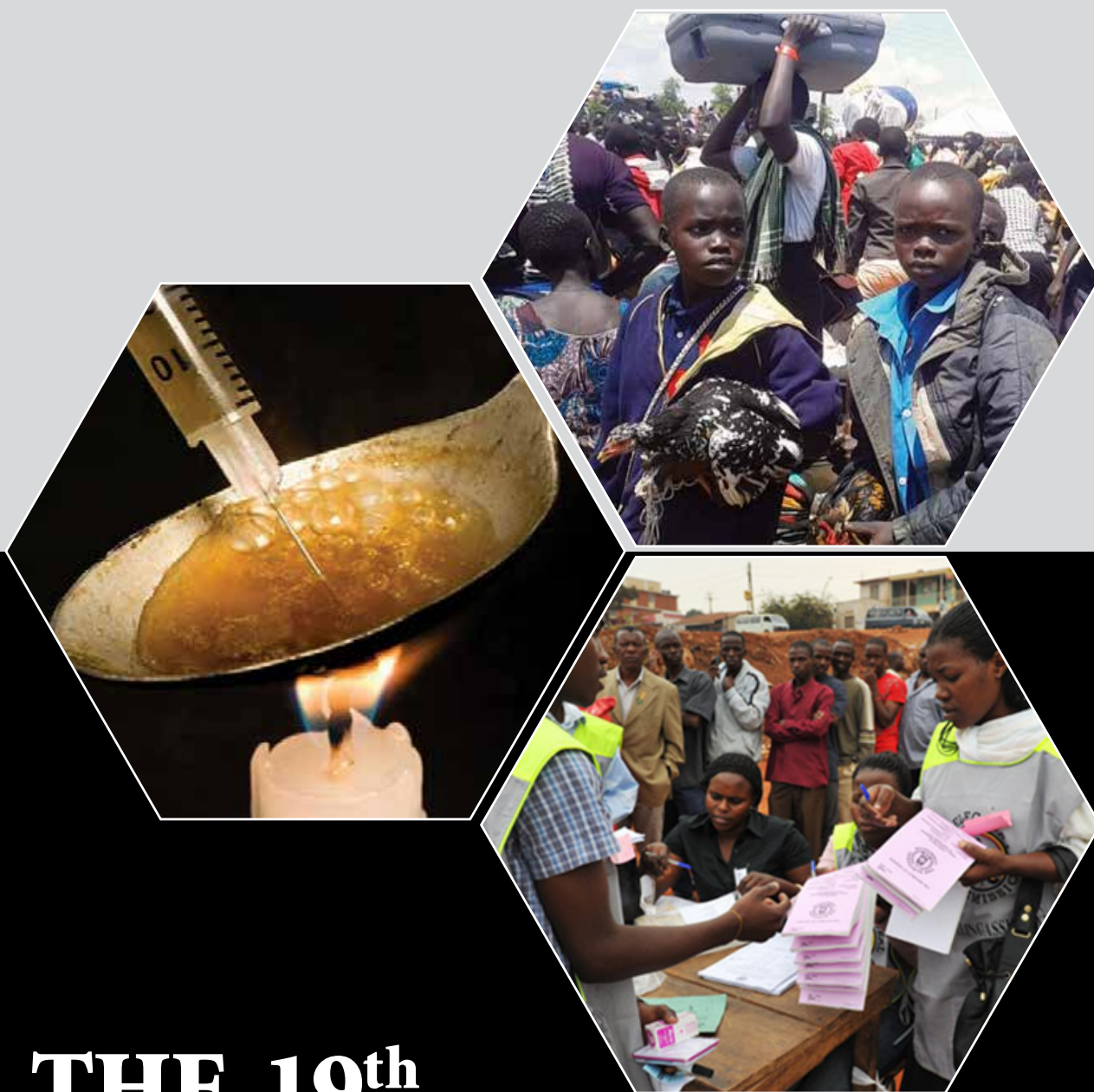


UGANDA HUMAN RIGHTS COMMISSION



THE 19th ANNUAL REPORT

**To the Parliament of the Republic of Uganda
2016**

Cover Pictures:

Top Right : Unaccompanied refugee minors in a refugee settlement camp in the West Nile region.

Centre Left: Crack heroine (an illicit drug) being prepared for use.

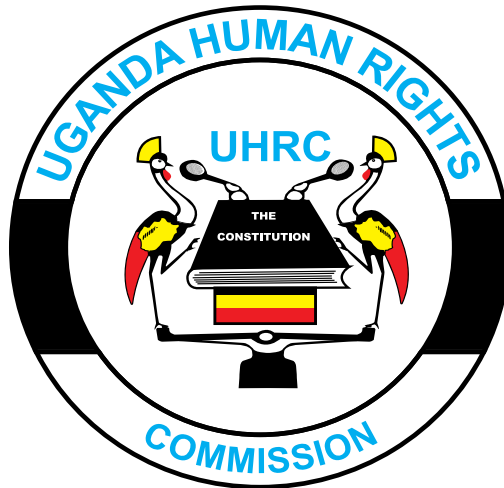
Bottom Right: Issuing of ballot papers at a polling station during 2016 elections.

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**The 19th Annual Report to
the Parliament of the Republic of Uganda**

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The map displays the following details:

- Neighboring Countries:** Sudan to the north, Kenya to the east, Tanzania to the south, Rwanda to the southwest, and the Democratic Republic of Congo to the west.
- Major Water Bodies:** Lake Albert, Lake Edward, Lake George, Lake Kyoga, Lake Kivu, Lake Mwanza, Lake Tanganyika, and Lake Victoria.
- Districts:** The map shows numerous districts including Arua, Maracha, Yumbe, Koboko, Adjumani, Lamwo, Kitgum, Kaabong, Moroto, Napak, Amuria, Soroti, Katakwi, Nakapiripiri, Amugat, Kween, Bukedea, Mbale, Bududa, Sironko, Bulambuli, Kapchorwa, Busia, Tororo, Butaleja, Budaka, Pallisa, Ngora, Serere, Dokolo, Lira, Oluks, Alebtong, Agago, Pader, Gulu, Apac, Oyam, Kole, Kiryandongo, Bulisa, Masindi, Hoima, Nakasongola, Nakaseke, Kiboga, Luero, Mukono, Kayunga, Kamuli, Buyende, Jinja, Iganga, Bugiri, Mayuge, Busia, Namayingo, Buvuma, Kalangala, Mpigi, Wakiso, Kampala, Mityana, Mubende, Kibaale, Kyegewa, Kyenjojo, Kabarole, Ntoroko, Budibugyo, Kasese, Kamwenge, Ibanda, Rubirizi, Nsiika, Bushenyi, Mitooma, Kibingo, Rukungiri, Kanungu, Ntungamo, Isingiro, Rakai, Masaka, Lyantonde, Sembabule, Gomba, Mbarara, Kisoro, and Kabale.
- Field Offices:** Indicated by red circles at locations such as Moyo, Adjumani, Lamwo, Kitgum, Moroto, Nakapiripiri, Kween, Nakasongola, Kampala, Buvuma, and Kalangala.
- Legend:**
 - Color-coded boxes represent different regions or groups: Arua (brown), Fort Portal (pink), Gulu (olive green), Hoima (yellow), Moroto (dark blue), Central (red), Jinja (green), Mbarara (light blue), and Masaka (tan).
 - A red circle icon represents "Field offices".
- Scale and Orientation:** A scale bar indicates distances up to 120 km. A compass rose shows North (N), South (S), East (E), and West (W).

The Rt. Honourable Speaker of Parliament,
Parliament of Uganda,
P.O. Box 7178,
Kampala.

Dear Madam;

RE: UGANDA HUMAN RIGHTS COMMISSION 19th ANNUAL REPORT TO PARLIAMENT

The Uganda Human Rights Commission (UHRC) has the pleasure and honour to present to the Parliament its 19th Annual Report in accordance with Article 52 (2) of the Constitution of the Republic of Uganda, 1995.

The Report is divided into two sections namely; the state of human rights in the country (Chapters 1-8) and the activities carried out by the Commission (Chapter 9). The former covers the Commission's analysis of the human rights situation in the country in the year 2016 while the latter highlights the activities of the Commission such as complaints management, inspection of places of detention and human rights education.

Yours Faithfully,



Med. S.K. Kaggwa
CHAIRPERSON, UGANDA HUMAN RIGHTS COMMISSION

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ABBREVIATIONS AND ACRONYMS

%	Percent
AA	Alcohol Anonymous
AAH-U	Action Africa Help Uganda
ACF	Action Against Hunger
ACHPR	African Charter on Human and Peoples Rights
ACP	Assistant Commissioner of Police
ACTV	African Centre for Treatment and Rehabilitation of Torture Victims
ADF	Allied Democratic Forces
ADR	Alternative Dispute Resolution
AG	Attorney General
AHSPR	Annual Health Sector Performance Report
AHURO	Association of Human Rights Organisation
AIDS	Acquired Immune Deficiency Syndrome
ANC	Antenatal Care
ARC	American Refugee Council
ARCISS	Agreement on the Resolution of the Conflict in South Sudan
ARU	Arua
ARVs	Anti-Retroviral Drugs
ASF	Avocats Sans Frontieres
ASTU	Anti Stock Theft Unit
AU	African Union
AYFS	Adolescent Youth Friendly Services
BIA	Best Interest Assessment
BID	Best Interest Determination
BVS	Biometric Voter System
BVVS	Biometric Voter Verification System
CAB	Chain-linked Advisory Board
Cap	Chapter
CAT	Coalition Against Torture
CBO	Community Based Organisation
CCCC	China Corporation Construction Company
CCEDDU	Citizens Coalition for Electoral Democracy in Uganda
CDOs	Community Development Officers
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEFM	Child Early Forced Marriage
CEHURD	Centre for Health Human Rights Development
CEmOC	Comprehensive Emergency Obstetric Care
CEON-U	Citizens Elections Observers Network Uganda
CESCR	Committee on Economic Social and Cultural Rights
CFPU	Child and Family Protection Unit
CFS	Child Friendly Spaces
CIID	Criminal Intelligence and Investigation Department
CLO	Community Liaison Officer
CMI	Chieftaincy of Military Intelligence
CMW	Convention on the Rights of Migrant Workers
CNOOC	China National Offshore Oil Corporation
CO	Concluding Observations
CPED	Convention for the Protection of All Persons from Enforced Disappearances
CRBC	China Road and Bridges Construction
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities

CSE	Comprehensive Sexuality Education
CSOs	Civil Society Organisations
CTR	Central
CYP	Couple Year Protection
DANIDA	Danish International Development Agency
DCCs	District Coordination Committees
DCLO	District Community Liaison Officer
Dec	December
DEO	District Education Officer
DGF	Democratic Governance Facility
DIGG	Deputy Inspector General of Government
DISO	District Internal Security Officer
DLG	District Local Government
Doc	Document
DPOs	Disabled Persons Organisations
DPP	Directorate of Public Prosecutions
Dr	Doctor
DRC	Democratic Republic of Congo
EC	Electoral Commission
ED	Executive Director
EMHS	Essential Medicines and Health Supplies
EMONC	Emergency Obstetric and Neonatal Care
EMTCT	Elimination of Mother-To-Child Transmission
EOC	Equal Opportunity Commission
ESCR	Economic, Social and Cultural Rights
ESO	External Security Organisation
EU EOM	European Union Election Observers Mission
EU	European Union
F	Female
F/Y	Financial Year
FAO	Food and Agricultural Organization
FAWE	Forum for African Women Educationalists
FCTC	Framework Convention on Tobacco Control
FDC	Forum for Democratic Change
FGM	Female Genital Mutilation
FHRI	Foundation for Human Rights Initiative
FM	Frequency Modulation
FPT	Fort-Portal
GIZ	(German Agency for International Cooperation)Deutsche Gesellschaft Fur Internationale Zusammenarbeit
GLU	Gulu
GoU	Government of Uganda
HAART	Highly Active Antiretroviral Therapy
HCII	Health Centre Two
HCIII	Health Centre Three
HCIV	Health Centre Four
HDPs	Health Development Partners
HE	His Excellency
HEY-PI	Health for Youth with Parents Involved
HIJRA	Humanitarian Initiative Just Relief Aid
HIV/AIDS	Human Immune Virus/ Acquired Immune Deficiency Syndrome
HIV+	Human Immune Virus positive
HMA	Hoima
HMIS	Health Management Information System

Hon.	Honourable
HPV	Human Papilloma Virus
Hqtr	Headquarter
HRBA	Human Rights Based Approach
HRBAD	Human Rights Based Approach to Development
HRC	Human Rights Committee
HRC	Human Rights Council
HRE	Human Rights Education
HRH	Human Resources for Health
HRNJ (U)	Human Rights Network of Journalists-Uganda
HRTD	Human Rights Treaty Body Dublin
HSDP	Health Sector Development Plan
HURIFO	Human Rights Focus based in Gulu
HURINET(U)	Human Rights Network-Uganda
HURIS	Human Rights Information Management System
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic Social and Cultural Rights
ICPD	International Conference on Population and Development
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance
ICRC	International Community of Red Cross
ICRMW	International Convention on the Protection of All Migrant Workers And Their Families
ICT	Information Communication Technology
IDPs	Internally Displaced Persons
IEC	Information Education and Communication
IGAD	Intergovernmental Authority Development
IGP	Inspector General of Police
ii	Roman figure for two
ILO	International Labour Organisation
IOGT	International Organisation of Good Templars
IOM	International Organisation for Migration
IPT	Interpersonal Psychotherapy
IRT	Integrated Refugee Trust
ISO	Internal Security Organisation
IT	Information Technology
ITI	International Tracing Instrument
JJA	Jinja
JLOS	Justice Law and Order Sector
KALIP	Karamoja Livelihood Program
KCCA	Kampala Capital City Authority
KHRI	Kumi Human Rights Initiative
KIDDP	Karamoja Integrated Disarmament and Development Plan
KIDP	Karamoja Integrated Development Plan
KUASA	Kabale University Academic Staff Assorication
LCII	Local Council Two
LCIII	Local Council Three
LCs	Local Councils
LCV	Local Council Five
LDC	Law Development Centre
LDUs	Local Defence Units
LGBTI	Lesbian Gay Bisexual Transgender Intersex
LRA	Lord's Resistance Army
Lt. Col.	Lieutenant Colonel
LWF	Lutheran World Foundation

M	Male
MBR	Mbarara
MCJL	Muslim Centre for Justice Law
MDAs	Ministries, Departments & Agencies
MDGs	Millennium Development Goals
MMR	Maternal Mortality Rate
MoESTS	Ministry of Education Science Technology and Sports
MoFA	Ministry of Foreign Affairs
MoFPED	Ministry of Finance Planning and Economic Development
MoGLSD	Ministry of Gender Labour and Social Development
MoH	Ministry of Health
MoIA	Ministry of Internal Affairs
MoICT	Ministry of Information Communication and Technology
MoJCA	Ministry of Justice and Constitutional Affairs
MoLG	Ministry of Local Government
MoPS	Ministry of Public Service
MPs	Members of Parliament
MRH	Maternal and Reproductive Health
MRT	Moroto
MSF	Medical Service Foundation
MSK	Masaka
MTEF	Medium Term Expenditure Framework
MUASA	Makerere University Academic Staff Association
MUBS	Makerere University Business School
NA	Narcotic Anonymous
NAP	National Action Plan
NBS	National Broadcasting Services
NCD	National Council of Disability
NCW	National Council for Women
NDP II	National Development Plan Two
NDPSCA	Narcotic Drug and Psychotropic Substances Control Act
NEMA	National Environment Management Authority
NFA	National Forest Authority
NGOs	Non-Governmental Organisations
NHP	National Health Policy
NRM	National Resistance Movement
NRM	National Resistance Movement
NSCM & TP	National Strategy on Ending Child Marriage and Teenage Pregnancy
NSDS	National Service Delivery Survey
NTV	Nation Television
NUDIPU	National Union for Disabled Persons Uganda
NUSAF	Northern Uganda Social Action Fund
OAU	Organisation of African Unity
ODF	Open Defecation Free
OHCHR	Office of the High Commissioner for Human Rights
OP2-ICCPR	Second Optional Protocol to International Covenant on Civil & Political Rights
OPCAT	Optional Protocol on Convention Against Torture
OP-CRC-AC	Optional Protocol to the Convention on the Rights of Children in Armed Conflict
OP-CRC-SC	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography
OPD	Out Patients Department
OP-ICESCR	Optional Protocol to International Convention on Economic, Social and Cultural Rights
OPM	Office of the Prime Minister
P10	Power Ten

PACTA	Prevention Awareness Counseling and Treatment of Alcoholism
PADA	Prevention of Alcohol and Drug Abuse
para	Paragraph
p.	page
PGB	Presidential Guard Brigade
PISO	Parish Internal Security Organization
PLE	Primary Living Examination
POMA	Public Order Management Act
PPTA	Prevention and Prohibition of Torture Act
PSU	Professional Standard Unit
PTS	Police Training School
PUNTEF	Public Universities Non-Teaching Staff Executive Forum
PWDs	Persons with Disabilities
Q & A	Questions and Answers
RCCs	Regional Coordination Committees
RDC	Resident District Commissioner
RECs	Regional Economic Communities
RH	Reproductive Health
RHMNCH	Revised Reproductive Health Maternal New Born and Child Health
RHP	Reproductive Health Policy
RLP	Refugee Law Project
RMNCAH	Reproductive Maternal Neonatal Child Adolescent Health
RPC	Regional Police Commander
RRU	Rapid Response Unit
Rt	Right
Rtd	Retired
RTI	Respiratory Tract Infections
SACCO	Saving And Credit Co-operative Organisation
SAGE	Social Assistance Grant for Empowerment
SAJCEA	Strengthening of Access to Justice for Children and Youth in East Africa
SCG	Senior Citizens Grant
SDA	Seventh Day Adventist
SDGs	Sustainable Development Goals
SGBV	Sexual and Gender Based Violence
SHRO	Senior Human Rights Officer
SIP	Strategic Investment Plan
SOPs	Standard Operating Procedures
SRT	Soroti
SS	Senior Secondary
STA	Settlement Transformation Agenda
TB	Treaty Body
TBA	Traditional Birth Attendants
TC	Teachers' College
TFR	Total Fertility Rate
TOTs	Training of Trainers
TPO	Trans-cultural Psychosocial Organisation
TUTAPONA	An NGO dealing in Children
UACE	Uganda Advanced Certificate of Education
UBC	Uganda Broadcasting Corporation
UBL	Uganda Breweries Limited
UBOS	Uganda Bureau of Statistics
UBTS	Uganda Blood Transfusion Services
UCC	Uganda Communication Commission
UCE	Uganda Certificate of Education

UDHR	Universal Declaration of Human Rights
UDHS	Uganda Demographic and Health Survey
UG SC	Uganda Supreme Court
UGANET	Uganda Network on Law Ethics & HIV/AIDS
UGX	Uganda Shillings
UHRC	Uganda Human Rights Commission
UJCC	Uganda Joint Christian Council
UK	United Kingdom
ULRC	Uganda Law Reform Commission
UN OHCHR	United Nations Office of the High Commissioner for Human Rights
UN	United Nations
UNAIDS	United Nation Programme on AIDS
UNCAT	United Nations Convention Against Torture
UNCRC	United Nations Convention on the Rights of the Child
UNDP	United Nations Development Programme
UNESCO	United Nations Educational Scientific Cultural Organisation
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commissioner for Human Refugees
UNICEF	United Nations International Children's Emergency Fund
UNRA	Uganda National Road Authority
UOBDU	United Organisation for Batwa Development in Uganda
UPDF	Uganda Peoples' Defence Forces
UPE	Universal Primary Education
UPAF	Uganda Prisoners Aid Foundation
UPF	Uganda Police Force
UPR	Universal Periodic Review
UPS	Uganda Prisons Service
URA	Uganda Revenue Authority
URM	Unaccompanied Refugee Minor
URSB	Uganda Registration Service Bureau
USD	United States Dollar
USE	Universal Secondary School
UTL	Uganda Telecommunication Company Limited
UWA	Uganda Wildlife Authority
UYDEL	Uganda Youth Development Link
VCCU	Violent Crime Crack Unit
WASH	Water, Sanitation and Hygiene
WFP	World Food Programme
WHO	World Health Organisation
WHS	World Health Survery
WOU	Women of Uganda

www.uhrc.ug World Wide Web. Uganda Human Rights Commission

ABOUT UGANDA HUMAN RIGHTS COMMISSION

Vision

A society that respects human rights and fulfils civic obligations.

Mission Statement

To protect and promote fundamental human rights and freedoms in Uganda for sustainable development.

Corporate Values

1. Integrity, Transparency and Accountability
2. Fairness in the execution of functions and mandate
3. Dignity of the person is central
4. Independence, credibility and reliability as a National Human Rights Institution
5. Quality of Service delivery

Mandate

The functions of the UHRC as per Article 51 (1) are listed as follows:-

- a. To investigate, at its own initiative or on a complaint made by any person or group of persons against the violation of any human right;
- b. To visit jails, prisons, and places of detention or related facilities with a view of assessing and inspecting conditions of the inmates and make recommendations;
- c. To establish a continuing programme of research, education and information to enhance respect of human rights;
- d. To recommend to Parliament effective measures to promote human rights including provision of compensation to victims of violations of human rights, or their families;
- e. To create and sustain within society the awareness of the provisions of this Constitution as the fundamental law of the people of Uganda;
- f. To educate and encourage the public to defend this Constitution at all times against all forms of abuse and violation;
- g. To formulate, implement, and oversee programmes intended to inculcate in the citizens of Uganda awareness of their civic responsibilities and an appreciation of their rights and obligations as free people;
- h. To monitor the Government's compliance with international treaty and convention obligations on human rights; and
- i. To perform such other functions as may be provided by law.

Article 52(2) also requires the UHRC to publish periodical reports and submit annual reports to Parliament on the state of human rights and freedoms in the country.

Article 52(3) states that in the performance of its functions, the UHRC shall:

- a. Establish its operational guidelines and rules of procedure;
- b. Request the assistance of any department, bureau, office, agency or person in the performance of its functions; and
- c. Observe the rules of natural justice.

Furthermore Article 48 (1) of the Constitution grants the UHRC an intervention role in situations where a state of emergency has been declared, as stated herewith; “The Uganda Human Rights Commission shall review the case of any person who is restricted or detained under emergency laws”.

Powers of the UHRC

Under Article 53(1) of the Constitution, the UHRC has the following powers:

To issue summons or other orders requiring the attendance of any person before the Commission and the production of any document or record relevant to any investigation by the Commission;

- a. To question any person in respect of any subject matter under investigation before the Commission;
- b. To require any person to disclose any information within his/her knowledge relevant to any investigation by the Commission; and
- c. To commit persons for contempt of its orders.

The UHRC may, if satisfied that there has been an infringement of a human right or freedom, order:

- a. The release of a detained or restricted person;
- b. Payment of compensation; or
- c. Any other legal remedy or redress

Independence of the UHRC

Under Article 54 of the Constitution, the UHRC shall be independent and shall not, in the performance of its duties, be subject to the direction or control of any person or authority.

Expenses of the UHRC

Under Article 55 of the Constitution, the UHRC shall be self-accounting and all the administrative expenses of the commission, including salaries, allowances and pensions payable to persons serving with the commission, shall be charged on the Consolidated Fund.

The Chairperson and other members of the Commission shall be paid such salaries and allowances as Parliament may prescribe.

Removal of a Member of the Commission

Under Article 56, the provisions of the Constitution relating to the removal of a judge of the High Court from office shall, with the necessary modifications, apply to the removal from office of a member of the Commission.

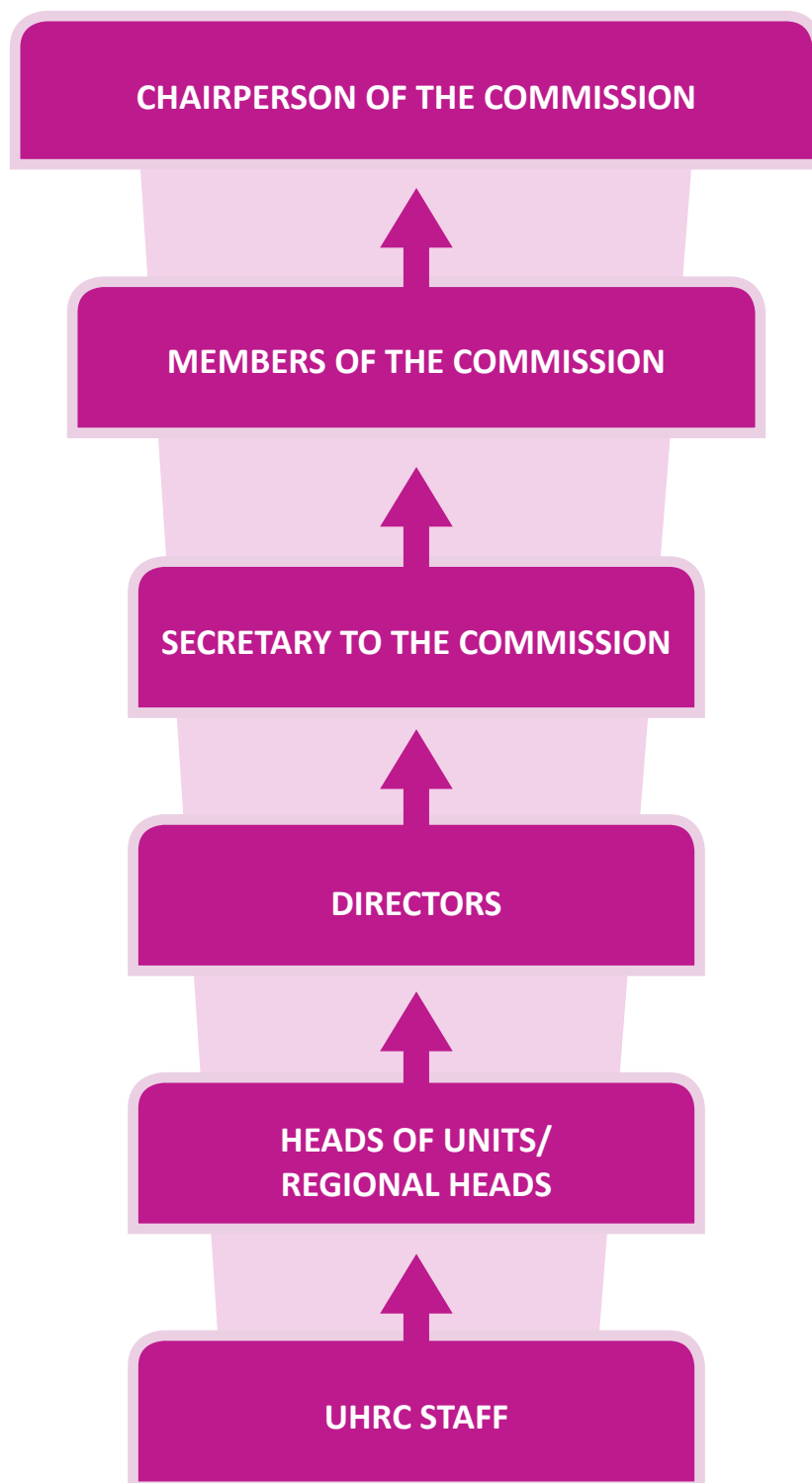
Staff of the UHRC

The appointment of the officers and other employees of the UHRC are made by the Commission in consultation with the Public Service Commission.

Laws governing the functions of the UHRC

The laws that regulate and facilitate the performance of the functions of the Uganda Human Rights Commission are the UHRC Act and UHRC rule of procedures.

UGANDA HUMAN RIGHTS COMMISSION ORGANOGRAM



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EXECUTIVE SUMMARY

This is the Uganda Human Rights Commission (UHRC) nineteenth Annual Report on the situation of human rights to the Parliament of Uganda. In this Annual Report, there is a significant difference in the presentation of UHRC's highlights of the human rights situation in the country as compared to previous Annual Reports. In this Annual Report, UHRC provides a deeper analysis of a specific subject matter that previously fell under the traditional chapters that fall within the functions of the UHRC as highlighted in Article 52 of the Constitution. This has an effect of having a comprehensive analytical report of human rights issues that UHRC deemed topical during 2016. The mandate activities of UHRC have been condensed to be included in Chapter 9 of this Annual Report. The report in addition highlights the electoral process that the country underwent in 2016 and the resultant human rights implications of that process.

The report consists of nine chapters. It is primarily informed by complaints received, inspection of places of detention and health centers, human rights education and outreach programs carried out by UHRC, monitoring of the national election process, monitoring of several human rights situations including child marriages, alcohol and illicit drug abuse by youth and children, post and cordon search disarmament in the Karamoja region, strikes in universities, plight of unaccompanied refugee minors and the state of maternal and reproductive health service delivery in selected health facilities. The report in addition makes reference to information provided during interviews, focus group discussions, UHRC stakeholder and consultative meetings.

CHAPTER ONE: TORTURE IN UGANDA: A PERSISTENT HUMAN RIGHTS CHALLENGE

This chapter analyses why the violation of freedom of torture, cruel, inhuman and degrading treatment or punishment is still the most recorded human rights violation by UHRC since its inception. 70% of the awards made by the UHRC Tribunal are victims of human rights violations related to torture.

Despite the existence of a specific law criminalising torture, the Prohibition and Prevention of Torture Act (PPTA) 2012, the violations of freedom from torture or cruel, inhuman or degrading treatment or punishment remain rampant in the country drawing from UHRC statistics from the past five years.

Individuals from all walks of life have faced different forms of torture in Uganda including physical and psychological suffering from beatings, the pulling out of fingernails, electric shocks, mock executions; pepper sprays; rape, the denial of food; and the shame of being stripped naked or paraded in public amongst others.

This chapter focuses on examining why torture is a persistent human rights violation in Uganda by using statistics from the UHRC and other actors on torture, analysing the reasons for torture, analysing the institutional performance of the top three implicated respondents and the effectiveness of their structural set up and existing mechanisms to deal with the violations in light of the PPTA. The chapter in addition evaluates the interventions carried out by the responsible state and non state actors.

General challenges faced in addressing torture are highlighted within the chapter and include: ineffective implementation of the PPTA; impunity and failure to punish perpetrators; lack of alternative investigative tools and techniques; flexible recruitment and poor training of law enforcement agents; delayed payment of tribunal awards to victims of torture and lack of a government specialised treatment and rehabilitation centre for survivors of torture.

Recommendations

1. Uganda Police Force, Uganda Peoples' Defence Forces, Uganda Prisons Service, Directorate of Public Prosecutions and the Judiciary should prioritise on the implementation of the Prohibition and Prevention of Torture Act, 2012.
2. State and private security agencies and the Directorate of Public Prosecutions should ensure that errant officers that perpetrate torture are prosecuted under the Prohibition and Prevention of Torture Act 2012 in addition to facing internal disciplinary action.
3. Ministry of Justice and Constitutional Affairs should expeditiously issue the Prohibition and Prevention of Torture Regulations to enhance the implementation of the Prohibition and Prevention of Torture Act, 2012.
4. Government through the Parliament, Ministry of Justice and Constitutional Affairs and Ministry of Foreign Affairs should ratify the Optional Protocol to the United Nations Convention Against Torture (UNCAT) and adhere to all its provisions as another step towards the stemming of torture in Uganda.
5. Ministry of Justice and Constitutional Affairs should prioritise the payment of the UHRC Tribunal awards to victims of human rights violations as they roll out the implementation of the policy of institutional liability to payment of tribunal awards.
6. Ministry of Internal Affairs should invest in the use of forensic investigations; equip and train Uganda Police Force in the use modern investigative mechanisms including setting up a specialised unit to investigate the crime of torture.
7. Members of the public should report cases of torture to police, UHRC, the Directorate of Public Prosecutions or the Chief Magistrates Court.
8. Law enforcement agencies particularly Uganda Police Force, Uganda Peoples' Defence Forces should carry out their duties in strict conformity with Articles 20(2), 24, 44(a) and 221 of the Constitution of Uganda and other regional and international human rights standards signed and ratified by Uganda.
9. Uganda Police Force, Uganda Peoples' Defence Forces, Uganda Prisons Service, Directorate of Public Prosecutions and the Judiciary should sensitise their personnel on the implementation of the Robben Island Guidelines and the Luanda Guidelines on conditions of arrest, police custody and pre-trial detention.
10. Ministry of Finance Planning and Economic Planning should provide funds to Ministry of Health to create a trauma treatment and rehabilitation programme to provide support to torture victims and their affected family members.

CHAPTER TWO: HUMAN RIGHTS SITUATION IN PRISON FARMS

This Chapter assesses the conditions in prison farms.

UHRC, in line with its constitutional mandate to inspect places of detention, UHRC carried out inspections in places of detention in 2016 with a special focus on prison farms. The special focus on prison farms was informed due to a number of concerns. UHRC was particularly concerned because previous inspections had shown a trend of increased vulnerability of prisoners detained in prison farms owing to the compulsory nature of their labour, notwithstanding the fact that it is accepted both in law and practice. In addition to this, UHRC considered the potential exploitation of the labour with long working hours further aggravated by inadequate access to food, water and sanitation facilities.

In 2016, UHRC inspected 52 out of a total of 70 operational prison farms, constituting 74%. The prison farms inspected had 11,720 detainees amounting to 81% of the total number in prison farms by the end of 2016.

UHRC noted that in all prison farms inspected that prisoners either worked on prison farms or were hired out on private farms to generate income for the prisons and prisoners themselves. They were involved in planting, weeding, spraying and harvesting with slight mechanisation on some farms.

Human rights concerns noted by UHRC in prison farms include: the sick, older persons and female inmates incarcerated with their babies being forced to work on the farms; working hours that exceeded six hours; inadequate remuneration; lack of shelter and waste disposal facilities while working on the farms; lack of protective gear; lack of adequate food; lack of adequate supply of medical drugs/ staff; drinking water shortages; lack of prison farm clothing; difficulties accessing justice for some prison farms.

Recommendations

In view of the UHRC observations on the state of human rights on prison farms, UHRC recommends to the Uganda Prisons Services to:

1. Enforce the prescribed working hours in order for detainees to take part in vocational skills;
2. Revise the payment made for prison labour to ensure meaningful remuneration for labour provided;
3. Revise its policy on prisoners earning scheme and ensure that remand prisoners who work on farms are paid;
4. Introduce and enhance rehabilitation programmes such as functional adult literacy, vocational services and formal education;
5. Provide protective gear for detainees involved in activities that are detrimental to the health of detainees;
6. Provide disposal facilities for detainees working on prison farms; and
7. Ensure that labour of prisoners on remand is restricted to what is reasonably necessary in the interest of hygiene or the maintenance of the place where one is detained as provided by Article 25 of the 1995 Constitution.

CHAPTER THREE: EMERGING HUMAN RIGHTS ISSUES IN 2016

This chapter highlights emerging and recurrent human rights concerns that had human rights implications in 2016. There are six subsections in this chapter that examine the following human rights concerns: child marriages and related human rights implications in selected districts in Lango, West Nile, Busoga and Karamoja regions; alcohol and illicit drug use by youth and children in selected districts in Uganda; human rights situation in the post cordon and search disarmament in the Karamoja region; human rights implications of strikes in universities and the plight of unaccompanied refugee minors in the West Nile Region, Nakivale and Refugee Settlements.

Child Marriages and related human rights implications in selected districts of Lango, West Nile, Busoga and Karamoja Regions

This subsection focuses on the prevalence of child marriages in Busoga, Lango, West Nile and Karamoja regions and the resultant human rights implications. The concerns identified in this section that lead to child marriages include: gaps in the marriage laws; poverty; pre-marital and teenage pregnancies; negative social and cultural norms; school dropouts; inadequate parental care, child abuse, domestic violence. Human rights implications of child marriages identified include violations of the right to health, the right to education and the right to work/livelihood.

Recommendations

1. Ministry of Gender Labour and Social Development should:
 - a. Ensure that there is provision of livelihood programs to improve economic empowerment of victims of child marriages and to lift people out of poverty in general;

- b. Undertake community sensitisation on the human rights implications of early and forced marriages and implement the strategy on ending early and forced marriages and the Kigali and African Union Declarations;
 - c. Ensure that the unemployed youth who are no longer in formal education be equipped with skills so that they are not lured into early marriages by poverty; and
 - d. Adequately facilitate Community Development Officers to end early and forced child marriages.
2. Uganda Police Force should review crime reporting so as to ensure that cases of early child marriages are disaggregated and not lost within among those of defilement.
3. Uganda Police Force and Directorate of Public Prosecutions should make sure that the perpetrators/ abettors of early and forced marriages are prosecuted.
4. Ministry of Education Sports Science and Technology should promote Universal Secondary Education especially in rural areas as a way of keeping the children who cannot afford in school in order to avoid early marriages caused by dropping out of school.

Alcohol and illicit drug abuse by youth and children in selected districts in Uganda

This subsection makes a situational analysis of illicit drug use and alcohol consumption and abuse amongst the youth and children in selected districts in Uganda. It examines the sources, drivers and effects of illicit drug and alcohol abuse. Some of the identified challenges that were explored in respect to illicit drug and alcohol abuse include: youth unemployment, involvement in drug trafficking; inadequate access to specialized health care services for alcohol and drug abuse; social exclusion and discrimination; gaps in existing legal and institutional framework. The section analyses the government interventions and for alcohol and drug addiction for the youth and their associated challenges.

Recommendations

1. Ministry of Gender Labour and Social Development, Ministry of Health together with other responsible Civil Society actors should engage in massive public sensitisation programmes in schools, tertiary institutions, workplaces and communities on prevention, early detection, the harmful effects of alcohol and illicit drug abuse, treatment and rehabilitation.
2. Parents /caretakers should take up their responsibility to protect and counsel their children on the dangers of alcohol and drugs and to provide the necessary physical, emotional and financial support in circumstances where their children are addicts.
3. Ministry of Education Sports Science and Technology and Ministry of Gender Labour and Social Development should expeditiously develop school guidelines prohibiting alcohol and drug use by children in line with the National Drug and Psychotropic Substances Control Act, 2016 and detailing how to deal with pupils or students that are alcohol and drug abusers.
4. Ministry of Health should re-orient health workers (psychiatric nurses, clinical officers) situated at the regional referral and district hospitals on how to probe, identify, treat or refer drug and alcohol addicts to appropriate facilities while treating mental health cases.
5. Ministry of Health should develop and include indicators to obtain evidence based data on drug, tobacco and alcohol abuse and treatment within the health management information system (HMIS) and health facility registers.
6. Ministry of Health and the Ministry of Agriculture, Animal Industry and Fisheries should engage in public sensitisation and mobilisation on the importance of food security and the dangers of growing illicit drug crops/plants.
7. Ministry of Health and the Uganda Police Force should popularise and sensitise law enforcement and customs officers, judicial officers, public prosecutors and the public on the new National Drug and Psychotropic Substances Control Act, 2016 particularly its implementation and criminal sanctions.

8. Ministry of Health, Ministry of Trade Industry and Cooperatives and Parliament should table and enact the Alcohol Drinks Control Bill, 2016 that will repeal the outdated alcohol laws that currently regulate the sale, manufacture and consumption of alcohol such as the Enguli Act Cap 86, Liquor Act Cap 93 and Portable Spirits Act, 1995.
9. Ministry of Finance and Economic Planning and Development should allocate adequate funding to the Anti-Narcotics Unit of the Uganda Police Force to recruit and train anti-narcotics and customs officers to detect and investigate drug traffickers and purchase appropriate narcotics tracking equipment.
10. Ministry of Internal Affairs and Uganda Police Force should to put in place appropriate digital security tracking systems on all border entry for crime prevention purposes focusing on drug trafficking.
11. Ministry of Trade Industry and Cooperatives should establish an endowment fund of 5% from the alcohol beverages sold so that it can off-set the costs of prevention, rehabilitation, research, education and other costs associated with alcohol addiction.
12. Ministry of Trade Industry and Cooperatives and Uganda Communications Commission should put in place and enforce guidelines/directives for alcohol marketing industry and other businesses pertaining to public sale and advertisements of alcohol products within the vicinity of children.
13. Uganda National Bureau of Standards should monitor and regulate quality and quantity of alcohol production in the formal and informal sector.

Human rights situation in the post cordon and search disarmament in Karamoja Region

This sub section focuses on the Karamoja region in 2016, where UHRC closely monitored development initiatives and the improved human rights situation in the area after a successful disarmament process. The chapter assesses the security situation in Karamoja in 2016, specifically assessing the implications of implementing the Nabilatuk Resolution, the implications of enjoyment of human rights following successful disarmament, existing human rights challenges in the region and tracking progress made on progress of the previous UHRC 13th Annual Report recommendations made in respect to Karamoja. Areas highlighted in the sub section include: the right to health; the right to adequate clean water; the right to a fair and speedy trial; right to an adequate standard for living of older persons; freedom of movement; freedom of opinion and expression; right to personal liberty and security of the person; right to adequate food.

Some of the human rights challenges noted include: vulnerability from risks of disasters including famine; cross border security and security of persons; land rights; inadequate empowerment and awareness.

Recommendations

1. Ministry of Defence through the Uganda Peoples' Defence Forces should design a strategy and embark on a countrywide disarmament exercise beyond Karamoja region in order to get rid of all illegal guns and reduce lawlessness.
2. Ministry of Foreign Affairs together with Ministry of East African Affairs through the East African Legislative Assembly should lobby the governments of neighbouring countries to also implement disarmaments programmes.
3. Ministry of Lands, Housing and Urban Development in conjunction with Uganda Lands Commission should institute affirmative action for the pastoral communities in Karamoja by opening lands registry offices in the region to simplify land registration process.
4. Ministry of Gender Labour and Social Development in conjunction with the Office of the Prime Minister should continue supporting the Youth Livelihoods Programme, women empowerment programme to sustain alternative livelihoods for the vulnerable groups in Karamoja including the youth, women, and farmers.
5. Ministry of Disaster Preparedness in conjunction with Office of the Prime Minister should ensure sustainable implementation of Climate Change Adaptation as spelt out in the development goals.

6. Ministry of Water and Environment should design water harvesting systems for Karamoja so as to facilitate irrigation and/or mitigate the effects of floods.
7. Parliament of Uganda should review the Karamoja Development Agency Act, 1987 through effective participation of the people of Karamoja to ascertain and ensure its relevance to the current needs of the Karimojong people.

Human rights implications of strikes in universities in 2016

This sub section focuses on the strike actions that took place in universities throughout 2016.

Due to the recurrent nature of the strikes in 2016 and their various human rights impact, UHRC carried out monitoring visits in 18 public and private universities in Uganda. This section makes a human rights assessment of the nature and causes of strikes that took place in 2016 and resultant human rights implications. Some of the effects of the strikes noted included: disruptions of the academic programmes and the normal learning process, closure of the institutions, students' getting undeserved extension of their study period, poor university staff-management relationship, poor lecturer-student relationship, destruction of property and injuries amongst others.

Some of the human rights challenges identified include: violations of right to property and personal security; violation of freedom from torture; violation of right to education and right to a fair trial.

Recommendations

1. All universities should have a clear non-bureaucratic communication strategy specific on industrial action and student strikes so as to enhance effective communication and handle grievances appropriately and quickly.
2. Ministry of Education and Sports in conjunction with the Ministry of Public Service should carry out a comprehensive and consultative review and reform the salary scale structure of both academic and administrative staff in universities.
3. Uganda Law Reform Commission should consider reviewing the Universities and other Tertiary Institutions Act 2001, especially in respect to the University Council provisions.
4. The University Staff Associations and the student unions should adhere to the principles of the right to strike and follow the process of collective bargaining so as to institutionalise the mechanism of arbitration prior to strike action.
5. Universities should develop sustainable and innovative ways through implementable strategies to generate income and revenue and ensure financial liquidity so that salaries can be paid on time every month.
6. Uganda Police Force, University Administrations, staff and student associations and the students should respect and uphold the enjoyment of human rights and fulfil their responsibilities.

Plight of unaccompanied refugee minors in the West Nile region, Nakivale and Kyangwali Refugee Settlements.

This sub section analyses human rights concerns occurring due to the rising numbers of unaccompanied refugee minors in Kyangwali in Hoima District, Nakivale in Isingiro District, and West Nile Region Refugee Settlements in Ocea Transit Centre, Rhino Camp, Pagirinya I, Pagirinya II, Boroli I, Boroli II, Agojo, Bidibidi and Nyumanzi.

The sub section looks at UHRC interventions; highlights the positive developments in respect to the promotion and protection of rights of unaccompanied refugee minors; and underlines the human rights concerns regarding the situation of unaccompanied refugee minors including: gaps in the existing laws and institutional framework; incidences of violence against the minors; poor facilitation of the foster parents; poor shelter and food for the unaccompanied refugee minors; negative cultural practices ; lack of secondary education for the minors amongst others.

Recommendations

1. Office of the Prime Minister, UN Agencies, humanitarian and human rights organisations should develop Standard Operating Procedures on how to address, without breaching the principle of the best interest of a child, the unprecedented complex situation of legally married refugee child mothers whom the domestic law of Uganda does not recognise.
2. Office of the Prime Minister, Ministry of Energy and Mineral Development, Ministry of Water and Environment and humanitarian partners should provide the refugees with alternative energy options in order to save the environment since they purely depend on wood fuel for cooking.
3. Humanitarian assistance interventions should incorporate components of gender, human rights and peaceful co-existence, in order to address the gender-based violations that women and children, including unaccompanied minors endure.
4. Uganda Government, South Sudan Government and the United Nations, supported by development and humanitarian partners should dialogue towards reducing child marriages.
5. All stakeholders who make interventions for unaccompanied children and refugees minors should respect human rights; respect the law and human rights standards and act in the best interest of the child.
6. Office of the Prime Minister, United Nations High Commissioner for Refugees and humanitarian partners need to forge a holistic (legal, sociological, rights based and gender diversity) approach to the response and management of settling child mothers and unaccompanied minors.
7. Office of the Prime Minister, United Nations High Commissioner for Refugees and other UN agencies and humanitarian partners should adequately support the adults who take care of the unaccompanied refugee minors; livelihood skills should be imparted to the minors and adults who keep the minors, empowered economically and socially.
8. Ministry of Health and humanitarian partners should provide psycho-social services should be increased both for the minors and adults and where necessary the full primary health care package for psycho-social and mental health should be provided.
9. Office of the Prime Minister, United Nations High Commissioner for Refugees and humanitarian partners should provide peace building skills and human rights based intervention for the most vulnerable persons like the elderly, women and children.
10. Ministry of Health and other local and international partners should provide adolescents with education on reproductive health.
11. Office of the Prime Minister and Ministry of Water and Environment should ensure that refugee settlements are set up near water sources and work with their humanitarian partners to provide water during dry seasons.

CHAPTER FOUR: MATERNAL AND REPRODUCTIVE HEALTH RIGHTS SITUATION IN SELECTED HEALTH FACILITIES IN UGANDA

This chapter has a special focus on the progress made by the Government towards the provision of maternal and reproductive health service delivery through application of human rights based approach. The information this chapter is based on inspection findings made by UHRC. In 2016, UHRC monitored 343 health facilities, 72 Health Centre (HC) IIs, 164 HC IIIs, 64 HC IVs, 32 District Hospitals and 11 Regional Referral Hospitals. The chapter looks at the positive developments, interventions, key maternal and reproductive health rights concerns in 2016.

Some of the areas of discussion in the chapter include: access to maternal and reproductive health services; births at health facilities; deliveries attended to by skilled birth attendants; use of traditional birth attendants; maternal deaths reported at the facilities; availability of essential drugs, supplies and equipment; rights to full and informed choice and access to information; right to patient confidentiality and non discrimination; physical accessibility to the health facilities; availability of adequate health infrastructure; right to privacy and personal dignity; affordability of maternal and reproductive health services.

Recommendations

1. As recommended in the previous Annual Reports:
 - Ministry of Finance, Planning and Economic Development should increase the budgetary allocation to the health sector in line with the target of 15% of the national budget provided for in the Abuja Declaration in order to improve on access to essential health goods and services; and
 - Ministry of Health and the National Medical Stores should supply the adequate number of essential medicines, supplies and equipment to all health facilities needed for maternal and reproductive health service delivery.
2. Ministry of Public Service and the Ministry of Health should revise and improve the salary scale and structure for health professionals especially critical staff that offer maternal and reproductive health services especially in the hard-to-reach areas as a way of attracting and retaining health professionals;
3. Ministry of Finance, Planning and Economic Development, Ministry of Public Service and the Ministry of Health should increase the financial, human and capital or infrastructural investments in maternal and reproductive priority interventions to meet the SDG and HSDP targets.
4. Ministry of Health and the Public Service Commission should recruit and fill in the existing vacancies of critical staff especially those that offer maternal and reproductive services to address the countrywide shortage of human resource.
5. Ministry of Finance Planning and Economic Development should ensure that there is commensurate funding provided to the Ministry of Health for recurrent costs for utilities and/or maintenance arising from health infrastructural developments and equipment for health facilities at all levels.
6. Ministry of Finance Planning and Economic Development should allocate more funding to Ministry of Health to address the challenge of shortage of essential drugs, supplies and commodities for Maternal and Reproductive Health.
7. Ministry of Health in consultation with key state and non-state actors should work out cheaper modalities for the National Health Insurance Scheme in order for the National Health Insurance Scheme Bill to be reviewed and enacted by the Parliament of Uganda.

CHAPTER FIVE: HIGHLIGHTS OF HUMAN RIGHTS ISSUES IN THE 2016 GENERAL ELECTIONS

This chapter is a summary of analytical observations made by UHRC during the general elections that took place in 2016.

As an observer at the various elections in 2016, UHRC deployed staff on Thursday 18th and Friday 19th February 2016, covering a total of 1,903 polling stations spread over 93 out of 112 districts in Uganda. A total of 220 observers including 6 Members of Commission were deployed for the presidential and parliamentary elections. UHRC also observed a total of 321 polling stations in as an observer at the various elections. UHRC also observed a total of 321 polling stations through its Masaka and Fort Portal regional offices.

Key highlights made in this chapter include summary of UHRC findings, interventions and recommendations elaborated in UHRC's Special Report on Elections that was published after the electoral period.

Some of these highlights in the chapter include: observations made prior polling including disenfranchisement of voters; messages during campaigns; campaign financing; length of the campaign periods; the role of crime preventers; clashes between supporters of rival candidates; unequal access to media; the role of the EC amongst others.

Human rights concerns arising during polling days as highlighted in the chapter include: delay in opening polling stations; merging of polling stations without prior information to voters and observers; accessibility challenges for PWDs and the elderly; polling stations with a layout that undermined secrecy of the ballot;

polling stations with unsealed ballot boxes; transparency of the electoral process; inadequate capacity of polling officials amongst other concerns.

Matters observed after the polling day and highlighted in the chapter include: the right to effective legal redress for violations of electoral rights; declaration of election results; post-election harassment and arrest of media practitioners; police occupation of FDC party offices; police meeting with a criminal gang (Kifeesi); arbitrary shutdown of social media and post-election violence in Kasese and Bundibugyo districts.

Recommendations

1. Parliament and the Ministry of Finance, Planning and Economic Development should:

- Invest appropriately and adequately in civic and voter education; and
- Provide adequate and timely funding to the Electoral Commission to enable it prepare for and manage the elections to expectation.

2. Electoral Commission should:

- Adequately train election officials on the basic requirements, procedures and standards for conducting the elections as well as the use of the equipment, particularly the Biometric Voter Verification System kit in addition to adequately equipping them including for harsh weather;
- Conduct intensive and adequate voter education in good time to ensure that voters are conversant with the voting procedures as well as prohibited conduct during the polling;
- Deliver election materials to the nearest polling station/post in time for polling stations to be set up on the eve of the elections. In urban areas, election materials should also be delivered to Divisions just as those in rural areas are delivered to sub counties. This will go a long way in addressing the issue of congestion and commotion at Electoral Commission offices in urban centres on the morning of elections and hence delays in opening of polls;
- Ensure that presiding officers ascertain, preferably the day before elections, that the environment at the polling station meets the required standards; for instance, there should be no campaign posters in the vicinity of the polling stations;
- Clearly mark each polling station in cases where more than one polling station is located in the same area. This would ease identification of each polling station and reduce the confusion and disorganisation. Voters and other stakeholders should be given prior information in case of merged polling stations;
- Review the maximum number of voters to be handled at each polling station to avoid imbalances in the workload and congestion at some of the polling stations;
- Make special arrangements to enable the vulnerable persons like the PWDs, the elderly and the ill to easily access the polling stations and effectively exercise their rights;
- Conduct adequate voter education and sensitise the voters on the relevance of the Local Government elections to address the tendency of low turn up for the local council elections as well as the loss of interest in the electoral processes after the presidential and parliamentary elections;
- Organise general elections starting with the lower local government elections upwards and end with the presidential and parliamentary elections in order to sustain the voters' interest in all levels of elections;
- Adequately equip and facilitate all their district offices for timely transmission of results to the tally centres and expeditious declaration of the winners in order to allay fears of rigging thereby safeguarding the credibility of the exercise;
- Organise elections for PWDs in such a way that regional Members of Parliament are voted for by members of the Electoral College from that particular region;

- Organise elections for PWDs at regional level to minimise the inconvenience of voters with disabilities travelling all the way from their districts to Kampala; and
 - District Registrars should act professionally and avoid bowing to undue political pressures
3. Uganda Police Force should respect human rights at all times when policing elections, for instance employing crowd control methods that take into account the respect for human rights. Errant officers who violate human rights should be held to account and be punished in order to fight impunity.
 4. Candidates' agents should participate in awareness creation activities to understand the importance of the Results Declaration Forms and their role in signing it.
 5. Media houses should comply with their duties and responsibility to promote free and equitable access to the media, to allow political contestants equal opportunity to convey messages to the public.
 6. Ministry of Information Communications and Technology should enforce the constitutional requirement for the Uganda Broadcasting Corporation, as a public broadcaster, to provide equal access of all its outlets to all political parties to present their programmes to the citizenry.
 7. Uganda Communications Commission and the Ministry of Information Communications and Technology should:
 - Enforce regulations on media compliance with professional standards and fulfilment of responsibility; and
 - Monitor and regulate the use of social media platforms in Uganda.
 8. Judiciary should devise ways to expedite the hearing and disposal of all election petitions in the shortest time possible.
 9. Ministry of Justice and Constitutional Affairs should ensure the implementation of the recommendations made by the Supreme Court in its ruling of the Presidential Elections.

CHAPTER SIX: UHRC POSITION ON SELECTED BILLS BEFORE PARLIAMENT

This chapter consolidates UHRC position on the Leadership Code (Amendment) Bill 2016, the Law Revision (Penalties in Criminal Matters) Miscellaneous Amendment Bill 2015 (Death Penalty Bill) and the Uganda Communications (Amendment) Bill 2016.

UHRC welcomed the Leadership Code (Amendment) Bill 2016 as an effort to amend and harmonise the current legal regime concerning the Leadership Code Act so as to strengthen the enforcement functions of the IGG. However concerns including: Lack of penalties for offences created by the Bill; access to information; and Procedure of implementing the decisions of the IGG concerning certain leaders.

UHRC reviewed the Law Revision (Penalties in Criminal Matters) Miscellaneous Amendment Bill 2015 (commonly referred to as The Death Penalty Bill) that seeks to domesticate Uganda's international obligations to ensure that the death penalty is restricted to the most serious of crimes as required under Article 6 of ICCPR. Human rights concerns that were flagged include: presumption of procedural guarantees and continued potential violation of freedom from torture or cruel, inhuman, degrading punishment or treatment.

UHRC reviewed the Uganda Communications (Amendment) Bill 2016, which seeks to remove the requirement of parliamentary approval before the Minister can make regulations concerning the effective implementation of the Act. UHRC noted that the contents of the Bill should subject to the human rights based approach including ensuring that the processes of its formation and development are participatory, non-discriminative, and transparent. In addition, UHRC noted since information is a public good, citizens must be part of its regulatory, oversight and legislative processes through their representatives in Parliament by including parliamentary approval to ensure there is necessity participation and promote the human rights based approach.

Recommendations

1. The requirement of parliamentary approval before making regulations for the Uganda Communications Act 2013 is maintained as per Section 93(1) of the Act.
2. Leadership Code Amendment Bill should prescribe penalties for all offences contained in the Bill in line with Article 28 of the 1995 Constitution.
3. Parliament holistically considers fair trial guarantees and freedom from torture, cruel, inhuman and degrading treatment of punishment that underpin Article 22(1) and Article 24 for purposes of amending Article 22(1) of the 1995 Constitution.

CHAPTER SEVEN: UPDATES ON UGANDA'S REPORTING TO INTERNATIONAL AND REGIONAL HUMAN RIGHTS MECHANISMS

In line with its mandate under Article 52(h) of the 1995 Constitution of Uganda, UHRC in 2016 monitored government's compliance with international and regional treaties and convention obligations on human rights that have been ratified by Uganda. This Chapter highlights the status of Uganda's reporting to treaty bodies at both the regional and international levels.

UHRC notes that Uganda submitted its report to the Committee on the Rights of Persons With Disabilities. The chapter summarises the concluding observations and recommendations made by the Committee on Persons With Disabilities such as legal protection for Persons With Disabilities; public awareness programs. UHRC in the chapter assesses Uganda's 2nd Universal Periodic Review (UPR) which it went through in November 2016, highlights UHRC's role in the UPR process and looks at the challenges being faced in the state reporting processes.

Recommendations

1. Ministry of Finance Planning and Economic Development should increase funding to the Ministry of Gender Labour and Social Development and other ministries, departments and agencies responsible for state reporting to enable them have adequate financial and human resources to conduct consultations and data collection needed for timely reporting.
2. Ministry of Foreign Affairs, Ministry of Gender, Labour and Social Development, and Ministry of Justice and Constitutional Affairs should strengthen their treaty reporting coordination function in order to increase efficiency and timely and accurate treaty body reporting by the responsible ministries departments and agencies.
3. Ministry of Foreign Affairs, Ministry of Gender, Labour and Social Development, as well as Ministry of Justice and Constitutional Affairs should follow up on implementation of voluntary pledges and recommendations made by treaty bodies in order to enhance the promotion and protection of human rights.
4. Civil Society Organisations and responsible International Human Rights Institutions and NGOs should effectively dialogue with responsible state actors and follow up on the implementation of treaty body recommendations, as well as the voluntary pledges and recommendations accepted by Uganda during the Universal Periodic Review process.

CHAPTER EIGHT: GOVERNMENT COMPLIANCE WITH UHRC ANNUAL REPORT RECOMMENDATIONS

This chapter tracks the status of implementation of the various recommendations made by UHRC to the government in previous annual reports. In 2016 only 1% of UHRC recommendations were fully complied with, 63% of the recommendations were partially complied with and 36% were not complied with at all. UHRC contacted the responsible Ministries Departments and Agencies (MDAs) urging them to provide updates on implementation of recommendations made and also used the online database/search engine that was developed by UHRC to track the progress and reporting made by MDAs.

UHRC notes that some MDAs provided updates on the steps they had taken to partially or fully implement the recommendations. UHRC was also concerned about lack or the unsatisfactory/derisory/ambiguous vague updates made by some MDAs which are mentioned in the chapter.

Recommendation

1. UHRC urges the Government Ministries Departments and Agencies and other responsible stakeholders to make concerted efforts towards fully compliance with all recommendations made by the UHRC in its Annual Reports in order to respect, protect and fulfil human rights in the country.

CHAPTER NINE: HIGHLIGHTS OF THE UHRC INTERVENTIONS IN 2016

This chapter highlights UHRC's interventions in implementing its core functions namely complaints handling, inspection of places of detention and human rights education and awareness. The interventions encompass complaints receipt, registration and resolution of complaints; inspection of prison , military, remand and police facilities; and human rights awareness activities, civic education , human rights education and human rights promotion through research. The chapter also highlights the financial and administrative context in which these interventions are conducted

Complaints management

This sub section analyses complaints management in 2016 by assessing the complaints received, mediated, referred, investigated and resolved.

In 2016, the UHRC received a total of 4,220 complaints, which was a 0.16% reduction from the 4,227 received in 2015. Out of the 4,220 complaints received, 848 were registered as complaints raising alleged human rights violations. This was a 16% increase from the 731 complaints registered in 2015. The increase in the number of registered complaints can be attributed to the mobile complaints handling mechanism; the community sensitisation activities conducted during the year that enhanced awareness of people of their rights; and receipt of complaints during the monitoring visits to places of detention.

In 2016, the highest number of complaints registered was on the deprivation of personal liberty through detention beyond 48 hours. UHRC registered 438 such complaints which was a 77.32% increase from 247 in 2015. Complaints on the violation of freedom from torture and cruel, inhuman or degrading treatment or punishment which followed at 380, also increased by 10.14% from the 345 complaints registered in 2015. The increase in complaints related to personal liberty as well as those related to torture and ill-treatment was attributed to the 2016 general elections as well as the post-election violence in Kasese and Bundibugyo districts during the year.

Most of the complaints registered in 2016 were against the Uganda Police Force with a total of 620. The Uganda Police Force was followed by private individuals with a total of 192 complaints most of which were related to the denial of child maintenance. The complaints registered against the UPDF were 63 of which 40 related to allegations of torture and ill treatment. The Uganda Prisons Service had 36 complaints against them while those against Local Government were 10.

In 2016, UHRC investigated 2,642 complaints on human rights violations. Out of these, 838 were investigated to completion, while 1804, were partially investigated. UHRC referred a total of 3,370 complaints. UHRC mediated 140 complaints which was a 16.42 % reduction from the 163 mediated in 2015. UHRC Tribunal heard and concluded 139 complaints. This was a 60.52% increase from the 85 matters disposed of by the Tribunal in 2015. This increase was attributed to the appointment of Members of the Commission in February 2016 which enabled the Tribunal hearings to be conducted for ten months in 2016 compared to the three months in 2015.

Recommendations

1. Uganda Police Force should adhere to the law and equip its officers with the necessary facilities to enable them efficiently perform their duties and fulfil the constitutional obligation to bring suspects to court within 48 hours.
2. Directorate of Public Prosecutions should be adequately facilitated and staffed to enable it expeditiously handle criminal cases in a timely manner, to ensure that suspects are produced before courts within the acceptable lawful timelines which would lead to the reduction of the number of complaints of personal liberty.
3. Government should strengthen the institutions dealing with child-related issues such as the Family and Child Protection Unit of Police, the Family and Children's Court, the Probation and Social Welfare office as well as the Local Council courts to address the increasing cases of child maintenance and violation of the rights of children right from the village level.
4. Ministry of Justice and Constitutional Affairs should handle matters proposed for amicable settlements in a timely manner and ensure that the victims of human rights violations are promptly compensated by allocating a specific percentage of its quarterly allocations towards the settlement of awards made by the UHRC.
5. Ministry of Gender Labour and Social Development to ensure adequate sensitisation of the population about the responsibility of parents to their children.
6. Ministry of Justice and Constitutional Affairs should expeditiously enact the Legal Aid Policy and law to ensure access to justice for all, particularly the indigent.
7. Uganda Police Force should invest in training and re-training of law enforcement agents to equip them with modern investigation skills; in particular, the Uganda Police Force should acquire modern investigation techniques and equipment to avoid the use of torture in obtaining information.
8. Ministry of Finance, Planning and Economic Development should provide adequate funding to the Ministry of Gender Labour and Social Development to effectively implement its mandate of community mobilisation, education and sensitisation in order to empower community members to respect rights and fulfil their duties and obligations.

Conditions in places of detention

In 2016, UHRC inspected 1,212 detention facilities through 71 first-time and 1,141 follow-up visits. UHRC inspected 1,212 detention facilities in 2016, compared to 896 in 2015. Of these 165 were prisons out of a national total of 249; police stations were 292 out of a national total of 296; police posts were 744 of a national total of 1,882; remand homes were five out of seven; and military detention facilities were seven. These were in addition to the 52 prison farms which were inspected.

The UHRC found some positive developments in the prisons such as newly constructed and renovated buildings; facilities that kept updated registers; the complete phasing out of the bucket system in some detention facilities and provision of adequate food to inmates. However, there were also challenges including long and arbitrary detention; incidents of torture and access to justice; juveniles detained with adult offenders; children incarcerated with their mothers; sanitation and personal hygiene; detention of civil debtors; conditions of service of staff.

Recommendations

1. Ministry of Finance Planning and Economic Development should increase funding to the UPS, Uganda Police Force, the Uganda Peoples' Defence Forces and the Ministry of Gender Labour and Social Development to ensure that the rights of inmates and staff are respected.
2. Ministry of Internal Affairs, Ministry of Gender Labour and Social Development, should ensure that juveniles are separated from adult offenders in all detention facilities and that children who are incarcerated with their imprisoned mothers are catered for.

3. Justice, Law and Order Sector should implement the diversion guidelines and strengthen the mechanism for diversion of children away from the criminal justice system through mediation arbitration and community service.
4. Uganda Prisons Service, Uganda Police Force and the Uganda Peoples' Defence Forces should completely phase out the bucket waste disposal system.

Human Rights Education and Awareness

In 2016, UHRC conducted human rights education and awareness programmes targeting various categories of people in order to facilitate the development of a culture of human rights and constitutionalism in society. This was in fulfilment of its mandate under the Constitution. UHRC conducted human rights awareness for grass roots communities to enhance active participation of communities in claiming their rights and fulfilling their civic obligation. UHRC engaged grassroots communities through community meetings (*baraza*) and the use of the civic education vans. Similarly, UHRC engaged the youth in secondary schools and higher institutions of learning through facilitating the formation of Human Rights Peace Clubs and building the capacity of the already existing ones. UHRC engaged the youth in secondary schools and higher institutions of learning through facilitating the formation of Human Rights and Peace Clubs and building the capacity of the already existing ones.

A total of 102,013 persons drawn from government institutions and grass roots communities were sensitised. There was a 132% increase in the number of people sensitised in 2016 from the 43,878 reached in 2015. This was because of the enhanced human rights education activities owing to the increase in funding through a GIZ-supported project: *'Strengthening Human Rights of Vulnerable Persons in Uganda Project'*.

Additionally, UHRC used various media platforms reach their audiences and raise awareness on various human rights issues countrywide. UHRC used radio and television talk shows, radio spot messages, infomercials, newspaper supplements, press briefings and statements.

UHRC operates library and documentation centres at its head office and in the ten regional offices. These centres are used by both members of staff and the general public to access human rights reference materials. In 2016, UHRC library services were accessed by 1,370 people who comprised researchers, students, lawyers and journalists.

Recommendations

1. In order to ensure sustainability of civic education programmes, government through Ministry of Finance, Planning and Economic Development should adequately fund the UHRC civic education mandate as provided for by Article 52 (1) (g) of the Constitution of Uganda.
2. Ministry of Justice and Constitutional Affairs should fast track the passing of the National Civic Education Policy which would provide a streamlined framework within which civic education is funded and conducted in Uganda.

Finance and Administration

During the year 2016, UHRC received a total of UGX 20.6 billion, UGX 13.8 billion from Government of Uganda and UGX 6.8 billion from development partners compared UGX 14.68 billion received in FY 2014/15. There was an increase in funding of 34%. The funds received from both Government of Uganda and development partners were against a budget of UGX 27 billion leaving a funding gap of UGX 6.4 billion. UHRC was funded 67% by the Government while the development partners contributed 33%. In spite of the increase in funding UHRC still remained underfunded.

This sub section analyses the following matters concerning UHRC: appointment and induction of Members of the Commission; human resource; staff training; infrastructure and equipment; and UHRC policies.

Recommendations

1. Government of Uganda through the Ministry of Finance, Planning and Economic Development should fund UHRC 100% in accordance with the requirements of the UN Paris Principles.
2. Ministry of Finance Planning and Economic Development should fund the approved staff structure of 469 employees.
3. The process of appointment of Members of the Commission by the Ministry of Justice and Constitutional Affairs should be done before the expiry of the contracts of incumbent members in order to avoid a situation where UHRC operates for many months without a fully constituted Commission as has happened before.
4. Ministry of Finance Planning and Economic Development should avail funds to UHRC to acquire additional civic education vans for UHRC to enhance its impact.
5. Ministry of Finance Planning and Economic Development should adequately fund UHRC to plug all its gaps in human resource, operations, logistics, tools and equipment to avoid the current risks and enhance effectiveness.
6. Ministry of Finance Planning and Economic Development should increase the Medium Term Expenditure Framework ceiling of UHRC to enable it pay competitive salaries to avoid demotivation of staff and labour turnover.
7. Ministry of Finance Planning and Economic Development should provide adequate funds to UHRC to construct its own premises for the headquarters and the regional offices.



SECTION 1

CHAPTER ONE

TORTURE IN UGANDA: A PERSISTENT HUMAN RIGHTS CHALLENGE



1,658
is the number of
torture related
complaints registered
by UHRC in the period
2012 - 2016



**(Males aged
20-40 years)**
are the most reported
victims of torture



40.4%
of the 2016 UHRC
Tribunal awards on
torture were against
Attorney General
representing state
agencies



320
cases of torture
registered against
security and law
enforcement agents
in 2016

1.1 INTRODUCTION

Ever since the Uganda Human Rights Commission (UHRC) commenced implementation of its mandate in November 1996, the violation of the right to freedom from torture or cruel, inhuman or degrading treatment or punishment has remained the most recorded human rights violation, and this is causing concern. Over the years, about 70% of all the awards made by the UHRC Tribunal to victims of human rights violations related to torture. This has contributed to the Government's financial burden as it shoulders the payments of tribunal awards to victims of torture. All this has in turn also inspired the need and the efforts to address the challenge of torture.

In 2012, UHRC in partnership with Civil Society Organisations (CSOs) formed the Coalition Against Torture. The coalition spearheaded efforts that led to the enactment of the Prevention and Prohibition of Torture Act, 2012 (PPTA). This specific law on torture gives effect to Uganda's obligations under the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) 1984 and the respect for human dignity and protection from inhuman treatment guaranteed by Articles 24 and 44(a) of the 1995 Constitution of Uganda. Uganda ratified the UNCAT on 26th June 1987. The PPTA criminalises all acts of torture and ill treatment and preserves the mandate of UHRC to handle torture as a human rights violation.

UHRC is however concerned that whereas there is a comprehensive legal regime that prevents and prohibits torture in Uganda, violations of the right to freedom from torture or cruel, inhuman or degrading treatment or punishment are still persistent and rampant. Individuals from all walks of life still experience different forms of torture, including physical and psychological suffering from beatings, rape, the pulling out of fingernails, electric shocks, mock executions, pepper sprays, the denial of food and the shame of

being stripped naked or paraded in public. Yet the perpetrators of torture continue to invent new methods to brutalise their victims.

This chapter focuses on torture as a persistent human rights violation in Uganda, drawing from the UHRC statistics on torture-related complaints for the past five years. It analyses institutional performance of the top three implicated respondents, the effectiveness of their structural set up and existing mechanisms to deal with the violations in light of the PPTA. Recommendations are made towards achieving a torture-free Uganda.

1.2 LEGAL FRAMEWORK

Uganda is a state party to a number of international and regional human rights instruments that guarantee the right to freedom from torture and other forms of ill treatment. These instruments create the States' obligation to prevent torture and criminalise it under their respective national legislation. Indeed, Article 4 of the UNCAT provides that *"each State Party shall ensure that all acts of torture are offences under its criminal law"* whereas Article 4 of the Robben Island Guidelines for the Prohibition and Prevention of Torture in Africa provides that *"States should ensure that acts which fall within the definition of torture based on Article 1 of the UN Convention against Torture are offences within their national legal systems"*. This obligation derives from the absolute prohibition of torture and the duty to fight impunity by prosecuting and punishing perpetrators of torture and it is fulfilled in Uganda's PPTA.

1.2.1 International legal framework

Torture and other forms of ill treatment are prohibited by major international instruments ratified by Uganda. The prohibition is provided for in Article 5 of the Universal Declaration of Human Rights 1948 (UDHR); Article 7 of the International Covenant on Civil and Political Rights (ICCPR); the UNCAT; and Article 37 of the Convention on the Rights of the Child (CRC). Others are Articles 7 and 8 of the Rome Statute of the International Criminal Court 1998 that categorise torture as an international crime¹ and one that falls under the purview of universal jurisdiction. All the cited instruments provide for the right to freedom from torture as a non-derogable right.

1.2.2 Regional legal and policy framework

At the regional level, torture is prohibited under Article 5 of the African Charter on Human and Peoples' Rights (ACHPR) as well as other regional guidelines such as the Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (the Robben Island Guidelines)² and the Guidelines on Conditions of Arrest, Police Custody and Pre-trial Detention in Africa 2015 (the Luanda Guidelines).³

1.2.3 National legal framework

Article 24 of the 1995 Constitution of Uganda provides for the respect for human dignity and protection from inhuman treatment by stating that no one shall be subjected to any form of torture or cruel, inhuman or degrading treatment or punishment. Furthermore, Article 44(a) of the same Constitution provides for non-derogation of the freedom from torture and cruel, inhuman or degrading treatment or punishment. The 1995 Constitution under Article 20 (2) obliges all organs and agencies of the state and all persons to respect, uphold and promote the rights and freedoms of individuals and groups provided therein, including the freedom from torture. In addition, Article 221 specifically imposes a duty on all security organisations, including the Uganda Peoples' Defence Forces (UPDF) and any other armed force established in Uganda, the Uganda Police Force (UPF) and any other police force, the Uganda Prisons Service (UPS), all intelligence services and the National Security Council to observe and respect human rights and freedoms in the performance of their functions.

¹ Torture can constitute a crime against humanity or a war crime under the Rome Statute.

² Adopted by the African Commission on Human and Peoples' Rights during the 32nd Ordinary Session held in Banjul, The Gambia from 17 to 23 October 2002.

³ Launched during the 56th Ordinary Session of the African Commission on Human and Peoples' Rights in Banjul, The Gambia from 21 April to 7 May 2015.

In 2012, Uganda made an important step in the fight against torture by enacting the PPTA, which entered into force on 18th September 2012. The Act aims at reinforcing the respect for human dignity by giving effect to the provisions of the UNCAT and Articles 24 and 44 (a) of the Constitution of Uganda; and reaffirms the right of all persons to enjoy the freedom from Torture and cruel, inhuman or degrading treatment or punishment. The Act provides a comprehensive definition of torture; criminalises all such acts; and provides for respective criminal sanctions. It prohibits the use of information obtained by means of torture; provides for reparations to victims or survivors of torture and preserved the mandate of UHRC to handle torture as a human rights violation.

It can therefore be argued that the violation of freedom from torture remains prevalent in Uganda despite the comprehensive legal framework. This is due to factors such as the lack of goodwill to implement the PPTA owing to the fact that the major culprits are State agents that are mandated to initiate investigations leading to criminal prosecutions; limited awareness among the public and especially state agents about torture as a crime that entails individual accountability as well as the difficulties in proper identification of the perpetrators by the victims of torture.

1.3 TORTURE IN UGANDA

1.3.1 Definition of torture

Torture is defined under the UNCAT as *“any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”*⁴

In Uganda, this definition has been expanded under the PPTA to include acts or omission by private persons in their private capacity. Section 2 of the PPTA defines torture as any act *“any act or omission by which severe pain or suffering whether physical or mental, is intentionally inflicted on a person by or at the instigation of or with the consent or acquiescence of any person whether a public official or other person acting in an official or private capacity for such purposes as obtaining information or confession from the person or any other person; punishing that person for an act he or she has or any other person has committed, or is suspected of having committed or of planning to commit; or intimidating or coercing the person or any other person to do, or to refrain from doing any act⁵; but does not include pain or suffering arising from, inherent in or incidental to a lawful sanction”*⁶.

1.3.2 Absolute prohibition of torture

The right to freedom from torture or cruel, inhuman or degrading treatment or punishment is an absolute right; its violation is considered so serious that no justification can ever be found, even in times of emergency or armed conflict. Thus, Article 44 (a) of the Constitution provides that there shall be no derogation from the enjoyment of the freedom from torture and cruel, inhuman or degrading treatment or punishment. This provision is replicated under Section 3 of the PPTA which further provides that a state of war or a threat of war, internal political instability, public emergency, an order from a superior officer or a public authority shall not be a defence to a charge of torture. The prohibition of torture is, therefore, absolute even in the context of policies and measures to counter terrorism.

However, despite the absolute prohibition of torture, UHRC has indicated in its annual reports on the state of human rights in Uganda that torture is still rampant. Various media reports have also highlighted its prevalence. This state of affairs underscores the need to improve the implementation of standards against torture and the effectiveness of domestic remedies for victims and survivors of torture.

⁴ Article 1 of the UNCAT.

⁵ Sections 2(1), 2(3) and Second Schedule of the PPTA.

⁶ As above, Section 2(4).

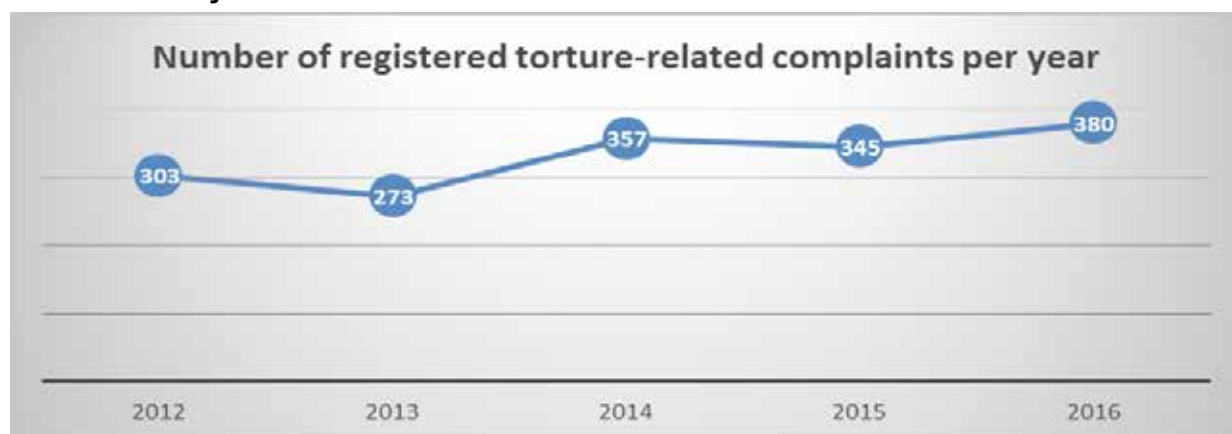
In 2016, for instance, of the 1,144 complaints of human rights violations that UHRC registered, 380 were torture complaints. At 33.22% of the total number of registered complaints, torture was the second highest after alleged violations of personal liberty at 38.42%. By the end of 2015, complaints relating to torture or cruel, inhuman or degrading treatment or punishment topped the highest six human rights violations registered by UHRC since 2010. This amounted to 37% of 5,401 the total of the top six complaints registered during the period. The other complaints were: deprivation of personal liberty (30%), denial of child maintenance (18%), deprivation of property (9%), deprivation of life (4%) and denial of the right to education (2%).⁷ The trend from 2012 to 2016 is illustrated in the Table 1.1 below.

Table 1.1: Number of torture-related complaints registered by UHRC in the last five years

UHRC REGIONAL OFFICES													% OF TOTAL REGISTERED COMPLAINTS
YEAR	ARU	CTR	FPT	GLU	HMA	JJA	MSK	MBA	MRT	SRT	Total	Registered	
2012	10	55	21	55		27	30	31	38	36	303	706	42.9
2013	14	38	24	53	2	21	26	39	25	31	273	720	37.9
2014	32	39	22	48	31	23	34	18	58	52	357	895	39.9
2015	9	45	26	63	14	21	39	33	65	30	345	731	47.2
2016	15	43	85	47	32	24	42	35	31	26	380	848	44.8
Total	80	220	178	266	79	116	171	156	217	175	1658	3900	42.5

The above statistics include complaints filed during the four years of implementation of the PPTA that commenced on 18th September 2012. Taking into consideration the fact that UHRC registers complaints of alleged human rights violations within five years of their occurrence,⁸ most of the statistics therefore relate to torture that occurred when the PPTA was in force. It can therefore be argued that despite the PPTA, torture is persistently occurring in Uganda⁹, as illustrated in the figure below.

Figure 1.1: The trend of torture-related complaints registered by UHRC in the last five years



1.3.3 Reasons why individuals are subjected to torture

For many years, torture has been used as a means to justice; in punishing acts committed or suspected of having been committed; for revenge and settling personal vendetta; as well as intimidation or coercion of victims. Through the years, torture has been used as an investigative technique to extract confessions and information from suspects of crime in order to secure easy convictions. It has also been used as a tool of social control and political repression to oppress the opposition, journalists, human rights activists or other groups of people deemed unfavourable to the ruling party.

⁷ The 18th Annual Report of Uganda Human Rights Commission to the Parliament of the Republic of Uganda, 2015, p. 9.

⁸ Section 25 of the UHRC Act 1997.

⁹ Refer to Chapter 9 of this report under Section 9.1 on Complaints Management.

Most victims of torture in Uganda experience functional torture as distinguished from sadistic torture. In this regard, torture is mainly aimed at extracting information including confessions from the victims or to punish them. Some of this goes on while security agencies interrogate suspects of crimes. In fact, UHRC statistics indicate that most victims experienced torture for purposes of obtaining information and confessions; for punishment, coercion and intimidation. Other reported circumstances under which torture has occurred include riots or demonstrations, political gatherings, land grabbing, mistaken identity and war/insurgency.¹⁰

There are underlying causes such as ignorance of the law and human rights, political intolerance, poverty, increased crime rate without corresponding increase in skills and financial resources for the law enforcement officers.

Table 1.2: Frequency of the reasons why victims were subjected to torture as derived from complaints handled by UHRC since 2012

Reason for Torture	Year					Total
	2012	2013	2014	2015	2016	
Confession	142	118	150	132	157	699
Punishment	92	78	107	93	129	499
Obtaining information	83	100	112	105	91	491
Intimidation	45	55	58	50	71	279
Coercion	40	32	47	42	57	218
Any other	04	05	07	18	10	44

It should be noted that the continued use of torture as a tool of investigation to extract information from suspects of crime threatens the effectiveness of their prosecution through the criminal justice system. This is because the PPTA provides that any information, confession or admission obtained from a person through torture is inadmissible as evidence against that person in any proceedings. Instead, such information may only be admitted as evidence against the person accused of torture.¹¹ UHRC notes that the use of torture as an investigative tool points to the lack of modern skills and tools of investigation on the part of law enforcement officers.

In some cases, individuals have reported to have experienced sadistic torture aimed at fulfilling the emotional needs of the perpetrator. Some perpetrators channel their negative emotions - pent up aggression, humiliation, rage, envy, diffused hatred on the victims. The victim becomes a symbol of every wrong thing or situation in the perpetrator's life and hence the acts of torture which amount to misplaced and violent venting. This can be deduced from instances where perpetrators have tortured their victims to permanent incapacity or death. This has been evident in cases where the perpetrator has a violent background or has been a victim of condoned torture. To such a perpetrator, torturing the victim becomes a means to vent their anger.

In other cases, some security officials commit torture out of a wish to conform to the expectations of the superiors. In this regard, torturing others becomes a way of demonstrating servant-like obedience to authority; loyalty to group affiliation and colleagueship; as well as conformity to common practice. They bask in the praises heaped on them by their superiors, fellow workers, associates, team mates or collaborators. Their need to belong is so strong that it overpowers ethical, moral, or legal considerations. Some perpetrators derive pleasure and satisfaction from acts of humiliation. To them, inflicting pain is fun. They lack empathy and so their victim's agonised reactions become a source of amusement. Cases such as these include stripping their victims naked and instructing them to dance or walk nude in public.

¹⁰ Other reasons include: victims' mental illness, revenge, dispersing crowds, pleasure and conflict of interest.

¹¹ n.6 above.

1.3.4 Perpetrators of torture in Uganda

In Uganda, both state and non-state actors like private individuals commit acts of torture. However, over the years, UHRC has noted that most perpetrators are state officials or agents. Indeed, most of the complaints registered with the UHRC are matters in which the alleged torture was perpetrated or condoned by State security agents that are responsible for upholding and enforcing the law. Such state agents include officials of the Uganda Police Force (UPF) and its specialised unit known as the Special Investigations Unit- Kireka (previously known as Violent Crime Crack Unit (VCCU), Rapid Response Unit (RRU) and Operation Wembley respectively); the Uganda Peoples Defence Forces and its Chieftaincy of Military Intelligence (CMI); the Joint Anti-Terrorism Task Force; the Uganda Prisons Service (UPS), Internal Security Organisations (ISO), External Security Organisations (ESO), Local Governments and Local Defence Units (LDUs). Other implicated perpetrators include statutory authorities with law enforcement units such as Uganda Wildlife Authority (UWA), Uganda Revenue Authority (URA), Kampala Capital City Authority (KCCA) and National Forestry Authority (NFA). On the other hand, non-state actors perpetrating torture include education institutions and private individuals.

Over the years, UHRC statistics have indicated that most of the torture complaints were lodged against the UPF and UPDF compared to other state authorities and non-state actors. Over the last five years, for instance, UHRC registered a total of 1,658 complaints of alleged violation of the right to freedom from torture. Of these, 1,016 (61.28%) were against UPF. The complaints against UPDF were 275 (16.59%) while 124 (7.48%) were against UPS. This indicates that the three state security agencies: UPF, UPDF and UPS form the majority (85.35%) of the alleged perpetrators of torture.

Non-state actors implicated as perpetrators of torture include private individuals who through individual or mob action commit acts of torture such as beatings and burning with plastics or tyres. Perpetrators also include private security personnel and private businesspeople who torture during arrest of suspects of crime; teachers in education institutions who administer corporal punishment on students;¹² cultural institutions that administer or condone corporal punishment as a cultural practice;¹³ and rebel groups during the armed conflicts. The trend of alleged perpetrators of torture as identified in the complaints registered by UHRC since 2012 is illustrated in Table 1.3 below.¹⁴

Table 1.3: The number of torture-related complaints registered against specific respondents in the past five years

Respondents	No. of torture-related complaints registered per year					Total
	2012	2013	2014	2015	2016	
Uganda Police Force-UPF	177	182	202	200	255	1016
Uganda People's Defence Force -UPDF	56	36	74	69	40	275
Uganda Prisons Service – UPS	26	26	26	21	25	124
Private individuals		13	28	26	36	103
Local Governments	12	8	7	6	5	38
Uganda Wildlife Authority-UWA			8	6	2	16
Respondents	No. of torture-related complaints registered per year					Total
	2012	2013	2014	2015	2016	

¹² The media in Uganda still report instances of corporal punishment in schools despite the existence of laws and policies such as Constitutional court of Uganda decision in *Simon Kyamanya versus Attorney General, Constitutional reference No. 10 of 2000*; Uganda Human Rights Commission Tribunal decision in *Emmanuel Mpondi -and- Board of Governors & 2 others (1999-2002)* UHRR 1; the Ministry of Education Ministerial Circular No. 15/2006, Guidelines for Universal Primary Education (1998, Art. 3.4iii) and Circular No.2/2015; the Penal Code (Amendment) Act 2007, the Children (Amendment Act) 2016 banning the same.

¹³ The Acholi and Langi cultures in Northern Uganda prescribe corporal punishments.

¹⁴ Others include institutions like Ministry of Public Service, educational institutions, private businesses/companies, cultural institutions, remand homes, health facilities and crime preventers, CMI, Local defence units and Rural Electrification Agency.

Private security companies	5		4		2	11
Educational institutions	3		5		3	11
Statutory & other Authorities (URA, NFA, KCCA, UMEME)	9	5	1	4	4	23
Others	15	3	2	13	08	41
Total	303	273	357	345	380	1658

According to the African Centre for Treatment and Rehabilitation of Torture Victims (ACTV), which offers free treatment and rehabilitation services as well as prison and community outreach programmes;¹⁵ the majority of over 6000, Ugandan survivors of torture they have interacted with in the past six years allege to have been violated by the UPF. The other culprits that victims identified were from the Lord's Resistance Army (LRA), UPDF, UPS, Local Councils (LCs) and crime preventers. Others were private individuals, law enforcement officers from URA, KCCA, RRU and UWA, some RDCs and private security guards. This is illustrated in Table 1.4 below.

Table 1.4: Alleged perpetrators of torture reported to ACTV by Ugandan survivors during the period 2011 to 2016

Alleged Perpetrators	2011	2012	2013	2014	2015	2016	Total
UPF	398	509	372	463	525	669	2936
LRA	179	300	810	223	239	259	2010
UPDF	57	90	68	67	75	84	441
UPS	48	67	23	42	21	44	245
LC	42	85	55	32	33	65	312
Crime Preventers			18	13	25	91	147
Others	73	106	35	88	4	73	379
Total	797	1157	1381	928	922	1285	6470

Source: ACTV

In 2015, the UHRC Tribunal found that in 37 (62.71%) of the 59 complaints in which victims were awarded compensation, State agents represented by the Attorney General had violated the right to freedom from torture or cruel, inhuman or degrading treatment or punishment either specifically or jointly with the right to personal liberty. Of the 37 complaints, 18 implicated officers of the UPF, 10 accused UPDF, 4 named VCCU/RRU while 2 pointed to UPS. Each of the other three implicated the Presidential Guard Brigade (PGB), Anti stock theft Unit (ASTU) and Sub-County Local government. This trend did not change in 2016. The Tribunal found that 47 out of the 67 complaints decided state agents had violated the right to freedom from torture. Victims were awarded compensation. This is illustrated in the table below.

Table 1.5: Number of torture-related complaints awarded by UHRC Tribunal per Respondent in the period 2015 to 2016

Year	No. of UHRC awarded complaints against each Perpetrator								Total
	UPF	UPDF	VCCU/RRU	UPS	PGB	ASTU	LG	ARROW BOYS	
2015	18	10	04	02	01	01	01		37
2016	26	16	02	02				01	47
Total	44	26	06	04	01	01	01	01	84

A State may be responsible for torture committed by non-state actors such as armed groups in circumstances where it fails to take sufficient steps to prevent its occurrence or have acquiesced or condoned it.

