



# UGANDA HUMAN RIGHTS COMMISSION



## THE 24<sup>TH</sup> ANNUAL REPORT ON THE STATE OF HUMAN RIGHTS AND FREEDOMS IN UGANDA IN 2021

SUBMITTED TO THE PARLIAMENT OF THE REPUBLIC OF UGANDA





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■ Jinja   
■ Masaka   
■ Soroti



# Foreword

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

Dear Madam,

## **UGANDA HUMAN RIGHTS COMMISSION 24<sup>th</sup> ANNUAL REPORT 2021 TO PARLIAMENT**

Allow me first of all to congratulate you and your deputy on your recent election to the position of the Speaker and Deputy Speaker of the Parliament of Uganda, respectively.

In accordance with Article 52 (2) of the Constitution of the Republic of Uganda, the Uganda Human Rights Commission is mandated to publish periodic reports on its findings and submit annual reports to Parliament on the state of human rights and freedoms in the country. It is, therefore in fulfilment of this mandate that the Uganda Human Rights Commission has the honour and pleasure to present to you its 24th Annual Report.

This report comprises 12 chapters, with chapters one to eight dedicated to the general thematic issues and areas that the Uganda Human Rights Commission monitored during the reporting period. Some of the emerging issues in 2021 included the twin bombings, banishment of persons from their societies and teenage pregnancy. These issues are highlighted in chapter nine of this report.

Chapter 10, highlights various interventions by the Commission in accordance with our mandate of monitoring Government's Compliance with international human rights standards.

Chapter 11 considers the Commission's position on bills before the Parliament of Uganda, while the last chapter of the report looks at how Uganda has

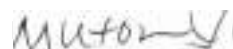
performed in terms of its reporting to international and regional treaty bodies.

Our aim in presenting this Annual Report is to give to the Parliament of Uganda, various government departments, strategic partners and the general public an appraisal of the human rights situation in Uganda in the year 2021.

The Commission presents this report as a carefully crafted and valuable assessment of the state of human rights in the country in 2021. This report not only builds on the previously identified challenges and recommendations but also takes note of the progress made.

The Commission hopes that Parliament, the Executive and all those organs to which recommendations have been made will give due attention to the respective issues raised in the report. We are fully convinced that if the recommendations are implemented, we will significantly enhance the concept of good governance as well as the protection and promotion of human rights in our country.

Yours faithfully,

  
**Chairperson**

# Membership of the Commission



**Advocate Mariam Wangadya**  
CHAIRPERSON



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MEMBER



**Hon. Jacklet Atuhaire**  
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**Hon. Shifrah Lukwago (Adv)**  
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**Hon. Meddie B. Mulumba**  
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**Hon. Rev. Fr. Simon Lokodo (RIP)**  
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# Abbreviations and Acronyms

|                 |                                                                                                                |                 |                                                                                                               |
|-----------------|----------------------------------------------------------------------------------------------------------------|-----------------|---------------------------------------------------------------------------------------------------------------|
| <b>ACHPR</b>    | African Charter on Human and People's Rights                                                                   | <b>DGF</b>      | Democratic Governance Facility                                                                                |
| <b>ACRWC</b>    | African Charter on the Rights and Welfare of the Child                                                         | <b>DIS</b>      | District Inspector of Schools                                                                                 |
| <b>ACTV</b>     | African Centre for Treatment and Rehabilitation of Torture Victims                                             | <b>DIT</b>      | Directorate of Industrial Training                                                                            |
| <b>ADF</b>      | Allied Democratic Front                                                                                        | <b>DRC</b>      | Democratic Republic of Congo                                                                                  |
| <b>ASTU</b>     | Anti Stock Theft Unit                                                                                          | <b>EPRC</b>     | Economic Policy Research Centre                                                                               |
| <b>AU</b>       | African Union                                                                                                  | <b>ERA</b>      | Electricity Regulatory Authority                                                                              |
| <b>CAT</b>      | The Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment                   | <b>EU</b>       | European Union                                                                                                |
| <b>CCTV</b>     | Closed-circuit television                                                                                      | <b>F/Y</b>      | Financial year                                                                                                |
| <b>CECU</b>     | Civic Education Coalition in Uganda                                                                            | <b>FCC</b>      | Family and children's court                                                                                   |
| <b>CEDAW</b>    | Convention on the Elimination of all Forms of Discrimination Against Women                                     | <b>FGM</b>      | Female genital mutilation                                                                                     |
| <b>CCEDU</b>    | Citizens' Coalition for Electoral Democracy in Uganda                                                          | <b>FM</b>       | Frequency modulation                                                                                          |
| <b>CFPU</b>     | Child and Family Protection Unit                                                                               | <b>KFM</b>      | Kampala frequency modulation                                                                                  |
| <b>CID</b>      | Criminal Investigations Directorate                                                                            | <b>FUE</b>      | Federation of Uganda Employers                                                                                |
| <b>CMI</b>      | Chieftaincy of Military Intelligence                                                                           | <b>GBV</b>      | Gender-based violence                                                                                         |
| <b>CMW</b>      | United Nations Convention on the Protection of the Rights of all Migrant Workers and Members of their Families | <b>GCC</b>      | Gulf Cooperation Council                                                                                      |
| <b>COCTIP</b>   | Coordination Office for Counter Trafficking in Persons                                                         | <b>GISO</b>     | Gombolola Internal Security Officer                                                                           |
| <b>COFTU</b>    | Central Organisation of Free Trade Unions                                                                      | <b>GIZ</b>      | German Corporation for International Cooperation                                                              |
| <b>COVID-19</b> | Coronavirus disease 2019                                                                                       | <b>GOU</b>      | Government of Uganda                                                                                          |
| <b>CPS</b>      | Central Police Station                                                                                         | <b>HDU</b>      | High dependency unit                                                                                          |
| <b>CRC</b>      | Convention on the Rights of the Child                                                                          | <b>HIV/AIDS</b> | Human Immunodeficiency Virus/ Acquired Immunodeficiency Syndrome                                              |
| <b>CSOs</b>     | Civil society organisations                                                                                    | <b>HREA</b>     | Human Rights Enforcement Act, 2019                                                                            |
| <b>DCDOs</b>    | District Community Development Officers                                                                        | <b>HRC-U</b>    | Human Rights Center Uganda                                                                                    |
|                 |                                                                                                                | <b>HRO/E</b>    | Human Rights Officer/ Education                                                                               |
|                 |                                                                                                                | <b>ICCPR</b>    | International Covenant on Civil and Political Rights                                                          |
|                 |                                                                                                                | <b>ICESCR</b>   | International Covenant on Economic, Social and Cultural Rights                                                |
|                 |                                                                                                                | <b>ICMW</b>     | International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families |

|                |                                                                                        |                |                                                        |
|----------------|----------------------------------------------------------------------------------------|----------------|--------------------------------------------------------|
| <b>ICPPED</b>  | International Convention for the Protection of all Persons from Enforced Disappearance | <b>MFA</b>     | Ministry of Foreign Affairs                            |
| <b>ICT</b>     | Information and communication technology                                               | <b>MFPEd</b>   | Ministry of Finance, Planning and Economic Development |
| <b>ICU</b>     | Intensive care unit                                                                    | <b>MoGLSD</b>  | Ministry of Gender, Labour and Social Development      |
| <b>IEC</b>     | Information, education and communication                                               | <b>MIA</b>     | Ministry of Internal Affairs                           |
| <b>ILO</b>     | International Labour Organization                                                      | <b>MLHUD</b>   | Ministry of Lands, Housing and Urban Development       |
| <b>IOM</b>     | International Organization for Migration                                               | <b>MOES</b>    | Ministry of Education and Sports                       |
| <b>ISER</b>    | Initiative for Social and Economic Rights                                              | <b>MOU</b>     | Memorandum of understanding                            |
| <b>ISO</b>     | Internal Security Organisation                                                         | <b>MTIC</b>    | Ministry of Trade Industry and Cooperatives            |
| <b>J4C</b>     | Justice for Children                                                                   | <b>MTN</b>     | Mobile Telephone Network                               |
| <b>JCU</b>     | Justice Centres Uganda                                                                 | <b>NANHRI</b>  | Network for African National Human Rights Institutions |
| <b>JLOS</b>    | Justice, Law and Order Sector                                                          | <b>NBS</b>     | National Broadcasting Services                         |
| <b>KCCA</b>    | Kampala Capital City Authority                                                         | <b>NCDC</b>    | National Curriculum Development Centre                 |
| <b>KIDDP</b>   | Karamoja Integrated Disarmament and Development Programme                              | <b>NDP III</b> | Third National Development Plan                        |
| <b>KIS</b>     | Kalangala Infrastructure Services                                                      | <b>NEMA</b>    | National Environment Management Authority              |
| <b>KIL</b>     | Kilembe Investments Limited                                                            | <b>NGO</b>     | Non-governmental organisation                          |
| <b>KRECS</b>   | Kyegegwa Rural Energy Co-operative Society                                             | <b>NIN</b>     | National identification number                         |
| <b>LAC</b>     | Law against corruption                                                                 | <b>NIRA</b>    | National Identification and Registration Authority     |
| <b>LDC</b>     | Law Development Centre                                                                 | <b>NOTU</b>    | National Organisation of Trade Unions                  |
| <b>LAP/ULS</b> | Legal Aid Project/Uganda Law Society                                                   | <b>NRC</b>     | Norwegian Refugee Council                              |
| <b>LASPNET</b> | Legal Aid Service Providers Network                                                    | <b>NRM</b>     | National Resistance Movement                           |
| <b>LC</b>      | Local council                                                                          | <b>NSGE</b>    | National Strategy for Girls' Education in Uganda       |
| <b>LGs</b>     | Local governments                                                                      | <b>VACiS</b>   | Violence against children in schools                   |
| <b>LRA</b>     | Lord's Resistance Army                                                                 | <b>NUP</b>     | National Unity Platform                                |
| <b>MDAs</b>    | Ministries, departments and agencies                                                   | <b>OHCHR</b>   | Office of the High Commissioner for Human Rights       |
| <b>MDGs</b>    | Millennium Development Goals                                                           | <b>ODPP</b>    | Office of the Director of Public Prosecutions          |
| <b>MEA</b>     | Ministry of East African Affairs                                                       |                |                                                        |
| <b>MEMD</b>    | Ministry of Energy and Mineral Development                                             |                |                                                        |

|                   |                                                                                                                 |                |                                                                                                          |
|-------------------|-----------------------------------------------------------------------------------------------------------------|----------------|----------------------------------------------------------------------------------------------------------|
| <b>OPCAT</b>      | Optional Protocol to the Convention Against Torture                                                             | <b>UEDCL</b>   | Uganda Electricity Distribution Company Limited                                                          |
| <b>OP-CRC-AC</b>  | Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict | <b>UEGCL</b>   | Uganda Electricity Generation Company Limited                                                            |
| <b>OPM</b>        | Office of the Prime Minister                                                                                    | <b>UETCL</b>   | Uganda Electricity Transmission Company Ltd                                                              |
| <b>PACEMS</b>     | Pader-Abim Community Multi-Purpose Electric Co-operative Society                                                | <b>UGX</b>     | Uganda shillings                                                                                         |
| <b>PDM</b>        | Parish development model                                                                                        | <b>UHDR</b>    | Universal Declaration of Human Rights                                                                    |
| <b>PLA</b>        | Platform for Labour Action                                                                                      | <b>UHRC</b>    | Uganda Human Rights Commission                                                                           |
| <b>PLE</b>        | Primary Leaving Examinations                                                                                    | <b>UIA</b>     | Uganda Investment Authority                                                                              |
| <b>PPE</b>        | Personal protective equipment                                                                                   | <b>UJA</b>     | Uganda Journalists Association                                                                           |
| <b>PPTA</b>       | Prevention and Prohibition of Torture Act                                                                       | <b>ULS</b>     | Uganda Law Society                                                                                       |
| <b>PRI</b>        | Penal Reform International                                                                                      | <b>UMSWG</b>   | Uganda Media Sector Working Group                                                                        |
| <b>PV energy</b>  | Solar photo-voltaic energy                                                                                      | <b>UN CAT</b>  | United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment |
| <b>PWDs</b>       | Persons with disabilities                                                                                       | <b>UN</b>      | United Nations                                                                                           |
| <b>RLP</b>        | Refugee Law Project                                                                                             | <b>UNDP</b>    | United Nations Development Programme                                                                     |
| <b>RRA</b>        | Resource Rights Africa                                                                                          | <b>UNESCO</b>  | United Nations Educational, Scientific and Cultural Organization                                         |
| <b>RRH</b>        | Regional referral hospital                                                                                      | <b>UNFPA</b>   | United Nations Population Fund                                                                           |
| <b>RSA</b>        | Resident State Attorney                                                                                         | <b>OHCHR</b>   | Office of the High Commissioner for Human Rights                                                         |
| <b>RUCODET</b>    | Rupa Community Development Trust                                                                                | <b>UNHCR</b>   | United Nations High Commissioner for Refugees                                                            |
| <b>SAGE</b>       | Social Assistance Grant for Empowerment                                                                         | <b>UNICEF</b>  | United Nations Children's Fund                                                                           |
| <b>SARS-CoV-2</b> | Severe acute respiratory syndrome coronavirus 2                                                                 | <b>UPDF</b>    | Uganda People's Defence Force                                                                            |
| <b>SDG</b>        | Sustainable Development Goal                                                                                    | <b>UPE</b>     | Universal primary education                                                                              |
| <b>SFC</b>        | Special Forces Command                                                                                          | <b>UPPA</b>    | <i>Uganda Press Photo Award</i>                                                                          |
| <b>SOP</b>        | Standard operating procedure                                                                                    | <b>UPR</b>     | Universal periodic review                                                                                |
| <b>SRH</b>        | Sexual and reproductive health                                                                                  | <b>US\$</b>    | United states Dollar                                                                                     |
| <b>STDs</b>       | Sexually transmitted diseases                                                                                   | <b>USE</b>     | Universal secondary education                                                                            |
| <b>T/C</b>        | Trading centre                                                                                                  | <b>UTL</b>     | Uganda Telecom Limited                                                                                   |
| <b>TPNW</b>       | Treaty on the Prohibition of Nuclear Weapons                                                                    | <b>WENRECo</b> | West Nile Rural Electrification Company                                                                  |
| <b>UAE</b>        | United Arab Emirates                                                                                            | <b>WGEID</b>   | Working Group on Enforced or Involuntary Disappearances                                                  |
| <b>UAERA</b>      | Uganda Association of External Recruitment Agencies                                                             | <b>WHO</b>     | World Health Organization                                                                                |
| <b>UBOS</b>       | Uganda Bureau of Statistics                                                                                     |                |                                                                                                          |
| <b>UCC</b>        | Uganda Communications Commission                                                                                |                |                                                                                                          |
| <b>UDHR</b>       | Universal Declaration of Human Rights                                                                           |                |                                                                                                          |

# About Uganda Human Rights Commission

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WHO WE ARE

## OUR VISION

A SOCIETY THAT RESPECTS HUMAN RIGHTS AND FULFILS CIVIC OBLIGATIONS.

WHAT WE ASPIRE TO DO

## MISSION STATEMENT

TO PROTECT AND PROMOTE FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS IN UGANDA FOR SUSTAINABLE DEVELOPMENT.

## OUR CORPORATE VALUES

- » INTEGRITY, TRANSPARENCY AND ACCOUNTABILITY
- » FAIRNESS IN THE EXECUTION OF FUNCTIONS AND MANDATE
- » DIGNITY OF THE PERSON IS CENTRAL
- » INDEPENDENCE, CREDIBILITY AND RELIABILITY AS A NATIONAL HUMAN RIGHTS INSTITUTION
- » QUALITY OF SERVICE DELIVERY
- » NON-DISCRIMINATION

## » MANDATE

The functions of the Commission as per Article 52 (1) of the Constitution of the Republic of Uganda, 1995 are as follows:

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

Article 52(2) requires the Commission to publish periodic 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 Uganda Human Rights Commission 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 Commission an intervention role in situations where a state of emergency has been declared: 'The Uganda Human Rights Commission shall review the case of any person who is restricted or detained under emergency laws.'

## » POWERS OF THE UGANDA HUMAN RIGHTS COMMISSION

Under Article 53(1), the Commission has 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 Uganda Human Rights Commission 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 UGANDA HUMAN RIGHTS COMMISSION

Article 54 states that 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 UGANDA HUMAN RIGHTS COMMISSION

Article 55 provides that the Commission shall be self-accounting, and all the administrative expenses, including salaries, allowances and pensions payable to persons serving with the Commission, shall be charged to 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 UGANDA HUMAN RIGHTS 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 UGANDA HUMAN RIGHTS COMMISSION

The Commission appoints officers and other employees in consultation with the Public Service Commission.

## »» OTHER LAWS GOVERNING THE UGANDA HUMAN RIGHTS COMMISSION

The laws that regulate and facilitate the performance of the functions of the Commission are the Uganda Human Rights Commission Act, 1997 and the Uganda Human Rights Commission Rules of Procedures, 1998.

# Acknowledgements

The Uganda Human Rights Commission has ended yet another year executing its constitutional mandate of protecting and promoting human rights. The mandate involves many processes, including stakeholder and public engagements, research, complaints management geared towards defending the rights of those that require protection because of factors including their age, disability, social, political or economic positioning.

The year 2021 was faced with many challenges, notably COVID-19, a global pandemic which had severe consequences on the World population and economies. Nonetheless, the Commission made progress on the delivery of its mandate as it is required by the Constitution of the Republic of Uganda.

The Uganda Human Rights Commission acknowledges the technical and financial support provided by the Government of Uganda, development partners, and Civil Society Organisations in executing its mandate. Special appreciation goes to the United Nations Office of the High Commissioner for Human Rights, United Nations High Commissioner for Refugees, United Nations Development Programme, United Nations Children's Fund, European Union, Justice, Law and Order Sector (Governance and Security Program), Democratic Governance Facility, Government of France, German Agency for International Cooperation (GIZ) and Network for African National Human Rights Institutions.

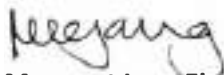
Hon. Mariam Wangadya Chairperson, UHRC, and Members of the Commission including Hon. Jacklet Atuhaire, Hon. Crispin Kaheru, Hon. Shifrah Lukwago, Hon. Meddie B. Mulumba and Hon. Rev. Fr. Simon Lokodo (RIP) are acknowledged in a very special way for providing political leadership, policy guidance and strategic direction that steered the process leading to the production of this report.

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**Margaret Lucy Ejang**  
**Ag. Secretary**

**UGANDA HUMAN RIGHTS COMMISSION**

# Executive Summary

This is the 24<sup>th</sup> Annual Report of the Uganda Human Rights Commission, which presents Uganda's human rights and freedoms situation in 2021. The Report covers both the activities of the Uganda Human Rights Commission (the Commission) carried out in 2021 and an assessment of the human rights in the country. It is based on the Commission's monitoring and documenting throughout the reporting year, complaints of human rights violations and research on thematic human rights areas conducted in 2021. In each chapter, the Commission makes recommendations to relevant authorities to improve the human rights situation under review.

The report comprises 12 chapters, with the first eight covering thematic issues, the subsequent three presenting highlights of the interventions undertaken by the Commission in 2021, and the last chapter focusing on Uganda's reporting to international and regional treaty bodies. The following thematic issues were covered: COVID-19 pandemic and its effects in 2021; externalisation of labour and its human rights concerns; access to electricity; extractive industries in Karamoja and human rights concerns; human rights situation on selected islands; enforced disappearances in Uganda and the human rights implications; the plight of urban refugees; juvenile justice in Uganda and the human rights concerns; and Karamoja disarmament. Some of the emerging issues in Chapter nine include disarmament in Karamoja; social media and human rights concerns; banishment from communities; twin bombings in Kampala; and teenage pregnancy.

In Chapter 10, the Commission highlights its interventions in complaints management, including investigations and tribunals; monitoring and inspections; human rights education; as well as finance and administration. Chapter 11 captures the Commission's position on Bills that were introduced before the Parliament of Uganda in 2021. Chapter 12 presents Uganda's performance in reporting to international and regional human rights treaty bodies.

In the compilation of the report, the Commission refers to its findings during monitoring and inspections as well as emerging issues during human rights education activities; information provided during interviews, focus group discussions and the Commission's stakeholder engagements; and, where relevant, reference to secondary information was made. Below are the recommendations for each of the 12 chapters.

## RECOMMENDATIONS

### CHAPTER ONE: COVID-19 PANDEMIC AND ITS EFFECTS IN 2021

1. The Uganda People's Defense Forces and Uganda Police Force should desist from aggressive and brutal enforcement of directives such as caning people, as this undermines the dignity of the person.
2. The Ministry of Health should ensure that all health workers are routinely tested for COVID-19 and provided with protective gear in the course of their work.
3. Through the Ministry of Finance, Planning and Economic Development, the Ugandan Government should provide budgetary support at the community level to enhance the ability of communities to detect and report cases of COVID-19.

4. Through the Ministry of Health, the Ugandan Government should strengthen emergency response capacity and systems at all levels to detect emerging and new variants early.
5. Through the Ministry of Health, the Ugandan Government should optimise vaccination by enhancing uptake, ensuring vaccination efficacy and understanding specific vulnerabilities.
6. The Ugandan Government should adopt innovative multi-sectoral and tailored approaches to address COVID-19 effects, including violence against children, men and women. The issue of livelihoods and food security must be resolved as a critical bottleneck to compliance.
7. Children and adolescents should be effectively targeted in COVID-19 interventions. They need awareness, products (e.g. fitting face masks), voice and protection from the effects of COVID-19, including being witnesses and victims of different forms of violence.

## CHAPTER 2: EXTERNALISATION OF LABOUR IN THE MIDDLE EAST

1. The Ministry of Gender, Labour and Social Development should ensure that the pre-departure orientation and training period for migrant workers is extended from one week to at least three weeks, and the curricula should incorporate training on the rights and responsibilities of migrant workers and the redress mechanisms available both in the destination countries and in Uganda.
2. The Ministry of Gender, Labour and Social Development should ensure that the district labour officers are adequately facilitated and fully involved in the externalisation process by regularly monitoring recruitment agencies in their respective districts as required by the law.
3. Through the Ministry of Foreign Affairs and the Ministry of Gender, Labour and Social Development, the Ugandan Government should provide adequate consular offices and fast track deployment of labour attachés to high destination countries like Bahrain, Qatar, Oman, Jordan, Kuwait and Turkey to improve the protection of rights of migrant workers abroad.
4. The Ugandan Government should fast track the establishment of officers responsible for handling complaints both at the Ministry of Gender, Labour and Social Development and in all labour-receiving countries.
5. The Ugandan Government should set up a tracking system that monitors the recording, coding, investigation and resolution of all complaints raised by migrant workers.
6. The Ministry of Gender, Labour and Social Development should effectively regulate the recruitment agencies to ensure that they comply with all legal requirements on the externalisation of labour. This includes playing a more active role in maintaining contact with migrant domestic workers in their countries of destination to understand their work-related problems and challenges better and being able to intervene in risky or abusive situations for migrant workers effectively.
7. The Ministry of Gender, Labour and Social Development and the Ministry of Internal Affairs should work together to crack down on unregistered recruitment agencies that engage in illegal labour externalisation to address the issue of human trafficking for labour purposes.
8. The Ministry of Gender, Labour and Social Development should fast track the signing of bilateral agreements with other countries, including Qatar, Oman, Turkey, Kuwait, Jordan and Bahrain, where there are already many Ugandan migrant workers. The existing bilateral agreements should be strengthened by providing for better working conditions for migrant workers.
9. The Ministry of Gender, Labour and Social Development should spearhead massive awareness of the existing labour migration laws, policies and regulations to inform aspiring and current migrant workers about safe migration and their rights.
10. Parliament should enact a law on the minimum wage to ensure better wages so that Ugandans who would otherwise go abroad as migrant workers can opt to access employment in Uganda.
11. Through the Ministry of Gender, Labour and Social Development and the Ministry of Education and Sports, the Ugandan Government should develop a structured way of skilling Ugandans for the job market overseas.

12. Through the Ministry of Trade Industry and Cooperatives and Uganda Investment Authority, the Ugandan Government should fast track industrialisation of the economy to create more job opportunities for Ugandans.

### CHAPTER 3: THE SITUATION IN BUVUMA AND KALANGALA DISTRICTS

1. The Ministry of Education and Sports should set up more government-aided boarding school facilities in parishes with no schools to enable easy access to education.
2. The Ministry of Health should upgrade Buvuma Health Centre IV and Kalangala Health Centre IV to hospital status and increase the staffing in various health centres. In the same vein, the state of the health facilities should be improved and additional ones constructed to enable islanders to have better healthcare access.
3. Given the high cost of water transport, the Ministry of Finance Planning and Economic Development should consider preferential funding modalities for institutions like the police and health services that operate in the islands to facilitate them to perform optimally.
4. The Ministry of Health should ensure fully facilitated water and land ambulances are put in place to help reduce cases of maternal deaths that occur due to delayed access to health facilities.
5. Ministry of Water and Transport should procure speedboats for islanders for public use in cases of emergencies, including for expectant mothers.
6. The Ministry of Energy and Mineral Development should provide cheap alternative energy sources like gas and solar and reduce the electricity rates per unit to make it affordable for the islanders.

### CHAPTER 4: EXTRACTIVE INDUSTRIES IN KARAMOJA SUB-REGION

1. The Ugandan Government should fast-track the amendment of the Mining Act and related policies by facilitating and supporting community consultations and dialogues on the review of the mining regulatory and legal framework.
2. The Ugandan Government should support the organisation and formulation of artisanal small scale miners into groups and associations to facilitate organised mining, thus increasing their market bargaining power, acquisition of location licenses and financing for these small organised groups.
3. The Ministry of Energy and Mineral Development and the district local government should disseminate mining laws and regulations to the local community, including the national action plan on business and human rights, and monitor their implementation.
4. The district local governments should make by-laws to control the supply of waragi to the region. Excessive consumption of alcohol affects the health and productivity of the population, not just in the mining areas but also in the rest of the population in the entire region of Karamoja.
5. The Ministry of Energy and Mineral Development and mineral Police should monitor the enforcement of restoration practices.

### CHAPTER 5: ENFORCED DISAPPEARANCES IN UGANDA

1. The Ugandan Government should ratify the International Convention for the Protection of All Persons from Enforced Disappearances.
2. Security agencies should ensure effective and efficient enforcement and implementation of the existing legal provisions, such as the Human Rights Enforcement Act, 2019 and the Prevention and Prohibition of Torture Act 2012, among others, to ensure the protection of fundamental human rights.

3. The Ugandan Government should expeditiously enact specific legislation on witness protection and expedite the enactment of the Legal Aid Bill into law.
4. The Uganda Police Force should investigate all cases of enforced disappearances and ensure that perpetrators are brought to book and victims get justice.

## CHAPTER 6: THE PLIGHT OF URBAN REFUGEES IN UGANDA

1. The Office of the Prime Minister and other partners should sensitise the public and urban refugees on their rights, duties and responsibilities to enhance the protection and promotion of their rights.
2. The Ministry of Internal Affairs should consider local integration and grant citizenship to the refugees that have stayed in Uganda for over 30 years.
3. The Office of the Prime Minister, together with the Department of Refugee Management, should verify and register all unregistered urban refugees.
4. The Office of the Prime Minister should establish a monitoring and recording mechanism for employed urban refugees to ensure that they are not exploited. Refugees should also be assisted in applying for and acquiring working permits.

## CHAPTER 7: JUVENILE JUSTICE IN UGANDA

1. In conjunction with the Ministry of Local Government, the Ministry of Gender, Labour and Social Development should review the functionality of probation and social welfare offices with the view of splitting the probation roles from the social welfare functions to be performed by different officers.
2. All parents or guardians in Uganda should step up their constitutional responsibility of nurturing their children to reduce delinquency and supporting children when in conflict with the law.
3. The Governance and Security Programme Secretariat should technically support all juvenile justice institutions towards holistic mainstreaming of standards.
4. The Governance and Security Programme Secretariat should support the Uganda Police Force and the judiciary in constructing or designating child-friendly detention facilities in all Police facilities and courts.
5. The Ministry of Finance, Planning and Economic Development should allocate more financial resources to boost human resource strength within juvenile justice institutions in Uganda.

## CHAPTER EIGHT: ACCESS TO ELECTRICITY IN UGANDA

1. The Ugandan Parliament should amend the Electricity Act 1999 to diversify electricity sources, especially to promote off-grid solar that can serve vulnerable groups better.
2. The Ministry of Energy and Development should prioritise the connection of all health facilities to the national grid.
3. Electricity Regulatory Authority should revise tariffs to make power more affordable for Ugandans.
4. The Ministry of Finance, Planning and Economic Development should make deliberate efforts to increase funding in the energy sector to boost activities directed toward expanding the grid line.

## CHAPTER NINE: EMERGING HUMAN RIGHTS CONCERNS IN 2021

### 1.1 DISARMAMENT IN THE KARAMOJA SUB-REGION IN 2021

1. The Ministry of Foreign Affairs should hold high-level engagements within the framework of the East African Community to ensure that all armed groups within the East African region are disarmed.

2. While Uganda People's Defence Forces and other security agencies have worked hard to ensure that the people and their property are safe, Police should deploy more forces at national borders to ensure that the armed groups do not cross into Uganda to disturb the border communities.
3. Local leaders and politicians should unite to have a combined effort to have disarmament successful in attaining peace and stability.<sup>1</sup>
4. Development programme activities should be increased in the region, as creating diversified economic activities rather than only cattle keeping shall assist in changing the mindset of the people, thus mitigating cattle rustling.
5. There is a need for compulsory formal education for the children and youths in Karamoja.

## **1.2 SOCIAL MEDIA IN 2021**

1. The Ministry of Information, Communications and Technology, Uganda Communications Commission and National Information Technology Authority should intensify their efforts to increase public awareness concerning the use of social media, which should cover rights and responsibilities in the use of social media platforms.
2. The Ministry of Information, Communications and Technology, Uganda Communications Commission and National Information Technology Authority should develop a policy to articulate and address issues of online violence against women, including providing educational programmes.
3. The Uganda Law Reform Commission should review the Regulation of Interception of Communications Act 2013 166 and the Anti-Pornography Act 2014 167 to address the overly-restrictive provisions affecting the freedom of speech and expression.
4. The Uganda Communications Commission should ensure that any blockage of digital services, such as the internet, is per national and international human rights standards and should follow due process.
5. The 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.
6. Citizens of Uganda should use social media responsibly, particularly the internet and social network platforms and should verify information before sharing it to avoid the consequences of propagating false information, which might cause disorder and violence.

## **1.3 BANISHMENT OF PERSONS FROM COMMUNITIES IN THE ACHOLI SUB-REGION IN 2021**

1. The Police should investigate banishment cases, and the perpetrators or instigators should be arrested and prosecuted.
2. The Police should enhance community policing and mass sensitisation on the elimination of banishment.
3. The district local governments should enact ordinances and bye-laws prohibiting the banishment of persons.

## **1.4 TERRORISM ATTACKS IN 2021**

1. The Uganda Police Force should install more CCTV cameras along the roads, especially in major towns and cities.
2. The Chieftaincy of Military Intelligence and Uganda Police Force should intensify their intelligence networks to detect terror acts before they happen.
3. The general public should exercise vigilance in public areas, particularly near government buildings, crowded locations, and near embassies and taxi and bus parks.

<sup>1</sup> UPDF 3<sup>rd</sup> Infantry Division Moroto.

## **1.5 TEENAGE PREGNANCIES IN UGANDA IN 2021**

1. In collaboration with the Ugandan Government, civil society organisations, Faith-Based Organisations, local council leaders, and parents should sensitise communities at the grassroots level against traditional practices and norms that aim to marginalise and discriminate against women and girls.
2. Through the Ministry of Gender, Labour and Social Development, the Ugandan Government should popularise the revised guidelines for the prevention and management of teenage pregnancies in schools such that headteachers and teachers know how to handle cases of teenagers who return to school after giving birth.
3. The Ugandan Government Ministries, Departments and Agencies need to strengthen the implementation of legal and policy frameworks to prevent, prohibit and respond to all forms of violence against children, including teenage pregnancies.
4. The Ugandan Government should support more robust collaboration between the justice and social welfare systems for the prevention, mitigation and response to child protection-related risks, for example, providing social protection for teenage mothers.
5. The Ugandan Government should support programmes to strengthen the capacity of parents and other family members (primary caregivers), for example, through parenting programmes.

## **CHAPTER 10: HIGHLIGHTS OF UHRC'S INTERVENTIONS IN 2021**

### **INTERVENTIONS IN COMPLAINTS MANAGEMENT**

1. The appointing authority should increase the number of Commission Members to enable the UHRC expeditiously dispose of its tribunal backlog.
2. The Ministry of Justice should set up a victims' compensation fund to ensure timely payment of compensation awards to victims of human rights violations.
3. The Ministry of Health should conduct specialised training for health workers to build their capacity to effectively document cases of victims of alleged torture who report to them for treatment.

### **CONDITIONS IN PLACES OF DETENTION**

1. The Ministry of Finance, Planning and Economic Development should increase funding to the Uganda Prisons Service and the Uganda Police Force to enable them to build better structures to have facilities suitable for human habitation and stop overcrowding.
2. The Ministry of Internal Affairs and Ministry of Gender Labour and Social Development should ensure that juveniles are separated from adult offenders in all detention facilities.
3. The Uganda Prisons Service and Uganda Police Force should completely phase out the bucket waste disposal system.
4. The Uganda Prisons Service should establish human rights committees in all prison facilities.
5. The Uganda Police Force should adequately facilitate all its stations and posts with the necessary stationary, equipment and transportation to enable officers to do their policing work.

### **INTERVENTIONS IN HUMAN RIGHTS AND CIVIC EDUCATION**

1. Through the Ministry of Finance, Planning and Economic Development, the Ugandan Government should adequately fund commission civic education to ensure the sustainability of civic education programmes.
2. The Ministry of Justice and Constitutional Affairs should fast track the passing of the National Civic Education Policy, providing a streamlined framework within which civic education is conducted in Uganda.

## FINANCE AND ADMINISTRATION IN THE FINANCIAL YEAR 2020/2021

1. The Ministry of Finance, Planning and Economic Development should increase funding to UHRC to:
  - a) Address the challenges of a depleted fleet and acquire speed boats to improve transport for the two islands of Kalangala and Buvuma.
  - b) Fully embrace, adopt and invest more in ICT to increase the performance capacity of staff.
  - c) Pay competitive staff salaries.
  - d) Build capacity of commission staff in human rights and other relevant skills.
  - e) Open more regional offices to take services closer to the people, at least at the sub-county level.
2. The Ministry of Public Service should approve the commission proposed staff structure of 469 staff to enhance adequate service delivery.

There is a need to increase commission's fleet to 65 motor vehicles as well as acquire speed boats as the mode of transport for the field offices based in the islands to enhance efficiency in operations.

## CHAPTER 11: UHRC'S POSITION ON BILLS BEFORE PARLIAMENT

The UHRC reviewed the following bills, with multiple recommendations for each that can be found in the relevant section of the chapter.

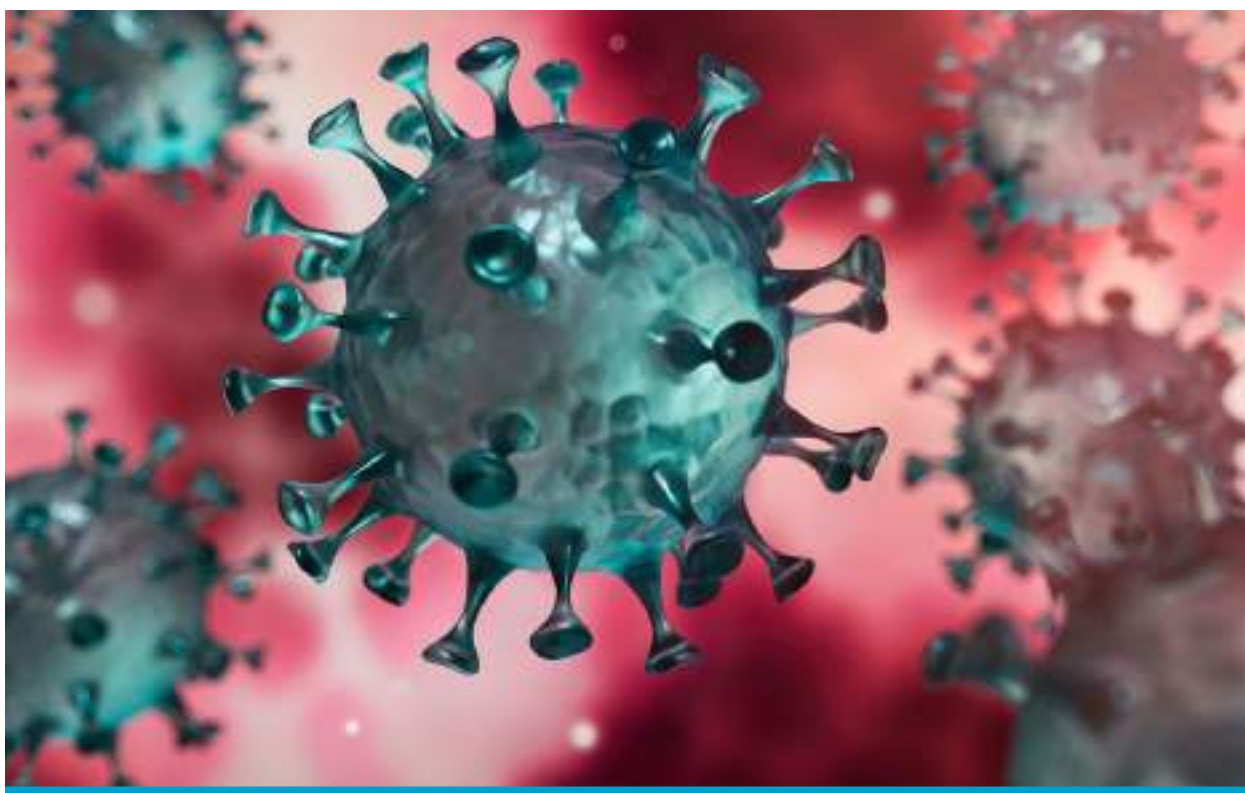
1. Treaty on the Prohibition of Nuclear Weapons, which was adopted by the United Nations General Assembly on 7 July 2017.
2. The Constitution (Sentencing Guidelines for Courts of Judicature) (Practice) Directions 2021.
3. The Judicature (Representation At The Expense of the State) Rules 2021.
4. Constitutional (Bail Guidelines for Court of Judicature) Practice Directions 2021.
5. The Public Health (Amendment) Bill 2021.

## CHAPTER 12: UPDATES ON UGANDA'S REPORTING TO INTERNATIONAL AND REGIONAL HUMAN RIGHTS MECHANISMS AND RATIFICATION OF TREATIES

1. The Ministry of Foreign Affairs should finalise and operationalise the inter-ministerial committee on human rights to streamline and speedy reporting obligations.
2. The Ministry of Foreign Affairs, Ministry of Gender, Labour and Social Development and Ministry of Justice and Constitutional Affairs should follow up on the implementation of pending voluntary pledges and recommendations made by treaty bodies to enhance the promotion and protection of human rights in the country.
3. The Ministry of Finance Planning and Economic Development should increase financial support to the Ministry of Gender, Labour and Social Development and other relevant agencies to complete the dissemination of the National Action Plan on Business and Human Rights.
4. The Ugandan Government should urgently ratify pending treaties, especially those signed, for example, the Optional to the Convention against Torture and the International Convention for the Protection of all Persons from Enforced Disappearance, 2006.
5. The Ministry of Finance Planning and Economic Development should increase funding to the Ministry of Gender, Labour and Social Development and other Ministries, Departments and Agencies responsible for state reporting to enable them to have adequate financial and human resources to conduct consultations and data collection needed for timely reporting.

# CHAPTER ONE:

# COVID-19 Pandemic and its Effects in 2021



## 1.1 INTRODUCTION

On 30<sup>th</sup> January 2020, the World Health Organization (WHO) declared the outbreak of the coronavirus disease (COVID-19) a public health emergency of international concern. This new virus was highly infectious and transmitted through respiratory droplets. Nearly all the countries in the world have been affected, including Uganda, where the first case was reported on 21<sup>st</sup> March 2020. Since then, Uganda has had 163,301 confirmed cases, 100,021 recoveries and 3588 deaths registered. These cases stemmed from five variants: Delta (*B.1.617.2 first identified in India*), Eta (*B.1.525*), Beta (*B.1.351 from South Africa*), Alpha (*B.1.117 identified in the United Kingdom*) and the local strain, which was identified as *B.1.617*.

When the first case of COVID-19 in Uganda was confirmed in March 2020, several preventive measures were undertaken, including imposing travel restrictions, especially for travellers from China and other high-risk countries, who were put under isolation upon arrival in Uganda. Other standard operating procedures (SOPs) included washing hands for at least 20 seconds or sanitising hands, wearing facial masks, closing schools and higher institutions of learning, limiting or banning public transport, prohibiting public gatherings, limiting movements at night through curfew and establishing the COVID-19 task forces from the national to the local government level.

In October 2020, there was a phased reopening of schools for international schools and candidate classes in the national curriculum and finalists in higher learning institutions.

In 2021 Uganda dealt with the second wave of the COVID-19 a surge of the more deadly delta variant of COVID-19 known as SARS-COV-2 swept across the nation. Schools were closed again in May 2021, and strict measures, including a lockdown of all non-essential services, were instituted to curb the spread and impact of the delta variant of COVID-19.<sup>2</sup>

During the second wave, Uganda recorded an average daily number of 2,000 cases compared to a daily average of 1,000 cases during the peak of the first wave. The second wave also recorded a higher mortality rate, with twice the number of deaths in 2021.<sup>3</sup> As of 31 December 2021, the country had registered 163,071 cumulative confirmed cases of COVID-19, 99,892 recoveries, and 3,580 deaths.

This chapter considers the effect of COVID-19 in 2021 and its human rights impact on the health sector, education sector, and the economy. It also analyses the impact of COVID-19 on domestic violence as well as access to justice.

## 1.2 LEGAL AND POLICY FRAMEWORK

Uganda has ratified international and regional instruments which guarantee the right to health and all other rights affected by the COVID-19 pandemic. These include the International Covenant on Economic, Social and Cultural Rights<sup>4</sup> (ICESCR), which recognises the right of all persons to enjoy the highest attainable standard of physical and mental health while also recognising the right to just and favourable conditions of work and the right of everyone to education. In addition, the International Covenant on Civil and Political Rights (ICCPR)<sup>5</sup>, Convention on the Rights of the Child (CRC)<sup>6</sup>, and the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)<sup>7</sup> all provide for rights which were affected by COVID-19.

The African Charter on Human and People's Rights (ACHPR) guarantees the right to health while recognising necessary restrictions on the right to assemble in the interest of national security, safety and health, among others. The Maputo Protocol on the Rights of Women in Africa and the African Charter on the Rights and Welfare of the Child (ACRWC) also provide the context for analysing how COVID-19 impacted the enjoyment of human rights. The 1995 Constitution of the Republic of Uganda provides the national framework for public health management in Uganda and all rights affected by COVID-19.<sup>8</sup> Chapter four of the Constitution provides for the right to life, the right to personal liberty, which may be limited to prevent the spread of an infectious disease, the right to education, the rights of women and children, and the rights of vulnerable persons such as persons with disabilities (PWDs) and minorities.

The Public Health Act Cap 281 is the primary legislation providing for public health management in Uganda. Several regulations were made thereunder, including the Public Health (Control of COVID-19) Rules 2021 SI 38 of 2021, which revoked the Public Health (Control of COVID-19) 2020 rules. The regulations made provisions for disposal of bodies, the extension of curfew, closure and suspension and restriction of certain activities and businesses, and rules for meetings, among others. In addition, the Occupational Health and Safety Act 2006 protects employees in the workplace. In addition, several Presidential directives or guidelines were issued on how to prevent the spread of COVID-19 in the country.

<sup>2</sup> These preventive measures were communicated by H.E Yoweri Kaguta Museveni the President of the Republic of Uganda on 18 June 2021, guided by the rapidly increasing daily cases, increasing positivity rate and high admissions of severe and critically ill patients. According to the Ministry of Health, cases were averaging at 2,000 cases daily.

<sup>3</sup> Uganda faced COVID-19 related 1,013 deaths in 2020 compared to 2,293 COVID-19 related deaths in 2021. Source: Ministry of Health presentation to UHRC on COVID-19 effects in 2021.

<sup>4</sup> ICESCR, Articles 6, 12, and 13.

<sup>5</sup> ICCPR Articles 4, 6, 23, and 24.

<sup>6</sup> CRC Articles 6, 24, 27, and 28.

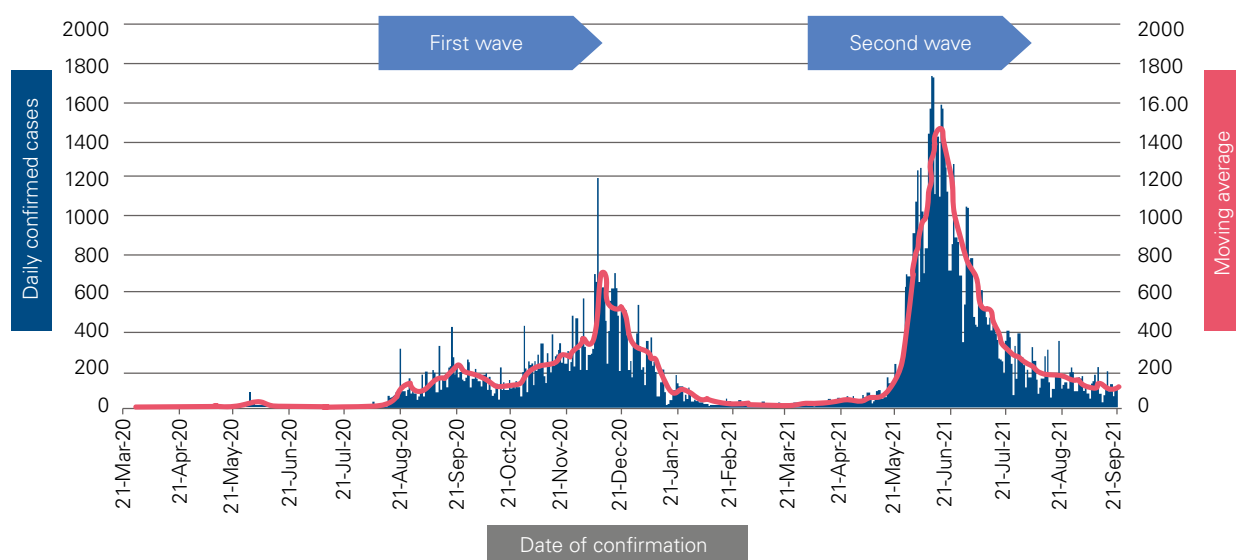
<sup>7</sup> CEDAW Articles 10, 12, and 16.

<sup>8</sup> Articles 22, 23, 30, 33, 34, 35 and 36 of the Constitution of the Republic of Uganda.

## 1.3 SITUATIONAL ANALYSIS

Uganda grappled with a second wave of the COVID-19 pandemic primarily after 18 June 2021, when, the President of Uganda, imposed a second lockdown as a response to the alarming cases of COVID-19. At the time of the June Presidential address, Uganda had registered a total of 68,778 COVID-19 patients, with a daily rate of 2,000 and a cumulative total of 542 deaths. By 24 June 2021, Uganda had registered 126 COVID-19 deaths in a period of four days bringing the total death toll to 752, according to Ministry of Health data.<sup>9</sup> As of 22 September 2021, the country had registered 122,502 confirmed cases and 3,135 deaths. It was also reported that several deaths went uncounted by the Ministry of Health, especially those that occurred in communities. Some health workers attributed the increase in fatalities to the high number of people reporting to hospitals when already in critical condition.

**Figure 1.1: Epidemic curve showing COVID-19 cases (March 2020-September 2021)**



The second lockdown instituted by the President saw the closure of schools, public and private means of transport, businesses, churches, entertainment places, and all non-essential services. The President further instituted a ban on inter-district travel and restricted the number of people to attend weddings and burials to 20 people to contain the virus. The President further ordered a 42-day nationwide lockdown in a bid to curb the spread, and so private vehicles were banned from road use; this was thought necessary after 2020 restrictions requiring cars to only carry three passengers were ignored. Only cargo planes, lorries, pickups and trains were allowed to operate. A curfew that had been in effect from the first lockdown of 2020 was maintained until mid-July 2021.



*Testing kit for COVID-19*

<sup>9</sup> <https://allafrica.com/stories/202106240294.html> accessed on 17th May 2022

Sectors considered non-essential faced total closure between June and August 2021, whereas Government departments and other essential services continued to operate at 10% capacity.<sup>10</sup> There was an improvement in enforcement of SOPs from the previous lockdown, with pregnant women and other patients who required access to medical care being allowed free access to health facilities, particularly within their localities, without having to seek permission from the local authorities.

### 1.3.1 Standard operating procedures (SOPs)

1. **Wearing face masks** in public was a requirement for all people aged seven years and above in all public settings. Both transparent and non-washable masks were made by government and private companies, and the price ranged from 1,000 to 5,000 UGX depending on the quality.
2. **Handwashing practices** were encouraged, and in response, the government, non-governmental organisations and the private sector accelerated the installation of handwashing stations with soap and water through donations in public places. Commuter taxis made it mandatory for all passengers to wash their hands with soap and water before boarding. Within the WASH sector, diverse types of innovative handwashing facilities were developed, tested and produced, including touch-free mechanisms and different types of disability-appropriate facilities. Information campaigns spreading the handwashing with soap messages were at a scale and pace never seen before.
3. **Social distancing** was also fundamental among the provided SOPs to reduce the chances of infection. People were sensitised to maintain at least two metres distance between themselves and anyone else, especially those coughing or sneezing.



*UHRC officials observe SOPs while in the office.*

### 1.3.2 Burial of COVID-19 victims

The Ministry of Health protocol required every district to have a well-trained and equipped burial team and that only the team members would approach close to a coffin with everybody else at least five meters away. Every place the team passed on the way to the already prepared grave was sprayed with diluted liquid chlorine from a spray pump. This scared many people, as burials are known to be formal, grand ceremonies complete with wailing and touching or washing the dead to give the departed a befitting send-off. Communal eating, dancing, and drumming are also done in many societies, and these go on for days. However, due to the pandemic, families and communities had little or no contact with their deceased relatives. The burial teams undertook the safe and dignified burials alone, with communities playing minimal roles, if any.

<sup>10</sup> Presidential directives of 18 June 2021.

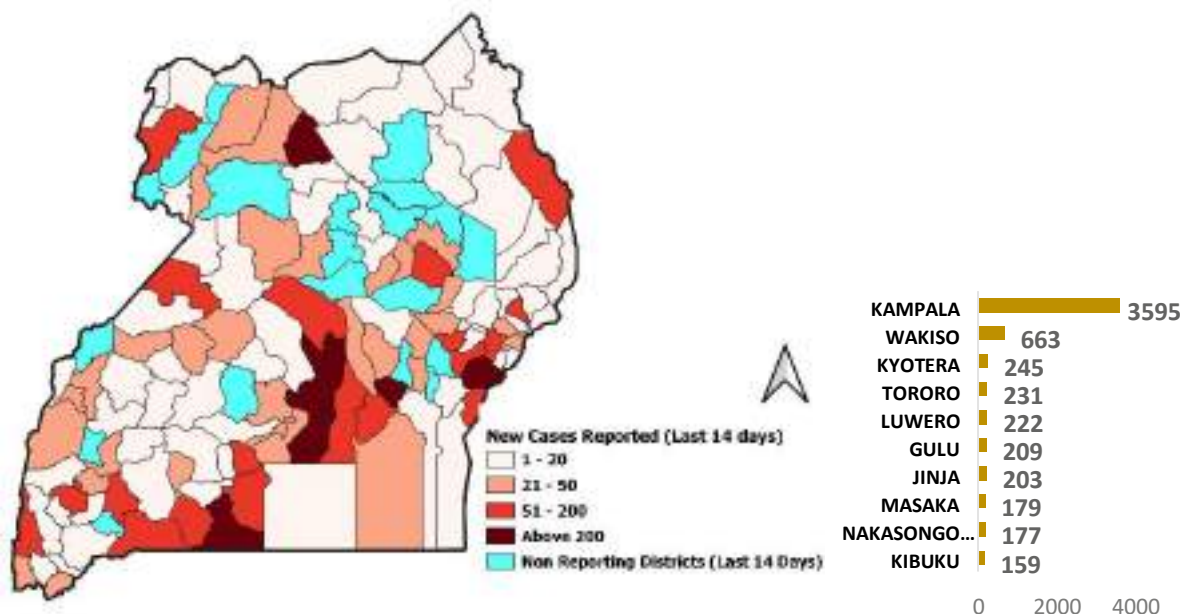


*Burial of COVID-19 victims by COVID-19 burial teams at Kyambogo village, Lwankoni Sub-County in Kyoteera District.*

### 1.3.3 COVID-19 hotspots

As the pandemic ravaged the country, the UHRC noted key hot spot districts where the communities were more severely affected. The breakdown of the new cases included Kampala, Wakiso, Mpigi, Gulu, Kasese, Kyotera, Tororo, Mbarara, Arua, Masaka, Kayunga, Yumbe, Luwero, Zombo, Soroti, Jinja, Butaleja, Iganga, Kalungu, Kabale, Nakasongola, Kibuku, Mukono, Masindi, Kumi, Gulu, Nwoya and Yumbe.

**Figure 1.2: Distribution of COVID-19 cases two weeks before the lockdown (Cases: 8,668; Districts: 116)**



As shown above, Kampala and Wakiso continued to be the significant hotspots of COVID-19 in 2021, registering the most cases and deaths.

### 1.3.4 COVID-19 response mechanisms

The national response mechanisms established in 2020 continued to operate under the leadership of the Office of the Prime Minister. It was noted that Kampala had only eight public health centres testing for and vaccinating against COVID-19. The testing kits were very few compared to the demand. Additionally, the facilities could not admit COVID-19 patients because they lacked specialised medical equipment. The UHRC established that the city's COVID-19 rapid response team, which was supposed to evacuate

COVID-19 patients from the communities to hospitals, was very small, making most cases untraceable. Kampala Capital City Authority (KCCA) operated a fleet of only 18 ambulances, which were supposed to evacuate COVID-19 patients from communities to health centres. The health officials reported that this fleet was overwhelmed. Private health facilities also participated in providing health care services, particularly in the urban areas, although the cost of treatment was exorbitant.<sup>11</sup>

### 1.3.5 Hospitalisation and shortage of oxygen

Uganda suffered an acute shortage of oxygen and intensive care beds as the country grappled with a deadly second wave of the pandemic fuelled by five different virus variants, as mentioned above. Regional referral hospitals and the country's biggest hospital, Mulago National Referral Hospital, reported acute shortages. The country also suffered a critical lack of oxygen, and again, the private businesses seized the opportunity to make extraordinary profits. By 14 December 2020, an oxygen cylinder of 70kgs cost one million shillings at the peak of the second wave.

The UHRC noted that private hospitals exploited the high levels of hospitalisation to charge hefty prices for hospital admissions. Patients were paying hospital fees as high as 100 million shillings in private facilities. Private companies have obligations to respect, protect and remedy human rights, but some did not prioritise duty of care over profits.

The Ugandan Government made the following interventions to address the acute shortage of oxygen: appointed oxygen focal persons at national and regional referral hospitals to link facilities issues to the national level; functionalised an oxygen dashboard for hospitals; quantified cylinder requirements; determined gap in oxygen cylinders and accessories; routinely updated pipeline tracker; and solved requirement gaps. The country's oxygen capacity was improved as follows:

- 14 regional referral oxygen plants were set up
- Entebbe National Referral Hospital: 16 Nm<sup>3</sup>/Hr (one oxygen plant)
- Mulago National Referral Hospital: 125 Nm<sup>3</sup>/Hr, 70Nm<sup>3</sup>/Hr (two new plants)
- Kawempe National Referral Hospital: 11 Nm<sup>3</sup>/Hr
- Women's Hospital: 30 Nm<sup>3</sup>/Hr

The UHRC established that by June 2021, the national bed capacity stood at 4,134. The number of beds at countertop units was 1,244, and beds in the non-treatment isolation facilities were 2,890. Of these, the total COVID-19 intensive care unit beds were 102, and high dependency unit beds stood at 404. The bed capacity remained low, affecting the availability and accessibility of healthcare goods and services.

### 1.3.6 Vaccination against COVID-19

Amidst this surge in cases, the Government intensified vaccination efforts by facilitating the vaccination of at least 4.8 million people considered the most vulnerable in the population, including the elderly, teachers and those with core commodities. This was aimed at facilitating the reopening of the economy. A total of 1,139,260 doses of the AstraZeneca vaccine were administered to the population countrywide; 902,293 people received the 1st dose while 233,950 received the 2<sup>nd</sup> dose. The country received donations of 286,080 doses of the AstraZeneca vaccine from Norway and 300,000 doses of the Sinovac vaccine from China in July 2021. The Government continued to carry out extensive mobilisation of COVID-19 vaccines, with forecasts used at the height of the pandemic as below.

<sup>11</sup> In the case of Moses Mulumba & Centre for Human Rights and Development v Attorney General and two others, the High Court issued orders to the regulators of the health sector to intervene in the cost of fees payable to hospitals for treatment and management of persons suffering from COVID-19.

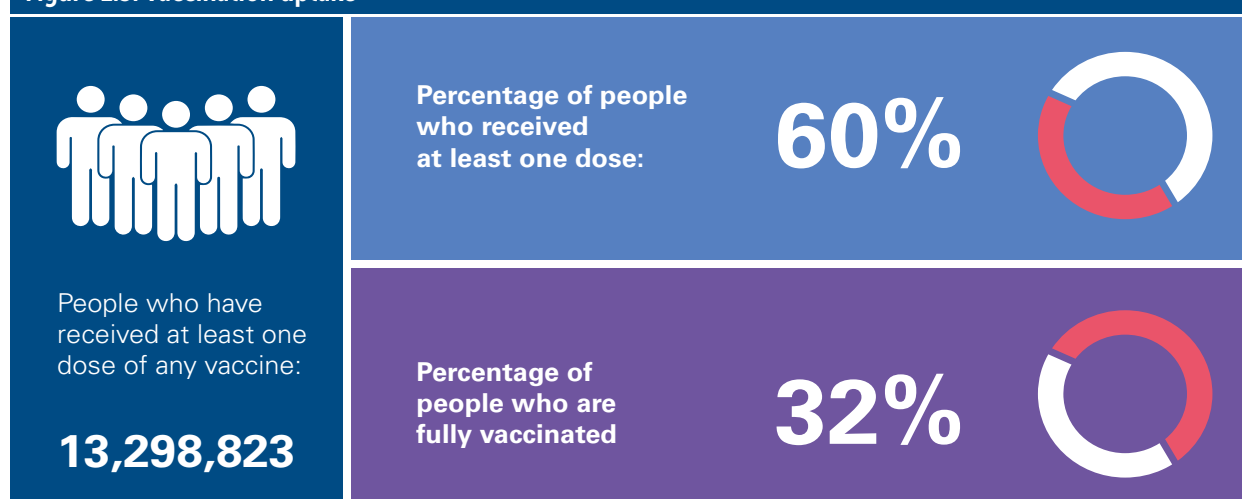
**Table 1.1: Vaccine arrival forecast September-December 2021**

|              | SOURCE OF VACCINE    | TYPE OF VACCINE   | QUANTITY          | STATUS                     |
|--------------|----------------------|-------------------|-------------------|----------------------------|
| 1            | USA                  | Pfizer            | 1,647,000         | Received 20 September 2021 |
| 2            | USA                  | Moderna           | 647,000           | Received 6 September 2021  |
| 3            | France               | AstraZeneca       | 501,000           | 22 September 2021          |
| 4            | Belgium              | AstraZeneca       | 344,900           | 22 September 2021          |
| 5            | China                | Sinovac           | 700,000           | 30 September, 2021         |
| 6            | USA                  | Pfizer            | 3,488,940         | End of October 2021        |
| 7            | Government of Uganda | Johnson & Johnson | 1,200,000         | End of October 2021        |
| 8            | Government of Uganda | Sinopharm         | 2,000,000         | End of September 2021      |
| 9            | COVAX                | AstraZeneca       | 1,000,000         | Mid October 2021           |
| 10           | Ireland              | AstraZeneca       | 350,000           | Mid October 2021           |
| 11           | Belgium              | Johnson & Johnson | 100,000           | End of November 2021       |
| <b>Total</b> |                      |                   | <b>11,978,840</b> |                            |

Following the vaccination of the vulnerable population, the Ugandan Government began efforts to secure adequate vaccines for the target population of 22 million, those 18 years and above. Scientists have indicated that children above 12-18 years can also be vaccinated using the Pfizer vaccine. The following options were used to access vaccines from the global market:

- Purchase of vaccines through the COVAX facility.
- Purchase of vaccines through the African Union.
- Purchase of vaccines from manufacturers.
- Donations through the COVAX facility.

**Figure 1.3: Vaccination uptake**



Source: Ministry of Health

**Table 1.2: Vaccination status of the 4.8 million priority population by 30 September 2021**

| CATEGORY       | TARGET    | 1ST DOSE        | 2ND DOSE       | UNVACCINATED<br>1ST DOSE | UNVACCINATED<br>2ND DOSE |
|----------------|-----------|-----------------|----------------|--------------------------|--------------------------|
| Teachers       | 550,000   | 269,945 (49%)   | 96,653 (17.6%) | 280,055                  | 453,347                  |
| 50 years+      | 3,348,500 | 309,592 (9.2%)  | 135,799 (4.1%) | 3,038,908                | 3,212,701                |
| Co-morbidities | 500,000   | 27,698 (5.5%)   | 10,347 (2.1%)  | 472,302                  | 489,653                  |
| Health workers | 150,000   | 112,129 (74.8%) | 56,687 (37.8%) | 37,871                   | 93,313                   |
| Security       | 250,000   | 145,389 (58.2%) | 48,493 (19.4%) | 104,611                  | 201,507                  |
| <b>Total</b>   |           |                 |                | <b>3,933,747</b>         | <b>4,450,521</b>         |

### 1.3.7 Local therapeutics

In 2021 there were several efforts to provide natural remedies to manage the symptoms of COVID-19, made necessary due to the high numbers of critically ill people who required hospitalisation, and therefore, Ugandans were encouraged to manage mild and moderate symptoms from home. Natural remedies included ‘steaming’ (inhaling vapour rising from hot water, which often consisted of a boiling concoction of herbs, including leaves of oranges, guava, mangoes and eucalyptus). In addition, Ugandan scientists worked around the clock to develop medicines to fight COVID-19. By the end of 2021, these efforts were at different levels of development, as sample below.

1. **UBV-01N** was developed by Dr Nambatya and has molecules that stop the body from excessive reaction and self-destruction.
2. **COVIDEX** was developed by Prof Patrick Ogwang of Mbarara University. Ugandans generally approved this local herbal medicine which became extremely popular as a supportive treatment.
3. **COVILYCE-1** was developed by Dr Alice Lamwaka from Gulu University. It has direct effects on the virus, as well as dampening ‘self-destruction’ effects of the virus (‘panic crisis’).



*Images of some of the local therapeutics developed to contain COVID-19. (Source: Nation media group)*

### 1.3.8 The COVID-19 relief fund

When the second lockdown was instituted on 18 June 2021, the Prime Minister and the Minister of Gender, Labour and Social Development were directed to identify people who depend on daily income in urban areas whose revenues had been negatively impacted and thereafter assess their needs and suggest interventions. This was seen as necessary based on the country’s experience with food distribution in the lockdown of 2020. The Cabinet decided that each of the selected 501,107 vulnerable persons in Kampala, 10 cities, and 31 municipalities each be given UGX 100,000 (One hundred thousand Uganda Shillings). The category of people identified included the following in the table below:

**Table 1.3: Categories of people who received government support during lockdown**

| S/N | CATEGORY                                                                                                                                                      |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.  | Bus/taxi drivers, conductors                                                                                                                                  |
| 2.  | Baggage carriers, wheelbarrow pushers, touts, traffic guides and loaders in taxi parks, stages, bus parks, and other major commercial centres such as Kikuubo |
| 3.  | Barmen, DJs, barmaids, waiters and bouncers                                                                                                                   |
| 4.  | Bar, gym and restaurant workers                                                                                                                               |
| 5.  | Food vendors in bus parks, taxi parks and arcades                                                                                                             |
| 6.  | Artists (musicians, comedians etc.)                                                                                                                           |
| 7.  | Boda boda riders, special hire drivers and uber drivers                                                                                                       |
| 8.  | Salon and massage parlour workers                                                                                                                             |
| 9.  | Teachers and support staff in private schools and teachers in government schools not on the government payroll                                                |
| 10. | Car washers                                                                                                                                                   |
| 11. | Slum-dwellers/ghetto residents                                                                                                                                |
| 12. | Street and food vendors, shoe shiners and cobblers                                                                                                            |

*Source: President's address to the nation on 30<sup>th</sup> July 2021*

The Commission established that the beneficiaries were selected from administrative records held by the urban authorities and town clerks. By Friday, 30 July 2021, 500,945 beneficiaries out of the target of 501,107 (99.97%) had been uploaded to the online registration system. A total of 462,387 (92.3%) beneficiaries were verified and paid by Post Bank, and this totalled UGX 47,429,346,525. It was further reported during the President's speech to the nation on 30 July 2021 that the balance of 38,558 persons (7.7%) had been deferred for various reasons, which were still under review by the town clerks before resubmission for payment.

### 1.3.9 Impact of COVID-19 on patients seeking health services for other diseases

Some of the measures to deter the spread of COVID-19 disrupted the supply chain and health care service delivery systems as all efforts were focused on COVID-19. As the government diverted personnel and resources away from priority diseases, patients with HIV/AIDS, tuberculosis, malaria, cancer, hypertension, hepatitis B, epilepsy, sickle cell, as well as mental health, maternal or childhood conditions faced an increased risk of complications and death due to inability to access healthcare. This was exasperated by transport restrictions, curfew, and fear of contracting the virus from healthcare settings. The situation was further hindered by existing healthcare system challenges, including inadequate human resources, financial, infrastructural, supply chain and logistical challenges.

## 1.4 HUMAN RIGHTS CONCERNS RELATED TO COVID-19 IN 2021

### 1.4.1 Accessibility to health services

Healthcare accessibility means that every individual should have access to health care goods and services that are universal and guaranteed for all on an equitable basis. Healthcare must also be affordable and comprehensive for everyone and physically accessible where and when needed. It was established that access to medication was a significant problem in 2021 for patients with chronic conditions who rely on drugs for their survival and improved quality of life. Some were not able to get their refills, while others could not afford medication due to lack of income. Self-purchasing and stockpiling antibiotics and other medicines for those who could afford them presented another challenge to medication safety, including antimicrobial resistance.

The UHRC noted that in Uganda, patients who had been newly diagnosed with cancer were unable to be initiated into treatment, while others missed their three-month refills for hormonal therapy. These delayed initiations and interruption of treatment cycles resulted in increased stress, anxiety, disease progression, recurrence and premature death. In general, lockdown measures created challenges for access to health-care. While healthcare providers were considered 'essential workers' and allowed to continue working during the lockdown, access to health facilities by both patients and medical staff became problematic. Maternal and child health services became inaccessible to women and children as travel was suspended, hampering transport to health facilities both by patients and health workers. This led to many roadside deliveries, deaths in childbirth, and the inability to keep immunisation schedules, among other challenges. Health conditions such as HIV&AIDS, maternal and child health, and mental health were most affected due to disruptions in access to treatment regimens for people living with these conditions. Drug resistance among the HIV infected population was reported to increase as they could not get their medication during the lockdown.

### 1.4.2 Fake COVID-19 vaccines

It was reported<sup>12</sup> that at least 800 people in Uganda received fake COVID-19 vaccines from unapproved people as the country was battling a surge in cases from the ongoing fourth wave. The counterfeit jabs were administered over May and June 2021 when new infections soared to record high numbers of about 1,700 cases per day. Dr Warren Naamara, the Director of a Health Services Monitoring Unit under the Presidency, stated that the fraudsters targeted people looking to pay for vaccination, including corporate employees, when vaccines were in short supply. He noted, "Some unscrupulous individuals with intentions of making money duped members of the public into a fake COVID-19 vaccine exercise." Dr Namaara further disclosed that, thankfully, tests indicated the vials of fake vaccine contained nothing dangerous, with many having water as the main ingredient. It was reported that the scammers charged recipients between UGX 80,000 and UGX 500,000 (around \$25-\$120 / 20-100 euros) for a fake shot.

### 1.4.3 Mandatory vaccination

In preparation for the safe re-opening of schools, teachers and non-teaching staff of schools had to be vaccinated, including 330,000 students aged 18 years and above. By 22 September 2022, out of the targeted 550,000 teachers, 269,945 had received the 1<sup>st</sup> dose of vaccination, while 96,653 had received the second dose. This left a total of 280,055 unvaccinated.

The best evidence shows that mass vaccination is the only way to achieve herd immunity against COVID-19 and its variants. This is where enough people have developed protection from transmission and infection so that all people benefit, including those who have not been immunised. However, the voluntary consent of people is essential in any medical procedure, treatment, vaccination exercise or experiment. This means

<sup>12</sup> <https://allafrica.com>stories>.

that the person involved should have the legal capacity to give consent; should be able to exercise free power of choice without the intervention of any element of force, fraud, deceit, duress, overreaching, or other ulterior forms of constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the treatment or vaccine involved to enable them to make an informed, understanding and enlightened decision.



*Minister of Health Hon. Jane R. Aceng getting vaccinated.*

Teachers and medical workers must receive a COVID-19 vaccine or risk being fired. While the number of people who ultimately refused the mandatory vaccine is smaller than the number who received the jab, there are still issues around the right to self-determination. Some were persuaded by the information about the vaccines' effectiveness and safety, while others took it to avoid losing their jobs. While some workers protested against the mandatory vaccination, they should also be aware of the 'do no harm' principle, a core ethic for teachers and those who care for the sick and injured. Social workers such as teachers, physicians and all those working in the health care system have a fundamental obligation to patients to get vaccinated for preventable diseases such as COVID-19.

However, while there are legitimate public health reasons for as many people as possible to be vaccinated, governments must not impose blanket vaccination mandates and should seek to ensure that vaccination is with full consent. Not doing so has the potential to infringe upon human rights for two key reasons: firstly, all individuals have the right to prior, free and informed consent for any medical procedure, including vaccination, giving them the right of choice, and secondly, blanket mandates do not take into account specific contexts and the circumstances faced by particular populations. As a result, blanket mandates can have a discriminatory and disproportionate impact upon some groups, such as indigenous communities, who may not trust health authorities due to historical marginalisation.

#### 1.4.4 Misinformation

The UHRC noted that there was a lot of propaganda, misinformation, disinformation and fake news surrounding COVID-19 vaccines. This was mainly due to the lack of adequate sensitisation of the public regarding the safety of the vaccines. There was some resentment and a lot of public debate on the government's efforts to enforce vaccination for all Ugandans above 18 years. Critical to these discussions was the balance between the individual right to consent to any medical treatment against the general public's right to health, which includes taking all measures to protect oneself from disease, including vaccination. Misinformation that abounded dissuaded some people from taking the vaccine.

Non-discriminatory access to accurate health information is essential. Now more than ever, the free flow of information should be facilitated in a safe environment without threat or sanction. Limiting stakeholder involvement and critical feedback, including debates involving experts, medical professionals, journalists and other influencers, undermines an effective response to COVID-19.

#### 1.4.5 Mental health

In Uganda, mental healthcare was already weak before the pandemic. The country had only 50 psychiatrists, most of whom were based in Kampala, serving a population of over 42 million<sup>13</sup>. Furthermore, the UHRC noted that mental health units at the regional referral hospitals had been turned into treatment centres for COVID-19 since mental health units are conventionally stand-alone, thus deemed appropriate for isolating COVID-19 patients.

The transformation of psychiatric units into isolation centres in Uganda requires mental health providers to adopt new care models that do not involve these standalone units. Models for community mental health care, such as integrating psychiatric care into everyday clinical practices, are crucial. Integrated mental health care attempts to combine behavioural health services wholly or partly with general and speciality medical services. Care models that ensure staff and patient safety while managing psychiatric and non-psychiatric patients together should also be promoted. The introduction of outreach mobile mental health clinics was also seen to be very important.

#### 1.4.6 The right to education

Globally, the widespread closure of schools deepened inequalities and broadened the learning gap between children with access to resources, computers and internet communication, those living in poor housing or remote areas, and those with disabilities who require adapted materials for remote learning. School closures, especially from the first lockdown in Uganda in March 2020, also increased the vulnerability of children dependent on school meals and worsened the economic burden on parents. In some parts of the country, school closures resulted not only in the disruption of education but also in a higher risk of economic exploitation and abuse. Additional burdens were often put on girls since they were expected to take on increased care work and domestic tasks.

Some households were unable to access learning materials for their children due to lack of money to photocopy; lack of access to information; selective distribution of the materials; delivery of very few copies to the offices of the Local Council I Chairpersons; neglect of rural areas and concentration on urban areas; and focusing on Government schools during distribution, leaving out the private schools. The implementation of e-learning and other remote channels further widened the gap between urban and rural children. While international and some national schools in urban areas could support learners to continue with school, children in Universal Primary Education (UPE) schools and in rural areas were unable. As a result, children from low-income communities lost almost two years, while those whose parents could afford supplementary learning did not lose so much learning time.

#### 1.4.7 Inaccessible education for children and youth with disabilities

In an effort to address the lengthy closure of schools, the government made efforts to provide alternative channels for learning through Ed-tech (using the internet, television and radio etc.) Along with affected parents, UHRC noted that all shared resources were not disability-inclusive. Educational radio broadcasts were the primary way most children were receiving education, a service almost entirely inaccessible for children with hearing impairments. Materials were also not available for those with visual impairments.

<sup>13</sup> <https://www.monitor.co.ug/uganda/news/national/ministry-decries-shortage-of-psychiatrists--3424282>.

Approximately 2.5 million out-of-school children received materials to ensure continuity of learning (UNICEF, 2020). However, little is known about how children with disabilities were assisted during the pandemic or benefited from the learning materials that the government supplied.

Different types of disabilities require additional assistance, such as braille printing for those with visual impediments and assistive aids for the hearing impaired, and these were often not found in homes (UNICEF, 2020). Despite Uganda's National Curriculum Development Centre's (NCDC) effort to develop an inclusive learning package (extra-large font and braille) for learners with disabilities, by September 2021, this had neither been finalised nor shared with concerned bodies. A combination of poverty, poor planning, and lack of political will made it hard for children with disabilities to access assistive technologies for inclusive education, particularly in the home learning situation caused by the pandemic, making them even more disadvantaged than ever.

#### 1.4.8 Rights of vulnerable populations

As a result of the lockdown, many people lost their livelihood and sources of income, yet the majority live from hand to mouth. The most affected included persons with disabilities, urban poor, marginalised persons, the elderly, low-income earners and other small business operators. The pandemic also affected the food security in the country due to low productivity and high costs of food and other necessities. The Commission established that the COVID-19 pandemic affected vulnerable persons negatively, adding to the already existing challenges faced in enjoying their rights, such as access to medical services, affordability of consumables, physical challenges, and loss of employment.

#### 1.4.9 Rights of children

During the second wave of the pandemic, children were directly affected by the risk of infection to the virus and also through responses such as the closure of schools. School closure exposed children to many harms, including sexual and physical harm; loss of parent's livelihood contributing to child neglect; loss of life; limited access to health services like immunisation; loss of benefits such as youth health camps; and malnutrition.



*Many primary and secondary students used radios to assist them in their homeschooling, excluding those with hearing impediments.*

### DISABILITY STATISTICS FOR CHILDREN IN UGANDA

28%

MENTAL  
IMPAIRMENT

16%

PHYSICAL  
IMPAIRMENT

25%

HEARING  
IMPAIRMENT

28%

AUTISM

22%

VISUAL IMPAIRMENT

4%

MULTIPLE

*Source: World Bank 2020*

#### 1.4.10 Rights of women, especially pregnant women

A regular occurrence was patients accessing a health facility but failing to find any health official to attend to them. This is because most health officials are not accommodated and stay far from the health centres, meaning that when transport bans were in place, movements were challenging. One such scenario happened at Mbarara City Hospital, where a group of pregnant mothers who had reached the facility by 9:00 am did not receive care due to a lack of medical staff present. Expectant women were especially at high risk during the lockdowns, meaning their right to health care was severely limited.

#### 1.4.11 Increased domestic burden on women

While the pandemic exerted pressure on many sectors in Uganda, it also increased the burden on women. There was an increase in unpaid care work since children were out of school, as well as heightened care needs of older persons and persons with disabilities. Women in both the formal and informal sectors had to put up with increased domestic burdens and often unusual chores such as helping the children with school-related tasks, on top of their own work, while at the same time taking care of their spouses, all within a confined environment.

#### 1.4.12 Domestic violence

Women and girls were the victims of gender-based violence across the country, as evidenced by an increase in reported cases during the second lockdown. Domestic violence was among the top three crimes that increased, with 17,664 cases reported in 2020 compared to 13,693 cases reported in 2019<sup>14</sup>. Of the victims, 3,408 were male adults, and 13,145 were female adults, while the rest were juveniles. Domestic violence was the third leading crime in the country in 2020 and represented 9% of the total number of crimes reported. The common forms of domestic violence were physical violence, psychological and emotional violence and sexual violence. The prevalence of domestic violence cases during the pandemic was attributed to prolonged social isolation, which kept many people locked up with their abusers; closure of schools that exposed many girls to unsafe environments where they were prone to sexual harassment; alcoholism; stress; depression and redundancy. While cases increased, the majority were not reported to the authorities due to restrictions on movement.

#### 1.4.13 Teenage pregnancies

Uganda has one of the youngest populations globally, with 75% aged below 30 years, and its young population presents opportunities and challenges. Due to the lockdown, cases of teenage pregnancies increased countrywide. For instance, in Kasese District, especially in Malila and Bwesumbu Sub Counties, it was reported that girls engaged in early sex in exchange for sanitary pads. This led to increased school dropouts and early teenage pregnancies when schools reopened. In Kiruhura District, a family was intercepted by the Resident District Commissioner while giving away their 16-year-old daughter in exchange for four cows.

Many households were pushed into extreme poverty and hunger during the COVID-19 crisis, and women and children were increasingly forced into hazardous and exploitative work to support their families. In many parts of the country, there was an increase in girls drawn into commercial sexual exploitation, trading sex for money, food and materials such as sanitary towels. Child marriage was also increasingly seen as a means of coping with financial hardship as adolescent girls were being married off in exchange for dowry or bride price. Reports of increased acts of sexual violence against children by peers, caregivers, and community members were received as children were not in the relative security of the school environment and thus more exposed to risks of defilement and rape. Early marriages reached 17% in some districts, and underage pregnancies rose to as high as 25-30%. Luuka District alone reported more than 600 cases.

14 2020 Police Annual Crime Report.

#### 1.4.14 Rights of marginalised groups

Marginalised groups were severely affected by COVID-19 in 2021. The elderly, people with disabilities, those with pre-existing health conditions and compromised immune systems, such as the HIV/AIDs patients, and pregnant women, were particularly vulnerable to the serious health consequences of COVID-19 and the lockdown. The Commission noted that many of these groups experienced serious challenges accessing health facilities, medicine and treatment. However, the Commission welcomed the directives made by the President to enable pregnant women to access antenatal services without hindrance and for those due for delivery to be taken to medical facilities with minimal inconveniences.

#### 1.4.15 Rights of refugees, migrants and asylum seekers

As a result of the restrictions, many refugees' livelihood sources were affected, and some refugees got stranded at settlement centres. The UHRC learnt that Bundibugyo District grappled with an influx of refugees from Eastern DRC in the Beni territory. The refugees, totalling 1,547 by August 2021, were said to have fled their habitation due to civil unrest allegedly caused by the Allied Democratic Forces (ADF) rebels operating in the area. Several were allowed to seek refuge among relatives and friends in Bundibugyo, and a transit camp was set up in Bubukwanga for those who did not have anywhere to go. Unfortunately, over 200 refugees residing at the camp were reported to have been infected by COVID-19, which worsened the situation. Most refugees endured overcrowded conditions and limited access to clean water and health-care.

#### 1.4.16 Rights of older persons

During the first wave of the pandemic, there was a spotlight on the right to health of older persons since the virus affected older persons more severely than younger people. However, in 2021 the variants that Uganda dealt with affected persons of all ages. Nonetheless, older persons were considered by the Ministry of Health among the priority persons for vaccination programmes.<sup>15</sup> As of 1 May 2021, 82% of adults above 65 years had received at least one dose of the COVID-19 vaccine. The pandemic spotlighted the rights and health of older persons and exposed how vulnerable many older persons are to other situations that can take a dramatic toll on their physical well-being and mental health. These include a lack of access to health care; neglect and abuse in institutions and care facilities; poverty and unemployment; social isolation and exclusion; stigma and discrimination.

#### 1.4.17 Exclusion from the COVID-19 relief fund

Restrictions instituted by the government to prevent the spread of COVID-19 left many people surviving on daily earnings, such as taxi operators, cooked food vendors, bar and restaurant workers and salon operators with no livelihood. Although the government tried to bridge the gap by providing a one off grant of UGX 100,000 to vulnerable persons, the support remained inadequate. The Commission also noted that though it was a good gesture, it was discriminatory in nature as some sections like the elderly, people with disabilities and refugees did not have special consideration and were left out during the disbursement of the COVID-19 relief cash.

The Commission further noted that the use of individuals or households interchangeably to describe categories of beneficiaries caused ambiguity. There was a possibility of some beneficiaries receiving the funds twice to the disadvantage of other vulnerable Ugandans.

It was further noted that the disbursement method for the COVID-19 relief funds was inadequate in that some vulnerable persons who did not own mobile phones or did not have a National Identification Number (NIN) missed out.

<sup>15</sup> <https://www.cdc.gov/aging/covid-19-guidance>.



*Uganda's Rt. Prime Minister Hon. Robinah Nabbanja (C) makes a phone call to one of the beneficiaries during the launch of the distribution of COVID-19 relief funds to vulnerable citizens on July 8, 2021.*

#### 1.4.18 Deprivation of the right to work

The immediate outcome of the COVID-19 lockdown was the temporary closure of businesses, which caused a surge in unemployment for millions of people. The United Nations Development Programme (UNDP) predicted that the pandemic would directly affect the livelihoods of more than 60% employed in both industry and services, close to 90% of whom depend on these two sectors in urban areas.<sup>16</sup>

According to the Economic Policy Research Centre (EPRC), COVID-19 containment measures meant that 9 out of 10 small and medium businesses experienced increasing operating costs and were unable to cope. Agriculture enterprises were particularly affected as trade networks, and supply chains were disrupted due to transport restrictions, increased prices of inputs, and a decline in prices of agricultural outputs. Many businesses were operating on loans and experienced credit constraints during and after the lockdown. The Ministry of Finance, Planning and Economic Development (MFPED) predicted that people employed in the informal sector in urban areas were likely to bear the most severe economic and social repercussions and were at high risk of slipping into poverty and that women and girls were more likely to be negatively affected, compared to their male counterparts. The Ministry also estimated that about 23% of the urban poor were at risk of losing 100% of their daily income.<sup>17</sup>

<sup>16</sup> UNDP (April 2020). The socio-economic impact of COVID-19 in Uganda. Short, medium, and long-term impacts on poverty dynamics and SDGs using scenario analysis and system dynamics modelling. <https://www.undp.org/content/dam/rba/docs/COVID-19-CO-Response/Socio-Economic-Impact-COVID19-Uganda-Brief-1-UNDP-Uganda-April-2020.pdf>

<sup>17</sup> MFPED (May 2020). The socio-economic impact of COVID-19 pandemic on the urban poor in Uganda. <https://www.finance.go.ug/sites/default/files/Publications/BMAU%20Briefing%20Paper%203-20-The%20socio%20economic%20impact%20of%20COVID-19%20pandemic%20on%20the%20urban%20poor%20in%20Uganda.pdf>

Uganda suffered a sharp contraction in the economy to its slowest pace in three decades.<sup>18</sup> Household incomes fell when firms closed, and jobs were lost, particularly in the urban informal sector. The country's Gross Domestic Product contracted by 1.1 per cent in 2020 and is estimated to have recovered to 3.3 per cent during the 2021 fiscal year.

### 1.4.19 Limitations in access to justice

United Nations Development Programme (UNDP) defines access to justice as the ability of people to seek and obtain a remedy through formal or informal institutions of justice and in conformity with human rights standards<sup>19</sup>. In the wake of COVID-19, the judiciary resorted to using e-justice to curb the spread of the pandemic as digital technology was used to improve access to justice. The Chief Justice issued instructions on how the judiciary would operate during these unprecedented times<sup>20</sup>.

Since the restrictions began, remand prisoners throughout the many prisons in the country could not be produced in courts save for those on bail application, which hindered their access to justice. The UHRC established that with courts of law operating at around 10% capacity, bail applications had been limited and suspects often were unable to do much except take a plea and were thereafter quickly remanded. This was partly due to the lack of public transportation, which made it difficult for relatives to travel and secure Police bonds for those who had been arrested.

The Commission noted an increase in detention cases beyond 48 hours due to the limited number of judicial officers at courts. This led to overcrowding in detention facilities which posed a great danger to the inmates, exacerbated by the fact that most did not put on face masks while in Police cells. The COVID-19 directives created even more congestion in an already overwhelmed prison population. Prison statistics at the end of 2021 indicate the prison population to be convicts 31,833 and remands at 36,058, making a total of 67,891 inmates; this implies a pre-trial detention rate of 53.11%.

### 1.4.20 Limited access to prisons

On 25 March 2020, the Commissioner General of Uganda Prisons, Dr Johnson Byabashaija, issued Administrative Instruction No. 04/2020 Coronavirus Disease (COVID-19) Control Measures. In addition to other measures such as the establishment of COVID-19 task forces, the instruction directed the suspension of all prison visitation and restriction of movement of prisoners as well as staff and their relatives outside the barracks. This limited all forms of access to prison inmates, including access by lawyers to their clients. Inevitably, prisoners were held up in detention without physical access to courts or legal advice.

While the Commission recognises the need for limiting access to inmates by people from outside prison to stop the spread of the coronavirus in prisons, the inmates' rights needed to be observed as much as possible. Therefore, consideration should have been made to using communication technologies that could facilitate contact between inmates and their lawyers without breaching the measures put in place to prevent the spread of the coronavirus in prisons.

<sup>18</sup> The 17th Uganda Economic Update (UEU), From Crisis to Green Resilient Growth: Investing in Sustainable Land Management and Climate-Smart Agriculture.

<sup>19</sup> UNDP (2005) Program for justice: Access for all (Bangkok: United Nations Development Program).

<sup>20</sup> Guidelines for Court online hearings Office Instructions No. 2 of 2020.

## 1.5 RECOMMENDATIONS

1. The Uganda People's Defence Force and Uganda Police Force should desist from aggressive and brutal enforcement of directives such as caning people, as this undermines the dignity of the person.
2. The Ministry of Health should ensure that all health workers are routinely tested for COVID-19 and provided with protective gear in the course of their work.
3. Through the Ministry of Finance, Planning and Economic Development, the Ugandan Government should provide budgetary support at the community level to enhance the ability of communities to detect and report cases of COVID-19.
4. Through the Ministry of Health, the Ugandan Government should strengthen emergency response capacity and systems at all levels to detect emerging and new variants early.
5. Through the Ministry of Health, the Ugandan Government should optimise vaccination by enhancing uptake, ensuring vaccination efficacy and understanding specific vulnerabilities.
6. The Ugandan Government should adopt innovative multi-sectoral and tailored approaches to address COVID-19 effects, including violence against children, men and women. The issue of livelihoods and food security must be resolved as a critical bottleneck to compliance.
7. Children and adolescents should be effectively targeted in COVID-19 interventions. They need awareness, products (e.g. fitting face masks), voice and protection from the effects of COVID-19, including being witnesses to and victims of different forms of violence.

## 1.6 CONCLUSION

The direct effects of the outbreak of COVID-19 across the world in 2020 and the emergence of various strains which led to the second wave in 2021 had both short-term and far-reaching implications for Uganda's socio-economic development. While the containment and management of the pandemic was primarily a public health crisis, it also posed serious threats to the macroeconomy through the halt in production activities, disruption of people's movement, the cut-off of supply chains, and other indirect effects. Besides the direct cost of human life and suffering, the COVID-19 virus reduced Uganda's growth potential. It also affected employment and livelihoods for many people, due in part to the reduced movement both domestically and internationally. Therefore, measures to mitigate the effects should be accorded great importance.

## CHAPTER TWO:

# Externalisation of Labour in the Middle East

### 2.1 INTRODUCTION

The Ugandan economy lacks the capacity to absorb all the country's graduates from universities and technical institutions into employment. Labour markets abroad provide employment opportunities for Ugandans in the short run as the country develops its capacity to generate sufficient jobs for its labour force. The labour externalisation programme is a Government of Uganda strategic initiative intended to facilitate the recruitment of Ugandan migrant workers to decent employment opportunities and promote the protection of their rights and welfare in destination countries. The programme is implemented under the Ministry of Gender, Labour and Social Development (MoGLSD). It is responsible for licensing and regulating private recruitment companies and signing bilateral agreements on behalf of Uganda with countries interested in importing labour from Uganda. When Ugandans travel abroad for labour, they are referred to as migrant workers. Externalisation of labour refers to taking workers to work in countries other than their home country.<sup>21</sup> It involves international migration, which is defined as the movement of persons away from their place of usual residence and across an international border to a country of which they are not nationals.<sup>22</sup> International migration excludes travel abroad for recreation, holiday, business, medical treatment or religious pilgrimage. In Uganda, the United Nations Convention on the Protection of the Rights of all Migrant Workers and Members of their Families defines a migrant worker as a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a state of which he or she is not a citizen.<sup>23</sup> Migrant workers are sometimes referred to as 'foreign workers' or '(temporary) contractual workers.'<sup>24</sup> According to the Rules and Regulations Governing Recruitment and Employment of Ugandan Workers Abroad, 2021, Uganda, a migrant worker refers to a Ugandan citizen who is to be engaged or has been engaged in a remunerated activity in another country.<sup>25</sup>

In its monitoring of the externalisation of labour, the Uganda Human Rights Commission focused on the Middle East and human rights implications in selected districts in a bid to establish the magnitude of labour exportation, its underlying causes, its consequences and impacts on the rights of migrant workers and their families, as well as safety networks and available redress mechanisms for victims. The Commission further sought to establish the perpetrators of human rights abuses of migrant workers in order to make informed recommendations to the government. The Middle East comprises the following countries: Bahrain, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Oman, Qatar, Saudi Arabia, Syrian Arab Republic, Turkey, United Arab Emirates (UAE), Yemen, Egypt, Cyprus and Palestine.<sup>26</sup> The sampled districts were: Mbale, Manafwa, Bududa in Bugisu Sub-Region, Kapchorwa in Sebei Sub-Region, Kampala, Wakiso, Rakai, Lyantonde, Kalungu in Buganda Sub-Region, Soroti City in Teso Sub-Region and Mbarara City in western Uganda. The respondents interviewed included officials in the MoGLSD, Uganda Police Force, Internal

21 <https://ir.kiu.ac.ug/bitstream/20.500.12306/5814/1/ASHIRAF.pdf>: Visited on 23 February 2022.

22 <https://www.iom.int/key-migration-terms>: last visited on 8 March 2022.

23 <https://www.ncbi.nlm.nih.gov/books/NBK379428/>: Visited on 8th March 2022

24 <https://www.iom.int/key-migration-terms>: Visited 8 March 2022.

25 Rules and Regulations governing Recruitment and Employment of Uganda migrant workers abroad, 2021 available at <https://www.ilo.org/dyn/migpractice/docs/228/Rules>.

26 <https://www.worldatlas.com/articles/which-are-the-middle-eastern-countries.html>: Visited on 17 March 2022.

Security Organisation, District Labour Office, Migrant Worker's Voice and employees of external labour recruitment agencies. The UHRC also interacted with migrant workers that had recently returned from the Middle East. A total of 13 recruitment agencies were reached during the monitoring exercise. Although the focus of this chapter is on migrant workers in the Middle East, it is important to note that labour has been exported to other countries such as Mali, Somalia, and Afghanistan.<sup>27</sup>

## 2.2 LEGAL AND POLICY FRAMEWORK

Uganda has ratified several international and regional instruments that protect and promote migrants' rights as well as national legislation to protect the rights of migrants.

### 2.2.1 International legal frameworks

The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICMW), 1990<sup>28</sup> and ratified by Uganda in 1995, recognises the situation of vulnerability in which migrant workers and members of their families frequently find themselves. This stems from their absence from their state of origin and the lack of support they have in tackling difficulties they may encounter arising from their employment. The ICMW sets out human rights obligations that apply during the entire migration process of migrant workers and members of their families. These comprise preparation for migration, departure, transit, the period of stay and remunerated activity in the state of employment, as well as return to the state of origin or the state of habitual residence.

The International Labour Organization (ILO) has put in place several policy guidelines for improving the environment for labour migration. The procedures include the ILO Fair Recruitment Initiative (2014), General Principles and Operational Guidelines for Fair Recruitment (2016), ILO/World Bank Guidelines to produce statistics on the measurement of recruitment costs borne by the employee (2018) and the ILO definition on recruitment fees and related costs (2018). In addition, Uganda is a party to the ILO Conventions no. 97 and no. 143 on Migrant Workers that promotes the conclusion of bilateral labour agreements between states where there is a considerable flow of migrant workers and addresses irregular migration and illegal employment of migrants while laying down the general obligation to respect fundamental human rights of all migrant workers.<sup>29</sup> Others are the ILO Discrimination (Employment and Occupation) Convention 1958 and the ILO Migrant Workers (Supplementary) Provisions Convention, 1975. The ILO Fair Recruitment Strategy 2021-2025 aims to protect all workers' rights, includes fundamental principles and rights at work, and seeks to prevent human trafficking and forced labour.<sup>30</sup>

The International Covenant on Economic, Social and Cultural Rights, adopted by the UN in 1966 and ratified by Uganda in 1987<sup>31</sup>, sets out obligations on such issues as the right to work and the enjoyment of just and favourable conditions of work (including fair wages and equal pay for equal work, safe and healthy working conditions; as well as rest, leisure and reasonable limitation of working hours and periodic holidays). The International Covenant on Civil and Political Rights (ICCPR),<sup>32</sup> adopted by the UN in 1976 and ratified by Uganda in 1995, sets out in Article 2 that the rights under the covenant are to be guaranteed without distinction of any kind, such as race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth or another status. The ICCPR sets out human rights obligations related to the right to life; freedom from torture and other forms of ill-treatment; the right to be free from forced or compulsory labour; freedom of expression, association and assembly; the right to equality before the law as well as rights related to access to justice and due process rights.

27 [http://www.oag.go.ug/wp-content/uploads/2018/10/Labour-Externalisation\\_2017.pdf](http://www.oag.go.ug/wp-content/uploads/2018/10/Labour-Externalisation_2017.pdf). Visited on 23 February 2022.

28 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990.

29 [https://www.ilo.org/wcmsp5/groups/public/---africa/documents/publication/wcms\\_717848.pdf](https://www.ilo.org/wcmsp5/groups/public/---africa/documents/publication/wcms_717848.pdf). Visited on 13 April 2022.

30 [https://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---migrant/documents/publication/wcms\\_778540.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_778540.pdf). Visited on 8 March 2022.

31 International Covenant on Economic, Social and Cultural Rights, 1966 available at <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>. Visited on 8 March 2022.

32 International Covenant on Civil and Political Rights, 1976 available at <https://www.ohchr.org/documents/professionalinterest/ccpr.pdf>. Visited on 8 March 2022.

Sustainable Development Goal 8 (SDG8) highlights the need to promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all.<sup>33</sup> The global call for decent employment includes the need to ensure that countries put in place clear and effective measures to protect the rights of migrant workers. Other international provisions include the Universal Declaration of Human Rights (UDHR), 1948,<sup>34</sup> under Articles 4, 7 and 23 and Article 11 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979.<sup>35</sup>

## 2.2.2 Regional legal frameworks

The African Charter on Human and Peoples' Rights (ACHPR), 1981,<sup>36</sup> ratified by Uganda in 1986, sets out in Article 5 that every individual shall have the right to the respect of the dignity inherent in a human being and the recognition of his legal status. It also sets out that all forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment, shall be prohibited. In Article 15, the ACPHR provides for the right of every individual to work under equitable and satisfactory conditions and receive equal pay for equal work.

The African Youth Charter, 2006<sup>37</sup> sets out a framework to enable policymakers to mainstream youth issues in all development policies and programmes. The Charter under Article 15 on sustainable livelihoods and youth employment stipulates that every young person shall have the right to gainful employment and that every young person shall have the right to be protected from economic exploitation and from performing work that is likely to be hazardous to or interfere with the young person's education, or to be harmful to the young person's health or holistic development. Others include the African Union (AU) Agenda 2063 and its First Ten Year Implementation Plan (2014-2023);<sup>38</sup> the AU Migration Policy Framework for Africa (MPFA) and its Plan of Action (2018-2030);<sup>39</sup> and the Protocol to the Treaty establishing the African Economic Community Relating to the Free Movement of Persons, Right of Residence and Right of Establishment, 2018.<sup>40</sup>

## 2.2.3 National legal and policy frameworks

At the national level, article 40 of the Constitution of the Republic of Uganda provides for the enactment of laws by Parliament to provide for the right of persons to work under satisfactory, safe and healthy conditions; to ensure equal pay for equal work without discrimination; and to ensure that every worker is accorded rest and reasonable working hours with pay as well as remuneration for public holidays.<sup>41</sup>

The Employment Act, 2006 contains several provisions that protect workers' rights, including protection against forced labour under section 5. Under section 37 of the Act, it provides that no person shall organise the illicit or clandestine movement of migrants for employment to depart from, pass through or arrive in Uganda, or give assistance to any organisation for that purpose. Section 38 of the Act prohibits the operation of a recruitment agency in the absence of a valid recruitment permit issued by the Commissioner, Labour in the MoGLSD.<sup>42</sup>

The Employment (Recruitment of Ugandan Migrant Workers Abroad) Regulations, 2005 and the Guidelines on Recruitment and Placement of Ugandan Migrant Workers Abroad, 2015, provide for the protection of Ugandan migrant workers, including procedures for licensing of recruitment agencies, grounds for suspension of licenses, compliance, medical examination of potential migrant workers, travel arrange-

33 UNDP, 2015, Sustainable Development Goals.

34 <https://www.jus.uio.no/lm/en/pdf/universal.declaration.of.human.rights.1948.portrait.letter.pdf>. Visited on 10 March 2022.

35 <https://www.ohchr.org/documents/professionalinterest/cedaw.pdf>. Visited on 10 March 2022.

36 <https://www.achpr.org/legalinstruments/detail?id=49>. Visited on 10 March 2022.

37 [https://au.int/sites/default/files/treaties/7789-treaty-0033\\_-\\_african\\_youth\\_charter\\_e.pdf](https://au.int/sites/default/files/treaties/7789-treaty-0033_-_african_youth_charter_e.pdf). Visited on 10 March 2022.

38 The First- Ten Year Implementation Plan / African Union available at <https://au.int/en/agenda2063/ftyip>. Visited on 17 April 2022.

39 [https://violenceagainstchildren.un.org/sites/violenceagainstchildren.un.org/files/documents/other\\_documents/35316-doc-au-mpfa\\_2018-eng.pdf](https://violenceagainstchildren.un.org/sites/violenceagainstchildren.un.org/files/documents/other_documents/35316-doc-au-mpfa_2018-eng.pdf). Visited on 17 April 2022.

40 [https://au.int/sites/default/files/treaties/36403-treaty-protocol\\_on\\_free\\_movement\\_of\\_persons\\_in\\_africa\\_e.pdf](https://au.int/sites/default/files/treaties/36403-treaty-protocol_on_free_movement_of_persons_in_africa_e.pdf). Visited on 17 April 2022.

41 The Constitution of the Republic of Uganda, 1995.

42 The Employment Act, 2006 available at [https://www.ulrc.go.ug/system/files\\_force/ulrc\\_resources/employment-act-2006\\_0.pdf?download=1](https://www.ulrc.go.ug/system/files_force/ulrc_resources/employment-act-2006_0.pdf?download=1). Visited on 14 March 2022.

ments and orientation of workers, among other provisions. Under section 20, the guidelines provide for bilateral agreements between the Ugandan Government and the governments of countries of employment. The agreements cover the collective obligations of the two countries (Uganda and the country of employment); obligations of Uganda (selection and recruitment procedures); obligations of the country of employment; conditions of employment; protection of basic rights of the migrant workers; social security; dispute settlement procedures; and the reunification of families and return of migrant workers.<sup>43</sup>

The Employment (Recruitment of Ugandan Migrant Workers) Regulations, 2021, Statutory Instrument No.47 which came into effect on 13 August 2021, introduced measures to address gaps in the 2005 Regulations. These include restricting ownership of recruitment companies to only Ugandan nationals; pre-departure orientation training to migrant workers; charging migrant workers unauthorized fees being a ground for revocation of a license; and raising the value of the bank guarantee that is used to clear any claims that may arise from migrant workers against a recruitment agency from UGX 50 million to UGX 100 million. The regulations also provide for stringent penalties for offences.<sup>44</sup> The other legal and policy framework at the national level include the Externalization of Labour Programme, which was launched in 2005 to provide decent employment opportunities to Ugandans abroad; the Prevention of Trafficking in Persons Act, 2009, which provides for the prohibition of trafficking in persons, offences for trafficking in persons, prosecution and punishment of offenders;<sup>45</sup> and the 3<sup>rd</sup> National Development Plan (NDP III) with its theme of 'Sustainable Industrialization for inclusive growth, employment and sustainable wealth creation.'<sup>46</sup>

Institutions responsible for the regulation of labour externalisation and protection of the rights of migrant workers include the department of labour services under the MoGLSD; the Ministry of Foreign Affairs (MFA); Ministry of Internal Affairs (MIA); the Office of the Prime Minister (OPM); the Ministry of East African Affairs (MEA); the UHRC; courts of judicature and the Joint Intelligence Committee. The redress mechanisms provided by these institutions include licensing of recruitment agencies; verification of the availability of jobs; monitoring; reporting cases of human rights abuses of migrant workers; litigation; mediation; counselling; follow up, and social visits. Other notable agencies include the Uganda Association of External Recruitment Agencies (UAERA); Platform for Labour Action; National Organisation of Trade Unions; the Central Organisation of Free Trade Unions, and the Federation of Uganda Employers, which engage with the government and recruitment agencies.

## 2.3 SITUATIONAL ANALYSIS

### 2.3.1 Global trends in the externalisation of labour

According to United Nations data, there are 243 million international migrants scattered across the world, accounting for 3.4 per cent of the global population. As of 2020, the global estimate of international migrants was 281 million, representing 3.6 per cent of the global population.<sup>47</sup> The United States hosted the highest number with 46.6 million, followed by Germany with 12 million, as of 2015. Saudi Arabia and United Arab Emirates (UAE) were among the top ten receiving countries.<sup>48</sup>

Ugandans have been migrating to foreign countries, searching for work and other opportunities in both developed and developing countries for some years, mainly due to the increased population and increasing literacy rates in the country, with high demand for the few competitive jobs.

43 Statutory Instruments 2005 No 62. The Employment (Recruitment of Ugandan Migrant Workers Abroad) Regulations, 2005 available at [https://www.businesslicences.go.ug/uploads/documents/Employment%20\(Recruitment%20of%20Ugandan%20Migrant%20Workers%20Abroad\)%20Regulations%202005.pdf](https://www.businesslicences.go.ug/uploads/documents/Employment%20(Recruitment%20of%20Ugandan%20Migrant%20Workers%20Abroad)%20Regulations%202005.pdf). Visited on 14 March 2022.

44 Rules and Regulations Governing the Recruitment and Employment of Uganda workers abroad, available at <https://www.ilo.org/dyn/migpractice/docs/228/Rules>. Visited on 14 March 2022.

45 The Prevention of Trafficking in Persons Act, 2009 available at <https://old.ulii.org/node/24737>. Visited on 14 March 2022.

46 The National Development Plan (NDP III), 2020/2021 to 2024/2025 available at [http://www.npa.go.ug/wp-content/uploads/2020/08/NDPIII-Finale\\_Compressed.pdf](http://www.npa.go.ug/wp-content/uploads/2020/08/NDPIII-Finale_Compressed.pdf)

47 <https://www.iom.int/about-migration>. Visited on 8 March 2022.

48 <https://www.statista.com/chart/7636/which-countries-host-and-send-the-most-migrants/>. Visited on 11 March 2022.



*Ugandan ladies travelling for labour abroad, facilitated by Premier Recruitment Limited.*

Externalisation of labour to the Middle East is believed to have been triggered by military expeditions. During America's war in Iraq from 2003 to 2011, American security companies recruited affordable labour from developing countries to work as security guards for key American installations and personnel. With time, the American security companies recruited cheap labour for other sectors that did not require very exceptional skills, such as driving, cleaning and catering. The scope of unskilled labour recruitment widened when business entities and wealthy families in Saudi Arabia, UAE, Qatar, Oman and other countries in the Middle East also started recruiting such labour for jobs like driving, sales, cleaning, building, housemaids and butlers. This was because they offered much cheaper labour compared to natives of the host countries.<sup>49</sup>

In 2005, the government launched the Externalisation of Labour programme to provide decent employment opportunities to Ugandans abroad. This was later followed by the signing of bilateral labour agreements between Uganda and the UAE, Saudi Arabia and the Hashemite Kingdom of Jordan, which were geared toward fostering the protection of the rights of Ugandan migrant workers in the three countries. Information from the MoGLSD under which labour externalisation is supervised reveals that the number of Ugandans seeking employment in the Middle East has been growing since 2010, thereby becoming one of the biggest stock of labour opportunities and source of remittance.<sup>50</sup>

### 2.3.2 Status of licensed private labour recruitment agencies in 2021

Through licensing private agencies, the government has enabled many Ugandans to obtain productive, fulfilling and creative work overseas in several occupations, such as security guards, drivers, customer care and hospitality workers, salespersons, technicians and domestic workers.<sup>51</sup> However, according to government data, at least 98% of migrant workers to the Middle East, which stood at 140,402 by June 2021, were employed as casual labourers, with only 0.2% holding professional jobs, while 1.8% worked in semi-professional placements.<sup>52</sup> Other job categories of Ugandan migrant workers in the Middle East included coffee barristers, loaders, waitresses, cleaners, painters, chefs, plumbers, tailors and accountants.

As of August 2021, the labour externalisation industry had grown to 216 private licenced recruitment agencies, up from 198 as of 30 June 2020; 166 in 2019; 105 in 2018; and 66 in 2017, reflecting the progression of the labour externalisation industry in Uganda.<sup>53</sup> UHRC monitoring established that most of the

49 <https://ir.kiu.ac.ug/bitstream/20.500.12306/5814/1/ASHIRAF.pdf>. Visited on 23 February 2022.

50 The Monitor, 7 June 2021 available at <https://allafrica.com/stories/202106080092.html>. Visited on 15 April 2022.

51 A report by the Auditors' Office on Regulation of Labour Externalisation by Ministry of Gender, Labour and Social Development, December, 2017 available at: [http://www.oag.go.ug/wp-content/uploads/2018/10/Labour-Externalisation\\_2017.pdf](http://www.oag.go.ug/wp-content/uploads/2018/10/Labour-Externalisation_2017.pdf). Visited on 15 March 2022.

