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Summary record of the 3998th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 28 June 2023, at 10 a.m.

Chair: Ms. Abdo Rocholl

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The meeting was called to order at 10.10 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

*Second periodic report of Uganda (continued) (CCPR/C/UGA/2;
CCPR/C/UGA/Q/2; CCPR/C/UGA/RQ/2)*

1. *At the invitation of the Chair, the delegation of Uganda joined the meeting.*
2. **Mr. Kafeero** (Uganda), resuming his replies to questions raised by Committee members at the previous meeting, said that the Witness Protection Bill was being considered by the First Parliamentary Council. The Government was committed to enacting the Bill, subject to consultations on the financial implications.
3. Uganda had a dualist legal system and had incorporated the Covenant into domestic law through national legislation. Court cases involving that legislation therefore invoked the provisions of the Covenant without necessarily citing it directly.
4. The Interministerial Committee on Human Rights had now completed its consideration of the final draft of the National Action Plan on Human Rights and had recommended that it should be submitted to the Cabinet for further consideration. The process of incorporating recommendations from the third universal periodic review into the Plan had caused delays, but the Government was committed to finalizing and implementing the Plan. Meanwhile, the National Action Plan on Business and Human Rights had been launched in 2021; it required all business operations to be conducted in line with human rights standards.
5. Funding cuts like those affecting the Uganda Human Rights Commission had been felt across the entire spectrum of government in the wake of the coronavirus disease (COVID-19) pandemic. As he had explained at the previous meeting, the Commission was a government priority. Currently, 1,045 cases were being investigated by the Commission, 87 were pending mediation and 2,932 had been referred to the Tribunal of the Commission. The latter had made inroads into its backlog of cases and had opened hearings in 1,700 cases.
6. The Government was committed to ensuring that all outstanding compensation was paid to victims of human rights violations, dealing with cases on a first-in, first-out basis. The decentralization of the compensation process had led to greater vigilance and improved oversight of human rights abuses committed by public officials. The Ministry of Justice and Constitutional Affairs had subsequently paid out more than 1 billion shillings in compensation, and expected to pay out a further 800 million; the police force had paid out 700 million shillings, and expected to pay out a further 570 million; and the Uganda Wildlife Authority had paid out 14 million shillings.
7. In 2017, a department had been set up in the Office of the Director of Public Prosecutions to prioritize cases involving sexual and gender-based violence. As well as training prosecutors and investigators on how to handle victims, it had produced a handbook for prosecutors assigned to such cases, more than 1,000 of which had been processed by the courts in 2018. Civil society and UN-Women had helped to fast-track hearings of sexual and gender-based violence cases and, in 2018 and 2020, the judiciary had piloted special courts which had processed more than 2,000 such cases, in addition to a further 753 involving children. Conviction rates across the board stood at 85 per cent. Levels of sexual and gender-based violence had dropped and now affected 20 per cent of women and 8 per cent of men between 15 and 49 years of age and 11 per cent of expectant mothers. In addition to punishing the guilty parties, courts often awarded compensation to victims, although perpetrators were not always able to pay. Other remedies included the provision of shelters for victims; 169 girls had been accommodated in that way in 2022.
8. **Mr. Yigezu** said that he would appreciate a response from the delegation to questions about the independence of the Uganda Human Rights Commission and about the Legal Aid Bill and the Human Rights Defenders Protection Bill.
9. He wished to know what further measures were planned to address persistent prison overcrowding and to provide the police force and prison service with funding for adequate

infrastructure and facilities, including detention facilities that kept juveniles and adult offenders separate. It would be useful to know how the State party intended to monitor the abolition of caning in all prisons, in line with the Ugandan Constitution and legislation.

10. He would like to receive statistical data on the number of victims of human trafficking identified during the previous five years, including data obtained by screening for trafficking indicators among vulnerable populations such as migrants. How many victims of trafficking had been referred to the appropriate support services? It would also be interesting to receive data for the same five-year period on: cases involving trafficking in persons that had been brought before the courts; investigations initiated; prosecutions and convictions for trafficking crimes; and remedies such as compensation. He would like to know what efforts the Government had made, including through the regulation of recruitment agencies, to protect victims of human trafficking who had been exploited abroad.

