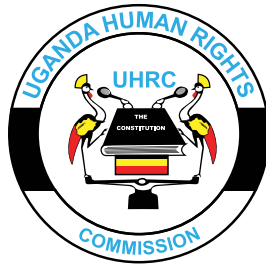


UGANDA HUMAN RIGHTS COMMISSION



**THE 20TH
ANNUAL REPORT
2017**



UGANDA HUMAN RIGHTS COMMISSION

THE 20TH ANNUAL REPORT
**TO THE PARLIAMENT OF
THE REPUBLIC OF UGANDA
2017**

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Published by Uganda Human Rights Commission

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

Dear Madam,

**RE: UGANDA HUMAN RIGHTS COMMISSION 20th ANNUAL REPORT TO
PARLIAMENT**

The Uganda Human Rights Commission (UHRC) has the pleasure and honour to present to Parliament its 20th Annual Report in accordance with Article 52 (2) of the Constitution of the Republic of Uganda.

The report is divided into two sections namely; the state of human rights in the country (Chapters 1-10) and interventions/activities carried out by the Commission in 2017 (Chapter 11). The former covers the Commission's analysis of the human rights situation in the country in the year 2017, while the latter is about the activities of the Commission such as complaints management, inspection of places of detention, human rights education, as well as finance and administration.

FOR GOD AND MY COUNTRY!

Yours faithfully,

A handwritten signature in black ink, appearing to be 'Med S.K. Kaggwa', with a stylized flourish at the end.

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

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Mr. Med S.K. Kaggwa
CHAIRPERSON



**Dr. Katebalirwe Amooti Wa
Irumba** MEMBER



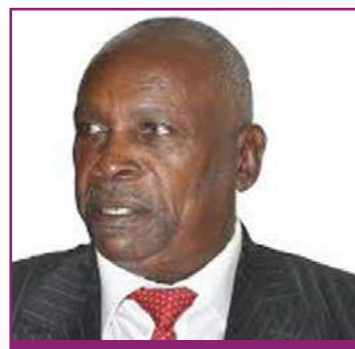
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MEMBER



Mr. Joseph A.A. Etima
MEMBER



Mr. Meddie Mulumba
MEMBER



Justice Gideon Tinyinondi (RIP)
Passed on on 2nd June 2017

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ABBREVIATIONS AND ACRONYMS

A	
ACERWC	African Committee of Experts on the Rights and Welfare of the Child
ACHPR	African Charter on Human and Peoples' Rights
ACME	African Centre for Media Excellence
ACP	Assistant Commissioner of Police
ACRWC	African Charter on Rights and Welfare of the Child
ACTV	African Centre for Treatment and Rehabilitation of Torture Victims
ADR	Alternative Dispute Resolution
AIDS	Acquired Immune Deficiency Syndrome
AIGP	Assistant Inspector General of Police
ARU	Arua
ART	Anti-Retroviral Therapy
ARVs	Anti-Retroviral Drugs
ASP	Assistant Superintendent of Police
AU	African Union
B	
BN	Billion
C	
CAB	Chain-linked Advisory Board
Cap	Chapter
CAT	Coalition Against Torture
CBO	Community-Based Organisation
CCPR	Convention on Civil and Political Rights
CCEDU	Citizens' Coalition for Electoral Democracy Uganda
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CESCR	Convention on Economic, Social and Cultural Rights
CESR	Cultural, Economic, and Social Rights
CID	Criminal Investigations Directorate

CIID	Criminal Intelligence and Investigations directorate
CIL	Complaints, Investigations and Legal Services
CLO	Community Liaison Officer
CMI	Chieftaincy of Military Intelligence
CMW	Convention on the Rights of all Migrant Workers and members of their families
Col	Colonel
COC	Certificate of Compliance
CPED	Convention for the Protection of All Persons from Enforced Disappearance
CPS	Central Police Station
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSOs	Civil Society Organizations
CTR	Central
D	
DANIDA	Danish International Development Agency
DCIL	Directorate of Complaints, Investigations and Legal Services
DCCs	District Coordination Committees
DCLO	District Community Liaison Officer
DEO	District Education Officer
DFAD	Directorate of Finance and Administration
DGF	Democratic Governance Facility
DLG	District Local Government
DNA	Deoxyribonucleic Acid, it is a nucleic acid that contains the genetic code
DM&I	Directorate of Monitoring and Inspections
DPP	Directorate of Public Prosecutions
DRED	Directorate of Regional Services
DSC	District Service Commission
E	
EAC	East African Community
EC	Electoral Commission
EIA	Environmental Impact Assessment

EOC	Equal Opportunities Commission
ESCR	Economic Social and Cultural Rights
ESP	Expanding Social Protection
EU	European Union
F	
FAO	Food and Agriculture Organization
FDC	Forum for Democratic Change
FGM	Female Genital Mutilation
FHRI	Foundation for Human Rights Initiative
FPT	Fort Portal
FY	Financial Year
G	
GBV	Gender-Based Violence
GDP	Gross Domestic Product
GHFRD	Good Hope Foundation for Rural Development
GIZ	(German Agency for International Cooperation) Deutsche Gesellschaft für Internationale Zusammenarbeit
GLU	Gulu
GNPF	Greater North Parliamentary Forum
GoU	Government of Uganda
H	
HCII	Health Centre Two
HCIII	Health Centre Three
HCIV	Health Centre Four
HE	His Excellency
HIV	Human Immunodeficiency Virus
HIV/AIDS	Human Immunodeficiency Virus/ Acquired Immune Deficiency Syndrome
HRBA	Human Rights Based Approach
HRCU	Human Rights Centre Uganda
HRDs	Human Rights Defenders
HRE	Human Rights Education
HRNJ (U)	Human Rights Network for Journalists -Uganda

HSPR	Health Sector Performance Review
HSSIP	High School Students Internship Programme
HURINET (U)	Human Rights Network Uganda
I	
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Covenant on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance
ICPR	International Covenant on Political Rights
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and members of their families
ICT	Information Communication Technology
IDs	Identity Cards
IDPs	Internally Displaced Persons
IEC	Information, Education and Communication
IFPRI	International Food Policy Research Institute
IRCU	Interreligious Council of Uganda
IGAD	Intergovernmental Authority Development
IGP	Inspector General of Police
ILO	International Labour Organization
ISO	Internal Security Organisation
J	
J4C	Justice for Children
JJA	Jinja
JLOS	Justice, Law and Order Sector
K	
KCCA	Kampala Capital City Authority
L	
LAPSNET	Legal Aid Service Providers Network
LCI	Local Council One
LCIII	Local Council Three
LCs	Local Councils

LCV	Local Council Five
LDC	Law Development Centre
LGRB	Lotteries and Gaming Regulatory Board
Lt Col	Lieutenant Colonel
LWF	Lutheran World Federation
M	
MCA	Maragoli Community Association??
M & E	Monitoring and Evaluation
MDAs	Ministries, Departments and Agencies
MLG	Ministry Local Government
MAAIF	Ministry of Agriculture, Animal Industry and Fisheries
MoES	Ministry of Education 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
MoJCA	Ministry of Justice and Constitutional Affairs
MoLG	Ministry of Local Government
MoLHUD	Ministry of Lands, Housing and Urban Development
MPs	Members of Parliament
MUK	Makerere University Kampala
N	
NAADS	National Agricultural Advisory Services
NAP	National Action Plan
NAPHR	National Action Plan on Human Rights
NBS	National Broadcasting Services
NCD	National Council for Disability
NCDs	Non-Communicable Diseases
NCHRD-U	National Coalition of Human Rights Defenders Uganda
NDP II	National Development Plan Two
NEMA	National Environment Management Authority

NFA	National Forestry Authority
NGOs	Non-Governmental Organizations
NHRIs	Nation Human Rights Institutions
NIN	National Identification Number
NIRA	National Identification and Registration Authority
NLAP	National Legal Aid Policy
NMS	National Medical Stores
NTV	Nation Television
NUSAF	Northern Uganda Social Action Fund
O	
OAU	Organization of African Unity
OHCHR	Office of the High Commissioner for Human Rights
OPCAT	Optional Protocol to Convention Against Torture
OP-CEDAW	Optional Protocol to Convention on the Elimination of All Forms of Discrimination Against Women
OP-CRC-AC	Optional Protocol to the Convention on the Rights of Children in Armed Conflict
OP-CRC-IC	Optional Protocol to Convention on the Rights of the Child
OP-CRC-SC	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child prostitution and Child Pornography
OPM	Office of the Prime Minister
OWC	Operation Wealth Creation
P	
PC	Palliative Care
PCAU	Palliative Care Association of Uganda
PCHR	Parliamentary Committee on Human Rights
PEAP	Poverty Eradication Action Plan
PFMA	Public Finance Management Act
PHRO	Principal Human Rights Officer
PLE	Primary Leaving Examination
POMA	Public Order Management Act
PPTA	Prevention and Prohibition of Torture Act
PSU	Professional Standards Unit
PWDs	Persons with Disabilities

R	
RBD	Rapid Eye Movement Sleep Behavior Disorder
RCCs	Regional Coordination Committees
RLP	Refugee Law Project
RWECO	Rwenzori Consortium for Civic Competence
S	
SACMEQ	Southern and Eastern Africa Consortium for Monitoring Education Quality
SAGE	Social Assistance Grants for Empowerment
SCO	Senior Care Option
SDGs	Sustainable Development Goals
SGBV	Sexual and Gender-Based Violence
SHRO	Senior Human Rights Officer
SIM	Subscriber Identity Module
SRT	Soroti
STDs	Sexually Transmitted Diseases
T	
TASO	The Aids Support Organisation
U	
UAER	Uganda Association of External Recruiters
UBOS	Uganda Bureau of Statistics
UCC	Uganda Communications Commission
UDHR	Universal Declaration of Human Rights
UDHR	Universal Declaration of Human Rights
UDHS	Uganda Demographic and Health Survey
ULS	Uganda Law Society
UGX	Uganda shillings
UHRC	Uganda Human Rights Commission
UK	United Kingdom
ULC	Uganda Land Commission
ULRC	Uganda Law Reform Commission
UN-OHCHR	United Nations Office of the High Commission for Human Rights

UN	United Nations
UNCAT	United Nations Convention Against Torture
UNCRC	United Nations Convention on the Rights of the Child
UNDP	United Nations Development Programme
UNDRIP	United Nations Declaration on the Right of Indigenous Peoples
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commissioner for Human Refugees
UNHLS	Uganda National Health Laboratory Services
UNICEF	United Nations International Children's Emergency Fund
UPDF	Uganda People's Defence Forces
UPF	Uganda Police Force
UPR	Universal Periodic Review
UPS	Uganda Prisons Service
USD	United States Dollar
UWA	Uganda Wildlife Authority
V	
VACiS	Violence Against Children in Schools
VHTs	Village Health Teams
W	
WFP	World Food Programme
WHA	World Health Assembly
WHO	World Health Organization

ABOUT UGANDA HUMAN RIGHTS COMMISSION



Mandate

The functions of the Commission as per Article 52 (1) are listed as follows: -

- 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;
- 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;
- To establish a continuing programme of research, education and information to enhance respect of human rights;
- To recommend to Parliament effective measures to promote human rights including provision of compensation to victims of violations of human rights, or their families;
- To create and sustain within society the awareness of the provisions of this Constitution as the fundamental law of the people of Uganda;
- To educate and encourage the public to defend this Constitution at all times against all forms of abuse and violation;
- 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;
- To monitor the Government's compliance with international treaty and convention obligations on human rights; and
- To perform such other functions as may be provided by law.

Article 52(2) requires the Commission 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:

- (a) 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;
- (b) To question any person in respect of any subject matter under investigation before the Commission;
- (c) To require any person to disclose any information within his/her knowledge relevant to any investigation by the Commission; and
- (d) 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 Commission 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 Commission is 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 rules of procedures.

ACKNOWLEDGEMENT

The Uganda Human Rights Commission (UHRC) has come to an end of yet another year of execution of its constitutional mandate. The complex mandate that revolves, majorly, around the protection and promotion of human rights, involves many processes including stakeholder and public engagements, research and complaints handling, all in an effort to reach out and protect the rights of, mostly, the vulnerable; those that require protection because of, among others, their age, disability, social, political and economic positioning.

In that regard, the UHRC acknowledges the support; both technical and financial, of the Government of Uganda, development partners and Civil Society, in the execution of her mandate. Special appreciation goes to the UN Office of the High Commissioner for Human Rights (OHCHR), United Nations Development Programme (UNDP), United Nations Population Fund (UNFPA), United Nations Children's Fund (UNICEF), Justice Law and Order Sector (JLOS), Democratic Governance Facility (DGF), the British High Commission and Governments of Germany (GIZ), France, Netherlands, Ireland, Norway and Austria. We also appreciate all the support extended to the commission the successful production of this report.

The Chairperson and members of the Commission are acknowledged in a special way, for providing political leadership, policy guidance and strategic direction that steered the process leading to the production of this report. Special gratitude goes to the Members of the Editorial Board, in particular the Chairperson Mr. Med S.K Kaggwa, Hon. Meddie Mulumba (Member of the Commission), Directors: Ms. Ruth Ssekindi, Ms. Ida Nakiganda, Mr. Kamadi Byonabye, Ms. Margaret Ejang, as well as Ms. Rose Mary Kemigisha the Internal Editor and Mr. Charles Mukasa the Commission Planner. The report was also greatly facilitated by the expertise, skills and knowledge of the drafting committee members who included: Mr. Otim Paul, Ms. Sarah Nakhumitsa, Mr. Agirembabazi Willy, Mr. Ogwang Christopher Odyek, Ms. Phiona Kemigisha Birungi, Ms. Moreen Kiiza, Ms Rebecca Nanyonjo, Mr. Mwebaze Albert, Ms. Rebecca Tino, Ms. Priscilla Nyarugoye, Ms. Nancy Katwesigye, Ms. Theopista Twembi, Ms. Rita Nafula, Ms. Maureen Nalubega, Ms. Sheilla Bwebare, Ms. Roseline Amayo, Ms. Diana Kobusinge, and Ms. Betty Enangu.

The Commission further acknowledges the contribution of its Directorate of Monitoring and Inspections that coordinated the preparation and compilation of this report. Special gratitude goes to the former Director, Ms. Patricia Nduru, who, before passing over the mantle to the current Director, Ms. Ruth Ssekindi, worked tirelessly with the team comprising Ms. Priscilla Nyarugoye, Mr. Ogwang Christopher Odyek, Ms. Sarah Birungi, Ms. Dianah Akampereza, Ms. Diana Kobusinge, and Ms Felistas Atim-Odyek to ensure that this report is compiled and produced.

“ The complex mandate that revolves, majorly, around the protection and promotion of human rights, involves many processes including stakeholder and public engagements, research and complaints handling, all in an effort to reach out and protect the rights of, mostly, the vulnerable; those that require protection because of, among others, their age, disability, social, political and economic positioning.

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Patrick Mabiho Nyakaana
SECRETARY, UGANDA HUMAN RIGHTS COMMISSION



Staff under Operation wealth creation off-loading seedlings from the truck distributed by Operations Wealth Creation

EXECUTIVE SUMMARY

This is the Uganda Human Rights Commission's (UHRC) 20th Annual Report to Parliament. This report is cognizant of the UHRC's interventions and assessment of the human rights situation in Uganda in the year 2017 and consists of 11 chapters. The first 6 chapters are an assessment of the human rights situation in Uganda, while the subsequent chapters cover strategic interventions undertaken in line with the specific functions of the UHRC under Article 52 (1) of the Constitution of Uganda.

The report is primarily informed by; the complaints received by the Commission, investigations conducted; inspections of detention facilities, human rights education and outreach activities. Furthermore, the report is based on information arising out of monitoring; the state of food security in Uganda, the right to palliative care, right to fair and speedy hearing in the criminal justice system, increased occurrence of insecurity, land disputes and children's rights. The report makes reference to information provided during interviews, focus group discussions and UHRC stakeholder's engagements. Where relevant, reference to secondary information has been made. The chapters of the report are summarized below:-

CHAPTER 1:

FOOD INSECURITY AND OTHER EFFECTS OF FAMINE IN SELECTED DISTRICTS IN UGANDA IN 2017

The right to food is an integral part of the vision of a world without hunger where every child, woman and man can feed himself or herself in dignity. It is a human right that is formally recognised by the great majority of states including Uganda.

There were concerns about severe food insecurity in the country in 2017 that resulted into famine. The famine ravaged several parts of the country from the months of January to June. The famine was attributed to drought, unstable rains and incidences of diseases and pests especially the fall armyworm. Several households went without adequate food, and only a few households were able to afford three meals a day.

Against this background, this chapter focuses on the status of enjoyment of the right to food, based on the Commission's monitoring of the causes of food insecurity and effects of famine in selected districts in the country. The UHRC conducted a mapping of 60 districts that were affected by famine in 2017. This is in accordance with the international, regional and national human rights standards relating to the right to food.

The Commission established that in 2017, there was seasonal famine, mostly from January to June 2017. On the causes of food insecurity, the Commission established that several factors including, but not limited to, increased focus on cash crops, climate change, limited budgetary allocation to the ministry of Agriculture, Animal Industry and Fisheries and the outbreak of pests and diseases like the fall armyworm were responsible.

Recommendations

1. Government should formulate policies to ensure sufficient food production, accessibility, affordability and storage.
2. The Ministry of Finance, Planning and Economic Development should increase funding to
3. The Ministry of Finance, Planning and Economic Development and the Ministry of Agriculture, Animal Industry and Fisheries should establish a National Agricultural Bank.
4. The ministry of Agriculture, Animal Industry and Fisheries should develop a harmonized policy on agricultural extension services.
5. The Ministry of Agriculture government should provide adequate facilitation to agricultural extension workers.
6. The OPM together with the Ministry of Agriculture, Animal Industry and Fisheries (MAAIF) should construct national food reservoirs.
7. District local governments should undertake empowerment of households to construct granaries for food storage.
8. MAAIF should undertake to provide subsistence farmers with good-quality seeds, fertilizers and pesticides at a subsidy.
9. MAAIF should undertake to introduce village agriculture volunteers like the case is with the village health teams (VHTs) under the Health ministry.
10. Operation Wealth Creation (OWC) should extend its focus to food crop production.

11. MAAIF should enforce agricultural zoning and undertake to sensitise farmers on which crops should be grown in a particular area.
12. MAAIF should enforce the sugar policy.
13. Ministry of Finance, Planning and Economic Development should review the liberalization policy to allow for stabilization of farm produce prices.
14. The Ministry of Water and Environment should adequately equip the Uganda National Meteorological Authority so as to be thorough in its forecasts.
15. Parliament should pass the Food and Nutrition Bill 2009 into law.

CHAPTER 2:

AN ASSESSMENT OF THE RIGHT TO PALLIATIVE CARE IN UGANDA IN 2017

This chapter presents the Commission's findings on the status of palliative care as a human right in Uganda. This is within the broader framework of the right to health and its attendant components such as availability and accessibility.

Notable areas of concern relate to: the limited coverage of palliative care services countrywide, low budgetary allocation towards palliative care services, and slow progress in the implementation of the World Health Assembly 2014 Resolution regarding palliative care, amongst others.

The Commission thus recommends the following:

1. The Ministry of Health should expedite the passing of the National Palliative Care Policy in order to streamline the provision and regulation of palliative care in Uganda.
2. The Ministry of Health should institute clear monitoring and evaluation strategies for palliative health care services.
3. The Ministry of Health should consider reinstating the legal instrument allowing specially trained nurses to prescribe morphine.
4. The Ministry of Finance, Planning and Economic Development should consider increasing the budgetary allocations to the Health ministry to cater for palliative care services.
5. The Ministry of Health should ensure that the proposed National Health Insurance Scheme should cover palliative care.
6. Implement the various United Nations (UN) resolutions on provision of palliative care.
7. Scale up training of palliative care human resource.
8. The Ministry of Health should strengthen national district coordination mechanisms for the provision of palliative care services.
9. Integrate palliative health care service professionals into the mainstream public service structure.

CHAPTER 3:

THE RIGHT TO A FAIR HEARING IN THE CRIMINAL JUSTICE SYSTEM IN UGANDA IN 2017

This chapter presents an analysis of the enjoyment of the right to a fair hearing in the context of the criminal justice system by the civil courts in Uganda and highlights the challenges to the contribution of the Uganda Police Force (UPF), the Directorate of Public Prosecutions (DPP), the Judiciary and the Uganda Prisons Service (UPS) towards the realisation of the right. The chapter also makes recommendations to improve the enjoyment of the right to a fair hearing.

In the year 2017, the UHRC during its routine inspections of places of detentions in the country, interacted with pre-trial detainees who expressed concern over prolonged pretrial detention periods; and specifically, delays in producing suspects in court after arrests, delays in committal to the High Court for those charged with capital offences, and delays to conduct the actual High Court hearings after committal proceedings.

The UHRC observed that these concerns directly affected the enjoyment of the right to fair hearing and thus negatively impacted on the lives of the suspects and their families, the victims of crime or complainants and the entire community

Recommendations

1. The Ministry of Finance, Planning and Economic Development should adequately finance all institutions involved in the administration of criminal justice in Uganda.
2. Government should approve the National Legal Aid Policy.
3. Government should fill up all vacant judicial positions.
4. The Judiciary should operationalize all the magisterial areas to improve access to court by all.
5. The Judiciary should scale up the sensitisation of the public and people in conflict with the law on plea bargaining.
6. The UPF should prioritise the welfare of police officers and training of police officers in specialized and scientific criminal investigations.
7. The UPF should desist from parading suspects before the media.
8. Government should provide adequate remuneration to all civil servants.
9. The Justice, Law and Order Sector (JLOS) secretariat should engage with the various justice actors to address the issue of adjournments.
10. The JLOS secretariat should spearhead the strengthening and rollout of self-representation by petty offenders to all prisons.

CHAPTER 4:

THE RIGHT TO SECURITY OF PERSON AND INCREASED OCCURRENCE OF VIOLENT CRIMES

In the year 2017, there was a surge in violent crimes which affected the enjoyment of the right to security of person in Uganda. The violent crimes documented included gruesome killings, torture, assault, kidnap, sexual crimes and domestic violence leading in some cases to severe injuries, death, trauma and fear within communities. Whereas these cases were spread across the country, they were more pronounced in the districts of Masaka, Lwengo, Kayunga, Amuru, Kalungu, Wakiso and Kampala City. In some of the affected areas, people completely abandoned their homes while others joined neighborhood watch groups to keep their areas safe.

The Uganda Human Rights Commission (UHRC) monitored and documented the occurrence of such violent crimes and their impact on the enjoyment of the right to security of person. UHRC was particularly concerned about killings of vulnerable women within urban, centres compounded by the failure of security agencies to detect, prevent or even successfully investigate and prosecute the perpetrators.

Recommendations

1. The Uganda Police Force should increase security presence and foot patrols in the villages and highly populated places.
2. The Uganda Police Force should adequately facilitate its officers with the required tools and equipment to effectively perform their duties.
3. The Criminal Investigations Directorate of the Uganda Police Force should investigate and conclude all pending high-profile cases.
4. The Uganda Police Force should adopt modern technology like CCTV cameras and modern forensic investigation technology to curb and prevent violent crimes.
5. The UPF should strengthen and adequately facilitate the Professional Standards Unit.
6. The Criminal Investigations Directorate should undertake evidence-led investigations as opposed to mass arrests.
7. UPF should release its current and previous annual crime reports.
8. Conduct refresher courses and training especially for investigators.
9. Undertake security deployments that optimize human resource utilization.
10. Make physical regular inspection and audit of firearms in all security agencies.
11. As a matter of urgency, the Electoral Commission should organise the lower local council elections.
12. Security should properly scrutinize civilians being recruited in their ranks.
13. The National Security Council should urgently harmonise and streamline the roles of the various security agencies in the country.
14. Ministry of security should put in place mechanisms for increased collaboration and coordination amongst security agencies and the general public.
15. Government should increase remuneration of security officers, judicial officers and prosecutors, and adequately facilitate them to effectively do their work.

CHAPTER 5:

EMERGING HUMAN RIGHTS CONCERNS IN 2017

This chapter considers some of the key human rights concerns that occurred in 2017. These include increasing concerns on the human rights implications of gambling by the youth; the right to citizenship and identity, with a special focus on the Maragoli community; sexual violence in schools and their human rights implications; and an assessment of Operation Wealth Creation, a government of Uganda flagship programme aimed creating employment and eradicating poverty. The chapter also considers the processes leading to the amendment of the Constitution of the Republic of Uganda to lift the presidential upper and lower age limits.

Human Rights Implications of Gambling with a Focus on the Youth

This subsection considers the challenges associated with gambling, especially among the youth in Uganda. The Commission notes that gambling and its associated activities have implications on the right to education, especially among the youth, the right to gainful employment, the right to safety and security of person, the right to family support as well as the right of freedom of expression and opinion.

UHRC recommends the following:

1. The ministry of trade and Industry should consider reviewing the Lotteries and Gaming Act, 2016.
2. The Lotteries and Gaming Regulatory Board should open regional branches and widely disseminate the Lotteries and Gaming Act to the masses.
3. The Ministry of Finance, Planning and economic development should increase the budgetary allocations of Lotteries and Gaming Regulatory Board so as to effectively perform its regulatory functions.
4. The ministry of finance, planning and economic development should facilitate the Lotteries and Gaming Regulatory Board with adequate equipment to perform its functions.
5. The ministry of trade and industry should develop the responsible gambling policy to reinforce the existing law on lotteries and gaming of 2016 as well as the regulations of 2017.

Citizenship Rights with Special Focus on the Maragoli Community

This section of the report delves into the concept and recognition of the right to a nationality from the Ugandan perspective with specific focus on the national identification registration process and the resultant human rights concerns faced by the Maragoli community.

The key issues noted by UHRC relate to the denial to the Maragoli community of their right to a nationality and identity, discrimination and social exclusion, inadequate access to social services, lack of political participation and denial of access to justice.

The Commission thus recommends the following:

1. Ministry of Gender, Labour and Social Development should consider the plight of the Maragoli by verifying their situation and redressing their plight.
2. The National Identification and Registration Authority (NIRA) should expedite the process of national identification acquisition for all qualified people.
3. Parliament should expeditiously respond and address the concerns raised in the petition made by the Maragoli concerning their citizenship status.
4. Ministry of Internal Affairs and the Directorate of Citizenship and Immigration Control should verify the issue of migration of the Maragoli.

Assessment of Operation Wealth Creation and Associated Human Rights Concerns

In this subsection, the Commission assesses the effectiveness of the Operation Wealth Creation programme and its impact on the eradication of poverty and creation of employment by conducting interviews with the administrators of OWC, beneficiaries and non-beneficiaries in 25 districts.

The Commission identified a number of challenges that have implications on human rights and these include; distribution of adulterated inputs, lack of technical skills of the implementing officers, discrimination and lack of involvement of the intended beneficiaries, limited access to information and late delivery of inputs, among others.

The Commission thus recommends the following:

1. The parliament should put in place a legal framework for implementing Operation Wealth Creation.
2. The OWC should ensure that quality standards are met when procuring inputs to be supplied to farmers.
3. The OWC should involve the local leadership right from the grassroots for proper coordination and distribution of inputs.
4. The Ministry of Agriculture, Animal Industry and Fisheries and the Ministry of Local Government should carryout proper needs assessment and enterprise selection before inputs are supplied.
5. The Ministry of Agriculture, Animal Industry and Fisheries should recruit more extension workers/staff to monitor the programme.
6. The ministry of Agriculture, Animal Industries and fisheries, in conjunction with the Uganda National Bureau of standards should ensure that all seed companies are certified and proper mechanisms for follow up with beneficiaries after the seeds have been delivered to verify the inputs are in place.
7. The Ministry of Agriculture, Animal Industry and Fisheries should recruit more technical personnel with competence carryout extension work.
8. The Ministry of Agriculture, Animal Industry and Fisheries should review the progress of the Operation Wealth Creation.

Human Rights Concerns during the 2017 Constitutional Amendment Process

This sub-chapter presents the Commission's concerns arising from the processes leading to the Constitutional amendment, through the Constitution (Amendment) (No. 2) Bill, 2017. The particular human rights concerns noted by the Commission during the entire process include;- unlawful restrictions on freedom of expression, including that of the media, violation of the right to personal liberty through arbitrary arrests and detention of journalists, degradation of freedom from torture and inhuman treatment, threats to personal security manifested in mob action, use of excessive force in dispersing crowds, loss of life as well as restrictions of freedom of assembly, among others.

The Commission recommends that following:

- Members of Parliament should exercise restraint while debating and resolving contentious issues of national interest.
- Security agencies should observe and respect human rights in the performance of their functions as required of them under Article 221 of the Constitution and preserve the sanctity of Parliament as an independent arm of government.

Sexual Violence and Exploitation Against Children in Schools

The focus of this chapter is sexual violence and exploitation in schools. The findings identify forms of sexual violence in schools as defilement, early and forced marriages and exposure to pornographic scenes, among others. The major perpetrators identified include, teachers and fellow learners among others. The rights most affected were the right to education and the right to physical and mental health.

UHRC recommends the following:

1. The Ministry of Finance, Planning and Economic Development should provide adequate financing to the Education sector and the ministry of Education and Sports to effectively monitor the safety of children in schools.
2. The Ministry of Education and Sports should fast-track the implementation of the National Strategic Plan on Elimination of Violence Against Children in Schools (NSP VACIS).
3. The Ministry of Education and Sports as well as the Ministry of Gender, Labour and Social Development should devise and strengthen partnerships and coordination to address issues of sexual violence in schools.
4. The Ministry of Education and Sports should strengthen the regular collection of up-to-date and disaggregated data on violence against children.
5. Parliament should ensure that the Education (Pre-Primary, Primary and Post-Primary) Act, 2008 should be amended to ensure that girls who get pregnant while in school complete their studies.
6. The Ministry of Education and Sports should ensure that teachers who are perpetrators of sexual violence are punished as a deterrence measure.
7. The Uganda Police Force, the Directorate of Public Prosecutions and the Ministry of Justice and Constitutional Affairs in conjunction with ministry of Local Government should ensure speedy prosecution of perpetrators of sexual violence.

CHAPTER 6:

LAND DISPUTES AND HUMAN RIGHTS IN SELECTED REGIONS OF UGANDA: TRACING THE NEXUS

This chapter presents the highlights of a study conducted by the Uganda Human Rights Commission between January and July 2017 in several districts of Uganda. The study identifies the different forms of land disputes prevalent in Uganda and these include family disputes, forced evictions, disputes over compensation, land grabbing in its different manifestations, border disputes and issues regarding compensation. The human rights implications of the land disputes include violation of the right to property, non-fulfilment of the right to food, forced evictions, infringement on the right to culture and violation of various women's and children's rights.

The Commission recommends the following:

1. Reopen district boundaries in areas with border disputes.
2. Ensure use of standard maps in addressing land disputes.
3. Facilitate communities to acquire certificates of customary ownership.
4. Standardize the compensation rates for all land within the same area.
5. Ensure that payment of compensation is made prior to the taking away of land.

6. Conduct systematic land surveys and titling for customary land.
7. Strengthen institutions such as Area Land Committees, the District Land Boards and the Local Council (LC) Courts mandated to handle land administration.
8. Expedite and scale up the computerization of land titles.
9. Mitigate the impact of population increase and migration on land by coming out with systematic plans and action on urbanization.
10. Establish a Land Fund to enable the poor acquire land.
11. Ensure that adequate consultations with communities are done before exploration and mining licences are given to investors.
12. Verify the bona fide land owners and ensure that they are compensated prior to issuing prospecting, exploration and mining licences.
13. Implement the strategies in place for backlog reduction.
14. Strengthen alternative dispute resolution institutions and mechanisms.
15. Expedite the passing and implementation of the National Legal Aid Policy.
16. Take corrective measures against errant judicial officers in order to curb allegations of corruption.
17. Uganda Police Force should not take sides while handling land matters.
18. Intensify community policing so that a vast number of people can be reached.
19. Exercise professionalism in executing court orders relating to evictions.
20. Advocate for the review of all land-related laws to ensure that they effectively protect people's fundamental right to property.
21. Recognise customary land ownership in its own right without requiring registration.
22. Ensure that the Land Acquisition Act, 1965 is amended to meet the constitutional requirements for compensation under Article 26.
23. Streamline the operations so as to be accountable to the public when handling land matters.
24. Enter into collaborative forest management agreements with local communities.
25. Monitor the activities of the civil society organisations (CSOs) operating on land matters to ensure that they are impartial when addressing land issues.
26. Ensure that all government institutions have their land surveyed to avoid encroachment by private individuals and companies.
27. Resettle communities that have been evicted.
28. The media should exercise professionalism and responsible journalism.
29. Mitigate disputes within their communities through strengthened and recognised roles of clan leadership structures.
30. Politicians should desist from using their positions and offices to interfere with the lawful process of land matters, especially court orders.

CHAPTER 7:

UHRC POSITION ON SELECTED BILLS BEFORE PARLIAMENT

This chapter highlights UHRC's positions on bills before Parliament in the year 2017. This is in fulfilling its constitutional mandate under articles 48, 49, 51, and 52 of the Constitution of Uganda which give UHRC the responsibility of scrutinising, reviewing and analysing bills before Parliament, to ensure that they are in line with human rights standards. The bills analysed by UHRC include the Minimum Wage Bill, 2015; the Uganda National Health Laboratory Services Bill, 2016; and the Human Rights (Enforcement) Bill, 2015.

On the minimum wage bill, UHRC was particularly concerned about the non-applicability of the bill to security forces, public workers and government employees; sector-based minimum wage as opposed to national minimum wage; and non-alignment of the proposed bill with the Employment Act, 2006, among others.

In respect to the minimum wage bill, the Commission recommends that:

1. A provision should be included within clause 2 that ensures that the minimum wage for employees in the public sector is considered when computing the government salary scales for the lower scale ceilings.
2. The approach to a minimum wage should be a national minimum wage approach instead of a sectoral approach.
3. Limit the functions of the Minimum Wages Advisory Board to investigating minimum wages and making recommendations.
4. Remove the provisions that give High Court powers to the board.
5. The definitions in the bill need to be reviewed alongside the provisions of the Employment Act, 2006 to ensure that there is no contradiction between the two.

Regarding the Uganda National Health Laboratory Services Bill, 2016, the Commission is concerned about the intention to make forensics part of the health service delivery and the inadequate provision on affirmative action.

UHRC recommends the following:

1. The word forensic be deleted from Clause 5(b) of the bill.
2. The composition of the board under Clause 9(7) should include one-third to be women.

UHRC's position on the Human Rights (Enforcement) Bill, 2015 centred on lack of linkage with other institutions that are responsible for enforcing human rights; limitation of enforcement of rights to only those provided under the Constitution; High Court being the court of first instance; procedure for enforcement of violation of human rights by use of a plaint; an action for enforcement of human rights being heard in open court; rules of procedure; and the right to legal representation.

The Commission recommends the following:

1. The bill should make explicit the link between UHRC and other institutions that promote and protect human rights in the country.
2. The bill should include a section that protects the mandate of UHRC to receive, investigate and resolve human rights.

3. The scope of application under Clause 1 should be widened to include all rights as stipulated in the Constitution and in international and regional human rights instruments.
4. The Grade One Magistrate's Court should be the court of first instance instead of the High Court.
5. Clause 5 (1) of the bill should be amended to allow for an application by one or all of the following: a complaint form if Magistrates jurisdiction is in this matter is adopted; a petition supported by an affidavit; or a notice of motion similarly supported with an affidavit.
6. The proposal of hearing all cases in open court should be changed to include exceptions articulated in Article 28(2) of the Constitution.
7. The bill should provide for legal representation for vulnerable persons.

CHAPTER 8:

ASSESSMENT OF THE NATIONAL LEGAL FRAMEWORK ON THE RIGHTS OF THE CHILD TO DETERMINE COMPATIBILITY WITH THE UN CONVENTION ON THE RIGHTS OF THE CHILD

This chapter identifies the legislative provisions that are incompatible with international standards and the gaps where the legislation fails to recognise, or does not adequately recognise or protect internationally recognised rights and principles. This is with a view to help guide the required legislative and policy reforms.

Uganda Human Rights Commission notes that some laws comply with the Convention on the Rights of the Child (CRC) while others do not comply with the CRC and other human rights standards.

The chapter also makes reference to the African Charter on the Rights and Welfare of the Child in the analysis. The recommendations under this chapter are specific to the different thematic areas that were considered during the assessment.

CHAPTER 9:

STATUS OF UGANDA'S REPORTING TO INTERNATIONAL AND REGIONAL HUMAN RIGHTS MECHANISMS

In line with Article 52 (1) (h) of the Constitution, this chapter highlights the status of Uganda's reporting to treaty bodies at both the international and regional levels, focusing on reporting activities done in 2017. It also highlights the progress on the implementation of the UN Universal Periodic Review (UN-UPR) recommendations and voluntary pledges.

From the findings, UHRC recommends the following:

1. The Ministry of Finance, Planning and Economic Development should increase funding to ministries, departments and agencies (MDAs) responsible for state reporting.
2. The Ministry of Foreign Affairs, the Ministry of Gender, Labour and Social Development, as well as the Ministry of Justice and Constitutional Affairs should implement the voluntary pledges and recommendations made by treaty bodies.
3. Parliament should make it a mandatory requirement for MDAs appearing before it to report on the progress of implementation of the recommendations of UHRC and UN-UPR.

CHAPTER 10:

GOVERNMENT COMPLIANCE WITH UHRC ANNUAL REPORT RECOMMENDATIONS

For the past years, UHRC has been making recommendations to various MDAs, aimed at improving the human rights situation in the country. The UHRC is however, concerned about the continued non-compliance with, most of its recommendations, which include: - the ratification of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT); enactment of a minimum wage; and ratification of the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption, among others.

This chapter tracks progress on Government's compliance with UHRC recommendations. It highlights the recommendations that were fully, partially or not complied with.

CHAPTER 11:

HIGHLIGHTS OF UHRC INTERVENTIONS IN 2017

Highlights of Interventions on Complaints Management

This subsection provides highlights on complaints management by UHRC in 2017. These include the number of complaints received by the Commission, number of complaints registered, complaints investigated, complaints referred to other institutions for further management and complaints resolved through mediation.

The subsection also considers some of the challenges encountered by the Commission during complaints resolution. The alleged violation of the freedom from torture with 306 complaints (33.4%) ranked highest among those registered. Complaints on violation of the deprivation of personal liberty through detention beyond 48 hours followed at 277 (30%).

Most of the complaints registered were against the UPF, totaling 419 (55.7%). Private individuals followed with a total of 210 (27.9%) complaints. Complaints registered against the Uganda People's Defence Forces (UPDF) were 44 (5.8%) and those against the UPS were 25 (3.3%) while those against Local Government were 11.

The commission makes the following recommendations:

1. The Ministry of Justice and Constitutional Affairs should handle matters proposed for amicable settlements in a timely manner.
2. The Uganda Police Force should ensure that it equips its officers with the necessary skills required to enable them execute their duties in compliance with human rights standards.
3. The Ministry of Justice and Constitutional Affairs should facilitate the appointment of more Members of the Commission to enhance speedy disposal of cases at the tribunal level.

Highlights on Conditions in Places of Detention

This subsection presents the findings and recommendations regarding the monitoring and inspection of the places of detention by UHRC in 2017.

The Commission conducted 1,033 inspection visits to places of detention in the year 2017; 406 of which were to police stations; 460 to police posts; 157 to prisons; 6 to remand homes; and 4 to military facilities. Some were initial inspection visits while others were follow-ups. UHRC was able to visit facilities with a combined total population of 26,954 inmates.

Key issues noted by the commission in these detention facilities include detention of juveniles with adult inmates, non-separation of inmates according to their offences and length of their sentences, long and arbitrary detention and the detention of civil debtors.

UHRC recommends the following:

1. All responsible MDAs should ensure that rights of inmates and staff are respected, including the improvement of staff facilities and conditions.
2. Increase funding to the Uganda Prisons Service (UPS) to invest in mechanisation of agriculture to enable it become self-sufficient in growing their food.
3. Review the civil procedure rules to include a provision prohibiting the detention of civil debtors.
4. The Ministry of Internal Affairs and that of Gender, Labour and Social Development (MoGLSD) should ensure that juveniles are separated from adult offenders in all detention facilities.
5. The Judiciary should implement the diversion guidelines and strengthen the mechanism for diversion of children away from the criminal justice system.
6. The UPS and UPF should completely phase out the bucket system.
7. The UPF should ensure that suspects in their custody are given three meals a day.

Highlights of UHRC Civic/Human Rights Education Programmes in 2017

In 2017, the UHRC continued to carry human rights and civic education interventions started in 2016. Grass-roots communities were targeted through baraza and road shows using the civic education vans; the youth were further engaged through human rights and peace clubs in secondary schools; and the general public was targeted through media programmes such as television and radio talk shows, radio spot messages and regular media briefs.

The UHRC was able to reach other sections of society through Information, Education and Communication (IEC) materials, training workshops and activities organised by stakeholders through partnerships while UHRC used the commemoration of selected international human rights days to do advocacy.

The Library and Documentation Centres continued to play a critical role in availing the required human rights information to enhance the observance of human rights; and research was conducted on the human rights implications of land disputes in selected districts in Uganda.

Key recommendations in regard to civic/human rights education include:

1. Government through ministry of finance should increase funding for UHRC's civic/human rights education programmes.
2. Government, through ministry of internal affairs should prevail on the Uganda Police Force to adhere to the constitutional requirements under articles 20 and 23.
3. Civil society organisations should join hands with UHRC in educating and urging Ugandans to fulfill their duties and responsibilities as they enjoy their rights.
4. As recommended in the previous report, the ministry of Justice and Constitutional Affairs should fast-track the approval of the National Civic Education Policy.

Highlights of Interventions in Finance and Administration in the Financial Year 2016/2017

The Finance and Administration function is crucial in rendering services that support the day-to-day activities and keep the offices running smoothly and efficiently.

The three main sources funders of UHRC in the financial year (FY) 2016/2017 were: the Government of Uganda (GoU), the Democratic Governance Facility (DGF) and the Justice, Law and Order Sector (JLOS). Development partners that funded specific activities were: United Nations International Children's Emergency Fund (UNICEF), United Nations Population Fund (UNFPA), United Nations Development Programme (UNDP), German Agency for International Cooperation (GIZ), the French Embassy and the UN Office of the High Commissioner for Human Rights (OHCHR).

Total funding from the various sources as highlighted was UGX 19.234 billion (Nineteen billion, two hundred and thirty-four million only). Government of Uganda (GoU) budgetary allocation was UGX 13.801 billion (Thirteen billion, eight hundred and one million only). The total amount received from development partners during the year was UGX 5.433 billion (Five billion, four hundred and thirty-three million only).

The Commission recommends the following in regard to funding:

1. Parliament, the Ministry of public service, Ministry of Finance should enhance the salaries for Members and staff of UHRC to match those earned by staff and Members in other statutory institutions.
2. The Ministry of Justice and Constitutional Affairs should fast-track the appointment of Members of the Commission to fill the vacant positions;
3. The Ministry of Justice and Constitutional Affairs should consider gender balance, in recommending candidates for appointment to the Commission.
4. The Ministry of Finance, Planning and Economic Development should make deliberate efforts to improve on the Medium-Term Expenditure Framework for wage, non-wage and capital development.
5. The Ministry of Finance, Planning and Economic Development should implement the president's directive to fully fund the UHRC to avoid donor dependency.



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Chapter 1:

Food insecurity and other effects of famine in selected districts in Uganda in 2017

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1.0 INTRODUCTION

The right to food is an integral part of the vision of a world without hunger where every child, woman and man can feed himself or herself in dignity. The right to food is internationally recognised and entails the entitlement of individuals to access adequate food and the resources that are necessary for the sustainable enjoyment of food security. It is an economic, social and cultural rights and places legal obligations on states to overcome hunger and malnutrition and realise food security for all.

The right to food is defined as the right to have regular, permanent and free access, either directly or indirectly by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food.¹ The food has to correspond with the cultural traditions of the people to which the consumer belongs, and which ensures a physical and mental, individual and collective, fulfilling and dignified life free of fear.²

Core elements of the right to food include availability, accessibility and adequacy. Availability requires that food should be available in quantity and quality from natural resources through the production of food, by cultivating land, by animal husbandry, or through other ways of obtaining food such as fishing, hunting or gathering. It also means that food should be available for sale in markets and shops.

Accessibility, on the other hand, requires that food should be physically and economically accessible in ways that do not interfere with the enjoyment of other human rights. Therefore, individuals should be able to afford food for an adequate diet without compromising the education for their children. Adequacy implies that food must satisfy dietary needs, taking into account the individual's age, living conditions, health, sex and occupation, among others. In addition, food should be safe for human consumption and should be culturally acceptable.

The primary responsibility for ensuring the right to adequate food and the fundamental right to freedom from hunger rests with national governments. It is generally acknowledged that hunger is both a violation of human dignity and an obstacle to social, political and economic progress. A number of countries including Uganda have enshrined the right to food in their constitutions.

The government has obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR) to ensure food security for all including during times of famine and natural disasters.

The right to food does not mean the right to be fed, but primarily the right to feed oneself in dignity. Individuals are supposed to meet their own needs through their own efforts and using their own resources. To be able to do this, a person must live in conditions that allow them to produce food or to buy it. To produce their own food, a person needs land, seeds, money and access to market. The right to food requires states to provide an enabling environment in which people can use their full potential to produce or procure adequate food for themselves and their families.

However, when people are not able to feed themselves with their own means for reasons beyond their control, for instance a natural disaster, the state must provide food directly. "The right to food protects the rights of all human beings to be free from hunger, food insecurity and malnutrition."³

1 United Nations Special Rapporteur on Right to Food - OHCHR Fact sheet No. 27.

2 United Nations Special Rapporteur on Right to Food - OHCHR Fact sheet No. 27

3 Jean Ziegler 2012 -What is the right to food<<http://www.ijrcenter.org/thematic-research-guides/economic-social-and-cultural-rights-2/>> last accessed 30th April 2018

Food security, on the other hand, exists when all people, at all times have physical and economic access to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life”.⁴ Food security is a precondition for enjoyment of the right to food. Food insecurity is the inadequate access by all people in a given location to adequate quantity and quality of food at all times. Famine is defined as an extreme lack of food and other basic needs where starvation, death and destitution are evident.⁵

There were concerns about severe food insecurity in the country in 2017 that resulted into famine. The famine, which ravaged several parts of the country from January to June, was attributed to drought, unstable rains and incidences of diseases and pests especially the fall armyworm. Several households went without adequate food and only a few could afford three meals a day.

Many stakeholders including members of parliament, religious leaders and cultural leaders, among others, expressed concern about the situation and the fact that government’s intervention was sporadic and inadequate. Through the Office of the Prime Minister (OPM) and members of parliament, government intervened by providing food aid that included beans, maize flour, rice and planting materials such as seeds and cassava cuttings, among others. The aid, however, was not sufficient to cover all the affected households. There were also concerns among the members of the public that the aid was not equitably distributed.

The Uganda Human Rights Commission (UHRC) monitored the situation of food insecurity and the effects of famine in selected districts in the country. A total of 60 districts were mapped as having been affected by famine in 2017; however, due to financial constraints, only a few of these were sampled.

The sample district were: Amuria, Katakwi, Serere and Kaberamaido in Teso sub-region; Luuka in Busoga sub-region; Busia and Butaleja in Bukedi sub-region; Rukungiri and Kanungu in Kigezi sub-region; Masaka, Lwengo, Kalungu, Sembabule, Kyotera, Rakai, Lyantonde and Bukomansimbi in greater Masaka; Kabarole in Toro sub-region; Kasese and Ntoroko in Rwenzori sub-region; Abim, Kotido, Amudat, Nakapiripirit and Kaabong in Karamoja sub-region; Isingiro in Ankole; Pader, Lamwo, Agago and Kitgum in Acholi; Amolatar and Apac in Lango sub-region; Kakumiro and Kagadi in Bunyoro sub-region; Bulambuli and Sironko in Bugisu sub-region.

The respondents included duty bearers, district officials especially from the Production, Health and Community Development departments, civil society organisations (CSO) in the sector of food security and rights holders at household level. The monitoring sought to establish causes of food insecurity and the effects of famine in 2017; and to make informed recommendations to government.

1.1 LEGAL FRAMEWORK

1.1.1. International legal framework

The right to adequate food as a basic human right is recognised in the Universal Declaration of Human Rights, 1948, as part of the right to a decent standard of living. Article 25 of the Declaration states: “Everyone has the right to a standard of living adequate for the health and wellbeing of himself and his family, including food...” It is also provided for in the International Covenant on Economic, Social and Cultural Rights (ICESCR) which to date has been ratified by 160 states including Uganda.

4 <https://www.disabled-world.com/fitness/nutrition/food security/>; Food Security Definition & General Information

5 <https://www.oxfamamerica.org/explore/stories/>; what is famine and how we can stop it. Accessed on 06/03/2018

Many international agreements have also affirmed the right to food, among them: the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979, the Convention on the Rights of the Child (CRC), 1989 and the Convention on the Rights of Persons with Disabilities (PWD) 2006.

Article 11 of the ICESCR stipulates that the States Parties “recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food” and affirms the existence of “the fundamental right of everyone to be free from hunger”. Freedom from hunger is considered to be the minimum level that should be secured for all, independent of the level of development of a given state. At another level, Sustainable Development Goal (SDG) 2 seeks to end hunger, achieve food security and improved nutrition and promote sustainable agriculture in the world by 2030, an aspiration towards the full realisation of the right to food.

1.1.2. Regional legal framework

At the regional level, the African Charter on the Rights and Welfare of the Child (1990) in Article 14(2)(c) and (h) recognises the right of children to nutrition, and the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (2003) recognises the right to food in Article 15.

1.1.3. National legal and policy framework

The right to food is provided for in the Constitution of Uganda under the National Objectives and Directive Principles of State Policy. Objective XIV states that: “The State shall endeavor to fulfill the fundamental rights of all Ugandans to social justice and economic development and shall, in particular, ensure that all Ugandans enjoy rights and opportunities and access to education, health services, clean and safe water, work, decent shelter, adequate clothing, food security and pension and retirement benefits”.

Objective XXII obliges the state to take appropriate steps to encourage people to grow and store adequate food; to establish national food reserves; and to encourage and promote proper nutrition through mass education and other appropriate means, in order to build a healthy society. Article 8A of the Constitution makes objectives XIV and XXII binding on the government and hence justiciable.

Government has also taken policy measures to improve the enjoyment of the right to food; including the Uganda Vision 2040 and consequently the second National Development Plan NDP II (2015/16 – 2019/20) that has identified food and nutrition security as a development issue and developed indicators to ensure its achievement. Follow-up national policy frameworks include the Uganda Food and Nutrition Policy 2003; Uganda Nutrition Action Plan (2011–2016 which was extended to December 2017).

1.2 SITUATIONAL ANALYSIS OF FOOD INSECURITY IN UGANDA

In the UN Millennium Declaration adopted by the General Assembly in 2000, states committed to halving the population of people suffering from hunger by 2015.⁶ The number of people affected by chronic food deprivation began to rise in 2014, going up from 775 million to 777 million in 2015 and is estimated to have increased further to 815 million in 2016.⁷ Much of the increasing food insecurity was attributed to conflicts exacerbated by climate-related shocks. The global food insecurity prevalence stood at 9.3% with the African continent having the highest prevalence of 27.4% in 2016.⁸

6 The Right to Adequate Food - OHCHR Fact Sheet No. 34.

7 State of Food Security and Nutrition in the World, 2017: Building Resilience for Peace and Food Security. Rome: FAO. 2017.

8 *Ibid*

According to the National Food Security Assessment Report, 2017, Uganda has had seasonal food insecurity over the last two years.⁹ The Report indicated that 69% of the population's food security situation was stable, implying that they had access to a variety of adequate food both from household stocks and the market; and could access two to three meals a day.¹⁰ Those facing stressed food insecurity were 26% of the population while 5% was classified as being in a crisis situation.¹¹

Whereas the population faced with stressed food insecurity had minimum adequate food consumption and accessed one or two meals a day, the population in a crisis situation had very limited food consumption that never satisfied their dietary needs, leading them to suffering high malnutrition. This category accessed one meal a day or nothing. It was further revealed that all regions of the country had a population that was faced with stressed food insecurity; with East and Central regions having the highest at 1.88 million, followed by South Western at 1.24 million, Teso at 1.1 million and West Nile at 1.04 million.¹²

In a crisis situation, the most affected were the poorest households with poor purchasing power owing to their low incomes, coupled with lack of food stocks at household level. This population mainly coped through food assistance, remittances from relatives, begging, stealing, wild food gathering and irreversible sale of productive assets to buy food.

The food insecurity was attributed to unstable rains and prolonged drought that increased incidences of diseases and pests such as cassava brown streak, cassava mosaic, maize stalk borer, striga and banana bacteria wilt that considerably affected production, thereby reducing availability and accessibility of food for the population. In addition, low crop and livestock production negatively impacted household food stocks, leading to increased reliance on markets for food. This situation was compounded by the increased demand from external markets like Kenya and South Sudan, leading to tremendous increase in food price and making it difficult for poor households to access food from the market.

1.3 GOVERNMENT INTERVENTIONS

Uganda made commitments through the legal framework to create an enabling environment, to facilitate food security to enable full realisation of the right to food and to protect her people from hunger. However, there are still gaps with respect to expeditious initiatives that explicitly guarantee food security and protect all people from hunger. A case in point is the Food and Nutrition Bill, 2009 which has not been enacted into law to provide for the enjoyment of the right to food and establishment of an institutional framework to deal with the issue.

1.4 POSITIVE DEVELOPMENTS

Uganda ratified treaties that recognise the right to food and seek to promote food security and guarantee freedom from hunger. Food and nutrition security has been identified as a development issue in the Uganda Vision 2040 and indicators developed in the second National Development Plan (NDP II) (2015/16 – 2019/20) to ensure its achievement.

9 The National Food Security Assessment report, January 2017.

10 *Ibid*

11 *Ibid*

12 *Ibid*

Other related national policy frameworks include the Uganda Food and Nutrition Policy 2003, the Uganda Nutrition Action Plan (2011–2016 which was extended to December 2017). Under the leadership of the National Planning Authority (NPA), a zero-hunger strategy was proposed as a result of the SDG2 Review Report, 2017.

There were other interventions by respective district local governments including tree planting, sensitisation on best farming practices, enactment of ordinances on environment conservation and youth livelihood programmes for vulnerable groups who implemented activities initiated to conserve the environment. Other programmes were initiated for school feeding for children, food supplements for underweights and mother care programme for pregnant mothers in Karamoja sub-region.

Civil society organisations such as World Vision Uganda and Hunger Project Uganda implemented programmes to build the capacity of households to attain food security through sensitisation on better farming methods, provision of improved and drought-resistant seeds and provision of small-scale irrigation equipment, among others.

1.5 FINDINGS ON STATUS OF FOOD INSECURITY AND CAUSES OF FOOD INSECURITY

1.5.1. Status of food insecurity

The country experienced seasonal food insecurity over the last two years.¹³ In addition, it was reported that “65 per cent of the population in Karamoja sub-region and 35 per cent of the population in the districts of Katakwi, Amuria, Serere and Kaberamaido accessed one meal or half a meal in a day as opposed to three meals while 50 per cent of the population in Pader, Lamwo, Kitgum, Agago, Amolatar, Butaleja, Rakai [and] Isingiro had access to a meal a day”.¹⁴

Similarly, UHRC monitoring of 36 districts in 2017 revealed the seasonal food insecurity especially between January and June 2017. The districts that were most hit by food insecurity were Isingiro, Luuka, Mororto, Abim, Amudat, Kotido, Butaleja, Katakwi, Amuria, Kaberamaido, Apac and Serere. Several of the households interviewed could not afford three meals a day. The District Production Officer, Kitgum revealed that 12% of the households accessed one meal a day, 47% accessed two, while 41% accessed three. UHRC found that in Ongogoja sub-county in Katakwi district, affected households had local brew for lunch and preserved posho for supper as a coping mechanism.

It was further established that during the peak period of food insecurity, most households had one meal a day while some lived on a cup of dry tea or porridge. The common foods included posho, millet bread, cassava, sorghum, vegetables and silver cyprinid (*mukene*). The most affected persons were children, women and the elderly mainly due to their dietary needs and inability to cope in the crisis situation. UHRC found that the severely affected households were mostly those headed by women and/or had children as well as those headed by the elderly and persons with disabilities. In Butaleja district, for instance, the family of Mr. Hasahya Mubakali, a visually impaired man with a visually impaired wife and a visually impaired nephew, only relied on handouts from neighbours to get a meal.

13 National Food Security Assessment report, January 2017.

14 <http://www.monitor.co.ug/News/National/Millions-of-Ugandans-in-45-districts-starving--says-Government/688334-3440478-8uj0buz/index.html>- Accessed on 08 March 2018.

1.5.2. Causes of food insecurity

(a) Increased focus on cash crop production

Uganda is taking steps to commercialise the agriculture sector, for example by increasing cultivation of cash crops and expanding agro-processing activities. The Second National Development Plan (NDP II) seeks to decrease the number of subsistence farmers by half. Commercialisation can raise agricultural productivity that is crucial for reducing food insecurity. However, as the UN Special Rapporteur on the Right to Food noted, “it also presents risks, including over specialisation, unsustainable agricultural practices and vulnerability to food price volatility.”¹⁵

Relatedly, UHRC found that the increased growing of cash crops like sugarcane in Busoga, cocoa in Bundibugyo and tea in Kabarole led to a decrease in acreage for food crop production, thereby resulting in less food produced. People in areas that grew sugarcane, for example, relied on the proceeds to buy food as some of them especially young men either rented out all the land to sugarcane growers or utilised the land for growing sugarcane themselves.

According to the Production Officer of Luuka district, 65% of arable land in the district was dedicated to growing sugarcane. “The moment sugarcane prices increase, more land is committed to sugarcane growing”, he told UHRC. It was further established that after leasing out the land to sugarcane growers for a period of as long as six years, the younger men shifted to urban centres to live there, depriving rural areas of labour for food production. This exposed the children and elder members of the households to food insecurity as well as increased their vulnerability to famine.

(b) Climate change

Uganda for a long time had favourable climate and fertile soils that permitted production of a diverse range of crops and livestock. However, in the recent past, it experienced the worst consequences of climate change and weather variability that had a negative impact on food security. Climate change manifested in floods, prolonged dry spells (*La Nina*) and rise in temperature. Torrential rainfall (*El Nino*) led to human disease outbreaks such as cholera and diarrhoea, thus compromising health and agricultural productivity. Prolonged dry spells resulted in crop failure, pasture failure and livestock deaths. This also led to emergence of crop and animal pests and diseases such as the fall armyworm. Climate change not only affected food production in times of drought but floods led to destruction of crops, thereby affecting food production and food security.¹⁶

Climate change and weather variability had a huge impact on the ability of subsistence farmers to produce their own food. A Uganda Bureau of Statistics (UBOS) report of 2014 had indicated that under three quarters of the rural population in Uganda was engaged in subsistence agriculture. Only 2% of arable land was equipped for irrigation, meaning the vast majority of farmers depended on rain-fed agriculture.

Northern Uganda was particularly prone to drought and erratic rainfall. An earlier survey by the World Food Programme (WFP) in 2013 had indicated that nearly three quarters of households in northern Uganda suffered drought and almost all (94%) said it had led to a decline in food production. Households with no other source of income than subsistence farming were particularly vulnerable to food insecurity because they lacked any financial buffer. Any crop failure or poor harvest meant they had no surplus to sell, which, in turn, impeded their ability to purchase supplementary food.¹⁷

15 The role of development cooperation and food aid in realizing the right to adequate food: Moving from charity to obligation. Report presented to the Human Rights Council, 2009.

16 Strategies for sustainable food agriculture in Uganda. A presentation to the UHRC Annual Report consultative meeting, December 2017.

17 <https://www.wfp.org/content/uganda-comprehensive-food-security-and-vulnerability-analysis-cfsva-April-2013>



Food shortage, Women and children rounding water to catch fish in a swamp

The climate change that resulted into unstable rains and drought in the country resulted from deforestation, wetland degradation and poor farming methods like burning of bush before opening up land, among others. It was established that deforestation led to loss of forest cover in many parts of the country such as the slopes of the Rwenzori mountains; while encroachment on wetlands for instance around Mpanga river in Kabarole district and River Manafwa in Butaleja district resulted into wetland degradation and the decrease in volume of water. These affected the formation of both relief and convectional rainfall and hence the unstable and erratic rains.

All the districts monitored experienced unstable rains in 2016 and 2017 with prolonged drought that led to crop failure. A dry spell hit from January up to late April 2017 when the first rains began. The rains were followed by a dry spell from June to July 2017 which scorched crops that had been planted, resulting into massive crop failure and very poor yields. The situation was not helped by projections made by the Uganda National Meteorological Authority (UNMA) that misled people about the onset of rains. As a result, most households were left with very little or no harvest, resulting into food insecurity whereby households were unable to access three meals a day. In some districts like Busia, Katakwi, Pader, Lamwo, Kitgum, Amolatar, Agago, Butaleja and Isingiro, families fed on porridge and/or water during the peak of the food insecurity between March and June 2017. The districts that were most affected by the drought were Katakwi, Amuria, Kaberamaido, Serere, Isingiro, Apac, Butaleja, Busia, Luuka, Kitgum, Pader, Lamwo, Abim, Kotido, Kaabong, Amudat and Ntoroko.

(c) Low budgetary allocation to the agriculture sector

Agriculture is the backbone of the country's economy and a priority sector in the NDP II. Even when the budgetary allocation to the agriculture sector was gradually increasing in the past three financial years (FY), from UGX 479.96 billion¹⁸ in FY2015/16 to UGX 823.42 billion¹⁹ in FY2016/17; and UGX 828 billion²⁰ in FY2017/2018, it remained at a paltry 4% of the total budget which is far below the Maputo Declaration on Agriculture and Food Security, 2003 target of 10%. Moreover, little of the allocated budget went to services which directly target subsistence farmers. The funding to agricultural extension services which would train farmers on improved cultivation methods was only 4% of the overall agricultural budget (MoFPED, 2016). Accordingly, 19% of households surveyed in 2016 had accessed agricultural extension services, but this dropped to 14% for women-headed households and to 12% for households with farms less than two acres (IFPRI, 2016).²¹ Poor funding, therefore, undermines the effectiveness of programmes.

Findings also revealed that little government assistance was accorded to households engaging in subsistence farming to improve their food security. "Government allocated UGX 39.6 billion in the FY 2017/2018 budget geared towards increasing effectiveness of agricultural extension in improved delivery of Operation Wealth Creation Programme (OWC)".²² However, the OWC programme which aims at improving household livelihoods, was found to be focusing more on cash crops than food crops. Under its four-acre prosperity model, a farmer with four acres of land, for instance, would be required to apportion their land as follows: one acre each for perennial cash crops, fruit production, animal rearing for sale, leaving only one acre for food production. The fact that farmers in Uganda under OWC were being advised to use three quarters of their land for commercial agriculture and only a quarter for food production was not helping the food insecurity situation. Indeed, it was found that ordinary Ugandans, majority of whom were small subsistence farmers holding small pieces of land, hardly benefitted from the OWC programme as discussed extensively in chapter 5.

Furthermore, it was found that whereas government had deployed agricultural extension workers at sub-counties to provide advisory services to farmers, the workers were not adequately facilitated to do their work. They did not have official transport to take them around the sub-counties to sensitise farmers on better and modern farming methods, among other challenges. It was, therefore, not surprising that most of the households interviewed were not aware of the existence of these extension workers. Without knowledge on better and modern farming methods, households relied on poor farming methods that resulted into poor or low yields and hence food insecurity.

(d) Attack on crops by the fall armyworm

In 2017, the media was awash with stories about destruction of crops caused by the fall armyworm that emerged as a result of the drought. Similarly, UHRC found in all the districts monitored that farmers were affected by the outbreak of the fall armyworm. The armyworm attacked food crops, wiping out in some instances entire gardens of maize and sweet potatoes. It was established, for instance, that 18,260 households were affected by the armyworm in Abim district, 800 in Amudat, 23,000 in Nakapiririt, 53,700 in Apac and 49,000 in Busia.²³ In Awere sub-county in Pader district, it was reported that 2,500 households were affected by the armyworm.²⁴

18 <http://www.statehouse.go.ug/media/speeches/2015/06/11uganda-budget-20152016> Accessed on 08/03/2018.

19 <http://www.parliament.go.ug/index.php/about-parliament/parliamentary-news/851-uganda-s-26-trillion-budget> Accessed on 08/03/2018.

20 <http://www.monitor.co.ug/News/National/Tourism--Agriculture-get-row-deal-in-2017-budget-> Accessed on 08/03/2018.

21 <http://ebrary.ifpri.org/utills/getfile/collection/p15738coll2/id/130209/filename/130420.pdf>

22 <http://www.monitor.co.ug/News/National/Finance-Minister-Matia-29-trillion-budget/688334-3961326-hm8jnpz/index.html-> Accessed on 08/03/2018.

23 UHRC interviews with Abim, Amudat, Nakapiririt, Apac and Busia district local governments.

24 UHRC interview with Ray Olweny, Community Development Officer, Awere sub-county, Pader district.

Information from all the districts monitored revealed that there were fake pesticides on the market that had no effect on the armyworm. The situation was compounded by lack of government intervention in provision of genuine pesticides at subsidised prices. It was thus found that households without capacity to apply genuine pesticides looked on helplessly as the armyworm ravaged their crops. It was established that given lack of alternative sources of income, the affected households could not access food in the markets and hence suffered the brunt of food insecurity and the resultant famine.



A garden of potatoes attacked by the fall armyworm caterpillar in Butaleja district



Pests - Army worm, affected maize

(e) Population pressure on land and poor farming methods

Most of the households in the districts monitored had limited arable land that had been used over a long time without allowing it to fallow; moreover without use of fertilisers. Overuse of land for cultivation had led to a vicious cycle of exhaustion of soil fertility and decline of crop yields. Furthermore, land fragmentation, owing to population pressure, compounded the problem. Households still used rudimentary tools (such as the hand hoe) for farming, cleared bushes by burning before opening up land, used fake pesticides, poor-quality seeds and never applied fertilisers. This was attributed to the fact that the ordinary subsistence farmer could not afford, for example, an ox plough, fertilisers and hybrid seeds without subsidy from the government. Poor farming methods coupled with population pressure on the land led to soil degradation. The effect was low and poor yields with very little food for consumption and nothing to sell for cash, thereby compromising availability of food and hence exposure of households to food insecurity and famine.

(f) Inadequate measures to handle bumper harvests

During the monitoring, it was found that postharvest handling infrastructure was inadequate. Unlike in the past where households had granaries, very few of the households interviewed had granaries. Whereas those that were available were of poor quality without enough aeration to protect the grains from weevils, those that did not have, said they could not risk exposing their food to thieves by storing it in the granaries.

There was very little done to add value to excess produce not only to extend its shelf life so that it could be utilised later but to also increase the proceeds to the farmer. Thus, without proper storage facilities and lack of value addition, there was uncontrolled sale of food at very low prices immediately after harvest in all the districts monitored. In Northern and Eastern Uganda, it was revealed that businessmen from South Sudan and Kenya respectively, brought traders with trucks up to the villages who bought food during harvest time at very cheap prices. It was further found that many households sold entire gardens of cassava, maize, beans and sweet potatoes to the businessmen even before harvesting. This left the farmers with no food and, therefore, exposed them to food insecurity and famine. Famine could have been mitigated if the country had adequate postharvest management.

Whereas Objective XXII of the Constitution obliges the state to take appropriate steps to encourage people to grow and store adequate food and to establish national food reserves, among other things, no efforts were being made by both the central and local governments towards having silos for food storage at institutional and household levels. This is despite the fact that support for postharvest handling storage by the private sector and the cooperatives at parish level was indicated as one of the priorities of the agriculture sector in the FY2017/2018 budget.²⁵



A granary in Busime sub-county, Busia district

(g) Poverty

In light of the International Bill of Rights, poverty may be defined as “a human condition characterised by sustained or chronic deprivation of resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights.”²⁶ A household survey conducted by UBOS in 2016/2017 indicated that poverty in Uganda stood at 10 million (27%), up from 6.6 million in 2012/2013. The increase was attributed to poor harvest caused by a drought that occasioned hunger in many parts of the country.

Most of the households interviewed by UHRC relied on agriculture for a livelihood with no alternative sources of income. With poor harvests coupled with lack of alternative sources of income, households could not access food in the markets because they lacked the purchasing power, could not afford better farming methods like use of ox ploughs, hybrid seeds, irrigation and fertilisers, thereby compounding their food insecurity situation. The situation was exacerbated by the fact that some of the modified planting materials like cassava cuttings and maize seed produced sterile stems and seeds. This, therefore, prevented

²⁵ <http://www.monitor.co.ug/News/National/Finance-Minister-Matia-29-trillion-budget/688334-3961326-hm8jnpz/index.html> accessed on 08/03/2018

²⁶ Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights: Poverty and the International Covenant on Economic, Social and Cultural Rights – EC 2001, 10/05/2001 Available at <http://www2.ohchr.org/english/bodies/cescr/docs/statements/E.C.12.2001.10Poverty-2001.pdf> accessed on 09/03/2018.

farmers from saving seed to plant the following season, forcing them to buy more seed. Moreover, it was found that because of poverty, most households sold food at very cheap prices immediately after harvest, thus remaining with very little or nothing to consume during scarcity time.

1.5.3. Effects of famine in 2017



A malnourished child with a distended stomach in Busia district

(a) Ill health

Food insecurity or the inability of households or individuals to access food of adequate quantity or quality is an important determinant of malnutrition. It was established during the monitoring that as a result of famine, some children, especially those aged five years and below, suffered malnutrition while mothers gave birth to low-weight children. According to the statistics from the Busia District Health Office, 448 cases of undernourished children and 610 cases of low-weight births were recorded during the year. Pader district reported 521t cases and 68 adult malnourished cases.²⁷

A study by Food Rights Alliance indicated that 32% of women of reproductive age suffered some degree of anaemia as a result of inadequate food in 2017.²⁸ This not only exposed the mothers to the risk of death during childbirth caused by anaemia but also the risk of increase in number of low birth-weight babies.

(b) Loss of life

The death of a 30-year-old pregnant mother was reported in Atali village, Abako sub-county in Alebtong district who reportedly died after falling off a mango tree that she had climbed to pick some fruits to feed her five children that had gone without food for the whole day.²⁹ In addition, according to *The Investigator*, an online, newspaper, as of 1st February 2017, 40 people had died of hunger in Moroto district alone.³⁰ UHRC was however, not able to independently verify these death claims.

(c) Inability to engage in gainful work

It was found that exposure to famine had adverse effects on people's capacity to engage in gainful work. People weakened by starvation could not think properly and, therefore, could not concentrate on accomplishing a given task. Hungry people could not afford to till a large acreage of land for food production, therefore compounding the problem of food insecurity and resulting in famine. This was particularly in the Teso and Bukedi sub regions and more specifically in Katakwi and Butaleja districts respectively. It was also reported that famine reduced the country's workforce by four per cent.³¹

27 UHRC interviews with officials from Busia and Pader district local governments.

28 <https://reliefweb.int/report/uganda/uganda-facing-acute-food-insecurity-says-new-report> Accessed on 09/03/2018.

29 *Daily Monitor* newspaper of Friday 21st April 2017; <http://www.monitor.co.ug/News/National/Hunger--Pregnant-mother-falls-off-mango-tree--dies/688334-3897602-10cm94s/index.html> Accessed on 09/03/2018.

30 *The Investigator* of 2nd February 2017. Available at <http://theinvestigatornews.com/wp-content/uploads/HUNGER.jpg> Accessed on 24/02/2018.

31 <https://reliefweb.int/report/uganda/uganda-facing-acute-food-insecurity-says-new-report> Accessed on 09/03/2018.

Increased vulnerability

UHRC established that vulnerable persons like PWDs, children and the elderly when faced with food insecurity and famine could not cope, given their already precarious condition. A family of three in Butaleja district that were all visually impaired were found relying entirely on handouts from members of the community. They faced constant uncertainty about where their next meal would come from. In addition, an elderly woman aged 90 from Katakwi district was reportedly found dead in her hut; although with a history of mental illness, it was believed that her condition was exacerbated by famine that ravaged the district.³²



A family of visually impaired persons that rely on handouts from good Samaritans in Butaleja district



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Food shortage - Children in Magoro Sub county eating desert det locally known as 'Ecomai'.

(d) School children dropout

According to World Vision International, hunger hinders the ability to focus and study and, as a result, children who experience hunger are more likely to perform poorly academically, repeat a class and or require special assistance while in school.³³ UHRC established that at the peak of the famine in 2017, some children dropped out of school in Katakwi, Amuria and Isingiro districts, among others, the areas where there were no programmes for feeding children in school. Famine thus affected the future of those children that dropped out of school because the possibility that they would not return to school when the situation normalised was high.

32 Uganda: Hunger in Teso - Tales of Despair, Hardships as well as Death. <http://allafrica.com/stories/201705240589.html> Accessed on 09/03/2018.

33 <https://www.30hourfamine.org/2011/11/affect-of-hunger-the-brain/> Accessed on 09/03/2018.

1.6. RECOMMENDATIONS

In order to address the causes of food insecurity and mitigate the effects of famine in the country, the following are recommended:

- (a) Government should formulate policies to ensure sufficient food production, accessibility, affordability and storage.
- (b) The Ministry of Finance, Planning and Economic Development (MoFPED) should increase budgetary allocation to agriculture, being the backbone of the economy, to at least 10% of the national budget in line with its Maputo Declaration on Agriculture and Food Security commitment.
- (c) The ministry of Finance, Planning and Economic Development and the ministry of Agriculture, Animal Industry and Fisheries (MAAIF) establish a National Agricultural Bank to improve access to affordable credit to small-scale farmers.
- (d) The MAAIF should develop a harmonised policy on agricultural extension service
- (e) The government should provide adequate facilitation to agricultural extension workers.
- (f) The OPM, and the Ministry of Agriculture, Animal Industry and Fisheries (MAAIF) should undertake construction and management of national food reservoirs
- (g) District local governments should undertake empowerment of households to construct granaries for food storage.
- (h) MAAIF should undertake to provide subsistence farmers with good-quality seeds, fertilisers and pesticides at a subsidized cost.
- (i) MAAIF should undertake to introduce village agriculture volunteers like the case is with village health teams (VHTs) under the ministry of Health.
- (j) Operation Wealth Creation should extend its focus to food crop production
- (k) MAAIF should enforce agricultural zoning and undertake to sensitise farmers on which crops should be grown in a particular area.
- (l) MAAIF, together with district local governments in sugarcane-growing areas, should enforce the sugar policy.
- (m) There is need for the MoFPED to review the liberalization policy to allow for stabilisation of farm produce prices.
- (n) Ministry of Water and Environment should adequately equip the Uganda National Meteorological Authority so as to be thorough in its forecasts.
- (o) Parliament should operationalise Article 8A of the Constitution by passing the Food and Nutrition Bill, 2009 into law.



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Chapter 2:

An assessment of the right to palliative care in Uganda in 2017

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2.0 INTRODUCTION

The World Health Organisation (WHO) defines palliative care as:

An approach that improves the quality of life of patients and their families facing the problems associated with life-limiting and life-threatening illnesses through the prevention and relief of suffering by means of early identification and impeccable assessment and treatment of pain and the provision of physical, psychosocial and spiritual support.³⁴

In 2002, the World Health Organisation established a revised definition of palliative care to include children in need of palliative care. According to this definition, palliative care for children is the active total care to a child's body, mind and spirit and involves giving support to the family. It begins when an illness is diagnosed and continues regardless of whether or not a child receives treatment directed at the disease. This implies that health providers must evaluate and alleviate a child's physical, psychological and social distress.³⁵ Palliative care is concerned with the assessment and management of pain and symptoms among patients with life-limiting illnesses. It also includes attention to physical, emotional and spiritual pain.

Worldwide, only about 14% of people who need palliative care currently receive it.³⁶ Yet with increasing cases of HIV/Aids and cancer ailments, palliative care remains not only a very critical component of health care but also a fundamental human right. For instance, 70 percent of cancer patients are known to suffer severe pain, while pain prevalence at all stages of HIV/Aids infection is reported to be very high.³⁷ The need for palliative care in Uganda cannot, therefore, be underestimated. It is expected that the global need for palliative care will continue to grow as a result of the rising burden of non-communicable diseases and ageing populations.

It is against this background that the Uganda Human Rights Commission assessed the provision of palliative care services in Uganda in the year 2017. This was done within the broader framework of the right to health and its attendant components such as availability and accessibility.³⁸

This chapter, therefore, presents the results of the Commission's findings on the status of palliative care as a human right in Uganda. It is based on key informant interviews with respondents drawn from private palliative care service providers and ministry of Health officials, and a review of relevant policy and legal documents and other secondary sources. The chapter begins with a general introduction to palliative care, followed by a discussion of the link between palliative care and human rights; an assessment of the status of enjoyment of the right to palliative care in Uganda; positive steps taken and gaps that need to be addressed.

2.1 COMPONENTS OF PALLIATIVE CARE

Palliative care comprises use of pain-relieving drugs such as oral morphine, counselling and home-based care for patients that are treated in their homes. Trained health personnel are required to ease distress and discouragement by counselling patients, caretakers and members of their families to relieve them from the psychological fear of losing their loved ones. Counselling is also extended to children with terminal illness and members of their families.

34 Definition adopted from the World Health Organisation

35 WHO

36 <http://www.who.int/mediacentre/factsheets/fs402/en/>

37 Diederik Lohman, et al. 2010. "Access to pain treatment as a human right". <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2823656/> Accessed on 21/04/2018.

38 Refer to General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant) (CESCR). <http://www.refworld.org/docid/4538838d0.html> Accessed on 21/04/2018.

Life-limiting illnesses are those conditions for which there is no reasonable hope of cure and from which the patients are likely to die. Globally, the most common conditions causing life-limiting illnesses that would eventually need palliative care include, but not limited to, cancers, HIV/Aids, severe organ diseases such as cardiomyopathy, congestive heart failure, chronic pulmonary obstructive disease, emphysema, liver cirrhosis, end-stage organ failure, end-stage respiratory disease, end-stage heart disease, end-stage renal disease, end-stage liver disease, stroke, dementia, multiple sclerosis, motor neuron disease, Alzheimer's disease, and Huntington's disease, among others. Majority of these diseases will progress up to where the only feasible available option is palliative care for pain relief.

From the concept of palliative care, though some of the conditions listed above may not be life-threatening immediately, any patient in this category should be screened early to assess their needs for palliative care. Palliative care according, to ministry of Health, should be administered from the time of diagnosis, throughout the period of treatment.

WHO recommends that palliative care should be provided early in the course of life-limiting illnesses³⁹ from the time of diagnosis to the time of death, and beyond death. This means that palliative care should be extended not only to patients but also members of their families to enable them to cope with the distress of losing their loved ones. This is done through counselling and psychosocial support.

2.2 PALLIATIVE CARE AS A HUMAN RIGHT

There is a growing consensus that health and human rights are inextricably linked, especially when considered within the framework of equality and access. The right to palliative care has, therefore, been interpreted to be a component of the general right to health because of its ability to improve the quality of life of terminally ill patients. The provision of oral morphine and psychosocial and spiritual support assists patients to die in a dignified manner without pain. It is, however, important to note that palliative care should not be considered in isolation from the general right to health, and should not be misconstrued to mean the right to ensure total elimination of pain or suffering by the terminally ill.⁴⁰

The link between palliative care and human rights thus stems from the overriding need to ensure respect of the inherent dignity of the individual and the commitment to the principle of equality and non-discrimination. Thus, while there is no explicit articulation of the right to palliative care in the United Nations documents, it has been interpreted to fall within the broader meaning of the right to health. This has been more elaborated in United Nations General Comment No.14 on the Highest Attainable Standard of Health.⁴¹

2.3 LEGAL FRAMEWORK

Uganda has ratified a number of instruments at the international, regional and national levels that relate to the right to access health care as well as General Comments, Resolutions and the Sustainable Development Goal (SDG) No. 3 on good health and well-being for all and at all ages.

39 WHO, 2000

40 Brannan 2007

41 <http://www.refworld.org/pdfid/4538838d0.pdf>

2.3.1 International legal framework

At the international level, palliative care is considered part of the right to the highest attainable standard of health as pronounced in various International Human Rights Law instruments such as the Universal Declaration on Human Rights (UDHR) and in the International Covenant on Economic, Social and Cultural Rights.⁴²

Article 25 of the UDHR states:

Everyone has the right to a standard of living adequate for the health and wellbeing of himself and of his family, including food, clothing, shelter and medical care and necessary social services, and the right to their security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihoods in circumstances beyond control.⁴³

Article 5 of the UDHR further states that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”⁴⁴ Denial of pain treatment and lack of access to essential medicines such as oral morphine can in certain situations be an example of violation of the right to palliative care and amounts to torture, cruel, inhuman or degrading treatment of patients as a result of the excruciating pain and vulnerability that the patients have to endure.

