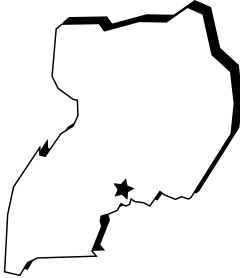


# UGANDA



**Capital:**

*Kampala*

**Population:**

*25,632,794*

**GDP:**

*\$30.49 billion*

**GNI per capita:**

*\$250*

**Scores:**

**Civil Liberties:** *4.33*

**Rule of Law:** *4.08*

**Anticorruption and Transparency:** *3.77*

**Accountability and Public Voice:** *3.82*

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

*by Nelson Kasfir<sup>1</sup>*

## EXECUTIVE SUMMARY

Although some positive changes occurred in 2002–03, Uganda did not move perceptibly toward greater freedom and more democratization. The effort to build a culture of respect for civil liberties was set back by incidents of torture, arbitrary arrests, lengthy detentions, lack of access to legal counsel, rape, substantial forced displacement of civilians, and the use of child soldiers by the Uganda People's Defence Forces (UPDF) in the war against the Lord's Resistance Army (LRA) in northern Uganda. Nor did the armed forces protect civilians effectively against horrific depredations by the latter. Operation Wembley in Kampala shared similar characteristics on a smaller scale. Despite constitutional guarantees, women continued to suffer significant cultural and legal discrimination and widespread domestic violence. Women legislators were unable to reform pertinent laws even though they held 30 percent of elected positions at all levels of government. The rights of

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children, migrants to other districts, and Acholi caught in the northern war were not well protected.

The rule of law strengthened slightly during 2002–03, primarily due to the independence demonstrated by the higher courts' decisions that were unfavorable to the government and sharp criticism of unconstitutional legislation and electoral violations by government officials and others. The president's defense of courts-martial for suspects caught in a criminal sweep undermined the rule of law, as did his use of paramilitary units. The courts were slow to process cases, resulting in lengthy detention on remand. Nevertheless, the government did not stifle cases brought by civilians alleging torture and violation of other rights. Police did use search warrants regularly, with some exceptions, as in the closure of *The Monitor*. Security forces were not consistently accountable to civilian authority. Equal treatment under the law, while accepted as a norm, did not extend to women, to migrants, or to many civilians in the war zone.

Anticorruption and transparency patterns remained relatively unchanged from prior years. Little progress occurred in separating public office from the personal interests of office-holders. The new Anti-Terrorism Act increased opportunities to hide corruption in so-called classified expenditures. The inspector-general of government and the auditor-general maintained their high standards despite inadequate funds and staff. Still, they provided significant protection for whistleblowers and uncovered many cases of corruption. The new Leadership Code of Conduct Act authorized publication of officials' declarations of assets on request. The press reported the vigorous debate over the executive budget in parliament. The executive branch did not provide the public easy access to information.

Accountability and public voice presented the same mixed picture as in previous years. Despite some fraud and intimidation, regular elections were held in the past with relatively free and fair procedures on election day. Candidates favored by the government had advantages in campaign resources, and the banning of party activity significantly weakened the opposition, effectively blocking the opportunity for rotation of power both among parties and within the governing National Resistance Movement (NRM). Nevertheless, in both general elections the president had most likely been the choice of a majority of the voters. National public officials were chosen on the basis of open competition and merit, but some district selection boards did discriminate against migrants. The civil society sector is vigorous, although small, and it is generally tolerated by the government. Government closure of *The Monitor* for a week and a radio station for longer set back the freedom of the media. The

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2002 Anti-Terrorism Act created a new threat to journalists' freedom to report. Despite the popularity of the president, changing the constitution to permit him to run for a third term, now under discussion, would weaken political accountability and delay or even undercut the institutionalization of democracy.

### *INTRODUCTION*

After remarkable progress in recovering from decades of violence and repression, Uganda has become unable to continue its transition to sustainable individual freedom and democracy. Its lack of progress places it among the many countries whose recent democratization has stalled. It is a good example of a so-called delegative democracy ruled by a charismatic leader whose power prevents the institutionalization of its constitution and laws. Its behavior also fits the notion of an illiberal democracy, holding frequent elections but inconsistent in its protection of free expression. It seems to have stabilized as partly democratic and partly free, rather than continuing to democratize.

