



**A SHADOW REPORT RESPECTFULLY SUBMITTED
TO THE**

United Nations Committee on Migrant Workers
On the occasion of its consideration of the Consolidated
Periodic Reports of Uganda.

PREPARED AND SUBMITTED BY:

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A Note about Human Rights Network-Uganda

- 1.1 Human Rights Network-Uganda (herein after HURINET-U) avails self the opportunity to make a submission to the United Nations Committee for Migrant Workers on Uganda's first periodic report under the Convention on the Migrant Workers.
- 1.2 HURINET-U is a network of 60 Non-Governmental Organizations (NGOs) spread across the country legally recognized by the Government of Uganda with a certificate of incorporation having been in existence for 20 years. HURINET-U seeks to foster the promotion, protection and respect of human rights in Uganda through linking and strengthening the capacity of its member organizations for collective advocacy at national, regional and international levels. HURINET-U is the only NGO in Uganda currently with consultative status with the UN Economic and Social Council. A list of its member organizations is attached hereto as appendix 'A'.

A Note on the Present Submission

- 1.3 This report is provided with the objective of giving the Committee focused and unprejudiced information on Uganda's compliance with the Convention. It also provides information on what HURINET-U considers to be fundamental challenges for Uganda's implementation of the Convention within its legal and institutional framework. HURINET-U is cognizant of the sizeable amount of work the Committee is seized with and as such has undertaken to provide this information in as concise a method as conceivable. Supplementary data for the benefit of the Committee has been expounded in footnotes while references have also been made to other literature in addition to appendixes attached at the end of the report. HURINET-U earnestly appreciates the Committee's labors to assess this shadow report and anticipates that it will aid the Committee in its appraisal of Uganda.

A Summary of this Shadow Report

- 1.4 The report is divided up into three parts including this introduction. The second part discusses the various substantive provision related aspects. In particular, attention has been restricted to political participation rights of Ugandan migrant workers, return and reintegration, human trafficking and labour externalization. Recommendations are made therein but also further summarized under part three including a list of potential list of questions to guide the discussion with the state. HURINET-U did not have an opportunity of accessing the report of the State of Uganda to be in position to make direct replies there to. The report was never availed to the public and other specialized stakeholders to have input owing to the rush hour within which it was commenced, compiled and concluded. At most, HURINET-U had a perusal at the peak of sending this particular report. Conclusively therefore, this report does not purport to be a reply to the State report nor to represent all the issues prevalent in Uganda affecting migrant workers. Themes discussed herein have been selected strategically to provide the Committee with the necessary information deemed critical to inform the Committee-State interface for fruitful discussions.
- 1.5 Without prejudice to the above, HURINET-U is pleased that Uganda has just submitted a consolidated Periodic Report to the Committee. HURINET-U nevertheless is concerned that report principally recites laws and constitutional provisions but does not engage in an examination of performance or tangible, statistical information on the extent of fulfilling the Convention obligations.

II. STRUCTURAL ISSUES RELATING TO THE PROTECTION OF RIGHTS UNDER THE CONVENTION

A. Status of the Convention under Domestic Law

2.1 The GOU notes that the various provisions of the Convention are provided for in the various laws of the country. Indeed, a total of 12 (twelve laws) are available and commonly mentioned as hosts to the ideals of the Convention. HURINET-U holds the considerable view that incorporation of some of the provisions or the entire Convention provisions within the domestic legal framework of Uganda but in various legislations, whereas plausible, it is generally tedious for implementation. HURINET-U recommends that GOU appropriates all the various scattered provisions seeking to give effect to the Convention into one law for ease of reference, and assessment of implementation. This would greatly improve the promotion, protection and eventual fulfillment of the rights under the Convention. There is currently no indication that the GOU is considering, envisaging or working towards this amalgamation.

HURINET-U recommends that GOU undertakes the necessary steps to align the national legal framework with the various provisions of the Convention by appropriating them in one single law or alternatively domesticate the Convention in its entirety with the necessary modifications to effectuate implementation.

2.2 The Consultation Process for the State Report

In its preparation of the Convention State Report, there was no known call for input by the Civil Society fraternity, migrant workers or their representatives and other stakeholders within Uganda. HURINET-U holds the considerable view that there was no sufficient and wide consultation or involvement of various stakeholders to discuss Uganda's commitments under the Convention. As such, the State report is not reflective of stakeholders' views on the current efforts at implementation of the Convention in Uganda.

HURINET-U recommends that in the next periodic report preparations, GOU undertakes the report writing process early enough and consults as widely as possible the relevant stakeholders-various government agencies, migrant workers in their informal organizations, civil society fraternity among other sections of the public.

In the same vein, GOU should consider all the relevant stakeholders, both State agencies even at the lowest level of administration in local government and non-state actors especially employers of migrant workers and civil society, in the implementing of the recommendations/Concluding observations from the Committee.

2.3 Government Efforts at countering trafficking in persons and abuse of rights of Ugandan Migrant Workers

HURINET-U recognizes the efforts that the government of Uganda has undertaken in the most recent years to counter human trafficking and halt further abuse of Uganda migrant workers in countries of placement in case they are detected. Among such progressive efforts include the following:

- a) Rescue of an projected number of 250 victims of transnational human trafficking had been-assisted to return and re-integrate though over 170 known cases in want of rescue remain pending as at December 2013;

- b) Provision of police temporary shelters and welfare for some victims through working closely with members of the civil society organizations such as IOM;
- c) Investigations into a total of 159 criminal cases in the country linked to human trafficking in the year 2013 with a total number of 43 TIP related Cases taken to court. Of particular interest are the 126 cases linked to transnational trafficking in persons;
- d) Public issuance and publication of the list of the 31 Licensed Recruitment Companies to direct the members of the public seeking to be migrant workers;
- e) Development of Sensitization Materials against trafficking in persons for public;
- f) Capacity Building for Enforcement Agencies with a total of 08 Capacity building Workshops were held targeting a total of 350 stakeholder members from the Police CIID, Police Child & Family Protection Department(CFPD), Immigration, Internal Security Organization(ISO), External Security Organization(ESO), Directorate of Public Prosecutions(DPP); MoIA; MoFA; MoGLSD; MoJCA; Ministry Local Government(MoLG); Ministry of Education & Sports(MoES); Office of Prime Minister(OPM) – Refugee Affairs; Uganda Human Rights Commission.

