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Countries at the Crossroads 2012 - Uganda

2012 Scores

Accountability and Public Voice Score: 3.18

Civil Liberties Score: 3.44

Rule of Law Score: 3.26

Anti-Corruption and Transparency Score: 3.34

Introduction

This year Uganda will celebrate 50 years of independence, gained in October 1962 under the leadership of its first prime minister (and later President), Milton Obote. Obote's first administration was brought to an end by a coup d'etat led by Idi Amin in January 1971. Violence, lawlessness and economic decline characterized Amin's eight-year rule. In April 1979, the Tanzania People's Defence Force, accompanied by Ugandan fighters, removed Amin from office. After a turbulent interim period, Obote regained power by fraudulently claiming victory in the December 1980 elections. Obote's second regime, marked by efforts to control a guerrilla war led by Yoweri Museveni and the National Resistance Army (NRA), ended in July 1985 through another coup d'etat. After six more months of war, lawlessness and economic deterioration, Museveni and the NRA defeated the coup leaders and took control of the country in January 1986. Museveni remains in power today.

As President, Museveni has consolidated political power, reduced lawlessness and greatly improved the economy. Nevertheless, there has been a gradual decline in freedom, democracy, and official accountability during the second half of his 25 years in power. From 2009-2011, the government regularly broke up public demonstrations, used excessive force in responding to riots, closed newspapers and radio stations, and detained prisoners for long periods without trial. In February 2011, Uganda held its fourth presidential and parliamentary elections. Observers questioned the uneven political terrain of the elections, particularly the source of enormous funds spent by the president and his political party, the National Resistance Movement (NRM). Despite the NRM's overwhelming victory, two subsequent rounds of public demonstrations protesting government policies and a parliamentary revolt over oil policy suggest that the president may have less political control than observers had assumed when the ballots were counted. The harsh police and military response to the protests and the president's attacks on "undisciplined" members of Parliament (MPs) from his party raised political tensions and further undercut the government's respect for individual rights and parliamentary independence.

Many observers would argue that Museveni's pattern of rule has demonstrated a growing resemblance to Obote's time in office, and, in some degree, even to Amin's regime. Each of these leaders have presided over ethnic, regional, and religious cleavages that have existed in Uganda since the British Protectorate. These cleavages have been accentuated by marked differences in economic development among regions, particularly the North and parts of the East. Although their leadership styles differed, Obote, Amin, and Museveni each started out with broad-based democratic and rights-respecting policies and then moved toward more exclusive, coercive, and corrupt strategies of rule as they sought to control popular opposition.

Museveni's first few years in office seemed far more promising than previous regimes. His government provided more security and more economic growth, although it accentuated the historic pattern of inequality among regions. He introduced nonpartisan elections, based on individual competition from the village to Parliament, that at first were conducted relatively freely and fairly. Parties were not permitted to compete, although they were not banned. Initially, most voters considered the new political system an improvement over the prior periods of problematic multiparty competition. Museveni also facilitated the adoption of the 1995 constitution, which established a formal basis for protecting individual rights and democratic practices, with the exception of a five-year trial period in which parties were again not permitted to participate in elections. The wide margin by which Museveni won his first presidential election in 1996 reflected his popularity at the time. The first "no-party" Parliament contained many outspoken reformers who provided an independent legislative voice that attempted to balance an executive branch dominant in policy making since independence. Civil society activists influenced legislation, the media were far more critical of the government than under past regimes, and the higher courts exhibited considerable independence.

Despite the "no-party" Parliament, the NRM had the advantage over its opponents because it could draw on state funds and administrators for its campaigns. Furthermore, when challenged in later elections, NRM officials engaged in considerable violence and used their control of the Electoral Commission to ensure that the party won presidential elections and defeated MPs who opposed its policies. No elections at the village and parish levels have been held since 2001, even though the elected officials' terms expired in 2006.

Progress on democracy, civil liberties, and government accountability stalled in 2005 largely, and paradoxically, because Museveni orchestrated a return to multiparty competition to strengthen his control over government. Instead of retiring after his second and final term in the "no-party" political system, he removed the constitutional limit of two terms for the President, allowing him to run again. The reinstatement of a party system was one of over 100 proposed changes to the constitution that were intended to strengthen the president's power at the expense of the legislature and the judiciary. Over the next few years, opposition voices in the media and civil society were stifled by official threats and the implementation of new and restrictive policies. The Museveni government made no headway in reducing the official corruption it had inherited when it took office in 1986; instead, it intensified it. Not only did many high officials, particularly members of the cabinet, become wealthy, the government relied increasingly on corruption to build its political machine, while also growing even more personal and patronage-based.

Accountability and Public Voice

Notwithstanding significant doubts about the independence of the electoral authority and registration process, the regulatory framework designed for the February 2011 elections provided for free and fair balloting. Elections for the president, Parliament and local government councils took place by secret ballot under universal franchise. Elections to 25 special interest parliamentary seats occurred through small electoral colleges for youth, workers, the disabled, and army MPs. The NRM was able to manipulate the voting in the electoral colleges to win most of these seats. It was less successful in winning seats reserved for women where the district served as constituency and all registered voters were able to participate. Equality among voters, meaning that the number of inhabitants in each constituency should be as equal as possible to the population quota, was diluted by large variations in numbers of registered voters among constituencies.^[1]

In 2009, opposition parties protested when the president reappointed many members of the Electoral Commission (EC) after the Supreme Court had criticized the EC for its shoddy performance in the two previous elections. The NRM primaries in 2010, and to a lesser extent, those of other parties, were laced with fraud, including pre-filled ballots and manipulation of voter lists, as well as intimidation that included attacks of journalists and election organizers.

