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UGANDA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2011

While freedoms of expression, association and peaceful assembly were severely challenged in Uganda in the run-up to the general elections that took place in February 2011, NGOs and journalists who tried to expose irregularities and allegations of corruption by Government as well as human rights violations by the security forces faced acts of intimidation and attacks. Several defenders were also targeted by the authorities to hinder the legitimate exercise of their human rights activities against the background of the fight against terrorism in East Africa. Finally, in a context of increasing stigmatisation and criminalisation of homosexuality and defenders of sexual rights, a defender of LGBTI rights was assassinated.

Political context

Presidential, parliamentary as well as local¹ elections were held in February 2011. On February 18, 2011, President Museveni, candidate of the National Resistance Movement (NRM) who has been in power for 25 years, was re-elected with 68,38% of the votes. The NRM also won the majority of the parliamentary seats². Presidential and parliamentary elections took place in a generally peaceful atmosphere but were marred by irregularities and widespread allegations of voters bribing, as well as some acts of violence and intimidation³. They were also held under high security forces presence and preceded by acts of intimidation of political opposition members and civil society.

In the run-up to the general elections, freedoms of expression, association and peaceful assembly were severely challenged. Following the terrorist attacks in Kampala on July 11, 2010, which killed more than seventy people and for which Al-Shabaab, an Islamic group based in Somalia, claimed responsibility⁴, terrorist security threat was sometimes

1/ Ugandans were voting for Local Council Chairpersons, District Councillors and Mayors for municipalities.

2/ 279 seats out of a total of 375.

3/ See Citizen's Coalition for Electoral Democracy in Uganda Press Release, February 22, 2011. See also European Union Election Observation Mission to Uganda Preliminary Statement, February 20, 2011. Local elections held on February 23, 2011 were marred by irregularities and violence. As a result, the Electoral Commission suspended the polls for Kampala at mid-day. The local elections in Kampala took place again on March 14, 2011.

4/ Uganda has become a target because it supplies a large number of troops to the African Union Mission In Somalia (AMISOM).

used to justify curbs on those rights. The Government's will to restrict these fundamental freedoms was clearly reflected in the 2009 draft Public Order Management Bill, which was made public in September 2010 and seeks to re-introduce police permission for public meetings, grants the Inspector General of Police (IGP) and the Minister of Internal Affairs wide discretionary powers to regulate the conduct of public meetings but also to regulate the content of the discussion at such meetings⁵. In that context, several demonstrations aiming at protesting against the composition of the Electoral Commission were violently repressed, in particular after the general elections, when "walk to work" protests across the country to demonstrate against prices rise, were violently repressed by the police and the army, using tear gas and live ammunition⁶. The re-emergence of paramilitary groups known as the "kiboko squad" assaulting demonstrators was also worrying.

The working environment for journalists seriously deteriorated in 2010-2011, as illustrated by the killing of two of them. Intimidation and increased assaults and attacks by political actors and security forces, which remained most of the time unpunished, led some to practice self-censorship to avoid trouble. A March 2010 draft Amendment to the 2001 Press and Journalist Act further reveals the Government's will to restrict freedom of expression. According to this draft law, newspapers would need to register and obtain a licence annually from the Media Council, which would be empowered to prohibit newspapers from publishing material considered to be prejudicial to national security, economic progress and Uganda's relations with its neighbours. In the meantime, a number of criminal laws, including the Criminal Code Act and the Anti-Terrorist Act of 2002, were still used to silence journalists critical of the Government despite a positive step taken by the Constitutional Court on August 25, 2010, which declared the law as a violation of freedom of expression⁷.

5/ As of the end of April 2011, the bill had not been tabled in Parliament. Similar provisions contained in the Police Act (known as "Chapter 303") were declared unconstitutional by the Constitutional Court in May 2008, although Section 35 of the Police Act, which gives the Interior Minister the power to prohibit a rally of more than 25 persons without a permit in a certain area, remained in place. However, the Ministry of Justice and Constitutional Affairs appealed the court's decision (as of April 2011 the appeal was still pending), and in the meantime security forces continued to use the Police Act to disrupt opposition party activities.

