



“Democracy on Trial”

Human Rights Defenders working in the context of elections in Uganda
(Case study: 2016 General Elections and subsequent by-elections)

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National Coalition Of
Human Rights Defenders



NCHRD_UG



nchrdu

This publication is available at www.hrdcoalition.ug/reports
The in-depth research was supported by the Democratic Governance Facility (DGF).

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Robert. R Kirenga, Sharon Nakanwagi, Edward Serucaca and David Meffe.

The report is distributed at no charge and all attribution should be made to the
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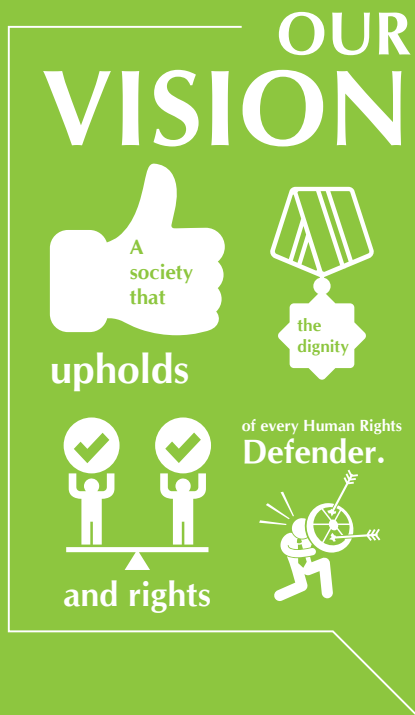
Cover Photo:

A photo montage of symbols that represent key principles of democracy; rule of law,
free and fair elections, Justice and Equity”

(<https://steemit.com/justice/@jekfer/lawsand-justice-1544876850887>)

About the NCHRD-U

The National Coalition of Human Rights Defenders Uganda (NCHRD-U), formed in 2013 brings together over 149 individuals and organizations working to provide a unified voice towards addressing the shared goal of promotion of the protection of Human Rights Defenders (HRDs). A Human Rights Defender is an individual acting in his or her own capacity or under any Organisation or in association with others, undertakes acts or actions that contribute or lead to the protection and promotion of human rights in a peaceful manner. Examples of such actions may include speaking on the situation of human rights at any one time, assisting citizens to access justice, writing articles on human rights, creating awareness or informing the citizenry about their rights and responsibilities, speaking out against evils that affect the realisation of human rights in society such as bad governance, impunity, corruption, nepotism, sectarianism, poor service delivery, unemployment and all such other acts that could constitute bad governance etc.



Mission

“To protect and promote the work of HRDs in a safe and secure environment through linkages with National, regional and international like-minded entities”

FOREWORD

Human Rights Defenders (HRDs) and Civil Rights activists whether as individuals or working within civil society organisations are critical in any electoral process. In our context, HRDs are at the forefront of monitoring, documenting and reporting human rights violations and abuses in electoral contexts. Their role can't be understated in ensuring free and fair elections but also contributing to transparent democratic processes. Often times, this comes at huge personal and organizational risk. Overtime, electoral contests in Uganda have been marred with increased intimidation, restrictive legislation and at times indiscriminate violence targeting HRDs.

In December 2018, the Electoral Commission released its 2021 strategic plan and electoral roadmap to the general public. In 2021, Ugandans will go to the poll for the fourth multi-party elections in the country's history. In the 2016 elections, there was widespread limitations on the freedoms of assembly, expression and assembly for HRDs involved in the electoral process. Election observers were variously blocked and faced intimidation irrespective of having attained proper accreditation. Just recently, the Attorney General presented proposals of electoral reforms that arose from the Presidential Election Petitions No.1 of 2016. The opposition equally has presented its proposals.

In June 2019, NCHRD-U with support from the Democratic Governance Facility (DGF) commissioned a thematic research on HRDs' realization and enjoyment of the following rights: freedoms of assembly, association and expression. NCHRD-U interviewed a total of 91 respondents from 7 regions, 20 sampled electoral hotspot districts. The Constitution of the Republic of Uganda 1995 guarantees fundamental freedoms of assembly, association, and expression for all people under chapter four. Uganda is also signatory and subscribes to the international bill of rights and other international and regional human rights instruments. These commitments establish legal obligations for the state to respect, protect and fulfill these specific rights.

In spite of these progressive foundational legal frameworks, several claw back laws have been passed by the Parliament of Uganda to facilitate curtailment of freedoms. Progressive court decisions on some of the issues such as insult laws, fake news, and peaceful assemblies remain impotent and academic as the executive arm of government flexes its muscles to muzzle freedoms whenever deemed necessary. HRDs, especially journalists, election observers, and civil rights advocates, are most at risk during election cycles in obstruction and reprisal attacks. Some of the defenders are targeted for their work while others are victims and survivors of indiscriminate violence to clamp down on civil citizen expression and action. There is a nexus between the violations suffered by political, pro-democracy actors and HRDs.

With this research, the coalition hopes it aids in scenario building towards the best possible strategies to prevent or possibly react to potential areas that may impede HRD engagement in the electoral cycle. We also hope it enriches advocacy efforts towards a meaningful approach in dealing with the operating context of defenders by both state and non-state actors.

We are committed to continued support and always being a voice of human rights defenders in the lead up to the 2021 general elections and beyond.

For God and my country

Robert R. Kirenga

Executive Director

TABLE OF CONTENTS

PART I: Introduction

- Glossary of acronyms and terms	6
- Executive summary	7
- Introduction	12
- Methodology	13
- Key recommendations	14

PART II: Context

- Background: General elections and recent by-elections	17
- Fragile democracy: Militarization of elections and insecurity	18
- Administration and HRD observation of elections	19

PART III: International, Regional, and National Law Standards

- International framework	21
- Regional framework	22
- National framework	23
- National legal framework for elections	25

PART IV: Targeting Defenders – Violations against freedoms of expression, assembly and association

Stifling expression freedoms	
- Breach of editorial independence, switch-offs, and harassment	30
- Assaults, torture, and damage of media equipment	32
- Arbitrary arrests, detentions, and disappearances	34
- Targeting online freedoms	37
Clampdown on assembly freedoms	
- Extrajudicial killings, torture, and physical violence	38
- Surveillance, harassment, and intimidation	40
- Arbitrary arrests, detentions, and disappearances	44

Closing civic space, association freedoms

- Challenges faced by election observer groups	45
- Concerns on enforcement of new NGO legal framework	47
- Surveillance, intimidation, and ad-hoc investigations	48

Discrimination against women and persons with disabilities

- Gender-based challenges faced by women	50
- Challenges faced by persons with disabilities	51

PART V: General recommendations

- To the President of Uganda	52
- To the Parliament of Uganda	52
- To the Uganda Police Force	52
- To the Directorate of Public Prosecutions	52
- To the Courts of Judicature	53
- To the Electoral Commission	53
- To the Uganda Communications Commission	53
- To the Civil Society Organizations	53
- To the Development Partners	53
- To the Local Governments	54
- To Human Rights Defenders	54

Glossary of acronyms and terms

CSO	Civil Society Organisation
HRD	Human Rights Defender
EC	Electoral Commission of Uganda
POMA	Public Order Management Act, 2013
UCC	Uganda Communications Commission
NCHRD-U	National Coalition of Human Rights Defenders in Uganda
UHRC	Uganda Human Rights Commission
ACFIM	Alliance for Election Campaign Finance Monitoring
CCEDU	Citizens' Coalition for Electoral Democracy in Uganda
CEON-U	Citizens Election Observers Network – Uganda
HRNJ	Human Rights Network for Journalists
UJA	Uganda Journalists Association
ACME	African Centre for Media Excellence
GLISS	Great Lakes Institute for Strategic Studies
RDC	Resident District Commissioner
RPC	Regional Police Commander
DPC	District Police Commander
UDHR	Universal Declaration of Human Rights
ICCPR	International Covenant on Civil and Political Rights
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
ACHPR	African Charter on Human and Peoples' Rights
UN	United Nations
LGBTI	Lesbian, Gay, Bisexual, Transgender and Intersex individual/people
OC	Officer-In-Charge of a Police Station
CID	Criminal Investigation Department
SFC	Special Forces Command
UPDF	Uganda People's Defence Forces
CMI	Chieftaincy of Military Intelligence
JCA	Justice of the Court of Appeal
JCC	Justice of the Constitutional Court
PRO	Public Relations Officer

•PART 1

INTRODUCTION

Executive Summary

The Constitution of the Republic of Uganda 1995 guarantees fundamental freedoms that are the foundation for a free, fair and peaceful election. Several government agencies such as the Electoral Commission (EC) and the Uganda Police Force (UPF) are established to regulate and facilitate regular, free, and fair electoral processes.

However, concerning human rights violations continue to be reported by human rights organizations, the Uganda Human Rights Commission (UHRC), and election observer groups. The trend during the past four multiparty election cycles after the 2005 referendum has remained largely the same, and on occasion, deteriorated. The perpetrators of violations and abuses range from state security agencies to unregulated militia groups and individuals. The reports have documented incidents and made recommendations, which largely remain unimplemented.

HRDs, especially journalists and election observers, are most at risk during election cycles. Some of the defenders are targeted while others are victims and survivors of indiscriminate violence targeting peaceful assemblies.

It is against this background that we conducted this research to assess the realization and enjoyment of the right to freedoms of expression, assembly and association by HRDs during election periods. The investigation assessed HRDs' understanding of freedoms and justifiable limitations in a free and democratic society, the nature of violations, brief narration of incidents, where HRDs prefer to report violations, and the impact of the violations on their work as defenders. It also sourced opinions of defenders on what, in their opinion, needs to be done to guarantee them a better operating environment.

NCHRD-U interviewed a total of 91 respondents from 7 regions, 20 districts. Interview guide and questionnaire were used during the data collection. Some of the respondents responded to the research through one-on-one interviews while some of them responded in focus group discussions. Stories of rights violations were also collected from a cross section of sources including victims, representatives of affected persons, eye witnesses to the occurrences, and documented sources in form of media reports, human rights reports by groups, and police bond forms.

The research findings indicate that HRDs struggle to enjoy their freedoms of expression, assembly and association during election periods. There is a nexus between the violations suffered by political actors and HRDs. When politicians are targeted, HRDs also suffer. Some HRDs are also targeted individually because of their work in reprisal attacks. The main perpetrators are officers of the Uganda Police Force (UPF), the Uganda People's Defence Forces (UPDF), and unregulated militia groups. Violations by local government leaders and individuals were also reported.

An analysis of the violations documented indicates that the attacks were largely influenced by vague and repressive laws such as sections of the Public Order Management Act (POMA) and the Computer Misuse Act, limited effective investigations by the police, impunity for violations, and militarization of policing work and law enforcement.

Research findings indicate that the violations took various forms. Violations related to the breach of editorial independence, switch-offs, and harassment of media workers were documented. Under the law, everyone has the right to communicate his or her opinions and ideas and share information in whatever form provided it is justifiable in a free and democratic society. Freedom of expression supports a free and independent press, informed citizenry and transparent functioning of the state.

Interfering with editorial independence

Incidents such as blocking media appearances by HRDs and opposition political leaders, especially in up country media houses were documented. The perpetrators were officers of the Uganda Police Force at the respective districts and the Resident District Commissioners (RDC). In most cases, payment for the appearances had been received by management of the media houses but after being approached by local authorities, they acted on the orders to cancel the shows.

In some cases, the police physically, through use of force, blocked opposition leaders from accessing the studios and radio stations were switched off for hosting the opposition leaders. In Adjumani district, a media house officially wrote to a talk show host to explain why he hosted an opposition leader despite express orders not to do so.

The UCC has also taken actions that stifle press freedom. Research findings reviewed the UCC actions of ordering 13 media houses to suspend at least 39 journalists for broadcasting content related to the controversial arrest of Hon. Robert Kyagulanyi commonly known as Bobi Wine on April 29, 2019.

Targeting freedom of expression online

Efforts to target freedom of expression online were also documented. During the research period, two indiscriminate and nationwide social media shutdowns were recorded. This negatively impacted HRDs ability to express themselves and or interact with members of the public during the 2016 general election period in February and May 2016. Recent actions by the government to introduce the social media tax further threaten online freedoms and expands the digital divide.

Violation of the right to personal liberty

The other common violations were illegal arrests, incommunicado detention, and forced disappearances. Incidences of flouting established arresting and detention procedures were documented during the research. The arrests were mostly conducted by non-uniformed army and police officers who often did not disclose the reason of the arrest. HRDs were also detained beyond the 48 hour constitutional detention period, at times, outside gazetted places of detention – in military barracks and safe houses.

Most of the victims fear to report the incidents due to threats and intimidation from the perpetrators. Some HRDs, especially journalists, resolved to quit the profession for their safety. The few who reported were often frustrated by the manner in which their complaints were handled and the high cost of litigation. Most of the cases never reach their logical conclusion¹

Extrajudicial killings

Extrajudicial killings were also documented during the research. The violation of the right to life mainly resulted from indiscriminate shootings and use of excessive or lethal force such as live ammunition in effecting crowd control, arrests, and clampdown on peaceful assemblies. Research findings indicate that most of the killings occurred in circumstances where security agencies violated the right of people to peacefully assemble and express themselves.



¹NCHRD-U interview with Mukose Arnold Anthony, Secretary for Media Safety and Human Rights at the Uganda Journalists Association (UJA), Kampala, July 24, 2019

Torture and other cruel, inhuman or degrading treatment or punishment

The research also revealed acts of torture, cruel, inhuman and degrading treatment. Despite the fact that the use of torture is strictly prohibited in Uganda, it continues to be used, and condoned, by security forces to instill fear in communities and extract information and confessions. In some instances, the acts of torturers were planned in advance. This was observed during the raid on Hotel Pacific in Arua district and use of pliers to torture HRDs in Kampala during the subsequent protests.

Violations against women and minority communities

Women and minority groups also experienced violations and abuses. Several women faced gender-based violence during their engagement in the election related activities. Several incidents of attacks on women were observed during the Bugiri, Arua and Jinja by-elections. LGBTI individuals continued to be blocked from exercising freedom of assembly and expression because of their identity and sexual orientation. During polls, persons with disabilities also reported facing a number of challenges that affected their ability to exercise their right to vote in an equal and fair manner.

Closing civic space

Threats to freedom of association were also documented. Civil society organizations that were actively involved in election and democracy related activities were targeted for surveillance, intimidation, ad-hoc investigations, freezing of bank accounts, profiling of HRDs working with the organizations, confiscation of property such as computers and other financial records, and suspension of accreditation to monitor elections in the country. Organizations targeted include Action Aid Uganda, the Great Lakes Institute for Strategic Studies (GLISS), Public Affairs Uganda (PAC Uganda), Action Alliance (Solidarity Uganda), and the Citizens’ Coalition for Electoral Democracy in Uganda (CCEDU).

These actions continue to cultivate an environment of self-censorship in the civil society sector. Concerns on the legal framework for NGOs also emerged. Provisions under ‘special obligations’ of the Non-Governmental Organizations Act 2016 were of particular concern.

Fig. 1: Map showing districts covered during this research

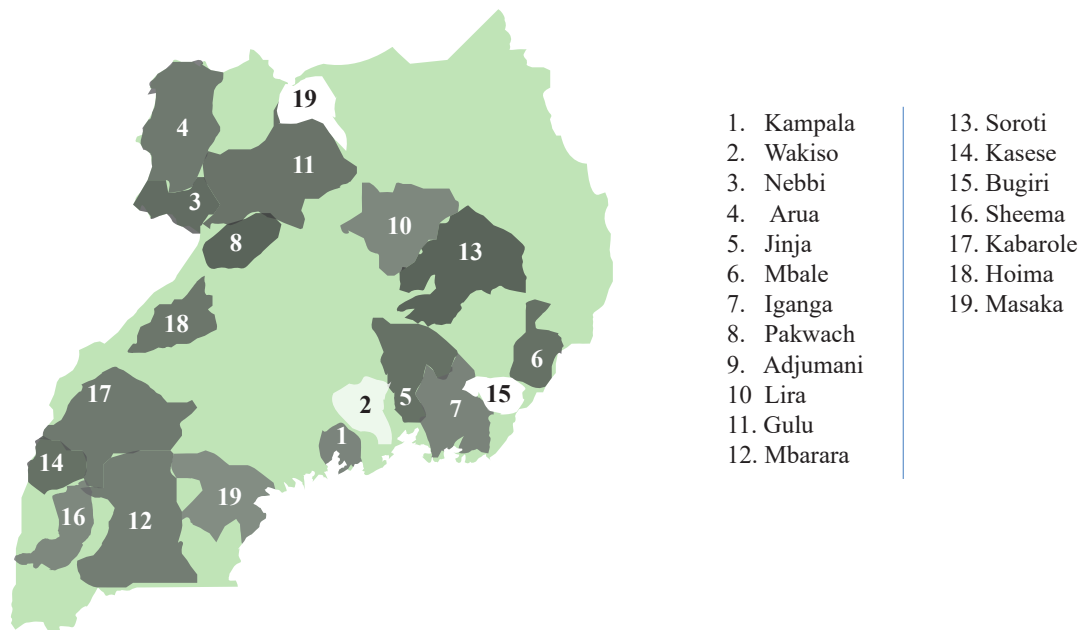
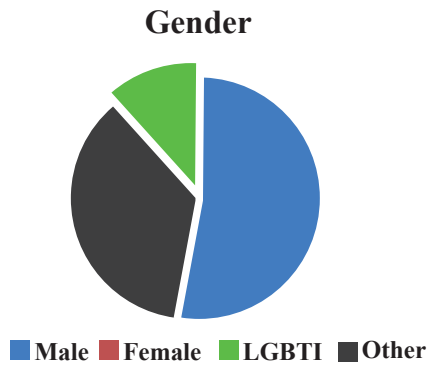
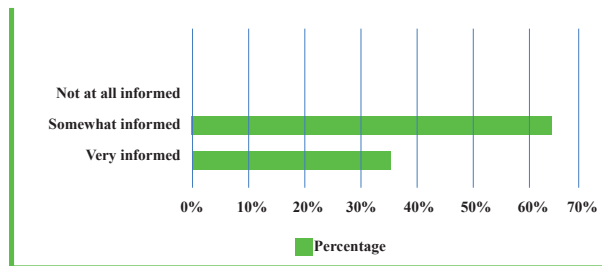


Fig. 2: Gender demographics



The following statistics are based on the 32 respondents who completed the research questionnaire. All of them identified as human rights defenders. Opinions or feedback of the other respondents who attended focus group discussions or responded to the interview guide are not included here.

Fig. 3: How well informed do you feel about the rights to freedom of expression, assembly, and association?



In follow up questions to the response in figure 3, it was observed that most respondents had a fair understanding of the laws that provide for human rights but did not have a good understanding of the justifiable limitations to the rights of freedom of expression, assembly, and association. Some respondents failed to attempt the question on justifiable limitations and requested to skip it.

