

ALTERNATIVE REPORT OF THE UGANDA COALITION ON
ECONOMIC, SOCIAL AND CULTURAL RIGHTS TO THE 53RD SESSION
OF THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL
RIGHTS ON UGANDA'S INITIAL REPORT



September 2014

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List of Acronyms

COFTU	-	Central Organisation of Trade Unions
EITI	-	Extractive Industries Transparency Initiative
ESCRs	-	Economic, Social and Cultural Rights
EU	-	European Union
GDP	-	Gross Domestic Product
HURINET - U-	-	Human Rights Network Uganda
ICESCR	-	International Covenant on Economic, Social and Cultural Rights
KCCA	-	Kampala Capital City Authority
MAAF	-	Ministry of Agriculture, Animal Industry and Fisheries
MDGs	-	Millennium Development Goals
MGLSD	-	Ministry of Gender, Labour and Social Development
MRG	-	Minority Rights Group
NAADS	-	National Agricultural Advisory Services
NDP	-	National Development Plan
NEMA	-	National Environment Authority
NFNS	-	National Food and Nutrition Policy
NGOs	-	Non-Governmental Organisations
NODPSP	-	National Objectives and Directive Principles of State Policy
NOTU	-	National Trade Union
NSSF	-	National Social Security Fund
NSSPI	-	National Strategic Programme Plan of Intervention
NWSC	-	National Water and Sewerage Corporation
OVCS	-	Orphans and Vulnerable Children's Secretariat
PSAs	-	Profit Sharing Agreements
PwC	-	Price Waterhouse Coopers
UBOS	-	Uganda Bureau of Statistics
UFNC	-	Uganda Food and Nutrition Council
UFNP	-	Uganda Food and Nutrition Policy
UHRC	-	Uganda Human Rights Commission

PROCESS OF PREPARING REPORT AND CONTRIBUTING ORGANISATIONS

The Process

The process of preparing this report started way back in 2008 when a group of organizations started a process of preparing an alternative report in the absence of a state report. This arose out of the concern that Uganda had ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1987 but had not by 2008 submitted its initial report. To facilitate the process, the organizations formed the Economic, Social and Cultural Rights Coalition for the purposes of advocating for economic, social and cultural rights and as an umbrella for the preparation of the alternative report. The activities of the Coalition were coordinated by the Human Rights Network-Uganda, which also became the Secretariat. The members of the Coalition provided information for the Report, which was correlated into a draft report by Dr. Christopher Mbazira, an Associate Professor at the School of Law, Makerere University and Director of the Public Interest Law Clinic based at the same University. Several drafts of the Report were discussed at various meetings of the Coalition and the state was engaged on several occasions and urged to prepare and submit a report. In December 2013, the Government submitted its Initial Report, which forced the Coalition to adjust its Report in order to directly answer to the State Report.

The Coalition decided to leave out education because two other groups of CSOs decided to prepare separate reports on education and health respectively. The CSOs Report was validated at the First National Conference held on 17th and 18th September 2014, at which in addition to validating the Report was characterized by the discussion of the state of economic, social and cultural rights in Uganda.

To build its capacity to prepare the Report, the Coalition sought and obtained technical support from such stakeholders as the United Nations Office of the Higher Commissioner for Human Rights – Kampala Office, and from FIAN International.

Contributing organizations

Human Rights Network – Uganda

The Human Rights Network Uganda (HURINET- U) was established in 1993 by a group of eight human rights organizations and was formally registered as an independent, non-partisan and not for profit organization in 1994. HURINET-U's vision "A society free from human rights abuse" and the mission is to foster the promotion, protection and respect of human rights in Uganda through linking and strengthening the capacity of member organizations at national, regional and international levels. The identity of HURINET-U lies with its diverse membership of 32 NGOs. Membership is drawn from organizations that are committed to a wide range of human rights issues which are complementary in terms of areas of focus including; civil and political rights, economic social and political rights, child rights, gender and women's issues, peace building and conflict resolution, prisoners' rights, refugee rights and labour rights. Members range from purely Ugandan NGOs to international organizations.

Human Rights & Peace Centre (HURIPEC)

HURIPEC is a research centre in the School of Law, Makerere University. HURIPEC's primary mission is to promote, activism, student outreach, research and dialogue on human

rights, peace, equality and good governance in Uganda in particular and Africa in general, with a particular focus on Africa's legacy of oppression and political discrimination. Activities being carried out at HURPEEC not only revolve around the teaching of human rights, but also include the running of various projects and publishing the biannual journal, *East African Journal of Peace & Human Rights*. HURPEEC' *barazas* (public dialogue) are held every quarter as part of a series of discussions focusing on major constitutional developments in Uganda and in East Africa at large. Since its establishment in 1993, HURPEEC has pioneered the introduction of several new courses on the subject of human rights at the Law School, as well as integrating aspects of the subject into a number of existing ones. Examples of this include studies leading to reports on the *Hidden War* and *Listen to the People*, which address issues of peace and conflict resolution in Northern Uganda. The research and writing series started in 2006 has thus far produced nearly 30 working papers in diverse subjects of national, regional and international concern.

The Public Interest Law Clinic (PILAC)

PILAC was established at the School of Law, Makerere University in January 2012, becoming the first university-based law clinic in Uganda. PILAC seeks to promote a hands-on experiential learning as well as exposing students to 'live' cases of individuals who have been confronted by the law in its varied manifestations. PILAC has established a Clinical Legal Education (CLE) programme, which is a hands-on learning programme intended to equip law students with public interest lawyering skills. The Clinic seeks to promote a culture of social justice lawyering in Uganda by developing a consciousness amongst law students of the important role public interest lawyering plays in protecting rights.

Uganda Women's Network (UWONET)

UWONET is an advocacy and lobby organisation, with a membership of 17 National Women's Organisations, institutions and 9 individuals. UWONET envisions *a Ugandan society free of all forms of gender based discrimination* by coordinating collective action among members and other stakeholders through networking, capacity building, resource mobilization, policy research and advocacy for the attainment of gender equality and equity.

Uganda National NGO Forum

The Uganda National NGO Forum is an all- inclusive membership organization of NGOs and their networks as well as 'un-networked NGO's, which subscribe to and support the organization's vision, mission and values. Its mission is to provide a sharing and reflection platform for NGOs to influence governance and development processes in Uganda, and to enhance their operating environment. The Forum was formed in 1997 to be a broad based national body for NGOs. It was registered with the NGO board in 2001 and has grown in strength and membership from fewer than 50 members in 2001 to over 400 members in 2009. Our members work in diverse fields in different parts of the country. They include district, regional, national and international NGOs.

Rural Initiatives Development Foundation (RIDF)

RIDF which was founded in 1992 focuses on Human Rights and Livelihoods. It conducts researches, advocacy and capacity building. The Head Office is located in Lira

Development Foundation for Rural Areas (DEFORA)

DEFOR is an NGO that mainly operate in Western Uganda specifically Kyenjojo District and the greater Rwenzori region. DEFRO's mission is to improve community livelihoods through capacity building, advocacy, human rights promotion and enhancing the quality of health delivery systems in Rwenzori region. Other activities include: promoting human rights awareness campaign, advocacy and lobbying in Kyenjojo district; to develop practical skills among vulnerable children and the youth and to contribute towards reduction of child rights violation among others

Coalition of Uganda Private School Teachers Association (COUPSTA)

COUPSTA is the pioneer private school teachers' initiative that was established in 2004 to unite all teachers, promote and protect their rights and liaise with line ministries to improve their working conditions. COUPSTA enhances and builds the capacity of teachers and students in school by addressing their moral, professional and equal opportunity needs.

The Cross-Cultural Foundation of Uganda (CCFU)

CCFU is a not-for-profit, non-governmental organisation, dedicated to promoting culture as essential for sustainable and equitable development in our country, while responding to our national identity and diversity. Through research, documentation, capacity building and sub-granting, we highlight the resourcefulness of culture and its impact in bringing about social and economic transformation in Uganda and beyond. The Foundation's work is segmented into three programme areas: Culture in Development, Cultural Heritage and Managing Diversity.

Jamii Ya Kupatanisha (JYAK)

JYAK is a Ugandan indigenous NGO that is engaged in peace building and conflict management. JYAK was founded by the UNESCO Peace Education Laureate 2000 Noble Prize Winner, Rt. Rev. Bishop Nelson Onono Onweng. The founder is Bishop Emeritus of the Diocese of Northern Uganda. From its humble beginning as a peace club in 1988, JYAK has grown into a vibrant NGO for peace building and conflict management with special attachment to regions that are affected by military and civil conflicts in Uganda.

The Uganda Association of Women Lawyers FIDA (U)

The Uganda Association of Women Lawyers, FIDA (U) was set up in 1974 to improve the legal status of women. It is affiliated to FIDA International set up in 1948 in Mexico. Its Mission is to work with poor people and vulnerable communities to achieve justice, equality and equity using the law. FIDA (U) intends to achieve this mission through four main objectives i.e. increasing access to justice and legal protection of the poor and vulnerable groups particularly women and children, disseminate law in order to educate and sensitize communities, improve legal status and promote the empowerment of women through advocacy for gender-responsive legislation, policies, and administrative policies. This is in addition to strengthening collaboration between actors working towards women's attainment of justice and development and the development of women lawyers in Uganda.

Anti-Corruption Coalition

The Anti Corruption Coalition of Uganda (ACCU) brings together 70 civil society organizations, individuals, religious leaders, academicians, media practitioners and key institutions involved in the fight against corruption in Uganda. ACCU was formed in January 1999 and registered as an NGO through which anti-corruption activists can enhance their capacity to tackle corruption and build a strong voice and force that can effectively engage government on issues of corruption. Since its inception in 1999, ACCU has been lobbying and advocating for appropriate anti corruption national policies, punitive measures, research, and exposure of corrupt activities; as well as the capacity building, coalition building and mobilization of the Ugandan citizens to fight corruption.

Platform for Labour Action (PLA)

The Platform for Labour Action (PLA) is a labour rights protection organisation which was formed with a view of empowering communities to provide grassroots protection and assistance to their members. This is in addition to establishing partnerships and cooperation with worker's organizations, in order to ensure effective implementation of their mandate. PLA also works to protecting the rights of individuals from the target groups and assisting them to realize their full potential in the society. PLA further monitors the development and implementation of existing policies, regulation actions and reforms relevant to protecting labour related rights.

Minority Rights Group (MRG)

Minority Rights Group International (MRG) is an international human rights non-governmental organization working to secure rights for ethnic, religious and linguistic minorities and indigenous peoples around the world. It has a consultative status with the United Nations Economic and Social Council (ECOSOC) and observer status with the African Commission for Human and Peoples' Rights. MRG's head office is in London, United Kingdom with Africa Regional Office in Kampala, Uganda. It operates in Africa, Asia and Europe (non-European Union countries). MRG campaigns worldwide with around 130 partners in over 60 countries to ensure that disadvantaged minorities and indigenous peoples, often the poorest of the poor, can make their voices heard. Through training and education, legal cases, publications and the media, MRG supports minority and indigenous peoples as they strive to maintain their rights to the land they live on, the languages they speak, to equal opportunities in education and employment, and to full participation in public life.

Action for Group Health, Human Rights and HIV (AGHA)

The Action Group for Health, Human Rights and HIV/AIDS (AGHA) is a health rights advocacy organization in Uganda dedicated to raising awareness of the human rights aspects of health, and the quality of health and healthcare for all Ugandans. Grounded in a rights-based approach, AGHA mobilizes health professionals, in collaboration with communities, to be health rights advocates promoting equity and social justice for all Ugandans, with a particular focus on marginalized and vulnerable populations. AGHA has

a proven track record of addressing health rights violations in Uganda through advocacy-oriented research, education and training.

Rehabilitation Centre for Victims of Domestic and Sexual Violence (RECESVID)

Rehabilitation Centre for Victims of Domestic and Sexual Violence (RECESVID) is an organisation that was created in 2009 in Kampala, Uganda by a group of Ugandan-based human rights workers. It is registered as a Non-Governmental Organisation dedicated to the promotion and protection of human rights with emphasis on rehabilitation of victims of domestic and sexual violence.

SUMMARY OF REPORT

Although Uganda ratified the International Covenant on Economic, Social and Cultural Rights in 1998, it has taken over 20 years for the Country to discharge its reporting obligations by submitting its Initial Report. The failure to submit the Report in a timely manner has denied the Country the benefits that derive from state reporting, which include self introspection and scrutiny by an international body of the extent to which the Country has realised the economic, social and cultural rights (ESCRs) to which it has committed itself.

At a legal regime level, Uganda has not fully guaranteed the wide range of ESCRs as part of the Bill of Rights in the 1995 Constitution. Although traces of some of these rights, such as education, are found in parts of the Bill of Rights, the bulk of the elements of the rights are only protected as part of the National Objectives and Directive Principles of State Policy stipulated as part of the preamble of the Constitution. On a positive note, however, a 2005 Amendment of the Constitution introduced a new provision, Article 8A, which provides that the Country shall be governed based on the National Objectives. Nonetheless, over ten years after the amendment, the full import of this provision is yet to be felt. Parliament has not enacted laws to give effect to the provision as required. In addition, to the National Objectives, elements of ESCRs are found in a number of legislations and policies which Government has adopted to govern different matters such as water, health care, land use, and transport, among others.

The realisation of ESCRs in the Country is however being compromised by a number of factors: the Country's population is growing at a rate which does not match the country's planning pace. In 1980, the population stood at 12.7 million but by 2005 it had shot to 28.7 million and now stands at 33 million. It is projected that by 2050 the population will have reached 91 million people. Another major hindrance is the rampant corruption, especially in the public sector, which has on many occasions seen the embezzlement of funds intended for socio-economic goods and services. Additionally, many positive Government policies have been adopted but remain on paper without effective implementation.

Table 1: Key Issues and Recommendations per ICESCR Right

ICESCR ARTICLE	ESCR RIGHTS & PROVISION	KEY ISSUES	RECOMMENDATIONS
	<p>General Information & Issues</p>	<ul style="list-style-type: none"> • The bulk of ESCRs are only protected as part of National Objectives and Directive Principles of State Policy; • The reports of the Uganda Human Rights Commission submitted to Parliament have never been debated and yet its quasi-judicial orders are often ignored by the state; • There is rampant embezzlement of public funds, which is affecting service delivery and the enjoyment of ESCRs; and • The legal regime is adequate but there is no political will to fight corruption 	
1	<p>Right to self-determination</p>	<ul style="list-style-type: none"> • People are not involved in the determination of their economic, social and cultural development; • Citizens' rights to influence decisions about utilisation of natural resources that sustain their communities are not respected; and • Access to information by citizens, and especially local communities, on the natural resources in their areas has not been enhanced; in some cases information has been withheld. 	<ul style="list-style-type: none"> (i) The Government should take steps to ensure that individuals and communities participate in the making and implementation of decisions that affect their economic, social and political development; (ii) The Government should be transparent when designing socio-economic development programmes and should share information with communities for the purposes of soliciting their views; (iii) Government should make public all information relating to the exploitation of oil in the Western regions of the country and share the same with local communities;

			<p>(iv) Government should establish and implement a system of revenue sharing with communities and cultural institutions around areas where such natural resources as oil and petroleum are being exploited;</p> <p>(v) Government should be pay adequate and timely compensation to people losing land to the oil industry.</p>
2	Prohibition of discrimination	<ul style="list-style-type: none"> • In spite of a relatively progressive legal framework, discrimination in access to social and economic goods and services persists to the detriment of certain communities; • Gender-based discrimination is still compromising women’s access to services and resources such as land; • Some laws lack a gender sensitive language; and • A number groups including the Batwa, IK, Basongora, Banyabindi and Benet have been marginalized as regards access to socio-economic goods and services 	<p>(i) Deliberate measures should be adopted to eradicate gender-based discrimination in access to social and economic resources;</p> <p>(ii) Laws should be adopted to ensure that women get enhanced access to economic resources and are sufficiently and equitably rewarded for their labour, including domestic labour;</p> <p>(iii) Land being a critical economic resource, Government should adopt measures to ensure that women have access to land and benefit from the fruits of their labour on the same;</p> <p>(iv) Measures of affirmative action should be extended to marginalised, vulnerable and indigenous communities to ensure that they too have access to economic, social and cultural goods and services such as education and health care;</p> <p>(v) The plight of people evicted from protected areas which hitherto formed their natural habitat and cultural heritage should be addressed. This includes the Batwa who were evicted from Semliki and are suffering in Bundibugyo.</p>
6	Right to work	<ul style="list-style-type: none"> • The minimum wage has not been revised since 1984; • Provisions of international conventions relevant to employment have not fully been domesticated; 	<p>(i) Under-employment is a critical issue that needs to be addressed by creating appropriate employment for various categories of people. Special attention should be paid to the youth.;</p> <p>(ii) The minimum wage needs to be revised urgently to ensure that it is consistent with the contemporary costs of living; and</p>

		<ul style="list-style-type: none"> • School graduates are trained to become job seekers and not job creators; • Under-employment, and especially youth unemployment is too high; and • Government policies to promote employment have not been implemented. 	<p>(iii) The Government should adopt measures to ensure that all public servants, including teachers, medical personnel, and police officers, are paid wages which enable them to live a decent life and are paid promptly using an efficient payment system.</p>
7	Right to just & favorable conditions of work	<ul style="list-style-type: none"> • The monitoring and enforcement mechanisms for legislation to protect workers is ineffective; and • Although monitoring of labour standards has to a certain extent been decentralised, many districts lack the requisite human resource capacity to effectively discharge this mandate. 	<p>(i) Mechanisms for the protection and enforcement of laws protecting the health and safety of workers should be made more effective;</p> <p>(ii) There is need to capacitate districts to enable them recruit labour officers in order to effectively discharge their mandate to monitor labour standards;</p> <p>(iii) The Directorate Labour, Employment and Occupational Safety should be facilitated and adequately funded to enable it effectively discharge its mandate of resolving labour disputes; and</p> <p>(iv) Government should ensure that the Industrial Court is well facilitated to handle labour disputes. There is need for the appointment of more judges to this Court to enable it clear the huge case-backlog which it has.</p>
8	Right to form and belong to trade union	<ul style="list-style-type: none"> • Trade unions are ineffective and have been weakened by politicization and infighting; • The new Labour Union Act of 2006 has not fully been implemented; • Casual and temporary non-contract labour has not been unionised, thereby being deprived of protection; and 	<p>(i) Trade unions should be improved, helped to overcome internal conflicts, de-politicised and facilitated to build internal capacity;</p> <p>(ii) Government should provide resources for the full implementation of the provisions of the 2006 Labour Union Act and adopt deliberate measures to ensure that employers are forced to recognise and encourage their employees to join or form trade unions;</p>