2.4 Right to Vote for Migrant Workers and their Families

Article 41:

1. Migrant workers and members of their families shall have the right to participate in public affairs of their State of origin and to vote and to be elected at elections of that State, in accordance with its legislation.
2. The States concerned shall, as appropriate and in accordance with their legislation, facilitate the exercise of these rights.

The right to vote is fundamental for every Ugandan citizen who has attained the age of 18 years. It is enshrined under Article 59 of the Constitution of Uganda. It provides that 'Every citizen of Uganda' of eighteen years of age or above has a

right to vote.¹ It is also a duty of every citizen to vote and the State is required to take all necessary steps to ensure that all citizens qualified to vote register and exercise this right.² This right is central to a citizen's participation in the public affairs of his/her country. It buttresses participatory governance by all.

2.5 According to Article 76 of the Uganda Constitution, the parliament is mandated to enact laws on elections including the registration of voters and the conduct of elections and *inter alia* making provision for voting by proxy where necessary. Further, the Uganda Electoral Commission Act under section 19 (1) provides for the right to apply and be registered as a voter by any Ugandan citizen who is eighteen years of age or above.³

2.6 Despite the above provisions, **all Ugandans living abroad, majority of who are migrant workers being eligible to vote, have not been taking part in any past national election exercise for the past elections held under the 1995 Constitutional framework.** The campaign for voting rights for Ugandan migrant workers which has been agitated for since 2001 in the advent of 2001 general elections and later 2006 and 2011 general elections has not yet yielded any results.⁴ In 2007, Ugandans living abroad asked the government of Uganda to make arrangements and allow them participate in the voting processes of the country.⁵ This call was re-echoed in 2012,⁶ and in 2014 but to no avail.⁷ Most

¹ Constitution of the Republic of Uganda, 1995, Article 59

² Ibid., paras. (2) and (3).

³ Chapter 140 of the Laws of Uganda.

⁴ See Al-Mahdi Ssenkibirwa, 'Ugandans abroad demand voting rights', The Daily Monitor, Monday, July 28, 2014. Available at <http://www.monitor.co.ug/News/National/Ugandans-abroad-demand-voting-rights/-/688334/2399670/-/okw4ac/-/index.html> (accessed March 12, 2015).

⁵ Charles Ariko, 'Ugandans abroad want voting rights', The New Vision, Jan 07, 2007. Available at <http://www.newvision.co.ug/D/8/13/541507> (accessed March 12, 2015).

⁶ Presstv, 'Ugandans in diaspora call for voting rights'. Available at <http://www.presstv.com/detail/2012/08/27/258523/ugandans-diaspora-call-for-voting-rights/> (accessed March 12, 2015).

specifically, in the year 2013, Uganda committed herself to put in place legislative measures that would allow all Ugandans abroad to participate in the electoral processes by voting.⁸ The above promises have not been matched with the necessary legislative and institutional reforms to practicalise them.

2.7 The process would require both review and amendment of existing laws and the enacting of new legislation. The laws include *inter alia* the; Uganda Constitution, Electoral Commission Act and the Parliamentary Elections Act, 2005. The above mentioned laws together with all other electoral processes-related laws should be amended to ensure for a clear and well established legal mechanism that allows for the full exercise of voting rights by all Ugandan abroad.

HURINET-U recommends that GOU embarks on practicalising the already existent right to vote even by proxy to citizens of Uganda residing abroad, migrant workers included. The aforementioned legislative reform measures of amendment and review of the prevalent electoral laws should be undertaken to enable the migrant workers to vote in the upcoming 2016 general presidential elections.

⁷ Al-Mahdi Ssenkibirwa, 'Ugandans abroad demand voting rights', The Daily Monitor, Monday, July 28, 2014. Available at <http://www.monitor.co.ug/News/National/Ugandans-abroad-demand-voting-rights/-/688334/2399670/-/okw4ac/-/index.html> (accessed March 12, 2015).

⁸ Chimp-reports, 'Ssekandi: Ugandans Abroad To Vote,' Sep 3, 2013. Available at <http://chimpreports.com/12600-ssekandi-ugandans-abroad-to-vote/> (accessed March 12, 2015). See also Parliament of the Republic of Uganda, "Ugandans abroad to vote". Available at <http://www.parliament.go.ug/new/index.php/about-parliament/parliamentary-news/257-ugandans-abroad-to-vote> (accessed March 12, 2015).

2.8 Human Trafficking and Migrant Workers

Article 68

1. States Parties, including States of transit, shall collaborate with a view to preventing and eliminating illegal or clandestine movements and employment of migrant workers in an irregular situation. The measures to be taken to this end within the jurisdiction of each State concerned shall include:

(a) Appropriate measures against the dissemination of misleading information relating to emigration and immigration;

(b) Measures to detect and eradicate illegal or clandestine movements of migrant workers and members of their families and to impose effective sanctions on persons, groups or entities which organize, operate or assist in organizing or operating such movements;

(c) Measures to impose effective sanctions on persons, groups or entities which use violence, threats or intimidation against migrant workers or members of their families in an irregular situation.

2. States of employment shall take all adequate and effective measures to eliminate employment in their territory of migrant workers in an irregular situation, including, whenever appropriate, sanctions on employers of such workers. The rights of migrant workers vis-à-vis their employer arising from employment shall not be impaired by these measures.

