



UGANDA

CAPITAL: Kampala
POPULATION: 30.7 million
GNI PER CAPITA (PPP): \$1,140

| SCORES | 2006 | 2010 |
|----------------------------------|------|------|
| ACCOUNTABILITY AND PUBLIC VOICE: | 3.95 | 3.50 |
| CIVIL LIBERTIES: | 3.68 | 3.77 |
| RULE OF LAW: | 3.66 | 3.40 |
| ANTICORRUPTION AND TRANSPARENCY: | 3.75 | 3.58 |

(scores are based on a scale of 0 to 7, with 0 representing weakest and 7 representing strongest performance)

Nelson Kasfir¹

INTRODUCTION

Despite much political and economic progress over the last two decades, the increasingly personal and patronage-based rule of President Yoweri Museveni remains the most significant obstacle to the expansion of democracy and rule of law in Uganda. Uganda's significant ethnic, regional, and religious divisions have also complicated efforts to protect basic freedoms and prevent corruption. Civilian and military figures from the north, the country's poorest and least populous region, had controlled the government from independence in 1962 until Museveni and his National Resistance Army (NRA) seized power in 1986. Officials in Buganda, formally the Central Region, have always resisted control by the national government to protect their region's educational and economic advantages.

Museveni initially promised "fundamental change,"² and during his first years in office the government gradually improved security, facilitated the adoption of a more democratic constitution in 1995, and oversaw increased if uneven economic growth. The parliament established by the new constitution actively checked the executive, modified government bills, and audited expenditures. Unusual for African governments, it even forced ministers out of Museveni's cabinet. Civil society activists testified frequently before parliamentary committees, often influencing pending legislation. And the government generally tolerated incisive, sometimes intemperate criticism from the media.

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But less democratic tendencies also became apparent soon after the NRA takeover. Museveni used his popularity to entrench a “no-party” political system in the constitution, protecting him and his inner circle from organized competition. He frequently invoked the role of the army in protecting his government, sometimes warning during election campaigns that it would not accept his defeat. He also demanded that the new constitution include 10 military officers as representatives in Parliament. As his popularity began to decline after 1995, Museveni relied more on patronage to maintain his political coalition, giving his key allies leeway to pursue illegal schemes of self-enrichment. Consequently, the growth of both democracy and the rule of law faltered.

Museveni ruled the country for 10 years before participating in a presidential election, although there were tightly restricted parliamentary elections in 1989 and a more open election for a constituent assembly to draft the constitution in 1994. In the 1996 presidential and parliamentary elections, from which political parties were banned, Museveni won 72 percent of the presidential vote. He secured new five-year terms in the 2001 and 2006 elections, but with declining margins of victory.

Progress on democracy, civil liberties, and government accountability stalled between December 2005 and March 2009, largely, and paradoxically, because Museveni orchestrated the return of multiparty elections as part of a scheme to extend his rule and increase his political dominance. Instead of retiring after his second and final term in the “no-party” political system, he arranged two constitutional changes in 2005: the removal of presidential term limits and the restoration of parties. This paved the way for his reelection and a two-thirds parliamentary majority for his “new” party, the National Resistance Movement (NRM), in 2006.

During the next three years, Museveni’s overriding personal role in policy making remained unchallenged. Members of civil society and Parliament continued to fight for alternatives, but their effectiveness declined. The media regularly exposed instances of corruption, and prosecutors pursued some cases, convicting a former army commander and several mid-level officials. However, they secured no convictions of top politicians. Nonetheless, when the president’s political interests are not at stake, he typically works within formal institutions and adheres to the text of existing rules, although often not to their spirit.

ACCOUNTABILITY AND PUBLIC VOICE 3.50

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|--|------|
| FREE AND FAIR ELECTORAL LAWS AND ELECTIONS | 2.50 |
| EFFECTIVE AND ACCOUNTABLE GOVERNMENT | 3.75 |
| CIVIC ENGAGEMENT AND CIVIC MONITORING | 4.33 |
| MEDIA INDEPENDENCE AND FREEDOM OF EXPRESSION | 3.43 |

The February 2006 elections raised doubts about the extent to which government authority rested on the will of the people. Last-minute changes to the

electoral laws allowed the first multiparty elections since 1980, but they also delayed organization of the process, giving enormous advantages to the president and his NRM party. The referendum authorizing the reform was held in July 2005, leaving little time for parties to organize and allowing the president to continue to use all “no-party” political structures until the February 2006 balloting. In effect, Museveni had a national organization in place, while all of his opponents had to start from scratch. The president and the NRM also took illegal advantage of government resources and unequal access to state media.³

The state provides equal, although limited, funding for each presidential candidate. However, the NRM benefited from its patronage network, as economically privileged interests made far greater contributions to the NRM than to any other party, receiving preferential subsidies and government tenders in return. A commission of inquiry into the Health Ministry’s use of assistance from the Global Fund to Fight AIDS, Tuberculosis, and Malaria heard testimony that part of the funding was diverted to pay NRM campaign workers.

