

UGANDA: Report from African Committee session

This report summarises the dialogue between the delegation from the government of Uganda and members of the African Committee of Experts on the Rights and Welfare of the Child during the review of Uganda's initial report to the Committee.

The government began by highlighting some recent developments in guaranteeing children's rights under the African Charter on the Rights and Welfare of the Child (ACRWC):

- The Children's Act is currently being updated and will include new provisions on child labour, trafficking and street children, among others.
- The State is in the process of ratifying the Hague Convention on Inter-Country Adoption.
- The African Charter has been translated into 10 local languages and widely disseminated.

In their opening remarks, State representatives affirmed that Uganda is committed to ensuring the rights and welfare of children are guaranteed.

They accepted that the report had not been drafted in accordance with the African Committee's guidelines and confirmed that it would revise the report's format in future.

Discussion with the Committee

The State representatives noted that the issue of birth and death registration featured prominently in the Committee's questions and commented that a programme has been piloted to guarantee registration in 11 out of 18 districts which will gradually be rolled out to all districts.

When was the Children's Act enacted?

The law was enacted in 1996 and came into force in 1997.

What is the government doing to eliminate discrimination against girls?

A number of policies have been developed to eliminate discrimination against girls. The Equal Opportunities Commission is responsible for overseeing their implementation. There is a strong affirmative action movement in the country. The principle of affirmative action is applied in higher education, for example, where girls are given an additional 1.5 points on top of their actual score. The government's efforts in this respect are proving fruitful - in one recent graduation ceremony, for example, more girls than boys graduated.

What measures have been taken to end child prostitution?

The delegation listed a number of measures adopted and offices created to eliminate child prostitution, including the creation a child protection unit within the police force, a children's unit in the Ministry of Gender, Labour and Social Development, the existence of a Family and Children's Court and a Minister of State for Youth and Children's Affairs.

Policies with provisions on child prostitution include the Orphans and Vulnerable Children Policy 2004, the Child Labour Policy 2006, the Universal Primary Education Policy 2007 and the Anti-trafficking in Persons Act 2009.

Extensive training of law enforcement officers in children's rights is also underway.

There is a network of stakeholders committed to this issue which meet in the Juvenile Justice Forum, and the Child Protection Agency Committee, among other fora.

The Penal Code prohibits prostitution. In addition, Article 34 of the Constitution includes provisions to protect children.

The government is also developing a national plan of action on abuse.

Are law enforcement officers and staff of the Family and Children's Court trained to deal with children's cases?

Magistrates and law enforcement officers are trained on aspects of the Children's Act. This training will be extended to rural areas. There is a child and family protection unit in every police force.

What happens to incarcerated children where no remand homes exist?

The courts should only consider detention as a last resort. The State places a strong emphasis on diversion for less serious cases. Section 91 of the Children's Act deals with this issue and Section 91.6 provides that "No child shall be remanded in custody in an adult prison". Section 91.8 states that: "Pending the establishment of remand homes, the Minister may declare any establishment as a remand home".

The State has invested in the construction of remand homes. However, in many districts, the number of children committing serious offences may not warrant establishing a remand home. The government is therefore considering building regional remand homes.

Has the creation of the Human Rights Commission brought changes in the observance of human rights in the country, and has training reduced crime among young people?

The Human Rights Commission is already present in some districts and will gradually establish offices in all districts. Through outreach programmes the public has become more aware of their rights, the role of the Human Rights Commission, and how to access justice through this mechanism.

The Commission has no mandate to ensure minors are not committing crimes – this is a matter for law enforcement agencies.

What measures have been taken to promote positive cultural values and traditions?

Article 22 provides that if a law or custom is inconsistent with the Constitution, the Constitution will prevail. This provision is replicated in Section 8 of the Children's Act which goes further and seeks to prevent practices which are prejudicial to a child's education, mental or physical health. In addition, the Female Genital Mutilation Act of 2009 outlaws FGM. The Domestic Act of 2009 and the Penal Code also contain provisions on harmful traditional practices.

The delegation reported a worrying spate of child sacrifices; a phenomenon which, they said, was treated under the law not as a harmful traditional practice but as murder.

Under the 2009 Anti-Trafficking Act, perpetrators of harmful traditional practices against children are dealt with severely. Other laws covering for example marriage, divorce and the Land Act, are also under review to ensure children's protection from harmful practices.

What is the definition of a child under Ugandan law?

Article 257c of the Constitution defines a child as a person under 18. In Article 34.5 of the Constitution, children are defined as under 16 for the purposes of clause 4 which provides that:

“Children are entitled to be protected from social or economic exploitation and shall not be employed in or required to perform work that is likely to be hazardous or to interfere with their education or to be harmful to their health or physical, mental, spiritual, moral or social development.”