11. He would like to know what further steps the State party planned to take to better address the prevalence of child labour, including measures designed to harmonize its legislation on the minimum age for employment with international standards. He would be grateful, too, for data disaggregated by age and sex on the number and type of child labour violations and the penalties imposed for such violations.

12. He would like the delegation to further clarify the legal basis for the Internet shutdown on the eve of the 2021 elections and to provide details supporting the State party's claim that it had received credible information on cyberattacks. It was unclear how the shutdown was compatible with the requirements of articles 25 and 19 (3) of the Covenant. In the light of reports of disproportionate electoral expenditure, including direct payments to voters, by or on behalf of well-resourced political parties or candidates, he also wondered whether the State party had plans to enact legislation to regulate campaign financing in order to ensure a level playing field in future elections.

13. Lastly, he wished to know what measures the State party planned to take to provide redress to minorities and Indigenous communities, including the Batwa and Benet communities, who had been evicted from their ancestral lands without their free, prior and informed consent. He also wished to know what steps the State party was taking to strengthen safeguards against forced evictions of minorities and Indigenous communities and to provide restitution and just compensation for land acquisitions.

14. **Mr. Santos Pais** said that, in addition to responding to the questions asked previously about corruption, he would like the delegation to clarify the main targets and achievements of the Judiciary Anti-Corruption Action Plan. He wondered how many judges had been investigated, how many prosecuted and what sentences and sanctions had been imposed.

15. In the light of concerns about the lack of independence of the judiciary vis-à-vis the executive branch, its susceptibility to political pressure and threats to its impartiality, he wished to know whether the delegation was of the view that the State party's legal framework respected the international standards set out in the United Nations Guidelines on the Role of Prosecutors and the Basic Principles on the Independence of the Judiciary, in terms of the appointment, career, discipline and removal of judicial officials. He would like to know whether the Government intended to continue the practice of appointing acting judges instead of career judges. He would also like to know which entity appointed public prosecutors and whether prosecutors were independent of the executive branch.

16. He would appreciate information about the disciplinary proceedings carried out against Supreme Court Justice Esther Kisaakye in relation to the Court's ruling on a petition challenging the 2021 presidential election results, in which she had issued the only dissenting opinion. He wondered whether the recommendation by the Judicial Service Commission that the President should appoint a tribunal to consider removing Justice Kisaakye from office on account of her alleged misconduct, and the fact that she could be suspended during the tribunal's investigation, meant that judges could be subject to disciplinary action based on the content of their lawful decisions.

17. In the broader context of reports of widespread violations of procedural safeguards and the right to a fair trial, he would welcome the delegation's comments on the practice of re-arresting bailed suspects and their legal representatives. Of particular interest was one such

instance in which the four accused had been arrested at the International Crimes Division in the Kololo district of Kampala on 11 September 2019 and taken to an unknown destination with their lawyer in what represented a clear violation of the rule of law, the independence of the judiciary and respect for the right of lawyers to execute their professional duties towards accused persons.

18. The Committee would like to hear the delegation's comments on an apparent pattern of prolonged pretrial detention of suspects beyond the time limits established by law, which had been attributed to factors like the disruption of court sessions during the COVID-19 pandemic, as well as its comments on allegations that people were being arrested and detained before investigations had been completed. He would also like the delegation to comment on the distinction adopted in the State party's bail guidelines in 2022 between bailable and non-bailable offences, which had no basis in national or international law.

19. He wished to know the circumstances under which military courts could try civilians in Uganda, how many such cases were pending and for what offences, and how many civilians were concerned. He would also welcome information on the number of prosecutions and convictions, details of the sentences handed down, and the number of detained individuals still awaiting trial.

