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NHRI SUBMISSION

FOR

UGANDA'S SECOND UNIVERSAL PERIODIC REVIEW - OCTOBER 2016

ABBREVIATIONS USED IN NHRI SUBMISSION:

CAT	Convention Against Torture
CEDAW	Convention on the Elimination of Discrimination Against Women
CESCR	Covenant on Economic Social and Cultural Rights
CRC	Convention on the Rights of the Child
EC	Electoral Commission
FY	Financial Year
HRBA	Human Rights based Approach
JLOS	Justice Law and Order Sector
MDAs	Ministries Departments and Agencies
MIA	Ministry of Internal Affairs
MOGLSD	Ministry of Gender, Labor and Social Development
MOES	Ministry of Education and Sports
MOH	Ministry of Health
MOJCA	Ministry of Justice and Constitutional Affairs
NAPHR	National Action Plan on Human Rights
NDP	National Development Plan
NHRI	National Human Rights Institutions
OPM	Office of the Prime Minister
UBOS	Uganda Bureau of Statistics
UHRC	Uganda Human Rights Commission
UPDF	Uganda Peoples' Defence Forces
UPF	Uganda Police Force
UPS	Uganda Prisons Services

1. Introduction

UHRC is the national human rights institution established under the Constitution of the Republic of Uganda, 1995 to promote and protect human rights.¹ The submission for this second UPR report is comprised of a brief background, an update on Government's compliance with 2011 UPR recommendations, a section on emerging human rights concerns and a conclusion. This submission has been a culmination of UHRC annual and special reports assessing the human rights situation in the country from 2012 to 2016. Further, the report is informed from several consultative meetings UHRC has held with various stakeholders over the past four years on the state of human rights in the country.²

2. Background

During the 2011 UPR Session, UHRC submitted its NHRI report for consideration at the session in which Uganda adopted 130 recommendations out of the 182 recommendations. This report specifically focuses on reporting on the implementation of recommendations in areas of human rights in which UHRC has extensive information obtained whilst carrying out its constitutional mandate.

3. Status of implementation of Voluntary Pledges made at UPR 1

In October 2011, the Government of Uganda made a voluntary pledge to develop a National Action Plan on Human Rights (NAPHR). This achievement was a direct result of the lobbying efforts by UHRC and other actors. UHRC played a crucial role in providing technical assistance in the process of development of the NAPHR, which has been done in a consultative and participatory with various stakeholders³ from all the regions of the country and sharing of best practices with countries that have NAPHR. A sub-committee of Cabinet and an inter-ministerial technical committee was established in 2013 with human rights focal points. This process is currently in its final stages awaiting national validation and approval by the Government.

UHRC has been at the forefront promoting the mainstreaming of the HRBA in Government policy, planning and programming processes. One crucial development was the fact that the second NDP (2016-2021)⁴ included a directive stating that all sectors, MDAs and local governments are expected to adopt HRBA in their policies, legislation, programmes and plans. Human rights desks/focal points were established in some ministries including at the MOJCA.⁵ UHRC notes that co-ordination between MDAs in respect reporting and follow up of implementation of human rights recommendations still remains a major challenge.

Plans are underway for the incorporation of Human rights education as a subject of social studies in lower secondary schools and it will be part of the national curriculum in 2017, following the implementation of the national strategy in 2013. Currently, it is being pretested in certain pilot schools.

Recommendations: *UHRC recommends that a specific Ministry or mechanism to have an overall coordinating role concerning human rights issues such as state reporting to treaty bodies and implementation of human rights recommendations, so as to enhance flow of information and co-ordination between MDAs.*

4. Rights of Ethnic Minorities and Indigenous Peoples

In 2015, UHRC undertook a deliberate effort in line with its mandate to monitor government compliance specifically the human rights developments and concerns in ethnic communities of Uganda.⁶ UHRC noted positive developments in the realisation of their rights such as increased security measures for their protection in the communities, their ability to move freely within and outside their communities and increased access to education. However, UHRC observed the continued difficulty in terms of the current confusing legislative interpretation of the two terms 'indigenous persons' and 'ethnic minorities' in the Constitution, regional legal framework and the interpretation by UBOS. Further, UHRC noted the continued high levels of discrimination against ethnic minorities, deprivation of their livelihoods leading to low standards of living, eviction from their ancestral lands, and their low participation in the political and development process.

¹ Articles 51-54 of the Constitution of Uganda.

² UHRC held a national stakeholders meeting with stakeholders on the status of UPR health related in November 2015.

