



The Human Rights Centre Uganda

Human Rights Defenders in Uganda

**A Situational Analysis of their
Rights and Challenges
2010 - 2011**



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Acronyms

ACHPR	African Commission on Human and People's Rights
AfCHPR	African Court on Human and People's Rights
CBOs	Community Based Organisations
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CESCR	Committee on Economic, Social and Cultural Rights
CSOs	Civil Society Organisations
DPC	District Police Commander
EHAHRDP	East and Horn of Africa Human Rights Defenders Project
ESCR	Economic, Social, and Cultural Rights
EU	European Union
FCS	Foundation for Civil Society
HRDs	Human Rights Defenders
HRNJ	Human Rights Network for Journalists - Uganda
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IGP	Inspector General of Police
LGBTI	Lesbian, Gay, Bisexual, Transsexual and Inter-gender
MADINGOF	Masaka District NGO Forum
NGOs	Non Governmental Organisations
NHRAU	National Human Rights Association of Uganda
OP1	First Optional Protocol of the ICCPR
RDC	Resident District Commissioner
UDHR	Universal Declaration of Human Rights
UHRC	Uganda Human Rights Commission
UNSR	United Nations Special Rapporteur on the Situation of Human Rights Defenders
UPR	Universal Periodic Review





Foreword

The Human Rights Centre Uganda (the Centre) is a relatively new human rights organization which was founded in 2008 by a group of professionals who had been active in human rights work for several years. The Centre works for the promotion and protection of human rights generally, but has as its main focus the promotion and protection of the rights of human rights defenders. From the time it was established, the Centre's activities have mainly concentrated on working with defenders of human rights throughout Uganda.

Today in most countries of the world there are increased calls for freedom, social justice, good Governance and respect for human rights. In the forefront of these demands are human rights defenders. These defenders irrespective of the existence of laws that recognize the legality of their activities do so at great risks and are faced with several obstacles and challenges. Generally human rights defenders have had their rights as defenders of human rights consistently violated without proper protection from the authorities. Human rights defenders in Uganda as this report demonstrates do similarly experience treatments that not only violate their rights but make their work difficult and at times impossible.

The increasing demand for Governments to respect, promote and protect human rights is best illustrated by the Arab Spring phenomenon. Frustrated by lack of positive response to demands for human rights protection and good governance citizens are bravely taking to the streets in exercise of their rights to demonstrate in a bid to change government policies and practices. From Europe, Africa and the Arab world this is becoming a common phenomenon. Again in the forefront are human rights defenders. Uganda has seen similar developments. There have however been dramatic responses from governments who have interpreted these demands as challenges to their powers and authorities. Some of the Governments have been responding with repressive measures that seriously curtail the rights of the people and that of human rights defenders. Some of these measures include new legal restrictions, harassment, threats and outright violence, arrests and illegal detentions. In these circumstances there will always be great need for well planned activities and concerted efforts to promote, protect and defend the rights of human rights defenders.

The Centre is fully aware of the developments that are negatively impacting on the rights and work of human rights defenders in Uganda. These include planned legal restrictions, threats, harassment, violence, illegal arrests and detentions. The Centre has a Strategic Plan with strategies for responding to the various challenges that human rights defenders face. One of the strategic method is to annually document and report on the situation of human rights defenders in the country. We believe that by systematically documenting and exposing abuses and violations against human rights defenders we can contribute towards defending their rights.

This report is a follow up on the Centre's previous study 'An overview of the working environment for Human Rights Defenders in Uganda' which was published in 2009. The report covers the obstacles, threats and challenges that face human rights defenders in Uganda. The report also gives a general overview of the situation of civil and political rights from June 2010 to December 2012. Based on earlier findings from the earlier overview and requests from several human rights defenders the report provides information on the promotion and protection mechanisms that are available to human rights defenders. It also profiles the work of human rights defenders during the period covered.



And finally the report has suggestions and recommendations which in our considered opinion can go a long way in improving the situation of human rights defenders in Uganda.

The Centre hopes that the authorities and stakeholders will find the report useful in dealing with issues that surround human rights defenders in Uganda. We also hope that the report will contribute in promoting and protecting the rights of human rights defenders in Uganda.

J.M ALIRO OMARA

Chairperson, Board of Directors



Acknowledgement

The Centre would like to acknowledge the contributions of its directors, staff, researchers and interns in compiling this report. In addition, the Centre is grateful to its development partners, without whom the Centre's work would not have been possible. Finally, the Centre would like to recognise all those interviewed during the process of compiling this report. Their cooperation and candid remarks will be of invaluable use to HRDs throughout Uganda.

The Human Rights Centre Uganda



Executive Summary

This report presents a general overview of the situation of HRDs working on civil and political rights in Uganda for the period June 2010 to December 2011. The principal objective of the report was to analyse the environment in which defenders of civil and political rights operated in that period. The analysis also covered how the different categories of defenders related with each other and with the government as well as its policies at national and local levels. The report further identified the sources of threats and obstacles against HRDs, the operational challenges faced, the utilisation of available protective mechanisms for defenders, best practices and recommendations. In preparing this report, relevant documents were reviewed and several interviews were conducted with HRDs, government officials, security officials and development partners. The report is presented in six chapters preceded by an introduction to the study.

Introduction to the study: The introduction covers the objectives, the rationale and purpose of undertaking the study. It also covers the data collection methodology, scope, ethical considerations, limitations of the study and conceptual considerations.

Section One: The Legal Framework

The section analyses the legal framework at the national, regional and international levels that impacts on the environment in which HRDs operate. Legislation that directly impacts on the work of HRDs and provides reasonable safeguards for their work is discussed in this section. The legal framework discussed includes the binding legal instruments such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR); as well as the non-binding instruments like the Universal Declaration of Human Rights (UDHR) and the 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 Declaration on HRDs). The regional and national guarantees are also discussed.

Section Two: Highlights of the period under review

This section focuses on events and matters that arose during the period under review that either positively or negatively impacted on the work of HRDs. These include: the electoral period, the re-tabling of the Anti-Homosexuality Bill 2009 for debate by Parliament, the proposed constitutional amendment to the right to apply for bail and the review of Uganda at the Universal Periodic Review (UPR) and its implications for HRDs. The chapter covers the specific analysis and recommendations on how HRDs can progressively work together to harness the emerging opportunities and mitigate the rising challenges to their rights to operate freely.

Section Three: Challenges faced by Human Rights Defenders

This section examines the obstacles, threats and challenges facing HRDs, ranging from operational challenges, threats to HRDs to those related to the general political and social context within the country. Some challenges that prevent HRDs from making a tangible impact in their work are highlighted in the chapter.

Section Four: Protection and Promotion Mechanisms

This section analyses the available promotion and protection mechanisms at the national, regional and international level and provides a step-by-step approach to accessing them.



It also highlights the frameworks and institutions that can be utilised by HRDs to invoke their human rights at the national, regional and international levels and hold the State accountable. The chapter emphasises the fact that these frameworks and mechanisms complement each other.

Section Five: Strategies for HRDs

This section examines effective strategies that HRDs can emulate. The strategies are drawn from HRDs in Uganda and other jurisdictions.

Section Six: Conclusions and Recommendations

The section provides conclusions and recommendations on how to improve the environment in which HRDs operate. Recommendations are directed to HRDs, Civil Society Organizations (CSOs) and the Government. Recommendations to CSOs urge HRDs to strengthen their networking at all levels as well as their active support to those who encounter danger, to provide reliable documentation, and nurture credibility, transparency, and accountability. The main recommendations to Government include enacting specific laws which lead to the translation of the UN Declaration on HRDs into national law and the establishment of state structures and mechanisms for the protection of HRDs. Other recommendations pertain to the review of laws and regulations that restrict the rights to freedom of assembly, association and expression of HRDs to ensure that they are in conformity with the obligations of the State under international human rights law.





Introduction

Rationale for the study

Human rights are important in any given society because they are the basis of human freedom and dignity. Rule of law and democracy are key human rights components that enhance the protection and promotion of human freedom and dignity. The promotion and protection of human rights which is undertaken by HRDs is of paramount importance. However, the work of HRDs that should be highly honoured is often risky and dangerous. There has been a slow response to this situation and ironically those who speak out against human rights violations are usually targeted. HRDs face several challenges in the course of their work which tend to negate or water down the impact of their efforts.

The Centre commissioned a study¹ in 2009 on the situation of HRDs in Uganda. The survey identified and assessed the challenges facing HRDs in their work. Recommendations were made to HRDs and all stakeholders in the wider human rights community on how to improve the environment in which HRDs operate in Uganda. This report is a follow up to that study and examines the extent to which the observations and recommendations made were acted upon by the State, HRDs and the wider human rights community. A prerequisite for an environment that enables HRDs to carry out their work effectively is the effective implementation of the UN Declaration on HRDs² that codifies the rights and responsibilities of HRDs.

Purpose of the study

This report is intended to be used as an advocacy and lobbying tool for HRDs. It analyses the challenges faced by HRDs and opportunities that they can utilise in their work. The report also, shares strategies for HRDs to emulate and makes recommendations for strengthening networking and collaboration among them.

The research leading to this report aimed at gathering data on the nature and sources of obstacles in the work of HRDs and key stakeholders. Information was also collected on existing interventions for dealing with and eliminating challenges faced by HRDs and key stakeholders. This report should contribute to providing a foundation for designing interventions to address these challenges and enable HRDs protect themselves.

The research covered the period from June 2010 to December 2011. All events mentioned in the report occurred within this period unless otherwise stated.

Methodology

During the research, several methods were employed including desk research, structured interviews, use of questionnaires, sampling, use of case studies and review of secondary literature.

A sampling technique was used because it would not be viable technically and financially to meet and interview all HRDs within the country. HRDs are based all over the country and face more or less similar challenges and obstacles in the course of their work. The research was therefore carried out in the Central, Western, Eastern and Northern regions which are representative of the country.

¹See Human Rights Defenders in Uganda, An overview of the working environment for Human Rights Defenders in Uganda, 2009.

²General Assembly Resolution 53/144 (A/RES/53/144), 8th March 1999.



Face to face interviews were conducted in different districts within these regions from both urban and rural areas and a structured questionnaire was used for interviews. The questionnaire consisted of sections inquiring into the work of individual HRDs or organisations as well as the categories of rights being promoted or protected. It also inquired into the factors that hinder HRDs from carrying out their work effectively. Respondents were asked to share their experiences, including operational challenges, incidents of violations of specific rights, and their thoughts towards improving the working environment of HRDs in Uganda. Inquiries were also made on the protection mechanisms available to HRDs at the national, regional and international levels, their effectiveness and the extent to which defenders know and utilise them. Respondents were asked about the availability and efficacy of any economic, psychosocial or solidarity networks that they are involved in for enhancing their work.

Respondents were selected from across the country using the following predetermined criteria: The human rights thematic focus of the HRDs; the profile of the community the HRDs work for; the geographical scope or coverage of the issues under discussion; the physical accessibility of the HRDs; and the time available to the researchers and respondents to participate in the study.

Relevant documents and literature pertaining to the legal, policy and institutional framework on HRDs in Uganda were reviewed. In addition, researchers examined the existing regional and global human rights protective mechanisms.

Given the large number of challenges that HRDs face, this report is not exhaustive on all the human rights issues that concern HRDs. Nonetheless, the report cites a selected sample of cases to illustrate the conditions under which HRDs worked, in particular, the increased incidents of violations of civil and political rights which largely characterised the period under review.

Ethical Considerations

In compiling this report the Centre took steps to ensure that the research process did not endanger the HRDs interviewed or increase the threats they already faced. All respondents were contacted in advance of the field work and informed of the intended mission. All information received from the field was treated as confidential and only used for purposes of this report. No respondents' names, offices, positions and any other information that would reveal their identity have been revealed in this report except where there was express permission to do so. Even then, in this report, names and identities of respondents were given only in cases where the Centre felt it would not jeopardise their safety.

Limitation of the study

Qualitative data collection techniques like the ones used in this study have limitations on understanding the relationship between different concepts and variables. There was a high likelihood of recall error resulting from the inability of respondents to give proper accounts of their past experiences because these incidences had not been documented.



In comparative terms, the study was based on a small sample size that might not have been fully representative of all HRDs across the country. While this did not significantly affect the validity of the study findings, it pointed to the need for further investigation of some issues discussed to obtain a more comprehensive understanding of the overall situation.

Conceptual Considerations

In order to contextualise and locate this study in the wider socio-economic and political environment of Uganda, it was important to define and apply the concept of “civil society” and “HRDs” as it relates to Uganda in particular and East Africa in general. It is largely within this civil society environment that HRDs operate and inevitably encounter the challenges that the study highlights.

There is no standard definition of a human rights defender; however, according to the Declaration “everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms³”. The term HRDs is used to describe people who, individually or with others, act to promote or protect human rights. Defenders are identified, above all, by what they do and how they do it. HRDs can be anyone working to promote and protect human rights, including lawyers, relatives of victims, teachers, trade unionists, journalists, members of women’s organisations and human rights activists.

Civil society is defined as “the space between households or family, state and the private sector and is characterised by its emphasis or focus on the common good of society⁴.” A civil society is an “independent eye” made up of self-organised and vigilant grassroots organisations, networks, and associations. These include Non-Governmental Organisations (NGOs), Community Based Organisations (CBOs), professional associations, faith-based and cultural institutions; and the media. An effective civil society is a precondition for a vibrant, democratic and modern society⁵.

NGOs and CBOs, which make up a segment of civil society, often focus on the promotion and protection of human rights guaranteed under the national Constitution as well as regional and international human rights instruments. The task of defending these rights falls on the shoulders of HRDs, who, as countless examples worldwide indicate, also need to be defended as they carry out their work.⁶

These were adopted as the working definitions for determining and choosing the HRDs to interact with for the study. In particular, the study was interested in those organisations or individuals engaging in activities that promote or protect human rights.

³Articles 1 and Article 12 of the UN Declaration on HRDs, 1998

⁴Civicus / Deniva, Civil Society in Uganda: At Crossroads? A Civicus Civil Society Index Project Report for Uganda, June 2006.

⁵Robert Fatton, Predatory Rule: State and Civil Society in Africa, 1992

⁶UN Declaration on HRDs, 1998





The Legal Framework

Introduction

The work of HRDs is greatly advanced if their fundamental rights and freedoms are protected in law and practice. These rights and fundamental freedoms are provided for in international, regional and national instruments that constitute the acceptable legal framework protecting the rights of HRDs. These legal guarantees include freedom of opinion and expression, freedom of association, assembly and speech, the right of access to information, right to development, right to an effective remedy, right to access funding and the right to be protected.

This chapter gives an overview of the legal framework at the international, regional and national levels that promotes and protects HRDs. This legal protection contributes to the enhancement of the understanding of HRDs of those rights and responsibilities that are important for a conducive working environment for them.

