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CURTAILING CRITICISM

Intimidation and Obstruction of Civil Society in Uganda



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Summary

[E]vidence of self-censorship by NGOs in fear of the repercussions of the law has meant that the value of a vibrant civil society in deepening democracy is progressively being eroded.

—Ugandan NGO Briefing for the Minister of Internal Affairs, August 11, 2009

If your research raises a flag about people in power in this country, and how they are getting money out of this country, you are at serious risk. If you preach human rights, you are anti-development, an economic saboteur. You are not going to talk about land, oil, and good governance. This is just the beginning, but the tensions have been accumulating.

—NGO staff member working on land issues, July 10, 2012.

We must come together. Anything that is targeting NGOs—for human rights, for oil, for LGBT rights—we must come together and fight for the space to discuss our views. Closing that space will affect us all.

—NGO staff member working on oil issues, June 28, 2012

In the wake of the 2011 elections that returned President Yoweri Kaguta Museveni to office, the ruling National Resistance Movement (NRM) is already looking ahead to elections in 2016. In office since 1986, President Museveni is widely believed to be gearing up for yet another term. Political tensions are running high and public criticism of government has escalated since the elections. To better control this environment the ruling party's high ranking government officials are increasingly scrutinizing nongovernmental organizations (NGOs) and the impact they have on public perceptions of governance and state management of public funds.

In the last two years government officials at both the national and local levels have deployed an array of tactics to intimidate and obstruct the work of NGOs in certain sectors. The methods used range from closing meetings, reprimanding NGOs for their work, and demanding retractions or apologies, as well as occasional resort to threats, harassment, physical violence and heavy-handed bureaucratic interference to impede the registration

and operations of NGOs. Of recent, the increasing use of these tactics is obstructing the work and impact of NGOs and, more broadly, obstructs Ugandans' rights to free expression, association, and assembly.

Civil society actors working on governance, human rights, land, oil, and other sensitive issues are the main targets of these attacks, apparently because they are viewed as threatening to undermine the regime's political and financial interests. At the same time the government's hostility to, and harassment of, Uganda's lesbian, gay, bisexual, and transgender (LGBT) community and its leadership continues unabated. Government officials demonizing homosexuality are targeting a vulnerable community and deliberately misinforming the public, stirring hatred and diverting foreign donor attention from deeply-rooted governance problems and growing domestic frustration with President Museveni and his party's patronage politics.

There are a large number—perhaps thousands—of NGOs operating in Uganda. Some sectors enjoy significant latitude. For instance, groups focusing on small-scale development or service delivery programs have relative freedom to operate. These organizations are often promoted by government officials as examples to emulate. Service delivery NGOs are often critical to ensuring that the poor have access to low cost medicines and rural health care, but as some analysts point out this category of NGOs, including those focusing on health and access to HIV treatment, ultimately end up compensating for government failure to deliver services in those sectors.

Evidence-based research and advocacy NGOs focusing on the more controversial issues—transparency in the oil sector, compensation and reparations for land acquisitions and sales, political and legal reform, and protection of human rights, including the rights of LGBT people—have decreasing room to maneuver. Ultimately those groups that advocate for change while documenting governance failures, mismanagement of public assets, and the ways that government officials profit from foreign investment at the expense of local communities are at the most risk of state interference.

Drawing on in-depth interviews with 41 NGO actors, government officials, and donors in Kampala, Uganda, this report documents a range of government threats and attacks on NGO meetings, research, and advocacy, and illustrates the ways in which those actions inhibit NGO operating space and lead to self-censorship among civil society members.

Uganda's constitution contains strong provisions on freedom of expression and association, and further guarantees the right to engage in peaceful activities to influence government policies through civic organizations. Despite such provisions, and international and regional treaties to which Uganda is party, the regulatory framework for the non-profit sector, which is overseen by the government's NGO Board, fails to create an enabling environment for all NGOs to work.

In the current structure NGO regulation, under the auspices of the Ministry of Internal Affairs, is treated as a possible national security threat, with officials from the intelligence community legally mandated to monitor NGO work. Current regulations applicable to NGOs are incompatible with constitutional and international protections of fundamental rights, and include provisions that both obstruct and confuse NGOs seeking to be in compliance with the law and leave them no opportunity to appeal unlawful or arbitrary decisions via the courts. The "NGO Policy," a document negotiated in 2010 between government and civil society, is a relatively positive instrument but carries no clear legal weight.

Hostile government rhetoric directed at civil society from ministers has intensified in the last year—with certain government officials allegedly threatening NGOs with deregistration. Increasingly lower level district officials are following high ranking leaders to criticize NGO activities. This is particularly true of resident district commissioners (RDCs) who are directly appointed to each district by the president, district internal security officers (DISOs), and in some instances regional and district level police commanders who threaten and obstruct the work of NGOs in parts of the country. DISOs have arbitrarily detained NGO members or activists for short periods of time, prevented meetings from taking place, or demanded bribes in exchange for granting permission to NGOs to access communities for the purpose of conducting research.

Groups whose work focuses on issues related to the environment, land, and oil face increasing obstruction. Land tenure remains a very contentious issue and the government has been particularly aggressive towards NGO activity that could threaten government and private company investments. NGOs seeking to educate the public about land issues and rights have been subjected to threats of deregistration, accusations of "economic sabotage," and arrest. Organizations working on good governance and corruption have had meetings interrupted and canceled as they have tried to carry out citizen education and advocacy campaigns and in some cases have had their members detained for their activities.

There has been a sustained attack by the government, both in rhetoric and practice, on the rights of LGBT people that has escalated in recent years. This has been highly controversial and sparked significant debate between various government actors and bilateral donors. Given the public's frustrations with the ruling party leadership over rapid inflation and corruption among other concerns since the February 2011 elections, many see the government's increasing focus on the alleged threat of homosexuality as a facile populist strategy to gain support. This is profoundly dangerous for the LGBT community, which is vulnerable to public harassment and violence.

The office of the Minister of State for Ethics and Integrity has been leading Uganda's aggressively homophobic agenda and violating NGOs' rights to freedom of expression, association, and assembly. The minister has focused his attack on human rights work which supports the rights of LGBT people, and has closed meetings and trainings, threatened to deregister groups for their work on LGBT rights, and attempted to have some LGBT leadership arrested—despite having no legal powers to carry out these measures, and in clear contravention of Uganda's own laws and obligations under international human rights laws. He has also used “the promotion of homosexuality”—a spurious claim—as justification for his campaign against the NGO sector as a whole. He has suggested that the legitimate pursuit of the rights of LGBT people is a conspiracy aimed at destroying the country. In doing so he has painted an inaccurate and inflammatory picture of LGBT communities and human rights activism in Uganda.

Given the increasingly challenging operating environment NGO staff and representatives express serious concerns about their ability to research and advocate on controversial issues and protect their employees. Human Rights Watch is concerned that as the president and government leadership face increasing public scrutiny of his long tenure in office, government hostility towards NGOs will mount. This could lead to a reduction in research and advocacy on key issues by local groups and increased threats to their staff. NGO representatives told Human Rights Watch that they fear they will not be able to carry out their mandates due to the hostile environment and acknowledge self-censorship in order to maintain some level of operation and employment of staff.

Uganda's NGO Board is currently seeking funding from Western donors to facilitate its work. While many in civil society told Human Rights Watch that they are aware of the funding shortfalls at the NGO Board, they cautioned any engagement that emboldened the board

to restrict NGO work or bind the sector in endless red tape. Recent negative communications from the board, particularly ordering an NGO not to be involved in “politics” or attempting to bar civil society from working in “loose coalitions,” illustrate these concerns.

Human Rights Watch calls on the government of Uganda to change and improve its terms of engagement with all NGOs, especially research and advocacy groups working on sensitive or controversial subjects. Instead of viewing the sector as a security threat the government should seek to create an enabling operational environment for NGOs. Any administrative requirements should be fair and proportionate to their legitimate goal, supportive of the role of NGOs, and implemented independently, impartially, and non-discriminately by the NGO Board. There should be public debate on disagreements between the government and NGOs over their research findings or policy and NGOs should not be threatened with deregistration.

To create a positive environment for NGOs and human rights work, the laws governing NGOs should be amended to comply with international law, the Anti-Homosexuality Bill and Public Order Management Bill should be thrown out of parliament, and no attempts to introduce provisions of the Anti-Homosexuality Bill through other legislation, such as via amendments to the penal code, should be undertaken. The government should rein in hostile rhetoric by any official actors and publicly support the essential role of civil society in a society based on human rights and rule of law. Uganda’s international partners should actively voice their concerns regarding threats to civil society and encourage the Ugandan government to uphold freedom of expression and association at every turn.

Recommendations

To the President, the Government of Uganda, and NRM Officials

- Facilitate a positive working environment for NGOs by improving the government's terms of engagement with civil society and reining in hostile rhetoric by any government actor.
- Use public opportunities by government spokespersons at all levels to reinforce the message that NGO work—including work that engages with good governance, human rights, corruption, oil, and public sector management—is essential to a democratic society and is supported by the government, particularly the cabinet and the president's office.
- Institute a clear public policy of not seeking the dissolution of NGOs and ensure that dissolution or deregistration is a sanction which can only be imposed in extraordinary cases clearly defined in legislation and as determined as appropriate by a court.
- Publicly reprimand government officials or employees who threaten NGO deregistration.
- Thoroughly investigate any cases of unlawful interference, harassment, or intimidation of NGOs, human rights defenders, or civil society activists and hold accountable those responsible for such abuses, including ministers, resident district commissioners and their deputies, Internal Security Organisation officers, and police.
- Support the amendment of the NGO Act and Regulations to create an enabling environment for NGOs, including removing the NGO Board from under the auspices of the Ministry of Internal Affairs, excluding intelligence agencies from being members of the board, and including representation for the NGO community on the board membership.
- Support repealing the colonial-era article 145 of the penal code, which criminalizes “carnal knowledge against the order of nature.” Ensure that such a provision is never used to prevent exercise of freedom of assembly, association, and the right to form and join associations.

- Respond positively to the longstanding request of the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression to carry out a country visit and agree on dates at the earliest opportunity.
- Invite the UN Special Rapporteur on the rights to freedom of peaceful assembly and association to visit Uganda.

To the NGO Board

- Take proactive measures to inform NGOs on how to comply with legal obligations and assist them in preventing and correcting any administrative problems so that registration can be timely and cost-effective.
- Do not threaten deregistration or delay registration of NGOs simply for administrative infractions.
- Strictly ensure that any administrative obligations imposed on NGOs have a proper legal basis, are strictly necessary and proportionate to a legitimate purpose, and that they are compatible with safeguarding an environment in which civil society can operate freely.
- Publicly acknowledge that NGOs are legally permitted to work in coalitions, scrutinize government accountability, and advocate for policy change on political subject matter without threat of deregistration.
- If provided with increased financial means, ensure funds are directed towards measures which build trust with the NGO sector and will facilitate a positive environment for NGOs.
- Recognize and support the registration of NGOs working on the rights of LGBT people as a routine part of legitimate human rights work.

To Uganda's Parliament

- Amend the 2006 NGO Act to bring it into compliance with international law and the 2010 NGO Policy.
- Throw out the 2009/2012 Anti-Homosexuality Bill and reject any efforts to introduce provisions from the bill via any future amendments to the penal code.
- Repeal the colonial-era article 145 of the penal code, which criminalizes “carnal knowledge against the order of nature.” Such a provision should also never be

used to prevent exercise of freedom of assembly, association, and the right to form and join associations.

To Uganda's International Partners, particularly the United States, Donors Contributing to the Democratic Governance Facility, the World Bank, and the African Development Bank

- Seize every opportunity to forcefully raise concern about the threats to civil society in Uganda and call on the government to take concrete steps to foster an environment in which civil society can operate freely on a full range of subjects—including oil sector management, corruption, governance, the environment, human rights, and the rights of LGBT people.
- Publicly express concern over the restrictions of freedom of expression and urge the president to make a public statement calling on all government officials, including district level officials and NRM members, to refrain from harassing, threatening, or obstructing research and advocacy work by NGOs, including outside Kampala.
- Encourage the Ugandan government to uphold freedom of expression and association by amending the legislation regulating civil society to conform to international standards and simplify protocols for granting research permission, including removing requirement for such permission where this is an unnecessary and disproportionate condition of the research.
- Publicly express support for the work of NGOs and continue to support them financially and otherwise. Engage Ugandan civil society groups, including those based outside Kampala, more intensively on issues such as good governance, public sector management, corruption, and human rights, including the rights of LGBT people, thus stressing the importance of their work.
- If any funding to the government's NGO Board is provided, insist that this be contingent on the board facilitating an enabling environment for all NGO work, desisting from encouraging or facilitating any surveillance of NGOs, and supporting the registration of NGOs working on the rights of LGBT people.

Methodology

This report is based on research carried out by Human Rights Watch staff throughout 2011, as well as in-country research missions between May and July 2012. Human Rights Watch interviewed 41 people, including 25 representatives of NGOs working on a broad range of thematic work and from around the country, as well as donors, police, and government actors.

Researchers interviewed representatives of NGOs from around Uganda working on research and advocacy on the most sensitive topics—human rights, good governance, LGBT, corruption, oil, and land rights—at meetings in Kampala, with some follow-up telephone and email interviews. Researchers selected interviewees to gain the broadest possible range of opinion among those working in the non-profit sector. Ministerial and government regulatory officials were given the opportunity to respond to concerns raised in the report and their comments are reflected within the report.

