UGANDA

UNIVERSAL PERIODIC REVIEW

FOLLOW UP

Recommendation 3: Amend accordingly all laws that are contrary to Uganda's national and international obligations to respect, protect and promote the freedoms of expression and assembly.

Uganda has done little or nothing to implement this recommendation, and has recently introduced laws that are contrary to national and international obligations to guarantee freedoms of expression and assembly.

In August 2010 Uganda's Constitutional Court unanimously ruled that sections of the penal code on sedition, which forbid journalists from publishing criticism of the government, were unconstitutional. The decision stemmed from a petition by Andrew Mwenda, managing editor of the Independent, and the East African Media Institute; Mwenda had been among a handful of journalists facing sedition charges. However the Court upheld other provisions of the penal code that criminalize publications promoting sectarianism. Clauses of the Antiterrorism Act of 2002 have also been used against journalists, especially those who cover security issues.

The 2005 Access to Information Act exists only on paper, as no implementing mechanisms have been put in place, and the government still denies requests for information. Furthermore, Parliament has not followed up on the law's requirement that each ministry submit annual reports on the status of implementation.

Individuals or associations have been prosecuted under section 56 (2) of the Penal Code Act (PCA), which provides for circumstances under which a society can be considered as unlawful. The pressure group Action for Change (A4C) was declared an unlawful society on the basis of section 56(2) of the PCA. A4C led the ‘walk to work’ demonstrations in 2011 against the rising cost of living, corruption and poor governance in Uganda.

According to the PCA a society is unlawful if declared by a statutory order of the minister to be dangerous to peace and order in Uganda. In April 2012, the Attorney General issued a Declaration of Unlawful Societies Order under section 56 of the PCA declaring the pressure group A4C an unlawful society. The declaration outlawed A4C activities as well as the activities of any other pressure group formed thereafter, hence effectively banning any assemblies by political activists. This ban is an illegitimate restriction of the freedom of assembly.

The Public Order Management Act was passed in to law in September 2013. It grants the police powers to prohibit public meetings and to decide suitable venues for holding public meetings. As has been reported widely, "since the enactment of the Act, there has
been a disproportionate targeting of meetings organized by opposition members and/or civil society representatives”¹.

Section 5 of the Act requires anyone who wants to organise a public meeting to notify an authorised officer in advance about the venue, date and time, estimated number of people and purpose of the meeting.

The Act further grants broad discretionary powers to the police, based on their own judgment to relocate, prevent and disperse public gatherings, and to arrest and charge participants and organisers.

**Recommendation 60: Investigate and hold accountable police and security officers who attacked human rights defenders, journalists and civilians during the 2011 post-election period.**

Police and security officers who attacked human rights defenders, journalists and civilians during the 2011 post-election period have to date not been held accountable.

According to Human Rights Watch investigations, the government of Uganda has failed to investigate adequately the use of lethal force by security forces that resulted in the deaths of at least nine people during protests over corruption and rising commodity prices in April 2011.

Years after the killings, only one member of the forces has been arrested. The only commitment to-date is the arrest of a military reserve force member for the fatal shooting of a two-year-old girl in Masaka. He is on trial before the military courts in Kampala. Rather the police continue to use excessive force with impunity especially in its efforts to disperse assemblies.

On 25th April 2012, Ingrid Turinawe, leader of the Women’s League of the Forum for Democratic Change (FDC), political party, was brutally arrested on her way to a political rally. When she refused to exit her vehicle, a police officer grabbed and painfully pressed her breast so as to force her to get out of the car.

On 17th January 2014, protests broke out in and around Kampala in protest at the manner in which the ruling party, National Resistance Movement (NRM), aided by the police was removing the Lord Mayor from office. The police worked alongside unidentified individuals carrying clubs and dressed in civilian clothes to calm the situation.

**Recommendation 62: Investigate and prosecute all persons found guilty of extrajudicial killings and attacks on human rights defenders**

¹ International Center for Not For Profit Law, Uganda Country Profile, accessible at: [http://www.icnl.org/research/monitor/uganda.html](http://www.icnl.org/research/monitor/uganda.html)
The security forces continue to enjoy impunity for torture, extrajudicial killings, and the deaths of at least 49 people during protests in 2009 and 2011. The government banned political pressure groups calling for peaceful change, stopped opposition groups from holding rallies, and harassed and intimidated journalists and civil society activists in 2012.

In the HRNJ Press Index Report of 2013, the Uganda Police Force featured prominently as the biggest perpetrators of abuses against journalists. It is reported that there have been no known prosecutions implemented against agents of the Police Force that have been implicated in these violations. Despite reported cases at the Professional Standard Unit (PSU), the police has failed to release a progress report showing the status of the investigations.

