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IMPLEMENTATION OF CEDAW COMMITMENTS BY UGANDA FOR 80TH PRE-SESSION WORKING GROUP; UHRC'S
PERSPECTIVE

SUBMITTED BY UGANDA HUMAN RIGHTS COMMISSION

10TH FEBRUARY 2021

1.0 Introduction

UHRC is a national human rights institution established under the Constitution of the Republic of Uganda, 1995 to promote and protect human rights.¹ This submission for CEDAW report is comprised of a brief background, an update on Government's compliance with CEDAW recommendations, a section on emerging human rights concerns and a conclusion. This submission has been a culmination of UHRC annual and special reports assessing the human rights situation in the country. Further, the report is informed from several consultative meetings UHRC has held with various stakeholders over years on the state of human rights in the country.²

2.0 Background

Uganda Human Rights Commission commends the Republic of Uganda for all the efforts geared towards gender equality and the empowerment of women and girls over the years. Among the important steps taken include the incorporation of the commitments to the provisions of the United Nations Convention on the Elimination of all forms of Discrimination against Women (CEDAW) in the legal, policy and planning framework of the Country, namely Uganda Vision 2040, the third National Development Plan 3 (2020/21 – 2024/25); the ratification of the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol); and the recommendations accepted under the Human Rights Council in the State's last UPR.

Despite the efforts made by the Government of Uganda to promote and protect the rights of women, there are still a number of challenges women and girls face. These include poverty, lack adequate health and social care; violence; early and forced marriages and harmful traditional practices such as female genital mutilation among others.

¹Articles 51-54 of the Constitution of Uganda.

²UHRC held a number of national stakeholders meetings with stakeholders to gather this information for its annual report and also carrying out monitoring visits.

2.1 Elimination of Discrimination against girls and women

The Ugandan Government has made efforts to address issues of discrimination against women for instance the 1995 Constitution of the Republic of Uganda prohibits ‘laws, cultures, customs or traditions which are against the dignity, welfare or interest of women or which undermine their status also provides for affirmative Action for women and girls among others.’³

Despite the fact that the Constitution prohibits discrimination there are still laws that have discriminatory provisions and these include: the Customary Marriage Registration Act Cap 248 and the Hindu Marriage and Divorce Act Cap 250 which authorize marriage of girls under 18 years of the age, while the Marriage Act and the Marriage and Divorce of Mohammedans Act Cap 252 do not specify the minimum age for marriage. The express or tacit authorisation of the marriage of persons under the age of 18 years under the laws contravene the Constitution and the Children Act Cap 59. These laws are also incompatible with Uganda’s obligations under Article 21 of the African Charter on Human and Peoples Rights which protects children against harmful social and cultural practices. Furthermore, establishing a lower minimum age for girls while maintaining eighteen years for boys constitutes discrimination on grounds of sex.

The provisions under Islamic law whose application is authorised by the Marriage and Divorce of Mohammedans Act are not clear. It is important that religious laws are applied within parameters that guarantee fundamental human rights principles and are compatible with the essential obligations of Uganda under international human rights laws.

The Commission notes that the proposals in the Marriage Bill would remedy many gaps in Ugandan laws and its obligations under the CRC, CEDAW, the African Charter, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa and other relevant human rights treaties.

Under the Succession Act, the UHRC notes that the recognition of equal rights of children born in or out of wedlock, and the equal rights of adopted children, is very positive. In addition, the power of courts under the law to order maintenance payments for dependent children of a deceased parent whose testament does not

³ Article 33(6), Article 21 and 32 of the Constitution of the Republic of Uganda

provide for them is another positive measure for protecting the rights of children. However, the UHRC is concerned that the priority given to males in the order of succession is discriminatory on grounds of sex. The differential treatment of dependent sons and daughters regarding inheritance of the estate of a deceased parent puts daughters at a disadvantage.

We hope the Committee will in its concluding observations, recommend the following:

- That Uganda enacts a comprehensive law on marriage covering all forms of marriage considered appropriate for Ugandan society.
- The approval of the Marriage Bill should be expedited.
- All legislation on marriage should set the minimum age for marriage at 18 years, as required by Article 34 the Constitution, the CRC and Article 22(2) of the African Charter on the Rights and Welfare of the Child.
- That Parliament should expedite the passing of the Succession(Amendment) Act, 2018 to recognize the rights of women and girls in ownership of property and inheritance;
- The proposed Marriage Bill should recognise the principle that children of parents who are divorced or separated have the right to personal relations and direct contact with both parents.
- The Succession Act should be amended to eliminate the preference accorded to male relatives.