6/ At the end of April 2011, protests were still ongoing and at least eight people had been killed and 250 injured. In addition many protesters were arrested and some charged with "inciting violence" or "unlawful assembly" including the leader of the opposition Mr. Kizza Besigye who was arrested four times and successively released. Furthermore, the Uganda Communications Commission (UCC) reportedly tried to block websites such as *Facebook* and *Twitter* on April 14, 2011 and journalists coverage of the protests was restricted by different means.

7/ See Foundation for Human Rights Initiative (FHRI).

Impunity continued to be a crucial issue in the country. In particular, grave human rights violations committed during the unresolved long lasting conflict with the Lord's Resistance Army (LRA) remained unpunished⁸. Besides, arrest warrants against top five LRA leaders issued by the International Criminal Court (ICC) in 2005 on charges of "crimes against humanity" and "war crimes" remained unimplemented⁹. Allegations of involvement of security forces in serious human rights violations did not lead to any prosecution of security forces¹⁰. However, the adoption of the ICC Act allowing Ugandan courts to try crimes against humanity, war crimes and genocide defined under the Roma Statute in June 25, 2010, constituted a positive step.

Furthermore, homosexuality remained illegal in Uganda and can be sanctioned by up to fourteen years imprisonment. In addition, as of April 2011, an Anti-Homosexuality Bill that was proposed in October 2009 by a parliamentarian, member of President Yoweri Museveni's ruling party, was still pending before the Parliament. The Bill, which would be punishing homosexuality up to life detention and death penalty for persistent offenders, also contains provision punishing failure to report acts of homosexuality and prohibiting advocacy on sexual minority rights, thereby preventing human rights defenders to work on the issue.

Legal obstacles that might restrict human rights activities

In 2010-2011, the Amendment to the NGO Registration Act, which was adopted by the Parliament in 2006, continued to have the potency to severely hinder human rights NGO activities and silence the most critical ones, as it could directly threaten NGO autonomy and independence. Yet, since 2006, the law could not be implemented pending the adoption of the NGO Registration Regulations, which were finally adopted on March 26, 2009, as well as pending the decision by the Constitutional Court following the petition filed in April 2009 by a group of NGOs led by the Human Right Network - Uganda (HURINET), challenging the constitutionality of the Act on the ground that it violates a number of rights enshrined in the Constitution such as the freedom of association. Hearings scheduled

8/ If there was no LRA attack reported in the country since 2006, the final peace agreement was never signed by the leader of LRA Joseph Kony and the armed group is still operating in the DRC, South Sudan and the Central African Republic. The Ugandan army is still tracking the remaining LRA fighters in those countries. For a detailed analysis see International Crisis Group Report, *LRA: A Regional Strategy Beyond Killing Kony*, Africa Report No. 157, April 28, 2010.

9/ Yet, the War Crimes Division of Uganda High Court created in 2008 issued on July 17, 2009 an indictment against an LRA fighter, Mr. Thomas Kwoyelo, and the trial was expected to start in 2011.

10/ See Human Rights Council, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary executions, Philip Alston, Addendum - Communications to and from Government*, UN Document A/HRC/14/24/Add.1, June 18, 2010.

were regularly postponed by the Constitutional Court and no decision had been issued as of the end of April 2011. Under the terms of this Law and the 2009 Regulations, NGOs have to obtain, annually, a renewal of their licences by a NGO registration board composed of a limited number of NGO representatives and different ministry representatives, including the Internal and External Security ones. Among many other restrictions to the activities of NGOs it contains, it would prevent NGOs from making direct contact with local people in rural areas without giving a seven-day written notice to the district authorities which would obviously affect human rights monitoring in the field. It also expands the powers of the board to regulate the dissolution of NGOs by adding grounds for which the Board could order dissolution. An attempt of the NGO Board to implement the Act by requiring NGOs to proceed with registration before August 30, 2010, was dismissed by the High Court, which on August 20, 2010 granted a temporary injunction against the NGO Board prohibiting it from implementing the Act pending decision of the Constitutional Court.