³ Stakeholders involved in the consultations included government ministries, departments and agencies, MPs, CSOs, human rights defenders, academia, religious leaders, media, businesses, the private sector through the Private Sector Foundations. The composition and representation comprised men, women, PWDs, older persons, children and the youth. In total, the consultation workshops were attended by over 500 participants.

⁴ NDP 2 2015/2016-2019/2020 launched in June 2015, Chapter 14, p. 214.

⁵ Some of the MDAs that have human rights focal points/desks include: Ministry of Health, Ministry of Education, Ministry of Internal Affairs, Ministry of Works and Transport, UPF, UPDF and UPS.

⁶ Some of these ethnic minorities included the Ik, Batwa, Tepeth, Nyangia, Kuku.

Recommendations: *UHRC recommends that specific provisions in the Constitution should be amended categorising ethnic minorities and indigenous peoples' so as to align the Constitution to regional and international human rights. Specific affirmative action programmes and policies targeting these vulnerable groups should be developed including deliberate measures to protect their existence and the ethnic, cultural, religious and linguistic identities.*

5. Rights of Children

The enactment of the Children Amendment Act 2015 is a positive step taken by the Government to ensure that the law complies with regional and human rights standards. It provides for guardianship of children; and inter-country adoption; prohibits corporal punishment and the reduction of the statutory remand period.

UHRC monitored the rights of children in conflict with the law in 2012, 2013, 2014 and 2015 by inspecting remand and rehabilitation homes and reporting on its findings.⁷ UHRC commends JLOS for steps taken to develop the diversion guidelines as an alternative to detention. However, UHRC noted challenge of increased numbers and vulnerability of street children and challenges in the administration of juvenile justice including detention of children with adults and overcrowding in the remand and rehabilitation homes.

Recommendations: *UHRC recommends for the implementation of the Children Amendment Act and ratification of the Inter Adoption Treaty. In addition, emphasis be placed on relevant JLOS institutions to utilise diversion guidelines for the administration of justice for children in conflict with the law in the formal justice system. There is also need for increased resource allocation and coordination between UPF, UPS, MIA and MOGSLD to ensure that the rights of children in conflict with the law are upheld.*

6. Rights of Persons with Disabilities (PWDs)

UHRC extensively monitored the 2016 national elections and observed improvements in ensuring that 96% of the polling stations were physically accessible to PWDs.⁸ However, some of the human rights concerns noted included: lack of ballot papers in braille leading to dependence on unqualified guides to cast their vote and inadequate civic and voter education. Whereas physical accessibility to public buildings and places is one of the reasons to assist the participation of persons with disabilities in the community and the realisation of their rights, the UHRC observed that limited considerable attention had been paid to physical accessibility despite the enactment of the Building Control Act 2013.

Recommendations: *UHRC recommends that all election processes, materials and devices should be accessibility friendly. UHRC and EC should be adequately funded to effectively to carry out civic and voter education. The Government should implement the Building Control Act.*

7. Rights of Domestic service workers

UHRC commends the efforts undertaken by the Government in this respect by signing a five year bilateral agreement for export of domestic workers to Saudi Arabia⁹ and by licensing Labor Exporting Companies. Despite these efforts, the Government is yet to amend the laws to include protection of domestic service workers and address the existing gaps in the law in this respect. The lack of such protection has caused interpretation problems in the current laws such as whether 'home' is considered as a 'work place' for the domestic worker. Most crucially, the Employment Act 2006 protects workers in the formal employment leaving out those in the informal employment like domestic workers. Further, domestic workers are not covered by the current social protection measures in Uganda.¹⁰ UHRC noted the unfavorable working conditions of many domestic workers, who are vulnerable to abuse and exploitation.

Recommendations: *UHRC recommends that Government ratifies and domesticates the ILO Convention No.189; to review the existing legislation such as the Employment Act 2006, the Occupation Health and Safety Act, 2006 to specifically target domestic workers as workers and advocate for regulation of domestic work.*

⁷Chapter 2 of the 15th, 16th, 17th and 18th UHRC Annual Reports.

⁸UHRC Preliminary report on the 2016 national elections dated Tuesday 23 February 2016, p.4. Available at www.uhrc.ug Last accessed 28 February 2016.

