


<b>AFRICAN UNION</b>		<b>UNION AFRICAINE</b>
<b>الاتحاد الأفريقي</b>  African Commission on Human & Peoples' Rights		<b>UNIÃO AFRICANA</b>  Commission Africaine des Droits de l'Homme & des Peuples
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## **Fortieth Ordinary Session**

**15 – 29 November 2006, in Banjul, The Gambia**

### **Consideration of Reports submitted by States Parties under the Terms of Article 62 of the African Charter on Human and Peoples' Rights**

#### **Concluding Observations and Recommendations on the Second Periodic Report of the Republic of Uganda**

#### **I- Introduction**

1. The Republic of Uganda (Uganda) is a State Party to the African Charter on Human and Peoples' Rights (the African Charter), having ratified it on 27 May 1986.
2. The report was received at the Secretariat of the African Commission on Human and Peoples' Rights (the Secretariat) in May 2006 and was considered at the 40<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights (the African Commission), held from 15 to 29 November 2006 in Banjul, The Gambia.
3. The present Concluding Observations follow from the presentation of the Second Periodic Report by the Delegation of the Republic of Uganda to the African Commission. The Delegation was composed of Honourable Khiddu Makubuya, Attorney General and Minister of Justice, Major Charles Wacha Angulo, Ms Rosette Nyirinkindi Katungye, and Ms Sarah

Nambasa Masembe. The Report was presented by the Attorney General and Minister of Justice of Uganda who was head of the delegation.

4. It must be noted that in addition to the report submitted by Uganda, the Secretariat received a report from the High Commissioner for Human Rights' office in Uganda and three shadow reports from the following Non-Governmental Organisations (NGOs): the Foundation for Human Rights Initiative (FHRI), the Uganda Association of Women Lawyers (FIDA-U) and a joint report from the International Gay and Lesbian Human Rights Commission (IGLHRC) and Sexual Minorities Uganda (SMUG). These reports also provided the African Commission with information on the human rights situation in Uganda.
5. These Concluding Observations give an account of the positive aspects identified in the Report as well as the factors restricting the effective enjoyment of human and peoples' rights as stipulated in the African Charter. They also underline areas of concern where, in the African Commission's view, action needs to be taken.
6. At the end of its observations, the African Commission makes recommendations to Uganda on measures to be taken to enhance the enjoyment of human rights in general and the rights guaranteed in the African Charter in particular.

## **II - Positive Aspects**

The African Commission:

1. Commends Uganda for submitting its report in accordance with Article 62 of the African Charter. In particular the African Commission highly appreciates the efforts made by the Government of Uganda to guarantee the enjoyment of rights and freedoms enshrined under the African Charter.
2. Notes that Uganda's Constitution makes provision for the Charter on Fundamental Human Rights and Freedoms. The Constitution also provides for various constitutional bodies to promote and protect fundamental rights and freedoms in Uganda. In comparison with previous Constitution, the African Commission notes that Article 33 of the 1995 Constitution specifically provides for the rights of women and recognizes the need to accord women full and equal privileges with men.

3. Notes in particular that Article 51 of the Constitution of Uganda creates the Uganda Human Rights Commission (UHRC) with quasi-judicial functions and that Article 53 (1) and (2) of the same Constitution give the UHRC the powers to:
  - Investigate on its own initiative or that of an individual or group of persons any complaint regarding the abuse of human rights;
  - Release a detained or restricted person;
  - Pay or order the payment of compensation;
  - Give any other legal remedies or redress.
  
4. Takes note of the fact that Uganda has ratified major international and regional human rights instruments including the:
  - African Charter on Human and People's Rights;
  - International Covenant on Economic, Social and Cultural Rights (ICESCR);
  - International Covenant on Civil and Political Rights (ICCPR);
  - Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);
  - Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).
  - First Optional Protocol on the ICCPR with reservations on Article 5;
  - Convention on the Elimination of All Forms of Racial Discrimination (CERD);
  - Convention on the Rights of the Child (CRC);
  - Optional Protocol to the Convention on the Rights of the Child on Involvement of Children in Armed Conflict;
  - Second Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child prostitution and Child Pornography;
  - African Charter on the Rights and Welfare of the Child;
  - Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.
  - Protocol to the African Charter on Human and Peoples' Rights on the Establishment of An African Court on Human and Peoples' Rights.
  
