, which may be ordered to be paid to a victim as part of penalties and sanctions in accountability proceedings, may be paid out of resources identified for that purpose.

10. GENDER

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

11. WOMEN AND GIRLS

In the implementation of this Agreement it is agreed to:

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

Filename: 0915082
Directory: C:\DOCUME~1\Thodiyil\LOCALS~1\Temp\notes39E
DCF
Template: G:\WORD\Word2003\Cover Pages\A.dot
Title: 0915082
Subject:
Author: cg
Keywords: A/HRC/12/18/Add.1
Comments: Final
Creation Date: 9/22/2009 12:53:00 PM
Change Number: 29
Last Saved On: 9/22/2009 5:30:00 PM
Last Saved By: Admieng
Total Editing Time: 151 Minutes
Last Printed On: 9/23/2009 8:59:00 AM
As of Last Complete Printing
Number of Pages: 29
Number of Words: 8'469 (approx.)
Number of Characters: 47'683 (approx.)