In 1986 Yoweri Museveni and the National Resistance Army (NRA) he had organized and led won control of Uganda after a five-year guerrilla military struggle. He became president and promised a return to democratic and constitutional rule after a transitional period of rule by his National Resistance Movement (NRM). By 1995, the new government had introduced three reforms that broke significantly with Uganda's past: a disciplined army securely under civilian control, a new constitution adopted democratically with explicit commitments to the rule of law, and a relatively disciplined commitment to macroeconomic reforms. Although each of these reforms remains important to Uganda's governance, all of them have eroded since 1995.

The government also introduced its own system of no-party democracy. This system, which underwent many changes in rationale, was included in the 1995 constitution. It permits the old parties to exist but prevents them from nominating candidates, campaigning for them, or organizing below the national level. Museveni and the other leaders of the NRM, or the "Movement," as it was renamed in the constitution, still ruled in 2003, although they competed in no-party national elections for the presidency and the parliament in 1996 and 2001. Even though Ugandan institutions prevent parties from functioning and there has been no turnover in national leadership, the country has enjoyed a considerable measure of freedom and democracy—more than under any regime before Museveni took power.

Nevertheless, many fundamental features of the Ugandan political economy continue unchanged despite the reforms of the Museveni period and

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are partly responsible for keeping Uganda from greater democratization. Ugandan politics have always been intensely local and competitive in ethnic, religious, and regional terms. As a result, since independence national leaders have found it difficult to build effective political coalitions. Side payments to important political clients have been necessary to maintain their loyalty. No Ugandan national leader has been popular enough to rule without patronage. Due in large part to the swollen size of its government apparatus and economic mismanagement before the NRM take-over, corruption grew until it became endemic. Extensive corruption produces many of the resources that leaders need for patronage. Given the number of conflicting ethnic, religious, and regional loyalties in Uganda, no Ugandan politician has been able to maintain popular support without offering patronage to his or her followers.

### *CIVIL LIBERTIES – 4.33*

The 1995 constitution provides strong legal protections for civil liberties, guaranteeing freedom from torture, cruel punishment, and slavery, and the rights to a fair hearing and habeas corpus (Article 44). In addition to providing redress through the courts, the constitution created a human rights commission (UHRC) with wide-ranging powers to investigate complaints, including the power to enter prisons and places of detention. It has the powers of a court to request documents and testimony (Articles 51 and 53). Many individual protections are also included in the constitution to prevent repetition of the lawlessness of the earlier regimes of Milton Obote and Idi Amin. However, the constitution varies the limits for detention from 2 to 360 days depending on the offense (Article 23)—creating a loophole that is often exploited.

Civil liberties were observed unevenly during 2002–03. Overall, the human rights record of the Ugandan government was weak. In particular, security forces, when called into active duty, usually operate with flagrant impunity. Frequently, the president justified their violations as necessary to end violence by guerrillas or thieves. In other situations, state officials do enforce civil liberties properly, particularly with respect to court decisions and UHRC intervention to gain redress, including compensation, for victims.

During 2002–03 the UPDF fought the Lord's Resistance Army (LRA) in northern Uganda, in a war that began in 1986. The UPDF engaged in arbitrary arrests, torture, lengthy detention without trial, and rape, and it even pressed child soldiers it had rescued from the LRA into its own service.<sup>2</sup> There was little effective protection for opposition to the UPDF's unconstitutional actions. The Anti-Terrorism Act (2002) provided a ques-

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tionable veneer of legality for arbitrary arrests and lengthy detentions. State officials did not protect citizens from attacks by non-state actors. The LRA attacked freely throughout much of northern and eastern Uganda, committing terrible abuses, including the abduction of an estimated 8,400 children in the year ending May 2003—a sharp increase over previous years.<sup>3</sup> The UPDF failed to protect civilians from these abuses. In October 2002 it forcibly displaced an additional 300,000 civilians in the war zone—resulting in 70 percent of the regional population living in camps that were neither securely protected by the UPDF nor provided with adequate food or health facilities.<sup>4</sup> Another 240,000 people were displaced as a result of June 2003 LRA incursions in the Teso area of the eastern region. Vigilante attacks on individuals occurred throughout the country, and the police were generally unable to prevent them. However, in a departure from the past, some perpetrators of mob violence were prosecuted. Ritual killings, mainly of children, were reported.

