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# The Constitution of the Republic of

## Uganda

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### Chapter 4

### Human Rights & Freedoms

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#### General

Fundamental and other human rights and freedoms.

20. (1) Fundamental rights and freedoms of the individual are inherent and not granted by the State.

(2) The rights and freedoms of the individual and groups enshrined in this Chapter shall be respected, upheld and promoted by all organs and agencies of Government and by all persons.

#### Equality and freedom from discrimination.

21. (1) All persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law.

(2) Without prejudice to clause(1) of this article, a person shall not be discriminated against on the ground of sex, race, colour, ethnic origin, tribe, birth, creed or religion, or social or economic standing, political opinion or disability.

(3) For the purposes of this article, "discriminate" means to give different treatment to different persons attributable only or mainly to their respective descriptions by sex, race, colour, ethnic origin, tribe, birth, creed or religion, or social or economic standing, political opinion or disability.

(4) Nothing in this article shall prevent Parliament from enacting laws that are necessary for-

(a) implementing policies and programmes aimed at redressing social, economic or educational or other imbalance in society; or

(b) making such provision as is required or authorised to be made under this Constitution; or

(c) providing for any matter acceptable and demonstrably justified in a free and democratic society.

(5) Nothing shall be taken to be inconsistent with this article which is allowed to be done under any provision of this Constitution.

#### Protection of right to life.

22. (1) No person shall be deprived of life intentionally except in execution of a sentence passed in a fair trial by a court of competent jurisdiction in respect of a criminal offence under the laws of Uganda and the conviction and sentence have been confirmed by the highest appellate court.

(2) No person has the right to terminate the life of an unborn child except as may be authorised by law.

#### Protection of personal liberty.

23. (1) No person shall be deprived of personal liberty except in any of the follow

(a) in execution of the sentence or order of a court, whether established for Uganda or another country or of an international court or tribunal in respect of a criminal offence of which that person has been convicted; or of an order of a court punishing the person for contempt of court;

(b) in execution of the order of a court made to secure the fulfilment of any obligation imposed on that person by law;

(c) for the purpose of bringing that person before a court in execution of the order of a court or upon reasonable suspicion that that person has committed or is about to commit a criminal offence under the laws of Uganda; or

(d) for the purpose of preventing the spread of an infectious or contagious disease;

- (e) in the case of a person who has not attained the age of eighteen years, for the purpose of the education or welfare of that person;
  - (f) in the case of a person who is, or is reasonably suspected to be, of unsound mind or addicted to drugs or alcohol, for the purpose of the care or treatment of that person or the protection of the community;
  - (g) for the purpose of preventing the unlawful entry of that person into Uganda, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Uganda or for the purpose of restricting that person while being conveyed through Uganda in the course of the extradition or removal of that person as a convicted prisoner from one country to another; or
  - (h) as may be authorised by law, in any other circumstances similar to any of the cases specified in paragraphs (a) to (g) of this clause.
- 2) A person arrested, restricted or detained shall be kept in a place authorised by
- (3) A person arrested, restricted or detained shall be informed immediately, in a language that the person understands, of the reasons for the arrest, restriction or detention and of his or her right to a lawyer of his or her choice.
- (4) A person arrested or detained-
- (a) the purpose of bringing him or her before a court in execution of an order of a court; or
  - (b) upon reasonable suspicion of his or her having committed or being about to commit a criminal offence under the laws of Uganda, shall, if not earlier released, be brought to court as soon as possible but in any case not later than forty-eight hours from the time of his or her arrest.
- (5) Where a person is restricted or detained-
- (a) the next-of-kin of that person shall, at the request of that person, be informed as soon as practicable of the restriction or detention;
  - (b) the next-of-kin, lawyer and personal doctor of that person shall be allowed reasonable access to that person; and
  - (c) that person shall be allowed access to medical treatment including, at the request and at the cost of that person, access to private medical treatment.
- (6) Where a person is arrested in respect of a criminal offence-
- (a) the person is entitled to apply to the court to be released on bail and the court may grant that person bail on such conditions as the court considers reasonable;
  - (b) in the case of an offence which is triable by the High Court as well as by a subordinate court, the person shall be released on bail on such conditions as the court considers reasonable, if that person has been remanded in custody in respect of the offence before trial for one hundred and twenty days;
  - (c) in the case of an offence triable only by the High Court the person shall be released on bail on such conditions as the Court considers reasonable, if the person has been remanded in custody for three hundred and sixty days before the case is committed to the High Court.
- (7) A person unlawfully arrested, restricted or detained by any other person or authority, shall be entitled to compensation from that other person or authority whether it is the State or an agency of the State or other person or authority.
- (8) Where a person is convicted and sentenced to a term of imprisonment for an offence, any period he or she spends in lawful custody in respect of the offence before the completion of his or her trial shall be taken into account in imposing the term of imprisonment.
- (9) The right to an order of habeas corpus shall be inviolable and shall not be suspended.