Police leadership disbanded the Police’s Rapid Response Unit (RRU) in December 2011 explicitly because of its poor human rights record, renaming it the Special Investigations Unit (SIU). However the police have failed to investigate abuses committed by RRU officers or ad hoc operatives, some of whom continue to work with the SIU. In September 2012, four members of the opposition Forum for Democratic Change (FDC) appeared before court charged with treason. They complained of torture in detention after having been detained by the SIU for 14 days.

The government failed to investigate the killing of over 40 people by security forces during the September 2009 riots, and the deaths of nine people during the “Walk to Work” demonstrations in April 2011. No charges were filed against the police officer who in April assaulted Ingrid Turinawe, head of the FDC’s Women’s League, as police prevented her from attending a rally.

According to the HRNJ Press Index of 2013, there are a growing number of cases of journalists that have been killed and the police investigations have not been conclusive and justice remains a distant aspiration. In 2013, Thomas Pere and Alex Kule were killed and to date the perpetrators responsible for their death remain at large. The Uganda Police Force has maintained the usual plea of ‘investigations are still ongoing’ to establish the cause and those responsible for the death of the journalists but to no avail.

**Recommendation 69: Investigate and prosecute intimidation and attacks on LGBT-community members and activists.**

In July 2014, the Ugandan High Court passed a decision endorsing the government’s closure of a lesbian, gay, bisexual and transgender (LGBT) rights workshop. Justice Stephen Musota ruled against four activists who had sued the ethics and integrity minister, Simon Lokodo, for shutting down the February 2012 workshop. The judge ruled that the workshop participants were “promoting” or “inciting” same-sex acts. “Carnal knowledge against the order of nature” is criminalized under Uganda’s Penal Code. Justice Musota rejected the activists’ argument that the purpose of the workshop
was to develop human rights advocacy and leadership skills, finding that such objectives were simply a cover for promoting same-sex acts.

Since the enactment of the Anti-Homosexuality Act (AHA) 2014, the Ugandan government has forced the suspension of certain operational activities of the Refugee Law Project, based in Kampala. On 3 April 2014, a United States funded health clinic and medical research facility, the Makerere University Walter Reed Project (MUWRP), was raided by Ugandan authorities, and one of its staff members arrested, under the apparent authority of the AHA 2014.

In parallel, the complex influence of extremist religious figures operating in Uganda combined with tabloid publications such as the Red Pepper, has fuelled a growth in instances of ‘mob justice’ by community members against individuals on the basis of their real or perceived sexual orientation or gender identity. A number of HRDs have been forced to relocate, seek asylum abroad, or suspend their human rights activities.

In May 2014, Sexual Minorities Uganda (SMUG) published research indicating “a marked increase in instances of harassment and maltreatment [of persons of real or perceived minority sexual orientation or gender identity, that] can be traced back to the passing of the Act through Parliament...between 20th December 2013 and 1st May 2014”

On 26th January, 2011 LGBT activist David Kato, who had successfully sued Red Pepper, a local tabloid for the 2010 publication of his picture under the headline "Hang Them,” was bludgeoned to death at his home outside Kampala. On 2nd February, police arrested Sidney Enoch Nsubuga for Kato's murder. He was prosecuted at Mukono High Court and sentenced to 30 years imprisonment on 10th November 2011.

**Recommendation 70: Investigate thoroughly and sanction accordingly violence against LGBTs, including gay rights activist.**

Uganda has been reluctant to investigate and sanction violence against LGBT community leading to a shocking spike in attacks against LGBT people in the country especially after the AHA was passed. A report compiled by Sexual Minorities Uganda (SMUG) recorded 162 incidents since December last year, when Parliament passed the draconian law. In comparison, the organisation only recorded eight incidents in the previous 11 months and 19 incidents in 2012.

The report documents incidents of mob violence and attacks on people and their property. It also reported that at least 25 people fled Uganda because of the law. Ugandan media outed people suspected of being LGBT which led to some victims being attacked or disowned by their families. There were four cases of men accused of homosexuality being kidnapped and tortured while a 17-year-old boy committed suicide.
Most of the perpetrators of these crimes have not been held accountable in line with international human rights standards.

**Recommendation 71: Take immediate concrete steps to stop discrimination and assaults against LGBT persons**

Ironically, despite accepting this recommendation, Uganda passed the AHA, a discriminatory law against LGBT persons. The law, inter alia, purports to criminalise human rights defenders, NGOs, and other individuals or organisations working on sexual orientation and gender identity issues. The sweepingly broad provisions of ss. 13 of the AHA 2014, which criminalises the ‘promotion’ of homosexuality (without providing a statutory definition of that term) has had a chilling effect on the entire human rights community in Uganda.

Presently section 145 of the Ugandan Penal Code criminalises ‘carnal knowledge against the order of nature’ with a maximum sentence of life imprisonment. Section 146 punishes ‘attempts’ at carnal knowledge with a maximum of seven years’ imprisonment. Section 148 punishes acts of ‘gross indecency’ with up to seven years in prison. While the penal code does not specifically identify same sex practices between women as prohibited the law is applied indiscriminately such that lesbian and bisexual women face the same hostility from both State and non-state actors as do gay and bisexual men.

