

**Report on the identity documents available in the Ugandan legal and administrative system and other supporting documentation for applications for participation in proceedings in Uganda**

**(Prepared by the Victims Participation and Reparations Section on 12 October 2007)**

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1. This report is submitted in accordance with the Decision on victims' applications for participation a/0010/06, a/0064/06 to a/0070/06, a/0081/06 to a/0104/06 and a/0111/06 to a/0127/06, issued by the Single Judge on 10 August 2007.<sup>2</sup> In this Decision, the Single Judge asked the Victims Participation and Reparation Section (VPRS) to submit a report on the identity documents available in the Ugandan legal and administrative system, having special regard to the questions raised in paragraph 20 of the said Decision.
2. Since the VPRS has noted that applicants to participate in proceedings in the situation in Uganda and/or the case *The Prosecutor v. Joseph Kony, Vincent Otti, Okot Odhiambo and Dominic Ongwen* appear to experience difficulties in providing other supporting documentation also, this report also includes information regarding death certificates and documents that are required to be produced by applicants that are organisations or institutions under rule 85(b) of the Rules of Procedure and Evidence.
3. This report addresses the following issues:
  - I. Identity documents issued by the Ugandan legal and administrative system
  - II. Other documents commonly used to prove identity in Uganda
  - III. Documents relating to children
  - IV. Documents supporting applications from organisations or institutions
  - V. Difficulties experienced by applicants in producing copies of documentation
  - VI. Conclusions and recommendations
4. Under each heading, the report explains what information is contained in the document, how the document is issued and by whom, and information regarding the take-up rate (if available) and/or any difficulties that applicants within the situation in Uganda might face in providing such documentation.
5. The information contained in this report was obtained by the following means:
  - (a) Interviews conducted between July and September 2007 by staff of the VPRS with informants in Kampala and Northern Uganda including Ugandan government officials, individual lawyers, research institutes, representatives of international agencies, representatives of civil society organisations, Internally Displaced People (IDPs) and former abductees. A list of persons interviewed is attached as Annex 1; notes of these interviews are on file with VPRS; and
  - (b) Interviews conducted during September 2007 by a legal consultant who conducted interviews of 27 informants including camp leaders in camps for the internally displaced (IDP camps), local council representatives, court officials, lawyers, police officers, bank managers and representatives of international agencies in Gulu and Amuri Districts in Northern Uganda.<sup>3</sup> A record of these consultations is on file with VPRS.
6. Sample copies of each of the documents used in practice in Uganda to prove identity are attached to this report as Annex 2.

<sup>2</sup> ICC-02/04-100-Conf-Exp and ICC-02/04-01/05-251-Conf-Exp

<sup>3</sup> Komakech-Kilama & Co. Advocate, October 2007.

**Report on the identity documents available in the Ugandan legal and administrative system and other supporting documentation for applications for participation in proceedings in Uganda**

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## I. Documents Issued by the Ugandan Legal and Administrative System

### Introduction

7. There are no official identity cards issued by the Government of Uganda.<sup>4</sup> Whilst plans for introducing national identity cards had been debated in the Ugandan Parliament, they were shelved in 2003 due to the fact that the procurement process was tainted by accusations of malpractice, bribery and corruption.
8. In the absence of official identity cards, other documents issued by different governmental authorities have come to serve as proof of identity in practice. Among these are voter cards issued by the Electoral Commission, birth certificates issued by the Uganda Registration Services Bureau, driving permits administered by the Uganda Police Forces and resident permits issued by local councils.
9. In addition, where Ugandans are required to prove their identity, they commonly rely on non-official documents such as identity cards issued by workplaces or educational establishments, letters from local authorities or cards issued by humanitarian relief agencies.
10. All of these documents and others are listed and described below. However, since there is no requirement to obtain any of these documents unless they are needed for a specific purpose,<sup>5</sup> and the procedures for obtaining most of the documents are lengthy, expensive and difficult, many Ugandans simply do not take the steps that are required to obtain them.<sup>6</sup> This is particularly marked among certain sectors of the population such as women and people living in rural areas<sup>7</sup> Many people in Northern Uganda do not obtain documentation until adulthood, and even then the most common forms are residents permits issued by local authorities for IDPs, and employment identity cards in the towns.<sup>8</sup> The lack of proper identification documents was mentioned by many informants as a major problem in Uganda.<sup>9</sup>

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<sup>4</sup> This was confirmed to the VPRS by the Electoral Commission (interview with ██████████ on 10 September 2007), Advocates MMAKS (letter to the VPRS dated 24 September 2007 - see Annex 3) and numerous other informants interviewed

<sup>5</sup> According to informants the purposes for which people might require identity documents include the following: security reasons (during times of intensive rebel activities people wish to be able to prove that they are not rebels), travel within the country, to stand as a surety in the courts, to vote, to open a bank account, to take up certain employment such as teaching, to prove parenthood in case of legal dispute over a child, to register for national examinations (information provided by Komakech-Kilama & Co Advocate, October 2007).

<sup>6</sup> This was mentioned by many informants including ██████████ Centre for Basic Research (interview by VPRS staff, 6 September 2007)

<sup>7</sup> Komakech-Kilama & Co found that it was very common for women to live their lives without any formal form of identification.

<sup>8</sup> Komakech-Kilama & Co found that informants overwhelmingly stated that possessing some form of identification became increasingly crucial towards adulthood but that due to the difficulties in obtaining all documents, the most common forms of identity in Gulu and Amuru Districts were the residents permit for IDPs and the employment identity card for urban dwellers (information provided by Komakech-Kilama & Co Advocate, October 2007).