¹⁵ S. Nsubuga, ACTV presentation at the 19th UHRC Annual Report Consultative meeting at Sheraton Kampala Hotel held from 1- 3 February 2017.

However, this has not been explored in Uganda. On the other hand, in the matter of *Fred Tumuramye -and- Gerald Bwete, Hillman Kasumba, Sunday Kalanda, George Kabigumira, Mugerwa Joseph, Edward Bahoora, God Mayarire, Ntanda, Myalo, Budal aka Mulokole & Alex Kiibi, UHRC 264 of 1999*, the UHRC Tribunal found private individuals liable as non-state actors in their private capacities for the violation of the complainant's right to freedom from torture or cruel, inhuman or degrading treatment or punishment.

1.3.5 Circumstances under which individuals are tortured

UHRC has established that torture mostly occurs during arrest and pre-trial detention of suspects in both gazetted places such as police cells and prisons as well as ungazetted ones like torture chambers/safe houses and army detaches. This could be because torture is mostly used as a tool of investigation to obtain information for criminal prosecution. However, incarcerated persons are usually helpless and alienated; they experience partial or total loss of control; and hence are rendered vulnerable, powerless, and defenceless by events and circumstances beyond their influence. Being at the mercy of their incarcerators, the victims become susceptible to acts of torture.

Other reported circumstances include the period before the arrest of suspects, during inter-station transfers, during the search for exhibits, during training (by UPDF) and at the workplace. Mob action may result in torture by individuals just as would disciplinary action by teachers in educational institutions. It can therefore be conclusively argued that there is a relationship between the violations of a suspect's right to personal liberty and violation of his or her freedom from torture. This is because unlawful arrest and/or detention exposes an individual to torture, while on the other hand, a suspect may be detained for a long period and tortured as part of the interrogation or may be kept longer to cover up the injuries resulting from the torture. The circumstances under which torture occurs in Uganda are illustrated by the UHRC statistics presented in the table below.¹⁶

Table 1.6: Frequency of circumstances under which torture occurred as shown by the complaints to UHRC from 2012 to 2016¹⁷

Alleged perpetrator	Before arrest	During arrest	During detention	Other Occurrences
Uganda Police Force	94	460	318	34
Uganda Peoples' Defence Forces	53	93	150	5
Uganda Prisons Services	1	01	69	
Private individuals		11	1	8
Private business companies	20	2		
Local Governments	19	11		
Uganda Wildlife Authority	8	16		
Private security companies	1	2		
Educational institutions	6	1		2
Internal Security Organisation	3	6		
Statutory & other Authorities (URA, NFA, KCCA)	1	7		
Other Actors	18	8		
Total	224	618	538	49

¹⁶ Under Table 1.6, 'Other Actors' under the section on perpetrators include: Ministry of Public Service, cultural institutions, remand homes, health facilities and crime preventers, CMI, Local Defence Units, Rural Electrification Agency and Fisheries enforcement units.

¹⁷ 'Other Occurrences' refers to what happened during inter-station transfers, searches, political gatherings, riots, mob action, workplace and school environment, disobedience in UPDF barracks and UPDF training.

1.3.6 Acts of torture in Uganda

In Uganda, torture is mostly physical and the acts may be systematic or not. Victims are subjected to beatings with metal rods, pistols/gun butts, fists, sticks with protruding iron nails; kicking; forceful painful position (like being bundled in car boot or in between the car seats); tying and bible style (inserting iron nails in between the fingers and hitting them with batons). Other acts are: Deprivation of food or force-feeding with spoiled food, gang rape and harmful exposure to elements such as extreme cold/heat/light.

Other reported acts include sleep deprivation, *kandoya* (tying the victim's hands and feet at the back); suspension from the ceiling while tied *kandoya*; water torture or "liverpool" (forcing the victim to lie face up, mouth open, while the spigot is turned on into his mouth); insertion of bottles into the female genitalia; tying weights onto the male genitalia; being forced to clear excreta with bare hands; introduction of pepper into the eyes; burning with molten plastics; forcing a victim to urinate on live electric wires; insertion of objects in orifices; shouting in the victims' ears; being subjected to attack by animals such as dogs; insertion of needles in nail-bed/ pulling out finger nails; being handcuffed for long period of times; defecation and urination on fellow detainees and unsanitary detention conditions.

Instances of psychological torture reported in Uganda include threatening the victim or his/her family with death; putting the muzzle of the pistol into the victim's mouth; showing him or her fresh graves or dead bodies or threatening with HIV infection; mock executions; watching others being tortured; abusive language and threats; shame infliction such as being stripped naked and paraded in public; denial of visitors, blindfolding; confinement in solitary cells or mental hospital.

Instances of reported pharmacological torture include the use of tear gas and victims being forced to consume chemicals or use of drugs and mind-altering substances.

The UHRC Tribunal has found perpetrators to have used the above acts in a number of complaints such as *A.A and Attorney General G/577/1999* (blindfolding); *O.S -and- Cpl Komakech G/112/2003* (suspending victims upside down on a tree all night); *L.P and Attorney General UHRC 1182/1999* (forcing victims to lie face down on sharp hard core stones and caning the suspect); *K.W and Attorney General UHRC 732/2000* (suspension of weights on scrotum or tying one's private parts with a brick) and *F.B and Attorney General UHRC 519/2011* (injecting strange substances into the testicles).

UHRC has received complaints of alleged torture and ill treatment where complainants submitted photographic evidence of perpetrators in action or the effects of the alleged torture.



Corporal punishment being administered by security and law enforcement officers



Agony of torture



A woman being thrown by police officers onto a pick-up.



Injuries and scars sustained from acts of torture

1.3.7 Victims of torture

Since torture occurs mainly during arrests and pre-trial detention, suspects who are deprived of their personal liberty are the major victims. This is because such persons are in a vulnerable position since they are cut off from the outside world and are solely dependent upon the detaining authorities for their basic needs and rights. In view of this, torture in Uganda is often committed by state agents on suspects who are usually detainees in police cells, army barracks/detaches and prisons.

It should be noted that some of the torture victims in Uganda that ACTV has handled are refugees and asylum seekers had been tortured in their countries of origin or in transit to Uganda. The ACTV statistics show that in 2015, of the 1,277 survivors of torture received as new clients, 983 (77%) were Ugandans while 294 were refugees and asylum seekers from the Great Lakes Region. From the Democratic Republic of Congo they were 240 (18.8%); Burundi 41 (3.2%), Somalia 6 (0.5%), Rwanda 5 (0.4%) and Ethiopia 2 (0.1%).¹⁸

1.3.7.1 Age and gender of victims

UHRC records indicate that persons aged 19 to 35 years were the main victims of torture; but there were some aged 36 to 60 years. On the other hand, the majority of the victims, both survivors and those that died as a result, were male. In the last five years, UHRC has registered 1,489 male victims of alleged torture compared to 199 females. (Refer to Table 1.7 below). This could imply that the male youths in their most productive age are the main victims of torture. This may also point to the fact that men in Uganda are more often in conflict with the law than their female counterparts, hence potentially more exposed to circumstances under which torture occurs.

Table 1.7: Victims of alleged torture as recorded by UHRC and disaggregated by gender over the past five years

REGIONAL OFFICE	2012		2013		2014		2015		2016		TOTAL	
	M	Fz	M	F	M	F	M	F	M	F	M	F
ARU	12		14	01	22	03	10	00	11	01	69	05
CTR	85	08	38	02	32	03	32	06	48	04	235	23
FPT	25	01	26	05	23	02	30	06	91	09	195	23
GLU	54	01	50	03	44	04	56	07	40	06	244	21
HMA				01	31		14		28		45	01
JJA	30	03	20	02	26	03	19	02	21	02	116	12
MSK	33	04	43	26	36	10	26	09	37	12	117	61
MBA	26	05	36	03	15	03	28	05	36	08	141	24
MRT	33	05	22	03	44	13	51	14	27	02	177	37
SRT	34	04	28	03	48	04	30		10	02	150	13
TOTAL	332	31	277	54	321	72	296	49	349	46	1489	199

¹⁸ African Centre for Treatment and Rehabilitation of Torture Victims Annual Report 2015.

According to ACTV, of the 1,234 total number of alleged survivors of torture they interacted with in 2016, the males were 954 while females were 280. The majority of the victims were in the age bracket of 20-29 years followed by 30-39 years. This is illustrated in Figure 1.2 and Figure 1.3 below.

Figure 1.2: ACTV findings on age bracket for survivors of torture in 2016

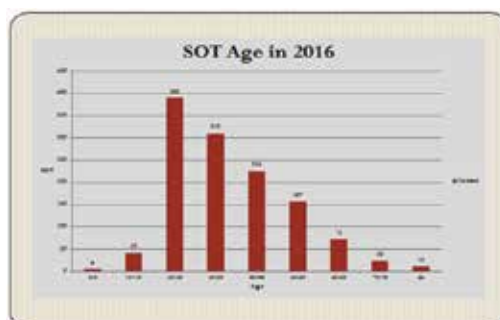
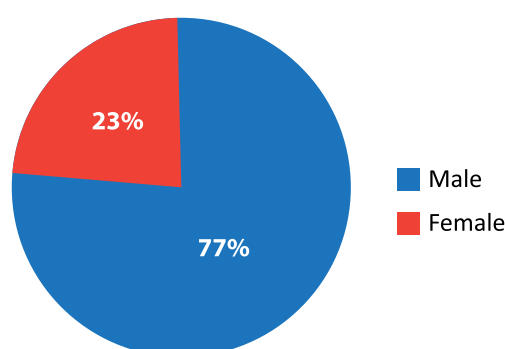


Figure 1.3: ACTV findings on the gender of torture cases in 2016



1.3.7.2 Level of education of victims of torture

According to UHRC records, most victims that have reported torture did not attend formal education. This category is followed by those who attended primary school and those with O' Level as their highest education level. This is illustrated in the table below.

Table 1.8: Level of education of the torture victims recorded at UHRC in the past five years

Qualification	Female	Male	Total
Never attended formal education	81	323	404
Primary level	64	294	358
O' Level	43	178	223
A' Level	28	66	94
University/Tertiary institution	09	65	74
Others (undisclosed)	05	103	108

The analysis shows that victims of torture are mainly men without any formal education or with only basic education and in their youthful and most productive age. Going by the gender perspective, in Uganda men are usually the family heads and bread winners. In this regard, torture does not only affect the individual victim but also his family in case of death or permanent disability. By extension, the national economy is also affected in terms of loss of productivity. On the other hand, the high levels of unemployment, partly due to the low levels of education make the victims prone to involvement in crime, leading to their interface with the perpetrators of torture. It can therefore be argued that in Uganda, there is a relationship between low level of education/unskilled labour, youth unemployment/poverty, high crime rate and torture.

1.3.7 Effects of Torture

Torture leads to multiple disabling conditions that interfere with the most basic functions of daily life. The consequences of torture are either physical or psychological or both and include: Death, permanent disability which may in turn lead to loss of employment and affect livelihood. Other effects are: Chronic muscle and joint pain, impotence, post-traumatic stress disorder (leading to severe depression and mental illness), headaches, incessant nightmares and other sleep disorders like insomnia, anxiety, guilt, low self-esteem, inability to concentrate, thoughts of suicide. Forgetfulness, affected perception, broken families, sexual problems, chronic fatigue and multiple personality disorders are the other effects.

Some victims of torture have suffered grave psychological effects and as a result they cry frequently, lose their self-worth, begin to view everyone as their enemy; their imaginary stalkers become real to them; or their spirits are crashed leaving them unable to cope without a lot of medical, psycho-social and economic interventions.

UHRC notes that since most torture happens in detention facilities; some victims are kept incarcerated without appropriate medical and psycho-social interventions. This aggravates its effects on the injured victim for example who may develop sepsis often leading to death or permanent disability. In fact, some victims have testified that because of the physical injuries sustained from torture during detention, the perpetrators could not produce them in court or release them for fear of exposing themselves for having failed to accorded them adequate medical attention. One victim (pictured below) from Kaabong District was allegedly arrested in March 2014 for illegal possession of a firearm and detained at the UPDF Lokinene Detach, Kalapata until October 2014. He sustained wounds as a result of torture but was kept in detention until they started drying up. He was given UGX 50,000 for treatment at the time of release.



Deep wounds and scars sustained from acts of torture.

Torture does not only affect the individual victims but it also imposes on the victim's family an economic burden due to expensive treatment and rehabilitation services; it eventually leads to low productivity for the national economy and all this can also result into poverty. In addition, State resources are spent on compensating victims of torture and on medicines and equipment for their treatment and rehabilitation. According to a 2013 study done by the ACTV,¹⁹ the cost of torture is dependent on multiple factors.

These include how mild, moderate or severe the torture was; its form and duration; the background and characteristics of the torture survivor particularly the age, sex, monthly incomes and number of dependents. The cost covers hospital and medical bills, legal fees, transport and administrative costs, socio-economic and human costs.

It has also been noted that in Uganda, most victims of torture exhibit more than one physical effect and may not be aware of the psychological effects until they are advised by experts during treatment and the rehabilitation processes. This also extends to the victim's family who also face psychological trauma that could require treatment or rehabilitation. The frequency of reported effects of Torture at UHRC is illustrated in the table on the next page.

¹⁹ African Centre for Treatment and Rehabilitation of Torture Victims: Estimating the Socio-Economic Effects of Torture in Uganda, March 2013.

Table 1.9: Effects of torture on victims as recorded at UHRC in the last five years

Effects	Specific effects	2012	2013	2014	2015	2016
Physical effects	Physical injuries	239	208	237	257	232
	Chronic pain	26	33	30	41	30
	Disabilities	23	16	15	19	18
	Impotence	03	06	14	01	01
	Others (pregnancy miscarriage, deteriorated eye sight and paralysis)	01	01	01	06	05
Psychological effects	Depression	22	11	31	45	34
	Forgetfulness	03	01	02	01	02
	Broken families	08	06	08	08	04
	Low self esteem	08	12	04	06	09
	Sexual problems	02	01			0-1

UHRC noted that in some complaints torture was alleged to have resulted into death of the victim, hence amounting to deprivation of the right to life. Such cases have been more rampant in Gulu region (northern Uganda), followed by Central and Moroto (Karamoja) regions, as illustrated in the table below.

Table 1.10: Number of complaints in which torture is alleged to have resulted into death of the victim

Year	ARU	CTR	FPT	GLU	HMA	JJA	MSK	MBA	MRT	SRT	Total
2012		03		04					01		08
2013	01	02	02	04					01		09
2014		02	01	06				01	04	01	15
2015		04		01					01	02	08
2016				05	01						06
Total	01	11	03	20	01			01	07	03	46

In addition to the above, the persistence of torture as a tool of investigations in Uganda has affected the credibility of the criminal investigations in that some suspects admitted to have confessed to the crimes they were accused of just to get relief from the continuous torture or threats of it. Consequently the prosecution of such suspects and timely disposal of criminal cases has been affected especially where the accused persons sought to challenge the evidence against them on grounds that it was obtained through torture.

1.4 INTERVENTIONS TO ADDRESS TORTURE IN UGANDA

1.4.1 Enactment of the Prevention and Prohibition of Torture Act 2012

By enacting the Prevention and Prohibition of Torture Act 2012, Uganda made a very important step in the fight against torture in the country. The Act resulted from concerted efforts of government, UHRC as a National Human Rights Institution and CSOs.

1.4.2 Interventions by UHRC

1.4.2.1 Redress mechanisms through UHRC

Since its inception, UHRC has received and investigated complaints relating to torture and accorded victims redress through the UHRC Tribunal. In 2016, the Tribunal awarded a total of UGX 370,000,000 in compensation to victims of torture in 47 complaints. This amounted to 40.44% of the total tribunal awards of 2016. In 2015, the Tribunal awarded a total of UGX 245,000,000 to victims of torture in 37 complaints against the Attorney General, accounting for 47.1% of all the tribunal awards that year. In this regard, the UHRC commends the Presidential directive to the Ministry of Finance, Planning and Economic

Development and the Ministry of Justice and Constitutional Affairs (MoJCA) to pay all the outstanding tribunal awards in the FY 2017/18.²⁰ In addition to the above, UHRC has in some instances recommended in its tribunal decisions for punitive disciplinary action to be taken by responsible institutions against errant officers that perpetrate torture.

In 2015, UHRC through its civic education programme sensitised a cross-section of stakeholders including officers from the UPF and UPDF, Resident State Attorneys (RSAs), Resident District Commanders (RDCs) on the provisions of the PPTA. This was coupled with the dissemination of IEC materials on torture and the PPTA, all aimed at enhancing the implementation of the law.²¹

UHRC continued to undertake unannounced inspection visits to places of detention throughout the country to check on the conditions of detainees and make recommendations.²² This has greatly contributed to the respect of detainees' rights.

UHRC in partnership with CSOs is spearheading the advocacy on passing the Prevention and Prohibition of Torture Regulations by the Minister responsible for justice.

The above notwithstanding, UHRC is concerned by the slow implementation of the PPTA and the delayed payment of the Tribunal awards to victims of torture by the Ministry of Justice and Constitutional Affairs. UHRC also faces a challenge of lack of adequate funding for all its activities which affects the effective fulfilment of its mandate.²³

1.4.2.2 UHRC recommendation to Government to ratify the OPCAT

Since 2004, UHRC has recommended to the Government of Uganda to ratify the Optional Protocol on the Convention against Torture and other cruel inhuman degrading treatment (OPCAT).²⁴ The protocol was developed as a measure to eradicate torture through a preventive system of regular visits to places of detention such as police stations, security force stations, all pre-trial centres, remand prisons, prisons for sentenced persons, centres for juveniles, immigration centres, transit zones at international ports, centres for detained asylum seekers, psychiatric institutions and places of administrative detention.

The Protocol establishes two pillar systems of an International Subcommittee for the Prevention of Torture (SPT)) and a National Preventive Mechanisms (NPMs). The Subcommittee is mandated to conduct regular visits and follow-ups; make recommendations to the state; and establish regular contacts with the NPMs who are mandated to conduct regular visits and play an advisory role at the national level.

The ratification of the OPCAT would oblige Uganda to open up all places of detention to scrutiny at both the domestic and international levels and the recommendations from the unhindered visits would go a long way in improving the situation in the country's detention facilities, including the prevention of torture. The implementation of the protocol would be less costly if the UHRC, with a constitutional mandate to visit places of detention, was named the NPM.

1.4.3 UPF interventions to address torture

The UPF through its Professional Standards Unit (PSU) and the Directorate of Human Rights and Legal services has continued to receive complaints of torture against its officers. In 2016, according to UPF, 14 such cases were reported against their personnel. Of these, three cases were by the close of the year still under inquiry, six had been forwarded to the DPP. In two cases, officers were undergoing disciplinary action in the police disciplinary court while the three had been forwarded to police Headquarters for the necessary recommendation and action.²⁵

²⁰ Refer to Chapter Eight of this report on Government compliance with UHRC recommendations.

²¹ Chapter Three of the 18th Annual Report of the UHRC to the Parliament of the Republic of Uganda 2015.

²² Refer to Chapter Nine of this report on the highlights of conditions in places of detention.

²³ Refer to Chapter Nine on this report on the highlights of Finance and Administration.

²⁴ Adopted by the UN General Assembly on 18 December 2002.

²⁵ J. Kushemererwa, UPF presentation to the 19th UHRC Annual Report Consultative meeting, at Sheraton Kampala Hotel, 1-3 February 2017.

The persistent torture by police officers was attributed to the lack of legal knowledge, inadequate training in human rights and indiscipline.²⁶

The UPF indicated that their redress mechanism provided remedies to victims of torture through out of court settlements by the perpetrators and provision of treatment through the UPF Directorate of Medical Services. The UPF was also in the final stages of developing the institutional Human Rights Policy that would go a long way in enhancing the respect for human rights.

On the other hand, UPF acknowledged the challenges in dealing with torture cases including difficulties in gathering incriminating evidence against the perpetrators since torture occurs in secluded places. Other challenges were: the lack of witness protection mechanisms which resulted in victims fearing to testify against perpetrators; and the victim's lack of awareness of their rights, making it hard for them to report cases of torture. Ultimately, the institution called for training of Police officers on the PPTA and on professional methods of gathering evidence; public sensitisation on the rights of detainees; regular inspections of detention facilities by relevant organs; and dissemination of the Police Human Rights Policy. However, UHRC was concerned that the UPF continued to charge police officers accused of torture with disciplinary offences. This resulted in such officers being found guilty of breach of the ethical code of conduct, thus getting less punitive sentences than they would have got if they were charged under the PPTA. In addition, the disciplinary process does not take care of the victims' right to reparations, the treatment and rehabilitation of survivors of torture as provided for under the PPTA.

UHRC was also concerned that whereas the PPTA had been in force since September 2012, there were no deliberate efforts by UPF to investigate the crime of torture and specifically reflect it in the statistics of the annual crime and traffic road safety report. This could mean that the UPF continued to charge perpetrators of torture, if any, with assault. It is notable that the crime of common assault has over the years been reported among the top ten crimes in the country. In addition, the crime report indicates that homicides include death by mob action and domestic violence but does not specifically present information on death caused by torture or any further analysis on whether the reported mob action could be interpreted as torture. Therefore it is still not possible to gauge the prevalence of torture based on the UPF annual crime reports.

This trend of events could be an indication that UPF does not appreciate the PPTA and yet it is mandated to receive torture-related complaints for investigations that could lead to criminal prosecutions. This situation gets worse where the office of the Director of Public Prosecutions does not guide police investigations towards charging suspects with the crime of torture.

In 2015 for instance, a senior police officer who was the Old Kampala Divisional Police Commander Joram Mwesigye was alleged to have severely beaten up Mr. Andrew Lwanga, a cameraman for a local television station, in circumstances that could have easily amounted to torture. However, he was charged with the offence of assault before the Buganda Road Grade I Court.²⁷ It is therefore a concern of UHRC that statistics relating to the crime of torture cannot be easily traced through Uganda's criminal justice system, more than four years after the PPTA was enacted.

1.4.4 UPDF interventions to address torture

Through collaboration with CSOs, the UPDF has continued to train their officers on the provisions of the PPTA with a view to preventing the occurrence of torture in their operations. In fact the UPDF has reported²⁸ that there are few, if any, instances of torture committed by officers of the UPDF and that training of officers in the use of non-coercive means of extracting information was on-going.

²⁶ As above.

²⁷ M.Odeng & B. Kabahumuza, New Vision, Monday March 13, 2017. The accused was subsequently convicted of the offence by Buganda Road Grade 1 Court on 10 March 2017, sentenced to a fine of UGX one million or imprisonment for one year; and ordered to pay Andrew Lwanga UGX five million

²⁸ C. Wacha (Col), Head, UPDF Directorate of Human Rights on the conditions of detainees in military places of detention in 2016 a presentation made at the UHRC 19th Annual Report Consultative Meeting held at the Sheraton Kampala Hotel, 1-3 February 2017.

However, UHRC is concerned that complaints of alleged violation of the right to freedom from torture against the UPDF continue to be received from the public, especially by the UHRC Moroto (Karamoja) Regional Office.²⁹

1.4.5 UPS interventions to address torture

In 2016, UPS in fulfilment of the UHRC recommendation to enforce the PPTA³⁰ partnered with CSOs to train Prisons Officers on the provisions of the PPTA. UPS further instituted disciplinary action against members of staff who perpetrated torture. In this regard, four staff members were punished for committing acts relating to torture, cruel, inhuman and degrading treatment, as detailed in the table below.³¹

Table 1.11: UPS staff that were disciplined for perpetrating torture in 2016

S/N	F/No.	Rank	Name	Station	Offence	Punishment
1.	5319	SG/WDR	Egonga George	Isimba	Assault	Fined UGX 20,000 plus a stern warning
2.	13285	WDR	Mwesigye Nicholas	Nakisunga	Assault	Fined UGX 50,000 plus a stern warning
3.	13104	WDR	Nakasala Hamuza	Kitalya	Unnecessary violence	Fined UGX 50,000
4.	6452	CH/WDR II	Ochola Gilbert	Loro	unlawful or unnecessary exercise of authority	Fined UGX 30,000 plus a strong reprimand

UHRC noted the establishment of Human Rights Committees for inmates in most prison detention facilities. The Committees address detainees' human rights concerns and have contributed to the reduction in cases of torture perpetrated by detainees against fellow detainees.

However just like the UPF, UHRC is concerned that UPS is charging officers accused of torture with disciplinary offences hence treats the actions as a breach of the ethical code of conduct other than a crime calling for criminal sanctions and reparations to the victims under the PPTA. Table 1.11 above indicates that the perpetrators of torture were charged with disciplinary offences of assault, unnecessary violence and unlawful or unnecessary exercise of authority, with the severest punishment being a fine of UGX 50,000 with a stern warning. This is not in tandem with the PPTA.

1.4.6 Interventions by the Judiciary in addressing torture in Uganda

The Judiciary has been instrumental in the hearing of torture-related complaints as human rights violations and awarding reparations to victims. Most of such cases have been instituted as human rights/ civil actions by individual complainants through their private lawyers or legal aid organisations against the Attorney General. Such cases include *Jasper Natukunda Vs Attorney General (Kabale High Court)*, *Yahaya Lukwago and other Vs Attorney General (Kampala High Court)*, *Mulindwa Mukasa Vs Attorney General and Caesar Tusingwire, Issa Wazembe Vs Attorney General (Kampala High Court)*, *Ndegeya Richard Vs China International and Electric Cooperation (Jinja High Court)*, *Gabbula Vs Attorney General and Musisi Godfrey Vs Attorney General (Kampala High Court)*.³² In 2016, private criminal proceedings were lodged by Lukwago & Co Advocates and Namugali & Walyemera Co Advocates against the Inspector General of Police and seven senior police commanders on allegations of torture. An interim order was made by the Constitutional Court to stay the said proceedings before the Makindye Magistrate court until the main petition challenging the charges brought against the IGP is heard by the Constitutional Court.

²⁹ n.9 above.

³⁰ See the 18th Annual Report of the Uganda Human Rights Commission to the Parliament of the Republic of Uganda, 2015.

³¹ V. Aioka Assistant Commissioner UPS, 'Status of Human Rights Conditions of detainees in Uganda Prison Farms in 2016' a presentation made at the UHRC 19th Annual Report Consultative Meeting held at the Sheraton Kampala Hotel, 1-3 February 2017.

³² n.15 above.

Whereas Section 6 of the PPTA mandates the Judiciary in addition to imposing a custodial or/and fine sentence, to order for the payment of reparations to the victim against a convicted perpetrator, this provision has to a great extent not been exploited. This may be attributed to the fact that very few, if any, cases have been brought to the Judiciary for prosecution of the crime of torture.

1.4.7 Interventions by CSOs in addressing torture in Uganda

CSOs under the umbrella of the Coalition Against Torture³³ have played a great role in the fight against torture in Uganda through preventive interventions such as visiting prisons; sensitisation of security personnel and communities about the right to freedom from Torture and the PPTA; dissemination of IEC materials including copies of the PPTA; and advocacy engagements with government agencies and ministries for the ratification of the OPCAT and the passing of the PPTA regulations. Other interventions by CSOs include legal aid services to victims of torture, the provision of treatment and rehabilitation services³⁴ and referral services.

However, these CSOs are constrained by the bureaucratic processes in accessing places of detention as well as the inadequate funding which affects their ability to reach all the survivors of torture.

1.5 GENERAL CHALLENGES IN ADDRESSING TORTURE IN UGANDA

1. Ineffective implementation of the PPTA due to various reasons such as lack of knowledge of the legal provisions; treating torture as a breach of professional code of conduct and the lack of good will to investigate perpetrators of torture.
2. Impunity and failure to punish perpetrators. Acts of torture are condoned by some leaders of institutions that are supposed to combat the vice and the leaders' attitude, practices and behaviour such as the promotion in rank or transfer of services of alleged perpetrators show acceptance of the practice.
3. Lack of alternative investigative tools and techniques.
4. Flexible recruitment and poor training of law enforcement agents. Some law enforcers have been accused of breaking the law (torture) but they have subsequently been recruited into the security agencies.
5. Delayed payment of tribunal awards to victims of torture since the monies are expected to cater for the specialised treatment and rehabilitation of the survivors of torture who have in most cases lost their livelihood.
6. Lack of a government specialised treatment and rehabilitation centre for survivors of torture.

1.6 RECOMMENDATIONS

1. Uganda Police Force, Uganda Peoples' Defence Forces, Uganda Prisons Services, Directorate of Public Prosecutions and the Judiciary should prioritise on the implementation of the Prohibition and Prevention of Torture Act 2012;
2. State and private security agencies and the Directorate for Public Prosecutions should ensure that errant officers that perpetrate torture are prosecuted under the Prohibition and Prevention of Torture Act 2012 in addition to facing internal disciplinary action.
3. Ministry of Justice and Constitutional Affairs should expeditiously issue the Prohibition and Prevention of Torture Regulations to enhance the implementation of the Prohibition and Prevention of Torture Act ,2012.

³³ Including African Centre for Treatment and Rehabilitation of Torture Victims (ACTV) (current Chair); Foundation for Human Rights Initiative (FHRI), Chapter 4-Uganda (newest member), Human Rights Centre-Uganda (HRCU), Human Rights Network-Uganda (HURINET), Muslim Centre for Justice and Law (MCJL), Women of Uganda(WOU), Uganda Prisoners Aid Foundation (UPAF), Avocats Sans Frontieres (ASF), Human Rights Focus (HURIFO)- Gulu, Kumi Human Rights Initiative (KHRI)-Kumi, Association of Human Rights organisations in the Ruwenzori region (AHURIO) Kabarole and Refugee Law Project (RLP).

³⁴ Rehabilitation services provided by CSOs such as ACTV.

4. Government through the Parliament, Ministry of Justice and Constitutional Affairs and Ministry of Foreign Affairs should ratify the Optional Protocol to the UNCAT and adhere to all its provisions as another step towards the stemming of torture in Uganda.
5. Ministry of Justice and Constitutional Affairs should prioritise the payment of the UHRC Tribunal awards to victims of human rights violations as they roll out the implementation of the policy of institutional liability to payment of tribunal awards.
6. Ministry of Internal Affairs should invest in the use of forensic investigations; equip and train Uganda Police Force in the use modern investigative mechanisms including setting up a specialised unit to investigate the crime of torture.
7. Members of the public should report cases of torture to police, UHRC, the Directorate of Public Prosecutions or the Chief Magistrates Court.
8. Law enforcement agencies particularly Uganda Police Force and Uganda Peoples' Defence Forces should carry out their duties in strict conformity with Articles 20 (2), 24, 44 (a) and 221 of the Constitution of Uganda and other regional and international human rights standards signed and ratified by Uganda.
9. Uganda Police Force, Uganda Peoples' Defence Forces, Uganda Prisons Service, Directorate of Public Prosecutions and the Judiciary should sensitise their personnel on the implementation of the Robben Island Guidelines and the Luanda Guidelines on conditions of arrest, police custody and pre-trial detention.
10. Ministry of Finance Planning and Economic Planning should provide funds to Ministry of Health to create a trauma treatment and rehabilitation programme to provide support to torture victims and their affected family members.

1.7 CONCLUSION

Torture and other forms of ill treatment still persist in Uganda. Therefore, the fight against torture requires concerted efforts, commitment and goodwill from all stakeholders including the JLOS and CSOs development partners and the general public. All relevant actors should seek to understand and appreciate the PPTA and work towards its effective implementation through not only providing for criminal sanctions against the perpetrators but also reparations to victims of torture.

CHAPTER TWO

HUMAN RIGHTS SITUATION IN PRISON FARMS IN 2016



**52 out of 70
(74%)** prison farms
inspected
11,720 (81%) out of
14,381 detainees
held in prison farms



All the prison farms
inspected used
manual labour
60% of detainees
work for more than 6
hours a day



21% of prison farms
had agricultural
machinery.

2.1 INTRODUCTION

Prison farms are correctional facilities established for economic purposes; but rely on the manual labour of convicts. Prison farms are situated in open air lands where a number of activities such as agriculture.³⁵ The compulsory labour that is retained on prison farms and is acceptable has been distinguished by law, policy and practice from forced labour which is outlawed.

As imprisonment gradually became an alternative to corporal punishment, prison labour that was punitive and a disciplinary measure was accepted as supplementary to imprisonment.³⁶ This tacit acceptance is still reflected in the universal practice where a government can confiscate prison labour with detainees facing increased vulnerability in form of exploitation of their labour and long working hours.³⁷ The vulnerability of prison labour is further aggravated by inadequate access to food, water and sanitation facilities. Though the legal framework eliminates forced labour, the acceptance of compulsory labour in practice is reinforced by a legal framework that exempts labour that is extracted from a person as a consequence of a conviction of court.

Work on prison farms is intended to ease the reintegration of persons into society by helping them to acquire meaningful and useful skills as they serve their sentences, to enable them earn an honest living after release.

In Uganda, according to UPS the sole aim of prison farms is to provide agricultural skills to detainees while in custody.³⁸ The UPS has indicated that the purpose of the prisons farm strategy is to enhance farm production and productivity which in turn increases food productivity, reduces pressure on the food budget and improves the diet of prisoners through provision of nutritious foods such as soya beans.³⁹

³⁵ Available at <http://saveourprisonfarms.ca/> last accessed on 20 March, 2017.

³⁶ Available at <http://www.sistersinside.com.au/media/prisonlabour.pdf> last accessed on 20 March 2017.

³⁷ As above.

³⁸ Available at <http://www.prisons.go.ug/index.php/programs/prison-farms> last accessed on 6 March, 2017.

³⁹ n.31 above.

The UPS also pointed out that the criteria for working on a prison farm includes the physical and mental fitness of the inmate and his/her willingness to work on a farm for his/her rehabilitation as well as the level of skill prior to detention. Those who are semi-skilled or lack this particular skill are the ones mostly assigned to farm work.

In fulfilment of its constitutional mandate to inspect places of detention, UHRC carried out routine inspections in 2016 with a special focus on prison farms. At the time, there were 70 active prison farms with 14,381 detainees comprising of 4,365 remand prisoners and 9,960 convicts who were required to serve their custodial terms with compulsory labour. UHRC was particularly concerned because previous inspections had shown a trend of increased vulnerability of prisoners detained in prison farms owing to the compulsory nature of their labour, notwithstanding the fact that it is accepted both in law and practice. This chapter focuses on UHRC findings on the rights of detainees in prison farms while the findings on the general detention facilities are detailed in Chapter 9 on Conditions in places of detention.

2.2 LEGAL FRAMEWORK.

The legal framework that protects the human rights of detainees entails international, regional and national human rights instruments that have been adopted and ratified.

2.2.1 International legal framework

At the international level, various human rights instruments including Article 10 and 7 of the ICCPR and Article 2 of the UNCAT provide for and guarantee the humane treatment of detainees in order to protect their human dignity.⁴⁰ The reason behind this is that persons whose liberty has been restricted are vulnerable and solely dependent on the detaining authorities for the fulfilment of their basic necessities and rights.

Detainees are entitled to a range of freedoms and rights by virtue of being human beings, including among others special protection from being subjected to hard labour and any form of discrimination, torture, cruel, inhuman or degrading treatment.⁴¹ Minimum standards for treatment of detainees in detention facilities are reflected in regulatory frameworks such as the UN Standard Minimum Rules for Non- Custodial Measures (Tokyo Rules). The UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) provide guidelines for treatment of prisoners. The basic principle expounded on in the guidelines is non-discrimination of prisoners on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Under the international legal framework prison labour does not fall within the confines of forced labour which is a major component of slavery. The International Labour Convention, 1930 (No.29) prohibits forced labour but excludes work or service extracted from a person as a consequence of a conviction in a court of law provided that this work or service is carried under the supervision and control of a public authority and the person is not hired to or placed at the disposal of private individuals, companies or associations.⁴² The same position is reiterated in Article 8 (3) of the ICCPR that excludes imprisonment with hard labour imposed as a punishment for crime or in pursuance of a sentence to such punishment by a competent court. Black's law Dictionary defines 'hard labour' as a punishment additional to mere imprisonment sometimes imposed upon convicts sentenced to a penitentiary and, as a rule, should not be harder than ordinary mechanical labour. It therefore excludes work or services required of a person who is under detention in consequence of a lawful order.

The Abolition of Forced Labour Convention, 1957 (No.105) seeks to restrict the use of compulsory labour by defining conduct that cannot be punished by forced or compulsory labour even if one is convicted in a court. This conduct includes political coercion or education as a punishment for holding or expressing political views opposed to the established political, social or economic system; mobilising or using labour

⁴⁰ ICCPR, ICESCR, UNCAT, CRC, CRPD and CEDAW.

⁴¹ Articles 4, 10 and 13 of the UNCAT, Article 9 of ICCPR.

⁴² Article 2, para.2 (c) of the ILO Convention (No. 29).

for economic development; labour discipline; punishment for having participated in strikes; and racial social, national or religious discrimination.

2.2.2 Regional legal framework

The African Charter on Human and Peoples' Rights (ACHPR) provides for the inherent dignity of a human being and so protects detainees particularly from torture, cruel, inhuman and degrading treatment. It also provides for freedom from discrimination on the basis of sex, disability, race or religion and freedom from slavery in addition to other rights including health care, education and access to information among others.⁴³

2.2.3 National legal framework

Article 23 of the 1995 Constitution provides for the protection of persons deprived of their personal liberty as well as circumstances under which personal liberty may be suspended. The 1995 Constitution prohibits torture, cruel inhuman and degrading treatment as well as slavery. It provides for the rights of persons detained including access to medical care among others. Article 25 excludes labour in consequence of the sentence or order of a court and labour though not required in consequence of a sentence or order of a court that is reasonably necessary in the interests of hygiene or for the maintenance of the place at which the person is detained from forced labour. The Prison Service Act 2006 recognises the right of prisoners to undertake meaningful remuneration for employment.⁴⁴ Rights of prisoners are further protected by the Prisons Act.⁴⁵

2.3 PRISON FARMS IN UGANDA

The 70 prison farms country-wide earlier mentioned are for mainly agricultural activities. Most of them are located in rural areas, while a number of them are categorised as reception centres.

2.3.1 Categories of prison farms and detainees

Of the 70 prison farms, 37 are reception centres which receive remand prisoners. These centres include Tororo, Dokolo, Amuria, Oyam, Adjumani, Kamwenge, Albetong, Katakwi, Serere, Kyegegwa, Kamuli as well as Amita in Abim District, Namalu in Nakapiripirit District, Mubuku in Kasese District, Muinaina in Mubende District, Paidha in Zombo District, Rukooki in Kasese District and Bidibidi in Yumbe District. All categories of inmates namely convicts, remands, male and female detainees are engaged in work on prison farms. Table 2.1 below shows the categories of detainees in prison farms.

Table 2.1: Categories of detainees in prison farms

Number of Prison Farms	Number of Female Detainees	Number of Male Detainees	Total
70	262	14,119	14,381

Extracted from Summary Statistics from the Uganda Prisons Services

2.3.2 Production activities carried out detainees on prison farms

The main agricultural activities on the prison farms included maize and cotton growing. Of the 70 prison farms, 41 were mainly involved in cotton production and 22 in maize production. Other activities included dairy farming, poultry keeping, piggery, horticulture, afforestation, carpentry, and brick-laying.

⁴³ Articles 5 and 6 of ACHPR; Article 9 of the ICCPR.

⁴⁴ Section 5(d) of the Prisons Service Act 2006.

⁴⁵ The Prisons Act, 2006. The Prisons Act guarantees rights of detainees to access health services, access to food of nutritious value and drinking water.



Dairy farming at Kiburara Prison Farm in Ibanda District

2.4 FINDINGS FROM PRISON FARMS INSPECTED BY UHRC IN 2016

UHRC inspected 52 out of a total of 70 prison farms, constituting 74%. The prison farms inspected had 11,720 detainees amounting to 81% of the total number in prison farms by the end of 2016.⁴⁶ Figure 2.1 below shows the numbers of prison farms inspected by the UHRC and Table 2.2 shows the categories of detainees found in the prison farms inspected.

Figure 2.1: Number of prison farms inspected by UHRC in 2016 per regional office



⁴⁶ n. 39 above.

Table 2.2 Category of detainees and production activity on the prison farms inspected in 2016

No.	Stations	Production activity	Convicts		Remandees		Debtors		Prisons population	Prison Staff
			M	F	M	F	M	F		
1	Ruimi	Seed	572		13				585	98
2	Kamwenge	Maize	59	2	105	1			167	27
3	Rukooki	Cotton	52		31				83	23
4	Mubuku	Cotton	311	1	95	1			408	57
5	Bulaula	Maize	232						232	51
6	Kitalya	Maize	832		289				1121	104
7	Bugungu Young Prisoners	Maize	431		20		1		452	66
8	Muinaina	Maize	548						548	61
9	Kijumba	Maize	123						123	22
10	Mutukula	Maize	80						80	17
11	Kayanja	Maize	38						38	60
12	Amita	Cotton	261	11	31	3			310	55
13	Namalu	Maize	345	2	29	6			482	75
14	Kisoko	Cotton	37		22				69	13
15	Mukuju	Cotton	38						38	14
16	Tororo	Cotton	397		391		02		790	118
17	Kamuge	Cotton	25	1	80	05	1		112	28
18	Busesa	Cotton	46		08				54	18
19	Kiyunga	Maize	79		15				94	13
20	Kamuli	Cotton	24		80	5	3		112	30
21	Buyende	Cotton	54		37				91	24
22	Kaliro	Cotton	43		60		5		108	24
23	Nawanyago	Cotton	36						36	14
24	Bufulubi	Maize	340		2				342	50
25	Kiburara	Maize	159						159	79
26	Nyabuhikye	Maize	71	01	198	08	02	0	276	36
27	Kakumiro	Maize	100						100	10
28	Kyakasengura	Maize	62						62	11
29	Maiha	Maize	43						43	11
30	Isimba	Maize	593						593	116
31	Bugambe		19						19	
32	Loro	Cotton	300		35				335	45
33	Atopi	Cotton	82	11	96	17			206	48
34	Arocha	Cotton	30		18				48	18
35	Kwania	Cotton	33	13	06		1		53	15

No.	Stations	Production activity	Convicts		Remandees		Debtors		Prisons population	Prison Staff
			M	F	M	F	M	F		
36	Kaladima	Cotton	50						50	20
37	Patongo	Cotton	66	03	92	05			166	
38	Orom-Tikau	Cotton	33						33	14
39	Lugore	Maize	500		238				738	84
40	Openzizi		231	61					292	71
41	Bidibidi	Cotton	29						29	14
42	Paidha	Cotton	75	02	122	05			204	32
43	Olia	Cotton	138						138	19
44	Ragem	Cotton	132		16				148	43
45	Amuria	Cotton	40	1	68	3			112	28
46	Serere	Cotton	32	1	65	5			103	24
47	Ngenge	Cotton	65						65	22
48	Kaberaido	Cotton	25	1	54	04			84	22
49	Lubole	Maize	26						26	7
50	Amolatar	Cotton			48	02			50	21
51	Mbale (male) IUIU	Maize	341		593		4		938	115
52	Katakwi	Cotton	45	2	118	10			175	24
	TOTAL		8323	113	3075	80	19	0	11720	2011

2.4.1 Prison labour

As was earlier noted work on prison farms is intended to help in the reintegration of detainees after serving their sentences. Rehabilitation and vocational skills acquired are supposed to be similar to those offered by other institutions outside prison and detainees should be paid fair remuneration for their labour. In addition, the interests of detainees and vocational training should not be at the expense of making a financial profit from an industry in the prison and the labour should not be afflictive in nature. The UN Standard Minimum Rules for the Treatment of Prisoners stipulate that compulsory labour is a normal part of the prison sentence; however, it is subject to physical and mental needs of detainees. In addition, detainees who are on remand are not supposed to work in prison farms.

2.4.1.1 Nature of prison labour

The UHRC found in all prison farms inspected that prisoners either worked on prison farms or were hired out on private farms to generate income for the prisons and prisoners themselves. They were involved in planting, weeding, spraying and harvesting. In essence, this means that the criteria of whether a prisoner was willing to work or not was invalid because labour was compulsory. The UHRC was informed that prison labour was mostly hired out by government institution, schools, churches, town councils and sometimes private individuals. It was established that detainees worked between 6-8 hours a day with a 30 minutes break. This was found in prison farms such as Nyabuhikye in Ibanda District, Patongo in Agago District, Loro in Oyam District and Lugore in Gulu District. Table 2.3 shows the acreage of land cultivated by detainees and the estimated ratio of prisoners to acreage on prison farms inspected by the UHRC in 2016.

Table 2.3: The acreage of land cultivated by detainees on prison farms inspected by the UHRC in 2016.

No	Name of prison farm	Acres of land cultivated by the detainees	Total Prison Population	Ratio of prisoner to land (acres)	District
1.	Ruimi	450 ⁴⁷	585	1 : 0.8	Kabarole
2.	Kamwenge	90	167	1 : 0.5	Kamwenge
3.	Rukooki	30	83	1 : 0.4	Kasese
4.	Mubuku	250	408	1: 0.6	Kasese
5	Bulaula	300	232	1: 1.3	Kayunga
6.	Kitalya	250	1121	1 : 0.2	Wakiso
7.	Bugunga	150	45	1 : 0.3	Buikwe
8.	Muinaini	100	548	1: 0.2	Mubende
9.	Kijumba	100	123	1: 0.8	Mubende
10	Mutukula	100	80	1: 1.3	Rakai
11	Kayanja	50	38	1: 1.3	Rakai
12	Amita	200	310	1: 0.6	Abim
13	Namalu	500	482	1: 1.0	Nakapiripirit
14	Kisoko	10	69	1: 0.1	Tororo
15	Mukujju Uganda Government	32	38	1: 0.8	Tororo
16	Tororo	300	790	1: 0.4	Tororo
17	Kamuge	43	112	1: 0.4	Pallisa
18	Busesa	18	54	1: 0.3	Iganga
19	Kiyunga	60	94	1: 0.6	Luuka
20	Kamuli	10	112	1: 0.1	Kamuli
21	Buyende	20	91	1: 0.2	Buyende
22	Kaliro	15	108	1: 0.1	Iganga
23	Nawanyago	20	36	1: 0.6	Kamuli
24	Bufulubi	100	342	1: 0.3	Mayuge
25	Kiburara	600	159	1: 3.8	Ibanda
26	Nyabuhikye	15	276	1: 0.1	Ibanda
27	Kakumiro	30	100	1: 0.3	Kibaale
28	Kyakasengura	40	62	1: 0.6	Kibaale
29	Maiha	60	43	1: 1.4	Masindi
30	Isimba	750	593	1: 1.3	Masindi
31	Bugambe	45	19	1: 2.4	Hoima
32	Loro	300	335	1: 0.9	Oyam
33	Atopi	300	206	1: 1.5	Apac
34	Arocha	20	48	1: 0.4	Apac
35	Kwania	20	53	1: 0.4	Kwania
36	Kaladima	80	50	1: 1.6	Amuru

⁴⁷ The prison farm has 3, 700 acres but due to encroachment only 450 acres under cultivation.

No	Name of prison farm	Acres of land cultivated by the detainees	Total Prison Population	Ratio of prisoner to land (acres)	District
37	Patongo	3000	166	1: 18.1	Agago
38	OromTikao	200	33	1: 6.1	Lamwo
39	Lugore	600	738	1: 0.8	Gulu
40	Adjumani	300	292	1: 1.0	Adjumani
41	Bidibidi	7	29	1: 0.2	Yumbe
42	Paidha	20	204	1: 0.1	Zombo
43	Olia	80	138	1:0.6	Adjumani
44	Ragem	168	148	1: 1.1	Nebbi
45	Amuria	150	112	1: 1.3	Amuria
46	Serere	75	103	1: 0.7	Serere
47	Lobule	5	26	1: 0.2	Koboko
48	Kaberamaido	114	84	1: 1.4	Kaberamaido
49	Amolatar	70	50	1: 1.4	Amolatar
50	Mbale(male) IUIU	153	938	1: 0.2	Mbale
51	Katakwi	77	175	1: 0.4	Katakwi
52	Ngenge	302	65	1: 4.6	Kween
	Total	10,779	11,720	1:0.9	

2.4.1.2 Type of labour

The level of mechanisation is important because it determines if the work will be labour intensive considering the acreage of land to be cultivated as well as the time spent on the farm. Mechanisation is the process of using machines to do something that was previously done by hand.⁴⁸ As indicated in Table 2.3 above, the UHRC found that only 15% of prison farms of over 100 acres each were being cultivated by detainees, while 27% with over 100 acres each had machinery such as harvesters, tractors, planters and discs. This, however, meant that prison farms with such large acreage still relied on manual labour. Prison farms with the said machinery included: Kiburara in Ibanda District, Mubuku and Ruimi in Kasese District, Ngenge in Kween District, Maiha and Isimba in Masindi District among others. Owing to the machinery, the maize harvest in Loro Prison Farm, Oyam District in the first season in 2016 reportedly doubled production of the previous year.



Newly acquired tractors and a plough at The Uganda Government Prison Farm Lugore

⁴⁸ Available at <http://dictionary.cambridge.org/dictionary/english/mechanization> last accessed on 17 March 2017.



UHRC staff being shown different machines at Kiburara Prison farm that help on the production of food by easing labour

The rest of the prison farms however relied on manual labour for various agricultural activities including planting, weeding and spraying. Examples of these include Kwanja, Kakumiro, Amuria, Katakwi, Amolatar, Kaberamaido, Kawenge as well as Nyabuhikye in Ibanda District, Rukooki in Kasese District and Kyakasengura in Kibaale District.

2.4.1.3 Exemptions from prison labour

Officially, the sick including persons living with HIV/AIDS and the aged did not work on the farms and were engaged in light work like sweeping, cooking and cleaning the wards. However, detainees informed the UHRC that sick inmates were forced to work, especially those whose illness had not progressed. This practice puts into question whether the physical and mental fitness of detainees was actually considered before being assigned to the farms. This was found in Namalu in Nakapiripirit District, Amita in Abim District and Kitalya in Wakiso District.

The UHRC also found that mothers incarcerated with their children were not exempted from work on the farms where they went with their children. The work done by female detainees included digging, weeding, planting and harvesting. The UHRC was informed that mothers were exempted from work if one had a sick child. Prison farms where mother prisoners carried children to work included Amuria, Serere, Kaberamaido, Katakwi, Kamwenge as well as Mubuku in Kasese District, Amita in Abim District, Namalu in Nakapiripirit District, Kamuge in Pallisa District, Nyabuhikye in Ibanda District, Atopi in Apac District, Kwanja, Patongo and Paidha in Zombo District.

2.4.1.4 Working hours

The UHRC found that detainees in 60% of prison farms worked for more than the six hours a day stipulated in the UPS Standing Orders. This was found in Kaberamaido, Katakwi, Amuria as well as Ruimi in Kasese District, Loro in Oyam District, Lugore in Gulu District, Bulaula in Kayunga District, Kitalya in Wakiso District and Ngege in Kween District where detainees worked for close to nine hours a day.

In an interview with one of the Katikiros (inmates' prefect) in a prison farm, he said: *"Even oxen are sometimes sympathised with and released before midday. We are all going to die in this prison because of hard work. Every day, we wake up in the morning, go to the farm and return in the evening. We are too few but required to do work that should be have been done by many people. We even hardly get time to bathe. We eat in a hurry and bathe in a hurry because the warders want to lock the cells. Sometimes we think that it is better to die than to remain alive".*

2.4.1.5 Remuneration for work done

Remuneration in 90% of the prison farms was inadequate compared to the nature and the time spent on the farms. Detainees were paid UGX 500 for skilled labour, UGX 300 for semi-skilled labour and UGX 100 for unskilled labour per day per prisoner.⁴⁹ This was reflected in the earning scheme book observed at 70% of the prison farms inspected. It was observed at Buyende and Moyo prison farms as well as Loro in Oyam District, Atopi in Apac District, Mutukula and Kayanja in Rakai District, Nyabuhikye and Kiburara in Ibanda District, Maiha in Masindi District and Amita in Abim District among others. The UHRC was informed by prison authorities that delays in release of funds affected payment of detainees' remuneration, some of whom left before getting paid. In some detention facilities like Mutukula in Rakai District detainees only received payment for transport back home upon release after serving their sentences. The UHRC found this practice exploitative and it was denial of the right to meaningful remuneration for work done.

2.4.1.6 Shelters and waste disposal facilities for prisoners while working on farms

Only 10% of the prison farms inspected allowed prisoners return from the fields and take shelter once it rained. This however was applicable for those farms that were nearby the detention facilities. The UHRC however, found that 90% of prison farms had no shelter for detainees when it rained. Prisoners were not allowed to take shelter when it rained and were instead gathered in one place and made to squat in one place until it stopped raining. The UHRC found this to be inhumane to both the prisoners and staff as it could result into serious health complications like pneumonia.

Prisoners working on farms dug holes with their hoes to dispose of human waste and cover thereafter. This was noted in prison farms such as Kakumiro, Kaliro, Amuria, Ruimi in Kabarole District, Namalu in Nakapiripirit, Oila in Adjumani District, Mubuku in Kasese District, Kayanja in Rakai District, Bulaula in Kayunga District, Ngeenge in Kween District, Maiha in Masindi District, Lugore in Gulu district, Kiyunga in Luuka District, and Kiburara in Ibanda District among others. This open air defecation was done in full view of other inmates. The UHRC considers this degrading to the inmates and as it violates the right to privacy of individuals particularly the female inmates.

2.4.1.7 Provision of protective gear

Prisoners' safety while working on prison farms is paramount. Therefore it is an obligation of prison authorities to provide protective gear like gloves and gumboots among others to ensure safety of inmates especially those involved in spraying and working in poultry, dairy or piggery sections on the farms. The UHRC found that detainees in only 38 % of the prison farms had protective gear. This was observed in Bugunga in Buikwe District, Amita in Abim District, Kitalya in Wakiso District, Namalu in Nakapiripirit District, Mutukula in Rakai District and Atopi in Apac District.



Inmates at Arocha prison spraying cotton crops against the American Ball worm.

⁴⁹ Uganda Prisons Service is in the process of revising payments to skilled prisoners pay to be UGX 1,398, semi-skilled to be UGX 699, unskilled UGX 280 and gratuity to be UGX 8,386.

UHRC noted, however, that in 62% of the prison farms, working detainees were not provided with protective gear. In prisons such as Kakumiro, Maiha and Isimba in Masindi District, Muinaina in Mubende District and Kitalya in Wakiso District detainees lacked protective gear such as noise and mouth masks and eye shields, among others. Detainees in Isimba in Masindi District, Arocha and Atopi in Apac District purchased their own protective gear like gumboots from their own savings.

2.4.2 Right to adequate food

The right to adequate food is an inclusive right. It is not simply a right to a minimum ration of calories, proteins and other specific nutrients but entails all nutritional elements that a person needs to live a healthy and active life, as well as the means to access food.⁵⁰ Provision of adequate food in prison farms is crucial considering the nature of the labour and the hours spent on the farm.

2.4.2.1 Provision of food for detainees

The UHRC found that in 75% of the prison farms, prisoners were provided with three meals constituting porridge for breakfast and posho and beans for lunch and supper. This was the situation in prison farms such as Ruimi in Kabarole District, Mubuku in Kasese District, Atopi in Apac District, Kakumiro, Isimba in Masindi District, Bugungu in Buikwe District Kamuge in Pallisa District, Nyabuhikye and Kiburara in Ibanda District, Kisoko and Mukujju in Tororo District, Kiyunga in Luuka District, Mutukula and Kayanja in Rakai District, Lugore in Gulu District, Kitalya in Wakiso District. In Buyende prison farm detainees were provided with three meals a day, supplemented by greens, eggplants, matooke and sweet potatoes grown by them. At times inmates were allowed to prepare their own meals. The UHRC found that in instances where inmates were hired out to provide labour they were provided with meals by the person hiring them. One detainee found at Paidha prison farm in Zombo District said: *“I like it when I am selected among those to go out to work; we get a chance to change our diet and change the environment from the usual prison life”*.



A garden of vegetables planted by inmates at Nyabuhikye Government Prison. They are used to supplement the detainees' diet.

The UHRC, however, found that although breakfast was served between 7.00 am and 10.00 am in a quarter of prison farms, lunch and supper was consolidated into one meal and served at 7.00pm. This was found in prison farms such as Loro in Oyam District, Namalu in Nakapiripirit District, Amita in Abim District, Kitalya in Wakiso District, Atopi in Apac District and Kamuge in Pallisa District. In prison farms such as Namalu in Nakapiripirit District and Patongo in Agago District breakfast was not provided and a consolidated meal of posho and beans was served between 3pm-5pm. This essentially means that detainees had to work without a meal for close to nine hours. The UHRC found the practice of taking detainees to work on farms without any meal dehumanising.

⁵⁰ General Comment 12 of the CESCR.

2.4.2.2 Provision of food to vulnerable inmates

The UHRC found that in 46% of the prison farms food was provided for vulnerable persons such as the sick, those on ARVs and the children. This was found in prison farms such as Kamuli and Kaliro in addition to Bufulubi in Mayuge District, Ruimi in Kabarole District, Atopi in Apac District, Kiyunga in Luuka District, Busese in Iganga District and Kijumba in Mubende District where children, sick inmates and those on ARVS were given special foods such as vegetables, soya, and fruits like mangoes. In other instances, such inmates were given a larger portion of posho and this was the case in Moyo prison, Paidha in Zombo District, and Loro in Oyam District among others.

The UHRC however found that in prison farms such as Kayanja and Mutukula in Rakai District, Bugambe in Hoima District and Nyabuhikye in Ibanda District did not provide any special food for the sick and inmates with HIV/AIDS.

2.4.3 Right to health

Prisoners just like any other persons are entitled to the enjoyment of the highest attainable standard of physical and mental health.⁵¹ Those who are imprisoned are entitled to a standard of health care that is at least the equivalent of that provided for the wider community. As earlier noted, prisoners who are expected to provide compulsory labour that is mostly manual and for a long period of time should of necessity be able to access health services in order to determine if they are in the proper physical and mental state to provide it.

2.4.3.1 Medical examination of prisoners on admission

Medical examination is crucial in determining the fitness of a detainee to work in the prison farm and to be involved in providing labour. Without this medical examination, sick inmates and those who are unfit may be subjected to labour may be detrimental to their health. It is a requirement that every detainee should be examined by a Medical Officer on the day of admission and that a prisoner should be kept separate from other detainees if deemed necessary until certified fit to be placed with others.⁵² The UHRC noted that 60% of the prison farms were not conducting medical examinations on inmates on admission. This was the case at prisons in Amuria and Katakwi districts, at Kamuge in Pallisa District, Nawanyago in Kamuli District and Ragem in Nebbi District. The exception was at Mubuku prison in Kasese District, Muinaini and Kijumbi in Mubende District where prisoners underwent a medical examination on admission.

2.4.3.2 Access to health care

The UHRC found that in 63% of the prison farms inspected detainees were able to access health care services and treatment within the facilities. This was found in Katakwi, Serere, Amolatar in addition to Mubuku in Kasese District, Ruimi in Kabarole District, Ngenge in Kween District, Kayanja in Rakai District, Kitalya in Wakiso District, Bugungu in Buikwe District among others. The UHRC noted that inmates who got medical emergencies and complications in prison farms such as Kitalya in Wakiso District, Kakumiro, were referred to the district or referral hospital.

Detainees in 37% of the prison farms could access health care services and treatment from nearby health facilities. The UHRC also established that although inmates in Rukooki in Kasese District, Orom Tikao in Lamwo District, Kaladima in Amuru District, Arocha in Apac District and Kyakasengura in Kibaale District sought medical assistance from health centres IV and III, these health facilities were on average 15- 20 kilometres away from the prison farms.

⁵¹ Article 12 of the ICESCR.

⁵² UPS Standing Orders Part 2 Chapter 3 para 18.



A treatment room in the Health Centre II at Kayanja Prison Farm in Rakai District

2.4.3.3 Availability of drugs and medical staff

The UHRC found that 33% of health facilities in prison farms experienced high drug stock-outs as they served both the prison population and surrounding communities. This posed a risk for detainees on prison farms who often were not exempted from compulsory labour even on account of illness. Officials at prison farms in Mbale, Amolatar, Serere and Buyende as well as Maiha in Masindi District, Ngenge in Kween District and Amita in Abim District reported shortage of drugs at the health facilities that serve both the prison and the community. At Namalu Prison Farm in Nakapiripirit District, over the UHRC found 30 inmates very weak due to inadequate treatment. Prisoners complained to the UHRC about lack of medicines for malaria, cuts and wounds. The medical staff explained that they usually treated inmates with pain killers were mostly treated with pain killers. At Ruimi Prison Farm, the administration used the revenue from the produce to buy medicines and drugs.

The UHRC also found that 32% of the prison farms had a shortage of medical staff. This was the case in Bulaula in Kayunga District, Mubuku in Kasese District, Nyabuhikye and Kiburara in Ibanda District, Mutukula in Rakai District, Kakumiro and Maiha in Masindi District among others, yet inmates were often ill.

2.4.3.4 Access to HIV/AIDS treatment

Apart from Tuberculosis, HIV/AIDS is one of the infections requiring continuous treatment, and this is crucial for inmates in prison farms that are situated far from health services. The UHRC found that HIV/AIDS testing for inmates was done on arrival and on a regular basis in 41% of prison farms. Table 2.4 below shows the number of detainees receiving ARVs in detention facilities inspected either from the prison farms health facilities or from nearby government facilities where they usually get medical treatment.

Table 2.4: Number of inmates receiving ARVs in detention facilities inspected

NAME OF DETENTION FACILITY	TOTAL PRISON POPULATION	NUMBER RECEIVING ARVS	NUMBER OF HIV+ INMATES
Kakumiro	100	8	8
Kyakasengura	62	6	6
Maiha	43	2	2
Isimba	593	20	20
Bugambe	19	1	1
Mutukula	80	5	80
Kayanja	38	10	10
Bulaula	232	10	10
Muinaina	548	89	89
Kijumbi	123	23	23

NAME OF DETENTION FACILITY	TOTAL PRISON POPULATION	NUMBER RECEIVING ARVS	NUMBER OF HIV+ INMATES
Loro	235	30	18
Atopi	200	34	12
Arocha	45	2	2
Kwania	53	3	3
Kaladima	50	5	5
Lugore	738	29	29
Kaberaimaido	84	5	7
Amolatar	50	10	15
Mbale Male	953	31	51
Amuria	112	3	3
Katakwi	175	1	1

2.4.4 Right of access to clean, safe and potable water

Access to clean, safe and portable water is critical considering the time spent on the farm and the manual nature of the work that prisoners are engaged in. The UHRC found that 67% had access to water from nearby sources including piped water, boreholes within the facilities, spring wells and harvested rain water.⁵³ These prison farms included: Kamwenge, Serere, Mbale, Kaberaimaido, Amuria and Katakwi, as well as Rukooki in Kasese District, Ragem in Nebbi District, Openzizi in Adjumani District, Kitalya in Wakiso District, Bugungu in Buikwe District, Mubuku in Kasese District, Bulaula in Kayunga District, Kitalya in Wakiso District, Bugungu in Buikwe District, Muinaina in Mubende District, Nyabuhikye and Kiburara in Ibanda District and Isimba in Masindi District.

UHRC also found that inmates in prison farms such as Serere, Amuria, Katakwi and Kaberaimaido, as well as Loro in Oyam District, Atopi and Arocha in Apac District, Kwania, Kaladima in Amuru District, Patongo in Agago District, Orom Tikao in Lamwo District, and Lugore in Gulu District were provided with drinking water while working on prison farms.



Inmates at Loro Prison Farm in Oyam District taking water during break

⁵³ n. 45 above, Section 69(2). It provides that prison authorities are required to provide safe drinking water to detainees whenever it is needed.



A water container at Arocha Prison Farm in Apac District

UHRC, however, noted that prison farms such as Tororo as well as Rukooki in Kasese District, Namalu in Nakapiripirit, Amita in Abim District, Mubuku in Kasese District, Kayanja in Rakai District, Bufulubi in Mayuge District and Busese in Iganga District were adversely affected by water shortages during the dry season. In prison farms such as Namalu in Nakapiripirit and Mubuku in Kasese District, water was collected directly from rivers and in some cases this had caused water-borne diseases. At Maiha Prison in Masindi District, prisoners fetched water from the nearby crater lake. Due to water shortage inmates at Namalu and Amita prison farms were found very dirty at the time of the inspections.

2.4.5 Right to adequate clothing

Prisoners are entitled to two sets of uniforms: a pair of shirts and shorts for male prisoners and two dresses for female prisoners, provided by the prison authorities. These are very crucial for detainees working on prison farms because of the need to have a change of clothes after being engaged in labour intensive activities on the farm. UHRC established that the two sets of uniforms were provided in 58% of prison farms including Maiha and Isimba in Masindi District, Bugambe in Hoima District and Kiburara in Ibanda District.

However, in 42% of prison farms detainees had either one pair of uniform that was used both at the prison farm and within the detention facilities or had none. This is the situation UHRC found this in prison farms such as Mbale, Amuria, Katakwi, Amolatar and Kaberamaido as well as Mutukula and Kayanja in Rakai District, Namalu in Nakapiripirit District, Amita in Abim District, Bufulubi in Mayuge District, Busese in Iganga District, Nyabuhikye in Ibanda and, Ngenge in Kween District inmates had only one pair of uniform. In other prison farms such as Tororo the prisoners did not have any uniform so they wore ordinary clothes.

2.4.6 Right to Sanitation and provision of sanitary items

UHRC found that 70% of the prison farms inspected had completely phased out the use of the bucket for waste disposal within the cell. Prison facilities in Kamwenge, Amuria, Mbale, Katakwi as well as Rwimi in Kabarole District, Rukooki and Mubuku in Kasese District and Kakumiro in Masindi District had water-borne toilets. Prison farms such as Amolatar, Kaberamaido, Serere as well as Lobule in Koboko, Isimba in Masindi District, Ngenge in Kween District, Mutukula and Kayanja in Rakai District had phased out the use of the bucket system during the day and only used it at night. UHRC found a bucket in use in one ward at Kyakasengura Prison Farm in Kibaale District.



A flush toilet at the newly constructed Mutukula Prison Farm complex

The UHRC noted that in all prison farms inspected female inmates were provided with sanitary towels but mostly lacked bags to store them. The UHRC however found that toiletries such as toilet paper were not provided to inmates. They used water or leaves to clean themselves after the toilet. Provision of soap was still inadequate in 78% of prison farms inspected. In Maiha Prison Farm in Masindi District, with 43 inmates at the time of inspection, one box of bar soap was provided every after three months, for bathing and washing uniforms.

The UHRC found that in a number of prison farms male inmates bathed once a day which was usually after work while female inmates had a bath twice a day. This the situation UHRC observed at prisons in Tororo and Apac, as well as Mubuku in Kasese District, Bulaula in Kayunga District, Ngenge in Kween District, Amita in Abim District, Ruimi in Kabarole District, Lugore in Gulu District, Isimba in Masindi District, Oila in Adjumani District and Mutukula in Rakai District.

2.4.7 Rehabilitation programmes on prison farms

Correctional facilities aim at rehabilitation of inmates to make them responsible members of society when they are released and reintegrated. The UHRC noted that 40% of prison farms had rehabilitation programmes such as dance and drama; art and crafts; as well as modern agriculture. This was the case found at prison farms such as Kakumiro as well as Mutukula in Rakai District, Maiha in Masindi District. However, the long periods of farm work, ranging between six and nine hours, in 60% of the prisons posed a challenge for other rehabilitation programmes that were offered.

In addition, following the presidential directive, focus was put on growing cotton in 56% of prison farms, a practice that often turned what was meant to be vocational training programmes to profit-making activities. This could make the detainees face increased risk to afflictive labour.

Loro Prison Farm in Oyam District and Atopi Prison Farm in Apac District were given a target to cultivate 200 acres of cotton, while Arocha Prison Farm in Apac District was given a target of 80 acres. The said prison farms have been mechanised but this has not reduced amount of inmates do because cotton fields need. The UHRC found that Tororo and Buyende Prison Farms as well as Amita in Abim District did not provide rehabilitation programmes for detainees. This denies them meaningful and useful skills to earn a livelihood after release. In addition, UHRC received reports from some detainees of the monotony and limited variety of prisoner rehabilitation programmes / activities and this was attributed to shortage of resources.

2.4.8 Freedom from torture, cruel and inhuman treatment or punishment

The UHRC did not find any cases of torture reported by inmates against staff and *Katikiros* in 80% of the facilities inspected. However, Nyabuhikye and Kiburara prison farms in Ibanda District as well as Kitalya in Wakiso District were among the 20% facilities where torture and mistreatment by especially the *Katikiros* was reported. *Katikiros* usually beat up their fellow inmates for reasons such as lagging behind while

digging on the farm. UHRC was informed that on reporting such cases, management of the prisons has taken disciplinary measures such as demotion especially for the *Katikiros*, loss of remission, loss of pay on savings or demotion from shamba guards to digging.

2.4.9 Right to access to justice

Prison farms are located in distant and remote areas. This increased transport costs, subsequently affected prisoners' access to justice and the ability to bring legal services closer to the prisons.

The UHRC noted in Abim and Nakapiripirit prison farms, new judicial officers had been deployed leading to improved access to justice for prisoners. Other highlights of improved access to justices are: plea-bargaining sessions conducted at High Courts in Gulu and Lira; continuous legal counselling of inmates by Paralegal Advisory Services in Patongo and Kwanja prisons; and provision of legal representation of prisoners by Justice Centres for inmates. UHRC found that some prison farms such as Muinaina in Mubende District, Rukooki and Mubuku in Kasese District had means of transport to take inmates to attend court sessions.

The situation was rather different other prison farms. Nyabuhikye in Ibanda District lacked means of transporting prisoners and staff to court; instead they walked three kilometres to court. At Kakumiro Prison, inmates were expected to pay a fare to the nearest court, located in Kibaale District, 89 km away. Some of the detainees at Ruimi in Kabarole District and Mubuku in Kasese District reported that they had been on remand for over six months due to irregular court sittings. The UHRC also noted that the distances from prison farms posed challenges for prisoners' access to courts. For instance, Paidha Prison Farm is 20 km from Nebbi District where the court is located; Namalu prison farm to Nakapiripirit District is 28km, Tororo prison farm to Malaba in Tororo District is 17km and Nebbi to Ragem in Nebbi District is 28 km.

2.5 RECOMMENDATIONS

In view of the UHRC observations on the state of human rights on prison farms, UHRC recommends to the Uganda Prisons Service to:

1. Enforce the prescribed working hours in order for detainees to take part in vocational skills;
2. Revise the payment made for prison labour to ensure meaningful remuneration for labour provided;
3. Revise its policy on prisoners earning scheme and ensure that remand prisoners who work on farms are paid;
4. Introduce and enhance rehabilitation programmes such as functional adult literacy, vocational services and formal education;
5. Provide protective gear for detainees involved in activities that are detrimental to the health of detainees;
6. Provide disposal facilities for detainees working on prison farms; and
7. Ensure that labour of prisoners on remand is restricted to what is reasonably necessary in the interest of hygiene or the maintenance of the place where one is detained as provided by Article 25 of the 1995 Constitution.

2.6 CONCLUSION

The aim of work on prison farms is to facilitate reintegration of a person back into society after release; the increase in food production and provision of nutritious foods to prisoners. However, the compulsory nature of the labour which perpetrates exploitation and inhuman, degrading conditions that the detainee on prison farms are exposed to, needs to be addressed in order to ensure the dignity of prisoners that provide labour.



CHAPTER THREE

EMERGING HUMAN RIGHTS ISSUES IN 2016

GENERAL INTRODUCTION

The rationale of this chapter is to highlight the significant contemporary and recurring human rights concerns that occurred in 2016. The specific human rights concerns discussed were premised on findings made by the UHRC, key Government actors, stakeholders from the civil society and international agencies. The human rights issues discussed founded on research, investigations and monitoring activities conducted in selected regions were not based on in-depth research, but were indicative of the prevailing situation in the country with the view of drawing the attention of responsible actors in order for appropriate action to be taken to address them.

The six sections focus on child marriages and related human rights implications in selected districts in Lango, West Nile, Busoga and Karamoja regions; alcohol and illicit drug use by youth and children in selected districts in Uganda; human rights situation in the post cordon and search disarmament in the Karamoja region; human rights implications of strikes in universities and the plight of unaccompanied refugee minors in the West Nile Region, Nakivale and Kyangwali refugee settlements.

3.1 CHILD MARRIAGES AND RELATED HUMAN RIGHTS IMPLICATIONS IN SELECTED DISTRICTS OF LANGO, WEST NILE, BUSOGA AND KARAMOJA REGIONS



29% of the perpetrators of early child marriages were Parents



21% of the Early child marriages were caused by Poverty



25% of the girls aged 15-19 years in rural areas and 19% in urban areas had given birth

3.1.1 Introduction

Marriage is used in its widest sense to cover a betrothal or union between two people, recognized under civil law, religious law, or customary rites, and understood to be binding by the spouses concerned, their families and the wider community, whether or not it has been formally registered in law.⁵⁴ Marriageable age or Minimum age for marriage has been prescribed by the UN Committee on the Rights of the Child as being 18 years of age. The right to family and marriage is provided for in the Constitution of Uganda which also sets with the age of consent (minimum legal age for marriage) set at 18 years for both males and females.

⁵⁴ Available at http://www.antislavery.org/.../cm_docs/2013/c/child_marriage_final.pdf Last accessed on 3 March 2017.

In spite of the legal provision, the traditional practice of child marriage⁵⁵ persists among many ethnic groups in Uganda. Child marriage therefore is any union whether formal or informal involving a person that is below the age 18 years for the purpose of living as husband and wife.⁵⁶ It should be noted that child marriages affect both girls and boys although girls are disproportionately affected.⁵⁷

According to the Uganda Demographic and Health Survey (UDHS) 2016 Report, 25% of adolescents aged 15-19 years in Uganda have begun childbearing and 19% of women aged 15-19 years have given birth. Adolescent childbearing is more common in rural areas at 27% than in urban areas at 19%.⁵⁸ In 2013 Uganda was ranked 16th among 25 countries with the highest rates of early marriages; with 46% of girls marrying before 18 years, and 12% before they are 15 years.⁵⁹

The UHRC notes that teenage pregnancy and motherhood has remained a major health and social concern in Uganda because of its association with higher morbidity and mortality for both the mother and child. Teenage mothers are more likely to experience adverse pregnancy outcomes and are more constrained in their ability to pursue educational opportunities than young women who delay childbearing.⁶⁰

The focus of this section is the prevalence of child marriages in Busoga, Lango, West Nile and Karamoja regions and the resultant human rights implications. Respondents interviewed by the UHRC in 2016 included victims and survivors of child marriages, parents, local leaders. Interviews were also conducted with and police officers especially from the Child Family and Protection Unit, Community Development officers at Sub County and district level, religious leaders and cultural leaders, officers working with civil society organisations among others. Primary data was collected from a total of twelve districts situated in the selected regions reported to have the highest prevalence of child marriages. The 12 districts were: such as Kamuli, Buyende, Mayuge, Namayingo, Jinja districts in Busoga sub region; Kole and Lira districts in Lango sub- region, Arua District for West Nile region and Moroto, Kotido, Nakapiripirit and Amudat districts in Karamoja sub region.

3.1.2 Legal Framework

3.1.2.1 International Legal Framework

Uganda committed itself to addressing all forms of discrimination and violence against women and girls by ratifying various international and regional conventions and declarations that prohibit such discrimination and violence. These include: These conventions include the Universal Declaration.⁶¹ Convention on Elimination of Violence Against Women⁶² (CEDAW); ICCPR⁶³; the Beijing Declaration and Platform of Action; 1994 Cairo International Conference on Population and Development (ICPD) Declaration; the Declaration on Violence Against Women; the Convention on the Rights of the Child⁶⁴; among others.

UN Committee to CEDAW in its General Recommendation No. 21 (1994) on Equality in marriage and family relations considers that the minimum age for marriage should be 18 years for both man and woman. When men and women marry, they assume important responsibilities. Consequently, marriage should not be permitted before they have attained full maturity and capacity to act. A woman's right to choose a spouse and enter freely into marriage is central to her life and to her dignity and equality as a human being.⁶⁵

⁵⁵ Marriage is a formal (traditionally/customary recognized, conducted by religious leader or government officials) and informal union (couple live together as husband and wife) between couples. Child marriage is defined as a marital union between a girl and a boy before the age of 18 years; refers to both formal and informal unions (UNICEF 2005).

⁵⁶ See the Children Amendment Act of 2016.

⁵⁷ n. 55 above.

⁵⁸ UDHS Key Indicators Report, p.14.

⁵⁹ World Vision Report 2013.

⁶⁰ n. 58 above.

⁶¹ Articles 2 and 16 of the Universal Declaration.

⁶² Article 16 (2) of the CEDAW.

⁶³ Article 23: (1)(2)(3)(4) of the ICCPR.

⁶⁴ Article 24 (3) of the CRC.

⁶⁵ See Para, 16 and 36 of the General Recommendation No. 21 (1994) on Equality in marriage and family relations.

The Vienna Declaration and Programme of Action, 1993 urges states to repeal existing laws and regulations and to remove customs and practices which discriminate against and cause harm to the girl child.

The global call is also reflected in the recent efforts to end child marriage and teenage pregnancy including of two procedural resolutions on ending child marriage by the Human Rights Council (HRC) and General Assembly; the joint General Comment No. 31 of the Committee on the Elimination of all forms of Discrimination against Women, and No. 18 of the Committee on the Rights of the Child on harmful practices (5th November 2014) which focus on ending child marriage and Female Genital Mutilation and cutting (FGM/C). The London Girls Summit (co-hosted by the UK Government and UNICEF) in July 2014 made commitments and pledges of support from various stakeholders to end child, early and forced marriage (CEFM) and FGM/C.⁶⁶

3.1.2.2 Regional Legal Framework

Articles 21(2) and 33(a)(b)(2) of the African Charter on the Rights and Welfare of the Child (African Children's Charter) provides that 'child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be 18 years...' Consequently, State Parties are required to enact appropriate national legislative measures for a minimum age for marriage, eliminate harmful practices and address the root causes of child marriage.

Other efforts at regional level include the Commission of African Union campaign to end child marriage in Africa that was launched on 29th May 2014; the 2015, Kigali Declaration- 'Moving from aspiration to action to prevent and eliminate child, early and forced marriage in the Commonwealth' and the 2014, AU-Addis Ababa Declaration on Ending Child Marriage in Africa.

3.1.2.3 National Legal Framework

The 1995 Constitution of Uganda⁶⁷ and the Children's Amendment Act of 2016⁶⁸ prohibit early and forced child marriages.

The National Strategy on Ending Child Marriage and Teenage Pregnancy (NSCM&TP) 2014/2015-2019/2020 is a holistic, comprehensive framework that reflects the commitment of the Uganda Government to end the practice of child marriage and other forms of violence against girls including teenage pregnancy as a consequence of child marriage. The goal of the strategy is to end child marriage in Uganda by ensuring prosperity and social economic transformation, anchored within the overall vision of the National Development Plan (NDP II).

3.1.3 Situational analysis of forced and early child marriages

Whereas Uganda made commitments through the legal framework address all forms of discrimination and violence against women and girls there are still gaps with respect to practical initiatives that explicitly protect children from early marriages.

3.1.3.1 Positive developments

a. Development of a National Strategy on Ending Child Marriage and Teenage Pregnancy

The UHRC commends government for developing a National Strategy on Ending Child Marriage and Teenage Pregnancy (NSCM&TP) 2014/2015-2019/2010. The key strategic focus areas include: improved policy and legal environment to protect children and promotion of children's rights (boys and girls); improved access to quality sexual and reproductive health services, education, child protection services and other opportunities; changing dominant thinking and social norms related to child marriage in the communities; empowerment of both girls and boys

⁶⁶ National Strategy to End Child Marriage and Teenage Pregnancy 2014/2015-2019/2020.

⁶⁷ Article 31 (1) & (3) of the Constitution.

⁶⁸ n. 56 above, Section 7. It stipulates that a person shall not expose a child to any customary and harmful cultural practices that is harmful to his or her health, wellbeing, education or social economic development.

with correct information to enable them recognise child marriage and early pregnancy as a gross violation of their rights and take mitigating action; and coordination, monitoring and evaluation mechanisms for the implementation effective of the strategy.

b. Enactment of laws and ratification of treaties that prohibit early and forced marriages

The UHRC further commends Government for the international, regional and national legal framework as already highlighted above.

c. Interventions by the Civil Society Organisations and UN Agencies or Organs through various programs and projects geared towards preventing and combating child marriages

The UHRC commends efforts made by Civil Society Organisations (CSOs) through various programs and projects geared towards preventing and combating child marriages. Some interventions have been made by UNICEF, UNFPA, Joy for the Child- Girls not Brides, Word Vision International, Plan International, FAWE-U, The Hunger Project through their anti-child marriage and Her Choice projects and Trail Blazers among others. The interventions by CSOs include; sensitisation and advocacy on sexual reproductive health rights as well as dangers of child marriages; improving livelihoods of the children and their families; supporting girl child education; empowering health centres to offer youth-friendly reproductive health services, among others.

3.1.4 UHRC's interventions in combating early and forced child marriages

UHRC made a number of interventions including; monitoring the situation of early and forced marriages in the country. In 2016, UHRC conducted a study in regions reported to be having the highest prevalence of child marriages. Respondents interviewed included victims and survivors of child marriages, parents, local leaders and police men especially from the Child Family and Protection Unit (CFPU), community development officers at Sub County and district level, religious leaders and cultural leaders were interviewed in addition to CSO officials.

Primary data was collected from a total of twelve districts namely: Kamuli, Buyende, Mayuge, Namayingo, Jinja in Busoga region; Kole and Lira from Lango region; Arua from West Nile region and Moroto, Kotido, Nakapiripirit and Amudat in Karamoja region.

UHRC also conducted community meetings (*barazas*) on ending early and forced marriages specifically in the West Nile region, as well as consultative and stakeholder meetings on combating early and forced marriages. UHRC also disseminated the AU and Kigali Declaration to the Human Rights Committee of Parliament, among others.

Key issues that emerged these interventions was the need for stakeholders to work together to end early and forced marriages; and commitment from Parliament to urge the relevant Ministries, Departments and Agencies (MDAs) to implement the AU and Kigali Declarations. There was a strong call for Government to expeditiously comply with Sustainable Development Goal (SDG) 5, specifically Target 5.3 on elimination of child early and forced marriages.

3.1.4.1 UHRC Findings on Child Marriages

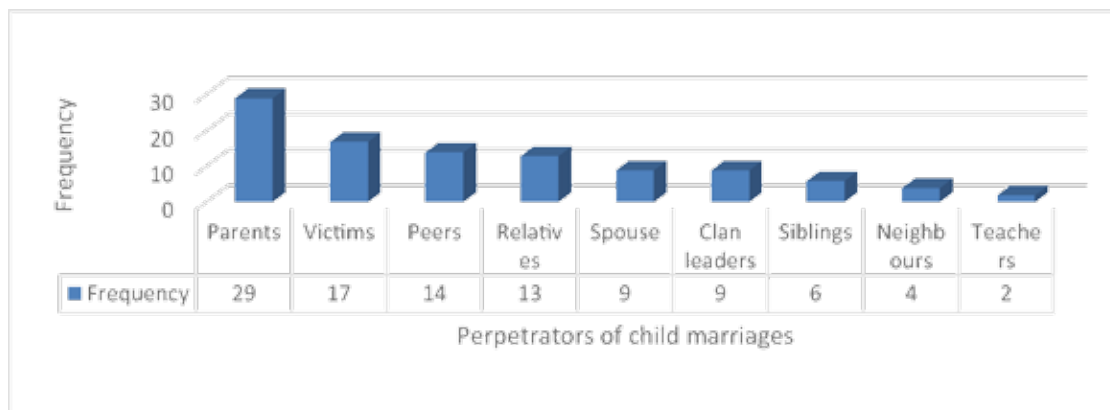
The problems of child marriages, teenage pregnancies and high levels of girl school dropouts are closely interlinked. Many girls continue to be subjected to marriage at an early age; forced into early marriages arranged by parents and close relatives leaving them little choice in either their marriage partners or the timing of their pregnancy. In addition, the practice of child marriage perpetuates the intergenerational cycle of poverty and acts as a brake on development. It has been obstacle to achieving most of the Millennium Development Goals (MDGs) and will in the long run impact negatively on realising the post 2015 development agenda.

3.1.4.2 Perpetrators of child marriages

UHRC established that the various communities in the districts where the research was conducted were grappling with the challenge of child marriages.

It was also difficult to get specific statistics of child marriages from the police since cases recorded as defilement. It was therefore impossible to determine which of the defilement cases were associated with child marriages. However, UHRC established from the respondents during the survey that the perpetrators and abettors in all the regions were mainly parents, victims, teachers, clan leaders and motorcyclists commonly known as '*bodaboda*'.

Figure 3.1.1: Perpetrators of child marriages

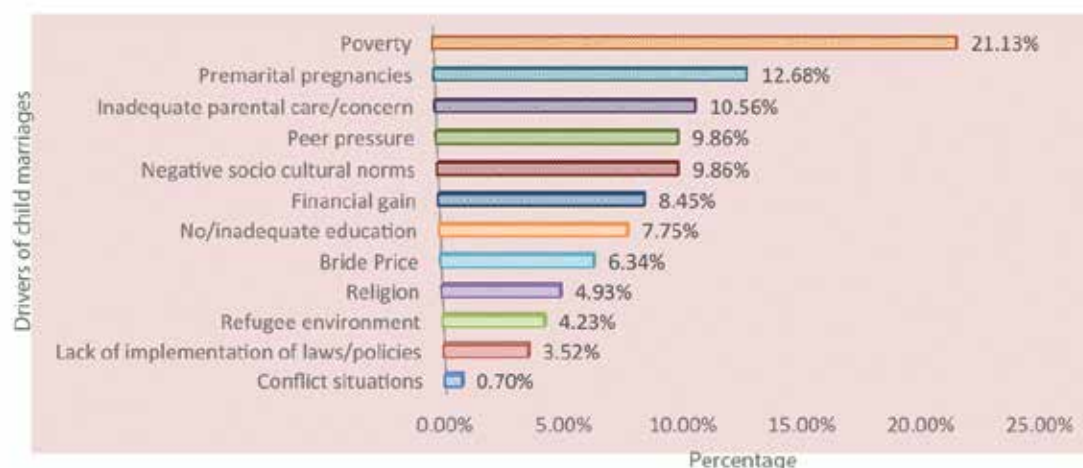


UHRC established from the respondents in all the regions monitored that the perpetrators of early marriages were influenced by cultural factors, prestige of having many wives; the need for bride price; poverty; ignorance of the age of the victims due to lack of birth registration; and indecent dressing. Other reasons according to the respondents were: possession of wealth or many cows which gives the ability to afford bride price need for extra labour in a family and the belief that young girls are free of HIV/AIDS.

3.1.5 Drivers of early marriages in Uganda

The UHRC established that the drivers of child marriages in Uganda included; gaps in the legal framework; poverty; premarital pregnancy; school dropouts; negative social and cultural norms; bride price; inadequate parental care; child abuse and domestic violence; as well as peer pressure. These are shown in Figure 3.2 below and the number of each driver was mentioned by the respondents. UHRC also found a close correlation between the drivers and effects of child marriages.

Figure 3.1.2: UHRC findings on the drivers of child marriages



3.1.5.1 Gaps in the Legal Framework

In spite of Uganda's legal reforms to ensure protection of children against abuse and other harmful practices, some pieces of legislation condone child marriages in contravention of the 1995 Constitution of Uganda and with far reaching implications on the child. Section 11(a) of the Customary Marriages Act Cap 248 was cited for providing that a customary marriage shall be void if the female party to it has not attained the age of 16 years. The Hindu Marriage and Divorce Act Cap 250⁶⁹ equally provides for marriage at age 16 and above for the bride. In line with CEDAW and CRC concluding observations, the Committees have generally recommended to State Parties legal reforms that could address the gaps in the law.

- a. Raise the minimum age of marriage to 18 for both women and men
- b. Conform regional, customary and religious law with federal/civil law
- c. Define crime of rape as sexual intercourse without consent (not as an attack on "honor")
- d. Provide for sanctions against perpetrators of early marriage and ensure the investigation of cases as well as the prosecution and punishment of perpetrators
- e. Eliminate all disparities between men and women regarding minimum-age requirements
- f. Implement compulsory registration of all marriages
- g. Prioritise the best interests of girls, including the right to education
- h. Refrain from invoking freedom of religion to justify discrimination against girls and practices such as forced and early marriages; and
- i. Refrain from allowing exceptions to minimum age of marriage even with consent.

Specifically on Uganda, while considering the 2009 State report of the Committee on CEDAW urged the government to harmonise civil, religious and customary law with Article 16 of CEDAW and to complete its law reform processes to marriage and family relations. Uganda's legislative framework into compliance with articles Articles 15 and 16 of the Convention as to be done within a specific time frame. The Committee called upon Uganda to review and amend, as necessary, the current version of the Marriage and Divorce Bill as well as the Muslim Personal Law Bill to ensure that these do not discriminate against women.⁷⁰

Earlier on, the CRC Committee had also expressed concern that the different marriage laws did not conform to the definition of a child as contained in the Constitution, the Children's Act and the Convention. The Committee had recommended that the State party fully enforce the age of marriage set out in the law for all forms of marriage and for both boys and girls. It also recommended that the State party expedite its reform of the marriage laws undertaken by the Uganda Law Reform Commission. It further recommended that the State party undertake sensitisation campaigns, especially among local traditional leaders, on the negative impact that early and forced marriage has, particularly on girls.⁷¹

3.1.5.2 Relative and absolute poverty

Poverty is defined in either relative or absolute terms. Absolute poverty is a measure in relation poverty in relation to the amount of money necessary to meet basic needs such as food, clothing, and shelter. The concept of absolute poverty is not concerned with broader quality of life issues or with the overall level of inequality in society.⁷² Poverty was cited as the commonest driver of child marriages in all the selected districts in which UHRC conducted the study on early marriages. It was revealed that poverty not only lured parents into giving away their girl children in marriage in exchange of bride price or other material wealth; but also children into marriages in search of better living conditions.

