

**REPORT OF**

**THE JOINT PROMOTION MISSION  
UNDERTAKEN TO THE REPUBLIC OF  
UGANDA**

**BY**

**COMMISSIONER LUCY ASUAGBOR  
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**&**

**COMMISSIONER PACIFIQUE MANIRAKIZA**

**25 – 30 AUGUST 2013**

Presented to the 55<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights, held from 28 April - 12 May, in Luanda, Republic of Angola

## ACKNOWLEDGEMENTS

The African Commission on Human and Peoples' Rights (the Commission) would like to express its gratitude to the Government of the Republic of Uganda (Uganda) for authorizing this Promotion Mission, and for putting at the disposal of its delegation all the necessary facilities and personnel to ensure the success of the Mission. In particular, the Commission would like to singles out for special gratitude, the Ministry of Foreign Affairs, for the excellent arrangements put in place which enabled the delegation to meet a cross-section of the Uganda society in order to have a fairly representative view of the human rights situation in the country.

The Commission also wishes to thank all the non-governmental organizations (NGOs), independent statutory institutions and other individuals and civil society organizations (CSOs) that found time to meet with its delegation.

## I. INTRODUCTION

1. The African Charter on Human and Peoples' Rights ("the African Charter") sets out in its Article 30 the establishment of a Commission on Human and Peoples' Rights ("the Commission"). The African Charter came into force on 21 October 1986. The first members of the Commission were elected at the 23<sup>rd</sup> Conference of Heads of State and Government of the Organisation of African Unity ("OAU") now the African Union ("AU"), in July 1987, and the inaugural session of the Commission took place in November 1987.
2. Uganda is a party to the African Charter which it ratified on 10 May 1986.
3. Under the African Charter, the Commission is specifically mandated to promote the observance of the rights guaranteed in the African Charter, to interpret and advise on its implementation, as well as ensure protection of the rights and freedoms set out in it.
4. Article 45 (1) of the African Charter in particular implores the Commission to promote human and peoples' rights, and specifically: to carry out studies and research; to conduct visits to States Parties, to gather information on human and peoples' rights; as well as to formulate rules and regulations that could be used by the States Parties in their human rights policies and legislation.
5. The Promotional function of the Commission thus mandates Members of the Commission to undertake promotional missions to States Parties to the African Charter, which enable the Commission to establish communication and links with Member States.
6. It is on this basis that a third Promotion Mission of the Commission was undertaken in the Republic of Uganda, at the invitation of the Government, from **25 to 30 August 2013**, by:
  - i. Honourable Commissioner **Lucy Asuagbor**, Commissioner responsible for monitoring human rights in Uganda, and Chairperson of the Committee for the Protection of the Rights of PLHIV and Those At Risk, Vulnerable To And Affected By HIV In Africa (head of the delegation);

- ii. Honourable Commissioner **Pansy Tlakula**, Special Rapporteur on Freedom of Expression and Access to Information in Africa;
- iii. Honourable Commissioner **Med S.K Kaggwa**, Special Rapporteur on Prisons and Conditions of Detention in Africa; and
- iv. Honourable Commissioner **Pacifique Manirakiza**, Chairperson of the Working Group on Extractive Industries, Environment and Human Rights Violations.

The delegation was assisted by Mrs. **Abiola Idowu-Ojo** and Ms. **Irene Desiree Mbengue Eleke**, Legal Officers at the Secretariat of the Commission.

7. The first promotion mission conducted by the Commission in the country was from 12-21 July, 1998 by former Commissioner E.V.O. Dankwa, while the second country Mission was from 24 July to 31 July 2006 by former Commissioner Mumba Malila and Honourable Commissioner Reine Alapini-Gansou.

## II. TERMS OF REFERENCE FOR THE MISSION

8. The Terms of Reference for the mission were as follows;
  - i. To promote the African Charter through exchange of views and the sharing of experiences with the Government of Uganda and the main stakeholders working in the field of human rights, and to engage them on how to improve the enjoyment of human rights in the State, including identifying how the Commission can assist the State in fulfilling its international and regional human rights obligations;
  - ii. To raise awareness and visibility of the Commission in Uganda, especially among the relevant Government departments and Civil Society Organisations (CSOs);
  - iii. To encourage closer collaboration between the Commission and the Government of Uganda on the one hand, and between the Commission and CSOs in the country on the other;
  - iv. To raise awareness and visibility of the Special Mechanisms of the Commission which are participating in the Mission, in Uganda, and establish contacts between them and key stakeholders in the State working on issues related to their respective mandates;
  - v. To assess the impact of HIV/AIDs in the State, and inquire from the authorities and other stakeholders involved in the fight against the pandemic about the measures and policies put in place for prevention, treatment, care and support interventions; and for the protection of

- people living with HIV/AIDs (PLHIV) and those at risk, vulnerable to and Affected by HIV in Uganda;
- vi. To engage the Government on the legal framework and other measures adopted for the prevention of discrimination and stigmatization of PLHIV, as well as other HIV-related human rights violations;
  - vii. To raise awareness about the importance of the right to freedom of expression and access to information generally, as well as before and after elections;
  - viii. To engage in dialogue with the authorities and relevant CSOs on the state of and measures taken to promote the realisation of the right to freedom of expression and access to information;
  - ix. To pursue a dialogue with competent authorities and CSOs on the issue of the death penalty, including the challenges impeding the abolition of the death penalty in Uganda;
  - x. To meet and have exchanges with the Justices of the Supreme Court and some representatives of the High Court on the issue of the death penalty and the sentencing related to it;
  - xi. To hold discussions with prison administrative officials and other stakeholders on all issues relating to detention and prisons, and on the work of the Commission on this specific theme;
  - xii. To visit prisons in Uganda so as to assess the extent to which conditions of detention comply with regional and international standards;
  - xiii. To hold discussions with the authorities in order to exchange views and collect relevant information on the extractive industries sector, its effects on the environment, and mechanisms to ensure protection of human rights in Uganda;
  - xiv. To inquire about the laws, plans, policies and programmes adopted by the Government on the management of natural resources, and their extraction, in Uganda; and
  - xv. To follow up on the recommendations arising from the Concluding Observations adopted by the Commission at its 49th Ordinary Session, held from 28 April - 12 May 2011, in The Gambia, following the examination of the 4<sup>th</sup> Periodic Report of Uganda, submitted pursuant to Article 62 of the African Charter.

### **III. METHODOLOGY**

9. During the Mission, the delegation met with various stakeholders at the high level in Government, CSOs, as well as other actors who are involved in the protection and promotion of human rights in Uganda, to exchange views and collect the necessary information to establish the

state of human rights in the country, as well as identify how the Commission can assist the State in fulfilling its international and regional human rights obligations.

10. The delegation met with the country's highest authorities, including: the Prime Minister of Uganda, who was represented by the Director of Information and National Guidance; Minister of Foreign Affairs of Uganda, who was represented by the Minister of State for Foreign Affairs/Regional Cooperation; the Speaker of Parliament; the Principal Judge; the Minister of State for Energy and Mineral Development; the Minister of Gender, Labour and Social Development; the Minister of State for Internal Affairs; the Minister of Justice and Constitutional Affairs; the Minister of State for Information, Communications and Technology; the Minister of State for Health; the Chairperson of the Electoral Commission of Uganda; and the Deputy-Commissioner General of Uganda Prisons.
11. The delegation also held meetings with the various national institutions including the Uganda Law Society, the Uganda AIDS Commission, the Uganda Human Rights Commission; and the Uganda Media Centre; as well as with several representatives of civil society and national and international organizations working in the area of human rights law in the country, including the Office of the United Nations High Commission for Refugees in Uganda, Human Rights Network Uganda, and the Foundation for Human Rights Initiative.
12. In addition, the delegation visited the Ugandan Government Maximum Security Upper Prison in Luzira, and the Luzira Women's Prisons, where it met with prisoners and personnel involved in the prisons' administration.
13. The Mission ended with a press conference.

#### IV. GENERAL INFORMATION AND BACKGROUND

##### (a) *Brief Historical and Political Background of Uganda*<sup>1</sup>

14. A former British colony, Uganda gained its independence on 9 October 1962, and became a republic in 1963. Its first President was Sir Kabaka Edward Mutesa II, King of Buganda, and its first Prime Minister was Milton Obote. However, in 1966, Obote introduced a new constitutional order that ended the autonomy of the Buganda Kingdom. He expelled the Kabaka and abolished kingdoms in Uganda in a bloody massacre, which events forced the Kabaka into exile and culminated in a constitutional crisis.
15. Major General Idi Amin, the-then head of the army, later ousted Obote on 25 January 1971 and declared himself 'President'. He subsequently turned out to be one of the worst tyrants of the 20th century as his eight years' rule was reported to have produced economic decline, social disintegration, and massive human rights violations. It is estimated that about 400,000 people were killed during Idi Amin's dictatorship.
16. Amin invaded northern Tanzania in 1978 and Tanzania retaliated with the support of many exiled Ugandan fighting troops, including the Front for National Salvation which was led by Yoweri Museveni. He and his forces were eventually overpowered and driven out of Kampala in April 1979, following which he fled abroad.<sup>2</sup>
17. Thereafter, Yusuf Lule was appointed President but was quickly replaced by Godfrey Binaisa two months later. Eleven months after that, Binaisa was deposed in a military coup and Paul Muwanga was installed as the head of the Military Commission. In 1980, elections were held and Obote, who had returned from exile, contested and won, amidst allegations of malpractice in the electoral process. Dissatisfied with the election results, Yoweri Museveni, retreated into the bush of the Luwero Triangle and started what was to be a long campaign of guerrilla warfare.
18. Obote's reign as president is reported to have been marred by violence and lawlessness within the country, especially by the army. Reports indicate that at least 100,000 lives were claimed as a result of the guerrilla war and human rights abuses between 1980 and 1985. He was finally overthrown in a military

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<sup>1</sup> Sourced from: The 2<sup>nd</sup> Periodic Report (2006) and 4<sup>th</sup> Periodic Reports of Uganda (2011), at [http://www.achpr.org/files/sessions/39th/state-reports/2nd-2000-2006/staterep2\\_uganda\\_2006\\_eng.pdf](http://www.achpr.org/files/sessions/39th/state-reports/2nd-2000-2006/staterep2_uganda_2006_eng.pdf); & [http://www.achpr.org/files/sessions/49th/state-reports/uganda-4th-2008-2010/staterep4\\_uganda\\_2011\\_eng.pdf](http://www.achpr.org/files/sessions/49th/state-reports/uganda-4th-2008-2010/staterep4_uganda_2011_eng.pdf); the State House of Uganda, The Government, <http://www.statehouse.go.ug>; and 'Uganda', at <http://www.infoplease.com/encyclopedia/world/uganda-history.html>; A Brief History of Uganda, available at <http://www.localhistories.org/uganda.html> (all accessed on 24 July 2013).

<sup>2</sup> He died there in 2003, and was never brought to justice.

coup by Tito Okello Lutwa in 1985. On 26 January 1986, the National Resistance Army (NRA), led by Yoweri Museveni, overran Kampala, overthrew the Lutwa government, and Yoweri Museveni was installed as the president of Uganda.

19. Museveni ruled Uganda from 1986 through the National Resistance Movement (NRM) which was subsequently re-organised legislatively and became the Movement System in 1995. He was first elected president in 1996 and subsequently re-elected in 2001. Severe restrictions on multi-party politics were imposed and only non-party presidential and legislative elections were permitted.
20. However, the amended Constitution of Uganda of 2005 allowed political parties to operate, and in the same year, the Parliament abolished a constitutional limit on presidential terms, paving the way for President Museveni to seek a third term. On 23 February 2006 the first multi-party polls were held since 1986 and President Museveni was declared the winner of the elections. President Museveni has since been re-elected in 2011, and remains the incumbent president.

***(b) Current Political situation***

21. Uganda is a Sovereign State and a Republic. It is a sitting member of the United Nations, the African Union, the East African Community and the Commonwealth, amongst others. The Government of the Republic of Uganda is a Democracy made up of three arms: the Executive, the Legislature and the Judiciary.
22. The current Constitution of Uganda was promulgated on October 8, 1995 (the 1995 Constitution), and was amended in 2005 to provide for a multi-party political system and abolish the presidential term limits. It is Uganda's fourth constitution since the country's independence, and constitutes the supreme law of the State. The country operates a multi-party political system, with about 38 registered political parties, and general elections are held every five years.

***(c) Current Structure of Government<sup>3</sup>***

***The Executive***

23. The power of the Executive Branch is vested in the President of Uganda. The President appoints: the Prime Minister with approval of Parliament from among members of Parliament or qualified persons; and the Cabinet, who are

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<sup>3</sup> Sourced from: State House of Uganda (fn 1 above); Chapters 6 – 8, 1995 Constitution of Uganda.

appointed from among the elected legislators. The office of President is contested for after every five years when the constitutional term of office expires, and the President is elected under universal adult suffrage.

### *The Legislature*

24. The National Assembly is unicameral and constituted by the Parliament of Uganda, comprising three hundred and three (303) members. The majority of Members of Parliament are elected through universal adult suffrage, with a provision for special interest groups namely: women, the armed forces, the disabled and the youth, who are elected through Electoral Colleges. The last elections were held in February 2011.

### *The Judicial System*

25. Uganda's legal system is based on the English common law. The Constitution provides for an independent Judiciary which consists of: the Supreme Court, the Court of Appeal, the High Court and other subordinate and special courts established by law, which include the Magistrate's Courts, General Court Martial, the Industrial Court, Land Tribunals, the Local Council courts, Qadhis courts and Family and Children's Courts.

26. The Constitution of Uganda also establishes a Judicial Service Commission (JSC) with a mandate that includes advising the President on the appointments and tenure of Judges of the Supreme Court, the Court of Appeal and the High Court, the Chief Registrar and Registrar, who are appointed with the approval of Parliament. The JSC also receives public complaints concerning the judiciary and the administration of justice, and advises Government on how the administration of justice can be improved.

### *(d) General Information about Uganda: The Land and the People<sup>4</sup>*

27. The country which has a population of approximately 34.76 million is landlocked and bordered by Sudan to the North, Kenya to the East, the Democratic Republic of Congo to the West, and Tanzania and Rwanda to the South. The country comprises 65 different indigenous communities, with the Baganda forming the largest group. The population is mainly Christian, while Islam and indigenous beliefs are also being practised. The official languages are English and Kiswahili

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<sup>4</sup> Sourced from: CIA World FactBook, at <https://www.cia.gov/library/publications/the-world-factbook/geos/ug.html>.

