

The Republic of Uganda
Universal Periodic Review Stakeholders Engagement Joint Submission
Submitted by the Human Rights Network – Uganda (HURINET-U) for consideration at
the twelfth session of the Universal Periodic Review of Uganda.

EXECUTIVE SUMMARY

1. This is a joint submission of the organizations mentioned under Annexure A. The focus of this submission is civil and political rights, economic, social and cultural rights, rights of persons with disabilities, ethnic minorities, sexual minorities, children and women rights; each section is accompanied with recommendations to the Government of Uganda.

Introduction

2. Uganda has moved from a period of great political instabilities to a period of relative peace experienced today. There has been progressive improvement in the human rights situation with the promulgation of the 1995 Constitution of the Republic of Uganda. However twenty first century, has ushered into the country a feeling of uncertainty witnessing increased infringement and violation of human rights through draconian laws that have greatly curtailed the enjoyment human rights and the work/space for the human rights defenders. The past four years (2007-2011) have seen a continuation of a long-standing/orchestrated pattern of serious and systematic human rights violations, in contravention of Uganda's obligations under international human rights instruments and of the country's Constitution and domestic law. Human rights defenders continued to be targeted for harassment, threats, unjustified criminal charges and violence.

Methodology

3. This report has been prepared under the auspices of the Universal Periodic Review Stakeholders` Engagement in Uganda (UPRSE) comprising of over regional, national and international organisations and institutions working on human rights and development.¹ The UN Office of the High Commissioner for Human Rights conducted trainings and sensitization on the UPR process and facilitated the UPRSE coalition to conduct regional consultative meetings. A steering committee was established and divided stakeholders into thematic clusters notably women rights; Child rights; and persons with disabilities; ethnic minorities and indigenous communities; sexual minorities; civil and political rights; economic, social and cultural rights; and refugees and internally displaced peoples. Each cluster through consultative meetings developed a issues paper that was consolidated into a ten page stakeholders report that was subsequently validated at a national convention for civil society from all over Uganda

General Legal Framework for Human Rights Protection

4. The 1995 Constitution of the Republic of Uganda, 1995 is the supreme law and provides a Bill of rights under chapter 4. The constitution created the Uganda Human Rights Commission (UHRC), as the national human rights institution charged with the

¹See **Annex A** for a list of members of the coalition.

promotion and protection of human rights.² In addition to a promotion and advisory mandate, the UHRC has quasi-judicial powers to investigate and judiciously rule on human rights violations. The biggest challenge facing the Commission, however, is the failure by the State to adequately fund the commission and implement orders and awards of the court.

ACHIEVEMENTS, BEST PRACTICES, CHALLENGES, CONSTRAINTS & RECOMMENDATIONS

Economic, Social and Cultural Rights in Uganda

Ratification of the International Covenant on Economic, Social and Cultural Rights

5. Uganda ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) on 21 January 1987. Since ratification the State has not submitted a State Report to the Committee on Economic, Social and Social Rights. As a result, the country has not had the opportunity to have its legislation, policy and programs reviewed. The government should comply with its reporting obligation.

Extent of realization of selected economic social cultural rights

1. *Health rights*

6. Although the proportion of the national budget allocated to health care has been increased over the years (at 10.2%)³, it still falls below the 15% threshold set under the Abuja Declaration on HIV/AIDS, Tuberculosis and other Related Infectious Diseases.⁴ This has left a number of health facilities in a dilapidated state, without equipment, essential medicines and run by unmotivated health personnel.
7. Whereas there have been efforts to revise the drug distribution mechanism in a bid to eliminate drug stock—outs of Essential Medicines and Health Supplies (EMHS), access to EMHS has been affected by budgetary deficits. Only 30% of the EMHS required for the basic package are provided for in the budget. As a consequence, from October 2008-March 2009, hospitals, including Mulago National Referral Hospital experienced anti-TB drug shortages which are expensive in private facilities.⁵

Recommendation:

- The government should increase budget allocations to the health sector to meet the required demands for effective service delivery.