		<ul style="list-style-type: none"> • Violation of the right to peacefully withdraw labour is prevalent. 	<p>(iii) Government should respect and uphold the right to peacefully withdraw one's labour and take non-violent industrial action; and</p> <p>(iv) Government should ensure that employees sustaining injuries at work are promptly compensated in accordance with the workman's compensation law.</p>
9	Right to social security	<ul style="list-style-type: none"> • The National Social Security Fund is not properly managed and continues to threaten the security of worker's savings; • Employees in the informal sector, which is the biggest employer, are not covered by social security laws; and • The sustainability of the Social Cash Transfer scheme that government has recently established under the 'Expanding social protection programme' is threatened since it is donor funded. 	<p>(i) Independent and through investigations should be carried out on the manner in which NSSF is being managed and recommendations arising from this investigation should be implemented by the Government;</p> <p>(ii) Measures should be adopted to increase the coverage of social security by extension to the informal sector;</p> <p>(iii) Uganda should ratify the Maintenance of Social Security Rights Convention 1982 and the Social Security (minimum standards) Convention 1952 ;</p> <p>(iv) Rather than rely on donor funds, government should adopt measures to ensure that the cash transfer scheme intended for social protection of the elderly is sustainable; and</p> <p>(v) The Government should ensure that the Pension Department in the Ministry of Public Service is corrupt free, inefficient in keeping records and processing pensions in an effective and timely manner</p>
10	Family rights	<ul style="list-style-type: none"> • Early marriages affecting women and families; • Government has not adopted and implemented a comprehensive programme to deal with problem of street children; • Government has not adopted a comprehensive social 	<p>(i) Government should adopt measures to prevent early marriages and ensure that children are protected from this vice;</p> <p>(ii) Government should also adopt a comprehensive social protection programme to support vulnerable families and cushion poor families against the high food inflation;</p> <p>(iii) Government should adopt and implement a comprehensive plan to</p>

		<p>protection scheme to help families being affected by the high food inflation; and</p> <ul style="list-style-type: none"> • Maternal and infant mortality rates still very high 	<p>deal with the problem of street children. Such a plan should aim at rehabilitating the children and re-integrating them into family environments; and</p> <p>(iv) Government should take measures to improve infant and maternal health care to reduce on the high rates of infant and maternal mortality.</p>
11	Adequate standard of living		
Right to adequate housing			
		<ul style="list-style-type: none"> • There are regional disparities in housing conditions, the Northern region is the poorest; • Lack of security of tenure on land is affecting access to and quality of housing, women are the most affected; • Provisions of law that enhance security of tenure have remained on statute books; • There is an acute inadequacy of physical infrastructure for services and social amenities; and • The Country lacks a comprehensive national urban policy. 	<p>(i) The provisions of law that enhance the security of tenure as regards land ownership should be implemented. An example are provisions of the Land Act that provide for the issuance of customary certificates of ownership;</p> <p>(ii) Government should desist from carrying out evictions from public land without providing alternative accommodation and adhering to the principles on forced evictions;</p> <p>(iii) A comprehensive national urban policy should be adopted addressing the problems arising from the rapidly increasing rate of urbanisation; and</p> <p>(iv) Physical infrastructure should be improved and made commensurate with the size of the population.</p>
Right to sufficient food			
		<ul style="list-style-type: none"> • The National Food and Nutrition Policy has not been implemented due to absence of structures for implementation; • Processes of adopting crucial policies such the 	<p>(i) The Government should honour the 2003 African Union Summit, <i>Maputo Declaration on Agriculture and Food Security</i>, which commits countries to allocate at least 10% of national budgets to agriculture and food security;</p>

		<p>National Food and Nutrition Strategy have been tardy;</p> <ul style="list-style-type: none"> • Crucial programmes that would enhance food security such as the National Agricultural Advisory Services programme have been politicised; • Increasing food prices are affecting poor households; and • Budgetary allocation to Ministry of Agriculture at 5% affects food production 	<p>(ii) To ensure freedom from hunger, the MAAIF, within its frameworks, should prioritise expenditures with strategic incentives for vulnerable poor in form of improved traditional seeds and inputs, micro-credit schemes, market access facilitation to framers, creation of employment opportunities that provide social protection, and building capacity of the vulnerable poor; and</p> <p>(iii) Actors, especially the food and nutrition line ministries of Agriculture and Health, should consider with urgency, the need to fast-track approval of the National Food and Nutrition Strategy and promulgation of the Food and Nutrition Bill</p>
Right to adequate water and sanitation			
		<ul style="list-style-type: none"> • Only 65 percent of the population has access to safe drinking water; • A distance of an average of one kilometre to access safe water in rural areas is still very high; and • Many people such as in the North and North Eastern parts of the country do not have access to pit-latrines. 	<p>(i) Government should take measures to ensure that all Ugandans get access to safe drinking water;</p> <p>(ii) In rural areas, safe water should be made available within a distance of less than 200 meters for all households as is the case for urban areas; and</p> <p>(iii) Access to pit latrines should be improved for all communities including those in the North and North Eastern parts of the country.</p>
12	Right to best attainable standard of mental and physical health	<ul style="list-style-type: none"> • The legal framework does not guarantee the right to health and has laws which are have negative public health implications • Health care budget is highly dependent on donor support, allocations to sector not consistent with international and regional obligations and funds are mismanaged; • The Health Sector suffers from staff inadequacies, especially in rural areas; 	<p>(i) The government should recognise an explicit right to health as a justiciable constitutional right;</p> <p>(ii) The Government should desist from passing laws which have a negative effect on the enjoyment of the right to health. Discriminatory provisions of such laws as the HIV Prevention and Control Act should be reviewed;</p> <p>(iii) The Government should review provisions of the Penal Code Act that criminalise abortion, since abortion is a public health and not a criminal issue;</p>

		<ul style="list-style-type: none"> • Stock-outs of essential medicines and health care services are rampant often due to poor infrastructure; • Reproductive health care is unacceptably poor exacerbating the problem of maternal mortality; • HIV/AIDS infection rates on the increase thereby reversing gains scored • Maternal death and health complications arising from unsafe induced abortions are a matter of concern; and • Country lacks specialised mental health care personnel. • 	<p>(iv) The government should devise a comprehensive non-communicable diseases policy and prevention strategy, and should commit further resources to this issue;</p> <p>(v) The government should commit to increasing the health sector budget, in line with regional and international obligations and should ensure that the budget is efficiently managed and utilised in ways which avoid abuse and misappropriation. Cases of abuse of funds should efficiently be investigated and prosecuted;</p> <p>(vi) Urgent measures should be adopted to improve staffing in the health sector. Measures that should be adopted in this regard include creating financial incentives by increasing the salaries of staff and implementing regulatory requirements that increase service time in rural areas;</p> <p>(vii) The Ministry of Health must increase efforts to build capacity of lower public health facilities to reduce stock-outs. This can be done through increased pharmaceutical and overall management capacities;</p> <p>(viii) The Government should ensure universal access to family planning information and services. Innovative efforts such as community-based distribution of contraceptives should be undertaken to increase coverage to FP services;</p> <p>(ix) The Government should adopt measures to improve the proportion of deliveries facilitated by skilled attendants, especially by improving the systems for transport and facilities for safe deliveries throughout the country by ensuring equity between rural and urban areas;</p> <p>(x) Urgent measures should be adopted to ensure that ARV treatment reaches all persons infected with HIV/AIDS and in need of such treatment, particularly children who are eligible but not yet receiving them;</p> <p>(xi) The government should take steps to ensure all health facilities have</p>
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			<p>access to and the resources to maintain the basic utilities that are required for them to function;</p> <p>(xii) The processes of debating and adopting the Mental Health Bill should be fast-tracked and a human rights based approach to legislation should be incorporated into the process; and</p> <p>(xiii) Government should develop and implement standards and guidelines to integrate Mental Health Treatment into Primary Healthcare. It should also ensure that there is adequate financing for mental health services particularly for psychotherapeutic medicines.</p>
15	Right to take part in cultural life	<ul style="list-style-type: none"> • Culture is a marginalised sector, it has no ministry of its own and financing of the sector of less than 0.03 percent of the national budget is very low; • The National Culture Policy has largely not been implemented; • There is no comprehensive and adequate information on Uganda's culture; • Measures to encourage participation in cultural activities by children leave out children who are not of school going age; • There is consistent repression of the freedom of speech of cultural/traditional leaders; • The cultural rights of such indigenous populations as the Batwa have been violated mainly through evictions from their natural heritages 	<p>(i) Government should earmark at least- as a starting point- 1% of the national annual budget for development of the culture sector;</p> <p>(ii) Government should establish state and support non-state training centers to promote and develop indigenous knowledge and skills and should ensure scientific and culture cooperation in order to support research and documentation on national cultural heritage, both</p> <p>(iii) Government should create a national database of monuments and sites, including those of ethnic minorities. Documentation of customs, oral traditions and indigenous skills of all Ugandans in their diversity should be made available through the multimedia.</p> <p>(iv) Government should establish new and equip the available infrastructure to provide space for Ugandans to appreciate and participate in cultural activities of their choice and should formulate national by-laws to protect and conserve intangible heritage, including patent laws to protect innovations;</p> <p>(v) Government should recognise and facilitate cultural institutions in their entirety, including returning their assets and granting overseer benefits</p>

			<p>on all profits from regional resources;</p> <p>(vi) Government to should update and implement the Historical Monuments Act of 1967 to incorporate new categories of heritage and encourage community participation identifying cultural heritage resources;</p> <p>(vii) Government should establish and adequately fund a specific national structure (Ministry of Culture) to ensure proper planning and implementation of cultural development programs;</p> <p>(viii) The National Culture Policy should be popularised and effectively implemented;</p> <p>(ix) Government should engage the British Government to return all the artefacts and cultural symbols taken away during colonial rule; and</p> <p>(x) Government should establish a Cultural Heritage Authority to act as a regulatory body to preserve and promote our cultural heritage.</p>
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1. GENERAL INFORMATION AND ISSUES

General legal framework for human rights protection

Key issues

- **The bulk of ESCRs are only protected as part of National Objectives and Directive Principles of State Policy;**
- **There is rampant embezzlement of public funds, which is affecting service delivery and the enjoyment of ESCRs; and**
- **The legal and institutional regime is adequate but there is no political will to fight corruption.**

1.1. As indicated in paragraph 1.5 of the State Report, the bulk of economic, social and cultural rights (ESCRs) as protected by the International Covenant on Economic, Social and Cultural Rights (ICESCR) are only protected in the Constitution as part of the National Objectives and Directive Principles of State Policy (NODPSP). In 2005 the Government amended the Constitution by introducing Article 8A to provide that the country “shall be governed based on the principles of national interest and common good enshrined” in the NODPSP. Unfortunately, over ten years since the adoption of the amendment, Parliament has not adopted laws which give effect to the above provision as required by Article 8A. What this means is that it is a legal hurdle to rely on the rights that could be deduced from the NODPSP as justiciable rights which can be protected through judicial means. This in spite of the fact that a careful reading of the provision indicates that it can be relied on even in the absence of the law by Parliament.

Indeed, apart from the cases on enforcing the right to right to a clean and healthy environment as contained in Article 39 of the Constitution, the courts of law have been reluctant to give effect to rights that can be deduced from the NODPSP such as the right to the best attainable standard of health which can be deduced from the Objective XX. This Objective requires the state to “take all practical measures to ensure the provision of basic medical services to the population”. Indeed, in June 2012, the Constitutional Court declined to hear the Case of *Centre for Health, Human Rights and Development & Ors v Attorney General* (Constitutional Petition No. 16 of 2011), on the ground that the Court was barred by the political question doctrine from adjudicating a case which raised policy issues of health.

1.2. What is required is for the Government to fully domesticate the ICESCR by incorporating all the rights it protects into the Bill of Rights in the Constitution. This will empower the courts to adjudicate the rights as fully justiciable. The Government should also effect Article 8A by promulgating the laws referred to in Article 8A(2).

1.3. The Constitution has created the Uganda Human Rights Commission (UHRC) as the national human rights institution charged with the mandate to promote and protect human rights.¹ In addition to a promotion and advisory mandate, the UHRC has quasi-judicial powers to investigate and judiciously rule on human rights violations. The biggest challenge facing the Commission, however, is the failure by the State to implement the quasi-judicial orders to remedy rights violations adjudicated by the

¹ See Article 51 – 58 of the Constitution.

Commission. Additionally, although the UHRC has made a number of reports and submitted the same to Parliament as required by law, Parliament has not adequately discussed these reports with a view of providing oversight to government agencies concede to fully implement the recommendations herein these reports. In its 2013 Report, the UHRC indicates that up to 38% of its recommendations have not been complied with, yet in determining compliance, the Commission has indicated that 62% of the recommendations have either been complied with fully or partially.² Out of the 32 recommendations listed under this category, only 2 have been complied with fully. In its 2012 Report, the Commission showed that only 28.1% of the compensatory awards its tribunal has awarded had been paid by December 2012, leaving a whopping 72.2% unpaid.³

Corruption as a hindrance to enjoyment of rights

- 1.4. The Government has acknowledged that “[a]lthough considerable efforts have been made to reduce corruption, including putting in place an appropriate legal and institutional framework, it still significantly affects public service delivery in the country”.⁴ Indeed, Government at paragraph 22 of its Report acknowledges the problem of corruption and the country’s ranking at position 103 on the international corruption index. Corruption permeates all sectors of the country and is prevalent right from the top level of leadership, including ministerial levels, to the lowest local government units. What is clear is that the government lacks the political will to fight corruption by, among others, effectively prosecuting those suspected of corrupt activities. Although the country has a relatively effective legal and institutional framework to fight corruption, the laws have largely remained unimplemented and the anti-corruption measures mentioned in paragraph 152 of the State Report have not been effective.
- 1.5. One of the sectors hit most by corruption is Health, which affects the enjoyment of the right to the best attainable standard of physical and mental health. For instance, this Sector has witnessed the mismanagement and embezzlement of millions of dollars disbursed under the Global Fund to fight AIDS, Tuberculosis and Malaria. Audits and investigations carried out in 2005 revealed that approximately 1.5 million dollars of the fund had been lost through inflated expenses, false receipts and misallocation of money. Although some convictions have been secured, many senior officials who mismanaged the fund, including Ministers, are yet to face trial. Although the Global Fund had initially earmarked \$201 for Uganda for two years, only \$45 million of this had been disbursed by the time the Global Fund announced it was withholding all five grants to Uganda. A report by an audit firm, Price Waterhouse Coopers (PwC), indicated that there was gross mismanagement of the Fund, forcing the Global Fund to suspend support for Uganda.⁵

² Uganda Human Rights Commission 16th Annual Report (2013). Chapter 3.

³ Uganda Human Rights Commission 15th Annual Report (2012)

⁴ National Development Plan, 2010/2011-2014/2015, at para 91.

⁵ See The Global Fund to Fight Aids, Tuberculosis and Malaria, The Office of the Inspector General Follow Up Review of the Global Fund Grants to Uganda Audit Report No: TGF-OIG-09-005 (September 2009), available at

NATIONAL IMPLEMENTATION OF SPECIFIC RIGHTS

2. Article 1: Right to self-determination

Key issues

- **People are not involved in the determination of their economic, social and cultural development;**
- **Citizens' rights to influence decisions about utilisation of natural resources that sustain their communities are not respected; and**
- **Access to information by citizens, and especially local communities, on the natural resources in their areas has not been enhanced; in some cases information has been withheld.**

- 2.1. Although in its Report the Government indicates that it has done a lot to ensure enjoyment of the right to self-determination, it omits to say anything about the violations in the oil sector, which has seen many local communities denied access to oil as a natural resource. Despite the fact that good natural resource management depends majorly on participatory and transparent governance, this has been overlooked. This problem is most evident in the ongoing oil and petroleum exploitation process, a process which has been shrouded in secrecy and devoid of public involvement and consultation. The National Oil and Gas policy that was officially launched in February 2008 aims at achieving exploitation and utilization of oil and gas in a manner that contributes to poverty alleviation as well as contributing to the building of the country's social and economic capacity.⁶ However, realities on the ground suggest that the situation is different from the policy expectations.
- 2.2. Since the discovery of oil and petroleum in parts of Western Uganda, the Government and prospecting companies, including Tullow Oil, Heritage and Dominion, have kept a tight lid on information about the industry.⁷ The Government has declined to make details of the Production Sharing Agreements (PSAs) signed with the oil companies public. So far, Government has been reluctant to commit to the Oslo-based Extractive Industries Transparency Initiative (EITI). The EITI, which was launched by the former British Prime Minister, Tony Blair in 2002 and endorsed by the world's most wealthy countries during the 2004 G8 summit, seeks to set the global standard for transparency in the mining of oil, gas and other minerals.
- 2.3. The contents of the Production Sharing Agreements have remained closely guarded by both the Government and oil companies, only releasing de-contextualized snippets. Officials in Uganda's Energy ministry insist that the government cannot

file:///C:/Users/owner/Downloads/OIG_UgandaFollowUpRevieOfGlobalFundGrants_Report_en.pdf (accessed on 19th June 2014).

⁶ Christoph Schwarte (2008) Access to environmental Information in Uganda. Accessed from http://www.field.org.uk/files/FIELD_Access_Uganda.pdf.

⁷ See Uganda Human Rights Commission *16th Annual Report*, which indicates that there was minimal efforts, in some cases no effort at all, to enable the local communities understand what was happening in the industry, *UHRC 16th Report*, at 164.

yet reveal the details of the contracts signed with oil prospecting countries because confidentiality clauses bar them from doing so. Litigation efforts by journalists to use Uganda's Access to Information Law to obtain information have proven unsuccessful in the courts, which also cited the confidentiality clauses in the contracts.⁸ Even such public bodies as Parliament have been denied access to the PSA for public scrutiny.⁹ The Oil wells are also secured by the elite Special Forces Group (SFG)

- 2.4. At public policy level, civil society has not been involved not only in the prospecting process but also in the processes leading to the adoption of policies and laws relevant to the oil industry. In response, civil society organisations have embarked on a series of campaigns to sensitize the public on their rights to access information on the developments in the oil sector. However, in 2009, the Energy and Mineral Development Minister issued a stern warning to NGOs against sensitizing the public to demand transparent and accountable management of oil and gas resources.¹⁰ The Minister claimed that NGOs were misleading the public and advised them to look after orphans instead. Unfortunately, whereas NGOs are being pushed aside, their involvement is based on the fundamental right of private citizens to gather, discuss, and express their views on public matters and to promote the larger good.
- 2.5. Cultural leaders in the Western Uganda Kingdom of Bunyoro, where most of the oil wells are located, have indicated that they have not been involved the oil exploration and exploitation processes in their Kingdom. As confirmed by the UHRC in its 16th Annual Report,¹¹ the same applies to the local government authorities in the region. Indeed, Bunyoro Kingdom threatened to sue the Central Government for breach of the pre-independence agreement of 1955, which entitles Bunyoro to considerable amounts of revenue from any minerals that are mined from the kingdom. The Kingdom Prime Minister, Yabezi Kiiza says they temporarily shelved the plan to sue after the Central Government and the oil companies agreed to enter negotiations over how to share oil revenues.¹² These negotiations are yet to materialise.
- 2.6. Local leaders are concerned that oil companies will get away with activities destructive to the environment and livelihoods due to limited oversight by communities who lack awareness about the agreements governing oil exploration activities. The oil refining process has been releasing excessive heat into the air, causing great discomfort to communities that live near the wells.
- 2.7. In June 2009, the National Environmental Management Authority (NEMA), a government environmental watchdog, released a report warning that ongoing oil exploration if poorly managed was likely to disrupt wildlife conservation in Western Uganda. NEMA noted in its Environmental Sensitivity Atlas for the Albertine Graben that the ecosystem in 45 percent of Uganda's 22 national parks and wildlife reserves, which are found within the areas where oil wells are located, are likely to

⁸ Ibid

⁹ '75 MPs Sign to Recall Parliament over oil deals' The Monitor Newspaper, 19 September 2011.

¹⁰ Ibid at pg.27

¹¹ UHRC 16th Annual Report, at 169.

¹²Ibid at pg.26

be affected.¹³ All this shows that NEMA has not adequately been involved in the exploration and exploitation process.