International Legal Framework

The international human rights framework stems from the adoption of the UDHR⁷ in 1948. This marked the first recognition that all human beings were entitled to 'rights'⁸. The UDHR together with the subsequently adopted ICCPR and its two Optional Protocols, and the ICESCR comprise the International Bill of Rights. The international human rights framework is based on the premise that States derive legal obligations by virtue of their voluntary decision to become State parties to the various international treaties.

(i) Universal Declaration of Human Rights

The UDHR was adopted by the United Nations General Assembly, marking the first time that countries were agreeing on a comprehensive standard of inalienable human rights. The UDHR did not create legal obligations for member States,⁹ but had a profound influence on the development of international human rights law. It is now argued that because States have constantly invoked it for more than 50 years, the UDHR has become binding as a part of customary international law.¹⁰

The spirit of the declaration is stated thus:

"All human beings are born free and equal in dignity and rights ... and should act towards one another in a spirit of brotherhood."¹¹

The principle of equality in enjoyment of human rights is enshrined in Article 2 while Article 3 provides for the right to life, liberty and security of a person as essential to the enjoyment of all other rights. Articles 4 to 21 set out other civil and political rights.¹² The economic, social and cultural rights are set out in Articles 23 to 27.

⁷Adopted by General Assembly Resolution 217 A (III) on the 10th December 1948.

⁸Preamble of the UDHR "Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world." See also Article 1 "All human beings are born free and equal in dignity and rights." Found at <http://www.un.org/en/documents/udhr/index.shtml> (Accessed 28th November 2011)

⁹A declaration is not legally binding but carries moral weight because it is adopted by the international community.

¹⁰Henry J Steiner and Philip Alston, *International Human Rights in Context: Law, Politics, Morals*, 2000.

¹¹Article 1 of the UDHR, 1948.

¹²Fact sheet no. 2 (Rev.1), the International Bill of Human Rights, p.3 available at <http://web.archive.org/web/20080313093428/http://www.unhchr.ch/html/menu6/2/fs2.htm> accessed on 10th January, 2012



(ii) International Covenant on Civil and Political Rights

The ICCPR is a multilateral treaty that commits member states to respect the civil and political rights of individuals. Uganda ratified it in 1995. It is also provided that if any of the rights or freedoms recognised within the ICCPR are violated, there must be access to an effective remedy (Article 2(3) (a)). It is important to note that Article 4 of the ICCPR identifies rights that are non-derogable; meaning that they cannot be infringed upon under any circumstances.

The Covenant is legally binding,¹³ and the Human Rights Committee, established under Article 28, monitors its implementation by the member States. The Covenant has two Optional Protocols with additional obligations.¹⁴ Article 1 of the First Optional Protocol to the ICCPR provides that:

“A State Party to the Covenant that becomes a Party to the present Protocol recognizes the competence of the [‘Human Rights Committee’] to receive and consider communications from individuals ... who claim to be victims of a violation by that State Party of any of the rights set forth in the Covenant.”

Uganda acceded to the Protocol on 14th November 1995. By virtue of this, Uganda as a State Party is legally bound by the provisions of the protocol and is subject to the jurisdiction of the Human Rights Committee, which considers individual communications. However, Uganda has not acceded to the Second Optional Protocol which provides for the abolition of the death penalty.

(iii) The International Covenant on Economic, Social and Cultural Rights

The ICESCR is another legally binding multilateral treaty that commits State parties to work toward the realisation of economic, social, and cultural rights (ESCR) for individuals, including labour rights, the right to health¹⁵, the right to education¹⁶, and the right to an adequate standard of living¹⁷. Uganda ratified this Covenant on 21st January 1987.

Article 2(1) of the ICESCR requires States to take steps, including legislative measures, to achieve the “progressive realisation” of ESCR rights. This requires that States demonstrate in good faith the fulfilment of those rights over time within their capacities.

The ICESCR has one Optional Protocol, which provides the Committee on Economic, Social and Cultural Rights the authority to receive and consider communications¹⁸. The United Nations Committee on Economic Social and Cultural Rights monitors compliance with the ICESCR and provides guidance on how countries should interpret the ICESCR.¹⁹ However, the Optional Protocol which provides for the individual complaints mechanism is not yet in force because it requires ten ratifications and only five countries have ratified it.²⁰

¹³ Human Rights Explained, Fact Sheet 5: The International Bill of Rights available at http://www.hreoc.gov.au/education/hr_explained/5_international.html accessed on 22nd February 2011

¹⁴ The first Optional Protocol of the ICCPR establishes an individual complaint mechanism for the ICCPR. The second Optional Protocol abolishes the death penalty.

¹⁵ Article 12 ICESCR

¹⁶ Article 13 ICESCR

¹⁷ Article 11 ICESCR

¹⁸ Human Rights Explained, Fact Sheet 5 opcit

¹⁹ Committee for Economic Social and Cultural Rights ‘General Comment No. 03: The Nature of States Parties Obligations’, U.N. Doc HRI/GEN/1/Rev.1 at 45 (1994), available at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/94bdbaf59b43a424c12563ed0052b664?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/94bdbaf59b43a424c12563ed0052b664?Opendocument) accessed on 15th December 2011.

²⁰ Article 18 OP-ICESCR

(iv) The International Convention on Elimination of all forms of Discrimination against Women

The International Convention on Elimination of all forms of Discrimination against Women (CEDAW) was adopted in 1979 by the UN General Assembly. The Convention explicitly acknowledges that “extensive discrimination against women continues to exist”, and emphasises that such discrimination “violates the principles of equality of rights and respect for human dignity”²¹. The Convention gives positive affirmation to the principle of equality by requiring States parties to take “all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.”²² Uganda ratified the CEDAW on 22nd July 1985.

The CEDAW has an Optional Protocol that provides for hearing complaints from individuals or inquiring into “grave or systematic violations” of the Convention.²³ However, Uganda has not ratified this Optional Protocol.

(v) The United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

On the fiftieth anniversary of the UDHR in 1998, the UN General Assembly²⁴ adopted the UN Declaration on HRDs. The Declaration is not legally binding but represents a strong commitment to the implementation of the rights of HRDs. The rights and responsibilities in the Declaration are already provided for in binding legal instruments in international law. Therefore, subsequent resolutions have called for action by States and United Nations bodies to support implementation of the Declaration.²⁵

The Declaration is the main international instrument advocating for the rights of HRDs. It does not create new rights, but rather it underscores existing universally recognised rights,²⁶ giving them direct relevance and application to HRDs. The Declaration emphasises the role of all individuals to participate in the universal human rights movement and the responsibility of States to support and protect HRDs.

HRDs are described as individuals, groups and associations which contribute to eliminating all violations of human rights and fundamental freedoms.²⁷ Defenders include individuals, groups, organisations, government officials, politicians, lawyers, cultural leaders, state agencies and members of the private sector working to promote the respect for and protection of human rights. HRDs can therefore be persons working in a professional capacity or as volunteers of varying age, gender, profession, social and economic background.

²²Article 3 CEDAW

²³General Assembly Resolution 54/4 of 15th October 1999

²⁴General Assembly Resolution 53/144 of 8th March 1999.

²⁵Resolution 58/178 of 22nd December 2003

²⁶The Declaration contains human rights already enshrined in the International Bill of Human Rights available at <http://www2.ohchr.org/english/issues/defenders/declaration.htm> as accessed on 1st December 2011.

²⁷Article 1 of the UN Declaration on HRDs, 1998



The Declaration has two main features: to protect and enhance the role of HRDs in the promotion and protection of human rights. The protective clauses include:

- I. **State responsibility to ensure that HRDs are protected in the course of their work against violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any arbitrary action;**²⁸
- II. **The right to access justice (such as through a court) or have a complaint publicly heard before an authority where the human rights of a HRD have been violated.**²⁹

In enhancing the role of HRDs, the Declaration provides that everyone has duties to their communities and encourages all people to be HRDs. It states:

“Everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at national and international levels.”³⁰

Article 18³¹ further encourages HRDs to contribute to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research.

Regional Framework

(a) African Charter on Human and Peoples’ Rights

The African Charter on Human and Peoples’ Rights, also known as the **Banjul Charter**, came into effect on the 21st October, 1986 following in the footsteps of the European and Inter-American human rights systems. A regional system was thus created to promote and protect human rights and basic freedoms on the African continent. Uganda ratified the Banjul Charter on 10th May 1986.

The Banjul Charter is distinct from its regional counterparts on several levels. Some of the unique features of the Banjul Charter are that it guarantees family protection by the State,³² while “peoples” have the right to equality,³³ self-determination,³⁴ free disposal of their wealth and national resources,³⁵ development,³⁶ peace and security³⁷ and “a generally satisfactory environment.”³⁸

The African Commission on Human and Peoples’ Rights (ACHPR) interprets, promotes and protects the rights guaranteed under the Banjul Charter³⁹.

²⁸ Article 12.2 of the UN Declaration on HRDs, 1998

²⁹ Article 9.2 of the UN Declaration on HRDs, 1998

³⁰ Paragraph 4 of the Preamble to the UN Declaration on HRDs, 1998.

³¹ Article 16 and Article 18 of the UN Declaration on HRDs, 1998

³² Article 18 of the African Charter on Human and Peoples’ Rights

³³ Article 19 of the African Charter on Human and Peoples’ Rights.

³⁴ Article 20 of the African Charter on Human and Peoples’ Rights.

³⁵ Article 21 of the African Charter on Human and Peoples’ Rights.

³⁶ Article 22 of the African Charter on Human and Peoples’ Rights.

³⁷ Article 23 of the African Charter on Human and Peoples’ Rights.

³⁸ Article 24 of the African Charter on Human and Peoples’ Rights.

³⁹ Article 45 of the African Charter on Human and Peoples’ Rights.



(b) The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)

The Maputo Protocol was adopted by the African Union on 11th July 2003 and entered into force on 25th November 2005⁴⁰. The Protocol guarantees comprehensive rights to women, including the right to take part in political processes, social and political equality with men, control of their reproductive health, and an end to female genital mutilation.

The Preamble of the Protocol reflects the general concern that led to its establishment. It states:

“Despite the ratification of the African Charter on Human and Peoples' Rights and other international legal instruments by the majority of States Parties, and their solemn commitment to eliminate all forms of discrimination and harmful practices, women in Africa continue to be victims of discrimination and harmful practices.”

Uganda ratified the Protocol on 22nd July 2010. In doing so, Uganda formally committed to promoting and protecting the rights of women. It is notable, however, that Uganda ratified with a reservation on Article 14 of the Protocol, which guarantees the right to an abortion “in cases of sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the foetus.”

National Framework

(a) The Constitution of the Republic of Uganda

The Constitution of Uganda is the supreme law, and subsidiary laws should comply with the principles, letter and spirit of the Constitution⁴¹. The Constitution provides for a range of rights that everyone is entitled to, including HRDs.⁴² The National Objectives and Directive Principles of State Policy in the Constitution, which provide guidelines by which the State must be governed,⁴³ states that civic organisations shall remain autonomous when they pursue their stated objectives.⁴⁴ The State is obliged to guarantee and respect the independence of NGOs, which in turn protects and promotes human rights. Article 8(a) of the Constitution provides that Uganda must be governed on the basis of these objectives.

Article 20 of the Constitution enjoins all organs and agencies of Government and all persons to respect, uphold and promote the rights and freedoms of individuals and groups enshrined in the Bill of Rights⁴⁵. The Constitution recognises the right of every Ugandan to participate in the affairs of Government individually or through his or her representatives in accordance with the law⁴⁶.

⁴⁰Special Rapporteur on the Rights of Women in Africa, Protocol to the African Charter on Human and People's Rights on the Rights of woman in Africa, available at http://www.achpr.org/english/_info/women_prot..htm accessed on 22nd February 2011.

⁴¹Article 2 of the 1995 Constitution of Uganda.

⁴²See Chapter 4 of the 1995 Constitution of Uganda.

⁴³Article 8(a) of the 1995 Constitution of Uganda.

⁴⁴Objective II (vi) of the National Objectives and Directive Principles of State Policy, in the 1995 Constitution of Uganda.

⁴⁵Chapter 4 of the 1995 Constitution of Uganda.

⁴⁶Article 38 of the 1995 Constitution of Uganda.



Importantly, it recognises the right of every Ugandan to participate in peaceful activities to influence the policies of Government through civic organisations⁴⁷.

These constitutional provisions both protect and enhance the rights and work of HRDs. Article 29 provides for rights fundamental to the operation of HRDs, including freedom of expression, movement, assembly and association. It is also crucial that the autonomy of HRDs is recognised and protected so that they can carry out their activities impartially, without fear or favour. The right to participation provided for in Article 38 is vital to the work of HRDs, as they often question Government policies, practice and performance. Overall, these provisions recognise and emphasise the pivotal role that HRDs play in society as individuals, associations, groups and NGOs. The provisions legally recognise the legitimacy of HRDs in Uganda.

Although the Constitution does not specifically mention HRDs, it clearly attributes rights to individuals, groups and associations defending human rights. In the event that these rights are violated, the Constitution provides for recourse mechanisms. Article 50 provides for recourse to courts of law by any person or organisation to seek orders for redress when human rights are violated. Recourse can also be sought from the Uganda Human Rights Commission (UHRC) under Article 53(2), which provides the UHRC with powers to make orders for redress and remedies where proof exists that human rights and freedoms have been infringed.

Conclusion

The legal framework is comprehensive enough to provide sufficient safeguards to facilitate the work of HRDs. This framework covers the protection of HRDs and they can report any violations of their rights and freedoms. These instruments do not operate in isolation but however draw support from each other to aptly protect HRDs. If the legal framework at the national level is not comprehensive enough to protect HRDs, it can be complemented by the instruments at the regional and international level.

⁴⁷ Article 38 of the 1995 Constitution of Uganda.

Highlights of the Period Under Review

The period between 2010 and 2011 was characterised by some events, initiatives, actions and proposals threatening or restricting the space within which HRDs could operate in Uganda. In the period, Ugandans went to the polls in national elections for the presidential, parliamentary and local government positions. The heated electoral period, characterised by stiff contests in a multiparty dispensation, had some implications for human rights observance. In effect, the electoral period impacted on HRDs both positively and negatively. On the other hand, there were legislative proposals tabled before Parliament in the same period and some mooted legislative proposals that if passed into law would pose serious challenges to the rights and work of HRDs. Other events like the process leading up to the UPR of Uganda presented opportunities for HRDs to make pertinent observations. These eventually led to some recommendations specific to the work of HRDs when Uganda's state report to UPR was reviewed by the Human Rights Council (HRC)⁴⁸. This chapter analyses these threats and highlights the recommendations from the UPR and their importance to HRDs.

