

<b>AFRICAN UNION</b>		<b>UNION AFRICAINE</b>
<b>الاتحاد الأفريقي</b> <i>African Commission on Human &amp; Peoples' Rights</i>		<b>UNIÃO AFRICANA</b> <i>Commission Africaine des Droits de l'Homme &amp; des Peuples</i>
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## **CONCLUDING OBSERVATIONS OF THE AFRICAN COMMISSION ON THE <sup>3rd</sup> PERIODIC REPORT OF THE REPUBLIC OF UGANDA**

*(Presented at the 45<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights held in Banjul, the Gambia from 13 to 27 May 2009)*

### **PART I- INTRODUCTION**

1. The Republic of Uganda ratified the African Charter on Human and Peoples' Rights on 27 March 1986. In conformity to Article 62 of the Charter, she submitted her 3<sup>rd</sup> Periodic Report, covering the period 2006-2008. The first Report was considered during the 27<sup>th</sup> Ordinary Session of the African Commission, held from 27<sup>th</sup> April – 11<sup>th</sup> May 2000, in Algeria. The second Report was considered during the 40<sup>th</sup> Ordinary Session of the African Commission held from the 15-29 November 2006 in Banjul, The Gambia. This Report was received at the Secretariat of the African Commission in October 2008; and was considered during the 45<sup>th</sup> Ordinary Session of the African Commission, held from 13-27 May 2009 in Banjul, The Gambia. The present Concluding Observations follow the consideration of the Report by the African Commission.
2. The delegation of the Republic of Uganda that presented the Report to the African Commission was led by Hon. Federick Ruhindi, Attorney General and Minister of State for Justice & Constitutional Affairs; and included:
  - Major Charles Wacha Angulo - Director of Human Rights, Uganda Peoples Defence Force
  - Ms. Rosette Nyirinkindi Katungye - Head of AU Department, Ministry of Foreign Affairs
  - Mr. Phillip Odoki - Law Reform Commission
  - Mr. Nathan Twino - Amnesty Commission
  - Ms. Patience Kabije - State Attorney; and
  - Mr. Pascal Eramu - Internal Affairs Ministry.
3. The African Commission commends the Republic of Uganda for submitting its Report and being up to date with its reporting obligations.

4. The African Commission highly appreciates the efforts made by the government of Uganda to guarantee the enjoyment of the rights and freedoms enshrined under the African Charter.
5. These Concluding Observations give an account of the positive factors identified in the Report as well as the factors restricting the effective enjoyment of human and peoples' rights guaranteed in the African Charter. They also underline areas of concern where, in the African Commission's view, action needs to be taken.
6. In these Concluding Observations, the African Commission also makes recommendations to the State on measures to be taken to enhance the enjoyment of human and peoples' rights in general and the rights guaranteed in the African Charter in particular.

## **PART II- THE POSITIVE FACTORS**

The African Commission hereby:

7. Notes that the Report is in compliance with the African Commissions Reporting Guidelines for State Reporting.
8. Notes that Uganda's Constitution has a section entitled the Charter on Fundamental Human Rights and Freedoms which guarantees the protection of human rights of Ugandans. The Constitution also provides for various constitutional bodies to promote and protect fundamental rights and freedoms in Uganda.
9. Appreciates that Uganda has complied with some of the recommendations adopted by the African Commission after the presentation of the Second Periodic Report at the 40<sup>th</sup> Ordinary Session held from 15-29 November 2006 in Banjul, The Gambia.
10. Notes with appreciation that Uganda has enacted the following legislations with a view to enhancing the protection of human rights in the country :
  - The Copy Right and Neighbouring Rights Act 2006
  - The Equal Opportunities Commission Act 2007
  - The Penal Code (Amendment) Act 2007
  - The Magistrates Courts (Amendment) Act 2007
  - The Judicature (Amendment) Act 2007
  - The Trial on Indictment (Amendment) Act 2008
  - The Law Revision (Fines and other Financial Amounts in Criminal Matters) Act 2008.
  - The Trafficking in Persons Act 2009
11. Notes in particular that the Republic of Uganda has taken some institutional measures, giving effect to promoting and protecting human rights in the country by establishing the:
  - Equal Opportunities Commission,