⁹On 7 July 2015, Uganda signed an agreement for recruitment of one million domestic workers in Saudi Arabia. It sets the minimum wage for Ugandan workers at 700 Riyals (US \$200) per month, a minimum 8-hour working day with paid overtime allowances and prohibits deductions from workers' salaries. The employer must provide a return ticket, decent accommodation, official papers, health insurance and transportation, and to facilitate the issuance of exit visas.

¹⁰Section 6 and 7 of the NSSF Act Cap 222,

8. Rights of Refugees

UHRC monitored the rights of refugees in 2013 in four refugee settlement camps and transit centers.¹¹ Efforts have been made by state and non-state actors to provide for emergency response such as the provision of essential non-food items, creation of child friendly spaces, ensuring water supply and delivering essential drugs. In addition, land was allotted to refugees for housing and farming. The challenges faced include insufficient food; water and sanitation challenges; separation of families; security concerns, access to justice constraints and violations to the right to health and education.

Recommendations: UHRC recommends that MOH and MOES should construct more health centres and schools respectively in refugee settlements to cater for the overwhelming number of refugees. There is need for the establishment of a disaster commission and allocation of monies for a special fund that caters for natural and man-made disasters.

9. Domestication of International Conventions and Treaties

UHRC commends the Government for domesticating Convention against Torture with the Prohibition and Prevention of Torture Act 2012 and CRC through the Children Amendment Act 2015.

Recommendations: UHRC urges the Government of Uganda to ratify and domesticate the Convention on Enforced Disappearances, Optional Protocol to the CAT, Optional Protocol to the CESCR, Optional Protocol to the CEDAW and Optional Protocol 3 to the CRC.

10. Independence and Funding of the UHRC

UHRC has over the last four years operated without interference or undue influence from the Government. Although there has been a steady increase in UHRC's funding by the Government over the years,¹² it has been for administrative and operational expenditures and there is still heavy reliance on development partners for the core mandate activities. In a nutshell the UHRC notes that in FY 2015/2016 Government funding was at 75%, while donor funding at 25%.

Recommendations: In accordance with the UN Paris Principles relating to the status of NHRIs, UHRC recommends that the Government should fully fund UHRC to avoid the persistent challenges of relying on external financial support.

11. The Electoral Commission

The process of appointment of the EC members is provided for in Article 60 of the Constitution. During the Constitutional Amendment process that took place in 2015, UHRC emphasised that the current appointment of the EC members is not elaborate and does not foster greater openness and credibility in the process.¹³

Recommendations: UHRC recommends for best practice of constituting a selection panel that has broad representation from the professional bodies and Commissions, with the function to appoint the EC, subject to parliamentary approval.

12. Conditions in Places of Detention – Uganda Police Force

UHRC inspected the following number of police stations and posts: 814 in 2015, 913 in 2014, 892 in 2013 and 701 in 2012. UHRC has noted progress in maintenance of updated registers (lock up, admission, punishment, treatment, property, complaints, and death of suspects),¹⁴ renovation and construction of staff accommodation, offices and cells, phasing out of bucket system, the establishment of Directorate of Legal Services and Human Rights and the deployment of regional human rights officers.¹⁵ UHRC noted the following persistent human rights concerns: long detention periods of suspects in UPF cells for periods ranging from 10 to 30 days; continued detention of children with adults at police stations; complaints of torture and deprivation of personal liberty by police officers; scarcity of water in certain facilities; old and dilapidated buildings not fit for human habitation; inadequate beddings for inmates and suspects; increased tendency of the crime preventers to take the role of the police and the non-favourable working conditions for police officers.

¹¹ Bubukwanga Transit Centre, Kyangwali Refugee Settlement, Midia Transit Centre and Adjumani Refugee Settlement.

¹² In FY 2011/2012, Government of Uganda funded UHRC to the tune of UGX 7.22 billion, UGX 8.3 billion in FY 2012/2013; UGX 9.78 billion in FY 2013/2014 and UGX 9.78 billion in FY 2014/2015.

¹³ Uganda Human Rights Commission's Position on the Constitution (Amendment) Bill, 2015, submitted to the Speaker of Parliament on Thursday 23 July, 2015.

¹⁴ UHRC 15th Annual Report 2012, p. 25.

¹⁵ The mandate of UPF Regional Human Rights Officers include conducting regular human rights sensitisation activities targeting police officers in their respective regions and ensuring that all human rights violations involving UPF in their regions are investigated.

