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TOWARDS A NEW NATIONAL CONSTITUTION

Guidelines

of the Catholic Bishops of Uganda

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NATIONAL CONSTITUTION

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TOWARDS A NEW NATIONAL CONSTITUTION
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Bishops of Uganda

To the Clergy and the Religious
and all the People of God,
to men and women of good will:
Peace and God's Blessing.

Dear brothers and sisters,

INTRODUCTION

We welcome the efforts to restore peace

1. Since it attained political independence in 1962, our country, Uganda, has undergone different stages and overcome difficult situations in its pursuit of genuine freedom and true happiness for its citizens.

We rejoice that we can once again express our appreciation to our present Government for its efforts since it came to power in January, 1986, to restore peace and security. In most of the country people can now in an ambience of tranquillity strive at restructuring their economic and social lives.

We plead for the suffering people in the north and north-east of Uganda

2. On the other hand, we anguish at the continuing conflict in the northern and north-eastern areas of the country between Government forces and other groups. In spite of repeated appeals from many quarters, this armed strife goes on unabated, causing dreadful suffering to innocent people.

A NEW CONSTITUTION: ITS IMPORTANCE AND THE CHRISTIAN'S RESPONSIBILITY

With paternal sentiments and as an expression of our compassion for the victims of hatred and injustice, we renew and we press our plea to all parties to take heed of their and our entreaty in the name of Christ, and to set their mutual animosity aside in their attempt to settle their differences through peaceful and just channels.

A lesson from our history 3. Our own recent history is proving the truth of what we have said repeatedly: violence breeds violence. If we are to learn anything from that lesson of history and from our own experience, it is that we should be humble enough to admit our mistakes and to seek other means to resolve our differences than the force of arms.

This means in practice that we should be patriots in the true sense of the word, that is people who love and are loyal to their country, and who show it by an honest desire to promote the common good instead of their personal interests; an open mind, politically mature enough to listen to the views of others and to sincerely appreciate what is good in those views; and a firm decision to seek ways and means to apply those views to the situation at hand.

Only the Spirit of Christ can help to bring this about, "the spirit of wisdom and insight, the spirit of counsel and power, the spirit of knowledge and fear of God" (*Isiah 11:2-3*).

We invoke this spirit of Christ, so abundantly poured out on the church at Pentecost, to come and, by working in the hearts of all, to reconcile us to one another in fraternal love and to restore peace and justice in this land.

Towards a new national constitution 4. It is in this context of relative calm in most parts of the country and of the continuing conflict and bitter suffering in others, that a move has been made to prepare and work out a new constitution for the country. To that effect, a **Uganda Constitutional Statute** was enacted by the National Resistance Council (NRC) on 23 November, 1988, whereby a Constitution Commission was officially established and charged with the task of gathering the ideas of the people on this matter. It is envisaged that after the Commission has completed its work, it will present a Draft Constitution to the National Resistance Council which will then create a Constituent Assembly, representing all the people, to study and debate it, and to carry out further consultations until a final text is drawn and approved.

The purpose of this letter to give guiding principles 5. Drawing things old and new from the storehouse of revelation and mindful of our duty and responsibility as your pastors on whom Christ has conferred his own authority to preach as authentic teachers, to preach to you the faith which is destined to inform your thinking, to direct your conduct and, under the light of the Holy Spirit, to make that faith shine forth, (cf. Vatican II, *Lumen Gentium*) (L. G. No. 24), we have decided to address this short letter to you on the momentous issue of producing a new Uganda Constitution.

It is not our intention to describe in detail all the contents of the proposed new constitution. In the course of this letter we shall give our view only on a few points which are of particular concern to us; -but the main purpose is to give you some guidelines and advice recalling some basic christian principles which you should bear in mind when dealing with this most important work.

A fundamental change is urgent

6. Enlightened by these principles every one can then responsibly and positively contribute in shaping the political, social, economic and religious future of Uganda.