28. Uganda's economy is predominantly agricultural and its main exports are currently coffee, fish and fish products, tea, tobacco, cotton, corn, beans and sesame.

*(e) Ratification of International and Regional Human Rights Instruments*

29. Uganda has ratified or acceded to the following international instruments: the International Covenant on Civil and Political Rights (ICCPR); the First Optional Protocol to the ICCPR; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Elimination of All forms of Discrimination against Women (CEDAW); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); the International Convention on the Elimination of All Forms of Racial Discrimination; the International Convention on the Rights of all Migrant Workers and their Family members; the Convention on the Rights of the Child and its Optional Protocol; the Rome Statute on the International Criminal Court; the Convention on the Status of Refugees; the Four Geneva Conventions of 1949; the First Geneva Protocol on the Protection of Victims of non-International Armed Conflicts; the Second Protocol to the Geneva Conventions on the Protection of Victims of Non-International Armed Conflicts; the Convention on the Rights of Children in Armed Conflicts (2000); the Convention on the Prohibition of the Use, Stock Piling, Production and Transfer of Anti-Personnel Mines and their Destruction (1997); the Convention on the Rights of Persons with Disabilities; and the International Convention for the Protection of All Persons from Enforced Disappearance.

30. Uganda has not ratified the Second Optional Protocol to the ICCPR on the Abolition of the Death Penalty, the Optional Protocol to the CAT, as well as the Optional protocol to the CEDAW.

31. At the regional level, Uganda has ratified or acceded to the following: the African Charter; the African Charter on the Rights and Welfare of the Child; the Convention Governing Specific Aspects of Refugee Problems in Africa; and the Protocol to the African Charter on Human and Peoples' Rights on the establishment of an African Court of Human and Peoples' Rights (the Court's Protocol; the Protocol to the African Charter on the Rights of Women in Africa) (Maputo Protocol); and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention).

32. However, Uganda has not ratified the African Charter on Democracy, Elections and Good Governance; and has not made the Declaration provided for under Article 34 (6) of the Court's Protocol.

#### IV. CONDUCT OF THE MISSION

33. This section of the Report provides highlights of the series of meetings held with diverse stakeholders involved in the protection and promotion of human rights in Uganda.

##### **Courtesy Call on the Prime Minister's Office**

34. The Mission started with a courtesy call to the Office of the Prime Minister of Uganda, **H.E Patrick Amama Mbabazi**, who was represented by the **Director of Information and National Guidance, Mr. Mayende Simon**. In her introductory remarks, Commissioner Asuagbor expressed the gratitude of the Commission to the Prime Minister, and gave an overview of the mandate of the Commission and the objectives of the Mission. She also called on the country to ratify outstanding international and regional human rights treaties, and to submit its outstanding State Report.
35. The representative of the Prime Minister welcomed the delegation, invited the delegation to carry out a successful mission and conveyed the Government's commitment to provide the requisite support to the Mission. Thereafter, the delegation had useful discussions with him and other officials present, about the efforts being made by the Ugandan Government in the fulfilment of its human rights obligations, including amongst others: the passage of an anti-torture law; the ongoing consultations and other measures towards the abolition of the death penalty; measures to establish an inter-Ministerial Committee to follow up on the ratification and domestication of regional and international human rights treaties; the adoption of affirmative action in elections, in respect of marginalized groups; efforts in respect of refugees and internally displaced persons (IDPs); and measures for the protection of the rights of Indigenous Peoples. The delegation also referred to the reported allegations of killings in the 2009 and 2011 riots, and wanted to be assured that all the perpetrators have been brought to justice.
36. On the issue of pending ratifications, Mr. Mayende noted that Uganda has gone a long way towards achieving its human rights obligations, and stated as regards the treaties yet to be ratified that there are procedures to be followed. He informed the delegation that the Government had taken

measures to establish an inter-Ministerial Committee to follow up on the ratification and domestication of regional and international human rights treaties, and added that, even though Uganda has not ratified the Optional Protocol to the Convention Against Torture, it has penalized torture and enacted the Prevention and Prohibition of Torture Act on 26 April 2012. The delegation was also informed that international treaties that have been ratified form part of the domestic law.

37. On the issue of the death penalty, the delegation learnt that there are ongoing consultations with various stakeholders towards the abolition of the death penalty.
38. Furthermore, as regards refugees, the delegation understood that there are about 200,000 Refugees, 70% of whom are Congolese, and that all refugees live in settlements dedicated to them. He precised that the country has laws governing the situation of refugees and asylum seekers namely: the 1951 Convention Relating to Refugees and the Refugee Act of 2006. The delegation was further informed that the Government has established a National Disaster Platform to discuss interventions related to IDPs, and that a National Coordination and Operation Centre is also being put in place to deal with IDP issues, in partnership with WHO, UNICEF, Save the Children and various local partners, including the Uganda Red Cross Society which handles emergencies. Mechanisms are also being put in place to implement the Kampala Convention, especially since Uganda steered the ratification.
39. On the indigenous population, the delegation learnt that the Government has adopted affirmative action programs in respect of marginalized groups, which are mostly handled by the Gender Ministry, and that the setback however, is that, while the Government may be willing to uplift the standards of the indigenous peoples, they are more comfortable with their cultural practices and lifestyles which do not accommodate certain facilities that would bring them at par with the rest of the country. Notwithstanding these, the Government is deploying efforts to improve the standard of living of the indigenous peoples, and specific examples were given of the Batwa, who are encouraged to be part of the management of tourism, and the Karamojong of North-East Uganda, who now produce their own food with some support, and among whom the Government is carrying out advocacies on the importance of education.
40. Regarding the general human rights situation in Uganda, Mr. Mayende stated that, the country has made great strides especially coming from a

history of crises. He noted that some gains have been made over the course of the last decades, especially in the area of access to education, where Uganda has established a free universal primary and secondary educational scheme which has increased enrolment, especially of poor students. He indicated that the scheme has also created jobs and resulted in more schools being built.

41. Mr. Mayende further stated that there is stability and peace in the country, which explains why Uganda has been documented by the Cable Network News - an international media outfit - as the best tourism site in the world.
42. The above notwithstanding, he gave details about the wave of protests which took place in September 2009, leading to the deaths of at least 40 people, and in April 2011, resulting in the deaths of at least nine people. He refuted the allegations that investigations have not been carried out by the Government to bring the perpetrators to justice, and stated that the concerned perpetrators have indeed been duly tried, convicted and sentenced.
43. The delegation learnt that the Ugandan health sector needs resuscitation because challenges continue to exist due to insufficient human capacity to meet up with the requirements in the health sector.
44. In closing, the delegation commended the Government for collaborating with the Commission, and noted that the Uganda Human Rights Commission won the topmost Award at the Commission's 25th Anniversary Awards, as the Best African National Human Rights Institution.

#### **Courtesy Call on Minister of Foreign Affairs**

45. Next, the delegation paid a courtesy call to the office of the Minister of Foreign Affairs of Uganda, who was represented by the Minister of State for Foreign Affairs/Regional Cooperation, **Honourable Asuman Kiyingi**. The Honourable Minister welcomed the delegation and noted the purpose of its Mission, expressing his commitment to support the same. The delegation extended its gratitude to the Government for authorizing the Mission. It also expressed appreciation for its consistent representation during the Sessions of the Commission. It reminded the State of its outstanding treaty obligations and to submit its outstanding periodic State Report to the Commission, and also invited it to consider hosting an Ordinary Session of the Commission.

46. Following discussions with the delegation, the Minister noted the need for the Government of Uganda to ratify outstanding international and regional human rights instruments, subsequent to which he elucidated the process of ratification under Ugandan law. He also informed the delegation that the process for the preparation of the outstanding periodic report of the State under Article 62 of the African Charter was underway. He also undertook to carry out necessary consultations regarding the invitation to consider hosting a Session of the Commission.

### **Meeting with the Minister of Energy and Mineral Development**

47. The delegation also held a meeting with the Minister of Energy and Mineral Development, **H.E Hon. Eng. Irene Muloni, Minister of Energy and Mineral Development**, who was represented by the Minister of State for Energy and Mineral Development, **Honourable Lokeris Peter**.
48. After a briefing on the mandates and works of the Commission, in particular, its special mechanism on Extractive Industries, Environment and Human Rights Violations, the delegation sought the following responses and clarifications from the Minister: the steps taken by the Government to ensure that the local population will benefit from the extraction of the natural resources in Uganda; the extent to which environmental impact assessments (EIAs) are conducted in advance of all development projects and made available to the public; how the interruption in fishing activities in Lake Albert due to oil explorations is being addressed; the status of bills pending in Parliament regarding the regulation of the oil and gas sector; the progress made in preparing the country to join the Extractive Industries Transparency Initiative; and the extent to which the Government interacts with CSOs working in the oil and gas industry.
49. In response, the Minister noted that Uganda is taking measures to ensure that the revenues from the oil and gas extracted in the country are used for the benefits of all the citizens, and in this regard, it has put in place laws and policies to regulate the industry, including the Petroleum (Exploration, Development and Production) Act, 2013; the Petroleum (Refining, Gas Processing and Conversion, Transportation and Storage) Act, 2013; and the Oil and Gas Revenue Management Policy 2012. He further stated that there are legal and policy frameworks in place: ensuring the compulsory prior conduct of EIAs,

the preservation of the environment/ecological system, and the conduct of environmental restoration in the event of pollution; regulating labour rights and prohibiting the use of child labour; aimed at utilizing the oil and gas revenues to reduce and eliminate poverty, ensuring value addition to the country and creating energy security and lasting resources.

50. The Minister also informed the delegation that Uganda had, in formulating its oil and gas laws and policies, understudied best practices from other African countries with similar resources, including: adopting a local content policy; initiating processes towards adopting an extractive industry transparency initiative; and ensuring that oil and gas companies make provision for Corporate Social Responsibility. He also indicated that the Ministry duly consults and engages stakeholders including the local communities where the oil explorations are being conducted and pays adequate compensation to landowners.

#### *Meeting with the Minister of Internal Affairs*

51. The delegation was received by the Minister of State for Internal Affairs, **Ambassador James Baba**.
52. The delegation was briefed on the mandates of the Ministry which has the overall aim of ensuring security, law and order in the country, and oversees the Police Department, the Prisons Department and the Immigration Directorate. It also regulates the operation of NGOs.
53. The delegation sought to know, amongst others: the efforts made to contain alleged Police brutality in the country; measures taken to provide human rights training to the Security Forces; the state of the Ugandan prisons and the treatment of inmates; how HIV/AIDS is being prevented and managed in the prisons; whether adequate space is being granted to NGOs to operate in the country and measures taken to protect human rights defenders; and steps taken to implement the previous recommendations of the Commission with respect to the Police Force and the Prisons.
54. In response to the allegations of Police brutality, the Minister noted that the Police is constitutionally mandated to enforce law and order, and explained the delicate nature of balancing the citizens' rights with the role of the Police in managing the society, which has sometimes resulted in clashes and allegations of Police brutality. He assured the delegation that allegations of such brutality have been duly investigated

and the perpetrators brought to justice. He also noted that there are instances where Police Officers are the victims in the hands of the aggressive demonstrating public, and cited specific instances of brutality against the Police.

55. Furthermore, as regards public assemblies and protests, he noted that the Constitutional Court of Uganda in its decision, reserved the right of the Police to grant prior permission for, and regulate peaceful and unarmed public assemblies or demonstrations. In this regard, he commended the Ugandan Human Rights Commission (UHRC), which initiated *Guidelines for Managing Public Demonstrations*, which are being utilized by the Police. He further noted that there was a *Public Order Management Bill* that was pending in Parliament.
56. As regards human rights trainings, the delegation was informed that the Police Force generally receives routine training in human rights, and that the Police School has a human rights directorate. With specific reference to torture, it was indicated that the Police has been sensitized and trained on the recently enacted Prohibition and Prevention of Torture Act, 2012.
57. With respect to the Prisons, the delegation was informed that the prisons are rehabilitative and that provisions are made for formal education as well as skills acquisition for prisoners. Specifically, it was noted that the Ugandan Prisons have been recognised in the country as being the most productive in the Agricultural sector. Furthermore, it was noted that: there are efforts to decongest the prisons by utilizing community service and plea-bargaining to decongest the prisons; prison officers receive human rights trainings; the prisons are monitored by the Justice, Law and Order Sector (JLOS) – an inter-Ministerial Committee, the UHRC and the Parliament, amongst others and there is an accountability mechanism for the prison authorities, including that prisoners have the right to make complaints to the JLOS; and, measures are being taken to prevent and treat HIV/AIDS in prisons, including through the separation of female and male prisons, sensitization of prisoners, and the provision of free access to voluntary testing and HIV treatment.
58. On the regulation of NGOs, the delegation was informed that NGOs are required to be licensed annually by the NGOs Board. They are also required to align their mandates with the priorities of the Government and the local communities, and to indicate their sources of funding and submit an annual financial report. NGOs may be de-registered, if

dormant. It was also noted that generally, there is a good relationship between the Government and NGOs, and that the work of the majority of NGOs serve to complement the efforts of the Government. To this end, the Minister noted that there is an NGOs Bill that is pending in Parliament, which seeks to set out the framework for the regulation of NGOs, and that this Bill provides amongst others, for the national NGOs forum to be represented on the board of the monitoring body under the NGOs Act that will emerge.

59. The delegation noted with concern that the requirement of annual licensing is tedious and poses the risk of NGOs experiencing delays in the renewal of their operational licences which may impact their activities and effectiveness; in response to which the delegation was informed that this requirement is to ensure accountability and the protection of the society, as well as the rational use of public resources.
60. Furthermore on this issue, the delegation referred to reports of the obstruction of the operations of NGOs working in the areas of lesbian, gay, bisexual, and transgender (LGBT) rights, who are allegedly precluded from registering to operate legally as is required under law, and noted with concern that LGBTs have the same rights as everyone else. In response to this, the Minister indicated that while the existence of LGBTs is noted, they are not publicly tolerated.
61. Finally, as regards steps taken to implement the previous recommendations of the Commission, the delegation was informed that the Ugandan authorities have since built ten (10) more prisons around the country in a bid to achieve decongestion. However, concerning the recommendation to desist from appointing military officers into the leadership of the police force, the delegation was informed that the Government has continued this practice and intends to maintain the same, as it is considered to be effective.

