

**PROPOSALS FOR
CONSTITUTIONAL CHANGES
SUBMITTED TO
THE UGANDA CONSTITUTIONAL REVIEW
COMMISSION
BY
THE KINGDOM OF BUGANDA**

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PREFACE:

I would like, on behalf the Buganda Constitutional Commission, to thank Ssabasajja Kabaka of Buganda for his invaluable support and guidance on this project, and all the people of Buganda and Uganda who have contributed the views that are contained in this Report.

I have been following the Commission's work, receiving regular briefings, reports and consultation.

This Report is the result of work that started nearly one and half years ago.

Over this period, the Commission has worked tirelessly and received numerous presentations, memoranda and views from the people of Buganda and Uganda both within and outside the country.

From all the representations received, the Commission crystallised five essential points which have proved to be of common concern to all the people in Buganda. These points were published in an Interim Report.

The Interim Report was endorsed and approved by the Government of the Kingdom of Buganda, the District Leaders of the Districts of Buganda, the Ssaza chiefs in Buganda, the Members of Parliament who represent the Districts of Buganda in the National Parliament, and the Buganda Lukiiko.

After the approval by the Lukiiko, I forwarded the Interim Report on these core issues to the Uganda Constitutional Review Commission, and promised to send to them the Final Report.

The Interim Report and the proposals contained in it have been widely publicized in the media and have been the subject of private and public discussion on many FM radios, on internet and elsewhere.

After the publication of the Interim Report, the Buganda Constitutional Review Commission was entrusted with the task of crystallizing these core points and their implementation, and to undertake deeper research on these core issues and write a final Report.

It is out of this additional research and consultations that this Final Report has emerged out of the already approved Interim Report.

This Final Report has been discussed and approved by the Kabaka of Buganda, the Cabinet of the Kingdom of Buganda, the Ssaza Chiefs of Buganda, the LC V Chairmen of the Districts of Buganda, the Buganda District Councils' Speakers, the RDC's from Buganda, the Abataka Abakulu Ab'Obusolya's Lukiiko, the Members of Parliament representing Buganda, and finally the Buganda Lukiiko. I was personally involved in the discussion of this Final Report when Ssabasajja received the Commission, and I presided over its discussion with all the other above groups.

I would like to take this opportunity to once again thank Ssabasajja Kabaka for his guidance and all the people who have contributed to the success of this project.

I would also like to extend special thanks to the Chairman and the members of the Buganda Constitutional Commission who have worked on this difficult project, over this long period of time. They have worked tirelessly and without reward or facilitation. They have done this work out of the love and dedication they have for service to Buganda, Uganda and their Kabaka.

We are confident that the Uganda Constitutional Review Commission, and, this time, our leaders and Parliament, will listen to the people of Buganda and will implement their will and wishes, which are very clearly articulated in this Report.

**J G MULWANYAMMULI SSEMWOGERERE
KATIKKIRO**

PREAMBLE:

For centuries, Buganda was a warrior kingdom, which believed in conquest and settling disputes with neighbors with force of arms and conquest. Internally, reigning kings (Kabakas) were often removed and replaced by force of arms. At the close of the 19th Century however, the then reigning monarch, Ssekabaka Mukaabya realised that the best way to govern his people and to live with all Buganda's neighbours, was through negotiation, discussion and peaceful resolution of disagreements. In a very dramatic and very public action, he formally changed his name from Kabaka Mukaabya (which literally means a king who bends people to his will through tears and strife) to Kabaka Mutesa, which means resolving all disputes through peaceful discussions and negotiations.

By that act and implied edict, he directed the people of Buganda to always solve their problems (internally and externally) through peaceful discussion. Ever since that edict, Buganda started believing in peaceful resolution of problems through negotiations and signed agreements.

Thus since the beginning of the following century, (that is from 1900 up to today) Buganda has never taken up arms internally to remove its leaders or externally against its neighbours. Ssekabaka Mutesa's grandson, Ssekabaka Daudi Chwa II, re-emphasised this position by stating in his formal written Will that he had deliberately given the name of Mutesa to his son and successor (the father of the current Kabaka) so that Kabaka Mutesa II and his successors should always resolve all Buganda problems peacefully and legally through negotiation and discussion. In fact, in that Will, Ssekabaka Mutesa II actually instructed and directed his successor to do so.

Last month, in December 2002, Kabaka Mutebi II, while addressing the Buganda Constitutional Commission and the people of Buganda at Banda Palace, restated his great great grandfather's position as well as that of his grandfather by urging the people of Buganda to pursue the many disagreements and disappointments they had with the 1995 Constitution (which disagreements and disappointments he was aware of) through peaceful negotiations and dialogue. He fully supported this Report and the method of presentation of Buganda's views through this constitutional process.

The Odoki Constitutional Review Report clearly stated that 97% of the people in Buganda desired to be ruled under a federal system of government (also 68% of all Ugandans expressed that desire). Although this clear and overwhelming will of the people of Buganda and Uganda was not included in the 1995 Constitution, the People of Buganda, being mindful of their kings' edicts, patiently continued to request for a peaceful reconsideration of this position.

They now once again renew, through this document, their position that a federal system of government is the only system of governance that will accelerate Uganda's development, minimise internal strife that has bedeviled Uganda since the abolition of this system in 1966, and provide Uganda and her people with durable internal peace.

Many people outside Buganda pour scorn on discussion and negotiation as a fruitful method of achieving their people's or community desires and goals. Consequently, they have persistently taken up arms against the state and the peoples of Uganda.

The people of Buganda are appealing to all those people to lay down their arms and strive to achieve their goals through peaceful discussion and negotiations as the people of Buganda are doing today.

The people of Buganda also appeal to the Government of Uganda and our leaders to prove to those skeptics and doubting people that the will of the people and desires of communities can be achieved and addressed through peaceful discussions. We should not give them the feeling that peaceful negotiations and discussions can never bring about change or achievements of any given community's desires and will, however clearly those desires and will are manifested.

In spite of past repeated disappointments and frustrations, the people of Buganda are still confident that they will achieve their desires through peaceful methods. Buganda is therefore appealing to those of her

people, especially the young, the *Bazukkulu ba Buganda* and those who are currently outside Uganda, who have lost or are losing faith in negotiations and peaceful resolution of disputes as a way to achieve Buganda's objectives, not to despair. We still believe that peaceful negotiations will triumph over any alternative means of dispute resolution.

The people of Buganda would like to extend their sympathy and condolences to the many Ugandans who have died or lost their relatives and loved ones in these senseless wars, whose causes, they believe, would have been settled and can still be settled through peaceful discussions and dialogue, such as is contained in this Report.

The recommendations contained in this Report are made in good faith because the people of Buganda genuinely believe that they would lead to prosperity, peace and, if implemented in all parts of Uganda, would lead to lasting peace.

We make these recommendations for God and our country.

PROPOSALS PRESENTED
TO
THE UGANDA CONSTITUTIONAL
REVIEW COMMISSION
by
THE KINGDOM OF BUGANDA

GENERAL INTRODUCTION:

This is a Report from the Peoples and the Kingdom of Buganda, presented to the Uganda Constitutional Review Commission, which was established under the Commission of Inquiry (Constitutional Review) Notice 2001 (Under Section 2 of the Commissions of Inquiry Act Cap 56)¹.

This Report has been prepared and submitted in accordance with the Terms of Reference of the Uganda Constitutional Review Commission as set out in Paragraph 4 of the Commission of Inquiry (Constitutional Review) Notice 2001.

The Report is submitted in response to the written request for proposals made by the Uganda Constitutional Review Commission to the Kingdom of Buganda, which was dated 4th May 2001 and was addressed to the Katikkiro of Buganda, soliciting the views of the Kingdom of Buganda on the on going Constitutional Review Process.

On 24th October 2001, the Katikkiro of Buganda sent to the Chairman of the Uganda Constitutional Review Commission a preliminary document containing proposals from the Kingdom of Buganda. In the accompanying letter, he promised to send a final formal Report containing the views of the Peoples of the Kingdom of Buganda.

This Report constitutes the formal Submission of the Kingdom of Buganda to the Uganda Constitutional Review Commission.

The national constitutional review process is a matter of great interest and importance to all the people of Buganda. In order to be able to make meaningful submissions to the Constitutional Review Commission, the Kingdom of Buganda established a Buganda Constitutional Review Commission, whose primary mandate was to collect the views of the people of Buganda on areas that need review and amendment in the 1995 Constitution.

The Buganda Constitutional Review Commission has studiously collected and received the views of the people of Buganda through interviews, memoranda, presentations, meetings, and from the internet. It has compiled this Report, which has been approved by the various organs of the Kingdom of Buganda as its formal Submission to the Constitutional Review Commission.

¹ The Uganda Constitutional Review Commission was established by the Minister of Justice and Constitutional Affairs, Hon. J. S. Mayanja Nkangi, on the 7th day of February 2001, exercising powers granted to him under **Section 2** of the **Commission of Inquiry Act**.

This Report is not intended to exhaustively address all issues of concern to the people of Buganda. There are many other issues, which are of concern to the people of Buganda, but which are not addressed in this Report. Examples of these issues include: whether there should or should not be multipartism in Uganda, whether or not the death penalty should be retained or who should be a citizen of Uganda, and many more. These are not addressed in the Report. This is because we could not find a clear overwhelming consensus among the people of Buganda on those issues. It would be pretentious, misleading and dishonest to purport to present that the people of Buganda take a position on those issues when a substantial number of them take a different view. The issues that we are addressing in this Report are the issues on which we found, not just a majority view, but near unanimity of views by the people of Buganda.²

These issues are:

- a) The Federal System of Government and the process of Decentralisation³;
- b) Kampala District as part of Buganda⁴;
- c) The Restitution of the 9000 square miles that were illegally taken away from the Kingdom of Buganda⁵;
- d) The Land Tenure System and the excesses of the Land Act 1998⁶;
- e) Immunities and privileges of Traditional Leaders⁷.

The Format of this Report:

The Kingdom of Buganda has decided to present this Report in simple straightforward language, so that ordinary Ugandans, who constitute the majority of our population, can understand the presentation made on their behalf.

The Report seeks to answer most of the commonly asked questions about the Federal system of Government and its relation to and compatibility with Decentralisation. The questions have arisen from interviews conducted, and reports received by the Buganda Constitutional Review Commission. They address the various misconceptions about federalism and decentralisation held in some circles, as well as their effect and impact on the attainment of durable peace, more accelerated economic development, more meaningful social progress and the realisation of real national unity in Uganda.

The Lay Out of this Report:

This Report is divided into four major parts, namely:

- a) Executive summary
- b) The Federal System of Government and Decentralisation

² The people of Buganda have, however, been encouraged to individually or in groups, to present their views on any issue of concern to them. Many have appeared or sent memoranda to the Uganda Constitutional Review Commission, although the majority were content to have this Report, drafts of which have been circulating throughout Buganda and have been widely published through FM radios during the last nine months, represent their views.

³ Under term 4 (c)(i) of the **Commission of Inquiry (Constitutional Review) Notice 2001**, which provides that "...to review the system of decentralisation of government and consider: (i) whether federalism should be introduced, where required.."

⁴ Under term 4(t) of the **Commission of Inquiry (Constitutional Review) Notice 2001**.

⁵ Under terms 4(n) and (t) of the **Commission of Inquiry (Constitutional Review) Notice 2001**.

⁶ Under term 4(n) and (t) of the **Commission of Inquiry (Constitutional Review) Notice 2001**.

⁷ Under term 4(o) of the **Commission of Inquiry (Constitutional Review) Notice 2001**.

- c) Other issues of concern to the people of Buganda
- d) Summary of recommendations and conclusion to the Report.

Part A: Executive Summary of the Report:

This Part contains the Executive Summary of the views presented in the main body of the Report. It summarises the position of the Report on the issues addressed.

Part B: The Federal System of Government and Decentralisation:

Part B, which constitutes the bulk of the Report, contains the substantive submissions to the Commission on the Federal System of Government and Decentralisation, providing details of the points advanced. This Part is in the form of simple Questions and Answers that explain the Federal system of government, Decentralisation and the views and proposals of the people of Buganda on these matters.⁸

This Part is laid out in Chapters with Sub-headings, in order to make it easy for the reader to follow and to revisit its various areas.

Part C: Other Issues of Concern to the People of Buganda:

This Part addresses the other issues of concern to the people of Buganda. In particular, the issue of Kampala District, the land tenure system, the 9,000 square miles of land that were forcefully taken away from Buganda, and the immunities and privileges of Traditional Leaders.

Part D: Summary of Recommendations and General Conclusion to the Report:

Part D of the Report contains the general conclusions and recommendations of the people of Buganda for consideration by the Uganda Constitutional Review Commission.

PART A: EXECUTIVE SUMMARY

1. EXECUTIVE SUMMARY ON THE FEDERAL SYSTEM OF GOVERNMENT AND DECENTRALISATION:

On this issue, the Report demonstrates the following key points:

- i) The Federal system of Government is a national system of governance where state authority to govern the people is shared between a national or central government, and regional governments. In the broadest sense, the national or central government ordinarily has control over matters that affect the nation as a whole or which are best handled by the central government, while the regional governments have control over local matters of the particular regions. Under a federal system of governance, this division of authority is entrenched in the national constitution.
- ii) Under the federal system of government, the authority and responsibilities of the regional governments are respectively exercised and implemented through Decentralisation. Federalism and Decentralisation are fully compatible, complementary and work hand in hand. Both the unitary and federal systems of government can only provide services to their people through Decentralisation. Whether decentralisation should or should not exist in Uganda is not an issue. Decentralisation must exist under any form of government and has always

⁸ It is believed that this question and answer format will not only help in answering many of the widely held misconceptions about federalism and decentralisation, but will also make it easier to locate matters a reader may want some answers to.

existed in Uganda since 1900. The only issue in this Submission is whether decentralisation best operated in Uganda under a federal or unitary form of government.

- iii) The Federal system of Government does not therefore compete against decentralisation. Rather it improves the effectiveness of decentralisation. Decentralisation works best under a Federal arrangement. The most effective way of governing is to have decentralisation from the regional governments to the districts and other local administration organs. Because regional governments are closer to the districts, and the people, there is more effective supervision of the activities of local government and more effective decentralisation.
- iv) The concept of Federalism was developed to promote national unity, peace and accelerated progress, in the face of diverse ethnic, cultural, geographical and social divisions in a country. As will be shown in the main body of this Report, this proposition is time tested. Uganda being a nation of ethnic, cultural, political and geographical diversities, the introduction of a federal system of government is the most appropriate and effective way to govern our diverse populations together as one nation, and to ensure meaningful and accelerated progress, sustainable development and lasting peace.
- v) The Federal system of Government is widely practiced by many successful democracies in the world. For example, many of the G8 countries⁹ (these are the countries with the most successful economic performance records in the world today), as well as leading developing countries¹⁰ are governed under federal systems of Government. The federal concept has been shown to work in many parts of the world. This remains so whether the countries are large or small, developed or developing, rich or poor. Given Uganda's unique social composition, the federal system of Government is the ideal method to achieve peace, political stability, diffuse or minimise conflict, internal dissent, intermittent civil strife and achieve social and economic development for its people.
- vi) Federalism is not about undermining, weakening or rendering the Central Government irrelevant. On the contrary, it offers greater opportunities for development because it allows the Central Government to concentrate and focus more on fulfilling its national objectives and responsibilities while the regional and local governments attend to regional and local matters.
- vii) As will be demonstrated in the main body of the Report, federalism is not about partisan politics, multipartyism or its absence. It is not about monarchism or tribalism. It is not about segregating or dividing people. It is not an issue relevant only to the people of Buganda. It is about achieving stability, peace and accelerated development of Uganda as a whole in the most efficient and effective manner.
- viii) Federal or unitary systems of governance are not political systems. They are just systems of administration and governance. This is why you can have either movement, multiparty or single party political systems either under federal or unitary systems of governance¹¹. It should be emphasised that Federalism has nothing to do with political systems. Political systems are ideological choices. Federalism exists effectively regardless of what political systems or political ideologies operate in the country. For Example, while the Soviet Union (and now Russia) and the United States have had fundamental differences in political ideology, (One party Communism and multiparty democracy) they both function effectively under the federal system of government.