We wish to recall here what we wrote in our last Pastoral Letter **With a New Heart and a New Spirit:**

"A fundamental change is urgent and necessary in our country. Indeed we have been calling for such a change for many years especially through our various pastoral letters. Indeed it is an essential part of the Church's mission to promote such a change for the good of our country. The love which impels the church to communicate to all people a sharing in the grace of divine life also causes her, through the effective actions of her members, to pursue people's true temporal good, help them in their needs, provide and promote an integral liberation from everything that hinders the development of individuals". (With a New Heart and a New Spirit 1986, No. 6).

Christian Citizenship

Citizens of the heavenly Kingdom, yet

7. The Church has on various occasions proclaimed the teaching that, through faith and the Sacraments, Christians are indeed called to be citizens of the Kingdom which is not of this world.

"For us, our homeland is in heaven, and from heaven comes the saviour we are waiting for, the Lord Jesus Christ, and he will transfigure these wretched bodies of ours into copies of his glorious body" (*Phil. 3:20-21*).

Nevertheless, as human beings living here on earth in community with their fellow men, Christians must involve themselves fully, in the development of the material world and the good of all mankind:

"It is a mistake to think that, because we have here no lasting city, but seek the city which is to come, we are entitled to shirk our earthly responsibilities; this is to forget that by our faith we are bound all the more to fulfil these responsibilities according to the vocation of each one". (Vatican II, *Gaudium et Spes*, (G.S.), The Pastoral Constitution on the Church in the Modern World No. 43).

The responsibility of contributing to the common good of society is incumbent on all citizens without exception. Putting together a new Constitution for the country is one way in which the citizens are called upon to fulfil this responsibility.

An opportunity provided to all to play their role

8. The Constitutional Commission will seek to collect views and to generate public debate on the contents and values to be included in the new National Constitution. It is the duty of every adult christian to give it full cooperation and to become actively engaged in this extremely important project.

The creation of the Constitutional Commission provides the citizens with an opportunity:

"to play an active part in the establishment of the juridical foundations of the political community, in the administration of public affairs, in determining the aims and the terms of reference of public bodies" (G. S. 75)

Value and Importance of a National Constitution

9. How important the cooperation of every citizen is in preparing our new National Constitution can be measured and understood only in relation to the importance of the National Constitution itself.

It is the basic norm

10. In fact, a national constitution is the fundamental norm governing all the juridical order of a country. It is the basic law from which all the other laws draw their value and authority. They all refer to it, so that without it they are, so to say, floating in a vacuum and have no binding force.

It regulates political authority

11. Another function of a national constitution, a cardinal one, is to institutionalise political authority, i.e., to clearly determine how and by whom it may be acquired and exercised. It thus ensures that those who hold authority wield it to promote the common good of the citizenry under their sway, and not arbitrarily or for their own interest.

"It follows that political authority, either within the political community as such or through organisations representing the state, must be exercised within the limits of the moral order and directed toward the common good (understood in the dynamic sense of the term) according to the juridical order legitimately established or due to be established (G. S. 74).

Contents of a Constitution

Contents vary, but some vital topics are always included

12. As we have just mentioned above, a constitution in the basic and fundamental law by which a state is governed; but all constitutions do not contain the same subject-matter. This depends on the historical, economic, cultural, social and other aspects of the state concerned. However, it will almost always include such vital topics as the method of choosing the head of state, his power, functions and prerogatives, the legislature and the judiciary; the status of government ministers, the cabinet, the civil service and the public offices generally. It will also define the nature and scope of the central government, local governments or administrations as well as their relations with one another. Another important part of a constitution is that which describes the rights and duties of the citizens.

With regard to these rights and duties, we single out for some comment the following topics which we consider to be of particular importance:

a) Rights to be guaranteed

Basic rights and fundamental freedoms 13. A good constitution should ensure maximum protection and promotion of human rights and fundamental freedoms as dictated by the natural law and enshrined in the Universal Declaration of Human Rights and the African Charter on Human and People's Rights. Machinery should be set up to ensure internal enforcement of constitutionally based and internationally recognised human rights. We want to emphasize in particular the right to religious freedom, social security for the aged and the sick and the right of parents concerning the education of their children.

The right to religious freedom 14. In our capacity as religious leaders, we take it as our duty to emphasize in a special way the fundamental right of the citizens to religious freedom.

