

**JOINT NON-GOVERNMENTAL ORGANISATIONS SUBMISSION TO THE
UNIVERSAL PERIODIC REVIEW (UPR) 40TH, SESSION OF THE UPR
WORKING GROUP-THE UNITED NATIONS HUMAN RIGHTS COUNCIL**

On The Republic of Uganda

**JOINT SUBMISSION ON
THE SITUATION OF CULTURAL RIGHTS IN UGANDA**

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BY:

**(The Right to Culture Thematic Cluster Under the National Stakeholders' Forum for
the UPR-Uganda)**

Cross Cultural Foundation-Uganda (CCFU) (which is the Convener of the Cluster), Ker
Kwaro Acholi cultural institution; Alur Kingdom, Rwebisengo Widows Cultural Association,
Go Culture Africa, Historic Buildings Conservation Trust, Historic Resources Conservation
Initiative, TEENS Uganda, Buganda Heritage and Tourism Board, Uganda Community
Tourism Association, Shalom Arts.

CONTACT

The Cross-Cultural Foundation-Uganda (CCFU)

P. O Box, 25517, Kampala, Makerere Hill, off Bativa road
Email: ccfu@crossculturalfoundation.or.ug, Phone: +256 393294675

INTRODUCTION

a) About the Submitting Organisations

The Cross-Cultural Foundation of Uganda (CCFU) is a Ugandan NGO dedicated to promoting an appreciation of culture as vital for human development that responds to our diverse identities. The Foundation which is the cultural rights cluster convenor, is based on the belief that the positive aspects of culture can be harnessed to bring about sustainable social and economic transformation. CCFU's work is structured around three main components: **Cultural Rights Promotion** which aims at promoting a better understanding and realisation of cultural rights of Ugandans, particularly of Indigenous Minority Groups (IMGs). The cultural rights of IMGs are especially at risk and require urgent attention (in terms of access to one's language and cultural heritage, political representation and access to cultural sites. Further, IMGs are often at risk of seeing their culture assimilated by numerous neighbouring groups. **Managing Cultural Diversity** focuses on nurturing and promoting cultural diversity as an indispensable asset for peaceful co-existence, social cohesion, knowledge sharing and poverty reduction. **Cultural Heritage Safeguarding and Promotion** focuses on supporting community museums and historic buildings and sites as important spaces that promote access, expression and enjoyment of cultural rights. Under the same programme area, the Foundation implements a Heritage Education Programme whose main goal is to nurture the realisation of cultural rights of young people. For further information about the Foundation kindly visit www.crossculturalfoundation.or.ug. Other contributing partners to this report are;

Ker Kwaro Acholi cultural institution- caidebalmoi@gmail.com

1. Alur Kingdom: opio.okech@gmail.com
2. Rwebisengo Widows Cultural Association: b.amosvictor@gmail.com
3. Go Culture Africa: go.culture@yahoo.com
4. Historic Buildings Conservation Trust: davidkal07@yahoo.com
5. Historic Resources Conservation Initiative: info@hrciug.org
6. TEENS Uganda: richardhamba@teensug.org,
7. Buganda Heritage and Tourism Board:
8. Uganda Community Tourism Association
9. Shalom Arts: brightbangi@gmail.com

b) About this report

This report details the state of cultural rights in Uganda for the past 5 years since the 2016 2nd Cycle review. It has been compiled under the leadership of the Cross-Cultural Foundation of Uganda partners and a number of individuals and organizations working on cultural heritage promotion and development at community, national and international levels. A draft of the report was validated by the same membership which eventually submitted this final piece. It contains information on progress since the UPR in 2016, some issues that existed prior to that UPR and have continued to manifest, and emerging issues concerning the realization of Cultural

Rights in Uganda. This report outlines issues related to the Legal and Policy Framework, Cultural Rights Concerns and Resource Allocation to the culture sector.

