



UGANDA

Civil Society Report on the Implementation of the ICCPR (Contribution to the List of Issues)

Submitted for the adoption of the List of Issues on the Second Periodic Report of Uganda at
the 135th Session of the Human Rights Committee

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With the support of the Centre for Civil and Political Rights.



I. Introduction

1. Uganda ratified the International Covenant on Civil and Political Rights (**ICCPR / the Covenant**) on June 21, 1995. Uganda also ratified the First Optional Protocol to the ICCPR on November 14, 1995 which allows individuals in Uganda to submit written communications to the UN Human Rights Committee as provided under the Protocol.

2. The State party submitted its initial report in 2003. On November 19, 2020, the State party's second periodic report on the ICCPR was submitted under article 40 of the Covenant. The said report was due in 2008.

3. The Centre for Civil and Political Rights (**CCPR-Centre**)¹ is an independent, non-governmental organisation that was established in 2008 to work towards the full realisation of the rights proclaimed in the Covenant and its two Optional Protocols at the universal level.

5. The National Coalition of Human Rights Defenders Uganda (**NCHRDU**),² an umbrella organization for human rights defenders in Uganda, provided coordination support for in-country engagement with civil society organizations for the drafting of this report with the support of the CCPR-Centre.

6. We welcome this opportunity to suggest questions and contribute to the List of Issues that will be adopted at the 135th session of the Human Rights Committee (**the Committee**). This report submits our assessment of the State's implementation of the ICCPR and makes submissions on the situation of civil and political rights in the State party.

II. Methodology

7. This report was compiled in a participatory and consultative process involving various civil society organisations working on civil and political rights in Uganda. The report further benefited from desk review of reports from the media, government agencies and civil society organizations. Strategy coordination meetings were held during the process. At the end of the process, a validation meeting was held at which the draft report was discussed, necessary adjustments made and the final report adopted for submission to the Committee.

IV. Contribution to the List of Issues

8. In its second periodic report, the State party reports on several progressive steps that have been made towards the protection and promotion of civil and political rights as established under the Covenant. While we acknowledge the positive steps that Uganda has taken since 2003, this submission suggests questions that arise from concerns related to the failure to implement a number of the guarantees provided in the Covenant.

¹ For more information about the CCPR-Centre: <https://ccprcentre.org>

² For more information about the NCHRDU: <https://hrdcoalition.ug>

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A: Status of the Covenant in domestic law (Art. 2)

Comments

9. During the enactment of the 1995 Constitution, the law provided for the continuation of Treaties and Conventions to which Uganda is a party under Article 287. The Constitution further provides for international law in various respects.³ In this regard, the State has enacted a number of progressive laws such as the Access to Information Act, the Prevention and Prohibition of Torture Act, Human Rights (Enforcement) Act, the Data Protection and Privacy Act, among others. Despite this progress, the said laws are not being implemented or enforced as required.

10. One of the laws that have tested the State party's resolve to comply with the progressive domestic laws that are in line with the Covenant is the Human Rights (Enforcement) Act, 2019. Notably, the law establishes private prosecutions in cases where human rights have been infringed or threatened, provides for personal liability for infringement of rights and freedoms and eliminates immunity as a defense to proceedings commenced under the law. Whereas the law is progressive, its implementation is facing significant challenges including reluctance by security agencies to reveal the identity of the security agents who are implicated in the violations. Instead, the security agencies prefer to subject the alleged perpetrators to disciplinary proceedings as a justification of accountability against calls for prosecutions in criminal courts. These challenges have occurred in the past. In August 2016, a violent mob was mobilized to lay siege on a court house to stop lawyers from privately prosecuting senior police officers for torture.⁴

11. Further to the above, the State party has enacted a range of laws that impede the realization and enjoyment of civil and political rights established under the Covenant. Some of the laws with the clawback clauses include the Computer Misuse Act, the Public Order Management Act, the Non-Governmental Organizations Act, and the Anti-Money Laundering Act. The impugned laws place unjustified restrict the freedom of expression online, freedom of peaceful assemblies and the right to protest, and the freedom of association by establishing laborious administrative requirements that essentially whittle down the very rights they purport to enable. For instance, the State party has enforced the laws to facilitate the judicial harassment

³ Objective XXVIII(b) of the National Objectives and Directive Principles of State Policy of the 1995 Constitution.

⁴ "Police to probe Makindye court siege," NTV Uganda, <https://www.youtube.com/watch?v=GYBJHRdkRr0>

of human rights defenders, clampdown on peaceful assemblies and recent closure of at least 54 civil society organizations.

Suggested questions

- a) Indicate how often the Covenant has been invoked and applied by the courts of law and administrative authorities such as the National Bureau for NGOs and the Uganda Communications Commission (UCC).
- b) Provide an explanation why several laws such as the Non-Governmental Organisation Act, 2016 and the Public Order Management Act, 2013 contain provisions that are inconsistent with the Covenant on the freedom of association and peaceful assembly respectively.

B: Non-Discrimination and equality between men and women (Art. 3 and 26)

Comments

12. Under Article 21, the 1995 Constitution of Uganda provides for the equality and freedom from discrimination of all persons. This includes the right for all persons to be equal before and under the law in all spheres of life and to enjoy equal protection of the law. The Article further guarantees the freedom from discrimination against on the ground of sex or other identity or affiliation. Despite this progressive constitutional guarantee, which is in line with the Covenant, women; sex workers; people with disabilities; and Lesbian, Gay, Bisexual, and Transgender (LGBT) people are still treated differently because of their identity, gender, appearance or affiliation.

Discrimination against women

13. Whereas the State party has enacted a number of laws to address discrimination against women, such as the Prohibition of Female Genital Mutilation Act, 2010⁵, the Domestic Violence Act, 2010,⁶ and the Succession (Amendment) Act, 2021,⁷ it still fails to enact crucial gender-sensitive laws such as the Marriage Bill despite efforts that have so far lasted over 10 years and the Sexual Offences Bill. Failure to enact these laws have facilitated persistence of discriminatory practices against women at the family level during contracting of marriage unions, during its subsistence and at its dissolution; and rise of sexual offences against women despite existence of some provisions under the Penal Code Act that appear to address some of the concerns. According to the Uganda Police Force's annual crime report, gender-based violence cases that were reported and investigated increased by 4% (from 38,651 to 40,258 cases) between 2015 and 2016. Defilement cases in 2016 rose by 34% from 13,118 in 2015 to 17,567 in 2016.