#### *Meeting with the Minister of Gender, Labour and Social Development*

62. The delegation met with the Minister of Gender, Labour and Social Development, **H.E, Hon. Mary Karoro Okurut**, who welcomed the delegation, noting that the Commission's visit is very important at this time when Uganda is making progress in the area of human rights, and proceeded to explain the mandate of the Ministry.
63. In the discussions that followed, the delegation sought to know amongst others, the Government's positions on the issues of:

homosexuality; abortion and reproductive health rights; rape and other forms of gender violence; domestic violence; cases of sexual harassment in work places; gender equality and participation of women in politics; forced marriages; Female Genital Mutilation (FGM) and other harmful practices; persons with disabilities (PWDs); the status of HIV/AIDs in the country; and forced evictions.

64. On the question of homosexuality, the delegation understood from Honourable Okurut that the Government does not condone homosexuality, and that the perception is that homosexuals should not exercise their sexual preferences in public.
65. Regarding gender equality, she stated that even though there is still a lot to be achieved in terms of the emancipation of women in Uganda, great strides have been made, as the Government has gone a long way in making the issues of women top priority on its agenda, through a friendly legislative framework that provides for affirmative action for women. The Uganda Constitution of 1995 integrates female representation quotas of at least 30% in decision-making institutions, allowing women to contest for leadership positions outside affirmative action seats. Uganda is yet to meet the required quota, but is moving towards achieving it. Before 1996, 20% of women were represented in politics, and since 2006 after the adoption of the Parliamentary Elections Act, 46% of women are now represented.
66. The Honourable Minister stated that Uganda has a unique quota system which entails the creation of special 'add-on' seats for women at national and local government levels. Further to this, some Ugandan laws and policies also provide more opportunities for women to contest for elective positions, including the Uganda Gender Policy of 2007, which promotes gender mainstreaming in all Government ministries and district local governments.
67. On sexual harassment, the delegation was informed that a country wide research on the issue especially specific to work places was underway, and that sensitization campaigns are being carried out by NGOs and other stakeholders, with the Ministry being at the forefront.
68. On the question of FGM, the Minister informed the delegation about the Prohibition of FGM Act of 2010, which is currently being enforced. She stated that discussions are underway on measures to stop traditional surgeons from carrying out FGM.

69. Further, the Minister stated that the issue of domestic violence is governed by the Domestic Violence Act, 2010 and its subsidiary regulations. The Ministry also has sensitization programs on sexual based violence, and other programs which provide shelters to affected victims. The Honourable Minister informed the delegation about the following other measures, aimed at protecting women from sexual violence: the Sexual Offences Bill which objectives include – consolidating laws relating to sexual offenses, combating sexual violence, and providing for punishment of perpetrators of sexual offenses; the Ministry’s Guidelines for the provision of shelters for female victims of gender based violence; and the provision of counselling and psycho-social support to victims of rape, including boys who have been sodomized.
70. The delegation also learnt that the Marriage and Divorce Bill which is still in Parliament addresses property rights for women. However, the Bill is stalling due to conflicting cultural beliefs and values amongst the Ugandan public, and has thus been shelved in the meantime to enable wider consultations. The prerogative to determine the number of children to have in a marriage still lies with men in Uganda, an issue which is also covered by the pending Marriage and Divorce Bill.
71. On the legal status of abortion, it constitutes a crime, except for situations where conducted for the protection of the life of the mother. The Ministry is however advocating for abortion to be permitted in cases of pregnancy due to rape or incest in line with the Maputo Protocol, especially having regard to the problem of rape in the areas of the country affected by insurgencies. In this context, the Minister noted that while Article 14 of the Maputo Protocol addresses this issue, Uganda regrettably made a reservation to this provision during its ratification of the Maputo Protocol.
72. Regarding PWDs, the Minister noted that there is an affirmative action program in place for them, for purposes of ensuring their representation in Government, as the law reserves 5 seats in parliament for representatives of PWDs. The National Council on Disability Act of 2003 also establishes the National Council on Disability, which monitors and regulates how the Government and CSOs are implementing policies on disabilities. Furthermore, in the years 2009/2010, Government introduced a special budget allocation for disabilities. Government also sought to enhance access to employment for PWDs through the amendment of the Employment Act of 2010, the grant of tax waivers to companies for employing PWDs, and the creation of an Equal Opportunities Commission, which seeks to create equal opportunities for women,

children and PWDs. It is expected that the law on PWDs will further be amended following Uganda's ratification of the UN Convention on PWDs.

73. The delegation also learnt that there is a Building Control Act of 2013, which aims at ensuring that buildings in the country are disabilities-friendly, so as to provide PWDs with access to public locations. Also, the Government seeks to enhance PWDs' access to information (including the use of sign interpreters on television stations) through the enactment of the Visual Accessibility Act of 2005. Efforts are also being made to enhance PWDs' access to education through the enactment of the Uganda National Institute of Special Education Act of 1998, for the training of teachers to handle persons with disabilities and special needs, and most examinations allow extra time and other concessions for PWDs.
74. At this point, the meeting was joined by a member of the UN Committee of Experts on the rights of PWDs, together with a team from the Australian University, who were at that time conducting research on refugees with disabilities in Uganda. The UN Expert and his team briefed the Commission's delegation about their research on refugees with disabilities in Uganda, and their advocacy for the recognition of PWDs in refugee situations. There were also exchanges on the Special Mechanisms of the Commission on PWDs, and the existing collaborations with the UN mechanism.
75. On older persons, the delegation learnt that there is a social protection program and a social security system established by the Government for senior citizens, through the allocation of special grants to them. Under the social security system, older persons of 65 years and above who are unemployed qualify for 25,000 Ugandan Shillings (about \$10) per month.
76. As regards street children, the delegation learnt that they are mostly from the Karamoja region. In this regard, the Ministry has adopted a multi-sectoral response through a consortium of Government agencies dealing with this issue, including the Minister for Karamoja, which meets on a monthly meetings towards finding solutions to the problem of street children. There are also facilities for these children when they are taken off the streets, and they are eventually relocated back home and re-united with their families. The delegation further learnt that there are mafias who bring these children to Kampala, use them to make money through alms-begging, and then send them back to unknown locations. To curb this practice, the Kampala City Council Authority has enacted a law that imposes fines on people who give money to such children.

77. On the unemployment rate in the country, the Ministry indicated that it is working on strategies to improve youth employment through the Youth Employment Policy of 2010 and the Labour Unions Act. To further address unemployment, the Government has, through the Directorate of National Training, introduced the teaching of practical skills for which certificates are issued upon completion. Vocational business trainings have also been introduced to complement white collar jobs, while the Externalisation of Labour Unit in the Ministry has also adopted temporary measures of exporting labour to other countries, while taking measures to prevent human trafficking.
78. With regards to indigenous peoples in Uganda, the Minister noted that the Traditional Rulers Act guarantees the rights of minority groups to freedom of choice of social organisation and leadership, including the rights to associate, choose leaders and resolve disputes in communities.
79. Finally, on the issue of forced evictions of people from their homes and lands for exploration of oil and gas in the oil-rich Albertine region, the delegation was informed that the Land Use Act (as amended in 2010) addresses land rights issues, and enhances security of occupancy of lawful and *bona fide* occupants on registered land. It was however noted that despite this law, there are still many Ugandans who do not fall within the purview of *bona fide* land owners and that the Cabinet has therefore developed a Land Owner Policy and National Land Use Act to deal with these issues.

#### *Meeting with the Speaker of Parliament*

80. The delegation had a meeting with the Honourable, Speaker of Parliament, **Rt. Honourable Rebecca Alitwala Kadaga**.
81. The delegation commended the Parliament for the adoption of a number of laws which have a positive bearing on the human rights situation in the country. It also raised concerns about the outstanding Bills pertaining to human rights in the country, including the new private member's Bill on Anti-Corruption of 2013, which seeks to amend the Anti-Corruption Act of 2009 and which is criticized for not being adequate to combat corruption; the Marriage and Divorce Bill over which there has been an impasse for over 14 years; the controversial Anti-Homosexuality Bill; the Press and Journalists (Amendment) Bill, 2010, which allegedly lacks adequate legal safeguards against infringements of the right to freedom of expression; the NGOs Bill that is anticipated to

restrict the licensing of NGOs; the HIV Control and Prevention Bill, which allegedly mandates involuntary testing and disclosure of status; the Uganda Anti-Counterfeit Bill 2010; and the Public Finance Bill 2012; amongst others.

82. The delegation further enquired about the following issues: The role of Parliament in the ratification of international instruments; the role of the Human Rights Committee in Parliament; participation of women, ethnic minorities and PWDs in Parliament; the interface between the Parliamentary Human Rights Committee and the UHRC; the Government agency responsible for following up on the ratification of treaties; the death penalty and the issue of imposition of prison sentences beyond the life spans of prisoners; and the extent of implementation of the Access to Information Act.
83. Honourable Kadaga informed the delegation that the Parliament was working on expediting the adoption of the referenced pending Bills, and that Parliament had successfully passed some very important laws including: the Prohibition of Female Genital Mutilation Act 2010; the Domestic Violence Act 2010 and its regulations; the Access to Information Regulations 2011; the Prohibition and Prevention Against Torture Act 2012; the Petroleum (Exploration, Development and Production) Act, 2013; the Petroleum (Refining, Gas Processing and Conversion, Transportation and Storage) Act, 2013; the Building Control Act of 2013; the Anti-Money-Laundering Act of 2013; the Oil and Gas Revenue Management Policy 2012; and The Constitution (Sentencing Guidelines) for Courts of Judicature (Practice) Directions, 2013.
84. On the role of Parliament in the ratification of treaties, the delegation learnt that each Ministry deals with various treaties falling within the lines of their mandates without involving Parliament, and only submit them to Parliament for ratification. Parliament therefore has a statutory role to ratify treaties as presented by these Ministries without amending them. These treaties are essentially brought to Parliament by the Ministry of Justice.
85. On the Human Rights Committee, the delegation learnt that the Committee was established by Parliament to exhibit the latter's commitment to upholding human rights in its legislative processes so as to contribute to Uganda's growing democracy and good governance. The delegation also learnt that the Human Rights Committee is essential to the realization of the tripartite mandate of Parliament namely: representation, legislation and oversight. It monitors the Government's

observance of human rights; considers the reports of the UHRC; ensures implementation of international human rights treaties; carries out sensitization meetings on human rights; undertakes fieldwork to prisons to inspect facilities; and generally enables Parliament to better prioritize and focus on human rights issues more critically than before.

86. With respect to the interface between the Human Rights Committee and the UHRC, the delegation learnt that the Committee does not get involved or usurp the powers of the UHRC, but only makes recommendations which are implemented by the UHRC.
87. Regarding participation of women and other vulnerable groups in Parliament, the delegation was informed of the Uganda Parliamentary Forum on Social Protection, which deals with the social and economic transformation for vulnerable persons. The delegation learnt that PWDs have 5 representatives; of 132 Parliamentarians, 34% are women, and 40% of Chairpersons of Parliamentary Committees are women.
88. Regarding the death penalty and the imposition of life sentences beyond the life span of prisoners, the delegation learnt that the most severe sentences known to the penal system of Uganda include the death penalty, imprisonment for life and imprisonment for a term of years. Imprisonment for life is the second gravest punishment because even though the death penalty is constitutional, it is not mandatory. However, life imprisonment is not defined in the Statutes prescribing it, as a result of which it is not clear whether life imprisonment means for the rest of the life of the convict or for a period of twenty years only. According to Section 47(6) of the Prisons Act, for the purpose of calculating remission, a sentence of imprisonment for life shall be deemed to be twenty years imprisonment. The delegation was also informed that the backlog of cases force convicts to stay in prison longer than their sentences, and that there is a need to clearly define the scope of life imprisonment in the statute books.

*Meeting with the Deputy-Commissioner General, Uganda Prisons, and visits to selected Prisons*

89. The delegation met with the officials of the Uganda Prisons Service, where they were welcomed by the Deputy Commissioner-General of Prisons, **Mr. James Mwanje**.
90. The delegation was generally briefed on the procedures for the handling and treatment of persons in detention and prisons, and each

official heading relevant sections of the Prisons Service. Amongst others, the delegation was informed that the law prohibits the torture of detainees and prisoners and that in the event of such, perpetrators are duly brought to justice; CSOs and other stakeholders have free access to the prisons for purposes of inspecting and reporting on the state of the detainees and prisoners; and that the Prisons Service has a Human Rights Committee in every prison, which reports to the headquarters of the Prisons Service on a monthly basis.

91. The delegation was also informed that: the Prison Service is under the Ministry of Internal Affairs; there are a total of 224 prisons across the country in 104 districts; the average population of inmates was 36,500 as at July 2013 - 51% were convicts while the remaining were still awaiting trial; there were approximately 6000 male and female uniform staff and other Service Officers in medical, engineering and correctional services; the Service is equipped with skills to manage the anger of inmates when they leave prison; the Service has an educational program for adult literacy from primary to advanced level; and the Service adheres to international standards of prison conditions with the provision of 3 meals a day, water, beddings, 2 blankets per prisoner and prison uniforms.
92. The delegation thereafter sought responses and clarifications from the officials regarding: guarantees for fair trials of inmates, especially as regards incidences of forced confessions; trainings on human rights for prisons officials; prisoners on death row; the population density in the prisons; facilities for health care and the well-being of prisoners; procedure for bail of prisoners held on remand, particularly the mentally ill; provisions for elderly, long-serving and terminally ill inmates; alternative sentencing in prisons; and HIV/AIDS prevention, treatment, care and support interventions.
93. In response to the enquiries regarding remands, the delegation was informed that whilst there is a tendency for inmates to overstay on remands, there are efforts by the Prison authorities to clear the backlog of the number of people overstaying on remand, including a monthly review and the use of plea-bargaining. It was noted that the prolonged remand is due to the fact that the law is silent on the period of committal, and this poses a challenge.
94. To speed up trials, Government has also tried to resolve the issue of inmates who overstay on remand by establishing a Criminal Case Committee headed by a Magistrate. Since the establishment of this Committee, there has been a reduction in the number of inmates staying

on remand. However, the Committee does not deal with high profile cases because the High Court must pronounce sentences. The delegation also learnt that even though Parliament passed a law defining the period that inmates should stay on remand, it was silent on high profile criminals.