All interviews were conducted in English, often lasted more than one hour, and were mostly one-on-one. No compensation or any form of remuneration was offered or provided to any person interviewed for this report. Many interviewees asked that their names be withheld for fear of reprisals to themselves, their families, the safety of their employment, or their organization’s ability to operate in Uganda. We have complied with this request and intentionally omitted, in some sensitive cases, identifying details of individuals who met with our researchers. To protect identities, Human Rights Watch has used pseudonyms in the form of initials for each interviewee.

Human Rights Watch has documented threats to freedom of expression, association, and assembly in Uganda for over a decade. This report builds on the similar patterns of problems documented in Human Rights Watch’s 2010 report *A Media Minefield: Increased Threats to Freedom of Expression in Uganda*, which looked at the harassment of the media, particularly rural-based journalists, in the run-up to the 2011 presidential and parliamentary elections.¹

¹ Human Rights Watch, *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>.

I. Background

The political situation in Uganda remains tense despite President Museveni's victory by significant margins in the February 2011 presidential elections.² The elections marked only the second multiparty election in Uganda's history and returned the president to office for an unprecedented 26th year. But the win was marked by allegations of massive government spending to procure votes, a corresponding deteriorating economic situation, and fractures within the president's party, the ruling National Resistance Movement (NRM).

Several factors have escalated pressure on the ruling elite and the president personally, including increased public criticism of the 2005 constitutional amendment to lift presidential term limits, high rates of inflation and unemployment, a violent crackdown on demonstrations in 2011, poor service delivery particularly in the areas of health and education, and controversy over oil revenue transparency. These pressures have likely contributed to the government's efforts to shut down public discussion of governance and public sector accountability, which has in turn prompted increased threats to civil society.

While the 2011 elections themselves were mostly peaceful, funding was at least one key factor in the ruling party's victory.³ In the wake of the election Uganda's donor countries criticized President Museveni's massive off-budget expenditures to support the elections, the pay-outs to parliamentarians, and the procurement of several fighter jets worth over US\$740 million.⁴ As inflation rose the International Monetary Fund (IMF) delayed approval of Uganda's economic policies because government spending was found to be out of compliance with agreed-upon principles of macroeconomic stability.⁵

² Some dispute the quality of the elections as a genuine expression of the citizenry and argue voters were often bought off by the ruling party, which clearly spent overwhelming sums of money during the campaign period. See forthcoming research from the French Institute for Research in Africa, "Election Observatory in Eastern Africa," Uganda 2011, <http://www.ifra-nairobi.net/observatory.html>.

³ Some analysts believe President Museveni and his party spent US\$350 million for his campaign, the majority of it from state coffers. In January 2011 parliament passed a US\$250 million supplementary budget, allegedly spent on the campaigns. Parliament also awarded each parliamentarian US\$8,500 just before the election. Joe Powell, "Money talks in Ugandan election," *Royal African Society*, February 25, 2012, <http://www.royalafricsociety.org/component/content/816.html?view=article> (accessed July 21, 2012).

⁴ Human Rights Watch, *World Report 2012* (New York: Human Rights Watch, 2012), Uganda chapter, <http://www.hrw.org/world-report-2012/world-report-2012-uganda>.

⁵ Lesley Wroughton, "IMF declines to sign off on Uganda economic policy," Reuters, February 11, 2011.

As inflation increased activists and opposition leadership launched the group Activists for Change (A4C). A4C called on the public to “foster peaceful change in the management of public affairs.” The first action was a “Walk to Work” to protest rising fuel and food prices in April 2011. The government argued that these walks constituted an unlawful assembly after protests took place in Kampala, Masaka, and Gulu. Police and the military confronted participants and bystanders using live ammunition which left nine people dead.⁶

Opposition leader Kizza Besigye was arrested several times throughout 2011 while walking to work and held in “preventative detention” at his home.⁷ In mid-October 2011 at least 27 members of A4C were arrested and charged with incitement to violence, concealment of treason, or treason as the group planned more protests to highlight corruption and inflation. In April 2012 the government used a rarely-invoked and controversial provision of the penal code to ban A4C after a policeman died from a head injury sustained when a melee erupted between police and some opposition leaders in Kampala. The government blamed A4C for the death and arrested scores of people.⁸ While the government’s use of the police and military to crush protests and demonstration has been criticized, there has been no investigation into the abusive use of force and no state actor has been held accountable.⁹ Some analysts have cited the government’s fear of an “Arab spring” in Uganda as a significant motivator of the aggression towards A4C and more broadly towards citizen demonstrations.¹⁰

⁶ “Uganda: Launch Independent Inquiry into Killings,” Human Rights Watch news release, May 8, 2011, <http://www.hrw.org/news/2011/05/08/uganda-launch-independent-inquiry-killings>.

⁷ Human Rights Watch, *World Report 2012*, Uganda chapter, <http://www.hrw.org/world-report-2012/world-report-2012-uganda>.

⁸ “Uganda: ‘Walk to Work’ Group Declared Illegal,” Human Rights Watch news release, April 4, 2012, <http://www.hrw.org/news/2012/04/04/uganda-walk-work-group-declared-illegal>.

⁹ “Civil Society Seeks Independent Inquiry into Killings,” Human Rights Watch news release, June 15, 2011, <http://www.hrw.org/news/2011/06/15/uganda-civil-society-seeks-independent-inquiry-april-killings>. In the case of the killing of a 2 year old girl in Masaka, one member of the military reserve force and an alleged accomplice were put on trial before the military’s General Court Martial in Makindye, Kampala. That case is still in trial but has met with significant delays due to the availability and changes of the court’s leadership. No other arrests or trials for the April 2011 protest killings have taken place.

¹⁰ Emma Mutaizibwa, “Uganda: Inspired By Arab Spring, A4C Ruffled Govt Feathers,” *The Observer* (Kampala), April 6, 2012. See also David Blair, “Britain pours aid into autocratic Uganda despite pleas of democratic opposition,” *The Telegraph*, July 21, 2012 <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/uganda/9417123/Britain-pours-aid-into-autocratic-Uganda-despite-pleas-of-democratic-opposition.html> (access August 10, 2012).

Government officials have used homophobia in an attempt to galvanize public support and distract attention away from underlying governance problems. This was particularly apparent when, in the midst of the public debates about government brutality in the face of the Walk to Work protests in May 2011, the Committee on Legal and Parliamentary Affairs in parliament held public hearings on the Anti-Homosexuality Bill, a bill that proposes to impose the death penalty for some consensual homosexual acts and create several new crimes that would threaten legitimate human rights work (for more see section on Human Rights/LGBT Work).¹¹ The rush to stage the public hearings occurred despite the fact that the bill had been languishing for nearly two years and it was only days until the end of the parliamentary term leaving no time for appropriate procedures to be followed. The vast majority of committee membership underscored the futility of the exercise by failing to attend the hearings.¹²

The government has also faced criticism over its failure to deliver in the key areas of health and education. A group of health activists are suing the government over the staggering rates of maternal mortality.¹³ Teachers and other unionized groups have called several strikes and voiced criticism of budgetary allocations over the past year.¹⁴ Religious leaders who have been critical of the president and his policies have also faced hostile rhetoric from government officials.¹⁵

And in the midst of increasing concerns over service delivery, corruption, and financial mismanagement stands the oil sector and the government's focus on portraying Uganda

¹¹ The Anti-Homosexuality Bill, 2009.

¹² Three of the over twenty committee members attended the hearings. Human Rights Watch hearing observation notes, May 6 and 9, 2011. See also "Uganda: Parliament Committee Backs Anti-Homosexuality Bill, Recommends Retaining Death Penalty," Human Rights Watch news release, May 12, 2011, <http://www.hrw.org/news/2011/05/12/uganda-parliament-committee-backs-anti-homosexuality-bill>.

¹³ The case argues that by not providing "essential medical commodities and health services to pregnant women, the government is violating the constitutional rights of Ugandans, including the right to health, the right to life, and the rights of women." See Center for Health Human Right and Development, "Constitutional Court begins hearing maternal deaths case," September 5, 2011, <http://www.cehurd.org/2011/09/constitutional-court-begins-hearing-maternal-deaths-case-3/> (accessed July 21, 2012). An appeal is soon to be filed before the Supreme Court.

¹⁴ There were at least two teacher's strikes in 2011 and one in 2012. Faustine Odeke and Godfrey Ojore, "Uganda: Teachers Defy Minister, Go On Strike," *The New Vision* (Kampala), July 16, 2012.

¹⁵ "Death threats for Kampala bishop," *The Church of England Newspaper*, April 22, 2012, p. 5; and David Kazungu, "Museveni quarrels with Bishop over term limits," *The Observer* (Kampala), June 17, 2012, http://www.observer.ug/index.php?option=com_content&view=article&id=19323:museveni-quarrels-with-bishop-over-term-limits-&catid=78:topstories&Itemid=116 (accessed July 21, 2012).

as a safe place for foreign investment. There is considerable domestic concern that if and when oil revenue begins to flow troubling patterns of governance and corruption are likely to be entrenched. “[T]he anticipated expansion of revenue is likely to allow Museveni to extend and consolidate his patronage system and so ensure his control of government,” wrote the International Crisis Group.¹⁶ Civil society groups have been on the front line of pushing for greater transparency in oil governance, questioning if Uganda is likely to become another locus for the dreaded “oil curse” and documenting land conflicts fueled by pressures for foreign investment.

¹⁶ International Crisis Group, “Uganda: No Resolution to Growing Tensions,” Africa Report No. 187, April 5, 2012, <http://www.crisisgroup.org/~media/Files/africa/horn-of-africa/uganda/187-uganda-no-resolution-to-growing-tensions.pdf> (accessed July 21, 2012), p. 19.

II. Uganda's NGO Sector Laws and Policies

[T]he dominant understanding ... tends to be with service delivery NGOs, rather than with advocacy ones. A “political fear factor” has conditioned many NGOs to avoid engaging with issues of power and politics thereby contributing less than they could possibly to the democratization agenda.

—Ugandan NGO Briefing for the Minister of Internal Affairs, August 11, 2009¹⁷

Uganda's 1995 constitution contains strong provisions on freedom of expression and association,¹⁸ including the freedom to form and join associations.¹⁹ The constitution further guarantees the right to engage in peaceful activities to influence the policies of the government through civic organizations,²⁰ and provides that any limitations on human rights must be acceptable and demonstrably justifiable in a free and democratic society.²¹

Despite these broad safeguards, Uganda's regulatory framework for the non-profit sector does not facilitate the work of NGOs. The current laws and regulations are not compatible with constitutional and international human rights protections, and several provisions obstruct and confuse nongovernmental organizations trying to comply with the law. This is increasingly important as hostile government rhetoric directed at civil society intensifies. Multiple government actors have stated that NGO activity will be thoroughly “scrutinized” and that NGOs out of compliance will face deregistration.²²

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

¹⁷ “The NGO Sector in Uganda, its Operating Environment and Relationship with Government: A Brief for a meeting between representatives from the NGO Sector and the 3rd Deputy Prime Minister and Minister of Internal Affairs – Hon. Kirunda Kivejinja,” Ministry of International Affairs Boardroom, August 11, 2009, on file with Human Rights Watch, p. 4.

¹⁸ The Constitution of the Republic of Uganda, 1995, art. 29(1)(a).

¹⁹ *Ibid.*, art. 29(1)(e).

²⁰ *Ibid.*, art. 38.

²¹ *Ibid.*, art. 43(c).

²² Many NGOs seek to avoid the government controls by registering as a company limited by guarantee under the Companies Act. In this way, there is no renewal process and there is recourse through the courts should there be problems.

the 2010 National NGO Policy which was the product of long consultations between the Ministry of Internal Affairs and representatives of the NGO sector.²³

NGOs are narrowly defined under the NGO Act as a body “established to provide voluntary services, including religious, educational, literary, scientific, social or charitable services to the community or any part of it,” reflecting a limited understanding of NGOs and emphasizing only service delivery dimensions.²⁴

Generally, in order to operate lawfully, NGOs in Uganda register as a legal entity with the government’s NGO Board under the NGO Act. To carry out research NGOs must then obtain permission from specified national and district level authorities. NGOs can also legally register as a “company limited by guarantee” under the Companies Act.²⁵

The NGO Act establishes a National Board for Nongovernmental Organizations (NGO Board) with the power to grant or refuse registration and to revoke registration once granted if the board deems it “in the public interest to do so.”²⁶ The Ministry of Internal Affairs oversees the NGO Board and its members are appointed directly by the minister. Members include three members of the public, officials from the Internal Security Organization (ISO) and the External Security Organization (ESO), as well as representatives from government ministries. The presence of the ISO, the government’s main domestic intelligence agency, and the ESO, the external intelligence agency on the board—both of whom report directly to the president and have been alleged to be involved in unlawful treatment of civilians²⁷—indicates, as one critique states, that the NGO Act “is premised on a narrow security and

²³ Human Rights Watch interview with Arthur Larok, country representative for Action Aid and former head of Uganda NGO Forum, Kampala, July 6, 2012. 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 fully endorsed by government or implemented in practice.

²⁴ The Nongovernmental Organisations Registration Act, Chapter 113 of 1989, art. 1(d). Community Based Organizations (CBOs) are defined under the Local Government Act (1997) and are required to register at district level, usually under the Community Development Office of the district government.

²⁵ There are various trade-offs between the two legal options and some NGOs legally maintain status under both the NGO law and the Companies Act.

²⁶ The Nongovernmental Organisations Registration Act, art. 10(c).