The government took additional measures to cripple the presidential campaign of Kizza Besigye, the leading opposition candidate. When he returned from South Africa, where he had lived after fleeing government harassment following his unsuccessful bid for the presidency in the 2001 elections, the government brought rape and treason charges against him and insisted on simultaneous trials in civilian and military courts. Besigye was not released on bail until early January, only six weeks before the elections. His court battles seriously disrupted his campaign, and his campaign staff were frequently threatened and sometimes physically attacked. Other incidents of violence and intimidation occurred, including the deaths of several people and serious injuries to two others at an opposition rally near Kampala on February 15. Army lieutenant Ramathan Magara, identified as a special police constable in court papers, was eventually convicted of manslaughter for that attack and sentenced to 14 years in prison in June 2009. Overall, however, the violence and voting irregularities of the 2006 elections were less severe than in the 2001 campaigns and balloting.

After the Electoral Commission declared Museveni the winner of the presidential contest with 59 percent of the vote to Besigye’s 37 percent, Besigye challenged the result before the Supreme Court. In April 2006, the court upheld Museveni’s victory by a 4–3 vote. It found that the NRM had engaged in corruption, multiple voting, and ballot-box stuffing, and that Museveni had committed electoral offenses by, among other acts, making defamatory statements about Besigye.⁴ Nevertheless, the judges ruled that these offenses were not sufficiently “substantial” to affect the outcome. Over 100 petitions were filed to nullify other results in the elections. Within the required six-month period, the courts overturned 6 of 41 disputed parliamentary elections, almost always calling for fresh voting.⁵ By-elections held over the next three years triggered similar complaints, but to a lesser extent than in 2006. Despite constitutional protections, the election commissioners were not seen as independent after

2006 because the NRM's large parliamentary majority meant that the president's appointees were invariably confirmed.

Of the 320 voting members of Parliament (MPs) elected in 2006, 214 belonged to the NRM, and 46 belonged to one of five opposition parties. The rest were independents, the majority of whom leaned toward the NRM. All of the parties, particularly the NRM, placed great emphasis on internal discipline, and Museveni warned party rebels that he would campaign against them. As a result, constructive discussion in Parliament has declined significantly, and committees have made fewer changes to bills. Nevertheless, MPs report that open discussion does occur in the party caucuses, and NRM members add that the president is occasionally forced to back down. The "oversight" committees—particularly those dealing with public accounts, which are all chaired by opposition MPs—have been vigilant and outspoken. But the overall effect of the restoration of multiparty competition, at least in the short term, has been somewhat less accountability for the executive and its legislative proposals.

The Supreme Court and the Constitutional Court have asserted their independence in recent years, declaring particular executive actions unconstitutional or illegal and frequently ruling against the government in political cases, often noting the weakness of its evidence. In October 2008, the Supreme Court affirmed the doctrine of separation of powers by ruling that the president had unconstitutionally forced Brigadier Henry Tumukunde to resign. With the conspicuous exception of two treason cases in which the government used military force to obstruct bail, the government generally respected the independence of the judiciary. Nevertheless, military officers often acted with impunity, particularly when they believed they were carrying out the president's intentions.

Independent public service commissions at the national and district levels manage the recruitment and promotion of government officials. At the national level, they rely on open competition and merit, although the press frequently presents evidence of ethnic favoritism. At the district level, observers suggest that ethnic recruitment is widely practiced and that non-indigenes find it difficult to gain appointment.

Nongovernmental organizations (NGOs) flourished after the NRM regime came to power in 1986, but the government regarded those engaging in political issues as possible threats. It required all NGOs to gain approval—which was not always given—from an NGO Registration Board that includes representatives of security agencies. In 2006, the government amended the NGO Registration Act, tightening supervision by requiring the annual renewal of registrations. This law was suspended temporarily following complaints in 2008. NGOs argue that the law entails government intrusion into their activities and expenditures, and civic associations petitioned the Constitutional Court in April 2009 to declare the act unconstitutional. As of June 2009, the court had not yet issued a ruling.

Civic groups opposed the 2005 referendum and the removal of presidential term limits, but after losing that battle they became noticeably more submissive

during the election period.⁶ One reason for this reticence was the government's expression of political resolve in ordering soldiers to prevent Besigye's release on bail, attacking demonstrators who supported him, and displaying its military force in Kampala; the failure of donors to respond emphatically to the regime's actions may have been another.⁷

NGOs continue to testify on legislation before Parliament and frequently campaign to influence government policy, though they have grown frustrated by MPs' reluctance to consider their arguments once the parties take positions in their caucuses. Donors have criticized problems in government performance over the last several years, particularly corruption and the continued existence of large camps for internally displaced persons (IDPs) in the north due to the state's failure to end fighting with the Lord's Resistance Army (LRA), a rebel group.

