Human Rights Defenders in Uganda

An Overview of the working environment for Human Rights Defenders in Uganda
HUMAN RIGHTS DEFENDERS IN UGANDA

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The Human Rights Centre Uganda
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<td>Uganda Law Reform Commission</td>
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The defence of human rights is steadily gaining prominence in Uganda. There is also the growing realisation that in the course of defending human rights, many rights have been violated and this has in many instances gone unnoticed. Concern about the challenges faced by Non-Governmental Organisations (NGOs), individuals and other organisations involved in the defence of human rights has been one of the major reasons for publishing this report.

Human rights defenders (HRDs) share a commitment to protect, promote and ensure the rights of others. With greater visibility and influence of human rights defenders comes responsibility. The Declaration on human rights defenders which clearly spells out these rights and responsibilities is hardly known, let alone utilised by defenders or even government institutions.

This report draws the much-needed attention to the working environment of HRDs in Uganda. It seeks to raise awareness of the Declaration on Human Rights Defenders and its provisions; to promote an appreciation of the concerns of human rights defenders; and to assist all stakeholders in understanding the mechanisms and frameworks needed to translate the Declaration into practice. This report not only brings out challenges faced by HRDs but also gives concrete proposals for solutions, the way forward and activities to be carried out to improve the environment under which they operate. The recommendations are made to all stakeholders including government who can use this report to carry out further research or various activities to benefit defenders.

It is hoped that this report will serve as a useful resource in the promotion and protection of the rights of HRDs in Uganda. All stakeholders are urged to draw guidance from the findings of the report to develop their response strategies.

The Human Rights Centre Uganda
We are grateful to Irish Aid for providing financial assistance to the Human Rights Centre Uganda to undertake this survey and for the support given to the Centre since its establishment.

We would also like to thank all individuals and organisations across the entire country that participated as respondents or facilitators in the survey and those who provided access to their resource centres. Without their invaluable support and assistance, this survey would not have been accomplished.

We are also grateful for the diligent work of our team of field researchers, including Team Leader Gerald Tushabe and Researchers Faith Irene Oneka Mugabira and Norah Anying Nyeko.

We are grateful to those who commented on the content and balance of this report. The support offered by the Directors and staff of the Human Rights Centre Uganda is highly appreciated.

We look forward to continuing the exchange of information and of response strategies with all stakeholders concerned.
The Human Rights Centre Uganda (the Centre) is a non-partisan, non-profit organisation legally registered in Uganda since November 2008. It is dedicated to the promotion and protection of human rights with particular emphasis on the rights of Human Rights Defenders (HRDs). The Centre aims at improving the legal, institutional and policy environments in which HRDs operate by engaging in various promotional and protection activities. In this regard the Centre aims at:

- Contributing towards improvement of the environment in which HRDs operate in Uganda;
- Establishing national networks and contact points for receiving and collecting information that impacts on HRDs;
- Working towards the establishment and support of a unifying body for HRDs in Uganda that promotes and protects their interests;
- Organising regular fora, workshops, conferences on themes directly on HRDs in Uganda and on themes relevant to their rights such as freedom of information, speech, association and assembly.

To improve on the environment in which HRDs operate in Uganda, the Centre intends to:

- Campaign for the removal or for positive improvement of the legal, policy and institutional regime identified as victimising or inhibiting the work of HRDs in Uganda;
- Organise and conduct systematic sensitisation of relevant Government officials and institutions, HRDs and the public on the rights and importance of the work of defenders;
- Establish channels of cooperation and engagement with Government, relevant institutions and other actors to promote and protect the rights of defenders;
- Regularly monitor, analyse and define the fundamental problems or the environment affecting HRDs and engage in appropriate interventions;

In order to provide support to defenders, the Centre intends to carry out the following activities:

- Conduct training and sensitisation including training of trainers on the rights and importance of HRDs guided by national laws and the Declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognised human rights and fundamental freedoms, commonly known as the Declaration on HRDs;
- Monitor, receive, investigate or verify and document information on alleged violations of the rights of HRDs and use it to engage appropriate authorities or institutions;
- Assist with cases against or on behalf of HRDs;
- Seek, receive, examine and respond to information on the situation of HRDs in Uganda;
- Collaborate with the United Nations Special Rapporteur on the situation of Human Rights Defenders (UNSR) through research, sharing information and reports.
This report presents the situation of human rights defenders in Uganda. The report identifies and analyses the legal, policy and institutional framework that impacts on the environment in which human rights defenders operate. It also documents and analyses the causes underlying this environment. Field data highlighting the actual experiences and situations of human rights defenders is also presented in the report. The report introduces The Human Rights Centre Uganda, a non-profit organisation whose key objective is promotion and protection of the rights of human rights defenders as well as improving the general environment in which they work.

The report is divided into four sections as outlined below.

Section One: Introduction to the Study
The section introduces the thinking that was behind the undertaking of this study. It covers the rationale, methodology, conceptual considerations, and standards relating to human rights defenders, the scope and limitations of the survey.

Section Two: Legal, policy and institutional framework
This section identifies and analyses the legal, policy and institutional framework at national, regional and international levels that impact on the environment in which human rights defenders operate. The international Bill of rights as well as the Constitution of Uganda 1995 were found to have reasonable safeguards to facilitate the work of HRDs. The drawback however, was found in several subordinate pieces of national legislation which in some instances impose extensive restrictions or create offences that have the impact of narrowing the space that human rights defenders require in order to fully execute their functions. The usefulness of courts in helping to expand the meaning and the parameters of basic rights critical for protecting the work of HRDs is noted as well as the need for an organised body of HRDs to challenge these laws in court on grounds that they are not in tandem with the Constitution.

Section Three: The Situation of Human Rights Defenders
This section presents in detail the analysis of field data obtained from across the country. It presents the major challenges that human rights defenders encounter and the alleged violations they face. These are legal and policy, operational, and financial challenges as well as those related to certain professions or the context within which certain rights are promoted.

The study found challenges including:

- A restrictive legal framework especially in respect of the Non - Governmental Organizations Act, 2006 and its regulations, as well as other laws that hinder press freedom, freedom of assembly, association and demonstration.

- The continued application by public officials e.g. the police, of sections of the law that court has pronounced itself on as being null and void.
The vulnerability of HRDs based on the constant fear of being prosecuted and yet they lack the means to defend themselves including collective measures within the sector to defend themselves. The lack of awareness of the available protective mechanisms for HRDs also makes them vulnerable.

Threats to personal security, arrests and detentions as well as burglary of property and documents.

Internal challenges related to inadequate human and technical capacity and the frequent loss of trained and skilled staff to better paying organisations.

The lack of strong networks to protect the interests and rights of HRDs.

The prevailing resistance to human rights education arising from the contradiction between human rights provisions and some of the established traditional and cultural beliefs, practices and norms.

The inability to appropriately package the human rights messages as well as limited availability of materials in local languages.

Financial constraints some of which are caused by poor fundraising skills.

Lack of appreciation of the work of HRDs by the public, the authorities and institutions such as Parliament, local Governments, the police and other law enforcement agencies.

The nature of rights that HRDs promote which in specific circumstances comes along with unique challenges.

Four: Recommendations on the Situation of Human Rights Defenders

This section presents recommendations in addressing the challenges and obstacles in the environment in which human rights defenders operate.

On legal and policy challenges

1. Government should review the laws that are restrictive and repeal the ones that hinder enjoyment of rights especially freedom of expression, assembly and association.

2. HRDs should challenge the unconstitutional laws in court.

3. The Attorney General should prevail on all public officers to stop applying outlawed provisions.

On access to protection and remedies

1. HRDs should be trained on the national and international protection mechanisms available to them as well as their rights and responsibilities.

2. HRDs should be assisted to set up a fund for the protection of HRDs.
On operational challenges
1. HRDs should establish a system of engagement with the authorities to sort out any misunderstandings when they arise.
2. HRDs should form a strong network for collective action as well as set up safe havens and protection units to respond to the needs of HRDs faced with threats of personal security.
3. HRDs should identify capacity gaps, hold regular training to strengthen organisational and individual capacity

On Networking
1. HRDs should form one strong network as a means of reducing unhealthy rivalry and competition over limited donor funds.
2. An index of defenders classified according to thematic issues and geographical areas of operation should be created.
3. HRDs should hold regular annual or bi-annual meetings to share experiences and strategise.

On inadequate knowledge about human rights protective mechanisms
1. HRDs should be trained on their rights as HRDs, and specifically on the Declaration of the rights of HRDs as well as international human rights mechanisms.
2. A training manual on the Declaration should be designed to facilitate the training.

On human rights education and information and educational materials
1. HRDs involved in human rights education should be trained in skills for appropriate and relevant human rights education, especially on how to relate human rights in a positive manner with the local issues.
2. Information and educational materials on human rights should be professionally translated into local languages.

On financial challenges
1. The capacity of HRDs to fundraise should be enhanced through training and identifying other available resource opportunities.

Other general recommendations
1. HRDs through their networks or through organisations like Human Rights Centre Uganda should sensitise the general public, state agents like Parliament and security agencies, especially the Police about the important role of HRDs and on their rights and responsibilities as stated in the Declaration.
2. A training manual on the Declaration should be designed, published and made widely available and the Declaration should be disseminated in schools.
3. HRD organisations should practise internal democracy and work together to improve their credibility.

**Strategic actions for HRDs**

a) HRDs should establish an expert group to enable HRDs respond to issues effectively. The expert group should create linkages with academia, grass root associations and even opposition groups.

b) HRDs should be coordinated by the Centre to map out existing human rights issues that are being addressed by HRDs.

c) HRDs should collaborate in joint initiatives and protection issues to enhance their focus on how to protect their rights.

d) HRDs should ensure coordination and consensus building among themselves to avoid contradictory responses.

e) HRDs need to create linkages with each other to ensure that messages which reach citizens are coordinated, similar, and not contradictory.
The Human Rights Centre Uganda commissioned a study on the environment in which Human Rights Defenders (HRDs) operate in Uganda. The study, which was in the form of a scoop survey, was undertaken between November and December 2009, in selected districts in the northern, eastern, central and western regions of Uganda.

**Rationale of the Study**

Human Rights Defenders (HRDs) in Uganda, like in most other countries in the East African sub region and even beyond, face challenges which often undermine their work. These challenges not only affect the ability of defenders to carry out effective work but also their personal security.

This study arose out of the realisation by the Centre and other concerned human rights practitioners that several gaps exist in the promotion and protection of the rights and work of HRDs in Uganda. While enormous positive strides have been made in the general human rights situation in the last 25 years, it is also recognised that particular elements in the human rights environment have not received adequate attention.

In several respects, the human rights terrain is still characterised by persistent violations and abuses, hindered by restrictive legal, policy and institutional regimes. These continue to impede the space and capacity of HRDs to effectively defend human rights. The Centre conducted this study in order to gain more insight and up-to-date information on the situation of HRDs in the country and how this environment impacts on their rights and work. The findings would enable the Centre to design appropriate intervention strategies and programmes to address the situation of HRDs in the country.

The study therefore identified and analysed the legal, policy and institutional framework that impact on the rights of HRDs as well as the working environment of HRDs in Uganda. Commissioned in November 2009, the study also identified and assessed the challenges facing HRDs and their causes. From this analysis, recommendations were made for action by HRDs and all stakeholders in the wider human rights community to better protect and promote the rights of HRDs.

This survey builds upon similar work done by other organisations in the promotion and protection of the rights of HRDs. The work done by the Foundation for Human Rights Initiative (FHRI), East and Horn of Africa Human Rights Defenders Project (EHAHRDP) and Human Rights Network – Uganda (HURINET-U) is particularly acknowledged. In 2005, the FHRI conducted a major regional training workshop in Entebbe that resulted in the Entebbe Declaration on Human Rights Defenders. In late 2009, HURINET availed the researchers of this study its preliminary but unpublished findings on some aspects of the situation facing HRDs. Similarly, the EHAHRDP, located in Kampala, Uganda, is engaged in the promotion and protection of the rights of HRDs in the entire East African sub-region.

**Methodology**

The study covered sample districts in all geographical regions of the country. Respondents were interviewed in cosmopolitan Kampala city in the central region; while in the rest of the regions four districts were sampled in each.
The study employed several qualitative methods, including review of relevant secondary literature concerning the situation of HRDs in Uganda. In addition, a team of three researchers conducted key informant interviews using a structured questionnaire in order to complement the existing information and gain more up-to-date insights.

The questionnaire consisted of sections inquiring into the nature or work of individual human rights defenders or organisations and the categories of rights being promoted or protected. It inquired into the obstacles and challenges as well as specific rights violations faced by HRDs during their work. The respondents were asked to identify the sources as well as causes of those challenges and violations. Inquiries were also made on protection mechanisms available to HRDs at national, regional and international levels, their effectiveness and the extent to which defenders are utilising them. Respondents were also asked about the availability and efficacy of any economic, psychosocial support or any form of solidarity networks that are involved in enhancing the work of HRDs, especially when violations of their rights occur. Interviews were conducted in two phases; beginning with the central region and followed by the northern, western and eastern regions.

Respondents across the country were purposively selected using predetermined criteria. The following considerations informed the criteria: thematic human rights issues being handled by the HRDs; the profile of the HRDs they work for; the geographical scope or coverage of the issues being addressed; the physical accessibility of the HRDs; and time available to the researchers and respondents to participate in the study.

Relevant documents and literature pertaining to the legal, policy, institutional framework on HRDs in Uganda as well as other regional and global mechanisms were reviewed.

**Scope of the Study**

The survey was conducted countrywide, covering the Central, Western, Northern and Eastern regions of Uganda. The researchers interviewed respondents in Kampala in the Central region, Mbale, Soroti, Moroto and Tororo in Eastern Uganda, Mbarara, Kabale, Kyenjojo and Fort Portal in Western Uganda as well as Arua, Gulu, Kitgum and Lira in Northern Uganda. A total of 74 respondents were interviewed countrywide.

**Conceptual Considerations**

In order to contextualise and locate this study in the wider socio-economic and political environment of Uganda, it defines and applies the concept of ‘civil society’ as it relates to Uganda in particular and East Africa in general. This is necessary for it is largely within this ‘civil society’ environment that HRDs operate and inevitably encounter the challenges that the study highlights.

According to the CIVICUS/_DENIVA report of June 2006, civil society is defined as “the space between households or family, state and the private sector and is characterised by its emphasis or focus on the common good of society”\(^1\). According to Robert Fatton (1992), civil society is the “independent eye”

made up of self-organised and vigilant grassroots organisations, networks, associations, etc. They include Non-Governmental Organizations (NGOs), Community Based Organisations (CBOs), professional associations and the media. An effective civil society is a precondition for a vibrant, democratic and modern society.

The rise of the civil society in East Africa is traceable to the anti-colonial struggle. According to Makau Mutua (2009), the fact that civil society has continued to grow seems to point to the continued failure and despotism of the post-colonial state. In the absence of civil society, it is often argued that those in power can turn into despots. The paradox though, is that those in power often turn into despots anyway, despite the presence of civil society, which fact might be due to the weaknesses of the civil society itself.

With regard to the ‘common good’ that civil society serves, a particular segment of civil society normally referred to as NGOs and CBOs focuses on the promotion and protection of all human rights, as enunciated under the national Constitution, regional and universal human rights standards that Uganda is party to. The task of defending these rights falls on the shoulders of HRDs, who, as countless examples worldwide have come to indicate, also often require to be defended as they carry out their work².

**Standards Relating to Human Rights Defenders**

**The Declaration on HRDs**

There is no standard ‘qualification’ that is required for one to be a HRD and the Declaration makes it clear that anybody can be a defender of human rights if he or she chooses to be. However, the Declaration provides that HRDs have responsibilities as well as rights in carrying out their work. In this regard, HRDs are enjoined to take cognisance of the following key issues:

First, HRDs must accept the universality of human rights as defined in the Universal Declaration of Human Rights³.

Secondly, the actions taken by HRDs in the course of their work must be peaceful in order to comply with the Declaration.

Thirdly, the validity of arguments presented by HRDs in the course of their work need not always be correct to qualify them as genuine defenders.

The more critical test is whether a HRD is defending and promoting a recognised human right or in some cases, a right that is not yet fully defined and is still emerging. Therefore, HRDs must always be defined and accepted according to the rights they are defending and their own right to do so⁴.

A UN protection mechanism exists for HRDs in the form of a Special Rapporteur on the situation of HRDs (UNSR). This Special Rapporteur is mandated to seek, receive, examine and respond to information on the situation of HRDs. The duties of the Special Rapporteur are carried out mainly through country visits, thematic research and reports, press releases and communications to Governments about reported allegations of human rights violations against HRDs.

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² The United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms.

³ The Universal Declaration of Human Rights was adopted by the General Assembly of the United Nations in its Resolution 217 A of December 1948.

European Union Guidelines on the Protection of Human Rights Defenders

In 2004, the European Union (EU) adopted the EU guidelines on the protection of human rights defenders. The guidelines seek to promote and encourage the implementation of the Declaration on Human Rights Defenders through the activities of the EU member States outside of the European Union.

The guidelines identify certain activities that individual EU missions should implement in an effort to strengthen protection of HRDs. These activities include: capacity building and public awareness campaigns, raising individual cases of HRDs with authorities, listing the situation of HRDs in annual mission human rights reports, financial and other support to HRD organisations and others.

African Commission on Human and Peoples’ Rights Special Rapporteur on the situation of Human Rights Defenders in Africa

Protection mechanisms for HRDs also exist at the regional level. In 2004, the African Commission on Human and People’s Rights created the mandate of the Special Rapporteur on the situation of Human Rights Defenders in Africa.

The Special Rapporteur on the situation of Human Rights Defenders in Africa has a similar mandate to the United Nations Special Rapporteur on the Situation of Human Rights Defenders (UNSR): they both aim to promote the implementation of the Declaration and they sometimes work hand in hand. For instance, the UNSR and the Special Rapporteur on the situation of Human Rights Defenders in Africa carried out a joint mission to Togo in July and August 2008.

The Special Rapporteur on the situation of Human Rights Defenders in Africa also has mandate of presenting a bi-annual report on the situation of HRDs that is presented to the Session of the African Commission on Human and Peoples’ Rights. The mandate holder also produces a bi-annual Newsletter in which key activities are described and main challenges affecting HRDs are highlighted.

The mandate of the Special Rapporteur on the situation of Human Rights Defenders in Africa still faces low complacency on the part of states. States Parties are slow to respond and some totally ignore Note Verbales and other communications about human rights violations, which affects the effectiveness of constructive dialogue on the situation of HRDs. There is need to strengthen the mandate of the Special Rapporteur on the situation of Human Rights Defenders in Africa with more financial resources and political support as well as ensuring that communications elicit speedier responses from States Parties.

Limitations of the Study

In comparative terms, the survey is based on a small sample size that may not be truly representative of all views of HRDs across the country. While this does not in any significant way affect the validity of the study findings, it nevertheless...
suggests that some issues in the study may require fuller investigation to obtain a more comprehensive understanding of the situation.

**Brief History of Human Rights Defenders in Uganda**

The last 50 years of Uganda’s political history have been characterised by periods of massive human rights violations and abuses. The struggle against British colonial rule gained momentum in the mid-1940s and reflected a universal desire for human dignity and freedom that was expressed by the community of nations after the end of the Second World War (1945) through the promulgation of the Universal Declaration of Human Rights (UDHR) in 1948. The attainment of formal political independence in 1962 was a seminal event in Uganda’s human rights history. Masses of Ugandans were mobilised by political leaders at the time to demand not just political freedom, but economic freedom as well. Many leaders from trade unions, farmers, religious organisations – the fathers of the current civil society - were vital in these movements and can rightly be described as HRDs.

The euphoria over the first post-independence government of Prime Minister Apollo Milton Obote ended with the 1966 crisis of political disagreements between Obote and the Head of State, Kabaka Edward Mutesa. Ugandans in general and HRDs in particular, have experienced massive human rights violations during successive political upheavals since 1966. It is estimated that over 10,000 people, some of them HRDs, were either killed or disappeared during President Idi Amin’s regime (1971-1979), though some estimates put this figure as high as 300,000.

Ironically, it was Amin’s government that established one of the few commissions of inquiry about human rights violations. The ‘Commission of Inquiry into the Disappearances of People in Uganda since 25 January 1971’ had as its main mandate to investigate disappearances of persons between 25 January 1971 and the time of the establishment of the commission in 1974.

Evidence of at least 308 cases of disappearances was presented to the commission. Many Ugandans opposed to Amin’s brutal regime escaped into exile in Tanzania, Zambia, Kenya, Europe and USA among others. The expulsion of the Asian community and confiscation of their property in 1971, while politically popular among most Ugandans at the time, was in fact a violation of their socio-economic rights. Many of these people in exile formed organisations and worked together to expose human rights violations occurring at the time. They also sought to topple Idi Amin’s regime.