²⁷ See Human Rights Watch, *Open Secret: Illegal Detention and Torture by the Joint Anti-terrorism Task Force in Uganda*, April 8, 2009, <http://www.hrw.org/reports/2009/04/07/open-secret-o>; and “State of Pain: Torture in Uganda,” March 29, 2004, <http://www.hrw.org/reports/2004/03/28/state-pain>. See also US State Department, Bureau of Democracy, Human Rights, and Labor, “Country Reports on Human Rights Practices for 2011: Uganda,” <http://www.state.gov/documents/organization/186464.pdf>.

control objective rather than development considerations.”²⁸ Problematically, the board has no representatives from the NGO sector itself.²⁹

The 2010 NGO Policy was an important step in addressing the NGO sector’s “discontent with what they perceive as overbearing Government regulatory oversight which constrains their freedom of action.”³⁰ The policy positively seeks to “strengthen the functionality of the roles and responsibilities of these Non-State partners in national development.”³¹ Respect for fundamental human rights, freedom of association, gender equity and “[d]ignity, mutual respect and trust underpinned by open dialogue, transparency and accountability” are specifically stated as the core values of the policy.

But the aspirations of the policy are in conflict with the laws currently in place, such as the 2006 amendments and the 2009 regulations. For example, the legal regime sets out lengthy and convoluted registration requirements for NGOs and confusing procedures that NGOs are expected to comply with to receive permission to conduct research.

In order to complete an application for registration to the NGO Board, local NGOs must provide a number of documents, including an annual written work plan; the budget and constitution of the NGO; a recommendation by two sureties acceptable to the NGO Board; a recommendation from the chairperson of the executive committee of the sub-county council and the Resident District Commissioner in the given area; and the application must be signed by two “promoters.”³² Even when these steps are fulfilled, approval of the registration is solely at the discretion of the board. Amendments to the NGO Act in 2006 failed to include any safeguards to check the board’s discretion when rendering decisions or to provide recourse for NGOs seeking to appeal board decisions.³³ Appeals of NGO

²⁸ Uganda National NGO Forum, “Towards a Supportive Legal Environment for Publically Accountable NGOs in Uganda, A Consolidated NGO Memorandum for the Review of the NGO Act CAP 113 (as Amended),” July 2011, on file with Human Rights Watch, p. 5.

²⁹ The Nongovernmental Organisations Registration Act, art. 3.

³⁰ The National NGO Policy, 2010.

³¹ Ibid.

³² The Nongovernmental Organisations Registration Regulations, No. 19 of 2009, art. 5(2).

³³ In April 2009 eight NGOs filed a challenge to the Act before the Constitutional court, arguing that some provisions are inconsistent with the constitution, the International Covenant on Civil and Political Rights, and the East African Community Treaty. The NGOs based their case on the following concerns: mandatory registration; requirement of annual renewals of permits; NGO board discretion to impose restrictions on organizations; board discretion to reject NGO registration and renewal and to intervene subjectively and arbitrarily into the operations of NGOs; requirements of burdensome registration

Board decisions can be made to the minister of internal affairs, the line minister of the NGO Board itself, but there is no provision in law for judicial oversight or challenge to its decisions, leaving NGOs without a remedy in cases of conflict with the board.

NGO representatives carrying out research and advocacy work voiced considerable trepidation to Human Rights Watch about how to ensure compliance with the details of the NGO registration framework in the most productive and efficient manner, especially if there is increased scrutiny. One NGO trying to register told Human Rights Watch, “We want to be in compliance, but those people are not serious. It’s a very long process and you never know if you are safe.”³⁴ For the LGBT community there is the added burden of existing discriminatory legislation as an obstacle to lawful registration.

If an NGO wants to carry out research or advocacy activities throughout the country the regulations state that the organization must seek written recommendations from “the chairperson of at least two sub-county councils and at least two Resident District Commissioners.”³⁵ Moreover the regulations also state that an organization can “not make direct contact with people in their area of operation in Uganda unless it has given seven days [sic] notice in writing of its intention to do so to the local councils and the resident district commissioners of the area.”³⁶ The regulations specifically state that an organization must “restrict its operations to the area of Uganda in respect of which it is permitted to operate.”³⁷ Therefore NGOs cannot lawfully carry out research without being fully scrutinized by the authorities before starting. This structure also creates multiple layers of authorities and permissions over NGO work.

Even if an organization is registered its ability to conduct research, especially involving rural populations, is—at least according to law—further controlled. When an organization seeks to conduct any individual research project each time they are required to seek the

pre-conditions; provisions that make it conditional for NGOs to interact with the population, particularly in terms of access to people in rural areas; and the fact that sections of the NGO Act are contrary to international and regional legal norms guaranteeing freedom of association. The case has been cause listed twice but has never been argued due to a lack of quorum. It is not known when the hearing will proceed The Republic of Uganda in the Constitutional Court of Uganda, Constitutional Petition No. 5 of 2009, Petition, April 1, 2009, on file with Human Rights Watch.

³⁴ Human Rights Watch interview with NGO representative, June 28, 2012.

³⁵ The Nongovernmental Organisations Registration Regulations, art. 5(1)(g)(iii).

³⁶ The Nongovernmental Organisations Registration Regulations, art. 13(a).

³⁷ *Ibid.*, art. 13(d).

written approval of a separate research oversight authority, the Uganda National Council for Science and Technology (UNCST), which “registers and together with the Research Secretariat in the office of the president, clears all research intended to be carried out in Uganda.”³⁸ In this way the office of President Museveni is at least legally required to be aware and involved in determining any research agenda. There is no clarity as to what kinds of research methodologies—statistical surveys, anecdotes, household data—or subjects should incur these requirements. The expertise of the UNCST is clearly in the area of scientific research. But in some instances NGOs were told by the NGO Board to seek the research certificate to conduct any research³⁹ or by local authorities to seek the research certificate for informal interviews with members of rural communities; others had operated for years without obtaining one.

Corruption by district officials or other low level technical staff can further complicate the ability of NGOs to operate safely. NGO activists said that trying to work at the local level was a “corrupt process” where each official demands money in return for the necessary paperwork to file for registration.⁴⁰ Several NGOs told Human Rights Watch that in certain areas of the country, such as Moroto district for example, demands for payment to local officials is a serious challenge. “We found a hostile RDC and DISO in Moroto, both less than enthusiastic about our past and present work” said one researcher. “It became clear that what he was talking about was ... the lack of bribes paid by our team to the DISO and RDC.”⁴¹ Ultimately the DISO did not grant permission to conduct the research until the NGO contacted their donors who raised concerns over the obstructions directly with government officials.⁴² These kinds of incidents ultimately discourage NGOs from seeking necessary permissions from local authorities and also leave NGOs, particularly local ones, vulnerable to accusations of failing to comply with the law.

While the government has not routinely enforced the entire NGO legal regime in the strictest sense, NGOs, as documented in this report, fear that bureaucratic interference

³⁸ Uganda National Council for Science and Technology, “Research Registration and Clearance Policy and Guidelines,” March 2007, <http://www.uncst.go.ug/dmdocuments/Guideline,%20Research%20Registration%20Guidelin.pdf> (accessed July 8, 2012).

³⁹ Letter from NGO Board to ACODE, June 14, 2012, on file with Human Rights Watch.

⁴⁰ Human Rights Watch interview with B.B., Kampala, July 5, 2012, and Human Rights Watch email communication with NGO researcher L.D., July 10, 2012.

⁴¹ Human Rights Watch email communication with NGO researcher L.D., July 10, 2012.

⁴² Ibid.

and requirements that further permissions will need to be obtained to carry out routine work are on the rise as the government grows increasingly paranoid and seeks to shut down debate on politically sensitive topics. Minister of Internal Affairs Hilary Onek, speaking at the National Civil Society Organization Fair in Kampala in May 2012, said that the government has not been able to “interface” with NGOs fully because “our regulatory authority, the NGO Board, needs to be strengthened for that regulatory function to be fulfilled properly. With the lack of supervision, in the absence of proper supervision and regulation, there has been a vacuum created for some NGOs to stray away from their purpose for which they should be operating.”⁴³

⁴³ Video of Hon. Hilary Onek’s opening comments to the Civil Society Organizations Fair, May 31, 2012, on file with Human Rights Watch.

III. Trends in Government's Hostile Rhetoric toward NGOs

This aid is, of course, not always used for core areas. Quite a bit of it is used for non-core and arrogant areas such as the so-called 'governance' issues, "capacity" building, etc. I call these non-core and arrogant because the people of Uganda do not need assistance in governance.⁴⁴

—President Museveni, May 9, 2012

Civil society has come under fire from Uganda's government, which compounds the already antagonistic environment that NGOs feel they operate in under the 2006 NGO Act amendments and subsequent 2009 regulations. Nongovernmental organizations working on sensitive issues relating to governance, human rights, LGBT, and other controversial issues have borne the brunt of hostile rhetoric from senior government officials.

In the last year high-ranking government officials have used two main lines of argument to discredit the work of critical NGOs. First, some government officials claim that NGOs are not to be trusted because they are funded by "the West" and therefore represent the views of "foreign infiltration" seeking to tarnish the country's international standing, destroy its values, and/or plunder its resources. Second, NGOs are not to be trusted because they are really opposition political parties masquerading as NGOs bent on defaming the country.

In September 2011 Minister Oniek said he would "ban" international NGOs because they "tell lies" and are allegedly trying to undermine the work of the government through false reports on human rights abuses.⁴⁵ He did not provide any factual evidence to support his claim, or offer an explanation as to why any NGO would have a desire to undermine the government with false reporting. In November 2011 the *Red Pepper*, a Ugandan tabloid favored by government, reported that a secret security report allegedly presented to President Museveni identified philanthropist George Soros as trying to influence the Ugandan oil sector, and that when "his approach was denied implementation, he

⁴⁴ President Yoweri Museveni, "Mogadishu, Museveni responds to Obbo," *New Vision* (Kampala), May 9, 2012. <http://www.newvision.co.ug/news/630863-mogadishu-museveni-responds-to-obbo.html>.

⁴⁵ Nelson Wesonga, "Uganda: Government to 'Ban' International Human Rights Organisations," *The Daily Monitor* (Kampala), September 20, 2011, <http://allafrica.com/stories/201109201442.html> (accessed July 5, 2012).

subsequently opened a number of NGOs in Uganda to push for the same cause.”⁴⁶ Early in 2012 President Museveni himself addressed parliament on oil issues and attacked civil society for being under the influence of international interests, saying “Who is ‘civil society’? These are some individuals in the employ of foreign NGOs. How can these be ‘civil society’? [...] Why should people working for foreign governments that fund the NGOs be regarded as civil society?”⁴⁷

Minister Onek’s opening comments at the launch of the Global Week of Action against Armed Violence in Kampala in mid-June 2012 encapsulated the growing hostility against the local nongovernmental sector. According to the government-owned *New Vision* newspaper, Onek said that a number of Ugandan NGOs are “fermenting negative political activism with assistance from ‘enemies of the current regime’ from abroad yet hiding behind humanitarian work.”⁴⁸ He argued that “This [is] a critical moment and NGOs that are portraying us as those dictatorial regimes of Amin are going to be weeded out. They want to destabilize the country because that is what they are paid to do.”⁴⁹

This line of argument is ironic given that, although civil society clearly receives significant funding from foreign sources, the government itself is still heavily supported by the West. The Ministry of Finance indicates in a June 2012 report that almost 30 percent of Uganda’s state budget is funded by foreign donors.⁵⁰

The allegation that “the West” is importing values has also been the prime argument against organizations fighting to protect the rights of LGBT people in Uganda. The former and current ministers of state for ethics and integrity have launched particularly vitriolic attacks on local groups fighting the Anti-Homosexuality Bill. The current state minister told

⁴⁶ “Oil Bribes Linked To Obama Man,” *Red Pepper* (Kampala), November 29, 2011, <http://redpepper.co.ug/welcome/?p=23324> (accessed July 5, 2012).

⁴⁷ Office of the President Media Centre, “Address to Parliament by H.E. Yoweri Kaguta Museveni, President of Uganda, on Oil,” February 10, 2012, <http://www.mediacentre.go.ug/details.php?catId=6&item=1566> (accessed July 7, 2012).

⁴⁸ Pascal Kwesiga, “Uganda: Govt Gets Tough On NGOs,” *New Vision* (Kampala), June 19, 2012, <http://allafrica.com/stories/201206200783.html> (accessed July 7, 2012).

⁴⁹ *Ibid.*

⁵⁰ The projected budget from foreign sources to the state budget for 2011/2012 was 28.9 percent The Republic of Uganda Ministry of Finance, Planning and Economic Development, “The Background to the Budget 2012/13 Fiscal Year: Priorities for Renewed Economic Growth and Development,” June 2012, <http://www.finance.go.ug/> (accessed August 8, 2012). Haggai Matsiko, “Uganda: Donors Cut Budget Support,” *The Independent* (Kampala), August 9, 2012, <http://allafrica.com/stories/201008101266.html> (accessed July 16, 2012).

the media that he had documented evidence of meetings held to “empower, enhance and recruit (homosexuals),” and that NGOs were channeling foreign money for those purposes.⁵¹ He has never produced any evidence despite making such a claim multiple times (for more see section on Human Rights/LGBT Work).

Government comments reflect a fundamental paranoia towards civil society work and a suspicion that those working on governance and human rights have partisan political agendas. “Some [NGOs] have involved themselves outright in politics,” said Minister Onek while opening the Uganda National Civil Society Fair as the guest of honor.