⁹ These countries include: the United States of America, Canada, The Federal Republic of Germany, the Federal Republic of Russia and the United Kingdom (which was previously a unitary system, but has since appreciated the merits of regional government and devolved authority to independent assemblies in Wales, and Scotland).

¹⁰ Examples include: South Africa, Brazil, Argentina, Malaysia, India, Indonesia and many more.

¹¹ The provisions of Articles 69 to 75 of the 1995 Constitution of Uganda are therefore inapplicable to this matter.

- ix) A federal system of government is not local government. It does not interfere with the current local system of government as envisaged by the Constitution¹². Federalism is a system of regional government. The only changes that the federal system of government introduces in Uganda's current administrative set up is that accountability on some matters is to the Central Government, while on others it is to the regional governments. Being closer to the local governments and having greater appreciation of and proximity to local issues, it provides more effective supervision of local governments. The federal system of government preserves the existing status quo on local administration.
- x) The Federal system of Government is not about making some regions dominant or greater than others. The federal system of Government has within it in-built safeguards to ensure uniform regional development of all areas of the country, regardless of size, wealth or composition of specific federal regions¹³.
- xi) The Federal system of government was half-heartedly and improperly established and implemented in Uganda. It was subsequently unilaterally abolished. Many lessons have since been learnt from that earlier experience. The people of Buganda are not seeking to re-introduce the federal arrangements that existed under the 1962 Constitution. Rather they are proposing a more equitable, rational and acceptable arrangement that suits the Uganda of today and tomorrow.
- xii) Federalism is not meant to undermine rights of minorities in federal regions where one ethnic community is dominant. It is not meant to create discrimination on the basis of tribalism in employment or to undermine property, investments or other fundamental rights of people from other areas of the country. The federal system of government has sufficient in-built safeguards to ensure unity in diversity.
- xiii) The people of Buganda have made specific proposals about what responsibilities should be handled by the Central Government and what responsibilities should be handled by the regional governments, districts and other lower administrative bodies under the proposed Federal and Decentralisation arrangements.
- xiv) In this Report, the people of Buganda have made specific recommendations as to how the Federal System of Government can be practically implemented in Uganda. In particular how Federal Regions can be determined, and what general institutions they should have. The Report has also made specific recommendations on the division of powers and responsibilities between the Central Government, the federal and district governments, and how decentralisation continues to work effectively under these arrangements.

The main proposals on federalism and decentralisation are contained in the main body of the Report.

2. EXECUTIVE SUMMARY ON OTHER MATTERS OF CONCERN TO THE PEOPLE OF BUGANDA:

Part C of this Report addresses these issues.

(i). Kampala district as part of Buganda:

Under this part, the people of Buganda would like to correct a serious anomaly in the 1995 Constitution of excluding Kampala District from Buganda,¹⁴ yet this is the district that houses the most important,

¹² Article 176(1) of the 1995 Constitution is not affected by the introduction of a federal system of governance.

¹³ Examples of these inbuilt safeguards include: equalisation grants, constitutional limitations on federal states, the Central Government's power of eminent domain over federal states. These concepts shall be discussed in greater detail in the main body of this Report.

¹⁴ Article 178(3) and the First Schedule to the Constitution show which districts comprise the districts of Buganda. The schedule omits Kampala District.

cherished and sacred traditional sites of the Kingdom of Buganda. These include: Twekobe, the official Palace (Lubiri) at Mengo, the Bulange (the seat of government for the Kingdom of Buganda), the Kasubi Tombs (the ancient ancestral burial grounds for the Kings of Buganda), the Butikkiro, the Kabaka's Lake, the Kabaka's Mujaguzo Palace, the ancient and all important Kalinda Well and many more.

In addition, Kampala is a place of great historical significance to the people of Buganda. When the first Europeans first arrived in Uganda, they met and interacted with the Kings of Buganda at various sites in Kampala. The formation of the modern kingdom of Buganda and the even the 1900 Buganda Agreement all occurred in Kampala. To the Baganda, a lot of important and cherished history revolves around very many important places and sites in Kampala.

The people of Buganda feel very strongly that these core traditional institutions and sites of great historical and cultural significance to the people of Buganda cannot be considered to be legally outside Buganda. They would like this anomaly to be corrected.

(ii). Land Tenure:

The people of Buganda believe that it must be a constitutional right for every Ugandan to acquire, hold and own land in any part of Uganda, regardless of their ethnic origins or the location of the land in Uganda. There should be no discrimination of any kind in relation to land ownership amongst citizens of Uganda on the basis of ethnic origin or other such considerations.

However, the people of Buganda would like the provisions of the Constitution relating to land tenure¹⁵, in particular the provisions relating to acquisition of title by occupants and their security of tenancy to be revisited so that there can be fairness to both occupants and land owners.

The current land law¹⁶, which flows from the Constitution has created unnecessary antagonism between occupants of land and land owners. A revised constitutional position would properly protect occupiers and users of land, yet at the same time be fair to land owners. There should be adequate constitutional protection of the rights of occupants and users, as well as the rights of land owners.

The current land law makes meaningful development of the land very difficult and unworkable. It undermines property rights (and is therefore unconstitutional), has proved to be very difficult to implement in practice. The people in Buganda are strongly of the view that a more balanced constitutional position would accommodate the interests of occupants and landowners and facilitate development. The reform we are seeking is not intended to deprive any Ugandan or non-Ugandan from acquiring land or enjoying full and peaceful tenure of land in Buganda.

(iii). 9,000 square miles of Land:

In addition, the people of Buganda would like the Constitution to address the title to the 9,000 square miles of land that was entrusted to the British Crown Government under the 1900 Buganda Agreement, which land was returned to the Kingdom of Buganda at independence and subsequently forcefully and unilaterally converted to public land after the forceful and unconstitutional abolition of the Kingdom in 1966. Although many of the Kingdom's assets, which were forcefully taken over in 1966, have today been returned, these 9,000 square miles of land remain outstanding.

The Constitution creates new structures to deal with land without addressing the ownership of this land¹⁷. In effect, these new administrative structures effectively take over this land, without addressing the underlying issue of ownership. The restoration of these 9,000 square miles does not seek, and is not intended to disturb the peaceful and quiet enjoyment of the land by the people, bodies or institutions currently occupying this land. The proposal on the restoration of the 9,000 square miles is intended to

¹⁵ Article 237 (4), (8), and (9)

¹⁶ The Land Act, 1998

¹⁷ Articles 240 and 241 of the Constitution

address a historical injustice and to find a meaningful compromise that takes into account present day realities in Uganda.

(iv). Immunities and privileges of traditional leaders:

The people of Buganda would like the Constitution to address the status, immunities and privileges of traditional leaders in Uganda. The people of Buganda feel very strongly that although the Constitution recognises the existence of traditional leaders¹⁸, it does not address their status, immunities or privileges, yet they play a very important role in the lives of the people of Uganda. The people of Buganda would like the Constitution to be amended to address these issues.

PART B: THE FEDERAL SYSTEM OF GOVERNMENT AND THE PROCESS OF DECENTRALISATION IN UGANDA

General Introduction:

(a) Background to Government:

Before we discuss the federal system of government in detail, there is a need to appreciate in general terms the purpose of governance in society.

(b) Why do we have governments?

Human society has evolved and developed over time into communities. These communities have individual goals that individuals within the community pursue individually. However, there are also other goals that are pursued by the community collectively as a whole for the common or individual good.

Because society has both common and private (individual) goals, there is a need to reconcile the individual aspirations of the people with the collective aspirations of the community. To do this effectively, it is necessary to have a government to run these communities, and constitutions to establish the rights and duties of the citizens and governments, as well as to create, demarcate and limit the powers of the governments that run these communities.

The purpose of government is to put in place administrative policies that ensure the development of the individuals and the communities as a whole.

(c) What types of government are there?

Theoretically there are many types of government in the world, but for all practical purposes there are really three types: the Unitary system of Government, the Federal system of Government or a combination of these two.

As this Report shall show, the major distinction between the unitary and the federal systems of government is that under the unitary system of government power is concentrated at the centre, while under the federal system of government, it is constitutionally shared and held by both the centre (for national interests) and the regions (for local regional interests).

In other words, a unitary system promotes the concentration of power at the centre, yet the federal system promotes the de-concentration of power at the centre by creating regional power centres for easier and more effective provision of services to the people.

Uganda is currently governed under a Unitary System of Government.

¹⁸ Article 246 of the Constitution.

(d) How should a country decide on which system should be used to govern it?

Each country's conditions and circumstances are unique. For some countries the federal system seems to be the answer to their problems, while others believe in the unitary approach.

The test should be: which system effectively meets most efficiently the needs of the individuals and the community of a given country as a whole?

This Report shall demonstrate that the federal system of government is the most appropriate way to govern Uganda, to achieve the national and individual aspirations of the people of Uganda to provide lasting peace for the country.

(e) What has been Uganda's experience with both federal and unitary forms of government?

Uganda has been governed under the federal, (or semi federal) system as well as the current unitary system of government.

As this Report shall demonstrate in more detail later, when we take stock of our development, Uganda's progress and transformation of society in the times when Uganda was governed under a federal (or semi federal) system of government (under a system that devolved power to provincial regions (1900 – 1967)) the country was far more progressive. Economically, socially and politically, we achieved much more national development than has been the case since the disruption of that system and the introduction of the unitary system of government. During the pre- 1967 era, all regions of Uganda were developing concurrently.

Uganda's development under a unitary system has concentrated power and authority at the Centre. This has led to the tremendous growth of the Centre, to the detriment of all other areas of Uganda.

For example, various towns and cities of Uganda like Mbale, Jinja, Fort Portal, Gulu and others were all developing rapidly at a pace near that of Kampala during the colonial and post independence period. One did not need to come to Kampala in order to get some of the basic needs, as is the case for most areas today.

When the unitary system of government came in place, it over concentrated power at the Centre. This has over the past 4 decades led to the collapse of industry and commerce in most parts of Uganda. Examples include the collapse of Lira Spinning Mills, or the collapse of Jinja as the industrial heart of Uganda. Over concentration of power at the Centre has led to rural urban migration on an unprecedented scale in Uganda's history. The Centre has grown disproportionately to the rest of Uganda, most of which has virtually come to a stand still. The centre is now over crowded, and unmanageable, while the people in the rural areas are not obtaining the services or the quality of life they should be entitled to.

Since 1967, when power was concentrated at the Centre under the unitary system of government, Uganda has never had durable or real peace. There have been very many internal wars. This is because every one is competing for power at the centre; the centre is the only meaningful source of employment and influence, even for really regional local matters; one can only feel like they are part of the government if one is at the centre or part of the centre. This inequitable distribution of wealth in Uganda has led to a great deal of national strife.

In contrast, the period when power was dispersed at regional (provincial) levels all around the country (1900 – 1967) was very stable.

The government headquarters (centre), Kampala, has over the last several years developed far ahead of all other areas of Uganda, many of which are now nearly grinding to a standstill. This type of unbalanced development is bad for the country as a whole, is bad for peace and is bad for development. It is even bad for Kampala itself because the rate of growth and urbanisation is far ahead of the rate of delivery of

services to the population here. Overcrowding and congestion of people, buildings, cars and activity, are about to bring the city to a halt. Very soon, Kampala will not be able to function as a city at all.

For the last fifteen years we have, quite rightly, blamed the decay, neglect of our towns and the almost complete lack of construction of new Government infrastructures, buildings, new roads, etc on the Amin and Obote wars. But West Germany, which had been badly destroyed by World War II in 1945, had been seriously rebuilt and almost flourishing by around 1960 (fifteen years after the destruction).

From the lessons and experience of our history, the people of Buganda are making a proposal to adopt the federal system of government as the way to ensure durable peace and faster, sustainable and even-handed development for all the people and areas of Uganda.

It should be emphasised that since 1986, the Movement Government has made great effort to develop Uganda. It has made tremendous achievements like Universal Primary Education, which is the envy of many countries in Africa and is being emulated in Kenya. It has introduced freedom of speech and the press, in a manner that is far ahead of most of its neighbours. This current Constitutional process is another achievement.

However, by the very nature of the system of government they inherited (unitary system of government), despite its best intentions, best efforts and first class leadership, they are hampered by this system of government. Consequently, peace has and continues to elude many parts of Uganda. Industrial and urban development outside Kampala has retarded, agricultural and other produce has fallen drastically, the development of public infrastructure is virtually non-existent. The most acclaimed and skilful rally driver cannot do much if he is given a ramshackle dilapidated vehicle to use in a competition. A good driver can only excel when using a good vehicle. The government of Uganda needs to renounce the inherited post 1967 system of government, and to obtain a new vehicle, which is the federal system of government.

CHAPTER I: THE FEDERAL SYSTEM OF GOVERNMENT

1. Introduction

The Federal System of Governance is not about getting rid of the Central Government. It is not about party politics. It is not about multipartism or absence of it. It is not about religious differences. It is not about tribalism. It is not for the benefit of Buganda alone. It is not about monarchism. It is not about land or dispossessing people from land. It is not about supremacy of one region over others.

It is about helping the Central Government to provide services more efficiently and provide more effective development to the people. It is about sharing power and responsibilities between the Central Government and the Regional Governments.

Federalism is about providing more prosperity, more wealth, more sense of belonging and participation in governance by marginalised and non-marginalised people. The Federal system of government minimises possibilities of waging war against the Central Government. It minimises internal acts of terrorism and discontent against the Central Government.

It has inbuilt safeguards that ensure uniform growth for all the regions of the country, and additional measures to make sure that marginalised or less developed regions of the country can catch up, through the system of equalisation grants and affirmative action programmes. These ensure that regions with greater income and development contribute a pre-agreed percentage of their earnings to the development of areas that may be less developed.

It should be noted that federalism does not contradict or exclude Decentralisation. The two methods of government can and should co-exist and complement each other, at Regional level. Advocating for

federalism does not mean or seek to undermine decentralisation from the Centre. Nor does it mean the abolition of District Governments, District MPs, LCs and other local government officials.

2. What is a Federal System of Government?

- ❑ In general, the *World Book Encyclopaedia*¹⁹ defines the Federal system of governance as follows:

“Federalism is a system in which power is divided between a Central (national) Government and smaller government units.... The division is usually contained in a constitution.”

- ❑ The same encyclopaedia²⁰ elaborates that:

“The powers of government are shared between the central government and the state or provincial governments”.

- ❑ In the most basic sense, “Federalism” is a national system of governance in a country, whereby there is one Central Government for the entire country, and there are also regional governments for the various regions in the Country²¹. This is achieved by the national constitution of a country outlining the powers and functions of the Central government on the one hand, and then the powers and functions of the regional governments, and entrenching these powers to the extent that neither government can encroach on the powers and responsibilities of the other.
- ❑ Professor K.C. Wheare²² of the Oxford University in the United Kingdom, defined the essence of federalism in his famous article “What Federal Government Is”²³ as follows:

“What then is federalism? Its essence consists, I think, in this: that in a federal system, the functions of government are divided in such a way that... there is a relationship between the legislature which has authority over the whole territory and those legislatures which have authority over parts of the territory.... In a federal government there is division of governmental functions between one authority, usually called the federal government²⁴, which has power to regulate certain matters for the whole territory, and a collection of authorities usually called state governments, which have power to regulate certain matters for the component parts of the territory...”

- ❑ Under this system, the Central Government shares power and responsibility over the people with the respective regional governments. The essence of federalism is the perpetration of both union and non-centralised forms of governance.

3. What does the Central Government do under a federal system of government?

- ❑ The Central Government has control over matters of national significance and importance. These are matters that concern all regions of the country. These ordinarily include: national defence, the army, national police and security, citizenship and immigration, currency and the banking system, customs, taxation and national fiscal and economic policies, foreign and international relations, national public service and national parastatals and institutions, judicial functions, national

¹⁹ Volume 7, page 66, World Book Inc. 1994

²⁰ Volume 8, page 287, World Book Inc. 1994

²¹ “As a basis of political association, federalism may be defined as the mode of political organisation that unites separate polities within an overreaching political system in such a way as to allow each to maintain its own fundamental political integrity”

²² A Fellow of All Souls College and Gladstone Professor of Government and Public Administration at the University of Oxford, in the United Kingdom.

