

**UGANDA’S EXPERIENCE ON THE RIGHT TO PARTICIPATE IN**

**POLITICAL AND PUBLIC AFFAIRS**

**SUBMITTED**

**BY**

**UGANDA HUMAN RIGHTS COMMISSION**

**TO**

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**FOR HUMAN RIGHTS (UN OHCHR)**

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**1.0 Introduction**

The Uganda Human Rights Commission (UHRC) is an ‘A’ status independent National Human Rights institution (NHRI) established under the 1995 Constitution of the Republic of Uganda to promote and protect human rights. It was established as a result of the recommendations made in the 1994 report of the Commission of Inquiry into past human rights violations, as well as the 1992 report of the Constitutional Commission and ultimately, the recommendations of 1995 Constituent Assembly.

This submission concerning resolution 27/24 of the Human Rights Council on equal participation in political and public affairs is comprised of a brief background on Uganda’s experience on the right to participate in political and public affairs, as well as an assessment of the relevant positive developments and human rights concerns. The submission also makes recommendations before stating the conclusion. The submission is based on UHRC reports assessing the human rights situation in Uganda, and several consultative meetings held with stakeholders in the recent past on the same human rights situation in the country with special focus on: participation in the conduct of public affairs, the right to vote and to be elected as well as equal access to public services.

**2.0 Background**

Uganda has ratified the core international and regional instruments.[[1]](#footnote-1) At the sub-regional level, Uganda is a State Party to the East African Community Treaty, whose fundamental principles include the promotion and protection of human rights in the region.[[2]](#footnote-2) At the national level, the 1995 Constitution of the Republic of Uganda has a Bill of Rights that puts in place a legislative, administrative and institutional framework for the promotion and protection of human rights in Uganda. Over the years, there have been positive developments registered in the area of promotion and protection of human rights in the country. However, several challenges remain in ensuring participation in the conduct of public affairs, electoral processes and equal access to public services.

**3.0 Positive developments, human rights concerns and recommendations**

**3.1 The UN position on participation in the conduct of public affairs**

In order to guarantee effective participation in public affairs among the UN member States, the UN Economic and Social Council states among other requirements, that the percentage of women in leadership positions should always remain at a minimum of 30%, with concerted efforts being made to attain 50-50 representation between men and women.[[3]](#footnote-3)

**3.1.1 Constitutional provisions and enabling legislation in Uganda**

*Constitutional Provisions*

The National Objectives and Directive Principles of State Policy in the Constitution of Uganda encourage the active participation of all citizens at all levels in their own governance.[[4]](#footnote-4) The Constitution provides that members of Parliament must include one women representative per district as well as representatives of the youth, workers, Persons with Disabilities (PWDs) and any other special groups as may be determined by Parliament.[[5]](#footnote-5) The Constitution further provides for affirmative action in favor of marginalized groups and the establishment of an Equal Opportunities Commission (EOC). The EOC which is already in place, is mandated to eliminate discrimination and inequalities at all levels.[[6]](#footnote-6)

*Further Enabling legislation*

The Local Government Act of 1997 provides for one third of the seats of each Local Council to be filled by women. The Act also has similar provisions relating to the youth and PWDs.[[7]](#footnote-7)

**3.1.2 Positive developments**

Affirmative action as provided for by the aforementioned legislations has contributed to increased level of participation of women, youths and PWDs in political and public affairs in Uganda. The level of women representatives in Parliament and other positions at the local and district levels is relatively high, according to a study that was conducted by the Democracy Monitoring-DEM Group. In this study, Uganda was ranked 19th out of 143 in terms of women representation.[[8]](#footnote-8)

Currently, 35% of the seats in the 9th Parliament as at 2015, are filled by women.[[9]](#footnote-9) There are also five representatives each from the youth, workers and PWDs.[[10]](#footnote-10) At the end of the 8th Parliament in 2010, MP’s voted to extend affirmative action for a further five years period, until the end of the 9th Parliament in 2016. In terms of political leadership, for example, two women were also recently appointed as Secretary General and Treasurer of the ruling party, the National Resistance Movement (NRM). The largest opposition political party, Forum for Democratic Change (FDC) also has some of its women as National Vice Chairperson, Chief Whip in Parliament, Chairperson of Parliament’s Public Accounts Committee and some shadow ministerial positions. The Uganda Federal Alliance party is headed by a female President, Ms Betty Olive Kamya, who was also the sole female presidential candidate during the 2011 general elections. At the Local Government level, the LCV Chairperson of Kamuli District is a woman, Mrs Prescovia Musumba, who is also one of the most effective political leaders at District Local Government level.