Right to work and favorable conditions of work

8. Favorable conditions of work require setting a minimum wage ceiling. Uganda's minimum wage was set in 1984 at Ugs 6,000 (approximately US \$ 3). To date this has not been revised. Hence affecting the rights of workers in relation to conditions of work.
9. Uganda's total labour force is estimated to stand at 10.9 million⁶ the continued unemployment and under-employment rates account for 17%⁷ of the labour

²See Article 51 – 58 of the Constitution of Uganda

³The allocation without donor support stands at 8.3

⁴ OAU/SPS/ABUJA/3, Adopted by the African Union Special Summit of Heads of State and Government, 26 – 27 2001, Abuja, Nigeria

⁵ Ministry of Health.MoH. (2008). *Access to and use of medicines by households in Uganda*. Kampala: Ministry of Health.MoH.

⁶National Development Plan 2010/2011-2014/2015 Pg. 182

force.⁸ According to the UBOS report of 2005/2006, 1.7 million Ugandans within the industrious age bracket of 14-64 years are either unemployed or under-employed. The youth and women are the most affected by unemployment⁹ and this has left them vulnerable and affected their enjoyment of other rights such as health, food, shelter. Steps have been taken to address unemployment including drafting the National Employment Policy, however the policy has not been passed leaving the country without a comprehensive employment policy.

Recommendations

- The government of Uganda should review the minimum wage policy to enable it meet the present economic needs.
- The government should adopt policies to reduce unemployment and underemployment including revitalizing the private sector, reforming the education system and providing startup incentives for youth entrepreneurs.

Right to culture

10. Comprehensive and accurate information about Ugandan culture is still not readily available. The government of Uganda reinstated cultural institutions in 1993 and provided for constitutional guarantees for the institutions. However the properties belonging to cultural institutions have not been returned and the government has not compensated those institutions that lost their properties to past governments. Some minority groups such as the Benet, Batwa, Basongora, Bakonjo and Karimojong have been evicted from their traditional lands to give way to national parks. These groups have been denied access to their ancestral and cultural sites found in these national parks. In 2009, the government stopped the King of Buganda from visiting his subjects in Bugerere-Kayunga; this resulted into riots that left 27 dead in central Uganda. In March 2010, a mysterious fire burnt the world heritage site at Kasubi Tombs, investigations as to the causes of the fire have not been completed. In 2011 the Institution of Traditional or Cultural Leaders Act, 2010 which greatly limits the enjoyment of the right to culture. The Bill limits the funding of cultural institutions to government funding and it is a crime for cultural institutions to contact foreign governments without consent of government of Uganda. The most affected groups by this provision are minority communities who leave across boarder between Uganda and its neighbors.

Recommendation:

- Enact a law that promotes the enjoyment and preservation of cultural rights
- Recognize and facilitate cultural institutions in their entirety, including returning their assets and granting overseer benefits on all profits from regional resources; and popularize and operationalize the national culture policy. The state should review its laws on natural resource protection to allow access to cultural sites by minority groups.

Civil and political rights

⁷ Uganda National Bureau of Statistics, Statistical Abstract 2008

⁸ Pg. 182, National Development Plan 2010/2011-2014/2015, notes that “unemployment rate” refers to the persons who worked under one hour in the past seven days.

⁹ Pg. 182, Uganda National Development Plan 2010/2011-2014/2015

Protection of the right to life¹⁰

11. The Laws of Uganda still provide for the death penalty.¹¹The Supreme Court in 2006¹² maintained the death penalty and provided that those on death row should be executed within 3 years or automatically turn into life sentences, the court also removed mandatory death sentences. The right to life has also been undermined by the excessive use of force by the security forces and agents in situations of public disorder. In September 2009 at least 27 people were killed during riots in central Uganda¹³. In April 2010, armed security men shot and killed 3 following the burning of Kasubi Tombs, a UNESCO heritage site. Death at the hands of security operatives in the ‘safe houses’ has also featured prominently as another violation of the right to life¹⁴. Human sacrifice has also occasioned several deaths. The Uganda Police Crime reports of 2009 and 2008 show an increase of child sacrifice by 20%.

Recommendations:

- The death penalty be abolished
- Hold accountable Law enforcement officials who perpetrate such acts
- Ensure that it is only the Uganda Police Force that enforces the law and carries out its mandate.

