

## **TERMS OF REFERENCE FOR HUMAN RIGHTS BASED ANALYSIS OF MARRIAGE BILL, 2017**

### **1.1 Introduction**

The question of regulating the Institution of Marriage is one of the most debated issues in the history of Uganda's Parliament spanning back a period of over forty seven years. The Marriage bill, in various iterations, has been presented before Parliament for close to five decades and each time, has faced stiff resistance from conservatives, religious leaders and Parliamentarians.

A version of the bill was first presented to Parliament in the 1970s and was aimed at, in part, improving women's rights in marriage and consolidating the then multiple acts regulating customary marriage, Hindu marriage, civil marriage, Christian marriage, and Islamic marriage. This bill failed to pass. A version of the bill, then named the Domestic Relations Bill was tabled before Parliament in 2003, but failed to pass after it was countered with enormous resistance from Muslim groups opposed mainly to the provisions banning polygamy. After being rejected by Parliament in 2006, the bill was split into a Muslim Personal Bill, which covers Muslim marriages, and the Marriage and Divorce Bill.

Thereafter, the Marriage and Divorce Bill, 2009 was re-tabled aimed at consolidating the laws governing marriage and divorce in Uganda. The Bill discussed issues of cohabiting, widow inheritance, and grounds for divorce, marriage gifts, among others. However, this Bill was withdrawn from Parliament in 2013 after it faced stiff resistance from both Parliamentarians and religious groups.

Today, it has been renamed the Marriage Bill and will soon be re-tabled in Parliament. The Marriage bill is a product of a comprehensive study by the Uganda Law Reform Commission and similar studies including the Commission of Inquiry into the Marriage, Divorce and Status of women (Kalema Report) of 1965. It is intended to consolidate the law relating to marriage, marital rights and duties, marriage gifts given as bride price and many other issues. It also tackles among others conjugal rights, matrimonial property in polygamous marriages, and details the grounds for evidence of breakdown of marriage.

The Bill in its current state still raises a number of human rights concerns. Undoubtedly, if passed and seriously enforced, the bill would drastically improve the lives of womyn and men in marriage and would equalize the institution of marriage. However, the Bill in its current form still raises human rights and social concerns as it contains a number of problematic clauses that might be interpreted to encourage or excuse human rights violations in the institution of marriage.

It is against the above background that Chapter Four would like to carry out an assessment of the Marriage Bill in its current state, to assess its likely impact on human rights in Uganda and thereafter come up with recommendations on how to improve the Marriage Bill 2017.

## **1.2 Objectives of the study**

The key objective of this study will be to assess the possible impact of the Marriage Bill on human rights in Uganda. Specifically, the analysis will seek to;

- a. To identify key constitutional and human rights gaps in the Bill and propose how they can be addressed.
- b. Critically analyze the different issues raised in previous other versions of the Bill, while comparing them to the Marriage Bill as is today.
- c. Highlight the impact of the Bill provision on enjoyment of human rights in Uganda.
- d. Make recommendations for improvements of the Bill in line with key constitutional and human rights concerns.

## **1.3 Methodology**

Document analysis including review of the different laws pertaining to the institution of marriage, the proposed Marriage Bill and previous versions of the Bill, Hansards of Parliament, among others, will be carried out.

The Consultant will develop a methodology, which covers the key objectives of the analysis. The Consultant will work hand in hand with staff at Chapter Four who will review and discuss the paper as it progresses.

## **1.4 Deliverables**

The consultant will deliver the following:

- a. A first draft of the analysis which will be subject to feedback from Chapter Four Uganda staff.
- b. A final copy of the analysis addressing feedback.

## **1.5 Timeline**

The Consultant will deliver the final copy of the analysis within one month from signing the contract.

## **1.6 Administration information**

Chapter Four Uganda withholds a 6% withholding tax on the consultant's payable amount.

## **1.7 Required skills**

The Consultant should have a degree in law or any related course. Experience in human rights law and advocacy in Uganda, particularly regarding women's rights issues is preferred.

## **1.8 Address and application**

Interested applicants should send a Letter of Interest, Budget and CV to the Program Officer on [ptwasiima@chapterfouruganda.com](mailto:ptwasiima@chapterfouruganda.com) and copy to Finance and Administration Officer on [smugisha@chapterfouruganda.com](mailto:smugisha@chapterfouruganda.com) not later than October 20, 2017.