



USAID
FROM THE AMERICAN PEOPLE



NATIONAL
COALITION OF
HUMAN
RIGHTS
DEFENDERS
UGANDA

CIVIC SPACE INDEX, UGANDA 2021

Uganda: Civic Space Index, 2021

Published on September 2021

National Coalition of Human Rights Defenders Uganda (NCHRDU)
Plot 148 Ssemawata Road, Ntinda
P.O Box 302, Ntinda
Kampala, Uganda
Phone: +256-414-699-373
Email: info@hrdcoalition.ug

This publication is available online at www.hrdcoalition.ug/resources

This report is distributed at no charge and all attribution should be made to the National Coalition of Human Rights Defenders Uganda.

Foreword

The study on civic space index in Uganda could never have been timely than the present times when civil society in the country is undergoing serious challenges ranging from restrictive laws and policies, intimidation, harassment, arrests, physical assaults, frivolous or politically driven prosecutions to mention but a few. The demand for accountability and good governance by human rights defenders seems to constitute an “offence” in our criminal law books.

The Constitution of the Republic of Uganda under Article 38 provides that citizens have a right to participate in the governance affairs of their country through either their elected representatives or through civic organisations. In order for citizens to fully exercise and enjoy this right to its fullest extent calls for an enabling environment commonly referred as civic space. Civic space has been defined by Civicus International “as a set of conditions that allow CSO and individuals to organize, participate and communicate freely and without discrimination, and in so doing influence the political and social structure around them” Thus, judging from the current trends and events in the country, these conditions do not fully exist to the extent to which citizens can play a more meaningful role in the political, economic and social discourse. It is therefore, our sincere hope and prayer that the civic space index study will go a long way in providing direction to those responsible for creating an enabling environment by putting in place adequate mechanisms that promote and encourage free ideas, opinions and constructive criticisms as a way and means of improving governance in our country.

The National Coalition of Human Rights Defenders-Uganda (NCHRD-U) is pleased to have commissioned this study and hopes it will contribute to the already existing advocacy efforts that are aimed at improving on civic space in the country. We would like to extend our appreciation to all stakeholders that provided critical information during the study.



Robert. R. Kirenga
Executive Director

Contents

- List of abbreviations 3
- List of Abbreviations 5
- List of Tables and Charts 6
- Acknowledgments 9

- Section 1: About the Civic Space Index 10**
 - Introduction 10
 - Civic Space Index highlights 12
 - Methodology 16
 - Definition and conceptual framework of the Index indicators 17

- Section 2: Scores and Rankings 27**
 - Preliminary findings on general context 27
 - Right of Access to information 33
 - Freedom of Expression, Media and Digital Freedoms 34
 - Freedom of Peaceful Assembly and to Petition 37
 - Freedom of Association 41
 - Non-Discrimination and Inclusion..... 45
 - Rule of Law 47

- Appendix 51
- Survey questionnaire 51

List of Abbreviations

NCHRDU	National Coalition of Human Rights Defenders Uganda
HRDs	Human Rights Defenders
WHRDs	Women Human Rights Defenders
CSO	Civil Society Organisation
NGO	Non-Governmental Organisation
CBO	Community Based Organisation
NGO Bureau	National Bureau for NGOs
URSB	Uganda Registration Services Bureau
FIA	Financial Intelligence Authority
NGO Act	Non-Governmental Organisations Act, 2016
POMA	Public Order Management Act, 2013
UDHR	Universal Declaration of Human Rights
ICCPR	International Covenant on Civil and Political Rights
ACHPR	African Charter on Human and Peoples' Rights
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CESCR	Committee on Economic, Social, and Cultural Rights
LGBTIQ+	Lesbian, Gay, Bisexual, Transgender, Intersex, Queer plus
MP	Member of Parliament
UPDF	Uganda Peoples' Defence Forces
HRC	UN Human Rights Committee

List of Tables and Charts

Figure 1: Age group demographic.

Figure 2: Gender demographic.

Figure 3: Perceptions on where Uganda is heading on observance of human rights and the rule of law.

Figure 4: Perceptions on participation rights.

Figure 5: Perceptions on status of participation rights.

Figure 6: Perceptions on most abused rights.

Figure 7: Perceptions on most important activities in the exercise of participation rights.

Figure 8: Civic space activities that respondents are likely to participate in.

Figure 9: Perceptions on human rights concerns that respondents are likely to take action on.

Figure 10: Perceptions on institutions/agencies that lead in the abuse of civic space rights.

Figure 11: Perceptions on awareness about the law on the right of access to information.

Figure 12: Perceptions on whether the access to information law is being enforced in practice.