⁵ Prohibition of Female Genital Mutilation Act, 2010 [Laws of Uganda], <https://old.ulii.org/ug/legislation/act/2015/5-5>

⁶ Domestic Violence Act, 2010 [Laws of Uganda], <https://ulii.org/akn/ug/act/2010/3/eng%402010-04-09>

⁷ Parliament of Uganda, *Inside the new Succession law*, <https://www.parliament.go.ug/news/5053/inside-new-succession-law>

14. The 2016 Uganda Demographic and Health Survey further reveals that at least 1 million women in Uganda are exposed to sexual violence every year. According to a 2015 report by the International Justice mission, at least 40% of widows experience actual or attempted property grabbing in their lifetime. More than 30% of widows are victims of property grabbing.⁸ Sexual violence and other discriminatory practices against women and girls increased during the Covid-19 pandemic. For instance, during the pandemic, at least 22,013 women sought post-rape care and 3,348 received post-exposure prophylaxis (PEP) representing a pike of 24% in post-rape reports.⁹

Discrimination against sex workers

15. In Uganda, sex work is criminalized and stigmatized under Sections 138 and 139 of the Penal Code Act which establish the offence of prostitution. This criminalization is justified under the basis of morality. According to a 2016 report on the protection and violation of the rights of female sex workers in Uganda, the Human Rights Awareness and Promotion Forum (HRAPF) noted that there were 597 violations of the rights of sex workers in 2016 out of which 576 (95.6%) were committed by state actors. The nature of violations includes the attack on the right to liberty and violation of personal dignity as a result of mass arbitrary arrests and detentions.¹⁰ Police abuse of sex workers also includes physical assault, sexual assault including rape and gang rape, bribery and extortion, and public humiliation. Because sex work is criminalized, there is little recourse for sex workers who are victims of crimes. This denies them the right to equality before the law. Criminalizing sex work violates the right of sex workers to self-determination, autonomy and agency.

Discrimination against people with disabilities

16. Article 35 of the 1995 Constitution of the State party states that persons with disabilities have a right to respect and human dignity. The government formulated the Persons with Disabilities Act, 2020¹¹ in an attempt to further protect the rights of persons with disabilities. The 2020 Situational Analysis of Persons with Disabilities in Uganda reveals that overall, 8.5% of Ugandans have a disability, with the rate of disability predicted to increase substantially across all age groups by 2050. Women with disabilities tend to experience more stigma and discrimination than women without disabilities. Gender and disability therefore intersect.¹² People with disabilities, especially physical disabilities, continue to experience challenges in accessing essential services such as education, sexual and reproductive health services among

⁸ United Nations, *Uganda: Violence against women unabated despite laws and policies*,

<https://www.un.org/africarenewal/news/uganda-violence-against-women-unabated-despite-laws-and-policies>

⁹ AidsMap, *Sexual violence against women and girls in Uganda increased during the COVID-19 pandemic*, <https://www.aidsmap.com/news/jul-2021/sexual-violence-against-women-and-girls-uganda-increased-during-covid-19-pandemic>

¹⁰ Human Rights Awareness and Promotion Forum (HRAPF), *Protection and violation of the rights of female sex workers in Uganda in 2016*, <https://hrapf.org/index.php/resources/violation-reports/103-protection-and-violation-of-the-rights-of-female-sex-workers-in-uganda-2016/file>

¹¹ Persons with Disabilities Act, 2020 [Laws of Uganda], <https://ulii.org/akn/ug/act/2020/3/eng%402020-02-14>

¹² Ministry of Gender, Labour and Social Development, *Situational Analysis of Persons with Disabilities in Uganda, 2020*, <https://www.developmentpathways.co.uk/wp-content/uploads/2020/09/Webready-DP1294-ESP-Disability-Uganda-Sept-2020.pdf>

others, because of negative attitudes of service providers, long queues at health facilities, unfriendly physical structures and the hostile perceptions from able-bodied people.¹³ The situation worsened during the Covid-19 related lockdown and restrictions with many persons with disabilities finding themselves trapped.¹⁴

Discrimination against LGBTI people and community

17. The LGBTI people and community have gone through a lot over the past ten years. In April 2009, a local Ugandan newspaper outed many people and exposed others to violence and it published names of suspected homosexuals and a tip for the general public on how to spot a homosexual. In October 2010, another paper called *Rolling Stone* published a story having what they described as the nation's 100 "top" gays and lesbians with their photos and addresses. The story was accompanied with the words "hang them". The High Court in Kampala ordered the *Rolling Stone* to stop publishing images of gay and lesbian people after David Kato and several other people sued the paper.

18. In April 2009, the Anti-Homosexuality Bill was introduced with the aim of creating the offence of "homosexuality" with the sanction of life imprisonment and the death penalty for "aggravated homosexuality". The law would also criminalize a person who "aids, abets, counsels, or procures another to engage in an act of homosexuality" with a possibility of up to seven years in jail. After a hateful campaign, the Anti-Homosexuality Act, 2014 was enacted providing life imprisonment for same-sex relations. On August 1, 2014, however, the law was declared invalid by the Constitutional Court of Uganda on procedural grounds. Under Section 145 of the Penal Code Act, consensual sex between individuals of the same sex is still prohibited and punishable by life imprisonment.

19. Despite the annulment of the law, LGBT people in Uganda continue to face a range of discriminatory practices, torture and violence. For example, in a February 2015 report, local human rights group Chapter Four Uganda found that police frequently subjected men and transgender women accused of consensual homosexual conduct to forced anal examinations. All cases where suspects were subjected to these intrusive dehumanizing exams were dismissed before or during the trial.¹⁵ During the Covid-19 lockdown and emergency measures in 2020, LGBT people were targeted during police raids on their shelters in several incidents of mass arbitrary arrests and outing. The police accused them of disobeying the Covid-19 regulations on physical social distancing. UN rights experts expressed concern with the trend of abuse of emergency powers.¹⁶

¹³ BMC, *Challenges in accessing sexual and reproductive health services by people with physical disabilities in Kampala, Uganda*, <https://reproductive-health-journal.biomedcentral.com/articles/10.1186/1742-4755-11-59>

¹⁴ Global Voices, *People with disabilities left stranded during national lockdown in Uganda*, <https://globalvoices.org/2020/06/23/people-with-disabilities-left-stranded-during-national-lockdown-in-uganda/>

¹⁵ Chapter Four Uganda, *Dignity Debased: Force anal examinations in homosexuality prosecutions*, <https://chapterfouruganda.org/resources/reports-analysis/dignity-debased-forced-anal-examinations-homosexuality-prosecutions>

¹⁶ United Nations, *UN rights experts fear Uganda is using COVID-19 emergency powers to target LGBT people*, <https://www.ohchr.org/en/press-releases/2020/04/un-rights-experts-fear-uganda-using-covid-19-emergency-powers-target-lgbt>

Suggested questions

- a) What measures are being put in place to address stereotyping and discriminations against women, in particular, in relation to community sensitizations and enforcement of progressive laws?
- b) What measures are being put in place to ensure that the high numbers of defilement and rape cases are expeditiously handled and that the perpetrators and abusers are held to account?
- c) Is the State considering to de-criminalize the offence of prostitution to respect the right of sex workers to self-determination, autonomy and agency?
- d) What measures has the State put in place to ensure implementation and effective enforcement of the Persons with Disabilities Act, 2020?
- e) Is the State considering to de-criminalize adult consensual same-sex relations by repealing Sections 145 and 146 of the Penal Code Act?
- f) Please explain if there are any specific steps being taken by the State party to establish a national disability registration process.