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Unfortunately, the report of Amin’s Commission of inquiry was never publicised. Its recommendations, including those on police and security forces reform, as well as training for proper law enforcement in order to protect civilian rights, were never acted upon. Thereafter, Amin’s regime became increasingly abusive and massive violations were perpetrated against Ugandans in general and against some HRDs.

In many ways, human rights violations which had intensified during the Amin regime continued during the short-lived Uganda National Liberation Front (UNLF) Government (1979-1980), as well as during the second Milton Obote government that succeeded the UNLF after the December 1980 national elections. In January 1986, the National Resistance Army/Movement (NRA/NRM) of Yoweri Museveni took over power after waging a five-year guerrilla war. The Commission of Inquiry into the Violation of Human Rights was established by the NRM Government in 1986 with a broad mandate to investigate and document violations including arbitrary arrest and detention, torture and killings between December 1962 and January 1986. The Commission of Inquiry was also mandated to make recommendations to prevent the recurrence of such abuses.

Until around 1990 not many individuals or organisations deliberately set up operations to work as promoters or protectors of human rights in Uganda. Non state actors who worked on issues connected with human rights were mainly charitable organisations that concerned themselves with humanitarian activities and worked on human rights issues such as health care, education and provision of social services. Many of these were either international organisations or national organisations registered under the Companies Act, 1958. The initiative to set up organisations purposely for the promotion and defence of human rights in Uganda was begun by Lance Sera Muwanga who in 1986 formed the Uganda Human Rights Activists, whose successor is the current Foundation for Human Rights Initiative. Mr. Muwanga was hunted for his activities in the defence of human rights and had to flee to Sweden.

In October 1994 the Commission of Inquiry into the Violation of Human Rights released its final report that revealed testimonies of widespread arbitrary arrests, detention and imprisonment without trial as well as killings of many Ugandans, some of them HRDs. The report recommended repeal of laws allowing detention without trial, among others. Though this report was not widely disseminated and the named perpetrators, including Amin, were not pursued to account for the violations, it marked a turning point in the struggle for the promotion and protection of human rights in the country. The report represented the first comprehensive findings and conclusions of a human rights commission of inquiry in Uganda. It led to progressive human rights provisions in the 1995 Constitution and the improvement of laws that protect human rights.

Many human rights campaigns and advocacy initiatives by HRDs lobbied for the inclusion of a comprehensive bill of rights in the 1995 Constitution of the Republic of Uganda, which was eventually incorporated into the final document. The Constitutional Commission chaired by Justice Benjamin Odoki was instrumental in guiding, gathering and analysing views of the majority of Ugandans that resulted in the 1995 Constitution.

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As a result, the Uganda Human Rights Commission was created in 1997, and has accomplished commendable work to date. The proliferation of civil society organisations working on human rights issues came about because of the positive constitutional provisions. It was also spurred on by the need to address human rights issues which became rampant especially with conflicts in the Northern, Eastern and Western regions of Uganda, perpetrated by rebel activities.

The Amnesty Commission that started its operations in 2000 as a mechanism for promoting reconciliation and the pursuit of peace, security and tranquility in Uganda is another milestone achieved by the concerted efforts of many Ugandans, including HRDs. HRDs have been at the forefront of the campaign to domesticate the provisions of the Statute of the International Criminal Court into national law in order to address impunity for violations of international humanitarian law and human rights law in the country since 2002. HRDs have also engaged in other human rights campaigns and initiatives on the elimination of the death penalty, torture, domestic violence, polygamy, corruption, child labour, child sacrifice and trafficking, among others.

GENERAL BACKGROUND OF UGANDA

Profile of Uganda
Uganda is a land-locked former British colony situated in East Africa. It gained independence in October 1962. It sits astride the Equator and shares borders with five countries. To the north lies Sudan, to the west is the Democratic Republic of Congo, to the east is Kenya, whilst the southern border is shared with Rwanda and Tanzania. Geographically, Uganda has a size of 241,551 square kilometres. Its natural resource base is largely forest, woodland and grasslands and inland water such as Lake Victoria and River Nile. Uganda’s population is 30,263,000, as estimated in 2007. It has the third highest population growth rate in the world, reported at 3.2% annually.

Uganda has trading links with members of the ‘East African Community,’ a regional intergovernmental organisation comprising Kenya, Tanzania, Rwanda and Burundi.

Uganda’s Economy
According to the African Peer Review Mechanism (APRM) Country Review Report No.7, Uganda’s economy has been described as having great potential because of its large natural resources in the form of ample fertile land and mineral deposits. However, political instability and economic mismanagement have since led to the degradation of the economic infrastructure that has left Uganda as one of the world’s least developed countries today.
For eight years after independence, the economy registered an ‘impressive growth rate.’ Between 1962 and 1968, the gross domestic product advanced at a rate of approximately 6.7% per year. However by the early 1970s, civil war and political instability had damaged the economy. President Amin’s expulsion of approximately 70,000 Asians in 1972, many of whom were active in business, contributed to this destruction of the economy. The Gross Domestic Product (GDP) decreased annually from 1972 to 1976, with a small mark of improvement in 1977 when world coffee prices increased.

Successive governments following the Amin era made efforts to restore the economy. In 1980, the Obote administration obtained foreign donor support, primarily from the International Monetary Fund (IMF). In addition, President Obote tried to persuade foreign companies thrown out by Amin to return to run their businesses. These recovery activities resulted in growth in agriculture between 1980 and 1983. From mid-1984, however, fresh civil strife and the implementation of unsuitable economic policies led to a setback in economic performance. In 1984, the IMF ended its support to Uganda after a disagreement over budget policy.

In 1986, the Government renewed its steps towards improvement of the economy through reliance on external support. Uganda negotiated a policy framework paper with the IMF and the World Bank in 1987. The country began implementing economic policies designed to:

“Restore price stability and sustainable balance of payments; improve capacity utilization; rehabilitate infrastructure; restore producer incentives through price policies; and improve resource mobilization and allocation in the public sector”.

These policies are said to have had positive effects on the economy as inflation dropped from 240% in 1987 to less than 30% in 1990.

The annual GDP growth rate between 1990 and 2006 was at 6.3%; higher than that achieved in the 1980s. On a per capita basis, Uganda’s average GDP was US$ 314 in 2006, an increase from US$ 222 in 2002. Inflation had decreased, from 8% in 2005 to 6.6% in 2006.

Uganda’s economy is dependent largely on agriculture. This sector contributes about 33% of the GDP. In addition, it employs more than 80% of the population and constitutes 90% of export earnings. Coffee is the main export, with tea and cotton as other export products. Uganda also has minerals in the form of copper and cobalt which generated 30% of export earnings during the 1960s. The mining sector is a small contributor to the economy though it is predicted that the recent discovery of oil would soon boost the sector.

The Government has made efforts to orient economic policies towards the reduction of poverty. The 1997 Poverty Eradication Action Plan (PEAP) prepared by the Ministry of Finance, Planning and Economic Development was the first such strategy. The 1997 PEAP was followed by similar plans in 2002 and 2004. Cross-cutting sectors addressed in the various PEAPs include prioritising universal primary education, raising the profile of primary healthcare, water and sanitation; as well as improving roads.
The PEAP has been replaced by a National Development Plan for 2010/11 – 2014/15.

**Public administration**

The current Constitution was adopted in 1995 and amended in 2005. It is the fourth Constitution. It has been described as distinct from other Constitutions in that it was created after wide consultation that elicited agreement amongst Ugandans themselves on the "most appropriate socio-economic and political framework for their governance".

In this Constitution, Uganda is described as a sovereign, secular state. The Constitution expressly recognises two types of political systems: The Movement political system and the Multi-party political system. The country has been under the Multi-party political system since 2005. Administratively, Uganda is divided into 97 districts as at March 2010 according to the Ministry of Local Government. The country is managed on the principle of the separation of powers through the three arms of State: the Executive, Legislature and Judiciary. A president elected by universal adult suffrage heads the government and is also the Commander in Chief of the national army, the Uganda Peoples’ Defence Forces (UPDF). In addition, the Executive comprises cabinet ministers appointed by the President with the approval of Parliament according to Article 111 of the Constitution of Uganda of 1995 (as amended in 2005).

The Legislature is composed of members directly elected to represent constituencies as well as representatives of interest groups such as women, the army, youth, workers, and persons with disabilities. The Vice President and ministers are either elected members of Parliament or ex-officio members who in this case have no right to vote on any issue on the floor of Parliament. At least every district should have one female representative in Parliament in accordance with the Constitution.

The judiciary is recognised as a separate arm of government by the Constitution, which guarantees its independence. The judiciary is hierarchically structured with the Supreme Court at the top as the final court of appeal. It has no original jurisdiction except where conferred by law. Next is the Court of Appeal which has a mandate to hear appeals from the High Court. It also sits as the Constitutional Court and is the court of first instance in constitutional cases. The High Court follows with unlimited original jurisdiction, that is, it can try "any case of any value or crime of any magnitude in Uganda". Below the High Court are the Chief Magistrates Courts which are responsible for inter alia managing and coordinating lower magistrate courts (Grade I and Grade II Magistrate Courts) in their geographical areas. There are other subordinate judicial and quasi-judicial courts that include Local Council Courts, Family and Children Courts and Land Tribunals.

Jurisdiction over human rights is exercised by the Judiciary in pursuing its constitutional mandate. Article 126 of the Constitution outlines principles that the Judiciary shall apply in exercising its judicial powers. These principles oblige the Judiciary to ensure that:

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31 Articles 5(1), 7 of the Constitution.
32 Article 128 of the Constitution.
33 Jurisdiction of the Republic of Uganda website.
(a) justice shall be done to all irrespective of their social or economic status;
(b) justice shall not be delayed;
(c) adequate compensation shall be awarded to victims of wrongs;
(d) reconciliation between parties shall be promoted; and
(e) substantive justice shall be administered without undue regard to technicalities.

These principles can be said to conform to human rights values contained in Chapter Four of the Constitution of Uganda (titled Protection And Promotion of Fundamental and other Human Rights and Freedoms), as well as in key international human rights standards such as: the United Nations Declaration on Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The State has established several institutions to ensure the promotion, protection and realisation of basic human rights and fundamental freedom in the country. The institutions themselves qualify as Human Rights Defenders (HRDs) and are also mechanisms through which other HRDs can seek redress when their rights are violated. The institutions also collaborate with civil society in influencing legal and policy change related to human rights. Examples of these institutions are the Ministry of Justice and Constitutional Affairs (MoJCA), the Uganda Human Rights Commission (UHRC) and the Inspectorate of Government (IGG). The MoJCA is responsible for the development and coordination of Government policy on the protection and promotion of human rights.

The UHRC, as established under Article 51 of the Constitution has the mandate to promote and protect human rights. As a national human rights institution, UHRC implements many core activities that promote and protect human rights that include advocacy and dissemination of human rights information. The IGG which is the national ombudsman of the country has a mandate that includes promoting strict adherence to the rule of law and ensuring that corruption, abuse of authority and public office are eliminated in the country.

**Legal System**

Uganda’s legal system draws its origins from English law, which was imposed on the country by colonialists in the late 1800s. Prior to this imposition, Ugandan indigenous communities organised themselves according to their own political systems and their own concept of law\textsuperscript{35}. The colonialists spurred the creation of the following courts: a High Court pursuant to Uganda Order in Council, 1901 and an appellate Court established under the Uganda Appeal Ordinance, 1904. Consequently, a variety of foreign laws from jurisdictions under Britain’s influence were extended to apply in Uganda. These included The Indian Police Act and the Indian Penal Code.

\textsuperscript{35}E.K. Beyaraza, Social Foundations of Law A Philosophical Analysis, 2003, Kampala, Uganda, p.112.
The Judicature Act, 1964, which expressly provided for the application of laws received from other jurisdictions, was repealed by the Judicature Act, 1967. This latter Act is silent about the applicability of these statutes and this has been interpreted to mean ‘that the Legislature did not want them to continue [being applied]’

The law applicable today in Uganda derives from various sources. Common law and doctrines of equity, pursuant to The Judicature Act, Cap.13 is applicable. Customary law is also recognised by the courts of Uganda by virtual of section 14 (2) (b) (ii) of the Judicature Act, 1967 that provides for the application of “any established and current custom or usage”. Statutory law and judicial precedents emanating from superior courts in Uganda are key sources of law. Finally, international law, consisting of treaties and principles of customary international law incorporated into domestic law are also sources of law in Uganda. It is also the contention that because of Article 45 of the Constitution, international human rights instruments ratified by Uganda may be directly applied in Uganda.

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36 Ibid p.117.
37 Ibid p.117-119.
38 “Article 45: The rights and duties, declarations and guarantees relating to the fundamental and other human rights and freedoms specifically mentioned in this chapter shall not be regarded as excluding others not specifically mentioned”
The study analysed the legal and policy framework applicable to the situation of HRDs. International and regional instruments to which Uganda is a party are highlighted as well as the relevant domestic legal instruments that provide support to the work of HRDs. The policy framework is analysed in terms of general policy guidelines that impact on the rights and work of HRDs. In addition, gaps in the laws or policies at the domestic level that pose a challenge to the work of HRDs are analysed.

Laws pertinent to the work of HRDs are scattered across various instruments. To date, no single document of a legally binding nature, either international or national has been created to provide for the rights and duties of HRDs specifically. This is also the case in Uganda. No specific national policy regarding the rights of HRDs has been adopted by the Ugandan Government or devised by non-state actors.

International Legal Framework

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

On the occasion of the 50th anniversary of the Universal Declaration of Human Rights in 1998, the UN General Assembly adopted the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. Although the Declaration did not create new rights as such, it assembled and articulated existing universally recognised rights in a way that explained their relevance and application to HRDs. The Declaration underscores the primary responsibility of States to guarantee the safety of HRDs and ensure that conditions exist in which they can carry out their activities unhindered.

The Declaration does not provide a specific definition as to who is a HRD. Article 1 of the Declaration states that: “Everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at national and international levels.” The right to promote and protect human rights is therefore given to everyone and to those who act in association with others.

This is further specifically captured in the fourth paragraph of the Preamble to the Declaration which defines HRDs as “individuals, groups and associations... contributing to the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals”. The ultimate goal of the work of HRDs is therefore the fight against human rights violations and abuses. Going by that broad definition, HRDs are persons, groups and organisations working to promote the respect for and protection of human rights. HRDs can therefore come in varying ages, gender, professions, social or economic backgrounds.
Defending human rights is therefore not, as is often wrongly perceived, the work of only human rights NGOs or CBOs. HRDs may include government officials, politicians, lawyers, cultural leaders or members of the private sector. They include national institutions whose work involves protection and promotion of human rights such as national human rights institutions. HRDs can therefore be persons working in a professional capacity or as volunteers.

According to Article 2 of the Declaration, the “prime responsibility and duty” of each State is “to protect, promote and implement all human rights” and ensure that conditions in the political, social, economic fields and other fields as well as legal guarantees exist to ensure that everyone under its jurisdiction are able to enjoy all those rights and freedoms in practice. It follows that all rights are equally important. HRDs therefore seek to promote and protect civil and political rights as well as economic, social and cultural rights. They concern themselves with diverse human rights issues but normally within each defender’s area of specialisation. Salient examples include: summary executions, arbitrary arrest and detention, torture, female genital mutilation, forced evictions, discrimination, employment issues, access to health care, environmental degradation, right to life, health, adequate food, adequate housing, education, water and sanitation among others. Oftentimes, HRDs address the rights of categories of persons, for instance, the rights of women, children, indigenous persons, refugees, internally displaced persons (IDPs), and many other marginalised persons 39.

The Declaration is the primary universal instrument advocating for the protection and support of HRDs. It is not legally binding but it represents a very strong commitment to the implementation of the rights of HRDs especially because it contains human rights already enshrined in the International Bill of Human Rights 40. It is important to note that the Declaration has two main features: to protect and enhance the role of HRDs in the promotion and protection of human rights.

The protective clauses include:

- State responsibility to ensure that HRDs are protected in the course of their work against violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any arbitrary action 41;

- The right to access justice (for example through a court) or have a complaint publicly heard before an authority where a HRD's human rights have been violated 42.

These rights are crucial because HRDs frequently face challenges that lead to their rights being violated, particularly as a result of opposition to their views, positions, and the work they do. For examples, HRDs in Uganda who seek to promote civil and political rights as well as Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) rights face such challenges.

The Articles of the Declaration that seek to enhance the work of HRDs provide for the rights to:

- Access information on how rights are given effect in domestic legislative, judicial and administrative systems 43;

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40 http://www2.ohchr.org/english/issues/defenders/declaration.htm as accessed on 1/12/2009
41 Art 12.2
42 Art 9.2
43 Art 6.2
Participate in Government, which includes inter alia, the right to draw attention to any aspect of a Governmental body’s work that may affect the promotion, protection and realization of human rights\textsuperscript{44},

- Share opinions on the observance of human rights and draw public attention to those matters\textsuperscript{45}.

3.1.2 Other International human rights instruments

The Declaration assembles rights already spelt out in binding international and regional human rights instruments such as the ICCPR, the ICESCR, the African Charter on Human and Peoples’ Rights (ACHPR) and its Protocol (Maputo Protocol) on women’s’ rights. These instruments provide useful standards for the protection of the rights of HRDs ranging from freedom of association, speech, expression, and information to several others including freedom from torture, right to liberty, and others.

HRDs cannot carry out their activities if they do not enjoy freedom of expression, association, freedom of assembly and speech. In addition, these instruments make States accountable at the international level if rights which are crucial for the work of HRDs are violated. Where HRDs fail to get recourse at the national level, they have an opportunity to apply to the international and regional mechanisms for redress. For example, the ICCPR provides for an individual complaints procedure that HRDs can use if their rights are violated and they have exhausted national remedial measures\textsuperscript{46}.

Article 1 of the first Optional Protocol to the ICCPR, 1966 provides that:

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

The Uganda Government acceded to the Protocol on 14 November 1992. By virtue of this, Uganda as a State party is subject to the jurisdiction of the Human Rights Committee which considers individual communications. In practice, however HRDs in Uganda admitted limited knowledge about international protection mechanisms. Indeed a statistical survey by the UN revealed that the Human Rights Committee had not received any individual complaints from Uganda by 30 October 2009\textsuperscript{47}. The challenge therefore is the lack of awareness of these mechanisms among HRDs. Related to this are other challenges which include lack of resources, internal weakness, and failure to form and utilise effective partnerships nationally and internationally to take advantage of these mechanisms.

In Uganda the provisions of international and regional human rights instruments have guided the judiciary in interpreting the rights of HRDs. For example, freedom of expression which is crucial for the work of HRDs has been a subject of court cases following attempts by the Government to impose limitations to its meaning. Guided by international human rights instruments, the Supreme Court in a judgment read by Justice Joseph Mulenga in 2002

\textsuperscript{44} Art. B.

\textsuperscript{45} Art. 6.c.


considered whether Section 50 of the Penal Code Act (Chapter 120 Laws of Uganda) on publication of false news constituted an acceptable limitation on the constitutional right to freedom of expression. Guided by the provisions of the ICCPR, the ACPHR and an African Union Declaration of the Principles on Freedom of Expression in Africa, the court stated that,

“It is evident that the right to freedom of expression extends to holding, receiving and imparting all forms of opinions, ideas and information. It is not confined to categories, such as correct opinions, sound ideas or truthful information”.

The court ultimately ruled that section 50 of the Penal code went beyond permissible restrictions for the limitation of the right to freedom of expression contained in the Constitution. All seven judges of the Supreme Court agreed that section 50 of the Penal Code was inconsistent with the Constitution and was therefore declared void.

While this case illustrates the value of international and regional instruments in guiding the judiciary, precedents such as this are part of the legal framework that protect HRDs in Uganda. It also illustrates that HRDs in Uganda can access justice at the national level. However, many HRDs expressed their inability to go to court because of the expenses involved. They pointed out that cases like this one are often brought by high profile defenders who have financial backing from their organisations.

3.1.2.1 The United Nations Special Rapporteur (UNSR) on the situation of HRDs

The appointment of Special Rapporteurs forms part of the “Special Procedures” established by the Commission on Human Rights and now utilised by the Human Rights Council to address specific country situations or thematic issues worldwide. Special Procedures’ mandates usually call on mandate holders to examine, monitor, advise and publicly report on human rights situations in specific countries or territories, known as country mandates or on major phenomena of human rights violations, known as thematic mandates.