²³ Published by the Federal Union in 1940.

²⁴ In Uganda, this is usually called the “Central Government” and the term federal government refers to the regional / state governments.

telecommunication, electricity and energy, inter- region highways, dams, rail networks, airports and aviation, national monuments, minerals, water and other natural resources, national elections, national agricultural policy, national industrial policy, disasters, control of national epidemics and such other national matters.

4. What do the regional governments do under a federal system of governance?

- ❑ The regional governments have the autonomy to decide matters of regional significance in accordance with the Constitution. Examples of such matters of regional significance include: cultural matters, education, health services, agriculture, feeder roads, local amenities, local development plans, local economic policy, community development and other matters which are not handled by the Central Government.

5. What is the objective of Federalism?

This Report will demonstrate that:

- ❑ The primary philosophy under this system is that the regional governments are given autonomy to decide their regional affairs themselves on terms that best suit their people in the respective regions, while the Central Government has control over matters that are common to all regions and relevant to the nation as a whole²⁵.
- ❑ Author Richard Laming²⁶ states that:

“The most important aspect of a federal system is that it recognises that there are different types of political issue which need different types of institution to deal with them. Some affect only local areas, others are more widespread in their scope. The institutions of government should reflect this. The idea that government should be based solely on central institutions is old fashioned and out of date.”
- ❑ Federalism makes it possible for various regions of the country to pursue national objectives together as a nation, yet at the same time address their peculiar regional interests, objectives, concerns, problems and challenges²⁷.
- ❑ Federalism also enables regions within a nation that may be diverse and with different characteristics to co-exist effectively as one nation. It allows unity in diversity.
- ❑ Federalism promotes peace and stability by minimising internal strife, disaffection and insecurity.
- ❑ Federalism decongests the scramble for power, jobs and positions at the centre.

All the above points will be elaborated upon later in this Report.

6. How does the federal system of Government differ from the unitary system of Government?

²⁵ “Federal Government is government of a federal community. Such a community is characterised by a territorially diversified pattern that calls for two levels of Government, one to deal with the common, and the other with the territorially diverse.” Page 136, *Encyclopaedia Britannica, Volume 9, Encyclopaedia Britannica Inc. 1970.*

²⁶ “An Introduction to Federalism” June 2001

²⁷ “Federalism developed as a response to the ancient question of how to link separate political communities together in order to pursue effectively objectives unobtainable alone, but without submerging their own identities” *Stephen Woodward, “The Simple guide to the Federal Idea” (1995)*

- ❑ The federal system of government differs from a unitary system of government, in that under a federal system, regional governments (provinces / states) share power and authority with the Central Government, while, according to the World Book Encyclopaedia,

“the unitary system gives the principal powers to the Central Government. The state, provincial and local governments are created by the Central Government. They have only those powers that the Central Government gives them.”²⁸

- ❑ The Encyclopaedia²⁹ adds that;

“Federal systems differ from unitary systems. In a unitary system, all power legally derives from the central government. States or provinces have only those powers the central government gives them.”

In other words, under the unitary system of government, all powers, authority and responsibility are concentrated in the central government. It may delegate or withdraw such delegated powers from lower administrative units. On the other hand, under a federal system of government, power is shared under a constitutional arrangement between the central government and the regions.

This point will be elaborated upon later in this Report.

CHAPTER II: THE FEDERAL SYSTEM OF GOVERNMENT IN THE WORLD TODAY:

7. Is federalism a viable system of governance?

- ❑ The federal system of government has successfully existed and worked for several centuries, and in many countries in the world.

8. Is federalism practiced in developed countries?

- ❑ Many of the most developed countries in the world are governed under the federal system of government. These include: the United States of America, Canada, the Federal Republic of Germany, Australia, Austria, Switzerland, Belgium, Spain, and many more. Many of these countries are the most stable and economically successful democracies in the world.

9. Does the Federal System of Government work in developing countries? Does it work in Africa?

- ❑ The Federal system of Government works well for both developed and developing countries alike. Examples of developing countries include: Brazil, Malaysia, Mexico, Venezuela, Pakistan, Argentina, and India. Specific African examples include South Africa (under its autonomous provincial system³⁰), the Comoros Islands, and Ethiopia.

10. Does the Federal System of Government work in countries with diverse ethnic groups?

- ❑ Yes. As a matter of fact most of the countries with a federal system of government have very diverse peoples.
- ❑ An example of this is India. With a population in excess of 1 billion people, and a physical size of more than 50 times the total land area of Uganda, India is governed under a Federal System of government, and it has never had a military coup or an illegal overthrow of government in over 50

²⁸ Volume 8, page 287, World book Inc. 1994

²⁹ Volume 7, page 66, World Book Inc. 1994

³⁰ South Africa has a unique system that gives its provinces regional autonomy over many of their affairs (although the provinces have a unitary relationship with the Centre).

years of independence. Although India has many different ethnic communities and is the world's largest democracy, it has worked well under the federal system of government.

- ❑ Another example is Brazil, which has over 160 million people and is the 5th largest country in the world. Its conditions are not different from those of India shown above, yet federalism has thrived there too, and she has had very stable governments.
- ❑ The Russian Republic extends over nearly six Time Zones and contains people from very many different historical and ethnic backgrounds. Federalism is considered to be the most effective way to govern these diverse peoples.

11. Does the federal system work in small countries or countries with small populations?

- ❑ The size of a country or its population is irrelevant. Even small countries like Switzerland and Belgium, which are much smaller than Uganda in size and population, function with very effective federal systems. Federalism works effectively in large countries just as well as it does in small ones³¹.

12. Why does the federal system of government work in countries where it is practiced?

- ❑ The Federal System of Government works in these countries because the respective central governments recognise the existing diversities amongst their peoples and regions and that different regions have different problems, concerns and priorities.
- ❑ In India for example, the Central Government in New Delhi knows that some of the problems of Punjab state are different from those of Uttar Pradesh. The Central Government recognises the diversity of their peoples, and problems. It knows that it is not in the best position to decide for these people how their unique local problems should be solved.
- ❑ In the United States of America, the different states located in different parts of the country have different problems. For example, states on the west coast like California, Nevada, Arizona, New Mexico, and Texas are very dry. Some of their annual local concerns are earthquakes, wild fires and droughts, hence some of their biggest priorities are to build structures for irrigation, to build earthquake proof buildings, and improve fire-fighting techniques.
- ❑ By contrast the states on the US east coast like Massachusetts, New York, Connecticut, or Rhode Island, do not care about droughts, fires or earthquakes. Their local concerns are instead related to long cold winters.
- ❑ Southern states like Florida, and Louisiana are not unduly concerned about winters, or fires. They worry about tornadoes, hurricanes and floods, which kill their people and destroy property worth billions of dollars every year.
- ❑ The US Federal Government³² recognised early on that the USA was a collection of different states, with different peoples, different geographical conditions and different problems. The US Federal Government does not purport to know how to solve all these variety of problems from Washington DC. It has recognised that the states themselves should be the best entities to deal with these problems.

The federal system thus understands:

- ❑ that the best people to appreciate and devise solutions to the local problems of the various federal regions are the people of those regions and not the central government.

³¹ See schedule to this Report that demonstrates this proposition.

³² In the USA, the Central Government is called the "Federal Government".

- ❑ that the central government has so many national obligations that it cannot effectively cater for the peculiarities of each local concern of each region.

This not only enables the central government to effectively focus on national issues, but it also allows the people most concerned about their peculiar problems to handle and solve those problems.

CHAPTER III: THE FEDERAL SYSTEM OF GOVERNMENT IN UGANDA

13. Has Uganda ever been governed under a federal system of Government?

- ❑ Yes. Under the 1962 Constitution, Uganda had a federal and semi federal states of Ankole, Buganda, Bunyoro, Toro, the Territory of Busoga.
- ❑ This federal and quasi-federal system of governing the kingdom states of Uganda had existed throughout the colonial period.

14. Did this Federal arrangement work in Uganda?

- ❑ In Uganda's recorded history, the period between 1900 and 1966 was the period that marked the fastest level of development of Ugandan society. In this period, we saw the rapid economic transformation.
- ❑ Most of the national institutions, schools and colleges (like Makerere University), roads, hospitals (like Mulago Hospital) and much of our physical infrastructure were all built and set up during this period. Most of the feeder roads in Uganda today were built during this period before 1962.
- ❑ Uganda's economic growth rate in the 1950's and 1960's was one of the fastest in the world. We were a more economically advanced society than the famous Asian Tiger nations like Singapore, Malaysia, South Korea and Taiwan. In East Africa, we were far ahead of our neighbours Kenya and Tanzania, and other nations in the region. Uganda was then known as the Switzerland of Africa.

15. What happened to the Federal System of Government in Uganda?

- ❑ In 1966, the Kabaka's palace was invaded by the Central Government and the Kabaka was forced into exile. Uganda's federal system was unilaterally abolished in contravention of the pre-agreed 1962 Constitution. This was done without any consultation or consent of the people of Uganda.
- ❑ In 1967, a new constitution was put in place that abolished federal arrangements all over Uganda. This Constitution also unilaterally abolished the institutions of traditional and cultural leaders in Uganda. It also centralised the system of government to the extent that muluka chiefs were direct appointees of the President of Uganda.

16. Why was the federal system removed? Was it because it did not work?

- ❑ Various reasons can be advanced for the forceful overthrow of the system, but the most important one was simply the clash between the two leaders of the time.
- ❑ Evidence of the fact that it was this clash and not the failure of the Federal System, can be found in the speech made by former President Obote to the National Parliament on 30th June, 1966. This speech is reported in the "Parliamentary Debates (Hansard)", 1st Session, 1966-67, 2nd Series, volume63, from pages 529 onwards. At page 534, Hansard Reports, in Obote's own words that

“the cause of the trouble is the ambitions of Sir Edward Muteesa and nothing more”.

- ❑ On the other hand, Sir Edward Muteesa II in his book “The Desecration of My Kingdom” at page 174 states that..

“..later the legality of his (Obote’s) actions was clear, but he does not care much for ...the law. He cares for power and this he retained.”

- ❑ Nevertheless, although Obote invaded the Palace in 1966, when he introduced his pigeonhole Constitution in April 1966, he did not, under that Constitution, abolish the Federal system of government for Uganda. Instead he engaged in dialogue with the Buganda leadership to find out whether they would install another prince as the Kabaka.
- ❑ It was only after Buganda refused to have any other Kabaka but Mutesa II, that Obote decided in May 1967 (over a year later) to abolish the federal system, and to rule the whole country from the centre.
- ❑ This he did by introducing the 1967 Constitution, under which he renamed Uganda a Republic.
- ❑ The clash between the two leaders was exacerbated by the problems inevitably caused when a new position of Head of State (a political role) was created in 1964. A traditional leader, who at the same time was the head of his own regional Kingdom, occupied this new contradictory position of the presidency.
- ❑ The merger of traditional leadership of a Kingdom and political leadership of the Nation, led to an inevitable clash between the two institutions, as well as between the President and Prime Minister. Many important lessons must obviously be drawn from this experience.
- ❑ The Federal system that had worked well throughout the colonial period and in the early years after independence thus came to an end.

17. What happened to Uganda after the overthrow of the system?

- ❑ From that overthrow of the Federal system, Uganda as a nation state began its journey of steady decline for over two decades, with unprecedented terror, tyranny, lawlessness, infamy and rogue-state status around the world.
- ❑ The National Resistance Movement resolved to fight this tyranny and went to the bush to return peace, democracy and prosperity to Uganda. This liberation war was fully and actively supported by the Kabaka, and the people of Buganda, as well as very many people elsewhere in the Country.

18. Would the Federal System of Government work in Uganda?

- ❑ Yes. It must be recognised that Uganda is made up of various groups of people with diverse traditions and cultures. We must also acknowledge a reality that the majority of our people are rural and unsophisticated. They live and practise their traditional ways of life.
- ❑ It must also be acknowledged that, just like in the United States, different regions of Uganda have different local problems. For example, the people of Soroti District have to contend with violent cattle rustling which results in terrible loss of life and property. Those in Gulu live under fear of frequent rebel raids. Eastern Uganda has had droughts. Karamoja badly needs water dams. Hoima has no tarmac roads. Kalangala wants a reliable ferry service. The list of unique local needs and priorities, ignored by the centre, is endless.

- ❑ The people in Soroti may feel that cattle rustling is their priority problem, yet the people in Gulu believe the rebel war is the most important thing. The decision makers in Kampala, not being from either of those regions, may not know how to solve these problems and may not see these problems as priority matters.
- ❑ Each area of Uganda has its different problems and challenges. The people of these areas have over the centuries been able to address these natural problems in their traditional and cultural ways. The people in these regions need to be given an opportunity to decide on their own what is the most effective way of addressing their problems and priorities.

19. Do the people of Uganda like the Federal System of Government?

- ❑ The will of the people on the question of the federal system of Government was tested by the Odoki Constitutional Commission³³. The results of the views collected by that Commission showed that the Federal System of Government was very popular not only in Buganda, but also in Uganda as a whole. Ninety Seven Percent (97%) of the people of Buganda wanted it and Sixty Eight Percent (68%) of the all the people of Uganda also wanted this system of Government. The investigations, research and interviews carried out by the Buganda Constitutional Commission have confirmed that the views of the people of Buganda and Uganda on this matter have not changed.

20. Was the Federal system of Government implemented in the 1995 Constitution of Uganda?

- ❑ No. To the complete surprise of Ugandans who had been asked to make their proposals to the Commission and who had been assured that the new Constitution would reflect their wishes, the 1995 Constitution of Uganda did not respect or follow those wishes at all! It did not introduce the federal system of government which the Odoki Commission had found the majority of Ugandans had shown that they wanted. Instead it continued with the unitary system of governance which had been supported by only 3% of the people of Uganda, and 32% of the rest of Ugandans!

This was one reason why many people in Buganda felt very sceptical of the new (current) Uganda Constitutional Review Commission, believing that what people wanted did not really matter. That it is a window dressing diversion which will end like the recommendations of its predecessor.

The Buganda leadership eventually succeeded in persuading the reluctant Buganda population to participate in this constitutional process, assuring them that this time their wishes will be respected.

CHAPTER IV: THE FEDERAL SYSTEM OF GOVERNMENT AND PROCESS OF DECENTRALISATION

21. What is the Decentralisation Process?

- ❑ Decentralisation can be simply described as an administrative process under which authority to govern is delegated from a higher administrative authority to lower units for more efficient delivery of services.
- ❑ The process of Decentralisation can exist both under a unitary or federal system of government. Currently the Constitution of Uganda provides for decentralisation from the Centre under a unitary system.

³³ The Uganda Constitutional Commission that was established to collect views leading to the enactment of the 1995 Constitution of Uganda.

- ❑ Under decentralisation in a unitary system, many of the functions, powers and responsibilities of the Central Government are delegated to lower units. In Uganda's case, these functions, powers and responsibilities are delegated to the districts, which in turn delegate some of this authority to lower local administration units³⁴.
- ❑ Under this type of decentralisation³⁵, the districts have only those powers that are delegated to them by the Central Government. In other words, the districts are really agents of the Central Government and only exercise the powers delegated by the Central Government as at that time. Real power is concentrated at the Centre.
- ❑ Decentralisation as it exists in Uganda today is therefore an arrangement under which the Central Government implements its policy decisions through lower government units. The Central Government delegates some of its power and authority to the districts to implement the policies of the Central Government.

22. What is the purpose of decentralisation?

- ❑ Decentralisation is an ideal tool for implementing government policy at lower levels of government. It came about because it is practically impossible for governments, whether regional (federal) or unitary, to effectively implement policies of government at lower levels. Under decentralisation, government authority is delegated to lower administrative units for implementation.
- ❑ The 1995 Constitution of Uganda purported to extend the power of local governance to the people through the process of decentralisation³⁶. The 1995 Constitution hoped that decentralisation would ensure people's participation and democratic control in decision making processes and that it would lead to the full realisation of democratic governance, accountability and people's supervision at local government levels³⁷. Under the National Objectives and Directive Principles of State Policy in the 1995, it is clearly provided³⁸ that:

"The state shall be guided by the principle of decentralisation and devolution of governmental functions and powers to the people at appropriate levels where they can best manage and direct their own affairs."

