



CIVIL AND POLITICAL RIGHTS

FACT SHEET



AFRICAN CENTRE FOR TREATMENT AND REHABILITATION OF TORTURE VICTIMS



PROTECTING CIVIL LIBERTIES & PROMOTING HUMAN RIGHTS FOR ALL.



NATIONAL COALITION OF HUMAN RIGHTS DEFENDERS UGANDA



**Ambasáid na hÉireann
Embassy of Ireland**

SUMMARY OF KEY ISSUES FROM PREVIOUS UPR CYCLE

During the 2016 Second Cycle of the UPR of Uganda, several issues were raised leading to a number of recommendations on civil and political rights.¹ On the right to participate in political and public affairs, concerns were raised on incidents of violation of the right to freedom of expression, peaceful assembly, association and access to information. On personal liberty, the right to life and torture, concerns were raised on increased cases of police brutality, arbitrary arrests, incommunicado detention, enforced disappearances, and torture or cruel and inhuman or degrading treatment or punishment. On the right to vote, concerns were raised on electoral reforms and transparency.

ISSUE 1: RIGHT TO PARTICIPATE IN POLITICAL AND PUBLIC AFFAIRS

National framework

The Constitution of the Republic of Uganda, 1995 guarantees the right of freedom of conscience, expression, assembly and association. Article 38 provides for the right of every Ugandan to participate in peaceful activities to influence the policies of government through civic organisations and activities. To enable these constitutional provisions, the Parliament of Uganda has enacted several laws such as the Public Order Management Act, 2013; Non-Governmental Organisations Act, 2016; and the Anti-Money Laundering Act, 2013.

Challenges and impact

- a) **Increased violation of freedom of association through regulatory overreach and enforcement of repressive provisions:** The enforcement of repressive legal provisions on the freedom of association under the Non-Governmental Act, 2016, for example the active enforcement of section 32 (6) which imposes hefty monthly penalties of USD. 562 for NGOs that are found to have been operating without a valid permit is impeding association rights. The Anti-Money Laundering Act has also been used to the arbitrarily freeze bank accounts of at least 8 NGOs thereby throttling their right of access to resources.
- b) **Failure by the government to implement the court decision in Constitutional Petition No. 56 of 2013 annulling sections of the Public Order Management Act, 2013:** On March 26, 2020, the Constitutional Court of Uganda declared the police powers under Section 8 of the Public Order Management Act, 2013 unconstitutional. Instead of implementing the decision, the government appealed in the Supreme Court. This is a missed opportunity to bring the Public Order Management Act in compliance with international commitments of Uganda.

Recommendations

- a) Government should withdraw the appeal against the repeal of Section 8 of the Public Order Management Act, 2013 (POMA) and implement the decision of the court in constitutional petition No. 56 of 2013.

- b) Repeal Sections 29 (1) and (2) (b), 31 (2), 40, 44 (a) (c) (d) (f) and (g) and amend Sections 29 (4) (a), 31 (3), 32 (6), 41 (7) of the NGO Act, 2016 to bring it in conformity with the Constitution of Uganda and the commitments of Uganda under international and regional human rights law.

ISSUE 2: PERSONAL LIBERTY, THE RIGHT TO LIFE AND FREEDOM FROM TORTURE

National framework

The Constitution of the Republic of Uganda provides for the right of personal liberty under Article 23. This right provides for the right to be detained in gazetted facilities, access to next-of-kin, medical treatment, and lawyer while in detention; and the right to apply for bail. Under Article 22 on the right to life, the Constitution provides that no person shall be deprived of life intentionally except in execution of a sentence passed in a fair trial by a court of competent jurisdiction. Freedom from torture or cruel, inhuman or degrading treatment or punishment is provided under Article 24 and protected under Article 44 as a non-derogable right.