C: The Right to Life (Art. 6)

Comments

20. The 1995 Constitution of Uganda guarantees under Article 22 the right to life and states that no person shall be deprived of life intentionally except in execution of a sentence passed by a court of competent jurisdiction in respect of a criminal offence under the laws of Uganda. The State party therefore maintains the death penalty for at least 28 capital offenses, in respect of adult convicts¹⁷ and women who are not pregnant.¹⁸

The death penalty

21. In 2008, the Supreme Court of Uganda outlawed mandatory death sentence on the ground that it took away judicial discretion.¹⁹ As at 2019, there were 133 inmates in death row. No one has been executed in the last 20 years.²⁰ Therefore, in practice, Uganda is a de facto abolitionist of the death penalty. However, President Yoweri Museveni has repeatedly warned

¹⁷ Section 89 (11) of the Children's Act prohibits the sentencing of a child to the death penalty.

¹⁸ Section 103 of the Trial on Indictments Act prohibits the sentencing of a pregnant woman to the death penalty.

¹⁹ Decision in the landmark case of *Attorney General v Suzan Kigula & 417 others* (Supreme Court No. 3 of 2006).

²⁰ The East African, *Uganda abolishes mandatory death penalty*,

<https://www.theeastafrican.co.ke/tea/news/east-africa/uganda-abolishes-mandatory-death-penalty-1425450>

of the return of executions, necessitating the importance of Uganda becoming a de jure abolitionist of the capital punishment.²¹

Extrajudicial killings through use of lethal force

22. The right to life has also been compromised in instances of use of lethal force by law enforcement officers, in particular officers of the Uganda Police Force and the Uganda People's Defence Forces (UPDF). Despite of the laws on the use of firearms, the disproportioned and lethal use of firearms still occur with little accountability. For example, in April 2011, law enforcement officers shot and killed at least 9 bystanders in Kampala, Gulu and Masaka districts during the "Walk to Work" protests. Most of the affected families have not received justice to date.²² In September 2009, Uganda's security forces used unnecessary lethal force leading to the death of at least 40 people in response to street protests and riots against police action to block the cultural kind of Buganda, known as the *Kabaka*, from travel to Kayunga district.²³ On November 26 and 27, 2016, more than 100 people – including at least 15 children – were killed in the western district of Kasese after the Uganda government security forces used overwhelming lethal force on an assault on the Rwenzururu kingdom compound.²⁴

23. On November 18 and 19, 2020, the security forces killed at least 54 people in a violent response to countrywide demonstrations following the arbitrary arrest of opposition political leaders Hon. Robert Kyagulanyi alias Bobi Wine and Hon. Patrick Amuriat Oboi for allegedly violating Covid-19 emergency regulations. In response to the killings, the then Minister of Security, Gen. Elly Tuwmine thanked the forces for defeating 'terrorists' and went ahead to warn that the 'police has a right to shoot you and kill you'. On November 29, 2020, President Yoweri Kaguta Museveni indicated that 32 of the persons killed were rioters and the remaining were innocent victims of stray bullets and motor vehicle accident. He assured the relatives of the victims of unlawful deaths compensation for the loss of the lives of their dear ones. To date, there has been no public inquiries or compensation process.²⁵

Suggested questions

- a) Please specify whether the State party intends to ratify the Second Optional Protocol to the Covenant.
- b) Please explain why the State party has not conducted a comprehensive, independent and transparent investigation into the numerous well-documented extrajudicial killings

²¹ BBC News, *Museveni: Uganda may reintroduce executions*, <https://www.bbc.com/news/world-africa-42746172>

²² Human Rights Watch, *Uganda: 5 years on, no justice for Walk to Work killings*, <https://www.hrw.org/news/2016/04/22/uganda-5-years-no-justice-walk-work-killings>

²³ Human Rights Watch, *Uganda: Investigate 2009 Kampala riot killings*, <https://www.hrw.org/news/2010/09/10/uganda-investigate-2009-kampala-riot-killings>

²⁴ 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>

²⁵ "Three killings in Kampala – BBC Africa Eye Documentary," BBC News Africa, <https://www.youtube.com/watch?v=g7d2AvLEPyA>

such as the November 2016 killings of civilians in Kasese and the November 18 and 19, 2020 killings in Kampala.

- c) Please indicate whether the State party intends to conduct any further comprehensive, independent and transparent investigations into the extrajudicial killings that arise from the use of lethal force by State security officers.

D: Prohibition of torture and ill-treatment and conditions of detention (Art. 7 and 10)

Comments

24. The legal framework on torture and ill treatment, both at domestic and the international level, prohibit in absolute terms incidents of torture. In 2012, Uganda enacted the Prevention and Prohibition of Torture Act – a progressive law against torture and other forms of ill-treatment. In 2017, the Ministry of Justice and Constitutional Affairs adopted the Regulations to the Prevention and Prohibition of Torture. Despite the position of the law, many people continue to be subjected to torture and ill treatment, especially while in custody.

25. According to the Uganda Human Rights Commission (UHRC), at least 1,032 cases of torture were registered between the years 2016 to 2018, with an increase of 13% in 2018.²⁶ ACTV registered 3,924 cases of torture between the years 2017 to 2019.²⁷

26. Human rights trainings have been conducted together with civil society organizations such as ACTV. Despite this, in practice, the enforcement of the PPTA is still a challenge, and security agencies are still the majority perpetrators of torture.¹ The enforcement of Covid-19 guidelines by security agencies often resulted in incidences of torture and cruel treatment. ACTV documented 95 cases of torture as a result of enforcement of Covid-19 guidelines by security agencies between the months of March 2020 – December 2020. Furthermore, incidences of torture and cruel treatment have been evident during the just concluded 2020/2021 general elections. ACTV documented 69 cases of torture in a period January 2021 to March 2021.

27. Furthermore, military operations by the Fisheries Protection Unit (FPU), a marine section of the Uganda People's Defence Force (UPDF), is often cited in torture and other forms of ill treatment in the fishing communities. Irked by the persistent reports of torture, the then Speaker of Parliament, Hon. Rebecca Kadaga vowed to continue challenging torture in the fishing communities.²⁸

28. The State has failed in its role to observe and protect persons from torture during arrest and detention. Illegal detention in ungazetted facilities is further worsening the situation by exposing more suspects to torture because they are held outside of the protection of the law.