Protection of personal liberty¹⁵

12. Arbitrary arrests and unlawful detentions continue unabated in the country. Surveys show that up to 36% of community respondents who had ever been arrested have arrested on false accusations, mistaken identity, malice and no reason by security forces other than the police which is the only organ mandated to conduct arrests and kept in ungazetted places separating them from their families and lawyers¹⁶.The state continues to operate illegal detention centers such as “safe houses” and the numerous paramilitary groups carrying out civilian policing affects the enjoyment of this right¹⁷.

Recommendations:

- The police should be the only security agents who should be allowed to arrest suspects
- Ungazetted places of detention should be abolished

Torture, cruel, inhuman and degrading treatment and punishment¹⁸

13. Torture at the hands of security agencies continues unabated in Uganda. The number of clients registered at ACTV is increasing steadily with 2009 reporting an increase of 348

¹⁰ Article 22 constitution of the republic of Uganda, 1995, Article 6 International Covenant on Civil and Political Rights which guarantee the inherent right to life

¹¹ Article 22 of the Uganda Constitution provides that life can be deprived in a sentence passed by a competent court and confirmed by the highest appellate court.

¹²Attorney General v Susan Kigula 416 Others S C Constitutional Appeal No 3 of 2006

¹³ Counting the cost of the September riots- Human rights Network

¹⁴ Human rights watch open secret.

¹⁵ Article 23 constitution of the Republic of Uganda, 1995

¹⁶ African Centre for the Treatment and Rehabilitation of Torture Victims (ACTV) (2008) Baseline survey on the trends and nature of torture in Uganda, Kenya and Ethiopia

¹⁷ Paramilitary groups such as Chieftaincy of Military Intelligence (CMI), Joint Anti Terrorism Task Force (JATT), and Rapid Response Unit (RRU) among others continue to detain people in ungazetted places. See Human Rights Watch (2009) Open Secrete available on <http://www.hrw.org/en/node/82072/section/6> accessed on 24th May, 2010

¹⁸ Article 24 constitution of the Republic of Uganda, 1995

new cases as opposed to 10 new cases of Torture in 2008. The number of new torture victims increased from 1,410 in 2008 to 1,738 in 2009, an increase of 19% as compared from 1,400 in 2007 to 1,410 in 2008 an increase of 1%. Notably, 1,386 of the 1,758 new cases of torture registered were Ugandans while 372 were refugees and asylum seekers¹⁹Prison conditions remain quite harsh. Congestion in prisons caused by high populations of remandees continues to pose a problem for the prison administrators.

Recommendations:

- Pass the prevention and Prohibition of Torture Bill, 2009 into law which seeks to domesticate the UN CAT and criminalize torture in Uganda.
- Ratify the optional protocol to the United Nations Convention Against Torture (OPCAT)
- Provide rehabilitation services to victims of torture to address the effects of torture and integration into society
- Establish a victim's compensation fund to cater specifically for compensating victims of human rights violations.

Right to a fair hearing²⁰

14. An inadequate system of judicial administration and a lack of resources has contributed to a serious backlog in cases and thus limited the right to a fair hearing by not granting suspects a fair and speedy trial. Suspects brought before military courts who include civilians allegedly found in possession of a firearm are tried before the court martial²¹. Cases take too long to be determined because of the backlog which is caused mainly by lack of facilities and the lack of judicial officers to hear the matter. This has resulted into injustice to litigants. State officials have on many occasions undermined the judiciary through publically vetting and refusing to follow court orders. Government has not settled most of the claims made by judiciary and other bodies against the state and its agents. Mob justice is on the increase because of lack of trust for the judicial process.

Recommendations:

- Carry out sensitizations for the community on the mandate of the local council courts.
- Facilitate the judiciary to work independently and without political interference.
- Compensate all the victims of human rights violations and respect court rulings.

Freedom of conscience, expression, association, assembly²²

Freedom of Assembly and association

15. On 27th May 2009, the constitutional court²³ ruled that section 32 (2) of the police act which requires persons in Uganda to get permission from the police before they demonstrate, is contrary to Article 29 of the 1995 Constitution of Uganda, however in 2010 the Public Order management Bill was drafted and its effect is to reverse the court ruling and bring back the same restrictions. Further still, S. 35 of the Police Act which empowers the Minister prohibit demonstrations in the country still exist on statute books.

