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Uganda: UPR Submission

UPR Submission

Uganda

Addendum to UPR Submission

Uganda

October 2016

Since Human Rights Watch's March 2016 submission ahead of Uganda's next Universal Periodic Review, there have been ongoing violations of free assembly, expression, and association.

Between February and May after the general elections, police raided and sealed off the opposition political party Forum for Democratic Change headquarters, arrested party officials, and beat their supporters on several occasions. In May, opposition leader Kizza Besigye was charged with treason and remanded in prison. In July after the High Court granted him bail, police brutally beat Besigye's supporters and other bystanders with sticks and batons as he drove through the streets of Kampala.

Opposition activists brought a private prosecution for torture against the Inspector General of Police Kale Kayihura for his alleged involvement in beating opposition supporters in July. The possibility of a trial on the merits fell apart in August. Kayihura failed to appear in court, and police-backed demonstrators physically threatened the lawyers who brought the case and tried to prevent them from leaving the court. They were forced to hide in a magistrate's office to avoid being assaulted by those voicing support for the police. Ultimately, the alleged victims of torture publicly withdrew their statements and said they did not want to proceed.

In April, a court of appeal judge issued a temporary injunction stopping the FDC from carrying out any "defiance campaign" activities pending the hearing of the government's motion challenging the campaign's constitutionality, a ruling that was heavily criticized as lacking independence from the executive. To implement the injunction, the government banned the media from reporting on all FDC activities, a clear violation of the right to freedom of expression and media freedom. The ban ended when the court's interim order expired. Besigye has been largely under de facto house arrest when he is in Uganda, though he has been permitted to travel internationally.

In September, police arrested and detained 25 women who had peacefully gathered in Kampala to pray and present a petition to the speaker of parliament. The women oppose a legislator's proposed constitutional amendment that would remove the age limits for judges and the term limits for Electoral Commissioners. The

women were eventually released without charge. The women argue that recent efforts to amend the constitution are a “decoy” to remove presidential age limits. President Museveni has been in office since 1986 and he cannot run for president again in 2021, unless presidential age limits in the constitution are scrapped. Disagreements over lifting presidential age limits are very likely to lead to increased rights abuses, particularly by the police who consistently are partisan and brutal in the context of managing public order.

Since our March submission, Human Rights Watch has also documented inter-communal fighting prompted by local elections in Rwenzori region, western Uganda, which led to the deaths of at least 50 people and sparked unlawful killings during arrests. During the subsequent law enforcement operations, the police and army killed at least 13 people during alleged arrest attempts. Multiple witnesses said victims were unarmed when shot and killed. There have been no investigations into the security forces’ use of force.

Basic rights of LGBTI people also remain under threat. In August, police unlawfully raided a peaceful pageant that was part of PRIDE celebrations in Kampala. Police locked the venue’s gates, arrested activists, and beat and humiliated hundreds of people, violating rights to association and assembly. The minister for ethics and integrity threatened to mobilize mobs to attack participants should other Pride events take place. Over a month later, police gave permission for a Pride parade to occur on September 24, but on the day, police arrested over 100 people at a peaceful pride parade in Entebbe after blocking the participants from entering two resorts. Everyone was later released but the event has never been permitted to recur.

Additional recommendations to the government of Uganda:

- Take all necessary action to stop government officials from interfering in judicial proceedings.
- Allow peaceful opposition groups to operate freely and exercise the freedoms of assembly, association, expression, and religion, in accordance with international human rights norms and Uganda’s constitution;
- Immediately stop persecuting or harassing lawyers who seek to represent opposition members or their supporters.
- Do not infringe on the rights of Ugandans to hold peaceful cultural events, such as PRIDE.

Universal Periodic Review of Uganda

HRW's Submission to the Human Rights Council - March 2016

Summary

The government of Uganda violates fundamental rights including freedom of expression, association, and assembly despite commitments to bring relevant laws and practice into compliance during the 2011 UPR. The government passed an anti-torture law but no prosecutions for torture occurred. While the government drafted a Human Rights Action Plan, as recommended by some member states, the plan has yet to be launched.

The 2016 election period included numerous serious violations of civil and political rights, revealing the government’s lack of genuine commitment to and even fundamental disregard for many of the 2011 UPR recommendations it pledged to support.

Human Rights Abuses by Security Forces

Despite commitments to ensure investigations and hold state security forces accountable over many years, prolonged illegal detention and torture by security forces remain unaddressed. No security force member has been convicted for any of the well-documented killings of civilians during protests in 2009 and 2011. A Local Defence Force member was arrested and charged before the military courts for the fatal shooting of 2 year-old Julien Nalwanga in Masaka in April 2011, but the proceedings have not concluded – after 5 years – and the alleged perpetrator remains on remand.