Operation Wembley, which began in July 2002 as a shoot-to-kill operation to rid Kampala of thieves, also ignored the constitution, laws, and the courts. It was directed by the internal security organization (ISO), which deployed military intelligence and special branch police units, sanctioning arrests by intelligence officials who had no authority to arrest. These officials also engaged in torture, lengthy detention in hidden locations, denial of access to family or lawyers, and denial of bail and habeas corpus.<sup>5</sup> They killed several suspected armed robbers in raids on their “hideouts”. Early in 2003 the operation was turned over to the violent crimes unit of the police. A campaign to remove weapons from Karamoja in 2002 resulted in several deaths in confrontations between the UPDF and local residents. The Kalangala Action Plan, a paramilitary unit run by a presidential adviser to Museveni, violated citizens’ rights with impunity. Cases alleging torture were frequently brought in Kampala against civilian, military, or intelligence officials. Prisons were marked by overcrowding, poor conditions, and instances of torture. Child labor and some forced labor occurred, especially in the informal economy.

The UHRC conducted training programs to instill human rights standards in the UPDF in 2003. The police held similar programs. The UHRC tribunal awarded compensation to several persons who had been tortured and deprived of property by the UPDF or Police. In August 2003, for example, it ordered the government to pay compensation to a widow and five children for the husband’s death in police custody. The UHRC tribunal also awarded compensation to individuals for torture and inhumane conduct by police or UPDF agents. The government made a commitment to pay these awards, although it often did not pay them promptly.

In general, state officials were instructed to refrain from the use of excessive force in dealing with public demonstrations. But in January 2002 police in Kampala fired on demonstrators of the banned Uganda People's Congress (UPC), causing the death of a journalist intern and injuries to several others. UPC officials were arrested for unlawful assembly, but their case was discontinued for lack of evidence. Meanwhile, police authorities brought three policemen to trial for use of excessive force. Political supporters of the president's main opponent in the 2001 elections, Dr. Kiiza Besigye, claimed that their members continued to be harassed, beaten, and, in at least one case, killed. On the basis of vague evidence produced in public, the government claimed Besigye, who fled the country, was organizing an armed rebellion and thus its uses of force were responses to subversion, not harassment of political opponents.

Women are subject to profound cultural and legal discrimination in Uganda. The constitution requires equality and provides women affirmative action (Article 33). Nevertheless, divorce and property laws give men rights denied women. Polygyny is legal and common. Married women are usually forced to leave home, children, and property if their husbands divorce them. Domestic violence is a serious problem affecting an estimated two fifths of all Ugandan women. Forced sex, not a crime when practiced within marriage, contributes substantially to HIV/AIDS.<sup>6</sup> Prostitution, although prohibited by law, is common.

In an effort to confront these problems, the government supported and enforced a law reserving 30 percent of elected positions at all levels for women. Women held 73 of 295 seats in the 2001 Parliament. Four ministers—including the (appointed) vice president, until she resigned in May 2003—were women as well as 12 ministers of state in a cabinet of 66 and the deputy chief justice of the Supreme Court. The government established family protection units at national police posts, although training was mostly on children's, not women's, rights. In June 2003, parliament passed an amendment to the Land Act that gave spouses "security of occupancy" to protect them against eviction, but the president refused to sign it. As of September 2003, the government (and popular sentiment) continued to oppose the Domestic Relations and Sexual Offences bills that would give greater property and sexual protection to women. The government was unable to prevent the abduction and sexual slavery of women from northern and eastern Uganda by the LRA.

Children's rights are not well protected in Ugandan society. The government has enacted laws to improve children's welfare but did not enforce them effectively in the past year. Sexual abuse of young, unmarried girls is common, even though defilement carries the death penalty. The UPDF

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was reported to have used children to locate LRA landmines and arms caches,<sup>7</sup> and the state was not able to protect children from abduction by the LRA during the year.

The state does not protect the Acholi people in the Northern region effectively against the LRA, nor Teso-speakers in the eastern region against raids by the LRA and the Karamojong. Internal migrants receive less police protection, political representation, and official employment opportunities in most districts than do those claiming indigenous status. Although slavery and trafficking are prohibited by law, there were reports that the LRA engages in both, involving children and women.

The Constitution protects freedom of belief, including for nonbelievers and members of minority religious faiths (Article 29). The government is relatively tolerant, although it occasionally restricts religious practices. It requires religious nongovernmental organizations (NGOs) and foreign missionaries to register. Behind the scenes, cleavages among Protestants, Catholics, and Muslims play an important political role. The Kanungu cult deaths in 2000 led national and district governments to impose restrictions on small Christian sects. The state does not interfere publicly in the appointment of religious leaders, nor does it restrict religious ceremonies, observances, or education. In July 2002, the Joint Anti-Terrorism Task Force re-arrested 15 members of a fundamentalist Muslim group, the Ta-bliq, as they left the courthouse after the High Court had acquitted them on charges of treason.

