



NATIONAL
COALITION OF
HUMAN
RIGHTS
DEFENDERS
UGANDA

Silencing Defenders:

Human Rights Promotion and Protection in the
Context of Uganda's Extractive Industries

2020

“Silencing Defenders: Human Rights Promotion and Protection in the Context of Uganda’s Extractive Industries”

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List of Abbreviations

ACHPR	African Charter on Human and Peoples Rights
ACODE	Advocates Coalition on Development and Environment
AFIEGO	Africa Institute for Energy Governance
ANARDE	Advocates for Natural Resources and Development
ASF	Avocats Sans Frontiers
AU	African Union
BAPANECO	Bunyoro Albertine Petroleum Network on Environmental Conservation
CBO	Community Based Organisation
CSCO	Civil Society Coalition on Oil and Gas in Uganda
CSR	Corporate Social Responsibility
DISO	District Security Officer
DNMC	District Non-Governmental Monitoring Committee
DPI	Defenders Protection Initiative
EHAHRD	East and Horn of Africa Human Rights Defenders
EITI	Extractive Industries Transparency Initiative
FDC	Forum for Democratic Change
HRC	Human Rights Council
HRCU	Human Rights Center Uganda
HRDs	Human Rights Defenders
ICCPR	International Covenant on Civil Political Rights
ICESCR	International Covenant on Economic Social and Cultural Rights
IOCs	International Oil Companies
GLISS	Great Lakes Institute for Strategic Studies
GRA	Global Rights Alert
LC	Local Council

MIRAC	Mid -Western Region Anti- Corruption Coalition
NAVODA	Navigators for Development Association
NCHRD-U	National Coalition for Human Rights Defenders – Uganda
OHCHR	Office of the High Commissioner for Human Rights
PAU	Petroleum Authority of Uganda
PSAs	Production Sharing Agreements
WGI	Water Governance Institute
RCSN	Riamiriam Civil Society Network
RDC	Resident District Commissioner
RRA	Resource Rights Africa
UHRC	Uganda Human Rights Commission
UN	United Nations
UNCAT	United Nations Convention Against Torture
UPDF	Uganda Peoples Defence Forces
UPF	Uganda Police Force

Acknowledgments

The report was authored by Dr. Dan Ngabirano and Jeanie Namugga of Development Law Associates. It is based on research findings arising out of an extensive study, and deep interactions with Human Rights Defenders involved in the extractive industries in the Karamoja and Bunyoro (Albertine) sub-regions.

The research conceptualized by the Advocacy Team at the coalition led by the Advocacy and Networking Officer Edward Serucaca Jnr also benefited from additional input from Sharon Nakanwagi, Elizabeth Namuyanja Doreen and Robert R Kirenga.

The draft report was further reviewed at a validation exercise that was attended by key stakeholders and representatives from some of the human rights organisations in the Karamoja and Albertine sub-region.

The National Coalition of Human Rights Defenders (HRDs) wishes to thank all respondents and stakeholders who volunteered their time for interviews during the research. We further thank all stakeholders whose previous research and advocacy engagements made an insightful literature review possible.

Finally, to the courageous, resilient HRDs and organisations we work with, we thank you and hope these findings are thought-provoking and will support advocacy efforts going forward.

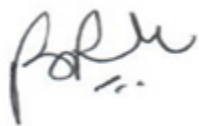
Dear Partners,

Over the last years, the coalition has invested in research in a wide range of thematic areas that have a direct impact on the operating environment of Human Rights Defenders in Uganda. Importantly we have engaged in research on Human Rights Defenders working in the Electoral Context in Uganda, Baseline study on perceptions on Human Rights Defenders and the Assessment of the Human Rights Defenders specific Universal Periodic Review recommendations to Uganda.

This year, we dedicated efforts towards a comprehensive research on Human Rights promotion and protection in the context of Human Rights Defenders working in the context of the Oil and Extractives Sector with the support of the Democratic Governance Facility. It follows requests for support from Human Rights Defenders that our protection desk had to deal with over the years but also a town hall dialogue held in Masindi in July, 2019. In some of the discussions, it was apparent that HRDs and state actors had challenges in respect of advancing rights promotion in the oil and extractives sector.

The research findings rely on our interaction with HRDs in the Karamoja sub-region but also in the Albertine region. Human Rights Defenders (HRDs) have become critical actors in the promotion and protection of the rights and freedoms of especially those communities that are affected by oil, gas and mining activities and in the advocacy for proper management of the country's natural resources for the benefit of all Ugandans. This they have achieved through providing human rights education, holding government and the companies involved to account for their actions and to provide timely compensation, providing legal aid to members of the affected communities, and in some instances pursuing legal remedies on behalf of these communities. At the national level, HRDs have focused on promoting transparency and accountability in respect to the management of petroleum and mining revenues

We hope our findings provide a benchmark for human rights actors and state actors to provide some of the much needed solutions to the challenges in the sector.



Robert. R. Kirenga

Executive Director

Executive Summary

Human Rights Defenders (HRDs) have become critical actors in the promotion and protection of the rights and freedoms of especially those communities that are affected by oil, gas and mining activities and in the advocacy for proper management of the country's natural resources for the benefit of all Ugandans. This they have achieved through providing human rights education, holding government and the companies involved to account for their actions and to provide timely compensation, providing legal aid to members of the affected communities, and in some instances pursuing legal remedies on behalf of these communities. At the national level, HRDs have focused on promoting transparency and accountability in respect to the management of petroleum and mining revenues.

For this, they have become a target of all forms of threats, harassment, and intimidation by government agents and those from mining and petroleum companies. The challenge is that many of them are often too vulnerable in the face of these powerful actors. In some cases, individual HRDs have been rendered even more vulnerable since a majority of them became HRDs by accident, without training and preparation for the risks they currently face.

At the same time, the work of HRDs in extractives is critical for the defence of communal property rights, the right to information and participation and even more fundamental, the intergenerational right to a clean and healthy environment. Against this backdrop, the National Coalition of Human Rights Defenders – Uganda (NCHRD-U) commissioned this study whose objective was to assess the situation of HRDs working

in Uganda's extractive industries (oil, gas and mining). In this respect, the study set out to provide an understanding of the current risks, vulnerabilities and threats faced by HRDs working in the context of petroleum and mining activities in the Albertine and Karamoja regions respectively. Overall, it is expected that the study will act as an advocacy tool for the enhanced support and protection of HRDs working in the context of Uganda's extractive industries.

According to the study findings, in the heat of the discovery of commercial petroleum in the Albertine region, HRDs faced extreme threats and intimidation from the government and oil companies alike for their work in promoting and protecting the rights of communities. HRDs working in the context of the petroleum sector were prevented from accessing and working with the affected communities on the basis that they were poisoning the minds of the people and frustrating government programs. At the height of it all, some HRDs had their offices attacked and ransacked by unknown people and in some cases, they were closed by the state authorities and prevented from operating. Some NGOs working in the sector also had their bank accounts frozen while others lost funds under unclear circumstances. Some HRDs were physically attacked, arrested and threatened with death if they did not refrain from involving themselves in the sector.

The report finds that while these instances especially those involving physical attacks and threats against HRDs have generally reduced, the state and in some instances working together with the companies, has adopted other more subtle and sophisticated ways of silencing what they consider "problematic" HRDs. For their

work of promoting and protecting the rights of communities and Ugandans at large in regard to the petroleum sector, HRDs have been labelled as members of the opposition and agents of foreign powers both of whom are bent on discrediting the ruling NRM and frustrating its good plans for the country. As a result, critical HRDs in the sector are subjected to stringent laws and regulations that make it difficult for them to operate. HRDs also face increasing difficulty in securing the required permits to operate and in some cases funding since they tend to be shunned because of their critical stance. The situation is not any different in the mining sector in Karamoja which is even more stringent and secretive. On most occasions, HRDs in the region are not able to access the mines and critical information on the mining sector. Those who dare to are threatened by the security forces that guard the mines. In one case that came up during the study, an outspoken HRD and LC III Chairman of Rupa subcounty was shot dead under very unclear circumstances.

This state of affairs has collectively rendered HRDs working in the context of Uganda's extractives either silent or restrained. Considering the effect of this situation on the promotion and protection of human rights and freedoms in the extractives, the report makes the following key recommendations.

Government of Uganda

- Guarantee and ensure that in practice there is a safe and enabling environment for human rights defenders, including those working in the context of the extractive industries. In order to achieve this, the state should free the increasingly restricted civic space, promote the rule of law, and ensure that there is no impunity for violations committed against HRDs including

those who work in the context of the extractives sector.

- Establish a robust and independent mechanism for the protection of HRDs. In addition to the implementation of the HRD protection law, the mandate of the mechanism should include the promotion and protection of the rights of HRDs through, among others early warning, rapid response, investigation and punishment of violations and provision of effective remedies.
- The mechanism can be established within an existing body such as the Uganda Human Rights Commission (UHRC) or another body/authority may be created specifically for this purpose. Whichever decision is made, the mechanism once created should be afforded the resources necessary for it to operate efficiently and effectively.
- Over and above, the appointment of persons required as part of the mechanism should be done in consultation with HRDs and civil society. They should be vetted and trained in the protection of HRDs including those working in the context of the extractive industries.
- Establish a public HRDs Protection Fund that is capable of receiving grants and loans from both the public and private sectors.
- Since Uganda is now a member of the Extractive Industries Transparency Initiative (EITI), it should, without any further delays publish all Production Sharing Agreements (PSA) as well as Mining Agreements signed with especially international oil and mining

companies. In the same respect, all revenues earned by the government of Uganda from petroleum and mining so far should be publicly disclosed.

- Involve the affected communities, HRDs and citizens in decision making and management of the extractive industries. Public participation in the management of the extractive industries encourages transparency and accountability. Over and above, citizens' participation is a Constitutional right.
- Adopt specific laws and other relevant measures for the enhanced protection of Women HRDs from existing cultural and institutional prejudices and discrimination. These measures should also address the gender specific risks, threats and violence faced by Women HRDs in the context of the extractive industries.
- Oblige with and comply with the State Reporting Guidelines and Principles on Articles 21 and 24 of the African Charter Relating to Extractive Industries, Human Rights and the Environment in fulfillment of State Reporting Obligations under Article 62 of the Charter. As part of these Guidelines, the State is obliged to report on the ability of HRDs to assist affected people without fear of reprisals from government or companies involved in the extractive industries.
- Sensitize private businesses and other nonstate actors involved in the extractives sector on their Constitutional human rights obligations. In particular they should respect the rights of the affected communities to property, livelihood, non-discrimination and to a clean and healthy environment.
- Domesticate the United Nations Guiding Principles on Business and Human Rights through expediting the debate and enactment of the National Action Plan on Business and Human Rights, in order to guide the interaction between private businesses and communities where they operate.
- Institute a special committee to investigate and inquire into all past incidences involving government officials and those from the security agencies assaulting, threatening, and intimidating HRDs working in the context of Uganda's extractive industries.

Parliament of Uganda

- Consider and enact a specific law for the protection of the fundamental rights and freedoms of Human Rights Defenders including those working in the context of the extractive industries. The process for the enactment of such a law should be consultative and participatory. Importantly, the content of this law should be guided by the global Model Law for the Recognition and Protection of Human Rights Defenders.
- Urgently & immediately repeal laws or specific provisions of laws that serve to restrict the rights and freedoms of HRDs working in the context of the extractives sector. These

include the highly restrictive Non-Government Organisations Act, 2016 and certain provisions contained in the Public Order Management Act, 2013, Access to Information Act, 2005, Anti- Money Laundering Act, 2013; and the Anti- Terrorism Act, 2002 (as amended).

- Expedite the debate and enactment of the proposed Legal Aid Bill, 2018. This will greatly improve legal representation and access to justice for HRDs where their rights and freedoms are either threatened or trampled upon.
- Consider enactment of a Public Participation Law to facilitate structured and meaningful participation of HRDs, affected communities and entire body of citizens in the governance of the extractive industries.