- 2.8. The processes of compensating local communities who have to move from the oil regions have also been flawed. In 2013, the UHRC indicated that the rates used in determining the compensation value was low and in many cases did not take into account the market values of certain items. Yet, the actual payment of the compensation has considerably been delayed. While compensation agreements were signed in June 2012, in many cases payments had not been effected over a year later.¹⁴

Recommendations

- (vi) The Government should take steps to ensure that individuals and communities participate in the making and implementation of decisions that affect their economic, social and political development;**
- (vii) The Government should be transparent when designing socio-economic development programmes and should share information with communities for the purposes of soliciting their views;**
- (viii) Government should make public all information relating to the exploitation of oil in the Western regions of the country and share the same with local communities;**
- (ix) Government should establish and implement a system of revenue sharing with communities and cultural institutions around areas where such natural resources as oil and petroleum are being exploited;**
- (x) Government should be pay adequate and timely compensation to people losing land to the oil industry.**

¹³ Ibid

¹⁴ Uganda Human Rights Commission 16th Annual Report 2013, at pp 160 – 161.

3. Article 2: Prohibition of Discrimination

Key issues

- **In spite of a relatively progressive legal framework, discrimination in access to social and economic goods and services persists to the detriment of certain communities;**
- **Gender-based discrimination is still compromising women's access to services and resources such as land;**
- **Some laws lack a gender sensitive language; and**
- **A number groups including the Batwa, IK, Basongora and Benet have been marginalized as regards access to socio-economic goods and services**

Gender-based discrimination and income gaps

- 3.1. Land inequalities in Uganda are far greater than income inequalities. Evidence highlights deeply rooted gender biases at the expense of women.¹⁵ Male-headed households hold ownership rights between 80% and 90% of the land available. The NDP shows that women own only 14% of mortgage titles in Uganda, compared to the men's 68%. The rest are owned by institutions (11%), jointly by husband and wife (4%) and by an administrator (3%). No gender specific solution to address the imbalance is defined. On a different note, the wealthiest 40% of the population owns 61.6% of the total land, while the poorest 40% of the population owns merely 24.2%.¹⁶
- 3.2. There are still a number of laws that are not gender neutral and require the adoption of gender sensitive language in order to curtail gender based discrimination. Critical laws for the protection of family rights and enhancement of gender equality such the marriage and divorce laws need to be put in place. There has been consistent pressure for legislation incorporating the co-ownership of men and women to land so as to increase the protection of women's right to use and own land. This would also increase the control and ownership of women over production resources considering that 83% of women are engaged in agricultural production yet only 25% own land.¹⁷ Unfortunately, the Government has not acted with deliberate speed to have the Marriage and Divorce Bill adopted. The Bill has been pending in Parliament since 2009, yet efforts to have law reforms that could protect women in marriage and families have been in place for over 30 years without achieving much. The current marriage and divorce laws were inherited from the colonial state in 1962.
- 3.3. Gender is also not explicit in the National Development Plan (NDP) vision and its related attributes. The Plan mentions several ways in which gender inequalities manifest at the macro and micro level but lacks gender sensitive action indicators.¹⁸

¹⁵ Forum for Women in Democracy (FOWODE). *Did the National Development Plan Address Women Concerns: An assessment of How the NDP Was Gender Responsive*. Abridged version 2010 at page 23

¹⁶ Ibid

¹⁷ UWONET 2010 shadow report to the committee on CEDAW.

¹⁸ Ibid at pg.7

Furthermore, gender is not included in the NDP investment priority areas as well as the national core projects. The priority areas for the NDP are focused in the public arena where women obviously play a limited part. Nowhere for instance is it acknowledged that domestic work or work done in the private arena does play a critical role in contributing to national Gross Domestic Product (GDP). No reference is made to women's work burden which affects their mobility and therefore, participation in development activities. It is further alarming that most interventions for promoting gender equality are left to the Ministry of Gender Labour and Social Development (MGLSD), an aspect that compartmentalizes rather than mainstreams gender in development processes.¹⁹

- 3.4. The sector objectives, strategies and interventions in the NDP are largely gender neutral. Only two interventions make explicit reference to gender, and even then, the rationale for their inclusion is to mainstream gender in development of policies, strategies, programmes and projects as part of a general strategy rather than being tagged to specific gendered interventions. Considering the fact that agriculture is female dominated in Uganda, all sector-specific interventions such as the National Agricultural Advisory Services (NAADS) should purposively target women and policy and legal reforms must target women's rights to access and own land.²⁰
- 3.5. While the proposed interventions in the area of gender have the potential to improve women's efficiency and, therefore, their productivity in development related activities, the existing core constraints to women's participation are not addressed by the NDP. For instance, if women's social roles are not acknowledged and rewarded, the gender division of labour may be reinforced which further keeps women from engaging in what is perceived as "gainful interventions" which are those deemed to contribute to the national GDP.²¹

Vulnerable and marginalised communities

- 3.6. In 2011, HURINET-U with the support Minority Rights Group (MRG) and the European Union (EU), conducted a study entitled *The Most Vulnerable among the Vulnerable; Exploring the Case of Select Minority Populations' Access to ESCR'S in Uganda*. This Study shows that a number of ethnic minorities and indigenous peoples have been denied access to socio-economic goods and services on equal basis with others. Example is given of the Ik of Karamoja, who suffered special neglect since the colonial era, which has compromised their access to health, education, water and housing, among others. Another example are the Basongora in Kasese district were evicted from Virunga Ranges in DRC as well as Queen Elizabeth National Park in Uganda at different times. While land has been allocated to the victims, those in charge of the process have taken advantage of the vulnerability of the people and apportioned themselves land that would hitherto belong to the Basongora ethnic minority group members. Evidence shows that during the resettlement process, the majority Bakonzo dominated the process at the expense of the targeted Basongora. Yet, during the eviction from the Park, government forces used excessive force, hundreds of houses were demolished and farms destroyed.

¹⁹ Ibid

²⁰ Ibid at pg.16

²¹ Ibid at pg.33

- 3.7. The other group close to the protected areas which has suffered historical injustice are the Banyabindi, a Runyoro-Rutoro (Runyakitara) speaking community who for centuries occupied the lowlands and plains of Busongora now Kasese District. From the 1960s through to the 1980s, conflict between the Bakonjo/Bamba, on one hand, and the Batoro, on the other, led to the killing and eviction of the Banyabindi from their lands by the Bakonjo and Bamba because of the Banyabindi's similarity with the Batoro. Those who tried to settle in Queen Elizabeth National Park were evicted by Government. This left the Banyabindi landless. In 2009, a Government appointed Committee, the Inter-Ministerial Committee on Basongora Affairs, took note of the vulnerable state of the Banyabindi, their landlessness states and the fact that they face extinction. Although the Committee recommended that the Banyabindi be given land for resettlement, this recommendation has not been acted upon.²²
- 3.8. Research conducted by the Public Interest Law Clinic of the School of Law, Makerere University in January 2014 entitled *Public Interest Litigation and the Provision of Legal Aid Services to Indigenous Communities: The Case of the Batwa in Bundibugyo*,²³ shows that the eviction of the Batwa people from Bwindi, Mgahinga and Semliki national parks has denied this indigenous population access to land and such natural resources as forest products which they use for food, medicines and for religious and cultural purposes. The Batwa in Bundibugyo, who number approximately 97, were evicted without compensation or resettlement and are settled on a piece of land measuring approximately 1.5 acres, donated by civil society organizations. This community suffers marginalization from neighboring dominant communities and unable to farm or use surrounding lands for food.

Recommendations

- (vi) Deliberate measures should be adopted to eradicate gender-based discrimination in access to social and economic resources;**
- (vii) Laws should be adopted to ensure that women get enhanced access to economic resources and are sufficiently and equitably rewarded for their labour, including domestic labour;**
- (viii) Land being a critical economic resource, Government should adopt measures to ensure that women have access to land and benefit from the fruits of their labour on the same;**
- (ix) Measures of affirmative action should be extended to marginalised, vulnerable and indigenous communities to ensure that they too have access to economic, social and cultural goods and services such as education and health care;**
- (x) The plight of people evicted from protected areas which hitherto formed their natural habitat and cultural heritage should be addressed. This includes the Batwa who were evicted from Semliki and are suffering in Bundibugyo.**

²² See Final Report on Basongora Affairs by the Inter-Ministerial Committee, 1st December 2009, at pp 5 and 7

²³ PILAC Working Paper No. 1 (January 2014).

4. Article 6: Right to work

Key issues

- **The minimum wage has not been revised since 1984;**
- **Provisions of international conventions relevant to employment have not fully been domesticated;**
- **School graduates are trained to become job seekers and not job creators;**
- **Under-employment, and especially youth unemployment is too high; and**
- **Government policies to promote employment have not been implemented.**

4.1. It is commendable that the state has adopted a number of laws which, as reflected at paragraph 61 of the State Report, promote realization of the right to work and labour related rights. This is in addition to ratifying a number of international labour conventions. Unfortunately, the provisions of some of the conventions above have not been domesticated fully. In some instances the conventions were ratified decades ago and provisions domesticated done then. The problem is that no measures have been adopted to ensure that the domesticated provisions apply to prevailing situations. One example in this regard is law on the minimum wage

The minimum wage

4.2. As indicated in the State Report at paragraph 105, the minimum wage was way back in 1984 set at Ug shs 6,000 (approximately US \$ 2) per month and has not been revised since then. In 1995, the Minimum Wage Advisory Board proposed raising the wage to 65,000 shillings per month, but this proposal was not implemented. A latter recommendation to set the minimum wage at 53,000 shillings per month has been under consideration by the President since 2000.²⁴ Current efforts to revise the wage have been dragging.

4.3. It is essential that the level of the minimum wage is expeditiously determined through research-based policy decisions and its application accompanied by systematic monitoring. The MGLDS currently lacks the capacity to collect and analyze the data required to inform policy decisions and to monitor the implementation of minimum wages.²⁵ If the minimum wage floor is to be set by reference to average wages, then much more systematic data on the wages paid by unregulated employers will be required to make the relevant calculations. In the absence of these data and research efforts, the policy debate in Uganda may continue to be dominated by out-dated and empirically disproven assertions that minimum wages necessarily have an adverse effect on employment levels.²⁶

²⁴ Ibid at pg. 61

²⁵ Ibid

²⁶ Ibid

Unemployment and underemployment

- 4.4. Uganda's total labour force is estimated to stand at a staggering 11.5 million and the working population at 14.6 million.²⁷ The labour force is growing at an annual growth rate of 4.7%, with a 4% growth rate among men and a 5.3% growth rate among women.²⁸ In 2005/06, unemployment and under-employment accounted for 14% of the labour force.²⁹ 2009/10 Uganda Bureau of Statistics (UBOS) figures indicate that there has been a sharp increase in the unemployment and under-employment rates, standing at 4.2% up from 1.9% in 2005/06. 3% of the unemployment is faced in rural areas while the urban areas are dealing with an apogee of unemployment that stands at 9.5%.³⁰ The high unemployment and under-employment rates have created a subservient labour sector. This is because in the absence of an effective regulatory scheme, the economics of demand and supply, the lack of enforcement mechanisms of labour legislation and policies dictate how employers treat their employees. 2009/10 UBOS statistics indicate that the working age population which is between 14-64 years presently stands at 14.6 million people with 72% concentrated in the agricultural sector up from 66% in the 2005/06 UBOS survey.
- 4.5. One area in which the problem of unemployment is acute is with regard to the youth, who according to Uganda's laws are persons between the ages of 15 and 30. This is a particularly critical issue because, as observed by the UHRC, the youth group constitutes 83% of Uganda's population.³¹ The incidents of youth unemployment are various and include: political unrest, high crime rate, human trafficking, drug-trafficking and abuse, and sexual exploitation and prostitution.³² The UHRC has taken note of some of the causes of youth unemployment to include: lack of necessary skills relevant to the existing job market; poor remuneration; lack of jobs or income generating activities; rural urban migration; high population growth rate; weak education system; nature of school curriculum; impact of conflict; and privatisation and sale of national corporations.³³
- 4.6. Although government has adopted a number of policies, which, as indicated in the State Report, include the National Employment Policy, the policies remain in a paper arsenal that needs concrete and practical interventions that will accommodate enforcement of the policies to realise a reduction in unemployment and under-employment. Yet, although Government has used cash incentives such as the youth fund, these have limited reach, have been politicised and yet they create a problem of dependence and may not necessarily empower the youths to break into the job market.

²⁷ Pg 4, UBOS Labour force characteristics 2009/10

²⁸ Ibid

²⁹ Pg. 182, National Development Plan 2010/2011-2014/2015, notes that "unemployment rate" refers to the persons who worked under one hour in the past seven days.

³⁰ Unemployment in the rural areas rose from 1.1% in the 2005/06 survey to 3% in the 2009/10 survey while that in the urban areas rose from 6.4% in the 2005/06 survey to 9.5% in the UBOS 2009/10 survey.

³¹ Uganda Human Rights Commission 16th Annual Report (2013), at p 108.

³² As above.

³³ Uganda Human Rights Commission 16th Annual Report (2013), pp 108 - 110.

- 4.7. It is also important to note that although government is putting in place education policies and plans geared at providing education to majority of the population,³⁴ the education training system is tailored to producing graduate job seekers as opposed to job creators. It is therefore important that the government tailors its education systems to practical skills training that can be used by the graduates to create jobs for themselves. Government should make good on its commitment to provide entrepreneurship training for the youth and women, promote start-ups and youth entrepreneurship products, establish business start-up clinics and provide good entrepreneurship seed capital.³⁵ Practical realisation of these commitments on the part of government would go a long way in reducing the unemployment and underemployment margin.

Issues in civil service

- 4.8. There are a number of problems that afflict employment in civil service. These include low salaries and ones which are not commensurate with the prevalent costs of living. One of the sectors hit by this is Education; teachers are the lowest paid public servants. Yet, it has become common for teachers and other civil servants' salaries to be delayed, in some cases inordinately, in addition to civil servants being deleted off the payroll without following due process. The case of teacher who has not been paid for the last 15 years as reported by the Daily Monitor is but an example.

Daily Monitor Newspaper, 21st July 2014

Frustrated: Primary school teacher spends 15 years without pay

Mr Edward Serunjogi is a man bitter and beaten by the world. This is something you see as he struggles amid sobs to share his story. Mr Serunjogi, a father of eight, has taught for 15 years without pay from government. His, is a story of years of hope lost in despair and unending promises. "I have been to all concerned offices in search of redress. I am in debt. I need money for my children's fees, medical bills and clothing. I even fear going home on some days," the distraught Serunjogi said. His demands date back to 2000. Recently, he was advised to seek support from the teachers' union in Kampala to follow up the matter. To prepare for the trip, he borrowed trousers, a shirt, a coat and a pair of shoes. He also had to get transport from his colleague. "My home is similar to a pigsty. I taught until the one pair of shoe I had worn out. I have borrowed what I am dressed in now because if I had come in my ragged clothes, I would be mistaken for a mad man," he said. Mr Serunjogi's story is hard to believe. You ask what gave him the impetus to ride his bicycle to his work station nine kilometres away from his home every day, for all these years without pay. His reply is short and precise. "It's the profession I loved and worked hard to attain." He also says what kept his hope alive is the parents' Shs1,000 contribution they paid to him every end of month in the term to support him. But what could Shs100,000 do for a father of eight? His documents show he was confirmed as a primary teacher in 1994 while at Katungulu DAS and subsequently promoted to a grade 2 deputy head teacher in 1999. "I have been directed that you be appointed on promotion to the office of grade 2 deputy head teacher on a salary scale Shs207,567 per month," his promotional letter signed by Mr Isaac Mudoi, the district chief administrative officer (CAO) Mubende, reads. Although Mr Serunjogi's name is reflected on the district teachers' payroll, the Mubende-born teacher doesn't know what happened to his salary remittances.

³⁴ Education initiatives like Universal Primary Education (UPE) that was initiated in 1997 and Universal Secondary Education (USE) that was initiated in 2008

³⁵ Pg. 183, National Development Plan 2010/2011-2014/2015

- 4.9. The Government has for over two years now been cleaning the payroll of “ghost workers” in order to ensure that only those who qualify for salary payments receive the same. As commendable as this exercise is, it has to some extent be delayed, thus affecting thousands of civil servants. Some civil servants, including medical staff, teachers and police officers have irregularly been deleted from the payroll. In March 2013, it was for instance reported that over 10,000 civil servants would miss their pay, having been deleted from the payroll.³⁶

Recommendations

- (iv) Under-employment is a critical issue that needs to be addressed by creating appropriate employment for various categories of people. Special attention should be paid to the youth. This among others requires reform of the school curriculum to ensure that it produces youths who are prepared for and required by the job market, in addition to ensuring that graduates are job creators and not seekers;**
- (v) The minimum wage needs to be revised urgently to ensure that it is consistent with the contemporary costs of living; and**
- (vi) The Government should adopt measures to ensure that all public servants, including teachers, medical personnel, and police officers, are paid wages which enable them to live a decent life and are paid promptly using an efficient payment system.**

³⁶ See *10,000 civil servants to miss February salary*, Daily Monitor, 17th March 2013.

5. Article 7: Right to just and favourable conditions of work

Key issues

- **The monitoring and enforcement mechanisms for legislation to protect workers is ineffective; and**
- **Although monitoring of labour standards has to a certain extent been decentralised, many districts lack the requisite human resource capacity to effectively discharge this mandate.**

- 5.1. Although Government has adopted laws to regulate the work environment and provide workman's compensation, these laws lack effective monitoring and enforcement mechanisms and have largely remained redundant. Although labour officers and labour inspectors bear the responsibility for inspecting employment places, the lack of capacity and finances has greatly hampered their ability to perform this task. The unsafe and unhealthy working conditions in many sectors place employees at a high risk of diseases.
- 5.2. Some key aspects of labour administration have now been decentralized to the districts, but majority of districts have not been able to appoint labour officers. MGLSD for instance does not have sufficient labour officers to implement the Workman's Compensation Act which covers workers in case of injuries at work, or maternity leave, and makes provision for cash sickness benefits, or severance pay provisions of the 2006 legislation.³⁷ Those who have been appointed have not been trained adequately to fulfill the new judicial and quasi-judicial functions required to implement the new labour laws, particularly the Employment Act. The district labour officers also do not have the staff (clerks) or even access to the rooms they require to implement the laws.³⁸
- 5.3. The Country is also facing serious challenges in handling labour related disputes, which leaves many workers whose rights have been violated without legal redress. As reported by the UHRC in 2012,³⁹ the Directorate of Labour, Employment and Occupational Safety in the MGLSD is not adequately funded to enable it effectively discharge its mandate. Yet, although the law provides for the Industrial Court to handle labour disputes, it took over 5 years to appoint a judge to man this Court. Although the Court started work recently, it currently has a case backlog of over 2,000 cases,⁴⁰ which a single judge cannot clear. It is unlikely that this single Judge will clear all these cases.

³⁷ Ibid

³⁸ Ibid

³⁹ Uganda Human Rights Commission 15th Annual Report 2012, at p 83. See also *Labour Sector Crippled by Absence of Industrial Court*, Daily Monitor, 27th December 2013.

⁴⁰ See *Industrial Court begins work with 2,000 cases next month*, Daily Monitor, 26th June 2014. See also *Workers MPs ask gov't to expedite operationalization of industrial courts*, New Vision 21st April 2014.

Recommendations

- (v) Mechanisms for the protection and enforcement of laws protecting the health and safety of workers should be made more effective; and
- (vi) There is need to capacitate districts to enable them recruit labour officers in order to effectively discharge their mandate to monitor labour standards. The Directorate Labour, Employment and Occupational Safety should be facilitated and adequately to enable it effectively discharge its mandate of resolving labour disputes.
- (vii) Government should ensure that the Industrial Court is well facilitated to handle labour disputes. There is need for the appointment of more judges to this Court to enable it clear the huge case-backlog which it has.