The increasing number of Ugandan migrant workers has come in the wake of the sky rocketing graduate unemployment and under employment in the country. For survival, many graduates have taken to casual labour ('Labor Casualization'), temporary work which comes with minimal pay (Not more than 150,000/= equivalent of USD 50 monthly pay) as well as increased risks since most of such work does not attract workman compensation. Undisputedly, the economy has not the capability to take up the overwhelming number of University and Technical institutions' graduates in the country. Very many unemployed working age youth are chasing very few jobs. In such an environment, the quest for better pay especially beyond borders of Uganda becomes one of the most viable if not the only solution. Resultantly, with increased frustrations of unemployment or under employment, a majority of the unemployed youth have become

susceptible to human trafficking and trickery of dubious foreign work recruitment agencies.

2.9 There is strong evidence that suggests that human trafficking is on the increase in Uganda.⁹ Human trafficking in Uganda is manifested in the need for exploitative labour, commercial sexual exploitation.¹⁰ Other reasons aggravating human trafficking include; poverty, use of victims in illegal activities, removal of body parts and child marriage.¹¹ The problem is both internal; within Uganda and within the East African region and external; Canada, the United Arab Emirates, Egypt and Saudi Arabia.

3.0 According to the International Organization for Migration (IOM), there has been trafficking of persons both into Uganda and as well, out of Uganda; the figures are disaggregated as follows: in; 2008 – 240, 2009 – 40, 2010 – 214, 2011 – 43, 2012 – 0, 2013 – 1 person/s of non-Ugandan origin were trafficked into Uganda.¹² The total of non-Ugandans trafficked during this period is estimated at 538.¹³ IOM further reveals that; ‘Between July and September 2013, the Office of the Coordinator, Anti-Human Trafficking in Persons Task Force identified 14 non-national victims in Uganda. These victims came from Rwanda (6), Madagascar (5), Tanzania (1), South Sudan (5) and Burundi (1).’ In 2013, it is reported by the Office of the Coordinator, Anti Human Trafficking in Persons

⁹ Deborah Mulumba and Wendo Mlahagwa Olema, ‘Policy Analysis Report: Mapping Migration in Uganda,’ 2009.

¹⁰ Ibid.

¹¹ The Ministry of Internal Affairs of Uganda, ‘Annual Report on the Trend of Trafficking in Persons in Uganda: 2013.’ (The Coordination Office to Combat Trafficking in Persons, 2014). Available at [http://www.upf.go.ug/download/publications\(2\)/tip_annual_report_final.pdf](http://www.upf.go.ug/download/publications(2)/tip_annual_report_final.pdf) (accessed March 16, 2015).

¹² International Organization for Migration (IOM), ‘Migration in Uganda: Rapid Country Profile 2013,’ (Kampala, 2013), 36. Available at <http://opm.go.ug/assets/media/resources/486/THE%20UGANDA%20MIGRATION%20PROFILE.pdf> (accessed March 16, 2015).

¹³ Ibid.

Task Force that at least 130 cases of Ugandans who were trafficked abroad.¹⁴ Some of the cases of trafficking involving Ugandans is indicated below:

Table Showing Ugandan victims of trafficking and exploitation, by country, 2011-2013

NATIONALITY	YEAR				
	2011	2012	2013	Total	Percentage
Malaysia	9	9	4	22	38
Thailand	1	2	8	11	19
India	1	0	0	1	1.7
Denmark	2	1	3	6	10
Iraq	0	3	3	6	10
China	0	5	0	5	9
United Arab Emirates	0	0	1	1	1.7
South Sudan	0	0	5	5	8.6
Netherlands	0	0	1	1	1.7
TOTAL	13	20	25	58	100

Table adopted with modifications from IOM Mission in Uganda.¹⁵

As between 2009 and 2013, the disaggregated data in terms of sex shows that sixty three (63) women and nine (9) men were trafficked from Uganda.¹⁶

3.0 During the year 2013, there were a total of 837 victims and suspected victims of trafficking.¹⁷ Of these, 429 were victims of transnational trafficking while 408

¹⁴ Ibid.

¹⁵ See International Organization for Migration (IOM), Migration in Uganda: Rapid Country Profile 2013.

¹⁶ Ibid.

¹⁷ The Ministry of Internal Affairs of Uganda, Annual Report on the Trend of Trafficking in Persons in Uganda: 2013. (The Coordination Office to Combat Trafficking in Persons, 2014). Available at

were trafficked internally.¹⁸ Further, 20 victims of trafficking were of foreign origin into Uganda, from Tanzania, Madagascar, Rwanda, Somalia South Sudan and Burundi.¹⁹ A total of 8 suspected transnational victims from Ethiopia on the way to South Africa were also recorded.²⁰ The disaggregated figure in the year 2013 alone is indicated as follows.²¹

INTERNAL TRAFFICKING IN PERSONS					TRANSNATIONAL TRAFFICKING IN PERSONS				
Male Adults	Female Adults	Male Children	Female Children	TOTAL	Male Adults	Female Adults	Male Children	Female Children	TOTAL
4	5	192	207	408	163	186	44	36	429

3.1 HURINET-U recognizes the legislative efforts of the Government of Uganda (GOU) manifest in the enactment of the Prevention of Trafficking in Persons Act-2009. The Act prohibits trafficking in persons and creates the offences related to trafficking and seeks to prosecute and punish offenders and to prevent the vice of trafficking in persons, protection of victims of trafficking in persons, and all related matters.²² Further in the year 2011, the Chief Justice of the Republic of Uganda, in accordance with article 133 of the Uganda Constitution issued Legal Notice No. 10 of 2011 establishing the War Crimes Division of the High Court and later, the War Crimes Division of the International Crimes Division.²³ It has jurisdiction over offences related to trafficking of persons.²⁴

[http://www.upf.go.ug/download/publications\(2\)/tip_annual_report_final.pdf](http://www.upf.go.ug/download/publications(2)/tip_annual_report_final.pdf)
(accessed March 16, 2015).