Recommendations: *UHRC recommends for the enforcement of the Prohibition and Prevention of Torture Act (2012); ensure that children in conflict with the law are separated from adults; completely phase out the bucket system; equipment of UPF with the necessary resources and skills to enable them to produce suspects before courts of law within 48 hours.*

13. Conditions in Places of Detention – Uganda Prisons Services

UHRC observed developments that improved overall conditions of prisons including: increased human rights awareness for staff and prisoners; maintenance of updated registers; skills training for inmates (such as carpentry, tailoring, crafts and brick making); reduced number of detainees on remand; renovation and construction of some prison facilities; continued phasing out of the bucket system; establishment and revitalisation of the Human Rights Committees; continued respect of prisoners' freedom of worship; right to access information (use of radio sets); increased access to health services by prisoners including specialised health services (such as HIV/AIDS Counselling and Testing and provision of ARVs); improvement in conditions of children incarcerated with mothers; and improved access to water.¹⁶ UHRC observed the following consistent challenges throughout the period under review: inconsistent and inadequate food supply from the headquarters to the prisons; inadequate or lack of transportation for detainees to court; inadequate budgetary allocation to UPS; continued detention of civil debtors; prisoners with mental disability awaiting ministers orders and their heightened vulnerability; increasing numbers in long arbitrary detention due to high irregular high court circuits; allegations of torture and solitary confinement; scarcity of water in some facilities especially during the dry season, old dilapidated and makeshift prison structures; unfavourable working conditions for UPS' staff and in some instances, the continued detention of children with adults.

Recommendations: *UHRC recommends an amendment of the law to prohibit the detention of civil debtors; complete phasing out the bucket system; cases of inmates pending ministerial orders should instead be expeditiously handled by the Judiciary; children in conflict with the law should be separated from adults and adequate funding provided to improve UPS infrastructure and services.*

14. Accountability by Security Agencies

To oversee independent impartial investigations within the security forces, the following mechanisms have been created establishment of the Directorate of Human Rights and Legal affairs and the Professional Standards Unit within UPF; the Directorate of Human Rights within UPDF; Human Rights Committees in UPS and the enactment of the Prohibition and Prevention of Torture Act (2012).

Recommendations: *UHRC recommends for Government to investigate the allegations of human rights violations by security officers expeditiously and for their findings and decisions made known publicly and for the implementation of the Prohibition and Prevention of Torture Act 2012.*

14. Judiciary

During the period under review, the Government recruited judicial officers, opened new Magistrates courts, constructed 5 mini-JLOS stations, formulated new sentencing guidelines, and advanced the plea bargain process and the case backlog reduction programme.¹⁷ Particular emphasis has been made on making the judiciary more accessible to PWDs, resulting in the formulation of a special policy for vulnerable groups accessing justice in respect to new structures. UHRC noted the following key concerns such as case backlog, absenteeism and continuous court adjournments by some judicial officers, inadequate number of judicial officers and the delay in determination of court decisions and enforceability of remedies.

Recommendations: *JLOS should develop a strategy to address physical access for PWDs in already existing JLOS structures; the Judiciary should strengthen the inspection function, increase the number of judicial officers and implement the case backlog programme so as to enhance its performance and effectiveness in all the courts of judicature.*

15. Right to Health

In 2012, UHRC inspected 329 health facilities, 324 in 2013 and 538 in 2014.¹⁸ UHRC noted a National Malaria Control Strategic Plan 2010/2011-2014/2015 in place which has carried out indoor residual spraying¹⁹ and 22 million mosquito

¹⁶UHRC inspected 896 prisons in 2012, 1060 in 2013, 1,122 in 2014 and 173 in 2015.

¹⁷2015 court case census was a total of 114,512 pending cases. Supreme Court had 97, Court of Appeal 5,844, High Court 35,548 and Magistrates' Courts 68,115. Available at www.newvision.co.ug. Targets were set for each court to curb backlog in 2016 e.g. Supreme Court 80 cases, Court of Appeal 600, High Court 300, Registrars 400 and Chief Magistrate 600, Magistrate Grade I 300 and the Magistrate Grade II 300.

¹⁸Health facilities inspected include Health Center IIs, Health Centre IIIs, Health Centers IVs, regional and national referral hospitals.