<sup>9</sup> This was also noted as one of the findings of "Ugandans Decide", Final Report of the Democracy Monitoring Group on Presidential and Parliamentary elections 2006, July 2006, page 23.

**Report on the identity documents available in the Ugandan legal and administrative system and other supporting documentation for applications for participation in proceedings in Uganda**

**(Prepared by the Victims Participation and Reparations Section on 12 October 2007)**

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11. However, since statistics are not collected on the take up rates of the various forms of documentation used in Uganda, in most cases it was not possible for VPRS to obtain accurate information on how many people possess them. In this report the VPRS has therefore relied largely upon the results of interviews with various informants as well as small number of research reports. Only in the case of voter cards were statistics available.
12. Given that all applicants to participate in proceedings are from Northern Uganda and many either are or have been IDPs, in preparing this report the VPRS sought out in particular information on the context in the North of the country and IDP communities.

**Passport**

**How the document is issued and by whom:**

13. The issuing of a passport is handled by the Ministry of Internal Affairs under its Immigration Department which is located in Kampala. The Mandate of the Immigration Department is to facilitate, monitor and control the movement of persons (both citizens and non citizens) in and out of Uganda. It executes its mandate through the processing of Ugandan Passports and other travel documents. In order to obtain a passport, an applicant must fill in an application form, seek endorsement from different prescribed offices, pay a processing fee of not less than 30 US Dollars and undergo a waiting period of not less than three months. The passport when issued is valid for a period of ten years.

**What information is contained in the document:**

14. Ugandan passports contain a photograph of the holder as well as the name and date of birth and other details.

**Take-up rate and difficulties experienced in obtaining:**

15. The VPRS was unable to find publicly available statistics regarding the number of Ugandan citizens issued with passports, but was informed that it is limited to the elite and business classes who frequently travel out of the country. It should be pointed out that much as having a passport is right available to all Ugandans, most citizens do not have them for the following reasons:<sup>10</sup>
  - (a) The cost of obtaining it puts it out of reach of many Ugandans;
  - (b) Obtaining a passport requires a person to travel to Kampala, further increasing costs in terms of transport and accommodation,
  - (c) The process of obtaining all the required supporting documentation and verification is lengthy and prohibitive; and
  - (d) They are only required for travel outside the country so most people do not see the need to obtain them

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<sup>10</sup> Among the informants who noted these points were UNICEF (interview by VPRS staff with [REDACTED] [REDACTED] 25 September 2007) and MS Uganda [REDACTED] MS Uganda and Danish Association for International Cooperation, interview by VPRS staff on 10 September 2007).

**Report on the identity documents available in the Ugandan legal and administrative system and other supporting documentation for applications for participation in proceedings in Uganda**

**(Prepared by the Victims Participation and Reparations Section on 12 October 2007)**

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**Voter Card**

**How the document is issued and by whom:**

16. The Government of Uganda through the Electoral Commission computerised the last electoral process (presidential and parliamentary) of 2006. Each legally registered voter is eligible to be issued with a free plastic Voter Card. In order for a person to be registered in the voters' register, he or she must be 18 years or older, a Ugandan citizen, and a resident of a particular constituency. Registration for the 2006 general elections ended on 29 October 2005 and the voters' register was subsequently displayed for public viewing in order to make any corrections. Because the Electoral Commission is aware of the problems people have in obtaining proof of identity and does not wish to set the bar too high and discourage people from voting, they will register people who do not have any form of identification on the basis of a confirmation from others, such as neighbours, that they belong to a particular residential area.<sup>11</sup> Registration is an ongoing process so people may register or collect voter cards even when an election has not been called.

**What information is contained in the document:**

17. Voter cards contain a photograph of the holder as well as the name and date of birth. In addition, it contains the date of issuance, district, constituency, sub-county, parish and polling station, sex, nationality and a code number. The card is signed by the issuing official.
18. A person may also have a Certificate of Registration, showing that the person is on the electoral register. This does not contain a photograph but includes personal details such as father and mother's names, date of birth, sex and height, landlord and date of registration, and the signature or thumbprint of the applicant.

**Take-up rate and difficulties experienced in obtaining:**

19. Although not legally recognized as a national identity card as such, the Voter Card has increasingly come to be relied upon as a means of identification by Ugandans.<sup>12</sup> Of a total population of approximately thirty million Ugandans, there are about 10,450,788 registered voters throughout the country.<sup>13</sup> For the sixteen districts of northern Uganda, the number of registered voters is 1,059,075 as per the last voter register update of 2005.<sup>14</sup>
20. Nevertheless, according to information obtained from the Electoral Commission, the take-up rate in Northern Uganda is low compared to other parts of the country. For instance, whereas the registration rate for Kampala is 96.52% and the national average is 81.11%, in the districts affected by the Lords Resistance Army (LRA) the average registration rate is 73.4%, and in one district is less than 50%.<sup>15</sup> Inclusion in the register does not necessarily mean a person has a voter card: possession of the card is not formally a prerequisite to vote.
21. The VPRS found that although voter cards are issued free of charge, informants noted a range of reasons why people in northern Uganda may not obtain them, including the following:

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<sup>11</sup> [REDACTED] Electoral Commission (interviewed by VPRS on 10 September 2007).

<sup>12</sup> [REDACTED] Electoral Commission (interviewed by VPRS on 10 September 2007).

<sup>13</sup> See <http://www.ec.or.ug/aboutus.html> (Accessed on 08/08/07)

<sup>14</sup> Electoral Commission Registrar, Northern Uganda.

