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HUMAN RIGHTS



# BRIEFING PAPER

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# THE SITUATION OF HUMAN RIGHTS DEFENDERS IN UGANDA

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In its November 2016 Universal Periodic Review (UPR), Uganda accepted 148 of the 226 recommendations made by States, 4 of which focus on human rights defenders (HRDs). Recommendations called on the Government to ensure that HRDs, including women human rights defenders (WHRDs), can operate in a safe environment, to investigate violations and to bring those

responsible to justice. Uganda accepted 2 recommendations on freedom of expression and freedom of association and peaceful assembly; however, 6 recommendations that foresaw the amendment of Acts that allegedly limit the rights to freedom of expression and of freedom of association and peaceful assembly were noted by Uganda.

### RISKS FACING WOMEN HUMAN RIGHTS DEFENDERS

- Frontline Defenders reports that the Ugandan Government continues to restrict freedom of expression, association and peaceful assembly, with HRDs being victim of threats, intimidation and judicial harassment. Both Frontline Defenders and the Human Rights Centre of Uganda<sup>1</sup> have reported numerous NGO office break-ins, with the police failing to investigate such cases.
- In 2017, the Human Rights Centre Uganda (HRCU) reported that many WHRDs have been regarded as “immoral, rebellious promoters of foreign ideals and values” and face a lot of ridicule and scorn from the public, community leaders and their fellow defenders. Those who face the biggest risk are WHRDs who defend LGBTI rights as they tend to be ostracised by their family members and communities and are often evicted from their houses by the property owners.<sup>2</sup>
- Similarly, in 2018, the Uganda Human Rights Commission (UHRC), while acknowledging the contribution of WHRDs, expressed concerns of gender-specific challenges facing WHRDs and called on the State to protect them.<sup>3</sup> In the same year, the HRCU reported that many WHRDs were arrested for protesting the unresolved killing and kidnapping of women and children in Masaka.<sup>4</sup>
- In April 2019, Nana Namata Annette (known as Nana Mwafrika Mbarikiwa), was assaulted by police officers after she protested against the use of excessive force by police officers to disperse rallies of the Forum for Democratic Change, the main opposition party in Uganda.<sup>5</sup> On 9 October 2019, she was arrested at a peaceful protest that she organised in Kampala against police brutality and human rights violations.<sup>6</sup>
- In August 2019 WHRD Stella Nyanzi, a feminist academic who had been arrested and held awaiting trial since November 2018, was sentenced to 18 months in prison after being convicted of cyber harassment for criticising the president on Facebook.<sup>7</sup>
- On 11 December 2020, the Financial Intelligence Authority-FIA of Uganda unjustifiably froze the bank accounts of the Uganda Women’s Network (UWONET) and the National NGO Forum on allegations of terrorist financing.<sup>8</sup> This measure immobilised the two NGOs work and although it has been revoked by the State it is an alarming

abuse of due process and yet another example of how Uganda’s Anti-Terrorism (Amendment) Act and anti-money laundering law are being used to stifle civil society.

- In January 2021, the Ugandan Authorities arrested Perry Aritua, Director of the Women’s Democracy Network in Uganda, for allegedly ‘observing the election without accreditation.’<sup>9</sup> The following month, two female journalists were brutalized by security officers for covering the former presidential candidate Robert Kyagulanyi Sentamu when he was going to deliver a petition to the Office of the High Commissioner for Human Rights (OHCHR) in Kampala following kidnappings, arrests and torture of his supporters during the electoral period.<sup>10</sup>