The conduct of the 2011 elections surprised many participants in that violence, ballot-stuffing, manipulation of registration and intimidation were considerably lower than in past elections.^[2] Nevertheless, there were significant logistical challenges and a number of reported irregularities. Many observers argued that the NRM had switched its tactics to massive payments to voters, pointing to large supplementary appropriations that had been passed by Parliament shortly before the elections. The EC declared presidential results within two days as required by law, but failed to do so for parliamentary races; in some cases the results were not announced more than two weeks after the elections. The Commonwealth Observer Group noted its "serious concern at the EC's poor management of and preparation for the polls, with a poor level of organization in the delivery of materials ..."^[3] The local Democracy Monitoring Group condemned the EC for permitting over 1,600 polling stations (7 percent) to report more ballots cast than registered voters, but announced that the results reflected the ballots cast.^[4]

NRM and government officials made campaigning for the 2011 elections difficult for opposition candidates, particularly in rural areas. Many candidates were threatened, had business loans recalled, had tax bills hiked, and found it difficult to get time on radio and TV stations.^[5] Each party received an inadequate official financial allocation for its campaigns based on the number of its representatives in Parliament, a policy that advantaged the NRM.^[6] NRM candidates, particularly the president, tapped state funds for their races. Parliament passed a supplemental budget of \$260 million in January 2011 that observers believed was largely spent on campaigns. Further, the NRM mobilized far more contributions from foreign and local business interests than other parties.

The EC cancelled the February 23, 2011 Kampala mayoral election when it discovered stuffed ballot boxes. It subsequently fired at least 20 of its officials for collusion in this vote fraud.^[7] The mayoral elections were successfully held on March 14, three weeks later. An opposition candidate won and became the Lord Mayor, however, the Kampala Capital City Act of 2010 had already greatly reduced the mayor's powers by creating an authority, appointed by the President, to administer Kampala.^[8]

The executive remains the dominant branch of government, though the constitutional and supreme courts restrain it occasionally. To increase its independence, the judiciary proposed the Administration of Justice Bill of 2010 to take control over the budget and terms of service of its essential staff from the executive branch.^[9] The NRM dominated both the eighth and ninth parliaments, elected in 2006 and 2011, respectively. The eighth Parliament rarely challenged the executive, although its Public Accounts Committee (PAC) was able to overcome an attempt by the president and cabinet to prevent the vice president from testifying about allegations over misusing public funds.^[10]

In 2011, the ninth Parliament directly confronted the president over his nomination of certain ministers and the budget. It also forced the speaker of Parliament to call an emergency session to debate the country's oil policy as well as allegations of related corruption by several ministers. As a result, Parliament passed a resolution demanding that the executive refrain from contracts with foreign oil companies until oil legislation was passed and calling for an investigation of ministers named in oil scandals.^[11] The president simply rejected parts of the resolution, retaining those ministers and in 2012 he ignored it by ordering his minister of energy and mineral development to sign two new agreements with an oil company.^[12] He also persuaded some NRM MPs to drop their support for the resolution, although the resolution was not officially reversed. Nevertheless, Parliament compelled three ministers to stand down while other charges of corruption were investigated. In a mockery of separation of powers, all NRM MPs attending a retreat in October 2011 at Kyankwanzi, an ideological institute, dressed in military uniforms. In December 2011 and February 2012, a bipartisan majority of MPs forced three other ministers to resign from the cabinet.

Appointments of public servants occur through formally independent central and district commissions. Suspicions of ethnic favoritism in the upper ranks of the public service have frequently been aired. Among lower ranks, recruitment and dismissals appear to be made mainly on merit. However, many district service commissions are strongly biased in favor of indigenous residents.

The number of civic groups, both foreign and local, continued to grow rapidly between 2009 and 2011. In 2006, the government amended the NGO Registration Act, tightening supervision on NGOs by allowing the National Board for NGOs to monitor their activities and issue permits allowing them to act.^[13] NGOs have challenged these amendments as unconstitutionally restricting their operations. Further restrictive NGO regulations based on the 2006 act came into force at the beginning of April 2009.^[14] These regulations require NGOs to give a week's notice in writing to local councils and Resident District Commissioners before making direct contact with anyone and to engage in no act seen as prejudicial to the security of Uganda or its interests. In October 2010, the cabinet adopted a new national NGO policy with civil society input that coordinated the relations of government departments with NGOs and provided NGOs with what they considered an opportunity to "re-ignite the process of reform in the NGO Law."^[15] Many civil society activists were threatened as a result of their involvement in controversial legislation or questionable government payments.^[16] Most active NGOs depend on grants, but the global recession resulted in reduced foreign assistance, limiting their activity. In recent years, NGOs have remained prominent in bringing national issues to public attention and testifying in parliament. District NGO activity has been far weaker.