<sup>15</sup> In Adjumani, for instance, the rate is only 45.25%

**Report on the identity documents available in the Ugandan legal and administrative system and other supporting documentation for applications for participation in proceedings in Uganda**

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---

- (a) Some people are on the register but do not collect their voter identification card (statistics were not available for the numbers in this category);
- (b) Lack of confidence in the election process as a result of rigging and other malpractices in previous elections;<sup>16</sup>
- (c) The population in Northern Uganda is focused on securing a source of livelihood;
- (d) Although the voter cards are issued free of charge, the registration and verification process can be long and difficult, particular if the person does not have a birth certificate or other form of identity document;
- (e) Failure of the the government to establish comprehensive programmes of birth registration and national identity cards makes it difficult for registration officials.<sup>17</sup>
- (f) Problems with the registration process such as low morale or low caliber of some officials, names being deleted from the register and lack of measures to advertise and encourage registration.<sup>18</sup>

### **Driving Permits**

#### **How the document is issued and by whom:**

22. After visiting a driving school, an applicant for a Driving permit is required to pass the drivers' test which is administered by the Uganda Police Forces. An applicant then fills in an application form and a medical form and consequently pays a fee to the Uganda Revenue Authority and its agents. In total, an applicant must pay a total processing fee of approximately 100 US Dollars.

#### **What information is contained in the document:**

23. Ugandan driving permits contain a photograph of the holder as well as the name and date of birth. In addition it contains the sex, date of issue and expiry and signature of the holder.

#### **Take-up rate and difficulties experienced in obtaining:**

24. This is not a common form of identification for people in rural areas such as northern Uganda because most cannot afford to buy a car or pay the required processing fees.

### **Graduated Tax Ticket**

#### **How the document is issued and by whom:**

25. Graduated tax is mentioned in the Ugandan Constitution as one of the taxes from which local governments can derive revenue (Article 191(2) of the 1995 Constitution of the Republic of Uganda). The fifth schedule of the Local Governments Act (1997) further specifies that graduated tax be collected from all able bodied male persons above the age of 18 and all able bodied women engaged in gainful employment. The tax was eventually suspended by the Ugandan government in 2005, but prior to that, was collected by the Local Councils of sub-counties, who would issue tickets as an acknowledgement of payment. Although the tax has been abolished, some people may still possess tax tickets dating from prior to 2005 and they are used as a form of identification in practice.<sup>19</sup>

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<sup>16</sup> Interviews by VPRS staff with IDPs in Lira and Gulu districts, August 2007.

<sup>17</sup> "Ugandans Decide", Final Report of the Democracy Monitoring Group on Presidential and Parliamentary elections 2006, July 2006, page 23

<sup>18</sup> Ibid

<sup>19</sup> "The Need for National Reconciliation: Perceptions of Ugandans on National Identity", Civil Society Organisations for Peace in Northern Uganda, December 2004, page 21. Also information provided by Komakech-Kilama & Co Advocate, October 2007

**Report on the identity documents available in the Ugandan legal and administrative system and other supporting documentation for applications for participation in proceedings in Uganda**

**(Prepared by the Victims Participation and Reparations Section on 12 October 2007)**

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**What information is contained in the document:**

26. A tax ticket would contain an individual's details such as name, place of work, residence, date and amount paid as well as the stamp and signature of the district tax office. No photograph would be included.

**Take-up rate and difficulties experienced in obtaining:**

27. The VPRS was unable to find statistics.

**Birth Certificate, Birth Notification Card**

**How the document is issued and by whom:**

28. Lack of birth and death certificates is an identified problem in Uganda.<sup>20</sup> A national birth and death registration system created by the British colonial authorities collapsed during the political turmoil of the 1970s. Only since 1994 have national programmes been developed to revive birth and death registration services on the basis of the Birth and Death Registration Act, enacted in 1970, which provides in Section 7(1) that:<sup>21</sup>

"Within three months of the date of birth of a live child, the father or the mother of the child shall register such particulars concerning the birth as may be prescribed with the registrar of the births and deaths registration for each district in which the child is born."

Section 7(2) states further that:

"If the father and the mother of the child are dead or unable to register particulars concerning the birth, the occupier of the house in which the child was, to the knowledge of the occupier, born, or any person present at the birth, or any person having charge of the child, shall register particulars concerning the birth, but the registration of the particulars by one of those persons shall relieve the others of the duty to do so."

29. Although this statutory obligation has existed formally under Ugandan law since 1970, it was rarely implemented in practice due to the fact that it was not viewed as important and the relevant offices were inefficient and insufficiently resourced.<sup>22</sup> From 1994, the Government of Uganda began efforts to revive the system, introducing the Uganda Registration Services Bureau Act<sup>23</sup> and setting up a new institution, the Uganda Registration Services Bureau (URSB), mandated to carry out all registration of births and death in Uganda, which started to operate in July, 2005. The Act also confirmed that it was compulsory to register all births and deaths.
30. According to the system now in place, births should be registered at the village level using a Household Register Book, and reported to sub-county level of local government, which has the

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<sup>20</sup> See for example "The Birth and Death Registration Process Explained", produced by APO-BDR (Birth and Death Registration) Uganda, 2006, and "Report on the Anglophone Africa Workshop on Birth Registration", December 2002, held in Kampala.

<sup>21</sup> See Chapter 309, Laws of Uganda, 2000.

<sup>22</sup> This observation was made by a lawyer with the Uganda Registration Services Bureau in Kampala who was interviewed in July 2007 by VPRS staff.

<sup>23</sup> See Chapter 210 of the Laws of Uganda, 2000.

