

PARLIAMENT OF UGANDA

**REPORT OF THE LEGAL AND PARLIAMENTARY AFFAIRS COMMITTEE ON THE
PREVENTION AND PROHIBITION OF HUMAN SACRIFICE BILL, 2020**

Office of the Clerk to Parliament

Parliament Buildings, Kampala

April, 2021

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Kabamukama

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1.0. Introduction

On 8th April 2021, Hon. Bernard Atiku, MP, Ayivu County introduced in Parliament, the Prevention and Prohibition of Human Sacrifice Bill, 2020. The Bill was referred to the Committee on Legal and Parliamentary Affairs, pursuant to Rule 128 of the Rules of Procedure of Parliament for scrutiny and report back.

2.0. METHODOLOGY

In considering the Bill, the Committee was guided by Rule 128 of the Rules of Procedure of Parliament and therefore received written memoranda from the following stakeholders.

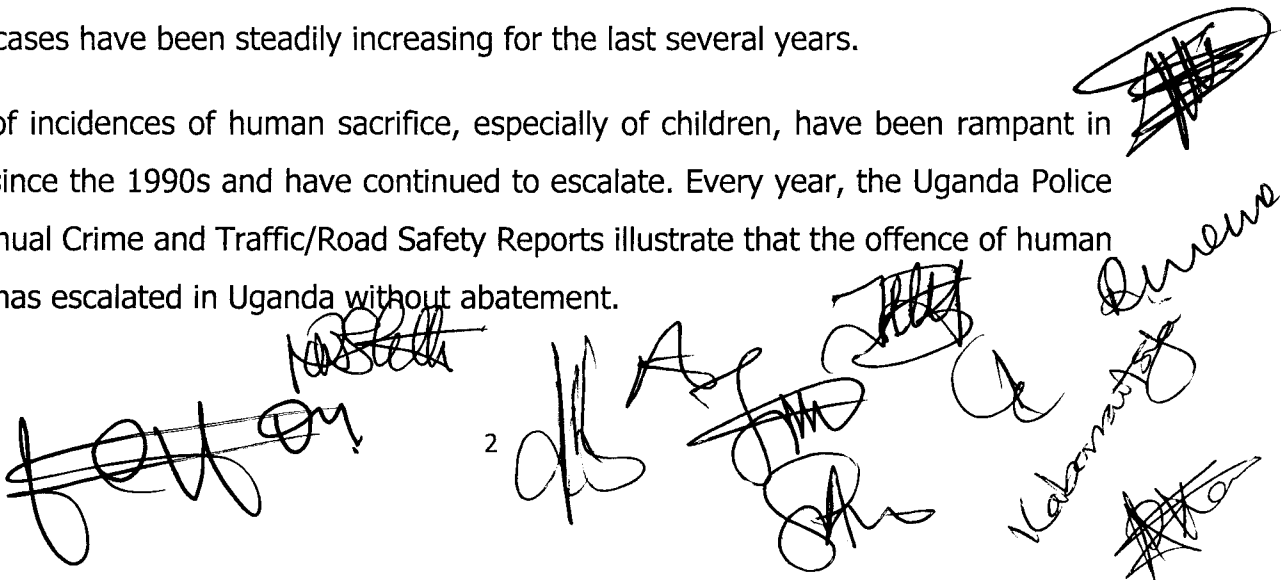
- a. The Mover of the Bill, Hon. Atiku Bernard
- b. The Minister of Justice and Constitutional Affairs
- c. The Judiciary
- d. Uganda Law Society
- e. World Vision International
- f. Children on the Edge, Africa
- g. Kyampisi Childcare Ministries

3. 0. OBJECT AND NEED FOR THE BILL

The object of this Bill is to provide for the crime of human sacrifice, to provide for fines and penalties for the offence of human sacrifice and for related matters.

Human sacrifice is a growing concern to law enforcement agencies, parents, child rights activists and the general public. Records from the Uganda Police Force show that human sacrifice cases have been steadily increasing for the last several years.

Reports of incidences of human sacrifice, especially of children, have been rampant in Uganda since the 1990s and have continued to escalate. Every year, the Uganda Police Force Annual Crime and Traffic/Road Safety Reports illustrate that the offence of human sacrifice has escalated in Uganda without abatement.



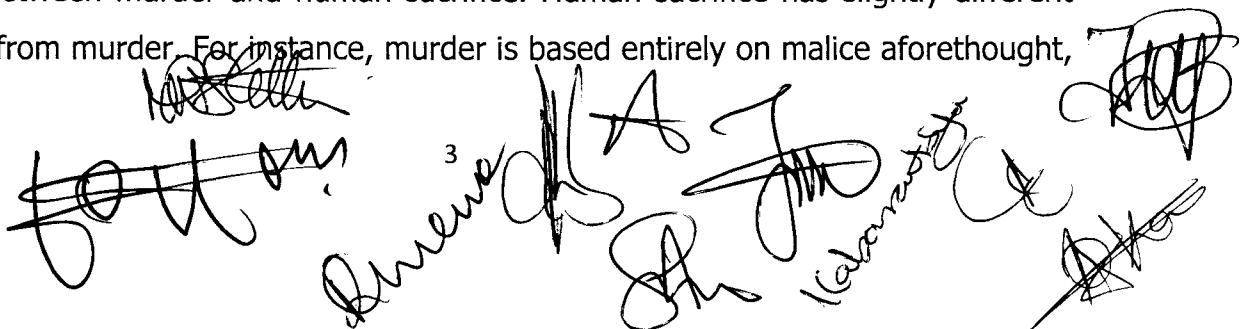
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Whereas incidents of human sacrifice have been increasing, the law relating to this subject matter has not caught up with the evolving nature of the practice. The Committee notes that currently in Uganda, the offence of Human sacrifice is not punished in its own right but instead it is catered for under the Penal Code Act Cap 120 as the offence of murder and in the offence of trafficking in persons under the Prevention of Trafficking in persons Act, 2019.

The few provisions under the Prevention of Trafficking in Persons Act, 2009 are brief and do not capture all the possible scenarios, causes and elements surrounding this crime, leaving much room for ambiguity. The few provisions which exist against Human Sacrifice, are found embedded within a law which is unrelated to the crime and the existing provisions have been written with the intention of preventing trafficking in persons and not Human Sacrifice. As a result, these provisions are lacking the key elements unique to the offence of Human Sacrifice.