The minimum age of criminal responsibility as established by Section 89 of the Children's Act is 12. The Employment Act of 2006 establishes a child as under 18, but makes some distinctions for the purpose of employment. This Act sets the minimum age of employment as 14. The delegation accepted that there is a contradiction in the laws, but assured the Committee that a review of the Children's Act was underway which would give room to examine contradictions in other laws, for example, the age of marriage should be consistent with the age of sexual consent.

Under the Charter, a child is any person under 18. Is the Employment Act therefore a derogation of the Charter?

Certain socio-economic situations warrant that children work, but the Employment Act seeks to protect children from exploitation. It is based on the International Labour Organisation's Convention 138 on the Minimum Age of Admissions into Employment and Work which sets 15 as the minimum age. The delegation said there could be room for raising this age to 15. The Act defines the type of work children can engage in. All work is prohibited for children under 12. Fourteen is the minimum age for engaging in light work. Other minimum ages, for example, for marriage, are under review, but the country's socio-economic conditions mean the minimum age for work is set lower than other minimum ages.

Light work is defined by the ILO as activities undertaken by children under supervision in an environment free from exploitation.

Uganda is notorious for militarisation but the State report is silent on the issue of children involved in armed conflict. Can you describe the present situation?

It is not true that Uganda is notorious for involving children in armed conflict. The situation is that there are no children in the armed forces of Uganda. Laws and procedures effectively prevent this, for example, Section 52. 22 of the Constitution and the Ugandan Defence Forces Act 2005. The latter states that no person shall be enrolled in defence forces unless he or she is at least 18 years old and has attained a particular level of education.

To demonstrate the success Uganda has had in eradicating the use of children in its forces, in October 2003, the UN Secretary General provided a list of 54 countries [a list called annex 2], including Uganda, which involved children in armed conflict. In 2005 the UN Security Council adopted Resolution 1612 on reporting on and monitoring the use of children in armed conflict. On 16 January 2009, the government and the Task Force on Monitoring and Reporting signed an action plan on children associated with armed forces – the outcome of three years of cooperation between the government (especially the Ministry of Foreign Affairs), Ugandan People's Defence Forces, and the Taskforce on Children and Armed Conflict. From September 2007 to January 2009, the Taskforce has registered no cases of recruitment of children and Uganda has been de-listed from annex 2 of Resolution 1612.

What are the government and civil society organisations doing to ensure that children with disabilities are not kept indoors and are able to participate in developmental activities?

Uganda has a policy on disability which has been reinforced by the enactment of the Disability Act (which is also under review). The government is aware of the approach and attitudes of some parents and has conducted country-wide awareness raising drive with parent's associations. Furthermore, some children are being assisted through medical operations in line with Section 10 of the Children's Act.

What is being done to protect children from abuse in the media when children's issues are being reported?

Workshops have been delivered by the government and civil society organisations to share information on children's rights and the press. Proposals for law reform also include stringent sanctions on those who abuse children in the media.

Does Uganda allow adoption by foreigners, especially by people from Western countries? If so, what is the procedure and how can the government be sure that this is in the best interests of child?

The Children's Act allows the adoption of Ugandan children by foreigners. However, there are a number of strict criteria which must be adhered to. As set out in Section 46, conditions include that a person wishing to adopt a child from Uganda should have stayed in Uganda for at least three years; fostered the child for at least 36 months under the supervision of a probation and social welfare officer; should have no criminal record; should have a recommendation on their suitability as adoptive parents from their country's welfare office and have satisfied the court that his or her country of origin will respect and recognise the adoption order.

The application for adoption is made to a court. A probation or welfare officer must submit a report on the person's suitability as an adoptive parent, the court may, in addition, require another person to present a report. The court should be satisfied that the child's natural parents, or their guardian, have freely consented to the adoption and understood the nature and effect of the act. Section 48.b stipulates that the order will only be made if it is in the best interests of the child.

The delegation reiterated that Uganda is in the process of ratifying the Hague Convention.

What measures has the State taken to implement children's right to privacy?

Article 27 of the Constitution protects the right to privacy, providing in Article 27.2 that:

“No person shall be subjected to interference with the privacy of that person’s home, correspondence, communication or other property.”

The Uganda Communication Act Section 73 provides that any person who intercepts, divulges or commits an offence is liable on conviction to a penalty.

The Human Rights Commission Act 1997 also includes a provision on the right to privacy.

How many cases of abuse and torture of children have been reported per year? Is there any follow up on the lives of those who have been tortured? If so, who does this and how?

In 2007, the Human Rights Commission received 254 complaints. In 2008, the Commission

received 314 complaints. These are settled through Uganda's human rights tribunals. Thirty-one complaints were dealt with in 2008, 15 of which were dismissed because of a lack of interest by the affected parties in pursuing the complaint or because of a lack of evidence. Most complaints are responded to by the Secretary General of the Commission.