Contextualising Cultural rights in Uganda

Cultural rights can be defined as “human rights that aim at assuring the enjoyment of culture and its components, in conditions of equality, human dignity and non-discrimination” and include the rights to access, to express and to enjoy one’s culture with the support (and without interference) from the State. Many Ugandans including policymakers at different levels, are yet to be conversant with the notion of cultural rights. Yet these rights are as important as any other rights and they are provided for under national and international laws. Cultural rights have been obscured by notions of human rights that are topmost on our national agenda, such as the right to freedom of expression and other political rights, economic rights, gender rights or the rights of the child. In fact, culture which is the basis of cultural rights is often uncritically blamed for human rights violations. In spite of the lack of knowledge about cultural rights, there is an increasing appreciation throughout the world that cultural rights are important because they concern language, cultural and artistic production, participation in cultural life, cultural heritage, intellectual property rights, and minorities’ expression of their culture. In other words, cultural rights concern many of the aspects of life that we treasure and that merit protection.

The Foundation initiated an intervention to promote the realisation of cultural rights of Ugandans through heritage promotion by establishing cultural centres where communities can go and access or enjoy their culture. The intervention contributes directly to the realization of Uganda’s Vision 2040 as well as the realization of several Sustainable Development Goals (SDGs). The Foundation for instance, implements activities that underscore the role of culture in promoting sustainable development in relation to peace and social cohesion¹ which is in line with SDG 16 and the role of culture in sustainable development in relation to the safeguarding indigenous languages which is in line with SDG10. The Foundation further highlights the role of culture in sustainable development in relation to promoting women’s rights particularly, culturally defined rights which is in line with SDGs 3, 5, 10 &16.

While the 1995 Constitution of Uganda (Article 37)² provides for people’s rights to practice their cultures, the implementation of the activities geared towards the recognition, promotion and protection of cultural rights and diversities of all Uganda’s communities equally, is rarely evident.

SECTION I: LEGAL FRAMEWORK FOR CULTURAL RIGHTS

1.1 International legal instruments for cultural rights

Internationally, Uganda has shown an appreciation of cultural rights by being a Party to the 1948 Universal Declaration of Human Rights and the 1967 International Covenant on Economic, Social and Cultural Rights. Uganda signed and ratified the African Charter on Human and

Peoples Rights. Uganda has further ratified the 1972 UNESCO³ Convention on Tangible Cultural Heritage, the 2003 Convention on the Safeguarding of the Intangible Cultural Heritage and the 2005 UNESCO Convention on the Promotion and Protection of Cultural Diversity and Expressions. Under the said 2003 Convention, six of Uganda's cultural elements have been inscribed on the UNESCO World Heritage List. Uganda has also signed the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

1.2 Progressive Domestication of international rights to culture provisions in Uganda

Nationally, the 1995, Constitution of Uganda recognizes the importance of cultural identity and the existence of 65 indigenous groups. Under Objective xxiv (a) of the 1995 Constitution, the Government of Uganda commits to ensuring that the social and cultural well-being of the people are respected, and stipulates that the State shall promote and preserve the cultural values and practices that enhance the dignity of Ugandans; and shall encourage the development, preservation and enrichment of Ugandan languages. In Article 37, the Constitution specifically provides for cultural rights, stating that, "Every person has a right as applicable to belong to, enjoy, practice, profess, maintain and promote any culture, cultural institution, language, tradition, creed or religion in community with others".

1.3 Other progressive policy frameworks

The National Culture Policy 2006 further elaborates these commitments and provides the framework for all culture-related activities. The Museums and Monuments Policy 2015 was developed to regulate the preservation and promotion of Uganda's tangible heritage. The 2003 Tourism Policy provides for promotion of cultural tourism which is based on Uganda's diverse cultural identities. In 2017, the Government of Uganda developed the Museums and Monuments Bill which is intended to repeal the Historical Monuments Act of 1967. The 2011 Institution of Traditional or Cultural Leaders Act was passed to guide operations of cultural leaders. The Copyright and Neighbouring Rights Act of 2006 is applied to protect rights of actors in the creative industry. The government also developed a National Action Plan on Culture and Creative Industries of Uganda⁴ whose overall goal is to create an enabling environment to unleash the full potential of culture and creative industries for wealth creation and economic development.