In its first years, the NRM government earned a well-deserved reputation for permitting freedom of expression and tolerating strong criticism from the media, but its protection of these rights has become more equivocal over time. The government's Broadcasting Council regulates private broadcasters by requiring an annual license with vague grounds for its revocation.^[17] The Media Council regulates the conduct of journalists, editors and publishers and provides clearance for foreign reporters.^[18] All journalists must renew their licenses annually and face criminal charges if they do not. The Media Center in the Office of the President "ensure(s) that the government's voice is given a fair hearing."^[19]

Indicators for free speech have worsened since 2009. In September 2009, there were two days of riots over the Government's refusal to permit the Buganda Kingdom's prime minister to visit Kayunga. Following the rioting, the government proposed to restrict news media further with the Press and Journalists (Amendment) Bill, that would require annual licensing of newspapers by the Media Council and criminalize the publication of information "deemed prejudicial to national security, stability, unity or economic interests."^[20] The bill gives the minister of information control over appointments of six of the 12 members of the Media Council including its Chair and Secretary.^[21] In addition, the government tabled The Uganda Communications Regulatory Authority Bill of 2012 in March 2012. This bill would tighten license regulations and allow a new authority to suspend or revoke a license where the operator engages in "activities amounting to treasonable offence under the Penal Code Act."^[22] Parliament had not acted on either bill by August 2012.

In recent years, police have arrested journalists and suspended or banned a number of radio stations or shows. In 2009, several journalists were charged with forgery when the opposition-leaning *Monitor* newspaper published a leaked presidential letter. In 2010, journalists were charged with criminal libel in one case for denigrating the president, and in another for alleging corruption in the office of the Inspector General of Government (IGG). In October 2011, approximately 30 journalists were on trial because of their criticisms of government policies or officials.^[23] Police have also frequently arrested journalists who wrote stories or published cartoons that "embarrassed" the president. In response to the two days of rioting in Kampala in September 2009, the Broadcasting Council suspended four radio stations, claiming they were inciting rioters and abusing the president, and kept one closed for over a year.^[24] Journalists and talk show panelists were also attacked and imprisoned unlawfully during this time. The government banned several enormously popular open-air talk shows that invited anyone in the area to give their opinion on the radio. The government apparently tried to block live television broadcasts of the April "Walk to Work" protests to prevent their growth.^[25]

The government has also engaged in extrajudicial threats to repress the media.^[26] According to the Human Rights Network for Journalists-Uganda, "The safety and security of journalists in Uganda ... witnessed its greatest decline" from November 2010 through April 2011.^[27] During that time, there were over 55 assaults on journalists, including 36 physical attacks, and no one was brought to justice. Furthermore, none of the security officials were disciplined for involvement in attacks on demonstrators that included several deaths during the April and May 2011 "Walk to Work" protests organized by civil society and opposition politicians over inflation and the government's economic policies.^[28]

In recent years, Resident District Commissioners (RDCs), the president's personal representatives in the districts, have often harassed local journalists and radio talk show hosts, and have threatened to shut down a number of stations. The chilling effect of government action has greatly increased self-censorship by the media. Nevertheless, the four leading English language newspapers have published many articles criticizing the government. Despite growing government repression, the media in Uganda remain more independent than their counterparts in Rwanda, Democratic Republic of Congo or South Sudan.

While the number of internet users rose rapidly, it only amounted to a little more than 10 percent of the population in 2010.^[29] The government does not supervise internet use closely, but it does pay attention to social media. It prevented the leading opposition party, the Forum for Democratic Change (FDC) as well as the Democracy Monitoring Group (DEMG) from using SMS messages to record a separate tally of the presidential vote in the 2011 elections. The government told phone providers to block keywords referring to the protests in North Africa. The Uganda Communications Commission required internet providers to close Twitter and Facebook accounts in April 2011 during the first "Walk to Work" protests, but did not pursue this form of censorship afterwards. In August 2010, the president assented to the Regulation of Interception of Communications Act of 2007, which legalizes official access to private phone conversations upon a warrant issued by a judge. The government holds a majority share in *The New Vision* newspaper, but its editors have by and large exercised editorial independence. In general, the government does not control distribution or printing facilities.

Civil Liberties

Uganda has a high incidence of state terror, unjustified imprisonment, and torture. New legislation and court decisions between 2009 and 2011 provided few additional protections. The first reading of the Prohibition and Prevention of Torture Bill of 2010 took place in October 2010. Constitutionally entrenched agencies, particularly the Uganda Human Rights Commission (UHRC) and the Inspectorate of Government (IGG) received and acted on complaints. The Equal Opportunities Commission (EOC), which became operational in July 2010, is the first in Africa that has the powers of a court.