²⁶ Uganda Human Rights Commission Reports, <https://www.uhrc.org/uhrc-reports/>

²⁷ ACTV Annual Reports, <https://actvuganda.org/resources/actv-annual-report/>

²⁸ "Kadaga vows to fight torture in fishing communities," Parliament of Uganda, <https://www.parliament.go.ug/news/3484/kadaga-vows-torture-fishing-communities>

29. According to the Report of the Committee of Parliament on Human Rights on Alleged Torture in Ungazetted Detention Centres in the Country, November 2019, several victims testified before the Committee that they had been tortured from different ungazetted detention centres commonly known as ‘safe houses’ that were operated by the Internal Security Organisation (ISO).²⁹

30. On February 5, 2020, the Parliamentary Committee on Human Rights released a report from its investigations noting that the officers of the Internal Security Organisation (ISO), an organization of intelligence military officers, had abducted and illegally detained more than 400 people in “safe houses” and on an island on Lake Victoria.

31. In a March 2022 Human Rights Watch report,³⁰ hundreds of enforced disappearances and arbitrary detentions were documented. Most of the detainees spent over one year on a Lake Victoria Island, without any trace or access to next of kin, lawyers or doctors. Many respondents for the research recounted how they were tortured in detention using various methods of inflicting pain such as crucifixion, rape and other forms of sexual violence, severe beating, spending days and nights in chains and handcuffs, prolonged blindfolding, blaring music and bright light torture, water boarding, forced hard labour on plantations and fishing, among others³¹ In January 2022, Ugandan author Kakwenza Rukirabashaija was arrested and tortured in detention.³²

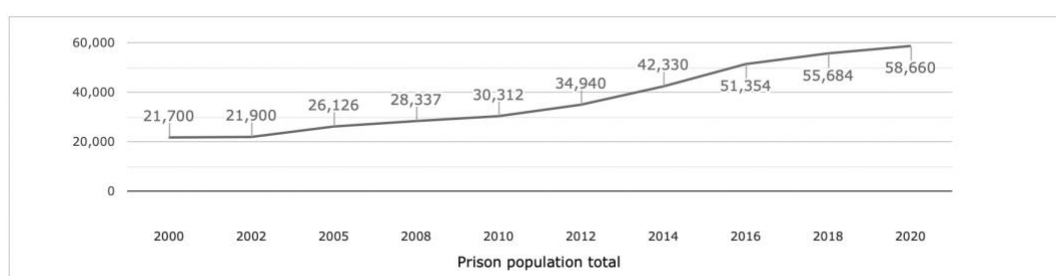


Figure 1:Source: World Prison Brief, 2022

32. On conditions of places of detention, the State party has taken steps to construct new prison facilities across the country and expand some of the existing facilities. Despite of these positive steps, Uganda’s prisons still remain acutely overcrowded. For example, in 2015, Uganda was holding nearly 42,000 inmates in prison facilities that are designed to hold around 16,000 prisoners. Most of the inmates were pre-trial detainees. The prison was also chronically understaffed, for example, there were only 5 doctors to manage the entire prison population.³³

²⁹ “Report of the Committee of Parliament on Human Rights on Alleged Torture in Ungazetted Detention Centres in the Country,” November 2019, Parliament of Uganda, Committee on Human Rights, Pg. 5

³⁰ Human Rights Watch, *Uganda: Hundreds ‘disappeared,’ tortured*, <https://www.hrw.org/news/2022/03/22/uganda-hundreds-disappeared-tortured>

³¹ Human Rights Watch, *Uganda: Hundreds ‘disappeared,’ tortured*, <https://www.hrw.org/news/2022/03/22/uganda-hundreds-disappeared-tortured>

³² NTV Uganda, *Tracing Kakwenza Rukirabashaija’s pain during military detention*, <https://www.youtube.com/watch?v=HbrHaHH3cAs>

³³ Voice of America, *Uganda prison overcrowding poses new health risks*, <https://www.voanews.com/a/uganda-prison-overcrowding-poses-new-health-risks/2714063.html>

33. In 2020, Uganda's prison population surged to 59,000 prisoners and within a period of 5 months, it shot to 65,000 due to arrests related to flouting of Covid-19 emergency rules. This exacerbated the overcrowding situation in prison facilities that, according to prison authorities, are capable of accommodating only 20,000 inmates.³⁴ According to the World Prison Brief, as at March 2022, Uganda's prison population stood at 68,261, with majority (51.6 percent) being pre-trial detainees / remand prisoners and 4.6 percent being female prisoners. The occupancy level based on official capacity indicators is 341.5 percent.³⁵

Suggested questions

- a) Please comment on the widespread reports of torture in Uganda. Provide information on the investigations conducted in all the documented and reported cases, successful prosecutions in criminal courts of laws, and whether the names of the individual perpetrators in the security forces are revealed to facilitate accountability processes.
- b) What is the government doing to ensure that torture and ill treatment of suspects in custody comes to an end?
- c) Please specify what is being done to stop the practice of arresting suspects first and then investigating later which accounts for the high numbers of long-pre-trial detention and overcrowding in prisons.

E: Prohibition of arbitrary detention, right to equality before courts and to a fair trial (Art. 9 and 14)

34. The legal framework on arbitrary detention, right to equality before the courts and to a fair trial, both at domestic and the international level, prohibit in absolute terms incidents of breach of the fundamental guarantees. Despite the position of the law, many people continue to be subjected to arbitrary arrests, detention and denied fair trial and due process rights.

35. We applaud the Uganda Police Force for launching the Uganda Police Human Rights Policy in 2019. However, incidents of police brutality and arbitrary arrests and detention are common, especially in the context of expression of dissent and demand for accountability, transparency and democracy. In its 21st Annual Report, published in 2018, the Uganda Human Rights Commission (UHRC) noted with concern the continued long and arbitrary detention of suspects in police custody, with some suspects found to have been detained for weeks and even

³⁴ Reuters, *Uganda's prisoner population surges, raising fears of Covid-19 outbreak*, <https://www.reuters.com/article/us-health-coronavirus-uganda-prisons-idUSKCN2531KA>

³⁵ World Prison Brief, *Uganda*, <https://www.prisonstudies.org/country/uganda>

months in police custody without being produced before court.³⁶ Opposition political leaders,³⁷ lawyers,³⁸ land rights defenders³⁹ among others have been subjected to arbitrary detention.

Militarization of the policing work, politically motivated prosecutions and trial of civilians in the military court

36. Increased militarization of law enforcement and policing functions has further caused a rise in incidents of enforced disappearances, incommunicado detention, arbitrary arrests and detention and trial of civilians in politically motivated prosecutions in the General Court Martial. Hundreds of young people who subscribe to opposition political groups especially the National Unity Platform (NUP) have specifically been targeted.

37. Incidents of politically motivated prosecutions of opposition leaders further continued to occur during the period under review. The situation has deteriorated leading to the prosecutions being conducted in the military court. Aides and supporters of opposition political leaders, notably those of Hon. Robert Kyagulanyi, alias Bobi Wine were common. For example, on August 13, 2018, six opposition Members of Parliament, including Hon. Francis Zaake and Hon. Kyagulanyi and 28 other people were arrested in the north-western town of Arua and charged with treason in politically motivated charges. On December 30, 2020, security operatives arrested at least 50 campaign assistants of Hon. Kyagulanyi and charged them in the military court on allegations of being in possession of four rounds of ammunition.