The government's support for freedom of expression has been ambiguous. The state at times criminalizes dissent, taking advantage of broadly written sedition, antiterrorism, and libel laws. The sedition law, which allows prosecution for causing disaffection toward the president or the government, protects government officials but not leaders of the opposition.⁸ In addition, the Anti-Terrorism Act of 2002 continues to be used against journalists, particularly when they cover issues that the government links to security.

The government further limits media independence through a Media Council created by a 1994 law. Among other functions, the council is required "to exercise disciplinary control over journalists, editors and publishers."⁹ A Media Center created in January 2006 makes recommendations to the Media Council on the accreditation of foreign journalists, who must also obtain clearance from the Media Center before they can travel more than 100 miles from Kampala.¹⁰ In March 2006, the two bodies deprived a Canadian journalist of his accreditation, claiming that his reports were "biased, false and 'prejudicial' to Uganda's foreign interests."¹¹

In recent years, the government has occasionally closed newspapers temporarily. In an unprecedented step in March 2007, the police filed petitions with the Media Council against 53 articles in independent newspapers, and in April 2008, four journalists with the *Monitor* newspaper were arrested and charged with criminal defamation over a story on irregular salary claims by the inspector-general of government (IGG).¹² The case remains unresolved. While these actions certainly induced some self-censorship, newspapers have been notable for their continued criticism of the government. Radio stations generally avoid investigations into government activities.

In February 2009, the cabinet approved a media bill intended to regulate newspapers more strictly, particularly those that "incite violence."¹³ It had not been introduced in Parliament by the end of the period under review. Separately, the cabinet submitted the Regulation of Interception of Communications Bill of 2007 to lawmakers, with the aim of legalizing security agencies' warrantless surveillance of the telephone calls, mail, and money transfers of treason and terrorism suspects. Opposition MPs and Amnesty International attacked the

bill for its abuses of freedom of speech and privacy. In March 2009, Security Minister Amama Mbabazi admitted to a parliamentary committee that the government had already been tapping telephones without warrants.

The government generally did not regulate use of the internet, although it occasionally prevented access to openly critical websites. Because of Uganda's low penetration rate, the internet has not become a politically significant medium. The state continued to subsidize the *New Vision*, but the newspaper now operates as a private corporation. In the past, the government prevented advertising in the *Monitor* newspaper, but it rescinded this order and has not tried to limit free expression in this way in recent years.

CIVIL LIBERTIES

3.77

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| PROTECTION FROM STATE TERROR, UNJUSTIFIED IMPRISONMENT, AND TORTURE | 2.75 |
| GENDER EQUITY | 3.00 |
| RIGHTS OF ETHNIC, RELIGIOUS, AND OTHER DISTINCT GROUPS | 4.00 |
| FREEDOM OF CONSCIENCE AND BELIEF | 5.33 |
| FREEDOM OF ASSOCIATION AND ASSEMBLY | 3.75 |

Protection from state terror and unjustified imprisonment remains inadequate in Uganda. The Supreme Court ruled in January 2009 that death sentences, which had been automatic for defendants convicted of capital offenses, must be discretionary and must be carried out within three years or the sentence would be commuted to life imprisonment.¹⁴ By April 2009, the courts were reviewing the sentences of 35 (out of 637) prisoners on death row who had been convicted before the ruling. On January 20, Museveni freed three prisoners from death row, including two officials who served under former dictators and had awaited execution for more than 20 years.

Security forces continued to engage in extrajudicial killings, disappearances, and torture—all prohibited by the constitution. The country's military, the Uganda People's Defence Force (UPDF), has a long history of abusing human rights.¹⁵ Security officials also use torture to gain confessions and punish opponents. While the government links many of these cases to rebel activity, observers regard most of them as attempts to remove or intimidate political opponents. Reports of detention and torture in secret jails known as "safe houses" declined in 2006 and 2007, but rose in 2008.¹⁶ Many cases go unreported. The Joint Anti-Terrorism Task Force (JATT) has been charged with the extrajudicial killing of four people and many cases of torture between 2006 and 2008.¹⁷ There is also evidence that the JATT held at least 106 detainees illegally in a safe house in Kampala during the same period. No one has been prosecuted for these abuses, and similar activities have occurred since the beginning of the NRM regime. A civic coalition that included the Uganda Human Rights Commission

(UHRC) drafted the Prohibition and Prevention of Torture Bill of 2009, which prescribes the death penalty for torture.¹⁸ As of June 2009, Parliament had not acted on the bill. The UHRC, established by the 1995 constitution as an independent agency, awarded more than 70 million shillings (US\$41,000) in compensation for torture during the first quarter of 2008.¹⁹ However, the government was slow to disburse the money.