6. Article 8: Right to form and belong to trade union

Key issue

- Trade unions are ineffective and have been weakened by politicization and infighting;
- The new Labour Union Act has not fully been implemented;
- Casual and temporary non-contract labour has not been unionised, thereby being deprived of protection; and
- Violation of the right to peacefully withdraw labour is prevalent.

6.1. Presently, there are 40 trade unions under 2 umbrella organisations, the National Union of Trade Unions (NOTU) and the Central Organisation of Trade Unions (COFTU). The two umbrella organisations have been very active in promoting and protecting the right to freely associate among workers. However, the infighting among the trade unions has prevented them from realising consolidated goals in terms of being able to adequately put workers' issues before government. Additionally, trade unions have to a certain extent been politicised, resulting into the organisations having leadership that is not prepared to challenge government policies and programmes. Yet, many lack the skills and space to effectively bargain for better wages.

6.2. Although the Labour Union Act has greatly improved the organizational and substantive rights of Ugandan workers, the Ministry of Finance Planning and Economic Development has not yet allocated sufficient resources to enforce the new legislation. The government has in addition not yet recognized any public sector unions, despite considerable organizational strength in the teacher and health worker unions, suggesting a continuing lack of commitment to the reforms.⁴¹ Yet, labour market institutions are weak and have offered limited protection to vulnerable workers struggling against real wage cuts in the aftermath of the global economic crisis and, in some enterprises, against the threat of lay-offs.⁴²

6.3. Unions in Uganda haven not been able to organize casual and temporary workers, despite the fact that workers with a permanent contract are a tiny minority, amounting to less than 5% of the labour force. Improved implementation of the labour laws would create a more favorable environment for trade union expansion, but unionization (giving a "voice" to the most vulnerable workers) will require sustained initiatives and effort by union leaders to move beyond their core traditional constituency.⁴³

⁴¹ A rapid impact assessment of the global economic crisis on Uganda. November 2009. A study supported by the ILO for the government of Uganda at page 60.

⁴² Ibid

⁴³ Ibid at pg. 61

- 6.4. Yet, the proportion of the persons in the labour force who are unionised still remains small. In 2010, the NOTU posted a membership of less than 200,000 employees out of the over 2,000,000 employees it considered to be potential members.⁴⁴ This low enrolment rate could be explained by the ignorance of employees of their rights and the failure of Government to take measures to ensure that employers recognise and encourage their employees to form trade unions.
- 6.5. There have also been incidents of blatant violation of the rights of workers, including violation of the right to withdraw one's labour and demand for compensation in cases of injury sustained at work. The case of Suuna reported in the Observer Newspaper of 22nd October 2013 is an example. In some cases sit-down strikes are broken up by the Police, even when striking workers are non-violent

⁴⁴ See *National Union of Trade Union, 2010 Annual Report, Appendix 2.*

Ex-Mukwano worker 'abandoned' at Mulago

TUESDAY, 22 OCTOBER 2013 23:08

WRITTEN BY ZURAH NAKABUGO



Kassim Suuna at Mulago hospital

Life will never be the same again for Kassim Suuna, a former employee of Mukwano Industries, who lost two of his fingers in a factory accident. Alone with a rotting finger, Suuna lies on his hospital bed at Mulago, quiet. When he finally speaks, he says he now suffers from severe stomach and chest pains after the police beat and tortured him during his arrest at Mukwano industries' premises last month. "I was beaten seriously by the police officers because Mukwano told them I was mad and a trespasser. They kicked me in the chest, head, stomach and the back," he said, painfully, on Friday. Suuna also claims he suffered a kidney rupture as a result of the beating and doctors say he might need an organ replacement. In the meantime, although he has been receiving some treatment, there is no serious improvement since the most important drugs are very expensive and he has no money to buy them.

"I have been here for three weeks since police dumped me. Nobody from police or Mukwano has visited me," he says. "Mukwano industries promised to pay my bills but I have never seen them." Suuna also claims that, upon his arrest, the policemen injected some drugs into his body and he feels weaker by the day. Without medication, Suuna's wounds have started becoming septic. He is in Ward 6C at Mulago hospital, a private ward, where he has to pay for most of the drugs. "When police dumped me here, they gave me Shs 140,000. They also gave me a security officer who worked for only one day and left," Suuna adds. He adds that he needs at least Shs 1m to buy the drugs to start with.

Accident

Last year, a machine cut off the last two fingers of Suuna's left hand. This resulted into Suuna's termination without compensation. Suuna says when he complained, they kept dodging him and later started accusing him of criminal trespass.

He also reported his case at Jinja Road police but his file was mishandled, prompting him to camp at Mukwano industries' gate demanding for compensation. "This is where police officers found me and beat me almost to death. I was unconscious when they dumped me at Mulago hospital," Suuna says. But according to Emmanuel Nuwamanya, the police's deputy director of Health Services, Suuna is lying; the police has been buying his drugs.

"I will go there and see if he has no drugs but he is lying. It's the hospital that is supposed to tell me what is missing," Nuwamanya said. Similarly, Deputy Spokesperson Patrick Onyango said the four suspected officers, who arrested Suuna, would appear before the police's disciplinary court on October 28 to answer charges of scandalous behaviour and malicious harm. The suspects, attached to Jinja Road police station, include ASP Samuel Okumu, Sergeant Simon P. Oswamu, Constable Patrick Muwonge and Constable Alfah Lwanga. The officers were released as investigations continue. Suuna says Mukwano has proposed to give him Shs 25m in compensation as long as he keeps the media away. "Why does he fear the media? Shs 25 million is not worth my life because I am not going to work anymore," he says. Suuna is demanding Shs 400m - to buy land, build a house and start a private business.

Recommendation

- (v) Trade unions should be improved, helped to overcome internal conflicts, de-politicised and helped to build internal capacity;
- (vi) Government should provide resources for the full implementation of the provisions of the 2006 Labour Union Act and adopt deliberate measures to ensure that employers are forced to recognise and encourage their employees to join or form trade unions. Defaulting employers should be penalised according to the provisions of the law;
- (vii) Government should respect and uphold the right to peacefully withdraw one's labour and take non-violent industrial action; and
- (viii) Government should ensure that employees sustaining injuries at work are promptly compensated in accordance with the workman's compensation law.

7. Article 9: Right to social security

Key issues

- **The National Social Security Fund is not properly managed and continues to threaten the security of worker's savings;**
- **Employees in the informal sector, which is the biggest employer are not covered by social security laws;**
- **The sustainability of the Social Cash Transfer scheme that government has recently established under the 'Expanding social protection programme' is threatened since it is donor funded.**

Mismanagement of the National Social Security Fund

- 7.1. While the National Social Security Fund (NSSF) is the legislative agency tasked with promoting and protecting the employees' right to social security, the enjoyment of this right has been threatened by various challenges that have plagued the institution. The 2013 Report of the Auditor General highlights a number of weaknesses in the management of NSSF.⁴⁵ These include failure to effectively update and credit members' contributions, and flouting of procurement process by for instance not hiring services such as security without proper contracts or appointing advisors without going through a competitive process. Some of the service providers are themselves not compliant with the provisions of the NSSF law by for instance failing to remit contributions.
- 7.2. Recently, the Fund invested UGX 70,000,000,000 (approximately US \$ 26 million) in the electricity distributor UMEME without following proper procedures, which includes getting the full approval of NSSF Board and endorsement by the Minister of Finance, Planning and Economic Development as required by the law. The Minister had indicated that the proposed price of the shares was higher than the market price. Although Parliament has appointed a committee to investigate this and other matters of mismanagement of the Fund, it is characteristic of the Government to overlook and not implement the recommendations of committees such as this. It is therefore necessary for Government to not only support this investigation but to accord it independence and implement its recommendations.
- 7.3. It should also be noted that presently there are no social security schemes for informal sector workers. Government needs to put in place measures to develop schemes that fit informal sector workers. The majority of employees, over 95% work in the informal sector, do not have any form of cover. It is important to extend social security and pension schemes to majority of the population and critical measures should be taken into account to increase the coverage. The social cash transfer scheme that government has recently established under the 'Expanding social protection programme' is another measure aimed at guaranteeing the right to social security and social protection for the very poor, vulnerable and marginalized communities. This programme is funded by the government of the UK and the

⁴⁵ Office of the Auditor General, Report of the Auditor General for the Year Ended 30th June 2013.

government of Ireland. Although a positive move, the fact that the programme is wholly funded by development partners raises questions regarding its sustainability. In order to ensure sustainability, Government should put in place avenues through which it will be able to sustain the programme once funding from the UK government and Ireland comes to an end. Yet, the programme has only been rolled out as a pilot to selected districts and the UGX 23,000 (approx 9 U\$) given is inadequate. This amount is given only to the elderly in the target 14 districts.⁴⁶

Corruption and mismanagement of the Government pension scheme

- 7.4. Pension and retirement benefits of civil servants are managed by the Ministry of Public Service. This Ministry is however characterised by perennial problems of mismanagement and corruption. In 2012, it emerged that over UGX 64,000,000,000 (approx. US\$ 25m) had been lost to “ghost pensioners” created by officials of the Ministry to siphon pension funds for personal gain. Later it turned out that the money lost could be up to UGX 165,000,000,000 (approx. US \$ 66). The recently released Report of the Inspectorate of Government (IGG) indicates that the money was lost through a syndicate comprising of officials from the Ministry of Public Service and the Ministry of Finance.⁴⁷
- 7.5. Besides the acts of corruption and abuse of office, the Pension sector in the Ministry of Public Service is disorganised and characterised with maladministration and mismanagement. The procedures for processing pensions are unnecessarily bureaucratic. One for instance has to start processing their retirement benefits at least six months before the actual retirement. Yet, even in this case, one may go for years without accessing their pension. The Ministry of Public Service Department office in charge of pensions has failed to effectively manage the records of public servants, some are incomplete or even missing. In some cases pensioners entitled to pension benefits have spent more than five years processing the same. The case of Gradace Nakjiri reported in the Daily Monitor Newspaper as illustrated below is an example of such widespread cases.

⁴⁶ See <http://www.socialprotection.go.ug/districts.php>

⁴⁷ Inspectorate of Government 4th Annual Report, *Tracking Corruption Trends in Uganda: Using the Data Tracking Mechanism* (2014), at p 17.

Woman loses husband to bullet wound due to delayed pension



Ms Nakajiri has been seeking her late husband's pension for 19 years. PHOTOS by Abubaker Lubowa

By Dear Jeanne

Gradace Nakajiri's husband, who was an army veteran, died of gunshot wounds that turned cancerous due to lack of proper treatment. She says several attempts to get his pension to pay for his treatment were futile.

In Konge Trading Centre, Makindye Division, a Kampala suburb, in a ramshackle wooden charcoal store, is the address Ms Gradace Nakajiri, the widow of Lt. Dan Ssemombe gives to all those who want to find her. A woman in her late 30s, wearing clean but old tattered clothes, was there to welcome me when I visited the place she calls home and work place. Inside the wooden structure is a basin in the corner, a green polythene bag stuffed with clothes, a tiny stove and a saucepan, evidently the only property she own. She does not smile but her words are kind and precise. "Nsanyuse ku kulaba" (I am happy to see you). She gives me an empty crate of soda to sit on inside the wooden structure as she attends to her customers.

I scan the room, in a corner is papyrus mat folded with a bed sheet peeping out. There are a few cups and plates. The owner of the store has provided her with shelter (in the wooden store) and pays her Shs1,000 for every bag of charcoal she sells for him. To her, he is a saviour sent by God to end her homelessness since her husband died although others believe he is exploiting her.

Her husband, a former UPDF soldier who retired in 1994 after 14 years in the army, died a bitter man in 2005. Lt. Ssemombe, died of gunshot wounds that turned cancerous due to lack of proper treatment. He was one of the first 50 people to join the guerrilla war that brought President Museveni to power in 1986. He joined the then National Resistance Army rebels from Luweero in 1981. Ms Nakajiri says her husband was denied pension that he could have used to receive proper treatment after his retirement from the Force.

Two months to his death, she had to move him and the children to his village of origin in Luweero. "His condition had worsened and I could not afford to transport his body if he died in Kampala." Tears fill her eyes as she narrates her struggles and the feeling of hopelessness. After her husband's death, tragedy struck again. "I lost one of my children after failing to raise money for her treatment," she says amidst sobs and keeps quite for several minutes as if trying to take in all the misery that has befallen her family. Lt. Ssemombe had struggled to secure his pension for 11 years before his death and Ms Nakajiri has been doing the same but it has been 19 years of many promises from the officials at the Public Service ministry but no payment.

"I have been frequenting the Ministry of Public Service and Finance for eight years now trying to secure what is rightfully ours. For God's sake, my husband worked for it, fought in the war and even got shot but all I have received are promises," Ms Nakajiri says. In March 2012, she had thought her struggle had ended after securing an appointment with the then Pension Principal Accountant, Mr Christopher Obey, who promised that in three months, the money would be in her account. "I went there with another lady who also was trying to secure her pension and he did promise us that everything would be okay. That's the only time I got a glimpse of hope but he lied to us," she says

The last time she went to the Ministry of Public Service was in November 2012 and she was told that due to the ongoing investigations into the pension scam, they had stopped process or paying pension until investigations were complete. At the rank of a Lieutenant in 1994, Lt. Ssemombe was earning Shs22,170 per month. His pension was calculated at 60 per cent of his salary per month. The gratuity, which he did not receive as well was to be paid an equivalent of his monthly salary for the 14 years he served in the army.

The UPDF Political Commissar, Col. Felix Kulayigye, referred us to the Public Service ministry. The ministry spokesperson, Mr Jonas Tumwines, said it was hard to track records of an individual's pension file since the ministry handles millions of pension cases. "I can advice the aggrieved to come to our offices and see the concerned head of departments but it is not easy for my office to keep track of an individual's files," Mr Tumwine said.

Recommendations

- (vi) Independent and through investigations should be carried out on the manner in which NSSF is being managed and recommendations arising from this investigation should be implemented by the Government;
- (vii) Measures should be adopted to increase the coverage of social security by extension to the informal sector;
- (viii) Uganda should ratify Maintenance of social security rights Convention 1982 and the social security (minimum standards) Convention 1952 ;
- (ix) Rather than rely on donor funds, government should adopt measures to ensure that the cash transfer scheme intended for social protection is sustainable; and
- (x) The Government should ensure that the Pension Department in the Ministry of Public Service is corrupt free, inefficient in keeping records and processing pensions in an effective and timely manner

8. Article 10: Family rights

Key issues

- Early marriages affecting women and families;
- Government has not adopted and implemented a comprehensive programme to deal with problem of street children;
- Government has not adopted a comprehensive social protection scheme to help families being affected by the high food inflation; and
- Maternal and infant mortality rates still very high

- 8.1. The Government has adopted a number of measures and laws to protect the family as the natural and fundamental unit of society. The measures adopted include the passing of such laws as the Domestic Violence Act, 2010,⁴⁸ the Prevention of Trafficking in Persons Act, 2009. Also adopted are a number of policies and programmes to protect orphans and vulnerable children. In 2003 the MGLSD established the Orphans and other Vulnerable Children Secretariat (OVCS) within the Ministry. In 2004, Government adopted the National Strategic Programme Plan of Intervention for Orphans and other Vulnerable Children, Fiscal Year 2005/6 – 2009/10 (the NSPPI).⁴⁹ This programme has been given extension covering 2011/2012 – 2015/2016. The mission of the programme is to ensure that all orphans realise their full potential and have their rights and aspirations fulfilled.⁵⁰ In 2009, as part of efforts to rebuild Northern Uganda, a region recovering for a 20 year civil war, Government adopted *The Child Protection Recovery Strategy for Northern Uganda 2009 – 2011*.⁵¹ This Policy Strategy identifies a number of child protection issues that need attention including violence experienced by children; children deprived of parental care; children in contact with the law; and discrimination against children formerly associated with the LRA.⁵²
- 8.2. Nonetheless, in spite of the above progressive laws and policies, the rights of the family have not been protected fully. One of the biggest shortfalls is the failure of Government to effectively execute the NSPPI, which has left some vulnerable children unattended to. An example of a class of such children is the street children, estimated to total 10,000.⁵³ The factors that push children to the streets are multi-faceted. The problem of HIV/AIDS appears to be one of the major factors. Other

⁴⁸ Act No. 3 of 2010.

⁴⁹ Available at <http://www.mglsd.go.ug/ovc/downloads/Policies_12.pdf> (accessed on 21 June 2006) [Hereinafter referred NSPPI (2004)].

⁵⁰ P 22.

⁵¹ Ministry of Labour, Gender and Social Development *The Child Protection Recovery Strategy for Northern Uganda 2009 – 2011* (September 2009).

⁵² Child Protection Recovery Strategy, at 11 – 12.

⁵³ See UNICEF *UNICEF helps street children back to their home regions and into education in Uganda* available at <http://www.unicef.org/infobycountry/uganda_58936.html> (accessed on 19 September 2011).

factors include: rural – urban migration, family breakdown, child abuse, child labour, sexual exploitation, and alcohol and drug abuse.⁵⁴

Street children

- 8.3. Government has not adopted a systematic programme to remove children from the streets, rehabilitate them and re-integrate them into family environments. Occasionally, the children in Kampala, the capital city, are rounded up in a bid to “clean up” the city, yet a few days later the streets will be full of children. The majority of these children come from the Karamoja region of North Eastern Uganda, pushed by the insecurity, famine and lack of services in the region. Government has failed in this regard mainly because it has not taken deliberate and comprehensive steps to address the factors that push children to the streets. There is an urgent need to improve the security and socio-economic situation in Karamoja and to put in place measures to monitor the movement of children, who are usually trafficked to Kampala.



A child on the streets of Kampala (Photo by UNICEF)

Early marriages

- 8.4. Another problem is the prevalence of early marriages. UNICEF studies show that Uganda is one of the countries with the highest levels of early marriages of adolescents between 15 – 19 years. Uganda stands at a population of 11 percent of such adolescents for boys and 50% for girls.⁵⁵ The causes of early marriages are various but are attributed mainly to customs and cultures which encourage the practice. 2006 estimates show that 53% of married women between 20 – 49 years had entered into marriage before the age of 18.⁵⁶ Early marriages are attributed to a number of factors, one of the most important being poverty. In cases of severe family poverty, a young woman is either considered to be an economic burden that should be gotten rid of or an asset that should be married off in return for bride price.

⁵⁴ See Sexton, A., ‘Street children: The situation in East and Southern Africa and the need for a strategic global response’, Statement made to the United States House of Representatives House Committee on International Relations Subcommittee on Africa, Human Rights and Global Operations *Hearing on Protecting Street Children: Vigilantes or the Rule of Law?*, (September 2005), available at <http://www.streetchildren.org.uk/reports/Street%20Children;%20The%20Situation%20in%20East%20and%20Southern%20Africa.pdf> (accessed on 15 June 2006), at p 4. [Hereinafter referred to as Sexton (2005)].

⁵⁵ UNICEF *Early Marriages: Child Spouses* (2001) Innocenti Digest, at 4.

⁵⁶ United States Agency for International Development (USAID) *Addressing Early Marriages in Uganda* (2009) available at http://pdf.usaid.gov/pdf_docs/PNADT401.pdf (accessed on 20 September 2011).