Fig. 4: Has your freedom of expression or assembly or association been violated in the course of your work?

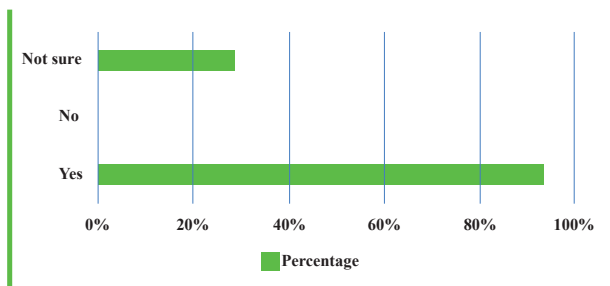
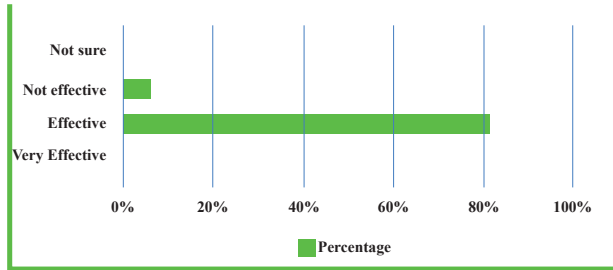
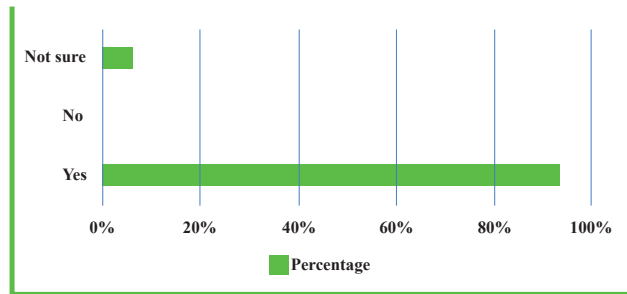


Fig. 5: How effective do you think the criminal justice system is in enforcing the law when HRDs report threats or violations?



In an explanation for the score in figure 5 above, respondents cited corruption, limited independence resulting from interference by other state agencies in the criminal justice system, discrimination against SOGI individuals, and lack of effective investigations and follow up action. One of the respondents noted, “[t]he system is broken. Corruption and influence peddling are the order of the day.” However, 18% of the respondents noted that they consider the system effective because it generally responds to cases.

Fig. 6: Do you think there is need for a Human Rights Defenders law in Uganda?



Introduction

This research report documents findings from a one-month research on the realization and enjoyment of the rights to freedom of expression, assembly and association by HRDs in Uganda during the 2016 election cycle – including the subsequent by-election periods. NCHRD-U interviewed and interacted with 91 respondents for this research.

As Uganda prepares for another electoral cycle in 2021, many human rights concerns are emerging. Observation from previous cycles demonstrate that observance – or lack thereof – of human rights standards, is pivotal in determining the nature of the electoral context and the ultimate outcome of the electoral process and resulting state of governance. Indeed, fundamental freedoms are crucial pillars for any democratic process.

The rights to freedom of expression, peaceful assembly, and association are well established under the International Bill of Rights and the Constitution³ of the Republic of Uganda, 1995. With regard to international laws, the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) establish the three fundamental freedoms. At the regional level, the African Charter on Human and Peoples' Rights (ACHPR) further recognizes the freedoms.

In exercise of their functions and service to society, HRDs exercise these fundamental freedoms to be able to defend human rights, seek justice for victims and survivors of abuses, or lobby for progressive changes in policies, practices, and laws. These freedoms are the oxygen of the defenders' work. For example, many HRDs across the country work together under civil society organisations (CSOs) in the exercise of their association rights to champion a specific mission that advances human rights.

In the implementation of their activities, HRDs exercise the right to hold opinions without interference, and the freedom of expression to seek, receive, and impart information and ideas to achieve the desired objectives. When a peaceful protest becomes a necessary advocacy tool, defenders should be free to come together to petition and demand for respect of rights, justice, or any other just cause.

However, in practice, many circumstances suggest that defenders struggle to freely exercise these freedoms during electoral cycles as expected in a free and democratic society. The situation tends to worsen in heightened political climates. Whereas the said freedoms are not absolute, there have been situations where the rights are unfairly limited through legislation and practice. This has had an impact on the ability of HRDs to organize and peacefully carry out their work of defending and augmenting human rights.

Ahead of the 2021 general elections, this study reviewed and analyzed patterns and trends in the realization and enjoyment of these freedoms and the impact on the work of defenders working with the media to inform action points.

“The state must continuously be reminded of its tri-partite duty to protect, respect and fulfil the promotion and protection of human rights. However, we continue to build HRDs capacities and devise initiatives ensure their safety and security,” Robert Kirenga, Executive Director of NCHRD-U².

²A quote from the remarks of Robert Kirenga, the Executive Director of the NCHRD-U made during the Town Hall Dialogue in Masindi District for HRDs operating in the Albertine region, July 2019.

³The Constitution of the Republic of Uganda, 1995,” Uganda Legal Information Institute. <https://ulii.org/ug/legislation/consolidated-act/0>

Methodology

The report is based on information collected by the NCHRD-U from a total of 91 respondents and desk research. The respondents interviewed come from a total 20 districts spanning 7 regions, namely the Albertine, Rwenzori, Central, West Nile, Eastern, Northern, and Western regions.

The study targeted the time scope of October 2015 – April 2019. However, some incidents that occurred outside this time range are briefly alluded to in order to augment findings within the research timeframe.

NCHRD-U applied both qualitative and quantitative approaches.

The methodology comprised of a mix of desk-based research, observations, telephone and face-to-face interviews, and follow-up letters and emails of inquiry. All these proposed methods were proven tools using standardized formats.

The desk review was conducted to appraise the legal framework and literature review to generate necessary secondary data. Qualitative data collection techniques were used while interfacing with key informants during the interviews. Purposive sampling techniques were applied to select the primary respondents from civil society and media community. The questionnaires adopted the three styles of descriptive, observational-relational, and casual observation.

Views were also sought from government agencies, specifically the Uganda Police Force (UPF), Uganda People's Defence Forces (UPDF), Electoral Commission of Uganda (EC), Uganda Communications Commission (UCC), Equal Opportunities Commission (EOC), and Uganda Human Rights

Commission (UHRC). The Uganda Law Society (ULS), academic opinion leaders, and development partners were also contacted for interviews on specific questions that were raised during the research.

All state agencies and non-state agencies mentioned in the research were invited to respond to findings that directly implicate or mention them.

The draft report was reviewed by key stakeholders at a validation meeting convened in August 2019 leading to this final report.

Key recommendations

To the President of Uganda

- Publicly instruct all security agencies and other government and National Resistance Movement (NRM) party officials not to intimidate, harass, assault or in any other way violate the rights of journalists and HRDs in general; and
- Publicly order for urgent investigations of reported violations of rights of HRDs and direct that such reports be made public.

To the Parliament of Uganda

- Amend repressive sections in the following laws to comply with the guarantees in the Constitution of Uganda and other international human rights law;
 - The Public Order Management Act 2013: Clarify that police does not have powers to block peaceful assemblies and ensure that notification does not require permission;
 - The Computer Misuse Act 2011: Repeal offensive communication, cyber harassment offences, and other insult laws;
 - The Non-Governmental Organisations Act 2016: Repeal the repressive special obligations; and other laws that stifle the freedoms.
 - The Uganda Communications Act 2013: Repeal or amend schedule 4 of the Act and legislate to ensure that the Uganda Communications Commission does not issue directives that contravene constitutional provisions on the freedom of expression.

To the Uganda Police Force

- Support efforts to hold police officers who violate rights individually responsible by disclosing their identity for criminal prosecutions;
- Immediately end arbitrary arrests, detentions, and detention beyond 48 hours, torture, and other violations;
- Immediately issue standard guidelines for officers on the use of teargas, rubber bullets, live bullets, and proportionate force in accordance with the United Nations Basic Principles on the Use of Force and Firearms;

To the Directorate of Public Prosecutions

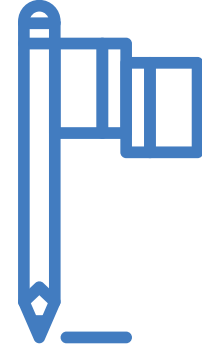
- Engage the police force to conduct expeditious investigations into violation of the rights of HRDs by police officers and other perpetrators;
- Prosecute police officers and other individuals if there is evidence that they violated freedoms of HRDs; and
- Immediately refrain from sanctioning and prosecuting suspects under preventive arrests, disobedience of lawful orders, and other related charges.

To the Courts of Judicature

- Expeditiously hear and determine constitutional petitions filed by civil society organizations and civil rights advocates to clarify on constitutional questions raised. Continued delays facilitate enforcement of unconstitutional laws in blatant violation of human rights.
- Interrogate all cases when concerns related to persecution of HRDs through criminal law are raised and dismiss frivolous cases;
- Ensure that all accused persons arrested while exercising their expression, peaceful assembly, and association freedoms receive a fair, speedy, and impartial hearing; and
- Stop prolonged or delayed trials of suspects arrested while exercising their expression, peaceful assembly, and association freedoms.

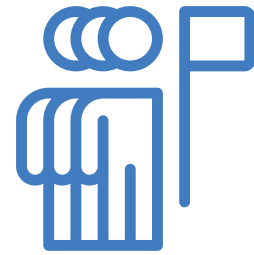
To the Electoral Commission

- Take appropriate actions to guarantee HRDs an enabling environment to carry out their work during election periods. Journalists, for example, must be free to access and cover activities and election observers must have unlimited access to monitor the election processes.
- Start the process of accrediting election observers early in the electoral cycle to avoid overcrowding and late accreditation;
- Make the process of applying for accreditation to observe elections less cumbersome and more predictable;
- Engage the security agencies during elections to ensure that human rights violations by security officers are not tolerated. Where it happens, issue public statements condemning the violations and support the victim or survivor to seek justice; and
- Desist from taking drastic or highhanded measures such as arbitrary and indefinite suspension of accreditation in resolving concerns or differences between the EC and HRDs and their organizations.



To the Uganda Communications Commission

- Ensure transparent, accountable, non-partisan, fair, and legitimate exercise of the communications' regulation mandate.
- Interpret the provisions of the Uganda Communications Act 2013 in its functions in accordance with the Constitution of Uganda as the supreme law of the land.
- Stop usurping the Media Council's powers to resolve issues of journalists practice and ethics.
- The Board of Directors of the UCC should stop the executive director of the Commission from exercising powers beyond his statutory scope.



To the Civil Society Organizations

- Apply for accreditation for election observers on time to avoid delays.
- Strategically and boldly engage the judiciary to hear and expeditiously dispose petitions challenging repressive sections in the following laws in the respective regard to bring the laws in line with international human rights standards: The Public Order Management Act 2013, The Computer Misuse Act 2011
- Strengthen partnerships by doing joint advocacy and collaboration, networking for purposes of mutual support and also reducing exposure to risk;
- Train most-at-risk HRDs on how to carryout their activities in conflict-sensitive areas and personal security protocols so that they can mitigate the risks of the operating environment in case of eventualities; and
- Support efforts by partners for the enactment of the HRD law.
- Stop self-censorship and proactively and boldly defend the freedoms of assembly, association, and expression.



To the Development Partners

- Follow up on the recommendations made after observation missions;
- Firmly condition financial, equipment, and other support to Ugandan security agencies to the respect of rights of HRDs in Uganda;
- Continue issuing public statements to express concern over incidents of violations of the freedom of expression, peaceful assembly, and association, and strongly urge government to expeditiously take steps to address cases;
- Strategically and boldly engage the government cause amendments of repressive laws in accordance with the Constitution of the Republic of Uganda, 1995 and other international obligations;
- Increase strategic support and resources to civil society groups working to promote and defend expression, peaceful assembly, and association rights; and
- Work with grantee civil society organizations that have organizational challenges to improve their capacity and adhere to mutual values for improved transparency, accountability, and better programs.

To the Local Governments

- Observe the Non-Governmental Organisations Act 2016 in its interactions with NGOs and CBOs in the local government area. Stop unlawful levies on organisations.
- Make the process of obtaining letters of recommendation for groups intending to pursue NGO registration with the National Bureau for NGOs predictable, less cumbersome, with a turnaround time of less than three working days.

To the Human Rights Defenders

- Take deliberate steps to continuously improve individual knowledge and skills on how to effectively engage duty bearers and other stakeholders in their efforts to defend human rights and demand justice and accountability.
- Regularly scan the operating environment and take necessary personal security protocols to minimize risks.
- Make use of coalitions and other networks to spread risks and ensure bold interventions in their work



Ex Nigerian president and Chair of the Commonwealth Electoral Observers group Obasanjo touring different polling stations in Kampala during the 2016 general elections.(Abubaker Lubowa / Daily Monitor)

• PART 2

Context

Background: General Elections and Recent By-Elections

In 2005, Uganda voted on whether or not the country should have a multiparty democracy. The question during the referendum was “Do you agree to open up the political space to allow those who wish to join different organisations / parties to do so to compete for political power?” Although there was a low turnout of 47.3%, 92.4% voted yes. Since then, Uganda has had four general elections under the multi-party dispensation.

Although generally peaceful, the four electoral processes have been characterized by restrictions on the right to freedoms of expression, peaceful assembly, and association. Many HRDs have been targeted in their quest to participate in the electoral process just as political leaders, especially from the opposition, have. Questions have been asked about the independence of the Electoral Commission, largely because of the appointment of its leadership.

The question of incumbency also continues to make elections in Uganda controversial. On August 11, 2005, Uganda’s Parliament voted to overwhelmingly abolish the presidential term limits from country’s 1995 Constitution. In December 2017, the Parliament again voted to scrap presidential age limit – paving the way for President Yoweri Museveni to contest again in the upcoming 2021 polls and beyond.

These controversial constitutional amendments are increasingly polarizing the country and making election cycles more tense as the various political groups jostle for political power. The emergence of pressure groups such as “People Power” and increased activities by civil society groups to promote awareness and defend civil rights have also increased levels of political participation. HRDs, who often take firm positions on values to advance, find themselves in the crosshairs of the competing interests.

The 2016 general elections were characterized by several incidents of human rights violations during the pre-election period, during the polls, and post-election periods as detailed in the findings of this report. The subsequent by-elections have been characterized by increased violence with the incidents in Arua, Bugiri, and Sheema as particular standouts.

Reflections on the realization of the freedom of expression, peaceful assembly, and association are important in light of previous trends regarding the management of elections in Uganda. Respect of freedoms is crucial for HRDs and other political actors to engage in democratic processes for effective and transparent representation.

“Going by the current indicators, the media is going to become a prime target by the state for an escalation of violence against the critical media in Uganda. We need to work out a critical strategy against that upsurge that is part of the wider deteriorating democracy and shrinking civil space in the country,” Robert Sempala, Executive Director of Human Rights Network for Journalists – Uganda (HRNJ)⁵.

⁴“Caught Up in Bitter Contests: Human Rights Defenders working in the context of elections in Sudan, Ethiopia, Burundi and Uganda,” a publication of the East and Horn of Africa Human Rights Defenders Project [Defend Defenders], September 2015, <https://www.defenddefenders.org/wp-content/uploads/2017/08/Caught-in-bitter-contests.pdf>

⁵NCHRD-U interview with Robert Sempala, Kampala, July 25, 2019.



“In the current tense political climate, civil society’s activities can endanger HRDs. The government increasingly associates civil society with the political opposition, and this places them at an increased risk. Targeting has₄ already begun in the pre-election period,” excerpt from Caught Up in Bitter Contests, a report by Defend Defenders.⁴



Militarization of elections, insecurity and unregulated militia groups

Under Article 212 of the Constitution of the Republic of Uganda 1995, the Uganda Police Force has an obligation to protect life and property, prevent and detect crime, and cooperate with the civilian authority to preserve law and order. Therefore, there are no concerns with the deployment of the police during election related activities.

However, the role of organizing, conducting and supervising elections in Uganda is under the Electoral Commission. The Commission is expected to be in control of all sister agencies that are invited to partner with it to ensure free and fair elections. In practice, this has largely been lacking. Incidents of police officers blocking the exercise of the freedoms of expression, peaceful assembly, and association during election cycles continue to unfold. Apart from statements condemning the violations, there has been little effort from the Commission to demand respect of rights and a fair playing field for all stakeholders involved.

The other concern is the heavy deployment of armed army officers in election related activities. Whereas the Constitution provides that the Uganda Peoples' Defence Forces (UPDF) can cooperate with the civilian authority and other sister agencies in security operations, such cooperation is only expected in emergency situations and in cases of natural disasters. It is difficult to justify how an expected election cycle can be categorized as an emergency situation necessitating the involvement of a military force that is trained and equipped to preserve and defend the sovereignty and territorial integrity of Uganda.

*"I see a reference to militarization... Police is mandated by the Constitution to cooperate with other partners including security organs recognized by this Constitution. But if you read that sentence (a sentence in this report while it was still in draft form), it is civilians and other things minus acknowledging the involvement that when UPDF is invited by police, it is after a threat assessment that requires the involvement of the military. The military can never go into operation without a threat assessment... and when they are going to operate, there is a constitutional framework which they must operate in. This question of militarization is a stereotype."*⁷

In response to the UPDF Brigadier's comment as quoted above, Ekwee Ocen Benson, the Executive Director of Public Affairs Center of Uganda (PAC Uganda) observed as follows:

“

The army has demonstrated some level of respect for the last 24 years. But we are beginning to have worries about what is happening... The creeping influence of the UPDF and the security (forces) over public life is worrying... They are now arresting... I don't think that is the work of our army... You (the army) should be the last to break the law.”⁶

”

⁶Ekwee Ocen Benson, NCHRD-U meeting convened to validate findings of the research, August 16, 2019.

⁷Brig. Henry Masiko, UPDF Chief Political Commissar, NCHRD-U meeting convened to validate findings of the research, August 16, 2019.

“The other issue is fusion. Because now you see the police is virtually run by the army. And then the articles of the constitution separate the two. Is fusion the same as working together? So when we the citizens observe this, we get worried and that is why you see the words like ‘militarisation’. It has a chilling effect on the work of human rights defenders and essentially we get worried because if MPs can be told that we shall also deal with you, we get worried... Right now the army is either on watching brief or in direct control.”⁸

Vigilante groups and unregulated individual and group militias often set up to use force and other non-peaceful means to compel voters and defend their political candidates is yet another major concern that is facilitating the violation of rights. The formation of such groups for election periods is rooted in the formation of the Kalangala Action Plan (KAP) in the run-up to the 2001 polls. The Forum for Democratic Change’s (FDC) Kizza Besigye accused the KAP of torturing his supporters, with the intention of swaying them to support the National Resistance Movement (NRM) during the election. President Museveni, in response, insisted that the KAP is a “political action group of the Movement [NRM] which helps in gathering intelligence in disturbed areas”⁹.