The UN Human Rights Council periodically appoints a Special Rapporteur on the situation of Human Rights Defenders and in March 2008, the 7th session of the Human Rights Council appointed Ms Margaret Sekaggya of Uganda, who serves as the current Special Rapporteur. The mandate of the UNSR covers monitoring, documenting and intervening on behalf of HRDs who under threat or at risk. The UNSR can send communications to Governments, undertake country visits, prepare thematic reports and issue press releases. The UNSR can also receive and process complaints from HRDs regarding violations of their rights.

All Special Procedures mandate holders of the Human Rights Council are governed by a Code of Conduct that regulates their methods of work to ensure efficiency. This Code of Conduct defines standards of ethical behaviour and professional conduct that is to be exercised by mandate holders. It should be noted that nothing in the Code of Conduct prevents mandate holders from visiting their countries of origin, nor issuing communications or press releases against their countries of origin. There are many examples of communications
as well as visits (upon request or otherwise) and press releases that have been issued or undertaken by Special Procedures mandate holders on issues taking place in their countries of origin. It has happened in Mexico, Turkey, Sudan, and Pakistan and recently in Uganda.

Communications by the UNSR

The general mandate of the UNSR is to promote and defend the rights of HRDs as they carry out their activities. In this regard the UNSR has the mandate to seek, receive, examine and respond to information regarding the situation of the rights of HRDs and what is likely to hinder their work in any country. The Rapporteur can take up issues with the concerned State regarding cases of human rights violations committed against HRDs. In practice the Special Rapporteur can receive information from individuals, NGOs and State authorities. It is therefore important that individuals, groups, associations and NGOs provide relevant information to the UNSR.

The Special Rapporteur, after examining the information, can contact the relevant government through either an “Urgent Appeal” or “Letter of Allegation” addressed to diplomatic missions to the UN in Geneva for onward transmission to the national or State capitals. Urgent Appeals are communicated by the UNSR in cases where violations are ongoing or threatening to occur; and are grave enough to involve loss of life or to create situations with dire consequences. Letters of Allegation convey information about violations that may have already occurred and impacted on the HRDs. The intention of both communications is for the UNSR to ask the Government concerned to take all appropriate action to investigate and address the alleged events and report back on the findings and actions.

Communications are a useful tool that HRDs should seek and utilise to address violations against their rights. The study revealed that Uganda’s engagement with the UNSR and other UN Special Procedures has been characterised by lack of response from the Government. In a period of nine years (2000-2009), the Ugandan Government received a total of nine communications (three Letters of Allegation and six Urgent Appeals) from the UNSR. However, no response was received from the Government in relation to any of these cases. Therefore, while the UNSR is a tool HRDs should use in the event of violations or threats of a violation of their rights, a lot more is required to be done to ensure action is taken by the Ugandan Government with regard to these communications.

It is a challenge to HRDs to engage Government on these matters with a view to encouraging it to give serious consideration to such communications. It would therefore be necessary for HRDs to pay attention to these communications, expose them and seek government action on them. Communications are useful to alert authorities on violations occurring against HRDs that require remedial action. In many cases, because governments fear being blamed publicly for human rights violations, communications generate positive action from governments concerned. In addition, communications act as a watchdog mechanism over States. For example, communications can expose States to criticism. This can be a preventive tool against violations of the rights of HRDs as States fear criticism, particularly at the international level. Regardless of the response or the lack of it from the Government, communications highlight some of the challenges faced by HRDs thus publicising them nationally and internationally.

Country visits and thematic studies
The mandate of the UNSR includes the promotion and effective implementation of the Declaration on HRDs through co-operation, constructive dialogue and engagement with governments and stakeholders. The UNSR therefore undertakes country visits for the purpose of examining the situation of HRDs in a country, including the challenges they face. The visits can also provide an independent and impartial assessment of the situation on the ground. Consequently, the UNSR makes recommendations to governments and other stakeholders on how to resolve the challenges that are identified.

Country visits are fact-finding missions. Closely related to this is the UNSR’s mandate to conduct thematic studies. In addition to reports from country visits the UNSR can undertake thematic studies and explore new areas of analysis that seek to deepen the understanding of the Declaration, the various dimensions of the work of HRDs and the challenges they face.

The mandate also includes studying and analysing trends and challenges in relation to the activities of HRDs. Out of this, the UNSR makes recommendations intended to generate concrete and effective strategies for the better protection of HRDs.

Issuing Press Releases
Press releases and other forms of engagements with the media are useful tools that the UNSR uses to draw broader attention, nationally and internationally, to already serious and potentially serious situations of human rights violations. Press releases can also be useful in highlighting positive developments regarding the situation of HRDs as well as the challenges they face in a particular country. The mandate of the UNSR provides for issuing press releases in relation to allegations of violations of the right of HRDs. Already, the UNSR Ms. Sekaggya issued a press release in March 2010 on the Anti-Homosexuality Bill in Uganda. It is therefore important that HRDs regularly engage the office of the UNSR on matters that affect their situation.

The UNSR presents important opportunities for HRDs to provide information on violations; utilise the special procedures mechanism to take up issues affecting them; and tackle the violations against them.

National Legal Framework

3.2.1 The Constitution of Uganda, 1995 (as amended 2005)

The National Constitution is the basic law that gives rise to other laws which should not contradict the principles, letter and spirit of the Constitution. Uganda’s Constitution is considered satisfactorily progressive according to B.J Odoki.\(^\text{52}\) It has provisions which are very supportive of the rights of HRDs. It provides for a range of rights to be enjoyed by everyone including HRDs\(^\text{53}\). In addition, the Constitution declares a range of National Objectives and Directive Principles of State Policy which are to guide all organs and agencies of State, all citizens, organisations and other persons in applying

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\(^{53}\) See Chapter 4 of the 1995 Constitution.
or interpreting the Constitution and implementing policy. Indeed Article 8A of the Constitution states that Uganda must be governed based on these objectives. According to the National Objectives and Directive Principles of State Policy, civic organisations shall remain autonomous when they pursue their stated objectives. The State also is obliged to guarantee and respect the independence of NGOs which protect and promote human rights.

In Article 20, the Constitution enjoins all organs and agencies of Government and all persons to respect, uphold and promote the rights and freedoms of individuals and groups enshrined in Chapter 4 of the Constitution. In Article 38, the Constitution recognises the right of every Ugandan to participate in the affairs of Government individually or through his or her representatives in accordance with the law. Importantly, it recognises the right of every Ugandan to participate in peaceful activities to influence the policies of Government through civic organisations.

These constitutional provisions not only protect but enhance the rights and work of HRDs. It is crucial that for HRDs to be effective their autonomy must be recognized and protected so that they can carry out their activities impartially; without fear or favour. Independence of action and views is very important when promoting and protecting human rights. The right to participation provided for in Article 38 is key to the work of HRDs as they often question Government policies, practice and performance. Overall these provisions recognise and emphasise the pivotal role that HRDs play in society whether as individuals, associations, groups or NGOs. These provisions do in effect legally recognise the legitimacy of HRDs in Uganda.

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

### 3.2.2 The Press and Journalist Act, Cap. 105, the Electronic Media Act, Cap. 104 and the Access to Information Act, 2005, Act No. 6 of 2005

The press and the media generally by the nature of their work do qualify as human rights defenders. The media can be a vibrant watchdog by recording, and exposing human rights violations and abuses. The media can also be instrumental in promoting human rights. The laws regulating the media and access to information can either enhance or frustrate the role and impact of the media as HRDs.

Article 29 of the Constitution of Uganda recognises freedom of speech and expression defined to include freedom of the press and other media. The right is developed further in section 3(1) of the Press and Journalists Act (PJA), Cap 105 which provides that, “a person may subject to the provisions of this Statute publish a newspaper”. Section 3(2) of the Act provides:
“No person or authority shall, on ground of the content of a publication, take any action not authorised under this Statute, or any other law to prevent the printing, publication or circulation among the public”.

Furthermore, section 39 of the PJA protects journalists by providing that: “A journalist shall not be compelled to disclose the source of his information except with the consent of the person who gave him the information or on order of a court of law”. The Constitution and the subordinate laws on the media provide reasonable foundation for the enjoyment of the freedom of the press. This foundation has been strengthened by judicial precedents especially that of the Supreme Court which in the case of Charles Onyango Obbo & Andrew Mujuni Mwenda v. Attorney General, earlier cited, observed that:

“…given the important role of the media in democratic governance, a law that places it into [a dilemma of knowing what is, and what is not safe to publish and thus being liable to protection], and leaves such unfettered discretion in the state prosecutor to determine...what constitutes a criminal offence, cannot be acceptable, and is not justifiable in a free and democratic society”.

Thus the law about publishing false information, although still in the Penal Code, has been rendered void by this judicial precedent from the highest court in Uganda. However many journalists insisted that the Police still use these provisions to harass and arrest them. HRDs called upon the Attorney General to issue a practice direction to all law enforcement agencies stating that these provisions about publishing false information are no longer part of Uganda’s laws. Importantly they call upon Parliament to review the law and have it repealed.

Despite the constitutional guarantees of freedom of the press and the elaboration of the meaning of this right by the Supreme Court, there are some laws that still severely restrict the freedom of the media. Examples are the Penal Code Act, which still criminalises materials alleged to be seditious, sectarian and defamatory, as well as the Anti-Terrorism Act, 2002, Act No. 14 of 2002 which prohibits “promoting” terrorism. However, some sections of the Penal Code Act are currently under challenge in the Constitutional Court.

As testimony to the basic foundation for freedom of the media, independent media have grown considerably since around 1995. They have also been highly critical of the Government and have presented a range of opposing views. Four HRDs interviewed however pointed out that a negative trend has been noticeable since the 2006 general elections and that the atmosphere has been getting worse, generating fear among media practitioners. They cited the fact that several journalists have been prosecuted for sedition, promotion of sectarianism and criminal defamation. Journalists were reported to have been subjected to harsh court proceedings, detentions and denial of bail. Examples were cited of some journalists still facing serious criminal charges because of what they reported; condemnation of journalists and newspapers by people in high positions for reporting on matters of public interest; and the ban on privately-owned radio stations from commenting on the trials of opposition leader Rtd Col. Dr. Kizza Besigye for alleged treason and rape. Another example cited was the arrest of talk show host Andrew

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54 Supra note 48
Mwenda, who was charged with several criminal offences including sedition and promoting sectarianism during a radio discussion; and for “disparaging statements” against the Government of Uganda in relation to the death of the late first Vice-President of the Republic of Sudan, John Garang. The KFM radio station which employed Mwenda was raided and shut down for several days in November 2006. Government agents raided the premises of The Monitor newspaper after it published an appeal to raise money for the defence of Dr. Besigye who was charged with treason. In December 2005, James Tumusiime and Ssemujju Ibrahim Nganda of the Weekly Observer were arrested and charged with promoting sectarianism for reporting that the President had ordered the prosecution of Besigye on ethnic grounds. The recent closure of the Central Broadcasting Service radio without following due process was cited as the latest blow to press freedom. Journalists who met the researchers asserted that many journalists and media outlets now practise self-censorship for fear of prosecution or loss of broadcasting licenses which must be obtained on an annual basis.

The Access to Information Act 2005 allows citizens to access information in the possession of the State or any organ or agency of the State except if accessing the information would prejudice security of the State or interfere with the right to privacy of any person. Importantly, the High Court recognised that the right of access to information extends to corporate citizens of Uganda and not natural persons only. In Greenwatch (U) Limited v. Attorney General and Uganda Electricity Transmission Company Ltd, Justice Egonda-Ntende held,”…a corporate body could qualify as a citizen under Article 41 of the Constitution to have access to information in the possession of the state or its organ and agencies”.

The learned judge however pointed out that the onus lies on the body to show to a Court that it qualifies as a corporate citizen, for instance by adducing evidence of its membership.

Despite broad constitutional safeguards for the right to access information, and the High Court’s consideration that this right extends to legal persons, it is unfortunate that the Access of Information Act introduces claw-back provisions that hinder access. These include denial of information to protect commercial information of a third party, protection of confidential information provided by a third party, protection of safety of persons and property etc. In summation, the Act narrows down the Constitutional right to access information which under the supreme law of Uganda is only restricted by three broad safeguards. Further setbacks to the enjoyment of the right to access information under the Act are restricted by the absence of guidelines to facilitate the process of accessing information. The terms of the Act itself provide for the issuing of such guidelines, but their promulgation has not taken place. According to local commentators, due to the absence of these guidelines, information officers continue to rely on the classifications in a law, the much-criticised Official Secrets Act, Cap. 302. One case in which a group of citizens sought to access information about a contract between the Government and oil exploration companies revealed the dilemma of those that seek to access such information.

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57 http://cpj.org/2006/01/political-influence-seen-in-accreditation.php, accessed on 21/01/2010, topic; Political influence seen in accreditation
59 Ss 27-30.
60 African Media Barometer The First Home Grown Analysis of the Media Landscape in Africa, Friedrich Ebert Stiftung, Kampala, Uganda, p. 25.
The applicants went to a Magistrates Court which to the surprise of many dismissed the application, leading to the accusation that the Court was incompetent to handle the case. This case left a lingering question as to which court one should go to if the right to access information is breached: the subordinate courts, the High Court or the Constitutional Court?

The Press and Journalist law as well as the Electronic Media Law both establish regulatory bodies for the media. The Media Council regulates the print media including regulation of the conduct, ethical standards and discipline of journalists. The Electronic Media Law established a Broadcasting Council with, amongst others, the function of exercising control over and supervising broadcasting activities. Journalists in both the print and electronic media strongly expressed the view that these regulatory bodies have excessive powers over the media houses and practitioners, and yet according to the journalists these bodies are not independent of Government, whom the journalists often criticise. They point to the composition of the Media Council and the Broadcasting Council the majority of whose members are politically nominated and appointed by the minister responsible for information. Several journalists were of the view that media freedom has been narrowed by laws that provide a weighty role to government-controlled regulatory bodies who are vested with powers to decide how the media as an independent industry should operate.

3.2.3 The NGO Registration Act as amended by the NGO Registration (Amendment) Act 2006

Over the years since 1990, civil society in Uganda has grown tremendously. Several NGOs have been formed to address diverse issues including the promotion and protection of human rights. Many NGOs in Uganda therefore qualify as HRDs. Many of these organisations are registered under the Non-Governmental Organisations Registration Act and are therefore subject to the Act and the Regulations made thereunder. The NGOs Registration (Amendment) Act 2006 and the NGO Regulations 2009 amend and build on the NGO Registration Act 1989 and the NGO Registration Act 1990. These laws and the regulations allow the Government to exercise considerable control over registration and the operations of NGOs.

All NGOs surveyed were critical of the requirements that NGOs must be monitored by a board which is heavily composed of and controlled by Government representatives from various ministries, the Office of the Prime Minister, the Internal Security Organisation and the External Security Organisation. The Board has powers to: issue registration certificates and annual licenses subject to conditions “generally as it may think fit”; to insert in the registration certificate information particularly relating to: a) the operation of the organisation, b) where the organisation may carry out its activities, c) staffing of the organisation (see section 2 (2) of the Act).

A respondent interviewed in the western region said;

“…such a board is unlikely to be independent of government and can be used to obstruct the work of NGOs, especially those focusing on issues..."
of advocacy. In addition, for fear of what can be described as a politicised NGO Board which imposes undue political control over the NGO sector, NGOs in the human rights sector exercise self-control out of the fear of losing licenses.”

The respondent further informed the researchers that many HRDs now prefer to set up organisations and companies under the Companies Act.

3.2.4 Statutory Instrument No. 53 of 2007- Police (Declaration of Gazetted Areas)

The Uganda Human Rights Commission (UHRC) which is Uganda’s National Human Rights Institution has a constitutional mandate to monitor government compliance with international human rights standards it has ratified, as well as reviewing Bills before Parliament to ensure their compliance with human rights standards. In fulfilment of this mandate, the Commission has pronounced itself on the implications of the Police Act on freedom to assemble and demonstrate. A case in point is the Statutory Instrument No. 53 of 2007 - Police (Declaration of Gazetted Areas) Instrument, 2007 which gives the Inspector General of Police power to issue a permit to hold a demonstration or procession involving more than 25 people in a gazetted area. The UHRC pointed out in its 10th Annual Report that ‘a law on freedom of assembly and demonstration must not be arbitrary or unreasonable, it should be clear, and should provide for safeguards and effective remedies in case of illegal or abusive imposition or application of the limitations’62.

The Statutory Instrument will strengthen already existing police powers to control assemblies. Section 32 of the Police Act, Cap.303 empowers the Inspector General to prohibit an assembly from taking place where he has ‘reasonable grounds for believing’ that such assembly will cause a ‘breach of peace.’ It is no surprise that the constitutionality of this section has been challenged in light of the wide discretion it grants to police to limit the right to assembly as a fundamental human right. The specific implications of this section and the above mentioned Statutory Instrument for HRDs is that it can be used to prevent them from acting collectively in public, which is undoubtedly an important aspect of the promotion and protection of human rights.

In that connection, the UHRC recommended the need to review the Statutory Instrument to provide for giving notice to the police by the people seeking to hold a demonstration rather than a permit being issued by the police. It was also recommended that where the police believe that the assembly should not be held, they could petition court for an injunction to stop the assembly63.

3.2.5 The proposed Anti-Homosexuality Bill, 2009

As this study on the situation of HRDs was under preparation, debate was raging about a private members bill before Parliament, the Anti-Homosexuality Bill 2009. Apart from generating emotional and heated debates about morality and the legality of homosexuality in Uganda, the Bill introduces provisions

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63Ibid P.46.
An Overview of the working environment for Human Rights Defenders in Uganda

HUMAN RIGHTS DEFENDERS IN UGANDA

The Bill imposes a legal duty to report information about a person practising homosexuality. HRDs who campaign on this matter will commit a serious offence for publishing materials, providing funding and allowing homosexuality to be practised in one’s premises. The Bill proposes that NGOs found guilty of these prohibitions will lose their registration certificates and have their management imprisoned for up to seven years. The challenge posed to HRDs if this bill becomes law, is that those HRDs who believe that homosexuals have human rights that should be promoted and protected run the risk of being imprisoned or losing their operating license if registered as organisations. The above provisions would be a setback in the achievements on the field of human rights protection and promotion in Uganda if passed into law.

Homophobia has been publicly expressed in Uganda regarding the rights of homosexuals. Even before the bill was tabled in Parliament, there had been incidents of harassment against HRDs defending LGBTI rights by members of their communities. It is worth noting that even among HRDs themselves, there is a lack of consensus on LGBTI rights. Many HRDs are reluctant to take up LGBTI issues for fear of ‘adverse’ publicity.

The struggle to recognise LGBTI as a category of persons with rights is not a recent development in Uganda. It has been ongoing. Even before the current debates on the bill, LGBTI persons experienced and have continued to experience name-calling and discrimination because of their sexual orientation. In addition LGBTI have been subjects of very serious allegations of receiving money for recruitment into homosexuality. Homosexuals have also suffered because of stigma.

Uganda’s President Yoweri Kaguta Museveni recently called upon legislators to go slow on the Bill as it was not good for Uganda’s international policy. So the concern of the Government is not about the fundamental rights and freedoms of these people but its foreign relations.

On 30 April 2009, the UNSR together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an urgent appeal regarding the physical attacks on HRDs who work with LGBTI as well as the media campaign against HRDs who work with LGBTI human rights organisations. This followed previous appeals sent by the then Special Representative on the protection of HRDs on 12 August 2008 and 30 November 2007, concerning Sexual Minorities Uganda (SMUG). SMUG is a coalition of LGBTI human rights organisations that advocate for the rights and liberation of LGBTI in Uganda.

According to an advocate for LGBTI rights, “today, with all the economic, social and political crises facing Uganda, homosexuals present a convenient group to point fingers at as the ‘biggest threat’ or the ‘real problem’ to society. According to the activists, the intended introduction of additional crimes against homosexuality is meant to distract Ugandans from the real issues harming society. It conveniently diverts the attention of millions of Ugandans...”
who have been walking the streets for years with their college certificates but with no job offers. It is quite clear that homosexuals have nothing to do with the hundreds of thousands of families that sleep without a meal or the millions of children who die unnecessarily every day from preventable or treatable diseases such as malaria, diarrhoea, measles, pneumonia, etc.

Homosexuals are not the ones responsible for lack of drugs and supplies at primary health care centres".70.

Different religions in the country have expressed their views on homosexuality. The Church of Uganda issued a press release by email on February 9, 2010 reiterating its position on homosexuality, and stating that according to the faith homosexuality is incompatible with the Scriptures. However, the church was willing at all levels to offer counselling, healing, prayer, love and care for all people including those with homosexual disorientation. It called however for reform of certain laws related to the homosexual discussions71. In one of the local newspapers it was reported that, ‘The Muslim leader Mufti Sheik Ramathan Shaban Mubajje wants gays marooned on an island in Lake Victoria until they die’.72.