⁶⁹ Section 2 (1)(c) of the Hindu Marriages and Divorce Act.

⁷⁰ CEDAW Concluding Observation of October 2010.

⁷¹ CRC Concluding Observations of 2005.

⁷² Available at <http://www.unesco.org/new/en/social-and-human-sciences/themes/international-migration/glossary/poverty/> Last accessed on 6 February 2017.

It should be noted that in *Mifumi (U) Ltd and Anor Verses Attorney General and Anor (Constitutional Appeal No.2 of 2014)* UGSC 13/2015 although the Supreme Court declined to declare that practice of demanding for payment of bride-price as a precondition for customary marriage as unconstitutional, the refund of bride price by the woman's parents or relatives upon a failed marriage was deemed unconstitutional. UHRC also established that child marriage cases are hardly reported by parents or guardians because they negotiate with the perpetrator/spouse or family of spouse for compensation in terms of money, bride price or other material gains.

According to Mr. Emmanuel Waigulo, a resident of Butansula village, Buyende T/C, and a District Community Development Officer, 'one of the commonest drivers of early and forced marriages in Busoga region is poverty, which lures the children into marriages and then ignorance about fundamental rights of children'.

Lira and Kileleshwa districts for example, UHRC established that these marriages were arranged by the parents of the marrying parties backed up by the Local Council leaders in Communities. For fear of being arrested for procuring defilement, some of these marriages were conducted in the market places where cows and goats are taken to the market under the pretext of selling but were later handed over to the parents of the girl as bride price. The parties to this vice were usually organised and careful during the transaction. Sometimes, the marriage ceremony was conducted in another parish where the parties were not known.

3.1.5.3 Premarital / teenage pregnancies

Premarital pregnancies were also cited by 12.6% of the respondents interviewed in all three regions as a common driver and effect of child marriages. Parents preferred marrying off their girl children once they became pregnant than leaving them to stay at home with a possibility of returning to school after giving birth. Some parents had deep religious beliefs that a child should not be born 'out of wedlock' while in some cultures, it was regarded as a taboo and 'kisirani' (bad luck) for the family. There were also parents who wanted to avoid the responsibility of having to take care of a pregnant girl child and nursing the new born baby.

3.1.5.4 School drop outs

UHRC's findings also revealed that incidences of school dropouts were closely interlinked with premarital/ teenage pregnancies and child marriages. It was revealed that a number of girls either dropped out of school because they were pregnant and eventually either got married or they became pregnant after dropping out of school and ended up in child marriages.

Similarly among the fishing communities on the shores of Lake Victoria and Lake Kyoga, it was established that boys got involved in fishing activities as early as the age of nine years eventually dropping out of school and marrying after acquiring some money from the fishing activities..

3.1.5.5 Negative social and cultural norms

Culture has been defined as that complex whole which includes knowledge, beliefs, arts, morals, laws, customs, and any other capabilities and habits acquired by a human as a member of society.⁷³

Whereas cultural and customary values which are consistent with fundamental rights and freedoms are recognised by the 1995 Constitution, negative cultural norms that perpetuate child marriages also still exist.

The practice of child marriages in many communities in Uganda is viewed as normal. Some cultures believed that children should not remain with their parents after puberty, so they should be married off. All respondents noted that children were married off under customary marriages. In many places child marriage persisted because the practice has happened for generations and straying from the norms and traditions could mean exclusion from the community.

⁷³ As above.

The practice among the Samia in Eastern Uganda the practice of having letting children live in their own houses/huts (simba) once they reach their teen age made them vulnerable to bad practices including premarital sex that often results into child marriages. As a custom in the Lango community, a pregnant girl was forcefully handed over to the parents of the person responsible for the pregnancy until she delivered. This in most cases ends up as a marriage.

In West Nile region especially in the districts of Zombo and Yumbe; a cultural practice known as '*Kasulube*' (pre-marriage ceremony) in which girls from the bride's side were arranged to have sexual intercourse with men from the groom's side. This practice not only exposed the girls to teenage pregnancies that eventually resulted into child marriages but also made them vulnerable to sexually transmitted diseases (STDs). UHRC findings collaborated other reports done on early and forced marriages which attributed the practice to poverty and the negative cultural practices in Uganda.⁷⁴

3.1.5.6 Inadequate parental care; child abuse and domestic violence

The Children Act defines parental responsibility as all rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child.⁷⁵ This provision places an obligation on a parent or guardian to ensure that a child is cared for and protected from all kinds of harmful practices.

During the UHRC study, 62% of the respondents revealed that children, especially girls, were forced into marriages while others went into marriage to escape from abuse and violence in their homes. The latter was specifically attributed to homes with step parents. In Lira and Kileleshwa districts, the practice of allowing young girls to sleep in their own huts was reported to have encouraged early child marriage. This was because perpetrators gained free access to the girl child. Most of these girls ran from abusive homes or families and got married off but often they encountered violence and abuse in their marriages.

3.1.6 Human rights implications of child marriages in Uganda

UHRC findings showed that this negative cultural practice had a number of implications on the right to education, the right to work and livelihood; development and health, among others as discussed in detail below. In order to enhance observance of human rights, it was imperative for Government to comply with its international and regional human rights obligations, in particular, elimination of child early child and forced marriages under SDG 5.

3.1.6.1 The right to health

Under Article 24 of the CRC, children's right to health was interpreted as an inclusive right, extending not only to timely and appropriate prevention, health promotion, curative, rehabilitative and palliative services, but also to a right to grow and develop to their full potential and live in conditions that enable them to attain the highest standard of health. States are urged to ensure this through the implementation of programmes that address the underlying determinants of health.⁷⁶

Early and forced marriages equally have detrimental effects on the dignity, health and wellbeing of the child victims in contravention of international law. In this regard, Art. 24 (3) of the CRC guarantees every child's right to health and provides that States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial/detrimental/harmful to the health of children.

The practice disproportionately affects girls, with graver consequences impacting on their right to health, security and access to education. According to the World Health Organisation, when minors, particularly

⁷⁴ Available at www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/9180.pdf Last accessed on 16 February 2017.

⁷⁵ Section 6 (1) of the Children Act.

⁷⁶ UN CRC General Comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (Article 24).

girls, marry and have children, their health can be adversely affected⁷⁷ culminating into sexual, physical and emotional violence, teenage pregnancy, pregnancy-related complications and high HIV/AIDS rates.

UHRC findings showed that young girls who got married and became pregnant before their bodies fully developed to perform the function of child birth got a multiplicity of complications that included: still or pre-mature births, under weigh babies, fistula and maternal mortality among others. In addition, their right and choice to access family planning were grossly limited by the age factor and this contributed to their frequent pregnancies thereby increasing their risk to the complications already discussed.

At Kamuli District Hospital for instance, the total number of deliveries in 2016 was 2,270, of which 234 (10.31%) were child mothers. Table 3.1 below shows the number of deliveries per month of child mothers aged 10-17 years and the rate of complications. Out of the 234 child mothers that delivered at the facility 110, (47%) got complications arising from; abortions, incomplete abortions, deliveries by caesarian section, severe malaria during pregnancy, urinary tract infections, severe anaemia, early and/or false labour, sexually transmitted infections (STI), and breach delivery.

Table 3.1: Number of deliveries per month for child mothers aged 10-17 years at Kamuli District Hospital in 2016

Month	Number of Deliveries	Number of Complications
January	15	05
February	23	13
March	21	06
April	20	09
May	24	09
June	22	13
July	18	13
August	21	10
September	25	14
October	12	03
November	23	12
December	10	03
Total	234	110

a. The impact of child marriages on HIV Prevalence Rates among young people

In Africa, UNAIDS officials said that Uganda registered 83,000 new HIV infections in 2015 with a weekly average of 1,589 young people infected with HIV. This put Uganda second to South Africa where 2,363 young people got infected with HIV every week compared to 491 in Tanzania, 468 in Kenya, 25 in Rwanda and 2 in Burundi.⁷⁸ Children by virtue of their age are not knowledgeable or fully in control of measure to prevent HIV transmission.

A UNAIDS Global Review Mission to Uganda indicated that about 50 Uganda Girls aged 15 to 24 get infected with HIV per day. According to HIV/AIDS experts, 83,000 infections were registered, bringing the HIV/AIDS prevalence rate in the country to 7.3% compared to 7.1% registered in 2014. Experts attributed the high infection rates among the youth to early child marriages, domestic violence, FGM, poverty, cultural behaviour and structural societal issues which can be dealt addressed with if efforts are geared towards sensitisation.

⁷⁷ CEDAW, General Recommendation No. 21, para 36.

⁷⁸ '50 Girls infected with HIV daily, New UNAIDS report' New Vision Friday 24 February, 2017 p. 3.

At Jinja Regional Referral Hospital, for instance, the total number of 104 mothers who reported with HIV/AIDS was 104; Out of whom 14 (13.5%) were between the ages of 10 and 19 years.

b. Maternal and child mortality rate

In Uganda, pregnancy and child birth bear risks, both for the mother, including child mothers and their new-born babies. The maternal mortality rate is 320 per 100,000 live births; the infant mortality rate is 43 deaths per 1,000 children surviving to the age of 12 months, while the overall under-five mortality rate was 65 per 100,000 live births.⁷⁹ The National Health Policy 2010 notes that despite improvements a decline in maternal, new-born and infant mortality rates, the indices remain very high.⁸⁰

According to the January to December 2016 integrated maternity register of Kole health sub-district, the total number of teenagers who sought ante-natal and post-natal services were 147. Out of these, 5 five were aged 15 years, 43 were reported to be 16 years old and 91 were 17 years old.

It should be noted that the statistics relied on was not disaggregated to ascertain how many of the child mothers that sought antenatal and postnatal services were married.

c. Prevalence of fistula cases among child mothers

Obstetric fistula is a hole in the birth canal caused by obstructed labour.⁸¹ Obstetric fistula can also be caused by early sexual relations associated with child marriages, which occur sometimes, even before the first menstruation. In 2015, over 2,560 fistula cases were reported across the country but new cases occur every day.⁸²

According to the Ministry of Health, that every year there is a backlog of 200,000 fistula cases and 1,900 new cases recorded; but the surgeons are not enough to deal with these many cases.⁸³ There are reportedly only 25 fistula surgeons across the country and these are too few to deal with the high prevalence of the condition. It is therefore important that interventions focus on strengthening prevention of fistula; including ending child marriages.

3.1.6.2 Right to education

The UHRC established that early and forced child marriages results in children dropping out of school. Consequently, the victims of child marriages cannot further their education thus losing out on empowerment from the acquisition of knowledge, neither can they attain any skills to be employable in the long run. This culminates into limited economic empowerment or independence, more especially for the girl victims.

As a result, the economic autonomy of the victims is restricted.⁸⁴ For most young women, marriage marks the end of school attendance. In most schools in Uganda, pregnant or expecting expectant girl students are expelled or barred from continuing with school, and there are no programmes/policies to help them continue their education in Uganda.⁸⁵

According to the 2016 UDHS data, the proportion of teenagers who had started childbearing decreased with increasing level of education. More than one third of teenagers aged 15-19 years with no education (35%) had begun child bearing compared with 11% of those who had gone beyond secondary education.⁸⁶

⁷⁹ n.60 above. Under-five mortality rate is the probability of dying between birth and exactly five years of age expressed per 1,000 live births while infant mortality is the probability of dying between birth and exactly one year of age expressed per 1,000 live births—available at https://www.unicef.org/infobycountry/stats_popup1.html last accessed on 4 May 2017.

⁸⁰ Ministry of Health (2010b) National Health Policy II 'Promoting People's Health to Enhance Social- economic Development'.

⁸¹ Available at http://www.who.int/features/factfiles/obstetric_fistula/en/ last accessed on 3 February 2017.

⁸² As above.

⁸³ n. 84 above.

⁸⁴ n. 84 above.

⁸⁵ USAID Health Policy Initiative Task Order 1: Addressing early child marriage in Uganda, 2009.

⁸⁶ n. 79 above.

During the UHRC's National Stakeholder consultative meeting on ending early and child marriages held in 2016, **S.K** a victim of forced and early child marriage narrated her ordeal as follows:

'I was forced by my paternal aunt to get married to a rich man at the age of 15 after my first menstruation period. My dad and mum died when I was still very young. But my desire was to study and become a lawyer. So when my aunt took me to this old rich man. I told him I wanted to go to school and continue with my studies. This man took me to a driving school instead and even gave me a brand new car. You can imagine a fifteen year old with a car. Since I wanted to continue with my studies I decided to run away from this old rich man's home and went to my friend's parents' home. They supported me and I finished my studies. I am here to report that I am now a learned friend. I just finished my law course and I am advocating for young girls' rights in my home district. I don't want them to go through what I went through''

3.1.6.3 The right to work

The right to work is both an individual and a collective right. It encompasses all forms of work, whether independent work or dependent wage-paid work. It includes the right of every human being to decide freely to accept or choose work. The UN Committee on Economic Social and Cultural rights recognises that access to a first job constitutes an opportunity for economic self-reliance and in many cases a means to escape poverty. Young persons, particularly young women, generally have great difficulties in finding initial employment.⁸⁷

The UHRC notes that with their limited education, girls and boys who marry early or were forced in marriage lacked the skills for well-paying jobs, livelihoods or profitable businesses. Therefore, child marriage victims had limited or no livelihoods to earn a decent living. Consequently, the nutrition of the victims and that of their children became deficient making them more vulnerable to other health complications and other human rights concerns.

3.1.6.4 Intergenerational poverty

As earlier stated, poverty was found to be the greatest driver of child marriages. This was even worse in situations where both spouses were children with no proper livelihoods. They gave birth to children whom they could not adequately provide for resulting into inter-generational poverty.

3.1.6.5 High population growth rates

According to 2016 estimates, the population of Uganda is around 37,782,971 up significantly from 33,640,833 estimated in 2013.⁸⁸ The age structure in Uganda is skewed towards the younger generations with, 21.16% of the total population is dominated by the comprising the 15-24 year age group. Only 2.04% of the population is 65 years or older⁸⁹. Uganda's Total Fertility Rate (TFR), which is described as that is the number of children per woman, is one of the highest in the region and has remained on average around 6.9 children per woman in the past decade. As of 2016, the fertility rate for the country was dropped to 5.4. The percentage of women who married below aged 15-19 years was 25%.⁹⁰

In addition, evidence shows that girls from the rural areas aged 15-19 years (27%) give birth earlier than girls from urban areas (19%). It is clear that child marriages contribute to the high levels of teenage pregnancies, high fertility levels and overall population growth in Uganda.⁹¹

⁸⁷ UN CESCR, General Comment No.18 2005.

⁸⁸ Available at <http://worldpopulationreview.com/countries/uganda-population/> Last accessed on 2 March 2017.

⁸⁹ As above.

⁹⁰ n. 86 above, p.13.

⁹¹ As above, p.14.

3.1.6.7 Early exposure to pornographic materials

During a UHRC stakeholders meeting in Arua District, a concern was raised that children were exposed to pornographic materials through videos, computers, phones and televisions, among others.

The UHRC notes that Government enacted the Anti-Pornography Act, 2014 which prohibits child pornography in Uganda. However since its enactment, no measures had put in place to control child access and use of such media and technology and implementation of the law was minimal. Consequently, children were getting exposed to sex as early as five years of age and such children tended to put into practice whatever they watched. The end result was teenage pregnancies with high chances of resulting into child marriages and dropping out of school.

3.1.7 Key challenges in preventing child marriages

- a. Poor facilitation of offices with the core mandate of child protection such as the CFPU and the welfare office at District Local Governments;
- b. Majority of the child marriage cases are concealed in the communities and are not reported to the authorities at the earliest instance;
- c. Corruption especially bribery interferes with the law enforcement processes especially at the police level and this mate perpetrators go court free;
- d. Non appearance of witnesses to testify in cases of sexual offences when the suspect are arraigned before court leading to case dismissal;
- e. Moral decadence; and
- f. Unregulated alcohol and drugs heavily abused by children and youth. For instance, in West Nile region there is a lot unregulated alcohol on the market as well as illicit drugs such as mairungi (marijuana) and opium. These substances were readily available in villages, trading and urban centres.

3.1.8 Recommendations

1. Ministry of Gender Labour and Social Development should:
 - a. Ensure that there is provision of livelihood programs to improve economic empowerment of victims of child marriages and to lift people out of poverty in general;
 - b. Undertake community sensitisation on the human rights implications of early and forced marriages and implement the strategy on ending early and forced marriages and the Kigali and African Union Declarations;
 - c. Ensure that the unemployed youth who are no longer in formal education be equipped with skills so that they are not lured into early marriages by poverty; and
 - d. Adequately facilitate Community Development Officers to end early and forced child marriages.
2. Uganda Police Force should review crime reporting so as to ensure that cases of early child marriages are disaggregated and not lost within among those of defilement.
3. Uganda Police Force and Directorate of Public Prosecutions should make sure that the perpetrators/ abettors of early and forced marriages are prosecuted.
4. Ministry of Education Sports Science and Technology should promote Universal Secondary Education especially in rural areas as a way of keeping the children who cannot afford in school in order to avoid early marriages caused by dropping out of school.

3.2 ALCOHOL AND ILLICIT DRUG ABUSE BY YOUTH AND CHILDREN IN SELECTED DISTRICTS IN UGANDA



3.2.1 Introduction

Substance abuse refers to *“the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs,”*⁹² or over reliance on an addictive substance like drugs and alcohol.

The UHRC during its 2016 monitoring programmes country-wide established that abuse of alcohol and drugs was increasing and so was its impact on the lives of Ugandans, particularly the young people. The issue of high levels of consumption of alcohol had been variously raised in many community meetings conducted by UHRC in 2015 as a challenge that was threatening the peace and harmony of families and communities. In a sample-based survey in the districts of Kampala, Wakiso, Gulu, Pader, Arua, Moroto, Napak and Nakapiripirit in 2016, UHRC confirmed the escalating national problem of youth and children increasingly abusing illicit drugs and alcohol.

In flagging this emerging human rights concern, UHRC highlights in this section the nature and drivers of illicit drug addiction and alcohol abuse among the youth and children; the harmful effects and resultant human rights issues; and the interventions made by key state and non-state actors to address these problems at family, community, sub regional and national level so far. UHRC is therefore drawing attention to a problem that is now national in nature; is escalating; and is threatening the well-being of individuals, families, communities in general and the country at large. Some key recommendations or strategies are proposed so that the government and other key stakeholders can take immediate action to arrest the alarming situation.

3.2.2 Legal Framework for protection of youth and children

The UN defines the youth as a section of the population between 15-24 years but the National Youth Council Act Cap 319 categorises this group to be between 18-30 years.⁹³ A child under the Children Act Cap 59 is defined as any person who is below 18 years of age.⁹⁴ Uganda has ratified various international as well as regional instruments and enacted laws that provide for and safeguard youth and children from harmful drug and alcohol addiction.

3.2.2.1 International legal framework

Illicit drugs are regulated by three major treaties: The Single Convention on Narcotic Drugs 1961, as amended by the 1972 Protocol, the Convention on Psychotropic Substances 1988 and the United Nations

⁹² World Health Organisation Available at http://www.who.int/topics/substance_abuse/en/ Last accessed 12 March 2017.

⁹³ Section 1(g) of the National Youth Council Act.

⁹⁴ n. 75 above, Section 2(2).

Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988. The conventions work in a mutually supportive and complementary manner to ensure that narcotic and psychotropic substances are available for medical and scientific uses and avert their illegal usage.

The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 regulates the likely causes, and provides for measures to combat illicit drug trafficking, money-laundering, as well as strengthening the framework of international cooperation in criminal matters including extradition and mutual legal assistance.⁹⁵

Furthermore, the CRC further provides that state parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.⁹⁶ In respect to Article 19 of the CRC, the Committee on the Rights of a Child pronounced itself on primary parental responsibility for child care and protection from physical and psychological neglect which could involve exposure to alcohol and drug abuse.⁹⁷

In addition, Section 3 (c) of the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 182 of 1999 prohibits the use or offering of a child for illicit activities especially in producing and trafficking drugs as referred to by relevant international treaties.

The Framework Convention on Tobacco Control (WHO FCTC) was signed by Uganda in order to protect users and non-users of tobacco and its products from grave health, social and economic effects of tobacco and its products.

Target 5 under SDG 3 imposes the state obligation to strengthen prevention and treatment of substance abuse, including narcotic drug abuse and harmful use of alcohol.

Nonetheless, there is no specific international convention to prohibit or combat alcohol abuse by children and youth or to regulate alcohol consumption. However, states have taken measures to enact national legislation prohibiting the sale of alcohol to children and establishing the minimum age.

3.2.2.2 Regional legal framework

Article 28 of the African Charter on Children's Rights obliges the state to take measures to protect the child from use of narcotics and the illicit use of psychotropic substances. In addition, the African Union Plan of Action on Drug Control aims at strengthening regional and international cooperation and responses. It is founded on the Single Convention on Narcotic Drugs 1961, as amended by the 1972 Protocol, as well as the Convention on Psychotropic Substances 1988 and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988; with a sole purpose to reduce drug use, trafficking and related crimes on the continent. The success of this Plan of Action is dependent on Member States and Regional Economic Communities (RECs) who are called on to put in place legislation to control the demand and supply of drugs.

3.2.2.3 National legal framework

The Children Amendment Act, 2016 states that a person who exposes a child to any harmful cultural or customary practice that is mentally, physically, emotionally and morally harmful to his/her health, wellbeing, education and socio-economic development, commits an offence and is liable under the law.⁹⁸

⁹⁵ United Nations Office on Drug and Crime, Accessed at, <https://www.unodc.org/unodc/en/drug-trafficking/legal-framework.html>.

⁹⁶ n. 64 above, Article 33.

⁹⁷ United Nations Convention on the Rights of a Child, General Comment No. 13(2011), The Right of a Child from all forms of violence, 18 April 2011. Available at http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.13_en.pdf Last accessed on 19 April 2017.

⁹⁸ n. 68 above, Section 7.

The Narcotics Drugs and Psychotropic Substances (Control) Act 2015 (NDPSCA) was passed to reinforce the National Drug Policy Authority Act Cap 206 in respect to regulating narcotic drugs and psychotropic substances. Part II of the Narcotic Drug and Psychotropic Substances Act prohibits possession of, trafficking in narcotic drugs and psychotropic substances and cultivation of certain plants.⁹⁹

The Tobacco Control Act 2014 prohibits a person from importing and manufacturing for, or distributing and selling to, a minor a tobacco product.¹⁰⁰

The Liquor Act Cap 93 provides that any licensee who allows a person under the age of 18 years to be in a licensed premise during the period when the consumption of intoxicating liquor is authorized commits an offence.¹⁰¹ It is further provided that the preparation, sale and distribution of denatured spirits unfit for human consumption¹⁰² commits is an offence. The Child and Adolescent Mental Health Policy Guidelines, 2014 are also instructive.

3.2.3 Situational analysis of illicit drug use and alcohol abuse in Uganda

3.2.3.1 Illicit drug use in Uganda

It is illegal to make, sell or use illicit drugs also referred to as ‘narcotic drugs’. The most common illicit drugs in Uganda are cannabis/marijuana, Khat, Khuber/Kuber, Drug 36, smokeless tobacco products e.g. Shisha, in addition to what is described as hard drugs such as cocaine, heroin, and methamphetamines, among others. There are different ways the illicit drugs are consumed; ranging from being smoked, chewed, swallowed, inhaled, and eaten to being snorted or injected depending on a specific drug. Table 3.3 below illustrates some features of the illicit drugs and their origin.

Table 3.2.1: Examples of illicit drugs that are consumed, sold and trafficked via Uganda¹⁰³

Drug	Local /Street Name	How the drug is consumed/used	Origins from within or outside Uganda
Cannabis Sativa /Marijuana 	<i>enjagga, dude, enkoko, ekibaaba, kikoola, kawala, weed, pot, nakanwagi, airtime, kamwokya, muti, dope, gganja, mukyuusa, essada, omukwabi, tomic, kaladi, white Nile</i>	Some users smoke marijuana in hand-rolled cigarettes called joints; use pipes, water pipes (sometimes called bongs), or marijuana cigars called blunts (often made by slicing open cigars and replacing some or all of the tobacco with marijuana).	Remains the most home grown narcotic drug in the country. Nearly all districts in Uganda engage in its cultivation especially in Busia, Malaba, Budaka, Mityana, Wakiso, Kasese, Kalangala, Masaka, Bushenyi, Kyenjojo, Iganga, Busia and Bugiri districts.
Khat 	<i>mira, mairungi, akakoola, gaati, nakatti, kasaayi, andasi, barre, kyakasi, kabasonko</i>	Chewed or used as tea.	Cultivated in the Middle East and East Africa. In Uganda, it is commonly grown in Arua, Fort portal, Mityana, Mpigi and Busoga region. It is prohibited under the National Drug Psychotropic Substances Control Act.

⁹⁹ As above, Section 4 (3)(a-d).

¹⁰⁰ Section 16 of the Tobacco Control Act.

¹⁰¹ As above, Section 19.

¹⁰² As above, Section 25.

¹⁰³ Available at <http://www.drugabuse.gov/publications/research-reports/marijuana/what-marijuana>; <http://pearlnewsservice.blogspot.ug/2015/06/drug-abuse-ravages-uganda-youth-as.html>; <http://www.monitor.co.ug/artsculture/Reviews/691232-1284246-12il934z/index.html>.

Drug	Local /Street Name	How the drug is consumed/used	Origins from within or outside Uganda
Khuber/Kuber 	<i>khuber/kuber, taaba</i>	Chewed.	East Africa especially in Somalia, Ethiopia, Eritrea, Kenya and Uganda.
Drug 36 	<i>Not applicable</i>	Green plant with black seeds that are swallowed. 	Grown in Zombo District.
Smokeless tobacco products e.g. Shisha 	<i>shisha, hookah, narghile, waterpipe, or hubble bubble smoking</i>	The tobacco is sometimes mixed with fruit or molasses sugar and at times with hard drugs, in a bowl with a hose or tube. The tube ends in a mouthpiece from which the smoker inhales the smoke from the substances being burnt into their lungs.	Middle East, East Africa. In Uganda, it is mainly consumed in urban centres in some bars, cafes and restaurants. It is prohibited under the Tobacco Control Act.
Hard Drugs			
Cocaine 	<i>coke, crack (cocaine), blow, freebase, nose candy, rock, snow, Konka</i>	Eaten, smoked, snorted or injected into one's body 	Sourced from Argentina, Brazil and British Colombia to Europe and other parts of the world. Some of it is consumed here.
Heroin 	<i>embaawo, brown sugar (impure heroin), omuggo, fimbo, kaloddo, akachwiiri</i> 	Extracted from Opium. Pure heroin can be snorted or smoked. Impure heroin is usually dissolved, diluted and injected into veins, muscles, or under the skin.	Sourced from Afghanistan, Pakistan, Iran and Latin America to be trafficked to Europe Asia and America. Some of it is consumed in Uganda.

Drug	Local /Street Name	How the drug is consumed/used	Origins from within or outside Uganda
Methamphetamines 	<i>crystal meth, brown chalk, chicken feed, cinnamon, crystal glass, glass, Tina, cristy, ice, shabu.</i>	Can be smoked, injected, inhaled or chewed. It can also be compressed into a pill. However, the most common is injecting and smoking.	Smuggled in Uganda to be trafficked to Europe Asia and America. Some of it is consumed in Uganda.

It should be noted that there are other harmful intoxicating substances such as Paspalm/‘*kayongo*’, petrol, jet fuel and thinners that are easily accessed and abused by children and youth from the streets or slums that are not yet criminalised under the law. A lawful prescription of drugs such as Pethodine and Ephedrine by the working class and professionals is another aspect of drug abuse.



A child sniffing petrol Photo courtesy: Uganda Police Force

Many illicit drugs are highly addictive and pose serious health risks. According to Police, the abuse of drugs is steadily increasing in the country’s urban centres mainly by the growing middle and working class (doctors, lawyers), local and foreign students in secondary and tertiary institutions,¹⁰⁴ slum or street children and youths that go abroad for studies or kyeyo (menial work), university dropouts and deportees.¹⁰⁵

Nationally, there is no evidence-based data on health to determine the magnitude of drug abuse/addiction even from health facilities. This is because indicators to collect this information have not yet been included in the Health Management Information System (HMIS). Available statistics therefore, are based on the information provided by health facilities that offer specialised services related to drug abuse.

Statistics for 2016 from Butabika National Referral hospital, for instance, show that 60% of the patients treated for drug addiction were between 18-30 years, while a few others were teenagers. At other private health facilities the majority of the drug addiction patients were between 18-25 years.

3.2.3.2 Alcohol consumption and abuse in Uganda

Alcohol use is deeply embedded in many Ugandan societies as a socio-cultural and in some cases religious norm. This contributes to the rising national rate of alcohol consumption at the regional and international level. Alcohol production in the formal sector breweries is estimated at 32% while the home-made alcohol

¹⁰⁴ I. T. Zarugaba, Ag. Commissioner Anti-Narcotics Unit, Uganda Police Force, ‘Uganda Police Interventions and Challenges in addressing illicit drug use,’ a Presentation made at the 19 UHRC Annual Report Consultative Meeting held at Sheraton Hotel, Kampala on 1 February 2017.

¹⁰⁵ Interview with Mr. Emmanuel Mubangizi, Executive Director Serenity Centre, Bwebajja held on 11 January 2017.

account for 68%, which is largely unregulated, , illegally sold and unrecorded.¹⁰⁶ In 2016, Uganda was ranked second in Africa with the average alcohol consumption of 11.93 litres of alcohol per person per year.¹⁰⁷

The Global Status on Alcohol and Health 2014 indicated that 23.7 litres of pure alcohol are consumed per capita by drinkers annually in Uganda, highest in East Africa.¹⁰⁸

The consumption pattern showed that 4% was beer, 2% wine, with the “other” category at 94% of consumption. The ‘other’ categories at 94%.¹⁰⁹ The other categories are comprised of domestically distilled brew in Uganda such as: *pombe* and *mubisi*, or locally made banana or millet beer; *tonto*, a traditionally fermented drink made from bananas, banana wine, *malwa*, *enguli (dete)* and many more. Therefore, reports of increased alcohol abuse and addiction among teenagers and youth would not be surprising given the relatively high degree of exposure and access to regulated and unregulated alcohol.

Alcohol that is sold in sachets is also popular among the children and youth due to its affordability and portability. However, there are concerns about most of the alcohol sold in sachets that is illegal and untested by a regulatory authority.



(Left to right) Bottled alcohol sold in Uganda; crude alcohol being manufactured; alcohol in sachets
Photo courtesy: Butabika Hospital

Some new indicators have been included in the HMIS to collect information on patients receiving treatment on tobacco and alcohol abuse. However, the statistics are still very scanty because some of the health facilities were still using old registers where these indicators are lacking. When treating patients with mental health problems, very few health workers can keenly interrogate and identify alcoholism as a root problem, while others regard alcohol and tobacco abuse them as personal issues and do not report them.¹¹⁰

3.2.3.3 Linkage between Illicit Drug and Alcohol Addiction

Addiction is a chronic disease that causes a user to become hooked on the mental and physical effects of whatever substance they are repeatedly using, be it alcohol or a drug. It has been scientifically proven that there is a causal relationship between alcohol and narcotic abuse and addiction resulting from their physiological effects on the brain. No drug is consumed independently and when an addict/user develops a level of tolerance to a drug, the common practice is to take a cocktail of drugs, including adding alcohol to the equation.

¹⁰⁶ Available at <http://www.monitor.co.ug/Business/Markets/Revise-law-control-illicit-alcohol-UBL-government/688606-3304020-udb2pvz/index.html>.

¹⁰⁷ S. Muneza ‘Uganda ranked Africa’s 2nd biggest consumer of alcohol’ Available at <http://eagle.co.ug/2016/05/18/uganda-ranked-africas-2nd-biggest-consumer-of-alcohol.html> Last accessed on 19 April 2017.

¹⁰⁸ World Health Organisation, Management of Substance Abuse, Country Profiles 2014, Available at, http://www.who.int/substance_abuse/publications/global_alcohol_report/profiles/en/, http://www.who.int/substance_abuse/publications/global_alcohol_report/profiles/uga.pdf?ua=1 and; <http://www.monitor.co.ug/News/National/Uganda-leads-East-Africa-in-alcohol-consumption/688334-2379680-ldjtfbz/index.html>. Last accessed 12 March 2017.

¹⁰⁹ As above.

¹¹⁰ Interview with Dr. Hafsa Lukwata, Senior Health Officer, Mental Health Unit Ministry of Health held on 10 January 2017.

Records at the Alcohol and Drug Unit at Butabika Hospital indicated that 65% of the patients were on poly substance abuse (mixture of illicit drugs and alcohol), with the main denominator being alcohol. According to the data collected by Uganda Youth Development Link (UYDEL), 45% of the youths confessed to having consumed drugs and alcohol.¹¹¹ As a result, the rehabilitation and recovery process for poly substance abusers due to the more elaborate screening and detoxification process.

3.2.4 Drivers of illicit drug and alcohol abuse among youths and children

It should be noted that there is a close correlation between the drivers and effects of illicit drug and alcohol abuse, with the one leading to the other or vice versa.

The driving factors to illicit drug and alcohol abuse in Central, West Nile and Northern regions of Uganda were identified to include:

- a. Peer pressure;
- b. Curiosity
- c. Family breakdown due to Domestic Violence; dysfunctional families leading to loose family ties especially between parents and children
- d. Unemployment
- e. Idleness
- f. Ignorance/Delay of parents or caretakers in identifying the signs and or seeking professional help for addicted children at an early stage
- g. Early exposure of children to alcohol and drugs by parents.
- h. Celebrity influence: Some international and local celebrities have public appearances in the media while smoking illicit substances and abusing alcohol which the young people perceive as cool.
- i. Failure of educational institutions to handle pupils and students with the drug and alcohol addictions;
- j. Societal or cultural Stress management for instance meeting deadlines by professionals; to enable students read subjects perceived as difficult);
- k. norms on alcohol and drug intake;
- l. Accessibility to illicit drugs and alcohol (sold on the streets, bars, clubs,

3.2.5 Sources of Illicit drugs and alcohol

During interviews with youth, children and other stakeholders, UHRC identified the following as the primary sources of alcohol and illicit drugs:

- a. Friends/Peers
- b. Family members at home
- c. Drug pushers/traffickers
- d. Schools / campuses
- e. Bars
- f. Shops/trading centres
- g. Discotheques
- h. Slums
- i. Sales/promotional activities

¹¹¹ Available at http://www.newvision.co.ug/new_vision/news/1315230/-ugandan-youth-drugs-alcohol#sthash.62kwWwxC.dpuf. Last accessed in January 2017.

The Uganda Police Anti-Narcotics Unit reported that even though some of the illicit drugs (such as Marijuana and Khat) are grown in rural areas; the level of narcotic addiction is higher among children and youth in the urban setting. Illicit drugs and alcohol are more accessible in different varieties to children and youth within urban and peri-urban centres, who are able to meet their costs. In Kampala, illicit drugs are also obtained from the slums in the suburbs of Bwaise, Gayaza, Kawempe, Kalerwe, Kisenyi, Kabalagala, Nabweru and Wandegaya-Katanga and particularly in video halls in these places.

3.2.6 Affordability of illicit drugs and alcohol

A teaspoon of crack/heroin/cocaine costs approximately UGX 5,000; Marijuana ranges from UGX 100-200 (sticks); UGX 1,000-3,000 (drug cocktail); and is grown in several districts in the country.

Regulated alcohol is obtained at UGX 3,500–5,000 for bottled beers and UGX 300-700 for sachets of spirits. Unregulated/illegal alcohol is obtainable at UGX 500-1,500 for local beer and between UGX 200-700 for spirits.¹¹² Most of this unregulated alcohol is produced by families in rural and peri-urban areas; or packaged in bottles, sachets or tot packs (in quantities of less than 250 mls), which can easily be bought and smuggled into schools.

3.2.7 Status on bills, policies and by-laws to address illicit drug and alcohol abuse

- a. The Alcoholic Drinks Control Bill, 2016 commonly referred to as the “Nambooze Bill” seeks to regulate consumption, creating national, district and sub-county licensing and regulation committee¹¹³ production, packaging, ban its advertising, and time of consumption in the country.¹¹⁴ Promoters of the Bill cite research that up to 70% of the high school students drink alcohol, while three in every ten teenagers drink alcohol, 90% of whom are binge drinkers.¹¹⁵ Concern has been raised as to whether Ministry of Health would be the appropriate responsible line ministry.
- b. The Government intends to ban packaging of alcohol in sachets effective 30th September 2017. It has however issued out directives to several state agencies that is UNBS to publicise regulations and directives for the alcohol industry as well as certify alcohol producers under the Uganda Alcohol Industry Association; and for the District Local Government Authorities to curtail unregistered alcohol producers packaging in sachets immediately.¹¹⁶
- c. The Mental Health Bill, 2014 was tabled before Parliament and is still under review by the Committee on Health. The objects of the Bill include providing for the care and treatment of persons with mental illness at primary health centres; enabling such persons to seek treatment voluntarily and for the protection of their rights. This bill operationalises the National Health Policy, which views mental health services as an important aspect of health care and calls for mental health services to be integrated into the general health care system at all levels.
- d. Ministry of Health has put in place the National Adolescent Health Policy, 2004¹¹⁷ which seeks to mainstream all health concerns including substance abuse and mental health. These concerns are to be addressed through creating awareness on substance abuse and mental health among the public, school programmes, establishing support services at the district level and a support pilot rehabilitation project for adolescents with substance abuse in Kampala.¹¹⁸

¹¹² Information gotten from interviews conducted with Uganda Police Anti- Narcotics Unit; UYDEL and Alcohol and Drug Unit, Butabika Hospital.

¹¹³ IOGT International Uganda: New Alcohol Bill To Be Introduced, Available at <http://iogt.org/news/2016/09/12/uganda-new-alcohol-bill-introduced/> Last accessed on 12 December 2017.

¹¹⁴ As above.

¹¹⁵ New Vision Newspaper Thursday 14 May 2017, p. 16.

¹¹⁶ Ministry of Trade Industry and Cooperatives, Ban on Sacheted Alcohol, Available at, http://www.mtic.go.ug/index.php?option=com_content&view=article&id=217:ban-of-packaging-of-alcohol-in-sachets&catid=10:current-news&Itemid=118 Last accessed 13 March 2017.

¹¹⁷ Available at <http://www.youth-policy.com/Policies/UGAyouthpol2004.pdf> Last accessed 13 March 2017.

¹¹⁸ n. 110 above.

- e. The National Mental, Neurological and Substance abuse Policy and Strategic Plan has not yet been approved by the Ministry of Health.¹¹⁹ Child Adolescent Mental, Neurological and Substance abuse Policy guidelines are still in draft form.
- f. The NDPSC Strategic Plan was passed but its commencement has not yet been pronounced.
- g. Some of the local government units have passed by-laws, ordinances and policies to regulate and address the alcohol problem that has become a menace locally. These specific cases are listed below:
 - The Sub-Counties of Nabweru, Nangabo and Busukuuma in Wakiso District passed the Protection of Children from Alcohol and Native Liquor By-law 2015 to address the problem of increased underage drinking.
 - Gulu District passed the “Alcohol Ordinance” in November 2016 aimed at stopping sale of sachets, regulate opening and closing time of bars ending at 10:00pm on working days and midnight on weekends.
 - Ojwina Police Station in Lira District has put in place a strategy regulating the time of alcohol consumption-‘*No Drinking before Midday and Past Midnight*’. This strategy is however not being adhered to by parents and the youth because there is no government agency to ensure compliance or to sensitise the public on the dangers of alcohol consumption.

3.2.8 Effects of Illicit Drug and Alcohol Abuse

In order to achieve ensure a peaceful and secure society, children, youths and family units need to be protected and nurtured. UHRC established that illicit drug and alcohol abuse has immense effects on individuals, families and communities generally. Through the study and engagement with different stakeholders, UHRC noted the multitude of effects that illicit drug and alcohol abuse had at different levels as expounded on below:

3.2.8.1 Health related complications for the addicts

Alcohol and illicit drugs contain a percentage of chemicals that affect the whole body system in different ways. Abuse of drugs stimulates the brain function of the user and for some, it may result into mental illnesses, so the likelihood of treating mental and drug-related problems is highly possible.¹²⁰ This negatively impacts on their right to highest attainable standard of mental and physical health that is guaranteed under Article 12 of the ICESCR.

Alcohol and drug abuse leads to early brain development among the children and youth, which in turn, leads to early adult hood. This alters the levels of child development because the likelihood of behaviour change and learning bad habits more quickly is inescapable. UHRC learnt that alcohol is the leading cause of several communicable and non-communicable diseases such as cancer of the throat, lungs, liver, breasts and HIV/AIDS infections.¹²¹

Other health complications that may arise out of alcohol and illicit drug abuse are related to the human body being susceptible to overt confusion, depression, high blood pressure, trauma, infertility, hallucinations and heart disease.

3.2.8.2 Loss of life

Alcohol and drug abuse has occasionally caused death as well as contributed to traffic and other accidents which have in some instances resulted in deaths. Failure to disclose the vice; lack of support from families and failure to seek treatment for addictions and diseases acquired through alcohol and illicit drug abuse

¹¹⁹ The draft policy objectives include focus on increasing availability of, and access to quality mental health services in a multifaceted and multi-disciplinary manner; strengthen the capacity of health workers that provide mental neurological health services.

¹²⁰ G. Bikumbi (Dr.) Alcohol and Drug Unit, Butabika referral Hospital, ‘Alcohol and Drug Abuse,’a Presentation made at the 19 UHRC Annual Report Consultative Meeting held at Sheraton Hotel, Kampala on 1 February 2017.

¹²¹ As above.

have been underlying factors in some deaths. There is also a linkage between alcohol and drug abuse and suicide especially for children or youth living in conflict and post conflict settings at home or in the community.

UHRC established that in Gulu District, 44 suicides were reported in 2016, the causes of which were attributed to mental illness and post traumatic effects of the conflict.¹²² In 2016, Gulu Regional Referral Hospital reported the death of one youth death resulting from alcohol abuse. At Matany Hospital in Napak District, officials attributed some of the deaths to alcohol abuse.¹²³

3.2.8.3 Crime rates and juvenile delinquency

Addicts of alcohol and illicit drugs were often likely to commit crimes.¹²⁴ When alcohol and illicit drugs are consumed, the brain receptors are stimulated and one temporarily loses his/her reasoning capacity. This leads them to become hyped and fearless to do certain activities including crimes such as murder, assaults, robbery, sexual crimes, drug trafficking and prostitution. The children and youth are often destined for juvenile delinquency or becoming habitual offenders if these addictions are not effectively treated. For instance, it was reported that a drunken boy defiled a three year old child at Nasike village, Ngoleriet Sub County in Napak District.¹²⁵

3.2.8.4 Domestic violence and family breakdown

In cases where alcohol and illicit drug addicts are discriminated against and isolated by their families and communities, the victims end up detaching from their families to live on the streets with peers. Parents, guardians or caretakers who have sought professional assistance to treat such addictions of their children have at times operated from a point of ignorance and bewilderment, thus unknowingly aggravating the existing situation. It has been reported that alcohol and illicit drug abuse could also lead to child neglect, sexual abuse, unplanned pregnancies, low or high sex libido; drug dependency and domestic violence all of which could cause family breakdown.¹²⁶ UHRC further noted that the likelihood of family breakdown is also high due to the diversion of resources into alcohol and illicit drug consumption and /or rehabilitation.

3.2.8.5 Poor performance, school drop outs and expulsion from education institutions

There was increased exposure of school going children, as young as five years, to alcohol and drug abuse in domestic, school and community settings. In most cases, children and youth who abuse alcohol and illicit drugs seldom participate in school activities and have low concentration levels. Others drop out of school due to poor performance or dismissal from the educational institutions.

3.2.8.6 Impact on rights of girls and young women

Alcohol and illicit drug abuse specially impacts on girls and young women because of gender dynamics. In most cases, these vices have resulted in prostitution at an early age; early marriages and high school drop out rates.¹²⁷ Other impacts are reproductive health challenges such as barrenness, miscarriages and unsafe abortions; gynaecological disorders, menstrual irregularities, difficult pregnancies, bleeding after intercourse, contraction of sexually transmitted infections and HIV/AIDS, loss of dignity, depression and poor/low esteem in most cases. The situation is dire when girl/women addicts are mothers and their lifestyle in most cases exposes their vulnerable children to health (including foetal) complications, neglect or even susceptibility to the substance abuse and in some cases death.

¹²² Interviews done by the Gulu Regional Office.

¹²³ Interview with Ms. Longole Ruth Iningo, the Principal Assistant Secretary/Acting Chief Administrative Officer, Napak District.

¹²⁴ n. 121 above.

¹²⁵ n. 123 above.

¹²⁶ n. 121 above.

¹²⁷ See Testimony of C.N, UYDEL on p.171.

3.2.8.7 Financial constraints and poverty-related challenges

The persistent alcohol and illicit drug abuse eventually subjects some of its users and families to abject poverty. This manifests as a result of diversion of finances and property to feed the addiction and for treatment and rehabilitation expenses.¹²⁸

3.2.8.8 Food insecurity

During UHRC interviews with stakeholders, it was reported that a number of districts in Uganda (such as Arua, Butambala, Kanungu, Kibaale, Kabarole, Mukono and Wakiso) had resorted to growing Khat and Marijuana at the expense of food crops because of their high returns. Moreover, the climate and soils in those areas are favourable for this. In other districts, cassava and sorghum harvests have been sold off to beer manufacturing companies, leaving food stores empty. People have also been lured into trading land where they derive domestic sustenance in exchange for money to sustain their dependency on alcohol or drugs.

3.2.9 Challenges faced in addressing illicit drug and alcohol abuse

3.2.9.1 Youth unemployment

The youth and children constitute the current or potential labour force in the country. Youth unemployment in Uganda is at 64%.¹²⁹ Alcohol and drug abuse, negatively affects job performance of the employed youths involved, owing to erratic behaviour, constant hang overs, absenteeism, all of which could lead to their eventual dismissal.¹³⁰ Furthermore, very few employees in the public and private sectors have been sensitised on handling employees that are alcohol and illicit drug addicts and to lend psychosocial and financial support to them where possible.

3.2.9.2 Involvement in drug trafficking

UPF reported that the youth have been targeted youths have been targeted by drug pushers to traffic the narcotic drugs within and outside Uganda.¹³¹ Although drug trafficking is a high risk activity, it is regarded as a lucrative business and this is a pull factor for youth, who could be facing challenges such as unemployment. Police reports indicated that one kg of heroin is worth the equivalent of UGX 33 million.

3.2.9.3 Inadequate access to specialised health services for alcohol and drug addiction

Regional hospitals had psychiatric units but their ability to handle mental, alcohol and illicit drug issues was minimal. This was because addictions are a specialty specialised field of medicine that cannot be handled by any other health workers without the requisite specialisation. By the end of 2016, the Alcohol and Drug Unit at Butabika National Referral Hospital was the only public referral facility that specifically treated alcohol and illicit drug abuse cases. However, its patient capacity was limited to 800 only. Other district facilities provide general mental health services.

Though mental units exist in regional referral hospitals, there were only 37 psychiatrists in the country: one in Kabale, four in Mbarara, two in Gulu Regional Referral Hospital and the rest are concentrated in Kampala.¹³² In addition, concern was raised over the professional qualifications and capacity of some questionable private service providers to provide deliver quality services for alcohol and drug addicts.¹³³

¹²⁸ Interview with Ms. R.T. (mother to former alcohol and drug addict) held on 23 January 2017.

¹²⁹ G. Ahaibwe & S. Mbowe, Focus in Africa: Youth Unemployment Challenge in Uganda and the Role of Employment Policies in Jobs Creation, Available at <https://www.brookings.edu/blog/africa-in-focus/2014/08/26/youth-unemployment-challenge-in-uganda-and-the-role-of-employment-policies-in-jobs-creation/> Last accessed 9 March 2017.

¹³⁰ Interview with Mr. Rogers Kasirye Executive Director, UYDEL in January 2017.

¹³¹ n. 105 above.

¹³² Interview with Dr. David Basangwa, Executive Director Butabika Hospital in January 2017.

¹³³ n.130 above.

The affordability of health services for the rehabilitation of addicts was also of great concern. Butabika National Referral Hospital offers free treatment to mentally ill clients. However, in respect to drug and alcohol patients, treatment costs were up to a minimum of UGX 50,000 per day and UGX 1,500,000 per month, private clinics charged UGX 100,000-150,000 daily.¹³⁴ Proper treatment could take a minimum of eight weeks before one can be discharged from the facility. This kind of treatment cannot be given a time frame because recovery is a process.¹³⁵

3.2.9.4 Public ignorance and lack of information

There is general lack of awareness among the public on the dangers of alcohol and drug abuse; addiction, as well as prevention, treatment and rehabilitation of victims. In most cases, care takers such as parents, guardians, educators and even employers and community members are unable to detect and provide assistance to alcohol and drug abusers during the early stages.

3.2.9.5 Influence from the alcohol manufacturing and marketing Industry

A policy directive that was passed banning the proliferation and packaging of alcohol tot packs and sachets remained largely unenforced. Children and youth have been targeted by the alcohol industry through extensive marketing via the media and outdoor advertising in public places, road side promotions with free distribution of alcohol at public events and placement of billboards near schools. This aggressive alcohol advertising influences attitudes and intentions of the children and youth to consume alcoholic beverages and to engage in binge drinking.

The restriction and or regulation of alcohol production, sale and consumption vis a vis return on investment and profits is an ongoing debate. Critics of the Alcoholic Drinks Control Bill 2016 argue that the bill will reduce demand for alcohol and harm revenue to government from the breweries. The industry argues that the profits made are reinvested in marketing, used for lobbying and for corporate social responsibility. Sceptics argue that the promotional messages should also focus on the harmful effects of its abuse and that the economic cost of treatment, rehabilitation, research and awareness should be looked into and partly imposed on the industry.

3.2.9.6 Social exclusion and discrimination

Alcohol and drug addicts suffer from discrimination and stigma from members of the society and sometimes from their families. On several occasions, this is brought about by the change in the addict's behaviour, being seen as a social misfit and being called names. These tendencies bring about isolation/withdrawal of the addicts from society which in the long run worsens their dependence on alcohol and drugs.

3.2.10 Gaps in existing legal and institutional framework

3.2.10.1 Narcotics Drug and Psychotropic Substances Control Act, 2016

Khat is not included in the NDPSCA as one of the substances that may have similar effects to those of narcotic drugs. Since it is used as an inducement in the cocktail of other drugs, the NDPSCA ought to categorise it as prohibited dangerous substance like other narcotic substances.¹³⁶ This should also apply to other substances like Jet Fuel oil, paspalm "*kayongo*", thinner, glue, petrol, Drug 68 and any others that have or may have similar effects but are not provided for in the Act.

A best practice from Rwanda is having a list of prohibited dangerous substances which can be amended under the directive of the responsible Minister.

¹³⁴ n.132 above.

¹³⁵ n. 131 above. Costs involved in rehabilitation per day include a six course meal of breakfast, break tea, lunch, evening tea, dinner and bed tea.

¹³⁶ After passing the NDPSCA, Wakiso Miraa Growers and Dealers Association Ltd protested and petitioned the Constitutional Court on allegations that the enactment of the above act was aimed at prohibiting the growth of the plant in ***Wakiso Miraa Growers & Dealers Association. Vs. Attorney General COA-00-CPC-0001-2017*** They further stated that khat was their source of livelihood, their views had not been sought; the government did not have substantial scientific proof that the plant was a drug and it should be seen as a vegetable and a herb to cure ailments.

On punishment, the NDPSC Act does not distinguish between “possession for personal use” and “possession for trafficking”. The latter should carry a heavier punishment than the former. Generally, stiffer penalties should be provided for so as to deter drug abuse and trafficking.

3.2.10.2 Tobacco Control Act, 2014

The Anti-Narcotics Unit of the UPF expressed concern over lack of a lead enforcement agency to implement the Tobacco Control Act which prohibits smoking and growing of tobacco illegally. They called for clarity on the roles of the UPF vis-à-vis Ministry of Health; as well as the police unit that has the direct mandate of enforcing the Tobacco Control Act just as enforcement of NDPSC Act falls under the Anti-Narcotics Unit.

3.2.10.3 Enguli (Manufacture and Licensing) Act Cap 86

In its section on definitions, the Act limits the definition of ‘*enguli*’ to spirits manufactured in Uganda excluding refined spirits or any other spirits produced locally by the exclusive licensee. Under Part II, it only prohibits “the manufacture, sale, etc. of *enguli* without license.” The Act does not also prohibit consumption (Section 2 (1) of the substance and limits it to spirits and refinement). It also implies that because a business has been licensed to manufacture whatever quantity he deems fit, such *enguli* will be available for consumers. The intention here was not to prohibit but regulate alcohol consumption, production and sale.

Given that *enguli* and other locally manufactured alcohol/beer is easy to get in all districts in Uganda, this makes the Act irrelevant because these local brewers do not possess licenses or even apparatus for manufacture of “refined” substance. The role of a control/approving agency to test whether this *enguli* was fit for human consumption was not highlighted. The role of Uganda National Bureau of Standards needs should be highlighted in alcohol control laws.

The penalty provided for illegal export, consumption, sale and manufacture under Section 16(1) of UGX 3,000 and six months imprisonment or both is not heavy to bar the above activities. Given the consumption of alcohol in the country today, punishments should be aimed at reforming or deterring culprits.

3.2.10.4 The Liquor Act Cap 93

It should be noted that the laws in place to regulate alcohol consumption, manufacture and sale are outdated and non-detrimental. The penalty for children found in places where liquor is consumed is provided under Section 19 with a fine ranging from UGX 200-500, which is extremely light.

The provision for the sale of alcohol to a 16 year old for purposes of eating meals and for the benefit of a third party should be revised. In today’s circumstances, exposure of children to alcohol is deadly. In the Alcohol Drinks Control Bill also referred to as the ‘*Nambooze*’ Bill, it is suggested that the age of accessing alcohol be raised to 21 years.

The Liquor Act also provides for the exclusion of drunkards who have become abusive, violent, and quarrelsome from drinking places. With the effects of alcohol illustrated above, such drunkards should be handed over to responsible officers for purposes of protecting families and society/ personal life.¹³⁷

Section 18 and 20 of the Third Schedule provide for time of sale of native liquor (of which one had a license to) however, with the several local brands/beers on the market, drinking time is not regulated.

3.2.10.5 Lack of a policy against narcotics use and drug trafficking

There is no policy specifically addressing narcotics use as well as measures and mechanisms taken to combat drug trafficking.

¹³⁷ Section 18 of the Liquor Act.

3.2.11 Nature of interventions for alcohol and drug addiction among youth and children

3.2.11.1 Government health services

a. Coverage

The Alcohol and Drug Unit in Butabika Hospital that was established in 1996, on average handles only 20% of 800-850 patients associated with mental health issues. Most of the health facilities in the regions that provide mental health services are not equipped/facilitated to handle alcohol and drug health related addictions. Every year, about 6,000 youth visit rehabilitation centres with problems of drugs and alcohol.¹³⁸ Majority of the patients are Ugandans, but other nationalities from other countries such as Rwanda, DRC, Eritrea, Somalia, Sudanese and Ethiopians have been attended to. The majority of the patients are males with a 5:1 male-to-female ratio. This is explained by the fact that in the past, it was a predominantly male problem and females started utilising the services recently, especially for alcohol addiction.



The Alcohol and Drug Unit at Butabika Hospital. A group counselling session at Butabika Hospital.

At Gulu Regional Referral Hospital, the Mental Health Unit handles patients with alcohol and drug problems. Treatment from these units is free of charge, except when drugs run out of stock and patients are requested to buy.

b. Nature of treatment/rehabilitation services provided

It should be noted that addiction is a chronic disease and is treatable. In Alcohol and Drug Unit, the treatment ordinarily takes eight weeks. It entails screening, detoxification, relapse prevention, motivational enhancement and reintegration. This treatment programme involves the assistance of the patients' families.

Gulu Regional Referral Hospital provides outpatient rehabilitation, psychotherapy among others. During UHRC monitoring visit, the facility had 98 patients. Of these, 24 were female and 74 male. Pader Health Centre III provides for resuscitation and counselling, outpatient and psychotherapy rehabilitations for alcohol abusers.

3.2.11.2 Private health facilities

Private service providers such as Serenity Centre Bwebajja, Wakiso District; Program for Prevention, Awareness, Counselling and Treatment of Alcoholism (PACTA) Gulu District, provide rehabilitation services for alcohol and drug addicts. There are a number of Alcoholics Anonymous (AA) groups that have been formed in several parts of the country to deal with the alcohol problem.

The treatment in these health facilities is free of charge, except when drugs run out of stock and patients are requested to buy. At PACTA, 85% patients treated were recovering addicts. No statistics and time frame on rehabilitation was given in Gulu and Pader districts were obtained.

¹³⁸ n.133 above.

Treatment of alcohol addiction takes a minimum of 90 days, while for drugs it takes a total of 180 days. The treatment programme which starts off with motivational interviews, screening, psychiatric evaluation, life skills, one-on-one counselling. In addition, it has nutritional and experimental therapy as well as Alcoholics Anonymous (AA) and Narcotics Anonymous (NA) meetings. Continuous clinical assessments and post-treatment care are done for 16 days after release from the rehabilitation centre and thereafter resettlement. Clients are followed up by supervisors to check on their progress at least after a month.

However, these health facilities have challenges of unavailability of wards/ and beds for patient admission; and inadequate specialised health workers to deal with these addictions.¹³⁹

3.2.11.3 Role of parents/guardians /caretakers and the community

Article 31(4) of the Constitution provides that it is the right and duty of parents to care for and bring up their children. UHRC noted that in most cases children and youth are influenced by the behaviour of parents/guardians/caretakers and the surrounding environment in which they may find themselves in.¹⁴⁰ It is therefore the role of the parents/guardians/care takers to ensure that they do what is necessary to care for the children. There is need for them these parents and guardians to be sensitised on the fact that alcohol and drug addiction is a disease for which they seek treatment and to give support to their addicted children¹⁴¹ instead of abandoning them before, during and after the rehabilitation process.

The society has a general duty to protect children against all forms of abuse.¹⁴² This is a responsibility of every member including relatives of families, local leaders, religious leaders and other people having moral influence in a community.

When this role is neglected, those undergoing or have undergone rehabilitation suffer relapses because the environment to which they are exposed is not conducive¹⁴³ and the necessary measures/ or support that the patient needed needs is not provided. Relapses may also be due to stigma because of the inadequate information and sensitisation about alcohol and drug problem within the community.

UHRC noted some cases parents and guardians have played a supportive role to their children/ youth that are drug and alcohol abusers to prevent further harm to them, their families and communities.¹⁴⁴ Some parents/guardians have also opened up to the public so as to create awareness on the impact of drugs and alcohol on the community, families and individuals.¹⁴⁵



Posters on the dangers of consumption of alcohol by children, developed by Uganda Youth Development Link (UYDEL)

¹³⁹ The staff employed to work in Butabika Hospital include 1 Consultant (to work in the A&D unit); 1 General doctor, 2 Occupational therapists; 2 Psychologists; 2 Social Workers; 8 nurses; 2 Clinical Officers; 2 Volunteer counsellors. There are only 37 Psychiatrists in the country.

¹⁴⁰ Interview with B.T. a youth recovering from alcohol and drug abuse.

¹⁴¹ n.126 above.

¹⁴² n. 67 above, Article 17.

¹⁴³ Interview with Dr. Basangwa, ED, Butabika Hospital.

¹⁴⁴ n. 135 above.

¹⁴⁵ Joe Ibale's Story, 'Hooked' available at <https://vimeo.com/119831362> last accessed in January 2017.

a. Testimonies by former drug and alcohol addicts

There have been some success stories on treatment of illicit drug and alcohol abuse among youth and children in Uganda as testimonies of some of the affected youth show.

SN, a 23 year old narrates that:

"I was introduced to alcohol at home at a tender age. I used to drink beers with my mother and siblings. At the age of 15 years, my father passed on and my mother left to look for a better job out of the country. Communication between us and her was no more. My two older siblings had left and I was left with four of my young siblings to care for. I had friends where I would have meals but I reached a point when I could not eat their food anymore. I had to work. My friends took me to the streets in Wandegaya. I was drinking spirits (Uganda Waragi) and drugs (a mixture of mairungi, tobacco, kuber and other drugs). I used these substances because I wanted to please my friends. They also make us fearless. However, the first time I used them I lost control of myself. I was taken back to Katanga, where I was staying with other girls and I had to feed my siblings. Drugs became my food because it always made me calm. Out of this practice, I became pregnant, tried to abort in vain. I never liked the baby when I gave birth. When I came to the rehabilitation centre (Uganda Youth Development Link), I was introduced to life skills but I used to come with my Waragi and drugs. I received a lot of counselling but I would go back to the street. The counselling did not stop and I was open to share my story with the Centre leadership. As the programme continued, I was given peer leadership (to teach and counsel other girls) about life issues. There was no way I would go back to the street. I was now a teacher and I had to lead by example. I can now go home. I learnt to appreciate the life of my baby too. I am consulted and I am involved in decision making in the family. In 2016, my mother came back home in Uganda. I tried to talk to her about quitting alcohol. I have hope that she will soon abandon the vice. I have changed. Right now even though I pass in a place where they smoke drugs, I have no desire to have some. I am a woman of responsibility. I have acquired skills like catering, hair dressing, tailoring and jewellery making. I have also brought three of my friends to UYDEL and they are catching up with the programme very well."

CN, a 18 years old narrates:

"I started using alcohol and drugs when I was 15 years old. I was taking cocaine and mairungi. I started in a group which I joined because I wanted money. My group and friends were already used to drugs. I had dropped out of school because there was no money for school fees. My parents were upcountry. I had to come to Kalerwe, Kampala. There I got cocaine at UGX 3,000 and mairungi at UGX 1,000. Irrespective of the price, one can easily have some content to smoke. In order to get used to these drugs, I kept on using them and it became normal like food. I had no employment. The only thing I could do was prostitution. When I came to the rehabilitation Centre, I saw that life here was not going to be easy. I would report to the place when I am high sometimes. At times I would feel shy about other girls seeing me smoke. Through counselling and motivation lessons, teachers became my friends. I reduced cocaine intake. When one takes drugs, they become addicted. In order to recover, it is a step by step, slowly by slowly. My life has changed. The past is gone. I am a peer leader at UYDEL now. I am confident, have hope and see that my future is even brighter."

TB, a 23 year old narrates:

"I was introduced to smoking Marijuana by a friend. We were in the same school in S.2. My friend just encouraged me to be part of their group I started drinking alcohol on my own. It was out of curiosity. I tried several brands on many occasions and became addicted. Whenever I took drugs and alcohol, I would feel high (happy). These drugs and alcohol did not actually drive me to be violent. I used to take six tots of Coffee spirit and five sticks of marijuana. I never used to like food. I would drink and do drugs after class and during parties. The school I was in would do abrupt check-ups and one day I was caught. I was suspended and later went back. While there, I changed for a while but during holidays, I resumed alcohol and drugs"

because of boredom. I wanted something to occupy me. I used to smoke drugs and drink from the bar. My performance in class declined, I would skip preps. Smoking marijuana was not a daily routine but drinking alcohol was. Marijuana always made my fingers numb. My parents did not know that I was drinking all the while or taking drugs. I would even sneak some in the house. It was not until I fell along the way that they realized the problem. My teeth were affected. I was taken to the dentist and he sent us to Butabika Referral Hospital where I was admitted. When relatives got to know about this, they were concerned and supported us. Even family members and several doctors got involved to see me recover. I was admitted for about four months. I stopped taking Marijuana completely in 2013. On alcohol I relapsed. I take at least two tots, though not on a daily basis. I still go for review and I lost contact with my school friends intentionally. My prayer is to stop alcohol completely. I completed school. The best thing the youth can do is to say NO to temptation. It saves a lot of problems.”

3.2.11.4 School and Community Outreach and Sensitisation programmes

Advocacy activities on illicit drug and alcohol abuse have been introduced in schools around Kampala such as Kings College Buddo, Uganda Martyrs Secondary School Namugongo and Nabisunsa Girls School, which have expressed interest in the programmes. Other community outreach activities have been conducted by Butabika Hospital, rehabilitation centres using former addicts with support of affected families or parents. It should be noted that there are no specific national guidelines on the prohibition of alcohol and illicit drug use by children in line with the NDPSC Act and on how educational institutions are to deal with pupils or students that are alcohol and drug addicts.

At Gulu Regional Referral Hospital, an NGO ‘Children for Tomorrow’ that is attached to the mental health unit, educates children in the SOS children village and Gulu High School on issues related to mental health including alcohol and drug addiction. The Gulu District Health Office also has a programme ‘Min Latin Project’, which encourages parents and youth to engage in productive activities and take responsibility for their health. Some of these programmes are conducted via radios. Organisations such as Oasis and Worudet in Pader District also conduct outreach programmes for children and youth on the dangers of alcohol. Peace Clubs that were formed in the district to sensitise the youth, children and parents on societal issues that have human rights implications.



*(Left-Right) Community sensitisation by Anti-Narcotics Unit, Uganda Police Force
Sensitisation of youth on alternatives to drug use. Photo courtesy: Butabika Hospital*

The programmes are conducted together with mentoring offered by rehabilitation centres. Mentoring is critical prior to the reintegration of the patient to the family and community to avoid stigma and discrimination as well as patient relapse due to the environment. It is also important for easy detection and treatment of drug and alcohol addiction. However, the programmes face some challenges including inadequacy of funds for them to have more reach even through the media and the prevailing negative perception or ignorance of the community towards addiction related issues.

3.2.11.5 Criminal law enforcement

The Anti-Narcotics unit of the UPF was established to curb the rising crimes related to narcotics usage in Uganda. It has staff in districts of Uganda where drug abuse is high and on at every gazetted national border entry and exit crossing points of the country.

The abuse of drugs is steadily increasing in the country's urban centres mainly among growing middle class and students in secondary and tertiary institutions and some Ugandans are recruited as drug couriers to Asia and European countries. This is because drug trafficking is regarded especially by the youth, as a lucrative business since 1 kg of heroin for instance equivalent of UGX 33 million. In 2016, 33 offenders (8 females) were arrested for trafficking in drugs at Entebbe Airport, of which 13 were Ugandans. In other districts of Uganda, 103 people were arrested for possession of cannabis and 87 convicted for the same. The suspects and convicts were males aged between 24 and 35 years.

The increasing crime rate is partly attributed by the police to drugs although there is no conclusive statistics data available to link drugs to crime.¹⁴⁶ Uganda has been used as a transit route for drug trafficking due to weak laws and porous borders. It is expected that the enactment, awareness creation and implementation of the NDPSCA, its stiff penalties and restrictions will help curb this crime.

Efforts have been made to destroy gardens of farmers who have engaged in the cultivation of Marijuana. Narcotics operations were done in the districts of Busia, Manafa, Mityana, Wakiso and other places and hectares of gardens have been destroyed.¹⁴⁷ Plans were underway to roll out the operations throughout the country.



Cannabis gardens in Wakiso-Kakiri.



Police Officers destroying gardens of Cannabis.



Prisoners destroying gardens of cannabis.



Transportation of cannabis to the destruction grounds

Photo courtesy: Uganda Police Force

The challenges faced in law enforcement include: Inadequate equipment including a narcotics scanner at the Entebbe International Airport, which costs UGX 2 billion; lack of a central facility/incinerator for destruction of illegal drug exhibits in the country; inadequate coordination amongst responsible ministries, departments and agencies and inadequate facilitation of UPF staff, funds and logistical materials to conduct timely narcotics operations. Others include lack of prompt sharing of information amongst anti-narcotics departments in East Africa; diversion and lack of monitoring precursors; inadequately trained narcotics and customs officers; lack of information/sensitisation on the NDPSC Act and the list of prohibited drugs; lack of expertise in detection and investigation by customs officers and porous borders; lack of interagency coordination; and the lack of a policy on anti-drug trafficking problem.

¹⁴⁶ n. 104 above.

¹⁴⁷ Plans are underway to roll out these activities throughout the country.

3.2.12 Recommendations

In view of the foregoing analysis of the emerging issue of alcohol and illicit drug abuse, UHRC makes the following recommendations:

1. Ministry of Gender Labour and Social Development, Ministry of Health together with other responsible Civil Society actors should engage in massive public sensitisation programmes in schools, tertiary institutions, workplaces and communities on prevention, early detection, the harmful effects of alcohol and illicit drug abuse, treatment and rehabilitation.
2. Parents /caretakers should take up their responsibility to protect and counsel their children on the dangers of alcohol and drugs and to provide the necessary physical, emotional and financial support in circumstances where their children are addicts.
3. Ministry of Education Sports Science and Technology and Ministry of Gender Labour and Social Development should expeditiously develop school guidelines prohibiting alcohol and drug use by children in line with the National Drug and Psychotropic Substances Control Act, 2016 and detailing how to deal with pupils or students that are alcohol and drug abusers.
4. Ministry of Health should re-orient health workers (psychiatric nurses, clinical officers) situated at the regional referral and district hospitals on how to probe, identify, treat or refer drug and alcohol addicts to appropriate facilities while treating mental health cases.
5. Ministry of Health should develop and include indicators to obtain evidence based data on drug, tobacco and alcohol abuse and treatment within the health management information system (HMIS) and health facility registers.
6. Ministry of Health and the Ministry of Agriculture, Animal Industry and Fisheries should engage in public sensitisation and mobilisation on the importance of food security and the dangers of growing illicit drug crops/plants.
7. Ministry of Health and the Uganda Police Force should popularise and sensitise law enforcement and customs officers, judicial officers, Directorate public prosecutors and the public on the new National Drug and Psychotropic Substances Control Act, 2016 particularly its implementation and criminal sanctions.
8. Ministry of Health, Ministry of Trade Industry and Cooperatives and Parliament should table and enact the Alcohol Drinks Control Bill, 2017 that will repeal the outdated alcohol laws that currently regulate the sale, manufacture and consumption of alcohol such as the Enguli Act Cap 86, Liquor Act Cap 93 and Portable Spirits Act, 1995.
9. Ministry of Finance and Economic Planning and Development should allocate adequate funding to the Anti-Narcotics Unit of the Uganda Police Force to recruit and train anti-narcotics and customs officers to detect and investigate drug traffickers and purchase appropriate narcotics tracking equipment.
10. Ministry of Internal Affairs and Uganda Police Force should to put in place appropriate digital security tracking systems on all border entry for crime prevention purposes focusing on drug trafficking.
11. Ministry of Trade Industry and Cooperatives should establish an endowment fund of 5% from the alcohol beverages sold so that it can off-set the costs of prevention, rehabilitation, research, education and other costs associated with alcohol addiction.
12. Ministry of Trade Industry and Cooperatives and Uganda Communications Commission should put in place and enforce guidelines/directives for alcohol marketing industry and other businesses pertaining to public sale and advertisements of alcohol products within the vicinity of children.
13. Uganda National Bureau of Standards should monitor and regulate quality and quantity of alcohol production in the formal and informal sector.

3.3 HUMAN RIGHTS SITUATION IN THE POST-CORDON AND SEARCH DISARMAMENT IN KARAMOJA



31,943 small arms
and light weapons
recovered



70,579 rounds of
ammunition
recovered



115,000 heads of
cattle electronically
branded

3.3.1 Introduction

For many years, Government grappled with the challenge of recovering illegal guns in the hands of the population in Karamoja region, which were used in terrorising the area, making it extremely insecure and deterring all aspects of development. A number of disarmament strategies were employed, including providing incentives to the people to voluntarily hand over their guns; as well as forceful actions to compel them to do so or for the soldiers themselves to go for the guns that the people had.

The success of the disarmament programme went from slow and gradual to instant and remarkable as strategies changed; but some challenges also emerged resulting in violations of human rights. One of the most successful strategies was the 'Cordon and Search' but which also faced challenges with human rights observance that resulted in review of the operations. Through 'Cordon and Search' which predominantly involved use of force, a significant number of illegal guns were recovered, but in the process were violated.

Nonetheless, the biggest success of disarmament was the eventual pacification of Karamoja region with the security situation normalising and giving a chance to development programmes to set in. The end of the forceful disarmament: The post-cordon and search period saw government, the security agencies and the people implement new strategies for maintaining the peace and security as well as handle new challenges emerging in peaceful times.

UHRC has since inception closely monitored the Karamoja region, documenting the positive and negative developments and their implications on human rights; and participating in the efforts to bring peace, security and development to the once-neglected region of Uganda. In the same vein, UHRC monitored the situation in Karamoja region in 2016 assessing the development initiatives and the human rights situation in the post-cordon and search period.

This section presents the findings of UHRC assessment of the security situation in 2016, specifically focusing on the implications of the new strategy to end animal thefts in Karamoja codenamed the Nabilatuk Resolution of 2013; the development initiatives being implemented; human rights observance and challenges; and progress on specific recommendations on Karamoja that UHRC made in the previous 13th Annual Report. In view of the findings, a number of recommendations are also made to relevant stakeholders on enhancing respect and observance of human rights in Karamoja region. It is worth noting that some of the development interventions started much earlier than 2016, but a number of them were completed by the end of 2016.

3.3.2 Contextual background

The illicit manufacture, trafficking of firearms and their parts, components and ammunition; falsification, or illicit obliteration and removal of firearms are criminalised under international legal framework.¹⁴⁸ Article 5 of the United Nations Protocol against the Illicit Manufacturing and Trafficking in Firearms, their parts, components and Ammunitions as well as the United Nations Convention against Transitional Organised Crime (Protocol) are explicit on the prohibition. In spite of protocols, Karamoja region has experienced decades of armed cattle raids, internal conflicts and insecurity impacting on human rights and freedoms.

Article 6 provides for the preventive and recovery measures to be deployed in cases of small arms and light weapons including their various parts, components and ammunition falling in the hands of unauthorised persons which includes; seizure or confiscation and disposal. The Nairobi Declaration on the Proliferation of illicit small arms and light weapons in the Great Lakes Region and the Horn of Africa recognised the magnitude of the problem of proliferation of small arms that had sustained armed conflict, abetted terrorism and cattle rustling among others.¹⁴⁹

In fulfilment of requirements under the legal instruments, the Government of Uganda launched a voluntary disarmament programme in the Karamoja in February 2001. Government commitment was at the highest level with the launch ceremony being presided over by the then Vice President, Dr. Specioza Wandera Kazibwe.¹⁵⁰ This disarmament was the maiden process meant to be peaceful, voluntary, inclusive of every stakeholder, and with tokens of appreciation from government offered to those who would respond by freely handing in illegal guns.

This voluntary phase of government disarmament lasted from 2nd December 2001 till 15th February 2002 but did not even to collect 25% of the envisaged total between 20,000 to 50,000 illegal guns.¹⁵¹ By 4th January 2002, the total number of guns collected through voluntary disarmament was 6,518 in the entire Karamoja region.¹⁵²

A combination of poor gun collection; the escalation of the LRA conflict in Acholi region and Uganda's involvement in the conflict in the Democratic Republic of Congo (DRC) led to rearmament and increased insecurity thus complicating the voluntary disarmament process. In a period of eight months from January to August 2003, for instance the UHRC recorded a total of 71 cattle raids, loss of 114 lives and 10 victims of injuries¹⁵³.

Article 12 (2) (a) of the UN Protocol provides for co-operation and information sharing by member states on relevant information regarding organised criminal groups suspected of taking part in illicit manufacture, and trafficking of firearms and their components and ammunitions. In view of this, discussions on the escalating security incidents culminated into a review of the disarmament by various stakeholders and a forceful method of cordon and search was adopted.

The cordon and search was an approach subsequently adopted by the UPDF. A relatively peaceful method, the cordon and search involved targeting occasionally surrounding of a village or manyatta suspected by UPDF soldiers either in the wee hours of the morning or day time using the standard operating procedures (SOPS) were that applied in Karamoja. The police, LCs, local leaders and other stakeholders were required as a matter of procedure to be present during the process of the search. This was to ensure accountability and ownership of the process since it was only illegal guns, ammunitions and any military equipment targeted. Women and elderly were always released, while all suspected males were rounded up, arrested and detained in the military detachments until a gun was produced.

¹⁴⁸ Available at https://treaties.un.org/doc/source/RecentTexts/18-12_c_E.pdf (last accessed on 15 December 2016).

¹⁴⁹ Available at <http://www.smallarmssurvey.org/fileadmin/docs/N-Instruments/2000-Nairobi%20Declaration.pdf> Last accessed 13 December 2016.

¹⁵⁰ UHRC Special Report 2004: Searching for Peace and Human Rights, p.67.

¹⁵¹ As above.

¹⁵² As above, p.70.

¹⁵³ As above, p. 77.

By 2016, the security situation had improved tremendously with reduction in the number of animal thefts, road ambushes, and deaths in the Karamoja region as illustrated in the table below. The positive change in security over the last 5 years was a result of successful disarmament in which approximately 31,943 small arms and light weapons including 70,579 ammunitions¹⁵⁴ were recovered and properly disposed of through burning.

Table 3.3.1: Trends in security incidents from 2013 to 2016¹⁵⁵

Years	Killings using guns	Road ambushes	Animals stolen	Warriors killed	Warriors injured	Arms Recovered
2012	114	11	3,107	66	04	471
2013	81	01	2,685	44	02	191
2014	73	00	1,275	22	06	81
2015	60	03	1,237	12	04	48
2016	59	01	1,979	23	02	44

Source: UPDF 3rd Division Moroto

With the security situation improving in Karamoja sub region, leaving the major challenge as animal thefts, security agencies ended the cordon and search operations. However, they had to find ways of addressing the challenge of animal thefts. Consequently, a security meeting to discuss how to eradicate animal thefts was convened in Nabilatuk in Amudat District.

A mechanism was mooted that empowered security personnel to impound animals from suspected animal thieves until stolen animals were recovered. This mechanism is referred to as the 'Nabilatuk Resolution 2013'.

Unlike the cordon and search disarmament, implementation of Nabilatuk Resolution targets recovering animals and illegal guns if any. Peace committees in villages are required to surrender intelligence information on suspected animal thieves to security forces to ensure punitive action is taken by police and courts. The implementation of Nabilatuk Resolution has been questioned especially on the lack of respect for human rights and alleged violations perpetrated by both state and non-state actors, as discussed below in detail.

3.3.3 Security situation in 2016 from human rights perspective

By the end of 2016, the security situation in Karamoja had greatly improved with the recovery of approximately 31,943 small arms and light weapons together with 70,579 ammunitions; in addition to reduction in incidents of atrocities as shown in Table 3.4 above. UHRC learnt from UPDF 3rd and 5th Division that the biggest challenge remains animal thefts. The former 3rd Division Commander remarked expressed similar opinion in Nabilatuk that, *"the Karimojong have been stealing from themselves for the last one hundred years or so with no benefits."*¹⁵⁶ The need to address the challenge of animal thefts gave birth to the Nabilatuk Resolution discussed below.

3.3.3.1 Nabilatuk and Moruitit resolutions

The Nabilatuk Resolution, is a declaration premised on Karimojong traditional model of dispensing justice against errant elements in society who commit various crimes. The cardinal principle for the Karimojong traditional justice system is fair compensation to any aggrieved party, normally in many cases without fair appeal process even for grave criminal offences such as murder, rape and defilement.

¹⁵⁴ Lt Col Paddy Ankunda: Former UPDF Spokesperson at UHRC meeting with Commission members in 2014.

¹⁵⁵ UPDF 3rd Division Situational Reports.

¹⁵⁶ Brigadier Peter Elwelu, then UPDF 3rd Division Commander while addressing security meeting in Nabilatuk on April 22 2013.

It was adopted on 22nd April 2013 at an inter district security meeting of about 243 participants drawn from Moroto, Napak, Nakapiripirit, and Amudat districts within the jurisdiction of the UPDF 3rd Division. Security officials from the UPDF, UPF, District and Sub County Internal Security officers, district chairpersons, elders, local council leaders, religious leaders and the MP of Matheniko County attending the meeting.

The disarmament and peace process in the region was discussed as well as the challenges the security forces faced in executing their mandate. The meeting collectively resolved on a way forward that was documented into the Nabilatuk Resolution 2013 which condemns animal theft, rejects all illegal guns, embraces disarmament, and advocates for collective promotion of peace and exposure of culprits. It applies a system of cattle fines which is based on the formula: 1x2+1 whereby for every stolen cow, the culprit has to pay twice the number plus an additional one for the person who recovers the animals.

A similar resolution was replicated and adopted at Moruitit in Kaabong District and was being implemented in Kaabong, Kotido and Abim districts within the jurisdiction of the UPDF 5th Division.

a. Positive aspects of the Nabilatuk and Moruitit Resolutions

A number of positive developments have been attributed specifically to the implementation of the two resolutions as detailed below.

i) Helped in the tracking and recovery of stolen animals

The peace committees in the villages provided intelligence reports on culprits. These would then be arrested and prosecuted with the help of peace committees in order for communities to own the process. To isolate cattle thieves, a total of 115,000 heads of cattle had been electronically branded in different districts of Karamoja¹⁵⁷ by end of 2016.

ii) Deterred cattle raids

Unlike in the past when animals were raided in hundreds and thousands, raids reduced to cattle thefts of less than 10 animals usually for sale or consumption. Of the 1,979 cows that were stolen, 1,213 were recovered and returned to the rightful owners by close of 2016. The fear of the 1x2+1 cattle fine formula has been quite a deterrent among Karimojong.¹⁵⁸

In a Focus Group Discussion UHRC had with community members in Karita Sub County, Amudat District a participant conceded: "At first, we thought disarmament was bad since raiding was our way of life, but now we see that it is a good thing although there is nothing government has done to appreciate us."¹⁵⁹

iii) Promoted peace by tracing and exposing culprits in cattle thefts

Unlike in the past where a password: 'kimuk ekile' (cover the man) was used to conceal criminals, gradually the Karimojong started condemning insecurity brought about by wrong elements in the community whom they exposed. The UPDF improved its liaison and cooperation with the communities through public relations and Civil-Military Cooperation Centre (CMCC) officers. Similarly, throughout the entire process, a number of perpetrators of cattle thefts were identified, arrested and prosecuted in courts of law.¹⁶⁰

iv) Improved security of animals

The approach of protected kraals in addition to the enhanced border security led to improved security of animals.¹⁶¹

¹⁵⁷ F. Lowoth Okori: 'Achievements and challenges of the post disarmament in Karamoja,' at UHRC Annual Report Consultative meeting at Sheraton Hotel Kampala 2 February 2017.

¹⁵⁸ As above.

¹⁵⁹ Focus Group Discussion with UHRC at Karita in Kaabong District in 12 December, 2016.

¹⁶⁰ n.158 above

¹⁶¹ As above.

b. Negative implications of implementing the Resolutions

Despite the above achievements, there were negative implications associated with implementation of the resolutions, including:

i) *Punishment of innocent civilians*

The resolution encourages transfer of individual crimes to affected community members using blanket punishment on innocent relatives or members of the kraal where stolen animals are recovered. The suspects most times compulsorily pay for extra animals as stipulated in the fine of 1x2+1, moreover outside the normal court systems. Besides the culprits also face imprisonment in the courts of law.

ii) *Deprivation of property of innocent people*

The long periods that unclaimed animals were kept at the military detachments not only deprived their owners of animal products but also diverted security vigilance as military resources were put into looking after animals. This had the potential to be a source of insecurity.

iii) *Susceptibility to exploitation by parties*

The element of kinship among the communities was exploited sometimes to shield perpetrators of theft in many cases. Malpractices were also noted among local leaders who would fraudulently claim loss of animals and then distribute them to false claimants, besides inflating genuine claims from owners, with hope of getting extra heads of cattle.¹⁶²

iv) *Cross-border cattle thefts*

Other ethnic communities in areas bordering Karamoja region such as Teso, Sebei, Bugisu, Acholi and Lango sub regions are not party to the Nabilatuk Resolution, and as such, are not beneficiaries of its terms. Besides, some of the thieves are from South Sudan and Kenya but since they are not party to these resolutions, they cannot be subjected to the deterrent penalties provided.

v) *Source of tension and animosity*

Some sections of the Karimojong community whom UHRC interacted with in 2016, regarded the manner in which the resolution was being applied as discriminatory. In most cases, they felt it as a source of tension among community members. The DISO in Nakapiripirit told UHRC that: *"This Nabilatuk thing only creates tensions between the Pian and Pokot of Amudat, the way it is implemented."*¹⁶³ The Pokot from Amudat claim that when the Pian from Nakapiripirit steal their animals, they are not returned whereas when the Pokot steals from Pian, the recovery process and application of the resolution are more prompt.

vi) *A source of injustice*

The Nabilatuk Resolution may have inadvertently encouraged culprits who were released from detention to return to the community in the villages only to continue terrorising innocent villagers. According to a Local Council leader in Moruita Sub County, Nakapiripirit District, *"The suspects arrested were never convicted. This is because once they pay the fine, they are released and go back to terrorise"*¹⁶⁴

vii) *Cross-border cattle stealing*

The resolution did not apply to other pastoralists across the border in Kenya and South Sudan who are in possession of illegal guns. Local leaders interviewed felt that, the resolution should apply across the borders in Kenya and South Sudan. A local leader in Kaabong District told UHRC: *"The Turkana get away with theft, because the resolution doesn't apply to them."*¹⁶⁵

¹⁶² n. 28 above.

¹⁶³ Interview with Captain Emmanuel, DISO Nakapiripirit District at his office in December 2016.

¹⁶⁴ Interview with Hon. Lonye John: Councillor Moruita S/C, Nakapiripirit District held in December 2016.

¹⁶⁵ Interview with L. John Jujan: Assistant CAO Kaabong, in his office in Kaabong District held in December 2016.

3.3.4 Implications of the security situation on human rights observance and development in Karamoja

Government in conjunction with other partners started implementing the Karamoja Integrated Development Plan (KIDP) in 2011. Prior to that, the focus was mainly disarmament as Government implemented the Karamoja Integrated Disarmament and Development Programme (KIDDP), a mid-term development framework whose overall goal was to contribute to human security and development in Karamoja.

With the improvement in the security situation in Karamoja, which signified part of the success of KIDDP, the Government spearheaded by the Ministry of Karamoja Affairs (MoKA), channelled efforts into development interventions in the region. In the post-cordon and search period, Government implemented the KIDP in earnest, scoring some successes, but also still struggling with some challenges. UHRC commends the Government and its partners for the development efforts and investment in Karamoja region throughout the period of disarmament.

The changed strategy of disarmament, whereby it is no longer forceful like the cordon and search, but is intelligence-led coupled with the concurrent implementation of development interventions have resulted in realisation of a number of human rights. In monitoring the situation in Karamoja region, UHRC also assessed the progress made on implementation of recommendations made in its 13th UHRC Annual Report to Parliament. In the assessment, UHRC focused on the right to education, adequate and clean water, adequate standard of living, adequate food and freedom from hunger, as well as civil and political rights including the right to a fair and speedy hearing, freedoms of opinion, expression and movement, safety and security of person.

3.3.4.1 The right to education

Art 13(2)(a-b) of the ICESCR recognises the right of everyone to education which is provided to fully develop human personality, dignity and strengthen the respect for other rights and freedoms.¹⁶⁶

For the realisation of the right to education in 2016, the Ministry of Karamoja Affairs undertook the construction and rehabilitation of classrooms, dormitories, administration blocks, teachers' houses, kitchens, latrines and rain-harvesting facilities, in addition to solar power, beds, chairs, tables and water tanks. The interventions were aimed at improving on the availability of education which would also improve enrolment and retention in most schools for better results, especially for the girl-child.

Housing facilities were constructed or rehabilitated in various schools including 4 semi-detached housing units to accommodate 8 teachers in Moroto High School, 4 dormitories equipped with beds and solar lighting system in Lobalangit, Kacheri, Karita and Lolachat.¹⁶⁷ The second phase for the construction of 4 dormitories in Kamion, Kiru, Alapat Primary Schools and Moroto High School was ongoing. This was in addition to eight kitchens in Kopoth, Lobalangit, Alerek and Nakwakwa Primary Schools in the north and Kodonyo, Apeitolim, Karita and Lochat in the south. In April 2016, the Ministry commissioned 21 primary schools across the region that were rehabilitated with 11 million Euros from Irish Aid.

Nevertheless, availability of school facilities is not enough for the realisation of the right to education which requires that education is accessible, acceptable and of good quality. There were still some gaps that government needed to address. School enrolment in both primary and secondary schools in Karamoja, for example, was still way behind the two regions with the highest enrolment ratios in the entire country as shown in Tables 3.3.2 and 3.3.3 below.

¹⁶⁶ n. 51 above, Article 13(2)(a-b).

¹⁶⁷ n. 161 above.