20. Lastly, he would like to know whether the Government intended to comply with the Constitutional Court's ruling that civilians should not be tried by military courts and that civilians who had been arrested and charged with military offences relating to the 2021 elections should be tried by the ordinary courts. The delegation might also care to comment on reports that military courts had failed to observe due process, had tried and convicted children and had subjected defendants to corporal punishment, torture and ill-treatment.

21. **Ms. Tigroudja** said that she wished to know whether the numerous cases in which lawyers had been subject to arbitrary detention, harassment, threats or illegal raids on their offices had been investigated; whether the perpetrators had been prosecuted; and how the State party intended to protect lawyers who were at risk because of their work. She also wished to know when the Legal Aid Bill would be adopted and how the budgetary obstacles to its adoption would be overcome. Information on how the State party planned to ensure that legal aid could be accessed by all, rather than just individuals facing the death penalty, would also be welcome. She would like to know what provisions existed under national law to ensure that individuals appearing before the courts had access to an effective defence.

22. In its replies to the list of issues, the State party had confirmed that section 8 of the Public Order Management Act, which gave the police excessive powers to prevent the holding of public meetings, was no longer in effect. However, given that peaceful assemblies had continued to be prohibited and repressed, she would like to know how the State party intended to clarify the legal framework on peaceful assembly and bring it into conformity with article 21 of the Covenant and article 29-1 of the Ugandan Constitution. Noting that protesters and journalists covering protests had been attacked by the police, she wished to know what measures had been taken to identify and punish the police officers and other agents responsible. The delegation might like to comment on how the State party could facilitate the holding of peaceful assemblies, especially those organized by members of the opposition, human rights defenders and defenders of the rights of Indigenous communities.

23. The Committee would appreciate information on the legislative reforms envisaged to ensure that measures taken under the legal framework governing non-governmental organizations (NGOs) met the legality, legitimacy and proportionality requirements applicable under article 22 of the Covenant. More specifically, she would like to know how the State party planned to transition from a system that required NGOs to be authorized by the Government to one that would allow them simply to notify the Government of their formation. Noting that the assets of certain NGOs had been frozen, she wished to know how the State party guaranteed the transparency of the democratic process and ensured that the legal framework for combating terrorism, money laundering and corruption could not be used to silence NGOs monitoring elections.

24. **Mr. El Haiba**, noting that the 2022 Computer Misuse Act contained alarming restrictions on freedom of expression, said that he would like to know how the Act's broad and vague provisions were compatible with the Covenant and the Committee's general

comment No. 37, and whether the State party intended to repeal or amend those provisions. He would be interested to hear the delegation's comments on reports that the authorities had used the Act to silence the Government's critics and restrict media coverage of the opposition's activities. Furthermore, the Committee would be grateful for clarification regarding claims that opposition figures had been prevented from appearing in broadcasts during elections.

25. He would appreciate the delegation's comments on reports that journalists had been subjected to arbitrary detention and physical attacks by the security forces. He would like to know what measures had been taken to ensure that journalists and human rights defenders could carry out their work without restrictions and that any violations of their rights were thoroughly investigated and the individuals responsible were brought to justice. In that connection, the Committee would welcome further information on the status of the Human Rights Defenders Protection Bill and clarification with regard to the role of the Human Rights Defenders Office of the Uganda Human Rights Commission. How did the Office function? To whom was it accountable? How did it cooperate with the authorities? Had it reported or identified any incidences of abuse of human rights defenders?

26. **Mr. Soh** said that he would like to know why the Police Act, which allowed for warrantless searches to be carried out when they were deemed necessary to prevent the imminent commission of a crime, had been invoked against certain members of the opposition, lawyers and human rights defenders. He would like to have further information on the assessment and evaluation of the National Closed-Circuit Television (CCTV) Project, which had identified a regulatory gap. He would appreciate information on the progress made in the third phase of the Project and on whether human rights due-diligence processes were applied in the procurement, operation and maintenance of the national CCTV system.

27. He would be grateful for data on how many applications for warrants to intercept communications had been submitted, granted and rejected under the Regulation of Interception of Communications Act. Noting that the Act required telecommunications providers to retain metadata, he wished to know whether any legal provisions were in place to govern how long, and under which conditions, such data could be stored. The delegation might also like to comment on whether mechanisms had been established to oversee the implementation of the Act and how abuse of the Act could be prevented.