Government-created intelligence agencies and militias, sometimes unauthorized, operate secret and illegal detention centers known as "safe houses" and carry out torture and extrajudicial executions. There have also been many reports of arbitrary arrests and lengthy detentions without court sanctions. In some cases, when prominent politicians and activists have been arrested, they have had lawyers and have received attention from the courts, although bail was sometimes manipulated or overridden by government officials. In April 2009, a prominent opposition politician reported his detention and torture in a safe house.^[30] In June 2010, the infamous "Kiboko Squad," a private militia, attacked Kizza Besigye, a main opposition candidate, and other opposition leaders during a rally.^[31]

The police and army often use excessive violence. During the September 2009 riots, live ammunition was used and resulted in civilian deaths. Excessive violence was also used during the President's visit to the Kasubi Tombs in March 2010 and the "Walk to Work" rallies in April 2011. Uganda Peoples Defence Force (UPDF) soldiers killed many residents in addition to committing other human rights violations in Karamoja during disarmament exercises in 2010.^[32] The UPDF admitted its soldiers had engaged in torture, particularly in Karamoja from 2009 to 2011, but insisted it had regulations in place to punish those found guilty and to compensate victims.^[33] Ultimately, few soldiers were disciplined or

put on trial. A Special Police Constable who had killed two and wounded a third by firing into an FDC rally shortly before the 2006 elections was sentenced to 14 years in June 2009.^[34] However, his sentence was overturned for lack of evidence three months later. In 2010, the police reported that extra-judicial executions for human sacrifice, including many children, appear to be rising, although it is unclear why.^[35] In 2009, 29 ritual murders were verified. These cases involved the use of witchcraft to punish rivals and ritual sacrifice to bring good fortune.

The largest category of complaints to the UHRC was that of torture or cruel, inhuman, or degrading punishment.^[36] However, the number of these reports fell from 314 in 2009 to 276 in 2010, perhaps due to the reduction of hostilities in the north. The UHRC awarded over \$530,000 to 95 complainants for instances of torture, degrading treatment, or deprivation of personal liberty. In 2010, the African Center for Treatment and Rehabilitation of Torture Victims (ACTV) reported that it provided physical and psychological care to 1,385 new victims of torture.^[37] In a 2010 sample study in four regions that included members of communities and inmates in nearby prisons, community subjects reported a 12 percent incidence of torture, while prisoners reported a prevalence rate of 22 percent.^[38] Prison officers and UPDF soldiers were identified as the main perpetrators.

Prison conditions improved slightly during the 2009 to 2011 period, but treatment of prisoners remains far below minimal standards for the protection of human dignity. Prisons are badly overcrowded and prisoners spend years on remand. In September 2009, the Uganda Prisons Service reported that the prisons were at 224 percent capacity and that 55 percent of prisoners had not yet been tried.^[39] However, Human Rights Watch reported much higher rates at several prisons.^[40] Some prisons, particularly military detention centers, formed human rights committees and oversaw improved conditions. However, lengthy pretrial detention, poor hygiene, inadequate food, beatings, deficient accommodation and solitary confinement have persisted. Only 48 of 222 prisons in the country provide healthcare.^[41] Detained juveniles are kept with adults, particularly in police stations.

In April 2010, the police reported a decrease in the crime rate for the second year, while also reporting a rise in domestic violence and a higher rise in offenses against public order, due primarily to the September 2009 riots.^[42] Ritual murders also increased slightly. In the second half of 2009, there was "an unprecedented surge ... in the recorded incidents of mob justice."^[43] The new International Crimes Division of the High Court's first war crimes case ended in September 2011 when the Constitutional Court ruled that the defendant, a Lord's Resistance Army (LRA) officer, qualified for amnesty.^[44] The government was caught by surprise in July 2010 when two bomb attacks in Kampala, most likely organized by the Islamist military group al-Shabaab in retaliation for Uganda's contribution to the UN force in Somalia, killed 74 and injured another 70 people.^[45]

The Prevention of Trafficking Persons Act of 2009 established the legal framework for ending one form of sexual and labor exploitation. But business people who cooperate with passport and immigration officials in illegal overseas employment rackets continued to send young girls to Asian and European countries where they were forced into prostitution.^[46] The government set up a national human trafficking task force in April 2012, but it has remained understaffed and underfunded, and has not been implemented effectively.^[47] In June 2011, a human rights activist sued a Ugandan company involving a former MP and UPDF officer, accusing it of trafficking because it had deceived 150 women who were promised jobs in American-run military camps, but instead were trapped into slavery as domestics in Iraqi homes.^[48] Trafficking of children is also a significant problem.

The government made some progress in creating the legal basis for gender equity in recent years. For the first time, it criminalized domestic violence and female genital mutilation. Parliament passed the Prohibition of Female Genital Mutilation Bill of 2009, which imposes a 10-year sentence for engaging in the practice and a life sentence when the victim is disabled, infected with HIV, or dies. The Domestic Violence Act, which punishes a broad range of harmful and abusive behavior toward a partner in a domestic relationship, was also passed in 2009. Despite this legislation, female genital mutilation

and domestic violence continue to occur widely, and many instances of both offenses are either unreported or ignored by the police.^[49] The number of women in Parliament grew with the number of new districts, since each district is entitled to a woman MP. At least 30 percent of the members of every local council must be women.

Regardless of the progress made, discrimination against women remains virulent, especially physical assault and sexual violence, and is often ignored by the authorities. According to police statistics, both murders of women resulting from domestic quarrels and sexual violence against female children rose between 2009 and 2011. Defilement, sexual acts with persons under 18, was the most commonly reported sexual offense in this time period.^[50] In October 2010, spouses still were not co-owners of family land and most women did not know that a wife's consent to the sale of land is required by law.^[51] Despite continuing gender discrimination in employment, the government has appointed women to important offices in recent years. In December 2010, Alice Mpagi-Bahigeine was named deputy chief justice, in May 2011 Rebecca Kadaga was elected speaker of parliament and in September 2011 Proscovia Nalweyiso became the first woman promoted to the rank of Brigadier in the UPDF.