In December 2011, police leadership disbanded the Rapid Response Unit explicitly due to concerns about human rights violations, but did not investigate at least six extrajudicial killings or numerous allegations of torture by the unit. One case involving a suspect tortured to death during an interrogation in 2010 still has not advanced in the courts despite arrests of police officers who remain free on bail. Officers from the disbanded unit remain in the police force and Human Rights Watch continues to document prolonged unlawful detention as well as mistreatment and torture by them. Similarly, no inquiries have been made into cases of people who

were tortured or died in the custody of the Joint Anti-Terrorism Task Force, though the task force is much less active in law enforcement than it was in 2006-2009.

Importantly, the government passed an anti-torture law in 2012, which could be a significant step forward for accountability, but police and prosecutors have never brought charges under the new law. The Uganda Human Rights Commission can award a judgment of compensation for torture if a victim files a complaint, but the process often takes years, and the government routinely delays or fails to pay compensation. Actual perpetrators face no punishment as the ruling is against the Attorney General rather than the specific party who committed or was responsible for abuses.

The government failed to credibly investigate violence in 2014 in which at least 100 people were killed in the western Rwenzori region. Numerous reports and Human Rights Watch research suggest that after a July attack on a military barracks and some police posts, civilians were mutilated, tortured, and killed, some buried in mass and unmarked graves, and that government forces may have been involved in reprisals against members of the ethnic group believed to be responsible for the initial attacks. Hundreds of civilians were eventually charged before military courts and in some cases, later amnestied.

Recommendations:

- Cease illegal detention and torture of suspects; investigate and hold accountable state security agents including police and army members who have committed human rights violations;
- Use the new Anti-Torture Act to ensure prosecutions for torture;
- Ratify the Optional Protocol to the Convention Against Torture;
- Ratify the Convention on International Convention for the Protection of All Persons from Enforced Disappearance.

Freedom of Assembly

Contrary to commitments to uphold international human rights law on free assembly made in the 2011 UPR, Uganda passed the regressive Public Order Management Act in August 2013. The law grants police wide discretionary powers to permit or disallow gatherings and has typically been used to obstruct civic meetings and opposition rallies, and as a basis to arrest opposition members. It has occasionally been invoked to prevent private meetings.

In the run-up to the 2016 elections the law's implementation resulted in blatantly partisan policing: police prevented opposition gatherings while protecting activities supporting the incumbent. In July 2015, for example, police arrested two opposition presidential candidates, Kizza Besigye and Amama Mbabazi, as they tried to hold meetings in Kampala and Mbale, respectively. In September 2015, police in Soroti and Jinja fired teargas to disperse people gathered to hear Mbabazi, even though there had been no disorder. In some instances, police fired teargas canisters directly at individuals, turning the canisters into projectiles causing injury, in addition to the teargas' harmful effects on skin, eyes, and breathing. In Jinja, police lobbed fired into the grounds of a primary school, harming children, all in an effort to break up peaceful opposition gatherings.

Recommendations:

- Investigate and punish acts by security forces to obstruct public rallies;
- Amend the Public Order Management Act to ensure free assembly rights in line with international human rights law.

Due Process Violations

On February 19, the day before President Museveni was declared the winner of the 2016 elections, Besigye was arrested and placed under "preventive arrest" in his home. He was arrested daily – every time he attempted to leave his home – for over forty days. Police presented no evidence of wrongdoing and argued that their actions were lawful.

Sporadic use of "preventive" detention of Besigye over several years clearly constitutes arbitrary detention in violation of international human rights law, and is an unconstitutional form of detention without trial or prospect of trial. It violates rights to liberty and security, freedom of movement and the presumption of innocence. The Uganda Human Rights Commission, among others, have explicitly said that preventive detention of anyone inside their home is a clear rights violation. The Police Act provision used to justify preventive detention is inapplicable to the factual reality as it applies only to "habitual offenders." As of this writing, Besigye had not been charged or convicted of any crime.

Practices of the criminal justice system violate international human rights law. As of 2014, 55 percent of the prison population consisted of remandees, though international law provides that pre-trial detention should be an exception and as short as possible. The vast majority of detainees, including those accused of serious

crimes, lack legal representation, and during their long remand times cannot consult counsel or exercise the right to apply for bail.