**Report on the identity documents available in the Ugandan legal and administrative system and other supporting documentation for applications for participation in proceedings in Uganda**

**(Prepared by the Victims Participation and Reparations Section on 12 October 2007)**

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power to issue so-called "short" birth certificates, as well as to the Registrar General, who can issue "long" birth certificates.<sup>24</sup>

- 31 In addition, hospitals continue also to issue birth notification cards on birth.
32. Where a registration is not made at the time of birth, Ugandans can later obtain a certificate from Sub-county Chiefs (L.C.3) (at a fee) by swearing an oath before these officials. This may be required, for instance, upon applying to university. A person may obtain a birth certificate (at a cost of approximately UD \$5) later in their lives, if they can prove that they did not receive one at birth or that they did obtain a certificate but have lost it.

**What information is contained in the document:**

33. Birth notification cards and birth certificates do not contain a photograph of the person. They contain the following information:
- (a) A birth notification card is issued by a hospital to confirm the delivery and includes the name of the mother (but not of the father), the sex and weight of the baby and date and time of the birth.
  - (b) A "short" birth certificate contains the name and sex of the child, the name and nationality of both the father and the mother as well as the date and place of birth, and a registration number.
  - (c) A "long" birth certificate contains the same information as the "short" certificate and in addition, the residence of the parents and the full name, occupation and residence of person who has provided the information leading to registration and in what capacity he/she provides the information, as well as provision for adding another name at a later stage (such as after baptism).

**Take-up rate and difficulties experienced in obtaining:**

34. Although a number of years have passed since the enactment of the legislation, the level of birth and death registration remains low, and only a small number of the births and deaths that occur in the country are registered. Typically these are only around the urban centres and an even smaller percentage receives birth or death certificates. No up-to-date statistics were found, however according to UNICEF, Uganda is included in a group of countries where only 40-69% of births are registered.<sup>25</sup> This is the case even though the URSB has decentralised its services away from the headquarters in Kampala and mandated the Sub-county Chiefs to register births and deaths, and registration levels are particularly low in Northern Uganda.
35. There are a number of reasons why the above-mentioned laws have not been fully implemented, including the following:
- (a) Lack of awareness of the value of birth and death registration, and lack of public information campaigns about the issue.<sup>26</sup> Birth and death registration has yet to be perceived as a fundamental right of a child. The government, and society as a whole, tend to give registration low priority in the face of other more tangible and immediate problems, such as severe economic

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<sup>24</sup> "The Birth and Death Registration Process Explained", produced by APO-BDR Uganda, 2006

<sup>25</sup> "Birth Registration right from the Start", from UNICEF publication, No 9 – March 2002 (pg 8, figure 2. Map of levels of birth registration, 2000 estimates.

<sup>26</sup> Komakech-Kilama & Co Advocate, October 2007 and interview with [REDACTED] MS Uganda Danish Association for International Cooperation with VPRS staff on 10 September 2007

**Report on the identity documents available in the Ugandan legal and administrative system and other supporting documentation for applications for participation in proceedings in Uganda**

**(Prepared by the Victims Participation and Reparations Section on 12 October 2007)**

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difficulties and the struggle for day-to-day survival. Studies have also revealed that some people think that the government has an ulterior motive for wanting to count their children while others believe that counting children is unlucky and could lead to death<sup>27</sup>. Fear of authorities and the legal process means that people are largely un-informed about the advantages related to the birth and death registration processes, or about the legal procedures and requirements. Language is also a factor, with governments failing to communicate in ways that can be understood by minority groups or illiterate members of society the importance of registration and how to go about it.

- (b) Lack of political will on the part of local government, the national government, politicians and civil servants, who often fail to grasp the importance of birth registration.<sup>28</sup> Registration is often seen as nothing more than a legal formality, with little relevance for the development of the child, including access to health care and education services.
- (c) The costs of registration are also frequently prohibitive for rural communities, who experience low incomes and frequent cases of child-birth and child-death.<sup>29</sup> The registration network is often inadequate and therefore birth and death registration is typically highest in urban areas with strong links to formal mechanisms of health services.<sup>30</sup>
- (d) The only formal records of births or deaths are those kept at Health Units such as hospitals, dispensaries and clinics. Yet in Uganda, most births or deaths, especially in rural areas, take place at home and in the presence of traditional birth attendants or medical practitioners. According to the Ministry of Health, over the last five years, an average of 22% of deliveries took place at Health Units<sup>31</sup>.
- (e) Many unregistered children are born to single mothers, due to the effects of wars, AIDS and polygamy. Unmarried women may be reluctant to register their child(ren) out of fear of embarrassment or out of a mistaken belief that their child(ren) can only be registered if the parents are married. This is coupled with the fact that fathers are in many such cases unwilling to comply, as their signature implies acknowledgement of paternity.
- (f) Similarly, the registration of orphans or children who have become separated from their families for reasons such as child trafficking, abductions, or the general insecurity in the North and East of the country is particularly difficult. The collapse of the birth and death registration system has exacerbated the difficulties of family reunification for children abducted by the LRA. In many cases, important identification papers are lost or destroyed, and parents subsequently have difficulty establishing the identity of their children and, consequently, in registering them. Further, where parents have died due to AIDS or the conflict, information about the birth or death of orphans is not typically passed on to others.

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<sup>27</sup> See Plan, *Common Obstacles to Achieving Universal Birth Registration*, Available at <http://www.writemedown.org/research/obstacles/> (last accessed May 2007)

<sup>28</sup> See Assefa Bequele, *Universal Birth Registration: The Challenge in Africa*, A paper prepared for the Second Eastern and Southern Africa Conference on Universal Birth Registration, Mombasa, Kenya, The African Child Policy Forum, September 26-30, p. 22.