- Amnesty Commission and
- Media Council.,

12. Commends Uganda for establishing:

- The Department of Culture and Family Affairs in the Ministry of Gender, Labour and Social Affairs to address issues within the family; and
- The Human Rights Department in the Uganda Peoples' Defence Forces (UPDF) mandated to sensitize the rank and file of the armed forces on human rights issues.

13. Further commends Uganda for establishing the following special Courts to facilitate access to justice:

- Local Council Courts
- Anti- Corruption Court
- Qadhis Courts
- Human Rights Tribunal
- Industrial Tribunal
- Family and Children's Court
- Tax Court

14. Notes that Uganda has set up a Multi-Stakeholders Consultation for the creation of the War Crimes Court.

15. Recognizes the efforts being made by Uganda to reduce gender inequality by revising the 2007 Gender Policy to achieve among others:

- Increased knowledge and understanding of human rights among women and men so that they can identify violations, demand, access, seek redress and enjoy their rights;
- Strengthened women's presence and capacities in decision making for their meaningful participation in administrative and political processes; and
- Elimination of gender inequalities and ensure inclusion of gender analysis in macro-economic policy formulation, implementation monitoring and evaluation.

16. Commends Uganda for establishing HIV/AIDS Health Centres at every sub-district to ensure easy access to healthcare services and for putting in place an HIV/AIDS National Policy.

17. Commends Uganda for taking steps to address issues confronting the Karamoja region by establishing the Ministry of State for Karamoja Affairs and for launching the Karamoja Integrated Disarmament Development Program (KIDDP) in 2008, to develop and implement a comprehensive, coordinated and sustainable disarmament programme that enhances peace building and development in Karamoja.

18. Commends Uganda for being one of the few countries to have adopted an Access to Information Legislation.

19. Finally commends Uganda for the adoption of the Peace Recovery and Development Plan of Northern Uganda 2007-2010 for the stabilization, rehabilitation and consolidation of peace in the Northern and Eastern parts of the country.

### **PART III- FACTORS RESTRICTING THE ENJOYMENT OF THE RIGHTS ENSHRINED IN THE AFRICAN CHARTER:**

The African Commission notes that the factors restricting the enjoyment of the rights enshrined in the African Charter are:

20. The continued internal armed conflict in the Northern part of Uganda by rebel groups, associated with attacks on the civilian population by raping, mutilating, slaughtering, abducting civilians, raiding villages, recruitment of child soldiers, looting stores and homes, and burning houses and schools. These and other human rights violations affect in particular marginalized groups, thereby jeopardizes the implementation of development projects and affect the enjoyment of rights enshrined in the Charter.
21. The apparent lack of political will to take measures to realize the rights of indigenous populations especially the BATWA people as guaranteed under the Charter.
22. The prevalence of harmful cultural practices like the ritual sacrifice of children and Female Genital Mutilation particularly in the Aswan region of Uganda continue to affect the enjoyment of human rights; in particular the rights of children.
23. The failure to adopt legislative measures to criminalize torture and violence against children.
24. The failure to ensure the full enjoyment of the right to freedom of expression by introducing legislative measures that restrict the right to freedom of expression.
25. The inadequacy and high cost of legal services in Uganda means ordinary Ugandans cannot afford legal services.