- ❑ The people of Buganda feel very strongly that the current process of decentralisation does not and has not effectively met the above constitutional objectives. There is no actual devolution of authority, there is lack of proper accountability, there is lack of effective people's participation, there is a lot of opportunity for corruption, and there is serious lack of supervision of local governments. A more realistic method of truly extending power to the people to manage and direct their own affairs is through the federal system of governance.

23. How does Decentralisation under a unitary system compare with the Federal System of Governance in delivering power to the people to manage and direct their local affairs?

- ❑ Decentralisation under a unitary system of government relies on delegated power from the Central Government. The real power of government is concentrated and remains at the Centre.
- ❑ On the other hand, because the federal system of government emphasises regional autonomy in regional affairs, decentralisation under the federal system of government starts at regional level and not from the Centre. Power is concentrated at the regional level and is decentralised down to

³⁴ Article 189(1) and (2) of the 1995 Constitution.

³⁵ Decentralisation from the Central Government to the Districts and lower administrative units.

³⁶ Article 176(2)(b) of the 1995 Constitution of Uganda.

³⁷ Articles (176(2)(b) and (c) of the 1995 Constitution of Uganda.

³⁸ Under part II (iii)

lower administrative units under the federal system of government. Because these regional governments are closer to the people, federalism actually works more effectively in delivering power and democratic participation in local governance to the people.

- ❑ In other words, under the current decentralised arrangement under a unitary system government in Uganda, districts are required to implement the policy of the Central Government and exercise the authority of the Central Government. This is an agency relationship between the Central Government and the districts. Power under the current system of decentralisation is with the Central Government. There is little or no autonomy for the regions or districts to decide major policy decisions themselves.
- ❑ Under a federal system of Government on the other hand, federal regions, subject to the national constitution, would have the power to decide their own regional priorities and policies and how to implement these priorities and policies. Federalism gives regions real autonomy and authority to decide their own local affairs. There is no agency relationship between the Central Government and the regional federal governments. The regions would have real autonomy to decide their affairs.
- ❑ Under the current decentralisation arrangement in Uganda, the delegated power or responsibility from the Central Government can be unilaterally un-delegated any time, either by administrative directive or by amendment of the laws or even of the Constitution itself. The Central Government can take away the powers it delegates to the districts at any time.
- ❑ Under a federal system of Government, the powers and responsibilities of the federal region cannot be unilaterally taken away. These always remain at the federal level and with the people of that region. It is up to the region to make all decisions on matters that affect them locally. The Federal system of government is a power sharing arrangement, where some powers are left exclusively to the Central Government (and cannot be taken away), while others are left exclusively to the regional governments and cannot be taken away. It is a binding contract between the Central Government and the Federal states. Under that agreement, the parties agree on the extent of sharing responsibilities, powers, functions and resources. This agreement cannot be changed by one party without the consent of the other affected parties. Changes can only be made after agreement by all affected parties to the Agreement (the Constitution)³⁹. Under the federal system of government, power cannot be taken away without complying with constitutional provisions.
- ❑ Under the current arrangement of decentralisation in Uganda, many important policy decisions are made by the Central Government and are merely implemented by the districts. The real policymaking power lies with the Central Government, and the local government units are only required to implement that policy. In many cases, the Central Government that makes these policy decisions is too far removed from the local grassroots to make effective policy priority decisions.
- ❑ Under Federalism, decisions that affect particular regions are made at regional level by the particular region affected. The Central Government generally makes decisions that affect the entire country. Decisions affecting a region are decided upon directly by the people of that region (and not the Central Government). Regional governments have authority to decide on matters that affect their people in that region.

³⁹ Prof. C. K. Wheare in his article **‘What Federal Government is’** argues that “..the power of amending the part of the Constitution that embodies the division of powers must not be conferred to either the federal government acting alone, or upon the state governments acting in co-operation... Whatever arrangement is made, the essential thing is that neither the federal government nor the state governments should be authorised to alter unilaterally the extent of powers which they exercise..”

- ❑ In the current decentralised arrangement in Uganda, accountability for the actions and performance of the decentralisation units is to the Central Government, which delegates the authority.
- ❑ Under the Federal arrangements, regional accountability is directly to the people of that region, who decide regional policy.
- ❑ Under the current process of decentralisation, most of the resources and funding due to district units are determined by the Central Government and the Central Government directs these districts on how to spend this allocation.
- ❑ Under a federal system of Government, a federal region is entitled to a pre-agreed percentage of taxation revenue that cannot be unilaterally changed, and the Federal region has discretion on how to allocate these resources in accordance with the specific needs and specific problems of that region⁴⁰. The federal system of Government allows for financial certainty, which is important for planning and development.
- ❑ All the above propositions clearly demonstrate that decentralisation under federalism would better extend real power of self-governance to the people of the lower administrative units than the current process of decentralisation under the unitary system of government that is currently in place in Uganda.

24. Should Uganda retain decentralisation under a federal system of government?

- ❑ Decentralisation is an effective tool of development and in fact, the federal system of governance cannot function effectively without it. The current objection is to decentralisation from the centre, which centre is too removed from the local administrative units to effectively supervise, monitor and control decentralised authority. The arrangement of governance from federal level, down to the grass roots, is and should be through decentralisation.

As will be demonstrated later in this Report, Federalism is necessary to fill in the gaps created by decentralisation and to make decentralisation work even more effectively.

- ❑ Decentralisation works very well under a federal system of government from the regional level downwards. This is because the regional governments that are the local policy makers are closer to the people affected by these decisions.
- ❑ However it does not work effectively from the national or Central Government level to the village level. This is because the Central Government is too far removed from the village level to be able to effectively design policy that is responsive to the individual needs of the villages in every part of Uganda.
- ❑ Decentralisation only works effectively where the government is close enough to the people it is governing. Under the current arrangement in Uganda's constitution, the Central Government is supposed to look out for national matters that affect Uganda as a whole, yet at the same time watch closely all the local matters that affect the various parts of Uganda. Because the central government is too far removed from the local administration units, it cannot design and implement effective policies that properly address all the local problems of every local region.

⁴⁰ Prof. K. C. Wheare (supra) argues that "...both state and federal authorities in a federation must be given power in the constitution each to have access to and to control its own sufficient financial resources. Each must have the power to tax and to borrow for financing its own services by itself..."

- ❑ Under recommendation 18.3⁴¹, the “Odoki Commission” noted from the negative part of our national history that:

“Ugandans managed their own affairs before the force of colonialism swept away most aspects of autonomous management of our affairs. But the memory of proud traditions did not die. And so people were glad to again take more control of their own lives with the establishment, first of local advisory councils in the 1930s and 1940s, then of elected governing councils at district and lower levels in the 1950s and 1960s. But the discussion of the history of local government later in this chapter shows that the flowering was brief, crushed in the mid 1960s by the central government which was suspicious of and threatened by local forces it could not dominate. There followed twenty years of centralisation when local initiative was crushed, the capacity of local administration minimised. Through this period, the people longed for peace and stability based upon their full involvement in government and in the management of matters most closely affecting them.”

- ❑ The federal system of government would allow the people of Uganda to again effectively manage their affairs through decentralisation emanating from the regional governments (and not the Central Government).

25. What are the problems with Uganda’s current system of decentralisation?

- ❑ Perhaps the most serious and valid criticism against the arrangement of decentralisation in Uganda is the fact that it is based on tiny un-viable political units. The District system, which is the basic unit for decentralisation in Uganda⁴², is not a viable political, economic or social unit. It is too small to be capable of making useful strides in national development⁴³. This is over – decentralisation. Decentralisation should start at a regional level.
- ❑ The 1990 Kabera Committee on Rationalisation of District boundaries noted that at least 11 of the then 34 districts were not viable in the sense that they had insufficient revenue. It also pointed out that many districts had been created with out the basic infrastructure and revenue needed to operate effectively. The Report warned that creation of districts alone could do little to reverse the trend in the breakdown of government services to the people. This was the position in 1990.
- ❑ Today, Uganda has 56 districts, each with its own policies and administrative structures. Because each district is independent of the other and only reports to the Central Government, the districts are limited greatly in what they can achieve. For example, each district has an education budget. But because the national education budget is divided up among 56 districts, each district’s share is a very small percentage of the national budget. This small percentage cannot be used productively to improve education. Can the district of Kalangala on its own for example, set up a university? Can Moroto district set up a regional referral hospital? Can a small unit like a district build an effective road? Any single district may not be able to mobilise the necessary funding or manpower to undertake such necessary but large projects. Yet the Central Government cannot do all these things effectively for all the regions in Uganda.
- ❑ It is the effective merger of current districts into larger viable federal units that is likely to lead to regional universities, regional road systems, and regional policies on matters like health, education, agriculture and economic development plans. After these regional plans and policies

⁴¹ A recommendation made by the Uganda Constitution Commission chaired by Justice Odoki, leading to the 1995 Constitution.

⁴² Article 176(1) of the 1995 Constitution of Uganda.

⁴³ The 1990 Kabera Committee on Rationalisation of District boundaries noted that at least 11 of the then 34 districts were not viable in the sense that they had insufficient revenue. It also pointed out that many districts had been created with out the basic infrastructure and revenue needed to operate effectively. The Report warned that creation of districts alone could do little to reverse the trend in the breakdown of government services to the people. There are now about 56 districts today. The position has deteriorated even more since this Report was published in 1990.

have been developed, then decentralisation can be applied at the regional level to implement them.

- ❑ Under unitary decentralisation processes, most of the planning and budgeting is the responsibility of the Central Government and accountability goes to the Central Government. For example, the people of West Nile region do not meaningfully participate in the decision making process of the Minister of Finance in allocating budgets to the districts. The Minister of Finance, sitting in Kampala, will largely dictate to the people of West Nile Region how much money they will get in Financial Year X, and how they are going to spend it, and they must account for it to him, yet the Minister is too far removed from West Nile to effectively make budgeting and development decisions for the region.
- ❑ Under the Federal model on the other hand, the regions themselves decide these affairs. This would bring the decision making process closer to the people. Supposing the people of West Nile region produce tobacco worth Shs. 90 billion a year. All this money currently goes to the Central Government. Then the Central Government, sitting in Kampala not only decides that Shs. 15 billion should go back to West Nile, but also decides on how it should be spent. How can a minister, and his bureaucrats, sitting in Kampala realistically know what the people in West Nile actually want? Is it a surprise that in the year 2003, West Nile region does not have electricity? Without electricity, how is it expected to build factories, and industries so that it can create employment and generate wealth?
- ❑ The current process of decentralisation is flawed because it over concentrates power with the Central Government instead of regional governments which would be closer to the people.

Currently, the central government generally decides unilaterally what the revenues and resources of the districts will be, regardless of the people's productivity in the districts. Under the federal arrangement, the people will be entitled to a minimum pre-agreed percentage of revenues produced in their areas to allow them to implement their development priorities, which in turn will encourage them to be more productive. These revenues may then be topped up by the equalisation grants (to be discussed below).

- ❑ The second weakness with the current decentralisation model is that the Central Government generally decides what the money given to districts should be used on. If the people of West Nile had been given real power to decide on the priority of their expenditure, they would now probably have electricity and factories. West Nile is but one example of what is true to most of Uganda's regions. The Central Government is too far removed from the villages to be able to make effective and proper decisions on how money should be spent. The regional governments under the federal system are closer to the people and can make more informed judgments.
- ❑ Under decentralisation, virtually all major appointments to regional jobs (apart from locally elected representatives) are made in Kampala. Under the Federal system appointments are made locally at the region level, giving a chance to local people to serve their regions, and accountability is done by local people to the local region itself. This has potential for reducing corruption and making public officers more accountable to their constituencies.
- ❑ The Federal system of Government devolves seats of power and brings them closer to the people and minimises undue dependence on the Central Government for every aspect of development. Since the abolition of the Federal system of government in Uganda, the country has been engaged in constant struggles for power. In a space of only 40 years, we have had no less than six violent overthrows of governments and endless wars. This is because the only seat of power in the country is in Kampala. It also has the potential for creating politics of cronyism, with changing regimes and leaders surrounded by "yes men" seeking political favours. Under the Federal model, some of the power base will shift to regional levels and is likely to reduce on the pressures our history has shown of people fighting for power and jobs in the Central Government.

- ❑ Professor Ali Mazrui, argues strongly that the federal system of government is a solution to ethnic problems of African countries and its denial has caused plenty of bloodshed. He writes:

“There is an American innovation which is missing in Africa, which has not been promoted by the United States, and which may be far more relevant for liberal democracy in Africa in the 21st Century than many realise. The missing American agenda is federalism..... What has been remarkable since independence has been, loosely, Africa’s reluctance to seriously consider federalism as a solution to its tumultuous ethnic upheavals....⁴⁴”.

- ❑ Big regional federal blocks have a stabilising and balancing influence over a potentially despotic Central Government.
- ❑ The Federal system of government takes advantage of the natural geographical or social and cultural factors that bring people together in particular regions of the country to achieve uniform regional development. Recognising these systems and taking advantage of them can lead to national development more effectively and efficiently on a regional basis than can the arbitrary district units set up under decentralisation in Uganda today.
- ❑ The Federal system allows the various people of Uganda to celebrate their diversity under a united Government.

26. How would decentralisation co-exist with a federal system of government?

- ❑ In all countries where there is a federal system of government, there is also decentralisation⁴⁵. The federal system of Government is a power sharing arrangement between the central government and the regional government. However, the arrangement between the region and the village level is one of decentralisation.
- ❑ Decentralisation is indeed necessary to have effective local government under federalism. Even Uganda’s history with federalism bears this out clearly. As early as the 1940’s and 1950’s, although Buganda was a Federal state, it’s local administration was organised through decentralisation. This was even reflected in the Buganda Local Government Councils Law, 1965, which is in many respects similar to our current Local Government Statute, and the Great Lukiiko (Election of Representatives) Law, 1953, of the Kingdom of the time that provided for election of local government officials in Buganda.

Decentralisation becomes a viable process of local government administration at the regional level and co-exists effectively with federalism in Uganda.

CHAPTER V: ESSENTIAL FEATURES OF A FEDERAL SYSTEM OF GOVERNMENT:

27. What are the essential features of a federal system of Government?

- ❑ Four essential requirements must exist for a federal system of government to function properly⁴⁶. These are:
 - i) The division of powers between the central governments and the regional governments must be explicit and protected in the National Constitution, and neither government must be able to encroach on the powers of the other.

⁴⁴ Ali Mazrui, “The Nation”, 1998.

⁴⁵ “...true federalism requires decentralisation..” Volume 8, page 287, the World Book Encyclopaedia, The World Book Inc. 1994.

⁴⁶ According to Professor K. C. Wheare (supra)

- ii) In order to protect the division of powers between the central and regional governments, neither government should have the right to amend or alter the provisions of the Constitution that relate to this division of power unilaterally or without the consent of the other party. In any case such amendments could only be made by special majorities.
 - iii) There must be an independent judicial body / authority with the power and authority to adjudicate any disputes between the Central government and the regional governments that may arise out of the power sharing arrangements between the two types of government. This body must be independent.
 - iv) Both the Central Government and the regional Governments must have unfettered control and access to the financial resources necessary for them to carry out their functions. The Constitution must empower each of these governments to raise the necessary funds to perform their functions, without them having to depend on each other.
- Professor K.C. Wheare,⁴⁷ of the University of Oxford in the United Kingdom, in his famous article "What Federal Government Is"⁴⁸ identified the following key features of an effective federal system of government:

"First of all, since federal government involves division of functions and since states forming the federation are anxious that this division should be explicit and guaranteed...it is essential for a federal government that there is a written constitution embodying the division of powers, and binding all government authorities throughout the federation. From it all state and federal authorities throughout the federation derive their powers and any actions they perform to the contrary are invalid. It must be the supreme law of the land..."