The study found that despite the varying views and lack of consensus among HRDs as well as the general public on whether LGBTI have rights or not, there have been open debates, discussions and workshops that allowed people to freely discuss their opinions on the matter in a civil manner. The bottom line though still remains that HRDs campaigning for the rights of homosexuals in Uganda do so at considerable risk of danger and are therefore unable to freely carry out the necessary advocacy and protection of the rights of homosexuals.

3.2.6 The proposed Regulation of the Interception of Communications Bill 2007, Bill No. 9 of 2007

The Government through the minister for security has introduced in Parliament the Interception of Communications Bill 2008. The purpose of the Bill is to provide for the lawful interception and monitoring of certain communications in the course of their transmission through a telecommunication, postal or any other related service or systems in Uganda. The UHRC in its 11th Annual Report reminded Uganda of its international obligations with regard to the right to privacy in international human rights law, as Uganda is a signatory to the UDHR, ICCPR and ACHPR. UHRC reminded Uganda of its obligations with regard to the duty to ensure respect for personal privacy, the right to freedom of expression, the right to information and media freedoms generally73.

UHRC recommended that the Bill should include some incontrovertible safeguards in order to ensure that the powers for granting a warrant of interception are not abused through fabrication of false information or other interference with communications for the purposes of settling political, economic and social disputes with political opponents or rivals. UHRC was also of the opinion that if such safeguards cannot be found, then the powers to issue warrants should be bestowed to courts of law or judicial officers, with adequate provisions to ensure that the warrant is issued in the shortest...

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71 ibid, pg 13
72 ibid, pg 125
time possible in order not to endanger national security. The report also recommends that Government should bear all the costs of interception. In relation to media freedoms, it states that given the important role that the media play in a democracy, journalists should never at any time be required to disclose their sources of information.

In respect to the work of HRDs specifically, the Bill if passed into law could weaken their ability to protect the rights of others. Since it would enhance the powers of the state to identify sources of information, such sources may be inhibited from actually providing information to HRDs for fear that it might be intercepted. Thus, information relevant to HRDs such as details of human rights violations may be suppressed. In addition, if the Bill is passed into law it could endanger the lives of HRDs themselves. A HRD may unknowingly expose his or her identity to elements in society that are adverse to his or her work. Indeed, as the study notes, there are categories of HRDs who face adversity because of their work, such as journalists. They may be particularly susceptible to the negative aspects of this Bill because they regularly disseminate their views with others and exchange information which may be unfavourable to both state and non-state authorities.

3.2.7 The Anti-Corruption Act, 2009, No. 6 of 2009

The Anti-Corruption Act (ACA) fulfils the requirement to legislate against corruption in terms of providing for prosecution, adjudication and sanctions. It seeks to fight corruption in the public service and private sector. The concept of corruption has been widened to include other related offences like bribery, diversion of public funds, influence peddling, conflict of interest, loss of public property, sectarianism, abuse of office, nepotism, false accounting by a public official. Prior to its passing into law, UHRC has made comments on the bill: that the Act should have covered all aspects of corruption in the private sector and provide for relevant jurisdiction. It should include provision for combating corruption in political parties, for promoting international and mutual cooperation, for recognition of the role of civil society and of the media, and application of the qui tam principle.

Conclusion on the Legal Framework

The legal framework in Uganda, particularly the Constitution, provides reasonable safeguards to facilitate the work of HRDs. The drawback however is with regard to economic, social and cultural rights which were not provided for in the main text of the Constitution but included only in its general objectives. There are also several subordinate pieces of legislation which impose extensive restrictions on HRDs while others create offences which have the impact of narrowing rights that HRDs require in order to fully execute their duties. Some of these legal provisions, such as the law on sedition, are currently being challenged in court and could be declared unconstitutional. The courts have been useful in helping to elaborate the meaning and the parameters of basic rights critical for protecting the work of HRDs. What therefore is required is for an organised body of HRDs to challenge these laws in court on grounds that they are not in tandem with the Constitution. In addition, HRDs may grapple with the question of whether the Constitution caters for ‘emerging’ rights such as LGBTI rights and take legal steps to test the constitutionality of some of the laws against gay and lesbian rights.

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74Ibid, p.128-129
75Ibid, p.125
Policy and Institutional Framework for protecting Human Rights Defenders

This policy and institutional framework to promote and protect the work of HRDs is provided for under international and national law. There are also critical principles that States can adopt from the Declaration on HRDs to enhance their protection. However, there have been challenges and obstacles within the policies and institutions established by Government that relate to the promotion and protection of the rights and work of HRDs.

3.3.1 Policy Framework

According to the Declaration on HRDs, States should put in place domestic policy and legislation to implement the Declaration. In addition any policy or legislation passed at the domestic level should conform to the Declaration.

3.3.1.1 Domestication of the provisions of the Declaration into national legislation

States are expected to take measures to ensure that the provisions of the Declaration on HRDs are domesticated in national legislation and policy. This would give effect to the Declaration and strengthen its potential as a support tool for human rights and HRDs. In that respect, Uganda like any other State Party is expected to adopt “legislative, administrative and other steps” to effectively guarantee the rights and freedoms in the Declaration. Uganda is a member of the UN and all member States have a duty to promote international instruments.

In Uganda, the State has established institutions with the mandate to promote and protect human rights, many of which influence policy and legal reforms. Although HRDs are protected generally under different laws that promote and protect the rights of everyone; there is need to enact a specific law on HRDs in Uganda.

Enacting such a law will serve three primary purposes:

a) To show and strengthen Uganda’s commitment towards respecting international standards on human rights. Objective XXVIII of the National Objectives and Directive Principles of State Policy of Uganda’s Constitution provides foreign policy principles which include respect for international law and treaty obligations. It underscores the need for the State to actively participate in international and regional organisations that stand for peace and for the well-being and progress of humanity.

The Declaration has not yet been adopted by any country as a national binding instrument; however, States are increasingly considering doing so.

Article 55 (c) of the United Nations Charter provides that:

“With a view to the creation of conditions of stability and well-being..."
which are necessary, for peaceful and friendly relations among nations based on the respect for the principles of equal rights and self determination of the people, the United Nations shall promote universal respect for and, observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion".

According to B.J Odoki, the chief Justice of Uganda, the Constitutional Court must promote international instruments which in this case would include the Declaration on HRDs.

b) To provide information to the public about who is a HRD and what is expected of a HRD. The law would enable HRDs to develop various networks depending on their thematic areas. Like most respondents around the country conceded, one in Kampala stated:

“We are a human rights organisation but I have not yet heard of that declaration. In fact, if it is possible you should send us a copy or disseminate it to various organisations”.

Another respondent in Gulu stated:

“We have a copy of the Declaration but we have not yet used it for any work. This interview will help us think about how to implement it seriously”.

Once a specific law on HRDs is enacted as law in Uganda, it would be used to sensitise HRDs and the public about the rights of defenders. Many HRDs would find the law very critical for them to effectively carry out their activities as proper protection mechanism would then be in place for them in cases of violation of their rights.

(c) To provide a basis for the development and implementation of clear policies in relation to the work of HRDs. The Country Review Mission of the African Peer Review Mechanism note: “Policy implementation in Uganda remains weak. Policies have not been fully mobilised in order to achieve accelerated sustainable development”.

3.3.1.2 Constitutional policy guidelines

The National Objectives and Directive principles of State Policy in the Constitution of Uganda outline principles related to the promotion and protection of human rights. These principles form the basis for policy development. Specifically, Objective V (i) states that the State must guarantee and respect the institutions charged with the responsibility of protecting human rights by providing them with adequate resources to function effectively. Article 8A of the Constitution further affirms that Uganda “shall be governed based on principles of national interest and common good enshrined on the national objectives and directive principles of state policy”.

Objective V (ii) allows the State to guarantee and respect the independence of NGOs which protect and promote human rights. A respondent from Kampala stated that the political environment in which they work is favourable. However,
another respondent from Kampala said that Government officials often interfere with radio talk shows that are aimed at educating the public about their rights. In order for HRDs to effectively carry out their work, they need to work in an environment which is conducive and nurtures and guarantees their independence. The respondent cited the weak protection of HRDs fighting corruption, articulating the need for better legal guarantees for their safety, arguing that the Whistle Blowers Act does not sufficiently protect those who supply information about corrupt officials, as it is meant to. The respondent called for a Witness Protection law that ensures that witnesses are sufficiently protected from possible revenge from corrupt officials.

### 3.3.1.3 Implementation of human rights education

Uganda as a State party is expected to develop and monitor programmes that will ensure the implementation of the principles laid down in the Declaration. There are various institutions that have been established to promote and protect human rights such as UHRC. However, the implementation of the Declaration is not receiving due attention. As noted earlier, there is little awareness and knowledge in Uganda about the Declaration even after commitments by the international community, through numerous General Assembly resolutions, to promote awareness of its existence and the need for its adoption and implementation. The Declaration has not been made widely known to state agents, public officials or the general public. Human rights education programmes for the public and public institutions have not at all covered the Declaration.

Under Article 52(1) (c) of the Constitution, one of the functions of UHRC is to establish a continuing programme of research, education and information to enhance respect of human rights. UHRC has carried out human rights education for local council leaders to enhance their understanding of human rights among councillors in administering justice for their communities. Training of the local council leaders is important as they too are HRDs who interact a lot with community members and make decisions through the Local Council Courts established under the Local Government Act.

However, the Local Council Courts are faced with many challenges including “the level of education of members sitting on LC Courts which is low and constitutes a major hindrance to the delivery of justice in a fair and equitable manner.” For justice to be delivered through these courts and the right to a fair trial fully implemented, the Government of Uganda together with development agencies need “to provide relevant training and refresher courses to all LC Executive Committee members sitting on the courts.” Human rights education is critical as it fosters “development of values and attitudes which can uphold human rights and encourage action aimed at preventing violations.” The UHRC programme of training district councillors provides a good entry point for disseminating the content and values of the Declaration. Therefore, more training programmes that cover the Declaration should be offered to the district councillors.

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84 Article 52(1) (c) of the Constitution of the Republic of Uganda 1995.
87 Ibid at p. 56.
88 The Protectors, Human Rights Commissions and Accountability in East Africa, Edited by Chris Maina, Fountain Publishers, Kampala, p. 76.
3.3.1.4 Dissemination of information and training

States are enjoined to disseminate information and provide training on the Declaration through appropriate information and training programmes that target, *inter alia*, HRDs, state officials, intergovernmental organisations and the media. In Uganda there are policies in place that provide for the dissemination of information and training programmes on human rights issues.

UHRC produces annual reports to highlight the human rights situation in the country. This has enabled Parliament to take action in respect to specific recommendations made by UHRC. The annual reports from UHRC are a source of information to the public on the human rights situation in the country. These reports provide factual information and highlight the plight of victims of human rights violations including HRDs. The reports are also a great resource material for the work of HRDs. A respondent in Arua stated:

“We collaborate with UHRC’s regional office here and also use its Annual Reports as a relevant source of information”.

However, what is lacking is wide dissemination of the reports in local languages so that people at the grassroots are able to know their rights and understand what is being done by UHRC and civil society towards improving the human rights environment in the country. UHRC Annual Reports can also be used to publish information specifically regarding and targeting HRDs. There is clear need for dissemination of the Declaration to the general public as this has never been done in Uganda. One respondent interviewed in Kitgum observed that,

“Now that we have known about this Declaration, the Human Rights Centre Uganda should link up with organisations in many districts of Uganda, translate the document into Luo, for example, for northern Uganda and then widely disseminate to everyone”.

The observation demonstrates the clear need to translate the Declaration into local languages and to disseminate information in the Declaration so that relevant Government officials, HRDs and the public whose rights they protect can get to know about the Declaration.

3.3.1.5 Human Rights Monitoring

States are expected to ensure that there is a strong, independent, well-resourced mechanism such as a national human rights commission to receive information from HRDs on violations they are addressing or violations targeting them personally. Governments are also expected to support the development of a regional human rights monitoring mechanism that can provide additional oversight and protection to defenders.

A National Human Rights Institution is established by a Government under the Constitution, or by law or decree, the functions of which are specifically defined in terms of the protection and promotion of human rights. As a National Human Rights Institution in Uganda, UHRC the following monitoring functions as stipulated in the Constitution of Uganda:

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89Ibid.
90Ibid. p5.
91Fact sheet, p. 30.
a) To monitor the Government’s compliance with international treaty and convention obligations on human rights under Article 52(1) (h);

b) To visit jails, prisons and places of detention or related facilities with a view to assessing and inspecting conditions of the inmates and make recommendations under Article 52(1) (b);

c) To publish periodic reports on its findings and submit annual reports to Parliament on the state of human rights and freedoms in the country under Article 52(2).

National human rights institutions are well-placed to advise and assist governments to ensure that laws and regulations concerning the protection of human rights are applied effectively. This is because in the course of performing their functions, commissions are generally involved in legislation, having a direct or indirect impact on human rights.

3.3.1.6 Effective Judicial Protection of Human Rights Defenders

States are required to ensure that HRDs benefit from the full protection of the judiciary. The Declaration also enjoins States to ensure that violations committed against HRDs are promptly and fully investigated, with appropriate redress provided. Article 126(1) of the Constitution mandates the Judiciary to exercise judicial power in the name of the people and in conformity with law and with the values, norms and aspirations of the people. Under Article 128 of the Constitution, the judiciary is to be independent in the exercise of judicial power and should not be interfered with by any person or authority. In principle, the judiciary in Uganda is independent but there have been instances where its independence has been interfered with by some branches of government. For example, in November 2005 military personnel (known as “the Black Mambas”) raided the High Court to arrest treason suspects that had been granted bail.

Article 126 (2) of the Constitution provides for key principles in administration of justice. These include: justice shall be for all irrespective of status; justice shall not be delayed; there shall be adequate compensation for victims of wrongs; promotion of reconciliation between parties; and administration of justice not to be affected substantially by technicalities. The judiciary acts as a mechanism through which other HRDs can seek protection and redress when their rights are violated. Article 50 of the Constitution of Uganda guarantees enforcement of rights and freedoms by the courts of law. HRDs and their representatives can use this Article to seek redress from the courts of law in Uganda when their rights are violated.

The current legal framework in principle guarantees access to justice in that the law guarantees protection of the rights of HRDs. However, in practice challenges exist which negatively impact on access to justice especially for the poor, HRDs inclusive. One of these barriers is corruption which “is a major problem facing Uganda today.”

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93Article 52 of the Constitution of the Republic of Uganda 1995
94Chris Maina Peter, ED (2008), The Protectors, Human Rights Commissions and Accountability in East Africa., Fountain Publishers Kampala, at p. 77
95Supra note 61.
Corruption has been reported in the judiciary; and has been a source of public outcry for some time now. In the 2007 IGG Report to Parliament; the Ugandan Judiciary was ranked as being the 9th highest institution to have been complained against out of 76 national institutions101.

Corruption has been reported in many sectors of the Government and civil society where it greatly affected the delivery of service to many people in Uganda.

Resources that are meant for construction of roads, provision of medical services to the people, construction of proper schools and other developmental activities have been diverted by some government officials for personal gain or unaccounted for activities or plans.

Although Commissions of Inquiry have been set up to investigate those accused of committing corruption, many of them have not been prosecuted.

Uganda’s corruption index worsened over the past three years, having been placed 27th among 75 countries in 2005 when the index was first launched. Recently, Transparency International (TI) ranked Uganda as the 130th most corrupt of 163 countries in its Global Perceptions of Corruption Index102.

In a recent opinion poll conducted by the Fund for Peace, most respondents (42.4%) stated that corruption was the most critical cause of state failure, followed by the lack of basic education, group hatred, and finally poverty. The current legal framework provides for criminalisation of certain aspects of corruption, a code of conduct for public officials which requires that they declare their wealth, as well as transparency and probity in procurement and disposal of public funds103.

Access to justice by the poor, especially in conflict areas, remains a challenge. The tendency to keep people awaiting trial for long periods, coupled with poor social amenities, affects the delivery of justice to people in the war-torn areas104. The other challenges are inadequate manpower and the backlog of cases in the judiciary. In northern Uganda, for instance, “as of September 2007...there were only 8 Chief Magistrates against a required number of 33, and only 21 Grade 1 Magistrates, as opposed to the 33 that are required in the region. A striking example is the situation in Moroto district, where the High Court in 2006 had not held any session for the past few years...and in 2006, the judge held only two sessions in Soroti”105. When these sessions are so long delayed, the work of HRDs is affected in that clients’ cases take too long to be decided, leading to difficulties such as loss of or interference with evidence and documentation, unreliability of witnesses and increased legal costs. All of the above factors significantly decrease the clients’ chances of receiving redress. A respondent from Lira stated gave the example of how corruption frustrates an HRD’s programme of providing legal services to the poor:

...we provide free legal services to the poor and represent them in court. But many times court officials ask for money from us or our clients...clients are often discouraged and many choose to abandon their cases. These cases also take too long to be decided...’

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105 Access to Justice in Northern Uganda, UN OHCHR 2008 at p.15
Access to justice requires one to have financial resources to use court services. This is because parties to court proceedings have to pay various legal fees, for instance, for filing cases. HRDs that face prosecution are burdened with having to raise resources to defend themselves as there are few organisations which are willing to offer free or subsidised legal services to the defenders because of financial constraints. An interviewee in Kampala underscored this dilemma remarking that:

“...the nature of work we do is risky. When we go to scenes of crimes, the police do not want us to record anything. This usually leads to conflict and yet we have to cover these stories. At times false charges are laid against us and our employers do not want to help us with money while moving up and down to court.”

To address the problem of access to justice, the Government has taken initiatives to improve the situation. High Court circuits have been established in a couple of districts in Uganda\textsuperscript{106}. These will improve on the number of sessions held a year. However, more circuits need to be established in other districts. In 1999, the Government adopted a Justice, Law and Order sector (JLOS) reform agenda to improve the administration of justice through coordinated planning and budgeting of all justice, law and order institutions. One of the objectives of JLOS is to foster a human rights culture across JLOS institutions. To achieve this end, JLOS has constructed and renovated police barracks and prisons to improve the welfare of users\textsuperscript{107}. JLOS has also improved human rights awareness through training, awareness creation, partnerships with Local Governments and Development Partners, CSOs and the private sector\textsuperscript{108}.

JLOS is also utilising a Rights Based Approach in the delivery of its services\textsuperscript{109}. In 2004, the Strategic Investment Plan (SIPII) focused on the impact of poverty on accessing justice and thus, provided for the development of a pro-poor national legal aid policy and legal aid basket fund, and the promotion of pro-poor alternative dispute resolution mechanisms\textsuperscript{110}.

Article 21(1) of the Constitution guarantees equal protection to all before the law. Under Article 28(3) (e) free legal assistance has to be provided for capital offences in the interests of justice. However, there is no comprehensive legal, institutional and policy framework to guide the provision and regulation of legal aid-services provided for cases of non-capital offences. Legal representations through state briefs are not effective enough since lawyers are poorly paid and they have little contact with clients\textsuperscript{111}.

The provision of legal aid to indigent persons has been embarked on. The Legal Aid Project (LAP) helps to provide free legal services to people who cannot afford private lawyers due to their lack of financial resources, or when a case is deemed to be particularly complex\textsuperscript{112}.

\textsuperscript{106}Access to Justice in Northern Uganda, UN OHCHR Uganda, at p. 15.
\textsuperscript{108}Ibid.
\textsuperscript{109}Ibid.
\textsuperscript{110}Access to Justice in Northern Uganda, UN OHCHR Uganda, at p. 41.
\textsuperscript{111}Ibid at p. 45.
\textsuperscript{112}Ibid at pps 45-46.
3.3.1.7 Role of Local Governments in Promoting Human Rights

The Declaration enjoins States to ensure that local Government authorities participate effectively in supporting and protecting HRDs. Local Governments are, *inter alia*, expected to undertake promotion of human rights by providing human rights education. They should also be encouraged by the national authorities to promote respect for and protection of human rights.

In Uganda, there are on-going efforts spearheaded by the UHRC to involve local Governments in the protection and promotion of human rights. UHRC conducts civic education aimed at creating awareness among local Government officials of the importance of respecting, upholding and observing human rights and freedoms. The focus of UHRC’s civic education programme included the Concept of Human Rights and the Role of Local Government Councils in the Administration of Justice as well as applying a rights-based approach to planning and programming.

UHRC spearheaded the establishment of District Human Rights Committees /Desks since 2004 as a local government structure whose role is to ensure promotion and protection of human rights at the local government levels. In 2007, following a request by the UHRC, the Ministry of Local Government issued a directive to all local governments to establish human rights committees. These committees/desks have been established in some districts of Uganda. Through them UHRC will publish and disseminate information about the situation of human rights in the various districts of Uganda.