Article 6 (1) of the International Covenant on Civil and Political Rights (ICCPR), to which Uganda is a state party, provides that every human being has the inherent right to life. This provision further requires states to adopt positive measures to increase life expectancy through the provision of palliative care services such as morphine in health centres; to provide psychosocial support, counseling as well as comfort for family members, friends and relatives of the terminally ill patients during the course of treatment; and provide spiritual and psychosocial support.

The International Covenant on Economic, Social and Cultural Rights (ICESCR), to which Uganda is state party, recognises ‘the right of everyone to the highest attainable standard of physical and mental health.’⁴⁵ Its Article 12 (2) further states that the steps to be taken to achieve the realisation of this right shall include those necessary for the creation of conditions which would ensure access to all medical services and medical attention in the event of sickness.

The ICESCR⁴⁶ further calls upon member states to undertake steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of their available resources, with a view to achieving progressively the full realisation of the rights recognised in the present covenant by all appropriate means, including particularly the adoption of legislative measures to ensure the provision of health care services.

2.3.2 Regional legal framework

The right to access palliative health care is also provided for in regional legal frameworks such as the African Charter on Human and Peoples’ Rights (ACHPR). Article 16 (1) of the Charter states: “Every individual shall have the right to enjoy the best attainable state of physical and mental health.” Subarticle 2 further obliges state parties to take the necessary steps to protect the health of the people and to ensure that they receive medical attention when they are sick. Article 5 of the Charter provides that every individual is protected from all forms of exploitation and degradation and from torture, cruel, inhuman or degrading punishment and treatment.

42 See Open Society Foundation’s using the UN Human Rights Systems to Advocate for Access to Palliative Care and Pain Relief. Available at <https://www.opensocietyfoundations.org/sites/default/files/using-the-human-rights-system-to-advocate-for-access-to-palliative-care-and-pain-relief-20171012.pdf>

43 United Nations, Universal Declaration on Human Rights.

44 Also cited in Article 7 of the ICCPR.

45 Article 12 of ICESCR.

46 Article 2.

The African Union (AU) in 2012 adopted the Common Position on Controlled Substances and Access to Pain Management Drugs⁴⁷ where it urges member states to ensure a functioning system for managing the availability of narcotic drugs and psychotropic substances to provide relief from pain and suffering by ensuring the safe delivery of the best affordable drugs to those patients who need them.

2.3.3 National legal framework

The Constitution of Uganda does not explicitly provide for the right to health or palliative care. However, there are provisions in the Constitution and other national laws and policies that protect the right to palliative care. These include General Objective XIV (b) of the 1995 Constitution which provides that the state shall endeavor to ensure that all Ugandans enjoy the right to access health services.

Article 24 of the Constitution provides that every individual should be protected from any form of torture or cruel, inhuman or degrading treatment or punishment. This, therefore, implies that denial of palliative health care services can amount to torture, cruel, inhuman or degrading treatment and punishment for those patients in severe pain.

2.4. CONTEXT OF PALLIATIVE CARE IN UGANDA

According to the World Health Organisation, there are an estimated 40 million people worldwide in need of palliative care, 78% of whom are living in low and middle-income countries. Lack of access to palliative care and pain control has also been identified by WHO as one of the largest inequalities in global health⁴⁸ because it is in most cases accessible to patients in urban settings and mostly by those in developed countries, while the poor and vulnerable are denied such care.



*Hospice Afica
Uganda Home
Visit*

47 http://www.un.org/en/africa/osaa/pdf/au/cap_controlledsubstances_2012.pdf

48 <http://www.who.int/features/factfiles/palliative-care/en/>

In Uganda, palliative care is a relatively new development. It can be traced to the establishment of Hospice Africa in 1993. This was followed by the establishment of Palliative Care Association of Uganda in 1999 to coordinate civil society in providing palliative care. Other key players offering palliative care services include African Palliative Care Association whose headquarters are in Uganda, Mildmay Uganda, the Aids Support Organisation (TASO), and other 13 standalone hospices.

In 2004, Statutory Instrument No. 24, which authorizes nurses and clinical officers with specialized palliative care training to prescribe oral morphine for pain relief of patients with terminal illnesses, was issued.⁴⁹ Furthermore, the Uganda Health Sector Development Plan 2015/16 – 2019/20 emphasizes the need for palliative care, noting that life lost due to non-communicable diseases (NCDs) is rising significantly with diabetes, cancer, cardiovascular diseases, self-harm disorder, interpersonal violence and road injuries increasing by about 100% or more since 1990. Palliative care is currently reflected in the National Health Policy II, 2010 as an essential component of health care services. This policy made palliative care a necessity for chronically and terminally ill patients.

In 2015, the ministry of Health endorsed a Draft National Palliative Care Policy which is now in its final stages. The palliative care policy is expected to provide a framework for standardized implementation of palliative care services in the country and to attract Government's financial investment towards the provision of palliative care services for cancer patients and those suffering from life-limiting illnesses.⁵⁰

Other policy documents that provide for palliative care include the Health Sector Development and Investment Plan 2015/16-2019/20 and the Health Sector HIV Comprehensive Communication Strategy 2013-2017 and Guidelines for Handling of Class "A" Drugs, March 2001. These guidelines were designed to support procurement, prescription, and dispensing of morphine for pain management⁵¹ by accredited health facilities and health personnel.

Current statistics from the ministry of Health indicate that 7,121 people were receiving palliative care in the period 2016/2017, much lower than the number receiving the same services in the period 2015/16, which 28,345 people were. While this is still low compared to the number of people that need palliative care palliative care services, it is an indication of progress, especially considering that in the period 2014/15, only 16 people had been reported to be receiving palliative care services.⁵²

2.5 UHRC'S ASSESSMENT OF PALLIATIVE HEALTH CARE SERVICES IN 2017

This section considers the status of palliative care services in Uganda, based on the assessment done by the Uganda Human Rights Commission in the year 2017. These were in respect to the nature of palliative care services available, types of health facilities that offer palliative care, age groups most susceptible to illnesses that require palliative care, and the link between palliative care and mortality.

2.5.1. Nature of palliative health care services

In regard to the nature of palliative care services being offered, the Commission established that 70% of the services were provided at health facilities, 25% at the district health office, while only 5% are home-based care. This demonstrates that institutional care is still the predominant form of palliative care service in Uganda.

49 Regulation 5 of Statutory Instruments 2004 No. 24 of the National Drug Authority (Prescription and Supply of Certain Narcotic Analgesic Drugs) Regulations, 2004.

50 www.ehospice.com/africa/ArticleView/tabid/10701/ArticleId/13961/language/en-GB/Default.aspx

51 http://www.urc-chs.com/sites/default/files/Uganda_Palliative_Care_Collaborative_Final_Report_Mar13_ADACompliant.pdf

52 Ministry of Health.

2.5.2. Nature and location of health facilities providing palliative care

Looking at the level of health facilities that provide palliative care, the Commission established that 40% of such facilities were at the health centre IV, followed by the district hospital with 27% and only 6% revealed regional referral hospitals. The Commission's assessment further revealed that of all the palliative care service provided, 85% were by government institutions while the rest were by either private health service providers or faith-based institutions, as illustrated in figure 1.

The Commission further noted that with regard to government facilities that provide palliative care are, most of them are at the level of health centre IV with 23 responses, followed by district hospitals with 16 respondents. The findings also reveal that, only four facilities provide the home-based nature of palliative care, mostly at a level of health centre II. They mainly provide the initial painkillers and first aid treatment before referral to facilities that provide palliative care as revealed by respondents.

2.5.3. Health facilities providing palliative care

A consideration of the location of these health facilities was also made, and in this regard, it was established that 56% of the health facilities that provide palliative care were located at the sub-county level, 36% located at a district level and only 8% at a village level. This is depicted in figure 2.

2.5.4. Age and gender group in need of palliative health care service

Against the background that non-communicable diseases contribute to the demand for palliative care services, the Commission sought to know the kind of people most prone to NCDs. The findings indicate that the most affected age group were people ranging from the age of 26 to 50, followed by those within the age bracket of 50 to 65. Those of 65 and above were the least affected by NCDs and thus less in need of palliative care services, as shown in figure 3.

FIGURE 1: NATURE OF HEALTH FACILITIES PROVIDING PALLIATIVE CARE

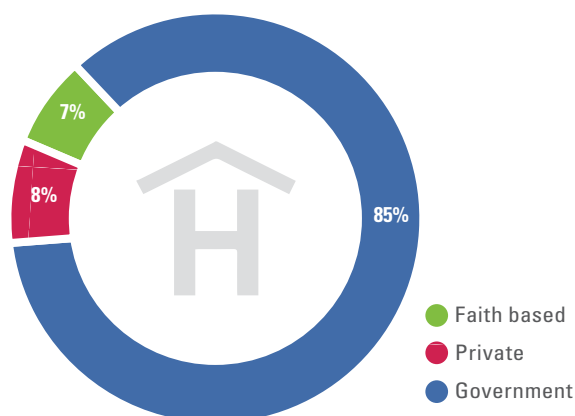


FIGURE 2: LOCATION OF HEALTH FACILITIES PROVIDING PALLIATIVE CARE

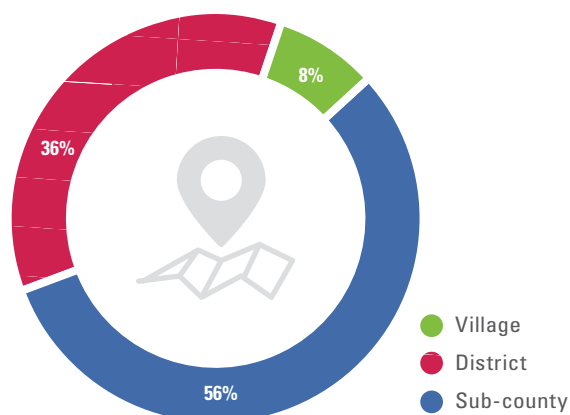
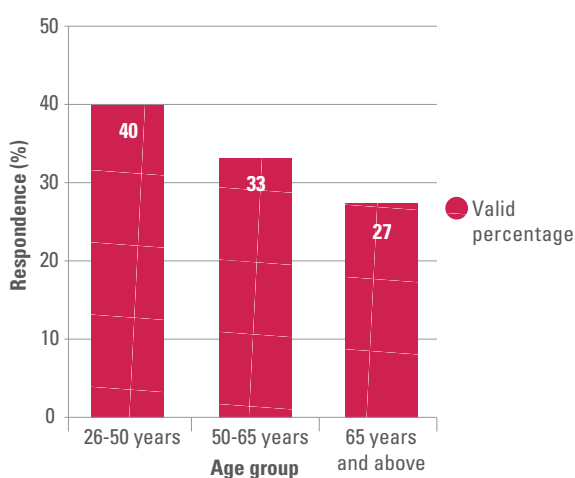


FIGURE 3: AGE GROUP RECEIVING TREATMENT FOR NCDs



When further disaggregated according to gender, the Commission established that females, at 55%, were more prone to NCDs than men, who were at 45%.

The pie-chart shows that females are more affected with NCDs and are treated with palliative care representing 55% compared to the males who are represented by 45%.

In terms of those who are currently receiving palliative health care services, the Commission's assessment revealed that a sum of 277 children with an average of 21.3 per region are being provided with palliative care, a sum of 210 with an average of 16.15 per region are PWDs provided with palliative care and a sum of 436 death caused by NCDs with an average of 33.5 per region.

2.5.5. Mortality related to lack of palliative care

The findings revealed that inadequate palliative care as the main cause of mortality by patients suffering from NCDs with 40% responses, followed by delays in seeking health care with 33.3% as shown in figure 5.

2.5.6. Availability of essential drugs for NCDs and palliative care

From the figure 7, majority of the findings revealed that essential drugs for NCDs were inadequate with a proportion of 63%.

2.5.7. Availability of essential drugs for palliative care

The availability of essential palliative care drugs (opioids/analgesics) were reported to be inadequate, at 58%, while 28% said they are lacking and only 14% said the essential drugs are adequate.

FIGURE 4: GENDER DISAGGREGATION OF THOSE AFFECTED WITH NCDs AND IN NEED OF PALLIATIVE CARE

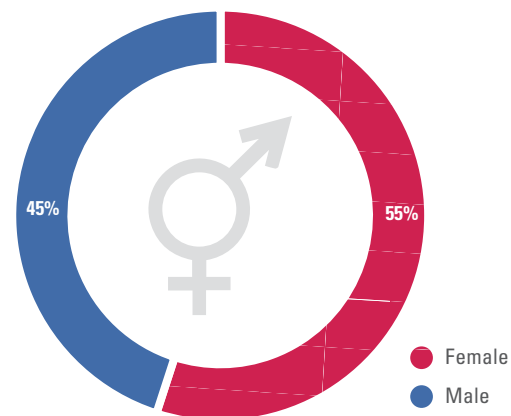


FIGURE 5: UNDERLYING CAUSES OF MORTALITY BY PATIENTS SUFFERING FROM NCDs

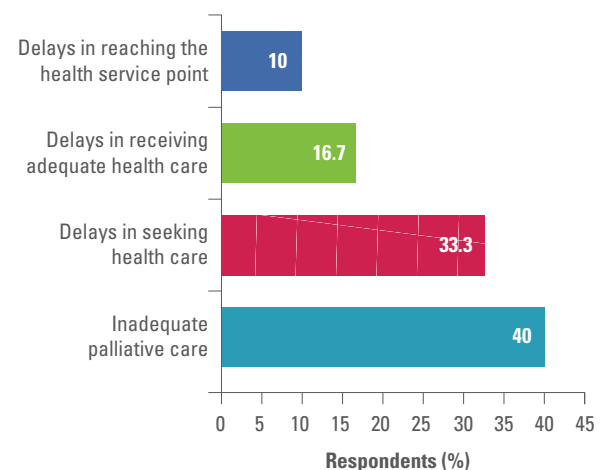
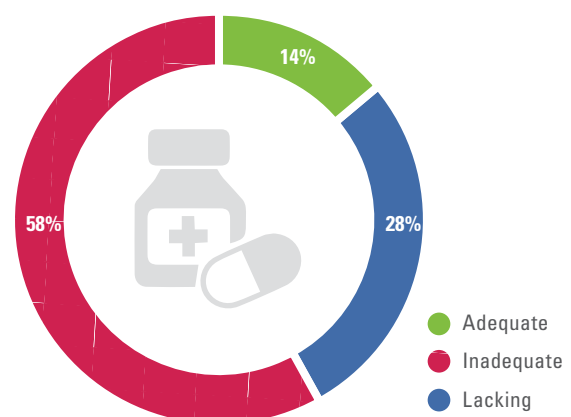


FIGURE 7: AVAILABILITY OF ESSENTIAL DRUGS FOR PALLIATIVE CARE



2.5.8. Estimated distance travelled by palliative care patients in Uganda

Findings from respondents revealed that majority of the palliative patients travel a distance of more than 5km from their homes to access treatment with 83% of responses and only 2% travel less than a kilometer, as indicated in figure 8.

2.5.9. Level at which palliative care is provided

Figure 9 represents palliative care provision at two levels. 81% of the respondent's revealed palliative care is provided at the facility level and 19% said they didn't know. However, 40 % of the other respondents revealed that provision of palliative care is home based while 60% said no to the question.

Majority of the palliative care provided at the facility or home base are inadequate as revealed by respondents with 56% response followed by 30% those who revealed lacking and only 14% said it was adequate.

2.5.10 Patients that require palliative care

Table 1 shows the number presented by the sampled respondents in regards to the patients that require palliative care; a sum of 1,240 males were recorded to be patients that require palliative care with an average of 77.5 per district whereas a sum of 1,925 female patients recorded to be suffering and requiring palliative care with an average of 120.3 per district. Given the same number of respondents as 16, the number of female patients that requires palliative care is more than the male patients.

FIGURE 8: DISTANCE TO THE NEAREST PALLIATIVE HEALTH CARE SERVICE PROVIDER.

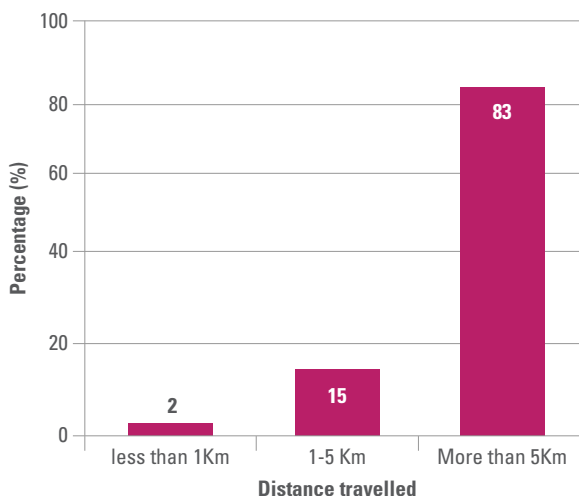


FIGURE 9: PROVISION OF PALLIATIVE CARE BY HEALTH FACILITY

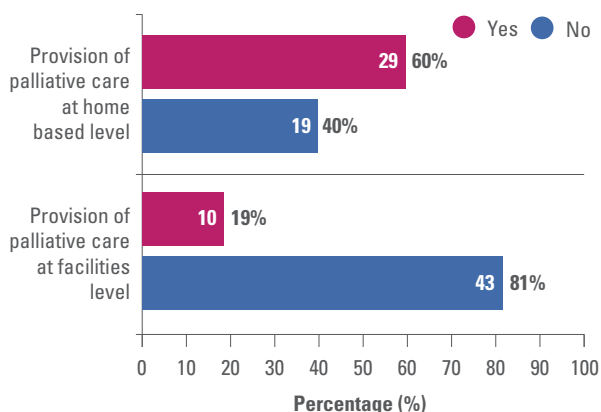


FIGURE 10: NATURE OF PALLIATIVE CARE PROVIDED

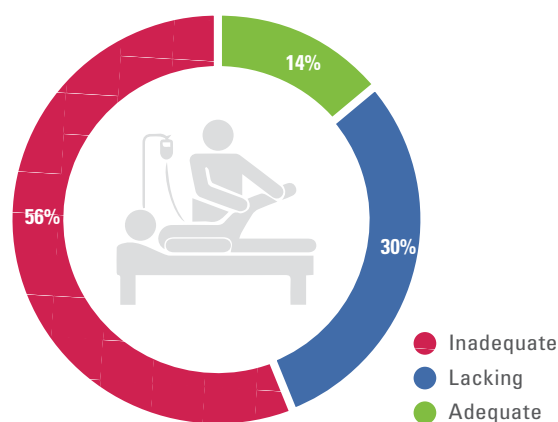


TABLE 1: PATIENTS IN NEED OF PALLIATIVE CARE

Descriptive statistics	N	Maximum	Sum	Mean
Number of male patients suffering from NCDs that require palliative care	16	738	1,240	77.50
Number of female patients suffering from NCDs that require palliative care	16	1,221	1,925	120.31
Valid N (list-wise)	16			

2.5.11 Patients receiving palliative care

The findings as indicated in table 2 revealed that a sum of 682 male patients were already receiving palliative care with an average of 42.6 per district and a maximum record of 178, while the female patients receiving palliative care were at a sum of 811 with an average of 50.7 per district.

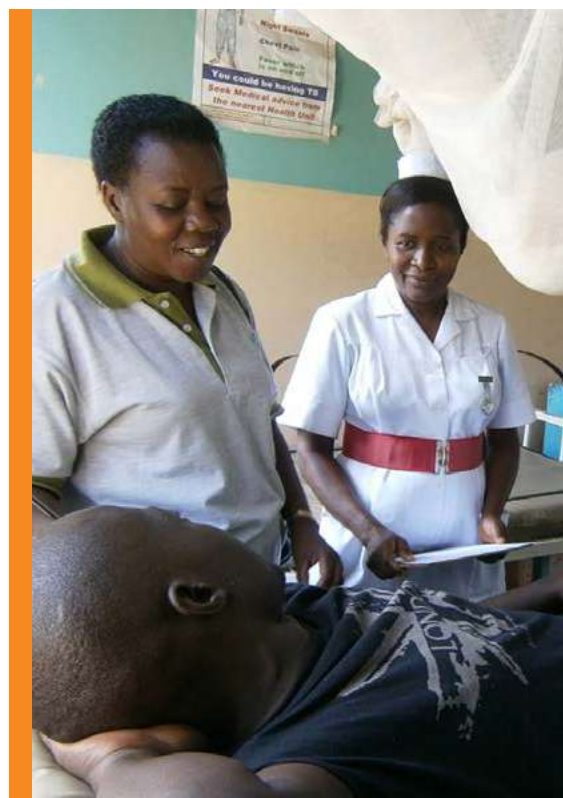
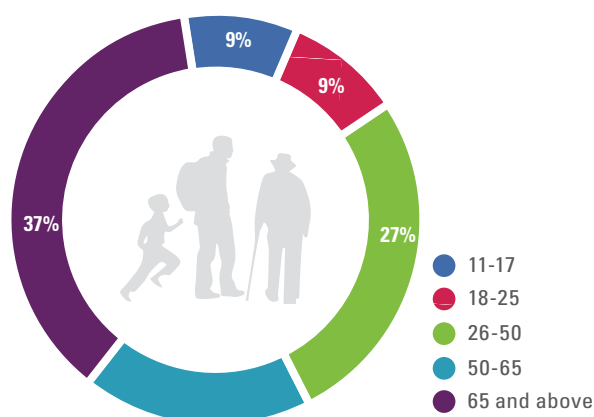
TABLE 2: PATIENTS RECEIVING PALLIATIVE CARE

Descriptive statistics	N	Maximum	Sum	Mean
Number of males receiving treatment	16	178	682	42.63
Number of females receiving treatment	16	178	811	50.69
Valid N (list-wise)	16			

2.5.12 Age group of patients receiving treatment of palliative care

The respondents revealed that 37% of the patients receiving treatments were of the age 65 and above, followed by the age between brackets of 26 to 50, and with 27% and the least age groups receiving treatment are aged 11 to 17 and 18 to 25.

FIGURE 11: AGE GROUP OF PEOPLE RECEIVING PALLIATIVE CARE



Officials of palliative care association of Uganda during a home visit to offer palliative care to one of their clients.

2.5.13 Children suffering from NCDs that are receiving palliative care

The table 3 indicates findings from respondents on the number of children suffering from NCDs that are receiving palliative care; the sum of male children being 60 with an average of five per district and a sum of 43 female children with an average of 3.9 per district.

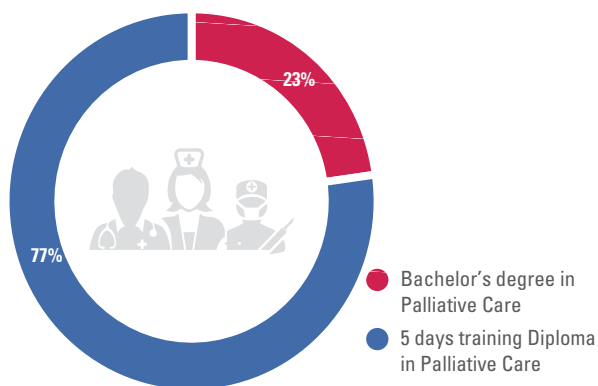
TABLE 3: CHILDREN RECEIVING PALLIATIVE CARE

Descriptive statistics	N	Minimum	Maximum	Sum	Mean
Number of male children suffering from NCDs that are receiving palliative care	12	0	24	60	5.00
Number of female children suffering of from NCD that are receiving palliative care	11	0	25	43	3.91
Valid N (list-wise)	11				

2.5.14 Staff qualifications and palliative care

Figure 12 shows the proportion of staff qualification levels to handle palliative care; 77% of the respondents revealed that they received a five-day training diploma in Palliative Care while 23% had a bachelor's degree in Palliative Care.

FIGURE 12: STAFF QUALIFICATION AND PALLIATIVE CARE



PCAU-MPCU Home Visit

2.6 POSITIVE DEVELOPMENTS

UHRC commends the government of Uganda, specifically the ministry of Health, for the following:

1. The ministry of Health, working in partnership with the Palliative Care Association of Uganda (PCAU) and other partners (both public and private) made tremendous progress by ensuring that there is affordable and culturally appropriate palliative care in the country's health system. As a consequence, Uganda is considered to be a model for palliative care in Africa due to progressive policies, strong advocacy and active palliative care organisations.
2. As of April 2016, there are 203 health facilities that provide some form of palliative care in 90 districts across Uganda. These include: Mulago National Referral Hospital, 13 regional referral hospitals, 70 general hospitals, 65 health centres IV, and four health centres III. Some 50 private health facilities also provide palliative care services and these include 11 standalone hospice centres, and other organisations, with programmes extending into the communities they serve⁵³. The ministry of Health, in collaboration with the Palliative Care Association of Uganda (PCAU), has accredited these facilities to provide palliative care services.
3. The fact that palliative care is reflected in the Health Sector Development and Investment Plan, is a sign of government's commitment to ensuring that palliative care is part and parcel of the overall national health care programme.
4. The move by the ministry of Health in providing the lead role of coordination and creating a desk under the Curative department, whose sole purpose is to address issues relating to palliative care in Uganda.
5. Spearheading the different coordination meetings with the Palliative Care Association of Uganda. These include the quarterly meetings of the palliative care stakeholders (PC Country Team Meeting) to share coordination and feedback on their activities. This is in addition to the monthly oral morphine meeting by stakeholders to review and streamline any emerging challenges.
6. Ensuring that oral morphine and other essential palliative care medicines such as laxatives to address the side effect of constipation are included in the Uganda Essential Medicines List since 2004.
7. The integration of palliative care services within the existing health services since 2001. The Commission specifically commends the government for ensuring that palliative care services are available in 90 districts, all the 14 regional referral hospitals and in health centres III and IV. This is in addition to ensuring that all palliative care service providers are accredited prior to offering the services.

2.7 GAPS IN THE PROVISION OF PALLIATIVE CARE SERVICES

Although Uganda has been ranked as one of the best palliative care providers in Africa, the Commission notes with concern that a big percentage of Ugandans in need of palliative care cannot access it, and yet there is a growing need for the service that is also a human right.

The Commission, therefore, takes note of the following gaps in the provision of palliative care:

1. Palliative care is limited to urban areas. Only 90 districts in Uganda have palliative care services. Of these, palliative care is only provided in a few health facilities such as referral hospitals, health centres IV and health centres III. According to the ministry of Health, 80% of palliative care services are offered in urban areas. Health centres II which are closer to the rural population often lack palliative care services.

⁵³ https://www.pcauganda.org/wp-content/uploads/2017/02/PC-FACTSHEET_Final-1.pdf

2. Hence, pain management remains inaccessible to most people who need it. The World Health Organisation (WHO) estimates that 40 million people in the world are in need of palliative care, 78% of them living in developing countries; whereas only 14% of the world's population is presently accessing palliative care services.⁵⁴
3. While the number of people in need of palliative care keeps on rising due to increased incidence of non-communicable diseases, access to palliative care is still limited. This is based on the fact that as of December 2017, only 4.8% of hospitals had these services⁵⁵. The Uganda Health Sector Development Plan, states "Palliative care services are being offered by about 4.8% of the hospitals," indicating a large gap in the provision of these crucial services in Uganda.⁵⁶ In addition, according to the Uganda Health Sector Performance Review (HSPR), 2015, only about 10% of Ugandans who need palliative care can access it.
4. Contrary to the provisions of the International Covenant on Economic, Social and Cultural Rights which oblige governments to take steps, through legislative and other means, towards enhancing the realisation of the right to health in general, the government of Uganda is yet to come up with a National Palliative Care Policy. This is also contrary to the World Health Assembly Resolution of 2014, which called upon the member states "to develop, strengthen and implement, where appropriate, palliative care policies to support the comprehensive strengthening of health systems to integrate evidence-based, cost-effective and equitable palliative care services in the continuum of care, across all levels, with emphasis on primary care, community and home-based care, and universal coverage schemes"⁵⁷.
5. The limited funding to the Health ministry in general and to palliative care service provision in particular. The World Health Assembly urges all member states "to ensure adequate domestic funding and allocation of human resources, as appropriate, for palliative care initiatives, including development and implementation of palliative care policies, education and training, and quality improvement initiatives, and supporting the availability and appropriate use of essential medicines, including controlled medicines for symptom management."⁵⁸
6. Whereas the government of Uganda has proposed the development of a national health insurance scheme, the proposal is not explicit on whether the scheme will consider palliative care as one of the health services.
7. Whereas the government of Uganda recognises training of palliative care health service providers as one way of enhancing access to palliative care in Uganda, there is still no clear mechanism of recognizing and ensuring growth of these health professionals within the public service structure. It's also clear that most of the health service professionals offering palliative care services are based in the urban settings, making them inaccessible to those in rural locations.
8. The slow pace at which government is implementing the recommendations of the World Health Assembly 2014. The WHA 2014 recommendations aim at strengthening palliative care as a component of comprehensive care throughout the life course. The Commission is specifically concerned about the absence of a credible system to gather, analyze and disseminate palliative care information.

54 https://www.pcauganda.org/wp-content/uploads/2017/02/PC-FACTSHEET_Final-1.pdf

55 As per the presentation by a representative of the Palliative Care Association of Uganda during the UHRC Annual report consultative meeting in December 2018.

56 HSDP, 2015/16 - 2020/21:5

57 http://www.apps.who.int/gb/ebwha/pdf_files/WHA67/A67_R19-en.pdf?ua=1&ua=1

58 http://www.apps.who.int/gb/ebwha/pdf_files/WHA67/A67_R19-en.pdf?ua=1&ua=1

2.8 RECOMMENDATIONS

1. The ministry of Health should expedite the passing of the National Palliative Care Policy in order to streamline the provision and regulation of palliative care in Uganda.
2. The ministry of Health should institute clear Monitoring and Evaluation strategies to fast-track implementation of the World Health Assembly Resolution (WHA 67.19) 2014 on 'Strengthening palliative care as a component of comprehensive care throughout the life.'
3. The ministry of Health should consider reinstating the legal instrument allowing specially trained nurses to prescribe morphine.
4. The ministry of Finance, Planning and Economic Development should consider increasing the budgetary allocations to the Health ministry to cater for palliative care services.
5. The ministry of Health should ensure that the proposed National Health Insurance Scheme covers palliative care.
6. Civil society organisations should work with government to implement the various UN Resolutions on provision of palliative care.
7. The ministry of Health should scale up training of palliative care human resource.
8. The ministry of Health should strengthen national district coordination mechanisms for the provision of palliative care services across the country especially at health centres II which are more accessible to the rural population.
9. The ministry of Health, working together with the Health Service Commission and ministry of Public Service should streamline palliative care specialists into the Public Service structure with a clear professional career development path.

2.9 CONCLUSION

The provision of palliative care has been identified by the World Health Organisation as an essential component to the preservation of life and to the attainment of the highest standard of health by member states. Given the increasing number of HIV/Aids, cancers and other non-communicable diseases in Uganda, palliative care is at its highest need. Lack of access to palliative care not only deprives human beings of the right to access health care services but also amounts to torture, cruel, inhuman and degrading treatment or punishment. The government of Uganda should recognise the big task ahead to ensure that all persons in need of palliative care across the country have access to it, as fulfillment of its obligation under international and regional treaties that it has ratified.



Chapter 3:

The right to a fair hearing in the criminal justice system in Uganda in 2017

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3.0 INTRODUCTION

The concept of fair hearing refers to the act of being just, impartial and without prejudice when deciding on a factual or legal issue during a judicial session.⁵⁹ The right to a fair hearing is central in the administration of criminal justice to create a balance between the rights of an accused person and the punishment of crime on the one hand; and on the provision of remedies to the victims of crime on the other hand. Thus, the Constitution of Uganda⁶⁰ provides that in the determination of civil rights and obligations or any criminal charge, a person shall be entitled to a fair, speedy and public hearing before an independent and impartial court or tribunal established by law; and that there shall be no derogation from the enjoyment of the right to a fair hearing.⁶¹

In order for the right to a fair and speedy hearing to be fulfilled and enjoyed in the administration of criminal justice, it requires a collective and deliberate effort of all the relevant stakeholders including the Uganda Police Force (UPF), the Director of Public Prosecutions (DPP), the Judiciary and the Uganda Prisons Service (UPS).

In 2017, UHRC during its routine inspections of places of detentions in the country, interacted with pre-trial detainees who expressed concern over prolonged pretrial detention periods. Specifically, delays were in production in court after arrests; in committal to High Court for those charged with capital offences; and in conducting the actual High Court hearings after committal proceedings. UHRC noted the concern and how it directly affected the enjoyment of the right to fair hearing and negatively impacted on the lives of crime suspects and their families, the victims of crime or complainants and the community as a whole; posing a major challenge to the administration of criminal justice.

This chapter, therefore, presents an analysis of the enjoyment of the right to a fair hearing in the context of the criminal justice system by the civil rather than the military courts in Uganda; highlighting the challenges to the contribution of the UPF, the DPP, the Judiciary and the UPS towards the realisation of the right. The chapter also makes recommendations to improve the enjoyment of the right to a fair hearing.

59 Bryan A. Garner, *Black's Law Dictionary*. 8th Edition. 2004, pp. 633 and 737.

60 Article 28(1) of the Constitution of the Republic of Uganda, 1995.

61 Article 44(c) of the Constitution of the Republic of Uganda 1995.

3.1 LEGAL FRAMEWORK

The right to a fair hearing is guaranteed by various international, regional and national legal instruments as highlighted below. These instruments provide for the components of the right to a fair hearing as a fair, speedy and public hearing before an independent and impartial court or tribunal established by law.

3.1.1 International legal framework

The International Covenant on Civil and Political Rights (ICCPR), 1966 mandates state parties to ensure equal treatment of men and women in the enjoyment of civil and political rights.⁶² Thus Article 14(1) provides that in both criminal and civil cases, everyone is entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The guarantee of a fair hearing extends to the presumption of innocence until a suspect or accused person is proved guilty according to the applicable law.⁶³

In addition, the ICCPR provides that no one shall be held guilty of any criminal act or omission that did not constitute a criminal offence under national or international law at the time it was committed. The limitation of charge and punishment of offenders extends to the weight of punishment or penalty imposed upon an offender.⁶⁴

3.1.2 Regional legal framework

Article 7(1) (a-d) of the African Charter on Human and Peoples' Rights (ACHPR) 1981 provides that a right to have a cause heard shall be enjoyed by everyone. The article elaborates that the right to be heard includes the right to appeal to competent national organs against acts violating fundamental rights as recognised and guaranteed by laws, conventions, regulations and customs in force; the right to be presumed innocent until proved guilty by a competent court or tribunal; the right to defence, including the right to be defended by counsel of one's choice; and to be tried within a reasonable time by an impartial court or tribunal. The ACHPR further provides that no one may be condemned for an act or omission which did not constitute a legally punishable offence at the time it was committed; and any penalty imposed for an offence should be expressly provided for at the time a criminal offence was committed.⁶⁵

In emphasising the right to a fair trial, the Lilongwe Declaration on Accessing Legal Aid in the Criminal Justice System in Africa, 2004 calls on governments to ensure access to legal aid for persons in the criminal justice which should include education on and /or mechanisms for alternative dispute resolution; providing legal aid in all stages of criminal justice processes; guaranteeing sustainability of legal aid and encouraging legal literacy.

In the spirit of strengthening the right to a fair and speedy trial, the African Commission on Human and Peoples' Rights resolved and adopted the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa, 2014.⁶⁶ The Guidelines specifically provide for the production of an arrested and detained person before a judge in not more than 48 hours unless such prescribed time is extended by a competent judicial authority. They also oblige states to enable persons in police custody access legal assistance from private and designated state lawyers or legal aid service providers; who should be skilled and qualified to handle cases presented to them by suspects.⁶⁷

62 Articles 3 and 26 of the ICCPR.

63 Article 14 (2) of the ICCPR.

64 Article 15 of ICCPR.

65 Article 17(2) of ACHPR.

66 Adopted at the African Commission on Human and Peoples' Rights meeting at its 55th ordinary session held on 28 April to 12 May 2014 in Luanda, Angola.

67 Guidelines 7 and 8 of the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa 2015.



Abdallah Kitatta leader of boda boda 2010 being escorted by military policemen to appear before the army court in Makindye

3.1.3 National legal framework

Article 21 (1) of the Constitution provides that all persons are equal before the law irrespective of their political, economic, social, cultural or any other status and thus prohibits any form of discrimination⁶⁸ in enforcing the law.

In the context of criminal justice, the enjoyment of the right to a fair hearing includes the respect for the right to personal liberty. Thus Article 23 of the Constitution guarantees a person's right to personal liberty except, among others, in the execution of a sentence or order of a court in respect of a criminal offence of which the person has been convicted or of an order of a court punishing the person for contempt of court or for the purpose of bringing a person before a court in execution of an order of court or upon reasonable suspicion that the person has committed or is about to commit a criminal offence under the laws of Uganda.⁶⁹

Even where a person's personal liberty is restricted upon reasonable suspicion that the person has committed or is about to commit a criminal offence, the Constitution provides for procedural safeguards against the violation of such a person's rights.

Such safeguards include the rights to be kept in a place authorised by law, to be informed immediately, in a language the person understands, of the reason of the arrest, restriction or detention and of his or her right to access a lawyer of his or her choice, the right to be released or brought to court in not later than 48 hours from the time of the arrest, the right to have the next of kin informed of the arrest and detention and access to medical treatment⁷⁰. A person arrested in respect of a criminal offence is entitled to apply to the court to be released on bail and the court may grant that person bail on such conditions as the court considers reasonable. On the other hand, the court is mandated to release a person charged with a minor offence on bail if he or she has spent 60 days on remand without trial or where a person charged with a capital offence has spent 180 days before being committed for trial.⁷¹

68 For example sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability.

69 Articles 23(1) (a) and (c) of the Constitution.

70 Article 23(2) to (5) of the Constitution of the Republic of Uganda 1995.

71 Article 23(6) of the Constitution of the Republic of Uganda 1995.

Article 28(1) of the Constitution guarantees a right to a fair, speedy and public hearing before an independent and impartial court or tribunal established by law. In the context of a criminal trial, the right to a fair hearing includes the accused person's right to be presumed innocent, be informed of the nature of the offence, be given adequate time and facilities to prepare a defence, be permitted to appear in court personally or through a lawyer, be afforded an interpreter and to call and examine witnesses. A fair hearing also includes the right of the accused person not to be charged with a criminal offence or sentenced retrospectively, the right to be tried in his or her presence, freedom from repeated trials for the same offence and double jeopardy, the right to a copy of the proceedings and the right not to incriminate themselves.⁷²

It should be noted that Article 44(c) of the Constitution guarantees the right to a fair hearing as an absolute right; thus, there shall be no derogation from its enjoyment.

In addition, the right to a fair hearing is protected by various laws such as the Police Act⁷³ under which UPF is mandated to protect the rights of individuals, enforce the laws of Uganda and to arrest suspects of crime, detain and dispose of them within 48 hours unless earlier released on bond.⁷⁴ This is in line with the constitutional provisions that guarantee the right to personal liberty.⁷⁵

The Prisons Act⁷⁶ requires that any person remanded to any prison by any court or other competent authority be delivered to the court or competent authority or be discharged at the time named in and according to the terms of the warrant. Under this section, the officer in charge of a prison is obliged to produce before court or other competent authority on the date of its sitting, persons arrested following the issuance of any warrant or order of any court or other competent authority.⁷⁷

In addition, the Magistrates Courts Act Cap 16, the Trial on Indictments Act Cap 23 and the Criminal Procedure Code Act Cap 116 provide for detailed criminal trial procedure taking into account rights of accused persons and thus enhance the enjoyment of the right to a fair hearing.

The Judiciary developed the Judicature (Plea Bargain) Rules, 2016 to improve the criminal justice system and timely resolution of criminal matters⁷⁸. The Rules provide an opportunity for the accused persons to be accountable⁷⁹ for their acts or omissions; and for the justice system to check case backlog, decongest prisons facilities⁸⁰ and involve victims in trial processes.⁸¹

The above legal framework notwithstanding, UHRC notes that there is no specific law on the duration of the pretrial detention period. Whereas the law provides for a period of 48 hours within which an arrested person should be produced in court⁸², and for their release on mandatory bail after spending 60 or 180 days on remand before trial has commenced,⁸³ the law is silent on the duration after committal and the actual trial. This lacuna in the law⁸⁴ has to a larger extent negatively affected the right to a fair hearing and is responsible for the increasing case backlog and its related challenges in the administration of justice.

72 Article 28 (3) to (12) of the Constitution of the Republic of Uganda 1995.

73 Section 4(1) of the Police Act cap 303.

74 Section 25 of the Police Act, and Sections 14 and 16 of the Criminal Procedure Code Act Cap 116.

75 Article 23 of the Constitution.

76 Section 5 of the Prisons Act 2006.

77 Section 31 of the Prisons Act.

78 Rule 3(a), the Judicature (Plea Bargain), Rules 2016.

79 Rule 3(e) The Judicature (Plea Bargain) Rules 2016.

80 Rule 3(c) The Judicature (Plea Bargain) Rules 2016.

81 Rule 3(f) The Judicature (Plea Bargain) Rules 2016.

82 Article 23 (4) (b) of the Constitution, and Section 4 of the Police Act.

83 Article 23(6) of the Constitution of the republic of Uganda, 1995.

84 The Magistrates Courts Act and the Trial on Indictments Act.

3.2 SITUATIONAL ANALYSIS OF THE ENJOYMENT OF THE RIGHT TO A FAIR HEARING

The right to a fair hearing envisages the right to be heard equitably, justly and publicly within a reasonable time, by a competent, independent and impartial court; and that there should be no derogation from these standards.

The duty to fulfill the right to a fair hearing in the context of criminal trials in Uganda lies with a cross-section of government ministries, departments and agencies (MDAs) in the Justice, Law and Order Sector (JLOS). The law provides for the different actors as independent in the execution of their roles; the effectiveness or the lack of this independence by one institution directly affects the effectiveness of the other.

According to JLOS,⁸⁵ there were 51,772 detainees in prisons in Uganda by 30th June 2017; 51.8% of the prison population being on remand. The average length of stay on remand was 10.4 months for capital offences and two months for non-capital offences after committal.

In terms of general case disposal, 46,036 cases were handled by Magistrate's courts, 1,359 by the High Court and 79 by the Court of Appeal and hence case backlog reduced to 24% in 2017 from 35% in 2016, while case disposal grew by 64% from 86,000 in 2011/2012 to 175,556 cases in 2016/2017. Some of the cases were disposed of after the 47 plea bargain sessions held in the financial year.⁸⁶

In addition, by 30th June 2017, the average caseload per Criminal Investigations Directorate (CID) officer was 22 files, the caseload per State Attorney was 245 cases (down from 820) while the average time taken to process forensic investigations was 90 days compared to 210 days in 2010/2011⁸⁷.

The success of a criminal trial and, therefore, the extent to which the right to a fair, speedy and public hearing is fulfilled mainly depend on the role of the UPF, the Office of the DPP, the Judiciary, the UPS and the defence lawyers. The roles of these stakeholders and the related emerging challenges are discussed here below.

3.2.1 The Uganda Police Force

The Uganda Police Force is by virtue of Article 212 of the Constitution⁸⁸ mandated to protect life and property, preserve law and order, prevent and detect crime and cooperate with civilian authority, other security organs and the population.

This mandate, coupled with the powers of arrest of suspects of crime, makes the UPF the entry point into the criminal justice system. Thus, the UPF in the preservation of law and order and the prevention and detection of crime, arrests suspected offenders, conducts investigations, charges offenders and produces the suspects in courts of law. In the performance of this function, UPF is obliged to respect, uphold and promote human rights⁸⁹, including the rights of suspects and accused persons set out in the various laws and human rights instruments.

85 Rachael Odoi Musoke. Presentation at the Uganda Human Rights Commission 20th Annual Report Consultative meeting, 5th December 2017.

86 Rachael Odoi Musoke: Presentation at the Uganda Human Rights Commission 20th Annual Report Consultative meeting, 5 December 2017

87 Rachael Odoi Musoke: Presentation at the Uganda Human Rights Commission 20th Annual Report Consultative meeting, 5 December 2017

88 The Constitution of the Republic of Uganda. 1995.

89 Articles 20(2) and 212 of the Constitution of the Republic of Uganda, 1995.

However, during the reporting period, there were instances in which the UPF fell short of the human rights standards in the performance of their functions and thus, affected the right to a fair hearing. Such instances included:

(a) Prolonged detention of suspects of crime in police facilities

Whereas the Constitution⁹⁰ provides that a person arrested or detained upon reasonable suspicion of his or her having committed or being about to commit a criminal offence shall if not earlier released, be brought to court within forty-eight hours from the time of arrest, this continued to be a challenge in 2017. Some suspected offenders were detained in police custody beyond the mandatory period of 48 hours. In fact, complaints relating to detention beyond 48 hours as a violation of the right to personal liberty accounted for 30.21% of 917 the total complaints registered by UHRC in 2017. They came second to those relating to torture or cruel, inhuman or degrading treatment or punishment.⁹¹

On the other hand, the UPF, through their interactions with UHRC, has argued that the delay in the production of suspects in court is attributable to internal factors such as delayed investigations due to inadequate human and financial resources and external factors such as the delay in sanctioning of files by the DPP and unavailability of judicial officers. UHRC has also learnt that some suspects overstay in police custody due to lack of transport to court; and complainants are sometimes asked to pay for the transportation of the suspects to court.

The above explanations notwithstanding, the delay in the production of suspects in court directly affects their right to personal liberty and fair and speedy trial, and thus not only delays justice to the accused persons and the victim(s) of crimes, but also exposes suspects to torture⁹² and other challenges resulting from the poor conditions of detention in police custody.

(b) Delayed police investigations

In the execution of their mandate to detect crime, UPF conducts criminal investigations on reported cases, the result of which informs the prosecution process. To enhance the production of suspected offenders in court within the prescribed period of 48 hours, the Inspector General of Police (IGP) has previously issued a directive for police to conduct investigations prior to the arrest of suspects in non-violent crimes⁹³. However, during the reporting period, some suspects were arrested before investigations and thus spent long periods in police custody pending conclusion of investigations. Even where suspects were produced in court, some were not immediately tried on grounds that police was still conducting investigations. The delay in investigations is attributable to various factors such as lack of motivated, skilled, specialised, and/or experienced human resource, inadequate experience, lack of adequate tools/equipment for investigations, lack of transport facilities, the use of a manual system of file storage and retrieval, and corruption.

Delayed investigations also result from the inadequate use of scientific methods and modern technology in investigations such as DNA machines, and fingerprint and lie detectors. In 2017, the Government Analytical Laboratory that is charged with carrying out and availing scientific analyses or investigations so as to enhance the right of access to justice for victims and the right to fair hearing for accused persons suffered a brain drain as a result of low wages, poor working conditions, inadequate funding and poor equipment that

90 Article 23(4)(b) of the constitution of the republic of Uganda, 1995.

91 See chapter on the highlights of UHRC interventions on complaints management.

92 The 19th Annual Report of the Uganda Human Rights Commission, 2016. Page 8.

93 Mudangha Kolyangha & Ronald Sebbe: Investigate cases before arrest, directs IGP Kayiuhura, *Daily Monitor*, 22nd August 2016. Situated at <http://www.monitor.co.ug/News/National/Investigate-cases-before-arrests--directs-IGP-Kayiuhura/688334-3353070-sgjgod/index.html> Accessed on 26/02/2018.

caused the scientists/skilled doctors to seek greener pastures outside the country.⁹⁴

According to the Government Analytical Laboratory, at the beginning of January 2017, there were 2,630 cases pending toxicology, 2,000 new cases pending analysis/investigations and 4,500 backlog cases⁹⁵ and yet it is a single laboratory in the whole country, and just a directorate in the ministry of Internal Affairs.

The incapacity of Uganda Police Force to conduct scientific investigations also affected the victims and complainants, especially regarding the sexual and gender-based violent crimes whereby mostly women and girls have to pay for the services of the private medical practitioners for medical examination, even where government health facilities exist.

The delay in the conclusion of police investigations in no doubt affected the right to a fair hearing, leading to long pretrial detentions, delay in the commencement and conclusion of trial and thus resulting in long remand periods.

(c) Use of torture as a method of investigation



The tortured suspects of the late AIGP Andrew Felix Kaweesi arriving at Nakawa high court May 5, 2017

Related to the above, UHRC is concerned about the continued use of torture of suspected offenders as a method of investigations.⁹⁶ In 2017, there were several media reports of torture while in detention of persons arrested in connection with the murder of Police Spokesperson AIGP Andrew Felix Kaweesi, especially at Nalufenya Police Station in Jinja district. In fact, the High Court found that the 22 suspects charged with the murder of AIGP Kaweesi were tortured while in detention, condemned the acts as a violation of their constitutional rights and awarded them compensatory and punitive damages with other consequential orders.⁹⁷

94 Kephher Kuchana, the director of the Government Analytical Laboratory as reported by NTV Uganda under title "Government Analytical Laboratory loses skilled staff due to poor pay and bad working conditions". Retrieved at <http://www.ntv.co.ug/news/local/23/jan/2017/government-analytical-laboratory-loses-skilled-staff-due-poor-pay-and-bad#sthash.h0oBgYmR.dpbs>

95 Ibid.

96 Torture had earlier on been found to be used as a method of investigations. See chapter 1 of the 19th Annual Report of the Uganda Human Rights Commission, 2016.

97 Abdu Rashid Mabazira & 21 Others versus Attorney General, Misc. Cause No. 210 of 2017. The judge was Hon. Lady Justice Margaret C. Oguli Oumo.

In addition, the UPF was also accused of using poor or primitive methods of investigations, thus causing delays in the conclusion of investigations. The *Daily Monitor* on 17th November 2017 quoted a judge of the High Court of Uganda to have said during a conference, “...because of police inefficiencies in investigations, the Force has now resorted to torturing suspects to extract evidence”.

In response to the various media reports on torture of suspects in police custody, His Excellency the President of Uganda General Yoweri Museveni, on 15th May 2017 wrote to the heads of the security organs thus:⁹⁸

“...It is, therefore, clear that torture in order to extract confessions (*okutatsya*) has three possible mistakes that may even interfere with the fight against crime. Number one, you may torture the wrong person, somebody who is totally innocent. This is very unfair. Secondly, somebody may admit guilt when he is innocent in order to be spared being tortured. This will make the real criminal escape in order to commit more crimes later. Thirdly, confessions by the criminals are not necessary. Even if the suspects do not admit their guilt, if the investigators do their work well (fingerprints, photographs, DNA tests, eyewitnesses, the use of other scientific methods, the use of dogs, etc), the criminals can get convicted.

The use of torture during criminal investigations affects the quality of prosecutions since the evidence obtained through torture is inadmissible against the accused person.⁹⁹ It is argued that many case files are closed after obtaining charge and caution statements which end up being successfully challenged at the trial as having been made under duress or torture, leaving nothing against the accused person.¹⁰⁰ This ultimately affects the right to a fair hearing and the delivery of justice to the victims of crime.

(d) Parading of suspects before the media

UHRC was further concerned about incidents in 2017 where UPF paraded suspected offenders before the media as those responsible for the crimes committed. A case in point was when the IGP on 24th April 2017 paraded 15 suspects before the media following several violent crimes in the greater Masaka region.¹⁰¹ They were paraded as the ones responsible for the killings in the region.¹⁰² This practice offends the rights of the suspects to the presumption of innocence in a criminal trial and creates unfounded biases in the minds of the public.

Some members of the public have also criticised UPF leadership for routinely appearing at the scenes of crime immediately after the crimes are committed.¹⁰³ Critics urge that such appearances by the IGP confuse levels of command and the Scene of Crime Officers' professional concentration is disrupted.¹⁰⁴ This affects the investigations since it has the effect of the actual culprits evading investigations, tampering with the

98 President's statement on torture released on Tuesday 16th May 2017. Accessed on 9th March 2018 at <http://www.statehouse.go.ug/media/presidential-statements/2017/05/16/presidents-statement-torture>

99 See Section 14 of the Prevention and Prohibition of Torture Act, 2012.

100 Hon. Justice J.W Kwesiga. Right to a fair and speedy hearing in administration of Justice. A paper presented at the 20th UHRC consultative meeting, 5th December 2017.

101 Greater Masaka comprises the present-day districts of Bukomansimbi, Kalangala, Kalungu, Masaka, Lyantonde, Lwengo, Sembabule, Kyotera and Rakai.

102 NTV Uganda Located at <https://www.youtube.com/watch?v=AHBvT6cL3YA>. Also Bukedde TV, as at <https://www.youtube.com/watch?v=LOZR7HDWuZs>. Both accessed on 26th February 2018.

103 According to Stephen Kafeero. Kayihura blames Entebbe, Wakiso killings on police, Saturday Monitor, 29th July 2017. Published at <http://www.monitor.co.ug/News/National/Kayihura-blames-Entebbe-Wakiso-killings-police/688334-4036066-x02g91/index.html> Accessed on 22nd February 2018). The IGP had appeared at the scenes of murder of women in Entebbe municipality, Wakiso district twice in one month.

104 Mr. Hebert R. Karugaba was quoted by Hon. Justice J.W Kwesiga in “Right to a fair and speedy hearing in administration of justice”, a paper presented at the 20th UHRC consultative meeting, 5th December 2017.

evidence and thus causing the cases to collapse.¹⁰⁵

(e) Invasion of courts and rearrest of accused persons upon their release on bail

The rearrest of accused persons released on bail manifested in two incidents in 2017. First, on 13th January 2017, Charles Wesley Mumbere, the Rwenzururu king who had been charged with terrorism, murder, aggravated robbery and attempted murder, was rearrested immediately after being granted bail by the High Court of Uganda at Jinja. The police blocked his convoy from leaving the court while different police units took over the premises.¹⁰⁶ Secondly, on 7th November 2017 at Spear Motors, Nakawa in Kampala, armed personnel in civilian clothes brutally and violently arrested four of the eight suspects charged with the murder of Police Spokesperson AIGP Andrew Felix Kaweesi who had just been released on mandatory bail by the Grade One Magistrate Noah Sajjabi after spending six months on remand without being committed for trial.¹⁰⁷ This rearrest was condemned by several institutions including the Judiciary, Uganda Law Society¹⁰⁸ and UHRC¹⁰⁹ as undermining the independence of the judiciary and the rule of law in Uganda and thus an infringement on the suspects' rights. Indeed, such an incident violates the accused's right to a fair hearing.

(f) Detention of remanded accused persons in police facilities

Related to the above, there were incidents in 2017 where the accused persons remanded to Uganda Prisons Service facilities were detained in police facilities. This was the case with some of the suspects charged with the murder of Police Spokesperson AIGP Andrew Felix Kaweesi who were held at Nalufenya Police Station after court had remanded them to Luzira prison. This detention was a subject of litigation and was condemned by the High Court of Uganda in the case of Abdu Rashid Mbazira & 21 Others Versus Attorney General as a violation of the applicants' guaranteed protection of law provided in Article 21(1) of the Constitution.¹¹⁰

The Commission was concerned about the detention of juveniles in police facilities even after the courts had sent them to remand homes. This was mostly the case in places without remand homes and where the authorities lacked adequate facilitation to transport such suspected juvenile offenders to gazetted places of detention.

(g) Diversion of children in conflict with the law

Whereas JLOS continued to advocate and facilitate the diversion of children in conflict with the law out of the mainstream criminal justice system, UHRC was concerned that some children did not benefit from this practice. This was mainly in instances where there was dispute as to the age of the suspected juvenile offender. Some children did not have proper documentation regarding their birth and age and hence age was recorded and charges laid against them depending on the assessment of the police detectives. Police records were adopted throughout the prosecution and if not later rectified, some child offenders ended up being treated as adults, hence affecting a broad spectrum of their rights, including the right to a fair hearing. The practice of diversion of children was also affected where the suspects were street children or other

105 Hon. Justice J.W Kwesiga: Right to a fair and speedy hearing in administration of Justice, a paper presented at the 20th UHRC consultative meeting, 5 December 2017

106 URN Published at <http://observer.ug/news/headlines/50772-rwenzururu-king-re-arrested-in-jinja> Accessed on 22nd February 2018.

107 Francis Gimara. Uganda Law Society (ULS) statement on the forceful arrest of Kaweesi murder suspects released on bail, 8th November 2017.

108 Ibid.

109 Meddie Mulumba. UHRC statement on the highhandedness of security agents, 10th November 2018.

110 Abdu Rashid Mbazira & 21 Others Versus Attorney General, Misc. Cause No. 210 of 2017, presided over by Hon. Lady Justice Margaret C. Oguli Oumo.

children without an adequate social support system of parents or guardians and the responsible ministry of Gender, Labour and Social Development lacked the capacity to provide such support.

All the above failures or shortcomings at the stage of criminal investigations, whether due to incompetence, corruption or malice, led to a miscarriage of justice or total failure of a fair trial.¹¹¹

3.2.2. The Office of the Director of Public Prosecutions

The DPP is mandated by the Constitution¹¹² to direct the police to investigate any information of criminal nature and to institute criminal proceedings against any person or authority in any court other than the court martial.

UHRC noted that the mandate to conduct criminal prosecutions as to accord a right to a fair hearing was in 2017 affected by frequent adjournments to allow the police to conclude investigations. Such adjournments contributed to the long pretrial detentions and hence were not only very costly on the national economy but also to the parties involved and their families who had to forego productive work and spend resources to attend court only for their cases to be adjourned for police to conclude investigations. A case in point was Dr. Kizza Besigye who was charged with treason before the Nakawa Magistrate's Court and on 25th January 2017. Besigye expressed dissatisfaction over the endless adjournments:

“ Your worship, before I was charged in this court [Nakawa Magistrate's Court], I was charged in Moroto for the same offence. I have been told for months now that investigations are continuing. I told court that there is no need for investigations since I admitted that I declared myself a winner. I, therefore, do not know what they are investigating because I have made that declaration in court. If it is an offence, we should start hearing how it becomes an offence on my declaration... I secured bail in respect to these charges from the High Court. I will continue responding to my bail terms of reporting to High Court but I will never come back to this court except as a prisoner again - if they choose to arrest me.¹¹³

It can, therefore, be argued that the above concerns by an accused person arising out of endless adjournments to conclude police investigations cast doubt on the criminal justice system, especially the capacity of the police, the DPP and courts to perform their roles equitably, fairly and justly even in a politically charged environment such as in the immediate post-election period of 2017.

UHRC noted that the DPP's practice of seeking adjournments to conclude investigations was partly perpetrated by the lack of legal time frame within which to conclude criminal trials.

In 2017, the enjoyment of the right to a fair hearing was further affected by the industrial action of members of DPP spearheaded by the Uganda Association of Prosecutors from 12th July to 11th December 2017. Whereas the prosecutors had a right to industrial action, UHRC was concerned that government took long to resolve the impasse and thus their strike directly perpetrated the violation of the right to a fair hearing through long police detentions pending sanctioning of charges, and even where accused persons were produced in court, they could not be heard without the DPP.

3.2.3 The Judiciary

The Judiciary is one of the main duty bearers in the fulfillment of the right to a fair, speedy and public

111 Hon. Justice J.W Kwesiga.

112 Article 120(3) (a) and (b).

113 The Independent, 26th January 2017: Besigye: 'I will not return to this Nakawa court'. <https://www.independent.co.ug/besigye-will-not-return-nakawa-court/>. 26 January 2017 Accessed on 23rd February 2018.

hearing. Speedy hearing means that once a charge has been preferred against an accused person, the trial should start and be completed without unreasonable delay.¹¹⁴ Unreasonable delay has not been defined although the Judiciary targets that a case should be heard and concluded within two years and judgment delivered within sixty days from the date of conclusion of hearing.

It is argued that in determining whether there has been a speedy trial, regard should be made to the circumstances of each case, taking into consideration the conduct of the accused person, the competence of the prosecution in availing witnesses and the complexity of the case.¹¹⁵ However, the trial judicial officers have the duty to intervene where there is professional misconduct of the investigator, prosecutor or defence lawyer that would lead to the perversion of the fair trial and render it prejudicial to the accused person, the victim or the community as a whole.¹¹⁶

To enhance the right to a fair, speedy and public hearing in 2017, the Judiciary implemented strategies such as the opening of nine new High Court circuits, (raising their number to 20), innovative case disposal options including plea bargaining, the rollout of the plea bargain process to all High Court circuits and allowing live media coverage of court proceedings to enhance public trials.

The above notwithstanding, some situations prevailing in the Judiciary in 2017 affected the enjoyment of the right to a fair hearing, and these included:

(a) Long pretrial detentions

UHRC was concerned about the long pretrial detention period which partly contributed to the increasing remand population. Whereas long pretrial detention is a crosscutting challenge to the JLOS institutions, the Judiciary has the discretion to release pretrial detainees on bail and release those in unlawful custody.

Long pretrial detention is an outright violation of the right to a fair hearing and is worsened by the fact that even after the trial commences, prosecutions are not successful, with some cases withdrawn, dismissed or accused persons acquitted.

Long pretrial detention in the event of unsuccessful prosecution negatively affects the productivity of the accused persons, their livelihoods and that of their dependants. In fact, some people contract diseases while in detention and remain unproductive or die immediately after their release.

In 2017, UHRC interacted with the family of Alex Piwun who was arrested in June 2012, charged with aggravated robbery and remanded at Arua prison. He allegedly contracted tuberculosis while in detention for which he was treated in various prisons facilities. He was tried by the High Court of Uganda at Arua and acquitted on 8th March 2017. By this time his health had deteriorated and he was admitted at Arua Regional Referral Hospital where he died on 14th March 2017, seven days after a whole five years in prison. Meanwhile, the family was reported to have sold their only land during the trial to pay for the services of a defence lawyer and, therefore, their livelihood was shattered in pursuit of a fair and speedy trial for their sole breadwinner, now deceased. This was not an isolated story in Uganda's criminal justice system.

(b) Misconceptions of the plea bargain process

Whereas the Judiciary was commended for the plea bargain process, UHRC was concerned that some of the targeted beneficiaries did not understand the implications of pleading guilty to the charges preferred.

114 Hon. Justice J.W Kwesiga: Right to a fair and speedy hearing in administration of Justice, a paper presented at the 20th UHRC consultative meeting, 5 December 2017

115 Ibid.

116 Ibid.

In fact, some inmates expressed concern that their colleagues had to their disappointment pleaded guilty expecting less sentences while others had pleaded guilty to offences they did not commit just to have a defined period of a sentence rather than the unknown pretrial detention period.¹¹⁷ The plea bargain process, therefore, could only achieve its purpose within the standards of the right to a fair and speedy hearing with a robust legal aid scheme.

(c) Inadequate number of judicial officers

UHRC was concerned about the small number of lower judicial officers supposed to hear the bulk of the criminal cases within their jurisdiction. In January 2017, there was a redefinition and creation of magisterial areas to the effect that they increased to 82 with various chief magistrates' courts and magistrates' grade 1 courts across the country.¹¹⁸

However, these courts had not been fully operationalised, and in some places where they were operational, a judicial officer presided over more than one court. This scenario created a number of challenges, such as absence from duty due to poor facilitation and motivation; long period of detention of suspects in police custody; and in some cases, arbitrary detentions where some judicial officers left such stations with pre-signed remand warrants for filling in of suspects' details and the remand of such suspects in the absence of the judicial officer.

(d) Effects of the judicial officers' industrial action



Justice minister Kahinda Otafiire addressing state prosecutors at Imperial Royale Hotel in Kampala on Monday.

Just like the prosecutors, there was an industrial action by members of the Judicial Officers' Association that commenced on 25th August 2017 in which they were agitated by the failure of the Executive to improve their welfare and working conditions.

This industrial action caused a lapse in the enjoyment of the right to a fair hearing since it paralysed work in courts throughout the country as suspects remained in police custody and prisons. The failure of the Executive to provide a timely response to the strike was criticised as habitual and hence undermining their role.¹¹⁹

117 Memorandum by Inmates of Uganda Prison Kigo presented during the launch of the celebrations to mark 20 years of UHRC, 23th November 2017.

118 The Magistrate Courts (Magisterial Areas) Instrument 2017; Statutory Instrument No. 11 of 2017 that revoked Statutory Instrument No. 45 of 2007.

119 Francis Gimara Uganda Law Society statement on the industrial action by judicial officers, dated 29th August 2017.

(e) Access to legal representation

The right to a fair hearing envisages the right to legal representation, either privately or mandatorily at the expense of the state in cases where the accused is charged with an offence carrying a maximum sentence of life imprisonment or deathrow

UHRC was concerned about the public outcry on the availability and quality of the service expected of lawyers that were engaged on state briefs. It was argued, on one hand, that there were no guidelines for state briefs¹²⁰ while, on the other hand, that state brief advocates did not effectively defend the accused persons due to lack of commitment caused by the poor pay, the lack of interest or experience. Accused persons often complained that state brief lawyers did not adequately interact with them to get the defence version.¹²¹

This state of affairs was worsened by the accused persons' lack of capacity to represent themselves in non-capital offences or to engage private lawyers in capital offences and the inadequate access to legal aid lawyers.

3.2.4. The Uganda Prisons Service

Uganda Prisons Service contributes to the right to a fair hearing by providing a safe and human environment conducive for the accused persons in their custody to prepare their defence and produce such persons in court for hearing until lawfully discharged.¹²² In so doing, UPS provides lawyers with access to their clients and ensures safe custody of inmates to guarantee their appearance in court.

However, UHRC was concerned that UPS lacked adequate facilitation to ensure the production of inmates in court. Some inmates walked long distances to court while others were transported on trucks, thus compromising their security.

3.3 CHALLENGES TO ENHANCING THE RIGHT TO A FAIR HEARING

UHRC commends JLOS and other stakeholders for their interventions in addressing challenges affecting the realisation of the right to a fair hearing. Such interventions that were ongoing included: advocacy to provide an enabling legal and policy framework; tooling the human resource of the responsible government institutions mandated to fulfill the right to a fair and speedy hearing; efforts to review the state brief system, encouraging self-representation by petty offenders to ensure a speedy trial; and plea bargaining to assist in delays for persons who are guilty and wish to plead guilty. Others were coordination mechanisms including District Chain Linked Committees and Regional Coordination Committees as platforms to discuss and address systemic issues faced by JLOS practitioners in the dispensation of justice and spearheading inter-sectoral linkages such as that with the ministry of Health during the adjudication of sexual and gender-based violence cases. The courts availed translators and were ready to provide further translation depending on the unique circumstances to ensure access to justice for all. However, the challenges highlighted below still affected the realisation of the right to a fair hearing.

120 Legal Aid Service Providers Network. State of Access to Justice Report: 2017 Annual Trends Analysis.

121 Hon. Justice J.W Kwesiga, *op cit*.

122 Section 5 of the Prisons Act, 2006.

(i) Inadequate geographical presence of the DPP and the courts

The inadequate presence of the DPP and the courts of law in some areas of Uganda, especially the hard-to-reach and hard-to-stay ones like Karamoja and Sebei sub-regions and the islands of Buvuma and Kalangala districts on Lake Victoria, limited accessibility to services and greatly challenged the realisation of the right to a fair hearing.

Where, for example, a person was arrested by a police outpost, it took a lot of time and resources to manage the case and transport the suspect to a police station; seek the sanctioning of the charges by DPP who might not have been present in the same district and produce the person in court. In Kalangala district, for instance, all suspects arrested in the more than 80 islands that make up the district were transferred to Ssesse Main Island to access the services of Kalangala Police Station, the DPP and magistrate's court. Where the crime was of capital nature, the file and suspect were transferred to Masaka to access the High Court.

(ii) Inadequate human and financial resources

Inadequate human and financial resources affected the processes and the availability of services to enhance the right to a fair hearing. The lack of finances was responsible for the inadequate investigative equipment and tools, lack of training in modern, specialised and scientific investigative skills as well as the poor remuneration of personnel.

It was argued that the lack of adequate training in investigations was reflected by the rate of cases that were dismissed, terminated or withdrawn due to inadequate evidence.¹²³ In view of that, it was recommended that the police, who also try to investigate highly sophisticated criminals with highly placed international network, should have forensic audit machines for investigations.¹²⁴

On the other hand, poor remuneration of personnel led to corruption and other inappropriate forms of conduct such as causing the disappearance of exhibits and files for personal gain.¹²⁵ Corruption continued to undermine the due process of the law and hence the right to a fair hearing.

(iii) Inadequate access by vulnerable persons

UHRC was concerned about the continued inadequate access to services by vulnerable persons such as persons with disabilities and the elderly. Uganda Police Force, as the entry point into the criminal justice system, lacked facilities such as sign language interpreters and access ramps to rented premises that ought to offer reasonable accommodation for the needs of vulnerable persons.

(iv) Mob action

UHRC noted that communities in Uganda persistently subjected suspected offenders to mob action such as burning, stoning, beating and killing. Previously, UHRC conducted a research in which it was found that mob action was caused by delayed investigations, corruption within the police, delayed resolution of cases and corruption in the judiciary, lenient sentences against convicts and ignorance of laws and set procedures, among others.¹²⁶ Mob action was meted out on offenders caught in the act as well as those suspected to have committed a crime or wrong. This approach was tantamount to a violation of the suspect's fundamental human rights; in this case, the right to the presumption of innocence and thus the right to a fair hearing.

¹²³ Hon. Justice J.W Kwesiga: Right to a fair and speedy hearing in administration of Justice, a paper presented at the 20th UHRC consultative meeting, 5 December 2017

¹²⁴ Chief Justice Bart Katureebe as reported in Daily Monitor 17th November 2017.

¹²⁵ New Vision of 17th November 2017 reported that police officers had caused the disappearance of cocaine samples and replaced them with cassava flour.

¹²⁶ Uganda Human Rights Commission. Irrational Justice: Mob Action as a Human Rights Concern in Uganda, 2016.

(v) Lack of a national legal aid scheme

UHRC was concerned about the lack of a national legal aid scheme in Uganda. According to Legal Aid Service Providers' Network (LAPSNET),¹²⁷ there were 52 legal aid service providers in 70 districts in Uganda but these concentrated their services in urban centres and were not necessarily focused on criminal justice. In the circumstances, the right to legal representation to guarantee a fair criminal trial, even where it is mandated by law¹²⁸ for persons accused of capital offences, remained a challenge.

3.4 RECOMMENDATIONS

In view of the above state of the right to a fair hearing, UHRC makes the following recommendations:

1. The ministry of Finance, Planning and Economic Development should adequately finance all the institutions involved in the administration of criminal justice in Uganda.
2. Government should approve the legal aid policy and prioritise the enactment of a legal aid law to improve access to legal services by all.
3. Government should fill up all vacant judicial positions.
4. The Judiciary should operationalise all the magisterial areas to improve access to court by all.
5. The Judiciary should scale up the sensitisation of the public and people in conflict with the law on the plea bargaining initiative.
6. The UPF should prioritise the welfare of police officers and training of police officers in specialised and scientific criminal investigations.
7. The UPF should desist from parading suspects before the media.
8. Government should provide adequate remuneration and harmonise the salaries for all civil servants.
9. The JLOS Secretariat should engage with the various justice actors to address the issue of endless adjournments that greatly delay justice.
10. The JLOS Secretariat should spearhead the strengthening and rollout of self-representation by petty offenders to all prisons.

3.5 CONCLUSION

The right to a fair hearing in the criminal justice system accords justice to the accused person, the victims, the complainants and the community as a whole. Its realisation or the lack of it mainly depends on the quality of crime detection and investigations. The effects of its violation, therefore, affected the community as a whole. Addressing this requires duty-bearing stakeholders to prioritise its promotion and protection.

127 Legal Aid Service Providers Network. State of Access to Justice Report: 2017 Annual Trends Analysis.

128 Article 28(1) e.



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Chapter 4:

The right to security of person and increased occurrence of violent crimes

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4.0 INTRODUCTION

In 2017, there was a surge in violent crimes which affected the enjoyment of the right to security of person in Uganda. The violent crimes documented included gruesome killings, torture, assault, kidnap, sexual crimes and domestic violence leading in some cases to severe injuries, death, trauma and fear within communities. The violent crimes that happened during the year were spread across the country and the most serious incidents happened in the districts of Masaka, Lwengo, Kayunga, Amuru, Kalungu, Wakiso and Kampala City. In some of the affected areas, people completely abandoned their homes while others joined neighborhood watch groups to keep their areas safe.

The Commission monitored and documented the occurrence of such violent crimes as they had a great impact on the enjoyment of the right to security of person. It was particularly concerned about the killings of vulnerable women within urban centres compounded by the failure of security agencies to detect, prevent or even successfully investigate and prosecute the perpetrators.

The right to security of person provides for the individual's protection against intentional infliction of bodily or mental injury. The right to security of person is, for example, violated when there is unjustifiable infliction of bodily injury. It puts a positive obligation on the state to take both measures to prevent future injury and retrospective measures, such as enforcement of criminal laws, in response to past injury. For example, the state must respond appropriately to patterns of violence against categories of victims such as intimidation of human rights defenders and journalists, retaliation against witnesses, domestic violence including that against women and children, violence against persons on the basis of their sexual orientation or gender identity,¹²⁹ and violence against persons with disabilities.¹³⁰ The state is duty-bound to prevent and also provide redress mechanisms for unjustifiable use of force in law enforcement,¹³¹ and protect its population against abuses by private security forces, and against the risks posed by excessive availability of firearms.¹³²

The right to security of person is, therefore, one of the primary obligations of the state and forms a key ingredient of the social contract the citizens have with the state. This chapter assesses how the right to security of person was enjoyed in the year 2017, analyzing the state's responsibility in upholding this right through the responsible security agencies.

4.1 LEGAL FRAMEWORK

International legal framework

The right to personal security and safety is expressly provided for in a number of human rights instruments. The Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the UN Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of Persons with Disabilities (CRPD), and the Convention on the Elimination of All Forms of Racial Discrimination (CERD) contain provisions relevant to the right to security of person. Uganda has ratified all the six treaties and they are reflected in a variety of domestic legislation, including the Constitution of the Republic of Uganda, 1995.

The right to security of person is a basic entitlement guaranteed by the UDHR (1948) in Article 3. This article combines the right to security of person with the rights to life and liberty. In full, the article reads, "Everyone has the right to life, liberty and security of person."

129 See Concluding observations: El Salvador (CCPR/CO/78/SLV, 2003), para. 16.

130 See Concluding observations: Norway (CCPR/C/NOR/CO/6, 2011), para. 10.

131 613/1995, *Leehong v. Jamaica*, paras. 9.3; see Basic Principles on the Use of Force and Firearms.

132 See Concluding observations: Philippines (CCPR/C/PHL/CO/4, 2012), para. 14.

The right to security of person is also a human right explicitly mentioned and protected by ICCPR (1966). Article 9 states that “Everyone has the right to liberty and security of person”, and the section prohibits “arbitrary arrest or detention.” The section continues, “No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”

The right of children to security of person is specifically provided for in the UNCRC.¹³³ Women’s right to security of person is referenced in CEDAW.¹³⁴ The Convention on the Elimination of All Forms of Racial Discrimination requires states to legislate against acts of violence against any group on the basis of race,¹³⁵ and emphasizes that the right to freedom from racial discrimination is part of the enjoyment of the right to security of person.¹³⁶ The Convention on the Rights of Persons with Disabilities requires states to protect the right to security of persons with disabilities on an equal basis with others¹³⁷ and the right not to be subjected to torture or cruel and unusual punishment, or to medical or scientific experimentation without consent. The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) prohibits torture under any circumstances and requires states to take effective measures to prevent it. The Optional Protocol to the Convention against Torture (OPCAT) provides for regular visits by independent bodies to places of detention in order to safeguard compliance with the CAT.

Besides the explicit provision for the right to personal security in the above instruments, the right is closely linked to the rights to life, freedom from torture, cruel, inhuman and degrading treatment or punishment, the right to personal liberty and the right to health. These rights are recognised in various human rights instruments Uganda has ratified.

National legal framework

The Constitution of the Republic of Uganda, under the Bill of Rights section, does not specifically provide for the right to security of person but provides for the related rights such as the right to life (Article 22), right to personal liberty (Article 23), the right to freedom from torture or cruel treatment (Articles 24 and 44) and the right to privacy (Article 27)

Uganda has also put in place a number of laws which contain provisions that protect against infringement on the right to security of person, including the Penal Code Act, the Children (Amendment) Act, 2016, The Domestic Violence Act, 2010, Prevention and Prohibition of Torture Act, 2012 and The Mental Health Act, among others.

133 Article 11 of UNCRC seeks to combat the illicit transfer abroad and non-return of children and Article 19 requires effective and appropriate measures to protect children from all forms of physical or mental violence.

134 Article 11(f) of CEDAW promises protection of health and safety in working conditions and safeguards the function of reproduction. The CEDAW Committee has commented that “Articles 2, 5, 11, 12 and 16 of the convention require the state parties to act to protect women against violence of any kind occurring within the family, at the workplace or in any other areas of social life”. CEDAW Committee (1989), general recommendation 12: Violence against women. (8th Session). Accessed on 22nd November 2010 from <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>

135 CERD, Article 4(b)

136 CERD, Article 5(b)

137 CRPD, Articles 10 and 14



A relative consoling the deceased's daughter.

4.2 SITUATIONAL ANALYSIS OF THE ENJOYMENT OF THE RIGHT TO SECURITY OF PERSON

In the year 2017, national security (physical integrity of Ugandan citizens from external threats) was well protected while individual security suffered at the hands of some state agencies and other citizens. UHRC documented a number of incidents that had a negative bearing on the right to security of person. These incidents were precipitated by a number of factors including land, ethnicity, insecurity, lawlessness, family misunderstandings, poverty, alleged witchcraft and the tabling of the proposal to lift the presidential age limit under Article 102(b) of the Constitution. Some of the incidents documented by the UHRC are profiled here below.

4.2.1 Mysterious killings

UHRC documented a number of incidents relating to mysterious killings in different parts of the country. Article 22 of the Constitution and Article 6 of the International Covenant on Civil and Political Rights (ICCPR) provide that no person shall be deprived of life intentionally except in execution of a sentence passed in a fair trial by a court of competent jurisdiction in respect of a criminal offence.

In the year 2017, a number of women were killed in a barbaric manner in cold blood after some of them were reportedly raped. These killings mostly took place in Entebbe and Nansana municipalities in Wakiso district. There was also the brutal killing of the Assistant Inspector General of Police (AIGP) Andrew Felix Kaweesi together with his driver and bodyguard which was a great shock to the nation.

Internal Affairs Minister Honourable Jeje Odongo presented a statement before Parliament containing a list of 21 women who had been mysteriously killed in both Katabi town council and Nansana municipality. He attributed the killings to ritual purposes, domestic disputes as well as land conflicts. The killings happened from 3rd May to 4th September 2017 in Wakiso district. The murders had striking resemblances with women bodies reported to have had signs of manual strangulation while others having sticks inserted in the private parts. According to police, most of the killings happened in the areas of Katabi town council (Kasenyi landing site), Nkumba, Impala and Nansana municipality. Nine (9) women were from Nansana municipality and nine (9) from Entebbe.

UHRC established from Nansana and Entebbe police stations that the age range of the women victims in both places was between 18 and 36 years, with the youngest being a student of Airfield Secondary School who was killed in the early morning hours on her way to school. UHRC established that these murders also took place in areas that are highly populated, with people from all walks of life including Kasenyi landing site, Nansana, Nkumba and Katabi town council.

TABLE 4: DETAILS OF WOMEN MURDERED IN ENTEBBE AND NANSANA MUNICIPALITIES

NAME	OCCUPATION ¹³⁸	DATE OF BODY RECOVERY	PLACE WHERE THE BODY WAS RECOVERED
Nansubuga Gorreti	Food vender	7 th June 2017	Along Kasenyi Road in Abaita Ababiri
Komugisha Faith Jamilla	Scrap Dealer	26 th June 2017	Kitinda Near Ssesse Gateway Beach
Wanyana Nora	Student	21 st July 2017	Nkumba Central Zone
Nakimuli Rose	Salonist (Impala cell)	23rd July 2017	Behind Keba Inn Bar, a few metres from her house
Nakajo Sarah	Housewife (had separated with the husband after 7 months)	11 th August 2017	Behind Faith International Nursery along Kasenyi Road approximately 200 metres from Mr. Bwanika Jones Shrine. (Had a missing breast)
Nakasinde Aisha	Market store	9 th August 2017	Kasenyi landing site (One leg missing)
Not identified	PWD - mental illness	27 th August 2017	Kitala village
Jalia Nalule	Brick Laying	27 th August 2017	Nkumba Kayilila Central Forest Reserve
Kasoware Zakanya Donata (Of Rwandese by nationality)	Sex worker	13 th July 2017	Abayita Ababiri
Nabalinda Mary alias Maria	Unknown	4 th September 2017	Nyanama trading centre in Bunamwaya
Nampijja Juliet alias Jalia Nantabazi	Unknown	28th May 2017	Behind Kenjoy Supermarket
Nakazibwe Josephine	Unknown	11th July 2017	In a rented room in Ochieng Zone, Nansana municipality
Nakachwa Teddy	Unknown	17 th July 2017	Rented room in Nansana West 11 Zone. Body exhibited signs of manual strangulation
Unidentified	Unknown	16th July 2017	Nansana East zone, Bujagali
Nansubuga Patricia alias Proscovia	Unknown	31 st May 2017	Near Kenjoy Supermarket
Kyandali Juliet	Businesswoman	25th July 2017	Ganda Nansana., Was found In her home.
Birungi Maria	Unknown	5th July 2017	Nansana East II zone
Unidentified	Unknown	31st May 2017	Near Kenjoy Supermarket
Unidentified	Unknown	28 th May 2017	Nansana East 1 zone
Unidentified	Unknown	3 rd May 2017	Nansana West zone
Zawedde Regina	Unknown	15th August 2017	Bulaga town

Apart from the killings of women that took place in Wakiso district, police also recovered dead bodies of men in other areas. The District Internal Security Officer of Wakiso, Captain James Andrew Katatanye, revealed during an interview with the UHRC that two unidentified bodies of men had been retrieved in Nkowe and Bukasa villages in Wakiso district.