38. On July 2, 2021, the Constitutional Court in a landmark decision stopped military courts from trying civilian suspects on grounds that the court's jurisdiction is only limited to trying offences in respect of persons subject to the military law. Whereas we welcome this decision, we note with concern that the government of Uganda has since filed an appeal in the Supreme Court seeking to overturn this progressive judgment. This yet another sign that there is no political will to stop trying civilians in military courts.

Fair trial and due process rights

39. There has been continuous violation of the right to fair trials, including the right to be told as early as possible what you are accused of, presumption of innocence, release on police bond and bail, prolonged pre-trial detention, right to attend the trial as an accused person and access to competent services of a legal aid lawyer. Article 28 of the 1995 Constitution of Uganda provides for these rights. The Covid-19 pandemic restrictions have worsened the situation by sharply raising the number of people being pushed into the already overcrowded

³⁶ The Conversation, *Arbitrary detention and torture in Uganda: the government ignores the law*, <https://theconversation.com/arbitrary-detention-and-torture-in-uganda-the-government-ignores-the-law-157607>

³⁷ In 2016, the opposition presidential candidate Kizza Besigye was subjected to “preventive detention” at his home for over 40 days. For more: <https://www.voanews.com/a/uganda-besigye-40-days-under-house-arrest/3259158.html>

³⁸ Frontline Defenders, *Arrest of Advocate Nicholas Opiyo and four colleagues*, <https://www.frontlinedefenders.org/en/case/arrest-advocate-nicholas-opiyo-and-four-colleagues>

³⁹ Business & Human Rights Resource Centre, *Uganda: Harassment and arbitrary detention of land rights defenders in the Kiryandongo district*, <https://www.business-humanrights.org/en/latest-news/uganda-harassment-and-arbitrary-detention-of-land-rights-defenders-in-the-kiryandongo-district/>

criminal justice system and detention facilities. The pandemic has resulted in scaling down of court operations and a move to increased use of technology. However, challenges in availability and adoption of ICT in the justice system is resulting in violation of fair trial rights. Relatedly, President Yoweri Museveni has been on record a number of times demanding for the right to bail to be scrapped.⁴⁰⁴¹ We are concerned by the demands by the head of the executive is likely to influence the judiciary to go slow on bail thereby impeding enjoyment of the fundamental right. The continued objection to the release of two opposition legislators, Hon. Ssegirinya Muhammed and his colleague Hon. Allan Ssewanyana, on bail yet they are being charged with bailable offences is an example of the impact of the remarks by the president.⁴²

State of independence of the judiciary

40. The independence of the Judiciary is guaranteed under Article 128 (1) and (2) of the 1995 Constitution of Uganda. To give effect to this provision, the Administration of the Judiciary Act, 2020 was enacted to operationalize Chapter Eight of the 1995 Constitution, notably establishing the Judiciary fund and streamlining retirement benefits for judicial officers.

41. However, despite the above provisions and progress towards the protection of the independence of the Judiciary, there has been a recurring intrusion by the Executive and the Legislature on the independence of the Judiciary. For example, in January 2017, the Speaker of Parliament defied a court order banning debate over controversial oil funds and dismissed it as ‘stupid’. The Executive arm of government, through its security agencies, have also interfered with the sanctity of the courts disregarding court orders especially habeas corpus and unconditional release orders and by re-arresting accused persons at the court premises. A case in point is the brutal re-arrest of four murder suspects at the precincts of the International Crimes Division of the High Court in Kololo, shortly after they were released on bail on September 11, 2019.⁴³

Access to legal aid

42. Over several years, the government of Uganda has been reluctant to commence the process of enactment of a law on legal aid service provision. This prompted the civil society to take the initiative. In partnership with some Members of Parliament, civil society organisations under the leadership of the Legal Aid Service Providers’ Network (LASPNET) supported a private members bill to kickstart the process of enacting the National Legal Aid Bill, 2020 (NLAB 2020). The bill was introduced in Parliament for the first reading on May 11, 2020 by

⁴⁰ The Independent, *Museveni’s stand on bail*, <https://www.independent.co.ug/musevenis-stand-on-bail/>

⁴¹ NTV Uganda, *President Museveni complains about bail as new judges are sworn in*, <https://www.youtube.com/watch?v=rTT2l2Echic>

⁴² The New Vision, *MP Ssemujju questions denial of bail to MPs Ssegirinya, Ssewanyana*, <https://www.newvision.co.ug/articledetails/118236>

⁴³ See more here on the brutal re-arrest of suspects at court. Statement by the Judiciary, <http://judiciary.go.ug/data/news/741/1999/Re-Arrest%20of%20Kaweesi%20Murder%20Suspects%20Was%20High-Handed.html>

Hon. Komakech Lyandro (former Gulu Municipality MP)⁴⁴ after which it was deferred to the Legal and Parliamentary Committee in which it awaits tabling during the first session.

43. To assess the costs and benefits of implementing the national legal aid policy in Uganda, LASPNET commissioned the Cost Benefit Analysis of the Legal Aid Policy (2016) study which emphasized the benefits of the legal aid law.⁴⁵ It is further reported by the HiIL Justice Needs Report (2016) that over 88% of Ugandans face barriers in their quest to access justice. The lack of a national legal aid law is major contributor to these challenges. Therefore, the enactment of the NLAB 2020 will help to close the access to justice gap and also lessen the burden posed on Legal Aid Service providers which are largely donor dependent.

Transitional justice

44. In June 2019, the Cabinet adopted the National Transitional Justice Policy (NTJP), an overreaching framework of the government of Uganda designed to address justice, accountability and reconciliation needs of post-conflict Uganda.⁴⁶ The objectives of the NTJP include addressing gaps in the formal justice system for post conflict situations, formalizing the use of traditional justice mechanisms, facilitating reconciliation and nation building, addressing gaps in the current amnesty process, and providing reparations for post conflict situations. This is an affirmation of the government's commitment to national reconciliation, peace and justice for communities in post-conflict communities.

45. However, the reluctance to enact the Transitional Justice Bill, 2019 (TJB) – two years on, unfulfilled promises made for reparations in the past, and concerns on level of victim participation in the development of the NTJP raise serious concerns on the possible successes of the process.

46. The government has adopted an implementation road map for the NTJP and Cabinet has approved the fast tracking of the TJB 2019 as well as the wide dissemination of the NTJP. The government should be held to its promises to ensure implementation and compliance.

Suggested questions

- a) Please indicate if the State party has stopped trying civilians in military courts. If no, please explain why not.
- b) Please indicate if the State party intends to ratify the International Convention for the Protection of All Persons from Enforced Disappearance. If yes, please specify when that is expected to be done.