In most cases, human sacrifice cases have been tried as murder or manslaughter as prescribed in the penal Code Act. One such case is the case of **Uganda vs. Godfrey Kato Kajubi HCT 16/2009**. The facts of the case revealed the gruesome face of the practice of child sacrifice in Uganda. In October 2008, the torso of a boy, Joseph Kasirye, was found in a swamp; headless and with no genitals. This led to a manhunt for the suspects. These were Kato Kajubi, a Kampala businessman, Umar Kateregga, a traditional practitioner, and his wife Mariam Nabukeera. On interrogation, Kateregga and Nabukeera revealed that the victim had been killed and his private parts cut off and handed over to Kato Kajubi. The three suspects were indicted for murder. Later, Kateregga and Nabukeera turned state witnesses and the charges against them were dropped. In the first hearing, Kajubi was acquitted for murder. He was later rearrested and convicted for the same offence in a retrial in the same High Court in 2012.

Whereas several cases of human sacrifice are tried as murder, these do not highlight the difference between murder and human sacrifice. Human sacrifice has slightly different ingredients from murder. For instance, murder is based entirely on malice aforethought,



being, the conscious intent to cause death of another person before a person commits the crime. For the offence of murder, one must prove that the person intended to kill another person and that other person is indeed dead.

In human sacrifice, malice is not important and is therefore not an ingredient of the offence. Human sacrifice is based on the purpose, for which the accused person carried out the offence, being, for sale or for purpose of witchcraft, rituals or any unlawful practices.

Furthermore, murder is committed when a person is killed while the offence of human sacrifice can be committed even where a person is not killed. For instance, human sacrifice can be committed when a person mutilates another person (unlawfully and partially or totally removes a body part of a person) or removes organs, body parts or draws blood from another person.

The Committee notes that currently, there is a grey area in legislation that relates to possession of human body parts considering that there is no specific law in Uganda prohibiting the possession or sale of human body organs. Since body parts can be removed from a living or dead person, the offence of murder cannot be preferred since in most cases, there is no dead body to sustain a charge.

Therefore, there is need for a specific Law on human sacrifice that takes cognizance of the unique nature of the offence and provides specific ingredients of the offence which in turn will give it its correct status, and the attention it deserves.

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3.0. GENERAL ANALYSIS, OBSERVATION, FINDINGS AND RECOMMENDATIONS

3.1. Definition of Human Sacrifice

The Bill, in clause 1 defines "human Sacrifice" to mean the killing, mutilation, removal of organs or body parts of a person for sale or for purpose of witchcraft, rituals or any harmful human practices.

The committee has considered the proposal to define the phrase "human sacrifice" and is of the considered opinion that the provision does not go far enough to deal with all the aspects of human sacrifice.

The Committee is aware that it is not only human organs and body parts that can be removed or mutilated from a person, since practice in relation to this offence shows that human blood and human tissues can also be removed in furtherance of this offence. The proposal therefore to limit the offence to only human organs and body parts will create a grey area in the law and will lead to abuse of the provisions of this law.

The Committee is also concerned that some of the ingredients of the offence of human sacrifice are incapable of exact definition if they are not defined in the Bill. For instance, in defining the offence of trafficking in persons, the words "mutilation" and "harmful human practices" are used but are not defined in the Bill. The failure to define clearly what these words and phrases mean will create ambiguity in the law and may be unconstitutional in light of Article 28 (12) which directs that a person shall not be convicted of criminal offence unless the offence is defined.

In this regard, the Committee is guided by the decision in the case of **Eng. Thomas Mulondo Vs IGG, Kayunga District Local Government and the Electoral Commission Miscellaneous Application No. 007 Of 2009**, where court attempted to apply ambiguous words, namely, highhanded, outrageous, infamous, indecent or disgraceful conduct which had been used under the Leadership Code Act, 2002 and it

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noted that it could not understand the words and could not convict a person since the words used were ambiguous.

Recommendations

In light of the above, the Committee recommends that-

- (a) The definition of the phrase "human sacrifice" should be expanded to include the removal or mutilation of human tissue of a person and the drawing of blood from a person;*
- (b) For clarity, define all the words that are ambiguous.*

3.2. Offence of human sacrifice

Clause 2 of the Bill creates the offence of the human sacrifice and it requires that the offence is committed when one mutilates, or causes the death of another person, for the purpose of performing or furthering a ritual.

Whereas the Committee agrees with the principle to create the offence of human sacrifice, the committee is concerned that there are a number of issues that may affect the effectiveness of the Bill.

For instance, the Committee notes that there appears to be a conflict between the definition of the phrase "human Sacrifice" and the offence of human sacrifice being created under clause 2.

The Committee observes that for the offence of human sacrifice to be committed as proposed in clause 2, one must cause the death of another person for purposes of performing or furthering a ritual while clause 1, defines human sacrifice (therefore the offence of human sacrifice) in broader terms, to include, among others, the mutilation and removal of body organs and body parts.

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This perceived conflict will affect the effectiveness of the offence since it will not be in tandem with the definition of the phrase "human sacrifice", thereby, making the work of the prosecution difficult.

The Committee also notes that the proposal to impose the same penalty for the offence of human sacrifice will make the punishment excessive in light of the act or omission constituting the offence.

The Committee observes that since the offence of human sacrifice is broad, covering the killing, mutilation, removal of a body organ, body part from a person, the punishment should also be commensurate with act or omission that constitutes the offence.

Recommendations

In light of the above, the Committee recommends that-

(a) definition of the definition of human sacrifice in clause 1 and the offence of human sacrifice in clause 2 should be harmonized;

(b) the punishment proposed in the Bill should be commensurate with the act or omission that constitutes the offence, therefore,-

(i) the death penalty should imposed on a person who commits the offence where such a person is a parent, guardian or person having authority or control over the victim of the offence or where the act results in the death of the victim; and

(ii) in other cases, where a person causes grievous bodily harm to the victim, the person should be liable to imprisonment for life and if the person causes any other injury to the victim, the person should be liable to imprisonment for ten years.

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(c) The provision should also punish a person who carries out human sacrifice on himself or herself to ensure that there is no loophole that can be used to defeat the purpose of the Act.

3.3. Admissibility of Accomplice Evidence

The Bill proposes in clause 8 to allow the admission of accomplice evidence without the need for corroboration. This provision will allow the prosecution to rely on the evidence of an accomplice without need for corroboration.

