AGREEMENT ON ACCOUNTABILITY AND RECONCILIATION

BETWEEN THE GOVERNMENT OF THE REPUBLIC OF UGANDA AND THE LORD'S RESISTANCE ARMY/MOVEMENT JUBA, SUDAN

This Agreement, between the Government of the Republic of Uganda (The Government) and the Lord's Resistance Army/Movement (LRA/M) (herein referred to as the Parties), witnesseth that:

PREAMBLE

WHEREAS THE PARTIES:

HAVING BEEN engaged in protracted negotiations in Juba, Southern Sudan, in order to find just, peaceful and lasting solutions to the long-running conflict, and to promote reconciliation and restore harmony and tranquillity within the affected communities and in Uganda generally;

CONSCIOUS of the serious crimes, human rights violations and adverse socio-economic and political impacts of the conflict, and the need to honour the suffering of victims by promoting lasting peace with justice;

COMMITTED to preventing impunity and promoting redress in accordance with the Constitution and international obligations and recalling, in this connection, the requirements of the Rome Statute of the International Criminal Court (ICC) and in particular the principle of complementarity;

DRIVEN by the need for adopting appropriate justice mechanisms, including customary processes of accountability, that would resolve the conflict while promoting reconciliation and convinced that this Agreement is a sound basis for achieving that purpose;

GUIDED BY the Objective Principle of the Constitution, which directs that there shall be established and nurtured institutions and procedures for the resolution of conflicts fairly and peacefully; and further recalling the Constitutional duty on the courts of Uganda to promote reconciliation.

NOW THEREFORE THE PARTIES AGREE as follows:

1. DEFINITIONS

Unless the context suggests otherwise, the following words and phrases shall have the meaning assigned thereto:

"Ailuc" refers to the traditional rituals performed by the Iteso to reconcile parties formerly in conflict, after full accountability.

"Alternative justice mechanisms" refers to justice mechanisms not currently administered in the formal courts established under the Constitution.

"Constitution" means the Constitution of the Republic of Uganda.

"Culo Kwor" refers to the compensation to atone for homicide, as practiced in Acholi and Lango cultures, and to any other forms of reparation, after full accountability.

"Gender" refers to the two sexes, men and women, within the context of society.

"Kayo Cuk" refers to the traditional rituals performed by the Langi to reconcile parties formerly in conflict, after full accountability.

"Mato Oput" refers to the traditional rituals performed by the Acholi to reconcile parties formerly in conflict, after full accountability.

"Reconciliation" refers to the process of restoring broken relationships and re-establishing harmony.

"**The Conflict**" means the conflict between the Parties in Northern and North-eastern Uganda, including its impacts in the neighbouring countries.

"Tonu ci Koka" refers to the traditional rituals performed by the Madi to reconcile parties formerly in conflict, after full accountability;

"Victims" means persons who individually or collectively have adversely suffered harm as a consequence of crimes and human rights violations committed during the conflict.

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.

2.5. The Parties undertake to honour and respect, at all times, all the terms of this Agreement which shall be implemented in the utmost good faith and shall adopt effective measures for monitoring and verifying the obligations assumed by the Parties under this Agreement.

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3. PRINCIPLES OF GENERAL APPLICATION

3.1. Traditional justice mechanisms, such as *Culo Kwor, Mato Oput, Kayo Cuk, Ailuc* and *Tonu ci 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.

Conduct of Proceedings

3.2. The Parties recognise that any meaningful accountability proceedings should, in the context of recovery from the conflict, promote reconciliation and encourage individuals to take personal responsibility for their conduct.

3.3. With respect to any proceedings under this Agreement, the right of the individual to a fair hearing and due process, as guaranteed by the Constitution, shall at all times be protected. In particular, in the determination of civil rights and obligations or any criminal charge, a person shall be entitled to a fair, speedy and public hearing before an independent and impartial court or tribunal established by law.

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.

Cooperation within proceedings

3.5. The Parties shall promote procedures and approaches to enable individuals to cooperate with formal criminal or civil investigations, processes and proceedings. Cooperation may include the making of confessions, disclosures and provision of information on relevant matters. The application of any cooperation procedures shall not prejudice the rights of cooperating individuals.

3.6. Provisions may be made for the recognition of confessions or other forms of cooperation to be recognised for purposes of sentencing or sanctions.

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Legal representation

3.7. Any person appearing before a formal proceeding shall be entitled to appear in person or to be represented at that person's expense by a lawyer of his or her choice. Victims participating in proceedings shall be entitled to be legally represented.

3.8. Provision shall be made for individuals facing serious criminal charges or allegations of serious human rights violations and for victims participating in such proceedings, who cannot afford representation, to be afforded legal representation at the expense of the State.

Finality and effect of proceedings

3.9. In order to achieve finality of legal processes, accountability and reconciliation procedures shall address the full extent of the offending conduct attributed to an individual. Legislation may stipulate the time within which accountability and reconciliation mechanisms should be undertaken.

3.10. Where a person has already been subjected to proceedings or exempted from liability for any crime or civil acts or omissions, or has been subjected to accountability or reconciliation proceedings for any conduct in the course of the conflict, that person shall not be subjected to any other proceedings with respect to that conduct.

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.