28. It would be helpful to know whether the State party intended to amend the HIV and AIDS Prevention and Control Act to restrict the circumstances under which HIV status needed to be disclosed. In addition, he would appreciate a response from the State party regarding how sections 13 and 14 of the Act, which required individuals such as victims of sexual assault and pregnant women and their partners to undergo compulsory HIV testing, were compatible with article 17 of the Covenant.

29. He would be grateful for further information on how the State party was addressing concerns surrounding the national identification and registration system, such as the lack of oversight, accountability and mechanisms for redress. He would also like to receive assurances that steps would be taken to protect data in line with article 17 of the Covenant. Perhaps the delegation could also explain how the State party ensured the independence of the Personal Data Protection Office.

30. He would appreciate the delegation's comments on the ruling by the High Court that the directives requiring the registration and accreditation of journalists were illegal and that the Media Council was not empowered under the Press and Journalists Act to accredit journalists. Information on how the State party planned to prevent such illegal restriction of the freedom of expression, particularly during elections, would be welcome. Furthermore, he would like to know why certain radio stations had been closed following their announcement of provisional election results and how that practice was compatible with article 19 of the Covenant.

The meeting was suspended at 11.20 a.m. and resumed at 11.40 a.m.

31. **Mr. Kafeero** (Uganda) said that the Uganda Human Rights Commission was mandated by the Constitution to promote and protect human rights. Its seven members had been appointed on the basis of merit and included women, civil society representatives and

individuals of different political leanings. The Commission worked independently and government representatives were required to appear regularly before the Parliamentary Committee on Human Rights to respond to the recommendations contained in the Commission's reports.

32. With regard to prisons, the Uganda Prison Service was regarded as one of the best in Africa and was considered by other countries in the region as an example to follow.

33. **A representative of Uganda** said that the Uganda Prison Service ran 266 facilities with a total population of more than 75,730 prisoners. The facilities were monitored by a number of institutions, including the Uganda Human Rights Commission and the Parliamentary Committee on Human Rights, which issued recommendations to the Service. In order to address overcrowding, capacity had been increased from over 14,330 to over 20,320 between 2012/13 and 2022/23 by constructing new prisons and expanding existing ones. Other steps taken to that end included making greater use of community service sentences for individuals convicted of minor offences and plea bargains under which individuals were released, acquitted or saw their sentence commuted. Regulations were being drafted to enable the implementation of new provisions on parole. The Prison Service had seen annual increases to its budget to enable it to improve facilities and conditions of detention.

34. The Prison Service did not condone the use of corporal punishment, including caning. Any abuse of a prisoner's rights, either by another inmate or by staff, was prohibited, and appropriate action was taken when such cases were identified. All prisons had a human rights committee – composed of inmates and staff – whose responsibilities included raising awareness, receiving complaints from prisoners, notifying the director of cases of abuse, ensuring that persons who reported abuse were protected and making recommendations to management.

35. **Mr. Kafeero** (Uganda) said that the Government's anti-trafficking efforts were anchored in the collaborative work it conducted with other countries in the region and beyond.

36. **A representative of Uganda** said that, in illustration of the Government's decision to prioritize the issue, nearly three times more incidents of human trafficking had been investigated in 2022 than in 2021. Of the 1,200 cases investigated, over 525 had involved exploitation, including more than 60 cases of exploitation abroad; the remainder had involved other forms of trafficking. Some 70 traffickers had been convicted, as compared to 30 in 2021, and the licences of over 20 recruitment agencies had been suspended for illegal recruitment of migrant workers. Ugandan migrant workers were protected through the diplomatic missions and a dedicated ministry, and the Ministry of Foreign Affairs was negotiating memorandums of understanding with the relevant countries. The protection of child workers was covered in a number of policies.