Lesbian, gay, bisexual, and transgendered groups (LGBT) constituted the major exception to the state's legal recognition of civil and political rights of minorities. In Uganda, homosexual behavior is considered a criminal offense. David Bahati, an MP, introduced an Anti-Homosexuality Bill, as a private member motion in October 2009. If passed, the bill would have legalized discrimination against homosexuals, set a life sentence for anyone convicted of a homosexual act, and assigned the death penalty for same-sex rape or for homosexual activity by an HIV carrier. The president opposed the bill because it received strong foreign opposition. The bill died when the eighth Parliament ended, but was reintroduced in the ninth Parliament, although without the death penalty. As of August 2012, Parliament had not acted on the bill.

Public prejudice against gays and lesbians remains high. In late 2011, a local paper printed the names and pictures of those they believed to be homosexuals.^[52] In July 2011, the Constitutional Court heard a case to determine whether Sec. 15(6)d of the Equal Opportunities Commission Act of 2007 discriminated against LGBT minorities because it prohibited the EOC from investigating behavior considered immoral by the majority of Ugandans.^[53] The decision in the case had not been announced by early August 2012.

Internal migrants to new districts often faced violent discrimination from indigenous inhabitants. In July 2009, the president proposed denying migrants in Bunyoro the right to run for national or local political office for 20 years, but quickly dropped the proposal in response to public outcry. In the process of creating new districts to gain political favor in the 2011 elections, the government altered relations among ethnic communities, generating employment and political discrimination against individuals found to be in the ethnic minority as a result of the redistricting. In addition, the state has done little to protect access to education and justice of members of marginalized ethnic groups, such as the Batwa, Karamojong, and Vonoma, whose livelihoods have been disrupted by environmental change and who are often thought inferior by their neighbors.^[54]

The constitution and the Persons with Disabilities Act of 2006 provide persons with disabilities (PWD) full civil rights to education, health and employment, but the state has made little effort to implement policies that would successfully integrate PWD into social and economic life.^[55] Public transport and buildings are not equipped with facilities that provide access to the disabled. Likewise, the government has not adapted schools or curriculum for students with special needs.

The government generally refrains from interfering with citizens' religious beliefs and practices. There is a long-standing perception that Protestants hold a disproportionate number of important political offices, and, as a result, there has been close scrutiny of the religious identities of the president's appointments. In May 2011, when Museveni replaced Gilbert Bukenya, his Catholic vice-president, reporters highlighted that his replacement choice, Edward Kiwanuka Ssekandi, was also a Catholic. However, public concern and journalistic investigations have focused mainly on claims of ethnic partiality rather than religious favoritism.

The government's respect for the rights of freedom of association and assembly deteriorated over the past few years. Political and civil society activists were frequently attacked, arbitrarily arrested, and held for long periods without trial as a result of participation in peaceful demonstrations or, at times, even when merely announcing them. The police prevented or aggressively broke up several rallies in which demonstrators were demanding a change in the membership of the Electoral Commission in 2009 and 2010. In 2011, police tried to prevent the "Walk to Work" demonstrations. In doing so, the security forces killed at least ten protestors and repeatedly arrested scores of others, including many civil society activists and politicians.^[56] To prevent Besigye from "walking to work," the police confined him to his home while refusing to charge him.^[57] In October 2011, the police charged other "Walk to Work" demonstrators with treason, a charge that carries the death penalty.^[58] Three of them were held for two months before being granted bail. In several other recent cases, while attempting to maintain political order, police have killed both demonstrators, including students protesting conditions in their schools, and bystanders.

In April 2011, the government gazetted a broad Public Order Management Bill to limit demonstrations further. The bill defines a public meeting as three or more people, restricts meetings to daylight hours and criminalizes the failure to notify police of a meeting.^[59] Additionally, the bill gives the Inspector General of Police (IGP) authority to prevent or delay any meeting, or regulate the conduct of any meeting that he or she judges likely to create a breach of peace. The bill also gives ministers authority to prohibit meetings of more than 25 people from using specific locations without a permit. Parliament had not taken action on this bill by early August 2012.

Workers have the right to form, join, and participate in independent trade unions. The Labor Unions Act of 2006 provides all employees with the right to organize and allows trade unions to register without government approval, as previously required.^[60] However, none of the 14 unions that applied were registered. In 2010, a number of employers either fired or threatened employees who joined unions, or refused to recognize or bargain with unions. In some cases, collective bargaining agreements were achieved. The police also used violence in a strike at British American Tobacco in Hoima in September 2010 causing two deaths, although not of employees.

Rule of Law

The higher courts in Uganda have a tradition of judicial independence, while the magistrates in the lower courts often succumb to political and economic pressures. According to a report published by the Office of the Inspector General of Government (IGG), the judiciary was reported the second most likely governmental institution in Uganda to take bribes.^[61] Judges receive their training at the Ugandan Judicial Studies Institute. Higher court judges are generally considered well-qualified and well-trained, magistrates less so. The government is widely suspected of using political criteria in its appointments. Dismissals from the bench are regarded primarily as based on cause, but also for decisions against the government. The trial courts have sometimes demonstrated their independence. For example, they dismissed several charges of inciting violence brought by the government against the organizers of the "Walk to Work" protests in 2011. On the other hand, after the president demanded they be denied bail, the courts kept a group of at least 25 of the suspected September 2009 rioters in detention without trial until at least January 2012.

