



UGANDA HUMAN RIGHTS COMMISSION

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SUBMISSION FOR UGANDA'S UNIVERSAL PERIODIC REVIEW

1. Introduction

The Uganda Human Rights Commission (UHRC) is an 'A' status independent national human rights institution established under the 1995 Constitution of the Republic of Uganda to promote and protect human rights. It was established as a result of recommendations by the Human Rights Commission of Inquiry, the Constitutional Commission and ultimately the Constituent Assembly. The submission for the Universal Periodic Review is comprised of a brief background, the human rights concerns that have emerged over the last four years, recommendations and a conclusion. This submission is on the basis of UHRC reports assessing the human rights situation from 2007 to 2009 and several consultative meetings held with stakeholders in the recent past on the state of human rights in the country. It is important to note that UHRC has other human rights concerns that may not be specifically mentioned in this submission that also need to be addressed.¹

2. Background

Uganda has ratified the core international and regional instruments.² At the sub-regional level, Uganda is a State Party to the East African Treaty whose fundamental principles include the promotion and protection of human rights.³ At the national level, the 1995 Constitution of the Republic of Uganda has a Bill of Rights and there is a legislative, administrative and institutional framework for the promotion and protection of human rights. Uganda. However, there are still challenges.

3. Human rights concerns and recommendations

3.1. Inadequate Human Rights Protection and Enforcement Mechanisms

Although there are various human rights protection mechanism such as Courts, Ombudsman, civil society and a national human rights institution, there is need strengthen them. There is no comprehensive and coordinated process and framework for domestication, implementation and fulfilment of international, regional and national human rights obligations and for timely implementation of the recommendations made by the UHRC, African regional and UN Human Rights Treaty Bodies. Furthermore, there have been delays in submission of various reports to treaty bodies at both the regional⁴ and international level. For example, the initial report to the Committee on Economic, Social and Cultural Rights has been pending for the last twenty years. Moreover, there are many reports to the International Labour Organisation that are still pending.

¹ See UHRC Annual Reports.

² See <http://www.2.ohchr.org/english/bodies/treaty/index.htm> accessed on 28/3/2011 that lists major international instruments ratified. See also the core international labour conventions C29, C87, C98, C100, C111, C182, C105 and C138 ratified by Uganda.

³ See Article 6 -7 of the East African Treaty signed in 1999 and entered into force on 7th July 2000.

⁴ See Report by the Government of Uganda to the African Commission on Human and Peoples' Rights presented at the 44th Ordinary Session of the Commission on Human and Peoples, Rights Abuja , Federal Republic of Nigeria November 10th -24th , at 45. (2008).

The UHRC recommends that the State should adopt a comprehensive framework for domestication, implementation and fulfilment of international, regional and national human rights obligations including timely reporting and implementation of the recommendations made by the UHRC, African regional and UN Human Rights Treaty Bodies. The State in close collaboration with the UHRC and other stakeholders should, among other things, develop, adopt and implement a National Action Plan which will prioritize the human rights concerns and promote a more coordinated approach.

3.2. Equality and non-discrimination and special protection for vulnerable groups

Although there are constitutional and legal provisions that provide for equality and non-discrimination for vulnerable groups such as women such as women, children, persons with disability, internally displaced persons, persons living with HIV and Aids and other minorities there are still challenges in making their rights a reality.

The UHRC recommends that the State takes special measures to promote and protect the rights of vulnerable groups to ensure that they enjoy their rights by ensuring the following; their participation, that the legislation complies with international human rights standards, access to justice and socio-economic services, accessibility to the physical environment, transportation, to information and communications especially for Persons with Disability, Human Rights Education and that their rights are made a reality.

3.3 The right to education

The UHRC commends the State for the introduction of free primary and secondary education which has been implemented on the principles of equality, vulnerability and non discrimination.⁵ However, the UHRC notes with concern that the quality of education provided under both the free primary and secondary education is not adequate.⁶ The UHRC also notes with concern that the funding availed is insufficient to meet the material and professional conditions of staff and to provide for specialised trained staff to handle special needs of students.

The UHRC recommends that the State recognises education and Human Rights Education as rights and increases the budget allocation to the education sector to ensure not only quality education but one that addresses special needs.

3.4. The right to health

The UHRC commends the State for incorporation of the right to the highest attainable standard of health as a guiding principle in the National Health Policy 11(2010-2020) and in the Health Sector Strategic Investment Plan (2010/2011-2014/2015). There has been some positive progress in the realization of the right.