Human Rights Watch remains concerned that Uganda's military court system, in practice, fails to uphold fair trial and due process rights. Infrequency of sessions and painfully slow processes mean that trials are not completed in a reasonable time. Defendants do not enjoy adequate time or facilities for the preparation of their defense, and the army commanders who act as judges lack any legal expertise. Suspects are sometimes held on remand for many years, leading some suspects to feel that pleading guilty is the only avenue available to conclude their case. Some suspects have awaited trial in detention for periods exceeding the maximum sentence for their charges. The military courts have in the past admitted into evidence confessions extracted by torture. In contravention of international legal standards, military courts continue to prosecute and order the detention of civilians.

Recommendations:

- Observe international fair trial standards, including trying civilians only in civilian courts;
- Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights.

Freedom of Expression

Although Uganda's constitution guarantees the right to free expression, the government deploys a range of tactics to stifle critical reporting, from occasional physical violence to threats, intimidation, bureaucratic interference, and arrest. Station managers of television and radio outfits and journalists often report fear of reprisals if programs are highly critical of the government.

Two media houses faced temporary closure in 2013 for publishing articles suggesting that Museveni was grooming his son to take over. Two journalists and eight civil society members protesting the closures were arrested, beaten, and detained by police and eventually charged with inciting violence. The media houses were opened 10 days later when the minister of internal affairs ordered the police to vacate the premises.

During the 2016 electoral period, police and government agencies, such as the Uganda Communications Commission (UCC), the broadcasting regulator, blatantly violated rights to free expression and media freedom. The UCC issued a blanket nation-wide ban on access to social media for five days, arguing people were "campaigning" beyond the time period prescribed by law. Some journalists and station managers told Human Rights Watch that UCC officials visited some stations to pressure managers to suspend or fire critical journalists or face being pulled off air. The UCC issued ad-hoc orders to radios not to host certain people, with no specific evidence of wrongdoing and no court order, meaning the legality of the order was at best questionable, but there was no clear remedy and no due process to challenge them. According to media rights groups, at least 15 journalists were arrested and detained for short periods while attempting to report on events outside of Besigye's home during the police siege there in February and March 2016. Police shot and wounded at least three journalists in October and November 2015, during election-related events.

In June 2015, police charged blogger Robert Shaka with offensive communication under the Computer Misuse Act, arguing Shaka violated the president's right to privacy by questioning his health on Facebook. Shaka spent four days in prison, was charged and released on bail. Charges remain pending.

Recommendations:

- End intimidation, threats, and physical attacks on journalists; tolerate and promote open reporting and commentary on issues of public concern;
- End disproportionate and unlawful actions, such as a blanket ban on social media, by broadcasting regulatory agency, the Uganda Communications Commission.

Free Association

The government has increasingly sought to curtail the work of NGOs working on topics considered sensitive by the government, such as governance, human rights, land, oil, and the rights of lesbian, gay, bisexual and transgender (LGBT) people. Tactics include closure of meetings, threats, and heavy-handed bureaucratic interference.

In July 2015, the internal affairs minister ordered an investigation and suggested possible deregistration of the Great Lakes Institute for Strategic Studies. The minister argued the organization was opposing government programs and recruiting young people into opposition parties. Similarly in 2012, the internal affairs minister tasked the NGO Board with conducting a wide-ranging investigation beyond the legal mandate of the board into a report of unlawful evictions and land grabs written by two nongovernmental organizations Uganda Land Alliance and Oxfam. Ultimately the NGO Board investigation recommended that the NGOs have their permits withdrawn if they did not take "corrective action," that the report be "withdrawn," and that a retraction be issued.

The board said that the NGOs should “make apologies” to President Museveni among other government actors. The government never responded to allegations of human rights violations committed during evictions.

In January 2016 the government passed a new Non-governmental Organisations Act, which violates rights to free association. The new law includes vague “special obligations” of NGOs, including a requirement that groups should “not engage in any act which is prejudicial to the interests of Uganda or the dignity of the people of Uganda.” Another provision criminalizes any activities by organizations that have not been issued with a permit by the government regulator, fundamentally undermining free association rights. A separate provision provides criminal sentences of up to three years for any violations of the act. How this new law will impact the operations of NGOs remains to be seen.

