

Status of Human Rights in Uganda for the 40th Session of the Universal Periodic Review

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting and prosecuting human rights around the world. The ECLJ holds Special Consultative Status before the United Nations Economic and Social Council. This report raises concerns about human rights abuses in the Republic of Uganda for the 40th Session of the Universal Periodic Review (UPR).

Background

2. Located in East-Central Africa, Uganda has an estimated population of 44.7 million people¹. It is a predominately Christian country with 45% of the population identifying as Protestant, 39% as Roman Catholic, 14% as Muslim, and 2% as other².

3. Uganda's previous review was held on 3 November 2016³. As a result of the review, Uganda received 226 recommendations, 148 of which it supported. One supported recommendation was for Uganda to “[t]ake concrete measures to ensure effective implementation of the Act prohibiting female genital mutilation, including by investigating relevant incidents and prosecuting perpetrators as well as by rehabilitating victims”⁴. Uganda also supported a recommendation to “[t]ake further steps to combat trafficking of persons”⁵. There were no recommendations made regarding religious freedom.

Legal Framework

4. Under Chapter 3, paragraph 17 of the Constitution of the Republic of Uganda, it is the duty of every citizen “to protect children and vulnerable persons against any form of abuse, harassment or ill-treatment”⁶. Furthermore, Chapter 4, paragraph 24 prohibits any person from being “subjected to any form of torture or cruel, inhuman or degrading treatment or punishment”⁷. Additionally, Chapter 4, paragraph 34 of the Constitution enshrines protections for children:

(1) Subject to laws enacted in their best interests, children shall have the right to know and be cared for by their parents or those entitled by law to bring them up.

(2) A child is entitled to basic education which shall be the responsibility of the State and the parents of the child.

(3) No child shall be deprived by any person of medical treatment, education or any other social or economic benefit by reason of religious or other beliefs.

(4) Children are entitled to be protected from social or economic exploitation and shall not be employed in or required to perform work that is likely to be hazardous or to interfere with their education or to be harmful to their health or physical, mental, spiritual, moral or social development.

(5) For the purposes of clause (4) of this article, children shall be persons under the age of sixteen years.

(6) A child offender who is kept in lawful custody or detention shall be kept separately from adult offenders.

(7) The law shall accord special protection to orphans and other vulnerable children⁸.

5. In 2010, the Ugandan government enacted The Prohibition of Female Genital Mutilation Act to end the harmful practice of female genital mutilation (FGM). Under Part II, paragraph 2 of the Act, “[a] person who carries out female genital mutilation commits an offence and is liable on conviction to imprisonment not exceeding ten years”⁹. Additionally, “aggravated female genital mutilation” triggers harsher penalties. Part II of the Act also outlines the offence and punishment:

(1) A person commits the offence of aggravated female genital mutilation where –

(a) death occurs as a result of female genital mutilation;

(b) the offender is a parent, guardian or person having authority or control over the victim;

(c) the victim suffers disability;

(d) the victim is infected with HIV as a result of the act of female genital mutilation; or

(e) female genital mutilation is done by a health worker.

(2) A person who commits the offence of aggravated female genital mutilation is liable on conviction to life imprisonment¹⁰.

6. In 2009, Uganda passed the Prevention of Trafficking in Persons Act. Part II of this act defines trafficking:

(1) A person who –

(a) recruits, transports, transfers, harbours or receives a person, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation;

(b) recruits, hires, maintains, confines, transports, transfers, harbours or receives a person or facilitates the aforementioned acts through force or

other forms of coercion for the purpose of engaging that person in prostitution, pornography, sexual exploitation, forced labour, slavery, involuntary servitude, death bondage, forced or arranged marriage;

commits an offence and is liable to imprisonment for fifteen years¹¹.

7. Uganda has also signed and ratified the Convention on the Rights of the Child (CRC). Article 19 of the CRC states the following:

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement¹².

8. In addition, Uganda is also a party to the International Covenant on Civil and Political Rights (ICCPR). Articles 7, 8, and 24 of the ICCPR address trafficking in persons, as well as forced and child labour:

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.¹³

Article 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

3. (a) No one shall be required to perform forced or compulsory labour. . .¹⁴.

Article 24

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State¹⁵.

Female Genital Mutilation

9. The UN estimates that “more than 200 million women and girls today have undergone FGM”, and that most girls undergo the procedure between infancy and 15-years-old¹⁶. António Guterres, Secretary-General of the UN, stated that “Female genital mutilation is an abhorrent human rights violation and a form of violence against women – rooted in the desire for power & control that pervades gender inequality”¹⁷. According to the WHO, FGM carries with it the risk of immediate and long term health complications.