Table 3.3.2: Comparative primary school enrolment for Karamoja from FY 2014/2015 to FY 2015/2016¹⁶⁸

	2014/2015			2015/2016		
Region	Girls	Boys	Total	Girls	Boys	Total
Buganda	981,282	1,0170,002	1,998,284	877,785	906,710	1,784,495
Busoga	487,851	497,677	985,528	441,143	451,121	892,264
Karamoja	76,606	57,834	134,440	75,414	57,400	132,814

Source: Education and Sports Sector Annual Performance Report FY 2015/2016

Table 3.3.3: Comparative secondary school enrolment for Karamoja¹⁶⁹

Region	2014/2015		2015/2016	
Buganda	Male	207,394	Male	188,936
	Female	214,620	Female	199,085
Busoga	Male	96,648	Male	89,533
	Female	82,026	Female	78,157
Karamoja	Male	6,716	Male	6,014
	Female	4,891	Female	4,352

Source: Education and Sports Sector Annual Performance Report FY 2015/2016

Other challenges were: Poor performance, low retention and completion due to absenteeism, lack of qualified teachers, Female Genital Mutilation/Cutting (FGM/C), famine, nomadism, low Universal Primary Education (UPE) funds ratio of approximately UGX 7,000 per child, inaccessibility of schools from villages, as well as early and forced marriages.¹⁷⁰ It was established that among the Pokot and Tepeth communities, as soon as a young girl undergoes FGM/C, they drop out of school and get married off thereafter.

Ik County had only 2 primary schools (Kamion and Lokwakaramoe) and 3 community schools (Lokinene, Kapalu, Usake) were established.¹⁷¹ UHRC also learnt that Amudat had a capacity gap of 28 teachers because out of the 131 required, only 108 were available. In addition about 80% of the teachers in the district were from outside; mainly from Sebei region. Only 3 teachers were indigenous Pokot.¹⁷²



Pokot Secondary School in Amudat District, is one of secondary schools opened during disarmament

¹⁶⁸ The Education & Sports Sector Annual Performance Report FY 2015/2016, p.88.

¹⁶⁹ As above, p.94-95.

¹⁷⁰ Interview with B. Luke Logiel: The DEO Amudat District Local Government during interviews conducted in his office on 13 December 2016.

¹⁷¹ Interview with Hon Longori Philips: The LC III Chairperson, Kamion S/C Kaabong District conducted on 12 December 2016.

¹⁷² n. 170 above.

3.3.4.2 The right to adequate clean water

The Constitution under the National Objectives and Directive Principles of State Policy XX and XXI, provides for the state obligation to provide basic medical services and promotion of good water systems among others. In the post cordon and search period in 2011 the Ministry for Karamoja Affairs in collaboration with the Ministry of Water and Environment (MWE) planned valley tanks in every parish to increase access to clean water for animals and human beings.

By close of 2016, a total of 80 valley tanks had been constructed in Karamoja's seven districts of Abim, Amudat, Nakapiripirit, Napak, Moroto, Kaabong and Kotido. Of these 43 were under KIDP, 23 under the Karamoja Livelihood Programme (KALIP) and 14 under the Second Northern Uganda Social Action Fund (NUSAF2). In addition, 5 valley dams were constructed with MoKA funding in collaboration with the MWE in the districts of Kaabong, Kotido, Abim, Napak and Moroto. Three of them are fully operational. Other water access points available include bore holes, piped water, and water ponds.



Arecek Dam in Napak District

However, this reported improvement of access to clean water from bore holes was negatively affected by outbreaks of water-borne diseases including Hepatitis E, Cholera and Diarrhoea in Napak and Nakapiripirit districts in 2016.

3.3.4.3 The right to health

Article 12(1)(2)(b) of the ICESCR recognises the right of everyone to enjoyment of the highest attainable standard of physical and mental health enhanced by a clean and healthy environment and hygiene.

In order to improve realisation of the right to health in the region, the first phase of upgrading Moroto District Hospital to a Regional Referral Hospital was completed in 2016. This phase involved expansion of the outpatient department, equipping the facility with ultra-modern medical equipment necessary for referral services and increasing staffing. Construction of staff housing units as well as psychiatric unit was on-going.



The section of Moroto Regional Referral Hospital Outpatients department that was expanded in 2016

In spite of this development, the challenge of inadequate equipment and drugs in health facilities, particularly health centre IIs in the region persisted. The region was still grappling with primary health care challenges with low latrine coverage; for instance, Amudat District was reported to have latrine coverage of only 4% and mostly in the town council.¹⁷³

In respect to the HIV/AIDS prevalence rate, Karamoja region at 5.3% remained lower than the national rate of 7.3%. Nevertheless, this was an increase from 3.5% recorded in 2006 for Karamoja region and this needs urgent attention. The former Moroto Town Clerk Mr Muzamil Akuma, attributed the increasing rates to the current peace in Karamoja following government's successful disarmament exercise.¹⁷⁴

3.3.4.4 The right to fair and speedy hearing

The Universal Declaration, the ICCPR and the 1995 Constitution, provide for the right to recognition everywhere as a person before the law and to equal protection by the law.¹⁷⁵ UHRC had in 2010 noted the inadequate presence of the Judiciary thus the recommendation to government to strengthen the Judiciary in Karamoja.

By 2016, access to formal justice institutions in Karamoja region had been increased with almost anyone able to access the available institutions like the UPDF, UPF, the LCs. There is a mini Justice, Law and Order Sector (JLOS) house in Moroto that houses core JLOS institutions from the region, but in general terms, the services of JLOS institutions including the Judiciary, UPS, DPP, and the MoJCA were still not equitably distributed. Amudat and Napak districts had no access to district prisons and courts and they still had to make do with Nakapiripirit courts and Moroto prisons.

By the end of 2016, the number of Grade 1 Magistrates had increased from 2 to 5 in the region. Five of the seven districts each had a Grade one Magistrate save for Amudat and Napak. Kotido and Moroto were now Chief Magisterial areas and increased from one before 2016. Furthermore, the Judiciary in 2016, gazetted Moroto to have a resident judge, although one was yet to be posted.

3.3.4.5 The right to an adequate standard of living for older persons

According to UN Principles for Older Person Article 1, recognises that older persons should have access to adequate food, water, shelter, clothing and healthcare through the provision of income, family and community support and self-help¹⁷⁶. UHRC noted that by 2016, the Government through the MoKA had completed the construction of low-cost housing units for the vulnerable people including older persons. The MoKA completed construction of 40 housing units in Acerer, Nakapelimen and Lorengedwat villages for the vulnerable households with the aim of improving their living conditions at *Ere* (meaning homestead or manyatta) level.¹⁷⁷ Despite this, some of the housing units have since been abandoned by older persons in favour of the traditional grass-thatched huts and rented out to other individuals because the beneficiaries claim they are much colder at night.

3.3.4.6 The right to freedom of movement

The Universal Declaration, ICCPR and the 1995 Constitution all provide for the right of everyone to freedom of movement.¹⁷⁸ In order to facilitate the realisation of this right in Karamoja region, the Government improved the road network. In partnership with China Road and Bridges Construction (CRBC) government completed the upgrading of 100kms Nakapiripirit-Moroto Road from murrum to bitumen in 2016. In addition, China Corporation and Construction Company (CCCC) started upgrading the Soroti-Moroto Road.

¹⁷³ Interview with Hon. Chelain Dorcus, the LCV Councilor for PWDs in Amudat District on 13 December 2016.

¹⁷⁴ Available at <http://www.monitor.co.ug/News/National/HIV-prevalence-rises-in-Karamoja-sub-region/688334-2450532-y0aww3z/index.html> (last accessed on 7 March 2017).

¹⁷⁵ Article 6 of the UDHR and Articles 14 & 15 of the ICCPR.

¹⁷⁶ Article 1 of the UN Principles for Older Persons 1991.

¹⁷⁷ n. 167 above.

¹⁷⁸ Article 13(1-2) UDHR, Article 12(4) ICCPR & Article 29(2)(a-b) of Constitution.

Nonetheless, there is need to improve the road network in the whole region including routes connecting Bugisu sub region, Lango sub region and Acholi sub region with Karamoja since they are sources of food supplies into Karamoja.



A tarmacked section along the Nakapiripirit - Moroto Road

3.3.4.7 The right to freedom of opinion and expression

The right to freedom of opinion and expression is provided for in the UDHR and the Constitution of Uganda. It entails receiving and imparting information and ideas through any media regardless of frontiers.¹⁷⁹ With the liberalisation of the communication sector, the whole of Karamoja region by 2016 was fully connected to modern communication media including mobile phones, mobile internet services and radios. As a result, every district has at least one private radio station except Amudat. Airtel, UTL and MTN are all operating in the region. In 2016, MTN the biggest telecommunication with the most reliable network in Karamoja upgraded data services into 4G and opened a customer service centre in Moroto town to ease the handling of customer care issues.

Despite the developments, Karamoja remained the only region without a television station.

3.3.4.8 Safety and security of persons

The Universal Declaration provides for everyone's right to life, liberty and security of person.¹⁸⁰ These rights were at great risk during implementation of the disarmament programme prompting UHRC to recommend in its 13th Annual Report to Parliament that the UPDF provides adequate protection to disarmed communities in Karamoja to reduce the vulnerability risk they were facing after losing the guns.

Forceful disarmament had negative human rights implications on the security of the Karimojong. A report released by International Organisation of Migration (IOM) in February 2014, revealed that more children from the Bokora community in Napak District were migrating compared to other communities. This was attributed to the successful disarmament from 2001 to 2008 among the Bokora which led to their increased vulnerability to cattle raids from neighbouring communities.¹⁸¹ Statistics showed that in 2003, the gun collection in the greater Moroto district that included Napak then was at 2,223 (1,554 in Bokora and 669 in Matheniko); Kotido 2, 864 (Dodoth 1,268, Jie 1,212, Labwor 384); Nakapiripirit 1,431 (Chekwi 506, Pian 577, Pokot 384).¹⁸²

However, in the post-cordon and search period, large parts of Karamoja remained largely peaceful in 2016, save some border areas that reported pockets of armed insecurity incidents some of them originating from across the border in Kenya where disarmament is yet to be undertaken. The insecurity in form cattle thefts, killings, destruction of properties and sexual violence among others, was perpetrated by both indigenous ethnic communities including Pian, Pokot, and Matheniko as well as foreign ones like the Didinga of South Sudan and the Turkana and Pokot of Kenya. Individual members of the security forces were on some occasions also accused of manipulating the existing ethnic prejudices to perpetrate violence.

¹⁷⁹ n. 142 above, Articles 19 and 29(1)(a) of the Constitution.

¹⁸⁰ n. 142 above, Articles 19 and 29(1)(a) of the Constitution.

¹⁸¹ IOM Report: "Child Migration from Karamoja," 2014 p.12.

¹⁸² n. 153 above.

This assertion above was corroborated by some residents interviewed by UHRC who stated: “The Pokot from Amudat still fear that after Museveni government, there may be attacks on Pokot by the Pian or Turkana.”¹⁸³ Similarly, a female youth from Namorulem village in Sakale told UHRC: “LDUs from Teso Sub Region come to attack the area, beat people, arrest and confiscate animals over small issues that can be handled by local leaders”.¹⁸⁴ Table 3.3.4 below shows the trend in numbers and the specific respondents for complaints of human rights violations reported to UHRC Regional Office in Moroto between 2012 and 2016.

Table 3.3.4: Trends in numbers and respondents for complaints to UHRC Moroto Regional Office from 2012 to 2016

Alleged Violation	Respondents in complaints of human rights violations per year														
	2012			2013			2014			2015			2016		
	UPDF	UPF	UPS	UPDF	UPF	UPS	UPDF	UPF	UPS	UPDF	UPF	UPS	UPDF	UPF	UPS
Torture, Cruel, Inhuman or degrading treatment	30	03	00	16	05	03	44	08	00	46	18	01	11	20	00
Deprivation of the right to personal liberty	07	01	00	05	09	03	04	06	00	20	13	00	01	16	00
Deprivation of property	00	03	00	01	00	00	01	01	00	14	01	00	01	06	00
Deprivation of life	07	01	00	02	01	00	01	01	00	05	01	00	02	01	00
Total	44	08	00	24	15	06	54	16	00	85	23	01	15	43	00

Although UPDF was registered as the top perpetrator of human rights violations from 2012 to 2015, there was a significant reduction in the number of complaints received to 15 in 2016. In comparison, complaints registered by the UPF increased from 08 in 2012 to 43 in 2016. Freedom from torture, cruel, inhuman degrading punishment or treatment featured as the highest human rights violation, followed by deprivation of the right to personal liberty.

The UHRC noted that regarding its recommendation on security, the UPDF established a number of protected kraals across the entire region which were guarded both day and at night thus improving the security of animals and enhancing border security.¹⁸⁵ With improved security of persons and animals, these kraals were eventually disbanded except where incidences of insecurity were still experienced in parts of Kaabong, Nakapiripirit, Amudat and Moroto.¹⁸⁶

The UPDF also recruited about 1,010 Local Defence Unit personnel in southern Karamoja (Amudat, Moroto, Nakapiripirit and Napak) under the command of UPDF and deployed in detachments within their communities. The role of LDUs was to work with peace committees to conduct awareness on peace, monitor the security in their respective communities as well as track and recover stolen animals.

To address cross-border insecurity, the UPDF and in collaboration with the Local Governments in the region recruited LDUs, deployed within border areas of Kenya and South Sudan, conducted foot patrols, as well as cross border meetings. As a result, in 2016, security officers arrested 12 suspects from Kotido and 10 others from Nakapiripirit.¹⁸⁷

¹⁸³ Interview with Hon. F Adams Kionga, LC V Chairperson Amudat in his office on 13 December, 2016.

¹⁸⁴ Interview with Ms. Loduk Joyce: Female youth and resident of Sakale parish, Nakapiripirit district Moroto on

¹⁸⁵ n. 162 above.

¹⁸⁶ Interview with Sgt. Ekwenyu Stephen, the CIMIC staff Moroto District, UPDF 3rd Division.

¹⁸⁷ Interviews with brigade intelligence officials at 405 Kotido and 407 Nakapiripirit Brigades.

Despite these efforts, cross border insecurity remained a key challenge partly because the Toposa and Turkana had not been disarmed.

3.3.4.9 The right to adequate food and freedom from hunger

Article 11 of the ICESCR guarantees the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions and fundamental right of everyone to be free from hunger.¹⁸⁸

In respect to livelihoods, UHRC recommended in the 13th Annual Report that the Office of the Prime Minister (OPM) implements the component of alternative livelihoods in the KIDDP. UHRC noted that Government and some NGOs have supported various groups with alternative livelihoods. After KIDDP the component was incorporated in the KIDP framework which emphasises community empowerment as a means of strengthening the capacity of households to produce sufficient food for consumption and sale of the surplus to generate income.

As part of the government efforts to improve food production at household levels in order to eliminate hunger and starvation, the following activities were undertaken in 2016.

a. Distribution of oxen and ox ploughs

A total of 7,600 oxen and 4,965 heifers were distributed to 9,825¹⁸⁹ households in Karamoja. A total of 4,250 ox ploughs¹⁹⁰ were distributed to farmers.

b. Distribution of quick maturing seeds

Through the Climate Change Adaptation Project implemented in the districts of Moroto, Napak, Nakapiripirit and Amudat, government distributed 13 metric tons¹⁹¹ of quick maturing adaptable seeds to Karamoja farmers in April 2016. By the end of 2016, Government had supplied 64 metric tons of cassava cuttings and potato vines and 4.5 ton of maize and beans.¹⁹²

c. Improving livestock breeds

30 local zebu heifers and 16 improved bulls (8 Sahiwal, 8 Boran) were provided to progressive farmers to improve livestock breeds.

d. Supply of goats to women and youth groups

A total of 750 improved goats were procured for fertilisation and the MoKA was in the process of procuring 500 improved He-goats to give to 10 farmers per Sub County to improve their breeds.

e. Distribution of hand hoes to mountain communities

A total of 14,000 hand hoes were distributed for cultivation to the IK and Tepeth living on the slopes of Morungole hills and Mount Moroto.

The UHRC noted with concern that in spite of these efforts the Karimojong communities continued to rely mainly on subsistence agriculture farming, livestock rearing, casual labour and recently small scale mining. Furthermore, UHRC noted the prolonged drought, resulting in poor harvests and subsequently hunger and starvation which persisted in 2016.

3.3.4.10 Detention of civilians in the army facilities

UHRC recommended in its 13th Annual Report that the Court Martial expeditiously tries suspects charged with the offences connected to the disarmament that was on-going and to reduce long periods of remand. UHRC established that arrests and detention of civilians in UPDF facilities have been minimal since 2012.

¹⁸⁸ n.166 above, Article 11(1).

¹⁸⁹ n. 177 above.

¹⁹⁰ As above.

¹⁹¹ As above.

¹⁹² As above.

In the inspections that UHRC carried out in 2016, a total of 79 detention facilities in the seven districts of Karamoja were reached. In the detention facilities comprising 66 police, 6 prisons and 7 UPDF, only Lolachat UPDF Battalion Qtrs' in Nakapiripirit district had 8 suspects of cattle theft detained for between 3 to 7 days.

In the other six military detention facilities, UHRC found that all civilians arrested by UPDF on offences relating to possession of illegal firearms were immediately handed over to police to be detained, charged, and prosecuted in civilian courts of law.

3.3.5 Human rights challenges still prevalent in 2016

The international, regional and national legal framework for human rights guarantees an array of rights and freedoms as well as state obligations for their realisation. These human rights instruments include the UDHR, ICCPR, ICESCR and the Constitution of Uganda. In spite of these guarantees, UHRC noted in 2016 that challenges still persisted in Karamoja region affecting the realisation of specific rights. The rights in question include: The right to an adequate standard of living; to health and well-being; and to security in the face of conditions that can increase vulnerability. Others are the right to life, liberty and security of persons;¹⁹³ to property;¹⁹⁴ and to education.¹⁹⁵ The challenges in respect to these rights were caused by disasters, cattle raids and invasions from across the border, land conflicts and inadequate human rights awareness, as discussed in detail below.

3.3.5.1 Vulnerability to risks of disasters including famine

Disasters such as floods, wild fires and perennial hunger still struck Karamoja in 2016. Floods hit Amudat Town Council where River Kanyangareng burst its banks and destroyed about 150 houses, including one classroom block of Pokot Secondary School.¹⁹⁶ There were no water harvesting mechanisms to tap floods whenever they occurred.

In Nakapiripirit and Napak districts wild fires destroyed household properties, manyattas and grass-thatched huts in Naoyaminit, Rapada, Cholichol and Lorengecorwa villages. In total, about 33 households were affected in one village alone. On the perennial hunger in Karamoja, although the OPM provided some relief food items, the district disaster management committees were non-functional and too poorly funded to give a quick response when disasters struck.



Wild fires in Naoyaminit village Napak District caused by bush burning

¹⁹³ n. 63 above, Article 9.

¹⁹⁴ n. 179 above, Article 237 (1) & Article 26)(1).

¹⁹⁵ n. 188 above, Article 13 (2)(d).

¹⁹⁶ Interview with Mr. Samson Emmanuel, a retired health worker, Amudat Town Council, Amudat District conducted in December 2016 at his home.

3.3.5.2 Cross-border safety and security of persons

UHRC noted that Turkana herdsmen from Kenya and Toposa or Didinga herdsmen from South Sudan crossed into Karamoja during dry seasons in search of pastures and water. In the process, they were accused of being involved in criminal activities and human rights abuses using their illegal arms. It is worth noting that the communities across the border with Karamoja were not disarmed of illegal guns, which increases the vulnerability of the Karimojong communities that were disarmed. According to police at Cheptapoyo in Amudat, the Nabilatuk resolution does not apply to the communities in Kenya, so the Turkana steal animals and run back.¹⁹⁷ From the interviews conducted with security officials, UHRC also learnt that a total of 28 cows were raided on 15th September 2016 from Nangolemoru village by the Didinga although they were later recovered by UPDF. Other villages like Opotpot and Nalemoru were equally affected by insecurity in Kaabong.¹⁹⁸

The issue of the vulnerability of disarmed communities to attacks from across the border remains a key challenge for safety and security of persons in Karamoja.

3.3.5.3 Access to land rights

Karamoja region was grappling with land conflicts in 2016, including conflicts over some mining areas in Ratta village (Rupa Sub County) operated by DAO Africa Ltd, and at Tapac Sub County under Tororo Cement Ltd. However, fraudsters were reportedly leasing land on behalf of the community members compromising the principles of free, prior, and informed consent that should have been enjoyed by land owners. Other land conflicts included one between UWA and local community in Loborokocha in Karita, Amudat; the border dispute in Amudat and Nakapiripirit at Komacharin, Amudat and Bukwo at Moruakorok, Lodiko Sub County and Kaabong West, Ik County and Kaabong West, Kaabong DLG and Kotido DLG, Abim and Otuke, Abim and Kotido, Abim and Napak, Napak and Katakwi, Rupa Sub County and Katikekile Sub County, and several other individual conflicts.

The land conflicts normally caused violations like torture; and challenges like the closure of social infrastructure such as Loborokocha Primary School, fraudulent surveys, and denial of grazing rights,¹⁹⁹ among others.

The land ownership system in Karamoja as is in most rural areas of Uganda is customary tenure. The complex nature of land registration in Uganda was technically inhibiting to the poor customary land owners most of whom could not understand the technicalities of obtaining certificates of title. Besides, the distance to Kampala to carry out the search at land registry was another hindrance.

3.3.5.4 Inadequate awareness and empowerment

UHRC had recommended that the UPF invests in community policing in order for the local community to be sensitised and involved in keeping law and order. This was because of the general lack of awareness about human rights and duties. However, this challenge persisted in 2016.

The UNDP conducted various peace education activities to an unspecified number of community members in Moroto and Amudat districts, as well as back to school campaigns in conjunction with District Community Development Offices (CDOs) offices, NGOs, RDCs, and the health education department. People were sensitised on security as well as gender based violence.

In spite of the various community sensitisation programmes conducted by various organisations, Karamoja still remained with the lowest education rates in Uganda, with only 6% of women and 12% of men literate, compared to 67% which is the national average.²⁰⁰

¹⁹⁷ Interview with AIP G Epalitali: O/C Cheptapoyo police post Amudat held on 13 December 2016..

¹⁹⁸ Interview with Capt. A Sebi Kheli, Commanding Officer Karenga at the detachment on 10 December 2016.

¹⁹⁹ Information received from a focus group discussion held in Karita Trading Centre on 13 December 2016

²⁰⁰ Available at https://www.concern.net/sites/default/files/media/page/harambee_silkprojectni2015-2016.pdf (last accessed 8 March 2017).

Regarding community policing, the UPF has a structure at the regional, district, police stations and posts comprising the Regional Community Liaison officer, District Community Liaison officer, and officers in charge at the police stations and posts. All the community policing officers were trained in human rights and customer care.²⁰¹ The public was involved in community policing through crime preventers and peace committees whose role was to create awareness on law and order and assist in identification and arrest of suspected offenders.

Despite these structures, community policing was affected by lack of funds and other logistics like transport to effectively do their work.

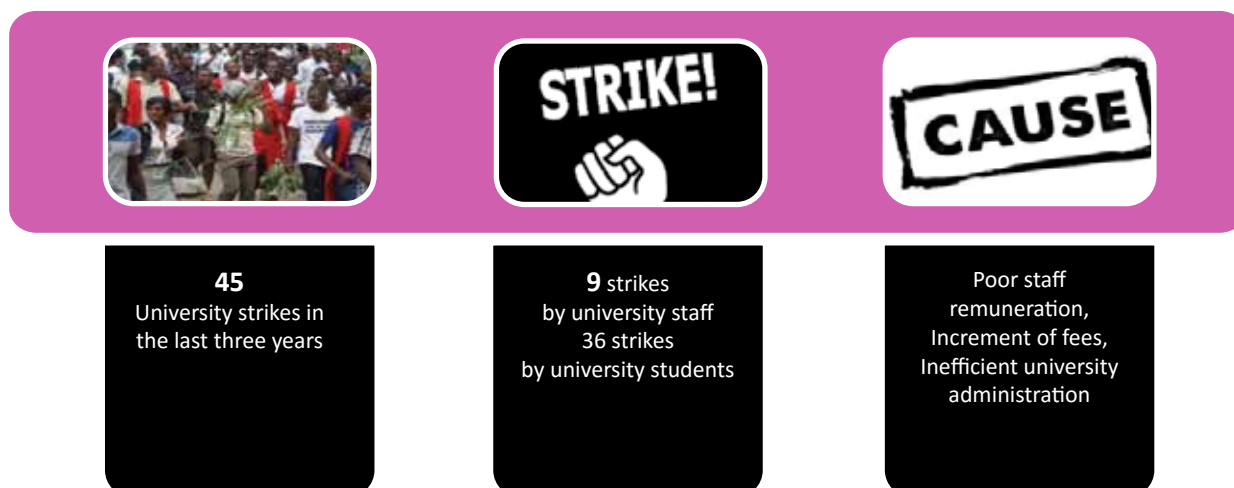
3.3.6 Recommendations

In view of the aforementioned, particularly the persisting human rights challenges in the region, the UHRC recommends the following:

1. Ministry of Defence through the Uganda Peoples' Defence Forces should design a strategy and embark on a countrywide disarmament exercise beyond Karamoja region in order to get rid of all illegal guns and reduce lawlessness.
2. Ministry of Foreign Affairs together with Ministry of East African Affairs through the East African Legislative Assembly should lobby the governments of neighbouring countries to also implement disarmaments programmes.
3. Ministry of Lands, Housing and Urban Development in conjunction with Uganda Lands Commission should institute affirmative action for the pastoral communities in Karamoja by opening lands registry offices in the region to simplify land registration process.
4. Ministry of Gender Labour and Social Development in conjunction with the Office of the Prime Minister should continue supporting the Youth Livelihoods Programme, women empowerment programme to sustain alternative livelihoods for the vulnerable groups in Karamoja including the youth, women, and farmers.
5. Ministry of Disaster Preparedness in conjunction with Office of the Prime Minister should ensure sustainable implementation of Climate Change Adaptation as spelt out in the development goals.
6. Ministry of Water and Environment should design water harvesting systems for Karamoja so as to facilitate irrigation and/or mitigate the effects of floods.
7. Parliament of Uganda should review the Karamoja Development Agency Act, 1987 through effective participation of the people of Karamoja to ascertain and ensure its relevance to the current needs of the Karimojong people.

201ACP, Aruk Richard Maruk, the RPC, Mt Moroto Region interviewed in his office on Monday 16 January 2017

3.4 HUMAN RIGHTS IMPLICATIONS OF STRIKES IN UNIVERSITIES IN 2016



3.4.1 Introduction

The International Labour Organisation (ILO) defines strike action as one of the fundamental means available to workers and their organisations to promote their economic and social interests.²⁰² It is the most visible and controversial form of collective action in the event of a labour dispute and is often seen as the last resort of workers' organisations in pursuit of their demands. Such, a strike can also be referred to as an industrial action.

On the other hand, a student strike is generally perceived as a protest in educational institutions that takes the form of a range of activities to express dissatisfaction with a given issue with the hope that a solution would be found.²⁰³

Between 2015 and 2016, UHRC noted that over 20 strike actions took place in institutions of higher learning. These actions were organised by both the academic and non-academic staff associations/unions of universities and students. UHRC was concerned that the strikes were recurring and consequently their negative effects also persisting.

In view of this, UHRC carried out monitoring visits to 18 public and private universities in Uganda with a view of establishing the root causes of strikes and their human rights implications. UHRC conducted in-depth interviews with university students, representatives of trade unions and associations of the affected university, teaching and non-teaching staff, students unions and officials of the Ministry of Education, Sports Science and Technology.

This section therefore presents the UHRC findings on the nature and causes of strikes that occurred in 2016; their resultant human rights implications; and what should be done to address the situation. Some of the effects noted included: Disruptions of the academic programmes and the normal learning process; closure of the institutions and the consequent unnecessary extension of the students' study period; poor relationships between university staff and management; as well as between lecturers and students; and destruction of property and injury to persons.

UHRC was concerned that the effects of the strikes could be even more severe and lead to a decline in the quality of higher education in Uganda compared to other countries. In addition, UHRC noted the recurrent nature of the strikes within the universities and made recommendations for tackling the root causes so that they do not recur.

²⁰² The right to strike, Chapter 5, The Substantive provisions of Labour Legislation, International Labour Organisation, Available at <http://www.ilo.org/legacy/english/dialogue/ifpdial/llg/noframes/ch5.htm>, Last accessed on 12 December 2016.

²⁰³ Student Strikes in Uganda, 16th Annual Report, Uganda Human Rights Commission, Uganda, 2013.

3.4.2 Legal and policy framework

3.4.2.1 International framework

Article 8(d) of the ICCPR provides for the right to strike as long as its exercise is in conformity of the laws of the country. Article 13 of the ICESCR covers the right to education comprehensively including aspects on quality of education and the continuous improvement of the material condition of teachers.

In line with this, General Comment 13 of the Committee on Economic Social and Cultural Rights provides interpretation of Article 13 explaining that for the right to education to be fulfilled, there must be functional educational institutions, including well-trained teachers receiving domestically competitive salaries.²⁰⁴ Furthermore the Report of the UN Special Rapporteur on the Right to Education noted the need for a holistic approach to realising the right to education. He argued that a well-qualified, motivated and well-looked-after teaching force was a central aspect of this holistic conceptual framework.²⁰⁵ He recommended giving teachers the necessary ability to impart knowledge, values and skills, and valorising their status as the means to achieving quality education.

The recommendation concerning the Status of Higher Learning Teaching Personnel which was adopted on 11th November 1997 provides a normative framework on issues related to higher learning institution staff. It is not legally binding but it is a resource that has been utilised by some governments to develop national policies, programmes and practices concerning both academic and non-academic staff in institutions of higher learning. This instrument specifically highlights the rights, freedoms, duties and responsibilities of higher learning academic and non-academic personnel. It sets standards concerning security of employment, discipline and dismissal, salaries, health and safety, and leave days amongst other things.

In relation to realising the right to education, the SDG 4, on ensuring inclusive and quality education for promotion of lifelong learning; and its Target 4 which stipulates that states substantially increase the supply of qualified teachers, are instructive. They have provided that this could be achieved among others through international cooperation for teacher training in developing countries, especially least developed countries and small island developing states by 2030.

The freedom of association, assembly and demonstration which are core associated rights related to strike action are provided for in Article 19(2), Article 21 and 22(1) of the ICCPR respectively.

3.4.2.2 Regional framework

The ACHPR in Article 17 briefly provides for the right to education. The African Commission on Human and Peoples Rights to some extent interpreted Article 17 of the Charter in the case of *Free Legal Assistance Group, Lawyers Committee for Human Rights, Union Interafricaine des Droits de l'Homme, Les Témoins de Jehovah versus DRC*.²⁰⁶ In this case, the African Commission on Human and Peoples Rights held that Article 17 of the Charter guarantees the right to education. It further held that the closure of universities as described in the case constituted a violation of Article 17.

Article 9 of the ACHPR provides for every individual's right to freedom of expression while Article 10(1) and 11 provide for every individual's right to freedom of association and assembly.

The principles and guidelines on the implementation of economic, social and cultural rights in the ACHPR, provides more guidance in respect to the Right to Education. Paragraph 71 (c) of the guidelines suggests the development of continuing education for teachers.

²⁰⁴ General Comment 13, The Rights of Education, Committee on Economic, Social and Cultural Rights, 21st Session, 8 December 1999.

²⁰⁵ Singh Kishore, "Normative Action for quality education", Report for the Special Rapporteur on the Right to Education, Human Rights Council, 20th Session, 2nd May 2012.

²⁰⁶ Case No 25/89-47/90-56/91-100/93, decided on 4th April 1996. The relevant Communication (100/93) was submitted by the Union interafricaine des droits de l'Homme on 20 March 1993. It made allegations that the universities and secondary schools had been closed for two years.

The Pretoria Declaration on Economic, Social and Cultural Rights in Africa 2004, under the auspices of the African Union calls for continued education for education instructors including education on human rights and the continuous improvement of the conditions of work of teaching staff.

3.4.2.3 National legal framework

Article 29 of the 1995 Constitution provides for the protection of freedom of expression and assembly which encompasses the freedom to demonstrate together with others peacefully and unarmed. Article 30 provides for the right to education whereas Article 40 (3) (b) enjoins Parliament to enact laws that, among others provide for the right of every worker to join or form a trade union of his/her choice and the right to collective bargain and representation.

The Labour Union Act 2006 seeks to maintain and improve working conditions and raise the economic status of the employees through the creation of unions. The Act recognises the right of workers to organise themselves in labour unions including their ability to withdraw their labour and take industrial action. The Act also provides for the creation of unions that could advocate for the observance of employees' rights. To this end, there are a number of unions that teaching and non-teaching staff belong to such as the National Union of Educational Institutions and the Public Universities Non-Teaching Staff Executives Forum.

The Labour Disputes (Arbitration and Settlement) Act 2006 created the Industrial Court which has the mandate to arbitrate in labour disputes referred to it by the labour officer. Specifically, the Industrial court adjudicates upon questions of law and fact arising from the referred cases. The Act provides for the right of an employee to be involved in lawful discrimination against unionised employees and also recognises the right to collective bargaining.

The Universities and other Tertiary Institutions Act, 2001 streamlines the establishment and administration of universities and institution of higher learning in Uganda. In addition, it has provisions concerning the administration of teaching and non-teaching staff in such institutions, like their appointment and dismissal.

3.4.3 The right to strike

The Black's Law Dictionary defines a strike as an 'act of a body of workmen employed by the same master, in stopping work all together at a prearranged time, and refusing to continue until higher wages, or shorter time, or some other concession is granted to them by their employer'.

Therefore, with striking, some sort of harm is caused to one party. In a university, for instance, when a strike action takes place orchestrated by the staff, it results into economic harm for the university and students. One could conclude that harm and strike go hand in hand. As such, this is an unusual type of "right" because it is essential for the exercise of the right that intentional damage is inflicted on another party.

There is no explicit textual protection of the right to strike in the main legal instruments of the ILO, which is the authoritative and expert international body for labour standards. There is no mention of the right to strike in the ILO Convention 87 and 98.²⁰⁷ However, there is implied and decisive evidence that indeed the right to strike can be properly recognised as a fundamental right internationally and nationally.

There are close connections between the protection of individual strikers and fundamental human rights. If for instance, the government decides to take coercive measures against individual strikers, it would most likely violate their freedom from torture, inhuman and degrading punishment.

²⁰⁷ Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

In addition, there is a growing body of national jurisprudence and convergence on recognising the right to strike. The Supreme Court in Canada has recognised the right to strike in the case of *Saskatchewan Federation of Labour v. Saskatchewan*²⁰⁸, stating that the right to strike instantiates the values of dignity, autonomy and equality of workers and is an essential part of a meaningful collective bargaining process in the system of labour relations. This has been reflected in similar protection by the European Court of Human Rights under Article 11 of the European Convention on the Protection of Fundamental Freedoms and Rights.

Collective bargaining is widely recognised as a fundamental human right within the ILO Convention 87 and 98,²⁰⁹ both of which Uganda is a signatory to. The right to strike is a necessary counterpart and component of the right to collective bargaining.²¹⁰ Therefore, the right to strike can be regarded as a fundamental right as it is instrumentally linked to the right to collective bargaining which is widely recognised as a fundamental human right in international and national human rights law. Furthermore, the ICESCR explicitly provides for the right to strike. Within the Ugandan context, the Constitution provides for the right to collective bargaining which is operationalised within Section 3 of the Labour Union Act 2006.

3.4.4 Nature of strikes in universities

For the past four years, UHRC has monitored strike action at different universities and established that they are widespread and rampant in nature, a fact that it has raised concerns about. UHRC noted that the strike action affected both public and private universities and was planned and carried out by academic staff, administrators, support staff and students. In some instances, the strike action was irresponsibly carried out and resulted into violence. Table 3.4.1 below summarises the UHRC findings on the nature of strikes.

Table 3.4.1: Nature of strikes at universities over the past three years

Period		Actors involved in the strike	Reasons for the strikes
1	November 2016	Students at Makerere University	Lack of lectures due to striking lecturers
2	October 2016	Students at Kampala University	Non-functioning computer laboratory absence of text books in the library absence of lectures Poor learning environment (classes in tents)
3	September and October 2016	Makerere University academic staff	Arrears in incentive payments
4	September 2016 and May 2016	Medical interns from various universities	Cumulative unpaid allowances.
5	August 2016	Public Universities Non-Teaching Staff Executive Forum	Non-payment of arrears of enhanced salaries
6	August 2016	Students at Mutesa 1 Royal University	Poor feeding No lectures due to unpaid teaching staff. Lack of financial accountability Poor state of the campus grounds
7	August 2016	Students at Mbarara University of Science and Technology	Delayed release of living allowance Retake policy that requires students to pay UGX 200,000 for each paper repeated

²⁰⁸ [2015] 1 SCR 245, 2015 SCC 4 (CanLII) - The case concluded that the right to strike is an essential part of a meaningful collective bargaining process in the system of labour relations. That right is not just a derivative of collective bargaining, but an indispensable component of that right. Striking is the “powerhouse” of collective bargaining. Where good faith negotiations break down, the ability to engage in the collective withdrawal of services is a necessary component of the process through which workers can continue to participate meaningfully in the pursuit of their collective workplace goals.

²⁰⁹ The ILO Tripartite Committees of Freedom of Association and Committee of Experts have recognized the right to strike under ILO Convention 87 especially Art 3 and 10.

²¹⁰ n. 208 above.

Period		Actors involved in the strike	Reasons for the strikes
8	July, August, and October 2016	Kabale University academic staff, administrators, support staff and students	Delayed payment of salaries Lack of appointment letters. Alleged mismanagement of university funds.
9	May 2016	Students at Ndejje University	Proposed 10 per cent tuition increment across all courses Increased administrative fees
10	April 2016	Students at Uganda Christian University	Tuition and other fees increment.
11	April 2016	Students at Makerere University	Decision to scrap off certain programmes including Bachelor in Ethics and Human Rights
12	April 2016	Students at Kyambogo University	Delay of the release of their results Lack of payment during internship.
13	March and May 2016	Students at Gulu University	Lack of lectures Delayed release of previous semester exam results
14	March 2016	Students at Makerere University	Annulment of presidential guild elections.
15	March 2016	Students at Busoga University	Lack of lectures due to striking lecturers. Increase in tuition fees.
16	February 2016	Students at Makerere University	The arrest of Dr. Kizza Besigye
17	November 2015	Students at Nkumba University	Increase in retake fees Missing exam
18	October 2015	Students and staff of Kyambogo University	Lack of chairs in lecture halls and rooms. Delayed allowances
19	October 2015 and May 2016	Students at Makerere University	New policy to pay 100% tuition fees within the first 6 weeks of the semester
20	August 2015	Makerere University administrative staff	Demand for enhanced salary in line with academic counter parts
21	June 2015	Students at Makerere University	Delayed payment of internship allowances
22	April 2015	Students at Islamic University in Uganda	Misunderstanding that arose during a football match between the students and warden
23	March 2015	Students at Makerere University	Demand for payment of special faculty allowance for government sponsored students
24	March and June 2015	Gulu University Academic staff	Delayed payment of allowances
25	February 2015	Kumi University Academic staff	Non-payment of salaries of up to 6 months
26	November 2014	Students at Nkumba University	Increased fees on retakes Missed exam papers
27	November 2014	Students at Ndejje University	Increased charges for late clearance.
28	November 2014	Students at Makerere University	Increment of the graduation fees
29	October 2014	Students at Makerere University Business School	Decision by University authorities to scrap over 30 courses

Period		Actors involved in the strike	Reasons for the strikes
30	October 2014	Students at Busitema University	Reduction of project fee from UGX 450,000 to UGX 350,000
31	October 2014	Students at Nkumba University	Poor diet of posho, Matooke, peas and beans
32	July 2014	Students at Makerere University	Return of meals to students in halls of residence
33	August 2014	Students at Mutesa 1 Royal University	Poor sanitation Lack of text books Dilapidated buildings Failure to pay lecturers salaries
34	May 2014	Gulu University Academic Staff Association	Delayed payments
35	May 2014	Makerere University academic, administrative and support staff	Poor pay; demand for 100% salary increment
36	April 2014	Students at Mbarara University of Science and Technology	Poor hygiene and sanitation in toilet facilities
37	April 2014	Students at Makerere University Business School	Delayed results of the previous semester Delayed issuance of identification cards for the first year students Delayed internship allowance
38	April 2014	Government sponsored students at Gulu University	Delayed allowances
39	March 2014	Students at Islamic University in Uganda	Allegations of rigged guild elections
40	December 2013	Students at Kumi University	Resignation of the University Vice Chancellor, Dr Kim Young who was moving back to South Korea.
41	November 2013	Kyambogo University staff and students	Demand for resignation of the Vice Chancellor
42	November 2013	Students at Makerere University Business School	Students being stopped from doing coursework and tests unless they had paid 100% tuition fees.
43	September 2013	Students at Kyambogo University	New policy to pay 100% tuition fees and functional fees within the first 6 weeks of the semester
44	August 2013	Makerere University academic Staff	Demand for 100 per cent salary increment
45	May 2013	Students at Mulago School of Nursing and Midwifery	Lack of electricity for 10 months Poor sanitation

3.4.5 Causes of strikes by university staff

The strikes that occurred in 2016 that involved university staff were organised through the university staff associations and unions, such as the Makerere University Academic Staff Association, Makerere Staff Administrators Association, Gulu University Academic Staff Association, the Public Universities Non-Teaching Executives Forum amongst others.

3.4.5.1 Issues related to salary payments

a. Delayed/lack of salary payments

Section 41 of the Employment Act provides that wages shall be paid to the worker entitled to payment; consequently, non-payment of a salary would be in breach of the law. It was reported that some of the strikes of 2016 were attributed to a lack of salary payments or rather, delayed salary contrary to Section 41 of the Employment Act.

This was the case at Kabale University, which became a public university in June 2016. By the last strike action of the University Academy Staff Association in October 2016, the lecturers had not been paid a salary for 8 months for the full time lecturers and 2 years for the part-time lecturers. The last strike of both staff²¹¹ and students²¹² culminated into the closure of the university when police using teargas and bullets dispersed the strikers. The closure of the university also led to the postponement of a planned graduation ceremony. Strikes for similar reasons had previously taken place at the university in August and July 2016. UHRC was informed that the association had attempted to engage the University Council prior to the strike in vain.

b. Non-enhancement of salaries for non-academic staff.

On August 3rd 2016, the non-teaching staff of a number of public universities including Makerere University, Kyambogo University, Gulu University, Makerere University Business School, Muni University, Busitema, Mbarara University of Science and Technology, commenced an industrial action that lasted 19 days.

The genesis of this strike was in 2015, when the government increased or enhanced the salaries of academic staff but did not unilaterally enhance the salaries of the non-academic staff. Before the enhancement of the academic staff salaries, the payment of university staff was administered by a single-spine salary structure, which had been brought into operation following an extensive review by a Commission led by Professor Ominde in 1980. Following the review, other salary review commissions/committees including the Sezi Mbaguta Committee, and the Omaswa Task Force recommended the maintenance of the single spine salary structure.

With the single-spine salary structure, both academic and non-academic staff receive the same amount of money irrespective of their responsibilities as long as they are at the same pay grade. At Makerere University for instance, a lecturer would be at pay grade Level M6.1. The minimum qualification for a lecturer at Makerere University is a PHD. An assistant registrar or an accountant (who is a non-academic staff) would be at the same pay grade of M6.1. The minimum qualification for such a post is a degree. Tables 3.4.2, 3.4.3 and 3.4.4 below demonstrate the single-spine structure for Makerere University prior to the enhancement of the academic staff salary in 2014; after enhancement in 2015/16; and the structure in 2016 respectively.

Table 3.4.2: Staff salary structure of Makerere University before 2014

Job Role	Pay grade Level/ Salary Scale	Academic Staff Non Scientist	Academic Staff Scientist	Non Academic Staff Non Scientist	Non Academic Staff Scientist
Lecturer/ Assistant Registrar/ Accountant	M 6.1	2,552,481	3, 061,214	2,552,481	3, 061,214

Following the enhancement of the salaries of academic staff beginning FY 2015/16, the salaries as demonstrated above changed.

²¹¹ The strike action included forming picket lines, switching off the university generator.

²¹² The students were striking because the lecturers had not been teaching for over one month.

Table 3.4.3: Staff salary structure of Makerere University for FY 2015/16

Job Role	Pay grade Level/ Salary Scale	Academic Staff	Academic Staff	Non Academic Staff	Non Academic Staff
		Non Scientist	Scientist	Non Scientist	Scientist
Lecturer/ Assistant Registrar /Accountant	M 6.1	4,210,889	4,652,080	2,552,481	3, 061,214

As demonstrated in the above tables, the increase in academic staff salaries in 2015/16 was by 100%, yet the salaries of non-academic staff remained the same. The non-teaching staff that UHRC interacted with including the representatives from the Public Universities Non-Teaching Executives Forum and the National Union of Educational Institutes claimed that the enhancement of the salary of academic staff alone was not informed by a scientific consultative study or research yet the creation and operationalisation of the single spine structure was as a result of a scientific study by the Ominde Commission. By implication, enhancing the academic staff salary without enhancing that of non-academic would be deviating from the single-spine salary structure.

In addition the non-academic staff asserted that minimum qualifications should not have been the only criterion to be considered in establishing a pay grade. Other factors such as years of experience, hours of work and responsibilities held needed to be considered. As such, from 2015, the non-academic staff through their association of the Public Universities Non-Teaching Executives Forum (PUNTEF) engaged the government and parliament about matching their salaries to their academic counterparts. When this was not forthcoming, they went on strike in August 2016.

By the time of compiling this report, UHRC had ascertained that indeed the government had agreed to retrospectively enhance the salaries of the non-academic staff to match the academic staff from 2015. The non-academic staff were promised arrears of their enhanced payments from 2015 some of which were paid in the 1st quarter of FY 2016/17.

Despite settlement of this grievance, UHRC was concerned that the enhancement of the non-academic staff salaries was not a significant percentage and was yet to be equally set for the academic staff counterparts within the same grade. UHRC noted that this had the potential of being a basis of future strikes. Using the above example, the payment of salaries in 2016 after the enhancement of both categories of staff stood as follows:

Table 3.4.4: Staff salary structure of Makerere University of 2016 after enhancement across the board

Job Role	Pay grade Level/ Salary Scale	Academic Staff (Non-Scientist)	Academic Staff (Scientist)	Non Academic Staff (Non-Scientist)	Non Academic Staff (Scientist)
Lecturer/ Assistant Registrar/ Accountant	M 6.1	5,705,888	6,126,777	2,853,214	3, 378,126

The above table clearly demonstrates a continued disparity between academic and non-academic staff on the same pay grade. UHRC was concerned about the continued apparent feeling of discrimination among the non-teaching community and its potential for fuelling future industrial action.

The non-teaching staff associations thus expressed their feeling of dissatisfaction as demonstrated in the quotes of some members below:

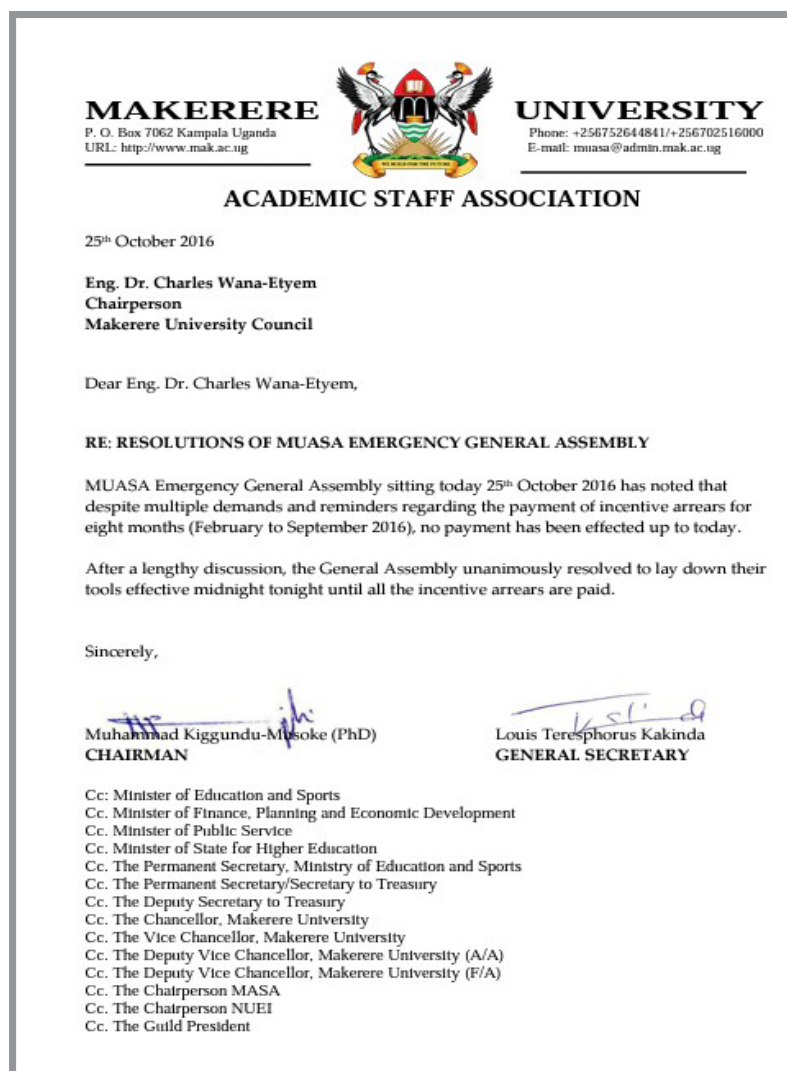
“The government should stop disrespecting non – teaching staff. The law is clear. We are an integral part of the government. We should be treated as such. We should be equally treated. The government looking at academic staff as the only engine in the university setting is wrong and unsustainable. We are not even included in the election process of our VCs. How fair is that?”

“The academic staff is the spoilt baby of the university. They cough, the government reacts. What about us?”

3.4.5.2 Unpaid incentive payments

Following the Omaswa Taskforce Report, all the existing 13 allowances²¹³ in 2014 in Makerere University, were consolidated into one payment called “incentive payment”. This was to be paid to staff in addition to their salary payments and varied according to one’s salary scale. In September 2016 and again later in October 2016, the Makerere University Academic Staff Association (MUASA) initiated a strike action because their incentive payment had not been paid for 8 months. The academic staff after a MUASA General Assembly meeting on 25th October 2016, resolved not to lecture until the outstanding incentive payments had been settled.

Following this, the Makerere University students joined the strike on 1st November 2016, demanding that the lecturers should resume teaching. The strike turned violent with students burning tyres and damaging cars. This prompted heavy police deployment at Makerere University, which dispersed the striking students using tear gas. This strike climaxed into a presidential directive issued on 1st November 2016, ordering the complete closure of the university indefinitely “to guarantee safety of persons and property.”



A copy of the MUASA letter communicating the resolution to strike. Source: Campus Bee

²¹³ Some of these allowances include medical, fuel, telephone, housing, responsibility, top up, clinical, footing, sitting

3.4.5.3 Unresolved terms of employment

Since Kabale University became a public university in June 2016, UHRC ascertained that in September 2016, the university officials started issuing out validation appointment letters and terms of contract to reflect this change. However, Kabale University Academic Association (KUASA) rejected the letters claiming that they were vague since they did not have specific terms and conditions or specific job descriptions. UHRC learnt that the effects of the transition from a private university to a public university had not been articulated to the staff and this was partly the reason for the lecturers' strike action in July, August and September 2016.

3.4.6 Causes of student strikes in universities.

Strike action initiated by students in universities in 2016 was rampant especially at Makerere University. UHRC noted that the challenges faced by Makerere University that led to the student strikes were not unique and exclusive to Makerere University since all higher education institutions in general faced them. The following are the some of the identified causes of strikes in universities instigated by students.

3.4.6.1 Increment of fees/ changes to fee structure

As a way of raising the much needed finance in many of the universities, especially in public universities facing a big challenge of inadequate funding, the universities design solutions to their financial woes. One of them is to charge or increase fees; as well as develop creative policies that would ensure financial liquidity. However, such endeavours are normally met with resistance from students and this tends to lead to strike action. Students have alleged that they are not consulted prior to such increments; and as such they appear abrupt and arbitrary in nature.

This was the case when Makerere University introduced a policy requiring all private or self-paying students to pay 60% of their tuition fees by the 6th week of the semester and all dues by the 12th week of the semester. The students described this policy as "draconian" and went on strike demanding its abolition or review in April 2016. This strike turned the Makerere University campus into a war zone of running battles between the police and students; exchanging tear gas and stone pellets as the students blocked roads burnt tyres on them.

After six days of the student strike action the University Council in consultation with the Prime Minister's office suspended implementation of the contentious fees payment policy. At Mbarara University of Science and Technology, a fee for retaking an exam was introduced and led to student strike action. At Ndejje University a proposed 10% increment tuition fees; another increment on accommodation and meals fees from UGX 650,000 to UGX 800,000; as well as the introduction of digital registration fees of UGX 40,000 led to strike action. At Uganda Christian University, two students were expelled and two others were suspended after masterminding the strike that took place in April 2016 following a 12.5% tuition fee increment.

3.4.6.1 Poor/ inefficient university administrative practices

Prolonged delays in implementing the scheduled academic events by the administrative staff led to students being disgruntled leading to strike action. This was the case at Gulu University when students from the Faculty of Education and the Faculty of Humanities carried out a strike action because of a delay in release of their examination results. By May 2016 students had not received their results for the exams they sat in December 2015. UHRC learnt from the university that the results were late due to the fact that there was no assistant academic registrar for the two faculties, who was supposed to compile the results submitted by the lecturers.

The strike action led to the Main Hall (multi-purpose hall) being set ablaze by the students. Police from Gulu disperse the striking students using tear gas and bullets and the university suspended examinations and programmes under the two faculties; as well as 1,000 students. At Makerere University, students demonstrated following the withdrawal of 32 courses including Bachelor of Ethics and Human Rights.



Placard held by university students demonstrating over the delay in release of examination results

Photo courtesy: The New Vision

3.4.6.2 Striking lecturers

UHRC observed that the other major cause of student strikes in 2016 was the suspension of lectures when the lecturers went on strike. The Kabale University strike was in October 2016 while that of Makerere University was in November 2016. In the two instances, the students joined in the strike of the academic staff which culminated into violent clashes between the police and the students.

3.4.7 Contributory causes of strikes

Apart from the direct causes of the strikes as already discussed, UHRC noted throughout its monitoring that there were underlying reasons that contributed or exacerbated the situation and eventually led to the strike action.

3.4.7.1 Weak university councils

The claims that the various university councils were weak and not autonomous were echoed across the board. Further accusations were that they lacked actual independence (being under the influence of the government); were insensitive to grievances raised; and lacked transparency in the management of university funds. Various claims were made to UHRC that the university councils were inefficient; unable to make quality and quick decisions concerning the reasons that would eventually lead to strike action. This was attributed to their composition and the lack of statutory guidelines in respect to the manner in which they operated. In addition to this, poor communication and “bad blood” between the staff bodies and the university council and management were also cited.

3.4.7.2 Poor staff working conditions

The issue of poor working conditions was raised to UHRC by the staff. Both academic and non-academic staff at Makerere University and Kyambogo University mentioned the lack of a health insurance scheme as an immense burden contributing to their poor working conditions. The staff in public universities referred to the dilapidated infrastructure, including inadequate lecture rooms. Some lecturers stated that they had over 1000 students in a single lecture yet the room was too small and without a working public address system. Other complaints were on lack of office space for purposes of consultation. In such circumstances, it was highly unlikely that the university was providing quality education, especially given the high numbers of students. As such, the quality of education appeared to have been compromised as a result of poor staff working conditions.

Complaints were also raised about the struggle and frustration of getting pension payments for those who had retired. Grievances were further raised over the lack of staff development especially in research, seeing that universities are supposed to be the beacon of innovative research. This was especially reverberated by the Arts faculties and the non-teaching staff UHRC interacted with. Lack of or slow promotion of teaching staff and the long periods of disciplinary procedures whereby some staff had been interdicted for four years were also cited as grave predicaments as they had implications for one’s salary.

3.4.7.3 Endemic financial issues

The perennial crisis of cash shortages was cited as a major underlying cause of concern at most universities, especially public ones. The government continued to slash subventions to the various institutions yet their operating costs had expanded over the years; consequently, many of them could not cover their bills. Most of the issues that led to strike action were due to inadequate funding; but this had also caused the accumulating incentive arrears for staff; non-payment of pensioners; dilapidated physical infrastructures; the wanting quality of food served in the halls of residence; acute shortage of even the most basic teaching-learning materials and facilities, as well as delayed clearance of utility bill (electricity/water/internet).

3.4.7.4 Institutionalisation of strikes as a way to resolve matters.

The rampant nature of strike action especially by students suggested an adoption of a culture of striking as a means of resolving whatever small issue that arises. It actually seemed the norm at some notable universities such as Makerere University, where issues that could otherwise be resolved resulted into strikes. It would seem that strikes in some cases had been made the first option and not a last resort, and that students jumped at the slightest opportunity to start or participate in a strike. UHRC was informed that a strike would start at MUBS for instance, but some students from Makerere University main campus would board taxis to join their striking colleagues at MUBS.

3.4.8 Impact of the strikes

UHRC noted that the strikes had serious consequences that impacted and touched on human rights.

3.4.8.1 Positive impact of the strikes

The positive outcome of the industrial strike action was the fact that the staff were able to seek some sort of redress for their grievances. Due to the strike action of PUNTEF in August 2016, the non-teaching staff in public universities got their salaries enhanced.

Similarly, the students' strikes tended to yield positive results and occasionally stopped the implementation of potentially discriminatory policies. A case in point was the strike action by Makerere University students in May 2016, against the policy of payment of 60% of fees within the first 6 weeks of the semester, which as a result of the strike the University Council suspended.

3.4.8.2 Negative impact of the strikes

a. Destruction of property

One of the key consequences of strikes was the destruction of property. This was especially true when students were involved in the strike action. UHRC noted for instance the destruction of a building at Gulu University in May 2016; and vandalism of cars at Makerere University in November 2016 among many others. The unwarranted destruction of property infringed on security and the right to property.



Vice Chancellor's car at Mutesa 1 Royal University destroyed during a strike.

Photo courtesy: The Daily Monitor



Gulu University hall on fire following a student strike.

Photo courtesy: The New Vision

b. Injuries

UHRC acknowledged that a number of injuries were sustained by both the strikers and police officers who were brought in to control the strikes. Some of the strikers suffered injuries after being hit by rubber bullets, tear gas canisters or stones pelted by their colleagues; while others got injuries in the ensuing stampede as they fled from the tear gas or bullets. Injuries impacted on their right to security; as well as freedom from torture and inhumane and degrading treatment.

c. Disruption of academic calendar

Disruption of the academic calendar and loss of lecture time as a result of a strike affected the quality of education hence the right to education. Despite the strikes taking place and putting a halt on to the lectures, the academic calendar was expected to continue, not taking into account the missed period. UHRC was informed that following the closure of Makerere University on 1st November 2016 for two months after the strike, on reopening, lecturers were expected to cover the missed syllabi within three weeks. In essence during the strike action, no academic activity took place and yet on resumption, there was no sufficient opportunity given to the students to catch up on the lost time. UHRC noted that this resulted into a hurried and condensed style of teaching creating a crash programme instead of a quality learning process. The quality of education and the quality of graduates was at stake.

UHRC was further concerned that repeated strike actions that disrupted learning time could lead to the curriculum not being fully implemented or to a possible increase in examination malpractices. This would be a result of students not being properly taught, or prepared therefore resorting to unlawful means to pass the exams. In addition the disruptions that followed the closure of Makerere University in November 2016, delayed the planned graduation of January 2017 resulting into anxiety for many of the eager graduands and their families,

d. Low staff morale

Constant strike action by the staff was highly likely to affect their morale. UHRC noted that for the majority of the staff that it interacted with, they had very little morale and were resigned to resolving their issues through strikes action instead of other means such as dialogue and negotiation. Such demoralised staff were unlikely to provide quality education to the students. Consequently this was negatively affecting the quality of education.

e. Loss of income

There are many citizens who depend on the university being open to earn an income or a living. These include those running photocopying businesses, catering services, hostel owners, cleaning companies and transport services. Any disruptions at the university because of a strike action, inevitably impacted on the economic activities and incomes of such people affecting their livelihoods. In this respect, their economic rights and the right to an adequate standard of living as protected in the Constitution were affected.

In addition, the strikes tended to spill over into the surrounding areas disrupting other people's businesses. When Makerere University closed indefinitely in November 2016 following a strike, some businesses in and around the university lost income. The canteens that had stocked perishable items such as fruits lost, while the stationery and printing kiosks closed.

f. Idle students

A strike action could easily lead to idle and disorderly students especially if it culminated into the closure of the university. During the time the university was closed, the students who could not find something useful to occupy them could end up idle and find themselves engaging in various bad vices and criminal acts.

g. Negative publicity/reputation/public image for affected institutions

A higher education institution that is affected by frequent strikes would inevitably have a reputation of being notorious both locally and internationally. The inconvenience to students, especially international students, to find their way back home after the university closed down without notice could create a negative perception about the university among the people in those countries. The bad publicity could eventually lead to loss of confidence in the institution. This might not only affect its subsequent intakes and therefore income, but could also its potential partnerships with other universities or institutions of repute. In the long run, the bad image of the university could also affect the chances of its graduates in the competitive job market.

h. Blanket penalisation following strike action

UHRC noted that following strike action by students, they were either all penalised for the action, or a few individuals were even in instances where it was not absolutely clear that they were the real culprits. In cases like this, the blanket punishment or disciplinary measure was arbitrary. Ideally, a penalty for any breach should be handed down following a thorough investigation and a fair hearing. However at Gulu University following the strike in May, 1,118 students were within a day of the strike suspended for three weeks. On return, all the 1,118 students were fined UGX 200,000 each for the cost of renovating the main hall that was burnt down during the strike. A student who did not pay the fine was not allowed to sit the exams. UHRC noted with concern that the imposition of the suspension and the mandatory fine on all 1,118 students was presumptive of guilt ("collective guilt") without a fair hearing. This is contrary to the core principle of presumption of innocence until proven guilty as preserved in Article 28 of the Constitution. In any case, it was difficult to comprehend how all 1,118 students were involved in the burning of the building.

3.4.8.3 Mismanagement of strikes

UHRC noted with concern that the management of strikes by all the parties involved was wanting in some instances and led to the violation of human rights.

a. Management of strikes – ILO standards

In respect of those who initiate industrial action, ILO has laid out principles concerning the right to strike.²¹⁴ The standard prescribed for a legitimate exercise of the right to strike, in respect to industrial strikes imposes the obligation to give prior notice of the strike; to have recourse to conciliation, mediation and voluntary arbitration procedures in industrial disputes as a prior condition to declaring a strike, provided that the proceedings are adequate, impartial and speedy. There is also the obligation to observe a certain quorum and to obtain the agreement of a specified majority; to take strike decisions by secret ballot; to adopt measures to comply with safety requirements and for the prevention of accidents; the establishment of a minimum service in particular cases; and the guarantee of the freedom to work for non-strikers.

²¹⁴ Available at http://ilo.org/wcmsp5/groups/public/@ed_norm/@normes/documents/publication/wcms_087987.pdf Last accessed March 2017.

b. Mismanagement of strikes by university staff

From UHRC interactions with the various representatives of the university staff associations, it was clear that not all the obligations mentioned in the standard above were followed. The process for deciding on strike action, for example was not as consultative as it ought to have been, nor was it by secret ballot. It was further established, that there was no opportunity given to work for those who did not wish to take part in the strike action. This was contrary to the ILO best practices.

c. Mismanagement of strikes by students

In respect to students on strike action, UHRC noted that the decision to go on strike was not made by the whole student body but by only its leaders. In the May 2016 strikes by Makerere University students, it was noted that a number of students who, during the strike, chose to go to library, were being forced out to join the strike. Furthermore, it would seem that the nature of strikes should fit within the ambit of the Public Order Management Act 2013. However, from the running battles between the police and the students, it would seem that the students had not followed the requisite procedure laid out in the Act in respect to public assemblies. This sometimes led to violent confrontations between the police and the striking students.

d. Mismanagement of strikes by police

Regarding the police who were called in to control the striking students, in some instances especially when the student demonstrations/strikes were peaceful as provided for in the Article 29 of the Constitution, the police were sometimes heavy-handed, using excessive force. Many times this resulted into violent clashes between the police and students.

e. Mismanagement of strikes by university leadership

The University leadership, specifically the council, was often accused of being very insensitive to the grievances raised by both staff and students. They reportedly did not respond as quickly as they should have to the grievances, which further aggravated the already agitated students or staff members.

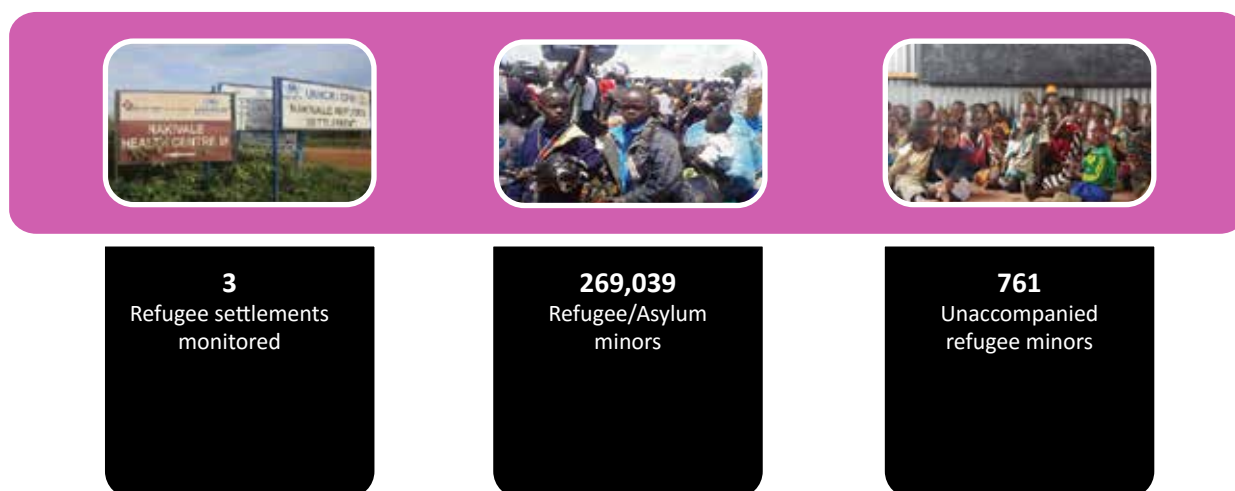
UHRC takes cognisance of the fact that following the consistent strikes and the eventual closure of Makerere University in 2016, the President had constituted a Visitation Committee to specifically visit, study and make a situational analysis of the university. The Committee was expected to consider many issues including academic, financial, governance and student affairs; as well as the causes of the endemic strikes; and make recommendations with reference to the recommendations made by the previous committees and task forces. At the time of compiling this report, the Visitation Committee had not yet released its report.

3.4.8 Recommendations

1. All universities should have a clear non-bureaucratic communication strategy specific on industrial action and student strikes so as to enhance effective communication and handle grievances appropriately and quickly.
2. Ministry of Education Sports Science and Technology in conjunction with the Ministry of Public Service should carry out a comprehensive and consultative review and reform the salary scale structure of both academic and administrative staff in universities.
3. Uganda Law Reform Commission should consider reviewing the Universities and other Tertiary Institutions Act 2001, especially in respect to the University Council provisions.
4. The University Staff Associations and the student unions should adhere to the principles of the right to strike and follow the process of collective bargaining so as to institutionalise the mechanism of arbitration prior to strike action.

5. Universities should develop sustainable and innovative ways through implementable strategies to generate income and revenue and ensure financial liquidity so that salaries can be paid on time every month.
6. Uganda Police Force, University Administrations, staff and student associations and the students should respect and uphold the enjoyment of human rights and fulfil their responsibilities.

3.5 Plight of unaccompanied refugee minors in the West Nile Region, Nakivale and Kyangwali Refugee Settlements



3.5.1 Introduction

Unaccompanied refugee minors are children,²¹⁵ who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so. As children, they are vulnerable owing to their age; but their vulnerability is compounded even more by their circumstances as refugees who have different rights and needs from the adult refugees, but even worse as children who have lost contact with their parents. They are at the mercy of adults who may be fellow refugees also grappling with their own challenges, or may be officials of the host communities and country who may also be overwhelmed by the refugee problem itself. They are usually prone to marginalisation and human rights violations such as sexual exploitation and abuse, child labour, neglect, among others and thus the need to give them special attention to ensure that their rights are protected and promoted.

With the recent significant increase in the number of refugees into Uganda from the Eastern and Central African region, the number of unaccompanied minors has also gone up. Of the 538,872 refugees recorded by the OPM in 2016, 761 were unaccompanied minors, from mainly South Sudan, Democratic Republic of Congo and the Republic of Congo.

This prompted the UHRC to pay special attention in 2016, to the human rights concerns arising out of the growing numbers of the unaccompanied refugee minors. UHRC made monitoring visits to refugee settlements in Kyangwali in Hoima District, Nakivale in Isingiro District as well as Pagirinya I, Pagirinya II, Boroli I, Boroli II, Agojo, Bidibidi, Nyumanzi Refugee Settlements, Ocea Transit Centre and Rhino Camp in West Nile Region. The findings of UHRC on the situation of refugees including unaccompanied minors, who are entitled to all the rights and freedoms provided for in international human rights instruments, guidelines, conventions and policies that address the problem of child refugees,²¹⁶ are detailed in this section. It should be noted that refugees do not enjoy political rights.

²¹⁵ n. 96 above, Article 1. It stipulates that a child means every human being below the age of 18 years.

²¹⁶ Articles 3(1), 20 & 22 CRC and Articles 4 & 23 African Charter on the Rights and Welfare of the Child.

3.5.2 Legal framework

3.5.2.1 International legal framework

a. Convention on the Rights of the Child

The CRC provides the largest number of international standards on the treatment of children.²¹⁷ It is not specifically a refugee treaty, but its provisions directly affect and apply to refugee children, as Article 1 provides that the provisions of the Convention are granted to all persons under the age of 18.²¹⁸ The standards set by CRC are comprehensive as they cover most aspects of a child's life. Although the realisation of some social welfare rights, such as health, education and an adequate standard of living, is subject to a state's financial capability, the non-discrimination clause in the CRC ensures that whatever benefits are given to children who are citizens of a state must also be given to children who are refugees in that state.²¹⁹ The 'near-universal ratification' of CRC has ensured that its standards have been agreeable and accepted by the majority countries of the world.²²⁰

b. 1951 UN Refugee Convention relating to the state of refugees and 1967 Protocol relating to the State of Refugees.

The 1951 UN Refugee Convention and the 1967 Protocol, make no distinction between adults and children with regard to their socio-economic rights. Article 22 of the UN Convention does, however, set standards that are of special importance to children. It states that refugees must receive the "same treatment" as nationals in primary education; and treatment that is at least as favourable as that given to non-refugee aliens in secondary education.

c. UNHCR Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum

The United Nations High Commissioner for Refugees (UNHCR) Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum are also important to consider.²²¹ Section 7(1) of the Guidelines states that all children seeking asylum, particularly if they are unaccompanied, are entitled to special care and protection. In addition, the Guidelines state that every child should have access to education in their asylum country.²²²

d. CRC General Comment 6

General Comment 6 of 2005 on the treatment of unaccompanied and separated children outside their country of origin was adopted by the Committee on the Rights of the Child on 3 June 2005.²²³ It identifies the vulnerable situation of unaccompanied and separated children; provides guidance on their protection, care and proper treatment based on the CRC, with particular reference to the principles of non-discrimination and the best interests of the child.²²⁴ UN General Assembly Resolution 51/77 on the rights of the child, passed in 1996, makes specific reference to the plight of unaccompanied minor refugees. It called for coordinated efforts by all agencies to address their specific needs as "the [CRC] itself calls for co-operation in protection, care and tracing of unaccompanied minors, and the Committee on the Rights of the Child attaches great importance to [their] situation".²²⁵

²¹⁷ The CRC entered into force in September 1990.

²¹⁸ Available at [http://216.239.59.104/search?q=cache:SzafmD-qv6AJ:www.unhcr.org/cgi-in/texis/vtx/protect/](http://216.239.59.104/search?q=cache:SzafmD-qv6AJ:www.unhcr.org/cgi-in/texis/vtx/protect/.opendoc.pdf%3Ftbl%3DPROTECTION%26id%3D3b84c6c67+Refugee+Children:+Guidelines+on+Protection+and+Care&hl=en&ct=clnk&cd=1&gl=gh)
[opendoc.pdf%3Ftbl%3DPROTECTION%26id%3D3b84c6c67+Refugee+Children:+Guidelines+on+Protection+and+Care&hl=en&ct=clnk&cd=1&gl=gh](http://216.239.59.104/search?q=cache:SzafmD-qv6AJ:www.unhcr.org/cgi-in/texis/vtx/protect/.opendoc.pdf%3Ftbl%3DPROTECTION%26id%3D3b84c6c67+Refugee+Children:+Guidelines+on+Protection+and+Care&hl=en&ct=clnk&cd=1&gl=gh) last accessed 15 February 2017.

²¹⁹ As above.

²²⁰ As above.

²²¹ Available at <http://www.unhcr.org/refworld/docid/3ae6b3360.html> last accessed on 17 February, 2017.

²²² As above, Section 7(12).

²²³ Available at [http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=search&docid="42dd174b4"](http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=search&docid=) last accessed on 15 February, 2017.

²²⁴ Available at <http://www.unhcr.org/excom/EXCOM/43bce4782.pdf> last accessed on 15 February, 2017.

²²⁵ As above.

General Comment 6 of 2005 requires States to create the underlying legal framework and take necessary measures to secure proper representation of an unaccompanied or separated child's best interests. Therefore, States are required to appoint a guardian or adviser as soon as the unaccompanied or separated child is identified and maintain such guardianship arrangements until the child has either reached the age of majority or has permanently left the territory and/or jurisdiction of the State in compliance with the Convention and other international obligations.²²⁶

3.5.2.2 Regional legal framework

a. African Children's Charter on welfare of the Child

The African Children's Charter has many provisions similar to those of the CRC, and has specific provisions referring to the socio-economic rights of refugee children on the continent. It specifically provides that all peoples shall be equal; they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another.²²⁷

b. The 1969 Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa

The Organisation of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa has no specific article that specifically refers to refugee children or unaccompanied refugee minors²²⁸.

3.5.2.3 National legal framework

a. 1995 Constitution

Article 21(1)(2) of the 1995 Constitution guarantees equal rights between all people without any form of discrimination including refugees. It specifically stipulates that "all persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law and that without prejudice to clause (1) of this Article, a person shall not be discriminated against on the ground of sex, race, colour, ethnic origin, tribe, birth, creed or religion, or social or economic standing, political opinion or disability".

b. The Refugee Act, 2006

The Refugee Act, 2006 also provides for some legal protection of child refugees. In particular, Section 27 (5) of the Act on reunion obligates a "Commissioner to investigate and ascertain the family situation of an unaccompanied child who enters Uganda and wishes to remain in Uganda as a refugee, and may make recommendations regarding the adoption of the child under the Children Act or other law. For purposes of this provision, *"child means a person below the age of eighteen years"*²²⁹

Section 32(1) and (2) of the Refugee Act, 2006 provides for the rights of refugee children as they are recognised in the Children Act, African Charter on the rights and welfare of the child, the CRC and the Geneva Convention. The section specifically provides that refugee children shall be accorded the same treatment as nationals with respect to elementary education and every refugee child is entitled to the enjoyment of the rights and freedoms provided for in the Children Act, Cap. 59; the African Charter on Children's Rights; the CRC; and the Geneva Convention. This is irrespective of the race, ethnic group, colour, sex, language, relation, political or other opinion, national and social origin, fortune, birth or other status of the child's parents or legal guardian. Section 32(3) also provides that identification documents for children and unaccompanied minors shall be issued in accordance with the principles applicable to a recognised refugee.

²²⁶ Available at <http://www2.ohchr.org/english/bodies/crc/docs/GC6.pdf> last accessed on 16 February, 2017.

²²⁷ Article 19 of the ACHPR.

²²⁸ 1969 OAU Convention.

²²⁹ Section 27(7) of the Refugee Act 2006.

3.5.3 Situational analysis of unaccompanied refugee minors in Uganda in 2016

The conflict in South Sudan flared up again in 2015. After almost two years of war between forces controlled by President Salva Kiir and those of Vice-President Riek Machar, the latter only returned in April 2016 to the capital Juba with his ministers and some of his troops to form a Transitional Government of National Unity, together with President Kiir's Cabinet.²³⁰

Both sides obstructed implementation of the August 2015 peace agreement and repeated breaches of the cease-fire were reported in other parts of the country. This Agreement on the Resolution of the Conflict in South Sudan (ARCISS) was signed in August 2015. This was negotiated under the auspices of the regional organisation of Intergovernmental Authority on Development (IGAD).²³¹ UHRC noted that this conflict led to thousands of refugees including unaccompanied minors who fled to Uganda.

In 2016, the UHRC monitored Kyangwali, Nakivale and refugee settlements in West Nile to assess the human rights situation of unaccompanied refugee minors. Table 3.5.1 summarised the number of unaccompanied refugee minors that were recorded at the different sites. The UHRC noted that most of the unaccompanied refugee minors were from South Sudan, DRC, Burundi and Republic of Congo.

Table 3.5.1: The number of unaccompanied refugee minors at different sites as at December 2016

No	Site	Total number of refugees	Refugee/asylum minors	Unaccompanied refugee minors
1	Adjumani	194,442	130,794	411
2	Moyo	10,145	6913	136
3	Yumbe	272,206	53,544	4,299
4.	Koboko	4,325	None	109
5.	Arua	83,101	52,709	6,839
6.	Kyangwali	45,057	25,057	12
7.	Nakivale	121,987	22 ³²²	73
Total		538,872	269,039	761

Source: OPM

The unaccompanied refugee children shared with UHRC the stories of the ordeal they had to go through to find themselves in resettlement sites in Uganda. Timothy is one the numerous unaccompanied refugee minors who fled from South Sudan to Uganda. The 17-year old unaccompanied minor was found alone at the Ugandan border after fleeing South Sudan narrates: *"I left my grandmother at home. I told her to come with me but she refused, saying that she was too old. She told me to go."* Timothy, who lost his parents as a young boy, was raised by his grandmother. He was at school when violence broke out in South Sudan, and on hearing gunshots, the school dispersed in disarray.²³³ Though Timothy was safe in Uganda he was worried about his grandmother. *"There was only a little food in the house. What will happen if it gets finished?"* he wondered. *"If they stop fighting, I will go back to South Sudan and look for my grandmother. If I don't find her, I'll return to Uganda because I cannot live alone,"* he said.

²³⁰ Available at https://www.swp-berlin.org/fileadmin/contents/products/comments/2016C36_web.pdf last accessed on 28 February 2017.

²³¹ As above.

²³² As at December 2016, out of 4,923 asylum seekers, 22 were children in Nakivale Settlement.

²³³ Available at <https://www.savethechildren.net/article/meet-timothy-1-37500-refugees-forced-flee-south-sudan-Blog> by Sylvia Nabanoba, Communications Manager, Save the Children in Uganda accessed on 28 February 2017.

3.5.3.1 Positive developments

There have been various positive developments in respect of promotion and protection of unaccompanied refugee minors including: Identification and registration of unaccompanied refugee minors; provision of recreation facilities and child-friendly spaces for children and right to participation for unaccompanied refugee minors.

a. Identification and registration of unaccompanied refugee minors

The UHRC noted that all the unaccompanied refugee minors in the camps, sites and settlements were registered. Unaccompanied refugee minors were temporarily placed / given to caretakers after registration. However, this was done after determination of the appropriate guardian/caretaker; in the best interest of the child; and having obtained the child's consent.

During the identification and registration the Best Interest Determinations (BID) and Best interest assessment (BIA) procedures for children at risk were applied in line with the UNHCR BID Guidelines. Birth registration was also done by UNICEF.

After registration they were provided with Refugee Attestation Form as Identification Cards and Food Ratio Cards by OPM and UNHCR



One of the identification documents given to refugee minors



Unaccompanied refugee minors in in one of the refugee resettlement camps in West Nile region:

Photo courtesy: OPM

b. Provision of recreation facilities and child-friendly spaces for children

Child Friendly Spaces (CFS) represent child rights programming approach that supports children's well-being in the midst of emergencies. Used widely since 1999, CFS protect children by providing a safe space with supervised activities, by raising awareness of the risks to children, and mobilising

communities to begin the process of creating a protective environment.²³⁴ UHRC commends the OPM, UNHCR, Save the Children and UNICEF for establishing CFS for all children especially unaccompanied refugee minors.

c. Participation/ involvement of unaccompanied refugee minors

The unaccompanied refugee minors according to the refugees and some officials interviewed in West Nile indicated that they were allowed to participate in decision- making especially on issues of determination of foster parents. The minors were also allowed to participate in decision-making especially on issues affecting them. The children also participated in the best interest assessment and determination processes. The UHRC commends these initiatives because they are child/human rights-friendly.

d. Interventions for unaccompanied refugee minors by State and non-state actors.

UHRC acknowledged the great work done by state and non-state players of ensuring the rights of unaccompanied refugee minors are promoted and protected. Table 3.5.2 below, shows the various stakeholders and their special interventions.

Table 3.5.2: Summary of interventions by State and non-state actors

No	Actor	Intervention for unaccompanied refugee minors
1	OPM	- Handled all protection issues concerning the minors and their care takers - Coordinated all stakeholders providing assistance to unaccompanied refugee minors - Received the unaccompanied minors at various collection points and registered them before they were taken to the transit centres from where they were verified and then taken to the settlement centres and referral for minors for other services. - Liaised with security to ensure their safety - Provided technical staff in the operation and settlements
2	UNHCR	- Handled all protection issues (SGBV, coordination meetings, Shelter, peace building, legal, children protection among others) - Registered unaccompanied minors at various collection points and transports them to the transit centres from where they are given meal coupons. - Verified, issued food cards for them to access that they use for getting food items and ensured the minors were taken to settlement.
3	UPF	- Ensured law and order - Protected properties
4	Ministry of Health	- Provided health services - Provided vaccination - Provided counselling services to traumatised refugees unaccompanied minor and often refer for other services
5	International Committee of the Red Cross and Uganda Red Cross	- Helped trace for the relatives and families of the unaccompanied refugee minors and reunited those whose relatives/families they managed to find - their relatives/ families with them and referral for minors - Provided shelter to the minors
6	Medical Teams International, MSF and Medical Foundation	Provided treatment to minors

²³⁴ Available at [https://www.unicef.org/protection/A_Practical_Guide_to_Developing_Child_Friendly_Spaces_-_UNICEF_\(1\).pdf](https://www.unicef.org/protection/A_Practical_Guide_to_Developing_Child_Friendly_Spaces_-_UNICEF_(1).pdf) pg. 9 last accessed on 28 February 2017.

No	Actor	Intervention for unaccompanied refugee minors
7	American Refugee Committee	• Provided counselling and clothes • Provided medical services not only to unaccompanied refugee minors but all the refugee population in the reception centres, settlements, villages and blocks
8	Window Trust	• Provided education services with special focus on unaccompanied refugee minors • Provided scholastic materials not only to unaccompanied minors but also to other school going refugee children • Paid salaries of those teachers employed • Made referrals for minors to access other services
9	TUTAPONA	• Provided counselling with special focus on traumatised minors including unaccompanied refugee minors • Made referral for minors to access other services
10	Samaritan Purse	• Provided assistance to marginalised minors including unaccompanied refugee minors.
11	Lutheran World Federation (LWF)	• Received refugees • Maintained water and hygiene at the collection centre and provided soap and sanitary materials to all households and to women as well as the dignity kits for women and girls.
12	UNICEF	• Provided technical guidance, equipment and supplies to high-risk and refugee-hosting districts to support the expansion of routine social services for health, nutrition, water, sanitation and hygiene (WASH), education and child protection. • Provided birth registration services
13	UN Women	• Advocated for psycho-social support for minors and the adults who take care of them • Promote social cohesion between the minors and their caretakers for peacefully co-existence and with the environment around them • Advocated for applying the gender lens on the needs of minors and their adult caretakers • Contributed to information on the legal rights of unaccompanied minors • Made referrals for minors to access other services
14	Save the Children	• Provided child-friendly spaces • Made referral for minors to access other services
15	UN World Food Programme	• Handled all protection issues related to food for the unaccompanied refugee minors
16	World Vision	• Handled a number of protection issues of unaccompanied refugee minors and referral for minors for other services
17	War Child Canada	• Handled legal issues including legal representation of these unaccompanied refugee minors in courts of law • Provided legal awareness and toll free line for immediate response to unaccompanied minors • Made referrals for minors to access other services
18	Transcultural Psycho-social Organisation (TPO)	• Provided child-friendly spaces for the unaccompanied minors in the settlements and villages • Provided specialised clinical psycho-social support to the minors • Made referrals for minors to access other services
19	Danish Refugee Council (DRC)	• Handled all protection issues of unaccompanied refugee minors • Handled legal issues including facilitating legal representation of the unaccompanied refugee minors in courts of law • Provided psycho-social support • Supported foster parents • Made referrals for minors to access other services

No	Actor	Intervention for unaccompanied refugee minors
20	Action Against Hunger (ACF)	- Handled legal issues including facilitating legal representation of the unaccompanied refugee minors in courts of law - Made referrals for minors to access other services
21	Action Africa Help- Uganda (AAH-U)	- Extended emergency care to refugees - Made referrals for minors to access other services
22	Local Government	- Liaised with partners to provide technical support in different areas (engineering, Gender Office, Probation and other community services required, medical facilities, Agriculture) - Bridged relations between the host community, the refugees and the humanitarian workers
23	Host communities	Through their clans provided land for hosting refugees and the minors. The land provided natural resources (water, fire wood and grass) which were essential for use by the minors
23	Livelihood. FAO, Dan Church Aid, TPO, Hunger, DRC, IRC, Care International, LWF	Provided minors and others adult refugees with income generating activities that helped to empower them financially
24	InterAid Uganda	- Provided refugee child counselling - Made referrals for minors to access other services
25	Plan International	- Provided education and life improvements for the minors - Provided counselling - Made referral for minors to access other services - Provided child-friendly spaces



Sign posts of some of the International Organisations partnering with Government of Uganda (OPM) in addressing the refugee situation in Nakivale Refugee camp.

3.5.4 Human rights concerns in the protection of the rights of unaccompanied refugee minors.

UHRC noted that despite the various interventions by state and non-state actors in the promotion and protection of the rights of unaccompanied refugee minors, there were still challenges that hindered the full realisation of the rights of unaccompanied refugee minors. These challenges included: Gaps in the existing legal framework; violence against unaccompanied refugee minors; poor facilitation of foster parents; poor shelters for unaccompanied refugee minors; inadequate food for unaccompanied refugee minors; and violation of the right to education among others. They need to be addressed by the Government:

3.5.4.1 Gaps in the existing legal framework

Concerning the legal protection of unaccompanied refugee minors under international law, Goodwin-Gill states that “neither the 1951 UN Refugee Convention nor CRC, so far as they address the situation of children as refugees, provides an entirely satisfactory legal basis”²³⁵ Yet, international law must address the protection of refugees, as it is the role of international law to substitute its own protection for that which the country of origin or the host country is unable to provide.²³⁶

The Refugee Act, 2006, provides for some legal protection for child refugees in particular. The said Act Sec. 27 (5) obligates a Commissioner to investigate and ascertain the family situation of an unaccompanied child who enters Uganda and wishes to remain in Uganda as a refugee, and may make recommendations regarding the adoption of the child under the Children Act or other law.²³⁷ The UHRC notes that this is serious lacuna in the law since it provides for a very limited scope of alternative care and accommodation of such children provided for in the CRC.²³⁸

The UHRC notes that the CRC stipulates that a child temporarily or permanently deprived of his or her family environment, or whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.²³⁹ States also are called upon to ensure alternative care for such a child²⁴⁰ and that such care could include, inter alia, foster placement, *kafalah*²⁴¹ of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. In addition, it provides that when considering solutions, due regard shall be paid to the desirability of continuity in a child’s upbringing and to the child’s ethnic, religious, cultural and linguistic background.²⁴²

The provision in the Refugee Regulations, S.I. No. 9 of 2010 Part II, Reg. 4 on application by an unaccompanied minor, fails to provide sufficient guidance on the appropriate procedural safeguards and support measures required under international law. This may be for interpretation of the refugee definition in an age-sensitive manner taking into account the particular motives for the forms and manifestations of persecutions experienced by child; ensuring representation by an adult familiar with the child’s background and competent to represent child interests; providing opportunity for personal interview with a qualified officials before final decision is made; among others.

3.5.4.2 Violence against unaccompanied refugee minors

The UHRC noted with concern that in the monitored refugee settlements there were incidents of violence/ insecurity against refugee minors including unaccompanied ones. The alleged perpetrators were fellow refugees and the host communities. The most common cases reported in the settlement were on sexual and gender-based violence (rape, domestic violence and defilement), physical violence, child marriages, theft, and assault. In Nakivale Refugee Settlement for example, the number of cases reported to 5 police posts²⁴³ were 12 in 2016; while at Rhino Camp Refugee Settlement had reported 25 cases to Arua CPS; Pangirinya had the highest number of 32 cases which were reported to Adjumani CPS; and Bidibidi had 18 cases reported at Arua CPS, Adjumani CPS, and to Yumbe CPS respectively. At Kyangwali Refugee settlement 71 cases of child abuse and neglect were recorded in 2016 but none was resolved through courts of law.

²³⁵ G.S. Goodwin-Gill The refugee in international law (1996) 257.

²³⁶ As above.

²³⁷ n. 229 above, Section 27(5).

²³⁸ n. 215 above, Article 20 (3).

²³⁹ As above, Article 20(1).

²⁴⁰ As above, Article 20(2).

²⁴¹ *Kafalah* meaning alternative care for children under Islamic care when a child is temporarily or permanently deprived of his family /her family environment. Article 20 (3) of the CRC.

²⁴² n. 240 above, Article 20(3).

