



UGANDA UNDER REVIEW BY UNITED NATIONS UNIVERSAL PERIODIC REVIEW: RECOMMENDATIONS REGARDING ACCESS TO JUSTICE

Introduction to this document

The purpose of this document is to explain the United Nations Universal Periodic Review process, and set out the **recommendations** made to Uganda regarding **access to justice**. By “access to justice”, we mean recommendations regarding the judiciary, police, prison service, access to legal services and the criminal justice system as a whole. This includes accountability for acts such as torture, disappearances and extrajudicial executions. We have also included recommendations regarding freedom of assembly, expression and the media, as these recommendations often relate to justice matters. The document refers **only** to recommendations regarding these areas and does not refer to recommendations on other human rights areas.

CHRI hopes that this document will assist in advocacy regarding access to justice matters in Uganda. Organisations can lobby the government to implement the recommendations.

The United Nations Universal Periodic Review (“UPR”) is a process in which each member nation of the UN has its human rights record examined by other UN member states to assess compliance with human rights obligations and commitments. Each country is reviewed every four and a half years.

The UPR is a new mechanism that began in 2008. Uganda was reviewed for the first time in **October 2011**.

There are three stages in the UPR process: before, during, and after the review.

1. Before the review

Reports are provided to the UN Human Rights Council before the actual review, explaining the status of human rights in the country. Three reports are provided: one from the government; one prepared by the UN Office of the High Commissioner for Human Rights (OHCHR) summarising submissions from civil society organisations; and one which is a compilation of UN information, observations and recommendations on the country.¹

What role can civil society play in this stage of the process?

Governments are encouraged to hold broad consultations with all stakeholders including civil society when preparing their report. Civil society can lobby the government to hold consultations involving all stakeholders. Civil society can also hold its own consultation and choose to invite the government – for the entire consultation or parts of it. It’s often better to work in consultation with other civil society groups at this stage and involve the National Human Rights Institution.

¹ Reports are available at <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/UGSession12.aspx>



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The government of the country appears at the United Nations to discuss its own human rights situation and its adherence with international human rights obligations. During this process, other UN member states can raise concerns about human rights matters within the country – and make recommendations for improvement.

With each recommendation made by another country, the government of the country can either:

- **Accept** the recommendation: this means that the government agrees to implement or address the recommendation.
- **Reject** the recommendation: this means that the government rejects the recommendation, and will not implement it.
- **Make general responses** on the recommendation: this is often used by states as a way to neither accept nor reject recommendations. In such cases a government may for example say that a recommendation is irrelevant or that it has already been implemented.

At the time of the review, the government can take some time to **consider** whether they will adopt or reject recommendations. The government is expected to report back on whether they have decided to adopt or reject the recommendation at or before the next sitting of the UN Human Rights Council after its UPR review, where it is adopted. This is recorded in an addendum.

What role can civil society play in this stage of the process?

Civil society does not have a formal role to play during the actual review. Civil society groups can observe the review but cannot take the floor or make statements at the Council. However it is important for civil society to engage with diplomatic missions of other countries either in Kampala or in Geneva and encourage them to ask questions about key human rights matters. Civil society can make statements at the Human Right Council after the final recommendations are adopted.

3. After the Review

The government has an obligation to implement recommendations accepted before they appear before the UPR again. When the country does get reviewed again, the government is expected to report back on the progress made on implementing the recommendations. Countries are also encouraged to make voluntary midterm updates on the progress of implementation.



What role can civil society play in this stage of the process?

Civil society can:

- ✓ Lobby the government to implement the recommendations – this could include advocating for an Action Plan to outline how the recommendations will be implemented
- ✓ Work with other civil society organisations, journalists, parliamentarians, NHRIs and in some cases even the judiciary to advocate for implementation of recommendations
- ✓ Partner with the government to implement recommendations
- ✓ Monitor and report on the implementation of the recommendations – this can include reporting to donor governments who fund government projects related to UPR recommendations
- ✓ Lobby the government to hold consultations to report on the implementation of recommendations
- ✓ Give an update on the implementation of recommendations at Human Rights Council sessions in Geneva
- ✓ Prepare and submit a submission before the next review of Uganda at the UPR

Recommendations accepted by Uganda

The following recommendations regarding access to justice were adopted by Uganda and must be implemented by the government² (the government has an obligation to implement them):