Non-Governmental Organizations such as the National Association of Women’s Judges (NAWJU), are working towards an equal representation of women in the Judiciary. Currently, three out of the eight judges in the Supreme Court are women, and there is a significant member of women judges at High Court level, as well as female magistrates at the lower level of the judiciary.

There are several other women in high leadership and political offices including, the current Speaker of Parliament; the former Minister of Finance, Planning and Economic Development (now Senior Presidential Advisor for Finance, World Bank and IMF); the Executive Director of the Kampala City Council Authority; the Minister of Energy and Minerals; the Minister of Trade and Industry; the former and the current Commissioners General of the Uganda Revenue Authority, and the former and current Inspector General of Government.

Equal participation in the conduct of public affairs also includes the active participation of Civil Society Organizations (CSOs), trade unions and minority groups in all aspects of policy formulation. In this respect, CSOs and other stakeholders are invited to submit their positions on the Bills pending before various Parliamentary committees. The 2012 Open Budget Survey put Uganda among the top 20 countries in the world that provide their citizens with significant information about the central Government’s budget and financial activities.[[11]](#footnote-11)

*Major Challenges*

In spite of the above registered developments, women’s participation especially at the lower levels of governance is still hindered by low levels of awareness and education, high poverty levels and limited economic empowerment.

**3.1.1 Recommendations**

With regard to participation in political affairs, *The UHRC recommends that:*

* *The Parliament of Uganda should continue to apply the principle of affirmative action during the upcoming 10th Parliament, until an equal 50 – 50 representation is achieved, and representation of PWDs, youth, workers and other marginalized groups is significantly increased.*
* *Women’s participation at the local government level should be strengthened through increased levels of awareness raising and the provision of income generating activities for vulnerable sections of societies such as women.*

**3.2 The right to vote and to be elected**

International and Regional (African and East African Community) human rights legal frameworks provide for the right to be elected to political leadership positions. Uganda has made significant strides in fulfilling its obligations in this respect.

**3.2.1 Constitutional provisions and enabling legislation**

*Constitutional and other legal Provisions*

The Constitution of the Republic of Uganda guarantees the right of every Ugandan citizen above the age of eighteen, to vote.[[12]](#footnote-12) The right to equal participation in the conduct of public affairs includes the rights of all citizens to vote and to be elected. The right to vote is provided for in respect of all citizens including women, the youth and PWDs who should all be duly represented in Parliament and other positions of leadership.[[13]](#footnote-13)

However, Article 12 (a) (ii) of the Constitution prohibits the registration of a person as a citizen of Uganda if their parents or grandparents were refugees in Uganda. This provision therefore indirectly discriminates against refugees.[[14]](#footnote-14)

Article 37 of the Persons with Disabilities Act 2006 provides that persons with disabilities shall have the right to fully participate in political and public life and to vote and be voted in any political office. As already indicated, the Parliamentary Elections Act 2005 also provides for five seats in Parliament for the representatives of PWD. It is as a result of these legislations that PWDs have over the years now been well represented in the Parliament of Uganda. However, such affirmative action still lacks at local council level thus, limiting relevant political participation by such marginalized groups at lower political levels.

**3.2.2 Positive developments**

The Ministry of Internal Affairs recently launched a National Identification Registration project.[[15]](#footnote-15) The National Identification cards currently being issued to the registered citizens are expected to be some of the documents to be used during the upcoming 2016 General Elections.[[16]](#footnote-16) Registration is open to all Ugandan citizens above the age of sixteen without any discrimination based on ethnicity or political opinion. Citizenship can be validated through various means that are nonrestrictive but broad. These include: use of passport or birth, baptism and marriage certificates as well as school reports or school identification cards. The people who were unable to provide such documentation could still get verifications from elders or parish leaders within their communities. However, there have been reports that registration sites were not easily accessible to PWDs and there was lack of assistants for the illiterate people who went to register.

Regarding preparation for the 2016 general elections, the Electoral Commission recently convened meetings of the National Consultative Forum (this has representatives from the various registered political parties, the Electoral Commission and the Attorney General). In these meetings the role of the National Consultative Forum in the enforcement of the Code of Conduct was clarified, and electoral reforms agreed upon touching on among other areas, the independence of the Electoral Commission and the need for sections of voters that have in the past remained disenfranchised, such as prisoners and Ugandans in the diaspora, also being allowed to vote. In addition, the Electoral Commission developed a Road Map for the upcoming General and Presidential Elections of 2016.