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Table adopted from: ‘The Ministry of Internal Affairs of Uganda, Annual Report on the Trend of Trafficking in Persons in Uganda: 2013. (The Coordination Office to Combat Trafficking in Persons, 2014).

²² The Prevention of Trafficking in Persons Act, 2009, Long Title.

²³ See para.3, of the High Court (International Crimes Division) Practice Directions, 2011 see also Christabella J. Aceng, ‘Trafficking In Persons-An Increasingly Global Threat: Uganda Context’, Available at

http://s3.amazonaws.com/academia.edu.documents/34681811/TRAFFICKING_IN_PERSONS-

3.2 To complement the legislative measures, institutionally, the GOU has also established a **Coordination Office for Counter Trafficking in Persons (COCTIP)** which houses the Anti-Human Trafficking National Task. The Task Force is an amalgamation of efforts of Civil Society Organizations and government agencies, established and coordinated at Ministry of internal Affairs.²⁵ It is mandated to coordinate and monitor as well as overseeing the implementation of the Prevention of Trafficking in Persons Act, 2009. The labour advisory board and the office of the labour officer are also established under the Employment Act to handle all issues arising out of employment in accordance with the employment regulations.²⁶ The Ministry of internal affairs among others is founded on the objectives of; facilitating and regulating of entry, stay and exit of persons into and from Uganda and coordinating the implementation of the Trafficking in Persons Act.²⁷

3.2 In the same vein, we commend GOU for having taken up legislative measures to prevent irregular migrations and human trafficking. The grand norm is the Constitution of the Republic of Uganda which provides under Article 25 protection to all Ugandans from slavery, servitude and forced labour. Further, Uganda has enacted the Employment Act, 2006 and Employment Regulations Statutory Instrument No. 219-1: which bar employment of a dangerous nature to a child.²⁸ Further, minors below twelve years are not to be engaged in employment.²⁹ The Act and Regulations further require for authorization of recruiting experts.³⁰

[libre.pdf?AWSAccessKeyId=AKIAJ56TQJRTWSMTNPEA&Expires=1426514273&Signature=NdEatlYRUaTS5SD9xITpOCYl%2FdY%3D](#) (accessed March 16, 2015).

²⁴ See the High Court (International Crimes Division) Practice Directions, 2011.

²⁵ The task force is guided by Standard Operating Procedures of 2013. The procedures spell out the duties and functions of the respective offices of the Task Forces' membership.

²⁶ See supra, note 27, sections 8-20 on the office of the labour officer and sections 21-22 on the Labour Advisory Board.

²⁷ Ministry of internal affairs, available at <http://www.mia.go.ug/content/ministry-objectives> (accessed March 16, 2015).

²⁸ Employment Act, 2006, Section 32 (4)

²⁹ Ibid., Subsection (1)

³⁰ Ibid., Section 38.

3.3 In relation to migrant workers, there is the Employment (Recruitment of Ugandan Migrant Workers Abroad) Regulations, 2005 which regulate all processes of recruiting employees in Uganda for purposes of working abroad. The Ministry of Gender, Labour, and Social Development through the External Employment Unit (EEU), is the responsible agency for implementing and enforcing the law and regulations.³¹ These rules further provide for *inter alia* accreditation, administration, regulation and the welfare of all recruiting agencies of Ugandans to work abroad.

3.4 One of the roles of the Ministry of Gender, Labour and Social Development is inspection of workplaces and investigation on violation of labour standards. The Ministry should be facilitated further with the necessary manpower and financial resources to undertake the necessary monitoring visits into the working conditions of Ugandan migrant workers performance in (Afghanistan, Iraq, Kuwait, South Sudan and United Arab Emirates); and monitor the activities of the Recruitment Companies while in Uganda.

3.5 HURINET-U also notes that most of the available and potentially would be useful institutions in combating human trafficking and smuggling migrant workers are administrative or grounded in adhoc formations with no statutory grounding/authority. This has hampered their funding since they are not statutory entities with appropriated budgets to facilitate their operations. A case in point is the labour externalization unit within the Ministry of Gender, Labor and Social Development is not provided for under the Employment Act.

HURINET-U recommends that GOU considers that the insignificant and disproportionate financial and human resources to the aforementioned institutions which are key in combating human trafficking and the attendant violations thereto is counter .

³¹ International Labour Organization, 'Migrant Labour Migration Branch, Rules and Regulations Governing the Recruitment and Employment of Ugandan Migrant Workers Abroad, No. 62'. Available at http://www.ilo.org/dyn/migpractice/migmain.showPractice?p_lang=en&p_practice_id=50 (accessed March 16, 2015).

EXTERNALISATION OF LABOUR AND THE SPECIAL CASE OF UGANDAN MIGRANT WORKERS IN THE MIDDLE EAST, UNITED KINGDOM AND SOUTHERN SUDAN

4.0 With the returning semblance of peace in Southern Sudan, there has been an increasing number of Ugandans among other nationals trekking to Southern Sudan for economic opportunities. Since becoming a nation, Southern Sudan joined the three chief remittances corridors to Uganda namely United Kingdom, Republic of South Africa and United States of America. Available reports maintain that ‘Ugandans form the largest external trading group’ in Southern Sudan.³² They are involved in various businesses including import of food-groceries and alcohol among an array of other East African goods. There is an estimated 100,000 immigrant workers in Southern Sudan, majority of whom coming from Kenya and Uganda. The prevalence of Uganda migrant workers has extended strongly to the service sector in Southern Sudan with an estimated 5000 (five thousand) Ugandans spread through as taxi drivers, hotel workers, builders, artisans and vendors, hotel, bar and restaurant trade.³³ The fact that ‘Uganda’s exportable labor is conservatively estimated to increase from 320,232 persons in 2009 to 595, 901 by 2020’, it is no longer optional to strengthen the rules and regulations governing labour exportation but it’s the only choice to counter cases of inhuman treatment.³⁴