During the 2016 polls, crime preventers were the most prominent unregulated militia group and were implicated in several violations. Other groups included the NRM High Command, B13, TJ Solida, NRM 24/7 Youth Group, The Unemployed Youth, The Red Belts, The Poor Youth, Forty Five and Funguwa Barabara, Buikwe North NRM Brigade, Power 10, and Security 1980, among others.

Administration of elections and HRD election observation

“During election periods, journalists are the most vulnerable and sometimes a direct target of state organs (agents) including police, the military and individuals. With impunity, these agents inflict on journalists pain, torture and fear through intimidation, arrests, unlawful detentions, tramped-up charges, etc. They do this with the aim of blocking justice, and blocking the public from receiving and knowing what transpires in the processes on the ground... Unfortunately, despite availability of the legal mechanisms through which one can seek redress, few journalists have obtained justice,” Mukose Arnold Anthony, Secretary for Media Safety and Human Rights at the Uganda Journalists Association (UJA)¹¹.

The Constitution of the Republic of Uganda 1995 under Article 60 establishes the Electoral Commission (EC) and under Article 61, provides for the functions of the Commission to conduct and supervise all elections and referenda in Uganda in accordance to the law. The Electoral Commission Act 1997 further provides the details of the powers and duties of the EC.

Ahead of the 2016 general election, the Commission published a strategic plan that provided a road map to the elections, three years in advance. In December 2018, the Commission published the Electoral Commission Strategic Plan (2015/16 – 2021/22).¹² The plan includes key targets and other administration details that are crucial for the polls from the Commission’s perspective and that of stakeholders who were involved in the process of developing it.

⁸Ekwee Ocen Benson, NCHRD-U meeting convened to validate findings of the research, August 16, 2019.

⁹“Uganda: A group called the Kalangala Action Plan; its activities and organizational structure; whether it is affiliated with the government,” Refworld, July 7, 2003, <https://www.refworld.org/docid/3f7d4e26.html>

¹⁰ “Uganda – General Elections 2016, Revisiting the democracy construct,” CEON-U Report, 2016, <https://www.ccedu.org.ug/index.php/publications/publications/reports/23-ceon-report/file>

¹¹NCHRD-U interview with Mukose Arnold Anthony, Kampala, July 24, 2019.

¹² “The Electoral Commission Strategic Plan (2015/16 – 2021/22),” December 2018, <https://www.ec.or.ug/sites/default/files/2020-2021-general-elections/The%20Electoral%20Commission%20Strategic%20Plan%202021-2022.pdf>

Despite these early preparation processes, the Commission grappled with transparency and coordination challenges which compromised the realization of freedoms of HRDs during the electoral cycle.

“Save for a few critical aspects such as the printing of ballots which the commission allowed key stakeholders to witness, the commission was generally not transparent in the conduct of its processes throughout the electoral period. For example, the process of election observation accreditation proved a huge challenge for many observers.”¹³

The question of transparency was also addressed in the final EU Election Observation Mission report on the 2016 general elections.

“Throughout the electoral period, the EC lacked transparency and did not address existing uncertainties in a timely manner; neither regarding its accountability to the greater public nor in communicating with electoral stakeholder.”¹⁴



A Polling Assitant double checks a voter’s ID before use of the Biometric machine (Abubaker Lubowa/DailyMonitor Photo)

Most HRDs engage in the electoral cycles as election observers, journalists, and providers of legal and other related professional services. In Uganda, HRDs that engage in electoral processes as election observers work under the Citizens Election Observers Network-Uganda (CEON-U), a consortium of eighteen CSOs which agreed to conduct a unified, comprehensive and effective domestic election observation mission for the 2016 general elections.

Structurally, CEON-U is managed by a Steering Committee as the supreme decision making body. The committee is comprised of all the 18 CSOs members. The implementation of the network’s activities falls on the regional coordinators who also double as master trainers and focal point persons in their regions. The regional coordinators are supported by Long Term Observers who were deployed in all 112 districts of Uganda to observe electoral processes, before, during and after elections.

CEON-U also deployed other defenders as Hotspot Observers in 10 constituencies which were identified as hotspots based on the network’s pre-election data. Sample Based Observers were also deployed to a random and representative sample of polling stations nationwide on election day. The network further deployed District Tabulation Observers who were responsible for observing the tabulation process at the district tally centers in assigned districts.

¹³ “Uganda – General Elections 2016: Revisiting the democracy construct,” CEON-U Report, 2016, <https://www.ccedu.org/ug/index.php/-publications/publications/reports/23-ceon-report/file>

¹⁴ “Uganda, Presidential, Parliamentary and Local Council Elections,” EU Election Observation Mission, Final Report, 2016, http://eeas.europa.eu/archives/eucom/missions/2016/uganda/pdf/uganda-fr-forprint-14-04-2016_en.pdf

•PART 3

INTERNATIONAL, REGIONAL, AND NATIONAL LAW STANDARDS

International framework

In recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world, the United Nations Member States adopted the Universal Declaration of Human Rights (UDHR) in 1948. The UDHR proclaims the highest aspiration of the common people and requires the promotion of universal respect for and observance of human rights and fundamental freedoms, which are fundamental elements of free and fair electoral processes.

Uganda subscribes to the UDHR and therefore has obligations to fulfil the provisions. Under Article 19, the UDHR¹⁵ provides for freedom of opinion and expression. It states, “everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

On July 4, 2018, the UN Human Rights Council adopted a new Resolution¹⁶ on the promotion, protection, and enjoyment of human rights on the Internet. The resolution re-affirmed that freedom of expression online must be protected like expression offline. It further addresses issues of the digital divide and role of telecommunication companies in respecting rights, among others.

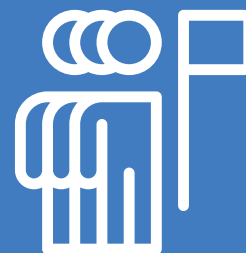
Article 20 provides for the right to freedom of peaceful assembly and association. It states that, “everyone has the right to freedom of peaceful assembly and association and no one may be compelled to belong to an association.”

The provisions of the UDHR are further fortified by the International Covenant on Civil and Political Rights (ICCPR) of 1966. In addition to reiterating the provisions described above as provided under Article 19 of the UDHR, the ICCPR¹⁷ requires under Article 19(3) that in the exercise of the freedom of expression, there shall be special duties and responsibilities. The freedom may therefore be subject to certain restrictions, but which must be as provided by law and are necessary in the circumstances for the respect of the rights or reputations of others or for the protection of national security or of public order or of public health or morals.

Articles 21 and 22 of ICCPR further respectively provide that the right of peaceful assembly and the right to freedom of association shall be recognized.

No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

Whereas the three freedoms are not absolute, the only acceptable limit to the enjoyment of the above rights is within what is accepted in a free democratic society.



¹⁵“The Universal Declaration of Human Rights (UDHR),” United Nations, <https://www.un.org/en/universal-declaration-human-rights/>

¹⁶A/HRC/38/L.10/Rev.1, United Nations, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/38/L.10/Rev.1

¹⁷“The International Covenant on Civil and Political Rights (ICCPR),” OHCHR, <https://www.ohchr.org/Documents/ProfessionalInterest/c-cpr.pdf>

Several comments and decisions have been made about the right to associate and how it should be exercised. Most commentaries on freedom of association assert that government has a right to regulate the conduct of freedom of association but does not have a right to stop people from associating. Government regulation should be one that allow people to enjoy their right to associate without violating other rights.

Article 7 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) of 1979¹⁸ further places an obligation on Uganda, and other member states that are signatories, to take all appropriate measures to eliminate discrimination against women in political and public life. The state is required to ensure that women have equal rights to vote in all elections and public referenda, be eligible for election to all publicly elected bodies, participate in the formulation of government policy, and participate in NGOs and associations concerned with the public and political life of the country.

On the 50th anniversary of the UDHR in 1988, the UN General Assembly adopted the Declaration on Human Rights Defenders.¹⁹ Although it is not a legally binding instrument, it sets out a series of principles and rights that are based on human rights standards enshrined in other international instruments that are legally binding, such as the ICCPR. Article 5 of the Declaration places an obligation on states to promote and protect the right to freedom of assembly and association. Article 6 recognizes expression freedoms.



Polling agents organising ballot papers at one of the polling stations around the country.(Image from the internet - <http://edition.cnn.com/011/WORLD/africa/02/18/uganda.election/index.html>)

Regional framework

At the regional level, the African Charter on Human and Peoples’ Rights (ACHPR)²⁰ provides for the recognition of the rights, duties, and freedoms enshrined in the Charter and oblige all member states to adopt legislative or other measures to give them effect.

Article 9 of the ACHPR provides for the freedom of every individual to have the right to receive information and express and disseminate his or her opinions within the law. It is important to note that the phrase “within the law” refers to laws that are in accordance with the international human rights standards and not the national laws.

Article 10 provides for the right to free association and Article 11 provides for the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law, in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.

Determined to ensure that the rights of women are promoted, realized and protected in order to enable them to fully enjoy all their human rights, the Assembly of the African Union adopted the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol) on July 11, 2003. Article 9 of the Protocol²¹ places an obligation on state parties to take specific positive action to promote participative governance and the equal participation of women in the political life of their countries through affirmative action, enabling legislation, and other necessary measures.

¹⁸“Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),” OHCHR, <https://www.ohchr.org/documents/professionalinterest/cedaw.pdf>

¹⁹“Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms,” UN General Assembly Resolution – A/RES/53/144 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/770/89/PD-F/N9977089.pdf?OpenElement>

²⁰“The African (Banjul) Charter on Human and Peoples’ Rights (ACHPR),” ACHPR, http://www.achpr.org/files/instruments/achpr/banjul_charter.pdf

²¹“Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa,” ACHPR, http://www.achpr.org/files/instruments/women-protocol/achpr_instr_proto_women_eng.pdf

To guide the implementation of laws in relation to freedom of association and assembly in Africa, Reine Alapini-Gansou, the Special Rapporteur on Human Rights Defenders in Africa and former Chairperson of the African Commission on Human and Peoples' Rights developed the guidelines that were adopted by the African Commission. The guidelines²² provide a fair basis for the drafting of laws that comply with human rights, particularly the freedom of association and assembly in Africa.

The East African Community Treaty (EAC Treaty) provides under Article 6 (d) for the fundamental principles governing the Community specifically, "...good governance including adherence to the principles of democracy, the rule of law, accountability, transparency, social justice, equal opportunities, gender equality, as well as the recognition, promotion and protection of human and peoples' rights in accordance with the provisions of the African Charter on Human and Peoples' Rights."²³

National framework

At the national level, the Constitution of the Republic of Uganda 1995²⁴ guarantees the freedoms of assembly, association, and expression. Article 29 states as follows:

- (1) Every person shall have the right to –**
- a) freedom of speech and expression which shall include freedom of the press and other media;
 - 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."

On March 31, 2019, President Yoweri Museveni assented to the Human Rights (Enforcement) Act, 2019²⁵. This law is important in the protection of human rights in Uganda because it was enacted to give effect to Article 50(4) of the Constitution by providing for the procedure of enforcing human rights under Chapter Uganda of the Constitution. It further granted magistrates courts powers to hear human rights cases, something that was a preserve of the High Court only under Article 50 of the constitution.

The Constitution, however, provides for circumstances under which the freedoms can be derogated. Article 43 of the Constitution requires that such circumstances must meet the limitations provided under the article which include that the limitation must be acceptable and demonstrably justifiable in a free and democratic society, or what is provided in the Constitution.

²² "Guidelines on Freedom of Association and Assembly in Africa," ACHPR, http://www.achpr.org/files/instruments/freedom-association-assembly/guidelines_on_freedom_of_association_and_assembly_in_africa_eng.pdf

²³ "The Treaty for the Establishment of the East African Community (As amended in 2006 and 2007)," The East African Legislative Assembly, http://www.ea-la.org/uploads/The_Treaty_for_the_Establishment_of_the_East_Africa_Community_2006_1999.pdf

²⁴ "The Constitution of the Republic of Uganda, 1995," Laws of Uganda, ULII, <https://ulii.org/ug/legislation/consolidated-act/0>

²⁵ "The Human Rights (Enforcement) Act, 2019," Laws of Uganda, Chapter Four Uganda. <https://chapterfouruganda.org/sites/default/files/downloads/Human-Rights-%28Enforcement%29-Act-2019.pdf>

The Parliament of Uganda has since passed a number of laws to give effect to the freedom of expression, peaceful assembly, and association. Whereas a number of laws are progressive and enable the realization and enjoyment of freedoms, a number of laws are repressive and are clawbacks on freedoms guaranteed in the Constitution. Such laws include the Public Order Management Act 2013²⁶, the Computer Misuse Act 2011²⁷, the Uganda Communications Act 2013²⁸, and other related laws.

Whereas the freedom of expression, peaceful assembly, and association are not absolute, the contention on limitation standards has often been on what is acceptable and justifiable in a free and democratic society.

In *Charles Onyango Obbo and Andrew Mujuni Mwenda v the Attorney General, Mulenga*, J.S.C noted;

“Protection of the guaranteed rights is a primary objective of the Constitution. Limiting their enjoyment is an exception to their protection, and is therefore a secondary objective. Although the Constitution provides for both, it is obvious that the primary objective must be dominant. It can be overridden only in the exceptional circumstances that give rise to that secondary objective. In that eventuality, only minimal impairment of enjoyment of the right, strictly warranted by the exceptional circumstances is permissible.”²⁹

In *Muwanga Kivumbi v Attorney General of Uganda*, Uganda’s Constitutional Court repealed section 32(2) of the Police Act that granted the police powers to prohibit assemblies and processions.

“The justification for freedom of assembly in countries which are considered free and democratically governed in my view is to enable citizens together and express their views without government restrictions. The government has a duty of maintaining proper channels and structures to ensure that legitimate protest whether political or otherwise can find voice. Maintaining the freedom to assemble and express dissent remains a powerful indicator of the democratic and political health of a country. I, therefore, find that powers given to the Inspector General of Police to prohibit the convening of an assembly or procession an unjustified limitation on the enjoyment of fundamental right. Such limitation is not demonstrably justified in free and democratic country like ours. The subsection is null and void,” Hon. C.K. Byamugisha, Justice of Appeal.³⁰

Despite these progressive jurisprudence on freedoms, new laws such as the Public Order Management Act were enacted ostensibly to push back against the impact of the court decisions. In an interview³¹ with Margaret Ssekagya, the Executive Director of the Human Rights Centre Uganda, she called for more vigilance to recognize, promote, and advocate for the progressive decisions of court in defense of freedoms. In an interview with the Uganda Law Society (ULS), Nasasira Leah Bitu, the Head Rule of Law Department asserts that the right to freedom of expression, association, and assembly are fundamental principles of human rights which should be respected and protected by the state.

²⁶“The Public Order Management Act, 2013,” Laws of Uganda, ULII, <https://ulii.org/ug/legislation/act/2015/1-6>

²⁷“The Computer Misuse Act, 2011,” Laws of Uganda, ULII, <https://ulii.org/ug/legislation/act/2015/2-6>

²⁸“The Uganda Communications Act, 2013,” Laws of Uganda. <https://www.ug-cert.ug/files/downloads/UCC%20Act%202013.pdf>

²⁹“Charles Onyango Obbo & Anor v Attorney General, Constitutional Appeal No. 2 of 2002,” Supreme Court of Uganda, ULII, <https://ulii.org/ug/judgment/supreme-court/2004/1>

³⁰“*Muwanga Kivumbi v Attorney General*,” Constitutional Court of Uganda, ULII <https://ulii.org/ug/judgment/supreme-court-uganda/2008/4-0>

³¹NCHRD-U interview with Margaret Ssekagya, Kampala, July 30, 2019.

National legal framework on elections

“We have very good police but are they really enforcing the law? We shall be wasting time to talk over and agitate for electoral reforms. Are the institutions that are going to implement and enforce morally upright? Do they have the integrity to do that? Or they have a closed mindset that is very fixed to deliver on a particular aspect regardless of the human rights provisions envisioned in the bill of rights of this Constitution. We need to start thinking of how we shift from this normalized impunity to better things.”³³

Uganda has ratified a number of international and regional legal instruments on the conduct of elections. The ratification established election-related obligations that the state must abide by. Some of the instruments referred to include the ACHPR, the African Charter on Democracy, Elections and Governance, the Protocol on the Rights of Women in Africa; and the African Union Convention on Preventing and Combating Corruption.

Uganda has taken further steps to domesticate most of the legal standards on elections. For instance, Uganda enacted the Electoral Commission Act, Cap 140³⁴ (as amended in 2010)³⁵ to make miscellaneous provisions relating to the functions of the Electoral Commission (EC) under the Constitution and to provide for other related matters.

Other laws such as the Presidential Elections Act of 2005³⁶ as amended,³⁷ the Political Parties and Organisations Act of 2005³⁸ as amended,³⁹ the Local Government Act Cap 243,⁴⁰ and the Kampala Capital City Authority Act of 2011,⁴¹ among others also form key legislations governing elections in Uganda.

Under section 16, the Electoral Commission Act establishes the powers for the EC to accredit observers. The Commission may during any election accredit any individual, group, or institution to act as an election observer. The law further requires the EC to issue guidelines to observers or other persons, groups, or institutions involved in the electoral process. It is a criminal offence for any person, group, or institution to observe an election without prior accreditation from the EC. This section is important for the operations of HRDs during election observation missions because it has an impact on how they exercise their freedoms. The EC requires HRDs or any other individual or institution to apply in writing to the Commission⁴² to express interest to observe elections.

³²NCHRD-U interview with Nasasira Leah Bitu, Kampala, August 6, 2019.

³³Yusuf Makweta, NCHRD-U meeting convened to validate findings of the research, August 16, 2019.