Development Partners & Civil Society

- Strengthen existing HRDs protection funds hosted by Civil Society Organisations by providing them with more support in terms of funding and other resources. This will enable these funds to compliment the proposed public HRDs protection fund.
- Empower and build the capacity of HRDs especially those at the grassroots through human rights education and specialized trainings on physical and digital forms of personal safety and security. These trainings should not be one offs but should be regular and consistent to enable HRDs at the grassroots cope with evolving challenges of human rights promotion and protection.
- Collaborate with government to sensitize private businesses and other non-state actors involved in the extractives sector on their constitutional human rights obligations. The activities of such entities should be sensitive to the rights and freedoms of HRDs, the affected communities and the environment.
- Related to the above, in every region where extractives exist, there should be an urgent response plan that, among others, guarantees timely legal representation for HRDs at threat. Currently, it is a challenge for HRDs operating in these areas to access legal representation and in many cases, they have to depend on lawyers from Kampala.
- HRDs working in the context of the extractives sector should be accorded the same level of attention since in the past there has been a tendency to concentrate all efforts on defenders of civil and political rights.
- Accord special and consistent funding to HRDs working in the context of the extractives sector in order to enable them to mitigate against the challenges they are faced with. Those at grassroots level should be supported with protective and surveillance devices, cameras, and smart devices to enable them enhance their office, personal safety and security and to capture evidence of human rights violations in real time.

Uganda Police Force

- Urgently and immediately release a comprehensive report of all office break-ins involving NGOs working in the extractives sector. Despite reports being made to the police every time there is a break in, they have never released any report and neither have the culprits been successfully prosecuted.
- Invest in regular human rights training for police officers, especially those assigned to the oil and minerals protection units. As part of these trainings the rights and freedoms of HRDs should be emphasized. It is also best for the trainings to be conducted in close collaboration with the Uganda Human Rights Commission (UHRC) and other human rights organisations.

Petroleum and Mining Companies

- Respect and put in place measures for the protection and promotion of the rights of especially HRDs and of persons affected by their activities in the areas where they operate. Additionally, petroleum and mining companies should investigate all allegations of human rights violations involving their staff, agents and/or associates and take appropriate action including but not limited to reporting all violations to competent authorities for redress.
- Ensure mandatory basic human rights training for all company staff, agents and/or associates while giving priority to those engaged with communities where petroleum and mining activities are currently taking place.
- Adopt and incorporate in their respective policies and operational manuals detailing the human rights standards required of businesses under the United Nations Guiding Principles on Business and Human Rights.

“

“I see many NGOs including AFIEGO pretending that we are working hard to help the downtrodden and yet we fear and dodge to say and do what would help the voiceless. The government and companies have successfully instilled fear in many NGOs i.e. fear for deregistration, fear that they will not renew your operational permit.... fear that you will be black listed by government and so donors may also avoid working with you, fear that your bank accounts and funds will be captured by Bank of Uganda, fear that security will attack your offices at night, fear that the DISOs, GISOs, PISOs, etc will not allow you in their areas of jurisdiction.”

Dickens Kamugisha, Executive Director, AFIEGO

1.0 INTRODUCTION

Following a long history of petroleum exploration, in 2006 Uganda confirmed the existence of commercial deposits in the Albertine region¹. Since this discovery, there have been accelerated efforts to explore for petroleum in other parts of the country by both the government of Uganda and International Oil Companies (IOCs). From the discoveries made so far, the country's petroleum reserves are estimated to be 6.5 billion barrels of which 1.4 billion barrels is recoverable². From this, Uganda is expected to generate over USD 50 billion when commercial production eventually commences. Even then, before commercial production commences, Uganda has generated close to USD 1 billion from the petroleum sector (both tax and non-tax revenues). In addition to this, the petroleum sector has also had spiral effects in other areas of the economy.

Besides petroleum, Uganda is endowed with vast mineral resources of both metallic and industrial nature as well as gemstones. The available minerals include gold, tungsten, wolfram, copper, tin, phosphates, asbestos, marble, limestone, vermiculite, sand and marble among others³. Moreover, Uganda equally has favorable geology for discovery of minerals as well as a long history of mining

on her side⁴. In the 1960's and early 1970's, mining as a sector contributed up to 6% of the country's Gross Domestic Product (GDP) with copper and cobalt as the leading foreign exchange earners⁵. Most recently, Uganda is a leading minerals exporter and in 2019 earned in excess of USD 1.2 billion from gold exports alone⁶. With the renewed government commitment to revitalization of the mining sector in order to make it much more vibrant, more is expected. In addition to revenues, a vibrant mining sector is expected to boost industrialization, create more job opportunities, contribute to infrastructure development, and encourage investment in Corporate Social Responsibility (CSR) by companies. These in turn have several forward and backward linkages as well as spiral effects on the economy.

Against this backdrop, it is without a doubt that Uganda stands to gain much from its extractive industries (oil, gas and minerals). This is however not a guarantee for there are several examples of countries that have failed to translate their resource wealth into meaningful economic development and transformation. In fact, there is a tendency for such countries to register less levels of development when compared to those countries without similar resources. This is

also known as the resource curse phenomenon and in addition to poor economic performance its characteristics in countries that experience it include poverty, income inequalities, corruption, declining levels of democracy, environmental degradation, and human rights violations⁷.

For Uganda to escape the resource curse and its consequences, it is pertinent for the country to exercise maximum caution in the development of its oil, gas and mineral resources. Uganda should ensure that the revenues from these resources are managed in a transparent and accountable manner. The government of Uganda in whom these resources are vested should also ensure full and effective public participation in the management of these resources. Over and above, the rights of communities affected by oil, gas and mineral activities should be respected at all times. Unfortunately, even before Uganda embarks on full-scale oil and gas production, there is concern over the human rights implications of the sector and the manner in which the revenues realized so far are being managed. Similar challenges exist with the more established mining sector. In almost all areas that have so far been affected by oil, gas and mining activities, there are concerns over property rights of communities (land grabbing, forceful evictions and delayed compensation are common), environmental degradation, labor exploitation, lack of/limited access to information, disregard of the rights of women and children, limited participation and involvement of communities in decision making and in revenue sharing⁸.

1.1 Rationale for the Enhanced Protection of HRDs working in the Context of Uganda's Extractive Industries

Human Rights Defenders (HRDs) have been at the forefront of defending and promoting the rights of communities in areas affected by oil, gas, and mining activities in Uganda. The role of the HRDs is particularly important given the vulnerability of the affected communities who in most cases are poor, illiterate, and unaware of their rights. HRDs are also active at the national level where the focus of their work is on transparency and accountability in the extractive industries. In this same regard, HRDs have been critical of corruption and mismanagement of oil and mineral revenues. For this work, HRDs in Uganda have become a target of threats, harassment and intimidation by government agents and oil and mining companies⁹.

According to a 2012 study by Defend Defenders, HRDs working in the context of Uganda's oil face significant risks to their personal safety and security and their rights to freedom of association and assembly, access to information and participation are frequently restricted¹⁰. This is confirmed in the most recent report of the Human Rights Centre Uganda which observes, among others, that HRDs in the extractives are among the most at risk and that especially those in the Albertine region have been targeted by the state¹¹.

Moreover, there are increasing threats and violence to environmental human rights defenders globally. According to the 2016 report of the UN Special Rapporteur on the Situation of Human Rights Defenders, environmental HRDs "are often treated as enemies of the state and all too often, are targeted for assassination." As such 185 environmental HRDs were reported murdered

across 16 countries in 2015¹². The majority of these killings (42) were registered in the context of the extractive industries. In the same vein, it is observed that the majority of the communications regarding human rights violations committed against environmental HRDs involved the extractive industries¹⁴.

Besides killings, the report takes note of several other forms of threats and violations committed against environmental HRDs including those in the extractives sector. These include violence, attacks and threats to their families, enforced disappearances, illegal surveillance, travel bans, black mail, sexual harassment, judicial harassment and forceful dispersal of peaceful demonstrations¹⁵. In addition to these violations, there is a common tendency to abuse the laws especially those that regulate civil society organizations to target the work of environmental HRDs and to endanger their safety¹⁶. HRDs have also been victims of smear campaigns and forced evictions and displacement¹⁷.

The surge in the global demand for natural resources has put the environment under extensive pressure. Yet environmental damage affects the globe as a whole (and future generations) and is often very difficult to

reverse. In this regard, the work of environmental HRDs is critical for the protection of the environment from damage and for sustainable development. This is in line with the obligations of countries set out in the Sustainable Development Goals (SDGs). Secondly, the work of environmental HRDs is important in the protection and promotion of the intergenerational and fundamental right to a clean, safe, and healthy environment. Moreover, in many cases individuals advocating for the right to a clean and healthy environment often become HRDs by accident or out of necessity and without realizing and appreciating the risks that come with the roles they play in safeguarding the environment. Yet for all their work, HRDs including those that operate in the context of extractives are exposed to increased risks. For this reason, it is important to defend the exercise of their right to promote and protect the rights and freedoms of the communities as well as the right to a clean, safe and healthy environment.

1.2 Purpose of the Study

Against the background above, the National Coalition of Human Rights Defenders

– Uganda (NCHRD-U) commissioned this study with the objective to assess the situation of HRDs working in Uganda's extractives (oil, gas and mining sectors). In this respect, the study set out to provide an understanding of the current risks, vulnerabilities and threats faced by HRDs working in selected districts affected by petroleum and mining activities. Overall, it is expected that the study will act as an advocacy tool for the enhanced support and protection of HRDs working in the context of Uganda's extractive industries.

1.3 Methodology

Although the study was conducted using mixed research methodology, it is largely qualitative. In this respect, the study involved, a desk review of both primary and secondary sources of literature. These include, regional and international instruments for the protection of HRDs, Ugandan laws, reports of the United Nations and African Union Special Rapporteurs on the Situation of HRDs, Reports of reputable NGOs, scholarly and newspaper articles. In addition to these, key strategic interviews were conducted with respondents drawn from both government agencies as well as non-state actors. Interviews were also

conducted with individual and institutional HRDs and organizations involved in the protection of the rights of HRDs. Overall, there were a total of 50 respondents. Of these, 40% were women.

In terms of scope, the study focused on the situation of HRDs working in the context of petroleum and mining activities in the Albertine and Karamoja regions from the year 2013 to date. More specifically, the study relied on field visits and interviews carried out in the districts of Hoima and Moroto during the month of September 2020. The rest of the interviews relied upon were conducted in Kampala during the entire period of the study from July to September 2020.



2.0 LEGAL BASIS FOR THE RECOGNITION & PROTECTION OF HUMAN RIGHTS DEFENDERS (HRDs)

Human Rights Defenders (HRDs) were initially not specifically recognized and protected under the international human rights' legal regime. This omission put the lives of individuals, groups and organs of society involved in the promotion and protection of recognized rights and freedoms at serious risk and left them exposed to acts of intimidation and harassment because of their work. For this reason and in a bid to enhance their protection, there have been efforts to have the rights of HRDs recognized as part of a legally binding instrument since 1984. Although these efforts are yet to bear fruit in terms of achieving a binding legal instrument, they have yielded several initiatives for the enhanced protection of the rights of HRDs at the international and regional levels.

In 1998 for instance, the UN General Assembly adopted the “*Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*.”¹⁸ This is also known as the Declaration on Human Rights Defenders. Although the Declaration is non-binding on states, it has inspired the enactment of several human rights instruments for the recognition and protection of the rights of HRDs at the national, regional, and international levels. The Declaration also represents the political commitment of states towards the protection of HRDs and recognition of their fundamental

rights and freedoms. More significantly, the Declaration provides clarification on the once contentious issue of who qualifies to be referred to as a human rights defender.

2.1 Definition of Human Rights Defenders (HRDs)

The Declaration defines HRDs as persons acting alone or in association with others in contributing to the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, including in relation to mass, flagrant or systematic violations such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity and from the refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources¹⁹.

Building on the guidance provided by the Declaration, the United Nations Office of the High Commissioner for Human Rights (OHCHR), describes HRDs as people who, individually or with others, act to promote or protect human rights²⁰. According to this definition, HRDs are not restricted to persons working in NGOs and may in some instances include government officials, civil servants and members of the private sector²¹.

