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WATCH

# “Keep the People Uninformed”

Pre-election Threats to Free Expression and Association in Uganda



**“Keep the People Uninformed”**  
Pre-election Threats to Free Expression and  
Association in Uganda

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# “Keep the People Uninformed”

## Pre-election Threats to Free Expression and Association in Uganda

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# Map



## Glossary of Acronyms and Terms

***Bimeeza***: A Luganda-language word for open-air community dialogues once aired live on radio stations and banned by the government in 2009. (Singular is kimeeza.)

**Crime Preventers**: The name given to a volunteer force of civilians, recruited and operated by police particularly in the months leading up to the 2016 elections, who, according to police, cooperate with police and communities to report on and prevent crime. Information about the exact mandate, command structure and number of crime preventers remains scant, but according to public statements by officials, the objective is to have at least 30 per village, which would total over 1 million total throughout the country. Non-governmental groups and Uganda's political opposition have raised concerns that this force works in a partisan manner, loyal to the ruling party. There is no legal framework establishing 'crime preventers'.

**CCEDU**: The Citizens Coalition for Electoral Democracy Uganda is a coalition of Ugandan civil society groups formed to "to advocate for the value of integrity in the Ugandan electoral process by promoting a social and political system that enhances fair, equitable and transparent electoral processes."

**DISO**: The District Internal Security Officer is an official of the Internal Security Organization at the district level. The Internal Security Organization is Uganda's domestic intelligence agency.

**FDC**: The Forum for Democratic Change is one of Uganda's leading opposition parties. Three-time presidential candidate Dr. Kizza Besigye is running on the FDC ticket in the 2016 elections.

**IGP**: The Inspector General of Police is the head of the Uganda Police Force. The current IGP is General Kale Kayihura.

**NGO**: Nongovernmental organizations, in Uganda currently regulated by the 1989 Nongovernmental Organisations Registration Act (NGO Act), amended in 2006; the NGO Registration Regulations of 2009; and the 2010 National NGO Policy. The new Non-

governmental Organisations Act of 2015, if signed into law, would replace the current legal regime.

**NGO Board:** The Non-Governmental Organisations Board, under the Ministry of Internal Affairs, registers, monitors, and regulates nongovernmental groups in Uganda. Under the new Non-Governmental Organisations Act passed by parliament in November 2015, the Board would be replaced by the National Bureau of Non-Governmental Organisations.

**NRM:** The National Resistance Movement is Uganda's ruling party, in power since February 1986 and led by current president Yoweri Kaguta Museveni.

**RDC:** A Resident District Commissioner is a senior civil servant appointed directly by the president, residing in each administrative district in Uganda. According to the constitution, the Local Government Act of 1997 and other laws, RDCs are to monitor implementation of government programs in the district, chair the district security committee and carry out any other function as assigned by the president. Each district also has a deputy RDC with a similar role.

**RISO:** The Regional Internal Security Officer, an official from the Internal Security Organisation at the regional level. See DISO, above.

**SIU:** The Special Investigations Unit is a unit within the Uganda Police Force tasked with investigating violent crimes and based in Kireka, a neighborhood of Kampala. It is a relatively new unit and a legacy of previously disbanded police units, Operation Wembley, Violent Crimes Crack Unit, and Rapid Response Unit, all of whom had a notorious reputation of human rights abuses, particularly torture of suspects and defendants.

**UCC:** The Uganda Communications Commission is the country's regulating authority for the communications sector, established under the Uganda Communications Act of 2013. The current Executive Director of the UCC is Godfrey Mutabazi, who also led the previous government broadcasting regulator, the Broadcasting Council.

**URSB:** The Uganda Registration Services Bureau carries out all registrations, such as businesses, intellectual property, births, and deaths.



## Summary

I think government intends to keep the people uninformed. You see, uninformed people are easy to manipulate. Cases of intimidation are prevalent. . . . As journalists we are forced to cover up. In the reporting you don't hit the nail on top. You have to communicate carefully. In election season we see this very clearly.

– Radio Journalist, Jinja, September 23, 2015

What happens here is that now people are in a state of self-censorship. They know things are wrong but people don't want to get onto bad terms with government. They just don't want to get into conflict. They are afraid to question things. There are new laws coming up that make the environment difficult. . . . They fear concentrating on governance and accountability issues.

– NGO leader, Fort Portal, October 30, 2015

As Ugandans head to parliamentary and presidential elections in February 2016, freedom of expression and association are under serious threat. Political tensions are running high and the government faces public discontent on a range of issues, such as government allocation for health and education services, corruption, widespread unemployment combined with a massive youth population and the rising cost of living. In response, during the past year, numerous state agencies and officials – police, internal security officials, and resident district commissioners (presidentially appointed senior civil servants who monitor government programs and security in each district) – have engaged in a range of tactics to intimidate and obstruct speech critical of the government, particularly in rural areas and during non-English radio broadcasts outside of Kampala, where government action is subject to less international and domestic scrutiny.

Furthermore, the existence of broad and vaguely worded laws criminalizing various contents of speech discourage journalists and civil society from criticism of government, limits access to information for voters, and has a chilling effect on the debate on public

issues important during campaigns and elections. Unless remedied, these restrictions on basic rights will impede Uganda's ability to hold free and fair elections.

President Yoweri Museveni has been in power since February 1986. In June 2015, former secretary general of the ruling National Resistance Movement (NRM) and former prime minister, Amama Mbabazi – one of Museveni's closest advisors for decades – announced his intention to run for president and ultimately split from the ruling party. Dr. Kizza Besigye of the Forum for Democratic Change (FDC), who is a three-time contender against Museveni in past presidential elections, is running again as are five other candidates. Four hundred twenty two parliamentary seats will also be chosen in 2016.

Human Rights Watch conducted over 170 interviews in eight towns across Uganda in the two months before the official presidential campaigns officially began on November 9, 2015. This report documents threats to free expression and association, particularly government and ruling NRM party officials responses to criticism of government actions by the media and civil society groups as Ugandans prepare for the 2016 elections.

Freedom of the press in Uganda is deceptive. Print journalists in the country's capital, Kampala, can enjoy some relative freedom. Journalists outside Kampala – particularly radio journalists working in local languages focused on rural populations – face frequent challenges in freely reporting on issues deemed sensitive by local authorities loyal to the ruling party. Journalists and station managers can face threat of suspension or dismissal for being seen to provide the opposition with a platform, while radio stations and newspapers face the possibility of closure, all real consequences that media houses in Kampala have experienced during periods of unrest during recent years.

To some extent, radio journalism appears to be subject to scrutiny because of its reach in rural areas where there is limited access to diverse sources of information. According to one study, at least 89 percent of Ugandans said that radio is their primary source of news.<sup>1</sup> There are state-owned radio and television channels broadcasting in several languages, as well as a large number of radio stations owned by government ministers, ruling party

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<sup>1</sup> Africa Governance Monitoring and Advocacy Project (AfriMAP), Open Society Initiative for East Africa (OSIEA), and Open Society Media Program (OSMP), Public Broadcasting in Africa Series: Uganda, 2010, p. 18, citing a study by the Steadman Group, now Synovate, <http://www.afriMAP.org/english/images/report/OSI-Uganda--Public-Broadcasting.pdf>.

parliamentarians, and business people with established connections to the ruling party. Significantly fewer are owned by independent business people and churches.<sup>2</sup>

Threats or warnings of possible repercussions for critical reporting are issued by an array of government bodies including resident district commissioners (RDC), internal security officials, police, and the Uganda Communications Commission (UCC), the government's broadcasting regulator. Recently, two radio journalists, one in Jinja and one in Hoima, were suspended separately for hosting Besigye, though government officials deny they played a role in the journalists loss of employment.

To mitigate the risks of forced closure or loss of government advertising, radio stations sometimes charge the political opposition higher fees for paid spots, either to discourage them from trying or to ensure that the payment would make up for possible loss of revenue from government advertising during any government backlash. Journalists working at both private and government-owned media houses said that presidential and ruling party representatives offered them money, trips, and trainings in exchange for favorable coverage of the NRM party, prompting fear for their job or their safety if they refused.

Journalists told Human Rights Watch that if they covered opposition events or views on certain issues, the police or district authorities claim they are “causing instability” or “inciting or encouraging violence.” Reporting accurately and fairly on all political sides while avoiding running afoul of government backlash is a difficult and often discouraging battle that chills media freedom and ultimately leads to self-censorship among Uganda's journalists, particularly outside Kampala, where wages are low and jobs are scarce.

At the same time, the Ugandan government has increasingly tried to clamp down on domestic civil society organizations, particularly those working on governance, human rights and oil sector transparency. Employees of nongovernmental organizations (NGOs) stated that they were – like journalists – blamed for inciting violence or sabotaging development efforts by pointing out government inaction or failure, what in Uganda is known as “de-campaigning government.” In this context, it has become increasingly

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<sup>2</sup> For more background on media ownership in Uganda, see Africa Governance Monitoring and Advocacy Project (AfriMAP), Open Society Initiative for East Africa (OSIEA), and Open Society Media Program (OSMP), *Public Broadcasting in Africa Series: Uganda*, 2010, p. 18, citing a study by the Steadman Group, now Synovate, <http://www.afriMAP.org/english/images/report/OSI-Uganda--Public-Broadcasting.pdf>.

difficult for civil society to discuss issues of importance to voters particularly in rural areas, such as free and fair elections, without fear of government interference and threats.

The new Non-governmental Organisations Act, which at time of writing was passed by parliament but not yet signed into law by the president, may further erode civil society space as it contains vague and undefined criminal offences, for which nongovernmental organizations (NGO) employees may be found liable. Despite significant improvements to the original bill when government presented it for parliamentary debate, the act as passed creates criminal penalties, including up to three years in jail, for any member of a NGO who engages “in any act, which is prejudicial to the interests of Uganda and the dignity of the people of Uganda.” What conduct constitutes the “interests” or the “dignity” of Ugandans is not defined. The bill would also potentially criminalize civil society efforts to work in coalitions unless the coalition was separately registered with the government non-profit sector regulator, currently known as the NGO Board.

In addition to general efforts to close down the space for critical public reporting and debate on issues of public interest, the government has made specific targeted efforts to silence specific individuals for voicing views deemed critical or unflattering to ruling party officials. Both methods to silence these individuals – in one case harassing criminal charges allegedly for social media postings and in another case, an ad-hoc ban by the broadcasting regulator – create a chilling effect among those seeking to publicly comment on national issues and violate their rights to free expression and due process.

The government’s harassment and intimidation of independent voices in the media and civil society are a threat to the 2016 campaigns and elections. For free, fair, and credible elections to take place, the government should protect freedoms of expression and association and work actively to ensure that no government or security official at any administrative level seeks to silence media and civil society voices or obstruct their access to communities, particularly outside Kampala, where there is little scrutiny of government action. The government of Uganda should respect and uphold its obligations under international human rights law and Uganda’s own constitution and protect freedom of speech and voters’ right to receive and obtain information at this critical time. Uganda’s development partners should encourage the government to tolerate divergent views of governance issues, condemn restrictions on freedoms of expression and

association and make specific efforts to monitor these issues outside Uganda's capital during the 2016 campaigns.

