

THE SITUATION OF HUMAN RIGHTS DEFENDERS IN

UGANDA

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Uganda's last Universal Periodic Review in October 2011 followed the February 2011 presidential elections. Uganda accepted 130 recommendations, three concerning human rights defenders (HRDs). Recommendations called on the Government to ensure HRDs can conduct their legitimate work without intimidation; and investigate and hold police and security officers accountable for attacks against HRDs, such as extrajudicial killing of journalists in the post-election period. Despite accepting these recommendations, similar attacks occurred in the lead up to the 2016 February presidential election. Current reports on the post-election period suggest previous patterns of attacks will again occur; examples include the arrest of opposition leaders and protests being forcefully dispersed.

RISKS FACING HUMAN RIGHTS DEFENDERS

- Front Line Defenders reports that NGOs working on human rights, corruption and land rights conduct their work in an increasingly hostile environment, with employees often facing threats and harassment.¹ Both Frontline Defenders and Amnesty International reported increase in raids of offices,² conducted with the intention of obtaining information on their work.³
- Human Rights Watch reports that journalists face restrictions. In 2013 the Government shut down the Daily Monitor, Red Pepper and two radio stations after they reported on allegations of government conspiracy. Journalists and civil society members were arrested, beaten and detained for protesting the closure.⁴
- The East and Horn of Africa Human Rights Defenders Project and Human Rights Watch have documented restrictions on the rights to freedom of expression and peaceful assembly, particularly in the lead up to the 2016 presidential elections.⁵ Journalist covering opposition rallies are subject to intimidation, harassment and attacks.⁶ HRDs and opposition leaders have been arrested, and police have quashed protests, often with excessive force.⁷ Radio journalists are a primary target given their reach to rural areas, while HRDs in Kampala have somewhat more protection through NGO coalitions and access to legal assistance.⁸ CNN reported that social media shutdown in the lead up to the 2016 presidential elections was justified on the basis that it was a 'security measure to avert lies ... intended to incite violence and illegal declaration of election results.'⁹
- Freedom House has reported that freedom of speech and expression via internet and social media platforms is declining. Three HRDs were arrested on charges of inciting violence after disseminating information on the Facebook group, Masindi News Network, which called for Government political accountability. Robert Shaka was arrested twice in connection to a popular Facebook account, Tom Voltaire Okwalinga, which has been known to accuse the Ugandan Government of corruption and incompetence.¹⁰ Human Rights Watch reported that Shaka was charged under the Computer Misuse Act for offensive communications in June 2015.¹¹
- In 2015, seven youths were arrested and detained for three days without charge for calling for restraint on restrictions on the then presidential aspirant. Five additional youth were detained and charged with 'disobeying lawful orders' for inquiring about the initial seven detained. The case was dismissed after six months.¹²

OFFICIAL RESTRICTIONS ON THE SPACE FOR HUMAN RIGHTS DEFENDERS

- Amnesty International has documented that the Public Order Management Act (POMA), which came into force in November 2013, imposes restrictions on public meetings and grants the police discretionary powers to prohibit and disperse public gatherings perceived to be of a political nature. Since 2014, POMA has been used to disperse public meetings and protests, and facilitate arrests of political activists; where charges were seldom brought against the activists.¹³ The primary targets have been political opponents and their supporters. However, HRDs working on 'controversial' issues, such as sexual orientation and gender identity, have also

been targeted through use of the Act.¹⁴ Police continue to enforce the POMA despite the fact that the Act has been challenged in the constitutional court. The court is yet to make a decision.¹⁵

- Human Rights Watch has reported that the draconian Non-governmental Organisations Law (NGO Law), assented into national law on 30 January 2016,¹⁶ enables the Government to discretionarily restrict the way NGOs operate, requiring them to register with an NGO Bureau and get periodic permits. It also provided broad powers to disband NGOs and limit the employment of foreigners.¹⁷
- Section 44 of the NGO Law bars NGOs from engaging in activities ‘prejudicial to the security and laws and interest of Uganda’. This broad, vague provision can result in HRDs working for groups regarded as illegal, such as sex workers and LGBTI persons, being restricted. For example, the Government previously suspended an NGO working on sexual rights, accusing them of promoting homosexuality and engaging in political activism.¹⁸
- Section 44 also restricts NGOs from working in regional districts without approval from the district’s Monitoring Committee and entering a memorandum of understanding (MOU) with local governments where they operate. This may limit scrutiny of the Government by NGOs who fear their MOUs will not be renewed.¹⁹
- Freedom House has reported that regulation 13 of the 2009 NGO Registration Regulations restricts the capacity of NGOs to engage with communities and respond when needed. It requires NGOs to inform local authorities seven days in advance of contacting community members. It also prohibits NGOs from acting in a manner that would be ‘prejudicial to the national interest of Uganda,’²⁰ providing ample subjective scope for authorities to curtail the legitimate work of NGOs to assist communities.
- The Anti-Terrorism (Amendment) Bill of 2015 contains provisions that may restrict the funding of HRDs.²¹
- The 2014 Anti-Pornography Act bans various forms of expression and cultures considered immoral in some Ugandan communities, in contravention of international human rights law.²²
- According to the Uganda Human Rights Commission, which has a specific Human Rights Defenders Desk, the lack of a specific law to protect defenders is a key impediment to their effective protection or a safe and enabling environment for their work. According to the Commission, the ‘key obstacle to the effective protection of HRDs...is the lack of a law to specifically protect HRDs which limits the ability of the desk and other human rights defenders to effectively address some of the situations that relate to violations of their rights.’²³