The constitution recognizes everyone's right to freedom of association, including membership in trade unions, businesses, and civic associations but not political party organizations (Articles 29 and 269). The Political Parties and Organizations Act (PPOA), adopted in 2002, permits parties to organize at national but not at lower levels. Local and foreign human rights groups investigate and publicize violations of rights without encountering much government pressure. The government did refuse to register the Uganda Allied Teachers' Union in 2002. Essential government employees, including police, army, permanent secretaries, and school principals, are not permitted to join trade unions. The prohibition on meetings and elections in the labor movement that the Ministry of Gender, Labor, and Social Affairs had imposed a year earlier continued throughout 2002.

The government does not require permits for public meetings, but the police have to be notified. The resident district commissioner used soldiers and police to break up a meeting in Lira of northern members of parliament and religious and cultural leaders to discuss ending the war with the LRA, claiming it would disrupt the ongoing census. Citizens

are not pressured to join the Movement, although some would say that everyone is compelled to be a member since it statutorily includes all Ugandans.

NGOs must register with the government, although requirements are not onerous and most applications are approved. Once NGOs register, the state usually does not interfere. However, in September 2002 the government announced that it had deregistered 25 NGOs (none involved with human rights) in the public interest, and in 2002 parliament considered the Non-Governmental Organizations Amendment bill, which made registration more difficult and gave the state authority to suspend NGOs that do not act in conformity with government plans and penalize them for violations, with prison terms for heads of NGOs of up to one year.

### *Recommendations*

The government should improve respect for civil liberties by introducing a policy of effective and prompt punishment for all human rights violations caused by members of all security services. A human rights component should be inserted into the security forces' training programs, with required refresher courses offered biannually. Since soldiers in the original NRA were effectively trained to respect the rights of all civilians, this memory and the pride of officers from that time should be drawn upon. All paramilitary security forces should be disbanded. Laws meeting the constitutional standards of equality of women with men should be passed and actively implemented, particularly those giving women the right to land ownership, the right to a share of marital property upon divorce, and the right to inherit property from their husbands. Ending the war with the LRA is essential for ending the human rights abuses caused by both armed forces. The best chance for a peaceful settlement would be the adoption of a consistent government policy to support independent negotiations by Acholi church officials and respected elders with the leaders of the LRA. The cabinet should withdraw its September 2003 proposal on cost savings grounds to merge the UHRC with the inspector general of government because a merger is likely to reduce vigorous protection of constitutional rights.

### *RULE OF LAW – 4.08*

The constitution establishes an independent judiciary (Article 128), and the higher courts frequently demonstrate their independence. The judiciary has decided some politically sensitive cases against the government and severely criticized its electoral behavior in a decision published in July 2002 allowing the 2001 presidential election to stand by only a three-to-two margin. The Constitutional Court declared the PPOA unconstitutional in March

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2003; the government appealed the case. President Museveni undermined the creation of public support for the independence of the judiciary in 2002 by criticizing court decisions to acquit defendants he considered guilty and using Operation Wembley courts-martial to override the courts.

Police and security agents sometimes produce missing persons in response to orders from the courts. Judges are appointed by a separate judicial service commission that tends to act impartially. Judges are expected to have ten years of practice as advocates and a good reputation before appointment. A Supreme Court justice claimed in open court in July 2002 that the president's legal officer had called him to influence the choice of judges hearing election petitions. In December 2002 the court of appeals nullified a parliamentary election claimed by the minister of defense, and later upheld one in which the winner had been strongly opposed by President Museveni.

In general, the courts act on the constitutional principle of the presumption of innocence, but not on the requirement of a speedy trial (Article 28). Parties are generally given fair and public hearings by impartial courts. Judges are competent at higher levels, but the judiciary and the entire criminal system are badly understaffed. Courts are slow to hear cases, leaving prisoners on remand for an average of two to three years.<sup>8</sup> In cases for which the penalty is death or life imprisonment, the constitution requires the state to pay for legal representation (Article 28), a burden the state typically undertakes; many defendants are too poor to hire advocates for lesser offenses. Military courts provide defendants with the right to legal representation but not to fair trials since the military appoints adjudicating officers, prosecutors, and often military defense attorneys. By and large, both parliament and the executive comply with court decisions. Article 120 of the constitution insulates the director of public prosecutions (DPP) from political pressures. But in some cases involving subversion, the DPP has succeeded in indefinitely delaying trial. Nevertheless, some public officials are successfully prosecuted for abuse of office and corruption.