138 As per the police records.

4.2.2 General insecurity and killings in the greater Masaka

In the year 2017, there was a wave of general insecurity in the Greater Masaka area.¹³⁹ UHRC received information that more than 20 people were killed and several others injured in the districts of Bukomansimbi, Sembabule, Kalungu, Lwengo and Masaka. Residents were living in fear as a spate of attacks by unknown assailants spread through the sub-region. The sub-region had had similar attacks in the past where unknown people would at night dig into houses and kill the occupants. The killings were carried out after dropping leaflets warning of the impending attacks to an extent that they would even at times direct the residents to reserve some money (at least Shs 20,000 per household) for the attackers. UHRC was informed that the attackers, who were usually armed with crude weapons such as pangas (machetes), axes, iron bars and clubs, would strike the villages at night, hacking and clobbering residents.

Reports from survivors indicated that at times the thugs would rape women from their homes, although the victims were shy to report the incidents. Security sources informed the Commission that the attackers were known to people they usually attacked as they would call them by name and even order their victims to surrender the exact amount of money they earned during the day. UHRC established that the presence of these criminal gangs created a lot of fear and tension in the communities in regard to their security. Given high levels of vulnerability, the women, elderly and children were most affected despite the fact that the attackers targeted everyone.

4.2.3 Violent crimes and killings in other areas

Commission documented other violent attacks and killings that occurred during the year in different parts of the country which were usually linked to robberies, thefts, house break-ins and sexual offences. The insecurity was observed in both urban and rural areas and was perpetrated by either gunmen or iron bar hit men. For example, a businessman, John Rwamutwe, was kidnapped on 2nd May 2017 by a criminal gang demanding for a ransom of UGX 500,000 and he was later discovered dead in his car on 4th May 2017 in Kagongo division, Ibanda municipality. Two female Chinese nationals were killed in February 2017 from their rented house in Kikoni near Makerere University, Kampala. The killing of the town clerk of Gulu in Gulu town in May 2017 was another notable incident.

A series of other violent crimes were registered including aggravated robberies which were on increase in the police regions of Rwizi, Kampala Metropolitan East, Albertine, Kampala Metropolitan North, Busoga East, Greater Masaka, Elgon, Kampala Metropolitan South, West Nile and Busoga North. According to the police's bi-annual report, 202 cases were reported compared to 175 cases in 2016, giving a 15.4% increase.¹⁴⁰

UHRC received information in the course of the year regarding the existence of organised groups of criminals in the country who rob, kill, rape, extort, torture and kidnap their victims with ease and some of these gangs were alleged to be well known to some members within security agencies. The Commission received information that whenever such crimes happen in a particular area and reports are made to police, the response is always lukewarm and police instead turns back to the victims for facilitation. The Commission also heard from a number of respondents that police at times shows up at the scene long after the crime has been committed. Lack of rapid response to crime by the responsible security agencies has provided fertile ground for the violation of the right to personal security and safety.

139 Greater Masaka comprises Lwengo, Bukomansimbi, Sembabule, Kalungu, Rakai, Masaka, Kyotera, Kalangala and Lyantonde districts.

140 Uganda Police Bi-Annual Crime Statistics covering the period from January to June 2017.

4.2.4 Sexual Crimes and Domestic Violence

A number of sex-related crimes were reported in the year on mostly rape and defilement. The Commission noted with exception the high number of such cases covered in the local media. Police records indicated that most of the sexual crime cases were reported in Aswa, Rwizi, Albertine, North Kyoga, Kampala Metropolitan North, Kigezi, Greater Masaka, Kampala Metropolitan South, Kampala Metropolitan East, Wamala, Bukedi, Rwenzori East, Greater Bushenyi, Busoga East, West Nile, Savannah and North West Nile. For example, in the period between January and June 2017 alone, police received 725 cases of rape. For the case of domestic violence, police recorded a total of 191 cases between January and June 2017, compared to 178 cases recorded during the same period in 2016, giving a 7% increase. These were highest in the regions of Rwenzori West, Aswa, Rwizi, Albertine, North Kyoga, Greater Bushenyi, West Nile, Wamala, Greater Masaka, East Kyoga, Elgon, Mt. Moroto, Bukedi, Kigezi, North West Nile and Kidepo.

4.2.5 Violent crime linked to land conflicts

In 2017, police and media recorded violent scenes linked to land conflicts that occurred throughout the country. It was during the first half of the year when the major crimes were committed. There were tribal clashes over land between the Madi ethnic group and the Acholi which led to nine killings, 21 injuries, torching of over 100 grass-thatched houses and destruction of food crops. There were also tribal clashes over land in Terego West, County between the Maraju Anganzi clan and Asivu clan where 11 people were seriously injured.

Other examples include Brig. Kasirye Ggwanga's case where he set ablaze a bulldozer that had allegedly trespassed on his daughter's piece of land; the land conflicts in Mubende district especially one in Nalutuntu sub-county, Mubende district where 225 families were forcefully evicted by one investor Abid Alam and one UPDF officer and the land evictions of over 1,000 people from the goldmines in Bukuya sub-county, which was marred with violence. There were also conflicts between cultivators and pastoralists in the districts of Moyo, Yumbe and Kasese and conflicts between the local communities and Uganda Wildlife Authority in the areas neighbouring national parks over wild animals destroying crops.

There were cases where land surveyors were attacked by mobs while opening up boundaries. One such case was in Kigorobya sub-county, Hoima district where land surveyors were attacked by an angry mob armed with spears, bows and machetes. Three people were injured, three vehicles, a bulldozer, grader and police motorcycle set ablaze.

UHRC also documented tensions between refugees and local communities for natural resources, including land. These were more pronounced in parts of West Nile, Acholi, Nakivale refugee camp and surroundings in Isingiro district and Kyaka in Kyegegwa district. For example on November 23, 2017, refugees at Kyaka II refugee settlement and the host community clashed over a disputed piece of land in which six people were injured when police fired teargas and live bullets. For the case of Nakivale Refugee Settlement, there have been long-standing land conflicts between refugees and host communities as a result of competing land interests between Ugandan pastoralists and refugees, refugees and Uganda peasant farmers and then the refugee pastoralists. During the year, there were conflicts over the usage of the Nakivale land by the three categories of people. There were cases of cattle trespassing into gardens of the peasant farmers, which fueled the conflicts.

There was reported tension among the Muslim community in Kamuli district following a dispute over a yet-to-be-completed multimillion mosque that was being built by funders from the Middle East. Two factions of the Muslim community; one aligned to the Kibuli-based Muslim faction and another aligned to the Old Kampala Muslim faction were claiming ownership of the mosque. The two groups have been at loggerheads over property disputes with the Kibuli group accusing the Old Kampala (where the Uganda Muslim Supreme

Council is based) group of improperly disposing of Muslim property. During the scuffle in Kamuli district, one person was killed after being hit with a piece of wood and several others were injured. There has been a long history of Muslims fighting over mosques in Uganda, resulting into violent incidents; for example, at Nakasero mosque in Kampala, Masaka mosque and Nateete mosque.

The land conflicts in Uganda are historical in nature and are usually sparked off by a number of factors including; lack of clear internal boundaries, disputes over ownership, forced demarcation of land, internal displacements, inheritance disputes, overlapping land tenure systems, poor resolution of land conflicts in the courts of law, shrinking resources including land due to population growth and continued influx of refugees. These conflicts pose a serious threat to the enjoyment of the right to personal security and safety. Many people continue to lose their lives, get tortured, deprived of livelihood and some are languishing in prisons and police cells over land related conflicts.

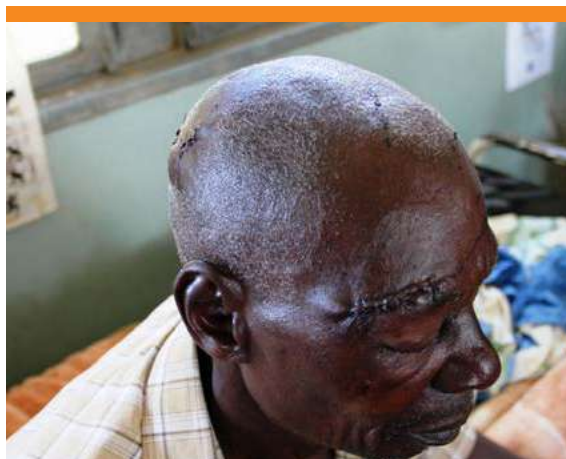
4.2.6 Violent crimes through mob action

This is the use of force by an angry mob to dispense “justice” on the person(s) they suspect to be criminals. Mob actions continue to rise in different parts of the country. According to a Human Rights Network-Uganda’s (HURINET-U) survey report for 2017,¹⁴¹ mob action is the tenth most common crime-related problem in Uganda. UHRC documented a litany of cases relating to mob action in 2017. For example, there was the case of a man who was tied on the tree, stoned and burnt to death by a mob in Hoima district in January 2017 and another of a young man who was the brains behind the creation of Airtel’s service known as “*Berako*” was killed at Cafe Javas, Jinja Road in Kampala by an angry mob on suspicion of attempted arson in August 2017,

According to Uganda Police Force’s bi-annual report 2017¹⁴², 337 mob action cases were reported, compared to 298 cases in 2016 over the same review period, giving a 13% increase. The cases were more prevalent in the police regions of North Kyoga,



Ashraf Kawoya killed by bodaboda cyclists



Land wrangles - Christopher Mubalaya who was injured during land clashes at Busabi secondary school at Busolwe Hospital



Mob Justice - A thief, Gayira killed by the villagers

141 Titled, towards a democratic and accountable police service: The public perception on the state of policing in Uganda’ and dated November 2017.

142 Paper presented at the 20th Annual Report Consultative meeting by ACP James Kusemererwa at Golden Tullip Hotel, Kampala on 7th December 2017.

Rwizi, Greater Masaka, Kampala Metropolitan East, Albertine, West Nile, Kampala Metropolitan North, Busoga East, Rwenzori West, Bukedi, Kigezi, Elgon, Savannah, Wamala, Kiira, Greater Bushenyi, Kampala Metropolitan South and East Kyoga.

A study conducted by UHRC in 2016 revealed that mob action was carried out through assault, battery, murder, arson, and torture where the victims were vigorously attacked by many people from which it was impossible to escape. The study also revealed a number of reasons for the continued occurrence of mob action in Uganda despite the presence of criminal justice institutions. Studies conducted¹⁴³ by different institutions and individuals have indicated that mob action is largely as a result of lack of trust people have in the institutions supposed to dispense justice in the country like police and courts of law. The ignorance of the laws and set procedures, a disgruntled populace, high levels of poverty and youth unemployment have all been key contributing factors to the continued occurrence of mob action vice in the country.

4.2.7 Right to security of fishermen in reference to the crackdown on illegal fishing operations

In February 2017, the UPDF Fisheries Protection Unit began 'Operation Pakalast' to crack down on illegal fishing. In the course of confiscating illegal fishing gears at different landing sites in the country, a spate of human rights violations such as torture and deprivation of the right to life were reported by fishing communities. These have been reported in Masaka district, Kalangala district, Bubinge and Namit landing sites in Mayuge district, Ssenyondo and Nabyewanga landing sites, and Lufu islands and the other islands in Buvuma district. Reports have indicated that when the army's marine section imposed a ban on irregular fishing methods and began patrolling the lake, fear and trepidation engulfed the islands. UHRC is concerned about the deprivation of the main source of livelihood for the fishing communities without providing alternative means of survival as this could push the affected communities into criminal activities.

4.2.8 Use of excessive force and highhandedness of security agencies

There were a number of reported incidents where there was excessive use of force by some members of the Uganda Police Force, more so on unarmed civilians they were supposed to protect. In some incidents, security agencies used live bullets to control crowds, leading to loss of lives despite being well trained in crowd control techniques. Some of the exceptional incidents the Commission noted during the year included the strike by students of Old Kampala Secondary School where one of the students, John Arituha, was seriously injured. In August 2017, police from Butaleja Central police station shot and killed one person and 20 people sustained serious injuries. This happened when they tried to quell a demonstration over the planned takeover by Government of Doho Rice Scheme. On 18th October 2017, the riot police allegedly shot and killed one Edson Nasasira while attempting to stop an anti-age limit rally by the opposition at Rukungiri Stadium.

In October 2017, police shot and killed one Taremwa, a student of Rock High School, and injured one Tukwasibwe in Kigongi ward, Central division, Kabale municipality. In June 2017, some police officers attached to Kacheera police station, Rakai district shot and seriously injured three students of Kacheera High School, Kacheera town council. Finally, the events that took place in the Parliament of the Republic of Uganda on 27th September 2017 when security forces allegedly linked to the Special Forces Command stormed the House and violently evicted 25 Members of Parliament over the tabling of a bill seeking to remove age restrictions on presidential candidates. These incidents interfered with the enjoyment of people's rights to personal security and safety.

143 See Foundation for Human Rights Initiative's 'CSO's assessment on the right to personal security and safety and increased occurrence of violent crimes', 2017.

4.2.9 Instances of torture by police

The Commission also documented a number of cases where police allegedly tortured some people in the course of its work. These cases included assaulting of people at Bunjakko island, Buwama sub-county, Mpigi district on 16th January 2017; beating into coma a charcoal seller by police officers attached to Mandela police post, Kakoba division, Mbarara municipality on 7th January 2017 for failure to give them UGX 20,000; assaulting and killing of a drunkard on 25th January 2017 by a police officer and crime preventer at Rwahi trading centre; a shooting incident at Nakibizi trading centre, Buikwe district where one Aida Nagirye was seriously injured when police attempted to prevent a mob from lynching a traditional healer; the alleged torture of Godfrey Byamukama, the Kamwenge mayor, who was suspected to have had a hand in the murder of AIGP Andrew Felix Kaweesi. The victim sustained deep wounds on the knees and ankles. Further, in the month of June 2017, police from Runga police post in Kibiro parish, Kigorobya sub-county, Hoima district allegedly tortured to death a suspect, a one Okello, for stealing a solar panel. On 24th September 2017, police officers violently arrested Kampala Lord Mayor Elias Lukwago from his home in Wakaliga, Lubaga division. He later alleged that they squeezed his private parts. Some of these cases are under investigation by the Commission.

Whereas section 28 of the Police Act implores the police to use force in some instances, it should not be disregarded that the force must be proportionate to dangers posed by the suspect; otherwise, it may contravene the provision of Article 221 of the Ugandan Constitution which obliges all security agencies to respect and promote human rights during the performance of their duties and obligations.

4.2.10 Attacks on security personnel

There were a number of incidents where police was attacked and some police officers either lost their lives or were seriously injured. Reports of violent attacks on security personnel by civilian criminals with the intentions of obtaining guns for their criminal engagements have been on the increase. Security guards, both public and private, were targets of the high-crime robbers in different parts of the country with a focus on illegally acquiring arms. For example, the killing of two security guards in Bugangari sub-county, Rukungiri district.



Atwine Bonny of Nsambya walks with the help of clutches after a policeman allegedly tortured him in the police cells. He sustained a fractured left leg

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The attackers were mainly criminal gangs or mobs. UHRC, for example, documented an incident in May 2017 at Nakaloke trading centre, Mbale district where police from Nakaloke police station shot and injured three civilians. This was after a crowd had attacked the police station following a robbery in the area and when a sniffer dog that was brought in it led them to the police barracks. In the month of November 2017, a UPDF soldier, Sgt. Benson Okidi, attached to 309 Brigade of the 2nd Division, was stabbed to death at Atek A village, Bar sub-county, Lira district where he had gone to settle a domestic problem. There were also daring attacks on Ngege police post, Kween district in April 2017 when a group of thugs shot dead a one Sgt. Totwala and Moses Cheptai, a civilian. In turn, security operatives shot dead four of the suspected criminals. Further, in the month of April 2017 in Dokolo district at Dokolo Hotel, civilians beat up Paul Ochen of the 63rd Infantry Battalion, at Palaro barracks in Gulu district.

The Commission has come out and strongly urged members of the public to exercise their rights and freedoms within the confines of the law and desist from acts of lawlessness. It is important to understand that human rights come with duties and responsibilities which one is obliged to fulfill. In many incidents including those cited above, elements of irresponsibility and lawlessness on the part of the public have been noted.

4.2.11 Use of non-uniformed armed personnel in security work

In the year 2017, the country witnessed incidents where armed non-uniformed security agents brutally arrested individuals over different allegations. These incidents were observed as not merely brutal but were engrossed with high levels of impunity which were great threats to the enjoyment of the right to security of person in general.

The continued use of non-uniformed armed security personnel and unidentified groups to arrest, batter, interrupt assemblies and meetings as well as conduct any other security activities is a matter of great concern. These incidents were reported during the violent rearrest of the Kaweesi murder suspects following their release on bail by Nakawa Chief Magistrate's Court, the interruption of the parliamentary sitting during the debate on the bill proposed to lift the presidential age limit and the several arrests made in regard to the assemblies conducted in central, western and northern parts of the country by different leaders to make consultations on the lifting of the presidential age limit and the arming and use of certain groups such as some boda boda riders in day-to-day security work.

The use of non-uniformed personnel to conduct security work not only jeopardizes the functions of the different security agencies in the country but also heightens the risk of having people's right to security of person being violated by these operators. There are increasing cases of people who are not in uniform carrying/brandishing assault rifles such as AK 47, in public while others are quick to pull them out over small misunderstandings.

UHRC has noted that in most situations where these incidents occurred, uniformed security personnel could have handled them better. It becomes difficult to distinguish genuine security personnel doing their work from criminals. It is challenging to secure the population from any threats to their lives and property amidst a number of unidentified security groups. Security work requires a lot of professionalism and delegating it to people who do not have proper training and competencies is very risky. It is not wise for the state to entrust some security assignments to former criminals and their allies and yet expect to secure the lives and property of the citizens.



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SIMcard registration - MTN Customers register their simcard during the on going National sim card registration exercise for the security and safety of Ugandans on March 5, 2012 at Lugogo Shoprite.

4.3. INTERVENTIONS IN ADDRESSING THE RIGHT TO SECURITY OF PERSON CONCERNS IN 2017

4.3.1. Increased security deployments

A number of interventions were taken by various stakeholders to protect, promote and fulfill the right to personal security and safety, with security agencies taking the lead. In the wake of the violent crimes, various security agencies made deployments in the affected areas to secure the areas but also assure the population of security. For example, in the Greater Masaka region, security agencies devised ways of strengthening security through opening up police posts/stations, detachments/camps and recruitment of the crime preventers to ensure constant security watch in the affected areas. The security forces also undertook investigations where violent crimes were committed and a number of arrests made.

4.3.2 Mandatory SIM card registration

The mandatory SIM card registration and National Identity Card Registration were good initiatives taken to reduce actions of fraudsters. It makes it easy to track suspected criminals who use mobile phones. For example, those involved in kidnap and demand of ransom can easily be tracked. Fingerprints picked at the scene of crime can also be easily synchronized with those in the national data base system, making it easy to identify suspects.

4.3.3 Popularization and enforcement of the Prevention and Prohibition of Torture Act (PPTA), 2012

The enactment of the Prevention and Prohibition of Torture Act (PPTA), 2012 and consequently its popularization in different institutions including security agencies is bearing dividends. Efforts are being undertaken to enforce the provision of the PPTA, 2012. For example, two police officers who allegedly tortured the Kamwenge mayor, Godfrey Byamukama were arrested by the Professional Standards Unit. The awarding of 80 million shillings by the High Court¹⁴⁴ to each of the tortured murder suspects in the Kaweesi case was also a positive intervention. Further, in May 2017 the president of the Republic of Uganda warned members of security agencies to desist from forced extraction of information from suspects.

4.3.4 Arrests and prosecution of suspects

During the year, a number of arrests and prosecution of suspects, including high-ranking members of security agencies were made. Attempts have been made to investigate some of the crimes relating to security of person, although a number of challenges persist. The suspects were charged with offences directly relating to the right to security of person such as kidnap, torture, unlawful possession of firearms and murder. Some of the suspects were arraigned in the military General Court Martial while others were charged with disciplinary offences.

4.3.4 Inspections to places of detention

UHRC visited a number of places of detention including Makindye Military Police barracks and Nalufenya Police Station to assess the conditions of detention. The Parliamentary Committee on Human Rights also visited Nalufenya to assess the conditions of detention. These efforts helped in ensuring that people deprived of their right to personal liberty are accessed and their rights monitored.

4.3.5 Increased community policing programmes

UHRC also observed increased community policing programmes in 2017 with emphasis on the prevention of domestic violence, mob action and recruitment of crime preventers. Some of these programmes were carried out in conjunction with the Commission and were found useful in strengthening relations between the public and police, in addition to exchanging information.



The image is a composite image of a male suspect wanted by police in connection to the murder case that happened at Kulambiro in Kisaasi Kampala. Which occurred on 17th March, 2017.

The police is appealing to anyone who might have information leading to the arrest of the suspect to contact the police on Telephone numbers:

0717 777070 (KMP), 0718 452613 (SIU) 0714 667787 Kira Road, 0715 986956 (CID Regional), 0800 203029 (Crime Preventers), 0800 122291 (CPS)

144 Abdu Rashid Mbaziira & 21 Others Versus Attorney General, Misc. Cause No. 210 of 2017, presided over by Hon. Lady Justice Margaret c. Oguli Oumo

4.3.6 Formation of neighborhood watch groups

The Commission established that a number of neighborhood watch groups were formed to help in monitoring the security situation in their respective areas. In some areas, they conducted foot patrols at night together with police to secure their areas. The innovation by police to establish neighborhood watch groups helped in bridging the information gap between communities and security agencies, especially the Uganda Police Force.

4.4 HUMAN RIGHTS IMPLICATIONS OF VIOLENT CRIMES

The high incidence of violent crimes reported in the year 2017 did not only deprive people of the right to personal security and safety but also affected other human rights as provided for under various international and regional instruments like the ICCPR, ICESCR, ACHPR as well as the national laws like the Constitution of Uganda, among other laws.

Human rights are interrelated and interdependent and this principle, therefore, calls for the respect and realisation of all rights without which, all rights may be affected with direct and indirect implications.

Violent crimes recorded in 2017 had implications on a number of human rights including the right to life, right to personal security and safety, right to freedom from torture, cruel, inhuman and degrading treatment or punishment, right to personal liberty and right to a fair trial.

4.4.1 Deprivation of the right to life

The right to life is provided for under Article 6 of the International Covenant on Civil and Political Rights (ICCPR) and Article 22 of the Constitution of Uganda. Article 22 (1) of the Constitution of Uganda prohibits the deprivation of the right to life except in execution of a sentence after a fair trial. Nonetheless, it is acknowledged that they could be outright crimes and matters of security which squarely fall within the jurisdiction of law enforcement agencies and the judiciary. The killings that took place during the year deprived the victims of the right to life. These happened either in self-defense on the part of security agencies or as acts of criminality on the part of suspected criminals. In some instances, there was unnecessary use of excessive force by some officers from the Uganda Police Force especially during public rallies and school strikes, resulting in avoidable deaths.

4.4.2 Deprivation of the right to security of person (fear, grief and uncertainty among people)

Article 9 of the ICCPR provides for the right to security of persons. It is the duty of the state to ensure security of persons in line with the international human rights standards. In reflection to the number of crimes and violence that were recorded in the year 2017, it is evident that several communities in the country were engulfed with a lot of fear and tension in regard to their security. For example, the women in Nansana and Entebbe complained that the security in the area was not sufficient and they said their lives were in danger since the attackers were targeting them. One woman at Kasenji landing site at a meeting observed:

“ Why do they put sticks in our private parts? We as women we are very, very, very scared, and doing very badly. We have a lot of fear, we appeal to the government to beef up security in this place.

The communities in the Greater Masaka region and some parts of Wakiso, Mpigi and Kampala too lived under tension and fear of who would come next on the list of hackers and machete wielders. Such actions greatly affected the right to personal security and safety with further interference of other rights of individuals.

4.4.3 Infringement on the right to freedom from torture or cruel, inhuman or degrading treatment or punishment

Most of the crimes UHRC documented in the year 2017 related to torture of the victims and the suffering of survivors. For example, the horrifying killing of women in Entebbe and Nansana municipalities, murders and attacks of residents in the Greater Masaka region, among others, were committed through aggravated torture of the victims. In relation to the killings, there were reported incidents of torture of suspects who were in custody of security forces. In year 2017, there was an increase in the number of torture cases and security forces were implicated.¹⁴⁵ These included the suspects arrested for alleged murder of AIGP Felix Kaweesi, the suspects arrested for the murders in Wakiso (Entebbe and Nansana), Greater Masaka and other areas.

UHRC found a suspect, Ibrahim Kawesa, at Luzira prison during one of its routine monitoring visits who alleged that during his detention at Nansana police station, he was badly hit in the chest by one officer and coughed blood for close to four days. He claimed to have participated in the murders of the women and was forced to incriminate other people, some of whom he did not even know. The Commission recorded a number of complaints of torture against security personnel who had taken custody of these suspects at police.

4.4.4 Right to personal liberty and a fair trial (Article 28); right to be presumed innocent until proven guilty (Article 28 (3) (a))

The increase in violent crimes and the horrifying nature of these crimes posed human rights challenges on the part of security agencies suspects. The way some of the cases were being handled by police and other stakeholders within the criminal justice system, revealed that the rights of some suspects were not accorded due diligence. For example, the Commission received complaints regarding violations of the right to life, and torture and detention of suspects beyond the constitutional 48 hours by the police. UHRC further established that most of the suspects arrested in the several violent crimes were detained at Nalufenya police station, Jinja district. Most of the inmates alleged they had been detained for more than one month. This was in contravention of articles 23 and 28 of the Constitution of the Republic of Uganda.

4.4.5 Freedom of expression (Article 29)

Article 221 of the Constitution of Uganda obliges the police to observe and respect human rights and freedoms in performance of their functions. The practice of the police seemingly using and working with stick-wielding men to beat up people and disperse public demonstrations in the name of keeping law and order is undesirable. The right to freedom of speech and expression is provided for under Article 29 of the Constitution of Uganda and regulated under laws like the Public Order Management Act 2013, among others. However, these rights were regularly transgressed by security agencies in the course of their work. It is the duty of state security agencies to ensure the observance of the enjoyment of rights and freedoms as long as such activities are not in breach of public peace and security.

145 UHRC registered 306 complaints of torture in 2017, making torture the topmost (33.4%) complaint registered.

4.5 CHALLENGES TO THE REALISATION OF THE RIGHT TO SECURITY OF PERSON

4.5.1 Poor facilitation

There was poor facilitation of institutions responsible for securing the population. The Commission has over time noted the limited facilitation given to police officers especially at most police stations and posts. They lack a number of facilities and equipment to enable them do a good job. It is a common practice at most police stations and posts for police officers to request for fuel, airtime and stationery from the complainants. Further, in order to cope with the financial demands, some police officers have devised illegal means of raising funds to run their stations such as demanding money for police bond. The Commission has established, through numerous inspection visits to police stations/posts, that these units rarely receive facilitation to do their work. The end result is that some have become indifferent to cases reported to them, while others have lost interest in their work.

4.5.2 Unconventional methods of work

The Uganda Police Force has been undergoing reforms including in the field of investigations. However, some methods of work such as parading of suspects, visits to the scenes of crime by the police leadership and demotion of some police officers proved very challenging in the fight against crime in the country. The practice of parading suspects does not only undermines investigations but is also a violation of the cardinal principle of one being presumed innocent until proved guilty or until one pleads guilty under the laws of Uganda. The demotion and constant transfer of some police officers in public view was very demoralising and humiliating to both affected and the rest of police officers. These methods of work forced police officers to at times effect arrests and detain innocent people in order to please the powers that be. In fact in some of its routine inspections, UHRC questioned the detention of some suspects and the responses received were at times unsatisfactory, forcing UHRC to order their release.

4.5.3 Limited manpower

The Commission has interacted with a number of police officers who have complained against being overworked. Much as the Uganda Police Force has improved on its manpower in terms of quality and numbers, majority of police officers continue to work for long hours while some work even 24 hours a day. Much as security personnel are trained in endurance, they are human beings and at times get exhausted and this definitely affects their overall performance and their effectiveness on duty. Even with the manpower problem, the mode of police deployment to secure areas leaves a lot to be desired especially where officers are deployed to guard offices or residences as opposed to guarding certain streets or areas. There have been instances where crimes have been committed in certain places whose neighbourhoods are adequately guarded. This is because they assume they are limited to only residences or offices, yet their general mandate is to secure life and property of all Ugandans.

4.5.4 Poor remuneration

The general working conditions of work for security officials need to be improved upon. These officials work under very challenging living and working conditions. They earn little pay, sleep under bad conditions and are expected to perform to the best of their abilities. Such conditions have a toll on their physical, mental and psychological health.

4.5.5 Lack of data on crime

The Commission has over the last three years tried to access data on the crime rate in the country without much success. The Uganda Police Force has for unknown reasons not made public its annual crime statistics for the last three years. This makes it difficult to assess whether there has been progress in fighting crime or not.

4.5.6 Disrespect for the rule of law

There have been situations that one would interpret as lack of respect for the rule of law by some security agencies and civilians. For example, when civilians attack members of security agencies and vice versa with little regard to the law, it ends up degenerating into lawlessness. The increasing cases of mob action in the country are a pointer to anarchy which compromises people's right to personal security and safety. The growing disregard of responsibilities vis a vis the enjoyment of rights by the populace is also an issue of great concern.

4.5.7 Corruption

Corruption is a serious security issue which has not spared security agencies and much of the criminal justice system. Criminals find it easy to commit crimes and buy their way out. In the course of year 2017, some high-ranking security officials in Ntoroko district were, for example, arrested as they attempted to sell guns to criminal elements.

4.5.8 Weak lower local government structures

Most local council structures at the village level that used to be the first point of call in security matters have more or less expired. Since the last local councils I and II elections in 2001, most of local councils I and II executives are not fully constituted. Some of the executive members passed on, others resigned while some went to look for jobs in distant areas. It is normal for some LCs to find only one person calling himself/herself as the LCI executive. Further, in most places, LC services such as giving recommendations to residents who need services elsewhere have been highly commercialised. In fact, wrong elements/criminals have reportedly ended up receiving good recommendations from LCs.

4.5.9 Rivalry within the security agencies

During the year, there were reports on increased rivalries within security agencies leading to poor coordination in combating crime. UHRC received information from some members of some security forces that the fight was over the control of the big police budget. This rivalry was mainly between Uganda Police Force and the sister security agencies of Internal Security Organisation (ISO) and Chieftaincy of Military Intelligence (CMI). Further, the Commission learnt of divisions within the Uganda Police Force fuelled by a number of factors including work methods, deployments, promotions and loyalty.

4.6 RECOMMENDATIONS

4.6.1 Uganda Police Force

1. The Uganda Police Force should increase security presence and foot patrols in the villages and highly populated places with high susceptibility to crime.
2. The Uganda Police Force should adequately facilitate its officers with the required tools and equipment to effectively perform their duties.
3. The Criminal Investigations Directorate of the Uganda Police Force should investigate and conclude all pending high-profile cases and carry out timely investigations in new cases.
4. The Uganda Police Force should adopt modern technology to curb and prevent violent crimes.
5. Strengthen and adequately facilitate the Professional Standards Unit.
6. The Criminal Investigations Directorate should always undertake evidence-led investigations as opposed to mass arrests.
7. Make public its current and previous annual crime reports.
8. Conduct refresher courses and training especially for investigators.
9. Undertake security deployments that optimize human resource utilization.
10. Make physical regular inspection and audit of firearms in security services, private security organisations and private armed people.

4.6.2 Electoral Commission

- (a) As a matter of urgency, the Electoral Commission should organise the lower local council elections.

4.6.3 Security agencies

- Security agencies (Uganda Police Force, Uganda Prisons Services, Uganda People's Defence Forces, External Security Organisation and the Internal Security Organisation) should properly scrutinize civilians being recruited in their ranks.
- The National Security Council should urgently harmonise and streamline the roles of the various security agencies in the country.
- Put in place mechanisms to increase collaboration and coordination amongst security agencies and the general public.

4.6.4 Ministry of Public Service and ministry of Finance Planning and Economic Development

- Government should increase remuneration of security officers, judicial officers and prosecutors and adequately facilitate them to effectively do their work.



Chapter 5:

Emerging human rights concerns in 2017

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5.0 INTRODUCTION

This chapter considers some of the key human rights concerns that occurred during the year 2017. These include increasing concerns on the human rights implications of gambling on the youth, the right to citizenship and identity, with a special focus on the Maragoli community, sexual violence in schools and their human rights implications and an assessment of Operation Wealth Creation, a government of Uganda flagship programme aimed at eradicating poverty and creating employment. The chapter also covers the events leading to the amendment of the Constitution of the Republic of Uganda to lift the presidential upper and lower age limits.

5.1 HUMAN RIGHTS IMPLICATIONS OF GAMBLING WITH FOCUS ON THE YOUTH

Gaming is the playing of a game of chance for winnings in money or money's worth and for the avoidance of doubt, includes gambling.¹⁴⁶ Betting, on the other hand, is making or accepting a bet on the outcome of a race, competition or other event or process, or the likelihood of anything occurring or not occurring or whether anything is or is not true. Since gambling has been looked at as a mere game, often behavioral problems associated with engaging in the game are ignored.

Moreover, addictive gambling can have the ability to disrupt behaviour, and health care professionals and policymakers alike have discovered that just like alcohol consumption, gambling too has the capacity to make some people become dysfunctional as they argue that problem gambling is rapidly evolving into a public health issue in Uganda.¹⁴⁷ This is confirmed by the fact that, Ugandans of all ages are already exposed to the gambling phenomenon with betting shops licensed and unlicensed visibly clustering together on high streets. However, the claim that gambling is a public health issue makes it potentially an issue of significant concerns to the Ugandan government.

With this in mind, the government in the long run will need to be prepared to release funding and provide services in order to treat problem gamblers. This will call for the establishment of a national problem gambling team located within the mental health programme of the ministry of Health. The national problem gambling team would provide policy analysis, contract management, data and information analysis, among other envisaged services.

146 The Lotteries and Gaming Act of 2016 Sec 1.

147 Bky bitanihirwe. Problem gambling in Uganda. A public health perspective Available at <https://sbfphc.wordpress.com/2016/03/04/problem-gambling-in-uganda-a-public-health-perspective/> Accessed 7th January 2018.

5.1.1 Social problems of gambling

Although proponents of gambling claim relative benefits associated with the gambling industry such as increased revenue and potential employment opportunities, minors on the other hand are illegally and increasingly getting engaged in gambling activities and risking their progression into problem gamblers. For the avoidance doubt, problem gambling results into adverse effects including psychological distress, financial woes, disruptions to work, study and close relationships, domestic violence, children with higher rates of behavioral, emotional and substance use problems, likely increases in absenteeism from work, lost economic productivity and criminal activity attributable to gambling disorder.¹⁴⁸

Studies have also found similar conditions in those engaged in gambling including alcoholism, drug addiction, mental health problems, homelessness and criminal behavior.¹⁴⁹ Elsewhere in the world, a British study of casino patrons, for instance, found higher than average incidences of job loss, with those who remain in work reporting lost productivity through lateness, non-attendance and preoccupation with gambling. Consequently, 87% of the severe problem gamblers and 65% of the problem players have had to turn to others desperately for financial bailout caused by gambling, whereas none of the social players had done this.¹⁵⁰

Furthermore, it is estimated that between 0.6% and 0.8% of the adult population in Britain are problem gamblers (between 275,000 and 370,000 people) and the percentages of the population are similar for Scotland.¹⁵¹ According to the former Uganda Police spokesperson, she revealed that; “sometime back a manager of a betting company was killed in cold blood. This means that some people come to these places with criminal minds”.¹⁵²

The problems associated with gambling can be summarized into increased crime rates, behavioral problems, mental problems, and social and financial problems that are broadly explained in the section, among others.

5.1.2 Background to gambling among the youth

In most societies the world over, games of chance have existed for centuries and even during pre-colonial times. So, the games of chance have existed for as long as the human race itself. For a long time in most rural areas of Uganda, it was common to have a bet, stake or wager put in place for winning upon chances of something happening or not happening.

This bet or stake would be in any form including money, article, property and anything of worthy value. One could also place a bet on any event of African nature including a race, playing *omweso*, a dance, wrestling, hunting, fishing, etc. However, in recent times, the games of chance have taken a new dimension, causing addiction to people engaged in gambling. It should be noted that problem gambling is a resultant behaviour that is out of control and that it disrupts personal, family and employment relations, and is linked to financial problems such as debt and bankruptcy, divorce, lost productivity, crime (such as theft and fraud), depression and suicide.¹⁵³

148 G. Reith. Research on social impacts of gambling. Available at https://www.gla.ac.uk/media/media_34552_en.pdf Accessed on 7th January 2018.

149 n 3 above (43)

150 n 4 above.

151 n 5 above (6).

152 M Mukasa. Impact of sports betting and corruption: Reflections from Uganda. Available at <http://www.ksmo.co.ug/pubs/interpol.pdf> Accessed on 7th January 2018.

153 n7 above.

The new dimensional forms of gambling practiced currently in Uganda include sports betting, virtual soccer, horse and dog racing, slot machines, casinos, playing cards, board games, lotteries, pool tables, *Ludo*, *Kacaam*, chess, poka, *pata potea*, playing draughts and *omweso*. Going by the current trends, sports betting in Uganda, however, appears to be the most popular form of gambling considering the size of crowd particularly the youth that spend time and money gambling in sports betting houses.

Unlike in the past where a bet was purposeful and less problematic, the problem of gaming in Uganda has rapidly transformed into social vices. This ranges from the public's concerns about the age of children engaged in betting, to the small amounts one has to have and the suspicion by some parents that some gambling operators were encouraging housewives to bet at a fee of UGX 500 (less than one-sixth of a dollar) and schoolchildren to bet their school fees. According to some researchers, sports betting has potentially continued to create a great opportunity for many persons with criminal intentions to realise their intentions especially money launderers, drug and narcotics traffickers, tax fraudsters, speculators in international currencies, dubious businesspeople and criminal gangs.¹⁵⁴

In a bid to remedy the situation, the Uganda government enacted a law that set up minimum operational capital gambling companies should possess since others do not have enough money but only aim at cheating their clients. Despite the current laws in place that enforce the prohibition of underage gambling, among others, minors are actively engaged in gambling activities. The government's effort to enact a legal framework to regulate gambling and the establishment of the National Gaming Board Uganda in May 2017 has since seen a ban on setting up gambling centres and casinos anywhere near government offices, churches and markets even though gambling continues to attract huge crowds to gambling houses elsewhere.

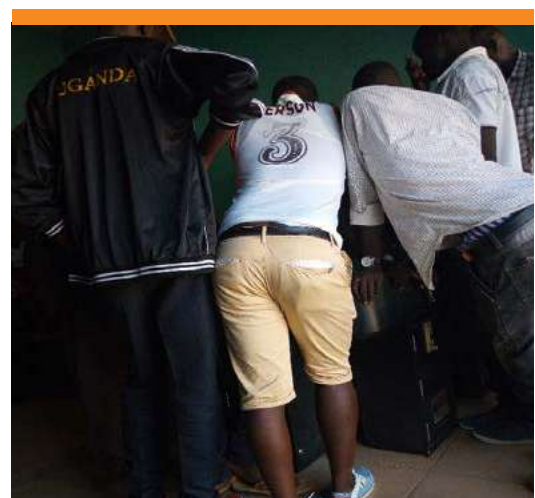
The resultant abandonment of gambling in public places in favor of other locations has seen almost every street, in every town in Uganda, awash with sports betting houses packed to capacity with idle youth, trying out their luck on game of chance throughout the day. The youth are gambling away their toil, time, resources and future on games of chance while business owners and government continue to reap more from profits and taxes respectively.



Gamblers at a gaming house in Zombo district



Sports betting



Youth at a gaming house in Gulu town

154 n 2 above.

It is against this background that Uganda Human Rights Commission (UHRC) in 2017, delved into carrying out monitoring of gambling activities specifically sports betting facilities in selected 54 districts of Uganda where UHRC has a presence. The districts were Kitgum, Pader, Agago, Gulu, Moroto, Kaabong, Arua, Pakwach, Nebbi, Zombo, Maracha, Koboko, Mukono, Kampala, Iganga, Jinja, Buliisa, Masindi, Kiryandongo, Kagadi, Kibaale, Kakumiro, Kyankwanzi, Yumbe, Moyo, Adjumani, Lyantonde, Kalungu, Bukomansimbi, Sembabule, Kyotera, Lwengo, Masaka, Ntungamo, Kabaale, Rakai, Kabarole, Ntoroko, Bundibugyo, Kasese, Kamwenge, Kyenjojo, Kyegegwa, Bunyangabu, Mbarara, Lira, Dokolo, Otuke, Kole, Apac, Buyende, Mayuge, Tororo and Alebtong. The findings were envisaged to inform government on the human rights implications of youth involvement in gambling and make recommendations to government.

5.1.3 Legal framework on gambling in selected countries

Although there are no internationally recognised and binding legal frameworks on gambling, there are national or domestic legal frameworks either legalizing or criminalizing gambling around the world including the Gambling Act 2005 of United Kingdom (and became effective in 2007). Gambling has been both promoted and prohibited in the UK during last 300 years. The UK government manages problems of gambling through government monopoly and control. For instance, the national lottery of UK is a private monopoly of a sort in that only one operator (Camelot) is allowed.

Other available national laws include the Interactive Gambling Act 2001 of Australia, as well as South Africa's Gambling Act of 1965 which officially banned all forms of gambling except betting on horse racing which existed as a sporting activity prior to the National Gaming (Amendment) Act 2008, among others.

The German Constitutional Court also ruled in 2006 that gambling was, in principle, illegal, though it was permissible in connection with the state monopoly. Dutch law, on the other hand, prohibits all forms of online gambling controlled by foreign operators.

In June 2010, Norway prohibited banks and other financial institutions from facilitating gambling operators. Foreign operators accepting bets from Norway could also be charged under this legislation. Meanwhile, gambling destinations in Asia are generally designed to cater for visitors (especially in mainland China, where most forms of gambling are forbidden, but this does not apply to Hong Kong or the nearby island of Macau).

5.1.4 National, legal and policy framework

At the national level, the Uganda Lotteries and Gaming Act, 2016 prohibits promotion of gaming and pools without licence.¹⁵⁵ The Act provides for the establishment of the National Lotteries and Gaming Regulatory Board which has the major function of regulating gaming companies through supervision and licensing of new companies. The board is also mandated by law to receive, investigate and arbitrate or take appropriate action in case of complaints relating to lotteries, gaming, betting or casinos. The operations of the board are governed by the Lotteries and Gaming Regulations, 2017. Furthermore, the Income Tax (Amendment) Act, 2014, among other things, also provides for withholding tax of 15% on all winnings from gambling.¹⁵⁶

5.1.5 Situational analysis of gambling

In Africa, approximately 30 countries have either brick-and-mortar casinos or various types of gambling machines. The most popular gambling destination is South Africa, with 40 casinos and 38,000 slot machines.¹⁵⁷

¹⁵⁵ n1 above.

¹⁵⁶ R. Wamajji. Sports betting and gaming, our youth are losing out. Available at www.parliamentwatch.ug/sports-betting-and-gaming-our-youth-are-losing-out/#W0BWTVFRXqA Accessed on 8th February 2018.

¹⁵⁷ J. Nikkinen. The Global Regulation of Gambling: A General Overview. Available at <https://www.worldcasinodirectory.com/uganda> Accessed on 8th February 2018.

The Raineau Group is one of the key actors with regard to casino facilities and resorts, especially in Egypt. Significant amounts of gambling were also mentioned in other literature to be going on in Botswana, Cameroon, Ghana, Morocco, Namibia, Zimbabwe and Uganda.¹⁵⁸

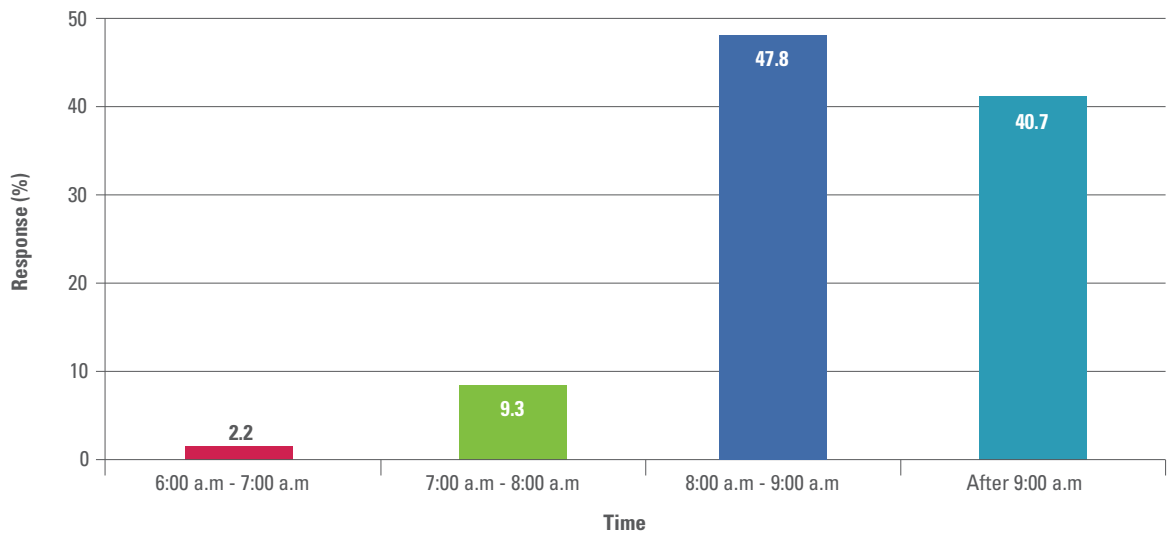
Although there has been no study with reliable statistics on the number of legalized gambling facilities in the rural areas of Uganda as well as unlicensed gambling facilities, it is possible that a number of illegal facilities were operating in those remote areas. Consequently, it is common to see underage children engaging in irresponsible gambling in villages, crowding in shops at productive times, mushrooming illegal operators and addiction to gambling, among other vices.

In order to understand the problems of gambling in more details, it is important to appreciate the time people spend in gambling, discuss the causes of gambling, appreciate the affected regions and age groups, understand gender categorization of population engaged in gambling, as well as the status of licensing of gambling centres, among others.

5.1.6 Time gambling facilities open

As shown in the figure below, the majority of the respondents (47.8%) interviewed by the Commission revealed that gambling operations opened between 8am and 9am, followed by 40.7% who revealed that operations opened after 9am while 9.3% said between 7am and 8am and those who said operations opened between 6am and 8am were 2.2%.

FIGURE 13: TIME AT WHICH GAMBLING OPERATIONS OPEN

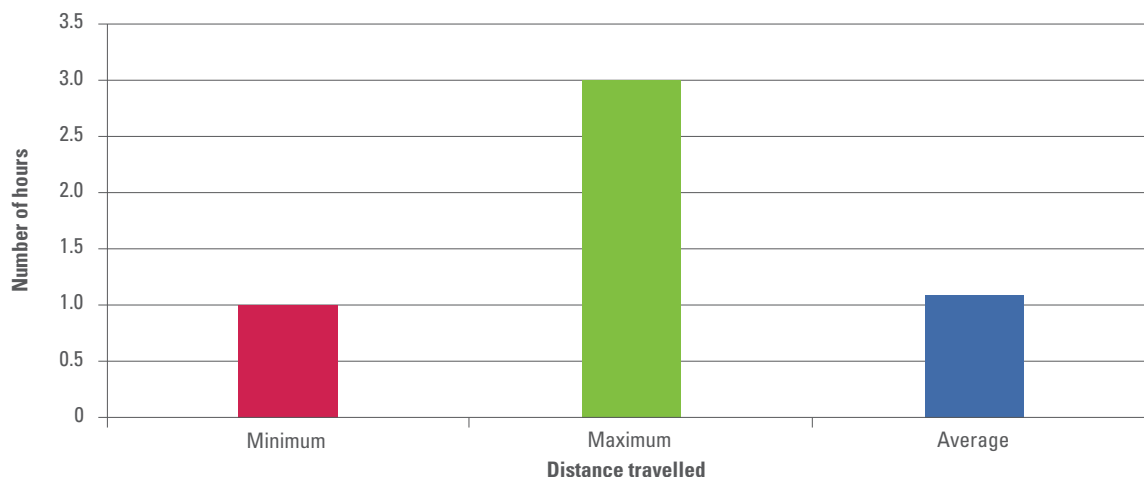


5.1.7 Hours gamblers spend at gaming houses

The figure below shows the maximum time gamblers spent at sports betting facilities to be three hours, while average time was one hour and 15 minutes. Furthermore, the minimum time a gambler spent was one hour on daily basis. This time was relatively higher for idling and wasting hard-earned resources on games of chance instead of productive work. This level of idleness can be worrying for the country.

158 n 12 above (page 35).

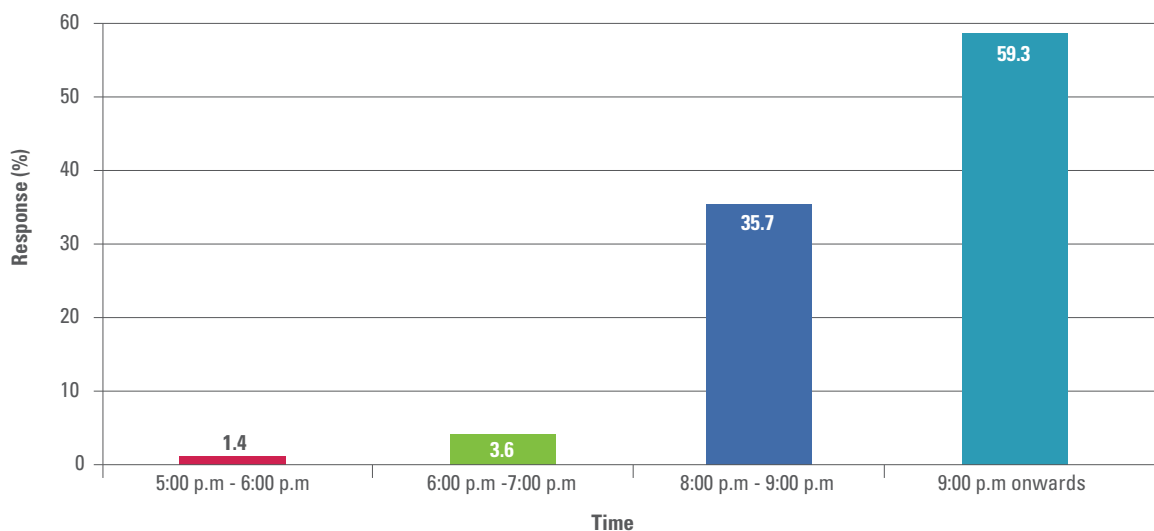
FIGURE 14: HOURS SPENT ON GAMBLING



5.1.8 Time gambling operations close

As illustrated in the figure below the highest number of respondents the Commission interviewed (59.3%) said gambling operations close from 9pm onwards, followed by 35.7% who stated that closing time was between 7pm and 8pm, while 3.6% said closure time was between 6pm and 7pm and the least (1.4%) said the earliest time of closing gambling operations was between 5pm and 6pm. In view of this, sports betting seems to be fulltime job to many people and there is need for this to be urgently addressed by government.

FIGURE 15: TIME GAMBLING OPERATIONS CLOSE



These statistics, therefore, imply that if one enters a gambling facility that opened at say 8am, factoring in maximum time of three hours, it will take the person approximately up to 11am. The government should realise that the opening time allowed for gambling operations to start is still relatively too early.

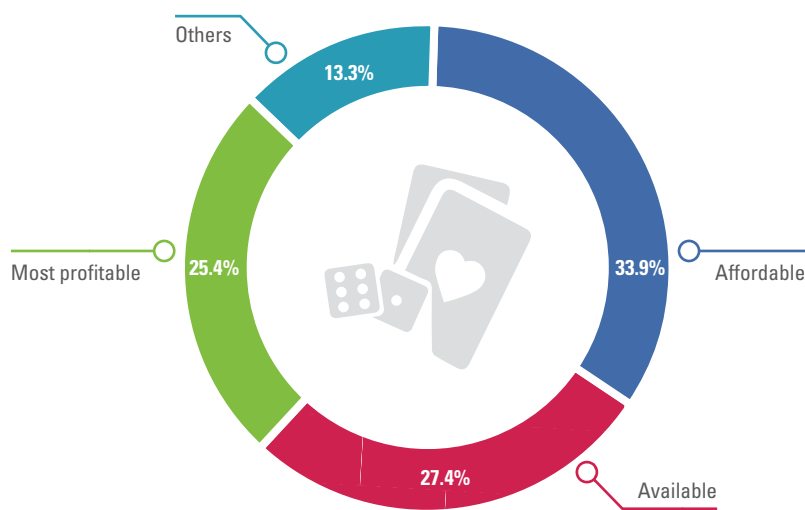
Although most of the gambling operations open at about 8am to 9am and close at 9pm, some sports betting centres including Nile View Casino do not close until the games are done at about 3am. Elsewhere, some sports betting facilities were closing at 2am in the morning because some fishermen keep awake till the time they go for fishing. The trend implies, therefore, that there is no effective monitoring mechanism by the Lotteries and Gaming Regulatory Board on the closing time of the gambling houses.

In order to address this vice, there are two duty bearers (the state and parents) in ensuring that responsible gambling takes place. The state has the responsibility to clamp down on illegal gambling areas and to ensure that those licensed do enforce age restrictions, as well as closing and opening times. Parents have the responsibility to monitor and control the movement of their children as well as engaging them in productive activities for the wellbeing of their families as opposed to gambling.

5.1.9 Causes of gambling

Observations by the Commission strongly associate problem gambling with the availability of the gambling facilities in the rural areas and the convenience this brings. According to UHRC findings, respondents advanced four categories of reasons why people get involved in gambling including affordability, availability, profitability and other general reasons, among others.

FIGURE 16: REASONS FOR GAMBLING



The figure above shows that from UHRC findings, the highest percentage of causes of gambling was affordability at (33.9%), followed by the second category of availability (27.4%), and profitability as third (25.4%) while other causes were at 13.3%.

To emphasize profitability, a gambler from Gulu said the amount of money gamblers earned daily ranged from UGX 500,000 to UGX 2,000,000 and this money was paid in Uganda shillings mostly through a cashier while in a few instances huge payouts were made through online payments and transfers.

5.1.10 Affected regions and age groups

It should be understood that Uganda is one of the countries in Africa where legal gambling is authorized. Ordinarily, the Lotteries and Gaming Regulatory Board should have readily available data on district distribution of licensed and unlicensed gambling facilities in Uganda. To the contrary, however, there are no readily available data because the Lotteries and Gaming Regulatory Board had only been in office for seven months by December 2017.

Information available elsewhere shows that the legal gambling facilities in Uganda are 13 legal in total.¹⁵⁹ The largest gambling city in Uganda is Kampala with 12 gambling facilities, 95 table games, 359 gaming, slot,

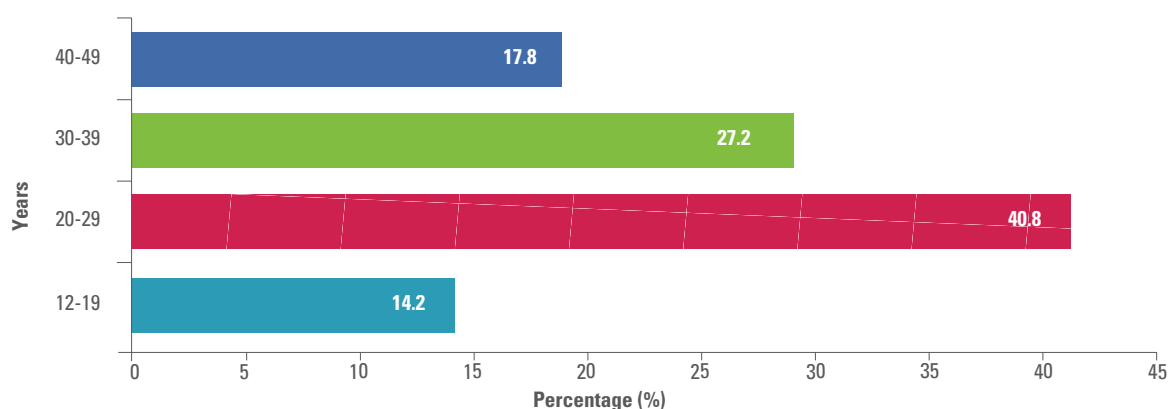
¹⁵⁹ Uganda casinos and gambling guide. Available at <https://www.worldcasinodirectory.com/uganda> Accessed on 8th February 2018.

and video poker machines.¹⁶⁰ The largest casino in the entire country of Uganda is Casino Simba which is located in Kampala. Casino Simba has 22 table games, 130 gaming and video poker machines.

In the survey interviews by UHRC, the highest percentage of respondents at (99.3%) said gambling was practised in their areas while only (1.7%) said they did not know gambling was taking place in their areas. It should be noted that UHRC offices are spread across the regions of Uganda. So, having such a high percentage of respondents (99.3%) stating in the affirmative that gambling takes place in their areas, is a sign that gambling has penetrated the core of Ugandan villages.

The figure below shows that the age group most affected by gambling is of 20 to 29 years at 40.8%, followed by the 30 to 39 age group with 27.2% responses, then 40-49 years with 17.8% and the last category are the youngest group people between 12 and 19 years at 14.2%. This, therefore, implies that gambling is practised by both children starting at 12 years and by adults as old as 49 years perhaps even older than 49 years.

FIGURE 17: AGE GROUPS INVOLVED IN GAMBLING



The respondents stated that people in the age group of 20 to 29 are the most involved in gambling followed by people in the age group of 30 to 39. The fact that children engage in gambling at an early age was also corroborated by the testimony from one of the police Community Liaison Officers (CLO) at Old Kampala police station, who stated:

Children below the age of 18 were allowed to be involved in gambling but the measures are to sensitise the managers to stick to the rules and regulations that govern the industry.¹⁶¹

Children by law are persons below the age of 18 years. According to figure 22 respondents stated that there was a good number of children engaging in gambling activities. The highest category was the 12 to 19-year-olds. Although 19 years falls under the majority age in Uganda, UHRC considers this group as part of youth as recognised in Uganda. It should be noted from these findings that the problem of gambling in Uganda cuts across various age groups and it is not only the youth who are affected but both young and old, rich and poor.

The UHRC monitoring survey found that rural areas were increasingly becoming affected by the ban of gaming near offices, churches and markets by the Lotteries and Gaming Regulatory Board. Some local governments have started regulating gaming houses in their districts including Alebtong district where the district council passed an ordinance in 2017 prohibiting operations in gambling business and whoever was found, had their equipment impounded, confiscated and or destroyed. The survey found district councils in

160 n 15 above

161 Interview with IP Enock Tumwesigye, the Community Liaison Officer, Old Kampala police station.

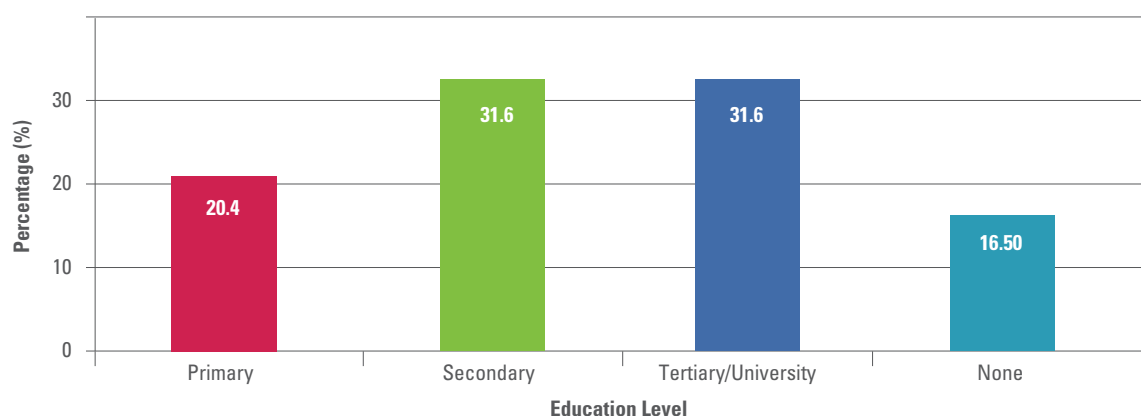
Greater Masaka enforcing the legal age of eligibility to participate at 25 years and the gaming houses have been restricted to town councils only.

5.1.11 Gender categorization of population engaged in gambling

Since football has been viewed as a men's pastime with sports betting naturally attracting men, the men were, therefore, more likely to gamble for fun, and for making money than women. During the Commission's monitoring, further discussions with the operators revealed that some women have resorted to online betting for fear of ridicule when seen in betting houses. The only women found inside the gambling facilities were employees of the sports betting centres.

With the enabling legislative frameworks allowing free gambling in Uganda, gambling houses have spread like disease infecting virtually every household, uneducated and educated. In the figure below, the UHRC field findings show the highest category of affected level of education of the population are those with secondary level education (31.6%) and tertiary/university level at 31.6%, followed by primary level (20.4%) and those with no education were least at 16.5%.

FIGURE 18: LEVEL OF EDUCATION OF GAMBLERS



5.1.12 Status of licensing of gambling centres

The Lotteries and Gaming Regulatory Board was established with functions to among others license operators, designate premises for gaming, approve games, software and equipment made available for gaming, sensitizing the public, and perform any other functions relating to gaming.

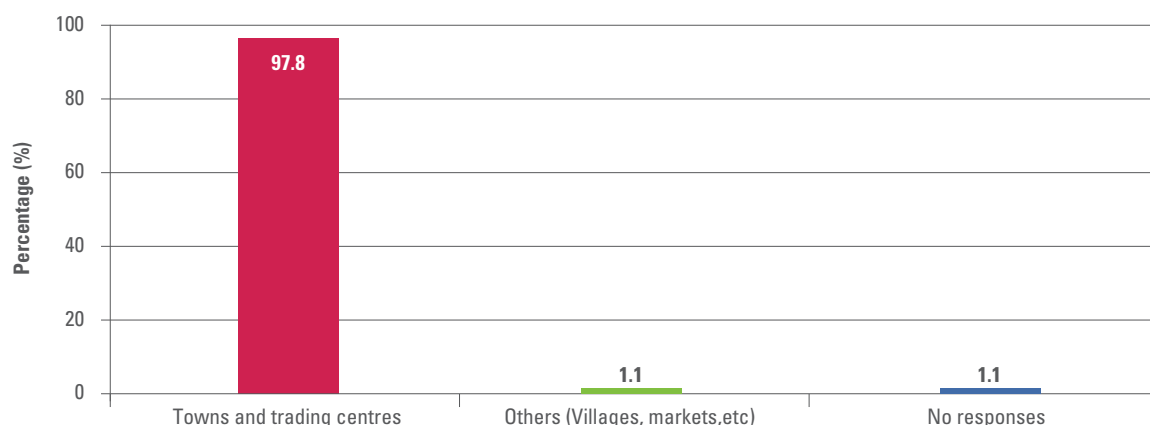
According to Lotteries and Gaming Regulatory Board, the current licensing status is 14 casinos with 19 branches, 34 sports betting operators with 1,560 branches and 3,488 registered gaming machines.¹⁶²

Although facilities licensed are still few, the Lotteries and Gaming Regulatory Board was only launched in May 2017 with approximately 50 staff based at national level. It is, therefore, tall order for the Board to effectively monitor, inspect, license and regulate the gambling operations in the country with such limited staff capacity. Coupled with limited capacity of the Lotteries and Gaming Regulatory Board to effectively conduct its work, there are challenges the board faces including illegal operators and impersonators, illegal equipment, lack of knowledge of the law, and budgetary constraints.¹⁶³

¹⁶² A presentation by Lotteries and Gaming Regulatory Board at UHRC Annual Report Consultative meeting December 2017.

¹⁶³ n 19 above

FIGURE 19: CONCENTRATION OF GAMBLING AREAS



The figure above shows that of the respondents UHRC interviewed, 97.8% stated that gambling centres were located in towns and trading centres, followed by other areas including villages or markets (1.1%), while about 1.1% did not respond or did not know where gambling centres were located. According to the respondents, the reasons why gambling centres were found in towns are because of the busiest nature of towns and trading centres with higher crowd numbers on a daily basis than villages.

5.1. 13 The human rights implications of youth involvement in gambling

The Lotteries and Gaming Regulatory Board mentions positive benefits of gambling as bringing in a lot of revenue into Uganda's economy, and the gaming sector employing about 4,000 Ugandans, with betting taking up 60% of that.¹⁶⁴ In their arguments, for instance, during the 2015/2016 financial year, the revenue collected from gambling was UGX 25 billion. This sharply increased in the 2016/2017 financial year to a whopping UGX 37 billion.

Other than those two benefits, the gambling industry has more negative implications than the positive ones. The negative human rights implications of gambling in Uganda include the following:

(a) Failure to provide the right to education

Article 26 of the Universal Declaration of Human Rights (UDHR) and the Constitution of the Republic of Uganda articles 30 and 34 (2) provide for the right to a basic education for everyone. Gambling and sports betting do not accord a child or youth the opportunity, time and concentration required of him or her to fully enjoy this inherent right to education.

Although by law, the minimum age allowed for clients to enter the gambling facility was and still is at 18 years, the Commission found that the only measures the operators had put in place to deter underage clients was the display of signs indicating that the under-18 were not allowed including some strict scrutiny at the entrances. The majority of the patrons into sports betting houses were young adults aged between 20 and 29.

Despite the above measures, gambling has to some extent impacted on the right to education of some of the youth. As looked at earlier, the second highest age group affected by gambling is that between the ages of 12 and 19. When you consider the two age groups with the highest participation in gambling (from 12 to 29 years), these are the very young, energetic and productive groups that are idle and unproductive most of the day.

¹⁶⁴ n 20 above

A respondent that UHRC interviewed from Mbarara shared experiences of how the youth from higher institutions of learning divert money meant for school fees into gambling and had negatively impacted on the performance of some student.

The Dean of Students at Bishop Stuart University Mbarara shared the following experience:

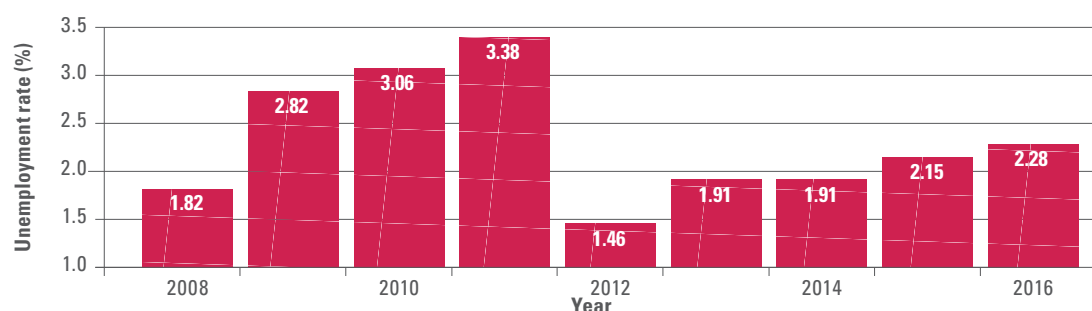
“ Some students dropped out of their enrolled courses due to the fact that they gambled away their school fees. Besides gambling away their school fees, concentration in class was discovered to be limited because students are always interested in following up on international sports other than concentrate on their academic careers.¹⁶⁵

Some of the children may not be in school when required to, and as a result they find time to do gambling. Of those in schools, greater supervision, discipline and regulation is needed to keep them in school during school hours.

(b) Failure to realise the right to gainful employment

The Universal Declaration of Human Rights provides for the right to work and to free choice of employment and to protection against unemployment by government.¹⁶⁶ The figure below shows that the unemployment rate in Uganda has increased from 2.15% in 2015 to 2.28% in 2016.

FIGURE 20: UNEMPLOYMENT RATE IN UGANDA



Source: Tradingeconomics.com / Uganda Bureau of Statistics

This increase in the unemployment rate has forced the graduate youth to resort to gambling as a form of employment and source of income. Subsequently, this has resulted into disappointments on their part since the practice is solely based on chance and the winning percentage is very low. However, some employed youth with arguably low earnings have resorted to online betting because it offers quick returns, privacy and can be carried out from the comfort of their desks or work stations.

(c) Failure to respect the right to safety and security of person

Gambling centres a notorious source of insecurity by contributing to the increase in crime rates. In this regards, it is a growing concern among all communities monitored that the youth spend all their time gambling and when they lose, they resort to illegal means of raising money, and are often lured by gangs of other youth into committing crimes.

UHRC has noted with concern that instead of doing productive work, some youth indulge in gambling and petty theft for a living. As a result, some members of the local leadership think betting is time-consuming, breeds wrongdoers, and poses a threat to youth livelihood.¹⁶⁷

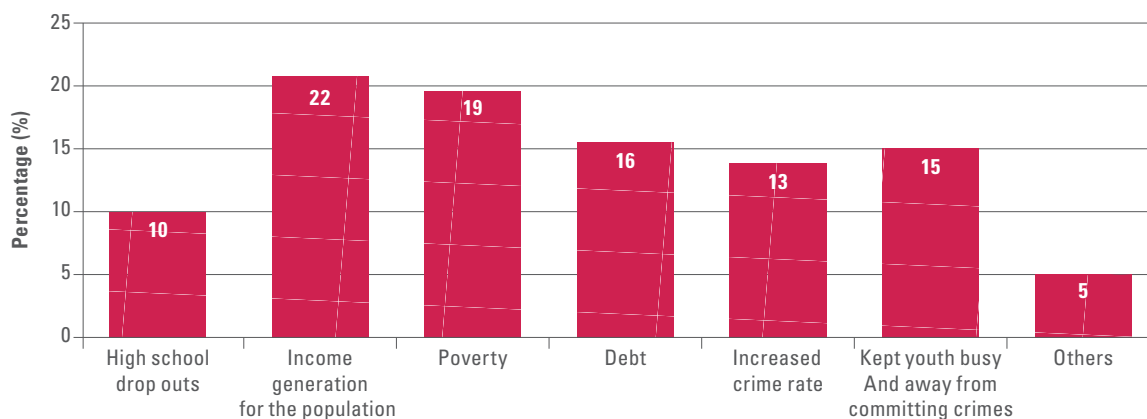
¹⁶⁵ Interview with Prof George W Kasozi, the Dean of Students at Bishop Stuart University Mbarara, in November 2017.

¹⁶⁶ Article 23 of Universal Declarations of Human Rights.

¹⁶⁷ Interview with the Vice Chairman, Kalungu district in November 2017.

Interestingly, an Australian survey of four hundred members of Gamblers Anonymous found that 57% had stolen to finance their gambling. Together, they had stolen \$30 million, or an average of £135,000 per individual.¹⁶⁸

FIGURE 21: IMPACTS OF GAMBLING



The figure above shows that one of the positive benefits of gambling discovered by UHRC was income generation for the population at 22% followed by keeping the youth busy and away from committing crimes at 15%. However, other than that, respondents stated that gambling has negative effects including leading to poverty (19%), increasing debts (16%), increasing the crimes rate (13%) and high school dropout (10%).

ASP Obotol, the Officer in Charge, Seeta police station in Mukono district, corroborated this negative implication of gambling thus:

“The impact of gambling in the area is that it has increased the crime rate; for example, theft by gamblers to get money to carry out betting.”¹⁶⁹

(d) Implications on the right to healthy and secure environment

Besides perpetration of crime, gambling activities usually result into noise around the places where they are carried out. This is as a result of constant cheers on the likely outcome that is beneficial to participants.

The body put in place by Ugandan government to regulate noise in the districts and villages does not have the capacity in terms of equipment to measure levels of recommended noise and sounds. Even though the ban was made against gambling near government offices, churches and markets, the level of crowding has extended elsewhere far from those offices with noise, and loud cheers continuing.

(e) Failure to provide the right to a family, food and shelter

Article 25 of the Universal Declaration of Human Rights, Article 12 of the International Covenant on Economic, Social and Cultural Rights, and Article 11 of the International Covenant on Civil and Political Rights (ICCPR), all provide for the right to an adequate standard of living for the wellbeing of self and family.

Findings show gambling as having negative effect on the members of the household of a person involved in gambling activity. Usually the children and women are victims because their fathers or husbands fail to provide the basic necessities for them, resulting into the children running away from home.

¹⁶⁸ n6 above (page 45)

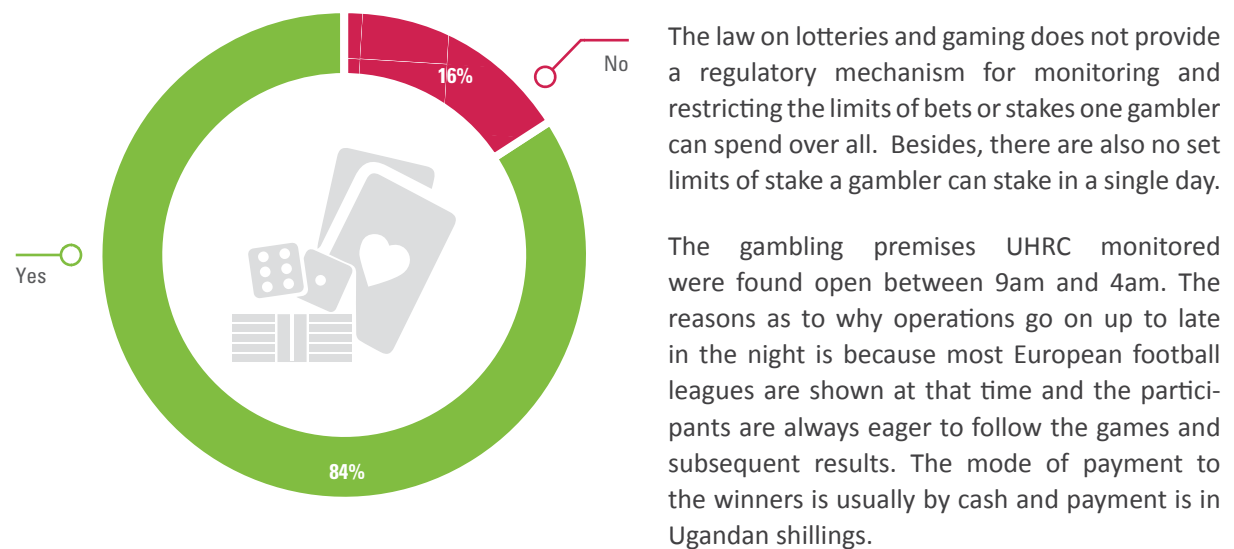
¹⁶⁹ Interviews with ASP Obotol, the Officer in Charge of Seeta police station, by UHRC Central Kampala office in December 2017.

Some youth gamble up to the point where they lose all their hard-earned money. They are in a state where they cannot provide for their families nor stay with the family. They cannot afford food and shelter because they cannot afford to pay the rent. The above effects of gambling on family are corroborated by UHRC findings in the figure below.

The figure below shows that the highest number of respondents (84%) said there are limits on how much a gambler can spend on gambling and (16%) of respondents said there was no limit on how much one can spend on gambling.

With this revelation, therefore, there is an urgent need for government to set minimum limits on how much a gambler can spend in a week or a month with recorded data that captures the person's national ID details.

FIGURE 22: LIMITATIONS ON SPENDING ON GAMBLING



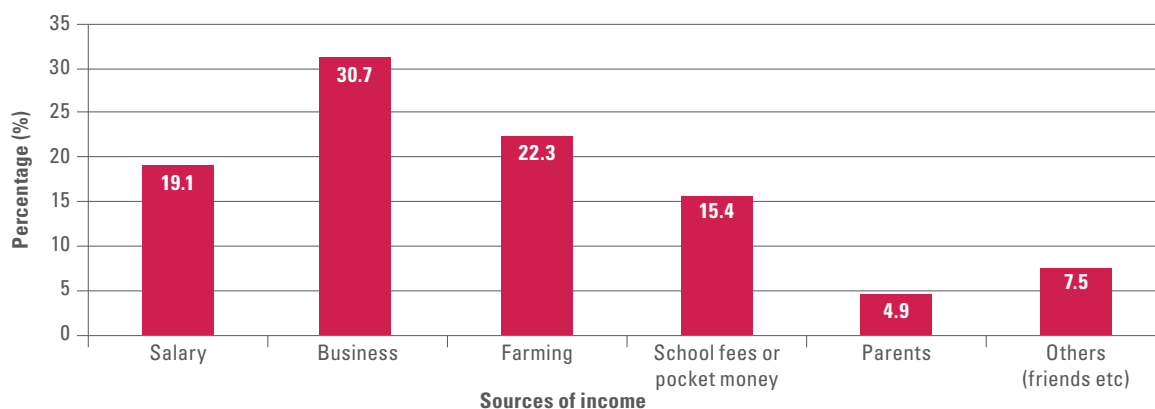
(f) Freedom of expression and opinion

According to the Ugandan Constitution, everyone has a right to freedom of opinion and expression¹⁷⁰ which in a way translates into the way the youth are making financial opinions and decisions regarding gambling as long as they are not illegal. The youth that engage in gambling activities argue that, they are simply enjoying their private time and spending their own money.

However, it should be noted that the youth are spending their hard-earned money in a wrong and misdirected way. The Commission's findings presented in the figure below show that business at 30.7% is the most common source of income for youth involved in gambling, followed by farming (22.3%), salary (19.1%), school fees or pocket money (15.4%), parents (4.9%) and other sources at (7.5%).

170 Article 29 of the Constitution of the Republic of Uganda.

FIGURE 23: SOURCES OF INCOME OF GAMBLERS



The most worrying trend from the findings is that, farming was the second source of income for gamblers, followed by salary and then school fees. Considering that farming is the backbone of Uganda's economy, gambling is slowly eating up peasants like cancer. School pupils and students were not spared either as they sacrificed their school fees. Interestingly, people in the working-class also waste their hard-earned salary in gambling instead of saving and or investing.

(g) Right to physical and mental health

Children have a right to be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with their physical, mental, spiritual, moral or social development.¹⁷¹ Similarly, a child's other rights to be recognised as a minor is provided for and are supposed to be respected, protected and fulfilled by governments.

Article 24 (3), of the Convention on the Rights of the Child 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 that are prejudicial, detrimental or harmful to the health of children.

Gambling disproportionally affects a younger person mentally and physically. Children who gamble have higher rates of behavioral, emotional and substance use problems.¹⁷²

(h) Right to life

Article 6 of the International Covenant on Civil and Political Rights (ICCPR) and Article 3 of the Universal Declaration of Human Rights provide for the inherent right to life, liberty and security of person.

Irresponsible gambling can undoubtedly lead to disruptive behavior that can cause self-harm or harm to others and subsequent death. For example, a man in Kireka, a Kampala suburb, committed suicide because he had put in a lot of money as stakes and yet he did not get any benefits out of it.

(i) Right to property

Article 17 of the UDHR guarantees the right to own property alone as well as in association with others and categorically stipulates that no one shall be arbitrarily deprived of property.¹⁷³

171 Article 15 of the African Charter on the Rights and Welfare of the Child (ACRWC).

172 n5 above

173 n23 (Universal Declaration) art 17

However, problem gamblers can sell off family property as collateral in banks or elsewhere. This will infringe on the family's rights to property, especially the young children and widows. Therefore, restricting or severely limiting the problem gambler's access and custody of household finances and assets is a common recommendation that can benefit both the gambler and the family.

Money is the fuel for a gambling habit, and the ability of a spouse, business partner, parent, trusted friend or relative to create a roadblock to access can be helpful. The blocking of access to financial resources can range from simply giving the problem gambler an allowance to more extensive measures, such as transferring legal control of all assets to a spouse, business partner, loved one or even a trustee.

On the other hand, some legal jurisdictions may argue that if an individual claimed to be aged 21, couldn't they after losing in a gambling house, take advantage of their own fraud and sue to recover their losses? Presently, there exists no statute in Uganda that allows for the recovery of money lost from gambling.

Still, the right to property can be infringed upon in gambling even in circumstances when the gambler actually wins. The owners and operators of gambling houses may get tempted to cheat the winners. For example, in Mbarara, a gambling house owner wanted to cheat a man who had won through sports betting.