# Recommendations

## To the President of Uganda

- Issue a clear and public statement to all government officials and members of the ruling NRM party to refrain from any intimidation, obstruction, threats, harassment, and arbitrary arrest of journalists, station managers, and members of civil society and state that such incidents will be immediately investigated and prosecuted.
- Do not sign the Non-governmental Organisations Act, but instead return it to parliament and request parliament to reconsider the law's criminal penalties for violating vague and undefined "special obligations," particularly clause 40(f).
- Instruct the Uganda Communications Commission to clearly and publicly state that open-air talk shows, known as *bimeeza*, are permitted.
- Ensure effective investigations into threats, harassment and intimidation of radio and print journalists and members of civil society groups by police, resident district commissioners, officers of the internal Security Organisation (ISO) and other state officials.

## To the Government of Uganda and NRM party officials

- Ensure respect and protection for freedom of expression and, in particular during the election period, ensure that no one experiences any unjustified interference with their right to seek and impart information and opinions due to their political leanings.
- Allow full, open reporting and commentary on any issues of pressing public interest, including political, accountability and transparency matters.
- Stop providing financial incentives to journalists and members of the media to secure partisan reporting and undermine impartial coverage of issues of public interest.
- Ensure independent and effective investigations into arrests and harassment of journalists in the course of their work by police, crime preventers and any other security officials.
- Ensure that government officials, especially at the local level, and ruling-party activists cease blocking opposition parties' access to the media, either directly or via pressure on media owners and station managers.

- Respect and support the self-regulation systems of media practitioners, such as the Independent Media Council.

## **To the Parliament of Uganda**

- Review laws comprehensively, including the Public Order Management Act, the Non-governmental Organisations Act and the Penal Code Act, and make necessary amendments to harmonize them with Uganda's constitution and its obligations under international law regarding freedom of expression and association.
- Initiate a review of Uganda's official media regulatory bodies, consulting broadly with stakeholders with the aim of increasing transparency and objectivity in media oversight.

## **To the Police**

- Allow peaceful meetings, whether of opposition parties, NGOs or any non-violent gathering of civilians, to continue, even if police believe organizers have failed to comply with the Public Order Management Act's (POMA) requirements on police notification or permission.
- Draft and publish guidelines on the use of teargas and proportionate force and refrain from using teargas and other unlawful force against unarmed, peaceful citizens.
- Do not carry out any so-called "preventive arrests; charge or release those arrested on suspicion of criminal activity within 48 hours of arrest, in line with Ugandan laws.
- Investigate and hold accountable any police or crime preventers involved in intimidation, physical attacks or targeting of journalists and civil society members.
- Clearly explain the role and nature of work of crime preventers in the country, especially in the coming 2016 elections.

## **To Development Partners**

- Publicly express concern over the restrictions on freedoms of expression and association, and urge the Ugandan government to make a public statement calling on all government officials and NRM members to refrain from harassing or

threatening members of the media and civil society including those based outside Kampala.

- Urge President Museveni to not assent to the Non-governmental Organisations Act, but instead return it to parliament and request parliament to reconsider the law's criminal penalties for violating vague and undefined "special obligations" particularly clause 40(f).
- Enhance monitoring and reporting of media freedom violations related to coverage of election-related issues, particularly outside Kampala. Such monitoring should take place during campaigns, on election day, and through any possible run-offs.
- Publicly press the Ugandan government to reform the laws and powers of its regulatory institutions to bring them into compliance with Uganda's human rights obligations.
- Increase focus on, and resources to, the human rights issues and violations of freedoms of expression, association and assembly during the campaigns.

### **To the African Commission on Human and Peoples' Rights (including its Special Rapporteur on Freedom of Expression in Africa), the UN Special Rapporteur on Freedom of Opinion and Expression, and the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association**

- Seek an invitation from the Ugandan government to visit the country and assess media laws, freedom of expression, association, and assembly as soon as possible.

### **To Journalists' Associations**

- Train and equip journalists on professional reporting methods to promote credible, well-researched, and balanced reporting.
- Advocate for the rights of media practitioners and ensure a safe working environment for all journalists especially those working outside Kampala.
- Promote compliance with the code of ethics promulgated by the Independent Media Council and professional reporting on issues of public interest.



## Methodology

This report is based on research by Human Rights Watch carried out in Uganda from early September to December 2015. Human Rights Watch interviewed over 170 individuals, including 83 journalists, 32 members of civil society organizations, 17 members of political parties, and 16 witnesses to specific events, as well as six government officials.

Human Rights Watch conducted interviews in town centers in the eastern towns of Jinja, Mbale and Soroti; in the north in Lira and Gulu towns; in the west in Hoima and Fort Portal town; and in the capital, Kampala, in central Uganda. These towns were selected for research to cover the geographic breadth of Uganda, and because each has some concentrations of journalists and civil society groups working to varying degrees on issues directly pertinent to that region.

Practitioners from both government-owned and independently-owned stations were interviewed, though the vast majority of media houses in Uganda are owned by parliamentarians or business people aligned with the ruling party. All interviews were in English and typically lasted over an hour. The vast majority were one-on-one interviews. No compensation or any form of remuneration was given to any person interviewed.

Many interviewees voiced concern for their well-being or for fear of possible loss of employment or business if authorities were aware that they were interviewed by Human Rights Watch. As a result, they asked that their names be withheld. We have complied with this request and intentionally omitted identifying details of individuals who met with researchers.

This report builds on “A Media Minefield: Increased Threats to Free Expression in Uganda,” published by Human Rights Watch in 2010, before the 2011 elections and other previous reporting on human rights abuses in the run-up to elections in Uganda since 1999.

A note on administrative structure: Uganda is currently divided into 120 districts, though 16 more are set to be phased in. Starting at the village level (known as Local Councilor 1 or LC1), the local council system progresses up from the parish (LC2) to the sub-county (LC3), county (LC4), and district (LC5). Each district also has a resident district commissioner and

a deputy, both appointed directly by the president, who are officially in charge of security and implementation of government programs.

## Background

If you refer back to the 2011 elections, you'll see that some journalists and candidates were beaten, jailed. [This time] supporters will be arrested, beaten. It's going to be a test period for all of us.

– Radio station manager, Soroti, September 30, 2015

### Past Elections under the National Resistance Movement

President Museveni and the National Resistance Army came to power in 1986 after a guerrilla war. Museveni established a Ten Point Plan, which promised to restore security, eliminate corruption, and consolidate and promote democracy.<sup>3</sup> Shortly thereafter, he suspended the activities of all political parties and established an interim government that lasted nine years. He defended this by arguing that the counterinsurgency problems throughout the country prevented him from attaining his much-publicized Ten Point Program.<sup>4</sup>

Elections held in 1996 and 2001 were under the one party “National Resistance Movement” system, sometimes referred to as “no-party” democracy.<sup>5</sup> In 2005, the government announced a referendum that included a proposed return to multiparty politics. The multiparty system ultimately prevailed largely because the ruling National Resistance Movement (NRM) party campaigned for a “yes” vote for the first time. This political reorganization was a reaction to a combination of internal civic pressure and external pressure from donors. However, the opposition boycotted the 2005 referendum, because alongside the vote on the multiparty system, the same referendum included a vote to amend the Constitution to lift the two-term limit on the office of president.<sup>6</sup>

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<sup>3</sup> Uganda: Hostile to Democracy, Human Rights Watch, October 1, 1999. <https://www.hrw.org/report/1999/10/01/hostile-democracy/movement-system-and-political-repression-uganda> (accessed)

<sup>4</sup> Ibid. p. 50.

<sup>5</sup> Ibid, p. 62.

<sup>6</sup> “Disturbing turn from promising to repressive,” Laurie Goering, The Chicago Tribune, December 14, 2005.

[http://articles.chicagotribune.com/2005-12-14/news/0512140169\\_1\\_yoweri-museveni-uganda-term-limits](http://articles.chicagotribune.com/2005-12-14/news/0512140169_1_yoweri-museveni-uganda-term-limits) (accessed)

Political parties, including opposition parties, were thus finally free to participate officially in the 2006 elections, but President Museveni remained a candidate, by then his twentieth year in office.<sup>7</sup>

The 2006 presidential elections ended in controversy over the electoral process. In a case before the Supreme Court, the main opposition presidential candidate, Dr. Kizza Besigye of the Forum for Democratic Change (FDC), who had been charged with multiple criminal offenses during the campaigns,<sup>8</sup> challenged the election results, and the court upheld incumbent Museveni's re-election despite finding that there were electoral irregularities such as disenfranchisement of voters, bribing, intimidation and violence among other problems.<sup>9</sup>

During the lead-up to the 2011 elections, journalists – particularly rural radio journalists – faced physical violence, threats, and harassment by local government officials. Stations faced closures, and 40 individuals faced criminal charges for stating or repeating criticism of the ruling party.<sup>10</sup> For example, at least two journalists were shot by state agents,<sup>11</sup> and Human Rights Watch spoke to multiple journalists who said that they were assaulted by police for photographing or reporting on events deemed unfavorable to the government.<sup>12</sup>

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<sup>7</sup> Human Rights Watch, "Uganda: In Hope and Fear, Uganda's Presidential and Parliamentary Polls," (2006) <http://www.hrw.org/legacy/backgrounder/africa/uganda0206/>. During the 2006 elections, Human Rights Watch documented politically motivated prosecutions of opposition candidates, crackdowns on members of the media, and widespread intimidation of voters, particularly by the Ugandan military.

<sup>8</sup> "Uganda's Besigye cleared of rape," BBC, March 7, 2006, <http://news.bbc.co.uk/2/hi/africa/4781244.stm>.

<sup>9</sup> Several months after the 2006 elections, the Ugandan Supreme Court ruled that intimidation, violence, voter disenfranchisement, and other irregularities marred the election. The Court, however, voted 4-3 to uphold the results of the vote, because the reported non-compliance with the Presidential Elections Act had not "substantially affected" the outcome of the election. The wording of the Presidential Elections Act has served to erode the freedom and fairness of elections and puts opposition parties at a significant disadvantage.

<sup>10</sup> Human Rights Watch, "Uganda: A Media Minefield" (2010), <https://www.hrw.org/report/2010/05/02/media-minefield/increased-threats-freedom-expression-uganda>.

<sup>11</sup> On the day of the 2011 elections, February 18, one journalist, a freelancer with Xinhua, BBC, and Red Pepper, was shot and wounded by a UPDF soldier for taking photographs and refusing to hand over his laptop, camera, and recorder. Human Rights Watch interview with Julius Odeke, Kampala, October 7, 2015; another journalist was shot and wounded by Minister Emmanuel Otaala, the state minister for labour in August 2010. "Update: Minister Emmanuel Otaala Arrested," Uganda Radio Network, August 20, 2010, <http://ugandaradionetwork.com/a/story.php?s=28375>.

<sup>12</sup> A journalist from Signal FM in Mbale was assaulted by three police officers, one wielding a baton, during by-elections in Mbale municipality. She required surgery to her hand, Human Rights Watch interview with radio journalist, Mbale, September 26, 2015. A journalist from a TV station was beaten by police for capturing footage of police shooting during a NRM primary in Bukedea, Human Rights Watch interview with TV journalist, Mbale, September 26, 2015.