4.1 However, Ugandan Migrant workers have been at the receiving end of abuse of the law and human rights violations in Southern Sudan. These violations have been rife on the Uganda-Sudan border town of Juba which hosts various economic opportunities and a great number of migrant workers. Many are arbitrarily arrested by Southern Sudan Police officers manning road blocks on entry into country. These unfair arrests are followed by arbitrary detention and mistreatment within the criminal justice system. Justice for the victims and

³² Graham Carrington, ‘Cross-Border Trade: Fuelling Conflict or Building Peace? An Exploration of Cross-Border Trade between Sudan and Uganda and the Implications for Peace Building,’ Conciliation Resources, 2009.

³³ Ibid.

³⁴ Ibid at 67.

accountability by the perpetrators is simply an aspiration. The impunity exhibited in the failure to hold the various agencies and agents accountable for these violations is largely attributable to ‘the transitional, fragile and emerging nature of systems of governance and authority in Southern Sudan’. As such it is incumbent on the GOU to follow up on complaints of their citizens facing violations within Southern Sudan.

4.2 GOU has also signed an Agreement on Technical, Economic, Political, Social and Cultural Cooperation with Southern-sudan. This 2007 wide-ranging agreement details among others law and order, immigration and customs, refugees, and defence and security. Clearly, some of the aforementioned themes of focus, law and order and access to justice, under the agreement can be basis for discussion by the two countries affronting the ill treatment of Ugandan migrant workers in Southern Sudan.

HURINET-U notes that despite Uganda’s benefit from the remittances by migrant workers and reduction in unemployment rates of its nationals, this has not been matched with commitment to protect its migrant workers facing diverse violations in South Sudan and beyond. The necessary oversight to monitor conditions of recruitment and employment for the migrant workers from Uganda remain wanting.

4.3 Uganda boasts of various institutions with capacity and mandate to deal with such emerging issues of its migrant workers. Some of these include the Ministry of Tourism, Trade and Industry (with a Department of External Trade); the Ministry of Foreign Affairs and the Uganda Consulate in Juba.

4.4 The situation of Ugandan migrant workers in Southern Sudan is not any different from that of Uganda migrant workers in Middle East. Reports indicate gross violation of migrant workers in the Middle East through non-payment or late payment of wages.³⁵ In most cases, the wages are meagre. They work for very long hours, moreover in household confinement; their living conditions are deplorable; they have inadequate food to sustain their living; and their travel documents are usually confiscated by their masters or employers.³⁶ The

³⁵ Ibid.

³⁶ Ibid.

withdrawal of passports ultimately leads to involuntary confinement making fleeing from danger by these migrant workers to safety impossible.³⁷ For these Ugandan migrant workers operating in these countries aforementioned, there is no right to liberty and movement.

4.5 Experience of undesired conditions of work start from the point of arrival and extend throughout the period of employment to unfair termination of given employment. One of the victimized Ugandans, Maria A, a domestic worker in the United Arab Emirates, reports that her employer took her ‘...passport and phone, made her work from 5:am to the middle of the night with no day off, beat her, kept her hungry, and paid only a fraction of the wages she was owed.’³⁸

HURINET-U notes that there is lack of a deliberate, well orchestrated, funded plan by the concerned agencies of GOU to implement the available, aforementioned stopgap measures aimed at countering human trafficking and ill treatment of Uganda migrant workers. The quest to optimally tap into the enormous benefits of labour migration has not been matched with the overwhelming need to protect the majority of Ugandan citizens working abroad with emphasis on those that go for low paying jobs. Indeed, some of the protection mechanisms would include prevention-scrutinizing the recruitment companies that have so long been deception, defrauding Ugandans of their money and trafficking them in the guise of foreign employment.

³⁷ Human Rights Watch, ‘Hidden Away: Abuses Against Migrant Domestic Workers in the UK,’ 2014 at 32.

³⁸ Nisha Varia, ‘Reformed labour laws, not bans, will end enslavement of migrant workers’, The Daily Nation, Wednesday, October 22, 2014. Available at <http://www.nation.co.ke/oped/Opinion/-labour-laws-not-bans-will-end-enslavement-of-migrant-workers/-/440808/2496008/-/amxogh/-/index.html> (accessed March 16, 2015). See also Human Rights Watch, <http://www.hrw.org/news/2014/10/23/reformed-labour-laws-not-bans-will-end-enslavement-migrant-workers> (accessed March 16, 2015).

4.6 The problems faced by Ugandan migrant workers in the Middle East are aggravated by the fact that countries in the Middle East either do not have or have weak labour or employment laws.³⁹ Employers have taken advantage of the gaps within the laws to exploit the weaker parties, under their employment. In addition to the exploitative nature of work for Ugandan workers in the Middle East, they are subjected to discrimination contrary to the international Bill of rights and international labour laws. For instance, it is reported that the United Arab Emirates (UAE) does not employ HIV positive workers of non UAE origin.⁴⁰

4.6 Reports further indicate that Ugandan workers are sexually harassed during their terms of employment. Sarah Naigaga reports that during her employment in Kuwait, she was sexually abused in her employer's home. She states that;

My bedroom had no lock; they removed it intentionally and all the men in the house including the boss who had a wife would come to my bedroom at night and start harassing me. I could not sleep because every time, I was expecting men to rape me. When I shouted to scare them away or seek assistance, the madam would instead abuse me saying I was lying. Although I tried to fight most of them off, I was defeated by the big men in the house and they managed to rape me. My bathroom also had no lock and the men would open it and enter while I was bathing to sexually abuse me.⁴¹

4.7 The conditions of work in the Middle East that Ugandan migrant workers are subjected to are against international labour standards as well as, conditions of human rights violating character. The conditions are harsh, deplorable and unbearable. Some of them are worked beyond the required standards, under

³⁹ Ibid.