¹⁹ African Centre for the Treatment and Rehabilitation of Torture Victims –Annual Report 2009.

²⁰ Article 28 constitution of the republic of Uganda, 1995, Article 14& 15 International Covenant on civil and political rights

²¹ The military court martial can try civilians charged with crimes under the UPDF Act.

²² Article 29 constitution of the Republic of Uganda, 1995

²³ Muwanga Kivumbi vs. The Attorney General of Uganda (Constitutional Petition No. 9/05

16. There has been the continuous government blockade of various political parties from assembling and demonstrating. The police and the Army oftentimes uses excessive force to quell riots resulting into grave violations of human rights.

Freedom of Association

17. In 2009 the Government passed the NGO Registration (Amendment) Act. The Act provides for yearly registration, curtails NGO work including requirement for permission before they contact the rural community. This Law has a great effect on freedom of association in Uganda generally.

Freedom of Expression

18. Freedom of expression and more particularly freedom of the media is progressively being eroded through draconian laws. The press and journalists (amendment) Bill 2010, seeks to increase state control over media houses through setting up regulatory mechanisms which are aimed at muzzling the operation of print media in Uganda and the Electronic Media Act directly affect press freedom. Several provisions of the penal code such as criminal libel, promotion of sectarianism, unlawful publications, false news and deformation limit free media in Uganda. In 2009 Uganda witnessed arbitrary close down of media houses considered to be anti government, 4 radio stations were closed, the state ordered for the dismissal of several journalists considered critical to the state. Resident District Commissioners (RDCs) in many parts of the country have forced media houses not to host opposition leaders.

Recommendations

- The government of Uganda should withdraw the proposed amendment to the Press and Journalist Act since these constitute additional threats to media freedom in Uganda.
- All state agencies should respect freedom of speech
- GoU, Civil Society Organizations and the Media should work together to develop self-regulatory systems for the media industry to promote a free and profession media in Uganda.
- Parliament of Uganda should Repeal and amend laws that are inconsistent with media freedom.

Access to information²⁴

19. We commend the state for enacting the access to information Act which came into force in 2005 to give effect to Article 41 of the Constitution. However, we recognize that there still exist impediments to citizens accessing the sought information as the state has failed to pass the regulations that were meant to operationalize the Act.

Recommendations

- Set up a body to monitor implementation of the Access to information act / Give the Uganda Human rights Commission the mandate to monitor the implementation and enforcement of the Act in the alternative.
- Laws in conflict with the access to information Act should be amended to give the Act effect.
- GoU should enact the regulations to that will give effect to the Act passed.

Status of Human Rights Defenders (HRDS)

²⁴ Article 41

20. The State and its agencies have continued to threaten HRDs. Such threats to HRDs have been in form of direct attacks on the individual, family, business or friends, threat to close business interests, actual closure of such interest, arbitrary arrests and detention, and torture. HRDs have been associated with political opposition and rebel groups as an attempt to discredit them.

Recommendations:

- The government should create an enabling environment for the operation of human rights defenders
- The government should investigate and hold accountable officers who attack human rights defenders.

People with Disability RIGHTS

21. The Constitution provides for sign language as one of the three spoken languages in the country, however despite the legal requirements no measures have been put in place to translate information for people with hearing or visual impairment. Government has no Braille production unit to transcribe print literature into Braille. This makes it difficult for visually impaired persons to afford the transcription costs hence depriving them the right to information.
22. PWDs with mobility challenges face serious challenges in accessing most of the public buildings and roads due to lack of ramps, lifts, rails etc. This denies them the right to movement, living independently in community and contributes to exclusion from participation in public activities.

Recommendations:

- Public service should incorporate sign language interpreters in the government employment structure and recruit them in the respective public offices to facilitate communication between deaf persons and the other persons.
- GoU should adopt the accessibility standards developed by UNAPD (an organization for persons with physical disabilities in Uganda) as a standard measure for improving the accessibility of all public and private structures;
- Awareness campaigns on the white cane should be incorporated in all the line ministries to increase knowledge on the relevancy of the Cane.