- 8.5. In some cases, parents think that for the good of their daughter, they should entrust her to a husband who will offer financial support. Other factors include the low status society accords women, which deprives them of the power to independently make their own decisions. This is in addition to the low levels of education, which forces women to resort to marriages in the place of academic careers they would have pursued. Although the Constitution in Article 31 guarantees the right to marry and found a family only to Men and women of the age of eighteen years and above, there is no express prohibition of marriages by persons below the age of 18. Yet, Government has not taken measures that would accord Article 31(1) a generous interpretation to prohibit such marriages.

Absence of social assistance for vulnerable families

- 8.6. In recent times, the cost of living has risen because of the high level of inflation that beyond the affordability of many families. As a result, many families are finding it hard to feed their children and provide them with basic needs such as housing and clothing. Unfortunately, the Government has not adopted any comprehensive social assistance programmes intended to come to the aid of such vulnerable families. As indicated, the recently launched social protection programme has very limited coverage and is not sustainable because it is dependent on donor funding.

High infant and maternal mortality rates

- 8.7. Another challenge facing the Country is the high infant and maternal mortality rates. Government has recently acknowledged that the country is lagging behind in meeting the Millennium Development Goal (MDGs) target of reducing maternal mortality to 131 per 100,000 births by 2015. The rate at the moment lies at 435, having slightly reduced from 505 in 2001.⁵⁷ According to the 2013 *Millennium Development Goals Report for Uganda*,⁵⁸ the country is on track as far as under-five child mortality is concerned, having reduced the same from 156 in 1995 to 90 in 2011 and is targeted at 50 in 2015. In contrast, achievement of the maternal related indicators has been slow; maternal mortality per 1000 live births has reduced only from 506 in 1995 to 438 in 2011 and the country is unlikely to achieve the target of 131 in 2015.
- 8.8. Government, among others, blames the culture of early marriages amongst girls as being responsible for increases the rate of early pregnancies and is partly responsible for the country's high maternal mortality rate. The Government has also acknowledged that maternal and child mortality rates are also attributed to the fact that the proportion of deliveries by skilled personnel is still low; the provision of emergency and basic obstetric care is limited; the CPR is low and while a significant proportion of Uganda's population constitutes of adolescents, adolescent sexual and reproductive health services are limited and they do not address the needs of these adolescents.⁵⁹ On the other hand, the high rates of high infant mortality at 76 per 1000 births is associated with inadequate human resource for

⁵⁷ National Planning Authority *National Development Plan, (2010/2011 – 2014/2015)*, para 62, at 21.

⁵⁸ Republic of Uganda, Ministry of Finance, Planning and Economic Development, *Millennium Development Goals Report for Uganda, 2013*.

⁵⁹ National Planning Authority (as above), para at 252.

maternal health, specifically midwives and doctors, frequent stock-outs of essential drugs for maternal health and lack of Emergency Obstetric Care (EmOC) Services at HC III, IV and hospitals. This infringes the mother's and the child's right to life guaranteed under Article 22 of the constitution.⁶⁰

Recommendations

- (v) Government should adopt measures to prevent early marriages and ensure that children are protected from this vice. In this regard, the law should expressly prohibit marriage of persons below the age of 18;**
- (vi) Government should also adopt a comprehensive social protection programme to support vulnerable families and cushion poor families against the high food inflation;**
- (vii) Government should adopt and implement a comprehensive plan to deal with the problem of street children. Such a plan should aim at rehabilitating the children and re-integrating them into family environments; and**
- (viii) Government should take measures to improve infant and maternal health care to reduce on the high rates of infant and maternal mortality.**

⁶⁰ Constitutional Petition 61 of 2011.

9. Article 11: Adequate standard of living

Right to adequate Housing

Key issues

- **There are regional disparities in housing conditions, the Northern region is the poorest;**
- **Lack of security of tenure on land is affecting access to and quality of housing, women are the most affected;**
- **Provisions of law that enhance security of tenure have remained on statute books;**
- **There is an acute inadequacy of physical infrastructure for services and social amenities; and**
- **The Country lacks a comprehensive national urban policy.**

Land tenure system as an obstacle

- 9.1. One of the biggest obstacles to the enjoyment of the right to adequate housing is the lack of security of tenure on land for many populations. Although the Uganda National Bureau of Statistics in its 2009/10 National Household Survey Report indicates that 76% live in owner occupied dwellings,⁶¹ it does not look at this in the context of the type of ownership of the land on which the dwelling is constructed.
- 9.2. Evidence shows that the bulk of Uganda's urban population lives in informal settlements strewn across the outskirts of major urban centres. Residents of these settlements lack security of tenure because they do not have legal title to the land on which their dwellings are situated. This problem is linked to the country's land tenure system,⁶² which has left the bulk of land in the hands of a few individuals leaving the majority poor as squatters, thereby limiting their access to land. The 1995 Constitution and the Land Act,⁶³ as amended, legalistically address the problem of security of tenure. The Constitution in Article 237 guarantees ownership by repealing laws that had previously made all land public land and vesting title of the same in the state.⁶⁴ To give security to the squatters, otherwise referred to as tenants by occupancy, the Constitution and the Land Act guarantee protection of tenants by occupancy, who cannot be evicted without compensation. Occupants on customary land are also legally entitled to apply and acquire certificates of ownership which would confirm their title to the land.⁶⁵ To bolster the protection,

⁶¹ Uganda National Bureau of Statistics *National Household Survey 2009/2010: Abridged Report* (November 2010), at 112

⁶² Henry Onoria, *Guaranteeing the right to adequate housing and shelter in Uganda: The case of women and people with disabilities (PWDs)*, Human Rights & Peace Centre, Working Paper No. 6 (May 2007), at 27.

⁶³ Chapter 227, Laws of Uganda 2000

⁶⁴ See the Land Reform Decree, Decree No. 3 of 1975. Article 237(3) defines the different land tenure systems to be customary, freehold, mailo; and leasehold.

⁶⁵ See section 4 of the Land Act.

Parliament in 2010 amended the Land Act of 1998 to criminalise unlawful evictions of tenants by occupancy.

- 9.3. Although the above legal protections are commendable, most provisions of the Land Act have not been implemented. The structures for processing of certificates of title have for instance not been established. Indeed, official Government reports indicate that the problem is compounded by: bureaucracy, manual operations, corruption, low level of funding to the sector, legal and regulatory constraints, attitude, culture, squatters, historical issues, shortage of relevant skills such as land surveying and many other related problems.⁶⁶ This has left 95% of land owners without titles, which exposes them to possible eviction.⁶⁷ The situation has been compounded by people's ignorance regarding their land rights and existing legal protections from evictions. Yet, in some cases, illegal evictions have been carried out by those in power, including senior military officials.
- 9.4. The Government has also aggravated the housing problem by carrying out forced evictions from what it considers to be Government land without verifying and respecting the rights of occupants or providing evictees with alternative housing and evicting them in accordance with the international laws and principles on forced evictions as contained for instance in the Committee's General Comment on Forced Evictions.⁶⁸ In many cases, Government law enforcement agencies have carried out evictions at night and without giving residents adequate notice. A recent example of this is the recent eviction by Kampala Capital City Authority (KCCA) of over 80,000 residents believed to have settled on the rail line reserve. The brutal eviction saw houses bulldozed in the middle of the night and household and business property destroyed.

⁶⁶ National Planning Authority (NPA) *National Development Plan (2010/11 – 2014/15)*, paragraph 416, at p 161.

⁶⁷ *Id.*

⁶⁸ Committee on Economic, Social and Cultural Rights, General Comment 7, Forced evictions, and the right to adequate housing (Sixteenth session, 1997), U.N. Doc. E/1998/22, annex IV at 113 (1997), reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.6 at 45 (2003).



People collect some of their property after their homes were demolished by KCCA. Photo by Dominc Bukonya, *Daily Monitor Newspaper*, 6th August 2014.

- 9.5. Women have been the most affected; statistics indicate that although the agricultural sector employs 70% of women, only 20% own registered land.⁶⁹ Although the law guarantees women equal rights in inheritance and requires their consent to disposition of land, culturally based attitudes still limit women's ownership of land. Yet, in spite of the glaring need, the government has failed to adopt legislative amendments that would guarantee married women co-ownership of family land.
- 9.6. Just like the women, people with disabilities (PWDs) have had very limited access to land, yet the existing housing is inadequate to their needs. Although the country has laws and regulations that require developers of building structures to ensure that these structures are accessible to PWDs,⁷⁰ as a matter of fact, these laws and regulations have not been implemented. As a result, the physical built environment, including living dwellings, shopping centres, schools and police stations, remain physically inaccessible for PWDs because many lack ramps, lifts and other aids for PWDs.⁷¹
- 9.7. It also unfortunate that housing is not considered by Government as one of the priority areas. This is indicated, among others, by the 2013/2014 and 2014/2015 budgetary allocations to this sector; only 0.020% and 0.025% in 2013/14 and

⁶⁹ As above, paragraph 417

⁷⁰ See section 20 of the Persons with Disability Act, Act No. 20 of 2006

⁷¹ See Christopher Mbazira , *Enforcing the right of PWDs to have Access to a Barrier-free Physical Environment in Uganda: Is Litigation an Option?* (July 2009) Legal Action for Persons with Disability Uganda (LAPD)

2014/15 was respectively allocated.⁷² Yet, the Sector has a deficit of 6,800,000 housing units to serve a population estimated at 40,000,000 people.⁷³

Inadequate physical infrastructure

- 9.8. Official government data also indicates that the emerging rapid increase in the urban population is not being matched with growth and development in basic physical infrastructure, housing, social amenities, management and skills. This has led to overcrowding, growth of slums and informal settlements, dilapidated housing and poor sanitation.⁷⁴ One of the factors responsible for this is the absence of a comprehensive urban policy to guide the urbanization process, ensure orderly development and enhance urban management.⁷⁵ Additionally, in line with the government's World Bank and IMF driven policy of privatisation, development of housing estates has largely been left to the private sector, which has made houses economically inaccessible to the urban poor, yet the private sector does not adequately invest in infrastructure.



State of Housing at Katanga, a Kampala Slum

Recommendations

- (v) The provisions of law that enhance the security of tenure as regards land ownership should be implemented. An example are provisions of the Land Act that provide for the issuance of customary certificates of ownership;**
- (vi) Government should desist from carrying out evictions from public land without providing alternative accommodation and adhering to the principles on forced evictions contained in General Comment No. 7 of the Committee**

⁷² See 'Over 900,000 housing units in Uganda substandard- report' *News Vision Newspaper*, 4th September 2014.

⁷³ As above

⁷⁴ NDP Report, paragraph 439, at p 171.

⁷⁵ NDP Report, section 6.7.2, at p 172.

(vii) A comprehensive national urban policy should be adopted addressing the problems arising from the rapidly increasing rate of urbanisation; and

(viii) Physical infrastructure should be improved and made commensurate of the size of the population.

The right to sufficient food

Key issues

- **The National Food and Nutrition Policy has not been implemented due to absence of structures for implementation;**
- **Processes of adopting crucial policies such the National Food and Nutrition Strategy have been tardy;**
- **Crucial programmes that would enhance food security such as the National Agricultural Advisory Services programme have been politicised;**
- **Increasing food prices are affecting poor households; and**
- **Budgetary allocation to Ministry of Agriculture at 5% affects food production**

Policies, programmes and laws

- 9.1. Uganda has a national policy called the Uganda Food and Nutrition Policy (UFNP). The objective of this policy is to improve the nutritional status of all through coordinated multi-sectoral interventions, focusing on food and nutrition security, and increased incomes, to achieve the overall goal of a healthy nation and sustainable social and economic wellbeing. This Policy provides the framework for addressing food and nutrition issues in the country. However, implementation of UFNP at the district and local government levels has not been effected through existing committees and hierarchical structures structured under the proposed Uganda Food and Nutrition Council (UFNC) and Secretariat.
- 9.2. Additionally, the UFNP is too weak the extent that it does not define clear time defined targets with clear verifiable indicators and benchmarks. This makes it difficult to monitor and track the performance of the state to determine the extent which it is realising the policy objectives.
- 9.3. Although a *National Food and Nutrition Strategy (NFNS)* was developed in November 2005, it currently still awaits approval by Cabinet. Once adopted, the NFNS will in effectively provide the platform for the Government to commit political, financial, and administrative resources to fulfil legally binding international and national obligations on food and nutrition security, including realisation of the right to food and freedom from hunger in all communities and households in the country. It is therefore paramount for actors, especially the food and nutrition line ministries of Agriculture and Health, to consider with urgency, the need to fast-track approval of the NFNS, so as to provide the platform and agenda for realizing the right to adequate food of all Ugandans.

- 9.4. The Government should also be commended for drafting the Food and Nutrition Bill, which is progressive in its clauses to the extent that it adopts a human rights based approach and if adopted would entrench food as a human rights and impose various obligations on the Government and other actors. The law would also establish an institutional mechanism for its implementation in the form of the UFNC. The only challenge has been the inordinate delay which has characterised the promulgation of the Bill. Although the process of promulgating the Bill started way back in 2008, by the time of writing this Report (August 2014), the Bill had not been promulgated. Although the Bill received a certificate of financial implications in 2011, it is yet to be re-tabled before cabinet for onward transmission to Parliament.
- 9.5. Government has also adopted the National Agricultural Advisory Services (NAADS) program to provide advisory services to farmers as a means of empowerment and a stimulus to commercialised and value added agricultural production. However, NAADS has a number loopholes including fraudulent procurement, corruption, bribery, forgery and delayed payments of service providers among others. In addition, what started out as an agricultural development initiative is now increasingly being viewed as bearing an intricate political agenda. Many of the procurement committees are chaired by the ruling party (National Resistance Movement) Sub County Chairpersons. Another hurdle is that traditional agricultural extension workers and the district production department officers were retained as its technical supervisors although most of these were members of the district committees whose corruption tendencies failed the programme leading to suspension of the program in 2007 and the second suspension in July 2010. In a recent twist, the President has entrusted the management of the NAADS programme to the military without evidence that the military has the technical expertise to manage the Programme. The two-week course organised for members of the military by Makerere University is inadequate to equip military men with skills requisite to manage an agricultural scheme of that magnitude.

Food prices, food and nutrition Security

- 9.6. Although, Uganda has a lot of food, the food and nutrition security situation is unsatisfactory. Between 1992 and 1999, the country's average caloric intake per person per day improved from 1,494 to 2,193 but to 2,066 in 2002 and then to 1,971 in 2005. While the overall trend is still clearly positive, the average intake is less than the recommended daily calorie intake of 2,3008.
- 9.7. Between 2006 and 2008, poor households faced additional stresses due to food price increases, experiencing cuts in their purchasing power of between 10-15 per cent. As world prices for grains and rice increased between 2006 and 2008, prices of every staple food also rose substantially. Over this period, urban poverty increased by up to 3.6 percentage points over the 2005/6 baseline estimates, and increased the depth of poverty in urban areas by about 25 per cent. Rural households also lost purchasing power and it seems poverty increased by up to 2.4% points, to the extent that households resolved this problem by eating fewer calories. The high food price has been exacerbated by the escalating price of oil and petroleum, which has increased the cost of transporting food to markets. Statistics from the Uganda Bureau of Statistics released in February 2014 indicated that the annual food crop

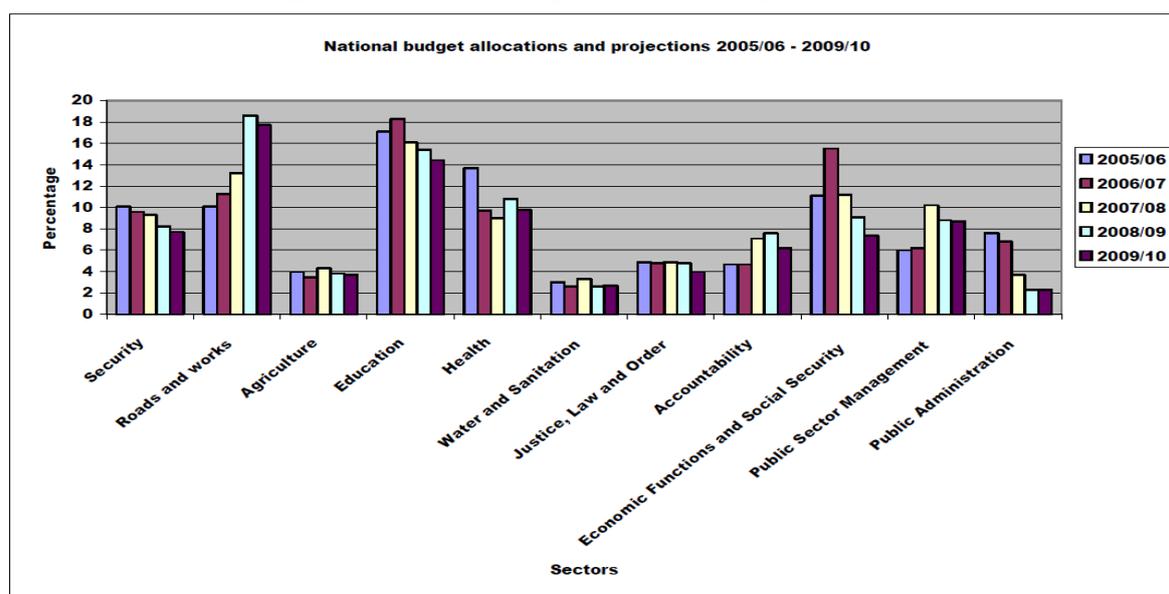
inflation had moved from 21.3% for the previous period to 25.1% in February 2014.⁷⁶ In March 2014, it moved to 28.3%.⁷⁷ As a result, consumers now face substantial reductions in purchasing power.

- 9.8. Unfortunately there is no evidence that Government has done anything to manage these increasing costs of food. Indeed, the recent pronouncement by Government that it would impose taxes on agricultural inputs is likely to make matters worse by increasing the costs of producing food, which will in turn be passed on to the consumers. In her 2014/2015 Budget speech, the Minister of Finance, Planning and Economic Development, Maria Kiwanuka, indicated that the tax exemptions of agricultural chain inputs had been scrapped and that an 18% Value Added Tax would be imposed on agricultural inputs.

Budget Allocations

- 9.9. The Figure below illustrates how the Ministry of Agriculture, Animal Industry and Fisheries (MAAIF), has remained an underfunded yet very relevant national sector. MAAIF has continuously had budget cuts. The low and near constant budget allocation towards the Agriculture sector has been linked to the decline of Agriculture's share of the national economy in Uganda from 54% in 1988 to 32% in 2004.

Table 2: National budget allocations and projections 2005/06 - 2009/10



Source: MFPED (Ministry of Finance, Planning, and Economic Development), 2003; 2006; 2007 and 2008, *Background to the budget reports*, Kampala.

- 9.10. In the Financial Year 2010/2011, the budgetary allocation to agriculture was 5%, far way below the 10% to which government committed by signing on to the 2003 African Union (AU) Maputo Declaration on Agriculture and Food Security. In Year 2012/2013, the allocation of Shs 379.04 billion which is 3.5% of the total national budget is an indicator of a worryingly declining trend.

⁷⁶ Uganda Bureau of Statistics Consumer Price Index – February 2014.

⁷⁷ Uganda Bureau of Statistics Consumer Price Index – March 2014.

