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On The Republic of Uganda

THE STATE OF BUSINESS AND HUMAN RIGHTS IN UGANDA

9TH , JULY, 2021

BY:

**Business & Human Rights Cluster Under the National Stakeholders'
Forum for the UPR-Uganda**

(Resource Rights Africa (RRA), The Uganda Consortium on Corporate Accountability (UCCA), Community Integrated Development Initiatives, CIDI, Twerwaneho Listeners Club, Buliisa Initiative for Rural Development Organisation (BIRUDO), Centre for Economic Social Cultural Rights in Africa (CESCRA), Karamoja Development Forum (KDF), Transparency International Uganda (TIU), The Advocates Coalition for Development and Environment (ACODE), The Civil Society Coalition on Oil and Gas (CSCO), Karamoja Miners Association (KMA), Advocates for Natural Resources and Development (ANARDE), The Northern Albertine Network on Environment and Petroleum (NANEP), Bunyoro Albertine Petroleum Network on Environmental Conservation (BAPENECO), National Coalition of Human Rights Defenders-Uganda (NCHRD-U))

CONTACT:

Resource Rights Africa (RRA)

INTRODUCTION

a) About the Submitting Organisations

1. **Resource Rights Africa (RRA)** is a research and development organization formed in 2016 to advocate for the promotion and protection of people's rights in Uganda. With smart projects in the right places, they oppose discrimination, inequality, abuse of power and the unsustainable use of our natural resources including oil and gas, minerals, land, forests, water bodies as well as flora and fauna.
2. **The Uganda Consortium on Corporate Accountability (UCCA)** was established in August 2015 as a civil society consortium on corporate accountability aimed at enhancing accountability by Corporations, States, International Finance Institutions and Development Partners for violations or abuses of Economic, Social and Cultural Rights (ESCRs).
3. **Community Integrated Development Initiatives, CIDI** was founded in 1996 and registered in 1999 as a legal not-for-profit NGO, CIDI mainly focuses on actions that directly improve on the lives of the poor, vulnerable and marginalized communities in urban, peri-urban and rural areas.
4. **Twerwaneho Listeners Club** (*lets struggle for ourselves*) born of a history of isolated efforts on fundamental human rights is a local civic club bringing human rights activists together. In 2006, a group of local human rights activists started a radio talk show "Twerwaneho" on local radios; Voice of Tooro and Life FM aimed at awakening people to debate issues of governance and rights in Rwenzori region.
5. **Buliisa Initiative for Rural Development Organisation (BIRUDO)** is local non-governmental organisation started in 2006 based in Buliisa district with a vision of self-sustaining and empowered vibrant community living free from poverty, ignorance and diseases.
6. **Centre for Economic Social Cultural Rights in Africa (CESCRA)** is a registered regional non-profit organization, founded in 2010 to contribute to the realization of Economic Social Cultural Rights (ESCRs) of marginalized communities and group of people especially women, girls and youth.
7. **Karamoja Development Forum (KDF)** is a research and advocacy organisation working on land rights, pastoralist rights and governance in Karamoja, Uganda. They explore innovative tools and methods to advance the rights of pastoralists including in the broader Karamoja cluster.
8. **Transparency International Uganda (TIU)** is a national chapter of Transparency International – The global coalition against corruption. TIU is a registered NGO with the Uganda NGO Bureau contributing towards a corruption free Uganda where the

citizens actively condemn corruption and demand for accountability while leaders and public officials uphold the principles of good governance.