2.2 Elimination of Violence against girls and women

UHRC commends Government of Uganda for adopting a multi-sectoral approach in responding to violence against women and girls. However, Sexual Gender Based Violence in Uganda is still prevalent in the country. According to 2018 Police Crimes Report, defilement was registered as the second topmost reported criminal case with 15,366 cases reported. This was followed by domestic violence with 13,916 cases reported. It was reported that SGBV rates were highest in the Northern region at 48%, followed by the Eastern region at 41% while Western and Central had 5% and 6% respectively. The districts of Kampala, Wakiso, Mukono, Iganga, Rakai and Mbale recorded the highest cases of violence against women and girls. ⁴

⁴ The 21st Annual Report on the State of Human Rights and Freedoms in Uganda in 2018 page 37

The UHRC's findings of 2018 in the sampled 23 districts revealed that SGBV was rampant and remained a challenge in the country. It was mostly manifesting in form of rape and defilement, physical violence such as battering and assault, harmful practices such as Female Genital Mutilation (FGM) and Early and forced child marriages, emotional violence such as verbal abuse and humiliation and economic violence such as denial of access to land, domestic animals and farm produce.⁵ UHRC further noted that SGBV became more prevalent during the country's lockdown as a result of the COVID- 19 pandemic. Media reports and reports from Police reported a high increase in SGBV cases in the year 2020.

We hope the Committee will in its concluding observations, recommend the following:

- Government should adequately fund the criminal justice institutions like the Uganda Police Force, courts of judicature, probation and welfare offices and the directorate of Public Prosecutions, to enable them expeditiously handle and remedy SGBV cases.
- Government should effectively enforce the Domestic Violence Act and other laws.

2.3 Women Human Rights Defenders in Uganda

UHRC notes the contribution and importance of CSOs and CBOs in the promotion and protection of human rights in Uganda. However, UHRC has continued to receive concerns regarding the shrinking space of human rights defenders in the country. In 2018, the UHRC conducted a research on the operating environment of Human Rights Defenders and found out that they faced a number of challenges. These included, the lack of a specific legislation to protect their rights as HRDs, office break-ins, the restrictive legislative environment, torture, harassment, among others. UHRC noted that despite, the large number of HRDs in Uganda, there were specific categories of HRDs who faced consistent harassment, discrimination, risk and disadvantages especially during the year 2018. Women HRDs in particular faced gender-specific threats and violence and in most instances targeted their reputation, sexuality and their role in the cultural settings.

We hope the Committee will in its concluding observations, recommend the following:

⁵ As above

- The Uganda Police Force should speed up and conclude all investigations concerning violations against human rights defenders, and bring the perpetrators to justice and government should enact a specific law that promotes and protects the rights of human rights defenders in Uganda.
- Human Rights Defenders should continue to engage with Government officials so as they can address any issues affecting their working environment without violent confrontation.

2.4 Girls and Women living with HIV and AIDs

UHRC notes that Uganda has made remarkable progress in the national response to HIV/AIDS. HIV/AIDS prevalence has reduced from a peak of 18% in the 1990s to 5.7% in 2018; new infections have reduced from a peak of 162,294 in 2011 to 53,000 in 2018; the number of HIV/AIDS related deaths has reduced from 120,000 in 1998 to an estimated 23,000 in 2018; while the number of people accessing antiretroviral treatment has increased from 329,060 in 2011 to 1.1 million in 2018⁶.

Though there has been notable progress in the national response to the HIV epidemic, there are still gaps to fill in the said response and HIV remains a major public health problem in Uganda.⁷ Furthermore, HIV is the leading risk factor for the development of Tuberculosis (TB), and TB is the leading cause of death among Persons Living with HIV /AIDS (PLHIV).⁸

In addition, UHRC notes that the situation was exacerbated by the COVID-19 pandemic which was declared in March 2020 by the World Health Organization (WHO). The pandemic caused grave disruptions in access to health services, drug stock-outs, access to food, Gender-Based Violence, double stigma and discrimination, and right to health violations for PLHIV/TB and other key populations namely: the elderly, persons with disabilities and the minority groups.