The establishment of these committees is a positive development. However, there is a need to establish them in all districts and adequate resources should be provided to enable them carry out their mandate effectively. HRDs should work with these committees/desks as a joint effort in improving the general environment in which they operate. A respondent in Gulu however observed:

“The Human Rights Committees have been established but so far we do not feel their impact. They should engage in serious work”.

Taking this concern into consideration, it is highly recommended that these committees/desks should be sensitised on the rights of HRDs to enable them effectively carry out their activities.

The UHRC has also promoted a ‘Rights Based Approach’ to development (RBA) to district local governments. Specifically, the UHRC has carried out workshops for government officials and district planners on RBA guidelines, to “guide [the officials] on how to incorporate human rights principles in the planning and programming processes at district level”. This aspect of UHRC’s work illustrates its key role in empowering other HRDs with skills in rights based planning and programming.

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113 Supra note 61.
114 Supra, (UHRC 10th annual report) p. 4
115 UHRC 10th report to the Parliament of Uganda 2007 at p. 104
3.3.1.8 Cooperation with the United Nations Special Rapporteur on Human Rights Defenders

The Declaration enjoins States to extend a standing invitation for a country visit by the Special Rapporteur. It also enjoins States to respond promptly to communications in cases raised by the Special Rapporteur and give due consideration to recommendations made in his or her reports. A visit by the Special Rapporteur affords opportunity for a comprehensive discussion of the human rights situation in the country, including the challenges facing HRDs.

The UNSR has issued nine communications concerning HRDs against the Government, but none of them has been responded to. In her report submitted to the Human Rights Council in March 2010, the UNSR states:

“The Special Rapporteur regrets that at the time of finalising the present report, the Government had not transmitted a reply to her communication... She considers response to her communications an important part of the cooperation of Governments with her mandate. She urges the Government to respond to the concerns raised by her, and provide detailed information regarding investigations undertaken to prosecute the perpetrators as well as protective measures taken to ensure the physical and mental integrity of defenders and their families.”

Key Institutions Established by the State to Defend Human Rights

The State has established several institutions to ensure the promotion, protection and realisation of basic human rights and fundamental freedom in the country. The institutions considered below can be taken as HRDs in their own right. On the other hand, they are also mechanisms through which other HRDs can seek redress when their rights are violated. They include the Parliament of Uganda, the Courts of Judicature, the Ministry of Justice and Constitutional Affairs, the Directorate of Public Prosecutions, UHRC, the Uganda Law Reform Commission, Electoral Commission, Law Development Centre, and the Judicial Service Commission. These institutions collaborate with civil society in influencing legal and policy change.

3.3.2.1 The Parliament of Uganda

The Parliament of Uganda as a key HRD established under Article 77(1) and Article 79(1) of the Constitution can play an important role in the protection of HRDs. This is because of its legislative mandate as well as its role of examining and putting in place policy matters. Through its Legal and Parliamentary Affairs Committee, Parliament exercises these mandates of importance to HRDs.

The Legal and Parliamentary Affairs Committee oversees the bills, policies and operation of the following institutions: Judiciary, Parliament, Justice, Law Reform Commission, Electoral Commission, Uganda Human Rights Commission and the Inspectorate of Government. Under rule 161(a), one of the functions of the Sessional Committees is to examine and comment on

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117 Supra note 61 at p.31.
119 Supra note 73 at p.572
120 Article 77(1) and 79(1) of the Constitution of the Republic of Uganda 1995
policy matters affecting the Ministries covered by them\textsuperscript{122}. This committee in particular relates to the work of HRDs because it oversees institutions which are involved in promoting human rights including the rights of HRDs.

It has been suggested however that these committees could do more to promote the work of HRDs. A respondent from Kampala felt that the influence of civil societies in these committees is not sufficiently guaranteed and expressed the view that this should be rectified. The respondent therefore recommended that:

“We need representatives from civil society on those Parliamentary Sessional Committees to ensure active participation and voicing of our concerns when policies are being developed”.

It is recommended that MPs should be sensitised about the Declaration to enable them develop policies that are relevant and important to promote and protect the rights and work of HRDs.

### 3.3.2.2 Courts of Judicature

The Constitutional Court has been at the forefront in defending the doctrine of separation of powers and the independence of the Judiciary. In November 2006, security personnel, at the behest of the Executive, stormed the High Court of Uganda at Kampala, and rearrested suspects who had been granted bail. The Court ruled that the actions of the state in storming the High Court violated the independence of the judiciary and desecrated principles underpinning the separation of power doctrine and the rule of law. However, this decision was ignored by the Executive, when it again reordered the storming of the High Court in March 2007, to re-arrest the same suspects the court had released on bail. The Judiciary for the very first time in the history of Uganda went on strike for one week protesting the conduct of the Executive\textsuperscript{123}.

The Constitutional Court has played a role in the elaboration of the meaning of rights and striking out laws that negate their enjoyment of human rights. Several examples can be cited showing the positive approach the court has taken to protect rights and fundamental freedoms whenever the court is moved to do so. In the constitutional case of Law and Advocacy for Women in Uganda v. Attorney General of Uganda, the Constitutional Court declared the offence of adultery under Section 154 of the Penal Code Act to be unconstitutional. It also struck down discretionary powers provided for by the Divorce Act, which assigned available grounds for divorce for a woman and a man\textsuperscript{124}. Maintaining the independence of the judiciary is vital for HRDs.

In a decision that enhanced the protection of the right to life in Uganda and freedom from inhuman punishment, the Constitutional Court in Susan Kigula and 417 others, Constitutional Petition No.6/03, considered the constitutionality of the death penalty and declared as unconstitutional the death sentences of 418 prisoners on death row and further ruled that the automatic imposition of the death penalty in Uganda for murder and other offences was a form of “inhuman punishment”. The Court also ruled that any of the prisoners who have been on death row for more than three years, were entitled to have their death sentences commuted to life imprisonment\textsuperscript{125}.

\textsuperscript{124}bid at 9
\textsuperscript{125}http://www.ealawsociety.org/Joomla/index.php?option=com_content\&task=view\&id=35\&Itemid=72, accessed on 11 march 2010, at 10:40 p.m
On 21st of January 2009, the Supreme Court gave a judgment on appeal of the aforementioned case of Susan Kigula and others. The Attorney General appealed the court’s initial 2005 decision as outlined above, that made the following declarations (1) that the mandatory death penalty is unconstitutional and (2) that a delay on death row for more than 3 years was unconstitutional. In their cross-appeal the respondents, supported by the Foundation for Human Rights Initiative (FHRI), challenged in their cross-appeal sought to overturn the Constitutional Court’s decision that retained the death penalty as a constitutional form of punishment, and of hanging as an appropriate and therefore constitutional mode of carrying out executions. The court agreed with the decision of the Constitutional Court that all laws on the statute book in Uganda which provided for a mandatory death sentence are inconsistent with the constitution and therefore void to the extent of their inconsistency. Regarding the constitutionality of the death penalty, the court held that the imposition of the death penalty is constitutional and as such does not amount to cruel, inhuman and degrading treatment and punishment as long as the sentence of death was passed by a competent court after a fair trial and once it had been confirmed by the highest appellate court.

The Anti-Corruption Division of the High Court was established in July, 2008 as a specialised division of the High Court to adjudicate corruption cases. The division commenced hearing cases in December 2008. According to the case statistics of the court, between the inception of the Division and 31 December 2009 283 cases had been registered with the court. The disposal rate of the court stands at 81% of the registered cases. The court has however encountered several challenges including the incomplete process of renovation of the court’s premises, which has affected the sitting arrangement for the designated Magistrates; lack of proper streamlining of cases whereby corruption cases can be currently registered at any court; lack of transcribers for court proceedings due to under-financing; inaccessibility of the new court premises via public transport; lack of enough operational and sectional funds in relation to the work load of the court.

Nonetheless, this Division will be an effective tool for HRDs as it will shift the focus from the idea that it is individuals (HRDs) who have the duty to fight corruption, to the important notion that an objective and effective legal system is the appropriate mechanism with which to handle this human rights issue. This shift in focus will give HRDs working on corruption more protection and ease their workload in this area.

3.3.2.3 The Ministry of Justice and Constitutional Affairs

The Ministry of Justice and Constitutional Affairs (MoJCA) is responsible for the development and coordination of government policy on the protection and promotion of human rights. The mandate of the ministry is to promote and facilitate effective and efficient machinery capable of providing a legal framework for good governance and delivering legal advice and services to the Government, its allied institutions and the general public.
The MoJCA has spearheaded government reforms through JLOS aimed at ensuring that all people in Uganda live in a safe and just society.

The MoJCA faces some challenges that affect its fulfilment of its mandate. For instance, the office of the Attorney General has not been fully and promptly honouring its obligation to pay compensation to victims of torture and other human rights violations as granted by the courts of law and the UHRC\textsuperscript{132}.

### 3.3.2.4 The Directorate of Public Prosecutions

Article 120 of the Constitution mandates the Director of Public Prosecutions (DPP) to handle and prosecute criminal cases in the country and to delegate such powers, where necessary, having regard to public interest, fair administration of justice and the need to prevent abuse of the legal process\textsuperscript{133}. The DPP has carried out prosecutions but is faced with challenges. For instance, in the Magistrates’ Courts there is a lack of facilitation of witnesses in terms of transportation and lunch/per-diem. A Fraud Unit has also been established to improve on the level of prosecutions and combat fraud that affects the delivery of justice\textsuperscript{134}. Some HRDs and their clients seek justice in court when their rights have been infringed. An effectively functioning DPP will ensure that HRDs and their clients receive the redress they deserve.

### 3.3.2.5 The Uganda Human Rights Commission

The UHRC as established under Article 51 of the Constitution has the mandate to promote and protect human rights. UHRC receives complaints on virtually all human rights. It investigates complaints in appropriate cases and compensation is awarded to victims of human rights violations\textsuperscript{135}.

As a national human rights institution with many core activities that promote and protect human rights, UHRC continues to receive funding for its core activities from both the Government and development agencies as reflected in the 2008/09 financial year budget allocations\textsuperscript{136}.

Although UHRC has received extra funding from the Government and development agencies, “inadequate funding of non-wage activities by Government has implications for the implementation of the commission’s core activities. UHRC continues to advocate for increased funding of its core functions from Government”\textsuperscript{137}.

UHRC also has the important role of examining laws and bills to ensure their compliance with human rights norms and principles. In fulfilment of this mandate UHRC has made several comments and recommendations on laws and bills that affect the rights of HRDs. For instance, it has called for the repeal of laws that hinder press freedom and freedom of assembly. UHRC has also made comments on the Anti-corruption Bill, Interception of Communications Bill, the Penal Code Act, the Leadership Code of Conduct, the Inspectorate of Government Act, the Local Government Act and the Public Procurement and Disposal of Assets Act. UHRC has recommended to Government that a law on the minimum wage be enacted as soon as possible, that a law enabling

\textsuperscript{132} supra note 63.
\textsuperscript{133} Article 120 of the Constitution of the Republic of Uganda 1995
\textsuperscript{136} 11th Annual Report of the Uganda Human Rights Commission at page 148
\textsuperscript{137} Ibid at p. 49.
the implementation of the Optional Protocol to the UN convention on the Rights of the Child, on the Involvement of Children in Armed Conflicts, be put in place.

The Commission has also put in place Civil Military Cooperation Centres (CMCCs) have been established as an additional mechanism to address breaches of human rights perpetrated by the UPDF and its auxiliary forces, as well as by the UPF, and to restore public confidence in and trust of the army and the police. Established under the mandate of UHRC, CMCCs are composed of members drawn from the UHRC, the UPDF, the Uganda Police Force and civil society, as well as national United Nations volunteers. They work together to solve human rights related problems138.

The mandate and the activities of the UHRC demonstrate the important role that effective national human rights institutions can play as HRDs both for the general public and HRDs.

3.3.2.6 The Uganda Law Reform Commission

The Uganda Law Reform Commission (ULRC) is established under Article 248(1) of the Constitution and section 10 of the Uganda Law Reform Commission Act, with the mandate to study and keep under constant review the Acts and other laws comprising the laws of Uganda with a view to making recommendations for their systematic improvement, development, modernisation and reform139. In doing so it should take into account Uganda’s human rights obligations under the Constitution and international and regional commitments. The ULRC can be instrumental in ensuring that legal reforms are made that would give binding effect to the provisions of the Declaration. The ULRC and civil society are in position to engage in legal and policy change. Considering that there is no specific law on HRDs, ULRC together with other HRDs can play a major role in advocacy for the enactment of such a law.

3.3.2.7 The Electoral Commission

The mandate of the Electoral Commission (EC) under Article 61(1)(a) of the Constitution is to ensure that regular, free and fair elections are held in Uganda140. Article 1(4) of the Constitution provides that “the people shall express their will and consent on who shall govern them and how they should be governed, through regular, free and fair elections of their representatives or through referenda”141.

The importance of free and fair elections cannot be overemphasised. It is during elections that every person of majority age in Uganda can have an input in issues of good governance and democracy. Many HRDs who advocate for civil and political rights are actively involved in civic education long before elections begin. Their interest is to see that Ugandans participate fully in the elections. HRDs provide legal counsel to election candidates, while other defenders such as those in the media cover stories which can be used as evidence in cases of election petitions.

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138 Ibid at p. 43.
At a workshop in Kampala, it was stated:

“The challenge by opposition parties to the Electoral Commission on its legitimacy has kept the electoral body on its toes. The Electoral Commission is seriously working to defend and uphold its legitimacy. If the Electoral Commission is to be taken seriously, then it must work to address issues raised in previous reports of Election Monitors and the Courts. The Commission must go beyond statements to actual reforms both of legal and administrative nature and this is possible through engagement of all political parties and legislature”  

3.3.2.8 The Law Development Centre

The Law Development Centre Act (Cap 132) mandates the Law Development Centre (LDC) to carry out legal training, research, publication and to provide free legal services. The LDC has been training lawyers and other professionals for years. It has equipped them with the relevant skills and knowledge of the law to enable them to effectively represent clients and offer legal advice. The LDC can be used to train HRDs, as well as to disseminate and publish information helpful to HRDs. A tailor made short course on HRDs should be developed in collaboration with HRDs and offered periodically at a fee.

3.3.2.9 The Judicial Service Commission

The Judicial Service Commission (JSC) is a Constitutional body established under Articles 146 - 151 of the Constitution with the mandate to establish an effective and efficient judiciary in Uganda; to contribute to the promotion of law and order; and to establish and maintain independent and efficient machinery for administering justice to all through recruiting and training judicial officers. Its mandate also includes the promotion of public awareness and access to justice. There is need for an effective judiciary so that justice can be delivered without fear or favour. The JSC is in a position to highlight the inadequacies within the judiciary and collaborate with civil society and development partners to reform the judiciary.

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3.3.2.10 The Inspectorate of Government

The Inspectorate of Government is the national ombudsman of the country as established under Article 223(1) of the Constitution. Some of the functions of the Inspector General of Government under Article 225(a) and (b) include promoting strict adherence to the rule of law and principles of natural justice; ensuring that corruption, abuse of authority and public office is eliminated in

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142 Workshop on Early Warning Signs of Conflict in Uganda: Managing or Averting 2011 Election Violence held in Kampala, Uganda on 19th February 2010.
143 The Law Development Centre Act, Cap. 132.
the country; promoting fair, efficient and good governance in public office; as well as stimulating public awareness about the values of the Constitution.

3.3.3 Conclusion on the Institutional Framework

States are implored to institute measures stipulated in the Declaration on HRDs to ensure that defenders are protected as they carry out their work. The adoption of the rights and obligations contained in the Declaration would constitute a major breakthrough in the on-going struggle to strengthen universal respect for human rights and freedoms in Uganda.

The Constitution enjoins the State to guarantee and respect state institutions charged with human rights mandates and to provide them with adequate resources to function effectively. It further provides that every Ugandan has a right to participate in peaceful activities to influence the policies of Government through civic organisations. Government policy regarding the work of civil society organisations should be derived from and influenced by these provisions.

The Government in partnership with non-state actors has engaged in legal and policy reform processes that have resulted in the enactment of laws as well as establishment of agencies and institutions to ensure protection and promotion of fundamental and other human rights and freedoms. However, these institutions and agencies are still faced with challenges that greatly affect their effectiveness. Some of these challenges include inadequate resources, lack of capacity, corruption, and lack of commitment to the human rights cause by some state agents and public officials.
An Overview of the working environment for Human Rights Defenders in Uganda
Introduction
This chapter presents and analyses primary data collected from the field. The discussion focuses mainly on the challenges and violations faced by defenders which were identified by the respondents.

Civil society in Uganda has grown tremendously over time and continues to grow. Civil society includes various NGOs working on vital issues such as health, poverty reduction, and human rights. Many of these NGOs qualify as HRDs by the nature of their work as they specialise in promoting human rights. Although relatively young, civil society in Uganda was considered by the majority of respondents to have made significant progress in its development, particularly those engaged in direct human rights work. Civil society in Uganda has organised itself into different organisations and associations. Some of the broader groups identified within civil society include: media, human rights organisations, lawyers, NGOs and CBOs, women and youth associations as well as religious organisations. These organisations address a wide range of issues including corruption, abuse of governmental powers, promotion of good governance and democracy, among others.

From the interviews and responses, it was generally agreed that HRDs have fair legal protection in relation to their work in Uganda and also generally enjoy the right to exercise their freedom of association, speech and expression. It was however also pointed out that despite this there have been many cases of intimidation, arrests, detention, and harassment of HRDs. In discussing their situation, HRDs presented many critical challenges that confront them. These are discussed below.

4.2 Challenges facing HRDs in Uganda

4.2.1 Legal and Policy challenges

4.2.1.1 Restrictive Legal and Policy framework
The HRDs that were interviewed expressed very strong sentiments against the policy and legal framework which they said generally restricts the space for civil society to carry out their activities. This is a trend similar to what is happening in other parts of the world, particularly in developing countries. It was reported that the Government has been introducing subtle measures to restrict the space in which activists promoting and defending democracy and human rights operate. Some of these measures relate to the introduction of new laws and regulations to control and restrict the operation of civil society in ways that can frustrate the very objectives for which they were formed.

Indeed, the Non Governmental Organisations Act and its implementing regulations were particularly cited as they give the Government considerable control over the operations of NGOs, most of whom are HRDs. The Act prohibits any NGO from operating unless it is registered by the NGO Board, which can impose conditions or directives as it deems fit. The law also requires annual renewal of licenses, the issuance of which is at the discretion of the Board.

See Annex B listing the frequency of responses of interviewed human rights defenders alleging violations of their rights.
An NGO in western Uganda, which works with the rural population, expressed frustration at having to seek permission from the Resident District Commissioner (RDC) every time they had to carry out activities. The NGO Regulations 2006 dictate that an NGO must give seven days notice in writing to the Government to communicate its intention to make direct contact with the people in any part of the rural areas of Uganda. The effect of this requirement is that an NGO cannot make “contact” with rural residents without first notifying the Government and waiting for seven days for a response. This raises the question of what would happen if a disaster occurred which required an immediate response or intervention by NGOs.

At least two HRDs upcountry complained that RDCs had used these legal restrictions to deny them permission to carry out activities that the RDC deemed politically sensitive. Many HRDs felt that these restrictive laws impose undue political control over civil society and prevent it from freely carrying out its function of holding Government accountable because of fear of freely speaking out about violations.

4.2.1.2 Accessing protection and remedies

Many HRDs in Uganda are employees of organisations working on human rights issues or are by the nature of their work engaged actively in the task of promoting and protecting human rights. A typical example in the latter category is that of journalists. Many respondents lamented that there is no specific law to provide protective mechanisms for HRDs. While they pointed out that they sometimes go to the police, the courts or to the Uganda Human Rights Commission in cases where their rights are violated, these mechanisms were not effective enough to address their unique problems as HRDs. It was claimed that the police do not give serious consideration to their complaints, while accessing the court system is expensive if one is to use legal experts to effectively present a case. They said the UHRC was overwhelmed with complaints.

One journalist in Kampala underscored the fact that when journalists get into trouble with the authorities and are charged in court for an alleged crime related to their work, their employers do not provide the necessary legal assistance. Another said that generally journalists fight for themselves when their rights are violated and that no institution comes to the aid of journalists in such situations. In particular HRDs who are journalists feel that penal laws are being used disproportionately to prosecute journalists with a view to intimidating them and exercising undue control on what they can express publicly.