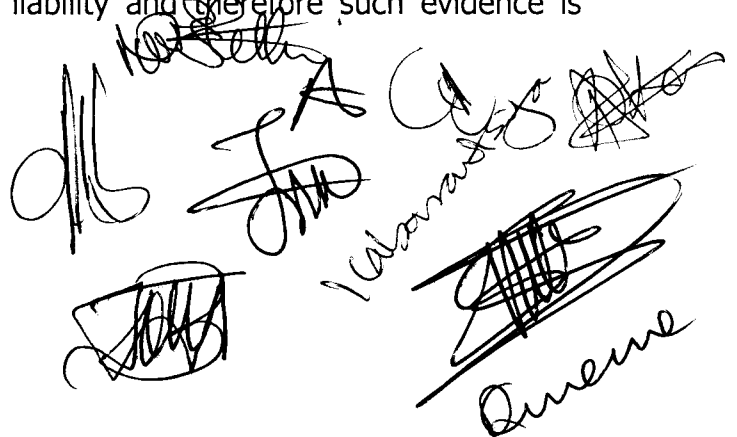
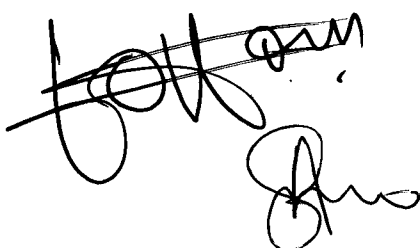
The Committee notes that currently, section 132 of the Evidence Act directs that an accomplice is a competent witness against an accused person and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice.

Section 132 of the Evidence Act directs that accomplice evidence must be corroborated. The Bill proposes that corroboration will no longer be a requirement and a person may be convicted without corroboration of the accomplice evidence.

The Committee is concerned that the proposal to remove the requirement for corroboration will be abused and may result in a miscarriage of justice.

The Committee observes that an accomplice witness mean a witness to a crime who, either as principal, accomplice, or accessory, was connected with the crime by unlawful act or omission on his or her part, transpiring either before, at time of, or after commission of the offense, and whether or not he or she was present and participated in the crime.

The Committee observes that the need for corroboration was borne out of a realization that accomplices are usually interested parties who may be giving evidence merely for purposes of saving themselves from criminal liability and therefore such evidence is regarded as untrustworthy by courts of law.



The reason is that the accomplice is likely to tell lies in order to shift guilt from him or herself to play down the part that he took commission in the offence. Since the evidence of an accomplice is treated as untrustworthy, for such evidence to stand, it must be corroborated by additional independent evidence which increases the credibility and reliability of such evidence.

Clause 8 will therefore result in the use of uncorroborated evidence whose credibility cannot be assured and may result in the conviction of otherwise innocent persons, thereby constituting a miscarriage of justice.

Since only reliable evidence should support criminal convictions, the removal of the requirement for corroboration will result in the use of unreliable and suspect evidence of an accomplice.

Justification

In light of the above, the Committee recommends that clause 8 be deleted with the justification that the provision will result in the use of uncorroborated evidence whose credibility cannot be assured and may result in the conviction of otherwise innocent persons, thereby constituting a miscarriage of justice.

3.4. Compensation, Rehabilitation Or Restitution To Be Made In Certain Cases

Clause 10 of the Bill proposes to make provision for compensation, rehabilitation or restitution to be made in certain cases. The provision allows the payment of compensation to a survivor of the offence or his family or dependent as well as rehabilitation of the survivor of the offence.

Whereas the Committee is agreeable to the principle to direct for the payment of compensation, rehabilitation or restitution, the committee is of the considered opinion that the provision needs to be strengthened to ensure that the provision is effective. One of the ways this can be achieved is through requiring a victim assessment to be carried

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out to examine the extent of the injury on the survivor or the family or dependent of a person which will in turn guide court in making the orders to compensation, restitution or rehabilitation. This will ensure that the orders of court take into account the actual injury; physical or psychological, suffered by the victim or any other person as a result of the human sacrifice.

The Committee is also aware that whereas the provision allows the payment of compensation to the victim of the offence, this is not effective since prosecution usually forgets to apply for compensation and is more concerned about obtaining a conviction rather than compensation. In such situation, the survivor is left without any option but to open civil proceedings against the convicted person, which wastes time and resources.

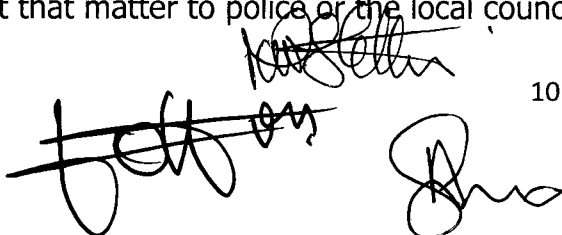
The Committee is of the considered opinion that the provision should be strengthened to ensure that court does, in case it convicts a person under the Act, order for compensation even in cases when the same has not been applied for by the prosecution. In doing so, court will have regard to the victim assessment report which will guide it in the exercise of its discretion.

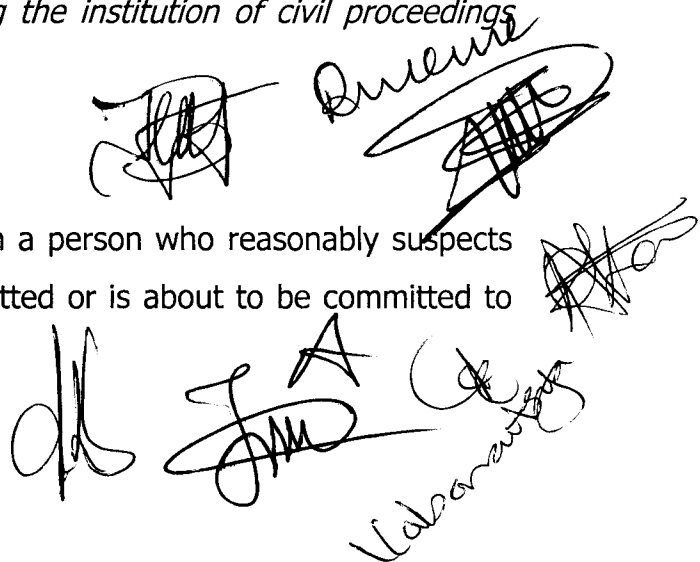
Recommendation

In light of the above, the Committee recommends that clause 10 stands part of the Bill albeit with the amendment to require an assessment to be carried out on the victim of the offence to determine the damage caused to such a person as a result of the offence of human sacrifice and to ensure that at all times during a criminal trial, adequate provision is made for dealing with physical and psychological effects of the offence of human sacrifice on a person without necessitating the institution of civil proceedings against the perpetrator of such crimes.