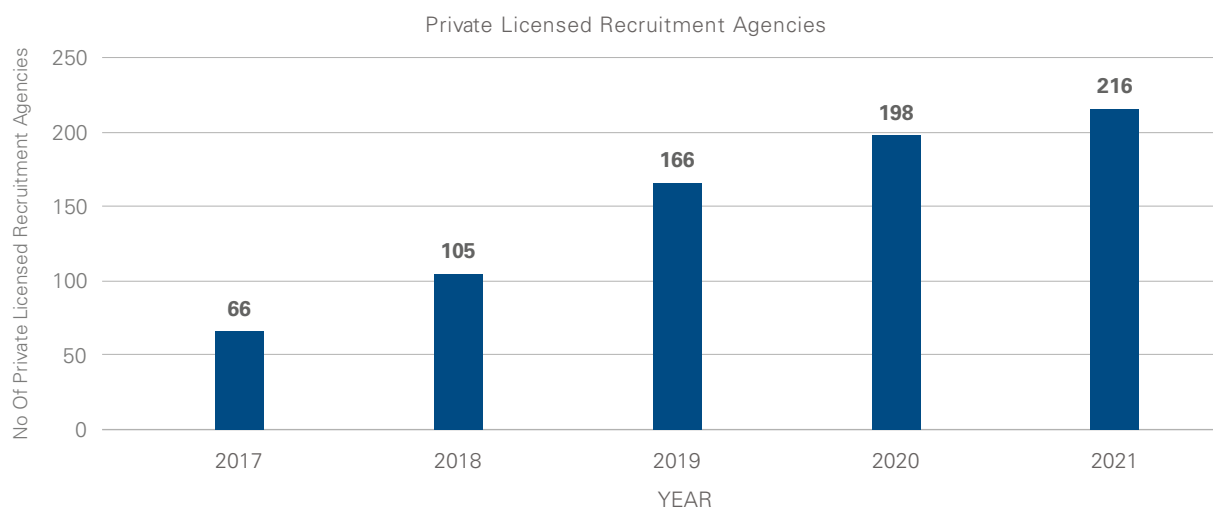
52 The Monitor, 7 June 2021 available at <https://allafrica.com/stories/202106080092.html>. Visited on 17 March 2022.

53 UHRC's interaction with MoGLSD Officials-March 2022.

recruitment agencies had their headquarters in the capital city of Kampala with branches in other cities like Jinja, Mbale, Mbarara, Masaka and brokers or agents spread all over the country.

The figure below shows that the labour externalisation industry is on a steady growth path.

**Figure 2.1: Number of licensed private external labour recruitment agencies 2017-2021**



*Source: Ministry of Gender, Labour and Social Development*

The UHRC findings revealed that there were mechanisms put in place by the government for registering and licensing labour recruitment companies. It was found that for any company or agency to engage in the externalisation of workers, it had to be registered by the Uganda Registration Services Bureau and licensed by the MoGLSD as stipulated in the Employment (Recruitment of Migrant Workers) Regulations 2021. It was further established that a person, partnership or a company proposing to carry out business as a local recruitment agency in Uganda must submit a written application to the Commissioner for Labour in the MoGLSD for an operating license. Once the Commissioner was satisfied that the applicant had complied with the requirements of the Regulations, a local recruitment permit is granted to the applicant.<sup>54</sup> In addition to registering and licensing local private recruitment agencies, recruitment agencies abroad go through an accreditation process under the MoGLSD.

### 2.3.3 Population of Ugandan migrant workers in the Middle East

While the exact figure of Ugandans working out of the country was difficult to establish due to lack of data and illegal exits, the United Nations estimated that more than 620,000 Ugandans lived outside the country and were employed within East Africa, Africa, Europe, Asia, the Americas and the Middle East.<sup>55</sup> An MoGLSD report highlighting the externalisation of labour between 2010 and April 2021 indicated that migrant workers who stood at 9,967 in 2010, with the majority going to Iraq, Afghanistan and UAE, had grown three-fold, increasing to 28,233 by the end of April 2021. The considerable growth in 2021, which was captured just four months within the year, was due to returnee migrant workers, who had sought to return to either complete their contracts disrupted by the outbreak of COVID-19 or seek new employment opportunities.<sup>56</sup>

Similarly, it was established during the UHRC monitoring that the population of Ugandan migrant workers deployed in the Middle East grew from 5,117 in 2017 to 21,612 in 2018 and 25,363 in 2019 before it declined to 9,026 in 2020. It was further established that 84,879 migrant workers accessed jobs in various sectors in the Middle East through private licensed recruitment agencies in 2021, reflecting a huge increase from the 9,026 Ugandans that worked in the Middle East in 2020.<sup>57</sup>

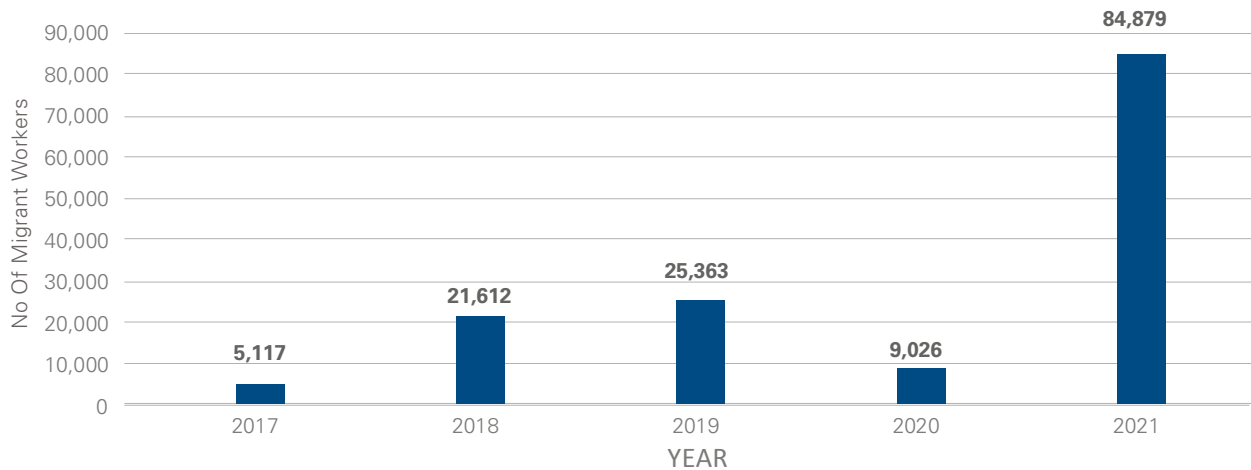
<sup>54</sup> [https://www.wikiprocedure.com/index.php/Uganda\\_-\\_Obtain\\_a\\_Local\\_Recruitment\\_Permit](https://www.wikiprocedure.com/index.php/Uganda_-_Obtain_a_Local_Recruitment_Permit)- Visited on 15 March 2022.

<sup>55</sup> The Monitor, 7 June, 2021 available at <https://allafrica.com/stories/202106080092.html>- Visited on 17 March 2022.

<sup>56</sup> The Monitor, 6 June, 2021 available at <https://allafrica.com/stories/202106080092.html> - Visited on 17 March 2022.

<sup>57</sup> UHRC's interaction with MoGLSD Officials, March 2022.

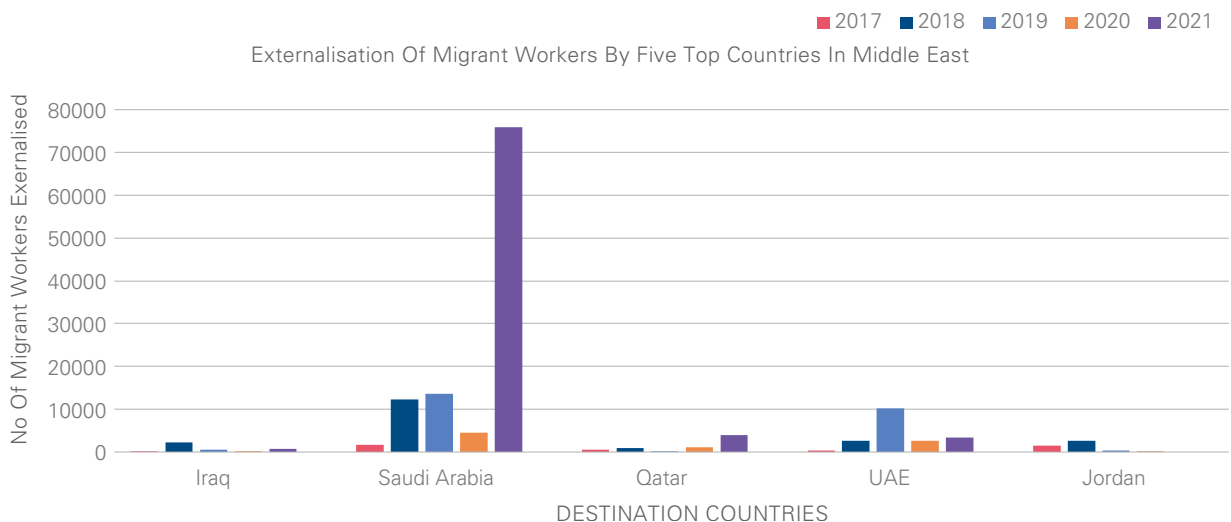
**Figure 2.2: Migrant workers externalised to the Middle East over the past five years**



Source: Ministry of Gender, Labour and Social Development

The sharp decline in 2020 was attributed to the COVID-19 pandemic that led to the closure of international borders and the suspension of the exportation of labour to the Middle East. A cumulative total of 145,997 migrant workers, of which 115,066 (78.8%) were female and 30,931 (21.2%) male, were deployed in the Middle East from 2017 to 2021. The five highest destination countries included Saudi Arabia, United Arab Emirates, Qatar, Jordan and Iraq, as seen in the figure below.<sup>58</sup>

**Figure 2.3: Highest destination counties in the Middle East for migrants from 2017-2021**



Source: Ministry of Gender, Labour and Social Development

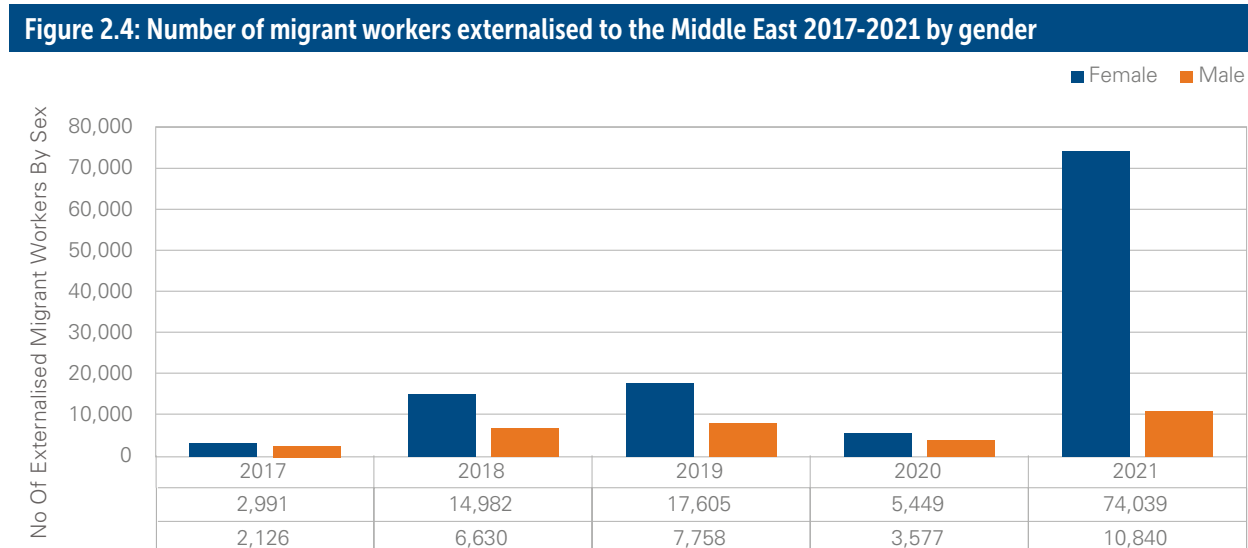
<sup>58</sup> Presentation on Externalisation of Labour and Human Rights by Mr. Benard Mujuni, Commissioner Equity and Rights Ministry of Gender, Labour and Social Development at Annual Report consultative meeting, February 2022.

From the table below, the three highest destinations countries in 2021 were Saudi Arabia (75,873), Qatar (3,991) and UAE (3,368).

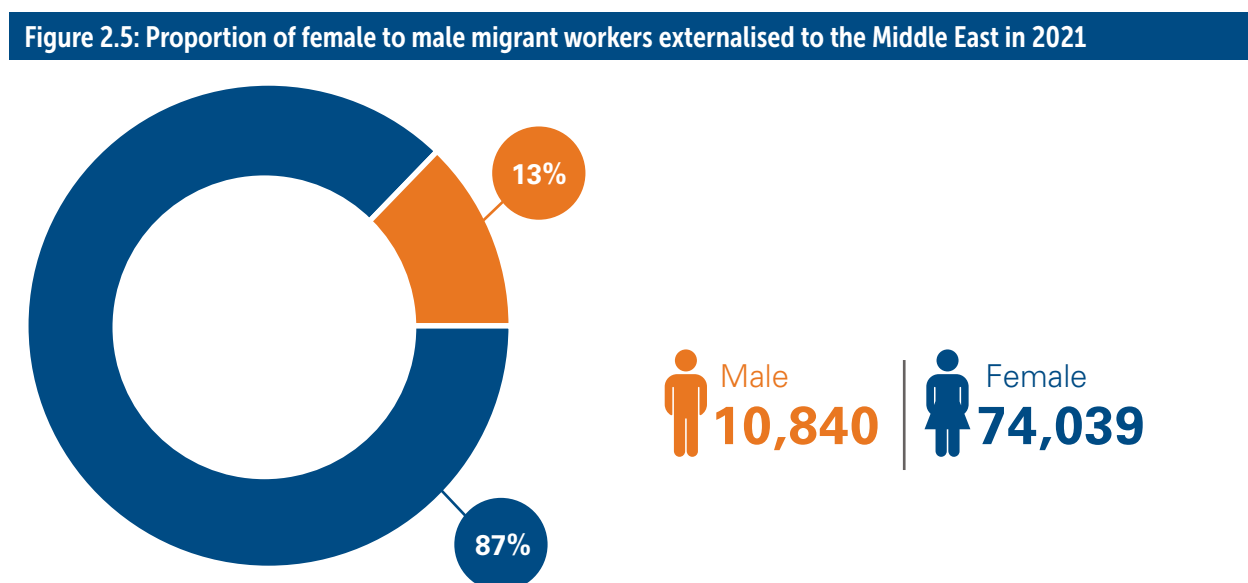
| Table 2.1 Highest destination countries for Ugandan migrant workers 2017-202 |              |               |               |              |               |                |
|------------------------------------------------------------------------------|--------------|---------------|---------------|--------------|---------------|----------------|
| DESTINATION                                                                  | 2017         | 2018          | 2019          | 2020         | 2021          | TOTAL          |
| Iraq                                                                         | 217          | 2,189         | 485           | 36           | 754           | 3,681          |
| Saudi Arabia                                                                 | 1,621        | 12,366        | 13,537        | 4,538        | 75,873        | 107,935        |
| Qatar                                                                        | 520          | 923           | 256           | 1148         | 3,991         | 6,838          |
| UAE                                                                          | 303          | 2,556         | 10,182        | 2,585        | 3,368         | 18,994         |
| Jordan                                                                       | 1,427        | 2,582         | 306           | 205          | 0             | 4,520          |
| <b>Total</b>                                                                 | <b>4,088</b> | <b>20,616</b> | <b>24,766</b> | <b>8,512</b> | <b>83,986</b> | <b>141,968</b> |

Source: Ministry of Gender, Labour and Social Development

The table and figure below show that most migrant workers externalised were female and that this bias has increased over the years. In 2018 and 2019, 69% of the migrant workers externalised were female, while in 2021, it was 87.2%.



Source: Ministry of Gender, Labour and Social Development



### 2.3.4 Causes of externalisation of labour in Uganda in 2021

The causes of labour externalisation in Uganda in 2021 were categorised under pull and push factors. A pull factor is defined as a motivating cause that attracts a person to migrate to another country or region,<sup>59</sup> while a push factor encourages an individual to migrate away from a specific place.<sup>60</sup>

The pull factors for Uganda migrant workers to the Middle East in 2021 included readily available employment opportunities and better wages in the destination countries. The push factors included poverty, unemployment and underemployment, lack of education and skills, low wages and pressure on employment back at home. One research respondent, a resident of Nakayombo B cell, Bukhalai Parish, Bududa Sub County in Bududa District, who had returned from Saudi Arabia in December 2021, stated that the reason why she went to the Middle East was to secure employment that would enable her to earn some money to educate her children.<sup>61</sup> The ILO reports indicated that between 2013 and 2017, the demand for migrant workers in the Middle East increased by 5.2 per cent annually, attributed to the need for the workforce in the construction and services sector.<sup>62</sup>

Various push factors identified during UHRC monitoring are analysed below.

#### 1. Poverty

Poverty was noted as one of the root causes of labour externalisation in the Middle East. Absolute poverty is measured by the minimum amount of money required to meet basic needs, known as a poverty line. The international standard for measuring poverty is the extreme poverty line which has a threshold equivalent to US\$1.90 per person per day. The poverty line of Uganda is living below US\$ 1.04 per person per day, which is lower than the World Bank's poverty line of US\$ 1.90 per person per day for extreme poverty. In Uganda, absolute poverty is officially defined as a 'condition of extreme deprivation of human needs, characterised by the inability of individuals or households to meet or access the minimum requirements for decent human wellbeing such as nutrition, health, literacy and shelter.'<sup>63</sup>

During the 2021/2022 national budget process launch, the Ugandan population living in poverty was reported at 25%, an increase from 21% the previous year. The 4% represented 1.8 million people who were previously above the poverty line but had slid back to poverty.<sup>64</sup> Similarly, UHRC findings revealed that Ugandans were forced to become migrant workers in the Middle East due to their inability to meet their children's individual and basic household needs such as feeding, housing, and education. It was found that even with the availability of universal primary education (UPE) and universal secondary education (USE), some people were so impoverished that they could not afford to provide their children with uniforms, scholastic materials, food and other necessities to enable them to attend school. According to an official of Mbale City Council, most people who decided to become migrant workers were in a deplorable state of existence; hence becoming migrant workers was a God-send.<sup>65</sup> Many of the female migrant workers are single mothers with children to provide for; for instance, one respondent, a resident of Buwatosi Village, Khabutoola Parish, Khabutoola Sub County in Manafwa District and a single mother who had returned from Saudi Arabia, where she had worked as a maid for two years said, "Life was difficult, I was suffering with my children since their father was not providing anything for them. I wanted to work in order to get some start-up capital to start a business."<sup>66</sup> Another female migrant worker who was found at one of the recruitment agencies in Mbale City stated that she did not have any other option other than going to work in the Middle East to be able to provide for her children, whose father had abandoned and her ageing mother.<sup>67</sup>

59 <https://www.safeopedia.com/definition/3136/pull-factors-> Visited on 12 March 2022.

60 [https://lisbdnet.com/what-is-the-definition-of-push-and-pull-factors/-](https://lisbdnet.com/what-is-the-definition-of-push-and-pull-factors/) Visited on 12 March 2022.

61 UHRC's interaction with a respondent in Bududa District, March 2022.

62 'Implications of COVID-19 pandemic on employment prospects for Uganda's youth in the Middle East.' Available at <https://eprcug.org/publication/implications-of-the-covid-19-pandemic-on-employment-prospects-for-ugandas-youth-in-the-middle-east-2/?wpdmmdl=13949&refresh=614455b70440b1631868343>.

63 Poverty in Uganda: National and Regional data and trends- Development Initiatives available at [https://devinit.org/resources/poverty-uganda-national-and-regional-data-and-trends/-](https://devinit.org/resources/poverty-uganda-national-and-regional-data-and-trends/) Visited on 14 March 2022.

64 [https://www.independent.co.ug/1-8-million-fall-back-into-poverty-as-uganda-launches-2021-22-budget-strategy/-](https://www.independent.co.ug/1-8-million-fall-back-into-poverty-as-uganda-launches-2021-22-budget-strategy/) Visited on 14 March 2022.

65 UHRC's interaction with an official in Mbale City, March 2022.

66 UHRC's interaction with a respondent in Manafwa District, March 2022.

67 UHRC's interaction with a respondent in Mbale City, March 2022.

The poverty status of many citizens has been exacerbated by the COVID-19 pandemic that has ravaged the economy since 2020. The lockdown measures to prevent the spread of the pandemic resulted in an economic recession, and consequently, many people lost jobs as both the formal and informal sectors downsized while others, such as the entertainment industry, completely shut down. The eventual partial opening of the economy did not help matters much, as some people never regained their jobs. People thus looked for means of survival, and hence the availability of seemingly decent employment opportunities in the Middle East was perceived as redemptive.



*A family having a meal in 2021. (Source: The Independent)*

## 2. Unemployment and underemployment

The unemployment rate in Uganda, which is the measure of the number of people actively looking for a job against the existing labour force, rose from 1.8% in 2019 to 2.44% in 2020 and was expected to rise to 2.5% in 2021.<sup>68</sup> The majority of the unemployed are youth with a proportion of 64% to 70%.<sup>69</sup> Many youths in Uganda, both skilled and semi-skilled, engage in jobs they do not desire. According to the Employment Diagnostic Report 2017, about 400,000 Ugandans join the job market every year to compete for approximately 52,000 available formal jobs.<sup>70</sup> As such, labour markets abroad, including in the Middle East, provide employment opportunities for Ugandans in the short run as the country develops its capacity to generate sufficient jobs for its labour force.

The UHRC findings revealed that unemployment was one of the major reasons why Ugandans sought employment in the Middle East and other countries like Kenya. All the respondents interviewed during the monitoring, both skilled and unskilled, indicated that unemployment in Uganda was the primary cause of the externalisation of labour. Many of them were engaged in subsistence farming, petty trade and casual jobs like waiters, housemaids, and security guards, earning just enough to afford a basic meal and left with nothing to provide for other basic needs like education for their children, shelter, and medical care for themselves and their families. Furthermore, the lack of skills among job-seeking youths exacerbates the situation. According to the Uganda Bureau of Standards Annual Labour Force Survey, 2018/2019, the majority of youths who form the bulk of the labour force lacked the requisite skills to enable them to

68 <https://tradingeconomics.com/uganda/unemployment-rate>: Visited on 15 March 2022.

69 <https://media.africaportal.org/documents/Policy-Brief-002-gatewayresearchcentreunemployment-1.pdf>: Visited on 15 March 2022.

70 Presentation on Externalisation of Labour and Human Rights by Mujuni Benard, Commissioner Equity and Rights Ministry of Gender, Labour and Social Development during the Annual Report consultative meeting, February 2022.

get profitable and fulfilling employment.<sup>71</sup> Ugandan youth were therefore largely engaged in low-value services like petty trade and food vending, with very few able to secure employment in high value-added economic activities like agro-processing, horticulture, or tourism.<sup>72</sup> Relatedly, it was established by UHRC that many of the migrant workers, specifically those that went to work as domestic workers or housemaids, lacked basic skills to manoeuvre through life. Most of the migrant workers seeking employment in this category were mainly primary and secondary school leavers who had not received any skills training.

The situation is worsened by meagre wages in the formal and informal employment sectors due to the country's lack of a minimum wage. For example, domestic maids in Uganda were paid between UGX 40,000 to UGX 150,000 per month, making employment in the Middle East with pay ranging from UGX 800,000 to UGX 1,200,000 for domestic workers very attractive. The situation was further compounded by the COVID-19 pandemic that led to job losses after a number of business entities either partially remained in operation or shut down. According to the Ugandan National Household Survey (2019–2020), employment in the construction, trade, hotel, and restaurant sectors decreased during the pandemic, making it even harder for young people and women to get employment opportunities.<sup>73</sup>

### 3. Slow growth in the economy

Relatedly, UHRC findings revealed that labour externalisation was attributed to the slow pace at which the economy in Uganda was growing compared to the available labour force. It was revealed that while universities and other tertiary institutions, including vocational and technical schools, were producing graduates every year to join the labour force, the economy's industrialisation rate was not in tandem with the labour demands. It was established that although Uganda's economic growth had been ranked among Sub-Saharan Africa's strongest at an average annual growth rate of 5.4% between 2010 and 2019, this impressive growth had been accompanied by limited creation of productive and decent jobs to absorb the existing labour force and improve livelihoods. Moreover, the population growth rate at 3.1% per year had consistently remained higher than the jobs creation rate necessary for absorbing persons joining the labour market, increasing unemployment and pervasive underemployment rates. Many Ugandans engage in 'vulnerable employment' characterised by inadequate earnings, low productivity and difficult working conditions that undermine workers' fundamental human rights.<sup>74</sup>

According to Douglas Opio of the Federation of Uganda Employers, the ideal situation would be for a skilled labour force to be employed locally, which he said was not possible. He thus stated that the focus should be on ensuring that labour migration was made safe, orderly and regular to ensure that people were neither trafficked nor ended up in forced labour.<sup>75</sup>

### 4. Bandwagon effect

The UHRC findings further revealed that externalisation of labour to the Middle East was to some extent attributed to the 'bandwagon' effect, which is defined as a psychological phenomenon in which people do something primarily because other people are doing it, regardless of their own beliefs which they may ignore or override. According to one of the officials of Mbale City Council, some people had decided to become migrant workers after they witnessed some developments undertaken by their peers, friends or relatives from their earnings while working in the Middle East.<sup>76</sup>

71 Uganda Bureau of Statistics 2019, The Annual Labour Force Survey 2018/2019 - Main Report, Kampala, Uganda available at [https://www.ubos.org/wp-content/uploads/publications/05\\_20212018-19\\_ALFS\\_Report\\_FINAL.pdf](https://www.ubos.org/wp-content/uploads/publications/05_20212018-19_ALFS_Report_FINAL.pdf). Visited on 20 March 2022.

72 <https://www.brookings.edu/research/employment-creation-potential-labor-skills-requirements-and-skill-gaps-for-young-people-a-uganda-case-study/> - Visited on 15 March 2022.

73 Uganda's way: Youth Employment and Participation post COVID- Economic Policy Research available at: <https://eprug.org/publication/ugandas-way-youth-employment-and-participation-post-covid/> - visited on 15 March 2022.

74 Employment creation potential, labour skills requirements and gaps for young people, Uganda Case Study by Madina M. Guloba, Medard Kakuru, Sarah N, Ssewanyana and Jakob Rauschendorfer, July 2021 available at <https://www.brookings.edu/research/employment-creation-potential-labor-skills-requirements-and-skill-gaps-for-young-people-a-uganda-case-study/> - Visited on 15 March 2022.

75 The Daily Monitor, 7th June 2021 available at <https://allafrica.com/stories/202106080092.html> - Visited 17th May 2022

76 UHRC's interaction with a respondent in Mbale City, March 2022.

### 2.3.5 Benefits of externalisation of labour

The government enabled many Ugandans to obtain productive, fulfilling and creative work in several occupations, reducing unemployment and underemployment through licensing private agencies. This substantially contributes to poverty eradication in the country, and overseas employment is a significant way to integrate Uganda into the global economy.<sup>77</sup> Other benefits of labour externalisation are elucidated below.

#### 1. Foreign exchange through remittances

Remittances are private international money transfers that migrants make, individually or collectively. It was found that the migrant workers' remittances, in general, had grown from US\$406 million in 2006 to US\$1.2 billion in 2015.<sup>78</sup> According to data from the Bank of Uganda, Uganda tremendously benefited from remittances from the Middle East, which increased from \$51.4 million in 2010 to \$309 million in 2018. As of 2018, the region contributed 23% of the remittances, up from 7% in 2010.<sup>79</sup> Migrant labour export, especially to the Middle East, played a key role in the growth of Uganda's remittances, earning the country more than US\$500 million in 2019. Dr Adam Mugume, the Bank of Uganda Executive Director of Research, noted that while receipts from traditional source markets such as Europe and the Americas had dropped, remittances from the Middle East were rising, noting that out of the US\$1.21 billion in 2019, more than half had come from the Middle East. He underscored the importance of the Middle East in Uganda's growth by providing a market for labour, commodity exports and trade.<sup>80</sup> It was further established that migrant workers in the Middle East remitted about US\$900m in 2021.<sup>81</sup>

According to Uganda Association of External Recruitment Agencies, due to COVID-19, various degrees of lockdown affected all government revenue sources. However, it was revealed that although the remittances were reduced, externalisation of labour remained the highest foreign resource earning sector since exports were down and the tourist industry was seriously affected by the COVID 19 restrictions. When the borders eventually opened, mainly migrant workers moving in and out of the Entebbe airport enabled the airport to remain operational.<sup>82</sup>

Similarly, UHRC findings revealed that, considering they earned better wages than when working in Uganda, most migrant workers in the Middle East made some savings which they remitted to their families. According to UAERA, monthly remunerations for domestic workers in Saudi Arabia ranged from US\$225 to US\$500, while factory workers on average earned between US\$350 and US\$700 in Qatar, UAE and Saudi Arabia and those engaged in catering earned between US\$350 and US\$600 in Qatar and UAE. Security guards earned between US\$300 and US\$900, and in high-risk states such as Iraq and Afghanistan, they earned between US\$500 and US\$1,000 per month.<sup>83</sup> As well as catering for essential home needs, some migrant workers purchased land, upon which they constructed houses either for occupation by their families or for rent as an extra source of income. For instance, a female migrant worker from Buwatsosi village, Khabutoola Parish, Khabutoola Sub County in Manafwa District who worked as a domestic worker in Saudi Arabia for two years stated that she was able to purchase a plot of land in Mbale City out of her savings: *"Using my savings, I have bought myself a small plot of land, I intend to return to Saudi for another contract in order to save some money to develop my plot."*<sup>84</sup> The remittances therefore resulted in improved livelihoods for Ugandan families by supplementing subsistence farming and petty trade, ultimately resulting into an improvement in household incomes and a general boost to the economy.

#### 2. Acquisition of basic skills and positive work ethics

According to the Auditor General's value for money audit report, 2017, the jobs overseas have enabled migrant workers to acquire new skills<sup>85</sup> and that pre-departure orientation training enabled migrant

77 [http://www.oag.go.ug/wp-content/uploads/2018/10/Labour-Externalisation\\_2017.pdf](http://www.oag.go.ug/wp-content/uploads/2018/10/Labour-Externalisation_2017.pdf)- Visited on 23 February 2022.

78 [http://www.oag.go.ug/wp-content/uploads/2018/10/Labour-Externalisation\\_2017.pdf](http://www.oag.go.ug/wp-content/uploads/2018/10/Labour-Externalisation_2017.pdf)- Visited on 23 February 2022.

79 <https://eprcug.org/eprc-highlights/covid-19-shuts-out-externalisation-of-labour-to-citizens/>- Visited on 17 March 2022.

80 The Monitor, 7 June 2021, available at <https://allafrica.com/stories/202106080092.html>- Visited on 7 March 2022.

81 <https://www.pulse.ug/news/the-ministry-of-gender-labour-and-social-development-mglsd/esyee6d>- Visited on 13 April 2022.

82 Externalisation of Labour and Human Rights Implications, a presentation by MS Enid Nambuya- Executive Director UAERA during UHRC Annual Report consultative meeting, February 2022.

83 UAERA Annual Report, 2020.

84 UHRC's interaction with a respondent in Manafwa District, March 2022.

85 [http://www.oag.go.ug/wp-content/uploads/2018/10/Labour-Externalisation\\_2017.pdf](http://www.oag.go.ug/wp-content/uploads/2018/10/Labour-Externalisation_2017.pdf)- Visited on 23 February 2022.

workers to acquire positive work ethics (however, this was not as thorough as required by Rule 4 Section 3 of the Rules and Regulations Governing the Recruitment and Employment of Ugandan Workers Abroad, 2015). It was noted in research that the exposure that came through their working abroad also enhanced most migrant workers' work ethics in that they knew how to relate with their superiors and were more resilient to working under tough conditions than before. Additionally, migrant workers acquired skills in operating different appliances that they used in their day to day operations in the course of their employment.

### 3. Reduction in pressure on the domestic work market

The externalisation of labour reduces pressure on the domestic labour market for both skilled and unskilled labour force, as those who might otherwise not have any employment have the opportunity to work in roles such as a driver, security guard or in the hospitality industry, which would not be the case in Uganda due to the high competition, but also the absence of some section of the population gives chance to those who stay to potentially find work.



*Ugandan migrant workers before departure to the Middle East: File photo*

### 4. Contribution to the consolidated fund

The UHRC findings established that labour exportation contributed to the consolidated fund. This was through tax revenue that was charged per migrant worker of UGX 400,000 for processing an express passport and UGX 100,000 for a certificate of good conduct, amounting to UGX 500,000. When extrapolated to the number of migrant workers of 84,879<sup>86</sup> externalized in 2021, it implied that Ugandan migrant workers in the Middle East contributed UGX 42,439,500,000 to the consolidated fund in 2021.

## 2.4 HUMAN RIGHTS CONCERNS OF EXTERNALISATION OF LABOUR

The Commission observed that while migration has provided employment opportunities and improved the living conditions of many Ugandans and their families, in recent years, there have been media reports and repeated outcries of hostility meted out related to the inhumane treatment of Ugandan workers abroad. These included harm and exploitation experienced by Ugandan migrant domestic workers at the hands of their employers in the Middle East, including sexual and physical abuse, withholding of salaries,

<sup>86</sup> Figure obtained through UHRC's interaction with MoGLSD, March 2022.

and overwork.<sup>87</sup> Other reported human rights violations and abuses included loss of life, human trafficking, torture and cruel, inhuman or degrading treatment, exploitation of labour, sexual exploitation in the form of prostitution, organ harvesting, confiscation of identity or travel documents, discrimination in the form of racism and xenophobia, deprivation of the right to culture, freedom of worship and information among others.

All these human rights violations and abuses should be addressed to make working in the Middle East safe. A challenge to this is the employment of Ugandan low-skilled migrant workers in the Gulf Cooperation Council (GCC), whose member states are the United Arab Emirates, Saudi Arabia, Qatar, Oman, Kuwait and Bahrain and other Middle East states, is governed by the Kafala system. This is an employer-led immigration process which requires migrant workers to have sponsors (employers) before acquiring work permits and which gives employers considerable employment, legal and financial control over migrant workers.<sup>88</sup> Additionally, it was established that both local and foreign recruitment agencies perpetrated violence, harassment and abuse against migrant domestic workers before and after migration.<sup>89</sup> As such, the perpetrators of human rights abuses against Ugandan migrant workers in the Middle East are their employers, overseas recruitment agencies and the recruitment agencies in Uganda, the very people responsible for protecting them per Rule 1 Section 1 of the Rules and Regulations Governing the Recruitment and Employment of Ugandan Workers Abroad, 2015. Some of the leading causes of human rights violations are expounded below.

### 2.4.1 Limited awareness of the laws

Migrant workers and critical stakeholders central to the recruitment of migrant workers still have limited information on the laws and processes of recruitment and management of migrant workers. Two key documents are the Employment (Recruitment of Ugandan Migrant Workers Abroad) Regulations, 2005 and the Guidelines on recruitment and placement of Ugandan migrant workers abroad, 2015. Most Ugandans travelling abroad for work often focus on the pull and push factors, and little concern is given to the laws, policies and details of where they are going. Many Ugandans are willing to risk it all for greener pastures. The Immigration Department, Ministry of Internal Affairs, has intercepted several cases of Ugandans' irregular movements for employment abroad.

### 2.4.2 Human trafficking

According to the UN Trafficking in Persons Protocol, human trafficking is defined as the recruitment, transportation, transfer, harbouring or receipt of people through force, fraud, or deception to exploit them for profit. The definition has three aspects: the act of trafficking, which means the recruitment, transportation, transfer, harbouring or receipt of persons; the means of trafficking, which includes the threat of or use of force, deception, coercion, abuse of power or position of vulnerability; and the purpose of trafficking, which is always exploitation.<sup>90</sup> Men, women and children of all ages can become victims of this crime in every region of the world. The traffickers often use violence or fraudulent employment agencies and fake promises of education and job opportunities to trick and coerce victims.

Furthermore, it was revealed that the use of unregistered employment agencies or brokers by some migrant workers destined to countries that have bilateral agreements with Uganda, travelling on visitors' visas and overstaying in destination countries had put them in situations where they were highly vulnerable to mistreatment, violence, enslavement, isolation and even murder.

In 2021, a total of 421 incidents were registered from January to December, 2021 compared to 214 incidents registered for the same period in 2020, yielding an increase of 96.7%. Incidents of internal trafficking were highest with 278, representing 66.03%, transnational trafficking had 113 incidents representing

87 [https://www.gaatw.org/publications/Uganda\\_Country\\_Report.pdf](https://www.gaatw.org/publications/Uganda_Country_Report.pdf) Visited on 18 March 2022.

88 [https://www.gaatw.org/publications/Uganda\\_Country\\_Report.pdf](https://www.gaatw.org/publications/Uganda_Country_Report.pdf) Visited on 18 March 2022.

89 [https://www.gaatw.org/publications/Uganda\\_Country\\_Report.pdf](https://www.gaatw.org/publications/Uganda_Country_Report.pdf) Visited on 8 March 2022.

90 <https://www.unodc.org/unodc/en/human-trafficking/human-trafficking.html> visited on 18 March 2022.

26.84% while 30 incidents of suspected trafficking (7.12%) were unknown. In August 2021, the Ministry of Internal Affairs announced the suspension of 11 external labour recruitment agencies citing gross forgeries and abuses such as human trafficking and extortion. Among them were KHM International Consultants, Supreme Link Ltd, JAG Security Ltd, Ayimal Safer, Doxa Connections, Premium International, and African Man Power, Alsultaani Recruitment, Forward International and RAB Recruitment LTD. The government also completely terminated three companies' operating permits, including Top-Notch Recruitment Services (U) Limited, Fly International Jobs (u) Ltd, and Sahara Recruitment Agency Limited. Other companies earlier suspended were Al-Saud Agency Limited Kibuye, Middle East Consultants Limited, the Eagles Supervision Limited, and Forbes Enterprises Limited. The suspension of these labour export companies was attributed to allegedly flouting labour laws, extortion, forgery and violating human rights.

### 2.4.3 Categories of Cases of Trafficking in Persons

The categories of cases of trafficking registered during the period under review include Trafficking in persons, Aggravated Trafficking in persons, Aggravated Trafficking in children, Attempted Trafficking in persons, Suspected Trafficking in persons.

**Table 2.2: Cases of Trafficking in Persons by Category**

| S/NO. CASES CATEGORY               | CASES REGISTERED |
|------------------------------------|------------------|
| Aggravated Trafficking in children | 235              |
| Trafficking in persons             | 98               |
| Attempted Trafficking in persons   | 44               |
| Aggravated Trafficking in persons  | 32               |
| Suspected Trafficking in persons   | 12               |
| <b>Total</b>                       | <b>421</b>       |

*Source: Ministry of Internal Affairs*

#### Incidents of trafficking in persons by region

In all the incidents of trafficking in persons registered, Aviation Police at Entebbe International Airport registered the highest number with 64 incidents, followed by KMP South Region with 34 incidents, CID Headquarters had 32 incidents. KMP East region registered 30 incidents while Greater Masaka registered 27, Kidepo region registered 23, Albertine registered 21 and Sezibwa registered 20 incidents each. See table below

**Table 2.3: Incidents of trafficking in persons by region in 2021**

| REGION           | INTERNAL | TRANSNATIONAL | UNKNOWN | TOTAL |
|------------------|----------|---------------|---------|-------|
| Aviation Police  | 00       | 57            | 07      | 64    |
| KMP South        | 15       | 16            | 03      | 34    |
| CID Headquarters | 04       | 25            | 03      | 32    |
| KMP East         | 29       | 00            | 01      | 30    |
| Greater Masaka   | 27       | 00            | 00      | 27    |
| Kidepo           | 23       | 00            | 00      | 23    |
| Albertine        | 21       | 00            | 00      | 21    |
| Sezibwa          | 16       | 00            | 04      | 20    |
| Kiira            | 18       | 00            | 01      | 19    |
| Rwenzori West    | 18       | 00            | 00      | 18    |
| KMP North        | 10       | 07            | 01      | 18    |
| Kigezi           | 16       | 00            | 00      | 16    |
| East Kyoga       | 15       | 00            | 00      | 15    |

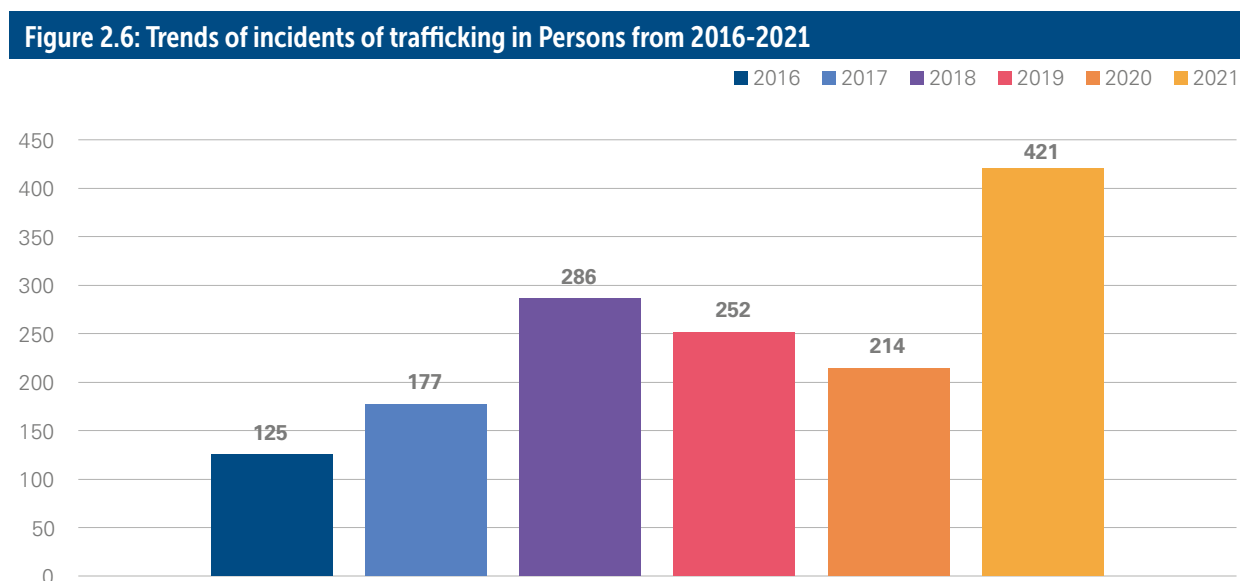
| REGION           | INTERNAL   | TRANSNATIONAL | UNKNOWN   | TOTAL      |
|------------------|------------|---------------|-----------|------------|
| Mt. Moroto       | 14         | 00            | 00        | 14         |
| Busoga East      | 14         | 00            | 00        | 14         |
| Bukedi           | 01         | 05            | 07        | 13         |
| Wamala           | 05         | 01            | 00        | 06         |
| Rwizi            | 06         | 00            | 00        | 06         |
| Rwenzori East    | 06         | 00            | 00        | 06         |
| Busoga North     | 02         | 00            | 02        | 04         |
| Aswa River       | 03         | 01            | 00        | 04         |
| Greater Bushenyi | 04         | 00            | 00        | 04         |
| Katonga          | 04         | 00            | 00        | 04         |
| Savannah         | 03         |               | 00        | 03         |
| North Kyoga      | 02         | 00            | 00        | 02         |
| West Nile        | 02         | 00            | 00        | 02         |
| North West Nile  | 00         | 00            | 01        | 01         |
| Kireka Sid       | 00         | 01            | 00        | 01         |
| Sipi             | 00         | 00            | 00        | 00         |
| Elgon            | 00         | 00            | 00        | 00         |
| <b>Total</b>     | <b>278</b> | <b>113</b>    | <b>30</b> | <b>421</b> |

Source: Ministry of Internal Affairs

Kampala Metropolitan area, Greater Masaka, Kidepo and Albertine were the most recruitment and transit areas for human trafficking activities. The regions of Elgon and Sipi registered no cases of Trafficking in Persons.

| Table 2.4: Comparison of incidents of Trafficking in persons between 2016 and 2021 |      |      |      |      |      |      |
|------------------------------------------------------------------------------------|------|------|------|------|------|------|
| YEAR                                                                               | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 |
| No. of cases                                                                       | 125  | 177  | 286  | 252  | 214  | 421  |

Source: Ministry of Internal Affairs



Source: Ministry of Internal Affairs

There was an increase in incidents of trafficking in persons registered from 2020 and 2021. This is majorly attributed to;

- a) Enhanced capacity building, public awareness of law enforcement officers and stakeholders about the crime of trafficking, identification, protection and referral of victims of trafficking.
- b) Enhanced deployment of trafficking in persons desk investigators at several entry and exit border points to effectively investigate cases of human trafficking.
- c) The socio-economic effects of COVID-19 lockdowns.

Labour was cited as the most prominent form of exploitation for trafficking in persons, for victims of transnational trafficking, which was attributed to the large population of unemployed youth and the increased demand for cheap labour in countries like the UAE, Oman, Jordan and Qatar among others. While sex trafficking was the biggest form of exploitation for internal trafficking. This was driven by the prolonged covid-19 lockdown. The majority of the cases of human trafficking were registered by the Aviation Police at Entebbe International Airport with 57 cases, while the rest of the cases were reported in Kampala, Mukono, Wakiso and border points in various districts, including Napak, Busia, Namisindwa, Mbale and Tororo.<sup>91</sup>

**Table 2.5: Incidents of transnational Trafficking by District/Division in 2021**

| DISTRICT/ DIVISION  | TRANSNATIONAL TRAFFICKING |
|---------------------|---------------------------|
| Avipo Entebbe       | 57                        |
| CID HQTRs           | 25                        |
| CPS Kampala         | 07                        |
| Katwe Division      | 05                        |
| Old Kampala Divison | 05                        |
| Tororo              | 03                        |
| Kajjansi Division   | 02                        |
| Kabalagala Division | 02                        |
| Busia               | 02                        |
| Kawempe Division    | 01                        |
| Kitgum              | 01                        |
| Wandegewa Division  | 01                        |
| Mityana             | 01                        |
| Kireka SID          | 01                        |
| <b>Total</b>        | <b>113</b>                |

Source: Ministry of Internal Affairs

### **Victims of trafficking in persons**

A total of 1295 persons were victims of trafficking in persons out of whom 790 were victims of transnational trafficking, 475 were victims of internal trafficking while 30 victims were unknown. A total of 713 were female adults, 285 were female juveniles, and 181 victims were male adults while 86 were male juveniles.

<sup>91</sup> Uganda Police Annual Crime Report, 2020 available at <https://www.upf.go.ug/wp-content/uploads/2021/04/ANNUAL-CRIME-REPORT-2020-1.pdf?x74136->  
Visited on 16 April 2022.

## Registered numbers of victims of trafficking by gender in 2021

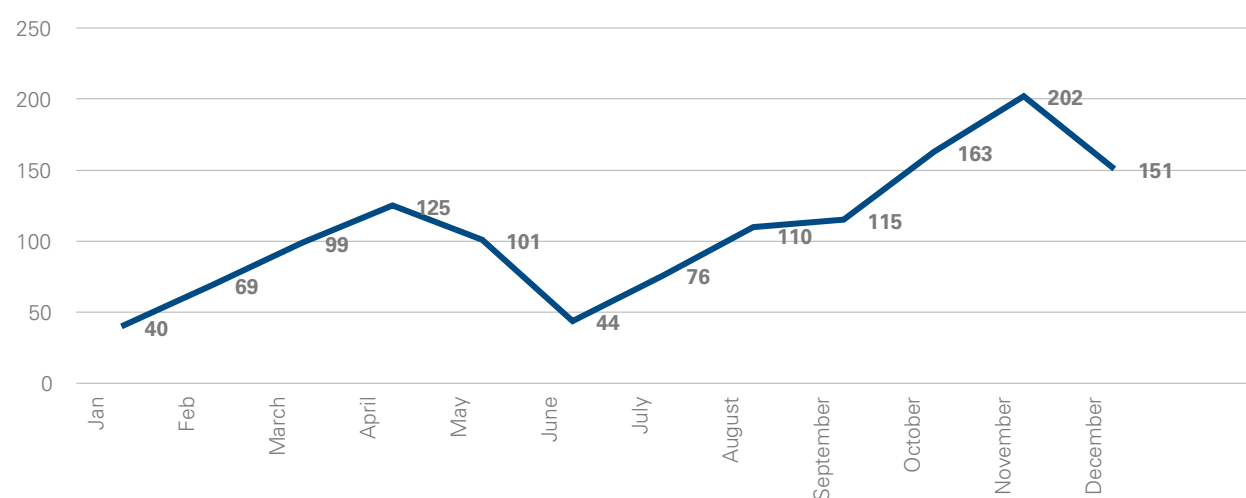
| Table 2.6: Internal Trafficking Victims |                |               |                  |
|-----------------------------------------|----------------|---------------|------------------|
| MALE ADULTS                             | MALE JUVENILES | FEMALE ADULTS | FEMALE JUVENILES |
| 51                                      | 82             | 79            | 263              |

Source: Ministry of Internal Affairs

| Table 2.7: Transnational Trafficking Victims |                |               |                  |
|----------------------------------------------|----------------|---------------|------------------|
| MALE ADULTS                                  | MALE JUVENILES | FEMALE ADULTS | FEMALE JUVENILES |
| 130                                          | 04             | 634           | 22               |

Source: Ministry of Internal Affairs

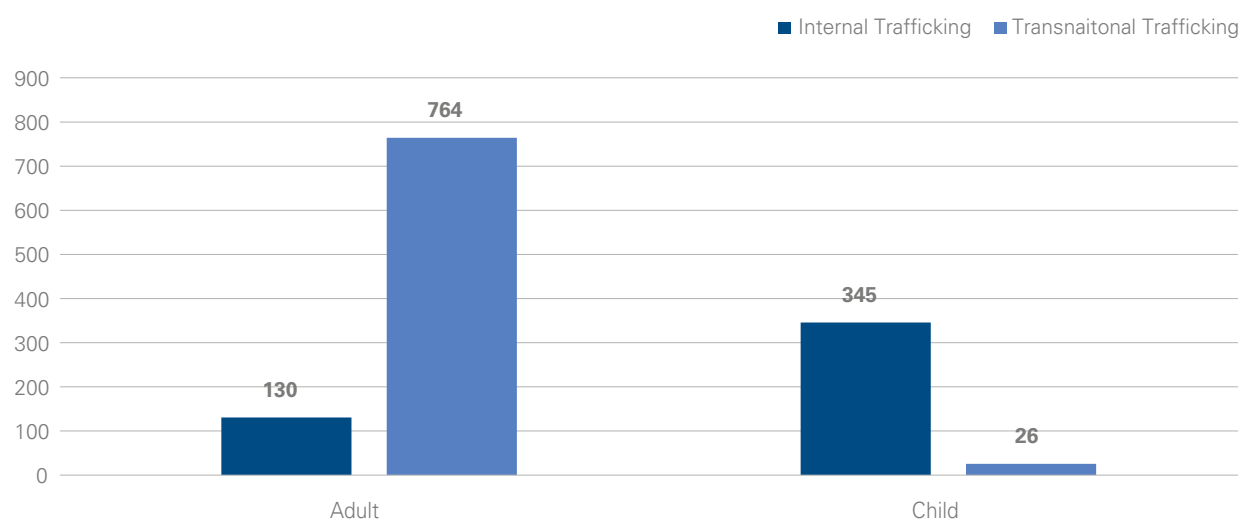
**Figure 2.7: Number of Victims of trafficking by month in 2021**



Source: Ministry of Internal Affairs

The Commission notes that the number of victims for human trafficking increased in the month of November.

**Figure 2.8: Victims of trafficking for internal and transnational**



Source: Ministry of Internal Affairs

Children too are victims of trafficking; they were 345 were for internally trafficked and 26 of them were victims of transnational trafficking.

**Table 2.8: Forms of exploitation for victims of trafficking in persons**

| NO | FORMS OF EXPLOITATION | INTERNAL TRAFFICKING | TRANSNATIONAL TRAFFICKING |
|----|-----------------------|----------------------|---------------------------|
| 1  | Labour                | 94                   | 105                       |
| 2  | Sexual                | 117                  | 07                        |
| 3  | Ritual                | 05                   | 00                        |
| 4  | Forced Child Marriage | 47                   | 00                        |
| 5  | Debt Bondage          | 05                   | 01                        |
| 6  | Illegal Activity      | 19                   | 02                        |
| 7  | Organ Harvest         | 01                   | 00                        |
| 8  | Servitude             | 00                   | 01                        |
| 9  | Unknown               | 43                   | 00                        |
|    | Total                 | 331                  | 116                       |

Source: Ministry of Internal Affairs

#### Destination countries for victims of trafficking in persons from Uganda 2021.

There were 297 victims of transnational trafficking with Dubai as the leading destination country, 175 victims to Saudi Arabia, 110 victims to Qatar, and 50 victims to U.A.E, 44 victims to Kenya while Oman and Abu Dhabi had 02 victims each. Most of the victims intercepted in Kenya were in transit to other destinations in the Middle East.

**Table 2.9: Number of victims by destinations**

| DESTINATION COUNTRY | NO OF VICTIMS |
|---------------------|---------------|
| Dubai               | 297           |
| Saudi Arabia        | 175           |
| Qatar               | 110           |
| UAE                 | 50            |
| Kenya               | 44            |
| Iraq                | 14            |
| Baghdad             | 09            |
| DRC                 | 08            |
| Uganda              | 06            |
| Oman                | 02            |
| Abu Dhabi           | 02            |
| Malawi              | 02            |
| Canada              | 01            |
| Cameroon            | 01            |
| India               | 01            |
| Sudan               | 01            |
| Sierra Leone        | 01            |
| Libya               | 01            |
| Thailand            | 01            |
| Tanzania            | 01            |
| Total               | 727           |

Source: Ministry of Internal Affairs

The figure below related to trafficking victims in 2020 shows that the majority of the victims (57%) victims of trafficking were intercepted, with 35% rescued. Twenty-two were not recovered, four died, two were still missing, and the status of three remained unknown.

### Modes of recruitment of victims of trafficking in persons

Deception and fraud were the most commonly used means of recruitment. Majority of the victims were recruited and transported to their respective destinations through deceptive promises of nice paying jobs abroad. The perpetrators use fraudulent means including forgery of travel documents, giving false information to Government authorities and using un-gazetted exit and entry routes along the porous borders of Uganda. It was also revealed that some traffickers used fraud and deception to carry out illegal recruitment of migrant workers to countries which had signed bilateral labour agreements with Uganda, such as UAE and Jordan.<sup>92</sup>

### Prosecution of perpetrators of human trafficking

The prosecution function includes detection of the crime, investigation of cases and prosecution of offenders. There was improved performance in the field of investigations and prosecution of human trafficking cases. By 31st December, 2021, a total of 403 cases were taken to court, out of which 30 cases secured convictions, 11 cases were withdrawn from court by the Director of Public Prosecutions, 01 case was acquitted and 361 cases were still pending in court. A total of 501 suspects of trafficking in persons were arrested, out of whom 279 were male adults, 116 suspects were female adults, 08 suspects were male juveniles and 04 suspects were female juveniles, 12 were companies suspected of trafficking in persons.

Reports of existence of victims of trafficking were promptly followed up by the Police and other concerned stakeholders, including Civil Society Organizations and some International Agencies; through application of the existing ad-hoc victim assistance systems and practices. Majority of the registered victims were intercepted, rescued and assisted to return home in 2021.

**Table 2.10: Status of victims in trafficking in 2021**

| STATUS OF VICTIM | NO OF VICTIMS |
|------------------|---------------|
| Rescued          | 576           |
| Intercepted      | 305           |
| Recovered        | 134           |
| Not rescued      | 87            |
| Not recovered    | 52            |
| Missing          | 36            |
| Dead             | 20            |
| Unknown          | 85            |
| <b>Total</b>     | <b>1,295</b>  |

Source: Ministry of Internal Affairs

<sup>92</sup> Uganda Police Annual Crime Report, 2020 available at <https://www.upf.go.ug/wp-content/uploads/2021/04/ANNUAL-CRIME-REPORT-2020-1.pdf?x74136-> Visited on 16 April 2022.

## 2.4.4 Labour exploitation

The exploitation of labour is defined in its broadest sense as one agent taking unfair advantage of another agent. It denotes an unjust social relationship based on an asymmetry of power or unequal value exchange between workers and their employers.<sup>93</sup> Forms of labour exploitation include forced labour or servitude and sexual exploitation.

Prohibition of slavery and servitude is a non-derogable right protected under Article 25 of the Constitution and international and regional human rights instruments. The SDG 8.7 calls upon leaders to take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour. However, unfortunately, according to UHRC research and the Migrant Workers' Voice, an NGO advocating for the rights of Ugandan migrant workers in the Middle East, many have experienced organ harvesting, sexual violence and forced labour.<sup>94</sup> It was further found that women suffered exploitation more than men and housemaids more than other workers. Other elements of labour exploitation are as follows.

### 1. Forced labour

The ILO Forced Labour Convention, 1930 (No. 29), defines forced labour as all work or service exacted from any person under the threat of a penalty and for which the person has not offered themselves voluntarily.<sup>95</sup> The Commission received reports that Ugandan migrants working, especially in the Middle East countries, continued to suffer economic exploitation, including sexual slavery and torture. The UHRC also noted that there was no clear policy to regulate the management of their benefits, for example, their social security benefit, portability and re-integration into Uganda's societies after they return. Some workers were said to have been deceived into going abroad to undertake jobs in the hospitality industry, like working in supermarkets with good pay, only to end up as domestic workers with low wages.

It was also established that some of the migrant workers took up jobs they did not like and maintained them through coercion by the recruitment agents back home and in the receiving countries and through the use of violence and intimidation by their employers. In addition, some migrant workers, especially domestic workers, could not leave their jobs despite the poor working conditions and terms because their employers withheld their wages and confiscated their identification documents, including their National ID and passport. It was also revealed that some employers threatened to cancel their visas, which would render them illegal immigrants. It was also found that migrant workers, especially live-in domestic workers, suffered forced labour that involved long working hours with very little rest. The situation was compounded by working in multiple households, often without compensation. Delayed payment of wages was revealed to be very rampant, especially among domestic workers.

Furthermore, it was established that the migrant workers were forced to work even when sick. For instance, one respondent who had returned from Saudi Arabia, where she was working as a maid<sup>96</sup>, stated that she laid down her tools against her employer's wishes when she fell sick. In retaliation, the employer took her to the overseas recruitment agency, where she stayed for one month and three days, awaiting her repatriation. The agency did not pay for her return ticket, so she had to solicit help from her husband back home, who negotiated with the agency and sent her UGX 1,600,000, yet her monthly was equivalent to UGX 800,000.<sup>97</sup>

### 2. Contract substitution

The UHRC monitoring established that migrant workers suffered labour exploitation while abroad through contract substitution. Some migrant workers were given false or deceptive information by the employment agencies, sometimes exaggerating the amount of money they would be earning. Others were forced to sign unenforceable employment contracts that were sometimes substituted with an alternative (often

93 [https://en.wikipedia.org/wiki/Exploitation\\_of\\_labour](https://en.wikipedia.org/wiki/Exploitation_of_labour). Visited on 18 March 2022.

94 UHRC's interaction with Officials of Migrant Workers Voice in Kampala, March 2022.

95 <https://www.ilo.org/global/topics/forced-labour/definition/lang--en/index.htm>. Visited on 18 March 2022.

96 In January 2022

97 UHRC's interaction with respondents in Bududa and Manafwa Districts, March 2022.

written in Arabic) signed upon arrival at the destination country. In such cases, the new contract was utterly different from what was agreed upon, and the migrant worker had no choice but to agree to the new terms. In addition, the job description and other working conditions indicated in the contracts were often not respected by employers.

For instance, one respondent from Bududa District said her contract in Saudi Arabia stated she would be a domestic housemaid, yet upon arrival, she was assigned to attend to the sick and elderly. Another respondent who had returned from Saudi Arabia<sup>98</sup> stated that she worked in two households for two months when she was there, which was not part of her contract. Another respondent revealed that she shifted with her employer to three different locations in Saudi Arabia without the knowledge of the agencies in Saudi Arabia, which was contrary to her contract that indicated the location where she would be stationed.

### **3. Confiscation of travel documents**

Several former externalized workers from the Middle East informed the Commission that Uganda migrant workers in the Middle East had their passports or travel documents confiscated by their employers upon arrival. The travel documents were only returned after paying vast sums of money to their recruiters. This violates workers' rights as it restricts workers' movement within and out of the destination country.

### **4. Long working hours and hazardous conditions**

The UHRC findings revealed that most migrant workers, specifically domestic workers, worked for longer than eight hours and had very little rest. For instance, a male migrant worker who had obtained another contract with an individual in Saudi Arabia after his two-year contract as a cleaner in a hotel ended, stated that his employers made him work as a cleaner at his home as well as a builder at his various sites. For two years, he worked up to 9 pm, juggling both jobs for two years and 11 months, but was forced to stop when he was expected to work until 3 am.<sup>99</sup> This was in addition to engaging in hazardous work like cleaning toilets with bleach without protective equipment that resulted in burns on his hands, cleaning very high buildings and offloading heavy items. While some respondents said they lived alone under good sanitary conditions, some said they stayed in the same room with the children of their employers owing to limited space. It was also found that meals varied from one household, with some eating very poorly; one respondent said she fed on chapatti with water once a day until her body could not take it anymore and fell sick. The findings revealed that migrant domestic workers (Kadamas) suffered more human rights violations than other categories of migrant workers.

While it is the responsibility of recruitment agencies both overseas and in Uganda to ensure that the rights of migrant workers are protected by their employers, most of the migrant workers said that the recruitment agencies never assisted them. Instead, the recruitment agencies encouraged them to persevere and work till the end of the contract because a migrant worker terminating their contract implied a loss for the agency. Findings revealed that once a migrant worker failed to cope with the working conditions with the first employer, she was given two more opportunities with different employers. Inability to cope would result in repatriation.

### **5. Trade of housemaids**

Through interviews with former housemaids in Saudi Arabia and the UAE, the UHRC noted that the girls were hired or bought by their employers from housemaid markets. Such girls were treated as property by the buyers and could be sold to another party when the employers wished, without consent from the girls. This practice is a reflection of modern-day slavery. Other respondents informed the UHRC that they were hired out by their employers or taken for extra work at the employers' relatives without their consent and at no extra pay.

<sup>98</sup> In January 2022

<sup>99</sup> <https://www.merriam-webster.com/dictionary/xenophobia>. Visited on 21 March 2022.

## 6. Organ harvesting

Migrant Workers'<sup>100</sup> Voice petitioned the Uganda Human Rights Commission to halt the externalisation of Ugandan domestic workers to the Middle East citing grave human rights breaches. This resulted from numerous media reports about complaints of torture and mistreatment of especially domestic workers, and a concern about an existing and increasing black market for human organs and organ trafficking.<sup>101</sup>

A case in point was Ms Edith Nakitu, who travelled to Jeddah in Saudi Arabia in December 2019 through a recruitment agency called Nile Treasure Gate Company, only for her family to be informed two months later that she was involved in an accident. Nakitu was allegedly taken to hospital in Jeddah and later kept in a warehouse rented by her employer, where another Ugandan migrant worker attended to her. Upon returning to Uganda in October 2021, Mulago National Referral Hospital examinations revealed that Nakitu had undergone a mysterious surgery in Saudi Arabia and that her right kidney was missing. Nakitu was paralysed on the right side and could not speak well due to the surgery. Nile Treasure Gate Company was among the 15 companies that the MoLGSD suspended in December 2020 for noncompliance and alleged flouting of the recruitment and export guidelines.<sup>102</sup> The directors of Nile Treasure Gate Company were charged with three counts of aggravated trafficking in persons contrary to section 3 (1) (a), 4 (1) of the Prevention of Trafficking in Persons Act, 2009.<sup>103</sup>



*Ms Edith Nakitu after repatriation. (Source: File photo)*

### 2.4.5 Xenophobia and racial discrimination

Xenophobia refers to the fear and hatred of strangers or foreigners or anything strange or foreign.<sup>104</sup> Xenophobia can be grouped with racism, racial discrimination and other related intolerance. UHRC monitoring established that migrant workers were victims of xenophobic attacks and racial discrimination in the receiving countries due to their different racial and cultural backgrounds. They were looked at as inferior to the people in the Middle East countries and became targets of physical attacks and verbal insults. In most cases, they were forced to adapt to the customs of their receiving country without any due regard

<sup>100</sup> In February 2022

<sup>101</sup> <https://www.business-humanrights.org/en/latest-news/migrant-workers-voice-calls-on-ugandan-govt-to-stop-sending-workers-to-the-middle-east-citing-abuses-such-as-organ-trafficking-and-torture/> Visited on 18 April 2022.

<sup>102</sup> <https://www.newvision.co.ug/articledetails/125732> Visited on 18 April 2022.

<sup>103</sup> <https://eagle.co.ug/2022/02/25/court-remands-five-nile-treasure-gate-company-directors-for-trafficking-judith-nakintu-to-saudi-arabia.html> Last visited on 18 April 2022.

<sup>104</sup> <https://www.merriam-webster.com/dictionary/xenophobia> Visited on 21 March 2022.

to their own cultures and religious beliefs. For instance, most, if not all, female migrant workers in Saudi Arabia had to wear the 'hijab'.

## 2.4.6 Denial of access to justice

UHRC monitoring established that redress mechanisms were available for the Ugandan migrant workers in case of any human rights violation. These included the recruitment agencies in the receiving countries that were charged with following up matters directly with the employers; labour courts where redress is got; and the Ugandan Embassy in Saudi Arabia and the UAE that provided consular services (advice and support in the case of an accident, serious illness, or death, advice and support to victims of serious crime overseas, and arranging for next-of-kin to be informed, visitation contact with incarcerated nationals) to immigrant workers. This was in addition to protection efforts undertaken by the MoGLSD, which were, however, limited by a lack of deployment labour attachés in the Middle East.<sup>105</sup>

Despite the above redress mechanisms being in place, it was found that there was limited protection for migrant workers in the Middle East since several national laws for respective countries do not provide for their protection from human rights abuses. For instance, the Kafala system gives lots of powers to employers, leaving migrant workers with very little protection. As a result, migrant workers suffer all forms of abuse with little or no redress. There were no formal redress mechanisms to file complaints; inadequate access to police stations; a lack of awareness among migrant workers of their rights; and language barrier. Furthermore, due to discriminatory practices against women in some Middle Eastern countries, female migrant workers could not report their employers to the police as male police officers mainly dominate it. It was also revealed that most migrant workers did not report their cases to Police because they did not trust the system. Moreover, some feared reporting because this would lead to inquiries about their documentation, and as many workers did not possess the correct paperwork, they would be identified as illegal and hence, arrested.

## 2.4.7 Physical, psychological torture and sexual abuse

Female Ugandan migrants have reported physical and sexual abuse at the hands of male employers and sometimes rape and sexual assault while at work. One migrant worker who was working as a domestic worker in Saudi Arabia but was deported in October 2021 stated that her employer was harsh to the extent that she poisoned her and locked her up in a room for eight months after she had demanded her six months' salary arrears. She was only rescued by neighbours who heard her scream in pain one afternoon and alerted the police.<sup>106</sup>

Similarly, UHRC findings established that migrant workers suffered much physical, psychological and sexual abuse before and after departure and while employed. All the migrant workers that UHRC interacted with revealed that the overseas recruitment agencies rarely believed them when they reported suffering abuse, and instead, they accused the migrant workers of being lazy. According to one respondent from Namayingo District who was repatriated from Saudi Arabia in late 2021: *"Although I was very sick, because of fear after I had witnessed girls being beaten by officials at recruitment agency on the basis of refusing to work, I accepted to return to my former employer where I had suffered a lot of psychological torture."*<sup>107</sup> Another migrant worker who was only two weeks on her job as a maid to a family of six in Riyadh, the capital city of Saudi Arabia, sustained a broken leg and arm and lost seven teeth due to an assault by her then-boss.<sup>108</sup>

<sup>105</sup> UHRC interaction with MoGLSD officials, March 2022.

<sup>106</sup> <https://www.independent.co.ug/deported-domestic-workers-talk-of-mistreatment-in-middle-east/>; Visited on 18 April 2022.

<sup>107</sup> UHRC's interaction with a respondent in Namayingo District, March 2022

<sup>108</sup> <https://globalpressjournal.com/africa/uganda/migrant-workers-abused-middle-east-look-for-justice/>; Visited on 22 March 2022.

## 2.4.8 Deprivation of the right to property

Whereas international human rights instruments and employment contracts signed by the migrant workers provided for their right to property and communication, this was often not respected. Findings revealed that most migrant workers, especially live-in domestic workers, had their property such as passports, mobile phones and national IDs confiscated by their employers and recruitment agencies abroad. Others remained with their mobile phones, although their communication was restricted. The confiscation of mobile phones amounted to the deprivation of the right to property for the migrant workers and deprived them of their right to communicate with their families back home and seek protection from authorities in the event of abuse.

## 2.4.9 Cultural and religious differences

UHRC noted that migrant workers faced significant challenges in adopting to new cultures and learning new languages in the countries in which they work. Although aimed at preparing the migrant workers to absorb culture shocks and religious differences, the pre-departure training was inadequate. Moreover, it was established that some migrant workers, especially the female workers, were forced to adopt religious beliefs such as wearing hijab and long skirts even when they did not practice that particular faith. Furthermore, it was established that practising their own religion, such as attending church services, was not allowed, which violated the right to freedom of worship. One female respondent from Namayingo District, a domestic worker in Saudi Arabia, stated that she was subjected to acts like burning incense, which she thought were part of the Islam faith rites, without her consent. As a result, she was traumatised and eventually fell sick, resulting into her repatriation.<sup>109</sup>

## 2.4.10 Language barrier

UHRC monitoring found that the majority of the Ugandan migrant workers who travelled to the Middle East were faced with a language barrier challenge. Most could not speak Arabic, which is the primary language of communication in most countries in the Middle East. It, therefore, became difficult for the migrant workers, especially domestic workers, to communicate with the locals, including their employers. Although the migrant workers received some training on basic communication in Arabic during pre-departure orientation seminars, it was inadequate. No effort was made to have migrant workers deployed in families that could communicate in English. Consequently, the migrant workers found themselves isolated from the local communities, yet they were also restricted from interacting with fellow Ugandans. The language barrier made the migrant workers more vulnerable to further abuse, for instance, the inability to seek protection from authorities.

## 2.4.11 Deprivation of the right to health

The right to health is the enjoyment of the highest attainable standard of physical and mental wellbeing, which includes access to underlying determinants of health such as safe drinking water, adequate sanitation, safe food, adequate nutrition, housing, healthy working and environmental conditions and health-related education and information.<sup>110</sup>

During the monitoring, many of the migrant workers in the Middle East did not have adequate access to health care whenever they fell sick. Many coped by stealing medication from their employers without proper diagnosis and prescription, which exposed them to further health risks, while others that received treatment said that their employers complained about the cost of treatment. Studies have revealed an alarming prevalence of mental issues, namely depression, in migrant health workers in Saudi Arabia, mainly due to fear of job insecurity.<sup>111</sup>

<sup>109</sup> UHRC's interaction with a respondent in Namayingo District, March 2022.

<sup>110</sup> <https://www.ohchr.org/Documents/Publications/Factsheet31.pdf>. Visited on 21 March 2022.

<sup>111</sup> <https://applications.emro.who.int/emhj/v26/08/1020-3397-2020-2608-879-880-eng.pdf>. Visited on 21 March 2022.

## 2.4.12 Deprivation of the right to life

The right to life is protected under Article 22 of the Constitution of the Republic of Uganda. There were numerous reports about the deaths of migrant workers in the Middle East in 2021. According to the MoGLSD, at least 30 Ugandans were killed, and several others maimed each year by their employers.<sup>112</sup>

Relatedly, 28 migrant workers, including 25 females and three males, lost their lives in 2021 while in the Middle East.<sup>113</sup> It was also established that during the COVID-19 pandemic, three people who passed away were buried abroad without the family's consent, breaching contract terms. Selected cases of deaths of Ugandan migrant workers in the Middle East in 2021 include Milly Namazi, who reportedly died in Egypt in December 2021 after she had been sold there by her former employer in Saudi Arabia,<sup>114</sup> Zaituini Zawedde, who died in Saudi Arabia<sup>115</sup> and Shadia Najjuko who died from Saudi Arabia in June 2021 and was buried there.<sup>116</sup>

## 2.4.13 Government interventions to address human rights concerns of migrant workers

Under international human rights law, the Ugandan Government has a tripartite obligation to respect, protect and fulfil human rights. In this regard, Uganda made commitments through various legal frameworks to take measures geared towards respecting, protecting, and promoting the rights of all migrant workers within her territory and abroad. It is assumed these obligations from the human rights instruments and laws are already stated in the national legal framework, as well as the SDG 8. Interventions made by the government in this regard include the following.

### 1. Externalisation Labour Unit

A fully-staffed Externalisation of Labour Unit was created and responsible for ensuring compliance of the different players with the Employment (Recruitment of Ugandan Migrant Workers Abroad) Regulations, 2005. The unit is also responsible for licensing external recruitment agencies, monitoring, sanctioning, receiving and managing complaints from migrant workers, liaising with the Foreign Missions to repatriate distressed workers and conducting pre-departure orientation and training for the workers recruited by the licensed labour recruitment companies.

### 2. Bilateral agreements

The government signed bilateral labour management agreements with Saudi Arabia, the Hashemite Kingdom of Jordan and the United Arab Emirates. This was geared toward fostering the overall safety and well-being of Ugandan migrant workers in the Middle East. The bilateral agreements provide a four-party contract between the employee, the employer, the recruitment company in Uganda and one in the receiving country to ensure joint liability for any breach in a worker's contract. Additionally, there is a provision for establishing an emergency fund to offer medical assistance and emergency repatriation for migrant workers in need of help.

### 3. Memoranda of understanding

The government signed a memorandum of understanding with SAMAOC Trading Services Establishment in the Kingdom of Saudi Arabia to complement the efforts of the Ministry and the Embassy of Uganda in Riyadh in the protection of the rights of migrants there. The government, through the MLGSD, is also at various stages of negotiating and signing agreements with Bahrain, Kuwait, Oman, Turkey and Jordan.<sup>117</sup>

<sup>112</sup> <https://www.aa.com.tr/en/africa/uganda-iom-to-probe-workers-harassment-in-gulf-states/2202750>- Visited on 22 March 2022.

<sup>113</sup> Presentation by Ms. Enid Nambuya, Executive Director UAERA, during UHRC Annual Report consultative meeting, February 2022.

<sup>114</sup> <https://entebbenews.net/ugandan-maid-dies-in-egypt-two-years-after-travelling-to-saudi-arabia/> - Visited on 18 April 2022.

<sup>115</sup> <https://www.monitor.co.ug/uganda/news/national/another-ugandan-woman-dies-in-saudi-arabia--3703672-> Last visited on 18 April 2022.

<sup>116</sup> <http://nilepost.co.ug/2022/01/23/family-sues-govt-labour-export-company-over-death-of-ugandan-migrant-worker-in-saudi-arabia/> - Visited on 18 April 2022.

<sup>117</sup> <https://www.newvision.co.ug/article/details/124682> Visited on 18 April 2022.

#### 4. Employment regulations

A review of the law resulted in the Employment (Recruitment of Ugandan Migrant Workers) Regulations 2021, which came into effect on August 13 2021. It was geared toward fostering the overall safety and well-being of Ugandan migrant workers. Processes to operationalise the new regulations are ongoing.<sup>118</sup>

#### 5. Recruitment firm licensing

The MoLGSD tightened the regulations guiding licensed recruitment firms, and 15 non-compliant companies were suspended in 2021.<sup>119</sup>

#### 6. Labour monitoring to prevent human trafficking

To mitigate human trafficking under cover of externalisation of labour, the MoGLSD collaborated with the Department of EAC Cooperation, ISO and Police to monitor labour migration. Furthermore, the government established the Coordination Office for Counter Trafficking in Persons (COCTIP), which houses the Anti-Human Trafficking National Taskforce. The Taskforce is an amalgamation of efforts by civil society organisations and government agencies established and coordinated at the Ministry of Internal Affairs. It is mandated to coordinate and monitor as well as oversee the implementation of the Prevention of Trafficking in Persons Act, 2009.

#### 7. Labour Advisory Board

The Labour Advisory Board and the Office of the District Labour Officer are established under the Employment Act to handle all issues arising out of employment per employment regulations.

### 2.4.14 Challenges in addressing human rights concerns of migrant workers

#### 1. Absence of laws in receiving countries

The absence of adequate national laws and policies in the receiving countries to protect migrants remains a serious challenge. Most of the countries in the Middle East have not ratified international treaties regarding the protection of workers' rights, for instance, the Convention of the Rights of Domestic Workers.

#### 2. Lack of training

Uganda lacks structured institutions to train migrant workers on work ethics while abroad. As such, they are not empowered to demand their rights or know how to attract better working conditions. This contradicts Rule V, Section 2 of the Regulations regarding workforce development.

#### 3. Inadequate resources

Inadequacies in funds and human resources in the MoGLSD and Ugandan embassies to adequately monitor the rights of migrants and make appropriate responses both at home and abroad pose severe challenges. The Ugandan Government does not have enough consular services to provide the requisite protection mechanisms in destination countries. As of 31 December 2021, there were Ugandan embassies in only three destination countries, namely the Kingdom of Saudi Arabia, the United Emirates and Qatar, to cater for the entire Middles East, which is now home to more than 200,000 Ugandans.

#### 4. Lack of labour attaches

Lack of labour attaches abroad, especially in countries where Uganda has many migrant workers, creates a challenge for monitoring. It also means a poor turnaround time in responding to distressed workers.

#### 5. Bilateral agreement limitations

The bilateral agreements signed between Uganda and receiving countries did not provide punitive measures or sanctions against individual employers. Moreover, the government was yet to sign bilateral labour management agreements with Bahrain, Kuwait, Turkey and Oman.

<sup>118</sup> <https://www.newvision.co.ug/articledetails/124682/>- Visited on 18 April 2022.

<sup>119</sup> <https://chimpreports.com/uganda-suspends-15-labour-export-companies/>- Visited on 18 April 2022.

## **6. Lack of government coordination**

The absence of a central point in government that brings all the government MDAs into a one-stop centre makes processes long and tedious. For instance, while the externalisation processes and procedures are managed in the MoGLSD, the documents needed by the migrant worker are obtained from agencies under other ministries.

## **7. Low wages**

Although the wages provided to the migrant workers are better than wages paid in Uganda, wages are still low compared to wages paid to other migrant workers, such as the Filipinos and Kenyans.

## **8. Migrants outside of recruitment systems**

There are instances where employers take migrant workers without going through a recruitment agency in the receiving country.

## **9. Contract breaches**

Breach of contracts by employers and recruitment agencies in receiving countries is a regular occurrence. Some migrant workers who were externalized by licensed companies travelled after they had signed an agreement that stipulated the job description, working conditions and terms, but often these were not respected by employers in the destination countries. Some migrants also breached their contracts by running away from their workstations.

## **10. Porous borders**

Government institutions have limited capacity to monitor illegal migration at porous borders, creating unmonitored and undocumented migrants.

## **11. Lack of liaison with local labour offices**

The MoGLSD has not fully involved the labour offices at the district level in monitoring operations of recruitment agencies, as the whole process is centralised. The labour offices lack statistics and details of migrant workers that originate from their respective districts or are recruited there.

## **12. Lack of data**

Lack of data and information on migration trends, especially those using porous borders, hampers migrant protection.

# **2.5 RECOMMENDATIONS**

1. The Ministry of Gender, Labour and Social Development should ensure that the pre-departure orientation and training period for migrant workers is extended from one week to at least three weeks, and the curricula should incorporate training on the rights and responsibilities of migrant workers and the redress mechanisms available both in the destination countries and in Uganda.
2. The Ministry of Gender, Labour and Social Development should ensure that the district labour officers are adequately facilitated and fully involved in the externalisation process by regularly monitoring recruitment agencies in their respective districts as required by the law.
3. Through the Ministry of Foreign Affairs and the Ministry of Gender, Labour and Social Development, the Ugandan Government should provide adequate consular offices and fast track deployment of labour attachés to high destination countries like Bahrain, Qatar, Oman, Jordan, Kuwait and Turkey to improve the protection of rights of migrant workers abroad.
4. The Ugandan Government should fast track the establishment of officers responsible for handling complaints both at the Ministry of Gender, Labour and Social Development and in all labour-receiving countries.

5. The Ugandan Government should set up a tracking system that monitors the recording, coding, investigation and resolution of all complaints raised by migrant workers.
6. The Ministry of Gender, Labour and Social Development should effectively regulate the recruitment agencies to ensure that they comply with all legal requirements on the externalisation of labour. This includes playing a more active role in maintaining contact with migrant domestic workers in their countries of destination to understand their work-related problems and challenges better and being able to intervene in risky or abusive situations for migrant workers effectively.
7. The Ministry of Gender, Labour and Social Development and the Ministry of Internal Affairs should work together to crack down on unregistered recruitment agencies that engage in illegal labour externalisation to address the issue of human trafficking for labour purposes.
8. The Ministry of Gender, Labour and Social Development should fast track the signing of bilateral agreements with other countries, including Qatar, Oman, Turkey, Kuwait, Jordan and Bahrain, where there are already many Ugandan migrant workers. The existing bilateral agreements should be strengthened by providing for better working conditions for migrant workers.
9. The Ministry of Gender, Labour and Social Development should spearhead massive awareness of the existing labour migration laws, policies and regulations to inform aspiring and current migrant workers about safe migration and their rights.
10. Parliament should enact a law on the minimum wage to ensure better wages so that Ugandans who would otherwise go abroad as migrant workers would access employment in Uganda.
11. Through the Ministry of Gender, Labour and Social Development and the Ministry of Education and Sports, the Ugandan Government should develop a structured way of skilling Ugandans for the job market overseas.
12. Through the Ministry of Trade Industry and Cooperatives and Uganda Investment Authority, the Ugandan Government should fast track industrialization of the economy to create more job opportunities for Ugandans.

## 2.6 CONCLUSION

The labour externalisation industry in Uganda has great potential to contribute to the country's economic growth and improve the welfare of individual migrant workers and their families, the challenges notwithstanding. Owing to the slow pace at which the economy is growing compared to the labour force, the way forward is to make labour externalisation to the Middle East safer to decrease human rights abuses.

## CHAPTER THREE:

# The Situation in Kalangala and Buvuma Districts

### 3.1 INTRODUCTION

Uganda is endowed with scenic natural resources, including lakes and rivers, with the major ones in this category being River Nile, Lake Victoria, Lake Kyoga, Lake Albert, Lake Edward and Lake George. Kalangala District has a total land area of 432sq. Km with a total population of 16,371 people. It is endowed with natural resources that are both publicly and privately owned and, if sustainably exploited, can contribute to sustainable development. In 2002, the district had a total forest cover of 221.5sq. This has since reduced Km due to replacement with oil palm growing and other activities. Buvuma District comprises 52 scattered islands in the northern part of Lake Victoria, with an estimated population of 89,890 people. The largest island is called Buvuma, the name adopted by the new district, created by the Act of Parliament on 1 July 2010. The main economic activities in the two districts include fishing, tourism, farming, logging and charcoal burning, but most of the islanders depend a lot on fishing.

Both Kalangala and Buvuma Districts are islands far from Uganda's mainland. Due to this, the districts face challenges concerning access to basic services such as schools, health facilities, courts of law, and other social services. *This chapter highlights the human rights situation in the islands of Kalangala and Buvuma, with a particular focus on access to justice, infrastructure development, economic activities, and access to basic services like education and health.*

### 3.2 LEGAL AND POLICY FRAMEWORK

The UN General Assembly in 2015 adopted the Sustainable Development Goals (SDGs) as successor development goals to Millennium Development Goals (MDGs). The overarching goal of the SDGs is to leave no one behind, covering several goals, including reducing inequalities; ensuring good health and wellbeing; creating conditions for quality education; and access to clean water and sanitation. As a state party to various international, regional and national human rights protocols, the adoption of SDGs further reinforced Uganda's obligations to respect, promote and fulfil human rights.

#### 3.2.1 International legal framework

Uganda is a party to many international human rights instruments that bind the state and its agents to respect and uphold people's rights and freedoms in the country. Some of the instruments ratified by Uganda include the International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR); Convention on the Rights of the Child; International Convention on the Elimination of All Forms of Racial Discrimination; Convention on the Rights of Persons with Disabilities; and Convention on the Elimination of All Forms of Discrimination against Women; among many others.

These instruments provide standards on the government's obligations on human rights issues such as education, health care, water and sanitation, access to justice, and the environment. It follows that, by implication, there should be tangible and verifiable efforts to ensure that the provisions espoused in the international instruments are given effect. The ICESCR, for instance, provides that 'the state parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms.'<sup>120</sup>

The ICCPR provides that 'each state party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status'<sup>121</sup>.

### 3.2.2 Regional legal framework

The African Charter on Human and People's Rights (ACHPR) forms the most important regional instrument for various rights and freedoms. Article 1 of the Charter provides that 'parties to the present Charter shall recognize the rights, duties and freedoms enshrined in the Charter and shall undertake to adopt legislative or other measures to give effect to them.'<sup>122</sup> The Charter provides for, among other provisions, the right to freedom from discrimination (Article 2), right to equality before the law and equal protection of the law (Article 3), right to health (Article 16), right to education (Article 17), non-discrimination (article 19), right to development (Article 22), among others. Various protocols to the charter have been adopted, further expounding on specific human rights issues of multiple categories. One of such protocols is the Maputo Protocol, one of the most progressive legal instruments providing a comprehensive set of human rights for African women.<sup>123</sup> Other commitments to the realisation of human rights are contained in the African Charter on the Rights and Welfare of the Child and the Abuja Declaration on Health, among others.

### 3.2.3 National legal and policy framework

At the national level, mechanisms have been put in place to guarantee respect for human rights for all. The Constitution of the Republic of Uganda, under the National Objectives and Directive Principles of State Policy, lays out the government's commitments to ensuring equitable development. Objective XII provides that the state shall take necessary measures to bring about the development of the different areas of Uganda and between the rural and urban areas; and that the state shall take special measures in favour of the development of the least developed regions.

Under Objective XIV, it is further asserted, 'the State shall endeavour to fulfil 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.' Per Objective XVIII (ii), the State takes it upon itself to ensure that appropriate measures afford every citizen an equal opportunity to attain the highest education standard possible. Objective XX elaborates on the State's commitment to providing essential medical services to the population. It should be noted that the above policy positions carry binding effect as provided under Article 8A of the Constitution of Uganda (as amended). The Constitution further, under Chapter 4, provides a host of rights and freedom that should be respected. Some of these rights and liberties include equality and freedom from discrimination (Article 21); protection of personal liberty (Article 23); right to a fair and speedy hearing (Article 28); right to education (Article 30); rights of children (Article 34) and economic rights (Article 40).

120 International Covenant on Economic, Social and Cultural Rights, Article 13

121 ICCPR Article 2.

122 ACHPR.

123 [https://au.int/sites/default/files/documents/31520-doc-maputo\\_protocol\\_on\\_womens\\_rights\\_a\\_living\\_document\\_for\\_womens\\_human\\_rights\\_in\\_africa\\_submitted\\_by\\_the\\_women\\_gender\\_and\\_development\\_directorate\\_wgdd\\_of\\_the\\_african\\_union\\_commission.pdf](https://au.int/sites/default/files/documents/31520-doc-maputo_protocol_on_womens_rights_a_living_document_for_womens_human_rights_in_africa_submitted_by_the_women_gender_and_development_directorate_wgdd_of_the_african_union_commission.pdf). Visited on 15 March 2022.

### 3.3 SITUATIONAL ANALYSIS

Kalangala and Buvuma are independent administrative units with their own structures. This section looks at their operating environment, with the focus being on access to services and the state of infrastructure to deliver services.

#### 3.3.1 Location and Population

Both Buvuma and Kalangala are situated on Lake Victoria. Buvuma Island is located a few kilometres off the northern shores of Lake Victoria, about 25 km south of Jinja town and around 90 km east of Kampala. Buvuma used to be administered by Mukono District before it became an independent district in 2010.<sup>124</sup> It comprises 52 isolated islands, with Buvuma being the main island on which the District is headquartered. Buvuma is organised into nine lower local governments, one of which is a town council, four lower local governments on the mainland and five on the islands. The district has nine sub counties, 38 parishes and 207 villages.

Kalangala District is in south western Uganda and was established as a district in 1989. It comprises 84 islands, 65 of which have human settlements. The district has two counties/constituencies, Kyamuswa and Bujumba, six sub counties, 17 parishes and 98 villages. Some parishes comprise as many as 12 islands.

National Census figures of 2014 put the population of Kalangala at 53,406 and is projected to have grown to 69,500 by mid-2021.<sup>125</sup> The 2014 population of Buvuma was 89,960,<sup>126</sup> also projected to have significantly grown over the past years. Kalangala and Buvuma are fully-fledged and independent districts with distinct administrative units and structures and thus oversee the implementation of both central and local government programmes. The table below shows the distribution of islands in the Kalangala District.

Figure 3.1: Map of Buvuma

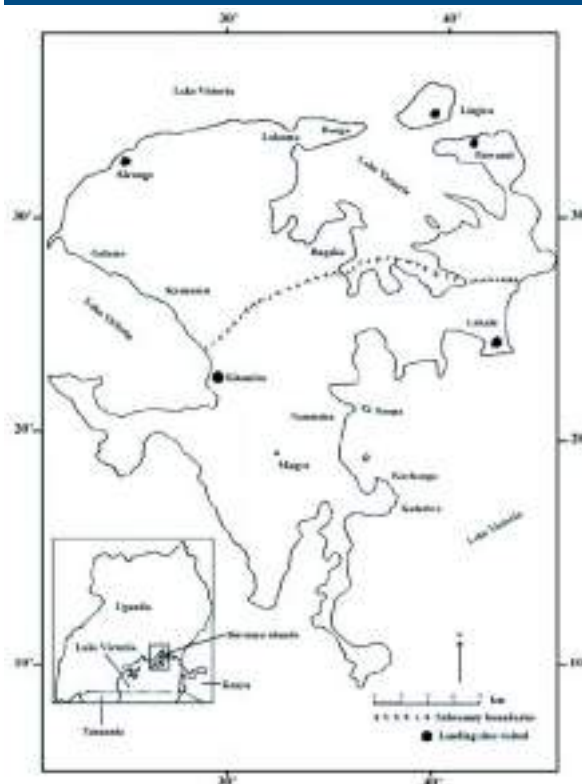


Figure 3.2: Map of Kalangala District



124 [https://www.newvision.co.ug/new\\_vision/news/1221327/buvuma-united-uganda](https://www.newvision.co.ug/new_vision/news/1221327/buvuma-united-uganda).

125 <https://www.ubos.org/wp-content/uploads/2021/03/UBOS-WOMENS-DAY-BROCHURE-2021.pdf>.

126 <https://unstats.un.org/unsd/demographic-social/census/documents/Uganda/UGA-2014-11.pdf>.

**Table 3.1: Distribution of islands in Kalangala District**

| COUNTY           | SUB-COUNTY               | NUMBER OF ISLANDS | NAMES OF ISLANDS                                                                                                                                                                                                                                                                                  |
|------------------|--------------------------|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Bujumba          | Bujumba                  | 13                | Buggala main-island, Bubembe, Bunyama, Buyigi, Luwungulu, Kibibi, Mukalanga, Bulega-omunene, Landa, Bulega-omutono, Kalambide, Nkusa and Linzira                                                                                                                                                  |
|                  | Mugoye                   | 4                 | Buggala main-island, Mweza, Namubega and Mukubi                                                                                                                                                                                                                                                   |
|                  | Kalangala Trading centre | 1                 | Entirely found on Buggala main-island                                                                                                                                                                                                                                                             |
| <b>Sub-total</b> |                          | <b>18</b>         |                                                                                                                                                                                                                                                                                                   |
| Kyamuswa         | Kyamuswa                 | 12                | Bukasa, Bunjazi, Luserera, Kamukulu, Nabwenkulume, Lugazi, Matanda, KitemuLuzira, Sekazinga I Sekazinga II and Nabusonko                                                                                                                                                                          |
|                  | Bufumira                 | 24                | Buyovu, Bufumira, Lulamba, Bugaba, Serinya, Bukone, Buwuvu, Kitobo, Banda, Semuganja-omunene, Mbugwe, Semuganja-omutono, Kibibi, Ziru, Ssekibanga/Kayanja, Lwamaiba, Sanyu, Mawanyi-omunene, Kabale, Kakidde, Mawanyi-omutono, Lwalanda, Luke and Nsirwe                                          |
|                  | Bubeke                   | 5                 | Bubeke, Jaana, Buyange, Nkese and Mirigi                                                                                                                                                                                                                                                          |
|                  | Mazinga                  | 27                | Buggala, Kirugu, Funve, Lujjabwa, Nkose, Banda-omunene, Nkovu, Banda-omutono, Kyaserwa, Miyana, Ndive-omunene, Ndive-omutono, Ngabo-omunene, Linga, Ssentima, KasajjaNgabo-omutono, Lukyusa, Kkuye, Buwe, Lubungo, Mitunsi(1,2,3), Lugazi, Mawu, Gansove-omunene, Gansove-omutono and Kabulattaka |
|                  |                          |                   |                                                                                                                                                                                                                                                                                                   |
| <b>Sub-total</b> |                          | <b>7</b>          | <b>68</b>                                                                                                                                                                                                                                                                                         |
|                  |                          |                   | <b>Total of 86 islands</b>                                                                                                                                                                                                                                                                        |

*Note: Kalangala Town Council, Mugoye and Bujumba Sub Counties share Buggala Main Island.*

### 3.3.2 Economic activities on Kalangala Island

Kalangala District has a total land area of 432sq. Km. The biggest island, Buggala, covers a total area of 296sq. Km. Of this area, there are 13 central forest reserves, covering about 65sq. Km. Other significant natural resources include:

- A total of 34 central forest reserves cover 88.61sq. Km and are fully controlled by National Forestry Authority.
- Privately owned and district (public land) forests.
- Lake Victoria.
- Stones and rocks all over the islands.
- Wetlands (39.7sq. Km) cover 0.44% of the total area.
- Building sand deposits.
- It should be noted that Kalangala is dominated by sandy, loamy soils.

The main economic activities in both districts are fishing and agriculture, although it had remained subsistence agriculture for many years. Besides fishing and agriculture, tourism is also growing in the districts. In 2006, palm oil growing was introduced and became one of the mainstay activities in Kalangala<sup>127</sup> and later in Buvuma, with plantations covering vast tracts of land in the districts. An official from Kalangala palm oil growers informed UHRC that 263 farmers were involved in palm oil growing in Kalangala District. The District Fisheries office informed UHRC that Kalangala District had 4,000 boats, 1,500 boat owners, and an estimated 25,000 people were involved in fishing. In Buvuma District, 80,500 were engaged in fishing.

<sup>127</sup> <https://www.tropenbos.org/resources/publications/environmental+impacts+of+oil+palm+plantations+in+kalangala>. Visited on 18 March 2022.

### 3.3.3 Transport infrastructure

Kalangala and Buvuma Districts are accessible by road and motor vehicle using ferry/ship transport system. Kalangala has two ferry/ship routes: Bukakata (Masaka side) to Bugoma (Kalangala side) and Lutoboka (Kalangala side) to Nakiwogo – Entebbe (Wakiso side) where a pay-based steamer MV Kalangala is used. Buvuma has one ferry route: Kiyindi (Buikwe side) to Kironko on the Buvuma side. Connectivity within the islands is usually by small engine boats used for transporting cargo/merchandise, people, and fishing activities.

Water transport is prohibitively expensive and fraught with risks. The District Planner, Kalangala, informed UHRC that the farthest island in the district is Nkese in Mazinga Sub County, getting there is dependent on the horse engine used, boat and weather. For a 75-horse engine, one may take about three hours and consume 150 litres of petrol. Police in Kalangala informed UHRC that canoes were highly discouraged from being used for transport and fishing. Police records indicated that 70 people were reported to have drowned in 2021. The District Planner further informed UHRC that service delivery is prohibitive considering the income index versus the land coverage system used by the Ministry of Finance that disburses funds according to the population, not location. Kalangala District has 4% land; thus, taking services to serve a small population is costly.



*A ferry that plies Bukakata (Masaka) to Bugoma (Kalangala) route: Source: KIS*

### 3.3.4 Energy sources on Kalangala Island

The primary energy source is solar, provided by Kalangala Infrastructure Services (KIS) to only Bugala Island, the main island in Kalangala. Elsewhere in the islands, there was no energy infrastructure except for a few households that can afford solar panels at the household level. The KIS has a hybrid component of solar, generator and batteries. According to KIS Public Relations Manager, the cost of solar power used by islanders is high compared to hydropower on the mainland. This was due to government subsidies to other energy companies and offering the first 15 minutes free, which was not applicable with KIS. The Public Relations Manager informed UHRC that one of the challenges they grapple with is the public expectation that people expected KIS's free connection services since previously, other government companies provided it free.



*Solar panels operated by KIS on Bugala Island supplying power on Bugala Island. (Source: KIS)*



*A network of power lines (above) supplying power on Bugala Island. Source: KIS*

**Table 3.2: Power connection fees in UGX**

| S/N | TYPE OF METERING SERVICE DETAILS                         | CONNECTION COST | 18% VAT   | TOTAL COST  |
|-----|----------------------------------------------------------|-----------------|-----------|-------------|
| 1   | No single phase connection cost                          | 610,918         | 109,965.2 | 720,883.2   |
| 2   | One pole single phase connection cost - ABC Conductor    | 2,323,041       | 418,147.4 | 2,741,188.4 |
| 3   | One pole single phase cost bare conductor to ABC         | 2,023,281       | 364,190.6 | 2,387,471.6 |
| 4   | One pole single phase cost bare conductor to ABC         | 2,342,165       | 421,589.7 | 2,763,754.7 |
| 5   | One pole single phase cost ABC conductor to ABC          | 2323041         | 418,147.4 | 2,741,188.4 |
| 6   | Three phase wireless pre-paid split meter bare conductor | 2,990,960       | 538,372.8 | 3,529,332.8 |
| 7   | Three phase wireless pre-paid split meter ABC Conductor  | 2,989,719       | 538,149.2 | 3,527,868.4 |
| 8   | Inspection fees                                          | 41,300          | 7,434     | 48,734      |

Unlike Kalangala, Buvuma District does not have any contracted firm to generate and manage its energy needs. The available power sources include solar (procured and installed at household/individual level) and kerosene-powered lamps.

### 3.3.5 Access to education

The geographical location of Buvuma District comprises 52 isolated and scattered islands, which makes it difficult for the pupils to cross from one island to another in search of education. The situation is further complicated by the prevailing poor and inadequate infrastructure, where many of the classes were conducted in tree sheds. This affects not only pupils and students but also the teachers who have to move long distances to get to the schools, as there is no accommodation for them.

Kalangala District did not differ in any significant way. When contacted for disaggregated data on the district's state of education, the Kalangala education department informed UHRC that they did not have statistics due to a lack of funding to collect data. However, the District Inspector informed UHRC of Schools (DIS) that the education sector was still grappling with numerous challenges. Not all islands had schools, and for those that had, some did not have all classes as some primary schools stopped at primary 5; thus, Kalangala is mentioned among the worst-performing districts at all levels. When posted in Kalangala, most teachers do not turn up due to the high cost and standards of living.

The District Inspector further informed UHRC that it was hard to determine the percentage of children who had dropped out since some children who leave Kalangala join other schools in other districts of Masaka, Wakiso, and Kampala, but a rough estimate indicated that 35% had dropped out. He added that school dropout was usually caused by a lack of schools and the high cost that parents had to incur to have children educated in islands with schools.

For families that did not afford to take their children to the neighbouring districts, the results were dropping out of school and engaging in fishing, for boys while girls would get lured into engaging in prostitution.

**Table 3.3: Distribution of schools in Kalangala and Buvuma Districts**

| DISTRICT              | TERTIARY | SECONDARY | PRIMARY | NURSERY |
|-----------------------|----------|-----------|---------|---------|
| Kalangala             | 1        | 3         | 23      | -       |
| Buvuma <sup>128</sup> | -        | 3         | 55      | 7       |

### 3.3.6 Access to health services

Both Buvuma and Kalangala have Health Centre IVs that serve as referral facilities. The distances from the referral point to the Health Centre IIs and IIIs are covered by water, and it is costly to transfer a patient to the referral centres. UHRC established that Buvuma Health Centre IV had a water ambulance; however, the maintenance and operation cost in terms of fuel was beyond the resources available.

The healthcare service providers were very few in both districts compared to the population they served. This is reflected in the frequent referrals of expectant mothers to go and deliver from across the islands. Other challenges afflicting the health sector included poor antenatal services, poor road network infrastructure, absenteeism of health workers, poor bed patient ratio and low staffing levels. The geographical location was also a challenge in terms of the connectivity of mothers to antenatal services in and outside the island.

The cost of referrals to the patients was always very costly because they had to foot bills of a special hire boat on the water as well as ambulance costs on land, which many could not handle. Some very outlying islands did not even have a single health centre, thereby using local private clinics or drug shops. Malaria and water-borne diseases leading to dysentery and diarrhoea were found to be the leading health problems. Malaria was especially rampant due to the geographical siting of many fishing camps and settlements near swamps and marshes, the living and working patterns, and the poor sanitation conditions.

**Table 3.4: Distribution of health centres (HC) in Buvuma and Kalangala**

| DISTRICT  | HOSPITAL | HC IV | HC III | HC II | PNFP <sup>129</sup> |
|-----------|----------|-------|--------|-------|---------------------|
| Kalangala | 0        | 2     | 6      | 7     | 2                   |
| Buvuma    | 0        | 1     | 3      | 6     | 2                   |

To understand the cost of health services in the islands, the Center for Human Rights and Development article aptly illustrated that a person needs up to UGX 300,000 to access health care. Broken down, about UGX 100,000-150,000 is needed for boat and engine hire, UGX 100,000 for fuel and UGX 50,000 for hiring a person to sail the boat.<sup>130</sup> This cost is over and above what ordinary islanders can afford.

<sup>128</sup> <https://ugandaschools.guide › find-a-school › buvuma>.

<sup>129</sup> Private-not-for-profit.

<sup>130</sup> <https://www.cehurd.org/the-deteriorating-state-of-health-care-in-kalangala-district/>.



*An expectant mother in a canoe being taken to a health facility*

### 3.3.7 High prevalence of HIV/AIDS cases in both districts

Being predominantly fishing communities, islands attract more males than females. Figures UHRC obtained from the district probation office in Kalangala show high gender imbalances in the islands where the male gender constituted 80%. This demographic characteristic acts as a catalyst for the spread of HIV/AIDS as many men end up sharing the available few women. While a few NGOs like Rakai Health Projects (focusing on counselling and behavioural change) were on the ground, there seemed to be a lack of government presence in terms of robust prevention programmes in the district. For instance, in one of the islands, UHRC interacted with residents, and they reported a scarcity of condoms, which is the most commonly used prevention method against HIV/AIDS in the islands.

### 3.3.8 Access to justice infrastructure

Buvuma and Kalangala were found to have structures in place for access to justice in the districts. These included Uganda Police Force, Magistrate Courts, Uganda Prisons Service and Uganda Human Rights Commission. The Magistrate court in Buvuma had a visiting G1 Magistrate, working once a week, which was sometimes not followed. Because of the Magistrate's schedule, the realisation of the 48-hour rule in the islands of Buvuma remained a challenge. Suspects were usually kept for weeks and, at times, months in Police cells. Kalangala had a G1 Magistrate based in the district, where the court sits four days a week. While having a magistrate court within the community could have brought services closer, the scattered nature of the islands still posed a challenge. *Coupled with the prohibitive costs of water travel, justice still eludes many.*

In terms of Police coverage, Kalangala had eight police stations (including the main police station) and 12 police posts. With the 65 inhabitable islands, the distribution of Police facilities did not match the islands with human settlements. UHRC documented numerous cases of over detention arising out of the inability of the poorly facilitated police posts to transfer suspects to Kalangala for sanctioning of files and the eventual appearance in court. While petty offences committed in the islands could be mediated, capital offences are transferred to the main island in Bugala.

Congestion in prisons was found to be a significant concern in the two districts. Kalangala had two prisons, Kalangala government prison and Mugoye government prison, with a holding capacity of 11 and 30 inmates, respectively. When UHRC inspected the two facilities, Kalangala government prison had 65 inmates (30 male convicts and 35 male remands) while Mugoye government prison had 86 inmates (25 male convicts, 58 male remands and three female convicts), way above their holding capacity. Magoyo government prison in Buvuma had 58 male inmates in a facility whose capacity was 50 inmates.

### 3.3.9 Water and sanitation

Access to safe and clean water has a direct bearing on the population's health. Safe and clean water is a prerequisite for reducing many common killer diseases of both adults and children, such as diarrhoea, dysentery and cholera.<sup>131</sup> The available sources of water determine the quality of water. The WHO/UNICEF Joint Monitoring Programme classifies drinking water sources into improved and unimproved. An 'improved' drinking water source is one that, by nature of its construction and when properly used, adequately protects the source from outside contamination, particularly faecal matter. Water sources considered as improved include piped water, public taps, boreholes, protected springs/wells, gravity flow schemes, rainwater and bottled water. Unprotected wells/springs, rivers/lakes/streams, vendors and tanker trucks were considered unimproved water sources.<sup>132</sup>

The UHRC established that Buvuma District had only one piped water scheme and majorly in Buvuma Town Council. However, many people still fetched water from the lake, decrying the high cost of the piped water of UGX 200 per jerry can. Buvuma District local government tried to put up boreholes in various areas, but the water coverage still stands at 36% in the entire district. Access to clean and safe water in the islands remained limited, resulting in inhabitants drawing water from the lake.

KIS is responsible for managing access to water in Kalangala. Out of the 64 inhabitable islands in the district, access to clean water in Kalangala was only on Bugala Island, the main island in the district, meaning only 40% of the population access clean and safe water. However, even with this infrastructure in place, most of the residents on Bugala Island complained of high connection fees and high monthly tariffs far above what the population could afford. As a result, some residents continued using lake water. Elsewhere in the islands, the residents relied on lake water.

Regarding sanitation, latrine coverage in Buvuma and Kalangala Island was still low, and this was attributed to the rocky and sandy nature of the soils, making it difficult and costly for latrine construction, especially for the individual households. The District Health Inspector, Kalangala, informed UHRC that latrine coverage in the district stood at 71% on the main island and 21% on the islands where rocky and sometimes sandy and weak soils made the construction of toilets expensive. *The latrines previously constructed could only go a few metres deep, leading to poor sustainability as pit latrines filled up in just a few months.* However, it was discovered that some people still opted for the nearby bushes for open defecation, even in areas where there were constructed public toilets. The District Health Inspector informed UHRC that such practices were common among Alur women, who, for cultural reasons, did not use latrines when pregnant.

### 3.3.10 Housing and accommodation

Except for the main islands in Buvuma and Kalangala, where there were permanent structures, most of the structures elsewhere in the islands were semi-permanent and of makeshift nature, poorly ventilated and congested. Most of the islands were hard to reach, and the cost of ferrying materials such as bricks, cement and iron sheets for the construction of proper houses was twice as expensive compared to the price on the main land.

<sup>131</sup> The Uganda National Household Survey, 2019/2020.

<sup>132</sup> Ibid.

### 3.3.11 UPDF operations on the lake

In 2017, the government established the Fisheries Protection Unit to crackdown on illegal fishing on Lake Victoria, which had been blamed for the declining fish stocks.<sup>133</sup> UHRC interacted with the UPDF Marine Officers at Mweena Landing Site in Kalangala, who said that the operations had been mainly successful. Some of the benefits arising from the operations included restoration and increased fish stocks; between 2019-2021, fish export increased to UGX 150 billion per year; and due to local fish consumption, UGX 500 million was collected from fish movement permits as revenue. At the national level, fish licensing amounted to UGX 3 billion in 2019-2021; ice plants that had been closed reopened at Mweena and Kitobo; the number of legal boats increased and paid taxes to the government through direct taxation and licensing; and 14 factories that had earlier closed reopened.