Uganda is in the process of ratifying the UN Convention Against Torture.

Last year, one of the Commissioners from the African Commission on Human and Peoples' Rights visited to deliver training on the Robben Guidelines.

What steps has Uganda taken to ensure children's reunification with their families?

The State is working closely with partners towards family reunification. It recently submitted a cross-border repatriation report to the UN. Uganda cooperates with the Central African Republic (CAR), Sudan and the Democratic Republic of Congo in repatriation efforts. Efforts need to be reinforced and systematised.

By November 2009, 71 children and young mothers who had been captured by the Lord's Resistance Army were housed in reception centres. Two children were confirmed as southern Sudanese and one as Congolese, and have been repatriated to their respective countries.

Is there any specific legislation or policy to protect children from trafficking and abduction, particularly given that 800 children are not accounted for? How effective is Uganda in preventing trafficking and abduction of children with the Sudan cross-border initiative?

Statistics are not readily available. Uganda has been a centre for the demand, transit and supply of trafficked children.

Until 2009, these crimes were not specifically criminalised, but were dealt with from various angles: the Penal Code dealt with kidnapping, the Immigration Act dealt with illegal movement, etc. However, in 2009, a private members bill led to the drafting of a comprehensive Trafficking in Persons Act. This provides for prevention, sanctions and recovery of victims.

Movement of children out of the country should only be under an adoption order.

The Uganda Child Rights Network has worked with the government to tackle child trafficking and has helped awareness raising efforts.

Other measures taken include the creation of an anti-trafficking unit in the police force, holistic psycho-social support to victims, children have also been involved in campaigning.

Can you provide information on the situation of Sudanese children in Uganda?

Sudanese children receive the same care as Ugandan children. They can also receive secondary education in Uganda.

What kind of child care is available for children given the high proportion of children aged 2-6 (one-fifth of the population is under-five)?

Early childhood development programmes are not compulsory, but many young children attend nursery schools.

The State report says the fact that many girls do not go to school is a result of poverty. What are the costs of attendance?

All children have access to primary. However, the admission rate is 70 per cent and dropping. The admissions rate for secondary school is low.

In terms of the drop-out rate for girls, other issues also need to be grappled with before further progress is made, for example, early marriage.

What is the government doing about the rebels [the Lord's Resistance Army]? The Committee undertook an investigation to Kitgum and what they found was horrifying.

The LRA is no longer operative in Uganda.

The Ugandan People's Defence Forces at first did not deny that they had children within their ranks. These were for the most part children who ran to the army for protection. "To avoid idleness, they were sent on small errands." This no longer occurs, as reported earlier.

The government of Uganda and the UPDF is now engaging in rescuing children from the LRA.

What is the government doing to strengthen the National Council for Children?

The National Council for Children is being restructured and strong coordinating mechanisms are being developed with grassroots organisations to improve monitoring and evaluation of the child rights situation and relevant programmes.

Does Uganda have juvenile courts?

Prior to the entry into force of Uganda's Children's Act, there was only one juvenile court in the country. All magistrates courts now have designated juvenile courts at the district level. Police should first caution minors and avoid detention where possible. Children are only taken to court as a last resort.

Despite the government's efforts towards universal birth registration, the results appear to remain unchanged since before the programme's implementation, according to an evaluation by the Ministry of Justice, which suggests the initiative is not working. What other initiatives are in place to tackle birth registration?

UNICEF reported a problem with the right to nationality some time ago. This was the case at the time and was the consequence of political history and the break down of the country's systems. Over the years, however, progress has been made and continues.

With respect to Article 11 of the Constitution which provides for adoption of children by Ugandan nationals, which states that adopted children can apply for citizenship of Uganda at age 18, is this application made by the adoptive parents or at the request of the child?

The guardians of the child normally apply.

What is the status of corporal punishment in Uganda?

The State intends to criminalise corporal punishment, especially in schools, as part of the review of the Children's Act.

How does the government work with other stakeholders?

There is a policy which provides a comfortable environment in which NGOs can operate. When there is a contentious issue, the government and NGOs work together. Examples of collaboration include a juvenile justice forum and the 'Chain Linked Initiative'.¹

Were NGOs involved in drafting report?

“I think they were”, said a delegate.

Can you provide information on how data relating to children's rights is collected?

District officers should collect data on children and send this information online or via other means at least once a month to help the government get a better picture for developing policies.

Closing

Chairperson of the African Committee, Ms. Seynabou Ndiaye Diakhaté, closed the session, saying “I said to myself when I read the report - and I am still of the same opinion after hearing this presentation - that the government of Uganda has no problem in implementing the Charter; am I right?”

The delegation responded that this was true, but emphasised that resources were limited.

¹ The 'Chain Linked Initiative' was created in 1998 to improve cooperation between criminal justice agencies.