3.5. Duty to report acts of human sacrifice

Clause 11 of the Bill proposes to impose a duty on a person who reasonably suspects that an act or attempted sacrifice has been committed or is about to be committed to report that matter to police or the local council.

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The Committee has considered this provision and whereas it is in agreement with the principle, it is concerned that the provision will not be effective to deal with instances where there is a failure to comply with such duty. The Committee notes that for this provision to be effective, criminal sanctions should be imposed on a person who does not comply with the strict provisions of this Bill.

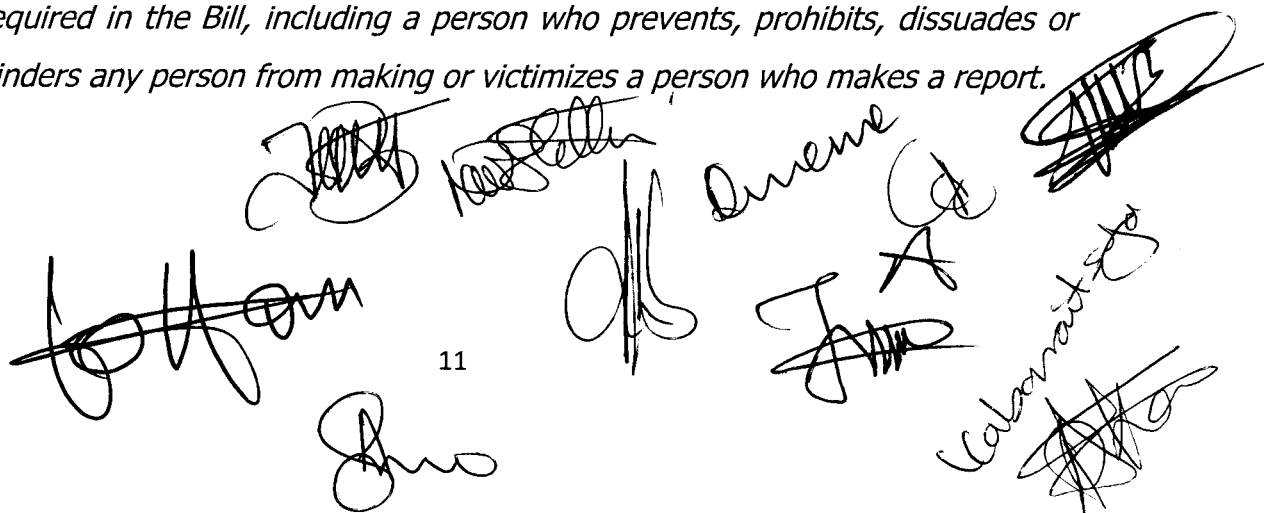
The Committee also notes that in order to protect a person who makes a report of an offence under that provision, there is need to protect that person from intimidation and other unlawful acts by declaring such a person a whistleblower and granting him or her the protection applicable to such a person under the Whistleblowers Protection Act, 2010.

The Committee also notes that whereas the provision proposes to require the reporting of matters to police and a local council, it does not take into account other authorities to whom the report can be made, including members of local government councils, the Resident District Commissioner, social welfare officers and members of any other law enforcement agency established by an Act of Parliament.

Recommendation

In light of the above, the Committee recommends that clause 11 of the Bill stands part of the Bill, albeit with amendment to-

- (a) expand persons to whom a report can be made to include members of local government councils, the Resident District Commissioner, social welfare officers and members a member of any other law enforcement agency established by an Act of Parliament;*
- (b) impose criminal sanctions against a person who does not report an offence as required in the Bill, including a person who prevents, prohibits, dissuades or hinders any person from making or victimizes a person who makes a report.*



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3.6. Harmonization of Bill with the Prevention of Trafficking in Persons Act, 2009., 2019

The Committee notes that there is need to harmonize the Bill with the Prevention of Trafficking in Persons Act, 2009, 2019 so that there is harmony between the Bill and the Prevention of Trafficking in Persons Act, 2009.

The Committee notes that currently, the offence of human sacrifice can be committed under the provisions of the Prevention of Trafficking in Persons Act, 2009 by a person who commits the offence of trafficking in persons, where such a person traffics a person for purposes of human sacrifice. The Prevention of Trafficking in Persons Act, 2009 also includes a definition of human sacrifice and prescribes a penalty of 15 years for a person who commits an offence of trafficking.

The Bill now proposes to make provision for human sacrifice which may, if not harmonized, present enforcement challenges. For instance, whereas the Bill proposes a definition of the phrase "human sacrifice" which is similar to that prescribed under the Prevention of Trafficking in Persons Act, 2009, the Committee has expanded the provision to include other matters which are not prescribed in the Prevention of Trafficking in Persons Act, 2009.

The Prevention of Trafficking in Persons Act, 2009 defines the phrase "human sacrifice" to mean the killing, mutilation, and removal of organs or body parts of a person for sale or for purpose of witchcraft, rituals or any harmful human practices. This definition was also maintained in the Bill under clause 1.

The Committee however now proposes to expand the definition to include, among the ingredients listed in the Prevention of Trafficking in Persons Act, 2009, the removal or mutilation of human tissue of a person as well as the drawing of blood from a person for sale or purposes of performing or furthering witchcraft, a ritual or for any other unlawful purpose. If this is taken by the House, it would create divergence between the offence

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of human sacrifice under the Prevention of Trafficking in Persons Act, 2009 and the Bill when enacted in law.

Furthermore, the Prevention of Trafficking in Persons Act, 2009 prescribes a penalty of 15 years for a person who commits the offence of trafficking while the Bill now proposes a sentence of death for a person who commits the offence of human sacrifice. In this case, since human sacrifice is an element in the offence of trafficking in persons, a person who commits the offence of human sacrifice can be charged under the Prevention of Trafficking in Persons Act, 2009, for the offence of trafficking or under the Bill if enacted into law, for the offence of human sacrifice. In such a situation, a person who is charged with the offence of trafficking under the Prevention of Trafficking in Persons Act, 2009 is liable to imprisonment for 15 years while the person who is charged under Bill, when enacted, he or she will suffer death.

This disparity in sentencing and definition of human sacrifice will affect, negatively, the effectiveness of the Bill since it will allow the prosecution to either charge the person under the Prevention of Trafficking in Persons Act, 2009, since the penalty there under carries a lower sentence than the sentence proposed under the Bill. Furthermore, there will not be consistency in sentencing since the same acts will carry different penalties under the Bill and under the Prevention of Trafficking in Persons Act, 2009.