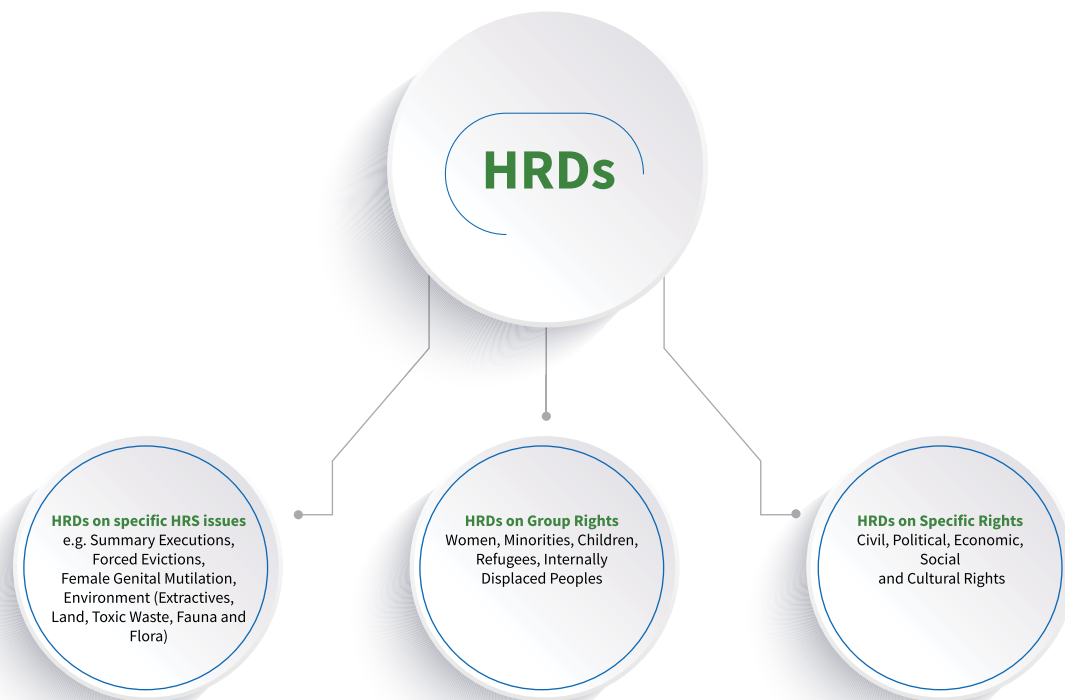
2.1.1 Definition of Environmental Human Rights Defenders

The definition of HRDs as provided for under the Declaration is however rather broad and may not adequately represent the situation of HRDs working in specific sectors such as the extractive industries. Nonetheless, it has inspired efforts towards the recognition and enhanced protection of some sector specific HRDs owing to the unique challenges that they are occasionally confronted with. These include environmental HRDs who are defined as “individuals and groups who, in their personal or professional capacity and in a peaceful manner, strive to protect and promote human rights relating to the environment, including water, air, land, flora and fauna²²”

According to the UN Special Rapporteur on the Situation of Human Rights Defenders, while environmental human rights defenders may include “journalists, activists or lawyers who expose and oppose environmental destruction or land grabbing they are often ordinary people living in remote villages, forests or mountains, who may not be aware that they are acting as environmental human rights defenders. In many other cases, they are indigenous leaders or community members who defend their traditional lands against the harms of large-scale projects such as mining and dams.²³”

The definitions and descriptions of environmental HRDs above leave no doubt that they include those working in the context of extractives.

Figure 1- Categorization of HRDs in Extractives as Environmental HRDs



2.2 International Protection of the Rights and Freedoms of Environmental HRDs

As earlier observed, the adoption of the Declaration on the Rights of Human Rights Defenders in 1998 marked the first step towards the legal recognition and protection of the rights of HRDs. Although the Declaration provides for the broad and general protection of HRDs, some of its provisions augment the protection of HRDs working in the context of the extractive industries. First and foremost, the Declaration recognizes the right and freedom of peoples and individuals to work towards the elimination of violations arising from the refusal to *recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources*²⁴.

By recognizing the right of peoples or individuals in championing the elimination of violations of the peoples' rights to full sovereignty over their natural resource wealth, the Declaration establishes a firm foundation for the protection of HRDs working in the context of the extractive

industries. This is because for communities in areas affected by oil, gas and mineral activities, violations of the right to property, livelihood, healthy environment and in some cases the right to life are commonplace. These kinds of violations go to the root of the communities' right to full sovereignty over their natural resources' wealth and in respect to which HRDs are entitled to defend under the Declaration.

The rights of HRDs working in the context of extractives may also be inferred from the provisions of the Declaration that recognize the rights of individuals and groups to protect and promote the broader human rights²⁵. The broad spectrum of rights stated here includes those rights that are usually implicated in the context of oil, gas and mineral exploration and development such as the right to a clean and healthy environment, right to property and the right to life and livelihood.

In the exercise of this right i.e. the right to protect and promote human rights including those that matter to communities affected by activities in the extractive sector, the Declaration recognizes and protects the rights of HRDs to participate in peacefully meetings and assemblies, form, participate in the activities of and

communicate with non-governmental Organisations or groups²⁶. HRDs also enjoy the right to seek and obtain information in respect to human rights (Article 6), the right to participate in and to criticize government affairs (Article 8), and to participate in peaceful activities against human rights violations (Article 12 (1)).

Moreover, the state has an obligation to protect everyone, individually and in association with others against the violence, threats, retaliation, discrimination, pressure or any other arbitrary action as a consequence of their legitimate exercise of rights guaranteed in the Declaration (Article 12 (2)). Where any of the rights are violated, the victim is entitled to an effective remedy under Article 9. Given that environmental HRDs especially those working in the context of extractives are the most at risk, these two provisions are highly significant for their protection.

From the provisions considered above, it follows that the Declaration provides a firm basis for the protection of the rights of environmental HRDs including those working in the context of the extractive industries. Its major challenge however is that it is not binding on states. This creates enforcement challenges where the rights bestowed on

HRDs have been violated and in cases where states fail to fulfill the set obligations.

The fact that the Declaration is not binding on states notwithstanding, it should be noted that, overall the obligation of states to protect HRDs including those working in the context of extractives is derived from their primary responsibility to protect all rights and freedoms that are protected under regional and international human rights instruments to which they are party²⁷. This means that states retain the responsibility to protect HRDs and to respect, promote, fulfill their rights and freedoms with or without the Declaration. Moreover, the majority of the rights, freedoms and protections afforded to HRDs under the Declaration were inspired by existing legally binding human rights instruments such as the International Covenant on Civil Political Rights (ICCPR) and the International Covenant on Economic Social and Cultural Rights (ICESCR).

Broadly speaking, existing human rights instruments that are binding on states enjoin them to respect and protect the rights to life, liberty, and security of person²⁸. All these rights are central to the work of HRDs and more so those in the extractive industries since they are more exposed to threats to life, liberty, personal

security and that of their families. More importantly, for HRDs working in the context of extractives, Article 1 of both the ICCPR and the ICESCR recognize the right to self-determination which includes the right of all peoples to freely dispose of their natural wealth and resources²⁹. As observed above, the right of individuals and organs to defend the right of communities to self-determination and the associated right to exercise full sovereignty over their wealth and natural resources is equally recognized in the Declaration³⁰. Thus, even when the Declaration is not legally binding on states, the rights and freedoms of HRDs working in the context of extractives that are protected there under are sufficiently recognized and can be enforced under the ICCPR and the ICESCR.

Needless to mention that there are emerging human rights standards which, although not binding, require non state actors including businesses involved in oil, gas and mining prospecting and development to respect human rights and freedoms including those of HRDs. These standards are contained in the UN Guiding Principles on Business and Human Rights³¹. Under the Principles, businesses including those engaged in the extractives industry have corresponding obligations to

respect and protect human rights and to provide a remedy where such rights are violated. Additionally, such businesses are required to undertake a human rights impact assessment of their activities.

Also, as part of the Principles, states are required to take steps to ensure that there are effective judicial mechanisms for addressing business related human rights abuses. States are also required to reduce on the legal and other barriers that could lead to denial of access to remedy. This has been interpreted to include an obligation of states to ensure that legitimate and peaceful activities of human rights defenders are not obstructed³².

The UN Framework Principles on Human Rights and the Environment which are an embodiment of the human rights obligations of states in relation to the right to a clean and healthy environment are also relevant in the protection of the rights of environmental HRDs. Under the Principles, States are urged to provide *“a safe and enabling environment in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence.”*³³

Most recently, at its 40th

session held from February 25 to March 22, the UN Human Rights Council (HRC) passed a resolution recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, protection of the environment and sustainable development³⁴. In light of their contribution and out of concern over the increasing danger and threats faced by environmental HRDs, the Resolution calls upon states to put in place measures for their enhanced protection³⁵. Similarly, the Resolution enjoins states to “*promote a safe and enabling environment in which individuals, groups and organs of society, including those working on human rights and environmental issues, including biodiversity, can operate free from violence, threats, hindrance and insecurity.*”³⁶

Although generally HRC Resolutions are not binding, they represent strong political commitments for states that subscribe to the UN human rights system. Uganda being one of such state parties therefore needs to seriously consider adopting the recommendations contained in the HRC resolution.

Instrument	Rights
UN Declaration on HRDs, 1998	Right to be Protected by the State Right to Promote & Protect the Right of People to exercise full sovereignty over their wealth & natural resources Right to Promote & Protect HRs- including in the extractives the rights to a clean and healthy environment, health & property Right to Participate in & Critic Gov't Affairs Right to Life, Liberty & Security of Person Freedom of Association, & Assembly Freedom of Opinion, Speech & Expression Right to Information
International Covenant on Civil Political Rights (ICCPR)	Right to self-determination including Right to freely dispose of Wealth & Natural Resources Freedom of Association, Assembly & Demonstration Freedom of Speech & Expression Right to Seek & Receive Information Right to Life, Security and Liberty of Person

Instrument	Rights
International Covenant on Economic, Social & Cultural Rights (ICESCR)	<p>Right to Self Determination including the Right to freely dispose of Wealth & Natural Resources</p> <p>Right to Highest attainable standard of physical & mental health</p> <p>Right to Education</p> <p>Right to participate in cultural life</p>
Human Rights Council Resolution 40/11	<p>Obligation for States to provide safe & enabling environment for HRDs working on Environmental Issues</p> <p>Right of Environmental HRDs to operate free from violence, threats, hindrance & insecurity</p>
United Nations Guiding Principles on Business & Human Rights	Accountability & Peaceful activities of HRDs
United Nations Framework Principles on Human Rights & the Environment	<p>Obligation of States to provide a safe & enabling environment for Environmental HRDs</p> <p>Obligation of States to ensure that HRDs operate free from threats, harassment, intimidation & violence</p>

2.3 Regional Protection of Environmental HRDs

At the regional level, the fundamental rights, and freedoms of environmental HRDs are protected as part of the broader human rights framework. The African Charter on Human and Peoples Rights (ACHPR) to which Uganda is party recognizes a broad spectrum of rights and freedoms that are critical to the general work of HRDs. They include the rights to life and integrity of person (Article 4), freedom from torture, cruel and degrading treatment (Article 6), right to liberty and security (Article 6), right to information (Article 9), freedom of association (Article 10), right to participate freely in government (Article 13) and the right to education (Article 17). Even more

specific to HRDs working in the context of extractives, the Charter makes provision for the rights to the best attainable standard of physical and mental health (Article 16), the right of peoples to freely dispose of their wealth and natural resources (Article 21) and the right to a general satisfactory environment (Article 24)

The Charter also establishes the African Commission on Human and Peoples Rights (ACHPR) whose major mandate is to protect and promote human rights in Africa.³⁷ In the exercise of

this mandate, the ACHPR has applied the Charter to the situation of HRDs in Africa in promoting and protecting their rights and freedoms. In the exercise of this function, the Commission may provide its views and recommendations to government through issuance of Resolutions to that effect.³⁸

In the context of HRDs, the ACHPR has issued Resolutions on three broad issues namely.

- a. the situation of HRDs in Africa and the challenges they are faced with which include threats to life and their families, intimidation, reprisals, discrimination, harassment, and criminalization³⁹
- b. the appointment and renewal of mandate of a Special Rapporteur on Human Rights Defenders in Africa⁴⁰ and,
- c. the obligations of African States to respect, protect, promote, and fulfill the rights of HRDs including improvement of Women HRDs working environment.⁴¹

Still in exercise of its mandate to promote and protect the rights and freedoms in the Charter, in November 2019, the Commission issued a Resolution for the Special Rapporteur on the Situation of Human Rights Defenders in Africa to draft an African Declaration on the promotion of the Role of Human Rights Defenders and their Protection in Africa.⁴² This it is hoped, will further augment the protection of the rights of HRDs in Africa including those working in the context of the extractive industries.