It should be noted however, that little is mentioned about culture in the National Development Plans (NDP) I, II and now III⁵. NDPs are periodic frameworks through which the government lays out and explains national strategic interventions. The very limited focus on culture means few interventions will be made in the sector.

SECTION II: EMERGING CULTURAL RIGHTS CONCERNS

2.1 Protection of cultural resources

Whereas Uganda has ratified several international and regional legal instruments and incorporated them into our national laws, the application of these laws is still a major concern. Some of the national legal instruments that would support the realization of cultural rights of Ugandans are yet to be updated and applied. The 1967 historical Monuments Act provides for the safeguarding of our diverse cultural resources. The Act, however, does not provide for the participation of communities in identifying and proposing for protection, cultural resources that are important to them. Certain national cultural sites have now attained World recognition, but the Act has not been updated to provide for this status. The monetary penalties prescribed in the Act have been made ineffective by the current low value of the Ugandan currency. For example, the penalty, in our current law, for the destruction of a historical/cultural site is UGS. 2, 000/= only. The Act is, however, before Parliament for review.

2.2 Access, enjoyment and expression of cultural rights

To ensure the realization of cultural rights by all Ugandans, existing laws such as the Uganda National Culture Centre Act of 1959⁶ is supposed to provide for the establishment of theatres and cultural centres across the country to provides access, expression and enjoyment of culture. Currently, however, there is still only one theatre based in the capital city Kampala, hence affecting the rights of access to the culture of many Ugandans especially those who cannot access the national theatre.

In the same vein, the national museum is only found in Kampala and the only existing regional museums are not sufficiently equipped with modern museum facilities including staff. The museums are rarely publicized or accessed by Ugandans in the countryside.

2.3 Limited access to cultural resources in protected areas

Accessing cultural sites especially those in protected areas such as National Parks or Forest Reserves is an important aspect of cultural rights. Access to land as a source of cultural identity is also a critical issue. Land is associated with sites and other resources, including sacred places of worship, historical sites, sacred rivers and streams for ritual cleansing, and sources of medicinal herbs and honey. The case of the Batwa and their eviction from Bwindi Forest to create a National Park has been amply documented. For the Benet community, caves in the Mount Elgon National Park are essential for burial, excavation and relocation of elders' remains to the moorlands (the Benet ancestral grounds); medicinal herbs and traditional food; salt licks for livestock; and white chalk for smearing boys during circumcision.

Several factors account for limited access to cultural sites and land. Prominent are restrictions by the Uganda Wildlife Authority – UWA (sometimes met with violence, sometimes because permits are not easy to obtain, depending on circumstances and distance). There is however, an increasing and welcome acceptance by UWA and the National Forestry Authority (NFA) that

access by Indigenous Minority Groups (IMGs) for cultural sites, medicinal plants, raw materials for craft making situated within protected areas should be allowed. The limited access to cultural resources in the protected areas is linked to loss of cultural identity of several indigenous minority communities.

2.4 Limited use of indigenous languages

Cultural rights are meaningfully realized in one's indigenous language. It should be noted however, that many languages of the Indigenous Minority Groups in Uganda are not taught in schools or used as a medium of instruction in schools or common public spaces. Young people from IMG communities are usually taught in 'foreign' languages, denying them the right to express their cultural identities through languages. Among the Paluo in Kiryandong, for instance, children now learn in Acholi, Alur or Langi, leading to the erosion of the indigenous language called Lebpaluo. Similarly, Batuku children in Ntoroko district learn at school in Rutooro and the Bagwe in Busia district learn in Lusomya. Among the Benet in Kween district, Kupsabiny is taught in schools, resulting in the loss of Kumosop, the Benet language. Resource materials for learners and other Information communication materials, including materials about COVID-19 Pandemic are usually produced in languages of dominant groups leading to further marginalisation of the indigenous persons and their culture.