Immediate complications can include:

- severe pain,
- excessive bleeding (haemorrhage),
- genital tissue swelling,
- fever,
- infections e.g., tetanus,
- urinary problems,
- wound healing problems,
- injury to surrounding genital tissue,
- shock,
- and death.

Long-term complications can include:

- urinary problems (painful urination, urinary tract infections);
- vaginal problems (discharge, itching, bacterial vaginosis and other infections);
- menstrual problems (painful menstruations, difficulty in passing menstrual blood, etc.);
- scar tissue and keloid;
- sexual problems (pain during intercourse, decreased satisfaction, etc.);
- increased risk of childbirth complications (difficult delivery, excessive bleeding, caesarean section, need to resuscitate the baby, etc.) and newborn deaths;
- need for later surgeries: for example, the sealing or narrowing of the vaginal opening (Type 3) may lead to the practice of cutting open the sealed vagina later to allow for sexual intercourse and childbirth (deinfibulation). Sometimes genital tissue is stitched again several times, including after childbirth, hence the woman goes through repeated opening and closing procedures, further increasing both immediate and long-term risks;
- psychological problems (depression, anxiety, post-traumatic stress disorder, low self-esteem, etc.)¹⁸.

10. While FGM’s prevalence rate is less than 1% within Uganda, it remains an extremely common practice amongst certain ethnic groups¹⁹. The Pokot, who live in the north-east region of Karamoja, and the Sabinu, who reside in the eastern region, are the primary practitioners of

FGM²⁰. Despite the criminalization of FGM in 2010, communities in these regions continue the practice with prevalence rates higher than 90%²¹.

11. In regions where FGM remains culturally engrained, women who have not undergone FGM feel ostracized from their community²². Alain Sibenaler, a country representative for the United Nations Population Fund (UNFPA), stated that, “The practice of FGM is deeply rooted in the socio-cultural ties attached to it – the initiation of girls into adulthood and thereby a prerequisite for marriage, sense of belonging, preservation of chastity and fidelity”²³.

12. For example, one woman who underwent the procedure at the age of 26 stated: “Before I was circumcised I was taken as any other child, but now I’m someone respected”²⁴. Another woman who underwent FGM remarked that “[i]n Sebei, a woman who has not been cut cannot go to the [communal] granary or pick cow dung from the kraal”, and that “[a] husband can marry another wife. She might be circumcised and then starts insulting the uncircumcised woman. You are just equated to your children”²⁵. Similarly, a 12-year old girl explained the pressure she faced that ultimately forced her to undergo FGM: “I feared abuse and insults from the community. I was told it was a shame to be an uncircumcised girl. I believed no man would marry me if I didn’t cut. So I did it”²⁶.

13. Because FGM remains most prevalent within remote communities where the local authorities have few resources, enforcement of anti-FGM laws is lacking²⁷. Additionally, people seeking to undergo the procedure can choose to sneak across the border to Kenya to avoid detection²⁸. While more resources must be devoted towards the enforcement of the ban, it is also important for the government to appeal to the hearts and minds of the people to reject the practice of FGM. Alan Sibenaler stated: “Among our main concerns is the defiance of the FGM laws and the fact that the face of FGM is changing [to] underground FGM, practised at night, in seclusion and across the border”²⁹. The practice of FGM damages the physical and mental health of women in Uganda, and it is imperative that it is stopped.

Human Trafficking

14. Uganda serves as a source, destination, and transit country for human trafficking³⁰. Currently, an estimated 7,000 to 12,000 children are being sexually trafficked in Uganda³¹. Most victims come from rural regions where economic opportunity and vital resources are limited³².

15. In 2015, Uganda made significant efforts to combat human trafficking through the creation of the Human Trafficking Institute. Just two years later, in 2017, the Human Trafficking Institute conducted training exercises for over 175 judges, police officers, and prosecutors³³. Then, in 2020, Uganda formed the Anti-Human Trafficking Unit (AHTU) to aid in the police force’s efforts to combat human trafficking³⁴. Comprised of 250 staff members throughout Uganda, the unit has been successful in combatting human trafficking³⁵.

16. Less than a year after the creation of the AHTU, the AHTU rescued 102 victims and apprehended 81 traffickers from January to May of 2021³⁶. One of the operations carried out during this period was “Operation Smile VII”³⁷. Carried out in January, with the purpose of rescuing child victims of human trafficking, the operation resulted in the successful rescue of 65 children and the prosecution of 9 human traffickers³⁸. Similarly, in April 2021, Ugandan police successfully rescued 29 trafficked Burundi young women and arrested 5 suspected traffickers³⁹.

