

Human Rights in Development Cooperation with Uganda

Introduction

In March 2008, the German Federal Ministry for Economic Cooperation and Development (BMZ) adopted the second [Development Policy Action Plan on Human Rights 2008-2010](#), to systematically integrate a human rights-based approach into German development policy and practice across sectors and levels of intervention. This Action Plan will be followed by a new policy paper to be issued in May 2011 with key orientations for the implementation of a human rights-based approach in German Development Cooperation.

The GTZ project "[Realizing Human Rights in Development Cooperation](#)" was launched in June 2005. It provides advisory support to BMZ and its governmental implementing organisations in achieving this objective.

This e-info tool consists of six parts with the following

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1. Uganda's Ratification of International and Regional Human Rights Conventions

United Nations (UN) human rights treaties are the basis of international human rights protection. The international human rights treaties are legally binding, and have been ratified by most UN member states.

In addition to the international treaties, there are several regional human rights treaties for [Africa](#), [the Arab World](#), [the Americas](#), and [Europe](#). They support the implementation of human rights on the regional level, and often reflect additional human rights concerns particular to specific cultural contexts.

Uganda has ratified eight of the nine core international human right treaties and signed the [International Convention for the Protection of All Persons from Enforced Disappearance](#), which it has, however, not yet ratified (see next page).

As a ratifying party, Uganda is obliged to implement the rights guaranteed by these treaties and to regularly report on progress to the UN treaty bodies. This also holds true for the two Optional Protocols to the children's rights convention, which regulate the rights of [children in armed conflict](#) and the [prohibition of child trafficking, prostitution and pornography](#).

So far, Uganda has however only ratified two of the four Optional Protocols to the human rights treaties which enable individuals to submit complaints to the UN treaty bodies. The [First Optional Protocol to the International Covenant on Civil and Political Rights](#) was ratified by Uganda in 1996 and the [Optional Protocol to the Convention on the Rights of Persons with Disabilities](#), which Uganda ratified together with the Convention in 2008. Uganda has yet to ratify the [Optional Protocol to the convention on women's rights](#) as well as the [Optional Protocol](#) for the Covenant on Economic, Social and Cultural Rights

In June 2002, Uganda ratified the [Rome Statute for the International Criminal Court](#).

Regionally, Uganda is party to the [African Charter on Human and Peoples' Rights](#), and has ratified the [African Charter on the Rights](#)

Ratification of the Core International Human Rights Treaties by Uganda

International Convention on the Elimination of All Forms of Racial Discrimination ([ICERD](#))

Ratified 21 November 1980

International Covenant on Civil and Political Rights ([ICCPR](#))

Ratified 21 June 1995

International Covenant on Economic, Social and Cultural Rights ([ICESCR](#))

Ratified 21 January 1987

Convention on the Elimination of All Forms of Discrimination against Women ([CEDAW](#))

Ratified 22 July 1985

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ([UNCAT](#))

Ratified 3 November 1986

Convention on the Rights of the Child ([CRC](#))

Ratified 17 August 1990

International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families ([CMW](#))

Ratified 14 November 1995

Convention on the Rights of Persons with Disabilities ([CRPD](#))

Ratified 25 September 2008

International Convention for the Protection of All Persons from Enforced Disappearance ([CPED](#))

Signed 6 February 2007 not ratified

Last Update: 13 January 2010

[and Welfare of the Child](#), as well as the [Convention Governing Specific Aspects of Refugee Problems in Africa](#).

However Uganda has thus far only signed but not yet ratified the [Protocol on the Rights of Women in Africa](#) (the Maputo Protocol).

Uganda has ratified [the Protocol on the Statute of the African Court of Justice and Human Rights](#), merging the African Court on Human and Peoples' Rights and the African Court of Justice, thereby accepting the jurisdiction of the [African Court for Human Rights](#).

2. Uganda's Human Rights Obligations

By ratifying human rights treaties, Uganda has accepted certain obligations, which are essential and legally binding for Ugandan development strategies. One obligation is harmonizing domestic legislation with human rights. This is an important prerequisite for citizens to hold their state to account. Another obligation relates to the implementation of human rights in policies, strategies, budgeting, and administration in general.