The results of the 2011 election were again controversial, with Besigye stating before the results were announced that the opposition “categorically rejects the outcome of the election.”<sup>13</sup> During the months following the elections, “Walk to Work” protests highlighted inflation and soaring fuel and food prices, believed to be due to profligate state spending and hand-outs to buy votes during campaigns.<sup>14</sup> In response, the government’s security forces aggressively used teargas and live ammunition on protestors and arrested opposition politicians, charging them with unlawful assembly and inciting violence, largely for having “walked to work.” The military and police shot and killed nine individuals during these demonstrations in April 2011, despite no evidence that lethal force was warranted.<sup>15</sup>

In June 2015, former secretary general of the ruling NRM and former prime minister, Amama Mbabazi – one of Museveni’s closest advisors for 30 years – announced his intention to run for president and ultimately split from the ruling party. He enjoys some support from some opposition parties via a new opposition platform, the Democratic Alliance. Besigye, who is a three-time contender against Museveni in past presidential elections, is also running again.

## Forced Closure of Media Houses in Recent Years

On the surface, the media environment in Uganda appears vibrant – there are about 251 FM independent and government-owned radio stations.<sup>16</sup> English-language television and print media in Kampala enjoy some latitude in reporting opinions critical of the state. However, the vast majority of Ugandans receive their news from local language radio stations in rural areas, often not in English – and reporting on certain issues which are perceived by the ruling party to be sensitive can be risky, such as reporting on corruption,

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<sup>13</sup> Sarah McGregor and Fred Ojambo, “Museveni extends his 25-year rule in Uganda; Opposition rejects result”, Bloomberg, February 20, 2011, <http://www.bloomberg.com/news/articles/2011-02-20/museveni-extends-25-year-rule-in-uganda-election-opponents-reject-result>, (accessed December 1, 2015).

<sup>14</sup> “Uganda: Chaotic “walk-to-work” protests put Kampala in spotlight,” IRIN News, <http://www.irinnews.org/report/92615/uganda-chaotic-walk-to-work-protests-put-kampala-in-spotlight> (accessed December 3, 2015).

<sup>15</sup> Human Rights Watch, Uganda: Launch an Independent Inquiry into Killings, May 8, 2011, <http://www.hrw.org/news/2011/05/08/uganda-launch-independent-inquiry-killings> (accessed December 1, 2015).

<sup>16</sup> Uganda Communications Commission, *The Market & Industry Report, Second Quarter of 2013*, (2013), <http://www.ucc.co.ug/files/downloads/QUARTER%20TWO%202013%20MARKET%20REPORT.pdf> (accessed December 2, 2015).

human rights, governance of the oil sector, service delivery failures in health or education, or making statements that can be construed as supporting the opposition.<sup>17</sup>

Even media houses based in Kampala have faced significant hurdles, including four Luganda-language stations being forced off air by the government in 2009 during the so-called Kayunga riots.<sup>18</sup> In September 2009, after police attempted to block Buganda kingdom<sup>19</sup> delegates from visiting Kayunga district and demonstrations broke out in Kampala and Kayunga, at least 49 people were killed in two days by security forces.<sup>20</sup> Government officials told television stations to stop broadcasting live pictures of the security forces' response.<sup>21</sup> In some instances, security agents forcibly removed video footage from television stations, and appropriated journalists' cameras so they could delete images of dead bodies. Police beat some journalists who attempted to report on unfolding events, and some were detained and interrogated for their coverage of the riots. President Museveni accused radio station CBS (partly owned by the Buganda kingdom) of running a campaign against his government, and the government closed down CBS and three other radio stations. CBS could not return to broadcasting for over one year.<sup>22</sup>

During this time, the government also shut down all open-air talk shows, called *bimeeza*, a popular format that involves wide-ranging community dialogue, arguing that *bimeeza* do not comply with the Electronic Media Act, in force at the time, because a license is granted to a station in a particular location in a specific geographical area where the broadcast is to be made, and because radio stations lacked "adequate technical facilities."<sup>23</sup> The

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<sup>17</sup> For a detailed discussion of the landscape of media ownership in Uganda and how Ugandans access information, see Africa Governance Monitoring and Advocacy Project (Afrimap), Open Society Initiative for East Africa (OSIEA), and Open Society Media Program (OSMP), *Public Broadcasting in Africa Series: Uganda*, 2010, <http://www.afrimap.org/english/images/report/OSI-Uganda--Public-Broadcasting.pdf>, (accessed December 9, 2015).

<sup>18</sup> Human Rights Watch news release, "Uganda: Investigate Use of Lethal Force During Riots," October 1, 2009, <https://www.hrw.org/news/2009/10/01/uganda-investigate-use-lethal-force-during-riots>, (accessed December 7, 2015).

<sup>19</sup> The Buganda is one of several cultural kingdoms in Uganda, and is located in the central region, which includes the capital, Kampala. For more on the Buganda kingdom, see <http://www.buganda.or.ug/>.

<sup>20</sup> Human Rights Watch report, "A Media Minefield: Increased Threats to Freedom of Expression in Uganda," May 2, 2010, <http://www.hrw.org/reports/2010/05/02/media-minefield-o>, (accessed December 3, 2015).

<sup>21</sup> Robert Mwanje and Mercy Nalugo, "Buganda Premier Barred from Kayunga as CBS Radio is Switched Off the Air," *Daily Monitor*, September 11, 2009, <http://allafrica.com/stories/200909110336.html>, (accessed December 8, 2015).

<sup>22</sup> "CBS allowed to resume broadcasting after year long closure," *Reporters Without Borders*, October 26, 2010, <http://en.rsf.org/uganda-kampala-radio-station-allowed-to-26-10-2010,38666.html> (accessed December 12, 2015).

<sup>23</sup> The Uganda Communications Act of 2013 consolidated the prior Uganda Communications Act and the Electronic Media Act and subsumed the Broadcasting Council into the Uganda Communications Commission. See Uganda Communications Act, 2013.

Electronic Media was repealed and replaced by the Uganda Communications Act of 2013 but a regulatory regime for *bimeeza* has still never been put in place and so the de facto ban continues till today.<sup>24</sup> The executive director of the UCC told Human Rights Watch that, “the concept [of *bimeeza*] died, and we don’t want to revisit it really.”<sup>25</sup> The ban means that a critical forum, especially for the debate of governance and politics in rural areas, is disallowed.<sup>26</sup>

Kampala-based media faced government intimidation again in 2013 when the police raided the premises of the *Daily Monitor* and KFM radio, shutting it down for 11 days.<sup>27</sup> The *Daily Monitor* newspaper had reported on a letter from a former coordinator of the intelligence service, Gen. David Ssejusa, alleging a government conspiracy to install Museveni’s son to succeed his father in office.<sup>28</sup> Police shut down the publications *Daily Monitor* and *Red Pepper*, and two radio stations for reporting this news.<sup>29</sup> Two journalists and eight civil society members protesting the closures were arrested, beaten, and detained by police. They were charged with inciting violence.<sup>30</sup>

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<sup>24</sup> Human Rights Watch interview with Godfrey Mutabazi, Executive Director of Uganda Communications Commissions, Kampala, November 12, 2015.

<sup>25</sup> Ibid.

<sup>26</sup> “While Radio One’s *ekimeeza* which was conducted in English mostly attracted elite town-dwellers, the other stations soon localized the genre. *Ebimeeza (plural)* gradually gained immense popularity and was widely emulated, particularly by stations such as the Central Broadcasting Service (CBS), Radio Simba, Voice of Tooro, Mega FM etc. which mostly operated in the indigenous languages and were therefore able to draw into the public domain people that had previously been closed out by language, accessibility to telephones and other socio-economic constraints. Soon rural folks, hitherto unheard in the media except when they announced the death of a loved one or sent a special music request were calling in to give opinions on a range of issues, policies and positions affecting them. For the first time in Uganda’s history ordinary Ugandans dared to challenge the policies and decisions of the reigning government on radio and in their own languages. The culture of *ekimeeza* spread rapidly to the rural areas where the NRM’s strongest political base lay. Suddenly the tightly controlled space of radio was politically charged.” See Monica Chibita, Ugandan radio as a political space and the policing thereof, <http://www.cmi.no/file/?1012>.

<sup>27</sup> Human Rights Watch news release, “Uganda: Stop Harassing the Media,” May 20, 2013, <https://www.hrw.org/news/2013/05/20/uganda-stop-harassing-media>; “Uganda’s Daily Monitor Reopens After Police Closure,” *BBC*, May 30, 2013, <http://www.bbc.com/news/world-africa-22717291>, (accessed December 2, 2015).

<sup>28</sup> Isaac Imaca & Frederic Musisi, “Monitor Offices Under Police Seize,” *Daily Monitor*, May 20, 2013, <http://www.monitor.co.ug/News/National/Monitor-offices-under-police-siege/-/688334/1858054/-/c6hhmg/-/index.html>.

<sup>29</sup> Ismael Musa Ladu, “Day Eight: Monitor, Red Pepper Premises Still Under Police Occupation,” *Daily Monitor*, May 27, 2013, <http://www.monitor.co.ug/News/National/Monitor-Red-Pepper-premises-still-under-police-occupation/-/688334/1864064/-/vadaou/-/index.html>, (accessed December 2, 2015).

<sup>30</sup> Human Rights Watch, *World Report 2014: Events of 2013*, Uganda chapter, <https://www.hrw.org/world-report/2014/country-chapters/uganda>.

## Threats Against the Media

Anyone can insult the president or a bishop in America, but it doesn't augur well here in this society.

– Godfrey Mutabazi, Executive Director, Uganda Communications Commission, Kampala, November 12, 2015

When you're restricted, you're already biased. You're supposed to be balanced. But restrictions put your work at risk. If you are investigating properly, the state may come for you. They bring in your personal life and family. You get demoralized. So you drop this one. If the story is sensitive, that's a threatening factor.

– Radio journalist, Lira, October 22, 2015

Print and radio journalism in Uganda is a highly monitored sector. Increasingly, social media is also coming under scrutiny.<sup>31</sup> The Uganda Communications Commission (UCC) is the state regulatory body that oversees radio stations. The Ministry of Information and Communications Technology appoints the executive director of the UCC.<sup>32</sup> The Ministry of Information and National Guidance appoints the majority of the members of the Media Council, which regulates the conduct of journalists.<sup>33</sup> The president appoints both the Minister of Information and Communications Technology and the Minister of Information and National Guidance. Thus in practice these bodies do not serve as checks or balances on one another, but rather cooperate to further state interests.<sup>34</sup> The police also has a media crimes unit.<sup>35</sup>

Journalists faced threat of suspension or dismissal, while radio stations faced the possibility of closure, all consequences which had been realized during periods of political unrest during recent years.<sup>36</sup>

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<sup>31</sup> See case of Robert Shaka, Section 3 below.

<sup>32</sup> Uganda Communications Act, 2013, sec. 16.

<sup>33</sup> Uganda Press and Journalist Act, 2000, sec. 8.

<sup>34</sup> For more on these bodies, see Human Rights Watch report, Uganda: A Media Minefield, May 2, 2010, pp. 13-15.

<sup>35</sup> Ibid.