Recommendation

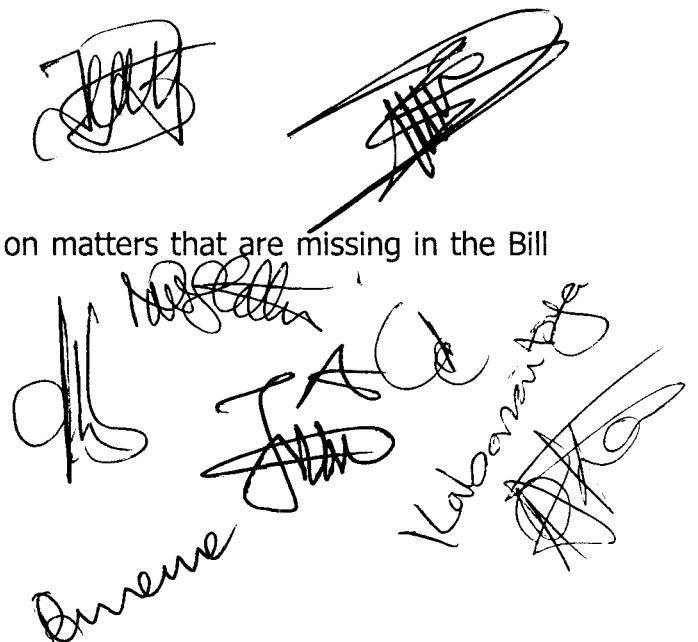
In light of the above, the Committee recommends that the Bill and the Prevention of Trafficking in Persons Act, 2009, be harmonized.

3.7. General Observations On The Bill

The Committee made a number of observations on matters that are missing in the Bill yet they are needed to strengthen the Bill.



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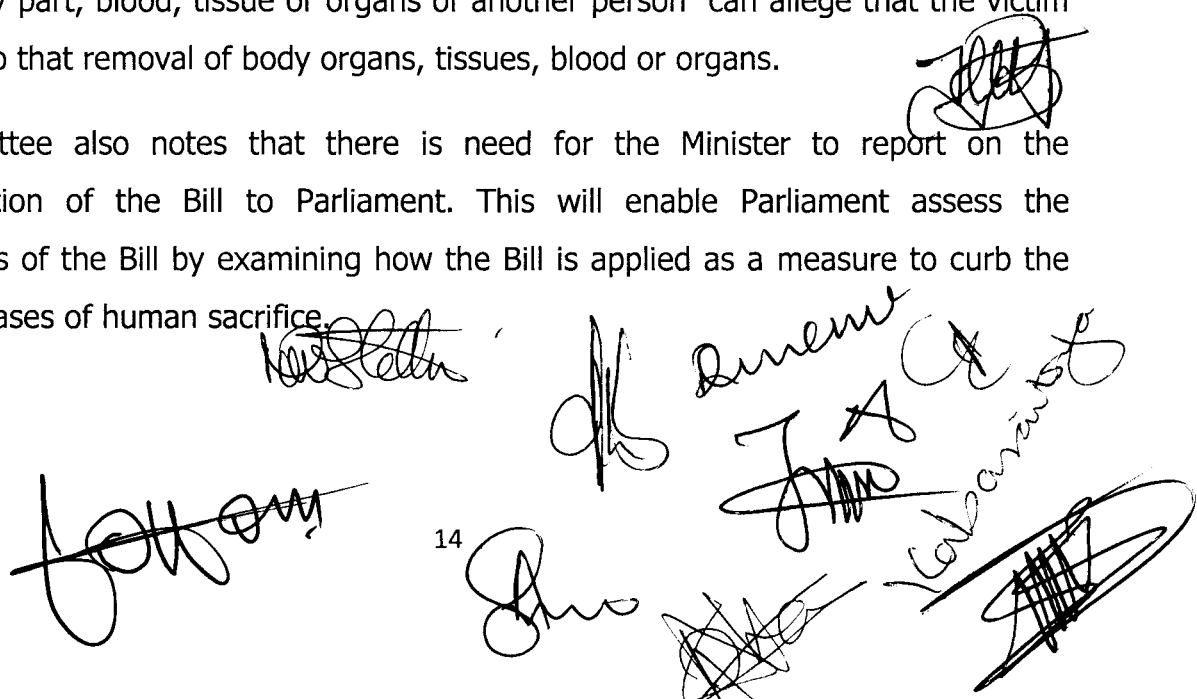
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The Committee observes that the provision should be made for inspection of places where human sacrifice is likely to take place. This will empower a person authorised by the Minister to, after giving reasonable notice, inspect any house, building or any place in which he or she has reason to believe that the offence of human sacrifice is taking place or is likely to take place. This will ensure that offences are detected early and deterred before they can happen.

The Committee also proposes that the Bill should include provisions on extra territorial jurisdiction to ensure the prosecution of offences committed outside Uganda in circumstances where the person against whom the offence is committed is a citizen of Uganda, or is ordinarily resident in Uganda or where the perpetrator of the offence is a citizen of or resident in Uganda. This will close a lacuna in the law which can be exploited by perpetrators of these crimes by having Ugandan citizens or residents sacrificed outside the territorial jurisdiction of Uganda while either being Ugandan citizens or residents or where the perpetrator is a Ugandan citizen.

The Committee also notes that there is need to clearly disregard certain defense that would ordinarily be available to a person under criminal law. The Committee notes that in some offences, consent is a defense to a charge and maybe available to a person who commits the offence of human sacrifice by alleging that the victim of the offence consented to the acts that would constitute human sacrifice. In such instance, save for acts involving the killing of a person, a person who mutilates another person and takes away a body part, blood, tissue or organs of another person can allege that the victim consented to that removal of body organs, tissues, blood or organs.

The Committee also notes that there is need for the Minister to report on the implementation of the Bill to Parliament. This will enable Parliament assess the effectiveness of the Bill by examining how the Bill is applied as a measure to curb the increasing cases of human sacrifice.