"In the second place, if the division of powers is to be guaranteed and if the constitution embodying the division is to be binding upon federal and state governments alike, it follows that the power of amending the part of the Constitution which embodies the division of powers must not be conferred to either the federal government acting alone, or upon state governments acting in co-operation.... Whatever arrangement is made, the essential thing is that neither the federal government nor the state governments should be authorised to alter unilaterally the extent of powers which they exercise..

"Again if there must be a division of powers and if this division of powers must be inscribed in a constitution and if this inscribed division must be guaranteed, it follows in any case of dispute between federal and state governments as to the extent of powers allocated to them under the constitution, some body other than the federal and state governments must be authorised to adjudicate upon those disputes..."

"Finally, if governmental authorities in the federation are to really co-ordinate with each other in actual practice as well as in law, it is essential that there should be available to each of them, under its own unfettered control, financial resources sufficient for the performance of the functions assigned to it under the constitution. It is no good allotting functions to the federal or to state authorities and devising legal safeguards so that each should be limited strictly to the performance of its respective functions, unless at the same time, adequate provision has been made so that each authority can afford to do its job without appealing to the other for financial assistance. For if state authorities, for example, find that the services allotted to them are too expensive for them to perform, and if they call upon the federal authority for grants and subsidies to assist them, they are no longer co-ordinate with the federal government, but subordinate to it.

⁴⁷ A Fellow of All Souls College and Gladstone Professor of Government and Public Administration at the University of Oxford, in the United Kingdom.

⁴⁸ Published by the Federal Union in 1940.

Financial subordination makes an end of federalism in fact, no matter how carefully the legal forms may be preserved. It follows therefore that both state and federal authorities in a federation must be given power in the constitution each to have access to and to control its own sufficient financial resources. Each must have the power to tax and to borrow for financing its own services by itself. If not, the federal government will soon break down in practice.”

CHAPTER VI: COMMON MISCONCEPTIONS ABOUT FEDERALISM IN UGANDA

28. Does Buganda want to return to the 1962 Federal system?

- ❑ No. There are several Federal systems that operate in the world. Each of these is based upon the peculiar, social and economic circumstances pertaining to the particular country. The times and development of the societies also make a difference. For example a federal system that was suitable in 1962 certainly needs modifications to make it work in the year 2003. This is because every federal system has to be adjusted to meet the demands of the times. Other countries do this by amending the Constitution, but such amendment has to be agreed upon by all the affected parties.

29. What is the position relating to the 1962 Federal Arrangement?

- ❑ The 1962 federal arrangement needs to be re-examined and amendments need to be made. An example of necessary amendments is the scope of its application. Under this arrangement, a federal status was granted only to the Kingdom states of Uganda. The non-kingdom districts were denied the opportunity of ever enjoying a federal status. The rest of Uganda was under a unitary system. Even in the case of the kingdom states that were granted federalism, each received it on different terms and with varying federal rights. Although the rest of Uganda was being governed under a unitary system of government through their own choosing at the Lancaster Conference in 1961, their inability ever to have a federal system of government is an imbalance that cannot be sustained today. Every region in Uganda should have the right to pursue a federal status and every federal region of Uganda should enjoy the same rights and privileges as the other federal regions in the country. Every region should have a right to a federal status and to enter into such an arrangement immediately, or whenever it is ready to do so.

30. What criteria are generally used to create federal states?

- ❑ There are a variety of criteria used around the world to determine the type of federal system most appropriate to each particular nation. Sometimes, federal states are born out of cultural, ethnic or linguistic similarities and differences⁴⁹. In other countries, the divisions depend upon differences in the economic activities of the various regions of the country⁵⁰. In others still, the difference may come from geographical location⁵¹. Other countries simply divide up the country into viable regional blocks taking into account factors like economic viability, levels of population, geographical size of the regions and other such criteria.

31. Must every part of Uganda have a federal system of government?

⁴⁹ Examples of countries where this is so include: Switzerland, the Federal Republic of Germany, Ethiopia, and the federal state of Quebec in Canada.

⁵⁰ Examples include the USA which has several agricultural states, as well as industrialised states. In Uganda, the traditional ways of life for many of our people vary dramatically. For example, there are cultural diversities between Kingdom based southerners, and republican oriented northerners. There are differences between pastoralist communities and agricultural communities. Even in places of great diversity, federalism can achieve unity in diversity.

⁵¹ For example, the states of Alaska and Hawaii in the United States of America are separated by physical natural boundaries from the Continental US, and emerged as separate federal states that way.

- ❑ No. It is possible to have some parts of a country under a federal system, while others are governed under a unitary system.
- ❑ Moreover, under the Terms of the Uganda Constitutional Review Commission⁵², it is provided under paragraph 4(c) that part of their mandate is

“to review the system of decentralisation of government and consider:

(i) whether federalism should be introduced where required;...”

Clearly implicit in this provision is that the federal status can be granted to those regions that desire it. It is also clearly implicit in this statement that those parts of the country that so desire should be governed under the federal system and those that do not desire this arrangement, should be governed under the unitary system.

- ❑ Any region that does not desire a federal status or prefers a unitary relationship with the Central Government, should have the right to pursue that arrangement, while those regions that desire the federal relationship can opt for that system.
- ❑ This is an accepted practice in some countries. Some federal and quasi-federal states in the world have this type of system. For example the United Kingdom has a unitary system over all areas of England, and Northern Ireland, yet at the same time, it has devolved a semi-federal system to the people of Scotland, and Wales, who desire to have self-governance, yet at the same time be part of the United Kingdom. India also has some areas (for example, Jammu and Kashmir) administered directly by the Central Government under a unitary system, while the rest of the country is under a very strong and stable federal arrangement.

32. What would be the role of traditional leaders?

- ❑ Traditional leaders under any federal system would be non-political and non-partisan. In the case of Buganda, the Kabaka of Buganda would be a constitutional monarch.
- ❑ Traditional Leaders are recognised under the 1995 Constitution⁵³ and their specific rights and privileges are established independently under the Constitution. The establishment of Federalism does not mean that these rights of Traditional leaders are removed or abolished. Rather Traditional leaders should continue to enjoy their positions as before and any such other rights that the federal states may grant them under the respective regional constitutions⁵⁴.

33. What powers would the regional governments have?

- ❑ There would of course be a national parliament and executive that would establish national legislative and executive policy for Uganda. The Federal regions would then also establish federal legislative and executive units to legislate, implement and decide on regional matters affecting each particular region. This is not a new or strange phenomenon. Local governments everywhere, even currently in Uganda, have legislative and administrative powers over matters in their areas, as long as they are working within the confines of the national constitution.
- ❑ As already stated, and like in all countries where the Federal system of government prevails, the rights of the Federal States are entrenched in both Regional and National constitutions, with

⁵² Paragraph 4 (c) of the Commission of Inquiry (Constitutional Review) Notice 2001,

⁵³ Article 246 of the Constitution.

⁵⁴ The people of each federal region shall have the power to make provisions for the upkeep, security, and facilitation of their traditional leaders in the performance of their tradition functions.

sufficient safeguards requiring a consensus of two-third's majority in the Regional and national assemblies before any alteration of these rights can be made.

34. Doesn't the federal system of government make some regions richer and more prosperous, while leaving others backward?

- ❑ No. Federalism is supposed to achieve quite the opposite. Under a federal system, the more prosperous regions give part of their incomes to the other regions, so that a more balanced development of the whole country can ensue. This is done through equalisation grants. These equalisation grants should also be constitutionally guaranteed, to ensure that no region should ever be disadvantaged because of a federal system of government.
- ❑ Under the federal system, taxes collected in the various federal regions of the country would be divided into three proportions. For example, 40% could be given to the Regional Government to address the needs of the Federal Region, 30% could go the Central Government to take care of the Central Government's responsibilities, and 30% would go to the equalisation grants fund.
- ❑ In almost every country where a federal system of government exists, there is a system of "equalisation grants" to address regional imbalance. These grants are given by the Central Government to regions of Uganda whose development may be behind that of other regions. For example today, if Uganda was divided into federal regions, some regions would be more advanced than other regions. The Central Government would then give the equalisation grants from revenues collected from all the regions to the less developed regions to ensure more equitable and balanced development.
- ❑ The equalisation grants are also intended to be given to regions to make the funds of the region commensurate to the responsibilities given and undertaken by that region. Equalisation grants are also used to fund special projects or programmes in a region which may be considered national priority projects or programmes.

35. Does federalism undermine nationalism?

- ❑ Professor R. H. Thouless⁵⁵, a celebrated psychologist notes that:

"Loyalty is a particular kind of sentiment (or attitude) of an individual for a social group of which he is a member, one which leads him to continued co-operative effort with the group. Since every individual is a member of more than one social organisation, he has a complicated system of loyalties, which sometimes may conflict with one another. He has, for example, his loyalty to his cricket club, to his church, to his business, to his own town and his nation.

"An intense loyalty to one group does not necessarily cause hostility to another group, nor does it necessarily involve decreased loyalty to a large group of which the group in question is a constituent part, although both results may follow. A Manchester man's loyalty to Manchester does not prevent him from co-operating with a Liverpool man in the defence of England when there is a war. In fact, it is usual in an army to encourage group feelings about the smaller units-regiments, companies and even platoons – because it is believed the general tendency to form loyalties will result in an increased loyalty to the larger organisation for the army as a whole. That is what is called "esprit de corps".

36. Does Federalism mean Monarchism?

- ❑ No. Federalism should not be confused with Monarchism. The regional states would get to choose the type of federal arrangements that would work well.

⁵⁵"General and Social Psychology" University Tutorial Press, London, 4th Edition, 1958 at page 272

37. What about the rights of minorities who live or work in areas where other cultures are dominant?

- ❑ The interests of these people would be catered for. Whereas preservation of various cultures is often perceived to be a dominant consideration in some areas, the rights of people who do not subscribe to the particular dominant cultures of the area must be respected and protected by the regional constitutions. This in Uganda is not an issue, especially in Buganda. Buganda believes and has always believed in the full participation of all people within the region. For example, even in the 1950's and 1960's Buganda elected several non-Baganda to represent it in National Assembly. Examples include: James Simpson (an English man), Dr. Kununka (a Munyoro), David Lubogo (a Musoga), Daudi Ochieng (an Acholi), Mrs. Visram (an Asian also known as Namubiru) and many more. Even in the current Parliament, Buganda is one of the few regions represented by people who are not ethnically of that region.
- ❑ After 1993, Buganda Government started some schools, including Lubiri Secondary School located right in Kabaka's Palace. None of these schools are exclusively attended by Baganda children. Over 30% of the current enrolment are non-Baganda children from within and outside Buganda. Over 45% of the teachers in these institutions are non-baganda. The Kabaka's Education Fund, contributed to mostly by people from Buganda, is currently giving education scholarships for students in Buganda, over 31% of whom are non-Baganda. The Buganda Land Board, which administers the land restituted to the Kabaka in 1993, has granted several leases on this land to various Ugandans, regardless of their ethnic backgrounds. Advertisements about leasing the Kabaka's land have been routinely appearing in the press, and leases have been granted to all Ugandans without any discrimination. As a matter of fact, 40% of the leases granted by the Land Board on Kabaka's returned land in the Kampala area are to non-Baganda. This is in spite of the original fears that returning the Kabaka's land would mean sending non-Baganda or even Baganda off it. This is, and has always been and will always be, the Buganda spirit.
- ❑ It is also important to remember that the services or facilities that the Federal system brings to any particular region benefit everyone in that region irrespective of their ethnic origin. For example, the roads, schools, and hospitals constructed would benefit all users and not just the people of that region.
- ❑ Before the restoration of kingdoms in Buganda, all kinds of fears were expressed. For example, there was a fear that with the return of the Kabaka, non-Baganda were going to be expelled from Buganda, or that every body was going to be forced to kneel before the Kabaka. As time has shown, all these were unfounded. Similar fears have been and will be expressed in the case of federalism.
- ❑ It must be restated clearly that non- Baganda who own or lawfully occupy land, or own other investments in Buganda have absolutely nothing to fear about federalism. They are and have always been part of Buganda and Uganda. They contribute to its development and prosperity. At no time in Buganda's history, ancient or modern has anybody in Buganda ever been disposed of their land or property in Buganda, on account of being a non-muganda. There has never been any agitation, even by the most radical elements in Buganda for a deprivation of any person or his property rights just because he / she is a non – muganda. It is part of our culture to be fully accommodative and to fully respect property rights and rights of any Ugandan to peacefully occupy and own property in Uganda, and to thrive and prosper. The introduction of a federal system of governance can never change this position. If there were any fears that this could happen, new laws can be enacted and existing provisions can be strengthened to ensure that this never happens.
- ❑ Both the national and regional constitutions must have provisions that ensure that minorities are catered for in the national and federal democratic processes.

38. What protections does the federal system have in place for the property, jobs and investments of people who do not belong to a particular ethnic group within a federal region made up of a majority of different ethnic groups?

- ❑ The National Constitution of Uganda does and should guarantee the equality of all people regardless of ethnic origin in any part of Uganda. The people of Buganda strongly believe in this standard.
- ❑ For example, residents of Kampala who are not Baganda cannot and have never been evicted. They have never been denied any right they are entitled to by law, on the basis that they are not Baganda. Similar standards should be applied to all other parts of Uganda.
- ❑ There can be no unconstitutional restrictions on the right to purchase, own or use property, or the right of movement in and out of any region, or the right of employment, or the right to pursue any legitimate objectives in any region of Uganda based on ethnic origin.
- ❑ Just like the United Kingdom does not accord English people in London special rights over the Welsh or Scots, there can be no discrimination of any kind, by any group of people, from any part of the Country on the basis of ethnic origin.
- ❑ Even in the 1960's when Uganda was a federal state, all Ugandans enjoyed the same rights and privileges in Kampala, or in any federal state of Uganda, regardless of their ethnic origins.
- ❑ Both the national and regional constitutions must have provisions to protect property and investments, and to outlaw discrimination in public sector employment based upon ethnic origins.

39. Where would the home of the Central Government be?

- ❑ The Central Government should have the right to have offices and premises in all the federal regions of Uganda. The current major offices of the Central Government are located in Kampala District. These offices should remain.
- ❑ There should also be appropriate provisions in the National Constitution to ensure that no regional government has the right to evict the Central Government from any region of Uganda.

CHAPTER VII: IMPLEMENTATION OF THE FEDERAL SYSTEM OF GOVERNMENT

A. DIVISION OF RESPONSIBILITIES BETWEEN REGIONAL GOVERNMENTS AND THE CENTRAL GOVERNMENT.

Duties and Responsibilities of the Central Government:

The people of Buganda propose that the following duties and responsibilities should belong to the Central Government under a federal system of government⁵⁶:

1. National Defence and protection of national borders against external aggression, as well as protection of regional integrity of regional states.
2. Internal security and the National Police Force.
3. Arms, ammunition and explosives

⁵⁶ Many of these responsibilities are consistent with the powers and responsibilities of the Government under the 1995 Constitution as set out in Sixth Schedule to the Constitution.

4. Banks, banking systems, promissory notes, currency and exchange control.
5. Subject to the Constitution, taxation and taxation policy including remittance of constitutional federal state quotas.
6. Citizenship, immigration, emigration, refugees, deportation, extradition, passport and national identity cards.
7. Copyrights, patents and trademarks and all forms of intellectual property.
8. Setting national policy for exploration of minerals and water resources and the protection of the environment.
9. Management of land owned by the Central Government.
10. National Parks, as may be prescribed by Parliament.
11. Public Holidays.
12. National Monuments (except cultural monuments like Kasubi Tombs), antiquities, archives and public records as may be determined by Parliament.
13. Foreign policy, foreign relations and external trade policy.
14. National elections.
15. Energy policy
16. National Transport and Communications policy, including National Road Networks.
17. National Census and statistics.
18. Public Service of Uganda.
19. The judiciary.
20. National Standards.
21. General Education Policy, including the National Universities and Tertiary Institutions, National Education Standards and Curricula.
22. National surveys and mapping.
23. Industrial policy
24. Forests and game reserve policy.
25. Control and management of epidemics and disasters.
26. National prisons.
27. National Health policy, including National Referral Hospitals and National Training Institutions.
28. National Agricultural policy, including National Agricultural Research Centres.