<sup>36</sup> For more information on these past incidents of political unrest, such as the 2009 Kayunga riots, the 2011 national elections, and the 2011 Walk to Work protests, see background section above,



There are potential financially costly consequences of airing diverse political opinion, which cause radio stations to at times censor their reporting or discussion of political events. For example, a 2010 report on the state of the media in Uganda noted that stations tended to play music so as to avoid inviting political controversy and risk:

Most stations are entertainment-oriented, with music as the dominant content category. This means that the plurality of broadcasters has not necessarily increased the diversity or improved the quality of content available to audiences, particularly news and public affairs programming. Many proprietors of commercial broadcasting stations appear to find entertainment programming safer and a surer way of capturing audiences – and advertising – than critical or potentially controversial material which might carry the risk of upsetting sections of the public, the business community or the government.<sup>37</sup>

## Physical Violence during Rallies

In some instances, journalists attempting to cover opposition rallies and demonstrations have faced physical violence from police, particularly as the 2016 campaigns were about to begin. Human Rights Watch spoke to eight journalists who were injured while covering events on September 9 and 10, 2015, when police in Soroti and Jinja, eastern Uganda, fired teargas to disperse people gathered to hear opposition candidate Amama Mbabazi. Multiple eyewitnesses said that there had been no disorder or violence before the police arrived but police fired teargas canisters, in some cases directly at individuals, turning the canisters into projectiles that caused injury. For example, the police fired teargas canisters under an NTV news vehicle, forcing journalists to take cover inside.<sup>38</sup> Journalists also had difficulty breathing due to the teargas. One print journalist said that as he left for his office to write his news story about the day's events, two police officers openly threatened him, with one officer pointing his teargas gun directly at the journalist until he fled.

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<sup>37</sup> Africa Governance Monitoring and Advocacy Project (Afrimap), Open Society Initiative for East Africa (OSIEA), and Open Society Media Program (OSMP), *Public Broadcasting in Africa Series: Uganda*, 2010, p. 53, <http://www.afrimap.org/english/images/report/OSI-Uganda--Public-Broadcasting.pdf>.

<sup>38</sup> Human Rights Watch interview with TV journalist, Soroti, October 1, 2015; with radio journalist, Soroti, September 29; and Human Rights Watch news release, "Uganda: End Police Obstruction of Gatherings", October 18, 2015, <https://www.hrw.org/news/2015/10/18/uganda-end-police-obstruction-gatherings>.

On November 16, 2015 a Delta TV journalist, Isaac Kugonza, was seriously injured and sustained a cracked skull while reporting a police attempt to block Erias Lukwago, Kampala city mayor and opposition politician, from going to the Electoral Commission to protest delays in his nomination process.<sup>39</sup> Doctors did not officially inform Kugonza of what caused the skull fracture but he told Human Rights Watch he saw reference to injuries caused by a rubber bullet in his medical file.<sup>40</sup> Media houses also reported that Kugonza was injured by police rubber bullets.<sup>41</sup> According to Kugonza, police officials came to the hospital and offered to pay his medical bills which were in excess of 1 million Uganda shillings (US\$300 ) but then never did so.<sup>42</sup>

Ultimately police charged Lukwago and another local opposition politician with assault and malicious damage for Kugonza's injuries.<sup>43</sup> The police claimed that it was Lukwago's and other politicians' failure to halt their effort to reach the Electoral Commission that led to Kugonza's injuries. Video footage clearly shows that was Lukwago nowhere near Kugonza at the time he sustained his injury and at least six gunshots are audible on available video footage from the altercation.<sup>44</sup> According to Ugandan media freedom group, Human Rights Network for Journalists, Kugonza is the third journalist to be shot while covering political events in less than two months.<sup>45</sup>

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<sup>39</sup> "Injured journalist: police charge Lukwago with assault," *The Observer*, <http://www.observer.ug/news-headlines/41051-injured-journalist-police-charge-lukwago-with-assault>, November 17, 2015, and "Ugandan journalist severely injured covering peaceful procession", Committee for the Protection of Journalists, November 24, 2015, <https://cpj.org/2015/11/ugandan-journalist-severely-injured-covering-peace.php>, and "Uganda: TV Journalist Shot in the Head By Ugandan Police While Covering Political Event," *Human Rights Network for Journalists*, November 17, 2015, <http://allafrica.com/stories/201511190463.html>, (all accessed December 1, 2015).

<sup>40</sup> Human Rights Watch interview with journalist Issac Kugonza, Kampala, December 15, 2015.

<sup>41</sup> "Injured journalist: police charge Lukwago with assault," *The Observer*, <http://www.observer.ug/news-headlines/41051-injured-journalist-police-charge-lukwago-with-assault>, November 17, 2015, and "Uganda: TV Journalist Shot in the Head By Ugandan Police While Covering Political Event," Human Rights Network for Journalists, November 17, 2015, <http://allafrica.com/stories/201511190463.html>, (accessed December 1, 2015).

<sup>42</sup> Ibid.

<sup>43</sup> "Injured journalist: police charge Lukwago with assault," November 17, 2015, *The Observer*, <http://www.observer.ug/news-headlines/41051-injured-journalist-police-charge-lukwago-with-assault>, (accessed December 1, 2015).

<sup>44</sup> "Lukwago arrested, shots fired, journalist hit," NTV Uganda, November 16, 2015, <https://www.youtube.com/watch?v=1Synvf44Jwg&feature=youtu.be> (accessed November 16, 2015).

<sup>45</sup> According to HRNJ, Matovu Enock, a journalist with NTV, was shot on October 29 2015 in Mityana and Ivan Vincent Mukisa was shot October 15 in Jinja, <http://allafrica.com/stories/201511190463.html> (accessed December 1, 2015).

## Threats and Harassment

Journalists faced threats or warnings about repercussions issued by an array of government bodies including resident district commissioners (RDC), internal security, police, and the UCC.

Journalists frequently stated that RDCs – senior civil servants appointed by and operating on behalf of the president in each of the districts – obstructed their work. One station manager in Soroti said that the RDC intervened if a radio station gave more coverage or airtime to the opposition than to the ruling party, but that if the balance fell the other way, there was no intervention.<sup>46</sup>

Police also took part in harassing journalists. Police in Mbale gathered journalists shortly before a rally by opposition presidential candidate Mbabazi in September and ordered them not to write about him.<sup>47</sup> In Soroti, police called for the firing of a journalist for reporting about the beating to death of a criminal suspect.<sup>48</sup> In Lira they threatened to close a radio station after being asked for comment about a rally planned by NRM Poor Youth<sup>49</sup> and also summoned a radio journalist for questioning after he sought a comment about a police motorcycle allegedly used as transport by the an NRM party official registering voters for the party primaries and threatened his life.<sup>50</sup>

Regional and district internal security officials also intimidated journalists. One regional Internal Security Organisation official (RISO) summoned a managing director of a radio station for airing a political satire radio show about a fictional country and government. The director was asked why she allowed “people to abuse the president.”<sup>51</sup>

Another journalist said that he was called into a district internal security official (DISO) office, shown his own telephone records, indicating he had clearly been under surveillance. He was accused of being on the side of opposition because he was in phone contact with

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<sup>46</sup> Human Rights Watch interview with station manager, Soroti, September 30, 2015.

<sup>47</sup> Human Rights Watch interview with print Journalist, Mbale, September 25, 2015; with radio journalist, Mbale, September 25, 2015; with radio journalist, Mbale, September 25, 2015.

<sup>48</sup> Human Rights Watch interview with talk show host, Soroti, September 30, 2015.

<sup>49</sup> Human Rights Watch interview with radio journalist, Lira, October 21, 2015.

<sup>50</sup> Human Rights Watch interview with radio journalist, Lira, October 21, 2015.

<sup>51</sup> Human Rights Watch interview with former acting station manager, location withheld, October 12, 2015.

someone from Mbabazi's camp. He was also summoned to police once and the DISO and RISO on another occasion for his reporting.<sup>52</sup> "Whenever I am doing my work I have to go slow. I have to be cautious. I have children to keep safe," he said.<sup>53</sup>

The Uganda Communications Commission (UCC) also threatened radio stations with deregistration.<sup>54</sup> For example, the executive director of the UCC visited a radio station in Fort Portal, warning them not to air stories critical of members of the local royal family.<sup>55</sup>

## The High Costs of Hosting Opposition Members

Journalists told Human Rights Watch that in some parts of the country or at some times when political tension is running high, if they allowed members of the opposition access to the airwaves, they risked losing their jobs or closure of their stations. Many stated that once it became known that they were granting a member of the opposition media coverage, inevitably either the RDC, security operatives, or the UCC began calling or visiting.<sup>56</sup> One radio station manager admitted to Human Rights Watch that he warned his staff that journalists would be individually liable for any backlash from government for their programming.<sup>57</sup> One radio station manager said that UCC officials visited his station after the station interviewed opposition presidential candidate Mbabazi, demanding recordings. He told Human Rights Watch that they instructed him not to host Mbabazi again and that any stations that dared to do so would be closed.<sup>58</sup> Two regional print newspaper editors said that if they gave front-page coverage to Mbabazi or Besigye, they would receive a call from either their head office or State House, the president's office.<sup>59</sup>

The decision by two radio stations to suspend their employees for hosting opposition candidate Besigye underscored the well-founded fear journalists have of losing their job. In July 2015, Basoga Baino Radio, based in Jinja and known as Baba FM, was switched off

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<sup>52</sup> Human Rights Watch interview with radio journalist, Hoima, November 10, 2015.

<sup>53</sup> Ibid.

<sup>54</sup> Human Rights Watch interview with radio talk show host, Soroti, September 30, 2015.

<sup>55</sup> Human Rights Watch interview with radio journalist, Fort Portal, October 30, 2015.

<sup>56</sup> Human Rights Watch interview with print journalist, Mbale, September 26, 2015; with talk show host, Soroti, September 30, 2015.

<sup>57</sup> Human Rights Watch interview with news editor, Mbale, September 26, 2015.

<sup>58</sup> Human Rights Watch interview with radio journalist, Mbale, September 26, 2015.

<sup>59</sup> Human Rights Watch interview with regional paper manager, Soroti, September 30, 2015 and telephone interview, Kampala, December 15, 2015.

at the main transmitter while Besigye was a guest on a program.<sup>60</sup> The station is owned by the area's parliamentarian who is from the ruling NRM party. Station managers claimed publicly it was a technical glitch, and the UCC denied involvement. But according to interviews with those at the station and other knowledgeable sources, the station management clearly chose to suspend three journalists from their jobs for over a month as a result of Besigye's appearance.<sup>61</sup>

In another similar example, a radio station in Hoima fired its manager allegedly for hosting Besigye in April 2014.<sup>62</sup> The former manager told Human Rights Watch:

I was pro-people. I was supporting people who wanted to come on air and give their views. Someone wanted to go on air, say opposition? [I would say] Yes. Now it's, "Go away." People in Hoima ... they know there's no radio that can save them to let them air out their views freely. Whoever does it, no one can accept this openly.<sup>63</sup>

The real threat of closure by the government – as had occurred to the Kampala radios in 2009 and 2013 – also discourages radio stations from hosting opposition. The management of Voice of Lango radio denied Besigye access to their station in September 2015. The manager of the station allegedly did not want to face problems with the UCC given past instances of forced closure of other radio stations.<sup>64</sup>

Radio stations charged opposition higher fees for paid programming on their airwaves, either to discourage them from coming or to ensure that payment would be sufficient to mitigate any negative financial consequences.<sup>65</sup> Opposition party representatives confirmed that they were often charged many times more for radio spots than those from the ruling party.<sup>66</sup> One opposition member said that they paid 700,000 Ugandan shillings

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<sup>60</sup> Human Rights Watch interview with radio journalist, Jinja, September 21, 2015; with radio journalist, Jinja, September 21, 2015.