³⁴“The Electoral Commission Act, Cap 140,” Laws of Uganda, The Electoral Commission, <https://www.ec.or.ug/docs/Electoral%20Commission%20Act,%20Uganda.pdf>

³⁵ “The Electoral Commission (Amendment) Act, 2010,” Laws of Uganda, ULII, <https://ulii.org/ug/legislation/act/2015/15-3>

³⁶ “The Electoral Commission Act, 2005,” Laws of Uganda, ILO, <http://ilo.org/dyn/natlex/natlex4.d>

[tail?p_lang=en&p_isn=101539&p_count=97596](http://ilo.org/dyn/natlex/natlex4.d?tail?p_lang=en&p_isn=101539&p_count=97596)

³⁷ “The Presidential Elections (Amendment) Act, 2015,” Laws of Uganda, ULII, <https://ulii.org/ug/legislation/act/2015/act-no-14>

³⁸ “The Political Parties and Organisations Act, 2005,” Laws of Uganda, EC <https://www.ec.or.ug/docs/political%20parties%20and%20organisation%20Act%202005.pdf>

³⁹ “The Political Parties and Organisations (Amendment) (No. 2) Act, 2010,” Laws of Uganda, ULII, <https://ulii.org/ug/legislation/act/2015/13-3>

⁴⁰ “The Local Governments Act Cap 243,” Laws of Uganda, MOLG, <https://www.molg.go.ug/sites/default/files/LOCAL%20GOVERNMENTS%20ACT.pdf>

⁴¹ “The Kampala Capital City Act, 2010,” Laws of Uganda, <http://extwprlegs1.fao.org/docs/pdf/uga169855.pdf>

⁴² Addressed to the Chairperson of the EC or the District Returning Officer, depending on the Commission’s invitation to submit applications.



“Senior citizen waits in line to cast their vote during voting day February 2016 (Abubaker Lubowa/DailyMonitor)”

HRDs who work with media houses are required to present valid identification cards from their employers in order to access polling stations and the Results Tally Center. This means that media workers who do not have media houses to which they are attached to may not be allowed to cover election activities at certain levels.

The current legal framework, however, can be improved to provide for a better working environment for HRDs who engage to observe in observing the elections and facilitate the requisite electoral reforms to improve the outcome of the elections. For example, reform of the recruitment process of the Commission would solve major issues regarding the independence of the Commission and augment the necessary trust for the body to conduct better elections in a better environment.

The Supreme Court of Uganda ordered for specific reforms to the country’s electoral laws. The Attorney General has tabled in Parliament a number of bills in compliance with the court order. It remains to be seen whether progressive reforms will be passed at the end of the process.

• PART 4

TARGETING DEFENDERS: VIOLATIONS AGAINST FREEDOMS OF EXPRESSION, ASSEMBLY, AND ASSOCIATION

Stifling Expression Freedoms

“We see an escalation of restrictions on the media manifesting through the formal and informal processes. The formal ones are mainly channeled through UCC and the Police Media Crimes Department at the CID in Kibuli... UCC is directly or indirectly used to gag the media, including restricting coverage of certain news items,” Robert Sempala, Executive Director of the Human Rights Network for Journalists - Uganda (HRNJ-U)⁴³.

During this research, the NCHRD-U documented several incidents that worryingly point to a narrowing space for the exercise of the freedom of expression by HRDs, especially those conducting election observation activities. Journalists were targeted for their work and social media platforms were increasingly targeted for surveillance and arrests.

Many media workers were injured while covering election related activities and many violations of human rights by security agencies were recorded. Several others were arbitrarily arrested and detained. Incidents of confiscation of journalists’ equipment and destruction of cameras were also documented. The said incidents are detailed below, thematically.

Mukose Arnold Anthony, the Secretary for Media Safety and Human Rights at the Uganda Journalists Association (UJA) told NCHRD-U that the attacks happen for a number of reasons. He noted;

“In most cases, some journalists are attacked not because they have done wrong or have bias in reporting about a section/groups of candidates or politicians, but because they have some candidates who feel offended when certain information about them is disseminated to the public. For example, when a journalists reports an empty campaign ground, or a message by a candidate that a particular section of voters disagree with, candidates attack reporters instead of doing a self-introspection⁴⁴.

Breach of editorial independence, switch-offs, and harassment

During this research, the NCHRD-U documented arbitrary and illegitimate actions by the Uganda Communications Commission (UCC), the government communications regulator, against media workers and media houses as a result of their coverage of political and election related events.

On April 29, 2019, Kyadondo East MP Robert Kyagulanyi popularly known as Bobi Wine, was arrested near Mulago roundabout in Kampala while he was enroute to the police Criminal Investigation Department (CID) headquarters in Kibuli to report to criminal summons. Several media houses covered his procession and the eventual arrest. Chaotic scenes of firing of bullets and teargas to violently disperse the crowd that had charged and interrupted traffic were all captured on camera.⁴⁵

⁴³NCHRD-U interview with Robert Sempala, Kampala, July 25, 2019.

⁴⁴NCHRD-U interview with Mukose Arnold Anthony, Kampala, July 24, 2019.

⁴⁵“Bobi Wine charged, remanded to Luzira prison,” The Observer, April 29, 2019, “<https://observer.ug/news/headlines/60553-bobi-wine-charged-over-2018-social-media-tax-demo>”

Shortly thereafter, the UCC issued a letter⁴⁶ to 13 media houses (7 radio stations and 6 television stations) directing them to suspend 39 media workers – Producers, Head of News, and Head of Programmes who were in charge of broadcasts on April 29, 2019. The media houses in question are Akaboozi FM, BBS TV, Beat FM, Bukedde TV, Capital FM, CBS FM, Kingdom TV, NBS TV, NTV Uganda, Pearl FM, Salt TV, Sapienta FM, and Simba FM.

UCC expressed concern over the nature of content aired on the 13 stations during live broadcasts, breaking news, and main news bulletins, charging they contained content that:

-
1. *Misrepresents information, views, facts and events in a manner likely to mislead or cause alarm to the public.*
 2. *Has extremist or anarchic messages, including incitement of violence for political and/or other purposes.*
 3. *Incites the public against other members of the public based on their political, religious, cultural and tribal affiliations which are likely to create public insecurity or violence.*⁴⁷
-

UCC further contended that the broadcasts, including live broadcasts, were “unbalanced, sensational and often give undue prominence to specific individuals and/or groups of people” in apparent breach of the Minimum Broadcasting Standards.⁴⁸

To avoid a recurrence of the alleged similar breaches during investigations, the UCC directed the media houses as follows:

-
1. *Each of the above broadcasting stations should immediately suspend the Producer, Head of News and Head of Programmes pending conclusion of the investigations.*
 2. *Each broadcasting station above should within three (3) days from the date of the notice, submit to the Commission the names, particulars and qualifications of the subject office holders.*
 3. *Each broadcasting station above should within three (3) days from the date of the notice, submit to the Commission recordings of all live programs and news bulletins aired on the 29th of April 2019.*⁴⁹
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Failure to abide by these orders was to attract regulatory sanctions under section 41 of the Uganda Communications Act, 2013,⁵⁰ which would include suspension of licenses of the media houses. As a result, journalists and media houses operate in a climate of fear while covering political or election related events. This promotes self-censorship and biased reporting as it interferes with free reporting and editorial independence which is the pillar of a free press. “UCC has mainly [manifested restrictions of the media] through accusations of breaching the Minimum Broadcasting Standards. These standards are set in the Uganda Communications Act of 2013 as amended in 2016 which remain very amorphous to the practitioners in the media,” said Robert Sempala.⁵¹

⁴⁶“UCC letter to media houses,” UCC, May 1, 2019, <https://uccinfo.blog/2019/05/01/suspended-repeated-breach-of-minimum-broadcasting-standards/>

⁴⁷ Ibid.

⁴⁸ Section 31 schedule 4 of the Uganda Communications Act, 2013.

⁴⁹“UCC letter to media houses,” UCC, May 1, 2019, <https://uccinfo.blog/2019/05/01/suspended-repeated-breach-of-minimum-broadcasting-standards/>

⁵⁰“The Uganda Communications Act, 2013,” Laws of Uganda, <https://www.ug-cert.ug/files/downloads/UCC%20Act%202013.pdf>

⁵¹NCHRD-U interview with Robert Sempala, Kampala, July 25, 2019.

In January 2016, the UCC closed and seized equipment from 13 radio stations. According to the UCC, the media houses were closed for non-compliance with regulations. “We gave notice to all those media houses that after expiry of this notice because of the failure to respond to our several reminders to comply with the UCC requirements of which amongst them is that you have to pay your license fees, spectrum fees and if you do not, we will close you down. So they should not hide under the political environment not to comply with their obligations.”⁵²

Moses Lwochaza, a Human Rights Defender from Busoga Sub-Region observed, “When it is the state, all radios are compelled to carry out live broadcasting... When it is a national function, a live broadcast is done and it is no problem. But when it is some other activities which may not be in favour of the state, live broadcast is banned... All this is done under Minimum Broadcasting Standards – but still when we define minimum standards, it does not clearly mention this.”⁵³

Incidents of intimidation, harassment and blocking journalists from reporting were also recorded.

On August 14, 2018, the NBS Television crew was blocked from covering near Pacific Hotel in Arua following deadly clashes after a by-election. After being denied access to the hotel, the crew set up its equipment from a distance, with the intention of reporting live. However, army officers advanced towards them, threatening them with guns and telling them to stop filming. The three journalists managed to escape but their camera and a tripod were confiscated by the army officers. They recovered their equipment later that evening from Arua Central Police Station.⁵⁴

The NCHRD-U also documented several cases of attacks on defenders who were actively involved in election observation activities.

On July 10, 2019, William Anyolitho, the Executive Director of Life Concern Uganda (LICO-U) and the Board Chair of the Alliance for Election Campaign Finance Monitoring (ACFIM), and three other accredited election observers operating under ACFIM were condemned and ordered to apologize at a stakeholders meeting in Nebbi District for appearing on a local radio evening talk show to narrate their ordeal in police detention. The observers were arrested in Erussi Sub County in Nebbi district on July 8 for allegedly engaging in election observation activities without accreditation. They were detained for one night at Nebbi District Central Police Station. Henry Muguzi, the Executive Director of ACFIM and the observers declined to apologize at the meeting because they did nothing wrong. He maintained that the organization received an accreditation letter for the organization to deploy four observers for the LC V Chairperson By-Election of Nebbi District, which they had done.

On July 4, 2018, the Citizens’ Coalition for Electoral Democracy in Uganda (CCEDU) was suspended by the EC after a staff apparently called the Women Council Elections a sham during a media interview. Justice Simon Byabakama Mugenyi, the Chairperson of the EC noted that the Commission resolved to suspend CCEDU as partner in disseminating voter education messages and as an election observer for being ‘partisan’.⁵⁵ After a stand-off and a case being filed in court to challenge the decision of the EC in a judicial review process, CCEDU and the EC agreed on a joint committee comprising of officials from the two entities. A joint committee report was later presented to the EC and it was adopted.

⁵² “Human Rights and elections in Uganda (2016): A call to Action,” CCEDU Report, 2016, <https://www.ccedu.org/ug/index.php/publications/publications/reports/21-election-report-2016-final-pdf/file>

⁵³ Moses Lwochaza NCHRD-U meeting convened to validate findings of the research, August 16, 2019.

⁵⁴ “Ugandan security personnel arrest, assault journalists covering electoral unrest,” CPJ, August 17, 2018, <https://cpj.org/2018/08/ugandan-security-personnel-arrest-assault-journali.php>

⁵⁵ “Partisan’ CCEDU suspended by EC from observing elections,” The Observer, July 9, 2018, “<https://observer.ug/news/headlines/58124-partisan-ccedu-suspended-by-ec-from-observing-elections.html>

As a result, the suspension of accreditation of CCEDU was lifted on February 21, 2019. It still remains unclear what the “mutually binding recommendations,” which were at the center of the resolution of the impasse, are and their implication on observation activities.

The NCHRD-U further documented several incidents of police officers and other officers in positions of authority issuing threats to harass and intimidate journalists and HRDs. Some media houses were switched off for hours because of hosting political leaders from opposition parties.

On April 18, 2019, journalists working with Mubende FM Radio were blocked by the Resident District Commissioner (RDC) of Mubende district and police from hosting Dr. Kizza Besigye, the former Forum for Democratic Change (FDC) presidential candidate on a live talk show. A few minutes into the talk show, police officers descended on the station and pulled Dr. Besigye out of the studio.

“After 10 minutes on air, via 106 Mubende FM Radio, the station was surrounded by heavily armed police officers and switched off from the mast! This is a repeat of what happened in Kabale and Jinja. In Mbarara, we couldn’t even get to the radio.” – Dr. Kiiza Besigye.⁵⁶

This was not an isolated incident. On April 4, 2019, journalists at Hope Radio in Kabale were blocked going about their business after the radio was switched off shortly after they started hosting Dr. Besigye on an evening talk show. When police asked why they are cracking down on expression freedoms, Martin Okoyo, the Mubende District Police Commander noted: “there is no cause for alarm here. We are simply preventing him [Dr. Besigye] from committing a crime.”⁵⁷

In an interview⁵⁸ with Hassan Shire, Executive Director of Defend Defenders, he noted, “media houses that host opposition figures are under attack.”

HRDs have also been blocked from appearing on some media houses, especially upcountry. “On two occasions, we have been denied access to the studios of a radio in Adjumani even when the management okayed our talk show after all necessary payments were duly done.”⁵⁹

On August 14, 2018, NBS, NTV and journalists from other media houses were targeted and threatened by police and army officers for reporting on political unrest in the West Nile district of Arua. The equipment of NBS Television journalists was confiscated.⁶⁰

The trend of targeting the messenger and HRDs is common. Officers from security agencies and other government officials often issue statements⁶¹ to shift blame to the media. They accuse the media of being imbedded in partisan political groups and biased reporting, usually when they cover events related to torture and brutality during election related activities.

This negatively affects the realization of freedoms by HRDs because the media professionals are stopped from independently reporting newsworthy events, or targeted for their press work. Journalists are thereby blocked from exercising their professions, suffer from reprisals, and HRDs affected by violations suffer in the dark.

⁵⁶ “Police, RDC switch off radio station in attempt to stop Besigye talk show”, The Daily Monitor, April 18, 2019, <https://mobile.monitor.co.ug/News/Police-storm-Mubende-radio-station-pull-Besigye-live-show/2466686-5077708-format-xhtml-gcf48v/index.html>

⁵⁷ Ibid

⁵⁸ NCHRD-U interview with Hassan Shire, Executive Director of Defend Defenders, Kampala, July 24, 2019.

⁵⁹ NCHRD-U interview with a defender operating in Adjumani District.

⁶⁰ “Ugandan security personnel arrest, assault journalists covering electoral unrest,” CPJ, August 17, 2018, <https://cpj.org/2018/08/ugandan-security-personnel-arrest-assault-journalists.php>

⁶¹ “Police Chief Kale Kayihura must stop blaming the media for the police force brutality,” The Human Rights Network for Journalists – Uganda, <https://hrnjuganda.org/?p=2911>

The unfounded accusations against media workers and other defenders who speak out against violations have served as a blackmailing tool to intimidate media houses and HRDs to silence them, push them to practice self-censorship, or turn them into “notice boards” where they resort to strictly reporting statements from the very people they should be holding to account.

When the Observer newspaper published a story⁶² about Gen. Kale Kayihura, then Inspector General of Police, vowing to arm crime preventers in preparation for war ahead of the 2016 general elections, the police dismissed the claims and insisted that Kayihura “was quoted out of context” even when there was no difference in the transcribed statement released by police. As a result of the pressure, the paper had to run another story to ‘set the record straight.’⁶³

The police have also accused the media of biased coverage and reporting in several other incidents, including the brutal assault⁶⁴ of Andrew Lwanga by a senior police officer in January 2015 and other incidences of police brutality such as firing of teargas into schools⁶⁵ and health centers.

*“We fear that the police will use these allegations to justify their actions to block, harass, arrest, assault and fabricate charges against journalists, and as a result scare the media from giving comprehensive coverage to political contestants especially those holding dissenting ideologies”. – Robert Ssempala, National Coordinator, HRNJ.*⁶⁶

In January 2016, Maj. Gen. Jim Muhwezi, then Minister for Information and National Guidance warned the media that they would be closed down in the interest of Uganda’s stability if they are deemed to be inciting the public during the election period. The minister’s threat came on the backdrop of threats by UCC to close down presidential candidate Amama Mbabazi’s radio station based in Kinkizi, Kanungu district. Muhwezi charged that Mbabazi’s radio had been playing sectarian messages on air and wondered why the UCC had not yet taken action. In a related incident,⁶⁷ Mbarara district-based Endigyito Radio was closed down two days after it hosted Mbabazi.

In January 2016, when NTV Uganda allegedly refused to use video footage shot by drones of the NRM Party media team, the media house was banned from covering incumbent president Museveni’s rallies.⁶⁸

In Moroto district, at least four journalists covering the FDC presidential candidate Kizza Besigye came under fire from George Obia, the District Police Commander of the district. Trouble started when the NTV Uganda journalists started filming a roadblock that had been erected along Moroto-Tapac road to block the FDC leader from traveling to Tapac Sub County. “Who has given you authority to document our military base? Bring all those cameras here [and] if not, I am going to destroy everything,” DPC Obia threatened.⁶⁹

The journalists did not hand over the cameras as threatened. The DPC then attacked the NTV crew and destroyed their camera. When Richard Aruk, the Mt. Moroto Regional Police Commander (RPC) learned of the attack, he noted, “On behalf of police force, am sorry for what happened but this is wrong. Journalists are very good people to deal with but it on depends the way you handle them. I am very sorry for the incidents.”⁷⁰

However, the Mt. Moroto RPC’s apologies ring hollow. Police and army officers continue to attack journalists during their work, apologize,⁷¹ and continue to attack them without meaningful redress.⁷²

In Masaka district, during the arrest of FDC leaders who were on their way to Rukungiri district for a political rally, police accused the journalists of ‘obstructing’ their work and attempted to arrest a photojournalist before they would arrest the opposition politicians. “It appeared the police didn’t want us to witness [cover] the arrest of the FDC leaders because immediately after [the scuffle], they started the arrests,” the journalist noted.⁷³

⁶²“Elections: Rugunda, Kayihura disagree on power transfer,” The Observer, January 27, 2016, <http://www.observer.ug/news-headlines/42315-2016-elections-rugunda-kayihura-disagree-on-power-transfer>

⁶³ “Kayuhira denies move to arm crime preventers,” The Observer, January 28, 2016, “<http://www.observer.ug/news-headlines/42319-kayihura-denies-move-to-arm-crime-preventers>”

⁶⁴ “Police brutality against journalists,” NTV Uganda, January 13, 2015, <https://www.youtube.com/watch?v=KmS6uCrvrK4>

⁶⁵ “Jinja school children suffer as teargas is fired around their school,” NTV Uganda, September 10, 2015, <https://www.youtube.com/watch?v=VUL6D-UbyVE>

⁶⁶ HRNJ Press statement, https://hrnjuganda.org/?wpfb_dl=53

⁶⁷ “Muhwezi vows to close media houses,” The Daily Monitor, January 29, 2016, <http://www.monitor.co.ug/SpecialReports/Elections/Muhwezi-vows-close-media-houses/-/859108/3054352/-/sv9anr/-/index.html>

⁶⁸ “Video: NTV Uganda’s fate is still unknown,” Capital FM, January 22, 2016. <https://capitalradio.co.ug/tag/ntv-uganda/>

⁶⁹ “Police attack journalists on Besigye trail, camera destroyed,” The Daily Monitor, January 10, 2016, <https://www.monitor.co.ug/News/National/Police-attacks-journalists-Besigye-trail-camera-destroyed/688334-3028214-304dks/index.html>

⁷⁰Ibid.