If an NGO wants to be involved in politics, let them create a political party and then we go full blast, instead of operating undercover. It is cowardly to hide under an NGO as a politician and you use an NGO to advance your points. It is better to come out openly.... Because they are spoiling the genuine NGOs, the genuine humanitarian NGOs, who come with the aim of helping our people.⁵²

The government’s NGO Board communicated to one NGO that it should “desist from politics” and this was then reported in the media.⁵³ According to the government-owned *New Vision* newspaper, Onek has also argued that NGOs have been digressing from the roles for which they are registered and thus that they must be more strictly controlled.⁵⁴ Government has claimed that it will deregister international and local NGOs for this “negative political activism.”⁵⁵

⁵¹ Jocelyn Edwards, “Uganda to ban NGOs accused of promoting gay rights,” *Reuters*, June 20, 2012.

⁵² Video of Hon. Hilary Onek’s opening comments to the Civil Society Organizations Fair, May 31, 2012, on file with Human Rights Watch; Joseph Kimbowa, “Uganda: NGOs Told to Avoid Politics,” *The Observer* (Kampala), June 7, 2012, <http://allafrica.com/stories/201206081157.html> (accessed July 5, 2012).

⁵³ Letter from NGO Board to ACODE, June 14, 2012, on file with Human Rights Watch; and John Njoroge, “Govt orders NGO to desist from politics,” *The Daily Monitor* (Kampala), June 23, 2012, <http://www.monitor.co.ug/News/National/Govt+orders+NGO+to+desist+from+politics/-/688334/1432968/-/view/printVersion/-/so8m4dz/-/index.html> (accessed July 16, 2012).

⁵⁴ Moses Walubiri, “Uganda: Back Off Politics, Minister Tells NGOs,” *New Vision* (Kampala), June 1, 2012, <http://allafrica.com/stories/201206020095.html> (accessed July 9, 2012).

⁵⁵ Kwesiga, “Uganda: Govt Gets Tough On NGOs,” *New Vision*, <http://allafrica.com/stories/201206200783.html>.

According to knowledgeable sources the NGO Board received a list of 20 NGOs to investigate for possible deregistration from the minister of internal affairs.⁵⁶ The rumors surrounding that list have prompted significant fear in the NGO sector. Several NGO representatives told Human Rights Watch that they believe their organization is listed and that they are scaling back activities to some extent as a result.

⁵⁶ Human Rights Watch interviews with knowledgeable sources Kampala, June 29, 2012, and July 19, 2012.

IV. Obstructions, Threats, and Harassment Directed at NGOs

Good Governance and Corruption Work

In 2010, 17 Ugandan NGOs came together to launch the Citizen's Manifesto led by the Uganda Governance Monitoring Platform, an NGO conducting research and advocacy on accountability in governance. The objective was "to generate a citizens' political demand upon which to hold various elected leaders accountable and upon which the responsiveness of the political system can be assessed."⁵⁷ Under the auspices of the Citizens' Manifesto, civil society around the country has been engaged in various meetings and campaigns, but in some areas of the country these efforts have been met with threats from government actors, particularly resident district commissioners who are appointed by the president and district internal security organization officers, and in some cases, the arrests of members of civil society and obstructions of their meetings.

For example, in the run-up to the presidential and parliamentary elections in early 2011, the coalition launched a campaign called "Return Our Money." The campaign called on members of parliament to return a parliament-approved payment of 20 million Uganda shillings (US\$8,500) to each of its nearly 330 members as part of a supplementary budget allocation. The money was officially said to be for monitoring government programs, but many anti-corruption activists questioned whether that was the real reason behind disbursing such a large sum of money to government officials just a few weeks before elections, especially when Uganda's treasury had publicly stated it was having cash flow problems. In a January 26, 2011 public statement the campaign's leaders contended that the payments were "widely believed to be a bribe," given that the members of parliament already receive money for monitoring work, that there were no guidelines for spending the money, and the timing of the payout with elections. The statement also listed several development projects, such as water sources, food for students, and sanitation services, which could have used the money.

⁵⁷ Uganda Governance Monitoring Platform, "Background to the Citizens Manifesto: Putting Citizens at the Forefront of Shaping a Democratic and Accountable Political System in Uganda," March 2010, on file with Human Rights Watch.

On February 5, 2011, there was a wave of arrests of volunteers trying to deliver the statement to local government officials in Kampala. Police confiscated the volunteers' phones and subjected them to lengthy interrogations. Some were asked for personal details such as the names and addresses of family members and were told they might be charged with treason or incitement to violence. At the time, one of those detained told Human Rights Watch, "I felt intimidated by police. They threatened me with abuse and asked me if I had permission to publish the statement. I told them, I don't need permission to do my work. Then police asked me who I would vote for." In the final count 16 people were arrested and detained for at least several hours in Kampala, either for distributing the statement or for having it in their possession.

In Lira district in northern Uganda the statement also prompted police action. On February 7, 2011, a local station called Radio Rhino hosted a talk show with the chairmen of three political parties. During the program a civil society member from Facilitation for Peace and Development (FAPAD) read the statement and the moderator summarized it in the local language for listeners. FAPAD is a member of Uganda Governance Monitoring Platform and one of the groups that signed the statement. The next day the group's executive director, Eunice Apio, was summoned for interrogation separately by both the district police commander (DPC) and the RDC.

During the interrogation the police commander allegedly threatened Apio that she would be charged with incitement to violence or hurting the reputation of the president, as well as other crimes. In another meeting on February 9, 2011, the DPC, the district internal security officer, and the RDC, along with police questioned Apio again about the contents of the statement. In the end the officials told FAPAD that there was a moratorium on any further comments to the press about the payments to the parliament members, but refused to put this instruction in writing or provide the legal basis for imposing such a moratorium.

Beginning in early 2012 members of the Citizen's Manifesto again sought to organize a nation-wide effort to discuss key issues in governance. The Citizen Leaders Engagement Meetings were to engage with various local and national leaders and assess how the country has fared since the 2011 elections. An important feature of these discussions is the restoration of presidential term limits in the constitution. In a widely controversial move the constitution was amended in 2005, just before the 2006 elections, to lift term limits and permit President Museveni to run again, despite having already held office for

20 years at that point. There are those in civil society and in government—including in the President’s own party—who believe that the constitution should not have been amended and now seek to change it to its original text as it was in 1996.⁵⁸ Clearly some district level officials, particularly RDCs, perceive this discussion as a personal attack on the president. Their jobs are dependent on his good graces as they are appointed directly by him and so preventing the opportunities for these discussions is—at least some extent—personally important for their careers.

In parts of the country the meetings have taken place without significant problems but in others, organizers have faced challenges. An RDC in the southwest forced organizers of an event to remove the words “term limits” from the title of the event. “We agreed to change it because we want to proceed,” said one organizer. “For us to provide a platform for Ugandans to speak, we have learned to succumb and adjust our plans.”⁵⁹

In Lira FAPAD and the Lira NGO Forum had to abort two public meetings, one on May 26 on term limits and another on June 23 where a range of individuals drawn from the political leadership, including members of parliament, planned to discuss progress of the Citizen’s Manifesto. In both instances security officials at the district level told the venue operators that the discussions could not proceed. The local government representatives argued that the May discussion could not take place because an immunization event was taking place the same day. The organizers agreed to reschedule to June. However, the DISO stated that organizers were required to submit a list of participants and guest speakers and the names of persons organizing the event. Ultimately, despite inviting the police, DISO, and RDC, among others to the public discussion, security officials said that it had to be “postponed” or it would be an “unlawful assembly.”⁶⁰ District security officials accused the organizers of seeking to “incite the public” numerous times, and flagged that the minister of internal affairs had said that action will be taken against NGOs involved in politics.⁶¹

⁵⁸ Sulaiman Kakaire, “Uganda: We’ll Bring Change to NRM – Niwagaba,” *The Observer* (Kampala), June 21, 2012.

⁵⁹ Human Rights Watch interview with B.B., Kampala, July 5, 2012.

⁶⁰ Human Rights Watch interviews with knowledgeable sources and email communications on file with Human Rights Watch, June 2012.

⁶¹ Minutes of the meeting in the office of the RDC LIRA between district security team and organizers of public discussion of presidential term limits in Lira, May 23, 2012. Minutes of the meeting between Central North Regional Police Officers and Organising Committee of Public Discussion on Restoration of presidential term limits in Lira, June 5, 2012, on file with Human Rights Watch.

In another incident in February 2012, Ugandan police at the Mutukula border post impounded 700,000 calendars printed by an East African NGO, Twaweza.⁶² Twaweza seeks to promote citizen information and citizen participation in change. The organization had printed the calendars filled with photographs of world leaders as part of a public education project. Media reports quote a police official as saying “the calendar message has the potential to incite the public.”⁶³ The calendar had pictures of national and international leaders including the president, speaker of parliament, some members of parliament, international football [soccer] players, business people, and the Queen of England.⁶⁴ The calendars also had some inspirational messages encouraging the Uganda citizenry to “play their part” in the development agenda.

Environment, Land, and Oil Work

Organizations carrying out research, advocacy, and citizen education on environmental issues have also faced increasing obstructions to their work. Conflict over land tenure remains a serious source of community turmoil, particularly in areas where there is oil or where government and private companies intend to carry out large scale investment projects. NGOs have in several instances rallied in support of affected communities, criticizing the manner in which land evictions have been carried out and the absence of fairness of financial compensation packages. NGOs seeking to educate the public about the value of their land, community processes, and compensation rights face a variety of problems from government officials, including threats of deregistration, accusations of sabotaging government programs, and arrest. As one NGO staff member told Human Rights Watch, “If your research raises a flag about people in power in this country, and how they are getting money out of this country, you are at serious risk. If you preach human rights in this sector, you are anti-development, an economic saboteur.”⁶⁵

NGOs interviewed by Human Rights Watch cited the ongoing problems of Uganda Land Alliance (ULA) as casting a dark shadow over the operating environment because of the

⁶² Twaweza, “Statement Regarding the Twaweza 2012 Calendars Impounded by the Ugandan Authorities,” February 28, 2012, <http://twaweza.org/uploads/files/Twaweza%20Statement%20Uganda%202012%20Calendars%2028%20Feb%202012.pdf> (accessed July 30, 2012).

⁶³ “Police seize subversive Calendars,” *NTV News*, February 28, 2012, <http://www.youtube.com/watch?v=vpVN2r1chC8> (accessed July 9, 2012).

⁶⁴ The calendar can be viewed at http://twaweza.org/uploads/files/Twaweza_Uganda%202012%20Calendar%20low.pdf.

⁶⁵ Human Rights Watch interview with B.L., Kampala, July 10, 2012.

government's actions, including a wide-ranging investigation by the NGO Board which ultimately recommended apologies from ULA and threats of deregistration. In September 2011 Oxfam published a report on land conflict in various countries around the world.⁶⁶ Oxfam worked with ULA to research one Ugandan case study about alleged evictions from Mubende and Kiboga districts. The Ugandan National Forestry Authority had granted licenses to the UK-based New Forests Company (NFC), which had received investment from the World Bank's private sector lending branch, the International Finance Corporation (IFC), among others. The case study argues that police and military forcibly and brutally removed several thousand people from the land and security officials ignored interim orders from the High Court barring the evictions pending a full hearing, among other violations of the rights of the community.⁶⁷

In the wake of the report's publication and a complaint filed on behalf of the affected communities with the Compliance Advisor/Ombudsman (CAO), the independent recourse mechanism of the IFC, Uganda's minister of water and environment published a statement disputing the use of the term "land grab," arguing that the residents were "encroachers" and "illegal occupants," and that evictions were lawfully carried out by the government institutions mandated to do so. On the issue of the legality of the tenancy of the residents, the minister stated that "due to the breakdown of law and order, and indeed the breakdown of formal government machinery in the seventies and eighties many things went wrong in Uganda."⁶⁸ She urged the report authors to issue a "more accurate" version of the research and assured the government's commitment to rule of law.⁶⁹ She did not respond to the allegations of the human rights violations committed during the removals, but asked anyone with evidence to come forward.

⁶⁶ The report argues that "the poorest people are being hardest hit as competition for land intensifies" and that "residents regularly lose out to local elites and domestic or foreign investors because they lack the power to claim their rights effectively and to defend and advance their interests." For more see Oxfam, "Land and Power: The growing scandal surrounding the new wave of investments in land," September 22, 2011, <http://policy-practice.oxfam.org.uk/publications/land-and-power-the-growing-scandal-surrounding-the-new-wave-of-investments-in-l-142858> (accessed August 10, 2012).

⁶⁷ *Ibid.*, pp. 14-17.

⁶⁸ Office of the President Media Centre, "Clarification by the Government of Uganda Regarding the Case Study by Oxfam International Titled: The New Forests Company and Its Uganda Plantations of 22 September 2011 Alleging [sic] Land Grabbing [sic]," November 4, 2011, <http://www.mediacentre.go.ug/details.php?catId=1&item=1431> (accessed July 16, 2012).

⁶⁹ *Ibid.*

The disagreement over the report's findings intensified. The minister of state for economic monitoring, based in the president's office, communicated concerns to the minister of internal affairs which prompted an "investigation into the alleged improper conduct of two NGOs."⁷⁰ Allegedly, the activities of the NGOs "incited local communities into violent and hateful acts against the New Forests Company" and that this caused "economic loss to some investors ... [and] tainted the Country's international image on investor management, the respect and promotion of human rights and even brought the person of the President in to disrepute."⁷¹

The Ministry of Internal Affairs then tasked the NGO Board to conduct a wide-ranging investigation which went well beyond the legal mandate and the technical capacity of the board itself. For example, according to the report, the NGO Board investigation was mandated by government to "establish the legality" of the New Forests Company and to "identify the sources of conflict and its management."⁷² Why or how the NGO Board would have legal authority over the status of a foreign-incorporated private sector actor, or the legal and technical knowledge to address community conflict, re-research the report's findings, and make determinations regarding research methodologies, is not clear.