²⁴³ Nakivale refugee settlement had five police posts at Base Camp, Rubondo, Juru, Kahirimbi and Kabahinda and a Mobile Police Unit.

In West Nile the most common security threats to unaccompanied refugee minors in all the camps/settlements/villages were physical violence, child marriages and sexual abuse. Some unaccompanied minors informed UHRC that they were subjected to physical violence by their foster parents. In Siripi Village at Rhino Camp, for example, two unaccompanied minors were withdrawn from a foster parent because they were being mistreated.

3.5.4.3 Poor facilitation for foster parents of unaccompanied refugee minors

The UHRC findings showed that most foster families had limited financial support to cater for clothes and treatment of the unaccompanied refugee minors. Consequently, people were very reluctant to willingly foster unaccompanied refugee minors. Some children failed to access foster care due to tribal conflicts. In particular, children from the Dinka tribe were shunned by other tribes and this hindered their opportunities to be fostered.²⁴⁴ Former child soldiers who were unaccompanied refugee minors took longer in the shelters because the refugee community did not want to take them in as foster children.²⁴⁵

3.5.4.4 Lack of regular monitoring and follow-up on unaccompanied refugee minors

There was a general concern of lack of regular monitoring and follow up of unaccompanied refugee minors placed in the hands of foster parents by Government.



A foster family to unaccompanied refugee minors in one of refugee settlements in West Nile region

3.5.4.5 Missing unaccompanied refugee minors

There were reported cases of unaccompanied refugee minors going missing in their respective reception and settlement centres. In Boroli Settlement in Adjumani District for example, two minors went missing. However, they were traced back to Elegu Collection Centre and returned to Boroli to reunite with their foster parents. At Bidibidi in Yumbe District, about 15 went missing 10 of whom were traced and reunited with their foster parents. In Rhino Camp Arua 05 completely disappeared.

UHRC established that the reasons why these children go missing included mistreatment and abuse by their foster parents; or when the children got lost pursuing their parents, among others. UHRC however, noted that this concern was basically in West Nile refugee settlements and not in Nakivale and Kyangwali Refugee Settlements.

3.5.4.6 Poor shelters for unaccompanied refugee minors

UHRC noted the work done by two organisations: Humanitarian Initiative Just Relief Aid (HIJRA) and American Refugee Council (ARC) to install solar powered street lights in Nakivale Refugee Resettlement. However, UHRC noted with concern that the shelters were semi-permanent structures made of mud and wattle, with plastic sheeting and hardly any ventilation apart from the doorways.

²⁴⁴ B. Lamunu, M&E Manager, The Lutheran World Federation presentation made at the UHRC 19th Annual Report Consultative meeting at Sheraton Hotel Kampala from 1-3 February 2017.

²⁴⁵ As above.

In West Nile the UHRC found that the general state of shelters for unaccompanied minors in all the refugee camps/ settlements/ villages was semi-permanent. They were basically tents and available beddings were mats and blankets. In addition, families huddled together in the same house regardless of age, sex or sickness and the shelters did not provide sufficient privacy, thus violating the right to privacy.



A typical shelter used by unaccompanied refugee children and majority of refugees in the Nakivale settlement.

3.5.4.7 Inadequate food for unaccompanied refugee minors

The unaccompanied refugee minors in all the refugee camps/settlements/villages were able to access food. Those at the protection centres of Boroli in Adjumani District and Ocea in Rhino Camp were provided with meals three times a day comprising of posho, beans, sorghum, meat and rice as well as greens at times by the UN WFP and it was prepared by the matrons. The unaccompanied refugee minors with foster parents had food prepared by the parents. The food was provided on a month's food ration depending on the number of people per household. However, the general complaint was inadequate food since the rations given did not match household population.

3.5.4.8 Lack of rehabilitation centres for unaccompanied refugee minors with disabilities

The UHRC established that at Kyangwali Refugee Settlement there were unaccompanied refugee minors with disabilities who were assessed by responsible actors in the settlement to assess their special needs. However, UHRC noted many of them had disabilities but the centre did not have a rehabilitation unit to cater for them.²⁴⁶ At Nakivale Refugee Settlement UHRC was unable to get statistics regarding unaccompanied refugee minors in the settlement.

3.5.4.9 Lack of secondary education for unaccompanied refugee minors

Legally, child refugees living in Uganda are entitled to an education. However, many of them could not join public schools due to the school fees which they could not afford; in addition to the language barrier in the school operate.

UHRC noted the government measures to ensure that all unaccompanied refugee minors enjoyed their right to education, particularly primary/elementary education which was free in all the settlements. In Kyangwali Refugee Settlement only 17 (8 male and 9 female) unaccompanied refugee minors had access to primary education, whereas in West Nile 256 access education.

In all the resettlements there were few secondary schools thus the limited number of refugees including unaccompanied minors that had attained secondary level. Refugee children including unaccompanied minors in Adjumani had access to nursery and primary education in the nearby schools except in Agojo settlement which had only one primary school. Bidibidi settlement in Yumbe had access to 10 Primary Schools and 2 Secondary Schools while the Rhino Camp had access to mostly primary education with very limited access to the only secondary education they had.

²⁴⁶ The total number of those with disabilities was not availed to the UHRC.

Nakivale Refugee Settlement had only one Secondary School and 9 primary schools. A total of 217 refugee going school children were attending school in different primary schools within the settlement.²⁴⁷



Unaccompanied minors at a refugee settlement camp in Adjumani District.
Photo courtesy: OPM

3.5.4.10 Discrimination of unaccompanied refugee minors

The UHRC findings revealed discrimination in Nakivale Refugee Settlement among the unaccompanied children especially from other children especially when playing. The perpetrators were reported to be the hosting communities. UHRC noted that all children including unaccompanied refugee minors needed to be sensitised at school on the principles of equality and non-discrimination.

3.5.5.11 Negative cultural practices

The negative cultural practices, beliefs and norms of some refugees encouraged early and forced child marriages, for instance practices among from South Sudanese. Consequently, some unaccompanied minors were at risk of being lured back by 'relatives' under the disguise of care or education opportunity only to turn them into victims of arranged marriages.²⁴⁸

In addition, there were cases of teenage pregnancies and defilement of girls many of which remained unreported. The UHRC noted the failure of the victims and their relatives to report these cases because of fear of reprisal by the general community.



Unaccompanied refugee minors in one of the refugee settlements.
Photo by OPM

²⁴⁷ This number includes unaccompanied refugee minors.

²⁴⁸ n. 245 above.

3.5.4.12 Separation of child mothers or child brides from their child spouses

In South Sudan the age of consent is 16 years which is in contravention of international norms, customs and instrument and the laws of Uganda. The 1995 Constitution provides for 18 years as the age of consent. In addition, the right of a child to enjoy full attainment of life is recognised both in the 1995 Constitution and the Children Act Cap 59. Whereas Uganda has the obligation to host refugees, the practice of children of 16 years and 17 years coming as duly married adult refugees was offensive to the international standards and the laws of Uganda the host country.

The UHRC also noted with concern the escalating number of refugee children from South Sudan who were married before the age of 18 years. It was observed that upon arrival, the young spouses and child mothers would be separated from their 'husbands' leaving some of them as single mothers. Although they were sheltered like the other children, they faced challenges of single parenthood. The practice in the humanitarian operations of separating such minors from their families needed to be addressed by developing Standard Operational Procedures (SOPs) on how to manage the complex situation of married refugee child mothers. UHRC noted that this phenomenon was unprecedented and therefore needed special attention of the governments, humanitarian and human rights actors to develop relevant guidelines on how it could be addressed without breaching the principle of the best interest of a child. The UHRC notes that such children required a lot of counselling and psychosocial support and Government needed to give them adequate resources to enjoy their rights.

3.5.4.13 Inadequate access to health services

In Nakivale Refugee Settlement, there are about five health centres namely: Nakivale Health Centre III, Rubondo Health Centre II, Juru Health Centre II, Kibengo Health Centre II, and Rwekubo IV which partners with UNHCR/OPM. These were serving 121,987 refugees out of whom 73 were unaccompanied refugee minors. The fact that the number of health centres was limited compared to the total population of the refugees was a challenge in guaranteeing the refugees' access to health services. In addition, the common ailments/illnesses treated in the Health Centres at Nakivale Refugee Settlement were respiratory tract infections, malaria, skin infections, but all the health centres did not have isolations room for contagious diseases.

3.5.4.14 Inadequate access to water

The right to health requires access to adequate, clean and portable water to be fully realised. UHRC noted that in Nakivale Refugee Settlement the children had access to adequate, clean and portable water from a borehole situated about 0.5 kilometres from the settlement. Water for the refugee settlement was provided under the AAH/UNHCR Wash Sector and comprised 122 taps, boreholes and shallow wells. These were also accessed by the host communities. The children and their caregivers carried the water on their heads.

However, from August 2016 a very serious water shortage hit the area. The women and children including unaccompanied minors had to fetch the water at night. This was highly risky as they were exposed to sexual and other forms of abuse. Often reports were received of violence against children and their mothers, questioned by male relatives on why the women had delayed at the water sources. This was commonly reported in Bidibidi, Pagirinya, Agojo, Nyumanzi, Boroli, Ayilo 1 and 2 among others. Inadequate water caused conflict and tension among families. Often UNHCR and its partners had to use their vehicles for water tracking which is very expensive.

3.5.4.15 Inadequate psychosocial support for unaccompanied refugee minors

UHRC noted that there were challenges regarding provision of the requisite psycho-social support to the unaccompanied refugee minors.

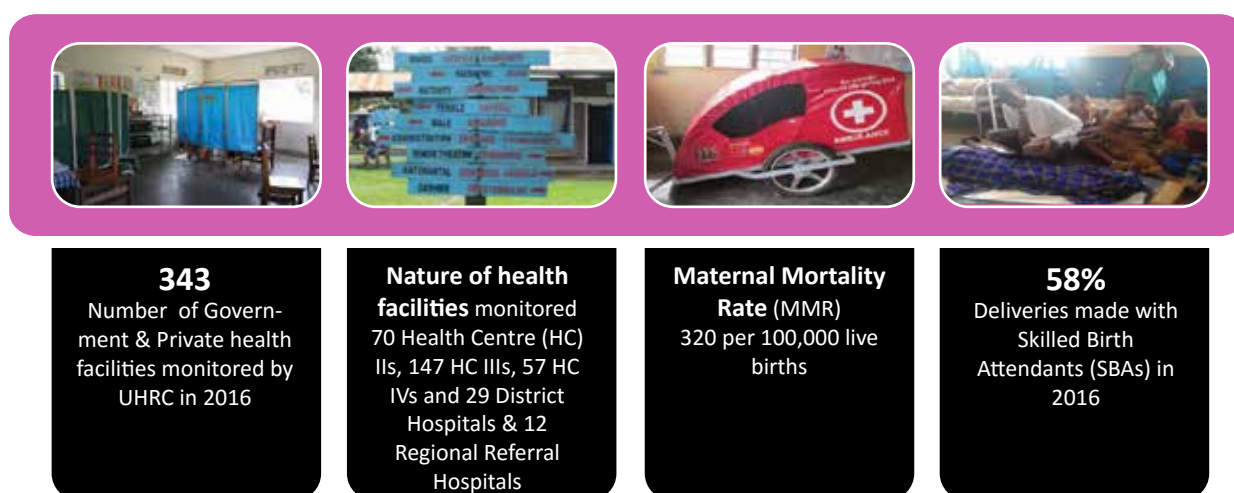
3.5.5 Recommendations

1. Office of the Prime Minister, UN Agencies, humanitarian and human rights organisations should develop Standard Operating Procedures on how to address, without breaching the principle of the best interest of a child, the unprecedented complex situation of legally married refugee child mothers whom the domestic law of Uganda does not recognise.
2. Office of the Prime Minister, Ministry of Energy and Mineral Development, Ministry of Water and Environment and humanitarian partners should provide the refugees with alternative energy options in order to save the environment since they purely depend on wood fuel for cooking.
3. Humanitarian assistance interventions should incorporate components of gender, human rights and peaceful co-existence, in order to address the gender-based violations that women and children, including unaccompanied minors endure.
4. Uganda Government, South Sudan Government and the United Nations, supported by development and humanitarian partners should dialogue towards reducing child marriages.
5. All stakeholders who make interventions for unaccompanied children and refugees minors should respect human rights; respect the law and human rights standards and act in the best interest of the child.
6. Office of the Prime Minister, United Nations High Commissioner for Refugees and humanitarian partners need to forge a holistic (legal, sociological, rights based and gender diversity) approach to the response and management of settling child mothers and unaccompanied minors.
7. Office of the Prime Minister, United Nations High Commissioner for Refugees and other UN agencies and humanitarian partners should adequately support the adults who take care of the unaccompanied refugee minors; livelihood skills should be imparted to the minors and adults who keep the minors, empowered economically and socially.
8. Ministry of Health and humanitarian partners should provide psycho-social services should be increased both for the minors and adults and where necessary the full primary health care package for psycho-social and mental health should be provided.
9. Office of the Prime Minister, United Nations High Commissioner for Refugees and humanitarian partners should provide peace building skills and human rights based intervention for the most vulnerable persons like the elderly, women and children.
10. Ministry of Health and other local and international partners should provide adolescents with education on reproductive health.
11. Office of the Prime Minister and Ministry of Water and Environment should ensure that refugee settlements are set up near water sources and work with their humanitarian partners to provide water during dry seasons.



CHAPTER FOUR

MATERNAL AND REPRODUCTIVE HEALTH RIGHTS SITUATION IN SELECTED HEALTH FACILITIES IN UGANDA



4.1 INTRODUCTION

Maternal health refers to the health of women during pregnancy, childbirth and the period after delivery referred to as postpartum. Closely linked to maternal health is reproductive health, which entails the reproductive processes, functions and system at all stages of life. Implicit in this is the right of men and women to be informed of and have access to safe, effective, affordable and acceptable methods of fertility regulation of their choice; as well as the right of access to appropriate health care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant.²⁴⁹

Demographically, Uganda has 7.3 million women of reproductive age (15-45 years). This is 20.9% out of a total population of 34.9 million.²⁵⁰ The key to ensuring women and adolescent girls have the best possible maternal health outcomes is providing complete access to comprehensive reproductive health services.

Much as Uganda has made some positive efforts in reducing the annual maternal mortality rates from 438 per 100,000 to 336 per 100,000 live births,²⁵¹ by 2015, it was still below the MDG target of 131 per 100,000 live births. Like other developing countries, this is usually reflective of the level and right of access, availability, acceptability and quality of health service delivery by women and adolescent girls.

A human rights based approach (HRBA) to the highest attainable standard of maternal and reproductive health is therefore, essential irrespective of geographical location, gender, age or socio-economic status of the women or adolescent girls. A human rights based approach with regards to maternal and reproductive health (MRH) is about empowering women, mothers and adolescent girls to know and claim their

²⁴⁹ Available at http://www.who.int/topics/maternal_health/en/ last accessed on 23 February 2017.

²⁵⁰ National Population and Housing Census 2014.

²⁵¹ n.91 above. Statistics of Uganda's MMR of 438 per 100,000 live births is based on Uganda's Demographic Health Survey (UDHS) 2016.

rights and increasing the ability and accountability of individuals and institutions who are responsible for respecting, protecting and fulfilling rights. HRBA principles such as accountability, equity, free informed choice, non-discrimination, dignity, privacy, confidentiality and participation are indispensable tools for reducing maternal mortality rates and advancing and achieving sustainable maternal and reproductive (MRH) health outcomes.

Unlike the past Annual Reports where UHRC's assessment of the enjoyment of the right to health and state of service delivery was done from a broad point of view; this Chapter explicitly examines the progress made by the Government towards the provision on maternal and reproductive health service delivery for and the application of HRBA, based on inspection findings made by UHRC and other actors in selected health facilities. It will look at the positive developments, interventions, key MRH health rights concerns in 2016 and conclude with recommendations.²⁵²

4.2 LEGAL FRAMEWORK

Uganda has ratified various international as well as regional instruments and enacted laws that provide for and safeguard MRH rights. These are discussed below:

4.2.1 International legal framework

Article 12 of the ICESCR recognises 'the right of everyone to the enjoyment of the highest attainable standard of physical and mental health'. General Comment 14 to the ICESCR emphasises that ensuring reproductive health care is a core obligation of the human right to health and reproductive health services therefore must be provided through primary health care systems. General Comment 22 (2016) to the ICESCR on the Right to sexual and reproductive health. It details the obligations of States regarding sexual and reproductive health. It further states that ideologically based policies or practices, such as the refusal to provide services based on conscience, must not prevent people from getting care, and that an adequate number of health care providers willing and able to provide such services should be available at all times in both public and private facilities. The General Comment highlights the numerous legal, procedural, practical and social barriers people face in accessing sexual and reproductive health care and information, and the resulting human rights violations.

The right to maternal health is guaranteed under the CEDAW which obliges States Parties to take all suitable measures to eliminate discrimination against women in healthcare and ensure that women access appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary.

As per the International Conference on Population and Development (ICPD), Cairo Programme of Action, Reproductive health is 'a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. It therefore implies that people are able to have a satisfying and safe sex life; have the capability to reproduce and the freedom to decide if, when and how often to do so; the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law; and the right of access to appropriate health-care services that will enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant.'²⁵³

The United Nations Sustainable Development Goals (SDG) 3 that places emphasis on the state obligation to 'ensure healthy lives and promote well-being for all at all ages' is directly related to the health Target 3.7 where, Uganda has to ensure universal access to sexual reproductive care services, including for family planning, information and education, and the integration of RH into national strategies and programmes by 2030. Target 3.8 stipulates for each member state to achieve universal health covering, including financial

²⁵² This chapter is a summary of UHRC's findings that are contained in a draft Special Report on Maternal and Reproductive Health in Selected Facilities inspected in 2016.

²⁵³ International Conference on Population and Development (ICPD), Cairo Programme of Action Para 7.2 1994.

risk protection, access to quality essential health care services, and access to safe, effective, quality, and affordable essential medicines and vaccines for all. Gender Goal Target 5.6 reaffirms state duty to ensure universal access to sexual and reproductive health rights & services.

4.2.2 Regional legal framework

Article 16 of the ACHPR provides for “the best attainable standard of physical and mental health”. The Maputo Protocol²⁵⁴ guarantees the respect and promotion of the right to health for women in Africa including the right to sexual and reproductive health. Maputo Declaration (2003) advocates for the respect and promotion of the right to health for women in Africa, including the right to sexual and reproductive health. Under the Common African Position (2014) on the post 2015 Development Agenda; two of the three priority areas were on improved maternal health and enhanced access to sexual and reproductive health and rights including family planning.

4.2.3 National legal framework

Although there is no explicit provision for the right of to health under the 1995 Constitution, General Objective XIV (b) provides that the state shall endeavour to ensure that all Ugandans shall enjoy the right to access health services.

Article 33 of the 1995 Constitution is key as setting a legal standard for maternal health. Specifically, Article 33 (2) states that the State shall provide the facilities and opportunities necessary to enhance the welfare of women to enable them to realise their full potential and advancement. Further, Article 33 (3) states the State should protect women and their rights, taking into account their unique status and natural maternal functions in society

Other laws and policies that expound on the state obligation to protect, respect and fulfil the right to maternal and reproductive health include the Public Health Act; National Drug Policy and Authority Act Cap 206; National Medical Stores Act Cap 207; National Health Policy II (NHP); Ministry of Health policy guidelines on maternal and perinatal deaths; the Reproductive Health Policy (RHP); the National Adolescent Health Policy 2004; Health Sector Development Plan (HSDP) 2015/2016- 2019/2020; Revised Reproductive Health Maternal, New born and Child Health (RHMNCH) Sharpened plan 2016; the 2006 National Policy Guidelines and Service Standards for Sexual and Reproductive Health and the Alternative Distribution Strategy for Contraceptives, 2015.

4.3 HEALTH FACILITIES MONITORED BY UHRC IN 2016

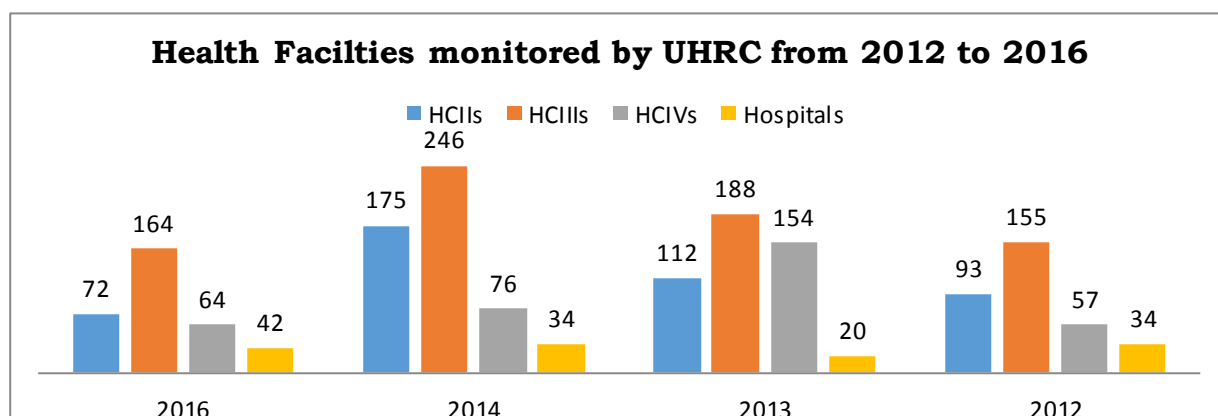
In 2016, UHRC monitored 343 health facilities 72 Health Centre (HC) IIs, 164 HC IIIs, 64 HC IVs and 32 District Hospitals and 11 Regional Referral Hospitals. It should be noted that these inspections were conducted in the months of May and June 2016. According to the statistics for past four reporting years, there has been a steady rise in the number of health facilities inspected from 329 in 2012 to 373 in 2013, 527 in 2014. The total number of health facilities in Uganda were 1,596 HC IIs, 906 HC IIIs, 169 HC IVs and 57 hospitals.²⁵⁵ Figure 4.1 below shows the trends on UHRC monitoring of health facilities for the past four years.²⁵⁶

²⁵⁴ Article 14 of the Protocol to the ACHPR on the Rights of Women in Africa (Maputo Protocol)

²⁵⁵ Information from Ministry of Health.

²⁵⁶ UHRC did not monitor health facilities in the year 2015.

Figure 4.1: Number of health facilities monitored from 2012 to 2016



The decline in the number of health facilities monitored by UHRC by 65.08% in 2016 is attributed to the reduction in funding for UHRC operations. As a result, the regional offices monitored selected health facilities situated in mainly urban and peri-urban areas in the months of May and June 2016. Out of the 343 health facilities inspected, 50 were privately owned, while 293 were public facilities.²⁵⁷ Tables 4.1 provide details on the total number and nature of health facilities inspected by its regional offices in 2016.

Table 4.1: Health facilities inspected by UHRC per regional office in 2016

Regional Office	Level of health facility					Total
	HC II	HC III	HC IV	District hospital	Regional Referral Hospital	
Arua	2	16	6	3	0	27
Central	7	14	5	4	2	32
Fort Portal	7	29	9	4	1	50
Gulu	6	6	6	3	2	23
Hoima	13	13	1	2	0	29
Jinja	7	19	9	6	1	42
Masaka	7	10	6	3	1	27
Mbarara	13	22	13	2	1	51
Moroto	6	12	0	2	1	21
Soroti	4	23	9	3	2	41
Total	72	164	64	32	11	343

The majority of the health facilities monitored were visited for the first time (66%) whereas (34%) were follow up visits by UHRC.

4.3 NATURE OF HEALTH COMPLAINTS HANDLED IN 2016

Article 52 (1)(a) stipulates for UHRC to investigate at its own initiative, or on a complaint made by a person or group of persons against violation of human rights or abuses, including those on the right to health. In 2016, the UHRC registered six complaints of alleged human rights violations of the right to health by state actors. Of the complaints registered in 2016, (5) were on denial of access to medical treatment; (1) was on medical negligence; and (1) on the violation of the right to life. There were two complaints received by the Right to Health Unit alleging violation of the right to mental health issues and these were referred to responsible authorities for their necessary action.

²⁵⁷ AHSPR 2012/2013.

In 2016, one specific complaint was brought before UHRC against Kiboga District Local Government²⁵⁸ on its failure to provide adequate and timely emergency obstetric care to the complainant's spouse, which led to the violation of her right to life and health. UHRC also received general complaints during the inspections of selected health facilities and the findings are incorporated and discussed in this chapter.

4.4 MATERNAL AND REPRODUCTIVE HEALTH IMPACT INDICATORS IN UGANDA

The rationale for the health indicators for maternal and reproductive health is to set benchmarks to monitor progress of a state towards fulfilling its obligations, goals or objectives under ratified international, regional and national legal and human rights instruments. The performance targets are intended to accelerate movement towards meeting maternal and reproductive health outcomes. Table 4.2 below is a summary of Uganda's maternal and reproductive health performance in FY 2015/16.

Table 4.2: Summary of Uganda's maternal and reproductive health performance in FY 2015/16

Indicator	Performance in FY 2015/2016	HSDP Target FY 2015/16
Total fertility rate	5.8	5.1
Maternal mortality rate (MMR) (number of deaths per 100,000 births)	320	131
Maternal deaths among 100,000 health facility deliveries	119	114
Maternal death reviews	37%	38%
Teenage pregnancies	25%	24%
Ante Natal Care (ANC) coverage 4th visit	38%	37.5%
Health facility deliveries	55%	54%
Antenatal care (ANC) coverage for the fourth visit	38%	37.5
Unmet need for Family Planning	34%	58%
Contraceptive prevalence rate	30%	39%
Couple Year Protection (CYP)	2,232,225	4,300,000
IPT2 doses coverage for pregnant women	55%	58%
HIV+ pregnant women not on HAART receiving ARVs for PMTCT during pregnancy, labour, delivery and postpartum	68.3%	85%
HC IVs offering Caesarean Emergency Obstetric Care services	36%	55%
HC IVs conducting Caesarean Services	62%	55%
HC IVs conducting blood transfusion	40.4%	55%

Source: Annual Health Performance Report FY 2015/16 and the Health Sector Development Plan FY 2015/2016 - 2019/2020

4.5 DEVELOPMENTS IN PROVISION OF MATERNAL AND REPRODUCTIVE HEALTH SERVICES

This section assesses the progress and challenges faced towards providing maternal and reproductive health service delivery based on findings made by UHRC during its monitoring visits and stakeholder reports from responsible state and non-state actors.

²⁵⁸ ***Kasumba Simon Peter and Kiboga District Local Government Uganda Human Rights Commission Complaint CTR No. 32/2016.*** The matter is still being handled by the UHRC.

4.5.1 Access to Maternal and Reproductive Health Services

Of the health facilities inspected, 65% provided maternity services in the form of pre-natal, Emergency Obstetric and Neonatal Care (EmONC), post-natal healthcare, theatre, blood transfusion and reproductive healthcare. Table 4.3 is a summary of findings by the UHRC on the provision of maternal and obstetric services in health facilities monitored in the months of May and June 2016.²⁵⁹

Table 4.3 Summary of UHRC findings on the provision of maternal and obstetric services in health facilities monitored in May and June 2016

Indicator	Total Number	Total Average Number	Number of health facilities
Births delivered at the healthy facility	9949	601	247
Births attended by a skilled health personnel (midwives/nurse-midwives/specialised doctors)	22554	719	168
Number of nurse-midwives	72	3	210
Number of midwives	48	2	258
Number of specialised doctors	30	1	109
Births by caesarean section	3499	162	117
Teenage births at the health facility (15-19 years)	933	88	163
Number of referrals by traditional birth attendants (TBA)	247	12	88
Number of maternal deaths in the facility	57	3	124

4.5.1.1 Births at health facility level

According to UHRC findings above, an average of 601 births per were delivered in 247 health facilities, while a total 9,949 deliveries were reported in the months of May and June 2016 in the same 247 health facilities. At the national level, a total of 958,077 deliveries were reported, with 79.3% of them made at public facilities in FY 2015/16. According to the Annual Health Sector Performance Report 2015/2016, health facility deliveries improved from 53% (958,077/1,787,840) in 2014/15 to 55% and this was above the HSDP target (54%) for FY 2015/16.²⁶⁰ It should be noted that an increase in the number of health facility deliveries has positive impact on maternal survival rates. UHRC observed that health facilities deliveries were fewer compared to the number of mothers that sought women antenatal services there. With regard to teenage births at the health facility, UHRC reported an average of 88 out of 933 teenage births (15-19 years) in 163 facilities. An average of 162 out of 3,499 births were by caesarean section in 117 facilities monitored by UHRC.

4.5.1.2 Deliveries attended by skilled birth attendants

The highest incidence of maternal and perinatal mortality occurs around the time of birth with the majority of deaths occurring within the first 24 hours after birth. That is why WHO advocates for “skilled care/ skilled birth attendants (SBA) at every birth” to ensure quality maternity care services that can save the lives of women and new-borns. These services require “an accredited health professional – such as a midwife, doctor or nurse – who has been educated and trained to proficiency in the skills needed to manage normal (uncomplicated) pregnancies, childbirth and the immediate postnatal period, and in the identification, management and referral of complications in women and new-borns”.

²⁵⁹ Under the Ministry of Health Structure; ideally HCIs should provide outpatient care, antenatal care, immunization and outreach. HC IIIs provide all of the services of HC-II, plus inpatient care and basic emergency obstetric care while HC IVs and hospitals should provide comprehensive EmOC. However, based on UHRC findings, not all health facilities expected to provide these services did so due to a number of reasons, some of which are discussed in the chapter.

²⁶⁰ n.257 above, p. 10.

The number of health workers per 1,000 population in Uganda is still far below the WHO threshold of 2.3 doctors, nurses and midwives per 1,000 population. In FY 2015/16 the number of doctors, nurses and midwives per 1,000 population was 0.74/1,000, of which doctors were 0.03/1,000, midwives 0.25/1,000 and nurses 0.46/1,000. In the same financial year, 58% of the births were attended by skilled staff.

During the UHRC monitoring visits, it was reported that an average of 719 out of 22,554 births was attended to by skilled health personnel. The facilities monitored had a total average of three nurse-mid wives, two mid wives and one doctor.

There is still a high attrition rate among health workers in public health facilities. During FY 2015/2016, most of the departures reported were nurses at 34%, followed by midwives at 25%, 20% for administration and support staff and to a lesser extent the medical officers and paramedical staff. Of the essential staff required to deliver the Reproductive Maternal Neonatal Child Adolescent health (RMNCAH) package, those which are severely short in number include theatre assistants (57%), doctors (49%), pharmacists (40%), dispensers (40%) and anaesthetic officers (27%). The staffing levels go by responsibility and sometimes the junior staff multitasked by taking on additional responsibility of senior staff thus burdening the junior staff without additional responsibility allowance.

The major limitation to filling the staffing gaps in both the public and private sector was inadequate and unpredictable wage. It was reported that the staff structure used in public facilities was out dated and did not meet the current maternal health demands.²⁶¹ Other commonly cited factors included inadequate advocacy for wage and human resource for health (HRH) support; limited capacity to attract and retain qualified staff; difficult working conditions – no accommodation, inadequate social amenities, inadequate supply of some priority cadres and unattractive compensation.

4.5.1.3 Use of traditional birth attendants

Provision of antenatal services by traditional birth attendants (TBA) is a reality despite the 2009 government directive that they are not allowed to carry out deliveries. Rather, they are supposed to direct all expectant mothers to formal health facilities because their role has done little to reduce maternal and infant mortality and cannot manage complications associated with labour since they primarily rely on experience and knowledge acquired informally. Some of TBAs have been incorporated in to the village health teams (VHT) which offer basic health care to rural communities on topics ranging from detecting signs of complications or illnesses among pregnant women and babies and encouraging women to deliver in health facilities.²⁶² UHRC received reports from 88 facilities of 247 referrals made by TBAs. Health workers at some health facilities stated the difficulty in ascertaining the exact number of mothers who are referred by TBAs since such information was usually not disclosed to them by the mothers unless asked.

According to Ministry of Health, TBAs seem to be the preference of mothers situated in rural and hard to reach areas. They are preferred because they are cheap, readily available and accessible in places without health facilities and are known to the communities. The persistent challenges within maternal health service delivery such as inadequate skilled staff and infrastructure have also contributed to their continued role.²⁶³

4.5.1.4 Maternal deaths reported at the health facilities

According to UDHS 2016, the maternal mortality rate in Uganda has reduced to 336 per 100,000 live births from 438 per 100,000 (UDHS 2011). The reduction is attributed to Governments efforts in recruiting critical skilled staff especially medical officers and midwives to functionalise HC IVs and IIIs, renovation and equipping of hospitals and HC IVs plus improvements in the roads network, all which have improved

²⁶¹ Interview with the Hospital Director, China Uganda Friendship Hospital in June 2016.

²⁶² At some health facilities such as Kagando Hospital, Musenyene and Maliba COU HC IIIs in Kasese District, it was reported that sometimes TBAs escorted the expectant mothers in case there was a complication during delivery..

²⁶³ J. Kityo, 'Traditional Birth Attendants determined to stay on in Uganda,' Available at <http://www.keyrespondents.org> Last accessed 10 March 2017.

access to maternal health services. 1,136 maternal deaths were reported through the health management information system (HMIS) in FY 2015/16. According to the Annual Health Sector Performance Report (AHSPR) 2015/16, there were 119 maternal deaths among 100,000 health facility deliveries and this was attributed to improved reporting.

In FY 2015/16, the leading and direct causes of death were still obstetric haemorrhage and postpartum sepsis²⁶⁴ accounting for 39% and 20% respectively; hypertensive disease and abortion related deaths each at 9%. Common factors underlying avoidable maternal deaths included delay in seeking help by women (60%), lack of transport from home to health facilities (42%) and between facilities (58%) lack of blood supplies, products and consumables (42 %) and lack of critical cadre (29%).²⁶⁵

UHRC through its regional monitoring of health facilities received reports of a total of 57 maternal deaths in 124 health facilities in the months of May and June 2016. The top five direct causes of maternal deaths that were reported were excessive blood loss, followed by pregnancy related to hypertension, abortion related complications, uterine rupture and HIV/AIDS. The top underlying causes of maternal death included delays of mothers in seeking health care, in reaching health service point and in receiving adequate health care during or after child birth.

4.5.2 Availability of essential drugs and supplies

This requires the provision of scientifically approved essential drugs and supplies for MRH care in the required quantities, of good quality, affordable and ensuring that they are available at the health facilities.

4.5.2.1 Availability of essential drugs

Tables 4.5 and Figure 4.2 presents findings made by UHRC on the availability of the essential drugs for child birth (labour) and antenatal care at the selected health facilities inspected.

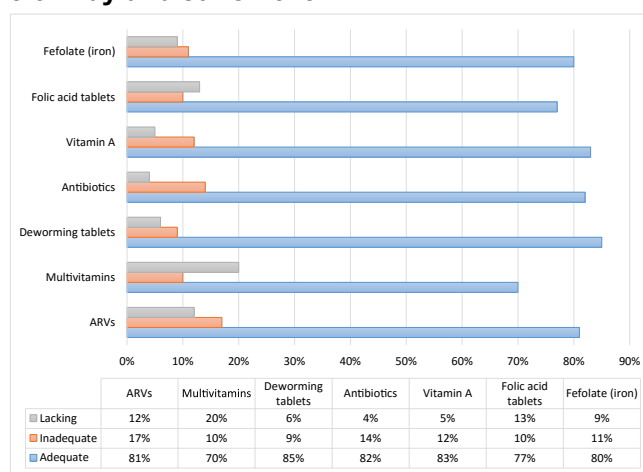
Table 4.5: UHRC findings on the availability of essential drugs for delivery

Essential Drugs needed for Child Birth	Lacking	Inadequate	Adequate
Fefolate (iron)	11%	14%	75%
Anti malarials (fansidar)	6%	11%	83%
Labour inducing medication	19%	15%	66%
Antibiotics	6%	15%	78%
Magnesium sulphate	17%	11%	72%
Oxytocin (assists in contractions)	11%	12%	76%
Hydrocortisone injections (steroid)	17%	13%	71%
Dexamethazone (for premature labour)	26%	14%	60%
Calcium gluconate (mineral supplement)	29%	12%	58%
Adrenaline	28%	14%	69%
Diazepam (muscle spasms during labour)	21%	14%	65%
Ergometrine (to control over bleeding)	38%	13%	48%

²⁶⁴ A postpartum period or postnatal period is the period beginning immediately after the birth of a child and extending for about six weeks. Postpartum sepsis is one of the infections that can occur after vaginal and caesarian delivery or breastfeeding. Available at <http://www.emedicine.medscape.com/article796> Last accessed 3 January 2017

²⁶⁵ n.260 above, p. 6.

Figure 4.2: UHRC Findings on Availability of Essential Drugs needed for Ante Natal Care in the months of May and June 2016



Over the past five years, Ministry of Health has reported that Malaria is one of the direct causes of maternal mortality in Uganda. During its inspections, UHRC noted that on average 590 pregnant women received IPT2 (malaria treatment) in the health facilities inspected. The national IPT2 coverage in FY 2015/16 was at 55%, a slight increase from 53.4% in FY 2014/15.²⁶⁶

94 health facilities inspected by UHRC still experienced drug stock outs on essential drugs and supplies, due to push delivery system and delayed procurement of drugs. ARVs and Reproductive Maternal Neonatal Child Adolescent health (RMNCAH) baskets²⁶⁷ had the highest availability however more than a quarter of health facilities still experienced a stock out of Essential Medicines and Health Supplies.

4.5.2.2 Availability of essential supplies

The availability of maternal health supplies is a challenge at most of the health facilities with most of the health facilities lacking haemoglobin estimation kits. For instance at Nyahuka HC IV in Bundibugyo District, it was reported that mothers are referred to private health facilities for haemoglobin estimation while at Butiiti HC III in Rakai District; mothers are referred to Kyenjojo Hospital in Kyenjojo District which was approximately 15 km away from the facility. It was reported at some health facilities such as Malere HC II in Kabarole District, Mugusu HC III in Kamwenge District, Nyankwanzi HC III and Katooke HC III in Kyenjojo District and usually had stock outs of mama kits and that they didn't have STI kits. At Kasanga HC III in Kasese District, it was reported that the facility does not have mama kits hence most of the mothers do not turn up for deliveries and prefer going to Bwera Hospital. The officers in charge at most of the health facilities inspected stated that they usually have enough insecticide treated nets which they provide to mothers who go for antenatal visits.

4.5.2.3 Availability of blood transfusion services

Blood transfusion is recognised as one of the eight essential components of comprehensive emergency obstetric care (cEmOC), which has been shown to reduce rates of maternal mortality. Efforts to reduce the number of maternal deaths from haemorrhage should address both the availability of blood and transfusion services. There are only four regional blood banks (Mbarara, Fort Portal, Gulu and Mbale), complementing the Nakasero Uganda Blood Transfusion Services (UBTS) and the 2 National Referrals (Mulago and Butabika plus China Uganda Friendship Hospital Naguru).

²⁶⁶ n.260 above, p. 6.

²⁶⁷ n.260 above, p. 6.

In 2016, obstetric haemorrhage was the leading direct cause of maternal mortality at 39% of the maternal deaths audited.²⁶⁸ UHRC observed that 52% of the health facilities adequately availed blood transfusion services, 42% lacked the services while 8% had inadequate blood transfusion services. Similarly, Ministry of Health reported of an increase in the percentage of HC IVs offering blood transfusion from 38.5% to 40.4% (80/198) in 2015/16. The proportion of HC IVs offering CEmOC services (Caesarean Section and blood transfusion) was 36% (72/198) compared to 33% in FY 2014/15. The number of HC IVs conducting Caesarean Sections without the need for blood transfusion services also increased significantly to 62% (122/198) from 51% in the previous Financial Year.²⁶⁹

4.5.3 Availability and costs of family planning services

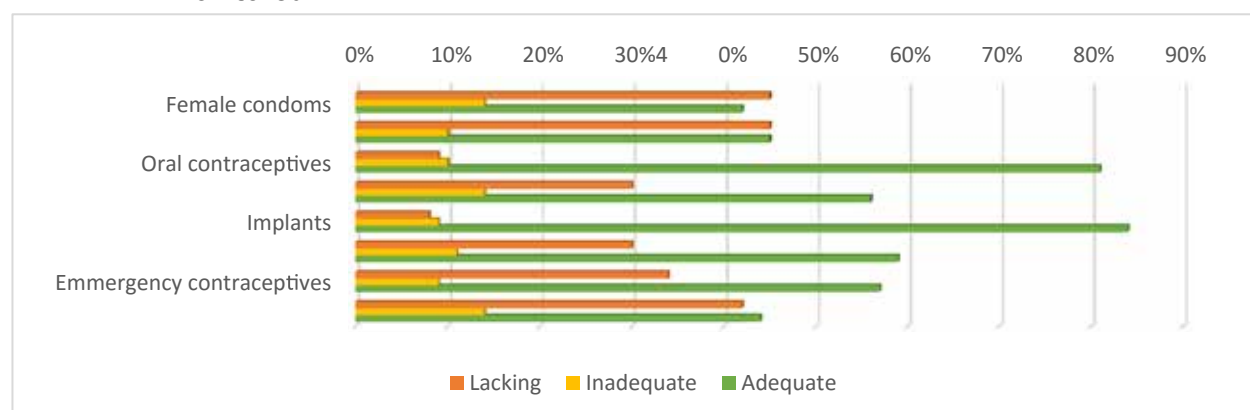
It is globally recognised fact that scaling up family planning services is one of the most cost-effective interventions to prevent maternal deaths. In 2014, Ministry of Health released the Uganda Family Planning Costed Implementation Plan, 2015-2020, which was also implemented in 2016. It was intended to reduce the “unmet need for family planning to 10%, and increase the modern contraceptive prevalence rate amongst married and women in union to 50 per cent by 2020.” Below are UHRC findings on utilisation of family planning services and commodities in the health facilities visited.

4.5.3.1 Contraceptive usage

Table 4.6: UHRC findings on the Availability of Contraceptives

Availability of contraceptives	Lacking	Inadequate in number	Adequate in number
Female condoms	45%	14%	42%
Male condoms	45%	10%	45%
Oral contraceptives	9%	10%	81%
Injectables	30%	14%	56%
Implants	8%	9%	84%
Intra uterine devices	30%	11%	59%
Emergency contraceptives	34%	9%	57%
Permanent contraceptive methods	42%	14%	44%

Figure 4.3: UHRC Findings on usage of reproductive commodities in health facilities monitored



²⁶⁸ n. 266 above, p.5.

²⁶⁹ n.266 above, p.10.

It should be noted that there was low contraceptive usage of 30% in 2016.²⁷⁰ Table 4.7 contains UHRC findings from health facilities monitored on the top reasons²⁷¹ for low contraceptive usage.

Table 4.7: Top reasons for low contraceptive usage

Reasons	No. of Health Facilities	Percent
Ignorance/inadequate knowledge about family planning methods	163	28%
Fear/intimidation faced at home	139	24%
Coercion on non-usage	76	13%
Limited choice on preferred contraceptive method	62	11%
Influence of culture/religion	103	18%
Others	39	6%

During FY 2015/16, availability of RMNCAH health commodities (9) was 89% and an average of 47% of health facilities that reported had over 95% availability of the basket of commodities. Implants, IUDs and injectables were the highest contributors to the total Couple Years Protection²⁷² (CYP) at 735,952 CYPs, 727,910 CYPs and 572,342 CYPs respectively. Majority of the health facilities visited by the UHRC provided a method mix of family planning methods (68%) whereas 47% adequately utilised them.

4.5.3.2 Right to full and informed choice and access to information

During UHRC monitoring visits, concern raised over inadequate knowledge and capacity of health workers on post-partum family planning services and method mix and in some cases their perceived bias and myths on the utilisation of certain Family Planning methods, This infringed the patients' right to full, free and informed choice and information on reproductive health services. Informed consent is the ability for patients to make a voluntary and sufficiently informed decision, protecting the right of patients to be involved in medical decision-making, and assigning duties and obligations to health-care providers.

Further, other barriers like negative societal norms, illiteracy, intimate partner violence led to coercion of women/girls in non-utilisation or the choice of family planning methods. This violated their right to autonomy, choice and information.

4.5.4 Availability of adolescent youth friendly services

Adolescent and youth-friendly services (AYFS) are services that all adolescents are able to obtain, and these services should meet adolescents' expectations and needs and improve their health. These services should be able to effectively attract young people, meet their needs comfortably and responsively, and succeed in retaining young clients for continuing care. Many of the barriers in Uganda that adolescents face in accessing maternal and reproductive health services are unique to young people due to their stage in life and associated special needs, perceptions, and abilities. Examples of these services include consent sought from adolescents, provision of youth friendly corners/rooms/clubs (for privacy purposes), provision of reproductive health information and counselling for adolescents; confidentiality of medical information; provision of reproductive commodities and availability of data capturing tools specifically for adolescent information.

²⁷⁰ At Bundibugyo Hospital, it was reported that the hospital did not female and male condoms and had spent one year without receiving supply of implants. It was reported that mothers who wish to use implants are referred to private clinics. At Rwangara HC III and Rubona HC II it was reported that facility did not have condoms, oral contraceptives, IUDs, emergency contraceptives and tubal ligation methods.

²⁷¹ Other reasons for low contraceptive usage as relayed to UHRC during its inspections include inadequate contraceptive commodities; poverty; low education levels; inaccessibility to health facilities located in hard-to-reach areas.

²⁷² CYP is the estimated protection provided by contraceptive methods during a one-year period, based upon the volume of all contraceptives sold or distributed free of charge to clients during that period.

Majority of the health facilities (70%) had inadequate AYFS. Moreover, healthcare providers often lacked the training and skills to deliver youth-friendly services and did not fully understand laws around the age of consent of adolescent to sexual and reproductive health services without parental consent which is 12 years. This partly led to adolescent girls choosing to not to go to health facilities to utilise available reproductive commodities or using preferred family planning method, therefore resulting in unwanted teenage pregnancies and increased risk to sexually transmitted infections and HIV/AIDS.

4.5.5 Availability of HIV/AIDS services

Since the start of the HIV epidemic in Uganda, women have remained at a much higher risk of HIV infection than men. Young women and adolescent girls in particular, account for a disproportionate number of new HIV infections among young people living with HIV. A UNAIDS Global Review Mission to Uganda indicated that about 50 Uganda Girls aged 15 to 24 get infected with HIV per day. According to HIV/AIDS experts, 83,000 infections were registered, bringing the HIV/AIDS prevalence rate in the country to 7.3%.²⁷³ Women and adolescent are more vulnerable to HIV/AIDS due to gender equality and intimate partner violence, societal norms, lack or limited access to health care and lack of access to education.

Section 15 of the HIV and AIDS Prevention and Control Act 2014 entitles expectant mothers to treatment, care, support and medication to prevent transmission to the child. During its monitoring visits, UHRC reported an average of 52 pregnant women with HIV/AIDS received antiretroviral in all health facilities per month. HIV+ pregnant women not receiving ARVs for elimination of mother-to-child treatment (eMTCT) for HIV/AIDS during pregnancy, labour, delivery and postpartum was 68.3% in FY 2015/16.²⁷⁴

4.5.5.1 Right to patient confidentiality and non discrimination

The question of mandatory routine HIV/AIDS testing to prevent HIV transmission especially for expectant mothers and their partners,²⁷⁵ the option of health workers' disclosure of patients' HIV status without their consent²⁷⁶ and criminalisation of HIV/AIDS transmission²⁷⁷ has been regarded as a major barrier to the enjoyment of MRH services and an impediment in the fight against HIV/AIDS. This amounts to the violation of the right to patient confidentiality and non-discrimination by medical workers. Under the right to confidentiality, states must ensure that patient confidentiality is protected, information on health status is not disclosed to third parties without the consent of the individual, and that health care providers are trained to keep patients' medical information confidential. There have been reports of expectant mothers either recruiting and paying other men other than their partners to pretend to be their partners in order to access MRH services or not accessing these services at all.

As a result, civil society actors in 2016 under the leadership of Uganda Network on Law and Ethics (UGANET) filed a petition challenging the constitutionality of sections 18(2)(e) and (h), 41 and 43(1) of the said Act that undermines the public health objectives of HIV Prevention and Control and contravenes Objective XIV (b) of the National Guiding Principles of Public Policy and Articles 8A, 45, 287 and 2(1) and (2) of the Constitution of Uganda.²⁷⁸ They also challenge the act of criminalisation of HIV transmission saying it has never been proven anywhere that this act decreases new HIV infections.

4.6 PHYSICAL ACCESSIBILITY TO HEALTH FACILITIES

Physical accessibility to maternal and reproductive health services is an important forecaster of health service utilisation and maternal and child survival. Barriers such as long distance travel to health facilities in most cases are a determinant for high maternal mortality. According to the Health Sector Development Plan (HSDP) 2016/2017- 2019/2020, the target is to increase physical accessibility to health facilities and

²⁷³ n. 78 above.

²⁷⁴ n. 269 above p. 10.

²⁷⁵ Section 13 of HIV and AIDS Prevention and Control Act 2014.

²⁷⁶ As above, Section 18.

²⁷⁷ As above, Section 41 and 43.

²⁷⁸ Uganda Network on Law and Ethics, ICWEA and Ben Twinomugisha verses Attorney General Constitutional Petition No. 24 of 2016.

services by locating them within 5 km walking distance from 75% in FY 2015/16 to 85% by 2020. The National Service Delivery Survey (NSDS) 2015, found that nationally, the median distance to the Government health facility is 3 km compared to only 1.2 km for other health facilities. The median distance to Government health facilities located in urban areas was 1.5 compared to 3.5 for rural areas, which indicates inequitable access to MRH services especially for those located in rural areas.

During the UHRC inspections, 139 health facilities reported their location to be within the 5 km radius of households mainly found in urban and peri-urban areas. On the other hand, 101 health facilities reported providing services to households that were beyond the 5 km radius in 2016, including some that were located in hard to reach areas such as mountainous areas and islands.

There were reports from 63 health facilities of patients travelled from over 10 km seeking access to health services. When questioned about the impact of physical access to maternal and reproductive health care by women/mothers, health workers reported of the diminished utilisation of such services vis a vis the distance travelled. Further, the NSDS 2015 reported that majority of persons who fall sick walk (60%) followed by those that use public motorcycle (*boda boda*) (21%) to the health facilities. These conditions negatively affect the health seeking behaviour of patients receiving perinatal and antenatal care due to inadequate transport means, increased travel costs, poor road conditions and weather.

Examples of health facilities that were inaccessible

At Rwebisengo HC III in Ntoroko District, it was reported that during the rainy season some areas are cut off by floods which affected the turn up of mothers for deliveries. Oliver Komuhimbo, a patient, stated that she had travelled 10 km on a *boda boda* while in labour from Butungama village, Ntoroko District. UHRC Fort Portal team was not able visit some health facilities such as Isule HC III and Buhuhira HC II in Kasese District due to the poor road network and the distance to the facilities. It usually takes patients and medical workers at the facility about 3-4 hours on foot through forest and mountains from Kasungwa LC I to the health facility. At Burondo HC II in Bundibugyo District, it was reported that some of the expectant mothers came from areas within the mountains which are inaccessible.



Access road from Kikyo HC IV to Bundibugyo town affected by rains

It was reported by maternal death review committees in FY 2015/16 that lack of transport from home to health service points contributed 42% to the maternal mortality rate.²⁷⁹ Another concern identified by or reported to the UHRC was the rising population growth rate, which overwhelmed the provision of adequate MRH services originally intended for each health facility level.²⁸⁰ This caused patient congestion in delivery and antenatal wards and stretched the limited MRH personnel.

²⁷⁹ MPDR Report 2015/2016.

²⁸⁰ Each level of the health facility established has a catchment area or population they are intended to provide their respective services. HSDP 2015/2016- 2019/2020.

4.7 AVAILABILITY OF ADEQUATE HEALTH INFRASTRUCTURE

Health infrastructure comprises of buildings, (wards, theatres, plants, staff accommodation and health care waste facilities) equipment and transport.²⁸¹ The availability of a network of functional, efficient and sustainable health infrastructure is a precondition for effective and quality MRH service delivery. The status of health facilities in Uganda is classified into four categories namely functional, non-functional, under renovation and completed.²⁸² Below are the findings made by UHRC at 343 health facilities inspected in May and June 2016 on the state of health infrastructure that were instrumental for MRH service delivery.

4.7.1 Functioning infrastructure:

Outpatients departments (OPDs) (298), operating theatres/rooms (143); examination rooms (169); laboratory departments (191); maternity wards (192), waste disposal facilities (especially drainage systems (302) and placenta pits (127) incinerators (95), immunisation units (78); functional antenatal wards and waiting area (162); emergency units (7) among others. For accessibility within the facility premises, majority of the facilities (259) had functioning ramps and (268) provided rails and support.

4.7.2 Non-functional infrastructure

UHRC's findings in some of the health facilities inspected included: maternity wards (10); antenatal and waiting area (8); surgery wards (37); immunisation units (28); operating theatres (4) OPD (7); laboratory department (10); waste disposal facilities (placenta pits (34), incinerators (53).

4.7.3 Old and dilapidated Infrastructure

UHRC also observed and received reports of old and dilapidated health infrastructure in some health facilities located especially within health sub districts. These included maternity wards (59); operating theatres (49); antenatal wards (57) and staff accommodation (61).

4.8 RIGHT TO PRIVACY AND PERSONAL DIGNITY

Under Article 17 of the ICCPR, every person has a right to privacy. The spirit of human rights centred care in MRH upholds the dignity of those using the services and those providing them. A general observation made by UHRC is that some facilities, even those that were recently constructed, had the challenge of limited number of rooms or space for patient examination, delivery, antenatal care and counselling. As a result, patients complained of the lack of privacy and violation of the right to their personal dignity when accessing health services. In a bid to address this problem, some health facilities improvised with the use of screens.

Box 4.1: Examples of health facilities with inadequate space in the maternity and antenatal wards

At Kataraka HC IV in Kamwenge District due to lack of space, the labour suit also acts as an examination room for expectant mothers. At the China-Uganda Hospital Naguru Kampala District, in the Maternal and Child Health Obstetrics and Gynaecological Unit; the ante natal exam couches had no screens; patients were asked questions within the hearing of others; Prevention of Mother to Child transmission of HIV/AIDS clinic counselling was done in a small room and in a group and the room was poorly ventilation & packed); no screens in the delivery wing. UNFPA provided screens in the delivery wards to alleviate the situation. There was also huge patient load under the unit due to referral of patients from Mulago Hospital due to renovations.

²⁸¹ n.80 above, p.24.

²⁸² Ministry of Health Facilities Inventory 2012 p.1-2. Functional refers to those facilities that were operational; Unfunctional are those facilities that have basic infrastructure but are not operational for reason of conflict, lack of staff and equipment but there are plans to make them operational. Completed are those which were not operating either due to lack of medicines or staff but there are plans to make them operational while units that are indicated to be under construction are those that are still being developed. The extent of functionality of health facilities could not be determined in 2014 due to the ongoing mapping and tracking of functionality of all health facilities in Uganda by the Office of the Prime Minister and the Ministry of Health.



Antenatal Ward at China-Uganda Friendship Hospital, Naguru Kampala



A room used for providing family planning and antenatal services at Kamwenge HC III in Kamwenge District

Inadequate space or rooms for MRH care was one of the structural barriers in the provision of adolescent youth friendly services and access to reproductive commodities by adolescent girls who want to avoid stigma and discrimination from their communities or families.

4.9 AVAILABILITY OF ESSENTIAL EQUIPMENT FOR MATERNAL AND REPRODUCTIVE HEALTH SERVICES

4.9.1 Availability of medical equipment

Fully functioning medical equipment that is managed, maintained and operated efficiently is a prerequisite for maternal and reproductive health care service delivery. The principal focus by the Ministry of Health under the HSDP is to improve the functionality of HC IVs and HC IIIs to provide emergency obstetric and neonatal care (EmONC) services by 100% through the availability of essential medical equipment and supplies. Table 4.8 presents the findings on the availability of selected medical equipment needed for MRH care in health facilities monitored.

Table 4.8: Findings on the availability of selected medical equipment in health facilities monitored

Essential Medical Equipment	Number of Health Facilities		
	Lacking	Non functioning	Functioning
Labour ward theatre equipment	145	7	201
Complete laparotomy(C-section sets)	184	24	145
Ultra sound machines	184	24	145
X-ray machines	208	31	113
Vacuum extraction apparatus	141	28	184
Respiratory ventilators	265	31	49
IV fluids	148	10	194
Anaesthetic equipment	74	3	276
Patient monitors	205	10	138
Surgical lights	116	7	230
Gloves(surgical & gynaecological)	123	17	212
Catheters, syringes, sutures	74	3	279

UHRC noted improvement in the acquisition and placement of medical equipment within the health sub districts in order to improve the diagnostic, treatment and emergency obstetric care capabilities of primary health facilities. However, there were complaints of lack of non-functioning essential medical and emergency obstetric neonatal care equipment in some HC IIIs and IVs.²⁸³

The latest auditor general's report²⁸⁴ observed that a number of equipment, including those needed for MRH care, needed urgent repairs in district and referral hospitals to make them operational while others had broken down. Hospitals and regional referral hospitals also claim that some of the equipment that is laid idle is due to lack of human resource to use but also lack of skills to operate the equipment.²⁸⁵ In FY 2015/16 government allocated UGX 5 billion for revitalisation of equipment, which was inadequate to maintain all the equipment in health centres and hospitals excluding the imaging and radiology equipment. Nationwide maintenance of medical equipment requires UGX 49 billion to maintain the current stock of medical equipment countrywide annually.

4.9.2 Availability and costs of emergency transportation

104 facilities monitored had access to some form of transportation including those needed for emergency cases that needed to be referred to other facilities. UHRC noted that 121 health facilities lacked efficient and functioning transport means. Other health facilities (67) improvised with the use of vehicles, motorcycles and bicycles. According to the Annual Health Sector Performance Report 2015/16, it was reported that the lack of transport between health facilities contributed to 58% of maternal deaths in 2016.²⁸⁶ 45 of the facilities monitored had ambulances that were grounded either due to mechanical problems or lack of fuel. As a result, patients that could afford fuel costs for emergency transportation did so while others used other private means. The use of motorcycles (*boda boda*) and bicycles especially in rural areas is especially hazardous for mothers suffering complications.

²⁸³ At Bwera Hospital in Kasese District, one of the x-ray machines and ultra sound machine had broken down and UGX 6 million was needed to repair the ultrasound machine. Patients at this facility had to seek ultra sound services at private facilities which cost about UGX 20,000. At Nyahuka HC IV, it was reported one oxygen cylinder was not functioning while the vacuum extraction apparatus was not fully functioning.

²⁸⁴ Available at <http://www.oag.go.ug> Lat accessed in February 2017.

²⁸⁵ Although Nyahuka HC IV had patient monitors, it lacked the human resource to operate them.

²⁸⁶ n. 269 above, p.12.

Box 4.2: State of emergency transportation in selected health facilities

Non-functioning ambulances

The ambulance at Bubukwanga HC III in Bundibugyo District had broken down and the facility lacked funds to repair it. Bukunda HC IV in Kabale District had an ambulance but it lacked fuel because the primary health care non-wage budget only provided for fuel money for one month.

Lack of emergency vehicle

Dranya HC IV and Oraba HC IV in Koboko District had no means of emergency transportation. Katooke HC III and Bufunjo HC III in Kyenjojo District lacked ambulances and mainly relied on the district ambulances or motorcycle-ranger ambulances provided by Save the Children and Baylor.

Availability of emergency vehicles

St Joseph Hospital and Masaka Regional Referral Hospital in Masaka District had ambulances, pickups, motorcycles and bicycle for transportation. Kijomoro HC III in Maracha District used a motorcycle for emergencies while Koboko HC IV in Koboko District had an ambulance and a land cruiser.



An improvised bicycle used as an ambulance at Kyagyenyi HC III in Sheema District

4.9.3 Access to reliable communication network

Provision of emergency transport services especially for obstetric and emergency care requires access to a reliable communication network. This can include access to mobile and or fixed telephone network, radio calls and pagers where possible. The most common form of communication is via the telephone network, with 50% having access to such services. However, those facilities located in hard to reach and in few rural areas still found access to reliable communication network difficult due to geographical terrain and inadequate coverage by mobile networks. A positive development was the use of the 'mama rescue,' a mobile phone application (pilot project) that was used at some facilities such as Nyabirongo, Musyenene HC IIIs and Kagando Hospital in Kasese District, to enable the medical workers to track referrals from lower health facilities and also help mothers get means of transportation.

4.9.4 Availability of beds for maternal and reproductive health care

During UHRC monitoring visits, availabilities of beds for MRH were found to be uneven among the different levels of health facilities. Health facilities from HC IV to hospitals were found with an average of 3-6 beds for admitted patients that undergone deliveries, operations, observations and antenatal care. On the other hand, HC IIIs had an average of 2-3 beds, which would at times be used for general inpatient admission. A general problem that was identified was the inadequate number of beds, mattresses and in some instances, an overwhelmingly high patient to bed ratio. Some of the delivery beds in some facilities were found in a decrepit state.



A worn out delivery bed at Kitanda HC III, Bukomansimbi District



Worn out beds in the antenatal ward at Lwengo HC IV Lwengo District



A Patient sleeping on the floor at the ante natal wing at China Uganda Friendship Hospital, Kampala

UHRC observed that in the health facilities monitored, there were only 5 delivery beds specifically designed to cater for the needs of PWDs at the time of inspections. On a general note, it was reported in the AHSPR 2016/16 that the average length of stay for hospitals was four days and three days for HC IVs. All these were within the HSDP target.

The bed occupancy rate was highest for the RRHs at 83%, general hospitals at 62% and 52.2% for HC IVs in FY 2015/16.²⁸⁷ On a positive note, this increase in bed occupancy rates has been translated to mean increase in the number of in-patient admissions including those utilising MRH services.

4.10 COURT LITIGATION ON MATERNAL AND REPRODUCTIVE HEALTH RIGHTS

A human rights based approach requires the recognition of rights as legally enforceable entitlements and is linked in to national and international human rights law. MRH service providers and all other responsible bodies must ensure that their practices and procedures are grounded in human rights law and be accountable in cases of breach or violation. Since the landmark 2011 Petition 16²⁸⁸ that raised the political doctrine question and placed emphasis on Government's obligation to provide basic maternal health services that resulted in the preventable deaths of many women in Uganda, there has been progress in litigation, advocacy and personal liability on issues that touch violations MRH rights and aspects of medical neglect and denial of access to health services. For instance in 2016, a case was brought before UHRC against Kiboga District Local Government on its failure to provide adequate and timely emergency obstetric care to the complainant's spouse, which led to the violation of her right to life and health.

This highlighted progress in litigation and advocacy concerning the right to health demonstrates creative judicial activism in the subject matter and increased public focus on issues of maternal health. Furthermore, the Supreme Court ruling in Petition 16 has in effect opened the doors to further lawsuits that could lead to an improvement in maternal health care in the country. It opens the door for the courts to now scrutinise government policies, government actions, and government omissions.

²⁸⁷ n. 286 above, p. 9..

²⁸⁸ *Centre for Health Human Rights & Development (CEHURD), Prof. Ben Twinomugisha, Rhoda Kkiriza, Inziku Valente versus Attorney General Constitutional Petition No. 16 of 2011.*

4.11 ACCESS TO INFORMATION AND HEALTH EDUCATION

298 of health facilities visited reported on the dissemination of MRH health information to patients' at the facility or through community outreach activities. However challenges on the delay dissemination of such information; inadequacies in the provision of such information in local dialects and age appropriate language; limited participation and access to information by beneficiaries were raised by health workers and patients.

Although UHRC commends the Ministry of Health for the progressive efforts towards raising public awareness on maternal and reproductive health, there is need for more emphasis in ensuring the information is provided in local dialect and is age appropriate. During the FY 2015/16, Ministry of Health reported that it raised awareness on teenage pregnancy, human papilloma virus (HPV)²⁸⁹ and safe motherhood through radio spot messages and press conferences and developed Social behaviour Change (SBCC) guidelines on Sexual and Reproductive and HIV/AIDS.²⁹⁰ It should be noted that the provision of comprehensive sexuality education (CSE) and reproductive commodities for children of ten years are contentious issues in Uganda. In August 2016, Parliament banned comprehensive sexuality education insisting it was promoting values, practices and behaviour that are against Ugandan customs and aspirations and the Ministry of Education was tasked to put in place a framework which would guide stakeholders on sex education. The Centre for Health, Human Rights and Development brought a court case against the Ministry of Education in 2016 to quash the ban immediately and for the Ministry of Education to come up with a policy on comprehensive sexuality.

4.12 ACCESS TO ESSENTIAL UTILITIES IN HEALTH FACILITIES

The right to health extends to the underlying determinants of health, such as access to safe and potable water, adequate sanitation and environmental conditions which should be accessible, available, acceptable and of good quality. Although 205 health facilities inspected had access to water (mostly collected from rain harvesting tanks, wells, boreholes, and in a few cases piped water), 99 had challenges with access to water due to the old or dilapidated, leaking rain tanks and broken down boreholes. The water shortages prevented the health personnel from providing to patients, including expectant mothers, essential health services and also affected the operations and sanitation in the health facilities.

It was reported that (59%) of the inspected health facilities faced power supply problems. The facilities that had access to hydro electricity and generators faced rising utility and fuel bills and in most cases the power supply was erratic. Other health facilities did not have functional solar power and improvised with lanterns, gas, torches and the mobile phone light to operate even during delivery of mothers.

²⁸⁹ In women, HPV infection can cause health problems like genital warts and cancer (cervical, vaginal and vulvar).

²⁹⁰ J. Mugisha, Senior Planner Ministry of Health, a presentation made for the 19th UHRC Annual Report Consultative meeting held at Sheraton Hotel, Kampala on 1-3 February 2017.

Box 4.3: Examples of health facilities with water and power shortages

Water Shortages

During the dry season, Nyankwanzi HC III in Kyenjojo District relied on a borehole which was about 20 meters from the facility and that it took them about one hour to collect one jerry can of water due to the large number of people. At Mparo HC IV in Kabale District, water was collected from a swamp located 800 metres away and the cost of a jerrycan of water was UGX 500. The officer in charge at Bwera Hospital reported that the facility has a huge water bill amounting UGX 25,000,000.

Power supply challenges

The maternity sections at Kasanaga PHC HC III, Muhokya HC III and Kataraka HC IV in Kasese District were not connected to solar and it was reported at in cases of power shortages, midwives performed deliveries using kerosene lanterns. At Nyahuka HC IV and Bwera Hospital in Kasese District, it was reported that despite the fact they had standby generators, they faced challenges in fuelling and servicing the generators. There were difficulties in conducting deliveries at night at Oraba HC III in Koboko District when the solar power was not there.

4.13 STATUS OF HEALTH SECTOR FINANCING

The health system in Uganda, including service delivery is financed by a multiplicity of stakeholders namely; the government, private firms, households and health development partners (HDPs). The level of Health sector financing directly impacts on reproductive and maternal health service delivery. External financing, which is mainly a huge component of development project financing, was UGX 459.14 billion in FY 2015/16 and government allocation to the health sector was UGX 818.86 billion. The Primary health care (nonwage) allocation in FY 2015/16 was UGX 20.54 billion. Funding for essential drugs and health supplies through the Government did not increase from 2014 stagnating at UGX 219 billion with a greater proportion of RMNCAH commodities funded by donors. Family Planning budget still remains under-funded and needs to be increased because some development partners cut FP budget support by 30%. Family Planning remains a heavily external partner supported intervention.

The budget allocation for health had been retrogressing for the past two financial years from 8.5% in FY 2013/14 to 6.4% in FY 2015/16, which is inconsistent with the Government's commitment to progressively realise resource allocation to the health sector and it is also far below the Abuja Declaration target of 15% of the total budget. On the other hand, donor funding to the health sector has been increasing steadily for the past five years as demonstrated in the table below. Table 4.6 shows the funding allocation to the health sector for the past five financial years.

Table 4.6: Funding allocation to the health sector for the past five years

Financial Year	GoU UGX (Billions)	Donor funding UGX (Billions)	GoU allocation to health as % age of total GoU allocation UGX (Billions)
2010/2011	569.56	90.44	8.9
2011/2012	593.02	206.10	8.3
2012/2013	630.77	221.43	7.8
2013/2014	1127.8	416.7	8.5
2015/2016	818.86	459.86	6.4

Source: Annual Health Sector Performance Report 2015/2016

4.14 AFFORDABILITY OF MATERNAL AND REPRODUCTIVE HEALTH SERVICES

Economic accessibility is key to enjoyment of maternal and reproductive health by women, mothers and adolescent girls. It should be noted that not all MRH services offered by public facilities are free. While HIV testing, antenatal and immunisation services were provided at no cost, the rest of the services such as deliveries are provided at a subsidised cost by Government and Private Non For Profit (PNFP) facilities.

The average minimum costs for normal deliveries in these facilities was UGX 70,000; for Caesarean deliveries UGX 170,000. The costs were much higher in private facilities for instance in the Kampala Metropolitan area, the minimum costs for normal deliveries was approximately UGX 1,000,000; for Caesarean deliveries UGX 2,500,000- 3,000,000 depending on the duration spent in admitted in the facilities.

There are several consequences for households related to the costs of MRH. First, costs are prohibitively expensive, which in most cases results in women, mothers and adolescent girls foregoing treatment; selling their productive assets to pay for health expenditures; incurring debt and pushing them deeper into poverty.²⁹¹ Currently, the per capita health expenditure stands at an average of USD \$56 (National Health Accounts expenditure tracking FY 2013/14). The country therefore still has a high (42%) out of pocket expenditure compared to WHO 15% recommended level of household out of pocket spending on health. Further, high expenditures are incurred by privileged few for payment for utilising private MRH services for instance caesarean sections cost UGX 2-3 million.

There have been positive steps towards the provision for health coverage for indigent persons through the National Health Insurance Scheme Bill was gazetted in 2016 that is awaiting first reading in Parliament.²⁹²

4.15 RECOMMENDATIONS

1. As recommended in the previous Annual Reports:
 - Ministry of Finance, Planning and Economic Development should increase the budgetary allocation to the health sector in line with the target of 15% of the national budget provided for in the Abuja Declaration in order to improve on access to essential health goods and services;
 - Ministry of Health and the National Medical Stores should supply the adequate number of essential medicines, supplies and equipment to all health facilities needed for maternal and reproductive health service delivery;
2. Ministry of Public Service and the Ministry of Health should revise and improve the salary scale and structure for health professionals especially critical staff that offer maternal and reproductive health services especially in the hard-to-reach areas as a way of attracting and retaining health professionals;
3. Ministry of Finance, Planning and Economic Development, Ministry of Public Service and the Ministry of Health should increase the financial, human and capital or infrastructural investments in maternal and reproductive priority interventions to meet the SDG and HSDP targets.
4. Ministry of Health and the Public Service Commission should recruit and fill in the existing vacancies of critical staff especially those that offer maternal and reproductive services to address the countrywide shortage of human resource.
5. Ministry of Finance, Planning and Economic Development should ensure that there is commensurate funding provided to the Ministry of Health for recurrent costs for utilities and/or maintenance arising from health infrastructural developments and equipment for health facilities at all levels.
6. Ministry of Finance, Planning and Economic Development should allocate more funding to Ministry of Health to address the challenge of shortage of essential drugs, supplies and commodities for Maternal and Reproductive Health.
7. Ministry of Health in consultation with key state and non-state actors should work out cheaper modalities for the National Health Insurance Scheme in order for the National Health Insurance Scheme Bill to be reviewed and enacted by the Parliament of Uganda.

²⁹¹ HSDP, p. 44.

²⁹² The certificate of financial implications was issued in April 2017 by the Ministry of Finance and plans are underway for the bill to be tabled before Parliament in 2017.

4.16 CONCLUSION

UHRC has noted progressive steps taken by the Government and other actors in 2016 towards the advancement of maternal and reproductive rights and meeting some of the performance targets for the national indicators. Much as there are improvements in number of health facility deliveries, utilisation of family planning services and physical accessibility to health facilities within the urban and rural areas and increase in the provision of caesarean sections by HC IVs among others; there is still need for emphasis on ensuring affordability for MRH services for all; increased investment and funding in the health sector services and infrastructure; in the employment and retention of skilled birth attendants; and mainstreaming human rights based approach in service delivery with regards to privacy, confidentiality, access to information and non-discrimination.

CHAPTER FIVE

HIGHLIGHTS OF HUMAN RIGHTS ISSUES IN THE 2016 GENERAL ELECTIONS



1903 Polling stations observed in Presidential & Parliamentary; 321 in L.C.V; 172 Mayoral & Municipal; 113 L.C III



11% of the polling stations in the Presidential and Parliamentary elections opened on time



Correctly sealed ballot boxes before voting in **92%** polling stations in the L.C. V Elections

5.1 INTRODUCTION

General elections in Uganda were held in 2016 with the presidential, parliamentary and local government council polls taking place between February and May 2016. UHRC monitored human rights observance in electoral processes focusing on the period before, during and after the polling days. Having covered the pre-election activities such as the display and update of national voters register; political party preparedness; the nomination of presidential, parliamentary and local government candidates; consultations and campaigns of presidential, parliamentary and local government candidates in the previous UHRC 18th Annual Report, this chapter focuses on election-related activities in 2016. These were activities which immediately preceded the February elections; the actual polling days and the period after the elections.

Presidential and Parliamentary elections were held in Uganda on 18th February 2016 in accordance with Article 61 (2), (3) and (4) of the Constitution which obliges the Electoral Commission (EC) to hold them within the first 30 days of the last 90 days before expiry of the term of the President. However, elections in some parts of Kampala and Wakiso spilled over to 19th February 2016 due to late delivery of election materials by the EC.

According to the EC, there were a total of 428 elective positions at the parliamentary level including the President and 28,948 at the Local Government level (district/city, municipality/city division, sub county/town/municipal division). A total of 1,749 candidates contested for Parliamentary seats, out of which 909 were independents, while the rest were sponsored by 13 out of the 29 registered political parties.

As an observer at the various elections in 2016, UHRC deployed staff on Thursday 18th and Friday 19th February 2016, covering a total of 1,903 polling stations spread over 93 out of 112 districts in Uganda. A total of 220 observers including six Members of Commission were deployed for the presidential and parliamentary elections. UHRC also observed a total of 321 polling stations in 19 districts for the Local Council V (LC V) elections on 24th February 2016; 172 polling stations in 15 districts for the Mayoral and Municipal Councillors' elections held on 2nd March 2016. UHRC observed a total of 113 polling stations in eight districts for Local Council III (LC III) Chairpersons and Councillors on 9th March 2016.

UHRC also observed special interest groups elections for the youth elections through its Masaka and Fort Portal regional offices. The Central Region Youth Member of Parliament (MP) was elected on 28th February 2016 while that of Western Region was elected on 29th February 2016. Through its Central Regional Office, UHRC observed elections for the MP for Persons with Disabilities (PWDs) for Central region which were held on 22nd February 2016 at Colline Hotel Mukono.

The observations of the UHRC encompassed both an assessment of the environment in which the right to vote was realised and how in turn it facilitated the right to take part in Government, directly or through a nominated representative; as well as all other attendant rights and their impact on the election exercise. UHRC also observed areas of concern and challenges that curtailed full enjoyment of electoral rights and freedoms.

This Chapter therefore is a summary of UHRC findings, interventions and recommendations elaborated in its Special Report on Elections that was published after the electoral period.

5.2 LEGAL FRAMEWORK

The right to take part in the government of the country directly or through a freely chosen representative is provided for under Article 21 of the Universal Declaration. The essential elements of free, fair, genuine, periodic, universal suffrage, secret ballot and expression of the will of the people are further provided under Articles 21 (3) and 25 of the Universal Declaration. Article 13 of the ACHPR restates Article 21 of Universal Declaration. The 1995 Constitution provides for the right to vote for every citizen aged 18 years and above and provides for other rights that facilitate the right to vote such as freedom to associate including through political parties. Other rights such as freedom of expression, non-discrimination, freedom of assembly and association and access to justice are also catered for.²⁹³

Fair elections should therefore be free from discrimination based on grounds such as political opinion or affiliation; and ensure equitable access to information, state and private media without unreasonable limitations.²⁹⁴ Political parties must enjoy fundamental rights and freedoms to hold and express opinions, freedom of assembly, movement and association without interference. Voters should be able to access information about the electoral processes, parties, candidates and their political messages, manifestoes, and programmes, access to unbiased voter information and comprehensive non-partisan civic education.²⁹⁵

5.3 OBSERVATIONS PRIOR TO POLLING

UHRC monitored key electoral processes right from 2015 to the period preceding the February 2016 polls and continued to monitor and observe them during and after the polls. The UHRC therefore made the following observations:

5.3.1 Disenfranchisement of voters

Human rights standards require that authorities should take all necessary steps to ensure that citizens are able to register and vote without discrimination or unreasonable restrictions. The EC therefore fulfilled its constitutional role to compile, maintain, revise and update the national voters register in preparation for the 2016 general elections. The National Photo-Bearing Voters' Register was used for adult suffrage, while the Special Interest Groups' Register was used for elections for special interest groups. According to the EC, the final voters register for the 2016 elections had 15,277,198 voters up from the 13,954,129 voters for the General Elections of 2011.

²⁹³ Article 59 of the Constitution; Articles 7,13,19 and 20 of the UDHR; Articles 7, 9 and 19 of the ICCPR; Articles 3,5,18, 21 and 29 of the CRPD; Article 5(d) (i), (vii) and (ix) of the CERD; Articles 1,2 and 4 of the UN CAT; Articles 2,5,6,9 and 10 of the ACHPR; and Articles 21-24 and 29 of the Constitution.

²⁹⁴ n. 194 above.

²⁹⁵ Article 19 of the UDHR, Article 19(2) of the ICCPR, Article 9 of the ACHPR and Article 61 (g) of the Constitution.

The EC also introduced the Biometric Voter Verification System (BVVS) to improve the accuracy of the voters register. The system used fingerprints to match voter details to help the election officer confirm that the voter was on the register of a particular polling station. However, there were mixed reactions to this gadget, with some Ugandans welcoming it while others doubted its timing, applicability and its ability to ensure that there would be no disenfranchisement. The Speaker of Parliament Rt. Hon. Rebecca Kadaga expressed concern about the safety of the portable gadget saying government and EC needed to do more to build confidence in the biometric equipment.

In addition to this, there were mixed messages from the EC regarding BVVS. It was not clear whether voter IDs would be required on voting day. Confusion around this persisted until voting day.

5.3.2 Messages during campaign rallies

Campaign rallies provide a political platform through which candidates and voters interface during an election. This is facilitated by the right to peaceful assembly which entails the freedom to hold and peacefully participate in political rallies, meetings, demonstrations and events without unnecessary restrictions or fear of recriminations.²⁹⁶ UHRC noted that the election campaigns which commenced in November 2015 were generally peaceful. However, during the campaign period the FDC presidential flag bearer Dr. Kizza Besigye carried the message of defiance throughout the campaign period and during the post-election period, asserting that he and his supporters would defy unlawful orders. The EC and the police were of the view that the FDC defiance campaign had the potential of inciting the public and causing lawlessness.

5.3.3 Campaign financing

Political parties were expected to raise funds for their political activities including campaign rallies which were the most critical. Most of the political parties raised funds through membership fees, fundraising activities, donations, sale of party materials and the statutory contribution from government for the eligible political parties. The ability of political parties to raise funds for their parties also determined the ability to hold campaign rallies across the country to canvass for support. Funds impacted on their ability to produce and circulate their political messages using posters, manifestoes, newspapers, radio or television programs and songs, among other media.

UHRC noted that larger political parties such as the NRM were in addition to other fundraising efforts able to raise funds through mandatory contributions from their MPs who also constituted the majority in Parliament compared to other political parties. It was further noted that the NRM also enjoyed the position of incumbency by its presidential flag bearer who is also the current President of the country and was therefore still entitled to the privileges of the Office of the President. Constraints of availability of ample campaign time (which lasted three months) were further exacerbated by the limited resources available to most of the political parties, a factor that made it difficult for them to traverse the whole country in such a short period.

UHRC further notes the inadequacies in respect to political party funding legal regime specifically the Political Parties and Organisation Act 2005 as amended. The issues arising from this particular legislation is the provision for of government funding to political parties represented in Parliament and based on the numerical strength of each party in parliament. Using this formula excludes parties that are not, independent MPs and the special interest groups, voted through electoral colleges such as the PWD MPs.

5.3.4 Length of the campaign period

The time available for political parties to conduct campaign rallies to convince citizens of their political programmes was determined by the EC roadmap which allocated about three months to the campaign rallies for presidential and parliamentary positions (November 2015 to 16th February 2016). The EC also issued electoral guidelines that required rallies to close by 6.00 pm. Political parties made efforts to hold campaign rallies in as many constituencies and other grass root levels as their resources could handle.

²⁹⁶ As above, Article 20 of the UDHR, Article 21 of the ICCPR, Article 29(1) (d) of the Constitution.

Constraints of limited resources of political parties hindered their ability to effectively reach out to the population. UHRC also noted that campaign rallies of parties such as the NRM and FDC as well the Go Forward pressure group commonly went beyond the 6:00pm closing time stipulated by the EC guidelines. However, it was only the rallies of candidates Hon. Amama Mbabazi and Dr. Kizza Besigye that were either dispersed with tear gas or the candidates prevented from continuing to address the people on account of time.

The ability to reach out to citizens was further complicated by contradicting guidelines issued by the EC, for instance on visiting hospitals or other public places. Following the incident in which Dr. Kizza Besigye visited Abim Hospital in the company of the media that exposed the sorry state in which it was, the EC through its spokesperson said presidential candidates were free to visit hospitals, or any other public places. On 30th December 2015, the EC issued a contrary guideline barring them from hospitals and schools and the EC spokesperson told the media that the ban included churches and markets which he said were not campaign places. However, according to media reports, the selective application of guidelines continued with the incumbent President going to six churches on New Year's night without any questions.²⁹⁷

5.3.5 The role of crime preventers

The issue of crime preventers became contentious during the campaign period especially when they were allegedly passed out in yellow t-shirts bearing the incumbent President Yoweri Kaguta Museveni's portrait, even as UPF maintained that they were lawful and non-partisan. The recruitment of polling constables (Special Police Constables) from these crime preventers as confirmed by the Police Spokesperson was a cause of concern.

The concern over crime preventers was heightened when they were sighted on local media beating up people while in the company of police officers; and over accusations of defacing Hon. Amama Mbabazi's posters; in addition to television reports of them allegedly being ferried to incumbent President Yoweri Kaguta Museveni's campaign rallies. UHRC called on all concerned to urgently define the status of crime preventers and their role in the 2016 elections.

5.3.6 Clashes between supporters of rival candidates

UHRC continued to receive reports of clashes between supporters of rival candidates in which several people were reported to have been injured and in some cases arrested. Cases in point were reported in Mitooma when on 21st January, 2016 a yellow vehicle bearing posters of incumbent President Museveni and Rtd. Major General Kahinda Otafiire caused an accident allegedly in a fracas in which supporters of other candidates attacked it and chaos ensued. There were also reports of clashes by supporters of rival parliamentary candidates in Ibanda North, during which property of one of the candidates was reportedly destroyed, leading to some arrests by police. In Rwampara, there were reports of an independent MP candidate who attempted to open an office in a stronghold of his rival and was assaulted and his vehicle damaged.

5.3.7 Partisan and controversial statements from leaders

The UHRC noted some unfortunate incidents where leaders were reported to have made statements that caused anxiety among the citizens. The EC Chairperson for instance, during a public TV interview in February 2016 said that he regretted nominating Dr. Kizza Besigye to run for the presidency. The NRM Secretary General was reported to have warned parents in Uganda that their children would be shot dead by government if they dared go on the streets to protest the election results. Similar strong statements were allegedly made by some senior army officers and the Inspector General of Police who said crime preventers would be armed with guns and that protesters would be shot. UHRC urged all political leaders to exercise caution and good judgment while issuing statements that could instead be taken out of context and cause unnecessary alarm, anxiety and suspicion among the population.

²⁹⁷ Available at <http://observer.ug/news-headlines/41890-besigye-mbabazi-banned-in-church-hospitala-roads>, <http://www.monitor.co.ug/Special Reports/Elections/Museveni-promises-funding-churches/859108/3018126/-/chdoh8z/-/index.html> last accessed in September 2017.

5.3.8 The role of EC vis-a-vis that of the Uganda Police

The perception of some sections of the public was that the Police had hijacked the role of the EC by its constant presence during EC periodic press briefings and the fact that the IGP in some instances took on roles that would have otherwise been for the EC during election management. Cases in point were the letters the IGP wrote to Secretary Generals of political parties among others.

5.3.9 Media coverage of elections

All actors have a duty to facilitate the right of access to media as a way of fostering meaningful elections. According to the African Centre for Media Excellence (ACME) media monitoring report for the period September 2015 to February 2016 all the media accorded coverage that was disproportionately high to presidential elections vis-a-vis other levels. Newspapers were at 65%, television at 70.8% and radio at 53.8%, although radio covered the parliamentary elections more than newspapers and television. The UHRC however noted some concerns that curtailed the full realisation of this right.

5.3.9.1 Unequal access to the media

UHRC noted reports of unequal access to both state and privately owned media by political party representatives and candidates during the election period. This was revealed by reports published periodically by media monitoring CSOs such as ACME and Freedom House. ACME media monitoring report further indicated that UBC radios and televisions as well as newspaper publications under the New Vision Group had accorded the highest percentage of media access to the ruling NRM party's presidential candidate at 49% while the rest of the opposition candidates had insignificant percentages of access to the media.²⁹⁸

UHRC was also concerned about violations of freedom of access to media during the electoral period when some opposition leaders were denied access to media space or air time. A case in point was on 5th January 2016, when presidential candidate Hon. Amama Mbabazi was denied access to Voice of Karamoja FM in Kotido District to appear on a radio talk show which his political organisation had already paid for. The money was refunded two days later. UHRC noted that although most media houses in Uganda are privately owned, most of them did not view information as a 'public good' and thus did not feel the need to avail space to all political leaders to pass on information.

5.3.9.2 Threats to media houses and harassment of media practitioners

UHRC noted that the IGP accused the media of irresponsible reporting warning them against live coverage of opposition events. He singled out NTV and NBS Television which he accused of being partisan because of their continuous coverage of opposition events. He warned that he would take action against these stations for what he considered to be irresponsible reporting.

There were also allegations of some media practitioners being harassed by mainly the security agencies, public officials, politicians and some members of the public. Some of the affected journalists in Kampala, Mbarara, Arua, Karamoja reported violation of their human rights and loss of equipment to UHRC. The targeting of media practitioners, who were carrying out their duties, violated their freedom from discrimination, their right to impart information as well as the right of citizens to know.

5.3.9.3 Irresponsible reporting and use of social media

The media play a critical role in information and education of the citizens as well as mobilising people especially during the electoral process. However, there was a concern about the growing tendency by some media houses to make biased, alarmist and inaccurate reports. UHRC observed that some media houses engaged in the use of hate speech, misinformation, outright abusive and inciting language which was against the tenets of media freedom as well as their professional code of conduct. For example, during the election period there were countless media reports that alleged the arrest of the then Chief of

²⁹⁸ ACME Report 2016, 'Monitoring Media Coverage of the 2016 Elections,' Available at <http://acme-ug.org/2016/06/01/monitoring-media-coverage-of-the-2016-electionsfinal-report/> Last accessed in 2016.

Defence Forces, General Katumba Wamala, on 19th February 2016, yet he had not been arrested and he even addressed the nation.

Social media, recent mode of communication, was in some instances misused and abused by its ardent users, who sometimes posted inaccurate information, propaganda, hate speech, insults and smear campaigns. Social media users also used technology to generate falsified scenes, for instance through the use of photo-editing software such as Adobe Photoshop to achieve unfair political advantage. Such reckless use of these platforms negated the principle of accountability. An example of this was that the digitally manipulated images that circulated on social media platforms meant to depict of exodus of foreigners out of Uganda through Entebbe International Airport and various bus terminals during the election period.

5.3.10 The emergence of militias and vigilante groups

The period before elections saw the emergence of some militia groups affiliated to individuals or parties which the sponsors attempted to justify. UHRC noted with concern the emergence of such groups under the pretext of guarding their sponsors' votes; and particularly their potential to turn into instruments of hooliganism and public disorder. The claims about their necessity ranged from the need to mobilise votes for the preferred candidates; to countering threats of attack and harassment from national security agents and other groups; and protecting the votes.

According to the HURINET (U) report: *Security agencies and the electoral process in Uganda: A preliminary report for the 2015/2016 General Elections*: "The continued existence of militia/vigilante groups was a threat to the peacefulness of 2016 elections..." The concerns raised over such militia were that they always emerged during elections and the police had not done enough to investigate them; and that there seemed to be no one concerned about the effect these groups were likely to have on the electoral process and its legitimacy. HURINET identified a number of these groups as NRM High Command, B13, TJ Solida, NRM 24/7 Youth Group, the Unemployed Youth, Kalangala Action Plan, The Red Belts, The Poor Youth, Forty-Five and Funguwa Barabara, Buikwe North NRM Brigade, Youth No Sleep and 44U.6

Another controversial group, over which the EC and the UPF raised a red flag, was the Power 10 (P10) which the FDC political party launched in November 2015 in Rukungiri when their presidential candidate unveiled it as a network that would be used to bring supporters together to fight for their power. The P10 was a grouping of 10 people per village, which the party said would mobilise support for its candidate and protect votes on Election Day. UHRC continued to urge political leaders to urgently disband the militias belonging to their political organisations as these were illegal groups exposing the country to hooliganism and lawlessness. Political leaders were asked to instead mobilise the youth to apply their energies into more useful activities such as income generating ventures.

