

# **Universal Periodic Review for Uganda on the Status of Human Rights**

A stakeholder submission on

## **The Situation of Cultural Rights in Uganda**

March, 2016

**Prepared by**



The Cross-Cultural  
Foundation of Uganda

## **About The Cross-Cultural Foundation of Uganda**

The Cross-Cultural Foundation of Uganda (CCFU) is a Ugandan NGO dedicated to promoting the recognition of culture as vital for human development that responds to our national identity and diversity. The Foundation is based on the belief that the positive aspects of culture can be harnessed to bring about social and economic transformation. CCFU's work has three main components: 'Cultural Rights, Governance and Managing Diversity' focuses on promoting the cultural rights of Ugandans including indigenous minority groups and enhancing an appreciation of cultural diversity; A 'Culture in Development' Approach which involves research and documentation, training and influencing perceptions of culture; and finally 'Cultural Heritage Preservation and Development' which involves heritage education for the youth, supporting people's initiatives to preserve culture such as community museums/cultural centres, and preserving sites and buildings of historical and cultural significance.

While the 1995 Ugandan Constitution (Article 37) provides for people's rights to practice their cultures, the implementation of the activities geared towards the recognition, promotion and protection of cultural rights and diversities of all Uganda's communities equally is rarely in evidence. In 2012, the CCFU initiated a long term and multi-faceted programme to enhance the cultural rights of Ugandans.

The Foundation partners and collaborates with a number of individuals and organizations working on cultural heritage promotion and development at community, national and international levels. Some of them participated in the development and reviewing of this report.

For further information about the Foundation kindly visit [www.crossculturalfoundation.or.ug](http://www.crossculturalfoundation.or.ug)

## A) Summary

1. This submission has been compiled by the Cross-Cultural Foundation of Uganda in consultation with other stakeholders in the culture sector ahead of Uganda's second Universal Periodic Review (UPR) on 3<sup>rd</sup> November, 2016. It contains information on progress since the UPR in 2011, some issues that existed prior to that UPR and have continued to manifest, and emerging issues concerning the realization of Cultural Rights in Uganda. This report outlines issues related to the Legal and Policy Framework, Resource Allocation to the culture sector, and Accessibility and Quality of Services.

## B) Legal and Policy Framework

2. Internationally, Uganda has shown an appreciation of the cultural rights by being a Party to the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights. Uganda has also ratified the 1972 UNESCO Convention on Tangible Cultural Heritage, the 2003 Convention on the Safeguarding of the Intangible Cultural Heritage and the 2005 UNESCO Convention on the Promotion and Protection of Cultural Diversity and Expressions. Under the said 2003 Convention, five of Uganda's cultural elements have been inscribed<sup>1</sup>.
3. In the 2011 UPR, Uganda was encouraged to integrate and harmonize international human rights instruments with domestic laws to ensure effective compliance with the legislations regarding the most vulnerable groups of the population. Some of the international legal instruments such as the 2005 UNESCO Convention on the Protection and Promotion of Cultural Diversity have been ratified but are yet to be operationalized.
4. **CCFU recommends that the Government of Uganda should domesticate and operationalize the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions and all international legal instruments that have been ratified or will be ratified in the aftermath of the UPR 2016, to provide opportunity for access to the much needed technical and financial assistance for cultural development.**
5. Nationally, the 1995, Constitution of Uganda recognizes the importance of cultural identity and the existence of 65 indigenous groups. Under Objective xxiv (a) of the 1995 Constitution, the Government of Uganda commits to ensuring that the social and cultural well-being of the people are respected and stipulates that the State shall promote and preserve the cultural values and practices that enhance the dignity of Ugandans; and shall encourage the development, preservation and enrichment of Ugandan languages. In Article 37, the Constitution specifically provides for cultural rights, stating that, "Every person has a right as applicable to belong to, enjoy, practice, profess, maintain and promote any culture, cultural institution, language, tradition, creed or religion in community with others". The National Culture Policy 2006 further elaborates these commitments and provides the framework for all culture related activities. The Museums and Monuments Policy 2015 was developed to regulate the preservation and promotion of Uganda's tangible heritage. In 2014, Government of Uganda embarked on the processes to review the Historical Monuments Act of 1967, but this is not yet finalized.
6. **CCFU recommends that Government should fast track the review of the 1967 Historical Monuments Act and to protect cultural and historical properties from the existent rapid and widespread destruction.**

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<sup>1</sup><http://www.unesco.org/culture/ich/en/lists?display=default&text=&inscription=0&country=00164&multinational=3&type=0&domain=0&display1=countryIDs#tabs>