⁴⁴ LASPNET, “*The 10th Parliament flashes green light on the national legal aid bill, 2020 as it winds up its business,*” <http://www.laspnet.org/blog/569-the-10th-parliament-flashes-green-light-on-the-national-legal-aid-bill-2020-as-it-winds-up-its-business>

⁴⁵ JLOS, “*Cost Benefit Analysis of the Legal Aid Policy,*” <https://www.jlos.go.ug/index.php/com-rsform-manage-directory-submissions/services-and-information/press-and-media/latest-news/item/579-cost-benefit-analysis-of-the-legal-aid-policy>

⁴⁶ Ministry of Internal Affairs, “*National Transitional Justice Policy (NTJP),*” June 2019, https://drive.google.com/file/d/1zbqYZgRVpUpDrQUTM5c_GeMsultrB9O2/view

- c) Please explain what actions have been taken to ensure that the perpetrators of arbitrary detention and enforced disappearances, including their commanding officers, to account.
- d) Please indicate what actions have been taken to close down all ungazetted detention facilities where people are reportedly tortured from and the actions taken to hold the law enforcement officers and their commanding officers to account.
- e) Please explain what is being done to expedite the enactment of the National Legal Aid Bill, 2020 in Parliament's first session and the State party's commitment to ensure effective implementation of the law.
- f) Please explain what is being done to expedite the enactment of the Transitional Justice Bill, 2019 and the actions being taken to ensure that victims are effectively at the center of the government's transitional justice efforts and effective implementation of the law is made a priority.
- g) Please specify what actions are being done to ensure that victims and survivors of torture and other human rights violations are not targeted in reprisal attacks for seeking justice and accountability for the crimes committed against them.

F: Freedom of assembly and of association (Art. 21 and 22)

Comments

Freedom of assembly

47. The 1995 Constitution of Uganda provides for the right to participate in political and public affairs under Clause II of the National Objectives and Directive Principles of State Policy and Articles 1 (4), 20, 21, 29 (1) (a)(b)(d)(e), 38, and 41. These provisions mirror the right to the freedom of peaceful assembly and to protest as established under the Covenant.

48. Despite these progressive superior legal provisions, the State party has consistently enacted laws that provide for clawback clauses to extinguish the freedom of peaceful assembly as established under human rights law. For instance, section 32 of the Police Act (Cap 303) empowered the Inspector General of Police (IGP) to prohibit the convening of an assembly or procession on any public road, street or any place of the public resort if the IGP has reasonable grounds to believe the assembly or procession was likely to cause a breach of peace. This provision was successfully challenged in the case of *Muwanga Kivumbi v Attorney General*, and it was annulled on May 27, 2008 by the Constitutional Court.⁴⁷

⁴⁷ Link to the court decision on Constitutional Petition No. 9 of 2005, <https://ulii.org/ug/judgment/constitutional-court-uganda/2008/34>

49. Instead of implementing the court's decision, the Parliament of Uganda enacted the Public Order Management Act in 2013 with a similar provision under section 8, granting the police broad authority to stop, prevent or forcefully disperse a public meeting or assembly. On March 26, 2020, the Constitutional Court of Uganda declared Section 8 of the Public Order Management Act, 2013 unconstitutional in the case of *Human Rights Network & 4 others v Attorney General*.⁴⁸ Whereas this is a positive step, it is concerning that instead of the State party implementing the court's decision, it moved to appeal seeking to maintain the unconstitutional police powers to block or disperse peaceful assemblies.

50. In the wake of the Covid-19 pandemic, Uganda authorities used presidential directives and statutory instruments issued by the Minister of Health to block peaceful assemblies disproportionately. For instance, on November 18, 2020, when members of the public came out to protest against the arbitrary arrest of opposition leader Robert Kyagulanyi, commonly known as Bobi Wine for allegedly breaching the Covid-19 regulations by addressing large crowds for his campaign rallies, the security forces responded with teargas and live bullets, which led to 16 deaths and 45 people suffered injuries.⁴⁹ Dr. Stella Nyanzi was also arrested on May 19, 2020 for allegedly inciting violence when she led a group of protestors against what they called 'slow distribution' of food and other relief goods to vulnerable people affected by Covid-19-related lockdown.⁵⁰

51. The freedom of peaceful assembly online has also been impeded by the government of Uganda through indiscriminate weeklong internet shutdown during the January 2021 elections, unjust social media tax, indefinite Facebook ban, arbitrary arrests of bloggers, among others.

Freedom of association

52. On July 28, 2005, the State party held a referendum on restoring multi-party politics. With over 90 percent of the voters voting in favour of the restoration, the ban on political parties that had lasted for nearly 20 years apparently in order to curb sectarian tensions came to an end. Therefore, the 2006 general elections were held in a multi-party dispensation.

53. However, despite the transition to multi-party politics, the party politics in Uganda are marred by violence, surveillance,⁵¹ arbitrary and violent arrests and arbitrary or preventive detentions, and other forms of human rights violations. It is difficult for political parties to exercise their right to mobilise voters across the country in political meetings and rallies because of police action to block the party activities,⁵² save for rallies within the short election

⁴⁸ "POMA: Uganda court annuls public order law (with link to the court decision)," Chapter Four Uganda, <https://chapterfouruganda.org/articles/2020/03/29/poma-uganda-court-annuls-public-order-law>

⁴⁹ Human Rights Watch, *Uganda: Authorities weaponize Covid019 for repression*, <https://www.hrw.org/news/2020/11/20/uganda-authorities-weaponize-covid-19-repression>

⁵⁰ Aljazeera, *Uganda arrests Stella Nyanzi at protest over coronavirus response*, <https://www.aljazeera.com/news/2020/5/19/uganda-arrests-stella-nyanzi-at-protest-over-coronavirus-response>

⁵¹ BBC News, *UK firm's surveillance kit 'used to crush Uganda opposition'*, <https://www.bbc.com/news/uk-34529237>

⁵² BBC News, *Ugandan opposition leaders sprayed pink to stop rally*, <https://www.bbc.com/news/world-africa-13355229>

campaign window.⁵³ For example, several district coordinators of the National Unity Platform (NUP), an opposition political party have been subjected to arbitrary arrests, detention and some of them torture because of their political activities.⁵⁴

54. Civil society organizations have also been targeted with the tightening of laws on freedom of association, particularly the legal regime that provides for Non-Governmental Organisations (NGOs).

55. In January 2016, President Museveni signed the Non-Governmental Organisations Act, 2016 (NGO Act 2016) into law.⁵⁵ Whereas the law establishes several progressive sections, it contains several restrictive provisions which hinder rather than enable the freedom of association. For example, the law actively discriminates against unincorporated persons and effectively whittles away their right to freedom of association and provides for undefine, vague obligations in relation to acts prejudicial to the interest and the dignity of the people of Uganda thereby creating an offence which is in contravention of the principle of legality. The law further imposes an unjustifiable a monthly fine of Uganda Shillings 200,000 (USD 57) for Community Based Organisations (CBOs) and Uganda Shillings 2,000,000 (USD 562) for operating without a valid permit. The law further imposes unjustifiable restrictions on freedom of association by establishing criminal sanctions of imprisonment against NGO officers for failure to meet administrative obligations.