95. Concerning inmates on death row, the delegation learnt that the Court of Appeal now commutes death sentences to life imprisonment. The delegation was informed of the establishment of the National Vision and Strategy for Justice which is meant to co-ordinate efforts of different stakeholders to address backlogs in courts. The judiciary, the prosecution services, correctional services, amongst others, are members of this coordinating structure. This initiative has led to the adoption of the Speedy Court Trial Act in terms of which if there is no reasonable ground for delays, an accused person is released.
96. Furthermore, the delegation learnt that human rights training has been incorporated in the training curriculum for the Prisons officials, and that officers are prosecuted in the event of torture of inmates and dismissed through disciplinary proceedings. The delegation also understood that prisons have human rights committees, comprised of the prisoners themselves.
97. Also, regarding the issue of overcrowding, the delegation understood that the conditions have improved, as nine (9) new prisons have been built since 2009. Female and male prisoners are kept separately, and the female prisons are guarded by female prison officials. Children born in prisons are kept with their mothers until they attain the age of eighteen (18) months, after which the Ministry of Gender facilitates foster parenthood for them until the mothers are released from prison.
98. On the health facilities in the prisons, the delegation was informed that the prisons have a Health Service Department which provide health care facilities for the prisoners. With particular reference to the HIV/AIDS in the prisons, the prisons have a fully-fledged HIV/AIDS program, with 800 therapy sites across the country, and about five percent (5%) of the prisoners enrolled in HIV care. Health screenings are conducted for new entrants, including voluntary HIV/AIDS testing, testing for tuberculosis and for nutritional status. HIV/AIDS prevalence, as well as the mortality rate in the prisons are also stated to have dropped over the years as a result of several medical and health interventions.

99. Finally, the delegation was informed that the Correctional Services enjoy good relationships with NGOs. The Commissioner of Correctional Services also informed the delegation of an association of Ex-Prisoners which was formed under his initiative.

### **Visit to Selected Places of Detention**

100. This section of the Report gives a brief description of the selected detention facilities visited by the delegation. These were: the **Maximum Security Upper Prison in Luzira**, and the **Luzira Women's Prisons**.

### **The Maximum Security Upper Prison, Luzira**

101. The delegation visited the Maximum Security Upper Prison, Luzira, situated in Kampala, the capital city. They were received by the Officer-in-Charge, Mr. Magomu Wilson (ACP). Mr. Wilson gave the delegation a brief description of the prison explaining that it is the maximum security prison for men in Uganda, with a maximum capacity of 1,000 inmates. Prisoners who are incarcerated in the Maximum Security Upper Prison are prisoners who have committed serious crimes such as murder, treason, rape and terrorism. The Prison also houses the death row inmates, who were indicated at that date to be about 325 in number, with about 200 awaiting the decision of the High Court on the mitigation of their sentences. The delegation was informed that the number of prisoners on death row had decreased following a 2009 Supreme Court ruling, upholding the judgment delivered by the Constitutional Court in 2005 in *Susan Kigula & 416 Others -v- Attorney General*, which declared the mandatory death sentence as being unconstitutional. In this regard, it was noted that the Jinja Prison which used to house death row inmates had since been closed.
102. The delegation noticed that the surroundings of the Prison were fairly clean with organic vegetables, but overcrowded. With an average capacity of 600 inmates, and a maximum capacity of 1,000 inmates, the prison was housing, as at the time of the visit, 3,336 inmates. Consequently, the delegation understood that there are insufficient sleeping spaces and the prisoners have to sleep in turns. The rooms, which measure about 300 square metres (30m x 10m) each, accommodate 240 inmates, as opposed to a maximum capacity of 100 inmates. Furthermore, the delegation understood that due to the congestion, the prisoners are minimally confined, and spend most of their day outdoors, which is not typical of a maximum security prison, and also that the facilities in the Prison are grossly inadequate.

103. The delegation also noticed that the Prison had separate wings for long-term and life sentence prisoners, who are prisoners with the most serious offences, and the regular inmates. The delegation also noted that there a lot of prisoners on remand – about 1,700.
104. During an open discussion with the inmates about the conditions of imprisonment, they complained about: the congestion in the prisons; the infections and diseases that they are exposed to, and the strain on the facilities due to the congestion; inadequate feeding as they alleged, contrary to the information provided by the prison officials, that they are only fed once daily; and the fact that there is no television or other medium of information to keep them updated with what is happening outside the Prison.
105. The delegation visited the kitchen which utilizes open fire cookers, as the electric boilers which are installed therein are currently not functional. It has pipe borne water, cooking utensils, dishing pots etc. The prison officials informed the delegation that the prisoners are fed thrice a day, an assertion which was contradicted by the prisoners who were interrogated.
106. The delegation was also informed that all the prisoners are either enrolled in educational or vocational programs. The educational programs cover primary, secondary, advanced and tertiary levels with 25 teachers on Government pay roll. At the moment certificate and diploma programs are available to the prisoners. Over 1,400 prisoners are stated to be at school, including those on death row. The prison also has a computer laboratory, carpentry workshops, internet services and a science laboratory. The prisoners are also stated to engage in sports and religious activities, and to have great inter-personal relationships amongst themselves, and with the prison officials. They are also allowed visits at the designated visiting days/ hours.
107. The delegation visited the skills acquisition centre, where it was shown samples of the carpentry work done, and was also informed that all the uniforms of the prisoners and the prison officials, national flags and most of the furniture used in the Government Ministries, are made at the centre.
108. With respect to health facilities, the prison officials indicated that the prison utilizes a national referral hospital with 250 people-capacity.

109. In closing, the delegation also observed from the inscriptions on the walls of the prison that its vision is to be *“a centre of excellence in providing human rights-based correctional services in Africa”*, and its mission statement is to *“provide safe, secure and humane custody of offenders while placing human rights at the centre of their correctional programs”*.

### **The Luzira Women’s Prisons**

110. The delegation also visited the Luzira Women’s Prisons in Kampala which is the maximum security prison for women and female juvenile offenders, in Uganda. As at the date of the visit, this prison had a totality of 398 inmates, comprising: 185 convicts, 29 condemned inmates, 133 remands, 33 committals, 7 lodgers and 11 debtors. There were also 36 children (under eighteen months)<sup>5</sup> in prison with their mothers. The type of offences committed by the prisoners includes murder, aggravated robbery, child trafficking, accomplice to defilement, theft, house breaking and mob justice.

111. During the inspection, the delegation observed that the compound was neat and tidy, with decent sleeping arrangements. The rooms were neat and spacious, measuring 90 square metres (15m x 6m), with 5 beds per room, and television sets, for the regular inmates, while the condemned prisoners are housed in cells containing 3 to 4 persons. Children’s meals are provided for the children in prison with their mothers, and all mothers with children stay in the same room. A new ward for imprisoned mothers had also just been built, but was yet to be commissioned. At the time of the visit, there were two foreign prisoners from Kenya and Rwanda.

112. Regarding the training of the prisoners, the delegation learnt that all are engaged in vocational training, with the exception of one who is enrolled in formal studies. The prison rules and regulations are also published in English and local languages and made available to the prisoners.

113. During an open discussion with the inmates about the conditions of imprisonment, the delegation learnt amongst others, that: debt guarantors were being kept in the maximum security prison, a matter which was considered by the delegation as being inappropriate for such imprisonment, considering that matters relating to debt guarantors in

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<sup>5</sup> See paragraph 97 above.

the event of a default in the payment of such debts, would fall within the realm of civil law, and not criminal law.

114. The delegation also noted that people with mental illnesses are being held in the prison on “Minister’s Orders”, and housed in the same cells as others, instead of being sent for treatment at appropriate mental homes; and that there were inmates on remand who had pending cases before the Anti-Corruption Court which has now been closed due to contestations surrounding the legality of its constitution. The delegation considered that such persons should be released on bail, pending the resolution of the technical issue relating to the Court before which they are being tried, as otherwise, they are being held for offences for which there is no functional court.
115. The prisoners in the Luzira Prison are largely confined, but are allowed visits during the days and hours designated in the prison rules.

*Meeting with officials of the Uganda Human Rights Commission (UHRC)*

116. The delegation had a meeting with Commissioners and staff of the UHRC, and was received by **Honourable Commissioner Med S.K. Kaggwa**, in his other capacity as the Chairperson of the UHRC.
117. After the regular introductions, the delegation was briefed on the mandates and powers of the UHRC. The UHRC was established by the Constitution of Uganda, as an independent institution, with the mandates, *inter alia*: to conduct investigations on human rights violations, on its own initiative or based on a complaint; to establish continuing program of research and education; recommend to the parliament effective measures to promote human rights; and monitor the Government’s compliance with international human rights obligations. Uniquely so, the UHRC in the performance of its functions, is conferred with the powers of a court, pursuant to which it hears complaints and awards compensations. It also has the powers to require for a disclosure to be made by any person as regards any matter within its competence. Parties who are dissatisfied with the decision of the UHRC can appeal to the High Court of Uganda. The Commission also engages in mediation as an alternative measure for dispute resolution.
118. The UHRC has nine (9) regional offices, with one more to be opened in the Albertine region. It also reports annually to the Ugandan parliament.

119. Following the briefing, the delegation wanted to know, amongst others: the challenges of the Commission in the execution of its mandate; the nature of complaints handled- if the Complaints are civil or criminal; the number of cases received annually; if Complaints are submitted by NGOs on behalf victims; the term of office for Commissioners; the process of appointment of Commissioners and whether the same guarantees their independence; the role of the UHRC in State Reporting; the role of the UHRC in the domestication of treaties; the state of freedom of expression in the country and implementation of the Access to Information Act; whether there have been petitions regarding the violation of the rights of PLHIVs; if the UHRC undertakes outreach activities; whether the UHRC visits prisons; and the relationship between the Government, the public and the UHRC.
120. In response to the enquiries, the delegation was informed that the challenges of the UHRC include: inadequate funding, as it only receives seventy percent (70%) of its funding from the Government; the delay in the payment by Government of compensations awarded to victims of human rights violations, due to budgetary constraints; and insufficient human resources.
121. As regards the nature of complaints handled, these were noted to be mostly civil and criminal cases, with some instances of “borderline” cases. Majority of the cases are stated to pertain to torture and liberty of persons, rights to life and to health. In 2012, the UHRC received a total of 2,725 cases, and registered 706 new complaints on human rights violations, with the highest percentage of complaints pertaining to cruel, inhuman and degrading treatment or punishment. Complaints can be lodged by any person claiming a violation of human rights, including the victims and any third party authorised by the victim, who may be individuals or NGOs.
122. The delegation also understood that the UHRC participates in the drafting of the State Reports submitted by Uganda to various treaty bodies including the Commission, and also submits alternate reports to treaty bodies, upon request. The UHRC is also involved in the domestication of treaties through the engagement of line Ministries of Government on the need for ratification of international treaties, and making recommendations of policy formulation on this matter.
123. The UHRC also provides civic education to Government agencies and the Ugandan populace, and carries out outreach activities and programs where it targets vulnerable groups including the Batwa. It

also conducts visits to prisons for purposes of inspecting and reporting on the state of the detainees and prisoners.

124. Regarding the state of freedom of expression in the country, the delegation learnt that Uganda retains laws on sedition in its statute books, notwithstanding that this has been declared unconstitutional by the Constitutional Court of Uganda, and that there are instances of the closure of media houses by the Government. As a result, media houses and journalists observe self-censorship. The media also face challenges in terms of accessing information in Parliament. Furthermore, the Access to Information Law is not implemented with regards to oil and gas contracts.
125. The delegation also understood as regards the rights of PLHIVs that there is a bill in Parliament on HIV/AIDS, which requires medical officials to disclose the status of patients. The UHRC has indicated to the Government of Uganda that this provision of the law violates the confidentiality of the doctor/patient relationship between HIV/AIDS patients and their medical care providers.
126. In concluding the meeting, the UHRC described its relationships with the public and the Government of Uganda, respectively as one of public confidence and non-interference.

#### *Meeting with the Chief Justice*

127. The delegation met with the Principal Judge of the High Court of Uganda, His Lordship, **Justice Yorokamu Bamwine**, who represented the Acting Chief Justice (CJ), and gave an overview of the Ugandan Judicial structure.
128. The delegation learnt from the Principal Judge that Uganda only had an Acting CJ because there was no substantive CJ or deputy Chief Justice. He explained that the High Court is headed by the Principal Judge who is responsible for managing the Court, including the decentralized High Court Circuits, and the Magistrates Courts. He informed the delegation that the Principal Judge reports to the CJ and is assisted by the High Court Judges of the eight Divisions as well as the Resident High Court Judges. He indicated that the Court had a total of 54 judges, and was looking forward to another 20 Judges, and that human rights issues are mostly brought to the High Court and lower Courts.

129. The delegation briefed the Principal Judge on the provision of Article 56(5) of the African Charter on the requirement of exhaustion of domestic remedies, and in that context, explained the significance of the national courts *vis-à-vis* the Communications Procedure of the Commission and the requirement of exhaustion of domestic remedies.
130. In the ensuing discussions, the delegation made enquiries regarding the following: challenges in detention with respect to remands overstaying in prisons; death row inmates; the quorum of the Supreme Court; Ministerial Order for detention of mentally ill people in prisons; the death penalty in Uganda; human rights education for judges; the position of international treaties in the domestic arena; whether litigants refer to decisions of the Commission; aggravating circumstances in sentencing; the use of community service; justiciability of socio-economic rights; whether the Court receives cases on discrimination against HIV patients; legal aid; and whether Uganda has small Claims Courts.
131. In response, the delegation learnt that remands overstay, sometimes for over a period of 6 to 7 months because the law does not spell out the timelines for judicial procedure. Overstay in remand has also been aggravated by closure of the Anti-Corruption Court for contestation of its constitutionality, as a result of which all cases in the pipeline – more than 300 – were put on hold, prejudicing inmates and other parties before the Court. He also blamed overstay in remand on the facts that inmates who have overstayed beyond 6 months do not inform the authorities, and that Judges were not appointed to the High Court for a period of 2 years.
132. To address the issue, the delegation learnt that Magistrates have granted bail in some cases, while petty offences punishable with a 3 months detention have been reduced to 60 days.
133. On the question of quorum of the Supreme Court, the delegation learnt that the Court did not have a quorum to deal with appeal cases until 31 July 2013, when Acting Judges were appointed, with their functions becoming effective on 1 August 2013.
134. On the Ministerial Order, the Principal Judge explained that it is an Order made by the Minister of Justice regarding the imprisonment of mentally ill people without specific periods of incarceration.
135. Regarding death row inmates, the delegation was informed of the existence of 113 files at the time of the visit, with their mitigation hearings expected to have been concluded by October 2013. The delegation also

learnt that Judges had a training scheduled for 13 September 2013, to provide guidance on how to handle such cases.