Government officials generally comply with judicial decisions. But, over the last few years, the authorities have been slow to obey rulings that involved important political issues or monetary damages assessed against the government. On behalf of the courts, more than 300 lawyers went on strike for three days in May 2011 to protest the government's repression of the "Walk to Work" protesters.^[62] In 2011, a High Court judge acted on a 2006 Supreme Court decision to make death sentences discretionary by reducing the sentence of two women charged with murder from the death penalty to a limited term in prison.^[63]

Article 28 of the constitution establishes the presumption of innocence and protects the right to a fair, timely, and public hearing. The higher courts have been scrupulous in presuming innocence, particularly of politicians indicted by the government. Military courts may also try civilians who are accused of possessing arms or aiding soldiers.

For those with access to a trial, corruption of judges and court clerks remains a significant obstacle to a fair hearing.^[64] For those awaiting trial, understaffing of courts and police often delays access to justice, particularly for those facing criminal charges.^[65] In March 2010, a court official estimated there was a backlog amounting to 24,000 civil and 16,000 criminal cases – large, but significantly lower than in 2007.^[66] Before the president appointed 10 new High Court and Court of Appeals judges in August 2010, there were 38 judges of the High Court, 35 Chief Magistrates, 110 Grade I Magistrates and seven Court of Appeal judges.^[67] Many additional vacancies developed, including five at the Supreme Court, nine at the Court of Appeals (which is also the Constitutional Court) and about 30 at the High Court, because the terms of members of the Judicial Service Commission (JSC) expired in November 2010. New members were not appointed until February 2012.^[68]

When operative, the JSC was generally believed to appoint and dismiss judges fairly. In contrast, the executive has deliberately delayed trials for political reasons. In October 2010, the Constitutional Court finally nullified the 2005 charges of treason and murder that the government had brought against Kizza Besigye, because the state had made a fair trial impossible.^[69] Further, to prevent demonstrations against government policies, Museveni called in May 2011 for amending the Constitution and Penal Code to deny bail for six months for anyone arrested for treason, terrorism, rape, economic sabotage, or rioting.

Despite the constitutional rule that a suspect may only be detained for 48 hours before appearing in court (except in terrorism cases), police and other agencies frequently hold them *incommunicado* for much longer.^[70] Police also often hold suspects arrested by intelligence agencies for long periods. The small number of state attorneys and prosecutors is one reason. Two Kenyan human rights defenders who came to Uganda in September 2010 to observe the trials of several Kenyans charged with terrorism as a result of the July bomb attacks in Kampala were immediately imprisoned. One was released without charge after three days. The other was also charged with terrorism and murder after six days and held for a year.^[71]

Children under 18 may only be held for 24 hours and should generally be released on recognizance to their parents, but these conditions are often violated. In October 2011 in Nebbi, an upcountry town, the police flouted the court by immediately re-arresting 27 demonstrators on grounds of posing a security threat after a Grade II Magistrate had granted them bail.^[72] A provision in the Magistrates Court Act that automatically cancels bail when a defendant is sent to the High Court for trial has been criticized for violating the right to bail.

Mob justice remains a serious problem. The rate of death by lynching on suspicion of witchcraft and other offenses has risen in recent years.^[73] In 2011, police statistics recorded 466 deaths in 383 cases of mob action reported to the police – slight increases over the 2010 figures.^[74] This category of homicide was second to cases of death by poisoning in which 659 people died. In addition, the other main reasons for mob justice are believed to be widespread poverty, lack of education and the perception among Ugandans that the judicial system cannot be trusted.^[75] The public also has little faith in the police.

While every person has the right to an independent counsel, most people cannot afford one. Only those indicted for crimes carrying the death penalty or a life sentence are entitled to state appointed advocates without fee. The Uganda Law Society runs a Legal Aid Clinic with regional offices that has assisted many rural and urban poor.^[76] The Society also operates a *pro bono* program requiring practicing lawyers to provide free legal services to some indigent, vulnerable and marginalized people. To widen democratic space, a group of lawyers started "Street Law" to offer free legal advice and representation to demonstrators in the "Walk to Work" protests.^[77]

Prosecutors frequently give in to political pressure in cases where the government feels threatened, as was the case with the "Walk to Work" protests. Indictments and convictions of public officials rose from 2009 to 2011, primarily by constitutional agencies with prosecutorial powers. In 2011, the IGG indicted the vice president for corruption, but withdrew the case a few weeks later for what appeared to be a flimsy reason.^[78]

Since the President is the commander in chief, regular presidential elections give the appearance of democratic civilian control over the security forces. But President Museveni has appointed generals mostly from his home area and his ethnic group to the highest military positions.^[76] He was also their commander during the guerrilla war that put him in power and trained most of them. He has removed military officers who have called for institutional control of the military. Close observers believe that in addition to warding off foreign attacks, the army is explicitly expected to protect Museveni's regime from domestic challenges. Other institutions, particularly parliament, have little effective influence over the UPDF, police, or intelligence agencies. Both police and army interfere in the political process by breaking up demonstrations and through shows of force just before elections.^[80] The IGG has deemed the police the most corrupt institution in Uganda.^[81]