5.3.11 Arbitrary interference by the Uganda Communications Commission

Another concern of UHRC was with the decision of government to shut down social media and other online facilities on Election Day, 18th February 2016 citing security reasons without any prior notice and against well laid legal procedure. UHRC noted that although social media access was restored on 20th February 2016, such a move was a curtailment of the citizens' freedoms of opinion and expression and the right of access to information enshrined in the human rights standards as well as in the Constitution. UHRC further noted that the shutting down of the mobile money transfer facility without prior warning jeopardised people's livelihoods especially those for whom it is a source of income; those that were preparing for the opening of schools who needed to transact; and the rest of the people who needed to access mobile money for one reason or another.

The UCC shut down social media again during the post-election period in May 2016 as detailed later in section 5.5.2.9.

5.3.12 The holding of General David Sejusa incommunicado at Makindye Military Barracks

Gen. David Sejusa was arrested from his home on 31st January 2016 and detained in Makindye Military Barracks. He was arraigned in the General Court Martial on 2nd February 2016 and charged with five counts, ranging from participating in political party activities, insubordination, and conduct prejudicial to good order and discipline of the UPDF pursuant to the UPDF Act 2005. Specifically, he was accused of attending and campaigning for Dr. Kizza Besigye, the FDC presidential candidate at his nomination rally at Nakivubo stadium in November 2015, as well as canvassing support for the DP at a meeting organised at the party's headquarters on Luwum street in Kampala, contrary to the Political Parties and Organisations Act. It was highly commendable of the UPDF to strive to produce him in court before the expiry of 48 hours. However, holding him incommunicado with no access to his lawyers, next of kin and personal doctor as well as not being told the reason for his arrest as provided for in Article 23 of the Constitution raised human rights concerns.

5.3.13 Accreditation and security of election observers

The role of election observers is critical since it contributes to the overall promotion and protection of human rights because it enhances transparency accountability and credibility.²⁹⁹ The EC issued guidelines requiring foreign observers (international and regional) to apply through the Ministry of Foreign Affairs while local observers in upcountry districts applied through the district. On 12th February 2016, EC announced that 1,800 local and International observers including the media had been accredited to observe the polling processes. The EC accredited UHRC members and staff nationwide. Other accredited local observers included the Citizen's Election Observers Network-Uganda (CEON-U) a consortium of 18 CSOs that deployed more than 1270 observers on Election Day to all 290 constituencies in all the 112 districts of Uganda and the Uganda Joint Christian Council (UJCC) which through its existing infrastructure deployed 700 observers throughout the country.

However, there were complaints from CSOs of delayed accreditation of some of their observers based in the districts and the cumbersome accreditation processes that required security clearance from the District Security Committee in order to be accredited.

There were no special mechanisms put in place by the EC to ensure the safety of observers, leading to incidents such as the one in which CEON (U) observers were beaten in the chaos during the Ntungamo Municipality presidential and parliamentary elections on polling day. The other incident was when a UHRC observer had to flee for his life after men in police and army uniform stormed the Catholic Social Centre polling station in Ntungamo Municipality cocked guns and took away the ballot boxes and declaration forms. Elsewhere on polling day, clearly identifiable UHRC observers were threatened with being torched in their vehicle at Naluvule, Nansana in Wakiso District and they had to temporarily withdraw from the area. This was after voters had turned unruly at midday due to late delivery of materials to those areas.

5.4 OBSERVATIONS ON POLLING DAY

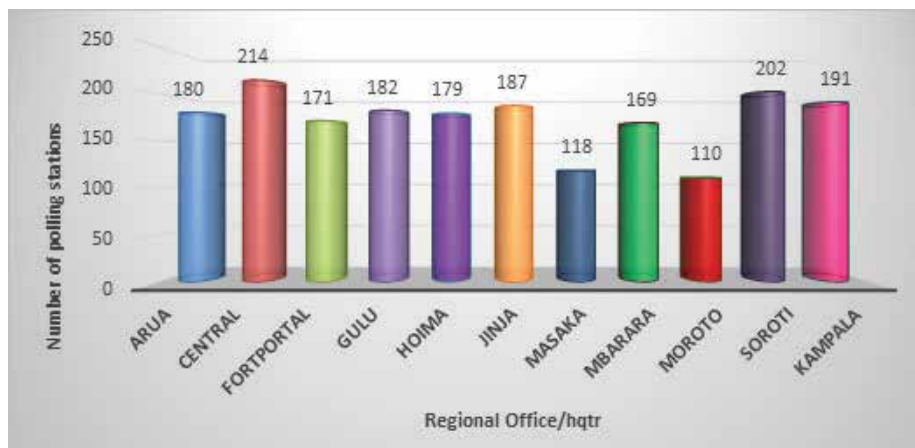
On Thursday 18th February 2016, UHRC Chairperson, Members of the Commission and staff were observers at 1,903 polling stations spread over 93 out of 112 districts. On 19th February 2016 UHRC observers returned to Ggaba and Nansana in Wakiso District where the elections had been postponed due to late delivery of polling materials. The UHRC observers also monitored Local Council V elections for chairpersons and councillors held on 24th February 2016; national elections for mayoral and municipal councillors held on 2nd March 2016; the Local Council III chairpersons and councillors held on 9th March 2016. UHRC also had observers at the elections for Youth MPs held in Masaka and Fort Portal on 28th and 29th February 2016; as well as MP for PWDs for Central region were held on 22nd February 2016 at Colline Hotel Mukono.

²⁹⁹ Section 16 of the Electoral Commission Act Cap 140 and General Elections Handbook for Observers, 8.

5.4.1 Presidential and parliamentary elections

Through its ten regional offices country-wide UHRC carried out election observation as shown in the Figure 5.1 below:

Figure 5.1: Number of polling stations observed by UHRC for Presidential and Parliamentary elections



5.4.1.1 Positives observations on presidential and parliamentary polling day

Through its observers in 1903 polling stations in various parts of the country, UHRC noted the following positive developments: The presence of polling constables in 93% of the stations; 99.5% of the polling stations did not have any party/ candidate posters and other propaganda on polling day; and at 99% of polling stations verification was done using the BVVS before being issued with ballot papers. Furthermore, 98% of the polling stations had a good lay out that allowed easy flow of voters and at 98% of the polling stations there was no voter intimidation. UHRC further noted that no incidents of ballot stuffing were observed; no restrictions were put on the use of cameras and phones by both voters and electoral observers both within and outside the polling area; at 99.5% of the polling stations polls closed at 4.00 pm and at 1658 polling stations voters were allowed to stay around after voting.³⁰⁰

5.4.1.2 Human rights concerns observed on polling day

In spite of the positive developments outlined above, UHRC noted a number of human rights concerns on polling day, including disenfranchisement of voters; polling stations with unsealed ballot boxes; polling stations with a layout which undermined the secrecy of the ballot; lack of transparency of the electoral process; polling stations with incidents of chaos/violence; and inadequate capacity of some polling officials.

a. Disenfranchisement of voters

UHRC observed that a number of voters were disenfranchised due to the reasons below:

i) Delay in opening of polling stations

UHRC noted that although the official opening time for polling stations set by the EC was 7:00am, only 11% of the 1359 polling stations observed opened on time. There were for instance unprecedented delays in Wakiso and Kampala where most polling stations opened late with some such as Kajjansi Dispensary and Seguku PS opening as late as 2:00pm which caused some voters to give up on voting. Though the EC kept engaging with the public through the media throughout the day holding press conferences and press interviews in which vital information was disseminated, it did not communicate promptly concerning the delay in delivery of material in Wakiso and Kampala districts; and the extension of closing time of polling from 4.00 p.m to 7.00 p.m and the postponement of polling to Friday 19th February 2016 where polling materials had arrived extremely late or not at all.

³⁰⁰ The UHRC was able to observe the closing of polls in 607 polling stations.

The earliest communication was done during a mid-morning press conference, when the EC Chairman announced that materials were being delivered and polling was commencing in many polling stations that had delayed. At another press conference, the EC Chairman announced the extension of the closing time of polling from 4:00pm to 7:00pm in Kampala and Wakiso districts where election materials arrived extremely late. Most of the polling stations that the UHRC observed in Wakiso and Kampala districts closed at 4.00 pm because the EC announcement had not reached the polling officials, for instance, the District Returning Officer of Wakiso was not aware of the announcement.

Other polling stations which opened late were in Upper Madi Constituency in Arua district as well as in Bwijanga Constituency in Masindi District, which opened at noon; while at Kigwiga polling station in Kyegegwa District, polling opened at 10:00am. Polling stations in Bundibugyo, Kamwenge, Kasese, Kyenjojo, Ntoroko and Kabarole districts also opened late. In polling stations within Oyam Town Council, voting started late owing to a shooting incident at Oyam Government Prison in which warders shot one inmate dead and injured five others as prisoners attempted to escape. Delays in opening polling stations led to some voters losing interest and walking away without voting while, in others, voters were turned away by polling officials who did not receive information on the official extension of closing time, leading to disenfranchisement.

ii) Merging of polling stations without prior information to voters and observers

The UHRC found that some polling stations that appeared in the gazetted list of the EC had been merged with others and therefore were either not operational or had shifted to locations away from where they were in the last elections. This was observed in Bwaise II, Kawempe South, Kawempe Division where the LC 1 Office (A-L) Polling station and Yiga's Parking Yard (A-K) polling stations had been merged with others. Mawanda Road polling station was also shifted to Mulago Doctors' Club polling station in Kawempe Division. As a result a number of voters were frustrated because they could not locate the polling stations and they were disenfranchised.

iii) Polling Stations with accessibility challenges for PWDs and the elderly

It was observed that most polling stations were located in open grounds, so they were easily accessible to PWDs and other vulnerable persons. However, challenges in 76 polling stations were caused by the lack of sign language interpreters, guides for persons with visual impairments; and polling stations on verandas without ramps. UHRC noted that at Aminiit polling station in Soroti District and in Mwizi and Booma in Mbarara District there were no special arrangements for PWDs so they ended up staying in the long queues. Musa's Foot at Mt Moroto and Lorukumo polling stations in Moroto District were located very far from the surrounding villages making it difficult for the PWDs to access them. This disenfranchised a number of such voters.

iv) Absence of alternative mechanisms for some sections of the population to vote

UHRC also noted that the EC did put in place mechanisms for some sections of the population to cast their vote; notably inmates, Ugandans in the diaspora, officials involved in election observation and management, which led to their being disenfranchised.

b. Polling stations with a layout which undermined the secrecy of the ballot

In 114 of the 1903 polling stations observed by UHRC, the layout affected the secrecy of the ballot. The location of the polling stations in limited spaces and the placement of the basin from which voters ticked their preferred candidates, all compromised the secrecy of the ballot. In Kampala and Wakiso districts there were areas with more than one polling station in one place; for instance, there were more than 10 polling stations at Nabweru play ground with long queues stretching into each other.



Congestion and long queues at Nabweru playground which had more than 10 polling stations

Secrecy was also compromised at Kitumba Zone A polling station in Kabarole District, where polling officials had no furniture and remained standing while basins used for voting were placed on the ground. At Kalungu Catholic Church in Kalungu District and Mutukula Primary School A-MI, in Rakai District the basin used for ticking a preferred candidate was close to where candidates' agents were seated. At Buwenda Trading Centre and Matovu mosque polling stations in Bugiri district, the polling area was so small that the different polling tables were close to each other. Similar cases were observed in Moyo, Iganga, Arua, Kyankwanzi and Kiryandongo Districts.

c. Polling stations with unsealed ballot boxes

In 13% of the polling stations observed voting went on with unsealed ballot boxes. These included: Loputuk, Lokorote and Lorukumo in Moroto District, Wilela and Odonyokec in Abim District, Community hall and Achorichor in Amudat District, Nadunget Headquarters in Moroto District and Kasanvu Junior Academy in Rakai district. At Odolokwon and Oteno market polling stations in Amugu, Alebtong district the polling officials did not know how to seal the ballot boxes. At Sembabule Parents Primary School and Sembabule Church of Uganda polling stations, polling officials used improvised seals.

d. Transparency of the electoral process

On Election Day, media reports indicated that some of the agents of especially the opposition had either been bought off or had been chased from some polling stations. A case in point was the news report on NBS TV that agents of the opposition had been chased from polling stations in Kiruhura District and some detained. When UHRC followed up, UPF denied having any opposition agent in its custody and insisted that agents had been turned away where their party or candidate already had an agent present at that polling station.

On 4th April 2016, a statement was issued by the FDC party president calling for an independent audit of the presidential election results claiming that "polling agents deployed at various stations were not only chased away during polling but many were arrested." This issue was one of the grounds advanced in the presidential election petition that former presidential candidate Hon. Amama Mbabazi filed in March 2016 at the Supreme Court. The Supreme Court did not find any evidence supporting the two claims; however, the justices found that Hon. Amama Mbabazi's polling agents were denied information concerning the counting and tallying processes since this was not refuted by the respondents.³⁰¹

e. Polling stations with incidents of chaos/violence

The UHRC noted that there were some skirmishes between supporters of different candidates; and between party supporters, agents and polling officials. In Jinja Municipality supporters of incumbent MP FDC's Paul Mwiru clashed with those of NRM's Nathan Nabeta while in Tororo Municipality, the chaos was between supporters of the Independent candidate Sanjay Tanna and NRM candidate Yeri Ofwono.

³⁰¹ **Amama Mbabazi versus Yoweri Kaguta Museveni, Electoral Commission and Attorney General, Prof. Oloka Onyango and eight others (Amicus Curie), Presidential Election Petition No. 1 of 2016, para 25.**

In Kasese District, a 13-year-old boy Mohammad Kule was confirmed dead after being shot by a police officer during skirmishes between the FDC supporters and the security personnel at the Kasese district tallying centre on 19th February 2016 the day after polling.

In other instances, voters became rowdy due to late delivery of or insufficient voting materials. At Naluvule and Wakiso town along Hoima road in Wakiso District, voters from Busiro East and Busiro North constituencies mounted road blocks around midday protesting the delay of voting materials. Similar protests were noted at Social Centre Mengo (N-Z), Luzira Prison polling stations in Kampala District and in Kyebando Katale zone and Gaz Kanyanya in Kampala District. Violence also erupted in Isingiro District when agents of some candidates suspected polling officials to be conspiring to rig elections.

f. Inadequate capacity of some polling officials

The UHRC observers noted with concern that a number of polling officials manning the polling stations were not up to the task. The UHRC also observed that some of the polling officials did not have the technical capability to operate the BVVS creating unnecessary delays and also causing unrest among some voters.

5.4.2 Local Council V Elections

UHRC also observed and monitored elections for LC V chairpersons and councillors which were held nationally on 24th February 2016. However, there were no elections for the Chairperson of Kabarole District, who had been nominated unopposed. Table 5.1 below shows the districts and polling stations covered by UHRC Observers during the LC V elections.

Table 5.1: Polling stations monitored per regional office

Regional Office	Districts Monitored	Polling Stations
Arua	Arua and Moyo	36
Central	Kampala, Wakiso, Buvuma and Luweero	104
Fort Portal	Kabarole	30
Gulu	Gulu, Amuru, Pader and Lira	43
Hoima	Hoima	17
Jinja	Jinja	24
Masaka	Masaka	10
Moroto	Moroto, Kotido and Nakapiripirit	28
Soroti	Soroti and Kapchorwa	29
Total	19	321

UHRC observed some positive developments including observance of the principle of transparency by polling officials at polling stations who ensured the display of empty boxes to voters before commencement of polling; correctly sealed ballot boxes before voting at 92% of the polling stations; presence of a polling constable at 99% of the polling stations and the absence of security personnel deployed along the way in 98% of polling stations.

UHRC also noted that in an effort to ensure secrecy of the ballot, 98.7% of polling stations had demarcation perimeters and at 96% of polling stations the lay out facilitated the secrecy of the ballot. At 98% of the polling stations the lay out was accessible for vulnerable persons such as the elderly and vulnerable; 94% of polling stations did not have party posters or propaganda to bias the voter; and no incidents of overt intimidation, ballot stuffing or people voting in groups were observed.

However, there were a few human rights concerns during the LC V elections including the late opening of polling in 69% of the polling stations; insufficient electoral materials in 15% of the polling stations and cases of invalid votes due to double marking or using unauthorised marks or leaving the ballot paper blank which mainly occurred in Northern Karamoja and West Nile Regions.

5.4.3 Mayoral Elections

UHRC monitored a total of 172 polling stations during the elections for mayoral and municipal councillors. Elections at Walukuba polling station in Jinja District were postponed because the voters rejected the EC officials that had been deployed there. Table 5.2 below shows the districts and polling stations covered by UHRC.

Table 5.2: Number of polling stations observed

Regional Office	Districts	Polling Stations
Arua	Arua	14
Central	Kampala and Wakiso	36
Fort Portal	Kabarole	6
Gulu	Gulu, Lira and Kitgum	42
Hoima	Hoima	13
Jinja	Jinja	16
Masaka	Masaka	3
Mbarara	Mbarara	10
Moroto	Moroto	8
Soroti	Soroti, Kumi and Kapchorwa	24
Total	15	172

Similar positive observations as noted during the LC V elections were made by UHRC during the Mayoral elections including the absence of party posters or propaganda to bias the voter in 96 % of the polling stations; presence of a polling constable in 98 % of the polling stations to take care of security; and a lay out that facilitated the secrecy of the ballot in 97% of the polling stations. Others were that 89 % of the polling stations did not have an environment that intimidated voters as there was no security deployed along the way; and at 99% of the polling stations the lay out was accessible for vulnerable persons; and there were no incidents of ballot stuffing and multiple voting.

The main challenges however were the late opening of polling stations observed in 64% of the polling stations and cases of invalid votes in 35% of the polling stations.³⁰²



An invalid ballot paper displayed during vote counting and tallying at Virika Polling station in Kabarole District

³⁰² UHRC observed the closing of polls in 72 polling stations.

5.4.4 LC III Elections

UHRC observers were also at the elections for L.C III chairpersons and councillors held on 9th March 2016. , UHRC deployed observes in its five regional offices namely Jinja, Fort Portal, Masaka, Moroto and Central. Table 5.3 below shows the districts and polling stations covered by UHRC observers.

Table 5.3: Polling stations monitored per regional office

Regional Office	Districts Monitored	Polling Stations
Central	Wakiso, Butambala, Mpigi and Buvuma	70
Fort Portal	Kabarole	10
Jinja	Jinja	16
Masaka	Masaka	12
Moroto	Nakapiripirit	5
Total	8	113

The positive aspects observed during the LC III elections included the observance in 96 % of the polling stations of the requirement not to have party posters or propaganda which could bias the voter; 97 % of the polling stations had the presence of a polling constable to take care of security; while at all polling stations observed the layout of polling stations facilitated the secrecy of the ballot. In 97 % of the polling stations there were no security personnel deployed along the way; while at 96% of the polling stations the lay out was accessible for vulnerable persons. No incidents of ballot stuffing and multiple voting were observed.

However, the main challenge was the late opening of polling stations with 86 % of the polling stations observed opening late.

5.4.5 Elections for Youth Members of Parliament

Youth are one of the interest groups represented in Parliament as provided for under Article 78 (1) (c) of the Constitution of Uganda. The youth in Uganda are represented in total by five Youth MPs. They include one national female youth who is elected by an electoral college consisting of members of the National Youth Council. The other four regional Youth MPs are elected by electoral colleges consisting of all the members of the District Youth Councils within each region.

The UHRC observed the elections for youth representatives to the 10th Parliament for two of the five designated slots for youth which were held on the 29th February 2016. The elections for the Youth MP representing Central Region were held at Patel Shamji Hotel in Masaka Municipality, Masaka District while the Western Region poll was at Kagote SDA Hall in Kabarole District.

5.4.5.1 Elections for Central Region Youth MP at Patel Shamji Hotel Masaka

The registration of all delegates from the participating districts began on 28th and spilled over to the Election Day 29th February 2016. The delegates were registered so that non-delegates would not take part in the elections. Nomination of candidates was done on the Election Day and the nominees were allowed 10 minutes each to address the electorate, and thereafter respond to some questions from the audience. As required by procedure each nominee had to have two delegates; one to nominate and the other to second the aspirant. Three candidates were nominated namely: Mr. Arthur Katongole who stood as an Independent, Ms. Sarah Babirye Kityo (NRM) and Mr. Thomas Kayanja (FDC). Ms. Sarah Babirye Kityo was eventually declared the winner of the Central Youth MP for the 10th Parliament.

Positive observations included the equal treatment of all candidates with each allocated 10 minutes to address the electorate. There were no cases of intimidation observed; there was adequate deployment of security;

the location of the polling station allowed easy access by voters; the secrecy of the ballot was observed; and all essential materials such as ballot boxes, ballot papers, voters register, and indelible ink were available.

The main challenge was the late opening of polling stations at 6.45 pm instead of 2.00 pm because of controversies surrounding the remuneration of the delegates. The delegates claimed they were underpaid their allowances alleging that their colleagues in other regions, including the delegates for PWDs who had their elections earlier, had been paid more than what EC was giving them. UHRC learnt from the EC officials that the delegates were entitled to UGX 400,000 each to cater for three nights' accommodation, meals and return transport fare from their areas of residence. The disgruntled youth had vowed not to vote unless their allowance was topped up.

5.4.5.2 Elections for Western Region Youth MP at Kagote SDA Hall Fort Portal

Three candidates were nominated namely: Mwine Mpaka (NRM), Niwasasira Fortunate (Go Forward), and Tumukunde Amanywa (Independent). Eventually, Mwine Mpaka was declared the winner.

The elections for Western Region Youth MP were hampered by challenges such as a hall with inadequate space that caused overcrowding and disorganisation that affected the secrecy of the ballot; the late opening of the polling that started at 3.58 pm instead of 12.00 noon; voters missing from the register; exchanging allegations of voter bribery and intimidation; as well as heavy deployment of uniformed and plain clothed security personnel inside the polling stations. Campaign activities such as displaying campaign posters, canvassing for votes were going on outside and inside the polling place as the voting was on-going; and there were clashes between supporters of Mwine Mpaka and Tumukunde Amanywa which continued until results were announced at night.



Supporters of Tumukunde Amanywa campaigning for their candidate outside the polling station

5.4.6 Election of MP For Persons With Disabilities

Under Article 78 (1) (c) of the Constitution, PWDs are the other special interest group that is represented in Parliament. PWDs have five seats in Parliament namely: The directly elected National Member of Parliament and four other regional MPs for Western, Central, Northern and Eastern regions. They are all elected by an Electoral College.

Elections for the MPs for PWDs were held on 22nd February 2016, at Colline Hotel in Mukono district. The Electoral College consisted of PWDs drawn from District Committees of five (Chairperson, the Vice Chairperson, General Secretary, for Finance and Publicity Secretary) from each of the 112 districts in Uganda. The UHRC was an observer at these elections and established that the Electoral College according to the voters register had 560 voters.

Positive observations included the layout of the polling station that was easily accessed by PWDs (polling station had ramps), provision of interpreters for the people with hearing and speech impairments and guides for PWDs with visual impairments; and allowing of voters to vote for all candidates regardless of the region they were coming from.

The polling exercise was however dominated by the NRM political party without fair representation from other political parties. Of the seven candidates that contested only two were from FDC. Campaign activities took place in the vicinity of the polling area; and candidate's agents asked voters who they were voting for. There were allegations of voter bribery in the form of money and gifts such as blankets.

5.5 OBSERVATIONS AFTER POLLING DAY

UHRC did not specifically observe the period following completion of the elections for various elective positions. However, in fulfilment of its Constitutional mandate to protect and promote human rights, it keenly followed most of the key election-related incidents and made interventions in some of the emerging issues that raised human rights concerns. Therefore, whereas most of the information in this section was from secondary sources, UHRC made interventions in some of the incidents that raised critical human rights concerns.

5.5.1 Positive election-related developments observed after polling day

5.5.1.1 Declaration of results

The 1995 Constitution mandates the EC to declare the winner of national elections.³⁰³ The Chairperson of EC is the only legally mandated official to declare a presidential candidate the winner within 48 hours from the close of polling, while for parliamentary and Local Government positions, the Returning Officers have the authority to declare elected, the candidate who has obtained the largest number of votes immediately after the addition of the votes or after any recount by completing a return in the prescribed form.³⁰⁴ As such the EC has to have a tally centre at the national and district level.

UHRC noted that the above legal requirement was fulfilled by the EC when it announced the winner of the presidential elections in time. UHRC also noted that the National Tally Centre at Mandela National Stadium, Namboole Sports Grounds was open to national and international observers as well as representatives from the various political parties that had participated in the elections and the media. The exercise of tallying the national presidential election results at Namboole Stadium and subsequent declaration of the winner were streamed live by all the media that were present at the venue including social media platforms.

The Returning Officers who constitutionally have the authority to declare winners for parliamentary and Local Government positions,³⁰⁵ also declared the results after tallying at all the polling stations across the country. The process of tallying and declaration of the winner for parliamentary and local government positions was also witnessed by the candidates' appointed agents and voters. Members of the media and election observers were able to witness the tallying and declaration of results in areas at which they were stationed.

5.5.1.2 The right to effective legal redress for violations of electoral rights

The right to legal redress in any Government is universally guaranteed by the international and regional instruments, as well as the Constitution and other electoral laws in Uganda.³⁰⁶ UHRC noted that there were legal mechanisms in place for contestants who were not satisfied with the electoral processes to express themselves and to seek redress as manifested in the various election petitions filed in the courts of law after the election.

a. Parliamentary and other petitions

Accordingly, UHRC noted that over 100 petitions were filed in courts of law by candidates for parliamentary and Local Government seats, challenging the elections on different grounds ranging from; election malpractices, electoral offences and non-compliance with the laws by the EC among

³⁰³ n. 296 above, Article 61 (1) (d).

³⁰⁴ As above, Article 68 (2).

³⁰⁵ n. 304 above, Article 68 (2).

³⁰⁶ Article 14 of the International Covenant on Civil and Political Rights, Article 7 of the African Charter on Human and Rights, Article 50 of the Constitution.

others. It was worth noting that many of the post-election disputes arose from disagreements over declaration of results and announcement of winners. At the time of compiling this report, a number of petitions for parliamentary and other elections had been disposed of at by the various High Courts across the country and many of them had been concluded. A few of the decided cases had subsequently been appealed against in the Court of Appeal by the aggrieved parties.

b. Presidential election petition

At the presidential election level, the UHRC noted that one of the aggrieved former candidates Hon. Amama Mbabazi had petitioned the Supreme Court challenging the declaration of President Museveni as the winner of the presidential election on a number of grounds pertaining to the tallying and declaration of results processes.

UHRC noted that the petition was dully heard and decided by all the 9 justices of the Supreme Court within the required 30 days period. They held that the 1st Respondent, Yoweri Kaguta Museveni was validly elected as president in accordance with Article 104 of the Constitution and Section 59 of the Presidential Elections Act. The petition was therefore dismissed with no orders for costs. Whereas the Supreme Court ruled on all the issues raised in the petition and stated that there was compliance with the law by the EC, it also made several observations and identified some gaps that required urgent attention by the various players in the electoral process.

The Supreme Court decision of 2016 for instance underpinned a number of concerns in the petition which had persistently been raised in previous petitions against earlier presidential elections, including the incumbent's use of his position to the disadvantage of other candidates. This was in reference to the use of state resources and unequal use of state owned media as well as the late enactment of relevant legislations by Parliament among others.³⁰⁷

5.5.1.3 UHRC investigation of post-election violence in Bundibugyo and Kasese districts

At the beginning of March 2016, UHRC conducted preliminary investigations into post-election violence in Bundibugyo and Kasese districts to establish the root causes of the violence and the human rights implications and proposed recommendations to end the conflicts in the Rwenzori sub region.

Post-election violence broke out in Bundibugyo district on 27th March 2016, after the elections of the LC V Chairperson. The violence between Bakonjo and Bamba/ Babwisi ethnic groups caused among other things loss of 12 lives, destruction of property, injuries, internal displacement and deprivation of the right to liberty, the UHRC conducted preliminary investigations in the affected areas of Busaru, Kirumya and Kasitu sub counties. It engaged local leaders, security officers, affected populations and displaced persons in the reception camps of Bubukwanga and Bukonjo. Preliminary findings revealed that the announcement of the winner of the LC V elections had sparked off a long-standing conflict between the two ethnic groups.

Another incident of post-election violence that broke out in the Rwenzori sub region in Kasese district in Buhuhura and Kikongo villages in Hima Town Council on 10th March 2016 again caused loss of lives and widespread destruction of property. The UHRC also conducted investigations into the Kasese incidents covering Hima Town Council and Kithoma Sub County where they engaged security agencies, local leaders and affected community members. Findings by UHRC still revealed long standing conflicts between the Bakonzo and Basongora in Kasese district. UHRC also learnt that the conflict between supporters of the different camps in the LC III elections on the one hand, and between security agencies and community members on the other hand had escalated when some of the politicians in the district also took advantage of the elections to incite and use the illiterate members of the community.

³⁰⁷ n. 301 above, 65, para 20.

5.5.2 Human rights concerns observed after polling day

Most of the human rights concerns that preceded the polling day also spilled over to the post-election period. UHRC noted the concerns that emerged from the process of providing legal redress to parties aggrieved during the elections; the salient issues raised by the aggrieved parties as well as court pronouncements on some of them; and those arising from the processes of declaring election results and announcing of winners; as well as other human rights concerns that were experienced in the country in 2016 during the aftermath of the general elections.

5.5.2.1 The right to effective legal redress for violations of electoral rights

The court processes that followed the election period mainly consisted of over 100 petitions from aggrieved parties arising from presidential, parliamentary, local government and other elections organised by the EC. As already stated, the petition grounds ranged from election malpractices, electoral offences and non-compliance with the laws by EC among others. Many of the court disputes arose from disagreements over declaration of results and announcement of winners; as well as the processes for declaration of results.

a. Delays in the court processes

Whereas most of the petitions for parliamentary and other elections had been concluded by the end of 2016, UHRC noted some delays in concluding the cases that had been appealed against in the Court of Appeal which were still pending conclusion by the end of year. This had curtailed the realisation of right to effective legal redress.

b. Contested method of declaration of results

UHRC noted that the ruling by the Supreme Court regarding the presidential petition that was filed by one of the former presidential candidates had faulted Returning Officers from the districts of Jinja, Wakiso, Kampala, Rukungiri, Kyenjojo and Kabale for submitting tally sheets with missing results thereby failing to fulfil the requirement to transmit full results to the tally centre.

Following concerns by the petitioner with regard to the process of declaring results which he alleged were unlawful and lacked transparency since the EC had declared the winner before all the results from the 1787 polling stations were turned in, the Supreme Court noted in its ruling that the EC did not provide credible explanation as to why the results of 1787 polling stations had not been received within the legally stipulated 48 hours, despite some of these being for polling stations in Kampala in close proximity to the National Tally Centre at Namboole.

UHRC also noted that in addition to the above concerns, the petitioner had challenged the mode of transmission of results from districts to the National Tally Centre which was done electronically and the results declared before receipt of hard copies of the requisite documents such as the District Return Forms and District Tally Sheets. Court found this act non-complaint with the EC laws.

c. Denial of access to information

Following allegations by the petitioner that his polling agents were chased away from polling stations and were therefore absent during counting and tallying of results which denied them access to information, Court noted that the EC should have done more to ensure that all candidates and their agents were properly briefed on the mode of transmission of results both at the district and national tally centres to avoid suspicion.

d. Persistent election concerns reported to the Supreme Court of Uganda

The Supreme Court decision of 2016 pointed out a number of concerns that always came up at every Presidential election. As earlier noted these were the incumbent's use of his position to the disadvantage of other candidates; the use of state resources and unequal use of the state-owned media as well as late enactment of relevant legislations among others.³⁰⁸

³⁰⁸ n. 307 above.

5.5.2.2 Declaration of election results

UHRC observed that the process of declaring election results especially for the February presidential and parliamentary elections was dogged with challenges up to the swearing-in ceremony in May 2016. They are discussed below.

a. Setting up of parallel tally centres

In the period preceding the polling day on 18th February 2016, there were arguments and counter arguments between the EC on the one hand and political parties, candidates and observers on the other hand concerning the setting up of parallel tally centres and announcing results from the said centres. The EC was resolute in emphasising that it was the only entity with the mandate to declare the eventual winner though it had allowed political parties, individuals and observer groups to set up parallel tally centres.

The UHRC noted that the EC national tally centre at Mandela National Stadium, Namboole in Kampala and the district tally centres were open to party agents, observers and the media. The national tally centre was fed with returns from the District Registrars who were required to announce the results of each presidential candidate at the district level, fill in the tally sheet before transmission to Namboole. Independent observers also established their own tally centres; for instance UJCC had a situation room which would also be its tally centre and CEON-U launched its own to receive all the information from their extensive network of observers in the field. The Government Spokesperson, Mr. Ofwono Opondo accused the EU EOM of setting up a tally centre “to undermine the credibility of the official results that will be coming out of the EC”, according to what he called an assessment of threats that had been done. The EU EOM however, denied any claims of a tally centre on Entebbe Road. Government however expressed discomfort with the independent tally centres.

b. Communication of results

There were concerns expressed by observers, candidates and party agents regarding the manner in which results were released on polling day from the national tally centre. CEON-U expressed concern that the presidential elections results were released in “an aggregated manner, which does not give the opportunity to the public to verify the results at the primary level. This lack of transparency created uncertainty, which undermined public confidence in the results. This was compounded by the EC’s restriction on observers from stating any quantitative results information.”

A national TV channel NBS that had been announcing results live from its journalists based at polling stations abandoned the exercise after a while allegedly under pressure and started relaying the results from the Namboole national tally centre. UHRC also noted that the day after the polls, the FDC headquarters in Najjanankumbi were raided by police firing tear gas and water cannon before bursting in and arresting top party officials including the party president. They accused FDC top officials of planning a news conference to release their own version of presidential election results. The FDC had reportedly been releasing through social media results from its own tally centre based at its headquarters.

c. Swearing-in of the President Elect

Whereas the EC had performed its Constitutional duty of declaring the winner of the 2016 presidential elections within the prescribed legal timeframe and was therefore making arrangements for the swearing-in ceremony for the President Elect Kaguta Yoweri Museveni on 12th May 2016 at Kololo Ceremonial Grounds in accordance with Section 58 of the Presidential Elections Act, the media reported that former FDC presidential candidate Dr. Kizza Besigye Kifefe had staged a swearing-in ceremony for himself the day before at an unknown location.

UHRC noted the video clip of the said swearing-in ceremony of Dr. Kizza Besigye which was circulating on social media platforms and which various media aired. Reports of this self-declaration action by Dr Besigye went viral and caused anxiety among the public. UHRC noted that the constitutional mandate to swear in the President-Elect lies with the EC and no one else; therefore the action by the former FDC candidate was inappropriate. UHRC also noted that legal action was consequently taken by government against Dr. Kizza Besigye following the incident. By the time of compiling this report he was still in court facing charges of treason for swearing himself in.

5.5.2.3 Post-election harassment and arrest of media practitioners

UHRC noted media monitoring reports by the Human Rights Network of Journalists-Uganda (HRNJ) that documented issues of safety of journalists, highlighting incidents that occurred during the post-election period. HRNJ reports revealed that 15 journalists had been arrested and manhandled in a period of two weeks from Saturday 27th February 2016, prompting the HRNJ to assert that “the media is evidently under attack by the state”.

The HRNJ report revealed that six journalists had on 27th February 2016 been arrested by Police, for covering the opposition FDC presidential candidate Dr. Kizza Besigye who was confined to his home. The journalists were reportedly bundled into a police van, driven away and later released without charge. The journalists alleged being assaulted aboard the police van. The police cited security in the area as the reason for their arrest. The Police Human Resource Director, Andrew Felix Kaweesi who ordered their release told HRNJ that “the journalists will be called by police in case of any news.”

5.5.2.4 Continued use of preventive arrest

Dr. Kizza Besigye was on polling day 18th February 2016 arrested in Naguru, Kampala when he went to a house alleging it was being used for rigging the presidential elections. He was eventually driven back to his home in Kasangati. Police claimed that it was their facility and not a rigging place. Police spokesperson Patrick Onyango said the Naguru house was a security installation; a call centre for police to receive calls and information from people with problems and that the facility was to help in establishing the location of the callers.

Dr. Kizza Besigye was again arrested on Friday 19th February 2016 together with other FDC officials from the FDC offices in Najjanankumbi but they were later released. He was taken to his home in Kasangati and was kept by police under preventative arrest. The Prime Minister explained that these measures were as a result of information received that the plans of the opposition posed a security threat and therefore government had to secure the people of Uganda and their property.

UHRC observed with concern the heavy deployment of police officers; the unclear charges and offence he had committed; and the unlawful detention of Dr. Kizza Besigye in his home. The continued detention was inconsistent with the Constitution and internationally acceptable human rights principles underpinning the right to freedom of movement and personal liberty. UHRC had a fact-finding mission to Dr. Kizza Besigye’s home on 10th March 2016 where he had been detained for 23 days at the time. UHRC urged the UPF to withdraw the police officers that had camped in Dr. Kizza Besigye’s compound especially given that they had no toilet facilities. Consequent to the visit, Dr Kizza Besigye lodged a formal complaint of human rights violations with UHRC. UHRC also engaged with the police leadership, the President and other concerned officials and advocated for either his release or detention in a gazetted detention facility, preferring formal charges against him and taking him to court.

5.5.2.5 Blanket ban on all live coverage of the defiance campaign

On 29th April 2016 an interim court order was issued against FDC and Dr. Kizza Besigye, their agents, officials, supporters or any other person acting under their authority prohibiting them from engaging in demonstrations, processions, other public meetings, media campaigns or pronouncements. On 5th May 2016, the Minister of Information and National Guidance issued a directive from Cabinet banning all live coverage of the defiance campaign activities in the electronic media and warning that the broadcasting

licences of media houses which would not adhere to the order would be revoked. In addition, Cabinet directed the Police to ensure that the interim order was strictly adhered to citing security concerns and government duty to ensure stability and order in the country.

UHRC was concerned about the mixed messages sent out by government officials on the interpretation of the Constitutional Court Interim Order. It noted that the media fraternity also interpreted the court order as a move to gag them. UHRC however noted that the interpretation of the interim order had been given a scope wider than what it spelt out. The blanket ban on the media violated provisions on limitations to human rights and freedoms which are provided for under the Constitution and other human rights instruments.

UHRC also expressed reservations about the decision by the Constitutional Court to hear the Application from the AG banning activities of the FDC defiance campaign *ex parte* (in the absence of the respondents) as negating the right to a fair hearing as required under Article 28(1) of the Constitution. UHRC therefore called for the upholding of the principle of natural justice in order for all parties to be heard.³⁰⁹ UHRC was further concerned about the alleged assertion by the Deputy AG that Uganda was not bound by international treaties as this was a departure from government's commitments when it ratified them.

5.5.2.6 Police occupation of the FDC party offices

Joint forces of UPF and UPDF officers stormed the FDC headquarters in Najjanankumbi Kampala and party offices in Mbarara and stayed on for days after elections arresting party officials indiscriminately. This disrupted party activities and caused fear among party supporters. The FDC officials complained that their members were being harassed especially those that had declaration forms of the results of the presidential elections. The FDC and other opposition members later resorted to prayers every Tuesday at the FDC head offices in Najjanankumbi, where they prayed that God should intervene into transforming Uganda. The police eventually started guarding FDC offices and prevented supporters from holding prayers in premises not gazetted by law.

5.5.2.7 Beating up of people suspected to be Dr. Besigye supporters

People suspected to be supporters of Dr. Kizza Besigye were on 14th April 2016 beaten up by masked men that were with UPF. Media reports indicated that masked men driving in vehicles without plate numbers were escorted by several police patrols vehicles as they sprayed pepper on motorcyclists who were suspected to be supporters of Dr. Kizza Besigye as he was returning from prayers at FDC headquarters in Kampala. After blinding the motorcyclists, the masked men beat them up using electric cables and clubs as police officers looked on. The FDC spokesperson said the party did not have faith in the police investigations. The UPF disowned them and commissioned an investigation into the matter. UHRC had often spoken out against police use of stick-wielding men in civilian attire.

5.5.2.8 Police meeting with a criminal gang (Kifeesi)

Officers of the UPF organised and held a meeting on 26th April 2016 with members of a criminal gang also known as *kifeesi* to woo them from crime. According to the Community Liaison Officer Katwe Police Station, UPF held the meeting with over 200 members of the notorious *kifeesi* gang "to find ways of turning its members into good people and that they were willing to become good citizens". The *kifeesi* members reportedly requested government to give them jobs so that they could stop robbing people.

The self-confessed commander of the gang had appeared in footage on TV explaining how they operate. However, according to UPF, they could not arrest the gang members at the time of the meeting "*because they had not committed any crime. There was no evidence linking each suspect to a crime by the time of the meeting*". The meeting however raised concerns since it sent out the wrong signals and put police credibility at stake given their continuous denial of any knowledge of the masked men that were operating alongside them when the media published photographs and footage of this.

³⁰⁹ The Constitutional Court has since banned the issuing of interim orders on constitutional matters by a single judge.

An expert psychologist was quoted saying such engagements between police and criminals promote criminality and should be discouraged in order not to entice people especially youths into criminality with the hope that it pays.

5.5.2.9 Post-election violence in Bundibugyo and Kasese districts

As already discussed above in section 5.5.1.3 UHRC was concerned about the persisting volatile situation in Rwenzori region; the clashes sparked off by post-election violence in the districts of Bundibugyo and Kasese and the consequent loss of life, destruction of property, injuries to persons, internal displacement and deprivation of the right to liberty.

After the preliminary findings as already reported, UHRC conducted a more comprehensive investigation into the matter to establish the underlying causes and propose effective strategies to end the persistent issue. The findings and recommendations by UHRC are contained in a report that was shared with the relevant authorities including security agencies and His Excellency President Yoweri Kaguta Museveni in 2016.

5.5.2.10 Arbitrary shutting down of social media by the Uganda Communications Commission

As was case on the voting day on 18th February 2016, on 11th May 2016, the eve of the swearing-in of President Elect, social media was again switched off and restored days later. This happened after media ban announced on 5th May 2016 by the Minister of Information and National Guidance on the live broadcast of opposition activities by all media prior to the swearing-in ceremony of the President Elect and premised on temporary injunction made by the Constitutional Court in the case of Attorney General verses FDC and Col. Dr. Kiiza Besigye.³¹⁰

5.6 RECOMMENDATIONS

In view of the findings from election observation and monitoring the general human rights situation before, during and after all the rounds of elections as discussed in this chapter, UHRC proposed the following recommendations to improve respect for human rights in all electoral processes.

1. Parliament and the Ministry of Finance Planning and Economic Development should:
 - Invest appropriately and adequately in civic and voter education; and
 - Provide adequate and timely funding to the Electoral Commission to enable it prepare for and manage the elections to expectation.
2. Electoral Commission should:
 - Adequately train election officials on the basic requirements, procedures and standards for conducting the elections as well as the use of the equipment, particularly the Biometric Voter Verification System kit in addition to adequately equipping them including for harsh weather;
 - Conduct intensive and adequate voter education in good time to ensure that voters are conversant with the voting procedures as well as prohibited conduct during the polling;
 - Deliver election materials to the nearest polling station/post in time for polling stations to be set up on the eve of the elections. In urban areas, election materials should also be delivered to Divisions just as those in rural areas are delivered to sub counties. This will go a long way in addressing the issue of congestion and commotion at EC offices in urban centres on the morning of elections and hence delays in opening of polls;
 - Ensure that presiding officers ascertain, preferably the day before elections, that the environment at the polling station meets the required standards; for instance, there should be no campaign posters in the vicinity of the polling stations;
 - Clearly mark each polling station in cases where more than one polling station is located in the same area. This would ease identification of each polling station and reduce the confusion and disorganisation. Voters and other stakeholders should be given prior information in case of merged polling stations;

³¹⁰ **Attorney General verses FDC & Col. Dr. Kiiza Besigye Constitutional Court Application No. 18 of 2016.**

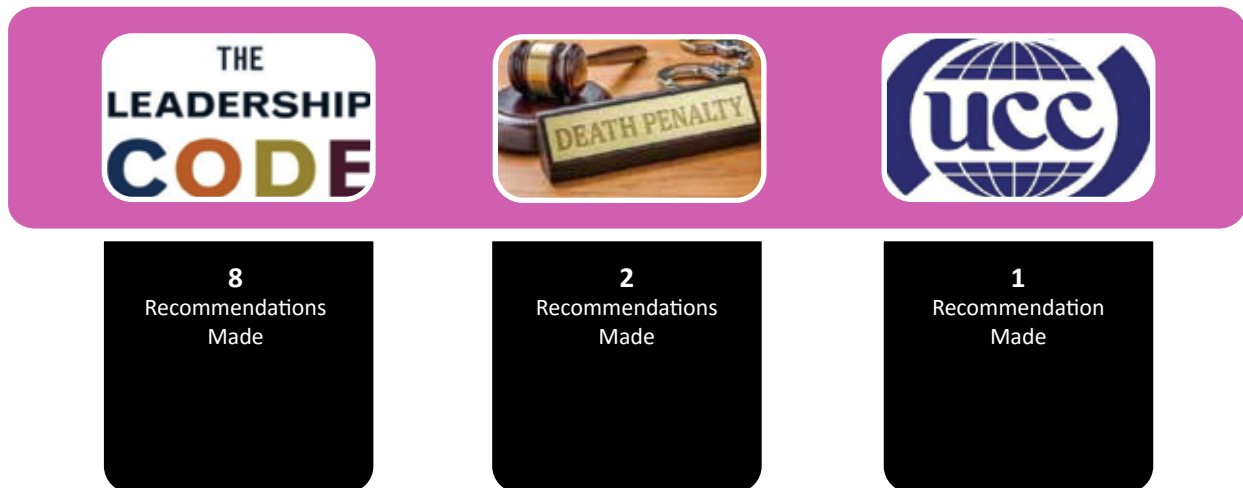
- Review the maximum number of voters to be handled at each polling station to avoid imbalances in the workload and congestion at some of the polling stations;
 - Make special arrangements to enable the vulnerable persons like the PWDs, the elderly and the ill to easily access the polling stations and effectively exercise their rights;
 - Conduct adequate voter education and sensitise the voters on the relevance of the Local Government elections to address the tendency of low turn up for the LC elections as well as the loss of interest in the electoral processes after the presidential and parliamentary elections;
 - Organise general elections starting with the lower LG elections upwards and end with the presidential and parliamentary elections in order to sustain the voters' interest in all levels of elections;
 - Adequately equip and facilitate all their district offices for timely transmission of results to the tally centres and expeditious declaration of the winners in order to allay fears of rigging thereby safeguarding the credibility of the exercise;
 - Organise elections for PWDs in such a way that regional Members of Parliament are voted for by members of the Electoral College from that particular region;
 - Organise elections for PWDs at regional level to minimise the inconvenience of voters with disabilities travelling all the way from their districts to Kampala; and
 - District Registrars should act professionally and avoid bowing to undue political pressures.
3. The Uganda Police Force should respect human rights at all times when policing elections, for instance employing crowd control methods that take into account the respect for human rights. Errant officers who violate human rights should be held to account and be punished in order to fight impunity.
 4. Candidates' agents should participate in awareness creation activities to understand the importance of the Results Declaration Forms and their role in signing it.
 5. Media houses should comply with their duties and responsibility to promote free and equitable access to the media, to allow political contestants equal opportunity to convey messages to the public.
 6. Ministry of Information Communications and Technology should enforce the constitutional requirement for the Uganda Broadcasting Corporation, as a public broadcaster, to provide equal access of all its outlets to all political parties to present their programmes to the citizenry.
 7. Uganda Communications Commission and the Ministry of Information Communications and Technology should:
 - Enforce regulations on media compliance with professional standards and fulfilment of responsibility; and
 - Monitor and regulate the use of social media platforms in Uganda.
 8. The Judiciary should devise ways to expedite the hearing and disposal of all election petitions in the shortest time possible.
 9. The Ministry of Justice and Constitutional Affairs should ensure the implementation of the recommendations made by the Supreme Court in its ruling of the Presidential Elections.

5.7 CONCLUSION

Whereas the Chapter highlights the role that UHRC played in monitoring the periods immediately preceding the elections; during the polling days for the various elections and after the elections; as well as the extent to which human rights standards were complied with by the various stakeholders during the processes, it also notes commendable achievements that facilitated the realisation of the right to vote. Some of the salient issues that curtailed enjoyment of human rights during the electoral processes were highlighted. The government institutions, the EC, security agencies, political players, non-state actors and all other stakeholders, both rights holders and duty bearers must implement UHRC recommendations to improve the next elections. The chapter highlighted UHRC findings and recommendations but UHRC published a comprehensive report of its monitoring of the electoral processes for the 2016 General Elections.

CHAPTER SIX

UHRC POSITION ON SELECTED BILLS BEFORE PARLIAMENT



6.1 INTRODUCTION

UHRC is mandated under Article 52 and 53 of the 1995 Constitution to promote and protect human rights. In discharging this mandate, UHRC monitors the government's compliance with international treaty and convention obligations on human rights and makes recommendations to Parliament on effective measures for the promotion of human rights

Furthermore, UHRC has the responsibility, as a national human rights institution, to review and analyse bills before Parliament and draft policies in order to ensure that they are in line with human rights obligations and standards. It is on this basis that UHRC presented to Parliament in 2016 its position (detailed below) on the Leadership Code Amendment Bill 2016, the Uganda Communications (Amendment) Bill 2016 and the Law Revision (Penalties in Criminal Matters) Miscellaneous Amendment Bill 2015 (commonly referred to as the Death Penalty Bill).

At the time of compiling this Annual Report, none of the said Bills had been passed by Parliament.

6.2 UHRC POSITION ON THE LEADERSHIP CODE (AMENDMENT) BILL 2016

6.2.1 Background to the Bill

The Leadership Code Act was first enacted in 1992 by the then interim Parliament of Uganda, the National Resistance Council. At that time the provisions of the Act were enforced by a Leadership Code Committee.

In 2002, a new Leadership Code Act was passed repealing the 1992 Act. According to the 2002 Leadership Code Act, the Inspectorate of Government (IGG) is the institution charged with the enforcement of the Act.³¹¹

³¹¹ Section 3 of the Leadership Code Act, 2002.

The enforcement of the Leadership Code Act by the IGG run into major problems following two court cases.³¹² In the first case³¹³ in 2002, a presidential advisor, Major Roland Kakooza Mutale, was dismissed by the President on the orders of the IGG for failure to declare his income, assets and liabilities to the IGG. Thereafter, a constitutional petition was lodged contesting the IGG's powers to dismiss presidential appointees. The court held that the sections of the Leadership Code Act 2002 that allowed the IGG to direct the president to dismiss certain presidential appointees was contrary and inconsistent with the laid down procedures in the Constitution for disciplining such appointees and the same sections fettered the discretion vested in the President in disciplining his appointees. This case hindered the enforcement of the Leadership Code Act since presidential appointees are a main category of leaders in Uganda.

Following this, in 2005 Parliament amended the 1995 Constitution and inserted Article 235 A, establishing the Leadership Code Tribunal. To date, the Tribunal has not been constituted.

The second case³¹⁴ focused on the absence of the Leadership Code Tribunal and the fact that the IGG had taken up its role. The case involved the MP for Rubaga South Constituency in Kampala, who vacated his parliamentary seat, on instructions from the IGG due to his failure without reasonable cause to submit his declaration of income, assets and liabilities as required by the Leadership Code Act.

The Supreme Court ruled that the IGG was acting as the complainant, the investigator and the judge. The court held that it was clear that the IGG was established as an institution for carrying out investigations and prosecutions and conducting inquiries but not to be a court or a tribunal. Court stated that for proper administration of justice, a court or tribunal should be independent of agencies which investigate or prosecute cases before it. It was the conclusion of the court that an amendment of the Leadership Code Act should be enacted urgently and should include the establishment of the Leadership Code Tribunal.

6.2.2 Summary of the contents of the Bill

The object of the Bill is to amend the Leadership Code Act 2002 and give effect to Article 235A of the Constitution, by establishing the Leadership Code Tribunal thus implementing the court decisions.

The Bill covers the following aspects of the Leadership Code Tribunal: Establishment of the Tribunal; appointment of the Chairperson of the Tribunal; qualification of the members of the Tribunal and their tenure of office; the conditions of the appointment and termination of tribunal members; as well as the functions, jurisdiction and powers of the Leadership Code Tribunal. The Bill also highlights the function of the Inspectorate of Government, clearly emphasising what amounts to conflict of interest.

6.2.3 Positive aspects of the Bill

UHRC welcomed the action to amend and harmonise the current legal regime concerning the Leadership Code Act so as to strengthen the enforcement functions of the IGG. The proposed legislation complies with human rights standards enshrined in the international and regional human rights instruments that Uganda has ratified. Article 14 of the International Covenant on Civil and Political Rights (ICCPR) provides for the right to a fair trial by guaranteeing leaders the right to be presumed innocent until proven guilty of an alleged offence.³¹⁵ The proposed amendment promotes accountability and transparency of persons placed in positions of leadership and responsibility, including the use of lawful measures taken to expose, combat and eradicate corruption and abuse of power by those working in public offices.³¹⁶

³¹² *Case No.1 - Fox Odai-Oywelowo & James Akampumuza Versus Attorney General Constitutional Court, Constitutional Petition No.8 of 2003. Case No.2- John Ken-Lukyamuzi Versus Attorney General & Electoral Commission, Supreme Court of Uganda, [2010] UGSC 2 (31st March 2010).*

³¹³ As above.

³¹⁴ *John Ken Lukyamuzi Vs. Attorney General & the Electoral Commission, Supreme Court of Uganda, [2010] UGSC 2 (31st March 2010).*

³¹⁵ Article 7 of the ACHPR and Article 28 of the Constitution also provide a right to a fair trial.

³¹⁶ Objective XXVI of the National Objectives and Directive Principles of State Policy of the Constitution.

6.2.3.1 Establishment of the Leadership Code Tribunal

UHRC commends the specific aspect of the Bill that seeks to establish the Leadership Code Tribunal. Following the court decisions in the cases of *Fox Odoi-Oywelowo & James Akampumuza versus Attorney General* and *John Ken Lukyamuzi versus Attorney General & Electoral Commission* that clearly hindered the enforcement of the Leadership Code, the provisions of the Bill establishing the Leadership Code Tribunal is welcome. The creation of such a Tribunal will correct an anomaly in the enforcement of the Leadership Code Act. Furthermore, the Leadership Code Tribunal will enable the IGG to prosecute breaches of the Leadership Code especially those which tend not to be criminal but are administrative in nature.³¹⁷

6.2.4 Human rights concerns in the provisions of the Bill

Whereas the Bill has positive aspects that are considered necessary for the enforcement of the Leadership Code, it also has aspects that substantially infringe the enjoyment of human rights and fundamental freedoms in the country. The human rights concerns in the provisions of the Bill are discussed below.

6.2.4.1 Lack of penalties for offences created by the Bill

Article 28 of the Constitution of Uganda states that *“no person shall be convicted for a crime unless the offence is defined and the penalty is prescribed by the law”*, which is the cornerstone of the principle of legality. Two clauses of the Bill do not meet this constitutional provision.

Clause 5 of the Bill makes it an offence for a leader to knowingly or recklessly submit a declaration or give an account of any matter which is false, misleading or insufficient in any material particular. However, this provision does not provide the penalty if one is found guilty of the offence.

Similarly, Clause 12 of the Bill prohibits a leader from directly or indirectly using or allowing any person under his/her control to use any information obtained through their offices for furthering any private interests yet there is no provision of any penalty if one is found guilty.

UHRC therefore recommends that:

- *Clauses 5 and 12 of the Bill are revised to include a penalty for failure to submit correct information.*

6.2.4.2 Access to information

Article 41 (1) of the Constitution provides that all citizens have a right to access information within the state organs/agencies except where the release of the information is likely to prejudice the security or sovereignty of the state or interfere with the right to privacy of any person. Agreeably, the state is the custodian of all public information. However as the Constitution clearly provides for the right to access information, it should only be subject to clearly defined rules established by the law.

Section 7 of the “Principal Act” provides that a declaration form made under the Act shall be treated as public information. However, Clause 7 of the Bill provides that the contents of declaration forms “may” be accessible to the public, changing the obligation from “shall” to “may”. The provision of Clause 7 (b), by stating that such information “may” be accessible, fetters the complete enjoyment of the right to access information by qualifying it and making it discretionary as to whether the Inspector General can provide information that is supposed to be in the public domain save the two exceptions³¹⁸ that are highlighted in Article 41. Consequently, the replacement of the word “shall” with “may” restricts the full enjoyment of the right of citizens to access information in this respect.

UHRC therefore recommends that:

- *The discretionary element in Clause 7 is changed from ‘may’ to ‘shall’ as provided in the principal act, The Leadership Code Act 2012. The position in the principal act should be maintained.*
- *Clear and definite procedures for accessing information be laid out under the regulations of the Act.*

³¹⁷ Most cases that are criminal go to the Anti-Corruption Court.

³¹⁸ The exceptions in Article 41 include for national security purposes and preserving one’s right to privacy.

6.2.4.3 Construction and definitions in the Bill

Clause 9 introduces the clause “conflict of interest”, while referencing has not been made to Section 8 and Section 9 of the principal act which have similar provisions, concerning conflict of interest.

UHRC welcomes the inclusion of the words: “... immediate family” in respect to the conflict of interest under Clause 9. It is noted by UHRC that a conflict of interest in most instances arises when one’s personal interest conflicts with their responsibilities as a leader and in particular, when one is charged with making or participating in key decisions, the outcome of which one has a personal interest. This especially happens when close family relations are a subject matter of the decision. As such, the inclusion of “immediate family” within Clause 9 is welcome.

However, the immediate family referred to is not defined anywhere including in the interpretation section of the Act. The lack of definition could lead to various interpretations and cause the words to be subject to litigation.

UHRC therefore recommends that:

- *Clause 9 of the Bill is reconciled with Section 8 and 9 of the principal act.*
- *The words “immediate family” are clearly defined in the Interpretation Section.*

6.2.4.4 Procedure of implementing the decisions of the IGG concerning certain leaders

As discussed extensively in the case of *Fox Odoi-Oywelowo & James Akampumuza versus Attorney General*, the Constitution in Article 144 (2), 144(3) and (4) provides the procedure to be followed in effecting the removal from office of a judicial officer. According to this case, no other procedure is to be followed or is permissible. The same procedure is applicable to members of the Uganda Human Rights Commission,³¹⁹ the DPP,³²⁰ the IGG³²¹ and the Deputy IGG³²².

Clause 14 of the Bill proposes the procedure of implementing verdicts of the IGG (including verdicts of removal from office). The IGG investigates, reaches a conclusion and writes a report reflecting this conclusion. Subsequently, the IGG refers the matter to the Leadership Tribunal for adjudication. Once the Tribunal makes a decision on a matter, an adjudged leader can appeal to the High Court against the decision of the Tribunal. If no appeal is lodged, then the Tribunal should inform the authorised person in writing of the decision of the Tribunal³²³. If this procedure is followed and it ultimately leads to the said leader’s being removed or vacated from office, then such procedure will be inconsistent with the laid down procedures in Articles 144 and 224.

The procedure under Article 144 requires that a tribunal with a specific composition, depending on the level of the judge, be appointed by the President to investigate the question of the removal of the judicial officer. Furthermore, it dictates that the question of the appointment of the investigating tribunal shall be referred to the President by the Judicial Service Commission or the Cabinet. This is the only procedure that can be utilised for removal of a judicial officer/UHRC member/DPP from office. A similar procedure is stipulated for removal of the IGG and the deputy in Article 224.

The procedures that could lead to vacation/dismissal from office as provided for in Section 5 (2)(c), Section 12(2), Section 13(4)(c), Section 14 (3)(d) in relation to the said officers as provided for in the Bill, remains inconsistent with the Article 144 and Article 224 of the Constitution and as such need to be harmonised with the Constitutional provisions.

³¹⁹ n. 316 above & Article 56 of the Constitution.

³²⁰ n. 316 above & Article 120 (7) of the Constitution.

³²¹ n. 316 above & Article 224 of the Constitution.

³²² n. 316 above.

³²³ Clause 20 of the Bill.

UHRC therefore recommends that:

- *Provision should be made in this amendment bill that Section 5 (2)(c), Section 12(2), Section 13(4)(c), Section 14 (3)(d) of the principal act should be amended to exclude a judicial officer/UHRC member/DPP/IGG/DIGG from being subject to the punishment of vacation/dismissal/removal from office as the Constitution provides for the only way such officers can be removed from office.*

6.2.4.5 Appointment and termination of the tribunal

Considering the important function and role that shall be played by the Leadership Code Tribunal, it is key that the Tribunal is seen to be independent, fair, and credible. UHRC notes that this would begin with the appointment process. The appointment process proposed in Clause 19B and 19C of the Bill is not elaborative enough and does not foster openness and credibility in the appointment process. In order to ensure transparency and integrity of the appointment process, a selection panel with broad representation should nominate members of the Tribunal; the president can approve/disapprove these nominations and Parliament can carry out the vetting of the approved members.

Regarding the termination process provided for in Clause 19H of the Bill, UHRC is concerned that the duty to appoint the Committee that recommends termination of a Tribunal member, is the sole responsibility of the President. This could undermine the security of tenure and the independence of the members of the Tribunal.

UHRC therefore recommends that:

- *In relation to the appointment process highlighted in Clause 19 B and 19C of the Bill, a selection panel consisting of broad representation from the Public Service Commission, Judicial Service Commission, the Office of the Chief Justice, the Uganda Law Society, should have the responsibility of nominating members of the tribunal, whom the president can approve/disapprove and the Parliament can vet.*
- *In relation to termination of the members of the Leadership Code Tribunal, a similar selection panel should be utilised to be consulted by the President on whether a Tribunal member should be removed or not.*

6.2.5 Conclusion

The Leadership Code (Amendment) Bill 2016 is necessary, most especially for the creation of the Tribunal that will enhance and strengthen the work currently being done by the IGG. To ensure compliance with human rights, UHRC specifically calls for the Committee on Legal and Parliamentary Affairs to ensure that the Bill meets Uganda's international and national human rights obligations in relation to the right to access to information. Furthermore, UHRC requests the Committee on Legal and Parliamentary Affairs of the Parliament of Uganda, to consider the human rights concerns raised and the recommendations in order to improve on the Bill.

6.3 UHRC POSITION ON THE LAW REVISION (PENALTIES IN CRIMINAL MATTERS) MISCELLANEOUS AMENDMENT BILL 2015 (commonly referred to as The Death Penalty Bill).

6.3.1 Background to the Bill

The Bill is being proposed on the backdrop of two contentious view points on the retention or abolition of the death penalty in various countries including Uganda. Those in support of the death penalty argue that the death penalty deters crime, prevents recidivism and is the most appropriate punishment for serious crimes³²⁴. On the other hand, opponents argue that the death penalty violates human rights; it has the same deterrent effect as life imprisonment; one who is wrongly accused can be sentenced and eventually executed; and that it does not allow for rehabilitation of offenders.³²⁵

³²⁴ Study on the Question of the Death Penalty in Africa , submitted by the Working Group on the Death Penalty in Africa in accordance with Resolution ACHPR/Res 79 (XXXVIII)05 and adopted by the African Commission on Human and Peoples Rights at its 50th Ordinary Session (24th October – 7th November 2011) Banjul, The Gambia , 32.

³²⁵ As above.

The Supreme Court decision in *Attorney General versus Susan Kigula & 417 others (Constitutional Appeal (No.3 of 2006))* found an intermediate ground by placing a moratorium on executions that had not been conducted after three years and commuting all death sentences that had not been executed for three years or more into life imprisonment.³²⁶ With the last known executions in 2003 for individuals tried under military law and 1999 for executions under criminal law of Uganda³²⁷, it can be said that Uganda has had a defacto moratorium on executions though this has not been formalised. Moreover this is no guarantee that executions within the timeline of three years cannot be resumed.

In addition, the mandatory death penalty is still provided for under the Penal Code Act Cap 120, the Anti-Terrorism Act 2002, the Uganda Peoples' Defence Forces Act, 2005 and the Trial on Indictment Act, Cap 23. The offences for which a death penalty applies include treason, murder, terrorism, rape, kidnapping with intent to murder, among others.³²⁸

6.3.2 Positive aspects of the Bill

The UHRC commends the Bill for seeking to domesticate Uganda's international obligations to ensure that the death penalty is restricted to the most serious of crimes as required under Article 6 of ICCPR. The United Nations Human Rights Committee has also raised concerns about the broad range of crimes for which the death penalty is imposed; the incompatibility of the mandatory death penalty with the ICCPR for crimes of aggravated robbery, murder, terrorism and treason; and the long periods of time that convicted prisoners stay on death row³²⁹. In addition, the Bill makes reference to the commitment by Uganda during the Universal Periodic Review (UPR) to continuously implement the de facto moratorium on executions in order to prevent the cruel and inhuman treatment of condemned prisoners who are executed after long periods on death row³³⁰.

The Bill seeks to amend the Penal Code Act Cap 120, the Anti-Terrorism Act 2002, the Uganda Peoples' Defence Forces Act 2005 and the Trial on Indictment Act Cap 23 to remove all references to the death penalty to the most serious crimes. The UHRC welcomes this initial effort by Parliament to put in place a partial de facto moratorium on sentencing and thus going further than the moratorium on executions that the Supreme Court in *Attorney General versus Susan Kigula & 417 others* had put in place.

6.3.3 Human rights concerns arising from the provisions of the Bill

In spite of the Bill seeking to be progressive on implementation of Uganda's international and regional obligations, it has aspects that are of concern to UHRC as discussed below.

6.3.3.1 Presumption of procedural guarantees

The Bill seeks to introduce a semblance of a de facto moratorium but this is still tenuous in light of the fact that the procedural guarantees for fair trial under Article 23 of the 1995 Constitution are rarely available in practice. These include being informed of the nature of the offence in the language one understands; high quality legal representation and facilities to examine witnesses that are intricate to Article 23 (1) of the 1995 Constitution and are the basis for the exception to the right to life,.

The United Nations Human Rights Committee has held that if the procedural guarantees under Article 14 of the ICCPR are violated then Article 16 of the ICCPR is in essence violated.³³¹ In addition, there are no guarantees that having the sentence confirmed by the highest court of appeal will absolutely ensure that

³²⁶ The Supreme Court declared mandatory death sentences unconstitutional because it deprived the judge from taking into account all mitigating circumstances in sentencing decision.

³²⁷ The Abolition of the Death Penalty and its Alternative Sanction in East Africa : Kenya and Uganda , Penal Reform International in partnership with Foundation for Human Rights Initiative, 23.

³²⁸ Section 23 of the Penal Code Act; Section 189 of the Penal Code Act, Section 7(1) of the Anti-Terrorism Act 2010, Section 123 of the Penal Code Act and Section 243 of the Penal Code Act.

³²⁹ UN Human Rights Committee (HRC), UN Human Rights Committee: Concluding Observations : Uganda , 4th May 2004, CCPR/CO/SO/UGA, available at: <http://www.refworld.org/docid/415a66ec4.html>, accessed 15th April 2016.

³³⁰ n.325 above.

³³¹ *Carlton Reid v. Jamaica para. 11.5, Communication No.250/1987.*

innocent persons will not be executed, for instance, the case of Mr. Eddie Mpagi who was on death row in Luzira for 19 years for killing a man who was eventually found to be alive.

UHRC therefore recommends:

- *That the Parliament holistically considers fair trial guarantees that underpin Article 22(1) for purposes of amending Article 22(1) of the 1995 Constitution*

6.3.3.2 Freedom from torture, cruel, inhumane and degrading treatment

As earlier pointed out, the Bill retains the death penalty by providing for the discretion of judges to pass the death sentence to the “most serious crimes”. In addition, the current precarious de facto moratorium on executions that have not been conducted after three years and which was put in place by the ruling in *Attorney General versus Susan Kigula & 417 others* exempts executions carried out within three years. This in essence does not address the cruelty of the act of hanging and its traumatising effect on judges, prisons staff especially the executioners, medical personnel and the families of the condemned persons.³³²

UHRC therefore recommends that:

- *The underpinning violation of the non-derogable right of freedom from torture, inhuman and degrading treatment, informs the amendment of Article 22 (1) of the 1995 Constitution.*

6.3.4 Conclusion

The UHRC would like to commend the Bill for seeking to protect the inherent right of life through the partial de jure moratorium. The UHRC however notes that the Bill does not adequately address the underlying issues including procedural guarantees and the continued violation of the non-derogable right of freedom from torture, cruel and inhumane and degrading punishment. These need to be further considered as a moratorium on the death penalty is put in place.

6.4 UHRC POSITION ON THE UGANDA COMMUNICATIONS (AMENDMENT) BILL 2016

6.4.1 Background and contents of the Bill

The Uganda Communications (Amendment) Bill was introduced and read for its first reading on 6th March 2016 by the Attorney General. It seeks to amend only one provision of the Uganda Communications Act 2013 on the manner in which regulations in respect to the Act are developed and enacted.

The Bill aims to amend Section 93 (1) of the Act by removing the requirement of parliamentary approval before the Minister can make regulations concerning the effective implementation of the Act. It should be noted that under Section 93(3) of the same Act, the requirement for the regulations to be laid before parliament has still been maintained. There is a clear distinction between parliamentary approval prior to the creation of the regulations and laying the regulations in Parliament (which is normally done for information purposes). Consequently, it would seem the Bill seeks to remove Parliament from the process of the formation and development of the regulations under the Uganda Communications Act.

6.4.2 Human rights concerns arising from the provisions of the Bill

Significantly, it is apparent that the requirement of having parliamentary approval in respect to the development of regulations is not a legal standard and is not grounded in any legal provisions. It is subjective and is dependent on several things including the intention of the framers of the particular law and the subject matter of the law. The Other Political Systems Act Cap 262, for instance, has a requirement that the regulations must be made with the approval of Parliament.³³³ Similarly, the National Audit Act 2008 requires parliamentary approval when making regulations³³⁴. However, a number of other Acts, especially those that tend to be administrative in nature, do not require the approval of Parliament for their regulation-making process. There are some laws that are silent on their regulation-making procedure.³³⁵

³³² n. 330 above.

³³³ Section 9, Other Political Systems Act, Cap 262.

³³⁴ Section 42, The National Audit Act, 2008.

³³⁵ Non Governmental Organisations Act (NGO) Act, 2016.

Whereas it is clear that making it mandatory or not for a minister to seek parliamentary approval before initiating regulations is not grounded in legal provisions, UHRC in this instance notes that the said Act deals with regulating information and knowledge, which is a key public and economic good. It affects numerous human rights such as freedom of expression and access to information and essentially goes to the heart of many democratic processes in the country.

UHRC views this law regulating information, knowledge and communications as one that should be subject to the human rights based approach including ensuring that the processes of its formation and development are participatory, non-discriminative, and transparent. In addition, since information is a public good, citizens must be part of its regulatory, oversight and legislative processes through their representatives in Parliament. As such, there is necessity to include parliamentary approval to ensure citizen participation and promote the human rights based approach.

The intention of the framers of this law was to specifically include parliamentary approval before any regulations are made. In May 2012 when the Parliament was considering the Uganda Communications Bill as it was known then, the sessional committee on ICT recommended the need for approval of Parliament before making any regulations. This suggestion was adopted and included in the Uganda Communications Act 2013³³⁶. Consequently, it was intended that Parliament's approval be part of the process of developing the regulations under the Uganda Communications Act 2013.

With parliamentary approval included in the process of regulation-making of the Act, there will be a 'check and balance' on the minister to ensure that the regulations are not arbitrary in nature; do not infringe on human rights; but ensure that information and knowledge fundamentally through the legislative process remain a public good. In any event, the provision of parliamentary approval promotes the doctrine of separation of powers and rule of law.

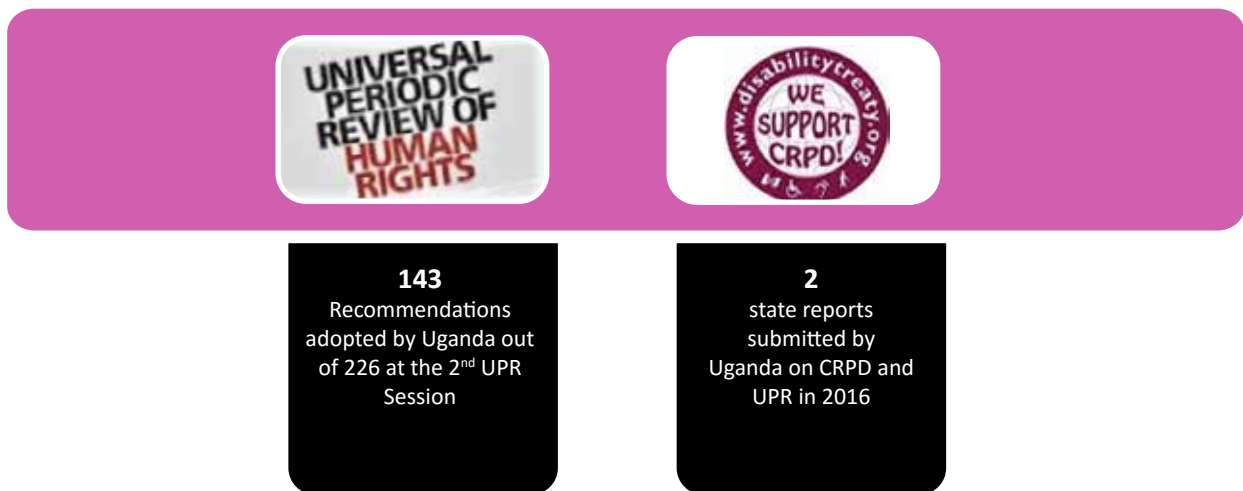
UHRC therefore recommends that:

- *The current position provided for in the Uganda Communications Act 2013 in Sec 93(1) is maintained so that the requirement of parliamentary approval before making regulations is preserved.*

³³⁶ Available at https://hrnjuganda.org/?page_id=2639 Last accessed on 15 April 2016.

CHAPTER SEVEN

UPDATES ON UGANDA'S REPORTING TO INTERNATIONAL AND REGIONAL HUMAN RIGHTS MECHANISMS



7.1 INTRODUCTION

Uganda is a signatory to a number of core international and regional human rights treaties.³³⁷ These include the CESC, ICCPR, CEDAW, Convention on the Elimination of All Forms of Racial Discrimination (CERD), CAT and the CRC.

Others are: The Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CRMW), Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child prostitution and Child Pornography (OP-CRC-SC), Optional Protocol to the Convention on the Rights of the Child on the Involvement of children in Armed Conflict (OP-CRC-AC), Convention on the Rights of Persons with Disabilities (CRPD). Uganda has also ratified some regional treaties including the African Charter on Human and Peoples' Rights and the African Charter on the Rights and Welfare of a Child.

The ratification of treaties places duties and obligations on Uganda to protect, respect and fulfil human rights provided for under each of the treaties and to submit periodic reports to the relevant Committees on the progress towards the implementation of the provisions and rights recognised in each of the instruments.³³⁸

Timely and accurate reporting to treaty bodies portrays the commitment by the member state towards improving its human rights record; provides opportunities for its representation at respective human rights committees and guarantees access to international financial and technical assistance towards improving the human rights situation.

³³⁷ Available at http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=182&Lang=EN; Last accessed on 10 January 2017.

³³⁸ N Pillay 'Strengthening the United Nations human rights treaty body system' (2012) 22-negative consequence, benefits-forward. Available at <http://www2.ohchr.org/english/bodies/HRTD/docs/HCTBReportTBStrengthening.pdf> Last accessed on 22nd February 2017.

Furthermore, the involvement of experts, civil society groups and government representatives in the reporting and other processes generates a genuine dialogue and accountability at the national level that empowers rights holders and contributes to promotion and protection of human rights in the country.

Part of the UHRC mandate under Article 52(h) of the Constitution of Uganda is to monitor government compliance with international and regional treaties and convention obligations on human rights that have been ratified by Uganda and make recommendations.

In view of this, the chapter highlights the status of Uganda's reporting to treaty bodies at both the regional and international levels. The focus of this chapter is treaty body reporting done in 2016.

7.2 STATUS OF REPORTING ON INTERNATIONAL HUMAN RIGHTS INSTRUMENTS RATIFIED BY UGANDA

Following ratification of a treaty a State party is required to submit an initial report and thereafter periodic reports on the implementation on the obligations under the various treaties. Though Uganda has ratified the core international treaties and regional human rights treaties the government is still yet to submit periodic reports that follow up from the initial reports.

Table 7.1: Status of Uganda's reporting on International and Regional treaties in 2016

International treaty	Date of ratification	Reporting status	Frequency of reporting	Remarks
International Covenant on Civil and Political Rights (ICCPR)	21 st June 1995	1 st report-2003	State parties are required to submit reports one year after acceding to the Covenant and then every four years	2nd report still pending
International Covenant on Economic Social and Cultural Rights (ICESCR)	21 st January 1987	Initial report submitted in 2012	State parties are required to submit reports two years after acceding to the Covenant and then periodic reports are to be submitted every five years.	The report submitted consolidated previous reports. There is no report pending.
Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)	22 nd July 1985	1 st -2 nd reports-1995 3 rd report-2002 4 th -7 th reports-2009 8 th report-due in 2014	State parties are required to submit initial report within one year of acceding to the Convention and then periodic reports every four years	Report pending since 2014
Convention Against Torture and other cruel, inhuman or degrading treatment or punishment (CAT)	3 rd November 1986	1 st report-2004	State parties are required to submit initial report within one year of entry into force of the Convention and thereafter submit supplementary reports every four years.	Report pending since 2008

International treaty	Date of ratification	Reporting status	Frequency of reporting	Remarks
Convention on the Rights of the Child (CRC)	17 th August 1990	1 st report-1996 2nd report-2003	State parties are required to submit initial reports within two years of entry into force of the Convention and thereafter submit reports every five years.	Report pending since 2012
Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts (OP-CRC-AC)	6 th May 2002	Initial report submitted in 2008	State Parties are required to submit initial reports within two years after entry into force of the Protocol and thereafter submit reports every five years	Report pending submission since 2013
Optional Protocol on the prevention of the Sale of Children, Child Prostitution and child pornography (OP-CRC-SC)	30 th November 2001	Report submitted in 2008	State Parties are required to submit initial reports within two years after entry into force of the Protocol and thereafter submit reports every five years	Report pending since 2013
Convention on the Rights of Persons with Disabilities (CRPD)	25 th September 2008	1 st report-2013	State parties are required to submit initial reports within two years after entry into force of the Convention and thereafter submit subsequent reports every four years	Report on concluding observations submitted in 2016 ³³⁹
International Convention on the Elimination of all forms of Racial Discrimination (ICERD)	21 st November 1980	1 st report-1984 2nd-10th reports-2003	State parties are required to submit initial report within one year after entry into force of the Convention and thereafter every two years and whenever the Committee requests	11th-13th reports pending since 2005

International treaty	Date of ratification	Reporting status	Frequency of reporting	Remarks
International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (ICRMW)	14 th November 1995	1 st report submitted in 2015	State parties are to submit initial reports within one year after entry into force of the Convention and thereafter periodic reports every five years	Report submitted in 2015
African Charter on Human and Peoples' Rights (ACHPR)	10 th May 1986	1 st report-2000 2 nd report-2006 3 rd report-2008 4 th report-2011 5 th report-2015	State parties are required to submit reports every two years from the date the African Charter came into force	The 6th report will be submitted by Uganda between 8th-22nd May 2017
African Charter on the Rights and Welfare of the Child	17 th August 1994	1 st report-2007	State parties are required to submit reports to the Committee on the Rights and Welfare of the Child within 2 years of entry into force of the Charter and thereafter submit periodic reports every three years.	Report still pending since 2010

7.2 TREATY BODY REPORTING AND REVIEW IN 2016

In 2016, the Government of Uganda submitted state reports on the human rights situation and implementation of provisions of conventions and treaties that have been ratified. This section highlights Uganda's reporting status on treaties in 2016 and the core international and regional treaties ratified by Uganda.

7.2.1 Convention on the Rights of Persons with Disabilities (CRPD)

The Government of Uganda signed the CRPD in 2007 and ratified it on 25th September 2008 without reservations. UHRC commends the Government of Uganda for submitting its initial report to the Committee on the Rights of Persons with Disabilities. In line with its role as a national human rights institution UHRC submitted its report to the Committee on Persons with Disabilities on 16th March 2016. In April 2016, Uganda's report on progress made on the implementation of the CRPD was reviewed by the Committee which made concluding observations and recommendations.

7.2.1.1 Legal protection for Persons with Disabilities

The Committee called upon Uganda to harmonise the definitions of disability in laws and policies and to carry out a systematic review of all legislation to bring them in line with the Convention. In this regard, Uganda was urged to adopt measures to amend and/or repeal legislation with derogatory terminology against PWDs; provide for legal protection against disability-based discrimination, multiple and intersectional forms of discrimination faced by persons with disabilities; incorporate the concept of reasonable accommodation

³³⁹ Concluding observations follows assessment of implementation of the treaty body and are issued after examination of the State reports.

in legislation as defined in Article 2 of the CRPD and recognise the denial of reasonable accommodation as a form of discrimination based on disability.

The Committee also recommended the repealing and elimination of legislation and practices that allow deprivation of legal capacity on the basis of disability and the adoption of measures to prohibit deprivation of legal capacity on customary basis; adoption of measures to ensure that all PWDs have access to justice including the establishment of free legal aid for PWDs concerning their rights. The Committee further recommended the dissemination of information in appropriate formats like braille, tactile, augmentative and alternative formats and in the Ugandan sign language; establishment of a National Coordination Team for the implementation of the concluding observations; development of an action plan for the implementation of the CRPD; and strengthening the capacity of UHRC with sufficient budgetary allocation and human resources to carry out its mandate effectively.³⁴⁰

7.2.1.2 Public awareness programmes on the rights of PWDs

Uganda was urged by the Committee to increase awareness on rights of PWDs with the aim of combating disability and gender stereotypes, which promote discrimination against them within the community as well as to increase training for members of the public, civil society, the judiciary, police and others on how to protect and promote the rights of PWDs.

7.2.2 International Convention on Civil and Political Rights

Uganda ratified the ICCPR on 21st June 1995, which requires State parties to submit periodic reports every four years. Uganda's initial report to the Human Rights Committee was submitted in 2003 with a follow up report due in 2005, and a second report expected in 2008. However the reports are still pending.

7.2.3 International Convention on Economic, Social and Cultural Rights

The CESCR was ratified by Uganda on 21st January 1987 and was due to submit an initial report one year after entry into force of the treaty. Uganda's initial report to the Committee on Economic, Social and Cultural Rights was due in June 1990. The 2nd report was to be submitted in June 1995, the 3rd in June 2000, the 4th in June 2005, the 5th in 2010 and the 6th in 2015. The initial report that was a combination of previous reports was however submitted at the end of 2012 when it was considered. Since 2012, Uganda has not submitted any reports to the Committee.

7.2.4 Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

Uganda ratified the UNCAT on 3rd November 1986. State parties are required to submit reports every four years. Uganda's initial report was submitted to the Committee against Torture in 2004. Uganda was commended for the enactment of the Prevention and Prohibition of the Anti-Torture Act. The second report which was due for submission in 2008 has not been submitted yet.

7.2.5 Convention on the Rights of the Child

Uganda ratified the CRC on 17th August 1990 committing itself to reporting every five years as per the requirements of the Committee on the Rights of the Child. Uganda submitted its first and second reports in 1996 and 2003 respectively with a subsequent report submitted in 2012. Uganda is due to submit its report in 2017 on major legislative, policy and programme developments and interventions to address children's rights and actions taken to address the general comments raised by the CRC committee.

Uganda further ratified the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict in 2002. The initial report to the Committee was submitted in 2008 and the follow-up report has not been submitted since 2011. The Optional Protocol on the Prevention of the Sale of Children, Child Prostitution and Child Pornography was ratified by Uganda in 2001 and a report submitted in 2008. The periodic report that was due in 2011 is still pending.

³⁴⁰ Observations and recommendations from the Committee on the Rights of Persons with Disabilities are provided in detail in the Concluding Observations.

7.2.6 Convention on the Elimination All forms of Discrimination Against Women

Uganda ratified the CEDAW on 22nd July 1985. So far, it has submitted seven reports to the Committee. Uganda's first and second reports were submitted to the Committee in July 1995. The 3rd report was submitted in 2002, and the 4th to 7th reports were submitted in 2010. The 8th report that was due in October 2014 is yet to be submitted. The CEDAW Committee commended Uganda for the enactment of laws and legislations that protect the rights of women such as The Prohibition of Female Genital Mutilation Act, The Domestic Violence Act, The Prevention of Trafficking in Persons Act. The Committee called upon Uganda to enact pending legislation such as the Marriage and Divorce Bill and the Sexual Offences Bill. The Committee further urged Uganda to increase access to quality reproductive and sexual health services especially in rural areas and take urgent measures to reduce maternal and infant mortality.

7.2.7 International Convention on the Protection of the Rights of All Migrant Workers and their Families

Uganda ratified the ICRMW on 14th November 1995. State parties are required to submit their initial reports to the Committee on Migrant Workers within one year and thereafter every five years. Uganda's subsequent reports were due in 2004 and 2009. The initial report was submitted and considered in April 2015 by the Committee on Migrant Workers which commended Uganda for the steps taken to adopt policies to protect the rights of migrant workers, including the draft policies on migration, the diaspora and immigrants. The Committee also commended Uganda for the establishment of the Directorate of Citizenship and Immigration Control under the Uganda Citizenship and Immigration Control (Amendment) Act of 2006.

However, the Committee urged Uganda to adopt and implement the National Migration Policy, the National Diaspora Policy, and the National Immigrants Policy in line with the Convention and in a gender-sensitive manner. The Committee further recommended to Uganda to strengthen its efforts to improve coordination among ministries and agencies at all levels of Government for the effective implementation of the rights protected under the Convention.

7.2.8 International Convention on the Elimination of All forms of Racial Discrimination

Uganda ratified the ICERD on 21st November 1980 and submitted its 1st report in 1984. Subsequent reports (the 2nd-9th) were submitted in 2003.

In its concluding observations, the Committee on the Elimination of Racial Discrimination commended the Government of Uganda for the establishment of UHRC as a body charged with the responsibility of promoting and protecting human rights and also commended UHRC for its important role in disseminating human rights information and introducing human rights in training schools for the Police, the army and prison authorities as well as sensitisation for detainees.

The Committee was concerned that legislative measures and judicial mechanisms to ensure the return of property to persons of Asian origin have not been fully carried through due to insecurity in the country and lack of adequate administrative measures.

7.2.9 African Charter on Human and Peoples' Rights

Uganda is a member of the African Union (AU) and party to the African Charter on Human and Peoples' Rights which it ratified in 1986. State reports are submitted every two years to the African Commission on Human and Peoples' Rights. Uganda has submitted five periodic reports to the African Commission since 2000. The 1st report was submitted in 2000, the 2nd in 2006, the 3rd in 2008, the 4th in 2011, the 5th in 2015 while the 6th is due for submission in May 2017 at the 60th Ordinary Session of the African Commission on Human and Peoples' Rights.

7.2.10 African Charter on the Rights and Welfare of the Child

Uganda ratified the African Charter on the Rights and Welfare of the Child on 17th August 1994 and submitted its initial report in 2007. Uganda has not submitted its 2nd report to the Committee on the Rights and Welfare of the Child since 2010.

7.3 UGANDA'S SECOND UNIVERSAL PERIODIC REVIEW PROCESS

The UPR is a process which involves a review of the human rights records of all UN Member States. It is a State-driven process under the auspices of the Human Rights Council which provides the opportunity for Member States to declare actions they taken to improve the human rights situations in their respective countries and to fulfill their human rights obligations and to share best practices with peers.

7.3.1 Summary of recommendations agreed upon by Uganda at the Second Universal Periodic Review

On 3rd November 2016, Uganda presented its second report before the Working Group on the Universal Periodic Review at its 26th session held from 31st October to 11th November 2016.³⁴¹ The report highlighted the status of implementation of the voluntary pledges and recommendations that Uganda accepted in its first review of 2011.

7.3.1.1 The National Action Plan on Human Rights

Among the major voluntary pledges that Uganda made was the development of the National Action Plan (NAP) on Human Rights. This was at the time Uganda was elected to be a member of the United Nations Human Rights Council and during the UPR in 2011. The NAP will provide a broad policy framework for the promotion and protection of human rights in Uganda and for the implementation of commitments under various regional and international human rights instruments. The process of developing the NAP involved an audit of the human rights situation and identification of priority human rights issues to be addressed in a five-year period of 2015/16 to 2019/20. This was in light of Uganda's Vision of *"A Transformed Ugandan Society from a Peasant to a Modern and Prosperous Country within 30 years"* as stipulated in Uganda Vision 2040.

The process of developing the NAP was conducted in a comprehensive, consultative and democratic manner ensuring participation of various stakeholders that included UHRC, government ministries, Members of Parliament, NGOs, civil society and members of the public. The NAP provides a framework for inclusive development targets to be realised through the HRBA to development and as a point of reference for relevant stakeholders in the implementation of the National Development Plan II. The implementation of NAP by the various stakeholders will be coordinated by the MoJCA while UHRC will periodically monitor and evaluate progress being made.

Other recommendations made to Uganda during the UPR and agreed to as voluntary pledges include the following:

- a. To speed up the enforcement and implementation of laws in accordance with the Constitution of Uganda and to take into account the state party's obligations under international and regional laws to respect and protect the right of everyone in Uganda to exercise their human rights to freedom of expression and peaceful assembly.
- b. Under treaty body mechanisms, Uganda was to continue constructive cooperation with the United Nations human rights mechanisms through strengthened cooperation with the treaty bodies through timely submission of state reports.
- c. To consider the amendments to the Children's Act in line with the CRPD, aiming at mainstreaming the rights of children with disabilities across all programmes, and providing the necessary resources for their protection.