Child Rights:

Access to Education

23. The state has put in place measures to protect children including the enactment of the Children Act, providing for secretaries for child affairs at every local council level. Policies such as Universal primary education and universal secondary education, adolescent reproductive health policy among others have promoted the rights of children. However major challenges still exist.
24. The teacher pupil rate is still high, while many pupil still trek long distances to school and lack of lunch at school still remain a challenge for children and parents. On the other hand despite the passing of the Prevention of Trafficking in Persons Act child trafficking and child sacrifice is on the increase as noted by the police reports. Child labour remains

a major challenge in the country with most child laborers working in agricultural plantations and stone quarries.

Recommendation:

- There is need to construction and equip more schools in rural areas to enable all children have equal access to education like their counterparts in urban areas
- GoU should start programmes for provision of lunch for school children.
- GoU should Prohibit all forms of violence against children and develop a national prevention strategy
- More efforts should be put on prosecuting all those involved in perpetrating violence against children and child sacrifice.

Women and Gender Rights

25. High poverty levels, low literacy rates, negative cultural practices, limited access to resources and institutional weaknesses in law enforcement agencies continue to affect women's rights. On the other hand, insufficient resources have restricted the coverage of key actors and implementation of programs geared towards promoting equality and equity between men and women. The state has implemented affirmative action programme in favor of women in all development programmes, including having women representative at all elective posts in the country. Much as this has improved women participation in decision making, many women are still unable to take part in decisions that affect them due to cultural and social factors.

26. In 2010 government passed the Domestic Violence Act and the Prohibition of Genital Mutilation Act, these are positive steps towards eliminating violence against women and Female Genital Mutilation (FGM). Despite the laws FGM is still a common practice in eastern Uganda²⁵ and sexual and gender based violence among women is still high²⁶. The state has also not revised the marriage and divorce laws to provide for marriage rights for women.

Recommendations:

- The government should expedite the process of enacting the Marriage and Domestic Violence, Marriage and Divorce and HIV AIDS Prevention and Control laws.
- The government should popularise and implement the provisions of the FGM Act and awareness against bad cultural practices and too have the regulations to the FGM Act passed.
- Should formulate a comprehensive reparation programme for IDPs for women

Status of LGBTI

27. The most egregious violation of LGBTI rights in Uganda is constituted by the various legal frameworks particularly the proposed Anti-homosexual Bill, The HIV/AIDS Prevention Bill, 2010, the penal code Act that still criminalizes same-sex sexual conducts in private between consenting adults and the proposed sexual offences bill 2011 which

²⁵Wambi Michael (2010) Female Circumcision Still a Vote Winner available at <http://ipsnews.net/news.asp?idnews=48915> accessed on March 13, 2011

²⁶For example UNICEF in 2005 showed that up to 60% of the women in northern Uganda had experienced sexual and gender based violence.

contravenes Articles 2(1), 17 and 26 of the ICCPR.

28. Such laws reinforce social stigma against gay, lesbian, bisexual and transgender individuals and expose them to the risk of deprivation of liberty, life, right to privacy, physical integrity and health. LGBTIs in Uganda face stigma and selective application of the law where they are often arrested and detained without clear charges levied against them.
29. Human rights defenders working on LGBTI issues in the country have been forced to flee Uganda fearing for their lives after a local newspaper printed articles exposing their sexuality in a highly inflammatory manner with pictures and their addresses calling for them to be hanged. The high court in Uganda ordered for compensation of all persons whose pictures and addresses were published with a call to be hanged²⁷. However compensation is not enough protection given the stigma and threats LGBTI are facing.
30. LGBTI organizations in Uganda are not allowed to formally register²⁸ with the national institutions because their activities are considered to be against public morals. There are no government-sponsored or privately funded programs that respond to the HIV related needs of same-sex practicing persons in Uganda despite the HIV seroprevalence rates which run at about 10% among adults, at present.