These testimonies showed that at the time of research HRDs in Uganda felt very vulnerable. While the Constitution is quite clear that one can seek redress in cases where one’s rights or freedoms are violated, the general feeling was that the constitutional provision does not offer sufficient protection. The respondents called for the establishment of a solidarity forum for HRDs to facilitate access to the protective measures that are available under the law. Such a forum, it was argued, would bring defenders together regularly to strategise on how to protect themselves. The need for an effective local forum for HRDs becomes even more necessary in view of some limitations that constrain organisations currently engaged in defending HRDs.
For instance, EHAHRDP, the sub-regional body located in Kampala may sometimes ‘feel uncomfortable being critical’ about violations occurring in Uganda by virtue of being domiciled there. In light of the above experiences, it was recommended that a legal fund be established to take care of legal representation of HRDs when necessary.

Operational Challenges

4.2.2.1 Security threats

By the nature of their work, HRDs all over the world are not very popular with the authorities. In less democratic states, views expressed by defenders can expose them to the risk of being arrested, harassed, and threatened or even being attacked or killed. For example, the President of Gambia made statements on 21 September 2009 publicly threatening to kill HRDs and those that cooperate with them. A number of HRDs interviewed expressed a sense of vulnerability because of their work. Other than those who reported being arrested, detained and prosecuted, many others interviewed stated that threats against defenders were largely covert or subtle. Respondents reported that threats include anonymous telephone calls in which they were warned and threatened with danger on account of their work; surveillance by unknown persons; as well as burglary of property, documents, and laptops from office premises or vehicles.

A defender in Kampala had this to say:

“When the organisation I work for exposed some Government authorities on corruption we received anonymous phone calls with threats and intimidation, security people roamed around my office. My family and I had to leave our home for some few weeks”.

Other than covert and subtle threats, some respondents reported overt threats, mainly from the police, soldiers, military intelligence, RDCs and District Internal Security Officers. It was reported that such conduct was carried out by state officials with impunity; such threats would be reported to relevant authorities but they would not be investigated or the police would not charge the persons concerned.

These security threats have had a negative impact on the work of HRDs who reported that they act with caution in whatever they do, due to fear for their security and their jobs. In particular, it was the general view that many HRDs in Uganda are practising self-censorship in the exercise of freedom of association, assembly and expression for fear of treading on ‘dangerous grounds.’ Some of them, as a matter of precaution, have chosen to concentrate on ‘soft’ human rights issues that are unlikely to annoy the authorities.

When asked what HRDs should do, many replied that there is need for more engagement with the authorities on these issues to create mechanisms to iron out the misunderstandings. The need for effective networking between HRDs was also recommended, particularly with the aim of agreeing on collective action on security threats.

Defenders also expressed particular concern with what they described as “use of disproportionate force” by the authorities to disperse assemblies and demonstrations which are considered necessary for HRDs in appropriate situations. Concern was raised regarding the use of lethal force and failure to investigate and persecute those perpetrating these violations. The deployment of the police together with the military to handle civil protests is considered a troubling development that is scaring many HRDs.

Connected with this is the inhuman manner in which people involved in what are considered unlawful assemblies are arrested and treated. HRDs reported incidents in which suspects were not told the reasons for their arrest and were subjected to long unwarranted interrogations. The practice of detainees being blindfolded, held in unknown places and detained incommunicado for long periods are examples cited as practices that discourage HRDs from fully undertaking their responsibilities. As a consequence, it was claimed some HRDs quit their jobs while others prefer to play it safe.

The threats to personal security notwithstanding, some HRDs were of the opinion that not all HRDs are prone to these threats. They noted that HRDs in conflict with the authorities are those working on issues interpreted to be connected with politics. Generally HRDs at risk are those engaged in civil and political rights, or those directly involved in monitoring and reporting on violations of human rights. By the nature of their work these defenders often criticize government policies and the conduct of government officials. Other than misunderstandings related to HRDs’ work in this category, it was reported that on the whole, the relationship between government and many civil society organisations was fairly good.

4.2.3 Weak Organisational Capacity

Civil society organisations in Uganda date as far back as 1989 with the enactment of the Non-Governmental Organisation Statute. Since then many NGOs and CBOs working in the field of human rights have been formed. Many continue to be formed but are relatively inexperienced or weak. Some of the organisations that were interviewed confessed that their ability to perform effectively is limited by inadequate human and technical capacities. They have staff that lack skills and are in need of training but lack the resources to create the required capacity. Although some of the organisations said they utilise their HRD networks to support the training of their staff, this was only possible if training opportunities were offered.

A core capacity challenge that almost all the HRD organisations cited was the difficulty of retaining trained and skilled staff. Due to insufficient funds, staff are poorly remunerated. Those who are experienced and skilled frequently look for better jobs and move on. One organisation in Kampala confirmed that “many human rights organisations do not have enough money to pay all their workers well and so the workers leave for better opportunities elsewhere”. As the organisations grow, coupled with the changes in the cost of living, staff demands increase and yet human rights organisations are incapable of meeting the increased demands. Consequently, organisations lose their skilled staff and this has proved disruptive of their work.

The tenure of service offered to employees in these organisations is another related factor. Many HRDs work in organisations that offer short-term contracts...
because most projects are time-bound and funded for only the stipulated
duration of the project. HRDs in these organisations are therefore uncertain of
job security after their short-term contracts expire. This uncertainty, coupled
with poor remuneration, was reported to be demotivating, and accounts at
least in part for the high turnover of staff in many HRD organisations.

Many HRDs noted that there was a general perception by the public that HRDs
join various organisations for monetary reasons and that they lack passion for
their work. Some HRDs felt that there is need to work on this perception to
let the public know that it is not true of all HRDs and that HRDs too need to
be paid so that they can effectively carry out their work. A number of HRDs
stated that it is the passion that has kept them going and enabled them to do
their work.

Some HRDs also noted that there is weak technical capacity in most
organisations and this has continuously affected the work they do. The
problem was attributed to the lack of adequate financial resources to equip
these organisations and individuals with the necessary technical support, as
well as the lack of well trained personnel in the required fields.

4.2.4 Networking

There has been considerable, positive activity by NGOs and HRDs in
networking on various thematic issues. For example, networks have been
formed to crusade on anti-corruption, provision of legal aid, budget tracking,
women’s rights, environmental rights, children’s rights, torture, freedom of
association, and others.

Setting up and utilising networks of HRDs was recognised as important
in enhancing the work of HRDs. It was cited as a mechanism that can be
exploited for protection of the rights of HRDs as it can enable synergy of
action and utilisation of collective effort. Unity of purpose and action was
lauded as critical in all these.

Organisations and individuals involved in human rights work that are located
in the capital city Kampala reported engaging in extensive networking among
themselves. They also reported regular interaction with other human rights
actors at the regional and international level. These interactions were mainly
through seminars, workshops and correspondence on matters of mutual
interests. At the national level, examples were cited of horizontal and vertical
collaborations by HRDs in form of networks and coalitions like Human Rights
Network Uganda (HURINET), Development Network of Voluntary Associations
(DENIVA) Uganda National NGO Forum, Uganda child Rights Network (UCRNN)
and Coalition for Civil Society Organisations for Peace in Northern Uganda
(CSOPNU).

HURINET was established in 1994 as an independent, non-partisan, not-for-
profit organisation. Currently it has a membership of 32 NGOs working on a
range of human rights including civil, political, economic, social and cultural
rights, group rights, and conflict resolution among others. DENIVA is a
network of indigenous NGOs and CBOs. It provides a platform for collective
action and voice for voluntary local association to strongly advocate for
the creation of more opportunities and CSO participation in development
in Uganda. Established in 1989, DENIVA’s mission is to influence poverty
reduction and good governance processes and strategies through mobilising diverse experiences, knowledge and skills of CSOs in Uganda onto a common platform.

Outside of Kampala and in the regions some HRD organisations have also formed networks. Some notable ones are Bugishu Civil Society Network (BUCINET), Association of Human Rights Organisations (AHURIO), Gulu NGO Forum, Kamuli District NGO Network, Masindi District NGO Network, Kalangala District Human Rights Defenders, Koboko Civil Society Network (KOCISNET) among others. It emerged from the discussions with some NGOs in the regions that most human rights networks in the region are fluid without formal registration. Some of them exist mainly to co-ordinate meetings and are not fully formalised and operational like the national networks.

Organisations based in the regions acknowledged the existence of some strong networks but felt that there was poor coordination between the national and regional human rights organisations. An NGO in Fort Portal pointed out the difficulty that they, in remote regions, experience in networking with organisations far away within their region. Other CBOs said they are unable to join certain networks because they cannot afford the high membership and subscription fees.

There were HRDs which believe that some of the networks are just a formality because their membership does not take them seriously. They reported that meetings of such networks are not regular, attendance is poor and many of them lack resources to operate effectively. Another challenge advanced was what was described as “lack of strategic alliances with other HRDs and the private sector, like trade unions and farmer unions”, so as to create more relevance regarding the work of HRDs to these important actors. In other respects however, national networks were reported to be increasingly reaching out to individual HRDs and NGOs operating at district and regional levels.

Since HRDs work to protect and promote human rights the need for an organised referral system for issues between them was highlighted. This was expressed as a critical role which proper networking would make possible. It was suggested for example, that matters presented to one organisation could be referred to another organisation that has better capabilities or expertise in the particular area concerned in order to deal with the matter more efficiently. HRDs said such a referral system did not exist and even if they were to be initiated, it would have financial implications unlikely to be easily met by the networks.

Many small HRD organisations, while noting that networking is useful for consolidating the voice and impact of HRDs, decried the fact that the existing networks had not established clear protection mechanisms for HRDs when their rights are violated. It was pointed out that many HRDs are left to fight alone even when they are unable to, as in situations where the state has violated their rights or if they face court cases on account of their human rights work. A collective mechanism for protection was considered overdue, and it was felt that this ought to be discussed and arranged, and a fund established, particularly for defending HRDs facing court action because of defending human rights.
4.2.5 Inadequate Knowledge about human rights protective mechanisms

Particular groups of HRDs were seriously concerned about their vulnerability, compounded by the lack of awareness regarding the existing regional and international mechanisms that could be utilised in the event of violations or to pre-empt impending violations. Media practitioners were particularly very candid about their lack of knowledge about the existence of such mechanisms and how to utilise them. For example, they were not aware of the United Nations Special Rapporteur on the situation of Human Rights Defenders. A quick search on the website of the OHCHR revealed that HRDs in Uganda are not making frequent use of the UN Special Procedures system. When asked why, HRDs generally conceded that they lacked knowledge about the procedures. Only HURINET had in 2007 lodged a case with the African Commission on Human and Peoples’ Rights147.

Related to this, many defenders do not even know that they are HRDs. Many admitted having inadequate knowledge about human rights. They were not aware that human rights knowledge was so vital in empowering citizens through increasing their civic competence to contribute to good governance in the country. This knowledge gap among some HRDs needs to be plugged through targeted sensitisation and training of various groups of HRDs. It was the view that an effective network of HRDs or Organizations such as the Centre could help plug the knowledge gap.

4.2.6 Human rights education

4.2.6.1 Technical skills

Many HRDs in Uganda spend a considerable part of their work disseminating human rights information. Most of them admitted encountering resistance in the process. Resistance according to them comes from politicians, traditionalists and other individuals who regard some human rights principles, norms and standards as unwanted influence from the Western world. Politicians resist the dissemination of human rights knowledge that empowers the citizen to hold them accountable. Traditionalists oppose ideas that conflict with their cultural beliefs and practices. As a result, HRDs working in human rights education and enforcement of certain rights have faced frustrations when they found it difficult to sell their ideas. One organisation had this to say about such frustration:

“Most people, including district leaders lack knowledge about the concept of human rights when we invite district leaders to train them about political rights. Some of them have walked out of human rights conferences…”

Another organisation working on the rights of girls said:

“We protect the rights of girls who have returned from the bush. Many of them are teenage mothers. When they come back home we help integrate them into society. Some have lost their parents. When the girls try to claim their parents’ property especially land,

147 Patrick Okiring & Agupio Samson v. Uganda ACHPR/LPROT/COMM/339/07/SO.
An Overview of the working environment for Human Rights Defenders in Uganda

some elders chase them away from the community because girls are not supposed to inherit land. This makes our work very difficult”.

These testimonies show the challenges HRDs encounter especially where the ideas promoted conflict with the interests of established norms, practices and beliefs and also with the interests of the authorities. This concern was discussed with a number of HRDs and the general view was that some HRDs lack the necessary skills to conduct human rights education. HRDs concurred that introducing new ideas requires a careful approach and the skills to make what is being taught relevant to local values. Some examples were given of clashes between human rights educators and the public whom they seek to sensitise on human rights. An organisation observed:

“Some human rights defenders who advocate for children’s rights only talk about the right to freedom but not its corresponding duties. Children then think they are untouchable and become unruly”.

Another organisation commented:

“Sometimes parents complain that children are getting spoilt because they know their rights”.

One HRD summed up the challenge this brings to HRDs. In his view, the community members who resent campaigns to promote children’s rights do their best to ensure that there is low visibility of organisations advocating for human rights in the community. The community refuses to collaborate with the HRDs.

These examples showed the lack of skills to package and disseminate human rights information appropriately, in order to make it relevant and appreciated in the local context.

4.2.6.2 Human rights information and education materials

The challenges of imparting proper information is also compounded by the absence or scarcity of human rights information and education materials in the major local languages in Uganda. An organisation in Gulu lamented the fact that most human rights documents and information brochures are in English and yet local languages are mainly used in their work because the community does not speak and understand adequately the English language. The organisation, just like another one in Lira, said the translation of information into local languages is a challenge as it is not uncommon for the meaning to be completely misunderstood or distorted. There was therefore a call for professional translations of some of the key human rights materials into local languages. This was emphasised as desirable because some HRDs and other stakeholders have been accused of not being well informed and sensitive enough in the way they impart human rights messages to the local population especially to those in the rural areas. The fact that a big proportion of the population is unable to understand and comprehend ideas articulated in English is often ignored in sensitisation initiatives. As a result many campaigns do not effectively communicate the intended messages on account of the language used.
4.2.7 Access to information

The right to information is central to the work of HRDs and this is recognised in the Declaration. Many HRDs engaged in protective work reported the challenge of accessing information in the hands of state authorities like the police, army and court officials. They are always confronted with excuses to deny them the information sought. In Gulu, a respondent talked about the police always giving the excuse that the information sought “is classified or destroyed”. The police were also accused of denying information regarding rape cases. Many HRDs cited the fact that the Government has denied them access to the National Oil Policy without any explanation. Some HRDs said they now fear to ask for information from state authorities because they have been victims of state harassment or beatings in the process of trying to get information.

4.2.8 Client commitments and expectations

Many HRDs decried what they called “low commitment” of many people to the human rights cause as well as the challenge of meeting client expectations. It was explained that many people lack commitment to the human rights cause with regard several reasons, including political and religious beliefs. Government authorities, the community and even some HRDs were reportedly exhibiting this lack of commitment. Consequently, HRD organisations were experiencing resistance from some human rights duty bearers. An organisation in western Uganda invited police officers to collaborate with them in sensitising the public about police duties and responsibilities but the police refused. In Arua, political leaders reportedly walked out of a human rights seminar.

Although these incidents were cited as evidence of lack of commitment, the problem was clearly that of poor relations between HRDs and the authorities. With regard to the incident where government officials walked out of a workshop, it was a problem of inadequate skills of interaction.

Regarding client expectations, it was reported that many HRDs are unable to meet the needs of their clients due to financial or technical reasons.

An organisation in Lira explained:

“Many clients have a lot of expectations from HRDs and want projects to be implemented immediately”.

Another organisation found “difficulty in helping some clients as some report the same case to several institutions, while others are not truthful about their situation making it difficult to meet their expectations”.

It was a general view that the number of clients with human rights problems, compared to the number of HRDs in the country, was overwhelming. Therefore, it is a challenge meeting the expectations of the many clients.
4.2.9 Financial Challenges

4.2.9.1 Fundraising

Most respondents mentioned fundraising as a major challenge. The survey found that inability to fundraise greatly affected the work of HRDs. At the time of the survey, three local organisations in eastern Uganda intimated that they were in a state of limbo as their funding had been exhausted and they were yet to receive more funds from their donors. The head of one major local human rights organisation, in a moment of candid introspection, decried the near total dependency of almost all NGOs and CBOs on foreign funding. The respondent suggested that this situation needs to be reversed by starting local income generating investments and/or endowments.

In Lira district, an interviewee stated that “there is a wide scope of work to be done. The people are too many and yet the funds are insufficient”. Another in Gulu stated:

“Most international organisations and donors are currently phasing out their operations and support to the organisations here. This is because of the relative peace. Since most NGOs and CBOs depend on foreign funds, many of them are worried about how they will continue doing their work but the donors are planning to transition some of the ongoing programs to NGOs, CBOs and the district to enable them cope after they have left.”

A respondent in Kampala stated:

“Most defenders lack fundraising skills. They need to get more information about where the funds are; they need to exchange more information about fundraising tactics. They should collectively meet with donors to discuss this.”

4.2.9.2 Lack of adequate finances to implement project

As a consequence of the challenges related to fundraising, most organisations lack adequate funds to implement specific projects. Local sources of funds for HRDs are insufficient and thus there is heavy reliance on foreign donors, such as international NGOs, intergovernmental agencies, embassies and foreign governments. A respondent from a well-known NGO in Kampala lamented, “Sustainability of human rights work is never assured as our organisations have no local sources of funding.” The extent of absence of local sources of funding is illustrated by the fact that even governmental bodies mandated to promote and protect human rights are inadequately funded. A respondent in western Uganda working for a governmental human rights body pointed out that all its funding to run its activities come from international donors.

Respondents mentioned the tendency by donors to provide short term funds (six months to three years) as opposed to long-term funding of five or more years. Short-term funding, according to respondents in western, northern and central Uganda is favoured by donors because of the need to test projects and the credibility of the organisations. Inevitably, some organisations are unable to implement activities that require a long period of time to realise
behavioural change. For example, two respondents in western Uganda mentioned that they needed long-term funding in order to change cultural attitudes or behaviour that negatively impact on human rights. A respondent in Gulu stated: “Development agencies cannot commit funds for a long term. Most commit themselves for only five years.” Some HRDs considered funding for five years insufficient for them to perform their work effectively.

HRDs stated that foreign donors attach strict conditions to their funds, which in a way hampers their work. Respondents gave various reasons for this including misuse of funds by some NGOs and the need to ensure that funds are tailored to donor interests. A respondent in western Uganda felt that they faced strict conditions because donors feared ‘briefcase’ NGOs that misuse funds. An interviewee in northern Uganda said that some donors require the organisations to return the un-utilised funds after implementing particular projects instead of letting them channel the remaining funds to other projects.

A respondent in Kyenjojo felt that donors wanted beneficiaries to strictly adhere to activities outlined in project proposals and that this did not allow for contingencies during implementation. Finally, a respondent in Kampala stated that some donors support organisations selectively, committing funds for the promotion of particular rights but not of others.

Some respondents mentioned that funding was not tailored to meet actual needs on the ground. A respondent in Kabale stated: “[Donors] cannot understand what we are facing,” because they wish to provide funding for an activity such as a workshop of one day yet the NGO actually needs funding to be stretched over a longer period due to the geographical remoteness of the NGO from workshop participants. A respondent in Soroti said: “Donors tie funding to specific projects which have no relevance to local people.”

HRDs feel that there is competition amongst themselves for donor funds. Respondents attributed this to the duplication of activities by different HRDs as well as the fact that some organisations do not refer donors to peer organisations, claiming “They will take funds that could have been given to us.” According to a respondent from Gulu, “Donors concentrate on HRDs in Kampala and not those based upcountry”. This view was shared by two other respondents from northern and western Uganda. One of the respondents stated:

“The reasons for this were, concentration of technical capacity to draft good project proposals in the central region, lack of networking and proper communication upcountry and low visibility of organisations in areas remote from Kampala.”

A respondent in Kyenjojo said that in deciding where to channel funds, donors “should put into consideration regional issues and not focus on general issues.” Another in West Nile said that donors “should not concentrate their support on organisations in Kampala but reach out to the other districts to build a big alliance.”

HRDs noted the absence of efforts to raise funds internally, for instance through encouraging the private sector to donate funds. It was felt that HRDs have not been pro-active enough in engaging the public’s interest in what they do in order to help raise funds through subscription fees or contributions. In
addition, corporate social responsibility was cited as an opportunity for HRDs to explore as a potential source of local financial assistance from corporate bodies.

Challenges Related to Particular Professions

4.3.1 Media

Media practitioners face challenges which are unique to their profession. They regularly disseminate their opinions on various topics. Some of these opinions do not go down well with state authorities and non-state actors. Media practitioners allege that they face challenges caused by State authorities that are agitated by their news pieces, as well as non-state authorities who sometimes lack support for media practitioners. One journalist in Kampala mentioned that he is unable to access information about cases he wants to write about because “court clerks and public relation officers do not want to give out information or develop the practice of informing journalists about cases.” The same journalist stated that state authorities “sometimes give directives to government bodies not to give any adverts to a specific newspaper.”