Recommendations

- (iv) The Government should honour the 2003 African Union Summit, *Maputo Declaration on Agriculture and Food Security*, which commits countries to allocate at least 10% of national budgets to agriculture and food security;**
- (v) To ensure freedom from hunger, the MAAIF, within its frameworks, should prioritise expenditures with strategic incentives for vulnerable poor in form of improved traditional seeds and inputs, micro-credit schemes, market access facilitation to framers, creation of employment opportunities that provide social protection, building capacity of the vulnerable poor through increased access to education and learning, and provision of social security in form of wages, cultivatable land or food to those who cannot afford by all means available to them; and**
- (vi) Actors, especially the food and nutrition line ministries of Agriculture and Health, should consider with urgency, the need to fast-track approval of the National Food and Nutrition Strategy, so as to provide the platform and agenda for realizing the right to adequate food of all Ugandans. This is in addition to ensuring that the Food and Nutrition Bill is expeditiously promulgated by Parliament.**

The right to adequate water and sanitation

Key issues

- Only 65 percent of the population has access to safe drinking water;**
- A distance of an average of one kilometre to access safe water in rural areas is still very low; and**
- Many people such as in the North and North Eastern parts of the country do not have access to pit-latrines.**

10.1. In 2008, both the *National Population Policy* and the *State of the Population Report* were released indicating a steady progress over the past decade in increasing people's access to safe drinking water: national water coverage increased from 20 percent in 1981 to 61 percent by 2002. Some improvements have been registered; 2010 statistics as indicated in the *2010 Water and Environment Sector Performance Report* shows that the percentage has moved to 65.⁷⁸ However, reports indicate that piped water and sewage services are available for only 8% of urban dwellers while the rest of the urban dwellers predominantly use pit latrines.

10.2. Additionally, rapid population growth (above 3% per annum) coupled with unplanned urbanization, continue to place considerable strain on the provision of safe water and adequate sanitation especially for urban dwellers. Yet, access to water

⁷⁸ Government of Uganda, Ministry of Water and *Environment Water and Environment Sector Performance Report*, 2010, at 5.

at an average distance of 1km for people in rural areas is still a long distance that could compromise the quantity actually accessed. Yet the 2009/2010 *National Household Survey Report* shows that up to 73.8% of people nationally have access to improved water. There are however disparities between rural and urban populations at 69.5% and 92.3 respectively. This could be explained by the fact that piped water provided by the National Water and Sewerage Corporation (NWSC) is restricted to urban areas. There has not been any deliberate effort to extend this water to rural areas. Indeed, only a few towns have water processing plants, and where these exist they are controlled by the NWSC, without involvement of local authorities and communities.

- 10.3. It should also be noted that water quality especially for rural communities is still far below the national standards. National standard targets for 2010, for instance, put the e-coli percentage for rural areas to be at 95 percent but only 57 percent was realised for that year.⁷⁹ Yet these statistics are based on protected wells, a small proportion of water sources as the majority of rural people get water from unprotected wells.
- 10.4. The 2005/6 *National Household Survey*⁸⁰ identified a number of problems relating to sanitation. For instance, one in ten households did not use any type of toilet facility, yet of the 86% that use pit latrines, only 3 percent of these have ventilated pit latrines.⁸¹ The Northern and Eastern parts have the largest proportions of people not using toilet facilities at 21% and 16% respectively.⁸² Although the 2009/2010 *Household Survey* shows some improvements, these are still unsatisfactory.⁸³ The number of people without any type of toilet facility had dropped to 8.7% nationally and to 11.4% for Eastern Uganda. Unfortunately for the Northern region, the number had increased from 21 to 24.9%.⁸⁴
- 10.5. It has been reported that many people, up to 43%, in Buikwe, a newly created District, lack access to safe water.⁸⁵ This lack was threatening people with water-borne diseases such as Bilharzia. The scarcity is attributed to deforestation and sand-mining in areas surrounding Lake Victoria and River Nile.
- 10.6. Disparities are also exhibited between rural and urban areas as far distances to water sources are concerned. According to the 2005/6 *Household Survey*, the number of urban people whose water source was in a radius of above 3 kilometres stood at 0.9%, the 2009/10 Survey shows that this had considerably reduced to 0.2%.⁸⁶ Unfortunately, for the rural populations, the figure had remained at 3.4% in 2010 as

⁷⁹ Id.

⁸⁰ Uganda National Bureau of Statistics *Uganda National Household Survey 2005/2006: Report on the Socio-economic module* (December 2006)

⁸¹ At p 105.

⁸² At p 106.

⁸³ Uganda National Bureau of Statistics *Uganda National Household Survey 2009/2010: Abridged Report* (November 2010)

⁸⁴ As above, at 119.

⁸⁵ 'Lack of safe water threatens food security in newly created Buikwe' Daily Monitor Newspaper 19 September 2011

⁸⁶ 2009/2010 Survey, at 122.

was the case in 2005. This shows discriminatory approaches which concentrate on improving access for urban populations while the rural are marginalised.



State of sanitation in Katanga, a Kampala slum

Recommendations

- (iv) Government should take measures to ensure that all Ugandans get access to safe drinking water;**
- (v) In rural areas, safe water should be made available within a distance of less than 200 meters for all households as is the case for urban areas; and**
- (vi) Access to pit latrines should be improved for all communities including those in the North and North Eastern parts of the country.**

11. Article 12: Right to the highest standard of mental and physical health

Key issues

- **The legal framework does not guarantee the right to health and has laws which are have negative public health implications**
- **Health care budget is highly dependent on donor support, allocations to sector not consistent with international and regional obligations and funds are mismanaged;**
- **The Health Sector suffers from staff inadequacies, especially in rural areas;**
- **Stock-outs of essential medicines and health care services are rampant often due to poor infrastructure;**
- **Reproductive health care is unacceptably poor exacerbating the problem of maternal mortality;**
- **HIV/AIDS infection rates on the increase thereby reversing gains scored**
- **Maternal death and health complications arising from unsafe induced abortions are a matter of concern; and**
- **Country lacks specialised mental health care personnel.**

The legal and policy framework

- 11.1. The 1995 Constitution does not specifically provide for the right to health in its Bill of Rights. In spite of this, however, there are a number of policies and strategies that are relevant and make reference to the right to health. Examples of such policies include the National Health Policy II (2010-2020, whose overall objective is to ensure a good standard of health for all people in Uganda. In addition, the government has adopted specific programmes, plans and strategies relevant to realization of the right to the highest attainable standard of physical and mental health. Another is the Health Sector Strategic Plan (HSSP), in which the right to the highest level of health as a key guiding principle. HSSIP also makes provision for a Minimum Health Care Package (MHCP). MHCP comprises of interventions which address the major causes of the burden of disease and provides a framework for the allocation of public funds and allocation of other resources in the public health sector.
- 11.2. The biggest challenge though arises from the fact that rather than move towards legislating to guarantee the right to health, Government is adopting laws which negatively impact on the right. An example is the HIV Prevention and Control Act that was passed by Parliament in May 2014 and signed into law by the President of Uganda on July 31st 2014. The Act contains provisions that discriminate against people living with HIV/AIDS, by requiring the mandatory testing of pregnant women and their partners, and allows medical providers to disclose a patient's HIV status to others. The Act is also thought to disproportionately discriminate against women, given their increased interaction with the healthcare system during

pregnancy, which might make them more likely to know their HIV status. In prescribing a maximum 10-year jail sentence and fine of about five million shillings (or both) for anyone who wilfully and intentionally transmits HIV/AIDS to another person, the legislation will likely deter HIV/AIDS testing; raising clear public health implications.

- 11.3. The Act is also a worry for health practitioners living with HIV/AIDS. Earlier this year, for instance, Ms. Rosemary Namubiru – a nurse with 35 years of valuable, professional working experience – was working at the Victoria Medical Centre in Kampala, Uganda where she was attempting to give an injection to a 2-year-old child who was ill. The child, however, would not keep still and with the child upset, kicking and moving about, the needle accidentally pricked Ms. Namubiru’s finger. Ms. Namubiru stopped what she was doing, washed and bandaged the pricked figure and returned to the child to administer the injection. The mother of the child was uncertain as to whether the same needle had been used throughout the course of events and was worried her child may have been exposed to HIV. Ms. Namubiru was in fact HIV-positive and taking anti-retroviral drugs. Subsequent HIV testing of the child confirmed that the child had not been infected with HIV, however Ms. Namubiru was sentenced to three years’ imprisonment for negligence over the potential infection of the child. This increasing retort to the criminalization of HIV-related issues sets a dangerous trend for the dealing of HIV/AIDS issues in Uganda, and is inimical to the harm-reduction approach to HIV/AIDS that the country requires.
- 11.4. In addition to these recent laws, there also exist a number of out-dated pieces of legislation that may also serve to procure negative public health effects. The Public Health Act 1935, for instance, is in need of updating. In particular, it contains a number of archaic provisions on smallpox⁸⁷; a disease that global efforts have now eradicated, and criminalizes individuals suffering from an infectious disease, who expose themselves to the public without taking “proper precautions” or without notifying specified individuals.⁸⁸ This provision of the Act appears contrary to people’s rights to confidentiality and, in failing to specify the severity of the disease that is under contemplation, potentially criminalizes individuals who venture out while suffering any infectious disease including the common cold. A further, problematic Act is the Mental Treatment Act 1938.
- 11.5. A new law, that has taken over 10 years to draft, is being written but at present, the current Act is archaic and discriminatory towards persons suffering from mental disorders; failing to abide by human rights standards.⁸⁹ Legislation concerning the status of abortion in Uganda is also, as will later be discussed, problematic. While, at present, policy guidance suggests that abortion is permitted in situations of “severe maternal illnesses threatening the health of a pregnant woman for example severe cardiac disease, renal disease, severe pre-eclampsia and eclampsia; severe foetal abnormalities which are not compatible with extra-uterine life for example

⁸⁷ Public Health Act 1935 Sections 46 and 47.

⁸⁸ Ibid. at Section 20.

⁸⁹ Mulumba, Moses. “Analysis of the Uganda Mental Treatment Act from a Human Rights and Public Health Perspective” (2007) online: <<http://psychrights.org/Countries/Uganda/UgandasMentalHealthLaw.pdf>>.

pregnancy, anencephaly; cancer cervix; HIV-positive women requesting for termination; and rape, incest and defilement,"⁹⁰ the relevant statutory provisions in Uganda's penal code fail to clearly provide for this, making doctors hesitant to provide safe abortion and post-abortion care services available to women that are legally permitted to receive a safe abortion.

- 11.6. Another worrying law is the Anti-Homosexuality Act (2014) (AHA), for instance, which was introduced to prohibit any form of sexual relations between persons of the same sex and further, to prohibit the promotion or recognition of such relations, could procure highly detrimental effects to individuals' abilities to enjoy their rights to health in Uganda if re-introduced and passed into law. While in July 2014, the Act was nullified after an appeal to the Constitutional Court of Uganda on the procedural issue of quorum, the Act may again be re-tabled and this time passed in accordance with the correct Parliamentary procedure.

Budgetary allocations to the health sector

- 11.7. Budgetary allocations to the health sector continue to be below the annual HSSIP 2012/2013 target of 9.8%⁹¹ and well below the international health financing target as is set in the Abuja Declaration on HIV/AIDS, Tuberculosis and other Related Infectious Diseases of 15%.⁹² Moreover, the percentage of money allocated towards the health sector as a % of total government spending has been decreasing for every year since 2009/10. This is a retrogressive act and is compromising the quality of patient care. As a further indication of the quality and availability of health care services that is assured to Ugandan's, the country's per capita spending patterns can also be considered. Per capita public health expenditure (US\$) in 2010/11 was \$9.4, in 2011/12, \$10.29 and in 2012/13, \$9.⁹³ Again, this shows a retrogressive pattern of spending, and is also well below the minimum of \$44 per person per year that is estimated to be required to provide basic, life-saving services by the World Health Organization.⁹⁴ Further, it often means individuals are faced with high, out-of-pocket costs rendering healthcare inaccessible for those who can't afford it. It is reported that out-of-pocket payments account for approximately 50% of total health spending in Uganda.⁹⁵ Also noteworthy, is the fact that in 2009/10, donor support comprised of 34%⁹⁶ of the total health sector budget raising questions about country ownership and about the sustainability of Uganda's approach to health financing.

⁹⁰ CEHURD, *Litigating Maternal Health Rights in Uganda: What civil society must know* (2013) at 32.

⁹¹ <http://health.go.ug/docs/AHSPR_2013.pdf> at 26

⁹² OAU/SPS/ABUJA/3, Adopted by the African Union Special Summit of Heads of State and Government, 26 - 27 2001, Abuja, Nigeria.

⁹³ Ministry of Health, *Annual Health Sector Performance Report: Financial Year 2012/2013*.

⁹⁴ World Health Organization, *WHO Global Health Expenditure Atlas* at 2.

⁹⁵ Charlotta Sandin, *Uganda Health Sector and Partnership Opportunities* (2013) online: <http://www.swecare.se/Portals/swecare/Documents/Uganda-Health-Sector-and-Partnership-Opportunities-final.pdf>> at preface.

⁹⁶ <http://health.go.ug/docs/AHSPR_2013.pdf> at page 27.

Table 1 Percentage of GoU budget allocation to health as a % of total gov't budget

	2009/10	2010/11	2011/12	2012/13	Abuja Target	HSSIP Target
	8.6	8.9	8.3	7.4	15	9

Source: Ministry of Health, "Annual Health Sector Performance Report: Financial Year 2012/2013" p.25.

- 11.8. Amidst the inadequate resources, the country is ironically experiencing problems with the absorption of its funds.⁹⁷ One of the areas where this is visible is in drug procurement and distribution. While there are drug stock-outs, the National Medical Store (NMS) during FY 2009/2010 had some 41.96 billion unutilized funds which had to be returned to the treasury. According to the Ministry of Finance, Planning and Economic Development (MFPED), "...the biggest chunk of unutilized money was for roads, under the works ministry and drugs under the National Medical Stores."⁹⁸ The MFPED attributed the problem to poor planning by ministries and inadequate specifications of output.
- 11.9. Additionally, the budget and finance monitoring mechanisms in place throughout the country are poor. The Ministry of Health (MoH)'s oversight of the financial information for general and regional hospitals is weak, apparently relying on submission of reports for the purpose of drafting the Annual Health Sector Performance Report (AHSPR). (Only 54 of 113 general hospitals and only 8 of 13 regional referral hospitals returned reports with complete financial data).⁹⁹ MoH has not prioritized analysis of efficiency and use of funds, and must be more active in pursuing and publishing this information in order for the health sector to thrive.
- 11.10. The resource inadequacies in the health sector have also been exacerbated by the abuse of funds and the lack of commitment to accountability. Corruption and theft is rife. Evidence of this is seen from the 2005 loss through fraud and misallocation of over USD 367 million funds from the Global Fund to fight Tuberculosis, HIV/AIDS and Malaria. This fraud, which was a subject of Judicial Inquiry, saw over 300 people being implicated. Five years down the road, although over 300 people were implicated, only 4 have been prosecuted.¹⁰⁰ Moreover, those prosecuted have mainly been low cadre culprits. The Medicines and Health Services Delivery Monitoring Unit further reports how, in the districts that it visited for its study, "almost all health centre In-Charges could not fully account for the PHC funds given;"¹⁰¹ pointing to

⁹⁷ NEW VISION: "Ministries fail to spend sh700b" Monday, 24th May, 2010.

⁹⁸ See Ministry of Finance, Planning and Economic Development, Semi-Annual Performance Report 2009/2010, p. 18 and 52.

⁹⁹ Draft MOH AHSPR FY 2009/2010, pg 134, 137

¹⁰⁰ Charges have been laid in two cases-meaning investigations have been finalised in eight cases, fifteen cases are in advanced stages of investigations; twenty two cases are under investigation and the remaining cases have been assigned to investigation teams. See The Global Fund, Progress Report of the Office of the Inspector General, October 2009-February 2010.

¹⁰¹<http://www.mhu.go.ug/Docs/MHSDMU%20LATEST%20REPORT%20FRM%20NEWVISION.pdf>
>. page 50

the lack of financial management skills and training that is given to health officials as a contributing factor.

Communicable diseases

11.11. World Health Organization reports indicated that at present, Uganda “does not have nationally representative data on non-communicable diseases” and “The country also lacks a comprehensive non-communicable disease policy, strategic plan, and standards and guidelines for managing non-communicable diseases.”¹⁰² In the limited instances where policy has been devised, however, insufficient resources hamper their effective implementation in practice. Uganda has a cervical cancer policy, for instance, that aims to respond to the diseases’ incidence and mortality rates in Uganda which – at 45.6 per 100,000 women and 25 per 100,000 women respectively¹⁰³ is one of the highest in the world and the leading gynaecological cause of death for women in Uganda. Few women currently have access to the preventive HIV vaccines that are now available, and treatment options for the 80% of cervical cancer patients diagnosed with late stage cervical cancer disease in Uganda, are limited. It is reported, for instance, that Uganda currently has only one radiotherapy machine in the country, at Mulago National Referral Hospital in Kampala, to deal with the country’s entire cancer-burden needs. Furthermore, access to palliative care is also limited: compounding the suffering of affected individuals. Greater investment in non-communicable disease prevention and treatment; starting with increased policy and guidelines, is sorely needed in order to meet this increasing share of Uganda’s burden of disease.

Human resource and staffing challenges

11.12. Average staffing levels have gone up from 55% in 2011/12 to 60.5% in 2012/2013¹⁰⁴. The government has also adopted a Human Resource Policy (2006) and a Strategy for Retention of Health Workers in hard to reach areas/underserved areas. The Retention Strategy provides for a minimum package of motivational incentives at health facilities for staff working in the targeted areas.¹⁰⁵ Further, a village health team (VHT) strategy has also been introduced so as to improve health worker capacity and reach. In spite of this, in 2013 only 55% of villages had trained VHTs, which is below the government’s target of 75% for 2012/2013 and a retrogressive step from Uganda’s 2010/11 figures of 78% in the year 2010/11.¹⁰⁶

¹⁰² World Health Organization Regional Office for Africa, online:

<http://www.aho.afro.who.int/profiles_information/index.php/Uganda:Analytical_summary_-_Non-communicable_diseases_and_conditions>.

¹⁰³ Ministry of Health, Strategic Plan for Cervical Cancer Prevention and Control in Uganda 2010-2014 at viii.

¹⁰⁴ Republic of Uganda, Ministry of Health Annual Sector Performance Report 2012/2013 FY at 23. http://health.go.ug/docs/AHSPR_2013.pdf

¹⁰⁵ Ministry of Health, Motivation and Retention Strategy for Human Resources for Health (October 2009)

¹⁰⁶ Republic of Uganda, Ministry of Health Annual Sector Performance Report 2012/2013 FY at 24. http://health.go.ug/docs/AHSPR_2013.pdf

11.13. In spite of some developments that have been made, human resource development, recruitment and utilization have, in general, not been effectively managed. The approved staffing level is still low and some districts still lag behind, particularly at the lower Health Centre II levels. Available evidence shows a gross mal-distribution of medical personnel. 70% of Medical Officers, 80% of Pharmacists and 40% of Nurses/Midwives are based in urban areas with 12% of the Population.¹⁰⁷ Even where funds are available for recruitment, the sector has failed to attract staff. The majority of the vacancies in the public health sector are in Health Centre IIIs up to the general hospitals with Health Centre II having the highest number of vacancies at 67%, with districts like Kiruhura, Bududa, Lamwo, Gomba, Kaabong and Buhweju having staffing levels ranging from 28% to 35%¹⁰⁸. These Health Centre IIs are located in rural communities and the absence of staff affects service delivery at this level. Also, nurses are critically required especially at Health Centres II-IV. The vacancy rates for nurses at Health Centre II, III and IV are at 53 percent, 54 percent and 37 percent, respectively.