In general, the government does not attempt to stifle cases brought by citizens alleging torture and violation of other civil rights. However, the president's support of paramilitary units responsible to him personally, while not extensively used, undermined the primacy of the rule of law. So did courts-martial for suspects captured during Operation Wembley, even though the DPP ruled in October 2002 that they were legal under the NRA Statute (1992). During the year, the government generally used search warrants, although there were exceptions, particularly in October 2002 during the closure of *The Monitor*. In September 2002, following the passage of the Anti-Terrorism Law, a UPDF detail seized 25 prisoners suspected of treason at night from Gulu Prison without a warrant, despite the opposition of the prison authorities.

The subordination of the UPDF and the police to civilian authorities is established respectively in Articles 208 and 211 of the constitution. Many of the incidents in which these forces did not act impartially resulted from the fact that they *were* under civilian control—particularly the direct control of the president. The use of the ISO in Operation Wembley was an example in 2002. The impact of UPDF involvement in the war in the north and in the Democratic Republic of Congo in 2002–03 reduced its accountability to civilian authorities, as soldiers acted on their own for profit or the use for sexual pleasure. The president’s strategy to defeat the LRA, announced in September 2003, is “mobilizing the reserve militia . . . to flood the countryside.”<sup>9</sup> Arming inadequately trained civilians is likely to increase the problem of holding security forces accountable to civilian authorities.

Article 21 of the constitution establishes that all citizens shall enjoy equal protection under the law and explicitly prohibits discrimination on the basis of sex, religion, or ethnicity. But existing legislation provides women with fewer protections than men without providing a reasonable basis for discrimination. Migrants also confront official discrimination from officers in many district administrations. District and lower courts often do not treat women as equal to men or migrants as equal to indigenes. The state by and large respects and enforces property rights.

### *Recommendations*

The government should strengthen the rule of law through the president’s commitment that all criminal cases not involving the military during active combat will be tried before the judiciary. The government should expand its staffing in the police and DPP to reduce the number of prisoners on remand and thus accelerate trials. The executive should instruct the police and intelligence agencies not to re-arrest acquitted defendants without evidence of a completely different charge. To improve the willingness of government departments to comply with legal norms, the budget and staff of the UHRC should be increased. The government should commit its departments to applying the Anti-Terrorism Act only after thorough investigation.

### **ANTICORRUPTION AND TRANSPARENCY – 3.77**

Transparency International ranks Uganda as the 94th most corrupt out of 102 countries in its 2003 Global Perceptions of Corruption Index.<sup>10</sup> The courts tried corruption indictments regularly and frequently. A senior official stated in April 2003 that the police registered at least 50 complaints of bribery and extortion daily. In a November 2002 report leaked in September 2003, the auditor-general found losses of millions of U.S. dollars in tax evasion and fraudulent arrangements involving Uganda Revenue

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Authority officials. Extensive bureaucratic regulation, particularly in the areas of taxation, investment, health, and pensions, provided opportunities for corruption despite 15 years of liberalization. In fact, “market reforms merely altered the way in which corruption occurs, allowing governments to award contracts and tenders to reward loyal supporters or buy off potential opponents.”<sup>11</sup> The fight against “terrorism” had the effect of increasing security agencies’ classified expenditure, in which corruption can be hidden more easily.<sup>12</sup> On the other hand, the inspector general of government (IGG) reported in April 2003 that the National Integrity Survey indicated a marked reduction in reports of bribery between 1998 to 2002. Public support for government anticorruption initiatives was weakened by widespread suspicion that many high public officials, most prominently the brother of the president, profited from corrupt deals involving the state.

