

**REPORT ON PROMOTIONAL VISITS TO UGANDA AND KENYA FROM
12 - 21 JULY, 1998
BY
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ntroduction and Acknowledgement

At the 23rd Ordinary Session of the African Commission on Human and Peoples' Rights (the Commission), which was held in Banjul, The Gambia from 20 to 29 April 1998, 4 new countries Uganda, Kenya, Sierra Leone and Cameroon were assigned to me for promotional activities. In such division of States Parties to the African Charter on Human and Peoples' Rights (the Charter) among Commissioners, the Commission expects the former ~~to~~ contribute towards the fulfillment of one of its functions.

To promote Human and Peoples' Rights and in particular:

- (a) To collect documents disseminate information, encourage national and local institutions concerned with human and peoples' rights and, should the case arise, give its views or make recommendations to Governments; (Art. 45).

The assistance which I have received in times past from the Legal Division of the General Secretariat of the O.A.U. in the planning of my promotional visits was once again extended to me in respect of my visits to Uganda and Kenya. The Commission's Secretary Mr. German Baricako also responded quickly to my request to notify the foreign ministries of my host countries with a list of officials I desired to see Ministers of Foreign Affairs and Interior (Home Affairs), the Attorney General (Minister of Justice), the Head of the Police and Prison Service, all officials with significant responsibilities for protection of Human Rights. The General Secretariat of the OAU had earlier on done the same. I appreciate their assistance.

It is heartening to note that the Embassy of Kenya in Addis Ababa, Ethiopia notified me in Ghana of the grant of my request to have a meeting with the Foreign Minister of Kenya. In Kampala, Uganda officials of the Ministry of Foreign Affairs were surprised to learn that I had not received their positive response to my request to meet the named officials on the basis of which a programme had been drawn up by them for my visit. The vagaries of communicating with Ghana through fax and electronic mail in

recent times are the likely reasons for the non-receipt by me of the communication from Uganda. Suffice it to say, a copy of the programme was handed to me on my arrival in the Ministry.

The Secretariat of the Commission also sent to me useful background material. Mr. Rolf Ring of Raoul Wallenberg Institute, Lund, Sweden worked tirelessly to ensure that the requisite consent for my visits had been given by the Commission. Similar efforts by him made it possible for me to receive the tickets and subsistence allowance for the journeys. To the Swedish government, which through the Raoul Wallenberg Institute underwrote the financial cost of the visits I am most grateful. Mrs. Elizabeth Beatrice Wamanga of the Africa Department of the Ministry of Foreign Affairs of Uganda accompanied me and gave me rides in her car to meetings with government officials as well as students and Faculty of the Law School. To be on time for an appointment Hon. Maj. Tom R. Butime dispatched his driver to convey me in his official car. Mr. Law of the Ministry of Justice provided needed help. In many more ways than I can enumerate, Mr. Chinery-Hesse also of the Ministry of Justice created an atmosphere for me which made working in Kampala pleasant and fruitful. They all and many others deserve my gratitude.

I also owe a debt of gratitude to Kenya Human Rights Commission for arrangements it made for my stay in Kenya and a meeting with members of its staff. Why I did not attend a meeting with NGOs, which it had scheduled for me, is explained below. A similar fate, which befell a press conference that had also been arranged by the same organisation also, finds its explanation below. For being instrumental in the arrangements of matters extending beyond government Mrs. Wanjiku Mwangi is mentioned with gratitude.

An account of the visit to Uganda is followed by that of Kenya. But an experience common to both countries is recounted first.

Legislation, Withdrawal of Labour and Government's Sensitivity

Taxi drivers and teachers had withdrawn their labour when I arrived in Uganda and Kenya respectively as a result of legislation introduced in the legislature of each country.

The drivers complained that the sanctions attached to the proposed legislation were burdensome and oppressive. The teachers were not agreeable to renegotiation or amendments to salary schemes previously agreed upon. In the earlier case the bill was withdrawn while in the latter case the proposed legislation was

suspended. I very much hope that no vindictive steps will be taken against either the leaders of the drivers or teachers, or indeed against members of the two groups for their participation in the strikes.

Tuesday 14 July 1998

- (i) I had discussions with Mr. Sebulime, Ag. Director, Multilateral Department, Ministry of Foreign Affairs. I briefed him about the Commission and its mandate, especially that concerning promotional activities. I made the point, which was to be repeated at almost all subsequent meetings, that although Uganda was one of the countries which had a national among the first set of Commissioners, the late Grace Ibingira in 1986 regrettably no State report has been submitted from Uganda to the Commission. I urged Mr. Sebulime to do his utmost for the defect to be remedied. In response he stated that unfortunately personnel who were trained to prepare reports to the treaty bodies to which Uganda belongs either left the country or the Ministry shortly after their training. However, new people were being trained, and Uganda had just submitted its report under the International Covenant on Civil and Political Rights. Attention would be turned to the report demanded by the Charter:

Each State party shall undertake to submit every two years, from the date the present Charter comes into force, a report on the legislative or other measures taken with a view to giving effect to the rights and freedoms recognized and guaranteed by the present Charter (Art. 62).