The 2011 Elections Period

The Electoral Commission (EC) of Uganda conducted elections in early 2011 in compliance with the 1995 Constitution of Uganda⁴⁹. The Presidential and Parliamentary elections were held on 18th February 2011; Local Government Council and Municipal Elections were held on 23rd February and 2nd March 2011 respectively. The 2011 elections were the second general elections since the reintroduction of multiparty democracy in 2005. There were eight candidates vying for the President's seat; 1,270 parliamentary candidates competing for the 238 regular constituency parliamentary seats while a total of 443 women candidates contested for the post of woman member of parliament representing a district for all the 112 districts⁵⁰ at the time.

Role of HRDs during the electoral period

Prior to, during and after the elections Government and other stakeholders including HRDs conducted a number of processes aimed at ensuring peaceful and successful elections. Some of these processes were the general update of the voter register, voter education, training of election officials and other stakeholders, production and dissemination of election promotional materials, observing and monitoring elections, vote counting, packing and delivery of polling kits among others. In particular, the HRDs were actively involved in voter education, publicity and monitoring of elections.

Article 18(2) of the UN Declaration on HRDs gives HRDs an important role and responsibility to play in safeguarding democracy and contributing to the promotion and advancement of democratic societies, institutions and processes. Many HRDs supplemented the work of the EC.

⁴⁸ UN Human Rights Council, Report of the Working Group on the Universal Periodic Review: Uganda, A/HRC/19/16, <http://www.ohchr.org/EN/HRBodies/UPR%5C%5CUGSession12.aspx> (accessed on 22nd December 2011)

⁴⁹ Article 60 and 61 of the 1995 Constitution of Uganda

⁵⁰ Report on the 2010/2011 General Elections By Electoral Commission, July 2011, Pg 13



One of the most vocal HRDs was the Citizen's Coalition for Electoral Democracy in Uganda (CCEDU), a consortium of civil society organisations⁵¹ which played a major role in the country-wide voter education. CCEDU's comprehensive, country-wide voter education programme titled: *"Honour Your Vote"*, aimed at raising the levels of awareness among the citizens on their rights and responsibilities during the election period. CCEDU also created a platform titled: *"Face the Citizens"*, which was a television show through which citizens were enabled to interact with political candidates. It also launched an election emergency hotline referred to as the *'Uganda Watch Hotline'*, which offered free text messaging (SMS) facilities for the general public to report violence or malpractices during the campaign period.

HRDs in the media also played an important role during this period. The media were an important factor through all the electoral processes because they provided the means by which most citizens received information that was central to their political choices. The mass media (television, print and radio) provided information that was instrumental in bridging the gap between citizens, political candidates and relevant stakeholders.

It was important that journalists exercised professionalism in their work during this period. In this regard, the EC in conjunction or alongside other media organisations issued guidelines on coverage of elections for the media. An example is the African Centre for Media Excellence which, working with other journalists, launched election coverage guidelines that laid out the responsibilities of the media and other important players such as political parties, candidates, and the EC. One of the key features of these guidelines was that they were a voluntary code that all journalists were expected to subscribe to. These guidelines sought to provide balanced and adequate opportunity for citizens, candidates and political parties to express divergent political views during campaigns and act as watchdogs to monitor the fairness and credibility of the electoral process⁵².

There were many observer groups for the elections both at the local level and from the international community. A total number of 3,497 observers were accredited by the EC to be observers during the general elections⁵³. These included international observers (706), national observers (1,232), political parties (369), international press (116), and national press (533). The national tallying process was observed by a total of 541 observers.

Some of the notable observers who released reports included the Commonwealth Observer Group, HURINET, Media Monitoring Network, EAC-COMESA-IGAD, Demgroup and the Electoral Commission. All observers noted that compared to 2006, the 2011 campaign period and voting days were largely violence-free though characterised by increased commercialisation of the electoral process, voter bribery, intimidation, voter apathy and lack of proper civic education. Civil and political rights were largely respected though media freedoms suffered the biggest

⁵¹ These included a cross section of HRDs including the Media, Youth, Persons with Disabilities, the Private Sector, Women, the Elderly, Workers' Union, Farmers, the Faith Based networks and Persons Living with HIV/AIDS in Uganda.

⁵² Electoral Commission, Guidelines on Election Media Coverage in Uganda, 2011, page 2

⁵³ Electoral Commission, Guidelines on Election Media Coverage in Uganda, 2011, page 60

threat as was reflected in the high levels of censorship and unbalanced media coverage in favour of the ruling party. Concern was also raised regarding the role of security forces during elections, given the visible presence of military personnel throughout the process.

On aggregate, the reduction in violence running up to the elections and during the campaign period contributed towards a generally peaceful electoral process. The HRDs countrywide who participated in the electoral process and worked with the EC played their important role in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies and processes.

The Public Order Management Bill 2011

The Public Order Management Bill was tabled before Parliament by the Ministry of Internal Affairs on 25th October 2011. The objective of the proposed Bill was to provide for the regulation of public meetings, duties and responsibilities of police, organisers and participants in relation to public meetings/gatherings; and to prescribe measures for safeguarding public order without compromising the principles of democracy, freedom of association and freedom of speech⁵⁴.

According to prescribed human rights standards, the state has a positive obligation to facilitate and protect peaceful assembly⁵⁵. Preserving public order is the role of the police as the principal law enforcement agency. The State has the primary responsibility to put in place adequate mechanisms and procedures to ensure that the freedom is enjoyed and not subjected to undue regulation. In particular, the state should always seek to facilitate and protect public assemblies at the organisers' preferred location and should also ensure that efforts to disseminate information to publicise forthcoming assemblies are not impeded⁵⁶. The fundamental rights at stake when the Police seek to enforce public order management are primarily those guaranteeing freedom of assembly and association and freedom of expression. These rights are recognised in the UDHR⁵⁷ and enshrined in the ICCPR and the Banjul Charter⁵⁸. The 1995 Constitution of Uganda recognises and guarantees them.

However, the Bill placed undue restrictions on the exercise of the rights guaranteed under Article 29 of the 1995 Constitution in respect of freedom of conscience, expression, movement, assembly and association⁶⁰. In addition to this, it restricted the freedom guaranteed in Article 38(1) of the Constitution which guarantees peaceful activities including demonstrations as methods of participating or influencing government policies⁶¹. By seeking to restrict the content of matters and or issues that can be discussed at public meetings, the Bill stifled public debate on government policies and practices contrary to the National Objective and Directive Principle II⁶² of State Policy as stated in the Constitution of Uganda.

⁵⁴ Explanatory Memorandum of the Public Order Management Bill 2011

⁵⁵ Article 29(1) (d) of the 1995 Constitution of the Republic of Uganda

⁵⁶ European Commission for Democracy Through Law; Guidelines on Freedom of Peaceful Assembly (2nd edition), 2010, p16.

⁵⁷ Everyone has the right to freedom of peaceful assembly and association. Article 20(1) of the UDHR, 1948.

⁵⁸ Article 19 on freedom of expression, 21 on peaceful assembly and 22 on freedom of assembly of the International Covenant on Civil and Political Rights.

⁵⁹ Article 9 on right to receive information, express and disseminate opinions within the law, Article 10(1) on the freedom of association and Article 11 on freedom of assembly of the African Charter on Human and Peoples Rights.

⁶⁰ Article 29 of the 1995 Constitution of Uganda

⁶¹ Article 38 (1) of the 1995 Constitution of Uganda

⁶² National Objective and Directive Principle II of State Policy of the 1995 Constitution of Uganda



Organising, participating in associations and assemblies as well as freedom of expression are vital means by which HRDs perform their work. It was therefore of particular concern to HRDs that the Bill was seeking to give the Inspector General of Police (IGP) powers to approve any "public meeting" of three or more people as laid out in Clause 7 and 8. HRDs were concerned about the proposed wide discretionary powers given to the IGP under the Bill.

The attempt to give powers of approval of meetings to the IGP was clearly intended to reverse the Constitutional Court decision in *Muwanga Kivumbi v Attorney General*⁶³. Court had noted in its ruling on the petition that section 32 of the Police Act which required Ugandans to seek permission from the IGP before exercising their right to demonstrate and assemble was unconstitutional. It had held that to give these powers to the IGP to determine the holding of an assembly would be "prohibitive" rather than "regulatory."

Some of the provisions of the Bill were redundant as they were reproductions of existing law. For example clause 9 giving the IGP powers to stop a meeting was already adequately covered under Sections 65 to 70 of the Penal Code Act Cap 120 and clause 13 on the use of public address systems was a reproduction of section 40 of the Police Act Cap 303.

The grounds listed in the Bill for restricting public meetings went beyond the permissible grounds for restriction under international law. These include public safety⁶⁴ and protecting the rights and freedoms of others as laid out in Article 21 in the ICCPR. These grounds were also provided for in Article 45 of the Constitution of Uganda⁶⁵.

Human rights law therefore, provides very clear grounds regarding restrictions to the freedom to assemble and demonstrate. The policing of assemblies must be guided by the human rights principles of legality, necessity, proportionality and non-discrimination. In particular, the state has a positive duty to take reasonable and appropriate measures to enable peaceful assemblies to take place without participants fearing physical violence. Law enforcement officials must also protect participants of a peaceful assembly from any person or group (including agents provocateurs and counter-demonstrators) that attempts to disrupt or inhibit the assembly in any way⁶⁶.

Parliament received comments and views on the Bill from various stakeholders and HRDs. There were robust debates on the Bill communicating views and opinions to the government. HRDs including the Centre, reminded Government of state obligations under international, regional and national human rights standards in relation to freedom of assembly and association. The State is obliged to respect such rights as universal entitlements that cannot be subject to measures of control that are beyond the permitted restriction or limitations. The HRDs called for the deletion of all the draconian clauses in the Bill which different stakeholders

⁶³ *Muwanga Kivumbi v. The Attorney General of Uganda*, Constitutional Petition No.9/2005

⁶⁴ Article 19 (Nineteenth session, 1983), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 132 (2003), General Comment No. 10

⁶⁵ Article 45 of the 1995 Constitution of Uganda

⁶⁶ European Commission for Democracy Through Law; Guidelines on Freedom of Peaceful Assembly (2nd edition), 2010,p19 (See similar footnote 52)

pointed out. HRDs also called upon Parliament to ensure that the Bill, if passed into law did not violate the international and constitutional standards and obligations which clearly spell out permissible grounds for restricting the freedoms of assembly, association, speech and expression.

Proposed Constitutional Amendment to the right to apply for Bail

While responding to the events of the April 2011 'Walk to Work', 'Walk to Church' campaigns⁶⁷, the President of Uganda proposed to amend the Constitution to scrap automatic bail for suspects in certain categories of crimes such as murder, treason, defilement, rape, rioting and economic sabotage. Since then, widespread debate ensued and concerns were raised about the potential effect of the proposed amendment on different groups of individuals. It was feared that if the proposed amendment was to be passed, the rights of HRDs as guaranteed and protected under the law would be curtailed and it could adversely impact on HRDs particularly those advocating for civil and political rights.

The constitutional guarantees in Uganda provide the basis for the right to apply for bail which is founded on the presumption of innocence of the accused protected in Article 28(3) of the 1995 Constitution. It is stated that every person charged with a criminal offence shall be presumed to be innocent until he/she is proved or pleads guilty. Article 23 which guarantees the right to personal liberty is reinforced by Article 28(3) on the right to a fair hearing making bail one of the procedural guarantees for protecting the right to personal liberty.

The right to bail is also derived from a presumption of 'innocent until proven guilty.' As such an individual's personal liberty which is a fundamental right⁶⁸ cannot be compromised until he/she is convicted and thus proven guilty. A suspect is therefore allowed to furnish Court with some form of security (in the form of bail) to secure his or her presence for trial while enabling him/her to retain his/her personal liberty. The ICCPR provides in Article 9 that everyone has the right to life, liberty and security of person. The ACHPR in Article 6 states that every individual shall have the right to liberty and to the security of his/her person. No one may be deprived of his/her freedom except for reasons and conditions previously laid down by law⁶⁹.

However in order to ensure one's right to a speedy trial and minimise infringement on the right to personal liberty of an accused, the law must continue to allow for discretion in all cases. This is aimed at protecting those who might otherwise be condemned to languish in prisons when they are innocent or have been maliciously charged, or for no more fault other than the fact that the right to apply to bail has been scrapped off the law books.

⁶⁷ In April and May, 2011 Uganda witnessed a series of protests. These were led by an opposition pressure group called Activists for Change (A4C). They called upon Ugandans to leave their cars at home, walk to work and to church to protest against rising food and fuel prices, corruption and government misappropriation of public funds. These protests led to a series of human rights violations, destruction of property and infringement of people's fundamental freedoms and human rights.

⁶⁸ Article 9 of the UDHR, 1948

⁶⁹ In particular, no one may be arbitrarily arrested or detained.



The environment in which HRDs dealing with civil and political rights operate is very unstable. They are at risk of falling victim while working to protect citizens from unwarranted infringement by government and private organisations; as well as striving to ensure citizens' ability to participate in the civil and political life without discrimination or repression. Such work more often than not tends to put HRDs in conflict with the authorities.

The specific rights of defenders as provided for by the UN Declaration on HRDs that would be curtailed as a result of this proposed amendment include freedom of expression and opinion, (Art. 6) freedom of association, (Art. 5 (b) freedom of peaceful assembly (Art. 5(a), the right to an effective remedy, the right to be protected and trade union rights, including the right to strike. These rights are also protected under the 1995 Constitution of Uganda. It is these rights that enable HRDs to speak out and protect against human rights violations. If passed into law, the proposed constitution amendment could put HRDs at risk of detention without bail for protection activities that the authorities might misinterpret as treason or economic sabotage. As a consequence, this could instil fear among HRDs and serve to restrict the space in which those promoting and defending democracy and human rights operate.

The Government has the obligation to fulfil and respect the rights of defenders⁷⁰ and this entails the obligation on the part of Government to take deliberate, concrete and targeted steps to build, maintain and strengthen pluralism, tolerance and an open attitude to the expression of dissent in society. Regardless of the status of suspects, the Government has the responsibility to protect all individuals. Legal frameworks that impede the work and activities of HRDs could create a negative environment in which the legitimacy of their work cannot be respected.

The Anti-Homosexuality Bill, 2009

The campaign to kill the Anti-Homosexuality Bill, 2009 which had resulted in its withdrawal from Parliament had not been successful. At the time of writing this report, the Bill which had elapsed with the dissolution of the 8th Parliament had been re-tabled in the 9th Parliament.

The Bill's stated purpose was to promote and protect the traditional family; to protect children; to fill existing "defects" in Ugandan law to ensure full criminalisation and prohibition of homosexuality, homosexual acts, same-sex unions, and any public promotion, support and positive public discussion of lesbian, gay, bisexual and transgender people⁷¹.

Uganda's 1995 Constitution guarantees equality under the law⁷², freedom of speech, expression, assembly and association⁷³, as well as the right to participate in peaceful activities to influence policies of government⁷⁴. However, an analysis of the Bill shows that all the aforementioned rights would be violated if the bill was passed.