<sup>29</sup> See Bequele, *Universal Birth Registration*, p. 22

<sup>30</sup> *Ibid*

<sup>31</sup> See Uganda Child Rights NGO Network, *NGO Complementary Report on Implementation of the UN CRC – An Addendum*, April 2005, p. 13



**Report on the identity documents available in the Ugandan legal and administrative system and other supporting documentation for applications for participation in proceedings in Uganda**

**(Prepared by the Victims Participation and Reparations Section on 12 October 2007)**

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- 39 In Uganda, local government is organised into districts that are headed by a locally elected Council. The districts are further divided into lower levels (with a Local Council at each level) comprising the County, Sub-county, Parish and Village.
- 40 Different types of document are issued by the Local Councils governing the villages (the smallest units that encompass a collection of residences), known as "L.C.1".
41. First, the L.C.1 is the issuing officer for a Residents Permit or card. There is no age restriction in relation to the issuing of these cards. Their main purpose is as a means to enable local government representatives to identify the residents in their area, and registering all members of households in the village or community is one of the responsibilities of the L.C.1.<sup>35</sup> Although it is not compulsory for residents to obtain them, the VPRS was told that they are viewed as useful for enabling people to show their place of residence for instance when stopped at a road block or far from their community.
42. Second, in addition to the Residents Permits or cards, L.C.1's have adopted the practice of issuing simple A4 paper identification letters to residents in their area upon request, confirming that the person is a resident of the area, at a cost which varies from place to place. These may be requested for a range of purposes, such as to serve as an introduction or recommendation to a bank or other institution, in support of various applications or services.
43. Third, camp leaders of IDP camps also issue letters confirming that a person resides in a particular camp.
44. Fourth, the Resident District Commissioner, who is a non-elected official appointed by the executive at the district level, is mandated to provide so-called "reunion letters" that are aimed at assisting a former LRA member to demonstrate that he or she has returned to the community and is no longer a rebel, to aid their reinsertion into the community.

**What information is contained in the document:**

45. The residents permit or card contains a photograph, name and age, though not the date of birth. In addition it contains the sex, address and signature of the holder, and the signature and stamp of the L C 1 chairman
46. The contents of the letters issued by the L.C.1 or camp leader are very basic, typically stating the name of the person, possibly their age and place of work, and attesting to the fact that they are residents of a certain area. They would not normally include a photograph. The letter might also be tailored to the specific purpose for which it had been requested, such as to confirm particular information or request the recipient to assist the person in a particular way.
47. The "reunion letters" issued by the Resident District Commissioners certify that a person has been abducted and include dates and other details of their abduction, escape and subsequent rehabilitation or treatment. The letters include the name and age and photograph of the person. They contain the stamp and signature of the Resident District Commissioner. A photograph is normally attached to the letter

**Take-up rate and difficulties experienced in obtaining:**

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<sup>35</sup> "The Birth and Death Registration Process Explained", produced by APO-BDR Uganda, 2006

**Report on the identity documents available in the Ugandan legal and administrative system and other supporting documentation for applications for participation in proceedings in Uganda**

**(Prepared by the Victims Participation and Reparations Section on 12 October 2007)**

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48. Residents Permits or cards are signed by the L.C.1, but the card itself and the photograph have to be obtained in the nearest registration centre which are located in towns. This may require applicants who are displaced or living in rural areas to travel several times back and forth between the L.C. and the town. Registration of households at the L.C.1 level is assisted by a Household Register system supported by UNICEF in conjunction with the Ministry of Planning and Economic Development.<sup>36</sup>
49. Letters issued by the local councils remain one of the most widely used forms of identification by rural people, and many informants told the VPRS that this was the most common form of documentation used to prove identity<sup>37</sup> Indeed, in the absence of a national identity card, it was mentioned universally as one of the most common ways of proving one's identity and the easiest to obtain.<sup>38</sup> Nevertheless, some informants mentioned concerns that the system is sometimes abused by certain local officials.<sup>39</sup>

## II. Other documents commonly used to prove identity in Uganda

### Identity cards issued by workplaces or educational establishments

#### How the document is issued and by whom:

50. These may be issued by employers to employees, by banks to clients, or by secondary schools or other educational institutions to students. The employee, client or student must typically pay a fee which varies from one location to another.

#### What information is contained in the document:

51. The content of such document varies according to the provider but typically includes the name and possibly the age and sex of the person, a certification that the person is a student or employee at the relevant institution, the stamp and signature of the issuing authority and possibly of the holder, date of issue and renewal or expiry date. The document may or may not include a photograph and the age of the holder.

#### Take-up rate and difficulties experienced in obtaining:

52. These types of identity cards are commonly used as a form of identification among urban populations in Uganda, but are less common in rural areas or IDP camps in Northern Uganda where fewer people have an employer or are educated beyond primary level.

<sup>36</sup> The existence of this scheme was mentioned by UNICEF (interview by VPRS staff with [REDACTED] on 25 September 2007) and by Komakech-Kilama & Co Advocate, October 2007, however it is unclear to what extent the scheme is operating in practice.

<sup>37</sup> The point was mentioned for instance by Advocates MMAKS (letter to the VPRS dated 24 September 2007, [REDACTED] Office of the United Nations High Commissioner for Human Rights (interview with VPRS staff on 5 September 2007), who noted that they had found that the army relied solely on letters issued by local authorities; [REDACTED] both of the Uganda Joint Christian Council, who informed VPRS that the local authorities were best placed to identify people residing in their areas and they frequently issued letters confirming this (interview with VPRS staff on 7 September 2007); and [REDACTED] MS Uganda Danish Association for International Cooperation, who said that letters from an L.C. 1 are widely used in both rural and urban areas, particularly for purposes such as where people wish to relocate or open a bank account (interview with VPRS staff on 10 September 2007).