**3.2.3 Major Challenges**

In spite of the aforementioned developments, voter and civic education has still remained inadequate. This has particularly posed challenges for PWDS. For instance, in 2011, it was noted that there was insufficient civic and voter education for PWDs prior to the elections because of lack of sign language interpreters as well as braille, audio and pictorial information materials.[[17]](#footnote-17) In addition, it was noted that PWD’s had limited access to voting facilities, including limited physical access to some polling stations.

Though electoral reforms have now been proposed to address disenfranchisement of some voters, the electoral reforms are yet to be tabled in Parliament, and this could pose a challenge for the Electoral Commission, as it has to put in place various mechanisms in good time in order to enforce the relevant provisions.

Though the National Consultative Forum is crucial in overseeing the conduct of political parties before, during and after the elections, all political parties need to respect rights that are integral to the right to vote, such as freedom of speech, freedom of association and respect for the rule of law. In this respect, members of the opposition parties still continue to face intimidation, threats and violence in exercising their right to participate in the conduct of public affairs and the right to freedom of assembly and association. On the other hand, leaders and supporters of some of the opposition parties and civil society organizations also conduct their political or public activities in a manner that tends to result into infringement on other people’s rights and without proper regard for the relevant laws in place.

In addition, drawing from the experience of the 2011 general election, the challenge of commercialization of elections with money being used to buy votes, is still an outstanding issue adversely affecting the drive for free and fair elections.

**3.2.4 Recommendations**

With regard to the right to vote and to be elected, t*he UHRC recommends that;*

* *The Electoral Commission and the Uganda Human Rights Commission (UHRC) to be adequately funded in order to enable them to carry out voter and civic education before the elections;*
* *The Electoral Commission should aim at making the electoral process more responsive to the needs of vulnerable groups such as PWD. Specifically, voter and civic education materials should be transcribed into Braille and there should be sign language interpreters at polling stations as well as provisions of pictorial and audio materials, in order to enable PWDs participate with ease and effectively in elections.*
* *The Ministry of Internal Affairs, which is spearheading the National Identification Registration process, should effectively address the need for registration of detainees, the sick, the elderly and Ugandans living in the Diaspora, so that they are also able to vote in the upcoming 2016 general elections and subsequent national elections.*
* *Uganda should quickly ratify and domesticate the African Charter on Democracy, Elections and Governance which seeks to promote the principles of democracy, rule of law and respect for human rights, and Government should urgently enact electoral and constitutional reforms which can ensure among other things, an effective structure and the independence of the Electoral Commission as well as term limits where they are necessary.*

**3.3 Equal access to Public Services**

**3.3.1 Constitutional provisions and enabling legislation**

The Constitution of Uganda guarantees Equal access to public services and also, encourages participation in the administration of services in the public sector. The Employment Act 2006 also encourages equality of opportunity, with a view to eliminating discrimination in employment. It further defines discrimination in employment as including ‘any distinction, exclusion or preference made on the basis of race, colour, sex, religion, HIV status and disability’.[[18]](#footnote-18)

The Equal Opportunity Act, 2006, the Employment Act (No.6) and the Persons with Disabilities Act 2006, all prohibit discrimination of persons in employment based on disability.

**3.3.2 Positive developments**

The Public Service Commission is responsible for the appointment, promotion, suspension and dismissal of public officers.[[19]](#footnote-19) The Public Service Commission Regulations clearly stipulate instances under which suspension, dismissal and promotion of public officers can be done. For instance, a public officer may be relieved of his/her duties after being convicted of criminal charges.[[20]](#footnote-20)

The Public Service Commission (PSC) has a Guidance and Monitoring Department which is responsible for monitoring compliance with the Public Service Commission’s regulations and procedures. For instance, once a post has been advertised, the interested persons must submit application forms to apply and then go through competitive interviews.

Furthermore, the PSC is mandated to appoint, confirm and exercise disciplinary control over Chief Administrative Officers and Deputy Chief Administrative Officers and Town Clerks of the relevant City or Municipalities. The PSC appoints members of the District Service Commission, who in turn appoint persons who are to hold public offices in the Districts. There are however still concerns of lack of equal opportunities for women and PWDs.

**3.3.3 Recommendations**

*In this regard, the UHRC recommends that:*

* *The criteria for selection and appointment of public employees should be more transparent and more non-discriminatory towards women and PWDs.*
* *The public service sector should encourage vulnerable persons to apply for jobs without imposing unreasonable restrictions on them based on sex and disability, and should also provide accessible facilities for PWDs, in all public places, including toilets and ramps.*

**3.4 Freedom of Expression, Association, Assembly and the Right To Access to Information**

The right to freedom of expression, association and assembly, and the right of access to information play a significant role in protecting and promoting equal participation in political and public affairs. Therefore, Governments are required to provide the media, human rights defenders and CSO’s with the most favorable environment in which to carry out their functions

**3.4.1 Constitutional provisions and enabling legislation**

Article 29 of the Constitution of Uganda guarantees the right to freedom of assembly, association and expression, including freedom of the press and other media.