However, the operations had since been fraught with allegations of human rights concerns. There are allegations of physical torture of those suspected of engaging in illegal fishing; deprivation of people's property such as boats, boat engines, and standard fishing gears/nets; soliciting of bribes to release the confiscated property; detention in ungazetted places and death of suspects found with illegal fishing gears. UHRC Masaka Regional Office registered and instituted investigations into two complaints where allegations of torture, confiscation of property and illegal detention were raised.



*UPDF in Buvuma Island after confiscating fishing gears and fish.*

## 3.4 HUMAN RIGHTS CONCERNS

The two districts continue to grapple with service delivery challenges, largely due to the geographical landscape of the areas, as discussed in the above section. This section looks at the prevailing situations and their effect on the enjoyment of human rights.

### 3.4.1 Access to justice

The Republic of Uganda's Constitution provides for the right to a fair and speedy hearing as one of the fundamental human rights and freedoms (Article 28). Article 44 (c) of the Constitution is a non-derogable right, not to be violated in any circumstance. The prevailing conditions in the islands do not allow this as the prohibitive costs of water transport mean suspects cannot easily be transferred to the main stations where files are processed before sanctioning and appearance in court. In Buvuma, the schedule of the visiting magistrate is once a week, implying observance of the 48-hour rule is impossible.

<sup>133</sup> <https://www.monitor.co.ug/uganda/news/national/parliament-halts-updf-fisheries-operations-1865750>. Visited on 17 March 2022.

### 3.4.2 Access to clean and safe drinking water

The CRC enjoins state parties “to combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking water.”<sup>134</sup> The current situation in the majority of the islands fits in what is described as ‘least developed areas’ in State Objective XII (iii) of the Constitution of the Republic of Uganda, in which the government offers to take special measures to ensure balanced and equitable development. Except for the main islands where Kalangala and Buvuma Districts are headquartered and where there is access to improved water sources, the situation in the scattered islands demands special consideration.

### 3.4.3 Right to access education

The Ugandan Government launched the Parish Developmental Model (PDM) as one of the engines to spur development, particularly in rural areas. Concerning education, the model proposes having a primary school in every parish countrywide. Even before the advent of PDM, the government had obligations under various international, regional and national human rights frameworks to ensure children of school-going age have access to education. On the ground, in the scattered islands of Kalangala and Buvuma districts, this obligation to provide education as a human right is unfulfilled.

### 3.4.4 Right to access health services

State Objective XX provides that “the State shall take all practical measures to ensure the provision of basic medical services to the population.”<sup>135</sup> Connectivity between islands remains one of the major impediments to access services. For instance, there are no practical measures to help mothers living on islands access specialised maternal health care where the need arises, and the cost of travel is prohibitive to most islanders.

### 3.4.5 Congestion in prison

The prison facilities in Kalangala and Buvuma do not align with the current population, and congestion remains a persistent challenge. To ensure inmates’ dignity with regard to decent accommodation, some measures are needed. The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) provide that “all accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.”<sup>136</sup> Prisons on the islands fail to meet these standards.

### 3.4.6 Allegations of violation of human rights by UPDF

Article 221 of the Constitution of the Republic of Uganda enjoins the UPDF and other security agencies to respect human rights in their operations. The UPDF operations on the lake are to curb the illegal fishing practices that had become rampant on the lake and have been successful, though with multiple allegations of human rights violations, which should not be the case.

<sup>134</sup> CRC, Article 24(2)(c).

<sup>135</sup> National Objectives and Directive Principles of State Policy

<sup>136</sup> Rule 13 The United Nations Standard Minimum Rules for the Treatment of Prisoners.

## Government interventions

While there remain considerable challenges to improving service delivery in the islands, the government has successfully undertaken some interventions. These include:

1. Through contracting companies like Kalangala Infrastructure Services, Government has provided water and power to landing sites, mainly on Bugala Island, Kalangala.
2. The presence of two ferries from Bugoma to Bukakata ports and the presence of the steamer ferry that connects Lutoboka to Entebbe facilitates the free movement of goods and services in Kalangala and Kiyindi to Kironko in Buvuma.
3. The establishment of judicial, police, prisons and human rights structures in the districts, though their operability could further be enhanced with increased funding.

## 3.5 RECOMMENDATIONS

1. The Ministry of Education and Sports should set up more government-aided boarding school facilities in parishes with no schools to enable easy access to education.
2. The Ministry of Health should upgrade Buvuma Health Centre IV and Kalangala Health Centre IV to hospital status and increase the staffing in various health centres. In the same vein, the state of the health facilities should be improved and additional ones constructed to enable islanders to have better healthcare access.
3. Given the high cost of water transport, the Ministry of Finance Planning and Economic Development should consider preferential funding modalities for institutions like the police and health services that operate in the islands to facilitate them to perform optimally.
4. The Ministry of Health should ensure fully facilitated water and land ambulances are put in place to help reduce cases of maternal deaths that occur due to delayed access to health facilities.
5. Ministry of Water and Transport should procure speedboats for islanders for public use in cases of emergencies, including for expectant mothers.
6. The Ministry of Energy and Mineral Development should provide cheap alternative energy sources like gas and solar and reduce the electricity rates per unit to make it affordable for the islanders.

## 3.6 CONCLUSION

The spirit of SDGs is to ensure that no one is left behind in the development agenda. From a human rights perspective, the SDGs served as reinforcement of States' obligations to promote, respect and fulfil human rights. Almost halfway through their span, the SDGs appear to be lagging in some respects. This chapter looked at the human rights situation in the districts of Kalangala and Buvuma, which are unique as they comprise many scattered but inhabited islands, posing enormous challenges for service delivery, including basics like education due to inaccessibility. While some interventions have been undertaken to improve service delivery in Buvuma and Kalangala, more needs to be done. Interventions require customised approaches that resonate with the topography of the districts, for example, having all learners in boarding schools to address the challenge of movements within islands for school-going children. Without such customised approaches, it is highly likely by 2030, when the SDGs span ends, Kalangala and Buvuma will still be lagging on many development indicators.

## CHAPTER FOUR:

# Extractive Industries in Karamoja Sub-Region



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## 4.1 INTRODUCTION

Karamoja Sub-Region is located in North Eastern Uganda on the border with Kenya and is characterised by a semi-arid climate and pastoralist societies. The region consists of nine districts, namely Kaabong, Karenga, Kotido, Abim, Moroto, Napak, Amudat, Nabilatuk and Nakapiripirit, covering 27,700sq. Km, which is 10% of the total area of Uganda. The region is endowed though with over fifty different minerals, including gold, mica, green and red garnets, beryl, cuprite, hematite, talc, columbite, magnetite, zircon, silver, copper, iron, gemstones, iron ore, platinum, lead, limestone, uranium, graphite, gypsum, wolfram, nickel, cobalt, lithium, tin limestone and marble,<sup>137</sup> with most minerals found in Moroto District.

The rich mineral potential holds the promise of economic development and has attracted both foreign and domestic companies to acquire exploration or mining rights in the region.<sup>138</sup> A total of 17,083.34sq. Km, 61.67% of the total land area, is licenced for mineral exploration and extraction activities. The Ministry of Energy and Mineral Development has issued 136 exclusive prospecting licenses and 15 mining leases to mining companies in Karamoja, covering approximately 25% of the total land area in Karamoja.

<sup>137</sup> Karamoja investment profile, 2016.

<sup>138</sup> See Houdet J., Muloopa H., Ochieng C., Kutegeka S. and Nakangu, B. (2014). Cost Benefit Analysis of the Mining Sector in Karamoja, Uganda. International Union for Conservation of Nature and Natural Resources, Uganda Country Office, Kampala, Uganda. Available at [https://www.iucn.org/sites/dev/files/import/downloads/karamoja\\_mining\\_webversion1.pdf](https://www.iucn.org/sites/dev/files/import/downloads/karamoja_mining_webversion1.pdf) Visited on 8 October 2019.

In 2014, Moroto District alone had 26 companies with 44 concessions (35 exploration licences, five location licenses, three mining leases, and one special mining lease) covering a total land area of 3,772.43 sq. Km.<sup>139</sup> Despite these activities, the estimation of the potential is still mainly based on official geological information dating from 1960-1961.

A recent geological survey by the government did not cover Karamoja due to regional hostilities at the time of the survey. Since then, the public administration has had to depend on private companies for information on mineral development.<sup>140</sup> Local authorities and affected communities have little say over the activities as the major decisions are taken at the national level.

## 4.2 LEGAL AND POLICY FRAMEWORKS

### International legal framework

International human rights laws also provide for the right to remedy. This right encompasses the individual right to have violations effectively investigated; to provide equal and effective access to justice; and to provide effective remedies, including reparations.<sup>141</sup> The obligation to protect the rights of victims of violations is affirmed in several international and regional human rights instruments, in particular the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), and the African Charter on Human and Peoples' Rights.<sup>142</sup> This means that the State must enact regulations for businesses to end impunity for human rights abuses, including constitutional, labour, land, and environmental laws. Forming an integral part of these laws must be the human rights principles of transparency, participation, access to information, non-discrimination and anti-corruption measures

#### 4.2.1 Regional legal framework

At the regional level, the African Charter on Human and Peoples' Rights (ACHPR) provides the framework for the protection of the collective rights of African peoples to freely dispose of their natural resources and the right to a generally satisfactory environment favourable to their development.<sup>143</sup> This includes the duty to consult people who may be affected by extractive industry projects, notify and seek consent by community members prior to project implementation, and take preventative measures not to interfere with peoples' rights to development and a healthy environment. The African Commission on Human and people's Rights adopted a resolution in 2009, creating a specialised body to monitor and prevent harmful practices by state and non-state actors in the sector.<sup>144</sup>

The Working Group on Extractive Industries, Human Rights and the Environment has since been meeting to fulfil its mandate of human rights protection and prevention, offering recommendations to State parties on compliance with obligations under the Charter regarding natural resource usage. The establishment of the Working Group by the African Commission shows the importance of this issue in the region and ensures that human rights implications of extractive industries are well understood and that it translates into rights protection through policy and legal frameworks.

139 Rugadya, M. (2019). Land tenure as a cause of tensions and driver of conflict in among mining communities in Karamoja, Uganda. Unpublished Document. Available online at [https://www.academia.edu/40016385/Land\\_tenure\\_as\\_a\\_cause\\_of\\_tensions\\_and\\_driver\\_of\\_conflict\\_among\\_mining\\_communities\\_in\\_Karamoja\\_Uganda](https://www.academia.edu/40016385/Land_tenure_as_a_cause_of_tensions_and_driver_of_conflict_among_mining_communities_in_Karamoja_Uganda) Visited on 10 October 2019.

140 Rugadya, M. and Kamusiime, H. (2013). Tenure in Mystery: The status of land under wildlife, forestry and mining concessions in Karamoja region, Uganda. *Nomadic Peoples* 17, 1 (Special Issue: Securing the Land and Resource Rights of Pastoral Peoples in East Africa): 33-65. Available at <https://www.jstor.org/stable/43123920>. Visited on 8 October 2019.

141 A remedy pertains to the means by which a right is enforced, or a violation of a right is prevented, redressed or compensated. Remedies vary from the right to lodge a complaint to an administrative, judicial or quasi-judicial body to monetary compensation. See the Protocol to the African Charter on the Establishment of the African Court on Human and Peoples' Rights Art 26(1); and ICCPR Art 2(3); see also N. Roht-Arriaza (1990), *State Responsibility to Investigate and Prosecute Grave Human Rights Violations in International Law*. *California Law Review* 78(2), 474.

142 UHDR Article 2 provides that everyone is entitled to rights and freedoms set forth in the Declaration; ICCPR Art 2(1) contains a less precise provision obligating states to "undertake to respect and to ensure rights to all individuals within its territory and subject to its jurisdiction"; and Article 1 of the ACHPR obligates states to "recognise rights, duties and freedoms contained in the charter and to adopt measures to give them effect". See also the Convention on the Rights of the Child, Article 12.

143 Articles 21 and 24 of the African Charter on Human and Peoples' Rights.

144 Resolution No. 148 of the African Commission on Human and People's Rights (Banjul, November 2009).

## 4.2.2 National legal framework

In 2014, the Ugandan Government began a formal review of the legislative framework for the country's burgeoning mining sector. The domestic legislation relevant to land and environmental issues in mining includes the Constitution of the Republic of Uganda (1995), National Environment Act (2019), Environmental Impact Assessment Regulation, National Environment (Audit) Regulations (2006), Mining Act (2003), Mining Regulations (2004), National Environment Impact Assessment Regulations, National Environment (Noise Standards and Control) Regulations (2003), and National Environment (Waste Management) Regulations among others.

The Constitution of Uganda, 1995, as amended, guarantees every citizen to own property either as an individual or in association with others as provided for under Article 26. It also vests all mineral resources in the hands of the government but also provides that the land will not be deprived of a person without prompt payment of fair and adequate compensation prior to the taking of the land under Article 26. Under Article 244, Parliament is mandated to make laws regulating the exploitation of minerals, the sharing of royalties arising from mineral exploitation, the conditions for payment of indemnities arising out of the exploitation of minerals and the requirements regarding the restoration of derelict lands. The same provision provides that minerals and mineral ores shall be exploited considering the interests of the individual land owners, local governments and the Central Government. Article 245 provides that Parliament shall provide for measures intended to protect the environment from abuse, pollution and degradation to manage the environment for sustainable development and to promote environmental awareness. Articles 39 and 41 assures every Ugandan of a clean and healthy environment and can bring an action against any pollution or improper disposal of wastes. It further states that every person in Uganda has a right to a healthy and clean environment.

### **The Mining Act, 2003**

The Mining Act is the principal law governing mining in Uganda. Under Section 3 of the Mining Act, the entire property in and control of all minerals in, or under, any land or waters in Uganda, notwithstanding any right of ownership of or by any person in relation to any land, shall be vested in the government. Under Section 4, a person may acquire the right to search for, retain, mine and dispose of any mineral in Uganda by acquiring such right per the prescribed provisions. The law requires that such a person obtains a license issued under the Act. Section 15 provides compensation to owners of private land for damage done to the surface of the land or any crops, trees, buildings or works, or for livestock injured or killed by the negligence of the holder of the license or an agent.

Section 43(3)(b) provides that a mining lease shall not be granted unless the Commissioner is satisfied that the proposed mining programme considers environmental impact assessment, environmental impact research, environmental impact statement, and safety factors. Under Section 82(1), the holder of a mineral right shall, on demand made by the owner or lawful occupier of any land subject to such mineral right, pay the owner or lawful occupier fair and reasonable compensation for any disturbance of the rights of the owner or occupier; and shall on demand made by the owner of any crops, trees, buildings or works damaged during such operations pay compensation for any of them so damaged. Under Sub-Section 2, if the holder of the mineral right fails to pay compensation when so demanded under this section, or if the owner or lawful occupier of any land is dissatisfied with any compensation offered, the dispute shall be determined by arbitration.

Section 110 makes it mandatory for every license holder to submit a costed environmental restoration plan to the commissioner, requiring review or approval by National Environment Management Authority (NEMA). Section 112 provides for the environmental bond by the licensed company. Section 108 (1) compels every holder of an exploration license or a mining lease to conduct an environmental impact assessment of their proposed operations. Under Section 71, mineral dealers are liable to pay royalties. Other regulations that relate to mining include the following.

1. The Mining Regulations, 2004.<sup>145</sup>
2. The National Environment (Waste Management) Regulations, 1999 S.I.153-2 Regulation 8 calls for proper storage and disposal of hazardous waste. Regulation 18 guides their movement into and out of Uganda and to all waste disposal facilities, landfills, sanitary fills and incinerators.
3. The National Environment (Noise Standards and Control) Regulations, (2003) S.I No 30/2003 Regulation 6 sets maximum permissible noise levels (continuous or intermittent noise) from factories or workshops depending on the amount of noise and duration of exposure.
4. The National Environmental Act, CAP 153 Section 9 (1) of the Act, requires the developer of a project to submit an acceptable Environmental Impact Assessment report with the guidelines in the Third Schedule of the Act.<sup>146</sup>
5. The Investment Code, Cap 92 Section 18 requires that every investment licensee takes necessary steps to ensure that the operation of its business does not cause any injury to the ecology or the environment.
6. The Occupational Safety and Health Act (2006) provides for comprehensive occupational safety and health matters for the employees.
7. The Employment Act (2006) Section 32 prohibits the employment of children. In addition, the National Child Labour Policy (2006) protects children from hazardous work, which by its nature or the circumstances under which it is performed jeopardises the health, safety and moral welfare of a child.
8. The Workers' Compensation Act, 2000. The Act requires compensation to be paid to a worker who has been injured or acquired an occupational disease or has been harmed in any way in their work. Sections 5, 6 and 7 provide the compensation for a fatal and permanent total incapacity compensation at 60 months' earnings.
9. The National Gender Policy (2007) calls on all parties (whether private or public sector) to take responsibility for mainstreaming gender and prioritising gender in their respective activities.
10. The Local Government Act, Cap 243 is an essential law for the enforcement of environmental law, given the policy of decentralisation pursued by the government.

## 4.3 SITUATIONAL ANALYSIS

The Karamojong are agro-pastoralists who traditionally practice pastoral migration due to the region's arid climate. The importance of land for the survival and way of life of the Karamojong cannot be overstated. Their net productivity and ability to access water and food, the most basic of human rights, has become increasingly difficult as successive private and government agency action has appropriated traditional grazing areas to establish national parks, wildlife reserves, protected areas, government or government or military and ranching facilities.

The geological mapping of the 16 sites in the region by the Ministry of Energy and Mineral Development (MEMD) in 2015 estimated the potential of limestone and marble in the area to be 319.27 million tonnes, in addition to what was already existing; with more minerals anticipated to be discovered. For this reason, the government extended high powered electricity grid to the region for industrial development, with Hima cement reported to be planning to start construction of the cement factory in Rupa Sub-County in Moroto District. Tororo Cement was already mining marble in Kosiroi in Tapac Sub-County, Moroto District, and transporting it to Tororo cement factory for manufacturing.

The mineral potential of the region had attracted government attention, with many different types of licenses issued to local and foreign investors to exploit the resource. According to the Uganda Mining

<sup>145</sup> Rules 48,38,41,40,66,67,68(1) of the Mining Regulations of 2004.

<sup>146</sup> Section 80, Section 78.

Cadaster System of 2017, there were more than 90 companies which had been granted more than 90 different types of licenses to prospect, explore or mine different kinds of minerals within an area of 14,416.2sq Km, more than 53 per cent of the land area of the Karamoja Sub-Region.<sup>147</sup> However, transparency was lacking in the acquisition and execution of licenses, with communities, including their local governments, complaining about lack of information, lack of consultation by the companies and authorities, and exclusion from surface rights, including communal grazing rights. For example, Tororo Cement Limited was granted a mining lease in 2020 though they did not pay landowners surface rights compensation, a complaint still in circulation.<sup>148</sup> The table below shows details of companies that have been granted prospecting or mining licenses in the region.<sup>149</sup>

**Table 4.1: Companies with mining licenses in the Karamoja Sub-Region**

| PROSPECTING OR MINING COMPANY | AREA IN SQUARE KILOMETRES | NUMBER OF LICENSES |
|-------------------------------|---------------------------|--------------------|
| Gordon Wavamuno               | 543.3776                  | 2                  |
| Mountain Gear                 | 254.709                   | 2                  |
| Moon Mining                   | 290.1352                  | 1                  |
| FCN Energy Ltd                | 378                       | 1                  |
| Clear water                   | 1134.255                  | 4                  |
| Lokodo Simon                  | 111.95                    | 1                  |
| Sino Minerals Investments     | 830.3852                  | 5                  |
| East Africa Mining            | 387.5                     | 6                  |
| Mineral Research and Mines    | 271.5                     | *                  |
| Oli Gold Muruli               | 135.2                     | *                  |
| Mutono                        | 219.8559                  | *                  |
| Moroto Ateker Cement          | 219.9522                  | *                  |
| Gold Hunters                  | 165                       | 3                  |
| Nakoit                        | 180                       | *                  |
| Ussama Igga                   | 100                       | *                  |
| Jevona Mines                  | 12                        | *                  |
| Jai Amble                     | 100                       | *                  |
| Big Picture                   | 88.4514                   | *                  |
| Rakai Mines                   | 1050.4809                 | 3                  |
| Supreme Resources             | 57.96                     | *                  |
| Jovena                        | 558                       | *                  |
| Sunbird                       | 721.3652                  | 5                  |
| Biha international            | 4.5                       | *                  |
| National Cement               | 24                        | *                  |
| Jinchu Mining                 | 23.999                    | *                  |
| Big Picture                   | 110                       | 2                  |
| African Cement                | 190.992                   | 1                  |
| Uganda Holding                | 130.1596                  | *                  |
| Kiboko Cement                 | 14.44                     | *                  |
| Daho Marble                   | 44.7928                   | 2                  |

147 [https://www.researchgate.net/profile/Lauben-Twinomujuni/publication/325416391\\_In-depth\\_Analysis\\_of\\_the\\_Karamoja\\_Mining\\_Sector\\_Uganda\\_The\\_behaviour\\_of\\_stakeholders\\_and\\_Actors/links/5b151d27aca2723d9981ed88/In-depth-Analysis-of-the-Karamoja-Mining-Sector-Uganda-The-behaviour-of-stakeholders-and-Actors.pdf](https://www.researchgate.net/profile/Lauben-Twinomujuni/publication/325416391_In-depth_Analysis_of_the_Karamoja_Mining_Sector_Uganda_The_behaviour_of_stakeholders_and_Actors/links/5b151d27aca2723d9981ed88/In-depth-Analysis-of-the-Karamoja-Mining-Sector-Uganda-The-behaviour-of-stakeholders-and-Actors.pdf).

148 Presentation by Resource Rights Africa during the UHRC consultative meeting.

149 <https://www.researchgate.net/publication/325416391>. In-depth Analysis of the Karamoja Mining Sector, Uganda: The behaviour of stakeholders and actors.

| PROSPECTING OR MINING COMPANY           | AREA IN SQUARE KILOMETRES                    | NUMBER OF LICENSES |
|-----------------------------------------|----------------------------------------------|--------------------|
| Stout Minerals                          | 45                                           | *                  |
| Jan Mangal                              | 7403.1424 hectares+159.6227 Kms <sup>2</sup> | 2                  |
| Earth Cement                            | 100.935                                      | 2                  |
| Sikander Meghani                        | 76.9125                                      | *                  |
| Development services Kigezi             | 235.9875                                     | *                  |
| Devanta                                 | 15                                           | *                  |
| Lomungin Zulhaq                         | 26                                           | 2                  |
| Blackstone Ichiban                      | 212.5                                        | *                  |
| Ace minerals                            | 437                                          | *                  |
| Kimberlites                             | 238                                          | *                  |
| Ndiga Foundation                        | 126                                          | *                  |
| Godan Mining                            | 189                                          | *                  |
| Uganda Holdings                         | 81.6004                                      | *                  |
| Tororo Cement                           | 71.8366                                      | 2                  |
| Blackstone                              | 411                                          | *                  |
| Rhino United Agencies                   | 96.6821                                      | *                  |
| Omanmani Joint Ventures                 | 158                                          | *                  |
| Fang Mining                             | 216                                          | *                  |
| Worldwide Construction                  | 340                                          | *                  |
| Chezho Valley and Mining                | 112                                          | *                  |
| Tripple T Mining                        | 182.39                                       | 2                  |
| Angaro Investments                      | 97                                           | *                  |
| BDI Mining                              | 116.79                                       | 1                  |
| Blackstone                              | 465.7953                                     | *                  |
| Jajor Financial Services International  | 21                                           | *                  |
| Mycross Holdings                        | 56                                           | *                  |
| Angaro Investment Company Limited       | 102                                          | 1                  |
| Occhio Investments                      | 491.1505                                     | *                  |
| Mechanized Agro                         | 10.4664                                      | *                  |
| Andrew Kabito Ruhubi                    | 52.089                                       | *                  |
| International University of East Africa | 119.3835                                     | *                  |
| Rift Valley Investments                 | 90                                           | *                  |
| Nicobat Interservices                   | 290                                          | 2                  |
| Rhino                                   | 100                                          | *                  |
| Capital Ventures International          | 135.2                                        | *                  |
| Chui Resources                          | 36                                           | *                  |
| Great Lakes                             | 36                                           | *                  |
| Medit World (U) Center                  | 56                                           | *                  |
| Victoria Best Ltd                       | 103.76                                       | *                  |

**Table 4.2: Mining sites in Karamoja Sub-Region**

| SITE AND DISTRICT                            | LOCATION/<br>SUB-COUNTY | MINERAL MINED     | METHOD OF MINING AND ACTIVITIES                                                                                                                                                                                   |
|----------------------------------------------|-------------------------|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Cheptakol 1, Amudat District                 | Chepkararat, Karita S/C | Gold              | Surface mining and underground pits. Crude tools used for mineral extraction. Artisanal mining only.                                                                                                              |
| Cheptakol 2, Amudat District                 | Chepkararat, Karita S/C | Gold              | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only.                                                                                                                     |
| Kabyocha, Amudat District                    | Chepkararat, Karita S/C | Gold              | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only.                                                                                                                     |
| Ryongtum, Amudat District                    | Chepkararat, Karita     | Gold              | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only.                                                                                                                     |
| Kokochaya, Amudat District                   | Chepkararat, Karita S/C | Gold              | Recently discovered and is high yielding. Surface mining.                                                                                                                                                         |
| Acherer/Lopiin, Nakapiripirit District       | Moruita S/C             | Gold              | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only.                                                                                                                     |
| Acherer/Moru-a-Kimat, Nakapiripirit District | Moruita S/C             | Gold              | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only.                                                                                                                     |
| Utut, Nakapiripirit District                 | Moruita S/C             | Gold              | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only.                                                                                                                     |
| Lopusak, Moroto District                     | Rata, Rupa              | Marble            | Surface and underground mining; DAO Minerals Co. extracting and ferrying the mineral using mechanised tools.                                                                                                      |
| Nakabaat, Moroto District                    | Nakiloro, Rupa          | Gold              | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only.                                                                                                                     |
| Nanyidik, Moroto District                    | Kongatuny, Rupa S/C     | Marble            | Surface mining; Jinja Marble Co. and small scale minors involved. Some mechanised transport.                                                                                                                      |
| Lotongir, Moroto District                    | Lomario Village, S/C    | Gold              | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only.                                                                                                                     |
| Karukocom, Moroto District                   | Army Barracks, S/C      | Limestone, Marble | Surface mining; Lokwang Peter and Siraj Lomongin traders (small scale miners).                                                                                                                                    |
| Kosiroy, Moroto District                     | Tapac                   | Marble, Gold      | Surface and underground pits. Tororo Cement Co. using both mechanised and none mechanised methods for extraction. Artisanal and Small scale minors also involved; selling their extracted mineral to the company. |
| Lia, Moroto District                         | Singila, Katikekile S/C | Marble            | Surface mining; Africa Minerals Co.; Individual artisanal miners.                                                                                                                                                 |
| Kokumae, Kotido District                     | Morunyang, Kacheri S/C  | Gold              | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only.                                                                                                                     |
| Kateliba, Kotido District                    | Kacheri S/C             | Gold              | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only.                                                                                                                     |
| Kokano, Kotido District                      | Aremo, Morulem          | Gold              | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only.                                                                                                                     |

| SITE AND DISTRICT              | LOCATION/<br>SUB-COUNTY                                 | MINERAL MINED | METHOD OF MINING AND ACTIVITIES                                                               |
|--------------------------------|---------------------------------------------------------|---------------|-----------------------------------------------------------------------------------------------|
| Okii, Kotido District          | Aremo, Morulem S/C                                      | Gold          | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only. |
| Wiokero, Kotido District       | Nangolebwal, Morulem S/C                                | Gold          | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only. |
| Angorom, Kotido District       | Kulodwong, Alerek S/C                                   | Gold          | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only. |
| Ongonakiloro, Kotido District  | Kulodwong, Alerek S/C                                   | Gold          | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only. |
| Okuda, Kotido District         | Alerek S/C                                              | Gold          | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only. |
| MTN, Kotido District           | Okorikipi, Alerek S/C                                   | Gold          | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only. |
| Rogom Hills, Kotido District   | Rogom, Nyakwae                                          | Gold          | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only. |
| Opopongo, Kotido District      | Opopongo, Nyakwae S/C                                   | Gold          | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only. |
| Lopedo, Kaabong District       | Lodiko S/C                                              | Gold          | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only. |
| Nariwobual, Kaabong District   | Lodiko S/C                                              | Gold          | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only. |
| Nakapel, Kaabong District      | Loyoro S/C                                              | Gold          | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only. |
| Kurao, Kaabong District        | Kidepo NGP, border of Kathile, Kapedo and Kalapata S/Cs | Gold          | Surface mining; Individuals sneak into the park to mine because mining is not allowed there.  |
| Namorotot, Kaabong District    | Usake, Morungole, Kamion S/C                            | Gold          | Surface and underground pits. Crude tools used for mineral extraction.                        |
| Chakalotom, Kaabong District   | Kamion S/C                                              | Gold          | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only. |
| Moru-a-riwon, Kaabong District | Kamion S/C                                              | Gold          | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only. |
| Nasurukeny, Kaabong District   | Kalapata S/C                                            | Gold          | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only. |
| Lois, Kaabong District         | Kathile South S/C                                       | Gold          | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only. |
| Namoru, Kaabong District       | Kaabong East S/C                                        | Gold          | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only. |
| Nameri, Kaabong District       | Kaabong East S/C                                        | Gold          | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only. |
| Lolelia, Kaabong District      | Kaabong/ Kotido border-Kacheri S/C                      | Gold          | Surface and underground pits. Crude tools used for mineral extraction. Artisanal mining only. |

## 4.4 HUMAN RIGHTS CONCERNS

Exploring and mining mineral resources in Karamoja has several environmental and social repercussions.<sup>150</sup> The major problems are ecological degradation, human rights abuses in mining labour, and land grabbing. Unlicensed miners, among which are men and women, are at increased risk of exploitation and other abuses by companies and authorities.<sup>151</sup> Most land in Karamoja is under customary tenure and collectively managed. Few people own certificates of land ownership, making fair compensation a problematic issue as few can negotiate with the companies for the (temporary) land acquisition.<sup>152</sup> Mining companies rarely engage the affected communities in their mandatory Environmental and Social Impact Assessments in meaningful ways. In addition, local authorities rarely consult with and involve communities in decision-making, resulting in actions that exacerbate rather than resolve existing accountability and human rights concerns. Below are the human rights concerns in the region.

### 4.4.1 Child labour

The employment of children in Uganda is governed by the Employment Act (2006), which sets the parameters within which a child can be employed. These include: a child under 12 years of age cannot be employed in any business, workplace or other labour undertaking; children under the age of 14 can only be employed provided such employment does not affect his or her education and that the light work must be carried out under the direct supervision of an adult; and a child cannot be employed in any employment or work injurious to his or her health, dangerous or hazardous or otherwise unsuitable.<sup>153</sup>

Although the number of children engaged in the mining sector had drastically reduced over the past few months due to sensitization by various stakeholders and CSOs and also patrols by the Mineral Protection Police, UHRC discovered that in some areas like Nakomoliwaret in Kosiroy Moroto District and Lopedo in Lodiko Sub-County in Kaabong District, children were still working in mining sites. Here, children can be seen baby-sitting, helping their parents to carry the soil, collecting water for washing gold, collecting firewood for burning the stones to soften for easy breaking and also participating in the actual breaking of rocks, especially those children who are believed to be 14 years and above.

The parents UHRC found at this particular site reported they had migrated from their homes which were far away to the mining sites. As they intended to stay until the start of the rainy season, they could not leave their children behind without someone to care for them. Due to this, the children were unable to attend school since they were living in the bush in the mining sites with their parents.

### 4.4.2 Lack of protective gear

UHRC discovered that at Evergrande's Company Limited in Cheptakol in Amudat District, all artisanal miners and some private miners had no protective gear such as helmets, gloves or gumboots. Not even the Chinese nationals in management roles wore PPE. At Kosiroy limestone mining sites in Moroto District the management of Tororo Cement Company Limited reported that they gave protective gear to the employees but that the people were reluctant to use them, complaining that the gumboots were very hot when worn. It was also noted that the protective gear was in short supply to match the number of people employed in the mining site there.

150 See Human Rights Watch (2014). "How can we survive here?" The impact of mining on human rights in Karamoja, Uganda. Available at [www.hrw.org/report/2014/02/03/how-can-we-survive-here/impact-mining-human-rights-karamoja-uganda](http://www.hrw.org/report/2014/02/03/how-can-we-survive-here/impact-mining-human-rights-karamoja-uganda) Visited 8 October 2019.

151 UNDP, 2018. Baseline Assessment of Development Minerals in Uganda. Volume 1. Accessible at [https://www.undp.org/content/dam/uganda/docs/UNDPUG18%20-%20DevMinBaseLineUganda\\_Vol.1.pdf](https://www.undp.org/content/dam/uganda/docs/UNDPUG18%20-%20DevMinBaseLineUganda_Vol.1.pdf) Visited 10 October 2019.

152 Rugadya, M. and Kamusiime, H. (2013). Tenure in Mystery: The status of land under wildlife, forestry and mining concessions in karamoja region, Uganda. Nomadic Peoples 17, 1 (Special Issue: Securing the Land and Resource Rights of Pastoral Peoples in East Africa): 33-65. Available at <https://www.jstor.org/stable/43123920> Visited 8 October 2019.

153 Section 32 of the Employment Act of 2006.

The UHRC further noted that people employed in marble quarries and limestone mining sites were facing terrible conditions. Some returned home with septic wounds on their legs, and many with bad coughs, yet they could not access health services for treatment due to limited financial resources. The Commission established that some youth had managed to get jobs in some of the mines but without employment contracts.

This situation had been exacerbated by a lack of formal contracts between the miners, workers and the companies. While Tororo Cement owned the site at Kosiroi, they allowed the locals to extract the limestone, which they were obliged to sell only to Tororo Cement Company. There was no contractual arrangement between the miners and the company, yet the mere fact that they could not sell it to anyone else made it implicit that they were employees of the company. It appeared that the company favoured this arrangement to circumvent liabilities arising from the employer-employee relationship.

#### 4.4.3 The exploitation of labour

The mining industry is considered a profitable one, and its proceeds should be equitably shared by the Ugandan society, especially the local communities, who deal with the risks involved in mineral extraction. It was noted that the positive aspect of sustainable development are often forgotten; experts perform the relatively easier role of supervision while the labourers from the host community do the arduous tasks and often without knowledge of the conditions and terms under which he or she is employed.

The artisanal miners also claimed to be underpaid by Tororo Cement Limited, the company which owned the mining license and its sub-contractors, operators and transporters. Some of the transport companies associated with Tororo Cement Limited that allegedly underpaid their workers were Kuit Investment Ltd, Nyaks and Lenny Enterprise Ltd, Rutungu General Solutions Ltd, Ronnie Transporters; Investment Ltd. Roya; and Transit Ltd. The table below shows fees paid to artisanal miners for breaking limestone and loading onto trucks.



*Children at Nakomoliwareth Mining site in Kosiroi.*



*Artisanal miners have developed septic wounds due to a lack of protective gear like gloves as they work at the limestone quarry operated by Tororo Cement Limited. Photo Credit: RRA*



*A miner with a deep wound in Kosiroi. Photo credit: Resource Rights Africa*

**Table 4.3: Price of limestone in Karamoja**

| TYPE OF TRUCK | BREAKING FEES (UGX) | LOADING FEES (UGX) |
|---------------|---------------------|--------------------|
| Small         | 150,000             | 70,000             |
| Medium        | 170,000             | 100,000            |
| Big           | 210,000             | 100,000            |

*Source: UHRC monitoring team interview with miners in Kosiroy.*

On a positive note, UHRC noted that for other companies like the International University of East Africa, recruitment was done based on qualifications and interest, and the terms of employment were in respect to the labour laws; casual labourers are paid UGX 10,000 per day; the employees are afforded with food, accommodation (tents), protective gear and a first aid kit availed for emergencies.

Equally, payments for labour by private miners to artisanal miners employed were out of mutual agreements paid according to the mineral collected by the employee. The local artisanal miners and casual labourers were paid whenever their services were required. Some employees were paid in kind by giving extracted rock or soil so that the employee could extract available gold, though should there be no gold, the employee would have worked.

#### 4.4.4 Inadequate community consultations and awareness

The majority of the communities in Karamoja lack adequate information regarding mining activities and pertaining regulations, laws and policies. Communities have limited knowledge and understanding of their rights, leaving them vulnerable to exploitation and abuse. The local authorities alleged that government did not consult with the people in Karamoja before granting exploration licenses to companies. Instead, they allegedly made deals with companies and effectively allowed them to initiate work without ever consulting with the people whose land had been allocated for these projects. Government procedures require a district official to sign off before licensing a company, but traditional indigenous decision-makers are often excluded in such procedure arrangements. Community members consistently emphasised that their dependence on and relationship with the land for livelihoods renders consultation important. A growing number of communities in some locations of Karamoja were increasingly reliant on artisanal mining in the dry season for their livelihood, intensifying community members' concerns about the impact of mining activities.

The lack of information and consultation was noted to create mass confusion about the impact of the mining activities on the environment and peoples' livelihoods, and this could lead to future tension between the companies and the communities. UHRC noted that the two communities of Kosiroy and Rupa were not consulted prior to granting the mining lease to the two mining companies of Tororo Cement and Sunbelt Mining Company and allege they were unaware of the exact size of land that was given.

Tororo Cement Company Limited was reported to have gotten the first lease for 20 square kilometres in 2002 in the Nakomoliwaret area, and this was to last for 20 years, till 2023. However, in 2010, they were reportedly given another lease for 49 square kilometres, which lasted until 2034. For Sunbelt, the Community Trust surveyed the land, and has a land title, so the size of the land is known. In total, Tororo Cement Company had a lease for about 70 square kilometres of land in Kosiroy, but the land owners were not aware of the boundaries of that land.

#### 4.4.5 Surface rights

According to section 42(3) and section 43(3) (h) of the Mining Act (2003), the applicant has to obtain written proof that they have reached an agreement with the landowner of the area they intend to mine. Many of the problems regarding the functioning of the subnational royalty sharing system are due to implementa-

tion and operationalisation failures.<sup>154</sup> According to the Auditor General's 2014-2015 performance report, mechanisms for oversight and verification are not currently in place: "The mines department of DGSM [Department of Geological Survey and Mines] did not conduct adequate inspection and monitoring and thus could not track the performance of all the mineral licenses issued and enforce compliance of mining regulatory framework". According to the 2012-2013 Annual Performance Report by the Office of the Prime Minister, Ministry of Energy and Mineral Development inspected 18 mine sites in that year which represents 2% of the 867 operational licenses at the time.

The communal land owners in Kosiroi were not paid surface rights by Tororo Cement. In Rupa, the company reportedly paid surface rights through a local organisation called Rupa Community Development Trust (RUCODET) but some Rupa community members alleged that they did not receive the said money. As such, the UHRC notes that RUCODET has not been transacting business on behalf of the community in a transparent manner. The people of Kosiroi had been intimidated by agents of Tororo Cement Company to desist from demanding surface rights. The community feared that if the company paid surface rights, they would be stopped from extracting the limestone since the site belonged to Tororo Cement. This intimidation, coupled with a lack of information on the side of the local community, made it difficult for them to demand their rights.



*UHRC Commissioner and staff monitoring marble mining in Kosiroi.*

<sup>154</sup> Transparency International Uganda (May 2016). Available at file:///C:/Users/user/Downloads/Proposed-Amendment-to-Ugandas-New-Mining-Law.pdf.

#### 4.4.6 Nonpayment of royalties

Payment of royalties is provided for under Section 71 under the Mining Regulations, 2004 and Section 98 of the Minerals Act, 2003 and Second Schedule. Section 98(3) provides the percentages that accrue to the different entities: government 80%, local governments 17% and owners or lawful occupiers of land subject to mineral rights 3%. Allegedly, there has been underassessment of royalties given the lack of monitoring mechanisms where there is no weighbridge. Local governments also do not get information on returns which affects releases to them.

According to the officials of Kathihekile in Moroto District, the mining companies operating in Rupa and Kathihekile Sub-counties had not paid royalties because of a conflict over the boundary. He added that they had tried to engage the mining companies to pay the royalties and let the two sub-counties first share the royalties until the boundary issue was sorted out, but this has not yielded fruits. While the community of Kosiroi claimed that they had never received the 3% royalty meant to be paid to them by Tororo Cement Company, the District Councilor for Tapac Sub-County stated that the royalty was paid through a local community-based organisation called Tapac Initiative for Community Development (TICODEP) which in turn used the money to sponsor children in school.

They said it was difficult to ascertain whether the appropriate amount of royalties was paid since Tororo Cement carries away the stones without knowing the exact quantity since there is no weighbridge. This made it very hard to determine the fraction of the value of the stones to be paid to each stakeholder; thus, everyone is losing as the government has to rely on the returns filed by the private companies to determine the amount of royalties to be paid.

| Table 4.4: Royalties by Tororo Cement Limited to Tapac Sub-County (2011/2012, 2012/2013, 2018/2019) |              |
|-----------------------------------------------------------------------------------------------------|--------------|
| FINANCIAL YEAR (FY)                                                                                 | AMOUNT (UGX) |
| 2011/2012                                                                                           | 47,534,918   |
| 2012/2013                                                                                           | 7,984,356    |
| 2018/2019                                                                                           | 74,767,57458 |

#### 4.4.7 Environmental degradation

The Constitution provides for the right to a clean and healthy environment. The Mining Act, reflecting the spirit and aspirations of the National Environment Act, obliges a mining licensee to carry out an environmental impact assessment of proposed operations and take all necessary steps to ensure the prevention and minimization of environmental pollution, including through environmental management and restoration plans.<sup>155,156</sup>

During the field visits, it was discovered that little attention was being paid to environmental concerns in all the mining sites and areas visited. Activities that were detrimental to the environment, such as clearing land, river dredging, land excavation and drilling and frequent use of toxic chemicals, were ongoing in the mining sites. The use of mercury for gold sieving was reported in Cheptakol gold mining site in Amudat District. Globally, mercury has been ranked third on the list of toxic substances. Mercury is a shiny liquid metal that attacks the nervous system. Exposure can result in life-long disability and is particularly harmful to children. In higher doses, mercury can kill. It is a toxic substance to ecosystems, wildlife, and human health. In human beings, mercury affects the nervous system and functioning of the brain, especially in children.<sup>157</sup>

Environmental impact assessment was usually a mandatory requirement for extensive undertakings envisaged to impact the environment. According to the Natural Resources Officer of Moroto District, Mr Achia

<sup>155</sup> <https://www.google.com/search?channel=nrow5&client=firefox-b-d&q=Eco-socio+Impact+of+Mineral+Resource+Mining+in+the+Karamoja+Region+of+Uganda+Estellina+Namutebi1>.

<sup>156</sup> Section 108 of the Mining Act; see also Part IX of the National Environment Act.

<sup>157</sup> <https://www.who.int/news-room/fact-sheets/detail/mercury-and-health#:~:text=The%20primary%20health%20effect%20of,exposed%20to%20methylmercury%20as%20foetuses.>

John, and the audit is done by NEMA quarterly. The reports of 2018 done by NEMA on Tororo Cement Company at Kosiroi in Katikékile Sub-County, Moroto District, were availed to the UHRC team during monitoring.thers.

In all the sites where artisanal gold mining and marble mining operations were taking place, excavated areas and deep pits had been created and abandoned, and there was no plan to restore or rehabilitate the derelict land. According to the company staff of Tororo Cement Limited, the pits could not be covered immediately as there were minerals (limestone) still being mined and that the pits could only be covered after all the limestone had been exhaustively removed.

In Nakiloro gold mining site, Jan Magal Company left huge excavated areas, while in Utut, Chepkarat, and many other sites, deep earth pits created in search of gold had been abandoned, posing a safety risk to both humans and animals.

#### 4.4.8 The right to food, clean and safe water

The implied denial of individuals and communities to freely access and utilise their lands has resulted in incidences of household hunger, as households' ability to produce food through agriculture was compromised by the activities of extractive industries and the proposed refinery. In addition to the impact on people's right to adequate food, displacements and relocations had also impacted affected populations' rights to safe water. In the Lopedo gold mine in Lodiko Sub-County in Kaabong District, there was only one functional borehole serving a big population. Article 11, Paragraph 1 of the International Covenant on Economic, Social and Cultural Rights lists various rights necessary for realising the right to an adequate standard of living, "including adequate food, clothing and housing." According to the Committee on Economic, Social and Cultural Rights, the word "including" suggests that this list is not exhaustive and that the right to water is clearly part of the right to an adequate standard of living. At the national level, the right to water is recognised in the Constitution, which states that "the State shall take all practical measures to promote a good water management system at all levels", placing an obligation on the Government of Uganda to ensure that all people in Uganda can access safe and clean water.

The UHRC noted that the availability of water was a constant concern, and people feared that the scarce water resources would be depleted by the mining activities in the area. At Tapac Sub-County the UHRC noted that the place was arid with limited water sources save for the seasonal rivers in the area, and this had resulted in a general shortage of clean and safe water for people and their animals. However, on a positive note, it was discovered that Tororo Cement Limited had constructed and maintains ten boreholes for the people in Tapac Sub-County. The company claim that they bought a water bowser to provide water to the community members but that people refused to contribute money for fuel and so it was given to the UPDF who are using it for their water needs.



*A picture of a deep pit left behind in the gold mine of Utut in Moruita S/C Nakapiripirit District.*



*Photo Credit: Resource Rights Africa*

#### 4.4.9 Occupational health and safety

No occupational health and safety measures were noted in all the sites monitored by UHRC. The miners were exposed to dust and injury from the tools, pits and stones since they did not have personal protective equipment (PPE). In the Kosiroi marble mining area, Tororo Cement claimed that it provided PPE to its employees but some miners claim it made them too hot while others said there were insufficient quantities. All the mining sites visited did not have sanitary facilities, with hygiene and sanitation being a significant concern. Health complications such as chest pain and general body weakness resulting from hard labour (breaking stones, digging the ground and carrying soil) were reported.

Health conditions are compounded by excessive consumption of alcohol and the lack of medical services, with patients travelling long distances to access health centres. According to Tororo Cement Limited in Kosiroi in Tapac, they provided an ambulance and a mobile clinic operating in the mining site to assist injured people in getting first-aid as a part of their corporate social responsibility. However, miners noted that the ambulance is only seen during government programmes.

High consumption of alcohol (waragi) in the mining sites was noted as a big social issue. At Kosiroi mining site, there was considerable consumption of waragi by the local community members. This waragi was allegedly brought in trucks of Tororo Cement Limited that come to collect limestone. This excessive alcohol consumption was being implicated in other social tribulations like prostitution, the spread of HIV/AIDS and gender-based violence (GBV), rampant in almost all mining sites in Karamoja.

It was also found out that businesswomen from Bugisu or other areas of Uganda enticed local male miners into sex in exchange for gold. This 'sex for gold' trade was commonly practised in Karita mining sites while in Kosiroi and Acherer mining sites, cases of early pregnancies, defilement, elopement and rape were common. The presence of the Police in Kosiroi has not helped the situation as the local communities accused them of extortion instead of keeping law and order.



*Impounded waragi being offloaded from Tororo Cement Limited truck onto a smaller car to be poured out. Photo credit: Resource Rights Africa.*



*Community members of Kosiroi pouring out waragi as security personnel watch. Photo Credit: Resource Rights Africa.*

#### 4.4.10 Gender inequality

The UHRC noted a severe gender gap in income and general decision-making powers as patriarchal values prevail in Karamoja. There is limited capacity among communities, local CSOs and local authorities to claim their rights. Women are often denied the right to participate in the governance of mineral resources and land. Furthermore, there are also limited opportunities, spaces and platforms for communities (mainly women) to engage with the duty-bearers regarding issues such as sharing of royalties and human rights violations.

#### 4.4.11 The rights of indigenous people

Protecting cultural heritage or indigenous people is pertinent as enshrined in the UN charter on the declaration on the rights of indigenous communities. Pastoralism is a major practice by many Karimojong, who have been living in their homelands for hundreds of years and struggle to conserve the traditional nomadic lifestyles. The Constitution under Article 37 provides that everyone has a right to belong to, enjoy, practice, profess, maintain and promote any culture, cultural institution, language, tradition, creed or religion in communion with others. Due to mining in some areas like, Nakomoliwaret in Tapac Sub-County, Kongatunyo in Rupa Sub-County and around Rata in Rupa Sub-County, sacred places (shrines) of the Karimojong have been infringed upon. Trees have been cleared, and the people could no longer visit such sites to offer sacrifices in order to appease their gods.<sup>158</sup>

##### **Positive contributions of the extractive industry in the sub-region.**

1. The activity had boosted the income of the local people, and from the sales of the stones, people have been able to send their children to school, buy cows and goats and also to put food on the table for their families.
2. According to Achia John, an Area Councilor for Tapac Sub-County, approximately 2,000 people were employed in the mining of limestone at Kosiroi.
3. Tororo Cement Limited drilled and maintains ten boreholes, was paying for two nurses who worked in the mobile clinic in Kosiroi, supplied 5,000 iron sheets to community members,



*A lady gathering stones in Kosiroi Mining site*

constructed Tapac Primary School (teaching Primary One to Primary Five), bought an ambulance and a mobile clinic for the community, and sponsors five students at University every three years.

4. Mr Obed Kansime, the Manager of Sunbelt Marble Factory, reported that Sunbelt sponsored ten students at Makerere University, paid for the leased land, put in place a solar pump to pump water for the factory and community, constructed roads in the area and dug two valley dams for the cows and neighbouring community of Nayidik Village, Lobuneit Parish in Rupa Sub-County. It was also reported that Mechanized Agro sponsors 20 students at university level, mainly girls.
5. For the Multi-tech Mining Company, it was reported that they were employing 40 Karimojong youth, had provided piped water, and had plans to put up a clinic.
6. That Sun Belt gave 'RUCODET' UGX 1.8 billion in 2019 as surface rights compensation. Mr Logwe John, who was the chairman of RUCODET, said that this was an association formed to help the community of Rupa in handling issues related to the extractive industries in their area including taking care of the land on behalf of the people; receiving royalties on behalf of the Rupa community; managing the sponsorships offered to children; and helping in mediation between the community and the companies where conflicts arose.

<sup>158</sup> Report by one of the area councilors in the area.

## 4.5 RECOMMENDATIONS

1. The Ugandan Government should fast-track the amendment of the Mining Act and related policies by facilitating and supporting community consultations and dialogues on the review of the mining regulatory and legal framework.
2. The Ugandan Government should support the organisation and formulation of artisanal small scale miners into groups and associations to facilitate organised mining, thus increasing their market bargaining power, acquisition of location licenses and financing for these small organised groups.
3. The Ministry of Energy and Mineral Development and the district local government should disseminate mining laws and regulations to the local community, including the national action plan on business and human rights, and monitor their implementation.
4. The District local governments should make by-laws to control the supply of waragi to the region. Excessive consumption of alcohol affects the health and productivity of the population, not just in the mining areas but also in the rest of the population in the entire region of Karamoja.
5. The Ministry of Energy and Mineral Development and mineral Police should monitor the enforcement of restoration practices.

## 4.6 CONCLUSION

Even the world's major mining firms generally acknowledge that mining can be a dangerous industry when not carried out responsibly and that detailed evaluation of possible negative impacts is imperative. Historically, many of the worst abuses, including human rights abuses, environmental damage, or accidents, could have been prevented by robust regulation, monitoring, and oversight of mining work. Irresponsible and poorly regulated mining operations have damaged affected communities' rights to health, water, and work. Therefore, the human rights issues indicated above indicate the mammoth task that remains in the areas of human rights protection and promotion for communities affected by the mining activities in Uganda.

# CHAPTER FIVE:

# ENFORCED

# DISAPPEARANCES IN

# UGANDA

## 5.1 INTRODUCTION

Under the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), which Uganda signed on 6 February 2007, but not yet ratified,<sup>159</sup> states have an obligation to prevent enforced disappearances and hold those involved criminally responsible. Article 2 of the said Convention defines enforced disappearance as “the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places a person outside the protection of the law.”

Enforced disappearance is a continuous violation which starts at the time of the victim's abduction and extends until the victim's fate or whereabouts are established. It constitutes a multiple violations of several fundamental human rights, including the right to liberty and security of a person, the right not to be subjected to torture or cruel, inhumane or degrading treatment or punishment, the right to life and the right to recognition of the legal status among others.<sup>160</sup> The UN Working Group on Enforced or Involuntary Disappearances (WGEID) considers that enforced disappearance violates the right to liberty and security of a person, not to be arbitrarily detained, to a fair trial by an independent court, not to be subjected to torture and ill-treatment, and family life, and in many situations the right to life.<sup>161</sup> It is considered a crime under international law, and therefore, state authorities have the duty to investigate, prosecute and punish the perpetrators.

Several human rights instruments provide standards for treatment of detainees and advance and promote their rights in detention. The principal aim is to avoid arbitrariness since persons deprived of liberty are very vulnerable and to allow the due process of the law to take place. Uganda is a state party to several international, regional and national human rights instruments that provide for the right of persons deprived of liberty and, as such, bound by the provisions of these instruments.

The UHRC has, since its inception, raised concerns over the increasing cases of deprivation of the right to personal liberty, including detention of persons in safe houses and incommunicado detention majorly perpetrated by state agents. Deprivation of the right to personal liberty has been reported by UHRC in its annual reports to Parliament as among the top two most allegedly violated human rights, the other being freedom from torture. The period leading to and after the 2021 general elections was characterised by a wave of alleged cases of enforced disappearances of people allegedly arrested by security agencies and taken to unknown detention places.

<sup>159</sup> [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=182&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=182&Lang=EN) Visited on 14 March 2022.

<sup>160</sup> <https://www.achpr.org/sessions/resolutions?id=479> Visited on 15 March 2022.

<sup>161</sup> <https://www2.ohchr.org/english/issues/disappear/docs/GeneralCommentsCompilationMay06.pdf> Visited on 18 March 2022.

This chapter examines human rights concerns arising out of alleged enforced disappearances in Uganda in 2021. It discusses the legal and policy framework on enforced disappearance and provides an update on the situational analysis of enforced disappearances in Uganda. The chapter also discusses the human rights concerns arising out of the enforced disappearance of persons and highlights interventions made by both state and non-state actors on the subject matter. The chapter concludes by making recommendations.

## 5.2 LEGAL AND POLICY FRAMEWORK

### 5.2.1 International legal framework

At the international level, the International Convention for the Protection of all Persons from Enforced Disappearance (ICPPED) 2006, protects persons against enforced disappearance. However, even though Uganda has not yet ratified the ICPPED, it has ratified the International Covenant on Civil and Political Rights (ICCPR), which provides for the rights of persons deprived of liberty. has not yet ratified this Convention. Enforced disappearance constitutes a violation of many of the rights enshrined in The ICCPR, provides for the right to liberty and security of person (Article 9); the right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment (Article 7); and the right of all persons deprived of their liberty to be treated with humanity and respect for the inherent dignity of the human person (Article 10); and the right to life of all human beings (Article 6).

The United Nations Convention against Torture and Cruel, Inhuman and Degrading Treatment or Punishment (UN CAT) 1984 also requires State Parties to ensure that persons in their jurisdiction are not subjected to torture or ill-treatment. The UNCAT guides States on how to effectively prohibit and prevent acts of torture, as well as investigate, prosecute and punish perpetrators and provide redress for victims. The statute of the International Criminal Court (The Rome Statue), 1998 Article 7 of the Statute provides that the systematic practice of enforced disappearance constitutes a crime against humanity.

### 5.2.2 Regional legal framework

At the regional level, Uganda is party to the African Charter on Human and Peoples' Rights (African Charter), having ratified it in 1986. Article 3(1) of the African Charter stipulates that every individual shall be equal before the law and entitled to equal protection of the law. It also provides that every individual shall have a right to liberty and the security of his or her person. No one may be deprived of their liberty except for conditions laid down by law, and no one should be arbitrarily arrested or detained.<sup>162</sup> Similarly, Article 7 of the African Charter provides for a right to be heard. This entails the right to appeal to a competent court against acts that violate fundamental rights as recognised and guaranteed by treaties, laws and regulations in place. The Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa (Luanda Guidelines) also provide for a suspect or detained person to be produced in court within 48 hours of arrest.

### 5.2.3 National legal framework

At the national level, Chapter Four of the Constitution provides for fundamental human rights and freedoms that must be protected, respected and upheld by all organs and agencies of Government and by all persons. Article 23 of the Constitution guarantees the right to personal liberty and explicitly outlaws the holding of persons in unauthorised places of detention, such as 'safe houses' and incommunicado detention. It further provides for the right to be informed in a language one understands of the reasons for the arrest, the right to legal representation, including access to a lawyer of their own choice and family members, the right to be produced in court within 48 hours of arrest or to be released on Police bond which is free of charge.

Since the right to personal liberty is not absolute, the Constitution provides that "no person shall be

<sup>162</sup> Article 6 of the African Charter on Human and Peoples' Rights.

deprived of personal liberty except in execution of a sentence or a court order, preventing the spread of an infectious or contagious disease, where a person is believed to be of unsound mind, and for purposes of preventing unlawful entry into the country”.<sup>163</sup> Additionally, Article 44 of the Constitution recognises the right to a fair hearing, the right to freedom from torture, cruel, inhuman or degrading treatment or punishment and the right to an order of habeas corpus as non-derogable rights. These rights are correlated to the right not to be subjected to enforced disappearance.

The Prevention and Prohibition of Torture Act 2012 prohibits torture, cruel and other degrading treatment or punishment and criminalizes in addition to imposing personal liability on offenders and their superiors (for failure to act or take administrative measures). Section 11 of the Human Rights Enforcement Act, 2019 (HREA) states that derogation from non-derogable rights is an offence.

## 5.3 SITUATIONAL ANALYSIS

Enforced disappearance has been used as a tool of oppression worldwide in the context of internal conflicts. Although enforced disappearance is a problem of considerable extent, it appears to be a forgotten struggle with limited statistics on the prevalence or scope of the problem, with under-reporting coupled with a lack of specific policies and laws by many states to address it. As of December 2021, only 96 states, Uganda inclusive, had signed the ICPPED; 64 states had ratified it (only 18 from Africa), and very few countries have incorporated it into their domestic laws.<sup>164</sup>

In 2021, the media was awash with reports<sup>165</sup> of missing persons in Uganda. There were allegations of missing persons who were allegedly picked from their respective homes, workplaces and off streets by persons believed to be security agents. Media reports also reported that the arrested people were allegedly put in vans commonly known as ‘drones’ which had no number plates and taken to unknown places. Following the various media reports on missing persons, the President gave a televised address on 13 February 2021, in which he informed the country that security agencies had been arresting suspected criminals to avert terrorism and lawlessness in the country. The President informed the nation that the Special Forces Command (SFC) had arrested 76 people in Kampala, while the Chieftaincy of Military Intelligence (CMI) had arrested 242 suspects. He further stated that out of 242 suspects arrested by CMI, 177 had been granted bail or released, and 65 were still under investigation. The president then emphasized that “...the talk of disappearances should be ignored because it can’t happen under the NRM. We never cover-up. There is nothing which we do and hide...”

Subsequently, on 4 March 2021, the Minister of Internal Affairs, Hon. Jeje Odongo presented to Parliament a list of 177 people who were allegedly missing. Members of Parliament, especially from the National Unity Platform (NUP), questioned the list’s authenticity. Contrary to the Minister’s list, National Unity Platform Party President Hon. Robert Kyagulanyi Sentamu said that at least 458 people were missing, and their whereabouts were unknown. However, a list published in the media by NUP had only 334 missing persons.<sup>166</sup>

### 5.3.1 List of alleged cases of missing persons as presented by the government and NUP

Below is a list of names presented to Parliament on 4 March 2021 by Hon. Rtd Jeje Odongo on alleged cases of missing persons. From the government list, it was ascertained that those allegedly missing were scheduled to appear before various courts while others were in detention at Kitalya Mini Maxi prison, as detailed.

<sup>163</sup> See Article 23 of the Constitution.

<sup>164</sup> [https://en.wikipedia.org/wiki/International\\_Convention\\_for\\_the\\_Protection\\_of\\_All\\_Persons\\_from\\_Enforced\\_Disappearance#Signatories\\_and\\_ratification](https://en.wikipedia.org/wiki/International_Convention_for_the_Protection_of_All_Persons_from_Enforced_Disappearance#Signatories_and_ratification) Visited on 15 March 2022.

<sup>165</sup> See Daily Monitor Team “Tales of abductions across the country,” 6 February 2021 available <https://www.monitor.co.ug/uganda/news/national/tales-of-abductions-across-the-country-3282010> Visited on 14 March 2022. Also see John Vianney Nsimbe “Terror of kidnaps grips Ugandans,” 3 February 2021 available <https://observer.ug/news/headlines/68336-terror-of-kidnaps-grips-ugandans-haunted-vegas-lubega-speaks> Visited on 14 March 2022.

<sup>166</sup> Derick Wandera, Daily Monitor “NUP releases its list of 243 missing persons,” 3 March 2021 available <https://www.monitor.co.ug/uganda/news/national/nup-releases-its-list-of-243-missing-ugandans-3310236> Visited on 14 March 2022.

**Table 5.1: Suspects before General Court Martial**

|                       |                       |                      |
|-----------------------|-----------------------|----------------------|
| Kasozzi Ismail Junior | Shafik Umar           | Buwembo Julius       |
| Ojit David            | Alioni Anyo           | Nkorwa Sharif        |
| Tringanya Richard     | Okello Maxwell        | Arinaitwe Silas      |
| Kiviri Richard        | Kayondo Hazard        | Mwanje Fred          |
| Amunga Medi           | Nkalubo Sharif Black  | Mumbya Hakim         |
| Muzamiru Muhammed     | Kato Akiram           | Nsubuga Ashiraf      |
| Kayiwa Ronald         | Isingoma Godfrey      | Kayemba Abubaker     |
| Shafik Umar           | Bunju Christopher     | Odiambo Elvis        |
| Kasozzi Ismail Junior | Kawuki Vincent        | Barasa Evans         |
| Ojit David            | Nyombi Moses          | Kityo Christopher    |
| Tringanya Richard     | Kigozi Jamil          | Lutta Ferdinand      |
| Kiviri Richard        | Migadde Kassim        | Kikomeko Joseph      |
| Amunga Medi           | Kayiwa Julius         | Kayondo Hazard       |
| Muzamiru Muhammed     | Ssemwogerere Lawrence | Nkalubo Sharif Black |
| Kayiwa Ronald         | Muyanja Ramathan      | Kato Akiram          |
| Shafik Umar           | Muwanga Joshua        | Isingoma Godfrey     |
| Alioni Anyo           | Kaya Alex             | Rukungu Banuli       |
| Okello Maxwell        | Lwanga Abdullah       | Manya Muhammed       |
| Opoya Award           | Wasswa Umar           |                      |

**Table 5.2: Suspects before the District Disciplinary Committee, Bombo**

|                           |                     |                    |
|---------------------------|---------------------|--------------------|
| 1) Tumusiime Rashid       | 2) Iga Peter        | 3) Nganda Geofrey  |
| 4) Kabiito Sharif         | 5) Wasajja Davis    | 6) Gayira Paul     |
| 7) Matovu Peter           | 8) Kiganda Ronald   | 9) Seguya Pius     |
| 10) Serugo John           | 11) Sowed Bbosa     | 12) Sekyera Samuel |
| 13) Byamukama Musa        | 14) Bwengey Isma    | 15) Mawanda Sharif |
| 16) Musinguzi Christopher | 17) Alikundira Ivan | 18) Sebatia Henry  |
| 19) Kabogoza Peter        | 20) Munabi Umar     | 21) Ssekajja Gavin |
| 22) Mubitu Sulaiman       | 23) Ssenono Allan   | 24) Mutebi Shafik  |
| 25) Sentamu Fred          | 26) Opit Moses      |                    |

**Table 5.3: Suspects before the Unit Disciplinary Committee, CMI, Mbuya**

|                    |                   |                     |
|--------------------|-------------------|---------------------|
| 1) Ayot Justine    | 2) Wani Richard   | 3) Oringa Innocent  |
| 4) Oloba Moris     | 5) Kyeyune Joseph | 6) Okot Quito       |
| 7) Mwesigy Patrick | 8) Mweya John     | 9) Ssentongo ismail |

**Table 5.4: Suspects before Luwero Magistrate's Court**

|                    |                    |                      |
|--------------------|--------------------|----------------------|
| 1) Setooke Charles | 2) Nsubuga Stephen | 3) Katongole Godfrey |
| 4) Semakla John    | 5) Mawanda Medi    | 6) Katumab Abdalla   |
| 7) Lutakome Joel   | 8) Mubiru Jovan    | 9) Kasirye Ronald    |

**Table 5.5: Suspects before Buganda Road Court**

|                   |                   |                   |
|-------------------|-------------------|-------------------|
| 1) Mugenyi Joseph | 2) Omoit Samuel   | 3) Sentoto Samuel |
| 4) Muhwezi Gerald | 5) Magara Richard | 6) Aine Victor    |

|                        |                     |                   |
|------------------------|---------------------|-------------------|
| 7) Mayanja Henry       | 8) Tumusiime Alvin  | 9) Dauda Kachwano |
| 10) Sekyanzi George    | 11) Konde Patrick   | 12) Ndaula Brian  |
| 13) Wepukullu Abdallah | 14) Sekayonjo Tonny | 15) Tuhome Enos   |
| 16) Kiwewa Tonny       | 17) Kasirivu Ivan   | 18) Musisi Joseph |

**Table 5.6: Suspects at Kitalya Mini Maxi Prison**

|                      |                       |                     |
|----------------------|-----------------------|---------------------|
| 1) Mukasa Hussein    | 2) Matovu Adam        | 3) Nyanzi William   |
| 4) Sunday John Bosco | 5) Tamale Ibra        | 6) Nsubuga Muhammed |
| 7) Kyabago Geserwa   | 8) Mwanga Lviuz Faru  | 9) Muganga Isma     |
| 10) Kivumbi Robert   | 11) Katumba Robert    | 12) Kyarimpa Kenny  |
| 13) Ssemenda Brian   | 14) Kalema Richard    | 15) Ssebuufu Edward |
| 16) Mpanga Charles   | 17) Mutumba Sarah     | 18) Kafuko Stanley  |
| 19) Mutalya Geofrey  | 20) Kivumbi Acheleo   | 21) Buken Ali       |
| 22) Mulimira Musa    | 23) Kalamagi Alex     | 24) Kigongo Faisal  |
| 25) Najja Sharif D.  | 26) Ssekilanda Samson | 27) Tamale Fahad    |
| 28) Mwijikye Lukeman | 29) Onzima Geoffrey   | 30) Agaba Anthony   |
| 31) Ssemakula Hassan | 32) Mudde Ntambi R.   |                     |

**Table 5.7: Suspects before the General Court Martial**

|                           |                             |                           |
|---------------------------|-----------------------------|---------------------------|
| 1) Sserwamba Stephen      | 2) Opira Franklin           | 3) Kampengalo Geofrey     |
| 4) Nkurunziza Fred        | 5) Humure Sankara Thomas    | 6) Mugenyi Denis          |
| 7) Wasinde Shatik         | 8) Steven Sseremba          | 9) Ssenfuma Issa          |
| 10) Waswa Kasozi Ssaku    | 11) Kimbowa Bernard         | 12) Bisaso Ivan           |
| 13) Mugume Obedi          | 14) Kalungi Davis           | 15) Awuye Sharif          |
| 16) Ntege Joshua          | 17) Bukenya Flavian         | 18) Muyomba Edward        |
| 19) Sserunkuma John Bosco | 20) Kyarimpa Sowedi         | 21) Kigozi Ismail Junior  |
| 22) Kitamirike Anthony    | 23) Mark Joel Muganga       | 24) Okello maxwell        |
| 25) Nagawa Roseline       | 26) Ddamba Charles          | 27) Kayondo Hazard        |
| 28) Tindiriryebwa Martin  | 29) Hakim Trevor Mwanje     | 30) Nkalubo Sharif Black  |
| 31) Wanda Faustin         | 32) Jjemba Katongole        | 33) Kato Akirim           |
| 34) Kambo Alex            | 35) Kapo Charles            | 36) Isongoma Godfrey      |
| 37) Owori James Staurt    | 38) Madoi Muhamad           | 39) Bunju Christopher     |
| 40) Katongole Rashid      | 41) Isaac Martin Kayemba    | 42) Bukufuse Nsamab Tonny |
| 43) Bwanika Josephat      | 44) Byandala Marisenso      | 45) Ssekajja hakim        |
| 46) Ojit David            | 47) Obulejo Ismaeal         | 48) Akol Stephen          |
| 49) Tiringanya Richard    | 50) Bunjo Daniel            | 51) Semata Joel           |
| 52) Kayiwa Ronald         | 53) Isingam Xavier Julius   | 54) Mbusi Patrick         |
| 55) Shafik Umar           | 56) Buwembo Shakmi          | 57) Tella Juma            |
| 58) Alioni Anyo           | 59) Taliwaku Akram          | 60) Mangwi Henry          |
| 61) Sefuwaga Junior       | 62) Moses Bogere Hannington | 63) Jurungo Nyorima       |
| 64) Muhira Ben            | 65) Katusiime Mathew        | 66) Manjo Robinson        |
| 67) Ssemenda Jimmy        | 68) John Mary Kyasa         | 69) Otim Vrian Emmanuel   |
| 70) Isabirye sam          | 71) Hussein Mubiru Karoli   | 72) Opoka James           |
| 73) Abdul Shakul          | 74) Mike Charles Jomwe      | 75) Jacob Hillary Oyela   |

|                                 |                             |                            |
|---------------------------------|-----------------------------|----------------------------|
| 76) Kasirye Sam                 | 77) Muwanga Robert          | 78) Wambi Kenneth          |
| 79) Kyaterekera Bayan           | 80) Kasyata Jim Reeves      | 81) Ssenono Nicholas       |
| 82) Tukahebwa Addai             | 83) Ssebuliba George Ronnie | 84) Ssali Ivan             |
| 85) Kalibbala Vivian            | 86) Mambo Gordon Michael    | 87) Nabulamu Fred          |
| 88) Nakalema tasha              | 89) Tonnie Don Kivumbi      | 90) Otim Malkom            |
| 91) Nantale Lilia.              | 92) Kabonge Abdul Nasser    | 93) Disi Zakayo            |
| 94) Nakakoza Shamim             | 95) Ssekawa Johnson         | 96) Ssozi Asuman           |
| 97) Nuwasima Evelyn             | 98) Ssekajja Godfrey        | 99) Katabazi Ismail        |
| 100) Namukas aSauda             | 101) Kamugisha Sulaiman     | 102) Busingye Andrew       |
| 103) Namukasa Hafusa            | 104) Ssenyondo bashir       | 105) Lukwagana Sula        |
| 106) Nakamanya Shakira          | 107) Bruhan Abdul Swaibu    | 108) Kayinga Gerald        |
| 109) Nakiwate Sofia             | 110) Gasana Mark Faustine   | 111) Kakooza Duncan        |
| 112) Muhire Pascalina           | 113) Bukanya Ramadhan       | 114) Ssendazi Paulo        |
| 115) Katiti Shafiz Muliro       | 116) John Mark Bugembe      | 117) Tannada               |
| 118) Yiga Wilberforce           | 119) Kawuki Colin           | 120) Ssempijja Simon Peter |
| 121) Aii Kampala Isaac          | 122) Suuna Moses            | 123) Mayanja Philip        |
| 124) Kwizera Isaac              | 125) Kateregga Samuel       | 126) Hakim Abila           |
| 127) Kajabuye Arafat            | 128) Nsubuga Paul           | 129) Gertrude Kawooya      |
| 130) Ssozi Norman               | 131) Sahabu Ali             | 132) Willy Bogere          |
| 133) Abdu Salaam Mudde          | 134) Sseguya Joseph         | 135) George Kasumba        |
| 136) Masanso Charles            | 137) Kibirige Eriya         | 138) Kibalama John Bosco   |
| 139) Kimera Joseph              | 140) Kityo Paul             | 141) Kabiswa Muzamiru      |
| 142) Kakooza Najibu             | 143) Matovu Herbert         | 144) Kanamugira Simon      |
| 145) Ndihurabandi Eremiya       | 146) Ssemakula Henry        | 147) Sajalibende Stephen   |
| 148) Nakafeero Sophia           | 149) Nsereko David          | 150) Sebulime Swaibu       |
| 151) Kiseka Matia               | 152) Mukalazi Ivan          | 153) Katumba James         |
| 154) Ssempala Meddie            | 155) Kinalwa Bashir         | 156) Mugenyi Derick        |
| 157) Ochwo Richard              | 158) Kayondo Ramathan       | 159) Kimbagaya Musafari    |
| 160) Oketcho David              | 161) Kaibanda Moses         | 162) Ethusale Kamya        |
| 163) Obbo Nocholas Alias Okonga | 164) Matovu Juma            | 165) Wabomba Alex          |
| 166) Asuman Sharif Ssentongo    | 167) Wafana Brian           | 168) Kawooma Sharif        |
| 169) Muwanguzi Bosco            | 170) Kaboyo Glovis          | 171) Obitrre Gilbert       |
| 172) Winston Ddamulira          | 173) Muwonge Paul           | 174) Aatama Godfrey        |
| 175) Mugoya Samuel              | 176) Mpagi Dan              | 177) Muguma Deos           |
| 178) Fahad Mukiibi              | 179) Luyinda Adam           | 180) Ssenyonga Bonny       |
| 181) Katongole Rashid           | 182) Lubega Isma            | 183) Mawanda Patrick       |
| 184) Lugonda Ramathan           | 185) Musobya Adam           | 186) Menya Faisol          |
| 187) Mudiba Faisol              | 188) Sserubula Stephen      |                            |

**Table 5.8: List of missing persons as provided by NUP**

|                        |                           |                            |
|------------------------|---------------------------|----------------------------|
| 1) Abdul Rashid Nkinga | 2) Geoffrey Allan Katumba | 3) Jumah Kyobe             |
| 4) Ronald Mugerwa      | 5) Emmanuel Mukasa        | 6) Kamya Stanley           |
| 7) Baker kawooya       | 8) Dickens Omulongo Kato  | 9) Astrnab Sharif Ssalongo |
| 10) Victor Kamenya     | 11) Edward Sserukenya     | 12) Muwanguzi Bosco        |
| 13) Emmanuel Bazira    | 14) Gordon Byenkya        | 15) Winston Ddamulira      |
| 16) Fred Irr-Ambu      | 17) Davis Walugembe       | 18) Mugoya Samuel          |

|                                      |                                    |                           |
|--------------------------------------|------------------------------------|---------------------------|
| 19) Muhammad Ssekimpi                | 20) Shamim Majweega                | 21) Fahad Mukiibi         |
| 22) Kiberu Julius Junior             | 23) Richard Ssonko                 | 24) Katongole Rashid      |
| 25) Mugaaga Abdul Karim              | 26) Daudi Niwabiine                | 27) Opira Franklin        |
| 28) Kanya Sheldon                    | 29) Muhammad Ssemakula             | 30) Humure Sankara Thomas |
| 31) Muhammed Nahiru                  | 32) Ashiraf Kigozi                 | 33) Steven Sseremba       |
| 34) Sula Kiwanuka                    | 35) Abubakar Ashiraf               | 36) Kimbowa Samuel        |
| 37) Joseph Kyakuwa                   | 38) Abdul Fatta                    | 39) Bomboka Bernard       |
| 40) Stephen Ntulume                  | 41) Richard Bill Kyeyune           | 42) Kalungi Davis         |
| 43) Joseph Katongole                 | 44) Godwin Lubega                  | 45) Alex Kayemba          |
| 46) Andrew kakinda                   | 47) Deogratius kizza               | 48) Katongole Emmanuel    |
| 49) Vincent Muwonge                  | 50) Isaac Ssempebwa                | 51) Tabula Ssekitoleko    |
| 52) Emmanuel Ngobya                  | 53) Amon Bazira                    | 54) Asherure Raymond      |
| 55) John Kiwanuka                    | 56) Hamis Ssekamate                | 57) Daniel Kibuule        |
| 58) Farouk Mukapa                    | 59) Humphrey Ssebyaala             | 60) Sylvia Namazi         |
| 61) Javira Luyombya                  | 62) Saddam Kasirye                 | 63) Jackson Tumwine       |
| 64) Mahad Mukasa                     | 65) Blasto Turigye                 | 66) John Baptist Kyazze   |
| 67) Fahad Kasinga                    | 68) Simon Peter Mubiru             | 69) Martin Ssemwogerere   |
| 70) Ronald Kawuki                    | 71) Julian Namatta                 | 72) Ian Enock Mutesasira  |
| 73) Barrack Kyazze                   | 74) Spencer Akanyijuka             | 75) Shafik Kakooza        |
| 76) Sulait Kyambadde                 | 77) Ashton Kisitu                  | 78) Mark Muwonge Kityo    |
| 79) Ssegirinya Emmanuel              | 80) Joseph Paul Kawanga            | 81) Evidence Agaba        |
| 82) Ivan Kawenja                     | 83) Martin Tumusiime               | 84) Martin Jomwe          |
| 85) Frank Lusembo                    | 86) Francis Ssemuto                | 87) Kyomuhendo David      |
| 88) Derrick Ssebugenyi               | 89) Deus Katumba                   | 90) Male Haruna           |
| 91) Mahad Kyakuwa                    | 92) Kiwuka Hebry                   | 93) Ssebuliba Martin      |
| 94) Ashraf Nsubuga                   | 95) Francis Ssematiko              | 96) Babu Karim            |
| 97) Cytria Arinaitwe                 | 98) Kiyingi Thomas                 | 99) Kizito Samuel         |
| 100) Julius Buwembo                  | 101) Henry Ngobi                   | 102) Mwanje Braxton       |
| 103) Jamesi Katabazi                 | 104) Ssebwato Baker                | 105) Menya Boaz           |
| 106) Peter Matovu                    | 107) Issa Ssebyala                 | 108) Mukisa Arafat        |
| 109) Rogers Galiwango                | 110) Godfrey Kisembo Alias Buyaaya | 111) Kagere Hikab         |
| 112) John Bosco Sserunkuma           | 113) John Mary Birimuye            | 114) Moses Kalule         |
| 115) Yusuf Mutebi                    | 116) Sylvia's Husband              | 117) Tumwine Robert       |
| 118) Dickson (Arafat) Katamba        | 119) Ramadhan Kaweesa              | 120) Sseruyenda Farouk    |
| 121) Hannington Kasirye              | 122) Muhammad Nsereko              | 123) Ssimbwa Godfrey      |
| 124) Steven Lule                     | 125) Sula Muguluma                 | 126) Mugisha Abdul        |
| 127) Sserwadda Tradet Alias Kansanga | 128) Pius Mwanje                   | 129) Damiano Kyagaba      |
| 130) Tukamushaba Silver              | 131) Nicholas Ssempala             | 132) Kyomuhando Charles   |
| 133) Christopher Bunjo               | 134) Jamada Mayega                 | 135) Yusuf Ssempebwa      |
| 136) Joshua Muwanga                  | 137) Timothy Muwonge               | 138) Iddi Kyobe           |
| 139) Umar Wasswa                     | 140) Ivan Mukwana                  | 141) Alex Ssemwogerere    |
| 142) Migadde Kasim                   | 143) Ben Kuloba                    | 144) Jamilah Kansiime     |
| 145) Umar Munubi                     | 146) Eddy Kisasa                   | 147) Muhindo Xavier       |
| 148) Ismail Kigozi                   | 149) Brian Makuvuya                | 150) Joel Tegulya Kyooma  |
| 151) Vincent Kawuki                  | 152) James Lubowa                  | 153) Joseph Baguma        |
| 154) Tugume Obed (Mugume Obed)       | 155) Victor Makenya Happy          | 156) Jamil Wasika         |
| 157) Kabito Sharif                   | 158) Gayira Noah                   | 159) Sharif Ntege         |

|                             |                                      |                                 |
|-----------------------------|--------------------------------------|---------------------------------|
| 160) Kigongo Faisal         | 161) Henry Thierry Kakinda           | 162) Ssentumbwe Hamidu          |
| 163) Ali Musisi             | 164) Joel Ddamba                     | 165) Akram ZZiwa                |
| 166) Matia Kibirige         | 167) Denis Matovu                    | 168) John Damulira              |
| 169) Yuda Ssempala          | 170) Mbabazi Moses                   | 171) Michael Ssemuddu           |
| 172) Kanatta Muhamad        | 173) Lukwago Vincent                 | 174) Katumba Ivan               |
| 175) Gaza Kharim            | 176) Nalumoso Vincent                | 177) Okeba Hassan               |
| 178) Muhamad Mutebi         | 179) Shafiq Wangolo Kalulu Silvester | 180) Busulwa Eric               |
| 181) Sowedi Lwanga          | 182) Rashid Katongole                | 183) Katumab Hamza              |
| 184) Jolly Tukamushaba      | 185) Ssegawa Salim                   | 186) Musana Swaibu              |
| 187) Sulaiman Kyambadde     | 188) Agaba Ronald                    | 189) Masaba Karimu              |
| 190) Andrew Kiwanuka        | 191) Ali Sahraf Mwanje               | 192) Hamza Saidi Maato          |
| 193) Herbert Muganda        | 194) Thomas Ssemuwemba               | 195) Ashraf Ali Sserunkuma      |
| 196) Shafik Nyombi          | 197) Nakabuye Rosette                | 198) Maanya Ramadhan            |
| 199) Nampewa Hafiswa        | 200) Kyobe John Mark                 | 201) Brian Ainomugisha          |
| 202) Davis Kabuye           | 203) Jaggwa Josephat                 | 204) Amos Tumwine               |
| 205) Frank Nuwaba           | 206) Kyomukama Philip                | 207) Joweria Kyanzi             |
| 208) Junior Mujirizi        | 209) John Mary Babiiha               | 210) Hassan Ssewankambo         |
| 211) Francis J Nsubuga      | 212) Kaddu Harrison                  | 213) Kawuma Marvin Isaac        |
| 214) Kawuku Vincent         | 215) Muwonge Ismail                  | 216) Tendo Geofrey              |
| 217) Ibnrahim kakembo       | 218) Higenyi Lawrence                | 219) Nanyondo Allen             |
| 220) Fredrick Kisawuzi      | 221) Kyobe Brian Charles             | 222) Mukisa Hamza               |
| 223) Tom Ddumba             | 224) Hilary Agaba                    | 225) Zalwango Francis           |
| 226) Ibrahim Jamwa          | 227) Ssekimpi Rogers                 | 228) Mark Mutungi               |
| 229) Ronald Higenyi         | 230) Kamara Johnson                  | 231) Sediba Misach              |
| 232) Bob Francis Naijuka    | 233) Kabogo Akram                    | 234) Karim Ssempijja            |
| 235) Sunday Mugema          | 236) Seruyange Samson                | 237) Tuhimbise Lewis            |
| 238) Sualiti Wasswa         | 239) Mawanda Adam                    | 240) Kibirango Kasim            |
| 241) Augustus Ssempebwa     | 242) Kasujja James                   | 243) Tom Stuart Ssekiziyivu     |
| 244) Deo Ssekiziyivu        | 245) Kasumba Eric                    | 246) Kavuma Musa                |
| 247) Ivan Mere              | 248) Ngobi Hassan                    | 249) Ainebyona Herbert          |
| 250) Rogers Wasswa          | 251) Kato Faisal                     | 252) Ssentamu Ronald            |
| 253) Osbert Yamurebire      | 254) Nassif Kibirango                | 255) Karim Twaibu Kyobe         |
| 256) Kingo Muhammad         | 257) Makanga Alex                    | 258) Danstan Bunjo              |
| 259) Kaddunabi Timothy      | 260) Katumab Julius                  | 261) Dominic Ssempe             |
| 262) Mark Gerald Walugyo    | 263) Atwiine Joshua                  | 264) Saif Ali                   |
| 265) Joseph Senfuka         | 266) Jim Sserukenya                  | 267) Charles Muganga            |
| 268) Jonathan Kitayimbwa    | 269) Juma Nangoli                    | 270) Friday Kakuru              |
| 271) Joseph Kigoonya        | 272) Fahim Sebwaato                  | 273) Chrysostom Bahwa           |
| 274) Naomi Namuddu          | 275) Lule Rajab                      | 276) Gerald Luyombya            |
| 277) Adam Kizito            | 278) Omulogo Wasswa Godwin           | 279) Hesea Ssimbwa              |
| 280) Ibrahim Tumusiime Deen | 281) Joseph Augustine Kawooya        | 282) Mukasa Hannington Lawrence |
| 283) Ismail Lwanga          | 284) Walusimbi Abdullah              | 285) Junior Rogers Kazibwe      |
| 286) Andrew Lutakome        | 287) Lutwama Joseph                  | 288) Moses Barungi              |
| 289) Joel Ssentumbwe        | 290) Katwere Richard                 | 291) John Mugabi                |
| 292) Kayanja Simon Peter    | 293) Mwanje Keith                    | 294) Ceaser Julius Tekko        |
| 295) Victory Aineomugisha   | 296) Tamale Jamiru                   | 297) Vincent Mawaggali          |
| 298) Hassan Kiyemba         | 299) Mwanje Robert                   | 300) Mutebi Abdusalaam          |

|                               |                            |                              |
|-------------------------------|----------------------------|------------------------------|
| 301) Yusuf Lumala             | 302) Ssempijja Rajab       | 303) Kato Katamba Joseph     |
| 304) Seresio Kyambadde        | 305) Kizito Frank          | 306) Tamalt Vincent          |
| 307) Brian Ssegujja           | 308) David Kimbugwe        | 309) Mababazi Kawenja        |
| 310) Ssemala Jonah            | 311) Francis Kayemba       | 312) Ddumba Ivan             |
| 313) Herbert Kayinda          | 314) Michael Lubwama       | 315) Kivumbi Hassan          |
| 316) Simon Peter Twine        | 317) Joel Senkumi          | 318) Mubiru Isma             |
| 319) Tadeo Kagoro             | 320) Ronald Namara         | 321) Musisi Brian            |
| 322) George Franklin Kisawuzi | 323) Benedict Ssemwogerere | 324) Hillary Charles Mutyaba |
| 325) Abdul Karim Lwanga       | 326) Muwanguzi Steven      | 327) Matovu Issa             |
| 328) Nsamba Kassim            | 329) W.Muwonge Warren      | 330) Kisembo Hakim           |
| 331) Joseph Kyamagero         | 332) Kagimu Lawrence       | 333) Kyeyuna Sam             |
| 334) Conrad Kato              |                            |                              |

**Table 5.9: Suspects in various courts and prisons**

| NAME |                     | COURT OR PRISON | NAME |                   | COURT OR PRISON |
|------|---------------------|-----------------|------|-------------------|-----------------|
| 1)   | Tumusinguzi Vincent | Busunju Court   | 1)   | Kagame Mark       | LDC Court       |
| 2)   | Ofwono Douglas      | Kiira Court     | 2)   | Ayo Joseph        | LDC Court       |
| 3)   | Kyomugisha Derrick  | Kiira Court     | 3)   | Kalyango Gerald   | LDC Court       |
| 4)   | Sserubiri Asuman    | Kiira Court     | 4)   | Mushabe Fred      | LDC Court       |
| 5)   | Kiiza Patrik        | Makindye Court  | 5)   | Mayeka Meddie     | LDC Court       |
| 6)   | Kakande Isma        | Makindye Court  | 6)   | Nawataho Keneth   | LDC Court       |
| 7)   | Nyanzi Hassan       | Makindye Court  | 7)   | Opwonya Adam      | LDC Court       |
| 8)   | Semakula Hassan     | Makindye Court  | 8)   | Wanyiha Ivan      | LDC Court       |
| 9)   | Tamale Fahad        | Makindye Court  | 9)   | Ainebyona Ruben   | LDC Court       |
| 10)  | Katushabe Tofia     | Nakasenke Court | 10)  | Osuna Vincent     | LDC Court       |
| 11)  | Oyerwot Daniel      | Nakasenke Court | 11)  | Musanja Martin    | LDC Court       |
| 12)  | Katushabe Tofia     | Nakasenke Court | 12)  | Twakyire Ronald   | LDC Court       |
| 13)  | Lubega Morgan       | Mityana Prison  | 13)  | Mutebi Justus     | Mityana Prison  |
| 14)  | Kasumba Brian       | Mityana Prison  | 14)  | Kyeyune Joseph    | Mityana Prison  |
| 15)  | Ssemata Abasi       | Mityana Prison  | 15)  | Magezi Noah       | Mityana Prison  |
| 16)  | Mpiima Rogers       | Mityana Prison  | 16)  | Ssevume Stephen   | Mityana Prison  |
| 17)  | Kyuma Shafik        | Mityana Prison  | 17)  | Byamuka Fred      | Mityana Prison  |
| 18)  | Mukisa Ssemata      | Mityana Prison  | 18)  | Munegula Lawrence | Mityana Prison  |
| 19)  | Kiberu Frank        | Mityana Prison  | 19)  | Ssegawa Vincent   | Mityana Prison  |

### 5.3.2 Complaints of alleged cases of enforced disappearance received by UHRC

In 2021, the UHRC received 69 complaints of alleged enforced disappearance for further investigations. The majority of the complaints were received by the UHRC's central regional office totalling 51 complaints, while 18 were received by Masaka Regional Office arising from Kyotera District.

**Table 5.10: Complaints of alleged enforced disappearances received by UHRC**

| NO           | DISTRICT | NUMBER OF COMPLAINTS REGISTERED |
|--------------|----------|---------------------------------|
| 1.           | Mukono   | 20                              |
| 2.           | Kyotera  | 18                              |
| 3.           | Kampala  | 11                              |
| 4.           | Wakiso   | 6                               |
| 5.           | Mpigi    | 8                               |
| 6.           | Mityana  | 6                               |
| <b>Total</b> |          | <b>69</b>                       |



*Residents of Kismula village, Mawokota-Mpigi District, display pictures of their missing loved ones (photo credit: BBC News Africa, 10 March 2021)*

### 5.3.3 Number of victims of enforced disappearances still missing

Media reports, including findings from UHRC, revealed that out of the 69 victims of enforced disappearances that UHRC received and conducted investigations into, 64 were released upon UHRC intervention, while five (three male and two female) were alleged to be missing by the time this report was compiled.

**Table 5.11: Number of victims of enforced disappearance still missing in 2021**

| NO | NAME OF VICTIM  | ALLEGED DATE OF ABDUCTION OR ARREST |
|----|-----------------|-------------------------------------|
| 1  | Damulira John   | Missing since 21 November 2020      |
| 2  | Kafeero Matthew | Missing since 23 November 2020      |
| 3  | Kigozi Matthew  | Missing since 23 November 2020      |
| 4  | Namayanja Sarah | Missing since 23 December 2020      |
| 5  | Nabwere Agnes   | Missing since 23 December 2020      |

## 5.4 HUMAN RIGHTS CONCERNS

### a) Arbitrary arrest and detention

Article 9(1) of the ICCPR provides for the right to liberty and security of a person and that no one shall be subjected to arbitrary arrest or detention. Similarly, Article 23 of the Constitution provides that a person arrested, restricted or detained shall be informed immediately in a language that the person understands of the reasons for the arrest, restriction or detention and his or her right to a lawyer of their choice. An arrested person that is not released earlier should be brought to court as soon as possible, but in any case, not later than 48 hours from the time of their arrest.

The UN Working Group on Arbitrary detention defines arbitrariness to include inappropriateness, injustice, lack of predictability and due process of the law.<sup>167</sup> Arbitrary arrests and detention remain the most prominent acts used by perpetrators against victims of enforced disappearances. Victims of alleged enforced disappearances were allegedly arrested without being told the reason for their arrest, kept in ungazetted detention facilities, denied access to legal representation, and were not produced before any court or subjected to any judicial process. There were also allegations of over detention beyond the mandatory 48 hours before release.<sup>168</sup> Although the right to personal liberty is not absolute as provided for, under the Constitution, the act of arbitrary arrest and detention contravenes the human rights standards on limitation of rights, which requires that the limitation be lawful, necessary, reasonable, acceptable proportional to the threat.

#### 5.4.1 Freedom from torture and ill-treatment

Enforced disappearance and torture are inextricably connected acts.<sup>169</sup> Article 24 of the Constitution and the Prevention and Prohibition of Torture Act 2012 (PPTA) prohibit acts of torture, cruel, inhuman or degrading treatment or punishment. Specifically, Article 44 of the Constitution makes freedom from torture a non-derogable right. However, despite these legal provisions, the use of torture still exists. There were allegations of physical and psychological torture, in media reports showing injuries and wounds on the victim's bodies, reportedly sustained due to torture.

#### 5.4.2 Deprivation of the right to a fair and speedy hearing

The right to a fair and speedy hearing is a non-derogable right which cannot be derogated from, even during a time of emergency. It is provided for under Articles 28 and 44 of the Constitution. It affords an accused person the right to be presumed innocent until proven guilty<sup>170</sup> and to be informed of the nature of the offence in a language they understand. The accused person is also entitled to a fair, speedy and public hearing before an independent and impartial court or tribunal.

The practice of enforced disappearances does not accord the victim the right to a fair and speedy hearing since victims are kept outside the protection of the law. Some of the victims reported that they were not produced before courts of law. There were also media reports that some victims were driven by the alleged perpetrators and dumped at night on the roadside or forests in the following districts: Masaka (Kivuvu, Kyabadaza, Kiwala and Mbalala), Mpigi (Mbiziya, Buwama), Wakiso (Nansana, Kakiri), and Kyotera. The right to an order of Habeas Corpus was also not respected despite rulings by the High Court (for example, the case of Ddamulira John, in which the High Court issued two orders without any positive result).

#### 5.4.3 Denial of access to the outside world and family members

Alleged cases of enforced disappearance deprive the victim's access to the outside world, including their

<sup>167</sup> <https://www.ohchr.org/en/about-arbitrary-detention> Visited on 19 March 2022.

<sup>168</sup> See Article 23 (4)(b) of the Constitution.

<sup>169</sup> REDRESS "Enforced Disappearance and Torture" available at <https://redress.org/wp-content/uploads/2021/07/Training-Module-03-Enforced-Disappearance-As-Torture.pdf> Visited on 14 March 2022.

<sup>170</sup> See Article 11 of the UDHR, Article 14(2) ICCPR; Article 66 of the Rome Statute, Article 7(1) African Charter on Human and Peoples Rights, Article 28(3) of the Constitution; the Trial on Indictment Act, Cap 23; the Police Act Cap 303; the UPDF Act, No.7 of 2005 and the Criminal Procedure Code Act, Cap 116

family members.<sup>171</sup> There were reports that victims did not know which part(s) of the country they were detained and in some cases were not allowed to physically see those they were detained with in the same facility or those detaining them. This was contrary to the rights of suspects in detention facilities.

#### 5.4.4 Access to medical care and treatment

The right to health means that everyone has the right to the highest attainable standard of physical and mental health, including access to all medical services, sanitation, adequate food, decent housing, healthy working conditions and a clean environment.<sup>172</sup> Victims of enforced disappearances face challenges in accessing medical care and treatment, thus an infringement on their rights.

#### 5.4.5 Interventions by various state and non-state actors

##### 1. The oversight role of Parliament

Following numerous media reports on increasing cases of enforced disappearances and the President's directive to all agencies to make the list of missing persons public, on 4 March 2021, the Speaker of Parliament tasked the Minister of Internal Affairs to table the list of all missing persons in the country. On the same day, the Minister of Internal Affairs, the then Hon. Jeje Odongo presented to Parliament a list of 177 names of missing persons he said were in detention following their arrest during and after the January 2021 elections.<sup>173</sup> Out of the 680 names on the NUP list to Parliament, 71 had appeared on the government list, and the government acknowledged only 242 arrests. According to the Minister, 43 persons were arrested for participating in the 18-19 November 2020 riots and 156 were arrested from meetings planning post-election violence, while six were released on police bond.

##### 2. UHRC's intervention

###### a) Complaint receipt and investigations into cases of alleged enforced disappearances

UHRC is mandated to receive and investigate complaints at its own initiative or on a complaint made by any person or group of persons against a violation of any human right.<sup>174</sup> As such, UHRC received and conducted investigations into 69 complaints involving cases of alleged enforced disappearance. Of the 69 complaints registered, 42 were initiated by the central regional office due to media reports. As a result of UHRC intervention, 64 people were released, comprising 18 from Kyotera under the Masaka regional office and 46 under the central regional office. Further investigations into these complaints are ongoing to ensure that victims get justice.

###### b) Referral for medical treatment to the African Centre for Treatment and Rehabilitation of Torture Victims (ACTV)

UHRC made referrals specifically for medical examination and treatment of victims of enforced disappearances to ACTV. This was for those alleged to have been subjected to torture, causing both physical and psychological suffering during arrest and incommunicado detention. A total of 20 victims were referred to ACTV for treatment.

###### c) Referral to Uganda Police Force and High Court

UHRC engaged with the Uganda Police Force to determine the whereabouts of missing persons. Families of victims were also advised to obtain orders of habeas corpus from the courts of law (for example, the case of Damulira John, though it bore no fruit<sup>175</sup>). The Commission has not received any updates from the Police on the progress of their efforts in tracing the victims who are still missing.

171 According to Nigel R. & Matt P. (2009) "The treatment of Prisoners under International Law" pg 461, incommunicado detention refers to detention that prohibits the detainee from having contact with the outside world.

172 <https://www.who.int/news-room/fact-sheets/detail/human-rights-and-health> Visited on 11 March 2022.

173 [https://www.monitor.co.ug/uganda/news/national/minister-odongo-tables-before-parliament-list-of-177-missing-ugandans-3311826?\\_cf\\_chl\\_captcha\\_tk\\_\\_=pmd\\_a6427906c1c06a3d0fccc9a2f759647d487c8ad4-1628172922-0-gqNtZGzNAzjcnBszQn6](https://www.monitor.co.ug/uganda/news/national/minister-odongo-tables-before-parliament-list-of-177-missing-ugandans-3311826?_cf_chl_captcha_tk__=pmd_a6427906c1c06a3d0fccc9a2f759647d487c8ad4-1628172922-0-gqNtZGzNAzjcnBszQn6)

174 See Article 52(1) (a) of the Constitution.

175 URN "Is he Alive? John Ddamulira's family asks a year after his arrest, 11 November 2021 available <https://ugandaradionetwork.net/story/is-he-alive-john-damulira-family-asks-a-year-after-his-arrest> Visited on 18 March 2022.

#### **d) Inspection of places of detention**

UHRC, through its constitutional mandate, conducted inspections of places of detention to establish whether, indeed, the persons allegedly missing were kept in any of the gazetted detention places. Inspections were conducted at Kitalya Mini Maxi prison; however, UHRC established that some victims who were alleged to be missing were actually in detention. A total of 32 victims, as earlier indicated by Hon. Rtd Jeje Odongo were actually detained at Kitalya Mini Maxi prison. UHRC also noted that the inmates' rights while in detention were being adhered to by the detaining authority.

### **3. Interventions by non-state actors**

#### **a) Advocacy to end acts of enforced disappearance**

The UN Independent Human Rights Experts on the Working Group on Enforced and Involuntary disappearances condemned the act of enforced disappearances that happened in Uganda before and after the elections.<sup>176</sup> One advocate stated, "We are urging the Government of Uganda to take all necessary measures to immediately stop the concealing of information concerning individuals arrested in the general elections, a practice amounting to enforced disappearance, and reveal their fate and whereabouts."<sup>177</sup> To ensure access to justice for victims of enforced disappearances, the Legal Aid Service Provider's Network (LASPNET), together with Avocats Sans Frontiers and the then Chapter Four Uganda, issued a statement on 16th March 2021 in which the government was called upon to account for the exact number of victims of the enforced disappearances since the statistics on both the side of government and opposition politicians remained scanty.

LASPNET further issued an opinion article and public notice both in English and Luganda, which were published in the New Vision and Bukedde newspapers, respectively calling upon the public to report incidences of enforced disappearances through the LASPNET toll-free line (0800 200155) as well as its member organisations such as Uganda Law Society (ULS) and Justice Centres Uganda (JCU). As a result, LASPNET recorded five cases that were supported through their call centre, rapid legal response and member organisations.<sup>178</sup>

## **5.5 RECOMMENDATIONS**

1. The Ugandan Government should ratify the International Convention for the Protection of All Persons from Enforced Disappearances.
2. Security agencies should ensure effective and efficient enforcement and implementation of the existing legal provisions, such as the Human Rights Enforcement Act, 2019 and the Prevention and Prohibition of Torture Act, 2012, among others, to ensure the protection of fundamental human rights.
3. The Ugandan Government should expeditiously enact specific legislation on witness protection and expedite the enactment of the Legal Aid Bill into law.
4. The Uganda Police force should investigate all cases of enforced disappearances and ensure that perpetrators are brought to book and victims get justice.

## **5.6 CONCLUSION**

It is the duty of all security agencies to observe and respect human rights and freedoms in the performance of their mandate. UHRC therefore calls upon all Security agencies to always respect and observe human rights in the performance of their duties.

<sup>176</sup> News and Press Release of the United Nations Human Rights Council posted and published on 13th April 2021 accessed on <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26988&LangID=E> Visited on 14 April 2021.

<sup>177</sup> As above.

<sup>178</sup> Dr. S. Namubiru Mukasa, Chief Executive Officer, LASPNET on LASPNET's perspective on enforced disappearances in Uganda and Human Rights Implications in 2021, a presentation made at the UHRC 24th Annual Report Consultative Meeting held at UHRC, Board Room, 21-23 February 2022.

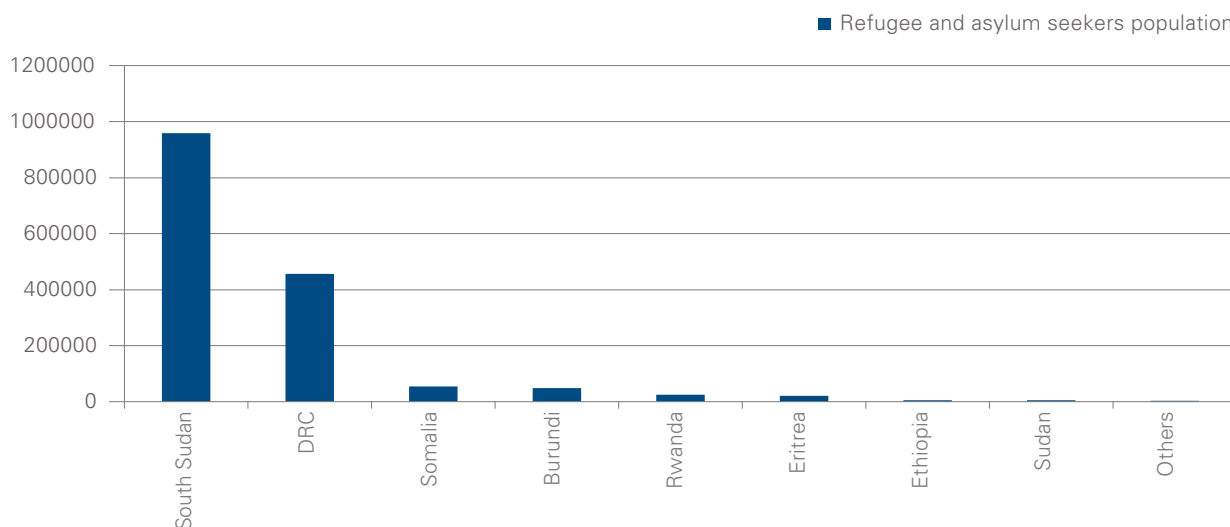
# CHAPTER SIX:

# THE PLIGHT OF URBAN REFUGEES IN UGANDA

## 6.1 INTRODUCTION

In the aftermath of World War I (1914-1918), millions of people fled their homes, searching for refuge. The numbers increased during and after World War II (1939-1945) as millions more were forcibly displaced, deported and or resettled.<sup>179</sup> Uganda was one of the countries that hosted polish refugee world war victims in the 1940s.<sup>180</sup> In the 1950s, Uganda hosted 80,000 Sudanese refugees fleeing civil war,<sup>181</sup> and in the 1960s, it hosted refugees from Rwanda and Burundi. Since then, Uganda has been a preferred destination for refugees and asylum seekers from many countries, including the Democratic Republic of Congo, Rwanda, Burundi, Kenya, Ethiopia, South Sudan, Sudan, Eritrea, and Somalia.

**Figure 6.1: Refugees and asylum seekers by countries of origin**



Source: OPM, 2021

Today, millions of people continue to be forced to flee their homes due to armed conflicts, generalised violence or human rights violations. According to the United Nations High Commissioner for Refugees (UNHCR) mid-year trends report,<sup>182</sup> an estimated global forced displacement likely exceeded eighty-four million (84 million) from the eighty-two million four hundred thousand (82.4 million) reported in 2020. Of the 84 million displacements by mid-2021, there was an increase of 1,600,00 from 82.4 million reported in 2020. Of the 84 million individuals forcibly displaced, 26.6 million were refugees, 50.9 million were internally displaced, 4.4 million asylum seekers and 4.1 million Venezuelans were displaced abroad.

In 2020, the global population of refugees was 26.4 million, and by mid-2021, there were 26.6 million refugees representing an increase of two million in just the first half of the year. Uganda hosted 1.4 million

<sup>179</sup> <https://www.unhcr.org/1951-refugee-convention.html>.

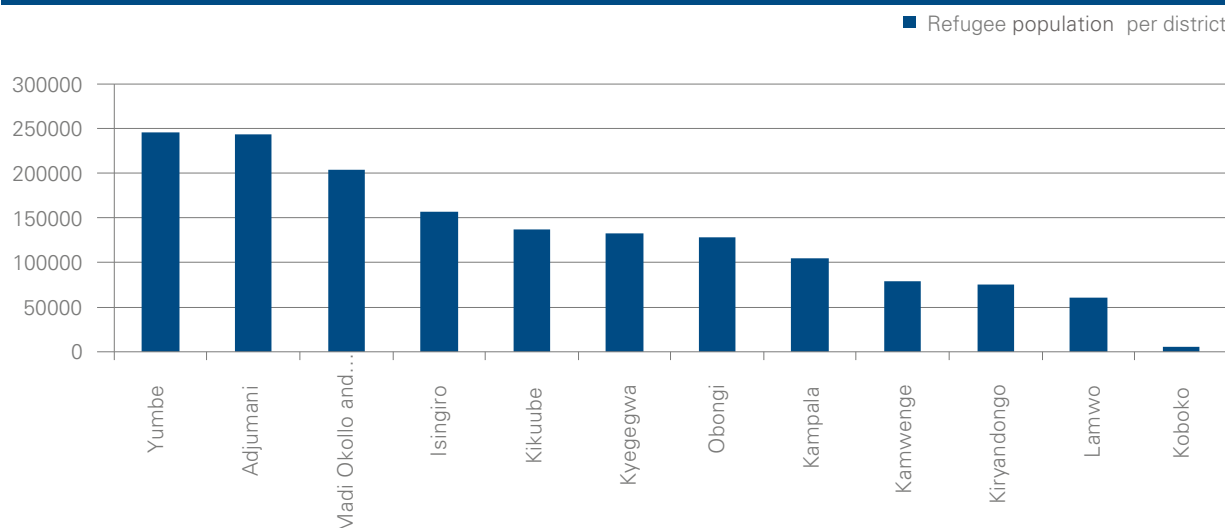
<sup>180</sup> <https://theconversation.com/Uganda-has-a-remarkable-history-of-hosting-refugees-but-its-efforts-are-underfunded>.

<sup>181</sup> Ibid.