<sup>38</sup> See "The Need for National Reconciliation Perceptions of Ugandans on National Identity", Civil Society Organisations for Peace in Northern Uganda, December 2004, page 21

<sup>39</sup> Interviews conducted with IDPs in Lira and Gulu, August 2007

**Report on the identity documents available in the Ugandan legal and administrative system and other supporting documentation for applications for participation in proceedings in Uganda**

**(Prepared by the Victims Participation and Reparations Section on 12 October 2007)**

---

**Camp registration card and card issued by humanitarian relief agencies<sup>40</sup>**

**How the document is issued and by whom:**

53. Humanitarian relief agencies such as the UN High Commissioner for Refugees (UNHCR) and the World Food Programme (WFP) issue cards to heads of household in camps where they undertake activities, for the purposes of planning and distribution. These are also known as food or ration cards. Those entitled are registered residents of a camp who are not in formal employment.<sup>41</sup> At regular time intervals of three to six months, the UNHCR and WFP conduct verification exercises for each household in the camps in order to determine the number and nature of the occupants and their specific needs. They carry out these exercises with the assistance of camp leaders who maintain registers of camp registers.

**What information is contained in the document:**

54. IDP Household Cards issued by the World Food Programme to camp residents include the name of the head of household, the name and sex of the spouse, the size of the household and the date of issue, as well as the logo and stamp of the humanitarian agency, signature of the issuing officer and a number.

**Take-up rate and difficulties experienced in obtaining:**

55. In terms of availability among people of northern Uganda, it can be concluded that this form of identification remains the most widely used. It should also be noted that a good number of people may not be in possession of these cards since they may have missed out on the registration process. VPRS further notes that this form of identification may be problematic since the cards are only issued to house-hold heads yet victims may actually be members of the house-holds and therefore cards may not bear their names.

**Other documents**

56. Cards or letters are issued by others, including the following:
- (a) Churches may issue a Baptism Card, containing the name, date of birth, date of issue, the names of parents and Godparents, place of residence and name and address of the Church, but no photograph.
  - (b) Rehabilitation Centres may provide a letter confirming that a person has been at the centre, including the name of the person, their village, date of abduction and of escape, and details of the treatment received at the centre, as well as the stamp and signature of the person responsible for the centre.

**III. Documents relating to Children**

57. The Single Judge requests information regarding the existence and obtainability, in the Ugandan legal or administrative system, of documents establishing the link between a child and a member of his or her family, such as birth certificates or other types of documents. Section II of this report addresses the

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<sup>40</sup> The bulk of this information in this part was obtained from several interviews conducted by VPRS staff with IDPs located in camps in Lira, Pader and Gulu in August 2007.

<sup>41</sup> Information provided by Komakech-Kilama & Co Advocate, October 2007

**Report on the identity documents available in the Ugandan legal and administrative system and other supporting documentation for applications for participation in proceedings in Uganda**

**(Prepared by the Victims Participation and Reparations Section on 12 October 2007)**

---

question of birth certificates, and as noted in that section, whereas the notification of birth cards contain the name of the mother only, the "short" and "long" versions of the birth certificates contain the names and other details of both parents

58. As regards other possible means of establishing such a link, the informants interviewed by VPRS suggested that the best way would be to obtain letters from a local council confirming the relationship<sup>42</sup> Another possibility would be to swear an affidavit before a Magistrate or Commissioner of Oaths, but this would be prohibitively expensive for most applicants.<sup>43</sup>

#### IV. Documentation supporting Applications from Organizations or Institutions

59. In Uganda, organisations or institutions falling within the definition of a victim contained in rule 85(b) of the Rules of Procedure and Evidence are most likely to fall under one of the following categories recognized under Ugandan law and administrative practice: Companies, Non Governmental Organisations (NGOs) and Community Based Organisations. Such entities could have the capacity to own schools, hospitals, churches, orphanages or other relevant property. They may objectives that are religious, charitable, educational, or of a public character. This section aims to identify which documents could be expected to be produced in relation to these categories, with reference to the relevant law that governs them.
60. It should be noted, however, that since no applications to participate in proceedings have yet been received from organisations or institutions, it is possible that other categories may emerge.

#### Non-Governmental Organisations (NGOs)

61. Under the NGO Registration Act, an "organization" is defined as:

*"a non governmental organization established to provide voluntary services, including religious, education, literary, scientific, social or charitable services, to the community or any part of it."*<sup>44</sup>

62. NGOs must register with the National Board of NGOs of the Ministry of Internal affairs as stated under section 2(1) of the NGO Registration Act. When applying for registration, the Organisation is required to fill in an application form, which establishes the following details of the NGO: name; country/area of origin; countries the organisation is affiliated to; objectives of the Organisation; target group; membership (number of); titles of officers; names of officers; sources of funding; property owned; bankers; privileges and promoters (owners). They are required to produce to the NGO Board the following documents: a constitution (which details the basic rules of internal governance; and two sureties for purposes of integrity of the person and relevance of ideas), letters from authorities concerned with national security, recommendation letters from the appropriate line ministry, and pay a fee of approximately \$110.
63. After registration with the Ministry of Internal Affairs, the NGO has to go to the Registrar of Companies (URSB) in order to acquire legal personality. While the NGO Registration Board will

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<sup>42</sup> Interview by VPRS staff with [REDACTED] with UNICEF, on 5 September 2007, who confirmed that UNICEF in the course of their activities would turn to the local council or relatives to confirm a link, and interview by VPRS staff with advocate [REDACTED], on 5 September 2007.