INTIMIDATION AND REPRISALS FOR ACCESSING INTERNATIONAL AND REGIONAL MECHANISMS

- In 2014, the Ugandan Government delegation threatened Ugandan LGBTI activists after they presented a report on abuses of the rights of LGBTI persons at the 55th Session of the African Commission on Human and Peoples’ Rights. Although the statement was delivered through the Botswana Centre for Human Rights, the Ugandan activists were accused of making false accusations towards the country, despite the accuracy of the claims.
- Human Rights and Awareness and Promotion Forum reports that Ugandan Government representatives have advised that it should stop going to international meetings to ‘tell lies about Uganda’ simply because they ‘are looking for money to promote homosexuality’.²⁴

HUMAN RIGHTS DEFENDERS FACING PARTICULAR RISKS

- The Anti-Homosexuality Act was passed in February 2014. While it was struck down in August that same year, the Guardian reported an increase in attacks against **lesbian, gay, bisexual, transgender and intersex (LGBTI) people** since February 2014,²⁵ including increased, arrests, evictions and discrimination in receiving health care.²⁶ During the five months the Act was in force, Sexual Minorities Uganda documented over 150 cases of violations against LGBTI persons, including arrests as well as physical violence and harassment.²⁷ During 2014, the Consortium on Documentation of Violations based on Sex Determination, Gender Identity and Sexual Orientation documented 89 violations against LGBTI persons; with 47 perpetrated by State actors.²⁸ The 2016 presidential election also brought fears that a similarly draconian bill would be proposed, as politicians have previously politicised anti-homosexuality campaigns in an effort to sway the electorate.²⁹
- The Human Rights Centre Uganda and the Association for Women’s Rights in Development (AWID) have documented risks faced by **women human rights defenders** (WHRDs). The Human Rights Centre Uganda has reported that WHRDs work in a hostile environment, often facing smear campaigns, physical violence, verbal abuse and death threats.³⁰ AWID has reported that WHRDs often suffer attacks and harassment with the alleged aim of injuring their reputation and legitimacy. An example includes the detention of members of a

civil society organisation which defend the rights of sex workers in Uganda for three days without charge. The charge 'living off the proceeds of prostitution' was subsequently dropped months later.³¹

- **Political rights activists** opposing the Government face significant risk.³² A female political activist was arrested en route to a protest supporting opposition leader, Dr Kizza Besigye. She was stripped of her clothes and thrown into the back of a truck. In 2012 activist Ingrid Turinawa was assaulted by police during an arrest. Video footages show police squeezing her breasts during her arrest³³. In these cases the Government accused the victims of 'bringing it on themselves'. Civil Rights Defenders has alleged that similar strategies have been used to intimidate women from becoming political activists.³⁴ Chapter Four documented nine political activists being disappeared leading up to the 2015 general election. While a number of those disappeared were found at Nagalama Police station and at Special Investigations Unit in Kireka, former security officer for independent candidate Amama Mbabazi remains missing. Chapter Four documented the arrest and detention of 72 political activists and media workers surrounding the 2016 general elections. In most cases no charges were laid³⁵. A number of journalists were arrested and beaten for covering former presidential candidate Kizza Besigye.³⁶
- Human Rights Watch has reported that NGOs working on **rights to land and resources** face particular threats and challenges. They are restricted from accessing oil extraction areas, threatened with arrest, and disbandment for promoting and protecting land rights. They also face difficulty in educating communities on their rights, as authorisation to hold a public meeting is required in advance from the Resident District Commissioner, the Ministry of Energy and the Inspector General of Police.³⁷