136. On the independence of the judiciary, the Principal Judge explained that there is no situation where the executive dictates to the judiciary. He stated that the appointment of the CJ cannot breach the independence of the judiciary, and that the Attorney General's involvement in the appointment is not an affront to the independence of the judiciary because the Constitution allows it.
137. As regards the death penalty, the Principal Judge stated that the Constitutional Court has declared the mandatory death penalty unconstitutional, with sentences of 50 years being remitted. He explained that after the petition challenging the constitutionality of the death penalty in the *Kigula case*, death penalties are now converted to long terms of imprisonment.
138. The *Kigula case* upheld that life imprisonment should mean the natural life of a person, and that the death penalty should be abolished and replaced with punishments such as life imprisonment. Following the judgement in the *Kigula case*, sentencing guidelines which specify 35 years as the natural life of a person were developed, but have not yet been operationalized. There is also a Sentence Reform Bill which spells out the sentences for prisoners and it is currently in Parliament for review.
139. As regards human rights education for judges, the delegation learnt that there is an *ad hoc* Judicial Training Committee that has been established for the purpose of organising trainings for judges. The Principal Judge explained that the Annual Judges Conference and Annual Magistrates Conference include human rights training.
140. Concerning whether reference is made to international treaties in domestic courts, the Principal Judge stated that most instruments that have been domesticated by Uganda are referenced, even though there is still a problem of interpretation of some of those treaties. On whether decisions of the Commission are referenced, the delegation learnt that most courts are not aware with the Commission's decision, following which Commissioner Kaggwa undertook to send copies of the decisions to the Supreme Court and the High Court.
141. As regards aggravating circumstances in sentencing, the delegation was informed that voluntarily spreading of HIV/AIDs or intentional/reckless

infection of a person is considered a crime and an aggravating factor in sentencing.

142. On the use of Community Service as alternative sentence, the Principal Judge stated that it is cost effective and commonly used in the lower courts. He however noted that there remains a problem of interpretation because some judges try serious offences and prescribe community service instead of imprisonment.
143. On the question of justiciability of socio-economic rights, the Principal Judge stated that socio-economic rights cases are not common and that the High Court has dealt with one case on the issue and declared it a policy matter. The case had been referred to the UHRC by an NGO.
144. The Principal Judge further stated that there are no cases of discrimination against HIV patients. On the question of legal aid, he stated that donors are pressuring the Government to establish Legal Aid Departments in some regions with funds to assist prisoners.
145. Finally, as regards the Small Claims Courts, the delegation learnt that this Court deals with claims below 10 million Ugandan Shillings (approximately 400 to 500 United States Dollars). The procedure is formal and efficient, even though it is still a pilot project, with requests to have the Court in all regions.

#### *Meeting with the UNHCR Country Office*

146. The delegation visited the country office of the UN High Commission for Refugees (UNHCR), where they were received by **Mr. Mohammed Abdi Adar**, the Country Representative.
147. The delegation was briefed on the mandate and work of the UNHCR Country Office in Uganda, since early 1960's. The delegation learnt that Uganda has a high population of refugees and asylum-seekers from all over the region. As at the date of the visit, the UNHCR had registered more than 250,000 refugees and asylum-seekers from the Democratic Republic of the Congo, South Sudan, Somalia, Rwanda, Ethiopia, Kenya, Burundi, Eritrea, Uganda and Sudan. Refugees and Asylum Seekers live in local communities, and the rest in the eight (8) transit facilities set up in the country.
148. Uganda is stated to be signatory to all the international treaties pertaining to the protection of the rights of Refugees, including the

Kampala Convention, and domestically, it had adopted the 2006 Refugees Act and the 2010 Refugee Regulations, to regulate refugee matters. The delegation also learnt that Uganda adopts a Pan-Africanist and open-handed approach in dealing with refugee issues, and that, refugees and asylum seekers have access to public services available to the citizens, including access to land to build and farm, with ease of migration to urban cities; health and educational facilities; and employment.

149. The Office of the Prime Minister (OPM) Refugee Department is responsible for refugees on behalf of Government, and the Refugee Eligibility Committee (REC) conducts refugee status determination. Uganda also has a Minister for Disaster whose office extends to Refugee and IDP issues. On its part, the UNHCR works with the Government of Uganda through the OPM, as well as with District Local Governments, NGOs and UN/international organisations. UNHCR facilitates three (3) durable solutions for refugees, being: (i) voluntary repatriation, when conditions in the country of origin have improved, including the cause of flight; (ii) local integration, for refugees unwilling or unable to return; and (iii) resettlement to a third country in exceptional circumstances.
150. Notwithstanding the highlighted successes recorded and positive indicators, Mr. Adar noted that there remain areas for improvement by the Government in the protection of refugees, including the initiation of a mechanism to qualify certain categories of refugees for Ugandan citizenship by naturalization, for instance those who have married and settled in Uganda. He noted that the situation of the Rwandese refugees highlights the imperative to address this issue.
151. On this matter, he indicated that UNHCR currently has a *Rwandese Comprehensive Strategy*, under which pre-1959 Rwandese Refugees are offered four options: (i) to return home upon guarantee of safety by the Government of Uganda; (ii) to acquire a different/alternative status by being granted a long-term residency visa or being placed on a path to naturalization, although this option is impeded by the legal challenges relating to the interpretation of the relevant provision of the Constitution and the UNHCR was strategizing on how to work with Government on amending laws to create a path to citizenship; (iii) to remain under international protection by making personal applications to the REC; or (iv) for the Government to declare cessation of status, after which they will be subject to the immigration law of the country.

152. Another proposed strategy for improvement by the Government is resettlement. It was noted for instance, that the U.S Government has proposed burden-sharing with the Government of Uganda, to take a number of the Congolese Refugees, who constitute the majority. Already, UNHCR works with the Government on resettlement processes, including by advocating for countries to open up as resettlement countries, selecting countries of resettlement and identification of refugees to be resettled.
153. Mr. Adar also highlighted some of the challenges resulting from the high refugee and IDP population in Uganda, including: competition for lean resources by refugees, IDPs and citizens; and coping with survivors of sexual violence.
154. In closing, Mr. Adar informed the delegation that the Government and the UNHCR had launched a pilot mobile court system to improve access to justice for refugees who are victims of crimes, which has had the effects of discouraging impunity, improving access to justice by refugees in settlements and de-mystifying the court system. Overall, it was noted that the Government and people of Uganda provide good and generous hospitality to refugees, asylum seekers and IDPs.

*Meeting with officials from Human Rights Network Uganda (HURINET-U)*

155. The delegation met with officials of HURINET, a network with diverse membership of NGOs dealing with human rights issues. Following an overview of the composition and mandate of HURINET-U and the introduction of the members present, the delegation was requested to explain the Communications Procedure of the Commission which was indicated to be often frustrating for litigants. They also requested an update on the status of a Communication which they had filed before the Commission in 2009.
156. The delegation gave an overview of the African Charter, the establishment of the Commission the Communications Procedure, and the status of the Communication filed by HURINET-U, with the undertaking to provide more detailed information at a later date.
157. In the ensuing discussions, the delegation sought to know, amongst others: the status of freedom of expression and information in Uganda and the role played by the Network in promoting these rights; the status of the Public Order Management Bill; if NGOs operate without interference from the Government in Uganda; the status of HIV/AIDs in

the country; situation of Human Rights Defenders; and the state of women's rights in the country.

158. In response to the delegation's enquiries, it was stated that the situation of freedom of expression and access to information in Uganda leaves much to be desired, noting amongst others that there are no Information Officers in Government; the Access to Information Act of 2005 is not being implemented, and the Public Order Management Bill passed by Parliament remains a concern for journalists, media practitioners and human rights activists in general.
159. The delegation understood that human rights activists have urged the Government not to assent to the Public Order Management Bill<sup>6</sup> because it has provisions that hinder access to information. The Bill also purportedly hinders freedom of assembly, association and restricts access to public debates. It was also learnt that journalists and media practitioners continue to face assaults, intimidation, arbitrary arrest and detention, closure of media houses, ongoing censorship, while individuals are allegedly contracted by the Government to distort information over the radio, and over 85% of the radio stations are owned by the Government who dictates the content.
160. The delegation further understood that NGOs in Uganda face challenges in their work from laws and policies governing their regulation and other internal challenges. The NGO Amendment Registration Act of 2006 allegedly impedes the work of NGOs in Uganda due to some provisions that limit or have a potential to limit the operation of NGOs in Uganda, and their interaction with the Government. Amongst other things, it allegedly requires NGOs: to register mandatorily, thus limiting the right of some NGOs to associate informally; to obtain yearly permits even when there are no guarantees about their sources of funding; and to provide a seven days' notice in writing to the Resident District Commissioner (RDC) before a national NGO makes direct contact with rural Uganda, which restricts NGOs from operating in any part of the country. The delegation further learnt that the Act has been challenged before the Constitutional Court and that a hearing was pending on the same, due to a lack of quorum in the Court.
161. It was further indicated that NGOs also face other internal challenges such as threat to close organizations, especially those dealing with extractive industries. NGOs are also alleged not to be allowed to report

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<sup>6</sup> The President of Uganda assented to this Bill on 2 October, 2013.

freely on oil and gas dealings, and any organization that intends to carry out research about the extractive industry must first seek permission from the Permanent Secretary of the Ministry of Energy and the RDC. This is said to raise a big challenge for NGOs because they are not able to carry out investigations, advocacies and sensitization programs in regions where projects to carry out oil and gas explorations and/or establish refineries are being carried out without appropriate compensation to the residents. This plight is worsened by the fact that expropriation is not regulated and the Land Acquisition Act under review does not address issues of misappropriation of land.

162. In the area of HIV/AIDs, the delegation understood that the HIV/AIDs Control Management Bill of 2010 has some contentious clauses which require mandatory testing of certain individuals such as pregnant women, sex workers and injecting drug users; disclosure; screening and criminalising the “intentional transmission” of the virus to another person. Other challenges include cultural stereotypes such as the belief that having sex with a *Mutwa* will cure an HIV infected person.
163. In the area of women’s rights, the delegation was informed that while there have been some positive steps to fight violence against women in Uganda through the adoption of laws criminalizing FGM and domestic violence, implementation remains a problem. Other challenges stem from the fact that the Marriage and Divorce Bill intended to solve some of the problems faced by women in Uganda has been pending for over 14 years, while some violations of women’s rights in the country is linked to their lack of economic empowerment.
164. Other challenges include the lack of laws regulating the registration of mobile phone SIM cards and related data protection, especially since it is perceived that the Government cannot be trusted with the private information of individuals; and limited access to decent health services and education.
165. In closing, some positive aspects were also highlighted such as: the launch of a National Action Plan on Human Rights; the establishment of a Human Rights Committee in Parliament; the judiciary’s progressive interpretation of international laws; and obligatory counselling for couples which facilitates disclosure of HIV status.

*Meeting with officials from the Foundation for Human Rights Initiative (FHRI) & Ors.*

166. Furthermore, within the context of their consultation with members of civil society in Uganda, the delegation held a meeting with the Foundation for Human Rights Initiative, a Ugandan-based CSO, which also facilitated the attendance of a cross-section of CSOs operating in Uganda at the meeting.
167. The CSOs in attendance at the meeting noted the contribution of the jurisprudence and Resolutions of the Commission in guiding the struggle for human rights on the Continent, and commended the Commission for undertaking the Promotion Mission. They thereafter drew the attention of the delegation to pertinent human rights concerns in Uganda which call for the consideration and follow-up of the Commission.
168. Amongst these are the state of the right to freedom of expression in Uganda, and the various challenges that hamper the ability of the media to effectively play its role, often leading to self censorship, such as: the restrictive legal environment contemplated by certain provisions of the *Press and Journalists (Amendment) Bill* and the *Uganda Communications Regulatory Act 2012*; and the failure of the Government to remove the criminal offences of “publication of false news” and “sedition” from the statute books and the continued charge of journalists with these offences, despite the fact that they have respectively been nullified and declared unconstitutional by the Supreme Court and the Constitutional Court of Uganda.
169. In addition to facing challenges with disseminating information, the delegation was also informed that the media is also restricted with respect to access to information. They noted that whilst the Ugandan Government passed the Access to Information Act Regulations 2011, in compliance with a recommendation made by the Commission following the consideration of the 3<sup>rd</sup> State Report of Uganda, these Regulations contain provisions that make accessing information in possession of the State unnecessarily costly and difficult. It was also noted that the Parliamentary oversight required in monitoring the implementation of the Access to Information Act is not being carried out in practice.
170. The delegation was also briefed on the challenges relating to freedom of assembly and association in the forms of persistent crackdown on

members of opposition parties and continued dispersion of political rallies, as well as the fear of the introduction of a more restrictive legal environment by the Public Order Management Bill, 2011, which was passed by Parliament in August 2013.

171. The CSOs commended the passage by the Ugandan Government of the *Prohibition and Prevention of Torture Act 2012*, which was noted to be in compliance with a recommendation by the Commission for the State to enact a law criminalizing torture. They noted however that despite this landmark legislation, a lot still remains to be achieved with regard to the effective implementation of this law, including ensuring the payment of compensation awarded to torture victims and the establishment of a Compensation Fund for this purpose, as well as the need for Uganda to domesticate the *United Nations Convention Against Torture (UNCAT)* and ratify the Optional Protocol to the same, which would allow for independent inspection of detention facilities.
172. With regard to the right to liberty and the security of persons, FHRI informed the delegation that in the period between January to June 2013, it monitored thirteen (13) prisons and twelve (12) police stations, and noted the problems of overcrowding, poor sanitation, of juveniles in adult cells, committal of mentally ill persons into prisons on the “Minister’s Order”, use of the bucket system toilets, allegations of torture in prisons, and the occasional failure of the police and security agents to respect the 48 hour rule for holding suspects.
173. The CSOs also noted with respect to the death penalty that notwithstanding the landmark ruling of the Supreme Court in the *Kigula case* abolishing mandatory death penalty, judges continue to hand down death sentences, and twenty-eight offences in the statute books of Uganda continue to attract the death penalty. Also, Uganda voted against the UN resolution on moratorium on the death penalty and has not yet signed the Second Optional Protocol to the ICCPR which abolishes the death penalty;.
174. Generally, regarding the operation of CSOs in Uganda, the delegation noted concerns about the increasingly restricted space for CSOs through restrictive legislation and the excessive powers of the Police. The delegation was informed of situations of shutdown of CSO meetings, arrests and harassments of human rights defenders, shutdown of media houses, heavy-handedness of the Police in dealing with protesters and increased obstructions of CSOs monitoring accountability of public resources, land rights, oil revenue, and the rights of lesbian, gay,

bisexual, and transgender (LGBT) people, all of which create a dangerous working environment for human rights defenders. The CSOs also spoke about the increasing militarization of the Police and civil life, as well as corruption in public service.