9. **The Advocates Coalition for Development and Environment (ACODE)** is an independent public policy research and advocacy Think Tank based in Uganda, working in the East and Southern Africa sub-regions on a wide range of public policy issues. Our core business is policy research and analysis, policy outreach and capacity building.
10. **ActionAid International Uganda** is a global movement of people working together to further human rights and defeat poverty for all. ActionAid has worked in Uganda since 1982 and currently has a presence with offices and staff in 15 districts. They prioritize works with minority groups like women, children and people living in extreme poverty.
11. **The Civil Society Coalition on Oil and Gas (CSCO)** is a loose network of 60-member organizations working towards sustainable governance of Uganda's oil and gas resources so as to maximize the benefits to the people of Uganda. The Coalition was founded in 2008 and aims to nurture and harness a shared civil society platform for promoting and strengthening civil society coordination, networking and advocacy in the Oil and Gas sub-sector.
12. **Karamoja Miners Association (KMA)** is an organisation that was formed to sensitize local mining communities on their rights and help organize them into groups that can benefit from government and also demand for accountability from their leadership.
13. **Advocates for Natural Resources and Development (ANARDE)** is a non-profit group of researchers, activists, organizers, and lawyers with expertise in human rights advocacy, environmental governance, corporate and government accountability. They work tirelessly and relentlessly in Uganda to ensure justice rights and accountability in the natural resources sector. Natural resources more so, extractive resources must benefit every Ugandan especially the local communities where oil, gas and minerals are located.
14. **The Northern Albertine Network on Environment and Petroleum (NANEP)** is a loose network of members with a shared idea for responsible development of natural resources and a clean, healthy environment. Formed in 2011, the network aims at enhancing capacities of members to deliver high social changes or high economic development in the network while maintaining their operational identity and independence.
15. **Bunyoro Albertine Petroleum Network on Environmental Conservation (BAPENEC0)** is a regional loose network that was formed in 2010 with an aim of providing a sharing/reflective platform for civil society organisations (CSOs) and other institutions across Bunyoro sub region to identify and respond to issues petroleum and environment conservation in the mid Albertine region.

b) About this Report and Methodology Of Compilation

This report was compiled by Resource Rights Africa with collective input from the 14 other aforementioned listed organisations as members of the Business and Human Rights Cluster as part of the National Stakeholders' Forum on the UPR in Uganda. The Cluster is convened by Resource Rights Africa. All contributing members convened in an issues-generation meeting where issues to be included in the report were agreed upon. Member NGOs sent in various pieces of information on the various issues emerging which were all compiled into a draft report that was later validated by all members to make this final report. The report has four parts, with the first discussing the recommendations from the 2nd Cycle of Uganda's review in 2016 and progress achieved since. The 2nd Section details the emerging human rights and business related developments since 2016. In the 3rd Section, the report discusses recommendations to the government of Uganda.

C. Uganda's Business and Human Rights Context

Uganda has in recent times witnessed a remarkable increase in foreign direct investment especially in agriculture, forestry and fisheries sector, construction industry, finance and business service sectors, manufacturing sector, mining and quarrying.ⁱ The recent discovery of oil and gas deposits in Uganda has widened the scope for further foreign direct investment and an upsurge in foreign corporations' involvement in the Ugandan economyⁱⁱ (UCCA, 2016).

For the last three decades, Uganda has pursued a series of pro-market structural reforms and has boosted economic growth. In 2010, it set out an ambitious agenda to become an upper middle-income country within 30 years (GoU, 2010). In line with this agenda, the country's third successive five-year National Development Plan (NDP III) prioritizes private sector-led growth. Such initiatives, and development agendas invite the question of the relationship between Business and Human Rights or people's welfare. Article 20(2) of the Constitution explicitly recognizes that private actors have human rights responsibilities. Nevertheless, laws to regulate the human rights impact of corporate activities have weaknesses in their design, implementation and enforcement.

It is against such a background that 15 Non- government Organisations under the Business and Human Rights Cluster that is convened by Resource Rights Africa and working across Uganda to represent various communities affected by business operations in the four sub regions of Karamoja, Teso, Busoga, and Rwenzori have come together to highlight key issues for the 3rd cycle of Uganda's UPR reporting.

SECTION I: RECOMMENDATIONS IN THE 2ND CYCLE REVIEW AND PROGRESS AT IMPLEMENTATION

1.1 Progressive ratification of key international human rights instruments: At international level, Uganda has ratified the following instruments, among others: International Covenant on Economic, Social and Cultural Rights (ICESCR), International Covenant on Civil and Political

Rights (ICCPR), Convention on the Elimination of all forms of Discrimination against Women (CEDAW), Convention on the Rights of the Child (CRC), Convention on the Rights of Persons with Disabilities (CRPD), International Convention on the Elimination of All Forms of Racial Discrimination (CERD), International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW), and Uganda is also a State party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

1.2 Recognition of the UN Guiding Principles (UNGP) on Business and Human Rights:

In addition to the above-mentioned legally binding instruments, Uganda also pays allegiance to the UN Guiding Principles (UNGP) on Business and Human Rights – Protect, Respect and Remedy, which provide important policy guidance. The UNGPs, were endorsed by the UN Human Rights Council in 2011, and seek to enhance standards and practices with regard to business and human rights so as to achieve tangible results for individuals and communities.