The culture of impunity for human rights abuses has continued to prevail. In April 2011, the army killed three protestors in Gulu after a "Walk to Work" demonstration turned into a riot that the police were unable to handle.^[82] Scores of leaders were arrested and at least six people were killed in other demonstrations in April and May 2011.^[83] The government made little effort to investigate or punish those members of the security forces who participated in these incidents or those who gave the orders. The International Crimes Act of 2010 passed by parliament applies to members of the security forces. In May 2011 the Chief Justice formally established the International Crimes Division (ICD) of the High Court to try acts of genocide, war crimes, and crimes against humanity, committed by rebels or soldiers in the UPDF.^[84] However, critics characterized local investigations of serious crimes by soldiers during 2011 as "inadequate," in part because no legal regime existed to protect witnesses.^[85] The Uganda Law Reform Commission was preparing a witness protection bill in October 2011.^[86] Parliament had not acted as of summer 2012.

Article 26 in the constitution gives every person the right to own property individually or with others, but, in practice, the property rights of women are inadequately protected. Property rights, particularly of land, remained insecure due to the widespread lack of confidence in the integrity of the lower courts and the land registry. In August 2009, the Ministry of Lands issued new rules to reduce fraud in land transactions.^[87] Passage of a highly contested Land Amendment Act of 2010 gave tenants more security from eviction from freehold land, located mostly in Buganda.^[88] Throughout 2009 to 2011, the government could not handle effectively the land disputes that arose in the Acholi sub-region as more than a million internally displaced persons returned to their homes.^[89] Government efforts to attract foreign investors in oil, agriculture, hotels, and shopping centers created uncertainty as to whether officials adequately protected citizens who had either customary or conventional rights in land. In at least two cases, public schools were surprised to discover that the government had awarded part of their land to foreign investors.^[90]

Anti-Corruption and Transparency

Corruption has increased in recent years, but so have efforts to combat it. Uganda's ranking in Transparency International's annual Corruption Perceptions Index worsened from 126th place in 2009 to 143rd in December 2011.^[91] According to one estimate, more than a quarter of the annual budget is regularly misappropriated.^[92] The government's long commitment to liberalization has reduced bureaucratic regulation and thus the opportunities for bribes. In June 2011, the World Bank ranked Uganda 12th among 46 states in Sub-Saharan Africa in ease of doing business, but its ranking had declined slightly from the previous year.^[93] According to the report, Uganda has improved its customs processes, efficiency of its courts, and property registration, but it has also increased the time and cost of acquiring a business license. Recent cases of misused funds indicate the lack of adequate monitoring of state participation in the economy. These cases involved embezzlement of expenditures for health, education, social security, markets, bicycles for local officials, national identity cards, and land transactions, among others.

The Uganda Revenue Authority (URA), the main taxation agency, introduced reforms, such as tax identification numbers to improve tracking, to make tax collection fairer and more consistent.^[94] Nevertheless, the auditor general reported to parliament that an

audit of URA collections in 2009 could not find \$1.9 million.^[95] The publicized withdrawal of funding of state activities by several donors because of corruption is an indicator that the government has remained unable to enforce separation of public offices from personal benefit by officeholders.^[96] Over 19,000 officials were required to file asset declarations and the Inspectorate of Government (IG) vigorously pursued many of those who failed to file on time. A Supreme Court decision in 2010 restricted the IG's powers, by granting the IG authority to present a case, but not to order an official's dismissal.^[97] Citizens do not have access to officials' declarations. In November 2011, a bill to amend the Leadership Code Act of 2002 by creating a tribunal to enforce it was prepared for presentation to the cabinet.^[98] The act requires leaders, their spouses and children to declare their incomes and assets and establishes standards of honest, impartial and uncorrupt behavior. By July 2012, it had not yet been amended.

The government strengthened its formal anticorruption framework and prosecuted alleged offenders more vigorously between 2009 and 2011, but corrupt officials at the top continue to escape conviction. In August 2009, a new anticorruption act came into force, expanding the offenses punished by the 1970 statute and strengthening the Leadership Code. Parliament also passed the Proceeds of Crime Legislation and the Anti-Money Laundering acts. The new Anti-Corruption Division of the High Court significantly increased the number of convictions from nine in 2009 to 17 in 2010.^[99] In April 2011, the Constitutional Court decided in a corruption case that the constitution did not protect property unlawfully acquired.^[100] The IG and the Office of the Auditor-General, the primary anticorruption agencies, have generally maintained their independence, although questions about the IG were raised in November 2011 when it dropped a criminal prosecution of the former vice president on the grounds that it might interfere with a civil case against him.^[101] The president had already claimed publically that there was no case to answer. The PAC vigorously investigated corruption, compelling public testimony, and documenting fraud in its reports. Its many inquiries included questions about high-level diversions of funds intended for the Commonwealth Heads of State Conference (CHOGM) held in April 2007, for internally displaced persons (IDP) in the north and a mysterious payment personally authorized by the president as a gift to Burundi.