Even more relevant to the rights of HRDs working in the context of the extractive industries, the African Commission issued

a Resolution on Developing Reporting Guidelines in respect to the Extractive Industries in 2016.⁴³ Pursuant to this Resolution, the State Reporting Guidelines and Principles on Articles 21 and 24 of the African Charter Relating to Extractive Industries, Human Rights and the Environment were developed and adopted by the Commission at its 62nd Ordinary Session in May 2018.⁴⁴

According to the explanatory note to these Principles, as part of the guarantees for effective remedy where the rights of affected communities are concerned, States should ensure that *“Human rights defenders who speak out and advocate for measures to ensure the respect of human rights of affected people must be able to assist affected people without fear of reprisals from the government or the company involved in extractive industries and the State should ensure that there is not impunity for threats, attacks and acts of intimidation against those advocating for the rights of affected communities irrespective of their designation as human rights defenders, including women human rights defenders.”*⁴⁵

Additionally, the Commission adopted the Declaration of Principles on Freedom of Expression and Access to Information in Africa in November 2019.⁴⁶ Principle 6 extends the protection afforded to journalists and other media practitioners to every HRD and every other individual or group in the exercise of their rights to freedom of expression and access to information. This includes HRDs working in the context of extractives.

Beyond the charter, African states have made general commitments towards the protection and promotion of the rights and freedoms of HRDs in two major documents i.e. the Grand Bay (Mauritius) Declaration and Plan of Action, 1999 and the Kigali Declaration of 2003⁴⁷ These underscore the importance of

countries adopting the UN Declaration on Human Rights Defenders and recognize the role of HRDs in the promotion and protection of human rights in Africa respectively.

A strong basis for the recognition, promotion, and protection of the rights of HRDs therefore exists at the African regional level. Although these protections are not specific to HRDs working in the context of extractives, they are highly relevant in the protection and promotion of their rights and freedoms and may be relied upon in the enforcement of these rights.

Table 2- Regional Protection of Environmental HRDs

Instrument	Rights
African Charter on Human & Peoples Rights (ACHPR)	<ul style="list-style-type: none"> Right to a general satisfactory environment Right to highest attainable state of Physical & Mental Health Right to Property Life & Integrity of person Right to liberty & security of person Freedom of Assembly & Association Freedom of Expression Right to receive Information Participation in Government
ACHPR Resolutions 69, 119,345, & 378	Obligation of African States to respect, protect & promote rights of HRDs
ACHPR Resolutions 336, 376 & 409	Obligation of African States to adopt legislation and other measures for the protection of Women HRDs including those working on issues in extractives against gender specific risks, threats and violence.
Declaration of Principles on Freedom of Expression and Access to Information in Africa, 2019	<ul style="list-style-type: none"> HRDs Right to Freedom of Expression HRDs Right to Access Information

Instrument	Rights
Grand Bay (Mauritius) Declaration and Plan of Action, 1999	Obligation of African States to adopt UN Declaration on HRDs
Kigali Declaration, 2003	Obligation of States to recognize role of and Respect the Rights of HRDs

2.4 National Laws and Policies for the Protection of Environmental HRDs

Uganda has no specific law for the protection of HRDs more so those working in the context of the extractive industries. Nonetheless, there exists a broad legal framework that could be relied upon in the protection of HRDs including those in the extractive industries. The Constitution which is the supreme law of the land guarantees several rights and freedoms that are critical in the execution of the work of HRDs. It provides for, among others, the rights to life (Article 22), liberty (Article 23), privacy (Article 27), freedom of speech, expression, assembly, movement and association (Article 29), education (Article 30), access to information (Article 41) and freedom from torture, cruel, inhuman and degrading punishment (Article 24).⁴⁸

For HRDs working in the context of the extractives, the Constitution affords extra protection in the form of guarantees of the right to property (Article 26), right to a clean and healthy environment (Article 39), protection of the minority rights (Article 36) and the right to culture (Article 37).⁴⁹ Given the specific impact of the extractive industries on each of these rights, these guarantees provide a firm basis for HRDs working in the sector to advocate for the protection and promotion of these specific rights.

Most importantly, all persons as well as organs and agencies of the government are enjoined to respect, uphold, and promote the rights and freedoms enshrined in the Constitution.⁵⁰ This provision creates an obligation for both state and non-state actors to respect all human rights including those of HRDs working in the context of extractives. Secondly, the provision recognizes the role of all persons to promote the rights and freedoms guaranteed in the Constitution. This is critical for HRDs who have been defined as individuals or groups involved in the protection and promotion of rights and fundamental freedoms.

Moreover, Article 38 bestows on every Ugandan the right to participate in the affairs of government, individually or through their chosen representative.⁵¹ Clause 2 guarantees the right of every Ugandan to participate in peaceful activities to influence the policies of government through civic organizations.⁵² This provision is in para materia with Article 8 of the Declaration on Human Rights Defenders which equally provides for everyone's right to participate in the government of their country individually and/or in association with others.⁵³

Aside from the Constitution, there are other laws that recognize and protect the rights and work of HRDs. These include among others, the Prevention and Prohibition of Torture Act, 2012 which criminalizes acts of torture, Access to Information Act, 2005 on the right to information, and the Whistle Blowers Protection Act, 2010 whose objective is to protect individuals who, in the public

interest, disclose information relating to corrupt practices from victimization.⁵⁴ Most recently, Parliament passed the Data Protection and Privacy Act whose stated purpose is to “protect the privacy of the individual and of personal data by regulating the collection and processing of personal information.”⁵⁵ Still in 2019, Parliament enacted the Human Rights (Enforcement) Act. The objective of this law is to put in place procedures for the enforcement of fundamental rights and freedoms contained in Chapter 4 of the Constitution.⁵⁶

Table 3- National Protection of Environmental HRDs’ Rights

Legislation	Rights
Constitution of Republic of Uganda, 1995	Right to a Clean & Healthy Environment Right to Participate in peaceful activity to influence govt through civic organisations Right to Access Information Right to Property Right to Culture Right to Freedom of Association & Assembly Right to Freedom of Expression Right to Liberty & Personal Security Right to Freedom from Torture, Cruel, Inhuman & Degrading Punishment Right to Privacy
Prevention & Prohibition of Torture Act, 2012	Right to Freedom from Torture, Cruel, Inhuman & Degrading Punishment
Access to Information Act, 2005	Right to Information
Data Protection & Privacy Act	Right to Privacy
Whistle Blowers Protection Act, 2010	Protection from Victimization

Be that as it may, what Uganda needs is a comprehensive piece of legislation that is dedicated to the protection and promotion of the fundamental rights and freedoms of HRDs taking into

consideration those who work in the context of the extractive industries. Although a progressive draft of the law in the form of the Human Rights Protection Bill was developed in 2016, there has been a delay in having it passed by Parliament. The most recent draft of the Bill i.e. Human Rights Protection Bill, 2020 has also been watered down to the extent that provisions for the establishment of a Human Rights Defenders Council have been withdrawn out of concern of the financial implications of such a body.⁵⁷ These challenges notwithstanding, it is important for Uganda to urgently enact a specific law for the protection of the rights of HRDs. The law should be formulated along the provisions contained in the Model Law for the Recognition and Protection of Human Rights Defenders.⁵⁸

The other challenge is that some of the existing laws serve the purpose of restricting/have been used to restrict the fundamental rights and freedoms as well as operations of HRDs. The Public Order Management Act, 2013 for instance unnecessarily restricted the rights of individuals and groups to assemble until some of its provisions were struck down by the Constitutional Court in March, 2020.⁵⁹ Section 8 of the law gave the police sweeping powers to among others prohibit and/or refuse any one from holding a public gathering /meeting. For this reason, it was struck down by the Court which found that the provision had the effect of unnecessarily restricting the right to freedom of assembly and demonstration.⁶⁰ Nevertheless, the legacy of the Public Order Management Act still lives on for it was used to thwart efforts of individuals and groups (including HRDs) to mobilize for a common good for as long as their cause was deemed unfavorable to the state.

The other law that has been used to restrict the rights of HRDs is the Anti-Terrorism Act, 2002 (as amended). As will be discussed in more detail in the findings, the state has in the past relied on the wide and vague definition of terrorism under the law to harass and intimidate HRDs. The same approach has been used to stifle the work of HRDs by bringing unjustified criminal charges against them based on the rather archaic provisions of the Penal Code Act Cap 120 such as those to do with incitement of violence, unlawful society and promoting sectarianism. Such actions not only serve to intimidate HRDs, but they also severally restrict the enjoyment of their rights and freedoms.

The Non-Governmental Organisations Act, 2016 also presents a number of restrictions on the rights and work of HRDs in Uganda. Under Section 44 of the law, NGOs are required to secure the approval of the District Non-Governmental Monitoring Committee (DNMC) before they can carry out any activity in another district than the one where they are registered. In addition to this they are also required to obtain the approval and enter into a memorandum of understanding with the local government of that area. The law also gives the National Bureau of NGOs a wide discretion in the grant and revocation of NGO permits.⁶¹ If abused, this discretion can be used to restrict the work of HRDs in the extractives sector especially where the government is involved in violations of communal and other rights.

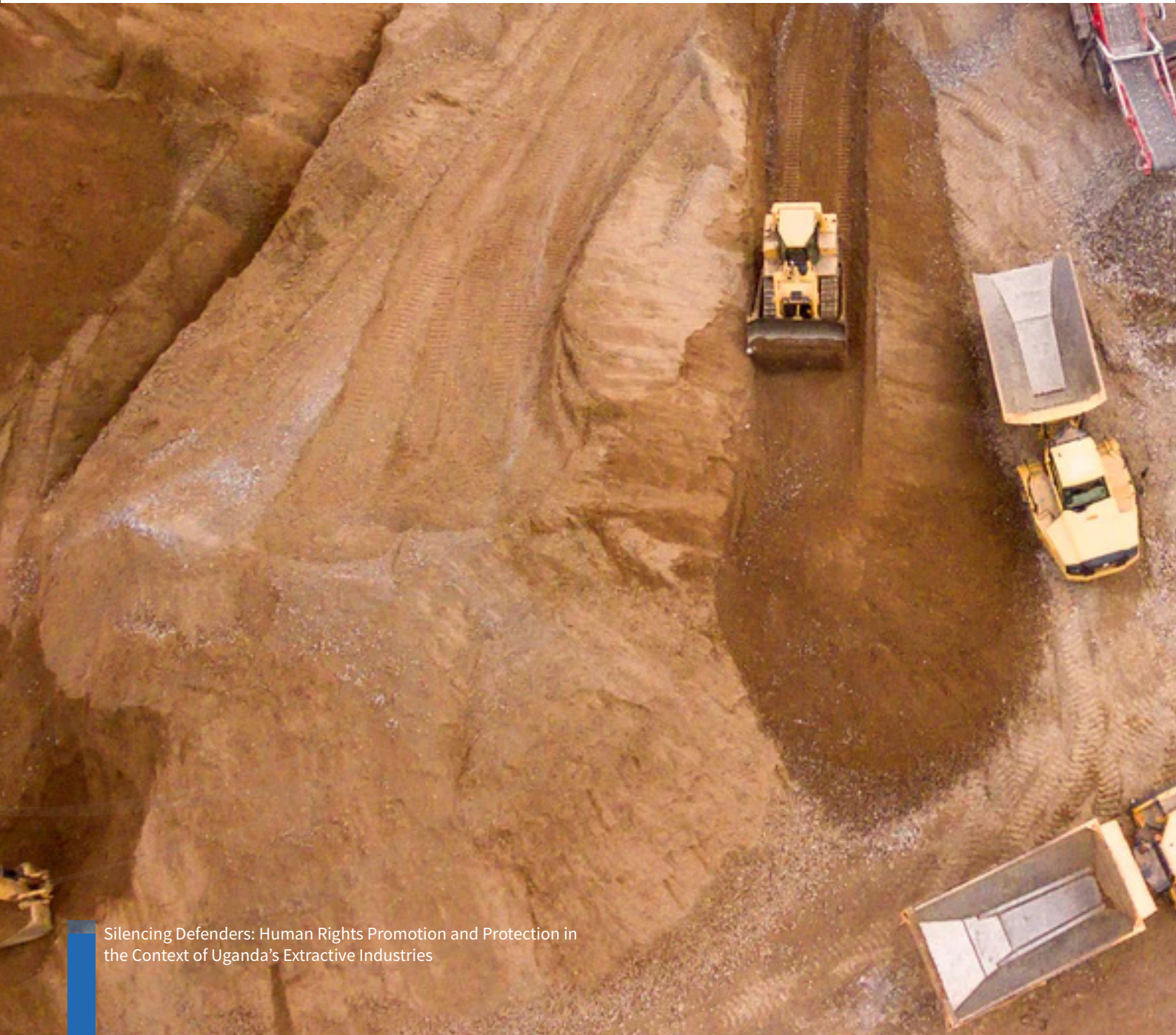
Lastly, while on the face of it, the Anti Money Laundering Act, 2013 appears unharmed, a critical examination of its provisions and how they have been applied in the past shows that there is a cause for HRDs to worry about the law. It is imperative to note that the listing of Non-Governmental Organisations among accountable persons under the Act has a number of implications.⁶² They are required to, among others, verify the identities of all persons that

they deal with, maintain certain records for up to ten years and to report all cash and monetary transactions. Moreover, the law permits the grant of far reaching orders without first hearing the affected party (in this case the NGO/HRD) i.e. grant of orders in *ex parte* proceedings.⁶³ In some cases, the law permits the freezing of assets even before proof of the fact that an offence of money laundering was committed.⁶⁴ As will be shown as part of the study findings, these provisions were in 2017 applied to shut down the operations of two NGOs involved in human rights advocacy in the context of the extractive industries i.e. Action Aid Uganda and Great Lakes Institute for Strategic Studies (GLISS).