<sup>182</sup> <https://www.unhcr.org/mid-year-trends>

of the world's refugees in 2020, and by the end of 2021, Uganda was hosting 1,573,291 refugees representing an increase of more than 150,000. Refugee hosting districts in Uganda include Yumbe, Madi Okollo and Terego, Adjumani, Isingiro, Kikuube, Kyegegwa, Obongi, Kampala, Kamwenge, Kiryandongo, Lamwo and Koboko<sup>183</sup>. The refugees are hosted both in designated settlements or camps and urban centres.

**Figure 6.2: Refugee and asylum seekers' host districts**



Source: OPM, 2021

The UNHCR estimates that 60% of the refugee world population lives in cities.<sup>184</sup> In the 1950s, less than 30% of the world's population lived in cities and towns, meaning the figure has risen to over 50% in the last 60 years and is expected to reach 60% by 2030.

According to the Office of the Prime Minister (OPM), Kampala is the only urban area with a registration or documentation site for urban refugees. By the end of December 2021, there were 78,177 refugees and 26,899 asylum seekers (a total of 105,076), comprising 6% of the total population of 1,573,291. The urban refugees in Kampala are from Somalia, DRC, Eritrea, South Sudan, Burundi, Ethiopia and Rwanda. Their settlement is concentrated in Kampala Central Division with 37.6%, Makindye Division with 35.9%, Rubaga Division with 21.4% and Nakawa Division, Kawempe Division, Makerere University and Ssabagabo-Makindye with 5%.

UHRC tried to establish the existence of urban refugees in Kabale, Hoima, Mbarara and Arua but did not get any presence of urban refugees in those urban centres. However, it had learnt that there were roughly 2,000 to 3,000 urban refugees in Arua in 2019. The findings by UHRC may not be conclusive as some refugees living in some urban centres tend to fear declaring themselves for various reasons. All the information collected on urban refugees was only in Kampala.

Despite the hope of opportunities and a better future expected by urban refugees in urban settlements, the UHRC observed that urban refugees are confronted with a range of protection risks, including threats of arrests and detention, refoulement, harassment, exploitation, discrimination, inadequate and overcrowded shelters as well as vulnerability to sexual violence, gender-based violence, HIV/AIDS, human smuggling and trafficking, lack of recognition as refugees while in urban areas, lack of adequate resources to engage in self-reliance activities, and corruption.

This chapter assesses the human rights concerns faced by urban refugees in Uganda in urban centres in Uganda and makes appropriate recommendations to address them.

<sup>183</sup> Ibid

<sup>184</sup> <https://www.unhcr.org/innovation/the-power-of-cities>.

## 6.2 LEGAL AND POLICY FRAMEWORKS

There are various instruments and laws at the international, regional and national levels for the protection and promotion of the rights of refugees, as discussed below.

### 6.2.1 International legal framework

The Universal Declaration of Human Rights (UHDR) was the first international instrument that declared equality and dignity of all human beings and set minimum human rights standards to guide the international community in treating fellow human beings, including people forcibly displaced or fleeing their countries. Article 14 (1) of the UHDR recognises the right of everyone to seek and enjoy asylum in other countries in case of persecution in the country of origin. It should be noted that the UDHR arose from the events of world wars and laid a foundation for the future protection of refugees, including those who may choose to settle in urban areas for various reasons.

The 1951 Convention relating to the Status of Refugees was adopted in July 1951 in Geneva, Switzerland; this document forms the core international protection mechanisms for refugees and asylum seekers. The Convention spells out who a refugee is and the kind of legal protection, assistance and rights to which they are entitled, including urban refugees. It also defines a refugee's obligations to host countries and specifies categories of people who do not qualify for refugee status.

Since the 1951 Convention was limited in time and geographic location arising from the world wars, it was later amended to expand its scope of application to take into account the increased displacement that was spreading around the world.

The UNHCR Policy on Refugee Protection and Solution in Urban Areas recognises the increasing preference of many asylum seekers for urban settlements and sets out guidelines to help them exercise the rights to which they are entitled.

### 6.2.2 Regional legal framework

The African Charter on Human and Peoples Rights under Article 12 (3) grants every individual the right when persecuted to seek and obtain asylum in other countries per the laws of those countries and international conventions. The 1969 OAU Convention Governing the Specific Aspects of the Refugee Problems in Africa is another critical legal framework for the protection and promotion of the rights of refugees. It expanded the definition of a refugee to that provided by the 1951 Convention to include persons who flee their country due to external attacks which affect the normal public life or order in the country of origin and force one to leave the home of origin to seek refuge in another country.

### 6.2.3 National legal framework

The 1995 Constitution of the Republic of Uganda under Chapter four provides for a range of human rights that apply to all people in Uganda, whether they are nationals or non-nationals. It guarantees equal rights among all people in the country, including refugees, without any form of discrimination.

In order to align the Control of Alien Refugees Act 1964 with provisions of the 1951 Convention and Bill of Rights under the 1995 Constitution, the Refugee Act 2006 was enacted, and it opened the doors for the refugees to move freely in Uganda without restriction, to settle in any part of Uganda including urban areas once permission is granted and by the responsible officer and to exercise their rights without discrimination. To implement the Refugee Act 2006, the 2010 regulations provide mechanisms for granting refugee status, which confer enjoyment of rights as provided in the Act, the 1995 Constitution of the Republic of Uganda and other relevant regional and international conventions.

## Causes of urban refugee settlement

The policy of the government of Uganda is for refugees to settle in camps. However, those with the capacity to settle in urban centres can do so in line with the existing legal regimes. Some of the factors that have influenced urban refugee settlement include the following.

### 1. Lifestyle in the country of origin

Refugees who previously lived in urban centres with no knowledge of farming are said to do relatively poorly in camps or rural areas compared to urban centres where they can use their skill, education and expertise to avoid dependency.

### 2. Search for services

The search for readily available services of higher quality in urban centres than in camps, including education, health, vocational training, housing, communication, and recreational facilities, may influence refugees' choice of settlement location.

### 3. Employment opportunities

The search for employment opportunities which are believed to exist more in urban areas compared to camps, drives some refugees to settle in urban areas.

### 4. Policy for rights protection

The development of favourable legal regimes and policies favours urban refugee settlements. For example, the Refugee Act 2006 and UNHCR Policy on refugee protection and solutions in urban areas recognise urban refugees and guarantee the protection and promotion of their rights just like any in camps. This may motivate some refugees to move into urban areas due to the protection guaranteed by law.

## 6.3 SITUATIONAL ANALYSIS

The Global Compact on Refugees, adopted by the United Nations General Assembly on 17 December 2018, has been linked to the 2030 Agenda for Sustainable Development and calls for the commitment to not leaving anyone behind, including refugees. However, the increasing number of urban refugees, including women, children, and the elderly, who live without meaningful humanitarian assistance is of concern. Despite the adoption of laws and policies that recognise urban refugees and guarantee the promotion and protection of their rights, they are still faced with several challenges. These include access to identification and documentation; access to public health services, especially specialised treatments like eye care and dental surgery; access to basics like adequate food, education and housing; threats to security and safety; discrimination; unemployment; inadequate relief services; language barrier; hostility from host communities; ignorance on laws and procedures in Uganda; limited access to legal aid services; lack of protection against forced evictions and harassments, and high-cost of services.

By July 2020, there were 80,391 urban refugees in Kampala, with 34% from Somalia, 31% from DRC, 12% from Eritrea, 6% from Burundi and 12% from other countries.<sup>185</sup> At the end of December 2021, OPM reported 78,177 refugees and 26,899 asylum seekers (a total of 105,076), comprising 6% of the total 1,573,291 refugees in Uganda. 38% of urban refugees come from Somalia, 26% from DRC, 19% from Eritrea, and 17% from South Sudan, Burundi, Ethiopia and Rwanda. The UNHCR refugee statistics<sup>186</sup> of February 2022 indicated that the Kampala refugee population was 109,684, with 81,039 refugees and 28,645 asylum seekers, representing a 4,608 (4%) increase in two months. The UNHCR refugee statistics<sup>187</sup> further indicated that adult males between 18 and 59 were 37%, adult females between 18 and 59 were 30%, children were 31%, and elderly males and females were 1% each. The report further notes that only 5.5 % of urban refugees in Kampala were employed in these top five occupations: tailors and dress makers,

<sup>185</sup> <https://report/Uganda/Uganda-urban-refugees-and-asylum-seekers-uganda-9-July-2020>.

<sup>186</sup> <https://data2.unhcr.org/en/documents/details/91324/-ga=2.55203496>.

<sup>187</sup> Ibid

commercial sales representatives, business services and administration, field crop and vegetable growing, and religious professions.

The statistics above signify that the urban refugee population will continue to grow; that the anticipated opportunities in urban areas are not readily available; that there is an increased burden on public social service delivery in Kampala and other urban areas where refugees have moved, which could potentially lead to conflict with host communities. Also notable is the in and out movement of urban refugees and that refugees from Somalia, the Democratic Republic of Congo and Eritrea are the dominant urban refugees. An increased number of women and children will require additional special considerations to promote and protect their rights.

Despite the rights of refugees being recognised under the Refugee Act 2006 and the UNHRC Policy on Protection and Solutions of Urban Refugees, the refugees struggle because<sup>188</sup> they are not legally recognised as refugees if they are in cities. They, therefore, risk being misclassified as economic migrants and therefore lack humanitarian assistance. Often they lack adequate resources to engage in self-reliance activities like those in rural settlements that have been allocated plots for farming. Donor support for refugee activities has been insufficient, and limited resources mean limited management and services. From June 2020 to June 2021, the Refugee Response Plan was 22% funded, leaving a shortfall of US\$596 million to cover all sectors ranging from protection to food, security and sanitation.

The government has established various interventions to support urban refugees as follows.

## **1. Laws and policies**

The Government of Uganda has progressively taken steps to address the situation of urban refugees through the legal regime. Several laws and policies have been enacted, including the Refugee Act 2006, which repealed the Control of Alien Refugees Act 1964, and Regulations 2010, which recognised urban refugees and allowed refugees to move freely within Uganda and work. Uganda further adopted the Comprehensive Refugee Response Framework (CRRF) to streamline the management of humanitarian and development needs of both refugees and host communities to strengthen cooperation and solidarity with refugees and host communities. In order to realise the objective of the CRRF, a multi-stakeholder secretariat composed of government and non-governmental organisations was established. In fulfilment of the CRRF, the Ministries of Education and Health introduced the Education Response Plan (2018 to 2021) and Health Sector Integrated Refugee Response Plan (2019 to 2024) to enhance equitable access and inclusive education and health service delivery for refugees and host communities respectively.

Urban refugees have further been supported in accessing affordable higher education where previously they were treated as international students and made to pay higher fees. The OPM has supported the realisation of the right to education by writing letters to the different institutions and paying school fees as the nationals.

UHRC findings indicate that refugees have been issued identification documents to enable them to access services such as SIM registration and tax identification numbers that have helped them to enjoy the right to work and own businesses. Other interventions include increased sensitisation on refugee rights and obligations by government and stakeholders to enhance the enforcement of their rights; formation of protection working groups of urban refugees; and relocating those unable to cope with the urban life to refugee settlements.

## **2. Institutional framework**

Art 189 (1), item 5 under schedule 6 of the Constitution of the Republic of Uganda 1995, mandates the OPM to manage matters of refugees. The OPM established a department of refugees headed by the Minister of Disaster Preparedness and Refugees with support from the state minister for the same. The Ministry has technical and administrative leadership composed of a permanent secretary assisted by an undersecretary and commissioner for refugees. On the ground, there are regional desk offices and refugee settlement

<sup>188</sup> <https://theconversation.com/Uganda-has-a-remarkable-history-of-hosting-refugees-but-its-efforts-are-understaffed>.

management structures working and coordinating with various stakeholders to address the concerns of refugees.

The department of refugees is mandated to lead and enhance national response capacity to refugee emergency management through receiving and granting asylum to refugees; developing and implementing humanitarian assistance; advising government and other stakeholders on refugee matters; providing physical protection to refugees; improving the physical infrastructure of refugee settlements; and enhancing refugee livelihood through the provision of income-generating activities. A multi-stakeholder secretariat co-chaired by OPM and the Ministry of Local Government exists as a policy and decision-making body on refugees and plays an oversight, coordination and resource mobilisation to ensure a comprehensive response to refugee matters.

## 6.4 HUMAN RIGHTS CONCERNS

### 6.4.1 Identification and documentation of urban refugees

Registration and documentation are the first steps in ensuring protection and facilitating access to essential services for refugees in general but can also help identify those with high vulnerability for special attention and support. Therefore, registration plays a vital role in protecting and promoting the rights of refugees, including urban refugees. UHRC established that identification documents given to refugees are refugee identification cards and family attestations, and they are the same for all refugees in camps and urban centres. The OPM issues the identification cards upon approval by the eligibility committee. Refugees who live in camps and opt to move out are issued refugee movement permits issued by the camp commandants. This allows them to move and live or work in any part of Uganda.

It was reported that some refugees, mainly from the DRC and South Sudan, do not have identification documents. One of the refugee leaders from the United Sudan Urban Refugee Community estimated that 20,000 refugees from South Sudan did not have identification documents. According to OPM and UNHCR, those with no papers could have been affected by a 2015 decision to stop issuing identification documents to refugees from the DRC and South Sudan to avoid overcrowding at the refugee desk office in Kampala. They are expected to apply and wait for a grant of refugees' status at the various reception centres in West Nile and Kisoro before proceeding to urban centres. However, refugees continue to bypass the refugee reception centres at the border points and come straight to Kampala. Despite the lack of cooperation from some refugees, UNHCR, in coordination with OPM, continues to process refugee identification documents for new arrivals in Kampala, but they are faced with network issues which sometimes cause delays in processing the necessary identification documents. It takes about three months to get a refugee ID and family attestation in Kampala.

Refugees reported that some of those without identification documents had already been in urban centres before the directive. In the interim, the refugee leaders have issued community identification cards to those who do not have them. According to one of the refugees, the lack of identification documents has resulted in some refugee seekers suffering in the hands of some law enforcement officers who insist on official identifications from OPM.

It was further observed that the period taken to qualify from asylum seeker to refugee is between one to two years, depending on the prevailing circumstances, including the availability of resources within OPM and the willingness and ability of asylum seekers to follow the prevailing conditions in the country. For example, during the COVID-19 pandemic and lockdown, refugee seekers could not be granted the status due to restrictions on movement and gatherings.

## 6.4.2 Right to health

Right to health refers to complete physical, mental and social well-being and not merely the absence of disease or infirmity. It is an inclusive right and not just access to medical services and facilities. It extends to all factors contributing to a healthy life, including safe drinking water and adequate sanitation, safe food, adequate nutrition and housing, healthy working and working conditions, health-related education and information and gender equality. The essential features of a functional health system are availability, accessibility, acceptability and quality.

The findings by the Commission were that urban refugees are supposed to access health care services from government facilities; however, the quality of service, costs of drugs and transport to and from health facilities, distances of health facilities and attitude of some health workers towards refugees is not satisfactory. There are limited drugs, discrimination and delays due to fewer health workers and large populations. While the situation of health services delivery may not be different from what the citizens go through, the urban refugees are more vulnerable due to a lack of sustainable income to pay for drugs or access specialised treatments not available in government facilities and catering for other family needs. Some refugees also indicated that sometimes, citizens are attended to before them. Therefore, it is important that, despite the challenges faced by the health sector in general, there should be non-discrimination, equality and equity, transparency, participation, and accountability in providing medical services to all, including urban refugees.

## 6.4.3 Right to food

The Government of Uganda's policy is for refugees to stay in designated settlement camps where its partners mandate UNHCR to offer them protection and provide basic needs, including food. However, the refugee policy in Uganda recognises the right of refugees to live in urban areas on the condition that they can fend for themselves. The findings by UHRC indicate that there exist urban refugees who cannot access food because some of them moved to urban centres expecting job opportunities or were able to get jobs and remained in urban centres; others expected to start businesses which failed or were formally residents in urban centres in their countries of origin and therefore could not fit in the camp settlements. According to a survey conducted by UNHCR, the World Bank and the Uganda Bureau of Statistics, the outbreak of COVID-19 disproportionately affected refugees compared to the host communities in various sectors, including food security. Unemployment rose from 44% in March 2020 to 68% by March 2021, thus reducing food consumption.<sup>189</sup> In November 2020, the proportion of households with insufficient food consumption among Kampala based refugees was 32%.

According to a chairman of one refugee community, the prices of food also affected the ability of the urban refugees to provide adequate food for their families. The cost of maize and beans, which are the major foods consumed by the urban refugees, have been increasing, coupled with price discrimination against refugees. For example, a kilogramme of maize flour in the markets of Owino, Kalerwe, Nakawa and Nakasero costs between UGX 1,800 to UGX 2,200 for the average Ugandan, but a refugee may buy the same for between UGX 2,000 to UGX 2,500.

However, it was also found that some of the most vulnerable persons are occasionally supported with posho and beans by organisations such as Jesuit Refugee Service. World Food Programme (WFP) also supports some urban refugees with cash-based transfers via mobile money through airtel and cash over the counter through post bank. The support is, however, not enough due to the high number of urban refugees.

<sup>189</sup> <https://www.acaps.org/country/uganda/crisis/refugees>.

#### 6.4.4 Right to education

Despite all the efforts by the government and partners to ensure access to education by urban refugees, UHRC established that children of urban refugees have limited access to education due to various factors. These include guardians being unable to pay the top-up required under UPE and USE or scholastic requirements like books. According to a leader of one refugee community, they pay UGX 100,000 for children in UPE and UGX 250,000 for those in USE. The cost of university is out of reach for most urban refugee children except for those with rich parents or those who acquire scholarships either from the government or NGOs. One of the leaders of the Congolese community acknowledged that some non-governmental organisations like Windle Trust offer support to a small percentage of refugees in tertiary institutions. Distances to learning institutions were also considered a hindrance to education as most learning institutions were located between three to five kilometres away from refugee residents. Additionally, teachers' and students' discrimination against children of refugees was also reported. One urban refugee leader stated that "one time, children from the Sudanese community were told by a teacher that their people were killing Ugandans, the children stopped going to school."

The government has tried to support refugees in higher learning institutions. Previously, they were treated as international students and made to pay higher fees; then, OPM appealed to the school leadership to allow refugees to pay school fees on the same scale as nationals. As such, UHRC notes that a lot is being done by the government of Uganda and development partners both through policy and financial aid to improve access to education for urban refugees; however, the number of urban refugees continues to increase.

#### 6.4.5 Right to housing

UHRC established that most of the urban refugees, just like most urban poor Ugandans, stay in slums and face similar challenges, with a few rich among them residing in the suburbs. The refugees cluster themselves depending on their origin; for example, South Sudanese and Ethiopians stay in Kansanga, Bbunga and Ggaba, and South Sudanese also stay in Zzana. Namugongo and Seeta. Somalis stay in Kisenyi, Congolese and Rwandese stay in Makindye, Nsambya and Katwe, while Burundians stay in Kisubi.

According to UNHCR refugee statistics for February 2022,<sup>190</sup> there are 62,142 households for a refugee population of 109,684 in and around Kampala. While the above figures reflect a low average of residents per household, it was noted that many urban refugees share rooms. A two-bedroomed house was reported to hold between seven to nine persons (five to seven children with two parents). There appears to be many unregistered refugees in Kampala compared to the official figures; the chairman of the United South Sudan Refugee Community reported over 2,000 unregistered refugees in his community alone. The quality of accommodation is poor since the majority live in slums with all their associated challenges, including crime, flooding, and gender-based violence. The costs of housing are prohibitive and depend on the size of families. Smaller families rent houses between UGX 200,000 to 250,000 while bigger families rent between UGX 400,000 to 500,000. This is challenging for urban refugees due to a lack of sustainable incomes.

#### 6.4.6 Safety, security and freedom of movement

The refugees feel secure in Uganda and acknowledge that they move freely within and outside towns as long as they have identification. However, one Sudanese expressed concern with the recent statement issued by their government that Uganda is harbouring South Sudanese rebels, which has created fear with the increased likelihood of being targeted. Trafficking in person was reported to exist, especially under the guise of looking for employment due to vulnerability. Ladies are the primary targets for trafficking both in and outside Uganda, and many are likely to be at risk of sexual abuse. UHRC observes Uganda's urban centres are characterised by insecurity, petty thefts, and armed robberies, which may impact refugees as well as nationals.

<sup>190</sup> <https://data2.unhcr.org/en/documents/details/91324>.

### 6.4.7 Access to justice

Urban refugees, just like citizens, commit crimes and also become victims of crime. Several humanitarian organisations are working with government institutions like the Police and judiciary to ensure access to justice for all; however, UHRC established that most urban refugees have limited access to free legal representation once in conflict with the law. It was noted that one NGO, Norwegian Refugee Council, was the most reliable organisation providing legal aid to the marginalised refugees, but it is incapacitated due to low human resources compared with the high population of urban refugees.

It was established by UHRC that physical access to courts and Police is available, but there are delays in accessing justice. As an alternative, urban refugees use their elders and religious leaders to hold reconciliation dialogues. In effect, the urban refugees have preferred alternative dispute resolution mechanisms. While this is good, it might lead to compromises, including the mishandling of capital offences and miscarriage of justice against the most vulnerable of the urban refugee communities.

### 6.4.8 Non-discrimination

Under the law, every recognised refugee is entitled to receive fair and just treatment without discrimination based on race, ethnicity, political or religious affiliation, gender or membership in any particular group. UHRC observed that urban refugees feel discriminated against by policies because while refugees in settlements get all services free, urban-dwellers are called to be self-reliant even when the conditions for which they left their countries of origin and live are similar. They also feel discriminated against in the education and housing sectors and in price discrimination, whereby they are often charged higher prices than nationals in markets, rent, and transport fares. Additionally, it is reported that in Police matters, cases reported by refugees against locals often go unattended. The perpetrators of discrimination are the people they know and with whom they interact on a daily basis, like landlords, employers, staff of public institutions and the judicial system and boda boda men.

### 6.4.9 Right to work

That refugees can work and access labour markets is key to them becoming self-reliant and securing a sustainable livelihood. The existing policies, including the Refugee Act 2006, guarantee the right to work for refugees as long as they have the necessary documentation like refugee identity cards and working permits. Many Ugandans, just like urban refugees, are moving into towns and other urban areas to look for employment to support their families or practice their expertise and skills. This situation has created high levels of unemployment since the available jobs are not enough.

UHRC established that most urban refugees can work as casual labourers in private entities and businesses but not formal employment in towns and government institutions. According to OPM, most urban refugees are engaged in tailoring, vending items, working in restaurants, as pump attendants, interpreters, and teachers and in international agencies or refugee-support NGOs.

Despite the right to work, urban refugees, just like nationals engaged in casual work, are exploited through non-payment for their work in case of summary dismissal; sexual harassment, especially ladies; low pay since Uganda has no minimum wage; and terminations of employment without a fair hearing. Urban refugees further express difficulties getting work permits, licences, or affordable business spaces. The refugees also cannot enforce their rights at the workplace due to marginalisation and fear of repercussions. For the refugee women hawking on the streets, allegedly, Kampala Capital City Authority (KCCA) staff often ask for sex or threaten to confiscate their property.

Some banks like Stanbic Bank, Equity Bank, Housing Finance Bank and Opportunity Bank allow refugees to open bank accounts even without identification documents. Other banks demand national identification cards or passports that some refugees do not have. This makes it difficult for refugees to save money, and this poses a risk of attacks if thieves know that money is kept at home.

## Relief and response

The Refugee Act 2006 and the UNHCR Policy on refugee protection and solutions in urban areas guarantee the right of refugees to move and live in urban areas on the condition that they can fend for themselves. Despite the limitation to providing for urban refugees' basic needs, UHRC established that there are a number of actors that provide aid to most vulnerable urban refugees although the aid is not adequate due to limited resources at their disposal compared to the large numbers of vulnerable people urban refugees. Some of them are listed below.

**Table 6.1: Actors that support vulnerable urban refugees**

| ACTOR |                                                 | ASSISTANCE GIVEN                                                    |
|-------|-------------------------------------------------|---------------------------------------------------------------------|
| 1     | Mercy Corps                                     | Food and rent money                                                 |
| 2     | Norwegian Refugee Council                       | Skill training, rent and money                                      |
| 3     | International Rescue Committee                  | Livelihood and skill training                                       |
| 4     | Young African Refugees for Integral Development | Education, women empowerment in terms of skilling such as tailoring |
| 5     | Jesuit Refugee Services                         | Food                                                                |
| 6     | Windle Trust                                    | Education in tertiary institutions                                  |
| 7     | African Humanitarian Action                     | Medical services                                                    |

### 6.4.10 Persons with special needs and vulnerable

Refugee persons with disabilities and other vulnerable groups are at higher risk of exploitation and abuse and are most likely excluded from social services like education and livelihood opportunities. The UNHCR Policy on Age Gender and Diversity aims at ensuring that persons of concern can enjoy their rights on equal footing and participate meaningfully. UHRC established some measures were put to protect urban refugees with special needs; for instance, the UNHCR, through its partners, provides support in terms of assistive devices to schools with refugee students who have special needs. Young African Refugees for Integral Development also gives out cash to some urban refugees with special needs.

### 6.4.11 Return and non-refoulement

The principle of voluntary repatriation is expected to be respected by host countries at all times. Under the principle, no refugee should be expelled or forcefully returned to their country of origin if there is still insecurity. When conditions are suitable and a refugee wants to return, both the host and country of origin are expected to make all necessary arrangements for the safe return. While in the country of origin, the returnee should be provided with all assistance required to settle in.

UHRC established that there are refugees who have voluntarily returned to their country of origin in recent years, including several Burundians. The reason for the refugees' voluntary return is peace and stability in their country of origin. According to OPM, there have been no incidents when refugees have been forcibly returned to their country. However, one refugee leader who preferred anonymity informed UHRC that whenever he tries to seek justice in Police and courts of law for sensitive cases, he is threatened that he will be repatriated if he does not stop the process.

## Effects of COVID-19 pandemic on urban refugees

The pandemic affected refugees both in the settlements and in urban areas. By the end of October 2021, Uganda had 126,272 cumulative cases of COVID-19, and out of the total, there were 3,324 refugees. The total national death from COVID-19 was 3,217, including 52 refugees. The total national vaccination was 3,189,173 doses including 22,098 refugees. There are no clear figures on the infections, death and vaccination of urban refugees but the outbreak of COVID-19 affected all people, including citizens, although urban refugees could have suffered the worst.

Among the effects of COVID-19 on urban refugees included loss of livelihoods since many refugees were engaged in business and other economic activities in and around the city. The lockdown and restrictions on movement resulted in businesses' suspension, resulting in the loss of jobs and income. There were food shortages, health concerns, unemployment and unpaid arrears of rent bills, which resulted in many refugees' eviction. One refugee noted, "during COVID-19 lockdown, life wasn't easy at all for me and my family. I had challenges of rent, the landlord wasn't patient and so I was always stressed. Feeding was always a challenge because I had no reliable source of income. The sickness of my husband made the situation very complicated because he wasn't able to go to the hospital to get medicines on his own. Transport was a constant problem for us. It was also very expensive. My husband's ill health also stressed me." (Testimony from Ms Shakira Ramazani, a Congolese urban refugee living in Kampala).<sup>191</sup> Although the Government of Uganda, through the OPM, UNHCR and other humanitarian actors intervened in their different capacities, there was still a lot of suffering. Refugee children were particularly impacted by COVID-19 prevention measures, with schools in the country closed. While the government attempted to plug this gap by offering classes through the internet, TV or radio stations, many families lacked the required equipment like phones or tabs or were unable to afford internet data bundles.

## 6.5 RECOMMENDATIONS

1. The Office of the Prime Minister and other partners should sensitise the public and urban refugees on their rights, duties and responsibilities to enhance the protection and promotion of their rights.
2. The Office of the Prime Minister, together with the Department of Refugee Management, should verify and register all unregistered urban refugees.
3. The Office of the Prime Minister should establish a monitoring and recording mechanism for employed urban refugees to ensure that they are not exploited. Refugees should also be assisted in applying for and acquiring working permits.

## 6.6 CONCLUSION

The population of urban refugees shows increasing growth trends and will continue to do so as long as armed conflicts, generalised violence and human rights violations continue to affect people in their countries of origin. While Uganda offers one of the best safety and security and progressive legal regimes that have attracted refugees, the situation of urban refugees is not as glorious as that of their counterparts in settlements because of the requirement of self-reliance as a condition to live in urban centres. With challenges of unemployment, access to social services, and rising living costs faced by urban refugees like many ordinary Ugandans in urban centres, OPM and UNHCR need to do more. Urban refugees need to be empowered with more knowledge and skills, including business, to become job creators and not job seekers to enhance sustainable livelihood on one part and become development partners and not be viewed as a burden by host communities due to struggle for scarce opportunities.

<sup>191</sup> A testimony during a stakeholders' meeting to discuss the rights of urban refugees on 22 November 2020.

# CHAPTER SEVEN:

# Juvenile Justice in Uganda

## 7.1 INTRODUCTION

Children interface with the justice system as victims or witnesses of crime, children in need of care and protection and those in conflict with the law. A child is deemed to be in conflict with the law when he or she is suspected or accused of committing a criminal offence. In Uganda, a child who is 12 years and above but has not attained the age of the majority (18 years) can be held criminally responsible for their actions or omissions. Unlike adult offenders, the law requires that the treatment and handling of juveniles should embody safeguards aimed at protecting the physical and psychological development as well as emotional and educational needs of the child in question. Therefore, delinquent children should be handled under a special regime of law called juvenile justice, which is the system of rules, policies, and procedures specifically designed to protect the unique and special interests of children in conflict with the law. It sets out specific standards and practices to be followed when processing and handling delinquent children in line with the best interest principles. It is vital that all the substantive and procedural guarantees relating to juvenile justice are complied with to avoid undesirable outcomes for children which may violate their sense of dignity and worth, as stated in Article 40 of the UN Convention on the Rights of a Child (CRC), 1989.

With the view to assessing compliance with juvenile justice standards, UHRC, in the exercise of its constitutional functions enshrined in Article 52 (1) (h), monitored the state of administration of juvenile justice in Uganda in 2021. The exercise was conducted in 72 districts, targeting both the formal and informal juvenile justice actors. This chapter presents UHRC findings on the state of juvenile justice in Uganda in 2021 with emphasis on the achievements, challenges, human rights concerns, and strategic recommendations to improve the administration of justice for children in conflict with the law in the country.

## 7.2 LEGAL AND POLICY FRAMEWORK

### 7.2.1 International legal framework

Uganda is a signatory and has ratified several international instruments that advance the protection of children's rights in conflict with the law. The International Covenant on Civil and Political Rights (ICCPR) is the first legally binding international instrument that expressly affirms the rights of minors in the justice system and obliges states to be conscious of their needs. Principally, the UNCRC elaborately provides the guiding principles for protecting children in conflict with the law and their right to access justice. It sets out primary standards of the child's best interests principle that ought to be followed to secure children's rights in the juvenile justice system.

Other international instruments include the UN Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (Beijing Rules), which offers guidance on the minimum age of criminal responsibility, alternative measures to incarceration, diversion and specialisation of Police, among others; the UN Guidelines for the Prevention of Juvenile Delinquency, 1990 (Riyadh Guidelines) that promotes the prevention of juvenile delinquency as an essential part of the juvenile justice system; The UN Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules) that provide for the use of pre-trial detention as a means

of last resort in criminal proceedings; and the UN Rules for the Protection of Juveniles Deprived of their Liberty, 1997 (JDLs) that state the denial of the liberty of a juvenile should be a disposition of last resort and for the minimum necessary period and should be limited to exceptional cases.

## 7.2.2 Regional legal framework

Regionally, the African Charter on the Rights and Welfare of the Child (ACRWC), 1990, contextualises the provisions of the UNCRC in Africa. It builds on the provisions of the African Charter on Human and People's Rights to address the rights of the African child, including the rights of children in conflict with the law. The Guidelines on Action for Children in Justice Systems in Africa 2011 are aimed at supporting African states in protecting children's rights at all stages of judicial and extrajudicial procedures. It also emphasises the child-friendliness of processes.

## 7.2.3 National legal framework

In Uganda, the Constitution of 1995 (as amended) re-echoes the international standards and principles relating to the treatment and handling of juvenile offenders in Uganda. It provides for national standards for children in conflict with the law to include the right to be kept in lawful custody separately from adult offenders; the right to equality and freedom from discrimination; the right to bail as well as the right to a fair hearing; presumption of innocence until proved guilty; and access to legal representation among others.

The Children Act Cap. 59 domesticated the provisions of the UNCRC and ACRWC to establish the Family and Children Court (FCC), set the minimum age of criminal responsibility and reaffirm the best interest principles. The Children (Amendment) Act, 2016 prohibits the death penalty for child offenders and reduces the remand period for juveniles. The Penal Code Act Cap 120, in line with the Children Act, reaffirms the age of criminal responsibility and provides for various offences. The Penal Code (Amendment) Act 2007 introduced new offences such as 'child-to-child sex' and aggravated defilement. The Probation Act Cap. 122, the Registration of Persons Act, 2015, the Magistrates Court Act, Cap. 16, the Magistrates Courts (Amendment) 2007 Act, the Local Council Courts Act, the Community Service Act Cap. 115, and the Prisons Act 2006 are other critical legislations which establish juvenile justice institutions and their mandate.

The juvenile justice system in Uganda consists of various institutions that work together to promote children's welfare and best interests in conflict with the law. These include Courts of Judicature, the Office of the Director of Public Prosecutions (ODPP), the Child and Family Protection Unit (CFPU), the Criminal Investigations Directorate (CID), the Ministry of Gender Labour and Social Development (MoGLSD) as well as child rights advocates and social workers. The system further embodies community-based structures such as the local councils and local council courts and the Approved Homes and Rehabilitation Centres for Children administered by MoGLSD. The juvenile justice system also consists of key players such as private advocates and community volunteers who work as fit persons in line with Section 91 (9) of the Children Act.

However, overall, Uganda inherited a colonial adult-centred criminal justice system which did not specifically address the protection needs of children interfacing with the justice systems as witnesses, victims of crime and children in conflict with the law. In 2010, the Justice Law and Order Sector (JLOS) began a system-strengthening programme called the Justice for Children (J4C) that engineered reforms and innovations to re-tailor adult-oriented criminal justice to respond better to the justice needs of children. The programme stimulated policies, legal and administrative reforms in line with international child rights justice standards.

The amendment of the Children Act cap 59 was one of the major legal reforms undertaken to provide additional protection safeguards for juveniles in conflict with the law. For instance, the Act significantly reduced the duration of pre-trial detention from three months for minor offences to 45 days and six months to three months for capital offences. The amendment also provides a wide range of documents, such as baptism cards and immunisation cards that can help in age determination and birth certificates.

As part of the reforms to enhance access to justice for juveniles, the former Chief Justice, His Lordship Benjamin Odoki issued a practice direction that expanded jurisdiction over Family and Children Court to all Grade I Magistrates courts. This aimed to address the jurisdiction gaps concerning children cases in alignment with the phasing out of Grade II Magistrates under the professionalisation of the bench policy. The move enhanced access to justice by children in conflict with the law and enabled quick disposal of matters, reducing the backlog.

To mainstream child-friendly practices, in 2019, the Uganda Police Force launched the Children Diversion Guidelines for police officers. The Guidelines are aimed at supporting the Uganda Police Force to protect and preserve children's rights by ensuring that cases of deserving juveniles are diverted from the formal justice system. Similarly, the Office of the Directorate of Public Prosecutions developed a handbook on prosecuting child-related cases in Uganda, incorporating juvenile justice standards and best practices.

Other developments and reforms include the following:

1. Improved record-keeping and data management in most JLOS institutions.
2. Improved coordination among JLOS actors and specialized support for children.
3. Introduction and emphasis on child-friendly court proceedings such as prioritising or fast-tracking children's cases, hearing children's matters in chambers, removing wigs, and making the court decorum less adversarial.
4. Special juvenile High Court criminal sessions to expeditiously handle and conclude children's cases, including the informal handling of juvenile cases at the remand homes.
5. Legal aid services through legal representation for children in conflict with the law entrenched by a wide range of legal aid service providers.
6. Regular monitoring and inspections of child detention facilities with particular emphasis on separation of juveniles from adults.
7. In response to COVID-19, JLOS actors undertook the following responses and practice change strategies to minimize the effect on juvenile justice:
  - At police, petty offenders were bonded with caution.
  - Granting bail to petty offenders and even capital offenders was encouraged at court.
  - No arresting of juveniles charged with petty offences.
  - Most cases of the disobedience of presidential directives were bonded to decongest the police cells.
  - Probation officers availed the necessary social inquiry reports, which were also present in court.

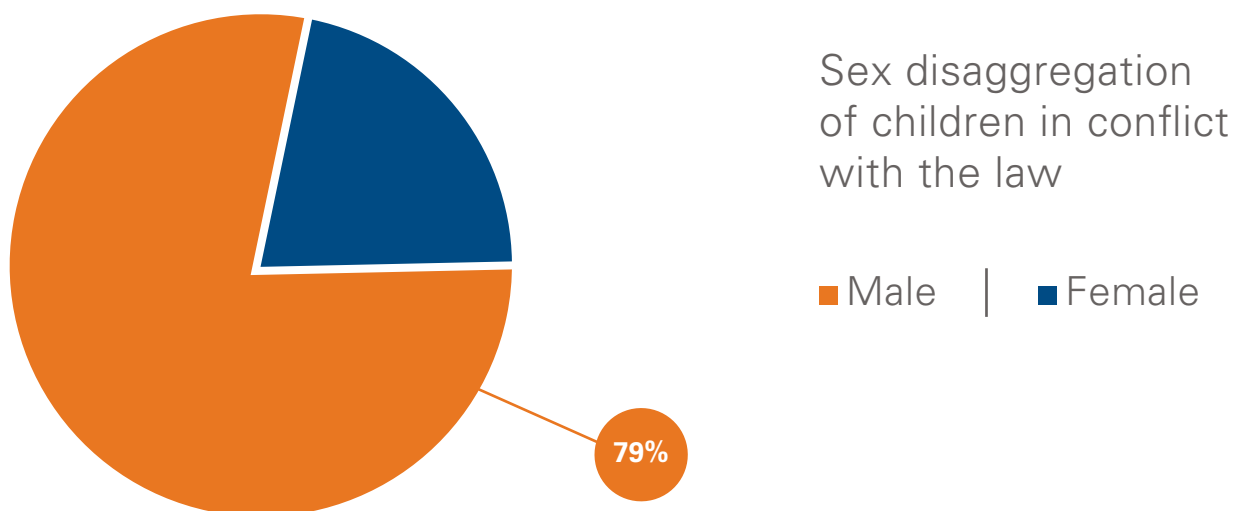
## 7.3 SITUATIONAL ANALYSIS

Children constitute 46% of Uganda's population, representing one of the youngest populations in the world. Like adults, children engage in delinquent behaviours that contravene the existing laws, exposing them to the justice system. Accordingly, 27% of children in Uganda had been exposed to crime by July 2017. According to the Police Annual Crime Reports for 2018, 2019 and 2020, the total number of children in conflict with the law illustrates a decreasing pattern in child offending for the last three consecutive years, from 11,589 cases registered in 2018 to 10,596 in 2019 and 9,225 in 2020. The declining trend, especially in 2020, was attributed to COVID-19 lockdown measures though there still seems a unprecedented number of juveniles accused of committing crimes in the country.

### 7.3.1 Juveniles in conflict with the law in 2021

When compiling this report, there were no official national statistics on juvenile justice in Uganda in 2021. The Police Annual Crime Report for 2021, from which comprehensive information was expected, was yet to be published. Therefore, the analysis of this part of the report is based on information obtained from the LOS Annual Performance Report, UHRC primary data collected from selected districts aforementioned and the official statistics on children in conflict with the law obtained from MoGLSD. According to UHRC data compiled from 18 police facilities across the country, a total of 429 children in conflict with the law were registered, with 337 males representing 79% and 92 females accounting for 21% as per the figure below.

**Figure 7.1: Sex disaggregation of juvenile offenders in 2021**



### 7.3.2 Nature of offence committed by juveniles in 2021

According to UHRC statistical information gathered from 10 central police stations of Lira, Kileleshwa, Mbale, Jinja, Kabale, Kamwenge, Moroto, Gulu, Jinja Road, Masindi and Oyam, aggravated defilement was the most common offence juveniles committed, followed by theft, assault, shop breaking and defilement including 'child to child sex'. It should be noted cases of rape and trafficking involved juveniles as suspects and not victims of crime.

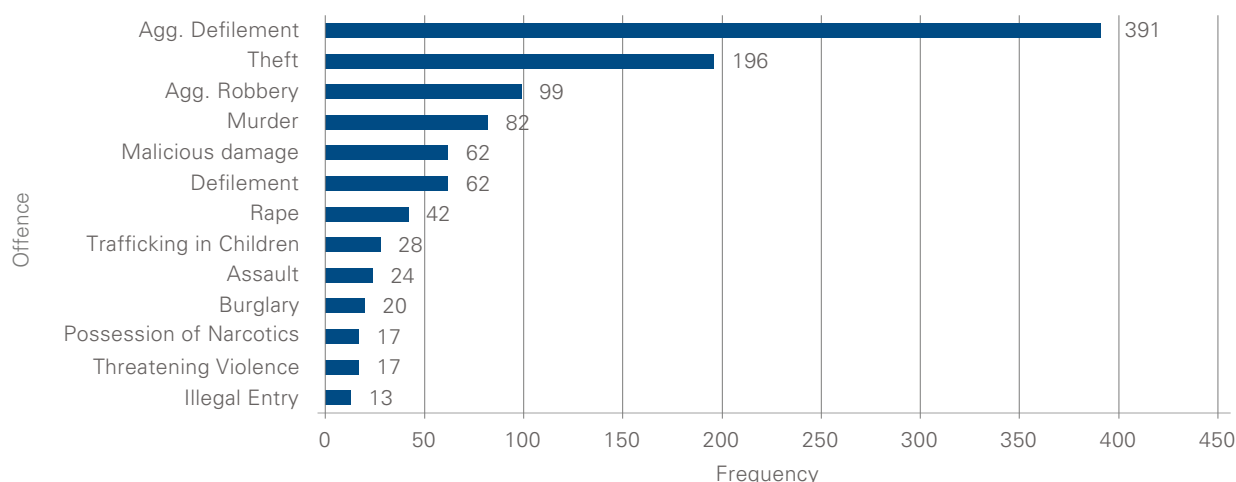
**Figure 7.2: Nature of offences committed by juveniles in 2021**

Nature of offence preferred against juveniles in selected police facilities in 2021



This resonates with the statistics of children sent to the remand homes in 2021, where aggravated defilement was the leading offence committed by juveniles, followed by theft, as per the figure below.

**Figure 7.3: Offences committed by children sent to remand homes in 2021**



According to the JLOS Annual Performance Report of 2020/2021, juvenile offending, especially due to theft, is largely attributed to the failure of parents to provide basic needs such as food at home. This was reportedly made worse by the COVID-19 pandemic, which affected many parents, mainly mothers, who were the breadwinners, as the curfew restrictions forced them to close their small businesses like selling edibles in the evening.

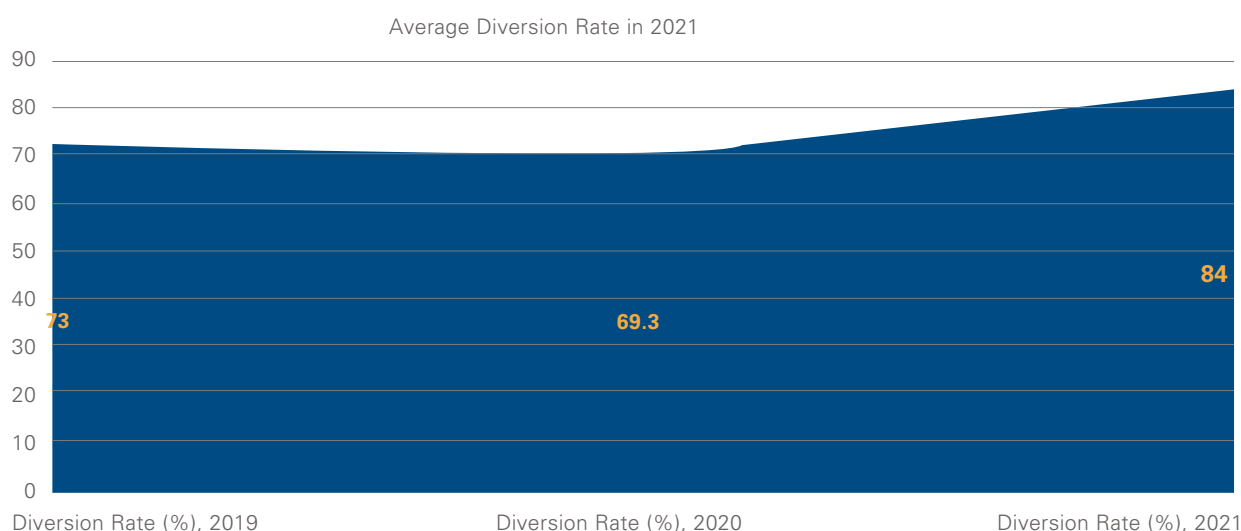
The above notwithstanding, UHRC notes that there is also a general trend of cases where children are lured into acts of criminality by adults. UHRC observed that over 20% of theft and shop/housebreaking cases committed by juveniles within urban areas were orchestrated by adults. Clear examples were recorded in urban centres like Gulu where street boys popularly known as ‘Aguu’ confessed to being used by some prominent adult members within the city. Other urban centres where such trends were reported to include Lira City, Jinja and Kampala.

### 7.3.3 Diversion of children cases in 2021

Diversion is a contemporary phenomenon in criminal justice, and it refers to the turning away or averting from the formal justice system cases involving children in conflict with the law. The police, like other agencies in the criminal justice system, play a fundamental role to play in diverting children from the formal justice system as provided for under S.89(2) of the Children Act and in accordance with the diversion guidelines issued by the Inspector General of Police in 2019. According to the guidelines, children who commit petty offences should not be subjected to the formal justice system of being arrested, taken to Police cells and later to the court, but rather should be helped to reconcile them with the aggrieved parties through non-judicial procedures. The Guidelines provide parameters for the exercise of discretion of police officers handling cases involving children per Section 89 of the Children Act.

According to JLOS, the average national diversion rate in 2019 stood at 73% and 69.3% in 2020. The decline was attributed to poor understanding of diversion by some police officers, as well as reluctance by the local councillors to handle such petty cases instead of forwarding them to the police. An increase in the number of cases going through the formal justice systems also resulted from the individual mindsets of key actors like CID officers, who considered some juvenile offenders to be unruly and deserved punishment. The COVID-19 pandemic, which restricted physical movements that could help in diversion measures, also contributed to the decline. In 2021, the average national diversion rate stood at 84%, with Kitgum, Moroto, Masindi and Jinja having the highest rate at 100%. The above reflects a significant increase in the diversion rate as compared to the previous years.

**Figure 7.4: National diversion rate for 2019-2021**



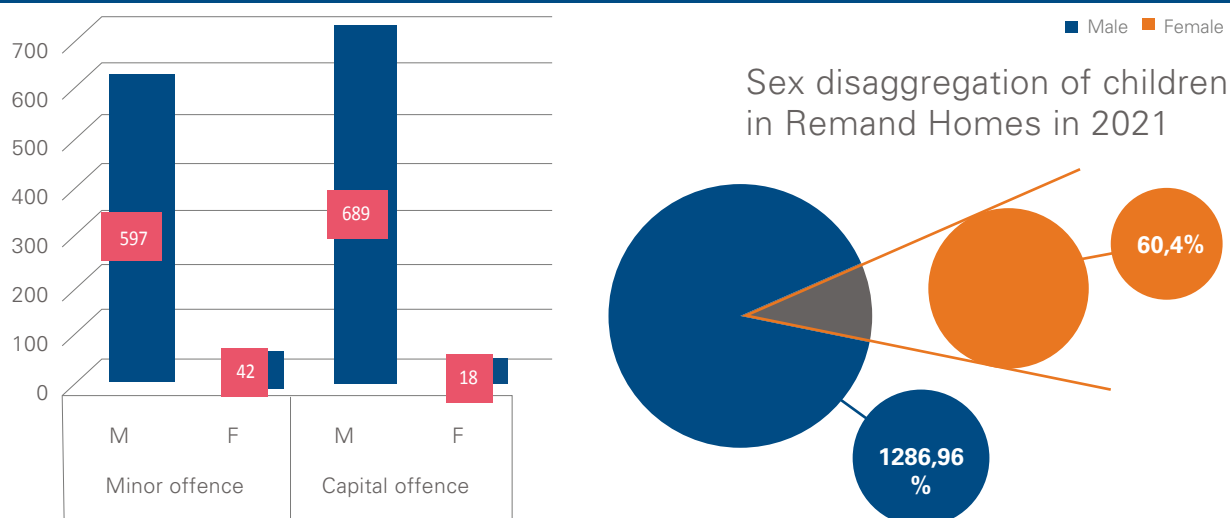
However, UHRC noted that the police diversion guidelines were not widely disseminated across all Police facilities. Additionally, it noted that retrieval of information on diversion was difficult due to the lack of diversion registers, despite this being a mandate within the guidelines. Furthermore, UHRC noted that while diversion of child cases should be implemented at different levels and institutions, for example, by the Uganda Police, probation, public prosecutions and court, diversion was majorly effectively implemented at the police level.

### 7.3.4 Children on remand

Remand homes are government-owned institutions where children in conflict or contact with the law are taken into custody by a court order. By the end of 2021, there were seven operational regional remand homes in Gulu, Mbale, Naguru, Arua, Masindi, Kabale and Fort Portal. The remand home in Moroto is still under construction with support from JLOS. The country also has one functional National Rehabilitation Centre in Kampiringisa responsible for rehabilitating juveniles.

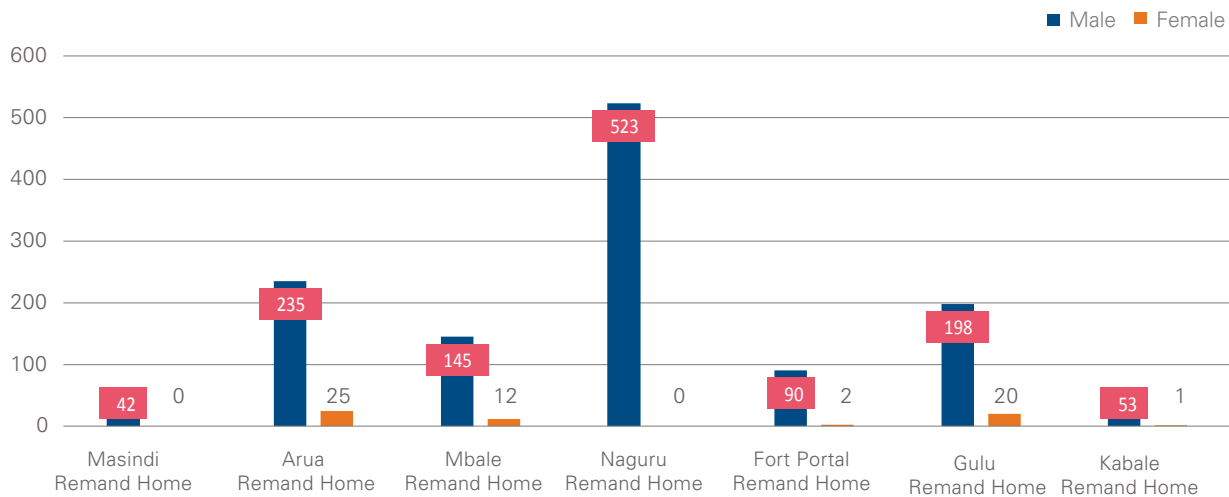
In 2021, 1,346 juvenile offenders consisting of 1,286 (96%) males and 60 (4%) females were processed through the seven remand homes. Children alleged to have committed capital offences were more than minor offences, as shown below.

**Figure 7.5: Juveniles in remand homes in 2021 disaggregated by sex and nature of the offence**



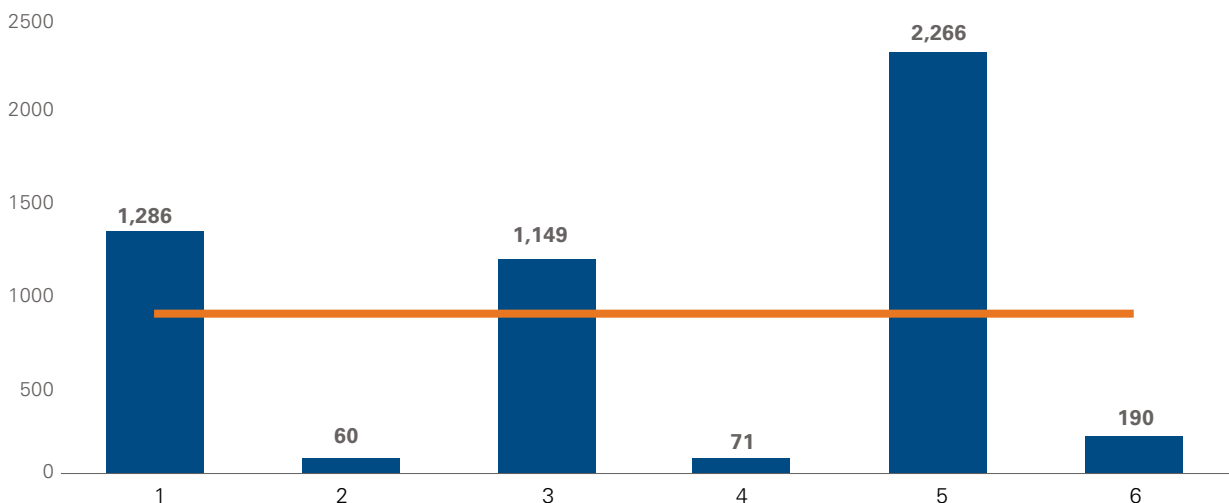
Naguru Remand Home received the highest number of juveniles in 2021 with 523, followed by Arua at 260 and Gulu with 216. Masindi Remand Home received the least number of juveniles with only 42, as shown below.

**Figure 7.6: Number of juveniles per remand home in 2021**



In comparison with the previous years, there was a slight increase in the number of cases of juveniles sent to remand homes in the period under review from 1,220 in 2020 to 1,234 in 2021 but significantly lower than in 2019, in which 2,456 juveniles were recorded, per the figure below.

**Figure 7.7: Trend analysis of juveniles sent to remand homes from 2019-2021**



The above trend depicts a general and systematic decline in the number of female juvenile offenders sent to remand homes from 190 in 2019 to 71 in 2020 and 60 in 2021.

### 7.3.5 Case disposal by courts

While UHRC was unable to obtain reliable statistical information regarding juvenile justice case disposal for 2021, it noted tremendous efforts by criminal justice actors and institutions to dispose of juvenile cases promptly. According to JLOS, 3,800 juveniles attended both higher and lower courts in the seven remand homes in 2021. In addition to the routine handling of juvenile cases, special criminal sessions for juveniles

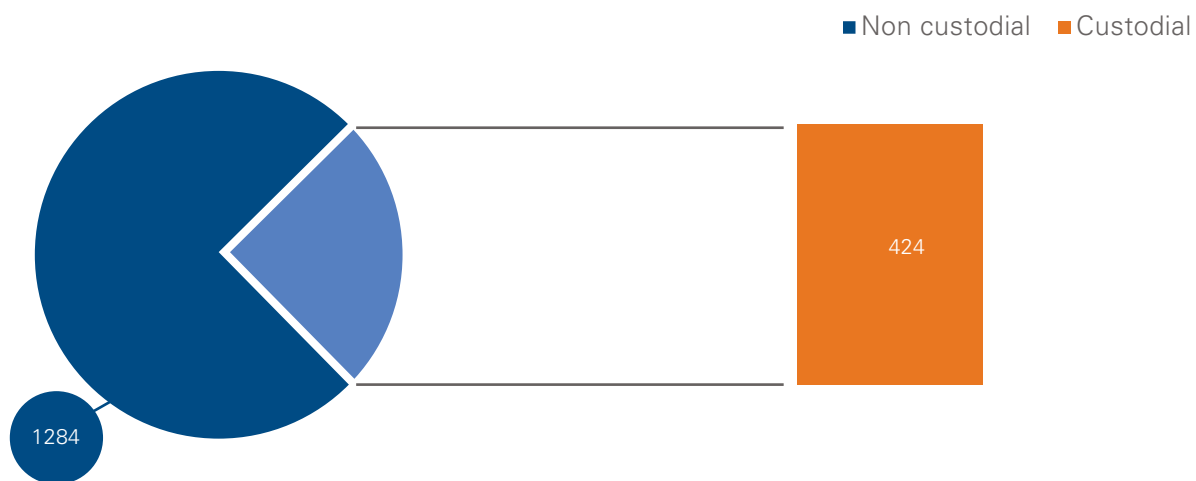
at remand homes in Naguru, Gulu, Arua and Mbale were held; between July 2020 and February 2021, 76 juvenile cases were expeditiously handled at Naguru Remand Home alone.

Regarding the sanctioning of files for prosecution, 4,074 files were registered, and the perusal of 2,289 case files was concluded within the stipulated timelines. At police, JLOS report indicated that a total of 1,000 cases were investigated involving children in conflict with the law.

### 7.3.6 The proportion of juveniles issued custodial over non-custodial orders

UHRC established that out of 1,708 juveniles issued court orders in 2020/2021, 424 received custodial sentences, and 1,284 received non-custodial sentences (see figure below). The number in 2021 decreased compared to 2019/2020, where out of 2,228 juvenile offenders, 708 received custodial, and 1,520 received non-custodial sentences. Non-custodial orders include caution, community service and absolute discharge.

**Figure 7.8: Proportion of juveniles granted custodial orders over non-custodial orders in 2021**



### 7.3.7 Recidivism among juveniles

Recidivism refers to a person's relapse into criminal behaviour, often after the person receives sanctions or undergoes intervention for a previous crime. In terms of juvenile recidivism in 2021 in Uganda, UHRC noted that the recidivism rate was very low, at 1% in some facilities. For example, out of 218 juveniles processed through Gulu Remand Home, there was only one boy who was in the remand home for the third time for theft charges. Other facilities that reported minimal cases of recidivism include Mbale Remand Home with one case, Fort Portal with one case and Naguru with three cases.

### 7.3.8 Access to legal representation

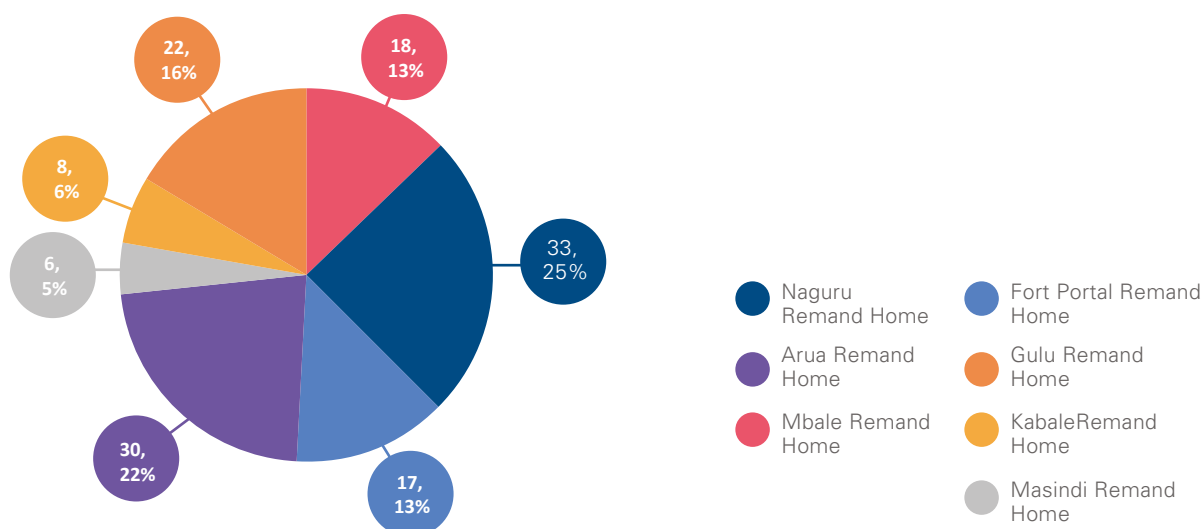
Legal representation is one of the essential features of the right to a fair hearing in criminal justice. Article 28 (3) (e) of the Constitution of the Republic of Uganda makes it mandatory for the state to provide free legal representation for every accused person (including children in conflict with the law) charged with an offence which carries a sentence of death or imprisonment for life.

Accordingly, UHRC notes the great strides registered concerning the provision of free legal aid services to juveniles in the country. Free legal aid service providers include the Legal Aid Clinic of the Law Development Centre (LAC-LDC), Justice Centres Uganda, the Legal Aid Project of Uganda Law Society (LAP-ULS) and dedicated private advocates and organisations. A total of 699 children in conflict with the law consisting of 546 boys and 114 girls from Kampala, Jinja, Iganga, Masindi, Mbarara, Kabarole, Adjumani and Lira were provided with free legal and counselling services.

### 7.3.9 Children rehabilitated and reunified with families

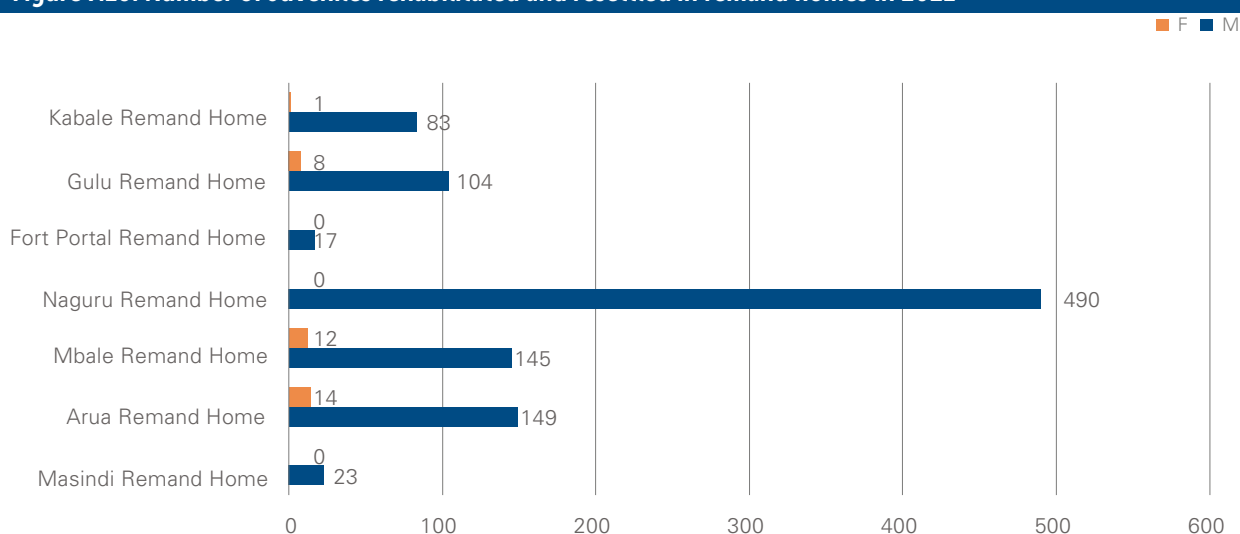
In 2021, a total of 134 juveniles, comprising 127 males and seven females, were sent to the National Rehabilitation Centre by the seven remand homes.

**Figure 7.9: Juveniles sent to the National Rehabilitation Centre per remand home in 2021**



At the end of 2021, the National Rehabilitation Centre had successfully rehabilitated and resettled back to communities a total of 1,046 juveniles consisting of 1,011 males and 34 females. Resettlement and reunification were conducted by the respective remand homes as indicated below.

**Figure 7.10: Number of Juveniles rehabilitated and resettled in remand homes in 2021**



## 7.4 HUMAN RIGHTS CONCERNS

As noted above, Uganda has ratified a number of international and regional instruments that advance the protection of the rights of children in conflict with the law and has significantly domesticated the standards into the national legal regime. However, the mismatch between the provisions of the law and practice regarding juvenile justice continues to impact the rights of juveniles undergoing criminal justice processes and has the following human rights implications.

## 7.4.1 Arrest and pre-trial detention

Article 23 of the Constitution provides general substantive and procedural rights to personal liberty for everyone in the country. While it guarantees protection against arbitrary arrest and detention, it permits arrests based on reasonable suspicion of having committed or about to commit a criminal offence under the laws. Although the law permits the arrest of children in conflict with the law, it provides safeguards in the form of procedures that, in some cases, were not followed.

### 1. Duty to inform parents/guardians of the child's arrest

As a requirement of Section 89 (3) of the Children Act, the police are mandated to inform the child's parents or guardians and the secretary for children's affairs of the arrest by the police. UHRC found out that Police did not follow this procedural standard in most cases. A total of seven out of ten juveniles interviewed concerning this requirement remarked that Police breached this standard. For instance, in Nwoya District, the parents of four juveniles found remanded at Nwoya CPS did not know that Uganda Wildlife Authority (UWA) rangers had arrested their children and, instead, a report about their disappearance had been lodged in Pakwach Central Police Station by a parent of one of the juveniles. While in this case, the arrest was made by UWA rangers, the law mandates the Police should have taken steps to inform the parents of the juveniles when they were brought to the Police station for re-arrest per Ugandan law.

### 2. Prolonged detention at Police (beyond 24 hours)

In line with the requirement that prior investigation of cases involving juveniles should be concluded before the arrest, the Police are further obliged to release a child on bond or produce the child in court within 24 hours from the arrest. UHRC noted that due to the widespread practice of arresting before the conclusion of investigations, coupled with operational and logistical challenges the Police face, some juveniles were excessively detained in police facilities.

**Table 7.1: Juveniles in police custody held beyond 24 hours in selected police facilities**

| DETENTION FACILITY | DISTRICT | NAME OF THE JUVENILE | CHARGE          | DURATION IN POLICE CELLS | SEX |
|--------------------|----------|----------------------|-----------------|--------------------------|-----|
| Kamwenge CPS       | Kamwenge | Niwagaba             | Defilement      | 3 days                   | M   |
| Kamwenge CPS       | Kamwenge | Byereta Tobias       | Theft           | 2 days                   | M   |
| Kisoro CPS         | Kisoro   | Owomugisha Gilbert   | Defilement      | 5 days                   | M   |
| Kabale CPS         | Kabale   | Andinda Timothy      | Theft           | 4 days                   | M   |
| Rubanda CPS        | Rubanda  | Aineembabazi Justus  | Defilement      | 13 days                  | M   |
| Rubanda CPS        | Rubanda  | Mugisha Fred         | Defilement      | 6 days                   | M   |
| Kole CPS           | Kole     | Onapa Christopher    | Theft           | 7 days                   | M   |
| Kole CPS           | Kole     | Wacha Robin          | Theft           | 7 days                   | M   |
| Kibuku CPS         | Kibuku   | Kakiirya Tracy       | Defilement      | 3 days                   | F   |
| Kibuku CPS         | Kibuku   | Magola Ramathan      | Defilement      | 3 days                   | M   |
| Jinja CPS          | Jinja    | Byakisa Dorothy      | Agg trafficking | 4 days                   | F   |
| Jinja CPS          | Jinja    | Wahampi Peter        | Rape            | 4 days                   | M   |
| Jinja Road PS      | Kampala  | Kansime Joseph       | Assault         | 3 days                   | M   |
| Jinja Road PS      | Kampala  | Bakali Kabindi       | Agg defilement  | 5 days                   | M   |

Any child detention beyond 24 hours contravenes child rights justice standards. While it appreciates the external factors that cause over-detention of juveniles at police stations, UHRC was concerned by the duration of illegal detention of minors at some police facilities close to two weeks. It notes that such excessive detention undermines the best interest principles and the child's dignity and worth emphasised by Article 40 of the UNCRC. The police gave reasons for the lack of policy implementation as below.

**a) Over detention due to delay in conclusion of investigations.**

UHRC established that depending on the nature of the case, the conclusion of investigations on juveniles' cases took between 3 to 14 days. One reason for this is the inadequate number of detectives. According to the JLOS Performance Report of 2019/2020, detectives, on average, handle 45 cases each, against the UN standard of a 1:15 ratio, which results in inefficiency and ineffectiveness. Other reasons for delaying investigations include inadequate or lack of transport for Police personnel; lack of cooperation from complainants in availing witnesses; and the unwillingness of medical personnel to examine juvenile offenders to satisfy the required evidence, especially in defilement and murder cases where medical evidence is a requirement.

**b) Delay in the submission of social inquiry reports**

The Beijing guidelines require that all cases against juveniles except for minor cases must have social inquiry reports to enable informed decision-making processes regarding the disposal of the case in line with the best interest principles. UHRC noted significant delays in conducting and preparing social inquiry reports by some probation officers. For instance, at Kisoro Police Station, the district Probation and Social Welfare officer claimed that she was not well facilitated to do her work effectively and lacked transport means to conduct and compile reports on juveniles from their villages of origin. She also informed UHRC that her office lacked office equipment and supplies such as a computer to help in compiling the reports. The delay by probation officers in providing the social report resulting in the over-detention of juveniles was also reported in Agago, Kampala, Rubanda, Kamwenge, Jinja, Koboko, Nebbi and Arua Districts.

**c) Irregular court sitting as a result of COVID-19 restriction**

UHRC established that due to COVID-19 restriction measures, court operations were significantly reduced to limited days, and as such, the production of juveniles in court for plea-taking depended on the number of court sittings. Nwoya and Kamwenge Grade I Magistrate's Courts handled criminal cases twice per week, thus affecting the timely and speedy hearing of juvenile cases. Additionally, the lockdown greatly hampered efforts to fast-track the disposal of child-related cases, support JLOS institutions, hold activities like meetings and open days and collect data for reporting.

**d) Delay in sanctioning juvenile files by Resident State Attorneys.**

The criminal Procedure Code Act requires that all criminal charges be sanctioned by Resident State Attorneys (RSA) before a formal charge in court. As a minimum standard of operation, all districts must have Resident State Attorneys to provide real-time legal guidance to Police and sanction prosecution processes. However, UHRC established that due to the human resources gap, ODPP in 2021 operated at only 35% staff strength, with some districts lacking Resident State Attorneys and, as such, State Attorney Services were shared with nearby districts. For instance, Nwoya District shared a State Attorney with Amuru District; Rubanda obtained State Attorney Services from Kabale; while Kileleshwa was served by the Lira DPP office. This resulted in significant delays due to over-stretching responsibilities hence delays in timely guidance to Police and detention beyond 24 hours.

**3. Detention of juveniles together with adults**

The Children Act in section 89 (8) explicitly prohibits the detention of juveniles with adults. States are obliged under the UNCRC to take all reasonable measures to ensure the separation of minors from adults by putting in place necessary facilities to fulfil this standard; however, proper facilities are lacking in many institutions, which puts juveniles at risk. Consequently, juveniles were reportedly detained with adults in the same cells as reported in Kileleshwa CPS in Kileleshwa district, Lwengo CPS in Lwengo District, Kalungu CPS in Kalungu District, Sembabule CPS in Sembabule District, Bukomansimbi CPS in Bukomansimbi District, Kyotera CPS in Kyotera District and Rakai CPS in Rakai District.

UHRC also noted that some stations were innovative in ensuring segregation of juveniles from adults by confining juveniles in offices, but other Police facilities lacked office space to follow suit. At Bundibugyo CPS, UHRC was informed that juveniles were detained within the premise of the Child and Family Protec-

tion Unit, and at Kisoro CPS, they were reportedly locked up in the female cells whenever there were no female suspects.

Additionally, UHRC noted that gazetted juvenile cells had been turned into offices due to a lack of office space in specific Police stations. Such Police stations included Lamwo CSP in Lamwo District, where female juvenile cells were being used as offices for the officer in charge of the station; Elegu Police station in Amuru District, where the juvenile cell had been turned into closed-circuit television (CCVT) camera rooms; and Dokolo CPS in Dokolo District, in which a male juvenile was found detained with male adults because the juvenile cell was turned into a store.

**Table 7.2: Juveniles detained together with adults in selected Police facilities across the country.**

| NAME OF THE DETENTION FACILITY | NAME OF JUVENILE  | AGE | OFFENCE            |
|--------------------------------|-------------------|-----|--------------------|
| Agwata Police Post             | Ecom Jonathan     | 16  | Defilement         |
| Kole CPS                       | Onapa Christopher | 15  | Burglary and theft |
| Kole CPS                       | Wacha Robin       | 15  | Burglary and theft |

#### 4. Detention in court holding cells

Regarding the detention of juveniles while at court premises, the Commission noted with concern that the design of all court holding cells in the country did not meet the requirements necessary for separation of juveniles from adults while at court premises. UHRC was informed that where segregation of juveniles from adults was at times possible at Police, on the way to and while at Court, adult and juvenile suspects were mixed up in the court holding cells, which only caters for sex disaggregation, not age.

#### 5. Child-friendly facilities

In addition to the requirement of separate detention facilities, juvenile detention facilities should be comfortable and suitable for the physical and emotional development of the child. To this end, UHRC observed that there were semblances of beds in selected cases, but most Police facilities with juvenile cells lacked bedding facilities. Juveniles either slept on the bare floor or sat or stood the entire night. Some cells had metallic or wooden beds without mattresses or blankets, for instance, at Adjumani CPS in Adjumani District, Patongo CPS in Agago District and Gulu CPS in Gulu District.



*The photograph shows the state of bedding facilities at the juvenile cell in Adjumani CPS in Adjumani District.*

## **6. 'Remanding' juveniles in Police custody**

The illegal practice of detaining juvenile offenders in police cells, not remand homes, after they were already produced and formally charged before the court was one of the new phenomena of human rights concerns widely associated to COVID-19 pandemic challenges. UHRC established that this derogatory practice that contravenes section 91 of the Children's Act existed even in the pre-COVID-19 era, especially in regions located far away from the remand homes due to a lack of readily available transport. However, UHRC noted that this practice escalated in most districts during the COVID-19 pandemic due to restriction measures. For example, UHRC noted that the MoGLSD guidelines required presenting a negative COVID-19 test result before admission into remand homes, but this was costly and difficult to administer. Other reasons attributed to this illegal practice of housing children in Police cells, not remand homes, were the restriction of movements, lack of readily available transport means and absence of the probation and social welfare officers in court at the time of making the remand orders.

The courts are obliged to ensure that children are remanded in a safe place, where they can be taken back to court whenever required and would not associate with any adult detainees. UHRC established that the practice of detaining juveniles in Police custody after court was at times conducted illegally at the local level because, although judicial officers issued remand orders duly committing juveniles to remand homes, these were not followed. A case in point was the situation of four juveniles found in Nwoya CPS cells in Nwoya District who had remand orders sending them to Gulu Remand Home and not to Police cells, but they had not been taken to Gulu as ordered.

## **7. Pre-trial detention concerns**

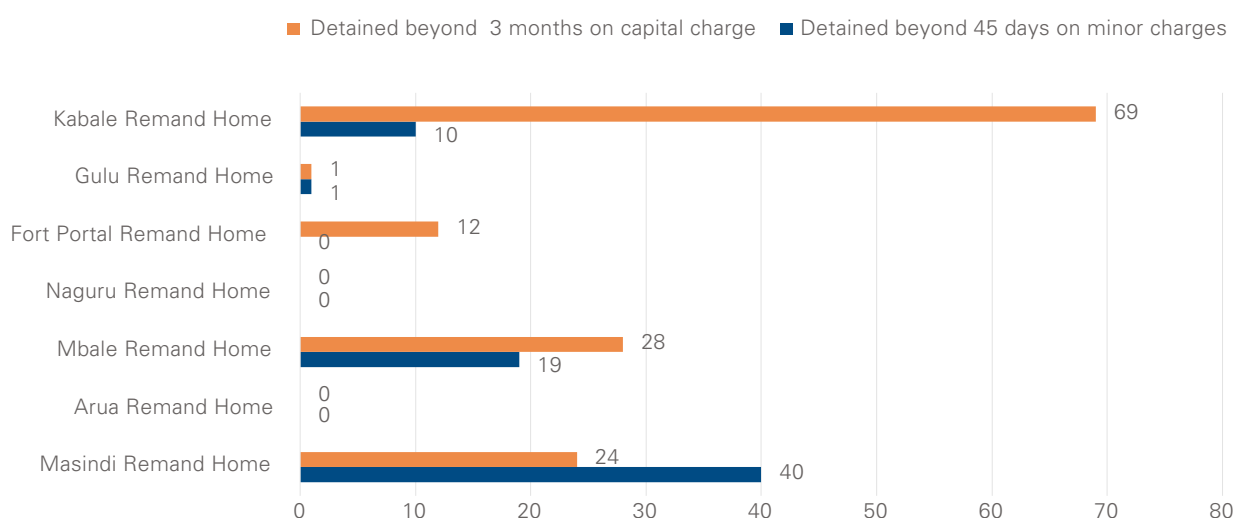
Section 94(4) of the Children Act states that "detention shall be a matter of last resort and shall only be made after careful consideration and after all other reasonable alternatives have been tried and where the gravity of the offence warrants the order."

In line with this, discretion is bestowed upon judicial officers to inquire into the case's circumstance and release the child on bail on the child's recognisance or with sureties to be bound on a non-cash court bond unless there are severe consequences dangers to the child. UHRC noted that some magistrates remanded children without due regard to this standard. For instance, in remand homes in Mbale, Masindi, Gulu, Naguru and Kabale, juveniles charged with petty offences and who should have benefited from court bail were remanded. In Mbale and Gulu Remand Homes, UHRC found 24 and 28 juvenile offenders confined on petty offences, yet the court could have exercised powers to grant bail. Grant of bail is discretionary and depends on several factors, but the absence of parents or guardians and probation officers in court or the lack of a social inquiry report were largely highlighted as the major factors that led to remanding of juveniles charged with petty offences. A Magistrate Grade I in Kitgum District said that: "Social inquiry reports and the presence of parents/guardians of a child are critical factors in guiding the court to reach an informed decision regarding a particular child. Unfortunately, the social inquiry report is always missing on file and in most cases probation officers are not in court. To make matters worse, most parents do not care about their children, and as such do not attend court. What magic is a judicial officer expected to perform when he/she lacks background information about the child? If I release a child and he is lynched tomorrow, I will be blamed!"

## **8. Delayed disposal of juveniles cases**

Article 28 of the Constitution provides for the right to a fair hearing, including the right to a speedy trial. The Children (Amendment) Act of 2016 in section 91 (5) provides for the maximum period within which juveniles should spend on remand. Accordingly, all cases of juveniles remanded for offences punishable by death (capital offences) such as defilement, aggravated robbery, and murder should not be detained beyond three months on remand, while those charged with minor offences such as theft and assault should not be detained for more than 45 days. However, UHRC noted multiple cases of juveniles detained beyond the maximum period with concern. Overstay on remand in other facilities was reported as contained in the figure below.

**Figure 7.11: Number of juveniles who overstayed on remand in 2021**



Kabale Remand Home had the highest number of juveniles who had overstayed on remand, with more on capital charges, while Masindi, which had the second-largest number, majorly had juveniles on minor charges. Naguru and Arua had no cases of overstay of remand, suggesting an efficient disposal rate.

Section 99 of the Children's Act requires that every case involving a juvenile should be handled expeditiously and without unnecessary delay and further provide timelines and disposal methods for cases of children in conflict with the law. In particular, it compels the Family and Children's Court to dismiss a juvenile case that is not concluded within three months after a child's plea has been taken. Similarly, it compels the High court to dismiss and discharge a juvenile whose case has not been concluded within 12 months after a plea has been taken. UHRC noted that these standards were not observed because of frequent adjournment by courts, irregular court sitting, hostile witnesses, and incomplete investigations by the Police, amongst other factors. According to a MoGLSD report on the status of juvenile justice in 2021 to UHRC, Masindi Remand Home had a total of seven cases of juveniles charged with capital offences where cases had taken more than 12 months after a plea was taken, while Gulu Remand Home had 26, with two at Kabale Remand Home. Kabala Remand Home had four juveniles charged with minor offences whose cases had been prolonged for more than three months after a plea.

### Reasons for the delayed conclusion of cases

There were several reasons given for the delay to concluding court cases.

#### a) Delay due to lack of transport

Masindi Remand Home hires a van to take juveniles to court, while Gulu, Mbale, Kabale, Fort Portal and Naguru Remand Homes reported inadequate fuel allocation to facilitate regular transportation of juveniles. UHRC also established that remand homes were overwhelmed because of wide coverage, handling many courts in various districts simultaneously. For instance, Naguru Remand Home operates in a total of 56 courts and this becomes impractical when the facility is expected to take children to all the 56 courts in one day. The same issue was reported at Gulu Remand Home, which covers courts in 16 districts, with the furthest court located 300 km away in Amolatar. Mbale Remand Home covers courts in Iganga, Karamoja, Teso, Bugisu and Sebei regions, with the furthest being Kaabong District. As such, the broad geographical coverage coupled with inadequate fuel allocation means children often miss court appointments.

#### b) Delay due to committal proceedings.

Committal proceedings are a formal process where an accused person is charged with a capital offence before a Magistrate's Court and thereafter referred for trial in the High Court. UHRC reported on the human rights implications of committal proceedings in its 2019 Annual Report and recommended scraping

it from the criminal proceedings. The Commission noted that some juveniles' cases were still being delayed because of the ritual of committal proceedings. For example, in Wakiso District, the Chief Magistrate Court had eight 2019 cases involving juveniles pending committal proceedings, thereby inordinate delay.

### **c) Delay due to reliance on special sessions**

At the High Court level, UHRC was informed that over-reliance on special criminal sessions to handle juveniles' cases caused delays. A notable exception was in Gulu, where Justice Stephen Mubiru handled juvenile cases without waiting for special court sessions.

## **9. Use of improper words or actions against children**

Section 101 of the Children's Act reiterates Article 8 of the Beijing rules to prohibit unfriendly child languages, including labelling a child in conflict with the law as 'delinquent' or 'criminal' to avoid stigmatisation. UHRC observed the persistent use of strong words such as 'habitual criminal', 'opium smokers', and 'thief' to refer to juveniles, especially at the Police level. It notes that the use of such strong and derogatory words does not only damage the child's esteem but also contravenes the principle of presumption of innocence as constitutionally guaranteed in Article 28. Additionally, violent arrests, hard interviews and statement recording in the absence of a probation officer or a parent were other unfriendly practices reported by juveniles in some facilities.

## **10. Hearing juvenile cases in open court**

Whereas it was reported that some courts had adopted child-friendly processes of hearing juvenile cases in chambers, UHRC noted that this was not the standard practice. This not only undermines the ability of the juvenile to freely express themselves in the presence of many court users but also exposes children to hearing about adversarial processes involving adult cases. Besides, the formal setting of most open courts greatly contravenes the informal arrangement under which a juvenile case should be administered. The Resident State Attorney of Kitgum stated: "Hearing juvenile cases in open court is a negative practice which unfortunately is still encouraged by some courts. The setup and proceedings in open courts grossly undermines the dignity of a child. Strong and hard languages spoken in open courts are not for juveniles. The experience of a juvenile standing in the dock is not imaginable."

## **11. Juveniles issued with custodial orders**

Human rights standards relating to orders of juveniles require children whose offence has been proven to be disposed of by a court to issue appropriate orders. The Children's Act provides a wide range of orders that can be issued against a juvenile. Among others, the court is empowered to make orders for an absolute discharge, caution, conditional discharge for not more than twelve months, compensation, restitution or fine, considering the means of the child, probation orders and detention for not more than three years. However, section 94 (4) of the Children's Act requires that an order for detention be a matter of last resort after careful considerations and other reasonable alternatives and where the gravity of the offence warrants the order.

Article 40 of the CRC requires that the treatment of children who come into conflict with the law must take into account "the desirability of promoting the child's reintegration and the child's assuming a constructive role in society." UHRC noted with concern the significant number of juveniles whose cases had been concluded and issued with custodial orders, not non-custodial orders. For instance, in Arua Court, out of 99 cases of juveniles where orders were passed in 2021, 51 juveniles were granted custodial orders, while 48 were granted non-custodial orders such as caution and community service. Similarly, in Kabarole Court, out of 17 cases, 12 juveniles were issued custodial orders while five were granted non-custodial orders. This general trend where custodial are preferred over non-custodial orders is undesirable, especially given the challenges of successfully rehabilitating juveniles committed to the National Rehabilitation Centre in Kampiringisa.

## **12. Orders by the local council courts**

UHRC established incidents where local council courts ordered corporal punishment to be administered against juveniles. This practice contravenes section 94 (9) of the Children's Act as it prohibits corporal punishment for children. An example of this unconstitutional order was reported in Kasipodo 'A' and 'B', where the local council in Tororo District chairperson informed UHRC that sometimes their court administers corporal punishment for children if parents agree to it.

## **13. Age determination**

Ascertainment of age is the foundation of juvenile justice because it determines how one is treated and served by the justice system. Section 88 of the Children's Act states that criminal responsibility is set at 12 years as determinable by birth certificates, health records, school records and statements certifying age from parent or child or medical evidence. UHRC found that because of age determination challenges through lack of such documentation, children below the age of criminal responsibility (12 years) were processed through the system. For instance, in 2021, Naguru Remand Home received one case of a child below the age of 12 and was reported to have received three cases of suspected adults.

## **Challenges encountered in the administration of juvenile justice in 2021**

The following challenges were identified to have affected the administration of juvenile justice in Uganda.

### **1. Poor data collection, analysis and reporting systems on juvenile justice.**

The availability of updated statistical data on juvenile cases across institutions is an essential tool in tracking registration, disposal and measuring performance in juvenile justice. However, poor recording of relevant information, lack of expert analysis, and the misalignment of formats in related institutions do not facilitate the collection of quality data disaggregated by age, gender, and special needs with respect to victims or offenders.

### **2. Ineffective execution of the probation functions.**

The probation function is at the core of case management for juvenile cases. The critical role played by the probation officer positively or negatively impacts juvenile justice case management and dramatically influences the decision-making process and handling of children in conflict with the law. Unfortunately, probation officers are overwhelmed given their comprehensive mandate that includes both probation and social welfare functions. The probation function is also grossly underfunded, which affects their capacity to handle juvenile cases.

### **3. Inadequate parental responsibility**

Poor parenting of children affects not only the upbringing of children and can encourage negative behaviours but also causes problems in effective case management for juveniles in conflict with the law in situations where parents are absent or unconcerned.

### **4. Fragmented mainstreaming strategy for juvenile justice standards**

Child-friendly responses within the justice system are not standardised. For instance, diversion practices are well guided at the Police level, while other institutions such as courts lack standard diversion guidelines.

### **5. Inadequate capacity of and support for community-based structures**

The lack of effectively operational local council courts and fit persons to support the formal justice system in administration of juvenile justice undermine their ability to deliver child-friendly justice. Since the election of LC I leaders, no proper induction training has ever been conducted on their roles in promoting juvenile justice.

#### **6. Limited gazetted detention facilities for children**

Due to the lack of suitable children's cells at Police stations, holding cells at courts and remand homes in some districts results in children being detained together with adults.

#### **7. Inadequate human, logistical and financial resources to deliver child-friendly justice.**

Child justice standards are very costly ventures which require adequate human, logistical and financial resources for effective delivery, and this is still lacking in Uganda.

## **7.5 RECOMMENDATIONS**

1. In conjunction with the Ministry of Local Government, the Ministry of Gender, Labour and Social Development should review the functionality of probation and social welfare offices with the view of splitting the probation roles from the social welfare functions to be performed by different officers.
2. All parents or guardians in Uganda should step up their constitutional responsibility of nurturing their children to reduce delinquency and supporting children when in conflict with the law.
3. The Governance and Security Programme Secretariat should technically support all juvenile justice institutions towards holistic mainstreaming of standards.
4. The Governance and Security Programme Secretariat should support the Uganda Police Force and the judiciary in constructing or designating child-friendly detention facilities in all Police facilities and courts.
5. The Ministry of Finance, Planning and Economic Development should allocate more financial resources to boost human resource strength within juvenile justice institutions in Uganda.

## **7.6 CONCLUSION**

Since the adoption and ratification of the United Nations Convention on the Rights of a Child, Uganda has made remarkable progress concerning the protection of the rights of children in conflict with the law. The rich legal, policy and institutional framework notwithstanding, the rights of children in conflict with the law continue to be affected due to slow and unsystematic adaptation to practice change across the justice system. Uganda should increase efforts toward mainstreaming and applying all juvenile justice standards as established by the legal regime.

# CHAPTER EIGHT:

# Access to Electricity in Uganda

## 8.1 INTRODUCTION

Access to electricity refers to the percentage of people in a given area with relatively simple, stable access to electricity.<sup>192</sup> Access to a reliable electricity supply is a crucial driver for socio-economic transformation, and it has become the backbone of modern economies across the world.<sup>193</sup> According to Uganda Vision 2040, energy and, in particular, electricity is recognised as a driver of socio-economic transformation, and for Uganda to shift from a peasantry to modern industrialised society, it must be propelled by electricity as a source of modern energy.<sup>194</sup> Electricity is an essential part of a high material living standard, and it is a derived right as human beings have rights to sufficient living conditions, and electricity can help to improve such conditions. The lack of access to electricity has enormous adverse effects on modern economic activities and quality of life.

Access to electricity is still a big challenge for many Sub-Saharan countries, with many lacking the required infrastructure to transmit electricity to the end-users.<sup>195</sup> Uganda is no exception as a considerable portion of the country (over 40%), mostly in rural and hard to reach areas, does not have electricity access. However, Uganda is endowed with electricity sources that can satisfy its current and future demand for electricity if fully exploited. These sources include hydro, cogeneration (bagasse technology which uses sugar cane residues to generate electricity), geothermal (generated from geothermal, which is heat energy stored in the earth crust, solar, peat (soft organic material made of partially decayed plant material which forms in areas where there is little oxygen specifically in wetlands), wind and waste. The Commission notes that hydroelectricity contributes the biggest percentage of electricity generation and is the first source of electricity introduced in Uganda in 1954 when the Owen Falls Dam was commissioned.

It is imperative to note that the quality of electricity is also still a big challenge even for those who have access to it, as some areas experience frequent power blackouts and others have very low power voltage, which is limited to lighting and simple appliances.

During the period under review, the Uganda Human Rights Commission monitored selected districts of Uganda, including Arua, Moyo, Yumbe, Koboko, Jinja, Kibuku, Tororo, Kassanda, Wakiso, Kampala, Moroto, Abim, Kotido, Kween, Kapelebyong, Amolatar, Kaberamaido, Soroti, Mbale, Kumi, Kiryandongo, Masindi, Bulisa, Wakiso, Rwampara, Isingiro, Ibanda, Kazo, Kiruhura, Rubirizi, Mitooma, Bushenyi, Sheema, Kalungu, Kyotera, Sembabule, Lyantonde, Alebtong, and Lira, targeting both the rural and urban areas to find out the level of accessibility of electricity and the human rights implications that arise as a result of its absence. Key respondents were schools, institutions, health facilities, individual household owners, and representatives in refugee camps, both male and female.

The Commission focused on this issue due to the challenges that have affected access to electricity to all, including affordability, quality of electricity, and physical access to electricity, limited budgetary allocation, access to electricity by the most marginalised, COVID- 19 and its implications and the gender dimensions

<sup>192</sup> [https://energyeducation.ca/encyclopedia/Access\\_to\\_electricity#cite\\_note-1](https://energyeducation.ca/encyclopedia/Access_to_electricity#cite_note-1)

<sup>193</sup> [https://www.un.org/ohrls/sites/www.un.org.ohrls/files/technical\\_working\\_group\\_1\\_energy\\_access\\_report\\_2021.pdf](https://www.un.org/ohrls/sites/www.un.org.ohrls/files/technical_working_group_1_energy_access_report_2021.pdf)

<sup>194</sup> Uganda Vision 2040

<sup>195</sup> Moussa P. Blimpo and Malcom Cogrove, "Electricity Access in Sub-Saharan Africa: Uptake, Reliability and Contemporary Factors for Economic Impact" (World Bank, 2019).

to access to electricity, among others. This chapter will assess access to electricity in Uganda and the challenges that limit its access and will also give recommendations to address the concerns resulting from its absence or lack.

## 8.2 LEGAL AND POLICY FRAMEWORK

Access to electricity is not explicitly provided for as a right in international, regional and national legal frameworks; however, a claim of the right to access electricity can be based on the interpretation of existing provisions linked to it and how it impacts other issues. An argument can be made that the right to access modern energy services is already implicit in a range of existing human rights obligations as discussed below.

### 8.2.1 International legal framework

The socio-economic goals contained in the Covenant on Economic Social and Cultural Rights cannot be achieved without access to electricity. Article 12 of the Covenant confers the right to the highest attainable physical and mental health standards. Acquiring such a standard is impossible without access to sustainable energy services. Articles 6 and 7 of the Covenant establish the right to work. The majority of employment possibilities require access to sustainable energy. While very basic farming, manual work and craftwork may be an exception, access to lighting, heating and cooling, clean water, modern machinery, telephones, and computers are basic requirements to truly meet the right to full and productive employment promoted by these Articles. In particular, the right to safe and healthy working conditions, as set out in Article 7 of the Covenant, is not possible without access to energy. Finally, Article 13 of the Covenant establishes the right to education. While it may be possible to educate children to a certain level without access to energy, the effective implementation of this right requires access to modern energy services.

The Convention on the Elimination of Discrimination against Women requires states to eliminate discrimination against women, particularly in rural areas, and to ensure that they “enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communication.”<sup>196</sup> Similarly, the right to development provided for in the Declaration on the Right to Development can also be used to claim the right to access electricity. Article 3 of the Declaration charges state parties with a primary responsibility of creating national and international conditions favourable for realising the right to development; thus, the provision of electricity can be seen as one such necessary condition.

SDG target 7.1 is universal access to affordable, reliable, sustainable, and modern energy services, with 7.1.1 focusing on access to electricity and 7.1.2 focusing on access to clean cooking solutions. In fact, all 17 sustainable development goals are tightly interconnected with social, economic, and environmental goals embedded in human rights and are dependent on stand-alone Goal 7, which ensures access to affordable, reliable, sustainable, and modern energy. This is because all forms of development are subject to the availability of energy resources and services, while sustainable development is reliant on renewable energy resources and services, such as Target 7.2, which aims to substantially increase the share of renewable energy in the global energy mix.

### 8.2.2 Regional legal framework

Article 16 of the African Charter on Human and People’s Rights provides all individuals the right to enjoy the best attainable state of physical and mental health, meaning state parties should take the necessary measures to protect the health of their people.<sup>197</sup> The Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa (Maputo Protocol) remains one of the most progressive legal instruments providing a comprehensive set of human rights for African women. It details wide-

<sup>196</sup> See Article 14(2).

<sup>197</sup> African (Banjul) Charter on Human and Peoples’ Rights adopted June 27 1981.

ranging and substantive human rights for women covering the entire spectrum of civil and political, economic, social and cultural as well as environmental rights. The said Protocol also recognises women's economic, social and cultural rights noting the denial of these rights often leaves women vulnerable to further abuse.<sup>198</sup>

On 3 June 2021, the African Union (AU) launched the African Single Electricity Market (AfSEM). It paves the way for one of the largest electricity markets in the world, covering the African Union's 55 member states and a population of more than 1.3 billion.

### 8.2.3 National legal and policy framework

Objective XXVI of the National Objectives and Directive Principles of State Policy in the 1995 Constitution of Uganda provides for the implementation of sustainable energy policies that will ensure that people's basic needs and those of environmental preservation are met. The Electricity Act, 1999, is the primary law in Uganda under which the electricity sector operates.<sup>199</sup> It created the Electricity Regulatory Authority (ERA) and provides for the management and regulation of the electricity service industry. It also led to the creation of the Electricity Disputes Tribunal for electricity-related dispute resolution. It mandated the Ministry of Energy and Mineral Development (MEMD) to undertake Rural Electrification and contained the creation of the Rural Electrification Fund. Notably, the Electricity Act is currently under review. The current proposed Electricity (Amendment) Bill, 2022, seeks to amend the Electricity Act, Cap. 145 to increase funds allocated to the ERA from 0.3% to 0.7% of the revenue received from generated electrical energy to ensure that the Authority has adequate funds to regulate the electricity industry. The Bill also proposes to provide for additional functions of ERA and empower the Authority to impose fines on licensees for breach of the terms of the license before taking a drastic decision of suspending or cancelling a license, and providing for deterrent penalties for theft of electricity and vandalism of electrical facilities. In addition, this proposed law seeks to introduce stiff penalties for the vandalism of key electrical installations.

Uganda's Vision 2040 indicates that electricity is a driver of socio-economic transformation, and several countries that have attained faster growth have used modern energy to drive industrialisation and service sectors. Uganda's Vision 2040 further lays out the broad policy directives to improve electricity access and transform Uganda into a modern and prosperous country within the next 20 years.<sup>200</sup> It aims to achieve an electricity access target of 80% by 2040. In addition, hydropower, solar PV, geothermal energy, and cogeneration are expected to contribute 35.4%, 39.4%, 11.8% and 13.3%, respectively, to renewable energy-based electricity power generation by 2040.

The National Development Plan III, 2020/21-2024/25 (NDP III), emphasises the need for increased access to a reliable electricity supply to consolidate and increase the stock and quality of productive infrastructure. It also highlights the urgent need to increase access and usage of electricity through investments in least-cost power generation, promotion of renewable energy and energy efficiency, and development and expansion of associated transmission and distribution infrastructure. Hence, NDP III aims to make the generated energy more available to households and businesses. Particular focus on the NDP III and its objectives is meant to improve access and availability of electricity to the rural and urban areas, especially to economic zones and other productive areas, by emphasising improvement in energy efficiency by promoting the use of energy-efficient technologies.

<sup>198</sup> Article 13 of the Protocol.

<sup>199</sup> The liberalisation and enactment of the Electricity Act, 1999, mandated the unbundling of Uganda Electricity Board (UEB) which was a monopoly managing the generation, transmission, distribution, sale, import, and export of Uganda's electricity.

<sup>200</sup> BMAU briefing paper. (2019) Ministry of *Finance Planning and Economic Development*, Kampala. Available from: <https://www.finance.go.ug/publication/policy-briefing-papers-2019>.

The objective set out by the Energy Policy of 2002 is to meet the population's energy needs for social and economic development in an environmentally sustainable way. The policy, currently under review, calls for increasing access to modern and reliable energy services. Its bold policy vision contains the following goals:

1. to establish the availability, potential and demand of various energy resources in the country.
2. to increase access to modern affordable, and reliable energy services as a contribution to poverty eradication.
3. to improve energy governance and administration.
4. to manage energy-related environmental impacts.
5. to increase the role of the private sector in the power sector operations and future development.

Uganda is one of the few African countries with a clearly focused renewable energy policy published by the MEMD in 2007. The policy promotes power generation from mini-hydropower schemes, biomass, co-generation, wind, solar, geothermal, and peat, providing a key policy instrument for developing and utilising renewable energy.

In 2018, the Government launched the Electricity Connection Policy giving customers an electricity connection for just UGX 20,000 (about US\$5.50), aiming to ensure access for 60% of households by 2027. This allows free electricity connections for new consumers that require no pole and one pole services.<sup>201</sup>

## Institutional framework

**The Ministry of Energy and Mineral Development (MEMD):** MEMD is the policy head of Uganda's electricity supply industry to whom ERA is directly answerable. The mandate of the MEMD is to establish and promote the development of energy and mineral resources for social and economic development. The Ministry provides policy guidance in the development and exploitation of energy resources and works with the industry regulator to create an enabling environment to attract investment in the development, provision, and utilisation of energy resources.<sup>202</sup>

**The Electricity Regulatory Authority (ERA):** ERA is the legal supervisor of Uganda's Electricity Supply Industry. The Authority is mandated by the Electricity Act, 1999 to issue licenses with the attendant terms and conditions for electricity generation, transmission, distribution, sale, import, and export of electricity. ERA was also mandated to establish a tariff structure and approve charge rates, among other functions.<sup>203</sup>

## The structure of Uganda's electricity supply industry

Uganda's electricity supply industry is divided into three independent segments: generation, transmission and distribution. The three became independent sectors after the Uganda Electricity Board dissolution in 1999. The three sectors differ in mandates and the nature of players and were created with the rationale of increasing efficiency in the electricity sector.

### 1. Electricity generation

Electricity generation is a process of converting electric power from primary sources like hydro, solar, biomass residues, peat, wind, coal, nuclear and other sources. It involves the use of sophisticated technology and equipment to build power generating plants and systems. In Uganda, the generation segment has a combination of government-owned power plants, independent power producers (IPPs), and public-private partnerships (PPPs). This arrangement has seen the electricity generation sector grow from three plants in 2001 to over 40 by 2021. The total generation capacity also grew from 400MW in 2001 to the current 1,352MW. The conducive regulatory environment has attracted several players into the sector,

201 The project was affected by COVID-19 but resumed this year March 2022

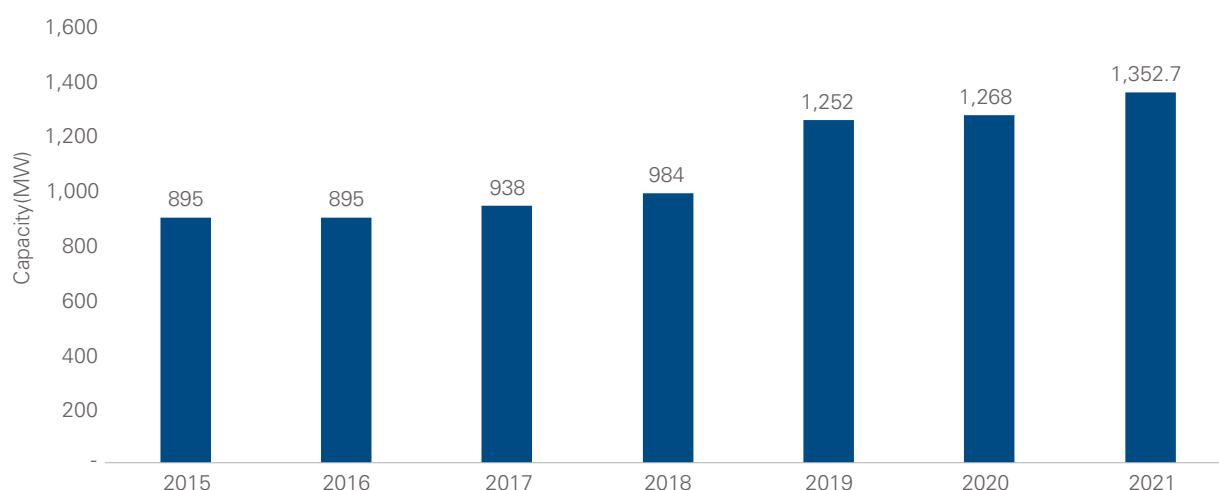
202 [www.era.go.ug](http://www.era.go.ug) visited on 4 March 2022.

203 [www.era.go.ug](http://www.era.go.ug) visited on 4 March 2022.

including large and small scale generators. Players in this sector include the Uganda Electricity Generation Company (UEGCL), Eskom Uganda Limited, Kakira Sugar Works Limited, Kinyara Sugar Limited and several other small scale electricity generators.

To date, the total power generation is 1,325.9MW, namely hydro 1,054.7; cogeneration 109.4; thermal 101; and solar 60.8. Power generation is expected to increase to about 2,000MW by the end of 2022, with the 600 MW Karuma hydropower plant and other small renewable energy generation projects being commissioned. Overall, the energy generation from the power plants has been increasing, registering a maximum value of 4,748.8GWh in 2021.<sup>204</sup> The total power generation installed capacity has grown from 895MW in 2015 to 1325MW in 2021.

**Figure 8.1: Generation installed capacity**



Source: ERA

## 2. Electricity transmission

Electricity transmission involves delivering generated electricity to the electricity distribution grid. Electricity transmission also involves the strategic positioning of transformers used to increase electric voltage levels that make long-distance voltage levels feasible. Uganda's electricity transmission is managed by the Uganda Electricity Transmission Company Ltd (UETCL), which directly executes power purchase agreements with independent power producers and manages power plants' scheduling and actual dispatching.<sup>205</sup> The UETCL holds licenses for the operation of the High Voltage Transmission grid, the system operator license, the export and import of electricity license, and the bulk supply license.

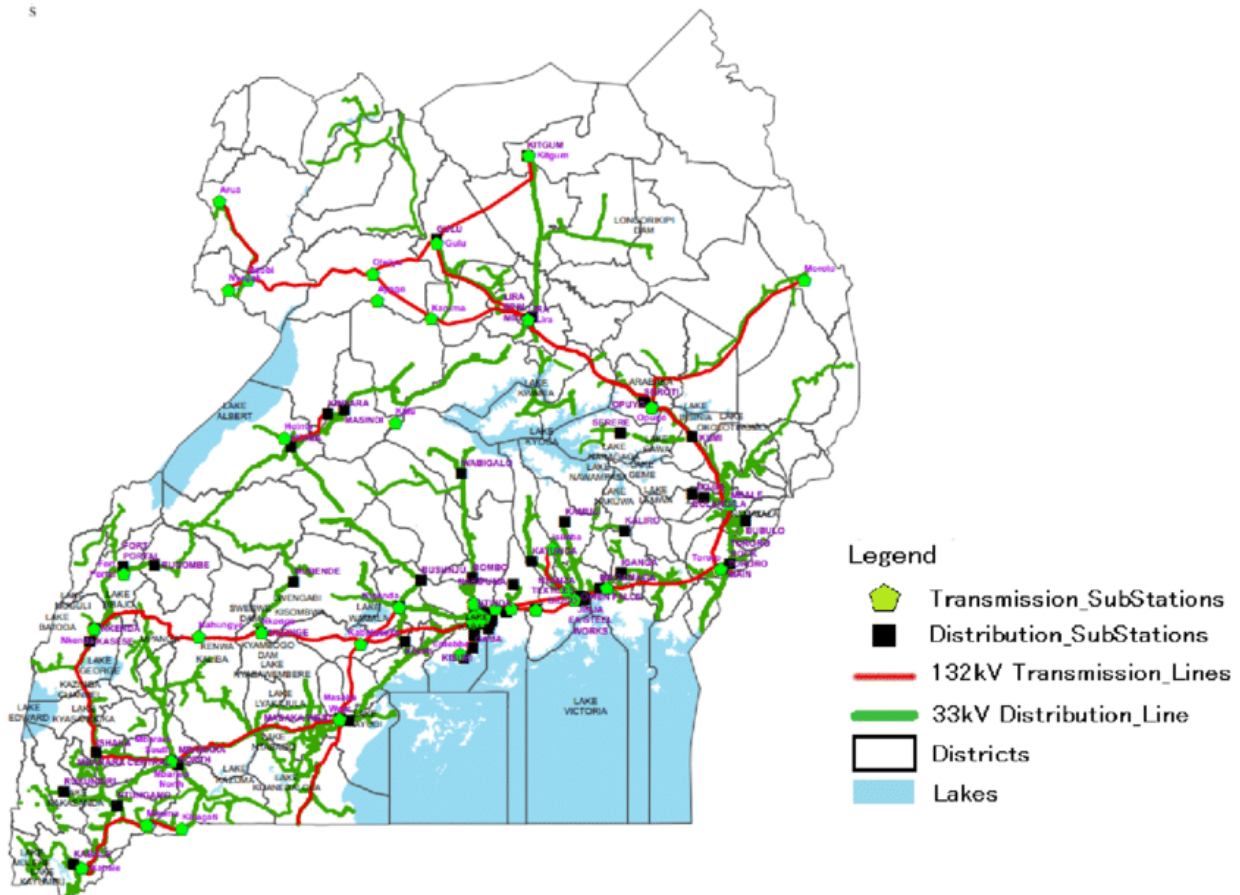
It is important to note that apart from electricity transmission, the transmission sector is responsible for the infrastructural expansion of the national grid and for making electricity accessible to all. As noted earlier, the national grid has been extended to only 19% of the population, meaning 38% depend on mini-grids and other sources like solar. Unfortunately, 43% have not been reached with any sources of electricity. According to ERA, in 2020, UETCL experienced some stagnation in energy purchases and sales due to the impact of the COVID-19 pandemic. In 2021, there was a slight recovery after restrictions were gradually eased.<sup>206</sup> According to ERA, transmission losses have kept fluctuating over the last five years, with the lowest being in 2019 at 3.6% and the highest in 2021 at 4.1%.