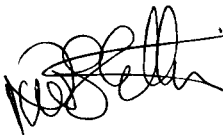
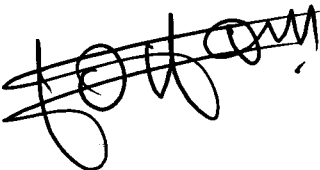

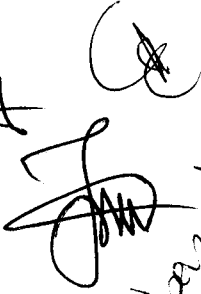
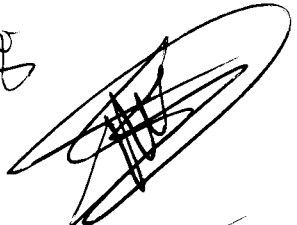
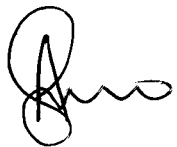

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Recommendation

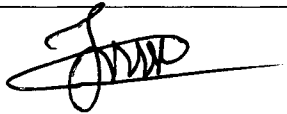
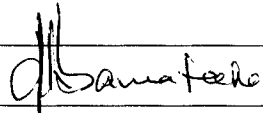

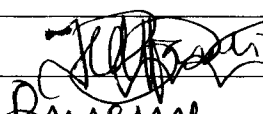
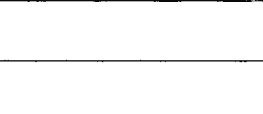
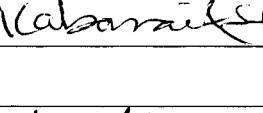
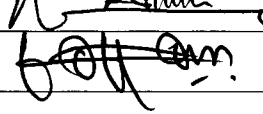
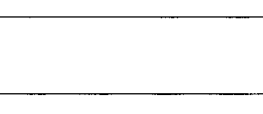
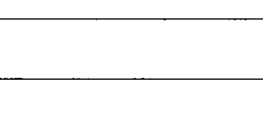
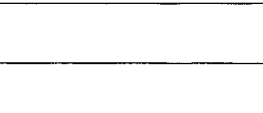
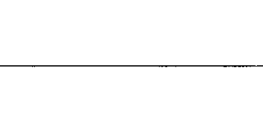
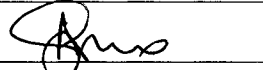
The Committee therefore recommends that provision is made in the Bill-

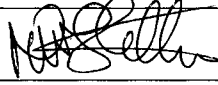
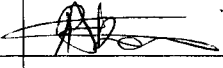
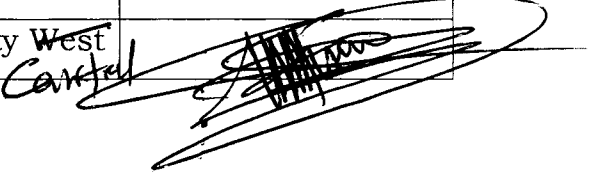
- *Requiring the Minister to annually submit to Parliament a report on the implementation of the Bill.*
- *Consent of victim of an offence should not be a defence to a charge under the Act.*
- *The Minister should be given powers to appoint authorised officers for purposes of inspecting places where human sacrifice is likely to take place*
- *For extra territorial jurisdiction of the Bill.*

I beg to report.

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SIGNATURE OF MEMBERS ENDORSING THE REPORT ON THE PREVENTION AND PROHIBITION OF HUMAN SACRIFICE BILL, 2020

SN	NAME	CONSTITUENCY	SIGNATURE
1.	Hon. Jacob Marksons Oboth (Chair)	West Budama South	
2.	Hon. Bitangaro Sam Kwezira	Bufumbira South	
3.	Hon. Jovah Kamateeka	Mitooma DWR	
4.	Hon. Isala Eragu Veronica	Kaberamaido County	
5.	Hon. Kajara Aston	Mwenge South	
6.	Hon. Mwiru Paul	Jinja East County	
7.	Hon. Basalirwa Asuman	Bugiri Municipality	
8.	Hon. Gureme R. Rwakoojo	Gomba West	
9.	Hon. Ongalo Kenneth Obote	Kalaki County	
10.	Hon. Agaba Abbas Mugisha	Kitagwenda County	
11.	Hon. Azairwe Dorothy. K	DWR Kamwenge	
12.	Hon. Mugoya Kyawa Gaster	Bukooli North	
13.	Hon. Akamba Paul	Busiki County	
14.	Hon. Otto Edward Makmot	Agago County	
15.	Hon. Adeke Anna Ebaju	NFY MP	
16.	Hon. Nsereko Muhammed	Kampala Central Division	
17.	Hon. Wilfred Niwagaba	Ndorwa East	
18.	Hon. Abdu Katuntu	Bugweri County	
19.	Hon. Ssemujju Ibrahim	Kira Municipality	
20.	Hon. Medard Ssegona Lubega	Busiro East	
21.	Hon. Mathias Mpuuga	Masaka Municipality	
22.	Hon. Byarugaba Alex	Isingiro County South	
23.	Hon. Akello Rose Lilly	DWR, Karenga	
24.	Hon. Asamo Hellen Grace	PWD Eastern	

25	Hon. Namoe Stella	Napak DWR	
26	Hon. Akampulira Prosy	DWR Rubanda	
27	Hon. Suubi Brenda Asinde	DWR Iganga	
28	Hon. Amoding Monica	DWR Kumi	
29	Hon. Silwany Solomon	Bukooli County West Central	

PROPOSED AMENDMENTS TO THE PROHIBITION AND PREVENTION OF HUMAN SACRIFICE BILL, 2020

CLAUSE 1: INTERPRETATION

Clause 1 is amended by-

- (a) substituting for the definition of the phrase "human sacrifice", the following-**

"human sacrifice" means the killing, mutilation, removal of a body organ, body part or human tissue of a person or the drawing of blood from a person for sale or purposes of performing or furthering witchcraft, a ritual or for any other unlawful purpose"

- (b) inserting the following new definitions appropriately-**

"imprisonment for life" means imprisonment for the natural life of a person;"

"mutilation" means the unlawful and partial or total removal of a body part of a person;"

"ritual" means a religious, traditional or cultural ceremony consisting of a series of actions performed for satisfying a belief.