<sup>61</sup> Human Rights Watch interview with radio journalist, Jinja, September 21, 2015; with radio journalist, Jinja, September 21, 2015.

<sup>62</sup> Human Rights Watch interview with former station manager, Kampala, November 13, 2015.

<sup>63</sup> Ibid.

<sup>64</sup> Human Rights Watch interview with radio talk show host, Lira, October 21, 2015; see also background section, "Forced Closure of Media Houses in Recent Years."

<sup>65</sup> Human Rights Watch interview with radio journalist, Hoima, November 6, 2015.

<sup>66</sup> Human Rights Watch interview with station manager, Soroti, September 30, 2015

(\$210) to be allowed to air a spot on a government radio station, while the ruling party often was allowed do so free of charge.<sup>67</sup> One radio journalist told Human Rights Watch that his station charges Besigye 2 million Uganda shillings (\$600) for one hour of airtime.<sup>68</sup>

According to one government-owned regional radio station, opposition members could not even purchase airtime for their sole use, as members of the ruling party can, but instead had to be balanced by including government representatives in discussion. “We’re supposed to host him on radio, but they wanted to buy airtime, and we don’t sell airtime for such discussions. Even if he bought it, we need a balanced panel.... We don’t care how much you’re giving us.”<sup>69</sup>

In contrast, the UCC, as a matter of policy, requires that all radio stations dedicate at least one hour of coverage a week to the government and to cover all national events live, including important speeches by the president.<sup>70</sup> Such airtime must be during a prime time, and be advertised beforehand through prior announcements and jingles.<sup>71</sup> Given the near complete overlap between the ruling party and the government in Uganda, these required government programs are clearly a time spent promoting the ruling party itself.

## Cooptation and Bribery

In order to maintain support, government officials from the ruling party has often rewarded loyalty with financial enrichment and sought to entice support via cash hand-outs, and the same approach applies to the media. As one lawyer told Human Rights Watch, “Corruption is a tool of management in this country. This country runs on a web of patronage.”<sup>72</sup>

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<sup>67</sup> Human Rights Watch interview with opposition politician, Gulu, October 12, 2015.

<sup>68</sup> Human Rights Watch interview with radio journalist, Hoima, November 6, 2015.

<sup>69</sup> Human Rights Watch interview with radio station manager, Soroti, September 30, 2015.

<sup>70</sup> Human Rights Watch interview with Godfrey Mutabazi, Uganda Communications Commission Executive Director, November 12, 2015; Uganda Communications Commission, *Guidelines on the Provision of Free Broadcast Air-Time to Publicize Government Programs*, on file with Human Rights Watch.

<sup>71</sup> Uganda Communications Commission, *Guidelines on the Provision of Free Broadcast Air-Time to Publicize Government Programs*, on file with Human Rights Watch.

<sup>72</sup> Human Rights Watch, Human Rights Watch/ Yale Law School Lowenstein Clinic interview, Kampala, May 19, 2013. For more see Human Rights Watch report, “Letting the Big Fish Swim: Failure to Prosecute High-Level Corruption in Uganda” <https://www.hrw.org/report/2013/10/21/letting-big-fish-swim/failures-prosecute-high-level-corruption-uganda> (accessed December 1, 2015).

Journalists referred to bribes alternately as “motivation,” and “empowerment.”<sup>73</sup> According to some journalists, government officials refer to these types of pay-outs as “transportation,” and “water.”<sup>74</sup> Journalists working outside Kampala, often work without a contract and are often paid little more than 10,000 to 20,000 Ugandan shillings (\$3-6) per story, and are therefore admittedly particularly vulnerable to accepting pay-outs for partisan reporting.<sup>75</sup>

Journalists in Mbale, Gulu, Lira, and Hoima stated that politicians and others, including (Ret.) Lt. General Henry Tumukunde, now an NRM mobilizer, were gathering journalists and paying them sums of 100,000-200,000 Ugandan shillings (\$30 to 60) to give favorable media coverage to the ruling party.<sup>76</sup> One other journalist said that Tumukunde gave half a million Ugandan shillings (\$150) to the area’s journalists to divide among themselves.<sup>77</sup>

One journalist said that he personally received 200,000 Ugandan shillings (\$60) from Tumukunde.<sup>78</sup>

General Tumukunde is in this region to make sure he oppresses all those who are anti-government. He segmented his operation. He knows you support, or you don’t support Museveni. Then he’ll look for a way of getting you. He went ahead and gathered the journalists . . . He said, ‘Don’t write about Mbabazi.’<sup>79</sup>

The co-option of the media by payouts ultimately impacts the public’s access to information and the education of voters on key issues. Ultimately, some journalists fear or reluctance to report information which may be perceived as critical of the government or the ruling party denies listeners the opportunity to receive balanced and factually accurate information to assess their voting choices.

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<sup>73</sup> Human Rights Watch interview with print journalist, Lira, October 21, 2015.

<sup>74</sup> Human Rights Watch interview with radio journalists, Lira, October 21, 2015; with radio journalist, Fort Portal, November 2, 2015.

<sup>75</sup> Human Rights Watch interview with journalists’ association representative, Kampala, October 8, 2015.

<sup>76</sup> Human Rights Watch interviews with print journalist, Mbale, September 25, 2015; with print journalist, Mbale, September 26, 2015.

<sup>77</sup> Human Rights Watch interview with journalist, location withheld, October 12, 2015.

<sup>78</sup> Human Rights Watch interview with radio journalist, Lira, October 21, 2015.

<sup>79</sup> Human Rights Watch interview with print journalist, Mbale, September 26, 2015.

Others recounted stories of politicians paying money in order to stop unfavorable stories from reaching the airwaves.<sup>80</sup> One journalist described a pattern he called “cliqueism,” where the ruling party divides journalists into camps, depending on how favorable or unfavorable their coverage of the president and ruling party has been.<sup>81</sup> Allegedly lists of pro- and anti-government journalists circulated in Northern Uganda, promoting fear and suspicion among the media.<sup>82</sup>

One result of being branded as “anti-government” is that you are not privy to state information or invited to state functions where information about issues may be presented.<sup>83</sup> As one journalist described, “What happens is that a reporter like myself, they say we’re a little critical of government. If there are any activities taking place, and they see a negative publication, they don’t invite us to cover functions.”<sup>84</sup> Another journalist said, “We heard we’re branded Mbabazi’s. So when [the government] are calling for coverage, they omit us.”<sup>85</sup>

Other enticements journalists received from the state included a paid visit to Kyankwanzi<sup>86</sup>, the location of the National Leadership Training Institute of the NRM party to learn about patriotism and self-defense during a two-week course or a visit to Rwakitura, the president’s country home.<sup>87</sup>

## Self-censorship

Radio owners, journalists, and other media experts told Human Rights Watch of significant concerns for how journalists, particularly those working for local radio stations outside Kampala, could impartially report on key political issues as the 2016 presidential and parliamentary elections draw near. One civil society activist explained:

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<sup>80</sup> Human Rights Watch interview with print journalist, Mbale, September 25, 2015.

<sup>81</sup> Human Rights Watch interview with radio journalist, Mbale, September 25, 2015; with print journalist, Mbale, September 26, 2015.

<sup>82</sup> Human Rights Watch interview with station manager, Gulu, October 12, 2015; with news editor, Gulu, October 16, 2015.

<sup>83</sup> Human Rights Watch interview with print journalist, Lira, October 23, 2015.

<sup>84</sup> Human Rights Watch interview print journalist, Mbale, September 26, 2015; with print journalist, Lira, October 23, 2015.

<sup>85</sup> Human Rights Watch interview with print journalist, Mbale, September 26, 2015.

<sup>86</sup> Human Rights Watch interview with radio journalist, Fort Portal, November 2, 2015.

<sup>87</sup> Human Rights Watch interview with print journalist, Hoima, November 4, 2015; with radio journalist, Hoima, November 4; with radio journalists, Hoima, November 5, 2015; with radio journalist, Hoima, November 9, 2015.



What happens here is that now people are in a state of self-censorship. They know things are wrong but people don't want to get into bad terms with government. They just don't want to get into conflict. They are afraid to question these things. There are new laws coming up that make the environment difficult. So many organizations are now focusing on children's rights, domestic violence. They don't want to concentrate on governance and accountability issues.<sup>88</sup>

Some topics that journalists considered off-limits included the First Family,<sup>89</sup> negative commentary about the president,<sup>90</sup> homosexuality,<sup>91</sup> and in Hoima, topics on land evictions and oil.<sup>92</sup> As one journalist said:

The police invited us one time to caution us on the way we should behave. . . . Whenever I'm going to write, I find it's factual[ly accurate] that there are people . . . saying they're tired of government. If we repeat that, that is taken by our government to mean causing violence. To me I've done my job. [The government's approach] restricts our job and the way we do it.<sup>93</sup>

Some journalists said that ruling party officials called for their dismissal following negative coverage.<sup>94</sup> One journalist told Human Rights Watch that in September 2015, after covering a story about one candidate's supporter allegedly bribing NRM delegates, the candidate, who is a current parliamentarian, began calling his station requesting his dismissal.<sup>95</sup> As a result, he stopped reporting on the story.

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<sup>88</sup> Human Rights Watch interview with NGO head, Fort Portal, October 30, 2015.

<sup>89</sup> Human Rights Watch interview with print journalist, Mbale, September 27, 2015.

<sup>90</sup> Human Rights Watch interview with radio journalist, Gulu, October 12, 2015.

<sup>91</sup> Human Rights Watch interview with radio journalist, Gulu, October 12, 2015.

<sup>92</sup> Human Rights Watch interview with radio journalist, Hoima, November 9, 2015.

<sup>93</sup> Human Rights Watch interview with radio journalist, Mbale, September 25, 2015.

<sup>94</sup> Human Rights Watch interview with radio journalist, Mbale, September 25, 2015; with radio journalist, Fort Portal, October 30, 2015.

<sup>95</sup> Human Rights Watch interview with radio journalist, Mbale, September 25, 2015.

## Threats to civil society

Over the last several years, the government has increasingly scrutinized the work of civil society groups. Human Rights Watch has documented how officials at both the national and local level have increasingly deployed an array of tactics to intimidate and obstruct NGOs working on good governance, land rights, and transparency in the oil sector among other subjects.<sup>96</sup> The methods range from closing meetings, reprimanding NGOs for their work, and demanding retractions or apologies, as well as occasional resort to threats, harassment, ad-hoc investigations and heavy-handed bureaucratic interference to impede registration. Throughout 2015, as elections draw near, civil society is continuing to face challenges talking about critical issues, and informing voters about key issues, violating rights to both free expression and association.

### The Non-governmental Organisations Act

For over 15 years, Ugandan civil society leaders have been in dialogue with ministry of internal affairs officials to push for a progressive and enabling environment for civil society.<sup>97</sup> In April 2015, at a time when civil society was increasingly discussing the importance of free and fair elections in 2016 and other key election-related issues, the government published a new and highly controversial Non-governmental Organisations Act in the official gazette.<sup>98</sup> The bill, as presented by the government, granted the government regulator, a new body to be called the National Bureau of Non-Governmental Organisations, sweeping powers to supervise, approve, inspect, and dissolve all nongovernmental organizations and community based organizations, and imposed severe criminal penalties for violations.<sup>99</sup> After persistent advocacy from civil society leaders in Kampala, a largely progressive set of recommendations for changes from the parliamentary committee on

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<sup>96</sup> Human Rights Watch report, “Curtailling Criticism: Intimidation and Obstruction of Civil Society in Uganda,” August 2012, <https://www.hrw.org/sites/default/files/reports/ugandao812ForUpload.pdf>, (accessed December 3, 2015).