⁴⁰ Al Safar & Partners Dubai, 'Rough times for Ugandan workers in Dubai', August 9, 2012, The New Vision. Available at <http://www.newvision.co.ug/mobile/Detail.aspx?NewsID=633934&CatID=3> (accessed March 16, 2015). See also <http://allafrica.com/stories/201208100367.html>

⁴¹ Zurah Nakabugo, 'Truth about jobs in the Middle East', 12 November 2013, the Observer. Available at <http://www.observer.ug/lifestyle/73-people-society/28532-truth-about-jobs-in-the-middle-east> (accessed March 17, 2015).

unhygienic conditions, moreover without protective gear, even of a simple nature like hand gloves. Another Ugandan migrant worker narrates a similar ordeal as follows;

When I reached his home, my Arab sponsor told me to clean his three-storeyed, 20-room house daily, clean the swimming pool, sweep the compound, cook and I was not allowed to rest or even go to church on Sunday. One day I fell sick and they refused me to go to the hospital unless I refunded the money paid to my recruiting agent. The women would throw their used sanitary pads on the floor and force me to clean them without gloves. They would also force me to wash their panties used during menstruation periods using my hands and when I refused they abused and beat me. My sponsor told me I was not allowed to leave the house until the contract was over and also not communicate on phone. I would work from 6am up to 2am and take breakfast at 6:30 am and lunch at 4pm and at times we were not allowed to eat supper. I was also not allowed to sleep before everybody in the house slept, and I was the first one to wake up.⁴²

4.8 During employment of Ugandan migrant workers in the Middle East, it is made visible in reports and complaints that, their employment seems to mean a waiver of their human rights. For instance, the right to privacy has been grossly infringed by their employers. Employees are under 24 hour surveillance both in their rooms of rest and areas within which they work. Their movements are restricted, they cannot freely express themselves and they have no access to any important information. Additionally, despite the intensive kind of work they do, they are not allowed to rest. Reports show that employers' houses are installed with cameras which monitor employees' movements; they are denied any access to both print and electronic media.⁴³

4.9 Even with hope of leaving one place of torturous employment for another, there is no assurance that one will actually get better employment. The wave of undesired conditions of employment seems to sweep across the entire Middle East. One place is not far from the other. A difference may be small for either a

⁴² Ibid.

⁴³ Ibid.

slightly better or it may be a difference, so big for worst conditions of work.⁴⁴ Resigning employees do not go scot-free. They have to refund their employers, all the money they paid to the recruiting company.⁴⁵ Employees also have to battle the host State governments in courts of law for visa fees on grounds of overstaying which could also attract a year or six months in prison upon sentencing.⁴⁶

5.0 The Director of Interpol in Uganda concludes the ordeal Ugandan migrant workers go through in Middle East, quoting narratives from those that have been rescued:

‘...victims work for no pay or for peanuts. They are mistreated, beaten, denied food, threatened with violence, or turning them over to authorities. They are kept in isolation and their passports retained. They are imprisoned, forced into prostitution, exotic dancing and unpaid labour, often times moved from place to place. They face all forms of exploitation...exploitative labour including domestic work.’⁴⁷

5.1 They are an estimated 600 Ugandan victims of human trafficking in Malaysia while another 300 are in India.⁴⁸ The current trends are captured:

‘At the transitional level, since the beginning of the year 2013, more than 10 reports of stranded Ugandan victims seeking assistance to be rescued are registered every month. On the other hand, every month, among the many people who return to Ugandan from employment abroad, at least more than five of them complain of exploitation and abuse by their former employers and recruitment agents. So the trend in Uganda is that of

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Uganda Human Rights Commission, ‘Human Trafficking: An Emerging Threat to Human Rights,’ December 2014 at 4.

⁴⁸ Ibid.

increasing incidents. However, it is believed that most cases go unreported.⁴⁹

5.2 The above trends cannot be severed from the dubious companies that recruit unsuspecting Ugandans for migrant work. A summary of their methods of work is narrated:

‘[They-companies] present victims with fake agreements which they sign before boarding. This is intended to give them no time to study the implications of such agreements. The victims realize after they have reached their places of destination that they have to reimburse the cost of their passports, air ticket, lodging and other expenses approximately between USD 7000-9000 or more. This keeps them in bondage to do whatever work they are presented including prostitution without pay.’⁵⁰

The prevalence of increasing numbers of Ugandans smuggled into Middle East under the guise of registered companies casts a shade of loopholes in the enforcement of laws relating to human trafficking and recruitment agencies in Uganda. In 2013, Seven (13) Private Recruitment Companies were licensed to participate in the Externalization of Labour Programme bringing the total to 31 (thirty one Companies). A total of 1,754 persons (1,592 males and 162 females) accessed jobs in Somalia, Qatar, United Arab Emirates and Afghanistan.⁵¹

⁴⁹ Ibid at 5.

⁵⁰ Ibid at 4.

⁵¹ See Ministerial Policy Statement, ‘Ministry of Gender and Labour Development,’ 2013/2014.

5.3 Despite the manifestly large numbers of Ugandan migrant workers in Southern Sudan, HURINET-U notes that the prevalent bilateral agreements, with Southern Sudan, were largely economic oriented. The GOU has not proactively engaged the various countries that have proven a dangerous destination for the Ugandan migrant workers. The only known bilateral agreement that specifically addresses migrant workers is with Trinidad and Tobago to which Uganda is exporting health workers amidst protest from the general public lamenting shortage of health workers in Uganda. Because of the absence of such agreements with recipient countries for Ugandan migrant workers, Uganda absconds from promoting sound, equitable, humane and lawful conditions of its migrant workers to the various recipient countries.