5. Commends Uganda for establishing the Ministry of Gender in order to further promote women's rights and social development as a national mechanism for the advancement of women and mainstreaming of gender;
  
6. Notes with appreciation the creation of a National Steering Committee on Child Labor composed of Ministries, the Federation of Ugandan

- Employers and the National Organization of Trade Unions. The African Commission also welcomes the efforts made to organize NGOs and other partners to guide and oversee the implementation of the child labour programme activities;
7. Recognizes the efforts being made to combat the Human Immunodeficiency Virus and the Acquired Immunodeficiency Syndrome (HIV/AIDS) pandemic, including the adoption of the "National Policy for the Prevention and Control of HIV/AIDS and Sexually Transmitted Infections (STI)";
  8. Commends Uganda for engaging in peace negotiations with Lord Resistance Army (LRA) and other rebel groups in Uganda.

### **III - Factors Restricting the Enjoyment of the Rights Guaranteed in the African Charter**

9. Uganda is currently involved in an internal armed conflict with different rebel groups in the country. These rebel groups are involved in the abduction of children and other human rights violations which affect marginalized groups. The links of this conflict with other regional conflicts jeopardize the implementation of all development projects and thereby the enjoyment of all rights enshrined in the African Charter as well as other international instruments in the country.
10. According to the 2004 World Bank report the adult illiteracy rate in Uganda is 33.2%, which can be considered as a factor impeding some people from taking up actions against human rights violators.

### **IV- Areas of Concern**

While recognising the efforts of the Government of Uganda to promote and protect human rights and to create awareness on the principles and provisions of the African Charter, the African Commission remains concerned:

11. That Uganda has not complied with the African Commission's Guidelines for the Preparation of Periodic Reports in the preparation of the Report. The African Commission further regrets that the Report appears to be a copy of the report that was submitted to the United Nations Human Rights Committee and other international human rights bodies, and hence the

- specific peculiarities of the African Charter have not been adequately addressed;
12. That the HIV pandemic is still ravaging the Ugandan population due to the fact that most infected people have limited resources to get appropriate drugs;
  13. That conflicts in the Northern part of Uganda (Acholiland) have continued to undermine development efforts in Uganda;
  14. By the situation of approximately 1.5 million Internally Displaced Persons (IDPs) living in substandard conditions in overcrowded camps and who are also suffering from all kinds of human rights violations;
  15. With the administration of justice by military courts, as it is related to the trial of civilians as well as the implementation of the 2001 Principles and Guidelines on Fair Trial and Legal Assistance;
  16. That ordinary Ugandans cannot afford legal services to get compensation for their human rights abuses.
  17. By the exploitation, the discrimination and the marginalization of indigenous populations;
  18. With the recent NGOs Registration (Amendment) Act as this may impede the work of these organizations and hinder freedom of association and expression;
  19. About the existence of the death penalty in Uganda; and
  20. About the lack of concrete actions taken to give effect to the national legislations referred to in the Report.

## **V- Recommendations**

The African Commission recommends that the Government of Uganda should:

21. Take concrete actions to give effect to the provisions of the African Charter;

22. Comply with Article 7 of the African Charter and in particular, the 2001 Principles and Guidelines on Fair Trial and Legal Assistance in Africa, as the later clearly prohibits the trial of civilians by military tribunals;
23. Reduce the marginalization of the Northern part of the country (East Karamoja) by strengthening central government services to eradicate poverty, overcome insecurity and foster development;
24. Consider amending the recently enacted NGO Registration (Amendment) Act with a view to incorporating the concerns raised by NGOs;
25. Collaborate with civil societies, international and regional organizations, to sensitize people and address Uganda's difficulties, in particular problems related to insecurity, unemployment and development;
26. Abolish the death penalty;
27. Ensure that the rights of indigenous people and other vulnerable groups are respected;
28. Enhance the implementation of the national policy on IDPs and ensure the rehabilitation of social and economic infrastructures in order to ensure their return and resettlement.
29. Follow the African Commission's Guidelines for the Preparation of Periodic Reports, and collaborate with NGOs and academic institutions while preparing its Periodic Reports;

30. Establish Khadis Courts as provided for in Uganda's Constitution; and
  
31. Inform the African Commission, in its next Periodic Report, of the steps it has taken to address the areas of concern, as well as how it has implemented the recommendations in this Concluding Observations.

**Adopted at the 40<sup>th</sup> Ordinary Session of the African Commission on  
Human and Peoples' Rights held from 15 to 29 November 2006, Banjul,  
The Gambia**