7. The 2015 Museums and Monuments Policy and the 2006 National Culture Policy are still largely not implemented.
8. **CCFU recommends that Government of Uganda should ensure the full implementation of the 2015 Museums and Monuments Policy, and of the 2006 National Culture Policy, so that local initiatives to preserve and promote heritage are supported, and to provide avenues for promotion of cultural tourism, national identity and cohesion.**
9. Following the 2011 UPR, the Uganda Human Rights Commission initiated the National Human Rights Action Plan (NAP). However, the Government parastatals, including the Human Rights Commission, rarely treat cultural rights as part of the mainstream human rights, resulting in inadequate articulation, understanding and respect by policy makers and other development practitioners. It is expected that the NAP will be integrated into the National Development Plan II which will ensure allocation of adequate resources to human rights activities/programmes, including the promotion of cultural rights.
10. **CCFU recommends that the Government of Uganda should urgently finalize and implement the Human Rights National Action Plan to support the mainstreaming of cultural rights promotion and protection for all Ugandans in the different government programmes implemented by all government ministries and parastatals.**
11. **CCFU further recommends that the Government of Uganda should facilitate efforts aimed at deepening awareness among its parastatals and the general public about cultural rights and their importance, beyond indigenous minorities, highlighting culture as a foundation for social cohesion, employment and nation building.**
12. The cultural rights of indigenous minority groups are provided for in the 1995 Constitution of Uganda<sup>2</sup> and are recognized in the National Culture Policy 2006. The UPR 2011 recommended that Uganda “pay particular attention to the promotion and preservation of cultural rights of indigenous peoples and ethnic minorities, including the Batwa culture”. However, the thematic curriculum under which local languages are used as a medium of instruction in lower primary school, children from indigenous minority groups are disadvantaged because there are no instructional materials and personnel trained in the minority groups’ languages.
13. **CCFU appeals to the Government of Uganda to take affirmative action and support the development of instructional materials, facilitate the training of personnel in indigenous minority languages especially where the indigenous minority population is concentrated, and encourage the Ministry of Education, Science, Technology and Sports through the National Curriculum Development Centre and Uganda National Examinations Board to include them in the national school curriculum.**
14. Regarding political representation of indigenous minority peoples, affirmative action is being reached. Recently, Kamion Constituency was created in Kaabong district for the Ik with an elected Member of Parliament (who is an Ik). In the Districts of Bundibugyo and Ntoroko, indigenous minority groups are adequately represented. However, in many other cases, because of their small population, indigenous minorities suffer from limited political representation, especially at district and national levels. Consequently, laws or policies that have implications on their cultural rights are made without

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<sup>2</sup> The 1995 (schedule 3) Constitution of Uganda; Objective xxiv of the 1995 Constitution of Uganda and Article 37 of the Constitution of Uganda

their input. The UPR 2011 recommended that Uganda “strengthen efforts to consult indigenous peoples and ensure the effective enjoyment of their economic, social and cultural rights”.

15. To this end, cultural leaders from across Uganda have endorsed the proposal to create a National Assembly of Cultural Institutions of Uganda with equal representation for all legitimate traditional cultural communities - including the marginalized and endangered ethnic minority communities. The Assembly will provide opportunities for debate and analysis of policies in view of improving the ethics and operations the cultural institutions and cultural organisations, in order to make the institutions more engaging, inclusive, accountable, and more relevant in the implementation of government policy and international conventions.
16. **CCFU recommends that the Government of Uganda supports to creation of a National Assembly of Cultural Institutions in Uganda with equal representation of all legitimate cultural communities to provide an opportunity for consultation especially benefitting indigenous minorities without the numbers and resources to enable them achieve political representation.**
17. Article 246 of the 1995 Constitution of Uganda provides for the existence of traditional or cultural leaders in any area of Uganda. Section 9 of the 2011 Institution of Traditional or Cultural Leaders Act provides for the role of traditional or cultural leader to promote and preserve cultural values, norms and practices which enhance the wellbeing and dignity of the people where he or she lives. However, some provisions in the two legislations contradict one another on the issue of the substantive administrative powers of the cultural or traditional leaders to effectively mobilize their subjects to preserve and promote cultural values.
18. **CCFU recommends that the Government of Uganda reviews the relevant legislations to increase the administrative powers of traditional and cultural leaders, including their important contribution to preservation and promotion of cultural resources and mobilization of resources to sustain their cultural institutions.**

### C) Resource Allocation

19. Despite an increase in the national budget from Uganda Shillings 15 to 24 trillion in 2014/15 and 2015/16 FY respectively, and despite the potential contribution of cultural activities, including cultural tourism, to the Gross Domestic Product of Uganda<sup>3</sup>, and notwithstanding the UPR 2011 encouragement for Uganda “to consider allocating adequate resources to culture, including to local bodies in order to promote cultural activities and to ensure protection of traditional knowledge and skills in particular for women,” the allocation to the culture sector has remained at a pitiful 0.003% of the National Budget. Many cultural heritage resources in Uganda are at risk because individual owners and cultural institutions suffer from financial constraints and cannot provide adequate protection to the cultural resources.
20. **CCFU recommends that the Government of Uganda should allocate at least 1% of the national budget, including support to private bodies dedicated to promoting cultural activities that guarantee access, expression and enjoyment of cultural rights by investing in heritage**

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<sup>3</sup> Uganda National Commission for UNESCO - UNATCOM. (December 2009). *Mapping of Cultural Industries in Uganda*. Kampala: Uganda National Commission for UNESCO - UNATCOM.