A number of government institutions exist to identify and reduce corruption: the IGG and the auditor-general, both constitutionally established (Articles 230 and 163 respectively), and the ministry of ethics and integrity. They provide protection for whistleblowers and investigators. Permanent secretaries are accountable to parliament for their ministries’ funds (Article 164). The IGG has the power to investigate, arrest, and prosecute officials accused of corruption and abuse of authority. It investigated complaints of victimization, abuse of office, mismanagement and misappropriation, mishandling tenders and contracts, embezzlement, forgery, nonpayment of salaries or benefits, false claims, and bribery.<sup>13</sup> The auditor-general’s office oversaw internal auditors and auditing systems in all government departments. The present and past auditors-general each “maintained [his office’s] high standards.”<sup>14</sup>

Investigating and auditing bodies undoubtedly had to withstand hidden political pressures. It is unclear whether they have compromised their standards in high-profile cases, but their public image is one of independence and effectiveness. Neither the auditor-general nor the IGG has ever come under reasonable suspicion of corruption. Nevertheless, the attack on corruption remains underfunded and understaffed.

In a victory for transparency, parliament passed a leadership code of conduct in April 2002 that permits publication of a senior public official’s declaration of assets upon request. The statute explicitly treats the declaration as public information (Section 7), giving public servants a strong incentive for full disclosure. This declaration, which includes assets of spouses and children, must be submitted every two years. The IGG told parliament in April 2003 that 65 percent of leaders had declared their wealth. The president dismissed a senior presidential assistant in August 2003 for failing to make a timely declaration of his assets under this law. Parliamentary committees have also been active in exposing corruption.

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The political will to enforce the separation of public office from personal interests of senior public office-holders remains questionable. The strict regulations governing competitive bidding for government projects and for procurement by government officials are often violated. Some government officials have been sensitive to this problem. For example, a directive was issued in August 2003 that official cars should not be used after 5 P.M. if the officer was not on special duty. In the past, commissions of inquiry into corruption received extensive publicity. Nevertheless, cases in which top political and military officials were accused often led to reprisals.

A political dispute between the president's appointee to head a monitoring unit to investigate timber corruption and the minister of land, water and environment, an extremely close longtime ally of the president, became public in August 2003. The head made accusations against the minister and high-ranking army officers, and the minister in turn forced the resignation of the investigator. The IGG opened an inquiry in mid-September 2003 and members of parliament called for a parliamentary committee to investigate. In another case, at the end of August 2003 the Kasese district public accounts committee threatened district officials with public exposure if they failed to account for specified public funds amounting to Shs. 291 million (US\$150,000).

Those charged with corruption have the opportunity to defend themselves in court hearings and are sometimes acquitted. Prosecutions of corruption are generally handled without prejudice. Prison sentences were given even to those who served in government positions as high as permanent secretary; in general, however, IGG officials complained that the standards of proof were so high that most corrupt officials were acquitted. Allegations of corruption have been widely publicized in the media, including state-owned newspapers, and in publications and the Web site of the IGG. From time to time accusations emerge of favoritism and corruption in admission to public universities. There have been complaints about corruption in lower courts.

Only after the executive branch has prepared its budget does the budget-making process become relatively open. Ministers submit policy statements to parliamentary committees, which can reduce proposed allocations. Ministers must defend their budgets in parliament, although they usually receive what they request. The Budget Act of 2001 requires parliamentary approval for any additional expenditure exceeding 3 percent of a ministry's approved budget. In September 2003 members of parliament warned the government against expenditures parliament had not approved.

The constitution gives citizens the right to obtain information about the conduct of the government and requires parliament to determine the procedures (Article 41), but parliament has not yet done so. The public has difficulty accessing information about government operations, particularly

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at the district level. The auditor-general publishes annual reports to parliament, but these reports are years behind. Anticorruption NGOs, organized into the Uganda Debt Network, work actively against corruption without provoking government interference.

Parliament authorizes requests for and receipt of foreign assistance. Foreign donors must consult appropriate ministries before making expenditures on aid projects.

### *Recommendations*

The IGG and the auditor-general have built effective and trusted governmental accountability structures for transparency and against corruption since 1995; doubling the budgets of both would probably save the government money overall and would strengthen the culture of accountability. Incentives need to be put in place intended to prevent the corrupt diversion of foreign donor resources. These incentives should include specific statements that the discovery of corruption would trigger an end to aid. Public officials and their relatives should be prohibited from acquiring properties through privatization.

## **ACCOUNTABILITY AND PUBLIC VOICE – 3.82**

General elections for president and parliament were held in 1996 and 2001. The President's electoral legitimacy largely reflects his personal popularity among a majority of rural dwellers for removing past repressive regimes and providing peace and security; it did not yet betoken widespread acceptance of democratic institutions. The electoral framework included universal suffrage, conducted by secret ballot in regular elections, but only for individual candidates, not for representatives of opposing parties. Polling and tabulation of ballots in general elections were largely transparent, although intermittent registration and voting illegalities and sporadic violence occurred. In the opinion of the Constitutional Court published in July 2002, the elections for president in 2001 were severely flawed, although three of the five justices ruled that the results represented the majority's preference.