Table 4- Laws with the effect of Restricting Enjoyment of Environmental HRDs' Rights

Legislation	Effect
Non-Governmental Organisations Act, 2016	Restrictions on the enjoyment of Freedom of Association due to Onerous Requirements for HRDs to operate in Districts Restrictions on Freedoms of Association, Speech & Expression due to fear of loss of permits given the wide discretion of the NGO Bureau
Public Order Management Act, 2013	Restrictions on Right to freedom of assembly
Anti-Money Laundering Act, 2013	Restrictions on Freedom of Association as a result of the Onerous Responsibilities imposed on NGOs Restrictions on Rights to Freedom of Association and to a fair hearing as a result of far reaching orders that can be made <i>ex parte</i> as well as asset freezes without proof of commission of an offence
Anti-Terrorism Act, 2002 (as amended)	Restrictions on Freedoms of Association, expression due to risk and fear for being charged with vague & broad offences

Legislation	Effect
Penal Code Act cap 120	Restrictions Freedoms of Association, Assembly, Demonstration and Expression for fear of being charged for nebulous and archaic Offences including incitement of violence, unlawful society, promoting sectarianism, publication of information prejudicial to security and idle and disorderly





3.0 THE HUMAN RIGHTS SITUATION OF HRDS WORKING IN THE CONTEXT OF UGANDA'S EXTRACTIVE INDUSTRIES: ISSUES ARISING FROM THE FIELD

The legal framework explored in Section 2 above specifically recognizes the rights of HRDs including those who work in the context of extractives to among others, life and personal safety, assembly and association, access to information and participation and access to an effective remedy. The purpose of this section is to ascertain the extent to which HRDs working in the context of Uganda's extractive industries (oil, gas and mining) enjoy each and every one of these fundamental rights and freedoms in practice.

3.1 Life, Personal Safety and Security

The Right to life, Personal Safety and Security is enshrined in Article 3 of the Universal Declaration of Human Rights, Articles 6 and 9 of the International Covenant on Civil and Political Rights, Articles 4 and 6 African Charter on Human and People's Rights and Article 22 of the 1995 Constitution of the Republic of Uganda as amended. The right to life has been regarded as the supreme right and without it all other rights are meaningless.⁶⁵ The right to personal safety and security encompasses both national (external threats) and individual (how states protect citizens from abuse from both fellow

citizens and those in authority) safety and security. Therefore, states should ensure that citizens are protected from the violations of their right to life, personal safety and security which among others includes unreasonable detention. Moreover, states have the primary obligation to promote the rights of all peoples under their jurisdiction under Article 2 of the UN Declaration on Human Rights Defenders.

It is important to note that although these rights are not absolute, any restrictions made under should be in accordance with the law for instance where a person is suspected of having committed a crime and in the execution of a lawful sentence among others. Unfortunately, these restrictions have been used undesirably by state and non-state parties in curtailing the rights of HRDs who are vocal and speak against the violations of human rights in the extractives industry.

The field findings indicated that the right to life, personal safety and security is not often guaranteed for HRDs working in the extractives sector. Dickens Amanyanya of Bunyoro Albertine Petroleum Network on Environmental Conservation (BAPENECO), a civil society coalition, observed that there are increasing cases of sophisticated and syndicated attacks on HRDs in the context of the petroleum sector in the Albertine. Similar views were expressed by Janepher Baitwamasa of the Navigators for

Development Association (NAVODA). She stated that threats on the lives and personal safety of HRDs in the Albertine is still visible even if it is not as apparent as was the case when oil had just been discovered. She pointed out that HRDs receive suspicious calls and messages from suspected security agents from time to time. These often inquire into the work they are doing and, in some cases, ask them to go slow. Janepher also mentioned that there have also been cases where security personnel sexually harass women HRDs. Still in the Albertine, Beatrice Rukanyanga of Kwatanize Women Farmers Group, a local Community Based Organisation (CBO) also stated that sometime back security operatives in charge of oil and gas approached her friend and cautioned her to stop poisoning masses with negative propaganda in respect to extractives and that she was being closely monitored. Beatrice cried out that “We are insecure, we fear they may come any time and break into our office... we have to move with our laptops and other critical information just in case.” The fear of being broken into was further amplified by the February 2020 office break into the Midwestern Region Anti-Corruption Coalition (MILAC) which hosts

BAPANECO which is also actively involved in matters of corruption and the general mismanagement of public and petroleum revenues in the Albertine region. Needless to mention that in 2016, the offices of Bulisa Initiative for Rural Development (BIRUDO), an NGO involved in rights promotion and protection in Buliisa where oil has been struck were broken into under unclear circumstances.⁶⁶

In respect to mining one of the persons interviewed mentioned that during his time working for the Advocates for Natural Resource and Development (ANARDE) in Karamoja, it was very risky for HRDs working to promote and protect the rights of communities. First and foremost, it was always very difficult to access mining areas and generally the sector was closed to all including HRDs. In respect to the right to life, personal safety, and security, he gave an example of an outspoken community HRD who was shot under very unclear circumstances. Dan Apollo Loyomo, the Chairman LC III Rupa sub country Moroto District was shot dead in broad day light on December 17, 2019 at 9:30am while chairing a meeting on cattle raids. In protest of his death, the family and the community declined to bury his body until the state had explained the

circumstances of the shooting. The body was buried in July 2020 after close to six months of storage. While the terms of understanding reached between the government and the family before the body was buried, up until this moment, there has not been a report issued in respect to his death. There is strong belief that Dan Apollo was shot for his fierce criticism of the operations of mining companies and the government in his sub-county. This has sent chills among the rest of the HRDs in the region.

The generally volatile security situation in Karamoja owing to cattle rustling has made it very difficult for NGOs working on mineral rights to operate in the region. The situation has been aggravated by powerful individuals with interest in the mining sector. According to the same interviewee, “while working in Karamoja, you get a sense that you are being followed all the time and that your security is not guaranteed. For the years that I worked with ANARDE in Moroto “My heart was always in my mouth”.

Another HRD working with Riamiriam Civil Society Network, stated that on average, there are over 12-13 complaints in Karamoja sub regions per year involving threats to life of HRDs. Of these, 5-6 emanate from the extractive industry with the

main perpetrators as district leaders and mining agents. He also stated that HRDs have been cracked down by the security agencies and are branded as terrorists. Another HRD working with Moroto Catholic Diocese put these numbers even higher at 1000 cases per year and of these 700 involved the extractives sector.

While it was difficult to verify the number of cases, incidents of insecurity and compromise of personal safety and security of HRDs operating in the context of the Karamoja mining sector were corroborated by several other individuals i.e. HRDs and in some cases government officials. An official working with the District Natural Resource office in Moroto District for instance acknowledged that the personal safety and security of HRDs in the district has sometimes been compromised by the increased threats and intimidations by top authorities.

The Tapac Woman Councilor and HRDs working with Resource Rights Africa (RRA) and Moroto Catholic Diocese all stated that HRDs and their families face continued threats, intimidations, and attacks on their lives from politicians and companies who perpetrate human rights violations. In the eyes of the state and the mining companies, HRDs

are regarded as a danger in the community and for this reason they are targeted. In this regard, an HRD working with ANARDE recommended for HRDs operating in the context of the extractive industry to be allowed to operate anonymously.

3.2 Freedom of Association

The right to freedom of Association is recognized in various regional and international human rights instruments as well as in the Ugandan Constitution. Among these include, Article 20 of the Universal Declaration of Human Rights, Article 8 of the International Covenant on Economic, Social and Cultural Rights, Article 22 of the International Covenant on Civil and Political Rights, Article 10 of the African Charter on Human and People's Rights. At the national level, the right to freedom of association is protected under Article 29 (1) (e) of the 1995 Constitution of the Republic of Uganda as amended.

More importantly for HRDs, the right to freedom of association is recognized and protected under Article 5 of the UN Declaration on Human Rights Defenders. This right

encompasses the freedom of an individual, organization or group of likeminded people to form and join associations without interference from the state or private persons. In relation to HRDs, they have a right to exercise this freedom freely and in association with others with the protection of the state from any attacks, violence and threats that would emanate in the exercise of this right.

It is of great importance to note that freedom of association is not an absolute right and is subject to limitations that are internationally recognized. The Declaration on HRDs under Article 17 stipulates that "In the exercise of the rights and freedoms referred to in the present Declaration, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society" In addition, Article 22 (2) of the ICCPR also stipulates that "no restriction may be placed on the exercise of this right other than those which are prescribed by law

and which are necessary in a democratic state in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others...”

Unfortunately, states have taken advantage of the limitations above and enacted laws which are unjustifiably restrictive to HRDs in carrying out their activities. As earlier noted, Uganda has in the past enacted laws that seek to restrict the enjoyment of the right to freedom of association. These are Public Order Management Act, 2013 and the Non-Governmental Organisations Act, 2016 all of which have had grave consequences on the rights of HRDs working in the extractive industries. This was also observed in the field findings that were undertaken as below.

According to Dickens Kamugisha, the Executive Director at the African Institute of Energy Governance (AFIEGO), the passing of the Public Order Management Act, 2013 (POMA) and the more recent Non-Governmental Organisation Act of 2016 have had devastating consequences for HRDs operating in the extractives given the strong interest of the state in the sector. This is because under the POMA, HRDs and NGOs

in the sector always have to seek permission before convening meetings. For those considered critical of the manner in which the sector is managed and human rights violations of communities, it is often very difficult to obtain clearance especially for meetings organized in the Albertine. This has made it very difficult for HRDs/NGOs to conduct their activities and affected their ability to promote and protect the rights of the communities.

Even more excruciating is the NGO Act of 2016 that among others requires NGOs to enter into a Memorandum of Understanding with every district where they intend to carry out their activities. They are also required to obtain the permission and approval of the District Non-Governmental Monitoring Committee (DNMC) before they can carry out any activity in another district than the one where they are registered. These stringent requirements have made it extremely difficult for HRDs/NGOs in the extractive industries to operate freely in exercise of their right to freedom of association. Most regrettably, the stringent regulations that threaten their very existence have forced NGOs to exercise self-restraint when faced with state excesses and human rights violations in the sector.

In this regard, Dickens gave an example of the Tilenga project where twenty (20) NGOs agreed to institute legal proceedings to challenge the process in which the EIA was approved and granted only for several of them to later withdraw and decline to be included in the suit out of fear of being denied permits to operate. According to Dickens, the fear of being denied permits and consequently a source of employment has made HRDs working in the context of the extractives to be more careful in their work. In his words, “the stringent environment in which NGOs operate in Uganda have made them like balloons, one day they exist and the other day they are gone. In order to stay operational, HRDs working in these NGOs have to be extra mindful of what they say.” Similar observations were made by Beatrice Rukanyanga who observed that when organizations are entering into MOUs with local governments, they do not indicate that they would be involved in oil activities for fear that they will be denied the MOU.