The Press and Journalist Act 2000 also provides for the right to freedom of expression, the establishment of the Media Council and the Institute of Journalists in Uganda.

**3.4.2 Positive developments**

Uganda has a variety of print and electronic media outlets, and a regime of unrestricted access to foreign news sources. The country is also one of the few African countries with an access to information law.[[21]](#footnote-21) There are more than eleven daily and weekly newspapers, more than 180 private radio stations and several television stations in the country.[[22]](#footnote-22) Equally notable is the increasing usage of social media, through use of the internet and mobile telephones as a means of communication

Sometime back Parliament formed the Parliamentary Forum on the Media, which brings together all the members of Parliament interested in defending and promoting media freedoms. There has also been notable increase in solidarity among the media practitioners and other human rights institutions as well as improved quality on television due to digital migration.

One of the major ways to participate in public affairs is through public dialogue and the capacity to organize and assemble. Having noted the challenges involved in organizing public assemblies, the UHRC developed in a participatory manner, Guidelines on Public Demonstrations and Processions. The key provisions in the Guidelines were afterwards incorporated into the Public Order Management Act 2013. The enactment of this Act in 2013 was therefore a welcome step, as it was important and necessary to have a law regulating public demonstrations, and which is vital for democracy. There have also been efforts to enhance cooperation between opposition parties and the police, as was exhibited during the recently concluded countrywide consultative meetings of political parties on electoral reform. The operational arrangements that were agreed between the opposition parties and the police immediately removed the confrontations and disruption of political rallies that had characterize the previous opposition political rallies before the agreement was put in place.

***3.4.3 Challenges***

The media itself is still grappling with lack of professionalism, inadequate training, unethical conduct, corruption and poor working conditions. In addition, the privatization of the media space has negatively affected the ability of the media to report objectively when businesses are at risk.

During the 2011 General Elections, some media houses were accused of favoritism and not providing an equal platform for opposition political leaders. On the other hand, recently this year, the employment contract of the Managing Editor of the Daily Monitor Newspaper, one of the two largest newspapers in Uganda, was unfairly terminated after he had authorized publication of the results of an opinion poll in the newspaper ahead of the 2016 General Elections, which indicate President Museveni well ahead of his opponents.

At a recent meeting organized by the UHRC,[[23]](#footnote-23) media practitioners and human rights defenders complained of difficulties in accessing information relating to oil exploration activities that are being carried out in the Albertine region. NGO’s working in the same sector also reported harassment and closure of their meetings. On the other hand, some NGOs have also been accused or suspected of habouring intentions of sabotaging the oil industry, or carrying out ‘brief’ case business.

Though the Public Management Act has provisions that facilitate freedom of assembly, the requirement that organizers should include in their notices to police the estimated number of persons expected to participate in public meetings, is unrealistic. In addition, this is not in line with the positive duty by the state to promote and protect the right to peaceful assembly. On the other hand, refusal by some of the opposition political parties and CSOs to cooperate with the police and to follow the guidelines provided in the Public Order Management Act, also results into unnecessary difficulties in the effort for attainment of the right to peaceful assembly.

**3.4.4 Recommendations**

The UHRC recommends that:

* *Media houses should make efforts to improve self-regulation and also provide equal platforms so as to be accessed by all political parties and candidates; and*
* *The Uganda Police Force should increase trainings for Police Officers on Human Rights especially, on how to handle demonstrations and the need for use of reasonable force.*

**3.5 Strengthening the promotion and protection of human rights within the East African Community.**

In order to strengthen the promotion and protection of human rights within the member states of the East African Community (EAC), the EAC Forum of National Human Rights Institutions was established.  The Forum brings together five National Human Rights Institutions from the five partners states of Uganda, Kenya, Tanzania, Rwanda and Burundi. The Forum developed an EAC Plan of Action on Promotion and Protection of Human Rights, that is informed by Partner States’ commitment to their obligations relating to the International and Regional human rights instruments they have ratified, as well as the laws at the respective national level that promote and protect human rights.

One of the objectives of the EAC Plan of Action on the Promotion and Protection of Human Rights is to develop, strengthen and harmonise partner States’ laws, policies and programmes relating to human rights. In order to do this, one of the strategic interventions is focused on the development, operationalization and harmonization of National Action Plans that are expected to comprehensively address rights, including the right to participate in the conduct of public affairs, the right to vote and to be elected, the right of freedom of expression, association and assembly, and the right to access to information.