HURINET-U recommends that GOU considers entering into and executing bilateral agreements with the various destination countries where Ugandan migrant workers are destined for employment. This will allow better protection of the migrant workers and also provide basis for embassies and consulates of Uganda in these countries to assert the rights of the migrant workers as in the agreements signed and the provisions of the Convention.

5.4 In the same vein, Uganda's legal framework on externalization of labour is flawed in as far as its non-committal on extending help to returning migrant workers to allow them effectively re-integrate with their families into the country. Administratively, there is no Comprehensive Plan of Action, mechanism or department within the relevant government ministry to facilitate the return and re-integration of migrant workers and their families.

HURINET-U recommends that the GOU considers and executes a proactive plan to facilitate the return and reintegration of migrant workers with their families after employment.

5.4 Positively though, HURINET-U notes that there are efforts to prosecute perpetrators of transnational trafficking in persons. Reports indicate that by ‘end of August 2013, out of the 124 cases registered by the Special Investigation Unit (SIU), 20 cases had been taken to court and 3 convictions attained, including one where suspects were sentenced to 8 years imprisonment for trafficking Ugandans to China and Malaysia in 2011 for sexual exploitation.’⁵² However, reports also maintain that numerous cases have not reached conclusion stage because victims lose interest along the process, some after being paid off by the traffickers to abandon case. In other cases, there is not enough evidence to collaborate by the police investigators especially from the foreign countries.⁵³

5.5 As GOU notes in its report, whereas Article 40 recognizes every person to practice their profession, be employed without discrimination and right to equal pay for work of equal value, there is still no minimum wage provision in Uganda. As such, migrant workers exploit local Ugandans paying them meager wages and the same cannot be ruled out for migrant workers working in Uganda being exploited by the absence of a minimum wage.

⁵² Uganda Human Rights Commission, ‘Human Trafficking: An Emerging Threat to Human Rights,’ December 2014 at 7.

⁵³ Ibid.

6.0 RECOMMENDATIONS

In light of the above Ugandan migrant workers' challenging situation, it is clear that some of the possible plans to alleviate the above is to strengthen the system in a preventative approach. Accordingly, HURINET-U recommends the following actions:

6.1 Establishment of a Protectionism System for Ugandan Migrant Workers.

GOU should consider setting up a proper wellbeing and safety scheme aimed at offering all the possible protection to Ugandan Migrant Workers before, during and in the aftermath of the work undertaken. Central to this Scheme would be the provision of support services such as emergency repatriation where deemed necessary; in situations of death, descent return and transportation of the deceased; life insurance, and re-integration awareness upon return.

6.2 Address legal and policy framework loopholes by considering the formulation of:

- a) A policy on re-integration for Ugandan migrant workers on return. Additionally, need to consider a communication/out-reach strategy from the adhoc, project based initiatives currently being undertaken. A number of Ugandan migrant workers that have been rescued from this predicament attest to lack of sufficient information before departure especially those that are recruited by labour agencies. Having information about the job, prospective employer, the law of the country among others, is the first sound safeguard that a migrant worker should have against potential exploitation. HURINET-U holds the view that as a signatory to the UN Convention on Migrant Workers, Uganda is obliged in a promotional role, to debrief and provide sufficient information to its citizens before departure for migration work.

b) The Prevention of Trafficking in Persons regulations to alleviate the difficulties currently prevalent in the interpretation and implementation of the Prevention of Trafficking in Persons Act-2009.

6.3 Development of an integrated data base containing a regularly updated catalogue of all the known migrant workers in the various countries of situation.

The data system would be focused on collecting (for example from private research), documenting, examination, publication and eventually dissemination of information relating to migrant workers in Uganda and Ugandan migrant workers in other countries. It would entail details of location, employer, particular service industry and next of kin of a particular Ugandan migrant worker among other details. Such a system of data would be a monitoring and information tool to Uganda's Consulates and Embassies in the various countries where such migrant workers would be situate for identification and follow up purposes. Collection of reliable data is indispensable to inform the necessary government intervention in an effort to implement the Convention.

6.4 Establishment of a Complaints Alert and Reporting Mechanism (CAREM) for Ugandan migrant workers abroad.

This mechanism is vital for the various Consulates and Embassies to allow these institutions make the necessary monitoring and where need is established, investigation of the welfare of Ugandan migrant workers.

6.5 The need to effectively and efficiently regulate the private companies that carry out recruitment to migrant workers to ensure adherence to the necessary legal requirements.

The regulation is critical to the identification, closure and eventual prosecution of agencies that disguise as labour offices yet they are perpetrating human trafficking. This would also contribute to halting the dubious agencies that issue sham and unconscionable contracts as well as charging overpriced recruitment and placement sums.

6.6 The GOU should consider the possibility of legislative reform specifically in relation to amending the current Employment Act-2006.

The reform should aim at making provision for unequivocal legislative acknowledgment of Labour Externalization in substantive law from the current mere rules and regulations. Additionally, the new legislation should make provision for the establishment of a proficient authority or entity bestowed with the responsibility of planning, implementing and enforcement of all labour export related issues for Ugandan Migrant workers.

6.7 In the alternative, GOU should amend the existent Employment (Recruitment of Ugandan Migrant Workers Abroad) Regulations with the objective of strengthening them further to make provision for stricter enforcement with possibility of sanctions to recruitment agencies in case of default of the law.

a) The amendment should also cater for obligatory Pre-Departure and Placement Orientation Conferences/Workshops for the migrant labour recruitment agencies in collaboration with the GOU through its principal agencies. This is necessary as a conduit of information sharing with the migrant workers on the various aspects relating to their placements and entitlements including information on employers, emergency avenues, safety and security, re-integration upon contract expiry among others.

b) Additionally is the need for a comprehensible Code of Conduct for Ugandan migrant workers' Recruitment Agencies based on good practices and international standards of such agencies. These would ease monitoring and general oversight over compliance standards to warrant issuance, revocation or suspension of a license if and when the standards are not met.

c) The amendment would also focus on provision of after placement services such as the need for periodical obligatory location visits/or and checks by the accrediting/licensing power or entity to substantiate migrant workers' complaints registered at the different foreign missions. Such checks would also assess

observance of the contractual provisos and conditions by recruitment agencies, receiving companies and individuals and the migrant workers.