37. No precise data were available on the number of members of the judiciary who had been prosecuted for corruption, but it was important to bear in mind that the judiciary was an independent arm of government with its own regulations and internal disciplinary mechanism. While the final decision on appointments and removals rested with the Head of State, that decision could only be made following a rigorous process, in the case of appointments, or on the recommendation of the competent tribunal, in the case of removals. Judges could be removed only in the event of incompetence, poor performance or misconduct. As for the specific case of Justice Kisaakye, it would be premature to discuss the proceedings under way before the disciplinary committee, but it should be noted that members of the judiciary were bound by a code of conduct and could appeal decisions taken against them. She was not aware of any lawyers being detained or harassed for their involvement in Indigenous rights or anti-corruption cases. Lawyers were protected by the Law Society and Law Council, which also protected their right to practise freely.

38. Only two members of the Judicial Service Commission were not lawyers, and they had been selected on the basis of their moral probity. The Chair of the Commission had to be a person who was qualified to serve as a Supreme Court judge but who was not a sitting member of the Court. Although many judges came up through the ranks of the judicial

system, it was also possible for lawyers who had practised privately to be appointed to the judiciary following a rigorous and transparent selection process.

39. Individuals could be kept in extended pretrial detention for investigative purposes to ensure that there was sufficient evidence to prosecute them. Nevertheless, the Government had pledged to improve the situation regarding excessive periods of detention. The Legal Aid Bill would be enacted once the Government was assured of the means of implementation.

40. **Mr. Kafeero** (Uganda), recalling that the 2021 elections had taken place amid the Covid-19 pandemic, said that some political leaders had called on their supporters to defy the public health measures, which had led to rallies and traffic disruptions that had put civilian lives at risk. Furthermore, the Internet had been used during that period to incite hatred and insurrection. Although the Government attached importance to freedom of expression and recognized the role of free media in disseminating accurate information, it had shut down the Internet in response to the vehemence of the online rhetoric, in an effort to safeguard the democratic process, national security and public safety. It had been transparent in giving the reasoning for its decision, and the Internet had been restored in a timely manner.

41. Uganda was proud of its record concerning Indigenous Peoples and disputed allegations that any communities were disenfranchised, poorly treated or dispossessed of their land. The Government worked with communities around the country to ensure their livelihoods and a comfortable living environment. He would like to draw the Committee's attention to the reports on the living conditions of the Indigenous population prepared by the Uganda Human Rights Commission.

42. **A representative of Uganda** said that the law provided for certain situations in which civilians could be tried by the military courts, namely when a civilian aided a person subject to military law in the commission of a service offence and when a civilian was found in unlawful possession of arms, ammunition or equipment ordinarily the monopoly of the defence forces. The members of military courts were highly accomplished professionals with technical expertise who were bound by the Constitution and other relevant laws. Furthermore, defendants in court martials enjoyed all the due-process guarantees afforded to defendants in proceedings before the ordinary courts. Regarding the Constitutional Court's ruling that civilians should not be tried by military courts, an appeal against the decision in the case of Michael Kabaziguruka had been lodged with the Supreme Court; therefore, enforcement of the decision was stayed pending the Court's judgment.

43. As Director for Human Rights of the Uganda People's Defence Forces, he conducted inspections of military detention facilities and had not found any children being detained there or any cases of corporal punishment or torture.

44. **Mr. Kafeero** (Uganda) said that under the Constitution, all persons, whether detained or not, enjoyed the right to the legal representation of their choice, or to represent themselves. Lawyers had free access to their detained clients. There was no arbitrary detention, intimidation or harassment of lawyers, including those working on human rights cases, and many of the alleged break-ins had never been reported to the police. Those that had been reported had been investigated, although no suspects had been identified and there was insufficient evidence for prosecution.

45. While the Government was committed to holding free and fair elections, it had also been committed to preserving life during the COVID-19 pandemic. The Government had been open about the purpose of the measures adopted in that regard and the consequences – including with regard to the Internet – of political actors' defiance of them. The Government had been faced with the challenge of balancing Internet access against protecting lives and preventing hate speech, and it was now working to ensure that Internet platforms were not used to jeopardize the lives and security of the Ugandan people.