During the first eight months of 2008, 556 new clients were enrolled at the African Center for the Treatment and Rehabilitation of Torture Victims (ACTV) in Kampala; of these, 422 were Ugandans, mostly victims of the LRA.²⁰ The decreasing proportion of victims who were tortured by the UPDF may be due in part to the decline in rebel activity in Uganda, but the UPDF also claimed to have stepped up disciplinary measures against abusive soldiers.²¹ A Local Defense Unit soldier convicted by a court-martial of killing six civilians and injuring eight others was sentenced to death in January 2009. Ruling in a different case in February, the Constitutional Court held that soldiers convicted by Army Field Courts Martial must be given the opportunity to appeal to the Supreme Court. Parliament established a war crimes court in 2008 to handle crimes against humanity, such as those committed by the LRA.

The police have also engaged in reckless behavior. In addition to the 2006 election violence discussed above, police fired into a crowd in July 2008, killing two people.²² They were charged only with manslaughter and released on bail, but their case had not been listed for cause by September 2008. Vigilante justice remains a serious problem, although the police are sometimes successful in protecting the lives of accused thieves.

Throughout the period under review, prison inmates continued to face harsh conditions that often threatened their health. Officials made only limited efforts to maintain the dignity of those incarcerated. An Islamic teacher jailed on treason charges died in prison in January 2007. Gross human rights abuses were common in local prisons that have now been taken over by the central government. Nonetheless, the UHRC reported in 2008 that the torture of inmates in Central Region prisons had declined.²³ Despite a ban in the 2006 Prisons Act, corporal punishment continues to be widely practiced, particularly in rural prisons. Of the 30,000 prisoners in Uganda as of February 2009, 56 percent had spent over three years in pretrial detention, and the situation had worsened every year despite laws limiting remand to one year.²⁴

Human trafficking for sexual and labor exploitation, both inside the country and to foreign states, remains a problem. The government has organized a Family and Child Protection Unit to improve the police force's capacity to recognize victims, but there are as yet no measures of its success.

Criminal violence has increased in recent years. The government has responded with periodic, quasi-military operations to kill suspected criminals rather than bring them to trial. The police are poorly organized and respond slowly to criminal complaints. There were few terrorist incidents in the past

three years. The departure of the LRA to the Democratic Republic of the Congo (DRC) in 2005 increased security in northern Uganda, but the return of the majority of the IDPs from two decades of fighting has resulted in violent land disputes, forcing hundreds of people to flee their original homes.²⁵

The government has often expressed its concern for the interests of women. In the 332-seat Parliament, 79 seats were reserved for women, a number that rose as the government created new districts, each of which was entitled to a seat for a woman. The government has also ensured by law and subsequent practice that women hold a substantial number of local council seats. However, it has stalled on passing the Domestic Relations and Sexual Offences Bill, which would protect women from domestic violence and give them more secure rights in marital and inherited property. The government finally introduced the bill in July 2009.

Domestic violence—not in itself a criminal offense—is widespread, and the police tend to be unsympathetic to victims' complaints. There are few police medical examiners to document violence against women for criminal prosecution. Women have the right to own and inherit land, but ignorance of the law often results in male relatives invoking local customs to control inheritance. Marriage law continues to discriminate against women by making the bride price a nonrefundable payment to the wife's parents. The state has not succeeded in stopping the practice of levirate marriage (of a widow to the deceased's brother), although the AIDS pandemic appears to have discouraged it. The government has participated in efforts to raise awareness about discrimination against women, but did little in recent years to equalize women's opportunities for employment and credit. In addition to the Domestic Relations and Sexual Offences Bill, MPs have drafted a bill to criminalize female genital mutilation, which is performed on approximately 1 percent of Ugandan women and girls, predominantly among those living in the Eastern Region.²⁶

Despite the NRM's official opposition to ethnic bias, the government is frequently accused of favoritism toward people from Museveni's home region of western Uganda, particularly in hiring officials, although the evidence is rarely clear. Northerners often attribute the poor conditions in their region to official discrimination, but the area's social services and economic growth have undoubtedly also suffered from disruptions caused by the LRA. Newly created districts have sometimes inadvertently produced local ethnic minorities who allege discrimination.²⁷ The central government has not ensured that they can exercise all their human rights in part because that task is now up to district administrations, which have neither the awareness nor the capacity to act. In addition, the state does not adequately protect the cultural identity of small minorities such as the Ik and the Batwa. Even though five seats in Parliament are reserved for representatives of disabled people, some individuals have complained to the UHRC of disability-related discrimination.