4.2. Prosecutions and other formal accountability proceedings shall be based upon systematic, independent and impartial investigations.

4.3. The choice of forum for the adjudication of any particular case shall depend, amongst other considerations, on the nature and gravity of the offending conduct and the role of the alleged perpetrator in that conduct.

4.4. For purposes of this Agreement, accountability mechanisms shall be implemented through the adapted legal framework in Uganda.

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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.

5.5. The Parties consider that the Uganda Human Rights Commission and the Uganda Amnesty Commission are capable of implementing relevant aspects of this Agreement.

Legislative and policy changes

5.6. The Government will introduce any necessary legislation, policies and procedures to establish the framework for addressing accountability and reconciliation and shall introduce amendments to any existing law in order to promote the principles in this Agreement.

6. FORMAL JUSTICE PROCESSES

6.1. Formal courts provided for under the Constitution shall exercise jurisdiction over individuals who are alleged to bear particular responsibility for the most serious crimes, especially crimes amounting to international crimes, during the course of the conflict.

6.2. Formal courts and tribunals established by law shall adjudicate allegations of gross human rights violations arising from the conflict.

Sentences and Sanctions

6.3. Legislation shall introduce a regime of alternative penalties and sanctions which shall apply, and replace existing penalties, with respect to serious crimes and human rights violations committed by non-state actors in the course of the conflict.

6.4. Alternative penalties and sanctions shall, as relevant: reflect the gravity of the crimes or violations; promote reconciliation between individuals and within communities; promote the rehabilitation of offenders; take into account an individual's admissions or other cooperation with proceedings; and, require perpetrators to make reparations to victims.

7. RECONCILIATION

7.1. The Parties shall promote appropriate reconciliation mechanisms to address issues arising from within or outside Uganda with respect to the conflict.

7.2. The Parties shall promote collective as well as individual acts and processes of reconciliation shall be promoted at all levels.

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.

8.4. In the implementation of accountability and reconciliation mechanisms, the dignity, privacy and security of victims shall be respected and protected.

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.

12. CHILDREN

In the implementation of this Agreement it is agreed to:

(i) Recognise and address the special needs of children and adopt child-sensitive approaches.

(ii) Recognise and consider the experiences, views and concerns or children.

(iii) Protect the dignity, privacy and security of children in any accountability and reconciliation proceedings.

(iv) Ensure that children are not subjected to criminal justice proceedings, but may participate, as appropriate, in reconciliation processes.

(v) Promote appropriate reparations for children.

(vi) Encourage and facilitate the participation of children in the processes for implementing this Agreement.

13. RESOURCES

The Government will avail and solicit resources for the effective implementation of this Agreement.

14. OBLIGATIONS AND UNDERTAKINGS OF THE PARTIES

The Parties:

14.1. Expeditiously consult upon and develop proposals for mechanisms for implementing these principles.

14.2. Ensure that any accountability and reconciliation issues arising in any other agreement between themselves are consistent and integrated with the provisions of this Agreement.

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The Government:

14.3. Adopt an appropriate policy framework for implementing the terms of this Agreement.

14.4. Introduce any amendments to the Amnesty Act or the Uganda Human Rights Act in order to bring it into conformity with the principles of this Agreement.

14.5. Undertake any necessary representations or legal proceedings nationally or internationally, to implement the principles of this Agreement.

14.6. Address conscientiously the question of the ICC arrest warrants relating to the leaders of the LRA/M.

14.7. Remove the LRA/M from the list of Terrorist Organisations under the Anti-Terrorism Act of Uganda upon the LRA/M abandoning rebellion, ceasing fire, and submitting its members to the process of Disarmament, Demobilisation, and Reintegration.

14.8. Make representations to any state or institution which has proscribed the LRA/M to take steps to remove the LRA/M or its members from such list.

The LRA/M:

14.9. The LRA/M shall assume obligations and enjoy rights pursuant to this Agreement.

14.10. The LRA/M shall actively promote the principles of this Agreement.

15. ADOPTION OF MECHANISMS FOR IMPLEMENTING THIS AGREEMENT

15.1. The Parties shall negotiate and adopt an annexure to this Agreement which shall set out elaborated principles and mechanisms for the implementation of this Agreement. The annexure shall form a part of this Agreement.

15.2. The Parties may agree and the Mediator will provide additional guidance on the matters for the Parties to consider and consult upon in the interim period, in developing proposals for mechanisms for implementing this Agreement.

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16. COMMENCEMENT

This Agreement shall take effect upon signature.

IN WITNESS WHEREOF the duly authorized representatives of the parties have hereunto appended their respective signatures at Juba, South Sudan, this 29th day of June 2007.

Dr. S. R. Kagoda
Permanent Secretary
Ministry of Internal Affairs
Acting Head of the Government
of Uganda Delegation

Mr. Martin Ojul
Leader of the LRA/M Delegation

WITNESSED BY:

29/6/2007

H.E Lt. Gen. Riek Machar Teny-Dhurgon (PhD)
Vice President, Government of Southern Sudan and
Mediator of the Government of Uganda - Lord's Resistance Army/Movement
Peace Talks

H.E Japheth R Getugi
For the Government of the Republic of Kenya

H.E Ali I Siwa
For the Government of the United Republic of Tanzania