### **Respect for human dignity and protection from inhuman treatment.**

24. No person shall be subjected to any form of torture, cruel, inhuman or degrading treatment or punishment.

### **Protection from slavery, servitude and forced labour.**

25. (1) No person shall be held in slavery or servitude.

(2) No person shall be required to perform forced labour.

- (3) For the purposes of this article, "forced labour" does not include-
- (a) any labour required in consequence of the sentence or order of a court;
  - (b) any labour required of any person while that person is lawfully detained which, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which the person is detained;
  - (c) any labour required of a member of a disciplined force as part of that member's duties as such or, in the case of a person who has conscientious objections to service as a member of a naval, military or air force. any labour which that person is required by law to perform in place of that service;
  - (d) any labour required during any period when Uganda is at war or in case of any emergency or calamity which threatens the life and well-being of the community, to the extent that the requiring of the labour is reasonably justifiable in the circumstances of any situation arising or existing during the period or as a result of the emergency or calamity, for the purpose of dealing with that situation; or
  - (e) any labour reasonably required as part of reasonable and normal communal or other civic obligations.

#### **Protection from deprivation of property.**

- 26.(1) Every person has a right to own property either individually or in association with others.
- (2) No person shall be compulsorily deprived of property or any interest in or right over property of any description except where the following conditions are satisfied-
- (a) the taking of possession or acquisition is necessary for public use or in the interest of defence, public safety, public order, public morality or public health; and
  - (b) the compulsory taking of possession or acquisition of property is made under a law which makes provision for-
    - (i) prompt payment of fair and adequate compensation. prior to the taking of possession or acquisition of the property; and
    - (ii) a right of access to a court of law by any person who has an interest or right over the property.

#### **Right to privacy of person, home and other property.**

27. ( 1 ) No person shall be subjected to-
- (a) unlawful search of the person, home or other property of that person;
  - (b) unlawful entry by others of the premises of that person. property.
- (2) No person shall be subjected to interference with the privacy of that person's home, correspondence, communication or other property.
28. (1) In the determination of civil rights and obligations or any criminal charge, a person shall be entitled to a fair, speedy and public hearing before an independent and impartial court or tribunal established by law.
- (2) Nothing in clause (1) of this article shall prevent the court or tribunal from excluding the press or the public from all or any proceedings before it for reasons of morality, public order or national security, as may be necessary in a free and democratic society.
- (3) Every person who is charged with a criminal offence shall-
- (a) be presumed to be innocent until proved guilty or until that person has pleaded guilty;
  - (b) be informed immediately, in a language that the person understands of the nature of the offence;
  - (c) be given adequate time and facilities for the preparation of his or her defence;
  - (d) be permitted to appear before the court in person or at that person's own expense, by a lawyer of his or her choice;
  - (e) in the case of any offence which carries a sentence of death or imprisonment for life, be entitled to legal representation at the expense of the State;
  - (f) be afforded, without payment by that person, the assistance of an interpreter if that person cannot understand the language used at the trial;
  - (g) be afforded facilities to examine witnesses and to obtain the attendance of other witnesses before the court.