**4.0 Conclusion**

Although Uganda has made some progress in the promotion and protection of the right to participate in political and public affairs, there is still need to address the outstanding human rights concerns some of which are identified in this paper. The adoption and implementation of a National Action Plan on Human Rights is therefore intended to provide an opportune mechanism for addressing effectively the human rights challenges noted, and strengthening the commitments made by the State to promote and protect human rights. The National Action Plan is expected to be enhanced by ratification, domestication and implementation of the relevant International and Regional human rights instruments where this is not yet done, and also implementation of the recommendations made by UN Treaty Bodies and the Universal Periodic Review, the African Commission on Human and Peoples’ rights, and the Uganda Human Rights Commission.

1. See [http://www.2.ohchr.org/english/bodies/treaty/index.htm accessed on 28/3/2011](http://www.2.ohchr.org/english/bodies/treaty/index.htm%20accessed%20on%2028/3/2011) that lists major

 International instruments ratified including the ACHPR (1986), ICCPR(1995), ICESCR (1987), CRPD(2008),

 CRC(1990), ACRWC(1994), Maputo Protocol(2010), CERD (1985), CEDAW (1985), CAT (2002), ICRMW (2003). See

 also the core international labour conventions C29, C87, C98, C100, C111,

 C182, C105 and C138 ratified by Uganda. [↑](#footnote-ref-1)
2. See Article 6 -7 of the East African Treaty signed in 1999 and entered into force on 7th July 2000. [↑](#footnote-ref-2)
3. Report on the Regional Dialogue on Women’s Political Participation, UNDP, P 9 available at: http://www.ke.undp.org/content/dam/kenya/docs/Democratic%20Governance/UNDP%20championing%20womens%20leadership%20booklet3%20%281%29.pdf. [↑](#footnote-ref-3)
4. The Constitution of the Republic of Uganda 1995, National Objectives and Directive Principles of State Policy,

 Part II (I). [↑](#footnote-ref-4)
5. n above , Article 78 1 (b) and (c). [↑](#footnote-ref-5)
6. n above , Article 32. [↑](#footnote-ref-6)
7. The Local Government Act 1997, Section 10 (3) and (4). [↑](#footnote-ref-7)
8. Available at http://www.theguardian.com/news/datablog/2012/mar/07/women-representation-in- politics-worldwide. [↑](#footnote-ref-8)
9. Report on the Regional Dialogue on Women’s Political Participation, UNDP, Pg. 9 available at: http://www.ke.undp.org/content/dam/kenya/docs/Democratic%20Governance/UNDP%20championing%20womens%20leadership%20booklet3%20%281%29.pdf. [↑](#footnote-ref-9)
10. See full list of Parliamentarians on http://www.parliament.go.ug/new/index.php/members-of-parliament/members-of-parliament. [↑](#footnote-ref-10)
11. Uganda: Open Budget Survey 2012 available at http://internationalbudget.org/wp-content/uploads/OBI2012-UgandaCS-English.pdf. [↑](#footnote-ref-11)
12. Article 59. [↑](#footnote-ref-12)
13. Article 32(1), 1995 Constitution of the Republic of Uganda. [↑](#footnote-ref-13)
14. UN Human Rights Committee (HRC), CCPR General Comment 25, Para. 3. [↑](#footnote-ref-14)
15. Clause 28, Citizenship and Immigration Control Act, Cap 66. [↑](#footnote-ref-15)
16. Available at http://www.statehouse.go.ug/media/news/2014/12/03/president-launches-issuance-national-ids. [↑](#footnote-ref-16)
17. UHRC Report on the 2011 Uganda Elections, Uganda Human Rights Commission, p.27. [↑](#footnote-ref-17)
18. Section 6(3), Employment Act 2006. [↑](#footnote-ref-18)
19. Article 165 (1), Constitution. [↑](#footnote-ref-19)
20. Clause 32, Public Service Regulations. [↑](#footnote-ref-20)
21. Access to Information Act 2005. [↑](#footnote-ref-21)
22. Newspapers include; New Vision, Monitor, Red Pepper, Bukedde, Etop, Acholi Times, Rupiny, Orumuri, Observer, the Independent, The East African, Kampala Sun and Hello. [↑](#footnote-ref-22)
23. Human Rights Defenders (HRDs) Meeting organised by UHRC to assess the situation of HRDs in 2013 and follow up implementation of previous UHRC recommendations at Hotel Africana 20th October 2014. [↑](#footnote-ref-23)