Campaign opportunities were not equal. Intimidation, fraud, and the intervention of the military occurred in some localities, particularly during the 2001 elections, and resulted in the imprisonment and death of some campaign workers for the leading opposition presidential candidate and at least one working for the president. The president and Movement parliamentary candidates were given access to some government facilities in their campaigns, resources unavailable to their opponents. Private economic interests do not have excessive influence on campaigns, but candidates without wealth cannot compete effectively. No funds were legally permitted from any country consid-

ered hostile to Uganda. The government charged, but without convincing evidence, that Rwanda, a government it regarded as hostile, had helped finance the main opposition presidential candidate. The electoral commission became much less effective and lost some of its independence after its original chair was appointed to a different government position. The courts fairly judged petitions by candidates declared losers.

The opportunity for effective rotation of power was blocked not only by the banning of opposition powers, but also by President Museveni's patronage network and personal dominance over the government and the Movement. The older parties were effectively prevented from offering an alternative national platform, as were other prominent members of the Movement. The failure to regard opposition as legitimate, a by-product of the no-party system, necessarily diluted the accountability of the government. The campaign to change the constitution to allow President Museveni to run for a third term intensified in 2003. Such a change would make rotation in power more difficult by deterring the emergence of competitors who could provide substantive alternative policies. In 2002, the PPOA added new restrictions for parties by preventing them from campaigning in elections or organizing offices outside the national capital. In March 2003 the Constitutional Court ruled that Section 18 of the act, restricting parties to the national level, was unconstitutional, and that the Movement was a political organization not a political system under the act. The government prevented the banned parties from taking advantage of the ruling while it appealed the case by insisting they had to register before becoming active. By September 2003 the main old parties, the Democratic Party and the UPC, had still refused to register.

The absence of parties does not affect selection and behavior of public officials. The constitution guarantees the independence of the public service commission (Articles 165 and 166), and the performance of the public service commission appears to have been a significant exception to the corruption and patronage found in other areas of government and in the economy. Members of the public service were generally selected on the basis of merit in open competition. The constitution also explicitly provides protection for marginalized groups (Article 32). However, in several—possibly most—districts, district public service commissions discriminate in favor of locally born applicants, even removing serving officers whose families had migrated to the district.

Vigorous civil society organizations (CSOs) can play an important role in the maintenance of the rule of law and governmental accountability. The constitution gives every Ugandan the right to influence government through civic organizations (Article 38). In general, the government allows CSOs to operate independently and does not interfere with them or their donors. However, NGOs in the civil society sector must register with the government.

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CSOs freely oppose government policies. Many have influenced pending policies by testifying to legislative committees and influencing the public through articles and programs in the media. Women's groups are especially prominent in advocating reforms in laws and attempting to change cultural practices. In August 2002 a large group of NGOs issued a code of conduct for self-regulation. CSO pressure contributed to the World Bank's suspension of its US\$550 million contract to build the Bujagali dam for hydroelectric power in June 2002.

The constitution protects citizens' rights to information from all state agencies that is not prejudicial to security or sovereignty (Article 41). But citizens frequently have difficulty finding timely information on pending legislation, regulations, and government policy, largely due more to government disorganization and lack of channels for citizen involvement than to deliberate suppression. The government allows international NGOs to enter the country to investigate relatively freely conditions for which the government expected to receive blame—for example, those involving human rights. The UHRC, a quasi-governmental body, investigates hundreds of human rights complaints each year.

The Freedom House *Freedom of the Press 2003* survey rated the Ugandan press as “partly free.” The constitution provides every individual with the right to free speech and press (Article 29). Newspapers and radio, including the government-owned *New Vision*, are generally free and outspoken, and they often attacked government policies in 2002–03. The government frequently tolerates harsh criticism, including published reports alleging torture by security operatives. But freedom of the press is not entrenched. The government raided *The Monitor*, the largest opposition paper, and closed it for a week in October 2002, forcing its chief editor to leave the country as a condition for reopening it. At issue was a story about the LRA shooting down a helicopter that turned out to be false. The journalist was arrested and detained without trial for an unconstitutional period. However, *The Monitor's* FM radio station was not disturbed. Since the Anti-Terrorism Law could be applied to journalists who publish information considered favorable to terrorists, and since it mandates the death penalty, journalists' freedom to publish criticism of the government is further threatened.