Intimidation and arrest of human rights defenders promoting free and fair elections and denouncing corruption

NGOs faced acts of intimidation when trying to expose irregularities and allegations of corruption by Government during pre-election times. For instance, on November 23, 2010, Mr. Ofwono Opondo, the Deputy Spokesperson of President Museveni's ruling party, threatened the Democracy Monitoring Group (DEMgroup)¹¹ that he would use his influence to cancel the registration and accreditation of this group as an election observer following reports that some NRM candidates had not resigned from their posts in Government before contesting as prescribed by electoral laws¹². On January 26, 2011, a coalition of NGOs led by the Ugandan National NGO Forum (UNNGOF)¹³ launched a campaign called "Respect your Honour and Return our Money Campaign" aiming at denouncing allegations of corruption¹⁴. On February 5, 2011, the police

11/ DEMGroup is a consortium of four NGOs - the Uganda Joint Christian Council, Action for Development, Transparency International Uganda and the Centre for Democratic Governance - that have come together to contribute to a freer, fairer, transparent and credible elections landscape in Uganda. It notably monitored the 2011 elections.

12/ See Human Rights Network - Uganda (HURINET).

13/ The coalition is composed of UNNGOF, the Anti Corruption Coalition Uganda (ACCU), the Forum for Women in Democracy (FOWODE), the Ugandan Debt Network (UDN), Actionaid Uganda and Uganda Monitoring Platform.

14/ In January 2011, Parliament had approved the payment of 20 million Uganda shilling (about 5,800 euros), to each Member of Parliament as a supplementary budget allocation to facilitate their monitoring of Government programmes in their constituencies. The NGOs campaign questioned the appropriateness of such payment just a few weeks before the elections and called on Parliament Members to return the money and to voters not to vote for those who did not return it.

arrested an employee of UNNGOF, Mr. **Job Kiija**, and a volunteer for the coalition, Mr. **Dennis Muwonge**, while they were distributing leaflets against corruption and mismanagement. They were taken to Kampala central police station and ultimately released after being interrogated for four hours. The following day, nine other persons were arrested including Mr. **Andrew Dushime**, a member of UNNGOF, and volunteers who were distributing the statements as well as individuals carrying it. Messrs. **Patrick Nyakoojo**, **Joel Nyakahuma** and **Andrew Dushime** were detained at Wandegaya police station while Ms. **Esther Namubiru** and two others were detained at the Old Kampala police station. All were released without charge on the same day after a few hours, except three others, including Ms. **Betty Nakitende**, who were detained at Kasangati police station until the next day. Subsequently, the defenders sent a letter to the IGP informing him of their illegal arrests. Although a team of officers belonging to the Professional Standards Unit took the victims' testimonies, there was no development afterwards¹⁵. In Lira, in the northern part of Uganda, on February 8, 2011, Ms. **Eunice Apio**, the Executive Director of Facilitation for Peace and Development (FAPAD), was summoned for interrogation and intimidated by the Lira district police Commander and the Lira District Resident Commissioner, after a member of her organisation had read the coalition statement during a talk show on *Radio Rhino* on February 7¹⁶.

Multiplication of violent attacks against journalists reporting on human rights violations by security forces and electoral irregularities

Journalists faced numerous violent attacks aiming at preventing them from documenting and reporting on violence and irregularities linked to elections as well as human rights violations by the security forces. For instance, on February 18, 2011, while he was covering the presidential and parliamentary polls in Mbale district in eastern Uganda, Mr. **Julius Odeke**, a journalist from the *Red Pepper* and the *Razor Newspaper*, was shot in the knee by the bodyguard of the Minister of the Presidency Beatrice Wabudeya, who was trying to confiscate Mr. Odeke's photos of electoral violence in the area¹⁷. On February 23, 2011, during election day at Kakeeka polling station in Rubaga division in Kampala, supporters of NRM ruling party candidate Peter Ssematimba, who were reportedly angry with the

15/ See FHRI.