<sup>97</sup> Currently, NGOs are regulated under the Nongovernmental Organisations Registration Act (NGO Act), enacted in 1989, and amended in 2006; the NGO Registration Regulations of 2009; and the 2010 National NGO Policy. The NGO Policy, though generally positive, contains some contradictions and has never been fully launched by the Office of the Prime Minister, so it has not been properly endorsed by government or implemented in practice.

<sup>98</sup> This is a legislative act that indicates that the bill is ready for first reading and parliamentary debate.

<sup>99</sup> Human Rights Watch news release, “Uganda: Bill Threatens Rights, Independent Groups”, April 20, 2015, <https://www.hrw.org/news/2015/04/20/uganda-bill-threatens-rights-independent-groups> (accessed December 3<sup>rd</sup> 2015).

defence and internal affairs, and concerns raised by Uganda’s development partners, a significantly improved bill was passed by parliament on November 27.<sup>100</sup>

The improved act nevertheless still contains serious threats to civil society because, as passed, it maintains new, vague and undefined criminal offences for legitimate civil society work. Specifically, the act lays out “special obligations” for organizations, including a requirement that groups should “not engage in any act, which is prejudicial to the interests of Uganda and the dignity of the people of Uganda” without any definition of what conduct may constitute such a crime or who defines the “interests” or the “dignity” of the people.<sup>101</sup> Another provision criminalizes any activities by organizations which have not been issued a permit by the government’s regulatory agency. This appears to be an effort to prevent the ability of groups to work in unregistered coalitions, by creating a credible fear of criminal sanctions.<sup>102</sup> The bill permits criminal sentences of up to three years for any violations of the law.

It is not yet clear if President Museveni will sign the bill into law before the 2016 elections. Some civil society activists told Human Rights Watch that the rush to debate and pass what was a heavily restrictive bill in the lead-up to the campaigns already succeeding in limiting civil society criticism of government, particularly critical governance issues, and prompted self-censorship and fear even before becoming law.<sup>103</sup>

## Ad-hoc Investigations and Obstructing Work of Coalitions

To some extent, the Non-governmental Organisations Act appears to be an effort to codify into law some of the government’s ad-hoc attempts to curtail civil society activism over recent years.

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<sup>100</sup> Human Rights Watch news release, “Uganda: Reject Vague Crimes in Proposed Law”, December 13, 2015, <https://www.hrw.org/news/2015/12/13/uganda-reject-vague-crimes-proposed-law>; “Parliament Passes Controversial NGO Bill on Eve of Pope’s Arrival,” *Daily Monitor*, November 27, 2015, <http://www.monitor.co.ug/News/National/Parliament-passes-controversial-NGO-bill/-/688334/2974692/-/3bwnalz/-/index.html> (all accessed December 1, 2015). In terms of positive changes, for example, the powers of the government regulatory body were more limited.

<sup>101</sup> Non-governmental Organisations act (2015) Clause 44.

<sup>102</sup> The government’s NGO Board has previously told one registered non-governmental group it must “stop being a member of unregistered loose coalitions.” Letter from NGO Board to ACODE, June 14, 2012, on file with Human Rights Watch. The current NGO law is silent on the legal status of coalitions.

<sup>103</sup> Human Rights Watch phone interview with three members of civil society, December 7 and 8, 2015, via telephone.

For example, on July 3, 2015, the minister of internal affairs wrote a formal complaint to the NGO Board, calling for an investigation into the work of the Great Lakes Institute for Strategic Studies (GLISS)<sup>104</sup> The minister argued that GLISS was “involved in de-campaigning government programs and actively recruiting youths to join political opposition parties contrary to the objects for which it was registered.”<sup>105</sup> On July 24, the NGO Board ordered Uganda Registration Services Bureau (URSB) to investigate GLISS’ activities “as per the complaint” and consider taking action “including dissolution.”<sup>106</sup>

In August, the URSB issued their findings in a 16-page report. According to the report, the investigators met with officials from the ministry of internal affairs, the Internal Security Organisation (ISO), the Crime Intelligence Unit of police, GLISS officers, as well as former places of employment of GLISS management and hotels where GLISS had conducted activities.<sup>107</sup> The report authors note that one GLISS director, Godber Tumushabe is “pro opposition”... that he is a “supporter of other Civil Society Organization (sic) who are critics of Government” and that is a member of the Free and Fair Election campaign “that is known to be pro-opposition.”<sup>108</sup> Further, the report notes that the NGO Board had previously warned Tumushabe in 2012 “to stop being involved in negative activities or else [his previous organization] would be de-registered.”<sup>109</sup> The government’s NGO Board had also warned him at the time that he should “stop being a member of unregistered loose coalitions.”<sup>110</sup>

The report fails to present any evidence of violation of the law, or to establish any wrongdoing by GLISS or its employees. In conclusion, the report states that Tumushabe has been actively “involved in political activities which are conducted for unlawful

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<sup>104</sup> Letter from Minister Aronda to NGO Board, July 3, 2015, on file with Human Rights Watch. See also <http://chapterfouruganda.com/articles/2015/07/10/uganda-minister-orders-investigations-dissolution-great-lakes-institute>. See also, <http://gliss.org/>.

<sup>105</sup> Ibid.

<sup>106</sup> See more at: <http://chapterfouruganda.com/articles/2015/07/10/uganda-minister-orders-investigations-dissolution-great-lakes-institute#sthash.ZWtMYTl4.dpuf> Because GLISS is registered as a company limited by guarantee, the NGO board appears not to have had any legal authority to conduct an investigation and turned to URSB, which under section 174 of the Companies Act, can appoint investigators to investigate any company affairs. See The Companies Act, 2012.

<sup>107</sup> Interim investigation report on the alleged unlawful activities by the Great Lakes Institute for Strategic Studies (GLISS), Uganda Registration Services Bureau, August 2015, on file with Human Rights Watch.

<sup>108</sup> Ibid, p. 10.

<sup>109</sup> Ibid. p 14.

<sup>110</sup> Letter from NGO Board to ACODE, June 14, 2012, on file with Human Rights Watch. The current NGO law is silent on the legal status of coalitions.

purposes” and recommends that they continue to monitor all registered companies, with the involvement of the police and the Internal Security Organisation and that GLISS management meet with various officials to hear more from them. It is unclear what, if any, next steps may occur in this process, at the time of writing. Technically, the investigation remains open and could continue. Several civil society activists pointed out that these wide-ranging, non-specific and potentially never-ending investigations ultimately prompt fear and self-censorship, especially among less well-funded groups who may lack funds to hire lawyers to defend themselves and fear losing staff time attempting to comply with endless bureaucratic interference.<sup>111</sup>

In another example of recent government efforts to limit free expression, on November 26, 2015, the Electoral Commission wrote to the Citizens Coalition for Electoral Democracy Uganda (CCEDU), a coalition of Ugandan civil society groups, to inform them that their program *Topowa, Honor Your Vote* was “biased, contrary to law” and violated the terms of their memorandum of understanding.<sup>112</sup> The Electoral Commission called on CCEDU “to immediately stop airing the Topowa voter education campaign on television and some radio programs until further clarification from the Electoral Commission.”<sup>113</sup> The Electoral Commission also wrote to some media houses and told them to stop airing *Topowa* and threatened to remove CCEDU’s accreditation as a group officially monitoring the 2016 election.<sup>114</sup> The electoral commission chairman and the spokesman accused the *Topowa* campaign of being partisan and pushing for “change.”<sup>115</sup> As the CCEDU coordinator pointed out in the media, the letter did not specify which part of the campaign’s messaging was partisan. Ultimately, the campaign was permitted to continue once CCEDU agreed that a

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<sup>111</sup> Human Rights Watch phone interview with activists in Kampala, December 7, 2015.

<sup>112</sup> Letter dated November 26, 2015 from Secretary of the Electoral Commission Sam Rwakoojo to Chairman CCEDU, on file with Human Rights Watch. According to their website, CCEDU is “a Civil society coalition that advocates for and promotes integrity, transparency and active citizen participation in Uganda’s electoral process, is currently running a voter mobilisation campaign to encourage, motivate and inspire Ugandans to peacefully, actively and responsibly participate in the forthcoming elections.” <http://www.ccedu.org.ug/news-events/latest-news/334-on-topowa-update-on-recent-engagement-with-ec.html> (accessed December 10, 2015). *Topowa* is a Luganda word, meaning “Don’t give up.”

<sup>113</sup> Letter dated November 26, 2015 from Secretary of the Electoral Commission Sam Rwokoojo to Chairman CCEDU, on file with Human Rights Watch.

<sup>114</sup> Flavia Nassaka, “Uganda: EC bans ‘Topowa’ Campaign”, *The Independent (Kampala)*, December 7, 2015, <http://allafrica.com/stories/201512080937.html>; Albert Tumwine, “EC warns CCEDU on Topowa Campaign”, *Daily Monitor*, November 27, 2015, <http://www.monitor.co.ug/SpecialReports/Elections/EC-warns-CCEDU-on-Topowa-campaign/-/859108/2973856/-/db68wu/-/index.html> (all accessed December 8, 2015).

<sup>115</sup> “Uganda: EC Bans Topowa Election Adverts”, *The Observer (Kampala)*, November 28, 2015, <http://allafrica.com/stories/201511300421.html> and HRNK Uganda, “Uganda’s Elections Body Bans Civil Society Campaign Messages”, December 2, 2015, <http://allafrica.com/stories/201512031688.html> (all accessed December 10, 2015).

selected committee from the Electoral Commission and CCEDU would meet to “carefully review all *Торова* messaging moving forward.”<sup>116</sup>

## Arrests, Surveillance, Harassment

Human Rights Watch spoke to 20 activists working in civil society throughout Uganda who said that they had been arrested or threatened for taking part in activities which criticized governance or failures of the government since 2014. For example, one man working for a group pushing for compensation for war victims in Soroti said that he was once arrested for leading a procession to deliver a statement about human rights to a religious leader in 2014. He was eventually released without charge.<sup>117</sup>

One NGO worker was arrested for speaking about the problem of “crime preventers”<sup>118</sup> – hundreds of thousands of untrained and unpaid people recruited in every village allegedly to assist the police in preventing crimes in the run-up to the elections but widely viewed as loyal to the ruling party – on a radio station in Fort Portal in October 2015 and questioning their political neutrality. He was released on police bond, which cited a charge of defamation.<sup>119</sup> He said that he had been arrested on two other occasions, in May 2015 and August 2014, for speaking out against governance problems in Uganda.

Members of civil society working outside Kampala – where there is significantly less scrutiny and independent monitoring of state action – also reported recent instances of harassment by the state, including death threats, threats of lawsuits, visits by police, and threats of closure by the resident district commissioner. A worker at an anti-corruption organization in Fort Portal said that he received phone calls he suspected to be from state agents saying, “We can finish you off.”<sup>120</sup> He reported the threats to police and named the people he believes were threatening him. After doing so, the calls stopped. The local

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<sup>116</sup> <http://www.ccedu.org.ug/news-events/latest-news/334-on-topowa-update-on-recent-engagement-with-ec.html>

<sup>117</sup> Human Rights Watch interview with print journalist, Soroti, October 1, 2015. Human Rights Watch interview with NGO worker, Soroti, October 2, 2015.