Restrictions on the enjoyment of the right to freedom of association also exist in the context of mining in Karamoja. In one of the interviews with a staff of Riamiriam Civil Society Network, he noted that since the enactment of

the Public Order Management Act of 2013, they have had difficulties in their operations. In particular, the law has been used to threaten HRDs who strive to defend community rights. Several other NGOs whose work involves the promotion and protection of human rights and freedoms in the context of mining in Karamoja also reported facing challenges in obtaining/renewing their operational permits

3.3 Freedom of Assembly

The right to freedom of assembly is recognized under Article 20 of the Universal Declaration on Human Rights, Article 21 International Covenant on Civil and Political Rights, Article 8 of the International Covenant on Economic, Social and Cultural Rights and Article 11 of the African Charter on Human and Peoples Rights. At the national level, freedom of assembly is protected under Article 29 (1) (d) of the 1995 Constitution of the Republic of Uganda as amended.

This freedom envisions that while this right is being exercised, the role of the state is the protection of persons from any violence, demonstrations, among others. States are

not supposed to interfere in any way while persons are exercising this freedom. However as noted earlier in respect to the right to freedom of assembly, states have gone ahead to impose inappropriate restrictions on the enjoyment of the right to freedom of assembly. This is contrary to international human rights law and most importantly in respect to HRDs it violates their right to freedom of association which is recognized under the UN Declaration on Human Rights Defenders. Article 5 (a) of the Convention states that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, to meet or assemble peacefully.

Unfortunately, the right to freedom of assembly is not well respected and protected with regard to HRDs working in Uganda's extractive industries. And as observed above, the Non-Government Organisations Act, 2016 and the Public Order Management Act, 2013 have made it difficult for NGOs and HRDs to both associate and assemble. This is because these laws contain numerous restrictions that among others require HRDs to obtain clearance and permission from for instance security agencies

like the police and in some cases district authorities before they can convene an assembly or meeting. This discretion is often abused and according to the reports of the Human Rights Centre Uganda (HRCU) the right to freedom of assembly is one of the most violated rights of HRDs in Uganda.⁶⁷ This was further confirmed in an interview with the HRCU Programme Officer Robert Mugisa.

A number of field interviews also show that HRDs face extreme difficulties organizing meetings especially where the affected communities are involved. Janipher Baitwamasa for instance recounted an experience where a meeting meant to discuss youth and women opportunities in the extractives sector organized in Kikube was hijacked by the Resident District Commissioner (RDC) who threatened to arrest participants on allegations that they were not supposed to hold a meeting. He went on to warn them "to leave issues of oil to the generals". The RDC went on to say that "we know you are promoting western culture, but we are going to break your legs."

An Official working with Global Rights Alert (GRA) also stated that in October 2019, a meeting organized to discuss the human rights impact assessments of

the East African Crude Oil Pipeline Project (EACOP) was interrupted by oil companies who claimed to have been sent by the RDC. Similarly, Dickens Kamugisha stated that in October 2019 during a public hearing for EACOP Project where some communities that were affected were brought to Kyangwali for their participation and comments, they ended up being arrested by security agents. Dickens also stated that even where the meetings have been cleared by the relevant authorities, security agents dressed in plain clothes force their way into these meetings. As a result, the communities are intimidated and forced to keep silent for fear of being arrested by these agents.

This same observation was made by an HRD working with Resource Rights Africa (RRA). The HRD stated that during a training of HRDs in Moroto district held in mid-2020, the NRM Chairperson who had not been invited as part of the group turned up during the sessions. He asked the organizers why they had not informed him of the engagements and was so curious to know what the trainings consisted. The Sub-county chief of Tapac in Moroto district also stated that HRDs in Moroto have no freedom of assembly and association for a fair working

environment in advocating for community rights.

The trend to prevent NGOs working in the extractives sector from convening meetings is not new. In 2013, the then Minister of Internal Affairs, the late Aronda Nyakirima issued Directives stopping NGOs from holding any form of meetings and activities in the Albertine region on the basis that they were sabotaging government oil projects. According to Benon Tusigwire who is the Executive Director at NAVODA, this directive was very frustrating as it came at a time when they had working with other partners organized a several days conference in Hoima. Since preparations had already been finalized and payments made to the hotels, they lost considerably. It was not until 2014 that NGOs in the sector were able to again be able to organize meetings involving the affected communities. This came after an initiative by Global Rights Alert (GRA) to reach out to the Minister of Internal Affairs. All this goes to show that for HRDs in the sector, the enjoyment of the right to freedom of assembly is always subject to the discretion of the state. This is a regrettable situation and constitutes an unjustifiable restriction on the enjoyment of the right contrary to regional and international

human rights law as well as the Constitution.

3.4 Freedom of Opinion and Expression

Freedom of expression is guaranteed under Article 19 of the Universal Declaration of Human Rights (UDHR), Article 19 of the International Covenant on Civil and Political Rights (ICCPR) and Article 9 of the African Charter on Human and Peoples' Rights (ACHPR). Uganda is party to both the ICCPR and the ACHPR. At the national level, the right is guaranteed under Article 29 (1) of the 1995 Constitution (as amended). More specifically, freedom of opinion and expression for HRDs is protected under Article 6 of The UN Declaration on Human Rights Defenders.

In this respect, the right to freedom of opinion and expression accrues to both individuals and groups both of whom should not be curtailed in expressing their thoughts. In the same measure, States have an obligation not to unjustifiably interfere with the enjoyment of this right, protect persons exercising this right through preventing, punishing, investigating, and providing remedial measures where the right has been

abused by another. The Special Rapporteur has also highlighted three significant aspects to the right of freedom of opinion and expression to wit; the right to hold opinion without interference, right to access information and the right to impart information and ideas of all kinds.⁶⁸ These aspects are fundamental in the work of HRDs in the extractive industry.

However, as has been noted with other rights, the right to freedom of expression is also not absolute and has restrictions. These restrictions are the hurdles which states have relied on in violation of this right. In the case of Uganda, laws that include, the Press and Journalism Act, Electronic Media Law and Computer Misuse Act impose unnecessary restrictions in the enjoyment of freedom of opinion and expression. Numerous reports have also indicated that the right to freedom of opinion and expression is one of the most violated right in Uganda.⁶⁹

These reports are corroborated by the findings of the study. For instance, in the case of the petroleum sector in the Albertine region, Janepher Baitwamasa noted that they have severally been cautioned against discussing issues on oil with the public by especially security agents. According to them, “issues of oil are not to be discussed.” She also gave an example of a recent training on terrorism and extremist that was organized by the Uganda Peoples Defence Forces (UPDF) where one of the facilitators remarked that “if you speak in Albertine region fragile issues you may qualify as a terrorist”. This meeting was attended by only four civil society representatives and a journalist from New Vision. This appears to have been a deliberate move to caution them against speaking about oil considering that all the five civilians are among the most outspoken on the subject. By classifying oil talk as terrorism and extremism, HRDs will most definitely be extra careful when speaking about issues that affect the resource.

Beatrice Rukanyanga also stated that HRDs are always cautioned from speaking about oil that it is a preserve for the President and Ministers. She stated that two years ago while a top government Minister was attending a coronation ceremony, she told the people that “oil talk should be for the state.”

With regard to mining in Karamoja, similar sentiments were expressed by HRDs. A member of the Karamoja Elders Initiative for Sustainable Peace and Development Cultural Assembly of the Council of Elders in Karamoja noted that HRDs involved in defending rights of communities in the context of the mining industry have been intimidated and silenced from freely expressing their opinions. When they come out strongly to condemn the mining companies and government officials that are directly involved in the violation of human rights, they are threatened and accused of being agents of the opposition. He referred to a scenario in 2016, where he was linked to being involved in partisan politics and supporting Rt. Hon Amama Mbabazi as a way of silencing his voice. He also stated that because of these intimidations, HRDs have now resorted on working through back doors. He noted that as HRDs “we should look at elephants as a meal like a lion looks at it as the only way of attacking. The elephant today will one day be our milk.” The same observation was made by a staff of the Karamoja Miners Association who was also branded a member of Forum for Democratic Change (FDC) and there were allegations against him that he was teaching communities’ ways in which they can demonstrate against the government.

The above experiences demonstrate that the HRDs working in the context of oil, gas and mining in the Albertine and Karamoja regions face huge restrictions and limitations in exercising their

right to freedom of opinion and expression. The limitations on the right exist in the form of overly restrictive laws as well as physical threats and intimidation from state officials for speaking out.

3.5 Access to Information

The right to access information is stipulated in Article 19 of the International Covenant on Civil and Political Rights and Article 9 African Charter on Human and Peoples Rights. The Constitution of the Republic of Uganda also guarantees the right to information in Article 41. Under this provision, every citizen has a right of access to information in the possession of the state or its agencies. This (agencies) has been interpreted to include private companies who enter into contracts with government in respect to public goods to the extent that these agreements are in the possession of government.

The right to information is very critical to the work of HRDs and this reason is one of the rights included in the UN Declaration on Human Rights Defenders under Article 6. The right to information empowers HRDs to effectively monitor and hold decision makers accountable and voice their concerns. However, this right is not absolute and may be subject to limitations such as imminent danger that threatens national security in democratic societies. Nonetheless, these limitations should be in accordance with the law and should not act as restrictive measures that states rely on in denying persons the need to exercise the right of access to information.

The field findings illustrate that the right of access to information is one of the most violated in the context of the extractive industries. An Official with the Albertine Regional Uganda Human Rights Commission (UHRC) stated that information around oil is one of the most highly guarded secrets and that both the government and the oil companies were not forthcoming when asked about oil. She further stated that even when information is shared by officials in the Ministry of Energy and those working with the oil companies, it is sometimes not very accurate.

These experiences show that the government of Uganda is still not committed to providing information about oil several years into oil and gas exploration. In 2006, two Ugandan journalists working with the Monitor News Paper i.e. Charles Mwanguhya and Angello Izama filed a request for access to information contained in the Oil Production Sharing Agreements (PSAs) entered into by the government of Uganda and the Oil Companies. Their request was denied by the Permanent Secretary in the Ministry of Energy and Minerals Development upon which they petitioned the Magistrates Court in accordance with the law. Unfortunately, the appeal failed with the court reasoning that they had failed to establish that the public benefit that would accrue from the disclosure of information contained in these PSAs was greater than the harm that would be suffered as a result of the disclosure. Several years down the road the appeal against this case is yet to be heard and the practice shows that the government is still not ready to disclose oil information to the public.

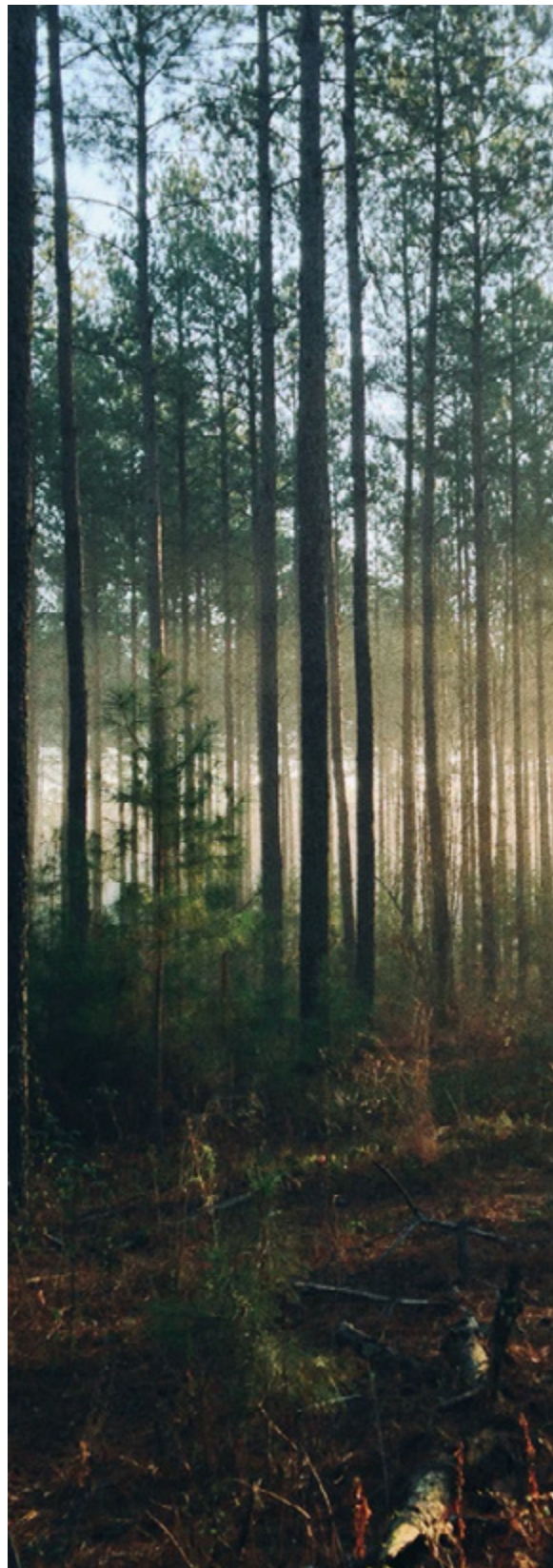
Restrictions on the enjoyment of the right to information by HRDs also exist in the context of mining in Karamoja. An HRD working with Avocats Sans Frontiers (ASF) stated that information on mining projects in Karamoja is very hard to obtain. The situation is further aggravated by the restricted access to mining sites since many of them are guarded by soldiers. He further

stated that for over the nine years he worked in Karamoja, he was only able to access one mine i.e. Sunbelt Mining Company in Karamoja sub region (Rupa sub county Moroto district). Even then he only managed to access the mine when the European Union (EU) Delegation visited the mine. All past repeated requests for the Mining Company to allow him access the site were denied.