⁷⁰ Article 2 of the UDHR, Article 2 of the ICCPR, Article 1 of the Banjul Charter and Articles 2, 9 and 12 of the UN Declaration on HRDs

⁷¹ Memorandum of the Anti-Homosexuality Bill, 2009

⁷² Article 21 of the 1995 Constitution of Uganda.

⁷³ Article 29 of the 1995 Constitution of Uganda.

⁷⁴ Article 38(2) of the 1995 Constitution of Uganda



The constitutional provisions on the duty of all citizens to promote the freedom of others would be violated since the Bill criminalises and imposes penalties and fines on those who support human rights for all, which would include Lesbian, Gay, Bisexual, Transsexual and Inter-gender (LGBTI) individuals and groups.

The Centre reiterates the call that was made in its previous report⁷⁵ to scrap the bill in its entirety, review existing laws that already criminalise homosexuality and reaffirm Government's commitment to upholding the universality of human rights and international obligations.

Review of Uganda at the 12th session of the Universal Periodic Review

On 11th October 2011, at the 12th session of the HRC, Uganda was reviewed during the UPR⁷⁶. The UPR is a mechanism created by the United Nations (UN) in April 2008 whereby all UN member States have their human rights practices reviewed every four years.

The ultimate goal of UPR is the improvement of the human rights situation in every country with significant consequences for people around the globe. The UPR is designed to prompt, support, and expand the promotion and protection of human rights on the ground. To achieve this, the UPR involves assessing States' human rights records and addressing human rights violations wherever they occur. The UPR also aims to provide technical assistance to States and enhance their capacity to deal effectively with human rights challenges and to share best practices in the field of human rights among States and other stakeholders⁷⁷.

Uganda's UPR process presented an opportunity for HRDs all over the country to work together in coalitions to compile reports highlighting the human rights situation all over the country, raise awareness amongst the general public on pertinent human rights issues, share best practices and monitor the implementation of the UPR recommendations.

The members of the HRC made specific recommendations totalling 170 of which 110 were accepted, while 42 will be examined by the 19th session of the HRC. A total of 17 recommendations were completely rejected by Uganda.

⁷⁵ See Human Rights Defenders in Uganda; An overview of the working environment for Human Rights Defenders in Uganda Page 23-25

⁷⁶ Hereinafter referred to as the UPR

⁷⁷ Basic facts About the UPR, <http://www.ohchr.org/en/hrbodies/upr/pages/BasicFacts.aspx> accessed on 11th January 2011.



The recommendations specifically targeting HRDs are as hereunder:

	Accepted	Rejected
1.	Engage CSOs in the process of implementation of UPR recommendations.	1. Ease the heavy administrative burdens on NGOs, such as the yearly registration obligations
2.	Further enhance the cooperation with CSOs in the promotion of human rights.	2. Simplify the NGO registration requirements and remove the NGO Board from the supervision of security organisations
3.	Allow NGOs and UHRC to have access to detention centres.	
4.	Investigate and hold accountable police and security officers who attacked HRDs, journalists and civilians during the 2011 post-election period.	
5.	Investigate and prosecute all persons found guilty of extrajudicial killings and attacks on HRDs.	
6.	Ensure that HRDs can perform their legitimate duties free from any harassment and intimidation in line with international standards including the UN Declaration on HRDs.	

It is the responsibility of the State to implement the recommendations in the outcome report. However, NGOs, National Human Rights Institutions and other stakeholders can play a significant role in monitoring, promoting and assisting the implementation of specific recommendations. The UPR mechanism provides a useful opportunity for Government and HRDs to share good practices and identify strategic areas where technical assistance and capacity development support efforts should be directed. Strengthening capacities within the country to implement UPR recommendations is critical where such capacities are lacking.

One of the immediate actions would be to translate the recommendations into local languages commonly spoken across the country and to disseminate them broadly. NGOs are also encouraged to lobby Government to adopt a national plan to implement UPR recommendations and to monitor the Government's compliance with and implementation of the said recommendations.



The follow up of the UPR is the most critical stage as improvement in the human rights situations on the ground is proof of implementation. Countries are examined after four years on their commitments regarding the UPR recommendations. It is incumbent upon HRDs to advocate for the implementation of recommendations that would specifically improve the environment in which they operate.

Conclusion

HRDs have to keep alert and vigilant to seize every opportunity to promote and protect human rights. The UPR process was one of the opportunities embraced by HRDs who continue to monitor implementation of the recommendations that were accepted by Uganda. In this regard, HRDs have to work together to overcome the challenges and strive to ensure that the environment in which they work is conducive. HRDs need to be united to withstand or fight the external forces that work to undermine their work of protecting human rights. Like they strategised on the Public Order Management Bill and Anti-Homosexuality Bill, defenders should continue consulting in coalitions on any other Bills of Parliament that seek to infringe on human rights.



Challenges Of Human Rights Defenders

Introduction

During the period under review, HRDs faced challenges that continued to hinder their work. Some challenges were operational; others were threats to HRDs; as well as those emanating from the general political and social context within the country. Some of the challenges could be overcome by the HRDs themselves while others require support from all the key players in the human rights arena. Operational challenges were related to networking funding and capacity. This chapter gives an overview of the major challenges HRDs encountered in the year under review.

Threats to and attacks on HRDs

Despite the constitutional guarantees and international obligations to protect HRDs, the research revealed that HRDs were still threatened and sometimes attacked in the course of their work. The use of State machinery, such as security agencies and the lack of a proper system of checks and balances as required in a modern democracy contributed to the challenges in the environment in which HRDs work. The research found that some HRDs were at a higher risk of attacks than others and that the sources of threats included the State as well as other non-state actors. Some of the attacks manifested in the form of physical attacks or threats on the integrity of individuals. The research also showed that there was room for the State to improve protection of HRDs in Uganda.

Most targeted HRDS

- **Journalists**

The period 2010/2011 was a year of elections with Ugandans electing the President and members of Parliament in February 2011. This period witnessed an increase in attacks on HRDs working with the media. According to the Human Rights Network for Journalists - Uganda (HRNJ) Press Freedom Index Reports from 2009 to 2011, there was a marked increase in cases of violence meted out to journalists. Reported cases of violence increased from 35 in 2009 to more than 50 in 2010. The Press Freedom Index Report 2011, covering a six-month period, documented cases when 55 journalists were subjected to different forms of violence, 36 of whom suffered physical attacks.⁷⁸

- **LGBTI**

The research found that defenders of sexual minorities in Uganda were vulnerable to prejudice, marginalisation and public repudiation, not only by State actors, but also by Non-State Actors. Defenders faced harassment as well as verbal and physical attacks perpetrated by members of the public. Homosexuality is criminalised⁷⁹ in Uganda and the Anti-Homosexuality Bill

⁷⁸ Human Rights Network for Journalists, The Press Freedom Index Report, November 2010 and April 2011.

⁷⁹ Sections 145, 146 and 147 of the Penal Code Act, Cap 120



(2009) could severely impact on the work of human rights organisations who believe in the rights of sexual minorities and activists who seek to promote and protect these rights. The Bill was reintroduced in Parliament in 2011 since the 9th Parliament passed a motion to save Bills of the 8th Parliament. An NGO in Kampala, which defends the rights of the sexual minorities, also expressed frustration that they could not register the organisation because of the nature of its work.⁸⁰

The respondents indicated that the safety and security of sexual minority HRDs in Uganda remained frail, with some reported unlawful killings, torture, intimidation and harassment, among other untold suffering, not only from state agents but also at the hands of members of the public (non-State actors). These views are reinforced by cultural norms or personal beliefs against LGBTI which contradict the principle that human rights are universal. The principle of equality in human dignity and human rights requires that one's status as an LGBTI should not be a basis for the denial of the right to life, freedom from torture, and the right to liberty⁸¹.

- **Women**

Women have always been important actors in the promotion and protection of human rights in Uganda. The research showed that for the HRDs promoting and protecting women's rights there were additional risks beyond those typically faced by HRDs. This was because the assertion of such rights could sometimes be perceived as a threat to, and a disruption of, cultural, religious and societal norms. Women face human rights abuses not only as HRDs, but also as a result of gender-based expectations about their position in society. Their work may be viewed as countering society's norms and traditions about the status of women. Cultural stigma has manifested in the families' opposition to women's work as HRDs and in the reluctance and even prevention of many women from reporting such serious offences as domestic violence and even rape.

Source of threat/attack

Threats and attacks on HRDs were from both the state and non-state actors.

a) The state as a source of threat: The legal regime, government supervision and monitoring

Some laws such as the NGO Registration (Amendment) Act 2006 and the Regulations⁸² made there under continued to limit the operation of HRDs. CSOs petitioned the Constitutional Court on 15th January 2010, seeking for the interpretation of the NGO Registration (Amendment) Act. The Court had not given its ruling by the time of writing the report. The research revealed that the Act and Regulations provided stringent measures for HRDs organisations to operate,

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Interview with a human rights defender in Kampala, 20th April 2011

⁸¹ Article 1 of the UDHR, 1948

⁸²

The NGO Registration (Amendment) Act 2006 and the NGO Regulations 2009 amended and built on the NGO Registration Act 1989 and the NGO Registration Act 1990.

such as compulsory registration and criminalising associations that are not registered. An NGO annual permit is required and the procedure for subsequent renewal is lengthy. The research revealed that to renew an NGO permit could take a minimum of three months though at times the process took much longer, lasting an entire year. This frustrated the operations of HRDs. Some organisations may not be registered even after waiting for a long time and as such, most NGOs have opted to register with the Uganda Registration Services Bureau as companies limited by guarantee.

Denial of registration for human rights associations and NGOs was the most extreme measure by which Governments curtailed the right to freedom of association, especially in instances where activities carried out in the framework of unregistered entities carried with them criminal sanctions.

b) State agents as a source of threats

HRDs in Uganda for the year under review continued to face threats and harassment from state agents such as local government officials, Resident District Commissioners (RDCs), District Internal Security Officers, the police, and the army. The research revealed that some HRDs had been threatened and intimidated by the district officials for discussing pertinent issues on radios during election campaigns for the 2011 national elections. One such incident was when some HRDs read out on a radio talk show in Northern Uganda, a letter authored by the Anti Corruption Coalition Uganda to CSOs. The letter calling for the refund of Uganda Shillings 20 million given to MPs did not go down well with some district authorities. The RDC and the District Police Commander (DPC) summoned the officials of the NGO to explain the contents of the letter. The RDC invited the DPC, deputy press secretary to the president, and a military operative from State House to the meeting. The organisation was directed in the meeting not to carry out any programmes until after elections. However, it was also resolved that the RDC would call upon MPs in the region to respond to the demands in the letter⁸³.

HRDs critical of or investigating the State reported similar Government intimidation even when they were not directly associating with or promoting opposition politicians. One organisation faced threats for following up on political corruption investigations⁸⁴. Another NGO was subjected to anonymous threats and also publicly ridiculed by the RDC for investigating alleged arbitrary arrests and disappearances⁸⁵. As a result of threats from state officials, some CSOs in Eastern Uganda got cowed and abandoned monitoring health issues fearing to access health facilities.⁸⁶

Members of the police and army were also cited as perpetrators of physical attacks on HRDs. This was more pronounced during the electoral period. As reported in the HRJN 2011 Press Freedom Index Report, there was an increase in cases of violence meted out on journalists by the police and the army. Over 50 cases of violence were reported in 2010 compared to 35 in 2009⁸⁷.

⁸³ Interview with a human rights defender in Northern Uganda, 31st March, 2011

⁸⁴ Interview with a CSO in Kampala, 21st March 2011.

⁸⁵ Interview with CSO in Gulu, 29th March 2011.

⁸⁶ Interview with CSO in Tororo, 4th March 2011.

⁸⁷ Human Rights Network for Journalists, The Press Freedom Index Report, November 2010 and April 2011



c) Non-State Actors as a source of threat

Non-State Actors have now become another emerging threat to HRDs. Non-State Actors refer to members of the general public or other bodies other than the State. In 2010/2011, a number of HRDs were exposed to all kinds of provocation, harassment, threats, pressures, physical attacks, verbal assaults and even murder perpetrated by some members of the public. These were threats from persons with contrary views or beliefs on issues that some HRDs promote and strive to protect.

Journalist HRDs increasingly faced significant threats from Non-State Actors. The HRNJ 2011 Press Freedom Index reported 13 cases whereby journalists in Uganda were targeted by civilians for violence and threats. Between November 2010 and April 2011, 25 cases were documented in the 2011 Press Freedom Index Report of the first quarter of 2011⁸⁸. As an example, two journalists in Kabale reported harassment from members of the public who accused them of embarrassing the RDC in newspaper articles by revealing why the electricity distribution company, Umeme had disconnected power at the RDC's residence⁸⁹.

Sexual minorities HRDs also reported social and religious discrimination in the form of lost jobs and homes; they have been thrown out of their homes by both family members and landlords.

Most HRDs that were interviewed admitted that most mainstream human rights organisations chose not to engage with LGBTI issues due to various reasons including homophobia and the fear of losing financial support from religious donor organisations. However, some mainstream human rights organisations reported to have realised the importance of including LGBTI as a vulnerable group and including them in their missions to fight oppression and human rights abuses.

Funding

The research established that the general funding for the administration of HRDs activities has decreased over the years. The funding challenges faced by HRDs included undue government influence, inadequate fundraising skills, poor networking among HRDs. HRDs in Uganda rely heavily on funding from development partners for administrative and programme support.

Limited fundraising capacity

Both individual defenders and CSOs interviewed, mentioned having funding challenges. This was mainly attributed to limited fundraising capacity as many admitted to lacking adequate fundraising skills. As one defender said, *"HRDs do not have resource mobilisation skills that are commensurate enough to meet their monetary needs"*⁹⁰. The research showed that some HRDs simply apply for funding without complying with the donors' guidelines on how to develop funding proposals, or without paying attention to the donors' thematic and geographical focus. As a result, many HRDs ended up discouraged when their applications were unsuccessful.

⁸⁸ Supporters of political parties with 12 cases, individuals with 7 cases, media owners with 3, university students with 2, and unknown attacker with 1, Press Freedom Index Report, 2011, Human Rights Network for Journalists, pg 35.

⁸⁹ Interview with a human rights defender in Kabale, 14th March 2011

⁹⁰ Interview with a human rights defender in Amuria, 1st March 2011.



In addition to limited fundraising capacity, some CSOs do not understand the policies of their potential and key donors. As an example, some donors required CSOs to be members of a national network of HRDs to successfully apply for funds. Other donors specified what the funds could and could not be used for. Prior to starting the application process, CSOs needed to understand the requirements and ascertain that they met the application prerequisites. This would prevent HRDs from wasting their valuable time and resources on applications that would be immediately disqualified.