<sup>118</sup> For more on crime preventers, see HURINET, Security Agencies and the Electoral Process in Uganda: A Preliminary Report for the 2015/2016 General Elections, December 2015.

<sup>119</sup> Human Rights Watch interview with NGO worker, Fort Portal, November 3, 2015. Copy of police bond on file with Human Rights Watch.

<sup>120</sup> Human Rights Watch interview with NGO worker, Fort Portal, November 2, 2015.

chairman of the district called the same organization multiple times and threatened to sue for defamation for reporting about corruption matters at the district level.<sup>121</sup>

### *Groups working on oil sector governance and natural resources*

Organizations carrying out research, advocacy, and citizen education on environmental issues, particularly land rights and advocacy around transparency in the oil sector have faced particular obstructions to their work. Conflict over land, particularly in areas where there is oil or where government and private companies intend to carry out large scale investment projects, remains acute. NGOs seeking to educate the public about the value of their land, community processes, and compensation rights – all seen as particularly sensitive issues for the president and the ruling party – face a variety of problems from government officials, including threats of deregistration, accusations of sabotaging government programs, and arrest.

Government officials in oil region voice considerable skepticism of the utility and role of non-governmental organizations. As the deputy resident district commissioner of Hoima told Human Rights Watch, “I am . . . so very wary of Western sentiments by non-governmental organizations that are geared to infiltrate our communities.”<sup>122</sup>

Employees from two separate organizations working on oil and governance in Hoima district said that police in plainclothes came and questioned them about their sources of funds in July and October 2014.<sup>123</sup> Months later, during a meeting in Hoima of groups working to encourage transparency in Uganda’s oil sector, one of the police officers reportedly informed then minister of internal affairs Aronda Nyakairima that one of the organizations was “misleading government” and “causing people to rebel against government.”<sup>124</sup>

Another NGO worker from the oil areas of western Uganda said that he had reason to believe that they are under surveillance. “Civil society organizations working on oil, governance, I believe we’re being monitored in ways we don’t know,” he said.<sup>125</sup> In another

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<sup>121</sup> Human Rights Watch interview with NGO worker, Fort Portal, November 2, 2015.

<sup>122</sup> Human Rights Watch interview with Ambrose Tumwesigye, Hoima deputy RDC, Hoima, November 11, 2015.

<sup>123</sup> Human Rights Watch interview with NGO workers, Hoima, November 6, 2015.

<sup>124</sup> Ibid.

<sup>125</sup> Human Rights Watch interview with NGO worker, Hoima, November 6, 2015.

instance, during a radio talk show in Hoima, a resident district commissioner threatened to shut down an oil and governance organization and arrest its head for speaking about unlawful land evictions on-air in December 2014.<sup>126</sup>

Groups in the oil areas around Hoima continue to face challenges in both accessing the oil areas and in carrying out activities aimed at educating the population about their rights.<sup>127</sup> Groups require the permission of the resident district commissioner as well as the ministry of energy to hold any public meetings in the area, in addition to the Inspector General of Police, as required by the Public Order Management Act. These multiple approvals require them to seek permission months in advance of meetings.

For example, in February 2015, a civil society meeting in Hoima was broken up by the RDC just as it began. It was a consultative meeting on oil, organized by two NGOs.<sup>128</sup> One of the organizers told Human Rights Watch:

We also had organized a regional workshop where we had invited all leaders from the five districts, including our own parliamentarians, chief administrative officers, district internal security officers, district police commanders, everyone, some people from the ministries of land and energy. We were shocked to see this RDC ... stopping the meeting just on the eve of the meeting. It was supposed to start in the morning. He called me at six in the evening summoning me to his office. He gave me a letter stopping the meeting. The meeting was to do with land and oil.<sup>129</sup>

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<sup>126</sup> Human Rights Watch interview with NGO head, Hoima, November 10, 2015.

<sup>127</sup> Human Rights Watch interview with NGO head, Hoima, November 6, 2015; with NGO worker, Hoima, November 6, 2015; with NGO worker, Hoima, November 6, 2015; with NGO head, Hoima, November 6, 2015; with NGO worker, November 6, 2015.

<sup>128</sup> Human Rights Watch interview with NGO head, Hoima, November 6, 2015.

<sup>129</sup> Human Rights Watch interview with NGO head, Hoima, November 6, 2015.



## Targeted efforts to Silence Freedom of Expression

In addition to general efforts to close down the space for critical public reporting and debate on issues of public interest, the government has made specific efforts to silence specific individuals for voicing critical views of the government as the 2016 elections draw near. Below are two recent examples of such targeted efforts.

### Case of Robert Shaka

On June 8, 2015, a group of police officers from the Special Investigation Unit (SIU) arrested Robert Shaka, an information and security analyst with United States Agency for International Development (USAID) in Kampala as he left his home outside Kampala.<sup>130</sup> He was taken to the SIU headquarters in Kireka, in Kampala, and charged with various offenses. According to his lawyers, police informed Shaka that while,

[using] computers and other electronic devices, he issued offensive communications against the sovereign state of Uganda, bringing it into hatred and contempt and accordingly committing the offence of promotion of sectarianism contrary to Section 41 of the Penal Code Act.<sup>131</sup>

[And that] . . . he issued offensive communication against President Yoweri Museveni, [the first lady] Janet Museveni, Kale Kayihura, . . . thereby committing the offence of offensive communication contrary to Section 25 of the Computer Misuse Act.<sup>132</sup>

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<sup>130</sup> Chapter Four Uganda, “UPDATED: Further Statement on the Status of Mr. Robert Shaka,” June 12, 2015, <http://chapterfouruganda.com/articles/2015/06/10/updated-further-statement-status-mr-robert-shaka> (accessed on December 9, 2015).

<sup>131</sup> Sec. 41(1) A person who prints, publishes, makes or utters any statement or does any act which is likely to— degrade, revile or expose to hatred or contempt; create alienation or despondency of; raise discontent or disaffection among; or promote, in any other way, feelings of ill will or hostility among or against, any group or body of persons on account of religion, tribe or ethnic or regional origin commits an offence and is liable on conviction to imprisonment for a term not exceeding five years.

<sup>132</sup> UPDATED: Further Statement on the Status of Mr. Robert Shaka, *Supra* note 112. Section 25 of the Computer Misuse Act 2011 provides that “[any] person who willfully and repeatedly uses electronic communication to disturb or attempts to disturb the peace, quiet or right of privacy of any person with no purpose of legitimate communication whether or not a conversation ensues commits a misdemeanor and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding one year or both.”

A few weeks before his arrest, Shaka had spoken to the media and said that he was facing “persistent harassment at . . . the hands of security personnel on allegations that he was the social media personality who goes by the names ‘Tom Voltaire Okwalinga (TVO).’”<sup>133</sup> TVO — believed to be a pseudonym — is a popular Ugandan Facebook account that consistently posted criticism of the president and the ruling party.<sup>134</sup>

The police allege that between 2011 and 2015, Shaka disguised himself as TVO on Facebook and “. . . disturbed the right of privacy of President Museveni by posting statements as regards to his health condition. . . .”<sup>135</sup> Several media houses pointed out that while Shaka was in police detention, and “without access to any form of electronic gadgetry, the said TVO [continued] to operate his/her social media account embarrassingly exposing the baselessness of the police accusations and premise for his arrest.”<sup>136</sup>

On June 11, 2015, Shaka was brought before a court which ordered his unconditional release.<sup>137</sup> In defiance of that court order, the police brought him to another court and charged him with the offence of “offensive communication” under section 25 of the Computer Misuse Act.<sup>138</sup> Charges against Shaka are still pending before that court, his case having been adjourned twice already at the time of writing.<sup>139</sup> He is scheduled to appear next in January 2016. Shaka’s lawyers have publicly stated that “[Shaka’s] unceremonious arrest and detention represents an affront to the freedom of expression for all Ugandans especially those using new media platforms to express their views and opinions.”<sup>140</sup>

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<sup>133</sup> Further Statement on the Status of Mr. Robert Shaka. Douglas Mpuga, “Social Media Critic Arrested in Uganda,” *Voice of America*, July 13, 2015, <http://www.voanews.com/content/social-media-critic-arrested-in-uganda-/2820626.html>, (accessed December 1, 2015).

<sup>134</sup> See Ugandan Facebook account, <https://www.facebook.com/tom.okwalinga?fref=ts>.

<sup>135</sup> “UPDATED: Further Statement on the Status of Mr. Robert Shaka.”

<sup>136</sup> *Ibid.*

<sup>137</sup> “UPDATED: Further Statement on the Status of Mr. Robert Shaka.”

<sup>138</sup> *Ibid.*

<sup>139</sup> Veronica Kayaga, ‘Case against Robert Shaka aka TVO adjourned’ Radio One, June 30, 2015, <http://radioonefmgo.com/case-against-robert-shaka-aka-tvo-adjourned/> accessed on December 9, 2015.)

<sup>140</sup> Douglas Mpuga, “Social Media Critic Arrested in Uganda,” *Voice of America*, July 13, 2015, <http://www.voanews.com/content/social-media-critic-arrested-in-uganda-/2820626.html>, (accessed December 1, 2015).

## Case of Tamale Mirundi

On December 1, 2015, the UCC issued a written warning to a number of media houses who continued to host of Tamale Mirundi as a guest on their programming.<sup>141</sup> Mirundi spent 13 years as press secretary to President Museveni but was relieved of his duties in July 2015 after allegations surfaced that he had insulted the president and some other members of the First Family.<sup>142</sup>

The warning, signed by UCC executive director Godfrey Mutabazi, indicated that UCC investigations found Mirundi's language on-air to be "profane and abusive" and in violation of Ugandan law.<sup>143</sup> Without any reference to any specific program or wording used by Mirundi, Mutabazi wrote that "the language used doesn't deserve to be on the airwaves, and the commission therefore directs you to stop broadcasting such programs with immediate effect."<sup>144</sup> The warning further cautioned the media houses that "repeated breach" or violation of the law will result in the canceling or revoking of media house licenses.<sup>145</sup>

As the editorial board of the *Daily Monitor* has pointed out, it is not clear to whom Mirundi or the programs seeking to host him can appeal now. The UCC issued ad-hoc orders with no specific evidence of wrongdoing and no court order, meaning that there is no clear remedy for anyone. This type of blanket banning of someone's ability to appear on media programs violates guarantees of freedom of expression and rights of due process.

Mirundi, the *Monitor* editorial board noted, is an "admittedly and unapologetic rabble-rouser" and "very annoying." But, the board further cautioned:

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<sup>141</sup> Letter from UCC to ABS TC, dated November 30, 2015, on file with Human Rights Watch. "UCC moves to stop Tamale Mirundi's 'abusive remarks'", December 1, 2015, <http://www.newvision.co.ug/news/676351-ucc-moves-to-stop-tamale-mirundi-s-abusive-remarks.html> (accessed December 8, 2015).

<sup>142</sup> Ivan Okuda, "Story behind Tamale Mirundi's Sacking", *Daily Monitor*, July 27, 2015, <http://www.monitor.co.ug/News/National/Story-behind-Tamale-Mirundi-s-sacking/-/688334/2810636/-/5tdvmo/-/index.html> (accessed on December 07, 2015).