56. In enforcement of the NGO Act 2016, on August 20, 2021, the National Bureau for NGOs arbitrarily halted the operations of 54 NGOs and non-profit companies for alleged non-compliance with the law.⁵⁶ Many other NGOs have been summoned and interrogated for apparent administrative lapses. In September 2020, the government suspended at least 208 civil society organizations, including 85 international groups, which represent three-quarters of refugee aid agencies in Uganda from operating over apparent non-compliance with operational rules.⁵⁷ On September 9, 2020, the government arbitrarily suspended the operations of United States Agency for International Development (USAID)-funded group, *GiveDirectly* leading to the termination of a US \$10m Covid-19 relief grant to over 100,000 Ugandans.⁵⁸ The suspension was later lifted almost one year later in September 2021.⁵⁹

⁵³ Human Rights Watch, *Uganda: End police obstruction of gatherings*,

<https://www.hrw.org/news/2015/10/18/uganda-end-police-obstruction-gatherings>

⁵⁴ The Independent, *Kasese NUP Coordinator says he was tortured*, <https://www.independent.co.ug/kasese-nup-coordinator-says-he-was-tortured/>

⁵⁵ Chapter Four Uganda, *The Non-Governmental Organisations Act, 2016 [Laws of Uganda]*,

<https://chapterfouruganda.org/sites/default/files/downloads/The-Non-Governmental-Organisations-Act-2016.pdf>

⁵⁶ NGO Bureau, *Press release: Statement on halting of operations of fifty four (54) NGOs due to non-*

compliance with the NGO Act 2016, <https://www.ngobureau.go.ug/sites/default/files/news-notices/2021/08/STATEMENT%20ON%20HALTING%20OF%20OPERATIONS%20DUE%20TO%20NON-COMPLIANCE.pdf>

⁵⁷ The Guardian, *Uganda suspends three-quarters of refugee aid agencies from operating*,

<https://www.theguardian.com/global-development/2020/sep/02/uganda-suspends-three-quarters-of-refugee-aid-agencies-from-operating>

⁵⁸ GiveDirectly, *Press statement on the suspension*, <https://www.givedirectly.org/wp-content/uploads/2020/11/202011-GiveDirectly-Uganda-Press-Release.pdf>

⁵⁹ The Observer, *Museveni gives NGO GiveDirectly 'second chance', to distribute Shs. 106bn cash*,

<https://observer.ug/news/headlines/71313-museveni-gives-ngo-givedirectly-second-chance-to-distribute-shs-106bn-cash>

57. The Anti-Money Laundering Act, 2013 has also been used to unjustifiably and arbitrarily freeze bank accounts of at least 8 NGOs and place onerous reporting requirements on organizations. We are concerned that these developments send a chilling effect on the freedom of association.

Suggested questions

- a) Is the State considering to withdraw the appeal it filed in the Supreme Court against the repeal of Section 8 of the Public Order Management Act, 2013 (POMA) and implement the decision of the court?
- b) Please comment on reports that law enforcement officers actively act to impede mobilization and association activities of political parties as expected in a multi-party democracy?
- c) Is the State considering to repeal and amend repressive sections under the NGO Act, 2016, in particular Sections 29 (1) and (2) (b) (4) (a), 31 (2) (3), 32 (6), 40, 41 (7), and 44 (a) (c) (d) (f) and (g) to bring the law in conformity with the 1995 Constitution of Uganda and the commitments of Uganda under the Covenant?
- d) Is the State considering to amend the Anti-Money Laundering Act to remove NGOs from the list of accountable persons?

G: Freedom of opinion, expression and freedom of the press (Art. 19)

58. Uganda's legal framework and the Covenant recognize and protect the right to the freedom of opinion, expression and freedom of the press. While the freedom is not absolute, any limitations must be necessary, proportionate and necessary in a free and democratic society. Despite of this legal framework, these freedoms continue to come under attack.

59. A number of bloggers and writers being arrested for sharing their opinions online and in publications has also gone up. For example, on April 13, 2020, Ugandan writer and novelist Kakwenza Rukirabashaija was arrested and interrogated on his novel, *'The Greedy Barbarians'* which explores high-level corruption. On January 27, 2019, Stella Nyanzi, a scholar and activist was arrested and charged with cyber harassment and offensive communication under Sections 24 (1) and (2) (a) and 25 of the Computer Misuse Act, 2011 on allegations that she used vulgar language aimed at ridiculing President Yoweri Museveni.

60. Journalists have also been targeted because of their work, as Uganda's Press Freedom Index dropped 7 places from 125 in 2021 to 132 out of 180 countries in 2022.⁶⁰ For example, on February 17, 2021, at least eight journalists sustained serious injuries following an attack by security forces deployed outside of the UN OHCHR office in Kololo. Ironically, the journalists were set to cover former Presidential Candidate Hon. Robert Kyagulanyi who was delivering a

⁶⁰ Reporters Without Borders, *Uganda (2022 rankings)*, <https://rsf.org/en/country/uganda>

petition to the body on persistent brutality and human rights violations by security agencies in Uganda. On December 27, 2020, several journalists working with major news outlets in Uganda sustained injuries as they covered a scuffle when the police moved in to disperse supporters of the National Unity Platform in Kyabakuzza Trading Centre in the southern town of Lwengo. Some of the journalists were hit with projectiles and sustained injuries from teargas canister explosions.

61. Journalists have also been targeted through restrictions of access and licensing. On December 10, 2020, at the height of political activities ahead of the January 2021 general elections poll, the Media Council of Uganda (MCU) issued a directive requiring all practicing journalists in Uganda to register for accreditation to cover political events. This denied several journalists the opportunity to cover the elections.

62. Media houses were also targeted to whittle away their editorial independence. For example, on January 14, 2021, the police turned off the radio transmitters of Busoga One FM in Jinja City on allegations of inciting violence for reporting provisional results of the 2021 general elections from Busoga sub-region. On January 21, 2021, the Uganda Communications Commission switched off Baba FM in Jinja on allegations of inciting community members for broadcasting live updates of the mayoral race.

63. On January 13, 2021, on the eve of Uganda's general presidential elections, Uganda's Communication Commission (UCC) ordered all internet service providers in the country to indefinitely and indiscriminately suspend all internet gateways without justifiable cause. The services were gradually restored after one month.⁶¹ This was worse than in February 2016 when only social media platforms were disabled. The internet shutdown was a means of disrupting access to information and free expression on the conduct of the elections and an effort to block anti-Museveni protests.⁶² Facebook remains banned in Uganda, 17 months on. The social media application can only be accessed through virtual private networks (VPNs).