<sup>204</sup> [www.era.go.ug](http://www.era.go.ug) Visited on 8 April 2022.

<sup>205</sup> Electricity Regulatory Authority

<sup>206</sup> Ibid

**Figure 8.2: Map of Uganda's electric grid and substations**



Source: ResearchGate

### 3. Electricity distribution

Just like generation, electricity distribution has several players. As a way of growing access to clean energy, ERA has licensed several electricity distribution operators to serve the hitherto unserved and predominantly rural communities. The number of electricity distribution companies now stands at eight: Umeme Limited, West Nile Rural Electrification Company (WENRECo), UEDCL, Kyegegwa Rural Energy Co-operative Society (KRECS), Pader-Abim Community Multi-Purpose Electric Co-operative Society (PACMECS), Kilembe Investments Limited (KIL), Hydromax, and Kalangala Infrastructure Services Limited.

## 8.3 SITUATIONAL ANALYSIS

### 8.3.1 Status of energy in Uganda

Uganda is well endowed with renewable and non-renewable energy resources. The renewable energy resources include biomass (firewood, charcoal and cogeneration resources (such as sugarcane), hydro-power (water) resource, solar energy, geothermal energy, and wind energy resources distributed all over the country. The non-renewable resources include crude oil and peat energy. It should be noted that the electrification rate currently stands at 57%, with only 19% on the grid and 38% off the grid.<sup>207</sup>

Even though Uganda has both renewable and non-renewable energy resources, in 2018, World Bank rated Uganda among the 20 countries with the most extensive access deficits<sup>208</sup>, which accounted for 78% of the total population without access to electricity. Nigeria, the Democratic Republic of Congo (DRC), and India had the three largest deficits: 85 million, 68 million, and 64 million people, respectively. Among the

207 Presentation by Assistant Commissioner Electrical Supply, Ministry of Energy at the consultative meeting of the 25th Annual Report in 2022.

208 A country's 'access deficit' is the number of people in the country who lack access to electricity.

20 countries with the largest access deficits, Bangladesh, Kenya, and Uganda showed the most significant improvement since 2010 due to average annual electrification growth rates.<sup>209</sup>

Uganda's population is over 40 million people, the urban population being 27%. The total generation capacity is 1,352 MW. Remarkable improvement in the distribution of electricity in Uganda has been realised. Energy losses had reduced from over 30% to 16% in 2020. The access to clean energy rate has also increased, and the legally grid-connected customer base has grown from approximately 180,000 customers in 2001 to 1,643,288 in 2020, including off-grid customers.<sup>210</sup> However, not all districts are connected to the national grid; for instance, in West Nile, it was only Moyo District that was connected to the national grid, while the districts of Arua, Moyo, Yumbe and Koboko are not yet connected to the national grid but rather on the West Nile Rural Electrification Company.

**Table 8.1: Overall indicators of electricity in Uganda**

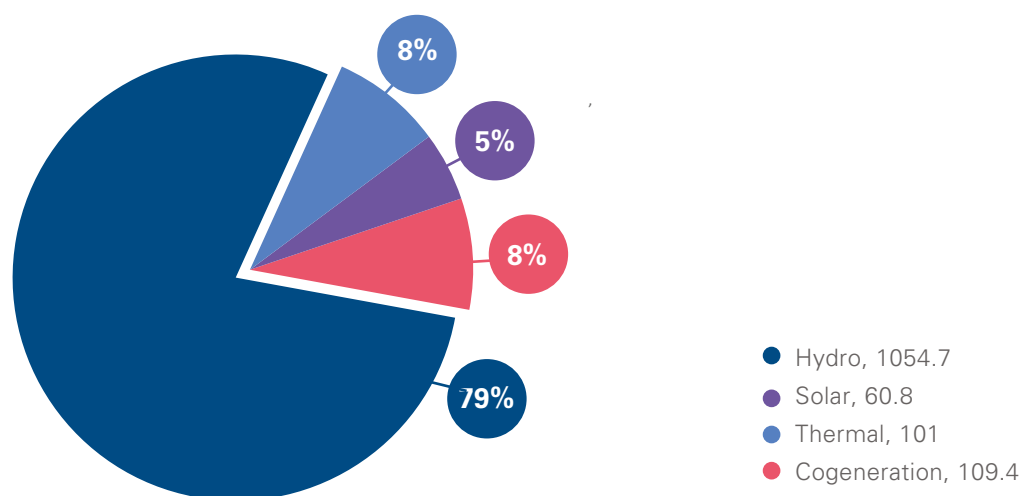
|                                      |            |
|--------------------------------------|------------|
| Population size                      | 41 million |
| Urban population, %                  | 27%        |
| National electrification rate, %     | 57%        |
| On-grid connection rate, %           | 19%        |
| Solar-off grid connection, %         | 38%        |
| Total generation capacity, MW        | 1,352      |
| Generation per capita, Kwh           | 100.5      |
| Distribution losses, %               | 16.9%      |
| Domestic price per unit, cents (USD) | 18.6       |

Source: ERA

### 8.3.2 Energy sources in Uganda

The government endorsed the power sub-sector reform programme, which made provisions to introduce diversification in the country's energy mix. Grid electricity in Uganda is mainly generated from hydro which constitutes 79% of the total electric power generation, followed by cogeneration and geothermal at 8% and lastly solar at 5%. On a small scale, other technologies are being developed to generate electricity from wind, waste and peat.

**Figure 8.3: Energy mix for Uganda 2021**



Source: Ministry of Energy and Development

209 [https://irena.org/-/media/Files/IRENA/Agency/Publication/2020/May/SDG7Tracking\\_Energy\\_Progress\\_2020.pdf](https://irena.org/-/media/Files/IRENA/Agency/Publication/2020/May/SDG7Tracking_Energy_Progress_2020.pdf).

210 <https://www.era.go.ug>.

Despite this, Uganda has not been able to make available reliable and cost-effective electricity to meet the demand of the growing population and economy due to several challenges, including the lack of grid infrastructure in most parts of the country, the high initial cost of power generation plant, energy losses due to illegal connections, and high power tariffs.

### 8.3.3 Benefits that accrue from access to electricity

Due to a reliable electricity supply, the quality of life of electricity consumers is envisaged to improve in the areas of health care, education, entertainment, and security. The primary goal of electrification is to ensure progressive improvement of living conditions and provide a path to sustainability, since it is a key element for economic development.

Globally, electricity has played a critical role in:

1. **The organisation of the production system:** Mechanisation powered by electricity has allowed more efficient production processes and improved productivity in all sectors.
2. **Processing industries:** Electricity can lead to new transformation techniques; for example, raw materials can be processed into higher value-added semi-finished or finished products (metal, glass, pulp and paper chemicals).
3. **Transportation:** Faster and cleaner means of transport (trains, trams, and cars) are dependent on electricity.
4. **Fulfilment of human needs:** Electricity directly improves living conditions by making light, health, refrigeration, and information and communication services widely available.
5. **Current digital economy:** With the expansion of computing, the importance of electricity is becoming more centralised in all spheres.
6. **Jurisprudence/case-law:** An emerging view sees energy as essential for realising socio-economic rights. For example, in the context of the right to housing enshrined in the South African Constitution, the Constitutional Court of South Africa recognised that the realisation of this right could require the provision of other services, including energy: “The state’s obligation to provide access to adequate housing depends on context, and may differ from province to province, from city to city, from rural to urban areas and from person to person. Some may need access to land and no more; some may need access to land and building materials; some may need access to finance; some may need access to services such as safe water, sewage, electricity and roads.”<sup>211</sup> The African Commission on Human and People’s Rights found that the failure of the Zaire (the Democratic Republic of the Congo) Government to supply basic services such as safe drinking water and electricity was a violation of rights.<sup>212</sup>

### Interventions by the government to increase access to electricity

The journey toward universal access to electricity is a gradual one for Uganda, with several efforts made by the government and other actors that have led to the current achievement of 57% of the total population having access to electricity.

#### 1. Construction of electricity-generating power plants

To its credit, the government has heavily invested in the construction of power plants. It owns all the large power generating plants, including Owen falls dam (180MW), Kiira power station (200MW), Isimba power project (183.2MW), Karuma power plant (600MW), Jacobsen (U) Limited-geothermal plant (50MW) and Electromaxx (U) Limited with a 50MW-geothermal plant (50MW). In addition to these, the government has several other small electrical power projects it established to advance its agenda of increasing access to electricity in Uganda. This has led to Uganda’s generation capacity expansion from the initial 180 MW to the current 1,352MW.

<sup>211</sup> Government of the Republic of South Africa v. Grootboom, (11) BCLR 1169, para.37 Judgment available at: [www.concourt.gov.za/files/grootboom1.pdf](http://www.concourt.gov.za/files/grootboom1.pdf).

<sup>212</sup> African Comm. Hum. & Peoples’ Rights, Comm. No. 25/89, 47/90, 56/91, 100/93 (1995) para 47, available at [www1.umn.edu/humanrts/africa/comcases/25-89\\_47-90\\_56-91\\_100-93.html](http://www1.umn.edu/humanrts/africa/comcases/25-89_47-90_56-91_100-93.html) Visited on 18 March 2022

## 2. Attracting private investments into the sector

Efforts to attract private investors began with the liberalisation of the energy sector. Over the years, the government has attracted private investors in the electricity generation and distribution sections, which have led to tremendous improvements, including increased electricity generation capacity and a more reliable grid electricity supply. In the generation section, private actors include Eskom, Get Fit, Kakira Sugar works, Kinyara Sugar Ltd and other small plants. In the distribution section, there is Umeme, Kyegegwa Rural Energy Co-operative Society (KRECS), Pader-Abim Community Multi-Purpose Electric Co-operative Society (PACMECS), and Kilembe Investments Limited (KIL).<sup>213</sup>

## 3. Increasing revenue collection from below 50% before dismantling UEB to now 99.9%

The government has registered an increment in revenue realised from electricity generation as a result of increased electricity tariffs, reduced energy losses, and expanded generation capacity, which enables the exportation of power. The Rural Electrification Strategy and Plan (2013-2022) has a target to increase electricity access in rural areas and has registered significant improvement in the area. A 26% increment has been achieved between 2014 and 2022, translating to about 1.5 million new connections on the national grid. Several rural households have also been connected to mini-grids and standalone systems.

## 4. The Electricity Prepayment Billing System (EPBS), commonly known as Yaka

The EPBS revolutionised the electricity distribution sector through its various benefits, including reducing power theft, eliminating the inconvenience of customers going through long queues to pay bills, eliminating the costs involved with disconnection of defaulters and reconnection and improved customer service. UHRC established that most electricity consumers are using the EPBS and use mobile money to pay their electricity bills with ease.<sup>214</sup>

## Challenges that affect access to electricity in Uganda

One of the major targets of Uganda's Vision 2040 is achieving near-universal access to modern and clean energy sources like electricity. This target is backed by SDG No. 7 on "ensuring access to affordable, reliable, sustainable and modern energy for all". Given the current statistics, Uganda still has a long way to go to reach the intended cover: as mentioned above, only 19% of the population is connected to on-grid electricity, 38% are off-grid, and 43% do not have access to electricity. Explanations as to why a significant proportion of the population still doesn't have access to power vary as below.

### 1. High cost of investment

Establishing a grid line is said to have very high-cost implications, including hiring skilled and non-skilled labour; buying the required supplies needed to build the grid; the complex process of acquiring land in Uganda; the difficult terrain in some locations; and managing the challenges of constant vandalism of material from the established grid lines. According to ERA, achieving universal access to electricity would need a prior heavy investment in other infrastructures such as roads, schools and health centres so that trading centres develop before the extension of electric grid lines. Studies<sup>215</sup> show that access to electricity alone does not improve people's living standards nor ignite economic growth; it has to be supported by the availability of other infrastructure.

The substantial initial investment cost of establishing electricity generating plants and the high cost of the required technology are major barriers to electricity access. In most cases, the government has to borrow to establish electric generating plants, something private companies cannot afford. For instance, the Ugandan Government borrowed US\$1.9 billion from China's Exim bank to build Karuma and Isimba Hydropower plants.<sup>216</sup>

213 [https://www.era.go.ug/index.php?option=com\\_content&view](https://www.era.go.ug/index.php?option=com_content&view). Visited on 9 March 2022.

214 <https://www.newvision.co.ug/articledetails/110397>. Visited on 9 March 2022.

215 David I. Stern et al, "The Impact of Electricity on economic development; A macroeconomic perspective." EEG State of Knowledge paper series (2017), Oxford Policy Management System for effective Global Action Energy Institute.

216 <https://www.theeastafrican.co.ke/tea/business/uganda-seeks-212m-china-loan-for-dam-projects-1392520>. Visited on 9 March 2022.

For other energy sources such as peat, the cost of establishing a conventional technology to extract electricity is said to be even higher. Additionally, the maintenance costs of such plants are also high, often requiring foreign expertise and regular purchase of expensive machine spare parts to keep the generation plants operational. The Commission notes that all this has a negative implication: the consumer bears the cost in the long run or becomes public debt.

## 2. Affordability by the populace

If energy is made available but supplied at a price beyond the means of the general population, especially those living in poverty, this will infringe the requirement of equal access and many people will be left behind.<sup>217</sup> According to ERA, domestic consumers will continue to pay UGX 250 for the first 15 units under the lifeline tariff and thereafter pay UGX 747.5 for the subsequent units purchased. Large industrial consumers will pay UGX 355.0, extra-large industrial consumers will pay UGX 300, and street lighting consumers will pay UGX 370.0. The tariffs apply to all electricity consumer bills raised by Umeme Limited, based on meter readings and Yaka purchases from October to December 2021. The ERA's reduction of tariffs for commercial and medium industrial consumers is a deliberate effort to boost the economy by supporting small and medium-sized businesses to recover from the adverse effects of the COVID-19 pandemic.<sup>218</sup>

At the time Uganda Electricity Board (UEB) was unbound in 1999, the electricity tariffs were UGX 100 per kWh. Since then, the tariffs have escalated to UGX 747.5 per kWh. Consumers are categorised in terms of industry sizes, street lighting and domestic. The tariff for domestic consumers has three bands depending on the level of consumption.

**Table 8.2: Electricity tariffs in Uganda**

| TIME OF USE                                              | TARIFF (UGX/KWH) |
|----------------------------------------------------------|------------------|
| First 15 kWh <sup>219</sup> in a month (lifeline tariff) | 250              |
| Units between 16-80kWh                                   | 747.5            |
| Units between 81-150kWh (cooking tariff)                 | 412              |
| Units above 150kWh                                       | 747.5            |

Source: Ministry of Energy and Mineral Development

These high tariffs make people shun electricity and turn to more affordable energy sources, mainly biomass and fossil fuel which are unfortunately hazardous to the environment. The Commission noted that most consumers use it for low electric appliances like lighting, ironing, phone charging, entertainment and refrigeration. For heavy-duty functions like cooking, households turn to biomass.

At the East African level, the Commission notes that for domestic consumers, the tariff in Uganda is US cents 21, lower than that of Kenya and Rwanda, which is at US cents 23, whereas Tanzania has the lowest tariff rate of US cents 15 (see table below).

**Table 8.3: Average electricity tariffs in the East African Community region (US \$/kWh)**

|                                  | UGANDA | KENYA  | RWANDA | TANZANIA |
|----------------------------------|--------|--------|--------|----------|
| Customer category                | \$/kWh | \$/kWh | \$/kWh | \$/kWh   |
| Domestic consumers               | 0.21   | 0.23   | 0.23   | 0.15     |
| Commercial consumers             | 0.16   | 0.23   | 0.14   | 0.13     |
| Medium industrial consumers      | 0.12   | 0.14   | 0.12   | 0.08     |
| Large industrial consumers       | 0.10   | 0.14   | 0.09   | 0.07     |
| Extra-large industrial consumers | 0.08   | 0.14   | 0.09   | 0.07     |
| Street lighting                  | 0.10   | 0.23   | 0.23   | 0.15     |

Source ERA

<sup>217</sup> [https://www.un.org/esa/sustdev/sdissues/energy/op/parliamentarian\\_forum/bradbrook\\_hr.pdf](https://www.un.org/esa/sustdev/sdissues/energy/op/parliamentarian_forum/bradbrook_hr.pdf)

<sup>218</sup> <https://bankersjournalug.com/era-reduces-power-tariffs-for-industrial-commercial-consumers/> accessed on 17th May 2022

<sup>219</sup> Kilowatt hour which is a measure of how much energy someone uses per hour.

### 3. High connection fees

The cost of new connections and internal wiring is still very high for ordinary Ugandans, many of whom are low-income earners. The initial cost of wiring an average house is estimated at around UGX 800,000, plus the additional cost of a new connection, which is currently at UGX 41,000 for domestic users and UGX 20,000 inspection fee, plus other miscellaneous costs. The total cost may be approximately UGX one million and has left many without access to electricity, even in areas which have access to the national grid.

The Commission noted that most parts of Pader and Agago, including Latanya, Ogom, Pajule Sub-County, Patongo Sub-County, and Wol Sub-County, are not yet connected to electric power because of the high connection fee and the bureaucratic administrative procedures. According to Mr Odongo Bosco, the manager of PACMECS, (an electricity distributor company): “For electricity to be connected to a homestead, one has to pay a connection fee of UGX 700,000, which is not easily affordable to a common person who can hardly get what to eat.”

The Commission’s findings in some refugee settlements, especially Kyangwali and Kiryandongo, indicated that only the OPM and other implementing partners’ offices were connected to hydroelectricity mainly used for office operations. The Deputy Commandant Kyangwali Refugee Settlement noted that the settlement has a population of 161,000; however, 99% did not have access to the electric grid. Where possible, refugees use solar for lighting and charging phones, as 40% of the refugee homesteads have access to solar, which is provided by UN agencies and partners.

The Commission also noted from its findings that the procedure for applying for electricity is complicated, and agents of distribution companies extort money from customers, who even then fail to receive services. Mr Mugisha Dickens of AFIEGO commented that there is often “Confusion surrounding free connections, restoration of connection fees, increase of connection fees, no pole service was UGX 98,000 before and now its over UGX 700,000.”

On 10 December 2021, the ERA held the first-ever hybrid public hearing, where stakeholders were consulted on the tariff review applications for 2022. The stakeholders raised concerns about the affordability of tariffs and connection fees and the reliability of power supply, among other issues.

### 4. Physical access, energy losses and illegal hooking

Section 86 of the Electricity Act forbids the diversion of energy from its proper course. Persons convicted of the offence are liable to a fine of up to UGX 600,000 or imprisonment for a term not exceeding three years, or both. Energy losses result from unlawful connections and power theft. Energy losses affect the revenue performance of utilities, and that impacts on operations and maintenance of electricity infrastructure.

### 5. COVID-19 and its implications

The COVID-19-related lockdown crippled operations in society, weakening the country’s social protection and increased vulnerability, especially at the household level. Many people dropped below the poverty line during the said period and could not afford basic necessities like food. The Ministry of Finance and Economic Development estimated that about 780,000 people were pushed into poverty during the lockdown period.<sup>220</sup> This vulnerability also affected electricity consumption as a production input and as a household need. The Government stopped implementing the Electricity Connection Policy in 2021 due to accumulated arrears to power companies caused by COVID-19 financial constraints.<sup>221</sup>

### 6. Limited budget allocations and constrained financing for electricity access

As noted earlier, electricity generation is a sector that requires heavy investment and continued financing for maintenance purposes. Due to limited resources, the sector does not receive adequate funding to operate smoothly or expand. The budget share for the energy sector has been reduced over the past two

<sup>220</sup> Statement of Economic Impact of Covid19 on Uganda by the Minister of Finance and Economic Development, March 2021.

<sup>221</sup> <http://nilepost.co.ug/2021/03/03/government-resumes-free-electricity-connection-policy/>.

fiscal years. In Uganda's national budget for FY 2020/2021, the Government allocated only 8.2% to the energy sector, which translated into UGX 2,468.4 billion.<sup>222</sup> Only UGX 667 billion came from Government revenue, and the rest was obtained from external funding. The managing director of UMEME also indicated that UMEME required about \$4.5 billion to be invested in distributing power to achieve universal coverage by 2030.

## **7. Privatisation and its negative consequences**

The Commission notes that the privatisation of Uganda's electricity sector was a good move since it was meant to deal with unreliable electricity and increase access to electricity. However, privatisation also brought challenges, including increased tariffs which make the affordability of electricity difficult. Many rural areas in the districts of Bundibugyo, Kabarole, Arua, Moyo, Yumbe and Koboko in Uganda do not have access to electricity. Because private electricity distributing companies like UMEME are a monopoly in their specific areas of operation, the lack of competition decreases the incentive to offer cost-effective, good quality electricity services to end-users, a situation the government needs to manage to assist the population.

## **8. Access to electricity for the vulnerable or marginalised persons**

The terms of access to electricity are the same for everyone, with no consideration for the most vulnerable. Even the free connection policy established by the government to boost access to electricity in rural areas had no agenda for the vulnerable. In this regard, there's no specific lens to analyse the particular challenges vulnerable people face in accessing electricity and, therefore, no effort to address them. For instance, the Commission discovered that refugees in Kyangwali Refugee Settlement in Kikuube District found it very difficult to access electricity due to the high connection costs involved. In addition, there were older persons in Kabarole District that could not afford to be connected to electricity. "I stay in this small house of mine alone. I do not have electricity and I cannot afford buying solar. It can real be dark in here at night and I fear for my life because my grandchildren and daughter do not wish me well," said an 80-year-old woman from Kabarole District.

## **9. Quality of services**

According to Commission's findings, load shedding is a problem in some areas like Bundibugyo District due to the terrain and bad weather, where during rainy seasons, electric poles can be swept away in floods. Loadshedding was also reported in most districts, and the most affected include Kampala, Fort Portal, Kaliro, Masindi Luuka, Lira, Alebtong and Kamuli. Masindi General Hospital reported frequent load shedding of about 8 hours each time between October and December 2021, which affected the hospital operations and increased their expenses as they had to depend on a generator. In Moroto, Abim and Kotido, respondents noted that the hours when institutions and private individuals have electricity are inadequate as load shedding occurs about twice a week.

In addition, according to companies like Fresh Dairy, Nice House of Plastics and Mukulu's Farmhouse, load shedding affects production targets since every time power is off, the machines cannot operate and hence a reduction in production. The area manager UMEME Fort Portal office noted that power is removed once in a while for routine maintenance works or when there is a faulty line. It should be noted that the interviewees with whom the Commission interacted blamed the government for the poor and inequitable distribution of electricity to rural areas.

## **10. The land tenure system also affects access**

The land tenure system in Uganda also complicates access to electricity in Uganda. Most of it is under the land tenure system where nationals individually own land and therefore set exorbitant costs for compensation before allowing electric poles through their land, thus making access to electricity very hard. Most community members complained about displacements and low compensation when their land was taken.

## **11. Vandalism of electrical installations**

The Commission noted that load shedding was commonly caused by the vandalism of key electrical instal-

<sup>222</sup> National Budget FY 2020/2021.

lations among the high voltage towers. Vandalism stifles the move to take power to the last mile consumer. According to the Ministry of Energy and Mineral Development, the government has lost over UGX 260 billion due to vandalism. Vandalism was more predominant in the districts of Mukono, Kayunga, Buikwe, Jinja, Kamuli, Iganga, Mayuge, Bugiri, Busia, Tororo, Mbale, Soroti, Lira, Oyam, Kole, Kyirwandongo, Nakasongola, Luwero, Mpigi, Masaka, Kyotera, Mbarara, Bushenyi, Kiruhura, Kazo, Isingiro, Ntungamo, Kasese and Bulisa. Notable cases include:<sup>223</sup>

- Twenty-nine towers were badly vandalised in Tororo District on the 132kV Tororo-Lira transmission line under construction, leading to thirteen towers collapsing. This has delayed delivery of the project and subsequently increased project costs noting that one tower for a 132kV transmission line costs about US\$10,000.
- One hundred fifty-six metric tons of steel equivalent to about 20 towers have been vandalised on the 220kV Bujagali-Tororo transmission line leading to the collapse of various towers.
- The 400kV Karuma-Kawanda transmission line (under commissioning) and Karuma-Lira transmission line (under construction) have experienced heavy vandalism. On the Karuma-Kawanda line alone, 9.5km of an aluminium conductor (wire) were cut and stolen, with other tower parts and accessories estimated to be 100 metric tons, equivalent to about seven towers.
- UETCL spends over UGX 600 million per annum to repair vandalised towers on the existing lines across the country.
- Over UGX 26 billion has been lost due to vandalism of distribution electricity networks across the country, with hot spots being Kyotera, Masaka, Greater Mbarara and Hoima.
- There have been incidents when the country experienced a blackout due to vandalism. According to ERA, there is a lack of efficient supervision to ensure there is no vandalism of electricity equipment. “The power infrastructure goes through the bush; it is hard to guard each tower or transformer. The vandals remove towers and transformers and sell them as scrap. We need to regulate the scrap dealing,” said Ruth Nankabirwa, Minister of Energy and Mineral Development.<sup>224</sup>
- With regard to convictions, one example is when the Standards, Utilities and Wildlife Court (the Electricity Court)<sup>225</sup> convicted Abiiti Isaac and Asiku Sunday for tampering, theft and conspiracy. The accused were sentenced to 20 months for tampering, 20 months for theft and 10 months for conspiracy. According to documents presented before the court by ERA, on 15 October 2021, the accused tampered with the 220kv Transmission Line in Kamdini, removing aluminium wires from the line, an act likely to cause harm to human life and property.<sup>226</sup> They were charged with tampering contrary to Section 81(1), interference contrary to Section 87(1) (2) of the Electricity Act, 1999, theft contrary to Section 254(1) and 261 of the Penal Code Act and conspiracy contrary to Section 391 of the Penal code Act. While sentencing the accused, her Worship Marion Mangeni noted with concern that acts of vandalism cause a substantial financial loss to the electricity sector, which later impacts electricity Consumers through high tariffs. She emphasised that sentencing of the two should warn the public, particularly people with a habit of vandalising electrical installations, to avoid such acts.<sup>227</sup>

## 12. Effects of climate change on access to electricity

Biomass energy in the country’s energy mix remains a socio-economic and environmental challenge; hindering socio-economic transformation, impacting the population with the associated health risks, a driver of increased deforestation and forest degradation and a source of greenhouse gas emissions. However, the limited availability of alternative affordable clean energy sources for cooking means that biomass will remain Uganda’s most important source of cooking energy in the foreseeable future.

<sup>223</sup> Ministry of Energy and Mineral Development.

<sup>224</sup> Daily Monitor, Monday 31 January 2022, page 5.

<sup>225</sup> In 2017, the judiciary launched a specialised court to deal with prosecution of culprits involved in stealing of utilities like power, water, vandalism, dealing in fake goods, killing of wildlife among others.

<sup>226</sup> Court convicts two persons for vandalizing a 220 KV ...<https://www.era.go.ug/authority-decisions>.

<sup>227</sup> Ibid.

The projected change in climate means that droughts will occur, which will increase the scarcity of biomass. With Uganda's temperature projected to increase by 2-5°C by 2100, the effect on energy will be significant.<sup>228</sup> For instance, the electricity generated at the hydropower plant on Mpanga River<sup>229</sup> in Western Uganda significantly declines during prolonged dry seasons or droughts. The Commission also noted that persistent long spells of heavy rains affect the solar panels whose batteries are charged or powered by sunshine or light, making it difficult to power some equipment. It was reported that at Mwanzi Health Centre, at times, the energy is so low that it cannot run the microscope which is used to test for infections and, therefore, the laboratory technician has to rely on rapid tests, which means collecting second blood samples from patients. In addition, the Commission established that in Adjumani District, hydropower is often affected by any slight weather change; whenever there is a slight wind or rain or something similar, power blackouts are automatically experienced.

Heavy rains also affected access to electricity. Turbines at the three main power supply plants of Nalubaale, Kiira, and Bujjagali were blocked in 2020 by a floating island and the blockage sent the country into a total blackout. Heavy rain, clogging of the lake's tributaries, and pollution could explain the island's movement. The country relies on 183 megawatts from Isimba dam, 30 megawatts from three solar plants, 52 megawatts from the Namanve based thermal power plant and 120 megawatts from two mini-hydro plants in the different parts of the country, all of which can be negatively impacted by climate changes.



*The Energy and Mineral Resources Minister, Hon. Mary Kitutu, inspects the floating island at Nalubaale dam.  
Source: The Independent.*

## 8.4 HUMAN RIGHTS CONCERNS

### 8.4.1 Right to health

Achieving universal health coverage is a crucial element of the SDGs. In this regard, WHO stresses that electricity is a “critical enabler” of universal access to health care and notes that without electricity, “many life-saving interventions simply cannot be undertaken.”<sup>230</sup>

As of 2021, Uganda had 1,079 Health Centre IIIs, 182 health centre IVs, 53 district hospitals, 14 regional referral hospitals, five national referral hospitals and five super-specialised hospitals. While some of these

<sup>228</sup> <https://www.intechopen.com/chapters/78417>.

<sup>229</sup> Mpanga Power Station is an 18 megawatts (24,000 hp) mini hydroelectric power project located across River Mpanga, in Kitagwenda County, Kamwenge District, in Western Uganda.

<sup>230</sup> World Health Organization. “Access to modern energy services for health facilities in resource-constrained settings: a review of status, significance, challenges and measurement.” Geneva: World Health Organization, 2014.

facilities are electrified, some remain largely without electricity, especially health facilities situated in sub-counties that mainly use solar panels as a lighting source.<sup>231</sup> While the Ministry of Energy and Mineral Development has tried to ensure connectivity in most districts to ensure that electricity is accessible and affordable, UHRCs findings indicated that basic modern energy services are mainly available in urban areas. Many rural-based facilities did not have electricity and therefore had to source other alternative power sources.<sup>232</sup>

During UHRC monitoring, respondents were interviewed from health facilities to establish the availability, affordability and efficiency of electricity and how its non-availability impacts health service delivery. For health facilities, electricity supply can mean life or death. It facilitates the smooth running of health facilities from enabling simple tasks like lighting to blood and vaccine refrigeration, operating essential medical equipment like microscopes and ultrasound scanners and running theatre equipment. It is also used in health education, communication and data management. According to Dr Elima James, the Executive Director of Gulu Regional Referral Hospital, 90% of medical procedures, equipment maintenances lighting of rooms, all require power. Because of the unreliability of hydropower, the hospital has resorted to other sources like solar and a generator, which is very costly for the hospital. This was also confirmed by the administration of Adjumani Hospital, where it was stated that not only is the power supply in the district irregular, but its fluctuation has destroyed some equipment like X-ray machines.

A nursing officer at Kabirizi Health Centre II in Katwe Sub-County, Kasese District, told the Commission that the health facility cannot store vaccines due to a lack of electricity to run the freezer. In Amuru District, UHRC established that health centres had no access to any power; at Omer Health Centre, they reportedly often carry out deliveries using lanterns and torches, which has caused many mothers to shun giving birth there. At Rushere Community Hospital, the hospital depends on a generator, making service provision very expensive. The Health Centre IVs in Ruhoko and Rwampara have operational theatres, yet inadequate power hampers their usage.

## 8.4.2 Right to education

Access to electricity in schools and learning institutions increases the time spent at school and improves the general learning experience. Besides lighting for additional studying after dark, schools need electricity for several other functions ranging from powering computers for study and administrative purposes, powering TV and radio as sources of information and entertainment, and using microscopes and other scientific or academic equipment. Electricity is an enabling factor to use such amenities, which increases exposure and eventually leads to better performance.

Several schools in Uganda, especially in rural and remote areas, do not have access to electricity, affecting the student's right to access quality education. Due to the high bills at Kassanda secondary school in Kassanda District, the students are limited on the amount of time spent in the computer labs to not consume excessive units on the Yaka meter. During school closure due to COVID-19, the use of ICT) was proposed as a solution. The reality was that many parents could not afford to buy gadgets such as computers, smartphones, televisions or radios, and some did not have access to electricity, the basic requirement to run these devices.<sup>233</sup> One official in Kampala District lamented, "Power outages/lack of access to power and expensive power installation and power infringes on the right to education. Since the outbreak of COVID-19 pandemic, there has been a shift in the education system where children need to study on radios, television, telephones yet without power especially in the rural areas this cannot be achieved."

In Abim, Kotido and Moroto Districts, among the schools visited, it was noted that they use both solar and hydroelectricity, but at times, the solar energy is not sufficient, especially during rainy seasons. The schools visited use biogas as an energy source for cooking light food items and boiling water.

231 NRM Manifesto 2021-2026.

232 NRM Manifesto 2021-2026.

233 [https://www.voanews.com/a/africa\\_without-electricity-uganda-poor-children-brunt-covid-19-school-closure/619599.html](https://www.voanews.com/a/africa_without-electricity-uganda-poor-children-brunt-covid-19-school-closure/619599.html). Visited on 9 March 2022.

### 8.4.3 Right to life

Due to the high costs in the form of connection fees, wiring and tariffs, electricity can be inaccessible even to those in areas with the national grid. Many people get tempted to connect themselves to the grid to cut or avoid the high costs, which tragically can lead to loss of life. An estimated 50 people die annually due to electrocution resulting from illegal connections. To curb this vice, UMEME embarked on a countrywide mass sensitisation against power theft in a campaign launched in November 2021.<sup>234</sup>

According to Daily Monitor<sup>235</sup>, power theft was noted among the leading causes of death through electrocutions. Information from UMEME indicates that the country loses an average of UGX 100 billion annually due to power theft. Kampala alone contributes UGX 40 billion losses in power theft, with a resultant high risk of death through electrocution.

Unlawful connections not only lead to death but also cost the economy the much-needed electricity to power businesses and light up communities.<sup>236</sup> The power sector regulator, ERA, sets a target of energy losses to be recovered by UMEME through tariffs, which means that higher the target set by the regulator, the higher the burden placed on the already paying customers.

A resident of one of the suburbs in Kampala with hanging wires around his house was asked by one of the UHRC staff whether he understood the dangers that such naked wires pose to his life. The respondent noted that: “The wires are knotted to the tree tightly and we only connect the power at night for fear of being nabbed by UMEME authorities. We understand that it is illegal to do that but if I can save that money for sugar for the children, then that turns out helpful to me and my family”. UMEME has been running adverts to inform the public about illegal connections to avoid death, but the public continues to perpetuate such illicit acts out of desperation.

### 8.4.4 Right to information

The current information age has set the world in the direction of new realities and shifted the modus operandi to the use of information technology. The information age is highly based on the increased flow of information globally using modern technology to run businesses, deliver services and run administrations, with the world now referred to as one global village. As such, the right to information has become increasingly important as lack of information has direct adverse implications for socio-economic development and enjoyment of other rights. The most basic enabler of information technology is electricity, so where people cannot access it, this automatically translates into a lack of access to information. The Commission noted that respondents from the rural areas of Kasese and Kyegengwa mentioned that they could not access information in time due to a lack of electricity to power televisions and radios.

### 8.4.5 Right to development

Access to electricity is strongly correlated to development as it ignites economic opportunities, which leads to the formation of small and medium enterprises for ordinary people, which leads to improved welfare and livelihoods, and improvement in the enjoyment of an array of socio-economic rights such as the right to education, health, and food. Research with empirical evidence shows that access to modern energy is at the forefront of economic development.<sup>237</sup>

Many developed economies created technologies to exploit fossil fuel and other modern energy carriers like electricity which enabled quicker economic development. Research indicates that sub-Saharan Africa has comparatively low electrification levels and is classified as still developing, implying a causal relationship. In Kween, a business lady stated that she could not access electricity because she could not afford the

<sup>234</sup> <https://www.independent.co.ug/umume-launches-countrywide-sensitisation-against-power-theft>. Visited on 2 April 2022.

<sup>235</sup> <https://www.monitor.co.ug/uganda/business/finance/UGX-100b-lost-in-power-theft-annually-umeme-3334316> Wednesday 24 March 2021.

<sup>236</sup> <https://www.monitor.co.ug/uganda/news/national/bugisu-residents-blame-power-theft-on-high-tariffs-3619598> Monday 15 November 2021.

<sup>237</sup> David I. Stern et al “The Impact of Electricity on Economic Development; A macroeconomic perspective.” EEG State of Knowledge Paper Series (2017), Oxford Policy Management System for Effective Global Action Energy Institute.

cost coupled with the distance of the nearest electric pole. She believes that her business would flourish if she had electricity in place. She noted that while the government has good intentions of ensuring electrification in the whole country, it is still far from reality.

UHRC visited several companies, factories, and businesses like Bushenyi Cotton Ltd, Mcloed Russel Uganda Ltd (Ankole Tea Estates), Kyamuhunga Tea Co. Ltd, Ba-numa Agro-Processing, Rwendaro Coffee Factory and Coffee Processing factory in Kyabugimbiri Sub-County, Bushenyi District, Rushere Bulk Milk Collection centre,<sup>238</sup> Brookside Limited,<sup>239</sup> Engari Society Milk Centre,<sup>240</sup> and Pearl Dairy Farmers' Community Collection Center.<sup>241</sup> The Commission monitored small businesses, hotels, metal fabrication workshops and grain mills in Lira, Alebtong, Soroti, Kween, Kotido, Abim, Moroto, Moyo, Arua and Yumbe to assess the affordability, accessibility and reliability of electricity.

During the interviews, respondents, who comprised both women and men, decried the fact that load shedding caused a loss of business and spoilage of items. Further, expensive bills limit the proper maintenance of businesses and hamper profits. Large, medium and medium-small companies such as Brookside Limited, Bushenyi Cotton Ltd, Mcloed Russel Uganda Ltd, Kyamuhunga Tea Co. Ltd, Ba-numa Agro-processing, Rwendaro Coffee Factory and Coffee Processing Factory incur a lot of maintenance costs.

Most proprietors were also very concerned about the high costs of VAT of 18%, which is a big burden to their businesses. Proprietors revealed that when raw materials such as cotton/coffee and tea are freshly harvested, they must be immediately processed because of their high moisture content. However, when there is insufficient electricity, the quality of cotton, coffee and tea produced becomes substandard. In the case of coffee, once it ferments, the farmers suffer loss as such products are not as competitive in the markets, affecting the respective owners' economic rights.

The administrator at Kyamuhunga Tea Co. Ltd noted that the quality of leaves supplied by farmers was poor in the dry season, so the company was using a lot of electricity, and their machines get quickly worn out. UHRC observed that with the high cost of production, investors are discouraged from making more investments, providing employment through hiring more workers, or raising workers' pay. At Rwendaro Coffee Factory, solar was initiated to try to provide a long-term, low-cost initiative for drying coffee and reduce electricity consumption.

#### 8.4.6 Loss of life and injuries caused by electrocutions

Aside from power theft, physical harm or loss of life has occurred due to electrocution because of poor wiring of houses. Respondent interviewed noted that sometimes hanging wires trigger shocks. In one of the health centres, UHRC learnt that two children sustained minor injuries after touching a socket that had a naked live wire. According to some of the residents interviewed, people are reluctant to fix hanging wires, yet they can turn deadly. While no deaths were reported during the research, it is clear that many houses are wrongly wired, and some people go to the extent of using barbed wires, known as hash wires, to connect to the power grid illegally.

The Independent newspaper<sup>242</sup> featured some stories of electrocuted persons due to illegal connections and improperly wired houses. For example, a six-year-old girl in Mayuge District was electrocuted as a result of a naked wire, and in Nsanji Town Council, Wakiso District, the spokesperson of Kampala Metropolitan area, reported about three family members who died as a result of electrocutions. The family members were identified as Barbirye, 35 years, her 5-year-old son Jeremiah Sekalenzi and a 24-year-old sister identified as Annet. It was reported that Annet was electrocuted while hanging clothes on one of the wires that had a power link, with the family members suffering a similar fate when they tried to assist her.

<sup>238</sup> Rushere District.

<sup>239</sup> In Kazo District.

<sup>240</sup> In Engari Sub-County, Kazo District.

<sup>241</sup> In Nyakabirizi, Bushenyi District.

<sup>242</sup> [www.independent.co.ug](http://www.independent.co.ug).

### 8.4.7 Safe and clean environment

The right to a clean and healthy environment involves abandoning the use of hazardous non-renewable energy sources like biomass and fossil oils that deplete or pollute the environment for clean, renewable energy sources such as electricity. One of the major contributors to climate change is the release of greenhouse emissions from fossil oil and the cutting down of forests and other vegetation (biomass) in search of wood fuel and charcoal. Firewood and charcoal are still the most extensively used energy source for cooking in households and small industries, even for those who have access to electricity. This is because electricity and other alternative clean energy sources are still costly, even for the average Ugandan.

### 8.4.8 Gender dimensions on access to electricity

The lack of access to electricity in Uganda is gendered, with women experiencing unique consequences compared to men. The still deep-rooted gender roles associate women (especially in rural areas) with household activities and therefore position them at the centre of household and community energy provision. Limited modern and clean energy technologies in rural settings disadvantage women who depend on biomass for cooking which carries environmental and health concerns. Without modern energy sources for cooking like electricity or gas, women and girls spend hours collecting firewood for the same purpose. Women could use this time to better themselves in other areas, including employment, education and livelihood enhancement. Furthermore, women are exposed to the danger of developing respiratory complications, cancer and lung disease by using firewood for cooking for their families.

## 8.5 RECOMMENDATIONS

1. The Ugandan Parliament should amend the Electricity Act 1999 to diversify electricity sources, especially to promote off-grid solar that can serve vulnerable groups better.
2. The Ministry of Energy and Development should prioritise the connection of all health facilities to the national grid.
3. Electricity Regulatory Authority should revise tariffs to make power more affordable for Ugandans.
4. The Ministry of Finance Planning and Economic Development should make deliberate efforts to increase funding in the energy sector to boost activities directed toward expanding the grid line.

## 8.6 CONCLUSION

The Commission notes that Government has made strides to ensure access to electricity in the country, but more effort is needed to ensure that all have access to electricity as it is key to social and economic transformation.

# CHAPTER NINE:

# Emerging Human Rights Concerns in 2021

## 9.1 DISARMAMENT IN THE KARAMOJA SUB-REGION IN 2021

### 9.1.1 Introduction

Disarmament means to reduce and, in a broader sense, eliminate armaments and weapons, while ‘arms control’ implies the regulation of weapons, verification and inspection thereof, confidence-building measures, and restrictions on the transfer of conventional weapons.<sup>243</sup> Karamoja Sub-Region of north eastern Uganda has for a long time been riddled by the problem of illicit arms, light weapons and the resultant insecurity, manifested in raids and counter raids by warring clans and tribes, road ambushes and extrajudicial killings of civilians, amongst others.

The presence of small and light weapons among the Karimojong has been a significant source of conflict and insecurity. Karamoja comprises Abim, Kotido, Kaabong, Karenga, Amudat, Moroto, Nakapiripirit, Nabilatuk and Napak Districts, but raiding has affected districts neighbouring Karamoja as well as across the borders to Kenya and South Sudan. Successive governments, in tandem with the UPDF, have tried to address this problem through several approaches, all aimed at removing illicit arms from the hands of the Karimojong and to create an avenue where peace and development can prevail.<sup>244</sup> This commitment has been reflected in several policy documents; key among them was the 2007 Karamoja Integrated Disarmament and Development Programme (KIDDP).

### Background

Attempts to disarm the Karimojong date as far back as 1911, when the British Protectorate Government restricted traders from entering Karamoja because they were suspected of trafficking in arms. In 1961, a special force paramilitary Police was deployed in Karamoja following the first massive raid in Teso, which left 22 Itesots dead. During the Obote I regime, an attempt at disarmament was made with the enactment of the Administration of Justice Act, 1964, where all suspected warriors were to be guilty until proven otherwise.<sup>245</sup>

During the Amin era, there was little attempt at disarming the Karimojong, but suspected raiders were dealt with ruthlessly, and resistance was dealt with harshly. In Matany and Nawoikorot Sub-counties (present-day Napak District), a large number of Karimojong were killed and buried in a mass grave.<sup>246</sup>

The National Resistance Movement (NRM) has put a lot of effort not only in disarming the Karimojong but in also pacifying the region. Point number 8 of the NRM Ten-Point Programme was on the disarmament and stability of Karamoja. The first phase of the disarmament was launched by the President on 2 December 2001 in Moroto, in which about 16,000 guns were reportedly recovered. However, this exercise was short-lived as the army relocated to northern Uganda, where the Lord’s Resistance Army (LRA) insurgency had intensified.<sup>247</sup>

<sup>243</sup> <https://www.lawinsider.com/dictionary/disarmament>.

<sup>244</sup> UPDF Director Human Rights, Ministry of Defense and Veteran Affairs.

<sup>245</sup> The Uganda Human Rights Commission 13th Annual Report, 2010, Chapter 6 at page 84.

<sup>246</sup> Ibid.

<sup>247</sup> Ibid.

In September 2004, the President re-launched the disarmament exercise, which was to be guided by the KIDDP. At the time, the programme sought to incorporate the concerns of stakeholders who believed that there had been inadequate consultation in the previous disarmament. It was also to include development activities that directly targeted disarmed groups. The disarmament was initially voluntary, whereby warriors would hand in their guns to the government. This, however, changed to forceful disarmament after some armed warriors failed to heed the call to hand in their guns voluntarily and instead used their guns to cause insecurity.<sup>248</sup>

The army subsequently adopted the cordon and search method of operation, usually done at dawn to recover guns. Many people would be rounded up and detained in barracks, to be released only after their relatives and friends had handed in some firearms. In the beginning, the army mounted surprise cordon and search operations to take suspected raiders and criminals unaware. In the process, some successes were realised. However, several human rights concerns also arose, some of which were still prevalent in 2010.<sup>249</sup>

While relative peace has been realised in the sub-region, recent developments threaten to erode the gains so far made. In 2019, the situation was worsened by the escape of 120 inmates from Moroto Government Prison with 15 AK 47 rifles and unspecified ammunition.<sup>250</sup>

### Disarmament in 2021

The operation code-named 'Usalama Kwa Wote', meaning '*peace for all*', was launched on 13 July 2021. It comprises UPDF, Anti Stock Theft Unit (ASTU), Internal Security Organization (ISO), Uganda Police Force (UPF) and Uganda Prisons Service (UPS). The disarmament exercise is both voluntary and forceful. The operation primarily aims at disarming warriors and stopping criminality, arresting and prosecuting armed criminals and cattle rustlers to ensure peace and development in the sub-region.<sup>251</sup> The first phase of the operation has seen the recovery of 105 guns, 1,046 rounds of ammunition and 7,726 animals handed back to their rightful owners. Additionally, about 350 criminals were convicted and sentenced.<sup>252</sup>

The President spoke to commanders of top security organs, including the UPDF, SFC, Police, ISO and the Anti-Stock Theft Unit Police, in a meeting at Morulinga State Lodge, within Napak District, on 12 September 2021. He stated that a new set of thugs had exploited the situation in Karamoja and formed alliances using mobile phones across clans raiding kraals and selling the animals to buy guns, and setting up roadblocks to rob people.<sup>253</sup> This group was led by a criminal, Acucu, who had been released from prison after ten years and returned to find his wives married to other men and all his cattle gone. According to reports, Acucu was bitter because the Police and the local leaders did not help him to recover his animals, and so he mobilised criminal gangs to attack and raid cattle from the Dodoth, resulting in counter raids by the Dodoth, that resulted in 400 people dead in two years.

The President urged security agencies to take time, listen and act. He stated that, "Don't beat or torture them, interrogate and avoid impatience. Acucu organised a raid that resulted into counter raids. I now direct that a legal or a patient political actor be identified to investigate how this injustice started. In addition to military intervention, we must help them heal. The military alone will bring suppression, but not peace. Peace is in people's hearts." He further stated that in order for the government to be accepted among the tribes, it must revenge the wrong.<sup>254</sup>

248 The Uganda Human Rights Commission 13th Annual Report, 2010, Chapter 6 at page 85.

249 Ibid.

250 UPDF Director Human Rights, Ministry of Defense and Veteran Affairs.

251 Ibid.

252 <http://www.defence.go.ug/home/newsandevents/36.0>.

253 <https://www.mediacentre.go.ug/media/karamoja-cattle-raids-cycle-revenge-must-be-broken>.

254 Ibid.

Figure 9.1: Map of Uganda showing the Karamoja Sub-Region



## 9.1.2 Legal framework

International, regional and national instruments guide the government action to disarm the Karimojong holding illegal guns. These are intended to address the problems associated with small arms and light weapons. These instruments address the illicit manufacture, trafficking and possession of firearms.

### 9.1.2.1 The international legal framework

The Protocol against Illicit Manufacturing and Trafficking in Firearms, their parts, components and ammunitions supplements the United Nations Convention Against Transnational Organised Crime (2001).<sup>255</sup> This is the only legally binding international instrument addressing issues of small arms and light weapons. Article 5 of the Protocol makes it illegal for a person to manufacture and traffic in firearms, their parts, components, and ammunition, or falsify or illicitly obliterate, remove or alter the making of firearms. Article 6(2) requires states to prevent illicitly manufactured and trafficked firearms, their parts, components and ammunition from falling into the hands of unauthorised persons. States are required to seize and destroy such firearms, their parts, components and ammunition unless other disposals have been officially authorised, the firearms marked, and disposal methods recorded.

There is a United Nations Programme of Action to prevent, combat and eradicate the illicit trade in small arms and light weapons.<sup>256</sup> Member states agreed to put into place laws, regulations, and administrative procedures to exercise effective control over small arms and light weapons production. The regulations are intended to prevent the illegal manufacture of and illicit trafficking in small arms and light weapons or their diversions to unauthorized recipients. The states also undertook to criminalize the illegal manufacture, possession, stockpiling and trade of small arms and light weapons within their areas of jurisdiction to ensure that those engaged in such activities can be prosecuted under the appropriate national penal code.

### 9.1.2.2 The regional legal framework

- Under the **Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation, and Trafficking of Small Arms and Light Weapons** (2000),<sup>257</sup> Member States committed to putting in place legal measures both at the national and regional levels to address all aspects of small arms and light weapons including criminalising illicit manufacturing of, trafficking in, and illegal possession and use of small arms and light weapons, ammunition and other related materials.
- The **Nairobi Declaration on the Problem of the Proliferation of the Illicit Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa**<sup>258</sup> encourages Member States to put in place adequate laws, regulations, and administrative procedures to exercise effective control over the possession and transfer of small arms and light weapons including civilians.
- Article 3(c) (ii) of the **Nairobi Protocol for the Prevention, Control, and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa (2004) (Nairobi Protocol)** obliges states to incorporate in their national laws the total prohibition of the civilian possession and use of light weapons and automatic and semi-automatic rifles and machine guns. Article 5(b) of the Nairobi Protocol prohibits civilian possession of semi-automatic and automatic rifles and machine guns.

### 9.1.2.3 The national legal and policy framework

Article 222 of the Constitution gives Parliament powers to regulate the possession and use of firearms and ammunition. On Tuesday, 7 December 2021, Members of Parliament from the Karamoja Sub-Region called for a review of the security strategy for Karamoja following the increased insecurity characterized by cattle rustling. They appeared before the Parliamentary Committee on Defense and Internal Affairs.<sup>259</sup>

255 The Protocol was adopted by resolution 55/255 of 31 May 2001 at the fifty-fifth session of the General Assembly of the United Nations.

256 UN Document A/ Conf.192/15. Accessed at [http://www.nti.org/e\\_research/official\\_docs/inventory/pdfs/aptsarms.pdf](http://www.nti.org/e_research/official_docs/inventory/pdfs/aptsarms.pdf).

257 See the Bamako declaration 2001. Accessed at [http://www.issafrica.org/af/RegOrg/unity\\_to\\_union/pdfs/oau/keydocs/Bamako\\_Declaration.pdf](http://www.issafrica.org/af/RegOrg/unity_to_union/pdfs/oau/keydocs/Bamako_Declaration.pdf).

258 Accessed at <http://www.recsasec.org/pdf/Nairobi%20Declaration.pdf>.

259 <https://www.parliament.go.ug/news/5477/karamoja-mps-call-new-approach-tackle-insecurity>.

S.3 of the Firearms Act Cap 299 of Laws of Uganda provides that no person shall purchase or acquire or have any firearm or ammunition unless they hold a valid firearm certificate. The Act makes it an offence for any dealing in firearms with a conviction to a term of imprisonment not exceeding ten years or fine not exceeding UGX 20,000 or both. S.15 (I) of the UPDF Cap 307 of Laws of Uganda makes it illegal for anyone other than a member of the army to have arms, ammunition, and equipment that are a reserve of the army.



*Hon. Agnes Nandutu, (dressed in yellow) State Minister for Karamoja, the Regional Prisons Commander, Regional Police Commanders and officers of the UPDF inspecting guns recovered in 2021 after the disarmament exercise was launched.*

### 9.1.3 Major drivers for possession of illegal guns in the Karamoja Sub-Region

#### 9.1.3.1 The Karamoja ethnic conflict

Inter-clan conflicts have characterised the Karamoja Sub-Region. The region is currently composed of nine districts with eight major clans: the Dodoth, Jie, Bokora, Labwor, Matheniko, Pian, Pokot and the Tepeth. The Karamojong are highly polarised along the clan divide, which has resulted in widespread suspicion and mistrust between the clans. Some of the clans are traditionally arch-rivals, which has inevitably caused other clans to form natural allies involved in the rivalry.

Cattle raids and counter raids regularly occur between the neighbouring communities.<sup>260</sup>

The raids are mainly carried out to acquire more cattle and boost one's means of paying bride price; to revenge for previous raids; and retrieve stolen livestock. The Karimojong also raid their neighbours in Sebei, Teso, Lango, Bugisu and Acholi. The gun replaced the traditional spear in the late 1970s and '80s, making conflicts more sophisticated and complex. The inter-clan conflict in Karamoja has had severe consequences apart from cattle raiding, including loss of life and property, abductions, ambushes and arms trafficking. These raids have also led to widespread insecurity and underdevelopment of the region.<sup>261</sup>

<sup>260</sup> The Uganda Human Right Commission, 12th Annual Report in 2009 at page 145.

<sup>261</sup> The Uganda Human Right Commission, 12th Annual Report in 2009 at page 145.

### 9.1.3.2 Porous borders that allow for the proliferation of firearms and ammunition

The lack of vigilance across the border points is due to the minimal government presence on Uganda's border with Kenya and South Sudan along the Karamoja Sub-Region. On the Kenyan side, the nearest administrative structures where a semblance of government can be felt are in Kakuma in Kenya, about 70 kilometres away from the border point with Kotido District. This means that there is a lack of effective government control on the side of the Kenyan border, creating a vacuum that gets exploited by armed groups to cross into Uganda with their guns freely. The same applies to the Ugandan border with South Sudan, where the majority of the border points lie within Kidepo Valley National Park. Inadequate policing and state security arrangements give a chance to both the Turkana and the Karimojong to raid each other. Weak security thus facilitates cross-border and near-border raiding.<sup>262</sup>

The consequence of the porous borders and minimal government presence means it is easy for small arms and light weapons to be smuggled into Karamoja. Most of the respondents interviewed by the Commission intimated that while the Ugandan government successfully disarmed the Karimojong of illegal guns, the same was not done for the Turkana and Pokot of Kenya and the Toposa and Didinga of South Sudan. The Commission was informed that one of the reasons the Karimojong acquired arms in the past was because they felt the need to protect themselves from external aggression by the Turkana, Pokot, Diding and the Toposa. This was when the government of Uganda had minimal presence, and the Karimojong were exposed to raids and attacks by their counterparts across the borders.<sup>263</sup> With the successful disarmament on the Ugandan side, the Karimojong feel more vulnerable to attacks by the neighbours from across the border since the Government security apparatus has not been able to seal off all the border points. There is, therefore, low trust between the Karimojong and the Turkana, and this is both a driver of conflict in itself and a brake on responses to conflicts.<sup>264</sup>

### 9.1.3.3 Climate change and the resultant struggle for natural resources

Climatic change is one cause of the cross border conflicts that are fuelled by small arms and light weapons. Most pastoralist communities live in arid and semi-arid areas, and they experience prolonged dry spells. Subsequently, most pastoralists from Kenya and South Sudan tend to enter Uganda to seek greener pastures and water for animals during the dry season. The Karamoja Sub-Region is always strained with scarce water resources and pasture, yet the residents are expected to share the little they have with the pastoralists from the neighbouring countries of South Sudan and Kenya. This contributed to conflicts over dwindling resources and increased livestock theft, murders and destruction of property.



*Illegal guns that have been recovered, in Karamoja. Courtesy photo.*

<sup>262</sup> The 21st Annual Report on the State of Human Rights and Freedoms in Uganda in 2018 at page 155.

<sup>263</sup> The 21st Annual Report on the State of Human Rights and Freedoms in Uganda in 2018 at page 156.

<sup>264</sup> The 21st Annual Report on the State of Human Rights and Freedoms in Uganda in 2018 at page 156.

## 9.1.4 Process of disarmament

### 9.1.4.1 Voluntary disarmament

Voluntary disarmament involved stakeholders like the security forces, local government, and others mobilising and sensitising the masses about the issue of possession of illegal guns and how it affects the growth of Karamoja, i.e. loss of property and life.<sup>265</sup> On 17 July 2021, the Joint Security Task charged with the disarmament launched the joint voluntary disarmament exercise. Michael Longole, the Mt. Moroto Region Police Spokesperson, stated that they had given the rustlers some time to hand over their guns voluntarily. He said that the joint force established 100-gun collection centres across the region and that the security operatives were ready to peacefully approach and cooperate with the civilian authorities and population to ensure that the illegal guns which were causing misery in Karamoja were all collected. According to Longole, each sub-county had a gun collection centre where warriors could freely deposit their guns. He stated: “We will reach to that level the leaders want, but first, we are giving the rustlers a short period so that when we switch to force, there will be no excuse.” The reception centres were overseen by personnel from all security agencies, such as the Police Anti Stock Theft Unit, UPDF 3<sup>rd</sup> Infantry Division, Resident District Commissioners, Regional Police Commanders, political leaders, kraal leaders and peace committee members.<sup>266</sup>

The security observed that there was fear among the warriors to take guns directly to the UPDF installations or Police stations and posts for fear of being arrested. Therefore, the community was encouraged to use the reception areas to hand over the guns voluntarily. When a person returns a firearm or ammunition, and it is successfully recorded and documented, the person is sensitised about possessing an illegal gun, and a local leader documents them and guarantees the person’s security. A disarmament certificate is awarded in the presence of the local leaders.<sup>267</sup> This certificate can be presented to the Office of the Prime Minister such that opportunities for alternative livelihood are accorded.<sup>268</sup>

The image shows a handwritten disarmament certificate. The left side contains personal and weapon details, while the right side has official stamps and signatures.

|                                      |                                   |
|--------------------------------------|-----------------------------------|
| Name: <u>LEONE KAMUKUNEL</u>         | RECEIVED BY: <u>KUSIMBA DAVIN</u> |
| Son of: <u>NADAKA LUMUKAKURI</u>     | L.G5 CHAIRPERSON                  |
| Date of birth: <u>05/01/1973</u>     |                                   |
| Place of Birth: <u>LOKOROKETAE</u>   | WITNESSED BY:                     |
| Village: <u>LOKOROKETAE</u>          |                                   |
| Parish: <u>NARUDDO</u>               |                                   |
| Sub county: <u>RUPA</u>              |                                   |
| District: <u>MOROTO</u>              | RDC                               |
| Rifle No: <u>749</u>                 |                                   |
| Rifle type: <u>SMC</u>               |                                   |
| Rounds of AMMO: <u>03 RNDs</u>       | CONFIRMED BY:                     |
| Date of hand over: <u>17/02/2022</u> |                                   |

*A sample of a disarmament certificate awarded to one who willingly surrendered a firearm or ammunition. Courtesy photo*

<sup>265</sup> UPDF 3rd Infantry Division Moroto.

<sup>266</sup> <https://chimpreports.com/security-sets-up-gun-reception-centres-to-aid-disarmament-in-karamoja/>.

<sup>267</sup> UPDF 3rd Infantry Division Moroto.

<sup>268</sup> <https://chimpreports.com/security-sets-up-gun-reception-centres-to-aid-disarmament-in-karamoja/>.

#### 9.1.4.2 Forceful disarmament

On 17 October 2021, the joint force of Police and the army closed the voluntary disarmament and switched to forceful means. This was revealed by Karamoja Regional Police Spokesperson Michael Longole, while addressing the media in Moroto District. He said since the launch on 17 July, they had only recovered only 88 guns and over 800 rounds of ammunition from the Karimojong.<sup>269</sup> Longole said the forces had given the rustlers a three-month grace period to hand over their guns peacefully without being charged in the law courts, but only a few had complied. This then forced the authorities to introduce the use of force, including lethal force where needed, for anyone found with a gun and trying to resist arrest. Longole told the media that rustlers had killed 125 innocent people in eleven months from November 2020 to October 2021 across Karamoja.<sup>270</sup> As such, on 17 November 2021, the joint security forces, with UPDF as a lead agency, extended the disarmament exercise upon criminals with illegal guns in the Karamoja Sub-Region for another three months.



*Commander of the UPDF 3rd Division and the Deputy Commandant of the Anti-Stock Theft Unit SP Latif Zaake (centre) meeting journalists at Nadunget detach in Moroto in November 2021.<sup>271</sup> Courtesy photo*

The Commander of the UPDF 3<sup>rd</sup> Infantry Division and chairperson of the disarmament exercise, Brig. Gen. Joseph Balikudembe revealed this while meeting journalists at Nadunget detach in Moroto District. He noted that the new phase of disarmament would mainly be forceful, involving cordon and search operations, and those found with illegal guns would be prosecuted. The operation to secure Karamoja was supplemented with more troops, two helicopters, K9 Police dogs, and armoured vehicles. He commended local leaders and residents for sharing intelligence information about criminal acts with the joint security teams.<sup>272</sup> The Deputy Commandant of the Anti-Stock Safety Unit (ASTU) SP Latif Zaake, highlighted how joint security forces reinforced the guidelines regarding livestock movement to stop theft. He added that sensitisation programmes on the requirements for the legal acquisition of livestock are ongoing and that the districts of Kotido, Kaabong, Moroto, Nabilatuk and Napak, respectively, had the most criminals. During forceful disarmament, information is received about a person possessing a firearm, the local leadership is informed, and the area is cordoned and searched. The suspect is arrested, and then an investigation of the suspect is carried out; if they are found innocent, they are released. Those who possess illegal weapons are then forwarded to the courts to determine their innocence or guilt.<sup>273</sup>

<sup>269</sup> <https://www.kfm.co.ug/news/army-to-close-voluntary-disarmament-exercise-in-karamoja.html>.

<sup>270</sup> Ibid

<sup>271</sup> <http://www.defence.go.ug/home/newsandevents/36.0>

<sup>272</sup> Ibid

<sup>273</sup> UPDF 3rd Infantry Division Moroto.

### 9.1.4.3 Achievements of the disarmament exercise in 2021<sup>274</sup>

According to Hon Mary Goretti Kitutu, the Minister for Karamoja, the budget for the region was increased from UGX 10 billion to 39 billion, mainly to facilitate the disarmament exercise and other operations in the sub-region.<sup>275</sup> In September 2021, additional support was offered, including the following: the deployment of force multipliers to support ground forces, armoured vehicles, helicopters for surveillance and airlifting of troops, and the deployment of unmanned aerial vehicles for day and night surveillance.

The total number of animals recovered in 2021 was 20,342, arms were 214, and ammunition rounds were 2,729, per the table below.

**Table 9.1: Breakdown of animals, arms and ammunition recovered in Karamoja in 2021<sup>299</sup>**

| MONTH        | ANIMALS RECOVERED | ARMS RECOVERED | AMMUNITION RECOVERED (ROUNDS) |
|--------------|-------------------|----------------|-------------------------------|
| January      | 922               | 09             | 105                           |
| February     | 2,179             | 19             | 129                           |
| March        | 1,637             | 14             | 137                           |
| April        | 2,429             | 10             | 269                           |
| May          | 383               | 09             | 437                           |
| June         | 2,732             | 22             | 253                           |
| July         | 2,114             | 35             | 283                           |
| August       | 1,305             | 22             | 218                           |
| September    | 2,762             | 17             | 211                           |
| October      | 1,363             | 14             | 149                           |
| November     | 856               | 27             | 256                           |
| December     | 1,660             | 16             | 282                           |
| <b>TOTAL</b> | <b>20,342</b>     | <b>214</b>     | <b>2,729</b>                  |



*The Commander Land Forces – Lt. Gen. Muhoozi Kainerugaba inspects recovered weapons in Phase II. Courtesy photo*

<sup>274</sup> UPDF 3rd Infantry Division Moroto.

<sup>275</sup> Hon Goretti Kitutu, the Minister for Karamoja at the Karamoja Regional Security Review Meeting held in Moroto on Thursday 3 March 2022.

<sup>276</sup> UPDF 3rd Infantry Division Moroto.

### 9.1.5 Human rights concerns in the disarmament exercise

The UHRC has noted several human rights issues resulting from the ongoing disarmament exercise. Human rights violations were mainly perpetrated by the UPDF and LDUs against civilians. However, there were some abuses committed by the Karimojong against the UPDF/LDU and UPF. It is important to note that while the regional office received and registered some complaints of human rights violations in 2021, it is likely that more cases of human rights violations remained unreported for fear of being arrested by the army.

This is mainly because of fear among the community of being labelled as a collaborator of the UPDF; a lack of awareness among local community members of their fundamental rights and freedoms; remoteness of most areas within the region; and the failure of complainants to raise enough transport money to the regional office. Some of the outstanding cases of human rights abuses and violations recorded in the year 2021 are highlighted below.

**Table 9.2: Human rights violations in the disarmament exercise 2021**

| <b>VIOLATION</b>                                                                            | <b>CASES<br/>REGISTERED<br/>BY UHRC</b> |
|---------------------------------------------------------------------------------------------|-----------------------------------------|
| Protection of the right to life                                                             | 2                                       |
| Protection of deprivation of property                                                       | 1                                       |
| Protection from any form of torture or cruel, inhuman, or degrading treatment or punishment | 6                                       |
| Protection of personal liberty                                                              | 13                                      |

#### 9.1.5.1 The right to life

The right to life is guaranteed under Article 22<sup>277</sup>; however, this right is not absolute;<sup>278</sup> therefore, deprivation of life can be a lawful and legitimate state action. The right to life acts as a substantive guarantee that people will not be deprived of their life unlawfully.

Suspected Karimojong warriors were killed following the re-launch of disarmament operations on July 13 2021, and many were youth, between 15 to 20 years.<sup>279</sup> In Napak District alone, more than 50 lives were lost since the insecurity started in January 2021, which led to a peaceful protest in the community rallying with the slogan, 'Napak is bleeding'.<sup>280</sup>

Mr John Nangiro, the LCI chairperson for Ngoleriet village, stated that six people had been killed in his village since January 2021. He said residents were being attacked, but Police seemed helpless to intervene. Hundreds of residents in Ngoleriet Sub County in Napak District in Karamoja Sub-Region fled their homes, citing increasing attacks from suspected armed Matheniko cattle rustlers. Residents camped at Kalotom primary school in Napak District stated that their homes had been raided almost daily and several of their colleagues killed by the suspected armed cattle rustlers, but security personnel in the area seem to be incapable of intervening.<sup>281</sup>

277 Constitution of the Republic of Uganda, 1995.

278 Article 44 of the Constitution of the Republic of Uganda, 1995.

279 Brigadier General Joseph Balikudembe, the 3rd Division Commander, Moroto at the Karamoja Regional Security Review Meeting held in Moroto on Thursday 3rd March, 2022.

280 <https://blogs.lse.ac.uk/africaatlse/2021/05/21/disarmament-exercises-uganda-karamojas-insecurity-violence-peaceful-tactics-local-engagement/>.

281 <https://www.monitor.co.ug/uganda/news/national/napak-residents-flee-homes-over-attacks-by-suspected-armed-cattle-rustlers-3274186>.



*Youth from Napak take to the streets to protest the rising insecurity in Napak. Courtesy photo*

#### 9.1.5.2 Freedom from torture, disrespect for human dignity and inhuman treatment

Articles 24 and 44 (a) of the 1995 Constitution prohibit torture, inhuman or degrading treatment or punishment, reinforced by the Prevention and Prohibition of Torture Act 2012, which criminalises torture in any form. Uganda is a party to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

However, it was alleged that on 21 January 2021, in Longelep Ward, Potoongor Parish, Nakapelimoru Sub-County in Kotido District, there was a cordon and search operation leading to arrest, detention and torture leading to the death of the victim. The victim (the late Lotyang Apa-Nathiya) was a resident of Longelep ward, Potoongor Parish, Nakapelimoru Parish in Kotido District. He was arrested during a UPDF operation conducted during the last week of January 2021 in Longelep Ward and detained on allegations that he was one of the inmates that escaped from Moroto prison on 16 Sept 2020, in which over 200 inmates escaped and ran away with 14 rifles and live ammunition. While at Nakapelimoru barracks, the victim was allegedly tortured and taken by UPDF to Kotido Health Center IV for treatment while unconscious, where he died the following day.<sup>282</sup>

UPDF carried out cordon and search operations on Sunday, 14 February 2021, in Kasiapus Ward in Lolachat to recover illegal guns. This led to the arrest, detention and alleged torture of some community members, both men and women, who were taken to Lolachat barracks. One pregnant woman reportedly lost her pregnancy during detention and torture at the barracks in Lolachat. Some arrested people were transferred to Nabilatuk army barracks and detained.<sup>283</sup>

<sup>282</sup> Data compiled by the Program Officer UN Human Rights – Moroto Field Office on 21 January 2021.

<sup>283</sup> Data compiled by the Program Officer UN Human Rights – Moroto Field Office on 14th February 2021.

### 9.1.5.3 Right to personal liberty

The right to liberty is one of the most fundamental human rights as stipulated in international human rights instruments as well as the Constitution.<sup>284</sup> However, this right is not absolute; therefore, deprivation of liberty can be a lawful and legitimate state action. The right to liberty acts as a substantive guarantee that arrest or detention will not be arbitrary or unlawful. Deprivation of liberty is only allowed if it is carried out under the law. The Commission established that due to the influx of illegal guns in the region, there has been a resumption of cordon and search operations by the UPDF, especially in Panyangara, Kotido, Rengen and Maaru Sub-Counties in Kotido District; Lokopo, Lotome and Lopeei Sub-Counties in Napak District; Lolachat, Lorengedwat and Nabilatuk Sub-Counties in Nabilatuk District; Moroto Municipality, Rupa and Nadunget Sub-counties in Moroto District; Kalapata, Kathile and Sidok Sub-counties in Kaabong District. Several suspects are alleged to have been arrested and forwarded to the 3<sup>rd</sup> Division cells, where they are facing charges of illegal possession of firearms and ammunition at the military court-martial.

On 19 March 2021, in Kaloi village, Nakadeli parish, Rupa Sub-County, Moroto District four victims, Nakiru Clementina, and Kurugwa Amede, female adults, and Lokalei Ngorok and Keem Nawot, male adults, were allegedly detained for over a week at the UPF facility in Moroto because they were suspected of knowing the whereabouts of ammunition.<sup>285</sup>

### 9.1.5.4 Right to security of persons

The right to security of a person is a basic entitlement guaranteed by the Universal Declaration of Human Rights (1948)<sup>286</sup>. This Article combines the right to security of a person with the rights to life and liberty. In full, the Article states that, “Everyone has the right to life, liberty and security of person.” The right to security of a person is also 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.”

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.

On the night of 25 April 2021, one male victim allegedly died inside a UPDF detention facility in Kidepo barracks. The victim, Teko Apalokodarengan, a resident of Lokitelakaes ward, Lokithilei Parish, Lotisan Sub-County, Moroto District, was arrested that afternoon on suspicion that he had a gun. He was interrogated and pleaded guilty that he had a gun and was taken into cells at around 17:00 hours, and by around midnight, the victim was found dead.<sup>287</sup>

Another victim, Awot Lobong (aged 16 years), a resident of Nakabaale ward, Loletio Parish, Panyangara Sub-County, Kotido District, was allegedly killed when the UPDF surrounded and cordoned off an area (Nateedekoreete) where a group of young community members were dancing ‘Edonga’ and were fired upon.<sup>288</sup>

### 9.1.5.5 The violation of the right to a fair and speedy trial

The Constitution 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.<sup>289</sup> The Commission established that the delayed trial of suspects remanded by the Court Martial was a recurrent problem, with many suspects waiting longer than the stipulated three months for trial.

<sup>284</sup> Article 23 of the Constitution of the Republic of Uganda, 1995.

<sup>285</sup> Data compiled by the Program Officer UN Human Rights – Moroto Field Office on 19 March 2021.

<sup>286</sup> Article 3 of the UDHR

<sup>287</sup> Data compiled by the Program Officer UN Human Rights – Moroto Field Office on 25 April 2021.

<sup>288</sup> Data compiled by the Program Officer UN Human Rights – Moroto Field Office on 22 August 2021.

<sup>289</sup> Article 28(1) of the Constitution of the Republic of Uganda, 1995.

### 9.1.5.6 Deprivation of property and life

Reports are rife regarding impounding livestock, theft of household items, burning or destruction of huts, destruction of food crops, soliciting of money from suspects in custody to secure release, and loss of property, including livestock. One tragic story involves Ariko Catherine of Lanangat Village, Nathinyonoit Parish, Lorengedwat S/C, Pian County in Nabitung District; a widow who died in August 2021. She had singlehandedly followed her six goats raided in Arengkeju village in Loputuk Sub-County, and when she met with the raiders, she was allegedly raped and consequently later committed suicide by hanging herself.<sup>290</sup>

On 22 March 2021, it was announced over a local radio station that a UN vehicle with two occupants fell into a road ambush mounted by approximately ten warriors carrying guns and clad in army uniforms in Sidok Sub-County, Kaabong District. The UN vehicle was moving behind a truck carrying cows heading to Kotido Market. The warriors fired three bullets and demanded money from the vehicle's occupants, with UGX 10,000 taken. The warriors offloaded the animals and vanished into the bush. While no death or injury was reported, the incident created tension amongst the communities.<sup>291</sup>



*A letter drafted on 21 November 2021 by community leaders in East Kaabong claimed nearly 2,000 cattle had been stolen from them since June. Photo by Liam Taylor/TNH*

### 9.1.5.7 Sexual and gender-based violence

On 19 November 2021, in Lomokori ward/village, Rikita Parish, Nakabaale Sub-County, Kotido District, it was alleged that a UPDF soldier defiled a female juvenile. The victim informed a community leader (LC III), and the matter was raised with the operation commander, who reportedly organised a suspects' identification parade. The victim identified the person who raped her and two soldiers that stood guard to facilitate the abuse. The victim was rushed to Panyangara H/C III but was referred to Kotido Health Centre IV; however, the victim was medically examined after three days due to the reluctance of the medical personnel of Kotido Health Centre IV. The case was reported to Kotido Central Police Station vide: CRB 408/2021. The suspect was arrested and was under detention pending transfer to Police to appear in a civilian court for his actions.<sup>292</sup>

<sup>290</sup> An interview with Hon. Longes Emmanuel LCIII Lorengedwat Sub-County, Nabitung District in February 2022.

<sup>291</sup> <https://blogs.jsf.ac.uk/africaatlse/2021/05/21/disarmament-exercises-uganda-karamojas-insecurity-violence-peaceful-tactics-local-engagement/>.

<sup>292</sup> Data compiled by the Program Officer UN Human Rights – Moroto Field Office on 19 November 2021.

## 9.1.6 Recommendations

1. The Ministry of Foreign Affairs should hold high-level engagements within the framework of the East African Community to ensure that all armed groups within the East African region are disarmed.
2. While Uganda People's Defence Forces and other security agencies have worked hard to ensure that the people and their property is safe, Police should deploy more forces at national borders to ensure that the armed groups do not cross into Uganda to disturb the border communities. It is the duty army to guard our national bodies.
3. Local leaders and politicians should unite to have a combined effort to have disarmament successful in attaining peace and stability.<sup>293</sup> They should support disarmament.
4. Development programme activities should be increased in the region, as creating diversified economic activities rather than only cattle keeping shall assist in changing the mindset of the people, thus mitigating cattle rustling.
5. There is a need for compulsory formal education for the children and youths in Karamoja.

## 9.1.7 Conclusion

Attempts to address the insecurity brought about by disarmament in the Karamoja Sub-Region have put much emphasis on their political dimension without regard to the socio-economic causes. As a result, they have not effectively resolved the issue of possession of illegal guns. Future strategies should aim at resolving economic, ideological, and social differences and environmental stress and resource scarcity.

## 9.2 SOCIAL MEDIA IN 2021

### 9.2.1 Introduction

The term social media does not have a standard definition. It refers to a computer-based technology that facilitates sharing ideas, thoughts, and information through virtual networks and communities. It is internet-based and gives users quick electronic communication of content, such as personal information, documents, videos, and photos. Users engage with social media via a computer, tablet, or smartphone via web-based software or applications.<sup>294</sup> Social media began on 24 May 1844, with a series of electronic dots and dashes tapped out by hand on a telegraph machine.<sup>295</sup> In 1987, the direct precursor to today's internet came when the National Science Foundation launched a more robust, nationwide digital network known as the [NSFNET](#). A decade later, in 1997, the first true social media platform was launched. In the 1980s and '90s, according to "[The History of Social Networking](#)"<sup>296</sup> on the technology news site Digital Trends, the internet's growth enabled the introduction of online communication services such as CompuServe, America Online, and Prodigy. They introduced users to digital communication through email, bulletin board messaging, and real-time online chatting.

In 2002, LinkedIn was founded as a networking site for career-minded professionals. By 2020, it had grown to more than 675 million users worldwide. In 2003, Myspace was launched. By 2006, it was the most visited website on the planet, spurred by users' ability to share new music directly on their profile pages. By 2008, it was eclipsed by Facebook, followed by other platforms. The top 12 social media sites and platforms in 2021 include the following.<sup>297</sup>

<sup>293</sup> UPDF 3rd Infantry Division Moroto.

<sup>294</sup> By [Maya Dollarhide](#), <https://www.investopedia.com>.

<sup>295</sup> <https://online.maryville.edu/blog/evolution-social-media>.

<sup>296</sup> <https://dewzilla.com>

<sup>297</sup> <https://www.searchenginejournal.com/social-media/biggest-social-media>, Shelley Walsh.

**Table 9.3: Most popular social media sites in 2021**

| S/N | SOCIAL MEDIA PLATFORM | YEAR OF LAUNCH | NUMBER OF USERS |
|-----|-----------------------|----------------|-----------------|
| 1.  | LinkedIn              | 2003           | 810.0 thousand  |
| 2.  | Facebook              | 2004           | 2.50 million    |
| 3.  | YouTube               | 2005           | -               |
| 4.  | Reddit                | 2005           | -               |
| 5.  | Twitter               | 2006           | 418.4 thousand  |
| 6.  | WhatsApp              | 2009           |                 |
| 7.  | Instagram             | 2010           | 582.1 thousand  |
| 8.  | Pinterest             | 2010           | -               |
| 9.  | Wechat                | 2011           | -               |
| 10. | Snapchat              | 2011           | -               |
| 11. | Telegram              | 2013           | -               |
| 12. | TikTok                | 2016           | -               |

The emergence of social media sites such as Facebook, LinkedIn, and My Space in 2003 and 2004 marked the beginning of the movement of internet users away from interactive online games and toward social networking sites. In Uganda, though Infocom made the first foray into mobile internet in 2006 with hotspots in Kampala, mobile internet was only widely introduced in June 2007 through MTN's launch of mobile office. Widespread internet coverage in 2021 has allowed for the increasing use and popularity of social media.

## 9.2.2 Legal and policy framework

### 9.2.2.1 International legal framework

Uganda is a signatory to several international instruments that guarantee media freedom and freedom of expression. The 1948 Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR) are among these. The Universal Declaration of Human Rights, Article 12 provides the right to privacy, family, home and correspondence, and Article 19, the freedom of opinion and expression. The latter includes the freedom to hold opinions without interference and seek, receive, and impart information and ideas through any media platform. It further provides that the exercise of these rights has special duties and responsibilities by the rights holder. In the same vein, Article 17 of the ICCPR provides the right to privacy, while Article 19 provides freedom of opinion and expression.

The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression explained in his report of 2011 that access to the internet should be viewed as a human right.<sup>298</sup> The report noted the unprecedented force the internet has, given its unique characteristics, such as its speed, worldwide reach and relative anonymity, stating: "the internet is becoming an indispensable tool for realising a range of human rights, increasing equality and accelerating development and human progress; ensuring universal access to the internet should be a priority of all states". SDG 9 calls for affordable and universal access to the internet.

### 9.2.2.2 Regional legal framework

Article 9 of the African Commission on Human and Peoples' Rights (ACHPR) provides for the right to receive information and the right to express and disseminate opinions. In addition, the ACHPR has also adopted several resolutions aimed at promoting the right to information and freedom of expression on the internet

<sup>298</sup> F. La Rea, 'Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression', Human Rights Council, 17th Session, 16 May 2011.

in Africa, which includes ACHPR/Res. 362 (LIX) 2016,<sup>299</sup> adopted in Banjul on 4 November 2016. The resolution reaffirms the fundamental right to freedom of information and expression enshrined under Article 9 of the African Charter on Human and People's Rights and in other international human rights instruments and recognizes the role of the internet in advancing human and people's rights in Africa.

### 9.2.2.3 National legal framework

Article 27 of the 1995 Constitution provides for the right to privacy of person, home and other property. Article 29 (1) (a) guarantees freedom of speech and expression, while Article 41 provides that every citizen has the right to access information in the state's possession. The Uganda Communications Commission (UCC) Act, 2013 establishes the regulator of telecommunication services, the UCC. The Act further criminalises denial of access to services and provides for the punishment of unlawful interception and disclosure of communication by a service provider.<sup>300</sup>

The Computer Misuse Act, 2011 provides for the safety and security of electronic transactions and information systems; prevents unlawful access, abuse or misuse of information systems, including computers; and ensures securing the conduct of electronic transactions. It penalises unlawful interception of information; unauthorised disclosure of information; production, distribution and sale of child pornography; as well as cyber harassment and cyber stalking.

The Regulation of Interception of Communications Act, 2010, provides for interception and monitoring of certain communications in the course of their transmission through a telecommunication, postal or any other related service or system in Uganda in certain limited circumstances. The Access to Information Act, 2005, operationalises Article 41 of the Constitution on the right to access information, prescribing the procedure to follow.

The Penal Code Act, Cap 120 establishes and defines offences related to sedition, promotion of sectarianism, criminal libel/defamation, and terrorism.<sup>301</sup>

## 9.2.3 Situational analysis

Since 2007, through the National Information Technology Authority – Uganda (NITA-U), the ICT Ministry has been developing the National Data Transmission Backbone Infrastructure and e-Government Infrastructure Project, which aims to ensure the availability of high-bandwidth data connections in all major towns at reasonable prices. According to UCC<sup>302</sup>, there were 175,568 active internet users in Uganda between January and March 2008. In 2016, the government began offering a free trial of wireless internet access in Kampala Central Business district and parts of Entebbe.<sup>303</sup> In 2021, many telecommunication service providers offering data services, including MTN Uganda, Airtel Uganda, Uganda Telecom Limited (UTL), Africell Uganda (formerly Orange Uganda), Vodafone and Smart Telecom, all privately owned except UTL.

The Internet has become part of the very fabric of everyday life in Uganda. This is reflected in the growth of the use of social media. UCC estimates that by the end of 2021, there were 13.92 million internet users in Uganda, bringing the internet penetration rate to 29.1% of the total population, which stood at 47.77 million (female 50.7% and male 49.3%),<sup>304</sup> 26.1% of the total population lived in urban centres while 73.9% lived in rural areas. It was further estimated that there were 2.80 million users of social media by the end of 2021, representing 5.9% of the total population which is a significant rise from the 2.5 million in 2020. The undisputed increased use of real-time communication in Uganda has enhanced the promotion of several human rights and freedoms, such as freedom of expression and opinion and access to information, thereby increasing citizens' participation in social and democratic processes in the country.

299 <https://www.achpr.org/sessions/resolutions?id=374>.

300 Section 79 of the UCC Act 2013.

301 Sections 34, 41 and 53.

302 <https://www.networkworld.com/2274157/mobile-internet> growing in Uganda.

303 Uganda: Freedom on the net 2021 Country Report/Freedom House.

304 <https://datareportal.com/reports>

Social media has provided an amplified voice for human rights defenders (HRDs), such as journalists, civil society groups and activists countrywide. Indeed, UHRC and many HRDs use Facebook pages and Twitter accounts as a method of improving the enjoyment of human rights through instantaneous information-sharing. There have been some concerns raised about the threats to the enjoyment of social media, which inhibit the free functioning of a society. For instance, in March 2021, four comedians from the Bizonto comedy group, Julius Sserwanja, Mbabali Maliseeri, Gold Ki Matono and Ssabakaaki Peter, were arrested for a YouTube video and charged with promoting sectarianism and offensive communication.<sup>305</sup> In May 2021, Police detained a 24-year-old law student Michael Muhima for a tweet parodying the Police Spokesperson and charged him with “offensive communication.” He was detained for five days before being released on bail.<sup>306</sup> In addition, in July 2021, Jamil Ssekyondwa was arrested and charged with offensive communication contrary to Section 25 of the Computer Misuse Act for a WhatsApp message announcing the President of Uganda’s death and calling him a dog.<sup>307</sup> Furthermore, on 28 December 2021, a Ugandan novelist Kakwenza Rukirabashaija was arrested from his home in Kisaasi, a Kampala suburb, on two charges of offensive communication. According to the prosecution, Kakwenza used his Twitter handle @KakwenzaRukira to post tweets about the President of Uganda and his son.<sup>308</sup>

## BENEFITS OF SOCIAL MEDIA

In 2021, social media in Uganda became part of everyday life. The Commission noted that social media played a very critical role in exposing social evils and spreading social awareness about human rights, health, sanitation, child rights, and education, among others. UHRC noted that social media platforms such as WhatsApp, Twitter, Facebook, YouTube and Instagram were commonly used channels to communicate electoral messages by political parties and individual candidates during campaigns. The average total tweet and reply volume by women and men nominated candidates in January 2021 stood at 11 and 20, respectively.<sup>309</sup> UHRC also noted that most presidential and parliamentary candidates, to some extent, used social media platforms to send out election messages.

The Commission also noted that in 2021 especially during the lockdown, organising and physically attending meetings was largely unheard of; however, social media facilitated online meetings that everyone with internet access could attend through platforms like zoom. The Commission noted that social media eased electronic communication as it was quick, fast and affordable.

Social media facilitates freedom of expression, a platform for sharing thoughts, ideas, and views, thus exercising freedom of speech to the fullest.<sup>310</sup> The Commission noted that social media also facilitated e-commerce as businesses were opened, advertisements were done, and trade were done online. Many shops and services operated virtually through Apps like Safe boda, Kikuu, MTN MoMo, Jiji.Ug Uganda, Bolt, Ayoba and Jumia Uganda.<sup>311</sup>

Social media increased public accountability when people shared information, such as when road users were driving on the wrong side of the road or misusing public properties like government vehicles. Perpetrators of bribery and corruption at different levels were exposed through various platforms, especially Whatsapp, Facebook and TikTok. Social media facilitated the extension of social services like health, finance and education, as when they could not be accessed physically, social media, through its various platforms, facilitated access to health workers<sup>312</sup>, drugs, financial services, online libraries, learning and teaching modalities<sup>313</sup> and examinations.

305 <https://freedomhouse.org/country/uganda/freedom-net/2021>

306 <https://www.hrw.org> >world-report> 2022

307 Dan Wandera, “Court remands man accused of announcing Museveni’s death,” Daily Monitor, July 15, 2021, <https://www.monitor.co.ug/uganda/news/national/court-remands-man-accuse...>; Emmanuel Busingye, “WhatsApp group admin arrested for celebrating Museveni ‘death,’” Ekyooto Uganda, July 10 2021, <https://ekyooto.co.uk/2021/07/10/whatsapp-group-admin-arrested-for-cele...>

308 <https://acme-ug.org/>.

309 <https://democracyinafrica.org/the-political-impact-of-social-media>.

310 <https://legaldesire.com>.

311 <https://www.jumia.ug>.

312 <https://bmchealthservres.biomedcentral.com>.

313 <https://sproutsocial.com>.

The Commission notes that in 2021, social media played a critical role in facilitating entertainment through its various platforms, including TikTok, WhatsApp, Facebook, Snap chat, Instagram and YouTube.

The Commission noted that social media helped create employment opportunities as the Telecom technicians, IT specialists, and applications developers were able to find work in various sectors.

## 9.2.4 Human rights concerns

### 9.2.4.1 Restrictions on freedom of speech and expression

Restriction on the right of individuals to express themselves can manifest in various forms, such as technical measures to prevent access to certain content on the internet, blocking and shutting the internet. Incidents have occurred in Uganda, demonstrating such restrictions. On 12 January 2021, the Uganda Communications Commission ordered internet service providers to block access to Facebook, Twitter, Instagram, WhatsApp and Telegram, among other platforms, and roughly 100 virtual private networks (VPNs) were restricted.<sup>314</sup> The next day, the government shut down internet access across the country for five days. The government restored access to all websites except Facebook on February 10 2021.<sup>315</sup> The shutdown occurred without any prior notice to the public and against well-laid-out legal procedures and human rights standards, and as such, it appeared arbitrary and excessive.

### 9.2.4.2 Excessive limitation of freedom of opinion, speech and expression

Violation of these freedoms may also manifest in the use of criminal law to sanction legitimate expression. The UN Special Rapporteur on promotion and protection of the right of freedom of opinion and expression acknowledged that the arbitrary use of criminal law to sanction expression constitutes one of the gravest forms of restriction to expression and speech. Such a restriction, in his view, creates a 'chilling effect' and leads to other human rights violations, such as arbitrary detention and torture and other forms of cruel, inhuman or degrading treatment or punishment. The Special Rapporteur's report emphasises that criminalising legitimate online expression is in contravention of state's international human rights obligations.

There is a need to balance between legitimate expression as provided for in the human rights standards and the need to protect reputation and privacy to pre-empt harm. Otherwise, the Computer Misuse Act 2011 could end up criminalising expression on the internet and could potentially lead to self-censorship, hence restricting the freedom of expression.

### 9.2.4.3 Inadequate protection of privacy

Personal data (which includes an individual's name, address, date of birth and tax identification number) is protected by Article 27 of the Constitution as part of an individual's private life. The constitutional right to privacy imposes an obligation on the state to ensure that its laws provide adequate protection against the unjustified disclosure of personal information. Social media users' privacy gets violated more often than people think. Many people believe that if a user keeps their information private, then it stays private, which is not the case. Social media networks have access to that information, and because they want to make information more public, they allow access to users' private information by advertisers without the users' consent which is a violation of people's right to privacy.<sup>316</sup>

314 "Uganda: Data on internet blocks and nationwide internet outage amid 2021 general election," Open Observatory of Network Interference, January 22, 2021, <https://ooni.org/post/2021-uganda-general-election-blocks-and-outage/>; "Social media and messaging restricted, internet shut down for Uganda elections," NetBlocks, January 12, 2021, <https://netblocks.org/reports/social-media-and-messaging-platforms-rest...>; "Uganda elections 2021: Social media blocked ahead of poll," BBC, January 12, 2021, <https://www.bbc.com/news/world-africa-55640405>.

315 Halima Athumani, "Ugandan Government Restores Social Media Sites, Except Facebook," VOA, February 10, 2021, <https://www.voanews.com/africa/ugandan-government-restores-social-media...>; "Uganda: Data on internet blocks and nationwide internet outage amid 2021 general election," Open Observatory of Network Interference, January 22, 2021, <https://ooni.org/post/2021-uganda-general-election-blocks-and-outage/>; "Social media and messaging restricted, internet shut down for Uganda elections," NetBlocks, January 12, 2021, <https://netblocks.org/reports/social-media-and-messaging-platforms-rest...>.

316 <https://sites.google.com/site/rightswithsocialmedia/human-rights-violations>.

#### 9.2.4.4 Gender-based cyber violence

UHRC has established that online abuse against women is increasing, with women experiencing cyber stalking, sexual harassment, public shaming and revenge pornography. A report on the political impact of social media<sup>317</sup> indicates that 18% of female candidates experienced sexual violence while 14% experienced body shaming.

The high prevalence of such abuses resulted from intimate partner abuse that extended to online spaces as some women were being tracked online by their abusive partners. It was further established that marital problems stemmed from social media for a sizeable number of couples, leading to domestic violence.

Another concern regarding the increased violence against women online was the non-consensual distribution of pornographic content often publicised by ex-partners or spouses. This amounts to cyber violence, as it is extremely intrusive and psychologically torturous to the victims. Such incidents have been on the rise in Uganda and usually are relayed on social media platforms. UHRC noted that more women were becoming victims of men swindling, threatening and conning them through social media. In some instances, the victims have faced severe consequences such as rape or suicide due to blind dates set up through social media platforms, especially Facebook.

#### 9.2.4.5 Lack of public awareness

UHRC established a general lack of awareness amongst the public about social media and the rights thereof. The public was unaware of the good government initiatives, programmes, and policies to facilitate the realisation of social media rights, especially in rural areas where use was minimal. Where social media was highly utilised, there was limited knowledge of the associated rights and freedoms and, especially, duties and responsibilities of the users. Furthermore, there was inadequate awareness of the redress mechanisms available in the event of a violation of one's digital rights. This has the effect of increasing the vulnerability and susceptibility of the users to infringement of their rights.

#### 9.2.4.6 Affordability of social media

Despite the increase in social media users in Uganda, many Ugandans were priced out of social media. In considering the affordability of the internet, the cost of the device (that is, the price of an internet-enabled phone) and the price of the internet service itself must be considered. By the end of 2021, the cheapest monthly internet bundle of 2 GB was being sold by MTN Uganda at UGX 20,000; Airtel Uganda sold 1.72 GB at UGX 20,000, while Africell Uganda sold 1GB at UGX 34,500.<sup>318</sup> The lowest ordinary phone price that UHRC found on the market was UGX 35,000, while the cost of a smartphone was not less than UGX 150,000. This made the cost of social media out of reach for an ordinary Ugandan.

#### 9.2.4.7 Responsible use of social media

Citizens are afforded their rights, including social media, through the law, but these rights should be balanced with duties and responsibilities. As previously highlighted, social media facilitate expeditious mobilization of people for a good cause and information sharing, thus becoming vital tools for participating in and facilitating democratic processes. However, UHRC observed with concern that in 2021, there was unprecedented abuse of social media platforms, bordering on hate campaigns, misinformation, incitement, propaganda, defamation and outright insult to particular persons. For instance, according to a report on the political impact of social media,<sup>319</sup> 34% of women candidates experienced hate speech.

UHRC also noted the biased reporting by some people using inciting and, at times, abusive language through their various social media platforms. UHRC was also concerned about 'photo shopping', which was sometimes used to alarm or even incite the general public through the circulation of social media-gen-

317 <https://democracyinafrica.org>.

318 <https://dignited.com/pricegator/mobile-data/>

319 <https://democracyinafrica.org/the-political-impact-of-social-media>.

erated pictures. For instance, in a photo sent on a Twitter account on 21 June 2021,<sup>320</sup> the news circulating was that the “Ministry of health worried about rapid infection of COVID-19 among the vaccinated people in Uganda whom the Ministry says are infected quickly, and it is difficult for them to get healed ending up dying.” This news was later on confirmed as fake news.

With social media, information can be shared at a scale like never before and, as such, destructive information can be spread in a matter of minutes. This was a matter of concern to UHRC, considering the increased abuse of social media and digital platforms. A case in point was in June 2021 when a message was sent on Twitter that the President of Uganda had reportedly been airlifted to Germany in a critical condition.<sup>321</sup> This information circulated like wildfire, though after a few minutes, the public was informed that it was fake news. Another example of misuse of social media platforms was the frequent circulation of pornographic pictures and videos of Ugandans without their consent and knowledge throughout 2021.

#### 9.2.4.8 Generation of misleading messages

UHRC noted the ability of social media users to manipulate modern technology such as photoshop to generate scenes that were not authentic. Such technology could be a great innovation if used for a good cause but misleading if used negatively. Social media was misused during campaigns, elections and post elections for mobilising or inciting violence or other political propaganda.

It was also noted that some members of the public, especially the youth seeking employment, were sent misleading information calling for their applications for jobs in countries like Saudi Arabia. Some youth were conned into giving money, while others were recruited but exploited overseas and, in effect, victims of trafficking.

### 9.2.5 Recommendations

1. The Ministry of Information, Communications and Technology, Uganda Communications Commission and National Information Technology Authority should intensify their efforts to increase public awareness concerning the use of social media, which should cover rights and responsibilities in the use of social media platforms.
2. The Ministry of Information, Communications and Technology, Uganda Communications Commission and National Information Technology Authority should develop a policy to articulate and address issues of online violence against women, including providing educational programmes.
3. The Uganda Law Reform Commission should review the Regulation of Interception of Communications Act 2013 166 and the Anti-Pornography Act 2014 167 to address the overly-restrictive provisions affecting the freedom of speech and expression.
4. The Uganda Communications Commission should ensure that any blockage of digital services, such as the internet, is per national and international human rights standards and should follow due process.
5. The 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.
6. Citizens of Uganda should use social media responsibly, particularly the internet and social network platforms and should verify information before sharing it to avoid the consequences of propagating false information, which might cause disorder and violence.

320 <https://twitter.com/ntvuganda>

321 Ibid.

## 9.3 BANISHMENT OF PERSONS FROM COMMUNITIES IN ACHOLI SUB-REGION IN 2021

### 9.3.1 Introduction

#### 9.3.1.1 Historical background of banishment

Banishment is defined as the act of sending someone or something away from a place and not allowing them to come back.<sup>322</sup> Banishment has long existed in human history and continues in some contemporary societies. It has been practised in various cultures and societies and is one of the oldest known forms of criminal punishment.<sup>323</sup> The practice of banishment or forced exile from society has been used as a punishment since at least the 5<sup>th</sup> century BC in ancient Greece and reached its height in the British Empire during the 18<sup>th</sup> and 19<sup>th</sup> centuries.<sup>324</sup> The Old Testament in the Christian faith and the Quran in the Islamic faith both contain banishment as it is believed that God banished Adam and Eve out of the Garden of Eden for disobeying him.<sup>325</sup>

In the colonial era where Uganda was a protectorate of England, equity permitted the reception clause, which empowered the Commissioner to apply any law in England to Uganda, which is how the statutes of general application came into force. The repugnancy clause<sup>326</sup> allowed that in all cases in which parties were natives, every court was to be guided by native law so far as it was applicable and not repugnant to justice and morality or consistent with any order in council or ordinance.

The colonial systems equated the practice of traditional medicine and practices with witchcraft, and as a result, the colonial government introduced the Witchcraft Act Cap 108 in 1957, which had provisions for the prevention of witchcraft and for punishments for persons practising witchcraft<sup>327</sup> which included exclusionary or banishment orders. These were later rendered unconstitutional in the landmark case of Attorney General Vs. Salvatori Abuki.<sup>328</sup>

In Uganda, the practise of banishment is primarily rooted in some cultures in northern Uganda, and banishment is used as a means of cleansing communities of supernatural evil forces and moral decadence. During monitoring to understand the prevalence of banishment in the Acholi Sub-Region, respondents that were interviewed noted that in the Luo culture, it is believed some people have in their possession supernatural powers which can cause famine, death of people and animals and other disasters, and such people must be removed from their communities to avert such calamities. Most of the respondents also referred to the northern war conflict where the rebel leader of the Lord's Resistance Army, Joseph Kony, was believed to have possessed supernatural powers that helped him elude the capture of the UPDF soldiers and cause mayhem in the region.

### 9.3.2 Legal and policy framework

Article 21 (1) of the Constitution of the Republic of Uganda provides that all persons are equal before the law regardless of their standing in society. Banishment is prohibited in Uganda, as was held in the case of Attorney General Vs Salvatori Abuki,<sup>329</sup> where the Witchcraft Act Cap 108, which had provisions that included exclusionary or banishment orders, was rendered unconstitutional. In this case, the appellants had been convicted of witchcraft and served with exclusionary orders that banished them from their homes for 10 years after serving their custodial sentence. The accused appealed against the banishment orders and were successful, and following the constitutional declaration, banishment as a form of punishment was repealed. Below are the international, regional and national policies related to banishment.

<sup>322</sup> Black's Law Dictionary.

<sup>323</sup> The forgotten people, Brill.

<sup>324</sup> <https://www.bbc.uk>revision>.

The use of banishment in the 18th and 19th Century.

<sup>325</sup> Genesis 3:1-24.

<sup>326</sup> S.20(a) of the 1902 Order in Council.

<sup>327</sup> S.7(1) and (2) of the Witchcraft Act 1957.

<sup>328</sup> Constitutional Appeal No 2 of 1998.

<sup>329</sup> Ibid.

### 9.3.2.1 International legal and policy framework

The Universal Declaration of Human Rights (UDHR)<sup>330</sup> is a key legal instrument which provides for the right to life, liberty and security of a person, freedom from torture or cruel, inhuman or degrading treatment or punishment and the right to freedom of movement and residence within the borders of each state.<sup>331</sup> It further provides that everyone has the right to own property alone as well as in association with others<sup>332</sup> and that no one shall be arbitrarily deprived of his property. Additionally, Article 18 provides that everyone has the right to freedom of thought, conscience and religion, which includes freedom to change one's religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

The International Covenant on Civil and Political Rights (ICCPR), 1966, as ratified by Uganda, prohibits banishment.<sup>333</sup> It states that no one shall be subjected to arbitrary or unlawful interference with his privacy, family or home or correspondence nor to unlawful attacks on his honour and reputation. It further states that everyone has the right to protection of the law against such interference or attacks. Article 18 (1) of the ICCPR further provides that everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or adopt a religion or belief of his choice and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching. It also provides for the right to life and prohibits torture or cruel, inhuman or degrading treatment or punishment.<sup>334</sup>

### 9.3.2.2 Regional legal framework

The African Charter on Human and People's Rights (ACHPR) guarantees basic human rights and freedoms and prohibit arbitrary deprivation of such rights, for instance, the right to life, freedom from torture, cruel, inhuman or degrading punishment and treatment and protection of children from all forms of torture, inhuman or degrading treatment through administrative, social and educational measures.<sup>335</sup>

### 9.3.2.3 National legal and institutional framework

At the national level, under Article 21, the Constitution guarantees that all persons are equal before the law regardless of their standing in society. Article 24 prohibits the subjection of a person to any form of torture, cruel, inhuman or degrading treatment or punishment. Under Article 26, every person has a right to own property, which must not be taken away from him or her except in specified circumstances and even then, after the person has been fully compensated for the loss. Article 28 guarantees the right to a fair hearing before courts and other courts established by law.

Article 29(1) (b) and (c) provide for freedom of thought, conscience and belief and religion and Article 29(2) provides that every Ugandan has a right to reside and settle anywhere in Uganda. Article 44 prohibits derogation from particular human rights, including freedom from torture, cruel, inhuman and degrading treatment and the right to a fair hearing.

The Penal Code Act Cap 120 also criminalises most actions that often facilitate banishment, like the destruction of property, assault and causing financial loss.

The national institutional framework relating to banishment includes the Ministry of Internal Affairs, which includes the Police, the Minister for Ethics and Integrity, the Ministry of Gender, Labor and Social Developments and the ministry of Justice and Constitutional Affairs, particularly the courts of judicature. These institutions supervise the operation of Uganda's traditional and cultural institutions within the legal framework.

<sup>330</sup> Adopted on 10 December 1948.

<sup>331</sup> Article 3, 5, 13 and 18 (UDHR).

<sup>332</sup> Article 17(1).

<sup>333</sup> Article 17(1,2).

<sup>334</sup> Article 6 and 7 (ICCPR).

<sup>335</sup> Articles 4, 5, 8 and 12(1) ACHPR.

In Northern Uganda, the traditional institution for Acholi Sub-Region is the ‘Ker Kwaro’ as provided in Chapter 16 <sup>336</sup> of the 1995 Constitution of Uganda. The traditional courts, which mainly consist of clan leaders, play a major role in the administration of justice in handling cases of witchcraft, poisoning, prostitution and land-related issues arising within their respective communities. Community members refer witchcraft cases to these courts due to fears that such cases are hard to prove in the formal justice courts since they require formal procedures of evidence which can be hard to prove.

### 9.3.3 Situational analysis

#### 9.3.3.1 Prevalence of banishment in Acholi Sub-Region

UHRC established that banishment is still widely practised in northern Uganda, although most cases go undocumented. According to the Police, Kitgum CPS, banishment practices still prevail in Acholi Sub-Region, although victims rarely report in fear of further victimisation and stigma, while others are too poor to follow up on matters in the formal justice system. The key feature of banishment in the Acholi Sub-Region is that the community meets as a group to decide the victim’s fate, which is put to the vote. Cultural leaders preside over a committee that oversees the electoral voting process, and all residents are legible to participate in the process. The practice is punitive in nature, and its rationale is that it removes evil and promotes harmony within the community.

#### 9.3.3.2 Justification of banishment

According to the cultural leaders interviewed, people are banished from the communities to save community members from unnecessary death, sickness, poor harvest, drought, and other problems believed to be a result of the practices of witchcraft by some community members. Banishment is also a deterrent measure whereby witches and those whose behaviour is considered unacceptable in society are banished to discourage others from engaging in similar acts.

UHRC interviewed various stakeholders, including chairpersons of Local Councils I, II, and III, clan leaders, clan chiefs, security forces, district officials and members of community organisations. It was established that in 2021, about 37 people were completely banished from their communities, while several other cases were under review by cultural leaders, waiting to be exiled or pardoned depending on the outcome of investigations. Most victims were banished on grounds including witchcraft, poisoning, casting evil spells on food crops, animals or stopping rain and causing famine in the land.

In Pader Town Council, four women were found to be under the review of the clan committee after committing themselves to abandon witchcraft practices. In Wangduku Central Village in Pader District, two women were accused of poisoning their neighbours, and after voting occurred in October 2021, they were banished. However, the Police were still investigating the allegations, though community members insisted that the two women must leave the community since the voting process had already declared them guilty.

<sup>336</sup> Article 246 of the Constitution of Uganda 1995.



*The LC III Pajule Sub-County showing the voting materials used against people suspected of practising witchcraft taken to his office by clan leaders*

According to the local leaders interviewed by UHRC in Agago District, when complaints are lodged against people suspected of practising witchcraft, poisoning, prostitution, conducting religious cults or casting any form of evil spells, the leaders will summon the suspect(s) and their relatives for a clan meeting before they are banished. These meetings are held in the presence of the clan chairperson, clan chiefs, village chiefs, and local council chairperson and are often attended by Police, gombolola internal security officers (GISO), politicians and district officials. According to one respondent, the rationale for banishment is that “Why should the community suffer because of one person? They have to be expelled to restore order in the community!”

The decision to banish the victim depends on the perceived magnitude of the implications of the practice that the victim is alleged to have committed. For instance, in June 2021, in the village of Lemo Bongolowich East Village, Pager Division, Kitgum District, a woman was deemed unfit to live in the community because she was chaotic and immoral, as community members accused her of constantly causing fights and divisions among people and lodging malicious allegations about others with the Police. After being summoned by clan leaders, over 200 community members voted for her to be banished. When the victim attempted to object to the banishment, a community member destroyed her house by setting it on fire. Several days after the voting was conducted against her, about 80 members of the community escorted the victim and her three children and property out of the village while chanting songs after them.



*Property that was destroyed in Kitgum belonging to the victim of banishment*

In cases of witchcraft, when the suspect is banished, the communities often carry out rituals, including beating drums and blowing horns meant to cleanse the land of evil spirits believed to have been caused by the person(s) banished.