³⁴¹ Additional recommendations were adopted by the Human Rights Council in the 34th session to held in March 2017.

- d. Priority to be given to laws that enhance equal access to property rights for women as well as legislation that provides for the effective implementation of the laws on domestic violence, Female Genital Mutilation and gender based violence.
- e. To enact legislation prohibiting violence against children in all settings, taking measures to amend laws on children in accordance with the CRPD, accelerating the establishment and the functioning of the National Children's Authority to prevent and combat violence, exploitation and other degrading practices and to put in place strategies to combat child early and forced marriage.³⁴²

7.3.2 The role of UHRC in state reporting and the UPR process

As part of its advisory and monitoring role, UHRC is at the forefront of monitoring government's efforts in implementing the voluntary pledges and the recommendations the government of Uganda accepted since the first UPR in 2011. In addition to monitoring the status of the development of the NAP and providing technical support, UHRC submitted its recommendations on the voluntary pledges made by Uganda during the second UPR in 2016. In playing its crucial role in state reporting and the UPR process, UHRC specifically carried out the following actions in 2016:

- a. With support and consultation from stakeholders and the Parliamentary inter-ministerial technical committee, UHRC supported the development of the NAP. UHRC was instrumental in training Members of Parliament on the HRBA as a means to incorporate human rights in all government projects. At the time of compiling the annual report, the NAP process was in its final stages pending approval by the Government of Uganda.
- b. Submitted its NHRI reports to treaty bodies including one on the UPR process; and the other on the Concluding Observations on the CRPD. In these reports UHRC highlighted its recommendations to the Government of Uganda on gaps in implementation and strategies for the promotion and protection of human rights.
- c. With support from the OHCHR, the UHRC developed a database to monitor government's implementation of its human rights obligations such as the recommendations from international and regional mechanisms and those from UHRC's annual reports that are presented to relevant Ministries, Departments and Agencies. The database was created as a valuable tool in the promotion and protection of human rights in the country.

7.4 CHALLENGES IN STATE REPORTING

7.4.1 Delays in reporting and submission of reports

UHRC noted with concern the continuous delays in reporting and non-submission of state reports to the treaty bodies. So far Uganda has delayed to submit nine state reports.

7.4.2 Inadequate treaty monitoring and reporting system

The MGLSD, the MoJCA, the MoFA which have the responsibility of reporting on international treaties, lack adequate human and financial resources to make timely reports on the treaties. This has resulted in delays in reporting.

7.4.3 Inadequate consultations

There is poor coordination and consultation amongst responsible ministries and institutions during data collection and dissemination of information needed for state reporting. Ministries and government institutions responsible for reporting do not carry out adequate consultations with CSOs, International NGOs and other organisations to enable them acquire up to date information that might be relevant during the reporting process.

³⁴² During the adoption of Uganda's Final Report on 15th March 2017, 13 recommendations were noted and 5 were accepted.

7.5 RECOMMENDATIONS

1. Ministry of Finance Planning and Economic Development should increase funding to the Ministry of Gender Labour and Social Development and other ministries, departments and agencies responsible for state reporting to enable them have adequate financial and human resources to conduct consultations and data collection needed for timely reporting.
2. Ministry of Foreign Affairs, Ministry of Gender Labour and Social Development and Ministry of Justice and Constitutional Affairs should strengthen their treaty reporting coordination function in order to increase efficiency and timely and accurate treaty body reporting by the responsible ministries departments and agencies.
3. Ministry of Foreign Affairs, Ministry of Gender Labour and Social Development, as well as Ministry of Justice and Constitutional Affairs should follow up on implementation of voluntary pledges and recommendations made by treaty bodies in order to enhance the promotion and protection of human rights.
4. Civil Society Organisations and responsible International Human Rights Institutions and NGOs should effectively dialogue with responsible state actors and follow up on the implementation of treaty body recommendations, as well as the voluntary pledges and recommendations accepted by Uganda during the UPR process.

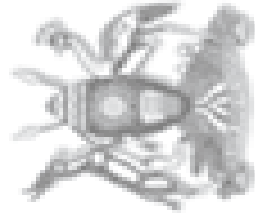
7.6 CONCLUSION

Effective implementation of recommendations and concluding observations go hand in hand with regular reporting to enable effective assessment of progress to be made. However, this is not the case presently for some treaty bodies like the CRC and CEDAW and several recommendations easily get overtaken by events. Besides, the implementation of recommendations that are structural in nature have financial implications. UHRC therefore argues Government to be consistently committed towards its reporting obligations to the international and regional treaty monitoring bodies in a timely and efficient manner.



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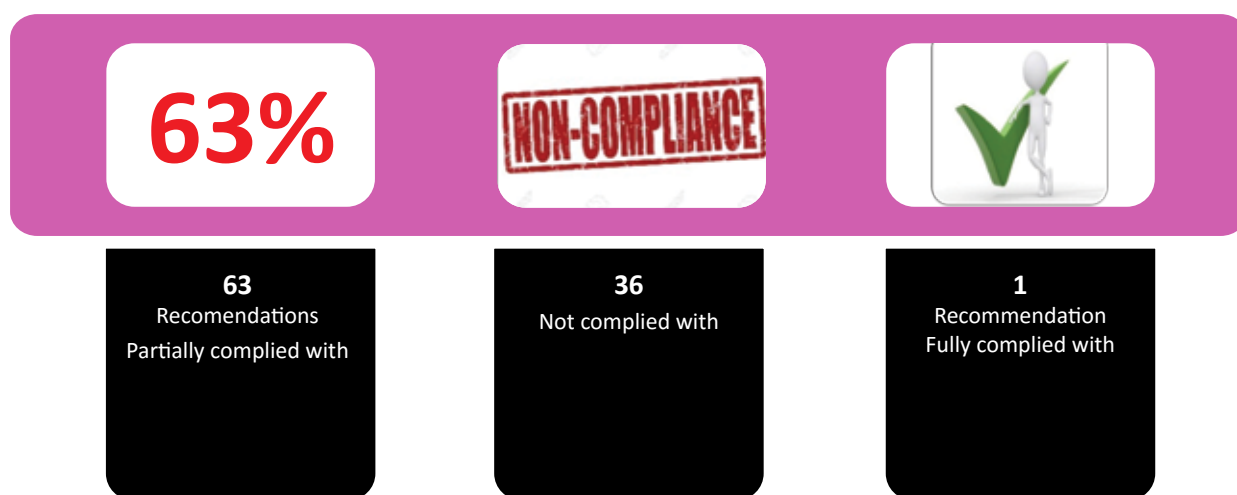
Q: Aquarius trails. <http://undecclaiming.xyz> norsk kasino <http://undecclaiming.xyz> - norsk kasino

Q: Web Site Design Questions And Answers In This Article. Hello would you mind stating which blog platform you're working with? I'm going to start my own blog in the near future but I'm having a hard time selecting between BlogEngineWordPress/Drupal and Drupal. The reason I ask is because your design and style seems different than most blogs and I'm looking for something completely unique. P.S My apologies for getting off-topic but I had to ask!

Q: Find A Soluble Nail Design Shop With an Ease. I am

CHAPTER EIGHT

Government Compliance with UHRC Annual Report Recommendations



8.1 INTRODUCTION

For the past 20 years, UHRC has been making recommendations to the Government of Uganda, aimed at improving the human rights situation in the country through its annual reports. UHRC commends Government for the steps taken so far to fully and partially implement the recommendations of the previous annual reports. However, UHRC remains concerned about the recommendations that have not been implemented for more than five years. These include recommendations for the ratification of the OPCAT; enactment of a minimum wage; and ratification of the Hague Convention on Inter-country adoption of children; among others. UHRC therefore, urges the Government to urgently act on all recommendations, particularly those that have not been complied with at all and are long overdue.

This chapter tracks progress on Government compliance with treaty obligations and progress on UHRC recommendations. It highlights the recommendations that have been fully, partially or not complied with at all.

8.2 METHODOLOGY OF COLLECTING DATA TO ASSESS PROGRESS ON IMPLEMENTATION OF UHRC RECOMMENDATIONS

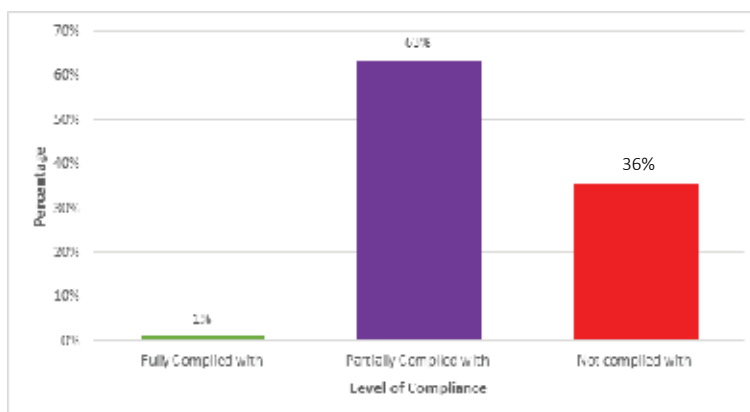
UHRC wrote to all MDAs urging them to provide updates on implementation of its recommendations and also used the database/search that was developed by UHRC with support from OHCHR in 2014 to track the progress made by MDAs. The UHRC notes that some MDAs updated the steps they had taken to implement the recommendations that fall under their docket while others did not.

The MDAs that did not provide any update on implementation of UHRC recommendations included Ministry of Lands, Housing & Urban Development, Ministry of Water and Environment, Ministry of Agriculture, Animal industries and Fisheries and the Media Council.

In addition, UHRC was also concerned about unsatisfactory/derisory, unclear or vague updates devoid of statistics from some MDAs including National Environment Management Authority, Office of the Prime

Minister, Uganda Police Force, Uganda Prisons Service, Ministry of Foreign Affairs, Ministry of Gender Labour and Social Development, Ministry of Finance Planning and Economic Development, Uganda Communications Commission, Parliament, Ministry of Justice and Constitutional Affairs and the Uganda Peoples' Defence Forces, among others.

Figure 8.1: Level of Government compliance with UHRC recommendations



8.3 Recommendations not complied with at all

The UHRC is concerned about the failure of Government MDAs to comply with some of its recommendations at all, some of which date back to about 10 years. The inaction of the MDAs including Ministry of Health, Office of the Prime Minister, Ministry of Foreign Affairs, Ministry of Finance Planning and Economic Development, Ministry of Justice and Constitutional Affairs on the recommendations highlighted below raises serious concern for the protection and promotion of human rights. Therefore, UHRC urges Government and the concerned MDAs to expeditiously act on these recommendations.

1. Ministry of Health to categorise the skin drugs, lotions, sun glasses and hats that are appropriate for persons living with albinism as essential drugs and provide them free of charge. This recommendation was first made in 2015.
2. Government through Parliament and the Office of the Prime Minister should establish the Disaster Preparedness and Management Commission to deal with disasters in accordance with Article 249(1) of the Constitution of Uganda.
3. Ministry of Health should extend social services to fishing communities through upgrading and construction of health centres, sanitation and hygiene facilities. This recommendation was first made in 2014.
4. Uganda Law Reform Commission and the Ministry of Justice and Constitutional Affairs should also harmonize the Kampala Capital City Authority, Uganda Wildlife Authority and National Environmental Acts to avoid contradictions in their implementation. This recommendation was first made in 2016.
5. Uganda Law Reform Commission should review the Public Order Management Act 2013 to bring its provisions that are deemed to infringe on the rights of Human Rights Defenders in line with human rights standards. This recommendation was first made in 2014.
6. The Government through Ministry of Foreign Affairs should ratify and domesticate the Optional Protocol to the Convention against Torture which provides for additional mechanisms for prevention of torture and ill treatment.
7. The Ministry of Foreign Affairs should ratify the 1993 Hague Convention on Protection of Children and Cooperation in respect to Inter Country Adoption of Children.
8. The Ministry of Education and Sports should incorporate Social Gerontology and Geriatrics in the training curriculum up to the National Level for Social and Health Workers, respectively.

9. Ministry of Justice and Constitutional Affairs, Ministry of Finance and Economic Development should establish a Victims Compensation Fund so as to enable timely compensation of Victims of human rights violations. This recommendation has been made over the years.
10. Government should enact a law on the Minimum wage. This recommendation has been made over the years in the UHRC special report on Workers' Rights³⁴³ and the 15th 16th and 18th Annual Reports.
11. Ministry of Foreign Affairs should ratify the Optional Protocol to the African Charter on Human and Peoples Rights on the Rights of Older Persons.
12. Ministry of Foreign Affairs should ratify the 2nd Optional Protocol to the ICCPR. The recommendation has been made over the last seven years.
13. Ministry of Foreign Affairs should ratify the 3rd Optional Protocol to the CRC. The recommendation has been over the last two years.
14. Ministry of Foreign Affairs and the Ministry of Gender Labour and Social Development should ratify and domesticate the ILO Convention No. 189 on decent work for domestic workers and work closely with embassies to ensure that the conditions of work for domestic workers are human rights compliant.
15. Parliament and the relevant ministries to ensure the enactment of legislation in line with Article 8(A) of the Constitution as amended.
16. Judicial Service Commission should recruit more judicial officials
17. Justice Law and Order Sector should support improvements in the broader governance context, including access to justice through creation of more police posts and recruitment of more police officers
18. Ministry of Finance Planning and Economic Development and Ministry of Health to increase budget allocation for the Health Sector to 15% in line with the Abuja Declaration.
19. Ministry of Public Service to expeditiously conduct and conclude the verification of the payroll to ensure that civil servants erroneously deleted from the payroll are reinstated and ghost workers are deleted
20. Uganda Police Force, Uganda Prisons Service and Uganda Peoples' Defence Forces should be availed with adequate resources to ensure that detainees are clothed and provided with basic beddings to ensure detainees living with HIV/AIDS access ARV's
21. Ministry of Finance Planning and Economic Development should raise the non-wage and wage medium term expenditure framework ceilings to enable UHRC meet its contractual obligations to staff and fully pay the outstanding arrears as well as pay a competitive wage to its staff.
22. Ministry of Finance Planning and Economic Development should increase funding to the Uganda Prisons Service, Uganda Police Force the Uganda Peoples' Defence Forces and Ministry of Gender, Labour and Social Development to ensure that the rights of inmates and staff are respected.
23. Ministry of Finance Planning and Economic Development should provide adequate Capital Development to enable Uganda Human Rights Commission establish more regional offices as well as procure vehicles for regional offices and speed boats for Kalangala and Buvuma Islands.
24. Government through the Ministry of Finance Planning and Economic Development should provide funding for political parties as well as full enforcement of the financing regulations established by the Political Parties Organisation Act (2005) in order to address the recent trends of monetisation elections.
25. Ministry of Finance Planning and Economic Development should provide a specific budget allocation for the response to and management of disasters.

³⁴³ Workers' Rights: A Perspective on the enjoyment of rights of factory workers in Uganda' UHRC 2011; and UHRC 16th Annual Report Chapter 11 p.207.

26. Ministry of Finance Planning and Economic Development should allocate more funding to Ministry of Health for the District Primary Health Care Non-Wage budget to address the challenge of inadequate essential utilities such as water and electricity in health facilities.
27. Ministry of Finance Planning and Economic Development, Ministry of Public Service and the Ministry of Health should increase the financial, human and capital or infrastructural investments in maternal, child health, HIV/AIDS and pharmaceutical sector interventions to meet the Millennium Development Goals and HSSIP targets.
28. Ministry of Finance Planning and Economic Development should ensure that there is commensurate funding provided to the Ministry of Health for recurrent costs for utilities and/or maintenance arising from health infrastructural developments and equipment for health facilities at all levels.
29. Ministry of Finance Planning and Economic Development should allocate more funding to Ministry of Health to address the challenge of essential drugs and supplies shortages.
30. Ministry of Finance Planning and Economic Development should increase its budget allocation to the Uganda Human Rights Commission as an accountability mechanism to enable it adequately monitor and report on the state of health rights in the country.
31. Uganda Communication Commission and the Ministry of Information Communication and Technology to ensure that any blockage of digital services, such as the Internet, is in accordance with national and international human rights standards and should follow due process
32. Uganda Communications Commission to ensure that telecommunication companies adhere strictly to the right to privacy by issuing clear guidelines on how personal information should be kept safe and secure, and how it should be utilised.
33. Uganda Communications Commission and the Ministry of Information Communications and Technology should enforce regulations on the media's compliance with their professional responsibility, to stem irresponsible media reports. These institutions should also monitor and regulate the use of social media platforms in Uganda.

8.4 RECOMMENDATIONS THAT HAVE BEEN PARTIALLY COMPLIED WITH

8.4.1 Ministry of Justice and Constitutional Affairs should ensure that prisoners detained under ministerial orders have their cases urgently addressed to avoid long and arbitrary detention which is an infringement on their rights.

For the past three years the UHRC has recommended to MOJCA to establish an efficient mechanism for handling cases which are pending ministerial orders. As reported in the 2015 Annual Report, the mandate to grant orders in respect of persons to whom a special finding of '*Not guilty by reason of being mentally ill*' has been made is no longer with the Minister of Justice but with the Judiciary. This was consequent to a decision of Justice Batema N.D.A in the case of Bushoborozi Eric V Uganda HCT-01-CV-0011 of 2015.

In 2016, the UHRC noted that despite the fact that this decision was made there were 28 inmates still detained pending ministerial orders. The Minister of Justice and Constitutional Affairs Hon. Kahinda Otafiire however indicated that he was not aware of the cases in prisons pending ministerial orders. He informed legislators on the Human Rights Committee of Parliament in 2016 that his ministry was not aware of the 28 individuals remanded at different prisons across the country awaiting ministerial orders.

The UHRC urges the MOJCA and the Judiciary to ensure that prisoners detained under ministerial orders have their cases urgently addressed to avoid long and arbitrary detention which is an infringement on their rights.

8.4.2 Uganda Law Reform Commission, the Ministry of Justice and Constitutional Affairs, the Judiciary and Parliament should put in place a law to shift the mandate on ministerial orders from the Minister of Justice to judicial officers.

The UHRC noted that the ULRC had taken demonstrable steps to address this concern in the Trial on Indictments Act, Cap 23 and the Magistrates Courts Act, cap 16. The Trial on Indictments (amendment) Bill and the Magistrates Courts (Amendment) Bill have been drafted with a proposal to shift the powers of the Minister to make orders regarding placement of mentally ill prisoners to judicial officers. The two Bills were submitted to MOJCA for consideration.

The UHRC urges the Uganda Law Reform Commission, the Ministry of Justice and Constitutional Affairs, the Judiciary and Parliament to expedite this process.

8.4.3 Ministry of Justice and Constitutional Affairs should appropriate funds from the Ministry of Finance and Economic Development for a one-off clearance of the current outstanding UHRC Awards and should promptly pay all tribunal awards.

UHRC has over the years recommended this. In 2016, the total amount of compensation awarded to victims of human rights violations was UGX 1,044,524,500, of which UGX 914,970,000 was awarded to victims by the Tribunal, while UGX 129,554,500 was the total amount settled between parties through amicable settlements. (Refer to Chapter 9 on complaints management).

In 2016, the Government paid **UGX 370,324,614** of the UHRC tribunal awards. UHRC urges the Government to pay the outstanding tribunal awards..

In November, 2016, H.E. Yoweri Kaguta Museveni the President of Uganda directed the Ministry of Finance Planning and Economic Development to ensure that the UGX 5 billion required for UHRC tribunal awards to compensate victims of human rights violations be fully paid in the Financial Year 2017/2018.³⁴⁴

The UHRC urges MOJCA to appropriate funds from the MOFPED for a one-off clearance of the current outstanding UHRC Awards and to promptly pay all tribunal awards. In addition, they should comply with the President's directive of clearing all the outstanding balances for victims of human rights violations.

8.4.4 Ministry of Justice and Constitutional Affairs and Parliament should undertake necessary electoral reforms in good time in consultation with other stakeholders, such as Civil Society Organisations and Political Parties and Organisations.

UHRC made this recommendation in 2014 and noted that in 2015, Parliament made amendments to the Presidential Elections Act 16 of 2005 and the Parliamentary Elections Act 17 of 2005.

The amendments provided for polling to close at 4pm instead of 5pm as was previously provided; made it a requirement for the EC to provide for persons engaged in electoral activities or on duty in specific professions or areas to vote; and removed Government's contribution for presidential campaigns.

The amendments also revised the nomination fees for presidential aspirants from UGX 8 million to UGX 20 million and for parliamentary aspirants, from UGX 200,000 to UGX 3 million. The removal of the requirement for a candidate to campaign in every district of Uganda was also approved. UHRC noted that the bills were passed hurriedly, which did not give ample time even to the committee and other stakeholders to effectively scrutinise them on their human rights compliance.

UHRC further urges the Government to comply with the Supreme Court judgement³⁴⁵ and ensure that the next review of the laws is done in a timely manner.

³⁴⁴ Letter officially signed by H.E Yoweri Kaguta Museveni on Guidance to the Justice and Law and Order Sector dated 9th November 2016

³⁴⁵ n.308 above. **Amama Mbabazi vs. Yoweri Kaguta Museveni, Electoral Commission and Attorney General, Prof. Oloka Onyango and eight others (Amicus Curie), Presidential Election Petition No. 1 of 2016.**

8.4.5 Parliament should ensure the effective application of the human rights checklist in order to enact human rights compliant laws including those regulating the media.

UHRC made this recommendation since 2013 and in 2015 noted that Parliament started the process of amending its Rules of Procedure. UHRC urges Parliament to consider in the proposed amendment a requirement for all committees of Parliament to make use of the Human Rights Checklist in the scrutiny of parliamentary business and report on compliance.

In 2016, the UHRC noted the need for MPs to acquire basic training in human rights, application of the human rights checklist and the Human Rights Based Approach. Consequently, in November 2016, UHRC and the Foundation for Human Rights Initiative (FHRI) organised a joint training for MPs at Imperial Golf View Hotel, Entebbe on HRBA, application of the checklist and Treaty Body mechanisms.

During the training the MPs discussed the background to the concept and principles of human rights; key regional and international human rights instruments and their mechanisms; background, principles and legal framework of the HRBA others among others. They were also trained in the application of the Human Rights Checklist and urged to use it consistently in the analysis of bills referred to their respective committees.

The UHRC urges MPs to ensure the effective application of the Human Rights Checklist in order to enact human rights compliant laws including media laws.

8.4.6 Uganda Law Reform Commission and Parliament should amend the law to prohibit the detention of civil debtors in line with Government obligations under Article 11 of the International Covenant on Civil and Political Rights

UHRC has for over seven years made this recommendation. According to UPS there were 333 civil debtors as at December 2016. UHRC noted some progress made in addressing the continued detention of civil debtors. In FY 2014/15, the ULRC conducted a study to review the Civil Procedure Act Cap 71 and SI 71-1. The detention of civil debtors was one of the issues investigated and a recommendation was made in compliance with Uganda's commitments under the ICCPR. Consequent to the study, relevant amendment bills were drafted and forwarded to MOJCA.

A technical committee comprising of the Judiciary, office of the First Parliamentary Counsel and ULRC was constituted to review the reform proposals ahead of the consideration of the legislative principles by Cabinet.

UHRC urges the ULRC and Parliament to expeditiously amend the law to prohibit the detention of civil debtors as it is in contravention of the ICCPR.

8.4.7 Uganda Law Reform Commission should review the existing legislations, such as the Employment Act, 2006 and operationalise the Social Security Policy and the Occupational Health and Safety Act, 2006 to specifically recognise domestic workers and advocate for regulation of domestic work.

ULRC completed a study, made legislative recommendations in form of a bill for the reform of the Employment Act to specifically re-enforce the applicability of the provisions of the Employment Act to domestic workers.

The UHRC urges the concerned government MDAs to expedite the remaining processes for amending the employment Act to regulate domestic workers.

8.4.8 Uganda Law Reform Commission, Ministry of Water and Environment and National Environmental Management Authority should:

- Fast-track the environmental law and policy reform process to address evident gaps and emerging issues, so as to make the legal and policy framework more effective
- Ensure that the policy and land reform process is done in a participatory and consultative manner.

UHRC made this recommendation in the past years. In 2016, the ULRC started the process for the reform of environmental law and policy spearheaded by the Ministry of Water, Lands and Urban Development and the National Environmental Authority (NEMA). Similarly, the ULRC was part of the process for the development of the National Land Policy, which though finalised and approved by Cabinet is yet to be implemented due to resource constraints.

During FY 2016/17, the ULRC was undertaking a review of selected land laws to address the overlapping land rights and interests, ownership of land by non-citizens, causes and nature of land conflicts, flexible land dispute resolution mechanisms that will guarantee certainty and predictability in resolving land disputes among others.

NEMA reported having developed a draft National Environment Management Policy (2017) in collaboration with First Parliamentary Counsel to provide technical drafting guidance and identified technical officers from various MDAs to support the drafting process. In addition, NEMA also conducted national consultative workshops and regional workshops in Masaka, Gulu, Hoima and Mbale.

The UHRC urges ULRC to ensure that these processes/reforms are expeditiously handled and in a participatory manner with the different stakeholders as required by the HRBA.

8.4.9 Uganda Law Reform Commission should review the Regulation of Interception of Communications Act, 2013 and the Anti-Pornography Act, 2014 to address the overly restrictive provisions affecting the freedom of speech and expression.

UHRC has made this recommendation since 2015. The ULRC reported that it has planned for the review of the above laws to be considered during the subsequent planning cycle in 2018.

UHRC urges the MOFPED to urgently provide the necessary resources for the review of the two laws; and ULRC to undertake the task expeditiously once the resources are availed.

8.4.10 Uganda Law Reform Commission should simplify key laws in place so that the general public knows and appreciates them.

This has been recommended over the last 5 years. In its 18th Annual Report, UHRC urged ULRC to simplify three key laws including: The Land Act Cap 227 as amended; the Persons with Disability Act of 2006; and the Children (Amendment) Act of 2016.

The ULRC informed UHRC that they always plan and budget for the simplification of at least two key laws every financial year and this depends on availability of resources. According to ULRC a number of key laws have been simplified over the years including: The Constitution of Uganda, 1995, the Local Council Courts Act, 2006, the Prevention of Trafficking in Persons Act, 2009, the Domestic Violence Act, 2009, the Contracts Act, 2010 and the Prohibition of Female Genital Mutilation Act 2010.

However, ULRC indicated in 2016 that simplification of the Land Act Cap 227 as amended, the Persons with Disability Act of 2006 and the Children (Amendment) Act of 2016 would be planned for during the subsequent financial years. In FY 2016/17, the ULRC was undertaking simplification of the East African Community Customs Management Act of 2004 to sensitise the public and implementers of the law within the East African region. UHRC urges MoFED to allocate adequate funds to ULRC to simplify the specified laws.

8.4.11 Uganda Law Reform Commission should translate the Constitution into local languages.

This recommendation has been made by UHRC for over eight years. ULRC indicated that in the current FY 2016/2017, the translation of the Constitution into four languages: Dhur-Alur, LugbaraTi, Lumasaba, and Lusoga was on-going. Already the ULRC has translated versions of Luganda, Runyoro-Rutoro, Acholi and Langi and the translations would continue to be phased to the subsequent planning period. UHRC commends ULRC for the completed translations and calls for all local languages to be considered.

8.4.12 Uganda Law Reform Commission should expeditiously review and strictly implement the laws relating to corruption.

ULRC reported its plans to conduct a study during FY 2017/18 for legislative proposals on proceeds of crime. This would facilitate the tracing and forfeiture of proceeds of crime in general, including corruption-related transgressions. Uganda Intelligence Authority that is established to monitor, investigate and prevent money laundering is operational.

8.4.13 Justice Law and Order Sector should strengthen mechanisms for diversion of children away from the formal justice system, including through mediation and arbitration.

UHRC has recommended this over the past six years. UHRC notes that JLOS made a relatively similar update as reported in the 18th Annual Report.

In 2016, the development of National Diversion Guidelines for Juvenile Justice was completed and they were submitted to the MOJCA to be transformed into Regulations on diversion such that they have a force of law. The draft regulations were pending the approval of the minister.

JLOS also undertook the development of frameworks as well as capacity building as the other diversion initiatives targeting children. Information materials on ADR were developed, including: Mediation training manuals; mediators' manuals; and a Gender Handbook. A Code of Conduct was also finalised and submitted to the Chief Justice who directed that it would be considered by the Rules Committee in the judiciary.

Nationwide capacity building workshops on diversion of children from the formal justice system under the Children (Amendment) Act 2016 were held for frontline JLOS criminal justice institutions such as UPF, DPP, Judiciary, and probation officers.

JLOS also supported the Justice for Children (J4C) programme and the LDC Diversion project which promote diversion; in addition to participating in the Strengthening Access to Justice for Children and Youths in East Africa (SAJCEA) project promoting diversion through training, awareness building and working with community paralegals.

8.4.14 Justice, Law and Order Sector should strengthen legal aid services and ensure that aggrieved domestic workers access justice in a timely and fair manner.

This recommendation was made in 2015. JLOS reported that a draft National Legal Aid Policy and Legal Aid Bill were prepared to strengthen and harmonise legal aid services and were before Cabinet for consideration and approval. The proposed legal aid framework espouses services to vulnerable groups of people including domestic workers.

8.4.15 Justice Law and Order Sector should strengthen the district coordination committees (DCCs) in order to address the issue of prolonged detention and improve access to justice.

This recommendation was made in the 2012 and 2013. Accordingly JLOS has revised the DCC Guidelines and operationalised the Regional Chain-linked Committees (RCCs) that provide oversight to the DCCs. As part of the oversight system, the Chain-linked Advisory Board (CAB) was established as a national forum for addressing issues raised both at the district and regional levels. The issues of prolonged detentions and challenges in access to justice were brought to the attention of the DCCs, RCCs and CAB which were progressively addressing them. In this regard, monthly and quarterly inspections by DCCs and RCCs respectively were conducted. Other JLOS oversight mechanisms such as the JLOS Inspectors' Forum, the JLOS Integrity Committee and the JLOS working groups were also addressing the challenges.

8.4.16 Justice Law and Order Sector should develop a strategy of addressing physical access for vulnerable persons such as PWDs in already existing JLOS structures that are inaccessible.

This recommendation was made by UHRC in 2012, 2013 and in 2014. UHRC was previously informed of the approval in 2015 of a concept paper for a strategy on improving physical access for all persons, especially the vulnerable persons, to JLOS service points as part of enhancing access to justice.

In addition, funds for the development of a Sector Strategic Action Plan to mainstream rights and interests of PWDs were budgeted for under JLOS Work plan 2016/17 and this would be finalised in FY 2017/18. UHRC urges JLOS to expedite the processes.

8.4.17 Government should expedite the process of passing a legal aid policy to ensure access to justice for all.

The draft National Legal Aid Policy and Legal Aid Bill to strengthen and harmonise legal aid services especially to the poor and vulnerable, were still before Cabinet for approval as reported in the 2015 UHRC Annual report. A cost-benefit analysis for the policy and the Bill was prepared in 2016 to inform the Cabinet discussions on the proposals.

UHRC urges Government to expedite the process so that the policy and the bill are passed soon as they are long overdue. Access to justice for all is crucial, especially for the poor and vulnerable.

8.4.18 Justice Law and Order Sector should develop a Transitional Justice policy.

UHRC has made this recommendation over the years. JLOS reported that the draft National Transitional Policy which was developed to enhance legal and political accountability, promote reconciliation, foster social reintegration and contribute to peace and security, was circulated to all MDAs for comments. It entails a holistic intervention to achieving justice and peace in a country whose history has until recently, been characterised by political and constitutional instability; addresses matters of legal and institutional framework for investigations, prosecutions and trial within the formal justice system; reparations, traditional justice and nation building and national reconciliation and; recommends a framework to guide the implementation of Transitional Justice programmes among others.

In addition, JLOS did a cost-benefit analysis as well as the budget for its implementation and submitted to the MOFPED to obtain a certificate of financial obligations. If approved by the Cabinet the policy would inform the development of the Transitional Justice Law.

UHRC urges JLOS to expedite the process of cabinet approval of the Transitional Justice Policy.

8.4.19 Ministry of Foreign Affairs was urged to strengthen the reporting and monitoring role of the inter-ministerial Committee to carry out its functions on treaty body obligations.

UHRC has over the years urged the Government to comply with its reporting obligations under international instruments in a timely manner. The UHRC commends Government for submitting three outstanding initial reports in 2015 on the ICESCR, CRPD, and International Convention of the Rights of Migrant Workers and Members of their Families (CMW). Concluding observations were made by the respective treaty bodies.

UHRC also commends the Government for submitting its second UPR report in March 2016 which was reviewed in November 2016 by the Working Group on the UPR at its 26th Session. Uganda's UPR report was adopted during the 34th Session of the Human Rights Council (HRC)³⁴⁶ which was also addressed by UHRC Chairperson Mr. Med. K. Kaggwa.

³⁴⁶ On 16th March 2017 from 15:00 to 18:00h

Uganda's record on the implementation of the CRPD was reviewed by the Committee on the CRPD in April 2016. Paragraph 69 of the concluding observations enjoins Uganda to transmit the concluding observations and action to members of the Government, Parliament, officials in relevant ministries, local authorities, organisations of persons with disabilities and members of relevant professional groups, such as education, medical and legal professionals, as well as to the media. Subsequently, on 15th June 2016, the UHRC together with NUDIPU and Office of the High Commissioner For Human Rights disseminated these concluding observations to over 120 stakeholders including the media, DPOs, education, medical and legal professionals.

In November 2016, the UHRC Chairperson led a delegation of stakeholders that contribute to promotion and protection of rights of PWDs to the Human Rights Committee of Parliament. They included representatives from National Council for Disability, Equal Opportunities Commission, MOGLSC and NUDIPU.

The UHRC urges Government to fully comply with the concluding observations on the state reports on the CRPD and the UPR and address the key human rights concerns raised. In addition UHRC urges Government to fulfil its reporting obligation to the treaty bodies in a timely manner. *(Refer to Chapter 7 on Treaty Body reporting).*

8.4.20 The Uganda Prisons Service should mainstream provision for vulnerable groups such as women, children, disabled persons, HIV/AIDS positive persons into all the prison programmes.

According to UPS, initiatives to mainstream provision for vulnerable groups in its policies and programmes that were instituted included disaggregation by gender of the prisoner statistics and returns; provision of sanitary packs to female prisoners for their personal hygiene and health; separate accommodation for male and female during training and strict supervision to ensure that there is no gender-based violence. In addition, affirmative action in favour of women applicants is applied during recruitment of staff and currently females stand at 28% of staff. All new constructions are taking care of the needs of inmates with disabilities

UHRC urges the UPS to extend the initiatives to mainstream provision for vulnerable to cover women, children, PWDs, HIV/AIDS positive persons.

8.4.21 Government should provide vehicles to UPS to ease transport problems.

For over 7 years the UHRC has made this recommendation which would enhance access to justice. UPS reported that the percentage of prisoners walking to court in 2016 reduced; out of the 247 prisons, 69 had vehicles; and that 95% of prisoners were produced in court on time.

Noting that vehicles in 69 out of 247 prisons was on the lower side; and that most of them were very old, requiring high maintenance costs; UHRC still Government to provide adequate vehicles to UPS particularly for transporting inmates to courts of law.

8.4.22 Government should invest more in the rehabilitation and renovation of prison workshops and in revamping prison farms. It should progressively increase training opportunities for inmates so they can acquire a variety of productive skills. Prisoners need to be provided with relevant kits to enable them reintegrate productively and constructively in society on release. In addition, UPS should provide an avenue for inmates to undertake recreation.

Over the past 5 years the UHRC has made this recommendation. UPS reported that opportunities for inmates were mainly through farming, industrial activities like carpentry and tailoring and civil engineering. Prison farms provided the largest intake for vocational skills and about 4,000 prisoners were enrolled under farming each financial year.

According to UPS, the rate of recidivism reduced from 26% to 23% as a result of intensified rehabilitation. A total of 2,500 inmates on formal education programmes were facilitated with scholastic materials including 125 who sat for PLE, 27 for UCE and 23 for UACE. Skills training was undertaken by 10,551 inmates; 64 tested in various vocational trades and awarded certificates; 26,960 were given rehabilitative guidance and counselling. A total of 15,919 inmates were connected to actors in the criminal justice system. Construction of educational infrastructure at Gulu prison was completed.

UHRC recommends that the UPS should provide an avenue for ALL inmates to undertake recreation and education activities.

8.4.23 Uganda Prisons Service should provide ramps and wheel chairs in all prisons for inmates with disabilities.

For the last nine years the UHRC has made this recommendation. Under UPS SIP III, the strategy was to install disability-friendly facilities in all new prisons including ramps and arm support in toilets. UPS provided crutches to the inmates that did not have them.

UHRC further urges UPS to effectively and efficiently implement the UPS SIP III to provide ramps and wheel chairs in all prisons for inmates with disabilities.

8.4.24 Uganda Prisons Service and Uganda Police Force should continue to construct new buildings and renovate old ones, to meet the minimum standards for humane treatment of inmates.

The completion of construction/renovation of Ruimi, Oyam, Amita, Tororo, Mbarara, Isingiro, Amuru, Kampala Remand and Kaabong prisons; the re-modification of Ndorwa and fencing of Namalu prisons increased the holding capacity of UPS by 10.9% from 14,898 to 16,517. Renovation of Murchison Bay Hospital theatre and sanitation system at Tororo was also completed.

Then UPF initiated the construction of the following: Nateete, Kabale and Pakwach Police stations, the cancer centre at Kololo, the offices of the Directorate of Logistics and Engineering at Namanve, an administration block at Olilim Training School, an administration unit at Nagalama Police station, 17 blocks of staff apartments at Naguru, and 8 flats for staff accommodation at PTS Kabalye/Masindi.

8.4.25 Uganda Prisons Service should be availed with adequate resources to ensure that detainees are clothed and provided with basic beddings, and to ensure that detainees living with HIV/AIDS access ARVS.

As reported in the UHRC 18th Annual Report, UPS continued in 2016, providing the detainees with three meals a day as advised by the UPS nutritionist. Free voluntary counselling and testing as well as ARVs were also availed.

The UHRC further urges UPS to ensure that detainees are properly clothed.

8.4.26 Government should ensure that children in conflict with the law are separated from adults in all places of detention.

Over the years the UHRC has made this recommendation to UPF and UPS.

UPS reported that in accordance with Section 58 (7) of the Prisons Act 2006 which prohibits admission of juveniles in prisons designed for adults prisoners, a procedure is in place to transfer juveniles immediately to Remand homes once a medical examinations is conducted as directed by court to ascertain the age.

However, the UHRC noted with concern in 2016, the increasing number of children that end up in adult prisons despite the existence of Remand Homes in Arua, Gulu, Masindi, Mbale, Kampala, Fort Portal and Kabale Districts.

UHRC calls upon UPF and UPS to ensure that detained children are separated from adults.

8.4.27 Uganda Prisons Services and Ministry of Gender Labour and Social Development should cater for children incarcerated with their mothers.

The UPS reported some initiatives to ensure the protection and promotion of the rights of children incarcerated with their mothers, including the Prisons Standing Orders and Administrative Instructions that provide for proper treatment of these children; an annual budget of UGX 60m incorporated in the main UPS budget for their specific needs; day care centres in some women's prisons such as Luzira and Mbarara; and supplementing the children's diet with milk from cows that were provided to women's prisons.

The MoGLSD reported that the issue of children incarcerated with their mothers needs a multi-sectoral intervention that goes beyond the mandate of the ministry. What the Probation and Social Welfare Officers, the Community Development Officers, para-social workers and the child protection committee members at the community level provide is psycho-social support to the families of the children to be take care of the children as the mothers serve their sentences.

8.4.28 Ministry of Gender Labour and Social Development should develop affirmative action programmes targeting ethnic minority groups.

The MoGLSD reported plans to develop a policy targeting ethnic minority groups which will enhance its ability to come up with affirmative action programmes for them. The UHRC urges the MoGLSD to expedite the process of developing this policy.

8.4.29 Ministry of Gender Labour and Social Development should equip district local authorities with skills and resources to educate ethnic minority groups to facilitate their participation and representation at local and national levels.

The UHRC has over the years recommended this. According to MoGLSD the interventions at the district level are meant to reach all people in the district including ethnic minorities. Aware of their vulnerability, training on HRBA to programming was undertaken to train district staff particularly in planning unit and those at the Sub-Counties to deliberately target the ethnic minorities in their planning and budgeting.

8.4.30 Ministry of Gender Labour and Social Development should comply with international reporting obligations on the status of ethnic minority groups to treaty bodies and during the Universal Periodic Review.

The MoGLSD reported to have worked hand in hand with responsible lead sectors to ensure that international reporting obligations to treaty bodies on the status of ethnic minority groups were fulfilled in a timely manner. UHRC urges the ministry to comply with international reporting obligations to treaty bodies as well as during the UPR.

8.4.31 Ministry of Gender Labour and Social Development should design a national policy that seeks to recognise the fundamental rights and freedom of ethnic minority groups and develop deliberate measures to protect their existence and ethnic, cultural religious and linguistic identity through promotion strategies such as exchange/ exposure visits.

As reported above, the MoGLSD was in the process of formulating a policy targeting ethnic minority groups. The UHRC urges the ministry to apply the HRBA in the processes of drafting this policy, particularly holding consultations with all ethnic minorities.

8.4.32 Ministry of Gender Labour and Social Development should take affirmative action to enhance access to higher education for ethnic minority groups and participation in decision making platforms with a view of uplifting the standards of ethnic minorities.

The MoGLSD reported that Government through the ministry has always encouraged all people to participate in programmes including education. Sensitisation has also been done at grass root level to encourage and ensure that parents embrace the UPE, USE and vocational institutions programmes to take their children to school. The ministry reported that this would be enhanced by the Policy on ethnic minorities when it is finalised.

UHRC notes that this update was wanting since information and statistics on the number of ethnic groups that were targeted in these programmes was not provided.

8.4.33 Ministry of Gender and Social Development should build the capacity of public servants to ensure protection of the identity of ethnic minority groups by ensuring that linguistic and religious communities have equal access to employment opportunities in the public and private sector and refraining from designing laws and policies that have the purpose or effect of assimilating minorities.

According to MoGLSD, Local Government staff were trained in HRBA to programming to enhance their capacity to view and execute their duties using the human rights lens which emphasises the promotion and protection of rights of all categories of people. The proposed policy on ethnic minorities and action plan would address most of their issues.

8.4.34 Ministry of Gender, Labour and Social Development should strengthen implementation of laws and policies governing the provision of alternative care to children, especially the regulation of institutions providing alternative care, prioritisation of family-based care and admission of children into child care institutions with court orders.

The MoGLSD has developed the National Alternative Care Framework which is anchored on the Children Act Cap 59 (with Amendment as at 1st June 2016), The Children (Approved Homes) Rules, 2013, the UN Guidelines on Alternative Care which prioritises family and community as the best place of children. The ministry also indicated that children are admitted in approved homes after issuance of a Care order in the names of the warden of the home. UHRC urges MoGLSD to fully implement the National Alternative Care Framework and specifically regulate all institutions providing alternative care.

8.4.35 Ministry of Gender, Labour and Social Development should centralise the Probation and Social Welfare function for effective functionality and coordination.

UHRC has over the past years made this recommendation. According to the MoGLSD the probation function has been reviewed in Uganda and a recommendation made for the Ministry to take it up with other stakeholders. This would inform the next steps towards centralisation of the Probation and Social Welfare function. In addition to this, in 2016 the MoGLSD provided professional practice oriented child protection training and refresher training to Probation and Welfare Officers and Community Development Officers. It is also providing support supervision, coaching and mentoring.

8.4.36 Ministry of Gender, Labour and Social Development should ensure that Babies and Children Homes should comply with the laws and policies that govern the provision of alternative care to children.

According to the MoGLSD an Alternative Care Unit has been established that regularly conducts assessments and inspections to ensure compliance of children homes with the Children Act Cap 59 (with Amendments as at 1st June, 2016), the Children (Approved Homes) Rules, 2013 and the Alternative Care Framework 2013. A National Alternative Care National Action Plan 2016 is being implemented. The MoGLSD has provided training for wardens and social workers employed in the homes.

8.4.37 Ministry of Gender, Labour and Social Development should rollout the Sage Programme to all Older Persons in Uganda above 60 years and should ensure that it provides a comprehensive programme to the entire public on the roll out plan.

UHRC made this recommendation in the 18th Annual Report. Since 2010, the MoGLSD has been implementing the Senior Citizens' Grant (SCG) targeting older persons with an unconditional cash transfer aimed at reducing the intergenerational transmission of poverty; and providing income security to them, among others. The SCG is part of the broader Social Assistance Grant for Empowerment (SAGE) programme, a pilot originally implemented in 14 out of 112 districts in Uganda.³⁴⁷ In August 2015, the Government decided to roll out the SCG, allocating UGX 9 billion for the FY 2015/2016 and committing UGX 149 billion for the next 5 years.

³⁴⁷ Yumbe District was included in the pilot subsequently in 2014.

The goal is to reach 55 districts by the year 2020.³⁴⁸ The Government plans to roll out the programme in a phased manner, starting with 20 new districts between 2015 and 2016 and adding 5 new districts every subsequent year. Government expects that a gradual increase in enrolment will lead to full coverage of everyone over 65 years in a ten year period.³⁴⁹

In 2016, the MoGLSD launched payments of the Senior Citizens Grants in 20 new districts, bringing the total number of districts covered by the Programme to 35.³⁵⁰ The new districts covered in FY 2015/16 are: Kaabong, Abim, Kotido, Koboko, Gulu, Pader, Agago, Lamwo, Amolatar, Pallisa, Amuria, Kween, Namayingo, Mayuge, Kamuli, Kayunga, Nakasongola, Kibaale, Kisoro and Bundibugyo.³⁵¹

In addition, the ministry's National Social Protection Policy which was approved by Cabinet in November 2015, was launched in 2016.³⁵² It seeks to promote coordination and harmonisation of social protection in the country. As an integral part of the Uganda Vision 2040, the Policy outlines a clear vision and strategic framework for a well-coordinated national social protection system. In addition, the Policy strives to streamline and eliminate duplication in the sub sector. Its specific objectives are to: Increase access to social security; enhance care, protection and support for vulnerable people; and strengthen the institutional framework for social protection service delivery.



Elderly Women receiving money from Post Mobile Bank during celebrations of the International day for Older Persons in Pader District

UHRC urges Government to expeditiously roll out this programme so that all older persons in Uganda benefit and exercise their right to social protection.

8.4.38 Uganda Police Force should invest in training and re-training of law enforcement agents to equip them with modern investigation skills. The UPF in particular should avail itself with modern investigation techniques and equipment to avoid use of torture in obtaining information.

In 2016, the UPF in conjunction amended its police training curriculum to include human rights. UPF conducted refresher courses on human rights in general; on the Prohibition and Prevention of Torture Act, 2012, and the Public Order Management Act, 2013 among others, for in-service police.

³⁴⁸ MoGLSD, A Newsletter of the Expanding Social Protection Programme, 2015 p. 2.

³⁴⁹ As above, p. 4.

³⁵⁰ Accessed at: <http://socialprotection.go.ug/sage-starts-payments-in-20-newdistricts/#sthash.Gh6SP4W5.dpuf> last accessed on 20 February, 2016.

³⁵¹ As above.

³⁵² It was launched on 2nd March 2016 by H.E. President of Uganda Yoweri Museveni, who was represented by the Vice President Edward Ssekandi.

8.4.39 Uganda Police Force should undertake prompt, effective, impartial investigation into all cases of attacks, threats and intimidation of media practitioners and bring the culprits to book.

UPF reported having carried out sensitisation for the police officers on observance and respect of human rights and freedoms in the performance of their duties. Even though UHRC was informed that errant officers were punished; the UPF did not provide the number and details of those that were prosecuted or disciplined.

8.4.40 Ministry of Health should review the National Cancer Policy to specifically include the prevention, early detection, diagnosis and treatment of skin cancer, especially for persons with albinism.

UHRC made this recommendation in 2015. Subsequently, the Speaker of Parliament Hon. Rebecca Kadaga promised to create a Centre for Persons living with Albinism. The Uganda Cancer Institute under the MoH established a clinic for the people living with Albinism which runs once a week. A community programme for the creation of awareness on the cancer risk factors for the people living with Albinism (such as the sun and wearing protective wear, non-use of skin creams) was also established. These public awareness activities have caused many persons to come for check-ups at the Institute.

The MoH also reported that sun glasses are provided, but on a small scale because of budgetary constraints. However, skin creams are not provided in public health facilities because they are not yet included in the Uganda Essential Medicines and Health Supplies (EMHS). According to the MoH, discussions are on-going to have skin creams, and sun glasses for Albinos included in the EMHS list for Uganda. The Cancer Policy will however be reviewed in FY 2016/17. UHRC recommends that the ministry expedites the process of reviewing the Cancer Policy to provide for persons living with Albinism.

8.4.41 The Office of Prime Minister should consider addressing the issue of family reunification of refugees because it is key.

The OPM stated that family unification is implemented across all refugee settlements in the country through a protection tool of tracing and uniting separated family members. Once separated family members are traced, OPM in partnership with other humanitarian agencies facilitates their movement and reunification. However, the UHRC was concerned about the unaccompanied refugee minors and separation of families but OPM did not provide data or statistics on this issue.

8.4.42 Refugees should also learn to live peacefully with others while in Uganda and the host communities should also co-exist with the refugees.

UHRC made this recommendation in the 2014 and 2015 Annual Reports. The OPM indicated that in partnership with various refugee host districts and humanitarian agencies, it was working towards maintaining peaceful coexistence between the refugees and host communities. The integrated approach was applied as a key tool in all interventions to promote peaceful co-existence. In addition, OPM had introduced programmes that directly target the host communities including Settlement Transformation Agenda (STA) and Refugee and Host Population Empowerment (ReHoPE) strategic framework. However, they are yet to be rolled out to full implementation in all refugee settlements.

8.4.43 Electoral Commission should plan and provide logistics for weather changes on voting days.

The EC put in place measures including provision of aprons to polling officials as a form of identification as well as a cushion against the cold; caps to reduce the effect of the sun; and polythene sheeting to cover the polling kits in case of rain on polling day. The EC promised to procure umbrellas in future, subject to availability of funds.

8.4.44 Electoral Commission to emphasise the duty of the public to register and vote through voter education.

The EC reported deploying foot personnel using mega phones in remote villages; organising special events targeting the youth through music and road shows as well as road blitzers and entertainment spots involving popular artists as ambassadors; conducting public awareness through regular briefings of stakeholders on the modalities of all electoral activities at all regional centres. The EC also produced and distributed voter education materials and conducting voter education in institutions of higher learning.

8.4.45 Ministry of Information, Communications and Technology to expeditiously table the Data Protection and Privacy Bill in Parliament for consideration.

UHRC recommended this in 2015. According to the MoICT, the Bill was tabled in the 9th Parliament for the first reading on 26th April 2016 before it was referred to the Committee for ICT for further scrutiny.

8.4.46 Ministry of Information, Communications and Technology, Uganda Communications Commission and National Information Technology Authority to intensify their efforts to increase public awareness in respect to digital technology.

The UHRC recommended this in the 18th Annual Report to ensure that citizens understand their rights and responsibilities in the use of digital technology as well as the dangers that relate to new digital space, in order to moderate civil actions.

The Ministry reported that efforts to sensitise the populace on the safe use of ICT were on-going but could not be intensive and far-reaching due to resource constraints. A protracted campaign to interact with stakeholders was conducted on social media especially Facebook and Twitter. The existing Cyber laws (Electronic Transactions Act, 2011, Electronic Signatures Act 2011 and Computer Misuse Act 2011) provide the framework to facilitate the use of Information Technology platforms in a proper and secure manner.

NITA-U also has an online Child Sexual Abuse Reporting Portal to address abuse of the girl child. It also undertook sensitisation of the public on the cyber laws through the local media as well as the importance of using IT platforms to ease communication and transactions. Stakeholders were urged to use these platforms responsibly. In addition, the Government Citizen Interaction Centre that is housed at the MoICT also provided information to the public on ICTs and other Government programmes.

A Cyber Emergency Response Team was established under the UPF and UCC to curb any form of Cyber abuse in line with the different Cyber Laws like Computer Misuse Act.

That there is a live program on UBC called 'Ask your Minister' which provides/d additional communication avenues to the public. That there is also Ask your Government online Platform which provided online communication platform for the general public.

In addition, the Ministry begun the Child Online Safety Days, Internet Safety days and Hotline Services (for instance Code 116 for children) that address different disadvantaged groups like children and women. That these initiatives helped raise awareness of online/digital rights and provide a platform to report abuse thereof. That currently these platforms are run by both UNICEF and MGLSD.

8.4.47 Ministry of Information, Communications and Technology should develop a policy to articulate and address issues of online violence against women, including providing for educational programmes on digital security and safety.

The MoICT planned to develop Women Online Safety Guidelines in FY 2017/18 as well as a Child Online Protection Policy. A child helpline commonly known as SAUTI that was commissioned in 2015 was in operation in 2016 as a free hotline to be reached on 116 on all mobile networks, designed to link children in need of care and protection to Government service providers and resources.

The UHRC was informed that NITA-U was maintaining active social media education and awareness programmes on digital safety and child online protection. It was also training and sensitising stakeholders in the investigation and prevention of online child sexual abuse.

8.4.48 Ministry of Local Government should expedite the process of reviving the local council structures at the grassroots level in order to empower community leaders to effectively play their role in ensuring security.

There were proposals by Government to elect LC I and LC II leaders by lining up behind candidates instead of a secret ballot. The LC I and LC II elections did not take place in 2016 and were rescheduled for January 2017 and were still not held because there was no money to finance them. The UHRC urges Government to refrain from using open voting for LC elections due to various human rights concerns including social disharmony; apprehension of voters; and risks to social cohesion as political tensions rise during elections,.

8.4.49 Ministry of Education and Sports and Ministry of Gender, Labour and Social Development should equip district local authorities with skills and resources to educate ethnic minority groups in order to facilitate their participation and representation at local and national levels.

The ministry reported that the essence of UPE and USE programmes that have been implemented for years was to enable all Ugandans; particularly the marginalised like the ethnic minority groups, to access free education. In this regard, the ministry has made efforts to ensure the existence of a UPE school in every parish and a USE school in every sub-county. Reference was also made to the provisions under the UPE and USE policies that oblige district local authorities to mobilise communities to send all children of school-going age to school. The local authorities have an obligation to do support supervision and monitoring of schools on this government programme. The UHRC urges the Ministry to equip district local authorities with skills and resources to effectively meet their obligation.

8.4.50 Ministry of Education and Sports in conjunction with the National Curriculum Development Centre (NCDC) should review the curricula to be consistent with Article 29 of the UN convention on the Rights of the child which provides that education should develop each child's personality and talents to the full and encourage children to respect their parents, their cultures and other cultures. Any Government interventions, like schools within the Ethnic Minority Group settlements should ensure that the teaching is offered in such a way as to ensure that their traditional way of life practices and languages are presented.

The ministry reported about the process of curriculum review that it embarked on together with the National Curriculum Development Centre. A number of proposals were made including condensing the many subjects at ordinary level to only 8 learning areas.

One of the Learning Areas: Life Education has a full stand on Human Rights Education which emphasises the teaching of issues related to human dignity and respect of all human beings irrespective of their colour, race, culture, religion and political inclination. It also focuses on the involvement of all people into community and social activities in order to maintain cordial interpersonal relationships, as well as aspects of physical activity and sports for physical fitness good health and talent development. This curriculum was expected to benefit all children across the country including those from the ethnic minority groups. However, implementation of the new curriculum was differed and new proposals made to maintain the current curriculum with minor adjustments.

The current Primary 4 to 7 curriculum brings out under Social Studies and Religious Education, the concepts of morality patriotism, respect for elders in the community and tolerance in the face of diversity. The thematic curriculum at the lower primary level provides for use of local languages in instruction as a way of ensuring their preservation and promotion. Co-curricular activities such as Music, Dance and Drama emphasise respect for traditional aspects of life such as dress, songs, rituals, rites and language.

The current Secondary School curriculum, through subjects like Christian Religious Education, Islamic Religious Education, General Paper, History and Political Education, also covers issues of morality, personality, respect of traditional values and beliefs as well as living in diversity. Subjects such as Physical Education and Sports, though not examinable were intended to promote talent.

8.4.51 Ministry of Education, Science, Technology and Sports should develop and implement the provision in the School Health policy, which provides for a mandatory mid-day meal to be availed by either the school administration or parents.

The ministry reported that the draft School Health policy was pending Cabinet approval having already been validated and endorsed by top management at both the Ministry of Education and MoH. The draft policy requires parents to provide mid-day meals to their children in kind and allows parents to pack meals for their children or send raw food items to be prepared at school. The ministry also developed guidelines on school feeding.

The Ministry of Education further indicated that this was happening with ease where all parents have been consulted and have consented to the arrangement. However, some parents were said to have neglected their responsibility thinking that the UPE and USE learners are totally under the full care of government and they have no contribution to make.

The UN World Food Programme (WFP) and other international NGOs have also supported the Government feeding policy in the disadvantaged areas of the North and North East through involving communities in school feeding programmes.

UHRC urges the ministry to expedite the process of passing the draft School Health policy.

8.4.52 Ministry of Education, Science, Technology and Sports should embrace new technologies and amend the rules and regulations to take care of new emerging technologies.

In 2016 the Ministry used ICT for the inspection function. Data was collected from the field using data tablets and the user would then upload it direct to the server. Real time data was then processed and displayed on a dashboard. With this technology, the Ministry believes that decision making will be made quicker and faster with greater precision and accuracy.

The Ministry now employs telephony and VPN technology to interconnect the various offices which are apart. The Sector also uses emerging technologies for Financial Management and Pensioner payment verification.

Registration of candidates for PLE, the Uganda Certificate of Education (UCE) and Uganda Advanced Certificate of Education (UACE) examinations was all done online. In addition ICT was one of the subjects offered in secondary schools at both Ordinary and Advanced level of education.

8.4.53 Ministry of Works and Transport should effectively enforce/implement the Building Control Act 2013 and the provisions of the Persons with Disabilities Act 2006.

The Ministry reported that in order to comply decentralised to the Building Committees and the Building Control Officers at the District Local Government and Urban Authorities the powers to approve designs, inspect construction works and ensure compliancy with all standards.

Accessibility standards for PWDs were catered for in the development plans as a pre-requisite for approval of the plans.

8.4.54 Ministry of Works and Transport should ensure that the Regulations for the Building Control Act comply with the requirements for accessibility of Persons with Disabilities.

According to the Ministry, a statutory instrument on Accessibility Standards exists. A Building Code was provided for under Section 46 of the Act to take care of the rights of PWDs. The zero draft of the Building Code was in place following several consultation meetings and workshops. The first draft was expected after a benchmarking study at the end of March 2017 and by June 2017 all the formulation activities would be completed.

8.4.55 Ministry of Works and Transport should inspect existing roads in order to redesign and reconstruct roads to remove black spots, seal potholes, place traffic signs and lighting to ensure safety of all road users.

The Ministry reported that the national road network stood at 20,500km, out of which 4,200km are tarmac roads and the rest gravel. In the design of roads for upgrading and rehabilitation, the ministry had to take into account road safety improvement measures in the geometric design as well as provision of traffic signs and road furniture. The redesign and improvement of the geometry of black spots as part of the road rehabilitation projects was already planned, informed by the findings of the study on black (accident) spots conducted in 2015 by UNRA on the national road network.

The National Roads Programme for FY 2016 – 2020 included upgrading of 2,000km, rehabilitation of 1,000km, the construction of 170 new bridges and procurement of 9 new ferries. Implementation of the Programme would improve the condition of national roads and the road safety situation.

Furthermore, to preserve the investment in tarmacking of roads, the ministry had instituted effective measures for timely road maintenance, such as timely cutting of grass on the road verges, pothole patching, cleaning of drains, replacing damaged traffic signs and removing obstructions. Provision of street lighting and pedestrian walkways was also planned for all urban sections of roads that were prioritised for rehabilitation or upgrading. The ministry was pursuing adequate and timely funding for national roads maintenance.

8.4.56 Ministry of Works and Transport, the Uganda Police Force and the Transport Licensing Board, in partnership with relevant stakeholders, should popularise the provisions of the Traffic and Road Safety Act (TRSA), 1998.

The ministry, in conjunction with various NGOs and private sector organisations, continued to popularise the provisions of the Traffic and Road Safety Act, 1998. Police together with the National Road Safety Council (NRSC) and Transport Licensing Board were implementing an operation code-named “Fika Salama” which is a more coordinated enforcement mechanism for the provisions of the Act.

The NRSC has led various stakeholders including Police and UNRA in sensitisation campaigns on radio and TV especially during the Annual National Road Safety Week. The Highway Code, which has most provisions of the Act was simplified and translated into some local languages. It was printed in English, Kiswahili, Luo, Luganda and Runyakitara and distribution.

8.4.57 Ministry of Works and Transport should improve the road infrastructure and transport network, especially in hard-to-reach areas, to enable patients access health services

Under the Danida funded RTI project that covers 23 Districts of North and North Eastern Uganda, several community access infrastructures were constructed including 22 bridges, 1 step, 2 ladders and 10 swamp raisings to allow for connecting hard-to-reach areas.

The Ministry planned to surface, with low cost seals, the bottleneck areas and steep slopes that were perennially causing inaccessibility especially on district roads which are central to the development of rural areas. District roads provide accessibility to potential markets for agricultural produce and social services; and connect rural areas to major trading centres and to the national road network. In the next two years, the Ministry has planned to rehabilitate 400km of district roads to add on the 853km that have been rehabilitated countrywide using Force Account. .

It was reported that under the interconnectivity roads programme, 437km had been improved in several districts in the country in the past 3 years; and 80km improved in hard-to-reach areas of Buvuma, Rakai, Kanungu and Kyankwanzi. An additional 453km was planned to be improved in various districts in the next 3 years.

Equipment was procured from Japan, to arrive in April 2017 for distribution to all districts to strengthen their capacity to maintain access roads. Each district was expected to receive a full road unit. The Regional Mechanical Workshops would also be facilitated to provide timely services to the districts to maintain the equipment.

8.4.58 Ministry of Finance Planning and Economic Development should fully fund the UHRC especially the civic education mandate to avoid the challenges associated with dependence on external financial support which has proved to be unreliable.

By end of 2016, the UHRC did not have any budget allocation for civic education. Core activities for the UHRC were still being funded by donors including civic education. The Ministry indicated that they took note of this recommendation and that UHRC is among the priorities for funding once resources are made available. However, the President of Uganda H.E. Yoweri Kaguta Museveni issued a directive to in November 2016 to the MoFPED to ensure that UHRC does not depend on donors. He instructed the ministry to ensure that Government's contribution to the UHRC increases over time and that the UGX 5 Billion required for tribunal awards to compensate victims of human rights violations are fully paid in the next FY 2017/18.³⁵³

UHRC further calls upon Ministry of Finance, Planning and Economic Development to implement the President's directive and fully fund the UHRC.

8.4.59 Ministry of ICT should enforce the Constitutional requirement that Uganda Broadcasting Corporation as a public broadcaster to provide equal access to all political parties to present their programmes to the citizenry.

According to the Ministry, this is provided for under the Minimum Broadcasting Standards as provided for in Section 33 of the UCC Act 2013. That the elections petitions decision of the Supreme Court of 2016 pronounced itself on this requirement and shall be implemented in the next General Elections.

8.5 RECOMMENDATION THAT HAS BEEN FULLY COMPLIED WITH

8.5.1 The Ministry of Gender Labour and Social Development and Parliament to expeditiously amend and enact the Children Amendment Bill and to explicitly provide the prohibition of corporal punishment in schools.

Over the last five years the UHRC has recommended this and in 2016 the Children (Amendment) Act No.9 of 2016 was enacted to enhance the protection of children. It addressed most of the gaps that UHRC highlighted in the past annual reports including the prohibition of corporal punishment; strengthening of the provisions on guardianship of children and inter-country adoptions among others.

By the time of compiling this report the MOGLSD was finalising the Children Amendment Regulations 2016. The UHRC urges the ministry to expedite the process.

³⁵³ Letter officially signed by H.E Yoweri Kaguta Museveni on Guidance to the Justice and Law and Order Sector dated 9th November 2016

Table 8.1: Summary of Government compliance with UHRC recommendations

No.	Recommendation	Fully Complied with	Partially complied with	Not complied with
1	Ministry of Gender Labour and Social Development and Parliament to expeditiously amend and enact the Children Amendment Bill, and to explicitly provide the prohibition of corporal punishment in schools.			
2	Ministry of Justice and Constitutional Affairs should ensure that prisoners detained under ministerial orders have their cases urgently addressed to avoid long and arbitrary detention which is an infringement on their rights.			
3	Uganda Law Reform Commission, the Ministry of Justice and Constitutional Affairs, the Judiciary and Parliament should put in place a law to shift the mandate on ministerial orders from the Minister of Justice to judicial officers.			
4	Ministry of Justice and Constitutional Affairs should appropriate funds from the Ministry of Finance and Economic Development for a one off clearance of the current outstanding UHRC Awards and should promptly pay all tribunal awards.			
5	Ministry of Justice and Constitutional Affairs and Parliament should undertake necessary electoral reforms in good time in consultation with other stakeholders, such as Civil Society Organisations and Political Parties and Organisations.			
6	Parliament should ensure the effective application of the human rights checklist in order to enact human rights compliant including media laws.			
7	Uganda Law Reform Commission and Parliament should amend the law to prohibit the detention of civil debtors in line with Government obligations under Article 11 of the International Covenant on Civil and Political Rights.			
8	Uganda Law Reform Commission should review the existing legislations, such as the Employment Act, 2006 and operationalise the Social Security Policy and the Occupational Health and Safety Act, 2006 to specifically recognise domestic workers and advocate for regulation of domestic work.			

No.	Recommendation	Fully Complied with	Partially complied with	Not complied with
9	Uganda Law Reform Commission, Ministry of Water and Environment and National Environmental Management Authority should: Fast-track the environmental law and policy reform process to address evident gaps and emerging issues, so as to make the legal and policy framework more effective, Ensure that the policy and land reform process is done in a participatory and consultative manner.			
10	Uganda Law Reform Commission should review the Regulation of Interception of Communications Act, 2013 and the Anti-Pornography Act, 2014 to address the overly restrictive provisions affecting the freedom of speech and expression.			
11	Uganda Law Reform Commission should simplify key laws in place so that the general public knows and appreciates them.			
12	Uganda Law Reform Commission should translate the Constitution into local languages.			
13	Uganda Law Reform Commission should expeditiously review and strictly implement the laws relating to corruption.			
14	Justice Law and Order should strengthen mechanisms for diversion of children away from the formal justice system, including through mediation and arbitration.			
15	Justice Law and Order Sector should strengthen legal aid services and ensure that aggrieved domestic workers access justice in a timely and fair manner.			
16	Justice Law and Order Sector should strengthen the District Coordination Committees in order to address the issue of prolonged detention and improve access to justice.			
17	Justice Law and Order Sector should develop a strategy of addressing physical access for vulnerable persons such as PWDs in already existing JLOS structures that are inaccessible			
18	Ministry of Justice and Constitutional Affairs should expedite the process of passing a legal aid policy to ensure access to justice for all.			

No.	Recommendation	Fully Complied with	Partially complied with	Not complied with
19	Justice Law and Order Sector should develop a Transitional Justice policy.			
20	Ministry of Foreign Affairs was urged to strengthen the reporting and monitoring role of the inter-ministerial Committee to carry out its functions on treaty body obligations.			
21	Uganda Prisons Service should mainstream provision for vulnerable groups such as women, children, disabled persons, HIV/AIDS positive persons into all the prison programmes.			
22	Ministry of Finance Planning and Economic Development and the Justice Law and Order Sector should increase funding to Uganda Prisons Service to ease transportation problems.			
23	Uganda Prisons Service should invest more in the rehabilitation and renovation of prison workshops and in revamping prison farms. It should progressively increase training opportunities for inmates so they can acquire a variety of productive skills. Prisoners need to be provided with relevant kits to enable them reintegrate productively and constructively in society on release. In addition, Uganda Prisons Service should provide an avenue for inmates to undertake recreation.			
24	Uganda Prisons Service should provide ramps and wheel chairs in all prisons for Inmates with Disabilities.			
25	Uganda Prisons Service and Uganda Police Force should continue to construct new buildings and renovate old ones, to meet the minimum standards for humane treatment of inmates.			
26	Uganda Prisons Service should be availed with adequate resources to ensure that detainees are clothed and provided with basic beddings, and to ensure that detainees living with HIV/AIDS access ARVS.			
27	Government should ensure that children in conflict with the law are separated from adults in all places of detention.			
28	Uganda Prisons Service and Ministry of Gender Labour and Social Development should cater for children incarcerated with their mothers.			
29	Ministry of Gender Labour and Social Development should develop affirmative action programmes targeting ethnic minority groups.			

No.	Recommendation	Fully Complied with	Partially complied with	Not complied with
30	Ministry of Gender Labour and Social Development should equip district local authorities with skills and resources to educate in order to facilitate their participation and representation at local and national levels.			
31	Ministry of Gender Labour and Social Development should comply with international reporting obligations on the status of ethnic minority groups to treaty bodies and during the universal periodic review.			
32	Ministry of Gender Labour and Social Development should design a national policy that seeks to recognize the fundamental rights and freedom of ethnic minority and develop deliberate measure to protect their existence and ethnic, cultural religious and linguistic identity through promotion strategies such as exchange/ exposure visits of ethnic minorities.			
33	Ministry of Gender Labour and Social Development should take affirmative action to enhance access to higher education for ethnic minority groups and participation in decision making platforms with a view of uplifting the standards of ethnic minorities.			
34	Ministry of Gender Labour and Social Development should build the capacity of public servants to ensure production of the identity of ethnic minority groups and refrain from designing laws and policies that have the purpose or effect of linguistic and religious communities have equal access to employment opportunities in the public and private sector.			
35	Ministry of Gender Labour and Social Development should strengthen implementation of laws and policies governing the provision of alternative care to children especially the regulation of institutions providing alternative care, prioritization of family based care and admission of children into child care institutions with court orders.			
36	Ministry of Gender Labour and Social Development should centralize of the Probation and Social Welfare function for effective functionality and coordination.			
37	Ministry of Gender Labour and Social Development should ensure that babies and children homes should comply with the laws and policies that govern the provision of alternative care to children.			
38	Ministry of Gender Labour and Social Development should rollout the Sage Programme to all Older Persons in Uganda above 60 years and should ensure that it provides comprehensive programme to the entire public on the roll out plan.			

No.	Recommendation	Fully Complied with	Partially complied with	Not complied with
39	Uganda Police Force should invest in training and re-training of law enforcement agents to equip them with modern investigation skills. The UPF in particular should avail itself with modern investigation techniques and equipment to avoid use of torture in obtaining information.			
40	Uganda Police Force should undertake prompt, effective, impartial investigation into all cases of attacks, threats and intimidation of media practitioners and bring the culprits to book.			
41	Ministry of Health should review the National Cancer Policy to specifically include the prevention, early detection, diagnosis and treatment of skin cancer, especially for persons with albinism.			
42	Office of the Prime Minister should consider addressing the issue of family reunification of refugees because it is key.			
43	Refugees should also learn to live peacefully with others while in Uganda and the host communities should also co-exist with the refugees.			
44	Electoral Commission should plan and provide logistics for weather changes on voting days The UHRC had also recommended to the EC to emphasize the duty of the public to register and vote through voter education.			
45	Electoral Commission should emphasize the duty of the public to register and vote through voter education.			
46	Ministry of Information Communications and Technology should expeditiously table the Data Protection and Privacy Bill in parliament for consideration.			
47	Ministry of Information Communications and Technology, Uganda Communications Commission and National Information Technology Authority to intensify their efforts to increase public awareness in respect to digital technology.			
48	Ministry of Information Communications and Technology to develop a policy to articulate and address issues of online violence against women, including providing for educational programmes on digital security and safety.			
49	Ministry of Local Government should expedient the process of reviving the local council structures at the grassroots level in order to empower community leaders to effectively ply their role in ensuring security.			
50	Ministry of Education and Sports and Ministry of Gender, Labour and Social Development should equip district local authorities with skills and resources to educate ethnic minority groups in order to facilitate their participation and representation at local and national levels.			

No.	Recommendation	Fully Complied with	Partially complied with	Not complied with
51	Ministry of Education and Sports in conjunction with the National Curriculum Development Centre should review the curriculum to be consistent with Article 29 of the UN Convention on the Rights of the Child which provides that education should develop each child's personality and talents to the full and encourage children to respect their parents, their cultures and other cultures. Any Government Interventions, like schools within the Ethnic Minority Groups settlements should ensure that the teaching is offered in such a way as to ensure that their traditional way of life practices and languages are presented.			
52	Ministry of Education Science and Sports should develop and implement the provision in the School Health Policy, which provides for a mandatory mid-day meal to be availed by either the school administration or parents.			
53	Ministry of Education Science, Technology and Sports should embrace new technologies and amend the rules and regulations to take care of the new emerging technologies.			
54	Ministry of Works and Transport should effectively enforce/implement the Building Control Act 2013 and the provisions of the Persons with Disabilities Act 2006.			
55	Ministry of Works and Transport should ensure that the Regulations for the Building Control Act comply with the requirements for accessibility of Persons with Disabilities.			
56	Ministry of Works and Transport should inspect existing roads in order to redesign and reconstruct roads to remove black spots, seal potholes, place traffic signs and lighting to ensure safety of all road users.			
57	Ministry of Works and Transport, the Uganda Police Force and the Transport Licensing Board, in partnership with relevant stakeholders, should popularize the provisions of the Traffic and Road Safety Act, 1998.			
58	Ministry of Works and Transport should improve the road infrastructure and transport network, especially in hard-to-reach areas, to enable patient's access health services.			
59	The Ministry of Finance Planning and Economic Development should fully fund the UHRC especially the civic education mandate to avoid the challenges associated with dependence on external financial support which has proved to be unreliable.			

No.	Recommendation	Fully Complied with	Partially complied with	Not complied with
60	Ministry of Information Communication and Technology should enforce the constitutional requirement that Uganda Broadcasting Corporation as a public broadcaster to provide equal access to all political parties to present their programmes to the Citizenry.			
61	Ministry of Health should categorise skin drugs, lotions, sun glasses and hats that are appropriate for persons living with albinism as essential drugs and provide them free of charge.			
62	Government through Parliament and the Office of the Prime Minister should establish the Disaster Preparedness and Management Commission to deal with disasters in accordance with Article 249(1) of the Constitution of Uganda.			
63	Ministry of Health should extend social services to fishing communities through upgrading and construction of health centres, sanitation and hygiene facilities.			
64	Uganda Law Reform Commission and the Ministry of Justice and Constitutional Affairs should also harmonize the Kampala Capital City Authority, Uganda Wildlife Authority and National Environmental Acts to avoid contradictions in their implementation.			
65	Uganda Law Reform Commission should review the Public Order Management Act 2013 to bring its provisions that are deemed to infringe on the rights of Human Rights Defenders in line with human rights standards.			
66	Ministry of Foreign Affairs should ratify and domesticate the Optional Protocol to the Convention against Torture which provides for additional mechanisms for prevention of torture and ill treatment.			
67	Ministry of Foreign Affairs should ratify the 1993 Hague Convention on Protection of Children and Cooperation in respect to Inter Country Adoption of Children.			
68	Ministry of Education and Sports should incorporate Social Gerontology and Geriatrics in the training curriculum up to the National Level for Social and Health Workers, respectively.			
69	Ministry of Justice and Constitutional Affairs, Ministry of Finance and Economic Development should establish a Victims Compensation Fund so as to enable timely compensation of Victims of human rights violations.			
70	Government should enact a law on the Minimum wage.			
71	Ministry of Foreign Affairs should ratify the Optional Protocol to the African Charter on Human and Peoples rights on the rights of Older Persons.			

No.	Recommendation	Fully Complied with	Partially complied with	Not complied with
72	Ministry of Foreign Affairs should ratify the 2nd Optional Protocol to the ICCPR.			
73	Ministry of Foreign Affairs should ratify the 3rd Optional Protocol to the CRC.			
74	Ministry of Foreign Affairs and the Ministry of Gender Labour and Social Development should ratify and domesticate the ILO Convention No. 189 on decent work for domestic workers and work closely with embassies to ensure that the conditions of work for domestic workers are human rights compliant.			
75	Enactment of Legislation in line with Article 8(A) of the Constitution as amended.			
76	Justice Law and Order Sector should support improvements in the broader governance context, including access to justice through creation of more police posts and recruitment of more police officers.			
77	Judicial Service Commission should recruit more judicial officials.			
78	Ministry of Public Service should expeditiously conduct and conclude the verification of the payroll to ensure that civil servants erroneously deleted from the payroll are reinstated and ghost workers are deleted.			
79	Uganda Police Force, Uganda Prisons Service and the Uganda Peoples' Defence Forces should be availed with adequate resources to ensure that detainees are clothed and provided with basic beddings to ensure detainees living with HIV/AIDS access ARV's.			
80	Ministry of Finance Planning and Economic Development should raise the non-wage and wage medium term expenditure framework ceilings to enable UHRC meet its contractual obligations to staff and fully pay the outstanding arrears as well as pay a competitive wage to its staff.			
81	Ministry of Finance Planning and Economic Development should increase funding to the Uganda Prisons Service, Uganda Police Force the Uganda Peoples' Defence Forces and Ministry of Gender, Labour and Social Development to ensure that the rights of inmates and staff are respected.			
82	Ministry of Finance Planning and Economic Development should provide adequate Capital Development to enable Uganda Human Rights Commission establish more regional offices as well as procure vehicles for regional offices and speed boats for Kalangala and Buvuma Islands.			

No.	Recommendation	Fully Complied with	Partially complied with	Not complied with
83	Ministry of Finance Planning and Economic Development should provide funding for political parties as well as full enforcement of the financing regulations established by the Political Parties Organisation Act (2005) in order to address the recent trends of monetisation elections.			
84	Ministry of Finance Planning and Economic Development should provide a specific budget allocation for the response to and management of disasters.			
85	Ministry of Finance Planning and Economic Development should allocate more funding to Ministry of Health for the District Primary Health Care Non-Wage budget to address the challenge of inadequate essential utilities such as water and electricity in health facilities.			
86	Ministry of Finance Planning and Economic Development, Ministry of Public Service and the Ministry of Health should increase the financial, human and capital or infrastructural investments in maternal, child health, HIV/AIDS and pharmaceutical sector interventions to meet the Millennium Development Goals and HSSIP targets.			
87	Ministry of Finance Planning and Economic Development should ensure that there is commensurate funding provided to the Ministry of Health for recurrent costs for utilities and/or maintenance arising from health infrastructural developments and equipment for health facilities at all levels.			
88	Ministry of Finance Planning and Economic Development should allocate more funding to Ministry of Health to address the challenge of essential drugs and supplies shortages.			
89	Ministry of Finance and Economic Development should increase its budget allocation to the Uganda Human Rights Commission as an accountability mechanism to enable it adequately monitor and report on the state of health rights in the country.			
90	Uganda Communication Commission and the Ministry of Information Communication and Technology should ensure that any blockage of digital services, such as the Internet, is in accordance with national and international human rights standards and should follow due process.			
91	Uganda Communication Commission ensure that telecommunication companies adhere strictly to the right to privacy by issuing clear guidelines on how personal information should be kept safe and secure, and how it should be utilized.			

No.	Recommendation	Fully Complied with	Partially complied with	Not complied with
92	Uganda Communications Commission and the Ministry of Information Communications and Technology should enforce regulations on the media's compliance with their professional responsibility, to stem irresponsible media reports. These institutions should also monitor and regulate the use of social media platforms in Uganda.			
93	Ministry of Finance Planning and Economic Development and Ministry of Health to increase budget allocation for the Health Sector to 15% in line with the Abuja Declaration.			

SECTION 2

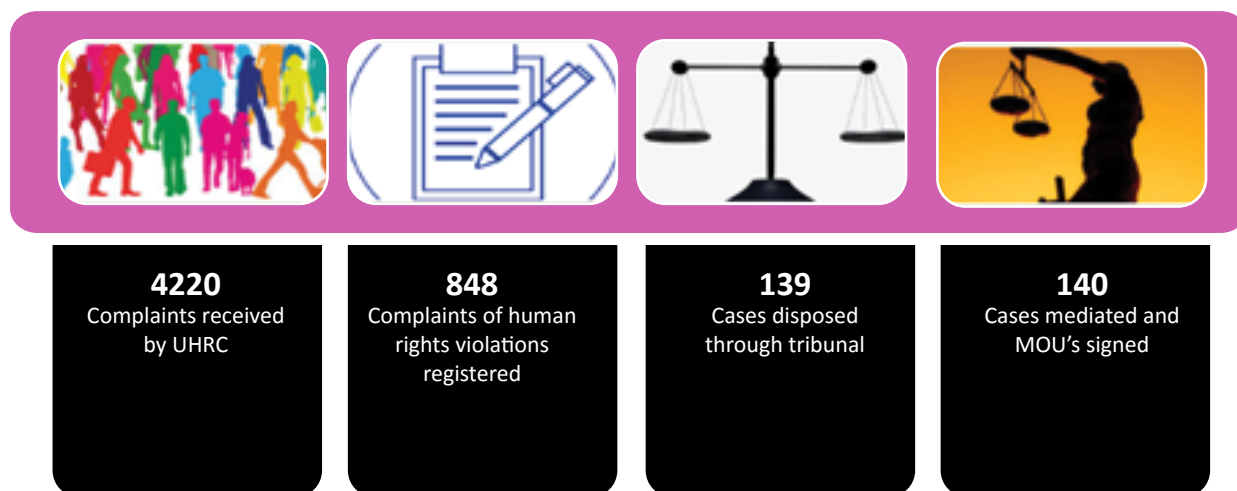
CHAPTER 9

HIGHLIGHTS OF THE UHRC INTERVENTIONS IN 2016

9 INTRODUCTION

This chapter highlights UHRC's interventions in implementing its core functions namely complaints handling, inspection of places of detention and human rights education and awareness. The interventions encompass complaints receipt, registration and resolution of complaints; inspection of prison , military, remand and police facilities; and human rights awareness activities, civic education , human rights education and human rights promotion through research. The chapter also highlights the financial and administrative context in which these interventions are conducted.

9.1 COMPLAINTS MANAGEMENT



Article 52 (1)(a) of the 1995 Constitution of Uganda, mandates the UHRC to “investigate at its own initiative or on a complaint made by any person or group of persons against the violation of any human right”. Article 53(1) gives the UHRC powers of a court to issue summons or other orders requiring the attendance of any person before the UHRC and the production of any document or record relevant to any investigation by the UHRC; to question any person in respect of any subject matter under investigation before the UHRC; to require any person to disclose any information within his or her knowledge relevant to any investigation by the UHRC; and to commit persons for contempt of its orders.

The Constitution also gives UHRC powers to order for the release of a detained or restricted person; payment of compensation; and any other legal remedy or redress. In fulfilment of the above mandate, the UHRC continued to receive complaints on human rights violations, conduct investigations and mediations, give advice, make referrals and hear/decide complaints through the Human Rights Tribunal. This section provides an analysis of the complaints received, investigated, mediated and resolved by the UHRC in 2016.

9.1.1 Process of receiving complaints

9.1.1.1 Who may lodge a complaint?

Any person claiming a violation of a fundamental right may bring a complaint before the UHRC for redress. Complainants may include victims of human rights violations, relatives, friends, legal representatives, organisations, institutions, concerned parties or anyone authorised by the victim.

Persons lodging complaints before the UHRC may complain on their own behalf and on behalf of others. In addition, the UHRC may also register complaints on its own initiative.

9.1.1.2 Mode of receiving complaints

Complaints may be received when lodged in person; for instance when complainants walk into any of the UHRC offices to tell their stories; by letter, email or fax; or by phone call to the toll-free lines at the regional offices or other lines; through mobile complaints handling system; community baraza; or where referrals are made to UHRC. No fees are charged for lodging a complaint since all UHRC services are free of charge.

The UHRC attends to all people who contact it. The practice is never to turn away any person without listening to him or her. As such, where a complainant lodges a complaint which the UHRC cannot handle, the person is either given advice on how to go about the matter or may be referred to another institution best placed to handle the particular issue. This may be because the matter does not fall within the mandate of UHRC. In fulfilment of its mandate to protect and promote human rights, the UHRC also works closely with various other institutions and CSOs.

9.1.1.3 Mobile Complaints Handling

In an effort to take services closer to the people, the UHRC uses a mobile complaint handling mechanism where staffs reach out to the communities in the different districts or villages, sensitising them about their rights and thereafter registering complaints on human rights violations that may be raised. The mobile complaints handling mechanism has been effective in creating awareness about the UHRC and targeting rural communities who are sometimes intimidated by the court system. Some people are not keen on travelling long distances across districts or to urban centres where the UHRC offices are located to lodge complaints due to financial constraints. Through the mobile complaints handling mechanism, the UHRC is able to reach more people in a short time and with limited resources.

9.1.2 Complaints received and registered in 2016

In 2016, the UHRC received³⁵⁴ a total of 4,220 complaints, which was a 0.16% reduction from 4,227 received in 2015. Out of the 4,220 complaints received, 848 were registered as alleging human rights violations. This was a 16% increase from the 731 complaints registered in 2015. Table 9.1.1 below shows the number of complaints received³⁵⁵ in 2016, while Table 9.2.2 shows the number of complaints registered³⁵⁶ by the regional offices in 2016.³⁵⁷

Table 9.1.1 Number of complaints received by the UHRC Regional Offices in 2016

Arua	Central	Fort Portal	Gulu	Hoima	Jinja	Masaka	Mbarara	Moroto	Soroti	Head Office	TOTAL
384	362	408	287	209	401	381	608	168	383	629	4220

Table 9.1.2 Number of complaints registered by the UHRC Regional Offices in 2016

Arua	Central	Fort Portal	Gulu	Hoima	Jinja	Masaka	Mbarara	Moroto	Soroti	TOTAL
129	86	123	69	54	54	135	87	60	51	848

³⁵⁴ The complaints received represent all matters reported to the UHRC whether admissible or not.

³⁵⁵ As above.

³⁵⁶ Complaints registered are those that meet the admissibility criteria of human rights violations handled by the UHRC.

³⁵⁷ Note that even though the Head office received 836 complaints, 207 were referred to various regional offices for registration leaving a total of 629 complaints. As such, in order to avoid double counting of received complaints, the head office is reporting only 629 complaints as received.

Despite the general increase in the number of complaints registered in most regional offices, a notable increase was registered by Arua Regional Office from 68 complaints in 2015 to 129 in 2016. Complaints increased in Fort Portal from 57 in 2015 to 123 in 2016; Hoima from 27 in 2015 to 54 in 2016; Jinja from 39 in 2015 to 54 in 2016; Masaka from 123 in 2015 to 135 in 2016; and Soroti from 48 in 2015 to 51 in 2016. Figure 9.1.1 below shows trend of complaints received and registered over the last five years.

Figure 9.1.1 Comparison between complaints received and registered between 2012 and 2015



The general increase in the number of registered complaints can be attributed to the mobile complaints handling mechanism; the community sensitisation activities conducted during the year that enhanced awareness of people of their rights; and receipt of complaints during the monitoring visits to places of detention. Moroto and Gulu Regional offices had a reduction in the number of complaints registered in 2016 while Central regional office registered 86, the same number as it did in 2015. The complaints registered reduced at Gulu Regional Office from 100 in 2015 to 69 in 2016 and in Moroto from 126 in 2015 to 60 in 2016.

9.1.3 Nature of alleged human rights violations registered in 2016

In 2016, the highest number of complaints registered was on the deprivation of personal liberty through detention beyond 48 hours. UHRC registered 438 such complaints which was a 77.32% increase from 247 in 2015. Complaints on the violation of freedom from torture and cruel, inhuman or degrading treatment or punishment which followed at 380, also increased by 10.14% from the 345 complaints registered in 2015. The increase in complaints related to personal liberty as well as those related to torture and ill-treatment was attributed to the 2016 general elections as well as the post-election violence in Kasere during the year. Complaints on the rights of children to maintenance followed at 139, which was also an increase of 6.92% from the 130 registered in 2015.

Table 9.3 below shows the nature of complaints registered at the UHRC regional offices in 2016. It should be noted that the totals in Table 9.2 above vary from those in Table 9.1.3 because a single complaint registered may contain two or more alleged human rights violations.

Table 9.1.3: Violations registered at UHRC Regional Offices in 2016

	Alleged violation	ARU	CTR	FPT	GLU	HMA	JJA	MSK	MBR	MRT	SRT	TOTAL
1	Detention beyond 48 hours	114	27	76	24	36	12	61	29	16	43	438
2	Torture, cruel, inhuman or degrading treatment or punishment	15	43	85	47	32	24	42	35	31	26	380
3	Denial of child maintenance	02	20	09	04	01	11	46	11	06	29	139
4	Deprivation of property	03	08	02	12	01	07	07	11	06	02	59
5	Deprivation of life	03	02	04	07	05	01	02	05	04	03	36
6	Denial of remuneration and pension			03		01	05	01	01			11
7	Violation of the right to a fair and speedy trial	01	07	02			04	03		08		25
8	Denial of basic education	01	02						11	02	03	19
9	Unlawful arrest or detention			04				10	01			15
10	Unlawful termination from work			02				01				03
12	Violation of the right to health					01		02	02			05
13	Unfair administrative decisions		01	02								03
14	Denial of Security of person							02				02
15	Discrimination on grounds of sex, religion, HIV/AIDS, disability			02								02
16	Violation of the right to expression and movement		01									01
17	Violation of the right to food		01									01
18	Forced labour				01							01
19	Enforced disappearance			01								01
20	Denial of access to a prisoner							01				01
21	Denial of the right to work		01									01
22	Denial of police bond							01				01
	Total	139	113	192	95	77	64	179	106	73	106	1144

9.1.3.1 Analysis of the nature of complaints registered in 2016

As indicated above, the highest number of complaints registered in 2016 was on allegations of detention beyond 48 hours, which constituted 38.42% of the total number registered.³⁵⁸ Most of the complaints registered on the alleged violation of the right to personal liberty and detention beyond 48 hours were against the UPF. The UHRC noted that this mostly occurred due to the failure of Police to release suspects on police bond either intentionally, or for fear that the suspects if released could pose a significant risk of harm to the community; offend again; or fail to appear before court. UPF also indicated a challenge where State Attorneys took long to sanction files thus leaving suspects waiting in the cells.