2.5 Lack of a common platform for cultural leaders

Promoting the realization of cultural rights is largely the mandate of the cultural leaders who are regarded as custodians of culture in Uganda. There are about 16 cultural institutions/leaders gazetted by the government. It is, however, important to note that these cultural institutions are at different levels of development and lack common platforms through which they can collectively promote important aspects of culture. Secondly, some regions in Uganda do not have institutionalized cultural leadership which limits opportunities for Ugandans in those areas to fully appreciate their cultures.

2.6 Limited research and documentation

In Uganda, cultural rights aspects are not sufficiently researched, documented or publicized. The negative aspects of culture have instead been largely documented and publicized and many mainstream human rights organisations have erroneously blamed culture for human rights abuses such as violence against women and girls. Yet, it has been proved (from the research conducted by the Foundation)⁷, that positive aspects of culture play an important role in the promotion of culturally defined rights of women and girls. The lack of State supported/inspired/led research leads to inadequate data on culture and cultural rights which in turn leads to exclusion during national planning purposes.

2.7 Important international cultural heritage days are not sufficiently supported and recognised

International cultural heritage days such as the World Culture Day celebrated every 21st May, the International Museums Day celebrated on 18th May, the World Heritage Day celebrated on 18th April and the International Mother Tongue celebrated on 21st February are important opportunities for promoting expressions and enjoyment of culture. However, these important days are rarely supported and recognised by the government. Many Ugandans are not sufficiently informed about what happens on such days.

2.7 Inadequate Budgetary Resource allocation to the culture sector

In 2018, about UGX.11.3 billion was estimated revenue derived from culture enterprises in Uganda. Besides contributing to the national Gross Domestic Product (GDP), the culture sector has the potential to reduce unemployment especially among young people (skilled and unskilled) provided they demonstrate talent and interest. Despite the culture sector's contribution to the National GDP, the government of Uganda's contribution to the sector is regrettably pitiful. Issues of culture are dealt with under two separate departments and ministries, namely the Department of Culture and Family Affairs under the Ministry of Gender, Labour and Social Development and the Department of Museums and Monuments under the Ministry of Tourism, Wildlife and Antiquities. The budget allocation to the two departments, against the total national budget, is 0.01%.

Many Ugandans who contribute to the safeguarding of Uganda's cultural heritage either as individuals or in communities are rarely recognised or supported by government. Currently it is only NGOs such as the Cross-Cultural Foundation which identify, document and financially support individuals who contribute to the protection of Uganda's diverse cultural heritage.

SECTION III: RECOMMENDATIONS

A. Under Cultural Rights and the legal framework

- 1) Relevant government departments such as the Tourism and Museums departments should fast-track the promulgation of the Museums and Monuments law (currently a Bill in Parliament) and other municipal laws such as the Kampala Capital City Authority Ordinance to safeguard historical properties and sites to protect cultural and historical properties from the existent rapid and widespread destruction.
- 2) The Government of Uganda should review the 1959 Uganda National Culture Centre Act and facilitate UNCC to establish necessary infrastructure in various parts of Uganda to

ensure that all Ugandans equally enjoy their cultural rights and have access to the required technical and financial assistance. The regional museums of Moroto, Soroti and Kabale should be supported to implement community outreach activities and provide spaces through which community members can express their cultural identities.

- 3) The Government of Uganda through its Ministry of Gender Labour and Social Development should fast-track the review of the 2006 Culture Policy to take care of progressive culture aspects.
- 4) The Government of Uganda should integrate important cultural aspects in the National Development Plan III which will provide opportunities for sufficient budget allocation to the culture sector.
- 5) Government should operationalize the national action plan on culture and creative industries of Uganda whose overall goal is to create an enabling environment to unleash the full potential of culture and creative industries for wealth creation and economic development.