The other two HRDs interviewed on this same point stated that since mining companies do not work with the locals and district officials, it is hard to access any information from them. In cases where they are pushed hard, these companies sometimes issue out wrong information.

3.6 Participation in Environmental Decision Making

This right is enshrined in Article 25 (a) and 8 of the ICCPR and UN Declaration on Human Rights Defenders respectively. It is also affirmed in the Rio Declaration on Development and Environment (Principle 10), Articles 6, 7 and 8 of the Aarhus Convention, Articles 18 and 27 of the United Nations Declaration on the Rights of Indigenous Peoples to participate in decisions that affect them. Goal 16 of the Sustainable Development Goals (SDGs) specially provides for “responsive, inclusive and participatory and representative decision-making at all levels.” Several legal provisions contained in environmental laws provide that those who must live with the environmental impacts (these could include individuals or members of organizations) in respect to the activities that would be carried out on the environment should have some influence on it. Therefore, environmental decision making will comprise of licensing



of industries, environmental assessments, policy making, strategic planning, resource management, among others.

This participation should entail both invited (public is invited by decision makers to provide an input) and created (persons that have something in common i.e. interest and identity can mobilize themselves) spaces. The rationale for the involvement of local participation in key decision makings will help in the provision of exclusive information on local conditions thus improving on the value of the decision to be made and the public will view the decision making process as fair which will reduce on the possibility of recession and conflict.

According to the field findings, there were selected cases where HRDs in the Karamoja sub-region were involved and, in some cases, participated in environmental decision making. Some HRDs however insisted that they are never involved and that all environmental decisions are only made by leaders. They stated that given their role in holding mining companies accountable, they are often not involved in environmental decision making. The participation of HRDs was also reportedly affected by the high levels of involvement of the military in the sector.

In regard to the petroleum sector in the Albertine, several HRDs noted that although they are sometimes invited to participate in public hearings involving the grant of Environmental Impact Assessments (EIAs), the companies often disregard the recommendations provided. This makes their participation less effective.

3.7 Right to Effective Remedy

The Right to Effective Remedy is enshrined

in Article 8 of the Universal Declaration of Human Rights, Articles 2 (3) and 9(5) of the International Covenant on Civil and Political Rights, Articles 13 and 14 of the Convention against Torture and other Cruel Inhuman, or Degrading Treatment or Punishment (UNCAT), Article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination, Article 7 of The African Charter on Human and Peoples' Rights.

The Constitution of the Republic of Uganda also guarantees the right to an effective remedy in any number of ways. Under Article 20, the rights and freedoms bestowed on individual and groups by the Constitution are required to be respected, upheld, and promoted by the state and by all persons. In this regard, under Article 50 where there is an infringement or threat of a fundamental right and freedom guaranteed under the Constitution, any person can apply to a court of competent jurisdiction for redress which may include compensation. This same provision equally enjoins Parliament to make laws for the enforcement of rights and freedoms protected in the Constitution. In this regard, Parliament enacted the Human Rights (Enforcement) Act in 2019. According to the Long Title, the main purpose of the law is to establish procedural mechanisms for the enforcement of human rights and freedoms.

Beyond this, the Constitution establishes the Uganda Human Rights Commission (UHRC) whose mandate includes among others the investigation of complaints by persons or groups of persons against the violation of any human right.⁷⁰ In the course of exercising this mandate, the Commission has the power to offer redress where it finds an infringement of a human right or freedom.⁷¹

Moreover, in the context of HRDs working in the extractives, there are a number of global

pronouncements on their rights to effective remedies. These are contained in Principle 10 of the Rio Declaration on Environment and Development, Aarhus Convention and most recently the Escazu Agreement. More specifically, Article 9 of the Declaration on Human Rights Defenders guarantees the right to an effective remedy in the exercise of human rights and fundamental freedoms including the promotion and protection of rights guaranteed in the Declaration.

All the above stated provisions build a firm foundation for the protection and realization of the right to effective remedies in respect to HRDs working in the extractives sector. The right entails investigation of the alleged violation, prosecution of offenders and compensation of the victims.

This has been partly achieved in respect to HRDs in the extractive sectors. According to the Human Rights Officer at the Hoima Regional UHRC office, the Commission has a specific HRDs desk. The challenge is that this is situated at the headquarters in Kampala which may be a bit distant for HRDs especially those in the Albertine region. For this reason, sometimes HRDs feel that the Commission does not help them as it should. Otherwise the Commission also has a 24hour emergency line through which all kinds of human rights violations can be reported.

All this notwithstanding, the Commission is faced with several capacity and funding challenges which make it difficult for it to effectively deal with violations involving the rights and freedoms of HRDs working in the extractives sector. According to an interview with Estella Kabachwezi, a Senior Advocacy and Research Officer, given the limitations faced of UHRC in the protection of the rights and freedoms of HRDs, they often approach Defend Defenders for support. This is given on a case by case basis and has in the past

ranged from medical, legal support, family, relocation (internally) from place of risk to another or to different country as a last resort. The challenge is that Defend Defenders capacity to make these interventions is equally limited given the amount of resources involved.

In addition to these challenges, several HRDs interviewed in the Albertine and Karamoja regions expressed frustrations with respect to the broader justice system. They were particularly concerned with the sluggishness with which the police conduct investigations of complaints relating to the violation of their human rights and freedoms. Often times the Police is quick to take their statements but beyond that, nothing materializes for the most case. It was also found that presently, the Police has not come up with a report of all the break-ins involving NGOs involved in the promotion and protection of rights in the extractives sector.

In respect to the courts of law which are entrusted with the enforcement of human rights and freedoms including the grant of remedies, HRDs expressed concern on the delay in determination of cases. This makes it difficult to prosecute the cases involving violations of HRDs since on some occasions by the time the matter comes up for hearing the implicated officials have been transferred and witnesses have moved. Related to this, an HRD working with Moroto Catholic Diocese expressed the view that in some cases HRDs fear appearing in court and do not want to be witnesses out of fear of retribution from powerful persons involved.

In light of all these limitations, Robert Mugisa of the Human Rights Centre Uganda suggested that it may be best to have a separate and dedicated body for the protection and enforcement of the rights of HRDs generally. The challenge is that

although this was proposed in the initial Human Rights Defenders Protection Bill, it has been dropped from the most recent version due to the financial implications involved.

Table 5: Status of Enjoyment of Environmental HRDs Rights & Freedoms

Right	Status Enjoyment
Life, Personal Safety and Security	Low
Freedom of Association	Low
Freedom of Assembly	Low
Freedom of Opinion & Expression	Moderate
Access to Information	Low
Participation in Environmental Decision Making	Moderate
Effective Remedy	Low



4.0 CONCLUSION AND RECOMMENDATIONS

The rights and freedoms of HRDs in Uganda are protected in the several regional and international human rights instruments that the country is party to and more broadly in the existing Constitutional framework (as part of the Bill of Rights). In addition to this, there are a number of existing legislations that can be relied upon to protect HRDs rights in Uganda. At the same time, there exist restrictive laws that serve to limit the enjoyment of rights and freedoms by HRDs. In light of this and in the absence of a specific law and mechanism for the protection of the rights and freedoms of HRDs, they continue to be exposed to risks of threats, harassment, violence and intimidation. HRDs working in the extractives sector face even more risks given the high stakes and the nature of actors involved. These include the state and private petroleum and mining companies whose sole motivation is profit.

In the earlier years of petroleum discovery, there was direct and sometimes physical hostility from government, its agents and the companies towards HRDs working to promote rights and freedoms in the sector. By educating and supporting the affected communities as well as the broad

spectrum of Ugandans on their rights to the resource, HRDs were viewed as enemies of development. Others were labelled opposition and agents of foreign agents. At the height of these confrontations, a number of outspoken NGOs were invaded and shut down by security officials. In other cases, there were unclear break-ins into the offices of prominent HRDs. The interaction between NGOs working in the oil sector and affected communities was also temporarily banned. In some instances, individual HRDs were threatened or even physically attacked.

This situation only began to change after an initiative of NGOs and HRDs working in the petroleum sector to engage with government. Following a meeting between HRDs and the Ministry of Internal Affairs in 2014, they were allowed to resume their work and interaction with the communities. Ever since then, there have been less instances of open attacks on HRDs and NGOs working in the sector. Nonetheless, they are still not able to operate as freely as they should. Both the government and the oil companies remain uncomfortable with the criticism received from HRDs in the sector in respect to their disrespect for rights and freedoms of affected persons. HRDs that continue to speak strongly

on the violation of rights and freedoms in the context of petroleum therefore remain on the government radar. Others have either been intimidated into silence or they exercise self-restraint. Those that are considered too critical are frustrated in their activities. They are subjected to strenuous procedures in the renewal of their licences, monitored closely and in some cases their activities are openly frustrated by security agents who infiltrate their meetings to prevent communities from participating freely or in some cases invoke restrictive laws to break up meetings.

The situation is not far different in the mining sector but could perhaps be even more restrictive. Karamoja where most of the mines exist is closed and information concerning mining activities is difficult to access. In the circumstances, it is very difficult for HRDs to promote and protect the rights and freedoms of especially the affected communities. Even more regrettable, there are increasing threats to life and security of HRDs working in the context of mining in Karamoja. In one of the extreme cases, an LC 3 Chairperson who was critical of the mining companies and always at the fore front of defending the rights of the communities was shot dead under very unclear circumstances. The high presence of the military in areas where mines are located has also left communities and HRDs in fear and unable to obtain information on how these mines operate.

Despite all these threats to the lives and work of HRDs, there is no effective mechanism for their protection. In cases where their rights are trampled upon or threatened, HRDs do not have many places to turn to aside from a few dedicated defenders of defenders. At the same time, most HRDs lack the means and capacity to undertake their work safely and effectively. Only a few have been lucky to receive trainings on personal safety and security. Those at especially the grassroots

remain the most vulnerable.

Considering the findings above, this study would like to make the following recommendations:

Government of Uganda

- Guarantee and ensure that in practice there is a safe and enabling environment for human rights defenders, including those working in the context of the extractive industries. In order to achieve this, the state should free the increasingly restricted civic space, promote the rule of law, and ensure that there is no impunity for violations committed against HRDs including those who work in the context of the extractives sector.
- Establish a robust and independent mechanism for the protection of HRDs. In addition to the implementation of the HRD protection law, the mandate of the mechanism should include the promotion and protection of the rights of HRDs through among others early warning, rapid response, investigation and punishment of violations and provision of effective remedies.
- The mechanism can be established within an existing body such as the Uganda Human Rights Commission (UHRC) or another body/authority may be created specifically for this purpose. Whichever decision is made, the mechanism once created should be afforded the resources necessary for it to operate efficiently and effectively.
- Over and above, the appointment of persons required as part of the mechanism should be done in consultation with HRDs and civil society. They should be vetted and trained in the protection of HRDs including those

working in the context of the extractive industries.