**education, setting up and developing cultural infrastructure and investing in cultural tourism based on our rich and diverse national heritage.**

21. Currently there is neither a substantive government Ministry to promote cultural activities, nor a separate budget for cultural activities in Uganda. The development and promotion of cultural activities are divided in two ministries, that is, the Ministry of Gender, Labour and Social Development which houses the Department of Family and Cultural Affairs, and the Ministry of Tourism, Wildlife and Antiquities which houses the Department of Museums and Monuments. Separating efforts to promote cultural heritage activities weakens coordination and management of cultural resources, thus compromising the realization of cultural rights for the people of Uganda.
22. **CCFU recommends that the Government should create a separate and well-resourced Ministry for Culture to manage Uganda’s tangible and intangible elements of culture, develop relevant policies and legislation in support of cultural rights and lobby for adequate funding.**

#### **D) Accessibility and Quality of Services**

##### *Role of the private sector*

23. A liberalized culture sector has enabled the private sector<sup>4</sup> to provide for access, expression and enjoyment of culture as an attempt to promote cultural rights and fill the gaps left by the government. However, commoditizing culture leaves out elements that only promote identity, pride and cultural rights, which might lead to situations of cultural rights violation.
24. **CCFU recommends that the Government partners with the private sector (*through public private partnerships*) to check over commercialization of culture, and to facilitate aspects of culture where private practitioners are reluctant to invest because of their non-profit making nature.**

##### *Ability to safeguard cultural heritage*

25. While there is a recognition that culture has to change with the times, with changing modes of life, with ‘modern’ education, with a monetized and individualized economy, with better infrastructure and communication, some communities in Uganda are keen to safeguard the positive aspects of their rich and varied cultural heritage. For instance, traditional knowledge and skills, oral traditions, music and language which express their identity are fundamental for the survival of a cultural community. Under the 2003 UNESCO Convention of the Safeguarding of the Intangible Cultural Heritage, five of these intangible cultural heritage items have been inscribed. However, there is no concrete government driven effort to facilitate the preservation of this heritage.
26. **CCFU recommends that the Government of Uganda should support the documentation and protection, and raise awareness of the significance of both tangible and intangible cultural heritage - history, practices, values and norms, traditional foods and modes of expression.**

##### *Access to concerts, theatre, cinema, sport events and other cultural activities by Ugandans*

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<sup>4</sup> These include community museums, performing arts, cultural/creative industries, the film and television industries and visual artists among others.

27. The Uganda National Cultural Centre (UNCC)<sup>5</sup> presently, boasts of the National Theatre, the Nommo Gallery and the Crafts Village all located in Kampala. The National Theatre provides performance space for national arts competitions for primary and secondary schools. Private artistes' performances, concerts, film shows, public and private arts events are accommodated within the main auditorium and the grounds at a fee. The Nommo Gallery exhibits art works by Ugandan and foreign artists while the Crafts Village provides space for small private businesses to sell handicrafts made in Uganda and other parts of Africa.
28. However, the rights to cultural expression and enjoyment have been compromised by the inability of the government to the establishment of culture centers all over the country.
29. **CCFU recommends that the Government of Uganda should facilitate the UNCC establish necessary infrastructure in various parts of Uganda to ensure that all Ugandans enjoy their cultural rights and have access to the required technical and financial assistance.**

*Access to important cultural sites*

30. The Uganda Wildlife Authority<sup>6</sup> in some cases has allowed controlled access to cultural sites located within protected areas to indigenous minority groups such as the Ba'amba and Babwisi in Rwenzori region and the Benet on the Mount Elgon. However, many other ethnic groups are still barred from accessing their precious cultural resources or sites located within protected areas/national parks.
31. **CCFU recommends that Government through local agencies such as the Uganda Wildlife Authority should officially (by signing Memoranda of Understanding) allow communities near national parks to have access to their cultural resources/sites located within the protected areas.**

*Identity and recognition of indigenous minorities*

32. The rights of indigenous minorities are recognized in various legal instruments for Uganda as presented in part B) above. However, negative attitudes have continued to affect indigenous minorities and their right to express their culture. Marginalization also deprives the indigenous minorities of a chance to commune with others especially regarding access to employment, opportunities to perform at national events, and publicise their culture over broadcast media.
33. **CCFU recommends that the Government of Uganda promotes and highlight the importance of cultural rights and cultural resources of the indigenous minorities at the national level. Representatives from indigenous minorities need to be provided with spaces at regional and national events for them to showcase and publicise their cultural resources so that their cultural values, wealth and freedom of expression are appreciated and respected by majority groups.**

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<sup>5</sup> A statutory body established by an Act of Parliament (UNCC Act, Cap 50), to provide and establish theatres and cultural centers all over the country; encourage and develop cultural and artistic activities; and provide a home to groups and organisations that deal in Art and Culture.

<sup>6</sup> Uganda Wildlife Authority (UWA) is a semi-autonomous government agency that conserves and manages Uganda's wildlife for the people of Uganda and the whole world. (<http://www.ugandawildlife.org/about-uganda-master/uganda-wildlife-authority>)