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# Civil Liberties in Uganda: Rights and Responsibilities

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### Introduction

Uganda's significant economic and human potential is well documented, but, while efforts to effectively harness the opportunities presented by its youthful population and its resource-wealth progress, questions remain over the country's shrinking democratic space. This constriction is indicated by recent proposals of legislation that impinges on internationally recognized rights of freedom of assembly and of expression, such as the anti-homosexuality act that was drafted in 2013 and the Public Order Management Act passed in the same year, both of which receive significant attention from Ugandan civil society.

At this event, Nicholas Opiyo, executive director of Chapter Four Uganda, and Maria Burnett, associate director for East Africa at Human Rights Watch, reflected on human and democratic rights in Uganda, and on how regional and political dynamics are influencing the space devoted to domestic civil liberties.

The meeting was held on the record. The following summary is intended to serve as an aide-mémoire for those who took part and to provide a general summary of discussions for those who did not.

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### Nicholas Opiyo

President Yoweri Museveni's re-election in February marked 30 years of his unbroken rule. Naturally, the election itself was hotly contested and, although the Supreme Court ultimately confirmed a lawful garnering of the popular mandate, many citizens believe that the process was opaque and corrupt. Despite these feelings, Uganda looks set to continue to be ruled by the same head of state it has had for more than a generation. This has some advantages. Overall, continuity of leadership has allowed for a stability that was not present prior to 1986. The country is largely peaceful and the state posts impressive macroeconomic growth figures. Uganda has also positioned itself as a regional player in terms of peacekeeping, the hosting of refugees and contributing to anti-terrorist partnerships. However, the benefits of longevity end there. The government's preoccupation with its own preservation has negatively impacted civil liberties and closed the democratic space.

The government has become known for regressive legislation that restricts internationally recognized rights of freedom of assembly and expression. Recent examples include the far-reaching Public Order Management Act of 2013 and the (now invalidated by the Constitutional Courts) draconian Anti-Homosexuality Act of 2014. The former requires state permission to assemble and has been applied selectively, often preventing peaceful protests or allowing the brutal dispersals of protests. Such laws usually possess a wide definitional scope. For example, they outlaw offences against the dignity of the people of Uganda. Such vagueness has allowed them to aid almost any government agenda. Further restriction of civil liberties has also been seen in an often compromised legal process. The travails of opposition politician Kizza Besigye highlight this issue. Having had nearly 50 cases brought against him, it seems clear the aim is not to prosecute but to destabilize and frustrate his efforts.

The longevity of the government has also allowed for clever manipulations of foreign and development partners to the advantage of the regime. Regional cooperation in fighting international terrorism or in the supplying of peacekeeping forces has often been used to deflect attention away from critical human-rights shortcomings. It is the bargaining chip used when attempting to mollify donors and international

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<sup>1</sup> This meeting summary was composed by Patrick J. Kilmartin

partners that are uneasy with such controversies, ensuring that blind eyes are often turned. This permissiveness on the part of the international community is problematic. Every regime deflects accusations of authoritarianism by pointing to examples of free elections, free media and free discussion. However, this is often mere pageantry in Uganda. With the ruling party controlling more than two-thirds of the parliament and willing to threaten and bribe members to enact legislation, the kinds of laws passed and the way they are applied clearly expose a process that is neither consultative nor free from manipulation. In this sense, Uganda is quickly shedding democratic legitimacy and moving towards competitive authoritarianism, allowing only small measures of freedom and competition.

#### Maria Burnett

It is certainly true that democracy is not just about the show of elections and government, but about the quality of the political equality and self-determination that are delivered. Strategic uses of state violence, from torture to unlawful detention and police brutality severely undermine this in Uganda. Clear patterns have emerged of unlawful state-sponsored violence increasingly meted out to people possessing views contrary to the regime's or that are somehow seen as expressing a position deemed anti-governmental.

Human Rights Watch has been approaching the individuals affected by such violence for almost a decade. Despite sharing these concerns with the government, there has been little accountability. Instead, there seems to be an entrenched impunity for politically motivated abuses. In terms of politically sensitive situations, it has become effectively impossible to conduct fair and credible investigations. State prosecutors drop such cases and deflect blame elsewhere. As previously mentioned, legislation is also increasingly broad and vague. Many laws have in common a clear lack of definition in terms of what they are attempting to achieve or criminalize. Accordingly, there is real concern among the opposition, civil society activists and human rights groups that such vagaries are designed to capture a maximum of undesirable behaviour and to promote a self-censoring fear of the state.

This intuition has grounds, especially considering that there is often no clear commitment to prosecuting when such legal lines are crossed. The Kafkaesque worry of reporting in court, and the practical and financial burdens accompanying it, has effectively closed the space for civil opposition. This is before even considering the mounting pressure on defendants to plead guilty to avoid this process in favour of a punishment that is often less taxing.

Such convoluted justice also has implications within the regime. Any potential progress within the system is stifled by concerns about survival. Highly educated, non-partisan officials who understand human-rights advocacy work often fear for their livelihood when considering taking positions on sensitive political issues. As such, political expertise and progressive values have become imprisoned in their own way.

All of this has led Uganda to a critical juncture. With his re-election, Museveni is on the cusp of becoming one of Africa's more tyrannical and longest-ruling heads of state, a development that will surely harm Uganda's image of democratic legitimacy internationally, while internally damaging the country's constitutional foundations.