Emerging Recommendations from the 2nd Cycle Review of Uganda, 2016.

1.3 In the second cycle during the 26th session of Universal periodic review, Uganda received and accepted two specific recommendations on Business and Human rights:

- a) 115.134 Implement the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework to guarantee labour and land rights (Kenya) at Page 20;
- b) 115.135 Adopt a national action plan for business and human rights, building on the Guiding Principles on Business and Human Rights (Norway) at Page 20;

1.2 The Government of Uganda has taken positive strides in the last five years towards the implementation of these two specific recommendations through formulation of the National Action Plan on Business and Human Right (NAPBHR) on the basis of the UN guiding principles of “Protect, Respect and Remedy” which is awaiting the launch after approval at Ministerial level. The NAPBHR is a key tool in providing guidance to the State and non-State actors on the requirement that all business operations are to be conducted in line with human rights standards so as to contribute to positive human rights outcomes, including the creation of decent jobs, provision of health, education and other services, protection of the environment, and contributing to the advancement of equality by providing opportunities for marginalized groups. By the time of reporting, the Action Plan had been approved by the Ministry awaiting implementation. As thus, in relation to process progression, the second recommendation has been partially implemented.

1.3 Government has also strengthened the principles of free, prior and informed consent during land acquisition processes along key oil and gas infrastructure for example along the EACOP. Project Affected Persons (PAPs) have to be compensated so as to kick start infrastructural development. 1.4 Additionally, Under 2008 National Oil and Gas Policy, the government of Uganda committed to join the global Extractives Industries Transparency Initiative (EITI). This

commitment was renewed under the 2012 Oil and Gas Revenue Management Policy and eventually on the 12 August 2020 Uganda was admitted. This is a global standard for the good governance of oil, gas and mineral resources. The initiative will transform transparency and accountability in extractives industry specifically and the business sector generally in Uganda.

SECTION II:

EMERGING HUMAN RIGHTS DEVELOPMENTS (2016-2021) AND CORPORATE RESPONSIBILITY TO RESPECT HUMAN RIGHTS

- 2.1 Violation of the Right to safe drinking water and sanitation (ICESCR art.11).**

Pollution arising from use of mercury by Mining companies and Artisanal and small-scale miners polluting rivers such as River Loyoro and River Kiriki in Karamoja Sub-Region. Additionally, this mercury has adverse effects on the health of the miners occasioning opportunistic diseases.
- 2.2 Infringements on the Right to adequate food [UDHR Article.25; ICESCR Article.11; CRC Article24 (2) (c)].** There have been increasing cases of Food and water contamination within communities in the proximate of mining sites as a result of use of banned chemicals such as Striker Rocket, Indofil M45, Fangocil Eureka 72 WP, Malathion, Weed Master, Glyphosate and Mancozeb. Additionally, this is attributed to limited knowledge on the allowed and disallowed chemical used as agro-inputs for the small holder farmers.
- 2.3 Violations of the Right of access to information and informed consent [HDHR Article .19; ICCPR Article. 19(1)].** Businesses are failing to respect the principle of free, prior and informed consent. In Karamoja region, companies have consistently failed to secure indigenous communities' free, prior, and informed consent before starting operations and the national and local governments have failed to insist on this established international standard. Indigenous groups in Uganda are still not afforded legal recognition and there is no specific legislation enforcing the obligation to obtain their free, prior and informed consent on matters relating to the exploitation of their resources.
- 2.4 In contradiction to and infringement on the right to work and to just and favourable conditions of work [UDHR art.123; ICESCR arts. 6, 7, 8; CRPD art.27; ILO core labour convention and ILO Declaration on Fundamental Principles and Rights at Work],** Business entities In Uganda employ community members without formal contracts which makes remedy seeking rather complicated in case of unfair treatment at work.
- 2.5 Economic exploitation of Indigenous communities** by private sector companies is one of the most rampant complaints in the sector. For example, limestone mining companies pay local communities to break up large blocks into transportable pieces. However, Local miners are paid a pittance for the stones they break. For a truckload of

22–23 tonnes, they get UGX 150 000 (USD 45); for 28–29 tonnes UGX 170 000 (USD 52); and for 30–31 tonnes UGX 220 000 (USD 67).