16/ She was not charged and did not file a complaint. In addition, the district police Commissioner reportedly threatened some Lira based journalists, including the moderator of the talk show, who for instance had to explain in writing to the police in which circumstances it was decided to read the Coalition statement during the show. See FHRI.

144 17/ As of the end of April 2011, the police investigation was still ongoing. See FHRI.

media coverage of the polls irregularities, attacked the journalists present at the polling station with sticks. Thus, Ms. **Lydia Nabazziwa**, a reporter from *Bukedde TV*, was injured at her ear, Mr. **Nixon Bbaale**, a cameraman for *Channel 44 TV*, was injured at his head, Mr. **Brian Nsimbe**, a reporter for *Channel 44 TV*, was injured at his arm, the equipment of Ms. **Florence Nabukeera**, a reporter with *Bukedde* newspaper, was stolen, Ms. **Christine Namatumbwe**, a reporter for *Metro FM*, had her radio recorder, mobile phone and hand bag stolen and Ms. **Jane Anyango**, a reporter with *UBC TV*, sustained blows at her face and leg. The six journalists filed a complaint and an investigation was ongoing with no results at the end of April 2011¹⁸. In April 2011, at least eight journalists were injured by security forces during a “walk to work” protest. For instance, Mr. **Ali Mabule**, a correspondent of the *New Vision* newspaper, was beaten by an Ugandan People’s Defence Forces (UPDF) soldier to prevent him from taking a photo of a soldier beating a protester in Masaka on April 14, 2011. Mr. **Norman Kabugu**, a journalist for *Kamunye* newspaper, was then beaten by an UPDF soldier as he was taking photos of his colleague being beaten. Messrs. **Ronald Muhinda**, a journalist with *Radio One*, **Stuart Yiga**, a reporter with the *Red Pepper* newspaper, and **Francis Mukasa**, a cameraman of *Wavah Broadcasting Service* (WBS) television, were assaulted by security forces as they were covering the April 14 protests in Kampala, including human rights violations that occurred in that context. Furthermore, journalists were denied access to places where the riots were taking place and to Kiasangati hospital where a demonstrator reportedly died following security forces beatings and inhalation of tear gas¹⁹.

Intimidation and criminalisation of human rights defenders known for denouncing Government abuses perpetrated in the name of the fight against terrorism in East Africa

Against the background of the fight against terrorism, defenders were targeted by the authorities to hinder the legitimate exercise of their human rights activities. On September 15, 2010, Mr. **Mbugua Mureithi**, a Kenyan human rights lawyer, and Mr. **Al-Amin Kimathi**, Executive Coordinator of the Kenyan Muslim Human Rights Forum (MHRF), were arrested upon arrival in Uganda by Government agents, as they were coming to Kampala to observe the proceedings against Kenyan civilian suspects unlawfully transferred to Uganda on allegations of involvement in the

18 / See FHRI.

19 / See Human Rights Network for Journalists - Uganda Report, *Press Freedom Index Report*, April 2011. 145