6.8 Need to strengthen the Institutional Framework governing labour exportation.

- a) These include the Labor Externalization Unit in the Ministry of Gender, Labor and Social Development and its attendant departments such as Department of Employment Services. To improve coordination in concerted efforts of countering human trafficking and dubious labour exportation agencies, there is need for inter- Ministerial/Institutional synergies. This can be born out of establishing an Inter-institutional Mechanism in place.
- b) In the same context the GOU should consider the repeated calls by CSO to revise the structural formation of the Ministry of Gender, Labour and Social Development with a view of creating a standalone Ministry of Labour to undertake the enormous tasks of various labour related notions in the Country. Currently the Ministry which is under resourced is also overwhelmed with too much work various diverse-unconnected issues.

6.9 In the same vein, the strengthening of these institutions should extent to human resource as well as financially boasting them to better equip them to confront the challenges before them.⁵⁴

- a) The human resource should not only be in the context of numbers (quantity) which is most pressing but should also be matched with quality-demonstrated capacity. The quality envisaged here is relational to

⁵⁴ 'Strategic actions such as awareness raising amongst potential migrant workers and general populace about foreign work and procedural aspects involved there in, sensitization of recruitment agencies and their roles, verifying information presented by recruitment agencies and complainants, ensuring compliance by the recruitment agencies to the set standards and guidelines and undertaking labor export market intelligence cannot be undertaken without adequate funds.' See Deborah Mulumba and Wendo Mlahagwa Olema, 'Policy Analysis Report: Mapping Migration in Uganda,' 2009.

experienced and knowledgeable staff in matters of human trafficking, labour migration and externalization.

- b) In the same vein, Uganda's consulates and embassies should be facilitated in terms of human and financial resources to enhance or/and establish their efforts in following up and providing any emergency help (after placement services) in cases of human rights violations and rescued smuggled Ugandan migrant workers.
- c) The after placement advisory services or visits especially in situations of mass exportation of labour are the only conduit through which the migrant workers can seek free advice on any challenge. This could include legal advice since majority cannot afford legal representation. Additionally, the legal frameworks and indeed procedures of attaining redress from their employers are unknown to them in addition to language barriers for some.

7.0 Government of Uganda should consider engaging in **specific Bilateral Agreements or MoUs** between Uganda and other countries to make possible easy rescue of migrant work and trafficked victims and follow up investigations and evidence gathering outside Uganda to allow prosecution of perpetrators.

7.1 Government of Uganda should consider the establishment of **national victim assistance program/or Fund** for the assistance of the victims of human trafficking and abused Ugandan migrant workers. This assistance is critical for the provision of return air tickets for transnational victims, provisions for transitory welfare and re-integration packages. The current system of victim assistance is rather disjointed scattered all over various agencies.

7.2 Ratification of attendant International law instruments

GOU should consider ratification of the following international instruments to further buttress a protective framework for various migrant workers:

- a) The International Labour Organization Convention No. 189 (2011) concerning Decent Work for Domestic Workers.
- b) GOU should also consider undertaking the Declarations under articles 76 and 77 of the Convention to recognize competence of the Committee to

receive communications from the state parties and individuals. Currently, there is not known efforts leading to the achievement of the above.

8.0 SUGGESTED QUESTIONS OF ENGAGEMENT

1. How extensive was the process of compiling the State Report? How consultative and to what extent did it involve the various relevant stakeholders including among many the migrant workers, human rights organizations and general members of the Civil Society as well as government entities?
2. Does the State of Uganda have and implement a comprehensive plan to counter human trafficking and smuggled migrant workers?
3. What is the total State budget allocated for education, sensitization and awareness raising programs designed to combat human trafficking, fraudulent foreign work recruitment agencies and follow up on Ugandan migrant workers in the different countries of placement?
4. What mechanisms have been put in place to implement the electoral laws that provide for Ugandan migrant workers to vote by proxy?
5. What quality assurance mechanisms exist within the responsible institutions mainly Ministry of Gender and Labour Development to review the migrant workers' contracts recruited by labour agencies to ensure they are in consonance with the laws?
6. Are there any established, publicized mechanisms that Uganda's Missions in recipient countries of Uganda Migrant workers use to examine the handling of the Ugandan workers and proffer a platform for lodging in complaints on any human rights violation issues they may be

countering?

7. What are Uganda's plans in relation to establishing and enacting minimum wage legislation in the country?
8. Does the State of Uganda have any comprehensive plan or procedure used by all its consulates and embassies in countries playing hosts to Ugandan migrant workers in mass numbers?
9. What is the progress on the;
 - a) Development of National Data on Trafficking In Persons?
 - b) Development of a National Action Plan to Combat Trafficking In Persons (TIP)?
 - c) Operationalization of Working Groups on Trafficking In Persons in the Stakeholder Ministries, Departments and Agencies (MDAs)?
 - d) Development of Specific Bilateral Agreements and Memorandum of Understanding (MoUs) with select countries?
 - e) Review of the Labor Recruitment Regulations to provide for tough penalties against unlicensed individuals and companies involved in the promoting trafficking in persons and exporting labour?
 - f) Development of a National Awareness Strategy to Prevent TIP?
 - g) Establishment of a national fully fledged entity-National Counter Human Trafficking Agency?

