

AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي <i>African Commission on Human & Peoples' Rights</i>		UNIÃO AFRICANA <i>Commission Africaine des Droits de l'Homme & des Peuples</i>
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CONCLUDING OBSERVATIONS OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS ON THE 4th PERIODIC REPORT OF THE REPUBLIC OF UGANDA

(Presented at the 49th Ordinary Session of the African Commission on Human and Peoples' Rights held in Banjul, the Gambia from 28 April to 12 May 2011)

PART I- INTRODUCTION

1. The Republic of Uganda ratified the African Charter on Human and Peoples' Rights on 27 March 1986. In conformity with Article 62 of the African Charter, she submitted her 4th Periodic Report, covering the period 2009-2011. The first Report was considered during the 27th Ordinary Session of the African Commission, held from 27th April – 11th May 2000, in Algeria. The second Report was considered during the 40th Ordinary Session of the African Commission held from the 15-29 November 2006 in Banjul, The Gambia. The third Report was considered during the 45th Ordinary Session of the African Commission held from 13-27 May 2009 in Banjul, The Gambia.
2. This Report was received at the Secretariat of the African Commission in April 2011; and was considered during the 49th Ordinary Session of the African Commission, held from 28 April to 12 May 2011 in Banjul, The Gambia. The present Concluding Observations follow the consideration of the Report by the African Commission.
3. The delegation of the Republic of Uganda that presented the Report to the African Commission was led by Mr. John Bosco R. Suuza, Senior State Attorney, Ministry of Justice and included:
 - Lt. Col. Charles Wacha Angulo - Director of Human Rights, Uganda Peoples Defence Force; and
 - Ms. Patience Kibijie- State Attorney.
4. The African Commission commends the Republic of Uganda for submitting its Report and being up to date with its reporting obligations under Article 62 of the African Charter.

5. The African Commission appreciates the efforts made by the Republic of Uganda to guarantee the enjoyment of the rights and freedoms enshrined under the African Charter.
6. 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.
7. 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

8. The African Commission notes:
 1. that the Report is in compliance with the African Commission's Reporting Guidelines for State Reporting under Article 62 of the African Charter;
 2. that the Republic of Uganda's 1995 Constitution as amended contains a section on the Charter on Fundamental Human Rights and Freedoms which guarantees the protection of human rights of Ugandans.
 3. that the Constitution also provides for various institutions to promote and protect fundamental rights and freedoms in Uganda.
9. The African Commission notes with appreciation:
 1. that the Republic of Uganda has complied with some of the recommendations adopted by the African Commission after the presentation of the 3rd Periodic Report at the 45th Ordinary Session of the African Commission held from 13-27 May 2009 in Banjul, The Gambia;
 2. that the Republic of Uganda has enacted the following legislations with a view to enhancing the protection of human rights in the country:
 - i. The International Court Act 2010;
 - ii. The Prevention of Female Genital Mutilation Act 2009;
 - iii. The Domestic Violence Act 2010;
 - iv. The Security Organizations Act Cap 305;
 - v. The Land (Amendment) Act 2007;
 - vi. The Political Parties and Organization Act No 18 of 2002;

- vii. The Political Planning Act 2008 ;
- viii. The Whistle Blowers Protection Act 2008;
- ix. The Trademark Act Cap 217;
- x. The Political Parties and Organizations (Amendment) Act No. 18 of 2005;
- xi. The Electoral Commission (Amendment) Act No. 23 of 2002 and 284 of 2002 ;
- xii. The Parliamentary Elections (Amendment) Act No. 1 of 2006;
- xiii. The Presidential Elections (Amendment) Act No. 16 of 2005;
- xiv. The Persons with Disabilities Act 2006;
- xv. The National Youth Council (Amendment) Act 2008;
- xvi. The National Women's Council (Amendment) Act 2008;

3. that the Republic of Uganda has taken efforts in promoting and protecting human rights in the country by the:

- i. increase in the number of schools and teachers;
- ii. increase in level of girl education;
- iii. 30% representation of women Councillors and 30% representation of women in Parliament;
- iv. financial empowering of women through soft credit and the providing of grants to women groups through the National Council for Women;
- v. construction of six regional health centres in Masaka, Mbale, Lira, Mubende, Jinja and Moroto;

10. The African Commission commends the Republic of Uganda for adopting the following Plan of Actions and National Policies:

- i. the National Development Plan which emphasizes on wealth creation and the significant improvement of specific development indicators associated with transformation;
- ii. the Peace, Recovery and Development Plan for Northern Uganda which deals with post war development and reconstruction in the area;
- iii. the National Policy for Older Persons 2009;

11. The African Commission further commends the Republic of Uganda for:

- i. setting up a National Governing Council to monitor the implementation of the Peer Review Mechanism Plan;