- 2.6 Land Grabbing and Inhumane Evictions:** Land is communally owned hence making the communities susceptible to land grabbing. In addition, there exists cultural impediments that deny ownership and control of land by women and children and less knowledge exists on compulsory land acquisition and the Land Bill. This partly explains the rampant land evictions. In August 2014, for example, more than 200 families were brutally evicted from their land in Rwamutonga, Hoima District, for the construction of a wastage management plant by the American company, McAlister. In October 2015, the High Court ruled the eviction was unlawful, but did not make an order for restoration (UCCA, 2016). According to the Uganda Human Rights Commission Annual Report of 2019, In March 2018, more than 5,000 families were rendered homeless after forceful eviction in Kiryandongo and Kitwanga sub counties by two private companies Agilis Partners Ltd and Kiryadongo Sugar.

Bottlenecks of access to effective judicial remedy for human rights violations

- 2.7 Lack of national legal aid legal framework:** Non-labour disputes have to be filed in the High Court; access for many is impeded by poverty, lack of legal assistance and unfamiliarity with the litigation process. The situation has been complicated by absence of a national legal aid mechanism.
- 2.8 Inadequate resources for the effective functioning of the Uganda Human Rights Commission.** This institution is another potential alternative for accessing justice for human rights violations as a result of the extractives business suffers from State neglect. It faces inadequate human and financial resources, affecting the timely resolution of complaints, while the absence of a witness protection law weakens its tribunal function (UHRC, 2016). At the writing of this report, the Commission had spent two years without a substantive Chairperson which continues to paralyse the work of the Commission since even the tribunals cannot be convened in absence of a Chairperson.
- 2.9 Backlog in the Judiciary:** Another critical avenue is the Industrial Court which is a court of referral, not first instance, and is grappling with a five-year backlog, inadequate structure, staff and funds (DIHR, 2016). This renders it ineffective in delivering justice expeditiously.
- 2.10** The Investment Code creates a dual, conflicting, role for the Investment Authority; promoting and facilitating business on the one hand and monitoring and enforcement on the other. In particular, the Authority does not have express powers to address complaints by citizens related to the environment, employment practices, and human rights.

SECTION III: RECOMMENDATIONS

1. Government of Uganda should **expedite the process of enacting and enforcing the Mining and Minerals Bill, 2020** to recognize artisanal and small-scale miners and streamline the human rights loopholes in the Mining Act, 2003.
2. Government of Uganda should work towards **enacting and enforcing a minimum wage** that provides all workers and their families with an adequate standard of living.
3. Develop mechanisms to ensure that extractives' licences and leases are only granted after indigenous communities have given their free, prior and informed consent and a fair revenue sharing plan has been agreed.
4. Government of Uganda should **expedite the enactment of the Legal Aid Bill** to guarantee access to justice for the poor and marginalized communities.
5. The Government of Uganda should **enact and fully implement the witness protection law**.
6. The Government of Uganda should **strengthen the Uganda Human Rights Commission** through increasing its human and financial resources and expediting the process of appointing a substantive Chairperson. Other judicial institutions such as the Industrial Court and the Equal Opportunities Commission should also be strengthened through an increment in their budgetary allocations to allow human resources capacitation.

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6. GoU 2015. National Development Plan III 2020/2021 – 2024/2025.

ⁱ J Berman 'Boardrooms and bombs' (2000) 22(3) *Harvard International Review* 28; J Sherman 'Private sector actors in zones of conflict: Research challenges and policy responses' New York, FAFO Institute - International Peace Academy, 2001; P Swanson 'Fuelling conflict: The oil industry and armed Conflict; Economies of conflict – private sector activity in armed conflict' Fafo-report 2002, available at http://www.faf.no/~faf/media/com_netsukii/378.pdf (accessed 2 July 2016); I Bannon & Paul Collier *Natural resources and violent conflict: options and actions* (Washington D.C.: World Bank, 2003).

ⁱⁱ On the expectations raised by the discovery of oil see L Bategeka, J Kiiza & S Sswewanyana 'Oil discovery in Uganda: Managing expectations', available at <http://mak.ac.ug/documents/EPRCUDICPaper.pdf>