- Establish a public HRDs Protection Fund that is capable of receiving grants and loans from both the public and private sectors.
- Since Uganda is now a member of the Extractive Industries Transparency Initiative (EITI), it should without any further delays publish all Production Sharing Agreements (PSA) as well as Mining Agreements signed with especially international oil and mining companies. In the same respect, all revenues earned by the government of Uganda from petroleum and mining so far should be publicly disclosed.
- Involve the affected communities, HRDs and citizens in decision making and management of the extractive industries. Public participation in the management of the extractive industries encourages transparency and accountability. Over and above, citizens' participation is a Constitutional right.
- Adopt specific laws and other relevant measures for the enhanced protection of Women HRDs from existing cultural and institutional prejudices and discrimination. These measures should also address the gender specific risks, threats and violence faced by Women HRDs in the context of the extractive industries.
- Oblige with and comply with the State Reporting Guidelines and Principles on Articles 21 and 24 of the African Charter Relating to Extractive Industries, Human Rights and the Environment in fulfillment of State Reporting Obligations under

Article 62 of the Charter. As part of these Guidelines, the State is obliged to report on the ability of HRDs to assist affected people without fear of reprisals from government or companies involved in the extractive industries.

- Sensitize private businesses and other non-state actors involved in the extractives sector on their Constitutional human rights obligations. In particular they should respect the rights of the affected communities to property, livelihood, non-discrimination and to a clean and healthy environment.
- Domesticate the United Nations Guiding Principles on Business and Human Rights through expediting the debate and enactment of the National Action Plan on Business and Human Rights, in order to guide the interaction between private businesses and communities where they operate.
- Institute a special committee to investigate and inquire into all past incidences involving government officials and those from the security agencies assaulting, threatening, and intimidating HRDs working in the context of Uganda's extractive industries.

Parliament of Uganda

- Consider and enact a specific law for the protection of the fundamental rights and freedoms of Human Rights Defenders including those working in the context of the extractive industries. The process for the enactment of such a law should be consultative and participatory. Importantly, the content of this law should be guided by the global Model Law for the Recognition and Protection

of Human Rights Defenders.

- Urgently & immediately repeal laws or specific provisions of laws that serve to restrict the rights and freedoms of HRDs working in the context of the extractives sector. These include the highly restrictive Non-Government Organisations Act, 2016 and certain provisions contained in the Public Order Management Act, 2013, Access to Information Act, 2005, Anti-Money Laundering Act, 2013; and the Anti-Terrorism Act, 2002 (as amended).
- Expedite the debate and enactment of the proposed Legal Aid Bill, 2018. This will greatly improve legal representation and access to justice for HRDs where their rights and freedoms are either threatened or trampled upon.
- Consider enactment of a Public Participation Law to facilitate structured and meaningful participation of HRDs, affected communities and entire body of citizens in the governance of the extractive industries.

Development Partners & Civil Society

- Strengthen existing HRDs protection funds hosted by Civil Society Organisations by providing them with more support in terms of funding and other resources. This will enable these funds to compliment the proposed public HRDs protection fund.
- Empower and build the capacity of HRDs especially those at the grassroots through human rights education and specialized trainings on physical and digital forms of personal safety and security. These trainings should not be one offs but

should be regular and consistent to enable HRDs at the grassroots cope with evolving challenges of human rights promotion and protection.

- Collaborate with government to sensitize private businesses and other non-state actors involved in the extractives sector on their constitutional human rights obligations. The activities of such entities should be sensitive to the rights and freedoms of HRDs, the affected communities and the environment.
- Related to the above, in every region where extractives exist, there should be an urgent response plan that among others guarantees timely legal representation for HRDs at threat. Currently, it is a challenge for HRDs operating in these areas to access legal representation and in many cases, they have to depend on lawyers from Kampala.
- HRDs working in the context of the extractives sector should be accorded the same level of attention since in the past there has been a tendency to concentrate all efforts on defenders of civil and political rights.
- Accord special and consistent funding to HRDs working in the context of the extractives sector in order to enable them to mitigate against the challenges they are faced with. Those at grassroots level should be supported with protective and surveillance devices, cameras, and smart devices to enable them to enhance their office and personal safety and security and to capture evidence of human rights violations in real time.

Uganda Police Force

- Urgently and immediately release a comprehensive report of all office break-ins involving NGOs working in the extractives sector. Despite reports being made to the police every time there is a break in, they have never released any report and neither have the culprits been successfully prosecuted.
- Invest in regular human rights training for police officers, especially those assigned to the oil and minerals protection units. As part of these trainings the rights and freedoms of HRDs should be emphasized. It is also best for the trainings to be conducted in close collaboration with the Uganda Human Rights Commission (UHRC) and other human rights organisations.

Petroleum and Mining Companies

- Respect and put in place measures for the protection and promotion of the rights of especially HRDs and of persons affected by their activities in the areas where they operate. Additionally, petroleum and mining companies should investigate all allegations of human rights violations involving their staff, agents and/or associates and take appropriate action including but not limited to reporting all violations to competent authorities for redress.
- Ensure mandatory basic human rights training for all company staff, agents and/or associates while giving priority to those engaged with communities where petroleum and mining activities are currently taking place.
- Adopt and incorporate in their respective

policies and operational manuals detailing the human rights standards required of businesses under the United Nations Guiding Principles on Business and Human Rights.



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²² Report of the Special Rapporteur on the Situation of Human Rights Defenders, Presented to the United Nations General Assembly on August 3, 2016 para.7. Available on <https://undocs.org/A/71/281>

²³ United Nations Human Rights Office of the High Commissioner, Declaration on Human Rights Defenders, Available on <https://www.ohchr.org/en/issues/srhrdefenders/pages/declaration.aspx>. (accessed on August 11, 2020)

²⁴ *Supra*, Preamble to the UN Declaration on the Rights of Human Rights Defenders.

²⁵ Article 1

²⁶ Article 5

²⁷ See Commentary on the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, pg.8. Available on (accessed on August 11, 2020)

²⁸ See Article 3, Universal Declaration of Human Rights (Not binding but widely recognized by states), Articles 6 (1) and 9 (1) of the International Covenant on Civil and Political Rights and the International Covenant on Economic Social and Cultural Rights respectively.

²⁹ Article 1 (b) of both the ICCPR and ICESCR.

³⁰ See Preamble to the United Nations Declaration on Human Rights Defenders. See also UN Secretary General Report to Assembly on Human Rights Defenders, August 11, 2000.

³¹ See UN Guiding Principles on Business and Human Rights, Available on <https://www.ohchr.org/en/issues/srhrdefenders/pages/declaration.aspx>

³² See Principle 26.

³³ Framework Principle 4, Framework Principles on Human Rights and the Environment, Available on <http://srenvironment.org/framework-principles> (accessed on August 15, 2020)

³⁴ HRC Resolution on Protection of Environmental Human Rights Defenders - resolution A/HRC/40/11.

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ African Charter on Human and Peoples Rights, Article 30

³⁸ *Ibid*, Article 45 1 (a)

³⁹ Resolution on the Protection of Human Rights Defenders in Africa, ACHPR/Res. 69 (XXV) 03. Adopted at ACHPR Meeting at its 35th Ordinary Session from 21st May to 4th June 2004 in Banjul, Gambia. Resolution on the Situation of HRDs in Africa ACHPR/Res. 119 (XXXI) 07. Adopted at ACHPR Meeting at its 41st Ordinary Session, held from 16-30 May 2007, in Accra, Ghana. Resolution on the Situation of HRDs in Africa, ACHPR/Res. 119 (XXXII) 07. Adopted at ACHPR Meeting at its 42nd Ordinary Session, held from 15-28 November 2007 in Brazzaville, Republic of Congo, Resolution on the Situation of HRDs in Africa ACHPR/Res.345 (LVIII), 2016. Adopted at ACHPR Meeting at its 58th Ordinary Session held from 6 -20 April 2016 in Banjul, Islamic Republic of Gambia. Resolution on the Situation of HRDs in Africa, ACHPR/Res 376 (LX)17. Adopted at ACHPR Meeting at its 60th Ordinary Session, held from 8-22 May 2017, in Niamey, Niger.

⁴⁰ Resolution on the Appointment of a Special Rapporteur on HRDs in Africa, ACHPR/Res. 83 (XXXVIII) 05 # 83. Adopted at ACHPR Meeting at its 38th Ordinary Session, held from 21 November to 5 December 2005 in Banjul, Gambia. See also Resolution on the Renewal of the Mandate of the Special Rapporteur on HRDs in Africa, ACHPR/Res. 125 (XXXII) 07. Adopted at ACHPR Meeting at its 42nd Ordinary Session held from 15-28 November 2007 in Brazzaville, Republic of Congo. Resolution on the Appointment

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⁴² Resolution on the Drafting of an African Declaration on the Promotion of the Role of Human Rights Defenders and the Protection in Africa, ACHPR/Res. 432 (LXV) 2019. Available on <https://www.achpr.org/sessions/resolutions?id=463> (accessed on August 15, 2020)

⁴³ Resolution on Developing Reporting Guidelines with Respect to the Extractive Industries, ACHPR/ Res.364(LIX) 2016. Adopted by the ACHPR at its 59th Ordinary Session held from 21 October to 4 November in Banjul, Islamic Republic of Gambia.

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⁴⁵ *Ibid*

⁴⁶ Declaration of Principles on Freedom of Expression and Access to Information in Africa, 2019. Adopted by the African Commission on Human and Peoples' Rights at its 65th Ordinary Session held from 21 October to 10 November 2019 in Banjul, The Gambia.

⁴⁷ See Grand Bay (Mauritius) Declaration and Plan of Action, 1999. Adopted by the First OAU Ministerial Conference on Human Rights, meeting from 12 to 16 April 1999, in Grand Bay, Mauritius. See also Kigali Declaration, 2003. Adopted at the 1st African Union (AU) Ministerial Conference on Human Rights in Africa meeting on 8 May 2003 in Kigali, Rwanda

⁴⁸ Chapter 4, Constitution of the Republic of Uganda, 1995 (as amended)

⁴⁹ *Ibid*.

⁵⁰ *Ibid*, Article 20 (2)

⁵¹ *Ibid*, Article 38 (1)

⁵² *Ibid*, Article 38 (2)

⁵³ Article 8, Declaration on Human Rights Defenders.

⁵⁴ See Long Title, Prevention and Prohibition of Torture Act, 2012 and Long Title, Whistle Blowers Protection Act, 2010.

⁵⁵ See Long Title, Data Protection and Privacy Act, 2019

⁵⁶ See Long Title, Human Rights (Enforcement) Act, 2019

⁵⁷ Interview with Robert Mugisa, Human Rights Centre, Kampala, August 21, 2020.

⁵⁸ Model Law for the Recognition and Protection of Human Rights Defenders, Available on https://academy.ishr.ch/upload/resources_and_tools/ishr_Model_Law_for_the_recognition_and_protection_of_human_rights_defenders_en.pdf (accessed on August 15, 2020)

⁵⁹ Human Rights Network Uganda & 6 Others vs Attorney General Constitutional Petition No. 56 of 2013.

⁶⁰ *Ibid*.

⁶¹ Section 5 and 7, Non-Governmental Organisations Act, 2016.

⁶² Second Schedule, Anti-Money Laundering Act, 2013 (as amended)

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⁶⁴ *Id*

⁶⁵ United Nations Human Rights Committee (1982), General Comment No. 6: The Right to Life, para 1 (16th Session: HRI/GEN/1/Rev.7). Available on [http://www.unhcr.ch/tbs/doc.nsf/0/ca12c3a4ea8d6c53c1256d500056e56f/\\$FILE/G0441302.pdf](http://www.unhcr.ch/tbs/doc.nsf/0/ca12c3a4ea8d6c53c1256d500056e56f/$FILE/G0441302.pdf) (accessed on August 10, 2020)

⁶⁶ Myths and Realities: A Decade of Promoting and Protecting the Rights of Human Rights Defenders in Uganda, Human Rights Centre -Uganda, Annual Report, 2017 at pg. 30.

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⁶⁸ Special Rapporteur on Promotion and Protection of the Right to Freedom of Opinion and Expression; A/HRC/14/23-para 24-20 Available on file:///C:/Users/HP/Downloads/A_HRC_14_23-EN.pdf (accessed on August 10, 2020)

⁶⁹ See Reports of the Human Rights Centre Uganda and Human Rights Network for Journalists above.

⁷⁰ Article 52

⁷¹ Article 53 (2)



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