Limited access to information

HRDs' organisations that participated in the research had resource centres with information on basic human rights; however such information was usually provided by donors or obtained from workshops. With the exception of HRDs interviewed within Kampala city, other HRDs admitted that the information they had was insufficient and needed updating in order to effectively educate staff and community volunteers on the redress mechanisms available at the national, regional and international levels.

Capacity building

Most HRDs organisations trained their staff on human rights as part of the orientation into the organisation. However, some HRDs said there was often a gap in the training of new staff members on being hired due to the urgency of other activities. Most HRDs organisations did not carry out continuous internal staff training because they either felt they did not need it, or they lacked adequate funds for it. Since many HRDs organisations did not provide internal training, they ended up depending, for most of their capacity building, on workshops organised by other CSOs. In 2010, most workshops focused on civil rights, democracy and election monitoring ahead of the February 2011 general elections.

The research found out that the vast majority of HRDs and the general public had limited capacity for tackling human rights issues. Most HRDs organisations that had been formed to respond to the increasing human rights violations in the different regions of Uganda, had members that were uninformed or had limited knowledge of human rights issues, the different trends and promotion and protection mechanisms. This limited access to information and limited continuous capacity building of HRDs was identified as a major challenge for HRDs in the year under review.

Some respondents admitted that the thematic areas of training were usually basic and similar to previous trainings and therefore added minimal value to the HRDs. They expressed the need to design tailor-made training programmes for the different groups of HRDs. They wanted to see training specifically tailored for HRDs working on civil and political rights different from that given to media personnel or other HRDs focusing on Economic, Social and Cultural rights, or prosecutors, police and other groups engaged in issues of HRDs.



Networking

The benefits of networking in human rights work are vast. One major benefit of belonging to a network is having access to a greater financial support system. Networks are in a better position to mobilise resources because their members pay annual membership fees. Some networks have also helped their members to access funding by recommending them to donors or involving them in programmes that are already funded. HRDs operating as networks also have the advantage of having a membership that covers a wide geographical area. Having HRDs located all over a particular region saves costs and time, as each individual can monitor the situation in their area.

However, in the year under review, HRDs faced several networking challenges the biggest of which was the unhealthy competition among CSOs. As CSOs competed for funds from the same donors, they tended to work independently to be recognised for their performance. Small CSOs often shied away from carrying out activities in collaboration with others, especially CSOs that are larger in capacity, for fear of being overshadowed. Although some CSOs executed programmes jointly, such partnerships usually did not survive beyond specific projects.

HRDs also faced the challenge of finding organisations in the same line of operation to collaborate with. This was attributed largely to the lack of documentation of HRD activities. Organisations that seemed to carry out similar programmes, often in practice had different missions.

Individual HRDs interviewed during the research were not members of any networks at the time. However, they acknowledged that they could pursue their work more effectively if they had the backing of a recognised body or network.

Conclusion

The several operational challenges that HRDs face in the course of their work can be overcome by the combined efforts of all stakeholders. Capacity building is very important for both HRDs and the public because it goes a long way to help in overcoming most of the challenges. With enhanced capacity, HRDs could be able to raise more funds and overcome the funding challenges. Whereas there are several challenges preventing HRDs from accessing and providing adequate capacity building, there are also several HRDs organisations implementing creative programmes and practices to maximise the impact of their capacity building programmes. The challenges can be overcome by effective networking among HRDs through which they can gain greater access to funding opportunities, cover a wider geographical area, better protect each other, form better lobbying coalitions and build each other's capacities.

Promotion and Protection Mechanisms

Introduction

It is the primary responsibility of States to promote and protect the human rights of the individuals within their territories. Protection of human rights entails putting in place laws as a mechanism for preventing human rights abuse and violations; establishing institutions for victims seeking remedies for human rights abuses and violations; and using international systems to seek redress in accordance with set procedures. Promotion of human rights encompasses policies, laws and measures to promote human rights through developing curricula, mainstreaming human rights in development planning and implementation; and conducting human rights education for the citizenry through the media, Information, Education and Communication materials, drama, human rights reports and newsletters, among others.

This chapter identifies the various mechanisms that can be utilised by HRDs to invoke their human rights at the national, regional and international levels and hold the State accountable. In addition, it provides information on how to utilise these mechanisms.

The International Level

The international legal system on human rights is structured around a set of treaties and their corresponding treaty monitoring bodies. Each treaty has its own monitoring mechanism, which ensures compliance. When a State has ratified a treaty, it is expected to submit periodic State reports on its progress in the realisation of the rights provided for therein. In addition to monitoring mechanisms, the international system also encompasses a set of procedures within the UN system which are thematic or country-based. These are known as the 'special procedures' and take the form of working groups, special representatives or Special Rapporteur.

This section focuses on the First Optional Protocol to the ICCPR and the one special procedure that is of particular importance for HRDs which is the UN Special Rapporteur on the Situation of Human Rights Defenders (UNSR).

(a) The First Optional Protocol to the ICCPR

The First Optional Protocol of the ICCPR (OP1) establishes an individual complaint mechanism for the ICCPR. Since Uganda has acceded to OP1, this means that Ugandans can submit individual complaints to the HRC⁹¹ in the event of a violation of human rights. The procedure for submitting an individual complaint to the HRC is briefly outlined below.

According to OP1, individuals that are alleging a violation of the human rights contained in the ICCPR must first exhaust all domestic remedies⁹². This is perhaps the most difficult stage, and the one at which most cases will be declared inadmissible. It is of utmost importance that individuals first use the available domestic remedies (national institutions) to seek redress.

⁹¹ <http://www2.ohchr.org/english/bodies/hrc/index.htm> accessed on 21st July 2011.

⁹² Article 2 of Optional Protocol 1 "Subject to the provisions of article 1, individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration."



International mechanisms are often seen as a last resort after exhausting national and regional mechanisms. Once an individual has exhausted domestic remedies, one is allowed to submit a complaint in writing and the complaint must not be anonymous⁹³. From this stage, the HRC will then bring this complaint to the attention of the State Party which will have to submit a report⁹⁴ back to the HRC explaining the situation, and action that needs to be taken.

(c) The UN Special Rapporteur on the Situation on Human Rights Defenders

The mandate of the UNSR⁹⁵ is to oversee the effective and comprehensive implementation of the UN Declaration on HRDs through cooperation, constructive dialogue and engagement with governments, relevant stakeholders and other interested actors. The UNSR is required to study trends, developments and challenges in relation to the activities of HRDs.

The UNSR seeks, receives, examines and responds to information on the situation of HRDs. The UNSR then presents annual reports to the HRC and the UN General Assembly on particular topics or situations of special importance regarding the promotion and protection of the rights of HRDs. The UNSR also undertakes country visits which provide an opportunity to examine in detail the role and situation of HRDs in the particular country, to identify particular problems and make recommendations on how these could be resolved. Through sending communications or urgent appeals, the UNSR also takes up individual cases of concern with governments where violations have been committed against HRDs. The UNSR issues press releases on urgent and grave human rights violations and these act as a preventive tool to dissuade actors from abusing the rights of HRDs.

HRDs can utilise this mechanism by sending information⁹⁶ on specific allegations of human rights violations to the UNSR. HRDs can also lobby Government to issue an invitation to the UNSR to make a country visit to Uganda.

Guidelines for submitting allegations of human rights violations to the UNSR⁹⁷

HRDs can submit complaints to the UNSR. Before sending a complaint, HRDs should ensure that all the details are included in the submission. In cases of extreme urgency, it may be possible to submit a case without some of these details, but their absence makes examining the matter more difficult. This information can be submitted by email or a letter. The following is the essential information that should be contained in the communication:

1. Name of alleged victim/s

Take care to give first and family names and to spell names correctly. For example, Joshua Yiga Matovu. (*Victims can be individuals, groups or organisations.*)

⁹³ Article 3 of Optional Protocol 1 "The Committee shall consider inadmissible any communication under the present Protocol which is anonymous, or which it considers to be an abuse of the right of submission of such communications or to be in compatible with the provisions of the Covenant."

⁹⁴ Article 4 of Optional Protocol 1 '(1) Subject to the provisions of article 3, the Committee shall bring any communications submitted to it under the present Protocol to the attention of the State Party to the present Protocol alleged to be violating any provision of the Covenant. (2) Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.'

⁹⁵ The current mandate holder is Ms. Margaret Sekaggya.

⁹⁶ Information can be sent to urgent-action@ohchr.org and/or defenders@ohchr.org

⁹⁷ OHCHR, Fact Sheet No.29, 'Human Rights. Defenders: Protecting the Right to Defend Human Rights'.

**2. Status of the victim as a human rights defender**

In what human rights activity is the victim (person/s, organization) engaged? For example women's human rights defender, journalist, children's rights activist etc.

- If the victim is an individual, please provide information on gender, age, nationality and profession.
- If the victim is an individual or an organisation, please provide contact details. Contact details are treated as confidential.
- Where relevant, please also indicate the city and country in which the victim (person/s, organization) conducts this human rights work.

3. Alleged violation/s committed against the victim

What happened? Where? When? What is the current situation?

4. Perpetrators

Give any available information on who allegedly committed the violation: e.g. two men (in uniform?); rank, unit or other identification or title.

5. Witnesses

Were there any witnesses to the alleged violation? Were there any other victims? (Give information on witnesses or other victims if any)

6. Action by authorities

Has the matter been reported to the relevant authorities?

What action has been taken?

7. Action taken by the victim or by human rights organisations

Has the alleged violation been made public?

Has this information been sent to other human rights groups?

8. Link between the violation and human rights work

Why do you think the alleged violation is in response or connected to the human rights work of the victim?

Where an initial violation has led to a series of other acts, please describe them in chronological order. For example, if the initial concern was that a HRD has been arrested, details should be provided. If he or she is subsequently detained, other useful information required would include: the place of detention; whether the person has access to a lawyer; the conditions of detention; the charges; etc.



9. Previous incidents

If there have been previous incidents which are relevant, please give details.

10. Who is submitting this information? (Confidential)

Give name and contact details. Give also professional role, if relevant.

Submissions may be made by organisations or individuals.

11. Updates

Please send any updated information you have as soon as possible. It is especially important to know if there has been any change in the situation of the victim.

Updates might be given where:

- additional information becomes known (e.g. the identity of the perpetrator of the violation);
- new events occur (e.g. the victim's release from detention).

The Regional Level

The African regional system in many ways mirrors the UN treaty body system. However, there are certain aspects of the regional system which are unique.

(a) The African Commission on Human and Peoples' Rights

The ACHPR was established under Article 30⁹⁸ of the Banjul Charter in 1986. The Commission is mandated with the task of promoting human and peoples' rights⁹⁹, as well as interpreting the provisions of the ACHPR¹⁰⁰. It is a quasi-judicial body that can only issue declarations.

As a protective mechanism, the Commission has a dual-mandate: it can use inter-state communications¹⁰¹, individual communications¹⁰², and examines State reports. In respect of human rights violations, this provides an opportunity for States and individual HRDs to submit a complaint to the Commission.

Once the Commission has examined a State report, or a communication, it issues a concluding observation. Another way of submitting a communication to the Commission is via NGOs that have "observer status" before the Commission. Observer status¹⁰³ entitles them to take the floor and speak at the Commission's two sessions a year. The East and horn of Africa Human Rights Defenders Project (EHAHRDP) is an example of a regional NGO that works in Uganda and has observer status before the Commission.

⁹⁸ "An African Commission on Human and Peoples' Rights, hereinafter called 'the Commission', shall be established within the Organization of African Unity to promote human and peoples' rights and ensure their protection in Africa."

⁹⁹ Article 45(1) of the ACHPR

¹⁰⁰ Article 45(3) of the ACHPR

¹⁰¹ Article 47 of the ACHPR

¹⁰² Article 56 of the ACHPR

¹⁰³ http://www.achpr.org/english/_info/observer_en.html accessed on 13th September 2011.

Submitting a Communication to the ACHPR

Any Member State of the African Union can bring a communication to the Commission. The process includes five steps outlined below. An individual or group of individuals must have met all of the five requirements; otherwise the communication cannot be brought to the Commission.

Step 1: Standing (*locus standi*)

This determines if the individuals bringing the communication are entitled to be heard before the Commission. At the national level, a determination of standing usually requires that the individuals bringing the case have been personally affected. The ACHPR adopts a broad approach to the standing, enabling individuals and groups of individuals¹⁰⁴ to bring a communication even if they are not the victims.

Step 2: Admissibility requirements

The admissibility requirements can be found in Article 56 of the ACHPR:

Article 56: "Communications relating to human and peoples' rights referred to in article 55, received by the Commission, shall be considered if they:

- (1) Indicate their authors even if the latter request anonymity;
- (2) Are compatible with the Charter of the Organization of African Unity or with the present Charter;
- (3) Are not written in disparaging or insulting language directed against the state concerned and its institutions or to the Organization of African Unity;
- (4) Are not based exclusively on news disseminated through the mass media;
- (5) Are sent after local remedies, if any, unless it is obvious that this procedure is unduly prolonged;
- (6) Are submitted within a reasonable period from the time the local remedies are exhausted or from the date the Commission is seized of the matter; and
- (7) Do not deal with cases which have been settled by the states involved in accordance with the principles of the Charter of the United Nations, or the Charter of the Organization of African Unity, or the provisions of the present Charter."

¹⁰⁴ The Commission also allows class actions to be brought.



Step 3: Merits of the Case

At this stage the Commission will look at the allegation of a violation of human rights and determine if there has been a violation.

Step 4: Remedies

Remedies can come in the form of monetary compensation.

It is important to note that the ACHPR is silent on the issue of remedies and so the Commission has adopted an ad hoc approach to them.

Step 5: Follow up and Implementation

Since the Commission is not a Court of law, it has limited authority when it comes to enforcing decisions. If the Commission has found that there has been a violation of human rights, it will issue a concluding observation. This concluding observation is not legally binding, which means the State is not obligated to comply with it. The Commission has no means of 'forcing' the State to comply with its findings.

This is perhaps the biggest weakness of the Commission.

(b) The African Court on Human and Peoples' Rights

The African Court on Human and Peoples Rights (AfCHPR) was established on 25th January 2004¹⁰⁵ and is seated in Arusha. The Court can issue binding decisions¹⁰⁶, which States must implement. The creation of the Court sought to fill the gap created by the procedures of the Commission. As mentioned above, the Commission as a quasi-judicial body has a number of weaknesses that affect it, in particular that its observations are not legally binding. This means that in the instance of a finding that a State had violated human rights under the AfCHPR; there is no enforcement method to ensure that the State complies with the Commission's recommendations. There is no clear, established framework for implementation, nor is there any guidance in the AfCHPR on how to award remedies.

The African Court has effectively addressed these weaknesses as its decisions are legally binding¹⁰⁷. A framework is in place for implementation¹⁰⁸ of the Court decisions. The Court also has guidelines in terms of issuing remedies¹⁰⁹.