In general, the state opposes censorship of the media, urging journalists to practice self-censorship. But often the government has felt journalists did not restrain themselves sufficiently. The state has used criminal libel charges against some journalists, although not as a general practice. It lost so many of these cases that the weapon did not impede open criticism of public officials. When radio stations started to broadcast the hugely popular “street debates” in Luganda instead of English, the government threatened to ban

them, claiming their licenses did not permit broadcasts outside their studios. The state closed a district radio station in August 2003, claiming that it had supported the LRA's guerrilla thrust into Teso-speaking areas. The president said he made the decision. But it did not escape officials in the Soroti Catholic Diocese that ran the station that it also competed for listeners with a nearby radio station owned by a Movement minister of state. The president ordered radio and TV stations to stop interviewing "exiled political dissidents," meaning Dr. Kizza Besigye, his former opponent.<sup>15</sup> The president aggressively attacked *The Monitor* in a published statement in September 2003, suggesting that some of its articles were treasonable, an action likely to chill journalists' willingness to investigate and publish attacks on the government.

By and large, the state does not fund the media to propagandize its point of view. The state-owned newspaper, which has one of the two largest national circulations, often criticizes government policies, although it also defends government policies much more frequently than the opposition press. The government owns the only national radio station, a TV station, and four vernacular newspapers, but there are 20 or more daily and weekly newspapers and a large and growing number of private radio and television stations that frequently criticize the government. Licensing fees for radio and television stations are high, and may be a restraint on entry. Journalists must be licensed. They are more likely to be victimized by state officials than by nonstate actors. The opposition have easy and relatively unimpeded access to media outlets.

### *Recommendations*

The most important reform to increase political accountability in Uganda would be the retirement of President Museveni at the end of his current term, the last one he is permitted under the constitution. The constitution should not be changed, as this would significantly weaken the rule of law and would profoundly delay or prevent further institutionalization of democracy. The original chair of the electoral commission, Stephen Akabway, should be reappointed to help restore the independence and authority of that commission. A hands-off government policy toward criticism by journalists should be adopted to strengthen both the norms of government accountability and support for the government.

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**Notes**

<sup>1</sup> I would like to thank Mr. Hippo Twebaze for his research in collecting materials for this country report. I take sole responsibility for all evaluations and statements of fact.

<sup>2</sup> *Abducted and Abused: Renewed Conflict in Northern Uganda*, 15, 12[A] (New York: Human Rights Watch, July 2003), 41–68, <http://www.hrw.org/reports/2003/uganda0703>.

<sup>3</sup> *Ibid.*, 17.

<sup>4</sup> *Ibid.*, 61–68.

<sup>5</sup> Peter Mukidi Walubiri, “The Legality of Operation Wembley: a Human Rights Audit,” *Your Rights*, Kampala, December 2002, 20–21, <http://www.uhrc.org>.

<sup>6</sup> *Just Die Quietly: Domestic Violence and Women’s Vulnerability to HIV in Uganda*, 15, 15[A] (New York: Human Rights Watch, August 2003), 21–41.

<sup>7</sup> *Uganda*, Country Reports on Human Rights Practices – 2002 (Washington, D.C.: U.S. Dept. of State, Bureau of Democracy, Human Rights, and Labor, 31 March 2003), 23, <http://www.state.gov/g/drl/rls/hrrpt/2002/18232pf.html>.

<sup>8</sup> *Ibid.*, 9.

<sup>9</sup> Yoweri Museveni, “Opinion,” *The Monitor*, 8 September 2003.

<sup>10</sup> “Corruption Perceptions Index,” *Global Corruption Report 2003* (Berlin: Transparency International, 2003), 265, <http://www.globalcorruptionreport.org>.

<sup>11</sup> Andrew Mwenda, “East Africa,” *Global Corruption Report*, 237.

<sup>12</sup> *Ibid.*, 239.

<sup>13</sup> “Case Summaries” (Kampala: Inspector General of Government, September 2003), <http://www.igg.go.ug/cases.htm>.

<sup>14</sup> Mwenda, “East Africa,” 241.

<sup>15</sup> Country Reports (U.S. Dept. of State), 12.

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