### **PART IV – AREAS OF CONCERN**

The African Commission is concerned:

26. About the lack of Non Governmental Organizations involvement in the drafting of the Report.
27. That the following recommendations adopted after the presentation of the Second Periodic Report at the 40<sup>th</sup> Session were not complied with:

- To 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 they relate to the prohibition of trials of civilians by military tribunals.
- Consider amending the recently enacted NGO Registration (Amendment) Act with a view to incorporating the concerns raised by the NGO community.
- Collaborate with civil society, international and regional organizations, to sensitize people and address Uganda's difficulties, in particular problems related to insecurity, unemployment and development.
- Enhance implementation of the national policy on the Internal Displaced Persons (IDPs) in relation to the IDPs return and resettlement programmes, and to ensure the rehabilitation of social and economic infrastructure to enable the return and resettlement of IDPS in Uganda.

28. That the Report does not adequately provide comprehensive statistical information and disaggregated data in relation to the various assertions made on the promotion and protection of human and peoples' rights in Uganda.

29. That Uganda is yet to ratify;

- The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa,
- The Protocol on the Statute of the African Court of Justice and Human Rights and;
- The African Charter on Democracy, Elections and Governance.

30. Over the increased threats and harassment faced by human rights defenders and the restrictive legislation (Non Governmental Organization (Amendment) Registration Act 2006) adopted by the Republic of Uganda. This increases administrative constraints and criminal sanctions against Human Rights Defenders; thereby limiting their right to freedom of expression.

31. That only 4% of births in Uganda were registered in 2008.

32. That only 19% of prisoners have access to clean water and only 62% of prisoners are provided with meals on a daily basis.

33. About existing legislation on Criminal Defamation in the Penal Code of Uganda.

34. About the lack of legislative measures to criminalize torture and violence against children.

35. By the lack of information on Refugees and Asylum Seekers, Internally Displaced Persons and Migrants in the Report.

36. About the prevalence of FGM, the ritual sacrifices of children, domestic violence and the continued occurrence of early marriages in Uganda.

37. By the trial of civilians by Military Courts.
38. About the lack of provision of adequate legal aid in Uganda.
39. By the exploitation, the discrimination and the marginalization of indigenous populations, in particular the BATWA people of Uganda, who are deprived of their ancestral lands and live without any land titles.
40. That the moratorium on the death penalty is not observed neither is there a law abolishing the death penalty.

## **Part V- RECOMMENDATIONS**

The African Commission recommends to the Government of Uganda to:

- a) Ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, the Protocol on the Statute of the African Court of Justice and Human Rights and the African Charter on Democracy, Elections and Governance.
- b) Ensure that legal aid is available to every citizen.
- c) Establish adequate legislation on freedom of expression to fulfil its obligations under the Charter.
- d) Ensure that all births and deaths are registered in Uganda by making such registration accessible and affordable to all citizens.
- e) Implement the Robben Island Guidelines to fulfil its national and international obligations to strengthen the prohibition and prevention of torture and in particular, criminalize torture.
- f) Introduce legal measures that prohibit the trial of civilians by Military Courts.
- g) Improve the conditions of prisons and places of detention with a view to bringing them in line with the Charter and international standards.
- h) Observe the moratorium on the death penalty and take measures to abolish the death penalty.
- i) Adopt measures to ensure the effective protection of the rights of indigenous populations especially the BATWA people as guaranteed under the Charter by establishing laws that protect land rights and natural resources of indigenous populations.
- j) Put an end to the increased threats and harassment faced by Human Rights Defenders as well as the constraints and criminal sanctions against them.
- k) Increase its efforts in working closely with NGOs, in the reporting process.

- l) Urgently introduce laws to criminalize violence against children, early marriages and measures that will help towards the total eradication of all the harmful cultural practices in Uganda, in particular, the ritual sacrifice of children and Female Genital Mutilation.
- m) Ensure that the Access to Information legislation is operationalized.
- n) Take measures to repeal the Criminal Defamation legislation contained in the Penal Code of Uganda.
- o) Provide information on the situation of Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Uganda.
- p) Forward to the Secretariat of the African Commission, the written responses to the questions posed by Members of the Commission during the presentation of the Report.
- q) Indicate to the Commission in its next Periodic Report, what measures Uganda has taken to give effect to these recommendations.

**Banjul, May 2009.**