The ACHPR has adopted specific resolutions on the protection of HRDs in Africa, which confirm the protection of their rights in application of the Charter. Certain resolutions adopted by the ACHPR refer explicitly to the rights of human rights defenders:

¹⁰⁵ Uganda acceded to the Protocol on the 16th of February 2001.

¹⁰⁶ Article 28(2) of the Protocol to the African Charter on Human and Peoples' Rights, 1998.

¹⁰⁷ Article 28(2) of the Protocol to the African Charter on Human and Peoples' Rights, 1998/2004.

¹⁰⁸ Article 29(2) of the Protocol to the African Charter on Human and Peoples' Rights, 1998/2004

¹⁰⁹ Article 27(1) of the Protocol to the African Charter on Human and Peoples' Rights, 1998/2004

- ACHPR /Res.69 (XXXV)04: Resolution on the protection of human rights defenders in Africa
- ACHPR (XXXXI)06: Resolution on the situation of human rights defenders in Africa
- ACHPR /Res.119 (XXXXII)07: Resolution on the situation of human rights defenders in Africa¹¹⁰

Additionally, The Kigali (Rwanda) Declaration of 8th, May 2003, a legally non-binding instrument, “recognises the important role of CSOs in general and HRDs in particular, in the promotion and protection of human rights in Africa”. The Declaration “calls upon Member States and regional institutions to protect them and encourage the participation of CSOs in decision-making processes [...]”¹¹¹.

Relationship between the African Commission and the African Court

Since the establishment of the African Court was an attempt to remedy all of the weaknesses inherent in the ACHPR, these two bodies have a unique relationship that needs to be clarified. There are several methods of submitting a communication at the regional level.

The African Commission

Individuals wishing to submit a communication to the ACHPR can do so as individuals, groups, or via an NGO that has observer status. All the 53 member states of the African Union are automatically able to use this procedure via the ACHPR. The ACHPR can also refer cases to the African Court¹¹².

The African Court

In the African Court, it is only the member states that have ratified the Protocol establishing the Court that have direct access to the Court; they do not have to go via the African Commission. Currently these are 26 countries¹¹³. However, the African Court also enables individual complaints to be brought before it. Even though 26 countries have ratified the Protocol, not all of them have accepted the competence of the Court to receive communications.

Article 34(6)¹¹⁴ of the Protocol states that:

“At the time of the ratification of this Protocol or any time thereafter, the State shall make a declaration accepting the competence of the Court to receive cases under article 5(3) of this Protocol. The Court shall not receive any petition under article 5(3) involving a State Party which has not made such a declaration”.

¹¹⁰ <http://www.omct.org/human-rights-defenders/statements/2010/04/d20642/> accessed on 21st September 2011.

¹¹¹ http://www.achpr.org/english/declarations/declaration_kigali_en.html accessed on 21st September 2011

¹¹² Article 5(1) “The following are entitled to submit cases to the Court: (a) The Commission”.

¹¹³ Found at: http://www.achpr.org/english/_info/court_en.html The 26 countries include: Algeria, Burkina Faso, Burundi, Cote d'Ivoire, Comoros, Congo, Gabon, Gambia, Ghana, Kenya, Libya, Lesotho, Mali, Malawi, Mozambique, Mauritania, Mauritius, Nigeria, Niger, Rwanda, South Africa, Senegal, Tanzania, Togo, Tunisia and Uganda. (As of 4th January 2012, the time of writing this report).

¹¹⁴ http://www.achpr.org/english/_info/court_en.html accessed on 12th June 2011.



By the time of writing the report, there were only five member states that could directly submit an individual complaint to the Court. These were: Burkina Faso, Ghana, Malawi, Mali and Tanzania¹¹⁵. Ugandans wishing to submit a communication to the African Court can only do so via the African Commission at the moment.

(b) The African Union's Special Rapporteur on the Situation of Human Rights Defenders in Africa

The African regional system has several "special procedures", one of which is the Special Rapporteur on the Situation of Human Rights Defenders in Africa. The African regional system was the first to incorporate a special procedure for the situation of HRDs. The mandate¹¹⁶ of the Special Rapporteur includes:

- To seek out, receive, examine and act upon information concerning the situation of human rights defenders in Africa;
- To present a report, at each ordinary session of the African Commission, on the situation of human rights defenders in Africa;
- To establish cooperation and dialogue with member States; national human rights institutions, intergovernmental organisations, international and regional mechanisms, human rights defenders and other partners;
- To formulate and recommend strategies to further the protection of human rights defenders and ensure follow-up on these recommendations;
- To promote and raise awareness of the implementation of the UN Declaration on HRDs in Africa.

The National Level

(a) The Uganda Human Rights Commission

The UHRC is a national protective mechanism that was established under the Constitution of Uganda. It is a protective mechanism that is available to HRDs in Uganda. The UHRC functions as a court¹¹⁸, and it has been mandated to investigate allegations of human rights violations¹¹⁹. The UHRC which has its headquarters in Kampala also has nine regional offices located in Arua, Gulu, Jinja, Kampala, Moroto, Soroti, Fort Portal, Masaka and Mbarara¹²⁰.

As a national protective mechanism the UHRC operates through five directorates each focusing on a particular issue pertaining to its human rights mandate. The Directorate of Research, Education and Documentation focuses on carrying out human rights research and developing human rights programmes to create awareness. The Directorate of Regional Services coordinates the UHRC's strategy to extend services to the people countrywide.

¹¹⁵ http://www.achpr.org/english/_info/court_en.html (As of 4th January 2012)

¹¹⁶ <http://www.srhrdafrica.org/>

¹¹⁷ Established under Article 51 of the 1995 Constitution of Uganda.

¹¹⁸ Article 53(1) of the 1995 Constitution of Uganda

¹¹⁹ Article 52(1) of the 1995 Constitution of Uganda

¹²⁰ http://www.uhrc.ug/index.php?option=com_content&view=category&layout=blog&id=51&Itemid=120 accessed on 4th January 2011

The Directorate of Monitoring and Inspections deals with three specific constitutional mandates: monitoring government's compliance with international treaties and conventions, visiting jails, prisons and places of detentions to inspect the conditions of inmates, and publishing periodic reports on the UHRC's findings on the state of human rights in Uganda. The Directorate of Complaints, Investigations and Legal Services focuses on providing legal redress and remedies to victims of human rights violations and to provide legal advice to UHRC. The Directorate of Finance and Administration plays a facilitation role to enable all directorates function effectively to ensure better delivery of UHRC's mandate.

Human Rights Defenders Desk

In December 2011, UHRC established a HRDs Desk to undertake on the following key activities:

- Documenting complaints of human rights violations from HRDs.
- Promoting awareness among HRDs.
- Monitoring the situation of vulnerable groups of HRDs such as members of the opposition and journalists.
- Advocating for legislative and policy reforms, including the review of laws and bills before Parliament that have an impact on the work of HRDs.
- Cooperating with both the UNSR and the Special Rapporteur on the situation of HRDs in Africa.

HRDs can visit the UHRC's website¹²¹ and access a complaints form if they wish to submit a complaint.

(b) Courts of Judicature

HRDs can also report human rights abuses and violations to courts of law in Uganda. These include the Magistrates Court, High Court, Appeal Court and Supreme Court. Article 50 of the Constitution of Uganda stipulates that any person who claims that a fundamental or other right or freedom guaranteed under the Constitution has been infringed or threatened, is entitled to apply to a competent court for redress.

(c) The European Union Guidelines on the Protection of Human Rights Defenders

The European Union (EU) adopted the EU Guidelines on the Protection of HRDs in 2004¹²². The guidelines provide standards and encourage implementation of the Declaration on HRDs through the activities of EU member States in external relations. A local implementation strategy of the EU Guidelines in Uganda¹²³ was issued listing activities to be undertaken

¹²¹ <http://www.uhrc.ug/>

¹²² <http://www.ue.int/uedocs/cm-sUpload/GuidelinesDefenders.pdf>, accessed on 15th June 2011.

¹²³ Embassy of the Federal Republic of Germany, Kampala, 'Local Implementation Strategy for the European Union Guidelines on Human Rights Defenders Uganda'.



to realise the objective of the Guidelines. The activities include capacity building, public awareness campaigns, raising individual cases of HRDs with authorities, listing the situation of HRDs in annual human rights reports and rendering financial and other support to HRDs in Uganda. HRDs are encouraged to interact with the EU mission in Uganda in order to receive support in their work.

Conclusion

HRDs in Uganda have various protection mechanisms available to them at the national, regional and international levels. The major challenges are that most HRDs are unaware of these mechanisms or do not know how to utilise them. To some extent, many HRDs doubt the effectiveness of these protection mechanisms. The Centre emphasises to all HRDs that these protective mechanisms can be effective, therefore it is important to utilise them. If HRDs fail to get remedies at the national level, they can seek recourse at the regional and international levels.

Strategies for Human Rights Defenders

Introduction

For HRDs to effectively carry out their work of human rights promotion and protection, they need to emulate success stories of fellow HRDs. During the research respondents shared a number of strategies that they had utilised in the course of their work. Some of the successful strategies in Uganda include exchange visits by HRDs organisations, use of volunteers, raising funds from members and donations and income generating programmes to combat funding challenges. The research also revealed innovative strategies that have been used in other jurisdictions, for example, use of social media, alert systems and website campaigns. The impact of these strategies was not assessed by this research but these success stories serve as important lessons for HRDs.

Strategies by HRDs in Uganda

Personnel assistance

The research indicated that personnel assistance and capacity building were essential to effective human rights work in Uganda. Actionaid International was piloting a personnel assistance programme known as 'People for Change'. Under this programme, HRDs who are partners with Actionaid, apply for an expert known as an "Inspirator" who is entirely funded by Actionaid. The Inspirator is recruited from outside the host country by Actionaid and assigned to the HRDs to address their capacity needs by sharing experiences and good practices for a period of six to nine months.

MAYANK Anti-Corruption Coalition which is an initiative of the seven districts of West Nile: Moyo, Arua, Yumbe, Adjumani, Nebbi, Nyadri and Koboko to promote sustainable peace and equitable development, received an Inspirator from Kenya.¹²⁴

Simplification and Translation of human rights documents

Human rights literature particularly the international instruments are drafted in legal language which is not easily understood by some HRDs and members of the general public. There is need for such documents to be in simpler language. The Centre simplified human rights literature such as the UDHR, the UN Declaration on HRDs, and Chapter Four of the 1995 Constitution of Uganda among others. It also translated these documents into seven commonly spoken local languages: Acholi, Lango, Ateso, Kiswahili, Luganda, Runyankore-Rukiga and Runyoro-Rutooro. These documents were disseminated widely.

Formation of networks

It is important that HRDs do not work in isolation; but work together to have a greater impact in their areas of operation. This is why formation of networks has been identified as a useful strategy. HRDs working within networks confirmed the benefits, which include easier access to funding opportunities, coverage of a wider geographical area, better protection for each other, better lobbying coalitions and building each other's capacities.

¹²⁴ Interview with MAYANK Anti Corruption Coalition, Arua, 28th March 2011.



The Centre used this strategy to connect with HRDs countrywide. The Centre formed seven networks of HRDs in different regions of the country through which it continuously shared with them information on human rights issues particularly on HRDs. Through these networks, the Centre managed to keep updated on human rights issues of different HRDs in the country.

Creative human rights education programmes

HRDs have innovative ways of educating the public on human rights through music, dance and drama. Communities are not only entertained, but are able to correlate the themes shared with their own experiences. The innovative way in which messages are delivered ensures that people of all ages are able to understand regardless of their education levels. The music, dance and drama have helped to attract a large number of people who in the process get information on human rights issues.

Public Affairs Centre (PAC), Soroti used musicians to deliver their messages through songs at the governance music festival¹²⁵. Similarly, MIFUMI and KRC played music to attract crowds, and then communicated their messages during the breaks in the music performances. KRC also used drama sensitisation with local shows on human rights each week. MIFUMI also utilized community activities such as events, films, introduction meetings, wedding ceremonies, church gatherings and alumni meetings¹²⁶ to disseminate their messages.

Exchange visits by HRDs organisations

Exchange visits by HRDs to organisations within their geographical region or thematic area is a means that some HRDs utilised to improve the relationships with each other. Through exchange visits, HRDs learnt from the experiences of others by engaging in dialogue and working closely with them. These visits also fostered interactions that were more meaningful; led to increased collaboration; as well as better understanding and appreciation of the actual situation regarding the working environment of different HRDs. The HRDs shared best practices, challenges and strategies of how to mitigate such challenges and move forward with human rights promotion and protection work. This helped in networking which is important in human rights work.

MACCO had a four day exchange visit to Anti corruption Coalition Apac during which members of staff from both organisations shared and learnt a lot.¹²⁷

Networking with communities

Another effective strategy is the strengthening of networks between the HRDs and the communities they serve.

¹²⁵ Interview with Public Affairs Centre, Soroti, 1st March 2011.

¹²⁶ Interview with HRDs, Tororo, 4th March 2011.

¹²⁷ Interview with MAYANK Anti Corruption Coalition, Arua, 28th March, 2011

PIRD in Lira created good networks with the communities and acquired volunteers from the communities to work with them¹²⁸.

“PAC used the “network 11” strategy. In each sub county, PAC got a representative who in turn got a nucleus of 10 people in that sub county, to discuss issues once a week, and those 10 got 10 more in their sub-parishes”¹²⁹. This practice has been successful in Nepal and South America.

Internal Capacity Building

It is important for HRDs to be knowledgeable and well versed with human rights trends in order to handle them effectively. This can be achieved through continuous training. One of the biggest challenges faced by HRDs organisations is limited capacity of staff. Internal capacity building enables an organisation to assess its capacity to effectively carry out its mandate. It has also been very useful in reducing instances of high staff turnover in organisations.

Some organisations embarked on boosting the capacity of their staff through further training in human rights. A number of HRDs sent their members of staff for further training including post-graduate education¹³⁰. Other organisations met the cost of further education for their staff members. Through this strategy, organisations created a more knowledgeable workforce.

MIFUMI provided tuition for two staff members to pursue courses in gender and human rights. It also continued to offer soft loans to staff members to pursue studies in different thematic areas¹³¹.

Human rights awards

It is important for HRDs to feel appreciated and valued for the good work they do. This helps to boost their morale to do more in human rights promotion and protection. Some HRDs NGOs have instituted excellence awards to encourage the observance of human rights within their communities. These awards serve to honour, show moral support, recognise and elevate the contributions of individuals and organisations who work tirelessly to advance the cause of human rights. The awards encourage them to work harder in protecting and promoting human rights on top of elevating their profiles and standing within the communities in which they work.