**Recommendation 73: Guarantee freedom of expression, particularly the possibility to express criticism and opinion regarding acts of the government.**

Since 2009, media freedom has been characterized by increased incidences of violence and harassment against journalists, especially by security forces. Human Rights Network for Journalists Uganda (HRNJ) documented 82 cases of attacks against journalists countrywide in 2012. The attacks ranged from physical violence to verbal threats and destruction or confiscation of equipment. Throughout 2012, this pattern of attacks against journalists covering opposition related events continued. On 4th October three journalists were targeted by officials when covering the arrest of then Forum for Democratic Change (FDC) leader, Kiiza Besigye.

In May 2013, the Ugandan government forced the closure of the Monitor newspaper and other media outlets, and clamped down violently on activists protesting against the same. The so-called ‘media siege’ began in response to the Monitor’s reporting on an alleged succession plan within the highest echelons of the Ugandan government.

On 19th March 2014, the Government of Uganda released stringent regulations which all broadcasting media houses must comply with. All media houses must allocate prime time to promote government programmes and public relations.

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The state also misuses the criminal laws to restrict the work of journalists. They are often arrested on spurious charges although these cases rarely result into conviction. In 2011 and 2012 several journalists were arrested and charged with criminal defamation and treason. Further in 2012, more than twenty four journalists and human rights defenders had cases pending before court for charges ranging from promoting sectarianism to criminal libel.

Recommendation 75: End intimidation, threats and physical attacks on journalists and promote open reporting and commentary on issues of public concern

As a result of frequent arrests, intimidation, physical threats and attacks against journalists, human rights and media watchdog advocates have expressed concern that there is now a high degree of self-censorship by Ugandan journalists, including a reduction in the level of public debate on the radio.

Many past cases of attacks or abductions aimed at journalists remain unresolved. In September 2010, journalists Paul Kiggundu and Dickson Ssentongo were killed in separate incidents in connection with their work, and Arthur Kintu of the New Vision was beaten by an elected official as he covered a ruling party conference. Government officials and security agents in the countryside regularly intimidate journalists and attempt to influence media content by forbidding certain guests to appear on live radio programs.

The Central Broadcasting Service (CBS), one of four stations closed down by the Broadcasting Council in September 2009 in response to an official directive, was reopened in October 2010. The three other stations—Ssuubi FM, Radio Two, and the Roman Catholic Church’s Radio Sapientia—had reopened much sooner. The four outlets had been accused of promoting sectarianism and inciting violence that led to riots in Kampala. While they returned to the air, there were reports that the owners engaged in self-censorship to avoid renewed conflict with the Broadcasting Council and the government.

Some of these violations take the form of obstructing journalists from executing their duties in cases that are politically oriented. A case in point was during the 51st National Independence celebrations on 9th of October 2013, at Rukungiri District stadium, in Western Uganda when former President of FDC, Colonel (Rtd) Kizza Besigye, Kampala Capital City’ Lord Mayor Erias Lukwago and the Kawempe Division Mayor Mubarak Munyagwa Sserunga walked out of the stadium as President Yoweri Museveni was due to address the gathering. The trio was arrested and as a journalist attempted to film the arrest, he was blocked by the Deputy Spokesperson of the Police, Patrick Onyango from covering the event.

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3 HRNJ-Uganda, Press Freedom Index-Uganda 2012, no Gains, Press freedom still fragile, January 2013, p.28
4 HRNJ-Uganda, Press Freedom Index-Uganda 2013,
On May 28 and 29, 2013, police assaulted and tear-gassed more than 30 journalists in an effort to deter them from accessing and covering the continued closure and occupying of the Daily Monitor newspaper, KFM and Dembe radio stations premises.

**Recommendation 76: Ensure that human rights defenders can perform their legitimate duties free from any harassment and intimidation in line with international standards including the UN Declaration on HR Defenders**

Uganda is still failing in its state duty to ensure that human rights defenders can perform their legitimate duties free from any harassment and intimidation in line with international standards including the UN Declaration on Human Rights Defenders.

Human rights defenders (HRDs) in Uganda operate amidst an increasingly restrictive legal environment. The rights to freedom of assembly, association and expression are under increasing duress, with HRDs being specifically targeted by a range of regressive new laws introduced throughout 2013/14. In all cases, these laws fail to conform to regional and international human rights standards (as well as the standards set out in Article 29 of the Constitution of the Republic of Uganda).

HRDs, including those working within civil society organisations, journalists, and individual activists, face routine threats, harassment, and institutional obstacles from both state and non-state actors. This situation is not, per se, a new phenomenon, but has deteriorated markedly over the course of 2013-14. In the run up to presidential elections in 2016, this situation is expected to deteriorate further, with particularly enhanced risks for HRDs working on electoral transparency and wider governance issues.