The deeply religious character of the Ugandan People should be explicitly recognized. They embraced Islam and Christianity wholeheartedly in the last century. In spite of the many difficulties that have come their way in the course of that century, both have continued to grow and to flourish: more than 10 per cent of the population is Moslem, while no less than 75 per cent is Christian. Following the example of the Uganda Martyrs, our pride and glory, numberless believers of different creeds have

variously suffered for their faith, and many have gone as far as to lay down their lives for it. In the light of that it is inconceivable that a constitution, here in Uganda, would not respect, safeguard and guarantee freedom of religion and of worship to all, or that it would give preferential status to any one religion.

Social security for the aged and the sick 15. In a pluralistic society like that of Uganda, a good constitution will not fail to guarantee the rights of the minorities and of those who are usually too easily left at the margin in the political and social life of the country.

In this context we are also thinking of men and women who, after years of dedicated service to their country, have grown old or become sick, so that they can no longer help themselves to make a decent living. Provisions should be made in the constitution foreseeing a kind of social security for such people.

Likewise, let due consideration be given to those who are physically or mentally handicapped, so that their rights are respected and catered for. The provision of health care for all should be a major priority of any government.

All citizens have a right to education 16. All men, in virtue of their dignity as human persons, have an inalienable right to education. This education should be planned and carried out in such a way that it meets the particular needs of the individuals and is adapted to their ability, sex and cultural traditions and values. Free

education of all Ugandans should therefore be explicitly mentioned in the constitution at least as a binding goal of the present and any future government.

Cooperation of non-governmental bodies churches and organisations.

17. While the government has the duty to secure a good education for all the citizens, it should accept the cooperation of non-governmental organisations especially the other religious bodies as well as parents' organisations.

The right of parents concerning the education of their children

18. It should be recognised that the first responsibility in the matter of education lies on the parents. They have the primary and principal obligation of educating their children. Consequently it is their right to decide on the kind of education to be given to their children and to determine freely the schools in which they will receive that education:

"Parents, who have a primary and inalienable duty and right in regard to the education of their children, should enjoy the fullest liberty in their choice of schools. The public authority, therefore, whose duty is to protect and defend the liberty of the citizens, is bound according to the principles of distributive justice to ensure that public subsidies to schools are so allocated that parents are truly free to select schools for their children in accordance with their conscience." (Vat. II, **Gravissimum Educationis** Declaration on christian education No. 6).

b) Duties of citizens

Citizens should be made aware of their duties

19. Rights go hand in hand with duties. While people should be made aware of the existence and extent of their rights, they should equally be educated to the existence and extent of the corresponding duties. The new Uganda Constitution should not omit to bring this out clearly. Considering the recent troubled history of our country and the erosion of moral standards which ensued (cfr. Our Pastoral Letter, **With a New Heart and a New Spirit**, No. 27 - 32), we think that the following duties should be explicitly mentioned:

The duty of patriotism

20. Every citizen should feel proud of being a Ugandan. He should love the nation and all its people and be ready to make some sacrifice for the good of the nation.

The duty to contribute to the national income

21. It should be the concern of every citizen to contribute to the national income and to the building up of the country in general. The constitution should foresee a fair and equitable system of taxation designed to enable all citizens to contribute fairly to the national income. Corresponding to this is the duty to be productive. Every citizen has the duty to be engaged in some productive work that is helpful to the nation.

The duty to respect human life

22. During the last two decades, Ugandans have witnessed numberless wanton killings and all kinds of physical torture of innocent people. The present generation of children and youth were born and have been growing up in this situation. As a result, their sense of respect for human life is very low. Ugandans must be re-educated to observe God's commandment: "Thou shalt not kill".

This commandment applies to both cases, namely that of a person already born and that of one not yet born. Life must be protected with the utmost care from the moment of conception. Abortion is an abominable and shameful crime and it should never be tolerated, let alone legalized, in any country.

The duty to respect public and private property

23. Respect for other people's property is another field where many Ugandans have lost their moral conscience. Stealing, looting, cheating in business transaction and corruption have for a long time been the order of the day here in Uganda. Justice and respect for other people's property is a key-value that deserves special emphasis in the Uganda Constitution.