Ultimately the NGO Board investigation recommended that the NGOs have their permits withdrawn if they did not take "corrective action," that the report be "withdrawn," and that a retraction be issued. Furthermore the board said that the NGOs should "make apologies to the President of the Republic of Uganda, Government of Uganda Ministries, Agencies and Local Governments...."⁷³

In two public statements ULA stood by the content of the research and their methodological approach and pressed the government to address the problems documented in the report.⁷⁴ They have also flagged that the government's approach to the

⁷⁰ The National NGO Board, Ministry of Internal Affairs, Government of Uganda, "Report on Alleged De-Campaigning of the New Forest Company Limited by Oxfam GB and Uganda Land Alliance in Kiboga and Mubende District," no date, on file with Human Rights Watch, p. 5.

⁷¹ *Ibid.*, p. 5.

⁷² *Ibid.*, p. 6.

⁷³ *Ibid.*, pp. 16-17.

⁷⁴ Uganda Land Alliance, "Uganda Land Alliance faces Government investigations over anti-land grabbing campaign," April 25, 2012, <http://ulaug.org/2012/04/uganda-land-alliance-faces-government-investigations-over-anti-land-grabbing-campaign/> (accessed July 16, 2012).

disagreement is likely to affect the sector. “The price for Uganda Land Alliance’s investigations into cases of land grabbing has been set-so high that once paid, it will become extremely risky for anyone attempting to question the vices of land grabbing and forceful evictions of innocent citizens,” the group noted.⁷⁵

In a May letter to ULA the minister of internal affairs called ULA “contemptuous” and stated that ULA was seeking to “ridicule” government authority and its institutions.⁷⁶ At his opening remarks at the National Civil Society Fair, the minister further accused ULA of “peddling lies” and said that he would “bring them to order so that they don’t spoil the image of the country, the head of state, and the first family, and any other institutions of government.”⁷⁷ On June 14, 2012, ULA publicly expressed regret for inaccurate or speculative statements that the media might have made when writing on the content of the report and apologized for misunderstandings.⁷⁸

It is not clear what will happen next or if ultimately ULA will face deregistration. Some knowledgeable sources told Human Rights Watch that the parties— Oxfam, ULA, the government, and the New Forests Company—have worked together to draft a joint statement which will eventually be released to the public, but that had not yet occurred at the time of writing. The IFC’s CAO Ombudsman has begun a dispute resolution process involving all the parties.⁷⁹

In early 2012 the NGO Africa Institute for Energy Governance (AFIEGO) raised concerns about the amount of compensation offered to communities in Bugiri, Iganga, Jinja, Mayuge, Mbarara, and Tororo districts to make way for high voltage electrical lines.⁸⁰ Some

⁷⁵ Uganda Land Alliance, “Apologize or face closure, government tells Uganda Land Alliance,” April 30, 2012, <http://ulaug.org/2012/04/kampala-%e2%80%93apologise-or-face-closure-government-tells-uganda-land-alliance/> (accessed July 16, 2012).

⁷⁶ Letter from Hon. Hilary Onek, Minister of Internal Affairs, to Uganda Land Alliance, May 31, 2012, on file with Human Rights Watch.

⁷⁷ Video of Hon. Hilary Onek’s opening comments to the Civil Society Organizations Fair, May 31, 2012, on file with Human Rights Watch.

⁷⁸ Uganda Land Alliance, “A Public Apology to the Hon. Minister of Internal Affairs, Hilary Onek,” *New Vision* (Kampala), June 14, 2012, <http://ulaug.org/new/wp-content/uploads/PUBLIC-STATEMENT-NEW-VISION.jpg> (accessed July 16, 2012).

⁷⁹ Office of the Compliance Advisor/Ombudsman, “Uganda/Agri-Vie Fund-01/Kiboga,” December 20, 2011, <http://www.cao-ombudsman.org/cases/document-links/links-180.aspx> (accessed July 16, 2012); “Uganda/Agri-Vie Fund-02/Mubende,” December 20, 2011, <http://www.cao-ombudsman.org/cases/document-links/links-181.aspx> (accessed July 16, 2012).

⁸⁰ Joseph Olanya, “Communities Attack UETCL over compensation,” *The Observer* (Kampala), March 27, 2012.

communities argued that they were not being fairly compensated for their land by Uganda Electrical Transmission Company Limited (UETCL), a government entity, and that UETCL staff were buying land at low rates and then cashing in on the large scale project.⁸¹ Rather than addressing those substantive concerns, UETCL, in an advertisement in the government-owned *New Vision* newspaper, published a statement which argued that AFIEGO was mobilizing affected communities to reject compensation offers and “inciting the public” to be hostile to officials. Further, UECTL argued that the NGO’s actions were “bordering on sabotage of government programs and are unacceptable.”⁸²

Another NGO working on land issues and evictions told Human Rights Watch that government and security operatives have thwarted their ability to get information from people who believe they have been aggrieved. “DISOs harass people who try to come to us,” said one NGO staff member. “Then the DISO comes to us and said, ‘why are you talking to those people?’ When we ran ads calling for people to come and report instances of land grabbing, RDCs called my staff and asked, who paid for these ads? And why are you decampaigning [campaigning against] government?”⁸³

Research in the areas of the country where oil has been discovered also remains very challenging. The government has attempted to control outsiders’ access to the communities, particularly Buliisa district, where the oil areas are located in close proximity of the district government offices. There is a clear understanding among members of civil society working on oil issues that they must receive written permission each time they seek to visit the region from the permanent secretary of the Ministry of Energy and Mineral Development, despite this not being in law or even in print anywhere.⁸⁴

⁸¹ Human Rights Watch interview with E.L., Kampala, June 28, 2012.

⁸² Advertisement from UETCL, *New Vision* (Kampala), April 5, 2012.

⁸³ Human Rights Watch interview with B.L., Kampala, July 10, 2012.

⁸⁴ The directive was allegedly issued by the Permanent Secretary at the Ministry of Energy and Mineral Development Kabagambe Kaliisa stating that any NGO doing advocacy or research in the Albertine rift must first get clearance from the ministry. See National Association of Professional Environmentalists (NAPE) Lobby, Geoffrey Kamese and Lilian Komugisha, “Government plots to stop NGOs from working in oil region in Uganda,” September 2010, p. 6.; see also Haggai Matsiko, “Acode Under Investigation,” *The Independent* (Kampala), April 9, 2012, <http://www.independent.co.ug/news/news-analysis/5549-acode-under-investigation> (accessed July 16, 2012).

One NGO told Human Rights Watch that they had written to the secretary for permission, they had been asked follow-up questions, and then never received a final answer.⁸⁵ In some instances NGOs have traveled without written permission, but they expressed significant fears of doing so. “If the DISO had found us talking to community members, he would have arrested us, even though we are Ugandans and we are allowed to be there in our own country,” said one NGO staff who recently travelled to Buliisa.⁸⁶

The fear of arrest is not without basis. In July 2010 the chairman of the Buliisa district NGO Forum was arrested and charged with “disobeying police orders,” after arranging meetings in the district for a local NGO, the National Association of Professional Environmentalists (NAPE).⁸⁷ He was held for five days and eventually released on police bond.⁸⁸ Also in July 2010 the RDC of Buliisa district ordered the arrest of NAPE staff members after they held a community meeting earlier that day.⁸⁹ On January 20, 2011, the then resident district commissioner of Amuru district and security operatives stopped officials from Publish What You Pay Uganda from screening a documentary about oil issues and their equipment was confiscated.⁹⁰ As one Buliisa resident told the media, “organisations coming from outside the District are the ones being restricted. Very many researchers have been chased out of the District and many journalists have been chased out because they don’t have the permission of the [permanent secretary].”⁹¹

The government has also begun to examine the financial status of NGOs working on oil governance. In a much reported event in February 2012, Advocates Coalition for Development and Environment (ACODE)—a prominent organization working on good

⁸⁵ Human Rights Watch interview with NGO representative, L.L., Kampala, July 3, 2012.

⁸⁶ Human Rights Watch interview with E.L., Kampala, June 28, 2012.

⁸⁷ Human Rights Watch interview, July 17, 2012; Oil in Uganda, “Advocates fear ‘shrinking space’ over land row—but grassroots groups say business as usual in oil regions,” May 4, 2012, <http://www.oilinuganda.org/features/civil-society/advocates-fear-shrinking-space-over-land-row-but-grassroots-groups-say-business-as-usual-in-oil-regions.html> (accessed July 16, 2012); and “Uganda’s Oil: From promise to despair,” *Sunrise* (Kampala), February 24, 2011, <http://www.sunrise.ug/features/evnironment/2008-ugandas-oil-from-promise-to-despair.html> (accessed July 16, 2012).

⁸⁸ Human Rights Watch interview with NGO staff, Kampala, July 17, 2012.

⁸⁹ Geoffrey Kamese and Lilian Komugisha, “Government plots to stop NGOs from working in oil region in Uganda,” National Association of Professional Environmentalists (NAPE) Lobby, September 2010, p. 6; Oil in Uganda, “Advocates fear ‘shrinking space’ over land row,” <http://www.oilinuganda.org/features/civil-society/advocates-fear-shrinking-space-over-land-row-but-grassroots-groups-say-business-as-usual-in-oil-regions.html>.

⁹⁰ Human Rights Watch interview with NGO director, E.L., May 20, 2011.

⁹¹ “Uganda’s Oil,” *Sunrise*, <http://www.sunrise.ug/features/evnironment/2008-ugandas-oil-from-promise-to-despair.html> (accessed July 16, 2012).

governance and oil sector accountability, among other issues—hosted a meeting of 300 district councilors as part of their “National Local Government Councilors Association and the Local Government Scorecard,” a peer review process on government accountability. It is unclear what aspect of this meeting prompted concern from the security agencies—likely a discussion on oil revenue allocation—but shortly after, on March 16, the governor of the Bank of Uganda sent a letter to all commercial banks to handover details of ACODE’s accounts. He stated that the bank “suspected” ACODE was “engaged in suspicious transactions.”⁹²

Since then ACODE has received a letter from the NGO Board stating, among other things, that because ACODE was registered as an NGO it must “stop being a member of unregistered loose coalitions that are political in nature.”⁹³ The NGO law is silent on the legal status of coalitions, but working in coalition is a very common approach to advocacy in Uganda and also clearly provides some protection when working on sensitive issues. The NGO Board raised specific concerns about ACODE’s involvement in the Citizen Coalition for Electoral Democracy (CCEDU), a grouping of hundreds of NGOs and community based groups working on electoral issues, as well as the prominent Civil Society Coalition on Oil (CSCO), comprised of many of the leading national and international organizations working on the oil sector.⁹⁴

Human Rights/LGBT Work

A sustained attack by the Ugandan government, both in rhetoric and practice, on the rights of LGBT people has been on-going for years. This has been highly controversial and caused significant debate between various government actors and bilateral donors. This tension has intensified since 2009 when a member of parliament from the ruling NRM party, David Bahati, introduced the now notorious Anti-Homosexuality Bill.⁹⁵ Homosexual sex is illegal

⁹² “Uganda: Attacking Civil Society,” *Africa Confidential*, July 6, 2012, Vol. 53, No. 14, <http://www.africa-confidential.com/index.aspx?pageid=7&articleid=4530> (accessed July 16, 2012); Matsiko, “Acode Under Investigation,” *The Independent*, <http://www.independent.co.ug/news/news-analysis/5549-acode-under-investigation>; and letter from Tumusiime-Mutebile to “All Commercial Banks, Credit Institutions, and Micro Finance Deposit Taking Institutions,” March 16, 2012, on file with Human Rights Watch.

⁹³ Letter from NGO Board to ACODE, June 14, 2012, on file with Human Rights Watch.

⁹⁴ *Ibid.*

⁹⁵ Anti-Homosexuality Bill.

under the colonial-era penal code which criminalizes “carnal knowledge against the order of nature.”⁹⁶

Bahati’s bill introduces several new crimes such as “promotion of homosexuality,” which is particularly pernicious in that all legitimate human rights work that seeks to research or advocate for policy changes in the areas of sexual orientation or gender identity would be potentially criminal. Experts have noted that these provisions will seriously obstruct Uganda’s ability to fight HIV as outreach activities with some communities would be a crime.⁹⁷ The bill targets NGOs specifically stating that for the crime of “promotion,” if the “offender is... a non-governmental organization, on conviction its certificate of registration shall be cancelled and the director or proprietor or promoter shall be liable on conviction to imprisonment for seven years.”⁹⁸

Another new crime of “failure to disclose the offence” of homosexuality would impede work of health and human rights organizations as it would legally require anyone with knowledge of homosexuality to report the activity to police or face three years in prison.⁹⁹ This legally mandated community witch hunt of anyone suspected of being homosexual would jeopardize civil society working across many sectors. The current bill also increases the penalty for some acts of homosexual sex to the death penalty, though Bahati has told the media on several occasions that this might be amended.¹⁰⁰

Many foreign donors have staunchly defended the rights of Uganda’s LGBT community and worked to defeat the bill. The bill has been widely criticized internationally for its harsh provisions in obvious contradiction of Uganda’s international human rights obligations, including by United States President Obama who labeled the bill “odious” at the 2010

⁹⁶ Penal Code Act, Chapter 120 of 1950, as amended by the Act of 2007, section 145.