All governmental bodies are bound to respect human rights and to protect individuals from infringements of their human rights by third parties, e.g. private individuals or companies. Departments of education, for instance, need to assure that teachers do not use violence against students, and the governmental bodies overseeing agriculture need to protect farm workers from unfair or unhealthy labour conditions. In addition to the obligations to respect and protect human rights, the government is obliged to fulfil human rights, particularly for individuals and groups in vulnerable situations. These are for example those affected by natural disasters and those marginalized in and by society, among them women, ethnic minorities, persons living with HIV/AIDS or disabilities, or the extremely poor.

A government's efforts to fulfil human rights will have budgetary implications. Therefore, article 2 of the International Covenant on Social, Economic and Cultural Rights envisions the progressive realisation of the respective rights should resources not permit otherwise.

Nevertheless, 'progressive realisation' is subject to certain conditions. The government needs to make effective use of all its available resources to promote and fulfil human rights. If the government needs to decide to (temporarily) give priority to fulfilling certain human rights, this decision has to be based on legitimate grounds. Furthermore, while some aspects of human rights fulfilment are subject to progressive realisation, others such as the prohibition of discrimination are not. Discrimination is defined as the unequal treatment without legitimate reason, for example on the grounds of sexual orientation, colour, sex, age, ethnicity, religious or political belief, or health status. The prohibition of

discrimination requires governments to remove legislative, structural and institutional discrimination without delay.

Zambia's State Reports and Concluding Observations

International Convention on the Elimination of All Forms of Racial Discrimination ([ICERD](#))

Last report 2001,

[Concluding Observations \(2003\)](#)

subsequent report overdue since March 2005

International Covenant on Civil and Political Rights ([ICCPR](#))

first report 2003

[Concluding Observations \(2004\)](#)

Second Report overdue since 2008

International Covenant on Economic, Social and Cultural Rights ([ICESCR](#))

First report overdue since 1990

Convention on the Elimination of All Forms of Discrimination against Women ([CEDAW](#))

last report 2009

[Concluding Observation \(2010\)](#)

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ([UNCAT](#))

First report 2004

[Concluding Observations \(2005\)](#)

second report overdue since 2008

Convention on the Rights of Child ([CRC](#))

Last report 2003

[Concluding Observations \(2005\)](#)

subsequent report due in March 2011

First Optional Protocol to CRC

Last report 2007

[Concluding Observations \(2008\)](#)

Second Optional Protocol to CRC

Last report 2007

[Concluding Observations \(2008\)](#)

Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families ([CMW](#))

First report overdue since 2004

Convention on the Rights of Persons with Disabilities ([CRPD](#))

First report due in October 2010

Last Update: 13 January 2010

The ratification of human rights treaties implies an obligation to report to the UN treaty bodies on the state of implementation in the country, including progress and failures. All human rights treaties require state parties to submit an initial report, the ensuing reporting cycle differs between two to five years.

The treaty bodies are committees of independent experts with a wide range of responsibilities. They issue decisions on individual complaints, and monitor the implementation of human rights obligations by commenting on state parties' reports. These comments are called Concluding Observations or, in the case of the women's rights convention, Concluding Comments. The Concluding Observations document progress and failings, and give recommendations on how to improve the implementation of the respective treaty provisions.

The treaty bodies encourage civil society groups to contribute to the process of state reporting. There have been for instance [various opportunities](#) for Ugandan NGOs to participate in the work of the Committee on the Elimination of Discrimination against Women with regard to Uganda's state report, which was considered by the Committee in October 2010.

Uganda has a mixed reporting record. On the one hand Uganda recently handed in state reports on CEDAW and the Optional Protocols to CRC, on the other Uganda has yet to hand in her first report on CESC and many other reporting obligations are overdue. The government of Uganda should therefore be urged to take her reporting obligations more seriously.

Uganda has submitted recent report to the Committee on the Elimination of Discrimination against Women. The respective Concluding Observations can be found [here](#). The Committee welcomed the progress made since the consideration of the State party's third periodic report in 2002, including the legislative reforms that have been undertaken and the adoption of a wide range of legislative measures (p.2, 6).

Further, the Committee noted with satisfaction that the State party has adopted a number of policies, programmes and plans of action to promote gender equality and eliminate discrimination against women. (p.2, 7).

The Committee called upon the State party to accelerate its law review process to bring its domestic legislation in line with its constitu-

tional principles relating to non-discrimination and equality between women and men and with its obligations under the Convention (p.3, 12).