In addition, the UHRC noted that the continued detention of suspects beyond 48 hours was partly attributed to the internal challenges faced by the UPF, such as limited facilitation to transport suspects to court, lack of modern investigation tools and techniques, as well as insufficient human, technical and logistical resources. The UHRC was concerned about the consequences of such continued detention including congestion in some cells; the challenge of suspects accessing food and water, as well as their hygiene and sanitation.

The UHRC also noted with concern that some civilian suspects (mainly suspects of treason and terrorism) were arrested and detained at Nalufenya Police Station, whose accessibility remained a challenge for lawyers and relatives of the suspects.

The UHRC noted that the alleged violation of the freedom from torture and ill- treatment mostly occurred during pre-trial detention, interrogation and arrest of suspected offenders. This was contrary to Article 24 of the Constitution of Uganda which stipulates that: “No person shall be subjected to any form of Torture or cruel, inhuman or degrading treatment or punishment”. It was also noted that the violation was mostly committed by state agents and UPF topped the list with 255 complaints against it. Torture complaints against the UPDF were 40; UPS had 25, Local Governments had five, individuals had 36 and Government MDAs had eight.

As indicated in Table 9.1.3 above, complaints on the denial of child maintenance ranked third among the top violations constituting 10.79% of the total number of complaints registered. The UHRC noted with concern that some parents had abandoned their duty to provide child care and child support for their children. Most of such complaints showed that parents, especially fathers had refused or failed to provide school fees for their children or financial support for their social welfare including medical treatment, food, shelter, clothing and others. Most of the complaints were lodged by single mothers, divorced or separated women and children from broken homes.

9.1.3.2 Complainants in 2016 disaggregated by gender

In 2016, the UHRC registered a total of 897 complainants in matters that raised human rights violation³⁵⁹ of which the majority were male as was the case in 2015. The male complainants lodged 676 of the 897 total complaints while the females had 221 as illustrated in Figure 9.1.2 below. The explanation why male complainants dominate is that it is usually men that are in conflict with the law or that commonly interface with security agents, sometimes leading to alleged human rights violations.

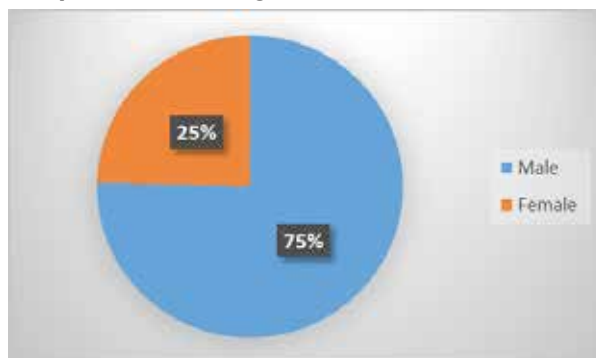
On the other hand, most complaints registered by female complainants were related to family matters or children’s rights.

In addition to the above, the majority of the complaints (882) were reported by adults compared to the minors (persons below 18 years of age) who reported only 15. As was the case in 2015, most of the complaints lodged by minors were related to neglect by parents or guardians, the right to education and maintenance.

³⁵⁸ The total number of alleged human rights violations is 1,144 more than the 848 registered complaints because one complaint can involve more than one alleged human rights violation.

³⁵⁹ The number of complainants is higher than the complaints registered, because, one complaint may be lodged by numerous victims of the violation.

Figure 9.1.2: Gender of complainants as registered in 2016



9.1.3.3 Respondents in human rights complaints registered in 2016

Most of the complaints registered in 2016 were against the UPF with a total of 620. It was noted that the UPF often topped the list of respondents in violations regarding torture and personal liberty. This is partly attributed to the fact that UPF is the key law enforcement agency responsible for ensuring law and order and as such is prone to excesses during operations. The UPF was followed by private individuals with a total of 192 complaints most of which were related to the denial of child maintenance. The complaints registered against the UPDF were 63 of which 40 related to allegations of torture and ill treatment. The UPS had 36 complaints against them while those against Local Government were 10. Table 9.1.4 below shows the categories of respondents per regional office.³⁶⁰

Table 9.1.4: Categorisation of respondents by regional office

RESPONDENT	ARU	CTR	FPT	GLU	HMA	JJA	MSK	MBR	MRT	SRT	TOTAL
Uganda Police Force	124	48	99	50	80	29	78	46	26	40	620
Individuals	03	25	25	05	02	13	46	34	10	29	192
Uganda Peoples' Defence Forces	01	10	08	08	01	01	02		21	11	63
Uganda Prisons Service	02	01	05	06	06	06	07	03			36
Local Governments			01	03		01	01		04		10
Private business companies			02		01	04	04				11
Private security companies		02				03	01				06
Health institutions (Hospitals and HC II & III)		01	01					01	01		04
Uganda Wildlife Authority									01	07	08
Cultural institutions/clan leaders				04							04
Educational institutions							01	02			03
Crime Preventers			02								02
National Forest Authority			01		01						02
Kampala Capital City Authority (KCCA)		01									01
Refugee Resettlement Camp			01								01
Rural Electrification Agency			01								01
Total	130	88	146	76	91	57	140	86	63	87	964

³⁶⁰ The number of violations per specific respondent shown in tables 9.5 to 9.8 is higher than the number of complaints registered against the specific respondents shown in Table 9.4 because one complaint can have more than one alleged human rights violation.

As already indicated above, the major respondents in the complaints filed at UHRC in 2016, included UPF, UPDF, UPS and private individuals. The alleged violations against each of the specified respondent are shown in Tables 9.1.5 to 9.1.8 below.

Table 9.1.5: Violations against Uganda Police Force

Alleged Violation	ARU	CTR	FPT	GLU	HMA	JJA	MSK	MBR	MRT	SRT	TOTAL
Deprivation of Personal liberty (detention beyond 48 hours)	114	22	73	27	36	12	61	29	11	40	425
Torture, cruel, inhuman or degrading treatment.	12	29	55	31	27	17	30	18	17	19	255
Deprivation of life	03		03	03	04	01	01	04	01	02	22
Violation of the right to work		01									01
Deprivation of Property	02	07	02	08	01	03	07	06	02		38
Forced labour				01							01
Violation of the right to a fair and speedy trial	01	07	02			04			07		21
Violation of freedom of expression and movement		01									01
Enforced disappearance			01								01
Unfair treatment in administrative decisions			02								02
Denial of the right to food		01									01
Denial of access to a suspect							01				01
Deprivation of security							02				02
Unlawful arrest and detention							08				08
Violation of the right to health							02				02
TOTAL	132	68	138	70	68	37	112	57	38	61	781

Table 9.1.6: Violations against Uganda Peoples' Defence Forces

Alleged Violation	ARU	CTR	FPT	GLU	HMA	JJA	MSK	MBR	MRT	SRT	TOTAL
Deprivation of personal liberty (detention beyond 48 hours)		05	02	02					02	02	13
Torture, cruel, inhuman or degrading treatment.	01	05	07	05	01	01	02		13	05	40
Deprivation of life		01	01	02					03	01	08
Denial of fair hearing									01		01
TOTAL	01	11	10	09	01	01	02	00	19	08	62

Table 9.1.7: Violations against Uganda Prisons Services

Alleged Violation	ARU	CTR	FPT	GLU	HMA	JJA	MSK	MBR	MRT	SRT	TOTAL
Unlawful detention	02		03				01	01			07
Torture, cruel, inhuman or degrading treatment.	02	01	03	05	03	06	04	01			25
Deprivation of life				01	01		01				03
Denial of fair speedy trial							01				01
Violation of the right to health					01			02			03
TOTAL	04	01	06	06	05	06	07	04	00	00	39

Table 9.1.8: Violations against private individuals

Alleged Violation	ARU	CTR	FPT	GLU	HMA	JJA	MSK	MBR	MRT	SRT	TOTAL
Denial of maintenance	02	20	09	04	01	11	46	11	06	29	139
Torture, cruel, inhuman or degrading treatment	-	03	15	01				14	03		36
Deprivation of education	01	02						11	02		16
Unlawful detention			01								01
Denial of remuneration			01					01			02
Deprivation of Property	01					01		04		02	08
TOTAL	04	25	26	05	01	12	46	41	11	31	202

9.1.4 Investigations

UHRC investigated 2,642 complaints on human rights violations. Out of these, 838 were investigated to completion, while 1,804 were partially investigated. For matters where investigations were concluded, some were forwarded to the UHRC Tribunal for hearing, some were referred to other institutions for appropriate handling, while others were closed for various reasons including lack of merit, insufficient evidence to sustain the allegations, false allegations and lack of jurisdiction. Table 9.1.9 below shows the status of complaints investigated in 2016 per regional office which include the complaints that were already in the system before 2016.

Table 9.1.9: Complaints investigated per regional office

Regional Office	Backlog (2015 backwards)		Fresh complaints received in 2016		TOTAL
	Fully investigated	Partially invested	Fully investigated	Partially investigated	
Arua	34	13	59	41	147
Central	45	431	54	474	1004
Fort Portal	34	01	46	71	152
Hoima	38	36	14	40	128
Gulu	60	74	31	38	203
Jinja	16	29	13	41	99
Masaka	48	16	64	57	185
Mbarara	67	77	09	78	231
Moroto	107	115	18	33	273
Soroti	73	95	08	44	220
Total	522	887	316	917	2,642

9.1.5 Advice offered and/or referrals to other institutions

In 2016, the UHRC referred a total of 3,370 complaints. The referral system enables the UHRC to avoid duplicity of functions and curb forum-shopping where some complainants lodge the same complaint in different institutions. Through referrals, the UHRC is able to focus on matters it can effectively handle.

In 2016, criminal matters topped the list of referrals at 509, followed by land disputes at 397 and family disputes at 284. The UHRC noted a 7.03% decrease in matters referred from 3607 in 2015 to 3370 in 2016.

Referrals related to family disputes increased by 47.71% from 148 in 2015. Referred complaints on the denial of remuneration and non-payment of pension increased from 114 in 2015 to 245 in 2016. Table 9.1.10 below shows the breakdown of complaints where complainants were advised and/or referred to other institutions.³⁶¹

Table 9.1.10: Complaints referred and/or where advice was given in 2016

REGIONAL OFFICE	ARU	CTR	FPT	GLU	HMA	JJA	MSK	MBR	MRT	SRT	HQT	TOTAL
Complaints referred and/or where complainant was advised	255	276	285	218	155	347	246	521	108	332	627	3370

9.1.6 Resolution of complaints

9.1.6.1. Mediation

The UHRC uses the alternative dispute resolution (ADR) approach, specifically mediation and conciliation, to resolve some of the complaints registered. ADR is often a preferred option in dispute resolution because parties are in position to find their own practical solutions to the dispute without being coerced. The process is also preferred because it is informal, cheaper, faster, non-adversarial and neutral with no decision-making power. It creates win-win solutions and allows long conflicting parties to hear each other out.

In 2016, UHRC mediated 140 complaints which was a 16.42 % reduction from the 163 mediated in 2015. Most of the complaints involved family disputes, the denial of child maintenance, denial of basic education as well as the denial of terminal benefits and remuneration. As is the practice at UHRC, the mediating officers provided the parties with information about human rights and the necessary legal provisions relevant to their disputes during the mediations. This was done to ensure that parties were fully informed and aware of the legal implications related to their matters. The outcomes achieved from the mediations in 2016 were; forgiveness, reconciliation, offering of financial assistance, increased communication between the parties, resolved misconceptions and misunderstandings, apologies, provision of accommodation and occasionally financial reimbursement.

Of the 140 complaints mediated, 114 (81.42 %) were successful and 26 (18.57%) failed for various reasons, including the failure by respondents to turn up; parties opting to sort out their complaints outside UHRC; parties failing to reach an understanding; and loss of interest by some complainants. In all matters successfully mediated, the parties signed memoranda of understanding with details on how they had agreed to resolve their disputes. The numbers and types of complaints mediated in 2016 are illustrated in tables 9.1.11 and 9.1.12 below.

Table 9.1.11: Complaints resolved through mediation in 2016

Regional Office	ARU	CTRL	FPT	GLU	HMA	JJA	MBR	MRT	MSK	SRT	HQT	TOTAL
Complaints mediated	02	13	06	12	02	08	08	14	60	13	02	140

³⁶¹ Two of the complaints received at the UHRC headquarters were mediated and are reflected in the mediation table.

Table 9.1.12: Nature of matters mediated in 2016³⁶²

Nature of matters mediated	ARU	CTR	FPT	GLU	HMA	JJA	MSK	MBR	MRT	SRT	DCILS	TOTAL
Denial of maintenance	01	19	06	09	01	06	60	07	12	15	02	138
Education	01	03		02			01	01	02			10
Workman's compensation					01							01
Misunderstanding with a friend						01						01
Remuneration				01		02	05		02			10
Property	01					01		01	01	01		05
Land dispute									01			01
Denial of right to participate in administrative decisions							01					01
Torture				02								02
Discrimination								01				01
Right to vote								01				01
Divorce				01								01
TOTAL	03	22	06	15	02	10	67	11	18	16	02	172

9.1.6.2 Resolution of complaints through the UHRC Tribunal process

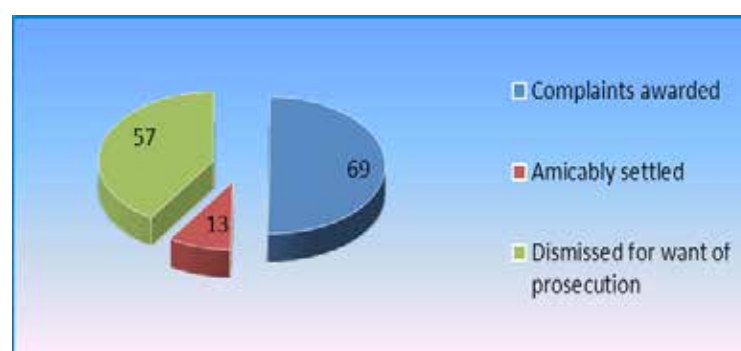
In 2016, the UHRC Tribunal heard and concluded 139 complaints. This was a 60.52% increase from the 85 matters disposed of by the Tribunal in 2015. This increase was attributed to the appointment of Members of the Commission in February 2016 which enabled the Tribunal hearings to be conducted for 10 months in 2016 compared to the three months in 2015. Of the 139 complaints that the Tribunal disposed of, 69 were decided in favour of the complainants, 13 settled amicably and 57 dismissed for want of prosecution. Table 9.1.13 and Figure 9.1.3 below show the number of complaints decided per regional office.

Table 9.1.13: Complaints disposed of by the Tribunal in each Regional Office

STATUS	ARU	CTR	FPT	GLU	HMA	JJA	MSK	MBA	MRT	SRT	TOTAL
Complaints awarded	05	18	03	11	02	07	05	02	09	07	69
Complaints amicably settled	00	04	00	03	00	01	00	02	00	03	13
Complaints dismissed/closed	02	12	03	05	05	07	09	10	01	03	57
TOTAL	07	33	06	19	07	15	14	13	10	13	139

³⁶² The total number of matters mediated is higher than the total number of complaints mediated because one complaint can have more than one human rights violation.

Figure 9.1.3: Complaints resolved through the tribunal process



9.1.6.3 Total disposal of cases in 2016

In 2016, UHRC disposed of a total of 593 complaints, out of which 140 were successfully mediated, 262 closed at investigations, 33 closed after cautioning respondents and 139 disposed of at the Tribunal. Table 9.1.14 below illustrates the total disposal rate.

Table 9.1.14: Total cases disposed of in 2016

DISPOSED MATTERS	ARU	CTR	FPT	GLU	HMA	JJA	MSK	MBR	MRT	SRT	DCILS	TOTAL
Disposed of at Mediation	02	13	06	12	02	08	60	08	14	13	02	140
Disposed of at Investigations ³⁶³	21	35	20	13	14	19	43	49	25	23		262
Disposed of upon cautioning respondents	05	01	03		07						17	33
Disposed of after remedy sought was obtained ³⁶⁴	01	02	02			05	03	04		02		19
Disposed of at Tribunal	07	34	06	19	07	15	14	14	10	13		139
TOTAL	36	85	37	44	30	47	120	75	49	51	19	593

9.1.7 Tribunal awards

In 2016, the total amount of compensation awarded to victims of human rights violations was UGX 1,044,524,500 (one billion, forty four million, five hundred and twenty four thousand, five hundred shillings), of which UGX 914, 970,000 was awarded to victims by the Tribunal, while UGX 129,554,500 was the total amount settled between parties through amicable settlements. A total sum of UGX 370,324,614 was paid to 67 complainants in 2016. The awards made by the Tribunal were mostly for violations of the right to freedom from torture and cruel, inhuman or degrading treatment or punishment and the right to personal liberty.

9.1.7.1 Tribunal status as at 31st December 2016

As at 31st December 2016, the Tribunal caseload stood at 837 which was a 0.6% increase from the annual closing caseload of 832 in 2015. Of the 837 complaint files, 119 were pending allocation to presiding Commissioners, 199 were pending hearing and 519 were part-heard. Table 9.1.15 below shows the status of files before the Tribunal in 2016.

³⁶³ Complaints disposed of at investigations include matters closed due to lack of evidence to prove the allegations, loss of interest by complainant, as well as matters referred to other institutions at the level of investigations.

³⁶⁴ These include matters which are disposed of following the complainant receiving a remedy due to UHRC intervention such as expediting court cases, police matters, land disputes and others without UHRC having mediated or heard the case.

Table 9.1.15 Status of files before the Tribunal

Stage of complaint files	TOTAL
Pending allocation	119
Pending hearing	199
Part-heard	519
Total	837

As indicated in Table 9.1.15 above, there were still 837 matters pending before the UHRC Tribunal. The part-heard complaints are those where evidence is still being adduced by the respective parties, while those pending hearing are those that are yet to be heard for the first time. Files pending allocation are those yet to be allocated to a specific Commissioner, while those pending re-allocation are files previously allocated to a Commissioner, but due to a number of factors such as resignation or disqualification of a Member of the Commission, the matter has to be re-allocated to another Commissioner.

9.1.8 Challenges faced by the UHRC in the complaints handling process

- The UHRC continued to receive complaints that were purely criminal or civil in nature; outside its mandate. This partly could be attributed to the limited legal aid services available to a significant part of the population unable to afford legal fees since UHRC services are free of charge.
- The increasing and persistent cases of denial of child maintenance, labour matters and land disputes in Uganda were a concern as they often led to family disputes and increased criminal activity.³⁶⁵
- The UHRC continued to grapple with the challenge of inadequate resources, both human and financial, to facilitate timely investigation and resolution of complaints.
- The reluctance of some complainants and respondents to appreciate ADR mechanisms and settle their matters amicably, often led to the lengthy litigation process of full hearings.
- Locating victims and witnesses was a challenge due to the lack of physical addresses, change of location without return addresses and use of different names. This made it difficult to physically trace complainants and their witnesses for purposes of investigations and serving tribunal summons.
- The lack of co-operation from respondents continued to affect the timely resolution of complaints.
- The insufficient medical records to support complaints related to torture still posed a challenge.

9.1.9 Recommendations

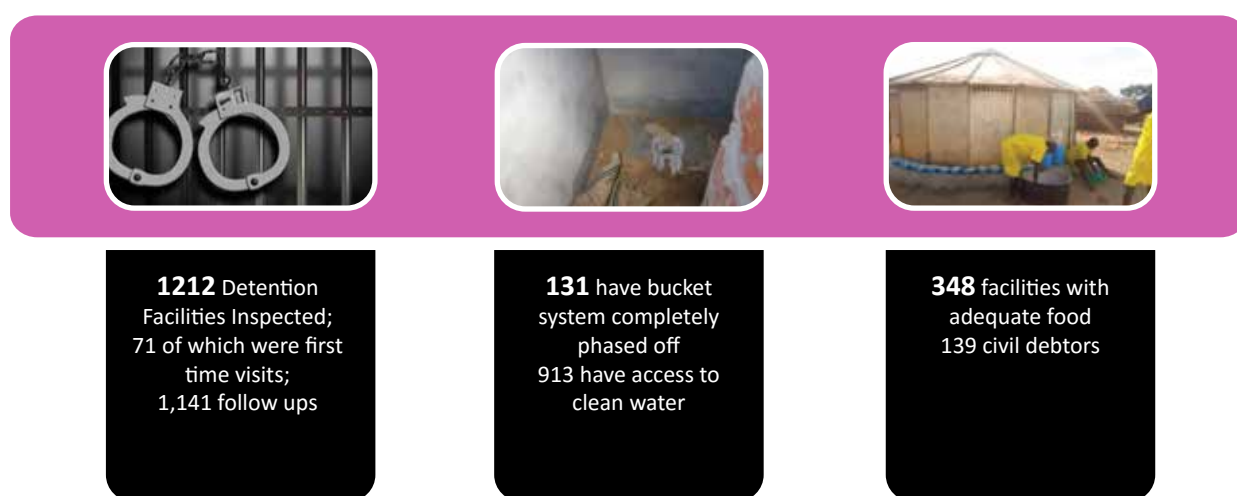
In addition to some relevant recommendations already stated within the respective chapters, the UHRC is also recommending the following to address the challenges in its complaints handling process:

- Uganda Police Force should adhere to the law and equip its officers with the necessary facilities to enable them efficiently perform their duties and fulfil the constitutional obligation to bring suspects to court within 48 hours.
- Directorate of Public Prosecutions should be adequately facilitated and staffed to enable it expeditiously handle criminal cases in a timely manner, to ensure that suspects are produced before courts within the acceptable lawful timelines which would lead to the reduction of the number of complaints of personal liberty.
- Government should strengthen the institutions dealing with child-related issues such as the Family and Child Protection Unit of Police, the Family and Children's Court, the Probation and Social welfare office as well as the Local Council courts to address the increasing cases of child maintenance and violation of the rights of children right from the village level.
- Ministry of Justice and Constitutional Affairs should handle matters proposed for amicable settlements in a timely manner and ensure that the victims of human rights violations are promptly compensated by allocating a specific percentage of its quarterly allocations towards the settlement of awards made by the UHRC.

³⁶⁵ Note that an Industrial Court to handle labour matters had been constituted by the time of compiling this report.

5. Ministry of Gender Labour and Social Development to ensure adequate sensitisation of the population about the responsibility of parents to their children.
6. Ministry of Justice and Constitutional Affairs should expeditiously enact the Legal Aid Policy and law to ensure access to justice for all, particularly the indigent.
7. Uganda Police Force should invest in training and re-training of law enforcement agents to equip them with modern investigation skills; techniques and equipment to avoid the use of torture in obtaining information.
8. Ministry of Finance Planning and Economic Development should provide adequate funding to the Ministry of Gender Labour and Social Development to effectively implement its mandate of community mobilisation, education and sensitisation in order to empower community members to respect rights and fulfil their duties and obligations

9.2 HIGHLIGHTS OF CONDITIONS IN PLACES OF DETENTION



As required under Article 52 (2) of the 1995 Constitution, UHRC continued to inspect places of detention to assess the condition of inmates in line with international, regional and national human rights standards that provide for humane treatment of prisoners. Inspecting places of detention is vital considering that the prison population as of December 2016 was 51,882 constituting of 24,792 convicts, 26,757 remands and 333 civil debtors. This is against the backdrop that the approved capacity of prisons is 16,612 translating into an occupancy rate of 312.3%.³⁶⁶

It was therefore pertinent that UHRC focuses on the prison population and the human rights challenges it faces as a consequence of detention. The human rights highlighted by UHRC include detention of civil debtors, inmates pending ministerial orders, long and arbitrary detention that are underlying causes of the high prison population. In addition, the vulnerable groups including children incarcerated with mothers, juveniles detained with adult offenders were assessed just as was the limited access to health services by inmates.

In 2016, UHRC inspected 1,212 detention facilities through 71 first-time and 1,141 follow-up visits. These were in addition to the 52 prison farms which were inspected and extensively covered in Chapter Two of this report.

³⁶⁶ n.466 above.

9.2.1 Legal framework

Articles 10 and 7 of the ICCPR provides for the humane treatment of detainees. This is essentially aimed at ensuring that vulnerable persons deprived of their liberty have special protection from any form of discrimination, torture, cruel, inhuman or degrading treatment and arbitrary arrests.³⁶⁷

Other instruments include the UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines), UN Rules for the Protection of Juveniles deprived of their liberty and the UN Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules) which provide for protection and treatment of juveniles, women and PWDs in detention in accordance with their respective vulnerabilities. The rights of detainees are also provided for in Principles of Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Declaration on the Protection of All Persons from Enforced Disappearance, Code of Conduct for Law Enforcement Officials and Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

At the Regional Level, Articles 5 and 6 of the ACHPR and Article 17 and 30 of the African Charter on Children's Rights have placed emphasis on protection of juveniles and children incarcerated with primary givers; freedom from torture, cruel, inhuman and degrading treatment and arbitrary arrests; access to health care, education and information, among others.³⁶⁸ Regional human rights instruments that provide for the minimum standards for treatment of detainees in detention facilities are reflected in regulatory frameworks, including the Luanda Guidelines.

At the national level, Articles 23 and 24 of the 1995 Constitution provide for the rights of detainees which include access to legal representation, medical treatment and the next of kin. Other rights such as not to be punished twice for the same offence, special protection for juveniles (including not being detained with adults and remanded in adult prisons), and removal of persons with mental disabilities from detention facilities and prohibition of corporal punishment are provided for in other legislation.³⁶⁹

9.2.2 Detention facilities inspected in 2016

UHRC inspected 1,212 detention facilities in 2016, compared to 896 in 2015. Of these 164 were prisons out of a national total of 249; police stations were 292 out of a national total of 296; police posts were 744 of a national total of 1,882; remand homes were five out of seven; and military detention facilities were seven.³⁷⁰ Table 9.2.1 below shows the number of places of detention inspected by UHRC in 2016 per regional office while Table 9.2.2 and Figure 9.2.1 show the total number of detention facilities inspected by UHRC in the past five years.

³⁶⁷ Articles 9, 14 and 18 of the ICCPR, Article 13 of the UN CAT, Article 12-13 of the ICESCR, Article 3 and 37 of the CRC, and Article 1 of the CEDAW, among others.

³⁶⁸ The Robben Island Guidelines for the Prohibition and Prevention of Torture in Africa; Article 7, 16 and 17 of the ACHPR, Article 17 and 30 of the ACRWC; Article 3-4 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol).

³⁶⁹ The Penal Code Act Cap 120, the Children Act Cap 59, the UPDF Act Cap 205, the Uganda Police Act Cap 303, the Uganda Prisons Act (2006), the Trial on Indictment Act Cap 23 and the Constitution (Sentencing Guidelines for Courts of Judicature) (Practice) Directions, 2013.

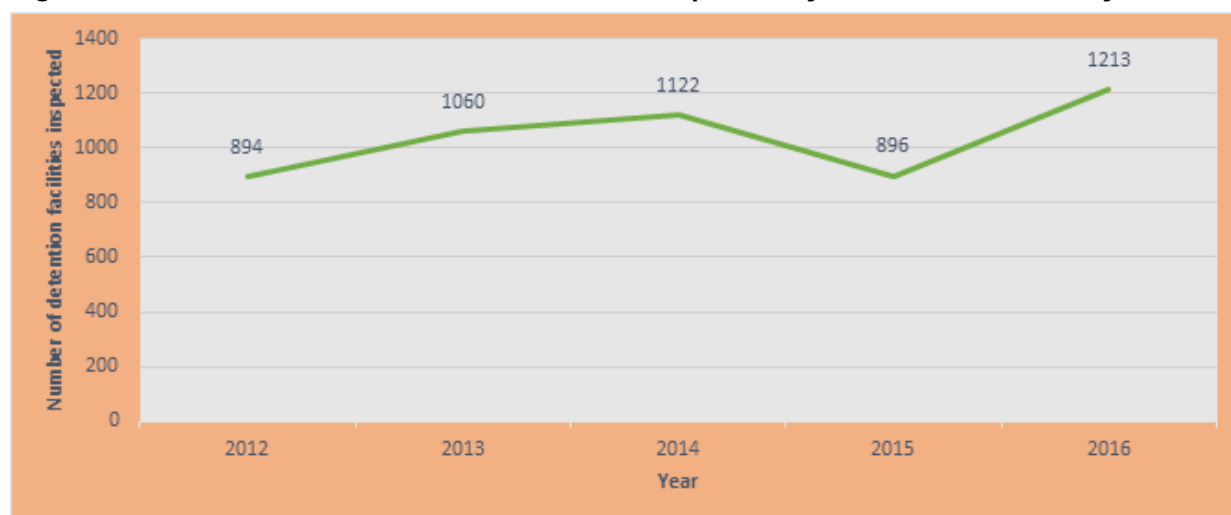
³⁷⁰ Though the UPDF has indicated that the only places of detention are Bombo, Makindye, Mbuya and Kakiri, in addition to these, there is a military detention centre at every UPDF facility's Quarter Guard, according to a presentation submitted to the UHRC by Col. Charles A. Wacha entitled 'Updates on the Conditions of detainees in military places of detention and interventions to address causes and perpetrators of torture violations' on 27 February 2017.

Table 9.2.1 Number of places of detention inspected by the UHRC in 2016

Regional Office	Prisons	Police Stations	Police Posts	Military detention facility	Remand homes	Total
Arua	12	38	109	0	1	160
Central	27	58	30	0	2	117
Fort Portal	10	19	70	0	1	100
Gulu	11	28	49	0	0	88
Hoima	15	15	105	0	0	135
Jinja	21	30	88	0	0	139
Masaka	33	20	69	0	0	122
Mbarara	15	40	119	0	0	174
Moroto	6	15	51	7	0	79
Soroti	14	29	54	0	1	98
Total	165	292	744	7	5	1213

Table 9.2.2: Total number of detention facilities inspected by UHRC between 2012 and 2016

Year	Prisons	Police Stations	Police posts	Remand homes	Military detention facilities	Total
2016	164	292	744	5	7	1212
2015	173	205	509	5	4	896
2014	180	232	681	7	22	1122
2013	142	225	667	6	20	1060
2012	156	181	520	4	33	894

Figure 9.2.1: Total number of detention facilities inspected by UHRC in the last five years

9.2.3 Highlights of key findings in places of detention inspected in 2016

The UHRC found some positive developments such as newly constructed and renovated buildings; facilities that kept updated registers; the complete phasing out of the bucket system in some detention facilities and provision of adequate food to inmates. However, there were also challenges including long and arbitrary detention; incidents of torture and access to justice.

9.2.3.1 Facilities with newly constructed and renovated buildings

All accommodation provided for use of detainees should aim at safeguarding the health and dignity of detainees by meeting their basic need to adequate shelter, rest and food. UHRC found in 30 prisons, 22 police stations and 12 police posts, newly constructed and renovated offices, cells, stores and wards for inmates. The newly constructed buildings were found in 94 detention facilities while in 64 renovations had been undertaken as shown in Table 9.2.3 below. A prisons officer attributed the positive development partly to UHRC recommendations following inspections. The O/C Kijjumba Prison, Mr. Kanyike Mike expressed his appreciation to the Uganda Human Rights Commission for the recommendations made especially with regard to construction of cells for inmates. He adds that the UHRC have been mentors through the inspections. Due to the recommendations by the UHRC, there is now a new block housing inmates.

He adds *“the Uganda Human Rights Commission raised a concern of the need to have new buildings to replace the dilapidated structures and made recommendations to that effect. As a result, there is now a new structure whose construction was facilitated by JLOS and other partners.*

Table 9.2.3: Detention facilities with newly constructed and renovated buildings

Newly Constructed		Renovated	
Number	Percentage (%)	Number	Percentage (%)
94	8	64	5
1118	92	1148	95
1212	100	1212	100

Prisons with newly constructed facilities included Tororo Women Prison, Masafu Prison in Busia District, Kyakasengura Prison in Kibaale District, Uganda Government Prison Ntwetwe in Kyankwanzi District. Police Stations were: Namutumba Central Police Station, Butaleja Central Police Station, Tororo Central Police Station, Kyani Police Station in Kaliro District, Buyende Police Station-female cells, Packwach Police Station and Oraba Police Station. Police Posts namely; Kabei Police post, Kamet, Chepkwasta Police Post in Bukwo District.



The backyard of a modern facility at Pader CPS



Wards under construction at Kamwenge Prison

Facilities that had been renovated included prisons such as Masaka Main, Arua Main Prison, Kanungu Government Prison, Kotido Government Prison, Kaabong Prison, Uganda Government Prison Gulu, Buhweju Government Prison, Mutufu Government Prison in Sironko District, Katakwi Prison and Mbale Prison (Female Section). Police facilities such as Namutumba Central Police Station, Pakwach Police Station in Nebbi District, Oraba Police Station in Koboko District, Kitovu Police Station in Masaka District, Ntinda Police Station, Mubende Police station, Oyam Central Police Station, Iganga Central Police Station, Katenga Police Station in Mitooma District, Amuria Police Station and Kaberamaido Police Station. Police Posts included Kafunjo Police Post in Ntungamo District, Katuugo Police Post in Kyankwanzi District, Lokolia Police Post in Kaabong District, Aremo Police Post in Abim District, and Kyakatwire Police Post in Kyenjojo District which had renovated buildings.

However, UHRC also found that 893 (74%) of the detention facilities inspected had old/dilapidated buildings including Koboko Prison, Lobule Prison in Koboko District, Wabusana Government Prison in Luweero District, Kaweri Prison in Mubende District, Bubukwanga Prison in Bundibugyo District, Bwera Prison in Kasese District, Uganda Government Prison Alebtong, Uganda Government Prison in Lotuturu in Lamwo District. Police Stations included Warr Police Station in Zombo District, Kitoro Police Station in Wakiso District, Ntinda Police Station, Kira Road Police Station, Fort Portal Police Station in Kabarole District, Gulu Central Police Station, Kalungu Police Station, Kihiihi Police Station in Kanungu District, Kakumiro Police Station, and Kamwenge Police Station.

Police posts included Oleba and Yivu police posts in Maracha District, Kibirizi police post in Kasese District, Kiburara Police Post in Kabarole District, Bufunjo police post in Kyenjojo District, Nyakiyumbu Police Post in Kasese District, Nyamufumura Police Post in Bushenyi District, Nkooko Police Post in Kakumiro District, Butiaba Police Post in Buliisa District and Katuugo Police Post in Kyankwanzi District.



Latrine with a cracked wall at Lapul Police Post in Pader District



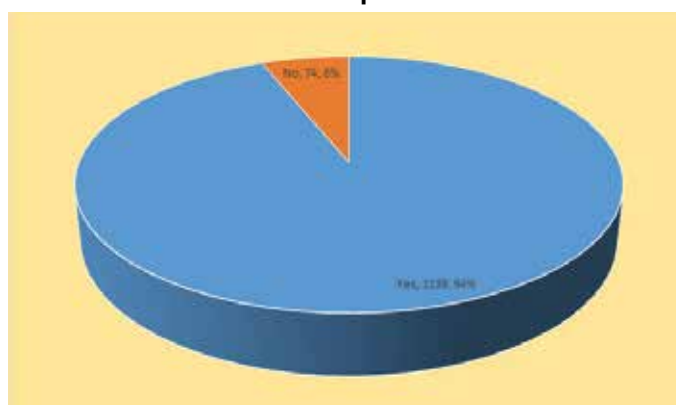
Dilapidated structures at Kitoro Police Station

9.2.3.2 Facilities with updated records management

Having updated records ensures transparency and accountability by among others tracking the date and place of detention, transfer, recording the belongings and personal effects of prisoners and preventing torture, cruel, inhuman and or degrading treatment. The various records in detention facilities included admission, punishment and complaints. UHRC found that 94% of the facilities inspected had updated records; and these comprised 164 prisons, 271 police stations, 691 police posts, all military detention facilities and all remand homes.

UHRC did not find updated records in 74 detention facilities. These included: Kanekye Police Station in Sheema District, Kyegobe Police Post in Kabarole District, Katikara and Mutanzigye police posts in Kibaale District, Merikit Police Post in Tororo District, Nyamufumura Police Post in Bushenyi District, Bwoga and Nyakishana police posts in Buhweju District, Kashenyi and Nyakabirizi police posts in Rubirizi District, Kisiita Police Post in Kibaale District, Bugoigo and Bugana police posts in Buliisa District.

Figure 9.5: Number of detention facilities with updated records



9.2.3.3 Human Rights Committees

Human Rights Committees are one of complaints and grievance procedures put in place by the UPS, in order to strengthen transparency and accountability mechanisms by ensuring that human rights concerns are brought to the attention of the authorities and are promptly addressed. A total of 95% (155) of prisons had human rights committees.

Prisons that had Human Rights Committees included Kakuuto Prison in Rakai, Uganda Government Prison Gulu (both male and female sections), Uganda Government Prison Lira (both male and female sections), Mbarara Main and Kakiika Government Prisons in Mbarara District, Kanungu Government Prison, Ntungamo Government Prison, Bushenyi Government Prison, Ndorwa Government Prison in Kabale District, Uganda Government Prison Hoima, Nyabirongo Prison in Kasese District, Kyegegwa Government Prison, Bubukwanga Government Prison in Bundibugyo District, Butiti Prison in Kamwenge District, Kyenjojo Prison, Rwimi Prison in Kabarole District, Mubuku Prison and Ibuga Prison in Kasese District, Kamuge Prison in Pallisa District and Budaka Prison.

9.2.3.4 Phasing out of the bucket system for waste disposal

UHRC wanted to ascertain that the bucket system was being phased out because it is key to the hygiene of prisoners and dignity of prisoners especially in situations where detention facilities are overcrowded. The bucket system is where detainees have to ease themselves in a bucket that kept in their cells.

a. Bucket system completely phased out

UHRC found that the bucket system had completely been eliminated in 137 detention facilities, comprising 93 (57%) prisons and 44 (15%) police stations. These include Masaka Main Prison (Female Wing) and Kiruhura Government Prisons. Police Stations were: Kibaale, Hoima, Kiryandongo, Lyantonde, Kiwatule, Kira Road and Central Police Stations in Koboko, Iganga, Patonga and Bugiri.



Water borne toilet under construction at Kotido Prison

b. Bucket system phased out during the day

A total of 218 detention facilities inspected had phased out the use of the bucket during the day, comprising 131 (80%) prisons, 50 (17%) police stations and 13 (2%) police posts. The prisons were: Arua Main Prison, Arua Children's Regional Remand Home, Paidha, Moyo, Kyenjojo and Nyarushanje in Rukungiri District. Police stations included: Koboko and Yumbe Central Police Stations; Kibaale, Hoima and Kiryandongo.

c. Bucket system still in use

The UHRC found the bucket system still in prisons such as Bwera in Kasese District, Nakapiripirit, Bukwo, Mutufu in Sironko District, Kaberamaido, Amuria, Amolatar Buhweju, Government, Rukukuru in Mitooma District, Kihhi in Kanungu District, Rubanda and Mparo in Kabale District, and Buliisa. The police stations included: Kyenjojo, Buhweju, Rubirizi, Katerera, Patongo Central Police Station, Igorora and Ishongorero police stations in Ibanda District, Kazo and Sanga police stations in Kiruhura District, Ishaka and Kizinda police stations in Bushenyi District. The police posts were: Kyaka II in Kyegegwa District; Rwankezi and Koch Goma, in Nwoya District; Lobalangit in Kaabong District, Kikoora and Rusolera in Kakumiro District and Rengen in Kotido District.



A bucket full of urine at Awere Police Post in Pader District

9.2.3.5 Selected cases of long and arbitrary detentions

UHRC noted with concern the persistent long and arbitrary detention of detainees and suspects in prisons and police detention facilities that negatively affected their right to fair trial. The UHRC found cases of long and arbitrary detention of between one to three weeks in police facilities. The excuses given by the Police were that investigations were still on-going, court sittings were irregular and that the post-election violence in Bundibugyo District prevented the magistrate's courts from sitting.

In prisons, the period of long and arbitrary detention ranged from three to 12 years. The reasons given included lack of resident magistrates, delay to sanction files, few high court sessions and lack of transport to take detainees to court. Long and arbitrary detention affects the detainees' legal safeguards that would ensure basic rights and freedoms such as the right to life and personal liberty.

UHRC found cases of long and arbitrary detention in prisons such as Butaleja, Rukungiri Government, Jinja Main and Kasaali in Rakai District among others. The police stations included Zombo and Kakumiro as well as Kotido, Koboko, Nebbi, and Paidha Central Police Stations. The military facility at 503 Brigade in Kaabong also had such detainees.

9.2.3.6 Cases of torture documented during inspection

Torture deprives detainees both of their inherent dignity and their physical and mental integrity. UHRC noted that prison authorities and *Katikiros* in prisons as well as officers in police stations tortured detainees. Prisoners were mainly tortured by *Katikoros* as a disciplinary measure for disobedience. Cases of torture were found at Isingiro Government Prison; police stations such as Kyamuswa in Kalangala District, Buliisa, Kyankwanzi as well as Kitgum Central Police Station. Police post such as Kyamuswa in Kalangala District and Okidi and military facilities such as Kalapata UPDF Barracks, Rengen LDU Battalion HQs also had cases of tortured detainees.

Nonetheless, police and prisons officers had appreciated the rights of detainees including their freedom from torture, and they welcomed UHRC inspections that kept them in check, as their testimonies below indicate.

“Regular and surprise visits by human rights people have kept us mindful of the rights of inmates. “I can assure you that there is no more torture of suspects by officers in this facility and currently, there is a good working relationship between the UHRC and the police as we see ourselves as partners; the UHRC learns from police and police learns from the UHRC” said Mr. Swaliki Dauda DCID Mubende Police Station.

The UHRC monitoring and inspections have been of great importance to the prison. Initially, the prison authorities used to think the UHRC was on fault finding mission and would hardly cooperate. But with realizing that are creating positive results on both prison officers and inmates. This has made the prison a better correction centre with maximum discipline and respect of human rights on both parties (Prison authorities and inmates) and there is totally zero torture in this prison of Kaweeri”, said Mr. Bukenya John O/C Prisons, Kaweri

9.2.3.7 Juveniles detained with adult offenders

In any decision concerning deprivation of liberty of a child, the interest of a child is paramount. This requires that a child should be separated from adult offenders unless it is not in their interest to do so. In the event of uncertainty of age the presumption is that the suspect or detainee is a child. The main reason found for detention of juveniles with adult offenders in police detention was lack of cells for juveniles and failure to ascertain their age. These reasons did not put the interest of the adult offenders at the centre of decision making.

UHRC found cases of detention of juveniles with adult offenders in prisons such as Masafu in Busia District; and police stations such as Ntinda, Kakumiro, Kamwenge; Katerera in Rubirizi District and Bwera in Kasese District; as well as Namutumba, Katakwi and Abim Central Police Stations. The police posts where this was observed included Tokora in Nakapiripit District, Paya in Tororo District, Aliba in Moyo District and Mukunyu and Rugombe in Kyenjojo District.

9.2.3.8 Children incarcerated with their mothers

Children incarcerated with their mothers are entitled to have their physical, emotional, social and psychological needs provided for by the authorities. The UHRC found instances of children incarcerated with their mothers, mostly in prisons. Some of the children were aged between 2 and 4 years which was beyond the statutory age of 18 months at which they should be leaving prison. UHRC was informed that children stayed with their incarcerated mothers because of the unwillingness and lack of relatives to take care of them, which is an exception in the law.³⁷¹

Prisons where UHRC found such children included: Koboko, Lwengo, Katakwi, Butaleja, Bugiri, Isingiro, Kaveri Government Prison in Mubende District, Masaka Main, Jinja Female, Mbale Female, as well as Gulu (Female Wing), Moroto and Kotido Government Prisons. The children were also found in Kibaale, Kyegegwa and Fort Portal Police Stations.

9.2.3.9 Access to health services and HIV treatment

Authorities need to put in place measures to ensure prisoners have access to health services especially for the vulnerable persons including persons living with HIV/AIDS. This is against the background that HIV/AIDS services in UPS were still limited to 15% of the health units.³⁷² Without these facilities and services, the health of detainees could be adversely affected.

UHRC found that some prisons and police stations had access to nearby health facilities. These were: Nyabirongo Prison in Kasese District, Uganda Government Prison Wabusana in Luwero District and Kaveri Prison in Mubende District.

Kibaale and Hoima Police Stations as well as Pallisa, Jinja, Tororo, Iganga central police stations had Health Centre IIs within their vicinity. Police stations such as Mubende, Ntinda, Kiwatule, Kisaasi, Kira Road and Bamunanika in Luwero District also had access to health centres. Police posts such as Busika, Kalagala, Kibirizi all in Luwero District, as well as Kibalinga in Mubende District, Kyendangara in Kamwenge District and Bugema were also in close proximity to health facilities. The Remand Homes in Naguru, Fort Portal, Arua and Mbale as well as the Kampiringisa Rehabilitation Centre were also covered.

The UHRC found that 605 detention facilities comprising 140 prisons, 135 police stations, 328 police posts and two remand homes provided HIV/AIDS Treatment. Detainees with HIV/AIDS at Bushenyi Female Prison informed UHRC officials that they were receiving treatment and proper meals as well as supplementary diets. Other inmates at Kigumba Government Prison and Kiryandongo Government Prison did not have health facilities nearby for detainees to receive HIV/AIDS treatment.

Prisons that provided inmates with access to HIV treatment were Uganda Government Prison Wabusana in Luwero District (from the nearby Health Centre III) Kaveri Prison in Mubende District, Gulu Main (Male and Female Section), Uganda Government Prison Lira Main Male and Female section and Uganda Government Prison Alebtong.

9.2.3.10 Sanitation and personal hygiene

Detention facilities were inspected to ascertain whether female inmates / prisoners were provided with sanitary wear and whether the detention facilities were able to access water as means of ensuring proper hygiene and health of detainees.

a. Access to sanitary towels

UHRC found that 631 detention facilities provided sanitary towels for inmates/ suspects. The Prisons included: Arua Main, Koboko, Kiruhura Government, Bushenyi (women) Government, Uganda Government Prison Wabusana in Luwero District, Pader Government, Masaka Main Prison-female wing, Kakuuto in Rakai District, Lwengo, Masindi Main-Female Prison, Hoima Government, Nyabirongo

³⁷¹ n. 53 above, Section 59 (4).

³⁷² n. 366 above.

in Kasese District, Kyegegwa Government, and Kyenjojo. The police stations included Mbarara, Ndagwe in Lwengo District, Katovu in Lyantonde District, Mpugwe in Masaka District, Lwemiyaga in Ssembabule District. The remand homes were Arua, Mbale and Naguru Kampingirisa Rehabilitation Centre.

Inspected Police Stations where sanitary towels were not provided were Hoima, Kiryandongo, and Masindi Police Stations as well as Katovu Mudala Police Post in Lyantonde District and Kyawagonya Police Post in Lwengo District.

b. Access to clean and safe water

UHRC noted that 913 detention facilities comprising 119 prisons, 182 police stations, 603 police posts, seven military detention facilities and two remand homes, had access to clean and safe water. These included Mbarara Main Prison and Kakiika and Kyegegwa Government Prisons, Kyenjojo, Moroto and Kotido Prisons, Kaweri in Mubende District, Kabula in Lyantonde District, Nyabirongo in Kasese District, Bubukwanga in Bundibugyo District, Butiti in Kamwenge District and Kicheche in Kamwenge District.

Police stations that had access to clean and safe water were: Mubende, Kiwatule, Kira, Mawanda Road, Ntoroko, Kyegewa, Kamwenge as well as Ziobwe in Luwero District, Okwang in Otuke District, Kanara in Ntoroko District, Ntandi in Bundibugyo District and Katooke in Kyenjojo District. The Police Posts were: Busika in Luwero District, Vumba in Buikwe District, Kibalinga in Mubende District, Rwebisengo in Ntoroko District, Itojo in Bundibugyo District, and Kyabarungira in Kasese District.

The remand homes with access to clean and safe water were Fortportal, Naguru, Arua and Mbale as well as the Kampingirisa Rehabilitation Centre. Regarding military detention facilities, the 3rd Division HQs, Rengen LDU Battalion HQs(Kotido), 403 Nakapelmoru UPDF Brigade HQs(Kotido), 403 Brigade Matany(Napak), 403 Longoromit UPDF Brigade (Kaabong), Loroo LDU Barracks (Amudat) and Lorengechora Military Detach had access to clean and safe water.

On the other hand, the prisons that had limited or no such access were Kabula in Lyantonde District, Buseruka in Hoima District and Uganda Government Prison Wabusana in Luwero District, while the Police Stations were Lwemiyaga in Ssembabule District, Bamunanika in Luwero District. Affected Police posts were Budondo in Jinja District, Buseruka in Hoima District, Lusozi in Kyankwanzi District, Nabiganda in Tororo District, Mutumba in Butaleja District, Naluwerere in Bugiri District, Nyapea in Zombo District, Bugoma in Busia District, Bwendero in Kalangala District and Kalagala in Luwero District.

9.2.3.11 Access to adequate food

Provision of adequate food is key to maintaining the health and strength of detainees especially those with HIV/AIDS, the sick, breastfeeding mothers, juveniles and infants. UHRC found that 348 detention facilities comprising 165 prisons, four remand homes, 171 police stations and 7 police posts provided meals for detainees, ranging from three to one meal a day.

Prisons that provided adequate meals for inmates included Muinaina, Kaweeri, Katakwi, Bushenyi female prison, Amuria Government Prison. Those that provided extra meals for expectant mothers and HIV positive inmates and the sick included Kyankwanzi Government Prison, Jinja main (women section) and Tororo (women section). Kiwatule, Ntinda, Kisasi, and Kira Police Stations provided meals for inmates using service providers. Naguru, Fort Portal and Arua Remand Homes as well as Kampingirisa Rehabilitation Centre also provided adequate meals.

At least two meals a day were provided to inmates at Bugiri Central Police Station, Namayingo and Mubende police stations, Busiro Police Post in Wakiso District, Kibaale Police Post as well as military facilities at UPDF 3rd Division Hqtrs Moroto, Rengen LDU Battalion Hqtrs in Kotido, and 403 Brigade Hqtrs Nakapelimoru in Kotido.



9.2.3.12 Access to information

UHRC found that detainees were able to access information sources such as televisions, newspapers, books, and radios. UHRC found this at Tororo Prison (Women Section), Jinja (Women Section) and Jinja Remand prison, Kaweri Prison (Female Ward), and Uganda Government Prison Wabusana in Luwero District. At Kaweri Prison (Male ward) in Mubende District, Isingiro and Bushenyi Prisons, inmates had access to both televisions and radios. At Kumi Prison, Mbale (Male Section), Soroti Female Section and Soroti Main Prison, inmates were allowed to listen to radio.

9.2.3.13 Detainees pending ministerial orders

In spite of the High Court Judgement that ruled that the granting of ministerial orders for the release of detainees with mental illness was within the ambit of judicial officers and not the minister, the UHRC still found three such detainees incarcerated in Arua Main Prison and Openzizi Prison in Adjumani District.

9.2.3.14 Detention of civil debtors

Government obligations under Article 11 of the ICCPR prohibit incarceration for failure to honour a contractual obligation. UHRC found 131 civil debtors in prisons at Masaka Main Prison-both female wing and male wing, Kaliro, Rakai, Sembabule and Sentema Prisons, Butiiti in Kyenjojo District, Kigoro in Kabarole District, Ssaza in Masaka District, Namalembe in Iganga District, Masafu in Busia District and Buyinja in Namayingo District. UHRC also found one civil debtor in Kigoro Police Station and four others in Kyakatara Police Post in Kabarole District.

01	Kusenerwa	10/12/16	0.50	11/12/16	0.50
01	Kusenerwa	02/11/16	0.12/16	0.12/16	0.12/16
02	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
03	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
04	Kusenerwa	11/12/16	11/12/16	11/12/16	11/12/16
05	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
06	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
07	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
08	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
09	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
10	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
11	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
12	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
13	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
14	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
15	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
16	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
17	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
18	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
19	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
20	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
21	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
22	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
23	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
24	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
25	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
26	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
27	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
28	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
29	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
30	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16
31	Mwaseka	11/12/16	11/12/16	11/12/16	11/12/16

An entry in the lockup at Kyakataru Police post, Kyenjojo District on the 12th December 2016 showing “loan” as the offence for which Kusemererwa Aramanzan was charged.

9.2.3.15 Access to Justice

UHRC noted that there were still challenges in accessing justice by detainees, which caused long remands and detention beyond 48 hours. Accessing justice is critical in realising the right to fair trial. Access to justice was limited due to irregular court hearings, overstay on remand, unavailability of transport and legal services, delays in investigation of capital offences, and lack of state attorneys.

The Uganda Government Prisons at Pece in Gulu District, Kole as well as Kumi, Katakwi, Otuke (Remand), Bukedea, Bukwo and Amuria lacked transport to take prisoners to attend court sessions. UHRC was informed by inmates in Bubukwanga Prison in Bundibugyo District and Kamwenge Prison that they did not understand the court process.

9.2.3.16 Conditions of service of staff

Conditions of service of staff were fraught with challenges such as work overload, inadequate accommodation and delayed payments.

a. Staffing levels

UHRC found that in a number of detention facilities staff members were overloaded with work due to inadequate staffing levels. This was found at Buhweju, Bukwo and Isingiro Prisons; others were Mitooma, Wabusana Uganda Government Prison in Luwero District. Police Stations affected were Mbarara, Isingiro, Kigolobya, Kyankwanzi, Kikyusa in Luwero District, Rutookye in Sheema District, Ziobwe in Luwero District and Ntwetwe in Kyankwanzi District. Police Posts such as Bugema and Busika in Luwero District, Vumba in Buikwe District, Hapuuyo in Kyegegwa District, Munteme in Hoima District, Bugoigo in Buliisa District were also affected.

b. Accommodation

The prisons that had accommodation for staff were: Kaberamaido, Katakwi, Amuria, Amolatar, Ngenge, Kyegegwa, Kagoro Moroto, Kaabong and Serere prisons as well as Agule in Pallisa District and Mbale Prison Farm. The police stations were: Bundibugyo, Buliisa, Kiryandongo, Rwamwanja in Kamwenge District as well as Kyaka II Police Post.

UHRC noted with concern the lack of accommodation facilities at Mugoye and Kalangala Prisons as well as police stations such as Rutookye in Sheema District, Karungu in Buhweju District, Biiso in Buliisa District as well as Kisasi, Opit, Ojwina, Atanga Kyankwanzi and Omoro Central Police Station. Affected Police posts were Vumba in Luwero District, Alango in Otuke District, Kalagala in Luwero District, Awere in Pader District, Bugoma in Hoima District, Bwendero and Mulabana in Kalangala District, Kamira in Luwero District as well as Kyaka II Police post.



Staff accommodation at Uganda Government Prison Lotuturu in Lamwo District

c. Payment of salary and promotions

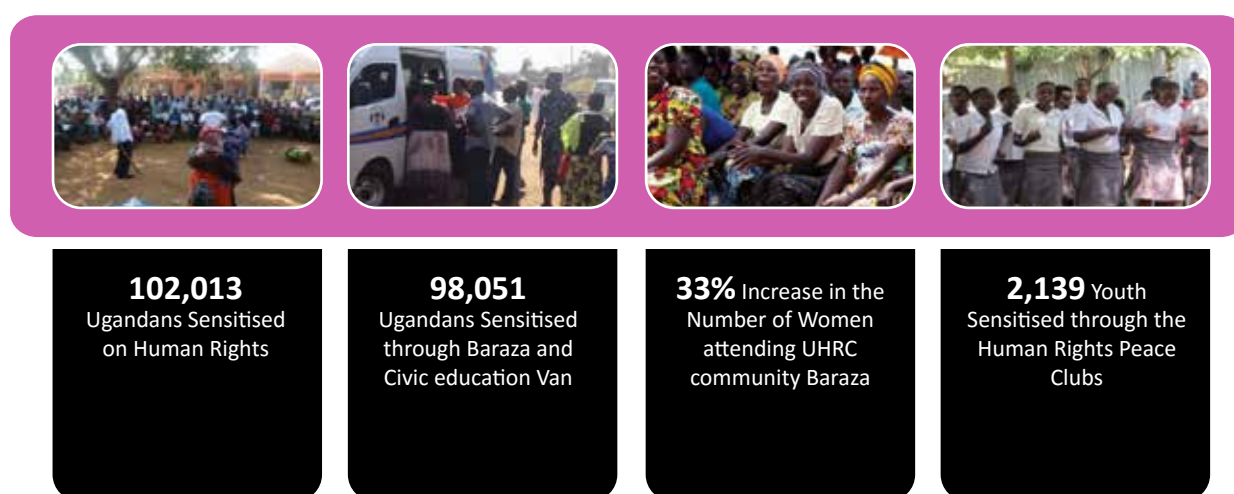
The UHRC found that in prisons such as Serere, Bukwo, Moroto, Kaberamaido, Katakwi, Amuria, Amolatar, Mbale, as well as Namalu in Nakapiripit District and Ngenge in Kween District, staff received payment. However, UHRC noted with concern the delay in payment of salaries and promotion of staff.

9.2.4 Recommendations

UHRC has made recommendations in the previous UHRC annual reports which are still relevant in addressing the concerns that were still observed in 2016. So UHRC continues to recommend that:

1. Ministry of Finance Planning and Economic Development should increase funding to the Uganda Prisons Service, Uganda Police Force, the Uganda Peoples' Defence Forces and the Ministry of Gender Labour and Social Development to ensure that the rights of inmates and staff are respected.
2. Ministry of Internal Affairs, Ministry of Gender Labour and Social Development, should ensure that juveniles are separated from adult offenders in all detention facilities and that children who are incarcerated with their imprisoned mothers are catered for.
3. Justice Law and Order Sector should implement the diversion guidelines and strengthen the mechanism for diversion of children away from the criminal justice system through mediation arbitration and community service.
4. Uganda Prisons Service, Uganda Police Force and the Uganda Peoples' Defence Forces should completely phase out the bucket waste disposal system.

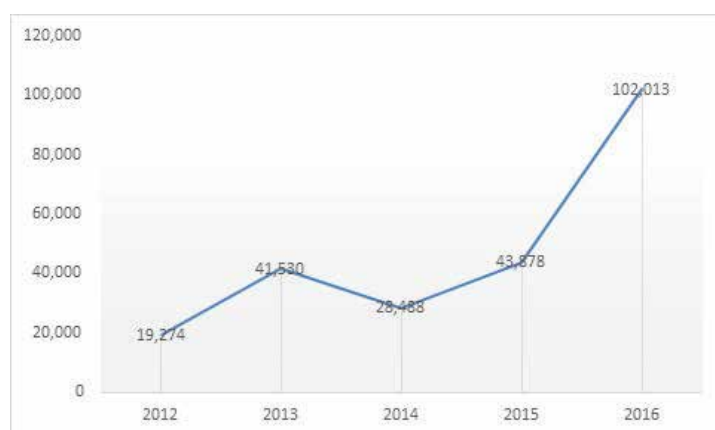
9.3 HIGHLIGHTS OF THE HUMAN RIGHTS EDUCATION AND AWARENESS INTERVENTIONS UNDERTAKEN BY UHRC IN 2016



In 2016, UHRC conducted human rights education and awareness programmes targeting various categories of people in order to facilitate the development of a culture of human rights and constitutionalism in society. This was in fulfilment of its mandate under the Constitution. A total of 102, 013 persons drawn from government institutions and grass roots communities were sensitised. UHRC also targeted the youth in secondary schools. There was a 132% increase in the number of people sensitised in 2016 from the 43,878 reached in 2015. This was because of the enhanced human rights education activities owing to the increase in funding. Through a GIZ-supported '*Strengthening Human Rights of Vulnerable Persons in Uganda Project*', UHRC focused on human rights education for grass roots communities.³⁷³ Figure 9.3.1 below shows the number of people UHRC has targeted with education and awareness programmes since 2012.

³⁷³ The GIZ Project was implemented by the regional offices of Central, Hoima and Gulu in the districts of Mpigi, Luweero, Kampala, Wakiso, Hoima, Masindi, Lira and Kole.

Figure 9.3.1: Number of persons sensitised by UHRC from 2012 to 2016



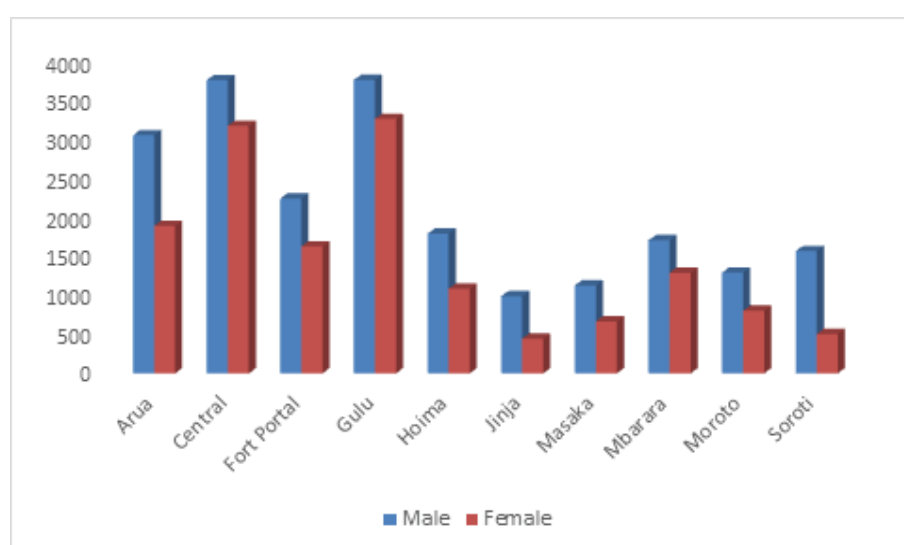
9.3.1 Human rights awareness programmes for grass roots community

UHRC conducts human rights awareness for grass roots communities to enhance active participation of communities in claiming their rights and fulfilling their civic obligation. UHRC engaged grassroots communities through community meetings (baraza) and the use of the civic education vans.

9.3.1.1 Community meetings

UHRC conducted community meetings (baraza) in 78 districts which were attended by 51,986 participants, up by 64% from the 31,694 people who attended UHRC community baraza in 2015. Of the 51,986 baraza participants, 37,263 were male and 14,723 female. Despite being fewer than the men, more women attended in 2016 as shown by the 33% increase in their number from the 11,030 of 2015. This was attributed to mobilisation strategies that targeted the increased participation of women. The women were mobilised through their leaders at the grassroots level as well as their existing women groups. The GIZ project specifically targeted vulnerable persons including women to enhance their participation, and this led to the increased number of women attending and participating in the community baraza. The comparison in attendance of men and women at the UHRC community baraza per regional office is illustrated in Figure 9.4.2 below.

Figure 9.4.2: Number of males and females who attended UHRC community baraza per regional office



Through the community meetings, a wide range of human rights issues were addressed including: Rights of vulnerable persons, land rights and parental obligations. Other issues included provisions of Chapter

Four of the Constitution; the provisions of the Public Order Management Act (POMA) , the Prohibition of Female Genital Mutilation Act as well as the duties and responsibilities of citizens. Communities also raised several issues of concern that affected the enjoyment of their human rights. These issues included:³⁷⁴:

- Increasing incidents of corruption that are affecting service delivery
- Rampant land disputes
- Delayed payment of pension
- Early and forced marriages that are affecting the rights of the girl child
- Lack local language versions of Uganda laws
- Delayed investigation of cases by police
- The absence of effective local council structures at the grassroots
- Delayed administration of justice by courts of law and the high cost of justice
- Escalating incidents of domestic violence
- Lack of knowledge of development plans and programmes by government
- Increasing incidents of child neglect

UHRC conducted the community baraza with its network of stakeholders who included local leaders, RDCs, Police, community development officers, religious leaders and representatives from CSOs. The partners were able to reinforce the engagement of UHRC with the communities through providing information and answering questions to the issues that had been raised. UHRC also followed up issues raised by communities with the relevant authorities so that efforts are made to address them.



A drama group presenting a play during a community baraza by UHRC in Bukomansimbi District

9.3.2. Civic education through the use of the civic education vans

Using its two civic education vans, UHRC conducted civic education activities in 66 districts of the country. Through the use of civic education vans, UHRC was able to reach people in trading centres and villages and engage them through drama shows, screening of short videos and interactive Question and Answer sessions on human rights. The mobile nature of the civic education van activities enabled UHRC to reach more people and disseminate human rights messages and materials. UHRC reached an estimated number of 46,065 people, of whom 27,454 were male and 18,611 female.

Issues discussed during the village road shows included: The rights of vulnerable groups (women, children, PWDs, the elderly, persons living with HIV/AIDS and ethnic minorities); long remand periods; the rights of detainees; the declining levels of quality of education services; and delayed resolution of land disputes by relevant authorities.

³⁷⁴ The issues highlighted constitute only some of the concerns that were raised by communities that the UHRC interacted with. All the issues could not be exhaustively highlighted.



UHRC conducts civic education through the use of its civic education vans in Mityana and Mubende districts.

Through the community baraza and village road shows, UHRC empowered citizens with knowledge on various human rights issues which ultimately contributed to their ability to claim their rights. Some of the testimonies of participants of UHRC community meetings and village road shows are reproduced below:

“As a result of UHRC visiting our Trading Centre in October 2016, we were able to acquire knowledge on land rights and particularly the rights of women to own land. We were able to claim our land which was going to be taken away by our uncles who believed that as women whose father had died, we were not entitled to inherit or own his property.” Jessica Margaret and Badaru Racheal of Okokoro Trading Centre, Kijomoro Sub County, Maracha District.

“We are grateful that UHRC has decided to come down to the grassroots to talk to people because in most cases we suffer with matters that could have been solved amicably. We now know that as citizens of Uganda as we claim our rights we also have duties and responsibilities.” A community member during a baraza held in Kamengo, Mpigi District.

9.3.3 Human rights education for the youth through human rights and peace clubs

UHRC engaged the youth in secondary schools and higher institutions of learning through facilitating the formation of Human Rights and Peace Clubs and building the capacity of the already existing ones. Human Rights and Peace Clubs provide a forum through which students are actively involved in activities that promote the respect for human rights and the attendant duties and responsibilities.

In 2016, UHRC conducted sensitisation programmes for 2139 students and teachers (1163 male and 936 female). Through these, participants gained knowledge on among other things, basic concepts of human rights, duties and responsibilities; children’s rights; the right to education; rights of vulnerable groups; and the importance of establishing Human Rights and Peace Clubs.

UHRC also monitored and supported the activities of 65 clubs. The clubs were making an effort to inculcate a culture of respect of human rights in their respective schools through activities they were involved in. Clubs undertook activities to sensitise their peers on human rights, duties and responsibilities during school assemblies and drama shows; resolve conflicts peacefully in their respective schools; and volunteer in their communities. UHRC also distributed 500 copies of the 1995 Constitution to Human Rights and Peace Clubs countrywide. The copies of the Constitution enabled members to gain knowledge of its provisions and make reference to them, hence nurturing the culture of constitutionalism among the members of the clubs.

Below are testimonies from a head teacher of a school with Human Rights and Peace Club as well as a member of a club attesting to the advantages experienced from having one as a school:

“At first, we were worried that the human rights club was going to cause more trouble in this school. However, we have been closely monitoring their activities and I am happy to note that we have changed our conception of human rights. We now know that the club means well for this school and has also contributed to the improvement of student discipline in this school. It is because of our support to the club that it is becoming the most active club in the school” Head teacher, Kako Secondary School, Masaka District

“The Human Rights and Peace Club strongly advocated for the inclusion of a student representative on the school disciplinary committee. The school administration granted the request due to its recognition of the importance of the human rights and peace club.” Member, Human rights and Peace club, Ndejje Day Vocational School, Luweero District.



(Left - Right) UHRC staff with members of the Human Rights and Peace Club of Morulem Girls Secondary school and UHRC staff training members of the Human rights and Peace Club of Buseruka Secondary School in Hoima District

9.3.4 Human rights education for security agencies

Article 221 of the Constitution explicitly mandates security agencies to respect human rights and freedoms in the performance of their functions. In order to facilitate the fulfilment of this constitutional provision, UHRC conducted trainings for 221 members of the UPDF from the Uganda Peoples Defence Air Forces, Soroti and 1st Division Kakiri Barracks. UHRC also conducted a community baraza for 232 spouses of UPDF officers and men at Kakiri Barracks owing to the peculiar issues affecting them.

The participants gained knowledge on issues such as the concept of human rights and the role of the UPDF in the protection of human rights; torture as a human rights issue and the provisions of the PPTA; the rights of women and children; and the laws on succession.



UHRC staff conducting a training session for the UPDF at 1st Division Headquarters, Kakiri, Wakiso District



Brig. Sam Kawaga, Division Commander, UPDF 1st Division Headquarters Kakiri making his remarks during the UPDF human rights training session

During UHRC engagement with the spouses of UPDF officers and men, the issues of concern they raise included: denial of citizenship to the Congolese women who moved from DRC to Uganda to join their husbands that had been involved in UPDF operations in DRC; lack of access to property rights; violation of the right to child maintenance; and domestic violence. UHRC provided them with information on how to address some of the issues while the UPDF officers from the administration of Kakiri barracks with whom UHRC conducted the *baraza*, also provided some advice and solutions.



UHRC staff conducting a community baraza for spouses of UPDF officers at Kakiri barracks, Wakiso District

9.3.5 Human rights education through the media

In order to take advantage of the wide coverage of various media, UHRC used various media platforms reach their audiences and raise awareness on various human rights issues countrywide. UHRC used radio and television talk shows, radio spot messages, infomercials, newspaper supplements, press briefings and statements. The table below indicates the number of times UHRC used various media platforms during the period under review:

Table 9.3.1: UHRC media programmes conducted in 2016

	Media platform	Number of times used
1.	Radio talk shows	144
2.	Radio spot messages	5383
3.	Radio jingles	372
4.	Press conferences	11
5.	Newspaper and other supplements and adverts	8
6.	Television talk shows	4

9.3.5.1 Radio talk shows

UHRC conducted interactive radio talk shows on various radio stations countrywide. A total of 770 (587 male and 183 female) listeners called into the live phone-in radio talk shows. Fewer females called into the radio talk shows and this can be attributed to the unequal access to resources between men and women (especially at grassroots level) that affects the ability of women to own radios and mobile phones. It can also be attributed to the patriarchal nature of most rural communities in Uganda which discourage the active participation of women in public discussions including through calling radio stations to participate during radio talk shows.

The choice of topics and issues discussed by the callers was influenced by selected thematic human rights issues as identified by UHRC and prevalent human rights issues that were pertinent to each region and the country. Generally the issues discussed were: Human rights duties and responsibilities of citizens; rights of vulnerable groups; human rights standards in the electoral process; land rights; human rights implications of domestic violence; the right to personal liberty; accountability of duty bearers; Chapter 4 of the Constitution (the Bill of Rights); and the laws on succession. The talk shows were conducted in various languages, including English, Luganda, Runyankore-Rukiga, Runyoro-Rutooro, Lugbara, Alur, Madi, Rukonzo, Kiswahili, Luo, Ng'akarimojong and Ateso.

9.3.5.2 Press briefings

UHRC convened press briefings to pronounce itself and provide guidance on emerging issues and incidents that had an impact on the enjoyment of human rights in the country. The 2016 press briefings were on: UHRC planned pre-election interventions and a call for peaceful elections; human rights issues identified in the Karamoja sub-region during the visit by the UHRC Chairperson; use of excessive force by police; human rights issues arising from the Kasese clashes and a call for dialogue to end the conflict; as well as commemoration of both the International Day in Support of Victims of Torture and the International Human Rights Day.

In light of the incidents that raised issues of human rights concern, the press briefings highlighted human rights standards that Uganda has an obligation to respect, protect and fulfil. The briefings also emphasised the duties and responsibilities of citizens.

9.3.6 Human rights promotion through research

Under Article 52 (1) (c) of the Constitution, UHRC has the mandate to establish a continuing programme of research to enhance the respect of human rights. During the period under review UHRC published its research report titled '*Irrational Justice: Mob Action as a Human Rights concern in Uganda*'. The research which was precipitated by the high number of incidents of mob action in the country, was conducted in the districts of Maracha, Arua, Nebbi, Kampala, Buvuma, Mubende, Kayunga, Mbale, Mayuge, Kamuli and Iganga. The respondents included community members, community leaders, officials from UPF, Central Government officials and court officials.

The research revealed that the major causes of mob action included:

- Alleged delayed investigations and corruption within police
- Alleged delayed resolution of cases and corruption within the Judiciary
- Ignorance of the community on laws and the prescribed procedures of investigations within the police
- Alleged high levels of poverty compounded by high levels of unemployment among the youth
- Weak village administrative, social and political structures
- Rampant land disputes

The research report revealed that mob action affected the enjoyment of human rights of both the victims and their families. The human rights and freedoms mainly affected include: The right to life; fair trial; property; and freedom from torture and ill treatment.

Following the research, UHRC made recommendations to government ministries, the Judiciary, Parliament, UPF, DPP, community leaders and members for strategies that would curb mob action in Uganda. These include:

- Intensifying community policing programmes to enhance appreciation of the mandate of police, processes and time frames for reporting and investigating cases.
- Reinforcement of police personnel and logistics to allow for expeditious investigation of cases reported by the public.
- Intensifying sensitisation and awareness campaigns by the Judiciary to enhance people's appreciation of its mandate and explain processes and time frames regarding the hearing of court cases.
- The Judiciary devising and implementing strategies to clear the case backlog that had caused delays in hearing cases including those on land disputes.
- The Ministry of Gender Labour and Social development together with the National Youth Council implementing programmes aimed at ensuring that the youth are engaged in gainful activities to nurture them into productive members of their communities.
- Ministry of Local Government reinvigorating and strengthening grassroots local council structures since they are critical in ensuring security, orderliness and dissemination of crucial information to their communities.

UHRC disseminated the findings of the research report to relevant stakeholders in the JLOS and to the general public.

9.3.7 UHRC Library and Documentation Centre

UHRC operates library and documentation centres at its head office and in the ten regional offices. These centres are used by both members of staff and the general public to access human rights reference materials. In 2016, UHRC library services were accessed by 1,370 people who comprised researchers, students, lawyers and journalists. There was a 22% increase in the number of users of the UHRC library services in 2016, from 1,124 in 2015.

9.3.8 Human Rights promotion through advocacy

UHRC with its partners conducted advocacy through commemoration of the International Day in Support of Victims of Torture (26th June) and the International Human Rights Day (10th December). The partners included international agencies, development partners, human rights defenders and CSOs.

The international human rights days were commemorated under the selected themes of *'Together in the fight against Torture'* and *'Stand up for someone's rights today'*. The commemoration activities included public and community dialogues; media campaigns; exhibitions; human rights debates; peaceful processions; and selection and awarding of community human rights heroes.

The commemoration and advocacy efforts highlighted key human rights issues for positive action by relevant authorities particularly regarding the effective implementation of the PPTA and the obligation to respect, protect and fulfil human rights.

9.3.9 Challenges

1. As has previously been reported, UHRC continues to experience funding constraints which have affected the coverage and impact of its human rights education interventions.
2. The wide geographical coverage of UHRC regional offices continued to constrain its capacity to adequately reach out to people at the grassroots.

9.3.10 Recommendations

1. In order to ensure sustainability of civic education programmes, government through Ministry of Finance, Planning and Economic Development should adequately fund the UHRC civic education mandate as provided for by Article 52 (1) (g) of the Constitution of Uganda.
2. Ministry of Justice and Constitutional Affairs should fast track the passing of the National Civic Education Policy which would provide a streamlined framework within which civic education is funded and conducted in Uganda.

9.4 HIGHLIGHTS OF INTERVENTIONS IN FINANCE AND ADMINISTRATION



The function of finance and administration facilitates all other institutional functions for UHRC to perform and achieve the set strategic objectives, thereby fulfilling its constitutional mandate. Therefore, the interventions in 2016 under finance and administration focussed on funding, human resource management, the policy and operational framework of UHRC.

9.4.1 Funding to UHRC

During the year 2016, UHRC received a total of UGX 20.6 billion, UGX 13.8 billion from Government of Uganda and UGX 6.8 billion from development partners compared UGX 14.68 billion received in FY 2014/15. There was an increase in funding of 34%. The funds received from both GoU and development partners³⁷⁵ were against a budget of UGX 27 billion leaving a funding gap of UGX 6.4 billion. UHRC was funded 67% by GoU while the development partners contributed 33%. In spite of the increase in funding UHRC still remained underfunded.

³⁷⁵ The development partners include; DGF, UN-OHCHR, UNDP, GIZ and JLOS.

9.4.1.1 Analysis of funding of the Commission over five years

Table 9.4.1: Funding over five financial years (in billions of UGX)

Classification of Funding	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016
Wage	2.14	2.14	3.59	3.59	5.59
Non-Wage	2.97	5.95	5.95	5.95	7.51
Domestic Development	2.01	0.14	0.14	0.14	0.701
Taxes on Machinery	0.1	0.1	0.1	0.1	0
Total from G.O. U	7.22	8.33	9.78	9.78	13.80
External Sources	4.1	3.58	3.28	4.90	6.8
Total funding	11.4	11.91	13.06	14.68	20.6
% G.O.U contribution to total funds received	63%	70%	75%	67%	67%

Despite the increment in the Medium Term Expenditure Framework ceiling in FY 2015/16 of UGX 4.1billion from GoU,³⁷⁶ the funds still remained insufficient to meet all the operational costs of UHRC.³⁷⁷ UGX 4.1 billion additional funds to UHRC included UGX 2 billion to enhance staff salaries. When the salaries were enhanced, staff costs which are a percentage of salaries, i.e. allowances (50% of salary), NSSF (10% of salary) and gratuity (30% of salary) consequently shot up. These resulted into domestic arrears of UGX 2.7 billion.

In order for UHRC to secure increase in funding to pay the domestic arrears and avoid incurring more in the future, the following actions were undertaken:

- In March 2016, UHRC met the President of Uganda and discussed the challenge of underfunding of UHRC, dependency on donors to fund core activities and unpaid UHRC Tribunal awards which are contrary to UN Paris Principles. The President promised to fund the UHRC 100%. Subsequently, the Office of the President issued a statement to that effect but UHRC did not receive a formal communication. In December 2016, UHRC together with other JLOS institutions again met the President about underfunding of all JLOS institutions including UHRC. The President wrote to the Minister of Justice and Constitutional Affairs about increasing funding to UHRC progressively to wean it from donors. He directed that the outstanding Tribunal awards of UGX 5billion be included in budget for FY 2017/18.
- UHRC also wrote to the Permanent Secretary and Secretary to Treasury about inadequate funding and domestic arrears.
- UHRC met the Budget Committee of Parliament and presented to them the situation of inadequate funding and domestic arrears and the MPs promised to help UHRC to get additional funding.
- UHRC presented the issue of underfunding and donor dependency during the discussions of the UHRC budget with the Legal and Parliamentary Committee of Parliament. The committee promised to raise the matter with the Minister of Finance Planning and Economic Development when the two next meet.

³⁷⁶ Government increased the MTEF ceiling by UGX 0.56 billion and this included UGX.02 billion for transaction advisor

³⁷⁷ The taxes are budgeted within the total allocation on domestic development.



The President of Uganda with the Members of the Commission at State House in March 2016.

9.4.1.2 Funding from development partners in FY 2015/16

The UHRC continued to get support from development partners to carry out its core activities. In the FY 2015/16, UHRC received financial support from the Democratic Governance Facility (DGF) which is a consortium of different partners as well as DANIDA, GIZ, UN-OHCHR, UNDP and JLOS. Budget support was consistently provided by DGF while others provided support for specific and one-off activities. Table 9.4.2 below shows the funding UHRC got from the various development partners.

Table 9.4.2: Funding from different development partners in FY 2015/16

Development partners/ Other funders	Amount (UGX in billions)	Activities/ Project being funded
DGF	4.5	Monitoring detention centres, investigations, tribunal process, civic education and volunteers' allowances among others.
UNDP	0.352	Rule of law and Constitutional Democracy programme.
GIZ	0.686	Civic education in three regional offices of Central, Gulu and Hoima.
UN-OHCHR	0.097	Monitoring the presidential and parliamentary elections and training in oil and gas
JLOS	1.23	Case backlog reduction, Documentation for Human rights violations, Civic education and construction of Gulu regional office

9.4.2 Appointment of Members of the Commission

In February 2016, the contracts of the Chairperson and two Members of the Commission that had expired in April 2015 were renewed and an additional two Members of the Commission appointed. By the end of 2016, the UHRC was fully constituted. For eleven months, UHRC was not fully constituted and the delay to appoint the Chairperson and Members of the Commission affected the UHRC Tribunal process and caused case backlog.

9.4.2.1 Induction of Members of the Commission

Members of the Commission, comprising new ones and those whose contracts had been renewed underwent induction. The resource persons that facilitated the induction were drawn from the MoFPED, Public Service Commission, National Medical Stores, the Human Rights Centre Uganda and staff of UHRC. The induction was meant to build the capacity of the Members of the Commission to appreciate and effectively handle the affairs of UHRC.

9.4.3 Human resource in the UHRC

As at 31st December 2016, UHRC had a total human resource of 237, of which 181 were substantive staff members and 56 volunteers. This was slightly up from the 223 as at 31st December 2015. This number is inadequate to serve the entire country. The problem of inadequate staff would be solved by UHRC getting funds to implement its approved structure of 469 staff. UHRC has an approved structure of 469 staff but is unable to implement it due to inadequate funding. UHRC also got approval from the Ministry of Public Service to recruit 16 staff for two proposed new regional offices of Kabale and Lira and to absorb 20 volunteers into substantive staff. However, this approved structure that was costed has not been implemented due to lack of funds. Inadequate human resource affected the implementation of activities and ultimately the mandate of UHRC.

9.4.3.1 Staff training

a. Training in Oil and Gas and its human rights implications

UHRC with support from UN-OHCHR held four-day training from 18th-21st January 2016 for Members of the Commission, directors and senior managers in oil and gas and its human rights implication. 33 participants comprising one Commissioner, four directors and 28 senior managers attended it. Of these 21 were female and 12 male.

The programme with two workshop days and two days of field tours was facilitated by technical experts from UHRC, the Ministry of Energy and Mineral Development and CSOs. The field study tours were to the oil wells under Tullow and CNOOC in Kaiso-Tonya and Kingfisher, the Enviro-serve Waste Treatment Plant, the proposed site of refinery, the site for resettled communities, the camp for displaced communities at Rwamutonga and Project Affected Communities awaiting compensation at Kabaale in Buliisa District.

UHRC staff acquired knowledge and skills to investigate and handle human rights violations related to the oil and gas sector.



UHRC staff with officers from Ministry of Energy and Mineral Development at the training venue in Hoima District

b. Training of trainers on organising and conducting human rights education

A one-week Training of Trainers (ToT) programme was held for 31 UHRC staff who were engaged in human rights education. The staff who comprised 21 females and 10 males were trained on International human rights instruments; the Human Rights Based Approach to Development (HRBAD); planning and organising human rights education activities; making effective presentations during human rights education activities; communication skills; and report writing skills.

9.4.3.2 Retirement of staff

On 31st December 2016, the Secretary to the Commission Mr. Gordon T. Mwesigye retired from service of UHRC. He had been the accounting officer at the helm of the Commission administration for ten years having joined in 2006.

During the year 2016, a long-serving staff member Oliver Namukwaya based at the Central Regional Office also retired from UHRC service. She had served the commission for 17 years. UHRC acknowledges the long and dedicated service of the two.

9.4.3.3 Staff SACCO initiative

The UHRC Staff SACCO is a voluntary organisation that they started to encourage a culture of saving, pool resources and lend between themselves at low interest rates. It also plans to undertake investment activities that can uplift the status of its members. In this regard, the SACCO invested in land located in Bombo in Luwero District for the benefit of the SACCO members.

9.4.4 Infrastructure and equipment

9.4.4.1 Expansion of Bandwidth

With support from UNDP, UHRC engaged MTN Uganda to upgrade internet bandwidth (from 512kb/PS to 1mb/PS) in all the ten regional offices. This upgrade made it possible for the UHRC to manage large volumes of data on its Human Rights Information Management System. The system codenamed HURIS is a one-stop data centre for all activities of UHRC including case management, human rights education, and monitoring and inspections.

9.4.4.2 Transport equipment

In 2016, UHRC procured four new vehicles and three motorcycles supported by the GoU. These brought the total fleet of UHRC to 42, of which 30 are located at the Head Office and the remaining 12 at Regional Offices. The larger number of the vehicles is in poor mechanical conditions and some have been used beyond their economic useful life since UHRC is unable to replace them due to lack of resources. Even though this may place the lives of the users at risk, boarding them off is a greater risk because it can totally ground UHRC.

Two of the UHRC fleet are civic education vans that are used in sensitisation activities in the whole country. They had to be shared among ten regional offices. Obviously two civic education vans are inadequate to serve the whole country.

9.4.5 UHRC policies

9.4.5.1 Review and alignment of UHRC Strategic Investment Plan

UHRC reviewed its five-year Strategic Investment Plan (SIP) whose lifespan ends in FY 2016/17 and aligned

it to the Second National Development Plan (NDPII) as required by the National Planning Authority. In the remaining period of the NDPII UHRC will refocus its strategic direction and use its constitutional mandate to contribute to the realisation of the country's goal of strengthening Uganda's competitiveness for sustainable wealth creation, employment, and inclusive growth, prioritising agriculture, tourism, minerals, oil and gas, human capital and infrastructure development sectors. Accordingly, UHRC planned to focus on economic and social rights such as food, employment, clean environment, property, health, education; and the rights of PWDs, women and children. UHRC will continue managing human rights complaints; implementing civic and human rights education; inspecting detention facilities as well as monitoring government compliance with treaty obligations.

9.4.5.2 Review of human resource manuals.

The Human Resources Manual was reviewed to incorporate new developments. The review had to cater for the restructuring and expansion of UHRC after 2001, the enactment of new labour laws and review of public standing orders 2010. The review that began in 2015 was concluded in January 2016. The Manual is awaiting approval as a policy of UHRC. The Records Management Procedures Manual was developed.

9.4.5.3 Risk management and anti-fraud policies

UHRC supported by DGF produced and distributed 100 copies of the Risk Management Policy, 150 copies of the Risk Management Framework and 100 copies of the Anti-fraud and whistle blowing policies and procedures. The risk management and anti-fraud policies were designed to communicate to staff the types of risks UHRC could be exposed to; formularise and communicate a consistent approach to managing risk inherent in UHRC activities and to establish a reporting protocol. They were also a demonstration of commitment to staff that risk management was a core management capability and assigned accountability to all staff for the management of risk within their areas of control.

9.4.6 Challenges

1. The inadequate number of human resources effectively implement the constitutional mandate country-wide
2. Inadequate and old tools to perform its functions especially the small fleet of vehicles most of which are in poor condition.
3. Few civic education vans which cannot adequately serve the whole country and cause an impact.
4. The lack of an own home despite owning three plots of land at Buganda Road in Kampala.
5. Dependency on development partners to fund core activities of the commission which is very risky as funding uncertainties may arise from changing or differing priorities.
6. Gross underfunding of UHRC which has caused the failure to recruit all the necessary human resource, pay competitive salaries, accumulation of domestic arrears and failure to acquire latest tools and adequate equipment.

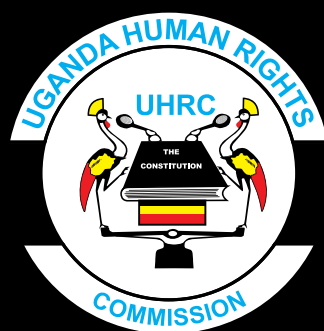
9.5.14 Recommendations

1. Government of Uganda through the Ministry of Finance Planning and Economic Development should fund UHRC 100% in accordance with the requirements of the UN Paris Principles.
2. Ministry of Finance Planning and Economic Development should fund the approved staff structure of 469 employees.
3. The process of appointment of Members of the Commission by the Ministry of Justice and Constitutional Affairs should be done before the expiry of the contracts of incumbent members in order to avoid a situation where UHRC operates for many months without a fully constituted Commission as has happened before.
4. Ministry of Finance Planning and Economic Development should avail funds to UHRC to acquire additional civic education vans for UHRC to enhance its impact.

5. Ministry of Finance Planning and Economic Development should adequately fund UHRC to plug all its gaps in human resource, operations, logistics, tools and equipment to avoid the current risks and enhance effectiveness.
6. Ministry of Finance Planning and Economic Development should increase the Medium Term Expenditure Framework ceiling of UHRC to enable it pay competitive salaries to avoid demotivation of staff and labour turnover.
7. Ministry of Finance Planning and Economic Development should provide adequate funds to the UHRC to construct its own premises for the headquarters and regional offices.

9.5 CONCLUSION

UHRC's interventions that are aimed at promoting and protecting of human rights are internally greatly hindered by inadequate human and financial resources. These interventions are further hindered by external structural and administrative challenges including lack of key policies such as the Legal Aid Policy and Civic Education Policy, limited institutional accountability in the event of violation of human rights, limited legal aid services and complacency mainly within the justice, law and order sector institutions that contribute to human rights violations and hinder access to justice that are main cause of long and arbitrary detentions. In order to ensure the effective promotion and protection of human rights in the country these internal and external challenges have to be urgently addressed.



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