⁹⁷ “Uganda: ‘Anti-Homosexuality Bill’ threatens fight against HIV, UN expert warns,” *UN News Centre*, January 22, 2010, <http://www.un.org/apps/news/story.asp?NewsID=33552>.

⁹⁸ Anti-Homosexuality Bill, art. 13(2)

⁹⁹ Anti-Homosexuality Bill, art. 14.

¹⁰⁰ The version of the bill that was re-tabled in 2012 in parliament was identical to the version of the bill initially tabled in 2009. For more on the Anti-Homosexuality Bill, see “Uganda: ‘Anti-Homosexuality’ Bill Threatens Liberties and Human Rights Defenders,” Human Rights Watch news release, October 15, 2009, <http://www.hrw.org/news/2009/10/15/uganda-anti-homosexuality-bill-threatens-liberties-and-human-rights-defenders>. At the time of writing, there is a very preliminary proposal allegedly from the Ministry of Gender, Labour, and Social Development which would adopt some provisions of the proposed Anti-Homosexuality Bill into a larger project to amend the penal code.

national prayer breakfast.¹⁰¹ Domestic critics have been fewer, but local human rights groups, and importantly the Uganda Human Rights Commission, have clearly stated that the bill is unconstitutional.¹⁰² After the widespread outcry President Museveni declared that the bill had become a “foreign policy matter,”¹⁰³ and since then it has been in procedural flux in parliament.¹⁰⁴ President Museveni has allegedly assured various diplomats on several occasions that he would not sign the bill if it is passed by parliament.¹⁰⁵

Over the three years the Anti-Homosexuality Bill has been pending it has never been tabled for a parliamentary vote, but some government actors have misinformed the public via the media, speaking and acting as if its provisions are already in force. Given the public’s frustrations with the ruling party leadership since the February 2011 elections, particularly around financial mismanagement, the dim economic outlook, and significant inflation, many see government’s increasing focus on the alleged threat of homosexuality as an easy public diversion. The Ministry of State for Ethics and Integrity has been the lead agent pushing Uganda’s aggressively homophobic agenda and threatening NGO operating space.¹⁰⁶

¹⁰¹ “Obama condemns Uganda anti-gay bill as ‘odious,’” *BBC Online*, February 4, 2012, <http://news.bbc.co.uk/2/hi/africa/8498836.stm> (accessed July 9, 2012).

¹⁰² “Sexual Minorities Uganda Rejects and Opposes the Re-Tabled Anti Homosexuality Bill, 2009,” SMUG, February 13, 2012; Uganda Human Rights Commission, 12th annual report, 2009, chap. 14; “Commission’s Position on the Anti-Homosexuality Bill,”

http://www.uhrc.ug/index.php?option=com_docman&task=doc_view&gid=102&tmpl=component&format=raw&Itemid=137 (accessed July 21, 2012), p. xxxv; East and Horn of Africa Human Rights Defenders Project (EHAHRDP), Foundation for Human Rights Initiative (FHRI), The Human Rights Centre Uganda (HRCU), and Human Rights Network-Uganda (HURINET), “Uganda: Parliament Should Reject Anti-Homosexuality Bill,” February 16, 2012, <http://www.defenddefenders.org/en/2012/02/uganda-parliament-should-reject-anti-homosexuality-bill/> (accessed July 21, 2012); Statement by the Civil Society Coalition on Human Rights and Constitutional Law – Uganda, “On the Anti-Homosexuality bill,” 2009, http://www.ugandans4rights.org/publications-downloads/11_05_09_Final_Coalition_submission_to_Legal_committee_of_parliament.pdf (accessed July 30, 2012); Uganda Law Society views on the Anti-Homosexuality Bill, February 15, 2012, on file with Human Rights Watch.

¹⁰³ Milton Olupot and Cyprian Musoke, “Uganda: Museveni Warns NRM on Homosexuality Bill,” *New Vision* (Kampala), January 12, 2010, <http://allafrica.com/stories/201001121082.html> (accessed July 9, 2012).

¹⁰⁴ Parliament’s Legal and Parliamentary Affairs committee held public hearings on the bill in May 2011 and issued a set of recommendations that failed to take into account the range of critiques. The bill lapsed in the previous parliament and Bahati subsequently reintroduced it in January 2012. At the time of going to press it is likely to be back before the Legal and Parliamentary Affairs Committee in late 2012.

¹⁰⁵ Human Rights Watch interviews with members of the international diplomatic community, 2010-2012.

¹⁰⁶ Former Minister of State for Ethics and Integrity James Nsaba Buturo was a leading proponent of the bill and often cited as the lead champion of its passage. He also obstructed NGO work. For example, on November 17, 2010, he issued a directive to Lake Victoria Serena Hotel not to host the African Women’s Leadership Institute for sex worker rights activists, stating that hosting the meeting would amount to “promoting and defending a criminal act,” and that the hotel would be “an accomplice in an illegality.” The hotel cancelled the event, led by Akina Mama wa Afrika, and made participants leave.

Throughout 2012 Honorable Simon Lokodo, currently the minister of state for ethics and integrity and a former Catholic priest from the impoverished north-eastern region of Karamoja, has intensified attacks on human rights work which supports the rights of LGBT people. While the informal written mandate of the Directorate for Ethics and Integrity is focused solely on anti-corruption work, Minister Lokodo argues that as someone “empowered to uphold moral values” he must address the issue of homosexuality.¹⁰⁷ He told Human Rights Watch that fighting homosexuality is a “national priority” and that those arguing for LGBT rights were “on a mission to destroy this country.”¹⁰⁸

To carry out his mission he has closed meetings and workshops, threatened various civil society groups with deregistration for their work on LGBT rights, and attempted to have some LGBT leadership arrested—despite having no legal powers and clearly acting outside Uganda’s own laws and obligations to protect freedom of expression, association, and assembly under international human rights law.

A few months after taking office in mid-2011 Lokodo received a letter from Reverend Canon Albert Ogle of the St. Paul’s Foundation in the United States about the “topic of homosexuality and how the religious and state authorities are viewing it.” The letter informed Lokodo of a US meeting about “the effects of prohibitive laws that limit our ability to be pastors, physicians and good fellow citizens to one another” and invited him to attend a meeting to be held in Uganda to “bring together religious and political leaders with NGOs, World Bank and other concerned organizations about the links between full access to services and opportunity and cooperation from the international community.”¹⁰⁹ In a response via email Lokodo wrote that “the laws and cultures of Uganda criminalize homosexuality and lesbianism and are punishable by life imprisonment and death in cases of aggravated cases say abusing minorities or recruiting inferiors into the

¹⁰⁷ Human Rights Watch interview with Hon. Simon Lokodo, Minister of State for Ethics and Integrity, Kampala, July 9, 2012. According to Lokodo, his office is mandated to “coordinate government efforts to fight corruption, provide political representation in the fight against corruption, set ethical standards for rebuilding ethics and integrity in public office, formulate Anti-Corruption Policies and Legislation to guide agencies and their activities, and monitor the observance of ethical standards and anti-corruption legislation.” Brochure of the Directorate for Ethics and Integrity, Office of the President, “Rebuilding Ethics and Integrity,” on file with Human Rights Watch. For more information, see Directorate for Ethics and Integrity, Office of the President, <http://www.dei.go.ug/> (accessed August 10, 2012).

¹⁰⁸ Human Rights Watch interview with Hon. Simon Lokodo, Kampala, July 9, 2012.

¹⁰⁹ Letter from St. Paul’s Foundation to Hon. Simon Lokodo, November 30, 2011, on file with Human Rights Watch.

perversion.”¹¹⁰ Furthermore, he threatened the conference organizers, stating “I advise [sic] you not to make a mistake of staging the said conference anywhere in Uganda. I can assure you [sic] will face the arm of the law.”¹¹¹ In his response Lokodo blatantly overstated the current laws in Uganda, writing as if the Anti-Homosexuality Bill was actually adopted and utterly disregarding the constitution’s provisions protecting the rights to freedom of assembly, expression, privacy, and association.

A few months later Lokodo shut down a February 2012 workshop in Entebbe organized by Freedom and Roam Uganda (FARUG).¹¹² FARUG advocates for LGBT rights and is led by the 2011 Martin Ennals award winner Kasha Jacqueline Nabagesera.¹¹³ Lokodo, accompanied by his police escort, appeared at the workshop and declared it illegal after inspecting workshop materials. He claimed that the group’s activities were against “tradition,” closed the workshop, and dispersed the 35 participants.¹¹⁴ Participants told Human Right Watch that Lokodo threatened to arrest Nabagesera after she challenged the minister’s order to disband the meeting. Four activists affected by the shut-down have sued Lokodo and the attorney general in High Court for infringement of their constitutional rights. The civil case is currently pending.¹¹⁵

On June 18, 2012, Lokodo ordered another workshop to be shut down. East and Horn of Africa Human Rights Defenders Project (EHAHRDP), a registered NGO focused on protecting and training human right defenders, organized a training in Kampala for 20 LGBT advocates from around East Africa. In this instance Lokodo did not appear but the head of the Kampala Metropolitan Criminal Investigations Department of Police, Charles Kataratambi, was there in person. Members of the media and police broke up the event and participants were detained, questioned by the police, and in some instances police forced their way into participants’ hotel rooms. Police demanded the organizers’ NGO

¹¹⁰ Email correspondence from Hon. Simon Lokodo to St. Paul’s Foundation, on file with Human Rights Watch.

¹¹¹ Ibid.

¹¹² “Uganda: Minister Shuts Down Rights Workshop,” Human Rights Watch news release, February 16, 2012, <http://www.hrw.org/news/2012/02/16/uganda-minister-shuts-down-rights-workshop>.

¹¹³ “Martin Ennals Award: Courageous Advocacy in Uganda,” Human Rights Watch news release, May 3, 2011, <http://www.hrw.org/news/2011/05/03/martin-ennals-award-courageous-advocacy-uganda>.

¹¹⁴ “Uganda: Minister Shuts Down Rights Workshop,” Human Rights Watch news release, February 16, 2012, <http://www.hrw.org/news/2012/02/16/uganda-minister-shuts-down-rights-workshop>.

¹¹⁵ Human Rights Watch court observations, Kampala, June 29 and July 6, 2012. The case will be back in court on September 24, 2012.

registration documents and later informed EHAHRDP that they must seek permission from the police's legal office and the district police commander in the geographic area where any event would occur and that they could not organize any meetings, trainings, or workshops on any subject without such permission.¹¹⁶

The Ugandan newspaper *The Observer* later published a front cover story stating that government had "intercepted" work plans of the Civil Society Coalition of Human Rights and Constitutional Law, a loose coalition of over 40 national and international NGOs seeking to stop the passage of the Anti-Homosexuality Bill, among other activities. Despite the newspaper's and Lokodo's apparent exhilaration to expose what they believed was some covert international conspiracy, the existence and work of the coalition over the last three years is not secret; rather it has been lauded internationally for its efforts and is the 2011 winner of the Human Rights Defenders Award from the US State Department,¹¹⁷ awarded in person by Secretary of State Hillary Clinton in August 2012.

Most troublingly *The Observer* article also stated that Lokodo planned to ban 38 NGOs "deemed sympathetic to the activities of LGBT people" and that he had passed on a list of groups to the Ministry of Internal Affairs.¹¹⁸ While some groups in the Civil Society Coalition focus specifically on LGBT rights, others work on a broad range of human rights issues, including governance, refugees, and women's rights. Certain foreign embassies, including the US embassy, regularly attend coalition meetings along with professors from Makerere University. Some groups are legally registered as NGOs, some are legally established as companies limited by guarantee under the Companies Act, and others, particularly the LGBT organizations, are informal groups of activists. The current discriminatory laws obviously make the registration of organizations working on the rights of LGBT people highly challenging, and to present a work plan to the NGO Board could potentially lead to arrest.

¹¹⁶ Human Rights Watch interview with NGO representative, Kampala, June 20, 2012; and "Space for civil society shrinking in Uganda say national and global CSOs," CIVICUS press release, June 25, 2012, <https://www.civicus.org/en/media-centre/press-releases/966-space-for-civil-society-shrinking-in-uganda-say-national-and-global-csos> (accessed July 16, 2012); "Uganda: Police raid on LGBTI activists workshop in Kampala condemned," EHAHRDP joint press release, June 19, 2012, <http://www.defenddefenders.org/en/2012/06/uganda-police-raid-on-lgbti-activists-workshop-in-kampala-condemned/> (accessed July 16, 2012).

¹¹⁷ US State Department, "Winners of the Human Rights Defenders Award," Office of the Spokesperson, Washington DC, May 18, 2012, <http://www.state.gov/r/pa/prs/ps/2012/05/190315.htm> (accessed July 9, 2012).

¹¹⁸ "NGOs gay plans leak, Gov't furious," *The Observer* (Kampala), June 27, 2012.

Lokodo argued that these coalition meeting participants would face “deregistration,” despite the fact that the varied types of legal entities which are participating make this impossible to do lawfully. However, the situation does mean that registered NGOs working in the coalition or who seek to protect LGBT rights generally and/or deem the Anti-Homosexuality Bill to be unconstitutional are vulnerable to deregistration.