The common Good

The highest principle

24. A constitution should aim solely to foster the common good of the people, taking into account their present and foreseeable needs and the rapidly changing situations. The political community itself "exists for the common good: this

is its full justification and meaning and the source of its specific and basic right to exist". (G.S. 74) The common good is the highest principle of all political and social organization and planning. It is the criterion by which despotic and totalitarian regimes can be distinguished from those based on social justice.

The Central place of the human person

25. The common good can only be understood and defined in relation to the dignity of the human person. Its objective is the physical, social, economic, cultural and religious wellbeing of the person understood not only as a single individual but as all the citizens united as a community. It is therefore important that, in seeking the common good, all the different forces and categories of people who make up the community, especially those in authority, have particular regard to the weak and needy members. In the word of Vatican II:

"the common good embraces the sum total of all those conditions of social life which enable individuals, families, and organizations to achieve complete and efficacious fulfilment". (G. S. 74)

PART II

THE PROPER POLITICAL SYSTEM

Monarchic systems periodic 26. In the course of the history of many countries politics, the art of advancing the temporal welfare of the people, has been the affair of a head of state, king or chief, either ruling alone or with the help of a few people chosen by him. Later, as the governed became more politically aware, they claimed and obtained a voice in governing themselves. It is now the practice to classify governments as monarchical, aristocratic or democratic, that is government by one, by a few or by many.

Parliamentary monarchies 27. However, many governments of our time do not easily or accurately fall under any one of these categories because they combine elements from two or three of the different forms. Many western governments today embody a system of constitutional monarchy or presidentship with representative legislative Assemblies. This is broadly known as parliamentary democracy.

Antithesis of democracy 28. Two other modern forms of government, both the antithesis of democracy, are known as **dictatorship** and **totalitarianism**. In the ~~former~~ all governing authority is vested in one individual, answerable to no one, whose rule, often iron-fisted, manipulates every facet of the citizens' life. The latter abides by the principle; everything in the state or party, nothing outside it, nothing against it. It tolerates no dissent or criticism of how the state or party is organised or functions.

Watch mistake!

This obviously involves the danger of an unjust oppression of free political opinion and an unjust suppression of several other rights of the citizens. In particular, the right of education is denied to parents and to religious institutions because the State must "form the minds of the young according to its own principles"; the right to a free press is denied because the only news allowed to get through to the people must come from the Government; the right of trade unions is denied because all industries and indeed the whole economy of the country are controlled by the government.

Ugandans yearn for democracy 29. Modern man's increasing awareness of his responsibility in shaping his own destiny, has heightened the popularity of the democratic form of government. Specially we, in Uganda, are looking forward to a constitution which clearly embodies the guaranteed right of the citizens through universal suffrage to choose their own government and their representatives with a fair division of powers. Our recent history makes it all the more imperative that our new constitution enshrine the people's fundamental freedoms of speech-to think and express their well-considered opinions according to their right judgement and conscience; of association with any legal grouping of their choice; and of religion-to practice it without hindrance.

The Church does not advocate any special system... 30. As to the concrete question of what form of government Uganda should adopt, we must state clearly that the Church does not advocate any one form:

"The concrete form of structure and organisation of public authority adopted in any political community may vary according to the character of various peoples and their historical development; but their aim should always be the formation of a human person who is cultured, peace-loving, and well disposed towards his fellow men with a view to the benefit of the human race". (G. S. 74).

...but it stands
for the common
good and
defends the
dignity of the
human person

31. However, the tenor of the whole document quoted above and the history of the Church's statements on political matters make it patent that the Church does not stand aloof from or is totally indifferent to possible political regimes. In truth she has not shrunk in the past from condemning in

clear terms some totalitarian regimes that unjustly denied or curtailed people's fundamental rights. The Church does not censure any government, of whatever form, provided that the whole governmental system is constituted in such a way that it is able to guarantee the common good, that is the respect of human rights and the welfare, both spiritual and material, of the citizens. The Church's concern is not so much about an external form of structure as about the human person himself who, far from being the mere object of political or social organization, is and must remain its subject, foundation and end. This means that, in order to be judged as good and ethically valid, any form of government must pursue the common good not anyhow or by whatever means, but must in its regulations and structures efficaciously respect and guarantee the central place of its citizens, a place clearly defined in its political, economic and social machinery. The people must never be

reduced to a mass of subjugated beings vis-a-vis their rulers, but rather be treated as conscious, intelligent and responsible subjects, while those in authority, for their part, sharing, as they do, in the authority of God himself, play their role as servants of the people, conscious of the liberating mission which is theirs and which they have to carry out in a spirit of love and justice. It is in this sense that Vatican II states:

"One must pay tribute to those nations whose systems permit the largest possible number of the citizens to take part in public life in a climate of genuine freedom, although one must always keep in mind the concrete circumstances of each people and the decisiveness required of public authority". (G. S. 31)

In the light of this teaching it becomes clear that the Church cannot adopt an attitude of total indifference towards any form of government which, even though it does not explicitly declare itself totalitarian, yet systematically excludes all effective participation of the citizens whether individually or in organized groups, in the administration and running of their country.

A LOOK AT JESUS THE MASTER

32. Jesus never directly entered the political arena; yet as Master and Teacher, he denounced the political evils of his time and gave clear directives to his followers and to all people of good will. He does not flinch from branding Herod a "fox", denouncing him for his bad political leadership (*Lk. 13:31-33*). He advises his disciples never to act like "pagan rulers" (*Lk. 22:24-27, cfr. also Luke 9:47ff; 14:7-11; 17:7-10*) and warns Pilate not to forget that his power over life and death comes from God (*John 19:11*). Jesus truly wills a community built on love, solidarity, justice, honesty and peacefulness. At the same time, he teaches us realism, the art of looking for the possible step which, here and now, serves best on the road towards greater hope. In this realism, Jesus pays for himself and for Peter the temple tax (*Mt. 17:24ff*) and teaches us that we should always "give back to Caesar what belongs to Caesar, and to God what belongs to God" (*Mt. 22:21*). We earnestly call upon the present and future leaders of this country to follow wholeheartedly the example and the guidelines laid down by our divine Master. Similarly, we exhort all those who are charged with the task of working out a new Constitution for Uganda to pay heed to these directives. It is only then that they will be working for the common good, under God's supreme authority.

PRACTICAL GUIDELINES

33. In the light of the foregoing reflections we would now like to address ourselves directly and more specifically to how the different bodies involved in the framing of a new Constitution of Uganda can best discharge their respective responsibility in this vital task. The bodies in question are the government, the constitutional commission, the constituent assembly and all the people of Uganda.

1. The Government

34. The first task which faces the government is to appoint the people who will make up the Constitutional Commission. These should be men and women of integrity, distinguished for their wisdom, patriotism and knowledge in political matters. They should be selected with due regard to the pluralistic nature of the Ugandan society.

35. Having thus formed the Commission, the Government should exercise utmost restraint and avoid all interference in the work of that Commission. We are convinced that it was sincere in launching the drawing up of a new Constitution for our country through the procedure which it implicitly vowed to respect. We therefore urge it to refrain from any action or attitude that might compromise its sincerity and endanger its credibility.

2. The Constitutional Commission

Preparing the citizens to play their role well. 36. In order to act responsibly and to contribute positively, the people must be instructed and adequately prepared. First and foremost, they should know what a national constitution is, what its scope is and its importance. The ordinary people in this country may at best have only a vague idea of what a national constitution is. It is of paramount importance the meaning of a constitution to be explained to them. To reach every citizen, a well planned media campaign should use all possible means of communication for this purpose, especially television, radio, the local papers and, above all, meetings organised at the various levels of the established Resistance Council set-up. The members of the commission should work in close collaboration with the R. C. Chairmen in order to ensure a smooth running of the education programme.

Honesty and objectivity. 37. It is a very great responsibility to be chosen by the government to be a member of a commission which is to work out the basic norm of a country. The members of this Commission should therefore be conscious of the gravity of their duty and spare no pains to carry it out as responsibly as possible. They should be objective in their enquiries and in their analysis of the information elicited, repudiating all preconceived answers, decisions or solutions. The slightest taint of bias or prejudice would negate their work and, in deceiving the people, make a mockery of their dignity and of their rights.

Taking the people's views seriously.