Recommendations:

- 1.1** Repeal Articles 145, 146, and 148 of the Ugandan Penal Code and decriminalize consensual sexual activity between persons of the same sex.
- 1.2** Repeal laws that implicitly discriminate on the basis of sexual orientation or gender identity, such as Sections 15(6)(d) (i) and (ii) of the Equal Opportunities Commission Act, which prevents the Commission from investigating rights violations that may be considered immoral.
- 1.3** GoU should denounce the Anti-Homosexuality Bill of 2009 (Bill 18) in all of its forms and any similar legislation that explicitly or implicitly targets people on the basis of their sexual orientation or gender identity.
- 1.4** Investigate and appropriately address non-state violence against LGBTI people; publicly condemn all acts of violence, discrimination and intolerance against individuals on the grounds of their sexual orientation or gender identity.
- 1.5** Adopt the Yogyakarta principles, disseminate the information and create awareness and translate them at the local level.
- 1.6** Include LGBTI agenda in the National HIV /AIDS and health strategic plans and policies.

IPS/Minority People

31. Ethnic minority groups continue to be disproportionately affected by Uganda's problems, including regional conflicts, uneven development, and inadequate health care and poor education provision. Ugandan minority groups are facing land and resource tenure

²⁷ <http://www.ultimate-guitar.com/forum/archive/index.php?t-808713.html>

²⁸ Both the Non Governmental Organizations (Registration) Act 2006 and the Companies Act require the Registrar to approve the organization's name which should not be contrary to public morality and also approve the objectives.

insecurity, poor service delivery especially in the education and health sectors, discrimination²⁹ and low political representation. Their situation is steadily deteriorating with increasing competition for natural resources in their areas, the effects of climate change (such as drought) and growing impoverishment.

32. Women and children from Ethnic minority communities are frequently excluded from decision making and gender interests. This is aggravated by lower levels of literacy and education among women in the minorities' communities. Women are marginalized and refused access to any property rights. Many are often excluded from roles of political leadership, both in indigenous sociopolitical structures and in structures imposed by the state.

Recommendations:

1. Uganda should ratify and domesticate the ILO Convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries. It should also comply with the provisions of UN Declaration on the Rights of Indigenous Peoples.
2. The state should implement the Concluding Observations of the African Commission on Human and Peoples' Rights in particular those concerning ethnic minorities.
3. Affirmative action within the education and health sector should be improved to favor minorities

Refugees & IDPs

Access to land by returnees

33. Land issues and eviction remain a serious concern among former IDPs. Major land disputes continue to become inter-clan conflict and boundary issues. Communities and local leaders lack knowledge on land rights and the mechanisms to access property restitution channels which continue to be a significant challenge to the achievement of durable solutions.

Issues affecting Refugees

34. Of high priority currently is the question of the application of the Cessation Clause on 16,300 Rwandan refugees and expulsion of Rwandan rejected asylum seekers. The Governments of Rwanda and Uganda have decided that **all** Rwandans living in exile return at all costs violating the principle of *non-refoulement*. Forcible returns were also conducted in a manner that violated rights of the affected population in that, the governments used the military who applied excessive force, coercion; deceit and trickery to get the Rwandans assemble in one area.

Recommendations

1. The government of Uganda should establish the Refugee Appeals Board to deal with rejected asylum cases and open up the avenue to applicants to accessing courts of law on refugee status determination.

²⁹ International Labour Organization and African Commission on Human & Peoples' Rights, 2009

Annex A

UNIVERSAL PERIODIC REVIEW STAKEHOLDERS ENGAGEMENT SUBMITTING ORGANISATIONS

1. DEVELOPMENT FOUNDATION FOR RURAL AREAS
2. EDUCATIONAL ACCESS AFRICA
3. GIDEON FOUNDATION AGAINST CHILD SACRIFICE
4. GOOD HOPE FOUNDATION FOR RURAL DEVELOPMENT
5. HUMAN RIGHTS NETWORK- UGANDA
6. HUMAN RIGHTS AND DEVELOPMENT CONCERN
7. HUMAN RIGHTS AWARENESS AND PROMOTION FORUM
8. HUMAN RIGHTS CONCERN
9. RULE OF LAW ASSOCIATION
10. UGANDA COALITION ON THE INTERNATIONAL CRIMINAL COURT