In April 2012, the attorney general banned the political pressure group Activists for Change, which orchestrated the April 2011 “Walk to Work” protests, labeling the group an “unlawful society” under the penal code. In July 2013, seven opposition politicians were charged for belonging to and managing what the government deemed to be an “unlawful society.” The same year, two authors of a book critical of President Museveni – Doreen Nyanjura and Ibrahim Kisubi – were arrested at the Kampala book launch in April. Nyanjura was charged with participating in unlawful society and inciting violence and detained for two weeks. Barbara Allimadi, a member of another pressure group, Concerned Citizens, was arrested and briefly detained in 2012 after staging a demonstration in parliament. Police confiscated Allimadi’s t-shirts bearing anti-corruption slogans.

Recommendations:

- Amend the Nongovernmental Organisations Act to ensure free association rights in compliance with international human rights law, particularly removing new criminal provisions for legitimate civil society work.

Lesbian, Gay, Bisexual, and Transgender (LGBT) Rights

Despite numerous recommendations from UN member states, Uganda refused to support recommendations to reject discriminatory legislation or decriminalize consensual homosexual sex during the 2011 UPR process. Ultimately in December 2013, parliament passed the Anti-Homosexuality Act and Museveni signed it into law in February 2014. Immediately following, Human Rights Watch documented a spike in violations against LGBTI people, including arbitrary arrests, police abuse and extortion, forced anal examinations, violence, denial of health care, loss of employment, evictions, and homelessness.

After the Supreme Court annulled the Act on procedural grounds in August 2014, violations appeared to reduce, but same sex conduct remains criminal under Section 145 of the Penal Code and LGBTI individuals face stigmatization and marginalization. In July 2014, the High Court ruled against activists who had sued the Ethics and Integrity Minister for shutting down a human rights workshop for LGBTI activists in 2012, in violation of the right to free association. In August 2015, LGBTI people reported several violent attacks in which police failed to respond appropriately, in one case arresting the victim, a transgender person, rather than the alleged attackers.

Human Rights Watch is also concerned by the Uganda Police’s use of forced anal examinations of men accused of homosexual sex. We have documented at least six cases between 2013 and 2015. These exams have no medical or scientific value, constitute assault and may constitute torture.

Recommendations:

- Cease all arrests of people on the grounds of sexual orientation and gender identity and end the practice of conducting forced anal exams on men accused of consensual homosexual conduct;
- Investigate and prosecute all forms of attacks on LGBT individuals and activists.
- Decriminalize/Repeal Section 145 of the Penal Code.

Children’s Rights

Over 56 percent of Uganda’s 37 million people are under the age of 18 and are the single largest demographic group living in poverty. Human Rights Watch documented abuses of children living on the streets of several large towns, including by police and officials from the Kampala Capital City Authority, who threatened children at night, and beat them with batons, whips, or wires while demanding money or as “discipline” for vagrancy. Children reported handing police and others small sums to avoid further abuse or detention.

Government officials periodically order general roundups of street children throughout the country. These roundups usually occur ahead of special events, official visits, international conferences, or are a way for government agencies to be seen to be tackling the perceived “problem” of street children. Police have detained large groups of up to 100 children without charge in police stations. Children spoke of adult cellmates in police jails forcing them to pay “lodging” fees as a form of extortion to avoid beatings by police and adult cellmates. Children also described deplorable detention conditions, including lack of mattresses, blankets, and mosquito

nets, as well as limited access to toilets, food and medicine. Most often, these vulnerable and often homeless children would be released with no charge.

Recommendations:

- End arbitrary arrests, detention, and roundups of street children, and investigate all allegations of beatings and violence of street children by police and consider bringing charges under Uganda's 2012 Anti-Torture Act;
- Take measures to fight stigma and discrimination against street children, and improve mechanisms to report child abuse by police.

Refugee Rights

Joel Mutabazi, a registered Rwandan refugee in Uganda and a former presidential bodyguard in Rwanda, was forcibly returned by Ugandan police to Rwanda after going missing on October 25, 2013, in clear violation of international refugee law. This refoulement occurred while Mutabazi was under Ugandan police protection due to earlier threats and concerns for his safety. While Ugandan authorities said they would investigate the incident and allegedly suspended the Ugandan police officer who arrested Mutabazi and illegally handed him over to the Rwandan authorities, they later promoted the same police officer in September 2015 to deputy head of the police directorate of crime intelligence. Mutabazi was tried in Rwanda in 2014, alongside 15 co-defendants, and charged with terrorism, murder, and security-related offenses linked in part to his alleged collaboration with armed opposition groups. He was sentenced to life imprisonment.

Recommendations:

- Halt and prevent any forcible returns of refugees or asylum seekers to any country, including Rwanda, where they may face persecution and ensure that they can access fair procedures to determine their refugee status.

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