11.14. The low rate of recruitment and retention could be explained by low wages, poor health infrastructure, heavy workload, high stress¹⁰⁹ and the lack of suitable accommodation available for health workers that are posted to rural settings.¹¹⁰ The impact of these factors upon the wellbeing and performance of health workers is overwhelming. VSO international has undertaken studies on the lived experiences of Ugandan nurses and found that many were “burnt out”; they are frequently forced to take on too many tasks, required work 12-hour shifts and receive little support. They report:

Health centre midwives suffered especially. Midwives in rural health centres told of working alone day and night, sleeping with their children in disused wards, always on call to deal with expectant mothers often arriving in late stages of labour. A manager had acknowledged that a midwife had worked alone and on call for five months.¹¹¹

11.15. The Ministry of Health illuminates how the rate of absenteeism in Uganda has also become chronic, standing at a rate of 48% in 2010/11; representing a 2% increase from the previous year.¹¹² It is estimated that staff absenteeism leads to wastage of at least 46 billion Uganda shillings each year.¹¹³

¹⁰⁷ Ministry of Health, Human Resources for Health Audit, (May 2009), p. 19

¹⁰⁸ Republic of Uganda, Ministry of Health Annual Sector Performance Report 2012/2013 FY at 23. http://health.go.ug/docs/AHSPR_2013.pdf

¹⁰⁹ Ministry of Health, UGANDA HEALTHWORKFORCE, Satisfaction and Intent to Stay Among Current Health workers, April 2009; Arthur Baguma, Is Uganda losing the Battle to retain health workers? THE NEW VISION, Thursday April 7 2009 at p.25

¹¹⁰ Ministry of Finance, Planning and Economic Development BMAU Briefing Paper [6/13] (2013) online: <http://www.finance.go.ug/dmdocuments/6-13%20Health%20Workers%20Shortage%20in%20Uganda%20May%202013.pdf> at 3.

¹¹¹ VSO, *Our Side of the Story: Ugandan health workers speak up 2012*, p.12.

¹¹² Republic of Uganda, Ministry of Health Annual Sector Performance Report 2012/2013 FY at 24. http://health.go.ug/docs/AHSPR_2013.pdf

¹¹³ World Bank, *Fiscal Space for Health in Uganda*, Working Paper Series no. 186 at p.47; Izama Angelo, Uganda loses shs 30 bn to Ministry of health absenteeism, THE NEW VISION, APRIL 23RD 2009

11.16. Human Resources for Health development, deployment and utilization are still not rigorously directed in a sustainable manner, either at national or district levels. The present number of health staff (Doctors, nurses, midwives) available in the country is inadequate, with a ratio of 1 to 1298 people¹¹⁴. Further, it is estimated that almost 40% of the HRH are working for the private sector, and there is currently no clear policy or guidelines to coordinate and optimize their use. This has an adverse impact upon health service delivery in government facilities.¹¹⁵

Access to Essential Medicines & Health Supplies

11.17. Although new budgetary measures that give the National Medical Store (NMS) a vote on the budget have been adopted, their impact is yet to be felt. Reports reveal that although there are stocks of drugs at NMS, some districts also still experience stock-outs. Delays in procurement, poor quantification, late orders from facilities and poor records keeping are among the management problems experienced in this regard. This is in addition to health facility infrastructure obstacles which compromise access to Essential Medicines and Health Supplies (EMHS).¹¹⁶ Access to communication facilities is extremely poor; of 41 surveyed facilities, less than 10% had a functional communication systems (such as phone, email, fax, or radio call) to send requisitions, make notifications regarding deliveries and report stock outs of medicines to the district.¹¹⁷ Public sector medicines financing levels have also remained low over the years, contributing to the substantial stock-outs in facilities.

11.18. The Medicines Credit Line budgets have stagnated while PHC grants for EMHS only slightly increased with low utilisation (approx 55%). The capacity of health centres to transport medicines from the district headquarters and clients in emergency situations is limited. Only 4 of 41 health centres, for instance, had ambulances that were functional. Only one of 41 health centres had a functional vehicle (not an ambulance) for transport purposes and about half of facilities depended on two-wheeler cycles. Additionally, absence of records at health centres is rampant and contributes to poor accountability and monitoring, which may result in unavailability of medicines. Of the surveyed 41 health facilities, 16 did not have any documentary evidence of the dates and value of requisitions made to NMS as well as the date and value of deliveries made by NMS and only partial figures were obtained from 60% of surveyed facilities.¹¹⁸

Affordability of health care services

¹¹⁴ Ministry of Finance, Planning and Economic Development BMAU Briefing Paper [6/13] (2013) online: <http://www.finance.go.ug/dmdocuments/6-13%20Health%20Workers%20Shortage%20in%20Uganda%20May%202013.pdf>. This is far below the recommended WHO minimum standard, which considers countries with less than 1 doctor, nurses or midwife per 439 people, in critical shortage of health workers.

¹¹⁵ Ministry of Finance, Planning and Economic Development BMAU Briefing Paper [6/13] (2013) online: <http://www.finance.go.ug/dmdocuments/6-13%20Health%20Workers%20Shortage%20in%20Uganda%20May%202013.pdf> at 3.

¹¹⁶ HEPS Uganda, *Tracking Uganda's Health Sector in Financing and Delivery of Essential Medicines, June 2010*

¹¹⁷ Ibid.

¹¹⁸ Ibid.

11.19. In a bid to ensure that Ugandans access affordable health care services in public health facilities, the president in March 2001 abolished cost sharing in the public sector and user fees were stopped. This was influenced by a report that cost sharing was leading to unnecessary suffering and even death¹¹⁹. This has, however, not only had positive but also negative implications to the lives and health of the people. It should not be assumed that the end of cost sharing resulted in free health care services to the patients.¹²⁰ In other instances, informal “under the-table” payments to health workers are a feature of many nominally free health services. This practice has not only denied Ugandans access to health care services but has also resulted into death of patients as highlighted below:

- Sylvia Nalubowa delivered a baby at Manyi Health Centre III, a government health care facility in Mityana in 2009. It was then established that she was to have twins and required emergency obstetric care to deliver the second baby and was referred to Mityana Hospital where the attendant (now an emergency case) was first asked to pay for three bottles of rehydrating water, which she did. In the words of the attendant, Rhoda Kukkiriza, “at this time the deceased was in extreme pain and crying for help. I went where she was and whatever came out of her was blood and I had no way to help her.” Rhoda Kukkiriza adds that in pain Nalubowa “pledged her *kibanja* [squatter piece of land], hens and pigs if the nurses had helped her out”. These pledges did not however help, Sylvia Nalubowa bled to death¹²¹
- Cecilia Nambozo, a teacher at Busamaga Primary School in Mbale Municipality, knew it was time, so she did what was expected—checked into a hospital at 6am so she could give birth with expert attention at her disposal. But that was not to be, for more than 10 hours after Nambozo checked into Mbale Regional Referral Hospital to bring unto the world a life, she was ignored, neglected and writhing in pain. Her crime? She did not have the Shs 300, 000 (Three hundred shillings)¹²². The hospital medical staff demanded before they could attend to her. And so she wasted away in September 2011 as her husband, Mr. Richard Wesamoyo, made desperate runs around the village to raise the money.

11.20. These are some of the few cases that have been reported, while many others go unnoticed. Would the situation be different if the government had not abolished cost sharing in health facilities? Or if it had put in place all that is required for safe delivery (for example well paid, motivated and remunerated health workers, access to all services, available drugs, etc.) with cost sharing in place? If the government is to maintain the ban on cost sharing it should ensure that the budget for health is increased and that health services are available and accessible to all.

¹¹⁹Kipp W, Kamugisha J, Jacobs P, Burnham G, Rubaale T. User fees, health staff incentives and service utilization in Kabarole district Uganda. Bulletin of the World Health Organization 2001;79:1032-7. Also, Gilbert M. Burnham, George Pariyo, Edward Galiwango, & Fred Wabwire-Mangen, Discontinuation of cost sharing in Uganda.

¹²⁰ Gilbert M. Burnham, George Pariyo, Edward Galiwango, & Fred Wabwire- Mangan, Discontinuation of cost sharing in Uganda.

¹²¹ See, CEHURD, Advocating for the right to reproductive healthcare in Uganda: The import of Constitutional Petition N. 16 of 2011 (2011) online: <<http://www.cehurd.org/wp-content/uploads/downloads/2012/01/Petition-16-Study.pdf>>.

¹²² CEHURD, “The sick hospital system in Uganda” (2011) online: <http://www.cehurd.org/2011/10/the-sick-hospital-system-in-uganda/>.

HIV/AIDS

- 11.21. From a prevalence rate of 18% among the adult population in 1992, in 2011 the Uganda AIDS Indicator Survey showed that 7.3% of Ugandans age 15-49 were HIV positive. HIV prevalence is higher among women than men (8.3% vs. 6.1%) and those living in urban areas are more likely to be HIV positive than those living in rural areas (8.7% vs. 7%).¹²³ Around 0.7% of children aged under-5 are HIV-positive.
- 11.22. Valuable progress has been made in increasing access to HIV and AIDS services. The uptake of ART services is at 329,060 for persons living with HIV (PLHIV).¹²⁴ There have been increased efforts to prevent infection, reduce stigma and increase access to social support services. In spite of these achievements, there are still many challenges that limit access to services for PLHIV. Close to 40% of those living with HIV in Uganda are not receiving treatment and only 32% of children that are eligible for treatment are able to access it.¹²⁵ New infections are also re-emerging and the number of people being infected annually is now more than the number of people put on ART in the same period.
- 11.23. The Uganda AIDS Commission have reported, for instance that the number of new HIV infections in the country increased by 11.4% from 115,775 to 128,980 between 2007/8 and 2009/10 and rose among adults by 16.4%. This, in 2010, placed Uganda as having the fourth highest new infection rate in the world.¹²⁶ The new infections are putting additional pressure on available resources for treating those that are already living with HIV and AIDS and yet once started on treatment one has to remain on treatment for the rest of their lives. The abovementioned legal environment that is set to deter testing and treatment options for many will likely worsen the situation further.

Reproductive Health (Maternal and Child Health)

- 11.24. Generally, universal access to reproductive health is far from being realized in Uganda. The maternal mortality ratio is around 438 deaths per 100,000 live births.¹²⁷ This is exceptionally high, especially relative to the MDG target ratio of 131/100,000 for 2015. Whereas the Government has put in place policies and Strategies such as the Road Map for Accelerating Reduction of Maternal and Neonatal Mortality and Morbidity in Uganda (2007-2015), and the Child Survival Strategy, implementation is lacking. According to the Ministry of Health, Uganda loses 6000 mothers to

¹²³ Results from the 2011 Uganda AIDS Indicator Survey, online: <http://health.go.ug/docs/U AIS_2011_FACT_SHEET.pdf>.

¹²⁴ Civil society organisation (CSO) Shadow Report on The Performance of the Health Sector in 2012/2013 p. 22.

¹²⁵ Uganda AIDS Commission Global AIDS Response Progress Report" Country Progress Report Uganda 2012 at 34.

¹²⁶ Ibid at 10.

¹²⁷ Millennium Development Goals Report for Uganda 2013 Ministry of Finance, Planning and Economic Development, Millenium Development Goals Report for Uganda 2013 online: <<http://planipolis.iiep.unesco.org/upload/Uganda/Uganda%20MDG%20Report-Oct%202013.pdf>> at 67.

pregnancy and child-birth related complications every year.¹²⁸ The factors responsible for this state of affairs are numerous: health facilities across the country are understaffed, lack drugs and other medical equipment necessary for safe delivery. Many expectant mothers, especially in rural areas, prefer to use the services of traditional birth attendants, who lack facilities. According to the District Health Officer (DHO) in Nakapiririt district, for instance, 98% of expectant mothers deliver at home. The DHO was quoted saying: “Although we have government medical facilities here, given the illiteracy levels, intact traditional system, and remoteness of our people, the deliveries in the Government facilities are as low as between one to two percent.”¹²⁹ As a matter of fact, core interventions against the top causes of maternal mortality such as low coverage of emergency obstetric care, inadequate availability of appropriate staff and equipment, lack of transport, and insufficient access to family planning have been under-prioritized.

- 11.25. With regards to the provision of emergency obstetric care, according to the Ministry of Health’s HSSIP mid-term review (2013) only 36% of HC IVs were providing such care, as compared to the 50% set by the Ministry to be achieved by 2015.¹³⁰ Other reproductive health indicators, particularly in rural areas, remain poor. The Contraceptive Prevalence Rate (CPR) has increased from 2.7% as indicated by the 2000 Uganda Demographic and Health Survey (UDHS) to 26% in 2011 (UDHS, 2011)¹³¹. However, there remains great variation amongst different groups and regions. There is a wide gap in the use of any method between rural and urban areas (23 versus 39 %)¹³². The percentage of women using a contraceptive method is highest in Kampala at 48% while the sub regions of Karamoja at 8% and West Nile at 15% have the lowest.¹³³ Contraceptive use also correlates with educational levels. A reported 44% of married women with secondary or more education for instance are using a contraceptive method, while only 18% of those with no education reportedly do so.¹³⁴ Ugandan women bear an average of 6.2 children, with rural women giving birth to nearly three more children than urban women (3.8 and 6.8).¹³⁵

Induced Abortion and maternal health

- 11.26. Under Ugandan law, induced abortion is permitted in limited circumstances. However, the circumstances under which it may take place are extremely unclear.¹³⁶ Legal abortions are very rare, given the restricted grounds, the demanding process for obtaining approval (for example, providers typically require certification from three doctors, even though the law does not require this). Unsafe abortion is one of the leading causes of maternal mortality in the country. The Ugandan Ministry of

¹²⁸ Government of Uganda, *Road Map for Accelerating the Reduction of Maternal and Neonatal Mortality and Morbidity in Uganda* (2007-2015) p.1.

¹²⁹ *When Hospitals are Death Traps*, THE DAILY MONITOR, Wednesday November 26th 2008.

¹³⁰ Ministry of Health, Midterm Review Report of the Health Sector Strategic and Investment Plan (HSSIP) 2010/11-2014/15 (2013) online: <http://health.go.ug/docs/MTRRVOL_1.pdf> at 36.

¹³¹ Uganda Demographic and Health Survey 2011, Preliminary Report, online: <<http://dhsprogram.com/pubs/pdf/PR18/PR18.pdf>>.

¹³² *Ibid* at 10.

¹³³ *Ibid*.

¹³⁴ *Ibid*.

¹³⁵ *Ibid* at 8.

¹³⁶ Center for Reproductive Rights (CRR), 10 key points about Uganda’s laws and policies on termination of pregnancy, *Fact Sheet*, New York: CRR, 2011.

Health has estimated that abortion-related causes account for 26% of all maternal mortalities,¹³⁷ and it was recently reported as being the second major cause of death in Uganda.¹³⁸ Such deaths are compounded by physicians' hesitancy to offer safe and open abortion and post abortion care services in Uganda, out of their fear of being criminally sanctioned.

- 11.27. Maternal death and illness resulting from unsafe abortion represents an important public health problem in Uganda. Policymakers are aware of the situation, yet the lack of data on the incidence of induced abortion and the magnitude of the public health burden of treating post abortion complications makes it difficult to describe the problem, to focus public attention on it, and to design post abortion care and contraceptive services to address it.

Child Health in Uganda

- 11.28. Children comprise up to 56% of the population in Uganda¹³⁹ however few polices exist that deal specifically with the health needs of this demographic sect. Policy efforts to improve child health are typically considered in conjunction with maternal and sexual and reproductive health, which, while necessary, in the absence of further consideration of the issues that affect children, arguably overlook some of the wider health concerns that currently face children in Uganda.

Newborn and neonatal health

- 11.29. At least 45,000 new born children are reported to die each year in Uganda, with an equal number being stillborn.¹⁴⁰ As a result, Uganda is thought to have the fifth highest number of newborn deaths in sub-Saharan Africa.¹⁴¹ Moreover, Uganda's neonatal mortality rate of 29 deaths per 1,000 live births has remained fairly constant over the past 15 years, illustrating the need for more effective and targeted actions. In a situational analysis of Newborn health in Uganda, conducted by Uganda's Ministry of Health, the common causes of newborn deaths are reported to "include birth asphyxia, infections and complications of preterm birth" with "underlying causes...[being] related to poor access and utilisation of health services during pregnancy and childbirth, especially the high number of deliveries that take place without skilled attendance."

¹³⁷ Guttmacher Institute, "Abortion in Uganda" (2013) online: <<http://www.guttmacher.org/pubs/FB-Abortion-in-Uganda.html>>.

¹³⁸ <http://news.ugo.co.ug/second-highest-cause-death-uganda-abortion/> (Which states, "Sarah Achieng Opendi, a 2013 Ministry of health study revealed that abortion is the second highest cause of deaths in Uganda coming second to malaria.")

63. African Network for the Prevention and Protection against Child Abuse and Neglect, "Background information: The current situation for children in Uganda", online: <http://www.anppcanug.org/wp-content/uploads/press_kits/The_Sit_of_Child_in_Ug.pdf>.

¹⁴⁰ Ministry of Health. Situation analysis of newborn health in Uganda: current status and opportunities to improve care and survival. Kampala: Government of Uganda. Save the Children, UNICEF,WHO; 2008. At 8

¹⁴¹ Lawn J, Kerber K, eds, Opportunities for Africa's Newborns: practical data, policy and programmatic support for newborn care in Africa. Cape Town: PMNCH, Save the Children, UNFPA, UNICEF, USAID, WHO, 2006.

11.30. Alarming, in the government of Uganda's State Report to the CESC, it is further reported that 50% of all neonates that had been seen in a health facility, in 2009/2010, had either septicaemia or another severe disease. While policy attempts are being made to improve neonatal health in Uganda, with the HSSP II including a section on Newborn Health and Survival that encourages the "provision of essential pregnancy and postnatal care and clean deliveries," insufficient progress on these recommendations' implementation has been made. It is reported, for instance, that many women are still required to bring their own "Mama-kits" (which comprise of essential items for a safe and sterile birth) to health facilities, to give birth, and if they do not have them, the contents of the kit may not be guaranteed to women giving birth. There have been also reports from health facilities that insufficient resources such as incubators, are being provided by maternity wards for the care of neonates, with mothers instead having to rely on "kangaroo-care" methods only, to care for pre-term babies. At the broader levels, "National health targets have not adequately captured newborn health indicators, resulting in the exclusion of newborn survival from national development efforts."¹⁴² All in all more attention must be devoted to the particular needs and resources required by neonates, if Uganda is to effectively reduce its neonatal mortality rate.

Childhood Immunization

11.31. Uganda has made great successes in its immunization programmes, with its strategic prioritisation for implementation of its Expanded Programme for Immunization (EPI) in its HSSPs paying dividends in its country coverage rates. While Uganda's Third Diphtheria-tetanus-pertussis (DTP3) immunization coverage rate, (a rate that is often taken as a proxy for the strength of a country's immunization system) at 78% in 2012¹⁴³, is higher than the regional African average of 61%¹⁴⁴, social disparities in the levels of children being vaccinated remain. The World Health Organizations 2013 Statistics report, for instance, that while 74% of children whose mothers have received at least a secondary school level of education are vaccinated with DTP3, only 58% of children whose mothers received no education, are vaccinated with the same.¹⁴⁵ Such inequities must be addressed if Uganda is to make gains on its progress in immunization. Access to newer immunizations, beyond the basic EPI antigens is also limited.

11.32. A new rotavirus vaccine developed in 2012, for instance, which has the potential to prevent strains of severe diarrheal diseases amongst children, has yet to be formally introduced in Uganda's national immunization schedule; despite diarrhoeal disease being a lead cause of Uganda's rates of under five mortality, with the rotavirus virus being one of the two most common causative agents of diarrhoea.