We hope the Committee will in its concluding observations, recommend the following:

⁶ UNAIDS aids info. <http://aidsinfo.unaids.org/> accessed on 1st February 2021

⁷ UGANET Report 'The State of Human Rights violations of Persons Living with HIV /AIDS and TB in Uganda In 2020 page 9

⁸ UGANET Report 'The State of Human Rights violations of Persons Living with HIV /AIDS and TB in Uganda In 2020 page 9

- Government should review of the Prevention and Control HIV/AIDS Act (2014), to ensure that it complies with human rights standards.
- Government should integrate human rights within the realm of direct service delivery which must integrate a rights-based approach for patients and others affected within existing health service delivery programs.

2.5 COVID-19 and Women Rights

UHRC commends Government's policy and strategic direction for the COVID-19 epidemic response. Since March 2020, the GoU has implemented a series of vulnerability reduction and containment measures to curtail transmission of COVID-19. The response to COVID-19 was through a whole-government approach with the involvement of all key stakeholders including; Cabinet, Parliament, MDAs, Development Partners, Religious Leaders, Cultural Leaders, Civil Society Organizations (CSOs), Private Sector entities, Communities and individuals.

However some of the COVID-19 restrictions caused a disproportionate effect on women and other vulnerable persons in Uganda. The restriction of movement as a result of COVID-19 made accessing healthcare services very difficult. Women had to trek long distances to access the health facilities. This put the lives of expectant mothers at risk, not to mention the babies since there was a possibility of giving birth along the way or resorting to traditional birth attendants.

Many people were affected by these restrictions and the most affected were the People living with HIV and AIDs, the sick, expectant mothers, older persons, refugees, Persons with Disabilities, women and girls who were most times caught up in curfew orders and other restrictions. The UHRC noted that Security forces indiscriminately enforced the COVID-19 directives and regulations which resulted in illegal arrests, imprisonment, and detention of PLHIV/TB during the lockdown and there were many cases reported related to gender-based violence cases especially Domestic Violence and separations in families.

We hope the Committee will in its concluding observations, recommend the following:

- Government should ensure that in future cases of emergencies, there should be uninterrupted supply of essential commodities and services to respond to HIV and other global health priorities

2.6 Rights of Indigenous girls and women

Schedule 3 of the Ugandan Constitution (1995) identifies 56 indigenous communities in the country. Both the Batwa and Karamojong are among the 56 communities named in the schedule as indigenous peoples. However, the Ugandan Constitution's understanding of the term "indigenous" is one in which "all Africans are indigenous to Africa". This is, however, not the manner in which the term "indigenous peoples" is understood by the African Commission on Human and Peoples' Rights nor by international law. Groups in Uganda who fall under these criteria for indigenous peoples are nomadic or semi-nomadic hunter-gatherers or pastoralists, such as the Batwa, Benet and Karamojong. There is therefore a gap between the manner in which the Ugandan government perceives the term "indigenous peoples" and the manner in which it is employed by the African Commission and by international organisations such as the UN agencies.

Women from Indigenous communities suffer double discrimination as they are frequently excluded from decision making and their gender interests are never accorded priority even in the national policies and programmes. Indigenous communities do not consider women in resource ownership and always expect only the men to voice their concerns. This is aggravated by lower levels of literacy and education among Batwa women and other indigenous communities.

While a significant level of diversity exists among them, Indigenous women tend to suffer particularly; they are often marginalized and refused access to any property rights or, if they do, they cannot inherit. Gender division of labor, cultural role attached to each gender, and other specific circumstances do exist.

We hope the Committee will in its concluding observations, recommend the following:

- Urgently, ratify the ILO Convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries.
- Comply with the provisions included in the UN Declaration on the Rights of Indigenous Peoples.

- Parliament should address the gaps in the legal and policy frameworks particularly amending the Constitution of Uganda Indigenous Peoples in Uganda receive due recognition under the law.
- The Uganda Bureau of statistics should compile comprehensive statistical data on the social, economic and political status of the indigenous persons in Uganda.

3.0 Emerging Human Rights Concerns

UHRC notes the following persistent and emerging human rights concerns during the period under review: land evictions and compensation issues, violation of digital rights, difficult working environment for HRDs (especially the media, journalists and Non-Governmental Organisations (NGOs), infringement on the freedom of expression and assembly, the plight of older persons and persons with albinism and vitiligo; and indigenous persons and extractive industries.

4.0 Conclusion

UHRC notes that Uganda has made some commendable progress towards implementing the CEDAW recommendations over the past years. There is still however, need for the Government, through its responsible MDAs, to implement the pending recommendations, to effectively address the identified persistent and emerging concerns in order to fulfill its international, regional and national human rights obligations.