### 9.3.3.3 Number of people banished in 2021

The highest number of cases of banishment were registered in Pader, Agago and Kitgum Districts. About 70% of the cases were on the grounds of witchcraft, 20% were due to poisoning, and a few cases were because of prostitution and theft. As earlier noted, the cases of banishment were largely undocumented, and most community members were not forthcoming, given that they were involved in the mob action and didn't want to incriminate themselves. Therefore, it is difficult to determine the exact statistics as far as banishment is concerned.

**Table 9.4: Registered cases of banishment in Acholi Sub-Region**

| S/N          | DISTRICT | MALE | FEMALE | TOTAL NUMBER OF PEOPLE BANISHED |
|--------------|----------|------|--------|---------------------------------|
| 1            | Agago    | 00   | 06     | 06                              |
| 2            | Pader    | 07   | 09     | 16                              |
| 3            | Lamwo    | 02   | 01     | 03                              |
| 4            | Gulu     | 01   | 01     | 01                              |
| 5            | Lira     | 00   | 02     | 02                              |
| 6            | Kitgum   | 00   | 03     | 06                              |
| 7.           | Nwoya    | 00   | 01     | 02                              |
| <b>Total</b> |          |      |        | <b>37</b>                       |

*Source: As provided by Police, Human Rights Focus (HURIFO), Uganda Law Society (ULS) and local leaders*

### 9.3.3.4 Victims of banishment

It was observed that out of the victim's identified, 90% were women. According to some respondents, they attributed gender roles to witchcraft, in which it is believed that women are more likely to engage in witchcraft. It was explained that: "Women are associated with water, food and children, those are not activities of men, so the majority of wizards and witches are women. They are most likely to poison because they

tend to be emotional more than men.”<sup>337</sup> The victims mostly ranged from 30 to 60 years of age, and in most cases, the victims were banished with their children.

Unlike in the previous years where victims were banished for specific periods, as was the case in Attorney General vs Salvatori Abuki,<sup>338</sup> it was noted that banishment was effected in such a way that victims were not sent to designated places for a set time; instead, the victims were totally expelled from a specific community with no regard to their next destination. It was also noted that in the instances where the victims had been pardoned or the Police intervened, and the punishment was stopped, the victims often live in a state of fear for their lives, property and family members, as well as facing alienation, discrimination, harassments and threats from community members.

An example of a banishment experience is one of the respondents (referred to as Anena), who was banished from her home on the grounds that she practised witchcraft. According to Anena, a returnee from the Lord’s Resistance Army (LRA) bush war where she had been forced into marriage, in January 2021, she was banished from her home by community members. She tearfully revealed that after she returned from the bush war, a good samaritan constructed for her a two-roomed house in Gulu District, Unyama Sub-County in Unyama Village. Being a single mother, she had to fend for her three children, so she hired land and started farming to earn a reasonable income. She believes that some community members became jealous of her success and started spreading rumours that she was practising witchcraft which made her successful at the expense of others. Her children, aged 12 and 9 years, whom she produced while in captivity, were also accused of being habitual thieves. On 5 January 2021, a clan meeting was held in which some community members averred that she could not live in the area anymore. Later that day, in the company of the clan chief, residents brought a lorry to her home and, without any warning, loaded her belongings and forcibly drove her out of the community, dumping her and her belongings on the side of the road in Laroo village, Gulu City. She revealed that one of her children disappeared in the scuffle and has not been seen since the day that she was banished. Her hut was set on fire, and her property destroyed.

An example of near banishment was a case that was recorded by UHRC in Agago District. Here the victim, Apio, was banished by the community in Lira Palwo Sub-County Pyegweng Village & Gang-Kal Ward. However, this was stopped with the intervention of UHRC and the Police. The 60-year-old victim is a pastor in a home fellowship she conducts at her residence. She narrated that her brother in law teamed up with clan leaders to banish her on the grounds that she was a devil worshipper, as in May 2021, her brother in law conducted a traditional marriage, but after just two weeks, his wife died, with rumours spreading in the village that she was responsible for the death. Even though the postmortem revealed that the deceased had succumbed to blood pressure, the residents in her village were already convinced that she had caused the death through her ‘strange religion’ in which people pray in tongues. During the meeting to address the matter, the clan leaders forced Apio’s husband to denounce her as a wife and allow them to banish her, and though he at first resisted, under threat of his life, he was forced to sign the document for banishment. The victim stated that when she resisted the banishment, the clan members involved the Police by fabricating baseless charges against her, and she was arrested without being charged. When the Police tried to release her, the clan leaders involved politicians and high ranking members in the district in a bid to execute the banishment. The victim stated that another clan meeting was held, and several people came and testified against her accusing her of peculiar behaviour and sorcery. The police again detained her, and while in custody, residents destroyed the victim’s house, looted her animals and chased away her children from the community. The UHRC intervened in the case, and with its support, Apio was able to stay in her village, although she states that she lives under constant threats from the community.

337 [http://brill.com/view/journals/ijgr/22/3/article-p360\\_4.xml?language=en](http://brill.com/view/journals/ijgr/22/3/article-p360_4.xml?language=en).

338 Ibid.

### 9.3.3.5 Factors perpetuating banishment

#### 1. Land conflicts

In northern Uganda, land conflicts are rampant, and banishment is often used to resolve such conflicts, especially where one party is vulnerable. Most of the victims constitute women, and, as was the case for Apio, the UHRC noted that while the victim was accused of witchcraft, the underlying issue was land conflicts where banishment was used as a tactic to get rid of her by her brother in law. Furthermore, under their traditional institution in Acholi Sub-Region, widows are expected to be inherited by the deceased brothers. Often, when the widow refuses to be inherited, she will likely be banished from her late husband's land.

#### 2. Ineffectiveness of formal justice systems

There is suspicion that the formal justice systems are ineffective in handling cases of witchcraft or poisoning. Instead, the clan's voting method is a 'quick fix' that can lead to banishment and a communal sense that justice has been done.<sup>339</sup> The Police revealed that the community fear reporting witchcraft cases to them because of a lack of evidence to prove such allegations, so they take it before the local leaders, where banishment is done without notifying them. The Chief of Lira Palwo, Rwot Odong Lira II, told of a case of suspected witchcraft reported at Patongo CPS with evidence presented in the form of charms. However, the Police told the plaintiff that the charms had to be analysed by the government chemist in Kampala without further action. Such situations prompt people to handle cases locally, as clan-determined banishment appears to save time and money and seems more effective than the formal justice system.

Those who are banished sometimes report that they have been threatened with violence.

It was observed that most instigators of banishment are not arrested; though one case was reported in Lira Palwo and one in Pajule, though suspects were later released, and the victims were banished without remedies.

#### 3. Cultural beliefs

In northern Uganda, cultural norms are still deep-rooted and strongly believe in the supernatural. Banishment is often not perceived as a punishment alone but rather a cleansing ritual by clan leaders to appease evil spirits.

## 9.3.4 Human rights concerns

### 9.3.4.1 Right to a fair hearing

Banishment infringes on the right to a fair hearing enshrined in Article 28(1) of the Constitution. The voting exercise that leads to the banishment of the victims tends to hinge on hearsay evidence which can easily lead to a miscarriage of justice. From the interviews carried out in Kitgum, Pader and Agago, it is clear that local leaders draw their conclusions based on the election results without considering that victims (who are usually vulnerable and already in fear of their lives) do not receive a fair hearing.

### 9.3.4.2 Deprivation of the right to property

Uganda citizens are entitled to own property or in association with others according to Article 26 of the 1995 Constitution of Uganda as amended. Banishment deprives one of this right to property.<sup>340</sup> In northern Uganda, where the majority of people derive sustenance from farming, banishment deprives the victim of access to their property which also affects their livelihood. A banished person interviewed was a woman from Kitgum who revealed that before she was expelled, unidentified people came and set her hut on fire. She was at the time constructing a home that she was forced to abandon meaning a loss of shelter and means of survival. She stated that since she was banished and could not go back, she sought a court order to allow her to sell the house and share the proceeds with her husband.

<sup>339</sup> Penal boundaries: Banishment and expansion of punishment by Katherine Beckett & Steve Herbert.

<sup>340</sup> Article 26 of 1995 Constitution of Uganda as amended.



*The structure abandoned by a victim of banishment in Lemobongolowich village, Kitgum*

#### **9.3.4.3 Deprivation of the right to freedom from torture or cruel, inhuman or degrading treatment or punishment**

Banishment also exposes the victim to torture, cruel, inhuman and degrading treatment, name-calling and verbal abuse. Banishment also perpetuates stigma and low self-esteem, as the victims fear rejection if future communities get to know about the expulsion. One such reported case was a man banished from Latanya Village in Pader on suspicion of stopping the rain and who relocated to Pajule in the same district but was subsequently banished from that community when the information was revealed. It was also noted that the victims find difficulties in adapting to their new environment, where they may find a different culture, language, weather pattern and so on. The victims tend to suffer physiological torture and humiliation, especially those accused of practising witchcraft. This is exacerbated by some local leaders and members of the communities that shame them on radios and social media.

#### **9.3.4.4 The right to reside anywhere in Uganda**

The right to residence and to settle in any part of the country is assured to every citizen as a fundamental right under Article 29(2) of the Constitution. Banishment serves as a barrier to the enjoyment of this right when victims are forced out of their homes and communities.

#### **9.3.4.5 Equality and non-discrimination**

The right to equality and freedom from discrimination demands that that all persons be treated equally before and under the law in all spheres such that everyone should enjoy equal protection of the law.<sup>341</sup> Discrimination on any grounds including gender, religious beliefs is totally prohibited by Article 21(2) of the Constitution. Discrimination is defined in the Constitution under Article 21(3) to mean giving different treatment to different persons attributable only or mainly to their respective description by sex, race, color, ethnic origin, tribe, creed or religion, social or economic standing, political opinion or disability. Banishments based on hearsay and personal grudges violate this right.

<sup>341</sup> Article 21 of the Constitution of the Republic of Uganda.

#### 9.3.4.6 Discrimination on grounds of religion

The right to freedom of thought, conscience and religion which is guaranteed by Article 29(1) (b-c) of the constitution is violated when victims are banished on grounds of religion and belief. As was the case of Apio, the community wanted to banish her on the grounds of religion, citing that she was speaking tongues and that her faith was incompatible with community values. This was discriminatory against the victim.

#### 9.3.4.7 Access to justice

Given the general vulnerability of the victims of banishment, they face challenges in accessing justice due to limited means and fear of reprisal. This means that few people who are banished seek redress through legal avenues.

#### 9.3.4.8 Domestic violence

Banishment can cause domestic violence as the victim can be at risk of abuse if they are blamed for bringing shame upon their family.

### 9.3.5 Recommendations

1. The Police should investigate banishment cases, and the perpetrators or instigators should be arrested and prosecuted.
2. The Police should enhance community policing and mass sensitisation on the elimination of banishment.
3. The district local government should enact ordinances and by-laws prohibiting the banishment of persons.

### 9.3.6 Conclusion

The monitoring exercise conducted by UHRC indicates that banishment is still a common practice in districts in the Acholi Sub-Region. It poses grave human rights concerns, including deprivation of property, freedom from torture, cruel and inhuman treatment and punishment and discrimination. A clear understanding of banishment practices, causes and human rights implications, as illustrated in this chapter, should provide the duty bearers with the requisite information to further explore measures to curb banishment practices for good in the region and countrywide.

## 9.4 TERRORISM ATTACKS IN 2021

### 9.4.1 Introduction

Terrorism commonly refers to acts of violence that mainly target civilians in the pursuit of political or ideological purposes. However, among the international community, regardless of unilateral declarations, resolutions and treaties relating to some specific aspect of terrorism, a lack of consensus remains as to what constitutes terrorism. The absence of this consensus between states led to the current situation in which there is no legal and comprehensive definition of terrorism.<sup>342</sup>

Terrorism occurs in many different contexts and takes various forms. Some of its consistent features include its organised nature (whether the organisation involved is large or small), its destructive nature, its attempt to undermine the government, its randomness and the spreading of fear/terror among the population. Terrorist acts can destabilise governments, undermine civil society, jeopardise peace and security, threaten social and economic development, and may significantly negatively affect certain groups.

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<sup>342</sup> Ibid

## 9.4.2 Legal and policy framework

### 9.4.2.1 International legal framework

Article 3 of the Universal Declaration of Human Rights states that everyone has the right to life, liberty, and security. It is fundamental to the enjoyment of all other rights. The International Covenant on Civil and Political Rights (ICCPR) in Article 6 states that every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.<sup>343</sup>

### 9.4.2.2 Regional legal framework

The African Charter on Human and People's Rights (Banjul Charter) in Article 4 states that every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.

### 9.4.2.3 National legal framework

Article 22 (i) of the 1995 Constitution states 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 under the laws of Uganda and the conviction and sentence have been confirmed by the highest appellate court.<sup>344</sup>

The Anti-Terrorism Act, 2002 is aimed at suppressing acts of terrorism and generally provides for the punishment of persons who plan, instigate, support, finance or execute acts of terrorism; to prescribe terrorist organisations and provide for the punishment of persons who are members of, or who profess in public to be members of, or who convene or attend meetings of, or who support or finance or facilitate the activities of terrorist organisations; to provide for the investigation of acts of terrorism to obtain information in respect of such acts including the authorising of the interception of the correspondence of and the surveillance of persons suspected to be planning or to be involved in acts of terrorism; and to provide for other connected matters.<sup>345</sup>

## 9.4.3 Situational analysis

### Bomb attacks during the 2010 World Cup finals

In 2010, twin bombings in Kampala targeting fans watching the World Cup final left 76 people dead. The attacks took place in Kampala at venues screening the World Cup finals killing over 70 people and injuring many more. The first one took place at Legends Club- a popular hangout in Lugogo, and the second one at an Ethiopian restaurant in Kabalagala. Al-Shabaab claimed responsibility, linked the attacks to Uganda's military presence in Somalia as part of an African Union peacekeeping mission (AMISOM) and threatened further attacks in the region.<sup>346</sup>

#### 9.4.3.1 Foiled terror attack at the funeral of former Deputy IGP General Paul Lokech

On Thursday, 26 August 2021, security forces arrested a man in Pader District on the eve of the funeral of Deputy Inspector General of Police, Major General Paul Lokech, nicknamed the 'Lion of Mogadishu'. The suspect was found with an assortment of bomb-making materials, but security was able to foil the attack before it happened. The then UPDF spokesperson Brigadier Flavia Byekwaso said the suspect was a Ugandan national identified as Katumba Abdul, also known as Ben.<sup>347</sup>

343 ICCPR.

344 Constitution of the Republic of Uganda.

345 Anti-terrorism Act 2002.

346 <https://www.gov.uk/foreign-travel-advice/uganda/terrorism>

347 <https://nation.africa/kenya/news/africa/uganda-foils-attack-on-maj-gen-paul-lokech> Visited on 7 April 2022.

#### **9.4.3.2 Attack at a Police Post in Kawempe**

On 8 October 2021, Islamic State militants detonated an improvised explosive device (IED) at a Police Post in Kawempe, a neighbourhood of Uganda's capital city Kampala. The attack caused no casualties but was the first act of domestic terrorism in Uganda to be claimed by the Islamic State.<sup>348</sup>

#### **9.4.3.3 Bomb attack at a Komamboga pub and pork joint**

On 23 October 2021, at around 8:00 p.m. at Cheers and Beers Pub and Pork Joint, Kwoto, Komamboga, Kawempe Division, an explosion left one person dead and three others injured. The deceased was identified as Emily Nyiraneza, a bar attendant at the pub. The injured were identified as Ssengozi Peter alias Tooto Africa, Annet Kiconco, Nandobi Derrick alias Mino J, and Nakitto Rose. The injured sustained multiple injuries, including fractures on their bodies. At the time of the explosion, about 30 people had converged to watch a football match. The two men who detonated the bomb were reportedly not first-timers at the pub, as they had been there two times before, the last one being two days before the incident. Numerous metallic objects were recovered from the blast scene, including metallic fragments, block synthetic wrap, and nails.

#### **9.4.3.4 Attack on a Swift bus on Masaka Road**

On 25 October 2021, an explosion took place aboard a Swift Safaris bus registration number UAU 989T bound for Ishaka at Lungala near Mpigi. One person, Matovu Isaac, died on the spot and several others were injured. The remaining 37 other passengers plus the driver were reported safe.

#### **9.4.3.5 Attack on General Katumba Wamala**

On 1 June 2021, the Minister of Works and Transport, General Katumba Wamala, was travelling in a vehicle when four gunmen opened fire, wounding Wamala and killing his driver and his daughter. After a month of investigations, authorities revealed that the attackers were Islamic extremists trained in a jihadist camp in North Kivu, Democratic Republic of Congo, and had links with the Allied Democratic Forces and the Islamic State.

#### **9.4.3.6 November 2021 twin bombings**

In 2021, the UK Government warned of a possible terror attack, though the actual time was unknown. "Terrorists are very likely to try to carry out attacks in Uganda. Attacks could be indiscriminate or against foreign nationals or places frequented by foreign nationals. You should be vigilant at all times, especially in crowded areas and public places like hotels, transport hubs, restaurants and bars, and during major gatherings like sporting or religious events and when in close proximity to Government buildings or security installations such as Police stations."

Shortly after this terror alert, on 16 November 2021, two bombings took place in Kampala. The first blast went off near the city Central Police Station (CPS), while the second hit Raja Chambers and Jubilee Insurance Building along Parliament Avenue, only meters away from the Ugandan Parliament. The timing of the bombings was closely linked and occurred within three minutes of each other. Both were carried out by attackers carrying explosives. A possible attack on a third target was foiled by police, who pursued and disarmed a suspected suicide bomber.

The first attack occurred near the checkpoint of the CPS at around 10.03 am. The CCTV footage shows a male adult, putting on a black jacket, and carrying a backpack, detonating himself. He died instantly, and the spillover effect caused additional injuries to police officers and other civilians within a radius of 30 metres. Two other people were confirmed dead, while several others sustained very serious injuries. Those injured were within the section covering the point of impact and the front desk area.

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For the second attack, two suicide bombers captured by CCTV cameras were on motorcycles, disguised as bodaboda riders. They detonated the bombs they were carrying and died instantly, with the blast damaging several motor vehicles and buildings.<sup>349</sup> The total number of fatalities in the bombings was six, including the two bombers. Thirty-six people were injured and hospitalised, the majority of whom were police officers at the CPS Kampala.



*Ugandan Police and explosion experts secure the blast scene near CPS on November 16 2021<sup>350</sup>*

The Allied Democratic Forces/ Islamic State in Syria claimed the attacks immediately after the blasts. The bombers were subsequently identified as attached to an ADF sleeper cell in Lweza/Kajjansi, headed by Hajj Sulaiman Nsubuga. The bombers' names were Mansur Uthman, who detonated the CPS Kampala bomb, and Abdullah Wanjusi, who detonated the Parliamentary avenue bomb. Investigations showed that the said two bombers earlier at 8:00 am went to Moses Mugamba, aka Moze's home in Katoke-Bwaise and gave him a bag. Moze was subsequently pursued and put out of action while resisting arrest.

Uganda Police Force claimed to have received prior intelligence, and as a result, some suspects had been arrested concerning the earlier attacks. But information on the 16 November attacks had not yet been fully analysed. However, many recoveries of explosives and weapons had been made, implying that security forces have utilised intelligence. The bombs were locally made and are termed improvised explosive devices, mainly composed of commercial explosives.

## 9.4.4 Human rights concerns

### 9.4.4.1 Right to life

Terrorism causes indiscriminate killings of people who happen to be within the vicinity at the time. In all the terror attacks discussed above, lives were lost. As a result of the Kampala twin bombings on 16 November 2021, six people were confirmed dead, including the bombers themselves.<sup>351</sup> It is also alleged that five suspected terrorists, including a Muslim cleric, were killed by Police during raids that followed the two deadly suicide bombings.<sup>352</sup>

### 9.4.4.2 Right to property

The most obvious effect of terror attacks is the direct destruction of property. The bomb attacks on 16 November left several vehicles and buildings damaged.

<sup>349</sup> Statement by Uganda Police Force spokesperson CP Fred Enanga on 16 November 2021.

<sup>350</sup> Ugandan Police and explosion experts secure the scene of a blast in Kampala, Uganda November 16, 2021. REUTERS/Abubaker.

<sup>351</sup> <https://www.france24.com/en/africa/20211116-several-dead-as-three-suicide-bombers-hit-uganda-s-capital-kampala>.

<sup>352</sup> <https://www.voanews.com/a/uganda-police-kill-5-including-cleric-after-bomb-blasts-/6319497.html>.



*A firefighter spraying water to extinguish a fire caused by a bomb explosion near the Parliament building<sup>353</sup>*

#### **9.4.4.3 Right to security**

Information that UHRC obtained from the Uganda Police Force indicates that the bombings left 36 people hospitalised and the majority of them were police officers at CPS Kampala. This temporarily left the country with fewer security agents to protect the population.

#### **9.4.4.4 Loss of livelihoods**

In the aftermath of the November 2021 twin bombings, the Resident City Commissioner (RCC) of Kampala, Mr Hudu Hussein, gave a directive that hawkers and street vendors should leave immediately: “A bomber can disguise as a hawker, street vendor or customer in a crowd on the street. Let us keep the street uncongested.” With this directive, the vendors’ livelihoods and hawkers operating around the city were affected.

#### **9.4.4.5 Economic impact**

Terrorist acts cause ripple effects that negatively impact economic and productive resources, which could have generated added value for the country. Terrorism harms direct investment in Uganda. Countries with many terror attacks lose investors’ confidence, which takes significant time and effort to win back. Terrorism also affects the tourism sector, which negatively impacts foreign exchange earnings. Tourists coming into the country reduce the moment there is a terror attack for fear of their lives. Furthermore, combating terrorism is expensive because it leads to increased military spending to the detriment of economic and social programmes. The resources allocated to the fight against terrorism could be used to address economic and social rights issues within their own country.

#### **9.4.4.6 Right to a fair trial**

The International Covenant on Civil and Political Rights protects the right to a fair trial under Article 14. The rights to liberty and security violations and prohibition of torture and inhuman or degrading treatment or punishment impact the right to a fair trial.<sup>354</sup> As a result of the terror attacks, there were allegations of indiscriminate rounding up of suspects, prolonged detention without charge, incommunicado detention, ill-treatment, torture of detainees, and inhuman and degrading detention conditions. After the arrest of

<sup>353</sup> <https://www.aljazeera.com/gallery/2021/11/16/twin-explosions-rock-ugandas-capital>.

<sup>354</sup> International Covenant on Civil and Political Rights.

the above suspects, there was an outcry from the Muslim fraternity, saying that the Muslims were being targeted and accused of terrorism. When UHRC contacted the Uganda Police Force on this matter, it was revealed that ADF/ISIS runs its ideology under the guise of Islam. Consequently, most recruits are taken under the illusion that they are being persecuted because they are Muslims hence the need to fight to defend Islam, thus the focus on investigating the Muslim community.

#### 9.4.4.7 Right to freedom from bodily harm

For those who were injured in the attacks, they were forced to get medical care, which for some was not possible due to the cost.



*Mulira William, who was injured in the 16 November 2021 attack on Kampala's Parliamentary Avenue, nurses his wounds at home because he can't afford hospital care<sup>355</sup>*

#### Government interventions after the terror attacks

1. Following the twin bomb explosions of November 2021, the Police team of forensic experts and counter-terror experts conducted immediate and very comprehensive investigations at the two blast sites. The areas were cordoned off and members of the public sent away. Standard operating procedures for carrying out investigations were followed, including rescuing and evacuating victims. They combed through the neighbourhood with the canine teams, to ensure the areas were free from any secondary devices. All damaged vehicles from the two sites were transferred to the Inspector of Vehicles department in Naguru.
2. Two days after the twin bombings, Prime Minister Rt. Hon Robinah Nabbanja delivered a brief report to Parliament on the state of national security with a focus on the terrorist attack. She mentioned that the Government was going to organise compassionate assistance for the bereaved families as well as the injured persons.<sup>356</sup>
3. Intelligence gathering was enhanced with increased information sharing and analysis across the security agencies.
4. The Uganda Police Force at first deployed additional Police personnel to multiple locations simultaneously to enhance security, though this lasted just a few weeks.
5. The Uganda Police Force is also embracing the use of recordable devices like CCTV cameras which can monitor other crimes apart from terrorism.

<sup>355</sup> <https://globalpressjournal.com/africa/uganda/amid-widespread-police-brutality-officer-bomb-injuries-provoke-mixed-reactions/>.

<sup>356</sup> New Vision of November 2021-kampala suicide bombings-reactions and more.

6. The Police have tried to deter other potential attackers through a range of protective measures such as visitor screenings and general access control at entrances of malls, public offices, hotels, markets and other public places.<sup>357</sup> However, much as these checkpoints have been put in place, the searches are not thorough enough to stop all potential terrorists from getting access.
7. The Uganda Police Force has put in place several security initiatives to curb terrorism in the country: public sensitisation, protection of potential key targets, encouraging proper access control systems, conducting explosive canine and technical sweeps, enhancement of rapid response plans, enhanced coordination with the military, public and neighbouring countries, countering radicalisation and extremism, and enhanced training among the Police officers.
8. Military engagements have been carried out at ADF bases in the Democratic Republic of Congo. By mid-February 2022, over 100 ADF members had been put out of action, about 80 members had surrendered and three camps taken over by the joint forces.
9. The Government intensified operations along the borders to prevent illegal crossings from curbing terror attacks through inter-agency counter-terrorism operations involving all security agencies at the borders.

### 9.4.5 Recommendations

1. The Uganda Police Force should install more CCTV cameras along the roads, especially in major towns and cities.
2. The Chieftaincy of Military Intelligence and Uganda Police Force should intensify their intelligence networks to detect terror acts before they happen.
3. The general public should exercise vigilance in public areas, particularly near government buildings, crowded locations, and near embassies and taxi and bus parks.

### 9.4.6 Conclusion

The terror attacks in the country during the past years did not involve one person or a small number of individuals but were linked to a larger terrorist organisation ADF/ISIS.

Mitigating terrorism, therefore, requires a multifaceted approach ranging from addressing underlying structural causes and checking the country's interventionist foreign policy given the ever-changing manifestations of terrorism. All peace-loving states need to continue extending their unfettered support to all efforts aimed at eliminating terrorist groups. There should be collective engagements in efforts aimed at denying terrorists any havens, eradicating sources of terrorist financing, reducing state vulnerability, and enhancing emergency preparedness and response capabilities.<sup>358</sup>

<sup>357</sup> Uganda Police Force.

<sup>358</sup> Statement by His Excellency Amb. Adonia Ayebare, Permanent Representative of Uganda to the United Nations at the 76th session of the UN General.

## 9.5 TEENAGE PREGNANCIES IN UGANDA IN 2021

### 9.5.1 Introduction

A teenager is a person aged between 13 and 19 years<sup>359</sup>, meaning teenage pregnancy is when a girl becomes pregnant within the age bracket of 13-19 years (with only those above 18 years being legal adults)<sup>360</sup>. World Health Organization and the Revised Guidelines on Prevention and Management of Teenage Pregnancy in School settings in Uganda (2020) give a broader definition to include conception that may be incidental that occurs to persons between 10 and 19 years (adolescents). During this stage of human development (teenage/adolescent stage), boys and girls reach puberty, during which they experience several bodily changes, including the deepening of the voice for boys, the onset of menstrual periods for girls and sexual feelings for both. This will happen at different ages, depending on a boy or girl's specific hereditary factors, after which they become adults. Many psychological milestones occur in a teenager's life, one of which is the pulling away from parental figures in favour of peers or love interests. During this 'pulling away phase,' the teenager is learning to make decisions for him or herself and seeking out a life direction, which may include a potential career or spouse.

Teenagers may go through times of conflict with authority figures, teachers, and parents/guardians as they transition to adulthood and rebellious behaviour is common. Psychologists believe that the nurturing teenagers receive in the formative years (newborn to age five) will impact how turbulent or smooth the teen years will be.

According to the WHO Fact Sheet 2020, approximately 21 million girls aged 15-19 years in developing countries become pregnant, and about 12 million of them give birth, with at least 777,000 of them being under the age of 15. It is also reported that at least 10 million carry unintended pregnancies.<sup>361</sup> In Uganda, teenage pregnancy remains a great challenge, with studies indicating that one in every four girls (25%) aged 15 to 19 have started childbearing.<sup>362</sup> The situation worsened with the closure of learning institutions in the country for almost two years to prevent the spread of COVID-19. A survey by Forum for African Women Educationalists (FAWE) Uganda in 25 districts on the Impact of COVID-19 on School-going Girls and Young Women in Uganda (2021) indicated a rise in teenage pregnancy. This rise was registered at 22.5% among girls aged 10-24 years who made their first antenatal care visit, from 80,655 to 99,810 from between March to June 2020.<sup>363</sup>

The FAWE report also indicated that the highest numbers of teenage pregnancy registered in the period were 24,059 cases in Kampala; 21,595 in Wakiso; 8,639 in Mukono; 7,847 in Kamuli; 6,957 in Kasese; 6,950 in Jinja and 6,648 in Mayuge<sup>364</sup>. With regard to variation in prevalence regionally, media sources indicated that the Karamoja Sub Region, West Nile and the island districts had high prevalence during the period.

Another study conducted by the United Nations Population Fund (UNFPA) in 2021 found a total of 354,736<sup>365</sup> teenage pregnancies registered in 2020 and a total of 290,219 registered between January and September 2021: an average of 32,000 teen pregnancies per month and implying that the end of 2021 figures were likely to be higher than 2020<sup>366</sup>. In general, the widespread media coverage in 2021 indicated teenage pregnancy was a serious national human rights concern.<sup>367</sup>

359 <https://www.vocabulary.com/dictionary/teenager>.

360 Anthony M Ochen "BMC pregnancy and child birth," (2019) available at <https://bmcpregnancychildbirth.biomedcentral.com/articles/10.1186/s12884-019-2347-y> Visited on 16 March 2021.

361 WHO fact sheet available at <https://www.who.int/news-room/fact-sheets/detail/adolescent-pregnancy> Visited on 16 March 2022.

362 A presentation made by H. Semakula, SEO/GC/Human Rights Focal Point Officer, Ministry of Education and Sports at the UHRC consultative meeting held at the Commission Board on 23 February 2022.

363 FAWE, Research Findings on the: Situation of and Impact of COVID-19 on School-going Girls and Young Women in Uganda (April 2021)" available at [https://inee.org/sites/default/files/resources/COVID%2019%20Impact%20Study%20on%20Girls%20and%20Women\\_April%202021.pdf](https://inee.org/sites/default/files/resources/COVID%2019%20Impact%20Study%20on%20Girls%20and%20Women_April%202021.pdf), Visited on 16 March 2022.

364 Ibid

365 <https://uganda.unfpa.org/en/news/addressing-teenage-pregnancy-during-covid-19-pandemic>

366 UNFPA Uganda, "Fact Sheet on Teenage Pregnancy, 2021," available at [https://uganda.unfpa.org/sites/default/files/pub-pdf/teenpregnancy\\_factsheet\\_3.pdf](https://uganda.unfpa.org/sites/default/files/pub-pdf/teenpregnancy_factsheet_3.pdf) Visited on 16 March 2022.

367 The Daily Monitor, Friday 5 March 2021. "5,200 teenagers in Butaleja impregnated in two years" available at <https://www.monitor.co.ug/uganda/news/national/5-200-butaleja-teenagers-impregnated-in-2-years-3312834> Visited on 18 March 2022; Kyegegwa Battles High Teenage Pregnancies, The Daily Monitor August 2021 available at <https://www.monitor.co.ug/uganda/news/national/kyegegwa-battles-high-teenage-pregnancies-3516286> Visited on 16 March 2022.

The UHRC carried out monitoring regarding the state of teenage pregnancy and the human rights implications in selected districts in Uganda in 2021 to establish the prevalence of teenage pregnancies, the underlying causes, the implications on the rights of the victims and the available remedies. The Commission also sought to establish the perpetrators of the vice and its associated challenges and to assess some of the interventions made by the government and other stakeholders to mitigate teenage pregnancies.

A total of 73 districts out of the 134 districts of Uganda were visited in the monitoring exercise to give a representative picture of the situation of teenage pregnancies. The districts were selected according to the location of the Commission's 12 regional offices. The categories of respondents interviewed were teenage mothers, expecting teenagers, parents, local council leaders, heads of schools, probation and welfare officers, officers-in-charge of Child and Family Protection Units of the Police, judicial officers, staff of civil society organisations working in the area of child protection and health officers.

This chapter presents the findings of the study UHRC conducted regarding teenage pregnancy in 2021.

## 9.5.2 Legal and policy frameworks

### 9.5.2.1 International legal framework

At the international level, there are several human rights instruments and conventions that guide measures to take to observe human rights in the state party's jurisdiction regarding teenage/adolescent pregnancies, the state being the primary duty bearer for the realisation of the contained rights. Below is a summary of the main policy documents which Uganda has ratified.

**The Universal Declaration of Human Rights (UDHR)**, 1948, in Article 2 and **The International Convention on Elimination of Discrimination against Women (CEDAW)**, 1979, in Article 12 address issues of discrimination and guides state parties to ensure that health care services, including family planning and information on the same, are accessed by both men and women in equal basis.

**The United Nations Convention on the Rights of the Child (CRC)**, 1989, spells out universal standards on children's rights, including adolescents and some teenagers below 19. The most relevant Articles include 2, 3, 6, 12 & 27. Article 2 addresses issues of non-discrimination by providing for children to enjoy the rights set forth in the CRC without discrimination. Article 3(1) addresses issues related to the best interest of the child. It urges state parties to assess the impact on children of each law, action and decision in line with the best interest of the child or children as a group. Articles 6 and 27 address the right to life and survival by urging state parties and their agents to protect each child's inherent right to life and the right to full development physically, mentally, spiritually, and socially. Article 12 regards respect for the views of children; the provision spells out the need to let children express their views freely in all matters affecting them, with those views being given due weight per the age and level of maturity of the child. Article 4 compels states to undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognised in the convention, including measures to protect all children against gender-based violence, sexual violence, abuse and exploitation. Article 24 (1) further implores the state party to recognise the right of the child to the enjoyment of the highest attainable standard of health and to provide facilities for the treatment of illness and rehabilitation of health. It further stresses that state parties shall strive to ensure that no child is deprived of their right of access to such health care services. States are urged as follows:

- Article 24(2) (a) to diminish infant and child mortality, including for a teenager whose child dies due to difficulty in childbearing
- Article 24(2)(d) to ensure appropriate pre-natal and post-natal health care for mothers, including teenage mothers who face more serious adverse effects of childbirth because their bodies are not fully developed
- Article 24(2)(e), to ensure that all segments of society, in particular parents and children, are

informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents

- Article 24(2)(f), to develop preventive health care, guidance for parents and family planning education and services for all.

**The International Covenant on Economic, Social and Cultural Rights**, 1966, in Article (12)(1), urges state parties to recognise the rights of everyone to the enjoyment of the highest attainable standard of physical and mental health and urges them to take steps to achieve the full realisation of this rights thereunder. This is done by providing for the reduction of the stillbirth rate and infant mortality and the child's healthy development; this is particularly relevant to teenage mothers who may be at risk of death due to stillbirths and other related pregnancy complications. Article (12)(2)(a) regards the aspects of improvement of all environmental and industrial hygiene, including a safe environment in home settings free from violence for children to grow (Article (12)(2)(b)).

**The Sustainable Development Goals 3, 4 and 5** address issues of health for all, including teenagers. Goal 4 concerns ensuring inclusive and equitable quality education and promoting life-long learning opportunities for all, especially for the young, and Goal 5 on achieving gender equality and empowerment for all women and girls to develop to their full potential and productivity.

#### 9.5.2.2 Regional legal framework

At the African Union regional level, the **Banjul Charter**, 1981 in Article 16(1) provides for state parties to ensure that its citizens enjoy the best attainable state of physical and mental health and urges state parties to take the necessary measures to protect the health of their people and to ensure that they receive medical attention as per Article 16(2).

The **African Charter on the Rights and Welfare of the Child (ACRWC)**, 1990, in Article 14 (1), provides every child the right to enjoy the best attainable state of physical, mental and spiritual health. Article 14(2) (a) urges state parties to reduce infant and child mortality rates that may be common among teenage mothers; Article 14(2)(1) to ensure appropriate health care for expectant and nursing mothers, who also include teenage mothers; Article 11(6) obliges state parties to take appropriate measures to ensure that children who become pregnant before completing their education shall have the opportunity to continue with their education based on their individual ability.

The **Maputo Protocol**, 2003, also address issues of women in Africa who also include teenage mothers. The relevant Articles include Articles 14 and 20, which provide for sexual and reproductive health and education for women, including adolescent mothers.

#### 9.5.2.3 National legal frameworks

##### Policies

At the domestic level, the **Constitution** in Chapter 4 contains the bill of rights for all, but those that address specific issues of teenage pregnancies and associated impacts are Articles 30, 33 and 34. Article 30 provides for education for all, so when a teenager drops out of school because of pregnancy, their rights are violated. Article 33 protects women's rights, generally including those of teenage mothers and Article 34 protects the rights of all children in the age bracket of 10 to 18. It especially touches on basic education and medical care and protection from social or economic exploitation, including sexual exploitation and teenage pregnancies.

Regarding policies and strategies, UHRC's findings indicate that a lot of efforts have been made to develop several policies, strategies, frameworks and guidelines that contribute to addressing adolescent sexual reproductive health and rights.

The **National Health Sector Development Plan 2015/16–2019/2024** contains elements that target and promote adolescent and youth sexual and reproductive health (AYSRH).

The **National Gender Policy and the Gender in Education Policy** and Vision **2040** provide the development of adolescent health programs and services, including reducing pregnancy among adolescents.

The **National Strategy for Girls' Education in Uganda** (2014-2019), now under review, was aimed at addressing barriers to girls' ability to complete their education to create gender equity and equality in education in Uganda. The strategy specifically established a clear framework for identifying, implementing and coordinating interventions designed to promote girls' education in Uganda.<sup>368</sup>

The **National Strategy Policy to end Child Marriage and Teenage Pregnancy 2015-2020** is a holistic and comprehensive framework that reflects a commitment by the government to end the practice of child marriage and other forms of violence against girls, including sexual violence and teenage pregnancies.<sup>369</sup>

### Institutional frameworks

The institutional framework for redress for teenage pregnancies in the country include the National Children Authority; National Child Helpline Initiative; probation and welfare officers; community development officers; local councils; the Family and Child Protection Unit of the Police Force; the Family and Children's Court and UHRC. The redress mechanisms provided by these institutions include reporting cases of teenage pregnancies, litigation, mediation, counselling follow-up, social visits and referrals.

### 9.5.3 Situational analysis

Whereas Uganda scores highly in terms of commitments to uphold human rights through the legal, policy, strategic and institutional frameworks in place, there are still gaps in practical initiatives to protect adolescents or teenagers from pregnancies as adolescent pregnancies remain a great challenge. As mentioned, study findings, including from UNICEF, indicate that 25% of girls aged 15-19 have started childbearing. Nearly 12% of these aged 10-19 were married and 19% aged 15-19 were not in education, employment or training, implying that they could have dropped out of school or work either before or after the pregnancy.<sup>370</sup> This situation appeared to have worsened in the period 2020- 2021 when learning institutions closed to prevent the spread of COVID-19. Children and teenagers spend around 80% of their time generally in school, where they acquire supportive knowledge, values, attitudes and behaviour patterns, including positive sexual reproductive health information. As a UNFPA study indicated, there were up to 32,000 pregnancies per month by the time the year 2021 ended. The number of teenage pregnancies recorded in each Sub-Region in order of this highest affected is as follows:

- South-Central with 13,150 recorded cases in Wakiso and Rakai Districts alone.
- Busoga with 12,740 cases in Kamuli and Mayuge Districts alone.
- Tooro Sub-Region with 11,660 cases in Kasese and Kyenjojo alone.
- Lango Sub-Region with 11,146 cases in Oyam and Lira Districts alone.
- North-Central with 10,080 cases in Mukono and Luwero Districts alone.
- West Nile with 8,678 cases in Arua and Yumbe Districts alone.<sup>371</sup>

368 MOES NSGE in Uganda (2015-2019) available at <https://scorecard.prb.org/wp-content/uploads/2018/05/National-Strategy-for-Girls%E2%80%99-Education-in-Uganda-2015-2019.pdf> Visited on 18 March 2022.

369 The National Strategy Policy to end Child marriage and Teenage Pregnancy 2015-2020 available at [http://www.africanchildforum.org/cfr/policy%20per%20country/2018%20Update/Uganda/uganda\\_nationalstrategyonchildmarriage\\_2015\\_en.pdf](http://www.africanchildforum.org/cfr/policy%20per%20country/2018%20Update/Uganda/uganda_nationalstrategyonchildmarriage_2015_en.pdf) Visited on 16 March 2022.

370 A presentation made by V Nsanzugwauko- Chief –Child Protection Programme UNICEF at UHRC Consultative meeting held at the Commission Board room on 23 February 2022.

371 UNFPA Uganda, Fact sheet on Teenage Pregnancy available at [https://uganda.unfpa.org/sites/default/files/pub-pdf/teenpregnancy\\_factsheet\\_3.pdf](https://uganda.unfpa.org/sites/default/files/pub-pdf/teenpregnancy_factsheet_3.pdf) Visited on 14 April 2022.

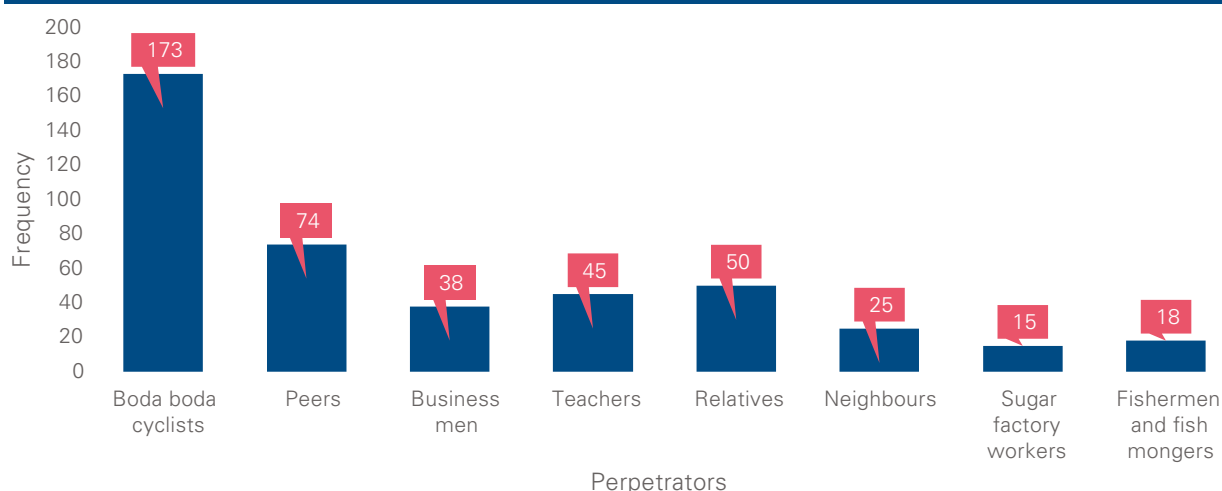
However, according to the UHRC's findings, the district with the highest prevalence was Kyenjojo, which recorded 13,054 cases in 2021.

Even before the COVID-19 pandemic, teenage pregnancy had always been reported as one of the top contributing factors to girls' high school dropout rates.<sup>372</sup> Relevant factors that impacted the high numbers in 2021 are explained below.

### 9.5.3.1 Perpetrators of teenage pregnancies

The majority of those implicated were community members, including boda boda riders, teachers, relatives, fishermen and fishmongers, youth (peers) aged 18-30, neighbours and businessmen. UHRC interviewed a total of 438 people in its monitoring, and all the respondents interviewed mentioned that boda boda riders perpetrated the most, followed by peers, as indicated in the figure below.

**Figure 9.2: Perpetrators of teenage pregnancy in Uganda**



### 9.5.3.2 Prevalence of teenage pregnancies

According to UHRC findings, the district with the highest prevalence was Kyenjojo with 13,054 registered cases, followed by Oyam with 6,500, Kyegegwa with 6,418 and Kamuli with 6,205. The majority of the victims were in the age bracket of 12 to 16 years.

### 9.5.3.3 Causes of teenage pregnancies

The respondents mentioned the following factors that facilitated teenage pregnancy in 2021:

- Idleness due to prolonged closure of schools.
- Child labour and increased involvement of children in petty activities that exposed them to different groups, including older men.
- Exposure to electronic pornographic materials.
- Poor parenting skills and absence of parents.
- Poverty (with sex being paid for in some cases).
- Peer pressure.
- Limited access to sexual and reproductive health (SRH) information.

<sup>372</sup> MOES NSGE in Uganda, 2015-2019 (page 15) available at <https://scorecard.prb.org/wp-content/uploads/2018/05/National-Strategy-for-Girls%E2%80%99-Education-in-Uganda-2015-2019.pdf> Visited on 18 March 2022.

These can be categorised as follows.

### **National-level determinants**

These include the national laws and policies in place, the level of government commitment to meeting obligations under human rights instruments and treaties, the level of law enforcement across the sectors, and the extent of poverty or deprivation, which can influence whether a girl becomes pregnant. As such, the government has a key role in protecting children against violations from third parties.

### **Community-level determinants**

Each community has its own norms, cultural beliefs and attitudes that determine how much autonomy and mobility a girl has and how easily she can enjoy and exercise her rights. Specifically, these can impact whether a girl is safe from violence or whether she is forced into marriage. In communities where there is a lack of safety for children, especially the girl child, occurrences of high cases of teenage pregnancies are likely.

### **Family-level determinants**

Unless a girl lives in a child-headed household or is homeless, she will be influenced by her family or guardian in many aspects. Family-level determinants include the stability and cohesiveness of the family, the degree to which there is conflict in the home and the extent of household poverty or wealth, which will determine how the adolescent fares during the puberty stage. Families that experience domestic violence, physical neglect, and parental divorce are significantly associated with teenage pregnancy.

Specific reasons for the high teenager pregnancy rates are expounded upon below.

#### **1. Idleness due to school closures**

In March 2020, schools in Uganda closed due to national lockdowns and only opened fully in January 2022. As a result, some children, especially those in more rural villages, struggled to continue with their education through the prescribed 'homeschool' method now necessary due to a lack of available technology and resources. Schools normally act as safety nets for children and keep them occupied with learning, but during lockdowns, young people were left idle. Respondents felt that young people became unruly and uncontrollable without the supervision they receive in school. As such, many engaged in risky sexual behaviours that resulted in teenage pregnancies. Many girls reportedly lived close to the father of their children, and so it was easy to access time with them.

#### **2. Child labour and child work**

The respondents UHRC interviewed told the monitoring team that when schools remained closed, parents were unable to take care of them and so many children were therefore engaged in child labour. Girl children worked in jobs such as selling fruit to obtain an income, and this exposed them to potential exploitation through interacting with customers and fellow workers.

#### **3. Pornography exposure**

Technological advancements and the increased use of the internet and social media platforms such as Facebook, Twitter and WhatsApp exposed children to various forms of pornography. This was especially true of urban-based children who, with minimal parental supervision, and access to electronic devices supposedly for e-learning, had increased exposure to pornographic materials. Respondents informed UHRC that adolescents or children later imitated the sexual acts they saw without knowing the risks, thus some cases resulting in teenage pregnancies. It must be noted that although the Government of Uganda enacted the Anti-pornography Act, 2014, which prohibits child pornography in Uganda, there are no measures put in place to control child access and use of such media and technology.

#### 4. Poor parenting skills and the absence of parents in the lives of children

The respondents said that some parents did not love their children, and many parents lacked appropriate plans for their children and didn't listen to the needs of their children. Some parents forced girl children to look for men who could provide for them to relieve the economic burden at home. In some households, children share the same bedroom with their parents and other adults, thus exposing them to risky behaviours from the adults. In Palama village in Kagum Sub-County, Kubuku District, a 14-year-old boy impregnated a 12-year-old girl because the girl's mother always called him her son-in-law, so he wanted to actualize this statement. The girl was a second victim of teenage pregnancy in her family after her elder sister had also given birth at 14 years. UHRC noted both had returned to school, the young sister being pregnant.

#### 5. Poverty

Another cause of teenage pregnancies, as revealed to the UHRC, was poverty. Poverty was one of the root causes of sexual violence and exploitation. Poverty cripples parents' abilities to provide for their children, and these inadequacies open up room for girls to look for survival by having sexual relationships with men who lure them with petty gifts or money. A respondent noted COVID-19 lockdowns exacerbated the problem as parents' livelihoods were negatively impacted. The UHRC also established a correlation between the magnitude of teenage pregnancies, poverty, cultural practices and vulnerability. For example, the refugee communities in Kyangwali Refugee Settlement in Kikuube District recorded 211 cases of teenage pregnancy, most of whom were between the age of 12-16 years, because of the cultural norms among Congolese that initiate girls into marriage at an early age. Additionally, the reduction in cash and food given by relief agencies made them even more vulnerable. The commandant of Kyangwali Refugee Settlement revealed that the pregnancy rate for girls aged 12-16 was at 90% in the settlement and 70% in the households headed by women. Poverty also leads to a miscarriage of justice in trying to prosecute the perpetrators, as parents are lured by money to settle cases out of court, hence failing to hold the guilty men accountable.

#### 6. Peer pressure

Another cause was said to be pressure from friends who suggest that having sex is normal, with some suggesting that if the fellow peer was not engaging in sexual activities, the belief was that something was wrong with them and that being a virgin was embarrassing. UHRC's findings indicated that peers play an important role in teenage lives and that those with sexually active friends were more likely to have sex themselves. The respondents said that peers influenced each other in areas such as alcoholism, drug abuse, and unprotected sexual activity. As two victims from Manafwa narrate:

*"When I first received my periods, I was advised to use local sanitary towels and when I went to school, I found my friends were using sanitary pads. I was then told by my friends that if I get a boyfriend, he would buy me sanitary pads. I then got involved with one boy but at the end I conceived and when my parents learnt about it, I was chased from home and I was forced to go and stay with my boyfriend who is also a teenager. At the boys place I was also chased away and the boy was taken to Kenya so that I cannot access him but a good Samaritan helped me and I went back to school."*

*"It was around 2019 while I was in Senior Two, when I met a boyfriend who was in Senior Five in the same school. It so happened that I had a friend who could advise me to get a boyfriend like they had, indeed I got a boyfriend. When for the first time we had sex I conceived, however my parents and his met and discussed my situation and his parents were made to pay a fine and I went to his home and stayed till delivery. Currently my child is one year and I have resumed school. Now I am concentrating on my studies and I want to become a lawyer, luckily the child's father is responsible."*

#### 7. Limited access to sexual reproductive health

Limited access to comprehensive sexual and reproductive health (SRH) explains why adolescents and young people often access health-related information discreetly from schools, youth-friendly corners in health facilities, and peer educators. The closure of some of these avenues and restrictions in movement meant that young people could not utilise these services. Additionally, the policy and operational environ-

ment is restrictive and unresponsive in areas such as:

- Negative perceptions about access to contraceptives for adolescents and young people.
- Poor provider attitude.
- The moralisation of sexual and reproductive health.
- Unfriendly and high costs of services.

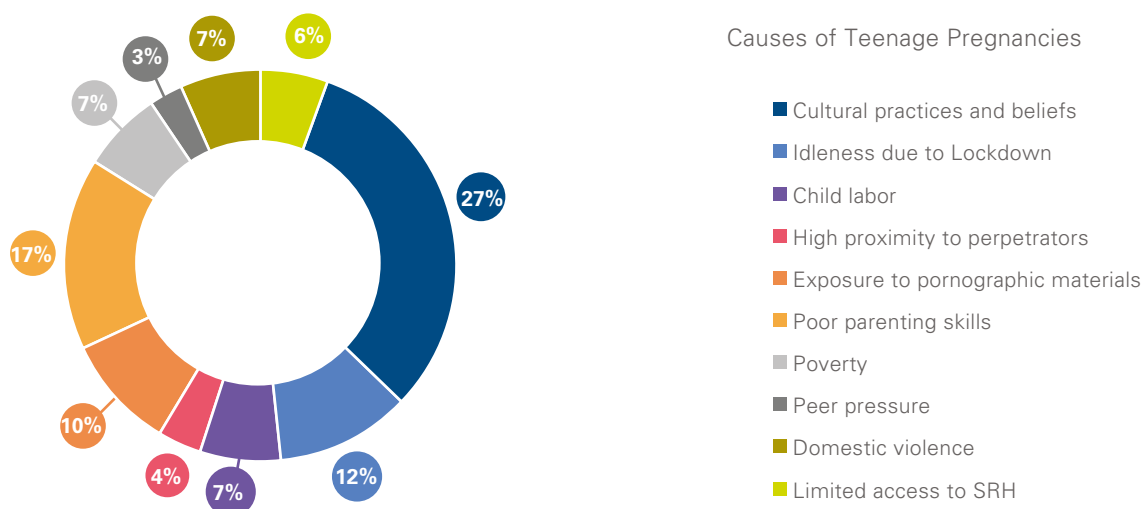
According to the Makerere School of Public Health survey on the impact of COVID-19 on access to family planning services and unintended pregnancies in 2021, it was reported that individuals failed to obtain and utilise family planning and other SRH health services due to:

- Movement restrictions (9%).
- Closure of health facilities (17%).
- Fear of contracting the virus (49%).
- Family would not allow due to COVID-19 (13%).

## 8. Cultural norms and practices

Child marriage and female genital mutilation (FGM) as a social norm in some communities' cultures were also noted to have fueled the escalation of teenage pregnancies. In Bukedi Sub-Region, there's a belief that when a girl gets into her puberty stage, she is able to be a mother and can find a man, irrespective of the respect required to enjoy other rights like the right to education. As such, very few cases were reported as it is not seen as a problem.

**Figure 9.3: Reasons for teenage pregnancy**



## 9.5.4 Human rights concerns

### 9.5.4.1 Right to health

The international, regional and domestic frameworks provide for inclusive rights of children, including teenagers, in terms of prevention, promotion, curative rehabilitation and palliative care services but also a right to grow and develop into the full potential and for conditions that ensure attainment of the highest standard of health. Teenage pregnancy, however, undermines the attainment of these goals because of its detrimental effects on the victim. UHRC findings indicated that teenage girls who got pregnant before their bodies developed got multiple health consequences in childbirth, that include stillbirths, premature births, underweight babies, fistula and sometimes death of the teenage mother.

#### 9.5.4.2 Right to education

UHRC found out that most teenage mothers dropped out of school. In Katakwi District, out of 290 cases of teenage pregnancies registered, only 41 (14.1%) returned to school, leaving the rest of 249 unaccounted for. If not in school, girl children are at home idle, with relatives, married off, or working in jobs such as being house helpers or casual labourers. Many school-age girls, when they fall pregnant, are chased from homes and end up dropping out of school and missing out on learning valuable life skills. Some are forced to live with the perpetrators and are at risk of violence or negative consequences from this enforced early child marriage.

During the UHRC's monitoring activity in Kiryandongo, one girl noted:

*"I got pregnant and dropped out of school in 2019 during first term and stayed home. My parents did not support me with anything and the brother to my child's father was and is still the one supporting me. The father of my child is in Bweyale studying and during holidays, we link up. My boyfriend's brother is the one who constructed for us a house to stay in and during holidays, the father of my child fends for us although we sometimes lack basic necessities."*



A teenage mother explaining her challenges to the monitoring team at Lira Palwo Health Centre III

In addition, the headteacher at Butiaba Seed School noted that there were three cases in Kamagongoro Village among the Banyarwanda community in Bulisa where teenage girls dropped out of school and were forcefully married off by their parents in exchange for herds of cattle in bride price. He further noted that although he reported the cases to the Police, the girl's families left the area and relocated to Kyankwanzi District, so the cases could not be handled to logical conclusions. The headteacher noted this challenge of ignorance and uncooperativeness from parents as one of the obstacles in mitigating sexual violence and teenage pregnancies in the community. UHRC research noted the highest number of forced marriages recorded in Bundibugyo at 100, followed closely by Kasese at 52.

#### 9.5.4.3 Right to life, survival and development

In 2020/2021, when lockdown measures were instituted, schools closed, and movements were limited, people, including teenagers, were not able to move freely to access family planning services and information. In 2021, UHRC established that some teenagers lost life due to pregnancies and birth-related complications; for example, six cases were recorded in Kyegegwa and five in Kabarole Districts in Toro Sub-Region. The causes of death were mainly haemorrhages, infections, malaria, obstructed labour and delays in accessing medical facilities.

#### 9.5.4.4 Right to access to sexual reproductive health information, services and commodities

General comment number 4 of the CRC emphasises adolescents' sexual and reproductive health needs. It obligates state parties to provide adolescents and teenagers with access to information on sexual and reproductive health services, including family planning and contraceptives. Information on the dangers of early pregnancy, how to prevent HIV/AIDS, and the treatment of sexually transmitted diseases (STDs) should be appropriate regardless of marital status and without parental consent. It is therefore incumbent upon each state party to use the available resources to prioritise the provision of sexual and reproductive health services to adolescents, including developing legislation and policies to facilitate and guide service provision.<sup>373</sup> As noted above, the lockdown prevented adolescents from exercising their right to access sexual health information or resources such as contraceptives.

#### 9.5.4.5 Leisure, recreation and cultural activities

Article 12 of ACRWC recognizes the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts. Article 2 urges state parties to respect and promote the right of the child to participate in cultural and artistic life fully. However, the enjoyment of this right is limited or removed altogether for a teenage mother as she must attend to the needs of a newborn, thereby denying her the opportunity to enjoy childhood and play.

#### 9.5.4.6 Right to parental care

Teenage mothers and their babies are usually at high risk of violations of the right to parental care. When a teenager gives birth, she assumes the responsibility of childcare, whereas she is also still a child requiring the care. While on the other hand, re-entry of teenage mothers to school also does separate them from their babies, so there may be double violations suffered. The UHRC heard from a teenage mother in Manawa who narrated:

"I am a student of Bududa Secondary School and I am currently in Senior Six. It was in 2020 during the lockdown when I met boy who was in his senior six vacation and he convinced me to have a relationship with him, which indeed I accepted due to the small incentives he was providing for example sanitary towels. However in 2021, I became pregnant and my parents rejected me since they were so bitter and annoyed with me. But lucky enough my aunty took responsibility and talked them and they were able to forgive me. After giving birth they were able to take me back to school and my mother is helping to take care of my three-month-old baby. I am a day scholar because I am supposed to go back home and breastfeed the baby".

The situation becomes worse when the teenage mother is chased away, disowned or excommunicated by their parents.

#### 9.5.4.7 Social consequences

For unmarried pregnant adolescents, many will experience stigma, rejection or violence by partners, parents and peers. Girls who become pregnant before 18 years are more likely to experience violence within a marriage or partnership.<sup>16</sup> Adolescent pregnancy and childbearing often lead girls to drop out of school; although efforts are underway in some schools to enable them to return to school after childbirth, the fact they were teenage mothers may jeopardise the girls' future education and employment opportunities.

<sup>373</sup> CRC General Comment No. 4: Adolescent Health and Development in the Context of the Convention on the Rights of the Child' of 2003, UN.Doc.CRC/GC/4 available at <https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WRGS/Health/GC4.pdf> Visited on 23 March 2022.

## Positive development in responding to teenage pregnancies

Through the Ministry of Health (MOH), the Government of Uganda teamed up with implementing partners in the reproductive health realm in Uganda and adopted various innovative strategies for continued provision and access to SRH services and information.

These are indicated below.

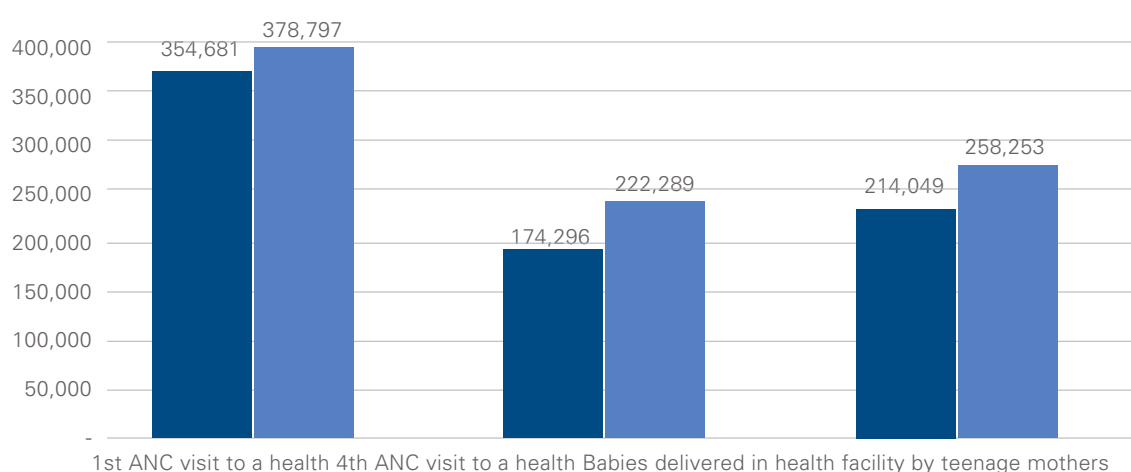
### 1. The national campaign to promote positive parenting

The UHRC established from the Ministry of Education and Sports (MOES) on 3 December 2021 that the Ministry launched a one-year national campaign to address defilement, child marriage, and teenage pregnancy and to promote positive parenting through a multi-sectorial approach.<sup>374</sup> Part of the objectives of this campaign was to undertake structured dialogue with key stakeholders to raise awareness and agree on sustainable solutions and action. In addition, relevant MDAs, and all local governments will be directed to take the necessary action to address defilement, child marriage and teenage pregnancy and promote positive parenting in line with the law. The strategy envisages achieving its purpose using three-pronged approaches of the prevention of teenage pregnancy and the provision of social protection to teenage mothers and their babies.<sup>375</sup> If implemented accordingly, the strategy will go a long way to mitigate teenage pregnancies. UHRC's findings corroborated this initiative when the respondents in Bunyoro Sub-Region mentioned the positive development.

### 2. Prevention and management of teenage pregnancy and re-entry guidelines

According to MOES, the government launched the Permitted Re-entry and Retention of Teenage Mothers to Schools Guidelines in 2020.<sup>376</sup> This is evidenced by UHRC's findings that quite a number of teenage mothers returned to school in January 2022 when learning institutions fully opened. For example, 228 teenage mothers returned to school in Manafwa District in Bugisu Sub-Region, with 74 recorded in Adjumani District in West Nile Sub-Region. Other interventions include the government requiring education institutions to refer pregnant girls to health facilities for antenatal care (ANC) services.<sup>377</sup> Evidence of this is seen in the number of teenagers who could access ANC per the graph below.<sup>378</sup>

**Figure 9.4: Young mothers (10-19 years) who accessed antenatal care services and those who delivered in health facilities - HMIS data (2020–2021)**



Source, UNICEF

<sup>374</sup> A presentation made by H. Semakula SEO/GC/Human Rights Focal Point Officer, Ministry of Education and Sports at the UHRC consultative meeting held at the Commission board room on 23 February 2022.

<sup>375</sup> The National Campaign to promote positive parenting, available at <https://uganda.unfpa.org/en/news/first-lady-vice-president-prime-minister-and-un-launch-national-campaign-promote-positive> Visited on 17 March 2022.

<sup>376</sup> A presentation made by Mr. Semakula Henry SEO/GC/Human Rights Focal Point Officer, MOES at the UHRC consultative meeting held at the Commission board room on 23 February 2022.

<sup>377</sup> Ibid.

<sup>378</sup> Presentation from UNICEF.

Within the refugee settlements, the Office of the Prime Minister, in coordination with different implementing partners, has ensured that programmes intended to keep children in school even after getting pregnant are in place. This is done by providing sanitary items for girls like pads and soap as well as books. There are also child development and counselling centres within the refugee settlements.

### **3. The strategy of allowing pregnant girls to sit for their respective national examinations**

Allowing pregnant girls to sit for their respective national examinations is another positive strategy, as witnessed in the recent PLE, UCE and UACE exams.<sup>379</sup> A case in point was the 13-year-old Primary Seven candidate of St Balikuddembe Primary School in Mpigi District who gave birth to a baby boy during the mathematics examination in the just concluded 2021 Primary Leaving Examinations.<sup>380</sup> Other initiatives include empowering teenage mothers with livelihood training and opportunities through the Skilling Uganda Programme, where many have enrolled in empowerment activities such as hair dressing and catering. Other interventions include Emyooga, the Parish Development Model, the Presidential initiative for skilling the Girl Child and competence-based training and modular assessment by the Directorate of Industrial Training. UHRC's findings indicated that, indeed, women and youth empowerment programmes that target an increase in household income had been put in place to ensure that parents get income sources and support their children through school (seen in Bunyoro Sub-Region).

### **4. Adolescent health policy**

Through the Adolescent Health Division at the Ministry of Health, the government of Uganda collaborated with key stakeholders and implementing partners to develop and adopt guidelines for the continuity of SRH service provision for adolescents and young people in the context of COVID-19. This policy addresses the need to provide direction and focus in the provision of adolescent health services by different stakeholders in Uganda.<sup>381</sup>

### **5. National Adolescent Health Policy for Uganda**

The National Adolescent Health Policy (2004) provides for sexuality education and recommends the integration of life skills-based education at all levels. It also encourages the improvement of access to and utilisation of SRH services and commodities among young people.<sup>382</sup>

### **6. National Development Plan III (NDP III)**

The goal on Human Capital Development Programme is to improve the productivity of labour for increased competitiveness and better quality of life for all, with a specific target to reduce teenage pregnancy from 25%-15% by 2025.<sup>383</sup>

### **7. Enactment of laws and ratifications of treaties**

The government is commended for its commitment to agreeing to be bound by the international and regional legal frameworks and domesticating the same at the international level, as already explained above. It is a positive step forward that the government has put in place laws and policies to ensure the protection of girls from harmful practices and traditional norms that infringe their right to education.

### **8. Interventions by civil society organisations, UN agencies and religious institutions**

The UHRC commends efforts made by UN agencies and CSOs for the various interventions they have employed to prevent teenage pregnancies. Some of these include UNICEF, UNFPA and FAWE, who have conducted research during lockdown to collect information and data to guide appropriate interventions to respond to pregnancies among teenagers and adolescents. Plan International, World Vision and the media amongst others, also continue to advocate for access to sexual and reproductive health services and commodities, calling for action to tackle teenage pregnancies in the country.

379 MOES

380 Daily Monitor 31 March 2021. Available at <https://www.monitor.co.ug/uganda/news/national/13-year-old-girl-gives-birth-during-primary-leaving-exams--3343314> Visited on 19 March 2022.

381 Available at <https://knowledgesuccess.org/2021/11/18/aysrh-in-uganda-during-the-covid-19-pandemic> Visited on 18 March 2022.

382 Available at <http://library.health.go.ug/download/file/fid/2189> Visited on 18 March 2022.

383 Third National Development Plan (NDP III) 2020/21-2024/25 available at <http://library.health.go.ug/sites/default/files/resources/Third%20National%20Development%20Plan%20III%2C%202020-21-2024-25.pdf> Visited on 18 March 2022.

Many respondents interviewed by UHRC revealed that a lot of sensitisation work had been done by a cross-section of stakeholders. UHRC's findings also indicated that the government, through District Education Offices, has ensured sensitisation programmes are conducted on radio stations to encourage girls and boys to remain in school. Schools were also supplied with IEC materials by the Ministry of Education and Sports to keep students and pupils engaged.

### **UHRC'S interventions in responding to teenage pregnancies**

Aside from the research conducted as explained above, the UHRC also conducted community meetings or barazas and media programmes such as radio talk shows, drama skits and spot messages in the areas that reported high prevalence with the view of sensitising communities on the prevention, redress mechanisms and dangers of teenage pregnancies. In Busoga Sub-Region, sensitisation activities were conducted in the districts of Namayingo, Jinja, Kaliro, Kamuli and Luuka. In Bukedi Sub-Region, the focus was on Butaleja, Tororo and Busia Districts.

The Commission also issued various advisories to the government in the specific areas of the right to health and the right to education which are closely related to the human rights concern of teenage pregnancies. The advisories encouraged the government to:

- ensure continued access to support services.
- put in place emergency measures and access to legal and judicial remedies for women and girls who were victims of domestic and sexual violence.
- ensure uninterrupted access to sexual and reproductive services and commodities.
- vigorously enforce the laws aimed at curbing violence against children and domestic abuse, and also prosecute the perpetrators of such abuses.
- mount special sensitisation to enable parents and guardians to monitor their children's movements and activities effectively and talk to their children about staying safe and how to manage their own expectations during the lockdown.<sup>384</sup>

The UHRC also did capacity building for the local government technical personnel in Tororo to develop the Child Protection Ordinance, developed and launched in 2021. The ordinance addresses four areas:

- The rights of the child including parental responsibilities, protection against harmful practices, children with disabilities and the duty to report infringement of the child's rights.
- Promotion of education that includes children attending school and completion of education, prohibition of brewing, selling and buying of alcoholic beverages in schools or compounds.
- Prohibition of forced and early marriages, prohibition of celebration of the same, reporting action of forced or early marriage
- Prohibition of child labour, which includes employment of children, harmful or hazardous employment.

<sup>384</sup> UHRC, Human Rights advisories (2020) 247 & 255.



*A meeting in Tororo on the status of the ordinance.*

### 9.5.5 Recommendations

1. In collaboration with the Ugandan Government, civil society organisations, faith-based organisations, local council leaders, and parents should sensitise communities at the grassroots level against traditional practices and norms that aim to marginalise and discriminate against women and girls.
2. Through the Ministry of Gender, Labour and Social Development, the Ugandan Government should popularise the revised guidelines for the prevention and management of teenage pregnancies in schools such that head teachers and teachers know how to handle cases of teenagers who return to school after giving birth.
3. The Ugandan Government MDAs need to strengthen the implementation of legal and policy frameworks to prevent, prohibit and respond to all forms of violence against children, including teenage pregnancies.
4. The Ugandan Government should support more robust collaboration between the justice and social welfare systems for the prevention, mitigation and response to child protection-related risks, for example, providing social protection for teenage mothers.
5. The Ugandan Government should support programmes to strengthen the capacity of parents and other family members (primary caregivers), for example, through parenting programmes.

### 9.5.6 Conclusion

Teenage pregnancy is one of the rising forms of human rights violations against adolescents in Uganda. Its prevalence heightened in 2020/2021 because of the closure of learning institutions due to COVID-19 measures, poverty, social-cultural norms, irresponsible parenting, inadequate enforcement of laws on sexual violence, peer pressure, and domestic violence, to mention a few. There is a need for a holistic approach and collaborative efforts, commitment and action from all concerned stakeholders, such as parents, communities, religious leaders and the state and non-state actors, to address teenage pregnancy to enable all girl children to live to their full potential.

# CHAPTER TEN:

# HIGHLIGHTS OF UHRC'S INTERVENTIONS IN 2021

## 10.1 COMPLAINTS MANAGEMENT

### 10.1.1 Introduction

Article 52 (1) (a) of the 1995 Constitution of Uganda mandates the UHRC to “investigate, at its own initiative or on a complaint made by any person or group of persons against the violation of any human right.” Article 53 (1) gives the UHRC powers of a court to issue a summons or other orders requiring the attendance of any person before the UHRC and the production of any document or record relevant to any investigation by the UHRC; to question any person in respect of any subject matter under investigation before the UHRC; to require any person to disclose any information within his or her knowledge relevant to any investigation by the UHRC; and to commit persons for contempt of its orders.

The Constitution also gives UHRC powers to order payment for 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 the Commission in 2021.

### 10.1.2 Complaints received and registered

The UHRC received a total number of **3,624** complaints in 2021. Out of the total number of complaints received, **602** were registered as raising alleged human rights violations as guided by the Commission's admissibility criteria. The complaints received represented all the matters reported to the UHRC, whether admissible or not. There was a 9% increase in the complaints received from the 3,283 complaints received in 2020. There was also a 9% increase in the complaints registered from the 549 complaints that were registered in 2020. The increase in the number of complaints received and registered by the Commission in 2021 was attributed to the enforcement of the COVID-19 standard operating procedures by law enforcement and security agencies which included arrests of people who were alleged to violate the 7:00 pm to 5:00 am curfew; the alleged human rights violations that arose from clashes between security agencies and the public whilst restricting public gatherings during the 2021 electoral period; and conducting of mobile complaints handling clinics.

The following tables show the number of complaints received<sup>385</sup> in 2021 and the number of complaints registered<sup>386</sup> by the various regional offices of UHRC in 2021.

<sup>385</sup> Complaints received are all the complaints reported to the Commission (those within and those that don't fall within the Commission's jurisdiction).

<sup>386</sup> Complaints registered are those that meet the admissibility criteria of human rights violations handled by the UHRC.

**Table 10.1: Number of complaints received by the UHRC regional offices in 2021**

| REGIONAL OFFICE | ARUA | CENTRAL | FORT PORTAL | GULU | HOIMA | JINJA | MASAKA | MBARARA | MOROTO | SOROTI | TOTAL |
|-----------------|------|---------|-------------|------|-------|-------|--------|---------|--------|--------|-------|
| Number          | 173  | 220     | 263         | 418  | 276   | 452   | 343    | 754     | 149    | 576    | 3,624 |

**Table 10.2: Number of complaints registered by the UHRC regional offices in 2021**

| REGIONAL OFFICE | ARUA | CENTRAL | FORT PORTAL | GULU | HOIMA | JINJA | MASAKA | MBARARA | MOROTO | SOROTI | TOTAL |
|-----------------|------|---------|-------------|------|-------|-------|--------|---------|--------|--------|-------|
| Number          | 22   | 88      | 55          | 49   | 78    | 21    | 40     | 42      | 78     | 129    | 602   |

Soroti Regional Office registered the highest number of complaints with 129 complaints (21%), followed by the Central Regional Office with 88 complaints (17%). There was an increase in the number of complaints received (16%) and registered (8%) by the Soroti Regional Office compared to the 483 complaints received and 119 complaints registered in 2020. There was also an increase in the number of complaints received (46%) and registered (56%) by the Moroto Regional Office compared to the 80 complaints received and 34 complaints registered in 2020.

The increase in the number of complaints received and registered by the Soroti Regional Office was mainly attributed to mobile complaints handling clinics conducted by the Regional Office in the districts of Bulambuli, Bududa, Namisindwa, Amolatar and Serere. These interventions enabled complainants, particularly those in places of detention and remote locations, to access the Commission's complaints handling redress mechanisms without any encumbrances. The increase in complaints received and registered by the Moroto Regional Office was attributed to complaints of alleged human rights violations reported arising from the disarmament exercise being implemented in Karamoja Sub-Region.

### 10.1.3 Complaints disaggregated by gender

The UHRC registered complaints from a total of **611** complainants in matters that raised human rights violations, of which the majority were male, as was the case in the previous years.<sup>387</sup> Of the 611 complainants whose matters were registered by the Commission, **457** (75%) were male, and **154** (25%) were female. More men reported complaints to the UHRC than women due to the nature of alleged violations that are mostly reported (torture and deprivation of personal liberty), which are mostly experienced by men. Men are also more usually in conflict with the law; hence they are more prone to having their human rights violated. Most complaints reported by women were related to family matters or children's rights.

### 10.1.4 Complaints disaggregated by gender per regional office

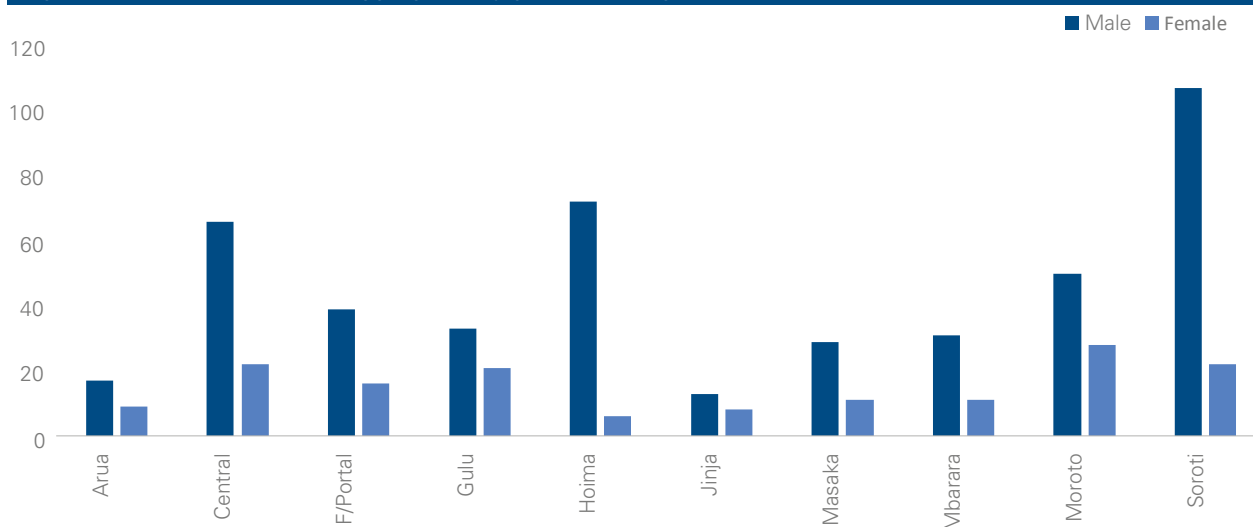
According to the Table below, the Soroti Regional Office registered the highest number of male complainants with 107 complainants, followed by the Hoima Regional Office with 72 complainants. Moroto Regional Office registered the highest number of female complainants with 28 complainants, followed by both Central and Soroti Regional Offices with 22 complainants.

<sup>387</sup> The number of complainants is more than the number of complaints registered because one complaint may have multiple complainants.

**Table 10.3: Number of complainants disaggregated by gender per regional office**

| AGE CATEGORY | ARUA | CENTRAL | FORT PORTAL | GULU | HOIMA | JINJA | MASAKA | MBARARA | MOROTO | SOROTI | TOTAL |
|--------------|------|---------|-------------|------|-------|-------|--------|---------|--------|--------|-------|
| Male         | 17   | 66      | 39          | 33   | 72    | 13    | 29     | 31      | 50     | 107    | 457   |
| Female       | 9    | 22      | 16          | 21   | 6     | 8     | 11     | 11      | 28     | 22     | 154   |
| Grand total  | 26   | 88      | 55          | 54   | 78    | 21    | 40     | 42      | 78     | 129    | 611   |

**Figure 10.1: Complainants disaggregated by gender per regional office**



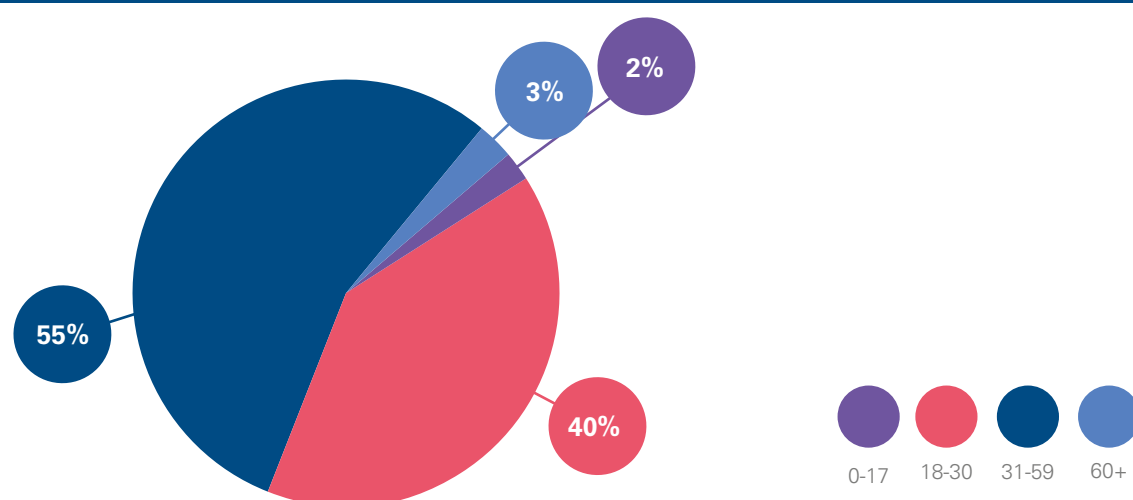
### 10.1.5 Complainants disaggregated by age

The Table and Figure below indicate that most complainants were in the age category of 31-59, with 335 complainants. These were followed by complainants in the age category of 18-30 with 246 complainants. The two age categories of 31-59 and 18-30 comprise people in the most active stages of their lives and are vigilant about claiming their rights through reporting complaints of alleged human rights violations. The two age categories are also susceptible to being arrested or having run-ins with law enforcement and security agencies, leading to alleged human rights violations.

**Table 10.4: Complainants by age category**

| S/N          | AGE CATEGORY | TOTAL      |
|--------------|--------------|------------|
| 1.           | 0-17         | 13         |
| 2.           | 18-30        | 246        |
| 3.           | 31-59        | 335        |
| 4.           | 60+          | 17         |
| <b>Total</b> |              | <b>611</b> |

**Figure 10.2: Percentage of complainants by age category**



### 10.1.6 Complainants disaggregated by age per regional office

The Table below indicates that Soroti Regional Office had the highest number of complainants in the age categories of 18-30 and 31-59, with 60 and 63 complainants, respectively. Hoima Regional Office had the second-highest number of complainants in the age category 18-30 with 50 complainants and the Central Regional Office had the second-highest number of complainants in the age category of 31-59 with 54 complainants.

**Table 10.5: Complaints disaggregated by age per regional office**

| AGE CATEGORY       |           |           |             |           |           |           |           |           |           |            |            |
|--------------------|-----------|-----------|-------------|-----------|-----------|-----------|-----------|-----------|-----------|------------|------------|
|                    | ARUA      | CENTRAL   | FORT PORTAL | GULU      | HOIMA     | JINJA     | MASAKA    | MBARARA   | MOROTO    | SOROTI     | TOTAL      |
| 0-17               | 01        | 01        | 00          | 00        | 05        | 00        | 00        | 00        | 03        | 03         | 13         |
| 18-30              | 09        | 32        | 17          | 14        | 50        | 04        | 11        | 10        | 39        | 60         | 242        |
| 31-59              | 13        | 54        | 37          | 37        | 22        | 16        | 27        | 31        | 35        | 63         | 335        |
| 60+                | 03        | 01        | 01          | 03        | 01        | 01        | 02        | 01        | 01        | 03         | 17         |
| <b>Grand total</b> | <b>26</b> | <b>88</b> | <b>55</b>   | <b>54</b> | <b>78</b> | <b>21</b> | <b>40</b> | <b>42</b> | <b>78</b> | <b>129</b> | <b>607</b> |

### 10.1.7 Mobile complaints-handling clinics conducted in 2021

In a bid to take its services closer to the people, the Commission conducted **19** mobile complaints-handling clinics during the period under review. During the mobile complaints-handling clinics, the Commission received and registered complaints, gave legal advice, and conducted human rights education. The clinics were attended by 957 people (727 male and 230 female) in the districts indicated in the Table. The clinics were conducted by Soroti, Central, Hoima and Jinja Regional Offices, as these offices specifically received funding from the German Agency for International Cooperation (GIZ) and the Uganda Government to conduct the clinics. During the clinics, the Commission registered 50 complaints and gave legal advice to 300 people.

**Table 10.6: Mobile complaints-handling clinics conducted in 2021**

| S/N   | REGIONAL OFFICE | DISTRICT | SUB-COUNTY/TOWN COUNCIL                                         | NO. OF PEOPLE ATTENDED |
|-------|-----------------|----------|-----------------------------------------------------------------|------------------------|
| 1.    | Central         | Mityana  | Mityana Town Council                                            | 20                     |
|       |                 | Mpigi    | Buwama Town Council                                             | 18                     |
|       |                 | Wakiso   | Nasana and Entebbe                                              | 15                     |
|       |                 | Kayunga  | Kayunga Town Council                                            | 47                     |
|       |                 | Luwero   | Kasana/Luwero Town Council                                      | 20                     |
|       |                 | Mukono   | Nama Sub-County Headquarters, Kyampisi Sub-County Head Quarters | 48                     |
|       |                 | Buikwe   | Lugazi Town Council, Buikwe                                     | 22                     |
| 2.    | Hoima           | Masindi  | Budongo Sub-County                                              | 36                     |
|       |                 |          | Uganda Government Prison Masindi                                | 120                    |
|       |                 | Kagadi   | Kabamba Sub-County                                              | 35                     |
|       |                 |          | Uganda Government Prison Kagadi                                 | 152                    |
|       |                 | Kibuule  | Kyangwali Sub-County                                            | 47                     |
|       |                 | Hoima    | Kiryatete West A                                                | 51                     |
|       |                 |          | Kiryatete West B                                                | 52                     |
| 3.    | Jinja           | Tororo   | Uganda Government Prison Kisoko                                 | 40                     |
| 4.    | Soroti          | Serere   | Kateta Sub-County                                               | 24                     |
|       |                 |          | Kadungulu Sub-County                                            | 32                     |
|       |                 |          | Pingire Sub-County                                              | 18                     |
|       |                 |          | Uganda Government Prison Serere                                 | 149                    |
| TOTAL |                 | 13       | 19                                                              | 957                    |

### 10.1.8 Complaints handled through UHRC's tollfree line in 2021

A total of **2,333** people reported complaints of alleged human rights violations and sought advice on various issues through the Commission's toll-free lines at its various regional offices, as indicated in the Tables below. The Central Regional Office had the highest number of callers with 745, followed by Gulu Regional Office with 479 callers. The high number of callers at the Central Regional Office is attributed to the urban setting of some of the districts in its jurisdiction (Kampala, Wakiso and Mukono) and the high usage of mobile phones by the people in these districts. There were more male callers (1,728) compared to female callers (605). This is attributed to the fact that some women do not have access to resources to enable them to own mobile phones to call the toll free lines.

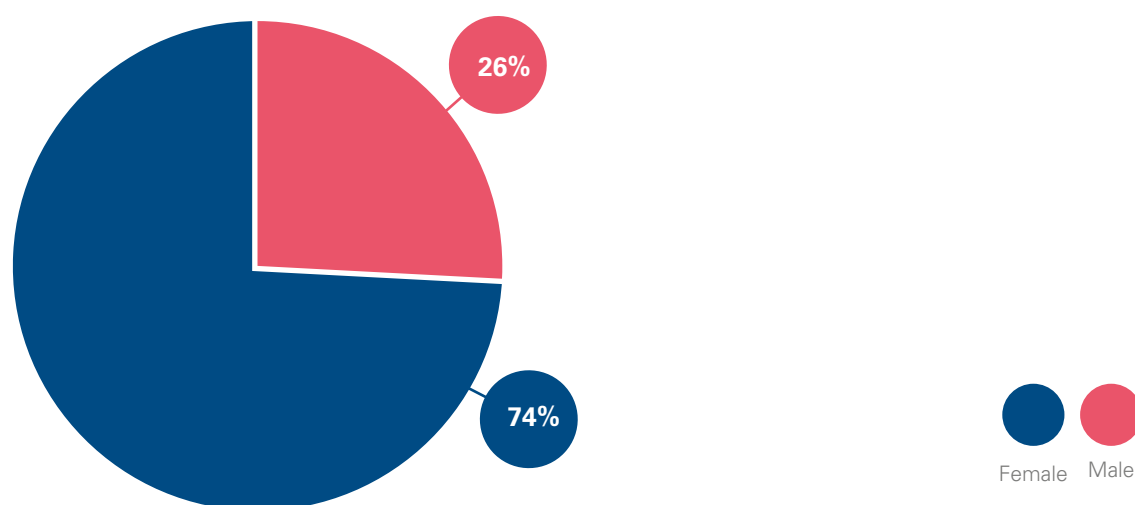
**Table 10.7: Number of toll-free line callers per regional office in 2021**

| ARUA | CENTRAL | FORT PORTAL | GULU | HOIMA | JINJA | MASAKA | MBARARA | MOROTO | SOROTI | TOTAL |
|------|---------|-------------|------|-------|-------|--------|---------|--------|--------|-------|
| 150  | 745     | 94          | 479  | 151   | 266   | 104    | 124     | 119    | 101    | 2,333 |

**Table 10.8: Number of toll-free line callers disaggregated by gender per regional office in 2021**

| GENDER |      |         |             |      |       |       |        |         |        |        |       |
|--------|------|---------|-------------|------|-------|-------|--------|---------|--------|--------|-------|
|        | ARUA | CENTRAL | FORT PORTAL | GULU | HOIMA | JINJA | MASAKA | MBARARA | MOROTO | SOROTI | TOTAL |
| Male   | 104  | 471     | 80          | 407  | 124   | 208   | 79     | 77      | 94     | 84     | 1,728 |
| Female | 46   | 274     | 14          | 72   | 27    | 58    | 25     | 47      | 25     | 17     | 605   |
| Total  | 150  | 745     | 94          | 479  | 151   | 266   | 104    | 124     | 119    | 101    | 2,333 |

**Figure 10.3: Percentage of callers categorised by gender**



### 10.1.9 Nature of alleged human rights violations registered

The Table below shows the nature of human rights violations registered at the UHRC regional offices in 2021.<sup>388</sup> The alleged violation of freedom from torture ranked highest among the complaints registered with **267** (37%) complaints. These were followed by complaints involving the alleged violation of the deprivation of personal liberty with **236** (33%) complaints. Soroti Regional Office registered the highest number of complaints which involved the alleged violation of the right to freedom from torture with 51 complaints, followed by Central and Fort Portal Regional Offices with 45 complaints each. Hoima Regional Office registered the highest number of complaints which involved the alleged violation of the right to personal liberty with 61 complaints, followed by Soroti Regional Office with 59 complaints. Moroto Regional Office registered the highest number of complaints involving the alleged violation of the right to life with 14 complaints.

<sup>388</sup> The totals in the tables vary because a single complaint registered may have two or more alleged human rights violations.

**Table 10.9: Violations registered at UHRC regional offices in 2021**

| NO.         | ALLEGED VIOLATION                                              | RESPONDENT |         |             |      |       |       |        |         |        |        |       |
|-------------|----------------------------------------------------------------|------------|---------|-------------|------|-------|-------|--------|---------|--------|--------|-------|
|             |                                                                | ARUA       | CENTRAL | FORT PORTAL | GULU | HOIMA | JINJA | MASAKA | MBARARA | MOROTO | SOROTI | TOTAL |
| 1.          | Torture or cruel, inhuman or degrading treatment or punishment | 10         | 45      | 45          | 19   | 25    | 08    | 08     | 25      | 31     | 51     | 267   |
| 2.          | Deprivation of Personal liberty                                | 04         | 25      | 05          | 14   | 61    | 01    | 22     | 19      | 26     | 59     | 236   |
| 3.          | Denial of child maintenance                                    | 04         | 07      | 03          | 06   | 02    | 05    | 04     | 01      | 10     | 14     | 56    |
| 4.          | Deprivation of life                                            | 02         | 02      | 03          | 06   | 02    | 02    | 02     | 03      | 14     | 04     | 40    |
| 5.          | Deprivation of property                                        | 01         | 03      | -           | 04   | 03    | 02    | 10     | 06      | 07     | 03     | 39    |
| 6.          | Deprivation of security of person                              | 02         | 18      | 02          | 02   | 03    | 04    | 03     | 02      | 03     | -      | 39    |
| 7.          | Enforced disappearance                                         | -          | 22      | -           | -    | -     | -     | 01     | -       | 01     | -      | 24    |
| 8.          | Denial of the right to a fair hearing                          | -          | 02      | -           | -    | -     | 01    | 02     | -       | 03     | -      | 08    |
| 9.          | Denial of the right to education                               | 01         | -       | -           | 01   | -     | -     | -      | 01      | 01     | 02     | 06    |
| 10.         | Denial of remuneration                                         | -          | -       | -           | -    | 02    | -     | 01     | -       | -      | -      | 03    |
| 11.         | Denial of access to medical care                               | -          | -       | -           | 01   | 01    | -     | -      | -       | -      | -      | 02    |
| Grand total |                                                                | 24         | 124     | 58          | 53   | 99    | 23    | 53     | 57      | 96     | 133    | 720   |

#### 10.1.10 Respondents in human rights complaints registered

Most of the complaints registered by the UHRC were against the Uganda Police Force (UPF), with a total of 354 complaints (54%). The UPF was followed by complaints registered against the Uganda Peoples Defence Forces (UPDF) at 135 complaints (21%). Complaints registered against private individuals were 113 (17%), most of which concerned the alleged denial of child maintenance. There were 15 complaints registered against Uganda Prisons Service (2%). There was a 13% increase in the number of complaints registered against the Police from 308 in 2020 to 354 in 2021. The highest number of complaints against the Police were registered at Hoima Regional Office with 83 complaints, followed by Soroti Regional Office with 81 complaints. The highest number of complaints against the UPDF were registered at the Moroto Regional Office with 39 complaints, followed by the Central Regional Office with 33 complaints. This was attributed to complaints of alleged human rights violations reported against the UPDF due to the disarmament exercise in the Karamoja Sub-Region and the complaints of alleged enforced disappearances reported against the UPDF at the Central Region Office.

**Table 10.10: Categorisation of respondents by regional office and number of complaints registered against each respondent**

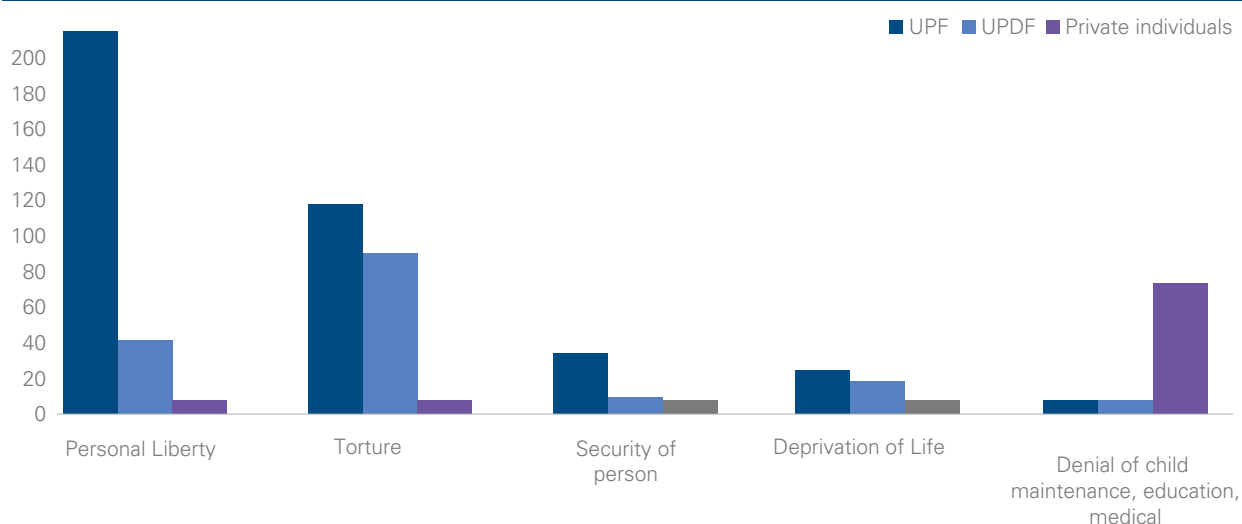
| RESPONDENT                     | RESPONDENT |         |             |      |       |       |        |         |        |        |       |
|--------------------------------|------------|---------|-------------|------|-------|-------|--------|---------|--------|--------|-------|
|                                | ARUA       | CENTRAL | FORT PORTAL | GULU | HOIMA | JINJA | MASAKA | MBARARA | MOROTO | SOROTI | TOTAL |
| Uganda Police Force            | 07         | 41      | 28          | 22   | 83    | 13    | 20     | 30      | 29     | 81     | 354   |
| Uganda People's Defence Forces | 08         | 33      | 30          | 09   | -     | 01    | 03     | 04      | 39     | 08     | 135   |
| Private individuals            | 13         | 14      | 04          | 13   | 16    | 05    | 06     | 15      | 11     | 16     | 113   |
| Uganda Prisons Service         | 02         | -       | 01          | 05   | -     | 02    | 00     | 02      | 01     | 02     | 15    |
| Uganda Wildlife Authority      | -          | -       | -           | -    | -     | -     | -      | 01      | -      | 07     | 08    |
| Local governments              | -          | 01      | 01          | 01   | -     | -     | 01     | -       | -      | 01     | 05    |

| RESPONDENT                           | ARUA | CENTRAL | FORT PORTAL | GULU | HOIMA | JINJA | MASAKA | MBARARA | MOROTO | SOROTI | TOTAL |
|--------------------------------------|------|---------|-------------|------|-------|-------|--------|---------|--------|--------|-------|
| Private Business Companies           | -    | 01      | -           | -    | 03    | -     | -      | -       | -      | 01     | 05    |
| Resident district commissioners      | -    | -       | -           | 02   | -     | -     | -      | -       | -      | 01     | 03    |
| Ministries, departments and agencies | -    | 03      | -           | -    | -     | -     | -      | -       | -      | -      | 03    |
| Education institutions               | -    | -       | -           | 02   | -     | -     | -      | 01      | -      | -      | 03    |
| Banking institutions                 | -    | -       | -           | -    | -     | -     | -      | 02      | -      | -      | 02    |
| Clan leaders                         | -    | -       | -           | 02   | -     | -     | -      | -       | -      | -      | 02    |
| Internal Security Organisation (ISO) | -    | 01      | 01          | -    | -     | -     | -      | -       | -      | -      | 02    |
| Private security companies           | -    | -       | -           | 01   | -     | -     | -      | -       | -      | -      | 01    |
| Rural Electrification Agency (REA)   | -    | -       | -           | -    | -     | -     | -      | 01      | -      | -      | 01    |
| Refugee settlements                  | -    | -       | -           | -    | -     | -     | -      | 01      | -      | -      | 01    |
| Grand Total                          | 30   | 94      | 65          | 57   | 102   | 21    | 30     | 57      | 80     | 117    | 653   |

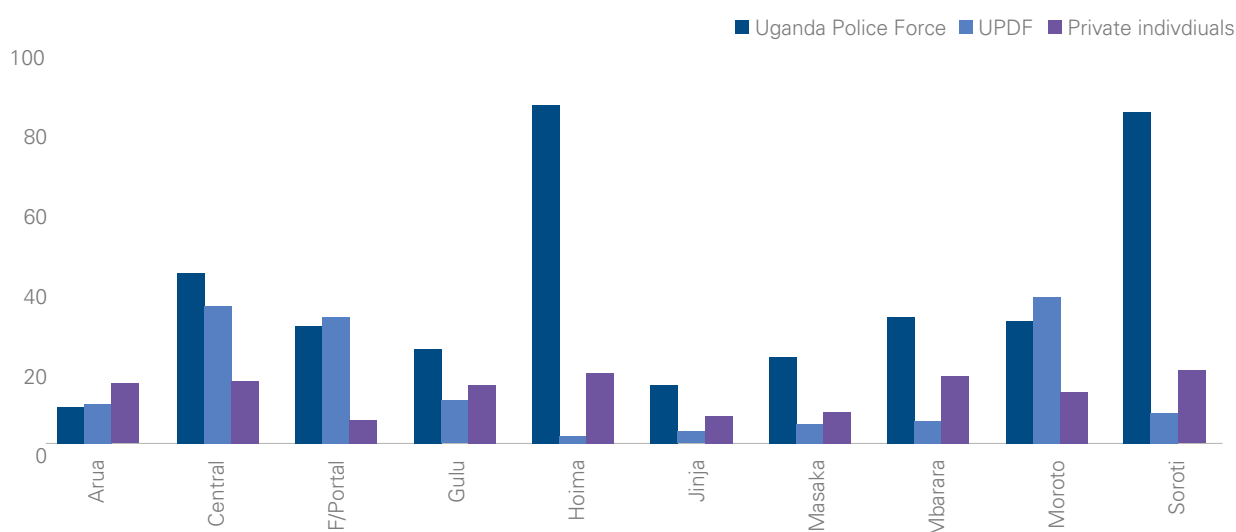
#### 10.1.11 Category of human rights complaints registered against upf, updf and private individuals

The highest number of complaints registered against the Uganda Police Force involved the alleged violation of the right to personal liberty with 200 complaints, followed by the alleged violation of the right to freedom from torture with 107 complaints. There was a 45% increase in the number of complaints involving the alleged violation of the right to personal liberty against the Uganda Police Force from 111 in 2020 to 200 in 2021. The highest number of complaints reported against the UPDF involved the alleged violation of the right to freedom from torture with 80, followed by the alleged violation of the right to personal liberty with 33. The highest number of complaints reported against private individuals involved the alleged denial of child maintenance, education and access to medical care with 64.

**Figure 10.4: Alleged human rights violations reported against UPF, UPDF and private individuals**



**Figure 10.5: Alleged human rights violations reported against UPF, UPDF and private individuals by regional offices**



### 10.1.12 Investigations

In fulfilment of its constitutional mandate to investigate alleged violations of human rights, the UHRC investigated **1,387** complaints. There was an 8% increase in the number of complaints investigated from the 1,281 complaints that were investigated by the UHRC in 2020. This was attributed to the funding that the UHRC received from both JLOS and GIZ to facilitate the conducting of investigations. Out of the 1,387 complaints investigated, **557** (40%) complaints were investigated to conclusion, while **830** (60%) were partially investigated. As of 31 December 2021, the UHRC had a backlog of **990** complaints at the investigation level.

**Table 10.11: Complaints investigated per regional office**

| REGIONAL OFFICE | PARTIALLY INVESTIGATED | CONCLUSIVELY INVESTIGATED | TOTAL        | BACKLOG OF COMPLAINTS AT INVESTIGATIONS LEVEL AS AT 31/12/2021 <sup>389</sup> |
|-----------------|------------------------|---------------------------|--------------|-------------------------------------------------------------------------------|
| Arua            | 02                     | 25                        | 27           | 25                                                                            |
| Central         | 247                    | 74                        | 321          | 206                                                                           |
| Fort Portal     | 38                     | 72                        | 110          | 80                                                                            |
| Gulu            | 108                    | 55                        | 163          | 69                                                                            |
| Hoima           | 94                     | 32                        | 126          | 94                                                                            |
| Jinja           | 41                     | 39                        | 80           | 28                                                                            |
| Masaka          | 35                     | 27                        | 62           | 09                                                                            |
| Mbarara         | 127                    | 13                        | 140          | 127                                                                           |
| Moroto          | 60                     | 112                       | 172          | 173                                                                           |
| Soroti          | 78                     | 108                       | 186          | 179                                                                           |
| <b>TOTAL</b>    | <b>830</b>             | <b>557</b>                | <b>1,387</b> | <b>990</b>                                                                    |

### 10.1.13 Investigations initiated by the UHRC

The UHRC initiated investigations into **50** incidents of alleged human rights violations, as indicated in the table below. There was a 48% increase in the number of investigations initiated by the Commission compared to the 26 investigations initiated in 2020. The Central Regional Office initiated the highest number of investigations, with 31 incidents being investigated by the regional office. This is attributed to

<sup>389</sup> Backlog entails complaints that are still under investigations and are older than two years in the system from the year of review.

the location of the regional office and its area of coverage which has many hot spot areas where incidents of alleged human rights violations often occur. Investigations into alleged human rights violations initiated by the UHRC were triggered by media reports on various media platforms, including the print media, radio and television, and social media platforms.

**Table 10.12: Investigations initiated by the UHRC per regional office**

| REGIONAL OFFICE | NUMBER OF INVESTIGATIONS INITIATED | ALLEGED HUMAN RIGHTS VIOLATIONS INVOLVED                                                                                                                                                                                | RESPONDENTS INVOLVED                                                                                |
|-----------------|------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|
| Central         | 31                                 | Enforced disappearance; torture, Cruel, inhuman and degrading treatment or punishment; illegal detention; deprivation of the right to property; deprivation of personal liberty and deprivation of security of a person | UPDF, Uganda Police Force, SFC, CMI                                                                 |
| Gulu            | 06                                 | Deprivation of life; torture; deprivation of property                                                                                                                                                                   | Exposs Security Company Ltd, Layibi College, Bright Valley College, Okii-Raki Okwerocobo Clan, UPDF |
| Hoima           | 02                                 | Deprivation of life                                                                                                                                                                                                     | Uganda Police Force                                                                                 |
| Jinja           | 03                                 | Deprivation of life; deprivation of security of a person                                                                                                                                                                | Uganda Police Force                                                                                 |
| Mbarara         | 05                                 | Deprivation of life; deprivation of personal liberty                                                                                                                                                                    | Uganda Police Force & DPC Isingiro district                                                         |
| Moroto          | 02                                 | Torture; deprivation of personal liberty; deprivation of property                                                                                                                                                       | UPDF Lokopo barracks 37th Battalion, UPDF Lokapelikok detach                                        |
| Masaka          | 01                                 | Enforced disappearances                                                                                                                                                                                                 | UPDF                                                                                                |

#### 10.1.14 Referrals made to other institutions

The UHRC referred **3,022** complaints to various institutions and organisations for appropriate management of their complaints. The complaints referred to involved matters that were outside the Commission's mandate to handle, and these included land disputes, criminal matters and civil matters that courts of law ordinarily handle.

**Table 10.13: Number of complaints referred per regional office**

| ARUA | CENTRAL | FORT PORTAL | GULU | HOIMA | JINJA | MASAKA | MBARARA | MOROTO | SOROTI | TOTAL |
|------|---------|-------------|------|-------|-------|--------|---------|--------|--------|-------|
| 151  | 132     | 208         | 369  | 198   | 431   | 303    | 712     | 71     | 447    | 3,022 |

#### 10.1.15 Mediations

The UHRC mediated **54** complaints during the period under review. There was a **31%** increase in the number of complaints mediated by the Commission from the 37 mediated in 2020. The complaints mediated involved the denial of child maintenance, denial of access to children, and the denial of education (for minors). The number of complaints mediated by UHRC per regional office is illustrated in the table below. Of the 54 complaints mediated by the Commission, **34** (63%) were successfully mediated. This means that the parties were able to agree amicably and sign memoranda of understanding showing details of how they agreed to resolve their disputes and the responsibilities of each of the parties.

**Table 10.14: Complaints handled through mediation per regional office**

| ARUA | CENTRAL | FORT PORTAL | GULU | HOIMA | JINJA | MASAKA | MBARARA | MOROTO | SOROTI | TOTAL |
|------|---------|-------------|------|-------|-------|--------|---------|--------|--------|-------|
| 05   | 04      | 03          | 07   | 04    | 05    | 02     | 03      | 05     | 16     | 54    |

### 10.1.16 Resolution of complaints through the UHRC tribunal

There were no Tribunal sessions conducted in 2021 due to a lack of quorum of members of the Commission for most of the year as required by Article 51 of the Constitution, which provides that the Commission shall be composed of a Chairperson and at least three members. The Commission did not have a Chairperson for most of the year under review. A new chairperson and members of the Commission were sworn in on 29 September 2021.

### 10.1.17 Tribunal status as of 31 December 2021

As of 31 December 2021, the tribunal caseload stood at 1,623, a **26%** increase from the annual closing caseload of **1,200** in 2020. A total of **895** matters were pending allocation for hearing, **346** were pending hearing, while **382** were part heard as summarised in the table below.

**Table 10.15: Summary of number of complaints pending at the Tribunal by 31st December 2021**

| S/N | STATUS                                                  | NUMBER OF FILES | TOTAL |
|-----|---------------------------------------------------------|-----------------|-------|
| 1   | Matters pending allocation                              | 895             | 895   |
| 2   | Matters pending hearing                                 | 346             | 346   |
| 3   | Matters that are part-heard <sup>390</sup>              | 382             | 382   |
| 4   | Decided or disposed of matters                          | 00              | 00    |
| 5   | Tribunal caseload as at 31 December 2021 <sup>391</sup> |                 | 1,623 |

The matters pending allocation are those fully investigated complaints recommended for Tribunal hearing but not yet allocated to a specific presiding Commissioner. The matters pending hearing are those that have been allocated to the presiding Commissioner but waiting to be heard the first time. Part-heard complaints are those where evidence is still being adduced by witnesses. There was an increase in caseload because there were no complaints disposed of by the Tribunal in the year 2021.