However, the UHRC is concerned that in spite of this progress there is no adequate law on the right to health and the health sector is plagued with a high disease burden, maternity and child mortality rates are still high, there are insufficient numbers of health professionals e.g. Doctor to Population Ratio is 0.4:5000, Neglected Tropical Diseases are still prevalent, there is high disease burden of both epidemics and non communicable diseases.⁷ The UHRC is also concerned that other determinants of health determinants of health such as safe

⁵ See Uganda Human Rights Commission, 10th Annual Report, at 47 (2007).

⁶ See *Id*; at 49.

⁷ See UHRC Annual Reports 2006-2009.

water, sanitation, food and environmental health are still a challenge.⁸ The UHRC is concerned that funding to the health sector has remained at approximately 10.2% of the total government budget yet the available funds are mismanaged.⁹

The UHRC recommends that the State recognises health as a human right and enacts appropriate law and addresses the challenges facing the health sector. Among other things, it should increase the budget allocation to the Health Sector and strengthen the accountability mechanisms to ensure the realization of the right to health.

3.5 The right to adequate food

The UHRC commends the State for putting in place programs that address the fundamental right to be free from hunger. This includes programs that enhance agricultural production and productivity, sustainable use and management of land and water resources and seek to improve the nutrition status of the Uganda population¹⁰. However, the UHRC is concerned that in spite of these policies there were still incidents of extreme hunger and food shortages in parts of the country.¹¹ The UHRC is also concerned that policies and programmes that ensure food security have not been adequately implemented while high levels of poverty affect the ability of the vulnerable at the household to access food staffs.¹²

The UHRC recommends that the State recognises the right to freedom from hunger and adequate food and enact this into law and should implement programs to ensure food security and nutrition.

3.6 The right to work

The UHRC commends the State for putting in place a national legal frame work that provides for the right to form and join trade unions, collective bargaining and reasonable working hours of work, rest and leisure.¹³ In spite of this progress, the UHRC notes with concern that the education curriculum has not encompassed training and guidance programs that ensure full and productive employment aimed at guaranteeing fundamental freedoms of employees.¹⁴ The UHRC also notes that the enjoyment of just and favourable conditions still remains challenge. A minimum wage has still not been set after 27 years which has affected the living conditions of workers and their families. While disparities in remuneration for equal work based on discrimination on grounds of sex and race are still existent.¹⁵ The UHRC also notes with concern that the working conditions in mainly the private sector are still unsafe and unhealthy.

The UHRC recommends that State revises the education curriculum to ensure that it is responsive to the prevailing economic situation, sets a minimum wage, operationalizes the Industrial Court and ensures that labour offices are adequately funded and are efficient in handling labour disputes.

⁸ See *supra* note 4, at 54. See also *Id*; at 98-99. See the Uganda Human Rights Commission, 12th Annual Report, at 96-98 (2008).

⁹ See *Id*; at 47, 93-97, 96-99.

¹⁰ See the National Development Plan 2010/11 – 2014/15 at 84-85, 260 (2010) See also the Plan for Modernisation of Agriculture. See also the Rural Development Strategy (2005). See also Prosperity for All (2006). See also the Development Strategy and Investment (2005/6 -2007/8).

¹¹ See the Uganda Human Rights Commission, 12th Annual Report, at 124 -125.

¹² See *Id*; at 125 vulnerable persons identified including those affected by poverty, children, women and those displaced by conflict.

¹³ See Article 40(3) of the Constitution of Uganda (1995). See also S.39 -44 Employment Act Cap 219, See *supra* note 8, National Development Plan at 206.

¹⁴ See *supra* note 4, at 49.

¹⁵ See *supra* note 9, at 115-116.

3.7 Rights of persons belonging to ethnic minorities

The UHRC commends the State for putting in place a legislative framework that guarantees freedom from discrimination on the basis of social and cultural life and allows for affirmative action in favour of marginalised groups.¹⁶ However, the UHRC notes with concern that the right to culture of minority groups is faced with threats of extinction of their language and dispossession of land. The UHRC further notes with concern that ethnic minorities face challenges of equal participation in decision making processes, access to education, health and water facilities.

The UHRC recommends that the State develops a comprehensive plan to implement affirmative action to address economic, social and political disparities among the ethnic minorities.