5.1.14. Recommendations

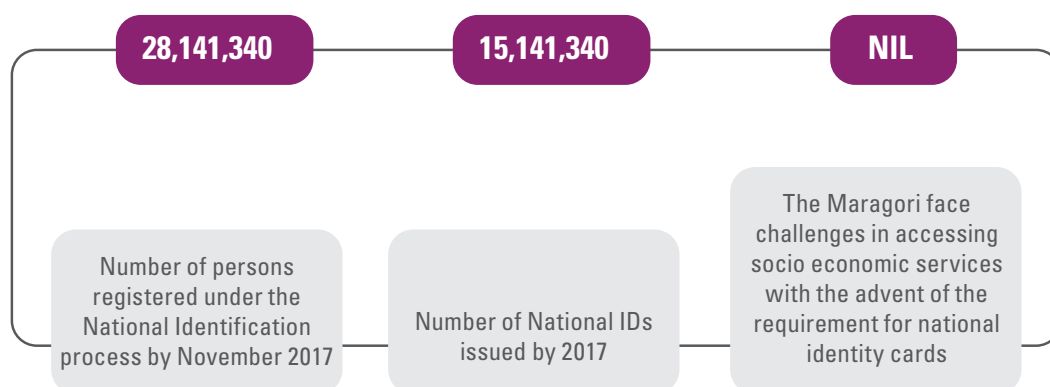
In order to help address the overarching negative human rights implications of gambling, and sports betting in particular, the following recommendations should be implemented by specific ministries, departments and agencies of government.

1. The Government of the Republic of Uganda, through Parliament, should consider reviewing the Lotteries and Gaming Act to restrict licensing, keep a limit on the amount of time and money spent on gambling to avoid addiction, and restrict uncontrolled access by school going age
2. The Lotteries and Gaming Regulatory Board should open regional branches and widely disseminate the Lotteries and Gaming Act to the masses so that they can engage in responsible and informed gaming.
3. The Government, through Parliament and ministry of Finance, Planning and Economic Development, should increase the budget of Lotteries and Gaming Regulatory Board so as to fund its planned activities including continuous inspection and coordinate enforcements of the law and policy.
4. The Government should facilitate the Lotteries and Gaming Regulatory Board with adequate equipment including vehicles, as well as facilitate the opening of branches in the districts.
5. Government of Uganda should develop a responsible gambling policy to reinforce the existing law on lotteries and gaming of 2016 as well as the regulations of 2017.
6. Government of Uganda, through Lotteries and Gaming Board, should design a programme of conducting routine and regular studies so as to understand the causes and impact of gambling to inform government on steps to take in the efforts of creating jobs for the youth.
7. The Lotteries and Gaming Board should effectively be seen to carry out its functions on monitoring and reporting on operations of gambling companies, and review of operations of defiant gambling companies to ensure companies fulfill their obligations.

5.1.15. Conclusion

It should be noted that gambling is spreading very fast in the rural areas of Uganda and affecting the productive group of Uganda's population as well as adult population at an alarming rate as looked at in the chapter. There is an urgent need, therefore, for government to embark on legal reforms aimed at deterring the youth and general population from looking at gambling as an alternative to productive activities and entrepreneurship.

5.2 CITIZENSHIP RIGHTS WITH SPECIAL FOCUS ON THE MARAGOLI COMMUNITY



5.2.0. Introduction

The Constitution of the Republic of Uganda, 1995, under Article 52 (1)(a), mandates Uganda Human Rights Commission (UHRC) to investigate at its own initiative or on a complaint made by any person or group of persons against violation of any human right. In this regard, therefore, the Commission together with the Office of the United Nations High Commissioner for Human Rights (OHCHR) jointly monitored the situation of the Maragoli community in Kiryandongo district to verify allegations of exclusion and discrimination in the ongoing national identification and registration exercise.

The monitoring exercise and the premise for this discussion originates from a request made by the Speaker of Parliament to UHRC in 2016 to monitor and report on the plight of the Maragoli. This was closely followed by a formal petition lodged by the Maragoli to the president and to Parliament for the amendment of the current Constitution to ensure the Maragoli get legal recognition as citizens and to be issued national identity cards by the National Identification and Registration Authority (NIRA).¹⁷⁴

It must be noted that the right to a nationality, commonly known and interchangeably referred to as citizenship rights,¹⁷⁵ has been described as the ‘right to have rights’¹⁷⁶ since it is vital to the enjoyment of other fundamental rights in a given state. The denial of recognition by governments that establish who their nationals are, leads to ‘statelessness’ and the subsequent deprivation of basic rights. There are currently at least ten million people in the world who do not have a nationality and are currently stateless.¹⁷⁷

In Uganda, The Maragoli community, a marginalised ethnic minority group alleged a situation of being stateless following events that transpired during the national identification and registration processes in Uganda. They alleged that despite their struggle that started as early as the 1990s through their area members of parliament, they had not been included in the third schedule of the Constitution of Uganda and

¹⁷⁴ Maragoli petition to Parliament dated 12th December 2010, seeking UHRC to make findings with appropriate recommendations to their plight.

¹⁷⁵ It should be noted that though citizenship and nationality are distinct terms, they are used interchangeably by international human rights jurists and courts.

¹⁷⁶ Trop versus Dulles (1958) 356 US 86, 101-102.

¹⁷⁷ UNHCR. Ending Statelessness. Available at <http://www.unhcr.org> Accessed on 18th February 2018; see also UNHCR article entitled “Global 2014-24 Action Plan to End Statelessness” page 6. Available at <http://www.unhcr.org/protection/statelessness/54621bf49/global-action-plan-end-statelessness-2014-2024.html> Accessed on 23rd February 2018.

that they had been discriminated against when NIRA declined to register them as citizens by birth in Uganda but opted for naturalisation which they do not agree with. This section of the report, therefore, delves into the concept and recognition of the right to a nationality from the Ugandan perspective with specific focus on the national identification and registration process and the resultant human rights concerns faced by the Maragoli community.

5.2.1 Legal framework

This subsection presents a summary of the legal and human rights guarantees of the right to citizenship under international, regional and domestic law.

(a) International legal framework

Article 15 of the UDHR states, “everyone has the right to a nationality” and “no one should be arbitrarily deprived of their nationality or denied the right to change their nationality”. This right is often pronounced in tandem with the principle of non-discrimination where states are urged to eliminate any form of discrimination based on race, colour, nationality, religion or ethnic origin.

The other important instrument is the Convention relating to the Status of Stateless Persons, 1954. It defines a stateless person as someone who is “not recognised as a national by any state under the operation of its law.” In simple terms, a stateless person is someone who does not have the nationality of any country. The convention further guarantees the protection of such persons and goes on to provide for and to stipulate the rights of stateless persons to include non-discrimination, right to education, housing, health, employment, access to justice and identity documentation, among other.¹⁷⁸ It also provides for the right to nationality at birth if the person would be stateless and the right to facilitation of naturalisation.¹⁷⁹ Other key instruments include the Convention Relating to the Status of Refugees, 1951 and the Convention on the Reduction of Statelessness, 1961.

(b) Regional human rights framework

Article 5 of the African Charter on Human and Peoples’ Rights (ACHPR) provides for the freedom from discrimination on grounds of nationality, race or ethnic group, among others. The African Charter on the Rights and Welfare of the Child (ACRWC), on other hand, focuses on the children’s right to nationality without any grounds of discrimination.¹⁸⁰

(c) National legal framework

The Constitution of Uganda contains provisions under chapter 3 on the different means of attaining citizenship status, recognises the principle of non-discrimination and the rights of marginalised groups and ethnic minorities. The Registration of Persons Act, 2015 deals with the criteria for registration of persons and establishes the mandate for National Identification and Registration Authority. The Citizenship and Immigration Control Act, 2009 operationalises chapter 3 of the Constitution of Uganda and goes further to stipulate the grounds for denial of nationality status.

5.2.2 Situational analysis of the right to citizenship and the national

Currently, there are four forms of citizenship legally recognised in Uganda:

- (a) **Citizenship by birth:** This refers to a person whose parents or grandparents belong to one of the indigenous communities existing and residing within Uganda by 1st February 1926 which are highlighted in the Third Schedule of the Constitution of Uganda. Additionally, it refers to every person born in or

¹⁷⁸ Articles 3, 17,18,21,22 and 27.

¹⁷⁹ Articles 1(4) and 32.

¹⁸⁰ Article 6.

outside Uganda one of whose parents or grandparents was at the time of birth of that person a citizen of Uganda by birth.

- (b) **Citizenship by registration:** It occurs when a foreigner becomes a citizen if he/she is cleared by the Directorate of Citizenship and Immigration Control and is issued a certificate;
- (c) **Citizenship by naturalisation:** The Directorate of Citizenship and Immigration Control issues a certificate to the following persons; a person who must have resided in Uganda for an aggregate period of 20 years; has resided in Uganda throughout the period of twenty-four months immediately preceding the date of application; has adequate knowledge of a prescribed vernacular language or of the English language; is of a good character; and intends, if naturalized, to continue to reside permanently in Uganda.¹⁸¹
- (d) **Citizenship as foundling and by adoption:** Children that are foundlings (a child whose parents are unknown) or adopted by Ugandan citizens are also presumed to be or get registered as citizens.

The 1995 Constitution also presumes that whoever was a citizen of Uganda before its commencement is a citizen of Uganda.

There is, therefore, a relationship between the national identification and registration process and the promotion and protection of citizenship rights. The criteria and procedures used and even legislation and policies used can lead to the enjoyment or denial of citizenship rights which in turn can lead to statelessness. The move for a national identity card registration process is not unusual as this is a move by governments to update and digitalise the national register and also a means to verify the statistics on the number of citizens they have got.

5.2.3 The plight of the Maragoli and UHRC's findings

As mentioned earlier on, UHRC together with the OHCHR visited Kiryandongo district where majority Maragoli live from 5th to 7th July 2017 to ascertain the human rights situation of the Maragoli community. The intention was to come up with a report on the findings but most especially to ascertain if there were resultant human rights infringement as a result of the ongoing national registration exercise.

5.2.4 Historical account of the Maragoli people

One of the findings of the monitoring team is that the history of the Maragoli is one of the factors that may determine either their inclusion into the third schedule of the Constitution of the Republic of Uganda or a qualification for their acquisition of their citizenship of Uganda by birth. The Maragoli community, whose current population in Uganda is over 250,000, give a three-faced account of their migration into Uganda. The first account is that, they originate from the North – present-day Arabia through to Egypt, beginning with a man called Mulogoli around the 18th century.¹⁸² Mulogoli is believed to be a descendant of Kintu who led the ancestors of the Luhya and travelling further through river Nile, the Maragoli entered Uganda and first settled in present-day Busoga with some proceeding to western Kenya where they are currently called Abaluhya from the Luhya tribe.¹⁸³

The second account is that some of the Maragoli arrived in Uganda from Kenya as part of the labour-force during the construction of the East African railway line where they had served as casual labourers and that while some of them settled in Busoga interacting with the inhabitants here, the majority of them

181 Article 16(1)(2)(3)(4) of the Uganda Citizenship and Immigration Control Act, 2009.

182 Gideon Were. History of the Abalogoli. 1967. Available at <http://www.abeingo.com/SUBTRIBE%20DOCS/maragoli.pdf> Accessed on 6th March 2018.

183 Uganda Human Rights Commission. "Maragoli Community Report findings done from 5th to 9th June 2017.

proceeded to mid-western and settled in present-day Bunyoro. The third account states that the Maragoli were invited by the Omukama of Bunyoro-Kitara Kingdom, Sir Tito Winyi in 1957. This account is corroborated by the Principal Secretary to the Omukama, Yolamu Nsamba, in his letter dated 27th July 2012 to the General Secretary of the Maragoli community in Kiryandongo district where he condemned the illegal evictions of the Maragoli from the land that the Omukama Sir Tito Winyi had allocated to them in 1957. What appears clear, therefore, is that the majority of the Maragoli came to Uganda following the invitation of the Omukama in 1957 although they (the Maragoli) contend for recognition as citizens of Uganda by birth, and not by naturalisation as advised by NIRA.

More information gathered from local council leaders, the LC I of Kiduku, Kijja, and Nyama, LC III Kigumba town council, LC V Kirandongo district and other district officials appear to refute the two accounts of migration of the Maragoli and instead corroborate the third account that the Maragoli people settled in Bunyoro in 1957 on the invitation of the Omukama of Bunyoro who allocated them land in blocks of 20 acres per household to settle on perpetually. Therefore, the question of how and when the Maragoli community migrated to Uganda is one of uncertainty that will need verification by the ministry of Internal Affairs and the Directorate of Citizenship and Immigration Control so that their plight is resolved.

5.2.5 Human rights implications

As a result of the national identity card registration countrywide, the Maragoli alleged to have faced a number of human rights challenges that included:

(a) Denial of the right to a nationality/national identity

Article 15 of the Universal Declaration of Human Rights (UDHR) states that everyone has the right to a nationality. However, the Maragoli and other ethnic minority groups¹⁸⁴ have lodged complaints and petitions to the president, Parliament and other line government agencies alleging that the Third Schedule of the Constitution that contains a list of indigenous communities as at 1st February 1926 is not exhaustive and denies them legal recognition as citizens. They, therefore, seek for government's intervention to be included in the third schedule of the 1995 Constitution of Uganda.

(b) Discrimination and exclusion

Article 21 of the 1995 Constitution of Uganda prohibits discrimination of all persons on many grounds including tribe and ethnic origin. During the national identification and registration process, some groups such as the Maragoli alleged incidents of discrimination. They alleged that despite having pursued the issue of inclusion in the third schedule of the Constitution of the Republic of Uganda, 1995 for a long time, their request had not yet been realised and this was made worse with the ongoing national identity card registration which has since left them out, thereby discriminating against them.

(c) Inadequate access to socioeconomic services

During UHRC Consultative meeting with the Maragoli, they informed the Commission that their community faces challenges in accessing socioeconomic services with the advent of the requirement for national identity cards. They alleged that they were left out by many government programmes like Operation Wealth Creation where they missed out on getting cows, seeds and seedlings which would help improve on their livelihood. The group also stated that their children were not registered at school because they lacked their parent's National Identification Numbers (NINs) and thus their Primary Seven (P.7) children might not register for Primary Leaving Examinations (P.L.E) and yet it was alleged that they would use their NIN as their registration numbers. They had no phones since their Subscriber Identity Module (SIM) cards had to

184 Examples of these minority ethnic communities are the Basongora in Kasese district.

be registered using their ID NIN which they did not have. They further alleged that some of them cannot access health facilities because of the requirement to own a national ID which most Maragolis lack and this has left them with no option but to seek health services from private health facilities which are expensive. In addition, the community did not access the free government mosquito nets because possession of a national ID was prerequisite.

Furthermore, Article 237 of the 1995 Constitution of Uganda stipulates that land can only be owned by citizens and to be a citizen, one ought to have a national identity card as proof. Therefore, the Maragoli if left in their current state of affairs of not being registered as citizens, they cannot own land. The lack of national IDs, therefore, reflects the infringement on the right to property of the Maragoli people and also has adverse implications on their livelihoods.¹⁸⁵

(d) Civic rights and political participation

A number of Maragolis alleged that they did not participate in the 2016 elections due to lack of national IDs. This applied to both voters and those who wanted to contest as candidates in various political positions as national IDs were used as voters' identity and as a verification means for those seeking political offices. The monitoring mission was informed of a case in point, in which a Maragoli man attempted to contest for a political office at the district level (LC V) but was restricted for lack a national ID.

(e) Access to justice

To stand as surety for a suspect applying for court bail, a national ID is prerequisite. This means the absence of a national ID would restrict one's access to justice.

5.2.6. Conclusion

The issue of national identity cards is a very contentious one when it comes to the situation of the Maragoli people. Without concrete intervention concerning their plight to be included into the third schedule of the Constitution or to be issued national identity cards soonest, their livelihood stays threatened, as access to socio-economic services including the political sphere in Uganda is currently dependant on possession of one (an ID).

5.2.7. Recommendations

1. Ministry of Gender, Labour and Social Development and the ministry of Justice and Constitutional Affairs should consider the plight of the Maragoli by carrying out verification on their situation and redress their plight.
2. The National Identification and Registration Authority should expedite the process of national identification acquisition for all qualified so that people can access basic services without discrimination or difficulty.
3. Parliament and National Identification and Registration Authority should expeditiously respond and address the concerns raised in the petition made by the Maragoli concerning their citizenship status.
4. Ministry of Internal Affairs, Directorate of Citizenship and Immigration Control should verify the issue of migration of the Maragoli so that their plight is resolved.

185 Uganda Human Rights Commission. Maragoli Community Report findings done from 5th to 9th June 2017.

5.3 ASSESSMENT OF OPERATION WEALTH CREATION AND ASSOCIATED HUMAN RIGHTS CONCERNS

5.3.0 Introduction

This section gives a brief background to the situation of poverty and unemployment in Uganda and draws more attention to a situational analysis on the Operation Wealth Creation programme as an intervention to eradicate poverty and unemployment. The section highlights the main objectives of the OWC, the intended beneficiaries, coverage, benefits and areas of concern, the way forward and conclusion.

Uganda Human Rights Commission assessed the effectiveness of the Operation Wealth Creation programme on its impact on the eradication of poverty and creation of employment by conducting interviews with the administrators of OWC, beneficiaries and non-beneficiaries in the districts of Pader, Agago, Kitgum, Lamwo, Lira, Kileleshwa, Apac, Dokolo, Alebtong, Otuke, Jinja, Kamuli, Mayuge, Namayingo, Budaka, Kalangala, Kalungu, Sembabule, Bukomansimbi, Mbarara, Bushenyi, Sheema, Kabarole, Kyegegwa and Kamwenge. A total number of 102 respondents were reached and the inputs given to the beneficiaries were also assessed and analyzed. Out of the 102 respondents reached were Operation Wealth Creation coordinators at the district level, District Production Officers, District Commercial Development Officers, District Fisheries Officers, District Planners and Operation Wealth Creation beneficiaries, among others.

5.3.1. Background

In Uganda, the agricultural sector is a major source of livelihood for the majority of the country's population. It contributed 24% of total GDP, employed 72% of the population and made 46% of the country's export earnings in 2016. .

Over the past years, the government has initiated several programmes aimed at improving the performance of the sector and mainly focusing on commercialization of agriculture as a vehicle for economic transformation and poverty alleviation. One of the intervention areas for investing public sector resources is agricultural advisory services with the aim of improving service delivery to farmers by addressing past extension weaknesses. In line with this, Uganda has implemented a number of programmes aimed at eradicating poverty and creating employment. These policies consist of those aimed at providing an enabling environment for the private sector to create jobs and those targeted at building the skills and requisite knowledge to make people more employable.

Among the interventions, Government of Uganda started implementing the National Agricultural Advisory Services (NAADS) since 2001 to increase farmers' access to information, knowledge and technology for profitable agricultural production (NAADS Act, 2001) and as a means of eradicating poverty. NAADS was restructured in FY 2014/15 to deliver the Operation Wealth Creation (OWC). The intervention aimed at accelerating agricultural commercialization and enhancing food security and household incomes countrywide by meeting critical input demands.

The aim of OWC was to cure the inefficiencies that had arisen in the NAADS programme. A team of Uganda People's Defence Forces (UPDF) officials was commissioned to oversee the supply of inputs originally in areas that had supported the political struggles that liberated the country and with veterans as first beneficiaries. The trial worked and later the programme was rolled out to cover the first 112 districts of the entire country by then and currently it's operational in almost all districts in the country.

5.3.2 Poverty and unemployment levels in Uganda

Poverty and unemployment are a big problem for Uganda. They are the greatest contributors to the lack of social cohesion that can lead to the underdevelopment of a country. There is a strong link between poverty, unemployment and enjoyment of human rights because poverty is a result of denial of human rights.

The ministry of Finance, Planning and Economic Development (MoFPED) defines poverty as “lack of basic needs and services such as food, clothing, beddings, shelter, paraffin, basic health care, roads, market, education information and communication.” Poverty implies that there is no respect, promotion, protection and fulfillment of human rights.

The definition of poverty as a “brutal denial of human rights” and an assault on human dignity makes rights-based strategies essentially confrontational. The rural business development (RBD) approach confronts the status quo and challenges the underlying structural causes of poverty. In RBD, poverty is perceived as a human rights violation. This perception is in contrast to other development approaches, which see poverty simply as lack of access to basic needs. In RBD, the injustices and complex political, social and cultural structures that lie at the root of denied needs, have to be addressed. When poverty is seen as a denial of basic human dignity, the implication is that we must place a strong focus on transforming the relationships of power that deny certain people legitimacy.

In this sense, human rights standards are not just static, legal resources but dynamic, political instruments to mobilize dissent, process, opposition and collective action aimed at economic and social reform. As such, the work of RBD is a process through which rights are made real. They are negotiated, created and realised in ways which guide the exercise of power by all actors. Poverty reduction strategies within an RBD framework track not just inputs and outcomes but also processes and impacts.

The Uganda Bureau of Statistics (UBOS) report released on 27th September 2017 indicated that poverty had gone up by about 8%, increasing the rate of helplessness in the country. The report further indicated that eastern Uganda was the hardest hit, with poverty increasing by 27% while northern Uganda came out as least affected, with people living in poverty there dropping from 3.1% to 2.4%¹⁸⁶. The poverty levels were attributed to the year’s poor harvests prompted by drought that hit the country occasioning hunger in many parts, the worsening drought situation, sharp changes in prices of goods and services, crop diseases/pests, livestock diseases, storm, human epidemics, floods, power outages and displacement-related development activities.



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People in Karamoja sub-region taking porridge offered by the Office of the Prime Minister: Photo courtesy of Daily Monitor newspaper, 28th September 2017

186 Deepening the Understanding of Poverty: Second Participatory Poverty Assessment report, by MoFPED, Kampala, and December 2002. See also UBOS Report. Kampala, September 2017.

The findings in the UBOS report implied that the country is still facing poverty challenges. This clearly shows that the government's multiple development efforts of eradicating poverty have not yielded much over the last five years. The increase in income poverty levels means that three of every ten Ugandans slipped into poverty in five years. What this meant is that out of ten people, three people fell below the poverty line, meaning they became poor.

Unemployment may be defined as the situation of actively looking for employment but not being currently employed. The unemployment rate is a measure of the prevalence of unemployment and it is calculated as a percentage by dividing the number of unemployed individuals by all individuals currently in the labor force. It should be noted that unemployment can lead to poverty and the two have a great impact on the enjoyment of human rights.

5.3.3 National legal framework

The Constitution of Uganda under Article 40(2) guarantees the right of every person to practise his or her profession and to carry on any lawful occupation, trade or business. The Employment Act, 2006 and the Labour Unions Act, 2006, among others, further seek to protect the rights of the employed.

5.3.4 Situational analysis on Operation Wealth Creation in Uganda

NAADS was restructured in FY 2014/15 to deliver the Operation Wealth Creation (OWC) intervention that aimed at accelerating agricultural commercialization and enhancing food security and household incomes countrywide by meeting critical input demands.

The stated vision of OWC is a socially and economically transformed Ugandan society. The mission of the programme is improvement of household incomes for poverty eradication, wealth creation and overall prosperity of Ugandans through facilitation of sustainable commercial agricultural production. The overall goal is enhancing household participation in commercial agricultural production through community mobilization, equitable and timely distribution of agricultural inputs, and facilitation of agricultural production chains.

The overall objective of Operation Wealth Creation is to create a system that facilitates effective national socioeconomic transformation with a focus on raising household incomes for poverty eradication and sustainable wealth creation. The specific objectives are to mobilize the masses to engage in commercial agricultural activities to boost their household incomes; to distribute production inputs equitably and timely to boost production and productivity at household level; to facilitate rural technological upgrading to allow smallholder farmers to transform themselves into small-scale industrialists; to stimulate local and community enterprise development across the country; and to facilitate infrastructure development particularly in rural areas.

5.3.5 Coverage

The Operation Wealth Creation was created in 2014 by a presidential directive as an extension programme aimed at curbing the inefficiencies that had risen in National Agricultural Advisory Services (NAADS) and to incorporate the best practices in order to improve and make extension delivery more efficient in Uganda. The OWC took up most of the roles that were being played by NAADS which was a body established by an Act of Parliament. However, OWC is operating without a proper legal framework and is only guided by standing orders. Operation Wealth Creation is now rolled out in over 112 districts of Uganda. Indications also show that OWC has made positive strides towards bringing services to the beneficiaries of the programme by rolling and deploying officers in all the districts, constituencies and municipalities where OWC is operational and these officers are involved in the distribution of inputs.

The programme is guided by a number of principles that include mobilizing the masses to engage in commercial activities to boost household incomes; distribution of production inputs equitably and timely to boost production and productivity at household level; facilitation of rural technological upgrades to allow farmers to transform themselves onto smallscale industrialists; targeting the services to the poor; bringing control of research and advisory services in the hand of farmers in line with commercialization, participatory processes in planning, contracting, monitoring and evaluation; mainstreaming gender issues; increasing institutional efficiency through contracting out services; managing natural resource productivity; and creating linkages between researchers, advisors and farmers.

5.3.6 Management of Operation Wealth Creation

The topmost organ of OWC is the Inter-Ministerial Working Committee chaired by the minister for Presidency and comprises ministers responsible for Agriculture, Finance, Water and Environment, Trade and Local Government. It is coordinated by the Senior Presidential Advisor on Defence and Security that heads a team of directors at the headquarters in charge of inputs, low-cost housing, value addition and pension, among others. The team coordinates all activities for the operation and these include planning, supervision, monitoring and evaluation.

5.3.8 OWC hierarchy

Operation Wealth Creation has coordinators operating in the 18 zones of Acholi, Ankole, Bugisu, Bunyoro, Busoga, Kampala, Karamoja, Kigezi Lango, Madi, Masaka, Mengo, Mubende, Rwenzori, Sebei, Teso and West Nile. The zonal coordinators oversee the activities of the constituency coordinators who through participatory approach are supposed to work with the local government leadership and the population to identify relevant enterprises at the household level and coordinate with the line departments and agencies to ensure socioeconomic transformation in the entire country.

5.3.8 UHRC findings on the effectiveness of Operation Wealth Creation towards poverty and unemployment

UHRC's findings show that majority of the respondents (97.9%) said their communities had benefited from Operation Wealth Creation while 2.1% of the respondents claimed they had not benefited. Majority of the respondents receive support in form of seedlings (44%), followed by pesticide (28%), and followed by other types of support. Microfinance services and provision of water were the least kind of support provided by OWC with 2.2% and 1.6% respectively as indicated below.

Nature of Support

TABLE 5: NATURE OF SUPPORT

Support	Responses	
	N	Percent
Seeds	80	44.0%
Agricultural mechanization	11	6.0%
Microfinance services	4	2.2%
Low-cost housing	3	1.6%
Provision of water	8	4.4%
Pesticides	51	28.0%
Other	25	13.7%
Total	182	100.0%

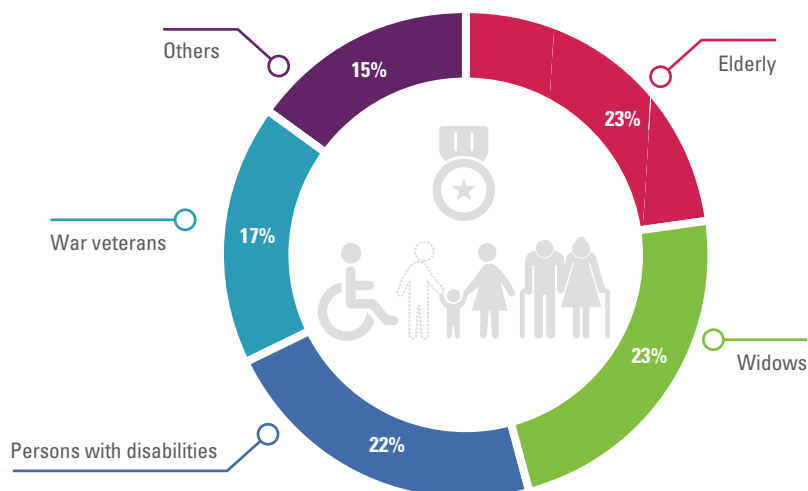


The speaker of Parliament Rt. Hon. Rebecca Kadaga presenting a cheque to Lord Fred Ssebatta who wins Operation Wealth Creation Kadongo Kamu competition

(a) Intended beneficiaries

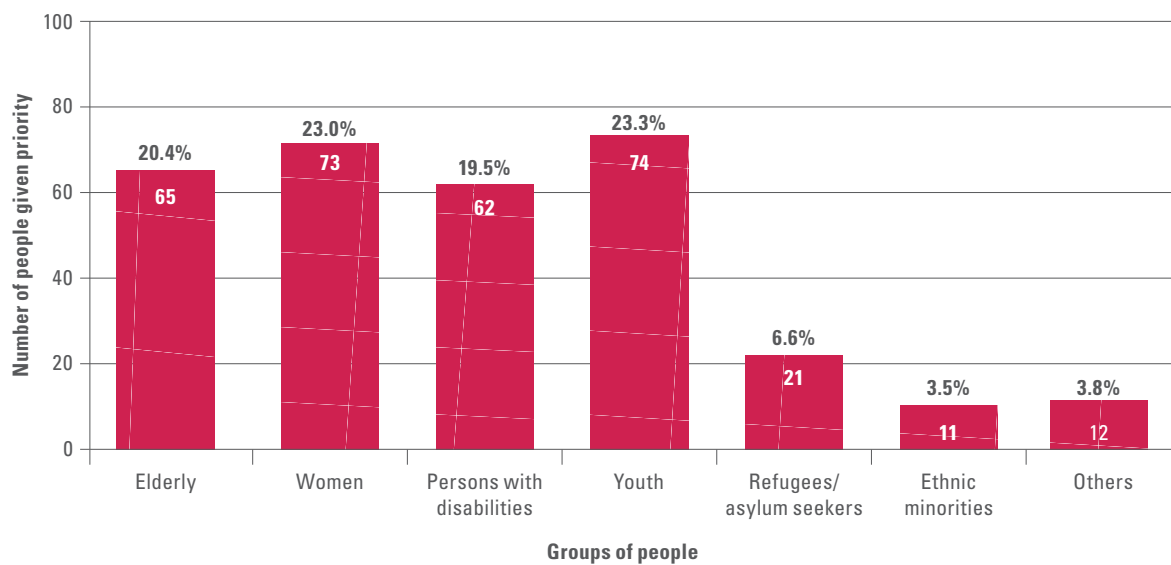
The biggest group of intended beneficiaries under Operation Wealth Creation programme are farmers, the elderly, and widows, persons with disabilities, war veterans, and youth and women groups. Operation Wealth Creation coordinators gave specific priorities to these groups, an act that has enhanced economic and social empowerment among these groups. The intended beneficiaries indicated that they had benefitted through agricultural inputs such as seedlings, pesticides, microfinance services, poultry and cows, to mention but a few. Key informants revealed that the elderly and widows are the largest groups of people who have benefitted from OWC at 23% apiece; these are then followed by persons with disabilities at 22% and war veterans at 17% who are then followed by others at 15% as indicated below:

FIGURE 25: INTENDED BENEFICIARIES



In Acholi sub-region, people who are given priority when it comes to the distribution of inputs and other support from OWC are the elderly, women, PWDs and the youth, much as young men are not left out. Refugees/asylum seekers are not given priority in this programme. In Lango sub-region, the team found that whereas all the categories of the groups were given priority in OWC, the Intelligence Staff for OWC in Lira stated that the relatives of the officers involved in OWC had higher chances. According to Mr. Acak Paul Heimos, the Executive Director of Lira NGO Forum, the war veterans benefited more than any other group as they were given priorities.

FIGURE 26: PEOPLE GIVEN PRIORITY



The graph reveals that the largest percentage of people given priority when it comes to OWC are the youth at 23.3%, who are followed by women at 23.0%, followed by the elderly with 20.4% and then persons with disabilities at 19.5%, among others.

In Lango sub-region all categories of persons in the districts monitored benefited from OWC. However, in Otuke district, the Acting District Production Officer stated that the programme at first benefited the war veterans only before it was enrolled to other categories of people. According to Sam Ogwang, Intelligence Staff for Operation Wealth Creation Lira, in some villages within Central Division Lira, the benefits depended were given to groups that filled the interest forms.

(b) Success story by one of the beneficiaries

Successful beneficiaries testified on how they had benefited from Operation Wealth Creation Mr. John Kaliisa, a dairy farmer from Mwanjari ward in Central division, Kabale municipality stated that he received a heifer from OWC in May 2015. That, it delivered its first calf in 2016 and the second in February 2017. Kaliisa said since he got this cow, his life has never been the same because he is able to get enough milk to sustain his family and meet his farm expenses. “I get eight litres of milk in the morning and six in the afternoon from my cow. Four of these are consumed by the calf and the rest is sold to get money to meet my farm’s expenses,” Kaliisa says.

5.3.9 Areas of concern under Operation Wealth Creation

(a) Distribution and delivery of inputs

UHRC noted that majority of inputs supplied by OWC were in most cases distributed late and were not demand-driven; because of this, people did not pick them especially the seedlings and in the end, they got wasted. Respondents in Agago, Oyam and Nebbi districts stated that in 2016/2017, the inputs had been delivered late and as a result, the crops planted did not withstand the long dry spells that ran from late November 2016 till March 2017 and they ended up drying.

Respondents further said the seeds were picked up by a few people who ate them instead of planting them. This leads to wastage of time and resources. Related to this, they asserted that some of the inputs were supplied when they were actually not among the priority enterprises of the district. As an example, in Moroto and Nakapiripirit, citrus and mango seedlings which were supplied were rejected. In Kabarole district, people expressed the need to be supplied with seeds of other food crops apart from tea seedlings. In Budaka district, beneficiaries claimed to be interested in a specific type of mango called kakule which was not supplied; instead, other varieties were distributed and as result, most beneficiaries shunned the inputs which they did not want. OWC uses the top to bottom approach. People are not consulted before supplying and, therefore, people are sometimes given what they do not need. This causes the district leadership to be inadequately prepared to receive and distribute the inputs at the time of delivery. Besides, the dates of delivery of inputs are not communicated and it becomes difficult to mobilize farmers on when and where to pick the inputs.

(b) Discrimination and lack of involvement

There is no equity in the distribution of inputs. People living in extreme poverty are usually neglected by service providers, politicians and the societies where they reside. In Pader district, animals were given to district officials instead of the intended beneficiaries. Would-be beneficiaries suffer discrimination based on, age, gender, ethnicity and many more. For example, people in the Central region were only given seeds and seedlings while those in other regions were given cattle / heifers.

In Kabarole district, farmers rejected lemon seedlings. The OWC coordinator for Burahya constituency, Maj. Deo Rubaale Kajwara, reported that famers wanted orange seedlings instead. The interviewed respondents further said they were being given only tea seedlings, yet they preferred other crops such as maize and bean seeds. The Human Rights Base Approach was never followed as most famers/beneficiaries were not equally involved in the planning and distribution arrangements but were only forced to take what was not necessary to them.

(c) Lack of technical skills

Some beneficiaries from Bushenyi, Mbarara, Kamuli and Jinja informed the UHRC that they lacked skills on how to handle the inputs being provided such as pesticides, medicines and vaccinations. Some of them did not know how to carry out fish farming and cater for the given cows/heifers. In Pader district, 10 of the 34 animals supplied died after farmers failed to take care of them due to lack of technical skills. In Kamwenge, Kasese and Kabarole districts, more than 10 dairy cows distributed to farmers under the programme died due to negligence. The officer-in-charge of OWC in Kamwenge district, Maj Duncan Magezi, reported that they distributed 100 Friesian cows and attributed the death of some of the animals to the failure by the beneficiaries to follow the guidelines of managing them under zero grazing. "Some of the beneficiaries are unable to afford even the cheapest veterinary drugs, while others rush to my office demanding drugs that the district can't provide," he added.

(d) Failure to access information

Respondents told UHRC it was not easy to access information on the programme by some beneficiaries. Those who seemed to access the information reported that it was mainly through the media, trainings or notice boards. It was also reported that the Secretariat sometimes delivers the inputs without notifying the technical receiving people at the district or any receiving centre which consequentially leads to wastage as the inputs are not usually picked in time.

(e) Lack of land

Some people complained of being given seedlings like tea and mongo when they lacked farming land in the places where they reside; they reported that they had land in other places. It becomes very difficult for the distributing officer to convince them to get inputs from places where they have farming land since they are unknown there due to the fact that they do not reside there. Majority of the beneficiaries stay on plots or have limited land but the coordinators of Operation Wealth Creation instead of giving them inputs that can easily multiply on small pieces of land, they only give them mangoes, oranges and pineapples which would be good for large-scale farming.

(f) Distribution of adulterated inputs

In the districts of Gulu, Pader, Sheema and Bushenyi, respondents complained that inputs which were fake and sometimes of poor quality were distributed, leading to failure of some crops like cassava, maize and beans and poor harvests. In Gulu district in particular, the district chairperson, Mr. Martin Ojara Mapenduzi, argued: “Other seeds distributed under the programme have failed to germinate and we feel it is high time we informed the initiators of the project to improve on it rather than deceiving ourselves that it is doing well yet there is nothing on the ground.” The distribution of the above fake inputs and poor-quality inputs were attributed to some unscrupulous suppliers who load the good-quality inputs on top of the vehicles and while the poor-quality inputs are placed at the bottom, something that which misleads the receiving technical team during the verification process who only get samples from the top.

(g) Limited involvement of stakeholders

UHRC monitoring teams found that there was limited involvement of different stakeholders and this usually led to supply of inputs that are either not suitable or not a priority in certain areas. In Kyegegwa district, some sub-counties rejected orange seedlings that were supplied, claiming the soils could not support them. The seedlings supplied at times were not demand-driven and Operation Wealth Creation officials were dumping them/forcing farmers to take up some seedlings. One of the respondents, John Mbyemire, in Kamwenge stated: “They came with a truck full of coffee seedlings and were giving to whoever wanted to take including those who had no land. Much of it dried in peoples’ compounds”. The technical staff at the district, for instance the District Production and Marketing Officers, were not involved in the certification of livestock before they were delivered. They were just asked to verify them whenever they are delivered at the district before they are offloaded. Hence low-quality livestock was delivered. Some farmers in Mbarara district complained of their cows giving them only three litres of milk yet they are well fed. In addition, some beneficiaries were given alleged pregnant cows which failed to produce for two years.

(h) Delivery of planting materials far away from where farmers stay

Some respondents complained of the practice of some Operation Wealth Officials and local government bureaucrats who limit distribution of inputs to sub-county or district headquarters which are inaccessible to some of the peasant farmers because of the transportation costs involved.

(i) Poor road network

In districts such as Namayingo, beneficiaries and the general population found it difficult to access some distant areas during the rainy season. Respondents reported that boats were very expensive to hire for transporting the enterprise/ inputs to islands in Mayuge and Namayingo. Due to bad terrain of the roads, inputs/ enterprises took long to be delivered which affected their quality. Beneficiaries also found difficulty in transporting the inputs / enterprises from the sub-county to their homes.

(j) Lack of or poor storage facilities

There were poor storage facilities at a number of district and sub-county headquarters where inputs were delivered for distribution and by the time the farmers picked them, they have already gone bad and could not germinate. In addition, sometimes the inputs were put on veranda since the districts had no storage facilities and seedlings ended up drying up.

(k) Quantity and quality

Respondents pointed out that some inputs were brought in larger quantities than what was requested or budgeted for and this made it difficult to absorb the inputs which ended up being misused, wasted and or underutilized yet in other districts, complaints of inadequate quantities were registered and blamed for limiting large-scale production. In one example, farmers in Budaka district expressed disappointment when they had prepared their gardens and did not get any inputs. Most of the suppliers of seeds and seedlings do not own nurseries; they buy from uncertified nursery operators and end up compromising the quality in order to meet the demand quantity.

(l) Scarcity of some inputs

Some herbicides and other inputs were hard to find or not provided by OWC which affected the production output. This was more prevalent in Busoga sub-region where feeds for fish were given for only two months yet there is no factory for fish feeds in the entire sub-region.

(m) Limited extension services

Almost all the 102 respondents interviewed by UHRC stated that there were limited extension services provided under the Operation Wealth Creation programme. Even the few extension workers at the sub-county were not involved in the programme. The respondents indicated that they lacked technical advice on some inputs supplied under the programme, leading them to suffer huge losses. They indicated that lack of extension services had led to lack of enough food, poor yields corruption and inadequate knowledge on farming. In Mbarara district, 10 out of the 166 heifers given out died. The district veterinary officer, Dr. William Mwebembezi, attributed the death of the cows to lack of sensitisation from extension workers in various sub-counties. "Delays by the government to recruit extension workers at sub-county level to give advisory services was a setback to farmers," he said. The Mbarara district agriculture officer, Mr. Robert Tumwesigye, said the programme was failing in Mbarara municipality due to lack of extension workers who would make regular monitoring of the the programme.

(n) Lack of needs assessment

Respondents interacted with in Bushenyi, Mbarara, Pader, Lira, Gulu, Kamwenge, Mayuge, Budaka, Masaka, Kalungu and Bukomansimbi indicated that they were not aware of any needs assessment exercises done before the inputs were procured and distributed. That they just saw OWC officials distributing seedlings. They noted that the programme managers of OWC sit on their own and determine what to give to each area. In a few cases where needs assessment was carried out, the respondents said this was done by the district officials, sub-county leaders and Community Development Officers.

5.3.10 Recommendations

1. Government of Uganda should put in place a legal framework for implementing Operation Wealth Creation because its operations are only guided by standing orders.
2. OWC should emphasize quality when procuring inputs to be supplied to farmers and the inputs should be demand-driven by the intended beneficiaries.
3. OWC should involve the local leadership right from the grassroots for proper coordination and distribution of inputs or else, the programme reverts back to the ministry of Agriculture, Animal Industry and Fisheries for proper management.
4. The ministry of Agriculture, Animal Industry and Fisheries and the ministry of Local Government should carry out proper needs assessment/enterprise selection so that supply of inputs is demand-driven to minimize wastage of resources and should ensure equity in the distribution of the inputs such that there are no instances of discrimination and favouritism.
5. The ministry of Agriculture, Animal Industry and Fisheries should recruit more extension workers/staff for monitoring the programme and provision of enough inputs/seeds to farmers after procuring quality inputs which are demand-driven and carry out proper needs assessment to avoid wastage. The Human Rights Based Approach should be considered to ensure that different stakeholders are involved in all stages.
6. Seed companies should be certified and there be a follow-up with beneficiaries after the seeds have been delivered to verify the inputs.
7. The ministry of Agriculture, Animal Industry and Fisheries should recruit more technical personnel with competence to do extension work and the extension workers should comply with the zoning of agricultural areas in the country so that the seedlings supplied correspond to the requirements of the area.
8. The ministry of Agriculture, Animal Industry and Fisheries should review the progress of Operational Wealth Creation for all the time it has been in existence on whether it has achieved the set objectives and where not, revert it back to the ministry for proper management.

5.3.11. Conclusion

All the interventions and efforts by Government of the Republic of Uganda aimed at reducing/eradicating poverty in the country, increasing household incomes and improving the national economy through Operation Wealth Creation are appreciated. However, the main set objectives intended for diverting from National Agricultural Advisory Services to Operation Wealth Creation like creating a system that would facilitate effective national socio-economic transformation with a focus on raising household incomes for poverty eradication and sustainable wealth creation have not yielded results as they have not sufficiently benefited the intended beneficiaries. There are many gaps and there is a lot to be done to improve the programme if Uganda is to achieve a middle-income status by 2020.

5.4 HUMAN RIGHTS CONCERNS DURING THE 2017 CONSTITUTIONAL AMENDMENT PROCESS

5.4.1 Background

In October 2017, Hon. Raphael Magyezi, the Member of Parliament for Igara West constituency in Bushenyi district, tabled before Parliament, a private member's bill that sought to amend Article 102 (b) of the Constitution of the Republic of Uganda. The bill, formally referred to as the Constitution Amendment Bill No.2, 2017, was eventually assented to by the president on 27th December 2017. Whereas the bill had several clauses, of major interest and contention was the provision that sought to repeal Article 102 (b), which previously imposed both a lower and upper age limit for one vying for the position of President of Uganda.

Following the tabling of the bill, the Speaker of Parliament directed all Members of Parliament to consult with their constituencies for two weeks in respect to the contents of the bill, starting from 25th October 2017 to 8th November 2017. The processes leading to the amendment, including the consultations within the constituencies, and the subsequent debates in Parliament regarding the bill triggered off a series of incidents of violence both in and outside parliament, which were not only a threat to the rule of law and separation of powers, but also created an environment devoid of respect for fundamental human rights and freedoms. Specifically, some MPs faced aggressive attacks at their homes¹⁸⁷, human rights defenders that opposed the bill faced arbitrary sanctions,¹⁸⁸ and media houses were barred from screening live parliamentary proceedings by Uganda Communications Commission (UCC). In addition, UHRC also took note of the debacles surrounding the bill, which presented a threat to the "separation of powers", a fundamental principle of constitutional order which is necessary for ensuring protection and enforcement of human rights.

Against this background, Uganda Human Rights Commission, drawing on its mandate as stipulated under articles 48, 49, and 51 to 54 of the Constitution of the Republic of Uganda, which obliges it to monitor the human rights situation in the country and to publish periodic and annual reports to Parliament on the state of human rights in the country, among others, monitored these events. This subchapter presents the Commission's concerns arising from the processes leading to the amendment of the Constitution.

5.4.2. Human rights concerns during the process leading to the passing of the bill

(a) Freedom of expression and media

The Constitution of the Republic of Uganda under Article 29 provides for protection of freedom of conscience, expression, and movement stating, *inter alia*, that every person has a right to freedom of speech and expression, which shall include freedom of the press and other media. It extends to holding, receiving and imparting all forms of opinion, ideas and information and not confined to correct opinions, sound ideas or truthful information.¹⁸⁹ It also encompasses the freedom of speech, press, religion, assembly and association and is considered as one of the major pillars of good governance.

The Commission noted with concern that during the parliamentary debates on the bill, Uganda Communications Commission (UCC) issued a directive banning any live broadcasts of the controversial issue, citing security reasons without prior notice and against well-laid-down procedures as provided for in the Siracusa

187 <http://www.monitor.co.ug/News/National/Grenades-detonated-at-Bobi-Wine-Allan-Ssewanyana-home/688334-4122186-c7fypnz/index.html>

188 Assets of ActionAid International Uganda and Great Lakes Institute for Strategic Studies were frozen. Both human rights defenders state this was done due to their involvement albeit limited in opposing the bill aimed at lifting age limits.

189 See Charles Onyango-Obbo and Anor V Attorney General. Constitutional Appeal No.2 of 2003.

Principles.¹⁹⁰ Although the reasons for switching off live broadcast of parliamentary debate could have been valid, the UHRC noted with concern that the public's right to information was affected. UCC ought to have been mindful of the impact of their omissions and actions on the critical role of the media as guardians of information which is a public good. The Commission thus concludes that the directive issued by the Uganda Communications Commission to shut down radio and television networks on the second day of the Second Reading of the bill was contrary to Article 29 and Article 41 of the Constitution.

(b) Arrest of journalists

The *New Vision* newspaper of 27th September 2017 reported that the police arrested four journalists in Lira¹⁹¹ for providing coverage of public protests against the proposed constitutional amendment. Similarly, two Kampala-based editors were charged with offensive communication in October for their newspapers' ongoing reporting.

(c) Violations against the working environment of HRDs

The Constitution recognises the right of every Ugandan to engage in peaceful activities to influence the policies of Government through civic organisations,¹⁹² including non- governmental organisations (NGOs). In light of this, NGOs in Uganda carry out activities in a number of areas including advocacy and community empowerment. These activities are conducted to strengthen Government's efforts in areas like health, democracy and good governance, among others, and they are geared towards creating positive change in people's lives and focus.

UHRC also noted that in 2017, police raided four non-governmental organisations (NGOs) offices, alleging that these organisations were involved in "illicit financial transactions" and "subversive activities". On 20th September 2017, police raided two civil society organisations in Kampala; namely ActionAid International Uganda and Great Lakes Institute for Strategic Studies. On 21st September 2017, police in Lira raided Solidarity Uganda and arrested their director, who was released after 48 hours without charge. On 2nd October 2017, Uhuru Institute for Social Development (at Naguru) was raided by the police. On 3rd October 2017, Bank of Uganda wrote a letter to Standard Chartered Bank directing them to freeze five accounts of ActionAid. The organisations informed UHRC that they were of the belief that they were raided because they publicly opposed amending constitutional limits on presidential age. Many members of the public saw the raids as part of a crackdown on civic activism opposed to the change in the upper age limit of presidential candidates.

(d) Freedom from torture, inhuman and degrading treatment

UHRC noted the threats of and real violence that characterized public debate both inside and outside parliament, and also in other parts of the country. It further noted the highhandedness and discriminatory tendencies of the security agencies and the violent actions of some political actors and members of the public who were involved in the scuffles. UHRC emphasizes the cardinal role of citizen participation in good governance, facilitated by their constitutional rights and freedoms of speech, expression and association and peaceful and unarmed assembly as well as demonstration as provided for in articles 29 and 38 of the Constitution, which must be respected and upheld by the state. In the same manner, citizens are always called upon to exercise their rights responsibly by fulfilling their constitutional duties including observing the relevant laws to the letter and respecting other people's rights.

190 Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, 1984.

191 Denis Engena, attached to NBS TV, and Martin Ongom, a freelance journalist, were arrested from the scene of the demonstration, while Robert Kalibongo of Unity FM was picked up from the newsroom and bundled in a police pick-up vehicle. Isaac Otwei, a freelance journalist with *Daily Monitor*, was arrested at Radio Unity premises in Lira town.

192 Article 38 (2) of the Constitution of the republic of Uganda, 1995.



@James Akana/Reuters

Fistfights erupted in parliament for the second day as MPs from the ruling party pushed for the bill to be introduced¹⁹³



@Alex Esagala/The Daily Monitor

Members of Parliament opposed to the lifting of the presidential age limit fight with security operative deployed to eject them from the House after Speaker Rebecca Kadaga suspended them on September 27.¹⁹⁴



@africanews.com

Chaotic scenes in Ugandan parliament as MPs debate age limit motion¹⁹⁵

Unfortunately, the violent scenes that played out in parliament as honorable Members of Parliament fought with security agents the day the motion was tabled and on other parliamentary sessions were highly regrettable. UHRC is strongly of the view that fighting in parliament was uncalled for but the sight of individuals who were neither MPs nor Parliamentary Commission staff fighting with MPs on the floor of Parliament was so improper that it potentially undermined the sanctity of the august House.

On top of this, the fracas resulted in injuries to a number of people including MPs, some of whom were treated or admitted to various health facilities in and around the city. According to media reports more than five MPs were hospitalized and many civilians were injured across the country. The Commission strongly condemned the verbal and physical violence characterized in parliament.

193 <http://www.aljazeera.com/news/2017/09/uganda-introduces-bill-remove-presidential-age-limit-170927172204813.html>

194 <http://www.monitor.co.ug/Magazines/PeoplePower/-age-limit-debate-LCI-polls-Raphael-Magyezi-Kayihura/689844-4139372-b6estfz/index.html>

195 <http://www.africanews.com/2017/09/26/chaotic-scenes-in-ugandan-parliament-as-mps-debate-age-limit-motion//>

(e) Threat to personal security and mob action against some Members of Parliament regarding their position on the age limit bill

The Commission noted media reports of grenade and bomb attacks at the homes of some members of parliament Hon Robert Kyagulanyi, Hon Moses Kasibante and Hon Allan Ssewanyana. Media platforms were also overflowing with disturbing pictures of mobs attacking and trying to set ablaze homes of some members of parliament such as, Hon Moses Balyeku and Igeme Nabeta in Jinja for their alleged positions on the bill to lift the presidential age limit. Other Members of Parliament suspected to hold differing views on amending Article 102(b) were also implicated in cases similar to mob justice, being roughed up or manhandled and threatened with violence by sections of the public.

(f) Open hostility towards Members of Parliament supporting the constitutional amendment

UHRC also noted that NRM MPs faced open hostility during the public consultations. Hon. Simeo Nsubuga was attacked by William Ntege a.k.a Kyumakyayesu, during Kabaka Ronald Muwenda Mutebi II's coronation in Mubende. Several MPs had been booed and heckled during the consultative rallies. Hon. Galiwango, Hon. Ruth Nankabirwa, and Hon. James Kakooza survived angry mourners at the burial of the father of Hon. Mathias Mpuuga. Hon. Godfrey Kiwanda and Hon. Judith Nabakooba fled from a hostile stone throwing in Kiyoganyi town in Mityana. Hon Doreen Amule survived lynching after residents grabbed a microphone from her as she attempted to explain her support for the amendments.¹⁹⁶

(g) Use of excessive force in dispersing crowds

UHRC noted that during the age limit debate period, police persistently used live bullets while dispersing crowds despite repeated calls to them to exercise restraint and to use reasonable force as required of them under the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials as well as the UN Code of Conduct for Law Enforcement Officials. UHRC noted that police use of excessive force against some Members of Parliament and members of the public generally to disperse gatherings agitating to express themselves have become the norm rather than an exception. The common use of tear gas and violent handling of suspects by police in order to disperse crowds led to some people sustaining physical injuries, while others died.¹⁹⁷



©Abubaker Lubowa

Police officers disperse a rally organised by MPs opposed to the lifting of the presidential age limit in Nateete, Kampala

(h) Violation of the right to life

UHRC noted that the clashes between police and members of the public which happened on 18th October 2017 in Rukungiri when Dr Kizza Besigye and other senior members of FDC attempted to hold a rally that resulted in the death of a one Edison Nasasira had left several injured and hospitalized.

The act of using live bullets by police to disperse crowds that are unarmed undermines their duty to observe human rights as they carry out their work which is provided for under Article 221 of the Constitution.

196 <http://www.observer.ug/news/headlines/55448-age-limit-nrm-mps-to-change-strategy-after-harsh-reaction.html> Accessed on 23rd February 2018.

197 <http://www.monitor.co.ug/Magazines/PeoplePower/Age-limit-debate-freedoms-victim/689844-4173222-p3l4es/index.html> Accessed on 21st February 2018.

(i) Right to peaceful assembly

The Commission noted the right to peaceful assembly as provided for in the 1995 Constitution of Uganda and in regional and international treaties ratified by Uganda. It has also reminded the police of its role contained in Articles 20, 21, 212 and 221 of the Constitution of Uganda and in the international instruments to respect, fulfill and protect, without discrimination, the enjoyment of people's rights and freedoms.

Important to note is that while enforcing the law, the police and other security agencies must strike a correct balance between public order and the exercise of the rights and freedoms by individuals and groups. Security agencies should ensure impartiality and nondiscrimination in order to serve the promotion of the rule of law and only impose restrictions that are acceptable and justifiable in a free and democratic society. However, the right to freedom of assembly is so important that authorities should not use excessive force to break up peaceful assemblies even if they are unlawful.

During its monitoring, the Commission was concerned that a number of MPs were violently dispersed by police and other security agents during their consultation meetings and parliamentary debates. These incidents were spread countrywide but more notable in Kampala, Mukono, Kayunga, Mbale, Kumi, Lira, Rukungiri, Arua, Mityana, Sheerna, Kaliro and Jinja, among other districts.

The freedom of peaceful assembly is associated with the right to challenge the dominant views within society, to present alternative ideas and opinions, to promote the interests and views of minority groups and marginalized sections of society, and to provide an opportunity for individuals to express their views and opinions in public, regardless of their power, wealth or status. Freedom of peaceful assembly is an individual right that is always expressed in a collective manner. Article 5 of the Declaration on Human Rights Defenders expressly states that the right applies to individuals in association with others, which implies that this right is also protected for associations of individuals, such as non-governmental organisations. The right to freedom of assembly is a fundamental freedom critical for maintaining and strengthening democratic participation.

(j) Partisan tendencies of the police in handling matters related to the removal of age limits

UHRC noted and condemns the double standards of police in dealing with activists opposed to the lifting of the age limits. Police handled some meetings in a partisan manner; dispersing consultations of the opponents of the removal of age limits while providing security for the proponents of age limit removal. UHRC noted that none of the consultative meetings of the proponents had been dispersed or suffered use of excessive force by the police. On the other hand, the Commission witnessed incidents where the police allowed gatherings where people donned the yellow colour, meaning they were consultations of MPs supporting the lifting of the age limits.

The unclear role of the police in regulating consultations regarding the bill on lifting age limits was highly untrustworthy. The Commission noted and followed the media reports of statements and press releases issued and in some instances actions by the police on this matter such as the banning of the red ribbons, harassment of people clad in red even at the Mandela National Stadium when the national team was hosting the team from Ghana; banning of (Hon. Robert Kyagulanyi) Bobi Wine's music shows, consultations carried out jointly by members of parliament; dispersing public rallies and gatherings and dispersing activities of various groups such as press conferences and meetings in homes of some opposition members of parliament among others.

(k) Disrespect of human dignity

UHRC noted the blatant and unfortunate incident in which schoolchildren from Winterland Primary School in Kyebando were reportedly assaulted by Boda Boda 2010 members suspected to be closely working with the police as the children travelled to Entebbe to attend a police function. The children's alleged crime was wearing the red ribbons, a symbol associated with those opposed to the bill seeking to lift the presidential age limits. Another incident is the ruthless arrest of three unarmed suspected opponents of the age limit debate by gun-wielding operatives along Mbarara streets, which police justified to be a preventive measure after it had learnt that the trio were planning to attack four Mbarara Members of Parliament (Honorable Yaguma Rutashokwa, Michael Tusiime, Nathan Itungo and Rosette Kajungu) for their alleged support of the lifting of the term limits.

These incidents demonstrate the police's continued utilization of unknown and non-uniformed groups in carrying out its mandate. The Commission on several occasions has condemned such acts, and recommended that police should desist from using non-uniformed groups to perform its constitutional duty of preserving law and order.

(l) Violation of the right to personal liberty

UHRC noted the detention of suspects in police custody beyond the mandatory 48 hours following the dispensation of numerous rallies held across the country to discuss the lifting of the presidential age limits as provided for under Article 23(4) (b) of the Constitution. The Commission monitored detention facilities and caused the release of some of such suspects on police bond. A case in point was the release from Mbarara Central Police Station on Friday 20th October 2017 of 15 such suspects on police bond after the intervention of the UHRC Mbarara Regional office.

The Commission also noted the detention of Dr. Kizza Besigye, Ingrid Turinawe and Patrick Amuriat who were arrested in Rukungiri and later transferred to Naggalama Police Station where they were detained longer than the mandatory period.

(m) Intolerance for divergent views

The Commission noted the increased incidents of intolerance for divergent views among the members of the public across the country in discussing the lifting of the presidential age limits. Such acts of intolerance have in some instances resulted in violent clashes, sometimes involving stone-throwing people and ultimately leading to human rights violations such as injury to persons and destruction of property, among others.

(n) Threat to the constitutional principle of separation of powers

Separation of powers is a traditional constitutional and legal principle which is fully consistent with enforcement of human rights. The separation of powers which contributes to the realisation of the rule of law, democracy and hence the security of human rights, ensures the powers and authority of the executive, legislature and judiciary are not absolute and are limited. Key to the operation of the separation of powers is the capacity of each arm of government to carry out their constitutional mandate without interference from another.

The raid on Parliament by unknown security operatives is a classic instance demonstrating the violation of the principle of separation of powers by the state. During the parliamentary debate on the bill on 29th September 2017, while the House was on short break, unknown security operatives entered the House without the authorization of the Speaker of Parliament, and unceremoniously and with brutal force ejected 25 MPs. The Speaker of Parliament has publicly stated she had no idea who those security officers were and never gave them an order to eject the MPs out of the House.

5.4.3 UHRC interventions during the period

The Commission is mandated to protect and promote human rights in the country. Consequently, it continuously performed different functions provided under the Constitution through a countrywide network. Below are highlights of the Commission's interventions.

1. In an effort to administer justice especially to the indigent members of the public, the Commission received a total of 190 complaints, out of which 165 were registered as complaints of human rights violations reported to its various regional offices in the month of October. In addition, the Commission handled 95 cases at its tribunal level.
2. In order to raise awareness of human rights and responsibilities among the public, the Commission carried out a number of interventions using its regional network through human rights barazas, kraal outreaches in the Karamoja sub-region, trained the police and carried out radio talks shows.
3. Following media reports on the violent arrest of some Members of Parliament (MPs) from the Parliamentary chambers on 27th September 2017 during a plenary session, the UHRC conducted monitoring visits to detention and health facilities around Kampala Metropolitan area to establish the condition of the arrested MPs.

5.4.4 Conclusion

In conclusion, UHRC is still committed to protecting and promoting human rights in accordance with its constitutional mandate and calls upon all relevant stakeholders like political leaders, police and other security agencies as well as common citizens to take serious note of the human rights concerns for the good of peace, democracy and stability of our country. It pledges to continue to closely monitor the human rights situation in the country and advise accordingly.

5.4.5 Recommendations

1. Members of Parliament should exercise restraint while debating and resolving contentious issues of national interest.
2. Security agencies should observe and respect human rights in the performance of their functions as required of them under Article 221 of the Constitution and preserve the sanctity of Parliament as an independent arm of government.



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5.5 SEXUAL VIOLENCE AND EXPLOITATION AGAINST CHILDREN IN SCHOOLS

5.5.1 Introduction

The United Nations Committee on the Rights of the Child which oversees the implementation of the Convention on the Rights of the Child (CRC) categorizes violence against children in schools into four common forms; namely, physical or corporal punishment; emotional violence; neglect; and sexual violence.

The focus of this section is on sexual violence and exploitation in schools since it is a silent but rampant vice. In addition, it is associated with diverse negative outcomes on physical, mental health and social wellbeing of both boys and girls though the girls are more affected and are more vulnerable than boys.

Although there is limited research undertaken on violence against children in schools in Uganda, children are increasingly becoming so vulnerable and prone to gross human rights violations and abuses in schools including sexual violence especially the girl child. In addition, poverty in Uganda increases vulnerability of children to various forms of violence in schools, and children with disabilities face more risk of violence.

According to a UNICEF report, interviews with respondents aged 18 to 24 about their childhood experience of sexual abuse, a total of 35.3% females and 16.5% males indicated that they were sexually abused before the age of 18.¹⁹⁸

Similarly, 15.2% of girls and 33.4% of boys indicated that their first incidence of sexual abuse took place at school.¹⁹⁹ Also 15.2% of girls and 25.3% of boys indicated that the perpetrator of the first incident of sexual abuse was a classmate or school mate.²⁰⁰

Ministry of Education and Sports undertook a study which revealed further that 77.7% (2,427 out of 3,121) of the primary school children and 82% of the secondary school students surveyed, reported having experi-

198 A presentation by UNICEF Education Specialist at UHRC Consultative meeting at Golden Tulip Hotel, December 2017.

199 As above.

200 As above.

enced sexual abuse at school.²⁰¹ Out of this, 51% were aged between 10 and 13, and 40.6% were between 14 and 17.²⁰²

It appears, therefore, that sexual abuse is being perpetrated within the school environment and by school employees on a substantial scale. According to the ministry of Education and Sports, male teachers were the major perpetrators of abuse at 67%, followed by fellow students at 22%, then non-teaching staff at 6% and then lastly female teachers at 5%. There were higher levels of sexual violence in private schools, 69.1% compared with 66% in government schools.²⁰³ As a result of sexual violence in schools, cases of teenage and complicated pregnancies, 25% of girls aged between 15 and 17 drop out of school and only 8% go back to school.²⁰⁴

Nearly a fifth (18%) of deaths of girls aged 15 to 19 are related to maternal causes and pregnancy, also child-birth carries severe risks, and the related complications are the leading cause of death worldwide between ages 15 to 19.²⁰⁵

It is, therefore, evident that sexual violence is more of a public health issue than private issue. Whereas in the past, the approaches to sexual violence largely focused on the criminal justice system, there is now a general movement towards a public health approach, which recognises that violence is not caused by any single factor but is caused by multiple risk factors that interact at individual, relationship and community/societal levels.²⁰⁶ Thus, addressing sexual violence requires cooperation from various sectors, including health, education, welfare and criminal justice. The public health approach aims to extend care and safety to entire populations and focuses primarily on prevention, while ensuring that people who experience violence have access to proper services and support.²⁰⁷

In trying to address the phenomenon, this section gives a brief background on sexual violence and exploitation against children in schools in Uganda, and discusses the magnitude and human rights implications by emphasizing that access to education is one of the fundamental rights of every child which should be delivered in a conducive environment and safe learning. It also discusses the legal framework on sexual violence and exploitation against children in schools and makes appropriate recommendations on how to curb the vice.

5.5.2 Legal framework on sexual violence against children in schools

(a) International legal framework

The protection of children from all forms of violence including sexual violence is a fundamental right enshrined in the UN Convention on the Rights of the Child,²⁰⁸ the Universal Declaration on Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). Specifically, the CRC places an obligation on state parties to ensure that all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child are put in place.²⁰⁹

201 National Strategic Plan on Violence against Children in Schools, 2015-2020,

202 As above.

203 As above.

204 As above.

205 A presentation by UNICEF Education Specialist at UHRC Consultative meeting at Golden Tulip Hotel Dec 2017

206 http://apps.who.int/iris/bitstream/10665/77434/1/WHO_RHR_12.37_eng.pdf Accessed on 15th February 2018.

207 As above.

208 <https://sustainabledevelopment.un.org/topics/violenceagainstchildren> Accessed on 14th February 2018.

209 Article 19.

(b) Regional legal framework

At the regional level, the African Charter on the Rights and Welfare of the Child (ACRWC) requires state parties to take all appropriate measures to ensure that a child who is subjected to school or parental discipline is treated in a humane manner and with respect for the inherent dignity of the child.²¹⁰ Article 11(6) of the Charter further stipulates that states shall take all appropriate measures to ensure that girls who get pregnant before completing their studies shall have the opportunity to continue and complete on the basis of their individual ability. The African Charter on Human and Peoples' Rights provides for the respect of life and integrity of person.²¹¹ The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa further reinforces the need for all states parties to protect women, especially the girl-child from all forms of abuse, including sexual harassment in schools and other educational institutions and provide for sanctions against the perpetrators of such practices.²¹² It further calls upon state parties to ensure access to counselling and rehabilitation services to women and girls who suffer abuses and sexual harassment.²¹³

(c) National legal framework

The Penal Code Amendment Act, 2007 expands the definition of defilement to include boys as victims. It also provides for aggravated defilement in cases when the offender is infected with HIV/Aids. The Penal Code further provides for compensation and reparations for the victims. In addition, the Code provides discretion to the court to determine the amount of compensation to award, taking into consideration the extent of the harm done to the victim, the degree of force used to the offender and medical and other expenses incurred by the victim as a result of the offence.²¹⁴

The Children Act CAP 59 defines the rights of children and requires that all duty bearers, parents, community members and teachers ensure that children under care are safe and protected. In a school setting, teachers, therefore, have the responsibility to prevent any form of violence against children.

In this regard, it is important to note that Uganda has a legal framework but to some extent the implementation of these laws is still wanting.

5.5.3 Situational analysis on sexual violence in schools

Sexual violence is a multifaceted problem motivated by a multitude of factors at the level of individuals, relationships, family, community and the broader society.²¹⁵ There are numerous underlying causes of sexual violence including poverty, negative cultural practices, and failure of government to adequately abide by human rights agreements and treaties it ratified and enforcement of laws enacted.

Gender relations are central to understanding sexual violence. Patriarchy and masculine hegemony/supremacy/dominion are key contexts in which sexual violence is perpetuated, tolerated and even normalized.²¹⁶

210 See article 11 of the African Charter on the Rights and Welfare of the Child.

211 See Article 4 of the African Charter on Human and Peoples' Rights.

212 Article 4 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women.

213 As above.

214 Penal Code Amendment Act, 2007, Section 129.

215 http://apps.who.int/iris/bitstream/10665/77434/1/WHO_RHR_12.37_eng.pdf Accessed on 15th February 2018.

216 <http://www.tandfonline.com/loi/ccom20> Assessed on 15th February 2018.

Children in Uganda and the rest of the world spend more time in the care of adults in educational settings than anywhere else outside of their homes. Schools have a responsibility and or obligation to protect these children from all forms of violence including sexual violence and exploitation, whereas adults who oversee and work in schools are required to provide safe environments that support and promote children's dignity and development. Despite this, educational settings expose many children to violence, including teaching them sexual violence.

This section provides a deeper situational analysis of sexual violence in schools by discussing the magnitude of sexual violence in schools, categories of schools affected by sexual violence, most targeted age group, major perpetrators and key forms of sexual violence in schools.

(a) Magnitude of sexual violence in Ugandan schools

Table 5 below shows the level of sexual harassment by fellow pupils in Uganda in 2007 was at 58% compared with teachers at 37%. Similarly, in 2000, 41% of pupils sexually harassed a fellow pupil compared to 17% of teachers sexually harassing a pupil.²¹⁷

TABLE 7: SEXUAL HARASSMENT AGAINST CHILDREN IN SCHOOLS OVER THE YEARS

Forms of Violence	Pupils harass pupils		Teachers harass Pupils	
	2000(%)	2007(%)	2000(%)	2007(%)
<i>Sexual Harassment</i>				
Uganda	41	58	17	37

Source: Violence in Primary Schools in Southern and Eastern Africa: (SACMEQ), 2011.

Table 8 below shows that at primary 3 level, 44.5% of girls compared to 37.9% of boys were sexually harassed in a term. Also 19.4% of girls compared to 17.2% of boys reported sexual harassment in the past week.

At primary 5 level when girls are more mature, more worrying facts reveal that 52.9% of girls compared to 47.7% of boys experienced sexual harassment in the term whereas 18.1% of girls compared to 16.4% of boys experienced sexual harassment in the past week in a school.

General Comment No. 13 (2011) on the Right of the Child to Freedom from all Forms of Violence provides that; a child rights-based approach to child caregiving and protection requires a paradigm shift towards respecting and promoting the human dignity and the physical and psychological integrity of children as rights-bearing individuals rather than perceiving them primarily as "victims".²¹⁸

TABLE 8: UNICEF REPORT ON SEXUAL HARASSMENT IN SCHOOLS

	Girls (%)		Boys (%)		Girls and Boys (%)	
	This term	Past week	This term	Past week	This term	Past week
Sexual Harassment and abuse (P3 only)	44.50	19.40	37.90	17.20	41.20	18.20
Sexual Harassment and abuse (P5 only)	52.90	18.10	47.70	16.40	50.10	17.30

Source: UNICEF

²¹⁷ International Institute for Education Planning in Southern and Eastern Africa, 2011.

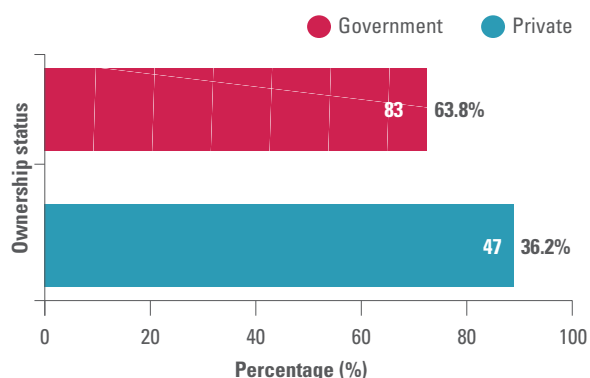
²¹⁸ http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.13_en.pdf Accessed on 14th February 2018.

(b) Categories of schools affected by sexual violence in Uganda

The figure 24 shows that of the number of schools UHRC monitored in 2017, 63.8% were government schools and 36.2% were private schools. The majority of the schools were secondary schools at 73.3% and 26.7% were primary schools. In addition, most of the schools monitored were day schools at 56.2%, day and boarding (40%) then boarding (3.8%). The schools were mainly mixed schools at 93.9% and single schools (6.1%).

Of the schools UHRC monitored, majority (59.9%) had incidents of sexual violence while only 40.1% did not have an incident of sexual violence.

FIGURE 24: CATEGORIES OF SCHOOLS WHERE SEXUAL VIOLENCE IS PREVALENT



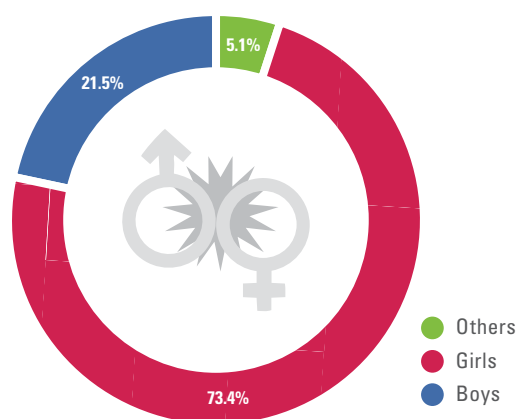
Source: UHRC 2017 Monitoring Report

(c) Gender and age group most affected by sexual violence

It should be noted that from the findings as presented in the figure below, girls had the highest percentage of being targeted for sexual violence and exploitation at 73.4%, followed by boys at 21.5%. There were also other categories including adult women and female teachers at 5.1%.

According to UHRC findings, the most affected age group by sexual violence in schools was 16 to 18 years with a percentage of 68.5% followed by the group of 11 to 15 years with a percentage of 31.5%.

FIGURE 25: GENDER MOST AFFECTED BY SEXUAL VIOLENCE IN SCHOOLS



(d) Major perpetrators of sexual violence in schools

The findings by the ministry of Education and Sports earlier presented in the background of this chapter stated that male teachers were the major perpetrators of abuse at 67%, followed by fellow students at 22%. Teachers are required to protect these children in schools. It is so sad that they are the major perpetrators. The UHRC findings further established that the main perpetrators of sexual violence in schools were students at 30% followed by teachers at 28.5%, then other perpetrators (besides teachers and students, such as workers, neighbours, etc.) at 25.4%. Parents were least at 16.2%.

In line with available guidelines of reporting, tracking, referring and responding to violence against children in schools, the government has not played its obligations to educate stakeholders on the importance of reporting, tracking, referring and responding to sexual violence in schools. Additionally, government ought to equip stakeholders with necessary tools to enable them report and track sexual violence cases to authorities for appropriate action in conformity with the existing laws, administrative procedures and guidelines.

5.5.4 Key forms of sexual violence against children in schools in Uganda and underlying causes of sexual violence in schools

The key forms of sexual violence and exploitation against children in schools include defilement, early and forced marriages, exposure to pornographic materials, fondling and or touching in a sexual way and child-to-child sex.

a) Defilement

Defilement is having sexual acts with persons below the age of 18. It should be noted that defilement is normally committed when an adult male or female engages a child in sex. The ministry of Education and Sports study found that 5.9% of children were subjected to defilement perpetrated by male teachers and fellow students.²¹⁹ UHRC's findings in 2017, however, show that 53.2% of the children were subjected to defilement, followed by physical harassment at 26.1% and rape at 20.7%.

In Karamoja, and Kaabong district in particular, sexual violence had reduced in schools although four cases had been reported from Kalimon Primary School, Loomodoch Primary Pchool, Lokona Yona Primary School, Loyoro Primary School and Lotim Primary School in Kalapata.²²⁰ UHRC monitoring further established that though in the past years, teachers were the major perpetrators of sexual violence in schools, in 2017, only one teacher was reported.

Records at Kaabong Police Station indicated that 29 cases of defilement for both school-going and non-school-going children had been reported and investigated. The head teacher of Lomukura Primary School in Kotido district stated thus:

“Defilement and rape are the most common incidents reported especially for those children. There are moments when the children escape from school being tricked by the teachers and students.”²²¹

Even so, UHRC noted with concern that these cases keep on increasing over the years and yet the protection mechanisms both in schools and outside schools are very poor, and defilement cases in most cases go unreported.

The Resident State Attorney for Kotido confirmed this and noted that most of these cases are handled outside the formal justice system and only reported when the suspect fails to pay the fine but there are high incidences of teachers abusing pupils in schools and during holidays by male folks.²²² He further said that there are no statistics yet to show cases of sexual violence handled by the office of the DPP as per year 2017.

UHRC noted that even those cases that are reported take long to be concluded in the justice system and there are challenges that hinder access to justice for such cases including distance to courts of law, lack of legal aid and the procedure is somewhat lengthy and very costly to the indigent. In addition, Uganda does not have a law on witness protection; this also hinders access to justice.

b) Early and forced marriage and pregnancies

Sexual violence against women and girls in schools is known to have negative consequences including pregnancies and forced or early marriage. The custom of marrying off young girls is a form of sexual violence,

219 National Strategic Plan on Violence against Children in Schools, 2015-2020.

220 National Strategic Plan on Violence against Children in Schools, 2015-2020.

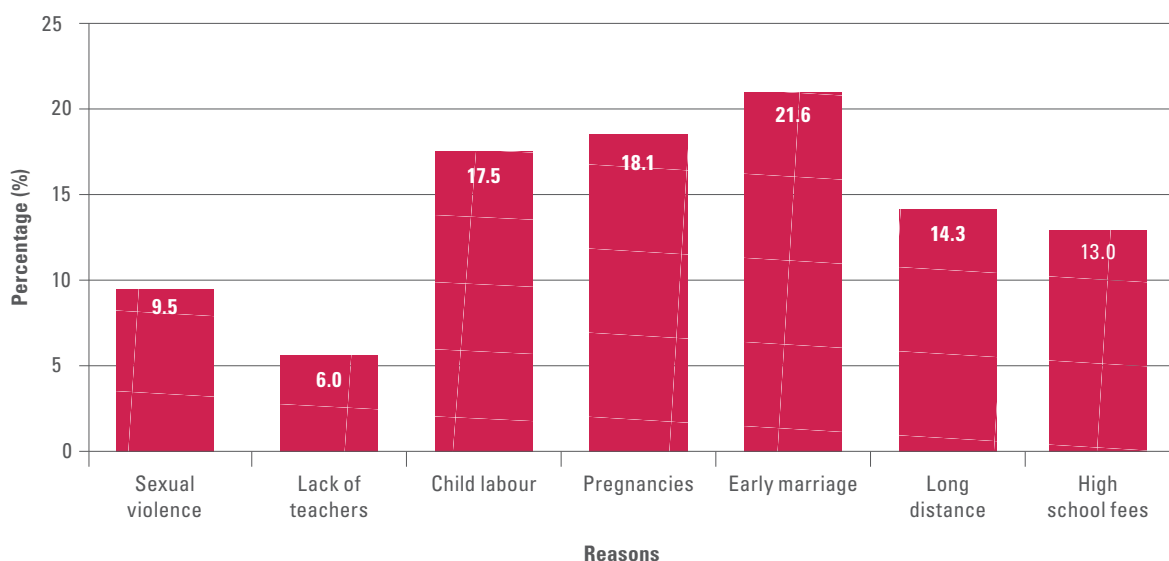
221 Interview with Mr. Sam Logira Head Teacher, Lomukura Primary School, Kotido district.

222 Interview with Mr. Obonyo Anthony Jabwor, the Resident State Attorney, Kotido.

since the children involved are unable to give or withhold their consent. Once children born of parents with high poverty levels become pregnant, the parents give in their children to early and forced marriages and yet majority of these girls know little or nothing about sex. They normally fear it and their first encounters are often forced by the perpetrators.²²³

UHRC findings presented in the figure below show that early marriage was reported to be the highest cause of school dropouts at 21.6%, followed by pregnancies at 18.1%, while sexual violence contributed to school dropout with 9.5%. The other factors include child labour at 17.5%, long distance to schools at 14.3%, high school fees at 13% and lack of teachers was least at only 6%.

FIGURE 26: CAUSES OF SCHOOL DROPOUTS



UHRC further established that one of the major impacts of sexual violence was early and forced marriages at 16.7% of the respondents, whereas 12.1% revealed that sexual violence led to early pregnancies.

It should be noted that early marriage is a form of sexual and gender-based violence (SGBV) with detrimental physical, social and economic effects.²²⁴ Government and other stakeholders should tackle the challenges of sexual violence in the forms of child marriages and teenage pregnancies, which cause high levels of girl school dropouts because the two are closely interlinked.

c) Exposure to sexual scenes (pornography)

Technological advancements and the increased use of the internet as well as social media sites such as Facebook, WhatsApp, Instagram and Twitter have exposed children in schools to various forms of pornography and sexual violence. Children in schools have access to mobile phones and other gadgets which allow them to access websites that are otherwise restricted to even adults. These children easily get access to pornography and sexual violence. Without the close supervision by their parents, guardians, teachers and other persons in charge, many children suffer the negative consequences of exposure to such information that amounts to child pornography.

223 http://www.who.int/violence_injury_prevention/violence/global_campaign/en/chap6.pdf Accessed on 14th February 2018.

224 <http://www.fmreview.org/sites/fmr/files/FMRdownloads/en/FMRpdfs/FMR27/34.pdf> Accessed on 14th February 2018.

UHRC noted that children nowadays are exposed to watching pornographic materials through videos, computers, phones and televisions, among others. There are no measures put in place to control the use of these gadgets in some schools. Children, therefore, get exposed to sex as early as five years and such children tend to put into practice whatever they watch and the end result is early pregnancy which may definitely result into child marriage and worst of it, drop out of school.

In 2017, UHRC established that 13.7% of the girls and boys had been exposed to pornographic materials. It should also be noted that many cartoons on many TV stations and in tabloids including *Onion*, *Rep Pepper* and *The Sun*, among others, in Uganda expose children to materials that erode their innocence. Many of these materials are on violence and especially sexual stuff.