⁷¹ “Uganda army apologises after reporter beaten,” The East African, August 21, 2018. <https://www.theeastafrican.co.ke/news/ea/Uganda-army-apologises-after-reporter-beaten/4552908-4722846-ix57sv/index.html>

⁷² “Another journalist beaten by soldiers, days after apology,” The African Centre for Media Excellence, August 31, 2018. <https://acme-ug.org/2018/08/31/another-journalist-beaten-by-soldiers-days-after-apology/>

⁷³ “How FDC woman was undressed,” The Observer, <http://www.observer.ug/news-headlines/40441-how-fdc-woman-was-undressed>

On January 11, 2016, Ali Golooba, a reporter working with Masaka-based Buddu FM Radio was mobbed by up to six private guards of an NRM parliamentary candidate at Kiwangala Trading Centre in Lwengo district before being assaulted.⁷⁴

Assaults, torture and damage of media equipment

“On the role of journalists, we have said it before. In such situations where military operations are involved, there are rules of engagement known by journalists elsewhere, apart from here. When you are in a military situation, you as a journalist you should know that there are certain minimum standards of engaging. You have to know which side you are going to cover. If you are going to cover from the side of state actors, you need liaise with the commanders – so that they know you.”⁷⁵

In an effort to silence freedom of expression by journalists, other media workers, and HRDs in general, altercations with government forces often involve the use of physical violence.⁷⁶ In some instances, the perpetrators often damage the property of the media workers to stop them from recording events. Many journalists have, as a result, sustained injuries while covering the dispersal of crowds by the police, clashes during suspected vote-rigging activities, and arrests. Other journalists were deliberately assaulted to forcefully block them from covering related stories.

In response to Brig. Masiko’s comment above, Ekwee Ocen Benson asked what amounted to a war situation. “When is it a war situation and when is it an ordinary operation?... There is an Article in the Constitution which talks about declaring a war situation. Now, does a simple operation to do something tantamount to a war situation?”⁷⁷



Presidential Candidate Y K Museveni wades through the crowd at an NRM electoral rally (Internet photo)”

“How FDC woman was undressed,” The Observer, <http://www.observer.ug/news-headlines/40441-how-fdc-woman-was-undressed>
⁷⁴ “Parliamentary candidate’s private guards mob journalist, confiscate gadget,” HRNJ, January 13, 2016, <https://hrnjuganda.org/?p=2407>
⁷⁵ Brig. Henry Masiko, UPDF Chief Political Commissar, NCHRD-U meeting convened to validate findings of the research, August 16, 2019.
⁷⁶ NCHRD-U interview with Robert Sempala, Kampala, July 25, 2019. The HRNJ has interacted with the UPDF, CMI, and police to try and establish a harmonization relationship to ensure that the attacks stop.
⁷⁷ Ekwee ocen Benson, NCHRD-U meeting convened to validate findings of the research, August 16, 2019.

On the night of August 13, 2018, NTV Uganda journalists Herbert Zziwa and Ronald Muwanga were assaulted⁷⁸ by security personnel during a live broadcast of the unrest in Arua District. Unidentified security officers attacked Muwanga, who was holding a camera light, and started beating him with sticks and their fists.⁷⁹

“I tried to run away to save my life but I was overpowered by five police officers, [they] beat me using sticks; others boxed me, others slapped me... We tried as much as possible to identify ourselves. We had a spotlight that could show us, we had our identity cards... I was beaten; I don't know how I even lost my shirt!” Herbert Zziwa, NTV Uganda Reporter.⁸⁰

Ronald Muwanga, a Correspondent with NTV Uganda narrated the impact of the assault and torture he suffered during the incident. “I am having difficulties in my breathing. I was hit by something on the head – I developed a wound. But it tells how journalists, we are not yet safe... Although I was in an NTV jacket, it couldn't save me.”⁸¹

The security officers in Arua that night also attacked the NBS Television crew that was reporting live from Pacific Hotel. They assaulted Julius Bakabaage, the cameraman, by beating him on the back and head with the butts of their guns. Benson Ongom and reporter John Kibalizi were forced to escape from the scene by running away from the officers.⁸²

The Arua electoral violence later sparked demonstrations against the torture and arrests of journalists and opposition political leaders. The media professionals who covered the protests were not spared the wrath of security forces determined to keep human rights violations in the dark.

On August 20, Reuters journalist James Akena was captured on camera being clobbered⁸³ by UPDF soldiers as he covered protests in downtown Kampala. NTV Uganda's Juma Kirya, Ronald Galiwango and the Observer's Alfred Ochwo, among other journalists were also assaulted on that day while covering the protests.⁸⁴

Shortly thereafter, the UPDF spokesperson Brigadier Richard Karemiré released a statement noting that the army regretted the brutality and apologized to the affected journalists. However, Nicholas Opiyo the Executive Director of Chapter Four Uganda, a civil rights group, demanded the soldiers' names so that they can be personally held to account.

⁷⁸“NTV Uganda journalists assaulted then arrested while covering by-election,” NTV Uganda, August 14, 2018, <https://www.youtube.com/watch?v=hdksqYtDDvE>

⁷⁹“Ugandan security personnel arrest, assault journalists covering electoral unrest,” CPJ, August 17, 2018, <https://cpj.org/2018/08/ugandan-security-personnel-arrest-assault-journali.php>

⁸⁰ “NTV Uganda journalists assaulted then arrested while covering by-election,” NTV Uganda, August 14, 2018, <https://www.youtube.com/watch?v=hdksqYtDDvE>

⁸¹ Ibid.

⁸²“Ugandan security personnel arrest, assault journalists covering electoral unrest,” CPJ, August 17, 2018, <https://cpj.org/2018/08/ugandan-security-personnel-arrest-assault-journali.php>

⁸³ “Ugandan journalists badly beaten by soldiers,” Reporters Without Borders, August 22, 2018, <https://rsf.org/en/news/ugandan-journalists-badly-beaten-soldiers>

⁸⁴“UPDF to arrest soldiers who attacked journalists at Bobi Wine protests,” NTV Uganda, <https://www.ntv.co.ug/news/national/UPDF-arrests-Soldiers-who-attacked-Journalists-at-Bobi-Wine/4522324-4722578-sfhqaz/index.html>

“For this [the UPDF apology] to make sense, we demand the names of the soldiers involved, their rank and names of the commanding officers. We want to bring criminal charges against them in their own individual capacities. We also want a one Kiwanuka who was involved in the Pacific Hotel incident in Arua.”⁸⁵

Nine days after the UPDF apologized for the beating of James Akena and other journalists, a similar incident happened. Joshua Mujunga, NBS Television journalist, was attacked and assaulted by UPDF officers while covering a demonstration in Kamwokya, Kampala. “When they [UPDF soldiers] noticed I was taking pictures, they jumped off [the vehicle] and came after me. I tried to run up to Kira Road [but] they surrounded me. They started beating me all over the body...” Joshua recounts.⁸⁶

“I see our PRO (UPDF Public Relations Officer) tried to apologize in certain situations but it is clearly a confluence of two wrongs. The journalists ought to know that once I go to cover this military operation, I need to be clear that I am secured. You go, register with the commander, and the commander gives you security – and you cover under his domain! If you want to be on the side – whichever other side – then they have the responsibility to secure you; not the state actors. If for example I went to cover Joseph Kony as a journalist, if I get problems there, you can’t blame UPDF. So this situation must be understood. Things cannot just be done as if we are living in anarchy.”⁸⁷

Many of the journalists and media workers who were arrested during the Arua electoral clashes and the follow-up protests were tortured while under arrest.

“Soldiers saw me and called out. I walked towards them and then it happened: I recall being hit so hard across the forehead and being dragged to one of the patrol trucks. I was beaten and forced under the pickup where I found other journalists. Two soldiers sat on us and started pinching us with a pair of pliers [leaving wounds on their⁸⁸ shoulders, back and ankle area].” Alfred Ochwo, Correspondent of the Observer newspaper.⁸⁹

During the by-elections after the 2016 general elections, several incidents of assaults of HRDs were also reported.

In Sheema, Damba Wiziri, a journalist working with the majority state-owned Vision Group was attacked and assaulted on July 27 and 30, 2018. The July 30 incident occurred while the journalist was covering a demonstration by members of FDC, who were protesting the parliamentary election results. While he was photographing the demonstrators, a person pulled him off a moving motorcycle and dragged him to a nearby office where at least four men punched, kicked and attempted to strangle him. The attackers confiscated his camera bag and phone. Police officers allegedly watched the assault but did not intervene.

⁸⁵A post on the Twitter account of Nicholas Opiyo, Twitter, <https://twitter.com/nickopiyo/status/1031886288574545920>

⁸⁶“Another journalist beaten by soldiers, days after apology,” The African Centre for Media Excellence (ACME), August 31, 2018, <https://acme-ug.org/2018/08/31/another-journalist-beaten-by-soldiers-days-after-apology/>

⁸⁷Brig. Henry Masiko, UPDF Chief Political Commissar, NCHRD-U meeting convened to validate findings of the research, August 16, 2019.

⁸⁸The use of pliers to pinch flesh of journalists and other suspects arrested on that day was rampant. Videos and photos emerged showing soldiers using the pliers to pinch flesh of suspects who were already under custody. <http://www.pmldaily.com/news/2018/08/army-rocked-by-torture-with-pliers-scandal-as-pictures-make-rounds-on-social-media.html>

⁸⁹“Soldiers flog journalists covering Bobi Wine story,” The Observer, August 22, 2018, <https://observer.ug/news/headlines/58492-soldiers-flog-journalists-covering-bobi-wine-story.html>

The July 27th assault occurred at Kikonko Primary School where a local government official, Amany Jordan, obstructed and manhandled him to block him from filming.⁹⁰

During the Bugiri and Jinja by-elections, there were several incidents of assaults against HRDs reported. In a video released by The New Vision TV, people are seen attacking and beating women HRDs who are at the polling stations. A police officer is seen watching and doing little to stop the assault or to hold the perpetrators to account. It is during such incidents that media workers or defenders who take action to record such videos are targeted.⁹¹

In Moroto district, when the NTV Uganda crew refused to hand over their camera to the district DPC for allegedly filming a road block, the DPC attacked them and destroyed their camera.⁹²

In January 11, 2016, Ali Golooba, a reporter working with Masaka district-based radio Buddu FM, was attacked by six private guards of an NRM parliamentary candidate and beaten for recording their candidate's speech. His attempts to disclose to them his identity by showing them his ID were ignored. Ali sustained injuries on his chest, back, and legs from the beating.⁹³

*"I was recording Hajji Mbabaali's speech from one of the loudspeakers when one of his private security guards with black sunglasses confronted me demanding to know why I was recording their candidate. As I explained myself, about five others pounced on me and started kicking, boxing and slapping me." – Ali Golooba.*⁹⁴

In November 16, 2015, Isaac Kugonza, a journalist working with Delta TV, sustained serious injuries on his head while covering the violent arrest of incumbent Kampala City Lord Mayor, Erias Lukwago, in Kampala. Isaac was rushed to Mulago National Referral Hospital in a critical condition. His video camera was damaged in the stampede.⁹⁵

In October 2015, Enoch Matovu, a correspondent for NTV Uganda, sustained serious injuries on his head while covering an incident of apparent vote rigging in an NRM party elections in Mityana district. "I saw the local people opening the car and removing the ballot papers which they scattered around the police station, and that's when I stopped understanding. I later discovered that I was admitted in Mityana Hospital."⁹⁶

In October 15, 2015, police officers in Kampala assaulted at least 10 journalists who were covering the detention of FDC Spokesperson Ibrahim Ssemujju Nganda at Kira Road Police Station. "The police did not want us to cover the events. They confronted us and pushed us from the police premises all through across the road. They used force and body amours to push us. They wanted to destroy our gadgets and interfere with our live coverage."⁹⁷

In October 27, 2015, Haruna Mugerwa, Vision Group journalist, was assaulted while covering an apparent vote-rigging story where the perpetrator was a police officer. The officer allegedly had pre-ticked ballot papers hidden in his shirt and gumboots at an NRM party election. Haruna's camera was destroyed during the attack.⁹⁸

We note that President Yoweri K. Museveni has spoken out about acts of torture by security officers. In a statement on torture in May 2017, addressed to the Chief of Defence Forces, the Inspector General of Police and the Director General of Intelligence Services, he observed, "The use of torture is unnecessary and wrong and must not be used again if it was being used as I see some groups claiming in the media."⁹⁹

Arbitrary arrests, detentions, and disappearances

Several journalists and HRDs were targeted for arrests and detention during electoral processes to stop them from covering events.

⁹⁰ "Ugandan journalist attacked twice while covering parliamentary elections," CPJ, August 8, 2018, <https://cpj.org/2018/08/ugandan-journalist-attacked-twice-while-covering-p.php>

⁹¹ "Election violence in Bugiri and Jinja," The New Vision TV, August 20, 2018, <https://www.youtube.com/watch?v=PMsQ3XOe5uc>

⁹² "Police attack journalists on Besigye trail, camera destroyed," The Daily Monitor, January 10, 2016, <https://www.monitor.co.ug/News/National/Police-attacks-journalists-Besigye-trail-camera-destroyed/688334-3028214-304dks/index.html>

⁹³ "Press trying to cover politics in Uganda face arrests," CPJ, 2016, <https://cpj.org/2016/01/press-trying-to-cover-politics-in-uganda-face-rest.php>

⁹⁴ Ibid

⁹⁵ "Delta TV Journalist shot on the head, admitted in critical condition," HRNJ, <https://hrnjuganda.org/?p=2289>

⁹⁶ "Journalist shot at, another arrested by police and assaulted while covering NRM party elections," HRNJ, <https://hrnjuganda.org/?p=2201>

⁹⁷ Ibid

⁹⁸ Ibid

⁹⁹ "President's statement on torture," by President Yoweri K. Museveni, dated May 15, 2017, State House website, <https://www.statehouse.go.ug/media/presidential-statements/2017/05/16/presidents-statement-torture>

After the assault on the night of August 13, 2018, NTV Uganda crew Herbert Zziwa and Ronald Muwanga were arrested in Arua District and detained for hours. “From there [Arua] we were driven to another place which we could not identify. We stayed there for another hour,” after which they were driven to Gulu District. Muwanga notes that they “were tied on one rope, four of us” indicating use of torture while in detention. The two were charged with the offence of inciting violence and malicious damage to property despite the fact that they were arrested while conducting a live broadcast. They were released on bond after several hours in detention in Arua and Gulu central police station.¹⁰⁰

In October 2015, Alfred Ochwo, a journalist with The Observer newspaper was arrested for taking pictures of the arrest of Ibrahim Ssemujju Nganda, the FDC Spokesperson. He was detained at Naggalama Police Station. After several hours in detention, he was released without charge. In attempt to promote self-censorship, he was cautioned about his future conduct. “I was arrested on the orders of Siraje Bakaleke, the Kampala Metropolitan Police Commander for Southern region, when he saw me taking photos as the police were beating Ssemujju during his arrest.”¹⁰⁰

After being assaulted for covering the Bobi Wine protests in Kampala on August 20, 2018, Alfred Ochwo from The Observer, NTV’s Ronald Galiwango and Juma Kirya were bundled on a police pick-up truck and driven to the Central Police Station in Kampala where they were detained for several hours. They were forced to delete pictures and footage on their cameras.¹⁰²

After the electoral violence in Arua, Bobi Wine travelled to the United States of America for further treatment. On his return, several journalists were briefly detained after being blocked from accessing the airport to report his return to Uganda.

Several journalists were blocked at Kisubi on the outskirts of the Entebbe Airport and packed in a police vehicle and driven back to Kampala, with a police escort car in tow, to apparently get accreditation from the Uganda Media Centre to cover the legislator’s arrival. Four other journalists managed to make their way into the arrival lounge but when police identified them, they confiscated their cameras and recorders on grounds that no journalist was supposed to be in the lounge. The journalists involved in the Entebbe Airport incident include; Henry Lubulwa (URN), Charles Katabalwa (Radio Sapientia), Dianah Kibuuka (CBS Emanduso), Eve Muganga (Daily Monitor), Joel Ssenyonyi (NTV), Julius Luwemba (New Vision), Moses Kyeyune (Daily Monitor), Siraje Kiberu (Kingdom

*“They told us to follow them, only to realize that we were being taken to the Aviation Police Station. From there, they told us we were under preventive arrest until Bobi Wine arrives and leaves the airport,” CBS’s Dianah Kibuuka noted.*¹⁰³

The journalists pleaded with the police officers to let them go for over two hours, in vain. They were only released, without charge, after the arrival and police drop-off of Bobi Wine at his home.

¹⁰⁰ “Ugandan security personnel arrest, assault journalists covering electoral unrest,” CPJ, August 17, 2018, <https://cpj.org/2018/08/ugandan-security-personnel-arrest-assault-journali.php>

¹⁰¹ “Police shoots, detains journalist and assaults others covering opposition politicians,” HRNJ, <https://hrnjuganda.org/?p=2077>

¹⁰² “Ugandan security forces attack and detain journalists covering protests,” CPJ, August 23, 2018, <https://cpj.org/2018/08/ugandan-security-forces-attack-and-detain-journali.php>

¹⁰³ “Govt squeezes journalists again as Bobi Wine returns,” ACME, September 20, 2018, <https://acme-ug.org/2018/09/20/govt-squeezes-journalists-again-as-bobi-wine-returns/>

Targeting online freedoms

Freedom of expression online is increasingly becoming a target, not only in Uganda but across the continent. It is the new battleground for free expression around the world.

In Uganda, social media services were disabled by telecom companies on orders from the UCC on February 18, 2016 – shortly after Ugandans went to the polls. Godfrey Mutabazi, the Executive Director of UCC confirmed that he had directed all telecom companies to switch off mobile money and social media services for security reasons. In a statement, UCC argued that it was “in the interest of the wider public, their safety and property” to shutdown social media services and that the UCC Act empowered them to direct telecom companies and internet service providers to “curb further proliferation of harmful content on the internet and social media”.