Challenges and impact

- a) **Increased incidents of extrajudicial killings, enforced disappearances² and incommunicado detention.** On November 18 and 19, 2020, at least 54 people were killed by State security forces in an effort to quell public demonstrations.³ To date, there has been no accountability for the violations. This killing joins the list of many killings such as the Kasese killings where over 150 people lost their lives.⁴ Lack of accountability for past crimes is emboldening impunity for the killings.
- b) **Violation of the right to freedom from torture and other cruel, inhuman or degrading treatment and punishment.** The Uganda Human Rights Commission (UHRC) reports that at least 1,032 cases of torture were registered between the years of 2016 to 2018, representing an increase of 13%.⁵ ACTV on the other hand reports registering 3,924 cases of torture between the years 2017 to 2019.
- c) **Threats of the return of enforcing the death penalty.** Whereas Uganda is a de facto abolitionist of the death penalty – with the last execution happening in 2005, there are over 120 inmates on death row. President Museveni has in the recent years warned of enforcing the death penalty again.⁶

Recommendations

- a) Uganda should conduct an independent, public and transparent investigation into the November 18 and 19, 2020 killings in Kampala, November 2016 Kasese killings and other extrajudicial killings, and hold perpetrators to account.
- b) Uganda should abolish all ungazetted detention facilities and ensure that all suspects are held in gazetted places of detention where access is guaranteed and detention records are obligatory.

- c) Uganda Police Force should adopt the Prevention and Prohibition of Torture Regulations and streamline them in the documentation and investigation of torture cases in Uganda.
- d) Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights and abolish the death penalty.

ISSUE 3: ELECTORAL REFORMS AND TRANSPARENCY

National framework

The Constitution of Uganda provides under Article 1 (4) that people shall express their will and consent on who will govern them and how they shall be governed through regular elections. Article 59 provides for the right to vote and Article 61 requires the Electoral Commission to conduct regular, free and fair elections. In the run-up to the 2021 General Elections, the Parliament of Uganda made amendments to five pieces of legislation on elections notably the Constitution (Amendment) Act, 2018 and the Presidential Elections (Amendment) Act, 2020 to remove the age limit for persons vying for the Office of the President.

Challenges and impact

- a) **Failure to accredit election observers during the January 2021 General Elections.** Local and international⁷ election observers, including those that observed the 2016 elections were not accredited despite submitting applications to the Electoral Commission. This hindered election observation activities which affected the fairness and transparency of the process.

Recommendations

- a) The Parliament of Uganda should amend Section 16 (1) (4) and (6) of the Electoral Commission Act, Cap 140 to provide for a notification regime for accreditation of election observers in conformity with constitutional civic and democratic duty of citizens.

Endnotes

1 Recommendation 115.107; 115.103; 115.101; 115.102; 115.87; 115.7; 115.5; 115.6; 115.86; 115.88; 115.105; 115.104; 115.108; 115.109

2 Parliament of Uganda, *Minister Jeje Odong to MPs: Majority of missing persons in hiding*, <https://www.parliament.go.ug/news/5070/minister-jeje-odongo-mps-majority-missing-persons-hiding>

3 BBC News Africa, *Three killings in Kampala – BBC Africa Eye documentary*, <https://www.youtube.com/watch?v=g7d2AvLEPyA>

4 Human Rights Watch, *Uganda: No justice for 2016 Kasese massacre by security forces*, <https://www.hrw.org/news/2018/10/10/uganda-no-justice-2016-kasese-massacre-security-forces>

5 Uganda Human Rights Commission reports, <https://www.uhrc.ug/uhrc-reports/>

6 BBC News, *Museveni: Uganda may reintroduce executions*, <https://www.bbc.com/news/world-africa-42746172>

7 U.S. Embassy in Uganda, *Statement by U.S. Ambassador Natalie E. Brown on cancellation of U.S. Diplomatic Observer Mission of Uganda's Elections*, <https://ug.usembassy.gov/statement-by-u-s-ambassador-natalie-e-brown-on-cancellation-of-u-s-diplomatic-observer-mission-of-ugandas-elections/>



CONTACT US

Dr. Livingstone Sewanyana, Executive
Director – FHRI
Email: isewanyan@gmail.com