THE RESPONSE OF THE STATE REGARDING THE PROTECTION OF HUMAN RIGHTS DEFENDERS

- In 2012, Uganda incorporated the United Nations Convention against Torture (CAT) into its domestic law by passing the Prohibition and Prevention of Torture Bill.³⁸ In its 2013 State report to the African Commission on Human and Peoples' Rights, the Government of Uganda agreed to incorporate provisions from the Optional Protocol to the CAT into domestic legislation and confirmed that steps are being taken to domesticate provisions of the Maputo Protocol.³⁹ ISHR urges the Government of Uganda to ensure that steps are taken to implement these positive undertakings.
- The Special Rapporteur on HRDs has sent a number of communications to the Ugandan Government. In December 2013, he expressed concern that POMA curtailed the rights to freedom of expression and assembly. No response was received to this communication.⁴⁰ In February 2014, he expressed concern that the Anti-Homosexuality Act could institutionalise discrimination against LGBTI persons and encourage further violence against them.⁴¹ In April 2015 he sent a communication conveying concern about the vague language in the NGO Bill that could restrict the right to freedom of association and limit HRDs' work. No response was received to this communication. The Special Rapporteur also expressed this concern to the Minister for Internal Affairs and the National Board for NGOs.⁴² In August 2015 he voiced concern about the arrest of Mr Justus Orishaba Bagamuhunda; he later welcomed information received from the State that charges were dropped in November 2015.⁴³ The Special Rapporteur has urged the Ugandan Government to cooperate fully with his mandate.⁴⁴

RECOMMENDATIONS TO THE GOVERNMENT OF UGANDA

- Protect and promote the rights of HRDs, including the right to freedom of assembly, association and expression - in particular refrain from all actions that silence and restrict the rights of all persons, including civil society activists and organisations who comment on public policy and laws.
- Combat impunity by ensuring the prompt, thorough and impartial investigation of all violations against HRDs, the prosecution of perpetrators, and access to effective remedies for victims.
- Refrain from criminalising the legitimate activities of HRDs and repeal all laws and policies which restrict their rights and activities, including the Public Order Management Act, the Uganda Communications Act (2013), the NGO Registration Act 2016, the Anti-Pornography Act and the Computer Misuse Act.
- Develop and enact specific laws and policies to recognise and protect the work of HRDs and which give full force and effect to the international Declaration on Human Rights Defenders at the national level.
- Provide a safe and enabling environment for meaningful civil society participation in the development and implementation of public policies, in particular that guarantee the free, prior and informed consultation of communities affected by economic and development projects.

- Implement campaigns to raise awareness about the important and legitimate work of HRDs, targeting public officials and law enforcement agencies, as well as wider society.
- Ensure strong public statements recognising the legitimate and important role of women human rights defenders, and those working on women's rights or gender issues.
- Cooperate fully with the Special Procedures of the UN Human Rights Council, including by providing timely and substantive response to all communications.

The UPR provides an opportunity for States to call on Uganda to review laws and policies restricting the rights to freedom of expression, assembly and association to ensure that HRDs can conduct their legitimate work, and cease imposing additional restrictions on HRDs during election periods.

¹ Frontline Defenders, '2016 Annual Report', <https://www.frontlinedefenders.org/en/resource-publication/2016-annual-report>

² Ibid.

³ Amnesty International 'UGANDA 2015/2016', <https://www.amnesty.org/en/countries/africa/uganda/report-uganda/>

⁴ Human Rights Watch, 'Keep People Uninformed: Pre-election Threats to Free Expression and Association in Uganda', <https://www.hrw.org/report/2016/01/10/keep-people-uninformed/pre-election-threats-free-expression-and-association-uganda>

⁵ <https://www.defenddefenders.org/2016/02/uganda-uphold-democratic-principles-to-guarantee-a-peaceful-election/>; <https://www.hrw.org/report/2016/01/10/keep-people-uninformed/pre-election-threats-free-expression-and-association-uganda>

⁶ Supra N° 4.

⁷ <https://www.defenddefenders.org/2016/02/uganda-uphold-democratic-principles-to-guarantee-a-peaceful-election/>

⁸ Supra N° 4.

⁹ Uganda shuts down social media; candidates arrested on election day, <http://edition.cnn.com/2016/02/18/world/uganda-election-social-media-shutdown/>

¹⁰ Freedom House, 'Freedom of the Net 2015: Uganda', <https://freedomhouse.org/report/freedom-net/2015/uganda>

¹¹ Human Rights Watch, 'Events of 2015: Uganda', <https://www.hrw.org/world-report/2016/country-chapters/uganda>

¹² Criminal case No. 0636/2015 <https://www.oximity.com/article/After-Youth-Activists-Arrest-Ugandans-1>

¹³ Amnesty International, 'report 2014/15: The state of the Worlds Human Rights', <https://www.amnesty.org/en/documents/pol10/0001/2015/en/>;

<https://www.hrw.org/world-report/2016/country-chapters/uganda>

¹⁴ East and Horn of Africa Human Rights Defender Project, 'Caught up in Bitter Contests: Human Rights Defenders working in the Context of Elections in Uganda, Burundi, Ethiopia and Sudan', <https://www.defenddefenders.org/wp-content/uploads/2015/09/Caught-Up-in-Bitter-Contests.pdf>

¹⁵ Constitutional Court Petition No. 13 of 2014.