Shortly after casting his vote in the western Kiruhura district, President Museveni, who was seeking re-election, was asked about the social media shutdown. He told journalists that:



“ Uganda Police Personnel rough up a protester presumably resisting arrest (Daily Monitor photo)

“That step must be taken for security to stop so many [social media users from] getting in trouble; it is temporary because some people use those pathways for telling lies... You tell lies but you do not know that the authorities [can] restrain those [platforms] for some time.”¹⁰⁴

In May 13, 2016, the government shut down social media again,¹⁰⁵ this time, as Mr. Museveni was being sworn in for a fifth elective term in office. The UCC again cited security reasons in ordering all telecom companies to disable social media services – which lasted for about 24 hours. In a message to subscribers, telecom companies notified them of the order to disable the service. For example, MTN, the largest subscriber base said in a statement:

“In line with the requirement of its license specifically Article 7.4 that requires [MTN] to provide assistance to government in the event of an emergency or crisis related to national security, UCC has issued a directive to shut down all social media platforms immediately until otherwise advised by government.”

It still remains unclear what the emergency or crisis occasioning the national security concern was. In one interview,¹⁰⁶ it was observed that the UCC had failed to give a justification for the two social media shutdowns. The indiscriminate social media shut down affected the freedom of expression of HRDs during an important electoral period. Although a case is in court challenging the shutdown, there are fears that it may be repeated to silence expressions online.

¹⁰⁴“Yoweri Museveni explains social media, mobile money shutdown,” The Daily Nation, February 18, 2016, <https://www.nation.co.ke/news/Yoweri-Museveni-explains-social-media-mobile-money-shutdown/1056-3083032-sb195pz/index.html>

¹⁰⁵ “Government shuts down social media again,” The Daily Monitor, May 13, 2016, <https://www.monitor.co.ug/News/National/Government-shuts-down-social-media-again/688334-3201024-qxvhrxz/index.html>

¹⁰⁶NCHRD-U interview with Margaret Ssekagya, Kampala, July 30, 2019.

CLAMPDOWN ON ASSEMBLY FREEDOMS

“The Police Force continues to interpret the requirement for notification as a request for permission to assemble thus unfairly restricting HRD assemblies and community barazas. There must be a commitment from the Police Force to stop mis-application of the sections of POMA,” Janepher Baitwamasa, WHRD operating in Albertine Region¹⁰⁷.

“Selective interpretation of the law and partisan nature of the police are issues. We need to work on the police to be non-partisan when dealing with people of divergent views,” Margaret Ssekagya, Executive Director, The Human Rights Centre Uganda (HRCU).¹⁰⁸

The threats on the realization and enjoyment of the right to freedom of peaceful assembly are often manifested through attacks on politicians, their agents and followers. HRDs who seek to peacefully assemble are also targeted resulting in the violation of a spectrum of their rights. In the run-up to the 2016 general elections, incidents of violations were recorded as detailed in this report. During the by-elections after the 2016 polls for the positions that fell vacant, several hotspots emerged and serious violations of rights were documented.

“Whereas the ULS appreciates Government’s efforts geared towards maintaining law and order during public meetings; the Uganda Police Force and other security organs have misapplied the provisions of the Public Order management Act 2013 (POMA) to suppress the public by dispersing assemblies without any reason,” Uganda Law Society.¹⁰⁹

Extrajudicial killings, torture and physical violence

“There is a difference between a peaceful assembly and a disruptive riotous situation... The citizens ought to be educated to know where they go beyond the bounds of freedoms. For example, bon fires on a road – you start burning tires – that is an act of war. Whenever you burn tires on a tarmac road and blocking smooth movement of traffic, you who is doing it are declaring war on the state – and the army knows this. So, when you see situations that become very militant, look at both sides. Do armies come from the barracks just because they want to have fun? No. They first assess the situation.”¹¹⁰

In response to Brig. Masiko’s comments above, Robert Kirenga, Executive Director of the NCHRD-U clarified the means in which HRDs do their work. “The scenario that the General (UPDF) talked about, of people burning tires; that is not what human rights defenders do. Human rights defenders protect and defend human rights in a peaceful manner. They are not involved in any violent acts, at all.”¹¹

On the evening of August 13, 2018, police and officers from the Special Forces Command (SFC), an elite force charged with protecting the President of Uganda descended on Hotel Pacific in Arua district and its environs. It was alleged that unknown people affiliated to the ‘People Power’ camp of the-then parliamentary candidate Kassiano Wadri and Kyadondo East legislator Robert Kyagulanyi commonly known as Bobi Wine had stoned a vehicle on the presidential motorcade. The security forces, therefore, were ostensibly carrying out an operation to arrest the suspects of the alleged offence. However, what happened was brutal and gruesome.¹¹²

¹⁰⁷NCHRD-U interview with Janepher Baitwamasa, Masindi.

¹⁰⁸NCHRD-U interview with Margaret Ssekagya, Kampala, July 30, 2019.

¹⁰⁹“The State of the Rule of Law in Uganda: First Quarterly Report,” by the Uganda Law Society, January – March, 2019

¹¹⁰ Brig. Henry Masiko, UPDF Chief Political Commissar, NCHRD-U meeting convened to validate findings of the research, August 16, 2019.

¹¹¹ Robert Kirenga, NCHRD-U meeting convened to validate findings of the research, August 16, 2019.

¹¹²“Official: US ‘gravely concerned’ by reports of abuse by Ugandan security forces,” Voice of America, September 10, 2018, <https://www.voanews.com/africa/official-us-gravely-concerned-reports-abuse-ugandan-security-forces>

However, what happened was brutal and gruesome.

Bobi Wine's driver, Yasin Kawuma was shot dead inside Bobi Wine's Tundra car during the operation by the security forces.¹¹³ Several other people, including journalists, were assaulted and tortured.

Night Asara, Caroline Nalubowa, Akira Maida, and Jane Abola and other 29 Ugandans – including Bobi Wine – were severely assaulted, tortured and arrested.¹¹⁴ Asara recounted how she was kicked, stomped and hit with a gun butt repeatedly in the torso. She suffered severe¹¹⁵ pain in the pelvic area and the torso. She passed blood in her urine for days, as a result of the brutal torture.

*“If it means politics, why don't we just go and stand in the house and debate politics? Why are we bringing guns into the issues of politics?... We cannot be scared because of these beatings; especially me – because of these beatings. Up to now, I am not dead. I am still alive – it means God still loves me,” Asara recounted while on her hospital bed where she was receiving treatment.*¹¹⁶

Soldiers also stomped on Nalubowa's back and kicked her repeatedly. Akira was grabbed by a group of armed men and roughed up severely. She sustained injuries in her abdomen.

Jane Abola was hit with gun butts repeatedly all over her body. An X-ray apparently shows that a vertebrae in her lower back that was damaged.¹¹⁷ She identified Jonathan Musinguzi, the Regional Police Commander (RPC) as the leader of the men who tortured her. She recounted her ordeal on that fateful evening:

*“I jumped out of my bed, ran in the bathroom. Before I had even closed the bathroom door, I heard kicks and shouts on the door in Swahili ‘fungua mlango, fungua mlango’ [open the door, open the door]. As I tried to shut the door, I heard beating outside. So, out of fear because of the bullets that were outside, you could feel teargas in the room – I went and opened the door. Before I had even opened the door wide, police men entered inside the hotel room and began beating me. [The police officers then demanded to know the whereabouts of Bobi Wine] So, when I insisted that I do not know where Bobi Wine is, they grabbed me on the orders of Musinguzi [RPC West Nile] and pulled me outside the parking of the hotel. There I found very many people being beaten! Musinguzi pushed me down, I fell on my stomach. Then he pulled me and said, ‘angalia mimi – look at me!’ ‘I saw you with Bobi Wine during the day, I want him.’ I said I do not know where Bobi Wine is. He started being me; Musinguzi beat me – until I could cry no more! I couldn't cry any more. I looked at Musinguzi, he held a pistol – he pulled a pistol from his waist – and put it on my forehead... and cocked it, ‘I am going to shoot you, nitafanya statement [I will make a statement]! Nitawuwa nyinyi leo kama nyinyi bado onesha fasi Bobi Wine iko [I will kill you today if you do not show me where Bobi Wine is].’ I was like I do not know. I ran out of patient. I held his hand and told him shoot! We were now fighting for the trigger because I had nothing left. We were fighting for the trigger with Musinguzi. That's when one police officer came and pulled him. He turned his anger on the police officer – he beat the police officer like a kid.”*¹¹⁸

¹¹³“MP Robert Kyagulanyi says his driver has been shot dead in Arua,” NTV Uganda, August 13, 2018, <https://www.ntv.co.ug/news/national/MP-Robert-Kyagulanyi-says-his-driver-has-been-shot-dead-in-Arua/4522324-4711126-684e60z/index.html>

¹¹⁴“Bobi saga: Tortured women narrate ordeal,” The Observer, August 29, 2018, <https://observer.ug/news/headlines/58533-bobi-saga-tortured-women-narrate-ordeal.html>

¹¹⁵ “Arua Violence: I was tortured, says woman who bled in court,” NTV Uganda, September 13, 2018, https://www.youtube.com/watch?v=qznUN_Inb8M

¹¹⁶Ibid.

¹¹⁷“Women detail alleged assaults by Ugandan security personnel.” Voice of America, September 18, 2018, <https://www.voanews.com/africa/women-detail-alleged-assaults-ugandan-security-personnel>

A few days later, residents in Mityana town staged a protest against the manner in which the area MP, Hon. Francis Zaake had been arrested and tortured by soldiers in Arua. In an attempt to disperse the crowds, policemen opened fire on a taxi vehicle that was ferrying football fans heading for the Buganda Kingdom Masaza (County) Cup tournament in Mukono District. Samuel Ssekiziyivu and Lawrence Jjingo succumbed to the bullet wounds after being shot in the incident.¹¹⁹

Racheal Ayebazibwe, the fourth victim of the violence related to the Arua by-election violence also succumbed to bullet wounds at Victoria Hospital in Kampala. She was admitted to the hospital after being shot when police and the military were quelling riots in Kyebando, a Kampala suburb on August 19, 2018.¹²⁰

Vincent Sserungaya, a 38-year-old boda boda cyclist was also shot dead by a policeman in Gomba district during a protest against the violent arrest and continued detention of Bobi Wine following his arrest in Arua town. Several other people were also severely injured during subsequent attempts by citizens to protest the continued detention and manner in which their leaders and other citizens were tortured in Arua on August 13, 2018.¹²¹

President Museveni defended the actions of the security forces involved in the violent response in Arua. “If the army had not intervened in Arua, a lot of people would have been killed by this Bobi Wine group. They had gathered stones, knives and there were reports of even guns,” President Museveni noted in a statement.¹²²

In August 2018, UPDF and police officers attacked and assaulted several journalists on the streets of Kampala in pro-Bobi Wine protests. James Akena, Alfred Ochwo, Ronald Galiwango, and Juma Kirya are some of the journalists who were targeted. The soldiers used sticks to clobber journalists and pliers to torture those who were arrested during the operations.



“Police Tear Gas carrier vehicles patrol downtown Kampala on voting day(Daily Monitor Photo February 2016)

¹¹⁹ “Arua violence: Counting the human cost,” The Daily Monitor, September 8, 2018, <https://www.monitor.co.ug/SpecialReports/Arua-violence-human-cost-Kassiano-Wadri-NRM-Bobi-Wine/688342-4749276-n82ghf/index.html>

¹²⁰ Ibid.

¹²¹ Ibid.

¹²² “Security forces averted mass deaths in Arua – Museveni,” The New Vision newspaper, August 20, 2018, https://www.newvision.co.ug/new_vision/news/1484012/security-forces-averted-mass-deaths-arua-museveni

“There is a soldier who said ‘come, come’. Now, in the coming, I didn’t know what he was calling me for. When I reached nearer, he held my hand and started beating me. He hit me here (on the head) seriously. Then immediately they dragged me to their pickup. My camera was on me. They pulled my camera [and it] broke down. They [police and army officers] gave us our gadgets saying format all what you have. We formatted the cameras,” Alfred Ochwo, a journalist with the Observer.¹²³

In a commentary on the brutal attack on journalists, Nicholas Opiyo, the Executive Director of Chapter Four Uganda observed;

“I think that the attack on journalists is not just an attack on journalists, but an affront on information and that’s why they are going for people’s memory cards, destroying their equipment.”

On April 24, 2019, Nana Annette Namata, a woman human rights defender (WHRD) went to the police headquarters in Naguru to demonstrate against dispersing of the Forum for Democratic Change (FDC) rallies, heavy police deployment at Bobi Wine’s home, and other human rights concerns. In a gruesome tale, Nana narrates how she was tortured by police officers at the gate of the police headquarters.

“They lifted me in the air and left me to fall by my back. I remember vomiting when I fell. That notorious woman came and lifted my chin and I remember her telling me ‘swallow your stuff’. The only thing I remember was seeing the same notorious woman stepping on me.”¹²⁵

The NCHRD-U issued a statement condemning the above incident, and other related violations of human rights.¹²⁶

In Ntungamo district, several people were assaulted in the presence of police officers after a fierce fight erupted between the supporters of NRM and the Go Forward camp at Rwashamaire in Kajera County shortly after the arrival of candidate Amama Mbabazi. “Afande [police officer], remove that vehicle [branded with Museveni posters]; this is our rally, this is our rally. It is not Museveni’s day,” a person shouted shortly before the violence escalated.¹²⁷

In an interview,¹²⁸ one of the youth who had apparently been hired to cause the violence revealed that they had been promised money if they succeeded to frustrate the Go Forward rally in the area. “They gave us T-shirts and promised 10,000 Ushs (US\$ 3). If Mbabazi goes (fails to hold the rally), we would get the 10,000 Ushs,” he said.

In Ntungamo town, a similar situation unfolded.¹²⁹ Police officers stood and watched as NRM supporters were mobilised in yellow T-shirts ahead of a planned Go Forward rally in the area. Shortly after Mbabazi’s arrival, a fight broke out between the supporters resulting in many people sustaining injuries. According to court records, 17 supporters of the Go Forward camp were arrested and charged. There was no evidence that supporters of NRM party were also charged.

In a video footage¹³⁰ obtained by NCHRD-U, police officers are seen slapping and shoving FDC leader Hon. Paul Mwiru, MP of Jinja East who had already been subdued and bundled on a police patrol pickup during his arrest in Rukungiri district. The MP can be heard asking, “Why are you beating me now?”

¹²³“UPDF to arrest soldiers who attacked journalists at Bobi Wine protests”, NTV Uganda news, August 21, 2018, <https://www.ntv.co.ug/news/national/UPDF-to-arrest-Soldiers-who-attacked-Journalists/4522324-4723212-289ja6/index.html>

¹²⁴ “Woman loses uterus after police assault,” The Daily Monitor, July 3, 2019, <https://mobile.monitor.co.ug/News/CSection-Namata-uterus-after-police-assault-Bobi-Wine/2466686-5180660-format-xhtml-mi38yoz/index.html>

¹²⁶“Uganda: A clarion call to ensure the protection of Human Rights Defenders,” The National Coalition of Human Rights in Uganda, June 27, 2019, <https://www.hrdcoalition.ug/news/uganda-clarion-call-ensure-protection-human-rights-defenders>

¹²⁷“Amama-Museveni supporters clash in Ntungamo,” NBS TV Uganda, December 14, 2015, <https://www.youtube.com/watch?v=TSwQMYUZ2zw>

¹²⁵Ibid

On October 10, 2015, Fatuma Zaina Abalinabyo, the Secretary for Environment and Natural Resources of the FDC party was brutally assaulted by police officers after she loudly criticized police's inhumane handling of her FDC colleagues.

In a video seen by NCHRD-U, around four female officers and four male officers converge around her to effect an arrest. In the ensuing scuffle, she was undressed during the arrest. She only remained in her pants, which were occasionally also pulled down once in a while during the attack. Zaina was dragged on the tarmac towards the police vehicle and she could be heard crying out for help, "Why are you undressing me? Why are you undressing me? Why are you undressing me? You ashame me in public! You undress me? You ashame me." She was finally pushed under the seats of the police patrol pickup and tied with ropes.

Although complaints were filed with the police, Zaina has never been compensated for the violations she suffered. NCHRD-U is not aware of any police officer who has been held accountable for the incident. The police has also never issued an apology for the inhuman way in which they treated Zaina.

Surveillance, harassment, and intimidation

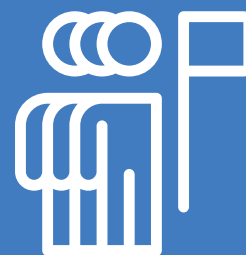
On May 17, 2019, Chapter Four Uganda, a civil rights group, and Sexual Minorities Uganda (SMUG), an umbrella organization advocating for the rights of LGBTI individuals in Uganda partnered to hold an event in commemoration of the International Day against Homophobia and Transphobia (IDAHOT) at Chapter Four offices. Because of the government's surveillance, police officers learnt of the event and raided Chapter Four Uganda offices. They stopped the event without giving any specific reason for their actions. That was the 12th time such raids and closures were happening.¹³⁵

"The actions taken by police on a day dedicated to fighting homophobia and transphobia goes to show why this day is important and why we must continue the fight. It also goes to show how institutionalized homophobia is. We are sad but take solace in the fact that the bigger statement about the state of the rights of LGBT people in Uganda has been made. We call upon national allies and development partners to continue to support efforts to ensure that all Ugandans enjoy their constitutionally guaranteed rights," said Nicholas Opiyo, the Executive Director of Chapter Four Uganda.¹³⁶

On his part, Frank Mugisha, the Executive Director of SMUG noted:

¹³⁵ "Uganda police disrupts, shuts down 2019 IDAHOT event," Chapter Four Uganda, May 17, 2019, <http://chapterfouruganda.org/articles/2019/05/18/uganda-police-disrupts-shuts-down-2019-idahot-event>

¹³⁶ Ibid.



“I am deeply disappointed in the Police’s actions especially because the Ugandan LGBT community’s theme for this year’s celebration was Protection of Freedom of Assembly and Association. We shall however continue to advocate for our rights until we can enjoy the same freedoms as other Ugandans.”

Chapter Four Uganda and SMUG condemned, in the strongest terms possible, the actions of Simon Lokodo, the Minister of Ethics and Integrity and police, especially on a day meant to recognize all efforts to end all forms of homophobia and transphobia. They further called upon all law enforcers to protect rather than violate the rights of all LGBTI individuals in Uganda.

Friends of Zoka, an environmental civil society group based in Adjumani district has suffered from the effects of constant surveillance by security agents in the district. For the past several years, Zoka forest has been plundered by unregulated cutting of trees by unscrupulous timber dealers, who have apparently destroyed more than half of its cover. Because of the threats, the environmental HRDs find it difficult for them to organize community engagements to discuss about deforestation and protection of the forest because of intimidation, attacks and difficulty of holding public community meetings. “On three occasions, our meetings have been blocked by the police even after following the legally stipulated due process in Adjumani,” said Amanzuru Leslie William, an environmental HRD and team leader of Friends of Zoka. He is the honoree of the EU Human Rights Defenders Award 2019.¹³⁷

In March 2019, environmental HRDs under the Friends of Zoka and Walkers Association walked 470 km (from Kampala to Adjumani) to raise awareness for Zoka forest and other forests in Uganda.¹³⁸ Along the way, they received threats from cabals that benefit from unscrupulous timber and charcoal deals. As they approached Adjumani, they also received threats from unknown people who vowed that they will not walk into Adjumani town alive. However, with the help of some leaders on the district security committee and legal support from Chapter Four Uganda and Defend Defenders, they walked into the town safely and all their events went well.