"witchcraft" includes sorcery, enchantment, bewitching, the use of instruments of witchcraft, the purported exercise of any occult power or the purported possession of any occult knowledge

Justification

- *To expand the definition of the phrase "human sacrifice" by including the drawing of blood from a person and the removal of human tissues;*
- *In definition of the phrase "human sacrifice", to remove an ambiguous phrase "harmful human practices" which was incapable of exact definition and replace it with "unlawful purpose"*
- *For clarity, to define the words "mutilation", "life imprisonment" and witchcraft.*

CLAUSE 2: OFFENCE OF HUMAN SACRIFICE

Redraft clause 2 as follows-

"2. Offence of human sacrifice

- (1) A person who carries out human sacrifice commits an offence and is liable, on conviction, to the penalty prescribed in subsection (3).
- (2) A person who carries out human sacrifice on himself or herself commits an offence and is liable to imprisonment for ten years.
- (3) For the purpose of subsection (1), where-
 - (a) the person who commits the offence is a parent, guardian or person having authority or control over the victim of the offence, the person is liable to suffer death;
 - (b) the offence results in-
 - (i) the death of the victim, the person is liable to suffer death;
 - (ii) grievous bodily harm to the victim, the person is liable to imprisonment for life; or
 - (iii) any other injury to the victim, the person is liable to imprisonment for ten years.
- (4) In this section-
 - (a) "grievous bodily harm" means any harm which amounts to a maim or dangerous harm, or seriously or permanently injures

health or which is likely so to injure health, or which extends to permanent disfigurement, or to any permanent or serious injury to any external or internal organ, membrane or sense.

Justification

- *For clarity and to remove a conflict in this clause and the definition of human of human sacrifice under clause 1.*
- *To expand the provision to punish persons who carry out human sacrifice on him or herself.*
- *Consequential amendment arising from the amendment of clause 1 of the Bill wherein, the matters in clause 2 (2) have been included therein.*
- *To prescribe different punishments based on the severity of the injury to the victim of the offence and the relationship between the victim and the perpetrator of the offence.*

CLAUSE 3: OFFENCE OF FINANCING HUMAN SACRIFICE

Clause 3 is amended-

- (a) In the head note, by inserting immediately after the word "financing", the words "or facilitating";
- (b) In sub clause (1), by inserting immediately after the word "finance", the words "or facilitate";

Justification

- *To expand the provision to include a prohibition on the facilitation of human sacrifice, in addition to financing of human sacrifice*

CLAUSE 4: ATTEMPT TO COMMIT OFFENCE OF HUMAN SACRIFICE AND FINANCING OF HUMAN SACRIFICE

In clause 4, insert immediately after the word "financing", the words "or facilitating" wherever the word appears.

Justification

- *To expand the provision to include a prohibition on the facilitation of human sacrifice, in addition to financing of human sacrifice.*
- *Consequential amendment arising from amendment of clause 3 of the Bill.*

CLAUSE 5: PROHIBITION OF CERTAIN HARMFUL PRACTICES RELATING TO HUMAN SACRIFICE

Clause 5 is amended,-

- In paragraph (a), by deleting all the words appearing after the word "sacrifice";
- by substituting for paragraph (c) the following-

"(c) encourages or advices any person to use a human body part, a human body organ, human tissue or human blood or any product or concoction derived from a human body part, a human body organ, a human tissue or human blood in any ritual, treatment or healing."

- by deleting paragraph (d);
- by inserting immediately after paragraph (f) the following-

"offers himself or herself or the service of another person for purposes of committing the offence of human sacrifice;"

Justification

- *The amendment in paragraph (a) is intended to expand the provision and make irrelevant, the purpose for which the spread of belief in human sacrifice is made for.*
- *The amendment of paragraph (c) is for purposes of expanding the provision to include a human body organ, human tissue or human blood or any product or concoction derived from a human body part, a human body organ, human tissue or human blood and to merge paragraphs (c) and (d) since they relate to the same matters;*
- *To criminalize the offering of oneself or another person to commit the offence of human sacrifice”*

CLAUSE 6: POSSESSION OF HUMAN BODY PARTS AND INSTRUMENTS OF HUMAN SACRIFICE

Clause 6 is amended-

- In paragraphs (a) and (b), by inserting immediately after the word “parts” the words “or a human body organ, a human tissue or human blood;”
- In paragraph (c), by inserting immediately before the word “makes” the words “unlawful;”

Justification

- *To expand the provision to include human body organs, human tissues or human blood among the matters a person may not have in his or her possession.*
- *Due to the diverse instruments that may be associated with human sacrifice, some of which may have lawful uses and also may be used as teaching aids in the fight against human sacrifice, to limit the offence to only persons who have those items unlawfully.*

CLAUSE 8: ADMISSIBILITY OF ACCOMPLICE EVIDENCE

Clause 8 is deleted

Justification

The proposal in clause 8 will disregard a rule of practice which requires the corroboration of accomplice evidence (evidence of persons who are charged with the same offence under the same charge sheet and one of them pleads guilty and then gives evidence against the other person). This rule of practice is borne out of a realization that accomplices are usually interested parties who may be giving evidence merely for purposes of saving themselves from criminal liability and therefore such evidence is regarded as untrustworthy by courts of law. The reason is that the accomplice is likely to tell lies in order to shift guilt from himself or to play down the part that he took commission in the offence. Since the evidence of an accomplice is treated as untrustworthy, for such evidence to stand, it must be corroborated by additional by independent evidence which increases the credibility of such evidence. Clause 8 will therefore result in the use of uncorroborated evidence whose credibility cannot be assured and may result in the conviction of otherwise innocent persons, thereby constituting a miscarriage of justice.

INSERTION OF NEW CLAUSE IMMEDIATELY AFTER CLAUSE 8

Immediately after clause 8, insert the following new clause -

"Victim impact report

(1) The prosecution shall, when prosecuting offences under this Act, carry out a victim impact assessment to determine the impact of the offence on the survivor of the offence or any other person.

(2) The victim impact report shall take into account—

- (a) the condition of the survivor or any other before and after the commission of the offence;
- (b) the nature of harm the survivor or any other person faced;
- (c) whether the survivor or any other person faces or is likely to face any long term physical or psychological trauma necessitating the provision of long term medical care or any other assistance;
- (d) whether the survivor or any other person can recover and return to normal life and be integrated into normal society life; and
- (e) any other information as may be required by statutory instrument.

(3) The victim impact statement shall be adduced in evidence following conviction and shall guide the court in sentencing and in awarding of compensation, rehabilitation or restitution.

Justification

To provide for the carrying out a victim impact assessment in order to determine the effect of the offence on the survivor or any other person so that appropriate orders can be made by Court to cater for unique circumstances of the victim or the survivor of an offence under the Act.

CLAUSE 9: PSYCHOSOCIAL SUPPORT TO SURVIVORS OF HUMAN SACRIFICE OR ATTEMPTED HUMAN SACRIFICE

Clause 9 is amended-

(a) In sub clause (1), by inserting immediately after the word "support" the words "by State"

(b) By inserting immediately after sub clause (1) the following-

"The Minister may designate a person or organisation to complement Government in providing psychological support to a person who survives human sacrifice."