The state generally respects the constitutional right of free religious practice. There is a long-standing perception that the Roman Catholic plurality

and the small Muslim minority are not treated as well as Protestants, but in recent years the issue has received less public attention than complaints about ethnic discrimination. In 2008 and 2009, the police investigated a largely unexplained upsurge in deaths that included many children, which they linked to human sacrifices associated with witchcraft. In September 2007 the government closed a mosque in Mukono district that it said was connected to a rebel group.

Homosexual behavior is a crime in Uganda, and homosexuals are beaten and humiliated by members of the community and harassed by the state. In July 2009, the minister of ethics and integrity indicated that the government would resist foreign pressure to end such discrimination.²⁸ He announced plans for a bill to punish the publication of literature on homosexuality and even deny homosexuals the right to address press conferences.

By permitting parties to engage in politics, the 2005 constitutional changes expanded the rights of freedom of association and assembly. However, the government often restricts freedom of assembly by requiring police permits for public demonstrations or meetings. In April 2007, when demonstrations over the transfer of part of the Mabira Forest to an Indian investor erupted into an anti-Indian riot in Kampala, the police prevented a march on the main downtown street, and a private militia called Kiboko, reportedly directed by a presidential adviser, attacked the crowd. The police arrested, charged, and imprisoned two MPs and several others who participated. In February and April 2008, demonstrations in Kampala's Kisekka Market and Taxi Park turned into riots, resulting in crackdowns by the police.

In May 2008, the Constitutional Court nullified a law requiring written permission for public meetings. Immediately after the ruling, the attorney general tried to restrict its application, insisting in June that a permit was still required in specified areas, including the whole of each city and town in Uganda. Indeed, politically motivated repression of protests still occurs. The police halted a Democratic Party (DP) rally soon after the ruling, and closed DP headquarters for several days. Also in June 2008, the Forum for Democratic Change (FDC), the largest opposition party, complained that the police had arrested several of its members during training workshops in Kampala, Mbarara, and Naguru, despite receiving advance notification of the events. In February 2009, the cabinet ordered the Ministry of Internal Affairs to draft a stricter law regulating public demonstrations.

Several acts that came into force in August 2006 strengthened workers' rights to organize and participate in trade unions, but enforcement remained questionable. Police sometimes arrest strikers, and the government ignored a legal requirement that employers enter collectively bargained contracts with their employees. Workers must register unions with government trade union confederations. Senior public servants and members of the police and army may not form unions.

RULE OF LAW**3.40**

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| INDEPENDENT JUDICIARY | 4.20 |
| PRIMACY OF RULE OF LAW IN CIVIL AND CRIMINAL MATTERS | 3.80 |
| ACCOUNTABILITY OF SECURITY FORCES AND MILITARY TO CIVILIAN AUTHORITIES | 2.25 |
| PROTECTION OF PROPERTY RIGHTS | 3.33 |

While the higher courts are generally independent and impartial, the judgments of lower-level magistrates are frequently distorted by political and economic influences. Judges face intense political pressure in cases that threaten actions the president considers essential. By twice sending soldiers to prevent court decisions from being implemented, Museveni badly undercut confidence in judicial independence, despite his assurance that he would not do it again. Meanwhile, the UPDF not only continued to try civilians accused of capital offenses, it did so inside maximum-security prisons.

A serious corruption problem, due in part to inadequate salaries for magistrates, leads to prejudicial decisions. The IGG declared in April 2008 that for the second consecutive year, the judiciary and the police were the most corrupt institutions of government. Corrupt court officials sometimes extort bribes from defendants unjustly jailed through cases based on fictitious affidavits. By July 2009, the recently established Anti-Corruption Division of the High Court had convicted four officials and sentenced them to prison.²⁹ However, it had a backlog of 350 cases and only two judges.³⁰

Due to budgetary problems, there are not enough judges to process civil and criminal cases. Parliament passed a motion in October 2007 compelling Museveni to appoint an additional seven judges to the Court of Appeal and six to the Supreme Court. However, because the president failed to act, the Supreme Court was deprived of the quorum needed to handle constitutional cases. In January 2008, the Judicial Service Commission reported to a parliamentary committee that it had compiled a list of 27 candidates to fill vacant judicial posts six months earlier.³¹ At the end of July 2009, Museveni appointed three new judges to the Supreme Court, partly resolving the problem. At the lower level, the judicial manpower shortage was exacerbated by two acts, to which the president assented, that effectively increased the caseload of magistrates by expanding their jurisdiction. The backlog of civil and criminal cases in June 2007 stood at 74,066, with no subsequent improvement.³²

Government authorities usually comply with court decisions. The most blatant exception was the government's use of soldiers on March 1, 2007, to prevent nine defendants in the People's Redemption Army (PRA) treason trial from being released on bail. The High Court judges went on strike to protest the move, and lawyers mounted demonstrations. Museveni expressed regret over the incident and pledged that it would not be repeated.³³ In 2005, he had used soldiers in a similar fashion to prevent the release of the same defendants.