### Summary of questions-and-answers session

#### Questions

The region-wide culture of democratization in West Africa has been reinforced by strong societal expectation, especially as citizens compare their own national progress with that of their neighbours. Is there any sense that this happening in Uganda?

Owing to the fact that the UK is preparing to leave the EU, is it likely that the UK will adjust its relationship with Uganda?

How does the speaker see the role of cultural authorities in relation to civil liberties?

#### Nicholas Opiyo

In terms of societal expectation, Uganda, like many African countries, has a young population that is struggling to access opportunities. This youth is increasingly agitating for change. However, it is unlikely that this will translate into any concrete developments. Prolonged and effective agitation is unlikely when it must compete with economic survival. Furthermore, it seems clear that this generation is acutely aware of the appetite of the Museveni regime to crack down on demonstrations and opposition.

Regarding the EU question, for those who work with the British High Commission in Uganda, the common complaint seems to be that the UK too often hides behind its cooperation with the EU. Many in Uganda think that the UK, as a former colonial master, should be more intimately involved in Ugandan affairs. The UK's shielding itself from dealing directly with the regime has disguised the real level of its commitment to Uganda. As such, Brexit is welcomed in Uganda as it is likely to reveal what commitments the UK is actually willing to make.

On the culture question, it is necessary to understand that in Uganda, official cultural institutions are largely political creations supporting the government and its agenda. While there are many cultural institutions, there are problems of traction when it comes to convincing the people at large. On the other hand, the strongest popular cultural group is probably the Buganda kingdom. This is a sub-ethnic cultural identification that exists as a counter to the government-installed cultural bodies, which are devoid of social influence. The Buganda group does grapple with civil liberties. However, due to their not being recognized by the state apparatus and its affiliated organizations, it is hard to see such groups influencing policy change.

#### Maria Burnett

In many ways, the region-wide status of democracy has been regressing rather than progressing for Uganda. In the neighbourhood of Pierre Nkurunziza, Paul Kagame and Joseph Kabila, there are not a lot of democratic exemplars to point to and so it is unclear where the first step towards a region-wide democratic culture might come from. Instead, populations seem to have grown to expect the harshness delivered by regimes that wish to secure their patronage. They have also suffered under the uneven spread of capital that this has brought, becoming impoverished and less able to demonstrate.

Concerning Brexit, it would be great to see the UK speak up more. Its tradition of quiet engagement works in some circumstances; however, Uganda is a country where it is quite easy to meet with high-ranking government and military officials. Helpful collaboration is possible. Unfortunately, with competing

interests in the region, such as Kenya, it is not clear at this moment what bandwidth the UK will maintain for Uganda. There will likely be a continued military relationship but, as noted, this may not transfer to human-rights compliance internally as Uganda has an impressive record of exploiting good will.

### Questions

To what extent is religion being used by the government and its allies to prevent political opposition?

How is the media coping with the aforementioned restrictions on civil liberties?

Many in the human-rights community are concerned by President Museveni's opposition to the International Criminal Court (ICC). However, is this worry not a distraction from the aforementioned internal justice violations? Is a focus on building robust justice mechanisms domestically not the best place to start in this regard?

### Nicholas Opiyo

The relationship between religion and politics in Uganda began with the fall of Idi Amin. The vacuum this created was occupied by church groups that took on the responsibilities of providing services such as building hospitals and food distribution. The church's first serious impact was in the dismantling of the contraception-based HIV/AIDS prevention policy, which had until then been very successful. More recently, some of the least tolerant aspects of American Pentecostal practices have been exported to Uganda. This has driven hateful rhetoric and legislative lobbying against homosexuals and sexual minorities. Ultimately, while Uganda remains a deeply religious country, the moral identity that will be preserved is one of social conservatism and, insofar as this aids the government's agenda, it will be encouraged.

It is agreed that the ICC needs to work with state-based justice systems in order to be relevant and effective. Uganda has a prison population that outstrips its facilities and a legal system that is dysfunctional and opaque. It is very difficult to have robust and clear standards of justice when arrests are made before investigations have been thoroughly conducted, admissions of guilt are seen as expedient and mobs can be hired by the powerful to obstruct political trials. If rigorous legal processes can be developed within Uganda, the ICC will be able to operate more harmoniously with the state. Until then, its relationship with the ICC will likely be merely a deflective political strategy for the Museveni regime.

### Maria Burnett

In terms of media freedom, the dynamics are complicated. The urban English-speaking media is often critical of the president and certain ruling-party officials. In Kampala, there is reasonable tolerance for divergent views. This is held up as a proof of civil society's freedoms to disagree and oppose. Unfortunately the truth is that this journalism speaks to quite a narrow community. Outside of Kampala, where radio and newspapers are in local language dialects, local government officials wield huge powers to censor. Another issue is that in these areas journalism is not a well-paid profession, meaning that journalists are potentially exploitable and not always credible. It also means that pushing a sensitive story can be ruinous for their livelihoods and families as access to effective legal assistance may be unaffordable. Ultimately, there needs to be much more scrutiny of the potential censorship and structural barriers that occur in journalism outside of the English language, as the vast majority of Ugandans still consume their news through local newspaper and radio.