Justification

- *To define who is responsible for provision of psychological support to a survivor of human sacrifice*
- *To empower Non-governmental organisation designated by the Minister to supplement Government in providing psychological support.*

CLAUSE 10: COMPENSATION, REHABILITATION OR RESTITUTION TO BE MADE BY COURT IN CERTAIN CASES

Clause 10 is amended-

- By renumbering sub paragraph (iii) of paragraph (c) as sub clause (2).
- By inserting immediately after sub clause (2) the following-

"The failure by the prosecution or any other person to apply for compensation rehabilitation or restitution shall not be a bar to a grant of compensation, rehabilitation or restitution by Court save that where the court does not order for compensation, rehabilitation or restitution the person presiding over the trial shall give reasons for that decision.

"The Court may order compensation to a person who spent money to help a survivor of human sacrifice under this Act."

Justification

- *Due to the physical and psychological effects of the offence of human sacrifice, and the need for adequate compensation or restitution to be made, to guide court to make orders to compensation, rehabilitation or restitution and if none is made, to give reasons for such a decision.*
- *To ensure that at all times during a criminal trial, adequate provision is made for dealing with physical and psychological effects of the offence of human sacrifice on a person without necessitating the institution of civil proceedings against the perpetrator of such crimes..*
- *The renumber of sub paragraph (iii) of paragraph (c) as sub clause (2) is to remedy a numbering mistake.*

CLAUSE 11: DUTY TO REPORT ACTS OF HUMAN SACRIFICE

For clause 11, there is substituted the following-

'Duty to report acts of human sacrifice

- (1) A person who knows or has reasonable belief that any person has committed or intends to commit an offence under this Act, shall report the matter to a person in authority.
- (2) A person who makes a report referred to in subsection (1) shall be afforded protection under the Whistleblowers Protection Act, 2010.
- (3) A person who-
 - (a) does not comply with subsection (1);
 - (b) prevents, prohibits, dissuades or hinders any person from making a report under this section; or
 - (c) victimizes a person who makes a report under subsection (1),

commits an offence and is liable, on conviction, to a fine not exceeding seventy two currency points or imprisonment for five years or to both, fine and imprisonment.

(4) In this section, a person in authority includes-

- (a) a member of the village local council,
- (b) a member of a local government council;
- (c) a Resident District Commissioner;
- (d) a social welfare officer, or
- (e) a police officer, a member of the Uganda prison service, a member of the Uganda of Uganda People's Defense Forces or a member of any other law enforcement agency established by an Act of Parliament.

Justification

- *To expand the people to whom a report of an offence can be made*
- *Prohibit and punish persons who pervert justice by preventing the reporting of offences or by victimizing persons who report offences under the Act.*

INSERTION OF NEW CLAUSES IMMEDIATELY AFTER CLAUSE 11

Immediately after clause 11, insert the following new clauses-

"Extra territorial jurisdiction

This Act shall apply to offences under this Act committed outside Uganda where-

- (a) the person against whom the offence is committed is a citizen of Uganda, or is ordinarily resident in Uganda; or
- (b) the perpetrator of the offence is a citizen of or resident in Uganda.

"Inspection of places where human sacrifice is likely to take place

- (1) A person authorised by the Minister may, after giving reasonable notice, inspect any house, building or any place in which he or she has reason to believe that an offence under this Act is taking place or is likely to take place.
- (2) A person who carries out an inspection under subsection (1) shall prepare a report of the inspection.
- (3) Where the report of the person referred to in subsection (1) indicates that there is need for immediate corrective action, the person shall give a copy of the report to the person or body to take the corrective action including a member of the village local council, a member of a local government council, a Resident District Commissioner, a social welfare officer, a police officer, a member of the Uganda Prisons Service, a member of the Uganda People's Defense Forces or a member of any other law enforcement agency established by an Act of Parliament.

Consent of victim of an offence

The consent of the victim to human sacrifice shall not be a defense to a charge under this Act.

Report on the implementation of this Act

- (1) The Minister shall annually submit to Parliament a report on the implementation of this Act.
- (2) The report referred to in subsection (1) shall contain information on—
 - (a) the complaint made under the Act, the investigation and prosecution of offences as a result of the complaint and investigation;
 - (b) the incidents and occurrence of each of the offence prescribed in the Act;

- (c) the effectiveness of this Act and Government policy to deal with incidents of human sacrifice;
- (d) the challenges faced in enforcing the Act; and
- (e) recommendations on the challenges faced in implementing the Act.

Amendment of Act No.7 of 2009

The Prevention of Trafficking in Persons Act, 2009 is amended-

- **by substituting for section 2 (g), the following-**

“(g) “human sacrifice” means the killing, mutilation, removal of a body organ, body part or human tissue of a person or the drawing of blood from a person for sale or purposes of performing or furthering witchcraft, a ritual or for any other unlawful purpose”

- **in section 3, by inserting immediately subsection (1), the following-**

“(1a) Notwithstanding subsection (1a), where the person convicted of the offence of trafficking in person exploited the victim of the offence by carrying out human sacrifice, the convicted person shall, instead of the punishment prescribed in subsection (1), be liable to-

(a) suffer death, if-

(i) the convicted person is a parent, guardian or person having authority or control over the victim of the offence; or

(ii) offence of trafficking in persons results in the death of the victim;

(b) imprisonment for life where the offence results in grievous bodily harm to the victim, or

(a) imprisonment for ten years, where the offence results in injury to the victim of the offence.

Justification

- *For completeness, to criminalize persons who commit offences prohibited under this Act outside Uganda where the victim of the offence or the perpetrator is a citizen of Uganda or ordinarily resident in Uganda.*
- *To make certain defenses irrelevant for a charge under this Act;*
- *To empower the inspection of places where acts prohibited under this Act may be performed.*
- *To require the Minister to submit to Parliament, annually, reports on the implementation of this Act.*
- *To harmonize the definition and punishment for the offence of Human sacrifice in the Prevention of Trafficking in Persons Act, 2009 with the amendment made to the Bill.*

CLAUSE 12: REGULATIONS

Clause 12 is amended by inserting immediately after sub clause (1) the following-

“The regulations made under subsection (1) shall be laid in Parliament for information.”

Justification

- *To require the laying of regulations in Parliament for information.*