175. The CSOs called on the delegation to urge the Government of Uganda to: respect and uphold the independence of the media institutions to protect confidentiality of media sources and to promote transparent coverage of political and public affairs; rescind the Press and Journalists (Amendment) Bill, 2010, as it lacks adequate legal safeguards against infringements of the right to freedom of expression; ensure easy, timely, effective and practical access to public information in their possession; withdraw all criminal charges levied against journalists and political leaders and their supporters that infringe on their rights of freedom of expression and peaceful assembly; uphold the spirit of the Public Order Management Bill once enacted; develop a legal framework for the protection of human rights defenders; establish a Victim Compensation Fund to provide for speedy and timely payment of torture victims; pass regulations to operationalize the *Prevention of Torture Act, 2012*; ratify the Optional Protocol to the UNCAT to allow for independent inspection of detention facilities; declare an official moratorium on executions; sign the Second Optional Protocol to the ICCPR that abolishes the death penalty; and further restrict the application of the death penalty by passing the Bill proposed by FHRI which is currently in Parliament, and which seeks to reduce the number of offences that attract the death penalty.

#### *Meeting with the Chairperson of The Ugandan Law Society*

176. The delegation also met with the Chairperson of The Ugandan Law Society (ULS) – **Ms. Ruth Sebatindira**, and other key officials of the organisation. The ULS is considered the leading Bar Association in East and Central Africa, and has the mission to improve the professional standards of the legal profession, and to promote human rights and the rule of law in Uganda. The statutory objectives of the ULS include assisting the Government and the Court in all matters affecting legislation and the administration and practice of the law in Uganda, as well as protecting and assisting the public in Uganda in matters touching, ancillary or incidental to the law.
177. The delegation learnt that the ULS has membership of over 1,500 advocates, and is divided into six (6) departments, including a Legal Aid and *Pro-Bono* Services Department, which offers legal aid and

advisory and support services to the indigent and underprivileged people in the society. The Legal Aid Project of the ULS aspires to have a society where all human rights are respected, promoted and defended to ensure that access to justice for all is a reality, irrespective of gender, age, ethnicity, religion or socio-economic status. The ULS is also working on a National Legal Aid Policy which is currently before the Ugandan Parliament. Most of the cases handled by the ULS relate to one or more violations of human rights. The ULS also provides human rights training to lawyers, and intervenes in cases before domestic, regional and sub-regional courts.

178. After the briefing on the role and activities of the ULS, the delegation informed the ULS about the role of lawyers in the African human rights system, the significance of the ULS obtaining Observer status with the Commission, as well as the potential roles of the ULS: within the framework of the Communications Procedure of the Commission; in promoting the use of the jurisprudence of the Commission in the domestic courts; within the African human rights legal aid system when established; and in the preparation of State Reports under Article 62 of the African Charter.
179. The ULS officials thereafter expressed the need to be better acquainted with the procedures and mechanisms of the Commission, in order to play the requisite role within the African human rights system.
180. On the human rights situation in the country, the ULS noted the following: whilst tremendous progress has been made, there still remains a huge gap between theory and practice of human rights in the country; the juvenile justice system in Uganda is problematic as there is overcrowding of remand homes, and juveniles are held in adult prisons; unduly prolonged pre-trial detentions and the detention of mentally disturbed people in prisons on the "Minister's Order"; prevalence of torture despite the Anti-Torture Act; slow pace of the criminal justice system; discrimination against sexual minorities; attempts by the State to introduce retrogressive laws relating to freedom of expression and access to information, thus reversing the gains made; violations of rights to land and property in natural resources-rich areas; the problem of the lack of quorum in the Supreme Court to hear Constitutional cases, as well as the lack of a substantive/sitting Chief Justice, both of which threaten the rule of law and constitutionalism in the country, and impede access to the courts.

### *Meeting with the Minister of Justice and Constitutional Affairs*

181. The delegation was received by the Minister of Justice and Constitutional Affairs, the **Honourable Kahinda Otafiire – Maj. Gen (Rtd.)**, who informed the delegation of the efforts of the Government in ratifying international treaties.
182. The delegation gave an overview of the African Charter, the establishment of the Commission, the duties of Commissioners, the Special Mechanisms of the Commission and the objectives of the Mission. It indicated that as part of the promotion mandate of the Commission, the latter seeks to engage states in dialogue on the best ways to enhance the promotion and protection of human rights. In doing so, the Commission engages not only Government officials but other stakeholders involved in this venture. The delegation indicated that under Article 26 of the African Charter, the judiciary is recognized as a guarantor of the rights enshrined in the African Charter.
183. The delegation stated that the Government of Uganda has been very consistent in its representation at the Sessions of the Commission, and in its State Reporting under Article 62 of the Charter, but noted that it had one outstanding Report, which it was encouraged to submit. It also encouraged Uganda to comply with the Concluding Observations made by the Commission on its fourth periodic Report submitted in 2011, as well as the recommendations made by the Commission after the Promotion Mission held in 2009.
184. Clarifications on the following issues were sought from the Minister: the status of the death penalty following the *Kigula case* and the alternative sentences being utilized by the courts; the issue of the detention of mentally disturbed people in prisons on the “Minister’s Order; the retention of laws that have been declared unconstitutional; the suspension of the Anti-Corruption Court and its effect on detainees with cases before the Court; as well as the lack of a substantive Chief Justice.
185. On the status of the death penalty, the Minister noted that this remains on the statute books although it has been suspended in practice. He explained that the current state of affairs is due to the division of opinions amongst the Ugandan public on the abolition of the death penalty, but that efforts are being made towards proposing a bill on the abolition. He further noted that since the *Kigula case*, the death penalty has become the maximum, and not a mandatory sentence.

186. Regarding the unduly long alternative sentencing being meted out to convicts, the Minister explained that these are due to multiple convictions and are to be served cumulatively, and that more importantly, the courts are now guided by *Sentencing Guidelines* which direct and harmonize sentencing by the courts.
187. On the issue of the detention of mentally disturbed people in prisons on the “Minister’s Order, the Minister informed the delegation that such persons can also be released on the Minister’s Order, upon appropriate medical certification. The Minister immediately issued instructions to relevant officials present at the meeting, to address this matter.
188. As regards the retention of laws that have been declared unconstitutional in the statute books of Uganda, the delegation learnt that a major review of the laws of Uganda by the Law Reform Commission was underway, and that such laws would be repealed. The delegation also understood that efforts were underway to amend the Constitution to enable the Law Reform Commission to amend relevant laws upon declaration of their unconstitutionality, rather than amending such laws through the tedious parliamentary processes.
189. Concerning the suspension of the Anti-Corruption Court and its effect on detainees with cases before the Court, the Minister stated that bail could be organised for such people in the meantime. He also stated concerning the position of the Chief Justice that efforts were being made to appoint a substantive Chief Justice, while an acting Chief Justice had been appointed in the meantime to close the Constitutional lacunae.

*Meeting with the Minister of Information, Communications and Technology*

190. The delegation was received by the Minister of State for Information, Communications and Technology, **Honourable Nyombi Thembo** who welcomed the delegation and briefed the latter about the Ministry.
191. The delegation explained the purpose of their visit and commended Uganda for adopting an Access to Information Act. Commissioner Tlakula informed the Minister about the Commission’s campaign, spearheaded by the mandate of the Special Rapporteur on Freedom of Expression and Access to Information, to decriminalize defamation and libel laws in Africa.

192. The delegation sought to know the mandate of the Ministry; challenges delaying implementation of the Access to Information Act even though there is a draft programme for implementation; regulation for registration of SIM cards and data protection; regulation of the internet; whether cyber crimes form part of criminal law; mechanisms to prevent abuse of interception systems; if there is a separate body that regulates airtime during elections; appointment process of the board of public broadcaster; analogue to digital transmittal systems; and who is responsible for closing down media houses.
193. In response, the Minister explained that there are two Ministries dealing with information in Uganda, the Minister of Information and National Governance and the Ministry of Information, Communications and Technology. The latter is newly established and is charged with developing Information Technology services, promoting use of information technologies in all spheres of life, and supporting advocacy on all matters of policy, laws, regulations and strategy for the ICT sector. The Ministry has two Directorates -the Directorate of Communications & Broadcasting Infrastructure and the Directorate of Information Technology & Information Management Services.
194. The Honourable Minister explained that the questions related to the implementation of the Access to Information Act can be answered by the Ministry of Information and National Governance. Concerning data protection, at the time of the meeting, Honourable Thembo informed the delegation that the Ministry is in the process of drafting a Data Protection Privacy Bill aimed at safeguarding data gathered or collected by public institutions and private entities. In January 2014, Cabinet approved the principles of the Bill and authorized the Minister to issue drafting instructions to the first Parliamentary Council.
195. On the regulation of the internet, he stated that Uganda has no regulation on the internet and that this issue has been addressed in the *Guidelines* prepared by the International Telecommunications Union. He further stated that the Ministry would work with the Uganda Communications Commission (UCC) on the matter. The UCC was established by the Uganda Communications Act of 2013 to consolidate and harmonize the Uganda Communications Act of 1997 and the Electronic Media Act of 1996. It is charged with regulating telecommunications, data communications, broadcasting, postal communications, radio communication and infrastructure.

196. Regarding cyber crimes, the delegation was informed of the *Computer Issues Act of 2011* which ensures safety and security of electronic transactions and information systems “to prevent unlawful access, abuse or misuse of information systems including computers and to make provision for securing the conduct of electronic transactions in a trustworthy electronic environment...” The Act criminalizes unauthorized disclosure of information, electronic fraud, child pornography, cyber harassment, and cyber stalking amongst other crimes.
197. On mechanisms to prevent abuse of interception systems, the Minister informed the delegation about the *Lawful Interception of Communications Act 2010* which provides for the lawful interception and monitoring of certain communications in the course of their transmission through a telecommunication, postal or any other related service or system in Uganda. It also regulates the process of criminalizing individuals in cases of abuse of interception systems. He stated that even though there are Intelligence Agencies to deal with such issues, there is still abuse of the process and in this regard, the High Court has allocated a special judge to deal with such cases. The Minister further stated that the Act does not allow access to accounts, and that access to accounts is only authorized by the *Anti-Money Laundering Bill* which gives powers to officers to access private information on accounts.
198. On the issue of airtime during elections, the Minister stated that there is no separate body that regulates this, and that the 228 private radio stations are free to allocate airtime during elections. The *Parliamentary Elections Act* requires that airtime should be allotted equally to candidates and no problems in this regard have been raised during campaigns. The Minister also stated that the appointment process of the Board of Public Broadcaster is handled by the office of the Prime Minister.
199. Concerning analog-for-digital transmittal systems, the delegation learnt that about 7 million households in Uganda have access to television compared to 2 million households before digital migration. The Ministry has also adopted initiatives, including the removal of taxes to enable access by rural communities.
200. Finally, on the question of who is responsible for closing down media houses, the Minister indicated that it is the Regulator from the Ministry of Information, and that when a media houses closes down, the transmitter is seized.

### *Meeting with the Chairman of the Uganda Electoral Commission*

201. The delegation visited the Uganda Electoral Commission (UEC) where they were received by the Chairperson, **Eng. Dr. Badru M. Kiggundu**, who briefed the delegation on the mandate, composition, achievements and challenges of the UEC.
202. He informed the delegation that the promulgation of the 1995 Constitution of Uganda was followed by the establishment of the Interim *Electoral Commission Statute 3 of 1996* which conducted the 1996 elections. In 1997, the Interim Commission was transformed into a permanent Electoral Commission with new members appointed in accordance with the 1995 Constitution of Uganda. In November 2002, a full Commission was established with a few changes made in the composition of its members. The UEC has 7 Commissioners appointed by the President with the approval of Parliament, and any replacements or appointments must go through the process. Women comprise 30% of its members - there are currently two female members.
203. Article 61 of the Ugandan Constitution mandates the UEC to ensure that regular, free and fair elections are conducted, and it is also charged with regulating critical electoral processes such as the activities of candidates during campaigns. The UEC organizes national, administrative and general elections, with the latter organized every 5 years - the last one being in 2011 and the next in 2016.
204. On HIV/AIDS in the workplace, The delegation noted that the UEC has established an HIV- Working Committee to assist staff with HIV-related concerns with a view to combating discrimination and stigmatization in the work place. A two days training has also been organized in collaboration with the Uganda AIDS Commission to raise awareness, in addition to other HIV/AIDS-related programs organized by the UEC.
205. In the ensuing discussions, the delegation sought to know *inter alia*: the role of the UEC in election petitions; funding of the UEC; measures taken by the UEC to encourage ratification of the African Charter on Democracy, Elections and Good Governance (Charter on Democracy); cases of petitions after elections; education of the populace on the right to vote; funding for political parties; number of political candidates with disabilities; use of the media by Parties during election campaigns;

whether there is an Electoral Tribunal/Court; and special groups represented in Parliament.

206. In response, the Chairperson stated that in July 2005, Uganda adopted a multiparty system with 39 political parties registered, out of which 5 or 6 parties campaigned for elections in 2006, with the UEC playing its role. In the 2011 general elections, the UEC organized regular briefings and consultations with stakeholders during campaigns to ensure smooth elections, with regular online updates on preparations for the elections. The UEC displayed the Voters' Register and ensured that copies were made for all political parties involved. The delegation also learnt that the UEC was the first to start the biometric registration process in the last general elections even though the equipment was late with about 5 million voters in 6 weeks. In view of this hiatus, the UEC plans to do a comprehensive biometrics registration before the next election.
207. Regarding challenges, the delegation learnt that some parties do not comply with the provisions of the *Presidential Elections Act*, the *Parliamentary Elections Act* and the *Political Parties Act*. As a result of this non-compliance, the UEC has considered de-registering about 10 parties for failure to comply with the provisions of the law, and a date has been set for the hearing.
208. Regarding the role of the UEC in encouraging ratification of the Charter on Democracy, the Chairperson stated that the UEC participated in a Workshop organized by the AU in Burundi concerning the ratification of the Charter on Democracy. Following this meeting, the Chairperson of the UEC had a dialogue with the Ministry of Foreign Affairs regarding the ratification of the same.
209. On the question of funding, the delegation understood that the UEC is funded through the Medium Term Expenditure Framework, which provides quarterly disbursements of funds to various institutions and sets specific expenditure ceilings. The UEC does not however receive enough funding to effectively carry out its mandate because although Article 66 of the Constitution grants a self-accounting status to the UEC, its budget is subject to Parliamentary review and approval.
210. Regarding civic and voter education, he stated that the UEC is not very involved in education because of its limited funds. While the broader part of civic education is provided by the UHRC, the UEC is more strategic in its approach by organizing several activities during elections. It also uses the radio/media to create awareness, and has liaised with the Ministry of

Education to include civic education in the curriculum of primary and secondary schools.