A respondent in Kotido noted:

“Children were exposed to pornography in schools and other stakeholders should conduct sensitisation through school clubs, and guidance and counselling by senior men and women teachers in addition to putting in place strict rules and regulations that prohibit formation of pornography.

5.5.5 Impacts of sexual violence in schools

UHRC findings presented in the figure below show that the major impact of sexual violence was school dropout at 18.8%, followed by early and forced marriages at 16.8% and early pregnancies at 12.1%.

UHRC's findings show that 83.3% of the cases of sexual violence in schools were reported, while 16.7% were not reported. For example, officers at Pajule Police Station in Pader district informed UHRC that most cases of sexual violence are not reported because of the cultural practices where girls are seen as property and need to get married so that their parents can get dowry.

(a) Impacts of sexual violent in schools

FIGURE 27: IMPACT OF SEXUAL VIOLENCE IN SCHOOLS

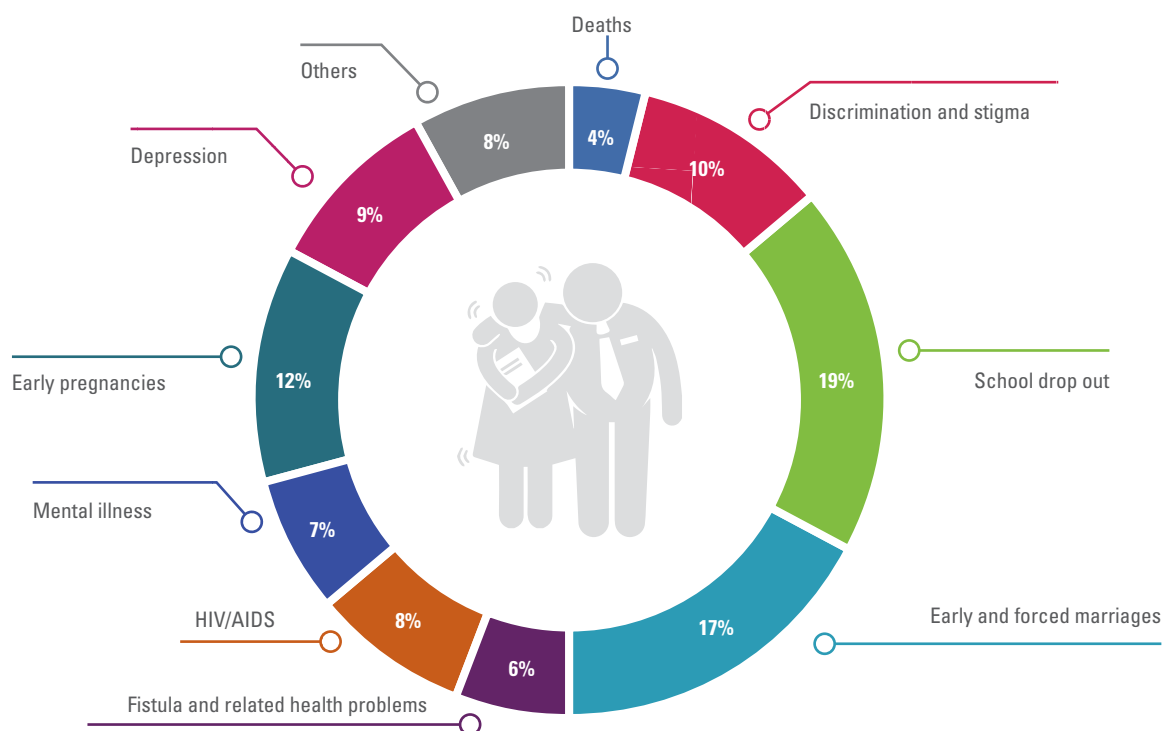
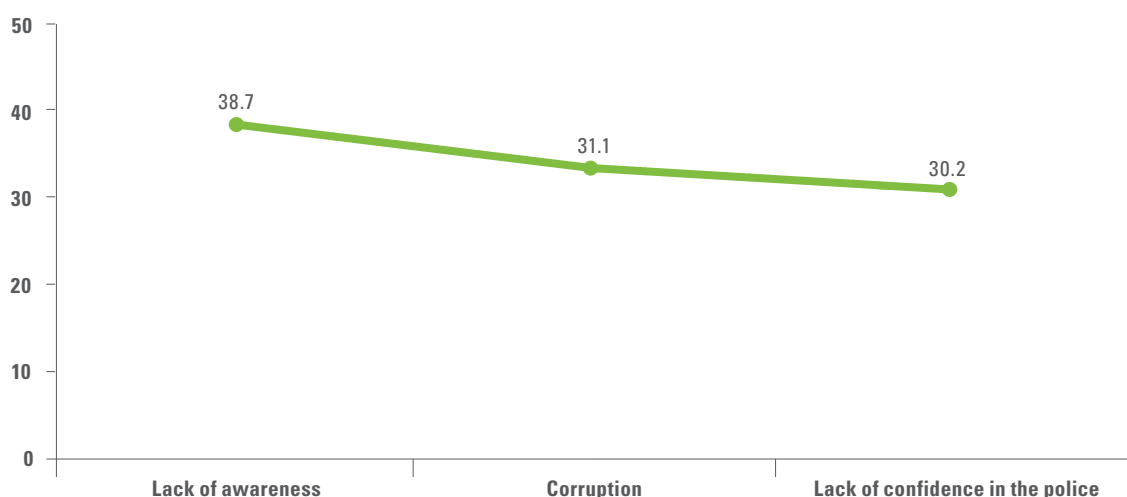


TABLE 9: EXAMPLES OF SEXUAL VIOLENCE IN SCHOOLS

S/No	District	School	Year	Perpetrators	Victim	Action Taken
1	Jinja	Bulego Primary School	2013	Head Teacher	Primary Five Girl	Charged and imprisoned at Kirinya Prison
2		Buwenge Township primary School		Teacher – Asuman Wayanda	Primary Six Student	
3		Lwanda Primary School	2017	Teacher	Primary Six Students	On the run
4		MM Wanyange Primary School	2017	Teacher	Primary Five Girl	Parents took away the child
5	Mayuge	Wambete Primary School	2008	Teacher – Anthony Dambo	Primary Six	Parents told the police that they had lost interest in the case
		Busira Primary School		Teacher – Wandera Moire	Primary Six Girl	Kirinya Prison

High levels of poverty lead to connivance between perpetrators and relatives of the victims instead of reporting such cases to courts of law. This perpetuates non-reporting of cases of sexual violence. In addition, victims fear prosecution of people/relative known to them; as a result, parents negotiate these cases. Other reasons why cases go unreported, as presented in the figure below, were lack of awareness (38.7%), corruption (31.1%) and lack of confidence in police (30.2%). Police sometimes take these issues lightly; for instance, a teacher identified as D A (not real initials) of Wambete Primary School in Mayuge district impregnated a pupil identified as J. A (not real initials). A case was reported to police and file opened as reference SD Ref 40/28/2015. Parents lost interest in the case and the police asked the Chief Administrative Officer of the district to reinstate the teacher which he refused to do.

FIGURE 28: REASONS WHY CASES GO UNREPORTED

The head teacher of Kalas Boys Primary School in Amudat district stated that perpetrators of sexual violence engage in the act of sexual encounters with schoolgirls because they have a desire for younger women to marry, desire to marry virgins and or desire to acquire wealth through dowry.

5.5.6 The human rights implications of sexual violence and exploitation in schools

There are a number of human rights implications of sexual violence and exploitation in schools. One of the major challenges is the lack of implementation of the National Strategic Plan on Elimination of Violence against Children in Schools due to financial constraints.

UHRC's findings point out the following as the key implications:

a) Right to education

In 2016, UHRC established that the incidents of schools dropouts were closely interlinked with premarital / teenage pregnancies, early and forced marriages. It reported that a number of girls either dropped out of school because they were pregnant and eventually got married or got pregnant after dropping out of school and ended up in child marriages.

UHRC's findings in 2017 show that the major reason for dropout of students was early child marriages at 21.6%, followed by pregnancies at 18.1%, followed by early pregnancies (18.1%), child labour at 17.5%, and then long distance at 14.3%. Regarding the impact of sexual violence, 18.8% of respondents said it led to school dropout, and 9.7% said it led to discrimination and stigma at school.

For example, at Abone Primary School in Agago district, two girls dropped out of school because of sexual violence; at Paiula Primary School in Pader district, seven dropped out; at Pajule Primary School in Pader district, they were five; and at Pajule Secondary School in Pader district, five students dropped out. Majority of the school dropouts were as a result of defilement that normally leads to early pregnancies.

A study by the ministry of Education and Sports for 2015 established that out of 488 schoolgirls who became pregnant, 97% dropped out. This greatly undermines retention and performance of children. In addition, UHRC notes that the Education Act does not provide for schools to accommodate pregnant pupils and students and support them in completing primary and or secondary education. Hence there is urgent need to bring the Act in line with Article 11(6) of the Constitution.

(b) Right to physical and mental health

Sexual violence, and especially early and forced marriages, has detrimental effects on the dignity, health and wellbeing of the child victims and contravenes international law. In this regard, Article 24 (3) of the Convention on the Rights of the Child 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 that are prejudicial/detrimental/harmful to the health of children.

The practice disproportionately affects girls with negative consequences on their right to health. According to the World Health Organisation, when minors, particularly girls, marry and have children, their health can be adversely affected,²²⁵ culminating into sexual violence, physical violence, emotional violence, teenage pregnancy, pregnancy complications and high HIV/Aids rates. In 2017, 7.5% of the respondents to UHRC survey interviews stated that sexual violence led to HIV and Aids, while 6.3% said it led to fistula and related health problems.

UHRC further noted that the maternal mortality rate for 2016 was 336 per 100,000 live birth, down from 438 per live birth recorded in 2011, according to the Uganda Demographic Health Survey (UDHS), 2016,²²⁶ due to high levels of under-age pregnancies and associated complications.

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

226 UBOS 2017 Statistical Abstract.



In addition, sexual violence undermines psychological and emotional wellbeing of the child and it reduces self-worth and confidence. It also undermines the security and safety of the children in and around the schools. During UHRC's monitoring in 2017, 8.9% of the respondents said sexual violence led to depression, 7.3% said it led to mental illness, and 4.5% to death.

5.5.7 Recommendations

1. The ministry of Finance, Planning and Economic Development, through Parliament of the Republic of Uganda, should provide adequate financing to the education sector that would enable the ministry of Education and Sports to have a database of information collected through regular national surveys on assessing child protection/safety and security issues for children in Ugandan educational institutions.
2. The ministry of Education and Sports should fast-track the implementation of the National Strategic Plan on Elimination of Violence Against Children in Schools (VACiS).
3. Ministry of Education and Sports as well as Ministry of Gender, Labour and Social Development should devise means of ensuring partnerships are built and strengthen coordination across different ministries, departments and agencies and organisation at different levels through improved reporting and concerted response to the survivors of VACiS by having meaningful programmes of counselling, rehabilitation and legal services and action.
4. Ministry of Education and Sports should strengthen the regular collection of up-to-date and disaggregated data on violence against children and track progress through robust monitoring, inspections and evaluation.

5. The Education Act should be amended by adding a section requiring schools to accommodate pregnant students and support them in completing primary and or secondary education so as to bring the Act in line with Article 11.6 of the African Charter on Human and Peoples Rights.
6. Ministry of Education and Sports should devise and strengthen deterrent punishment for teachers perpetrating sexual violence against children, including fast-tracking the cancellation of teaching licences of such guilty teachers.
7. Ministry of Education should devise collaborative mechanisms with stakeholders on how to conduct mass sensitisation of children in schools and also the teachers about the dangers of sexual violence and failure to report cases.
8. The Uganda Police Force, Directorate of Public Prosecutions and Ministry of Justice and Constitutional Affairs in conjunction with Ministry of Local Government should strengthen partnership to fast-track and increase prosecution rates of sexual violence offences against children in schools.

5.6 CONCLUSION

UHRC acknowledges all the efforts made by the Government of Uganda and especially Ministry of Education and Sports in ensuring a violence-free learning environment throughout the country. However, a lot still needs to be done because of the magnitude of sexual violence in most of the schools so as to enhance the realisation of the right to quality education for all in Uganda.



Chapter 6:

Land disputes and human rights in selected regions of Uganda: Tracing the nexus

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6.0 INTRODUCTION

Land is an important resource as well as a means to the realisation of other human rights such as the right to food, the right to life and the right to adequate housing, among others. The economic and environmental significance of land has been recognised by the National Land Policy in Uganda and other relevant laws and policies. However, its economic significance has been a source of conflicts and insecurity in the country. Despite the existence of policy and legal and institutional mechanisms to ensure proper land administration in Uganda, disputes persist. This is what prompted UHRC to conduct a research with a view of establishing the reasons for the escalation of land disputes in spite of the legal and administrative mechanisms in place.

In fulfilment of its mandate under Article 52 of the Constitution of Uganda “to establish a continuing programme of research, education and information to enhance respect for human rights”, UHRC conducted research on land disputes and how they impact on fundamental human rights and freedoms in selected regions in Uganda. These were Karamoja, Eastern, Northern, Western and Central Uganda; specifically, the districts of Mubende, Kayunga, Mpigi, Moroto, Napak, Nakapiripirit, Katakwi, Kween, Bududa, Amuru, Buliisa and Masindi. The research team visited 125 parishes in 40 sub-counties of the above 12 districts.

The research was preceded by a baseline survey conducted in March 2017 to get preliminary data on the key actors and their roles, and the nature and magnitude of land disputes in selected districts. A special report on UHRC findings was published.²²⁷ Therefore, this chapter is a summary of the findings and recommendations of that research.

It is important to note that at the time of conducting the research, a commission of inquiry into land matters was ongoing, as well as efforts to have Parliament amend Article 26 of the Constitution to give government powers to compulsorily take over land for development projects prior to compensation. UHRC, therefore, acknowledges other research already conducted on land disputes. However, UHRC used the human rights perspective in analysing the problem of land disputes and how they impact on fundamental human rights and freedoms, aspects that had not been adequately studied.

The Commission specifically focused on the nature of disputes involving the state and private individuals; or those between companies and private citizens; communities and the state or its agents, considering the state's obligations to respect, protect, and fulfill human rights.

6.1 LEGAL FRAMEWORK

6.1.1 International legal framework

Uganda is a state party to most international treaties and is obliged to protect and promote the enjoyment of rights, including the right to property. The UDHR²²⁸ provides for the right of everyone to own property alone as well as in association with others. However, neither the ICCPR,²²⁹ nor the CESCR²³⁰ have clear-cut provisions on land or land rights. This notwithstanding, there are other related provisions with a bearing on the right to property; including those that relate to the principle of non-discrimination which underpin rights relating to land; and the right to an adequate standard of living which includes the right to food, clothing and housing.

227 UHRC has published a special report of its findings in 2017 titled, ‘Land Disputes and Human Rights in Selected Regions of Uganda: Tracing the Nexus’

228 Article 17 of the Universal Declaration of Human Rights.

229 International Covenant on Civil and Political Rights, adopted on 16th December 1966.

230 International Covenant on Economic, Social and Cultural Rights, adopted on 16th December 1966.

The CEDAW provides for explicit rights of women to land. Specifically, Article 14 (2) (g) and (h) protects women from all forms of discrimination and guarantees their rights to an adequate standard of living. It obliges states parties to take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure equality of men and women. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) equally illustrates a number of rights guaranteed to indigenous peoples, including the right not to be forcibly removed from their land or territories.²³¹

At the regional level, Article 14 of the ACHPR guarantees the right to property and provides that it may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws. The ACHPR further sets procedures for seeking remedy in case of infringement on the right. Article 21(2) of the ACHPR, provides that “in case of spoliation, the dispossessed people shall have the right to the lawful recovery of its property as well as to an adequate compensation.”²³²

6.1.2 National legal framework

The Constitution of Uganda vests land ownership in the citizens of Uganda.²³³ Article 237 specifically provides that ownership of land is vested in the citizens of Uganda to own it under freehold, mailo, leasehold and customary tenure systems. Article 26 protects the right to own property alone or in association with others and sets conditions for compulsory acquisition of land for purposes of public interest and safety, among others. However, prompt payment must be made prior to taking of property.²³⁴ This principle is further elaborated under the Land Acquisition Act, 1965 which provides for compulsory land acquisition for public purposes with compensation.

Both the Constitution and the Land Act, 1998, permit the central or local government to hold environmentally vital resources in trust for the people as provided for under Article 237 (2) (b). These resources include natural lakes, rivers, wetlands, forest reserves, national parks, and land reserved for ecological or touristic purposes, among others.

6.1.3 Policy and institutional framework

The National Land Policy, 2013 gives the overall policy direction regarding land administration in Uganda. It gives directives on the management and administration of land in the country with the goal of ensuring an efficient, equitable and optimal utilisation and management of Uganda’s land resources for poverty reduction, wealth creation and overall economic development.

To safeguard the property rights of individuals, the government established an institutional framework for the proper administration of land in Uganda. The institutions include, among others, the ministry of Lands, Housing and Urban Development (MoLHUD), charged with the responsibility of providing policy direction, national standards and coordination of all matters concerning lands, housing and urban development in Uganda; the Judiciary whose mandate involves adjudicating all cases, including those relating to disputes over land; the Uganda Land Commission (ULC) which is the constitutional body mandated to manage all government land; and the District Land Boards as well as the Area Land Committees. Civil society organisations (CSOs) and civic leaders also play a role within the institutional framework.

231 Article 10 of UNDRIP. See also Articles 32 and 20(2) which guarantee redress to indigenous people deprived of their means of subsistence and development and Article 26 which guarantees indigenous people the right to land, territories and natural resources which indigenous peoples traditionally own. Article 27 obligates states to establish and implement, in conjunction with indigenous peoples, processes giving due recognition to the laws, traditions, customs and land tenure systems of indigenous people.

232 Article 21 (2) of the African Charter on Human and Peoples’ Rights

233 Article 237 specifically provides that ownership of land is vested in the citizens of Uganda to own it under freehold, mailo, leasehold and customary tenure systems.

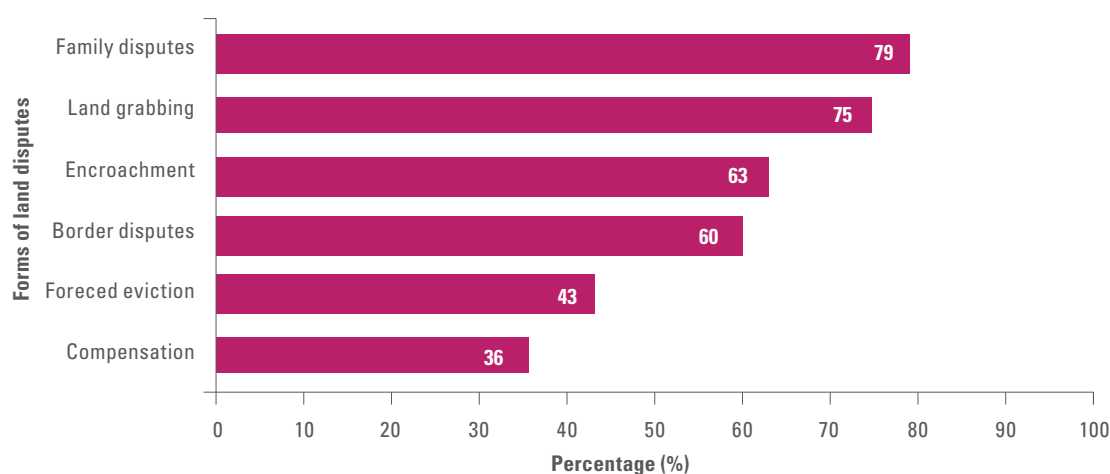
234 A bill to amend this constitutional provision was tabled in parliament in June 2017.

6.2 HIGHLIGHTS OF THE RESEARCH FINDINGS

6.2.1 Forms of land disputes

UHRC established that different forms of land disputes existed in the selected regions. Top among them were family disputes, land grabbing in its various forms, encroachment, border disputes, forced evictions and compensation as shown in the figure below. The findings showed that land disputes existed in all the 12 districts where the research was conducted and the compensation given in most cases was not commensurate with the land lost. UHRC established that private individuals, communities, state agencies such as Uganda Wildlife Authority (UWA), National Forestry Authority (NFA) and Uganda Prisons Service (UPS), were some of the parties to the disputes in the selected regions.

FIGURE 29: FORMS OF LAND DISPUTES



6.2.2 Causes of land disputes

Factors responsible for land disputes in the selected regions of Uganda included population increase which exerted a lot of pressure on the available land especially in the Central region; unclear district and sub-county boundaries especially in Karamoja sub-region; the negative peace dividend leading to conflicts over land as was manifested in post-conflict areas such as Acholi, Teso and Karamoja; negative cultural practices that prevented women from owning or inheriting land; and human-animal conflict in conservation areas. Others were corruption and fraud in land transactions; increased infrastructural development especially road construction projects in Karamoja, Acholi, Central, Bunyoro, Teso and Sebei sub-regions; weaknesses within the institutions mandated to handle land matters; changing land use patterns, especially in formerly pastoralist communities; political interference in land matters; and delayed compensation and or resettlement of evicted persons.

In addition, poor documentation of past land transactions, gaps in land-related laws and overlapping land tenure systems, and the mineral rush in Bunyoro and Karamoja sub-regions were also noted to be behind the increasing cases of land disputes.

UHRC established that addressing land disputes in the selected regions of Uganda was affected by the lack of faith in the Judiciary and other land administration institutions; poor facilitation of the relevant institutions and politicisation of land issues which in some instances frustrated the efforts of institutions meant to address land issues. It was also found that young people with no social support, widows, pastoralist and elders were the most affected by the land disputes.

6.3 HUMAN RIGHTS IMPLICATIONS OF LAND DISPUTES

(a) Violation of the right to property

One inevitable effect of land disputes is the infringement on the right to property, manifested at two levels of deprivation of land and the destruction of valuable property on it. The UHRC research established that there were several cases of denial of access to land in the districts of Moroto, Napak, Kayunga and Mubende where various mining companies were operating. Furthermore, where mining activities were ongoing, the rights of the landowners as provided for under the Mining Act, 2003 were not being observed.²³⁵

There were cases where people's houses had been burnt down or demolished and their crops destroyed. Cases in point were Nalwanza Primary School in Bududa district which was allegedly burnt in June 2017; the 26 houses burnt down in Nalutuntu sub-county in Mubende district, allegedly by army officers; and the houses that were burnt down, animals cut and crops destroyed in Angisa parish, Magoro sub-county in Katakwi district. Similar incidents happened in Karamoja where, in Nakayot parish, Lorengechora sub-county in Napak district, residents reported that Uganda Wildlife Authority officials had destroyed a borehole that had been sunk by the local government.



A borehole allegedly destroyed by UWA officials in Nakayot parish, Lorengechora sub-county, Napak district



A family house in Muduuma sub-county, Mpigi district that was allegedly destroyed during a land dispute

(b) Deprivation of the right to life

UHRC established that land disputes had led to violation of the right to life which manifested through deaths from physical violence, as well as indirectly, when the means to livelihood inherent in the instrumental nature of land rights were affected.

Violation of the right to life mostly occurred in instances when land disputes turned violent. In Ngenge sub-county, Kween district, for example, UHRC learnt from police that in January 2017, more than five people had been killed in land-related wrangles. In Apaa village, Amuru district, two people Felix Opio Tobia and Jacob Okumu had allegedly been killed by UWA game rangers in the past three years; and a one Joseph Onek was killed by clan members as a result of clan rivalry over land.

The loss of lives affected individual members of the community as well as staff of institutions such as UPF, NFA and UWA. In one instance, in Nalutuntu sub-county of Mubende district, a police officer was lynched by the community while he was investigating a case of land dispute. In Bududa district, a policeman who had

²³⁵ Section 98 of the Mining Act, Royalty shall be shared by government, local government and owners or lawful occupiers of land subject to mineral rights.

gone to enforce a court order was disarmed and shot dead by members of the community. In Napak town council, a person was killed in March 2017 over disputes related to land, while the border dispute between Abim, Napak and Amuria districts claimed more lives in the last three years. UHRC got reports that some people had resorted to witchcraft and poisoning of opponents to “resolve” conflicts. Land-related disputes were further noted to be one of the leading causes of mob action in most communities.

All these acts were contrary to the right to life as guaranteed under various international, regional and national human rights frameworks, specifically Article 3 of the UDHR²³⁶ that provides for everyone’s right to life, liberty and security of person, Article 6 of the ICCPR²³⁷ which guarantees the right to life and Article 22 of the Constitution of Uganda which guarantees every individual’s right to life.²³⁸

(c) Violation of the right to food

The Committee on Economic, Social and Cultural Rights in General Comment No. 12 (1999) on the right to adequate food underlines availability as an element of the right to adequate food, as it refers to the possibilities for people to feed themselves directly from productive land or other natural resources (Paragraph 12). Article 11.1 of the ICESCR considers the right of everyone to an adequate standard of living for himself and his family as “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.”

The findings revealed the link between land disputes and violation of the right to food since they interfered with people’s free access and use of land to grow their own food. UHRC established that families were left landless because of land dispossession and with nowhere to graze animals or cultivate crops. In Uganda, majority of the population still depends on land for subsistence; so, land disputes significantly affected people’s realisation of their right to food.

In Karamoja and Bunyoro for instance, UHRC found that most of the productive land was under control of NFA, UWA or UPS either as or prison farms. Similarly, there were communities that could not cultivate food particularly those that were affected by their land being taken over by UPDF. A respondent in Karamoja lamented: “It is unfortunate that the government gives more consideration to animal habitation than human beings.”

UHRC also noted that food insecurity occurred when people got evicted from their land, leaving them stranded. In Rwanda Camp, in Kwanyiri sub-county, Kween district, for example, victims were reportedly evicted from the forest reserve, leaving them landless with nowhere else to cultivate. Similar concerns were noted in Apopong and Aperisiru villages in Angisa parish, Magoro sub-county in Katakwi district where communities were reportedly experiencing food insecurity related to land conflicts.

(d) Forced eviction and the resultant violation of the right to housing

General Comment 7 of the Committee on Economic, Social and Cultural Rights notes that forced evictions are incompatible with the requirements of Article 2(1) of the ICESCR which obligates states to use all appropriate means to realise the right to housing. This includes the state’s obligation to refrain from forced evictions and ensuring that the law is evoked against state agents and third parties involved in forced evictions.

In some of the research areas, the Commission established that most people’s homes and households were destroyed following land disputes. Examples include Namalu sub-county, Nakapiripirit district, where a village comprising about seven households was evicted from land by the Namalu Uganda Government

236 http://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf

237 http://www.ohchr.org/Documents/HRBodies/CCPR/GCArticle6/GCArticle6_EN.pdf

238 Article 22, Constitution of The Republic of Uganda also prohibits arbitrary deprivation of the right to life.

Prison. In Moroto district, the proposed expansion of Moroto municipality caused fear among the Tepeth in Lia village, Singila parish, Katikekile sub-county, who expressed concerns that the development could lead to being forced off their land with no means to reconstruct their permanent houses or even seek redress in the courts of law.

In Nakapiripirit district, about 300 people from the villages of Komacaren, Lopedot, Nakuyon and Kokuwam Angolethuroth in Namalau sub-county were reportedly evicted; their crops destroyed; and their household properties thrown by the roadside by prisons officers. In Kayunga district, a family was forced to relocate to Kawempe division in Kampala due to land disputes while in Katakwi district, families in seven villages of Angaro, Amaida, Atira, Abobore, Adida, Akakai and Agerigeri in Angisa parish were evicted by UWA from a 300-square kilometre piece of land. In Kween, families in 12 villages in Kapkwata, Nyimei and Kapulekep parishes in Kwanyi sub-county were evicted into camps with 169 families at Rwanda Camp, also, 87 people at Kisangani Camp were displaced.

In Northern region, a total of 2,734 people of the Madi ethnic group and 1,924 of the Acholi ethnic group had also been displaced as a result of land disputes.²³⁹ Therefore, it can be concluded that the various cases of forced evictions that the research found contravened international norms relating to forced evictions.

(e) Poverty and underdevelopment



Women undressed before government officials who had gone to open boundaries between Amuru and Adjumani districts last year. Land disputes were listed among top concerns in the Northern region.

Research participants identified poverty and underdevelopment as some of the long-term implications of land disputes. They attributed this to the fact that majority of Ugandans still depended on land as their only source of livelihood. A respondent in Katakwi noted:

“ Land is something that is very valuable to us ... If you lose a piece of land, you join the poorest, because all our dependence is on land.

In Central region, the research team noted that many family development projects were reportedly at a standstill especially in communities that had been forcefully evicted from their land. In Nalutuntu sub-county of Mubende district, for example, the team heard that the community was no longer involved in farming because they did not have access to their land.

In Kasongwire parish, Budongo sub-county, Masindi district, UHRC researcher heard allegations of electricity connections that had been diverted due to a land dispute between the community and Kinyara Sugar Works, thus affecting both personal and national development.

The disputes had also affected people's access to vital social services like schools and health centres. A contention was reported between Amuru district and Adjumani district over which district should offer social services to the people of Apaa village following a land dispute.

239 New Vision, 22nd Tuesday 2017.

(f) Violation of the right to culture

Land and the right to cultural identity are intrinsically linked. This link was evident during the research with the right to live on ancestral land affected. This was particularly the case with minority groups such as the Tepeth whose existence was under threat owing to claims by institutions like the National Forestry Authority.

The findings also include loss of burial grounds for people who were evicted from land as was the case in Kween district, specifically in Rwanda Camp. A resident of the camp explained:

“ When someone dies, we wait until late in the night and then we go and bury in the forest, because we have no burial grounds anymore.



A focus group discussion participant in Namalu sub-county, Nakapiripirit district displays the scars of an injury he sustained during forcible eviction by Uganda Prisons Service

(g) Freedom from torture, cruel, inhuman and degrading treatment

Whereas torture is one of those acts prohibited under international and national human rights instruments, the research revealed that violent land disputes had been characterised by various acts of torture, cruel, inhuman and degrading treatment or punishment. Victims of torture were reportedly on both sides of the disputes. Torture was reported in the areas where the evictions were forceful and people were allegedly beaten, dragged about and sometimes chased out of their houses naked and its effects varied from one individual to

another. Apart from the physical injuries, some people reportedly suffered emotional and psychological torture as they were under constant threats of eviction.

(h) Violation of the right to liberty and security of person

In addition to cases of arbitrary arrests for those that refused to leave the land, cases of insecurity in areas with land disputes increased. This was the case in Nyarkidi, Adoloany and other places between Abim and Napak districts where there were border disputes. Some respondents predicted violence and bloodshed if the issue was not handled. There were cases of threatening violence and intimidation especially to individuals involved in land disputes. Some parties allegedly intimidated their opponents to keep them off disputed land.

(i) Implications on various children's rights

Article 27 (1) and (3) of the Convention on the Rights of the Child emphasises the right to an adequate standard of living.²⁴⁰ Article 16(1) and (2) prohibits unlawful or arbitrary interference with privacy or any form of attack on children.²⁴¹ All these provisions of CRC call for protection of children.

240 By Article 27 (1), states parties recognise the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

241 Article 16 of the Convention on the Rights of the Child provides that, No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.

2) The child has the right to the protection of the law against such interference or attacks.

Children are often dependent on their caregivers to access basic needs such as health services, education, adequate food, safe water and sanitation. Thus they are vulnerable to the effects of loss of livelihood of their caregivers in the event of insecure tenure or loss of access to land as a result of evictions. Furthermore, children born out of wedlock, especially girls, are often discriminated against in inheriting and having access to family land.²⁴² The research, therefore, demonstrated the link between land disputes and the violation of various children's rights.

UHRC learnt that the out-migration of children from Karamoja, especially from Napak district, to major towns like Kampala was largely due to increasing cases of land disputes since much of the fertile land in the area had been gazetted as a game reserve and people did not have alternative land to cultivate.

UHRC also noted that land disputes have led to an increase in the dropout rate of schoolchildren especially among those evicted by UWA, thus affecting the right to education. As a result of the bitter dispute between Adjumani and Amuru districts, Zoka Primary School in Adjumani and two community schools in Amuru were closed²⁴³. As a result of land disputes, families and individuals lived in perpetual fear of being evicted and this affected the children, especially their right to education because of constant transfers from one school to another.

(j) Discrimination against women

Article 14(2) of the CEDAW requires state parties to take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure equality. Oftentimes the effects of land disputes on women were not considered due to the patriarchal nature of most societies that did not allow the voices of women to be heard in matters concerning land governance. Numerous women experience discrimination in marriage, inheritance, legal capacity or access to financial and other resources and this becomes the main obstacle to access, use and control of land. Their lack of secure tenure owing to discrimination based on gender has an impact on their own survival as well as that of their families and children.²⁴⁴



A displaced single mother with her children next to their hut whose roof was leaking, in Rwanda Camp in Kwanyiri sub-county, Kween district

242 Ibid, para. 4.1

243 Sunday Pepper of 2nd July 2017 reported that three schools remained closed as a result of the Apaa land crisis i.e. Zoka Primary School in Adjumani and two community schools in Amuru since the displaced persons had occupied all the classes hence automatically dismissing the children from school.

244 Land and Human Rights, Standards and Applications. UNOHCHR, 2015. Page 10.

(k) Violation of the right to self-determination

Article 1 of the ICCPR provides that all peoples have the right of self-determination. Under the Article, self-determination entails people being able to dispose freely of their natural wealth and resources, and not being deprived of their means of subsistence. This includes land and all means of subsistence derived from land.²⁴⁵

UHRC found that land disputes involved landowners being dispossessed of their land against their will or free consent. This was most especially true where decisions concerning people's land were made without their effective and meaningful participation.

(l) Right to an effective remedy

The right to an effective remedy is espoused in Article 2 of the ICCPR which provides that everyone has the right to an effective remedy by a competent tribunal for acts violating human rights. This includes acts involving violation of land rights. Some respondents informed UHRC that the delay in resolution of land matters led to their loss of confidence in the justice system. The lack of access to justice by community members, especially vulnerable persons, further exacerbated the challenges faced by victims of land disputes in achieving effective remedies.

6.4 RECOMMENDATIONS

Ministry of Lands, Housing and Urban Development should:

- (a) Redraw or reopen district boundaries in areas with border disputes. This requires comprehensive consultations with all the affected communities to ensure that the final decision is acceptable to all.
- (b) Ensure that standard maps are used in addressing land disputes and that they are easily accessible to people at all levels.
- (c) Ensure that people in communities where land is communally owned acquire certificates of customary ownership either individually or through the communal land associations.
- (d) Standardise the compensation rates for all land within the same area. This would reduce cases of variation in compensation rates for land with the same value and within a particular area. The compensation rates should be fair and commensurate with the value of the land taken.
- (e) Ensure that payment of compensation is made prior to the taking away of land.
- (f) Conduct systemic land surveys and titling for customary land and offer free registration.
- (g) Strengthen institutions such as Area Land Committees, the District Land Boards and the LC Courts mandated to handle land administration to effectively address land matters.
- (h) Expedite and scale up the computerisation of land titles.
- (i) Mitigate the impact of population increase and migration on land by coming out with systematic plans and action on urbanisation.
- (j) Establish a Land Fund to enable the poor acquire land.

245 Report of the UN High Commissioner for Human Rights to the UN General Assembly, made during the substantive session on 23rd June to 18th July 2014, New York. Para. 22

Ministry of Energy and Mineral Development should:

- (a) Ensure that adequate consultations with communities are done before exploration and mining licences are given to investors.
- (b) Verify the bona fide landowners and ensure that they are compensated prior to issuing prospecting, exploration and mining licences.

The Judiciary should:

- (a) Implement the strategies in place for backlog reduction in order to reduce the long periods the cases of land disputes take in the courts of law.
- (b) Strengthen alternative dispute resolution institutions and mechanisms.
- (c) Expedite the passing and implementation of the National Legal Aid Policy to enhance access to justice for victims of land disputes.
- (d) Take corrective measures against errant judicial officers in order to curb allegations of corruption.

Uganda Police Force should:

- (a) Ensure neutrality while handling land matters. This should be limited to provision of security during lawful eviction and apprehending suspected criminals involved in land-related crimes.
- (b) Intensify community policing so that a vast number of people can be reached.
- (c) Exercise professionalism in executing court orders relating to evictions.
- (d) Together with other security agencies, avoid taking sides on land matters.

Civil society organisations should:

- (a) Continue to complement the work of government institutions in advocacy, sensitisation and legal aid services to address land disputes.
- (b) Advocate for the review of all land-related laws to ensure that they effectively protect people's fundamental right to property as provided for under Article 26 of the Constitution of Uganda.

Uganda Law Reform Commission should:

- (a) Recognise customary land ownership in its own right without requiring registration so that people can be able to defend themselves in court without being asked to produce documentary proof.
- (b) Ensure that the Land Acquisition Act, 1965 is amended to meet the constitutional requirements for compensation under Article 26.
- (c) Together with the Judiciary, build the capacity of the members of LC Courts.

The District Land Boards should:

- Streamline their operations to be accountable to the public when handling land matters.

Uganda Wildlife Authority and National Forestry Authority should:

- (a) Enter into collaborative forest management agreements with local communities.
- (b) Enhance coordination between them and line ministries, and with National Environment Management Authority, the ministry of Lands, Housing and Urban Development and the ministry of Energy and Mineral Development in giving mining licences for forest reserves.
- (c) Strengthen mechanisms to fight corruption.

Ministry of Justice and Constitutional Affairs should:

- (a) Monitor the activities of the CSOs operating on land matters to ensure that they are impartial when addressing land issues.

Uganda Land Commission should:

- (a) Ensure that all government institutions have their land surveyed to avoid encroachment by private individuals and companies.

Ministry of Disaster Preparedness, Management and Refugees should:

- (a) Resettle communities that have been evicted.

The media should:

- (a) Exercise professionalism and responsible journalism.

Cultural institutions should:

- (a) Mitigate disputes within their communities through strengthened and recognised roles of clan leadership structures.

All security agencies, politicians and respective government officials should:

- (a) Desist from using their positions and offices to interfere with lawful process of land matters especially court orders.



Chapter 7:

UHRC position on selected bills before parliament

- 7.0 Introduction **126**
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- 7.2 UHRC's position on the Uganda National Health Laboratory Services Bill, 2016 **131**
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7.0 INTRODUCTION

Uganda Human Rights Commission, in fulfilling its constitutional mandate under articles 48, 49, 51 and 52 of the Constitution of Uganda, has a responsibility of scrutinising, reviewing and analysing bills before Parliament, to ensure that they are in line with human rights standards. It is on this basis that UHRC presented to Parliament its position on three bills that were tabled in 2017. These were: The Minimum Wage Bill, 2015; The Uganda Health Laboratory Services Bill, 2016; and the Human Rights (Enforcement) Bill, 2015.

None of the three bills had been passed by Parliament by the time of compiling this report.

7.1 UHRC'S POSITION ON THE MINIMUM WAGE BILL, 2015

7.1.1 Background to the bill

The bill was tabled as a private member's bill. The memorandum noted that attempts to establish a minimum wage had not been successful and that the key defect under the current minimum wage determination mechanism provided for under the Minimum Wages Advisory Board and Wages Councils Act, 1964 did not provide for an employee-employer-led minimum wages determination and a sectoral based minimum wage determination application. It further noted that the decision-making mechanism was cumbersome, non-representative and did not address the uniqueness of individual sectors while coming up with a minimum wage.

The bill, therefore, seeks to curb exploitation of workers and employees in the private sector by setting a mechanism that allows employers and employees to be represented in the process leading to establishment of minimum wages; establish a minimum wage and conditions of employment taking into consideration the uniqueness of each sector in the economy; and prescribes penalties for non-compliance.

UHRC submitted that establishing the minimum wage remains crucial for enjoyment of economic, social and economic rights since 59% (which is more than half) of the workforce in the country is employed in the informal sector. These workers are paid minuscule minimal wages and are in fact referred to as the "working poor".²⁴⁶ This means, essentially that workers in the informal sector earn insufficient money to take them out of poverty. As such, a minimum of 59% of the workers in Uganda, representing more than half of the workforce, would be positively impacted if a modest national minimum wage was set.

Efforts to strengthen the minimum wage legislation would also build on the early success Uganda had in this respect. Uganda established its first Minimum Wages Board in 1930²⁴⁷. In 1950, the first Minimum Wage Order set the minimum wage at 33 shillings. In 1963, Uganda joined the International Labour Organisation and ratified the Minimum Wage – Fixing Machinery Convention 1928 (No.26). This Convention was domesticated by the Minimum Wages Advisory Board and Wages Councils Act, 1964. From that time until 1984, the minimum wage continued to be adjusted. By 1984, the minimum wage was UGX 6,000. In 1995, there was an attempt to adjust the minimum wage when the Minimum Wages Advisory Council was set up. The Minimum Wages Advisory Council proposed a wage of UGX 65,000 which was never implemented. In 2015, a Minimum Wage Advisory Board was constituted and proposed a national minimum wage of UGX 136,000 which has not been implemented to date.

246 Uganda Labour Market Price 2014, Ulandssekeriatarait LO/FTF Council, 13. Available at [http:// www.ulandssekere-tariatet.dk/sites/default/files/uploads/public/PDF/LMP/imp.Uhganda_2](http://www.ulandssekere-tariatet.dk/sites/default/files/uploads/public/PDF/LMP/imp.Uhganda_2) Accessed on 20th September 2017.

247 DRT Policy Brief No.4 October 2013. The Minimum Wage in Uganda: An Urgent Call'.

7.1.2 Summary of contents of the bill

The object of the bill is to provide for the determination of a minimum wage based on the different sectors of the economy in Uganda. The bill, therefore, covers the following aspects: the determination of a minimum wage; establishment of a minimum wages board; and establishment of a contractual minimum wage, among other clauses.

7.1.3 Positive aspects of the bill

UHRC welcomes the process to set up a mechanism for determination of a minimum wage. UHRC has over the years and on several occasions recommended for the enactment of a minimum wage which has been reflected in its publications including the Special Report on Workers' Rights,²⁴⁸ and UHRC's 16th and 18th Annual Reports to the Parliament of Uganda on the State of Human Rights in the country.²⁴⁹

The right to just and favorable conditions of work entails a minimum fair wage and equal remuneration for work of equal value. This ensures a decent living for a person and their family that is central to the dignity, worth and value of a person. The right to just and favourable conditions is a fundamental human right reflected in several instruments to which Uganda is a signatory. They include the Universal Declaration of Human Rights,²⁵⁰ the International Covenant on Economic, Social and Cultural Rights,²⁵¹ the ILO Conventions and the African Charter on Human and Peoples' Rights.²⁵² The Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights point out that the right to work is essential for the realisation of other economic, social and cultural rights; is an inseparable and inherent part of human dignity; and is integral to the role of an individual within society.²⁵³ In addition, the principles point out that access to equitable and decent work, which respects the fundamental rights of the human person and the rights of workers including remuneration, can be critical for both survival and development.²⁵⁴

There is no universally agreed amount of money that constitutes a minimum wage; however, it can be described as a wage derived from fulltime work that allows people to lead a decent life; and further, it facilitates economic and social justice. Instituting a minimum wage is relevant and directly linked to the well-being of low-wage earners in the country.²⁵⁵ Lack of a minimum wage further fuels the already known income inequality that exists in the country. The first National Development Plan (NDP I) 2009/10-2014/15 identified the institution of a current minimum wage as a critical step to increasing access to gainful employment which in turn contributes to the reduction in poverty, tackling inequality and stimulating growth through increasing people's incomes.

248 Workers' Rights: A perspective on the enjoyment of the rights of factory workers in Uganda. Uganda Human Rights Commission.

249 16th Annual Report to Parliament, Uganda Human Rights Commission, 2013 and the 18th Annual Report to Parliament, Uganda Human Rights Commission, 2015.

250 Article 23(3) of the Universal Declaration of Human Rights.

251 Article 7 of the International Covenant on Economic, Social and Cultural Rights.

252 Preamble of the ILO Constitution and Article 15 of the African Charter on Human and Peoples' Rights.

253 Para 52 of the Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights Available at http://www.achpr.org/files/instruments/economic-social-cultural/achpr_instr_guide_draft_esc_rights_eng.pdf last accessed on 20th September 2017.

254 As above.

255 Available at <http://www.ilo.org/global/topics/wages/minimum-wages/lang--en/index.htm> Accessed on 20th September 2017.

In addition, establishing a minimum wage would have a substantial impact on the lives of many categories of workers that one can describe as being vulnerable. A minimum wage provides a basic social protection floor to help safeguard incomes and living conditions of workers and their families who are considered most vulnerable in the labour market.²⁵⁶ The minimum wage will help women and children and other disadvantaged individuals as these are the groups that are highly represented in the informal sector where the wages are significantly low.²⁵⁷ Such groups would benefit from the development of a modest minimum wage. This inevitably would lead to reduction of poverty and income inequality, while furthering gender equity.²⁵⁸

7.1.4 Human rights concerns in the provisions of the bill

(a) Non-applicability of the bill to security forces, public workers, and government employees

UHRC notes that Clause 2 of the bill excludes the applicability of the bill to members of UPDF, members of any police force established by the Constitution, public officers or persons otherwise employed by the Government. There is no consistent practice of inclusion of public sectors in the laws regarding minimum wages, with wages of the public sector being based on administrative law. However, it is crucial to determine whether the basis of the wages in the provisions of the law for the public sector would be higher than the national minimum wage or be at the minimum wage set in the private sector.

UHRC notes the administrative practices in Uganda whereby government salary scales normally provide the lower and upper ceiling of wages of public officers from national to local level including members of the security forces. UHRC recommends that the lowest salaries under the government salary scales should be regularly adjusted not to be lower than the minimum wage in the spirit of inclusiveness under the human rights based approach.

UHRC, therefore, recommends that a provision be included within the clause that ensures that the minimum wage for employees in the public sector is considered when computing the government salary scales for the lower scale ceilings.

(b) Setting of minimum wage for given sectors

Clause 4 of the bill provides that the minister can set up the Board whenever they consider it desirable to set a minimum wage to be fixed for a given sector.

UHRC notes that the minimum wage is sector-based and as such applicable to specific sectors. In comparison, where a national minimum wage is set, it provides equal social protection to all irrespective of the sector they belong to. As earlier pointed out, access to equitable and decent work which respects workers' rights including remuneration can be critical for both survival and development.²⁵⁹ This would ensure that there is equitable distribution of incomes for the lower categories of workers to a minimum standard of living which would reduce income inequalities and sectoral imbalances. Lower categories of workers include vulnerable groups such as women who are employed in sectors which pay less in general. The setting of minimum wages within sectors should ensure that wages within a specific sector are not below a national minimum wage.

256 N.2 above, 3.

257 Centre on Budget and Policy Priorities. Policy Basics: The Minimum Wage. Available at <https://www.cbpp.org/research/policy-basics-the-minimum-wage> Accessed on 20th September 2017.

258 As above.

259 n 9 above.

The other key factor in respect to negotiating sectoral minimum wages depends on the strength of the businesses operating in that sector, the union presence and strength within the union. As such, sectoral minimum wage approach may not work well for those in sectors that are not adequately regulated and protected by collective agreements such as the domestic service sector.

UHRC, therefore, recommends that the approach to a minimum wage should be a national minimum wage approach instead of a sectoral approach.

(c) Establishment of a contractual minimum wage

Clause 12 of the bill provides for the minimum wage for those employees who are working in a sector where minimum wage is not prescribed. The bill provides that such an employee could, as an option, initiate negotiations with their employer to establish a minimum wage. Though at the outset this looks a progressive clause, it faces the risk that certain sectors may be left unregulated in terms of the minimum wage. It will be up to the employee to initiate negotiations with their employer in order to ensure that the sector has a minimum wage. This provision could disadvantage those who belong to a particular sector that has not been regulated. Ideally, all employees should be covered by the national minimum wage and the option of a contractual minimum wage should be left in the event that employees would want to negotiate a higher applicable minimum wage within their sector.

UHRC, therefore, recommends that contractual minimum wage should be retained as an option where there is a national minimum wage.

(d) Functions and powers of the Minimum Wages Advisory Board

Clauses 5 and 9 highlight the functions of the Minimum Wage Board, including functions such as recommending the terms of employment within a sector, advising the minister on labour issues concerning employee working conditions, and recommending minimum holidays with pay. These particular functions are already being carried out by existing structures such as the Labour Officers and the Labour Advisory Board and institutions within the Ministry as provided for in the Employment Act, 2006.²⁶⁰ The functions of the Minimum Wages Advisory Board should be limited to investigating remunerations and making recommendations to the Minister on minimum wage. In order to perform these functions, the Board should, in addition, have powers to question any person who may be able to provide information and conduct public hearings.²⁶¹

Clause 8 (6) confers the powers of the High Court on the Board. However, constitutionally, powers of the High Court are vested in an institution by virtue of provisions in the Constitution and the Judicature Act.

UHRC, therefore, recommends that Clause 4 is reviewed to:

- *Limit the functions of the Minimum Wages Advisory Board to investigating minimum wages and making recommendations.*
- *Delete the provisions that give High Court powers to the Board.*

(e) Aligning the provisions of the bill with the provisions of the Employment Act

UHRC notes that a number of definitions in the bill are in conflict with the provisions of the Employment Act, 2006. These inconsistencies need to be aligned to ensure clarity of the law.

²⁶⁰ Part III of the Employment Act, 2006.

²⁶¹ Kenya's Labour Industrial Institutions Act, 2007 gives powers to the Wage Council to question any person and conduct public hearings.

The definition of the word “employee” in the bill significantly differs from that in the Employment Act, 2006. The definition of an employee in the bill excludes all persons who are employed by the Government of Uganda, Uganda Police Force and UPDF whereas the definition used in the Employment Act, 2006 only excludes a member of UPDF. The word “employer” in the bill explicitly means human persons while in the Employment Act persons is clarified to include unnatural persons such as corporations, authorities, governing or institutions. Without clarity of such key terms that define a contractual relationship, certain categories of wage earners could be excluded from coverage under the minimum wage.

UHRC, therefore, recommends that the definitions in the bill need to be reviewed alongside the provisions of the Employment Act to ensure that there is no contradiction between the two.

(f) The requirement to have anything pertaining to minimum wage published in two newspapers

Clause 3(2) provides for items concerning minimum wage to be published in the Uganda Gazette and in two newspapers circulating in Uganda. To ensure access to information and also ensure that the information is widely circulated, there is need to make certain that the newspapers in which the publication is placed are of “wide” circulation.

UHRC, therefore, recommends the insertion of “wide circulation” within Clause 3(4).

(g) Objectives and structure of the bill

As earlier stated, the memorandum of the bill notes that: “Attempts to establish a minimum wage have not been successful; the Minimum Wages Advisory Board Act does not provide for an employee-employer-led minimum wages determination and a sectoral-based minimum wage determination application; the decision-making mechanism is cumbersome, non-representative and does not address the uniqueness of individual sectors while coming up with a minimum wage; and the need to prescribe penalties.” Though the bill seeks to outline minimum wages based on each sector, on further scrutiny of Section 3 (1) of the Minimum Wages Advisory Boards and Wages Councils Act, Cap 221, the Minister could appoint an advisory board for any area which could include a sector.

UHRC notes that the Sector and the Contractual Approach suggested in the bill without the setting of a national minimum wage is not rights-based and could increase vulnerability. The bill, in addition, has not laid out a procedure that can be considered less cumbersome; for instance, procedures for wage regulation are similar to provisions under Section 6 of the Minimum Wages Advisory Boards and Wages Councils Act, Cap 221. In addition, UHRC notes that the memorandum of the bill is unusually long and not in tandem with how laws are generally structured.

UHRC, therefore, recommends that the bill explicitly provides for a minimum wage, and outlines procedures that are less cumbersome in line with the memorandum of the bill.

7.1.5 Conclusion

A regulatory framework is necessary for the establishment of a minimum wage. The suggested approach in the bill is one that does not encompass the human rights-based approach that will ensure that no one is left behind. There is thus need for a national minimum wage approach to be adopted as opposed to the sectoral approach. This is crucial to ensuring social protection for all in respect to earning a minimum wage. In view of this, UHRC recommends that the Committee on Gender, Labour and Social Development of Parliament of Uganda takes note of the human rights concerns raised and considers the recommendations made to improve the bill.

7.2 UHRC'S POSITION ON THE UGANDA NATIONAL HEALTH LABORATORY SERVICES BILL, 2016

7.2.1 Summary of contents of the bill

The object of the bill is to: establish the Uganda National Health Laboratory Services as an autonomous body; provide for the purpose and functions of the National Health Laboratory Services; establish a Board, its composition and functions; and provide for the employees of the Uganda National Health Laboratory Services.

The bill covers the following aspects: establishment and functions of the Uganda National Health Laboratory Services (Part II); establishment and powers of the Board (Part III); the establishment of the office of the executive director and deputy director and other staff of UNHLS (Part 4); and finances of UNHLS (Part V).

7.2.2 Positive aspects of the bill

The bill contributes to the realisation of the fundamental right of all Ugandans to the highest attainable standard of health by ensuring access to timely, acceptable, quality and affordable health care.²⁶² This is reflected in the purpose of the Act that defines the mandate of the Uganda National Health Laboratory Services (UNHLS) as the effective support of implementation of health service delivery in Uganda. The object of UNHLS focuses on the quality of health services and physical and economic access to health services through addressing challenges of testing specimen for complex diagnostic purposes, improving efficiency and reducing referrals abroad due to limited laboratory capacity in Uganda. The functions of UNHLS are centred on standard setting and being preemptive in addressing communicable and non-communicable diseases.²⁶³

A respectable Ugandan laboratory technologist points out that over 70% of medical decisions made are dependent on having quality laboratory services.²⁶⁴ Therefore, having quality lab services that are available and accessible to all Ugandans is a key and indispensable component of a good health system contributing to the guarantee of universal health coverage and the realisation of the right to health.

In light of the provisions contained within the Maputo Declaration on Strengthening of Laboratory Systems, 2008 and the Seoul Declaration on Global Health Security Agenda in respect to strengthening laboratory systems, the proposed law is timely as there is need for management of quality public and private health laboratory services.

The bill is in line with the Uganda National Health Laboratory Services Policy, 2009 that in essence recognises that health services are essential for delivery of quality services to all Ugandans and is, therefore, crucial in addressing inappropriate treatment, chronic ill health, high out-of-pocket expenditure on health,

262 The Right to health encompasses the enjoyment of the highest attainable standard of health without distinction of race, religion, and political belief, economic and social conditions. The right to health is protected in Article 25(1) of the Universal Declaration on Human Rights; Article 12 of the International Covenant on Economic, Social and Cultural Rights; Article 5 of the International Convention on the Elimination of all forms of Racial Discrimination; Articles 11 and 12 of the Convention on Elimination of all forms of Discrimination against Women; and Article 24 of the Convention on the Rights of the Child. Sustainable Development Goal No. 3 provides that we should ensure healthy lives and promote the well-being for all at all stages as it is essential for sustainable development.

263 UNESCR General Comment No.14 on the Right to Health, 2000 , paragraph 12 highlights that the right to health in all its forms and at all levels contains the following essential and interrelated elements; availability of functioning public health and health care facilities and goods; accessibility without discrimination; and acceptability and quality.

264 Patrick Ogwok-Agwa, Principal Laboratory Technologist, Central Public Health Laboratories. Overview of Uganda Health Laboratory Services' Paper presented on 26th August, 2017.

and loss of income, economic productivity and life.²⁶⁵ The bill is also in line with the Uganda National Health Laboratory Strategic Plan (2010-2015) that seeks to strengthen coordination, implementation and management of services and ensure that the services are transparent and responsive to the needs of the country.²⁶⁶ UHRC welcomes the bill whose principal objective is to provide for coordination and a quality management mechanism in respect to health laboratory services in the country. It is envisaged that with the establishment of the UNHLS, the health laboratory subsector, which is currently operating unregulated and subject to abuse, will be standardised. Thus if the bill is enacted, the UNHLS will have a clearly defined quality supervisory and standard setting role in respect to national referral specialised health laboratories; located at the national and regional referral hospitals; run at private and not-for-profit hospitals and health centres; and associated with medical and biology training institutions such as those found in the department of Medical Microbiology at Makerere University. It is important to note that Uganda National Health Laboratory Services is currently operating as a unit under the ministry of Health. This law would, therefore, elevate it to an autonomous body with a mandate to coordinate health service delivery in order to ensure efficiency and effectiveness.

7.2.3 Human rights concerns in the provisions of the bill

The bill and its key purpose to ensure access to quality health services is commendable. However, there are negative aspects in the bill that would hinder access to health services if not addressed.

Here below, we discuss these human rights concerns:

(a) Health service delivery to encompass forensics

Clause 5 (b) refers to the object of the bill as establishing “modern and high-technology reference laboratory services with international standards that will address the challenge of testing specimen for diagnostic and forensic purposes”. Reference to the word “forensic” would suggest that the laboratory services referred to within the bill include those that are utilised for resolving crimes (forensic). It is important that the mandate of the UNHLS be aligned with its purpose which is focused on health service delivery. This would then allow the forensic element to be handled by the Government Analytical Laboratory, who are currently in the process of developing a law regulating it and its services. Therefore, there is need for a clear distinction between institutions concerned with forensic laboratory services and those dealing with issues concerning health laboratory services. This distinction should not, however, stop the close collaboration that exists between the two different types of laboratories.

For instance, South African laboratory services are divided into health and forensic laboratories. The National Health Laboratory Service in South Africa is the largest diagnostic pathology in South Africa with the responsibility of supporting the national and provincial health departments in the delivery of health care. The National Health Laboratory Service in South Africa provides only health laboratory services. Uganda can emulate this structure.

UHRC, therefore, recommends that the word ‘forensic’ be deleted from Clause 5(b) of the bill.

(b) Guarantees of legality

The principles of legality require that all laws should be clear, ascertainable and non-retrospective. The law should be clear, precise and unambiguous to demonstrate and reflect effective rule of law.²⁶⁷ International standards require that the law should have precision to enable persons to foresee, to a degree that is

265 p.1

266 Ministry of Health. Uganda National Laboratory Services Strategic Plan, 2010-2015, page 4.

267 ‘Rule of Law and Guarantees of Legality. Available at <http://www.pf.upol.cz/>. Accessed on 9th July 2015.

reasonable in the circumstances, the consequences when a given action is taken.²⁶⁸ Clause 7 (a) highlights that one of the key functions of UNHLS is to coordinate the activities of other laboratories that are vested in UNHLS. It is not clear which laboratories are vested in UNHLS. Clause 7 (d) makes reference to “regulatory authorities” without referring to which ones. UHRC views this provision as being ambiguous.

UHRC, therefore, recommends that:

- *A list of all laboratories that are vested in UNHLS (in accordance with Clause 7(a)) be included within a schedule attached to the law.*
- *The regulatory authorities referred to in Clause 7(d) should be spelt out within the clause.*

(c) Inadequate provision on affirmative action

Article 33(5) of the Constitution of Uganda provides for affirmative action for the purpose of redressing imbalances especially in terms of gender. UHRC notes that Clause 9(7) refers to the requirement of the Board membership to comprise both males and females. However, UHRC is of the view that the clause should specifically mention numerical figure/composition of the number of women that should be on the Board. An example, the Local Governments Act in its Clause 10 (3) provides for one-third of each local council to be filled by women. A similar formula should be used for the composition of the Board.

UHRC, therefore, recommends that the composition of the Board under Clause 9(7) should include one-third to be women.

7.2.4 Conclusion

A regulatory framework is necessary for the monitoring, coordination, standard setting and quality management of health laboratories. The bill contains a positive legal objective to ensure effective legal service delivery through ensuring oversight and management of health laboratories. However, there are certain aspects which need further review to foster harmony between the bill and Uganda National Health Laboratory Services Policy; particularly, whether health service delivery encompasses forensics, inadequate provision on affirmative action and ambiguity in certain clauses of the bill.

Therefore, UHRC recommends that the Committee on Health of Parliament of Uganda takes note of the human rights concerns raised and considers the recommendations made to improve the bill.

7.3 UHRC’S POSITION ON THE HUMAN RIGHTS (ENFORCEMENT) BILL, 2015

7.3.1. Background to the bill

The Human Rights (Enforcement) Bill, 2015 gives effect to Article 50(4) of the 1995 Constitution which provides that Parliament shall make laws for the enforcement of guaranteed rights and freedoms enshrined in chapter 4 of the 1995 Constitution.

This bill seeks to provide a law on enforcement of human rights as required by Article 50(4) of the Constitution. It further empowers the Rules Committee to make rules in respect of the specific procedural matters relating to protection of human rights and enforcement of the fundamental rights and freedoms by courts.

268 Claes, Erik; Devroe, Wouter; Keirsbllick, Bert. Facing the limits of the law. Springer, pp 92-93.

7.3.2 Positive aspects of the bill

(a) Right to effective remedy

Article 8 of the UDHR provides for a right to an effective remedy for acts violating the fundamental rights guaranteed by the Constitution or by law. The right to a remedy is a secondary right, deriving from a primary substantive right that has been breached.²⁶⁹ It encompasses the right to: a) equal and effective access to justice; b) adequate, effective and prompt reparation for harm suffered; c) access to relevant information concerning violations and reparation mechanisms; and d) access to fair and impartial proceedings.²⁷⁰

Article 2(2) of the ICCPR calls upon state parties to take necessary steps, in accordance with its constitutional processes and with the provisions of the Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights such as the right to a fair and speedy trial. At the regional level, the African Charter on Human and Peoples' Rights requires state parties to commit themselves to recognise human and people's rights, duties and freedoms and adopt legislative measures to ensure that the provisions under the charter are put to effect.²⁷¹ At the sub-regional level, the Treaty for the establishment of the East Africa Community (EAC Treaty) provides in articles 3 (3) (c), 7 (2) and 123(3) (c) for adoption of key human rights principles by member states.

At the national level, Article 50 of the Constitution of the Republic of Uganda guarantees judicial remedy for human rights violations and in particular stipulates that, any person who claims that a fundamental or other right or freedom guaranteed under this Constitution has been infringed or threatened, is entitled to apply to a competent court for redress which may include compensation.

(b) Establishment of procedure for enforcing human rights

The bill endeavours to ensure that human rights violations and abuses are handled in a more unified and systematic manner according to the laws provided, and also provides a means of ensuring accountability and redress for individuals whose rights have been abused.²⁷² UHRC notes that the proposed law provides clarity on the procedure for taking action when seeking redress and action against human rights violations as stipulated in Article 50 of the Constitution. In addition, it enforces the provision under Article 50(1) and 50(2) of the Constitution which stipulates that any person may bring a case to court for the purpose of protecting and enforcing human rights.

7.3.3 Human rights concerns arising from the bill²⁷³

(a) Lack of a nexus between UHRC and the need to strengthen UHRC and its Tribunal for effective enforcement of human rights

Clause 1(3) of the bill has a provision which defines its mandate in enforcement of human rights and clearly sets it apart from other institutions such as the Judiciary. This is important for ensuring that there is no duplication of services. Article 51(1) of the Constitution of Uganda and the Uganda Human Rights Commission Act No.4 of 1997 clearly set out the powers and functions of the Uganda Human Rights Commission, including summoning witnesses and receiving evidence regarding a human rights violation.²⁷⁴ Whereupon a violation

269 https://www.icrc.org/eng/assets/files/other/irrc_851_zegveld.pdf Accessed on 9th February, 2017.

270 Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Serious Violations of International Human Rights Law and International Humanitarian Law.

271 Article 1 of the African Charter on Human and Peoples' Rights.

272 Article 8 of the Universal Declaration on Human Rights.

273 Refer to Tanzania's Basic Rights and Duties Enforcement Act for any best practices.

274 Article 53(1) (a) of the 1995 Constitution of the Republic of Uganda.

is proven, UHRC can order for an appropriate redress such as compensation, or any other remedy that it deems fit.²⁷⁵ Most importantly, UHRC provides free services that enable citizens to enforce their rights.

UHRC notes that the bill fails to provide a linkage with other institutions that promote and protect human rights like the Equal Opportunities Commission. This nexus between UHRC and other institutions that promote and protect human rights in the country is crucial in order to avoid duplication of mandates and forum shopping by litigants where redress mechanisms have concurrent jurisdiction over a claim. The current bill seems to create a parallel mechanism with regard to human rights enforcement yet it should be complementary to the work of the UHRC and other constitutional bodies working in the area of human rights such as the Equal Opportunities Commission and the Inspectorate of Government (IG), all of which have powers to investigate actions on human rights violations and abuses in various forms.²⁷⁶ In addition, the bill does not provide for strengthening the UHRC and its tribunal for effective and efficient enforcement of human rights.

UHRC, therefore, recommends that:

- ***The bill should create a nexus between UHRC and other institutions that promote and protect human rights in the country in order to avoid duplication of mandates and forum shopping by litigants where redress mechanisms have concurrent jurisdiction over a claim.***
- ***There should be a section in the bill to the effect that the mandate of the Commission to receive, investigate and resolve human rights matters shall not be negated as a result of the Human Rights Enforcement Bill. UHRC's mandate should, therefore, be maintained and clearly spelt out in the bill. This is especially in regard to strengthening UHRC and its Tribunal for effective enforcement of human rights.***

(b) Limitation of enforcement of rights

Clause 1 of the bill specifies that on application, the Act applies to the enforcement of rights and freedoms guaranteed by chapter 4 of the Constitution yet Article 50 of the Constitution clearly stipulates that the law on enforcement on human rights should be accessed by any person who claims that a fundamental or other right or freedom guaranteed under this Constitution has been infringed or threatened.

UHRC notes that the bill excludes other economic, social, and cultural rights provided for under the National Objectives and Directive Principles of State Policy such as the right to education, right to health, right to adequate food as well as other rights provided for in other chapters of the Constitution such as rights in chapter 3 on citizenship, and rights in chapter 5 on representation of the people, all of which are justiciable. In addition, it must be noted that Article 45 of the Constitution makes reference to the fact that even if freedoms and rights are not explicitly mentioned within chapter 4, it does not exclude them from being recognised. UHRC notes that human rights are universal and interrelated and, therefore, should be enjoyed on an equal basis.

UHRC, therefore, recommends that the scope of application under Clause 1 should be widened to include all rights as stipulated in the Constitution as well as those in ratified international and regional human rights instruments, and not limited to the rights within chapter 4 of the Constitution.

²⁷⁵ Article 53(2) of the 1995 Constitution of the Republic of Uganda.

²⁷⁶ Section 15 of the Equal Opportunities Commission Act, 2007.

(c) High Court being the court of first instance

UHRC is concerned that the High Court has been stated as the court of first instance for enforcement of human rights. Clause 4(1) of the bill gives exclusive jurisdiction to the High Court to hear and determine matters relating to the enforcement of human rights, and Clause 6(1) requires any subordinate courts to refer matters dealing with human rights enforcement to the High Court. To this extent, the High Court acts as a court of first instance; and no subordinate court may determine the matter.

The right to effective remedy encompasses the right to prompt, thorough and effective investigations by a competent, independent and impartial body.²⁷⁷ It is a well-known fact that the High Court of Uganda suffers from tremendous backlog of cases. Furthermore, the High Court circuits cover only 20 districts in the country. Under such circumstances, it is hard to envisage how prompt and effective remedies can be obtained through the High Court in relation to human rights violations. UHRC further notes that currently Uganda has over 80 magisterial areas and thus more magistrate's courts operating in the country. This indicates that the citizens can easily access a magistrate's court as opposed to the High Court. UHRC, therefore, suggests that the Committee considers Magistrate Grade One as the court of first instance to further enforce the UHRC tribunal which is in 10 districts only.

The Commission notes a number of laws that deal with human rights violations cite the Magistrate's Court as the court of first instance. For instance, the Magistrates Court Amendment Act grants jurisdiction to Grade 1 Magistrates to handle cases of child protection. The then Chief Justice Benjamin Odoki directed Magistrates Grade 1 to preside over cases involving families and children. In his Legal Notice Supplement No. 2, 2012, he assigned Magistrates Grade 1 to preside over family and children courts which hear and determine criminal charges against a child and application relating to child care and protection.

Conclusively, Grade One Magistrate's Court is more accessible to the vulnerable persons compared to High Court.

UHRC, therefore, recommends that Grade One Magistrate Court should be the court of first instance instead of High Court for enforcement in human rights matters.

(d) Procedure for enforcement of violation of human rights by use of a plaint

Clause 5(1) of the bill provides that a plaint could be used for instituting an action in court for a human rights violation claim.

UHRC notes that Article 50(1) of the Constitution provides that any person who claims that a right or freedom has been infringed or threatened, is entitled to *apply* to a competent court for redress. In addition, Article 137 of the Constitution provides that if a person alleges that a law, act or omission contravenes the Constitution, he or she may petition court.

UHRC opines that the requirement of a plaint for this procedure will eliminate "any" person from petitioning or applying to the court for redress due to the technical, complex and intricate nature of a plaint. UHRC is concerned about this provision since a plaint requires legal assistance, which is of course expensive and out of reach for the ordinary Ugandan. In addition, a plaint is subject to a number of procedures before consideration of the merits of the case can take place as per the Civil Procedure Rules.²⁷⁸ This might pose a problem because it gives considerable time to the other party to respond, yet in many instances human rights violations need immediate redress or remedy.

277 Human Rights Committee, General Comment No. 31. the Nature of the General Legal Obligation imposed on State Parties to the Covenant. Adopted on 29th March 2004, paragraph 15.

278 Order 7, 8, 9 Civil Procedure Rules, Statutory Instrument 71-1.

Furthermore, the court may reject a plaint on many grounds including where it does not disclose a cause of action; where the relief claimed is undervalued, where the suit appears from the statement in the plaint to be barred by any law; and where the suit is shown by the plaint to be frivolous or vexatious, among others.²⁷⁹ In essence, if the plaint is not expertly drawn, it could lead to the dismissal of an application.

To ensure non-discrimination and protection of human rights for all, the procedure for enforcement should be simple and accessible for all especially the vulnerable persons. UHRC notes that a simpler procedure could be adopted such as a complaint form on oath as utilized by the Family and Children Court enforcement related to children. If the Committee views this procedure as too simplistic, then UHRC suggests a notice of motion or petition supported by an affidavit of the complainant.

In South Africa, the rules and regulations that conduct the proceedings of several provincial and local divisions of the High Court provide for the use of a notice of motion in applications to the court. A similar procedure could be adopted.

The Commission, therefore, recommends that Clause 5(1) be amended to allow for an application by either or all of the following: a complaint form if the magistrate's jurisdiction in this matter is adopted; a petition supported by an affidavit; or a notice of motion similarly supported with an affidavit.

(e) An action for enforcement of human rights being heard in open court

Clause 5(2) provides that every action shall be heard in an open court by a single judge. This provision is mandatory in its nature and yet it does not take into account the protection of witnesses and victims such as in cases related to children and those who are victims of sexual and gender-based violence (SGBV).

For instance, due to the sensitivity of certain issues, parties may request for closed sessions where a complainant or victim is a child or in matters involving sexual violence. The court should take into consideration the facts and acts in accordance with the best interests of that child or ensure that the dignity of the victim is protected. Some human rights cases are sensitive in nature and need to be heard in a judge's chambers, to avoid stigma and discrimination. The court should be given the discretion to decide whether to proceed in chambers or not.²⁸⁰

In addition, Article 28 (2) of the Constitution provides that the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society.

UHRC, therefore, recommends that the proposal of hearing all cases in open court be changed to include exceptions articulated in Article 28(2) of the Constitution and in the interests of children and vulnerable victims.

(f) Rules of procedure

Clause 10 of the Bill on Rules of Procedure provides that "...subject to the provisions of this Act, the Rules of Committee may after consultation with the Minister make rules to give effect to the provisions of the Act". UHRC notes that the said clause prescribes the role of the Rules Committee and subordinates the Committee to the Minister who is also part of the Rules Committee.

²⁷⁹ As above.

²⁸⁰ Section 21 of the Judicature Act.

The fact that the Minister is already part of the Rules Committee and yet must be consulted during the process of developing the rules, could potentially cause friction; reflect lack of impartiality and a likelihood of undermining the independence of the Committee.

UHRC, therefore, recommends that the Rules Committee be solely in charge of developing the rules of procedure.

(g) Right to legal representation

The bill is silent about legal representation in cases before the High Court yet most victims of human rights violations are marginalised persons, poor and often cannot afford services of a lawyer. An adequate legal aid system is one of the prerequisites for access to justice for all, especially the vulnerable persons.²⁸¹ The limited ability of people living in poverty to access legal and adjudicatory processes and mechanisms is not only a violation of human rights in itself,²⁸² but also the consequence of numerous other rights violations.²⁸³ Legal aid is indispensable for effective access to courts, especially the High Court. Self-representation would be ineffective given the complex procedure of the High Court and the vulnerability of victims of human rights violations.

In the case of *Airey v Ireland* 32 Eu Ct HR Ser A (1979) 2 E.H.R.R.305, Ms. Airey sought judicial separation from her physically abusive husband. She was unable to obtain such an order since she lacked financial means, in the absence of legal aid, to retain a solicitor.²⁸⁴ The European Court of Human Rights held that this was a violation of her right to access court for determination of her civil rights and obligations.

UHRC is aware that there are current provisions under the Civil Procedure Act and rules to cater for those unable to afford the fees related to court proceedings. Such provisions should be replicated in the bill.

UHRC recommends that the bill provides for legal representation for vulnerable persons.

7.3.4 Conclusion

The UHRC notes that the proposed Human Rights Enforcement Bill is a positive step towards enhancing the promotion and protection of human rights. It will specifically give effect to Article 50 (4) of the 1995 Constitution which provides that Parliament should make laws for the enforcement of guaranteed rights and freedoms enshrined in chapter 4 of the 1995 Constitution of Uganda.

However, UHRC notes that the bill has negative aspects that might hinder the full realisation of human rights including: limitation of enforcement of rights; definition of the subordinate court; High Court being the first court of instance; appeal process stopping at High Court; and the procedure for enforcement of human rights violations, among others. UHRC, therefore, calls upon Parliament to review the proposed bill and ensure that it complies with human rights standards.

281 <http://www.dawn.com/news/1301948> Accessed on 9th February, 2017.

282 Article 14 of the International Covenant on Civil and Political Rights.

283 http://www.flac.ie/download/pdf/lab_conference_paper_june_2014.pdf Accessed on 9th February 2017.

284 www.escri-net.org/caselaw/2006/airey-v-ireland-32-eur-ct-hr-ser-1979-1979-2-ehrr-305 Accessed on 7th July 2017.



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Chapter 8:

Assessment of the National Legal Framework on the rights of the child to determine compatibility with the UN convention on the rights of the child

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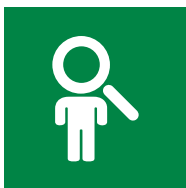
8.0. INTRODUCTION

Uganda ratified the Convention on the Rights of the Child without any reservations; a demonstration of its commitment towards protecting the rights of children who make up more than half of the Ugandan population. There is much to celebrate in terms of developments in child rights; however, much more remains to be done. UHRC, with support from UNICEF, conducted an assessment on how the rights and obligations set out in the CRC are protected in Uganda and how implementation of the Convention is achieved. This is in line with UHRC's role of monitoring Government's compliance with international human rights obligations. The report analyses the compatibility of thirty-seven statutes with Uganda's obligations under the CRC and related treaties and makes recommendations.

The main objectives of the assessment conducted by the UHRC were to: i) identify legislative provisions that are incompatible with international standards and; ii) identify gaps where the legislation fails to recognise, or does not adequately recognise or protect, internationally recognised rights and principles with a view to help guide required legislative and policy reforms. UHRC notes that some laws comply with the CRC while others do not comply with the CRC and other human rights standards.

This chapter provides highlights from the aforementioned assessment of the compatibility of the Ugandan legislation with the United Nations Convention on the Rights of the Child (CRC). The chapter also makes reference to the African Charter on the Rights and Welfare of the Child in the analysis.

8.1. RIGHT TO IDENTITY



Article 7 of the Convention on the Rights of the Child stipulates that the child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.²⁸⁵ Article 8 indicates that name, nationality and family relations form part of the right to identity. The state has an obligation to respect this right, and to assist children who have been illegally deprived of any element of their identity to recover it.

Ugandan legislation on birth registration, parentage, custody and support, specifically Article 18 of the Constitution of Uganda which provides that every birth and marriage that occurs in Uganda shall be registered and the Registration of Persons Act (2015) which provides for free and compulsory registration of every birth within Uganda²⁸⁶ are very progressive and comply with the CRC standards.

However, other provisions of the Act concerning birth registration are incompatible with the CRC. For example, Section 35, which prohibits registration of the name of a father unless he appears personally before the registrar with the mother of a newborn child, or unless a court order or DNA test confirming paternity of the child are made, may be an exception. This puts the burden of proving paternity, unless the father wishes to acknowledge it, on the mother, which seem to give insufficient weight to the child's right to know the identity of his or her father. UHRC notes that there are many single mothers and founded children who do not have fathers; so, this section in the Act is not compatible with the CRC and Article 10(b) of the Constitution of the Republic of Uganda which provides for every person born in or outside Uganda one of whose parents or grandparents was at a time of birth of that person a citizen of Uganda by birth. UHRC notes that there are many children of single mothers and many foundlings and adopted children in Uganda. So, that specific section would prevent them from being citizens of Uganda.

285 Article 7(1) of the Convention on the Rights of the Child.

286 Article 28.

The legislation concerning citizenship also does not have any provision on registration of children of refugees born in Uganda, which does not comply with Article 7(1) of the CRC, as well as Article 6(2) of the African Charter on the Rights and Welfare of the Child. Ugandan legislation thus does not seem to give Ugandan nationality to the children of aliens who obtain it by registration. This may not be in harmony with the principle of family unity.

8.2. CHILD PROTECTION



The term child protection is used here to refer to mechanisms that aim to protect the lives of children whose living conditions put healthy development at risk. Article 19 of the CRC provides that states must “take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation... while in the care of parent(s) or other caretakers.”²⁸⁷ Article 20 of the CRC recognises the right of children removed from their homes as well as abandoned children and others deprived of family care to special protection and assistance, and to alternative care.²⁸⁸ Article 21 contains a series of requirements concerning adoption.

The general principles recognised by the CRC also must be born in mind, in particular the principle that the best interests of the child must be a primary consideration in all actions taken concerning children, and the principle that children have the right to be heard and to have their views taken into account in all matters that affect them.²⁸⁹

UHRC recognises that most of the provisions of the Children Act concerning child protection are compatible with the CRC. The Children Act (Section 3) sets forth the ‘Welfare and Guiding Principles’. The scope of application of this principle is narrower than Article 3 of the CRC, which requires that the best interests of the child be a primary consideration in all actions taken by public or private social welfare institutions, courts and administrative authorities. The third guiding principle recognised by the Children Act provides, *inter alia*, that the ascertainable wishes and feelings of the child must be considered in any decision regarding the upbringing of the child.²⁹⁰

The Children Act assigns responsibility for child protection to local government, to Family and Children Courts, and to “probation and social welfare officers”.²⁹¹ Local councils have responsibility to “safeguard and promote” the welfare of children, and each must designate one member to be responsible for this task.²⁹² Social welfare officers also have a duty to investigate any information suggesting that a child is suffering or at risk of significant harm.

UHRC notes that on child protection, the Children Act (2015) provides that the Family and Children Court may adopt a supervision order or care orders not only when a child is suffering or likely to suffer significant harm because of the poor care being provided by parents, but also if the child is suffering significant harm or likely to do so because the child is “beyond parental control”. There is no age limit for the imposition of one of these orders, and no definition of the term ‘beyond parental control’. The vagueness of this term may

287 The implications of Article 19 for crimes against children are considered in chapter 5.

288 Article 20(1) 2); see also Article 25(1) of the CRC.

289 Article 3.1 and Article 12

290 Section 3(3)(a).

291 The term refers to officials that have both functions, but the separation of the two kinds of officers is being considered and this report uses the term ‘probation officer’ or ‘social welfare officer’ depending on the context.

292 Children Act, section 10(1). The designated member is called Secretary for Children’s Affairs.

entail a risk that children be separated from their families for conduct that is socially unacceptable, but does not involve a real and serious risk to the child's well-being and development. That would not be compatible with the CRC.

8.3. ALTERNATIVE CARE



UHRC notes that the focus under alternative care is on children in need of alternative care on a long-term or permanent basis. UHRC notes that Article 20 of the CRC recognises the right of children removed from their homes, abandoned children and others deprived of family care to special protection and assistance. The article further identifies foster care and adoption as acceptable forms of alternative care. Institutional placement is recognised as an appropriate form of alternative care only "if necessary". The CRC encourages states that allow inter-country adoption to enter international agreements to ensure full compliance with appropriate standards and procedures.

In regard to Alternative Care, the Children Act recognises three kinds of alternative care: foster care, adoption and institutional placement. Kafala (approved homes) is, however, not recognised and yet it is provided for in the CRC. The Act provides that placement in an approved home is intended to be temporary. This is in harmony with the principle that institutional care should be used only 'if necessary' and with the obligation of the state to support families, set forth in articles 20 and 18(2) of the CRC.