### OFFICIAL RESTRICTIONS ON THE SPACE FOR HUMAN RIGHTS DEFENDERS

- The *Anti-Terrorism Act (Amendment)* of 2015, was further amended in 2017, expanding and clarifying the definition of terrorism. In spite of this, the interpretation remains wide, stretching from ‘interference with an electronic system’ to actions that are prejudicial to ‘national security’. After the last amendment, security agents raided the Offices of Action Aid Uganda, the Great Lakes Institute for Strategic Studies (GLISS) and Uhuru Institute, on suspicion of ‘involvement in illicit activities.’<sup>11</sup> Furthermore, the Anti-Terrorism Act contains provisions that may restrict the funding of HRDs.<sup>12</sup>
- The *Computer Misuse Act, 2011* (section 24 and 25 in particular), continues to restrict HRDs’, including WHRDs’ rights to freedom of expression. Under the Act, charges of cyber harassment and offensive communication can be brought, such as in the case of Stella Nyanzi who was convicted of cyber harassment in 2019.<sup>13</sup>
- The *Non-Governmental Organisations Act (NGO Act), 2016*<sup>14</sup> restricts the rights to freedom of expression, association and peaceful assembly. The Act contains provisions that limit NGO operations, requiring registration with an NGO Bureau and periodic permits. It also gives the Bureau broad powers to disband NGOs and limit the employment of foreigners. Section 44 of the NGO Act bans NGOs from engaging in activities ‘prejudicial to the security and laws and interest of Uganda’. This broad and vague provision can result

in HRDs, including WHRDs, 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.<sup>15</sup>

- Section 145 of the *Penal Code Act* penalises same-sex relations<sup>16</sup>. Further, an *Anti-Homosexuality Act*<sup>17</sup> was operative for 5 months in 2014; during this period numerous cases of violations against the LGBTI community were reported, including arrest, physical violence and harassment.<sup>18</sup> In October 2019, Uganda announced plans to reintroduce a Bill, imposing the death penalty for same-sex relations and ‘promotion and recruitment’ of homosexuality.<sup>19</sup> Although the Bill was eventually not reintroduced, LGBTI defenders continue to face high risks.
- According to a report published by Amnesty International in October 2014,<sup>20</sup> the *Anti-Pornography Act* has contributed to a climate of impunity for perpetrators of violence against women who have deemed to have transgressed traditional gender norms.
- On 7 September 2020, the Uganda Communication Commission (UCC), issued a public notice stating that anyone wishing to publish information online must be licensed. According to Amnesty International,<sup>21</sup> the requirement to seek authorisation before posting information online is a blatant violation of the right to freedom of expression and access to information, and represent the latest blow to these rights ahead of the elections.

#### HUMAN RIGHTS DEFENDERS FACING PARTICULAR RISKS

- Even if the *Anti-Homosexuality Act* was struck down only five months after its entry into force in 2014, LGBTI rights defenders continue to be subject to intimidation, harassment and arrest.
- On 4 June 2018, in Northern Uganda, WHRDs working on LGBTI rights were attacked during one of their field activities and one of their colleagues was raped and physically assaulted in plain sight. They immediately lodged a case at Lira Central police station. The perpetrator was arrested and held in police custody as the police continued to investigate and interview witnesses.<sup>22</sup>
- Issues related to land and resource extraction are major sources of human rights violations in Uganda. According to a report published by DefendDefenders in 2018,<sup>23</sup> HRDs working on land rights often report intimidation, physical abuse from security officials, as well as arrests, arbitrary detention and legal harassment.

- In March 2018, in Karamoja sub-region, the WHRDs working in mining and peace support, mobilised women for a meeting to sensitise them about the violation of their rights by the Tororo Cement Company management and the community elders. However, the elders violently stormed the meeting to prevent them from speaking to the women. The elders accused the WHRDs of inciting violence and told them that women do not have rights. The WHRDs stopped the meeting and later reported to police that intervened in the matter.<sup>24</sup>
- In September 2020, the Observatory for the Protection of Human Rights Defenders was informed of the arbitrary detention and subsequent release of nine environmental human rights defenders who had travelled to participate in peaceful demonstrations.<sup>25</sup> The demonstration aimed at stopping the risks of oil activities to critical biodiversity resources in the Albertine region.<sup>26</sup>
- According to a report published by the Human Rights Centre Uganda in 2017, WHRDs are attacked and threatened but no concrete actions are taken against the perpetrators. Interviewed WHRDs indicated that in the political environment where they work, they are perceived as political opponents.<sup>27</sup>
- Crackdowns on civil society and political opposition, particularly during electoral seasons, are commonplace in Uganda. On 29 December 2020, UN independent experts including the Special Rapporteur (SR) on HRDs expressed concerns over the violence ahead of the presidential elections, and urged authorities to put an end to the arrest, detention and harassment of political opponents, civil society leaders and human rights defenders.<sup>28</sup>