*Hon Shifra Lukwago presiding over a tribunal session in Fort Portal Regional Office*

<sup>390</sup> Includes cases being heard, those pending amicable settlement, submissions or decision.

<sup>391</sup> Total of 1, 2 and 3.



*Hon Shifra Lukwago presiding over a tribunal session in Fort Portal Regional Office*



*Hon Jacklet Atuhaire presiding over a tribunal session in Arua Regional Office*



*Hon Jacklet Atuhaire with staff of Arua Regional Office after the tribunal sessions.*

### 10.1.18 Payment of compensation awards

Through the Ministry of Justice and Constitutional Affairs, the government decentralised the payment of court/tribunal awards and compensation to line MDAs effective 1<sup>st</sup> July 2015. The MDAs are now charged with the payment of court/tribunal awards against them from their respective budgets. Complainants have to follow up on the payment of their compensation awards with the institutions against which the Commission's Tribunal made the compensation orders. As has been reported in the past three years by the UHRC, victims of human rights violations are still facing challenges claiming their compensation awards from institutions that the Tribunal ordered to pay them.

In the year under review, the Ministry of Justice and Constitutional Affairs, through the office of the Solicitor General, paid out compensation awards to victims of human rights violations to the tune of **UGX 554,904,434**. The payments were made in compliance with compensation orders by the UHRC Tribunal. The outstanding compensation awards that are yet to be paid by the Ministry of Justice and Constitutional Affairs in compliance with UHRC Tribunal orders are **UGX 640,159,971**.

### 10.1.19 Payment of compensation awards involving torture

During the F/Y 2020/2021, the Ministry of Justice and Constitutional Affairs paid **UGX 640,221,000** to 69 victims of torture. The table shows that from the F/Y 2017/2018 to the F/Y 2020/2021, the Ministry of Justice and Constitutional Affairs has paid compensation awards to 518 victims of torture to the tune of **UGX 4,991,755,000**.

**Table 10.16: UHRC compensation awards for complaints involving torture paid so far by the Ministry of Justice and Constitutional Affairs from F/Y 2017/2018 to F/Y 2020/2021**

| FINANCIAL YEAR OF PAYMENT | NUMBER OF TORTURE VICTIMS PAID | AMOUNT PAID IN UGX   |
|---------------------------|--------------------------------|----------------------|
| FY 2017/ 2018             | 136                            | 950,600,000          |
| FY 2018/2019              | 178                            | 870,423,000          |
| FY 2019/2020              | 135                            | 2,530,511,000        |
| FY 2020/2021              | 69                             | 640,221,000          |
| <b>Total</b>              | <b>518</b>                     | <b>4,991,755,000</b> |

### 10.1.20 Challenges

1. The outbreak of the COVID-19 pandemic and the implementation of the Ministry of Health guidelines affected the UHRC's ability to conduct investigations, especially in Prisons where access was restricted.
2. The insecurity in parts of northern Karamoja made it difficult to conduct investigations in some areas since they were inaccessible.
3. The Commission experienced difficulties during its investigations in securing comprehensive medical reports from health institutions as evidence to corroborate allegations of human rights violations, particularly allegations of torture.
4. As a result of the decentralisation of compensation awards policy, victims of human rights violations are still facing challenges claiming their compensation awards from institutions that were ordered by the Tribunal to pay them.
5. The UHRC did not conduct Tribunals during the year under review due to a lack of quorum of the Commission

### 10.1.21 Recommendations

1. The appointing authority should increase the number of Commission Members to enable the UHRC expeditiously dispose of its tribunal backlog.
2. The Ministry of Justice should set up a victims' compensation fund to ensure timely payment of compensation awards to victims of human rights violations.
3. The Ministry of Health should conduct specialised training for health workers to build their capacity to effectively document cases of victims of alleged torture who report to them for treatment.

## 10.2 CONDITIONS IN PLACES OF DETENTION

In line with its Constitutional mandate, the UHRC continued to monitor the human rights situation in the various places of detention, to assess the conditions of suspects and inmates. The monitoring and inspection of places of detention exercise was also done to assess the Government's compliance with national, regional and international Human Rights Standards in regard to persons deprived of liberty, as discussed in this chapter.

### 10.2.1 Legal and policy framework

People deprived of their personal liberty are cut off from the outside world, making them vulnerable. They become solely dependent on the detaining authorities for the most basic needs and rights. This dependency formed the basis for the adoption and implementation of a number of international, regional and national legal instruments aimed at ensuring the protection of persons deprived of personal liberty.

#### 10.2.1.1 International legal framework

At the international level, Uganda is a party to a number of international instruments that provide for the treatment of detainees and advance and promote the rights of persons in detention. The **International Covenant on Civil and Political Rights (ICCPR)**,<sup>392</sup> the **UN Convention Against Torture and Other Cruel, Inhuman Degrading Treatment or Punishment (CAT)**,<sup>393</sup> the **United Nations Standard Minimum Rules on Treatment of Prisoners**<sup>394</sup> and the **Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment**<sup>395</sup> are some of the international instruments that provide for the protection of the rights of detainees.

#### 10.2.1.2 Regional legal framework

At the African regional level, the **African Charter on Human and Peoples' Rights (ACHPR)** guarantees the rights of detainees in more or less the same manner as the international instruments<sup>396</sup>. The African system also imposes obligations on states to extend special protection to women and children in places of detention, consistent with the **Protocols to the African Charter on Human and Peoples' Rights on the Rights of Women** and the **African Charter on the Rights and Welfare of the Child** respectively. Equally important are the **Robben Island Guidelines**,<sup>397</sup> which provide for the prohibition and prevention of torture, and cruel, inhuman or degrading treatment in Africa.

#### 10.2.1.3 National legal framework

At the national level, the **1995 Constitution** guarantees respect for human dignity and protection from inhuman treatment<sup>398</sup> for everyone, including people in places of detention. The Constitution also protects persons deprived of their personal liberty and the circumstances under which one's personal liberty may be suspended. In addition to the Constitution, human rights guarantees for detainees are also found in other laws such as the **Uganda Police Force Act** (Cap 303), **Uganda Peoples' Defence Forces Act, 2005** (Cap 307), **Uganda Prisons Act** (2006), **Penal Code Act** (Cap 121), **Trial and Indictments Act** (Cap 23), and the **Children's Act** (Cap 59), among others. Some of these laws guarantee the rights of detainees as well as provide for the management, treatment and care of inmates in places of detention.

<sup>392</sup> Article 7 and Article 9-11, of the International Covenant on Civil and Political Rights.

<sup>393</sup> Article 4, Article 10 and Article 13 of the United Nations Convention Against Torture and Other Cruel, Inhuman Degrading Treatment or Punishment.

<sup>394</sup> 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).

<sup>395</sup> UN Doc. A/43/173, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

<sup>396</sup> Articles 3-7 of the African Charter on Human and Peoples' Rights.

<sup>397</sup> The Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment.

<sup>398</sup> Article 23-24 and Article 28 of the Constitution of the Republic of Uganda (1995).

## 10.2.2 Places of detention inspected by UHRC in 2021

In 2021, the UHRC conducted 611 inspection visits to places of detention which included 312 Police stations, 200 Police Posts, 93 Prison facilities, three remand homes and three military detention facilities. The Commission inspected fewer places of detention due to the outbreak of the COVID-19 pandemic.

**Table 10.17: Number of detention facilities inspected by UHRC in 2021**

| REGIONAL OFFICE | PRISONS | POLICE STATIONS | POLICE POSTS | REMAND HOMES | MILITARY DETENTION | TOTAL |
|-----------------|---------|-----------------|--------------|--------------|--------------------|-------|
| Arua            | 08      | 18              | 07           | 1            | 00                 | 34    |
| Central         | 41      | 69              | 41           | 01           | 00                 | 152   |
| Fort Portal     | 09      | 24              | 21           | 00           | 00                 | 54    |
| Gulu            | 03      | 70              | 17           | 00           | 00                 | 90    |
| Hoima           | 08      | 30              | 38           | 01           | 00                 | 77    |
| Jinja           | 06      | 26              | 11           | 00           | 00                 | 43    |
| Masaka          | 05      | 05              | 01           | 00           | 00                 | 11    |
| Mbarara         | 02      | 11              | 04           | 00           | 00                 | 17    |
| Moroto          | 03      | 04              | 14           | 00           | 03                 | 24    |
| Soroti          | 08      | 55              | 46           | 00           | 00                 | 109   |
| TOTAL           | 93      | 312             | 200          | 03           | 03                 | 611   |

## 10.2.3 Key findings in places of detention inspected by UHRC in 2021

During its inspections, the UHRC noted that progress had been made in some areas, while in others, several human rights issues were still noted. Below are UHRC's findings on the conditions of places of detention in 2021.

### 10.2.3.1 Prolonged pre-trial detention

By December 2021, Uganda Prisons Service (UPS) had 259 prison facilities, grouped in 19 regions across the country, with a population of 67,318 prisoners. Out of the 67,318 prison population, 32,246 inmates were convicts, 34,847 inmates were on remand, and 225 inmates were civil debtors. This prison population was against a prison holding capacity of 19,986.

**Table 10.18: Prison population at 31 December 2021**

| CATEGORY | MALE   | FEMALE | TOTAL  | PERCENTAGE % |
|----------|--------|--------|--------|--------------|
| Convicts | 30,883 | 1,363  | 32,246 | 47.9%        |
| Remands  | 33,227 | 1,620  | 34,847 | 51.8%        |
| Debtors  | 183    | 42     | 225    | 0.3%         |
| Total    | 64,293 | 3,025  | 67,318 | 100%         |

Inmates on remand (people in detention awaiting legal proceedings) continued to be the highest number in the prison facilities. The prolonged pretrial detention was attributed to a number of factors, including disruptions of court sessions during the COVID-19 pandemic, arrests and detention before the conclusion of investigations, delays in sanctioning files, and irregular court sessions.

Some of the cases where inmates overstayed on remand included:

- Buwambo Prison, where the UHRC found 123 inmates on remand and only five convicted inmates.
- Kaveri Prison, the UHRC found 235 remand inmates and 49 convicts.
- Kiboga Prison, the UHRC found 341 inmates on remand and 34 convicts.
- Wakyato Prison, 65 inmates were found on remand, while only one was a convicted prisoner.
- Kabasanda Prison had 104 remand inmates and 24 convicts.
- Cases of prolonged remand were also found in Ibuga, Mubuku, Bubukwanga, Hoima, Masindi, Kagadi, and Masaka Government<sup>399</sup> Prisons respectively.

In most of these facilities, the UHRC received reports of irregular court sessions due to the COVID-19 pandemic. The Commission noted that pretrial detention contributed significantly to prison overcrowding, where inmates sometimes have to wait for years before their cases are concluded.

### 10.2.3.2 Registration and records management

During monitoring of places of detention, the Commission inspected various records and registers. These 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 Commission notes that the existence of official registrations in places of detention is an equally important element in guaranteeing transparency, accountability and protection of those detained.

Out of the 611 places of detention inspected, the UHRC established that majority had the required registers, which were regularly used and updated, save for one isolated case at Kasingo Police Post, where the registers were not updated. The existence of registers demonstrated that the majority of detainees assessed by UHRC had admission records, inventories of their properties and information regarding their judicial processes. However, it was noted that there was still poor storage of records where the registers were fully utilised. The UHRC also noted a lack of stationery to record statements, which remained a major challenge for Police facilities. Complainants were asked to buy exercise books and manila papers to record their statements and pay for fuel.

### 10.2.3.3 Accommodation of inmates

The UHRC noted that while efforts were being made to renovate or construct several facilities, human rights concerns and challenges still existed. Below are the findings regarding accommodation in places of detention.

#### 1. Overcrowding

It is a requirement that detention accommodation should provide adequate cubic content of air, floor space, lighting, heating and ventilation.<sup>400</sup> However, this is not always attained. The UHRC noted that overcrowding in prisons remained a challenge, with some prisons housing twice or up to three times their designed capacities, frequently with the male inmates most affected. It is required that detention facility accommodation provide adequate cubic content of air, floor space, lighting, heating, and ventilation.<sup>401</sup> However, the Commission noted that while UPS currently has an accommodation capacity of 19,986 prisoners, it had a population of 67,318 inmates, which constituted an occupancy rate of 336.8%. This also meant that the congestion in prisons was 47,332 prisoners (236.8%) by 31 December 2021. Some of the prisons where the UHRC noted extreme overcrowding in some of the prison facilities are indicated in the table below.

399 The reasons advanced for the prolonged detention were the late sanctioning of files by the Resident State Attorney, delays in investigations, lack of sureties, and the few High Court Sessions and inadequate judicial officers.

400 Prisons Act 2006 and Rule 13, UN Standard Minimum Rules on Treatment of Prisoners.

401 Rule 13, UN Standard Minimum Rules on Treatment of Prisoners.

**Table 10.19: Some of the prison facilities found overcrowded**

| NAME OF THE DETENTION FACILITY | HOLDING CAPACITY OF THE FACILITY | NUMBER OF INMATES FOUND IN THE FACILITY |
|--------------------------------|----------------------------------|-----------------------------------------|
| Nakasongola Prison             | 240                              | 1,225                                   |
| Amolatar Prison                | 100                              | 178                                     |
| Mutufu Prison                  | 100                              | 196                                     |
| Ngege Prison                   | 150                              | 318                                     |
| Muinaina Prison                | 250                              | 602                                     |
| Serere Prison                  | 50                               | 196                                     |
| Mubuku Prison                  | 200                              | 370                                     |
| Bubukwanga Prison              | 60                               | 150                                     |
| Amuria Prison                  | 20                               | 121                                     |
| Arua Prison                    | 250                              | 1,011                                   |
| Ragem Prison                   | 150                              | 535                                     |
| Paidha Prison                  | 120                              | 160                                     |
| Kochi Prison                   | 48                               | 185                                     |
| Masindi Prison                 | 366                              | 1,982                                   |
| Kagadi Prison                  | 70                               | 130                                     |
| Amuria Prison                  | 20                               | 121                                     |

## 2. Newly constructed and renovated facilities

Despite the continued existence of overcrowding in a number of prison facilities, the UHRC noted continued efforts by Uganda Prisons Services and the Uganda Police Force to improve the accommodation of detainees. In 2021, many detention facilities had newly constructed buildings and renovated facilities, including offices, cells, stores, and wards for inmates. The new prisons included Kyangwali, Butyaba, Kitalya, Amudat, Nwoya and Sheema. Expanded prisons included Mutukula, Nebbi, Adjumani, Regem, Kakiika and Orom-Tikau; Rukungiri and Ntungamo were still being expanded. The accommodation capacity is expected to increase after the completion of Mutufu, Rukungiri and Ntungamo prisons. Other renovated prisons facilities include Mityana, Sentema, Kaweeri, Kijumba, Ntenjeru, Muinaina, Wakyato, Ngoma, Muduuma, Wabusana, Buwama, Kabasanda, Kasambya and Buwambo Government prisons, among others.

The UHRC also noted renovations in Police facilities such as Bududa Police Station, Serere Police Station, Kween Police Station, Ruti Police Station, Masaka Police Station, Bulambuli Police Station, Lukaya Police Station, Nyamitanga Police Post, Mubende Police Station, Wobulenzi Police Station, Buwama Police Station, Kasanda Police Station, Butalango Police Station, Kakinze Police Post, Kasambya Police

Station, Luwero Police Station, Nakasongola Police Station, Vvumba Police Post and Ziobwe Police Station among others. Kampingirisa Rehabilitation Centre and Naguru remand home were also renovated.



*Female inmates at the newly constructed ward at Alebtong Prison*

### 3. Old and dilapidated buildings

The UHRC found a number of detention facilities with old, dilapidated buildings or facilities. These included prisons such as: Gulu, Alebtong, Kapchorwa, Serere, Bubulo, Amolatar, and Amuria Government prisons. Some of the Police facilities with derelict structures included Gulu Police Station, Kilak Police Station, Lira Palwo Police Station, Kochgoma Police Station, Paidha, Police Station, Nebbi Police Station, Moyo Police Station, Terego Polices Station, Obongi Police Station, Warr Police Station, Zombo Police Station, Koch Police Station, Parombo Police Station, Goli Police Station, Zeu Police Station, Lodonga Police Station, Adju-mani Police Station, Kitgum Police Station, Adilang Police Station, Bujenje Police Station, Kimengo Police Station, Kaseeta Police Post, Buhimba Police Station, Kabwoya Police Station, Kigorobya Police Station, Isunga Police Station Rugashari Police Station, Kyaterekera Police Station, Pachwa Police Station, and Kalongo Police Station which had big cracks in the walls that posed a risk for the suspects and officers. At Adilang Police Station, the ventilators in the cells were broken, which according to the officer in charge of the station, had led to the escape of suspects from the facility.

The Police Posts included Oleba Police Post, Okokoro Police Post, Metu Police Post, Odupi Police Post, Lobule Police Post, Kango Police Post, Karama Police Post, Kaiso Police Post, Butema Police Post, Kyabaly-ango Police Post, Paachwa Police Post, Burora Police Post, and Kobushera Police Post.

Other Police facilities with old and dilapidated building structures included Agwata Police Station and Aloï Police Station. The cells at Agwata Police Station were very dilapidated with cracks on the walls, and the ventilation was broken, which had led to suspects escaping. At the time of the UHRC visit, Agwata Police Station had resorted to keeping its suspects at Agwata Police Post, which is located about three km away from the Police Station.



*UHRC official inspecting cells at Rugashari Police Post in Kagadi District*



*UHRC officials inspecting dilapidated cells at Kochgoma Police Station in Nwoya District*



*Old and dilapidated staff accommodation at Kitgum Central Police Station*



*Agwata Police Station reception area in Dokolo District*



*Dilapidated structure at Bulucheke Police Post in Bulambuli District*

#### 4. Ventilation and lighting

It is a requirement for detention facilities to have adequate ventilation and lighting. Proper ventilation allows detainees to breathe normally, evacuates humidity from their cells and gets rid of bad odours. Adequate lighting is equally important for maintaining the physical and mental health of detainees and prison staff. However, in some of the detention facilities inspected, the UHRC found that cell lighting still remained a challenge, particularly in Police cells, where many were very poorly ventilated. The Commission noted that windows and ventilators in some of the facilities had been sealed off to curb inmates' escape from custody. Facilities with poor ventilation and lighting included:- Kimengo Police Station, Karujubu Police Post, Bujenje Police Station, Bwijanga Police Post, Ihungu Remand Home, Bulima Police Post, Ntooma Police Post, Isunga Police Station, Pachwa Police Station, Mabale Police Station, Burora Police Station, Kaiso Police Post, Kaseeta Police Post, Kitoba Police Post, Kabwoya Police Post, Buhimba Police Post, Karama Police Post, Kaiso Police Post, Kaseeta Police Post, Kitoba Police Post, Kabwoya Police Post, Buhimba Police Post and Karama Police Post. In Nebbi Police Station, the Commission noted that windows and ventilators in some of the facilities had been sealed off to curb the escape of inmates from custody.



*Office premises at  
Kaiso Police Post,  
Hoima District*

#### 10.2.3.4 Separation of detainees

Human rights standards require that different categories of prisoners are kept in separate places of detention, taking into account their sex, age, criminal record and reasons for detention.<sup>402</sup> As a matter of law,<sup>403</sup> women should be separated from men, minors from adults, and untried detainees from convicted detainees. Migrants detained with their migrant status should also be separated from convicted persons and held in conditions as far removed from a prison regime as possible. Persons imprisoned for debt and other civil prisoners should be kept separate from persons detained for criminal offences.

The primary purpose of separation is to ensure the protection and safety of persons deprived of liberty and for optimal management of prisons. It is also a measure to preserve the principle of the presumption of innocence of untried persons as well as provide the most appropriate prison conditions for each category of detainees. Below is what the UHRC observed regarding categorisation.

##### 1. Separation of female from male cells

In all the 611 detention places inspected, the UHRC noted that female inmates were detained in different cells from the male cells. This was in conformity with the required standard that men and women should as far as possible be detained in separate facilities.<sup>404</sup> However, it was noted that some Police Stations and posts lacked female cells. These included; Namisindwa Police Station, Kween Police Station, Kapelebyong

<sup>402</sup> Rule 11, Nelson Mandela Rules and Rule 8 of the UN Standard Minimum Rules on the Treatment of Prisoners.

<sup>403</sup> ICCPR, United Nations Standard Minimum Rules on Treatment of Prisoners, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

<sup>404</sup> Rule 8(a) UN Standard Minimum Rules on Treatment of Prisoners.

Police Station, Nabilatuk Police Station, Awelo Police Post, Kapchesombe Police Post, Etam Police Post, Buginyanya Police Post, Samansi Police Post, Buyaga Police Post, Bulago Police Station, Bukigai Police Post, Bukalasi Police Post and Magale Police Station.

## **2. Civil debtors**

The detention of people for civil debts is inconsistent with Article 11 of the International Covenant on Civil and Political Rights, to which Uganda is a state party, provides that “No one should be imprisoned merely on the grounds of inability to fulfil a contractual obligation.” The UHRC noted that out of the 67,318 inmates detained by the UPS in December 2021, 225 of them were civil debtors.<sup>405</sup> UHRC confirmed this during its routine and unannounced inspections in some facilities such as Sentema, Mityana, and Kasangati Prisons. The UHRC also noted that the requirement<sup>406</sup> to separate civil debtors from inmates on criminal charges was not observed. Inmates were mainly separated based on their gender due to limited space.

## **3. Mothers incarcerated with their children**

The Uganda Prisons Act (2006) allows incarcerated mothers to keep their children until 18 months. 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 was informed 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.<sup>407</sup> During the Commission’s monitoring of prisons, mothers incarcerated with their children were found in Alebtong, Katakwi, Serere, Nakasongola, and Kyangwali Government Prisons, among others. UHRC noted that most of the children incarcerated with their mothers were still breastfeeding, while others, especially those above 18 months, had no willing relative to take care of them outside the prison.

## **4. Juveniles detained with adult offenders**

It is a requirement that juveniles should be separated from adults while in detention.<sup>408</sup> While most facilities had special cells for juveniles, the UHRC noted that some facilities lacked juvenile cells. The UHRC found cases where juveniles were in detention with adult offenders during inspections. These were mainly in Police Stations. The detention of juveniles with adult offenders in Police cells was mainly attributed to the lack of juvenile cells at Police facilities and the continued failure to ascertain the ages of suspects. At Adjumani Police Station, the UHRC found two juveniles, one of who was ten years, and they were being detained with adults. At Agwata Police Post and Dokolo Police Station, the UHRC also found juveniles aged 16 and 17 years, respectively, being detained with adults. This was mainly attributed to the lack of juvenile cells at Police facilities and the continued failure to ascertain suspects’ ages. The officers also raised concerns regarding the inadequate or lack of remand homes in the respective districts and relying on remand homes outside the areas of jurisdiction. It was also noted that most of the facilities lacked means of transport or adequate fuel for vehicles, which caused a challenge in transporting the juveniles to remand homes on time. At Adjumani Police Station, the UHRC found four juveniles who had been held for about four days. However, with the intervention of the UHRC team, the Juveniles were released on Police bond.

## **5. Remand homes and juvenile cells**

According to the Constitution, a child is any person under the age of 18 years, while Children Act stipulates that the minimum age of criminal responsibility in Uganda is 12 years<sup>409</sup>. In view of their vulnerability, therefore, the use of deprivation of liberty for children should only be used as a last resort and should be for the shortest period of time.<sup>410</sup> In Uganda, children in conflict with the law are detained in seven remand homes which include Arua, Fort-Portal, Gulu, Naguru, Kabale, Mbale and Masindi. In addition,

<sup>405</sup> As at 28 October 2021.

<sup>406</sup> Rule 8(c) UN Standard Minimum Rules on Treatment of Prisoners.

<sup>407</sup> Section 59 (4) of the Prisons Act, 2006.

<sup>408</sup> ICCPR, Art. 10.2

<sup>409</sup> Children’s Act S. 88(1).

<sup>410</sup> Children Act cap 59 Section 94(4).

the Kampiringisa National Rehabilitation Centre is also used to detain sentenced children from the whole of Uganda. The UHRC, however, notes that Uganda still faces major challenges in dealing with children who are in conflict with the law. Some of the challenges faced include inadequate probation services, poor facilitation of the probation officers, inadequate child-friendly procedures in the criminal justice system, lack of adequate skills to handle children matters, minimal diversion of children from the formal justice system, and inadequate budgetary support for child welfare among others.

During the monitoring, the Commission noted that the country still has very few remand homes and children have to be transported long distances for detention, which often limits their access to parents. For example, there is only one Remand Home in Northern Uganda (Gulu Remand Home), which serves all the districts in Lango and Acholi Sub-Region. The UHRC noted that in the greater

Ankole Region, there is no remand home to cater for Rwizi and Greater Bushenyi. The only remand home available in southwestern Uganda is in Kabale and another in Fort Portal. The UHRC also noted that most Police facilities lacked juvenile cells, which caused a challenge when children were arrested for capital offences. Some of the Police facilities with juvenile cells included Alebtong Police Station, Gulu Police Station, Adjumani Police Station, Kitgum Police Station, Nwoya Police Station, Amuru Police Station and Lamwo Police Station. Police facilities with juvenile cells were found well equipped with beddings and were in hygienic conditions

The UHRC was informed of the challenges regarding delayed justice and overstay on remand for most of the children. This was attributed to the frequent adjournments by courts of law. The officers in the remand homes were also concerned about the insensitivity of some courts and Police officers to children's issues. Other challenges regarding juvenile offenders included alleged trumped-up charges in some of the cases, lack of welfare officers, lack of transport to take the children to court, and the reluctance by some parents to pick up their children upon release.

#### 10.2.3.5 Access to adequate food

In assessing whether there was adequate access to food in detention facilities, the UHRC took note of several elements when inspecting the detention facilities, including the quality and quantity of the food provided. Progress was registered in the inmates' access to food regarding frequency, quality, and quantity. In most detention facilities, inmates had at least two meals a day, consisting of porridge for breakfast and lunch/supper comprising of food such as cassava or posho or sweet potatoes and beans. At most prison farms, the meals for inmates were supplemented by green vegetables, potatoes and cassava, depending on what was grown by the inmates. 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.<sup>411</sup> In the prisons monitored, it was established that inmates living with HIV and AIDs were given a supplementary diet of greens, milk, sugar, eggs, silverfish, and porridge, whenever they were available. It was also noted that in most cases, relatives of inmates or their next of kin helped in supplementing the diet.



*Juvenile cells at Kitgum Central Police Station*



*Juveniles sharing a meal brought by one of the relatives at Adjumani CPS*

411 Rule 22, Nelson Mandela Rules, UN Standard Minimum Rules on Treatment of Prisoners.

The meals were served between 7-8 am for breakfast, 12-2 pm for lunch and 4-5 pm for supper/dinner. The food served in the prisons was adequate in both quantity and quality. Inmates are also allowed to receive raw foods from relatives where private cooking is allowed within the prison. Food items brought by relatives are allowed in the prisons after intense checks. Any edibles brought by relatives are not only thoroughly checked, but the relatives are also required to first taste the food themselves before it is handed over to the inmates. This is done to avoid any foul play.

Despite efforts made by the prisons, the same was not the case for the police. In a number of Police stations and posts visited, the UHRC found that the Police were struggling to provide detainees with even one meal a day. As previously reported in the UHRC's annual report, most suspects in Police custody continued to have only one meal a day or none at all. Many Police Posts relied on food brought by the relatives of the suspect or money given by the complainants to buy food for the suspects, and in some cases where relatives did not bring food, the officers had to share their food with the suspects or use their personal money to feed them.

Police facilities visited that lacked adequate food for suspects included Kochi Police Station, Nyadri Police Station, Lodonga Police Station, Oraba Police Station, Goli Police Station, Parombo Police Station, Zeu Police Station, Zombo Police Station and Warr Police Station.

### 10.2.3.6 Access to clean and safe water

In 2021, the UHRC observed that most inmates could access clean and safe water through various sources such as rain harvested water, water taps, boreholes, wells, swamps, springs, and dams that sometimes have unclean water which isn't safe for drinking. In most of the facilities visited, the inmates boiled water which they stored in small jerrycans and kept in their cells. Other facilities without available water sources have to buy water from water hawkers.

Prison facilities with clean and safe water included Amolatar Prison, Bubulo Prison, Mutufu prison, Kapchorwa Prison, Serere Prison, Katakwi Prison and Amuria Prison. The Police facilities included Kidoma Police Post, Kigorobya Police Station, Kabwoya Police Station, Karama Police Post, Kasingo Police Post, Kabale Police Post, Kaseeta Police Post, Kiziranfumbi Police Station, Kapchorwa CPS, Bulambuli CPS, Amolatar CPS Amuria CPS, Katakwi CPS and Buhimba Police Station. However, the UHRC noted that there were other detention facilities which had no access to clean water, such as Kagadi Police Station, Kobushera Police Post, and Muhorro Police Station.

### 10.2.3.7 Sanitation and personal hygiene

In most prisons, inmates enjoyed good hygiene standards, especially those with newly constructed and renovated prisons. Where running water and flush toilets had been installed, the personal hygiene of inmates had greatly improved.



*Bucket of urine in a Police cell*



*An inmate at Opit Police Station carrying a bucket of urine for emptying at 1:15 pm*



*Pit latrine used by suspects and Police officers at Sidok Police Post*

### **10.2.3.8 Bucket waste disposal system**

The bucket system is where inmates ease themselves in buckets in their cells due to a lack of indoor-toilet facilities. The UHRC found that in facilities without flush toilets, inmates still used pit latrines during the daytime, and the 'buckets' at night, which they would empty during the day. The practice of human beings sharing a room with their waste is dehumanising and unhygienic. The UHRC noted that the 'bucket system' had been eliminated in a number of facilities. These included Gulu, Alebtong, Ihungu Remand Home, Isimba Prison Farm, Hoima, Masindi, Maiha, Kyangwali, Kagadi and Bugambe Uganda Government Prisons. The Police facilities include Masindi Police Station, Kagadi Police Station, Hoima Police Station, Nwoya CPS, Adjumani CPS, Lamwo CPS and Pader CPS.

Despite these efforts, the use of the bucket system continued in a number of detention facilities including Opit Police Station, Buhweju Police Station, Ruhumba Police Station, Bwizibwera Police Station, Rubindi Police Station, Biharwe Police Station, Ruti Police Station, Kashenyi Police Station, Nyakishara Police Station, Burere Police Station, Nyamityobora Police Station and Nyakaizi Police Station.

### **10.2.3.9 Access to sanitary towels**

The UHRC found that most of the prisons with female inmates were provided sanitary towels. Some of these included Bamunanika, Bukomero, Buwama, Kangulumira, Kanoni, Kasangati, Kaweeri, Kiboga, Mityana, Mwera, Nakasongola, Ntenjero, Nyimbwa, and Sentema Government Prisons. Kampingirisa Rehabilitation Centre and Naguru Remand Home also provided sanitary towels to the inmates. It was, however, noted that most Police facilities did not provide sanitary towels.

### **10.2.3.10 Access to health services**

Access to medical services has improved in most prisons. The UHRC noted that prisons which lacked internal health centres in their facilities were able to access health services from nearby government health centres. However, although there is a patient referral system and medical care provision in prisons which is better than the national average, there still remains the problem of inadequate drugs. It was also noted that some prisons have emergency health kits which help in emergency medical response for staff and inmates. The emergency health kits are only used to resolve small, uncomplicated emergencies, and complex cases of inmates are referred to nearby government health facilities for treatment. Some detention facilities have health care personnel attached to them. The UHRC also found that the nearest government health facilities are a distance away from the prisons in some facilities, making it hard for the inmates to access treatment easily.

### **10.2.3.11 Inmates' clothing and bedding**

The Uganda Prisons Service registered an improvement in clothing and beddings for inmates. The inspections by the UHRC revealed that most inmates had uniforms at the time and that majority of inmates had been supplied with uniforms even though they were still inadequate. However, the prison authorities reported that it was not possible to provide all the inmates with two pairs of uniforms due to limitations in funding. With regard to bedding, every prisoner was provided with one or two blankets for sleeping.

The UHRC did find that in most Police facilities, inmates lacked beddings in the cells. It was noted that Police facilities do not budget for provision of bedding facilities for suspects and as such, suspects slept on bare floors or on torn blankets. Some of the facilities that lacked beddings included Bamunanika, Bbale, Bombo, Bugema, Bukomero, Bulera, Busunju, Butalango, Buwama, Bwebajja, Galilaya, Gombe, Kabasanda, Kajjansi, Kakooge, Kamengo, Kanoni, Kariri, Kasaana, Kasambya, Kasanda, Kasangati, Katuugo, Kayabwe, Kayunga, Kibibi, Kiboga, Kikyusa, Kiwoko, Lubowa, Luwero, Lwabiyata, Lwamata, Lwampanga, Migeera, Mityana, Mpigi, Mubende, Muteteema, Nabiswera, Nakaseeta, Nakasongola, Namungo, Ndejje, Ngoma, Nkozi, Ssekanyonyi, Wakiso, Wobulenzi and Zigoti Police stations. The Police Posts included Busika, Butooloto, Kakindu, Kakinze, Kasokwe, Kawongo, Kayonza, Nakasajja, Kibuto, Kibalinga, Kigeezi, Kikonge, Kiryoka, Kitimbwa, Kyenda, Makurubita, Nakitoma, Nakyesa, Namasa, Nyimbwa, Wabigalo, and Wabitun-

gulu Police Posts. Some of the Police facilities found with beddings included Kakindu Police Post, Luwero Police Station and Ssekanyonyi Police Station whose female cells were having a mattress each.

#### **10.2.3.12 Work for inmates**

Regulations 107(1)-(6) of the Prisons Regulations 2012 prescribes circumstances under which remand prisoners may be employed and the remuneration. The regulations stipulate that any remand prisoner interested in working who participates in any work should be remunerated. The UHRC found that inmates' labour was used on prison farms and workshops or hired out on private farms to generate income. The most common form of work for prisoners include carpentry and joinery, building construction, handi-crafts, brick-making, livestock farming and crop farming or gardening. At all the prison facilities inspected, inmates worked from Monday to Friday for 6-8 hours each day, and on Saturday, inmates did light work around the prison premises.

The Prisons Services Act, 2006 recognises prisoners' rights to undertake meaningful remunerated employment. Work for prisoners serving sentences is helpful as it enables them to acquire meaningful and useful skills, which are of benefit to the inmates to help them earn honest livelihoods after release. In fact, working for prisoners helps maintain or improve their vocational qualifications and offers them meaningful occupations. The UHRC noted that all the prisoners who worked were paid earnings ranging between UGX 100 for unskilled labour, UGX 250 for semi-skilled labour and UGX 500 for skilled workers in most regions. However, due to COVID-19, hiring of prison labour was halted in the prisons visited.

#### **10.2.3.13 Transportation of inmates**

In all the facilities visited, prisons and Police officers indicated a challenge of lack of transportation for suspects. Prison officers stated that they had to trek long distances when taking inmates to court, hospitals, water sources, or workplaces due to the absence of vehicles. Concerns were raised that the long walks with inmates put the security of officers at risk of being attacked by inmates and also created a temptation for prisoners to escape.

The UHRC established that prisons such as Paidha, Koboko, Lobule, Bidibidi and Moyo Prisons did not have any means of transport for inmates to go to court. In many instances, inmates are escorted to court on foot. The UHRC also learnt that at prisons such as Alebtong Prison, the authorities had resorted to using personal vehicles to transport inmates. However, they were concerned that they were not receiving fuel from the Prison Headquarters despite this contribution. Police facilities also faced a similar challenge of lack of adequate means of transport. However, stations such as Gulu CPS, Amuru CPS, Pader CPS, Patongo CPS, Omoro CPS, Nwoya CPS, Kitgum CPS, Lamwo CPS, and Dokolo CPS had at least one vehicle and some motorcycles, although most were grounded due to mechanical problems. The general outcry from the police stations and posts was that they lacked facilitation in fuel and maintenance resources for the Police motorcycles, which were their main mode of transport.

#### **10.2.3.14 Right to worship**

The Commission noted that all detention centres accepted and most cases facilitated the inmates to worship their various religions. All the Police and prison facilities allowed in-mates or suspects to practice their respective religions. The Police and prison officers interviewed informed the team that religious leaders are allowed access to the facilities to conduct prayers with inmates, especially during visitation hours and days.

#### **10.2.3.15 Disciplinary measures**

The disciplinary and orderly measures used in most detention facilities included an appearance before disciplinary committees, collecting water, cleaning cells and toilet facilities, doing garden work, loss of remission, caning, demotion in cases of katikiros (*prefects*), institution of new charges, caution, cleaning the compound, counselling and warnings to the offender. According to human rights standards, disci-

pline and order within a detention facility should be maintained with no more restriction than is necessary to ensure safe custody, secure operation of the prison, and orderly community life.<sup>412</sup> The prison disciplinary measures are provided for under the Prison Regulations 2012. This is in contravention of Article 24 of the Constitution of the Republic of Uganda, the prevention and prohibition of torture Act and the International Covenant on Civil and Political Rights to which Uganda is a signatory.

### 10.2.3.16 Rehabilitation of inmates

All prisons visited were providing rehabilitation programmes for inmates. These included counselling, guidance and psychosocial support programmes, as well as teaching programmes where inmates may study from primary to university level if they so wish. Vocational training was also available, through which inmates were taught various skills such as carpentry, building, gardening and tailoring. The work produced by the inmates is sold to the public, and the inmates receive a portion of their proceeds. The UHRC also noted that after serving sentences, pre-settlement prison officers visit the inmate's places of origin to persuade the families of the inmates to accept in their communities upon release. This is very good in helping with the resettlement and acceptance of former convicts.

### 10.2.3.17 COVID-19 impact on prisons

The Commission recognises the particular risks that COVID-19 causes for confined populations for whom physical distancing is not an option. Overcrowded prison settings offer limited space, often with unsanitary facilities and poor healthcare access. Physical distancing, regular hand washing and disinfection are extremely difficult to practice, if not impossible. Therefore, the risk of mass infection is high for detainees and custodial staff alike. Prisons have been known to be potential epicentres of infectious diseases and for hatching and spreading viruses, which is even more so in overcrowded prisons. In the COVID-19 context, overcrowding impedes the effective implementation of the measures intended to prevent and manage the outbreak and spread of the virus in detention facilities.

### 10.2.3.18 Observing the standard operating procedures

The UHRC noted that most of the facilities inspected observed the standard operating procedures (SOPs) in preventing COVID-19. The facilities had designated places for washing hands, although most Police Posts visited didn't have soap. At Uganda Government Prison Alebtong, the UHRC found that the facility had temperature guns, masks and washing facilities as part of the measures to control the spread and early detection of COVID-19.



*The OC Alebtong prison receiving protective materials from Prison headquarters*

<sup>412</sup> Rule 8, Nelson Mandela Rules, UN Standard Minimum Rules on Treatment of Prisoners.

### 10.2.3.19 Access to the outside world and separation of new inmates

In an effort to curb the spread of COVID-19 in prisons, the Commissioner-General of Prisons gave directives to suspend all prison visitations and restrict the movement of prisoners as well as staff and their relatives outside the facilities. This meant that visits by relatives, friends, religious leaders, justices of the peace, well-wishers and such other persons were limited. UPS decided to keep all new admissions in selected facilities. The Commissioner-General of Prisons also gave directives that all prison admissions were required to be isolated on arrival at the prison until COVID-19 symptom screening had been conducted within 24 hours on arrival at the prison. Prison facilities were also required to create quarantine space for isolation of cases which met the case definition for COVID-19. While these preventive measures are applauded and key in saving lives, the UHRC notes that the lack of contact for prisoners with their families and sometimes lawyers causes mental distress.

### 10.2.3.20 Access to justice for inmates in the context of COVID-19

Due to the COVID-19 pandemic in 2021, access to justice for inmates was greatly affected. The effects of COVID-19 were also heavily borne by the formal justice systems, which were not equipped to function effectively. The Uganda Prison Services limited the taking of prisoners to court for fear of infections and the fact that courts were not fully operational. As a result, judiciary and other judicial service providers had to adapt to the changing context by adopting technology-based innovations such as video conferencing to sustain the provision of justice services while adhering to the COVID-19 prevention guidelines. However, video conferencing /teleconferencing was not covering all prisons/districts, and in other cases, the courts experienced power interruptions during court sessions, yet they had no generators.

The UHRC noted that inmates on remand were, in some cases, taken back into Police custody after committal. Suspects were returned to the respective Police Stations after plea taking in court as they waited to be taken to the respective prisons. This was done to first identify the prison where the remanded inmates could be taken for quarantine before they could be mixed with other inmates as a preventive measure. Returning remanded inmates back to Police facilities also had financial implications on the respective Police Stations, especially in terms of feeding, which budget the Police facilities lacked.

### 10.2.3.21 Human rights committees

Human rights committees are 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. The committees educate the inmates about their rights and bring to the attention of the officers in charge complaints on the quality and quantity of food, overstay on remand, and general welfare.

Prisons such as Alebtong, Gulu, Hoima, Kagadi, Masindi, Maiha, Isimba, Kyangwali, Kyangwali and Bugambe Government Prisons as well as Ihungu Remand Home, all had functional human rights committees for both staff and inmates, which enabled the inmates to raise human rights concerns. However, the UHRC notes that most of these committees are not functional, while others have composition issues.

## 10.2.4 UHRC's success stories during monitoring places of detention

The Commission registered success in the performance of its mandate during the monitoring and inspection of places of detention. Below are some of the immediate positive impacts that occurred following the UHRC's intervention during inspections and monitoring of places of detention.

- **Release of inmates from custody.** At Maracha Police Station, two male suspects who had been in detention for five days which was beyond 48 hours, were immediately released on Police bond following UHRC's intervention. At Koboko Police Station, two male suspects who had been in detention for four days were immediately released on Police bond. At Obongi Police Station, a male adult suspect who had been in detention for six days was immediately released on Police bond. At Terego

CPS, three female adult suspects who had been in detention for a week were immediately released on Police bond in the presence of UHRC staff. At Zombo Police Station, a male suspect who had been arrested and detained on unclear grounds was immediately released on Police bond following UHRC's intervention. At Kikuube Police Station, 11 suspects who had been detained beyond 48 hours were granted Police bond as a result of the Commission's intervention.

- **Conditions of inmates were immediately addressed.** At Paidha Police Station, two juveniles who had been detained with adult suspects were immediately separated and put in another cell. At Parombo Police Station, the UHRC intervened and two male suspects were allowed to get some fresh air out of a very hot and unclean uniport. The uniport was also immediately cleaned. At Agwata Police Post, Pagirinya Police Post, Opit Police Station, Kyangwali Police Post and Karama Police Post, the UHRC recommended the cleaning of dirty cells, which was done immediately.
- **Sensitisation of rights, duties and responsibilities.** At Dokolo Police Station, the inmates and staff were sensitised about the mandate of UHRC and concepts of human rights.



*UHRC official oversees the cleaning of cells;*



*Sensitisation of suspects at Dokolo CPS, Pagirinya Police Post*

### 10.2.5 Recommendations

1. The Ministry of Finance, Planning and Economic Development should increase funding to the Uganda Prisons Service and the Uganda Police Force to enable them to build better structures to have facilities suitable for human habitation and stop overcrowding.
2. The Ministry of Internal Affairs and Ministry of Gender, Labour and Social Development should ensure that juveniles are separated from adult offenders in all detention facilities.
3. The Uganda Prisons Service and Uganda Police Force should completely phase out the bucket waste disposal system.
4. The Uganda Prisons Service should establish human rights committees in all prison facilities.
5. The Uganda Police Force should adequately facilitate all its stations and posts with the necessary stationary, equipment and transportation to enable officers to do their policing work.

### 10.2.6 Conclusion

Though the UHRC notes positive interventions in conditions in places of detention, several human rights concerns, including the detention of civil debtors, inmates pending ministerial orders, and long and arbitrary detention, are underlying causes of the high prison population and still need to be addressed. Special focus should be placed on detention facilities and the vulnerable, including children incarcerated with mothers and juveniles detained with adult offenders, to ensure the effective promotion and protection of the rights of detainees in places of detention.

## 10.3 INTERVENTIONS IN HUMAN RIGHTS AND CIVIC EDUCATION IN 2021

### 10.3.1 Introduction

The Uganda Human Rights Commission (UHRC) is mandated to conduct civic education and, particularly, Human rights education (HRE) under Article 52 (1) (c), (e) and (g) of the 1995 Constitution of the Republic of Uganda. UHRC, as a National Human Rights institution, has a crucial role to play in advancing HRE awareness to the citizenry in Uganda geared at ensuring that human rights are protected and promoted.

Human rights education (HRE) is essential for state agencies and other duty bearers to enable the government to meet its obligations to respect, protect and fulfil human rights. For them to claim their rights and seek redress for human rights violations, the citizenry needs to know and understand human rights. It's imperative to note that HRE is essential to the long-term prevention of human rights violations as a strategy to inculcate a strong human rights culture in society.

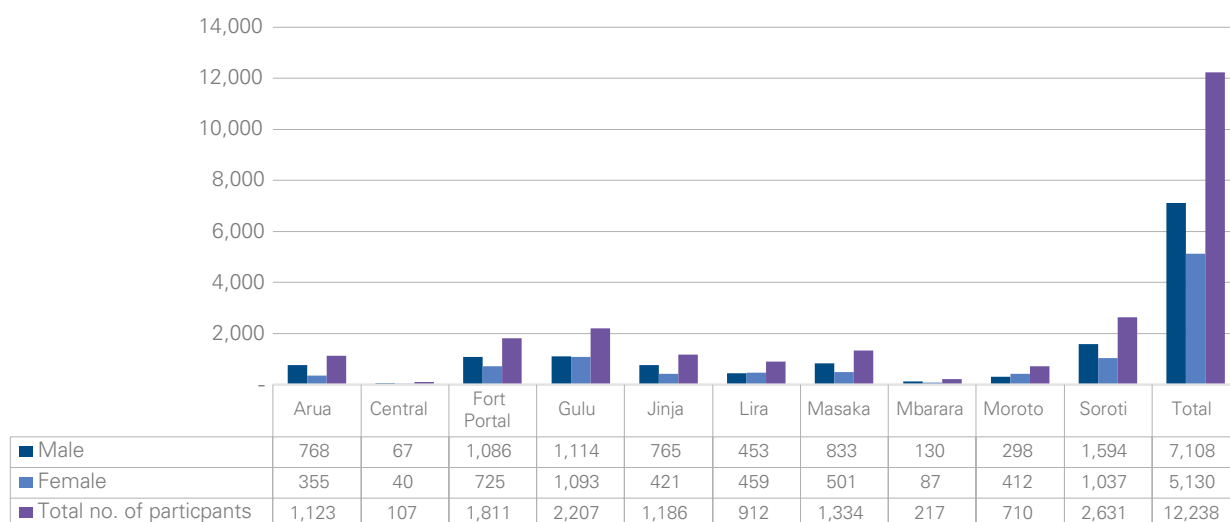
In 2021, UHRC conducted several activities that comprised community meetings/barazas, workshops, dialogues for vulnerable persons and media campaigns. They aimed at enhancing the level of human rights awareness, nurturing a culture of respect for human rights, and emphasising the importance of citizens' duties and responsibilities in the promotion of human rights. It should be noted that the extent of coverage of the target population was affected by the restrictions imposed by the government to curb the spread of COVID-19. The interventions by the UHRC are elaborated hereunder.

### 10.3.2 Human rights barazas (community meetings)

Human rights barazas are community public meetings or gatherings through which the people at the grass-roots are sensitised about human rights. The UHRC team creates awareness on a selected topic, responds to issues affecting a given community and disseminates UHRC publications such as brochures, posters and flyers. Barazas are also used as an avenue for community members to identify human rights issues and propose solutions.

In 2021, the Commission conducted **142** barazas in **42** districts in Uganda, reaching a total of **12,238** people (**7,108** male and **5,130** female). There was a 31.15% decline compared to 17,777 people sensitised in 2020. However, there was a slight (0.709%) increase in the number of barazas conducted from 141 in 2020 to 142 in 2021. The decrease in the number of people who attended the barazas could be attributed to the scepticism of people about gathering in public places because of the fear of contracting COVID-19 even after the economy was partially re-opened.

**Figure 10.6: Baraza attendance in 2021 aggregated by regional office and gender**



## Emerging issues

- Increased instances of domestic violence, early, forced and child marriages, early pregnancies, and child neglect due to effects of COVID-19 and scarcity of land.
- Marginalisation of the elderly, orphans and widows, favouritism, nepotism and corruption during the implementation of government programmes whereby services reach only those connected to the programme managers.
- Lack of medicine in health facilities despite deliveries by National Medical Stores. Community members complained that they are usually referred to private clinics because the drugs are not available in government facilities.
- The need for sensitisation of health workers on their role in promoting and protecting human rights with emphasis on patients' rights. For instance, it was reported that a child died after being turned away from a health facility for not wearing a mask, while a woman who had complications during pregnancy had the pregnancy terminated without her consent.
- The need to have a UHRC office or services closer to refugee settlements for easy management of human rights complaints. Due to the current location of UHRC offices, it was difficult for refugees to seek assistance on prevailing human rights concerns like conflicts between the refugees and host communities.
- Some community members are still being charged for policy bond, though it is meant to be free; for instance, this was noted in Banda under Jinja Regional Office. This greatly affected the right to personal liberty for those who couldn't afford to pay for it.
- Prolonged remand and inaccessibility of courts; it was reported that suspects walked long distances to access courts of law due to a lack of transport facilities. In addition, inmates took too long before appearing in court while on remand; it was reported during a Baraza in Lira District that many inmates on remand had never appeared before the court for more than one year.
- There were reports of alleged torture, cruel, inhuman, and degrading treatment of some prisoners and suspects while in prison and Police custody. It was alleged that some prison warders allow some prisoners to beat their colleagues and at the same time deny them the opportunity to go for treatment.
- A call was made to the government to establish accessible social services facilities and requirements like braille equipment in special needs schools and suitable health facilities in all districts of Uganda, to ensure that children and persons with hearing and sight impairment also enjoy their rights to education and health services.
- The UHRC was encouraged to sensitise cultural leaders on human rights because some elders still condone harmful practices like clan beating and denying widows access to their lawful inheritance.
- A call was made for Parliament to pass the Marriage and Divorce Bill.



*L-R, Participants during a community baraza conducted in Kalokwameri, Nabilatuk District and Oboko Village, Pawach Parish, Pokitka Sub-County, Lamwo District, respectively.*



*Ms Komugisha Judith – Human Rights Officer Educaiton HRO/E sensitizing people at a baraza in Kyampangara Sub-County, Kazo District*

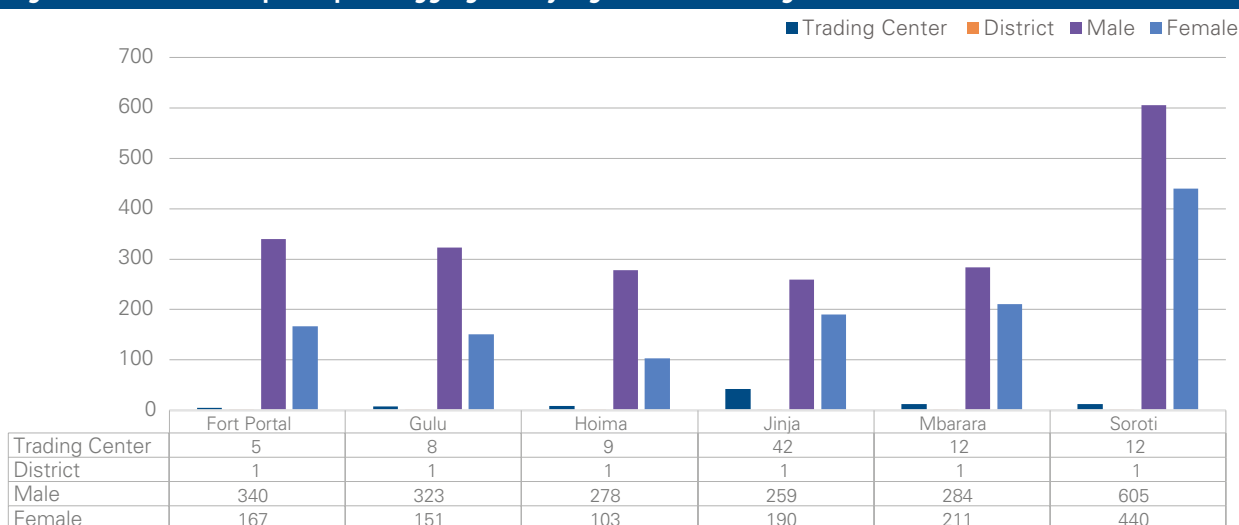
### 10.3.3 Human rights roadshows

Roadshows are mobile human rights sensitisation activities that involve using a civic education van. The Commission team, in collaboration with other duty bearers like the Police, and district local government officials, move from village to village disseminating various information on the fundamental human rights and freedoms enshrined in the Constitution of the Republic of Uganda.

The communities reached are engaged through drama shows, screening of short human rights videos, presentations on various human rights and an interactive question and answer session on human rights and provision of legal advice.

In 2021, the UHRC conducted roadshows in six districts covering 88 trading centres and reached 3,351 people (2,089 male and 1,262 female). This was a 94.2% decline in the number of people reached from the 57,786 in 2019. It should be noted that the implementation of roadshows by the UHRC was greatly affected when the government banned gatherings and crowds due to the outbreak of COVID-19.

**Figure 10.7: Roadshow participants aggregated by regional office and gender**



**Table 10.20: Trading centres covered during roadshows in 2021**

| S/N | REGIONAL OFFICE | DISTRICT   | TRADING CENTRES COVERED DURING ROADSHOWS                                                                                                                                                                                                                                                                                                                                                                                                      |
|-----|-----------------|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.  | Fort Portal     | Kitagwenda | Mahyoro Landing Site, Bukurungu A and B Cells, Kayinja Landing Site, Kanara Central Cell, Rwenjaza Trading Centre, Nyarurambi Trading Centre and Rwenjaza Parish                                                                                                                                                                                                                                                                              |
| 2.  | Gulu            | Adjumani   | Okawa Trading Centre, Ayilo 2 Trading Centre<br>Pagirinya 1 Trading Centre, Pagirinya Trading Centre, Dzaipi Market, Nyumanzi Trading Centre, Nyumanzi Trading Centre2, and Dzaipi Trading Centre.                                                                                                                                                                                                                                            |
| 3.  | Hoima           | Kyankwanzi | Rwengaju Trading Centre, Gala Trading Centre, Lusozi Trading Center, Wattuba Trading Centre, Kyenda Trading Centre, Kiryanongo Trading Center, Kigando Trading Centre, Kiyuni Trading Centre and Ntwetwe Sub-County HQs.                                                                                                                                                                                                                      |
| 4.  | Jinja           | Butebo     | Ogwero, Bukatikoko, Buseta, Paraka, Raraka, Tikisoga, Komolo, Katubai, Kinakumi, Kateki, Kachuru, Bulyambwa, Katoboi, Kabwangasi, Bukomolo, Puti, Nabitende, Busobya Muganzi, Bulampiti, Nabiku, Mbula, Buloki, Nyedera, Kalalaka, Kachocha, Katakwi A, Bulyawita, Nakabbale I, Kochomo, Busekero, Kavule, Petete Sub-County headquarters, Kosinghe, Kodiri, Bulalaka, Sidanyi B, Namade, Kachabali, Buryeta, Nalyete, Buyeda B and Bumesula. |

| S/N | REGIONAL OFFICE | DISTRICT | TRADING CENTRES COVERED DURING ROADSHOWS                                                                                                                                                                                                                                                                                      |
|-----|-----------------|----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 5.  | Mbarara         | Ibanda   | Omubwerere Trading Centre, Mabonwa Trading Centre, Omukakoma Trading Centre, Kanyansekko Trading Centre, Nyabuhikye Trading Centre, Kashozi Trading Centre, Kijungu Trading Centre, Kanyarugiri Trading Centre, Rushango Trading Centre, Nyamareebe Trading Centre, Kyengando Trading Centre, and Rwengorogoro Trading Centre |
| 6.  | Soroti          | Katakwi  | Ongongoja, Odoot Centre, Omodo Trading Centre, Abudi Centre, Agego Trading Centre, Omagor Trading Centre, Amoruongora Centre, Orungo Corner Trading Centre, Ochorimonging Trading Centre, Usuk Town Council, Okuda Trading Centre, and Aketa Trading Centre.                                                                  |

The communities reached during roadshows were sensitised on sexual gender-based violence amidst COVID-19; rights of women; rights of children; child marriage and its implications on a wide range of human rights; rights and responsibilities that must be observed during the elections period; the salient provisions of the Prohibition and Prevention of Torture Act, 2012; right to property (Land laws); the concept of family and inheritance laws and the right to personal liberty. Other areas covered were the mandate of the UHRC and legal marriages in Uganda.

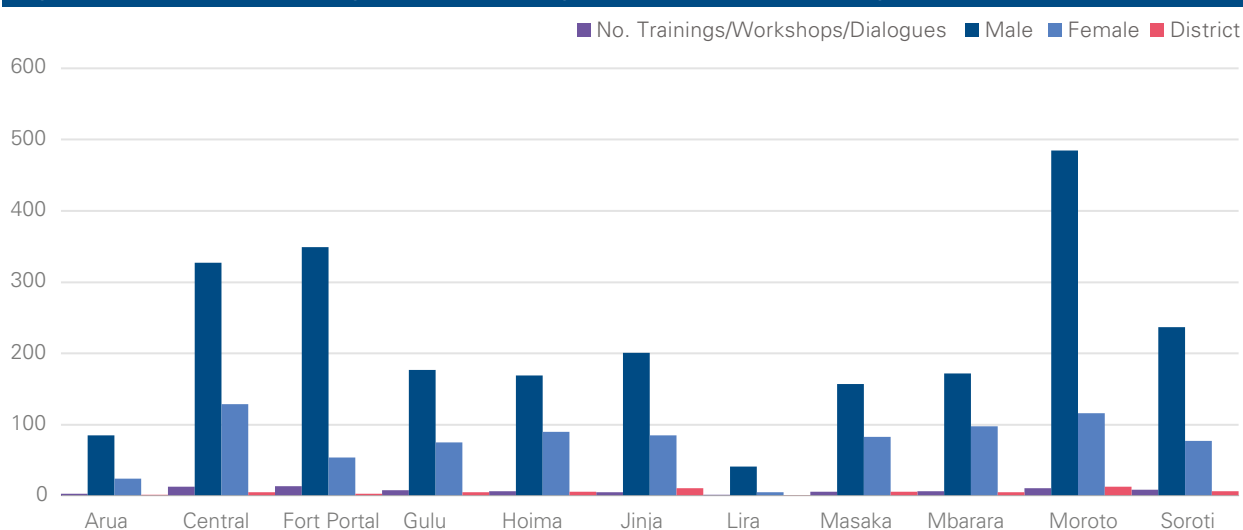


*L-R Community members from Butebo District (L) and Adjumani District (R) actively listening to the presentations made during roadshows at Puti Parish Trading Centre and Dzaipi Trading Centre, respectively.*

### 10.3.4 Training workshops and dialogues

UHRC carried out **85** training workshops and dialogues on specific human rights issues targeting various stakeholders in 64 districts. This was a 240% increase in the number of training workshops and dialogues conducted as compared to 25 in 2020. The interventions targeted various stakeholders who included cultural leaders, security agents, local government officials, the media and MDAs. Through the workshops and dialogues, the Commission reached a total of **3,236** people (**2,400** male and **836** female) which was a 121.19% increase in the number of people reached from 1,463 in 2020.

**Figure 10.8: Number of training workshops, dialogues, and participants per regional office**



The key themes for the workshops and dialogues were the formulation of by-laws against violence against women and gender-based violence, peacebuilding and conflict resolution, the human rights-based approach to development, ethical code of conduct for media practitioners, enhancement of the rights of vulnerable persons, implementation of human rights education activities amidst COVID-19, use of online digital resources in promotion of human rights and content development of the UHRC application.

### 10.3.5 Training for security agents

Article 221 of the Constitution expressly obliges security agencies to respect human rights and freedoms in the performance of their functions. In view of this, UHRC targets security agencies for HRE to empower them to fulfil their constitutional obligation and prevent the occurrence of violations of human rights. The UHRC trained 1,746 security officers from 39 districts during the reporting period, out of which 1,526 were male and 220 female. The participants were drawn from the Uganda Peoples Defence Force/Anti-Stock Theft Unit, Internal Security Organisation, Uganda Police Force and Uganda Prisons Service.



*L-R; UHRC staff and the participants during training sessions for security officers in Kyotera and Arua Districts, respectively*

During the implementation of training for security personnel, UHRC employed various training strategies for reaching out to more personnel. For instance, Fort Portal, Moroto and Central Regional Offices devised strategies like Police Station/Post-to-Police Station/Post and Detach-to-Detach training. This approach was used to empower more security personnel with human rights information using the limited available funds. The approach was beneficial because officers were trained within their various stations.

Key among the themes during the training included the role played by security agencies in ensuring peaceful, free and fair elections, human rights standards, principles and safeguards during arrest and detention, human rights and legitimate use of force and firearms during law enforcement, the Human Rights Enforcement Act and the Prevention and Prohibition of Torture Act (PPTA). The issues that emerged across the regions rotated around the need to continually sensitise security personnel to enhance mindset change, especially in more junior officers. A concern was raised about many security personnel being ignorant of the new human rights laws such as the PPTA and the Human Rights (Enforcement) Act, 2019; concerns about the rampant killing and harming of security personnel, especially in the Karamoja region; the increased practise of re-arresting persons released by courts of law within the precincts of courts mostly in Kampala; increased cases of enforced disappearances; the need to increase on budgetary allocations to Police and prisons, especially fuel for transporting suspects and convicts; and the need to improve the welfare of security personnel, especially Police officers, to reduce incidences of corruption.

There was also a growing concern about the need to investigate the operation of the Uganda Police Force Exodus SACCO. It is alleged there are a lot of irregularities which need to be streamlined, including unaccounted for deductions and failure to access members' savings on time and alleged mismanagement of the SACCO, among others.

### 10.3.6 Training of cultural and opinion leaders

In 2021, the UHRC trained **90** cultural and opinion leaders (**70 male and 20 female**) from the Bundibugyo, Kasese and Kabale districts. This was because of the important role that cultural leaders play in society in enhancing the promotion of human rights. The Commission targeted the cultural leaders to empower them as change agents to address religious, cultural-context-specific issues, beliefs, and cultural norms that likely impede respect for human rights.

During the training, a number of issues emerged that included the increase in early and forced marriages; widow inheritance and treatment of widows as property; and continued rape of the Batwa minority women (based on a myth that the

act cures backache for the non-Batwa men). Some of the cultural leaders decried inadequate information dissemination by the government, which they noted as one of the key causes of conflicts in Kasese District.

There was a quest by opinion and cultural leaders for human rights desks to be formed in hard-to-reach districts to cater for access to legal services of the minority communities like the Batwa community. The leaders made commitments to uphold the respect for human rights and also committed to encouraging their folks to be ambassadors of the human rights cause.



*Participants listening attentively during a training workshop for security agencies at Senevin gardens and Hotel in Sheema District*



*The Ag. Regional Human Rights Officer, UHRC Mbarara Regional Office Ms Gumoshabe Caroline making a presentation to cultural and opinion leaders during a workshop on culture and human rights in Kabale District.*

### 10.3.7 Training of district local government political leaders and technical staff

In 2021, UHRC trained district local government political and technical officials, including health officers and local council leaders. A total number of 422 participants (**303 male, 199 female**) were targeted drawn from the districts of Mityana, Kayunga, Mpigi, Luweero, Bulambuli, Bududa, Namisindwa, Amolatar, Tororo, Kitgum, Nakapiripirit, Nabilatuk, Kaabong, and Karenga. The training focused on the development of human rights-based ordinances to eliminate violence against women and girls, assessment of the district response to COVID-19 concerning respect for human rights, the role of local leaders in complaint-handling, and the human rights-based approach to development and planning.

Key among the issues that emerged during the various engagements were not limited to the high levels of child neglect, especially in districts like Bulambuli and Namisindwa; increased alcoholism among both men and women, especially in the Lango and Acholi Sub-Regions which was said to be the biggest trigger of domestic violence; and the challenges of internally displaced people (IDPs) returning to Bududa District from Kiryandongo and Bulambuli resettlement camps. The returnee IDPs decried the inadequate social service in the various camps; for example, the IDPs of Kiryandongo Refugee Settlement Camp alleged difficulty accessing water and unsuitable conditions for farming in Kiryandongo, as a major push factor for IDPs returning to their homeland. It was alleged that, while refugees in Kiryandongo refugee settlement are given due consideration, little attention is given to the local citizens of Uganda (IDPs) who were in the same camps. This sometimes causes friction between the refugees, IDPs and the host communities.

### 10.3.8 Training of media practitioners

Through its various Regional Offices, the Commission organised training for media practitioners in commemoration of the World Press Freedom day, where a total of **384** participants were trained (**283 male and 101 female**). The training took place in the districts of Sheema, Lira, Kasese, Kampala, Arua, Terego, Maracha, Madi Okollo, Koboko, Yumbe, Moyo, Nebbi, Zombo, Pakwach, Kumi, Tororo, Busia, Iganga, Jinja, Luuka, Bugiri, Budaka, Kamuli and Hoima. Participants comprised media personalities drawn from various media houses (both electronic and print) from Daily Monitor publications, New Vision, Bukedde TV, CBS Radio, NBS TV, UBC TV, BBS, Voice of Teso, Uganda Radio Network, Liberty Radio Hoima, Busoga One FM, the Observer, Etop Radio, TV West, Pearl FM, UBC, Capital FM, Rupiny, Ateker FM- Moroto, Sanyu FM, CBS FM, KFM/Dembe FM, Radio One, Radio Two, Sanyu FM, Capital Radio, Radio Simba, Urban TV, NTV and Kyoga Verita, Uganda.

The training centred on the concept of human rights, human rights-based approaches to journalism, the role of stakeholders in human rights enforcement and the media's role in the observance of human rights. The Human Rights Enforcement Act, 2019 and the importance of safeguarding human rights through the journalism code of ethics were also discussed.



*UHRC staff pose for a group photo during the training of media personnel at Desert Breeze Hotel, Arua City*



*Participants during the training of journalists at North East Villa, Kumi District*

Through the media training, UHRC strengthened its partnership with the media practitioners to promote and protect human rights and empowered them with knowledge of human rights.

The media personalities raised pertinent concerns about increased plagiarism and theft of stories through electronic media, which results in misinformation. They underscored the high-handedness of security agents and brutality meted out on journalists, especially during the 2021 general elections; noted the need to increase voter education to foster awareness among the masses; and the need to conduct a post-election evaluation concerning the observance of human rights. The media personalities called on UHRC to conduct joint dialogues between the media fraternity and security agencies, especially in the West Nile Region. There is also a need for regular updates to media personalities on the progress of human rights in the country so they can act as ambassadors in spreading human rights information.

### 10.3.9 Dialogues for vulnerable persons

UHRC organised a national E-dialogue broadcast live on NTV Uganda and streamed live on various social media platforms like Facebook, Twitter, and YouTube under the theme, “Enhancing the protection and promotion of rights of vulnerable persons: The role of duty bearers.” The E-dialogue was informed by the emerging issues from the regional dialogues targeting vulnerable persons and duty bearers conducted across the country by the UHRC Regional Offices. A total of **50,097** people were reached on Facebook, **59,797** people were reached on Twitter and **12,397** through YouTube under the link <http://youtube.be/jUWF4zgKvtY>. Panellists were drawn from the Ministry of Gender, Labor and Social Development, Parliament of the Republic of Uganda, The Uganda Human Rights Commission, and the National Network for Older Persons. In addition, the Commission secured a sign language interpreter for those with hearing impairment.

The dialogue aimed at discussing the key issues hindering vulnerable persons from effectively participating in governance. It was also intended to empower duty bearers at all levels to fulfil their obligations towards the observance of the rights of vulnerable persons.



Panellists appearing on NTV Uganda for a live broadcast: From Right Hon. Meddie B. Mulumba, Member of the Commission, Uganda Human Rights Commission, Hon. Laura Kanushu, MP representing PWDs, Mr Orach John, Chairperson, National Network for Older Persons- Uganda and Mr Robert Busika, Moderator, NTV Uganda

During the same period under review, UHRC, through its 11 Regional Offices, conducted regional community dialogues targeting vulnerable persons in 30 **districts**: Nwoya, Pader, Gulu, Kakumiro, Kiryandongo, Kibale, Kiruhura, Ntungamo, Bushenyi, Sembabule, Lyantonde, Lwengo, Kaliro, Butaleja, Napak, Nabilatuk, Nakapiripirit, Soroti City, Bukedea, Terego, Yumbe, Koboko, Luwero, Buikwe and Mpigi to ensure their effective and increased participation in development. A total of **1,796** participants (**1052** male and **744** female) were reached. Out of the 1,796 participants, 359 were persons with disability. Other attendees were women, persons living with HIV/AIDS, the elderly, children and youth, persons living with albinism,

and councillors representing various vulnerable groups at sub-county and district levels. Participants were equipped with knowledge of the concept of human rights, duties and responsibilities of rights holders and duty bearers in the protection and promotion of human rights and the mandate of the UHRC.

Many issues emerged during the national E-dialogue and the regional Community dialogues for vulnerable persons, including the need to target the youth as they are prone to vulnerability. It was also noted that the government's proposal to increase the age of the Social Assistance Grant for Empowerment (SAGE) beneficiaries from 60 years to 80 years was very inhibitive, especially considering the life expectancy in Uganda.

Among the issues noted was the level of ignorance among vulnerable persons to participate in available government development opportunities like Emyooga, Operation Wealth Creation and the Parish Development Model. In all the districts, concerns were raised about the need to ensure buildings are compatible with the needs of vulnerable persons. The participants echoed the need to create an inclusive environment for learners with disabilities instead of creating special schools for persons with disabilities. Sexual gender-based violence was common among persons with disabilities, especially women and children, triggering early and forced marriages. A need was highlighted to focus on new areas of exclusion like limited technological advancement, which leaves some vulnerable persons lagging behind if they cannot access online services.



*UHRC staff and participants pose for a group photo during a dialogue with vulnerable persons at Kigarama Primary School, Kiko Town Council, Kabarole District*

### 10.3.10 Development of the UHRC App

UHRC developed a UHRC app to provide instant human rights education to the public and enable the public to learn about UHRC services and check the progress of their cases (if any) in an easily accessible manner online. The App contains information regarding the mandate of the Uganda Human Rights Commission, an instant response in case a person had anything they needed to know about human rights,

a referral system and toll-free lines and linkages of how best one can lodge a complaint in case of any human rights violation. It improves access to information amidst the restrictions to prevent the spread of the COVID-19 pandemic. It is also a response to a worldwide paradigm shift in information provision, which is no longer manual or lengthy unless otherwise requested.

The UHRC App can be accessed and downloaded on various electronic gadgets like Computers/laptops, smartphones, iPads and tablets to benefit the general public.

**Figure 10.9: Image of UHRC App**



### 10.3.11 Review of the draft National Civic Education Policy, 2015

UHRC, through the Directorate of Research Education and Documentation, organised a two-day engagement attended by **35** participants (**21** male, **14** female) with various stakeholders to review the draft civic education policy. The stakeholders were drawn from the Ministry of Gender, Labour and Social Development, Ministry of Education & Sports, Ministry of Local Government, Office of the President, Ministry of Justice & Constitutional Affairs, Office of the Prime Minister, Electoral Commission, Judicial Service Commission, Inter-Religious Council of Uganda, Uganda Joint Christian Council, Uganda Journalists Association, Uganda National NGO Forum, Ministry of ICT and National Guidance, Police, UPDF, Prisons, ISO, Civic Education Coalition in Uganda (CECU), African Centre for Media Excellence, Uganda Editors Guild, Uganda Media Council and staff from the UHRC.

The non-residential meeting updated the draft Policy earlier made in 2015 to cater to changes in policies and laws that may have since been passed/enacted and other factors like technical, environmental, and advancement in the technology revolution.



*L-R, A photo showing Mr Kamadi Byonabye – Director, Research, Education and Documentation, addressing participants during the meeting to review the Civic Education Policy*

### 10.3.12 Development of UHRC Research Policy

In 2021, UHRC embarked on the process of revitalizing the research function of the Commission, which is in line with its mandate of ensuring a continuing programme of research education and information. The UHRC embarked on formulating a research policy because of the need to streamline the conduct of research and control the quality of data of Commission research specifically to ensure that Commission research is scientifically proven to be recognised globally as one of the most credible sources of human rights information.

### 10.3.13 Media

UHRC is cognizant of the role that the media plays in creating human rights messages. In 2021, UHRC continued to use several media platforms as one way of creating awareness about human rights and creating awareness about the Constitution. The UHRC utilised the media to educate the public on their rights and responsibilities. This was achieved by producing and airing radio spot messages, drama skits, child-friendly human rights drama skits, and radio and television talk shows on various thematic areas concerning the protection and promotion of human rights.

In 2021, the Commission carried out 16 television talk shows, 149 radio talk shows, produced and aired 486 drama skits and sent 4,560 spot messages. This was done by the Head Office and 11 UHRC regional offices in 23 languages.

**Table 10.21: Summary of media programmes conducted by the Commission in 2021**

| S/N | HEAD OFFICE/ REGIONAL OFFICE | TELEVISION TALK SHOWS | RADIO TALK SHOWS | RADIO DRAMA SKITS | SPOT MESSAGES |
|-----|------------------------------|-----------------------|------------------|-------------------|---------------|
| 1.  | Arua                         | 00                    | 04               | 33                | 00            |
| 2.  | Central                      | 00                    | 18               | 20                | 1,071         |
| 3.  | Fort Portal                  | 00                    | 23               | 23                | 725           |
| 4.  | Gulu                         | 00                    | 32               | 00                | 283           |
| 5.  | Head Office                  | 15                    | 17               | 00                | 80            |
| 6.  | Hoima                        | 00                    | 11               | 00                | 1,090         |
| 7.  | Jinja                        | 00                    | 03               | 63                | 145           |
| 8.  | Lira                         | 00                    | 10               | 00                | 81            |
| 9.  | Masaka                       | 00                    | 05               | 00                | 255           |
| 10. | Mbarara                      | 01                    | 04               | 180               | 120           |
| 11. | Moroto                       | 00                    | 05               | 90                | 210           |
| 12. | Soroti                       | 00                    | 17               | 77                | 500           |
|     | TOTAL                        | 16                    | 149              | 486               | 4,560         |

### 10.3.14 Television talk shows

UHRC conducted **16** television talk shows in Luganda, Runyankore and English languages. They were broadcast on six television stations, Buganda Broadcasting Services, Bukedde NBS, NTV, BABA TV and TV West, to create awareness of human rights and enhance the visibility and reach of UHRC. The Television talk shows also catered for an audience that couldn't be reached through the conventional ways of human rights education. The links to the talk shows are as below.

[https://youtu.be/kdak3\\_xfKJO](https://youtu.be/kdak3_xfKJO),  
<https://youtu.be/KfXA0CRRH40>

<https://fb.watch/amyCM5bvEO>  
<https://fb.watch/amyF6QOKmc>



Photo showing R-L; Ms Ida Nakiganda – the UHRC’s Director of Complaints, Investigations and Legal Services and the moderator during the Talk Show on Buganda Broadcasting Services

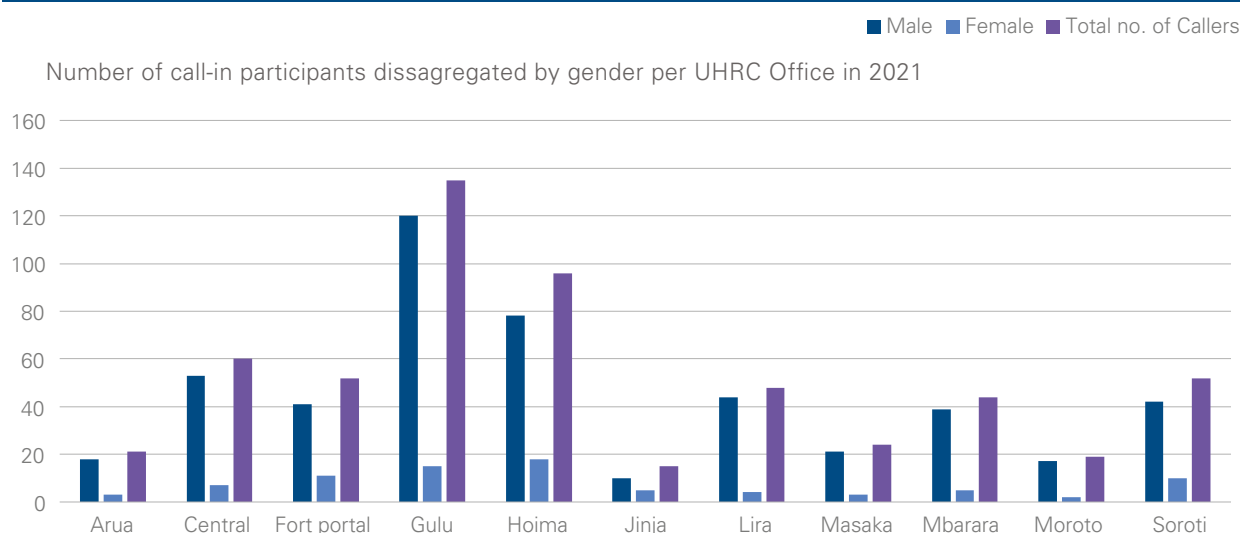


L-R; UHRC Chairperson Hon Mariam Wangadya giving opening remarks and an in-studio panel of discussants during the E-Public Dialogue on International Human Rights Day

### 10.3.15 Radio talk shows

The Commission conducted **149** radio talk shows on **51** radio stations in Uganda. The talk shows were conducted in 24 languages: Runyankore, Rukiga, Acholi, Kupsabiny, English, Lumasaba, Lango, Kumam, Lhukonzo, Lubwisi, Runyoro, Rutooro, Luganda, Lusoga, Lugwere, Ateso, Alur, Rugungu, Kishwahili, Lugbara, Madi, Luo, Leb Tur and Ngakarimojong. A total of **566** callers participated in the talk shows (**483** male and **83** female). There was a decline of 1.225% from 2020 when 573 callers participated.

**Figure 10.10: Number of people calling into radio talk shows by gender**



The Gulu Regional Office had the highest number of call-ins, followed by the Hoima Regional Office. Arua and Jinja Regional Offices registered the lowest number of call-ins. Much as there was a general decline in the number of callers, it is noticeable that the number of female participants remained low even when the show timings were adjusted to address the issues arising from the previous years, in which women were said to be engaged in household chores at the time of the talk shows. This is attributed to the matriarchal nature of women, lack of resources such as radios and low participation of women in decision making and governance issues, especially for grassroots women.

Districts covered by the radio stations used for talk shows were Pader, Agago, Kitgum, Lamwo, Abim, Kotido, Nakapiripirit, Moroto, Lira, Otuke, Adjumani, Gulu, Amuru, Omoro, Nwoya, Nebbi, Kiryandongo, Apac, Oyam, Dokolo, Kole, Kwana, Amolatar, Alebtong, Kasese, Kabarole, Kamwenge, Bushenyi, Rubirizi, Bundibugyo, Ntoroko, Kyegegwa, Jinja, Iganga, Namutumba, Kaliro, Buikwe, Kamuli, Bugweri, Buyende, Luuka, Bugiri, Paliisa, Tororo, Busia, Mbale, Manafwa, Budaka, Masaka, Rakai, Sembabule, Kalangala, Mpigi, Bukomansimbi, Lwengo, Butambala, Wakiso, Kampala, Mukono, Mubende, Luweero, Kayunga, Mbarara, Lyantonde, Kiboga, Nakasongola, Kyotera, Kalungu, Kalangala, Kassanda, Hoima, Masindi, Buliisa, Kibaale, Ntoroko, Kyankwanzi, Mityana, Kabarole, Bunyangabu, Kagadi, Kakumiro, Kikuube, Katakwi, Amuria, Nakasongola and Gomba.



*The HRO-E – Nassolo Samia during a radio talk show at Liberty FM radio in Hoima District*



*L-R UHRC staff during a Radio talk show held at Jambo FM - Kitgum Municipality and on Radio Waa in Lira City,*



The radio stations on which the talk shows were conducted include Radio Pacis, Pakwach FM, Voice of the Nile FM, Radio One, KFM, CBS FM, Galaxy FM, Next Radio, Seke FM, Namirembe FM, Sauti FM, Radio Buwama, Mboona FM, Kyegegwa Community Radio, Rwenzori Radio FM, 100.5 FM, Guide Radio Station Kasese, UBC Voice of Bundibugyo, Development FM, Clouds FM, Radio Wa 89.9 FM, Radio Rupiny 95.7 FM, Aulogo 107.8 FM, Jambo FM, Luo 92.4FM, Liberty FM, Spice FM, Kibaale Community Radio (KKCR), Emambya FM, Radio Kitara, Busoga One FM, Kamuli Broadcasting Services (KBS) FM, Bugwere FM, Buddu Broadcasting Services Ltd, Mbabule FM, UBC West Radio, Kazo FM Radio, Rubirizi FM Radio, Heritage F.M 92.2, Akica FM, Karibu FM, Etoil Akaramoja, Etop Radio, Open Gate FM, Hot FM, Kyoga Veritas, Dembe FM, Elgon FM, Akaboozi II, Mega FM, Ateker 88.7 FM, and Totole FM.

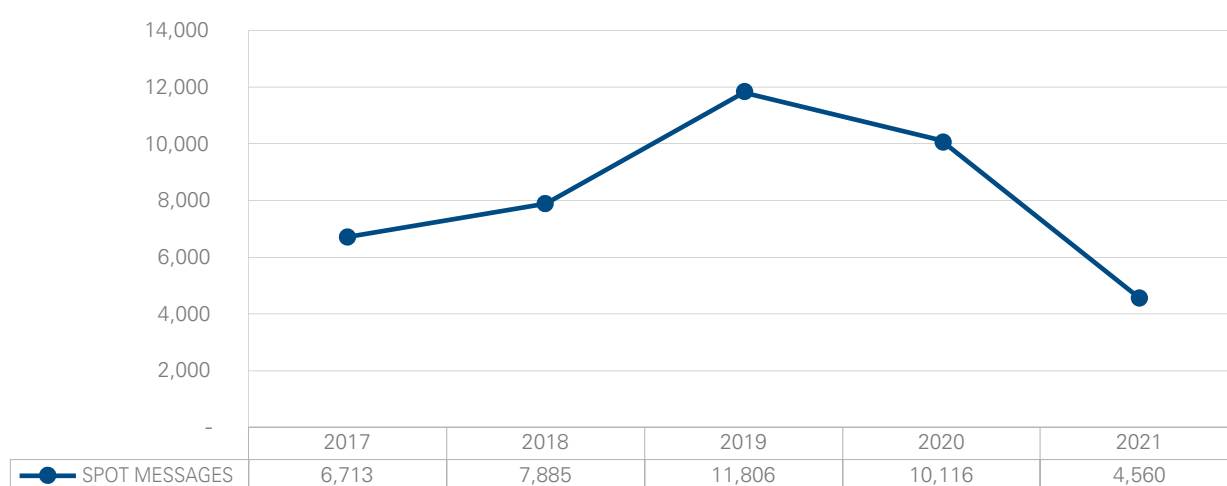
The issues discussed during the talk shows were in part cross-cutting, and some were peculiar to specific regions of Uganda. The cross-cutting issues included understanding the concept of human rights; the

Public Order Management Act (POMA) and the Prevention and Prohibition of Torture Act (PPTA); the rights of vulnerable persons; salient provisions of the Constitution of Uganda, and other laws with critical human rights implications such as the right to health services, child labour, early and forced marriages among others.

### 10.3.16 Radio spot messages

The Commission aired out a total of **4,560** spot messages in various local languages, including Swahili, Lhukonzo, Acholi, Langi, Lubwisi, Rutooro, Runyankore, Rukiga, Kupsabiny, Lugwere, Lusoga, Ateso, and Rugungu, among others. There was a 61.375% decline in the number of spot messages aired compared to 10,116 spot messages in 2020. This is attributed to budget cuts by the government due to the COVID-19 pandemic.

**Figure 10.11: Spot messages aired on radio from 2017-2021**



### 10.3.17 Radio drama skits

The Commission developed and aired **486** drama skits on **39** radio stations across the country. This enabled listeners to follow key human rights messages in an entertaining way. The nature of the skits created in the listeners a desire to follow the next episodes. This provided a platform for citizens to better understand the concept of human rights, duties and responsibilities. Some of the topics developed included Implications of the COVID-19 pandemic on the rights of vulnerable persons, human rights and elections, protection of PWDs in the COVID-19 responses, domestic violence, freedom from torture, cruel, inhuman, degrading treatment or punishment and child rights with special emphasis on prevention of early marriage, child labour, domestic violence and redress mechanisms among others.

### 10.3.18 Press briefings

UHRC convened press briefings to pronounce itself and provide guidance on emerging issues and incidents that had an impact on the enjoyment of human rights in the country. The 2021 press briefings focused on themes that included highlights of UHRC preliminary findings during the General Election observation exercise and recommendations to the relevant stakeholders for future improvements; Joint statement by UHRC with partners to launch joint activities to commemorate the World Press Freedom Day under the theme “Information as a Public Good”; UHRC statement on emerging human rights concerns arising from the second lockdown including low access to justice; allegations of human rights violations during enforcement of SOPs; high cost of COVID-19 treatment; high incidence of gender-based domestic violence; and working conditions of frontline health workers; UHRC statement on emerging human rights concerns following the partial easing of the 42-day national lockdown announced on Friday 30 July 2021; on obser-

vance of SOPs by the public; slow uptake of the COVID-19 vaccine by the public; Joint statement by UHRC with other key partners to launch activities to commemorate the International Human Rights Day under the theme “Rebuilding Better; Resilient Institutions Key to COVID-19 Recovery;” with members of the Coalition Against Torture (CAT), to flag off activities to commemorate the UN International Day in Support of Victims of Torture under the theme “Support Torture Survivors to Report and Access Justice;” and to condemn the violent acts and the subsequent human rights violations arising from the twin bombing incident that occurred in Kampala on 16<sup>th</sup> November 2021. In light of the incidents that raised issues of human rights concern, the press briefings highlighted human rights standards that Uganda has an obligation to respect, protect and fulfil. The briefings also emphasised the duties and responsibilities of citizens.

### 10.3.19 Newspaper supplements and advertorials published in 2021

UHRC ran four newspaper supplements and advertorials on specific human rights themes. They were published in English in Daily Monitor, New Vision and Liberation Magazine on NRM's 35<sup>th</sup> Anniversary. Through these, readers gained knowledge on human rights issues. The public was informed of UHRC's findings and recommendations for better election processes; duty bearers were reminded of their obligation to always respect, protect and fulfil human rights for all, even during the COVID-19 recovery period; and the public was informed about the contribution of the UHRC to the human rights agenda in the 35 years of the NRM Government.

### 10.3.20 Human rights awareness through information, education and communication (IEC) materials

In 2021, UHRC used information, education and communication (IEC) materials to strengthen and enhance its human rights education and awareness campaign. In this regard, UHRC re-printed and distributed 14,900 simplified pocket handbooks on the UHRC complaints procedure in three languages: Luganda (7,100); Luo (3,900); and Runyankore/Rukiga (3,900); reprinted and distributed 50,000 brochures in English on two broad themes, Rights of Detainees (25,000) and Rights of Older Persons (25,000); printed and distributed 10,724 institutional brochures in Luganda on two broad themes, Rights of Persons With Disabilities (5,362) and General Information on UHRC (5,362); printed 700 branded T-shirts with human rights thematic messages and distributed them among stakeholders during the commemoration of international human rights days; and produced 12 thematic branded banners with human rights thematic messages and displayed them during the commemoration of international human rights days.

### 10.3.21 Production and airing of child-friendly human rights drama skits

The UHRC developed child-friendly drama skits translated into several local languages, including Akarimojong, Lusoga, Rukonzo, Lugwere, Lugisu, Langi, Acholi, Runyankole, Ateso, Kugbara, Alur, Lutooro, Runyakole. The skits covered various thematic areas like early and forced marriages, child labour, non-discrimination against children, duties and responsibilities and violence against children. The end product will no doubt create awareness about human rights across the young generation in a simplified way and in languages more understandable to them to act as change agents and ambassadors for human rights at a tender age.

### 10.3.22 Library and Documentation Centre (LDC)

UHRC fulfils its obligation of creating awareness about human rights and civic responsibilities to the citizens of Uganda partly through the library and documentation centres. In addition to the Library and Documentation Center located at the Head Office, each regional office has a library offering free services to the staff and the public. It is important to note, however, that in 2021 due to the COVID-19 restrictions on access to public offices as a measure to curb the spread of the deadly coronavirus, there was limited access to UHRC libraries. Therefore, users were limited to online access of UHRC resources.

To further ensure ease of access to UHRC services by the public, the Commission embarked on automation of its resources and provided online resources subscriptions in addition to its physical collection. The UHRC subscribed to online information resources to enhance the availability of current laws and peer-reviewed information resources like articles, E-books, and journals that facilitate the promotion and protection of human rights and information on other subject areas. Through the online subscriptions, the Commission eased access to information resources for staff and the public, which was achieved through partnership with the Consortium of Uganda University Libraries (CUUL).

To improve the information provision and dissemination functions, UHRC also embarked on automating the library function by introducing software that promotes easy access and retrieval of information (KOHA) hence saving the users' time. For instance, Masaka, Gulu, Arua and Hoima Regional Offices embarked on the automation processes.

During the period under review, the Commission also embarked on automation of documentation Processes that entailed creating a repository for all UHRC publications to preserve and make them easily accessible to both the staff and public, which no doubt is geared at promoting the right to information and fostering the mandate of UHRC of ensuring that a continuing programme of research, education and information is enhanced. It's important to note that the UHRC procured a set of the Principle Laws of Uganda for the Lira Regional Office, one of the newly opened offices, to enhance the execution of their duties in the protection and promotion of human rights.

**Table 10.22: Acquisitions by the Library and Documentation Centre in 2021**

| S/N | NATURE OF MATERIAL    | TITLE                                 | TOTAL NUMBER |
|-----|-----------------------|---------------------------------------|--------------|
| 1.  | Textbooks             | Human rights and other related topics | 100          |
| 2.  | Journals              |                                       |              |
|     | Laws                  | Principal laws                        | 13 volumes   |
| 3.  | Library backup drives |                                       | 1            |



*Ms Betty B. Amyony - Senior Librarian and Ms Rachel Naigaga – HRO/Librarian, take part in the library automation process at Gulu Regional Office*

### 10.3.23 Commemoration of international and national human rights days, 2021

UHRC, as the National Human Rights Institution (NHRI), annually coordinates partner organisations to jointly carry out commemoration activities based on agreed human rights themes to mark selected international human rights days. In 2021, UHRC and partners jointly commemorated three such days, namely the World Press Freedom Day on May 3, the UN Day In Support of Victims of Torture on June 26 and the

International Human Rights Day on December 10. It also marked Constitution Day with an E-dialogue focusing on education and the reopening of schools. Commemoration events are jointly carried out in order to leverage the synergies of the different organisations to protect and promote human rights in Uganda. In 2021, the partners were largely Government MDAs, members of the media, CSOs, international agencies, human rights defenders and torture survivors.

### 10.3.24 International Human Rights Day (10 December)

UHRC spearheaded the national commemoration of the International Human Rights Day, which falls every December 10 to mark the adoption of the Universal Declaration of Human Rights (UDHR) 76 years ago. It partnered with other key stakeholders in the human rights field, including the UN Office of the High Commissioner for Human Rights in Uganda; the media; CSOs, namely the African Centre for Treatment and Rehabilitation of Torture Victims (ACTV), Refugee Law Project; Barefoot Law and Justice Behind Bars. The Day was held under the theme: “Rebuilding Better; Resilient Institutions Key to COVID-19 Recovery.” As supported by the Germany Agency for International Cooperation (GIZ), activities included the following.

#### a) A joint press conference

This was held on Monday, December 6 2021, at the UHRC headquarters in Kampala, where the newly appointed UHRC Chairperson, Ms Mariam Wangadya, issued the statement in the presence of the heads of partner organisations and Members of the Commission. The press conference was intended to increase awareness about the Day and mobilise partners and the general public to take part in the commemoration activities either physically or virtually. The joint statement underscored that the commemoration this year came at a time when Uganda was due for the Universal Periodic Review (UPR) in Geneva, Switzerland, in January 2022.

#### b) A joint multi-media campaign

This was an overlapping activity that ran throughout the commemoration week and involved social media platforms, including Facebook, Twitter, Instagram, Whatsapp and YouTube, and other online platforms like the official websites. The hashtag #HumanRightsDayUG21 was used to popularise the day and spread the thematic messages as widely as possible. A total of **15** digital banners with messages based on the day’s theme were developed. The media campaign also entailed traditional media, which included publishing **04** pages of joint advertorials in both the New Vision and Daily Monitor newspapers on the day; **02** television morning talk shows; and **08** radio talk shows in various languages.

#### c) Main commemoration event

The main commemoration event of International Human Rights Day was the live televised public dialogue broadcast on Friday, December 10 2021, by NTV television. Opening remarks were virtually delivered by the UHRC Chairperson, Hon. Mariam Wangadya; Mr Robert Kotchani, the Country Representative of UN Human Rights, Uganda, who also delivered remarks of the UN Resident Coordinator Ms Susan Ngongi Namondo; and the Germany Ambassador to Uganda, H.E Mathias Schauer, who spoke on behalf of development partners.

The televised public dialogue on NTV hosted a six-man panel of prominent individuals from key institutions to discuss the day’s theme, “Rebuilding Better; Resilient Institutions Key to COVID-19 Recovery,” from their organisation’s perspective. The panel discussion was composed of the judiciary, represented by Justice Musa Sekana, who stood in for the Principal Judge; Parliament, represented by the Chairperson Human Rights Committee, Hon. Fox Odoi Oywelowo; and Ministry of Health represented by Permanent Secretary Dr Diana Atwine. Other panellists were the UPDF Director of Human Rights, Col. Deo Byate Karikona, who represented the security agencies; Mr Herbert Nsubuga, the Chief Executive Officer, African Centre for Treatment and Rehabilitation of Torture Victims (ACTV), who represented civil society organisations; and Commissioner Meddie B. Mulumba from the Uganda Human Rights Commission.

As the country grappled with the challenges of the COVID-19 pandemic, the event offered a platform for key stakeholders to share their achievements, challenges and strategies on how to improve the realisation of human rights in their respective institutions during the current COVID-19 recovery period; reflect on the human rights that have been most affected during the COVID-19 pandemic; and provide synergies to demand accountability, intervention and improvement from duty bearers. The commemoration also aimed at empowering the general public to know their rights, duties and responsibilities through awareness creation and to enhance the advocacy for mass vaccination against the coronavirus.

The main event was also streamed live on all NTV social media platforms, which included Facebook, Twitter and YouTube. NTV posted a total of **28** live posts on Facebook and Twitter (14 posts on Facebook and 14 on Twitter) on different human rights thematic areas discussed in the dialogue. The Facebook posts reached an audience of **44,273** people with **326** likes and **442** engagements, making an average of **3,162** people reached per post. The posts on the Twitter platform reached **57,825** impressions with **402** likes and **1,119** engagements, making an average of **4,130** people reached per post. The live public dialogue was also uploaded on the NTV 24-hour YouTube live stream which is also embedded in its official website. The social media audience reached by the NTV live stream for the main event was majorly from **Uganda**, followed by countries in the Middle East.

### 10.3.25 Virtual dialogue in commemoration of Constitution Day, 2021

Cognizant of the government's plan to re-open schools, the UHRC conducted an e-Dialogue under the theme: "Enhancing the right to education in the COVID-19 pandemic", broadcast live on NBS television. It attracted **4,919 viewers on television** (live virtual broadcast and social media platforms), while **993,728** followed the UHRC hashtag (#Consitutionday21) and had positive sentiments about the event.<sup>413</sup>

The discussants were purposively selected from the Ministry of Education and Sports, Uganda National Teachers' Union, Uganda National Students' Association, Raising Voices, Federation of Non-State Education Institutions, National Association of Private Schools and Institutions, children chosen from the UHRC regions and parent representatives. The objectives of the virtual dialogue were to highlight stakeholders' experiences in the enjoyment of the right to education during the COVID-19 pandemic and discuss the salient human rights issues regarding the enjoyment of the right to education during the pandemic. The link to the virtual dialogues is provided below:

[https://www.youtube.com/watch?v=ebfB4Xo\\_HLU](https://www.youtube.com/watch?v=ebfB4Xo_HLU)



*A snapshot of the events during the E-dialogue on NBS Television, including the YouTube link that shows the proceedings of the Constitution day, 2021 dialogue*

413 NBS-Activity media report the UHRC.

According to the NBS show report, the biggest audience was men aged between 25 and 35 years old (the total breakdown being 78% male and 22% female). During the dialogue, issues discussed included concerns related to the prolonged closure of schools which had resulted in increased rates of teenage pregnancies; child labour; domestic violence; and early and forced marriages, which all lead to high rates of school drop-outs.

The Ministry of Health was encouraged to focus on mental health issues that gravely affected both parents and children and consider having counsellors in schools ahead of the reopening of schools. It was noted that there are negligent parents who were not good role models for their own children. Finally, the panel agreed that because private schools struggled to pay salaries because of the impact of COVID-19, the likelihood was high that some teachers would not return to work due to having been involved in better-paying ventures during the total lockdown. The need was also noted for the Ministry of Health in conjunction with the Ministry of Education and Sports to expedite the vaccination process of all teachers so that it is safe for children to return to school and ensure that the SOPs are adhered to upon the opening of schools. Generally, more concerted efforts are needed to target the young generation and encourage them to return to school.

## **10 World Press Freedom Day (3 May)**

UHRC worked with partners including the UN Office of the High Commissioner for Human Rights (UNHCHR), GIZ, UJA, UPPA, African Centre for Treatment and Rehabilitation of Torture Victims (ACTV), HRC-U and United Nations Educational, Scientific and Cultural Organization (UNESCO), Uganda to carry out joint commemoration activities to mark the World Press Freedom Day which falls on 3 May. The day was commemorated under the theme “Information as Public Good,” with activities which included a joint press conference held on Thursday, 29 April 2021, at UHRC Headquarters and a joint media advocacy campaign mainly using digital platforms for UHRC and partners using the hashtags: #World Press Freedom Day and #World PressFreedomDayUg. The conventional online media channels such as radios and television were also used to disseminate messages on the commemoration event to various audiences.

The main event was a televised integrated cross-generational public dialogue held at the ICT Hub Auditorium, Nakawa, Kampala, broadcast on NTV on Monday, 3 May 2021. The function was attended by **117** participants (91 male and 26 female) who mainly comprised journalists. Other participants were representatives of security agencies, MDAs, CSOs, and development partners. Five panellists drawn from UHRC, Ministry of ICT and National Guidance, UJA, Media Challenge Initiatives and Uganda Media Sector Working Group (UMSWG) discussed selected topics based on the theme at the Public Dialogue, which was geared at creating awareness and advocating for the right to information.

## **11 UN-International Day in Support of Victims of Torture (26 June)**

The UN Day in Support of Victims of Torture on June 26, 2021, was commemorative during the second lockdown due to the global COVID-19 pandemic. Therefore, UHRC and partners from ACTV, Penal Reform International (PRI), CCEDU, HRC-Uganda, Refugee Law Project (RLP), Office of the UN High Commissioner for Human Rights (OHCHR) and others carried out only virtual commemoration activities. The joint commemoration activities were implemented under the theme: “Support Torture Survivors to Report and Access Justice” and included the following:

- A joint press statement advocating for interventions to fight acts of torture, punish the perpetrators and ensure access to justice by torture survivors was issued and distributed via email to newsrooms of various media houses. The joint press release was also uploaded on the official UHRC social media platforms and those of partner organisations to ensure its wide circulation.
- A multimedia advocacy campaign was carried out using conventional, online and digital media platforms. The social media campaign used **15** digital banners and **02** promo video clips on anti-torture messages and advocacy for the need to support torture survivors to report and access justice. These were uploaded on websites, Facebook, Twitter, Instagram, and WhatsApp. The joint hashtags

#Justice4TortureSurvivors/#UGHumanRights were used to drum up the online anti-torture advocacy campaign and were shared by UHRC and its partners. The conventional media platforms used to raise public awareness about the day included live **06** radio and **02** television talk shows; **80** radio spot messages in English and Luganda; and **03** television promos/infomercials. Additionally, there were 15-minute television documentaries aired on NBS, NTV and UBC on the services offered to torture survivors.

- The main event was an e-Dialogue broadcast live on NBS on Saturday, June 26 2021, under the theme “Support Torture Survivors to Report and Access Justice.” Four panellists from UHRC, Uganda Police Force, Director of Public Prosecutions and a torture survivor discussed topics related to the day’s theme. Others participated online via zoom. The dialogue was officially opened by the Acting Chairperson of UHRC, Dr Katebalirwe Amooti, and the UN OHCHR Country Representative, Mr Robert Kotchani, gave an address via zoom. The event was streamed live by NBS television on its various social media platforms and social media stream reached **7,123** people. The social media live stream also had **2,427** unique viewers with the majority of audience being men between 25-34 years who were from Kampala and Dubai. The NBS engagement was followed by 73.4 thousand people on social media and was largely received positively. The additional live social media services offered by a hired consultant for the main event used three channels namely Twitter, YouTube and Facebook and created and published a total of 279 pieces of content on social media using the two hash tags #Justice4TortureSurvivors/#UGHumanRights. The tweets and retweets using the UHRC official twitter handle and others reached **77.5K** followers, while Facebook reached **24.74K** followers and YouTube had **21** subscribers.

### 10.3.26 Challenges encountered in the provision of civic/human rights education in 2021

- The outbreak of the COVID-19 pandemic and the consequent lockdowns coupled with inadequate funding due to budget cuts by the government limited the UHRC’s engagement with communities all over the country. This also impacted the media engagements due to high charges since they were highly demanded in the period under review.
- The delayed passing of the National Civic Education Policy has continued to negatively affect the delivery of harmonised and coordinated civic education in Uganda.
- Deep-rooted traditional and cultural beliefs, norms and perceptions about gender and age continue to hinder the observance of rights of vulnerable persons, especially women and children, which further affects their participation in human rights and civic education activities.
- High levels of illiteracy among the populace are evident through most participants failing to write their names during the human rights education activities. There is also limited knowledge of E-learning and the use of technology by the public and key stakeholders, which are essential in today’s technological environment. This affected participation in physical and online programmes and access to information resources.

### 10.3.27 Recommendations

1. Through the Ministry of Finance, Planning and Economic Development, the Ugandan Government should adequately fund UHRC civic education to ensure the sustainability of civic education programmes.
2. The Ministry of Justice and Constitutional Affairs should fast track the passing of the National Civic Education Policy, providing a streamlined framework within which civic education is conducted in Uganda.

## 10.4 FINANCE AND ADMINISTRATION IN THE FINANCIAL YEAR 2020/2021

### 10.4.1 Introduction

The Finance and Administration function of the Commission covers the operational and administrative structure supporting the implementation and achievement of the strategic objectives. It highlights matters relating to planning, budgeting, financing of activities, management of human resources, logistics, procurements and disposals, IT systems and public relations., which were vital in the fulfilment of its mandate in the period under review.

### 10.4.2 Funding

Though the Commission activities are reported based on the calendar year, the financial information is based on the financial year 2020/2021 because the funding is provided on this basis.

In the period under review, the total funds available to the Commission were from both Government of Uganda (GOU) and development partners, totalling to UGX 22,496,000,000. Of this, GOU contributed UGX 18,903,000,000 which constitutes 84.02% while development partners contributed UGX 3,593,000,000 amounting to 15.9%. The other donors are the Democratic Governance Facility (DGF), Justice Law and Order Sector (JLOS), United Nations Development Fund (UNDP), German Agency for International Cooperation (GIZ) and Network for African National Human Rights Institutions (NANHRI).

The table below shows the Ugandan Government funding over the last five financial years from 2016/2017 until 2020/2021.

| Table 10.23: GOU funding to the Commission 2016/2017-2020/2021 |                           |                           |                           |                           |                           |
|----------------------------------------------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
| EXPENDITURE ITEM                                               | 2016/17<br>UGX<br>BILLION | 2017/18<br>UGX<br>BILLION | 2018/19<br>UGX<br>BILLION | 2019/20<br>UGX<br>BILLION | 2020/21<br>UGX<br>BILLION |
| Wage                                                           | 5.59                      | 6.595                     | 6.595                     | 6.595                     | 6.595                     |
| Non-wage                                                       | 7.51                      | 12.267                    | 12.267                    | 12.256                    | 12.256                    |
| Capital development                                            | 0.701                     | 0.412                     | 0.412                     | 0.0518                    | 0.0518                    |
| Taxes on machinery                                             | 0                         | 0                         | 0                         | 0                         | 0                         |
| Total funding from GoU                                         | 13.801                    | 19.274                    | 19.274                    | 18.903                    | 18.903                    |

#### Donor funding

The total funding of UGX 3,592,988,041 received from development partners during the FY 2020/2021 comprised the following:

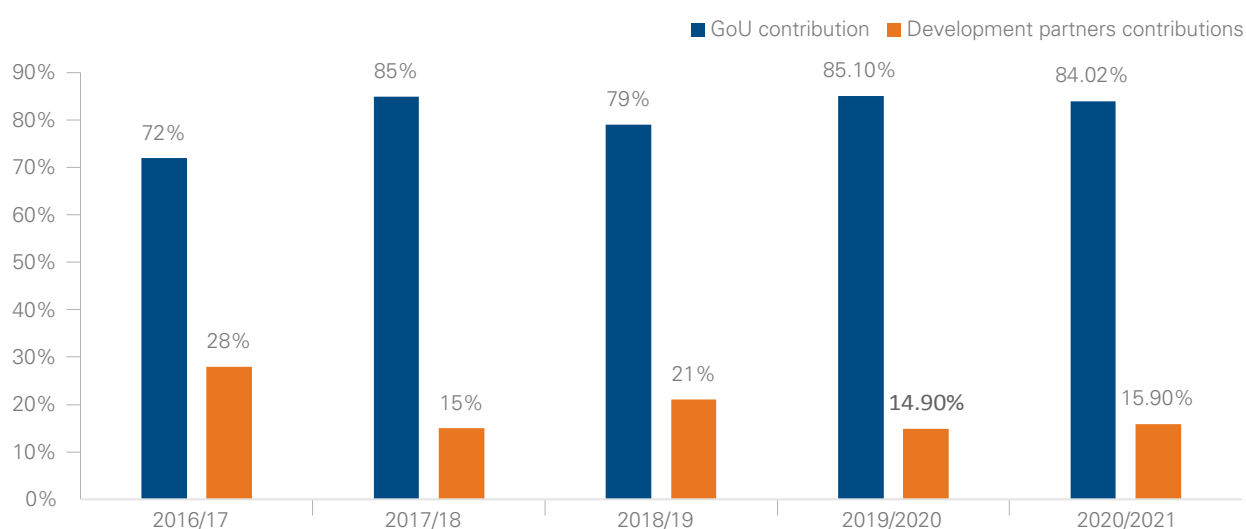
- UGX 1,705,392,000 from DGF
- UGX 850,601,904 from JLOS
- UGX 834,955,387 from GIZ
- UGX 202,038,750 from UNDP
- UGX 9,202,747 from NANHRI.