29. Any matter incidental to or connected with the above functions.

Duties and Responsibilities of the Regional Governments:

Subject to the National Constitution, the people of Buganda propose that following duties and responsibilities should belong to the Regional governments under a federal system of government:

1. Agriculture and Forestry, except national policy and national agricultural research centres.
2. Education services which cover post primary, tertiary and specialised institutions of higher learning in the region, except national universities and tertiary institutions, national educational policy, standards and curricula.
3. Regional planning for provision of services and co-ordination of regional policies.
4. Regional medical and health services excluding national referral hospitals and national medical training institutions.
5. Construction, rehabilitation and maintenance of inter-district and regional roads, other than National Road Networks.
6. Local land administration and management.
7. Traditional and customary matters of the region.
8. Elections to the regional assemblies.
9. Elections to the District / Local Councils.
10. Management, control, and setting terms and conditions for the functioning and structure of regional state government, including setting salaries, allowances, pensions of employees of regional Governments.
11. Assisting in regional law and order enforcement.
12. Programmes for generating revenues for the regional state.
13. Federal regional budgets.
14. Any other matter incidental and connected to the above functions and services.
15. Any other duties or functions that are not granted to the Central Government under the Constitution.

Duties and Responsibilities of the Districts:

The people of Buganda propose that the following duties and responsibilities should belong to the District governments under a federal system of Government.

1. District education services covering primary and secondary level education.
2. Medical and health services, including:-
 - i) Health centres, dispensaries and first aid posts;
 - ii) Maternity and child welfare services;
 - iii) Control of the spread of diseases in the district;

- iv) Rural ambulance services;
 - v) Primary health care services;
 - vi) Vector control;
 - vii) Environment and sanitation;
 - viii) Health education;
 - ix) Water services
3. The provision and maintenance of water supplies and services in liaison with the responsible regional ministry.
 4. The following decentralised services from the regional government to the district governments:
 - i) crop, animal and fisheries husbandry and extension services connected thereto;
 - ii) entomology services and vermin control;
 - iii) Human resources management and control;
 - iv) District statistical services;
 - v) District project identification;
 - vi) District planning;
 - vii) Land administration, as may be directed by the regional government;
 - viii) Land surveying, as may be delegated by the regional government;
 - ix) Forest and wetland management, as may be delegated by the regional governments;
 - x) Licensing of trade and commerce;
 - xi) Trade development services;
 - xii) Commercial inspectorates;
 - xiii) Co-operative developments;
 - xiv) Industrial relations;
 - xv) Social réhabilitation;
 - xvi) Labour matters;
 - xvii) Probation and welfare;
 - xviii) Street children and orphans
 - xix) Women in development;
 - xx) Community development;
 - xxi) Youth affairs;
 - xxii) District information.
 5. The regulation, management, administration, promotion and licensing of any activities which the District Government is empowered or required to do.
 6. Local law and order.
 7. Registration of Births and deaths in the districts.
 8. Environmental policies, as delegated by the regional governments.
 9. Any other services or function that is not reserved for the Central or regional governments.

B. ESTABLISHMENT OF FEDERAL REGIONS

General Introduction:

The people of Buganda suggest the following approach to bring in place the federal system of government.

The people of Buganda have very carefully considered a number of options in the criteria for the establishment of federal regions in Uganda. These include the following options:

(i) Federal states based at district level:

This proposal was that each of the districts established under the 1995 should be constituted into a federal unit, instead of a basic unit for decentralisation.

However as we have already discussed at length in this paper⁵⁷, district units are too small and too fragmented to form viable regional units for effective planning or meaningful economic development processes. The people of Buganda therefore feel that this is not a realistic or workable alternative.

(ii) Federal regions based on people with similar ethnic and cultural backgrounds:

It has also been suggested that federal units in Uganda should be based on groups of people with similar ethnic or cultural backgrounds. The advantages of this system is that people with similar languages, heritage and traditional ways of life would function more closely together as a unit and would take advantage of their common bases and traditional systems of mobilisation to promote their development.

One of the major drawbacks to this approach to the formation of federal units based on ethnicity is that given the wide variety of cultural diversity of the peoples in Uganda, it may be difficult to practically create viable state units on this basis. Based on this criterion, it is possible to end up with some units which are smaller than the current districts. The same reasons for not recommending federal status at district level would operate here even with greater force.

Because of the above reason, the people of Buganda do not recommend this alternative.

Suggested Regional Divisions for Effective Federal Arrangements in Uganda:

There are two alternative approaches to the creation of viable and effective federal states in Uganda. Federalism should either be for those people who want it, or, for all Ugandans based on existing Provincial Regions.

Discussing federalism based on Provincial Regions first, the people of Buganda are making the following proposal as a workable approach to introducing the federal system of government to Uganda, for all the people of Uganda.

(I) Federalism based on Provincial Regions:

Under this alternative, Federal regions should be based on the already existing four regions of Uganda; that is: Northern Region, Western Region, Eastern Region and Central (Buganda) Region.

This alternative has clear advantages which include the following:

- (a) Historically, for well over half a century, Uganda was administered under four regional provinces.
- (b) During the period when Uganda's administration was based on provinces, there was accelerated development in the whole of Uganda which was lost when that system was unilaterally scrapped. Towns like Mbale, Gulu, Fort Portal, Jinja, Masaka had developed to such levels that there were talks of making some of them cities. During the 1960s, residents in rural Uganda could obtain about 90% of their requirements without having to come to Kampala. Since the scrapping of provinces as administrative centres in 1966, many of these towns have decayed and have been neglected. Virtually all important things are obtainable from Kampala only. This has proved to be a great disservice to the people of

⁵⁷ See Chapter IV: Question 25: "what are the problems with the current system of decentralisation".

Uganda who have no easy access to Kampala⁵⁸. The re-introduction of the regional tiers, this time with constitutionally guaranteed responsibilities under a federal system would generate all the advantages of a federal system of governance already discussed to above.

(c) Even today, the people of Uganda and the Government of Uganda all recognise and continue to occasionally utilise these historic provincial divisions. For example, the current representatives of Uganda to the East African Regional Assembly are elected on this basis. Youth representatives and the representatives of the Disabled persons to the National Parliament are also elected on this basis. No one has protested this division. It worked in the past and has currently been shown to work.

(d) This approach would ensure reasonable equality in geographical sizes. No one federal state would be disproportionately bigger than the others. No one state would be felt to be dominant over others.

(e) This approach would make the transition into federalism much easier for the whole country as all areas would become federal regions at once and their institutions would become functional at the same time.

(f) All the people of Uganda would enjoy the advantages of federalism together and at the same time.

The people of Buganda submit this as one alternative approach to creating federal regions in Uganda.

(II) Federalism for those who want it:

Under this alternative the criteria for the formation of federal states should be simply confined to the desire and decision of the people of any area of Uganda to unite to form a federal region.

Federal status should be only for those areas which desire it. The Odoki Constitutional Commission established that 97% of the people of Buganda wanted a federal system of government⁵⁹. Our own research is that the percentage of people in Buganda who want the federal system of government is currently even higher.

Under the 1995 Constitution, Buganda is already deemed to be one unit.

Because the people of Buganda want a federal system of government, they should have it. This is consistent with the mandate of the Uganda Constitutional Review Commission⁶⁰.

Any other group of districts who want a federal system of government should get it.

Because of the many advantages of the federal system of government, (already mentioned above) especially viability for economic development, advancement and overall durable peace and stability, all districts should be encouraged, but not forced, to opt for this system.

Provision should be made for people who are not ready or do not want to opt for the federal system of government at this time to do so in future. It would be wrong to deny any area from benefiting from federalism forever. The door should be left open for any areas to opt for the federal system at any time as and when they are ready or willing.

In addition, although Buganda rejected and continues to reject the "Charter approach" under the 1995 Constitution, provision should be made to accommodate those districts that prefer a Charter System as set out in Article 178 of the Constitution of Uganda. These districts should be free to pursue that approach

⁵⁸ This matter has been discussed before in this Report under part (e) of the General Introduction to Federalism (PART B of the Report)

⁵⁹ The Uganda Constitutional Commission that was established to collect the views of the people leading to the enactment of the 1995 Constitution.

⁶⁰ Paragraph 4(c) of the Commission of Inquiry (Constitutional Review) Notice 2001.

to regional government of their affairs if they so agree. In order to have a federal system of government, it is not necessary to amend or even interfere with this provision of the Constitution.

To deny an overwhelming wish of the people in a region to be governed under a federal system or under a unitary system if they so wish is unjust. As the will of the people of Buganda has been clearly established on the question of federalism, and as the people of Buganda are already deemed to have come together as one unit under the 1995 Constitution⁶¹, the Constitution of Uganda should be amended to recognise the regional federal for Buganda as well as for any other group that desires it.

C. HOW IS THE PROPOSAL ON “FEDERALISM FOR THOSE WHO WANT IT” DIFFERENT FROM THE “CHARTER APPROACH” UNDER THE 1995 CONSTITUTION?

Presently, Article 178 of the Constitution of Uganda allows any number of districts of Uganda to come together in co-operation on matters of culture and development⁶²

Under this approach, these districts, having agreed to come together in such co-operation, would then submit a charter with the speaker of Parliament.⁶³

Buganda rejected this approach.

The people of Buganda are opposed to the “Charter approach” because of the following reasons:

1. The concept of districts’ co-operation as envisaged under the 1995 Constitution does not take into account one of the most important facets of a federal system of Government, which is the balancing of regional autonomy with national unity. In other words, the districts that come together under this system come together to co-operate on delegated decentralised powers from the Central government. They have no regional autonomy. This is just a further extension of the Central Government⁶⁴. They are subordinate to the Central Government⁶⁵. The districts that come together to co-operate, do so to implement the policies that the Central Government assigns to them, and not necessarily the policies of the people of that region.
2. As we have shown elaborately before, the powers under Article 178 of the Constitution and the current local administration legislations are “borrowed powers”. These “borrowed powers” of the districts are exercised at the mercy of the Central Government. They can be withdrawn or un-delegated at any time. Under a federal system of government, there is a power sharing arrangement, where the powers of the regions belong to the regions, and the powers of the Central Government belong to the Central Government.

Under a federal arrangement, neither tier of government can encroach on the powers of the other. This clear division of powers makes it possible to achieve lasting development and

⁶¹ Article 178(3) of the 1995 Constitution.

⁶² Article 178(1) of the 1995 Constitution

⁶³ Article 178(1)(c) of the 1995 Constitution.

⁶⁴ Article 178(1)(d) provides that: “the councils, trust funds or secretariats formed under this article shall have power to make rules, regulations and bye-laws in relation to the **functions assigned to them.**”

⁶⁵ Prof. K. C. Wheare argues in his article “What the federal system is” that “...the functions of government are divided in such a way that the relationship between the legislature which has authority over the whole territory is not a relationship of superior to subordinates... but is a relationship of co-ordinate partners in the government process.... Federal government means therefore a division of functions between co-ordinate authorities, authorities which are in no way subordinate to one another either in extent or in exercise of their allotted functions”

peace in the country⁶⁶. The current position of the 1995 Constitution leaves it open to the Central Government or Parliament to take away the powers of the districts.⁶⁷

3. Although the Local Governments Act⁶⁸ gives some powers to districts, most major local initiatives and regional policies under this system require the approval of the Central Government. Local government must not exist solely for the purpose of implementing Central Government policies. For true democracy to thrive and succeed, regions must have the autonomy and power to decide their own local affairs effectively and to devise the most appropriate approaches to their local challenges, taking into account their available resources and priorities. The federal system of government allows them to achieve this. The 1995 Constitution does not permit this approach to regional government.
4. The districts that come together to co-operate as envisaged in the 1995 Constitution are not accountable to the people of the region, but to the Central Government, which has decentralised its powers to them. This is again just an agency relationship between the districts and the central government. Regional accountability should be to the people of the region and not the Central Government.
5. Funding of the activities of the districts falls squarely in the hands of the Central Government.⁶⁹ The 1995 Constitution provides that the districts that come together in co-operation have no power to collect levy taxes and that they depend on money granted to them by the Central Government or national parliament. Good governance requires that local administrative structures should have guaranteed funding, and authority to address local problems on terms that the local people of the region decide⁷⁰ (and not the central government which is too far removed from local affairs). The federal system of government achieves this desirable end. Under that system, just like there are pre-agreed power sharing arrangements between the Central Government and the Regional Governments, there are also pre-agreed revenue sharing arrangements between regional governments and Central Government. This allows a degree of autonomy that is necessary to make regional government effective and serve the people in the best way.

The people of Buganda recommend that a federal system of government be introduced in Uganda on the basis of one of the above two alternatives.

D. WHAT IMPORTANT ASPECTS DOES THE FEDERAL SYSTEM OF GOVERNMENT HAVE THAT ARE NOT IN THE “CHARTER APPROACH”?

The people of Buganda would like to clarify that that the federal system of government they are proposing would have some important aspects that are not addressed by the “Charter Approach”. These points include:

⁶⁶ Prof. K. C. Wheare (supra) pointed out that “the power of amending the part of the Constitution which embodies the division of powers must not be conferred to either the federal government acting alone, or upon state governments acting in co-operation...Whatever arrangement is made, the essential thing is that neither the federal government nor the state governments should be authorised to alter unilaterally the extent of powers which they exercise..”

⁶⁷ This can be achieved through administrative directive, amendment of laws or even the Constitution itself.

⁶⁸ The Local Governments Act, 1997

⁶⁹ Article 178 (1) (b)

⁷⁰ Professor K. C. Wheare (supra) argues that “it is essential that there should be available to each of them (the Central and federal governments) under its own control, financial resources sufficient for the performance of the functions assigned to it under the constitution...it follows therefore that both state and federal authorities in a federation must be given power in the Constitution each to have access to and to control its own sufficient financial sources. Each must have the power to tax and to borrow for financing its own services by itself.”

1. Those districts that come together should come together to form regional states, with regional governments to perform functions specified for regional governments in the National Constitution, and not just to form an association for the functions delegated by the Central Government to districts under the Charter approach.
2. Districts that come together to form regional governments shall be entitled to a constitutionally pre-agreed percentage of Government revenues to fund the activities of the regional governments formed. These regional governments must have financial security and do not have to depend upon the Central Government decisions of the day about how much money or national resources can be given to them. The Charter approach does not address financial security and independence of the Regions.
3. The regional governments formed shall have complete autonomy from the Central Government over local matters and they shall be accountable to the people of that specific regional and not the Central Government. The Charter approach leaves accountability on the activities of the districts in the region to the Central Government.
4. Subject to the national Constitution, the regional governments created shall have regional constitutions that govern them, the districts and people in such regions. The individual constitutions of the regions shall create the organs of government and the institutions and processes through which the regions are governed. These regional constitutions, like is the position under the 1995 Constitution⁷¹, shall be deposited with the Speaker of the National Parliament. The “Charter approach” talks about making a charter outlining terms of co-operation. This is a very loose and fluid approach.
5. The rights and powers of the regional governments that are enshrined in the National Constitution shall not be altered without the consent of the majority of the legislatures of the regional governments, as well as the consent of a similar majority of the National legislature. The “Charter approach” does not address this point at all.
6. The Central Government shall not have power to redefine the geographical sizes of the co-operating regions without the consent of the relevant regions⁷². Article 179 of the 1995 Constitution allows the re-demarcation of districts even after they have come together to co-operate under the “Charter Approach” in Article 179.

The approach of federalism for those who want it is advantageous in that it allows the people who desire federalism to achieve it immediately, yet at the same time, it leaves the door open for other districts either to join existing federal units or to form federal units of their own.

E. SHARING OF REVENUE BETWEEN THE REGIONAL GOVERNMENTS AND THE CENTRAL GOVERNMENT.

General Introduction:

According to Oxford University’s professor K.C. Wheare⁷³

“..., if governmental authorities in the federation are to really co-ordinate with each other in actual practice as well as in law, it is essential that there should be available to each of them, under its

⁷¹ Article 178(3) of the 1995 Constitution.

⁷² Article 179 of the 1995 Constitution allows the re-demarcation of existing districts and the creation of new ones (which may threaten the territorial integrity of federal states already created).