- (4) Nothing done under the authority of any law shall be held to be inconsistent with-
  - (a) paragraph (a) of clause (3) of this article, to the extent that the law in question imposes upon any person charged with a criminal offence, the burden of proving particular facts;
  - (b) paragraph (g) of clause (3) of this article, to the extent that the law imposes conditions that must be satisfied if witnesses called to testify on behalf of an accused are to be paid their expenses out of public funds.
- (5) Except with his or her consent. the trial of any person shall not take place in the absence of that person unless the person so conducts himself or herself as to render the continuance of the proceedings in the presence of that person impracticable and the court makes an order for the person to be removed and the trial to proceed in absence of that person.
- (6) A person tried for any criminal offence, or any person authorised by him or her, shall, after the judgment in respect of that offence, be entitled to a copy of the proceedings upon payment of a fee prescribed by law.
- (7) No person shall be charged with or convicted of a criminal offence which is founded on an act or omission that did not at the time it took place constitute a criminal offence.
- (8) No penalty shall be imposed for a criminal offence that is severer in degree or description than the maximum penalty that could have been imposed for that offence at the time when it was committed.
- (9) A person who shows that he or she has been tried by a competent court for a criminal offence and convicted or acquitted of that offence, shall not again be tried for the offence or for any other criminal offence of which he or she could have been convicted at the trial for that offence, except upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal
- (10) No person shall be tried for a criminal offence if the person shows that he or she has been pardoned in respect of that offence.
- (11) Where a person is being tried for a criminal offence, neither that person nor the spouse of that person shall be compelled to give evidence against that person.
- (12) Except for contempt of court, no person shall be convicted of a criminal offence unless the offence is defined and the penalty for it prescribed by law.

### **Protection of freedom of co-science, expression, movement, religion, assembly and association.**

29. (1) Every person shall have the right to-
- (a) freedom of speech and expression, which shall include freedom of the press and other media;
  - (b) freedom of thought, conscience and belief which shall include academic freedom in institutions of learning;
  - (c) freedom to practise any religion and manifest such practice which shall include the right to belong to and participate in the practices of any religious body or organisation in a manner consistent with this Constitution;
  - (d) freedom to assemble and to demonstrate together with others peacefully and unarmed and to petition; and
  - (e) freedom of association which shall include the freedom to form and join associations or unions, including trade unions and political and other civic organisations.
- (2) Every Ugandan shall have the right-
- (a) to move freely throughout Uganda and to reside and settle in any part of Uganda;
  - (b) to enter, leave and return to, Uganda; and
  - (c) to a passport or other travel document.

### **Right to education**

30. All persons have a right to education.

### Rights of the family.

31. (1) Men and women of the age of eighteen years and above, have the right to marry and to found a family and are entitled to equal rights in marriage, during marriage and at its dissolution.
  - (2) Parliament shall make appropriate laws for the protection of the rights of widows and widowers to inherit the property of their deceased spouses and to enjoy parental rights over their children.
  - (3) Marriage shall be entered into with the free consent of the man and woman intending to marry.
  - (4) It is the right and duty of parents to care for and bring up their children.
  - (5) Children may not be separated from their families or the persons entitled to bring them up against the will of their families or of those persons, except in accordance with the law. Affirmative action in favour of marginalised groups
32. (1) Notwithstanding anything in this Constitution, the State shall take affirmative action in favour of groups marginalised on the basis of gender, age, disability or any other reason created by history, tradition or custom, for the purpose of redressing imbalances which exist against them.
- (2) Parliament shall make relevant laws, including laws for the establishment of an equal opportunities commission, for the purpose of giving full effect to clause (1) of this article.