Civil and criminal cases are generally given fair and public, but not timely, hearings by the courts and the UHRC. The constitution requires that suspects face a court within 48 hours of arrest (longer for terrorism suspects), but the rule was not followed in several high-profile cases in recent years. Three Buganda Kingdom officials were arrested on July 18, 2008, and held for five days; their release was then ordered, but they were immediately detained again. The acting internal affairs minister told the Legal and Parliamentary Affairs Committee in February 2009 that the cabinet was considering extending the 48-hour rule. In Besigye's treason case, no trial date had been set as of mid-2009, more than three years after his indictment. Meanwhile, the authorities withheld his passport, preventing him from traveling freely and restricting his ability to lead the opposition.

Anyone charged with a criminal offense is presumed innocent until a court establishes guilt. The Constitutional Court ruled in March 2008 that criminal suspects must be given access to statements that prosecution witnesses make to the police, though this principle of discovery does not apply to civil cases.³⁴ All citizens have a right to independent counsel, but many poor criminal suspects do not receive it. In ordinary cases, prosecutors are thought to act independently. However, in high-profile political cases they are widely assumed to be following the dictates of top officials. The ongoing prosecution of the PRA, a supposed rebel group, in the absence of credible evidence is a case in point. Public officials and NRM members are sometimes prosecuted for abuse of power and corruption, but they are rarely convicted.

Because the president effectively controls the security forces, there is civilian oversight, but it is personal rather than institutional in nature. The legislative and judicial branches are unable to exercise effective supervision. For example, the president ordered the military's December 2008 surprise cross-border attack on the LRA without consulting Parliament or subjecting the move to legislative review. Separately, in several documented incidents in which army officers used soldiers to evict farmers from land the officers claimed to have acquired, the president apparently restrained the commanders only when publicity made their positions untenable.

The security forces frequently intrude on the political process. Despite Uganda's return to multiparty competition, the Army Council continues to choose 10 military officers to represent the UPDF in Parliament, and these MPs are required to support NRM policies.

Respect for human rights by security forces remained relatively poor throughout 2006–09, though there were signs of improvement. Before the LRA ended operations within Uganda and entered negotiations with the government in July 2006, UPDF soldiers perpetrated widespread sexual and physical abuses against IDPs in the north. Commanders have reported punishing those guilty of violations, and 26 soldiers have been executed. However, the army's disarmament campaign in Karamoja led to the deaths of hundreds of civilians during 2006 and 2007, as well as detentions, beatings, torture, and rape. The

development of guidelines for UPDF conduct reduced the incidence of human rights abuses, but did not end them. It remains unclear whether the military justice system operates effectively or merely serves as a façade to satisfy international opinion.

Property rights remain insecure in Uganda. The press frequently reports cases of fraudulent land titles, sometimes resulting from collusion with corrupt officials in the land registry offices. Many instances involve high-level politicians and army officers who seize land held in customary tenure by peasants who have little ability to protect their rights. In addition, the government frequently awards public land to foreign investors, including plots on which schools have been operating for many years.

ANTICORRUPTION AND TRANSPARENCY 3.58

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| ENVIRONMENT TO PROTECT AGAINST CORRUPTION | 3.25 |
| PROCEDURES AND SYSTEMS TO ENFORCE ANTICORRUPTION LAWS | 3.75 |
| EXISTENCE OF ANTICORRUPTION NORMS, STANDARDS, AND PROTECTIONS | 3.50 |
| GOVERNMENTAL TRANSPARENCY | 3.83 |

Despite its commitment to liberalization over the past two decades, the government continues to struggle with corruption. Allies of the president have manipulated the privatization of state land and enterprises for their own enrichment. Privatization has diminished opportunities for corruption in some respects, as it reduces public servants' direct control over economic operations, but the changes have created openings for other forms of bribery. A survey of businessmen commissioned by the World Bank found that they paid larger bribes in 2007 than in 2003 to secure contracts and run their businesses. On the other hand, the 2009 Index of Economic Freedom rated Uganda in the "moderately free" category and credited it with the fourth-best regulatory regime in Africa; the country's score fluctuated only slightly between 2005 and 2009.³⁵ The index stated that obtaining a business license required fewer procedures and less time than the world averages, but noted that corruption and insecure property rights remained weak points in the Ugandan business environment.