211. On the use of the media during elections, 200 radio stations were used during the last elections and every district was covered, even though most of these radio stations are owned by individuals. Apart from the public media which only provides airtime to candidates from the ruling party, the private media broadcasts all candidates.
212. Regarding the question of funding to political parties, the delegation noted that Uganda is the only country that provides funding and other facilities to political candidates - 2 million shillings for nomination fees, and 20 million shillings (approximately USD 800 and USD 8000 respectively) after they qualify, with 2 vehicles, including 1 executive vehicle maintained by the UEC and a second vehicle for security (soldiers), as well as security at home maintained by Government and managed by the UEC. The delegation learnt that there is a problem of accountability however, because most vehicles are not returned after elections and there is misuse of State resources.
213. Concerning candidates with disabilities, the delegation was informed that NUDIP, a non-profit organization used to source candidates, including those with disabilities, but that this organization has now been removed from the electoral process, making it difficult for the UEC to find such candidates; a challenge which is compounded by the fact that some individuals are not honest about their disabilities.
214. There is no specific Electoral Tribunal/Court, except courts with special arrangements to deal with electoral issues.
215. Finally, regarding the question about special groups in Parliament, the Chairperson stated that by law, each special group including PWDs and women have reserved seats in Parliament, and in particular, that PWDs have 5 representatives in Parliament. He also noted while there are no indigenous people in Parliament, they are not restricted from participating.

#### *Meeting with the Minister of Health*

216. The delegation was received by the Minister of State for Health, Honourable **Dr. Elioda Tumwesigye**, and after the regular introductions, the Minister informed the delegation that Uganda was the first country in Africa to recognize the existence of HIV/AIDs. Cases were registered in

1982 and by 1986, and many people were not aware of the seriousness of the pandemic until the Government launched the *Global Aids Assembly* which attracted support from UNAIDS and other partners. Awareness was also raised by TASO, a Uganda-based Aids Support Organization, and by early 90s, more people were reporting cases of HIV/AIDS.

217. Dr. Tumwesigye stated that the rights of PLHIV are respected, and intentional contamination is punished under the law; medications are free, and the Ministry assists community outreach programs. Despite advocacies, prevention strategies and sensitization programs, he said, the prevalence rate still fluctuates from 18% to 6% in 2000, and from 6.4% to 7.3% in 2012, signifying a rise in prevalence.

218. The delegation requested for more information on the following: Statistics of the pandemic/segregated data of PLHIV; reasons why women are more vulnerable to the virus; measures/strategies for prevention and response to HIV/AIDS; treatment and support for PLHIVs; the AIDS Surveillance System; HIV screening and the issue of compulsory testing; some challenges that promote spread of the virus, and the availability of an adequate health workforce.

219. In response, the Minister stated that the pandemic reduced from 18% in 1992, and there has since been an increase again to 7.3% in 2012. There are currently about 1.6 million PLHIVs, while about 4 million have lost their lives to the virus. 8.2% of women are infected, compared to 6% of men. In the 1.6 million estimate of PLHIVs, 56% are women. Women are more vulnerable to HIV/AIDS because the virus is transmitted through unprotected sex which accounts for most percentage of cases. The reasons being: biologically, the female genital tract is more exposed to viruses than the male; transmission from mother to child during pregnancy; and a multitude of socio-cultural factors. The delegation learnt that the epidemic has shifted from young to married people under 25 years to older groups largely due to the failure of sensitization campaigns to target older persons.

220. On the question of strategies implemented by Government to fight the pandemic, the delegation learnt that in addition to behavioural interventions addressing risk behaviour activities; bio-medical interventions, advocacies for condom use or abstinence, structural interventions, and legislation, the Government launched a *National HIV Prevention Strategy* running for the period 2011-2015 to guide national efforts in the fight against HIV/AIDS. The Ministry is responsible for

implementing the Strategy, together with other line ministries and stakeholders.

221. Still in relation to strategies and responses to the pandemic, the Minister reported that there is a multisectoral response coordinated by the Uganda Aids Commission, which introduced a *National Prevention Policy and National Prevention Strategy* with the intention of litigating HIV issues, prevention and treatment. The Ministry also has a *Health Sector Strategic Plan* which deals with care and treatment, prevention, and management of information of PLHIV. Other strategies implemented by Government are: the elimination of mother to child transmission which calls for a comprehensive lifelong treatment for women; and the Early Infant Diagnosis (EID) programs which offer diagnoses to detect children born with HIV (otherwise known as exposed babies). The EID detects the virus as early as 4 to 6 weeks, which has reduced the infection on children from 13% to 6%, and children are now enrolled to receive Anti-Retroviral (ARV) treatments.
222. Furthermore, if a pregnant woman tests positive, at 16 weeks of her pregnancy, she is put on a lifelong treatment which does not affect the foetus. Lactating mothers with HIV positive babies undergo training on how to breastfeed, while HIV infected mothers with babies who are not infected are given Nevirapine for a period of one year during which time they can breastfeed the baby.
223. The Ministry has also established clinics dealing with Sexually Transmitted Infections. It supports the *Most At Risk Population Initiative* whose main objectives are: to expand access to prevention interventions to most-at risk-population (sex workers, truck drivers, fishermen, migrant population, prison inmates etc.); and supplement the capacity of the National STD Unit in its mandate to prevent and control HIV/AIDs. Through the Ministry's support, sex workers get treatment regardless of the level of their CD count.
224. The Minister also informed the delegation about *the HIV Control and Prevention Bill* as part of another strategy in the fight against HIV/AIDs and related consequences. The Bill safeguards against discrimination of PLHIVs. The Bill has not yet been tabled before Parliament.
225. About the ASS, it is an epidemiological surveillance system established in 1989, whereby a national population survey is carried out every 5 years to monitor the magnitude of the pandemic and report cases of HIV/AIDs. The system which describes trends in sexual behaviour and

HIV prevalence rate has been implemented over the past years and has proved very effective in keeping the Government abreast with the status of the pandemic. The delegation learnt that there are 140,000 new infections every year, which been stable for about 5 years. The Minister expressed the hope that with the new strategies and interventions, the infection rate will be reduced from 7.3% to 4%.

226. On the issue of compulsory testing, the Minister stated that consent, confidentiality and counselling are imposed in all screening centres. He explained that the Ministry does not have any statistics of cases of compulsory testing, or statistics of pregnant women who refuse testing on the grounds that consent was not sought. The Ministry and other stakeholders advocate for free and consented testing to keep the epidemic in track, but people are free to opt out at any time. He reiterated that in line with the *2011 HIV Counselling and Testing Policy*, nobody should be forced to do an HIV test without consent, except for circumstances that warrant mandatory testing, for instance, cases of rape or defilement.
227. The delegation was informed that defilement is a big problem in Uganda which has resulted in the amendment of the Penal Code, now known as the *Penal Code (Amendment Act) of 2007*. The amended Penal Code considers defilement as an aggravated felony, punishable with life imprisonment and requires mandatory testing for HIV.
228. Challenges were highlighted in respect of the legal system which has not been favourable to homosexuals, and health systems which discriminate against them. The delegation learnt that the Ministry is working on programs that can provide services to homosexuals, including setting up specialized clinics which can treat homosexuals irrespective of their sexual orientation, and they can be informed of these clinics privately. Harmful traditional practices such as FGM were also raised as avenues for infection. The Ministry has reached out to traditional practitioners and leaders to sensitize them on the virus.
229. Regarding the availability of doctors, the delegation learnt that there are crises in the health workforce due to the few number of doctors, and that sometimes, only 1 doctor available to deal with an average of 13,000 people. There are also only about 500 Registered Nurses.
230. In closing, the Minister stated that the epidemic has existed in Uganda for over 30 years, and has had a great impact on the quality of life, and imposed a huge burden on the healthcare system.

### *Meeting with officials from the Uganda AIDS Commission*

231. The delegation visited the Uganda AIDS Commission (UAC), where they were received by the Director-General, **Dr. David Kimuhuro Apuuli**, who briefed the delegation on the status of the HIV/AIDS pandemic in Uganda, the mandate, achievements and challenges of the UAC.

232. The delegation was informed that the UAC is the first AIDS Commission globally, and was established in 1992 under the Office of the President, with the mandate to oversee, plan and coordinate AIDS prevention and control activities throughout Uganda. The UAC does not engage in direct implementation of HIV/AIDS programs but is expected to provide strategic leadership by ensuring effective coordination, monitoring, planning, evaluation and harmonization of the HIV/AIDS related activities of the various players within agreed policy and program parameters. It also engages in advocacy, oversight of HIV/AIDS research, and manages/monitors donor support.

233. The UAC is guided by five-yearly national strategic plans (NSP), and the current NSP outlines the goals, objectives and strategic interventions upon which players in the national HIV response will hinge their HIV programming in the years 2011-2015 “geared towards reducing new infections by 30%” and “[aimed] at realizing “a population free of HIV and its effects”. It provides an overall strategy of the national HIV/AIDS response in the thematic areas of: HIV Prevention; Care and Treatment; Social Support and Protection; Systems Strengthening; Research, Monitoring & Evaluation and Documentation; and Resource Mobilization.

234. The UAC is made up of a structure that brings on board representation from all stakeholders. It reports directly to the President. The open approach to combating the epidemic has enhanced behavioural change such that stigma has been drastically reduced over the years.

235. On the state of HIV/AIDS in the country, the delegation learnt that the findings from the 2011 National HIV Indicator Survey showed a setback in the impressive success recorded and a prevalence rate of 7.3% for men, and 8.3% for women, up from 6.4% in the 2004-2005 survey. The number of new infections has risen steadily from 124,000 in 2009 to about 145,000

in 2011. In terms of treatment, care and support interventions for PLHIVs, the Director-General noted that the Government is trying to place everyone on treatment, and that, as at August 2013, 156,000 people were on treatment, compared with the figure of 51,000 in 2005.

236. The delegation was also made to understand that there are guidelines on HIV/AIDS treatment, which prioritizes all pregnant women, all children below the age of 5 years, discordant couples, commercial sex workers and fishing communities.
237. The challenges of the UAC include donor dependency and the introduction of controversial Bills in Parliament, including: *The HIV/AIDS Prevention and Control Bill*, which *inter alia* mandates compulsory testing for pregnant women, and makes deliberate transmission an aggravating factor in sexual offences. The challenges of discrimination against sexual minorities and sex workers also drive populations-at-risk underground.
238. Regarding the rights of PLHIVs, the delegation was informed that whilst stigma and discrimination had reduced over the years due to the openness of the HIV response adopted, there are still forms of stigma and discrimination for PLHIVs which the UAC seeks to address, amongst others, by partnering with religious institutions to discourage discrimination against PLHIVs.

#### *Meeting with the media and thereafter a press Conference*

239. Lastly, the delegation held a press conference at the end of the Promotion Mission, which was attended by journalists from both the print and electronic media. The delegation explained to the members of the press about the work of the Commission, the special mechanisms of the Commission, the countries of responsibility of Commissioners and the purpose of the Mission. The delegation informed the press that in their meetings with the various authorities from both the government and human rights organizations, they discussed issues and exchanged views about the implementation of the human rights guaranteed under the African Charter in the country. The delegation informed the press that the Government facilitated its work and that frank and open discussions were held with the various government authorities. There were also questions and answers, as well as interview segments with members of the press. Furthermore, a press statement was issued, providing highlights of the Mission.

## V. OBSERVATIONS AND ANALYSIS

240. This section of the Report provides the general observations and findings of the Promotion Mission based on the visits and information gathered from the meetings and discussions with the different stakeholders.
241. The mission lasted for five days and due to time constraint, the delegation limited its visit to the capital of the country, Kampala. Notwithstanding this limitation, thanks to the collaboration of the Government, and in particular, the personnel of the Ministry of Foreign Affairs, the delegation had the opportunity to meet a cross-section of the relevant stakeholders working in the field of human rights. The Mission took place under excellent conditions, and enjoyed the full support of the Ministry of Foreign Affairs which ensured that all the scheduled meetings and visits were carried out, to the satisfaction of the delegation.
242. The delegation is therefore satisfied that even though it did not have sufficient time to meet a wider segment of the stakeholders, the individuals and institutions met and visited as indicated in this Report, gave it a general idea about the human rights situation in the country, which forms the basis of the following observations:

### POSITIVE ASPECTS

243. The Commission notes and appreciates the following as positive factors in the promotion and protection of human rights in Uganda:
- i. The authorization granted to it by the Government of Uganda, which is proof of the Government's willingness to cooperate with the Commission in addressing human rights issues in the country;
  - ii. The spirit of transparency and cooperation which the authorities demonstrated during the visit;
  - iii. The adoption of a number of laws which have a positive bearing on the human rights situation in the country, including: the Prohibition of Female Genital Mutilation Act 2010; the Domestic Violence Act 2010 and its regulations; the Access to Information Regulations 2011; the Prohibition and Prevention Against Torture Act 2012, in compliance with the Commission's recommendation following the promotion mission to Uganda by the Chairperson of the Commission's

- Committee on the Prevention of Torture in Africa, in 2009; the Petroleum (Exploration, Development and Production) Act, 2013; the Petroleum (Refining, Gas Processing and Conversion, Transportation And Storage) Act, 2013; the Building Control Act of 2013; the Anti-Money-Laundering Act of 2013; the Oil and Gas Revenue Management Policy 2012; The Constitution (Sentencing Guidelines) for Courts of Judicature (Practice) Directions, 2013; as well as The Computer Issues Act of 2011;
- iv. Programs, activities and strategies put in place for the realization of human rights, such as the establishment of the Human Rights Committee in the Parliament; and the use of affirmative action which has resulted in significant achievements in promoting gender equality and equal opportunities for PWDs;
  - v. The continuous efforts of the Government to develop various legislation aimed at improving the governance framework in the country, through a number of bills pending in Parliament;
  - vi. Uganda's unique constitutionally integrated quota system and affirmative action program which entails the creation of special 'add-on' seats for women at national and local government levels, together with other laws and policies such as the Uganda Gender Policy of 2007, which provide more opportunities for women to run for elective positions;
  - vii. The Guidelines by the Ministry of Gender, Labour and Social Development for the provision of shelters for female victims of gender-based violence, and the provision of counselling and psycho-social support to victims of sexual violence;
  - viii. The Pan-Africanist and open-handed approach in dealing with Refugee issues and the framework established by the Government for the protection and assistance of Refugees, Asylum Seekers, Migrants and IDPs, in Uganda, including providing equal access to public services available to Ugandan citizens;
  - ix. The comprehensive, multi-sectoral as well as targeted national strategies and measures put in place by the Government, in combating the HIV/AIDS pandemic in the country, including amongst others, *The Most At Risk Population Initiative* and the *AIDS Surveillance System*;
  - x. The various strategies and initiatives to promote the rights of PWDs, including amongst others, through: the establishment of the National Council for Disabilities Act of 2003; special budget allocations for PWDs; enhancement of employment opportunities through the amendment of the Employment Act of 2010 and the grant of tax waivers to companies employing PWDs; the creation of the Equal Opportunities Commission, which seeks to create equal opportunities for women, children and PWDs; ensuring that buildings are