- ii. including provisions prohibiting torture in the training manual of the Uganda Peoples Defence Force (UPDF);
- iii. the decrease in poverty level during the reporting period;
- iv. creating various programmes to lower maternal mortality rates;
- v. ratifying the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;
- vi. ratifying the Convention on Internally Displaced Persons;
- vii. signing the Convention on the Rights of Persons with Disabilities in 2010 and for having a Minister responsible for disabilities affairs;
- viii. extending all essential basic social services to previously marginalised communities such as in Karamoja;
- ix. electing the members of the Equal Opportunities Commission;
- x. commuting the death sentences of 60 prisoners to life imprisonment following the Constitutional Court Judgement (Appeal 3/2006);
- xi. taking positive steps to reduce overcrowding in Prisons by the construction of new prison buildings and the expanding of existing ones amongst others;
- xii. for providing legal aid to all citizens;
- xiii. investigating and prosecuting the perpetrator of the murder of Mr. David Kato, the gay rights activist;
- xiv. prosecuting a number of perpetrators of Female Genital Mutilation;
- xv. working closely with NGOs in the report writing process;
- xvi. drafting a Bill criminalising HIV transmission;
- xvii. hosting 138,801 Refugees in 2010, many of whom are from the Democratic Republic of Congo;
- xviii. providing a minimum monthly pay for the elderly, orphans, disabled and the poorest;

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

12. The African Commission notes the followings factors restricting the enjoyment of the rights enshrined in the African Charter in the Republic of Uganda:
- i. the apparent lack of political will to take adequate measures to realize the rights of indigenous populations as guaranteed under the Charter;
 - ii. the low level of births and deaths registration;
 - iii. the failure to ensure the full enjoyment of the right to freedom of expression enshrined in the African Charter by introducing legislative measures that promote the right to freedom of expression;

PART IV – AREAS OF CONCERN

13. The African Commission is concerned that the following recommendations it made after the presentation of the 3rd Periodic Report of the Republic of Uganda at the 45th Ordinary Session have not been complied with:
- i. ratify the Statute of the African Court of Justice and Human Rights and the African Charter on Democracy, Elections and Governance;
 - ii. establish adequate legislation on freedom of expression to fulfil its obligations under the Charter;
 - iii. ensure that the Access to Information legislation is operationalized;
 - iv. take measures to repeal the Criminal Defamation legislation contained in the Penal Code of Uganda;
 - v. observe a moratorium on the death penalty and take measures to abolish the death penalty;
 - vi. adopt measures to ensure the effective protection of the rights of indigenous populations as guaranteed under the African Charter by establishing laws that protect land rights and natural resources of indigenous populations.

14. The African Commission is further concerned:

- i. 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;
- ii. about the high unemployment rate in Uganda;
- iii. about the lack of information on the maternal and infant mortality rates in Uganda;
- iv. about the prevalence of police brutality;
- v. by the non ratification of the Optional Protocol to the UN Convention against Torture;
- vi. about the Anti Torture Bill to criminalize torture which is still pending;
- vii. by the high number of prisoners on death row;
- viii. By the lack of information on Refugees, Asylum Seekers, Migrants and Internally Displaced Persons in the Report;
- ix. by the overcrowding in prisons and disaggregated data on the conditions of prisons and places of detention in Uganda;

Part V- RECOMMENDATIONS

15. The African Commission recommends that the Republic of Uganda:

- i. ratifies the Protocol on the Statute of the African Court of Justice and Human Rights;
- ii. ratifies the African Charter on Democracy, Elections and Governance;
- iii. ratifies the United Nations Optional Protocol to the Convention against Torture;
- iv. speeds up the process for the passing of the Anti Torture Bill;
- v. ensures that the Access to Information legislation is operationalized;
- vi. takes measures to pass a specific law domesticating the Maputo Protocol;

- vii. takes measures to sensitize the population on the availability of legal aid to all citizens;
- viii. establishes adequate legislation on freedom of expression to fulfil its obligations under the African Charter;
- ix. ensures that all births and deaths are registered in Uganda by making such registration accessible and affordable to all citizens;
- x. continues to take measures to improve the conditions of prisons and places of detention with a view to bringing them in line with the African Charter and international standards;
- xi. takes measures aimed at combating the prevalence of police brutality and to bring the perpetrators to justice;
- xii. observes a moratorium on the death penalty with a view to abolishing the death penalty;
- xiii. provides information on the maternal and infant mortality rates in Uganda in the next periodic report;
- xiv. adopts measures to ensure the effective protection of the rights of indigenous populations as guaranteed under the African Charter by establishing laws that protect land rights and natural resources of indigenous populations;
- xv. takes measures to repeal the Criminal Defamation legislation contained in the Penal Code of Uganda;
- xvi. provides adequate information on the situation of Refugees, Asylum Seekers, Migrants and Internally Displaced Persons in Uganda in the next report ;
- xvii. provides adequate and comprehensive statistical information and disaggregated data in relation to various assertions made on the promotion and protection of human rights in the Republic of Uganda;
- xviii. increases its efforts in working closely with NGOs in the report writing process;
- xix. indicates to the African Commission in its next Periodic Report, what measures the Republic of Uganda has taken to give effect to these recommendations.

Banjul, November 2011