A clear legal separation exists between the official and private interests of public servants, although officials' wealth disclosures are not open to public scrutiny. The independence of the Inspectorate of Government as the primary anticorruption body is entrenched in the constitution. Justice Faith Mwendha, who led the agency as IGG, pursued cases of corruption so vigorously in recent years that it came as somewhat of a surprise when the president reappointed her for a second four-year term in February 2009. However, she refused to be reviewed by Parliament for her second term, and when the Constitutional Court upheld the requirement, she had to step down as IGG and return to her original position on the High Court in July 2009.

The president declared a policy of “zero tolerance for corruption” during his third term. In September 2007, he forced the solicitor general from office over allegations of inflated awards to businessmen who had sued the state. In February 2008, the government submitted the Anti-Corruption Bill of 2008 to Parliament, claiming that it would fight public and private corruption more effectively. The IGG argued that some provisions of the bill were unconstitutional. In April 2008, lawmakers passed the Audit Bill of 2007 to strengthen the Office of the Auditor General (OAG), giving it the power to sue, making it autonomous, and improving its staffing. In addition, the new Anti-Corruption Division of the High Court, mentioned above, has expanded the state’s capacity to punish fraudulent officials.

Parliament’s Public Accounts Committee and Local Government Public Accounts Committee (PAC and LGPAC) actively probe cases of wrongdoing, primarily through reviews of the OAG’s reports. The PAC exposed schemes by pension officials to fabricate recipients and by police officials to purchase defective antiriot vehicles. In 2008 it even took on the president over a deal benefiting his son-in-law that the auditor-general had refused to clear. Newspapers regularly investigate transactions by public officials, in addition to publicizing the work of the parliamentary committees.

Between 2006 and mid-2009, three ministers and a presidential aide accused of misappropriating funds from the Global Alliance for Vaccines and Immunization were brought to court after a long delay due to a lack of funds to prosecute. Successful legal tactics by the defense caused innumerable postponements of this trial. However, an army tribunal sentenced a former commander, Major General James Kazini, to three years in prison for stealing funds directed to nonexistent soldiers. He remained free on bail during his appeal. A former managing director of the National Social Security Fund, Leonard Mpuuma, was fined after pleading guilty to causing financial loss and abuse of office.

The Inspectorate of Government supervises public servants’ declarations of income, assets, and liabilities as required by the Leadership Code. It received over 17,000 declarations in 2007, a 94 percent rate of compliance, and wrote warning letters to the 1,250 leaders who failed to file on time.³⁶ An MP and the head of a town council were forced to resign for failure to comply. Also in 2007, the IGG seized public assets worth almost one billion shillings (US\$604,000) that were wrongly converted to private use. The inspectorate arrested 37 officials in 2007 and 22 in the first half of 2008 for abuse of office, embezzlement, or causing financial loss. In addition, 126 public servants were dismissed from office, and 52 others were reprimanded or demoted.

An inquiry on the misuse of money from the Global Fund to Fight AIDS, Tuberculosis, and Malaria led the director of public prosecutions (DPP) to file charges.³⁷ An arrest warrant for an MP in the case was issued in December 2008. In July 2009, the DPP dropped charges against a former health minister, but continued to prosecute 38 other defendants.

Despite such cases and presidential pronouncements on the issue, there was evidence to suggest that high-level corruption would be tolerated. The

government arbitrarily enforced laws and regulations, frequently following a political logic, and the IGG was drawn into seemingly unrelated disputes with other officials, weakening anticorruption efforts. Transparency International ranked Uganda 126th out of 180 countries surveyed in its 2008 Corruption Perceptions Index.³⁸ Moreover, witnesses were hesitant to come forward due to inadequate legal protection. To encourage them, the minister of ethics and integrity presented the Whistleblowers Protection Bill of 2008 in Parliament in March 2009.

Citizens have the right to obtain government information under the Access to Information Act of 2005, but critics argue that the law is overly restrictive, providing ample grounds to deny requests.³⁹ Responses to information requests are often delayed, especially if the material is considered sensitive. The government sometimes refuses to give a reason for denials.

The budget-making process became somewhat less comprehensive and transparent after the return of multiparty politics, largely because NRM MPs were less willing to question government proposals. Parliament had become formally involved in negotiating budget requests after the passage of the Budget Act of 2001. However, starting in the Eighth Parliament (elected in 2006), a member of the ruling party chaired the Budget Committee. When the first chairperson suggested that the committee recommend more funds for education, roads, and health, the government replaced him. After that the committee stopped urging changes, although it sometimes negotiated with ministers when they defended their proposed outlays.

The auditor-general, a respected independent official, is tasked with scrutinizing government spending. With the passage of the Public Finance and Accountability Act of 2003, the OAG gained the power to audit classified expenditures. During the period reviewed, the OAG's audit covered 90 percent of national government spending. The 2005–06 audit report was received by Parliament in October 2007, earlier than in previous years. In September 2008, the PAC was able to report on specific allegations made in the OAG report for the year that ended in June 2007. The committee chairperson warned, however, that internal auditors in government departments sometimes colluded with other officials to hide diversions of public funds.