⁷³ Supra

own unfettered control, financial resources sufficient for the performance of the functions assigned to it under the constitution. It is no good allotting functions to the federal or to state authorities and devising legal safeguards so that each should be limited strictly to the performance of its respective functions, unless at the same time, adequate provision has been made so that each authority can afford to do its job without appealing to the other for financial assistance. For if state authorities, for example, find that the services allotted to them are too expensive for them to perform, and if they call upon the federal authority for grants and subsidies to assist them, they are no longer co-ordinate with the federal government, but subordinate to it. Financial subordination makes an end of federalism in fact, no matter how carefully the legal forms may be preserved. It follows therefore that both state and federal authorities in a federation must be given power in the constitution each to have access to and to control its own sufficient financial resources. Each must have the power to tax and to borrow for financing its own services by itself. If not, the federal government will soon break down in practice.”

Given the above considerations, various federal states have differing provisions relating to the financial arrangements between the Central Government and the Federal regions, and on taxation⁷⁴, but the general principal remains that federal regions should have available for them sufficient financial resources to effectively perform their functions as set out under the Constitution.

1. Sharing of Tax Revenues between the Central and Regional Governments:

As has been discussed in greater detail in this Report earlier, an arrangement that automatically returns a fixed percentage of all public revenues collected in a particular region should be implemented. In relation to the current system of direct and indirect taxes, the people of Buganda have made specific recommendations about the division of these National Tax revenues between the Central Government and the Regional Governments as follows:

<u>Type of National Tax:</u>	<u>Sharing of the Tax:</u>
Income Tax (including Corporation Tax and PAYE):	50% of all income tax collected from a federal region should go to the Central Government. The remaining 50% of all tax collected from each federal region should be retained by the particular region from which the tax was collected.
Value Added Tax:	50% of all value added tax from a federal region should go to the Central Government. The remaining 50% of all value added tax collected from each federal region should be retained by the particular region from which the tax was collected.
Stamp duties:	40% of all stamp duties collected from a federal region should go to the Central Government. 40% should be retained by the government of that region, and 20% should be applied towards equalisation grants.
Customs, Import and Excise Duties:	50% of all customs, Import and Excise duties in the country should go to the Central Government. The remaining 50% should be applied towards equalisation grants.

⁷⁴ For example, see Article 104-107 of the Constitution of the Federal Republic of Germany, Chapter VI of the Constitution of the Commonwealth of Australia, Chapter 13 of the Constitution of the Republic of South Africa.

Graduated Tax:	100% of this tax should be retained at the Regional level and District and shared out as follows: 20% should go to the regional government, 30% be kept by the District Councils, and 50% retained by the lower administrative units.
Property Tax & Rates:	100% of this tax should be retained by the federal Regions and Districts and should be shared out as follows: 30% should go to the federal regional government and 70% should be retained by the urban authorities.
Capital Gains Tax:	50% of all tax from a federal region should go to the Central Government. 30% of all tax should be retained by the regional federal government, and 20% should be applied towards equalisation grants.
Trading and Licensing Tax:	100% should be retained at the Federal region level and Districts and shared out as follows: 30% should go the federal regional government and 70% should go to the district and lower administrative units.
Market Dues and permits:	100% should be shared between the Federal regions and Districts, and shared out as follows: 30% should go the federal regional government and 70% should go to the district and lower administrative units.
Grants, loans and Donor Aid:	To be distributed in accordance with the criteria set out in the next part of this Report.

All other taxes should be retained at the federal level and shared out between the regional governments, the district councils and the lower administrative units.

2. Sharing Non – Tax Revenues between the Central Government and the Regional Governments:

In deciding any revenue sharing arrangement between the Central Government and the regional governments for other monies that do not constitute specific tax earnings or collections from the various specific regions of the Country⁷⁵, the following criteria must be considered:

- i)** The revenue received by the regional governments should be commensurate to the responsibilities of the regional governments and should be sufficient to enable them to carry out their functions as established under the Constitution.
- ii)** The revenue sharing / allocation policy for these types of funds should take into account objective and fair criteria like the populations and the geographical area and size of the federal regions, to ensure the equitable distribution of resources from the central government to the various regional governments.
- iii)** There should be established national standards for the delivery of services at the regional and district level to enable both the Central and Regional Governments to come up with reliable data on the cost of the delivery of the services performed by the regional governments. That way the revenue requirements of the various regional governments to meet their development needs would rationally determined. The development and costing

⁷⁵ For example donor grants to the Country, or other funds available to the Central Government that do not come from taxation or fiscal policy collections from the economy.

of national standards must be done with the full involvement and participation of the regional governments.

3. Sharing of Equalisation Grants:

- i) At the end of each financial year there should be a National Budget Negotiation Committee made up of representatives from the regional and district governments on the one hand, and the Central Government on the other, whose mandate is review on an annual basis existing revenue sharing arrangements with the Central Government and the regional governments, and the allocation of equalisation grants.
- ii) The discussion of this National Budget Negotiation Committee must be confined to the distribution of equalisation grants and cannot prejudice or otherwise interfere with the fixed revenue sharing arrangements regional governments are entitled to as shown above.

4. Other general revenue sharing proposals:

In addition to the above provisions, the National Constitution should also make specific provisions that permit regional governments the autonomy to;

- a) Raise revenues independent of the Central Government and to pass any laws or enact any policies within the region that can raise local regional revenues (including borrowing and additional direct / indirect taxation authority), and revenues raised in this manner shall not prejudice the regional government's entitlement under the national revenue sharing arrangements. Revenues raised independently by the Regional Governments shall be tax exempt.
- b) Dispose of their resources and their national resource allocation under the above described revenue sharing arrangements freely within the framework of their respective duties and responsibilities (as established under the constitution) in accordance with their specific regional priorities, and to be accountable only to the people of that region in that regard, and not the Central Government.

Regional Governments should also be entitled to appropriate resource compensation for any additional responsibilities transferred from the Central Government to them.

F. GENERAL INSTITUTIONS OF FEDERAL STATES.

The federal states proposed in this Report shall have the following institutions:

1. **Legislative Assemblies** to enact the local laws of the federal regions, subject to the national Constitution and as empowered by their regional constitutions.
2. **Executive Governments** at regional levels to implement regional policies (subject to the National Constitution).
3. **Existing Districts and Counties:** Decentralisation would remain under the existing districts system and all the existing decentralised tiers of local government would continue to implement the local policies of the region, except that this decentralisation would now begin at the Regional level and not the Centre.

G. HOW DOES THE INTRODUCTION OF A FEDERAL SYSTEM OF ADMINISTRATION IN UGANDA AFFECT THE CO-OPERATION BETWEEN THE EAST AFRICAN NATIONS?

The introduction of federalism does not affect the unification of the East African States to form the East African Community in any way.

The co-operation between Uganda and the other East African Countries would be a confederation / union. A good example of this type of federation is the European Union, which consists of sovereign European states, some of which are federal states⁷⁶ while others are clearly unitary⁷⁷.

In a union, there is a general agreement between sovereign states (these political units are already existing at the time) under which these sovereign states surrender their powers (under a treaty / agreement) to the Union. In the case of federalism, there is a power sharing arrangement between the Central and regional governments. The Central Government has distinct powers from those of the Regional Government. The Central Government can still cede some of its powers to a political union under a treaty, without in any way infringing on the rights of the federal governments.

CHAPTER VIII: NECESSARY AMENDMENTS TO THE 1995 CONSTITUTION TO INTRODUCE THE FEDERAL SYSTEM OF GOVERNMENT?

In order to implement the recommendations discussed in this Report, it is necessary to amend the 1995 Constitution of Uganda.

This part of the Report deals with the necessary amendments to the 1995 Constitution in order to bring into effect the federal system of government.

The people of Buganda propose the following amendments to the 1995 Constitution to bring into effect a federal system of government.

Amendment of Chapter Eleven:

A new Chapter Eleven should be introduced to the Constitution to address the issue of federalism:

The heading of Chapter Eleven should read:

“Federal Regional Governments”.

Article 176 of the 1995 Constitution should remain intact in content, but a new Article should be inserted before it to deal with the matters of federalism. Our proposal here has assumed that the current Article 176 of the 1995 Constitution shall now become Article 177 under Chapter 12. A new Article 176 should be introduced:

Option 1: if the regional provincial model is adopted:

If it is opted that federalism should be based on the regional provincial model, then Article 176(1) should read:

“There shall be four federal regional governments, namely Northern Region, Eastern Region, Western Region and Central (Buganda) Region, each of which will be made up of the districts as specified in the in the “(X)” schedule⁷⁸ to this Constitution.”

Option 2: If the option of federalism for those districts that want it is adopted:

⁷⁶ Like the Federal Republic of Germany.

⁷⁷ Like France.

⁷⁸ This schedule will contain the districts that make up the respective federal regions.

If it is opted that federalism should be based on those districts that want it, then Article 176 (1) should read:

“Subject to the provisions of this Constitution, and the will of the people concerned, there shall be federal regional governments as specified in the “(X)” schedule⁷⁹ to this Constitution, and such other federal states as may from time to time be formed under this Constitution from which the structures of local government set out in this constitution shall derive their authority.”

Article 176(2) and other sub-articles proposed hereunder would apply to either the “regional” or “federalism for those who want it” approaches (except proposed Article 176(7), and (9) which apply to the latter model only),:

Article 176 (2) should read:

“The Federal Regional Governments referred to above shall have the power and responsibilities set out in the “(Y)” schedule⁸⁰ to this Constitution and such powers and responsibilities shall not be exercised by the Central Government or removed from the Federal Regional Governments without the express consent of the regions concerned and a two thirds majority of the National Parliament.”

Article 176(3) should read:

“The Federal Regional Government shall have such financial powers and privileges as set out in Schedule⁸¹ “(Z)” to the Constitution, and these powers and privileges shall not be altered to the detriment of the Federal Regions without their express consent and a two thirds majority consent from the National Parliament”

Article 176(4) should read:

“The Federal Regional Governments established under this Article shall debate and implement, in a manner consistent with democracy and the principles enshrined in this Constitution, their respective federal Constitutions which shall form the basis of Government in the respective federal regions, and they shall each deposit a copy of the same with the Speaker of the National Parliament.”

Article 176(5) should read:

“The Federal Regional Governments established under this Article shall be bodies corporate with powers to sue or be sued.”

Article 176 (6) should read;

“Notwithstanding the foregoing provisions on the federal system of government, the system of decentralisation shall continue in force as established under this Constitution for all areas of Uganda not under a federal system of government, and in also in the areas of Uganda under a federal system of government provided only that in the latter case, the decentralised authority shall stem from the federal regional governments and not the Central Government.”

⁷⁹ This schedule will contain the federal region Buganda, which is deemed to have agreed to come together under Article 178 of the 1995 Constitution, and any other federal region that may exist, or come into existence.

⁸⁰ This schedule will contain the division of powers and responsibilities discussed in this Report between the Central, Federal and District governments.

⁸¹ This schedule shall contain the provisions relating to the financial arrangements between federal and regional states as discussed in this Report.

Article 176(7) should read:

“Subject to Buganda already being deemed to one regional federal state, two or more other districts shall be free to form a federal regional government to perform the functions specified to be performed by the federal regional governments and the district governments under the “(A)” schedule to the Constitution⁸², and upon such formation, such federal regional governments shall have all the powers, privileges and responsibilities of federal regional governments as enshrined in this Constitution.”

Article 176(8) should read:

“the terms and conditions upon which such federal regional governments are formed shall be embodied in federal regional constitutions signed by the districts forming the federal region and a copy of which shall be deposited with the Speaker of Parliament.”

Article 176(9) should read:

“Subject to clause (7) of this article and the provisions of this Constitution, the districts of Buganda as specified in the First Schedule to this Constitution, shall be deemed to have agreed to form a federal regional government on the coming into force of this Constitution.”

The Current Article 176⁸³ shall then follow the above provisions starting as Chapter 12 of the Constitution and numbered as Article 177

There are some other consequential amendments to the Constitution which would be necessary.

The amendment proposals above are simple and easy to implement within the existing constitutional framework.

CHAPTER IX: CONCLUSION ON FEDERALISM:

In conclusion, we need to reiterate the following:

1. The Federal system of government is good for increased productivity, development, advancement, prosperity, wealth, durable peace and stability for all Ugandans.
2. The system is not a Buganda issue alone.
3. The system decentralises power centres and therefore minimises conflicts in the country.
4. It is not a tribal issue.
5. It is not about monarchism.
6. It is not about political parties.
7. The system ensures that local people have a real say in how they should be governed.

⁸² The functions referred to here shall be the functions constitutionally set aside to be performed by the federal and district governments under a federal system as discussed above in this Report.

⁸³ Meaning the current Article 176 in the 1995 Constitution, read with necessary modifications in the case of areas governed under a federal system of government.

8. The system provides employment at regional levels, with decisions of who to employ being made locally by the people of the area.
9. The system is desired by the majority of the people in Buganda and in Uganda as a whole.

The basic principle that emerges from this Report is that different regions have different priorities, owing to geographical, climatic, social and other conditions. These regions have different priorities which are best determined by the people of those areas. Districts are too fragmented to be viable to generate and mobilise resources for meaningful economic development.

PART C: OTHER AREAS OF CONCERN

1. KAMPALA DISTRICT AS PART OF BUGANDA:

General Introduction:

Under this part, the people of Buganda would like to correct a serious anomaly in the 1995 Constitution of excluding Kampala District from Buganda,⁸⁴ yet this is the district that houses the most important, cherished and sacred traditional sites of the Kingdom of Buganda. These include: Tweekobe, the official Palace (Lubiri) at Mengo, the Bulange (the seat of government for the Kingdom of Buganda), the Kasubi Tombs (the ancient ancestral burial grounds for the Kings of Buganda), the Butikkiro, the Kabaka's Lake, the Mujaguzo Palace, the Kalinda Well and many more. The people of Buganda feel very strongly that these core traditional institutions of Buganda cannot be considered to be outside Buganda. They would like this anomaly to be corrected and Kampala to be included as one of the districts that rightly forms the federal region of Buganda.

(a) What is the current status of Kampala District?

- ❑ The 1995 Constitution sets out the districts of Buganda in the 1st Schedule to the Constitution. This schedule does not include Kampala District.

(b) Why is Kampala District so important to the people of Buganda?

- ❑ As has already been outlined in the general introduction to this Part of the Report, Kampala District houses the most important, cherished and sacred traditional sites of the Kingdom of Buganda. These include: Tweekobe, the official Palace (Lubiri) at Mengo, the Bulange (the seat of government for the Kingdom of Buganda), the Kasubi Tombs (the ancient ancestral burial grounds for the Kings of Buganda), the Butikkiro, the Kabaka's Lake, the Mujaguzo Palace, the Kalinda Well and many more.
- ❑ As far back as Buganda's recorded history goes, Kampala has always played an important historical and cultural role to the people of Buganda. Even from the times the very first Europeans came to Buganda (for example Speke, Stanley and others) all found the area around Kampala to be the most important part of the Kingdom of Buganda. All traditional functions of government were conducted within Kampala. The Kabakas met these Europeans at Banda, Mengo, Kasubi and Rubaga. Many important traditional rituals have over the centuries been performed at various parts of present day Kampala District. The great kings of the Baganda are buried in Kampala District and the traditional burial site for these Kings is in Kampala District.
- ❑ The people of Buganda have great cultural, and historical ties to Kampala district. It is therefore illogical for the Constitution to provide that Kampala District is not part of Buganda.

⁸⁴ Article 178(3) and the First Schedule to the Constitution show which districts comprise the districts of Buganda. The schedule omits Kampala District.

(c) What about the institutions of the Central Government that are located in Kampala?

- ❑ It is true that several Central Government institutions such as state houses and lodges, research centres, and other national monuments are located in Kampala, just like similar state institutions like military barracks or establishments are located in various other parts of Uganda. The location of Central Government institutions in any part of Uganda does not mean that those areas should be outside the traditional cultural boundaries of a region. For example, the location of Gaddafi Military barracks in Jinja does not mean that Jinja should be declared to be outside Busoga.