I suggested that one report covering the period from ratification by Uganda of the Charter could be submitted. Everybody knew the problems Uganda experienced under Idi Amin and the years following it. But the progress as well as difficulties which have been made and encountered respectively since that time were worth recounting for the lessons which could be learnt by other countries, I noted.

Another point raised by me, which was also repeated in subsequent meetings, was state participation in the sessions of the Commission. Some state parties have sent delegates to address and participate in the open sessions of the Commission's meetings, and Uganda was encouraged to be part of this healthy process.

(ii) Mr. Samuel B. Tindifa, Ag. Director, Human Rights and Peace Centre, (the Centre) Makerere University briefed me about the activities of the Centre and I also informed him about the work of the Commission.

The Centre was established in 1992 to mainly engage the University (Makewere) in human rights discourse. Its programme includes teaching at graduate and undergraduate levels. A course in refugee law is offered to graduate students. Other courses the Centre offers are:

Gender and The Law as well as Humanitarian Law. It also publishes the East African Journal on Peace and Human Rights, and this is in its 5th Volume. The Centre's outreach programme includes workshops and conferences.

In 1996 it had a workshop on Interdisciplinary teaching of human rights. Ten Years of National Resistance Movement, Impact of Armed Conflict on Minority and Indigenous Children In the Great Lakes and The Horn of Africa have also been subjects of workshops, the latter as recently as April 1998. As a matter of policy, the Centre organises a workshop on 10 December each year.

An internship programme has also been developed by the Centre: two students from Buffalo, U.S.A. have served under it, and a student from Sweden was expected. From the University students of all backgrounds are posted to various organisations to understand problems confronting people in human rights. The purpose underlining the programme is to build a constituency of young people who understand human rights. Monetary compensation from a fund provided by the Swedish government is given to these young activists. As a way of keeping contact with interns an Association of Former Interns has been formed. On a part-time basis they are involved in a Prisoners Rights Programme.

In collaboration with FIDA and the Legal Aid Project of the Law Society, the Centre provides legal aid to the needy. Street Law Incorporation, Washington D.C. through Georgetown University provides support for this aspect of the Centre's work.

Of the future, the Centre intends to introduce human rights into all courses in the University. To this end, needs assessment of Faculties was in progress. This initial step would be followed by a workshop for deans and administrators. A curriculum for children in and out of school was being developed.

- (iii) My meeting with the Ag. Director of the above Centre was followed immediately with a brief meeting with the Dean of the Faculty of Law, Makerere University where the Commission was the focal point of discussion. We were then led to a meeting with a small number of students and the Ag. Director of the Centre. I gave a lecture on the Charter and the Commission, which generated a lively discussion.

Wednesday, 15 July 1998

- (i) With a view to finding out how the Police observe and respect the human rights of the public with whom their work bring them into contact, I met Messrs Opio Erasmus, Deputy Director, C.I.D., Okumu and Akorima both Senior Officers with the Police Service.

The structure of the Police Service in Uganda was explained to me in detail, but all of it need not detain us. Certain aspects of it will suffice. The Police are a department under the Ministry of Interior. Not having attained its maximum strength, members of the police service have a heavy workload. With an eye on gender balance it is expected that the female population of the police will be raised from 10 per cent to 30 per cent in the immediate future. Some sections of the police have already gone beyond 10 percent.

Generally it takes 6 to 12 months from the time of arrest to completion of investigation. In non-capital cases the period may be 3 to 6 months or less. Delay in prosecution is a result of a slow court process.

Where the accused is not committed to stand trial and in non-capital offences, he or she is entitled to be released on bail in accordance with the provision of the Constitution, I was informed. This provision, the information continued, had been invoked on several occasions at the instance of accused persons or on the Courts' own initiative. In Uganda a person can be detained without trial for 48 hours. Asked about seminars and workshops on human rights for the police, the response was that the subject is an integral part of the training of police personnel. It is also taught at refresher courses. Furthermore, the Inspectorate of Government has organised a human rights workshop for the Police; and so has the Human Rights Commission of Uganda. Equally, some members of the Service have benefited from U.N.

Courses in Vienna and these lecture at the Training School for the Police.

Questioned about the resort to torture and undue influence in the work of the Police, I was told firmly that as a matter of policy these were prohibited. But when they occurred the culprits were punished. The Human Rights Commission has the mandate to investigate complaints against the Police. The Inspectorate of Government (Ombudsman) has a similar responsibility.