HRDs said that they “suffer on their own” when facing allegations from the State related to their work because of a lack of support from media houses. In addition, advertisers do not want “challenging” stories published about them or their partners in the media because they wish to preserve a specific image of their companies. The survey found that media practitioners face violations of their rights. Several journalists talked of receiving anonymous threatening telephone calls, facing dismissals from workplaces, enduring long interrogations, especially by the Criminal Investigations Department (CID), unauthorised searches, trumped up charges, arbitrary arrests, detention without trial and surveillance by state agents.

A journalist in Kampala experienced psychological torture when he was held at gunpoint in a person’s office. The same journalist mentioned he faced death threats from a soldier who had warned him: “Don’t you think we can silence you?” The journalist further alleges that he was defamed as he was “accused of lying”, and he was “blacklisted” as a result, as people feared talking to him. He further alleged that he faced unauthorised searches when computers were confiscated from his office and the newspaper he worked for closed for seven days in 2002. Neither a warrant of arrest nor a search warrant was shown to him or others who were subjected to the search.

A journalist was dismissed from a radio programme he hosted and received constant threats and intimidation from local officials whom he did not name. He said attempts were made to kill him and some of his colleagues. Another journalist alleged that he faced restrictions on his freedom of expression and association as well as threats of abduction and false accusations. According to him, this was done to deter him from exposing of corruption and a case of defilement of a nine year old child. A journalist in Kampala stated:

“These of my colleagues and I have been denied gainful employment by Government or multinational corporations because of our outspokenness.”
A significant political development in 2009 highlights the risks of protecting and promoting human rights in Uganda. ‘Political discord’ between the Central Government and the Buganda kingdom over governance issues triggered riots in September 2009 in which 27 people died.148

Briefly described, the discord is linked to disagreement between the Central Government and the Buganda Kingdom over the latter’s role and purported authority over an ethnic minority, the Banyala of Kayunga. The discord subsequently led to inter alia alleged use of lethal force by military police against rioters protesting the Government’s obstruction of the Katikiro’s (Prime Minister of the Buganda kingdom) visit to the Banyala of Kayunga. This purported use of lethal force by military force combined with no publicised attempts to trace accountability for killings allegedly committed by military or police during the riots entrenches the idea that individuals and groups are not de facto free to campaign for civil and political rights in Uganda.149 In the wake of the riots, several radio stations were closed and a prominent journalist was arrested and abused.150 The popular weekend talk shows popularly known as ‘Bimeeza’, where ordinary people met and discussed issues at hand were also arbitrarily closed. one journalist in Kampala alleged that the closure of these stations violated his right to freedom of association as he could not meet other journalists on radio talk shows to air out his views. Simply closing radio stations without the right to be heard being followed is an indication of the infringement by the state on the freedom of expression, speech and association.

The alleged violations of the rights of media practitioners originate from many sources. Those cited included the state as the primary violator, individuals in Government, sections of the community such as business people, and others

Journalists believe and are aware that they can play a significant role in the promotion and protection of human rights. However, they have to contend with a number of challenges. These include inadequate training, the obligation to conform to the editorial policies of media owners when they emphasise profit above the defence of human rights, media-unfriendly laws and low pay, leading to some journalists becoming compromised as professionals, such as the practice of taking bribes. Other challenges include vulnerability to pressure due to threats from the authorities and the lack of job security as many journalists work without contracts or letters of appointment.

Many journalists were concerned that they are not united as members of the profession, especially for the purpose of confronting these challenges. Journalists’ associations exist in the country, but they fail to coordinate with each other and have never been able to effectively come to the defence of journalists who get in trouble with the authorities. Upcountry-based radio stations and journalists are often interfered with by RDCs and tend to be more cautious in their reporting.

Overall, journalists called for more effective measures for their protection. They recommended the following:

- The formation of a single journalists’ association that can strategise for the defence of the rights of all journalists and provide a strong collective voice.

Civil society HRDs should form a ‘think tank’ that regularly monitors and reports on the situation of journalists across the country. This should result in the compilation and dissemination of monthly reports on the situation of journalists within the country.

Resources should be sought for regular consultations and discussions between journalists, and if possible, coordinated by the HRCU.

Journalists should be trained in human rights generally, but in particular, on the UN Special Procedures system and on mandate holders (such as torture, freedom of expression, the situation of HRDs, etc), which at times may be important for journalists when their rights are infringed.

Civil society should campaign for a law that recognises an independent journalists’ association as opposed to a Media Council, dominated and controlled by a politically appointed Board.

4.3.2 Women Human Rights Defenders

Women HRDs face challenges that are unique to them because of their gender and the environment in which they operate. Like media practitioners, women HRDs play a vital role in society by speaking on issues that may be considered unfavourable to certain elements of society. However, the fact that these HRDs are female may operate against them in environments where there is an urge to ‘undress’ (humiliate) women and prejudices abound about the way women are ‘supposed’ to behave. Some communities think that the current Government has ‘spoilt’ women and children by promoting their rights (a reference to affirmative laws, policies, programs, and institutions supporting women). One respondent in western Uganda mentioned that there are few women activists “because we’re associated with female HRDs who have failed in their marriages and people think we will follow such footsteps.”

In northern Uganda, a respondent noted that massive campaigns on women’s rights have made the work of women HRDs easier. However, they still face many challenges. Those who are advocating for the rights of ‘extremely vulnerable individuals’ like the elderly, orphans below eight years, those with HIV/AIDS and persons with disabilities are considered controversial. Men in particular do not respect the work of women HRDs so they verbally abuse, mock and intimidate them, sometimes threatening them with death. All this amounts to violation of the rights of women HRDs.

Women defenders reported repudiation or exclusion by fellow women who do not agree with the work they do. A respondent in Kampala said that their female staff who go to rural areas for advocacy work have noted that some women disagree with them when they state that wife battery is wrong. This creates friction and at times the female members of the community refer to those doing such work as ‘home-breakers’.

Women HRDs face the following violations specifically because of their gender: beatings by men and some family members, intimidation in the workplace, prejudice, public repudiation, anonymous death threats, smear campaigns, psychological torture, and inaction from authorities when their rights are violated. Other violations include physical violence, intimidation, verbal abuse, unfair dismissals, stigmatisation with degrading stereotypes,
sexual violence or harassment, exclusion, gender-based discrimination and unfair dismissals related to their work as HRDs.

The sources of such violations were reported to be state agents like the police, army and some civil servants. Community members such as politicians, businessmen, families and individuals were also alleged to be responsible for violating the rights of women HRDs.

In Kampala, an interviewee stated: “the state violates people’s rights in many ways but to me the biggest violators of rights are individuals. I have advocated for women’s rights for so many years but women suffer silently with abuse from almost everyone around them”. The respondent added that recently, women have faced humiliating and degrading treatment especially from police regarding the manner in which they are arrested.

Challenges Related to the types of Rights being promoted

4.4.1 Civil and political rights

The context within which civil and political rights are protected in Uganda elicits challenges for those who defend them. This is because of the sensitivity associated with promoting these rights. One respondent in western Uganda alleged that one of their staff members faced arbitrary arrest and detention following an awareness campaign organised by their organisation to promote civil rights related to voting and elections. The arrested staff member was questioned on whether it was true that they were supplying pangas (machetes) to the community they were addressing; whether they were affiliated to a specific political party and whether they were trying to incite tribalism. The organisation was restricted from continuing with their sensitisation campaigns in the area until they had explained to the local leaders and RDC the objectives of their work. The sensitive nature of promoting these rights was illustrated by several HRDs who said that they did not face violations of their rights in their work because they did not “engage in politics”.

A respondent in Fort Portal mentioned that it was important to gain technical know-how on how to deal with the dangers related to promoting rights that she regarded as “important with elections approaching.” The same respondent intimated that in promoting civil and political rights there is “a likelihood of being labelled partisan.”

Some HRDs said that there is sensitivity around the promotion and protection of various rights in Uganda, not just civil and political rights. In fact, the study found that regardless of the thematic area covered by HRDs, a common feeling was that bringing the Government into disrepute would raise tensions. This is particularly so with regard to the right to participate in governance and the right to demand accountability. Therefore, irrespective of the type of right being promoted, HRDs feel vulnerable where work entails confronting the government. This is the discomfort associated with exercising and promoting civil and/or political rights.
4.4.2 Lesbian, Gay, Bisexual, Transgender and Intersex rights

LGBTI rights elicit considerable controversy in Uganda. This is illustrated by the proposed Anti-Homosexuality Bill which if enacted into law, will clamp down on the work of HRDs working in this area. According to the Bill, it will be an offence to promote and recognise homosexuality as well as withhold information that a person is a homosexual. One HRD stated that she has received threats from her community and place of work as a result of speaking out against this Bill. The respondent stated that HRDs in this field are one of the “most endangered species because of the law criminalising homosexuality.” The extent of the controversy surrounding LGBTI rights is illustrated by statements of church leaders rebuking the notion of LGBTI rights and deriding those who advocate for such rights.

The respondents who work on LGBTI issues mentioned obstacles that arise because of the controversial context of LGBTI rights in Uganda. For instance, they “can’t identify their organisation with a name even when opening a bank account.” They cannot register the organisation because of the nature of its work. A respondent mentioned that although commitment to human rights causes exists in Uganda, “when it comes to LGBTI issues people become selective.” The respondent also stated that some organisations submit funding proposals to donors pledging to work on LGBTI issues, but in reality they do not. Finally, the respondent noted the absence of a network of HRDs working on LGBTI rights. HRDs mentioned that they face several violations including: arbitrary arrests, illegal searches, physical violence, smear campaigns and violations of their homes. Others common violations include: persecution, death threats, intimidation, verbal abuse, stigmatisation, and prejudice. Respondents also mentioned that they cannot approach state authorities when their rights are violated because of laws criminalising homosexuality.

4.4.3 Disability Rights

HRDs that defend the rights of persons living with disabilities (PWDs) face unique challenges. Under Objective XVI of the National Objectives and Directive Principles of State Policy, the Constitution of Uganda provides that society and the State shall recognize the rights of persons with disabilities to respect and humanity. Objective XXIV(c) provides that the State shall promote the development of a sign language for the deaf. The State and some members of society have recognised the rights of PWDs.

A Human Rights Defender from Gulu stated that although there are constitutional provisions in place to protect the rights of PWDs, most people have a negative attitude towards those that promote and defend the rights. They generally do not know much about disability rights.

A respondent from Gulu who is a PWD defending other PWDs stated:

“We face a lot of discrimination and verbal abuse. I was once attacked by someone in a bus. He loudly told everyone that I had compound eyes like for an insect. I really felt bad about this but I decided to let go.”
A respondent from Kampala cited discrimination when interacting with other HRDs. He told the researchers:

“When we go to some meetings with people from other NGOs, at times it is difficult for us. Some of them shout at us in front of everyone. Even fellow HRDs do not understand nor support us.”

Another HRD in Kampala pointed out that:

“Donor support for PWDs is minimal as compared to funds given to promote and protect other rights and yet we need a lot of this support too. We need both moral and financial support.”

This respondent also complained about poor infrastructure as one of their biggest problems. Most buildings especially offices are generally inaccessible to PWDs especially those who have a physical disability. The two respondents quoted above also reported engaging in many public awareness campaigns to inform the public about disability rights but faced resource constraints. They both called for provision of more funds for promoting disability rights as well as support towards the domestication of international standards on disability rights in Uganda.

General weaknesses of HRDs in Uganda

Discussions with HRDs revealed that they, like other sections of Ugandan society, have not been immune to some of the vices or weaknesses that bedevil Ugandan society. While a number of HRDs have sought to promote democratic values and principles of good governance in the conduct of public affairs, many are accused of failure to practise these within their organisations. The leadership of many HRD organisations is known to practise internal dictatorship. The staff are given very little say in the management of the affairs of the organisations as founders claim exclusive ownership. This, it was claimed, had affected efficiency in some of these organisations because the valuable views of staff members get stifled or are never expressed.

Some HRDs also suffer lack of credibility. The credibility dilemma is attributed to the general perception that many HRDs are not committed to the cause of defending human rights but are in it for the money and other privileges associated with human rights work. This has the effect of minimising the influence and impact that HRDs seek to have on the issues they address. In a number of cases therefore their views are treated as the “usual” stand of HRDs with little attention given to the genuine stands HRDs take on critical issues.

Most if not all HRD organisations rely on donor funds for their institutional and programmatic work because of the difficulty of generating funds locally. On account of all HRDs looking to donors for the resources to guarantee their existence, inter-HRD rivalry and competition was cited, and this has sometimes derailed effective human rights campaigns and advocacy initiatives. Networking and co-operation towards pooling of resources for effective human rights work on common issues of interest was recommended as useful in stamping out unhealthy competition.

The restrictive legal framework under which the HRDs operate includes many provisions that are against the letter and spirit of standards set by the Constitution and international human rights norms and standards.
Some of these laws have been successfully challenged in the courts of law as was the case of Charles Onyango Obbo and Andrew Mujuni Mwenda vs Attorney General, cited above\textsuperscript{153}. However, HRDs have shown little interest in pursuing such public interest litigation. Vital as it is for its potential to elaborate the meaning of rights critical for HRD work and protection and in challenging the constitutionality of restrictive laws, public litigation by HRDs has been sporadic. It has not been effectively used as deliberate strategy for realising the many rights of HRDs which have been violated by the state or its agents. This may be due to fear, lack of resources or lack of awareness about the values and importance of public litigation in enhancing the enjoyment and protection of human rights.

A critical weakness that was identified about most HRDs is fear that culminates in self-censorship. HRDs admitted that in Uganda there is a tendency to avoid certain topics altogether, or to sit on the fence when controversial human rights issues are at stake. Where HRDs cannot avoid it, they adopt what has been described as “a soft approach” to such issues. The hard issues regarding ethnic minorities, sexual minorities, refugees, migrants and political rights have not received serious attention from HRDs in the country. Rarely have HRDs challenged the Government on the issue of impunity in a systematic manner. On some of the issues the Government sets up probe teams which have never yielded any results. The findings of the probes are usually not published nor their recommendations ever implemented. Journalists and media outlets generally have exhibited fear and self-censorship rather than risk challenging state impunity and restrictions on their freedoms and rights.

It was noted that HRDs have not been innovative and lack the determination to deal with such challenging issues, only preferring to complain and stop there.

**Conclusion on challenges**

HRDs in Uganda have been growing in numbers since the 1990s. In the early stages of development they were concentrated around Kampala Presently many of them are based in the regions where most Ugandans live and have considerable contact with the rural population. They are doing a commendable job promoting human rights. They encounter difficulties and challenges in the protection aspect.

Like in many developing countries, HRDs in Uganda are confronted with increasing threats to their rights as a result of the work they do. While they are free to operate within the ambit of the law, there are laws which exert overbearing control over their activities and critically restrict their latitude to operate. The fear is that if these laws continue to be implemented many HRDs will either exercise self-censorship or choose to work on issues considered to be non-controversial. The survival of HRDs who work on issues considered to be politically incorrect by the authorities continues to be severely threatened. Stigmatisation of HRDs hinders their effectiveness and cases in point are of HRDs addressing issues of disability, women and LGBTI rights who face discrimination because of negative perceptions about them.

The HRDs interviewed emphasised the need for formation of networks. Support for such networks will be absolutely necessary to enable the networks work together on the challenges that confront HRDs in Uganda.
5.1 Conclusions

This scoop study was principally undertaken to get up-to-date information about the situation of HRDs in Uganda. It provides the researchers with the opportunity to interact with HRDs in all regions of the country. The interactions brought out clearly several challenges and obstacles the HRDs face in the course of their work. Most of these challenges come about because of the legal, policy and institutional framework within which HRDs work.

The findings revealed a general consensus that HRD organisations have been growing since the 1990s. This is attributed to the fairly positive legal and policy framework that recognises the role that HRDs and CBOs in general can play in the development of the country. The Constitution specifically recognises this role and makes it a duty of the State to protect and facilitate the environment in which HRDs in Uganda can operate freely.

Within this fairly positive legal framework, various HRD organisations are working on basic human rights issues, such as the promotion and defence of civil and political rights; promotion of economic and social rights; as well as group rights. This means many NGOs are focusing on various areas including health issues, right to food, the rights of internally displaced persons, good governance and the rights of women, children, and PWDs. Many others have complemented government efforts in dealing with the socio-economic problems faced by the community, particularly in areas of conflict, as well as in advancing the cause of democracy and the struggle against poverty. In general, the HRDs in Uganda have played a vital role in projecting human rights as important for peace, security and development of the country. Many of the human rights NGOs have in spite of challenges have been instrumental in exposing human rights violations by releasing researched reports, making pronouncements, issuing press releases and working together with the authorities to create awareness on human rights principles, norms and standards.

HRDs in Uganda, like their counterparts within East Africa and elsewhere in the world are faced with several challenges as have been discussed in detail in chapter 3 of this report. In summary, these challenges are caused by Uganda’s restrictive legal framework, financial inadequacy, lack of skills in human rights work, resistance to human rights ideas, vulnerability to insecurity and many others including cultural chauvinism. A key challenge identified was that HRD organisations in Uganda typically depend on foreign donations making it difficult for them to sustain their programmes on their own. In some instances they are unable to carry out programmes of their preference especially when their programmes are reactive to donor demands. Dependency on donor funds affects choice of activities as well as terms and conditions of service for staff.

The study also showed that HRDs had appreciated the relatively good legal framework for their work even though in some aspects it was restrictive. However, there were concerns that since the 2006 general elections there has been an increasing trend of harassing HRDs, especially those working in the media and the organisations that work in promoting and protecting civil and political rights. The NGO (Amendment) Act passed by Parliament in 2006 is said to have introduced what is considered to be subtle Government efforts to control HRD organisations considered to be troublesome. The same goes for
An Overview of the working environment for Human Rights Defenders in Uganda

5.2 Recommendations

Taking into account the nature of the challenges identified by the study, and the environment in which HRDs operate, the following recommendations are made.

5.2.1 To address legal and policy challenges due to the restrictive legal and policy framework

a) The laws, particularly the Non-Governmental Organisations Act, 2006 and regulations, which regulate the environment in which HRDs operate, should be reviewed to accommodate the concerns of HRDs and CBOs in general.

b) The laws that hinder press freedom, freedom of assembly, association and demonstration should be repealed. While these concerns have been brought to the attention of Government to no avail, urgent appeals to the Government must continue. HRDs and CBOs should continue appealing to Government and should therefore intensify the campaign to have the laws reviewed. HRDs should take collective action in approaching the authorities, including appeals directed to Members of Parliament and political parties.

c) HRDs should explore the possibility of challenging in court some of these laws that are considered to be inconsistent with the rights and fundamental freedoms enshrined in the Constitution.

d) In cases where the courts outlaw a legal provision, the Attorney General should exercise his legal responsibility of sending out a directive to all public officials to let them know that that particular provision has been outlawed and that they can no longer apply it.

5.2.2 On accessing protection and remedies

a) HRDs should be trained on the national and international protection mechanisms available to them when their rights are violated.

b) HRDs should be trained on their rights and responsibilities, including those elucidated in the Declaration on HRDs.

c) HRDs should be assisted to set up a fund for the defence of HRDs

5.2.3 Operational Challenges

Regarding security threats:

a) HRDs should establish a system of engagement with the authorities with a view to sorting out misunderstandings when they arise.
b) HRDs should form a strong network of HRDs particularly to pursue collective action on security threats

c) In certain circumstances there may be need for safe havens and protection units to respond to the needs of HRDs faced with threats of personal security. Therefore HRDs should consider setting up such arrangements.

Regarding organisational capacity:

a) There is need for regular training programmes to strengthen the capacity of HRD organisations and their individual personal.

b) HRDs should from time to time identify knowledge capacity gaps to be addressed through training, either through their networks or organisations like the Human Rights Centre Uganda.

On Networking:

a) HRDs should consider forming one strong networking organisation, not only to strengthen their voice but also as a means of reducing unhealthy rivalry and competition over limited donor funds.

b) An index of defenders classified according to thematic issues and geographical areas of operation should then be created to allow for easy contact.

c) The network created for HRDs should have regional offices to enable easy interaction with HRDs across the country, particularly those in remote areas.

d) HRDs should hold regular meetings annually or twice a year to share experiences, discuss pertinent issues, challenges and strategies to address them.

e) The HRDs should use the networks as a mechanism for protecting and promoting their interests and rights.

f) Funds should be sourced for the operation of the proposed networks.