Child nutrition

¹⁴² Ministry of Health. Situation analysis of newborn health in Uganda: current status and opportunities to improve care and survival. Kampala: Government of Uganda. Save the Children, UNICEF,WHO; 2008. At 8

¹⁴³ See, GAVI Alliance "Uganda" online: <<http://www.gavialliance.org/country/uganda/>>.

¹⁴⁴ WHO, "Diphtheria-tetanus-pertussis DTP3 immunization coverage" <http://www.who.int/gho/urban_health/services/dpt3_vaccination_text/en/>.

¹⁴⁵ World Health Organization, "World Health Statistics 2013", online: WHO <http://www.who.int/gho/publications/world_health_statistics/EN_WHS2013_Full.pdf> at 151.

11.33. It is estimated that 35% of all deaths in children under five have under-nutrition as an underlying cause.¹⁴⁶ Further, lack of access to nutritious food stunts growth, procures other health-harms and impacts upon a child's ability to enjoy a healthy life. A key opportunity to provide children with nutritious and healthy food is during the school day and while policies in "School Feeding" and "School Health & Nutrition" have appeared,¹⁴⁷ enforcement of their implementation is lacking. Schools are not being afforded the necessary resources to implement the policies and children are therefore often unable to eat during the entire school day. The HSSP indicates the lack of any memorandum of understanding on the policies between Uganda's Ministry of Health and Ministry of Education and Sports is a contributing factor.¹⁴⁸

Children's access to quality medicines

11.34. The paediatric population is reported as being exposed to a rate of medication error that stands at around three times that of the general, adult population¹⁴⁹ which can often have severe and adverse consequences for children's health. The reason is due, in part, to the lack of provision for child appropriate medications within many national health systems, forcing health practitioners to improvise on the dosing of drugs they administer. This is problematic for a number of reasons. Children have a very different pharmacological make-up to adults, with their proportion of body fat, protein and extracellular water content changing through their development and them being subject to significant underlying factors that must be considered, such as malnutrition, also. This affects both the efficacy and toxicity of the drugs they receive and raises concerns over the quality of treatment they are assured under the right to health.

11.35. An investigation conducted by Ecumenical Pharmaceutical Network Uganda found that, out of the 56 health facilities they had data for, none had a specific standard list of recommended medicines for children and only 26 out of 57 of the facilities in its survey reported as having treatment guidelines for the management of common child illnesses. The study further found the availability of adult formulations to be consistently better than those for children across all levels of care.¹⁵⁰ Similarly, while Uganda has an essential medicines list, it currently has no specific list of essential medicines or required dosages for children. Given the large percentage of the population that children in Uganda comprise of, there is a need for the state to ensure that health facilities are better stocked to meet the particular pharmacological needs of this demographic, to ensure children's rights to health are fulfilled.

¹⁴⁶ The Lancet, "The Lancet's Series on Maternal and Child Under-nutrition Executive Summary" online: <<http://www.imagine.in/Sem6-ExeSum.pdf>>.

¹⁴⁷ WHO, "Policies in Uganda" online: <<https://extranet.who.int/nutrition/gina/en/policies/1565>> Which makes Reference to a School Feeding Policy and to a School Health and Nutrition Policy.

¹⁴⁸ Government of Uganda Ministry of Health, Health Sector Strategic Plan III 2010/11-2014/15 at at 10.

¹⁴⁹ See WHO, 'Promoting safety of medicines for children' (2007).

¹⁵⁰ EPN, "Childrens Medicines in Uganda: An investigation into availability and factors impacting access" online: <<http://apps.who.int/medicinedocs/documents/s20016en/s20016en.pdf>>.

The provision of basic utilities to health care facilities

11.36. A major challenge to the smooth operation of health facilities in Uganda is the lack of adequate or reliable supply of utilities. Hospitals around Uganda have been subject to water and electricity outages procured by insufficient resources, their lack of supply and load shedding practices, among others.¹⁵¹ The impact of such factors on individuals' right to the highest attainable standard of health has been significant. It was reported for instance, that over 150 patients had died in the space of a few months at Jinja referral hospital as a result of the unstable power supply procured by load shedding practices by Uganda's main electricity supplier Umeme Ltd.¹⁵² Without a reliable power source, life support systems fail, operating theatres grind to a halt, and emergency and intensive care becomes - at best - attenuated. Furthermore, vaccine, blood and other refrigerated products can spoil and treated water supplies - often powered by electric pumps themselves - can stagnate and deplete. Problems with access to water, more specifically, have also occurred; with several reporting's of water being disconnected from health facilities, due to unpaid bills, with the effect of disease outbreaks amongst others. Some health facilities, such as Kiboga Hospital, are not currently connected to any reliable water supply system and patients are reportedly required to bring their own water to the hospital with them. Such infrastructural problems pose threats to the health of individuals and prevent hospitals from maintaining a safe and sanitary clinical environment.

Care in psychiatric facilities

11.37. There is no available baseline data on the incidence of mental health disorders in Uganda¹⁵³ however it is estimated that over 11.5 million Ugandans are suffering with mental disorders.¹⁵⁴ For the last 10 years, Uganda has been developing a policy on mental health.¹⁵⁵ The draft is yet to be approved by cabinet. This response has been sluggish. The current Mental Health Act is out-dated, archaic and discriminates against users of mental health services. The new Mental Health Bill seeks to repeal the Mental Health Act and expressly recognizes the right of users of mental health facilities to the highest attainable standard of health; it guarantees protection from discrimination, freedom from torture, cruel, inhuman and degrading treatment.

11.38. There has been some progress however in the provision of mental health services. The Ministry of Health has set up a mental health department. By the end of 2009, all the regional referral hospitals had constructed and furnished mental health units. Those built in HSSP I were functional, staffed with psychiatric clinical officers, psychiatric nurses and, in some cases, social workers. In spite of this, there are

¹⁵¹ See also, Tracking Uganda's health Sector in Budgeting, Financing and Delivery of Essential Medicines (2010) online: http://tap.resultsfordevelopment.org/sites/tap.resultsfordevelopment.org/files/resources/Heps_Report_Final%5B1%5D.pdf

¹⁵² Centre for Health, Human Rights and Development, "Human rights implications of load-shedding" Fact Sheet, online: CEHURD <<http://www.cehurd.org/wp-content/uploads/downloads/2012/06/Load-shedding-factsheet.pdf>>.

¹⁵³ Ministry of Health, Health Sector Strategic & Investment Plan: Promoting People's Health to Enhance Socio-economic Development 2010/11-2014/15 at p.81

¹⁵⁴ New Vision, Over 11.5 million Ugandans suffer disorders, online: <<http://www.newvision.co.ug/D/9/34/715142>>.

¹⁵⁵ Mental Health Bill, 2009

number of challenges. For instance, only Mbarara, Gulu and Jinja have recruited psychiatrists. The mental health unit in the Masaka Regional Referral hospital has been converted into the maternity unit until the new maternity ward is built.

- 11.39. The greatest challenge to mental health services is the general lack of specialized mental health personnel especially in rural areas. The ratio of one psychiatrist to two million people and one psychiatric clinical officer to 500,000 patients is alarming.¹⁵⁶ The situation results in work overload which may cause occupational stress among health workers. Additionally, financing of mental health services remains low. In a research conducted by BASIC NEEDS (UK) in Uganda, it was found that an estimated 1% of the Primary Healthcare budget is used for mental health services.¹⁵⁷ In most facilities, funds are used for basic curative services such as diagnostics and treatment and not preventive services.¹⁵⁸
- 11.40. Moreover, with the new drug distribution system where NMS supplies a predetermined stock of EMHS to Health center IIs and IIIs, Psychotherapeutic medicines such as Chlorpromazine and Phenytoin which are on the essential medicines list have been excluded from the supply.¹⁵⁹ Psychotherapeutic medicines play a crucial role in mental health management and therefore should be available at the lowest levels. With the limited services available, many turn to traditional or faith healers.
- 11.41. The lack of quality community mental health care (accessible, available, appropriate and quality) and stigma including that from health workers also presents challenges and makes the mentally ill vulnerable to human rights abuse and prevents them from seeking treatment.

Recommendations

- (xiv) The government should recognise an explicit right to health as a justiciable constitutional right;**
- (xv) The Government should desist from passing laws which have a negative effect on the enjoyment of the right to health. Discriminatory provisions of such laws as the HIV Prevention and Control Act should be reviewed;**
- (xvi) The Government should review provisions of the Penal Code Act that criminalise abortion, since abortion is a public health and not a criminal issue;**
- (xvii) The government should devise a comprehensive non-communicable diseases policy and prevention strategy, and should commit further resources to this issue;**

¹⁵⁶ Ovuga Emilio, Boardman Jed and Wasserman Danuta, Integrating Mental Health into Primary Healthcare: local initiatives from Uganda, *WORLD PSYCHIATRY* 2007; 6: 60-61; Patience Aber, Poor Healthcare services worry psychiatrists, *THE DAILY MONITOR*, April 23, 2009 at 18,

¹⁵⁷ Ntulo Christine, Mbabazi Costella, Vicent Mujune, *FINANCING MENTAL HEALTH CARE IN SEVEN LOW AND MIDDLE INCOME COUNTRIES: A CASE STUDY OF Uganda (BASIC NEEDS, 2008)* .p.18

¹⁵⁸ *Ibid.*,

¹⁵⁹ Ministry of Health, *Essential Medicines List for Uganda (2007)*; Ministry of Health, *Circular of 26th April 2010 arising from Policy Shift in the Financing of Essential Medicines and Health Supplies (2010)*

- (xviii) The government should commit to increasing the health sector budget, in line with regional and international obligations and should ensure that the budget is efficiently managed and utilised in ways which avoid abuse and misappropriation. Cases of abuse of funds should efficiently be investigated and prosecuted;**
- (xix) Urgent measures should be adopted to improve staffing in the health sector. Measures that should be adopted in this regard include creating financial incentives by increasing the salaries of staff and implementing regulatory requirements that increase service time in rural areas;**
- (xx) The Ministry of Health must increase efforts to build capacity of lower public health facilities to reduce stock-outs. This can be done through increased pharmaceutical and overall management capacities;**
- (xxi) The Government should ensure universal access to family planning information and services. Innovative efforts such as community-based distribution of contraceptives should be undertaken to increase coverage to FP services;**
- (xxii) The Government should adopt measures to improve the proportion of deliveries facilitated by skilled attendants, especially by improving the systems for transport and facilities for safe deliveries throughout the country by ensuring equity between rural and urban areas;**
- (xxiii) Urgent measures should be adopted to ensure that ARV treatment reaches all persons infected with HIV/AIDS and in need of such treatment, particularly children who are eligible but not yet receiving them;**
- (xxiv) The government should take steps to ensure all health facilities have access to and the resources to maintain the basic utilities that are required for them to function;**
- (xxv) The processes of debating and adopting the Mental Health Bill should be fast-tracked and a human rights based approach to legislation should be incorporated into the process; and**
- (xxvi) Government should develop and implement standards and guidelines to integrate Mental Health Treatment into Primary Healthcare. It should also ensure that there is adequate financing for mental health services particularly for psychotherapeutic medicines.**

12. Article 15: Right to take part in cultural life

Key issues

- Culture is a marginalised sector, it has no ministry of its own and financing of the sector of less than 0.03 percent of the national budget is very low;
- The National Culture Policy has largely not been implemented;
- There is no comprehensive and adequate information on Uganda's culture;
- Measures to encourage participation in cultural activities by children leave out children who are not of school going age;
- There is consistent repression of the freedom of speech of cultural/traditional leaders;
- The cultural rights of such indigenous populations as the Batwa have been violated mainly through evictions from their natural heritages

Marginalisation of culture

- 12.1. Culture as a sector is nationally marginalized; with no line ministry of its own, the Culture sub-department within the MGLSD is entitled to minimum human and financial resource. Further, the Culture and Family Affairs Department and the Department of Museums and Monuments are not structurally linked, thus making coordination and delivery of cultural heritage programs difficult.
- 12.2. The culture sector in Uganda commands about 0.03% of the national budget.¹⁶⁰ Due to inadequate funding, statutory bodies like the Uganda National Culture Center and the Uganda Museum cannot deliver on their mandates. The National Culture Policy

¹⁶⁰ This percentage is calculated on the basis of recurrent and development expenditure for both the office of culture within the Ministry of Gender, Labor and Social Development, and the department of Museums and Monuments in the Ministry of Trade and Industry.

remains largely unimplemented since its launch 8 years ago and there is up to present no plan of action for its implementation. The few infrastructures largely made available by the private sector are most often limited to the urban centers, are poorly equipped and cannot access international funding under the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, because Uganda is not party to it.

- 12.3. The country in 2003 adopted the National Information and Communication Technology policy “[t]o promote a conducive environment for media pluralism that will enhance cultural identity and national sovereignty”. In spite of this, comprehensive and accurate information about Ugandan culture is still not readily available, even to people who have access to advanced technology and internet because there is no national database to this effect.

Encouraging participation in cultural life by children

- 12.4. The Government should be commended for organising annual arts festivals for primary schools through the Ministry of Education programmes for primary and secondary schools all over the country. However, although as indicated in paragraph 339 of the State Report, the introduction of UPE has increased the number of children taking part in the festivals, there are still challenges. There is a gap of access to spaces for participation for children who are not school-going. There is also no culture programme put in place by the state for vulnerable children. The recent Lord’s Resistance Army (LRA) insurgency in Northern Uganda has added another significant dimension to worsen the situation; after living for 20 years in camps for displaced people returned home a culture-less people because no effort had been made to preserve the culture during the time of war. “Moreover, there is a large group of returnee youths and children who have difficulty in adjusting to expected social norms (...) a significant number of Acholi youth are engaging in socially objectionable behaviour according to Acholi cultural norms”.¹⁶¹

Repression of cultural leaders

- 12.5. Although as indicated in paragraph 342, the Government reinstated traditional kingdoms, recently, there has been consistent repression from the state concerning freedom of speech and expression.¹⁶² There have also been clashes between the state government and the cultural institutions regarding the role of the overseer over regional resources on behalf of the indigenous community. Government has always insisted cultural leaders should not participate in politics but without giving a clear definition of what “participation in politics” means.

Measures taken to protect and promote awareness of cultural heritage in its diversity

¹⁶¹Roco Wat I Acoli-Restoring Relationships in Acholiland: Traditional Approaches to Justice and Reintegration. Pg.25, Liu Institute for Global Issues and Gulu District NGO Forum, September 2005

¹⁶² The infamous Kampala riots of September 2009 were a result of the state’s intervention in Buganda’s affairs, sabotaging a planned visit of the Kabaka to an area within the kingdom, and subsequently abusing the rights of the Baganda to express their concerns on the issue. Three local radio stations were closed and one, belonging to the kingdom has still not been re-opened one year later.

- 12.6. In line with Article 6 of the Constitution which provides for the use of any other language other than English as a medium of instruction in schools, the government through the Ministry of Education has rolled out a thematic curriculum (2006) that allows for primary children to be taught in their mother-tongue languages, therefore promoting and developing indigenous languages. The proposed new secondary school curriculum also shades some light on culture since some aspects of heritage education have been incorporated.

Protection of historical monuments

- 12.7. Under the 1967 Historical Monuments Act, the state provides for the protection of heritage against destruction. However, this law is outmoded and largely ineffective as it spells penalties as small as UGX 2000 (less than 1 US\$) for the destruction of a heritage site. This has subsequently led to the loss of cultural heritage sites and monuments through destruction by fire, violence and investor-developments. Secondly, the Act narrows the concept of heritage to immovable heritage (Archaeological sites, Monuments etc), to the exclusion of movable and intangible heritage. Looking at heritage from the tangible perspective alone narrows the scope for conservation and appreciation of the dynamic nature of heritage.
- 12.8. The Act has hardly been enforced. On many occasions it has remained silent on the demolition of historical buildings and it has not helped the deplorable state of Uganda's heritage sites. A case in point is Captain Lugard's Fort on the old Kampala hill which was replaced by the Gaddafi Mosque. The fort was a historical monument representing Uganda's colonial history. Updating the national heritage sites list has been at a regrettably slow pace. For instance, by 1972, only 22 sites had been gazetted. It was not until 2007 that the national list was updated to officially include the Constitutional Square on the national list.
- 12.9. The Government has also not taken deliberate measures to engage the British Government to return the artefacts which were illegally taken by the colonial government of Britain. Examples here include artefacts and traditional which were taken from the Kingdom of Bunyoro. It has been indicated that over 300 artefacts, including the 9 legged stool used to enthrone kings, were taken from the Kingdom in the 1890s.¹⁶³ It is alleged that the stool lie at Oxford in Pitt Rivers Museum in England Similar, and even more, artefacts could have been taken from other cultural institutions. Government should establish how many such cultural symbols were taken and engage the British Government to return the same to its rightful owners.

Access to benefits of science

- 12.10. Although as indicated in paragraph 348 of the State Report the Persons with Disability Act 2006 in section 21 (1) urges government authorities to promote the right of Persons with Disabilities (PWDs) to access information though there has not been actual implementation of the Act. Most of the provisions in the law have not been implemented. The National Council for Disability, established in 2003 as the

¹⁶³ See 'Should Britain return the artifacts allegedly stolen from Bunyoro in the 1890s?' *New Vision Newspaper*, 27th August 2014.

principal organ to monitor implementation of disability laws is not effective because of budgetary deficits.

Rights of authors/creators

- 12.11. Government should be commended for adopting the Copyright and Neighbouring Rights Act as indicated in paragraph 349 of the State Report. Nonetheless, the Copyright and Neighbouring Rights Act is relatively new and so far remains largely unimplemented. There is need to commit resources to implement the Act. It is also necessary that public awareness on the provisions of the Act should be promoted.

Protection of indigenous peoples' cultural heritage and traditional knowledge

- 12.12. Government should also be commended for provisions in the Constitution that guarantee the right to equality. The problem though is that there is no specific law that protects the cultural rights of indigenous people against exploitation and dispossession from their cultural environment by government programs and investor developments. A case in point is the marginalization of the Batwa, a minority group in Bwindi Impenetrable Forest who have suffered exploitation and displacement because of the Gorilla Tourism Industry.

Recommendations

- (xi) Government should earmark at least- as a starting point- 1% of the national annual budget for development of the culture sector and related programmes and incorporate heritage education and culture in development approaches in the mainstream education curriculum, from primary to professional level;**
- (xii) Government should establish state and support non-state training centers to promote and develop indigenous knowledge and skills and should ensure scientific and culture cooperation in order to support research and documentation on national cultural heritage, both tangible and intangible. This is in addition to creating a national database of monuments and sites, including those of ethnic minorities. Documentation of customs, oral traditions and indigenous skills of all Ugandans in their diversity should be made available through the multimedia.**
- (xiii) Government should establish new and equip the available infrastructure to provide space for Ugandans to appreciate and participate in cultural activities of their choice and should formulate national by-laws to protect and conserve intangible heritage, including patent laws to protect innovations;**
- (xiv) Government should recognise and facilitate cultural institutions in their entirety, including returning their assets and granting overseer benefits on all profits from regional resources;**
- (xv) Government to should update and implement the Historical Monuments Act of 1967 to incorporate new categories of heritage and encourage community participation identifying cultural heritage resources;**

- (xvi) Government should establish and adequately fund a specific national structure (Ministry of Culture) to ensure proper planning and implementation of cultural development programs;**
- (xvii) The National Culture Policy should be popularised and effectively implemented;**
- (xviii) Government should engage the British Government to return all the artefacts and cultural symbols taken away during colonial rule; and**
- (xix) Government should establish a Cultural Heritage Authority to act as a regulatory body to preserve and promote our cultural heritage.**