While welcoming the recent enactment of the 2010 Prohibition of Female Genital Mutilation Act and the 2010 Domestic Violence Act, the Committee remained concerned at the continued prevalence of this harmful practice in the State party and the general violence against women and girls (p.5, 21-23).

The Committee noted with grave concern that homosexual behaviour is criminalized in Uganda. The Committee was further concerned that they face discrimination in employment, health care, education and other fields. Furthermore, the Committee noted with concern the private member's proposed Anti-Homosexuality Bill, which would result in further discrimination of women on the basis of sexual orientation and gender identity (p.11, 43)

In addition to state reporting, states undergo a peer review under the [Universal Periodic Review \(UPR\)](#). The UPR consists of a debate between members of the Human Rights Council, based on three reports: A compilation of information from the UN human rights protection system, a government report on human rights progress and challenges and a report by civil society organisations and national human rights institutions who present their assessment. Reports are very brief and thus provide an excellent overview of key human rights challenges which can be useful for development cooperation.

Uganda will be subject to the UPR in the framework of the Human Rights Council in the 12th session in October 2011.

3. Interpretation and Operationalisation of Human Rights

Human rights treaties are legal documents, rendered in a rather abstract and general language. Over the years, the treaty bodies have adopted so-called General Comments. They interpret the core elements of the respective human rights norms and the measures necessary and appropriate to implement them. The General Comments use examples to illustrate the state obligations to respect, protect and fulfil human rights. General Comments also clarify the essential human rights principles that are participation and empowerment, non-discrimination and equality of opportunities, transparency and accountabil-

ity. There are General Comments for all human rights treaties. The Committee on Economic, Social and Cultural Rights for instance interpreted and substantiated the right to water in its [General Comment No. 15](#). Complementary to the General Comments, UN special organisations have issued guidelines, which further operationalise certain rights for development.

Another UN human rights mechanism is so-called special procedures that are UN Special Rapporteurs, Special Representatives or Independent Experts on certain countries or themes appointed by the Human Rights Council. Special procedures experts take part in developing new standards and carry out country and fact finding missions.

Uganda is still to issue a standing invitation, announcing that it will always accept requests to visit from all Special Rapporteurs. There have nevertheless been [numerous visits by Special Rapporteurs to Uganda](#). The most recent ones being the visit by the [Representative of the Secretary-General on the human rights of internally displaced persons \(SR IDP\)](#) in July 2009 and the and the [Special Rapporteur on the the right of everyone to the enjoyment of the highest attainable standard of physical and mental health \(SR Rth\)](#) in February 2007.

In his [mission report](#) the SR on the Rth, Paul Hunt, commended Uganda's Ministry of Health for establishing a Health and Human Rights Team to provide technical guidance in support of a human rights-based approach in the health sector (paragraph 19). He specifically praised Uganda for encouraging community participation in health-related issues. He however noted that the established Village Health Teams must be provided with more support and resources. Furthermore the SR Rth emphasized that the role of the Village Health Teams must not only be service-delivery, but also to ensure that health policies and programs are responsive to local priorities (paragraph 22).

Furthermore, Paul Hunt noted that the health sector in Uganda is seriously underfunded. He reminded Uganda of the pledge made by African Heads of State and Government at the African Summit on HIV/AIDS, Tuberculosis and Other Related Infectious Diseases, at Abuja in 2001, to set a target of allocating at least 15 per cent of their national budgets to their health sectors. Yet in Uganda less than 9 per cent of the budget is currently devoted to the health sector. The Government's present level of investment in health is there-

fore inconsistent with Uganda's international human rights obligations. It is an obstacle to the implementation of Uganda's Health Sector Strategic Plan II, including its commitments with respect to neglected diseases, and to the realization of the right to health (paragraph 26 f).

The SR IDP, Mr. Walter Kälin, has yet to publish his mission report but has issued [a press release](#) expressing "his appreciation for the Government's efforts to allow the displaced to find durable solutions to their plight and welcomed the progress made in restoring security and freedom of movement in the North of the country". However he also states that additional efforts need to be made and particularly emphasised that, "lack of water, food, health and educational services in areas of return as well as disputes over land and property hamper return movements and their sustainability".

The Special Representative calls upon the Government of Uganda and also local authorities "to do their utmost to successfully implement the Peace, Recovery and Development Plan for Northern Uganda". Additionally, Mr. Kälin calls upon donors to support these recovery efforts in order to restore economic, social and cultural rights of those "who have been deprived of their human rights for so long". These efforts should particularly focus on the most vulnerable groups, which have often been left behind in refugee camps, such as elder persons without family support, individuals with disabilities, orphans and female- or children-headed households.