Section 27 of the Children Act, on care orders, applies to both placement in an approved home and in foster care but does not indicate that institutional placement should be the last resort. The failure to expressly provide that institutional placement should not be ordered unless foster care is not possible, is not compatible with the last resort principle of Article 20 of the CRC.

The provisions of the Children Act on national adoption are consistent with the CRC. However, the provisions of the Children Act on adoption by foreigners do not recognise two principles set forth in the CRC - the principle that inter-country adoption should be the last resort and a guaranty to ensure that the child enjoys safeguards and standards equivalent to those for national adoption.

Still under adoption, Section 32 of the Refugee Act, provides that every refugee child is entitled to enjoy the rights and freedoms contained in the Children Act. Section 27(5) of the Refugee Act provides that the Commissioner for Refugees, after investigation of the family situation of a child who arrives in Uganda unaccompanied and who wishes to remain as a refugee, may recommend that the child be adopted.

A study on Legal Guardianship and Adoption Practices published in 2014 indicated that guardianship was widely abused to facilitate [the] migration [of children] abroad or overseas for purposes of adoption, and there was no follow-up of children who are taken overseas.²⁹³ Uganda is not a party to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, the main multilateral treaty on this subject.²⁹⁴ There also is no bilateral treaty concerning adoption in force with the country of most foreign adoptive parents.²⁹⁵

293 Study on Legal Guardianship and Adoption Practices in Uganda. Dr. H. Among. Ministry of Gender, Labour and Social Development and UNICEF, p.1

294 Hague Conference on Private International Law, Status Table, available at www.hcch.net/en/instruments/conventions/status-table/?cid=69, listing 98 Parties

295 US Department of State Bureau of Consular Affairs, Intercountry Adoption website, travel.state.gov/content/adoption-sabroad/en/country-information/learn-about-a-country/uganda.html

8.4. JUVENILE JUSTICE



Article 37 of the CRC recognises some rights and principles concerning juvenile justice such as the prohibition of capital punishment, life sentences, and arbitrary or illegal deprivation of liberty²⁹⁶ and Article 40 also contains standards on the rights of children accused or convicted of a criminal offence.²⁹⁷

Furthermore, in 2007, the Committee on the Rights of the Child adopted a General Comment on Juvenile Justice in which it indicated that the lowest acceptable age for the prosecution of juveniles was 12 years. It also stated that a child “must have access to legal or other appropriate assistance” whenever he or she is being questioned.²⁹⁸

Ugandan legislation in regard to juvenile justice is largely in harmony with the CRC and related international standards. For instance, the minimum age for criminal responsibility complies with the recommendations of the Committee on the Rights of the Child and the procedures of Family and Children Courts for cases involving accused juveniles generally meet international standards.

However, there are still some incompatibilities; for example, under Section 104(3) of the Children Act, it is not clear whether the High Court is to respect all the procedural norms contained therein for cases involving a juvenile defendant. Juveniles accused of a capital crime, or tried jointly with an adult co-defendant, are to be tried before the High Court. The procedures of the High Court are defined primarily by the Criminal Procedure Code Act, 1950 and the Trial on Indictments (Amendment) Act, 2008. Additionally, the High Court also places due regard to the Children Act especially the child’s age and to the provisions of the law relating to the procedure of trials involving children.²⁹⁹ This Act also gives the police broad discretion to caution and release arrested children “under justifiable circumstances”.³⁰⁰ This is in line with the classical form of diversion, recognised by the Beijing Rules on the Administration of Juvenile Justice.³⁰¹ Furthermore, the same Act establishes the Family and Children Courts which provides that all proceedings (civil and criminal) shall be in camera, and in the presence of the child’s parents or guardian. The child has the right to legal representation, and proceedings shall be as informal as possible and by inquiry rather than by exposing the child to adversarial procedures.³⁰²

Also under section 59 of the Prisons Act, 2006 which permits infants or children to remain with imprisoned mothers, is incompatible with General Comment on Article 30 of the African Charter on the Rights and Welfare of the Child which prohibits imprisonment of a mother with a child.

296 Article 37(a) and (b)

297 Compare Article 17(1) of the African Charter on Human and Peoples Rights

298 General Comment No.10, Children’s Rights in Juvenile Justice, UN doc. CRC/C/GO/10, para.32, para.58.

299 Section 104(3).

300 Section 89(1) and (2).

301 Rule 11.2.

302

8.5. CRIMES AGAINST CHILDREN



The CRC does not expressly require states to criminalize violations of the rights of children. Only two articles allude to the possibility of criminal responsibility; namely Article 32 on child labour and Article 19 on the right to protection against violence, abuse and exploitation.

In 2014, the Committee on the Rights of the Child, together with the Committee on the Elimination of All Forms of Discrimination against Women, adopted a statement on harmful traditional practices that calls on states to ‘explicitly prohibit by law and adequately sanction or criminalize harmful practice’.³⁰³ In 2006, the Committee adopted a comment on corporal punishment stating that “explicit prohibition of corporal punishment ..., in civil or criminal legislation, is required in order to make it absolutely clear that it is as unlawful to hit or ‘smack’ or ‘spank’ a child ..., and that the criminal law on assault does apply equally to such violence...”³⁰⁴

Uganda is also party to the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography, which expressly requires states parties to criminalize these practices³⁰⁵ as well as other treaties that expressly recognise the obligation to criminalize certain human rights violations. These include the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (‘Palermo Protocol’); ILO Convention No.182 on Worst Forms of Child Labour; the Geneva Conventions on international humanitarian law, the most relevant for children being the Fourth Convention relative to the Protection of Civilian Persons in Time of War; and the Convention against Torture.

There are four major legislations which criminalise the violation of children’s rights in Uganda and these include, the Prevention of Trafficking in Persons Act, 2009 which criminalizes trafficking in persons and is defined in terms identical to those used by Article 3(a) of the Palermo Protocol;³⁰⁶ And the Anti-Pornography Act, 2014 which defines pornography in terms similar to the Optional Protocol to the CRC.³⁰⁷ The production, publication, broadcasting, import, export, and ‘procuring’ of pornography depicting children is criminalized, but the possession of child pornography is not.³⁰⁸ The Employment Act, 2006 prohibits the employment of children under 12 years of age, and the employment of any child in night work or work that is hazardous, dangerous or “otherwise unsuitable”. The Prevention and Prohibition of Torture Act, 2012 provides that the torture of persons under the age of 18 is punishable by imprisonment for life.³⁰⁹

The Prevention of Trafficking in Persons Act, 2009; the Anti-Pornography Act, 2014 and other child labour legislations largely comply with international standards. However, there are still areas of incompatibility, especially the failure to criminalize the possession of child pornography which is not compatible with Uganda’s obligation under Article 3(1(c) of the Optional Protocol to the CRC. The lack of a provision in Uganda expressly authorizing the seizure of proceeds of child prostitution also falls short of the obligation recognised by Article 7(a) (2) of the Optional Protocol. In addition, the Prevention of Trafficking in Persons Act falls short of meeting Uganda’s obligations regarding the sale of children. The Act criminalizes adoption for illicit purposes, but the Optional Protocol defines improperly inducing consent to adoption as a form of sale, regardless of the purpose of adoption.

303 UN doc. CEDAW/C/GC/31-CRC/C/GC/18, para.13 (I); see also paras. 55(I) and 71.

304 General Comment No.8, The Right of the Child to Protection from Corporal Punishment and Other Cruel or Degrading Forms of Punishment, UN doc. CRC/C/GC/8, para. 34.

305 Article 3(1(a).

306 Section 3(1) (a).

307 Section 2.

308 Section 14(1).

309 Section 5(h).

Furthermore, there are gaps and discrepancies between provisions of the three statutes that contain provisions on child labour. The Children Act in Uganda provides that the minimum age for employment is 16 years, and the Prevention of Trafficking in Persons Act criminalizes the recruitment of children under the age of 16 for purposes of labour that involves exploitation. Under the Employment Act, disobedience to an order to cease illegal practices involving child labour is punished by a prison sentence of one year.

8.6. THE RIGHTS AND TREATMENT OF CHILD VICTIMS OF CRIME



The CRC does not specifically recognise rights of children who are victims of crime, but it does recognise the obligation of the state to “take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts.” Most of these practices are criminal. This obligation thus implies a right on the part of child victims of crimes (in particular crimes of violence) to assistance in recovering from the crime.

In addition, other articles of the CRC also have implications for child victims of crime. Child victims of crime have different kinds of rights, including rights concerning their treatment during criminal proceedings and rights concerning their protection, among others.

The Palermo Protocol on Trafficking in Persons also recognises some of these rights, in particular the right of victims of trafficking to be informed about relevant judicial and administrative proceedings and to get assistance in presenting their views and concerns during criminal proceedings against offenders.

UHRC notes that the Children’s Act does not contain a comprehensive set of standards on the rights and treatment of child victims of crime, but does contain some important provisions. The list of rights of children that was added to the said Act in 2016 recognises a broad right to “effective legal aid including representation in all civil, criminal and administrative proceedings”. Another new subsection states that protection services include the “protection of children at all stages of the justice process, before, during and after trial and holding proceedings in camera during trial for child offenders and child victims and witnesses”. This provision also appears to apply to proceedings in any court.

The Prevention of Trafficking in Persons Act, 2009 contains a section on the protection of victims that covers all victims, children and adults, whether the trafficking has been international or not like in the Palermo Protocol. The Act recognises the child’s right to be informed about their rights and proceedings in a language they understand, which UHRC scores as paramount in the process of achieving justice. However, there is no requirement that the principles of family unity and the best interests of the child be taken into account, when the victim of trafficking is a child.

UHRC observed that although female genital mutilation (FGM) is a cultural practice that violates the rights of children, The Prohibition of Female Genital Mutilation Act, 2010 does not contain any provisions on the protection or treatment of victims, but gives the courts discretion to order a convicted perpetrator to compensate the victim.

Also, the lack of any specific provisions in the Refugees Act concerning the right of unaccompanied children seeking or holding refugee status to special treatment in administrative proceedings under the Act - that is, treatment that takes into account their age, sex, needs and experiences – does not seem to be fully compliant with the right to ‘appropriate protection’ under Article 22 of the CRC.

The Children Act recognises one of the basic principles that apply to all justice processes concerning children, namely, that time is of the essence and delay is likely to be prejudicial to the child. The provisions of Children (Amendment) Act mentioned above, on the right to legal aid and representation in criminal (and other) proceedings and the right of child victims to protection in all stages of the justice process, also recognise fundamental rights.

8.7. THE RIGHT TO HEALTH



Article 24 of the CRC recognises “the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health”.³¹⁰ States have the obligation to combat harmful traditional practices. There are articles containing provisions related to health care and others that prohibit practices harmful to health, such as employment in dangerous or unhealthy conditions, drug use, sexual exploitation, torture or ill-treatment, and violence.³¹¹

In regard to the right of health for children, UHRC observed that the Committee on the Rights of the Child has adopted three General Comments concerning children’s right to health and health care: General Comment 3 on HIV/Aids and the rights of the child, General Comment 4 on Adolescent health and development in the context of the CRC, and General Comment 15 on the right of the child to the enjoyment of the highest attainable standard of health. They contain a number of observations that have implications for law reform.³¹²

In regard to analysis of the HIV situation, UHRC reviewed the International Guidelines on HIV/Aids and Human Rights were adopted in 1996 and amended in 2002, by international consultations organised by the United Nations.³¹³ It was noted that the Guidelines do not expressly indicate that HIV testing must be voluntary, but the UN publication commenting on them indicates, “public health legislation should ensure that HIV testing of individuals should only be performed with the specific informed consent of that individual. Exceptions to voluntary testing would need specific judicial authorization.”³¹⁴

UHRC established that in the 1995 Constitution of the Republic of Uganda the National Objectives and Directive Principles of State Policy XX, XX1 and XX11, on General Social and Economic Objectives, recognise the right of all Ugandans to health services, as well as to clean and safe water and food security. Article 34(3), on Rights of Children, provides that “no child shall be deprived by any person of medical treatment ... by reason of religious or other beliefs”.³¹⁵

The Children Act states that the duty of parents to maintain children gives children a right to immunization and medical attention, but it does not mention a right of access to health care services or the obligation of the state to provide them.³¹⁶

310 Article 24(1); see also Article 14(1) of the African Charter.

311 Articles 32-34, 37(a) and 19, respectively.

312 CRC/C/GC/3, 2003; CRC/C/GC/4, 2003, and CRC/C/GC/15, 2013.

313 International Guidelines on HIV/Aids and Human Rights. 2006 Consolidated Version. UNAIDS, 2006.

314 International Guidelines on HIV/Aids and Human Rights. 2006 Consolidated Version. UNAIDS, 2006. para.20(b).

315 Article 34(3).

316 Section 5(1) (b) and (f) (See below for an exception concerning children with disabilities.)

The Immunization Act, 2017 requires parents to ensure that every child between the age of one and five years receives immunization against illnesses listed in Schedule 2 of the Act.

The statutory framework for health care includes the Public Health Act, 1935 and Mental Treatment Act, 1938. The only reference to children found in the Public Health Act authorizes (but does not require) the Minister of Health to adopt rules for clinics or institutions for the care of children or pregnant or lactating women.³¹⁷ Another important statute concerning health is the HIV and Aids Prevention and Control Act adopted in 2014.

Children under the age of 12 are incapable of giving consent, but a parent or guardian may consent on their behalf. UHRC also noted that although HIV test results are confidential, in the quest for justice within reasonable situations for example consent may be dispensed with if 'it is unreasonably withheld', or when testing is ordered by a court, or if the person to be tested is apprehended for a sexual offence.³¹⁸ In addition, the HIV and Aids Prevention and Control Act does not provide for prohibition of discrimination against HIV-positive children in other areas, especially education.

Article 16 of the Constitution, which recognises the right to health services, falls short of Uganda's obligation under the CRC because it applies only to citizens. Article 34(3) of the Constitution, on denial of medical treatment, also falls short of Uganda's obligations under the CRC because it prohibits denial on one specific ground only.

The Mental Health Bill, 2014 is in greater harmony with international standards on human rights than the Mental Treatment Act of 1938. Some provisions, nevertheless, are not fully compliant with international standards.³¹⁹ One is the provision that would authorize the emergency admission of persons whose behaviour creates a risk of damage to property or reputation. Prevention of damage to reputation or to property does not seem to be a sufficient reason to deprive any person (child or adult, healthy or ill) of liberty.



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A mother supports her two-year-old baby girl during examination Panyangara HC III, Kotido district where she sought immunisation.

317 Section 117.

318 HIV and Aids Prevention and Control Act, Sections 11(a), 12 and 14.

319 In 2016, the Committee on the Rights of Persons with Disabilities urged Uganda to "Review and revise the Mental Health Act to ensure compliance with the Convention" on the Rights of Persons with Disabilities. CRPD/C/UGA/CO/1.

8.8. RIGHT TO EDUCATION



Article 28 of the CRC recognises the right of the child to education. States have an obligation to ensure that primary education is compulsory and available and free to all; make secondary education including, general and vocational, available and accessible to every child, by the introduction of free education or the provision of financial assistance to needy students;³²⁰ and take measures to encourage regular school attendance and reduce school leaving. Other obligations recognised by Article 28 include making educational and vocational information and guidance available and accessible to all children. The CRC provides that the right to education shall be implemented “on the basis of equal opportunity”, and the African Charter on the Rights and Welfare of the Child recognises an obligation to “take special measures in respect of female, gifted and disadvantaged children, to ensure equal access to education for all sections of the community”.³²¹ The Charter also contains an important provision indicating that “children who become pregnant before completing their education shall have an opportunity to continue with their education on the basis of their individual ability”.³²²

The right to education is also recognised by Article 23 of the CRC, on children with disabilities. Also, the right to establish private schools is recognised by Article 29.2 of the CRC. The state has an obligation to regulate and supervise all independent schools (and other institutions) that provide services to children in order to ensure that the rights of children are respected.³²³ In addition, the CRC provides that the right to education shall be implemented on the basis of equal opportunity and the African Charter on the Rights and Welfare of the Child recognises an obligation to take special measures in respect of female, gifted and disadvantaged children to ensure equal access to education for all sections of the community.

Article 30 of the Constitution recognises, in general terms, the right of all persons to education. UHRC further notes that Article 34 also stipulates that a child is entitled to basic education which shall be the responsibility of the state and the parents of the child. The Business, Technical, Vocational Education and Training Act, 2008 aims to establish a system to provide knowledge and skills that enhance the individual’s capacity to find employment or earn a living through self-employment.³²⁴ The said Act also specifically aims to increase equitable access to such training for disadvantaged groups including girls and women and persons with disabilities (PWDs) and out-of-school children.

The Commission observes that many provisions of the Education Act, 2008 are in harmony with Uganda’s obligations under the CRC including primary education being mandatory; primary and secondary education being free and compulsory; teachers may be dismissed for conduct prejudicial to student or pupils; and the right to establish private schools provided that they comply with national regulations and standards and do not discriminate. UHRC notes Ugandan legislation does not contain any provisions specifically about the prevention of school-leaving or on the provision of information and guidance on education and vocational training; making higher education available to all having the capacity to benefit from it; and the education of gifted children. Another lacuna is the lack of providing for gifted children in the Education Act.

320 Article 28.1(b); compare Article 11.3(b) of the African Charter on the Rights and Welfare of the Child.

321 Article 28. and Article 11.3(e), respectively.

322 Article 11.6.

323 Article 3.3.

324 Section 3(a) and (e).

8.9. THE RIGHTS OF CHILDREN WITH DISABILITIES



The CRC indicates that children with physical or mental disabilities “should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child’s active participation in the community”.³²⁵ The Convention on the Rights of Persons with Disabilities (CRPD) too recognises some rights that are complementary to those enshrined in the CRC. In so far as education is concerned, it provides that children with disabilities should not be excluded from free and compulsory primary education, or from secondary education, by reason of their disability, and should have access to “inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live”.³²⁶ They also should have access to vocational training, without discrimination.³²⁷

In addition, they should also be provided with support and reasonable accommodation. In a nutshell, modifications and adjustments designed to ensure access to education on equal basis with other children, which do not impose a disproportionate or undue burden on them. In so far as health care is concerned, the CRPD recognises the importance of early diagnosis and treatment, decentralisation of services needed by persons with disabilities, and access to the devices and technologies that allow persons with disabilities to participate fully in all aspects of life. Another obligation recognised by the treaty is that of providing information, services and support to the families of children with disabilities, so as to prevent the concealment, abandonment, neglect or segregation of such children.

Article 35 of the Constitution of Uganda provides generally that “Persons with disabilities have a right to respect and human dignity, and the State and society shall take appropriate measures to ensure that they realise their full mental and physical potential”.³²⁸ The Act obliges the Government to promote the prevention of disabilities, *inter alia*, through health education and a system for early identification of disabilities in children.³²⁹ The Children Act also indicates that parents and the state shall take steps to assess disabilities as early as possible and provide treatment and rehabilitation.³³⁰ The Children Amendment Act also criminalises discrimination against children on basis of disability.³³¹ The aims of the Persons with Disabilities Act, 2006 include the promotion of the participation of persons with disabilities in all aspects of life on an equal basis and to eliminate all discrimination based on disability.³³²

UHRC notes that Article 35 of the Ugandan Constitution and Section (3) of the Persons with Disabilities Act are in harmony with the general provisions on the rights of children with disabilities contained in Article 23(1) and 23(2) of the CRC. The provisions of the Persons with Disabilities Act on education seem to satisfy the obligations of Uganda under the Convention on the Rights of Persons with Disabilities. The Act also requires the introduction of a system for the early identification of disabilities, which complies with another obligation recognised by the CRPD. Similarly, the Persons with Disabilities Act and Children Act both envisage decentralisation of services for children with disabilities. UHRC notes with concern that one requirement of the Convention on the Rights of Persons with Disabilities that is not met by the legislation in force, is that of providing information, services and support to the families of children with disabilities so as to prevent the concealment, abandonment, neglect or segregation of such children.

325 Article 23.1; compare Article 13.1 of the African Charter on the Rights and Welfare of the Child.

326 Art.24.2(a) and (b)

327 Art.24.4

328 Article 35(1).

329 Section 9.

330 As above.

331 Sections 4(1)(j) and 3) and 9(4)-5).

332 Section 3(a) and (d).

8.10. MARRIAGE, DIVORCE AND PROPERTY



The right to marry and found a family is one of the few rights recognised by the International Bill of Human Rights that is not recognised by the CRC.³³³ This is because it is a right vested only in persons “of full age”.³³⁴ The CRC Committee and CEDAW Committee define child marriage as “any marriage where at least one of the parties is under 18 years of age”.³³⁵ However, “the marriage of a mature, capable child below 18 years of age may be allowed in exceptional circumstances, provided that the child is at least 16 years of age and that such decisions are made by a judge based on legitimate exceptional grounds defined by law and on the evidence of maturity, without deference to culture and tradition”. The CRC provides that parents “have common responsibilities for the upbringing and development” of children, regardless of whether they are or ever were married.³³⁶

Article 31 of the Constitution of Uganda recognises the right to marry and found a family in terms similar to international standards.

The main statute on marriage is the Marriage Act. The minimum age for marriage under the Marriage Act is 21; under the Hindu Marriage and Divorce Act, it is 18 for the man and 16 for the girl. The minimum age of marriage under the Customary Marriage Registration Act is 16 for a bride and 18 for a groom. The Children Act recognises the right of children to protection against child marriage, defined as “any union whether formal or informal involving any person below the age of 18 years for the purpose of living as husband and wife”. The express or tacit authorization of the marriage of persons under the age of 18 conflicts with the Constitution and the Children Act, and is incompatible with Uganda’s obligation under Article 21 of the African Charter on the Rights and Welfare of the Child.

The Succession Act’s recognition of the equal rights of children born in or out of wedlock, and the equal rights of adopted children, are very positive. However, the priority given to males in the order of succession must be considered as discrimination on grounds of sex. It is not clear that the differential treatment of dependent sons and daughters regarding maintenance payments from the estate of a deceased parent puts daughters at a disadvantage.

The Customary Marriage Registration Act and The Hindu Marriage and Divorce Act authorize the marriage of girls under 18 years of age, while the Marriage of Africans Act and The Marriage and Divorce of Mohammedans Act specify no minimum age for marriage. No law prohibits the betrothal of children, or provides that the betrothal of children has no legal effect, as required by CEDAW. UHRC notes that the Marriage Bill would remedy many gaps between Ugandan law and Uganda’s obligations under the CRC, CEDAW, the African Charter, the African Protocol, and other relevant human rights treaties. The minimum age for marriage would be 18 years for all forms of marriage, for boys and girls. Limiting polygamous marriage to customary marriages would be a step towards compliance with the widely accepted position that such marriages discriminate against women.

333 Compare article 16.1 of the Universal Declaration and 23.2 of the Covenant on Civil and Political Rights. (The term International Bill of Human Rights refers to the Universal Declaration and the two International Covenants).

334 Article 16.1 of the Universal Declaration of Human Rights.

335 Joint General Comment 18 of the CRC and General Recommendation 31 of the Committee on the Elimination of all forms of Discrimination against Women on Harmful Practices, paragraph 20.

336 Article 18.1.

8.11. RECOMMENDATIONS

These are some of the recommendations that should be urgently implemented by the various ministries, departments and agencies including Parliament, Ministry of Justice and Constitutional Affairs, Ministry of Gender, Labour and Social Development and Uganda Law Reform Commission.

8.11.1 Right to identity

- (a) The relevant legislation such as Registration of Persons Act, Refugee Act or Children Act should be amended to recognise the obligation of authorities to register the birth, in Uganda, of children of refugees and asylum seekers.
- (b) Sections 1(2) (b), 14(2) (b) and 25(e) of the Registration of Persons Act (2015) should be amended to eliminate the provisions that discriminate against refugees.
- (c) The Constitution should be amended to recognise the right of children born in Uganda to Ugandan citizenship, if they would otherwise be stateless.
- (d) The Registration of Persons Act (2015) should be amended to provide that older children should have the right to decide whether to accept Ugandan nationality, when their parents acquire Ugandan nationality, in particular if doing so would require renunciation of their previous nationality.
- (e) The law should oblige hospitals to take measures to prevent the theft of newborns.
- (f) The Registration of Persons Act should be amended to provide for registration of children without both parents, with a single parent or those found dumped on the streets.

8.11.2. Child protection

The Children Act should be amended to eliminate ‘beyond parental control’ as a ground for the imposition of care orders.

8.11.3. Alternative care

- (a) The Children Act should be amended to expressly provide that children should be placed in approved homes only if no other suitable form of alternative care is available in Uganda.
- (b) The provisions of the Children Act on inter-country adoption should be amended to provide that inter-country adoption may be authorized only if no suitable form of alternative care for the child is available in Uganda, and only if the norms and standards concerning adoption in the other jurisdiction provide safeguards and guarantees equivalent or superior to those recognised by the law of Uganda.
- (c) The Children Act should be amended to prohibit guardians from taking children in their care out of the country, in order to prevent circumvention of the provisions of the Act on inter-country adoption.
- (d) The process of ratification of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption should be expedited.
- (e) The Refugee Act should be amended to recognise that temporary forms of care should be given priority over adoption as methods for protection of the rights of unaccompanied refugee children and unaccompanied child asylum seekers.
- (f) Sections 43 (1), 43A (2) and 43C (4)) of the Children Act should be revised to ensure that provisions on temporary forms of alternative care take account of the special needs of unaccompanied refugee children.

8.11.4 Juvenile justice

- (a) The Judiciary should adopt rules to ensure that juveniles tried in High Courts have all the same rights of juveniles tried by Family and Children Courts.
- (b) The Children Act should be amended to recognise aftercare as the right of children released from detention to any necessary assistance in reintegration into the family and community.
- (c) The Penal Code and the Prisons Act should be amended to bring them into harmony with Article 30 of the African Charter, concerning children of convicted and imprisoned mothers.

8.11.5 Crimes against children

- (a) The Prevention of Trafficking in Persons Act should be amended to criminalize improperly inducing consent to adoption, to bring Ugandan law into compliance with Article 3 (1) (a) (ii) of the Optional Protocol to the CRC on Sale of Children, Child Prostitution and Child Pornography.
- (b) Section 8(3) of the Children Act should be amended to specify the sentence for the employment of children in harmful or hazardous work; Section 8(d) of the Prevention of Trafficking in Persons Act should be amended to make it applicable to all children under the age of 18; and the Employment Act should be amended to bring the minimum age for employment into harmony with the minimum age recognised by the Children Act and the Prevention of Trafficking in Persons Act.

8.11.6 Treatment of child victims

- 1. The Children Act or other relevant legislation should be amended to make the measures for protection of victims required by Part III of the Prevention of Trafficking in Persons Act applicable to all crimes of violence against children.
- 2. The Children Act, the Prevention of Trafficking in Persons Act or other relevant legislation should be amended to recognise the right of all child victims of violent crime to be heard through procedures designed to meet their special needs as witnesses for example support persons, testimonial aids and measures that allow children to testify without direct contact with the accused.
- 3. The Children Act or other relevant legislation should be amended to recognise that all child victims of violent crime, and their families where appropriate, have rights to restitution, the cost of reintegration and compensation for injuries and losses similar to those recognised by the Prevention of Trafficking in Persons Act.
- 4. The Children Act and the Prevention of Trafficking in Persons Act should be amended to recognise the right of all child victims of violent crime to be heard through procedures designed to meet their special needs as witnesses for example support persons, testimonial aids and measures that allow children to testify without direct contact with the accused.
- 5. The Refugees Act (or Regulations) should be amended to recognise special procedures and measures needed to enable unaccompanied children to be heard and have their views, needs and experiences taken fully into administrative proceedings under the Act.

8.11.7 Right to health

- 1. Although Article 16 of the Constitution recognises the right of Ugandans to health services in general terms, it would be desirable to enact legislation that specifies the health care services in addition to immunization in a language that does not discriminate on ground of nationality.
- 2. The Commission further recommends that services for children should include periodic medical exams,

malaria prevention and treatment, treatment for pneumonia, diarrhoea, meningitis, and nutritional supplements; and expectant mothers should be entitled to physical examinations, prevention and treatment of malaria and STDs, tetanus vaccination, and nutritional supplements (e.g. iron, calcium and folic acid).

3. Legislation should be adopted to prohibit discrimination against expectant mothers.
4. The HIV and Aids Prevention and Control Act should be amended to prohibit discrimination against HIV-positive children in other areas, especially education because as it states now, it only prohibits discrimination against children on grounds of HIV status by parents, guardians or custodians.
5. Legislation should require that all health-related decisions concerning children be based on the best interests of the child concerned, as a step towards the development of procedures and criteria for assessing the best interests of the child by health workers.
6. The Immunisation Act should be amended to cover all children in Uganda, regardless of nationality, to bring it into harmony with section 4(1) (j) of the Children Act.
7. The Mental Health Bill should be reviewed to eliminate risk to reputation as a ground for emergency admission to mental health units, and to eliminate risk of danger to property as a ground (or at least to restrict it to a grave and imminent risk of extensive danger to property).

8.11.8 Right to education

1. The Education Act should be amended by the addition of a section requiring schools to accommodate pregnant pupils and students and support them in completing primary and or secondary education to bring the Act in line with Article 11(6) of the African Charter on the Rights and Welfare of the Child.
2. The Education Act should be amended to require schools to adopt measures to reduce school leaving; for instance, by the identification of children at risk of abandoning school and the factors that contribute to that risk, in order to take measures to assist the child and his or her family overcome such factors.
3. A section on gifted children should be added to the Education Act, as a step towards developing a policy and programmes or activities for them. Section 57, which authorizes the Minister to adopt regulations on “gender aspects and special-needs education”, might be an appropriate place to address this issue.
4. Ugandan legislation should clearly provide for inclusive education and registration of schools for children with disabilities

8.11.9 Rights of children with disabilities

1. The Persons with Disabilities Act should be amended to criminalize the concealment, abandonment, neglect or segregation of children with disabilities.
2. The Persons with Disabilities Act should be amended to require the Government to support information, awareness and support activities designed to prevent the concealment, abandonment, neglect or segregation of children with disabilities by their parents.
3. Section 24 of the Persons with Disabilities Act, which provides that “No person with disabilities shall be denied a driving permit by reason of his or her disability” should be amended by the addition of a clause to make an exception for measures necessary to protect the health or safety of persons, in order to bring this section into harmony with Section 9(e), which requires road safety policies to be strengthened.

8.11.10 Marriage, divorce and property

1. A comprehensive statute on marriage covering all forms of marriage considered appropriate for Ugandan society, should be adopted, and approval of the Marriage Bill should be expedited.
2. The proposed legislation on marriage should set the minimum age for marriage at 18 years, as required by Article 34 the Constitution.
3. The proposed legislation on marriage should guarantee the equality of all children.
4. The proposed law should recognise the principle that children of parents who are divorced or separated have the right to personal relations and direct contact with both parents.
5. Amendment of the Succession Act to eliminate the preference accorded to male relatives should be expedited.

8.12 CONCLUSION

The approach used in this report is, as mentioned in the introduction, essentially on a comparison of the letter of the law with the obligations of Uganda under international treaties relevant to the rights of children. From this perspective, law reform is more needed in some areas than others. Not surprisingly, the recommendations regarding the two areas where significant new legislation has been adopted recently; child protection and children with disabilities, are few.

Ultimately, Uganda should strive to bring all its legislation into full compliance with its international obligations concerning the rights of children. This cannot be done overnight nor should it be. Law reform processes that are participatory require more time, but if the time invested is used wisely, they make implementation smoother and more expeditious.



Chapter 9:

Status of Uganda's reporting to international and regional human rights mechanisms

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9.0 INTRODUCTION

Article 52 (1) (h) of the Constitution of Uganda mandates Uganda Human Rights Commission to monitor government's compliance with international treaty and convention obligations on human rights.³³⁷ It is in line with this that this chapter highlights the status of Uganda's reporting to treaty bodies at both the international and regional levels, focusing on reporting activities done in 2017. It also highlights the progress on the implementation of the Universal Periodic Review (UPR) recommendations and voluntary pledges.

The Government of Uganda has an obligation to provide periodic reports to international and regional human rights mechanisms on the human rights instruments that the state has signed and ratified. The core international and regional treaties that Uganda has signed and ratified include:

- The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD);
- The International Convention on the Elimination of All Forms of Discrimination against Women (CEDAW);
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
- The International Covenant on Economic, Social and Cultural Rights (CESCR);
- The Convention on the Rights of the Child (CRC);
- The International Covenant on Civil and Political Rights (ICCPR); and
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW).³³⁸

Others are:

- The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OP-CRC-SC);
- The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OP-CRC-AC);
- The Convention on the Rights of Persons with Disabilities (CRPD); and
- The International Convention for the Protection of all Persons From Enforced Disappearance.

At the regional level, some of the binding treaties include:

- The African Charter on Human and Peoples' Rights (ACHPR);
- The African Charter on the Rights and Welfare of the Child (ACRWC);
- The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol); and
- The OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, to mention but a few.³³⁹

337 Article 52(1)(h), the Constitution of the Republic of Uganda, 1995.

338 http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=182&Lang=EN Accessed on 21st December 2017.

339 (n 1 above)

9.1. OBLIGATIONS AND OBJECTIVES OF REPORTING

The ratification of treaties places duties and obligations upon the state that signs and ratifies a human rights treaty. The first obligation is to protect, respect and fulfill all the human rights stipulated under each of the provisions of the treaty signed; domesticate the provisions; and submit periodic reports to the respective treaty body monitoring its implementation. Each treaty has a respective monitoring body to which a member state that ratified it submits a report regularly. The treaty bodies, examples of which are the Human Rights Council, the Committee on Economic, Social and Cultural Rights, and the Committee on the Rights of the Child, among others, at international level, examine the reports of each state and adopt them through concluding observations with recommendations on how to improve on specific areas of human rights.

At the regional level are the African Commission on Human and Peoples' Rights and the African Committee of Experts on the Rights and Welfare of the Child that monitor progress on implementation of the treaties and progress on realisation of the rights stipulated in the treaties.³⁴⁰ This is done through periodic reports submitted by states to the treaty bodies who review and make recommendations accordingly.

It must, therefore, be noted that timely and accurate reporting by the state portrays commitment towards improving its human rights records; gives the state opportunities for representation at the respective committees; and guarantees access to international technical and financial assistance towards improving the human rights situation.³⁴¹ Non-compliance, on the other hand, may generate differential treatment among states.³⁴²

Furthermore, the involvement of experts, government representatives and civil society groups in the reporting processes generates a genuine dialogue and accountability at the national level that empowers rights holders and enhances the state's ability to effectively contribute towards the promotion and protection of human rights in the country. It is, therefore, important that states comply with the reporting obligations in order to strengthen the implementation of human rights instruments and to develop and sustain a culture of respect of all the human rights of citizens.

340 See United Nations. International Human Rights Instruments - Compilation of Guidelines on the Form and Content of Reports to be Submitted by States Parties to the International Human Rights Treaties. Report of the Secretary-General. Available at <https://www.google.com/search?q=which+human+rights+instruments+places+duties+and+obligation+upon+states+to+write+periodic+reports&ie=utf-8&oe=utf-8&client=firefox-b> See also article entitled "Chapter Three, The Major Regional Human Rights Instruments and The Mechanisms For Their Implementation" available at <http://www.ohchr.org/documents/publications/training9chapter3en.pdf> All of them accessed on 21st February 2018.

341 Navanethem Pillay. Strengthening the United Nations human rights treaty body system. (2012). Available at <http://www2.ohchr.org/english/bodies/HRTD/docs/HCTReportTBStrengthening.pdf> Accessed on 21 December 2017.

342 (n 3 above).

9.2. PROGRESS ON UGANDA'S REPORTING TO THE INTERNATIONAL AND REGIONAL HUMAN RIGHTS MECHANISMS

In Uganda, the responsibility of ratifying treaties and submitting periodic reports is vested in the ministry of Foreign Affairs (MOFA). No new treaties were ratified by Uganda in 2017, according to the ministry³⁴³. However, the ministry did a study to identify treaties that were pending ratification; and drafted cabinet papers to facilitate the process of ratification of at least nine treaties. These include Protocol on the Statute of the African Court of Justice and Human Rights; Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights; Protocol on the Rights of Older Persons; Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (OP-CRC-IC); Optional Protocol to the Covenant on Economic, Social and Cultural Rights (OP-ICESCR); Vienna Convention on Consular Relations: Optional Protocol to the Convention on Elimination of All Forms of Discrimination Against Women (OP-CEDAW); Protocol to Suppress and Punish Trafficking in Persons, especially Women and Children (Palermo Protocol); and the AU Protocol on the Prevention and Combating of Terrorism.³⁴⁴

Furthermore in 2017, the Government through the ministry of Gender, Labour and Social Development (MGLSD) undertook regional consultations and developed the third, fourth and fifth reports on the CRC and the two optional protocols for submission to the Committee in 2018.³⁴⁵

At the regional level, and in compliance with Article 62 of the African Charter on Human and Peoples' Rights, the government of Uganda developed the 6th periodic report to the African Commission which was presented in November 2017 at the 61st Ordinary Session of the Commission in Banjul, the Gambia.

Therefore, in the period under review, the status of ratification of treaties and treaty body reporting remain more or less the same as reported in the UHRC 19th Annual Report to Parliament and as reflected in Table 8 below.³⁴⁶

343 Anne Mary Nyakato. Ministry of Foreign Affairs Presentation at The UHRC 2017 Annual Report Consultations. A presentation made in the meeting held at Golden Tulip Canana Kampala Hotel on 7th December 2017.

344 Ministry for Foreign Affairs. Consultancy to Support the Ratification and Domestication of Selected Human Rights Treaties to Harmonise with Existing Laws, Final report. December 2017. Page 37.

345 Ministry of Gender, Labour and Social Development. Responses to the Human Rights Committee of Parliament on UHRC 19th Annual Report, 2016. Responses to Recommendations made in respect of Ministry of Gender, Labour and Social Development. February 2018.

346 See Uganda Human Rights Commission's The 19th Annual Report to the Parliament of the Republic of Uganda, 2016. Pages 169-170.

TABLE 10: STATUS OF UGANDA'S REPORTING AS OF JANUARY 2018

International treaty	Date of ratification	Reporting status	Frequency of reporting	Remarks
The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)	21 st November 1980	1 st report-1984, 2 nd -10 th 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.	11 th – 13 th reports pending since 2005. (Four reports pending.)
The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	22 nd July 1985.	1 st & 2 nd reports -1992, 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 (one report pending). In 2017, a draft of the pending report was developed. ³⁴⁷
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 (two reports pending).
The International Covenant on Economic, Social and Cultural Rights (CESCR)	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; so, there is no report pending till 2020.
Convention on the Rights of the Child (CRC)	17 th August 1990.	1 st report-1996, 2 nd report -2003, 3 rd report 2012.	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. Regional consultation was done in 2017 and 3 rd , 4 th & 5 th reports on the CRC and the two Optional Protocols have been developed. ³⁴⁸

347 Ministry of Gender, Labour and Social Development. Responses to the Human Rights Committee of Parliament no UHRC 19th Annual Report, 2016. Responses to Recommendations made in respect of Ministry of Gender, Labour and Social Development. February 2018.

348 As above.

International treaty	Date of ratification	Reporting status	Frequency of reporting	Remarks
The 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 every four years.	2 nd report pending since April 2008 (two reports pending).
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. (No report pending.)
Optional Protocol to the Convention on the Rights of the Child on 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. Regional consultation was done in 2017 and final report developed to be submitted in 2018.
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (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. Regional consultation was done in 2017, final report developed, and to be submitted in 2018.
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.	Initial report considered by the Committee on the Rights of Persons with Disabilities in April 2016.
Convention for the Protection of All Persons from Enforced Disappearance (CED)	Signed on 6 th February 2007.	N/A	N/A	Not yet ratified.

International treaty	Date of ratification	Reporting status	Frequency of reporting	Remarks
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 6 th report was submitted in November 2017 at the 61 st Ordinary Session of the Commission on Human and Peoples' Rights.
African Charter on the Rights and Welfare of the Child	17 th August 1994.	1 st report -2007, 2 nd report 15 th -19 th March 2010. ³⁴⁹	State parties are required to submit reports to the Committee of experts on the Rights and Welfare of the Child (CERWC) within two years of entry into force of the Charter and thereafter submit periodic reports every three years. ³⁵⁰	Report still pending since 2010. MGLSD was in the process of preparing the 3 rd and 4 th reports to be presented in 2018.

349 African Committee of Experts on the Rights and Welfare of the Child. Recommendations and Observations sent to the Government of the Republic of Uganda by the African Committee of Experts on the Rights and Welfare of the Child on the Initial Implementation Report of the African Charter of the Rights and Welfare of the Child. Page 2. Available at http://www.acerwc.org/download/concluding_observations_uganda/?wpdmdl=8752 Accessed on 12th February 2018.

350 African Committee of Experts on the Rights and Welfare of the Child. State parties reporting guidelines 2015. Available at <http://www.acerwc.org/download/acerwc-state-parties-reporting-guidelines/?wpdmdl=8694> Accessed on 12th February 2018.

9.3. PROGRESS ON IMPLEMENTATION OF THE UNIVERSAL PERIODIC REVIEW RECOMMENDATIONS AND VOLUNTARY PLEDGES

9.3.1 Background

The Universal Periodic Review (UPR) is the state-level process managed by the United Nations Human Rights Council through which the human rights situations in each of the United Nations (UN) member states is reviewed and assessed based on a four-yearly cycle.³⁵¹ It is a voluntary process based on cooperation and interactive dialogue which gives the state under review the opportunity to show steps taken to improve its human rights record and to address challenges encountered in the course of protection and promotion of human rights.

Uganda has so far been reviewed twice. The first review was in October 2011 during the 12th session of the working group on the UPR that took place from 3rd to 14th October 2011.³⁵² Upon the review of the first report and its consequent adoption at the 18th meeting on 14th October 2011, a number of recommendations from the peers were received.³⁵³ These touched on a number of pertinent human rights issues including: rights of persons with disability, children, women, right to life, freedom of assembly, political participation, freedom of speech, civil society, right to vote, right to education, cooperation with United Nations human rights mechanisms and strengthening National Human Rights Institutions (NHRIs).

In addition to the recommendations from the peers, Uganda also made voluntary pledges to ensure the promotion and protection of human rights in the country. These were to:

- (a) Develop a National Action Plan on Human Rights;
- (b) Review the human rights situation in the country annually;
- (c) Establish a cabinet sub-committee on human rights;
- (d) Mainstream human rights in all aspects of governance;
- (e) Establish an inter-ministerial technical committee to support the cabinet sub-committee;
- (f) Establish a human rights desk in the ministry of Justice and Constitutional Affairs;
- (g) Establish a focal point in the ministry of Foreign Affairs to coordinate with stakeholders and the international community;
- (h) Designate focal points within each relevant government department and to request other stakeholders to designate focal points to follow up and report on the implementation of human rights issues;
- (i) Conduct human rights and civic education in schools; and
- (j) Mainstream human rights issues in the training curriculum of security agencies.

It must be noted that recommendations accepted in the first cycle in 2011 and the voluntary pledges have been implemented to a certain extent as reflected in Table 9 below. However on 3rd November 2016, Uganda again presented its second report before the Working Group on the UPR at its 26th session held from 31st October to 11th November 2016 where 226 recommendations were received, out of which 148 were accepted and 78 noted.

351 United Nations Office of the High Commissioner for Human Rights. Universal Periodic Review. Available at <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx> Accessed on 1st January 2018.

352 Human Rights Council. Report of the Working Group on the Universal Review-Uganda: Views on Conclusions and/or Recommendations, Voluntary Commitments and Replies Presented by the State under Review. A/HRC/19/16/Add.1.at 3.

353 (n 7 above).

Uganda's report in the second cycle review highlighted the status of implementation of the voluntary pledges and recommendations that it had accepted in its first review in 2011 and addressed developments in the area of human rights since 2011. It must be noted that the recommendations Uganda accepted in the second cycle still covered more or less the same thematic areas as in the first cycle, as shown below.

9.3.2 Recommendations adopted

The recommendations adopted in the second cycle in November 2016 clustered according to thematic areas as summarised below as well as the status of implementation in the period under review. Even though it was already a year since Uganda received them, no significant implementation of the recommendations had been made by close of 2017. The recommendations are also yet to be disseminated to the implementing agencies for action/intervention.

Continue to ratify and domesticate international human rights instrument

Recommendations were made by the Republic of Congo, Azerbaijan, Denmark, Portugal, Switzerland, Ireland, Philippines, France, Indonesia and Zimbabwe who urged the government of Uganda to:

- Enhance ratification of human rights instruments.
- Integrate international human rights instruments into domestic law.
- Continue to harmonise its domestic legislations with international human rights instruments that Uganda is party to.³⁵⁴
- Incorporate the provisions of CAT into domestic law.

Status of implementation: The ministry of Foreign Affairs identified eight human rights treaties for ratification.

Freedom of association, assembly and expression

Sweden, France, Australia and Spain urged Uganda Government to:

- Train security forces to respect freedoms of expression and assembly.
- Amend the Public Order Management Act in line with international best practice as set out by the Special Rapporteur on the rights to freedom of peaceful assembly and of association in his March 2016 joint report to the Human Rights Council.³⁵⁵
- Take measures to guarantee the right to peaceful assembly and avoid abuses in police activities and, if such abuses occur, ensure that they do not go unpunished.
- Strengthen measures to end any possibility of alleged police brutality, arbitrary arrests and politically motivated prosecution of opposition leaders.
- Ensure the full respect of the freedoms of association and peaceful demonstration in compliance with the international commitments of Uganda, in particular in the implementation of the Public Order Management Act, 2013.
- Ensure that the enforcement and implementation of laws is in compliance with the Constitution and the country's obligations under international and regional law to respect and protect the right of everyone in Uganda to exercise their human rights to freedom of expression and peaceful assembly.
- Amend accordingly all laws that are contrary to Uganda's national and international obligations to respect, protect and promote the freedoms of expression and assembly.

354 UPR. Information available at https://www.upr-info.org/database/index.php?limit=0&f_SUR=182&f_SM-R=All&order=&orderDir=ASC&orderP=true&f_Issue=All&searchReco=&resultMax=300&response=&action_type=&-session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly%20 Accessed on 13th February 2018.

355 UPR. Information available at https://www.upr-info.org/database/index.php?limit=0&f_SUR=182&f_SM-R=All&order=&orderDir=ASC&orderP=true&f_Issue=All&searchReco=&resultMax=300&response=&action_type=&-session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly Accessed on 13th February 2018.

Status of implementation: UHRC continues to receive and handle complaints of violation of freedom of assembly and demonstrations; as well as engage and train security agencies to respect human rights in the course of their duties.

Women's rights

Iceland, Sweden, Madagascar, Zambia, Paraguay, Colombia, Ukraine, Uruguay, Nepal, Philippines, Australia, Republic of Korea, South Africa, Nigeria, China, Maldives, Sierra Leone, Angola, Mexico, Togo, Cyprus, Guatemala, Syria, Italy, Egypt and Mauritius urged Uganda Government to improve the situation of women through:

- Strengthening the enforcement of the Domestic Violence Act and adopt the Sexual Offences Bill.
- Taking further measures to improve children's enrolment, access, quality and sustainability of education, especially for girls.
- Strengthen measures to improve the application of the law on domestic violence, including training and awareness-raising for judges, prosecutors and police officers.
- Eliminate all harmful traditional practices and stereotypes, including female genital mutilation.
- Provide adequate resources for the full implementation of domestic laws that prohibit harmful traditional practices against women.
- Step up the fight against all harmful traditional practices, inter alia, by effectively enforcing the Prohibition of Female Genital Mutilation Act in all parts of the country and by increasing the human and financial resources of the Anti-Human Sacrifice and Trafficking Task Force.
- Fully implement the National Gender Policy.
- Harmonise civil, religious and customary legislation with articles 15 and 16 of the CEDAW, specifically through revising and amending the current version of the bill on Marriage and Divorce, ensuring that it does not discriminate against women.

Status of implementation:

- Media campaigns and community dialogues by the MGLSD with support from UNICEF and UNFPA and other implementing partners are ongoing against early child marriage, teenage pregnancies and other harmful practices like Female Genital Mutilation in the country.³⁵⁶
- The Judiciary has been proactive in progressively interpreting discriminatory laws; for example, the case of Mifumi (U) Ltd and Another Vs. Attorney General and Another (2014) that challenged the constitutionality of the aspects of bride wealth, which decision has since been captured in the Marriage Bill, 2017 as a step towards legislative reforms.³⁵⁷
- The National Strategy to end Child Marriage and Teenage Pregnancy (2014/2015-2019/2020) by Ministry of Gender, Labour and Social Development was launched. It addresses discrimination and violence against women and girls, particularly child marriage (it is an intervention to end child marriage).³⁵⁸

356 Ministry of Gender, Labour and Social Development. Responses to the Human Rights Committee of Parliament on UHRC 19th Annual Report, 2016. Responses to Recommendations made in respect of Ministry of Gender, Labour and Social Development. February 2018.

357 Constitutional Appeal No.2 of 2014 (2015) (Supreme Court Of Uganda) (UGSC 13) Available at <https://mifumi.org/wp-content/uploads/2017/02/BRIDE-PRICE-CASE-Uganda-Supreme-Court-Ruling-2015.pdf> Accessed on 21st February 2018. See also a write-up by Uganda Law Reform Commission on the Marriage Bill, 2017 Available at <http://www.ulrc.go.ug/content/marriage-bill-2017> Accessed on 21st February 2018.

358 MoGLSD, *et al* . National Strategy to End Child Marriage and Teenage Pregnancy 2014/2015-2019/2020. Available on https://www.unicef.org/uganda/NATIONAL_STRATEGY_ON_CHILD_MARRIAGE-PRINT_READY.pdf Accessed on 7th March 2018.

Children's rights

Zambia, Philippines, Australia, Portugal, Spain, Czech Republic, Botswana, Sierra Leone, Djibouti, Mexico, Syria, Georgia, Timor-Leste, Slovenia, Togo, Maldives, Nigeria, Algeria, Cyprus, Chile, South Africa, USA, Sudan, Kenya, Libya and Germany urged Uganda to:

- Strengthen the juvenile justice system, in particular by ensuring the designation of specialized courts and judges, which would apply procedures that take into account the specific needs of children.
- Ratify the Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption.
- Continue increasing the enrolment rate of children in primary schools and achieve equal gender opportunities, particularly in setting up policies that strengthen the rights of girls in education and provide education to all those who have been deprived (vulnerable groups), and improve the quality of the public education system.
- Develop a national action plan to eliminate child marriage, strengthen police training on how to investigate sexual and gender-based violence, including against children, and ensure that perpetrators of these acts are appropriately prosecuted.
- Separate juveniles from adults in detention and rehabilitation centres.
- Prioritise implementation of the Child Justice Strategy and the National Diversion Guidelines for children in the criminal justice system.
- Continue to develop strategies to protect children, including measures to ensure that children living in the street and in foster care institutions have the right to live in a family and have access to health and education.
- Strengthen efforts to ensure eradication of child labour by introducing penalties for violating the provisions on employing children and young persons.
- Adopt and implement the plan of action against early marriages, and put in place strategies and implement the action plan to more effectively combat child, early and forced marriage.
- Accelerate the establishment and functioning of the National Children's Authority to prevent and combat violence, exploitation and other degrading practices.
- Take the measures necessary for the amendment of the law on children in accordance with the Convention on the Rights of Persons with Disabilities.
- Implement the steps envisaged in the promotion of rights of people with disabilities, with special emphasis on equal opportunities for children with disabilities.

Status of implementation:

- The JLOS issued dressing guidelines for trials involving children.
- National strategy to end child marriage and teenage pregnancy exists and the same is being implemented by the MGLSD working closely with development partners, other ministries and the District Local Governments.
- An additional remand home was constructed in Kabale though it is yet to start admitting juveniles. Remand homes in the country increased to six.

Migrant workers and refugees

Namibia, Nigeria and Serbia urged the Uganda Government to:

- Continue its efforts to improve the livelihood of refugees and IDPs by taking measures aimed at further improving the health-care system in refugee settlements, ensuring that all refugees attain the highest level of access to health services.

- Improve the life conditions of migrants and refugees in Uganda.
- Continue tirelessly to address the issue of resettlement of IDPs including by putting in place resources in provisions of basic services and infrastructure development.
- Take active measures to eliminate gender-based violence against women, specifically refugee women and take immediate appropriate measures to eliminate all forms of discrimination against women, in line with the CEDAW.
- Seek necessary assistance for its efforts to improve human rights in its territory, particularly the rights of migrants and asylum seekers.

Status of implementation:

By the time of compiling this report, there was no update on the status of implementation of this recommendation.

Persons with disability

The Republic of Congo, Sudan, Angola and Kenya urged Uganda to:

- Increase the job quota for people with disabilities.
- Intensify its efforts to raise public awareness on the rights of persons with disabilities.
- Promote and respect the basic rights of persons with disabilities without distinction.
- Implement legal provisions for better protection of persons with disabilities.
- Adopt measures to guarantee the rights of persons with disabilities; in particular, to fight against all forms of discrimination faced by women with disabilities, and regarding the lack of equal opportunities for minors with disabilities, with particular attention to albino children.
- Ensure the right to vote for persons with disabilities, in line with the Convention on the Rights of Persons with Disabilities, and implement, among others, alternative measures to enable them to vote freely and in secret, and to easily access facilities.
- Implement the steps envisaged in the promotion of rights of people with disabilities, with a special emphasis on equal opportunities for children with disabilities.
- Through the ministry of Health and the ministry of Gender, Labour and Social Development, mainstream disability in their awareness-raising campaigns with a view to eliminate negative attitudes towards persons with disabilities in health centres.

Status of implementation:

At the time of compiling this report, there was no information on the status of implementation of this recommendation.

Minorities

Madagascar, Mexico, Panama and Sierra Leone urged Uganda to:

- Continue to take measures to ensure an effective compliance with the legislations regarding the most vulnerable groups of the population.
- Continue efforts to protect the rights of marginalised and vulnerable population.
- Take appropriate measures to eliminate all forms of discrimination against women and girls as well as persons with albinism.
- Establish an information and prevention strategy to combat the discrimination against and persecution of the albino population in the country, as well as protection for these persons, in particular for albino children.

- Take concrete measures to eradicate harmful practices against women and children, especially children with albinism.
- Thoroughly investigate attacks on persons living with albinism and ensure that perpetrators of violations committed against them are brought to justice.

Status of implementation:

- All government empowerment programmes including Youth Livelihood Programme, Uganda Women Entrepreneurship Programme, and Social Assistance Grants for Empowerment are open to all citizens of Uganda.
- The MGLSD developed an Equity Promotion Strategy which ensures that social justice is realised.
- Capacity deployment has been done for both political and technical staff in both lower and higher local governments to improve service delivery in various areas such as human rights, resource mobilisation, gender-based violence and cultural issues.
- MGLSD has provided resources to local governments in form of grants for women, PWDs and youths through different programmes.
- Local government staff have been trained in the Human Rights Based Approach to programming to ensure that they view development with human rights lenses and placing people at the centre of development in order to ensure equal access to service by all.³⁵⁹

General recommendation on human rights issues

Niger, Cuba, Mauritius, Angola, Sudan, Venezuela, Russian Federation, Norway, China, Kenya, Pakistan and Ethiopia urged Uganda to improve the situation of human rights generally by taking the following measures:

- Enact and implement a comprehensive national urban policy to address the human rights problems arising from rapid urbanisation.
- Enhance efforts made to improve the economic rights of the people.
- Step up the fight against corruption, including ensuring a level playing field and competitive bidding in public procurement.
- Continue to implement socioeconomic and development policies for safeguarding the rights of youth.
- Expedite the implementation of the second five-year National Development Plan.
- Adopt a national action plan for business and human rights, building on the Guiding Principles on Business and Human Rights.
- Maintain and strengthen measures to enhance the promotion and protection of human rights.
- Adopt the National Action Plan on Human Rights and continue the efforts to implement it in order to coordinate, promote and advance human rights in a sustainable manner.
- Make efforts as set out in the Sustainable Development Goals, especially those related to poverty, education, health, agriculture and nutrition.

Status of implementation: A draft National Action Plan on Human Rights exists from an inclusive, participatory process that started in 2015. In 2017, a consultant was hired to integrate the accepted UPR2 recommendations into the draft; develop a costed implementation matrix, budget and a monitoring and evaluation framework for it before its national validation. This whole process is overseen by the ministry of Justice and Constitutional Affairs.

³⁵⁹ (n 19 above)

The National Human Rights Institution

Denmark, South Africa, Niger, Bangladesh, Philippines and Nepal urged Government of Uganda to:

- Establish as soon as possible its national plan of action on human rights, in order to coordinate, promote and advance human rights in a sustainable manner.
- Provide adequate funding for the National Human Rights Institution (NHRI) and reduce its reliance on external sources.
- Continue to strengthen its national human rights and democratic institutions.
- Further strengthen the financial resources of Uganda Human Rights Commission.
- Capacitate and allocate resources to Uganda Human Rights Commission in a sustainable manner.

Status of implementation

- In the financial year 2017/2018, Government through the Ministry of Finance, Planning and Economic Development increased funding for UHRC's civic education activities to the tune of UGX 2.26 billion
- It also provided UGX 2.73 billion under domestic arrears to clear arrears in staff costs for the financial year 2015/2016

Human rights education and training:

Timor-Leste, Togo, Chile, Colombia, United States of America, Morocco and Tanzania urged Uganda to:

- Strengthen measures to improve the application of the law on domestic violence, including training and awareness-raising for judges, prosecutors and police officers.
- Create permanent and sustainable programmes for education and training in human rights for public officials, particularly members of the armed forces, the police and the judiciary, emphasising protection for the most vulnerable groups.
- Strengthen police training on how to investigate sexual and gender-based violence, including against children, and ensure that perpetrators of these acts are appropriately prosecuted.
- Continue making efforts in the field of training and education in human rights for law enforcement agencies.
- Continue making efforts to provide human rights education (HRE) to law enforcement personnel.

Status of implementation:

- UHRC continuously conducts programmes of research, education and documentation on human rights to enhance the culture of respect of human rights among the population. The programmes are implemented through workshops, school debates, and community barazas/engagements and media campaigns.
- To integrate HRE into the curriculum of secondary and primary schools, the government through the ministry of Education and Sports set up a national steering committee on HRE to steer forward the national implementation strategy for HRE.
- In 2017, UHRC in collaboration with other stakeholders conducted a baseline survey in selected districts of Uganda and established that HRE had been incorporated into the primary school curriculum.

Continue constructive cooperation with United Nations human rights mechanisms

Azerbaijan, South Sudan, Syria, Venezuela, Sierra Leone, Ghana and Colombia urged Uganda to:

- Seek the assistance of the international community to help her (Uganda) enact laws for the promotion and protection of human rights.
- Seek necessary assistance for its efforts to improve human rights in its territory, particularly the rights of migrants and asylum seekers.
- Strengthen cooperation with the treaty bodies by being up to date with the submission of its national reports.
- Establish a separate centralised mechanism for the preparation of national human rights reports.
- Establish a one-stop centre to handle human rights treaty bodies.
- Submit overdue reports to the human rights treaty bodies.

Status of implementation:

- Rate of submission of national reports to the UN mechanisms is slow; many reports have been pending submission for long as indicated in Table 8 above.
- No invitation to special Procedures of the Human Rights Council since 12th – 17th July 2009 when the Representative of the Secretary General on Internally Displaced Persons visited.

Civil society

Uruguay, United Kingdom and Ireland urged Government of Uganda to:

- Consult a broad range of civil society actors and reflect their views in the Non-Governmental Organisations Act, 2016, to ensure an open, accountable and vibrant NGO sector.
- Thoroughly investigate the threats against human rights defenders and civil society organisations, bringing to justice those responsible and guarantee reparations to the victims, especially those working for women's rights.
- Ensure that civil society organisations and human rights defenders can operate in a safe environment and that all allegations of intimidation, harassment and violence are fully investigated.
- Further enhance the cooperation with civil society in the promotion of human rights.

Status of implementation:

The Commission is of the opinion that the government of Uganda has not yet implemented this recommendation. This is due to the fact that in 2017, many human rights defenders faced threats of closure of their operations by the government which considered their activities to be too critical of its activities.

Statelessness and the right to nationality

Angola and Sudan recommended that Uganda should:

- Adopt measures to reduce the number of children without birth registration.
- Exert further efforts to ensure that all children born in the national territory are registered.

Status of implementation: The National Identification and Registration Authority (NIRA) was established as a regulatory authority mandated to register births and deaths in the country and develop the national identification register for all citizens and non-citizens legally residing in Uganda. In 2017, NIRA carried out a mass registration for all learners in learning institutions within the country. Registration is continuous at NIRA's national centre and at the district/division levels so that non-learners can register.

Right to health

Chile, Bangladesh, Indonesia, Ukraine, Syria, Egypt, Kenya, Serbia, Germany and Belgium recommended that Uganda:

- Pursues national efforts to combat HIV and provide health services for all.
- Further strengthens the standardisation of the health management information system and shares experience in this regard.
- Intensifies efforts to reduce maternal and child mortality rates.
- Strengthens measures to combat maternal mortality and morbidity with a human rights-based approach.
- Continues to cooperate with other countries in the health sector.
- Ensures a sufficient health budget, full and equal access to health services, in particular adolescent, reproductive and family planning services and relevant education.

Status of implementation:

While a lot of initiatives have been put in place to combat HIV through the establishment of a national aids commission, legislation and others, there are still challenges with access to HIV/Aids treatment. Other factors hindering the implementation of this recommendation include limited budgetary allocation to the Health ministry and increasing cases of child and maternal mortality.

Elections and press freedom

Norway, United States of America, Austria, Canada and Czech Republic urged Uganda to:

- Enact electoral reforms to address problems noted by multiple observers during the February 2016 elections, including by making the process for appointment to the Electoral Commission more inclusive and transparent.
- Conduct full and transparent investigations into alleged cases of excessive use of force by security agents, especially during and after the 2016 elections, ensuring accountability for possible human rights violations.
- Improve the transparency of the electoral process.
- Provide equal conditions for all candidates.
- Prevent obstruction of the media and the Internet.
- Ensure the independence of the Electoral Commission and impartial investigation of allegations of election fraud and violence.

Status of implementation:

At the time of compiling this report, the status in as far as the election environment is concerned still remained the same.

Right to education

Ukraine, Syria, Libya, Algeria, Djibouti, DPR Korea, Chile, Pakistan and Mexico urged Uganda to:

- Continue its efforts aimed at the realisation of the right to education; in particular, the integration of human rights in sectorial strategies for education, by guaranteeing the inclusion of modules on human rights in the school curricula.
- Increase public expenditure on education and undertake additional efforts to improve the functioning of the education system, in order to ensure quality education for all children.

- Continue to reinforce the development policy on primary education.
- Continue with efforts to advance the rights of women and combat discrimination against women and girls, in particular to achieve equal access to education and prevent girls from dropping out of school.
- Continue to take positive efforts and measures to maintain access to education for all.
- Improve fair access to and the quality and sustainability of primary education.
- Improve access to education, in particular in marginalized areas.

Status of implementation:

- The government, through the National Curriculum Development Centre embarked on a process to review the teaching curriculum at both primary and secondary levels. Efforts to integrate human rights in the curriculum were made but the overall process is not yet finalized.
- The government policy to empower girls to attain higher education in public universities through giving them an additional 1.5 points is still in place.
- Concerns over the quality of education, especially for schools in remote areas, still prevail.

Civil and political rights

Cyprus, Ghana and Botswana urged Government of Uganda to:

- Take the necessary measures to allow the enjoyment of civil and political rights by all, including the right to participate in political and public affairs.
- Investigate all alleged acts of torture and hold accountable state security agents who are found culpable.
- Eliminate detention facilities known as 'safe houses', improve overall conditions of prisons and adopt relevant measures to tackle problems such as overcrowding, unsatisfactory state of prisons and shortcomings in the supply of health care.

Status of implementation:

- The Commission is of the view that the government of Uganda has not yet fully implemented this recommendation. Incidents of suppression of freedom of expression especially by members of the political opposition were noted in the year 2017, especially during the constitutional amendment process.
- The Commission continued to receive information about alleged detention in safe houses in 2017.

Justice

Austria, South Africa and Slovenia urged Uganda to:

- Speedily enact the respective policies and bills on legal and transitional justice to fulfill the constitutional mandate to provide justice for all.
- Ensure the separation of power and the independence of the judiciary and prevent government officials from interfering in judicial proceedings.
- Ensure the full functionality and adequate resourcing of levels 1 and 2 Local Council Courts, which provide the first access points to justice for 80 per cent of Ugandans.
- Prioritise the implementation of the Child Justice Strategy and the National Diversion Guidelines for children in the criminal justice system.

Status of implementation:

- While a draft bill on transitional justice has been drafted, this has not yet been passed by Parliament.

- The Commission also notes that incidents that threaten the separation of powers and judicial independence were still prevalent in the year 2017.
- The Commission notes with concern that the LC I and II Courts are not fully functioning. The government has failed to conduct elections for the LCs.

Status of implementation of some of the recommendations of UPR1

The table below clustered according to thematic areas presents the status of implementation of some of the first cycle UPR recommendations and voluntary pledges for Uganda for the last six-year period since 2011 till December 2017. *These recommendations were previously disseminated to the public through our 14th Annual Report published in 2011.*

TABLE 11: SUMMARY ON STATUS OF IMPLEMENTATION OF UPR 1 RECOMMENDATIONS^{360 361 362 363}

Recommendation	Status on Implementation
Women's rights	
• Harmonising national law on marriage and divorce with the provisions in CEDAW. • Taking further necessary measures to increase and strengthen the participation of women in designing and implementing local development plans while paying special attention to the needs of rural women, to fight sexual violence and to implement prohibition of FGM. • Fighting domestic violence and implementing the Domestic Violence Act.	• A proactive judiciary progressively interpreting discriminatory laws. • The constitutionality of aspects of bride wealth was challenged successfully in court (Mifumi (U) Ltd and Another Vs. Attorney General and Another (2014)) and the decision has since been captured in the Marriage Bill, 2017 as a step towards legislative reforms.³⁶⁰ • Simplified and disseminated the Prohibition of Female Genital Mutilation Act 2010 in local languages. • MGLSD developed guidelines and provided them to police and prosecutors on implementation of the law on FGM/C.³⁶¹ • Community sensitisation by CSOs, UHRC, REACH on the dangers of FGM/C are ongoing. • Promotion of girls' education through construction of boarding schools to keep girls in school or act as rescue centres for those escaping from FGM and early marriage.³⁶² • Child and Family Protection Units at police stations to handle violations and abuses. • A module on GBV introduced in the curriculum for police academies in Uganda.³⁶³ • Police developed guidelines for its officers handling GBV cases. • A gender-based directorate in the police structure.

³⁶⁰ (n 19 above).

³⁶¹ 28 Too Many. Country Profile: FGM in Uganda July 2013. Page 9. Available at [https://www.28toomany.org/static/media/uploads/Country%20Research%20and%20Resources/Uganda/uganda_country_profile_v1_\(july_2013\).pdf](https://www.28toomany.org/static/media/uploads/Country%20Research%20and%20Resources/Uganda/uganda_country_profile_v1_(july_2013).pdf) Accessed on 13th February 2018. See also UNFPA article titled 'Driving Forces in Outlawing the Practice of Female Genital Mutilation/Cutting in Kenya, Uganda and Guinea-Bissa', page 18. Available at <https://www.unfpa.org/sites/default/files/resource-pdf/Legislation%20and%20FGMC.pdf> Accessed on 21st February 2018.

³⁶² (n 15 above)53

³⁶³ Centre For Domestic Violence Prevention. Schooling the Police: Introducing New Police Curriculum. Available at <http://www.cedovip.org/index.php/news-events/latest-news/112-schooling-the-police-introducing-the-new-police-curriculum> Accessed on 14th February 2018.

Recommendation	Status on Implementation
Children's rights	
• Instituting measures against recruitment of children in abhorrent practices. • Ensuring registration of all children at birth. • Combating ritual killings. • Improving the juvenile justice systems to fight child labour/ economic exploitation of children. • Implementing the steps envisaged in the promotion of the rights of people with disability with special emphasis on equal opportunities for children with disabilities.	The Children Amendment Act, 2015 was enacted by government to ensure that the law complies with international and regional human rights standards. It provides for guardianship of children, inter-country adoption, the reduction of statutory remand period and prohibits corporal punishment. • The Registration of Persons Act, 2015 was passed establishing the mandate for NIRA and defining the criteria for registration of persons. • National Strategic Plan on Violence Against Children in Schools (2015-2020) was developed to harmonise strategies for elimination of all forms of violence against children in Uganda.³⁶⁴ • JLOS launched the Access to Justice for Children project to promote courts' responsiveness to children in contact with the law as offenders, victims and witnesses. • A handbook to be used in the training of prosecutors on child-friendly procedures before court and during court proceedings was developed and launched in 2016.³⁶⁵ • More remand homes were constructed to improve juvenile justice.
Constructive cooperation with UN human rights mechanisms	
• Strengthen cooperation with the treaty bodies by being up to date with the submission of national reports. • Continue constructive cooperation with United Nations human rights mechanisms.	• Very slow rate of submission of national reports to the UN mechanisms. Many pending reports are still pending submission. • No invitation to special Procedures of the Human Rights Council since 12th – 17th July 2009 when the Representative of the Secretary General on Internally Displaced Persons visited.
Human rights education	
• Improve human rights education to improve awareness on all human rights among the public. • Incorporate the World Programme on HRE in national programmes. • Allocate more resources to HRE in parts of the country that have for long been under rebel control.	• UHRC, through its ten regional offices across the country, conducts programmes of research, education and documentation on human rights through different modes ranging from workshops, school debates community barazas/engagements and media campaigns. • A national steering committee on human rights education was set up to steer the national implementation strategy for HRE and integrating it in the curriculum of secondary and primary schools.

364 Ministry of Education, Science, Technology and Sports. National Strategic Plan on Violence Against Children in Schools (2015-2020).

365 Relief Web. Government Launches Child Friendly Justice Handbook to Protect Rights of Children in Contact with the Law, April 27, 2016. Available at <http://reliefweb.int/report/uganda/government-launches-child-friendly-justice-handbook-protect-rights-children-contact> Accessed on 27th January 2018.

Recommendation	Status on Implementation
• Increase awareness on disability rights for all. • Continue the efforts in training and education in human rights for law enforcement agencies. • Strengthen measures to improve the application of the law on domestic violence, including training and awareness-raising for judges, prosecutors and police officers.	• In 2017, UHRC, in collaboration with other stakeholders, conducted a baseline survey in selected districts in Uganda and established that HRE had been incorporated into the primary school curriculum. • A national task force was set up to complement the National Steering Committee. • Security agencies like the Police, UPDF and Uganda Prisons Service have since included HRE in their training curricula.
Independence of the NHRI	
• Continue efforts to build and strengthen national human rights and democratic institutions. • Provide adequate funding for the NHRI and reduce its reliance on external sources. • Ensure the independence and adequate capacity of the Ugandan Human Rights Commission.	• UHRC has in the last four years operated without interference or undue influence from the government. • In the FY 2015/2016 government funding to the Commission was at 75% while donor funding was 25%.³⁶⁶ • In FY 2017/2018, Government through the ministry of Finance, Planning and Economic Development increased funding for UHRC's civic education activities to the tune of UGX 2.26 billion and also provided UGX 2.73 billion under domestic arrears to clear arrears in staff costs for the financial year 2015/2016. • The Equal Opportunity Commission (EOC) Tribunal was launched on 25th March 2014 and Regulations, 2014 were made, gazetted and came into force in May 2014. • EOC attained financial independence from the MGLSD in FY 2013/14 and received UGX 2,003,018,000 which increased to 3,170,855,400 in F/Y 2014/15 in a bid to strengthen the institution to effectively handle outstanding social inequalities in the country.³⁶⁷
Civil and political rights	
• Integrate international human rights instruments into domestic law. • Continue to harmonise domestic legislations with those international human rights instruments that Uganda is party to. • Ratify the Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women.	• The Convention against Torture was domesticated through the enactment of the Prevention and Prohibition of Torture Act (PPTA), 2012. • The CRC was domesticated through the Children Amendment Act, 2015. • However, Regulations to facilitate the implementation of the PPTA not yet passed. • UHRC has since developed and disseminated the Interpretive Guide to the PPTA, simplifying the provision of the Act for ordinary Ugandans. • The Optional Protocol to CEDAW is not yet ratified.

366 Uganda Human Rights Commission. NHRI Submission For Uganda's Second Periodic Review - October 2016. Page 4.

367 See information available at <http://npa.ug/wp-content/uploads/2017/04/4thAnnualAPRM.pdf>

Recommendation	Status on Implementation
Freedom of association and assembly	- Establishment of the directorate of legal services and human rights in Police in 2013 and the Police Professional Standards Unit (PSU) which is an internal accountability mechanism by police officers. - UHRC continued to engage and train security agencies to respect human rights as they carry out their duties. - UHRC developed and disseminated a police pocketbook on basic human rights to guide them.
Enhance coordination of implementation of UPR recommendations	
- Engage Civil Society in the process of implementation of UPR recommendations. - Establish a permanent institution to synchronise the implementation of recommendations, the monitoring of performance and reporting. - Enhance national UPR follow-up mechanisms. - Effectively implement the Proposed National Plan of Action.	- Deliberate steps taken by UHRC to ensure that civil society is engaged in the implementation of UPR recommendations. - UHRC is monitoring the implementation of recommendations and government reporting activities - UHRC developed a database and search engine in 2014 for monitoring government MDAs' efforts in implementing treaty bodies' obligations, with support from UN-OHCHR. However, its efficiency is still low, particularly on prompt updates. - MOFA, MOJCA and UHRC collaborated in the process of developing the National Human Rights Action Plan.
Government voluntary pledges	
Develop a National Action Plan on Human Rights.	The final draft of the NAPHR is in the final stages for national validation and approval by the Cabinet as explained in Section 9.5 below.
Annually review the human rights situation.	UHRC publishes periodic and annual reports of its findings and recommendations to Parliament on the state of human rights and freedoms in the country.
Create a cabinet subcommittee on human rights.	Was done in 2013.
Establish a human rights desk at MOJCA.	Done.
Establish a focal point within the MOFA to coordinate with stakeholders and international community.	Done.
Establish an inter-ministerial technical committee to support the cabinet subcommittee.	Done.

9.4. STATUS OF THE NATIONAL ACTION PLAN ON HUMAN RIGHTS

The National Action Plan on Human Rights (NAPHR) was embarked on in 2015 and coordinated by MOFA with technical support from UHRC. Through a consultative, inclusive and participatory process that brought on board various stakeholders including government agencies, private sector, academia, religious and cultural leaders and CSOs, a draft action plan was developed. By the time of compiling this report, MOJCA was overseeing the various processes of integrating it into the final draft of the accepted UPR2 recommendations; developing a costed implementation matrix, budget and a monitoring and evaluation framework in preparation for the national validation. After the national validation exercise, the final NAPHR will be presented to Cabinet for formal adoption.

9.5. CHALLENGES TO TREATY BODY REPORTING

- (a) UHRC continues to note with concern the continuous delays in reporting and non-submission of state reports to the treaty bodies. In 2017, only one report, the 6th periodic report to the African Commission on Human and Peoples' Rights was presented in November 2017 at the 61st Ordinary Session of the Commission in Banjul, the Gambia.
- (b) Whereas Uganda regularly reports to the African mechanisms, up to date reporting to the international/UN mechanisms remained a challenge. The government is behind schedule on some reports by as much as four cycles of reporting.
- (c) The dependency of MOFA on the government line MDAs to provide information and compile the reports implies that line MDAs could slow down the process if they fall behind schedule. Even with the mandate to coordinate the reporting processes on international and regional mechanisms as well as oversee the ratification of treaties through its international legal and social affairs department, MOFA still relies heavily on the willingness and readiness of line government MDAs.
- (d) Inadequate funding to facilitate timely, quality research for quality products remains a recurrent challenge.
- (e) Inadequate compliance with UHRC's recommendations to MDAs in its periodic and annual reports, contributes to their failure to meet treaty body obligations.

9.6. RECOMMENDATIONS

- (a) Ministry of Finance, Planning and Economic Development should increase funding to 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 required for timely, quality reporting.
- (b) Ministry of Foreign Affairs, Ministry of Gender, Labour and Social Development, as well as Ministry of Justice and Constitutional Affairs should continue following up on implementation of government's voluntary pledges and recommendations made by treaty bodies to enhance the promotion and protection of human rights.
- (c) Parliament should make it a mandatory requirement for MDAs appearing before it during budget defence to report on the progress of implementation of the UHRC and UPR recommendations in their state of human rights reports.

9.7. CONCLUSIONS

Challenges notwithstanding, there's commitment from government through the line ministries to fulfill its international and regional obligations as we see from government's demonstrated clear engagement and cooperation with the international and regional human rights mechanisms like the UPR process and the steps taken to implement its recommendations. Regarding steps taken to study and identify treaties due for ratification and the reports earmarked for development and presentation in the future, however the process is overly slow. Several reports have been pending for a long time; there is, therefore, need to scale up efforts as recommended above.

Chapter 10:

Government compliance with UHRC Annual Report recommendations

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10.0 INTRODUCTION

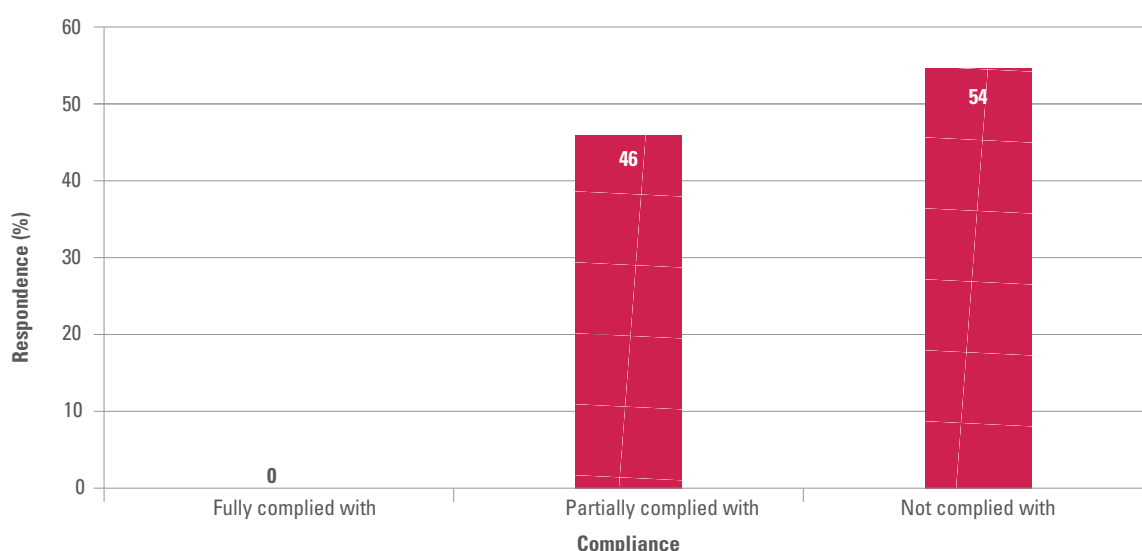
For the past years, UHRC has been making recommendations to various ministries, departments and agencies (MDAs), aimed at improving the human rights situation in the country. UHRC is, however, concerned about the non-compliance in implementation of most of its recommendations including: the ratification of the OPCAT; enactment of a minimum wage; and ratification of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of Children; among others.

This chapter tracks progress on Government's compliance with UHRC recommendations. It highlights the recommendations that were fully, partially or not complied with at all.

The Commission is very disturbed by Government's level of compliance with its recommendations. The commission notes that the percentage for full compliance is 0% while partial compliance is 43% and non-compliance is at 57%. It, therefore, calls upon Parliament, especially the Human Rights Committee of Parliament, to up their oversight role in the promotion and protection of human rights in the country.

In 2016, UHRC was concerned that most MDAs including NEMA, OPM, UPF, UPS, MGLSD, MOJCA and UDPF, among others, gave unsatisfactory/derisory, unclear or vague updates on implementation of UHRC's recommendations without supporting statistics. In 2017, most of the MDAs did not give any updates.

FIGURE 28: GOVERNMENT COMPLIANCE WITH UHRC RECOMMENDATIONS



10.1 RECOMMENDATIONS THAT HAVE BEEN FULLY COMPLIED WITH

None of the recommendations made by UHRC were fully complied with in 2017.

10.2 RECOMMENDATIONS THAT HAVE BEEN PARTIALLY COMPLIED WITH

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 four years, 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'* 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.

UHRC urges 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 those prisoners' rights.

Ministry of Justice and Constitutional Affairs should seek more funds from Ministry of Finance, Planning and Economic Development for a one-off clearance of the current outstanding UHRC awards and should promptly pay all tribunal awards.

In November, 2016, H.E. Yoweri Kaguta Museveni, the President of Uganda, directed 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 2017/2018.³⁶⁸

In addition, in 2017, there was a major change arising from the decentralization of payments to ministries, departments and agencies which arose from the Budget Call Circular FY2016/2017 dated 9th September 2015 Ref. BPD 86/107/02 from the Permanent Secretary/Secretary to the Treasury coupled with a Directive from His Excellency the President of the Republic of Uganda in his letter dated 9th November 2016 which emphasised that all obligations that arose in the period in review and onwards are to be settled by the responsible MDAs.