¹⁹Indoor residual spraying for vector control has been implemented in 10 and 14 districts of Northern and Eastern Uganda.

nets given for free.²⁰ Key challenges detected in implementing the strategy included: inadequate funding to implement and sustain impact programs; lack of human resources; a court injunction against use of DDT amongst others. In relation to HIV/AIDS/ Tuberculosis (TB), UHRC noted the following strategies: the HIV Strategic plan 2015-2020, the TB strategic plan 2015-2020, Uganda HIV policy, HIV and AIDS Prevention and Control Act 2014. At programming level the following programs were in place: HIV testing and counseling (HTC), Prevention of Mother to Child Transmission (PMTCT),²¹ safe male circumcision (SMC),²² condom distribution²³ and Anti Retroviral Treatment (ARTs). UHRC noted with concern whilst carrying out inspections the following: drug stock outs of ARVs, only 45% of the health facilities had treatment and diagnostic services and high Infection rates at landing sites in 25 districts as inspected by UHRC.²⁴

For maternity services, UHRC noted mandatory maternal death notifications and reviews with the establishment of Maternal and Perinatal Death Review Committees in all regional referral hospitals; increased access to skilled attendance; recruitment, capacity building and mentoring of health workers; procurement and distribution of reproductive health commodities including contraceptives and condoms to health facilities. UHRC however observed the following challenges: maternity services were not in all health facilities,²⁵ inadequate funding of the health sector budgets, non-reporting of maternal deaths by private health facilities, inadequate critical staff to offer maternal and newborn care services especially in the hard to reach areas and poor health seeking behavior of mothers who seek treatment late. Finally, UHRC notes that the Government is in the final stages of presenting a Bill on National Health Insurance Scheme to the Parliament for discussion. The Bill statutorily provides for a national health insurance scheme and community health insurance schemes.

Recommendations: *UHRC therefore recommends that health workers should be trained on the proper requisition of essential drugs and supplies to eliminate instances of drug shortages; for the recruitment and filling in the existing vacancies of critical staff especially those that offer maternal, new born care services and HIV/ AIDS care services; creation and funding of specific and targeted programs for key populations; provision of national health insurance and allocation of 15% of the national budget to the health sector.*

16. Freedom of Assembly and Expression

In the period under review, UHRC carried out a systematic investigation into the situation of media freedoms and the rights of journalists in Uganda.²⁶ Incidences of curtailment of these freedoms were observed by UHRC through enforcement of restrictive legislation, shutting down of internet and social networking sites, forced closure of media houses²⁷ and offices, preventative arrests, attacks and arrests of journalists and opposition political activists, and the destruction of property.²⁸

Recommendations: *UHRC recommends for the review of the Public Order Management Act 2013, Interception of Communications Act 2010 and the Press and Journalists Act 1995 for the purpose of aligning them with human rights standards; use of reasonable force by security agents during arrests; prosecution of any errant security officers in accordance to the Prohibition and Prevention of Torture Act 2012 and internal disciplinary procedures.*

17. Emerging Human Rights Concerns

UHRC notes the following persistent and emerging human rights concerns during the period under review: land evictions and compensation issues, violation of digital rights, difficult working environment for HRDs (especially the media, journalists and Non Governmental Organisations (NGOs), infringement on the freedom of expression and assembly, the plight of older persons and persons with albinism; urgent need for credible consultative and participatory electoral reforms, internal party democracy and respect for the rule of law.

18. Conclusion

UHRC notes that Uganda has made some commendable progress towards implementing the UPR recommendations over the past four years. There is still need for the Government, through its responsible MDAs, to implement the pending

²⁰This was given out between 2013 – 2014 targeting pregnant women and children.

²¹95% pregnant HIV positive mothers accessed PMTCT and Anti-retroviral (ARV) drugs in 2014.

²²The country has had 878,109 safe circumcisions out of planned 1 million bringing the total coverage of SMC to about 35%. UHRC 17th Annual Report 2014. Available at www.uhrc.ug

²³As above. In 2013, 187 million condoms were distributed and 230 million condoms by the end of 2014.

²⁴As above, p.171.

²⁵For instance out of the 538 health facilities inspected by UHRC in 2014, 286 provided maternity services in form of pre natal, emergency obstetric and neonatal care (emNOC), post natal health care, theatre, blood transfusion and reproductive healthcare


²⁶UHRC Special Report on 'Media Freedoms and Rights of Journalists in Uganda' 2014. Available at www.uhrc.ug.

²⁷For example in May 2013, a number of media houses were shut down by the police for four days. Further, a number of journalists have been injured by police whilst covering events during the years under review.

²⁸UHRC 16th and 17th Annual Reports.

outcomes and commitments, to effectively address the identified persistent and emerging concerns in order to fulfill its international, regional and national human rights obligations.

Signed on this 30th day of May, 2016


Med. S.K. Kaggwa

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