An NGO in Lira increased human rights awareness by holding an annual award ceremony to recognise the best police officer in the community¹³². By awarding them, the officers were encouraged to observe and protect human rights in the community. Another NGO in Arua used community scorecards to evaluate the services of the NGOs during the course of the year¹³³. The scorecards from the community promoted community empowerment to monitor and scrutinise the services offered by NGOs; point out their achievements and weaknesses; thus assisting the NGOs to improve in their work of promotion of human rights.

¹²⁸ Interview with Participatory Initiative for Real Development (PIRD), Arua, 28th March 2011

¹²⁹ Interview with Public Affairs Centre (PAC), Soroti, 1st March 2011.

¹³⁰ Interviews with Amuria District Development Agency (ADDA) and Teso Women Peace Activists (TEWPA) in Soroti, 1st March 2011, MIFUMI in Tororo 4th March 2011, Kabarole Research and Resource Centre (KRC) in Fort Portal 16th March 2011 and Participatory Initiative for Real Development (PIRD) in Arua 28th March 2011,

¹³¹ Interview with MIFUMI, Tororo, 4th March 2011.

¹³² Interview with Facilitation for Peace and Development (FAPAD), Lira, 1st April, 2011

¹³³ Interview with Participatory Initiative for Real Development (PIRD), Arua, 28th March, 2011.



Volunteers and Interns

Some HRDs organisations recruit volunteers to assist in office operations. Volunteers and interns are a very useful strategy to overcome human resource challenges as they beef up the capacity of organisations that would ordinarily not be able to support a large staff base.

Some volunteers and interns are very knowledgeable and experienced in human rights work and in most cases are readily available and willing to learn. This makes them an invaluable resource. Organisations that have volunteer and internship programmes were greatly assisted in accomplishing their objectives.

The Centre has an internship programme with different academic institutions such as Georgetown University, USA which annually sends interns for a period of three months. Interns are also received from Makerere University.

Support from the communities

Partnering with communities is very important in human rights work since every individual who carries out any work towards the promotion and protection of human rights work is a human rights defender. Some organisations managed to continue operating with the support of their communities. They created different resource mobilisation strategies to sustain their activities. Fundraising from non conventional sources like membership subscriptions helped an organisation continue with its operations even when it had not received funding from development partners. Some organisations continued operating by raising money from members, families and personal sources. The examples below illustrate that it is often the passion many HRDs have for human rights that sustains their work.

Gideon Foundation in Soroti, mobilised funds through radio broadcasts by requesting the community to support them¹³⁴. In Mbale, victims of human rights abuses approached National Human Rights Association of Uganda (NHRAU) which offered to meet the transportation costs of NHRAU's members to the UHRC regional office in Soroti or Kampala to have their matters reported.

Masaka District NGO Forum (MADINGOF) had not received funding since 2009¹³⁵. As a result, the organisation had to give up their office premises in 2010 because it could not afford the rent. Recently, however, MADINGOF received an offer to be hosted in a school belonging to its chairperson. The chairperson stated: "the Forum would have collapsed if I had given up"¹³⁶. The same is true for many more HRDs, such as Kikandwa Rural Communities Development, which had not received funding since 2009¹³⁷.

Use of local community radio stations

Despite the many challenges HRDs encounter particularly regarding funding, they have managed to sustain their organisations operations through creative linkages. One such strategy is to utilise local community radio programmes to market an organisation's programmes.

¹³⁴ Interview with Gideon Foundation in Soroti, 1st March, 2011

¹³⁵ Interview with MADINGOF in Masaka, 13th April, 2011

¹³⁶ Interview with MADINGOF in Masaka, 13th April, 2011

¹³⁷ Interview with Kikandwa Rural Communities Development in Mukono, 11th April 2011.



The local community radio stations ensure the free flow of information and broadcast a variety of news and information in local languages at no cost. This has facilitated community participation in political processes, promoted more open and inclusive attitudes, which has helped to increase debate on issues affecting the community.

PAC Soroti is hosted regularly on local radio talk shows. This is an effective marketing strategy and adds value to the organisation. Without the organisation having to mobilise a lot of resources, the strategy popularises it and its programmes.

Emergency support to HRDs

EHAHRDP has a toll-free emergency number that HRDs can call if they are under attack or being threatened owing to their human rights work. HRDs can call the emergency number free of charge. The number to call during working hours is 0800-222-666. The out-of-hours number is 0783-027-611. When EHAHRDP receives a call on the emergency hotline, they respond according to the needs of the caller. Some callers need to be evacuated from the country; others need to be relocated, while others need to be taken to a hospital. Others may need counselling. The aim of the emergency hotline is to provide immediate assistance to HRDs who are at risk and also ensure their safety¹³⁸.

Strategies from other jurisdictions

Internal capacity building of staff

Internal capacity building is a best practice that helps to develop the skills and services of HRDs organisations and enables them to serve their communities better. The Foundation for Civil Society (FCS) is a Tanzanian non-profit company designed and funded by a group of development partners. It provides financial support and capacity building to civil society organisations. The FCS's development department makes sure that the Foundation's services are effective through specific activities. These include impact assessments, grantees auditing, information gathering and dissemination, enhancing partnerships and networks, conducting participatory research on CSOs, capacity development for CSOs and public engagement through public policy dialogues¹³⁹. The development department's role in building the capacity of CSOs is unique to FCS. Many donor agencies and basket funds do not provide for this capacity building and therefore should be mirrored by other donors focusing on supporting HRDs in Uganda.

In February 2011, FCS provided technical facilitation to 72 organisations to teach them about strategic planning. FCS also built the capacity of 60 defenders from 30 CSOs by facilitating a programme on developing and using financial guidelines and reporting¹⁴⁰. The local basket funding mechanisms in Uganda are urged to incorporate similar programmes.

¹³⁸ Interview with EHAHRDP, 10th August, 2011.

¹³⁹ <http://www.thefoundation.or.tz/foundation-news-view.php?newsID=386>, accessed on 18th April 2011.

¹⁴⁰ <http://www.thefoundation.or.tz/foundation-news-view.php?newsID=386>, accessed on 18th April 2011.



HRDs efforts towards the enactment of specific national laws on protection of HRDs

A major aspiration of HRDs is the enactment and implementation of laws that specifically protect them. A few countries have attempted to lobby for the enactment of specific national laws on the protection and promotion of the rights of HRDs. In Africa, however, there are a few states that have made such attempts though they have not been successful yet. The Democratic Republic of Congo proposed specific legislation for the protection of HRDs in 2007, but the Bill was never passed¹⁴¹. In Nepal, an organisation known as the Informal Sector Service Centre¹⁴² presented a draft decree¹⁴³ on HRDs for discussion by the Nepal authorities in the second half of 2009¹⁴⁴. This Bill has never been presented to Parliament.

National Programmes to protect HRDs

A few countries in Latin America have had more success implementing national programmes to protect HRDs. Colombia was one of the first countries to establish a specific programme to protect HRDs¹⁴⁵. The General Protection Programme of the Directorate of Human Rights, in the Colombian Ministry of Home Affairs and Justice, supports the government in protecting "anyone exposed to imminent and exceptional risk as a direct consequence of political, public, social or humanitarian activities"¹⁴⁶. HRDs are within this target group¹⁴⁷.

This programme has facilitated constructive dialogue at the very highest levels with public institutions in Colombia and made it possible for the targeted HRDs to participate in decision-making within the programme and in implementation of its procedures. It has also helped HRDs working in the programme to continuously assess the actions and attitudes of the civil servants working in the Ministry of Home Affairs¹⁴⁸.

Brazil has also established an important national programme to ensure the protection of HRDs. In October 2004, the National Programme for the Protection of Human Rights Defenders was launched by the Brazilian government¹⁴⁹. In February 2007, the National Policy for the Protection of HRDs was approved¹⁵⁰. The Policy's objective was to "establish protection principles and guidelines as well as assistance to natural and legal persons, groups, institutions, organisations and social movements that promote, protect and defend human rights and which, in exercising these functions, find themselves exposed to risk or in a vulnerable position."¹⁵¹ This process was spearheaded by HRDs who held countrywide national coordination meetings and joint advocacy with government departments. This strategy can be adopted by HRDs in Uganda to campaign for policy change especially on matters that specifically affect HRDs.

¹⁴¹ Protection of human rights defenders, Best Practices and lessons learnt, Protection International, first edition, Pg 21

¹⁴² <http://www.inseconline.org/> accessed on 19th April 2011

¹⁴³ Human Rights Defenders Bill 2066, First Draft

¹⁴⁴ Protection of human rights defenders, Best Practices and lessons learnt, Protection International, first edition, Pg 22

¹⁴⁵ Protection of human rights defenders, Best Practices and lessons learnt, Protection International, first edition page 12.

¹⁴⁶ Protection of human rights defenders, Best Practices and lessons learnt, Protection International, first edition

¹⁴⁷ Protection of human rights defenders, Best Practices and lessons learnt, Protection International, first edition

¹⁴⁸ Protection of human rights defenders, Best Practices and lessons learnt, Protection International, first edition page 13

¹⁴⁹ Protection of human rights defenders, Best Practices and lessons learnt, Protection International, first edition page 19.

¹⁵⁰ Protection of human rights defenders, Best Practices and lessons learnt, Protection International, first edition

¹⁵¹ Protection of human rights defenders, Best Practices and lessons learnt, Protection International, first edition

Alert System

HRDs in Uganda can learn from HRDs in countries in the Far East, such as the Philippines, Hong Kong and South Korea, which have developed strategies for reducing the level of threats and preventing persons from being targeted¹⁵². One such strategy is to establish an alert system managed by a network to closely coordinate with local organisations, individuals, and other sources. This network gathers as much detailed information about threatened activists in the country. It directly communicates with victims, their families and persons in contact with victims to ensure that all the information gathered is credible, as there is normally considerable government propaganda to dismiss and trivialise the threats against HRDs. Information collected in this way is reported daily through a HRDs Urgent Appeals system.

This approach was very effective for HRDs because the level of threats reduced and it resulted in many authorities taking proactive measures to ensure the safety of HRDs because they were aware that the cases were being monitored outside the country¹⁵³. These cases were also reported to various UN agencies. The UN Special Rapporteur on extrajudicial killings, Philip Alston, quoted most of the cases documented through the Urgent Appeals system at the conclusion of his 2006 visit to the Philippines.¹⁵⁴

Website Campaigns

Another strategy used by HRDs is to create websites where all reported threats are documented. This is very instrumental in overcoming issues of limited or no information on human rights violations and abuses faced by HRDs. Online campaigns are a useful tool because they enable access to information by anyone with internet access. There is no need to collect people's addresses or phone numbers to be able to reach them. The internet also exposes the campaigns to more demographics, particularly HRDs that have been difficult to reach. Use of website analytics can also help campaigns track campaign success by determining what type of content is attracting responses and prompting debate. Additionally, online campaigns enable instant updates of information. Online campaigns are a good way of saving resources on printing, paper and staff.

Some of the 2011 online human rights advocacy campaigns¹⁵⁵ taken on by the Philippines include "Take down your Facebook profile pictures in remembrance of all victims of enforced disappearance" campaign¹⁵⁶, Writers Unite! Blog Action Day for Climate Justice¹⁵⁷, Online campaign to support the first International Day to End Impunity¹⁵⁸ among others

¹⁵² Protection of human rights defenders, Best Practices and lessons learnt, Protection International, first edition

¹⁵³ <http://www.hrschool.org/doc/mainfile.php/Lesson59/209/> accessed on 25th September 2011

¹⁵⁴ <http://www.hrschool.org/doc/mainfile.php/Lesson59/209/> accessed on 25th September 2011

¹⁵⁵ <http://hronlineph.com/2012/01/01/2011-online-hr-advocacy-campaigns-in-the-philippines-rundown/> accessed on 13th November 2011.

¹⁵⁶ August 30, 2011, Facebook profile pictures disappeared and status were replaced by the message "In remembrance of the disappeared in the Philippines and around the world, whose lives, rights and freedoms were taken".

¹⁵⁷ In solidarity with the victims of typhoons Ondoy ("Ketsana"), Pepeng, Frank and all other extreme weather events and disasters of the past here in Manila and all over the Philippines, the Philippine Movement for Climate Justice (PM CJ) and the Freelance Writers of the Philippines (FWP) called on writers/bloggers/media workers to write their literary pieces, essays, tweets and slogans on "climate justice".

¹⁵⁸ In September 2011, Centre for Media Freedom and Responsibility (CMFR) launched the Online campaign to support the first International Day to End Impunity on November 23, 2011. This aimed to remind Noyonoy Aquino the current President of the Philippines of his campaign promise to address the killing of journalists (and other extrajudicial killings) in the Philippines.



Signature Campaigns

Signature campaigns are another strategy used by HRDs in other parts of the world. It was successful in the Philippines particularly as a way of engaging HRDs outside the country to reduce death threats and extrajudicial killings of HRDs in Philippines. Given the limitations of movement and actions faced by activists inside Philippines, strategies were developed together with other organisations and persons in Hong Kong in order to respond to the security concerns of local activists, as well as to articulate a clear understanding of the issues.

In Hong Kong, HRDs circulated a poster about extra judicial killings of HRDs in the Philippines and initiated a postcard signature campaign. Signatures were collected in Hong Kong from various meetings, which were then sent to the Office of the President¹⁵⁹. Signatures from Filipino workers in Hong Kong were also collected. This helped in overcoming the fragmented nature of available information on the extra judicial killings of HRDs and getting attention of the authorities to take action. This also helped in keeping the public better informed about the developments and emerging issues. HRDs in Uganda can also initiate such signature campaigns to fight massive human rights violations, particularly threats to HRDs.

Solidarity among HRDs

Another good strategy that has worked in Sri Lanka and Thailand for HRDs is forming and sustaining solidarity within the HRDs community. This enhances working and complementing each other's efforts in protection against human rights violations. For example in Sri Lanka, when court cases against HRDs are heard, a large group of HRDs attend the hearing to express solidarity with the accused. In both Sri Lanka and Thailand, court observers from abroad have attended cases involving serious security concerns to boost morale and send a message that the local persons are not isolated¹⁶⁰.

This keeps the morale of HRDs high and sends the message to the authorities that the HRDs are united and that the accused are not alone. This is a good strategy that Ugandan HRDs can emulate in the struggle for equality for all and observance of human rights.

Capacity Building for HRDs in digital security

HRDs are increasingly using the internet to carry out their work and send messages and this has led to a lot of information currently being shared over the internet. As such there are high risks of sensitive information being accessed by intelligence organs. As a result, international NGOs have taken on a new dimension to ensure the protection of HRDs in digital security by holding capacity building trainings for HRDs. These trainings are aimed at equipping them with practical skills to protect themselves against manipulation and monitoring of data and information. An example is Frontline Defenders, based in Ireland which conducts a digital training programme for HRDs world over to address digital security challenges and implement security strategies. HRDs in Uganda should consider internet security as a priority as they go about their work and engage experts to train them.