Police and security forces

- Take immediate measures to investigate the excessive use of force and incidents of torture by the security forces and to prosecute and punish its perpetrators (recommendation by Czech Republic)
- Ensure that impartial, independent investigations are undertaken into allegation of human rights violations by security forces, including torture and other cruel, inhumane or degrading

See UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review; Uganda*, A/HRC/19/16, 11 October 2011, under “Outcome of the Review” at <http://www.ohchr.org/EN/HRBodies/UPR%5CPAGES%5CUGSession12.aspx>



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treatment, and that the findings of those investigations be made public (recommendation by Canada)

- Undertake a thorough investigation of all alleged cases and hold the officers accountable who committed these violent acts (Denmark)
- Hold security personnel accountable for human rights violations (United States of America)
- Investigate and hold accountable state security agents and members of the police and army who have committed human rights abuses as well as ensure adequate compensation for victims (Austria)
- Investigate and hold accountable police and security officers who attacked human rights defenders, journalists and civilians during the 2011 post-election period (Norway)
- Investigate and prosecute all persons found guilty of extrajudicial killings (Belgium)
- Train security forces to respect freedoms of expression and assembly (USA)
- Assure full respect of freedom of association and peaceful assembly and punish all excessive use of force by security officers against peaceful demonstrators (France)

Prisons and places of detention

- Establish without delay a national prevention mechanism against torture, allowing non-governmental organisations and the Human Rights Commission of Uganda to have access to detention centres (Spain)
- Improve overall conditions of prisons and adopt relevant measures to tackle the problems such as overcrowding, unsatisfactory state of prisons and shortcomings in the supply of health care (Czech Republic)

Criminal justice system

- Enhance the separation of powers between the executive branches and the judiciary (Hungary)
- Continue efforts to provide better protection for the children, including reviewing its juvenile justice system (Indonesia)
- Accelerate the improvement of the judicial, police and prison systems in line with international human rights standards (Holy See)
- Let the decision to grant or withhold bail remain a prerogative of the judiciary (Belgium)
- Consolidate on-going actions to reduce maternal mortality, to improve life conditions of persons with disabilities and to address the challenge of costly justice system, especially for the poor and in rural areas (Algeria)
- Ensure that military personnel assigned to peace missions are provided with adequate training and clear guidance in relation to the protection, rights and needs of women,



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including issues related to sexual and gender-based violence as well as sexual exploitation and abuse (Canada)

Torture

- An anti-torture bill be enacted by the current Parliament (Ireland, Denmark, Norway) and efforts to hold accountable all those committing acts of torture and ensure timely and adequate compensations to victims (Norway, Denmark)
- Enact pending anti-torture legislation (United States of America, Austria, Mexico, Sweden) urgently (Sweden), in order to effectively implement protection as provided by CAT (Mexico)
- Make efficient and independent investigations of allegations of torture and ill treatment at earliest with a view to bringing perpetrators to justice (Switzerland)

Death penalty

- Consistently apply the rulings of the Court by converting all death sentences into life in prison after more than three years on death row (Belgium)

Human Rights Defenders and witness protection

- Investigate and prosecute all persons found guilty of attacks on human rights defenders (Belgium)
- Investigate and hold accountable police and security officers who attacked human rights defenders, journalists and civilians during the 2011 post-election period (Norway)
- Ensure that human rights defenders can perform their legitimate duties free from any harassment and intimidation in line with international standards including the UN Declaration on HR Defenders (Slovakia)
- In order to further prevent impunity, broaden victim participation in court proceedings, as well as ensure witness protection (Hungary)

Freedom of expression, assembly and public order management

- Take further steps to protect right to assembly in line with their international obligations under the International Covenant on Civil and Political Rights and the provisions in the Ugandan constitution (United Kingdom of Great Britain and Northern Ireland)
- Uphold the rights to freedom of expression and assembly (Austria)
- Lift the ban on all forms of public assembly and demonstration (Switzerland)
- Assure full respect of freedom of association and peaceful assembly and punish all excessive use of force by security officers against peaceful demonstrators (France)
- Guarantee freedom of expression, particularly the possibility to express criticism and opinion regarding acts of the government (Chile)