In a meeting with Human Rights Watch the minister was less clear on the numbers and plans for which groups might face deregistration. He said there were “hundreds of groups to check.” In conclusion he said, “What I am telling you is NGOs and CSOs with questionable intentions will be deregistered. Any NGO/CSO found contradicting their initial registration will be deregistered, and they will have to reregister.” He implied that international human rights groups working on LGBT issues were betraying government, stating, “You all greet me with good grasp and then you hit me in the back with a spear.”¹¹⁹

Minister Lokodo has never been publicly reprimanded or told to abide by Uganda’s laws by the president or the prime minister, leading many to believe that he is acting with their tacit support.¹²⁰ At the same time, the minister has put out a range of contradictory public statements on behalf of the government. When the Anti-Homosexuality Bill was reintroduced in early 2012, he stated that the bill,

does not form part of the government’s legislative programme and it does not enjoy the support of the Prime Minister or the Cabinet.... Whilst the government of Uganda does not support this bill, it is required under our constitution to facilitate this debate. The facilitation of this debate should not be confused for the government’s support for this bill.¹²¹

Lokodo’s legal arguments for his actions are at best muddled, inaccurate, and often utterly incoherent. On June 18 on KFM radio’s Hot Seat program he claimed that LGBT groups do

¹¹⁹ Human Rights Watch interview with Hon. Simon Lokodo, Kampala, July 9, 2012.

¹²⁰ Under Uganda’s 1995 constitution the president appoints members of his cabinet from those elected to parliament and of a number “reasonably necessary for the efficient running of the State.” The Constitution of the Republic of Uganda, 1995, art. 111. The Directorate for Ethics and Integrity is not a cabinet-level ministry and there is no place in Uganda’s laws which grants that position any legal powers. The mandate of this role has been unclear and ad-hoc since it was created in the late 1990s.

¹²¹ Office of the President Media Centre, “Anti-Homosexual Bill,” February 8, 2012, <http://www.mediacentre.go.ug/details.php?catId=3&item=1564> (accessed July 9, 2012).

not have the right to form, saying that “because of the theme of your gathering you are not allowed to associate. Because you intend to promote, recruit, and enhance this [sexual] orientation. It is not allowed.”¹²² Lokodo issued a media statement on June 21 again incorrectly stating Ugandan law and contradicting his own actions on the rights of Ugandan citizens. “The Government would like to state that much as promoting gay activities is illegal according to Section 145 of the Penal code Act,” he wrote, “Uganda does not segregate against people of a different sexual orientation. No government official is bent to harass any section of the community and everybody in Uganda enjoys the freedom to lawfully assemble and associate freely with others.”¹²³

However later he told *The Observer*—in clear contradiction to the statement that he issued in February 2012—that now “We will support the bill.... We’ll punish them with a deterrent punishment. We are looking for a day when this law is going to take shape.”¹²⁴ In an interview with Human Rights Watch he stated that he draws his legal powers to close meetings from the “principle of sequence.” He attempted to clarify, arguing that “If you are doing something to reach somewhere we will condemn your initial action,” and he stated that this “principle of sequence” comes from “nature.”¹²⁵ He would not accept that “promotion” is currently not a crime in Uganda or that it would threaten all legitimate human rights work in Uganda. In conclusion, he told Human Rights Watch, “Law is zero. We are talking about morals.”¹²⁶

While not all of Uganda’s civil society actors actively support the rights of LGBT people, there is a growing understanding that threats to stop such efforts makes the whole sector vulnerable. “I don’t believe the closure of NGOs is really about LGBT work,” said one NGO staff member uninvolved in the coalition’s work. “The government and Lokodo really seek to simply close the space for public debate on many issues.”¹²⁷

¹²² “Hot Seat,” 933 FM (Kampala), June 18, 2012, recording on file with Human Rights Watch.

¹²³ Office of the President Media Centre, “Response to International Criticism on the Arrest of Gay Activists,” June 21, 2012, <http://www.mediacentre.go.ug/details.php?catId=3&item=1728> (accessed July 9, 2012).

¹²⁴ “NGOs gay plans leak, Gov’t furious,” *The Observer* (Kampala), June 27, 2012.

¹²⁵ Human Rights Watch interview with Hon. Simon Lokodo, Kampala, July 9, 2012.

¹²⁶ *Ibid.*

¹²⁷ Human Rights Watch interview with NGO lawyer, T.X., Kampala, July 10, 2012.

Surveillance, Robberies, and Other Instances of Harassment

In the current environment staff of civil society organizations often told Human Rights Watch that they feel unsafe and fear for the safety of their families. Several stated that they had received anonymous phone calls urging them to drop certain areas of research or questioning if they still needed to be employed.¹²⁸ One has decided to quit his job after repeated threatening phone calls.¹²⁹ Some also suspect their calls are tapped and that their offices and/or homes are under surveillance by security operatives.¹³⁰

Rumors of surveillance of NGO work are buttressed by events where “intruders” appear in meetings, demand to be allowed stay, and contact local government authorities when challenged. For example, in Gulu in April 2012 the deputy RDC allegedly sent “spies” to observe a training for staff of Action Aid. When the meeting organizers inquired who the two people were the individuals claimed to work for another organization which is not a partner of Action Aid and was not invited. The two had no identification and called the deputy RDC when questioned. The next day organizers received a phone call from the deputy RDC stating that the training was “illegal” and must stop. Despite multiple efforts to receive clearance, including from the actual RDC, ultimately the training was closed prematurely on the orders of the deputy RDC.¹³¹

Police action or inaction in face of threats has contributed to fears. Four NGO employees said that their laptop computers had been stolen, either from their offices or their homes, and that police had either not investigated or that investigations were superficial and never yielded any results.¹³²

In at least one instance police forcibly entered an NGO office and checked the contents of computer files for names of individuals who had sought legal assistance following

¹²⁸ Human Rights Watch interviews with K.N., June 25, 2012, B.L., July 10, 2012, NGO lawyer, T.X, Kampala, July 10, 2012, G.N., July 17, 2012, K.Q., July 16, 2012.

¹²⁹ Human Rights Watch email communication with NGO staff member, date withheld.

¹³⁰ Human Rights Watch interviews with K.N., Kampala, June 25, 2012; K.T., Kampala, July 3, 2012; B.L., Kampala, July 10, 2012; NGO lawyer, T.X, Kampala, July 10, 2012; G.N., Kampala, July 17, 2012; and K.Q., Kampala, July 16, 2012.

¹³¹ Human Rights Watch interview with Arthur Larok, Kampala, July 6, 2012.

¹³² Human Rights Watch interview with NGO staff, Kampala, July 4-8, 2012; and “Uganda: Attacking Civil Society,” Africa Confidential, July 6, 2012, Vol. 53, No. 14, <http://www.africa-confidential.com/index.aspx?pageid=7&articleid=4530> (accessed July 16, 2012).

instances of unlawful arrest.¹³³ Police have also obstructed events that would have the possibility of illustrating the government's failures in delivery of services. For example, on March 27, 2012, a National NGO Forum volunteer was arrested at the Serena Hotel in Kampala while seeking to raise awareness about victims of a fatal condition, known as "nodding disease."¹³⁴ The volunteer had been sent by his organization to prepare for a fundraiser organized at the hotel and carried photographs documenting victims of nodding disease. He was detained for over five hours at Central Police Station allegedly on charges of criminal trespass. Police confiscated his banner and photos of nodding disease patients as well as a collection box for donations. None of this has been returned to the National NGO Forum despite several attempts to recover them. The box of monetary donations is still with police, four months after the arrest. No charges were ever formally brought against the volunteer.¹³⁵

¹³³ Human Rights Watch interview with NGO lawyer, T.X, Kampala, July 20, 2012.

¹³⁴ Human Rights Watch interview with F.N., Kampala, June 2, 2012. Nodding disease is a fatal mental and physically disabling disease that affects children, characterized by nodding seizures which stunt development. See "Uganda's nodding disease: 'I've lost hope'," *BBC Online*, April 3, 2012, <http://www.bbc.co.uk/news/world-africa-17589445>.

¹³⁵ Human Rights Watch interview with NGO staff, Kampala, July 3, 2012.

V. Self-Censorship

Several NGO representatives interviewed by Human Rights Watch voiced serious concern about how their organization would continue to be effective given the current operating environment. Some stated that they had scaled back activities so as not to incur the wrath of RDCs, DISOs, and other government officials. Other said they had wasted significant time and money trying to prevent or mitigate potential negative government action directed at their activities.

Some organizations have already stopped or significantly changed their work on oil, human rights, and governance; areas deemed too sensitive. With mounting pressures and government scrutiny, one organization has stopped its work on evictions and land grabbing and its related advocacy campaign on the issue.¹³⁶ “We have been diverted.... To the public we seem to be abandoning them,” commented one employee who would previously receive reports from those displaced by land grabbing.¹³⁷ She now no longer feels like she can respond to allegations of victims of land conflict because of the current situation.

NGO staff also expressed significant concerns to Human Rights Watch over how they would be able to continue carrying out certain projects in the future, particularly projects relating to civic education, governance, corruption, and human rights. “We don’t want government to think this is a witch hunt,” said one NGO staff member, “but corruption is a serious problem and officials can make it very hard to get the right information. If we say we are going to research or track corruption in the district, they will not permit us to carry out our work. So we say other things and then we get the permissions we need.”¹³⁸

Outreach work either in rural communities or on controversial topics such as LGBT rights has also been scaled back in many instances. One LGBT organization had a small project to distribute brochures which carried the message that LGBT people are like everyone else and that God loves them. Because of the government’s obstructions to the work of LGBT groups, the organizers of this project felt that their volunteers would be unsafe and have

¹³⁶ Human Rights Watch interview with O.T., Kampala, July 3, 2012.

¹³⁷ Human Rights Watch interview with B.L., Kampala, July 10, 2012.

¹³⁸ Human Rights Watch interview with C.N., Kampala, June 29, 2012.

stopped this work.¹³⁹ In order to continue operating and providing services to their community, they have since limited the scope of their work.

The negative rhetoric against NGOs and the attempt to limit the scope of NGO work from any activities perceived to be partisan or subversive have increased tensions and fear among some in the NGO community. NGO staff told Human Rights Watch of their apprehensions for current and future work, particularly ahead of the 2016 presidential elections.

“Of course it affects you, it destabilizes your work,” a member of an environmental coalition commented regarding the negative rhetoric. Another representative told Human Rights Watch that, though he does not believe it will fully come to NGO deregistration, he thinks the government will use negative rhetoric to slander NGOs, and “will make us [NGOs] look like immoral, terrible people. It will definitely create some self-censorship going forward.”¹⁴⁰

¹³⁹ Human Rights Watch interview with E.X., Kampala, July 9, 2012.

¹⁴⁰ Human Rights Watch interview with M.P., Kampala, July 5, 2012.

VI. The NGO Board and Challenges Going Forward

The NGO board is being used to send us a very clear message that we cannot ignore. We are going to be under watch more than ever now on.

—NGO staff member, Kampala, June 29, 2012.

According to government officials interviewed by Human Rights Watch there are discussions of amendments to the current NGO laws in cabinet, which could possibly come before parliament by the end of 2012. Cabinet is to agree on a set of principles that could form the basis for the new law.

No documents on the amendments have been made public so it is not precisely clear how the new law might address the myriad of concerns raised in this report. However, Ambassador Gabriel Kangwagye, chairman of the NGO Board, clearly stated his views on what he wanted to see addressed. First, it is important to remove the NGO Board from the Ministry of Internal Affairs, he said, because it is “not conducive to creating an enabling environment” and place it most likely in the Office of the Prime Minister, where the board could be “semi-autonomous and better able to respond to its mandate.”¹⁴¹ Second, there needs to be representation of NGOs themselves on the NGO Board. Third, there is a need for NGO Board offices at the sub-county level, which can monitor and register NGOs and educate both local government and civil society actors about their relevant laws. In this way the NGO Board would be better able to “coordinate, monitor, and promote” the NGO sector.¹⁴² Some of these changes—particularly regarding removing the board from the Ministry of Internal Affairs and NGO representation on the board itself—have been championed by Ugandan civil society for several years.¹⁴³

¹⁴¹ Human Rights Watch interview with Amb. Gabriel Kangwagye, chairman of the NGO Board, Kampala, July 10, 2012.

¹⁴² Ibid.

¹⁴³ Uganda National NGO Forum, “Towards a Supportive Legal Environment for Publically Accountable NGOs in Uganda,” A Consolidated NGO Memorandum for the Review of the NGO Act CAP 113 (as Amended), July 2011, on file with Human Rights Watch.

The NGO Board has recently reached out to the donor funded Democratic Governance Facility to provide increased financial support to improve the board's function.¹⁴⁴ There is no doubt that the NGO Board lacks funding, and Ugandan NGO leadership admit that the board is “deeply cash-stricken,” in the words of one activist.¹⁴⁵ According to Kangwagye, his office is budgeted to receive 200 million Ugandan shillings (about \$81,000)—but sometimes receives less in practice—to cover all operating expenses, excluding salaries, of his 17 staff.¹⁴⁶ NGO registration fees, though paid to the board, do not go to the board operations, but rather are absorbed by the Ministry of Internal Affairs. NGO leaders pointed out that the NGO Board lack computers and other basic needs to manage the office and function effectively.

However, the board has a lot of work to do to become a trusted ally of the NGO sector and prevent itself from being seen as yet another government institution acting in an ad hoc manner on the orders of the president, his inner circle and cabinet to thwart critical voices. Many NGOs interviewed by Human Rights Watch voiced this concern because of the NGO Board's recent actions. For example, at a meeting on June 30 between leadership of the NGO community and the NGO Board, NGOs were instructed not to engage in “political activity,” though what that entailed was not defined.¹⁴⁷ The well-publicized order that ACODE desist from participating in loose coalitions and the implication that NGO work on oil or public sector accountability was “political” were also repeatedly raised by NGO leaders as illustrating the NGO Board's real intentions.