### Rights of women

33. (1) Women shall be accorded full and equal dignity of the person with men.
- (2) The State shall provide the facilities and opportunities necessary to enhance the welfare of women to enable them to realise their full potential and advancement.
- (3) The State shall protect women and their rights, taking into account their unique status and natural maternal functions in society.
- (4) Women shall have the right to equal treatment with men and that right shall include equal opportunities in political, economic and social activities.
- (5) Without prejudice to article 32 of this Constitution, women shall have the right to affirmative action for the purpose of redressing the imbalances created by history, tradition or custom.
- (6) Laws, cultures, customs or traditions which are against the dignity, welfare or interest of women or which undermine their status. are prohibited by this Constitution.

### Rights of children

34. (1) Subject to laws enacted in their best interests, children shall have the right to know and be cared for by their parents or those entitled by law to bring them up.
- (2) A child is entitled to basic education which shall be the responsibility of the State and the parents of the child.
- (3) No child shall be deprived by any person of medical treatment, education or any other social or economic benefit by reason of religious or other beliefs
- (4) 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.
- (5) For the purposes of clause (4) of this article, children shall be persons under the age of sixteen years.
- (6) A child offender who is kept in lawful custody or detention shall be kept separately from adult offenders.
- (7) The law shall accord special protection to orphans and other vulnerable children.

### Rights of persons with disabilities

35. (1) Persons with disabilities have a right to respect and human dignity and the State and society shall take appropriate measures to ensure that they realise their full mental and physical potential.
- (2) Parliament shall enact laws appropriate for the protection of persons with disabilities.

### Protection of minorities

36. Minorities have a right to participate in decision-making processes and their views and interests shall be taken into account in the making of national plans and programmes.

### **Right to culture and similar rights**

37. Every person has a right as applicable, to belong to, enjoy, practise, profess, maintain and promote any culture, cultural institution, language, tradition, creed or religion in community with others.

### **Civic rights and activities**

38. (1) Every Uganda citizen has the right to participate in the affairs of government, individually or through his or her representatives in accordance with law.

2) Every Ugandan has a right to participate in peaceful activities to influence the policies of government through civic organisations.

### **Right to a clean and healthy environment**

39. Every Ugandan has a right to a clean and healthy environment.

### **Economic rights.**

40.(1) Parliament shall enact laws-

(a) to provide for the right of persons to work under satisfactory, safe and healthy conditions;

(b) to ensure equal payment for equal work without discrimination; and

(c) to ensure that every worker is accorded rest and reasonable working hours and periods of holidays with pay, as well as remuneration for public holidays.

(2) Every person in Uganda has the right to practise his or her profession and to carry on any lawful occupation, trade or business.

(3) Every worker has a right-

(a) to form or join a trade union of his or her choice for the promotion and protection of his or her economic and social interests;

(b) to collective bargaining and representation; and

(c) to withdraw his or her labour according to law.

(4) The employer of every woman worker shall accord her protection during pregnancy and after birth, in accordance with the law.

### **Right of access to information**

41. (1) Every citizen has a right of access to information in the possession of the State or any other organ or agency of the State except where the release of the information is likely to prejudice the security or sovereignty of the State or interfere with the right to the privacy of any other person.

(2) Parliament shall make laws prescribing the classes of information referred to in clause (1) of this article and the procedure for obtaining access to that information.

### **Right to just and fair treatment in administrative decisions**

42. Any person appearing before any administrative official or body has a right to be treated justly and fairly and shall have a right to apply to a court of law in respect of any administrative decision taken against him or her.

### **General limitation on fundamental and other human rights and freedoms**

43. (1) In the enjoyment of the rights and freedoms prescribed in this Chapter, no person shall prejudice the fundamental or other human rights and freedoms of others or the public interest.

(2) Public interest under this article shall not permit-

(a) political persecution;

(b) detention without trial;

(c) any limitation of the enjoyment of the rights and freedoms prescribed by this Chapter beyond what

is acceptable and demonstrably justifiable in a free and democratic society, or what is provided in this Constitution.