July 11 terrorist bombings²⁰. They were subsequently detained at the headquarters of the Ugandan police rapid response unit in Kireka, a suburb of Kampala. They were questioned about alleged contacts with Al-Shabaab operatives. After spending three days in detention without any access to a lawyer or a phone, Mr. Mureithi was finally released on September 18 and deported back to Kenya. Yet, Mr. Al-Amin Kimathi remained in detention with no access to a lawyer or a phone and his laptop was confiscated. On September 20, he was charged with “terrorism”, “attempted murder” and 89 counts of murder in relation to the July 11 bombings and remanded to Luzira maximum security prison. On November 30, 2010, his case was transferred to the Ugandan High Court for trial with sixteen other defendants in relation to the July bombings in Kampala. Mr. Kimathi’s application for release on bail was rejected on December 17, 2010 and no hearing had been scheduled as of April 2011. Furthermore, four Kenyan human rights activists coming to Kampala to meet with the Chief Justice of Uganda in order to discuss the case of Mr. Al-Amin Kimathi were arrested by immigration officers upon their arrival at Entebbe airport on April 13, 2011. Messrs. **Samuel Mohochi**, Trustee of the Kenya National Coalition of Human Rights Defenders and a member of OMCT General Assembly, Mr. **Hussain Khalid**, a member of Muslims for Human Rights (MUHURI), Mr. **Muhdhar Khitamy**, Chairman of the Coast province branch of the Supreme Council of Kenya Muslims (SUPKEM), and Mr. **Hassan Omar Hassan**, member of the Kenya National Commission on Human Rights (KNCHR), were detained at the airport during six hours, before being deported back to Kenya. They were not interrogated, and no reasons for their detention were provided by the Ugandan authorities. No charges were brought against them but their passports were given back to them along with a notice from the Ugandan Government stating that they were “prohibited immigrants”.

Killing of a sexual rights defender in a context of stigmatisation and criminalisation of homosexuality

In a context of increasing stigmatisation and criminalisation of homosexuality and defenders of sexual rights, a defender of LGBTI rights was assassinated. On January 26, 2011, Mr. **David Kato**, advocacy officer for the organisation Sexual Minorities Uganda (SMUG), was brutally beaten by an unknown man at his home, in the area of Mukono, near Kampala. He died on his way to Kawolo hospital. A suspect arrested a few days after

20/ MHRF has been very active in denouncing past abuses by the Kenyan Government on terrorist suspects as well as the illegal transfer of several Kenyan suspects from Kenya to Uganda. On November 30, 2010, the High Court of Kenya considered that the suspects’ arrest, detention and transfer from Kenya to Uganda was illegal.

the murder, Mr. Sydney Nsubuga, was brought to the Magistrate Court on February 17, 2011. On March 17, 2011, the Magistrate Court charged Mr. Nsubuga with “murder”. The case was transferred to the High Court, which is competent for such a charge. Yet, no hearing had been scheduled as of the end of April 2011. Mr. David Kato had been receiving death threats following publication in the Ugandan newspaper *Rolling Stone* in October 2010 of pictures, names and addresses of several people it said were homosexuals. Mr. Kato’s picture appeared on the front page of the newspaper with the head line “Hang them!”. Together with three other people, Mr. Kato had filed a lawsuit against *Rolling Stone*. On December 30, 2010, a Judge in the High Court ordered the newspaper to stop publishing identities and addresses of people labelled homosexuals and ordered compensation on the grounds that the publications violated their right to privacy. Moreover, in December 2010, the Minister of Ethics and Integrity, Mr. Hon Nsaba Buturo, prevented the Uganda Human Rights Commission to broadcast a documentary about the work of human rights defenders supposed to be played at the National Theatre on December 13, 2010, for the commemoration of the December 10 World Human Rights Day. The Minister alleged, among other arguments, that the documentary was promoting homosexuality²¹.

Urgent Interventions issued by The Observatory from January 2010 to April 2011

Names	Violations / Follow-up	Reference	Date of Issuance
Messrs. Mbugua Mureithi and Al-Amin Kimathi	Arbitrary detention / Release / Harassment and intimidation	Urgent Appeal UGA 001/0910/OBS 114	September 22, 2010
Mr. David Kato	Assassination	Joint Press Release	January 28, 2011
Messrs. Samuel Mohochi, Hussain Khalid, Muhdhar Khitamy and Hassan Omar Hassan	Arbitrary detention / Deportation	Urgent Appeal UGA 002/0411/OBS 062	April 14, 2011

21/ See Uganda Human Rights Commission Press Release, December 14, 2010.