The NGO Board's communications to ACODE, ULA, and others have betrayed the aspirations of the 2010 NGO Policy that was the product of relatively positive negotiations between the NGO sector leadership and the Ministry of Internal Affairs. For example, on the issue of NGOs working in coalitions, the policy states that NGOs in Uganda often work in “clusters, networks or umbrella organizations.... Such organs should be supported to strengthen their work as they provide, inter alia, an important opportunity for addressing quality assurance

¹⁴⁴ The Democratic Governance Facility is a basket fund of money contributed by Austria, Denmark, the European Union Delegation, Ireland, the Netherlands, Norway, Sweden and the United Kingdom. For more see Democratic Governance Facility, www.dgf.ug/ (accessed July 21, 2012). Minister of Internal Affairs, Briefing Note, The Uganda NGO sector policy and regulatory framework: The Role of the NGO Board and its strategic direction, no date, on file with Human Rights Watch.

¹⁴⁵ Human Rights Watch interview with G.N., Kampala, July 17, 2012.

¹⁴⁶ Human Rights Watch interview with Amb. Gabriel Kangwagye, Kampala, July 10, 2012.

¹⁴⁷ Human Rights Watch interview with K.B., Kampala, July 2, 2012.

and other sector development issues in a harmonized and constructive manner.”¹⁴⁸ Now NGOs working in coalitions fear that formation of a coalition is somehow unlawful.

As one NGO employee said, “Years ago, we saw where the trend in the NGO Board was heading, acting to shield government when State House [the president’s office] called on them, and so we have not registered.”¹⁴⁹ Concerns about angering the president’s office have forced NGOs and the board itself into odd situations. One NGO worker said that he had been cautioned by an employee of the NGO Board to avoid the term “good governance” in his documents for registration.¹⁵⁰ He said that it would prevent the group from getting registered in the current climate. The NGO, however, feared by not being explicit in its mission during registration it could later be accused of being out of compliance with the law. This same concern is felt by human rights and other organizations that may engage in outreach and advocacy on the rights of LGBT people. To be explicit in registration materials would be a form of organization suicide, but operating without registration is seen as a form of conspiracy.

To some extent NGOs shun registration via the NGO Board because it is cumbersome and the rules are frustratingly unclear or applied in a haphazard and arbitrary manner. And the actions of lower level ruling party officials, such as RDCs and DISOs, are very hard to predict and require NGOs to tread carefully, censoring their work in some instances where they fear government backlash. This discourages NGOs from routinely reporting problems during the registration process because of real fears of reprisals or future obstructions during renewals.

Currently at least three NGOs have allegedly been told by employees of the NGO Board that that security officials or agents from State House have taken their application files for renewal for “further examination.”¹⁵¹ Not only does this profoundly delay the renewal process for the NGOs involved, but it heightens fear that NGOs work is under surveillance by the executive and undermines the perception of the NGO Board as an agency that can create an enabling environment and withstand pressure from powerful government actors.

¹⁴⁸ NGO Policy, 2010, section 2.4.

¹⁴⁹ Human Rights Watch interview with T.X., Kampala, July 10, 2012.

¹⁵⁰ Human Rights Watch interview with B.B., Kampala, July 5, 2012.

¹⁵¹ Human Rights Watch email communications with K.T., July 11, 2012; Human Rights Watch email communications with M.N., July 9, 2012; and Human Rights Watch email communications with B.B., July 15, 2012.

Kangwagye stated his desire to protect NGO operating space from intrusions. But in the current environment NGOs are unlikely to come to the board with concerns without significant efforts from the board to build trust.

VII. Uganda's Obligations under International Law

The rights to freedom of association and expression are well established in international law, notably in the International Covenant on Civil and Political Rights (ICCPR)¹⁵² and The African (Banjul) Charter for Human and Peoples' Rights,¹⁵³ both of which Uganda has ratified and is thereby legally bound to uphold.

Freedom of association is defined as the right of persons to join together in groups in order to pursue common objectives or interests, including joining organizations.¹⁵⁴ Under international law restrictions on freedom of association are permissible only on certain clearly specified grounds.¹⁵⁵ Limitations of the right to freedom of association can be imposed in order to maintain “public order” (*ordre public*)—rules that ensure the peaceful functioning of society. Freedom of association may also be restricted for “the protection of public health or morals.” Here, for any restriction to be legitimate, “public health” should mean a situation in which the activities of an association pose a serious threat to the health of the population or individuals within it.¹⁵⁶ It is important to underscore that well-accepted international principles have indicated that governments must not use “notions

¹⁵² International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (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.

¹⁵³ 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. Additionally, in March 1992, the African Commission on Human and Peoples' Rights (ACHPR, or African Commission) adopted a resolution on the right to freedom of association, concluding that authorities should not override constitutional provisions or undermine fundamental rights guaranteed by the constitution and international standards; authorities should not enact provisions which would limit the exercise of this freedom; and that the regulation of the exercise of the right to freedom of association should be consistent with the state's obligations under the ACHPR. ACHPR, “Resolution on the Right to Freedom of Association,” 5th Annual Report, Tunis, Tunisia, from 2 to 9 March 1992, <http://www.achpr.org/sessions/11th/resolutions/5/> (accessed July 4, 2012), ratified by Uganda 1986, p. 137.

¹⁵⁴ ICCPR, art. 22.

¹⁵⁵ Certain other requirements are necessary under international law to justify freedom of association restrictions. Notably, restrictions can only be imposed if they meet the standard of being “necessary in a democratic society.” This implies that the limitation must respond to a pressing public need and be oriented along the basic democratic values of pluralism and tolerance. The term “necessary” also contains the principle of proportionality. It requires a careful balancing of the intensity of a measure with the specific reason for the limitation. In applying a limitation, a state is to use no more restrictive means than are required for the achievement of the purpose of the limitation. The dissolution of an association or the prohibition of its formation, as the severest type of restriction on freedom of association, should constitute an ultimate sanction, and may be imposed only when lesser measures of restriction are insufficient. ICCPR, art. 22.

¹⁵⁶ *Ibid.*, art. 21.

of... public morality... to restrict any exercise of the rights to public assembly and association.”¹⁵⁷

Restrictions on freedom of association must also be “prescribed by law.”¹⁵⁸ State authorities must therefore base their actions on legislation that is already in existence. Procedural formalities for recognition of associations must not be so burdensome as to amount to substantive restrictions on the right to freedom of association.

The UN Declaration on Human Rights Defenders further spells out the rights of individuals, groups, and associations working for human rights in the broadest sense.¹⁵⁹ The declaration provides guidance as to what should be permissible in the area of freedom of association. For example, for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully; to form, join, and participate in nongovernmental organizations, associations, or groups; and to communicate with nongovernmental or intergovernmental organizations.¹⁶⁰

Like freedom of association, Uganda is obligated to respect the right to freedom of expression of all persons under international law. The ICCPR imposes legal obligations on states to protect freedom of expression and information.¹⁶¹ Some restrictions on free speech—such as criminalizing incitement to violence—are permitted under international law in the context of protecting national security, but such restrictions must meet several high hurdles.¹⁶²

¹⁵⁷ International Commission of Jurists (ICJ), *Yogyakarta Principles – Principles on the application of international human rights law in relation to sexual orientation and gender identity*, March 2007, prin. 20.b.

¹⁵⁸ ICCPR, art. 22(2).

¹⁵⁹ UN General Assembly, *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, resolution adopted by the General Assembly, 8 March 1999, A/RES/53/144.

¹⁶⁰ *Ibid.* art. 5.

¹⁶¹ ICCPR, art. 19. 1) “Everyone shall have the right to hold opinions without interference. 2) 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.

¹⁶² Similarly to freedom of association, the permissible restrictions for freedom of expression are: (a) for respect of the rights or reputations of others; (b) for the protection of national security or of public order (*ordre public*), or of public health or morals. First, restrictions must be prescribed by law, and they must be accessible, clear, narrowly drawn, and subject to judicial scrutiny. Second, the restriction must have both the genuine purpose and the demonstrable effect of protecting

On freedom of expression the Banjul Charter in article 9 states that “every individual shall have the right to receive information” and that “every individual shall have the right to express and disseminate his opinions within the law.”¹⁶³ The African Commission’s 2002 Declaration of Principles on Freedom of Expression in Africa sets out regional norms guaranteeing free expression.¹⁶⁴ The ACHPR has 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 [Banjul Charter] and other international human rights documents.”¹⁶⁵

A group of experts in international law, national security, and human rights issued the Johannesburg Principles on National Security, Freedom of Expression and Access to Information on October 1, 1995.¹⁶⁶ Over time these principles have come to be widely recognized as an authoritative interpretation of the relationship between these rights and interests, reflecting the growing body of international legal opinion and emerging customary international law on the subject. The principles set out guidelines on restrictions on free speech, including the principle that governments must use the least restrictive means possible in prohibiting speech that is contrary to legitimate national security interests.¹⁶⁷ According to the principles national security interests do not include “protect[ing] a government from embarrassment or exposure of wrongdoing.”¹⁶⁸

Various human rights bodies and courts around the world have determined that protection of freedom of expression must include tolerance from public officials regarding open

national security. Third, the restriction must apply only where the expression poses a serious threat, is the least restrictive means available, and is compatible with democratic principles. ICCPR, art. 19(3).

¹⁶³ ACHPR, art. 9.

¹⁶⁴ Uganda is a member of the African Union, the successor to the Organization of African Unity (OAU), whose commission adopted the 2002 Declaration of Principles on Freedom of Expression at its 32nd Ordinary Session in Banjul, the Gambia, from October 17-23, 2002.

¹⁶⁵ Constitutional Rights Project and Civil Liberties Organisation v. Nigeria, African Commission on Human and Peoples’ Rights, Comm. No. 102/93 (1998), <http://www1.umn.edu/humanrts/africa/comcases/102-93.html> (accessed April 27, 2010).

¹⁶⁶ The Johannesburg Principles set out standards for the protection of freedom of expression in the context of national security laws. They were adopted on October 1, 1995, by a group of experts in international law, national security, and human rights. They have been endorsed by the UN Special Rapporteur on Freedom of Opinion and Expression and referred to by the Commission in their annual resolutions on freedom of expression every year since 1996. Johannesburg Principles on National Security, Freedom of Expression, and Access to Information (Johannesburg Principles), adopted on October 1, 1995, <http://www1.umn.edu/humanrts/instreet/johannesburg.html> (accessed April 27, 2010).

¹⁶⁷ *Ibid.*, prin. 1.3.

¹⁶⁸ *Ibid.*, prin. 2.

criticism.¹⁶⁹ As the African Commission stated, “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.”¹⁷⁰ And, as the United Nations Human Rights Committee has stated, “the legitimate objective of safeguarding and indeed strengthening national unity under difficult political circumstances cannot be achieved by attempting to muzzle advocacy of multiparty democracy, democratic tenets and human rights.”¹⁷¹

¹⁶⁹ European Court of Human Rights, *Lingens v. Austria*, judgment of July 8, 1986, application no. 9815/82, www.echr.coe.int, para. 42.

¹⁷⁰ Media Rights Agenda, Constitutional Rights Project, *Media Rights Agenda and Constitutional Rights Project v. Nigeria*, 105/93, 128/94, 130/94, 152/96, http://www.achpr.org/english/activity_reports/activity12_en.pdf (accessed April 27, 2010), para. 74.

¹⁷¹ *Womah Mukong v. Cameroon*, Communication No. 458/1991, U.N. Doc. CCPR/C/51/D/458/1991 (1994), para. 9.7.

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Curtailing Criticism

Intimidation and Obstruction of Civil Society in Uganda

Since President Yoweri Museveni's recent 2011 reelection political tensions are running high and public criticism of the government has escalated in Uganda. To better control this environment the ruling party's high ranking government officials are increasingly scrutinizing nongovernmental organizations (NGOs) and the impact of their work on public perceptions of governance.

In the last two years government officials at both the national and local levels have deployed an array of tactics to intimidate and obstruct the work of NGOs in certain sectors. Organizations conducting evidence-based research and advocacy on more controversial issues—transparency in the oil sector, compensation and reparations for land acquisitions and sales, political reform, and protection of human rights, including the rights of lesbian, gay, bisexual, and transgender (LGBT) people—have decreasing room to maneuver. Government officials have moved to close meetings, pressuring NGOs to issue public apologies, and occasionally used physical violence, as well as threats, harassment, and heavy-handed bureaucratic interference to impede and disrupt NGO operations.

Based on research conducted in Uganda from May to July 2012, including 41 interviews with representatives of regionally and thematically diverse NGOs, as well as donors, police, and government actors, *Curtailing Criticism: Intimidation and Obstruction of Civil Society in Uganda* outlines the use of hostile government tactics and the impact it has had on the NGO sector and, more broadly, on Ugandans' rights to free expression, association, and assembly.

Human Rights Watch calls on the government of Uganda to change its terms of engagement with all NGOs, especially those working on sensitive or controversial issues, and to improve the operating space for civil society. The government should rein in hostile rhetoric, amend laws that treat NGOs as possible threats to national security, and publicly support the essential role of civil society. In turn, Uganda's international partners should speak out more to actively voice their concerns regarding the importance of non-justifiable interference in civil society space.