¹⁶ Uganda : Museveni's Assent to the NGO Law will cost us all accessed here : <http://allafrica.com/stories/201602260831.html>

¹⁷ Supra N° 4.

¹⁸ Human Rights Watch, 'World Report 2015 : Uganda', <https://www.hrw.org/world-report/2015/country-chapters/uganda>

¹⁹ <http://chapterfouruganda.com/sites/default/files/downloads/Analysis-of-the-Human-Rights-and-Constitutional-Implications-of-the-NGO-Bill-2015.pdf>

²⁰ https://freedomhouse.org/report/countries-crossroads/2012/uganda#.VR02X_mUdRp

²¹ <https://www.linkedin.com/pulse/human-rights-analysis-amendments-anti-terrorism-act-2002-ojijo-p>

²² Constitutional Court Petition Number 56 of 2013

²³ <http://www.ohchr.org/Documents/Issues/Defenders/AnswersNHRI/NHRIs/Uganda.pdf>.

²⁴ Maria Caspani, 'Constant threats 'part of life' for top Ugandan LGBT activist', <http://www.reuters.com/article/us-gay-rights-uganda-idUSKBN0N000920150409> and Human Rights Awareness and Promotion Forum 'Uganda Report LGBTI Violations 2015', <http://hrapf.org/uganda-report-of-lgbt-violations-2015-launched-2/>

²⁵ Saskia Houttuin, 'Gay Ugandans face new threat from anti-homosexuality law', <http://www.theguardian.com/world/2015/jan/06/sp-gay-ugandans-face-new-threat-from-anti-homosexuality-law>; Amnesty International 'UGANDA 2015/2016', <https://www.amnesty.org/en/countries/africa/uganda/report-uganda/>;

Human Rights Watch, 'Events of 2015: Uganda', <https://www.hrw.org/world-report/2016/country-chapters/uganda>

²⁶ Amnesty International, 'Uganda: Anti-Homosexuality Act prompts arrests, attacks, evictions, flight',

<https://www.amnesty.org/en/latest/news/2014/05/uganda-anti-homosexuality-act-prompts-arrests-attacks-evictions-flight/>

²⁷ <http://www.reuters.com/article/us-gay-rights-uganda-idUSKBN0N000920150409>

²⁸ HRAPF 'Uganda Report LGBTI Violations 2015', <http://hrapf.org/uganda-report-of-lgbt-violations-2015-launched-2/>

²⁹ <http://www.reuters.com/article/us-gay-rights-uganda-idUSKBN0N000920150409>

³⁰ <http://www.hrcug.org/publications/file/Human%20Rights%20Defenders%20in%20Uganda%20M.pdf>

³¹ <http://www.awid.org/news-and-analysis/when-states-use-legislation-against-women-human-rights-defenders>

³² <https://www.hrw.org/world-report/2016/country-chapters/uganda>

³³ <https://www.youtube.com/watch?v=XKAgaFpEgVI>

³⁴ <https://www.civilrightsdefenders.org/files/Situation-Analysis-Uganda-Election-2016-.pdf>

³⁵ <http://chapterfouruganda.com/resources/reports-analysis/uganda-when-i-was-tortured-no-one-came-out>

³⁶ <https://www.hrw.org/report/2016/01/10/keep-people-uninformed/pre-election-threats-free-expression-and-association-uganda>

³⁷ Ibid.

³⁸ <http://www.achpr.org/press/2013/09/d173/>

³⁹ http://www.achpr.org/files/sessions/54th/state-reports/5-2010-2012/periodic_report_2010_2012_eng.pdf

⁴⁰ http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session28/Documents/A_HRC_28_63_Add_I_en.doc

⁴¹ Ibid.

⁴² <https://www.protecting-defenders.org/pdf.js/web/viewer.html?file=https%3A/www.protecting-defenders.org/sites/protecting-defenders.org/files/G1603370.pdf>

⁴³ Ibid.

⁴⁴ Ibid.

About this Briefing Paper: ISHR, Human Rights Awareness and Promotion Forum (Uganda) and Chapter Four (Uganda) encourage States to consult UPR submissions by local activists as well as to make a recommendation to the Uganda regarding the protection of HRDs. This briefing is a result of both compilation of public information and direct information and experience of HRAPF and Chapter Four. ISHR, HRAPF and Chapter Four suggest readers consult the sources cited for further information. For further information on Uganda's UPR, contact Tess McEvoy at t.mcevoy@ishr.ch, Adrian Juuko at ajjuuko@hrapf.org or Peter pmagelah@chapterfouruganda.com.