### **Prohibition of derogation from particular human rights and freedoms**

44. Notwithstanding anything in this Constitution, there shall be no derogation from enjoyment of the following rights and freedoms-

- (a) freedom from torture, cruel, inhuman or degrading treatment or punishment;
- (b) freedom from slavery or servitude;
- (c) the right to fair hearing;
- (d) the right to an order of habeas corpus.

### **Human rights and freedoms additional to other rights**

45. The rights, duties, declarations and guarantees relating to the fundamental and Human other human rights and freedoms specifically mentioned in this Chapter shall not be regarded as excluding others not specifically mentioned.

### **Human Rights and Freedoms During a State of Emergency**

46. (1) An Act of Parliament shall not be taken to contravene the rights and freedoms guaranteed in this Chapter, if that Act authorises the taking of measures that are reasonably justifiable for dealing with a state of emergency.

(2) The provisions of any enactment other than an Act of Parliament dealing with a state of emergency declared under this Constitution shall apply only to that part of Uganda where the emergency exists.

(3) Without prejudice to clause (1) of this article, an Act enacted in accordance with that clause may make provision for the detention of persons where necessary for the purposes of dealing with the emergency.

### **Detention under emergency laws**

47. Where a person is restricted or detained under a law made for the purpose of a emergency state of emergency, the following provisions shall apply-

- (a) he or she shall, within twenty-four hours after the commencement of the restriction or detention, be furnished with a statement in writing specifying the grounds upon which he or she is restricted or detained;
- (b) the spouse or next-of-kin of or other person named by the person restricted or detained shall be informed of the restriction or detention and allowed access to the person within seventy-two hours after the commencement of the restriction or detention;
- (c) not more than thirty days after the commencement of his or her restriction or detention, a notification shall be published in the Gazette and in the media stating that he or she has been restricted or detained and giving particulars of the provisions of the law under which his or her restriction or detention is authorised and the grounds of his or her restriction or detention.

### **Review by Uganda Human Rights Commission**

48. (1) The Uganda Human Rights Commission shall review the case of a person who is restricted or detained and to whom article 47 of this Constitution applies, not later than twenty-one days after the commencement of the restriction or detention, and after that, at intervals of not more than thirty days.

(2) A person who is restricted or detained shall be permitted and afforded every possible facility-

- (a) to consult a lawyer of his or her choice or any group of persons who shall be permitted to make representations to the Uganda Human Rights Commission for the review of his or her case;
  - (b) to appear in person or by a lawyer of his or her choice at the hearing or review of his or her case.
- (3) On a review of the case, the Uganda Human Rights Commission may order the release of that person, or uphold the grounds of the restriction or detention.



### **Report to Parliament**

49. (1) in every month in which there is a sitting of Parliament, the Minister responsible shall make a report to Parliament in respect of-

- (a) the number of persons restricted or detained under the state of emergency; and
  - (b) the action taken in compliance with the findings of the Human Rights Commission.
- (2) The Minister responsible shall publish every month in the Gazzette and in the Media-
- (a) the number and names and addresses of the persons restricted or detained;
  - (b) the number of cases reviewed by the Uganda Human Rights Commission; and
  - (c) the action taken in compliance with the findings of the Uganda Human Rights Commission.

(3) For the avoidance of doubt, it is declared that at the end of the emergency declared under this Constitution, any person in or under restriction, detention or custody as a result of the declaration of emergency, shall be released immediately, unless charged with a criminal offence in a court of law.

### **Enforcement of Rights and Freedoms by Courts**

50.(1) Any person who claims that a fundamental or freedom guaranteed under this Constitution has been infringed or threatened, is entitled to apply to a rights and competent court for redress which may include compensation.

- (2) Any person or organisation may bring an action against the violation of another person's or group's human rights.
- (3) Any person aggrieved by any decision of the court may appeal to the appropriate court.
- (4) Parliament shall make laws for the enforcement of the rights and freedoms under this Chapter.