On June 30, 2018, the Women’s Protest Group, a feminist led group convened a women’s march to protest against the rampant femicides that have been happening in Uganda since May 2017. Over 40 women had been murdered. Most of them were tortured, raped, and killed after being kidnapped. During the preparations for the march, several women reported being surveilled and intimidated. At some point, some of the leaders were arrested at the police headquarters in Naguru, Kampala.

In October 2015, Dr. Ponsiano Mugenyi was forced to quit a race against Rt. Maj. Bright Rwamirama in the NRM primaries in Isingiro District after his supporters were repeatedly intimidated, harassed, and assaulted by army men. “I want to inform all my supporters in Isingiro North that I have pulled out from NRM primaries because my supporters have been subjected to extensive beating by army men. They go around beating my people and no one is touching them.”¹⁴¹

In October 2015, NRM supporters in Isingiro who were throwing away their NRM party cards in protest of lack of transparency, vote rigging, and intimidation in internal party elections while vowing to join the opposition were violently dispersed by the police. The police fired live bullets, causing a stampede where several people were injured.¹⁴²

¹³⁷NCHRD-U interview with Amanzire Leslie William.

¹³⁸“Conservationists walk 470 kilometers to save Zoka forest,” The Daily Monitor, March 23, 2019, <https://www.monitor.co.ug/artsculture/Travel/Conservationists-walk-470-kilometres-save-Zoka--Forest/691238-5037630-10kkvzmz/index.html>

¹³⁹NCHRD-U interview.

¹³⁹“Ugandan women march for their lives,” The Daily Monitor, July 7, 2018, <https://www.monitor.co.ug/Magazines/Full-Woman/Ugandan-women-lives-feminist-activists-femicides/689842-4649360-4b6v28/index.html>

¹⁴¹“70 arrested, Dr. Mugenyi quits NRM primaries,” The Daily Monitor, October 27, 2015: <http://www.monitor.co.ug/News/National/70-arrested--Dr-Mugenyi-quits--NRM-primaries/-/688334/2932832/-/xnom3u/-/index.html>

In January 2016, Erick Ssakwa, the RDC of Jinja district warned that the district security committee had resolved to use live ammunition to shoot dead any poll demonstrators. “Some people are preparing their groups to cause confusion but we have prepared security of both police and military to shoot anyone who will be involved in this.”

143

Arbitrary arrests, detentions, and disappearances

“... A case in point was in May 2018 when police arrested seven women activists for protesting over rampant women killings and kidnaps in the country. The WHRDs wanted police to give them a report on their investigations,” Brenda Kugonza, the Executive Director of Women Human Rights Defenders Network – Uganda (WHRDN-U).¹⁴⁴

Several HRDs were arrested for exercising their freedom of assembly. Often, police violently dispersed the peaceful assemblies¹⁴⁵ and arrested organizers and participants. A number of suspects were detained for several hours and days. The common crimes they were accused of include disobeying lawful orders, participating in unlawful assemblies, and interfering with election activities. In some cases, HRDs were arrested, detained, and released without charge.

On August 13, 2018, over 30 people were arrested in Arua district. After being assaulted, they were briefly detained in Arua and later that night, transferred to Gulu Central Police Station where they were crammed in a small cell. “We were crowded in a very filthy, dirty cell; with high ventilation and mosquitoes were just buzzing and fisting on us like you have never seen. No, no! God forbid!” said Kassiano Wadri.¹⁴⁶

During the violent attacks in Arua by security forces, several people remained unaccounted for, for hours only to be discovered in police custody. In August 2018, Selector Devie and Eddy Ssebuufu commonly known as Eddie Mutwe, the private bodyguard to Bobi Wine went missing. They were arrested from Red Pocket Pub in Kampala by men believed to be security operatives. The police and the army denied having him.¹⁴⁷

Eddie’s lawyers were compelled to file a habeas corpus application in the High Court seeking his release from unjustified incarceration. Court ordered the Chieftaincy of Military Intelligence (CMI), the Attorney General, and the Chief of Defence Forces (CDF) to immediately produce Eddie Mutwe in court on September 4, which was ignored.¹⁴⁸

A few days later, it emerged that Eddie Mutwe was being detained at Jinja Road Police Station, apparently since August 25 – beyond the 48 hours – incommunicado. His lawyers protested the violations in a letter to the Uganda Police Force Director of Criminal Intelligence Department (CID), Ms. Grace Akullo. “High Court on August 30 ordered his production in court on September 4, you ignored the order only to mislead the Attorney General and the honourable court that Eddie Mutwe was on his way to Gulu for arraignment before a competent court. The said lie is on court record,” the lawyer’s letter reads in part.¹⁴⁹

In April 2017, Dr. Stella Nyanzi was abducted outside a hotel in Kampala on Friday night. She had just finished addressing a Kampala Metropolitan Rotary Fellowship at MacKinnon Suites Hotel in Nakasero, Kampala. Nyanzi had in the past several weeks running up to the incident been using social media to criticize the First Lady and Minister of Education and Sports, Janet Kataha Museveni, for her stand on government’s promise and failure to avail sanitary pads to school-going girls. Police later confirmed having her in detention after hours of incommunicado detention.¹⁵⁰

On May 29, 2016, Uganda’s Deputy Chief Justice, Hon. Justice Steven Kavuma, JCC/JCA issued an order prohibiting FDC from organizing “demonstrations, processions, other public meetings, media campaigns or pronouncements including but not limited to planned demonstrations or processions

¹⁴⁵NCHRD-U interview with Ms. Margaret Ssekagya, Kampala, July 30, 2019. She observed that problem with POMA is not the law but the practice. She noted that police often disperses even peaceful assemblies, which is against the law.

¹⁴⁶ “We never saw President Museveni’s convoy in Arua – Wadri,” NTV Uganda, August 29, 2018, <https://www.youtube.com/watch?v=2Vh-vU4p69EY>

¹⁴⁷ “We don’t have him! Police, army deny role in arrest of missing Bobi Wine bodyguard,” PML Daily, August 25, 2018, <http://www.pmldaily.com/news/2018/08/we-dont-have-him-police-army-deny-role-in-arrest-of-missing-bobi-wine-body-guard.html>

¹⁴⁸ “CDF, CMI ordered to produce Bobi Wine’s body guard Eddie Mutwe in court,” Sqoop, August 30, 2018, <http://www.scoop.co.ug/201808/four-one-one/cdf-cmi-ordered-to-produce-bobi-wines-body-guard-eddie-mutwe-in-court.html>

¹⁴⁹ “Lawyers to police: You lied, Eddie Mutwe is not in Gulu,” The Daily Monitor, September 9, 2018, <https://mobile.monitor.co.ug/News/Lawyers-to-police--You-lied--Eddie-Mutwe-is-not-in-Gulu--/2466686-4748810-r9kjecy/index.html>

¹⁵⁰ “Dr. Stella Nyanzi arrested from hotel,” The Observer, April 8, 2017, <https://observer.ug/news/headlines/52204-dr-stella-nyanzi-arrested-from-hotel.html>

scheduled for May 5 or any other day among other orders.” “It is horrifying that a court can make far-reaching restrictions on citizens’ rights without hearing from the citizens affected,” FDC’s Kizza Besigye noted. Indeed, at least 88 people were arrested on May 6, 2016 for apparently participating in the banned nationwide protests that were called by FDC to protest the outcome of the 2016 presidential elections.¹⁵²

On October 10, 2015, police arrested FDC leaders after intercepting them on their way to Rukungiri district for a rally. In attempts to enforce the arrests, police officers used spike metal strips to abruptly block the highway causing multiple car crashes involving four vehicles.¹⁵³

In July 2015, seven youths were arrested for holding a press conference against a government ban on consultation meetings. “A growing arrogance of the force’s leadership has this morning purported to issue a directive banning all political consultation countrywide. We pledge that we will defy this unlawful directive. It is not founded in law or any justifiable reason,”¹⁵⁴ Seven of the youth were arrested shortly after the press conference as they sang their unity song, ‘Deep in my heart, I do believe that we shall overcome some day.’

In December 2015, the Ntungamo OC CID arrested the Coordinator for Amama Mbabazi campaigns in Ankole sub region.¹⁵⁵ In January 2016, another coordinator of Mbabazi’s team based in Masindi district was also arrested to block Mbabazi from visiting Masindi hospital.¹⁵⁶

In July 2015, Amama Mbabazi was arrested¹⁵⁷ in Jinja to block him from travelling to Mbale for a consultation meeting. He was later charged with disobeying lawful orders of a police officer. At least 7 other people were detained by police to thwart the said meeting.

“The acts of the state now clearly demonstrate that we are now under what you could call a police state.... Now, our police is a partisan police, they have no shame in it. They are brazen, they are open about it. They don’t care.” Amama Mbabazi, Go Forward presidential candidate.

In October 2015, the police arrested FDC leader Kizza Besigye as he attempted to drive out of his besieged home in Kasangati, a Kampala suburb. He had been placed under ‘preventive arrest’ to block him from performing party activities that included holding a consultative meeting at Kakindu stadium in Jinja district to popularize his presidential bid.¹⁵⁸ On the same day, FDC’s Spokesperson Ibrahim Ssemujju Nganda was also arrested at his home.¹⁵⁹

“We’ve called for an amendment of POMA so that it is clear on what it means on permission; so that it is clear on what it means by consultations; issues of excessive powers that are given to law enforcement without recourse. And then the biasness. It has to be balanced.” Ruth Nalugo Ssekindi, Director Monitoring and Inspections at the Uganda Human Rights Commission (UHRC).¹⁶⁰

¹⁵² “88 FDC supporters arrested,” The Daily Monitor, May 6, 2016, <https://www.monitor.co.ug/News/National/88-FDC-supporters-arrested/688334-3191576-106vift/index.html>

¹⁵³ “How FDC woman was undressed,” The Observer, <http://www.observer.ug/news-headlines/40441-how-fdc-woman-was-undressed>

¹⁵⁴ “Police arrests youths opposed to Mbabazi’s arrest,” NTV Uganda, July 10, 2015, <https://www.youtube.com/watch?v=oYv67LJwOF8>

¹⁵⁵ “Another Mbabazi campaign coordinator arrested for allegedly assaulting NRM supporters,” The Daily Monitor, December 30, 2015, <http://www.monitor.co.ug/SpecialReports/Elections/Mbabazi-campaign-coordinator-arrested-NRM-supporters/-/859108/3014874/-/j5p4au/-/index.html>

¹⁵⁶ “Mbabazi campaign coordinator in Masindi arrested,” The Observer, December 31, 2015, <http://www.observer.ug/news-headlines/41863-mbabazi-campaign-coordinator-in-masindi-arrested>

¹⁵⁷ NTV Uganda video footage: <https://www.youtube.com/watch?v=zynAEvWGS-s>

¹⁵⁸ “Audio & Video: Besigye arrested, taken to Nagalama,” The Daily Monitor, <http://www.monitor.co.ug/News/National/AUDIO---VIDEO---Besigye-arrested--taken-to-Nagalama/-/688334/2914322/-/256lciz/-/index.html>

¹⁵⁹ “Faridah Ssemujju recounts the arrest of her husband Hon. Ibrahim Ssemujju Nganda,” The Daily Monitor, October 15, 2015, https://www.youtube.com/watch?v=INeh6V_P62o

¹⁶⁰ NCHRD-U interview with Ruth Nalugo Ssekindi, Kampala, July 29, 2019.

CLOSING CIVIC SPACE, ASSOCIATION FREEDOMS

Civil society organizations and individual HRDs play an important role in enhancing transparency throughout the electoral process. They also widen the debate and participation scope on key aspects of the electoral process. They conduct assessment of pre-electoral environment, the conduct of voting activities, voter education, and post-election. However, despite of these positive efforts they play during the election period, they continue to come under attack from state agencies.

Challenges faced by election observer groups

In Uganda, the largest domestic observation group is the Citizens Election Observers Network-Uganda (CEON-U). In the 2016 general elections, the network had 223 long-term observers deployed since October 2015 and an additional 900 short-term observers on election day in February 2016. CEON-U observed the tallying at 112 District Tally Centres and the National Tally Centre. During its activities, CEON-U was targeted¹⁶¹ for its election monitoring activities.

The Uganda Joint Christian Council (UJCC) was equally active. It used its existing network and infrastructure of around 700 observers to observe elections on election day. Other active civil society organisations during the 2016 election period were the Citizens' Coalition for Electoral Democracy in Uganda (CCEDU), Alliance for Finance Monitoring (ACFIM), among others. All election observers, by nature of their job, are HRDs.¹⁶²

During the 2016 general election period, the European Union found that the accreditation process for local observers was cumbersome, requiring a security vetting by the District Security Committee prior to the accreditation by the District Returning Officer (DRO), thus placing unwarranted obstacles to observation.¹⁶³

“Delayed accreditation of Short Term Observers across districts caused uncertainty about their deployment to observe the elections. CEON-U managers visited the affected districts to reach out to the Electoral Commission officials to facilitate and help expedite the accreditation process”¹⁶⁴

During the recent Nebbi LC V Chairperson by-election, 3 election observers under ACFIM were arbitrarily arrested on July 8, 2019 for attending an NRM meeting in the district. The EC had cleared them to observe the elections. A journalist from a local radio station from Nebbi district was also arrested. After spending a night in detention, police still remained reluctant to release them; even after the official letter from EC was delivered to the police. They were later charged with the offence of “interfering with election process” and released on police bond.¹⁶⁵

The EC later noted that the ACFIM observers were accredited to observe the polls only on election day. Apart from the fact that the accreditation letter did not expressly state so, one wonders how it is possible

to observe an election on the polling date. An election is a process, not an event. It therefore follows that an observer should have unrestricted access to all election related activities at the pre-election, during election, and post-election periods.

It remains to be seen how election observers will be protected during the 2021 general elections under the current legal framework and attendant guidelines. How will the application be handled to ensure that it is less cumbersome, expeditious, and restrictive of certain individuals considered critical? Are restrictions on taking photographs during their activities for publication justifiable? What is the role of the EC in stopping violations of rights of observers by the security forces, state and non-state actors? These and more need to be answered to protect election observers.

¹⁶⁰NCHRD-U interview with Hassan Shire, Kampala, July 24, 2019.

¹⁶¹Final Report of the “EU Election Observation Mission” for Uganda – Presidential, parliamentary and local council elections,” European Union, 2016, http://eeas.europa.eu/archives/eucom/missions/2016/uganda/pdf/uganda-fr-forprint-14-04-2016_en.pdf

¹⁶³ Ibid.

¹⁶⁴Uganda – General Elections 2016: Revisiting the democracy construct,” CEON-U Report, <https://www.ccedu.org.ug/index.php/publications/publications/reports/23-ceon-report/file>

¹⁶⁵ NCHRD-U interview with ACFIM and two observers who were arrested

Concerns on enforcement of new NGO legal framework

In 2016, Uganda enacted a new NGO Act to regulate organizations. Although several provisions in the new law are progressive, the law was passed with deeply troubling provisions that provide criminal penalties¹⁶⁷ of up to three years in jail for NGO staff for violating any provisions of the law.

The law further establishes vague and undefined special obligations¹⁶⁸ that create room for subjective application of the law to expose independent groups to politically motivated charges for their legitimate work. As a result, the law negates freedom of association by promoting self-censorship by organizations.

Special obligations such as requiring organizations to have Memorandum of Understandings (MOU) with districts have already started causing trouble. For example, several organizations are reporting challenges operating in Buliisa District. Ngetha Media Association for Peace, for example, has reported challenges conducting public human rights education in the district because of intimidation by district authorities. Although MOUs can and should be encouraged, they should not be mandatory.

*“In the Albertine Region where the oil and extractives sector is taking shape, HRDs in those communities are equally facing challenges restricting their freedoms to assemble, associate, and express themselves. As HRDs organizations move to sensitize people on land compensation, state agents continue to be inquisitive on who is building capacity of the locals. AFIEGO has been singled out by government and district officials for allegedly inciting the project affected persons. There has been intimidation and threats of closure of AFIEGO. Individual HRDs in the region continue to cite harassment, intimidation and arbitrary arrests.”*¹⁷⁰

The law further requires organizations not to “engage in any act which is prejudicial to the security” of Uganda or “engage in any act which is prejudicial to the interests of Uganda and the dignity of the people of Uganda”. Such provisions are being used to clamp down on organizations that work with sexual minorities through harassment, intimidation, obstruction, and refusal to register independent groups.

On May 17, 2019, Chapter Four Uganda and Sexual Minorities Uganda (SMUG), an umbrella organization advocating for the rights of LGBTI individuals in Uganda partnered to hold an event to commemorate the IDAHOT at Chapter Four offices. When police got wind of it, they swung into action, blocking the event from taking place.¹⁷¹

“The actions taken by police on a day dedicated to fighting homophobia and transphobia goes to show why this day is important and why we must continue the fight. It also goes to show how institutionalized homophobia is. We are sad but take solace in the fact that the bigger statement about the state of the rights of LGBT people in Uganda has been made. We call upon national allies and development partners to continue to support efforts to ensure that all Ugandans enjoy their constitutionally guaranteed rights,” said Nicholas Opiyo, the Executive Director of Chapter Four Uganda.

On his part, Frank Mugisha, the Executive Director of SMUG noted:

“I am deeply disappointed in the Police’s actions especially because the Ugandan LGBT community’s theme for this year’s celebration was Protection of Freedom of Assembly and Association. We shall however continue to advocate for our rights until we can enjoy the same freedoms as other Ugandans.”

Chapter Four Uganda and SMUG condemned, in the strongest terms possible, the actions of Simon Lokodo, the Minister of Ethics and Integrity and police, especially on a day meant to recognize all efforts to end all forms of homophobia and transphobia. They further called upon all law enforcers to protect rather than violate the rights of all LGBTI individuals in Uganda.

In some districts, local government authorities are apparently passing and enforcing repressive policies at the district levels that are not even provided under the law. During the research, the NCHRD-U was notified of decisions by some district local councils to charge levies on NGOs and CBOS.

¹⁶⁶ “The Non-Governmental Organisations Act, 2016,” Laws of Uganda, ULII, <https://ulii.org/ug/legislation/act/2016/1>

¹⁶⁷ Section 40

¹⁶⁸ Section 44

¹⁶⁹ NCHRD-U interview with staff of the organization, Pakwach, July 2019.