<sup>43</sup> Interview by VPRS staff with advocate [REDACTED], on 5 September 2007, and interview by VPRS staff with [REDACTED] both with the Uganda Joint Christian Council, on 7 September 2007.

<sup>44</sup> See the NGO Registration Act, under section 1(d)

**Report on the identity documents available in the Ugandan legal and administrative system and other supporting documentation for applications for participation in proceedings in Uganda**

**(Prepared by the Victims Participation and Reparations Section on 12 October 2007)**

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reserve the NGOs name, it will not be legally incorporated until the Registrar of Companies incorporates the Organisation. On initial registration with the Board, NGOs receive a one-year registration certificate, which is renewable for a period of three years assuming that the NGO fulfils the renewal requirements. After the three years the NGO is required to renew its certificate again and this time receives a certificate valid for five years. NGOs are obliged to submit annual returns, budgets, and annual work plans indicating what activities they intend to carry out and what they have actually carried out, though in between renewals most organisations do not submit these. Many experience difficulties with the documentation process which they find rigorous, time consuming, expensive and complex, particularly for smaller or less well-resourced institutions that tend to exist outside the main urban areas.

64 An NGO could be expected to produce its Constitution and a Certificate of Incorporation.

**Community Based Organisations (CBOs)**

65. A CBO is an organization "operating at a sub-county level and below, whose objective is to promote and advance the well being of its members or the community at large."<sup>45</sup> CBOs are typically formed to accomplish a specific collective purpose for a certain community; they tend to be smaller than NGOs and often exist as a loose coalition bringing together between ten to twenty households. Because of their nature and area of operation, there is no strict legal framework in which they are incorporated. Historically, most of the NGOs in Uganda begin in this form, especially those based in rural areas.

66 In support of an application to participate in ICC proceedings, a CBO could be expected to produce its Constitution.

**Companies**

67. Companies are regulated by the Companies Act of Uganda<sup>46</sup>, which spells out the requirements that promoters need in order to establish a company. In order for a company to be incorporated, it must produce for the Companies Registrar the following documents: Certificate showing reservation of the company name, Particulars of Directors, Allotment of Shares, Memorandum of Association, and Articles of Association. Upon satisfying the above requirements, the Registrar will issue Certificate of Incorporation and Certificate of Registration.

68. In order to support an application for participation in ICC proceedings, a company could be expected to produce its Certificate of Incorporation and Certificate of Registration.

**V. Difficulties experienced by applicants in producing copies of documentation**

**Discrepancies between information provided in different documents produced**

69. Where applicants are able to produce some form of documentation in order to prove their identity, the VPRS has found that it sometimes occurs that the names, dates of birth or other details are different from those stated within the application forms or other supporting documents. Government officials, former abductees, applicants and intermediaries all told VPRS that it is common for names

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<sup>45</sup> See Non-governmental Organizations Registration (Amendment) Act, Amendment No. 6.

<sup>46</sup> See Sections 5 to 18 of the Companies Act.

**Report on the identity documents available in the Ugandan legal and administrative system and other supporting documentation for applications for participation in proceedings in Uganda**

**(Prepared by the Victims Participation and Reparations Section on 12 October 2007)**

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and/or dates of birth to be inaccurately recorded.<sup>47</sup> One consequence is that many people in Northern Uganda do not know their exact birth dates and can only provide their best guess when required to do so. This has resulted in a situation where documents or certificates produced by applicants frequently have discrepancies as to the dates of birth / death or different names. The VPRS was informed that this is very common in rural areas especially among the illiterate and among elderly people. High illiteracy rates in Northern Uganda and among IDPs lead to a situation where people may not know how to spell their names or may not do so consistently. Another factor is the common African tradition of having more than two names. In different contexts they may not always use or omit the same parts of the name, or may use them interchangeably on different occasions. Many may also not be aware of the implications of these actions.

**Difficulties in obtaining other supporting documents**

70. The VPRS has noted that applicants frequently fail to produce other documentation in support of their applications to participate in proceedings, such as proofs of a death or injury. The VPRS has therefore made inquiries as to what difficulties applicants in Northern Uganda might have in producing such documents, and received the following information from intermediaries familiar with the communities of the displaced in Northern Uganda.
71. As regards proof of a death, death registration and the issuing of death certificates are subject to the same procedures as described above for birth registration, and are administered by the Uganda Registration Services Bureau.<sup>48</sup> The VPRS is informed that although according to the law it is compulsory to register a death, in practice death certificates are only obtained where there are legal claims to be made relating to assets left behind by a deceased person, which is rarely the case in Northern Uganda, either due to extreme poverty or to the fact that such issues are generally settled by the elders outside the legally mandated office of the Administrator General.
72. As regards medical records, the VPRS was informed that due to the long distances and high costs of seeking medical attention from hospitals, people in Northern Uganda tend to receive treatment from smaller health units such as clinics or dispensaries which have little capacity to record particulars of the person and of the injury suffered. Even where such documents are given, they are not easy to keep safely given the difficult living conditions in the camps.

**Difficulties in obtaining photocopies of documents**

73. Where applicants are in possession of appropriate supporting documentation, the VPRS is informed by intermediaries that it is often a major challenge for them to produce photocopies. Photocopying a copy of the standard application form, for instance, would cost almost half a US Dollar, which is prohibitive in a context where most people live on less than a Dollar per day.<sup>49</sup> Further, more often

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<sup>47</sup> Interviews conducted by VPRS staff in Lira and Gulu districts, August 2007.