B. Under Cultural Rights Concerns

- 1) Government agencies such as the Uganda Wildlife Authority (UWA)⁸ and National Forestry Authority (NFA) should develop policies not only to guarantee access and fully protect culturally significant sites, but also to provide authority to the concerned communities, especially the IMGs to sustainably co-manage these resources, including tourism development.
- 2) The Government of Uganda should take affirmative action and support the development of instructional materials, facilitate the training of personnel in indigenous minority languages especially where the indigenous minority population is concentrated, and encourage the Ministry of Education through the National Curriculum Development Centre and Uganda National Examinations Board to include them in the national school curriculum. During this period of COVID-19 Pandemic, the government should develop COVID-19 related information and communication materials in several languages including those of IMGs. Certain terms, including social distance and quarantine, need to be collectively translated and appreciated by all Ugandans.
- 3) The Government of Uganda should support the establishment of a National Assembly of Cultural Institutions in Uganda through which cultural leaders can collectively support the realization of cultural rights among their subjects. The government should also devise strategies through which regions without cultural leaders can be supported to guarantee access and enjoyment of cultural rights in such areas.
- 4) Government agencies such as the Uganda Human Rights Commission (UHRC) and the Equal Opportunities Commission (EOC) should take interest in researching, documenting

and reporting about cultural rights and the positive aspects of culture in their annual reports submitted to the Parliament.

- 5) Government should support the commemoration of the important cultural heritage days as important opportunities and spaces through which Ugandans including IMG communities will be able to express, showcase and enjoy their cultural resources.

C. Under Budget Allocation

- 1) To support the culture sector and its ability to promote the cultural rights of Ugandans, the government of Uganda should allocate at least 1.5 % of the national budget to developing the cultural sector and fast-track the establishment of a national directorate for culture and museums. The directorate is expected to harmonize culture functions currently scattered in two government ministries of Gender Labour and Social Development and the Ministry of Tourism Wildlife and Antiquities.
- 2) Government should invest sufficiently in the recognition and awarding of communities and individuals who contribute to the protection of Uganda's diverse cultural heritage.

End Notes

- Ministry Gender Labour and Social Development (2015). The National Action Plan on Culture and Creative Industries
- Ministry of Gender Labour and Social Development (2006). The National Culture Policy
- Ministry of Gender Labour and Social Development Ministerial Policy Statement for the Financial Year 2019/2020
- Ministry of Tourism Wildlife and Antiquities (2015). The national museums and monuments policy
- Ministry of Tourism Wildlife and Antiquities Ministerial Policy Statement for the Financial Year 2019/2020
- The 1948 Universal Declaration of Human Rights
- The 1959 Uganda National Culture Centre Act
- The 1967 Historical Monuments Act
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- The 2011 Institution of Traditional or Cultural Leaders Act
- The Copyright and Neighbouring Rights Act of 2006
- The Cross-Cultural Foundation of Uganda (2017). Understanding Cultural Rights in Uganda: An important but neglected dimension of Human Rights
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- The World Heritage Centre, UNESCO (2003). The Convention on the Safeguarding of the Intangible Cultural Heritage
- The World Heritage Centre, UNESCO (2005). The Convention on the Promotion and Protection of Cultural Diversity and Expressions

¹ In April 2020, the Foundation produced a publication on Promoting Culture, Peace and Unity- a compilation of cultural resources that promotes peace and unity by young Ugandans and Kenyans

² The 1995 (schedule 3) Constitution of Uganda; Objective xxiv of the 1995 Constitution of Uganda and Article 37 of the Constitution of Uganda

³<http://www.unesco.org/culture/ich/en/lists?display=default&text=&inscription=0&country=00164&multinational=3&type=0&domain=0&display1=countryIDs#tabs>

⁴ The National Action plan on culture and creative industries of Uganda 2015/16-2019/20

⁵ http://www.npa.go.ug/wp-content/uploads/2020/08/NDPIII-Finale_Compressed.pdf

⁶ A statutory body established by an Act of Parliament (UNCC Act, Cap 50), to provide and establish theatres and cultural centers all over the country; encourage and develop cultural and artistic activities; and provide a home to groups and organisations that deal in Art and Culture.

⁷ <https://crossculturalfoundation.or.ug/culture-and-gender.html>

⁸ Uganda Wildlife Authority (UWA) is a semi-autonomous government agency that conserves and manages Uganda's wildlife for the people of Uganda and the whole world. (<http://www.ugandawildlife.org/about-uganda-master/uganda-wildlife-authority>)