The Uganda Revenue Authority (URA) established an Internal Audit, Tax Investigation, and Internal Affairs Department in January 2005. Although it carried out “a continuous program of tax audits,” its system had not yet been integrated with customer registration in banks or the Investment Authority.⁴⁰ Consequently, as of March 2008, the OAG judged that URA tax audits could not be considered fully “based on clear risk assessment criteria.” He did not argue that tax audits were arbitrary or unjust, rather that better controls for taxpayer registration and monitoring of penalties for noncompliance were needed.

Public corruption often stems from the award of national and district government contracts. The president frequently suspends rules requiring competitive bidding to designate a recipient.⁴¹ According to one analysis, “about 90%

of the complaints received by the IGG reportedly concern contested procurements.”⁴² Despite the carefully drafted law regulating procurement, the government continued to lose millions to contract-related graft. In addition, officials personally diverted a large proportion of foreign assistance between 2006 and March 2009. Many donors considered the siphoning off of part of their aid to be a cost of doing business, but the Global Fund to Fight AIDS, Tuberculosis, and Malaria ended two of its grants in response to deliberate misappropriation.

RECOMMENDATIONS

- Ensure the independence of the Electoral Commission by changing its appointment procedure; the chair, deputy chair, and its five other members should be appointed by the president on the advice of the Judicial Service Commission and with the approval of Parliament.
- Pass the Domestic Relations and Sexual Offences Bill to secure women’s property rights and punish rape and domestic violence. The act should include funding and direction for educating police and judicial officers on their responsibilities when handling complaints by abused women.
- Establish and implement stronger guidelines within the prison service, along the lines of the somewhat successful UPDF effort, to reduce human rights violations including corporal punishment.
- Expand the number and compensation of magistrates to reduce the delay in civil and criminal trials and improve judicial impartiality.
- Pass the Anti-Corruption Bill of 2008 and the Whistleblowers Protection Bill of 2008 to strengthen the legal regime for prosecuting corruption.

NOTES

For URLs and endnote hyperlinks, please visit the *Countries at the Crossroads* homepage at <http://freedomhouse.org/template.cfm?page=139&edition=8>.

- ¹ I wish to thank Elliott Green, Joe Oloka-Onyango, Sylvia Tamale, Roger Tangri, and the external reviewer for their helpful suggestions on the first draft. I take responsibility for any remaining errors of fact or interpretation.
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- ³ Foundation for Human Rights Initiatives (FHRI), *Electoral Reforms in Uganda 2008: Report for the Period of July–December 2008* (Kampala: FHRI, 2008), 34.
- ⁴ Siri Gloppen, Emmanuel Kasimbazi, and Alexander Kibandama, “Elections in Court: The Judiciary and Uganda’s 2006 Election Process,” in *Electoral Democracy in Uganda: Understanding Institutional Processes and Outcomes of the 2006 Multiparty Elections*, ed. Julius Kiiza, Sabiti Makara, and Lise Rakner (Kampala: Fountain Publishers, 2008), 78–86.
- ⁵ While the threshold for overturning the six elections was high, the courts did not rely on the precedent in Besigye’s case, in which the abuses had to be substantial enough to call the outcome into doubt. See *ibid.*, 85.

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- ⁸ Henry Odimbe Ojamba, "Reflections on Freedom of Expression in Uganda's Fledgling Democracy: Sedition, 'Pornography,' and Hate Speech," HURIPEC Working Paper 18 (Kampala: Human Rights and Peace Centre, Faculty of Law, Makerere University, February 2008), 18–19, 20, 28.
- ⁹ *Ibid.*, 23.
- ¹⁰ Frank Nyakairu, "Govt Sets Tough Rules for Foreign Journalists," *Monitor*, January 14, 2006.
- ¹¹ Angelo Izama, "Deported Journalist Stranded in Nairobi," *Monitor*, March 11, 2006.
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- ²² FHRI, "The Human Rights Situation," in *Electoral Reforms in Uganda*, 94.
- ²³ Josephine Maseruka, "Torture Cases Drop, Says Rights Body," *New Vision*, April 3, 2008.
- ²⁴ Testimony by the Commissioner General of Prisons, Dr. Johnson Byabashaija, to the Parliamentary Legal Affairs Committee; Yasin Mugerwa, "16,000 Remanded for over Three Years," *Monitor*, February 3, 2009, 5.
- ²⁵ "Uganda: Land Rows Reverse Resettlement," Integrated Regional Information Networks (IRIN), March 17, 2009.
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