¹⁷⁰ “Uganda: A clarion call to ensure the protection of Human Rights Defenders,” NCHRD-U, June 27, 2019, <https://www.hrdcoalition.org/news/uganda-clarion-call-ensure-protection-human-rights-defenders>

*“Hoima District Local Government has levied up to 500,000 that all CSOs, including CBOs, to pay. That is an amount that has to be paid every year. It is not in the law but it is something that has been put up as a source of revenue. That ideally means many CSOs that cannot afford that amount of money won’t be able to associate or express themselves as a group.”*¹⁷³

Surveillance, intimidation and ad-hoc investigations

On September 20, 2017, the offices of Action Aid Uganda were raided by over a dozen of heavily armed police officers.¹⁷⁴ The officers cordoned off the office premises and conducted a search on what they described as ‘illicit transfers of funds to support unlawful activities’. The police actions came ahead of the parliamentary debate on the proposed amendment of age limit for presidential candidates in Uganda. In July 2017, the organization had issued a statement calling on Ugandans to speak out and challenge the age limit removal because it spells disaster not just for Uganda but the region.¹⁷⁵

The bank accounts of the organization were later frozen, affecting activities of the organization

*“We are going to court and we need immediate action on this because people who benefit from our work are being affected; these include the orphaned that the organisation pays fees for and our staff who have not accessed their salaries,” Nicholas Opiyo, Board Chair, Action Aid Uganda said.*¹⁷⁶

Action Aid indeed dragged the government to court and the bank accounts were later unfrozen. Other CSOs were also raided on September 20, 2017 and the days that followed. These include GLISS, The Uhuru Institute for Social Development, Solidarity Uganda (Action Alliance) in Lira, and Public Affairs Uganda (PAC Uganda) in Soroti district.

In all these police raids, searches were conducted, with and without search warrants; documents and equipment confiscated, ostensibly to help with investigations. To date, no report of findings have been released by police despite briefly arresting 2 and interrogating over 10 employees of the organizations.

On July 3, 2015, the internal affairs minister wrote a formal complaint¹⁷⁷ to the NGO Board requesting for an urgent investigation into the activities of the Great Lakes Institute for Strategic Studies (GLISS). In the said letter, the minister accused GLISS of “having been involved in de-campaigning government programs and actively recruiting youths to join political opposition parties” contrary to the objects for which it was registered.¹⁷⁸

On receipt of the letter, the NGO Board (now NGO Bureau) conducted a search and realized GLISS was not a registered NGO. Consequently, the executive director of the NGO Bureau asked¹⁷⁹ an autonomous body, the Uganda Registration Services Bureau (URSB) to investigate GLISS’s activities as per the minister’s complaints and take appropriate action ‘including dissolution.’

On July 24, 2015, the URSB commenced investigations¹⁸¹ into the alleged ‘unlawful activities’¹⁸² of GLISS. A team of four investigators was appointed. Two of the members are police detective officers attached to CID Headquarters/General Crimes Division.

Investigations were conducted to identify GLISS’s assets, source of funding, and interest of its funders, means through which funds are channeled to the institute, business partners and its affiliated institutions.

¹⁷³Human Rights Defender operation in Hoima District, NCHRD-U meeting convened to validate findings of the research, August 16, 2019.

¹⁷⁴Chapter Four Uganda, Twitter thread: <https://twitter.com/chapter4uganda/status/910528732884013056>

¹⁷⁵“Uganda police raids Action Aid ahead of age limit debate,” The Independent, September 21, 2017, <https://www.independent.co.ug/uganda-police-raids-action-aid-ahead-age-limit-debate/>

¹⁷⁶“Why police raided NGOs, froze Shs 7bn,” The Observer, October 23, 2017, <https://observer.ug/news/headlines/55568-why-police-raided-ngos-froze-shs-7bn.html>

¹⁷⁷Letter from internal affairs minister to the NGO Board, July 3, 2015.

¹⁷⁸“Uganda: Minister orders investigations, dissolution of GLISS,” Chapter Four Uganda, 2015, <http://chapterfouruganda.org/articles/2015/07/10/uganda-minister-orders-investigations-dissolution-great-lakes-institute>

¹⁷⁹Letter from the NGO Board to URSB, July 3, 2015.

¹⁷⁹“Ugandan CSO under investigations on minister’s orders,” Chapter Four Uganda, 2015, <http://chapterfouruganda.org/articles/2015/08/03/ugandan-cso-under-investigations-minister%E2%80%99s-orders>

¹⁸⁰“Ugandan CSO under investigations on minister’s orders,” Chapter Four Uganda, 2015, <http://chapterfouruganda.org/articles/2015/08/03/ugandan-cso-under-investigations-minister%E2%80%99s-orders>

¹⁸¹Great Lakes Institute under investigation over ‘unlawful activities,’ The Observer/URN, September 8, 2015, <http://observer.ug/news-headlines/39743-great-lakes-institute-under-investigation-over-unlawful-activities>

¹⁸²Letter from URSB to GLISS, July 24, 2015.

In the report,¹⁸³ Godber Tumushabe, one of the GLISS founding directors is described as ‘pro-opposition,’ ‘sympathizer of FDC party,’ and that he is a known supporter of other civil society organisations that are ‘critics of government.’ The investigation further focused on the ‘behavior profiles’ of the organisation’s directors and in part, points out that Tumushabe ‘supported the Parliamentarians opposing the signing of the oil agreements’ and that he is ‘instrumental in de-campaigning the decentralization, democratization and governance process in the country.’

“In conclusion, the report, inter alia, recommends that URSB “should involve police and sister security organisation ISO in vetting suspected companies vying for registration” and that “all registered companies should stop being involved in political activities.” It fails to present any evidence of violation of the law.”¹⁸⁴

In November 26, 2015, Citizens’ Coalition for Electoral Democracy in Uganda (CCEDU), a coalition of Ugandan civil society groups, was ordered to stop airing its “Topowa, Honor Your Vote” campaign by the Electoral Commission on grounds that the message was “biased, contrary to the law,”¹⁸⁵ guidelines and Memorandum of Understanding signed by the organization and the EC.

The letter from the EC instructed CCEDU to “immediately stop airing the Topowa voter education campaign on television and some radio programs until further clarification from the Electoral Commission.”¹⁸⁶

“They are asking for change. Isn’t that being partisan?” the Secretary of the EC asked. In response, communications officer of CCEDU observed, “The Electoral Commission hasn’t clarified exactly what is wrong with the message.”¹⁸⁷

In December 2015, Global Rights Alert, a local human rights group working in the area of Natural Resource Governance, was verbally via phone call summoned by the Ministry of Internal Affairs to answer allegations of inciting violence among communities on issues of oil and gas after a presentation. In November 13, 2015, the organization had presented a paper titled, ‘The status of oil and gas industry in Uganda, Institutional and Regulatory framework’ at the Uganda Petroleum Institute – Kigumba. The organization submitted a report about the training and appeared for a brief interrogation. No further action has been taken since their response.

In March 2015, the Executive Director of Civic Response on Environment and Development (CRED) noted that RDCs had on “several occasions blocked oil conferences” and that they direct the civil society organisations to first get clearance from the Petroleum Exploration and production Department (PEPD).¹⁸⁸



¹⁸³“Interim Investigation Report on the alleged unlawful activities by the Great Lakes Institute for Strategic Studies,” Uganda Registration Services Bureau, August 2015.

¹⁸⁴Uganda: “When I was tortured, no one came out,” Chapter Four Uganda, February 2016, <http://chapterfouruganda.org/resources/reports-analysis/uganda-when-i-was-tortured-no-one-came-out>

¹⁸⁵Letter from the Secretary of the Electoral Commission to CCEDU, November 26, 2015.

¹⁸⁶Ibid

¹⁸⁷“EC bans Topowa election adverts,” The Observer, November 27, 2015, <http://www.observer.ug/news-headlines/41298-ec-bans-topowa-election-adverts>

¹⁸⁸“Aronda warns security officials against harassing activists,” The Daily Monitor, March 22, 2015, <http://www.monitor.co.ug/News/National/Aronda-warns-security-officials-against-harassing-activists/-/688334/2661766/-/jnjxj3z/-/index.html>

DISCRIMINATION AGAINST WOMEN AND PERSONS WITH DISABILITIES

“Of major concern is that female journalists face a double burden of the attacks based on the profession and gender as a result of being journalists and women.”¹⁸⁹

Women human rights defenders and person with disabilities face unique challenges in their work. Women are targeted because of their gender and persons with disabilities have to overcome numerous barriers to access inclusion. Challenging gender-based discrimination and removing barriers for the inclusion of persons with disabilities is key for equal participation in societal life, especially in election periods to have a say in the leadership decisions.

“The available space for women human rights defenders in Uganda continues to shrink, the restrictions to peaceful assembly affected women’s freedoms of expression, assembly, and work. For example, there were instances where there was excessive use of force against women HRDs during assemblies, including violent means, and gender-based violence being used to disperse peaceful gatherings,” Brenda Kugonza, Executive Director of Women Human Rights Defenders Network – Uganda.¹⁹⁰

Participation of women in the 2016 general elections was fair. Uganda ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1985, which establishes international legal obligations to take all appropriate measures to eliminate discrimination against women, including in regards to political participation.

Uganda has also ratified the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women, which requires States Parties to take “specific positive action to promote participative governance and the equal participation of women in the political life of their countries through affirmative action, enabling national legislation and other measures”.

In addition to these international obligations, the Constitution of the Republic of Uganda further requires observation of equality and non-discrimination. Everyone is equal under the law.

However, women continue to face gender-specific challenges during election activities. Uganda’s communities are largely patriarchal and this creates deep seated challenges for women. For example, during the Bugiri and Jinja by-elections, a video was captured showing a group of men touting, beating and chasing women around. A police officer can be seen negotiating with the attackers to stop their actions. No arrests or reasonable force was used to stop the attacks to ensure that the women continue participating in the happening electoral activity. President Museveni condemned the violent actions. More needs to be done to protect women human rights defenders from gender-specific attacks in their work.

¹⁸⁹ “The 21st Annual Report – 2018,” The Uganda Human Rights Commission report, page 125.

¹⁹⁰ “The 21st Annual Report – 2018,” The Uganda Human Rights Commission report.

⁹¹ “Election violence in Bugiri and Jinja,” The New Vision TV, August 20, 2018, <https://www.youtube.com/watch?v=PMsQ3XOe5uc>

⁹² “We shall not allow violence in elections – Museveni,” The State House, August 19, 2018, <https://www.statehouse.go.ug/media/press-releases/2018/08/19/we-shall-not-allow-violence-elections-museveni>

Challenges faced by persons with disabilities

On participation of people with disabilities, certain concerns still continue to persist. People with disabilities are put at a disadvantage during polls because of their disability.

Although Uganda ratified the UN Convention on Rights of Persons with Disabilities in 2008, the authorities have not taken sufficient legislative steps needed to enable disabled persons to vote on an equal basis with others. It is worth noting that under the Convention, for example, Uganda has an obligation to give blind voters an option to vote independently and by secret ballot, and polling stations should be accessible to voters on wheelchairs.

Civil society organisations working on disability rights proposed Braille ballot papers during the 2016 general elections. Although the EC had promised them since 2014, it did not accommodate their requests. Consequently, blind persons could only vote through another person, which compromised secrecy of their votes and contravened the Convention. Further, despite the fact that most of the polling stations are outdoors, not many were accessible by wheelchair because of natural obstacles and uneven surfaces.

In cases of inaccessible indoor polling stations, legislation does not allow for a person to vote outside of the building. Persons in mental hospitals do not have the possibility to vote. When trained, polling station staff were not instructed on how to facilitate the voting of disabled persons.¹⁹³



¹⁹³Final Report of the “EU Election Observation Mission” for Uganda – Presidential, parliamentary and local council elections,” European Union, http://ec.europa.eu/archives/eucom/missions/2016/uganda/pdf/uganda-fr-forprint-14-04-2016_en.pdf

• PART 5

General Recommendations

To the President of Uganda

- Publicly instruct all security agencies and other government and National Resistance Movement (NRM) party officials not to intimidate, harass, assault or in any other way violate the rights of journalists and HRDs in general; and
- Publicly order for urgent investigations of reported violations of rights of HRDs and direct that such reports be made public.

To the Parliament of Uganda

- Amend repressive sections in the following laws to comply with the guarantees in the Constitution of Uganda and other international human rights law;
 - The Public Order Management Act 2013: Clarify that police does not have powers to block peaceful assemblies and ensure that notification does not require permission;
 - The Computer Misuse Act 2011: Repeal offensive communication, cyber harassment offences, and other insult laws;
 - The Non-Governmental Organisations Act 2016: Repeal the repressive special obligations; and other laws that stifle the freedoms.
 - The Uganda Communications Act 2013: Repeal or amend schedule 4 of the Act and legislate to ensure that the Uganda Communications Commission does not issue directives that contravene constitutional provisions on the freedom of expression.
- Amend Section 16 of the Electoral Commission Act to make accreditation of election observers less cumbersome, more predictable, and unrestricted observation of election related activities; and
- Urgently investigate and conduct public inquiries into cases of violations of the rights to expression, peaceful assembly, and association freedoms of HRDs.

To the Uganda Police Force

- Support efforts to hold police officers who violate rights individually responsible by disclosing their identity for criminal prosecutions;
- Immediately end arbitrary arrests, detentions, and detention beyond 48 hours, torture, and other violations;
- Immediately issue standard guidelines for officers on the use of teargas, rubber bullets, live bullets, and proportionate force in accordance with the United Nations Basic Principles on the Use of Force and Firearms;
- Ensure that all cases reported by HRDs are thoroughly investigated to provide them with redress and end attacks; and
- Issue a public account on the state of investigations in each of the reported cases of NGO office break-ins.

To the Directorate of Public Prosecutions

- Engage the police force to conduct expeditious investigations into violation of the rights of HRDs by police officers and other perpetrators;
- Prosecute police officers and other individuals if there is evidence that they violated freedoms of HRDs; and
- Immediately refrain from sanctioning and prosecuting suspects under preventive arrests, disobedience of lawful orders, and other related charges.

To the Courts of Judicature

- Expediently hear and determine constitutional petitions filed by civil society organizations and civil rights advocates to clarify on constitutional questions raised. Continued delays facilitate enforcement of unconstitutional laws in blatant violation of human rights.
- Interrogate all cases when concerns related to persecution of HRDs through criminal law are raised and dismiss frivolous cases;
- Ensure that all accused persons arrested while exercising their expression, peaceful assembly, and association freedoms receive a fair, speedy, and impartial hearing; and
- Stop prolonged or delayed trials of suspects arrested while exercising their expression, peaceful assembly, and association freedoms.

To the Electoral Commission

- Take appropriate actions to guarantee HRDs an enabling environment to carry out their work during election periods. Journalists, for example, must be free to access and cover activities and election observers must have unlimited access to monitor the election processes.
- Start the process of accrediting election observers early in the electoral cycle to avoid overcrowding and late accreditation;
- Make the process of applying for accreditation to observe elections less cumbersome and more predictable;
- Train journalists, election observers, and the police about election related activities to avoid conflict and violations during election periods.
- Engage the security agencies during elections to ensure that human rights violations by security officers are not tolerated. Where it happens, issue public statements condemning the violations and support the victim or survivor to seek justice; and
- Desist from taking drastic or highhanded measures such as arbitrary and indefinite suspension of accreditation in resolving concerns or differences between the EC and HRDs and their organizations.

To the Uganda Communications Commission

- Ensure transparent, accountable, non-partisan, fair, and legitimate exercise of the communications' regulation mandate.
- Interpret the provisions of the Uganda Communications Act 2013 in its functions in accordance with the Constitution of Uganda as the supreme law of the land.
- Stop usurping the Media Council's powers to resolve issues of journalists practice and ethics.
- The Board of Directors of the UCC should stop the executive director of the Commission from exercising powers beyond his statutory scope.

To the Civil Society Organizations

- Apply for accreditation for election observers on time to avoid delays.
- Strategically and boldly engage the judiciary to hear and expeditiously dispose petitions challenging repressing sections in the following laws in the respective regard to bring the laws in line with international human rights standards:
 - The Public Order Management Act 2013: Clarify that police does not have powers to block peaceful assemblies and ensure that notification does not require permission;
 - The Computer Misuse Act 2011: Repeal offensive communication and cyber harassment offences;
- Strengthen partnerships by doing joint advocacy and collaboration, networking for purposes of mutual support and also reducing exposure to risk;
- Train most-at-risk HRDs on carryout their activities in conflict-sensitive areas and personal security protocols so that they can mitigate the risks of the operating environment in case of eventualities; and
- Support efforts by partners for the enactment of the HRD law.
- Stop self-censorship and proactively and boldly defend the freedoms of assembly, association, and expression.

To the Development Partners

- Follow up on the recommendations made after observation missions;
- Firmly condition financial, equipment, and other support to Ugandan security agencies to the respect of rights of HRDs in Uganda;
- Continue issuing public statements to express concern over incidents of violations of the freedom of expression, peaceful assembly, and association, and strongly urge government to expeditiously take steps to address cases;
- Strategically and boldly engage the government cause amendments of repressive laws in accordance with the Constitution of the Republic of Uganda, 1995 and other international obligations;
- Increase strategic support and resources to civil society groups working to promote and defend expression, peaceful assembly, and association rights; and
- Work with grantee civil society organizations that have organizational challenges to improve their capacity and adhere to mutual values for improved transparency, accountability, and better programs.

To the Local Governments

- Observe the Non-Governmental Organisations Act 2016 in its interactions with NGOs and CBOs in the local government area. Stop unlawful levies on organisations.
- Make the process of obtaining letters of recommendation for groups intending to pursue NGO registration with the National Bureau for NGOs predictable, less cumbersome, with a turnaround time of less than three working days.

To the Human Rights Defenders

- Take deliberate steps to continuously improve individual knowledge and skills on how to effectively engage duty bearers and other stakeholders in their efforts to defend human rights and demand justice and accountability.
- Regularly scan the operating environment and take necessary personal security protocols to minimize risks.
- Make use of coalitions and other networks to spread risks and ensure bold interventions in their work.

To the Uganda Peoples' Defence Forces

- The UPDF should execute its mandate of protecting and defending the people of Uganda as stipulated in the Constitution.
- Security agencies should continue to collaborate on security matters as is mandated under the Constitution.
- The UPDF should observe human rights in carrying out all its duties as required by Article 221 of the Constitution.
- Journalists carrying chaotic or riotous scene or scenarios should set clearance from the security field officer in charge of that operation.

To the Uganda Human Rights Commission

- The UHRC should sensitize HRDs and members of the general public on human rights protection and promotion.
- UHRC should also carry out research on the situation of HRDs and human rights in Uganda.
- The UHRC Tribunal and other complaints mechanisms should be strengthened.
- UHRC should open more field offices in order to increase its visibility and impact on the ground.

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