In 2017, a total of 146 tribunal awards were forwarded to the MDAs for payment. Of these, eighty-eight (88) tribunal awards were forwarded to the Inspector of General of Police, and fifty-eight (58) awards were forwarded to the ministry of Defence and Veterans Affairs. In total, the awards amount to UGX 1,428,387,534. The outstanding tribunal awards as per 31st June 2016 totaled UGX 2,021,647,943.

However, UHRC is so much concerned about allegations of bribery and corruption in processing this compensation money from Ministry of Justice and Constitutional Affairs (MOJA). A number of victims of human rights violations alleged that officials in the ministry asked for bribes and yet most victims were indigent. In addition, UHRC was concerned that there was no clear mechanism or strategy in MOJA to follow up the decentralisation of payments. Above all, MDAs did not have a specific budget for the UHRC Tribunal awards.

UHRC continues to urge MOFPED to allocate the required funds to the MDAs to clear their current outstanding UHRC awards. UHRC further requests to be part of the Awards Committee that is responsible for managing the awards given to victims of human rights violations.

368 Letter officially signed by H.E Yoweri Kaguta Museveni on Guidance to the Justice, Law and Order Sector dated 9th November 2016.

Parliament should ensure the effective application of the human rights checklist in order to enact human rights compliant laws including those regulating the media.

In 2016, the Commission noted the need for MPs to acquire basic training in human rights, application of the human rights checklist and the Human Rights Based Approach (HRBA). Consequently, in November 2016, UHRC and the Foundation for Human Rights Initiative (FHRI) organised a joint training for MPs on HRBA, application of the checklist and Treaty Body mechanisms. At this meeting, Members of Parliament made a recommendation that the human rights checklist be reviewed to make it more applicable to all committees of Parliament.

In 2017, UHRC, with support from Office of the United Nations High Commissioner for Human Rights (OHCHR), organised a technical meeting on equality, non-discrimination and development of human rights checklists for selected human rights committees. This followed the need to review the current Human Rights Checklist to allow for wider use by other committees as had been recommended by the Parliamentary Committee on Human Rights.

UHRC urges MPs to adopt and effectively apply the reviewed Human Rights Checklist in order to enact human rights compliant laws including media laws.

UHRC welcomed the plan for MDAs to be tasked to present a certificate of compliance with human rights standards before their reports, budget and proposed activities are approved by Parliament. UHRC urges Government to ensure that issuance of the Certificate of Compliance (CoC) becomes a requirement under the Public Finance and Management Act (PFMA), 2015 and calls upon Parliament and Ministry of Finance, Planning and Economic Development to amend the Act to provide for this.

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 eight years made this recommendation. As at December 2017, there were 91 civil debtors, according to UHRC findings. In FY 2014/2015, Uganda Law Reform Commission (ULRC) conducted a study to review the Civil Procedure Act Cap 71 and Statutory Instrument 71-1 following which relevant amendment bills were drafted and forwarded to MOJCA. In addition, in 2016, ULRC started the review of the Trial on Indictments Act Cap 23 and other relevant laws to bring them in line with UHRC's recommendation. By the end of 2017, no bill had been tabled before Parliament.

UHRC further urges ULRC and Parliament to take expeditious action on this recommendation.

Uganda Law Reform Commission, Ministry of Water and Environment and National Environment 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.**

During FY 2016/2017, ULRC undertook 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; and flexible land dispute resolution mechanisms that would guarantee certainty and predictability in resolving land disputes, among others.

NEMA reported having developed a draft National Environment Management Policy (2017) in collaboration with the First Parliamentary Counsel to provide technical drafting guidance and identified technical officers from various MDAs to support the drafting process. By end of 2017, the policy had not yet been passed.

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.

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 freedom of speech and expression.

UHRC has made this recommendation since 2015. In 2016, ULRC reported that it had planned for the review of the said laws to be considered during the subsequent planning cycle in 2018. By the time of writing this report, no feedback had come from ULRC on this issue.

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.

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 five years. In its 18th Annual Report, UHRC urged ULRC to simplify three key laws; namely, the Land Act Cap 227 as amended; the Persons with Disability Act of 2006; and the Children (Amendment) Act of 2016.

In 2016, ULRC informed UHRC that the simplification of at least two key laws was planned and budgeted for every financial year and that so its implementation depended on availability of resources. In this regard, ULRC reported having previously simplified a number of laws 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, 2010.³⁶⁹

Uganda Law Reform Commission indicated in 2016 that simplification of the three key recommended laws would be planned for in the subsequent financial years. However, in FY 2016/2017, ULRC was undertaking simplification of the East African Community Customs Management Act, 2004 to sensitise the public and implementers of the law within the East African region but no feedback was given on the three specified laws.

UHRC calls on MoPFED to allocate adequate funds to ULRC to undertake this task.

369 <http://www.ulrc.go.ug/content/translation-constitution-alur-lugbarati-lusoga-and-lumasaaba-languages> Accessed on 27th February 2018.

ULRC should translate the Constitution into local languages

UHRC has been making this recommendation for the last eight years. Article 4(a) of the Constitution requires the state to promote public awareness of the Constitution through translating it into Ugandan languages and disseminating it as widely as possible. The Constitution provides in Article 1(1) and in the National Objectives and Directive Principles of State Policy, that it is the duty of every citizen to acquaint himself or herself with the provisions of the Constitution in order to uphold and defend it. Therefore, translation of the Constitution does not only promote public awareness about it but also enhances its usability, thereby improving access to justice.

ULRC indicated that in FY 2016/2017, the Constitution was being translated into four languages: Dhur-Alur, LugbaraTi, Lumasaba, and Lusoga since late 2016.³⁷⁰ The project was expected to be completed by 30th June 2017 and more translations would continue to be phased to the subsequent planning period. The Constitution had previously been translated into Luganda, Runyoro-Rutooro, Acholi and Langi.

ULRC also reported a process of developing a compendium of all the repealed Constitutions of Uganda to document the history of constitutional development in independent Uganda and provide a consolidated reference document. The various laws that either directly amended the various constitutions or made reference to them were identified and collated.

UHRC urges ULRC to complete the translation of the Constitution into all local languages.

ULRC should expeditiously review the laws relating to corruption.

In 2016, ULRC reported its plans to conduct a study during FY 2017/2018 for legislative proposals on proceeds of crime. This would facilitate the tracing and forfeiture of proceeds of crime in general, including corruption-related transgressions. Financial Intelligence Authority, mandated to monitor, investigate and prevent money laundering, is now operational. By the time of writing this report, however, no feedback had been received from ULRC on this issue.

Government should expedite the process of passing a Legal Aid Policy to ensure access to justice for all.

The 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. A draft National Legal Aid Policy and the Legal Aid Bill to strengthen and harmonise legal aid services were prepared in 2016 and were before Cabinet for consideration and approval. A cost-benefit analysis for the policy and the bill was prepared in 2016 to inform the Cabinet discussions on the proposals. The proposed legal aid framework espouses services to the vulnerable persons including domestic workers. By the end of December 2017, Cabinet had not yet approved them.

In 2017, a group of 54 legal aid service providers called on Parliament to speed up the discussions on the proposed bill when tabled because the delays by MOJCA to table it was perpetuating human rights abuses against vulnerable groups. The chairperson of the Greater North Parliamentary Forum (GNPF), Mr. Lyandro Komakech, promised to mobilise legislators to see that the bill gets enacted into law by 2018.

UHRC urges Government to expedite the process so that the policy and the bill are passed.

370 <http://www.ulrc.go.ug/content/translation-constitution-alur-lugbarati-lusoga-and-lumasaaba-languages> Accessed on 27th February 2018.

Ministry of Finance, Planning and Economic Development should fully fund UHRC especially the civic education mandate to avoid the challenges associated with dependence on external financial support which has proved to be unreliable.

Following the directive of President Yoweri Kaguta Museveni to MoFPED to ensure UHRC does not depend on donors; and the instruction to ensure that Government's contribution to UHRC increases over time, UHRC received UGX 2.3 billion in FY 2016/2017 specifically for civic education. UHRC commends Government for this initiative. However, more financial support is needed for civic education.

UHRC further calls upon MoFPED to implement the president's directive and fully fund UHRC.

Uganda Registration Services Bureau should ensure countrywide registration of births in Uganda to address the issue of age determination of children.

UHRC established that by 4th November 2017, the total number of people registered were 28,141,340 (18,141,340 adults and 10,000,000 children) of which 15,141,340 were issued with IDs. The total number of those assigned a National Identification Number (NIN) was 24,400,000. UHRC urges National Identification and Registration Authority (NIRA) to complete the registration exercise.

Government should enact a law on the minimum wage.

This recommendation has been made over the years in the 15th, 16th, 18th and 19th Annual Reports and in UHRC's special report on Workers' Rights.³⁷¹ UHRC was informed by the chairperson of the Parliamentary Committee on Human Rights that a Minimum Wage Bill, 2016 had been tabled before Parliament for the first reading and it was yet to be scrutinised. The bill, if passed into law, would address the gaps in the existing laws on workers including domestic workers.

In addition, in 2017, a Government-appointed committee assigned to determine the viability of setting a national minimum wage recommended UGX 136,000 per month. This would also apply to domestic workers employed in the country.³⁷²

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.

A review of the Employment Act was undertaken by ULRC with the view of aligning it to international standards. It addressed issues of migrant workers, sexual harassment at work, domestic workers, employment of children and labour export. The review made recommendations on streamlining administration and implementation of the Act; and resolution of labour disputes. The study report was forwarded to the MoGLSD.

Government should roll out the Senior Citizens Grant for Empowerment to all older persons above 60 years.

Ministry of Gender, Labour and Social Development reported to the Parliamentary Committee on Human Rights in 2017 that they opted for the phased implementation due to the budgetary implications a national rollout plan would have. In the ministry's analysis, coverage of all older persons aged 60 and above with a grant to UGX 25,000 per month would reach a population of 1.5 million and cost UGX 437.6 billion annually inclusive of attendant costs compared to UGX 250 billion required annually to reach all older persons aged 65 and above. The current model (100 older persons per sub-county) requires UGX 102 billion annually.

371 Workers' Rights: A Perspective on the Enjoyment of Rights of Factory Workers in Uganda. UHRC. 2011; and UHRC 16th Annual Report. Chapter 11. page 207.

372 <http://www.monitor.co.ug/News/National/Government-sets-Shs136000-minimum-wage/688334-3952236-dtv5xs/> Accessed on 6th March 2018.

Therefore, Government opted for a phased approach with a plan to roll out to additional 40 districts over the FYs 2015/16-2019/20. UHRC recommends that all districts should benefit from the Senior Citizens Grant for Empowerment to avoid discriminating against the others.

Ministry of Gender, Labour and Social Development should design a national policy to recognise the fundamental rights and freedoms of ethnic minorities and develop deliberate measures to protect their existence and ethnic, cultural religious and linguistic identity through promotion of strategies such as exchange/ exposure visits of ethnic minorities.

This recommendation has been made over the years. MOGLSD reported working with the United Nations Desk on Indigenous People to develop a National Policy and Action Plan on Ethnic Minorities to promote and protect their rights.

Government should comply with its reporting obligations under the international instruments in a timely manner.

In 2015, Government submitted three outstanding initial reports on the ICESCR, CRPD, and International Convention on the Rights of Migrant Workers and Members of Their Families (CMW) on which concluding observations were made by the respective treaty bodies. Government also submitted its second UPR report in March 2016 which was reviewed in November 2016 by the Working Group on the UPR at its 26th Session.

In 2017, Government of Uganda undertook regional consultations on the report on the Convention on the Rights of the Child. The final report was expected to be submitted this year. Government also developed the 6th Periodic report to the African Commission on Human and Peoples' Rights which was presented in November 2017 at the 61st Ordinary Session of the Commission held in Banjul, the Gambia.

Regarding the draft National Action Plan (NAP) on Human Rights, Government hired a consultant to complete the process of developing it. In addition, after the adoption of the UPR 2 report in March 2017, it was agreed that its recommendations and outcomes be integrated in the draft NAP.

In 2017, a study was undertaken by the ministry of Foreign Affairs which is charged with ratification of treaties, to determine which ones were urgent and pending ratification. Thereafter, Cabinet papers were drafted to facilitate the process of ratification of eight treaties.

UHRC continues to urge Government to fulfil its reporting obligation to the treaty bodies in a timely manner.

Parliament should holistically consider fair trial guarantees and freedom from torture, cruel, inhuman and degrading treatment or punishment that underpin Article 22(1) and Article 24 for the purposes of amending Article 22(1) of the 1995 Constitution.

A private member's bill, Law Revision (Penalties in Criminal Matters) Miscellaneous Amendment Bill, 2015 proposed doing away with the death penalty progressively. However, it did not consider revising the mode of delivery of the death penalty, which the Supreme Court held, in Susan Kigula's petition to the Constitutional court, that it should be reviewed by Parliament.

The Judicial Service Commission should recruit more judicial officials

In order to fill the existing gaps in the courts of judicature, 14 new judges were appointed in 2017. UHRC was, however, concerned about the small number of lower judicial officers to hear the numerous criminal cases within that jurisdiction. In January 2017, there was a redefinition and creation of magisterial areas to the effect that there are 82 magisterial areas with various Chief Magistrate's Courts and Magistrates Grade One Courts across the country.³⁷³ However, these courts have not been fully operationalised and in some places where they were operational, one judicial officer presides over more than one court.

373 The Magistrate Courts (Magisterial Areas) Instrument, 2017; Statutory Instrument No. 11 of 2017 that revoked Statutory Instrument No. 45 of 2007.

Ministry of Health and National Medical Stores should train health workers on the procedures of proper requisition of essential drugs and supplies to eliminate instances of over prescriptions and drug shortages.

As recommended by UHRC in its 19th Annual Report, the National Medical Stores (NMS) trained facility in-charges on putting together procurement plans and reminded them to align their requisitions to these procurement plans. However, there is a big turnover of health workers in these facilities that requires training of new ones. The ministry of health has a Uganda Clinical Guideline that should aid rational prescriptions. However, irresponsible and irrational prescription persists as this errant behaviour is not punishable either through disciplinary procedures or in courts of law.

Ministry of Health and the National Medical Stores should supply adequate essential medicines, supplies and equipment to all health facilities on time.

Essential medicines and supplies were supplied on time according to NMS published delivery schedule that is known by health facilities. However, the quantity supplied by NMS to health facilities was limited by the budget appropriated by Parliament. The Accounting Officer of NMS cannot commit Government beyond funds made available to him/her as it would be in violation of the Public Finance Management Act (PFMA). The main challenge, therefore, is the limited budget appropriated by Parliament. In view of this, there is need for sector-wide and government-wide efforts of preventive health since 75% of diseases and disease conditions are preventable and emanate from inaction by other sectors such as Agriculture, Water and Sanitation, Transport and Works and Security (law and order sector).

Ministry of Water and Environment should address over-exploitation of water resources that threatens resource sustainability through strict enforcement of existing laws, policies and regulations.

Enforcement was done through the permitting system where water users are mapped and given permits with conditions to follow. These included surface water abstraction, groundwater abstraction and construction, wastewater discharge, drilling and dredging licence. Compliance of the permit holders was at 65% for wastewater discharge permits and 79% for water abstraction permits. However, the challenge was the limited funding to do enforcement activities and also map water users.

Ministry of Water and Environment should design water-harvesting systems for Karamoja so as to facilitate irrigation and/or mitigate the effects of floods.

The ministry was committed to implementing interventions in the Karamoja sub-region. Through these interventions, storage capacity of 8,007,000 cubic metres was created to serve 1,270,952 head of cattle for a continuous dry spell of six months³⁷⁴. The ministry's strategic direction for Karamoja provided for the development of at least one medium-size communal valley tank per parish and one strategic multi-purpose dam per sub-county. Out of the targeted 43 strategic dams, five have been completed: Kobebe dam in Matheniko County (Moroto), Arechek dam in Bokora County (Napak), Longorit dam in Dodoth County (Kaabong), Kailong dam in Jie County (Kotido) and Kawomeri dam in Labwor County (Abim).

The ministry of Water and Environment planned 14 large dams for multi-purpose uses including domestic, irrigation, livestock watering and aquaculture, estimated to cost USD 200 million. A total of 84 parish-level communal valley tanks out of the targeted 191 were completed in the seven districts of Karamoja; Moroto (10), Napak (10), Amudat (9), Kaabong (19), Kotido (16), Abim (11) and Nakapiripirit (9) using the four sets of ministry-owned equipment deployed in the region. The ministry planned to procure three additional sets of equipment by FY 2019/20 so that each district is allocated one.

Ministry of Water and Environment planned to reconstruct Namatata dam in Nakapiripirit district at a cost of USD 10,000,000 with funds from Islamic Development Bank and Longore dam in Kotido district at a cost of

374 Ministry of Water and Environment, official correspondence with the Ugandan Human Rights Commission dated 15th February, 2018.

USD 6,200,000. Feasibility studies were completed in several sites for multi-purpose water storage facilities as well as the proposal for development of irrigation schemes in Namalu and some of the strategic storage reservoirs (Arechek and Longoritmit). Construction of four small-scale irrigation schemes was ongoing in Abim (1), Kaabong (2), and Napak (1) districts. However, there were increasing demands on the budget allocation of Karamoja sub-region.

JLOS should strengthen the District Coordinating Committees in order to address the issue of prolonged detention and improve access to justice.

JLOS implemented the revised District Coordinating Committees (DCCs) Guidelines to further strengthen them. Regional Chain-linked Committees (RCCs) and the Chain-linked Advisory Board at national level were operational to provide oversight to the DCCs and address issues raised both at the district and regional levels. The issue of prolonged detentions and challenges in access to justice were brought to the attention of these committees and the Board and were being progressively addressed through regular inspections of detention facilities by DCCs (monthly) and RCCs (quarterly), among others. Other JLOS oversight mechanisms such as the JLOS Inspectors' Forum, the JLOS Integrity Committee and the JLOS Working Groups also handled the issues.

Develop a strategy of addressing physical access for vulnerable persons such as persons with disabilities in already existing JLOS structures that are inaccessible.

This recommendation was made by UHRC from 2012 to 2014. UHRC heard 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. Subsequently, all JLOS-supported construction projects are tested for compliance with physical access for PWDs. The JLOS Construction Committee takes primary charge of ensuring such compliance.

An infrastructure development plan that addressed concerns of PWDs was prepared and consequently all JLOS MDAs progressively adapted existing premises to accommodate physical access of PWDs. This is a continuous process to be amplified under the JLOS PWD Action Plan. A draft sector action plan for mainstreaming rights and interests of PWDs was developed and will be finalised this financial year.

JLOS should strengthen the method of diversion of children from the criminal justice system including through mediation and arbitration.

UHRC has recommended this over the past six years. The development of National Diversion Guidelines for Juvenile Justice was revisited upon advice from First Parliamentary Counsel (FPC) and the Police Guidelines under section 89 of the Children Act were awaiting approval by the Uganda Police Force leadership.

JLOS implemented various diversion initiatives targeting children, including frameworks development and training to build capacity. In its semi-annual report 2017/2018, JLOS indicated that the rate of diversion across the sector institutions stood at 75%. In order to create a pool of trained mediators and conciliators, national and regional trainings on Alternative Dispute Resolution (ADR) were conducted countrywide for staff in targeted institutions with dispute resolution mandates. A total of 466 key personnel (364 technical officers and 102 support staff) in the adjudication of civil justice were trained. They included judicial officers, advocates and officers from sector institutions with civil dispute resolution structures and legal aid service providers. The regional mediation trainings were conducted in Mbale, Kampala, Arua, Gulu and Mbarara. Frontline JLOS criminal justice institutions such as UPF, DPP, Judiciary and probation officers were also trained on diversion under the Children (Amendment) Act, 2016. JLOS also supported strategic programmes and projects such as the Justice for Children (J4C) and the LDC Diversion project.

In addition, ADR information materials were also developed, including Mediation training manuals, Mediators' manuals, Gender Handbook and Code of Conduct, and were presented before the Rules Committee for consideration.

JLOS should develop a Transitional Justice Policy

A draft National Transitional Justice Policy was developed to enhance legal and political accountability, promote reconciliation, foster social reintegration and contribute to peace and security. The policy, which recommends a framework to guide the implementation of Transitional Justice programmes, will be sponsored jointly to Cabinet by the ministry of Internal Affairs and MOJA.

UHRC urges Government to expeditiously approve the policy.

JLOS should support improvements in the broader governance context, including access to justice through creation of more police posts, and adequate facilitation of sector institutions dealing with fishing communities.

The sector and UPF desire to have police posts at all sub-counties in the country. In this regard, the UPF coverage of sub-counties was at over 98% in 2016, i.e. a total of 1,376 police posts nationwide, short of the 1,403 the total number of sub-counties in the country by 27 posts owing to resource constraints. The challenge is mainly the inability to keep up with the pace of creation of new districts, counties, and sub-counties. The personnel strength of Uganda Police Force remained grossly inadequate at 44,601 against the optimal requirement of 74,002 personnel, creating a gap of 40% in human resource as at May 2016. Therefore, UPF needed to recruit an additional 42,786 personnel at a cost of UGX 175.4bn over five years, excluding the additional UGX 14.1bn required for the annual training needs.

Ministry of Energy and Mineral Development should adequately facilitate requests for access to information in respect to the extractive industry.

The ministry of Energy and Mineral Development put up websites that host most of the information in the extractive industry in the country particularly the oil and gas as well as the minerals sector. The ministry also undertook engagements with different stakeholders in the country through radio talk shows, sensitisation meetings, workshops and seminars during which documents such as policies, laws and regulations on the extractive industry were distributed.

The ministry also ran libraries within the directorates responsible for the extractive industry and encouraged different institutions/individuals to utilise them. Popular versions of most of the key documents were also developed and translated into different local languages. UHRC urges Government to fully comply with this recommendation.

The Office of the Prime Minister, Ministry of Energy and Mineral Development, Ministry of Water and Environment and humanitarian partners should provide refugees with alternative energy options in order to save the environment since they purely depend on wood fuel for cooking.

Ministry of Energy and Mineral Development promoted the use of solar energy and biogas as alternatives to wood fuel; and provided energy-saving charcoal stoves to communities, including refugees. The ministry was planning through its stakeholders to produce pressurised gas in cylinders as alternative to wood fuel once production of petroleum starts in the country.

However, the ministry was constrained by limited resources; the geographical location of the refugee communities which makes it difficult to effectively and regularly transmit the information aimed at addressing their concerns; and the cost of the facilities that would replace wood as an energy source for the refugees.

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.

The Commission commends Ministry of Justice and Constitutional Affairs for developing the regulations. However, they were not yet adopted by close of 2017.

The 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.

This recommendation was made by UHRC in its subsequent Annual Reports. The Ministry of Public Service has continued to use the biometrics validation of the officers who missed OAG exercise and those recruited thereafter. As a result, MOPS has validated 48,960 more serving officers on the Government pay roll. All validated public officers were compared against the National ID data for authentication. 4,664 records of un-validated public officers and those with name mismatches were removed from the payroll in September 2016. A total of 2,477 records that had irreconcilable mismatches were submitted to IGG for investigation. The Ministry continues to validate Public Officers who the service and match their data against National ID.

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, new born care and HIV/AIDS services especially in the hard-to-reach areas as a way of attracting and retaining health professionals.

The Ministry approved the structure of health through Cabinet. A consultant was engaged to make adjustments which were approved by Cabinet and the adjustment was also approved by Minister of Public Service in line with restructuring Guidelines.

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.

Consultations with MDAs, the Commission and other stakeholders were undertaken and a pay policy was approved by Cabinet.

10.3. RECOMMENDATIONS NOT COMPLIED WITH AT ALL

Just like last year, UHRC is still concerned about the failure of Government MDAs to comply with some of its recommendations at all, some of which date back to about 11 years. The inaction of these MDAs raises serious concern for the protection and promotion of human rights. Therefore, UHRC urges the concerned MDAs to expeditiously act on these recommendations.

1. Ministry of Health should categorise the, and, lotions, sunglasses and hats that are appropriate for persons living with albinism as essential drugs and costumes, and provide them free of charge. This recommendation was first made in 2015.
2. Government through 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.
3. Government through Parliament and 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.
4. 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.
5. Uganda Law Reform Commission and Ministry of Justice and Constitutional Affairs should harmonise the Kampala Capital City Authority Act, Uganda Wildlife Authority Act and the National Environment Management Act to avoid contradictions in their implementation. This recommendation was first made in 2016.
6. 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.
7. Ministry of Foreign Affairs should ratify the 1993 Hague Convention on Protection of Children and Cooperation in Respect to Intercountry Adoption of Children.
8. 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, Planning 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. Ministry of Foreign Affairs should ratify the Optional Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons.
11. Ministry of Foreign Affairs should ratify the 2nd Optional Protocol to the ICCPR. The recommendation has been made over the last seven years.
12. Ministry of Foreign Affairs should ratify the 3rd Optional Protocol to the CRC. The recommendation was made over the last two years.
13. Ministry of Foreign Affairs and 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.
14. Parliament and the relevant ministries should ensure the enactment of legislation in line with Article 8(A) of the Constitution as amended.

15. The 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.
16. Uganda Police Force, Uganda Prisons Service and Uganda People's Defence Forces should be availed adequate resources to ensure that detainees are clothed and provided with basic beddings and ensure that those living with HIV/Aids access antiretroviral drugs.
17. 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.
18. Ministry of Finance, Planning and Economic Development should increase funding to Uganda Prisons Service, Uganda Police Force, Uganda People's Defence Forces and the ministry of Gender, Labour and Social Development to ensure that the rights of inmates and staff are respected.
19. Ministry of Finance, Planning and Economic Development should provide adequate Capital Development to enable UHRC establish more regional offices as well as procure vehicles for regional offices and speed boats for Kalangala and Buvuma islands.
20. Government, through the ministry of Finance, Planning and Economic Development, should provide funding for political parties as well as fully enforce the financing regulations established by the Political Parties and Organisations Act, 2005 in order to address the monetisation of elections.
21. Ministry of Finance, Planning and Economic Development should provide a specific budget allocation for the response to and management of disasters.
22. Ministry of Finance, Planning and Economic Development should allocate more funding to the 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.
23. 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 Sustainable Development Goals and Health Sector Strategic and Investment Plan (HSSIP) targets.
24. Ministry of Health, Ministry of Trade, Industry and Cooperatives and Parliament should table and enact the Alcoholic Drinks Control Bill, 2016 to 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.
25. Uganda Communications Commission and the ministry of Information and Communications 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.
26. Ministry of Finance, Planning and Economic Development should ensure that the Retirement Benefits Sector Liberalization Bill, 2011 complies with human rights standards.
27. 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 as provided for in the Abuja Declaration in order to improve on access to essential health goods and services.
28. Government, through the ministry of Finance, Planning and Economic Development, should fund UHRC 100% in accordance with the requirements of the UN Principles Relating to the Status of National Institutions (Paris Principles).
29. Ministry of Information and Communications Technology should expeditiously table the Data Protection and Privacy Bill, 2015 in Parliament for consideration.

30. Ministry of Information and Communications Technology, Uganda Communications Commission and National Information Technology Authority should intensify their efforts to increase public awareness in respect to digital technology.
31. Ministry of Information and Communications 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.
32. Ministry of Water and Environment should ensure development and implementation of a flood management strategy for all districts prone to floods with a focus on de-silting rivers.
33. Uganda Communications Commission and the ministry of Information and Communications 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.
34. Uganda Communications Commission should 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.
35. The 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 on violation of personal liberty.
36. Government, through Ministry of Finance, Planning and Economic Development and Parliament, should provide adequate and timely funding to the Electoral Commission to enable it prepare for and manage the elections to expectation.
37. Ministry of Public Service should review and approve the new staff structure to enable Uganda Human Rights Commission improve on its staffing levels.
38. Ministry of Health and Ministry of Public Service should recruit and fill vacancies in health facilities as per the demands of human resources staffing forms. There was no action taken in this regard because there were no resources to recruit additional staff in FY 2018/19 in view of government directive on pay harmonization.
39. 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.
40. 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.
41. 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.
42. 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.

TABLE 12: SUMMARY OF GOVERNMENT COMPLIANCE WITH UHRC RECOMMENDATIONS

NO RECOMMENDATION MADE BY UHRC WAS FULLY COMPLIED WITH IN 2017			
s/n	Recommendation	Partially complied with	Not complied with
	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.		
	Ministry of Justice and Constitutional Affairs should appropriate funds from the ministry of Finance, Planning and Economic Development for a one-off clearance of the current outstanding UHRC awards and should promptly pay all tribunal awards.		
	Parliament should ensure the effective application of the human rights checklist in order to enact human rights compliant laws including those regulating the media.		
	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.		
	Uganda Law Reform Commission, Ministry of Water and Environment and National Environment 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.		
	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.		
	Uganda Law Reform Commission should simplify key laws in place so that the general public knows and appreciates them.		
	ULRC should translate the Constitution into local languages.		
	ULRC should expeditiously review and strictly implement the laws relating to corruption.		
	Justice, Law and Order Sector should strengthen legal aid services and ensure that aggrieved domestic workers access justice in a timely and fair manner.		
	Government should expedite the process of passing a legal aid policy to ensure access to justice for all.		
	Ministry of Finance, Planning and Economic Development should fully fund UHRC, especially the civic education mandate, to avoid the challenges associated with dependence on external financial support which has proved to be unreliable.		
	Uganda Registration Services Bureau should ensure there is countrywide registration of births in Uganda to address the issue of age determination of children.		
	Government should enact a law on the minimum wage.		
	Government should roll out the Senior Citizens Grant for Empowerment to all older persons above 60 years.		

NO RECOMMENDATION MADE BY UHRC WAS FULLY COMPLIED WITH IN 2017			
s/n	Recommendation	Partially complied with	Not complied with
	Ministry of Gender, Labour and Social Development should design a national policy that seeks to recognise the fundamental rights and freedom of ethnic minorities 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.		
	Government should comply with its reporting obligations under the international instruments in a timely manner.		
	Parliament should holistically consider 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.		
	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.		
	The Judicial Service Commission should recruit more judicial officials.		
	Ministry of Health and National Medical Stores should train health workers on the procedures of proper requisition of essential drugs and supplies to eliminate instances of over prescriptions and drug shortages.		
	Ministry of Health and National Medical Stores should supply the adequate number of essential medicines, supplies and equipment to all health facilities on time.		
	Ministry of Water and Environment should address over-exploitation of water resources that threatens resources sustainability through strict enforcement of existing laws, policies and regulations.		
	Ministry of Water and Environment should design water-harvesting systems for Karamoja so as to facilitate irrigation and/or mitigate the effects of floods.		
	JLOS should strengthen the district coordinating committees in order to address the issue of prolonged detention and improve access to justice.		
	JLOS should develop a strategy of addressing physical access for vulnerable persons such as persons with disabilities in already existing JLOS structures that are inaccessible.		
	JLOS should strengthen the method of diversion of children away from the criminal justice system, including through mediation and arbitration.		
	JLOS should develop a Transitional Justice Policy.		
	JLOS should support improvements in the broader governance context, including access to justice through creation of more police posts, adequate facilitation of Justice, Law and Order Sector institutions dealing with fishing communities.		
	Ministry of Energy and Mineral Development should adequately facilitate requests for access to information, especially concerning information in respect to the extractive industry.		

NO RECOMMENDATION MADE BY UHRC WAS FULLY COMPLIED WITH IN 2017

s/n	Recommendation	Partially complied with	Not complied with
	Office of the Prime Minister, Ministry of Energy and Mineral Development, Ministry of Water and Environment and humanitarian partners should provide refugees with alternative energy options in order to save the environment since they purely depend on wood fuel for cooking.		
	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.		
	Ministry of Health should categorise the skin drugs, lotions, sunglasses and hats that are appropriate for persons living with albinism as essential drugs and costumes and provide them free of charge. This recommendation was first made in 2015.		
	Government, through 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.		
	Government, through Parliament and 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.		
	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.		
	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 Environment Acts to avoid contradictions in their implementation. This recommendation was first made in 2016.		
	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.		
	Ministry of Foreign Affairs should ratify the 1993 Hague Convention on Protection of Children and Cooperation in Respect to Intercountry Adoption of Children.		
	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.		
	Ministry of Justice and Constitutional Affairs and Ministry of Finance, Planning and Economic Development should establish a Victims Compensation Fund so as to enable timely compensation of victims of human rights violations.		
	Ministry of Foreign Affairs should ratify the Optional Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons.		
	Ministry of Foreign Affairs should ratify the 2 nd Optional Protocol to the ICCPR.		

NO RECOMMENDATION MADE BY UHRC WAS FULLY COMPLIED WITH IN 2017			
s/n	Recommendation	Partially complied with	Not complied with
	Ministry of Foreign Affairs should ratify the 3 rd Optional Protocol to the CRC.		
	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.		
	Parliament and the relevant ministries should ensure the enactment of legislation in line with Article 8(A) of the Constitution as amended.		
	Expediently 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.		
	UPF, UPS and UPDF 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 antiretroviral drugs.		
	MoFPED 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.		
	Ministry of Finance, Planning and Economic Development should increase funding to the Uganda Prisons Service, Uganda Police Force, Uganda People's Defence Forces and Ministry of Gender, Labour and Social Development to ensure that the rights of inmates and staff are respected.		
	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.		
	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 monetization elections.		
	Ministry of Finance, Planning and Economic Development should provide a specific budget allocation for the response to and management of disasters.		
	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.		
	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 Sustainable Development Goals and HSSIP targets.		

NO RECOMMENDATION MADE BY UHRC WAS FULLY COMPLIED WITH IN 2017

s/n	Recommendation	Partially complied with	Not complied with
	Ministry of Health, Ministry of Trade, Industry and Cooperatives and Parliament should table and enact the Alcoholic 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.		
	Uganda Communications Commission and Ministry of Information and Communications 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.		
	Ensure that the Retirement Benefits Sector Liberalisation Bill complies with human rights standards.		
	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.		
	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.		
	Ministry of Information and Communications and Technology should expeditiously table the Data Protection and Privacy Bill in Parliament for consideration.		
	Ministry of Information and Communications and Technology, Uganda Communications Commission and National Information Technology Authority should intensify their efforts to increase public awareness in respect to digital technology.		
	Ministry of Information and 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.		
	Ministry of Water and Environment should ensure development and implementation of a flood management strategy for all districts prone to floods with focus on de-silting rivers.		
	UCC and the ministry of Information and Communications 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.		
	UCC should 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.		
	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 violation of personal liberty.		
	Provide adequate and timely funding to the Electoral Commission to enable it prepare for and manage the elections to expectation.		



Chapter 11:

Highlights of UHRC interventions in 2017

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11.0 INTRODUCTION

This chapter presents highlights of the interventions carried out by Uganda Human Rights Commission in 2017. These interventions were in fulfilment of the constitutional mandate of UHRC as stipulated in Article 52 of the Constitution of Uganda. The chapter covers interventions under complaints, investigations and legal services; monitoring and inspections of detention facilities; human rights and civic education; as well as finance and administration.

11.1 HIGHLIGHTS OF INTERVENTIONS ON COMPLAINTS MANAGEMENT

Article 52 (1) (a) of the Constitution mandates 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 UHRC powers of a court to issue summons or other orders requiring the attendance of any person before it 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 UHRC; and to commit persons for contempt of its orders. The Constitution also gives UHRC powers to pay compensation or order for any other legal remedy or redress in the event of a human rights violation. This section provides highlights on complaints management by UHRC in 2017.

11.1.1. Complaints received and registered

UHRC received³⁷⁵ a total of **5,021** complaints in 2017, which was a 16% increase from the 4,220 received in 2016. The increase in the number of people that sought the services of UHRC might have been because UHRC had intensified its human rights education activities. The awareness creation activities conducted included radio talk shows, community baraza and the road shows using civic education vans. Through these activities, people were able to know about UHRC and where its offices are located hence the increase in the number of people that lodged complaints at the Commission.

Out of the total number of complaints received, **682** were registered as complaints raising alleged human rights violations as guided by the UHRC admissibility criteria. For the complainants whose matters did not fall within the Commission’s jurisdiction, they were advised accordingly or referred to other institutions for appropriate management of their complaints.

375 The complaints received represent all matters reported to UHRC, whether admissible or not.

Table 13 below shows the number of complaints received³⁷⁶ in 2017, while Table 14 shows the number of complaints registered³⁷⁷ by the various regional offices of UHRC in 2017.

TABLE 13: COMPLAINTS RECEIVED IN 2017

Arua	Central	Fort Portal	Gulu	Hoima	Jinja	Masaka	Mbarara	Moroto	Soroti	Head Office	TOTAL
304	349	602	417	283	331	431	953	190	466	695	5,021

TABLE 14: COMPLAINTS REGISTERED IN 2017

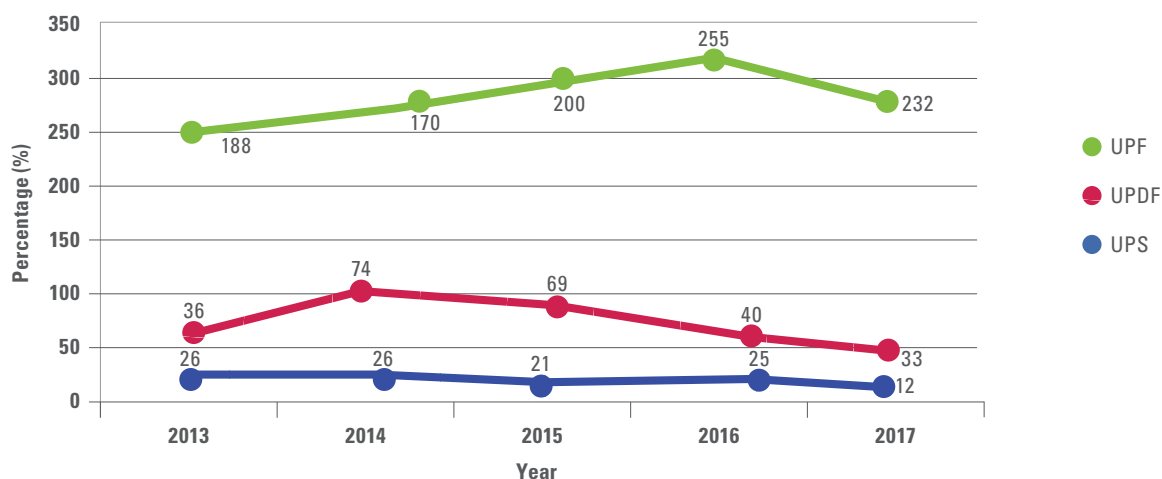
Arua	Central	Fort Portal	Gulu	Hoima	Jinja	Masaka	Mbarara	Moroto	Soroti	Total
40	110	52	67	72	38	97	82	57	67	682

An increase in the number of complaints registered was noted in the regional offices of Central, from 86 complaints in 2016 to 110 in 2017 (27%); and Hoima from 54 in 2016 to 72 in 2017 (33%). This could be attributed to the fact that these two regional offices were implementing a special project funded by GIZ that involved conducting human rights education activities and mobile complaints handling clinics.

Complainants disaggregated by gender

The Commission registered a total of **734** complainants in matters that raised human rights violations, of which the majority were male as was the case in the previous years. Of the 734 complainants whose matters were registered, 513 (70%) were men and 221 (30%) were women as illustrated in Figure 29 below.

FIGURE 29: GENDER OF COMPLAINANTS



One of the reasons that more men reported complaints to UHRC than women could be the nature of alleged violations that are mostly reported (torture and personal liberty) are mostly experienced by men. Men are usually more in conflict with the law; hence they are more prone to having their human rights violated. Most complaints registered by women were related to family matters or children's rights.

³⁷⁶ Ibid 1

³⁷⁷ Complaints registered are those that meet the admissibility criteria of human rights violations handled by UHRC.

11.1.2 Nature of alleged human rights violations registered

Table 15 and below show the nature of complaints registered at UHRC regional offices in 2017. It should be noted that the totals in Table 12 vary from those in Table 13 because a single complaint registered may contain two or more alleged human rights violations.

TABLE 15: VIOLATIONS REGISTERED BY THE UHRC REGIONAL OFFICES

ALLEGED VIOLATION	ARU	CTR	FPT	GLU	HMA	JJA	MSK	MBR	MRT	SRT	TOTAL
Torture, cruel, inhuman or degrading treatment or punishment	13	68	20	35	41	20	42	28	17	22	306
Detention beyond 48 hours	21	37	12	31	59	14	31	38	16	31	290
Denial of child maintenance	01	19	18	03	05	03	33	13	18	17	130
Deprivation of property	05	19	04	07	13	03	07	20	07	02	87
Denial of basic education	01	05		03				07	05	09	30
Deprivation of life	04	03	05	06	01	01	01	04	02	02	29
Violation of the right to a fair and speedy trial	01	12				01	01	01	03		19
Denial of remuneration		01	01			05	03	04			14
Violation of the right to health		02		01	01		01	01			06
Denial of the right to work and the right to safe and healthy working conditions		01	01								02
Unlawful termination from work /unfair dismissal						01					01
Unlawful administrative decisions									01		01
Denial of security of person							01				01
Discrimination on grounds of sex, religion, HIV/Aids, disability							01				01
TOTAL	46	167	61	86	120	48	121	116	69	83	917

The alleged violation of the freedom from torture with **306** complaints (33.4%) ranked highest among those registered. Complaints on violation of the deprivation of personal liberty through detention beyond 48 hours followed at **277** (30%). This was unlike in 2016 when the highest number of complaints registered involved the alleged violation of the right to personal liberty followed by complaints on torture. The high number of complaints reported involving torture could be attributed to several factors including the continued use of excessive force by law enforcement and security agencies.

11.1.3 Respondents in human rights complaints registered

Most of the complaints registered were against Uganda Police Force, totalling **419** (55.7%). Private individuals followed with a total of **210** (27.9%) complaints, most of which were about the denial of child maintenance. Complaints registered against the UPDF were **44** (5.8%) and those against Uganda Prisons Service were **25** (3.3%) while those against Local Governments were **11** complaints.

Table 16 show the categorisation of respondents per regional office, while Tables 17 to 18 illustrate the alleged violations against specific respondents.

TABLE 16: CATEGORIES OF RESPONDENTS PER REGIONAL OFFICE

RESPONDENT	ARU	CTR	FPT	GLU	HMA	JJA	MSK	MBR	MRT	SRT	TOTAL
Uganda Police Force	31	81	19	48	63	19	43	48	25	42	419
Private individuals	1	35	28	9	5	7	46	28	23	28	210
Uganda People's Defence Forces	6	3	6	6		2	5	1	13	2	44
Uganda Prisons Service	1	3	2	5	2	4	6	1		1	25
Private business companies	3	6	2			1	3				15
Local Governments						1	6	2	2		11
Education institutions						1	5	1			7
Statutory agencies		3					2	1			6
Kampala Capital City Authority		4									4
Local Defence Units									2	1	3
Private security companies		1					2				3
UWA			1						1		2
Health institutions (Hospitals and HC II & III)							1				1
Cultural institutions/ Clan leaders				1							1
Crime preventers			1								1
NFA					1						1
Rural Electrification Agency					1						1
TOTAL	42	136	59	69	72	35	119	82	66	74	754

FIGURE 31: RESPONDENTS AGAINST NUMBER OF COMPLAINTS

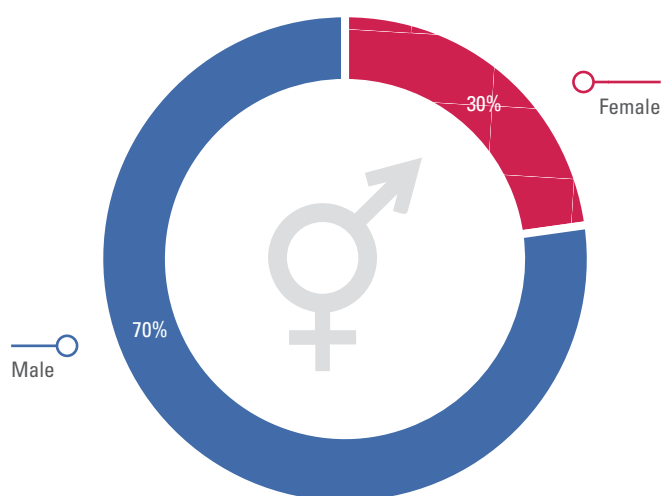


TABLE 17: ALLEGED VIOLATIONS BY UGANDA POLICE FORCE

ALLEGED VIOLATION	ARU	CTR	FPT	GLU	HMA	JJA	MSK	MBR	MRT	SRT	TOTAL
Deprivation of right to personal liberty (detention beyond 48 hours)	31	35	10	30	59	23	31	37	07	31	294
Freedom from torture, cruel, inhuman or degrading treatment or punishment	07	45	11	22	39	24	31	23	09	21	232
Deprivation of life	04	03	02	04		01	01	02			17
Violation of the right to work											
Deprivation of property	01	06	02	03	12		03	20	05		52
Forced labour											
Violation of the right to fair and speedy trial	01	12					03		07		23
Violation of the right to health				01	01			01			03
TOTAL	44	101	25	60	111	48	69	83	28	52	621

TABLE 18: ALLEGED VIOLATIONS BY UGANDA PEOPLE'S DEFENCE FORCES

ALLEGED VIOLATION	ARU	CTR	FPT	GLU	HMA	JJA	MSK	MBR	MRT	SRT	TOTAL
Deprivation of the right to personal liberty (detention beyond 48 hours)	01	02	01	01			02	01	01		09
Torture, cruel, inhuman or degrading treatment or punishment	04	06	05	05		01	05		06	01	33
Deprivation of property	02		01	01		01					05
Deprivation of life			02	01					02	02	07
Denial of fair hearing									01		01
TOTAL	07	08	09	08	-	02	07	01	10	03	55

TABLE 19: ALLEGED VIOLATIONS BY UGANDA PRISONS SERVICE

ALLEGED VIOLATION	ARU	CTR	FPT	GLU	HMA	JJA	MSK	MBR	MRT	SRT	TOTAL
Deprivation of the right to personal liberty (unlawful detention)			01		01		01				03
Torture, cruel, inhuman or degrading treatment or punishment	01	02	01	03	01	04					12
Deprivation of life				02	01			01			04
TOTAL	01	02	02	05	03	04	01	01	-	-	19

Most of the complaints reported against UPF at **294** (47.3%) were in respect of the alleged violation of the right to personal liberty (detention beyond 48 hours). UHRC noted that this was due to delayed investigations by police; non-issuance of police bond to suspects; and the persistent industrial strikes by the DPP's staff and the Judiciary which led to over detention of suspects in police cells as their matters could not be sanctioned or heard.

The highest number of complaints reported against UPDF and UPS involved the alleged violation of the freedom from torture. UHRC's Central and Moroto regional offices registered the highest number of complaints of torture against the UPDF. This was attributed to the fact that the UPDF usually reinforced the Uganda Police Force in several operations in Central region while in Moroto the UPDF were involved in several operations that brought them into contact with the civilian population including disarmament and detention of suspects found in possession of illegal firearms.

The UPF had the highest number of complaints against it involving violation of the freedom from torture and the right to personal liberty. This has consistently been the case for the past five years. Figures 46 and 47 below show the trend of complaints of torture and personal liberty registered against UPF, UPDF and UPS for the past five years.

FIGURE 33: TRENDS OF TORTURE COMPLAINTS REGISTERED AGAINST UPF, UPDF AND UPS IN THE LAST FIVE YEARS

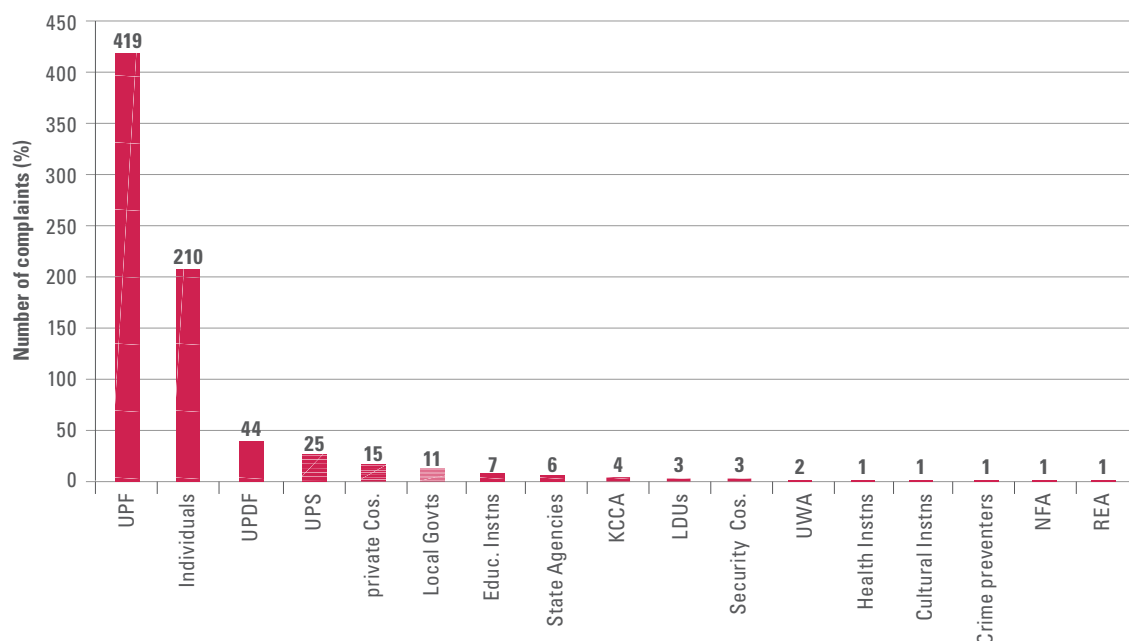
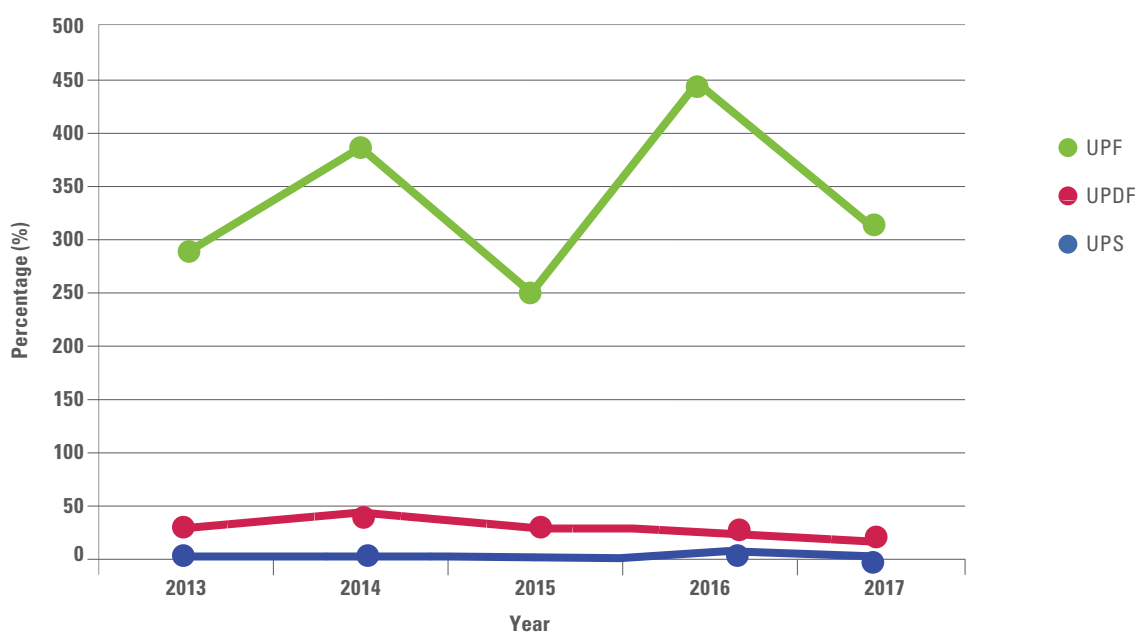


FIGURE 34: TRENDS OF PERSONAL LIBERTY COMPLAINTS AGAINST UPF, UPDF AND UPS IN THE LAST FIVE YEARS



The two figures above show that the complaints against UPDF and UPS involving torture and personal liberty have steadily declined compared to those reported against UPF.

11.1.4. Investigations

In fulfilment of its constitutional mandate, UHRC investigated **1,717** complaints on human rights violations in 2017. Out of these, **815 (47%)** were investigated to completion, while **902 (53 %)** were partially investigated. For complaints 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 20: COMPLAINTS INVESTIGATED PER REGIONAL OFFICE

Regional Office	Backlog (2016 backwards)			Fresh complaints received in 2017		
	Fully investigated	Partially investigated	TOTAL	Fully investigated	Partially investigated	TOTAL
Arua	42	13	55	20	20	40
Central	42	154	196	57	53	110
Fort Portal	43	29	72	6	32	150
Hoima	30	41	71	19	53	72
Gulu	53	51	104	33	34	67
Jinja	43	26	69	13	25	139
Masaka	41	16	57	46	51	97
Mbarara	118	9	127	18	64	82
Moroto	98	69	167	21	47	179
Soroti	52	92	144	20	23	43
TOTAL	562	500	1062	253	402	655

11.1.4 Legal advice and/or referrals to other institutions

The Commission referred **3,933** complaints with family disputes topping the list at **756**, followed by criminal matters at **714** and complaints on land disputes at **510** among others. It noted a **14 %** increase on matters referred from the **3,370** in 2016. There was a **22 %** increase was noted in complaints referred relating to land disputes from **397** in 2016 to **510** in 2017.

TABLE 21: COMPLAINANTS ADVISED AND/OR REFERRED

ARU	CTR	FPT	GLU	HMA	JJA	MSK	MBR	MRT	SRT	Head Office	TOTAL
264	234	550	350	211	295	326	871	133	378	321	3,933

11.1.5 Mediations

UHRC mediated **154** complaints which constituted a **9.1 %** increase from the 140 mediated in 2016. 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. In all matters successfully mediated, parties signed memoranda of understanding showing details on how they agreed to resolve their disputes. The number of complaints mediated by UHRC per Regional Office are illustrated below.

TABLE 22: COMPLAINTS RESOLVED THROUGH MEDIATION IN 2017

ARU	CTR	FPT	GLU	HMA	JJA	MSK	MBR	MRT	SRT	Head Office	TOTAL
01	09	15	27	05	07	39	13	14	21	3	154

11.1.6 Resolution of complaints through the UHRC Tribunal

Uganda Human Rights Commission Tribunal disposed of **170** complaints in 2017. This was an 18.2. % increase from the 139 disposed of in 2016. The increase was attributed to the special hearing sessions that were conducted in 2017. This increase was achieved despite having only four hearing commissioners that were handling tribunals in 2017 compared to five in 2016. Of the 170 complaints, the Tribunal awarded compensation in 104 and dismissed or closed 39, while 27 were amicably settled by the parties. The majority of the complaints disposed of were in respect to the violation of the right to freedom from torture and the right to personal liberty. On the other hand, most of the awards were against the Attorney General for violations perpetrated by UPF and UPDF.

(a) Tribunal awards

A total of **UGX 1,660,940,000** was awarded to victims of human rights violations in 2017. Of this total, **UGX 1,280,590,000** was awarded by the tribunal after full hearing of the complaints while **UGX 193,040,000/-** was agreed upon by the parties through amicable settlements.

(b) Tribunal status as at 31st December 2017

As at 31st December 2017, the tribunal caseload stood at **967** which was a 15.53% increase from the annual closing caseload of 837 in 2016. The increased backlog is as a result of having few members of the Commission who presided over the Tribunal sittings. Of the 967 complaint files, **198** were pending allocation to Presiding Commissioners for hearing, **355** were pending hearing while **414** were part-heard³⁷⁸. The number of complaints pending at the UHRC Tribunal is summarised in Table 21 below.

TABLE 23: COMPLAINTS PENDING TRIBUNAL HEARING AS OF DECEMBER 2017

Status of complaints	ARU	CTR	FPT	GLU	HMA	JJA	MSK	MBA	MRT	SRT	TOTAL
Complaints files pending allocation	34	08	30	43	15	05	17	23	07	16	198
Complaints pending hearing	38	85	73	30	11	6	33	11	32	36	355
Complaints part-heard	31	97	33	60	19	64	26	39	11	34	414
Tribunal caseload as at 31/12/2017	103	190	136	133	45	75	76	73	50	86	967

The part-heard complaints are those where evidence is still being adduced by the respective parties, while those pending hearing are the ones that are yet to be heard for the first time. Files pending allocation are those yet to be allocated to a specific hearing Commissioner.

(c) Total number of complaints disposed of

In 2017, UHRC disposed of a total of 833 complaints, out of which 154 (18.5%) were successfully mediated, 815 fully investigated and 509 (61.1%) were disposed at investigation; and 170 (20.4%) were disposed of at Tribunal level. Table 1.14 below illustrates the total number of cases disposed of by UHRC.

³⁷⁸ Includes cases being heard, those pending amicable settlement and those pending submissions and/or decision.

TABLE 24: CASES DISPOSED OF BY UHRC IN 2017

DISPOSED COMPLAINTS	TOTAL
Disposed at mediations	154
Disposed at investigations (closed or referred)	509
Disposed at Tribunal	170
TOTAL	833

11.1.7 Challenges

- (a) UHRC continued to grapple with the challenge of inadequate resources, both human and financial, to facilitate timely investigations and resolution of complaints.
- (b) Lack of cooperation from some respondents especially in securing crucial evidence such as post-mortem reports, medical reports and lockup registers.
- (c) Delays by the ministry of Justice and Constitutional Affairs to expeditiously effect payments for matters settled amicably.
- (d) Despite the increased use of national IDs, UHRC still experiences challenges of tracing complainants and their witnesses due to their frequent relocation without informing the Commission and their use of different names. This made it difficult to conduct investigations and serve tribunal summons.

11.1.8 Recommendations

- (a) Ministry of Justice and Constitutional Affairs should handle matters proposed for amicable settlements in a timely manner and ensure that victims of human rights violations are compensated expeditiously.
- (b) Uganda Police Force should ensure that it equips its officers with the necessary skills required to enable them execute their duties in compliance with human rights standards.
- (c) Ministry of Justice and Constitutional Affairs should facilitate the appointment of more Members of the Commission to enable UHRC dispose of the backlog at its Tribunal.

11.2 HIGHLIGHTS ON CONDITIONS IN PLACES OF DETENTION

In fulfilment of the constitutional mandate under Article 52 (1) (b) and 52 (1) (h), UHRC continued to monitor the human rights situation in places of detention. It is a requirement for UHRC “to visit jails, prisons and places of detention or related facilities with a view to assessing and inspecting conditions of the inmates and make recommendations”; as well as “monitor the government’s compliance with international treaty and convention obligations on human rights”. In doing this, UHRC examined aspects such as torture and solitary confinement, incarceration of children with adults, incarceration of mothers with their children, long and arbitrary detention, congestion, sanitation (including the use of buckets for toilets), prison population, categories of inmates, maintenance of registers and acquisition of skills by inmates in prison.

UHRC also focused on the categories of detention facilities, construction and renovation of buildings, female and juvenile wings, freedom of worship, and the welfare of inmates in terms of access to food, water, information, clothing and bedding, personal hygiene and health care services. The working and living conditions of staff of UPF and UPS were also examined. This section presents the findings and recommendations regarding the monitoring and inspection of the places of detention.

11.2.1 Legal framework on the rights of detainees

The fact that people deprived of their personal liberty are cut off from the outside world makes them vulnerable. They become solely dependent on the detaining authorities for most basic needs and rights. This, among others, has formed the basis for the adoption and implementation of a number of international, regional and national legal instruments protecting the rights of people deprived of their liberty. At the international level, Uganda is a party to a number of international instruments that do not only provide for the treatment of detainees but also those that advance and promote the rights of persons in detention. These include the ICCPR³⁷⁹, the CAT³⁸⁰, the CRC³⁸¹, the CEDAW and the CRPD.³⁸² Other international instruments include the United Nations Standard Minimum Rules for Treatment of Prisoners³⁸³ and the Declaration on the Elimination of Violence Against Women.

At the African regional level, the guarantees on the rights of detainees are provided for in the ACHPR³⁸⁴ and its protocol on the rights of women as well as the African Charter on the Rights and Welfare of the Child. Equally important are The Robben Island Guidelines³⁸⁵ which provide for the prohibition and prevention of torture, cruel, inhuman or degrading treatment in Africa.

At the national level, the Constitution guarantees to all, respect for human dignity; protection from inhuman treatment³⁸⁶ including people in places of detention; protection of persons deprived of their personal liberty and the circumstances under which their personal liberty may be limited. The constitutional provisions were operationalised by other pieces of national legislation including the Uganda Police Force Act (Cap 303), the Uganda People's Defence Forces Act, 2005 (Cap307), the Uganda Prisons Act, 2006, the Penal Code Act (Cap 121), the Trial on Indictments Act (Cap 23), and the Children Act (Cap 59), among others, which apart from guaranteeing the rights of detainees also provide for the management of places of detention.

11.2.2 Places of detention inspected by UHRC in 2017

In 2017, UHRC conducted 1,033 inspection visits to places of detention; 406 of which were to police stations; 460 to police posts; 157 to prisons; six to remand homes; and four to military facilities³⁸⁷. Some of them were initial inspection visits while others were for follow up. UHRC was able to visit facilities with a combined total prison population of 26,954 inmates. Table 23 and table 23 show the total number of UHRC inspection visits to detention facilities in the last five years.

379 Article 7 and Articles 9-11 of the International Covenant on Civil and Political Rights.

380 Article 4, Article 10 and Article 13 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

381 Article 20 and Article 37 of the United Nations Convention on the Rights of a Child.

382 Articles 14 and 15 of the Convention on the Rights of People with Disabilities.

383 United Nations Standard Minimum Rules for Treatment of Prisoners, United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), United Nations Rules for the Protection of Juveniles Deprived of Liberty (JDL Rules), United Nations Guidelines for Prevention of Juvenile Delinquency (Riyadh Rules), United Nations Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules).

384 Articles 3 to -7 of the African Charter on Human and Peoples' Rights.

385 The Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment.

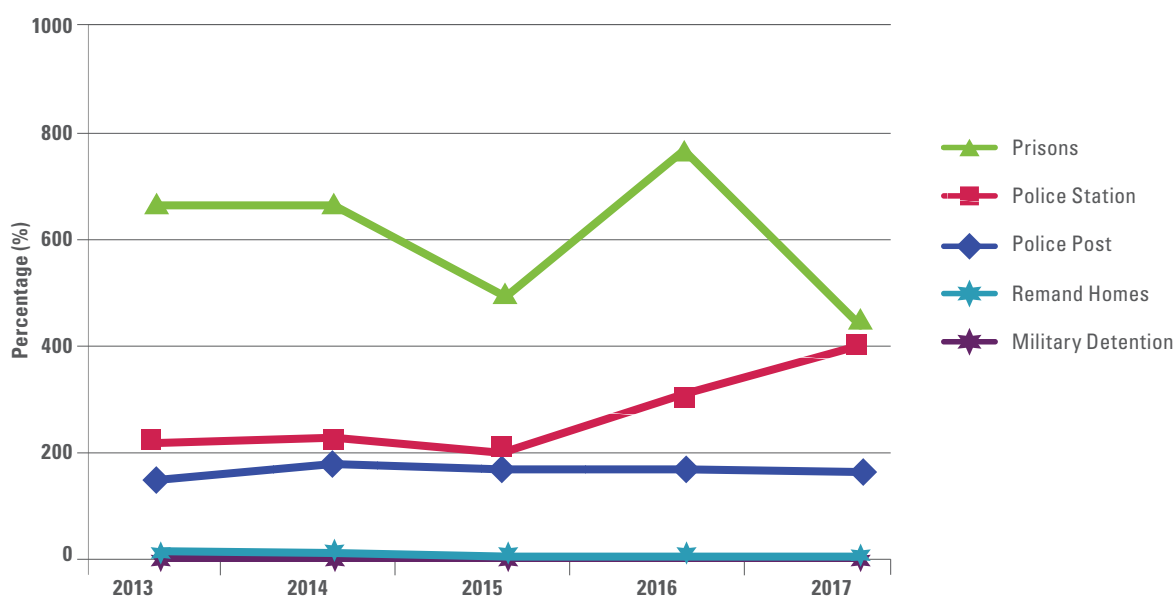
386 Articles 23, 24 and 28 of the Constitution of the Republic of Uganda (1995).

387 Following the end of disarmament in Karamoja, the number of Military detention facilities visited by the UHRC has been dropping. This is because majority of the facilities visited by the commission were in Karamoja region.

TABLE 25: INSPECTION VISITS CONDUCTED IN THE PERIOD 2013 TO 2017

Year	Prisons	Police stations	Police posts	Remand homes	Military detention facilities
2017	157	406	460	06	04
2016	166	311	766	5	7
2015	173	205	509	5	4
2014	180	232	681	7	22
2013	142	225	667	6	20

FIGURE 35: INSPECTION VISITS CONDUCTED IN THE PERIOD 2013 TO 2017



11.2.3 Highlights of key findings in places of detention inspected in 2017

UHRC found that progress had been made in some areas while in others a number of human rights issues were noted. Some areas registered regression, while in some cases the conditions remained the same as they had been since the last inspection.

UHRC commends the UPS and the UPF for the continued efforts to improve conditions in detention places. The most commendable developments in 2017 noted by UHRC included:

- The increased human rights awareness trainings for police and prison officers;
- Maintaining of updated registers, especially by Uganda Prisons Service;
- Newly constructed and renovated buildings;
- Reduced number of inmates on remand;
- Provision of adequate food;
- Skills training for inmates;
- Continued phasing out of the use of buckets for toilets;
- Respect for freedom of worship;
- Revitalisation of Human Rights Committees; and
- Construction of female wings and juvenile cells.

(a) Registration and records management

Proper registration and records management is an essential protection measure that ensures the safety and security of detainees. It is also an important element guaranteeing transparency of the authorities. From the 1,033 inspection visits conducted by UHRC, it was established that 99% of them had registers which were regularly used and updated. Only a few isolated cases, mainly police posts, did not have updated registers by the time of inspection.

The registers inspected included: lock-up registers, station diaries, admission registers, release registers, property registers, transfer of detainees registers, gate registers, exhibits registers, medical registers, as well as medical treatment records. The existence of registers demonstrated that majority of detainees assessed by UHRC had an admission trail, an inventory of their property and information regarding their judicial processes. However, poor storage of records was noted in instances where the registers had become full. UHRC also got information about the absence of or missing court files which often caused unreasonable excessive delays in the trial process and affected detainee's access to justice in terms of fair and speedy trials.

(b) Separation of categories of detainees

Human rights standards require that certain categories of prisoners are separated taking into account their sex, age, criminal record, the legal reason for their detention and the necessities of the right treatment.³⁸⁸ The principle governing separation of detainees is protection, as well as recognition of the specific needs or status of different categories. Here below are the Commission's observations regarding separation of detainees:

(i) Separation of female cells from male cells

In all the detention places inspected, females and males were held in separate cells. This conformed to the required standard that men and women should as far as possible be detained in separate facilities.³⁸⁹ This in principle means that male and female inmates should be detained separately. Women deprived of their liberty should be held in accommodation which is physically separate from that occupied by any men.

(ii) Juveniles detained with adult offenders

UHRC found cases where juveniles were detained with adult offenders contrary to the requirement that the two should be separated while in detention³⁹⁰. This was mainly in police stations such as Yumbe, Paidha in Zombo district, Arua, Dokolo and Lamwo. In other cases, juveniles were either detained at the police-counters or in empty cells meant for females. The absence of police cells for juveniles was evident in that only two out of the 74 police facilities inspected by UHRC Fort Portal Regional office had them.

The detention of juveniles with adult offenders in police cells was mainly attributed to the lack of additional cells as well as failure to ascertain the ages of suspects. In facilities such as Dokolo Police Station, UHRC found that the cell guard did not know about the requirement of separating juveniles from adults. At Kagadi Police Station where seven juveniles were found detained with adults, the authorities explained that there was no remand home in Kagadi district and yet the police did not have transport to take the children to Ihungu Remand Home in Masindi district. However, police stations such as Kibaale, Buliisa, Kiryandongo, Panyadoli Hills in Kiryandongo district, Masindi and Hoima, had specially built cells for juvenile offenders.

388 Rule 11, Nelson Mandela Rules and Rule 8 of the UN Standard Minimum Rules on the Treatment of Prisoners.

389 Rule 8(a) UN Standard Minimum Rules on Treatment of Prisoners.

390 ICCPR, Art. 10.2

TABLE 26: POLICE STATIONS WHERE JUVENILES WERE FOUND DETAINED WITH ADULTS

Police station	District	Number of minors in detention with adults	Age of the juvenile
Yumbe	Yumbe	1	15 years
Paidha	Zombo	2	Both 17 years
Arua	Arua	2	13 and 14 years
Lamwo	Lamwo	3	14, 16 and 17 years
Corner Kilak	Amuru	2	16 and 17 years
Dokolo	Dokolo	1	11 years
Kaliro	Kaliro	1	16 years
Amudat	Amudat	2	Both 17 years
Abim	Abim	2	Both 17 years
Kaabong	Kaabong	1	16 years
Kotido	Kotido	4	14, 16, 16 and 17 years
Iriir	Napak	1	17 years
Lokomebu	Kotido	1	16 years
Aber	Oyam	1	17 years
Mbale	Mbale	2	14 and 15 years

In other instances, UHRC noted the challenge in determining the age of an inmate who claims or is reported to be a minor, yet the records showed otherwise. This was the explanation given as to why they were detained in cells for adults. Most of these inmates were at borderline ages of 17 and 16 years. The Commission in all instances advised that juveniles be given bond in cases where police had no cells to keep them separately.

(iii) Remand and convicted inmates

Prisoners on remand should be detained separately from the convicts.³⁹¹ In 2017, the UHRC found that in most facilities inspected, prisoners on remand shared wards with convicts, contrary to section 66 of the Prisons Act, 2006. However, in Luzira Prison in Kampala City and Kigo Prison in Wakiso district, UHRC found that inmates on remand were in separate cells from convicts and that they also had different uniforms.

(iv) Civil debtors

Article 11 of the ICCPR prohibits the incarceration of people for failure to honour contractual obligations. UHRC established during inspections that the requirement³⁹² to separate civil debtors from inmates on criminal charges was not observed due to limited space; and inmates were mainly separated on the basis of gender. UHRC found 91 civil debtors in various prisons including Kwanja Prison Farm, Arocha Prison Farm in Apac district, Atopi Government Prison in Apac, Pader Government Prison and Kitgum Government Prison. Others were Gulu Male Section, Katakwi, Bubulo Government Prison in Manafwa district, Soroti Government Prison, Ndorwa Government Prison in Kabale district, Kisoro Government Prison, Kiruhura Government Prison, Buhweju Government Prison, Sentema Government Prison in Wakiso district, Koch Government Prison in Nebbi district, Yumbe Government Prison, Sembabule Prison, Rakai Prison, Ssaza Prison in Masaka district, Ikulwe in Mayuge district, Buyinja in Namayingo district, Masindi, Hoima, and Kibaale Government Prisons.

391 Rule 8(b) UN Standard Minimum Rules on Treatment of Prisoners.

392 Rule 8(c) of UN Standard Minimum Rules on Treatment of Prisoners.



Female inmates at Patongo Prison in Agago district with their children

(v) Mothers incarcerated with their children

The children of incarcerated mothers who also find themselves in detention are entitled to have their physical, emotional, social and psychological needs provided for by the authorities. Some of the children found in prison on account of their incarcerated mothers were between three months to four years old, which in some cases was beyond the authorised statutory age of 18 months. UHRC got explanation that the reason for incarcerating mothers with their children was mainly due to the lack of or unwillingness of relatives to take care of the children while the mothers were in detention.³⁹³

Mothers were found incarcerated with their children in Kagadi prison, Amita in Abim district, Nakapiripirit, Namalu in Nakapiripirit district, Buwunga in Masaka district, Ssaza Prison in Masaka district, Iganga, Buyinja in Namayingo district, Kiyunga in Iganga district, Ndorwa in Kabale district, Kapchorwa, and Kiboga Government Prisons. UHRC found toddlers and breastfeeding babies that were too young to be separated from their mothers.

(c) Accommodation of inmates

The Commission noted the efforts to renovate or construct new facilities. In spite of these efforts, the infrastructure in many facilities largely remained the same. Here below are the findings regarding accommodation in places of detention.

(i) Overcrowding

It is a requirement that detention accommodation should provide adequate cubic content of air, floor space, lighting, heating and ventilation.³⁹⁴ However, this is not always attained. Overcrowding in prisons remained a challenge, with some prisons housing twice as much or up to three times their designated capacities. Oftentimes, the male inmates were most affected. Table 25 below highlights the extent of overcrowding that UHRC found in some of the prison facilities during inspection.

³⁹³ Section 59 (4) of the Prisons Act, 2006.

³⁹⁴ Prisons Act 2006 and Rule 13, UN Standard Minimum Rules on Treatment of Prisoners.

TABLE 27: OVERCROWDING AT SELECTED PRISON FACILITIES

Prison facility	District	Number of male inmates	Capacity of the cells
Ragem Government Prison	Nebbi	174	100
Paidha Government Prison	Zombo	129	80
Arua Government Prison	Arua	840	250
Koboko Government Prison	Koboko	153	80
Yumbe Government Prison	Yumbe	97	80
Openzizi Government Prison	Adjumani	249	179
Olia Government Prison	Adjumani	124	50
Kapeeka Government Prison	Nakaseke	43	20
Wakyato Government Prison	Nakaseke	91	20
Ngoma Government Prison	Nakaseke	48	35
Kiboga Government Prison	Kiboga	176	120
Kabasanda Government Prison	Butambala	116	90
Nyabirongo Government Prison	Kasese	60	30
Kamwenge Prison Farm	Kamwenge	160	80
Fort Portal Remand Home	Kabarole	67	20
Butiti Government Prison	Kyenjojo	72	10
Kyenjojo Government Prison	Kyenjojo	50	10
Mubuku Prison Farm	Kasese	410	200
Rwimi Government Prison	Kabarole	570	400
Bubukwanga Government Prison	Bundibugyo	82	30
Kabiito Government Prison	Bunyangabu	70	30
Atopi Government Prison	Apac	247	200
Patongo Prison Farm	Agago	168	150
Masindi Government Prison	Masindi	1,414	500
Ssaza Government Prison	Masaka	188	150
Amita Prison Farm	Abim	421	135
Bukedea Government Prison	Bukedea	133	20
Namalu Prison Farm	Nakapiripirit	472	240
Moroto Government Prison	Moroto	617	450
Katakwi Government Prison	Katakwi	160	100
Amuria Government Prison	Amuria	79	20
Serere Government Prison	Serere	150	50
Kaberaido Government Prison	Kaberaido	128	20

A number of innovations had been undertaken by prisons authorities and stakeholders such as JLOS to reduce congestion in prisons. However, the problem still persisted. In a bid to reduce congestion, Uganda Prisons Service came up with some innovative approaches, including intra-institutional transfer of prisoners from more congested to less congested units, or from reception centres to prison farms.



Inmates at Fort Portal Police Station

In police, overcrowding was observed in facilities such as Bwera in Kasese district, Ntoroko, Nyahuka in Bundibugyo, Kyenjojo, Kamwenge and Kyegegwa Police Stations. At Kamwenge Police Station, for instance, the male cell was a uniport with a capacity to accommodate eight suspects. However, sometimes more than 30 suspects could be detained in the cell. Overcrowding was mainly attributed to the limited size of the cells; the delay by prosecutors to sanction files as well as strikes by prosecutors and magistrates which affected the judicial process. UHRC noted that overcrowding greatly impacted on prisoners' health and safety; and increased the risk of them being subjected to acts of physical torture by fellow inmates.

(ii) Old dilapidated buildings

The Commission found a number of detention facilities with old, derelict, run-down and dilapidated buildings or facilities. These included police stations such as Kyegegwa in Kyegegwa district, Bubukwanga, Fort Portal, Kyegegwa, Kamwenge, Kiburara in Ibanda district, Bufunjo, Migongwe, Mukunyu, Katakwi, Ngora, Kamwezi in Rukiga district, Rubanda, and Sanga in Kiruhura district. Dilapidated police posts included Mahyoro, Mukura, Kapi, Kapnarkut, Sansara in Ngora district, Nyakainama, Nyarusiza, Kanaba, Busanza, Nyakabande, Kyanamira in Kabale district, Muko in Rubanda district, Kashaka, Votessa, Mapema, Kakiika in Mbarara district, Mandela Nkokonjeru, Nyakaizi, Bwizibwera, Nyamityobora, Bukiro, Bubaare in Kabale district and Kanoni in Gomba district.

Dilapidated structures



Dilapidated police office at Agwata Police station



Grass thatched police office at Olelpek Police post in Apac



Building occupied by Lamwo CPS in Padibe



Building that houses Nwoya CPS.



UHRC staff with a police officer at Wabutunguru Police Post



UHRC staff talking to the OC of Alangi Police Post

Prisons the Commission found with old and dilapidated buildings included Bwera, Otuke, Alebtong, Dokolo, Kwania, Arocha in Apac district, Patongo in Agago district, Lugore in Gulu district, Otuke, Maruzi in Apac district, Ngora, Ndorwa in Kabale district, Mparo in Rukiga district, Rubanda, Kakiika in Mbarara district and Buhweju. Majority of these dilapidated buildings are old, poorly ventilated, with inadequate sewerage systems and pose a threat to life. They provide a conducive environment for transmission of communicable diseases.



Male cell at Zeu Police Station.



A Police officer at Zeu Police Station showing UHRC staff a hole through which a suspect had escaped

(iii) Newly constructed and renovated facilities

Despite the persistent overcrowding, UHRC also noted continued efforts by UPS and UPF to improve the accommodation facilities of detainees. In 2017, a number of detention facilities had newly constructed buildings and renovated facilities. The constructed and renovated buildings included offices, cells, stores and wards for inmates. In addition, renovations were ongoing in a number of facilities.



Staff quarters recently renovated at Koboko Prison



Newly constructed uniports at Ragem Prison in Nebbi district

(d) 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.³⁹⁵ Progress was registered in 2017 regarding the inmates' access to food, in terms of frequency, quality and quantity. In most of the detention facilities, inmates had at least two meals a day, consisting of porridge for breakfast and lunch/supper comprising of regular food such as cassava or posho or sweet potatoes and beans. At most prison farms, the meals for inmates were supplemented with vegetables, potatoes and cassava, depending on what was grown by the inmates themselves.



The UHRC Chairperson in the food store at Lugore Prison Farm.



UHRC Chairperson and Uganda Prisons officers at Lugore Prison, inspecting a maize store

UHRC assessed the quality and quantity of the food provided as well as what was given to particular vulnerable groups such as the HIV-positive persons and lactating mothers. While some prisons were found to be providing three meals a day constituting porridge for breakfast, then lunch and supper, majority served porridge for breakfast and later one meal of lunch and supper at once. UHRC found varying responses on inquiring about the quantity of food. Nevertheless, most of the detainees in prisons inspected told UHRC they found the helpings of food adequate.

It was also noted that a number of prisons endeavoured to provide additional nutrients to the staple diet of posho and beans, especially for detainees with specific health conditions such as HIV or the pregnant and lactating mothers. In some facilities, there were gardens of vegetables which supplemented the detainees' diet. Some prisons also occasionally served sweet potatoes, cassava and/or Irish potatoes. In prisons such as Pader, Kitgum, Otuke, Atopi in Apac district, Gulu, Isimba in Masindi district and Kigumba in Kiryandongo district, special food such as porridge, soya and simsim was provided to children and expectant mothers. In other prisons where this was not happening, the authorities allowed relatives of HIV-positive detainees to bring them food. In other facilities, detainees hired out for labour got an opportunity to change diet when they were given fish or meat as was witnessed in Ragem, Arua, and Koboko Prisons.

UHRC noted the UPS policy for ensuring that prisons become self-reliant in the provision of food for inmates, whereby the administration encouraged the growing of food on prison farms. The food crops commonly grown were soy beans and vegetables, which helped in ensuring that the nutritional needs of inmates were met. Other crops grown on prison farms such as maize, cassava and sweet potatoes have enabled prison authorities to ensure that inmates receive reasonable and prescribed quantities of food despite the limited budget. In a number of prisons, self-cooking was also permissible and welcomed by the inmates.

With respect to police, some stations and posts were unable to provide detainees with even one meal a day. As reported in UHRC's previous Annual Report, suspects detained at police stations and police posts continued to have only one meal a day or none at all. Suspects at Kasese Police Station and Fort Portal Police Station, for example, complained to UHRC that the food portions given were too small to satisfy them.

³⁹⁵ Rule 22, Nelson Mandela Rules, UN Standard Minimum Rules on Treatment of Prisoners.

UHRC also learnt that in some cases, police officers had to use part of their meager salaries to buy food for suspects due to insufficient funds allocated for that purpose. Majority of suspects at police posts and stations survived on food brought in by their visitors.