The development partners mainly funded core activities such as the human rights tribunal, investigations, monitoring and inspections, human rights education and information, education and communication (IEC) materials, as well as staff capacity development, as highlighted in this chapter.

The United Nations Office of Commissioner for Human Rights (OHCHR) directly paid some service providers and implementers, and United Nations Population Fund (UNFPA) also provided equipment and office furniture in kind as UHRC implemented activities.

**Table 10.24: GOU and development partners' funding to the Commission 2016/17-2020/21**

| EXPENDITURE ITEM                                     | 2016/17<br>UGX<br>BILLION | 2017/18<br>UGX<br>BILLION | 2018/19<br>UGX<br>BILLION | 2019/20<br>UGX<br>BILLION | 2020/21<br>UGX<br>BILLION |
|------------------------------------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
| GoU                                                  | 13.801                    | 19.274                    | 19.274                    | 18.903                    | 18.903                    |
| Development partners                                 | 5.433                     | 3.397                     | 5.235                     | 3.263                     | 3.593                     |
| Total funding from both GOU and development partners | 19.234                    | 22.671                    | 24.509                    | 22.166                    | 22.496                    |
| GoU contribution                                     | 72%                       | 85%                       | 79%                       | 85.1%                     | 84.02%                    |
| Development partners contributions                   | 28%                       | 15%                       | 21%                       | 14.9%                     | 15.9%                     |

**Figure 10.12: Funding by GOU and development partners 2016/17-2020/21**

As indicated in the table and figure above, there was no increase in funding under GoU funding from FY2019/20 to FY 2020/2021. However, for development partners, a slight increase of 1% in funding was registered in the same period.

### 10.4.3 Human resource management

#### 10.4.3.1 Appointment to the Commission

At the beginning of the year 2021, the Commission had only four members and was without a Chairperson, which caused a gap in the Commission's functions. However, in September 2021, the Commission became fully constituted with the appointment of the Chairperson and four new members of the Commission who assumed duty in October 2021. One member of the Commission left after being appointed Deputy Inspector General of Government.

#### 10.4.3.2 Staff recruitment and exit

By the end of 2021, the staff number had increased from 169 to 201 after volunteers under the Democratic Governance Facility (DGF) were made substantive staff following the government suspension of the DGF programme. However, key staff positions as approved by the Ministry of Public Service remained vacant in 2021 because the Commission was not fully constituted to undertake recruitments. Out of the 12 positions of the Regional Human Rights Officers on the Commission structure approved by the Ministry of

Public Service, only six were filled, leaving the rest vacant, with staff holding the positions in acting capacities. In 2021, UHRC appointed 33 substantive staff to fill the vacant positions. Other staff were retired or resigned, as illustrated by the table below.

**Table 10.25: Recruitment and exit of staff**

| ACTIVITY                          | TOTAL NUMBER | FEMALE | MALE |
|-----------------------------------|--------------|--------|------|
| Newly appointed Substantive staff | 38           | 21     | 17   |
| Assignment of duties              | 5            | 4      | 1    |
| Resignations (substantive)        | 3            | 0      | 3    |
| Resignations (volunteer)          | 2            | 0      | 2    |
| Retired                           | 2            | 2      | 0    |

**Table 10.26: Human resource staffing levels for the year ending December 2021**

| TITLE                     | APPROVED POSITIONS | CURRENT STAFFING | FEMALE | MALE |
|---------------------------|--------------------|------------------|--------|------|
| Chairperson               | 1                  | 1                | 1      | 0    |
| Members of the Commission | 6                  | 6                | 2      | 4    |
| Substantive staff         | 220                | 201              | 107    | 94   |

### 10.4.3.3 Staff training and capacity building

UHRC staff undertook various programmes to fill capacity gaps, as per the tables below.

**Table 10.27: Training programmes conducted by UHRC for staff in 2021**

| TRAINING PROGRAMME                                                                                                       | NO OF PARTICIPANTS | FEMALE | MALE |
|--------------------------------------------------------------------------------------------------------------------------|--------------------|--------|------|
| Masters (students)                                                                                                       | 3                  | 2      | 1    |
| PGD (students)                                                                                                           | 3                  | 1      | 2    |
| PGD (bar course LDC)                                                                                                     | 3                  | 2      | 1    |
| Diploma in Human Rights                                                                                                  | 4                  | 2      | 2    |
| Professional courses (CPA)                                                                                               | 6                  | 1      | 5    |
| Professional courses (CIPS)                                                                                              | 2                  | 1      | 1    |
| Degrees                                                                                                                  | 2                  | 1      | 1    |
| WORKSHOPS AND RETREATS                                                                                                   | NO OF PARTICIPANTS | FEMALE | MALE |
| Human resource retreat on service delivery standards and proposed amendments on performance management in the Commission | 9                  | 5      | 2    |
| Performance management feedback to staff in all regions and field offices.                                               | 201                | 111    | 80   |
| Human rights-based approach training of trainers (TOT) for human rights officers in the field offices                    | 35                 | 22     | 13   |
| Induction training for rewards and sanctions for Committee members                                                       | 9                  | 6      | 3    |
| UHRC staff capacity building on monitoring places of detention                                                           | 59                 | 32     | 22   |
| Capacity building training on UHRC investigations process UHRC (human rights officers-investigators)                     | 52                 | 30     | 22   |
| Training on use of online digital resources                                                                              | 120                | 75     | 45   |
| Retreat for human rights officers in charge of education at the UHRC                                                     | 35                 | 20     | 15   |

## 10.4.4 UHRC regional coverage

In 2021, UHRC maintained the existing ten regional offices in Gulu, Arua, Moroto, Soroti, Jinja, Central, Masaka, Mbarara, Fort Portal and Hoima, adding the Lira Regional Office to bring the total to 11. UHRC also maintained 11 field offices in Kalangala, Buvuma, Kasese, Bundibugyo, Moyo, Kitgum, Pader, Kotido, Nakapiripirit, Kapchorwa and Kaberamaido. The UHRC regional offices and field offices implement the planned activities based on the functions performed by the directorates at head office, which are drawn from the constitutional mandate.

**Table 10.28: The regional coverage of the Commission in 2021**

| S/N | REGIONAL OFFICE | FIELD OFFICE              | DISTRICTS COVERED                                                                                                                                                                                      |
|-----|-----------------|---------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.  | Mbarara         |                           | Kisoro, Kanungu , Rukungiri, Rukiga, Kabale, Rubanda, Ntungamo, Rwampara, Mbarara Isingiro, Kiruhura , Kazo, Ibanda, Buhweju, Bushenyi, Mitooma, Rubirizi                                              |
| 2.  | Arua            | Moyo                      | Pakwach, Arua, Koboko, Yumbe, Moyo, Nebbi, Zombo, Obongi, Madi-Okollo, Maracha, Terego, Arua city                                                                                                      |
| 3.  | Fort Portal     | Kasese<br>Bundibugyo      | Kasese, Bunyangabo, Kabalore, Kyenjonjo, Kyegegwa, Kamwenge, Kitagwenda, Ntoroko, Bundibugyo, Fort Portal city                                                                                         |
| 4.  | Central         | Buvuma                    | Buvuma, Buikwe, Mukono, Kayunga, Kampala city (Divisions: Makindye, Lubaga, Central Kawempe, Nakawa), Mpigi, Gomba, Butambala, Wakiso, Mityana Mubende, Kasanda, Kiboga, Nakaseke, Luwero, Nakasongola |
| 5.  | Gulu            | Pader<br>Kitgum           | Nwoya, Amuru, Gulu, Kitgum, Lamwo, Pader, Adago, Adjuman, Gulu city                                                                                                                                    |
| 6.  | Jinja           |                           | Jinja, Kamuli, Buyende, Mayuge, Iganga, Kaliro, Luuka, Namutumba, Namayingo, Bugiri, Bugweri, Busia, Tororo, Palisa, Budaka, Kibuku, Butebo, Butaleja, Jinja city                                      |
| 7.  | Soroti          | Kapchorwa,<br>Kaberamaido | Amolatar, Kaberamaido, Karachi, Serere, Soroti, Amuria, Katakwi, Kaperebyong, Kumi, Ngora, Bukedea, Kween, Bukwo, Kapchorwa, Namisindwa, Manafa, Bududa, Mbale, Sironko, Bulambuli, Soroti city        |
| 8.  | Hoima           |                           | Kagadi, Kibaale, Kakumiro, Hoima, Masindi, Kiryandongo, Bulisa, Kyankwanzi, Kikuube, Hoima city                                                                                                        |
| 9.  | Masaka          | Kalangala                 | Kalangala, Kyotera, Masaka, Rakai, Lwengo, Bukomansimbi, Kalungu, Sembabule, Lyantonde                                                                                                                 |
| 10. | Moroto          | Kotido<br>Nakapiripirit   | Nakapiripirit, Nabilatuk, Amudat, Moroto, Napak, Kotido, Kabong, Abim, Kalenga                                                                                                                         |
| 11  | Lira            |                           | Oyam, Kole, Lira, Alebtong, Apac, Kwanja, Dokolo, Otuke                                                                                                                                                |

### Opening of the Lira and Kabale Regional Offices

UHRC established two additional regional offices in Lira and Kabale to enhance service delivery. Lira Regional Office opened in September 2021, while Kabale was preparing to start operations in January 2022. However, the Lira Office is not yet fully constituted/operational due to limited funding from GOU.

### Construction of regional office premises

UHRC acquired a plot of land in Soroti city to construct office premises through the city councils. UHRC also owns three plots of land (Plots 20/22/24) on Buganda Road Kampala, which are for its Head Offices. UHRC needs funding to develop the four plots for sustainability purposes and as a long-term cost-saving measure, as having its own office premises will ultimately save UHRC the recurrent high rental costs.

## 10.4.5 Planning and budgeting

The Policy and Planning Unit (PPU) coordinates processes to ensure that all plans, programmes and policies are aligned to the national planning and policy frameworks. The PPU also monitors and evaluates the implementation of UHRC policies, plans, programmes and projects.

### 10.4.5.1 Preparation of the Budget Framework Paper (BFP) for the FY 2021/22

The PPU conducted three consultative meetings with management and staff to initiate the budget cycle for the financial year 2021/22. As a result, the Budget Framework Paper was prepared, approved, submitted to the Ministry of Finance Planning and Economic Development and then presented to Parliament in line with the first and final budget call circular.

### 10.4.5.2 Preparation of quarterly performance reports

UHRC prepared and submitted all quarterly performance reports showing the progress of budget performance and program implementation for the period under review. This was done amidst the COVID-19 pandemic in a situation where most staff of the Commission were not accessing offices for work.

### 10.4.5.3 Preparation of the UHRC Strategic Plan for 2020/21-2024/25

The UHRC Strategic Plan for the period 2015/16-2019/20 expired on 30 June 2020 like all other government institution plans which were aligned to the second National Development Plan (NDP II). UHRC embarked on a process of formulating a new Strategic Plan for the period 2020/21-2024/25 which was finalised and assented to by the Commission. The Strategic Plan was submitted to the National Planning Authority (NPA) for review. Subsequently, the UHRC Strategic Plan was found to have complied with the National Planning Authority Act, 2002, the National Planning Authority (Development Plans) Regulation, 2018 as well as the National Development Plan and guidelines issued by the Authority. A Certificate of Compliance was accordingly issued.

### 10.4.5.4 Monitoring and evaluation field exercises

UHRC conducted a monitoring and evaluation exercise to assess the impact of GIZ funded activities in six regional offices of Moroto, Gulu, Soroti, Central, Fort Portal and Hoima. The preliminary findings showed that 70% of the population sampled understood human rights, the mandate of UHRC and know their roles as citizens. However, there was a concern raised by respondents regarding the delay in disposing off their cases at the tribunal.

Under GOU funding, UHRC also conducted a monitoring and evaluation exercise in field offices of Kaberamaido, Kapchorwa, Lira, Kitgum, Pader, Nakapiripirit, Kotido, Kalangala, Kasese, Bundibugyo and Moyo. Results showed that 61% of the respondents reported that the UHRC radio programmes (radio talk shows and spot messages) were very effective in their communities for dissemination of human rights information. However, 39% revealed that radio stations were not effective in dissemination of human rights information because locals do not own radios and preferred physical interaction which promotes better understanding of the subject matter.

## 10.4.6 Public affairs management

The Public Affairs Unit is responsible for managing the communications function and image/brand as well as visibility of UHRC. It is in charge of communication of UHRC messages and positions at institutional level with the purpose of contributing towards the UHRC strategy for achieving its constitutional mandate to protect and promote human rights in Uganda. In disseminating institutional messages, receiving feedback and sustaining the image and visibility of the UHRC countrywide, the Public Affairs Unit acts as the link at the institutional level between UHRC and its various stakeholders. All this is in accordance with the requirement under the Paris Principles and the UHRC five-year Strategic Investment Plans (SIP).

In spite of the COVID-19 pandemic and its adverse effects in Uganda, UHRC sustained its communications by consolidating the use of digital and online resources. They included:

- Development of human rights thematic digital banners/posters and periodically uploading them on official social media platforms of UHRC and other stakeholders.
- Increased use of UHRC official online and social media platforms such as the website, Twitter, Facebook and WhatsApp groups to disseminate human rights messages, Commission positions, press statements and human rights advisories.
- Use of virtual resources such as live televised platforms, zoom and webinars for joint E-public dialogues to commemorate international human rights days in 2021 such as the World Press Freedom day on 3<sup>rd</sup> May; the UN International Day in Support of Victims of Torture on 26 June; and the International Human Rights Day on 10 December 2021.
- Increased production and distribution of Information, Education and Communications (IEC) materials (brochures) on various human rights themes targeting vulnerable groups and translating them into local languages

### 10.4.7 Transport management

UHRC operates country-wide including in areas with bad terrain and poor roads which require sound fleet. By January 2021 the UHRC had 45 motorcycles and 40 motor vehicles. Out of 40 motor vehicles, 9 were grounded and earmarked for boarding off, yet the transport need includes chauffeur-driven vehicles for Chairperson, Members of the Commission, staff who qualify and the pool vehicles to serve the rest at Head Office, in the 11 regional offices and 11 field offices, including two based on islands. Of the 31 available vehicles to serve this need, 23 were in poor condition and in need of substantial repair and maintenance. Kalangala field office covers 84 islands while Buvuma covers 54 islands. However UHRC has no speed boats or any mode of water transport.

### 10.4.8 Information and communication technology

UHRC has a robust information and communication technology (ICT) strategy that has enhanced innovations and creative ventures that have contributed to UHRC visibility world over. UHRC maintains a fairly established data centre (server room) at Head Office and sub-networks in each of its regional offices. The data centre hosts a number of periodically updated semi-automated network devices which foster information sharing and network information security protection.

UHRC received a digital whiteboard from the OHCHRights to facilitate its remote web conferencing activities during the pandemic and 2021 general elections for hosting remote meetings between UHRC and the outside world. In addition, UHRC received printers, mobile phones, radio receivers, and desktop computers. With support from JLOS, UHRC procured laptops, desktops, voice recorders, and high definition video cameras to facilitate its election observation exercise during the 2021 general elections.

UHRC embraced the use of various web conferencing and meeting technologies such as Microsoft Teams, Zoom meeting app and Google meet, which enabled it to keep running smoothly with minimal physical interaction among the people during the COVID-19 lockdown, and with very little financial costs involved. In compliance with the National Information Technology Authority of Uganda (NITA-U) and international ICT standards requirements for hardware, network and software, the Commission is trying within its means through its partners to furnish its staff with efficient work tools such as new desktop computers, laptops, scanners, printers among others.

With support from JLOS, UHRC completed the review and redevelopment of the Human Rights Integrated Information System–HURIS, an internal management information system now in use by all regional offices for the management of human rights complaints, inspections and human rights education. UHRC requires the necessary equipment to support the system such as high speed computers, scanners and printers.

### 10.4.9 General challenges

1. The Commission is still one of the least funded Government Institutions in terms of human resource, The staff salaries were not revised to date despite various requests to the Ministry of Finance, Planning and Economic Development to increase them. Consequently there is a glaring disparity between the salaries of Commission staff and sister institutions. This has caused high staff turnover as they leave for places with competitive remuneration. The Paris principles on NHRIs require that state funding should be sufficient for the functioning of the National Human Rights Institutions for it to have financial autonomy.
2. The suspension of activities of Democratic Governance Facility (DGF) during 2021 created a big funding deficit affecting the implementation of the core activities since it was UHRC's biggest development partner.
3. UHRC cannot open more regional offices to reach people at grass root because of limited funding from GoU
4. The persistent allocation of inadequate financial resources to UHRC affected its public affairs functions resulting in inadequate tools and equipment, internet bandwidth/data for digital migration thereby making it resort to sporadic communication. This has reduced its effectiveness as a human rights communicator.
5. And the Ministry of Public Service has not approved the Commission's proposed staff Structure of 469 staff which inhibits adequate service delivery.
6. UHRC's ability to install and maintain an affordable internet connectivity with the appropriate internet speed was constrained.

### 10.4.10 Recommendations

1. The Ministry of Finance, Planning and Economic Development should increase funding to UHRC to:
  - a) Fully embrace, adopt and invest more in ICT to increase the performance capacity of staff.
  - b) Pay competitive staff salaries.
  - c) Build capacity of UHRC staff in human rights and other relevant skills.
  - d) Open more regional offices to take services closer to the people, at least at the sub-county level.
2. The Ministry of Public Service should approve the UHRC proposed staff structure of 469 staff to enhance adequate service delivery.
3. There is a need to increase UHRC's fleet to 65 motor vehicles as well as acquire speed boats as the mode of transport for the field offices based in the islands to enhance efficiency in operations.

# CHAPTER ELEVEN:

## UHRC's Positions on Bills, Guidelines and Treaties

### 11.1 INTRODUCTION

Uganda Human Rights Commission is a national human rights institution established under Article 51 of the Constitution of the Republic of Uganda. As provided for in Article 52(1), one of its core functions is to monitor the government's compliance with international treaty and convention obligations ratified by Uganda and make appropriate recommendations to Parliament on effective measures for the promotion of human rights.

The UHRC further has an obligation as a national human rights institution to review and analyse bills, laws and policies in order to ensure that they are in line with human rights standards and not in conflict with other existing laws. It is upon this basis that the UHRC reviewed and aimed at providing a human rights assessment of the following:

1. Treaty on the Prohibition of Nuclear Weapons (TPNW), which was adopted by the United Nations General Assembly on 7 July 2017.
2. The Constitution (Sentencing Guidelines For Courts of Judicature) (Practice) Directions 2021.
3. The Judicature (Representation At The Expense Of the State) Rules 2021.
4. Constitutional (Bail Guidelines for Court of Judicature) Practice Directions 2021.
5. The Draft National Legal Aid Bill 2020.
6. The Draft Anti-Slavery Bill.
7. The Public Health (Amendment) Bill 2021.

### 11.2 TREATY ON THE PROHIBITION OF NUCLEAR WEAPONS

#### 11.2.1 Background to the Treaty

In 2017, by resolution 71/258, the General Assembly convened a United Nations conference to negotiate a legally binding instrument to prohibit nuclear weapons, leading towards their total elimination. The TPNW provides a comprehensive set of prohibitions on participating in any nuclear weapon activities. The Treaty prohibits state parties from developing, testing, producing, manufacturing, acquiring, possessing, stockpiling, using or threatening to use nuclear weapons. The Treaty also prohibits the deployment of nuclear weapons on national territory and the provision of assistance to any state in prohibited activities. State parties will be obliged to prevent and suppress any activity prohibited under the TPNW undertaken by persons or on territory under its jurisdiction or control. The Treaty also obliges state parties to provide adequate assistance to individuals affected by the use or testing of nuclear weapons, as well as to take necessary and appropriate measures of environmental remediation in areas under its jurisdiction or control contaminated as a result of activities related to the testing or use of nuclear weapons.

Uganda participated in the negotiations leading to the formulation of the TPNW but has not ratified it. On 7 July 2017, the Treaty was adopted by the Conference, with a vote of 122 states in favour, one vote against and one abstention. The Treaty was opened up for signature by the Secretary-General of the United

Nations on 20 September 2017. Following the deposit with the Secretary-General as the 50<sup>th</sup> instrument of ratification or accession of the Treaty on 24 October 2020, it entered into force on 22 January 2021 in accordance with its Article 15 (1).

## 11.2.2 Human rights concerns regarding nuclear weapons

A nuclear weapon is an explosive device whose destructive force results from either nuclear fission chain reactions or combined nuclear fission and fusion reactions. Nuclear weapons whose explosive force results exclusively from fission reactions are commonly referred to as atomic bombs, while those that derive much or most of their energy in nuclear fusion reactions are termed thermonuclear weapons.

A nuclear weapon detonation in or near a populated area would, as a result of the blast wave, intense heat, radiation and radioactive fallout, cause massive death and destruction, trigger large-scale displacement and cause long-term harm to human health and well-being, as well as long-term damage to the environment, infrastructure, socioeconomic development and social order. The massive destructive effect of a nuclear explosion and the dangerous long-term effects are likely to violate some or a range of human rights. In this regard, the rights to life, humane treatment, a healthy and clean environment, and the highest attainable standard of health are likely to be violated when nuclear weapons are used, as discussed below.

### 1. Security concern

According to the Union of Concerned Scientists, roughly 9,000 nuclear weapons are hidden away in bunkers and missile siloes, stored in warehouses, at airfields and naval bases, and carried by dozens of submarines worldwide. A single warhead can demolish an entire city, and a fully-fledged nuclear war would threaten life as we know it. Currently, nine known countries possess nuclear weapons, including the United States of America, Britain, Russia, China, North Korea, Iran, Pakistan, India and Israel among others. There is, however, fear that the number of countries proliferated or possessing nuclear weapons may grow. The chances that nuclear weapons may be fired in anger or accidentally exploded in a manner that prompts a nuclear exchange are high, even though unknown. These chances increase with a growth in the number of nuclear states. Nations desire nuclear weapons because their adversaries have them, and they fear their adversaries' present or future conventional strength. However, the chances that nuclear weapons will be used also vary with the nuclear states' character, sense of responsibility, and inclination toward devotion to the *status quo*, political and administrative competence. If nuclear weapons are acquired by countries whose governments totter and frequently fall, then there is a need for more concern about the world's destruction. The acquisition of nuclear weapons by two or more states that are traditional or bitter rivals should also foster concern the world has enjoyed more years of peace since 1945 than had been known in this century. In the past third of a century, the conflict has generated hostility among states and has at times resulted in violence among the weaker and smaller ones. Even though the more powerful states of the world have occasionally been direct participants, war has been confined geographically and limited militarily. Remarkably, general war has been avoided with a focus on the development of new technologies and the emergence of new strategies for fighting guerrilla wars and deterring nuclear ones. Therefore, it is paramount to prevent any imminent danger that could arise out of nuclear weaponry.

### 2. Right to health

The right to the highest attainable standard of health is a human right recognised in international human rights law. The International Covenant on Economic, Social and Cultural Rights (ICESCR) recognises "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health." Therefore, the right to the highest attainable standard of health implies a clear set of legal obligations on states to ensure appropriate conditions for the enjoyment of health for all people without discrimination. It is important to note that radiations from nuclear weapons have congenital effects on the human body which affect the health of those directly impacted, as well as children born to them. People may also suffer deep tissue skin burns and general body injuries. Nuclear weapons are therefore a major threat to the enjoyment of the right to health even for generations to come.

Evidence of the immediate and longer-term impacts of the use and testing of nuclear weapons has been the subject of scientific investigation ever since. In a major 1987 report, the World Health Organization (WHO) summarised existing research into the impacts on health and health services of nuclear detonations. The WHO indicated that the blast wave, thermal wave, radiation and radioactive fallout generated by atomic explosions have devastating short- and long-term effects on the human body and that existing health services are not equipped to alleviate these effects in any significant way. Other evidence of the immediate and longer-term humanitarian impacts of nuclear weapons use and testing and the preparedness and capacity of national and international organisations and health systems to provide assistance to the victims of such events has been growing steadily.

The right to health is one of a set of internationally agreed human rights standards and is inseparable or ‘indivisible’ from these other rights. This means achieving the right to health is both central to, and dependent upon, the realisation of other human rights, such as food, housing, work, education, information, and participation.

### 3. Right to life

The right to life is recognised as a fundamental human right both internationally and nationally as provided for in the Universal Declaration of Human Rights<sup>414</sup>, the International Convention on Civil and Political Rights<sup>415</sup> and under Article 22(1) of the Constitution of Uganda, which protects the right to life. The right to life has also been interpreted to encompass not only situations where victims are killed but also suffer serious injuries resulting from the use of lethal force.<sup>416</sup> This broad interpretation of the right to life is relevant for nuclear weapons. A nuclear weapon is indiscriminate in its effects and affects both military and civilian populations with adverse effects. The impact of nuclear weapons on human life are well documented, particularly following the Hiroshima and Nagasaki bombings of 1945. The two bombings were estimated to have killed 140,000 people in Hiroshima and 74,000 in Nagasaki. Many of the survivors suffered from leukemia, cancer, or other terrible side effects from the radiation in the years that followed. It is imperative to note that nuclear-powered weapons can indiscriminately kill millions of people at once and are therefore a serious threat to the right to life for people even beyond the territorial jurisdiction of individual states.

It is crucial for Uganda as a country to understand her obligation to respect, protect, and fulfil the enjoyment of human rights for her citizens, of which the right to life is part. The UHRC affirms that the threat to the right to life stemming from nuclear weapons is however not limited to the time of an armed conflict. This threat is compounded by the danger that the actual use of such weapons may be brought about, not only in the event of war but even through human or mechanical error or failure.<sup>417</sup>

### 4. Right to a clean and healthy environment

The right to a clean and healthy environment is recognized in both international and regional conventions as well as at a national level. Article 12(2) (b) ICESCR requires state parties to improve ‘all aspects of environmental and industrial hygiene’<sup>418</sup>. Beyond the direct harm caused to individuals by nuclear weapon detonation, the environment in which they live may be seriously and permanently affected. Nuclear weapons have the potential to destroy the entire ecosystem of the planet’s agriculture, natural resources, food and marine ecosystems. States have an obligation to take reasonable measures to prevent pollution and ecological degradation, which cannot be achieved where nuclear weapons are used.

414 Article 3 everyone has the right to life, liberty and security of person.

415 General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life.

416 In *Benzer v Turkey* App. No. 23502/06, the European Court of Human Rights found that an attack which caused the applicants’ injuries was so violent and caused the indiscriminate death of so many people that their survival did not mean that their lives had not been put at risk.

417 HRC, *General Comment No. 14*.

418 “The improvement of all aspects of environmental and industrial hygiene” (art. 12.2 (b)) comprises, *inter alia*, preventive measures in respect of occupational accidents and diseases; the requirement to ensure an adequate supply of safe and potable water and basic sanitation; the prevention and reduction of the population’s exposure to harmful substances such as radiation and harmful chemicals or other detrimental environmental conditions that directly or indirectly impact upon human health. Furthermore, industrial hygiene refers to the minimization, as far as is reasonably practicable, of the causes of health hazards inherent in the working environment. Article 12.2 (b) also embraces adequate housing and safe and hygienic working conditions, an adequate supply of food and proper nutrition, and discourages the abuse of alcohol, and the use of tobacco, drugs and other harmful substances.

The radiation released by a nuclear explosion would affect health, agriculture and natural resources over a very wide area. Modern environmental modelling techniques demonstrate that even a “small-scale” use of some 100 nuclear weapons would, in addition to spreading radiation around the world, lead to a cooling of the atmosphere, shorter growing seasons, food shortages and a global famine. Radiation can damage the future environment, food, and marine ecosystem and cause future generations’ genetic defects and illnesses. As such, nuclear weapons pose a threat to humanity and Uganda is not prepared to deal with the humanitarian catastrophe generated by a nuclear detonation. The effects of such massive destructions cannot be contained within national borders but rather spill over to other territories. Therefore, the UHRC strongly recommends Uganda join other states that are for the prohibition of nuclear weapons and work urgently to reduce the risks that nuclear weapons may cause by ratifying the treaty.

## **5. Right to freedom from torture**

Article 7 of the ICCPR provides for the protection of every person from any form of torture or cruel, inhuman or degrading treatment. Uganda provides for the same in Article 24 of the Constitution and enacted the Prevention and Prohibition of Torture Act 2012. All these guarantee the right to freedom from torture. The effects suffered from burns caused by nuclear weapons are an infringement on the right to freedom from torture. Burns caused by nuclear weapons may go beyond third-degree burns in which all layers of the skin are destroyed to fourth-degree burns in which injury extends to both muscle and bone. Such burns not only disfigure the victim but are also agonizingly painful. Therefore, the use of nuclear weapons negatively impacts the right to freedom from torture.

## **6. Other human rights concerns**

The effects of a nuclear weapon detonation, notably the radioactive fallout carried downwind, cannot be contained within national borders. The scale of destruction and contamination after a nuclear discharge in or near a populated area could cause profound social and political disruption. It would take several decades to reconstruct infrastructure and regenerate economic activities, trade, communications, healthcare facilities and schools. No state or international body can appropriately address the immediate humanitarian emergency nor the long-term consequences of a nuclear weapon detonation in a populated area, nor provide the necessary assistance to those affected due to the massive suffering and destruction caused by a nuclear detonation. The long-lasting effects of exposure to ionising radiation and the use or testing of nuclear weapons have left a legacy of serious health and environmental consequences that disproportionately affect women and children in several parts of the world.

### **11.2.3 Importance of ratification for Uganda**

International treaties and customary law form the backbone of international human rights law. International human rights law lays down obligations which states are bound to respect. By becoming parties to international treaties, states assume responsibilities and duties under international law to respect, protect and fulfil human rights. Through ratification of international human rights treaties, governments undertake to put into place domestic measures and legislation compatible with their treaty obligations and duties. Where domestic legal proceedings fail to address human rights abuses, mechanisms and procedures for individual complaints or communications are available at regional and international levels to ensure that international human rights standards are respected, implemented and enforced at the local level.

A series of international human rights treaties and other instruments adopted since 1945 have conferred legal form on inherent human rights and developed the international human rights body. Other instruments have been adopted at the regional level reflecting the particular human rights concerns of the region and providing for specific mechanisms of protection. Uganda signed the African Nuclear-Weapon-Free Zone Treaty (Pelindaba Treaty) on 11 April 1996 but is yet to ratify it. At the national level, Uganda has committed to promoting and implementing energy policies that will ensure that people’s basic needs and environmental preservation are met under Objective XXVII of the Constitution. Objective XXVIII also provides for foreign policy objectives which promote peaceful coexistence. Uganda passed the Atomic Energy Act No. 24 of 2008, which provides for the security of radioactive sources to ensure the safe and peaceful use of radioactive materials. Most states have adopted constitutions and other national laws that formally protect basic human rights in domesticating these instruments.

Uganda has made efforts to domesticate most international provisions that protect the right to life, a clean and healthy environment, a peaceful existence, and the right to freedom from torture through Articles 22, 24 and 39 of the Constitution. In addition, Uganda has enacted the Prevention and Prohibition of Torture Act 2012, which protects people from torture, as well as the Atomic Energy Act 2008, which ensures that harmful and radioactive materials are handled safely and in accordance with the standards of the International Atomic Energy Agency and the National Environment Act 2019 among others.

Uganda has also demonstrated its commitment to domesticating the principles enshrined in the Treaty on the Prohibition of Nuclear Weapons. The treaty is relevant to Uganda in attaining its goals as enshrined in NDP III in relation to the governance and security programme that intends to address the need to build peaceful, just and inclusive societies. Environmental stress and security threats are a major concern for Uganda. The Treaty on the Prohibition of Nuclear Weapons provides a building block in addressing these issues, of which the Commission greatly commends the Ugandan Government. Important to note is that the development of nuclear weapons stands strongly against the principles of national and international peace and security and principles of friendly relations and solidarity shall amongst states, hence rendering the Treaty on Prohibition of Nuclear Weapons very relevant to Uganda.

### 11.2.4 Recommendations

- a) The Uganda Human Rights Commission recommends that the Ugandan Government ratifies and becomes a state party to the Treaty on the Prohibition of Nuclear Weapons.
- b) The government should ensure continued international commitment to the non-proliferation treaty, which prohibits the use of materials and technology that threaten international and national security.
- c) The Ministry of Internal Affairs should strengthen cross-border cooperation and coordination to ensure adequate border control measures to avoid the infiltration of illegal firearms.
- d) Government should also ratify the UN Arms Trade Treaty, which came into force in December 2014.

### 11.2.5 Conclusion

The UHRC commends the government's efforts in considering the ratification of the Treaty on the Prohibition of Nuclear Weapons. The government is now strongly urged to ratify this treaty as a mechanism to prevent any eminent danger that could arise from nuclear weapons.

## 11.3 THE CONSTITUTION (SENTENCING GUIDELINES FOR COURTS OF JUDICATURE) (PRACTICE) DIRECTIONS 2021

### 11.3.1 Background

In December 2021, the Chief Justice exercising the constitutional authority granted under Article 133(1), issued several Practice Directions, including the Constitutional (Sentencing Guidelines for Court of Judicature) (Practice) Directions 2021. The Sentencing Guidelines Practice Directions apply to all courts of judicature: the Supreme Court, Court of Appeal, High Court and Subordinate Courts.

The Sentencing Guidelines Practice Directions are significant as they are issued following statutory reforms that removed the mandatory death penalty from the various laws of Uganda by the Law Revision (Penalties in Criminal Matters) Miscellaneous Amendment Act, 2019.<sup>419</sup> Also, the excessiveness of the custodial sentences passed down by courts has an impact on the prison overpopulation that currently stands at 300%.<sup>420</sup>

<sup>419</sup> The Act was gazetted in Gazette No. 79 dated 5 November 2021.

<sup>420</sup> Uganda Prisons Service, Average Prisoners' Population for October, 2021.

### 11.3.2 UHRC analysis of the provisions of the sentencing guidelines practice directions

The key elements of these guidelines and related recommendations can be found in the table below.

| Table 11.1: UHCR analysis of the Sentencing Guidelines for Courts of Judicature (Practice) Directions 2021                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| GUIDELINE OR POLICY CONTENT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | ANALYSIS AND RECOMMENDATIONS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p><b>Guideline 3</b> lays down the objective of the practice directions, and they include the following: (a) to set out the purpose for which offenders may be sentenced or dealt with; (b) to provide principles and guidelines to be applied by the courts in sentencing; (c) to provide sentence ranges and other means of dealing with offenders; (d) to provide a mechanism for considering the interests of victims of crime and the community when sentencing; and (e) to provide a mechanism that will promote uniformity, consistency and transparency in sentencing.</p> | <p>The UHRC recommends that the objective of the guidelines should include guidance to the courts on the parameters of the discretion in imposing the death penalty. This way, it would be made clear that the Sentencing Guidelines Practice Directions reflect the reforms introduced by the Law Revision (Penalties in Criminal Matters) Miscellaneous Amendment Act, 2019.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <p><b>Guideline 4: Interpretation</b> The UHRC notes that Guideline 4 in the interpretation section provides imprisonment for life, defined as imprisonment for the offender's natural life.</p>                                                                                                                                                                                                                                                                                                                                                                                    | <p>The UHRC notes that while generally, states are granted the margin of appreciation in the matters of criminal justice and sentencing, the human rights standards do not prescribe the length of custodial sentence that constitutes imprisonment for life. Comparative and international law materials before regional human rights courts indicate clear support for establishing a dedicated mechanism ensuring a review no later than 25 years after the imposition of a life sentence, with further periodic reviews thereafter.<sup>421</sup> These periodic reviews enable state authorities to consider whether any changes in the life of a prisoner are so significant, and such progress towards rehabilitation has been made in the course of the sentence, which means that continued detention can no longer be justified on legitimate penological grounds. There is no evidence to suggest that excessive detention of offenders increases public safety, rehabilitates the offenders, and serves as a deterrent or sufficient punishment. The UHRC further notes that the purpose of incarceration should focus on the punishment of the offender and their rehabilitation with a view to reintegrating them into society.</p> |
| <p><b>Guideline 4</b> also provides mid-term imprisonment to mean a custodial sentence ranging from 15 to 20 years.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <p>The UHRC takes note of the common law jurisdictions that provide for ranges from 10-15 years.<sup>422</sup> In line with other common law jurisdictions and the reasoning above, mid-term imprisonment should range between 10-15 years. Factors that aggravate the sentence should include previous convictions, while factors that mitigate the sentence should include the plea of guilt.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

<sup>421</sup> See Petukhov –v- Ukraine (Application no. 43374/02); T.P. and A.T –v- Hungary Application no. 37817/14 and 73968/14).

<sup>422</sup> Ibid.

| GUIDELINE OR POLICY CONTENT                                                                                                                                                                                                                                                                                           | ANALYSIS AND RECOMMENDATIONS                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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| <b>Guideline 4</b> further provides short-term imprisonment to mean a custodial sentence of 15 years or less.                                                                                                                                                                                                         | The UHRC recommends that the short-term imprisonment range is 1-10 years and that factors that aggravate the sentence include previous convictions, while factors that mitigate the sentence should include the plea of guilt.                                                                                                                                                                                                                                                                         |
| <b>Guideline 6</b> provides for general sentencing principles that require the court, among other sentencing principles, to consider 6(f) “any outcomes of restorative justice processes that have occurred, or are likely to occur in relation to the particular case”.                                              | The UHRC notes that this provision seeks to establish linkages between informal justice systems, for instance, traditional justice systems and formal justice, thus, this initiative is welcome. However, the UHRC takes further note of the implied suggestion that informal justice systems may have jurisdiction over capital offences, for instance, murder or rape. It is thus recommended that the state develops clear guidelines on the scope of the jurisdiction of informal justice systems. |
| <b>Guideline 9</b> provides for custodial sentences. Under 9(2)(a), the court is required, before imposing a custodial sentence, to consider (a) whether the purpose of sentencing cannot be achieved by a sentence other than imprisonment.                                                                          | The UHRC welcomes this provision as it mandates the court to consider dispensing a non-custodial sentence before imposing a custodial sentence. It also provides scope for challenging custodial sentences imposed by the court where an alternative non-custodial sentence would have been appropriate. UHRC recommends adding gender-specific factors to the key considerations before imposing a custodial sentence in line with the Bangkok Rules.                                                 |
| <b>Guideline 9(2)(r)</b> mandates the court to consider the cost of incarceration to the state in passing a custodial sentence.                                                                                                                                                                                       | The UHRC welcomes this provision, for it requires the court to weigh up the objectives of incarceration against the cost of incarceration to the state.                                                                                                                                                                                                                                                                                                                                                |
| <b>Guideline 9(3)</b> states that the court may not sentence an offender to a custodial sentence where the offender: (a) is of advanced age; (b) has a grave terminal illness certified by a medical practitioner; (c) was below 18 years at the time of the commission of the offence; or (d) is an expectant woman. | The UHRC recommends that Guideline 9 (3) should be revised by adding ‘mother/caregiver with infant children’ on the list.                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Guideline 9(4)</b> provides that the court when sentencing a first-time offender for a minor offence, shall take into account that imprisonment is not the starting point                                                                                                                                          | The UHRC welcomes this provision as it directs the court to impose non-custodial sentences in such circumstances.                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Guideline 13: Time to consider the sentence.</b> This provision directs the court, upon conviction, a period not exceeding seven days to determine the appropriate sentence for the offender.                                                                                                                      | The UHRC welcomes this provision because it ensures observance of the right to a speedy trial.                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>11.2.2.11. Guideline 11</b> provides for sentencing options.                                                                                                                                                                                                                                                       | The UHRC recommends that Guideline 11 should be revised by adding counselling and guidance to the list of sentencing options, particularly for women and vulnerable persons.                                                                                                                                                                                                                                                                                                                           |

| GUIDELINE OR POLICY CONTENT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | ANALYSIS AND RECOMMENDATIONS                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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| <p><b>Guideline 23 (2)</b> provides for a pre-sentence report.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <p>The UHRC recommends that the pre-sentence report may also include the skills and qualifications of the offender, offender's mental health, prior experience or risk of domestic violence or abuse, impact of the sentence on the defendant and their family and legal needs of the defendant</p>                                                                                                                                                                                  |
| <p><b>Guideline 25.</b> Amicable settlements and restorative justice: This provision states that where the parties express interest in reconciliation in cases permitted under the law, the prosecution shall bring the matter to the court's attention and shall request the court to allow the parties to settle such matters amicably.</p>                                                                                                                                                                                                                                                                                                                                                                                 | <p>The UHRC welcomes the option for an amicable settlement between the offender and the victim/s, for it allows parties to settle the matter informally. However, UHRC recommends that the guidelines should specify the offences for which the option of an amicable settlement is applicable.</p>                                                                                                                                                                                  |
| <p><b>PART VIII – Community Service:</b> The Sentencing Guidelines Practice Directions allow the court to impose a community service order according to the Community Service Regulations. However, the court may depart from Community Service Regulations where it is not in the interests of justice, giving reasons for its departure.</p>                                                                                                                                                                                                                                                                                                                                                                                | <p>The UHRC notes that the provision urges the court to consider community service as an alternative to a custodial sentence and thus is laudable. However, the Sentencing Guidelines Practice Directions should guide the court about the offences that may attract a community service order.</p>                                                                                                                                                                                  |
| <p><b>Guideline 27.</b> Adducing evidence to disprove mitigation: Section 27(1) permits the prosecution, if appropriate, to adduce evidence to disprove any assertion made by the defence in mitigation. Under Section 27 (2), the prosecution must satisfy the court that the mitigation is false beyond a reasonable doubt.</p>                                                                                                                                                                                                                                                                                                                                                                                             | <p>The UHRC notes that this provision indicates that once the conviction of the offender is pronounced by the court, the defence lawyer may present evidence that can mitigate the punishment, for instance, the punishment of death, and it is up to the prosecution to refute such evidence beyond the standard of reasonable doubt. This provision is essential in cases where the offence attracts the death penalty or lengthy imprisonment, such as imprisonment for life.</p> |
| <p>Section 28 provides for duties of the defence to include; (1) During sentencing, the defence has the duty to inform the court about (a) the offender's social background and social status; (b) details about the offender's family, including dependants (if any); (c) any responsibilities of the offender, including whether the offender is a primary caregiver; (d) the offender's sources of income and financial status; (e) the likelihood of the offender to reform; (f) the remorsefulness of the offender; and (g) any other mitigating factors that may be relevant to the case. (2) Where the offender wishes to reconcile with the victim, the defence shall expressly inform the court and prosecution.</p> | <p>The UHRC notes that this provision appears to introduce factors that can mitigate any punishment handed down by the court, although the list is not exhaustive; for example, it does not include the requirement to explain the circumstances under which the offence was committed.</p>                                                                                                                                                                                          |

| GUIDELINE OR POLICY CONTENT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | ANALYSIS AND RECOMMENDATIONS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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| <p><b>Guideline 29(3)</b> states that in determining the gravity of any offence, the court shall, in every case, consider the following to be aggravating factors relevant to the harm caused by the offence (a) where the offence produced multiple victims; (b) where the victim was particularly vulnerable, including but not limited to age, mental or physical disability, gender, religion, social position or physical isolation; (c) where the offence had a negative effect on the victim, his or her family or the community; (d) where the offence was committed in the presence of children; (e) where the offence is particularly prevalent in the community in which it was committed.</p>                                                                                                                                                     | <p>The UHRC notes that the provision distinguishes the factors that aggravate an offence's gravity (29 (2)) by listing factors that aggravate the harm caused by an offence. Therefore, 29(3) (b) in relation to the vulnerability of the victims is welcome as arguably it protects vulnerable minorities.</p>                                                                                                                                                                                                                                                                                                                                      |
| <p><b>Guideline 30.</b> Standard mitigating factors are listed to include 30(2); (a) guilty plea; (b) lack of previous convictions; (c) previous good character; (d) genuine remorse shown; (e) the youthful age of the offender; (f) an admission made to the Police during the investigation; (g) cooperation with the authorities in the investigation or prosecution of the offence; (h) family responsibilities of the offender; (i) where the offender played only a subordinate or minor role in the commission of the offence; and (j) any mental or physical disability of the offender, where linked to the commission of the offence, and 30 (3); In determining the gravity of any offence, the court must in every case consider any request from the victim for leniency as a mitigating factor relevant to the harm caused by the offence.</p> | <p>The UHRC recommends that the mental disability of the offender under guideline 30 (2) (j) should not be considered as a mitigating factor, but rather, where it is determined through medical evidence that the offender lacked the required mental capacity to understand the nature or gravity of the offence, such an offender should not stand trial but must be declared as incapable for standing trial for the reason of insanity. It is further proposed that where the offender has experienced domestic violence for a long time and committed an offence 'in the heat of the moment', it should be considered a mitigating factor.</p> |

## 11.4 JUDICATURE (REPRESENTATION AT THE EXPENSE OF THE STATE) RULES, 2021

### 11.4.1 Contextual background

In December 2021, the Chief Justice exercising the constitutional authority granted under Article 133(1), issued several Practice Directions, including the Judicature (Representation at the Expense of the State) Rules, 2021. The Representation at the Expense of the State Rules seeks to operationalise Article 28(3) (e) of the 1995 Constitution of Uganda, which states that: “Every person who is charged with a criminal offence shall; in the case of any offence which carries a sentence of death or imprisonment for life, be entitled to legal representation at the expense of the state.” In this regard, the Representation at the Expense of the State Rules seeks to facilitate the right to a fair trial, a non-derogable right.<sup>423</sup>

The Rules depart from human rights standards as they restrict state-funded representation to persons facing a punishment of death or imprisonment for life. Human rights standards broadly conceive legal aid as an integral component of the state’s obligation to provide access to justice, equality before the law, the right to counsel, and the right to a fair trial. The right to a fair hearing is a key ingredient of Article 14 of the ICCPR. Thus, the state has a duty to respect, protect, promote and fulfil the human rights of citizens through the provision of legal aid (including legal advice and representation) to those who are unable to afford paid legal services in all cases and not only when the death penalty or life imprisonment is involved.

### 11.4.2 UHRC analysis of the judicature (representation at the expense of the state) rules

The key elements of these guidelines and related recommendations can be found in the table below.

**Table 11.2: UHRC analysis of the judicature (representation at the expense of the state) rules**

| GUIDELINE OR POLICY CONTENT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | ANALYSIS AND RECOMMENDATIONS                                                                                                                                               |
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| <p><b>RULE 5. ESTABLISHMENT OF STATE FUNDED REPRESENTATION IMPLEMENTATION COMMITTEE.</b></p> <p>Rule 5(1) establishes the State Funded Representation Committee; Rule 5(2) provides for the composition of the Committee: (a) the Chief Registrar, (Chairperson); (b) the Permanent Secretary/Secretary to the Judiciary or his or her representative; (c) a representative of the office of the Director of Public Prosecutions; (d) the Registrar of the High Court in charge of session funds (Secretary to the Committee); (e) the President of the Uganda Law Society or his or representative; and (f) a practicing advocate nominated by the Uganda Law Society. Rule 5(3) The Committee may co-opt technical experts to assist with specialised issues as may be required by the Committee and 5(4) must meet twice in each calendar year.</p> | <p>While the Uganda Human Rights Commission welcomes this, we recommend for pluralism, transparency and gender sensitivity in appointing the members to the Committee.</p> |

<sup>423</sup> Article 44(c) of the 1995 Constitution of Uganda.

| GUIDELINE OR POLICY CONTENT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | ANALYSIS AND RECOMMENDATIONS                                                                                                                                                                                                                                                                                                                                                                       |
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| <p><b>RULE 7. ADVOCATES ELIGIBLE FOR STATE FUNDED REPRESENTATION INSTRUCTIONS.</b></p> <p>This provision sets the criteria for advocates eligible for enrolment on the roster for state funded representation. The Chief Registrar is required, at the beginning of every calendar year, to send out notices of expression of interest to advocates through the Uganda Law Society. The Committee is required to send the roster to all courts. Only advocates with three years of experience with criminal cases and no record of professional misconduct or disciplinary action are eligible to register for state funded representation. A judge, registrar or chief magistrate can appoint only advocates on the roster to represent an accused.</p> | <p>Uganda Human Rights Commission recommends that all advocates enrolled by the Uganda Law Society should be encouraged to participate in the state funded representation scheme. For instance, advocates could be required to undertake several hours of cases each year as a condition for renewing their practicing license. This would improve the quality of state funded representation.</p> |
| <p><b>RULE 9. ENTITLEMENT TO LEGAL REPRESENTATION BY STATE APPOINTED ADVOCATES.</b></p> <p>This rule identifies only persons charged with an offence which carries a sentence of death or imprisonment for life, as entitled to legal representation at the expense of the state, thus implementing Article 28(3) (e) of the 1995 Constitution.</p>                                                                                                                                                                                                                                                                                                                                                                                                      | <p>The Uganda Human Rights Commission notes that the practicality of all criminal suspects having representation is questionable. However, the Commission recommends that all people accused of capital offences should have legal representation.</p>                                                                                                                                             |

### 11.4.3 Conclusion

The Uganda Human Rights Commission welcomes the Judicature (Representation at the Expense of the State) Rules, 2021, which seek to provide a state-funded representation process.

## 11.5 THE CONSTITUTION (BAIL GUIDELINES FOR COURTS OF JUDICATURE) (PRACTICE) DIRECTIONS, 2021

### 11.5.1 Background

In 2021, there were numerous debates on the question of granting or removing bail for capital offenders in Uganda following the President's remarks on 22 September 2021 while presiding over the swearing-in of new High Court and Court of Appeal Judges. The President called for the amendment of the Constitution to stop bail for capital offenders such as murderers, rapists, terrorists and public servants involved in cases of embezzlement of public funds for at least six months. According to the President, giving bail to suspects in capital offences is provocative to the victims or affected families and communities. Following that debate, in December 2021, the Chief Justice exercising the constitutional authority granted to him under Article 133(1), issued several Practice Directions, including the Constitutional (Bail Guidelines for Court of Judicature) (Practice) Directions 2021. These Bail Practice Directions apply to all courts of judicature, including the Supreme Court, Court of Appeal, High Court and subordinate courts, and they were formulated to guide all courts on the grant of bail for accused persons.

### 11.5.2 UHRC analysis of the Constitution (Bail Guidelines for Courts of Judicature) (Practice) Directions, 2021

The key elements of these guidelines and related recommendations can be found in the table below.

| Table 11.3: UHRC analysis of the Constitution (bail guidelines for courts of judicature) (practice) directions, 2021                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| GUIDELINE OR POLICY CONTENT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | ANALYSIS AND RECOMMENDATIONS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p><b>GUIDELINE 3. OBJECTIVE OF PRACTICE DIRECTIONS.</b></p> <p>The Objective of these Bail Practice Directions is: (a) to complement the existing legal provisions on bail; (b) to promote uniformity and consistency by courts when considering bail applications; (c) to streamline and address the disparities in the handling of bail decisions with a view to enabling fair administration of bail measures; (d) to ensure that bail decision-making complies with the requirements of the Constitution; (e) to promote the balancing of rights of accused persons with the public interest and the rights of the victims; (f) to facilitate effective inter-agency cooperation and coordination in bail; (g) enhance conformity with the internationally-agreed minimum standards for arrested persons held in detention; (h) to address the abuse of pre-trial detention; (i) to safeguard the interest of victims of crime in bail decision making; (j) to facilitate effective supervision of accused persons granted bail; and (k) to promote transparency and efficiency in management of bail deposits and refunds.</p> | <p>Objective (g) on enhancing conformity with internationally agreed minimum standards for persons held in detention is a welcome addition as this allows the Bail Practice Directions to be measured and streamlined against and in conformity with international human rights standards. Of concern, however, is provision (h) to address the abuse of pre-trial detention. This is not clearly explained in the guideline on how pre-trial detention could be abused. Therefore this clause needs to be reviewed. Provision 3(i) to safeguard the interest of victims of crime in bail decision making; appears to suggest that access to bail must be balanced against the interest of the victims of crime. This is likely to lead to a miscarriage of justice as victims' opinions will mostly likely be biased against the accused persons.</p> |

| GUIDELINE OR POLICY CONTENT                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | ANALYSIS AND RECOMMENDATIONS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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| <p><b>GUIDELINE 4</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <p>There is need for a clear definition of bail. The definition provided in the guideline falls short of defining bail adequately. The interpretation also provides for the vulnerable persons to include the caregivers. On the interpretation of vulnerable persons, the Commission notes that there is a need for clarity on which caregivers qualify as vulnerable persons.</p>                                                                                                                                                                                                                                                                                                                                                      |
| <p><b>GUIDELINE 5. GENERAL PRINCIPLES</b></p> <p>Guideline 5 details the factors by which the court must be guided in considering a bail application. These include (a) the right of an applicant to be presumed innocent as provided for in Article 28(3)(a) of the Constitution; (b) the applicant's right to liberty as provided for in Article 23 of the Constitution; (c) the applicant's obligation to attend trial; (d) the right to reasonable bail terms in light of the importance of the right to liberty and presumption of innocence; (e) determination of bail must balance the rights of the applicant and the interest of justice; (f) the safety of the prosecution, applicant, victims and the community; and 5 (g) consideration of views of the victims.</p> | <p>UHRC welcomes the consideration of the common law principle that provides that an accused person is innocent until proved guilty or pleads guilty. The presumption of innocence as provided for under Article 28(3) of the Constitution guarantees that every person charged with a criminal offence should have their case proved beyond reasonable doubt. It also ensures the enjoyment of the accused's right to a fair and speedy hearing and the right to personal liberty.</p>                                                                                                                                                                                                                                                  |
| <p><b>GUIDELINE 6. RIGHT TO APPLY FOR BAIL.</b></p> <p>The provision grants the right to bail for any person, awaiting trial or convicted but whose appeal is pending.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <p>This provision confirms that unless the highest appellate court has confirmed a person's sentence, he or she is still presumed innocent and thus eligible for bail.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <p><b>GUIDELINE 7. Guideline 7 provides that 'a person may apply for bail at any of the following stages:</b></p> <ol style="list-style-type: none"> <li>After taking plea in a Magistrates Court or High Court and;</li> <li>After conviction pending appeal, only where a memorandum of appeal has been signed.</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>UHRC is concerned that this provision does not clearly state whether bail can be granted pending committal. UHRC therefore recommends that this guideline be amended to include bail pending committal to allow accused persons on remand to be able to apply for bail as they await committal.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <p><b>GUIDELINE 11. CONTENTS OF BAIL APPLICATION.</b></p> <p>This provision requires that an application for bail must contain among other forms of identification, particulars of the applicant including (i) a national identity card, passport or alien's identification card.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <p>UHRC is concerned that the requirement for a bail applicant to provide a national identity card, passport or aliens identification card is problematic due to the fact that some suspects stay on remand for so long and may not have their identity documents with them. Also to note is that the requirement of presenting an introduction letter from the area local council 1 chairperson may not be possible for an accused person since this requires the accused to appear before the said chairperson in person. UHRC therefore recommends that the requirements for bail application should be reviewed to include items that can easily be accessed by an accused person taking into consideration their incarceration.</p> |

**GUIDELINE OR POLICY CONTENT****GUIDELINE 12. CONSIDERATIONS FOR BAIL.**

Guideline 12(1) directs the court in handling a bail application to consider: (a) the gravity of the offence; (b) the nature of the offence; (c) the antecedents of the applicant so far as they are known; (d) the possibility of a substantial delay of the trial; (e) the applicant's age, physical and mental condition; (f) the likelihood of the applicant to attend court; (g) the stage of the proceedings; (h) the likelihood of the applicant to commit an offence while on bail; (i) the likelihood of the applicant interfering with witnesses; (j) the safety of the applicant, the community and victims; (k) whether the applicant has a fixed place of abode within Uganda or he or she is ordinarily resident outside Uganda; (l) whether the applicant has substantial sureties within Uganda to undertake that the applicant shall comply with the conditions of his or her bail; (m) whether the applicant has on a previous occasion when released on bail failed to comply with his or her bail; (n) whether there are any other charges pending against the applicant; (o) whether the bail amount or security is sufficient to secure the applicant's attendance in court when weighed against the gravity of the offence; (p) whether the offence of which the applicant is being accused involved violence; or (q) whether the case is frivolous and does not have a reasonable chance of success.

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UHRC recommends that a requirement for the court to consider that the suspect is presumed innocent until proven guilty should be added to this guideline. It is important to note here that the presumption of innocence is a core component to the right to fair and speedy hearing,<sup>424</sup> a non-derogable right under the Constitution.<sup>425</sup> Thus any delay on the part of the state, for example in conducting investigations or carrying out a trial, may violate the accused's right to a fair and speedy hearing.<sup>426</sup>

**GUIDELINE 13: PRESENTATION OF VIEWS OF VICTIM**

Guideline 13 provides that court may give a victim of crime an opportunity to submit any information that, in their view, court should consider in making bail decisions.

UHRC commends the judiciary for including the victim's point of view in providing information that the court may consider in making bail decisions. This will give the judge a better perspective on the case for the accused and for the judicial officer to use their discretion in granting or denying bail to the accused person. Therefore, the UHRC recommends that both sides-the victim and the accused, be heard to ensure fairness in granting bail.

424 Article.28 (3) (a), 1995 Constitution.

425 Ibid Art.44 (c).

426 Ibid Art.28.

**GUIDELINE OR POLICY CONTENT****ANALYSIS AND RECOMMENDATIONS****GUIDELINE 14. CONSIDERATION OF BAIL IN CAPITAL OFFENCES.**

Guideline 14(1) requires the court in exceptional circumstances to grant bail to a person accused of committing any of the offences specified under Section 15(2) of the Trial on Indictment Act. Under 14(2), the exceptional circumstances include (a) grave illness certified by a medical officer of the prison or other institution or place where the applicant is detained as being incapable of providing adequate medical treatment while the applicant is in custody; (b) a certificate of no objection signed by the Director of Public Prosecution; and (c) the infancy or advanced age of the applicant.

UHRC notes that this provision suggests that there are bailable offences (such as non-capital) offences and non-bailable offence (for instance capital offences), where only in exceptional circumstance as or similar to those prescribed where bail may be granted. The offences referred to under Section 15(2) of the Trial by Indictment Act are all capital offences that include murder, aggravated rape, terrorism, cattle rustling, embezzlement, among others. Thus, it presupposes that capital offences, in line with the recent comments by the President,<sup>427</sup> are only bailable in exceptional circumstances as provided for under Guideline 14. UHRC however notes that this provision is in contrast with Article 23(6) (a-c) of the Constitution that does not make a distinction between offences that may be bailable or not. UHRC therefore recommends that the right to apply for bail should facilitate the presumption of innocence as a core component of the non-derogable right to a fair hearing. Thus to deny bail to a suspect of a capital offence, is to presume the suspect is guilty, before he or she is tried by a court of law.

**GUIDELINE 20. DENIAL OF BAIL.**

This provision states that the court shall not grant bail where: 20(1)(a) there is a real likelihood that the applicant will not appear at the trial; (b) there is a real likelihood of another offence being committed while the applicant is on release; (c) the applicant has previous conviction; (d) the applicant is likely to interfere with investigations; (e) safety of the victim; (f) safety of the applicant; or (g) where the applicant is violent or is likely to intimidate and interfere with witnesses.

UHRC recommends that this guideline should be clarified to explain the guideline in line with Article 23(6) (b) and (c) of the Constitution to indicate circumstances where the court has discretionary power to grant bail and where bail may be mandatory as provided for under Article 23(6) (b) and (c) of the Constitution. This distinction is important to make to ensure that the court does not exercise unconstitutional authority to deny bail where it has the discretion to grant it.

<sup>427</sup> The Independent Publication, Museveni on Bail, 4 October 2021.

## 11.6 PUBLIC HEALTH (AMENDMENT) BILL, 2020

### 11.6.1 Introduction

The Public Health (Amendment) Bill 2021 ensures that the provisions of the bill comply with human rights principles and standards. Human rights jurisprudence demands that regardless of the nature or severity of the emergency, restrictions on human rights must meet standards of legality, legitimacy, necessity, proportionality, evidence, and non-discrimination. The UHRC welcomes the revision to the Public Health Act in a manner that complies with prescribed Constitutional processes for enacting laws and presents its position below.

### 11.6.2 Background

The Public Health Amendment Bill, 2021 (the Bill) was proposed by the Ugandan Government in the wake of the COVID-19 pandemic. The Bill aims to amend the Public Health Act: (a) to repeal the obsolete provisions; (b) to revise the fines for offences committed under the Act; (c) to repeal the provisions on venereal diseases, building and construction and public sewers; and (d) to repeal the Venereal Diseases Act, Cap. 284 and the Immunisation Act, 2017.

The Public Health Act was enacted in 1935 and has never been revised to be in line with the emerging public health challenges, such as COVID-19 and Ebola. Thus, the Bill is founded on the public health response structures and mechanisms in the National Technical Guidelines for Disease Surveillance and Response of the Ministry of Health. The Bill also seeks to domesticate the WHO International Health Regulations (2005), control the spread of infectious diseases across Uganda's borders, and provide a public health response mechanism that will not disrupt international travel and trade. The Bill further seeks to control the spread of infectious diseases by imposing fines payable for offences committed under the Act and allowing for the payment of fines without prosecution.

At the height of the COVID-19 pandemic, Uganda issued Practice Directions (COVID-19 Directives) by way of Executive Authority. Many stakeholders questioned the legality of these COVID-19 Directives because they were implemented before being published as statutory instruments. The UHRC also noted the limitations on human rights in these COVID-19 Directives; for instance, those related to freedom of movement and assembly, the right to personal liberty, and the right to a speedy and fair trial.

### 11.6.3 Purpose and overview of the Bill

The object of the Bill was to amend the Public Health Act to repeal the obsolete provisions; revise the fines for offences committed under the Act; repeal the provisions on venereal diseases, building and construction and public sewers and repeal the venereal diseases Act, Cap. 284; and review the Immunisation Act, 2017.<sup>428</sup>

### 11.6.4 UHRC analysis of the Public Health (Amendment) Bill, 2020

The key elements of these guidelines and related recommendations can be found in the table below.

<sup>428</sup> The Public Health Amendment Bill, 2021.

**Compulsory vaccination**

Human rights jurisprudence broadly conceives mandatory vaccination as a legitimate, necessary, and proportionate limitation on the right to physical integrity, provided that the laws that provide for it are enacted per state procedures and are not discriminatory. Indeed, mandatory vaccination requirements may be regarded as a means to protect internationally recognised rights to life, health, education, and work. In more than 100 countries, there already exists some version of mandatory vaccination of school children for a range of diseases, including measles, mumps, rubella, tetanus, and polio.<sup>429</sup> The justification is that mandatory vaccination not only protects the vaccinated person but also prevents harm to others (by infecting them). The European Convention on Human Rights recognises state responsibility to protect its citizens from harm, thus it conceives the right to physical integrity under Article 8 to be a “qualified right” that can be limited “for the protection of health”.<sup>430</sup> In its 2013 Global Vaccine Action Plan, WHO reinforced the view that “immunisation is, and should be recognised as a core component of the human right to health of an individual, community and governmental responsibility.”<sup>431</sup> Article 12(c) of the International Covenant on Economic, Social and Cultural Rights lists “the prevention, treatment and control of epidemic... diseases” among the obligations entailed under the right to health.<sup>432</sup> The European Court of Human Rights found that a law requiring compulsory vaccination of children against nine diseases did not violate Article 8 on the right to physical integrity because the scheme was a proportionate means of protecting public health.<sup>433</sup> Mandatory vaccination requirements, therefore, that are imposed as a condition for the enjoyment or exercise of basic human rights, including the right to work, health, education, religious exercise, the freedom of protest or the right to strike, are to be presumed to be unavoidable for the subject of such requirements. The consequences of refusing the requirement in such cases are too severe to be presumed to be voluntary. These requirements may potentially interfere with several human rights, including the right to liberty, privacy, bodily integrity, work, education, travel, and freedom of religion and assembly, and may infringe the right to equal treatment. In this way, they are primarily similar to robust public health interventions such as stay-at-home (lockdown). The UHRC notes that the compatibility of mandatory vaccination and human rights does not mean that governments should adopt a rude approach to adopting the relevant laws. A careful design is required to ensure that vaccine mandates do not violate rights. In this regard, therefore, the UHRC recommends that any enforcement measures consider human rights standards and be subject to periodic reviews. The UHRC further recommends that the Bill must ensure that any interferences with basic human rights by state and non-state actors must be minimal and in accordance with the legal principle of proportionality. The general proportionality test will require that the measure for infringing protected rights must: (a) be prescribed by law; (b) pursue a legitimate aim (i.e. a ‘compelling state interest’ or a suitable aim); (c) be necessary for a democratic society (i.e. that there is a ‘pressing social need’, that the measures be rationally connected to that aim, and that they are the least restrictive alternative for achieving the policy); and (d) be proportionate in the narrow sense that it strikes a fair balance between the importance of the goal and the burden it places on the individual.

429 Vanderslott Marks, Charting Mandatory Childhood Vaccination Policies Worldwide. *Vaccine*. 2021; 39: 4054-4062

430 The European Convention on Human Rights, 1950; Visited 24 March 2022.

431 WHO Global vaccine action plan 2011-2020.

432 UN International Covenant on Economic, Social and Cultural Rights, 1966.

433 Vavříčka and Others v. the Czech Republic [2021] ECHR no. 47621/13.

| GUIDELINE OR POLICY CONTENT                                                                                                                                                                                                                                                                                                                       | ANALYSIS AND RECOMMENDATIONS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Clause 47 (1) (b)</b> states that a local government council shall require any person in the local government to be vaccinated or revaccinated and shall require the parent or guardian of any child to have the child vaccinated or revaccinated.</p>                                                                                      | <p>The UHRC recommends the protection of children against mandatory vaccination. All parents need to have the preserve to accept or decline vaccination of their children as provided for in the 1995 Constitution of the Republic of Uganda under Article 34.<sup>434</sup> The UHRC recommends that all provisions that discriminate against children and the non-vaccinated, denying them access to education and other services, should be removed from the Bill.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p><b>The need to protect medical officers.</b></p> <p><b>Clause 5 provides for the insertion of 5A,</b> which provides for the medical officer in the employment of the government to take lawful, necessary measures to prevent the occurrence, and deal with the outbreak of an infectious disease to safeguard and promote public health.</p> | <p>Whereas the Commission commends this provision, there is a need to include a provision that protects the medical officers exposed to infectious diseases while trying to implement this provision. There is also a need for a provision for adequate payment to such medical officers as well as to compensate their families when they die in the line of duty when implementing this provision.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <p><b>Establishment of Fines or punishment (fixed penalties) without vaccination (sections 11, 20, 25 and 133),</b></p>                                                                                                                                                                                                                           | <p>Fixed penalties are founded on the well-established tortious doctrine of strict liability, which means that even if the defendant was not negligent or rather, even if the defendant did not intentionally cause the harm or he/she was careful, he/she could still be made liable under the rule.<sup>435</sup> This doctrine of no-fault liability establishes the liability of a person who caused harm even if he/she was not negligent or did not have any intention to cause harm or even if he took some positive step to prevent the same. While states may impose limitations on human rights during states of emergency or disaster, such limitations must meet standards of legality, legitimacy, necessity proportionality, evidence, and non-discrimination. The danger, however, is that the imposition of fines or punishment (fixed penalties) without the right for the offenders to be heard appears contrary to the non-derogable right to a fair, speedy and public hearing before an independent and impartial court or tribunal established by law as provided in the 1995 Constitution of Uganda.<sup>436</sup> The 1995 Constitution of the Republic of Uganda also guarantees the right for any person appearing before any administrative official or body to be treated justly and fairly as well as the right to apply to a court of law in respect of any administrative decision taken against him or her.<sup>437</sup> To this end, it is proposed that processes for enforcement of these fixed penalties pay due attention to these constitutional and human rights issues. For instance, enforcers of the fixed penalties may be required to apply processes that meet standards of fairness, proportionality, evidence, and non-discrimination. The UHRC also proposes that the Bill should consider depriving personal liberty of persons suffering from infectious diseases as a legitimate measure to prevent the spread of infectious or contagious disease<sup>438</sup> as an alternative to the fixed penalties, where appropriate. Such persons should only be held in health facilities for treatment.</p> |

434 Article 34 of the constitution which provides that laws should be implemented to ensure that children have rights to be cared for by their parents or those entitled by the law to care for them.

435 See *Rylands v. Fletcher* (1868) LR 3 HL 330.

436 See Art. to Art.28 (1) of the 1995 Constitution.

437 Ibid Art.42.

438 Ibid Art. 23(1) (d).

| GUIDELINE OR POLICY CONTENT                                                                                                                                                                                                                                    | ANALYSIS AND RECOMMENDATIONS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Gravity of the fines (Section 11)</b>                                                                                                                                                                                                                       | <p>Relatedly is a concern about the gravity of the fines. One currency point is UGX 20,000.<sup>439</sup> Thus, the maximum fine for contravening the ministerial rules (Section 11) is 150 x 20,000 = UGX 3,000,000. This penalty of a fine seems disproportionate in as far as it carries the same burden for persons with medical knowledge, that is to say medical practitioners, and those who do not have such knowledge i.e. heads of families. While this punishment may be necessary to fend off the spread of infectious diseases and appears legitimate for individuals with medical knowledge and statutory responsibility to control infectious diseases, the same cannot be said for heads of families. Therefore the UHRC recommends that fines should be removed from the Bill and alternative options be introduced.</p>                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Availability and accessibility of the vaccines</b>                                                                                                                                                                                                          | <p>The availability and accessibility of the vaccines are by no means guaranteed for people in Uganda. The country has struggled with having a ready supply of COVID-19 vaccines, and even Ugandans who were keen to be vaccinated haven't always been able to access them. Last June and July 2021, for example, Uganda ran out of stock of vaccines, and it took weeks to receive more vaccine doses.<sup>440</sup> The UHRC therefore recommends that before introducing punitive vaccine mandates as proposed in the bill, the government must make sure that it has an adequate supply of vaccines, which is reliable and free of charge for every eligible member of the public to access. Without these assurances, no one in Uganda should have to bear the consequences of the tough sanctions that the law proposes.</p>                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Need for free informed consent to treatment</b>                                                                                                                                                                                                             | <p>The UHRC noted that a person's right to consent to treatment is ignored by the legislation. Uganda's laws prescribe that from the time a person is 18 years then he/she is considered an adult, they are deemed to have the capacity to make their own decisions.<sup>441</sup> One of the foundations of medical ethics and human rights is that healthcare providers should obtain informed consent from a patient before they perform any test or procedure on them.<sup>442</sup> For consent to be valid, it must be voluntary and informed, and the person consenting must have the capacity to make the decision. Therefore the UHRC has noted the omission of these important principles with the introduction of mandatory vaccination in the proposed bill and, worse still, with high sanctions is inconsistent with human rights standards. More so the UHRC further believes that this also puts healthcare workers delivering the vaccination service in a difficult position, torn between their professional duty to help save lives and their obligation to ensure patients' rights are not violated. Even with introduction of mandatory vaccination the right to free informed consent should be upheld.</p> |
| <b>Criminalising failure to vaccinate</b><br>Clause 39 (2) criminalizes failure to vaccinate. A person who fails or neglects to comply with the requirement commits an offence and is liable on conviction to a fine or imprisonment not exceeding six months. | <p>Some people opt not to be vaccinated due to the misinformation that is widely spread about particular vaccines; while others decide not to be vaccinated because they lack information about the diseases and the vaccines. Criminalising failure to vaccinate is not the solution but rather will detach the people more from the health sensitisation and knowledge they ought to have. UHRC recommends that instead of criminalising failure to vaccinate, spreading misinformation about vaccination and diseases should be criminalised. There is also the need to sensitise the communities about the diseases and risks involved with failure to vaccinate.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

439 Barefoot Lawyers- Uganda.

440 Uganda resumes COVID-19 vaccination after weeks of stock-out. Xinhua, 9 August 2021. [http://www.xinhuanet.com/english/africa/2021-08/09/c\\_1310117323.htm](http://www.xinhuanet.com/english/africa/2021-08/09/c_1310117323.htm).

441 Article 257(1)(c) of the Constitution of the Republic of Uganda, 1995 and Section 2 of the Children Act.

442 Wagner RA. Informed consent. Emedicine health.

| GUIDELINE OR POLICY CONTENT                                                                                           | ANALYSIS AND RECOMMENDATIONS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>The need to clear contradicting myths and misconceptions about the COVID-19 vaccines</b></p>                    | <p>The UHRC has noted that even though the COVID-19 vaccines are currently free of charge, there are many myths and misconceptions within the general public that are still deterring people from getting vaccinated. A common one is that for someone to be vaccinated for COVID-19, they must have undergone a test to see if they are not infected first and therefore illegible to take the vaccine. On the contrary if they are infected, then they have to first get treated before taking the vaccine. Such myths on the vaccines have in one way or another discouraged people from undergoing vaccination against COVID-19. The UHRC recommends that the government through the Ministry of Health should carry out a country wide information campaign clearing up this misunderstanding, particularly targeting people who were exposed to this misinformation. It is important to note that those who are able to pay for the tests will have done so and consequently be vaccinated, while those who cannot afford the test will have mistakenly thought they're unable to have the vaccine, creating inequalities among Uganda's population. It also affects uptake of the vaccine and access. The proposed vaccine mandate won't help to dispel this myth and risks disproportionately exposing those with low incomes to sanctions.</p> |
| <p><b>Role of central government.</b> Section 47(1) puts the mandate to enforce vaccination on local governments.</p> | <p>The central government is passing off some of its responsibility, with the only powers of the health minister within this clause being that they can instruct a local government to issue the vaccine in certain areas and not others. There is no accountability for the central government to take on the role of providing vaccines and making them accessible.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <p><b>Other proposals in the bill</b></p>                                                                             | <ul style="list-style-type: none"> <li>a) The UHRC notes that the Bill is silent about regulation of private health actors in the country yet throughout the pandemic, there were a lot of inequalities fostered by the charges in the private sector. The UHRC noted that many Ugandans were subjected to payment of exorbitant amounts for healthcare &amp; others detained for failure to pay.</li> <li>b) The government needs to be cautious before requiring compulsory vaccination as there is need to have scientific evidence on the benefits as well as the efficacy of the vaccine.</li> <li>c) The Bill needs to define what public health is.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

### 11.6.5 Conclusion

In conclusion, the UHRC recommends that Uganda should seriously consider the human rights and ethical dimensions of this bill before passing it into law. It also needs to ensure that COVID-19 vaccines will be available and equally accessible across the population. Instead of using punitive sanctions, Uganda’s vaccination campaign would be better served by the government exploring other ways to increase vaccine uptake, such as public health awareness and education campaigns and incentives for observing the law. There is a need for the bill to protect and promote human rights even in the face of pandemics or critical public health issues.

## CHAPTER TWELVE:

# Updates on Uganda's Reporting to International and Regional Human Rights Mechanisms and Ratification of Treaties

### 12.1 INTRODUCTION AND BACKGROUND

In line with her commitment to promote and protect human rights at the national level, Uganda is a signatory to the core international and regional human rights treaties and has made voluntary pledges to adhere to abiding to protect and promote human rights for all its citizens without discrimination. Some of these treaties and voluntary pledges include:

- The International Convention on the Elimination of Racial Discrimination (ICERD), 1965.
- the International Covenant on Civil and Political Rights (ICCPR), 1966.
- The International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966.
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979.
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 1984.
- The Convention on the Rights of the Child (CRC) 1989, with its two optional protocols (Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OP-CRC-AC), 2000, Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OP-CRC-SC), 2000).
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), 1990.
- The Convention on the Rights of Persons with Disabilities (CRPD), 2006 and its Optional Protocol (OP) to the CRPD, 2006, and 1<sup>st</sup> Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR-OP1), 1966.

The voluntary pledges were:

- The Development of a National Action Plan on Human Rights.
- A National Action Plan on Business and Human Rights.
- To review the human rights situation in the country annually.

- To establish a cabinet sub-committee on human rights.
- To mainstream human rights in all aspects of governance.
- To establish an inter-ministerial technical committee to support the cabinet sub-committee.
- To establish a human rights desk at the Ministry of Justice and Constitutional Affairs.
- To establish a focal point in the Ministry of Foreign Affairs to coordinate with stakeholders and the international community.
- To 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.
- To conduct human rights and civic education in schools.
- To mainstream human rights issues in the training curriculum of security agencies.

The voluntary pledges were received when Uganda's human rights record was reviewed in 2011 under the Universal Periodic Review process. They have been implemented to a large extent. A few that are pending complete implementation, like the National Action Plan on Human Rights, have their status of implementation presented in the subsequent sections of this chapter.

## 12.2 RATIFICATION OF A HUMAN RIGHTS TREATY

Ratification of a human rights treaty is a state's consent to be bound by the treaty under international law. Therefore, when a state ratifies one or more of the international human rights treaties, it assumes a legal obligation to implement the rights recognised in the treaty and to undertake to put in place domestic measures and legislation compatible with their treaty obligations, in addition to committing to submit periodic reports on how the rights stipulated in the treaties and conventions are being implemented to the treaty bodies that monitor their implementation.

The committees can also, under certain conditions, receive petitions from individuals who claim that their rights under the treaties have been violated, especially for those state parties that have recognized the competence of the committee to consider such complaints from individuals either by becoming a party to an optional protocol or by making a declaration to that effect under a specific article of the treaty. Uganda has made such declarations already. A state, therefore, becomes a state party to the treaty by ratification, agreement or succession.

## 12.3 STATE REPORTING

State reporting refers to the compliance of a state party to its obligation to submit treaty-specific reports periodically under the nine international human rights treaties and two optional protocols. Once a state party has acceded to or ratified a human rights treaty, it assumes a legal obligation to report on the implementation of the rights and standards enshrined in that treaty. The state is required to submit an initial report within one or two years after the treaty enters into force, and after that, periodic reports at an interval specified by the relevant treaty. Uganda is bound by the provisions of ratified treaties to promote, protect, respect and fulfil the obligations under them and to submit related periodic reports.

It must be noted that part of the Uganda Human Rights Commission's mandate under Article 52(1) (h) of the 1995 Constitution of Uganda as amended is to monitor government compliance with international and regional treaties, conventions and obligations on human rights that have been ratified and make recommendations to enhance protection and protection. In line with that, therefore, UHRC monitored the government's compliance with international treaty and convention obligations on human rights in 2021. This chapter therefore presents updates on Uganda's status of submission of reports to the treaty bodies,

treaty ratification, progress of implementation of pending voluntary pledges and recommendations from the Universal Periodic Review processes. It highlights positive developments made by the government in terms of reporting, challenges encountered and some the recommendations on how to improve on the reporting mechanism.

## 12.4 UGANDA'S REPORTING STATUS IN 2021

The reporting process should encourage and facilitate, at the national level, public participation, public scrutiny of state policies, laws and programmes, and constructive engagement with civil society in a spirit of cooperation and mutual respect to advance the enjoyment of the rights protected by the relevant treaty ratified by all. In Uganda, the Department of International Legal and Social Affairs at the Ministry of Foreign Affairs is responsible for coordinating the compilation of reports to Treaty Bodies as well as following up on the recommendations made. In 2021, the UHRC established that Uganda submitted three reports as below.

### 12.4.1 Uganda's Third Universal Periodic Review Report to the United Nations Human Rights Council Universal Periodic Review

The Universal Periodic (UPR) is the state-level driven process managed by the United Nations Human Rights Council through which the human rights situations in each of the United Nations member states are reviewed and assessed on a four-yearly cycle.<sup>443</sup> It is a voluntary process based on cooperation and interactive dialogue that gives the state under review the opportunity to show steps taken to improve its human rights record.

Uganda has so far been reviewed thrice. The first review was in October 2011, the second in 2016 and the third and most recent review was conducted in 2022. The 3<sup>rd</sup> National UPR Report was therefore presented before the Human Rights Council on 27 January 2022 during the third UPR of Uganda. A total of 278 recommendations were received from member states during the review and the government should soon convene a stakeholders meeting to consider the recommendations which will then be submitted to Cabinet for consideration to either accept, note or reject.<sup>444</sup>

It should be noted that the recommendations accepted in the first and second cycles have since been implemented, to a large extent. Accordingly the government has enacted and implemented various laws and policies to among others domesticate international human rights standards; ensure inclusive economic growth, equality and accountability; and has strengthened oversight mechanisms including courts of law, the Uganda Human Rights Commission, the Equal Opportunities Commission, and Parliamentary Committees on Human Rights, and Equal Opportunities. It also continues to take measures to implement the voluntary pledges made in its first review.

443 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> (Visited 1 January 2018).

444 Ministry of Foreign Affairs, a presentation made at the UHRC's 24th Annual Report Stakeholders' Consultation meeting at the Commission's Board room held from 21 to 23 February 2022.

## 12.4.2 Uganda's Third and Fourth Periodic Reports on the Convention on the Rights of the Child

The Ministry of Foreign Affairs, together with the Ministry of Gender, Labour and Social Development, developed a Report on the Implementation of the UN Convention on the Rights of the Child and its Optional Protocols, thus submitting the third, fourth, and fifth combined report on 12 May 2021 to the Permanent Mission of Uganda to the UN, Geneva for onward transmission to the Committee of Experts on The Rights of the Child. The report describes Uganda's follow up and progress concerning the Concluding Observations of 2005 and the implementation of the Convention on the Rights of the Child. The aspects of the children's rights that the report highlights include; the definition of the child, general principles, civil rights and freedoms, violence against children, family environment and alternative care, disability, basic health and welfare, education, leisure and cultural activities, special protection measures to mention but a few.<sup>445</sup>

## 12.4.3 Uganda's report on the implementation of the African Charter on the Rights and Welfare of the Child <sup>446</sup>

In addition, the Ministry of Foreign Affairs worked on the Cabinet Memorandum for the second and third reports to the African Committee of Experts on the Rights of the Child. The report was submitted to Cabinet for approval and the same was submitted to the Addis Mission for onward submission to the Committee. Like the Convention on the Rights of the Child, the report touches on pertinent issues of civil rights and freedoms, economic, social and cultural rights, family environment and alternative care.<sup>447</sup>

## 12.4.4 Uganda's Pending Reports as of March 2022

The Commission also established that there were four reports pending submission to the United Nations treaty bodies and five reports to the African Union Commission on Human and People's Rights, as indicated in table 1 below.

**Table 12.1: Pending reports due as of March 2022**

| S/N | TREATY                                                                             | INITIAL REPORT DATE                         | SECOND REPORTING DATE                     | THIRD REPORTING DATE | FOURTH REPORTING DATE |
|-----|------------------------------------------------------------------------------------|---------------------------------------------|-------------------------------------------|----------------------|-----------------------|
| 1.  | International Convention on Elimination of Racial Discrimination (CERD), 1965      | Due on 21 Dec 1981<br>Submitted 5 Aug 1983  | Due 21 Dec 1983<br>Submitted 20 Jun 2001  | Due 21 Dec 2005      |                       |
| 2.  | The International Covenant on Economic Social, and Cultural Rights (ICESCR), 1966  | Due 30 June 1990<br>Submitted on 6 Dec 2012 | Due on 30 June 2020                       |                      |                       |
| 3.  | The International Covenant on Civil and Political Rights (ICCPR), 1966             | Due 20 Sept 1996<br>Submitted 14 Feb 2003   | Due 1 April 2008<br>Submitted 17 Aug 2020 | Due in 2025          |                       |
| 3a  | Optional Protocol to the ICCPR on the individual complaints procedure              | Not ratified                                |                                           |                      |                       |
| 3b  | Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty | Not ratified                                |                                           |                      |                       |

<sup>445</sup> Available at [https://www.unicef.org/uganda/media/10266/file/Uganda\\_Progress\\_Report\\_UNCRC\\_Report\\_13.6.2021.pdf](https://www.unicef.org/uganda/media/10266/file/Uganda_Progress_Report_UNCRC_Report_13.6.2021.pdf) (Visited on 14 April 2022.)

<sup>446</sup> Ibid

<sup>447</sup> Available at [https://www.unicef.org/uganda/media/10276/file/Uganda\\_Periodic\\_Report\\_ACRWC\\_13.6.2021.pdf](https://www.unicef.org/uganda/media/10276/file/Uganda_Periodic_Report_ACRWC_13.6.2021.pdf) (Visited on 14 April 2022.)

| S/N | TREATY                                                                                                        | INITIAL REPORT DATE                                | SECOND REPORTING DATE                                 | THIRD REPORTING DATE                       | FOURTH REPORTING DATE                                                                                  |
|-----|---------------------------------------------------------------------------------------------------------------|----------------------------------------------------|-------------------------------------------------------|--------------------------------------------|--------------------------------------------------------------------------------------------------------|
| 4.  | The Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), 1979                      | Due 21 Aug 1986<br>Submitted 1 June 1992           | Due 21 Aug 1994<br>Submitted 22 May 2000              | Due 21 Aug 2010<br>Submitted 23 March 2009 | Due 21 Oct 2014<br>Submitted 29 June 2020<br>(next report due in 2024)                                 |
| 5   | The Convention Against Torture and Other Forms of Cruel, Inhuman and Degrading Treatment (CAT), 1984          | Due 25 June 1988<br>Submitted 19 May 2004          | Due in 2008 and 25 June 2016<br>Submitted 17 Aug 2020 | Due in 2024                                |                                                                                                        |
| 5a  | Optional Protocol to the Convention Against Torture                                                           | Not ratified                                       |                                                       |                                            |                                                                                                        |
| 5b  | Article 20-Inquiry procedure under the CAT                                                                    | Not ratified                                       |                                                       |                                            |                                                                                                        |
| 6.  | The Convention on the Rights of the Child (CRC), 1989                                                         | Due 15 September 1992<br>Submitted 1 February 1996 | Due 15 September 1997<br>Submitted 2 Aug 2003         | Due 15 March 2011<br>Submitted 12 May 2021 |                                                                                                        |
| 6a  | Optional Protocol to the CRC on the involvement of children in armed conflict-CRC-OP-AC                       | Due 6 June 2004<br>Submitted 16 Aug 2007           |                                                       |                                            |                                                                                                        |
| 6b  | Optional Protocol to the CRC on the sale of children child prostitution and child pornography                 | Due on 18 Jan 2004<br>Submitted 16 Aug 2007        |                                                       |                                            |                                                                                                        |
| 7.  | The International Convention on the Rights of Migrant Workers and All Members of their Families (ICRMW), 1990 | Due 1 July 2014<br>Submitted 31 March 2015         | Due 24 April 2020                                     |                                            |                                                                                                        |
| 8.  | The Convention on the Rights of Persons with Disability (CRPD), 2006                                          | Due 25 Oct 2010<br>Submitted 22 Jan 2013           | Due 25 Oct 2022                                       |                                            |                                                                                                        |
| 8a  | Optional Protocol to the CRPD on Individual complaints procedure                                              | Not ratified                                       |                                                       |                                            |                                                                                                        |
| 8b  | Art 6-7 on inquiry procedure under the CRPD                                                                   | Not ratified                                       |                                                       |                                            |                                                                                                        |
| 9.  | The International Convention for the Protection of All Persons from Enforced Disappearances (ICEPD), 2006     | Not Ratified                                       |                                                       |                                            |                                                                                                        |
| 10. | Reports to the African Commission on Human and People's Rights                                                | 11 May 2000                                        | 27 May 2009                                           | 12 May 2011                                | 7 May 2015 The 6 <sup>th</sup> , 7 <sup>th</sup> , and 8 <sup>th</sup> reports are due (5 reports due) |

## 12.5 TREATIES RATIFIED AS OF 2021

According to the Ministry of Foreign Affairs, the government agency responsible for coordinating the compilation of reports to treaty bodies as well as following up on the recommendations made, Uganda did not ratify any treaty in 2021. The status of ratification of treaties generally is presented in the table below.

| Table 12.2: Status of Uganda's international and regional human rights treaty ratification as of March 2022 |                                                                                                             |                                                     |                                      |
|-------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|--------------------------------------|
| SN                                                                                                          | TREATY                                                                                                      | DATE OF SIGNATURE                                   | DATE OF RATIFICATION/ ACCESSION DATE |
| 1.                                                                                                          | <b>International Convention on Elimination of all forms of racial discrimination (CERD), 1965</b>           | Not stated in the UN Treaty database <sup>448</sup> | 21 November 1980 (a)                 |
| 2.                                                                                                          | <b>The International Covenant on Economic Social, and Cultural Rights (ICESCR), 1966</b>                    | Not stated in the UN treaty database <sup>449</sup> | 21 January 1987 (a)                  |
| 3.                                                                                                          | <b>The International Covenant on Civil and Political Rights (ICCPR), 1966</b>                               | "                                                   | 21 June 1995 (a)                     |
| 3a                                                                                                          | <b>Optional Protocol to the ICCPR on individual complaints procedure</b>                                    | "                                                   | 14 November 1995                     |
| 3b                                                                                                          | <b>Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty</b>                   | "                                                   |                                      |
| 4.                                                                                                          | <b>The Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), 1979</b>             | 30 July 1980                                        | 22 July 1985                         |
| 5.                                                                                                          | <b>The Convention Against Torture and Other Forms of Cruel, Inhuman and Degrading Treatment (CAT), 1984</b> | Not mentioned in the UN treaty database             | 03 November 1986(a)                  |
| 5a                                                                                                          | <b>Optional Protocol to the Convention Against Torture</b>                                                  | "                                                   |                                      |
| 5b                                                                                                          | <b>Art 20-Inquiry Procedure under the CAT</b>                                                               | "                                                   | 03 November 1986                     |
| 6.                                                                                                          | <b>The Convention on the Rights of the Child (CRC), 1989</b>                                                | 17 August 1990                                      | 17 August 1990                       |
| 6a                                                                                                          | <b>Optional Protocol to the CRC on the involvement of children in armed conflict- CRC-OP-AC</b>             | "                                                   | 06 May 2002(a)                       |

448 UNOHCHR, available at [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Countries.aspx?CountryCode=UGA&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx?CountryCode=UGA&Lang=EN).

449 <https://indicators.ohchr.org/>.

| SN  | TREATY                                                                                                                                    | DATE OF SIGNATURE                       | DATE OF RATIFICATION/ ACCESSION DATE |
|-----|-------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|--------------------------------------|
| 6b  | <b>Optional Protocol to the CRC on the sale of children, child prostitution and child pornography</b>                                     | "                                       | 30 November 2001 (a)                 |
| 7.  | <b>The International Convention on the Rights of Migrant Workers and All Members of their Families (ICRMW), 1990</b>                      | Not mentioned in the UN treaty database | 14 November 1995 (a)                 |
| 8.  | <b>The Convention on the Rights of Persons with Disability (CRPD), 2006</b>                                                               | 30 March 2007                           | 25 September 2008                    |
| 8a  | <b>Optional Protocol to the CRPD on Individual complaints procedure</b>                                                                   | "                                       | 25 September 2008                    |
| 8b  | <b>Art 6-7 on inquiry procedure under the CRPD</b>                                                                                        | "                                       | 25 September 2008                    |
| 9.  | <b>The International Convention for the Protection of All Persons from Enforced (Disappearances (ICEPD), 2006</b>                         | 06 Feb 2007                             |                                      |
| 9a  | <b>Art 32- Interstate Communication procedure under the ICEPD</b>                                                                         | "                                       |                                      |
| 10. | <b>The African Charter on Human and Peoples Rights (Banjul Charter)</b>                                                                   | 18 Aug 1986                             | 10 May 1986 <sup>450</sup>           |
| 11. | <b>Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa</b>                                       | 18 Dec 2003                             | 22 July 2010                         |
| 12  | <b>Protocol to the African Charter on Human and People's Rights on the Establishment of an African Court on Human and People's Rights</b> | 1 Feb 2001                              | 16 Feb 2001 <sup>451</sup>           |
| 13  | <b>African Charter on the Rights and Welfare of the Child</b>                                                                             | 26 Feb 1992                             | 17 Feb 1994 <sup>452</sup>           |

450 University of Minnesota Human Rights Library, available at <http://hrlibrary.umn.edu/research/ratification-uganda.html>.

451 Ibid

452 Note that a state party can sign and not ratify a human rights treaty however the obligation to be bound by treaties is completed by ratification.

## 12.6 TREATIES NOT YET RATIFIED AS OF 1<sup>ST</sup> MARCH 2021

As already stated, a state is formally bound by an international human rights treaty and is obliged to report to the relevant treaty body only after it has ratified the treaty. It is not enough for a country to merely sign a treaty - it must either ratify the treaty after signing on or accede to it without prior signature in order for the treaty to come into force. Against this background the Commission urges the Ugandan Government to urgently ratify the treaties summarised in the table below to enhance its commitment to the protection and promotion of human rights of the citizens.

**Table 12. 3: Treaties not yet ratified by Uganda as of 1 March 2022**

| S/N | TREATY NOT RATIFIED                                                                                                      | RATIONALE FOR RATIFICATION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-----|--------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1   | <b>Optional Protocol of the Covenant Against Torture (OPCAT)</b>                                                         | The OPCAT does not set out additional standards, nor does it create new rights. It assists states to concretely implement their existing obligations to prohibit and prevent torture contained in the UN Convention Against Torture, other international human rights treaties, regional human rights standards and domestic law. Ratification of the OPCAT will among other things improve and strengthen the monitoring mechanism of places of detention with a two-pillar system at the national and international level. Furthermore, among other benefits, there is provision for a fund to implement the recommendations made by the international visiting body. |
| 2   | <b>3<sup>rd</sup> Optional Protocol to the Convention on the Rights of the Child</b>                                     | The Protocol contains an individual complaint procedure that permits children and adolescents to bring complaints about violations of their rights as set out in the Convention on the Rights of the Child or the optional protocols to the UN Committee on the Rights of the Child. In addition, the Optional Protocol refers to an inquiry procedure which permits a contracting state to initiate the procedure against another state in the case of infringements of the Convention or both of the other optional protocols.                                                                                                                                        |
| 3   | <b>Convention on the Protection of Children and Co-operation in Respect of Inter-country Adoption (Hague Convention)</b> | The Hague Convention on the Protection of Children and Co-operation in Respect of Inter-Country Adoption (Convention) is an international agreement to safeguard inter-country adoptions. The Convention aims to prevent the abduction, sale of, or trafficking in children, and it works to ensure that inter-country adoptions are in the best interests of children.                                                                                                                                                                                                                                                                                                 |
| 4   | <b>International Convention for the Protection of All Persons against Enforced Disappearances</b>                        | Signed (2007) but not yet ratified. This is the first universally-binding treaty that defines enforced disappearance as a human rights violation and prohibits it.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 5   | <b>ILO Domestic Workers Convention, 2011 (No. 189)</b>                                                                   | Domestic work continues to be undervalued and invisible and is mainly carried out by women and girl who are members of disadvantaged communities and who are particularly vulnerable to discrimination with respect to conditions of employment and of work, and to other forms of human rights abuse, thus the need to protect them.                                                                                                                                                                                                                                                                                                                                   |
| 6   | <b>Optional Protocol to the International Covenant on Economic Social and Cultural Rights</b>                            | Allows individual complaints or communications.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 7   | <b>2<sup>nd</sup> Optional Protocol to the International Covenant on Civil and Political Rights (IC CPR)</b>             | Provides for abolition of the death penalty.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

| S/N | TREATY NOT RATIFIED                                                                                      | RATIONALE FOR RATIFICATION                                                                                                                                                                                                                                                                                          |
|-----|----------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 8   | <b>Optional Protocol to the Convention on the Elimination of Discrimination against Women</b>            | The Convention on the Elimination of All Forms of Discrimination Against Women is an international UN treaty that seeks to improve the lives of women worldwide and guarantee their enjoyment of human rights, free from discrimination.                                                                            |
| 9   | <b>Slavery Convention</b>                                                                                | The Convention to Suppress the Slave Trade and Slavery, known as the Slavery Convention, entered into force on 7 March 1927. This Convention was created under the auspices of the League of Nations and serves as the foundation for the prevention and suppression of the slave trade.                            |
| 10  | <b>Protocol amending the Slavery Convention</b>                                                          | Provides for prevention and suppression of the slave trade.                                                                                                                                                                                                                                                         |
| 11  | <b>1962 Convention on Reduction of Statelessness</b>                                                     | The Convention seeks to balance the rights of individuals with the interests of states by setting out general rules for the prevention of statelessness and simultaneously allowing some exceptions to those rules. The 1961 Convention establishes safeguards against statelessness in several different contexts. |
| 12  | <b>Migration of Employment Convention (revised) 1949 No. 97 of the International Labour Organization</b> | This Convention provides a number of measures that member states should take in order to safeguard the rights of migrant workers.                                                                                                                                                                                   |

## 12.7 STATUS OF PENDING VOLUNTARY PLEDGES FROM THE LAST UNIVERSAL PERIODIC REVIEW PROCESS

As mentioned earlier, the Ugandan Government made specific measure (voluntary pledges) when its human rights record was reviewed in 2011 and 2016 under the Universal Periodic Review processes, to ensure the promotion and protection of human rights in the country.<sup>453</sup> These have been implemented to a large extent. However, the pending ones include; the National Action Plan on Human Rights, the National Action Plan on Business and Human Rights and Inter-Ministerial Technical Steering Committee on Human Rights. This section shows the status of their implementation.

### 12.7.1 NATIONAL ACTION PLAN ON HUMAN RIGHTS

In 2015, the Government of Uganda embarked on the process of developing a National Action Plan on Human Rights (NAPHR) arising out of a voluntary pledge made by the government during the 2011 peer review. The National Action Plan is a critical document as it is the missing link to the coordination of the promotion and protection of human rights in Uganda. The NAP provides for the priority interventions in human rights for the next five years and has developed a monitoring and evaluation framework to track its implementation. The coordination of the NAP has been entrusted to the Ministry of Justice and Constitutional Affairs and the Ministry of Foreign Affairs. By the time of writing this report, the UHRC established that the NAP was still in draft form and was being reviewed to align it with the NDP III before its submission to Cabinet for approval since the NDP III prioritises the implementation of the NAP.

The objectives of the NAP are focused on capacity building of Government and citizens in the protection and promotion of human rights, enhancing equality and non-discrimination for all; reducing poverty and promoting individual and collective wellbeing; guaranteeing the enjoyment of civil and political rights and

<sup>453</sup> At the time of writing this chapter, Uganda had been reviewed three times. The most recent review having taken place on 27 January 2022.

liberties; addressing the human rights needs of special groups and those of victims of conflict and disasters; and implementing Uganda's regional and international human rights obligations.

According to Ministry of Foreign Affairs, the Ministry, together with the Ministry of Justice and Constitutional Affairs, had already initiated the process of reviewing the NAP for conclusion and submission before cabinet. The process will involve holding a stakeholders meeting to consider the draft NAP with the aim of completing the document by 30 June 2022.<sup>454</sup>

## 12.7.2 NATIONAL ACTION PLAN ON BUSINESS AND HUMAN RIGHTS

The Government of Uganda committed to the development of the NAPBHR based on the UN guiding principles of protect, respect and remedy through acceptance of the Universal Periodic Review recommendations on this issue in 2016. Equally, Uganda is committed to the realisation of this Action Plan through the existing mechanisms like the Constitution of the Republic of Uganda, Institutional and other policy frameworks. The government therefore pronounces itself to promote and carry out key actions to ensure that, within the domestic legislative, institutional and operational frameworks, human rights are considered a priority so that potential adverse impacts of business on these rights are addressed. The NAP on Business and Human Rights was therefore developed under the leadership of the MoGLSD, the government entity responsible for its implementation. The NAP seeks to promote a harmonious relationship in which both businesses and communities can thrive by providing a comprehensive framework for coordination of multi-sectoral efforts to ensure respect for human rights in business operations.

The goal of the Plan is the elimination of human rights violations and abuses in business activities by any person or entity with specific objectives that include; strengthening institutional capacity, operations and coordination efforts of state and non-state actors for the protection and promotion of human rights in businesses; to promote human rights compliance and accountability by business actors; to promote social inclusion and rights of the vulnerable and marginalised individuals and groups in business operations; to promote meaningful and effective participation and respect for consent by relevant stakeholders in business operations; and to enhance access to remedy to victims of business-related human rights abuses and violations in business operations.

Its priority focus is on the eight thematic areas of: land and natural resources; environment; labour rights; revenue transparency, tax exemptions and corruption; social service delivery by private actors; consumer protection; access to remedy; and women, vulnerable and marginalised groups.

According to the Ministry of Foreign Affairs, the NAP on Business and Human Rights was adopted by Cabinet in October 2021 and launched for implementation by MoGLSD on 28 October 2021. It is therefore a policy framework by the Government of Uganda aimed at preventing, mitigating, and remedying adverse human rights impact caused by businesses in line with the United Nations Guiding Principles on Business and Human Rights, international human rights obligations and the 1995 Constitution of the Republic of Uganda, and related legislation and policies.

The MoGLSD together with UHRC have since conducted the dissemination exercises of the NAP on business and human rights among district planners and policymakers. However, not all districts had been covered by the time of writing this report; additional financial support from relevant stakeholders was therefore still required.

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<sup>454</sup> Ibid

### 12.7.3 Inter-Ministerial Technical Steering Committee on Human Rights

On 6 July 2011, the Advisory Inter-Ministerial Technical Steering Committee on Human rights was established by Cabinet. The Ministry of Foreign Affairs and Ministry of Justice and Constitutional Affairs are Chair and Co-Chair of the steering committee respectively. Senior officials of MDAs with mandates of ratification, domestication, implementation, monitoring and reporting are members to the committee and representatives of civil society organisations are co-opted.

The steering committee is mandated to do the following:

1. Develop standardised reporting guidelines on human rights mechanisms and implementation plans of recommendations from human rights mechanisms.
2. Develop a framework for ratification of human rights instruments and domestication of human rights obligations.
3. Facilitate and coordinate the preparation of reports to regional and international human rights mechanisms.
4. Coordinate and follow up information and data from MDAs and other stakeholders of reports and communications to human rights mechanisms.
5. Lead consultations of reports and follow up of recommendations, communications and decisions from human rights mechanisms.
6. Make recommendations on the latest developments in treaty reporting and follow up from human rights mechanisms.
7. Advise on communications to regional and international human rights mechanisms.
8. Recommend the use of existing or propose a monitoring, evaluation and reporting system to track the implementation of recommendations by MDAs and other relevant stakeholders.
9. Regularly update the data management system on the implementation of recommendations from human rights mechanisms.
10. Track and cluster recommendations from international and regional human rights mechanisms, identify government agencies for implementation and develop follow-up plans with time frames.
11. Raise awareness of the importance of the state reporting under international and regional human rights instruments.
12. Publicise recommendations through existing government communication channels.
13. Undertake capacity building of steering committee members.
14. Develop work plans and budgets for the steering committee.
15. Carry out midterm and annual reviews of implementation of the workplan of the steering committee.

The Ministry of Foreign Affairs informed UHRC that training on treaty reporting had been conducted to boost the capacity of the members of the Inter-Ministerial Committee on Human Rights in preparing treaty reports.

## 12.8 ROLE OF UHRC IN TREATY BODY REPORTING

In line with its constitutional mandate, the Commission carried out a number of activities related to monitoring the government's compliance with its treaty body obligations. This included submitting its independent reports, monitoring government compliance with its treaty obligations, continued dissemination of concluding observations from treaty body mechanisms, and contributing to drafting the government's national reports by providing technical advice and guidance to MDAs that drafted the reports. These are explained below in detail.

### 12.8.1 Monitoring the Government's compliance with its treaty body obligations

The Commission monitors the government's compliance with its treaty body obligations using various means including review of bills, policies and guidelines, advocates for legal reforms, monitors reporting on the human rights situation in the country in line with the human rights standards enshrined in the various treaties and conventions and presents findings and recommendations in its periodic reports including annual reports to Parliament. In 2021, the Commission reviewed the treaty on the Prohibition of Nuclear Weapons, the Constitutional Bail Guidelines (for Courts of Judicature Practice Directions), 2021, the Judicature (representation at the expense of the state) Rules, 2021 and the Constitutional (sentencing guidelines for Courts of Judicature) (Practice) Directions, 2021 to ensure their compliance with human rights standards. These presented in details in this Annual Report in the chapter under review of bills.

The UHRC also monitored the human rights situation of COVID-19 effects and issued two advisories in the areas of the right to bail and the COVID-19 cash relief fund for vulnerable persons. A key recommendation made under right to bail was that the presumption of innocence be upheld and bail should not be removed because the presumptive right to bail functions as a key safeguard for protecting suspects and accused persons from arbitrary detention; whereas under the COVID-19 cash relief the Commission recommended that the government should make a comprehensive list of vulnerable persons in the country to ensure inclusiveness and that no one is left behind.

### 12.8.2 Submission of independent reports

In 2021, UHRC submitted independent reports to the Human Rights Council and the Committee on the United Nations Convention on the Elimination of all Forms of Discrimination against Women. In the UHRC CEDAW independent report, the UHRC commended the Republic of Uganda for all the efforts geared towards gender equality and the empowerment of women and girls over the years. Among the important steps taken included the incorporation of the commitments to the provisions of CEDAW in the legal, policy and planning framework of the country, namely Uganda Vision 2040, the NDP III (2020/21– 2024/25); the ratification of the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol); and the recommendations accepted under the Human Rights Council in the state's last Universal Periodic Review.

However, the Commission noted that despite the efforts made by the Government of Uganda to promote and protect the rights of women, there were still a number of challenges that women and girls face. These included poverty, lack of adequate health and social care; violence; early and forced marriages and harmful traditional practices such as female genital mutilation among others.

Under the periodic review, UHRC noted that Uganda had performed fairly well in implementing the recommendation to be up to date with respect to the submission of national reports to treaty bodies. For instance, despite the challenges caused by the COVID-19 pandemic, Uganda was able to submit the Convention on the Rights of the Child report in March 2020. Nonetheless, there were still overdue reports. These include the report under the African Charter on the Rights and Welfare of the Child, the OP-CRC-AC report pending since 2013, the OP-CRC-SC report pending since 2013; and the initial and subsequent reports under the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women

in Africa. The Commission noted in the report that it was necessary for concerted efforts to ensure submission of the overdue reports and timely reporting at international, regional and domestic human rights reporting mechanisms.

### 12.8.3 Dissemination of concluding observations

As a best practice and as a national human rights institution charged with the role of protecting and promoting human rights in the country, the UHRC always publishes and disseminates concluding observations from the various treaty body bodies. In 2021, therefore the Commission continued to disseminate concluding observations from the treaty bodies that monitor the implementation of the rights stipulated in the Convention on the Rights of Persons with Disabilities, and the Universal Periodic Review processes.

### 12.8.4 Contributing to the drafting of the Government Reports

The Commission participated in the drafting of Government reports including the third UPR, CRC, CEDAW, CAT, ICCPR, ACHPR and the Maputo Protocol, and provided the information to the Ministry of Foreign Affairs for further enrichment.

## 12.9 RECOMMENDATIONS

1. The Ministry of Foreign Affairs should finalise and operationalise the inter-ministerial committee on human rights to streamline and hasten reporting obligations.
2. The Ministry of Foreign Affairs, Ministry of Gender, Labour and Social Development and Ministry of Justice and Constitutional Affairs should follow up on the implementation of pending voluntary pledges and recommendations made by treaty bodies to enhance the promotion and protection of human rights in the country.
3. The Ministry of Finance Planning and Economic Development should increase financial support to the Ministry of Gender, Labour and Social Development and other relevant agencies to complete the dissemination of the National Action Plan on Business and Human Rights.
4. The Ugandan Government should urgently ratify pending treaties, especially those signed, for example, the Optional to the Convention against Torture and the International Convention for the Protection of all Persons from Enforced Disappearance, 2006.
5. The Ministry of Finance, Planning and Economic Development should increase funding to the Ministry of Gender, Labour and Social Development and other MDAs responsible for state reporting to enable them to have adequate financial and human resources to conduct consultations and data collection needed for timely reporting.

## 12.10 CONCLUSION

Effective implementation of recommendations and concluding observations from the treaty bodies and special mechanisms go hand in hand with regular reporting to enable effective assessment of progress being made in the protection and promotion of human rights by state parties. However, this is not the case presently in Uganda as we are not up to date with reporting. Several reports are pending submission. UHRC therefore urges government to be consistently committed towards its reporting obligations to the international and regional treaty mechanisms in a timely and efficient manner.





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