46. Journalists were considered important actors in the economic, social and political life of Uganda, and regulations governing the media were based on the Constitution, which granted all persons, including members of the press and other media, the right to freedom of expression. In February 2021, seven soldiers had been sentenced to up to 90 days' imprisonment for assaulting journalists covering an event outside the United Nations offices in Kampala, and the head of the Uganda People's Defence Forces had apologized publicly for the incident. There was no deliberate attempt to use legislation to undermine the work of NGOs, which were important development partners. The regulations in place were intended

to support their work while ensuring their compliance with the applicable rules, and those that did not comply could seek support from the National Bureau of Non-Governmental Organisations. It was important that NGOs were subject to appropriate oversight and that there was cooperation at the international level; recent terror attacks, for example, had been perpetrated by a group that had received funding from abroad.

47. **A representative of Uganda** said that the only provisions of the Public Order Management Act that had been repealed were those granting the Inspector General of Police the power to stop public assemblies; the remainder of the Act was unaffected. The Act provided guidance to law enforcement bodies on managing public order, and its implementation would be standardized through regulations currently being drawn up by the Ministry of Justice and Constitutional Affairs. Although the Constitution provided for freedom of assembly, that right should not infringe on the rights of others, and the Act aimed principally to compel the organizers of public gatherings to notify the police in advance so as to facilitate the necessary planning. Many of the country's pretrial detention facilities had been constructed during the colonial period, with scant regard for human rights. More than 30 facilities had, however, been built over the previous five years, all of which complied with human rights standards.

48. **Mr. Santos Pais** said that, given the importance of the independence of the judiciary in law and as perceived by persons applying to the justice system, it was difficult to accept that judges were appointed and removed by the head of the executive branch with the assistance of the legislature. The members of the Judicial Service Commission appeared to include just one sitting judge. Similarly, it was unusual that suspects were detained before investigations began. Nevertheless, his question had related to detention that far exceeded even the time limits set out in Ugandan law. He wished to know why, if the same safeguards existed in civilian and military courts, civilians were sometimes tried in military courts. Indeed, there were reports that safeguards in military courts were less stringent than in civilian courts. Although the High Court had declared such trials unconstitutional, its rulings lacked suspensive effect, and the practice continued.

49. **Ms. Tigroudja** said that the Constitutional Court had issued and published a judgment declaring several provisions of the Public Order Management Act to be unconstitutional. However, the police did not recognize that ruling, which posed a significant challenge to the rule of law.

50. **Mr. Yigezu** said that further improvements to prison infrastructure were required to reduce overcrowding. Questions remained as to whether the restrictions placed on Internet access during the elections had been proportionate. He wished to know whether the State party would regulate campaign financing.

51. **Mr. El Haiba** said that the State party's legislation governing electronic communications seemed overly restrictive and could lead to self-censorship, particularly among the media and civil society. It was true that the new forms of electronic communications brought with them new problems relating to, for instance, hate speech and online harassment, but a balance needed to be struck between protection from the excesses of the Internet and freedom of expression. He would welcome information on writers and journalists who had fallen foul of the Computer Misuse Act, and on journalists who had suffered attacks and intimidation, including by police officers.

52. **Mr. Soh** said that the delegation's failure to respond to all the Committee's questions, perhaps because of time constraints, had hindered constructive dialogue. He therefore looked forward to receiving written answers to the outstanding questions within 48 hours.

53. **Mr. Kafeero** (Uganda) said that his delegation had endeavoured to answer all the questions put to it by the Committee and was happy to provide the written information requested. It was unfortunate that various State institutions in Uganda appeared to have been characterized during the discussion as dysfunctional and politically compromised; on the contrary, institutions such as the judiciary and the Uganda Human Rights Commission had been established in full compliance with the law and were accountable to citizens. His delegation had very much appreciated the opportunity to have a conversation with the Committee about the human rights situation in Uganda and remained committed to cooperating with the Committee in the future.

The meeting rose at 1 p.m.