A better-equipped police service would have been welcomed, but given the economic constraints faced by the government the situation was understandable to the police.

As regards relationship with NGOs, I learnt that the Police have had contacts with FIDA and Foundation for Human Rights Initiative, for instance.

One of the officers commented that the reluctance of the public to participate in the criminal justice process might be due to the fact that adequate attention is not paid to the interest of the victim. Victims of crimes are disappointed by lack of compensation. I observed that the unduly long hours spent as witnesses for the prosecution might also be a contributory factor in the concern expressed by the police officer.

(ii) Meeting with Minister of Internal Affairs, Hon. Tom Butime

Later in the day the Honourable Minister of Interior Tom Butime granted me audience.

Questions raised with him covered State report, arrest and detention, the problems which Uganda has in protection of human rights; the rebels in the north (Kony and his rebels abducting girls and other children); the role of the Ugandan armed forces in human rights violation in the war zone; misuse of the criminal process against opponents of the government (sedition, contempt of court, defamation, possession of classified information, holding of unauthorised meetings and demonstrations), the breaking up of Democratic Party meeting at Mbarara on human rights and democracy on Friday 10 July 1998; and the case of the 65 women who marched on Parliament House in June 1998 complaining that they had not seen their husbands who were arrested in May, 1998.

Honourable Butime answered each and every question in a frank and forthright manner. Yes, Uganda has a problem in the north.

5 districts are affected by the activities of Kony and his men: North Conlu, Kitgum, Lira and Moyo, Apach and Adjumai. Joseph Kony lives in Sudan. He makes periodic incursions into Uganda to abduct people and possibly fight. Kony has a force of about 600.

Uganda Peoples Force are in that large area. They are deployed to stop Kony from abducting people from Uganda. The border is long, and so Kony manages to abduct people, school children and others, take them to Sudan and train them there. Some are sent to work in Northern Sudan. Kony is pursued in Uganda. In his last incursion into Uganda, Kony lost 210 men and weapons.

To safeguard life and property in the affected areas, government has created protected villages which are surrounded by the army. Within these areas home guards are also raised, to protect the villages in the absence of the army. Admittedly, politicians from the north are not enthused about the idea of protected villages.

According to one view for solving the conflict, there must be a political settlement. Government should therefore talk to Kony. This view is espoused by the political leadership in the north, mainly the opposition from the north.

Parliament appointed a Committee from its members, which was headed by Hon. Ali Gabe Akida. He was the Chairman of the Defence and Internal Affairs Sessional Committee of Parliament. The committee gathered views from the north and compiled a report which was debated in Parliament. Parliament decided that, having considered every option, the option which government should adopt was a military solution. This should be so because Kony did not have any legitimate reason to fight or negotiate over. The same is true with regard to the Allied Democratic Front (ADF) in the western part of Uganda. Nevertheless churches, non-governmental organisations and individuals may talk to Kony and the ADF.

Uganda Defence Force is not involved in human rights violations. A strict code of discipline governs the training and conduct of the army.

Use of the Police to Harass the Oppositions

The Constitution guarantees freedom of assembly (Art. 29) and the right to influence others to share similar views. It will, therefore,

be wrong for the police to disrupt meetings of the opposition, and we have been cautioning them to desist from so doing.

Account should however be taken of the political system that obtains in Uganda. High profile meetings of political parties are illegal. Everybody is supposed to belong to the Movement until there is a referendum (scheduled for 1999). Also unlawful are party banners and flags. This is the excuse (law?) the police use to prevent the meetings.

Foundation For African Development (FAD) is an NGO which is ostensibly apolitical but Ssemogerere (a leading opposition figure) uses it to hold mass and other high profile meetings of his party. FAD in short is used by the opposition to carry out political activity, which is prohibited.

Concerning the women who marched on Parliament, the minister conceded that arrests had taken place in the wake of bomb explosion in Kampala. They were suspects in offences in the nature of terrorism. They could not be taken to court within 48 hours for logistical and technical reasons. Subsequently they were arraigned before court and remanded. They have been visited by the Human Rights Commission of Uganda.

I am grateful to the Honourable Minister for the patience he had with every question I raised, and the pains he took to let me see his and the government viewpoints. To reiterate an earlier expression of gratitude, I am much obliged to the minister also for making his official vehicle available to get me to my next appointment.

- (iii) The last engagement of the day was a meeting with the Minister of Justice and Constitutional Affairs.

After briefing him on the Commission, I raised the issues of the state report of Uganda, attendance at the Commission's Sessions by Government delegates and the use of the criminal process to intimidate the opposition.