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- Amend accordingly all laws that are contrary to Uganda's national and international obligations to respect, protect and promote the freedoms of expression and assembly (Sweden)
- Take steps to put in place public order legislation which respects the right of assembly and demonstration while safeguarding citizen's rights to protection and safety (Ireland)
- Undertake legislative reforms so that protection and promotion of laws on the freedom of expression and peaceful assemblies and associations would be guaranteed to all the residents of the country (Switzerland)
- That the Public Order Management Draft Bill be brought in line with Uganda's international human rights obligations (Norway, Austria)
- Lift laws that are contrary to the state's international obligations to respect, protect and promote freedom of expression (Belgium, Slovakia) and the right of peaceful and legitimate assembly (Belgium)
- End intimidation, threats and physical attacks on journalists and promote open reporting and commentary on issues of public concern (Netherlands)

Human Rights Commission and general human rights

- Continue efforts to build and strengthen national human rights and democratic institutions (Nepal)
- Ensure the independence and adequate capacity of the Ugandan Human Rights Commission (Austria)

Recommendations rejected by Uganda

The following recommendations regarding access to justice were rejected by Uganda³:

Detention facilities

- Eliminate detention facilities known as "safe houses" (United States of America)

Regarding the recommendation by the United States concerning safe houses, Uganda states:

*"Recommendation 112.42 is vague, and thus not accepted."*⁴

³ "Report of the Working Group on the Universal Periodic Review; Uganda", UN Human Rights Council, A/HRC/19/16, 11 October 2011, and the "Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review", A/HRC/19/16/Add.1, 16 March 2012. Accessed under "Outcome of the Review" and "Addendum"
<http://www.ohchr.org/EN/HRBodies/UPR%5CPAGES%5CUGSession12.aspx>

⁴ Ibid.



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Torture

- Adopt legislation against torture and take all necessary measures to put an end to such acts, notably by bringing to justice state officials guilty of torture or ill-treatment (France)
- Give effect to the provision of CAT (Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) in national legislation (UK and Northern Ireland)
- Ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT) (Denmark, France, Switzerland, Brazil, Chile, Argentina, Sweden, Australia, Holy See), as the Uganda Human Rights Commission has recommended (Denmark), adopt national legislation accordingly (Belgium) and incorporate its provisions into domestic law (Australia)) (*If Uganda ratify OP-CAT they would need to implement a national system for inspecting places of detention*)
- Consider acceding to the OP-CAT (Costa Rica)

Death penalty

- Abolish the death penalty (Holy See)
- Establish a de jure moratorium on execution (France, Switzerland, Costa Rica, Spain), with a view to totally and definitively abolishing the death penalty (France, Switzerland, Spain), and commute all death sentences into prison sentences (Spain) or life imprisonment (France)
- Consider abolishing the death penalty (Turkey, Costa Rica)
- Amend the constitution to abolish any constitutional provisions that provide for death penalty (Sweden)
- Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR-OP 2) (Czech Republic, Belgium, Switzerland, Australia, Sweden) (*This is about the abolition of the death penalty*)

Regarding the death penalty, Uganda states:

“The recommendation did not enjoy the support, during the course of country-wide constitution-making consultative processes. However, the Supreme Court has ruled, and the Government accepts that after 3 years, a death sentence which is not enforced is automatically commuted to life imprisonment, without remission.”⁵

Freedom of assembly and expression

- Refrain from exacting the proposed Public Order Management Bill and fully guarantee the freedom of assembly (Germany)

⁵ Ibid.



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- Arrange for the visit of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression as soon as possible (Canada)
- Consider positively the request for visit by Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and recent request by Special Rapporteur on the rights to freedom of peaceful assembly and association (Latvia)

Regarding invitations to the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Uganda states:

“We will continue to consider requests for country visits on a case by case basis. We would also like to re-iterate that equal attention should be given to Economic, Social and Cultural Rights.”⁶

Next steps

The government of Uganda has a duty to implement the recommendations it accepted before it is reviewed again, in **October 2016**.

Civil society should work to make sure the recommendations that were accepted by Uganda are implemented, and should consider the actions suggested in the text box on page 3.

Need more information?

If you would like more information please contact us:

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⁶ “Report of the Working Group on the Universal Periodic Review; Uganda”, UN Human Rights Council, A/HRC/19/16, 11 October 2011, and the “Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review”, A/HRC/19/16/Add.1, 16 March 2012. Accessed under “Outcome of the Review” and “Addendum” <http://www.ohchr.org/EN/HRBodies/UPR%5CPAGES%5CUGSession12.aspx>