(e) Access to health services and HIV treatment

Access to medical services had improved in most prisons. Those that lacked internal health facilities were reportedly accessing health services from the nearby government health centres. However, a problem of inadequate drugs persisted even though a patient referral system was in place and medical care provision in prisons was better than the national average. It was also noted that some prisons had emergency health kits for emergency medical response to staff and inmates. These kits were only meant for treatment of small, uncomplicated emergencies while complex cases of inmates were referred to nearby government health facilities for treatment. Some detention facilities had health care personnel attached to them.

UHRC also found that some detention facilities were a long distance from the nearest government health centres, making it hard for the inmates to easily access treatment. At Kyendangara Police Post, for instance, sick suspects and staff received medical attention from Mahyoro Health Centre III which is about 5.5 kilometres away from the police post. Detainees at Malongo Police Station had to travel six kilometres to Malongo Health Centre III to seek health care services. At Kyakasengura and Kibaale prisons, sick inmates had to walk the long distance to Kibaale Health Centre IV. At Namalu Prison Farm, UHRC received complaints from inmates about the lack of medication for malaria and other common illnesses. The inmates alleged that they were mainly treated with painkillers, a claim confirmed by the Prisons medical staff. UHRC found 30 prisoners very sick and weak as the sicknesses kept worsening due to inadequate treatment.

(f) Inmates' clothing and beddings

Prisons authorities reported improvement in clothing and beddings for inmates. Majority of prisoners had two pairs of uniforms save for a few facilities such as Namalu Prison Farm where inmates had one pair. The prisons authorities reported that it was not possible to provide all the inmates with two pairs of uniforms due to inadequate funding. Nonetheless, every prisoner was provided with one or two blankets. At the time of inspection, UHRC found most inmates had uniforms and that the majority of them had been supplied with uniforms even though they were still inadequate.



Inmates at Bukedea Prison



Beddings at Maruzi Prison in Apac District

(g) Access to clean and safe water

UHRC observed that in 2017, the majority of inmates could access clean and safe water through various sources such as rain, water taps, boreholes, wells and dams. In most of the facilities visited, the inmates had boiled water which they stored in small jerrycans kept in their cells. In other facilities without available sources of water, inmates had to buy water from hawkers. Prisons without access to water included Wabusana in Luwero district,³⁹⁶ Buliisa, Biiso in Buliisa district, Namalu in Nakapiripirit district, Amita in Abim district, and Buseruka Prison in Hoima district. In Karamoja region, UHRC noted a particular challenge of inadequate

³⁹⁶ At the time UHRC inspected the facility, its borehole had broken down about two years before and the inmates and officers had to travel long distances to line up at the community dam.

water. Only Moroto and Kotido Prisons out of the six inspected had water within the facilities and even then, it was still inadequate. The other four shared boreholes with the communities. Given the nature of prison farms with their high demand for water, the inadequacy of water at Namalu and Amita Prison Farms posed a very serious challenge. Prisoners who returned from farm work could not afford a bath. UHRC found many prisoners in these facilities very dirty; and the wards dirty too, due to water shortage.



A rain-harvesting water tank at Butenga Prison in Bukomansimbi district



Inmates fetching water at Olia Prison in Adjumani district

(h) Sanitation and personal hygiene

In most prisons, especially those with newly constructed and renovated structures, inmates enjoyed a good standard of basic hygiene. Where running water and flush toilets had been installed, the personal hygiene of inmates had greatly improved.

(i) Phasing out the bucket system

The bucket system describes a situation where inmates have to ease themselves in a bucket placed in their cells, due to lack of indoor toilet facilities. The practice of human beings sharing a room with their waste is not only dehumanising but also unhygienic; for example, many inmates would not be able to survive an outbreak of an epidemic like cholera due to such unhygienic living situations. This system is degrading and unhygienic too. UHRC found that in facilities without flush toilets, inmates still used the toilets during daytime and the bucket at night, which they would empty during daytime. UHRC noted that the bucket system had been eliminated in a number of facilities. However, despite these efforts, the use of the bucket system continued in other places such as Wabusana, Arocha, Atopi, Kiryandongo Government Prisons and Kyakasengura Prison Farm in Kibaale district.

Majority of the facilities still using the bucket system were police posts; such as Wabutunguru, Mpeefu, Bwikara, Mabaale, Pacwa, Rugashari, Kyakabadiima, Rutete, Isunga, Pakanyi, Kimengo, Katanga, Kyatiri, Kasingo, and Bukomero in Kiboga district. It was noted that the pit latrines were utilised mostly during the day but were far from the facility and as such could not be accessed at night. Other Prisons facilities which still used the bucket system included Arocha, Atopi, Otuke, Arua Main, Moyo and Ragem Government Prisons.



Cell with spilled urine at Iriir Police Station in Napak district



Jerrycans used by suspects for waste disposal at Lolachat Police Post in napak district

(ii) Access to sanitary towels

UHRC found that all prisons with female inmates which were inspected availed them with sanitary towels. On the whole, UHRC commends UPS and UPF for this initiative.



Inmates being trained on tailoring at Patongo Prison

(i) Right to work

In order to generate income, inmates' labour was used on prison farms and workshops or hired out to private farms. The most frequent forms of work for prisoners included carpentry and joinery, building construction, handicrafts, brick-making, livestock and crop farming. At all the prison facilities inspected, inmates worked from Monday to Friday for six to eight hours each day and on Saturday they did light work around the prison premises.

The Prisons Services Act, 2006 recognises the prisoner's right to undertake meaningful remunerated employment. Work for prisoners serving sentences is helpful in as far as it enables them to acquire meaningful and useful skills, which would benefit the inmates to earn honest livelihoods after release. In fact, work for prisoners helps to maintain or improve the vocational qualifications of the inmates as well as offering them meaningful occupation.

UHRC established that all the prisoners who worked were paid an earning ranging between UGX 100 for semi-skilled labour and UGX 250 for the skilled work per day in most regions. The detainees were paid their money upon release or as and when the need to buy basic essentials arose. However, UHRC received complaints from inmates who said they were being overworked since they worked long hours. Such complaints were raised at Buseruka Prison, Kakumiro in Kibaale district and Kyakasengura Government Prisons in Kibaale district as well as Namalu in Nakapiripirit district and Amita prison. At Namalu Government Prison, inmates claimed they started work by 7am; got a break at 1pm for only water and porridge; returned and worked till about 4pm or 5pm when they would have lunch and dinner at once.



An inmate shows injury marks after he was allegedly beaten by katikkiros at Dokolo Prison Farm

(j) Disciplinary measures

According to human rights standards, discipline and order within a detention facility should be maintained with no more restriction than is necessary to ensure safe custody, the secure operation of the prison and a well-ordered community life.³⁹⁷ The prisons' disciplinary measures are provided for under the Prisons Regulations, 2012. The disciplinary and orderly measures at most detention facilities inspected included cell search, body search, appearance before a Disciplinary Committee, loss of remission, reduction of food rations, caning, demotion in cases of *katikkiros* (prefects), institution

of new charges, caution, cleaning the compound, denial of visitation rights, counselling and warnings. Some of these disciplinary measures are not stipulated in the Prisons Regulations. These include caning, which was found at Ndorwa and Rubanda prisons; denial of visitation rights and institution of new charges. Torture was also reported by inmates as a disciplinary measure, often used by the *katikkiros* in prisons and by police officers in police stations and posts.

397 Rule 8, Nelson Mandela Rules, UN Standard Minimum Rules on Treatment of Prisoners.

Cases of torture were reported at prisons such as Isingiro and Isimba Government Prison in Masindi district and at police stations such as Kabarole, Otuke, Dokolo and Kiruhura. The police posts where torture was reported included Lamwo, Ollepek and Butyaaba. The main alleged perpetrators of the torture were the police guarding the cells, crime preventers, and *katikiros* in case of prisons.



A radio at Kitanda Prison in Bukomansimbi district

(k) Access to information

Access to information provides inmates with information and knowledge about the current affairs, laws, legal practices, politics, religion, developmental issues, health issues, and general knowledge about their cases,³⁹⁸ which could be beneficial to the inmates. The Commission found that detainees were able to access information through sources such as televisions, newspapers, books and radios. It found a number of prisons facilities that allowed detainees to have radios and newspapers and other sources of information. On the other hand, detainees at police facilities were not allowed to access any information from any medium. Access to newspapers was also very limited on the whole.

(l) Selected cases of long and arbitrary detention

UHRC noted with concern the continued long and arbitrary detention of inmates in police detention facilities which negatively affected their right to fair and speedy trial, with some inmates being detained for weeks and even months in police custody without being produced before court. The justification given for this long and arbitrary detention in police custody included ongoing investigations, delays by state attorneys to sanction files, irregular court sittings, absence of judicial officers, as well as the 2017 strikes by state attorneys and magistrates.

The period of long detention in prisons ranged from three to twelve years on remand during pre-trial detention. The reasons advanced for the long period of remand included lack of resident magistrates, few High Court sessions and lack of transport to take detainees to court. Prisons was also affected by the strikes/ industrial action by prosecutors which lasted over a month in 2017, as well as similar strikes by the judicial officers. Other reasons were lack of transport, delayed police investigations, failure of the witnesses to turn up for court, frequent adjournment of cases, inadequate High Court sessions to handle capital offences, and lack of or absence of enough doctors and resources to handle postmortem reports. All the above factors prevented inmates on remand from accessing speedy trials.

(m) Human Rights Committees

The majority of the prisons inspected in 2017 had established Human Rights Committees for both staff and inmates. The committees helped especially the inmates in educating them about their rights and bringing to the attention of the officers in charge, complaints on the quality and quantity of food, overstay on remand and general welfare. The Human Rights Committees were also one mechanism put in place by UPS to handle complaints and grievances, in order to strengthen transparency and accountability. They ensured that human rights concerns were brought to the attention of the authorities and promptly addressed. Due to their effectiveness, Human Rights Committees were found to have been instituted in the majority of prisons. However, some of them were not functional in prisons such as Otuke, Alebtong, Lamwo, Arocha in Apac district, Kwanja, and Dokolo.

398 Nelson Mandela Rules, UN Standard Minimum Rules on Treatment of Prisoners.

(n) Staff conditions

Conditions of service of staff were also marred with challenges such as inadequate staffing levels, inadequate accommodation and delayed payments.

(i) Staffing levels

The Commission found that staffing levels at a number of detention facilities were inadequate thus critically affecting the effectiveness of the police and prisons service. UHRC noted that frequent staff transfers contributed to the shortage of staff. Understaffing was found at police stations such as Kabale, Rubanda, Mbarara, Buhweju, Kiruhura, Ibanda and Kisoro. In the case of prisons, understaffing was reported in Busede, Butagaya and Kakira in Jinja district; Nabwiguru in Kamuli district; Bugiri, Iganga, Buyinja in Namayingo district and Kiyunga in Luuka district.



Staff accommodation at Lorengedwat Police Post

(ii) Accommodation

Staff accommodation in prisons and police facilities remained a challenge in 2017, with many staff either living in dilapidated housing or renting from neighboring communities. UPS had made efforts to improve conditions for their staff; so, prisons such as Kamwenge Prison Farm, Amita in Abim district, Kaabong, Moroto and Namalu in Nakapiripirit had good staff accommodation. UHRC also noted that some prison authorities had improvised and were constructing their own housing with the help of inmates. Cases in point were Kumi and Bukedea Prisons where, on the initiative of the officer in charge, the staff together with the inmates were found constructing staff houses.

However, police officers continued to live in a sorry state. Dilapidated staff houses on the verge of collapsing were found at Butiiti in Kyenjojo district, Mukunyu, Busiriba and Bukurungo police posts. Staff accommodation in most of the regions was found to be old and dilapidated. A number of staff houses inspected were grass-thatched but even then they were dilapidated and lacked basic sanitation facilities especially within the police units. At Muhanga Police Station in Kabale district, all 28 personnel running the station had no staff accommodation. They had to fend for themselves.

Dilapidated staff accommodation



Staff accommodation at Kania Prison, Sept 2017



Police accommodation at Ogor Police post, June 2017

(iii) Inadequate salaries

Both prisons and police officers indicated that they received their salaries on a monthly basis. They, however, complained of the inadequacy of salaries as well as the delays in promotions.

(iv) Transport

In all the facilities visited, prisons and police officers indicated a challenge of lack of transport for suspects. Prisons officers stated that they had to trek long distances when taking inmates to court, hospital, water sources, or workplaces due to lack of vehicles. Concerns were raised that the long walks with inmates were jeopardising the security of officers, putting them at risk of being attacked by inmates; let alone creating temptation for the prisoners to escape.

(v) Stationery and office equipment

Uganda Human Rights Commission noted that both police and prisons facilities continued to face a challenge of office equipment and stationery. Most of them lacked computers, printers and scanners as well as papers, notebooks, file folders and the necessary office tools which are very vital for their work.

11.2.4 Recommendations

- (a) Ministry of Finance, Planning and Economic Development (MOFPED) should increase funding to the Uganda Prisons Service (UPS), Uganda Police Force (UPF), Uganda People's Defence Forces (UPDF) and the ministry of Gender, Labour and Social Development (MOGLSD) to ensure that the rights of inmates and staff are respected including the improvement of staff facilities and conditions.
- (b) MOFPED should increase funding to UPS to invest in mechanisation of agriculture for prison farms to enable them become self-sufficient in growing their food.
- (c) Uganda Law Reform Commission and the ministry of Justice and Constitutional Affairs should review the law on civil procedure to include a provision prohibiting the detention of civil debtors.
- (d) Ministry of Internal Affairs and MOGLSD should ensure that juveniles are separated from adult offenders in all detention facilities and that children who are in detention with their incarcerated mothers are catered for.
- (e) The Justice, Law and Order Sector (JLOS) 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.
- (f) UPS and UPF should completely phase out the bucket system of waste disposal.
- (g) UPF should ensure that suspects in their custody are given three meals a day and that funds should be availed to the responsible officers so that they do not have to use personal funds.

11.3 HIGHLIGHTS OF UHRC CIVIC/HUMAN RIGHTS EDUCATION PROGRAMMES IN 2017

Article 52 (1) (c) of the Constitution mandates UHRC to establish a continuing programme of research, education and information to enhance respect of human rights. Article 52 (1) (e), (f) and (g) further mandates UHRC to create and sustain within society the awareness of the provisions of the Constitution as the fundamental law of the people of Uganda; to educate and encourage the public to defend the Constitution at all times against all forms of abuse and violation; and 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.

In fulfillment of this mandate, UHRC continued to carry out civic and human rights education programmes targeting various categories of people in order to enhance a culture of respect for human rights. This was in recognition of the fact that it is crucial to invest in prevention of human rights violations instead of focusing on only remedial actions in response to violations. Besides, without a deliberate programme of action to sensitise the rights holders about their human rights, it becomes very difficult for them to demand for their rights and to know the available redress mechanisms. In the words of Rene Cassin, “there is no task more urgent for the safeguarding of human rights than prevention.”³⁹⁹

11.3.1 Civic/human rights interventions by UHRC in 2017

In 2017, UHRC continued with human rights and civic education interventions started in 2016 in furtherance of the strategic objectives as outlined in UHRC’s Strategic Plan. The grassroots communities were targeted through baraza and road shows using civic education vans; the youth were further engaged through human rights and peace clubs in secondary schools; and the general public was targeted through media programmes such as television and radio talk shows, radio spot messages and regular media briefs. Other sections of society were reached through Information, Education and Communication (IEC) materials, training workshops and activities organised by stakeholders through partnerships while UHRC used the commemoration of selected international human days to do advocacy. The Library and Documentation Centres continued to play a critical role in availing the required human rights information to enhance the observance of human rights; and research was conducted on the human rights implications of land disputes in selected districts in Uganda.

(a) Community outreach through baraza⁴⁰⁰

In 2017, UHRC sensitised a total of 23,469 people through 178 community meetings conducted in 56 districts. Out of the 23,469 people sensitised, 13,345 were male and 10,124 females.

399 At the award ceremony of the Noble Peace Prize on 11th December 1968 quoted by G. Fellous in the Marangopoulos Foundation for Human Rights: Twenty Years of Activity, 2001, page 245.

400 A public meeting.

FIGURE 36: PARTICIPANTS IN COMMUNITY BARAZA PER REGION DISAGGREGATED BY GENDER

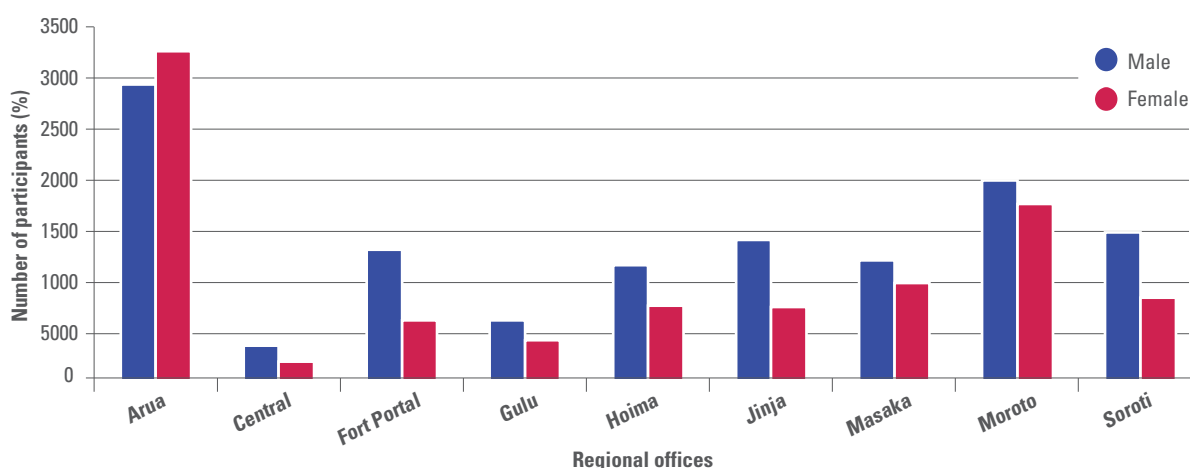
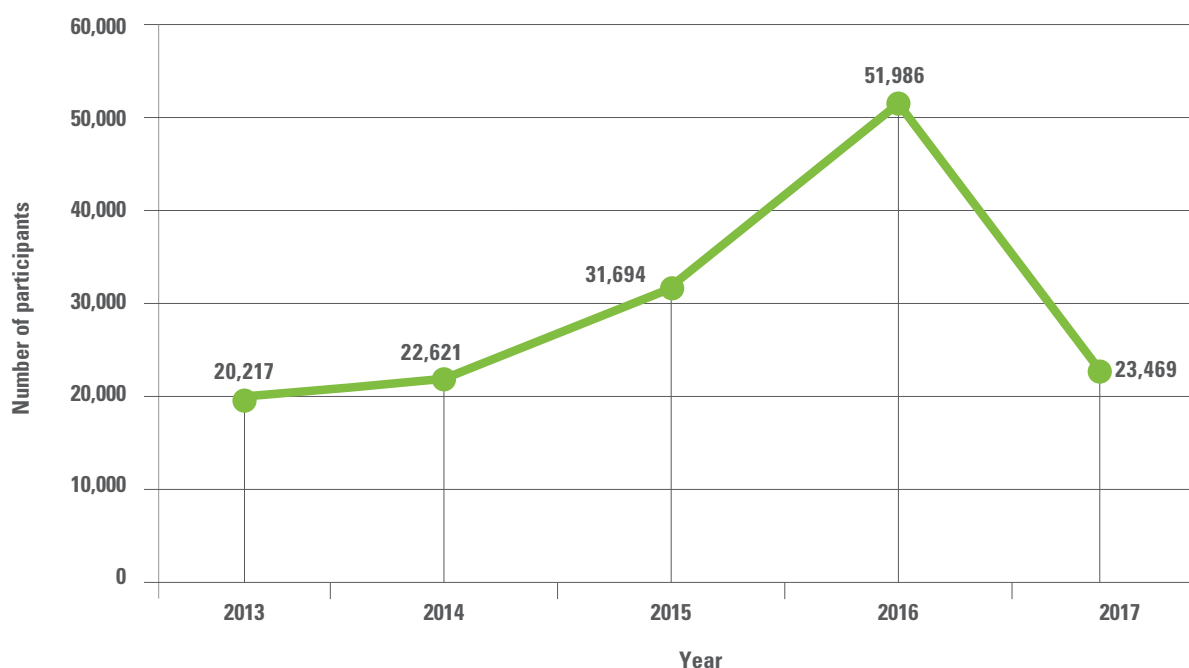


FIGURE 37: ATTENDANCE OF COMMUNITY BARAZAS OVER THE LAST FIVE YEARS



In the several baraza interventions, community members raised issues of concern for UHRC to address for better enjoyment of their rights. Some of the salient ones are highlighted below:

- Early and forced marriages, particularly in Arua where UHRC learnt that girls were increasingly dropping out of school at an early age upon being compelled by their families to get married.
- The influx of refugees in the West Nile region which worsened the negative impact of the already-limited resources in the health and education sectors mostly.
- Complaints of harassment of fishermen and human rights violations allegedly committed by the marine army especially in the Central region. UHRC learnt that the harassment allegedly occurred while the UPDF Marine forces curbed illegal fishing on the lake.
- Crime preventers accused of abetting crime, particularly in Fort Portal where they had resorted to collaborating with criminals because government was not paying them any allowances or salary.

- Incidents of child labour reported especially in Busime sub-county where children were engaged in fishing activities during school time.
- That some of the elderly persons were not benefiting from the Social Assistance Grants for Empowerment (SAGE) programme especially in the Karamoja sub-region.

In response, UHRC provided the information that was necessary to appreciate the human rights issues; advised the community members on the appropriate actions to take to follow up, in light of the cross-cutting nature of human rights. UHRC responded to a number of the issues while others were left for partners especially from other institutions. Some of the issues required further investigations and in-depth analysis. UHRC took up some issues for further action and referred others to the relevant organisations for further management.



Participants watching a drama show during a community baraza in Ssanje Trading Centre, Kyotera district

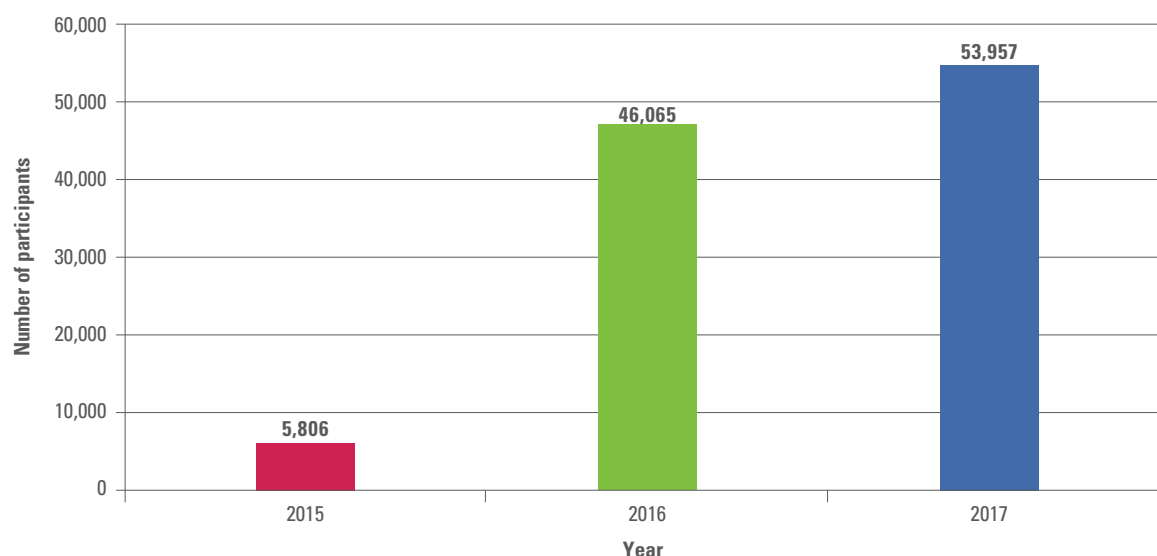
A community member who had attended the baraza later testified to how empowering it had been. He told a monitoring and evaluation mission:

“ After the baraza, we came to appreciate the rights of the vulnerable people such as suspects at police. In the past, we used to have problems with police especially regarding the arrest of suspects and corruption in the police. When police disturbs us, we report to the DPC and they are transferred. Bugaaki police no longer over detains suspects and torture cases have reduced.

(b) Civic education through road shows

In a bid to take human rights services closer to the people, UHRC continued to conduct roadshows using its civic education vans. The civic education vans made it possible for UHRC to reach out to 56,957 people, disseminating information and creating awareness about human rights. In comparison to 2016, there was an increase in both the number of people reached from 46,065 to 56,957 and districts covered from 66 to 72. This increase in the roadshows programmes was as a result of increased funding from the Government of Uganda for civic education in the FY 2017/2018.

FIGURE 38: PARTICIPANTS IN ROAD SHOWS IN 2017



UHRC started using the civic education vans to conduct civic education through roadshows in 2015. As shown in the graph above, more people have since been reached. It should, however, be noted that the numbers documented as participants were those who were able to register. Roadshows are mobile human rights sensitization activities that involves the use of a civic education van. The Commission team moves to trading centres and other places with a high concentration of people. In many places, some people did not register, given the nature of the roadshows and activities they were involved in at that particular time such as selling merchandise and attending to their shops. However, as long as they listened to UHRC while attending to their business, they were able to receive the human rights messages. UHRC, therefore, believes that more people were reached beyond those that registered.

Some of the messages disseminated during the roadshows included the establishment and mandate of the UHRC; the rights of the vulnerable persons; the dangers associated with early marriages; domestic violence; irrational (mob) justice; duties and responsibilities of citizens; land-related rights; property rights mainly focusing on acquisition and ownership of land; the right to personal liberty; freedom from torture; the rights of refugees and peaceful co-existence with the host communities; hate speech and human rights standards during electoral process (for by-elections); and the right to education, among others.



A roadshow in Kyotera district



A roadshow in Hoima district

Some of the concerns raised by the participants during the roadshows were the high defilement rates, challenges in accessing national identity cards, the high rate of girl-child marriages and land disputes. UHRC also noted that because there were so many government activities taking place at the time, some participants mistook UHRC staff to be government agents.

A beneficiary of the roadshows, Florence Birungi of Fort Portal municipality, observed:

“ I got to know the Commission through a civic education van. Some lady came to our town on a vehicle and explained that husbands who were not providing support to their children could be reported to the Commission. I took the case to the Commission, was successfully mediated but the man only paid UGX 200,000 and disappeared from the village. I was professionally handled at the Commission and did not pay any money to access the services.

(c) Human rights education for security agencies

UHRC targeted selected personnel of UPF and UPDF and sensitised them on various human rights standards vital in the execution of their duties. The sensitisation activities followed increased complaints of violation of the right to freedom from torture and personal liberty committed by security agencies. UHRC trained total of **1,465** security personnel from UPF and UPDF, **1,292** of whom were male and **173**, female. Out of the total number of security personnel trained, **361** were UPDF officers (**353** male, **8** female) and police officers were **1,104** (**939** male, **165** female). The security officers were drawn from 30 districts under six of UHRC's regional offices; namely, Mbarara, Fort Portal, Hoima, Jinja, Gulu and Moroto.



The Head of Moroto Regional Office facilitating at a training for LDUs of Matany sub-county and at Napak district headquarter



Police officers take a group photo during their training in human rights

The training covered the conceptual understanding of human rights and the fact that they are enjoyed in tandem with duties and responsibilities; the limitations on human rights; understanding the provisions of the Prohibition and Prevention of Torture Act, 2012 and the Public Order Management Act, 2013; the rights of suspects; and the code of conduct for law enforcement officers.

(d) Human rights education through Human Rights and Peace clubs

UHRC continued to sensitise students at secondary school level in order to enable them embrace a culture of respect for human rights at an early stage. This was done through formation of Human Rights and Peace Clubs and strengthening the already existing ones. As at 31st December 2017, there were 328 human rights and peace clubs countrywide comprising of 13,980 members (6,657 females and 7,323 males).

In 2017, 2,928 club members were trained on various human rights issues aimed at equipping them with the necessary knowledge to respect, protect, promote and fulfill human rights; demand for their rights; and fulfill their duties and responsibilities. The number of club members trained in 2017 increased compared to 2,139 who were trained in 2016.



UHRC and UNDP officials take a group photo with members of the Human Rights and Peace Clubs in Iganga district

UHRC continued to monitor the work and functionality of the human rights and peace clubs and in total, 92 clubs were monitored in 2017 compared to 65 in 2016. During the monitoring visits to the clubs, UHRC distributed IEC materials such as talking compounds (compound signposts with vital human rights messages), posters, copies of the Constitution of Uganda and T-shirts, among others, to strengthen and enhance the club members' abilities and commitment to keeping the human rights agenda high on their priorities.

UHRC also organised human rights debates for the clubs as one way of enhancing the students' human rights knowledge. Students from selected secondary schools participated in debates under the theme: *'Affirmative action for girls/women in schools and positions of leadership should be abolished'*. The debates provided a platform in which UHRC gauged the students' appreciation or lack of it due to discrimination and historical injustices against women. At the end of the debates, UHRC sensitised the students on the fundamental human rights principle of equality and non-discrimination and the critical need to support programmes intended to empower women. Some of the students' negative attitude and stereotypes against women were equally tackled.



The Human Rights and Peace Clubs debate held at Kijungu Hill Hotel in Hoima municipality

In appreciation of the role the clubs have played in nurturing a human rights culture in schools, one member of a Human Rights and Peace Club from Kabarole district, Emmanuel Twesige, president of the Human Rights and Peace Club at Kitumba Senior Secondary School, said:

“ Before the club, there used to be more strikes at the school almost every year but that ended with the establishment of the club because students' complaints are amicably resolved. The last strike at the school was in 2014 before the club was established.

(e) Use of media for human rights education

Cognisant of the role played by the media in the delivery of human rights messages, UHRC continued to use several media platforms as one way of carrying out human rights education. UHRC organised television talk shows, radio talk shows, radio spot messages, press conferences and media statements. There was increased outreach through use of the media due to increased funding from Government of Uganda (GOU) for civic education.

(i) Radio talk shows

In 2017, UHRC conducted 215 radio talk shows in which the number of callers totalled 1,155 (907 male and 248 female). The issues discussed during the talk shows were both cross-cutting in nature and those peculiar to specific regions of Uganda. The cross-cutting issues included understanding the concept of human rights; the rights of vulnerable persons; salient provisions of the Constitution of Uganda and other laws with critical human rights implications such as the Public Order Management Act (POMA) and the Prevention and Prohibition of Torture Act (PPTA); the poor delivery of health services; and land-related rights. Some of the peculiar issues included the rights of people within the fishing communities; and culture and human rights especially in Lango and Acholi sub-regions.

Radio talk shows were mostly conducted in the local languages which people easily understood, including Runyoro, Rutooro, Luganda, Lugbara, Ateso, Luo, Ng'akarimojong, Runyakore, Rukiga, Alur, Madi, among others. Similar messages were delivered through television talk shows. Only four television talk shows were aired out in 2017 just as it was the case in 2016.

Commenting on the role played by the UHRC radio programme which enabled her access UHRC to handle her human rights issues, one lady, Asifa Komusana, a resident of Kiserebe, Muhooti, Kabarole district, said:

“ I came to know about the Commission and its services through one of its radio programmes. I did not know the place/offices but went asking the people on the way and finally I got there. I lodged a complaint and the respondent was invited for mediation and after I got paid my salary worth UGX 280,000, I was so pleased with UHRC for the wonderful work they did. I will live to share this with my village mates.

(ii) Radio and television spot messages

UHRC aired out radio and television spot messages in 2017 to remind listeners regularly about the observance of human rights generally, but also focusing on specific human rights issues. A total of 6,713 spot messages were aired on radio and 93 others on TV covering freedom from torture, the right to health, the right to personal liberty, the right to education, limitations on human rights as well as the corresponding duties and responsibilities vital for the enjoyment of human rights.

(iii) Media briefings and newspaper supplements

UHRC did a lot of advocacy and advised the Government, its numerous stakeholders and the general public on various human rights issues through media briefings.

In 2017, UHRC held regular media briefs and press conferences on pertinent and emerging human rights issues as highlighted below:

- Human rights concerns on reports of increased killings and activities by crime preventers; the prolonged dry spells and threats of hunger in some parts of the country; human rights implications of granting telecommunications companies access to the National ID database during SIM card verification exercise and condemnation of police brutality against journalists on World Press Freedom Day.

- Condemnation of police use of excessive force; human rights violations by Kampala Capital City Authority (KCCA) law enforcement during eviction of vendors as well as land evictions in Amuru district; increased lawlessness by boda boda (commercial motorcycle transport) cyclists in Nateete, Kampala and mob action leading to deaths;
- Condemnation of human rights violations arising from the violence prior, to and following the tabling of the Constitution (Amendment) (No 2) Bill, 2017 commonly known as the “Presidential Age Limit Bill”. UHRC called for tolerance of divergent views and police neutrality;
- Condemnation of the murders of especially women in Entebbe and Nansana in Wakiso district, calling for expeditious investigations into the killings;
- Human rights concerns arising from the industrial action by public officers; calling for the respect of freedom of association;
- Report on findings and recommendations after an inspection visit to Nalufenya detention facility;
- Condemnation of police highhandedness during the rearrest of suspects at court at Nakawa; holding suspects incommunicado and their detention beyond the mandatory 48 hours, and calling for calm among citizens during consultations on the Age Limit Bill;
- Popularising the official launch of the UHRC 19th Annual Report and providing highlights on the state of human rights in 2016;
- UHRC and partners joint press statements to:
 - Launch activities to commemorate the World Press Freedom Day and call for a review of all media laws to assess their compliance with international human rights standards;
 - Announce the National Conference on Economic, Social and Cultural Rights focusing on Local Government and service delivery in Uganda organised at Makerere University, Kampala;
 - Launch activities to commemorate the UN International Day in Support of Victims of Torture;
 - Commemorate the International Human Rights Day in Moroto under the theme ‘*The Rights of Mining Communities.*’

Newspaper supplements were published in respect of the Colloquium on Human Rights and SDGs; to commemorate the African Human Rights Day; Uganda’s 55th Independence Anniversary on 9th October 2017; and an advertorial on commemoration of the International Human Rights Day.

(f) Provision of human rights information through UHRC Library and Documentation Centres

UHRC operates Libraries and Documentation Centres (LDCs) both at the head office and at each of the ten Regional Offices and they are utilised by both staff and members of the public to access human rights reference materials. In 2017, the UHRC library services were accessed by a total of 718 people; a decline in the number of walk-in clients from the 1,370 who accessed them in 2016. This can be partly attributed to the evolving technology in this digital era with a mass of electronic / digital collections over the cyber space that are accessed with improved ease and not barred by location /geographical constraints. The LDCs also received a total of 341 textbooks to boost the rich collection on human rights and related subjects. The LDCs also subscribed to the Uganda Online Law Library to ease access to the Laws of Uganda for their clients.

(g) Creating awareness through Information, Education and Communication materials

During the period under review, the Commission produced a total of 1,060 pocket handbooks of excerpts of chapter 4 of the Constitution on human rights and freedoms; two audio skits, two human rights songs, 100 calendars, 4,415 T-shirts/Shirts, 592 posters and 80 talking compounds for School Human Rights and Peace Clubs. Some of the messages were: *Protect the rights of vulnerable persons; I enjoy my rights and respect the rights of others; You have a right to education; You have a right to non-discrimination; You have a duty to respect the rights of others; and You have a duty to promote a violence-free environment.* UHRC also produced 500 copies of *Your Rights* magazine which focused on the vision of the newly appointed Members of the Commission for UHRC in their tenure of office and the internet and human rights respectively.

UHRC also produced a handbook on human rights education (HRE) to enhance the human rights officers' knowledge and skills in delivering HRE services. It is a reference material with standardised HRE messages and methodologies covering the concept of human rights and HRE, planning and conducting HRE; reporting on and evaluation of HRE activities.

(h) Commemoration of International Human Rights Days

The UHRC spearheaded joint advocacy activities with its partners, to commemorate three International Human Rights Days with the aim of taking stock of the strides made in realising human rights, identifying challenges inhibiting enjoyment of human rights and devising strategies to enhance the protection and promotion of human rights.

The following days were commemorated:

- World Press Freedom Day (3rd May) in conjunction with Uganda Journalists Association, African Centre for Media Excellence, OHCHR and partners from other CSOs. The theme was: *'Critical minds for critical times: Media's role in advancing peaceful, just and inclusive societies.'*
- UN International Day in Support of Victims of Torture (26th June) in conjunction with the Coalition against Torture, ACTV, OHCHR and other CSOs. The theme was: *'Implement the Anti-Torture Law'.*
- International Human Rights Day (10th December) in conjunction with OHCHR, HURINET, EOC and Native Travel Festival commemorated the day in Moroto district, Karamoja under the theme: *'The Rights of Mining Communities in Uganda'.* The decision to hold the main commemoration of the day in Moroto was based on the need to spread awareness about the day even among communities that are located in other parts of the country and the theme was based on the need to publicize the plight and rights of mining communities; give them a voice to be heard by the rest of the country and to demand the respect of rights of mining communities from the duty bearers.



Partners marching in commemoration of the International Human Rights Day in Moroto district on 10th December 2017

(i) Human rights education through partnerships

As the National Human Rights Institution, UHRC receives many invitations from various organisations to partner them during trainings and awareness creation activities. In 2017, UHRC participated in 22 human rights awareness activities from a number of organisations including Office of the Prime Minister (OPM), Uganda Police Force, Office of the United Nations High Commissioner for Refugees (UNHCR), Judiciary, Electoral Commission (EC), Human Rights Centre Uganda (HRCU), Uganda Law Society (ULS), Amnesty Law Project, and Justice, Law and Order Sector (JLOS). Others were: Lutheran World Federation (LWF), Answerid Worldwide, Universal Human Rights Defenders & Activists, Human Rights Network for Journalists (HRNJ), Palliative Care Association of Uganda (PCAU), Mountains of the Moon University, Uganda Law Reform Commission (ULRC), Justice for Children, Good Hope Foundation for Rural Development (GHFRD), Rwenzori Consortium for Civic Competence (RWECCO), Foundation for Human Rights Initiative (FHRI), Hospice Uganda, African Centre for Media Excellence (ACME), Refugee Law Project (RLP), MIFUMI, Mbarara District Local Government (MDLG), ZOA, African Centre for Treatment and Rehabilitation of Torture Victims (ACTV), Human Rights Network (HURINET), and National Coalition of Human Rights Defenders Uganda (NCHRD).

11.3.2. Challenges

- (a) The civic education interventions in Uganda are still piecemeal and uncoordinated due to the continued lack of a National Civic Education Policy.
- (b) As evidenced in the highlights of UHRC's human rights and civic education engagements in 2017, the number of people reached by the Commission through community meetings, roadshows and workshops remained extremely low compared to the national population. Low coverage in terms of geographical space and the population size is majorly due to inadequate funding which hampers UHRC's ability to acquire the necessary manpower, tools and equipment such as vehicles, IEC materials and human resource to conduct adequate human rights/civic education activities.
- (c) Only a few Ugandans have appreciated the need to protect and promote their rights while fulfilling duties and responsibilities. The fact that fundamental human rights and freedoms are enjoyed in tandem with duties and responsibilities is not adequately appreciated. Consequently, cases of child neglect, domestic violence and robberies, among others, are on the increase simply because some people want to enjoy their rights without respecting the rights of others or fulfilling their duties and responsibilities.
- (d) Despite continuous training of the police, allegations of human rights violations against them still remain rampant.

11.3.3 Recommendations

- (a) As recommended in the previous annual report, in order to ensure sustainability of civic/human rights education programmes, Government through the ministry of Finance, Planning and Economic Development should increase funding for UHRC civic/human rights education programmes.
- (b) Government through the ministry of Internal Affairs should prevail on Uganda Police Force to adhere to the constitutional requirements under articles 20, 23 and 221 and respect the rights of the people of Uganda in the performance of its functions.
- (c) Stakeholders such as the ministry of Information and Communications Technology and National Guidance, education institutions, civil society organisations and faith-based organisations should join hands with UHRC in educating and urging Ugandans to fulfilling their duties and responsibilities as they enjoy their rights.
- (d) As recommended in the previous report, the ministry of Justice and Constitutional Affairs should fast-track the approval of the National Civic Education Policy.

11.4. HIGHLIGHTS OF INTERVENTIONS IN FINANCE AND ADMINISTRATION IN THE FINANCIAL YEAR 2016/2017

The Finance and Administration function is crucial in rendering services that support the day-to-day activities and keep the offices running smoothly and efficiently. In 2017, this was made possible through the provision of financial, human and technical resources; for example, by ensuring availability of funds for the various activities, appropriate staffing levels, staff capacity development and facilitating the use of information and communications technology to disseminate information to the general public. The support services enabled UHRC to perform its core business of protection and promotion of human rights in the country and achievement the set objectives.

11.4.1. Funding

The three main sources of funding in the financial year (FY) 2016/2017 were the Government of Uganda (GOU), the Democratic Governance Facility (DGF), and the Justice, Law and Order Sector (JLOS). Other development partners that funded specific activities were United Nations International Children's Emergency Fund (UNICEF), United Nations Population Fund (UNFPA), United Nations Development Programme (UNDP), German Agency for International Cooperation (GIZ), the French Embassy and the Office of the High Commissioner for Human Rights (OHCHR).

Total funding from the various sources as highlighted was UGX 19.234 billion (Nineteen billion, two hundred and thirty four million only). Government of Uganda (GoU) budgetary allocation was UGX 13.801 billion (Thirteen billion, eight hundred and one million only). The total amount received from development partners during the year was UGX 5.433 billion (Five billion, four hundred and thirty three million only).

The overall increase in funding from GOU over the last five years from UGX 8.3 billion in FY 2012/2013 to UGX 13.8 billion in FY 2016/2017 was 66.26%. On the other hand, the trend in donor funding over the last five years remained low, from UGX 3.58 billion in 2012/2013 to UGX 5.433 billion in FY 2016/2017. Therefore, the overall increase in funding of UHRC was 52%. Table 26 below provides a snapshot of UHRC funding over the last five years.

TABLE 28: UHRC FUNDING OVER THE LAST FIVE YEARS

Expenditure item	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017
	UGX in billions	UGX in billions	UGX in billions	UGX in billions	UGX in billions
Wage	2.14	3.59	3.59	5.59	5.59
Non-wage	5.59	5.95	5.95	7.41	7.51
Domestic Development	0.14	0.14	0.14	0.701	0.701
Taxes on machinery	0.1	0.1	0.1	0	0
Total funding from GOU	8.33	9.78	9.78	13.701	13.8
External sources	3.58	3.28	4.9	6.8	5.433
Total funding from GOU and external sources	11.91	13.06	14.68	20.501	19.233
% of GOU contribution	70	75	67	67	72
% of development partners' contribution	30	25	33	33	28

Budgetary allocation to UHRC improved over time although it is not yet commensurate with the needs of UHRC to enable it effectively carry out its mandate. Recurrent underfunding negatively affected major aspects of UHRC operations such as the operationalisation of the approved structure; inability to fund core activities; failure to acquire new motor vehicles and maintain the existing fleet; lack of equipment such as computers; inability to acquire or build own office premises; as well as unpaid staff costs, rent and other operational expenses. The inadequate budgetary allocation also resulted into donor dependency for UHRC's core activities as GOU budgetary allocation was dedicated to support and administration services.

In the FY 2016/2017 budgetary allocation to UHRC, Government's contribution was 72% with the proportion from development partners at 28% of the total approved budget. The percentages are based on the total budget appropriated by Parliament, and not the needs as submitted by UHRC. The needs of UHRC were not fully considered in the budgetary allocation, thus the recurrent underfunding which is not in compliance with the Paris Principles relating to the status of National Human Rights Institutions (NHRIs) which require Governments to fully fund NHRIs. It is, therefore, an obligation on the Government of Uganda to provide 100% funding to UHRC in order to forestall donor dependency in implementing its core activities.

The Paris Principles define minimum conditions that an NHRI must meet if it is to be considered legitimate and credible. They set standards that guarantee the independence and pluralism of NHRIs and in particular provide for the NHRIs to have infrastructure suitable for the smooth conduct of its activities and specifically adequate funding. With adequate funding, the NHRI would have its own staff and premises in order to be independent of Government and not be subject to financial control.

11.4. 2. Donor funds in FY 2016/2017

The Commission received funds from eight development partners; namely, DGF, JLOS, UNICEF, UNFPA, UNDP, GIZ, French Embassy and UN-OHCHR for various activities that were carried out in the FY. A total of UGX 5.433 billion (Five billion, four hundred and thirty three million only) was received from development partners, the breakdown of which is indicated in Table 27 below.

TABLE 29: SUMMARY OF DONOR FUNDING IN THE FY 2016/17

Development partners/ other funders	Activities funded	Amount (billions of UGX)
DGF	Complaints investigations, Tribunal process, civic education, monitoring places of detention, health facilities, production of the annual report on the state of human rights in the country and volunteer allowances.	3.193
JLOS	Human rights documentation project, Tribunal process aimed at case backlog reduction, community baraza, digitising the library and construction of Gulu Regional Office.	1.456
UNICEF	Support to strengthening the capacity of UHRC to monitor and report on child rights by institutionalising child rights in the annual reports, monitoring specific child rights issues and supporting the operationalisation of complaints procedures and accountability mechanisms for child rights violations, audit of all the laws that touch on the welfare of the child which highlighted the gaps in the laws especially in respect to international and regional obligations.	0.0012
UNFPA	Provided support to build the capacity of Civil Society Organisations and other institutions to monitor international human rights instruments ratified by Uganda and to facilitate treaty body reporting and sensitisation of the public on the Human Rights Based Approach to Development.	0.099
UNDP	Support was extended to expand UHRC's internet bandwidth from 512 kilobytes per second to 1 megabyte per second, for capacity building of Voluntary Action Groups on the various aspects of civic education and building capacity of School Human Rights and Peace Clubs as a means of inculcating human rights among the youth.	0.278
GIZ	Creating human rights awareness in the districts under Hoima, Gulu and Central Regional Offices.	0.385
French Embassy	Supported celebrations to commemorate International Human Rights Day.	0.0075
UN-OHCHR	Training of staff on the human rights implications of the oil and gas sector.	0.013
TOTAL		5.433

11.4.3 Human Resource Management

The approved structure of UHRC is comprised of 220 positions out of 469 submitted to the ministry of Public Service. The approved structure is inadequate; so, UHRC has remained thin on the ground. A total of 179 positions out of the 220 were filled by December 2017, which was 81.36% of the total approved structure.

The lean structure and the inability to fully operationalise the approved structure left UHRC with very low staffing levels at both the head office and regional offices as opposed to the enormous need to protect and promote human rights in the country. Even though the approved structure includes 18 positions for Kabale and Lira Regional Offices, they were not opened due to resource constraints.

UHRC acknowledges efforts by Government of Uganda to improve the budgetary allocation to UHRC; however, emoluments for UHRC members and staff have remained low and uncompetitive compared to other Statutory Commissions. That notwithstanding, UHRC achieved its targets and objectives for FY 2016/2017 and this was made possible by a self-motivated team of 224 persons comprising the Chair-person, five Members of the Commission, Secretary, 173 substantive staff and 44 volunteers.

(a) Human resource development

Human resource development took the form of structured training in higher institutions of learning which was based on individual career needs. UHRC performance management system provided a basis for capacity needs assessment from which areas of training were drawn. Other human resource development initiatives included formal training workshops, international conferences and seminars, provision of expertise to other NHRIs, sharing best practices as well as providing a learning environment for other NHRIs.

(i) Training workshops organised by UHRC

Eight training workshops were organised to build capacity of staff at various levels by equipping them with knowledge and skills required in carrying their daily work as well as fulfilling UHRC objectives enshrined in the strategic investment plan. The training workshops included one on basic human rights for 52 non-field officers; refresher training in office management for 25 field office staff; hands-on training for 35 staff on the computerised Human Rights Information System; and training on the rights of vulnerable persons, including minority groups for 23 staff. Another set of 22 staff comprising 20 Investigation Officers were trained in investigations skills and techniques of addressing complaints relating to economic, social and cultural rights; 37 were trained in techniques of monitoring human rights in relation to the oil and gas sector; 52 trained in basic skills in business and human rights and 37 trained in Alternative Dispute Resolution skills.

(ii) International workshops and seminars

A total of eight staff participated in international workshops and seminars focusing on the role of NHRIs in promoting accountability for sexual and reproductive rights in Africa; good governance and counter terrorism in East Africa; human rights and development; finance in business chain for developing countries; identifying capacity needs of democratic institutions within IGAD; human rights education and benchmarking on human rights institutions best practices on ESCR; a blended learning on business and human rights; and a Human Rights Based Approach to the Implementation of Agenda 2030 and Agenda 2063: The role of HHRIs. The workshops and seminars were held separately in Kenya, Tanzania, Zanzibar, China, Ethiopia, Morocco, Kigali and South Africa.

(b) Monitoring elections

With time, UHRC has built capacity and expertise of its members and staff to monitor elections both nationally and regionally. In this regard, UHRC was part of the regional election observer mission to Kenya and Rwanda in its capacity as an NHRI that would focus on human rights issues arising during the electoral processes. Experiences gained have further contributed to enriching UHRC's capacity to monitor elections effectively.

11.4.4 UHRC as a model institution for other NHRIs

UHRC provided capacity building and expertise in various fields such as investigations, monitoring and human rights education to other NHRIs in the region. These engagements with the NHRIs of Ethiopia, Zambia and Nigeria provided the opportunity for UHRC to benchmark against other NHRIs in the region while providing a platform for experience sharing. In the process, UHRC also improved capacity to deliver human rights services to the people of Uganda. The NHRIs learnt best practices especially on the structural organisation of UHRC, its powers as enshrined in the Constitution of Uganda and especially the tribunal function which is not common among many NHRIs. Of particular interest also was the methods of human rights education delivery, particularly community baraza, roadshows and school human rights and peace clubs.

11.4.5 Recruitments, resignations, retirement and deaths

Following the retirement of the former Secretary to the Commission, Mr. Gordon Mwesigye, and UHRC recruited a new Secretary, Mr. Patrick Mabiho Nyakaana, who joined its management team effective 1st June 2017. During the year under review, six substantive staff resigned to take up better-paying jobs and three Assistant Administrators retired. On a sad note, UHRC lost a dedicated Member of the Commission, the late Hon (Rtd) Justice Gideon Tinyinondi, and a member of staff, Kellen Komugisha, who was the Assistant Administrator at UHRC Central Regional Office.

11.4.6 Use of social media to reach audiences

UHRC embraced social media as a tool for the human rights campaign and has continued to use Facebook and Twitter to interact with the public and disseminate information on human rights. The Facebook page has so far attracted 18,550 followers. In 2017, UHRC received compliments, queries and 50 complaints which were handled by a staff dedicated to the task of handling the engagements with UHRC through its social media platforms. The UHRC Facebook page is: Uganda Human Rights Commission and the Twitter handle is: #UHRC_UGANDA.

11.4.7 Challenges

- (a) The salary paid to Members and staff of UHRC has remained low and uncompetitive compared to other statutory institutions, a situation which has led to UHRC losing well-trained and experienced staff.
- (b) Delayed appointment of Members of the Commission which often took about a year or more whenever their term of office expired. This, coupled with few numbers of Members of the Commission, hampered timely and effective service delivery, resulting into a backlog of cases at the Tribunal.
- (c) Currently, UHRC does not have a female Member of the Commission following the resignation of one who joined politics. The representation of women on the Commission has not been adequate.
- (d) Continued underfunding affected acquisition of human and technical resources in terms of acquisition of motor vehicles, information and communications technology (ICT) and telecommunication equipment, furniture, fittings, filling vacant positions in the approved structure, opening of Kabale and Lira Regional Offices and failure to acquire permanent premises for both the head office and regional offices.
- (e) Despite Government's efforts to increase budgetary allocation to UHRC, the Commission has continued to rely on donor support for its core activities, a situation which cannot be sustained.

11.4.8 Recommendations

- (a) Ministry of Public Service, Parliament of Uganda and Ministry of Finance, Planning and Economic Development should together enhance the salaries for members and staff of UHRC to match those earned by staff and members in other statutory institutions.
- (b) As previously recommended in the 19th Annual Report, the ministry of Justice and Constitutional Affairs should fast-track the appointment of Members of the Commission to fill the vacant positions; increase the number of Members of the Commission and also ensure that their appointments happen before the expiry of contracts of the incumbent members to avoid a situation where UHRC runs for several months without a Commission.

- (c) In recommending candidates to the appointing authority for appointment as Members of the Commission, Ministry of Justice and Constitutional Affairs should consider gender balance, just as the appointing authority should.
- (d) Ministry of Finance, Planning and Economic Development should make deliberate efforts to improve on the Medium-Term Expenditure Framework for wage, non-wage and capital development to address the recurring underfunding of UHRC which is affecting all aspects of operations such as outstanding staff costs and rent arrears, procurement of motor vehicles, strengthening Information and Communications Technology (ICT) systems, equipment, furniture and fittings, filling vacant positions, opening Kabale and Lira Regional Offices and construction of UHRC head office and regional offices.
- (e) Ministry of Finance, Planning and Economic Development should implement the President's directive to fully fund UHRC to avoid donor dependency.

11.5 CONCLUSION

UHRC made significant strides in the provision of human rights and civic education services in 2017. The need to strengthen, widen and support human rights and civic education services in a bid to build a culture of respect for human rights cannot be overemphasized. On its part, UHRC undertakes to continue designing more programmes aimed at making everybody in Uganda aware of his /her rights and the corresponding duties and responsibilities. However, the task is so enormous that it calls for increased funding from the Government of Uganda and the development partners. The support of other key stakeholders in complementing UHRC's efforts is equally critical.

Despite the challenges highlighted above, UHRC was still able to achieve its objectives although not to the expected levels. If well facilitated, UHRC has the capacity to achieve the maximum performance expected of it in the struggle to protect and promote human rights.

ANNEXTURE

A List of matters awarded by the UHRC tribunal in the year 2017

S/N	Complaint No.	Parties	Violation	Award (UGX)	Date of decision
Arua Regional Office					
1.	ARU/402009	Obed Rwoth Jevenal and Attorney General (UPF)	Personal liberty	2,500,000/-	21st March 2017
2.	ARU/001/2012	Dralenga Hassan Ali and Attorney General (DISO, UPF)	Torture	5,000,000/-	6th April 2017
3.	ARU/48/2013	Jaswa Samuel and Attorney General (UPF)	Torture	25,000,000/-	11th Oct 2017
4.	ARU/07/2015	Dramuzu Phillip and Attorney General (UPF)	Personal liberty	4,950,000/-	11th Dec 2017
5.	ARU/23/2014	Chachinga Francis and Attorney General (UPF)	Personal liberty	2,500,000/-	11th Dec 2017
6.	ARU/46/2014	Onencan Geoffrey & Ocanisaya and Attorney General (UPF)	Personal liberty	6,000,000/-	11th Dec 2017
7.	ARU/35/2015	Waiyi Otavo and Attorney General (UPF)	Personal liberty	3,950,000/-	11th Dec 2017
8.	ARU/30/2015	Baduru Yusuf & 3 others and Attorney General (UPF)	Personal liberty	12,000,000/-	12th Dec 2017
9.	ARU/50/2014	Jakisa Godfrey and Attorney General (UPF)	Personal liberty	1,500,000/-	12th Dec 2017
Subtotal				63,400,000/-	
Central Regional Office -Kampala					
10.	UHRC/19/2010	Kisakye Maureen and Attorney General (UPDF)	Cruel inhuman and degrading treatment	10,000,000/-	14th Feb 2017
11.	UHRC/176/2011	Nsubuga Mukasa Moses and Attorney General (ISO, CMI)	Torture	3,000,000/-	15th Feb 2017
			Personal liberty	16,000,000/-	
12.	UHHWWRC/142/2007	Sembatya Yahaya and Attorney General (UPF)	Personal liberty	4,100,000/-	9th May 2017
13.	UHRC/444/2004	Kanyemera Ronald and Attorney General (UPF)	Torture, Liberty	11,000,000/-	11th Oct 2017
14.	UHRC/79/2010	Anyazo Bosco and Attorney General (UPF)	Torture	7,000,000/-	11th Oct 2017
15.	UHRC/127/2003	Geofrey Nkambwe and Attorney General (UPF)	Life	40,000,000/-	15th Nov 2017
16.	UHRC/179/2006	Alex Twinomugisha and Attorney General (UPS)	Torture	5,000,000/-	16th Nov 2017
17.	UHRC/10/2006	Margaret Namalwa and Bulere Sub-county (UPF)	Life	40,000,000/-	16th Nov 2017
18.	UHRC/70/2012	Samuel Wabwire Joseph & Another and Attorney General (UPF)	Torture	12,000,000/-	4th Dec 2017

S/N	Complaint No.	Parties	Violation	Award (UGX)	Date of decision
19.	UHRC/04/2012	Biryamondi Mohammed and Attorney General (UPF, JATT, CMI)	Torture	8,000,000/-	4th Dec 2017
			Personal liberty	2,000,000/-	
20.	UHRC/204/2011	Besimira Moses and Attorney General (UPF)	Torture	12,000,000/-	4th Dec 2017
			Personal liberty	5,000,000/-	
21.	UHRC/50/2006	Balina Samuel (Jacob Ouma) and Attorney General (CMI)	Torture	8,000,000/-	4th Dec 2017
Subtotal				183,100,000/-	
Fort Portal Regional Office					
22.	FPT/25/2006	Masereka Benedicto and Attorney General (UPDF)	Life	30,000,000/-	15th Feb 2017
23.	FPT/39/2009	Kato Clovice and Attorney General (UPF)	Personal liberty	3,000,000/-	14th Nov 2017
			Torture	10,000,000/-	
24.	FPT/53/2012	Mwesige Jackson and Attorney General (UPF)	Torture	15,000,000/-	14th Dec 2017
25.	FPT/87/2008	Asimwe Charles and Attorney General	Torture	6,000,000/-	14th Dec 2017
26.	FPT/09/2011	Kisembo Alex and Attorney General	Torture	3,000,000/-	15th Dec 2017
Subtotal				67,000,000/-	
Gulu Regional Office					
27.	GLU/65/2004	Opacho Milton Amon and Attorney General (UPDF)	Life	35,000,000/-	26th Oct 2017
28.	GLU/69/2003	Ojuk Charles (Maliko Ogwok) and Attorney General (UPDF)	Torture	5,000,000/-	14th Nov 2017
29.	GLU/125/2004	Ojuk Kikuyu and Attorney General (UPDF)	Torture	10,000,000/-	20th Nov 2017
			Personal liberty	500,000/-	
30.	GLU/139/2005	Anna Ejang & Ogwal Martin and Attorney General (UPDF & UPF)	Torture	14,000,000/-	20th Nov 2017
			Personal liberty	4,000,000/-	
31.	GLU/41/2005	Obwona Kadenge and Attorney General (UPDF)	Torture	37,000,000/-	20th Nov 2017
			Personal liberty	32,000,000/-	
32.	GLU/67/2005	Grace Atim Ochaya & Otim Achiro Nighty and Attorney General (UPDF)	Personal liberty	3,000,000/-	20th Nov 2017
				4,000,000/-	
33.	GLU/092/2005	Mwaka Alex & Ocaka Simion and Attorney General (UPF)	Personal liberty	5,000,000/-	21st Nov 2017
				4,000,000/-	

S/N	Complaint No.	Parties	Violation	Award (UGX)	Date of decision
34.	GLU/55/2008	Kilama Robert and Attorney General (UPF)	Torture	1,000,000/-	21st Nov 2017
35.	GLU/14/2004	Akello Florence, Ogole Simon Peter, Ogwang Ben & Ogole Richard and Attorney General (UPDF)	Torture	16,000,000/-	20th Nov 2017
Subtotal				170,500,000/-	
Jinja Regional Office					
36.	JJA/118/2007	Semujuu Zubairi and Attorney General (UPF)	Torture Liberty	8,000,000/-	24th Feb 2017
37.	JJA/66/2008	Ejakait Joel and Attorney General(UPDF)	Torture Liberty	13,000,000/-	21st Feb 2017
38.	JJA/56/2010	Kiiza Jamada and Attorney General (UPF)	Inhuman treatment	2,000,000/-	1st March 2017
39.	JJA/63/2010	Lubega Salim and Attorney General (UPF)	Personal Liberty	2,500,000/-	4th April 2017
40.	JJA/157/2008	Maloba Peter & Machoka Fred and Attorney General (UPF)	Personal liberty Torture	10,000,000/- 10,000,000/-	5th April 2017
41.	JJA/13/2012	Taminwa Samson and Attorney General (UPF)	Personal Liberty	2,000,000/-	14th Sept 2017
42.	JJA/40/2010	Odeke Sam and Attorney General (RRU)	Personal Liberty	13,000,000/-	13th Sept 2017
43.	JJA/07/2011	Juma Alex and Attorney General (UPF)	Torture Personal Liberty	2,000,000/- 9,500,000/-	14th Sept 2017
44.	JJA/135/2004	Kirunda Mawazi and Attorney General (UPF)	Torture Personal Liberty	10,000,000/- 1,000,000/-	13th Sept 2017
45.	JJA/44/2009	Lutalo Stuart and Attorney General (UPF)	Torture	4,000,000/-	26th Sept 2017
46.	JJA/131/2008	Sylvester Kasule and Attorney General(UPF)	Life	30,000,000/-	26th Sept 2017
47.	JJA/43/2009	Kizza Anatoli and Attorney Generaln (UPF)	Personal liberty	6,000,000/-	19th Oct 2017
48.	JJA/13/2011	Wagaba Haruna & Anor and Attorney General (UPF)	Torture	22,000,000/-	9th Nov 2017
49.	JJA/53/2010	Kapule Charles and Attorney General (UPF)	Life	35,000,000/-	9th Nov 2017
50.	JJA/115/2005	Opio Patrick (Angiro Charles) and Attorney General (UPS)	Life	35,000,000/-	21st Nov 2017
51.	JJA/092/2009	KarimBatesaki and Attorney Generaln (UPF)	Torture Personal liberty	16,000,000/- 6,000,000/-	21st Nov 2017
52.	JJA/14/2010	Ddikusooka Godfrey and Attorney General (UPS)	Torture	20,000,000/-	22nd Nov 2017

S/N	Complaint No.	Parties	Violation	Award (UGX)	Date of decision
53.	JJA/43/2004	Nakku Joseph and Attorney General (UPF)	Torture	8,000,000/-	22nd Nov 2017
54.	JJA/45/2006	Buyinza Charles and Attorney General (SRPS)	Torture	20,000,000/-	22nd Nov 2017
55.	JJA/25/2012	Kalinaki Muhamudu and Attorney General (UPF)	Personal liberty	100,000/-	22nd Nov 2017
Subtotal				285,100,000/-	
Masaka Regional Office					
56.	MSK/083/2013	Tumukinze Godfrey and Attorney General (UPF)	Personal Liberty	2,000,000/-	18th Sep 2017
57.	MSK/052/2013	Fredrick Kasozi and Attorney General (UPF)	Personal Liberty	2,500,000/-	18th Sep 2017
58.	MSK/033/2013	Yiga Hassan and Attorney General (UPF)	Security of a person	15,000,000/-	18th Sep 2017
59.	MSK/72/2013	Alinanye Michael and CPL Twinomugisha Justus & Musodi James	Torture by private persons	3,000,000/-	20th Nov 2017
60.	MSK/28/2014	Aaron Magezi and Attorney General (RRU)	Torture	6,000,000/-	20th Nov 2017
			Personal liberty	2,000,000/-	
61.	MSK/31/2014	Ntambirweki James Elisa (Senyondo Joseph) and Attorney General (UPF)	Personal liberty	16,700,000/-	20th Nov 2017
62.	MSK/33/2013	Tukahirwa Sulait and Attorney General (UPF)	Personal liberty	6,000,000/-	11th Dec 2017
63.	MSK/81/2015	Mugerwa Mary and Muwonge Isa	Child maintenance	1,250,000/- per school term	11th Dec 2017
64.	MSK/26/2013	Mujuzi Evaristo and Attorney General (UPF)	Torture	5,000,000/-	11th Dec 2017
65.	MSK/50/2012	Kizito Gerald, Mayanja Reillus & Mawejje Deogratiou and Attorney General (UPF)	Torture	20,000,000/-	11th Dec 2017
66.	MSK/42/2013	Sebbowa Simon (Lawrence Lukwago) and Attorney General (UPF)	Personal liberty	4,200,000/-	12th Dec 2017
67.	MSK/34/2012	Mukabasanda Francine and Attorney General (UPF)	Life	38,000,000/-	13th Dec 2017
68.	MSK/47/2013	Sebandeke Siraje and Attorney General (JATT)	Torture	5,000,000/-	13th Dec 2017
			Personal liberty	5,000,000/-	
69.	MSK/13/2013	Musuubirwa Norah Nakyejwe and Attorney General (UPF)	Personal liberty	8,500,000/-	13th Dec 2017
Subtotal				140,150,000/-	
Mbarara Regional Office					
70.	MBR/01/2009	Nuwamanya Stephen and Attorney General (RRU)	Torture	5,000,000/-	23rd Feb 2017
			Liberty	5,000,000/-	
			Property	40,000/-	

S/N	Complaint No.	Parties	Violation	Award (UGX)	Date of decision
71.	MBR/40/2009	Rwebishengye Griffin and Attorney General (UPF)	Torture	5,000,000	13th Sept 2017
72.	MBR/89/2005	Kaberuka Ephraim & Yalemye Paulo and Attorney General (UPF)	Torture	12,000,000/-	31st Oct 2017
			Liberty	8,000,000/-	
73.	MBR/54/2010	Turyamureba Patrick and Attorney General (UPDF)	Torture	30,000,000/-	30th Oct 2017
74.	MBA/25/2010	Mujuni Paul & Nuwamanya Gerald and Attorney General (RRU)	Torture	16,000,000/-	8th Nov 2017
			Personal liberty	2,400,000/-	
75.	MBR/66/2012	Kakuru Geoffrey and Attorney General (UPF)	Personal liberty	2,500,000/-	8th Nov 2017
76.	MBR/46/2010	Mugisha Amidu and Attorney General (UPF)	Personal liberty	3,000,000/-	7th Nov 2017
77.	MBR/25/2008	Kyosimire Safina and Attorney General (UPF)	Torture	12,000,000/-	8th Nov 2017
78.	MBR/54/2006	Ntungire Fred and Attorney General (RRU)	Personal liberty	35,000,000/-	11th Dec 2017
79.	MBR/61/2010	Kangumoraho Edson and Attorney General (UPF)	Personal liberty	3,000,000/-	11th Dec 2017
80.	MBR/56/2014	Bashasha Gilvasio Edson and Attorney General (UPF)	Personal liberty	37,500,000/-	11th Dec 2017
81.	MBR/111/2004	Muhumuza Dennis and Natukunda Edward	Torture	12,000,000/-	11th Dec 2017
82.	MBR/16/2011	Magara Lauben and Attorney General (UPF)	Personal liberty	6,000,000/-	11th Dec 2017
Subtotal				194,440,000/-	
Moroto Regional Office					
83.	MRT/08/2004	Loriet Felix and Attorney General (UPDF)	Torture	10,000,000/-	15th Feb 2017
84.	MRT 58/2006	Lokwang Augustine and Attorney General (UPDF)	Torture	8,000,000/-	10th April 2017, Reviewed and upheld on 16th Oct 2017
85.	MRT/40/2008	Awas Lucia & Naru Dengel and Attorney General (UPDF)	Life	25,000,000/-	10th April 2017
86.	MRT/08/2010	LokoroRitah & Naduk Lucia and Attorney General (UPDF)	Torture	14,000,000/-	10th April 2017
87.	MRT 41/2009	Alice Napila and Attorney General (UPDF)	Liberty	2,000,000/-	10th April 2017
			Torture	5,000,000/-	
88.	MRT/82/2009	Lomuge Peter & Lokol Admund Ayopo and Attorney General (UPDF)	Life	85,000,000/-	13th June 2017
89.	MRT/18/2009	Acwany Lily and Attorney General (UPDF)	Life	40,000,000/-	16th Oct 2017, in review of decision of 15 Feb 2017

S/N	Complaint No.	Parties	Violation	Award (UGX)	Date of decision
90.	MRT/46/2008	Omwony Gideon and Attorney General (UPF)	Torture	10,000,000/-	8th Nov 2017
91.	MRT 4/2009	Lomilo Paul and Attorney General (UPDF)	Torture	20,000,000/-	8th Nov 2017
			Personal liberty	5,000,000/-	
			Special damages	110,000/-	
92.	MRT/19/2011	Illuka Barnabas & ApeiChiyo Paul and Attorney General (UPDF)	Torture	4,000,000/-	8th Nov 2017
93.	MRT/044/2004	Jimmy Ayen and Attorney General (UPF)	Personal Liberty	4,000,000/-	8th Nov 2017
			Torture	8,000,000/-	
			Exemplary damages	3,000,000/-	
Subtotal				243,110,000/-	
Soroti Regional Office					
94.	SRT/109/2008	Etedu Moses and Attorney Genera (UPDF)	Torture	10,000,000/-	14th Nov 2017
95.	SRT/098/2008	Emudu Charles and Attorney General (UPF)	Torture	5,000,000/-	14th Nov 2017
96.	SRT/117/2008	Alungu Gerald and Attorney General (UPDF)	Torture	8,000,000/-	14th Nov 2017
97.	SRT/139/2007	Ochodio Paul and Attorney General (UPF)	Torture	10,000,000/-	14th Nov 2017
98.	SRT/02/2006	Opedo James and Attorney General (UPF)	Torture	8,000,000/-	14th Nov 2017
99.	SRT/347/2003	Elwau Patrick & Okech Peter and Attorney General (UPF)	Torture	28,000,000/-	14th Nov 2017
			Personal liberty	6,000,000/-	
100.	SRT/231/2007	Eyangu Raphael and Attorney General (UPF)	Torture	8,000,000/-	7th Dec 2017
101.	SRT/77/2008	Eyamu Sam & Okello and Attorney General (UPF)	Torture	16,000,000/-	7th Dec 2017
			Personal liberty	3,000,000/-	
102.	SRT/36/2009	Ekau Samuel and Attorney General (UPDF & UPF)	Torture	10,000,000/-	7th Dec 2017
			Personal liberty	600,000/-	
103.	SRT/84/2008	Otim James and Attorney General (UPDF)	Torture	3,000,000/-	7th Dec 2017
104.	SRT 123/2005	Arayo Consolator & 2 others (Enyonga Peter) and Attorney General (UPF)	Torture	3,000,000/-	8th Dec 2017
			Personal liberty	2,500,000/-	
Subtotal				121,100,000/-	
GRAND TOTAL				1,467,900,000/-	

A List of matters amicably settled before the UHRC Tribunal in 2017

S/N	Complaint No.	Parties	Violation	Award (UGX)	Date of settlement
Arua Regional Office					
1.	ARU/21/2014	Adebasiku Robert and Attorney General (UPF)	Personal liberty	2,000,000/-	11th Dec 2017
2.	ARU/35/2014	Vundru William and Attorney General (UPF)	Personal liberty	700,000/-	11th Dec 2017
3.	ARU/55/2014	Okumu Michael and Attorney General (UPF)	Personal liberty	1,000,000/-	11th Dec 2017
4.	ARU/34/2015	Vuciri Natal and Attorney General (UPF)	Personal liberty	1,000,000/-	12th Dec 2017
5.	ARU/11/2014	Kotura Nobert and Attorney General (UPF)	Personal liberty	1,000,000/-	12th Dec 2017
6.	ARU/19/2015	Orodiyo Patrick and Attorney General (UPF)	Personal liberty	1,500,000/-	12th Dec 2017
7.	ARU/05/2015	Rokani Steven et al and Attorney General (UPF)	Personal liberty	2,700,000/-	12th Dec 2017
8.	ARU/120/2014	Ojemba Bosco and Attorney General (UPF)	Personal liberty	1,610,000/-	13th Dec 2017
9.	ARU/170/2014	Omanio Sunday and Attorney General (UPF)	Personal liberty	450,000/-	13th Dec 2017
10.	ARU/21/2015	Jafar Muzamil and Attorney General (UPF)	Personal liberty	1,200,000/-	13th Dec 2017
11.	ARU/32/2015	Koma Richard and Attorney General (UPF)	Personal liberty	300,000/-	15th Dec 2017
Subtotal				13,460,000/-	
Central Regional Office -Kampala					
12.	UHRC/094/2008	Hassan Kateera Mugisha and Attorney General (UPDF)	Liberty, Torture	95,700,000/-	14th June 2017
13.	UHRC/131/2008	Ssenabulya Godfrey and Attorney General (UPF)	Torture	15,000,000/-	12th May 2017
14.	UHRC/276/2004	Kirwana Sarah and Attorney General (UPDF)	Life	15,000,000/-	13th June 2017
15.	UHRC/50/2006	Jacob Ouma and Charles Otema	Torture	1,000,000/-	April 2017
Subtotal				125,700,000/-	
Gulu Regional Office					
16.	GLU/109/2007	Okello Francis Ongom and Attorney General (UPDF) & Capt Otim	Torture	1,000,000/-	21st March 2017
17.	GLU/47/2007	Akite Mary Ochola and Attorney General	Life	15,000,000/-	1st Nov 2017
18.	GLU/178/2004	Orebe Patrick and Attorney General	Torture	1,000,000/-	3rd Dec 2017
Subtotal				17,000,000/-	
Mbarara Regional Office					
19.	MBR/20/2009	Kashaija Micheal and UGAFODE Microfinance Limited	Personal liberty	2,200,000/-	15th June 2017
20.	MBR/10/2012	Mukundane Elias and No. 44193 PC Alinaitwe John	Torture	180,000/-	15th June 2017

S/N	Complaint No.	Parties	Violation	Award (UGX)	Date of settlement
Subtotal					
Moroto Regional Office					
21.	MRT/ 30/2010	Loyangan Simon and Attorney General	Life	1,500,000/-	8th Oct 2017
22.	MRT/43/2009	Hillary Lokedi and Attorney General (UPDF)	Torture	2,500,000/-	8th Oct 2017
23.	MRT/37/2010	Abur Maria (Lokopit John Bosco) and Attorney General	Life	15,000,000/-	8th Oct 2017
Subtotal				19,000,000/-	
Soroti Regional Office					
24.	SRT/201/2006	Okanya Opusimo Sidon and Attorney General	Torture& Remuneration	3,500,000/-	
	SRT/37/2008	Watuwa George & Another and Attorney General (UPDF)	Torture	8,000,000/-	21st April 2017
	SRT/60/2008	Ekellot Samuel (Ojune Joseph) and Attorney General (UPF)	Liberty	2,000,000/-	24th July 2017
	SRT/31/2008	Omolai Steven and Attorney General (UPF)	Personal Liberty	2,000,000/-	24th July 2017
Subtotal				15,500,000/-	
GRAND TOTAL				193,040,000/-	

A List of matters dismissed/closed by the UHRC Tribunal in 2017

S/N	Complaint No.	Parties	Violation	Reason for dismissal/closure	Date of decision
Arua Regional Office					
1.	ARU/26/2012	Piwun Alex and Attorney General (UPDF)	Torture	Closed after the death of Complainant. Complaint abated.	21st March 2017
2.	ARU/20/2010	Obani Amos and Katrini Sub-county (Local Government)	Torture	Dismissed due to lack of cause of action	11th Oct 2017
3.	ARU/61/2008	Utwikwende Charles and Attorney General (UPDF)	Torture	Dismissed. Complaint time barred.	11th Oct 2017
4.	ARU/118/2014	Adripio Immaculate and Attorney General (UPF)	Liberty	Closed. Complainant lost of Interest	11th Oct 2017
5.	ARU/25/2014	Anyama Robert and Attorney General (UPF)	Personal liberty	Dismissed for want of prosecution	11th Dec 2017
6.	ARU/16/2015	Kasamba Stephen and Attorney General (UPF)	Personal liberty	Dismissed for want of prosecution (Complainant on the run)	13th Dec 2017
7.	ARU/22/2015	Nyingaling David and Attorney General (UPF)	Personal liberty	Dismissed due to lack of proper identification by the Complainant	15th Dec 2017
8.	ARU/17/2015	Ujigi Brian and Attorney General (UPF)	Personal liberty	Dismissed for want of prosecution	15th Dec 2017
Central Regional Office					
9.	UHRC/83/2002	Semwogerere Jamil and Attorney General (UPF)	Torture, Personal liberty	Dismissed due to insufficient evidence	14 Feb 2017
10.	UHRC/133/2007	Ssaku William and Attorney General	Torture	Dismissed for non-appearance	3rd March 2017
11.	UHRC/47/2009	Mulindwa Brian and Attorney General (UPF)	Liberty, Fair hearing	Dismissed due to insufficient evidence	22 March 2017
12.	UHRC/123/2006	Nabimanya Robert and Attorney General	Torture	Dismissed for want of prosecution	27 March 2017
13.	UHRC/153/2004	Babigumira Hamidu and Attorney General (UPF)	Liberty	Dismissed for want of prosecution	22 March 2017
14.	UHRC/84/2005	Moses Muwonge and Attorney General (UPF)	Torture	Dismissed for want of prosecution	17th May 2017
15.	UHRC/106/2008	Senono Moses and Attorney General (UPF)	Torture	Dismissed for lack of locus	14th June 2017
16.	UHRC/545/2004	Hajat H. Mansoor and Attorney General	Life	Dismissed for want of prosecution	April 2017
17.	UHRC/039/2011	Madina Nantongo and Muganga William	Child Maintenance	Complainant expressed loss in interest in case	25th Sept 2017
18.	UHRC/393/2000	Matovu Mohammed and Attorney General	Torture, Liberty, property	Dismissed for want of prosecution	10th Oct 2017
19.	UHRC/85/2007	Lukyamuzi Julius Kitaka and Attorney General (UPF)	Torture	Dismissed for want of prosecution	23th Oct 2017
20.	UHRC/139/2007	Onegui Avuni & Anor (Okecha Baranyanga & Co. Advocates) and Attorney General (UPF)	Liberty	Dismissed for want of prosecution	7th Nov 2017

S/N	Complaint No.	Parties	Violation	Reason for dismissal/closure	Date of decision
Gulu Regional Office					
21.	GLU/032/2009	Ali Zubair and Attorney General	Torture	Dismissed for want of prosecution	24th May 2017
22.	GLU/53/2009	Okello Patrick Blicy and Attorney General	Life	Dismissed for insufficient evidence	14th Nov 2017
Hoima Regional Office					
23.	HMA/10/2014	Lutalo Zacharia and Attorney General	Liberty	Dismissed for want of prosecution	27th Feb 2017
24.	FPT/56/2005	Nsenkanabo Sulaiman and Attorney General	Torture, liberty, property, privacy	Complaint abated. File closed.	11th May 2017
25.	HMA/23/2014	Kitone Wilfred and Attorney General	Liberty	Complaint abated. File closed.	17th Aug 2017
Jinja Regional Office					
26.	JJA/94/2011	Barasa Joseph and Attorney General (UPF)	Torture	Dismissed for want of prosecution	5th April 2017
27.	JJA/52/2012	Makoloo Rashid and Attorney General (UPF)	Liberty	Dismissed for want of prosecution	3rd April 2017
28.	JJA/48/2012	Tigaitwa Abudallah and Attorney General (UPF)	Torture	Dismissed for want of prosecution	3rd April 2017
29.	JJA/66/2010	Musana Yusufu and Attorney General (UPF)	Liberty	Dismissed for want of prosecution	4th April 2017
30.	JJA/02/2009	Ngwamuziko Bruhani and Attorney General	Life	Dismissed for want of prosecution	6th April 2017
31.	JJA/10/2011	NtuseShaban and- Attorney General	Torture & liberty	Dismissed for want of prosecution	14th June 2017
32.	JJA/22/2013	Tenywa W. Jacob and Kalikodi Noel & 3 others		Dismissed for want of prosecution	7th August 2017
Masaka Regional Office					
33.	MSK/73/2009	Mutunda Samuel and Attorney General (UPS)	Personal liberty	Dismissed for insufficient evidence	13th Dec 2017
34.	MSK/73/2009	Mutunda Samuel and Attorney General (UPS)	Personal liberty	Dismissed for insufficient evidence	13th Dec 2017
35.	MSK/53/2012	Tibigarukwamu Benson and Mudokoli Obadiah & Kabakumba Eric	Torture	Dismissed for insufficient evidence	12th Dec 2017
Mbarara Regional Office					
36.	MBR/36/2011	Nuwanya Boaz and Attorney	Torture	Dismissed for want of prosecution	21st June 2017
Moroto Regional Office					
37.	MRT/66/2009	Mwesige Dominic and Attorney General (UPDF)	Torture	Dismissed for want of prosecution	13th June 2017
38.	MRT/13/2010	Oponya J. Robert and Attorney General (UPDF)	Torture	Dismissed for want of prosecution	23rd Oct 2017
Soroti Regional Office					
39.	SRT/11/2012	Lwanga Lamanzan and Attorney General	Torture	Dismissed for want of prosecution	21st Feb 2017

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