<sup>48</sup> "The Birth and Death Registration Process Explained", produced by APO-BDR Uganda, 2006

<sup>49</sup> The high levels of poverty in Northern Uganda are documented in a number of reports. For instance, a government study in April 2006 showed that 70% of the population of Northern Uganda live in absolute poverty, with each adult's expenditure at 11 US Dollars per month and most of the population living on less than a US Dollar per day: "UGANDA Survey reveals grinding poverty in war-affected north" IRIN news agency, 7 April 2006, accessed on Friday 12 October 2007, at <http://www.irinnews.org/report.aspx?reportid=58691>. See also UNDP, "Millennium Development Goals (MDGs) progress report for Uganda", accessed on Friday 12 October 2007, at [http://www.undg.org/archive\\_docs/5263-Uganda\\_MDG\\_Report\\_2003.pdf](http://www.undg.org/archive_docs/5263-Uganda_MDG_Report_2003.pdf)

**Report on the identity documents available in the Ugandan legal and administrative system and other supporting documentation for applications for participation in proceedings in Uganda**

**(Prepared by the Victims Participation and Reparations Section on 12 October 2007)**

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than not, photocopying services are located only in the urban trading centres which are connected to the national electricity grid. Travelling from the camps to these centres is time-consuming and expensive. If a document is given to another person to take to the nearest centre for photocopying, this could cause the holder to miss out on food or other entitlements while the card is not in their possession.

74. Second, there may also be security implications for applicants in photocopying documents in the few centres where photocopying facilities are available.
75. The VPRS takes steps to find solutions to this problem, such as requesting the cooperation of national and international agencies operating on the ground that have photocopying facilities. However, this solution may not always be available since agencies may have concerns that such activities may compromise their mandate.

## **VI. Conclusions and Recommendations**

76. The main conclusions of the research conducted for this report are that the only documents that fulfil all the requirements set out in paragraph 16 of the Decision of the Single Judge of 10 August 2007, namely a document (i) issued by a recognized public authority; (ii) stating the name and date of birth of the holder, and (iii) showing a photograph of the holder, are passports, driving licences and voter cards. Passports and driving licences are found extremely rarely among the population of Northern Uganda. Although voter cards are more common, they are by no means universal, particularly among IDPs, and by women, and are not issued to persons under the age of 18.
77. As regards children, only the passport fulfils the three conditions, and it would be extremely rare for a child in Northern Uganda to have a passport.
78. This report has highlighted the enormous difficulties that applicants face when attempting to obtain documentation proving their identity or other documentation to support their applications. These difficulties include the fact that infrastructure for producing formal documentation regarding identity or dates of birth and death is underdeveloped in Uganda, as well as the difficult circumstances in which many applicants live as displaced people in Northern Uganda, that create often insurmountable logistical, economic and other obstacles.
79. In light of the findings in this report, as well as the fact that applicants who approach the Court from Uganda do not have a legal representative, the Registry would draw the Single Judge's attention to the fact that the majority of actual and potential applicants in Northern Uganda are not in a position to meet the requirements set out by the Single Judge in paragraph 16 of the Decision of 10 August 2007. Consequently, the Registry recommends that alternative means be devised for proving identity. The Registry believes that such means should not place unreasonable burdens on applicants and that the Court itself may need to take steps to facilitate the obtaining of identification documents. If the Single Judge would find it useful, the Registry would be able to suggest alternative options.
80. The Registry remains at the disposal of the Chamber for any further explanations or clarifications in relation to this issue.

**Report on the identity documents available in the Ugandan legal and administrative system and other supporting documentation for applications for participation in proceedings in Uganda**

**(Prepared by the Victims Participation and Reparations Section on 12 October 2007)**

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**ANNEXES:**

1. List of persons interviewed by VPRS staff;
2. Sample copies of identification documents referred to in this report;
3. Letter from Masembe, Makubuya, Adriko, Karugaba and Ssekatawa (MMAKS), Advocates, dated 24 September 2007;<sup>50</sup> and
4. List of references on relevant materials<sup>51</sup>.

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<sup>50</sup> The law firm MMAKS has been acted for the Court in Uganda on a number of occasions.

<sup>51</sup> The VPRS can provide copies of these documents upon request either in hard copy or electronic version

# Annex 1

## Redacted

Annex 2  
Redacted

## Annex 3



## Annex 4

**Relevant materials**

“The Need for National Reconciliation: Perceptions of Ugandans on National Identity; Civil Organisation for peace in Northern Uganda (CSOPNU) and Fellowship of Reconciliation (JYAK)”, Uganda, December 2004

“Report on the Anglophone Africa Workshop on Birth registration”, October 21-24, 2002 Kampala, Uganda. Hosted by the Ministry for Gender, Labor and Social Development and sponsored by UNICEF, December 2002

“Analysis of Voters’ Population by District”, by the Electoral Commission, September 10<sup>th</sup> 2007

“Uganda decides Final report presidential and parliamentary elections 2006”, by Democracy Monitoring Group (DEMGROUP), July 2006

“The birth and death registration process explained, Statistics in our backyard”, by APO-BDR, 2006

“Innocent Insight Birth Registration and Armed Conflict”, UNICEF, 2007

“UGANDA: Survey reveals grinding poverty in war-affected north”, IRIN news agency, April 7<sup>th</sup> 2006, Pg 1, accessed on Friday October 12<sup>th</sup> 2007 at <http://www.irinnews.org/report.aspx?reportid=58691>

“Millennium Development Goals (MDGs) progress report for Uganda” by UNDP, by pg. 8, accessed on Friday 12 October 2007, at [http://www.undg.org/archive\\_docs/5263-Uganda MDG Report 2003 .pdf](http://www.undg.org/archive_docs/5263-Uganda_MDG_Report_2003_.pdf)