3.8 Freedom of expression

The UHRC commends the State for progress made to ensure freedom of the media with the liberalisation of the media, and increased access to information. The UHRC commends the State for the enactment of the Access to the Information Act in 2005. However, the UHRC notes with concern that the legal framework still has laws that infringe on the freedom of expression.¹⁷ The UHRC further notes with concern that the regulations to operationalise the Access to Information Act of 2005 have not been passed and incidents of arbitrary arrests, harassment, detention of media practitioners and interference with the editorial independence of the media have occurred.¹⁸

The UHRC recommends that the State amends or repeals laws that violate freedom of expression and enacts the Access to Information Regulations.

3.9 Freedom of Assembly

The UHRC commends the State for putting in place a legislative framework that allows for peaceful assembly and demonstrations in form of the Public Order Management Bill. However, the UHRC notes with concern that provisions in the proposed law and subsidiary legislation erode this right by requiring permission of the Uganda Police Force before convening an assembly, attempting to gazette most of the country, limiting public debate and not providing for adequate safe guards and effective remedies.¹⁹

The UHRC recommends that the State integrates the UHRC guidelines into the Public Order Management Bill (2009) and reviews Statutory Instrument 53 of 2007 in order to facilitate peaceful assemblies and demonstrations.

¹⁶ See *supra* note 11, Article 21 and 32.

¹⁷ See S. 39 -41, S.50 and S.302 of the Penal Code Act Cap 120 that still has offences of sedition, sectarianism, criminal libel and criminal trespass. See also S.1 and S.5 (b) of the Regulation on Interception of Communications Act (2010) which implies that the state is a government and discussions of economic issues are a ground for issue of a warrant. See S.8 that places the burden on service providers to bear the cost of interception. See also S.10 that could require media houses to disclose sources of information. See also the Anti- Terrorism Act (2002) which does not define promotion of terrorism which therefore can be interpreted to include any media coverage.

¹⁸ See *supra* note 7, Uganda Human Rights Commission 11th Annual Report, 115 and 117-118.

¹⁹ See Statutory Instrument 53 of 2007. The Police (Declaration of Gazette Areas) Instrument (2007). See also the Public order Management Bill (2009)

3.8 The right to vote and elections

The UHRC commends the State for putting in place a legislative framework that ensures adult suffrage and putting in place voting procedures that ensure transparency.²⁰ In spite of this progress, some people are still not able to vote such as prisoners, there were challenges in the recent elections of violence, voter disenfranchisement, unequal access to the media by political candidates, lack of transparency in campaign financing and inadequate civic and voter education, among other things, which need to be addressed.

The UHRC recommends that the State complies with its international obligations on the right to vote and on conducting elections. It should ratify and implement the African Charter on Democracy, Elections and Governance. Furthermore, the State should provide adequate resources to the UHRC and the Electoral Commission for civic education.

3.9 Freedom from torture, cruel inhuman and degrading treatment

The UHRC commends the State for putting in place mechanisms such as the UHRC to ensure accountability in the event of violations including freedom from torture, cruel, inhuman and degrading treatment. However, the UHRC notes with concern that there is still need to ensure personal liability for perpetrators of violations of the freedom from torture, cruel, inhuman and degrading treatment. The UHRC notes with that there is need to strengthen accountability mechanisms within the institutions that perpetrate these violations.

The UHRC recommends that the State ratifies the Optional Protocol to the Convention Against Torture and domesticates the UN CAT by enacting a law prohibiting torture as advocated by the UHRC, the NGO Coalition Against Torture and the Association for Prevention of Torture.

4. Conclusion

Although Uganda has made some progress in the promotion and protection of human rights, there is need to address the outstanding human rights concerns. The adoption and implementation of a National Action Plan on Human Rights would provide an opportune mechanism to effectively address the human rights challenges and strengthen the commitments made by the State to promote and protect human rights. A National Action Plan would further assist by, among other things: providing guidance to government officials and other stakeholders and strengthening human rights mechanisms including ratification, domestication and implementation of international, regional and national human rights obligations including recommendations from the UHRC, African Regional, UN Treaty Bodies and the Universal Periodic Review.

²⁰ The Political Parties and Organisations (Amendment) Act 4(2010). See also the Presidential Elections (Amendment Act) 14 (2010). See also the Parliamentary Elections (Amendment) Act 12(2010). See also the Electoral Commission (Amendment) Act 15 (2010).