While criminal prosecution should not be oppressive, there was a legal basis for the disruption of Ssemogerere's meeting on 10 July. Statute should not be used to prevent freedom of expression, but fear of breach of the peace may lead to prevention of a meeting.

Long Trial Process

This occurs both in civil and criminal cases, and it results partly from insufficient number of judges and magistrates. Appointment of more judges is under consideration. Some accused persons are on remand for 3 years, it is alleged.

The penalty for rape is death, and if an accused person is likely to be sentenced to death, witnesses are not likely to come forth and you are faced with long remands.

Wrongdoing in the military is prosecuted. The minister was not aware of torture perpetrated by the army. The 48 hours limitation period to detention without trial is observed although sometimes its observance becomes operationally difficult.

Meetings with NGOs

- (i) On Wednesday 15 July I visited United Orphanage School, which is situated near the Aids Information Centre in Kampala. The children, numbered in hundreds, 450 according to official records come from the streets, parents who have died as a result of war, HIV or similar background. A selection procedure ensures that the pupils are the most vulnerable and needy among their peers. Apart from basic education, attempt is made to impart skills that will stand them in good stead when they leave the school.

At an assembly of pupils, staff and pressmen the pupils entertained us with songs and dancing. After appeals for support by staff and pupils, which themselves were preceded by accounts of the aims, activities and achievements of the school, I gave a short address encouraging both pupils and staff to continue their good work after briefly telling them about the Commission. This is an institution worthy of support.

Mr. Kayerere Robert, a very energetic member of staff of the school organised my visit to the school, and I am grateful to him.

- (ii) Mr. Livingstone Sewanyana, Executive Director of Foundation for Human Rights Initiative received me in his office in Kampala on Thursday 16 July 1998. He briefed me on the impressive work of his organisation: seminars,

workshops, publications and outreach activities. On my part I updated him on the work of the Commission in general and mine in particular.

- (iii) Mr. Sewanyana had arranged for me to be present at a meeting of representatives of various non-governmental organisations on 16 July. In the event, I met members, 15 in all, of the Management Committee of the Human Rights Network of Uganda. A vibrant community, the work of non-governmental human rights organisations cover a broad range of activities: children, women, education and prisons, for instance.

As is the custom, I spoke about the work of the Commission and emphasised the important role of NGOs in this work. A keen discussion followed my talk. When I saw a participant at this meeting who had heard me on the same subject on my first working day in Uganda, I concluded that my lectures had not been that boaring.

KENYA

I left Uganda for Kenya on 17 July. At Jomo Kenyatta Airport, Nairobi to meet me was a member of staff of Kenya Human Rights Commission (KHRC), an NGO which has observer status with the Commission. I had been in touch with this NGO for assistance in arranging my programme in Kenya as with accommodation. My gratitude goes to them.

Later in the day I met staff of the KHRC. It has many programmes including Land Rights, Prisons, Activism and Mobilisation as well as Internship.

Monday 20 July 1998

- (i) The report continues with a statement of how impressed I was with the Foreign Minister of Kenya. His was the only positive response I received in Ghana from State officials I wanted to meet on my visits. I wondered, however, if Hon. Dr. Bonaya Godana, Minister for Foreign Affairs of the Republic of Kenya would be able to make the 8 a.m. appointment he had given me, it being so early by many standards for Ministers. I was pleasantly surprised that the Minister was in his office before 8 a.m.; and he received me at the appointed time.

At our meeting I noted that it was in Nairobi that the Charter was adopted, and so a leading role in its implementation will generally be expected of Kenya. It was a matter of some concern that no state report had been received by the Commission from Kenya. I, through the Minister, repeated invitation the Commission's Secretariat has been sending to States Parties to send representatives to the Sessions of the Commission. I also encouraged Kenya to ratify the Protocol to the Charter on the establishment of a Court on Human Rights.

The Honourable Minister responded that Kenya had no intention of shying away from her responsibilities under the Charter. The report to the Commission from Kenya will be submitted. Indeed an inter-sectoral committee had been appointed to deal with the issue. It started work sometime ago, but it is yet to complete its work.

- (ii) For the good part of the rest of the day unsuccessful attempts were made by government officials to arrange meetings with the Heads of the Police and Prison Services and senior officials of the Attorney-General's Department. The Attorney-General had travelled out of the country to be part of the U.N. Secretary-General's information gathering team in Algeria. The Solicitor-General and his deputy had also just returned from missions.

I missed a meeting with NGOs partly while waiting in the hope that I might have appointments with the officials I wanted to see. A taxi I hired to get me to the venue of the meeting with the NGOs, offices of the Kenya Human Rights Commission went round and round without locating it. Thus did I return home without a scheduled meeting with the press and a larger segment of the NGO community. My predicament was not helped by the limited working days I had in Kenya: one and a half.