<sup>143</sup> The letter states that Mirundi had breached section 29(a) and section 31 of the Uganda Communications Act 2013. The Uganda Communications Act, 2013, <http://www.ucc.co.ug/files/downloads/ucc%20act%202013.pdf> (accessed on December 7, 2015).

<sup>144</sup> Letter from UCC to ABS TC, November 30, 2015, on file with Human Rights Watch.

<sup>145</sup> *Ibid.*

[T]he larger danger may already be at play in our midst. There are persons in power, acting directly or through State institutions, who have taken unilateral measures, which violate Ugandans' constitutional rights to freedom of speech under the questionable guise of stopping what they presume to be disparaging commentary. There are Ugandans who have been illegally stopped from appearing on air just because of their views about how the NRM leadership exercises the power entrusted upon them by citizens. It is for this reason that there is cause for trepidation.<sup>146</sup>

As one journalist told Human Rights Watch, "If Mirundi can be banned from the air this way, then we are all vulnerable to being silenced by the state. Anyone can be next."<sup>147</sup>

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<sup>146</sup> "Shutting up Mirundi creates new danger," *Daily Monitor*, December 3, 2015, <http://www.monitor.co.ug/OpEd/Editorial/Shutting-up-Mirundi-creates-new-danger/-/689360/2981714/-/45dvx3/-/index.html> (accessed December 3, 2015).

<sup>147</sup> Human Rights Watch telephone interview with journalist, Kampala, December 9, 2015.

# Applicable International and National Law

## Uganda's International Obligations

Uganda is obligated to respect the right to freedom of expression of all persons under international law and Uganda's constitution.

Multiple international human rights legal provisions protect freedoms of expression, speech and assembly. For example, Uganda is a party the International Covenant on Civil and Political Rights (ICCPR),<sup>148</sup> which under article 19 imposes legal obligations on states to protect freedom of expression and information:

Everyone shall have the right to hold opinions without interference;  
Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.<sup>149</sup>

Similarly, the ICCPR also permits governments to impose certain limitations on freedom of expression, if such restriction is provided by law and is necessary: (a) for respect of the rights or reputations of others; (b) for the protection of national security or of public order, or of public health or morals.<sup>150</sup>

The UN Human Rights Committee, which monitors state compliance with the ICCPR, has stated that while governments can restrict freedom of expression where provided for by law, "it must still be determined whether the measures taken against the author [of any statements are] necessary for the safeguard of national security and/or public order. . . The legitimate objective of safeguarding and indeed strengthening national unity under

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<sup>148</sup> International Covenant on Civil and Political Rights (ICCPR), adopted Dec 16, 1966 G.A Res 2200A(XXI), 21 U.N. GAOR sup. (No.16) at 52, U.N.Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, acceded to by Uganda June 21, 2005, art. 19.

<sup>149</sup> Ibid., art.19.

<sup>150</sup> Ibid., art.19 (3).

difficult political circumstances cannot be achieved by attempting to muzzle advocacy of multi-party democracy, democratic tenets and human rights.”<sup>151</sup>

Uganda is also a party to the African Charter on Human and Peoples’ Rights (ACHPR),<sup>152</sup> which, in article 9, states that “every individual shall have the right to receive information”<sup>153</sup> and “every individual shall have the right to express and disseminate his opinions within the law.”<sup>154</sup> The African Commission on Human and Peoples’ Rights reaffirmed that “the fundamental importance of freedom of expression as an individual human right, as a cornerstone of democracy and as a means of ensuring respect for all human rights and freedoms.”<sup>155</sup> The African Commission has also held that governments should not enact provisions which limit freedom of expression “in a manner that override constitutional provisions or undermine fundamental rights guaranteed by the [Charter] and other international human rights documents.”<sup>156</sup>

The African Court on Human and Peoples’ Rights, in a case where the victim was sentenced to 12 months imprisonment for three articles he published about alleged corrupt practices by the Prosecutor of Faso in Burkina Faso, the Court ruled that “the Respondent State violated Article 9 of the African Charter on Human and Peoples’ Rights; Article 19 of the International Covenant on Civil and Political Rights and Article 66(2)(c) of the Revised Economic Community of West African States (ECOWAS) Treaty.”<sup>157</sup>

The Ugandan Supreme Court has held that in case of restricting or limiting the enjoyment of a protected right,

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<sup>151</sup> *Womah Mukong v. Cameroon*, Communication No. 458/1991, U.N.Doc. CCPR/C/51/D/458/1991 (1994), para. 9.7.

<sup>152</sup> African [Banjul] Charter on Human and Peoples’ Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev.5, 21 I.L.M.58 (1982), entered into force October 21 1986, ratified by Uganda May 10, 1986.

<sup>153</sup> Banjul Charter, art.9.

<sup>154</sup> *Ibid.*, art.9 (2).

<sup>155</sup> Declaration of Principles on Freedom of Expression in Africa, African Commission on Human and Peoples’ Rights, 32nd Session, 17 - 23 October, 2002: Banjul, The Gambia, <https://www1.umn.edu/humanrts/achpr/expressionfreedomdec.html>. (accessed December 02, 2015)

<sup>156</sup> *Constitutional Rights Project and Civil Liberties Organization v. Nigeria*, African Commission on Human and Peoples’ Rights, Comm. No. 102/93, (1998), para. 57-58, <http://www1.umn.edu/humanrts/africa/comcases/102-93.html>. (accessed December 02, 2015)

<sup>157</sup> *Lohé Issa Konaté v. Burkna Faso*, African Court on Human and Peoples’ Rights, Application No 004/2013, (2014), <http://www.african-court.org/en/images/documents/Judgment/Konate%20Judgment%20Engl.pdf>. (Accessed on December 02, 2015).

The yardstick is that the limitation must be acceptable and demonstrably justifiable in a free and democratic society. The limitation on the enjoyment of a protected right in defence of public interest is in turn limited to the measure of that yardstick. In other words, such limitation, however otherwise rationalized, is not valid unless its restriction on a protected right is acceptable and demonstrably justifiable in a free and democratic society.

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Various international human rights bodies and courts around the world have noted that protection of freedom of expression must include pluralism, tolerance and broadmindedness from public officials regarding open criticism.<sup>159</sup> As the African Commission stated, “It should be assumed that criticism of the government does not constitute an attack on the personal reputation of the head of state. People who assume highly visible public roles must necessarily face a higher degree of criticism than private citizens; otherwise public debate may be stifled altogether.”<sup>160</sup>

Article 29 of the Constitution of the Republic of Uganda 1995 guarantees protection of the individual right of freedom of speech, expression and assembly, which includes freedom of the press and other media.<sup>161</sup> Article 43 of the constitution states that limitations on human rights must be acceptable and demonstrably justifiable in a free and democratic society.<sup>162</sup> In the Supreme Court decision in *Andrew Mwenda & Charles Obbo vs. Attorney General*, Mulenga JSC, in his lead judgment, ruled 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. Subject to the limitation under article 43, a person's

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<sup>158</sup> Charles Onyango Obbo & Andrew Mujuni Mwenda v. Attorney General, Supreme Court of Uganda, Constitutional Appeal No.2 of 2002, pg. 13.

<sup>159</sup> European Court of Human Rights, *Lingens v Austria*, judgment of July 8, 1986, application No. 9815/82, [http://www.oas.org/en/iachr/expression/docs/jurisprudence/european/CASE\\_OF\\_LINGENS\\_v.\\_AUSTRIA.doc](http://www.oas.org/en/iachr/expression/docs/jurisprudence/european/CASE_OF_LINGENS_v._AUSTRIA.doc). (accessed December 02, 2015)

<sup>160</sup> *Media Rights Agenda & others v, Nigeria*, African Commission on Human and Peoples' Rights, Comm. Nos. 105/93, 128/94, 130/94 and 152/96 (1998). [http://www1.umn.edu/humanrts/africa/comcases/105-93\\_128-94\\_130-94\\_152-96.html](http://www1.umn.edu/humanrts/africa/comcases/105-93_128-94_130-94_152-96.html). (accessed on December 02, 2015)

<sup>161</sup> Constitution of Uganda, 1995, art. 29.

<sup>162</sup> *Ibid.*, art.43.

expression or statement is not precluded from the constitutional protection simply because it is thought by another or others to be false, erroneous, controversial or unpleasant. Everyone is free to express his or her views. Indeed, the protection is most relevant and required when a person's views are opposed or objected to by society or any part thereof, as 'false' or 'wrong'.<sup>163</sup>

However, several criminal laws in Uganda claw back the scope of those constitutional protections to an extent that undermines the very core of the right and is incompatible with international law. Uganda's Penal Code Act criminalizes certain conduct by journalists, such as promoting sectarianism,<sup>164</sup> incitement to violence,<sup>165</sup> and libel.<sup>166</sup> Criminal charges against journalists and media houses in Uganda are most often brought on these grounds.<sup>167</sup>

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<sup>163</sup> Charles Onyango Obbo & Andrew Mujuni Mwenda v. Attorney General, Supreme Court of Uganda, Constitutional Appeal No.2 of 2002, pg. 10.

<sup>164</sup> Penal Code Act, 1950, Sec.41.

<sup>165</sup> Ibid., Sec.51.

<sup>166</sup> Ibid., Sec.179.

<sup>167</sup> Other laws, such as the Public Order Management Act 2010, the Non-Government Organizations Act, and Interception of Communications Act 2012 also threaten fundamental freedoms to speech, expression and assembly and are currently being challenged before the Constitutional Court.



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# “Keep the People Uninformed”

## Pre-election Threats to Free Expression and Association in Uganda

As Uganda nears presidential and parliamentary elections in mid-February 2016, freedoms of expression and association are increasingly in peril. Government and ruling party officials’ intimidation and threats to the media and civil society limits access to information for voters and has a chilling effect on the ability of Ugandans to critique the president and the government’s policies or freely debate critical issues, such as governance and corruption.

*“Keep the People Uninformed”*: *Pre-election Threats to Free Expression and Association in Uganda* documents harassment and intimidation by government and ruling party officials against the media and civil society, particularly outside the capital, Kampala. The police, district officials, internal security officials, and the country’s broadcasting regulator visited and called stations to silence critical or independent voices. Journalists have been suspended and radio stations threatened with closure for hosting opposition members as guests. Likewise, state agents visited nongovernmental organizations working on governance, human rights, and oil sector transparency, threatened them with deregistration and closure, and in some cases, physically assaulted and arrested NGO activists. A pending law threatens to create broad and vaguely worded crimes for legitimate civil society work.

The government and all other relevant authorities should respect and protect the freedoms of expression and association and cease intimidating and harassing journalists and civil society members. The government of Uganda should respect and uphold its obligations under international human rights law and Uganda’s own constitution to protect freedom of speech and voters’ right to receive and obtain information at this critical time. Unless remedied, violations of these basic rights will impede Uganda’s ability to hold free and fair elections.



*Employees of Uganda’s Daily Monitor newspaper, outside paper’s offices in the capital Kampala on May 20, 2013, with their mouths taped shut in protest against the government’s forced closure of their premises by the Uganda government. Police raided Monitor’s offices and disabled its printing press after it published a letter about a purported plot to stifle allegations that Uganda President Yoweri Museveni is grooming his son for power, a senior editor said.*

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