Conclusion

17. To end the practice of FGM in Uganda, the government must allocate additional resources towards the enforcement of the ban on the procedure. However, ending this culturally-engrained practice will require educating communities and working with community leaders to explain the dangers of FGM.

18. Uganda has taken commendable steps towards the eradication of human trafficking. Uganda should continue their efforts to rescue victims of human trafficking and bring their traffickers to justice.

¹ Uganda, WORLD FACTBOOK (22 Mar. 2021), <https://www.cia.gov/the-world-factbook/countries/uganda/>.

² *Id.*

³ *Universal Periodic Review – Uganda*, UNHRC, <https://www.ohchr.org/EN/HRBodies/UPR/Pages/UGindex.aspx>.

⁴ UPR of Uganda Thematic List of Recommendations A/HRC/34/10 – Para. 115, <https://lib.ohchr.org/HRBodies/UPR/Documents/Session26/UG/MatriceRecommendationsUganda.docx>.

⁵ *Id.*

⁶ Constitution of the Republic of Uganda, 1995, ch. 3 para. 17, <https://www.wipo.int/edocs/lexdocs/laws/en/ug/ug002en.pdf>.

⁷ *Id.* at chapter 4 para. 24.

⁸ *Id.* at chapter 4 para. 34.

⁹ The Prohibition of Female Genital Mutilation Act, 9 Apr. 2010, part II para. 2, https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_172631.pdf.

¹⁰ *Id.* at part II, para. 3.

¹¹ The Prevention of Trafficking in Persons Act, 23 Oct. 2009, Part. II, https://www.law.berkeley.edu/wp-content/uploads/2015/10/Uganda_Prevention-of-Trafficking-in-Persons-Act_2009.pdf.

¹² Convention on the Rights of the Child, 20 Nov. 1989, G.A. Res. 44/25, art. 19, <https://www.ohchr.org/documents/professionalinterest/crc.pdf>.

¹³ International Covenant on Civil and Political Rights, 16 Dec. 1966, S. Treaty Doc. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171, art. 7.

¹⁴ *Id.* at art. 8.

¹⁵ *Id.* at art. 24.

¹⁶ *Female Genital Mutilation Costs \$1.4 Billion Annually: UN Health Agency*, UN NEWS (6 Feb. 2020), <https://news.un.org/en/story/2020/02/1056802>.

¹⁷ *Id.*

¹⁸ *Female Genital Mutilation*, WORLD HEALTH ORGANIZATION (3 Feb. 2020), <https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>.

¹⁹ Nita Bhalla, *U.N. Investigating ‘Surge’ in Female Genital Mutilation in Uganda*, REUTERS (25 Jan. 2019, 5:09 AM), available at <https://www.reuters.com/article/us-uganda-women-fgm/u-n-investigating-surge-in-female->

²⁰ *Uganda*, 28 TOO MANY, <https://www.28toomany.org/country/uganda/> (last visited 8 Jul. 2021).

²¹ Nita Bhalla, *supra* note 19.

²² Catherine Byaruhanga, *Uganda FGM Ban: “Why I Broke the Law to Be Circumcised Aged 26”*, BBC (6 Feb. 2019), <https://www.bbc.com/news/world-africa-47133941>.

²³ Samuel Okikor, *“I Believed No Man Would Marry Me If I Didn’t Cut”: Battling FGM in Uganda*, THE GUARDIAN (6 Feb. 2018), <https://www.theguardian.com/global-development/2018/feb/06/battling-fgm-uganda-kenya-zero-tolerance-female-genital-mutilation>.

²⁴ *Uganda FGM Ban: “Why I Broke the Law to Be Circumcised Aged 26”*, *supra* note 22.

²⁵ *Id.*

²⁶ Samuel Okikor, *supra* note 23.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ Jose Ahumada, *Human Trafficking in Uganda*, THE BORGEN PROJECT (24 Mar. 2021), <https://borgenproject.org/human-trafficking-in-uganda/>.

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Rachakonda Cops Arrested 81 Human Traffickers, Rescued 102 Victims Since Jan*, NEWSMETER NETWORK (1 Jun. 2021), <https://newsmeter.in/telangana/rachakonda-cops-arrested-81-human-traffickers-rescued-102-victims-since-jan-679020>.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ Xinhua, *Uganda Rescues 29 Burundi Girls, Arrests 5 in Human-Trafficking Racket*, CGTN AFRICA (8 Apr. 2021), <https://africa.cgtn.com/2021/04/08/uganda-rescues-29-burundian-girls-arrests-5-in-human-trafficking-racket/>.