64. The Minimum Broadcasting Standards established under Schedule 4 of the Uganda Communications Act, 2013 further creates vague and problematic provisions that are used to narrow press freedom in Uganda. Under section 31 of the Act, a person shall not broadcast any programme unless the broadcast or programme complies with Schedule 4 of the Act. The Uganda Communications Commission (UCC) regularly enforces these standards, often in a manner that leaves many human rights defenders concerned. Notably, in May 2019, UCC ordered for the immediate suspension of 39 producers, heads of programming and heads of news and ordered investigations into the coverage of six TV stations (NBS TV, BBS TV, NTV Uganda, Bukedde TV, Kingdom TV and Salt TV) and seven radio stations (Akaboozi, Beat FM, Capital FM, Pearl FM, Sapienta FM, and Radio Simba). The impugned UCC directives arose from the April 29, 2019 broadcast of a procession of Hon. Robert Kyagulanyi, commonly known as Bobi Wine and his subsequent arrest by the police. UCC raised concern and noted that it observed misrepresentation of information, views, facts and events in a manner likely to

⁶¹ The Daily Monitor, *Govt lifts internet shutdown imposed over election*, <https://www.monitor.co.ug/uganda/news/national/govt-lifts-internet-shutdown-imposed-over-election-3286184>

⁶² CIPESA, *Uganda again blocks social media to stifle anti-Museveni protests*, <https://cipesa.org/2016/05/uganda-again-blocks-social-media-to-stifle-anti-museveni-protests/>

mislead or cause alarm to the public during the live broadcasts and main news bulletins. UCC further accused the media houses of airing programs that have “extremist or anarchic messages, including incitement of violence.”⁶³ The UCC conducted an investigation and in the October 2019 investigation report,⁶⁴ it was found that the 13 media houses were in breach of the minimum broadcasting standards.

65. Whereas press freedom is not absolute, the minimum broadcasting standards provide for overbroad and vague provisions which cannot be justified in a free and democratic society. For instance, the requirement that a broadcaster or video operator shall ensure that broadcasts are not contrary to “public morality”, does not promote the “culture of violence”, is not “likely to create public insecurity or violence”, and news broadcasts must be free from “distortion of facts”. These standards contain vague statements that have been enforced subjectively, selectively and in an overbroad manner as has been demonstrated above.

Suggested questions

- a) Is the State considering to repeal Sections 24 and 25 of the Computer Misuse Act, 2013 and ensure that any subsequent related legislation is in conformity with the Constitution and the Covenant?
- b) Please explain the actions taken to end impunity for brutality against journalists? Comment on calls for conducting an independent and transparent investigation into all reported cases of brutality against journalists and ensuring that individual perpetrators are held to account.
- c) Is the State considering to amend the Minimum Broadcasting Standards under Schedule 4 of the Uganda Communications Act, 2013 to bring them in conformity with the Covenant?
- d) Is the State considering to end social media and internet shutdowns?

H: Participation on public affairs and electoral rights (Art. 25)

Comments

66. The 1995 Constitution of Uganda, Electoral Commission Act Cap. 140 and other relevant domestic laws provide for a framework for regular, free and fair elections. This framework has its base in the UDHR, ICCPR and the ACHPR. Following the recommendations made in 2016, and ahead of the 2021 general elections, the Parliament of Uganda made amendments to five major pieces of legislation on elections. These include 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, the Parliamentary Elections

⁶³ The Observer, *Bobi Wine: UCC orders suspension of 39 journalists at 13 media houses*,

<https://observer.ug/news/headlines/60575-ucc-orders-suspension-of-39-journalists-at-13-media-houses>

⁶⁴ Uganda Communications Commission, *Breach of the Minimum Broadcasting Standards: Investigation report*, https://www.ucc.co.ug/wp-content/uploads/2019/10/ucc_Broadcasting_Investigation_Report.pdf

(Amendment) Act, 2020 to cater for the representation of the elderly in Parliament, Electoral Commission Act, Local Government Act and Political Parties and Organisation Act.

Electoral reforms and independence of the Electoral Commission

67. Uganda amended the Electoral Commission Act Cap. 140 by enacting the Electoral Commission (Amendment) Act, 2020. However, instead of addressing the reforms called for by multiple observers during the February 2016 elections, the Supreme Court in the presidential election petition and member States during the 2nd cycle of the UPR, the amendment only focused on providing for the use of technology in management of elections and other administrative procedures. The amendments therefore fell short of what was expected. More to this, in November 2016, President Museveni snubbed calls to make the process of appointment of commissioners to the Electoral Commission (EC) more inclusive and transparent when he singly appointed the new Chairperson of the EC and the six commissioners.⁶⁵

Transparency of the 2021 electoral process

68. The 2021 general elections, which were held in the context of the Covid-19 pandemic, were in many ways less transparent than the 2016 elections. The EC failed to strike a balance between public safety in the face of Covid-19 and electoral freedoms and rights. Hon. Robert Kyagulanyi of the National Unity Platform (NUP) and other opposition candidates were repeatedly teargassed, assaulted, arbitrarily and violently arrested, detained, denied access to media stations. On the eve of the elections, on January 13, 2021, the Uganda Communications Commission (UCC) ordered telecom operators and internet service providers to suspend all internet gateways. They were only switched back on after declaration of the results.

Concerns on failure to accredit election observers

69. In the 2021 general elections, the Electoral Commission (EC) declined to accredit many local and international observers, including those that observed the elections in 2016. For example, the Citizens' Coalition for Electoral Democracy in Uganda (CCEDU) and National Coalition for Human Rights Defenders Uganda (NCHRD-U) were not accredited despite submitting applications. No reasons were given for the decision. The U.S. Mission in Uganda also decided to cancel diplomatic observation of the 2021 elections due to the decision by the EC to deny more than 75 percent of the U.S. election observer accreditations requested.⁶⁶ The European Union also declined to observe the 2021 elections, citing pre-electoral cycle of violence, excessive use of force by law enforcement and security agencies which "seriously tarnished" the electoral process.⁶⁷

⁶⁵ The East African, "Museveni names new head of Electoral Commission,"

<https://www.theeastafrican.co.ke/tea/news/east-africa/museveni-names-new-head-of-electoral-commission-1358012>

⁶⁶ 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/>

⁶⁷ European Union, "Uganda: Statement by High Representative Josep Barrell on the upcoming general elections," <https://eeas.europa.eu/headquarters/headquarters->

Suggested questions

- a) Is the State considering to amend Article 60 (1) of the 1995 Constitution of Uganda to provide for an inclusive, transparent and consultative process of appointing commissioners to the Electoral Commission?
- b) Is the State considering to 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?
- c) Please explain the actions that have been taken to enact electoral reforms to address issues raised by multiple observers during February 2016 elections and January 2021 elections.