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

- In March 2019, the president signed into law the *Human Rights Enforcement Act*,<sup>29</sup> which operationalises the guarantees of human rights and freedoms under Chapter Four of the Constitution and offers guidance to courts on how to enforce human rights under Article 50 of the Constitution. The key aspect of this law is the creation of personal liability for public officials who violate the fundamental rights and freedoms of others, regardless of whether this is done in the line of duty or not. In spite of this, it has been noted that the Act has not yet been fully implemented.<sup>30</sup>
- In its last UPR, the Government of Uganda committed to implement measures to advance the

rights of women, and to strengthen the framework for eliminating discrimination and gender-based violence. It also accepted all recommendations made to protect the rights of HRDs, including WHRDs.<sup>31</sup> Still, the vulnerability of WHRDs remains aggravated by persisting social and cultural practices, intimidation and threats, inadequate resources, as well as inadequate legislative framework and limited access to justice.<sup>32</sup>

- In 2012, Uganda incorporated the United Nations Convention Against Torture (CAT) into domestic law by passing the *Prohibition and Prevention of Torture Bill*.<sup>33</sup> In 2017, the Government of Uganda adopted the *Prevention and Prohibition of Torture Regulations*.<sup>34</sup> Nevertheless, the Chairperson of the Uganda Human Rights Commission noted that the Government is failing to pay compensation to victims of torture, which encourages the growth of impunity by the perpetrators.<sup>35</sup>
- Section 8 of the *Public Order Management Act*

Initiative (DPI), which then collaborated with DefendDefenders, Chapter Four Uganda, The Human Rights Centre Uganda and the National Coalition of Human Rights Defenders Uganda to develop the initial draft of the Bill.<sup>38</sup>

- In his 2017 report, the former UN Special Rapporteur on HRDs, Michel Forst, expressed concern over the 2016 NGO Act and called on the Government of Uganda to align with international human rights standards.<sup>39</sup> However, no further steps have been taken in this regard.

#### RECOMMENDATIONS TO THE GOVERNMENT OF UGANDA:

- Refrain from criminalising the legitimate activities of HRDs, including WHRDs, and repeal all laws and policies that restrict their activities and rights, including the Public Order Management Act, the NGO Act, the Anti-Pornography Act, Anti- Money Laundering Act, the Anti- Terrorism Act (as amended), and the Computer Misuse Act.
- Ensure that the application of national legislation designed to guarantee public safety and public order during the pandemic does not discriminate against WHRDs in their exercise of the rights to freedom of expression, association, and peaceful assembly.
- Desist from restricting or criminalising the work of WHRDs and immediately and unconditionally release all WHRDs detained in association with the exercise of their rights to freedom of expression, association or peaceful assembly.
- Demonstrate strong, high-level political support for WHRDs through public statements by State officials, which raise awareness about, recognise, and support their vital and legitimate work.
- Adopt the Human Rights Defenders Bill and ensure it is gender sensitive to give full force and effect to the UN Declaration on Human Rights Defenders, safeguard the right to safe and unhindered access to international human rights mechanisms.
- Publicly affirm the legitimate role of WHRDs. Protect them from violations by State and non-State actors by acknowledging such violations and implementing security measures

(POMA), 2013<sup>36</sup> gave wide discretionary powers to the Uganda Police Force to deny and disperse assemblies, and has been frequently used to facilitate arbitrary arrests of political activists. On 26 March 2020, Uganda's Constitutional Court declared Section 8 illegal and unconstitutional, offering a glimmer of hope for political opposition, HRDs and activists.<sup>37</sup> However, the crackdown on political opposition in 2020 and 2021 demonstrates that further steps need to be taken in this regard.

- In July 2020, Uganda's Parliament moved a motion to introduce the Human Rights Defenders Protection Bill 2020 in a plenary sitting. The move was initially spearheaded by Defenders Protection

ISHR and the WHRD Network in Uganda encourage States to consult UPR submissions by local activists and make recommendations to Uganda regarding the protections of HRDs, especially WHRDs. This paper is a result of compiling public information and direct contact and experience in the protection of HRDs. Readers should consult sources provided for additional information.

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