### **Uganda Human Rights Commission**

51. (1) There shall be a Commission called the Uganda Human Rights Commission.

- (2) The Commission shall be composed of a Chairperson and not less than three other persons appointed by the President with the approval of Parliament.
- (3) The Chairperson of the Commission shall be a Judge of the High Court or a person qualified to hold that office.
- (4) The Chairperson and members of the commission shall be persons of high moral character and proven integrity and shall serve for a period of six years and be eligible for re-appointment.

### **Functions of Human Rights Commission**

52. (1) The Commission shall have the following functions of Human

- (a) to investigate, at its own initiative or on a complaint made by any person or group of persons against the violation of any human right;
- (b) to visit jails, prisons, and places of detention or related facilities with a view to assessing and inspecting conditions of the inmates and make recommendations;
- (c) to establish a continuing programme of research, education and information to enhance respect of human rights;
- (d) to recommend to Parliament effective measures to promote human rights. including provision of compensation to victims of violations of human rights, or their families;
- (e) to create and sustain within society the awareness of the provisions of this Constitution as the fundamental law of the people of Uganda;
- (f) to educate and encourage the public to defend this Constitution at all times against all forms of abuse and violation.
- (g) to formulate, implement and oversee programmes intended to inculcate in the citizens of Uganda awareness of their civic responsibilities and an appreciation of their rights and obligations as free people;
- (h) to monitor the Government's compliance with international treaty and convention obligations on human rights; and

- (i) to perform such other functions as may be provided by law.
- (2) The Uganda Human Rights Commission shall publish periodical reports on its findings and submit annual reports to Parliament on the state of human rights and freedoms in the country.
- (3) In the performance of its functions, the Uganda Human Rights Commission shall-
  - (a) establish its operational guidelines and rules of procedure;
  - (b) request the assistance of any department, bureau, office, agency or person in the performance of its functions; and
  - (c) observe the rules of natural justice.

### **Powers of the Commission**

53. (1) In the performance of its functions, the Commission shall have the powers of a court-
- (a) to issue summonses or other orders requiring the attendance of any person before the Commission and the production of any document or record relevant to any investigation by the Commission;
  - (b) to question any person in respect of any subject matter under investigation before the Commission;
  - (c) to require any person to disclose any information within his or her knowledge relevant to any investigation by the Commission
  - (d) to commit persons for contempt of its orders
- (2) The Commission may, if satisfied that there has been an infringement of a human right or freedom. order-
- (a) the release of a detained or restricted person;
  - (b) payment of compensation; or
  - (c) any other legal remedy or redress.
- (3) A person or authority dissatisfied with an order made by the Commission under clause (1) of this article, has a right to appeal to the High Court.
- (4) The Commission shall not investigate-
- (a) any matter which is pending before a court or judicial tribunal; or
  - (b) a matter involving the relations or dealings between the Government and the Government of any foreign State or international organisation; or
  - (c) a matter relating to the exercise of the prerogative of mercy

### **Independence of the Commission**

54. Subject to this Constitution, the Commission shall be independent and shall not, in the performance of its duties, be subject to the direction or control of any person or control authority.

55. (1) The Commission shall be self-accounting and all the administrative expenses including salaries, allowances and pensions payable to persons serving with the Commission shall be charged on the Consolidated Fund.

(2) The Chairperson and other members of the Commission shall be paid such salaries and allowances as Parliament may prescribe.

### **Removal of Commissioners**

56. The provisions of this Constitution relating to the removal of a Judge of the High Court from office shall, with the necessary modifications, apply to the removal from office of a member of the Commission.

### **Staff of Commission**

57. The appointment of the officers and other employees of the Commission shall be made by the Commission in consultation with the Public Service Commission.

### **Parliament to make laws regarding functions of Commission**

58. Parliament may make laws to regulate and facilitate the performance of the functions of the Uganda Human Rights Commission.

## Chapter 5

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