(d) What safe guards are in place to ensure that the Central Government cannot be “evicted” from Kampala?

- ❑ There must be appropriate constitutional provisions in the National Constitution to ensure that no regional government has the right to evict the Central Government from any part of Uganda.
- ❑ The National Constitution of Uganda should also grant the Central Government full rights to acquire land or properties from any region in the National Interest.
- ❑ With these provisions in place, it would be impossible for any regional government to “evict” the Central Government, or to prevent it from doing any lawful business in any part of Uganda.

2. LAND OWNERSHIP:

A. THE 9,000 SQUARE MILES OF LAND TAKEN FROM BUGANDA.

General Introduction:

The ownership and management of the 9,000 sq. miles of land⁸⁵ should revert to the Kingdom of Buganda.

(a) How did the 9000 square miles of land come about?

Under the 1900 Buganda Agreement, the geographical area of Buganda was duly surveyed and determined to be a total of about 17,500 square miles. It was then agreed at the time that this land would be divided into two portions.

8,500 square miles was designated Mailo land and was distributed to the then existing people of Buganda. Much of this land has been sold and redistributed extensively. Today over less than 8% of the Mailo land distributed in 1900 remains in the hands of descendants of the original allocates.

The remaining 9000 square miles of Buganda was designated Crown land and held by the British Protectorate Government in trust for succeeding generations of the people of Buganda. This land was scattered all over Buganda.

This trust arrangement came to an end on October 8th 1962, when the British Colonial Government formally handed back title and ownership of this land to the Kingdom of Buganda. The Kingdom of Buganda now held full ownership and control over these 9,000 square miles of land, and it held it in trust for the future people of Buganda.

⁸⁵ This refers to 9,000 square miles of land that was entrusted to the British Colonial Government to hold in trust for the Kingdom of Buganda, which land was formally returned to the Kingdom at independence, but was subsequently unlawfully taken over by the Government upon the unlawful abolition of the Kingdom.

The Government of the Kingdom of Buganda then placed this land under the Buganda Land Board as the controlling authority for purposes of granting leases and other rights of ownership over this land. This arrangement worked well and continued until 1966 when the Kingdom's properties were forcefully taken over.

In 1966, when Obote overthrew the Buganda Government, he unilaterally confiscated this land and transferred it to the Uganda Land Commission.

The people of Buganda contend that this unilateral confiscation and deprivation of property was unlawful, unfair, and should be rectified.

Just like expropriated properties of Asians and traditional leaders have been returned and it is the well established Government policy that such properties should be returned, this land should be returned to the Kingdom of Buganda.

Under the 1995 Constitution, this land is handed over to district land boards under Articles 240 and 241 as at the time this Constitution came in force, this land was considered to be land which does not belong to anybody⁸⁶ (that is to say former public land). The 9,000 square miles of land lawfully belonged to the Kingdom of Buganda and was unlawfully taken away from it. The people of Buganda feel very strongly that they are entitled to restitution of this land.

Returning this land to Buganda does not mean affecting any existing or future rights of lawful owners or occupants, anymore than the return of Kabaka's land in 1993 affected any legitimate owners or occupants. The return of the 9,000 square miles does not mean evictions, or displacements of people occupying parts of this land.

The people of Buganda would like to see a proviso added to Article 241 of the Constitution which states that provided the 9,000 square miles of land in the Kingdom of Buganda that was formerly considered crown land under the British Colonial System shall revert to the Kingdom of Buganda and shall be administered through the Kingdom of Buganda.

If necessary, existing legislation in relation to this land should be made to protect the existing or vested occupation interests currently subsisting on this land.

B. THE LAND ACT, 1998.

The Constitution of Uganda in 1995 introduced the concepts of "bonafide occupants" and "lawful occupants" of land and their security of occupancy⁸⁷. The Constitution further provided that Parliament shall enact a law to give meaning to these terms. The law that resulted was the Land Act, 1998.

The people of Buganda would like the provisions of the Constitution relating to land tenure⁸⁸, in particular the provisions relating to acquisition of title by occupants and their security of tenancy to be revisited. Because of these provisions of the Constitution, an unfair land law⁸⁹ was enacted by Parliament that protected the interests of land occupants at the expense of the landowners. This makes meaningful development of the land very difficult and unworkable. This unbalanced land law undermines property rights (and is therefore unconstitutional), but at the same time, is impractical and unworkable. The people in Buganda are strongly of the view that a more balanced constitutional position would accommodate the interests of occupants and landowners and facilitate development. The reform we are seeking is not

⁸⁶ Article 241 shows that one of the primary functions of district land boards is to "hold and allocate land in the district which is not owned by any person or authority"

⁸⁷ Articles 237(4), (8) and (9) of the 1995 Constitution.

⁸⁸ Article 237 (4), (8), and (9)

⁸⁹ The Land Act, 1998

intended to deprive any Ugandan or non-Ugandan from acquiring land or enjoying full and peaceful tenure of land in Buganda.

The Land Act, 1998 needs to be repealed and its aims and objectives should be revisited to ensure that it adheres to well-established principles of Constitutional Law and does not violate Fundamental Rights and Freedoms. In enforcing the rights of Bonafide and lawful occupants as set out in the Constitution, it tramples on the constitutional fundamental rights and freedoms of landowners.

When the Land Act automatically creates tenancies, and takes away the land owner's right to negotiate fair tenancy terms; when it restricts the land owner's right to use the land; when it restricts the rights of a title holder to transfer, pledge or mortgage land; it is taking away the essence of ownership, and is interfering with the property rights of the land owners, which is unconstitutional.

This unconstitutional 1998 Land Act deprived land owners who had invested in land of their property without complying with the Constitutional standard as established under Article 26(2) of the 1995 Constitution which provides that::

"No person shall be compulsorily deprived of property or any interest or right over property of any description except where the following conditions are satisfied-

- a) the taking of possession or acquisition is necessary for public use or in the interest of defence, public safety, public order, public morality or public health: and*
- b) the compulsory taking of possession or acquisition of property is made under a law which makes provision for-*
 - i) prompt payment of fair and adequate compensation, prior to the taking of possession or acquisition of the property; and*
 - ii) a right of access to a court of law by any person who has an interest or right of property."*

Under the 1998 Land Act, land owners, many of whom had invested their savings into land, were suddenly deprived of their interest and right in their land for an inadequate, unfair and unconstitutional compensation of Shs. 1,000 per year, which compensations is not even required to be paid prior to the land's being taken. Nor is there a requirement that such taking is necessary for "public use or in the interest of defence, public safety, public order, public morality or public health" as required under the Constitution.

The Land Act also imposed the above paltry fee irrespective of the size, location or use of the land. This does not make economic sense at all.

This issue is very important to the people of Buganda and Uganda as a whole, whether they are mailo or leaseholders. Since the early 1920s, land laws found an appropriate compromise between landowners and tenants⁹⁰. These laws gave sufficient protections to tenants and squatters, while at the same time gave protection to the landlord. In this manner a viable economic relationship between the two groups emerged. The current Land Act upset these relationships and is not workable. And the problems created by this Land Act stem from the position of the 1995 Constitution. An amendment to the Constitution in this regard will automatically amend the offensive provisions of the Land Act 1998.

It is possible to achieve the public interest objectives of the Land Act in other manners that do not violate fundamental freedoms and property rights guaranteed under the Constitution. The Constitution needs to

⁹⁰ For example the Busuulu and Envujjo laws in Buganda, which created security of occupancy and use to tenants and made kibanja titles freely transferable, yet at the same time determined the rates paid to mailo holders on the basis of location, size and use of the land to reach a fair compromise between the two groups of people,

be revisited on the questions of “bonafide” and “lawful occupants” having regard to the rights of landholders. If the Constitution clarifies the issue, then the Land Act can be adjusted accordingly.

C. THE STATUS, IMMUNITIES AND PRIVILEGES OF TRADITIONAL LEADERS:

General Introduction:

Finally the people of Buganda would like the Constitution to address the status, immunities and privileges of traditional leaders in Uganda. The people of Buganda feel very strongly that although the Constitution recognises the existence of traditional leaders⁹¹, it does not address their status, immunities or privileges, yet they play a very important role in the lives of the people of Uganda. The people of Buganda would like the Constitution to be amended to address these issues.

Under paragraph 4 (o) of the Commission of Inquiry (Constitutional Review) Notice 2001, it falls within the mandate of the Constitutional Review Commission to collect views and make appropriate recommendations on the status, role and funding of traditional institutions.⁹²

The people of Buganda feel very strongly that this Constitutional recognition of Traditional Rulers’ privileges and immunities is neither unusual nor unreasonable; given the important role they play in the lives and well being of their people, as well as their role in fostering peace, tranquillity and development in the country as a whole. This is especially so when we consider that the nation has in excess of 20 million people and the traditional leaders are very few in number (in total less than 20 people).

(a) Tax Exemption for Traditional Leaders:

The people of Buganda recommend that traditional leaders and institutions like the Kabaka in Buganda, and other traditional leaders from all other areas of Uganda should be exempted from paying direct personal tax in recognition of their developmental, mobilising, cultural and leadership roles. This had been the position when in 1993 when these traditional institutions were restored. The law restoring the traditional institutions also provided that they should be exempt from direct personal taxation⁹³. Through an inadvertent omission, when the provisions relating to restoration of the traditional institutions were imported into the 1995 Constitution, the provisions relating to the tax exemption were omitted and subsequently repealed with the rest of the 1993 Statute.

Just like religious institutions are exempt from payment of income taxes, in recognition of the positive social role they play in the development of society, similar provisions should be made to accommodate traditional leaders.

(b) Immunity from Criminal Prosecution:

The traditional Leaders should also be exempted from criminal prosecution. This is the position in many countries such as Ghana, where Traditional Leaders similar to ours, exist, and even in developed economies like the United Kingdom, and several northern European states.

(c) Protocol:

The people of a particular area hold their traditional Leader in high esteem. They therefore view it as a humiliation that the Traditional Leader should be relegated to the current low protocol ranking on state

⁹¹ Article 246 of the Constitution.

⁹² Paragraph 4(o) provides that it is part of the Terms of Reference of the Constitutional Review Commission to “review the role and funding of traditional and cultural institutions and make appropriate recommendations.”

⁹³ Section 3 of the Constitution (Amendment) Statute 7/93 which amended Article 118 of the 1967 Constitution, provided that the new Article 118 (5) that “*a Traditional Ruler shall be exempt from direct personal tax.*”

functions taking place in any traditional leader's area. The people of Buganda would like to propose that the Traditional Leader in whose area a state function is held should take precedence over all people except the President and Vice President. This was the position under the 1962 Constitution and was respected by all Ugandans.

PART D: SUMMARY OF RECOMMENDATIONS AND CONCLUSION TO THE SUBMISSION:

The Federal System of Government:

The people of Buganda have recommended that:

1. The federal system of government is the only form of government that will ensure more rapid development for the people of Uganda as well as lasting peace for Uganda. We strongly recommend it for every one.
2. The federal system of government should be introduced for those districts whose people so desire it. The districts of Buganda, that are set out in the First Schedule to the 1995 Constitution (now including Kampala District), and that are deemed to have come together in co-operation under Article 178 of the 1995 Constitution should now be deemed to have come together to form the federal region of Buganda.
3. The door should be left open to allow any other districts in Uganda to come together to form federal states or to join existing federal states as and when the people of those districts so desire.
4. In the alternative, the people of Buganda have proposed that federal regions be established on the basis of four regional provinces; Northern, Eastern, Western and Buganda (Central) regions.
5. The rights, and responsibilities of the federal regional governments should be enshrined in the Constitution as outlined in this Report, and should only be altered with the consent of two third's majority in both the relevant federal regions' and national legislatures.
6. Decentralisation should continue in all areas of Uganda, except that where there is a federal regional government, this decentralisation should start at the regional level downwards (and not from the Central Government level downwards as is practiced under a unitary system).
7. The financial arrangements between the Central Government and the federal regions should be spelt out in the National Constitution and should only be altered with the consent of not less than two-third's majority of both the relevant federal state's and national legislatures.
8. Each federal state should have a federal regional constitution, which is in conformity the National Constitution, and which should be deposited with the Speaker of the National Assembly within two months of its promulgation.

Kampala District:

1. Kampala District should be among the districts the make up the federal region of Buganda. The National Constitution should include express provisions that show that no state or persons shall have any right to evict the Central Government from any federal region in the Country.

Land Matters:

The people of Buganda have recommended that:

1. The 9,000 square miles of land which were unlawfully taken away from the Kingdom of Buganda should be returned and restituted to the Kingdom. It should be owned and controlled by the Kingdom of Buganda and not the district land boards as the Constitution currently provides. There should also be constitutional safeguards to protect the interests of third parties whose rights have now already vested in this land.
2. The Constitutional provisions relating to security of occupancy to “bonafide” and “lawful” occupants should be repealed, and a more balanced position should emerge that meets the constitutional standards on property as set out in Article 26 (2) of the Constitution.

The status, immunities and privileges of traditional leaders:

The people of Buganda have recommended that:

1. Traditional leaders should be exempt from direct personal taxation, as was the position under the 1993 Constitutional (Amendment) Statute⁹⁴ which introduced these direct personal tax exemptions for traditional leaders upon their reinstatement in Uganda.
2. Traditional leaders should be immune from criminal prosecutions.
3. Traditional leaders should take precedence over all persons at state events held in their traditional areas, save the President and Vice President.

The justifications for all the above recommendations have been outlined in the body of this Report.

These recommendations have been made by the people of Buganda in good faith and they believe that they are in the public interest of all the people of Uganda as a whole.

When implemented, the people of Buganda believe that these recommendations will lead to durable peace, stability and sustainable development in Uganda.

THIS REPORT HAS BEEN PREPARED BY THE KINGDOM OF BUGANDA, THIS _____ DAY OF _____, IN THE YEAR _____.

Signed by:

Owek. J. G. Mulwanyammuli Ssemwogerere
THE KATIKKIRO OF BUGANDA
HEAD OF THE GOVERNMENT
THE KINGDOM OF BUGANDA

Owek. John W. Katende
ATTORNEY GENERAL / MINISTER OF JUSTICE AND STRATEGIC PLANNING, CHAIRMAN, THE
BUGANDA CONSTITUTIONAL REVIEW COMMISSION, THE KINGDOM OF BUGANDA

Owek. Charles Peter Mayiga

⁹⁴ Section 3 of the Constitution (Amendment) Statute 1993 (7/93)

MINISTER OF YOUTH AND CABINET AFFAIRS, also holding the Portfolio of MINISTER OF INFORMATION SECRETARY TO THE BUGANDA CONSTITUTIONAL REVIEW COMMISSION, THE KINGDOM OF BUGANDA

Owek. Haji M. Semakalu
SPEAKER OF THE BUGANDA LUKIIKO, MEMBER OF THE BUGANDA CONSTITUTIONAL REVIEW COMMISSION, THE KINGDOM OF BUGANDA

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The Commission would like to express its gratitude to the following people who were involved in its early discussions: Omutaka Kayita Musoke, Owek. Kanamwanngi and Owek. Sewava Serubiri.

SCHEDULE TO THE REPORT:

Country	Population:	No. of Federal States:	Languages	⁹⁵
United States:	263,057,000	51 (1 district)	No official Language	
Germany:	81,912,000	16	German	
Canada:	29,463,000	10 (2 territories)	English, French	
Australia:	18,025,000	6 (2 territories)	English	
India:	935,744,000	25 (7 territories)	Hindi, English	

⁹⁵ Encyclopaedia Britannica, 1996 Year Book, Encyclopaedia Britannica Inc, 1996

Austria:	8,063,000	9	German
Switzerland:	7,039,000	26 Cantons	French, German, Italian
Belgium:	10,064,000	3 (10 provinces)	Dutch, French, German
Spain:	39,188,000	19	Castilian, Spanish
Brazil:	155,822,000	26 (1 district)	Portuguese
Malaysia;	19,948,000	2(13 states, 2 territories)	Malay
Mexico:	91,145,000	31 (1 district)	Spanish
Argentina:	34,587,000	23 (1state)	Spanish
South Africa:	41,465,000	9 provinces	11 official languages

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