- disabilities-friendly, through the Building Control Bill; enhancing access to information for PWDs through the enactment of the Information and Accessibility Act of 2005; and special trainings and concessions in the educational sector to address the specific needs of PWDs;
- xi. The Uganda Parliamentary Forum on Social Protection which deals with the social and economic transformation for vulnerable persons;
  - xii. The protection of women's property and inheritance rights through the process of amending the Succession Act, and the initiation of the Marriage and Divorce Bill;
  - xiii. Strategies to improve the situation of the youth population in Uganda through the adoption of the Youth Employment Policy of 2010 and the Labour Unions Act; the creation of vocational skills training opportunities; and export of labour through the Externalization of Labour Unit which prevents human trafficking;
  - xiv. Creation of social security schemes for older citizens as well as indigenous populations and minorities;
  - xv. Guidelines on HIV/AIDS treatment which prioritizes the most-at-risk population;
  - xvi. Legal and policy frameworks to ensure compulsory prior conduct of EIAs in oil and gas explorations; preservation of the environment/ecological system; and the conduct of environmental restoration in the event of pollution;
  - xvii. Legal and policy frameworks regulating labour rights and prohibiting the use of child labour;
  - xviii. Guidelines for Managing Public Demonstrations, initiated by the UHRC;
  - xix. Routine human rights training for the Police with specific reference to torture, and sensitization on the Prohibition and Prevention of Torture Act of 2012;
  - xx. Efforts to decongest the prisons by utilizing community service and plea-bargaining;
  - xxi. The establishment of a Criminal Case Committee headed by a Magistrate to speed up trials, and address overstay on remand;
  - xxii. The National Vision and Strategy for Justice which co-ordinates efforts of different stakeholders to address backlogs in courts and the establishment of the Speedy Court Trial Act;
  - xxiii. Human rights training in the training curriculum for Prisons officials;
  - xxiv. Formal and vocational skills training for prisoners;
  - xxv. No death sentence has been carried out since 1999 and since the decision of the Constitutional Court in the *Kigula Case*, several death sentences have been commuted to prison terms;
  - xxvi. The draft National Legal Aid Policy;

- xxvii. The initiative to draft a Data Protection Privacy Bill to safeguard data; and;
- xxviii. The positive attitude and dialogue amongst NGOs and CSOs working in the areas of promotion and protection of human rights in Uganda.

## AREAS OF CONCERN

244. The delegation however noted and remains concerned about certain challenges which inhibit the full realisation and enjoyment of human rights by the citizens, and in this regard wishes to highlight the following:

- i. At the regional level, Uganda has not ratified the African Charter on Democracy, Elections and Good Governance and has not made the Declaration provided for under Article 34 (6) of the Court's Protocol; and at the international level, it has not ratified the Second Optional Protocol to the ICCPR on the Abolition of the Death Penalty, the Optional Protocol to the CAT, and the Optional protocol to the CEDAW;
- ii. Uganda made a reservation to Article 14 of the Maputo Protocol;
- iii. The overcrowding of the Ugandan Government Maximum Security Upper Prison, Luzira;
- iv. The incarceration of juveniles in adult prisons;
- v. The unduly prolonged pre-trial detentions and the detention of mentally disturbed people in prisons on the "Minister's Order";
- vi. Continuous incarceration of female detainees with cases pending before the suspended Anti-Corruption Court;
- vii. The detention of female debt guarantors in the maximum security prison;
- viii. Prevalence of torture despite the Anti-Torture Act;
- ix. Inadequate trainings for Judges and Magistrates on the interpretation of international human rights instruments for application in the domestic courts;
- x. Lack of a substantive/sitting CJ, which threatens the rule of law, constitutionalism and impede access to the courts;
- xi. Inadequate funding of the Uganda Human Rights Commission;
- xii. Continuous discrimination and stigmatization against PLHIVs in the work place;
- xiii. Limited access to healthcare services for homosexual PLHIVs, due to their sexual orientation;
- xiv. Insufficient number of doctors and nurses in hospitals and clinics;
- xv. Retention of laws that criminalize expression such as "sedition" and "publication of false news" in the statute books, despite the fact that they have been nullified and declared unconstitutional;

- xvi. Self-censorship by media houses and journalists as well as other challenges which hamper the ability of the media to effectively play its role, such as the restrictive legal environment contemplated by certain provisions of the Press and Journalists (Amendment) Bill and the Uganda Communications Regulatory Act 2012;
- xvii. Bills pending in Parliament which have a bearing on human rights, including the Marriage and Divorce Bill; and the Sentence Reform Bill, amongst others;
- xviii. Failure to ensure the full and effective implementation of the Access to Information Act of 2005;
- xix. Lack of accountability and misuse of State resources during elections;
- xx. Restrictions to freedom of assembly and association, in particular as regards NGOs working dealing with extractive industries;
- xxi. Backlog in the payment of compensations awarded to victims of torture;
- xxii. Loss of land and property rights in the oil-producing areas;
- xxiii. Lack of compensation to victims of forced evictions during refinery projects;
- xxiv. The tedious requirement of annual licensing and registration of NGOs;
- xxv. Obstruction of the operations of NGOs protecting LGBTs' rights, by precluding them from registering to operate legally;
- xxvi. The retention of the death penalty in the statute books of Uganda, with 28 offences still attracting the death penalty and death sentences still being handed down by Judges, despite its declaration as being unconstitutional;
- xxvii. Lack of implementation of the Sentencing Guidelines which specify 35 years as the natural life of a person;
- xxviii. The HIV/AIDs Bill in Parliament which allegedly requires medical officials to disclose the status of patients and violates the confidentiality requirement of doctor/patient relationship; as well as between HIV/AIDS patients and their medical care providers;
- xxix. The HIV/AIDS Prevention and Control Bill, which allegedly mandates compulsory testing for pregnant women, and makes deliberate transmission an aggravating factor in sexual offences;
- xxx. The existence of mafias who exploit children and use them for alms-begging;
- xxxi. Lack of law on abortion which is compatible with the Maputo Protocol; and
- xxxii. Lack of the full and effective implementation of the laws and policies that protect the rights of women in Uganda.

## RECOMMENDATIONS

245. The above areas of concern are an indication that Uganda still faces some challenges in promoting and protecting human rights in the country. These recommendations are reflective of the fact that as a State Party to the African Charter and other international human rights instruments, Uganda has an obligation to respect and implement those instruments. It is on this premise that these recommendations are made, and also taking into consideration some of the commitments made by various stakeholders during this Mission.

246. In light of the above, the Commission makes the following specific recommendations to the Government of Uganda:

### General

- i. To ratify the African Charter on Democracy, Elections and Good Governance; the Second Optional Protocol to the ICCPR on the Abolition of the Death Penalty; the Optional Protocol to the CAT; and the Optional protocol to the CEDAW;
- ii. To make a Declaration pursuant to Article 36(4) of the Court Protocol, to allow individuals and NGOs access to the African Court;
- iii. To withdraw the reservation made to Article 14 of the Maputo Protocol;
- iv. To adequately capacitate the judiciary in order to improve access to the courts, and clear the backlog of trials of inmates;
- v. To organize routine human rights trainings for Judges and Magistrates, and trainings on interpretation of international human rights treaties and their application in domestic courts;
- vi. To grant bail to detainees with cases before the suspended Anti-Corruption Court pending the reinstatement of the Court;
- vii. To expedite the reinstatement of the Anti-Corruption Court or devise means for dealing with cases pending before it;
- viii. To ensure transparency, accountability and management of State resources by candidates during elections;
- ix. To implement all the outstanding recommendations made by the Commission in its Concluding Observations on Uganda's 4<sup>th</sup> Periodic Report, and in the report on the Promotion Mission to Uganda by the Chairperson of the Commission's Committee on the Prevention of Torture in Africa, in 2009;

- x. To formulate strategies of domesticating instruments that have been ratified by Uganda so as to ensure effective protection of human rights for its population; and
- xi. To work in collaboration with NGOs and CSOs in the promotion and protection of human rights in Uganda.

### **Specific**

#### ***On HIV/AIDS***

- i. To amend the HIV/ AIDS Prevention and Control Bill, so as to address the provisions that may attract stigma and discrimination by targeting already marginalized and vulnerable groups in society such as sex workers, pregnant women, and drug users;
- ii. To respond to the health workforce shortages by recruiting more doctors and nurses;
- iii. To strengthen its legal protection framework for PLHIVs to discourage HIV-related human rights violations;
- iv. To expand access to ARVs to all key populations, including homosexuals;
- v. To ensure access to healthcare facilities and services to all key populations;

#### ***On Prison Conditions and prevention of Torture***

- i. To pass regulations to operationalize the Prevention of Torture Act, of 2012 and ratify the Optional Protocol to the UNCAT to allow for independent inspection of detention facilities;
- ii. To expedite the building of new prisons so as to decongest the existing prisons in Uganda;
- iii. To detain juveniles in juvenile detention centres and not confine them in any jail or other facility for the detention of adult offenders;
- iv. To improve the juvenile justice system by assessing the juvenile justice training needs of law enforcement officials, at both the strategic decision making and operational levels, and providing the requisite capacity-building;
- v. To uplift the "Minister's Orders", and transfer the mentally ill inmates for treatment at appropriate psychiatric hospitals;
- vi. To establish a Victims Compensation Fund to provide speedy and timely payment of torture victims;

### *On Freedom of Expression and Access to Information*

- i. To expedite the full and effective implementation of the Access to Information Act of 2005;
- ii. To repeal the laws creating the offences of “sedition” and “publication of false news” which have been declared unconstitutional, as well as other laws that are not in line with regional and international standards on freedom of expression and access to information;
- iii. To promote independent and diverse media as essential elements for democracy, including by reviewing the Press and Journalists (Amendment) Bill, 2010 to delete any provisions that impinge on free press;
- iv. To denounce, investigate and prosecute all actions that undermine freedom of expression and information, particularly those actions that aim at stifling media freedoms, intimidating journalists, and threatening them with criminal prosecutions;
- v. To rescind the Press and Journalists (Amendment) Bill, 2010, as it lacks adequate legal safeguards against infringements of the right to freedom of expression;
- vi. To ensure easy, timely, effective and practical access to public information by amending the Access to Information Act Regulations 2011 as appropriate;

### *On Freedom of Assembly and Association*

- i. To take all necessary measures to safeguard the rights to freedom of assembly and association in Uganda, in line with its international and regional human rights commitments;
- ii. To amend the NGO Amendment Registration Act of 2006 and the Public Order Management Act of 2013, so as to do away with provisions which restrict freedom of assembly and association and limit the operationalization of NGOs, especially those working in the area of LGBT rights, and to uphold the spirit of the Public Order Management Act;

### *On Human Rights Defenders*

- i. To develop a legal framework for the protection of human rights defenders in conformity with the UN Declaration on Human Rights Defenders 1998 and the Commission’s Resolutions on Human Rights Defenders including ACHPR/Resolution 69 (XXXV) 04, ACHPR/Resolution 119 (XXXXII) 07, and ACHPR/Res.196 (L) 11;

- ii. To grant adequate space to human rights defenders to operate in the country, in line with prevailing international and regional standards;

### ***On Women's Rights***

- i. To implement the laws and policies aimed at promoting and protecting the rights of women in Uganda, especially those criminalizing FGM and domestic violence, including through adoption of effective mechanisms and allocation of adequate resources;
- ii. To encourage further affirmative action programs for purposes of ensuring representation of women in Government and public offices;
- iii. To encourage the training of lawyers and law enforcement agents in order to facilitate implementation;
- iv. Programs etc.
- v. To expedite the process of adopting the Marriage and Divorce Bill which has been pending for 14 years;

### ***On Extractive Industries***

- i. To implement the Land Act (amended in 2010) which enhances security of occupancy of lawful and *bona fide* occupants on registered land, as well as other laws and policies related to extractive industries;
- ii. To create an appropriate legal framework and effective implementation mechanisms for: the payment of full, adequate and timely compensation to victims of economic and social impacts of the extractive industries; and the remediation of and/or payment of compensation by companies in the extractive industries, for damages inflicted in the event of ecological disasters;
- iii. Create appropriate forums for engaging CSOs and the NHRI

### ***On the Death Penalty/Sentencing***

- i. To further restrict the application of the death penalty by passing the private Bill proposed by FHRI currently in Parliament, which seeks to reduce the number of offences that attract the death penalty;
- ii. To formalize the moratorium on the death penalty, as a step towards effective abolition of the death penalty;
- iii. To ratify the Second Optional Protocol to the ICCPR that abolishes the death penalty;
- iv. To clearly define life imprisonment in the Statute books;
- v. To operationalize the Sentencing Guidelines;
- vi. Parliament to expedite review of the Sentence Reform Bill which spells out sentences for prisoners; and

*On PWDs*

- i. To give effect to the laws, policies and programs aimed at promoting and protecting the rights of PWDs in Uganda.

247. The Commission also makes the following recommendations to other stakeholders in the promotion and protection of human rights in Uganda:

*To NGOs*

- i. To undertake sensitisation campaigns in order to create awareness about human and peoples' rights among the people of Uganda;
- ii. To consider applying for Observer Status at the African Commission on Human and Peoples' Rights, and fully engage with the various available procedures of the Commission for promoting and protecting human rights;

*To the Media*

- i. Familiarise themselves with the African human rights system, particularly the information generated by the Commission from time to time, as it affects all African peoples, or the citizens of Uganda in particular; and
- ii. Assist the Government of Uganda to sensitise the general public about human and peoples' rights.