5.2.4 Inadequate knowledge about human rights protective mechanisms

a) HRDs should be trained on their rights as HRDs. In particular they should be trained on the Declaration on the rights of HRDs.

b) A training manual on the Declaration should be designed to facilitate the training.

c) HRDs should be trained on international human rights mechanisms.

5.2.5 On skills for human rights education

a) HRDs involved in human rights education should be identified and trained in skills for appropriate and relevant human rights education,
especially on how to relate human rights in a positive manner with the local issues.

5.2.6 On human rights information and educational materials

a) Information and educational materials on human rights should be professionally translated into local languages including some key human rights instruments relating to HRDs.

5.2.7 Financial challenges

1. The capacity of HRDs to fundraise should be enhanced through training and identifying other available resource opportunities.

5.2.8 Other general recommendations

a) HRDs through their networks or through organisations like Human Rights Centre Uganda should sensitise the general public about the important role HRDs play in society as well as the rights that HRDs need to enjoy in order to be effective in their work.

b) State agents and relevant institutions like Parliament and security agencies, especially the Police, should also be sensitised about the Declaration on HRDs and their role in national development.

c) The Declaration should be disseminated in schools.

d) A training manual on the Declaration should be designed, published and made widely available.

e) HRD organisations should introduce measures to practise internal democracy and governance values in their organisations.

f) HRDs should work together to improve their credibility. Through networking HRDs may consider drawing up codes of conduct to govern their operations.

g) HRDs should work together to utilise public interest litigation for the protection of their rights and for the elaboration of the meaning of certain rights and their application.

h) HRDs should consider working together to tackle controversial issues and official impunity rather than leaving them to particular HRDs who because of lack of support become vulnerable.

5.2.9 Strategic actions for HRDs

a) HRDs should take advantage of their individual and collective strength as HRDs.

b) HRDs should establish an expert group (think tank) which should take into account the existing knowledge and information to enable HRDs to respond to issues effectively. In this connection the expert
group should create linkages with academia, grass root associations, government institutions and even opposition groups.

c) HRDs should be coordinated by HRCU to map out existing human rights issues that are being addressed by HRDs in the country as a basis for addressing existing gaps.

d) HRDs should collaborate with the aim of raising their profile in Uganda through joint initiatives on protection and promotion issues; in particular collaboration needs to be more focused on how to protect the rights of HRDs.

e) HRDs should ensure that there is coordination and consensus building among HRDs on controversial issues so as to avoid contradictory responses. Information sharing is critical, and HRDs should reduce bureaucratic processes within their organisations that unnecessarily impede the release of information.

f) HRDs should recognise the importance of citizen engagement in order to achieve the objectives for which they work. HRDs need to create linkages with each other to ensure that messages which reach citizens are coordinated, similar, and not contradictory.
An Overview of the working environment for Human Rights Defenders in Uganda
ANNEX A: List of Respondents

1. Action for Development, Kampala
2. African Centre for the Treatment & Rehabilitation of Torture Victims, Gulu
3. African International Christian Ministry, Kabale
5. African Network for the Prevention and Protection against Child Abuse and Neglect, Kitgum
6. Anti-corruption Coalition Uganda, Kampala
7. Arua District NGO Network, Arua
8. Association of Human Rights Organisations, Fort Portal
9. Buganda Kingdom Official
10. Bugisu Civil Society Network, Mbarara
11. Centre for Conflict Resolution, Kampala
12. Centre for Women in Good Governance, Kampala
13. Child Development Cooperation, Tororo
15. Concerned Parents Association, Lira
16. East & Horn of African Human Rights Defenders, Kampala
17. Facilitation for Peace and Development, Lira
18. Foundation for Human Rights Initiative, Kampala
19. Freedom & Roam Uganda
20. Freelance Journalist
21. Good Care and Family Support for Orphans and Vulnerable Children, Mbarara
22. Gulu Disabled Persons Union, Gulu
23. Gulu District NGO Forum, Gulu
24. Human Rights and Peace Centre, Makerere University, Kampala
25. Human Rights Defenders Solidarity Network
26. Human Rights Network- Uganda, Kampala
27. Icebreakers Uganda, Kampala
28. Independent Media Council Uganda, Kampala
29. Inspectorate of Government, Kampala
30. International Rescue Committee, Lira
31. Justice, Peace and Human Rights Commission, Arua Diocese
32. Kabale District Farmers Organisation, Kabale
33. Kabarole Research & Resource Centre, Fort Portal
34. Kamwokya Christian Caring Community, Kampala
35. Kind Initiative for Development Uganda, Kyenjojo

*Respondents were interviewed in their personal capacity and not as representatives of their organisation(s). The views they expressed are their own and not necessarily representative of the organisation(s) they are attached to.
<table>
<thead>
<tr>
<th>Number</th>
<th>Organisation/Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>36</td>
<td>Kitgum District NGO Network, Kitgum</td>
</tr>
<tr>
<td>37</td>
<td>Masindi District NGO Forum, Masindi</td>
</tr>
<tr>
<td>38</td>
<td>Member of Parliament, Kampala</td>
</tr>
<tr>
<td>39</td>
<td>Minority Rights Group International, Kampala</td>
</tr>
<tr>
<td>40</td>
<td>Monitor Publications Limited, Kampala</td>
</tr>
<tr>
<td>41</td>
<td>National Foundation for Democracy Uganda, Kabale</td>
</tr>
<tr>
<td>42</td>
<td>National Organisations of Trade Unions, Kampala</td>
</tr>
<tr>
<td>43</td>
<td>National Union of Disabled Persons Uganda, Kampala</td>
</tr>
<tr>
<td>44</td>
<td>National Union of Plantation &amp; Agricultural Workers, Fort Portal</td>
</tr>
<tr>
<td>45</td>
<td>Norwegian Refugee Council, Gulu</td>
</tr>
<tr>
<td>46</td>
<td>Platform for Labor Action, Kampala</td>
</tr>
<tr>
<td>47</td>
<td>Platform for Labor Action, Lira</td>
</tr>
<tr>
<td>48</td>
<td>Prisons Women’s Organisation, Kampala</td>
</tr>
<tr>
<td>49</td>
<td>Radio Presenter, Soroti</td>
</tr>
<tr>
<td>50</td>
<td>Refugee Law Project, Kampala</td>
</tr>
<tr>
<td>51</td>
<td>Regional Prisons Commander</td>
</tr>
<tr>
<td>52</td>
<td>Right to Play, Kampala</td>
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<tr>
<td>53</td>
<td>Save the Children Uganda, Moroto Regional Office</td>
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<tr>
<td>54</td>
<td>Sironko Civil Society Network, Mbale</td>
</tr>
<tr>
<td>55</td>
<td>Soroti Development Association and Non-Govermental Organisation Network, Soroti</td>
</tr>
<tr>
<td>56</td>
<td>Support to Human Rights and Good Governance Programme, Kampala</td>
</tr>
<tr>
<td>57</td>
<td>Teso Widows Development Initiative, Soroti</td>
</tr>
<tr>
<td>58</td>
<td>The Aids Support Organisation, Gulu</td>
</tr>
<tr>
<td>59</td>
<td>The Third Eye Publications Limited</td>
</tr>
<tr>
<td>60</td>
<td>Uganda Coalition for Crisis Prevention, Kampala</td>
</tr>
<tr>
<td>61</td>
<td>Uganda Human Rights Activists, Mbale</td>
</tr>
<tr>
<td>62</td>
<td>Uganda Human Rights Commission Arua Regional Office</td>
</tr>
<tr>
<td>63</td>
<td>Uganda Human Rights Commission Fort Portal Regional Office</td>
</tr>
<tr>
<td>64</td>
<td>Uganda Human Rights Commission Gulu Regional Office</td>
</tr>
<tr>
<td>65</td>
<td>Uganda Human Rights Commission, Kampala</td>
</tr>
<tr>
<td>66</td>
<td>Uganda Human Rights Commission, Moroto Regional Office</td>
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<tr>
<td>67</td>
<td>Uganda Human Rights Commission, Soroti Regional Office</td>
</tr>
<tr>
<td>68</td>
<td>Uganda Humanist Efforts to Save Women, Gulu</td>
</tr>
<tr>
<td>69</td>
<td>Uganda Joint Christian Council, Kampala</td>
</tr>
<tr>
<td>70</td>
<td>Uganda Land Alliance, Kampala</td>
</tr>
<tr>
<td>71</td>
<td>United Nations Development Program, Gulu</td>
</tr>
<tr>
<td>72</td>
<td>United Nations Office of the High Commissioner for Human Rights, Kampala</td>
</tr>
<tr>
<td>73</td>
<td>United Nations Office of the High Commissioner for Human Rights, Kitgum</td>
</tr>
<tr>
<td>74</td>
<td>World Vision Gulu (Gulu Children of War Rehabilitation centre), Gulu</td>
</tr>
</tbody>
</table>
ANNEX B: Table of Alleged Violations

The Table below lists the frequency of responses alleging violations faced by human rights defenders. The most frequently occurring responses include harassment (24), propaganda (21), death threats (19), defamation (18) and restrictions on access to information (18).

<table>
<thead>
<tr>
<th>Alleged violation</th>
<th>Frequency of responses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Harassment</td>
<td>24</td>
</tr>
<tr>
<td>Propaganda</td>
<td>21</td>
</tr>
<tr>
<td>Death threats</td>
<td>19</td>
</tr>
<tr>
<td>Defamation</td>
<td>18</td>
</tr>
<tr>
<td>Restriction on access to information</td>
<td>18</td>
</tr>
<tr>
<td>Violation of the right to privacy like email hacking, phone tapping</td>
<td>17</td>
</tr>
<tr>
<td>Restrictions on freedom of expression</td>
<td>16</td>
</tr>
<tr>
<td>Restrictions on freedom of movement</td>
<td>11</td>
</tr>
<tr>
<td>Restrictions on freedom of association</td>
<td>11</td>
</tr>
<tr>
<td>Arbitrary arrest</td>
<td>10</td>
</tr>
<tr>
<td>Restrictions on freedom of assembly</td>
<td>10</td>
</tr>
<tr>
<td>Torture</td>
<td>8</td>
</tr>
<tr>
<td>False accusations</td>
<td>8</td>
</tr>
<tr>
<td>Attacks</td>
<td>8</td>
</tr>
<tr>
<td>Burglary</td>
<td>7</td>
</tr>
<tr>
<td>Beatings</td>
<td>6</td>
</tr>
<tr>
<td>Detention</td>
<td>6</td>
</tr>
<tr>
<td>Unauthorised searches</td>
<td>4</td>
</tr>
<tr>
<td>Kidnappings</td>
<td>1</td>
</tr>
</tbody>
</table>
ANNEX C  Guidelines to Human Rights Defenders

As a defender, what can you do when your rights have been violated?

**Steps to take**

1. **Report to the Police**
   
   Report to the nearest police station where your complaint will be registered and the appropriate action taken accordingly.

2. **Report to the L.C**
   
   If you cannot easily access the police, report to the nearest L.C of the area in which you are so as to get the appropriate assistance.

   
   Anyone claiming a violation of a fundamental human right and freedom may report a complaint to the Commission for redress. The complaint can be made by the victim, an organisation, a relative, family or anyone authorised by the victim.

**Locations:**

<table>
<thead>
<tr>
<th><strong>Head Office</strong></th>
<th><strong>Moroto Regional Office</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Plot 20/22/24 Buganda Road, Opposite African Crafts Village P.O. Box 4929, Kampala Tel: 0414-348007/8, 0414 -233757 Fax: 0414 -255261 E-mail: <a href="mailto:uhrc@uhrc.ug">uhrc@uhrc.ug</a></td>
<td>Plot 10 Upper Road, opp.Moroto Public Library, next to Moroto Core Primary Teachers’ College. P.O. Box 105, Moroto Tel: 045-70130 Email: <a href="mailto:uhrcmoroto@yahoo.com">uhrcmoroto@yahoo.com</a></td>
</tr>
<tr>
<td><strong>Central Regional offices:</strong></td>
<td><strong>Jinja Regional Office</strong></td>
</tr>
<tr>
<td>Central Regional Office Plot 1253, Ndeeba, Lubiri Ring Road, after Kibuye Round about Tel: 0414 – 232 190 E-mail:</td>
<td>Plot 8 Bell Avenue, opp. Arya Primary School P.O. Box 66, Jinja Tel: 043-123760; Fax: 043-123761 E-mail: <a href="mailto:uhrcjinja@uhrc.ug">uhrcjinja@uhrc.ug</a></td>
</tr>
<tr>
<td><strong>Gulu Regional Office</strong></td>
<td><strong>Fort Portal Regional Office</strong></td>
</tr>
<tr>
<td>Plot 9/11 Queens Way Avenue, Next to Centenary Bank, P.O. Box 728, Gulu Tel: 0471-32415; Fax: 0471-32458 E-mail:</td>
<td>Plot 3 /5 Mugurusi Road near the Office of the IGG P.O Box 960, Fort Portal Tel: 0483 - 23176; Fax 0483 – 23171 E-mail : <a href="mailto:uhrcfortportal@uhrc.ug">uhrcfortportal@uhrc.ug</a></td>
</tr>
<tr>
<td><strong>Soroti Regional Office</strong></td>
<td><strong>Mbarara Regional Office</strong></td>
</tr>
<tr>
<td>Plot 70 Gweri Road, next to Golden Arch Hotel, opp. National Water and Sewerage Corp. P.O. Box 462, Soroti Tel/Fax: 04561793. E-mail: <a href="mailto:uhrcsoroti@uhrc.ug">uhrcsoroti@uhrc.ug</a></td>
<td>Plot 6 McAllister Road P.O Box 105, Mbarara Tel: 04854-21781, Fax. 04854-21782 E-mail: <a href="mailto:uhrcmbarara@uhrc.ug">uhrcmbarara@uhrc.ug</a></td>
</tr>
</tbody>
</table>
4. **Report to the Human Rights Centre Uganda (The Centre)**

   Report to the Centre so that the appropriate action can be taken in relation to the violation faced.

   Plot 3327A Kateeba close off Kironde Road, Muyenga

   PO Box 25638 Kampala, Uganda

   Telephone: 256 414 266186 Email hrcug@hrcug.org

5. **Report to the UNSR alleged human rights violations through its office in Geneva, Switzerland**

<table>
<thead>
<tr>
<th>To</th>
<th>Email</th>
<th>Fax</th>
</tr>
</thead>
<tbody>
<tr>
<td>- To submit an allegation of a violation</td>
<td><a href="mailto:urgent-action@ohchr.org">urgent-action@ohchr.org</a></td>
<td>+41(0) 22.917.90.06</td>
</tr>
<tr>
<td>against human rights defenders</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- To contact the mandate holder for other</td>
<td><a href="mailto:defenders@ohchr.org">defenders@ohchr.org</a></td>
<td>+41(0) 22.917.90.06</td>
</tr>
<tr>
<td>purposes:</td>
<td></td>
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</tbody>
</table>
ANNEX D: UN Declaration on Human Rights Defenders

DECLARATION ON THE RIGHT AND RESPONSIBILITY OF INDIVIDUALS, GROUPS AND ORGANS OF SOCIETY TO PROMOTE AND PROTECT UNIVERSALLY RECOGNIZED HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

General Assembly resolution 53/144 (8 March 1999)

The General Assembly,

Reaffirming the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,


Taking note also of Economic and Social Council resolution 1998/33 of 30 July 1998, in which the Council recommended the draft declaration to the General Assembly for adoption,

Conscious of the importance of the adoption of the draft declaration in the context of the fiftieth anniversary of the Universal Declaration of Human Rights, Resolution 217 A (III).

1. Adopts the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, annexed to the present resolution;

2. Invites Governments, agencies and organizations of the United Nations system and intergovernmental and non-governmental organizations to intensify their efforts to disseminate the Declaration and to promote universal respect and understanding thereof, and requests the Secretary-General to include the text of the Declaration in the next edition of Human Rights: A Compilation of International Instruments.

85th plenary meeting

9 December 1998
ANNEX

DECLARATION ON THE RIGHT AND RESPONSIBILITY OF INDIVIDUALS, GROUPS AND ORGANS OF SOCIETY TO PROMOTE AND PROTECT UNIVERSALLY RECOGNIZED HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

The General Assembly,

Reaffirming the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

Reaffirming also the importance of the Universal Declaration of Human Rights and the International Covenants on Human Rights Resolution 2200 A (XXI), annex. as basic elements of international efforts to promote universal respect for and observance of human rights and fundamental freedoms and the importance of other human rights instruments adopted within the United Nations system, as well as those at the regional level,

Stressing that all members of the international community shall fulfil, jointly and separately, their solemn obligation to promote and encourage respect for human rights and fundamental freedoms for all without distinction of any kind, including distinctions based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and reaffirming the particular importance of achieving international cooperation to fulfill this obligation according to the Charter,

Acknowledging the important role of international cooperation for, and the valuable work of individuals, groups and associations in contributing to, the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, including in relation to mass, flagrant or systematic violations such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity and from the refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources,

Recognizing the relationship between international peace and security and the enjoyment of human rights and fundamental freedoms, and mindful that the absence of international peace and security does not excuse non-compliance,

Reiterating that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and should be promoted and implemented in a fair and equitable manner, without prejudice to the implementation of each of those rights and freedoms,

Stressing that the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State,
Recognizing the right and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels,

Declares:

Article 1
Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

Article 2
1. Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, *inter alia*, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.

2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.

Article 3
Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the present Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted.

Article 4
Nothing in the present Declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations or as restricting or derogating from the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international instruments and commitments applicable in this field.

Article 5
For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

(a) To meet or assemble peacefully;

(b) To form, join and participate in non-governmental organizations, associations or groups;
(c) To communicate with non-governmental or intergovernmental organizations.

**Article 6**

Everyone has the right, individually and in association with others:

(a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;

(b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;

(c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

**Article 7**

Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.

**Article 8**

1. Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.

2. This includes, inter alia, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

**Article 9**

1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.

2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing
redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.

3. To the same end, everyone has the right, individually and in association with others, **inter alia**:

(a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;

(b) To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments;

(c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.

4. To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.

5. The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.

**Article 10**

No one shall participate, by act or by failure to act where required, in violating human rights and fundamental freedoms and no one shall be subjected to punishment or adverse action of any kind for refusing to do so.

**Article 11**

Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession. Everyone who, as a result of his or her profession, can affect the human dignity, human rights and fundamental freedoms of others should respect those rights and freedoms and comply with relevant national and international standards of occupational and professional conduct or ethics.

**Article 12**

1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.
2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

**Article 13**

Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.

**Article 14**

1. The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.

2. Such measures shall include, *inter alia*:

   (a) The publication and widespread availability of national laws and regulations and of applicable basic international human rights instruments;

   (b) Full and equal access to international documents in the field of human rights, including the periodic reports by the State to the bodies established by the international human rights treaties to which it is a party, as well as the summary records of discussions and the official reports of these bodies.

3. The State shall ensure and support, where appropriate, the creation and development of further independent national institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institution.

**Article 15**

The State has the responsibility to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials include appropriate elements of human rights teaching in their training programme.
Article 16
Individuals, non-governmental organizations and relevant institutions have an important role to play in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to strengthen further, *inter alia*, understanding, tolerance, peace and friendly relations among nations and among all racial and religious groups, bearing in mind the various backgrounds of the societies and communities in which they carry out their activities.

Article 17
In the exercise of the rights and freedoms referred to in the present Declaration, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

Article 18
1. Everyone has duties towards and within the community, in which alone the free and full development of his or her personality is possible.

2. Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.

3. Individuals, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized.

Article 19
Nothing in the present Declaration shall be interpreted as implying for any individual, group or organ of society or any State the right to engage in any activity or to perform any act aimed at the destruction of the rights and freedoms referred to in the present Declaration.

Article 20
Nothing in the present Declaration shall be interpreted as permitting States to support and promote activities of individuals, groups of individuals, institutions or non-governmental organizations contrary to the provisions of the Charter of the United Nations.
Articles


Papers


3. S. Lubwama, Are Court Awards against the Media fair or stifling it economically? 31/10/2009.

Reports


Books
4. Ssempebwa E.F. 2008, Integrating Jurisprudence in East Africa (Prospects at the East African Court of Justice,

Decisions and Rulings

Laws
International instruments
National laws and bills

5. Commission of Inquiry Act, Cap. 56.
7. Interception of Communications Bill, 2009
11. Penal Code Act, Cap. 120.
13. Press and Journalists Act, Cap 105
The Human Rights Centre Uganda

Plot 3327 (A) Kateeba Close
Off Kironde Road, Muyenga
P. O. Box 25638, Kampala-Uganda
Telephone: +256 414 266186
E-mail: hrcug@hrcug.org
Website: www.hrcug.org