4. The OHCHR in Uganda

The Office of the high Commissioner for Human Rights (OHCHR) established a [country office in Uganda](#) in July 2005, initially to protect and empower populations in the conflict-affected areas of northern Uganda, OHCHR currently has six field offices (Gulu, Pader, Lira, Kitgum, Soroti, Moroto) in addition to its office in Kampala.

Priorities of the OHCHR in Uganda are monitoring human rights in the context of the return of internally displaced people and the progressive return of civilian law-enforcement and judicial institutions; transitional justice initiatives; and land rights. In this context OHCHR provides technical guidance on peace negotiations or the implementation of a peace agreement. Regarding the return of

refugees the OHCHR monitors the land restitution process and advocates for the establishment of dispute-resolution mechanisms that comply with international human rights principles.

Furthermore, the OHCHR states that it “will also intensify its efforts to strengthen national and local capacity to systematically monitor and respond to conflict-related human rights violations”. Within this context the Office has set up human rights training programs for the army, police, judiciary, lawyers, prison officials and paralegals, as well as training courses in lobbying and advocacy for human rights civil society organizations.

The annual reports on the activities of the OHCHR in Uganda focus principally on the human rights situation in the conflict-affected areas of northern and north eastern Uganda. The latest report issued in [January 2008](#) applauds the “constructive engagement by the Government of Uganda and its institutions at national and local levels” which has led to a “distinct improvement in the human rights and security situation” in these regions (page 2). However the report also highlights challenges remaining to be solved and closes with a set of specific recommendations to the Government of Uganda inter alia calling on the government to respect and fulfill the rights of internally displaced persons (page 21). The 2009 annual report will be published shortly on the [homepage](#) of the Ugandan country office.

5. The Ugandan Human Rights Commission

Independent National Human Rights Institutions (NHRIs) can play an important role in protecting and promoting human rights at the national level. They are often an excellent source of information and expertise on human rights issues. In an increasing number of countries NHRIs are partners of GIZ projects. (A dedicated [Info-Tool](#) (in German) provides more information on NHRIs in development cooperation.).

[The Uganda Human Rights Commission \(UHRC\)](#) was established under Articles 52f of the 1995 Constitution of the Republic of Uganda. Under the constitution the Commission has dual roles which include that of an administrative/advocacy body and that of a quasi-judicial institution. The effective evalua-

tion of claims of human rights violations requires that the Commission sits as a judicial tribunal, comprised of a single hearing Commissioner, assisted by legal counsel.

UHRC has since set up the Head Office in Kampala, which houses the as well as seven regional offices. The Head office houses the governing body of the Uganda Human Rights Commission, the Commission, the Office of the Secretary as well as the four directorates (Complaints, Investigations and Legal Services; Education and Documentation; Regional Services; Monitoring and Inspections). The Commission is composed of a Chairperson and six other members appointed by the President of the Republic Uganda, with the approval of Parliament. They serve for a period of six years and are eligible for re-appointment. The office of the Secretary is responsible for carrying out the policy decisions of the Commission and the day-to-day administration and management of the affairs of the Commission and the control of the other staff of the Commission.

The Commission was subsequently accredited to the [International Coordination Committee of National Institutions](#) in October 2007, with “A” status, thereby certifying that it is in full compliance with the [Paris Principles](#) in law and practice.

However concerns remain about the ability of UHRC to realize its functions due to lack of funding. For instance, the Committee on the Rights of the Child in its concluding observations on Uganda’s state report on the First Optional Protocol to the CRC, does command the work of the UHRC fact that it has jurisdiction over the Uganda People’s Defence Forces. It does however show itself concerned that the UHRC does not have the human and financial resources to fully fulfil its functions (OP1 paragraph 14f).

The UHRC is obliged to publish annual reports on its work. The [12th Annual Report of the Uganda Human Rights Commission to the Parliament of the Republic of Uganda](#) was issued in 2009.

6. Resources

[General Comments](#), by treaty

[Special Rapporteurs: Thematic Mandates](#)

[Universal Periodic Review](#).

Imprint

Published by:
Deutsche Gesellschaft für
Technische Zusammenarbeit
(GTZ) GmbH
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Eschborn, February 2011