More middle and senior public officers have been indicted for corruption in recent years than in the past and more have been convicted by the new Anti-Corruption Division of the High Court. In 2009, several received prison sentences for embezzling from the Global Fund to Fight AIDS, Tuberculosis, and Malaria, a donor health program.^[102] Similarly, three former ministers and a State House employee were suspected of taking funds missing from the Global Alliance for Vaccine and Immunization (GAVI), a public-private partnership for vaccines. Because GAVI refused future assistance until restitution was made, the government paid the agency by taking \$900,000 from its 2009-2010 health budget instead of finding a way to make the miscreants pay.^[103] The former managing director of the National Social Security Fund was sentenced to 12 years for causing financial loss.^[104] The IG investigated several ministers for corruption and misuse of funds during the 2007 CHOGM. Some were cleared, but in an unprecedented step, three others were forced to give up their portfolios temporarily while their cases went to court. The vice president was also indicted, but his charges were withdrawn before trial. Parliament exonerated four ministers for misusing CHOGM funds.^[105] Other ministers and the governor of the Central Bank blamed the president for authorizing allegedly fraudulent payments amounting to \$61 million to a businessman with close ties to the NRM.^[106] Unable to confront the president, MPs forced two ministers to resign from the cabinet.^[107]

Lack of political will to convict offenders at the highest level of government remains the most serious obstacle to promoting integrity and reducing corruption among public officials. The government's reliance on corruption to fund its expanding patronage network makes it difficult for it to punish members of the President's inner circle. Likewise, almost as important, all the institutions on the frontline in the battle against corruption, the judiciary, prosecutors, the IG and the police, are under-funded and understaffed.^[108] In 2009 there were only two judges in the Anti-Corruption Division, one fingerprint expert, five handwriting experts and a police economic crimes squad based only in Kampala. Poorly paid anticorruption officials are susceptible to bribes. The (now-retired) judge responsible for most of the recent corruption convictions noted that until investigating officers were paid adequately, the battle for corruption could not be won.

^[109] The judge proposed establishment of an agency that would seize questionably acquired property on court order and give 10 percent of successful recoveries to the investigating officers.

The news media publishes allegations of corruption regularly, but they have been criticized, harassed, and imprisoned by top officials for doing so.^[110] A special police unit was organized to deal with negative media reports. The Whistleblowers Protection Act to safeguard witnesses in corruption cases passed in 2010. Several MPs argued that the climate was so hostile that anyone who reported a corrupt transaction would be in great danger even with this law.^[111] In principle, victims of corruption can sue for redress, but demanding redress rarely succeeds because it means confronting the powerful. The problem of corruption is serious at lower levels of the government, particularly among the police. Corruption is also rife in the districts. For example, the number of citizens who reported paying bribes to teachers rose from 15 percent to 36 percent from 2010 to 2011.^[112] Teacher absenteeism – “quiet corruption” – in primary schools ranged from 15 percent in the central region to 28 percent in the north.

The public's right to government information is protected by the Access to Information Act, but applications for records are frequently turned down without justification. The president and his most senior ministers were criticized for keeping oil contracts secret even from MPs. Legislative review of the executive budget guaranteed by the Budget Act has been limited. The executive must involve parliament by law, but the Parliamentary Budget Committee usually receives the draft budget only six weeks before the start of the budget year. It has made recommendations for change, but without holding public hearings or publicizing its reports. No public hearings have been held on individual ministry or agency budgets. Parliament does not have the authority to amend the budget. Expenditure accounting is complete and available at the national level, although often not timely and difficult to access, particularly for local government budgets. The Office of the Auditor General did not release audits of extra-budgetary funds to the public.

The procurement process is subject to high levels of corruption.^[113] A bill to remove loopholes by amending the Public Procurement and Disposal of Public Assets Act is under preparation. In total value at the national level, open bidding improved by 15 percent to 81 percent in 2010- 2011, but that represented a small number of all contracts. Only 3.2 percent were competitively bid. At local levels, there has been little open bidding – according to the Office of the Auditor General, in some cases “the practice was to eliminate bidders so that only one bidder is eventually evaluated and selected.”^[114] The large number of cases of corruption of foreign assistance suggests that it was not distributed as intended or fairly.

Recommendations

- The government should amend the constitution so that an impartial commission is established to appoint electoral commissioners who would have security of tenure for a fixed nonrenewable term.
- Parliament should enact the Prohibition and Prevention of Torture Bill. Military, police and prisons authorities should institute mandatory awareness training that torture is unacceptable for all soldiers, police and prison guards.
- The government should pass appropriate legislation requiring release without trial for all prisoners who have spent more time on remand than the minimum sentence for the charge on which they were indicted.
- The government should increase the salaries of magistrates and stiffen penalties for corrupt judicial behavior in order to increase public confidence in the impartiality of the lower courts.
- The government should establish a new anticorruption agency with the authority to seize ill-gotten property with the burden of proof placed on the suspect to show it was acquired legally. Investigators of economic crimes should be awarded a percentage of successful recoveries.

- Parliament should create a new intelligence committee to oversee all intelligence agencies, including, but not limited to, anti-terror and paramilitary units within the police, the army and in external and internal intelligence.

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