¹⁵⁹ Centre for Media Freedom and Responsibility (CMFR) Online campaign to support the first International Day to End Impunity on 23rd November, 2011.

¹⁶⁰ Centre for Media Freedom and Responsibility (CMFR) Online campaign to support the first International Day to End Impunity on 23rd November, 2011.



Use of social media

The social media in developing nations so far is mainly for individual empowerment. Social media not only connect deprived nations to the outside world, but also provide the power to shape the internet in a way that is relevant to peoples' lives. They provide the power to organise on a massive scale and to speak out. These features make social media incredible tools that should be embraced by anyone with an eye towards development¹⁶¹.

Presently, Africa has an estimated 1.97 billion users of internet¹⁶² and the proliferation of social media has empowered HRDs to express themselves. In many cases this has meant that individuals are able to make known the human rights abuses that they suffer in their countries. It has also empowered individuals to bring attention to human rights violations taking place in their countries.

The values of social media are diverse: It takes less time to create and deliver online content to HRDs; it reaches out to a larger targeted audience and the exposure it provides has no boundaries. It is possible to make real-time modifications to the social media content and since there is no limit to the amount of people accessed it is a very effective medium in spreading the word about a human rights situation.

HRDs have taken advantage of social networking websites like Facebook, Twitter and Youtube to carry out website campaigns, send out mass emails and utilised blogs to raise awareness about pressing social issues. HRDs in Uganda should learn from this strategy to further their interventions.

Conclusion

It is important for HRDs to emulate strategies that have worked for different HRDs at the national, regional and international level. HRDs across the world face similar challenges and obstacles in the course of their work and the mitigation strategies are more or less the same. The promotion and protection of human rights will have a greater impact if HRDs are better protected. It is therefore important for HRDs to familiarise themselves with and emulate best practices that have been used for the successful promotion and protection of the rights of HRDs.

¹⁶¹ Amir Hatem Ali, "The Power of Social Media in Developing Nations: New Tools for Closing the Global Digital Divide and Beyond", 2011, Page 1

¹⁶² <http://www.internetworldstats.com/stats.htm> accessed on 10th October 2011.



Conclusions and Recommendations

General Conclusion

This report was principally undertaken to assess the environment in which HRDs work. It focused on civil and political rights given that they were at high risk during the campaigns, elections and post-elections period. The report highlights the obstacles, threats and challenges faced by HRDs in this period.

Uganda's constitutional framework recognises the existence and role of HRDs and generally provides sufficient space for their formation and operation. HRDs play an important role as a safeguard against arbitrariness and human rights abuses and therefore remain a cornerstone of the rule of law. Within this fairly supportive legal environment, HRDs have played a significant role in the democratisation process in Uganda. As institutions independent from government, NGOs have provided valuable resources to meet humanitarian needs, especially in Northern Uganda. Many NGOs are complementing government efforts by meeting the basic needs of the people, such as providing food, medical care, clothes and other commodities.

Specific conclusions

The HRDs who were interviewed, particularly those in the Northern and Eastern regions of Uganda and journalists generally, had been subjected to violations of human rights. They had been the target of harassment, threats of arbitrary arrest and detention, de-registration and delays in renewal of registration. These defenders also suffered restrictions on their freedoms of movement, expression, association and assembly.

HRDs were victims of false accusations and unfair trials. Violations most commonly targeted either HRDs themselves or the organisations and mechanisms through which they worked. In most cases, the acts committed against HRDs were in violation of both international and national human rights law.

The majority of HRDs in Uganda lacked the capacity to comprehensively engage the State on human rights and good governance issues. The limited spaces within which HRDs could advance democratisation and governance issues, combined with the restrictive regulations of the 2006 NGO Act, presented big challenges. This problem was compounded by HRDs' fear of confronting or contradicting the State. HRDs in Uganda were highly dependent on external sources of funding for their programmes, agendas and activities. Invariably, this affected the sustainability of their programmes. Networks at national, regional and district levels were increasingly being formed in a progressive manner.

The Government, for the most part, did not promote or facilitate greater HRDs involvement, as is illustrated by its reluctance to provide public access to government data and information. Such information remained "classified", was not released in a timely manner, and was not widely disseminated. This made it seem as though government agencies had failed to appreciate that democratic government is strengthened, not weakened, by an active civil society. Despite these challenges, however, there is no doubt that HRDs directly and indirectly influenced policy-making processes at different levels, such as the enactment of the Access to Information Act 2005.



Recommendations to HRDs/CSOs

General Recommendations

Human rights defenders should:

1. build their capacity to expose abuses in a more coherent, objective and timely manner, while concurrently initiating constructive dialogues with the Government. They should integrate rapid response initiatives and interventions into their daily work to enhance protection of victims and HRDs themselves.
2. strengthen their capacities for effective research, investigation, documentation, monitoring and reporting human rights issues. HRDs should always be armed with credible research data and undertake more factual documentation of human rights work backed by quantitative analysis, investigations and follow up of current issues. The more thoroughly HRDs expose human rights violations within the country, the less the State will be able to label HRDs as errant and irresponsible.
3. issue both full and summarised versions of their reports which should be translated and disseminated to all stakeholders and the local communities.
4. adopt advocacy skills to lobby for legislative changes and legal mechanisms consistent with democratic institutions.
5. focus on innovative ways of raising human rights awareness and consciousness as well as delivering human rights education.
6. utilise the mandate of the UNSR by submitting complaints and sending information on violations in specific areas. This is especially important since the current mandate holder is a Ugandan resident in Uganda with an accessible office for all HRDs¹⁶³.
7. develop support mechanisms for themselves; for example, women HRDs might need life insurance to provide a safety net especially when carrying out sensitive work. They also need mechanisms to effectively manage work-related trauma given the nature of their work.
8. focus on enhancing professional competence within their organisations through strategic recruitment, continuous education and training of staff, and motivation of the human resource including volunteers.
9. improve on information sharing and communication within networks through appointment of focal persons and regular interaction with each other.
10. integrate tailor-made training programmes for different groups of HRDs depending on their areas of focus.
11. carry out joint advocacy activities against restrictive laws that curtail their operations.

¹⁶³ The Human Rights Centre Uganda, Plot 65 Luthuli Avenue, Bugolobi, Kampala.

12. develop strategies to sensitise the broader population, including the communities, traditional and religious leaders on specific challenges women HRDs face.
13. work towards establishing strategic alliances within government, the academia, the private sector; and should network with other groups within and outside Uganda to create and increase impact on the decision-making processes and policy formulation.
14. focus on developing national, regional and international partnerships which are important for strengthening the work of HRDs; improve the coordination of human rights activities, including the active support of HRDs in danger.
15. create alternative mechanisms of resource mobilisation rather than relying entirely on donor funding to support their activities, including the introduction of subscription membership fees and use of volunteer and intern services to reduce staff costs.

Civil society organisations should:

1. routinely evaluate the effectiveness of their strategies, reflect on approaches and consider developing new strategies for addressing challenges that affect them.
2. broaden their constituencies by building strategic alliances and partnerships with influential actors in government, the private sector, faith-based groups, informal sector groups, the media and transnational groups. These alliances which should have a reasonable degree of local ownership and a local grassroots base, should function as autonomous spheres of social power, within which citizens can put pressure on government for positive change; protect themselves from human rights abuses and democratise down to the grassroots level.

Recommendations to Government

The Government of Uganda should:

1. enact specific laws which lead to the transposition of the UN Declaration on HRDs into national law, and which define the rights and responsibilities of HRDs and the State's obligation towards them.
2. establish state structures and mechanisms for the protection of HRDs which reflect real political will and lead to substantial progress in promoting and protecting HRDs.
3. partner with the media in formulating and implementing media regulations and support all initiatives for the self-regulation of journalists in Uganda.
4. repeal restrictive legislation, specifically the Press and Journalist Act and the Anti Terrorism Act in order to broaden the media space.



5. make public all reports of investigations involving HRDs and prosecute all those implicated. The Police should thoroughly investigate human rights violations and allegations of indiscriminate and/or excessive use of force by law enforcement officials and take appropriate action. Government should also continuously educate the Police about human rights and update them on best practices.
6. review laws and regulations that restrict the rights to freedom of assembly, association and expression to ensure that they are in conformity with the obligations of the State under international human rights law. The laws regulating NGOs should also be reviewed and updated in a consultative process that involves the NGO sector.
7. create a more comprehensive and continuous programme for civic education on multi-party democracy and the citizen's manifesto. Government should include human rights education and peace and conflict education in school curricula in partnership with HRDs. Civic education should also focus on the teaching of current affairs.

References

Books

- (i) Fattou Robert, 1992, *Predatory Rule: State and Civil Society in Africa*, Lynne Rienner Publishers, Colorado
- (ii) Steiner J. Henry and Alston Philip, 2000, *International Human Rights in Context: Law, Politics, Morals*, (2nd ed.), Oxford university Press, Oxford.

Reports

- (i) The Human Rights Centre Uganda, *Human Rights Defenders in Uganda; An overview of the working environment for Uganda Human Rights Defenders in Uganda*, 2009
- (ii) Civicus/Deniva, *Civil Society in Uganda: At Crossroads? A Civicus Civil Society Index Project Report for Uganda*, 2006, Kampala, Uganda.
- (iii) Human Rights Journalist Network – Uganda; *Press Freedom Index Report*, November 2010 and April 2011

Journals and Briefing Papers

- (i) Amir Ali Hatem, "The Power of Social Media in Developing Nations: New Tools for Closing the Global Digital Divide and Beyond" (year?), *Harvard Human Rights Journal*, Volume 24, issue 1
- (ii) Eguren Enrique and Martin Maria, "Protection of human rights defenders, Best Practices and lessons learnt", (year?), *Protection International*, first edition, Volume II

Websites

- (i) African Commission on Human and People's Rights, 2003, Kigali Declaration, http://www.achpr.org/english/declarations/declaration_kigali_en.html
- (ii) General Assembly Resolution 53/144, 1999, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. <http://olddoc.ishr.ch/hrdo/documents/DeclarationHRD.pdf>
- (iii) African Commission on Human and People's Rights, Protocol To The African Charter On Human and Peoples` Rights On The Establishment Of An African Court On Human and Peoples` Rights http://www.achpr.org/english/_info/court_en.html
- (iv) African Commission on Human and People's Rights, Protocol To The Africa Charter On Human And Peoples` Rights On The Rights Of Women In Africa. http://www.achpr.org/english/_info/women_prot..htm
- (v) African Commission on Human and People's Rights, 1999, Resolution On The Criteria For Granting and Enjoying Observer Status to Non-Governmental Organisations Working In The Field of Human Rights With The African Commission on Human and Peoples` Rights. http://www.achpr.org/english/_info/observer_en.html
- (vi) Human Rights online Philippines, 2011, HR Advocacy in the Philippines rundown, <http://hronlineph.com/2012/01/01/2011-online-hr-advocacy-campaigns-in-the-philippines-rundown/>



- (vii) Human Rights School, Lessons 2: Local experiences of protection for human rights defenders. <http://www.hrschool.org/doc/mainfile.php/Lesson59/209/>
- (viii) Internet World Stats, 2011, Internet Users in the World. <http://www.internetworldstats.com/stats.htm>
- (ix) <http://www.inseconline.org/>
- (x) Office of the United Nations High Commissioner for Human Rights, 2008, Basic Facts about UPR. <http://www.ohchr.org/en/hrbodies/upr/pages/BasicFacts.aspx>
- (xi) Office of the United Nations High Commissioner for Human Rights, Declaration on Human Rights Defenders <http://www2.ohchr.org/english/issues/defenders/declaration.htm>
- (xii) Office of the United Nations High Commissioner for Human Rights, Human Rights Defenders: Protecting the Right to Defend Human Rights, <http://www.ohchr.org/Documents/Publications/FactSheet29en.pdf>
- (xiii) Office of the United Nations High Commissioner for Human Rights, 1990, The nature of state parties obligation [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/94bd baf59b43a424c12563ed0052b664?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/94bd baf59b43a424c12563ed0052b664?Opendocument)
- (xiv) Office of the United Nations High Commissioner for Human Rights, Monitoring Civil and Political Rights. <http://www2.ohchr.org/english/bodies/hrc/index.htm>
- (xv) The Foundation for Civil Society, 2011, The Foundation Supports Grantees In Developing Strategic Focus And Financial Guidelines <http://www.thefoundation.or.tz/foundation-news-view.php?newsID=386>
- (xvi) The International Bill of Human Rights, Fact Sheet no 2. <http://web.archive.org/web/20080313093428/http://www.unhcr.ch/html/menu6/2/fs2.htm> retrieved 10/01/2012
- (xvii) Protection of Human Right Defenders: Best practices and lessons learnt, 2009, Nepal Human Rights Defenders Bill. http://focus.protectionline.org/IMG/pdf/pi_protection_defenders_vol1_annex9.pdf
- (xviii) <http://www.srhdafrica.org/>
- (xix) UNHCR, Universal Declaration of Human Rights <http://www.unhcr.org/refworld/docid/3ae6b3712c.html>
- (xx) Uganda Human Rights Commission. Regional Heads. http://www.uhrc.ug/index.php?option=com_content&view=category&layout=blog&id=51&Itemid=120
- (xxi) United Nations, Universal Declaration of Human Rights <http://www.un.org/en/documents/udhr/index.shtml>
- (xxii) United Nations, 1999, Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women
- (xxiii) <http://www.un.org/womenwatch/daw/cedaw/cedaw25years/content/english/Convention-OP-English.pdf>



(xxiv) Voices of Australia, Protection of Human Rights in Australia http://www.hreoc.gov.au/education/hr_explained/5_international.html retrieved 22/02/2011

(xxv) World Organisation Against Torture, 2010, African Commission on Human and Peoples' Rights: The Special Rapporteur on the situation of human rights defenders in Africa

<http://www.omct.org/human-rights-defenders/statements/2010/04/d20642/>

(xxvi) <http://www.ue.eu.int/uedocs/cm-sUpload/GuidelinesDefenders.pdf>

Cited cases and judicial decisions

- (i) Muwanga Kivumbi v. The Attorney General of Uganda Constitutional Petition No.9/2005

National Laws and Bills Affecting HRDs in Uganda

- (i) Anti-Homosexuality Bill, 2009.
- (ii) Public Order and Management Bill 2009
- (iii) Non-Governmental Organisations Registration (Amendment) Act, 2006.
- (iv) Constitution of the Republic of Uganda 1995

International Instruments

- (i) African Charter on Human and Peoples Rights
- (ii) International Covenant on Civil and Political Rights, 1966
- (iii) International Covenant on Economic, Social and Cultural Rights, 1966
- (iv) International Convention on the Elimination of all forms of Discrimination against Women
- (v) Maputo Protocol to ACHPR (2003)
- (vi) Universal Declaration of Human Rights, 1948
- (vii) United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (1998) also known as the United Nations Declaration on Human Rights Defenders