38. The Government and the National Council have taken a very positive direction in creating a channel through which the People of Uganda can contribute to the formation of a constitution for their country. We strongly recommend that their views be taken seriously, carefully studied and analysed in order to determine whether and how they should be incorporated into the Constitution.

3. The Constituent Assembly

A fair and adequate representation is necessary.

39. The constituent assembly is the last body in which the constitution of a country is debated and eventually passed. It is very important that it should adequately represent the people, taking into account their social, ethnic, political and religious characteristics.

Patriotism should be the guiding principle

40. What we have said about the Members of the Constitutional Commission applies also to those of the Constituent Assembly. In doing their work, they should have their country at heart and be conscious of their great responsibility towards the present and the future generations of Uganda. They are duty bound to speak and vote according to the wishes of the people whom they represent. If necessary, they should not hesitate to return to the people and to seek their opinion through a referendum in order to reach a final decision either on the whole Constitution as such or on some sections of it which are particularly crucial or prove to be highly controversial.

4. The citizens of Uganda

Let all serve the nation by playing their role. 41. In line with what we have said in the previous pages concerning Christian citizenship, we wish to appeal to all the people of good will in this country, Christians and non-Christians alike, to take it as their God-given duty to become actively involved in every possible way in the process of working out a Constitution that will best serve their interest. They should know that by contributing positively towards a good National Constitution, they prepare a happy and stable political and social life for their children and their children's children.

Attend meetings and contribute positively. 42. Whenever meetings are called by the relevant authorities to explain or receive ideas concerning the Constitution, it is a duty incumbent on every citizen to attend and to participate by contributing positive ideas. Such a contribution always has as its objective the common good of the country as a community and is not motivated by merely personal, tribal or regional interests. Let everyone strive to promote peace, unity, love and justice. That is the criterion of the quality and value of any contribution.

CONCLUSION

We renew our pledge to cooperate. 43. We wish to reiterate that we fully welcome the move to frame a new Constitution for Uganda, for we realise that the conditions, needs and aspirations of the citizens of this

country have evolved and changed so much that an adaptation and a re-adjustment of the political and social structure are called for. We renew our pledge to cooperate fully. We remind all Christians and people of good will of their duty to contribute according to their ability.

Involving the help of the Holy Spirit. 44. The work of drawing up the Constitution is going to be long, arduous and extremely demanding. We must ask the Holy Spirit for his guidance. Only with His assistance can we renew the face of Uganda. Let us therefore pray with faith to the Holy Spirit that he may enlighten and guide the Members of the Constitution Commission and of the Constituent Assembly, and lead the legislative, executive and judiciary bodies to abide by the Constitution of Uganda.

After the example of the Uganda Martyrs. 45. May those who still have recourse to violence as a means of achieving their demands accept the call of God to repentance. May they learn to accept better solutions to their problems and to live in peace with their neighbours. May we all learn to forgive and work in harmony throughout Uganda, and thus evince faith, hope and love similar to those of the Uganda Martyrs as we tackle the task of drawing up a new Constitution for our country, always keeping before our eyes our noble motto: FOR GOD AND MY COUNTRY.

† Emmanuel Cardinal K. Nsubuga, Archbishop of Kampala
† Emmanuel Wamala, Archbishop Co-adjutor, Kampala
† Adrian K. Ddungu, Bishop of Masaka
† John Baptist Kakubi, Bishop of Mbarara
† Barnabas Halem'Imana, Bishop of Kabale
† Serapio B. Magambo, Bishop of Fort-Portal
† Joseph Willigers, Bishop of Jinja
† Edward Baharagate, Bishop of Hoima
† James Odongo, Bishop of Tororo
† Paul Kalanda, Bishop of Moroto
† Erasmus Wandera, Bishop of Soroti
† Joseph Mukwaya, Bishop of Kiyinda-Mityana
† Martin Luluga, Apost. Administrator, Gulu
† Frederick Drandua, Bishop of Arua
† Mathias Ssekamaanya, Auxiliary Bishop of Kampala
† Henry Ssentongo, Auxiliary Bishop of Masaka
Msgr. Leo Odongo, Apost. Administrator, Lira.

26th March 1989, Feast of the Resurrection of Our Lord.