Figure 13: Perceptions on awareness about the law on the right to freedom of expression, media and digital freedoms

Figure 14: Perceptions on whether critical expressions are protected in practice

Figure 15: Perceptions on nature of reprisal attacks against journalists and media workers in Uganda

Figure 16: Perceptions on whether there are laws on cybercrimes that violate the right to freedom of expression online in Uganda

Figure 17: Perceptions on whether Uganda is likely to have another internet shutdown

Figure 18: A poll on whether the police should have powers to “allow” or “block” peaceful assemblies

Figure 19: Perceptions on whether the right of citizen participation and peaceful activism are overly politicized

Figure 20: Perceptions on why respondents do not organize or join peaceful assemblies

Figure 21: Perceptions on whether the Covid-19 pandemic rules and presidential directives are reasonable and justifiable

Figure 22: Perceptions on whether the government will maintain the Covid-19 pandemic restrictions on freedoms beyond the pandemic

Figure 23: Perceptions on the impact of the current legal framework on registering an NGO in Uganda

Figure 24: Perceptions on the impact of some mandatory requirements before registering an NGO or renewing the NGO permit

Figure 25: Perceptions on the NGO legal operating environment

Figure 26: Perceptions on the criminal sanctions under the NGO Act, 2016

Figure 27: Perceptions on the geographical coverage of a CBO under the NGO Act, 2016

Figure 28: Perceptions on whether LGBTIQ+ individuals are able to exercise their right to freedom of association, assembly and expression on an equal basis with others

Figure 29: Perceptions on whether people with disabilities are able to freely exercise their right to freedom of association, assembly and expression on an equal basis with others

Figure 30: Perceptions on whether information intended to the general public is reduced to accessible formats and technologies appropriate to different kinds of disabilities

Figure 31: perceptions on whether sign language, braille and other accessible formats of communication are made available to people with disabilities in all official communications

Figure 32: Perceptions on whether the stat is taking affirmative action in order to diminish or eliminate conditions that cause or perpetuate discrimination

Figure 33: Perceptions on whether the police, courts and all agencies of the government follow the law while doing their work and taking decisions

Figure 34: Perceptions on whether the police act in accordance with the law

Figure 35: Perceptions on whether the rights of suspects are respected by the police

Figure 36: Perceptions on whether police officers who abuse the rights of suspects are held to account

Figure 37: Perceptions on whether accused persons are guaranteed a fair and speedy trial

Figure 38: Perceptions on whether corruption in court influences decisions

Figure 39: Perceptions on whether the police and courts treat accused persons as innocent until proven guilty

Acknowledgments

In August 2021, the National Coalition of Human Rights Defenders Uganda (NCHRDU) commissioned a study for this *Uganda: Civic Space Index, 2021* report. Associate Professor Ronald Kakungulu-Mayambala was identified as a consultant. We acknowledge his immense efforts to develop the data collection survey tool, methodology for the index study and the conceptual framework which he all did in close consultation with the NCHRDU.

In addition to his efforts, a publication of this type would not be possible without the kind contributions of several individuals. At the NCHRDU, the survey benefited from the invaluable input from Sharon Nakanwagi, Prossy Babiryte and Edward Serucaca under the overall leadership of Robert Kirenga, the Executive Director.

We are also indebted to the human rights defenders who actively participated as the respondents. When they were contacted, they readily availed themselves and responded to the survey by sharing their perceptions on the various indicators of the study. Without their commitment and dedication to complete the assessment questions, this report would not have been possible.

A vote of thanks is sent to the research assistants who made the phone calls and engaged the respondents to collect the necessary data and support the analysis process.

We acknowledge the positive contribution of the civic space sub-group members who include: Defender Protection Initiative, Human Rights Network for Journalists, The Human Rights Awareness and Promotion Forum and Trans-network Uganda.



SECTION I: ABOUT THE CIVIC SPACE INDEX

I. Introduction

The *Uganda: Civic Space Index, 2021* provides a snapshot of the state of civic space in Uganda, especially in as far as it impacts on the work of Human Rights Defenders (HRDs), Non-Governmental Organizations (NGOs) and Community Based Organizations (CBO).

The findings are based on the lived experiences and perceptions of the respondents who majorly included HRDs and civil society actors who were engaged in the assessment exercise. This index is based on quantitative data that was collected during the study.

Civic space is a broad subject. However, Article 38 of the 1995 Constitution of the Republic of Uganda provides for the core elements of civic space rights. The Article guarantees participation in civic rights and activities by providing that every Uganda citizen shall have a right to exercise the right to participate in the affairs of government, individually or through his or her representatives in accordance with law. The Article further establishes the right of every Ugandan to participate in peaceful activities to influence the policies of government through civic organisations.

The above freedoms are espoused under the narrow definition of civic space that was adopted by the CIVICUS Civic Space Monitor. For purposes of that monitor, CIVICUS defines civic space to include the freedom of peaceful assembly, association and expression.

These three freedoms form the core of Article 38 of Uganda's 1995 Constitution. In similar vein, the UN Human Rights Office defines civic space to mean an environment that enables civil society to play a role in the political, economic and social life of our societies

To assess civic space adequately in Uganda's context, the Index adopted a broad approach to include three other indicators. Therefore, in total, this Index studies perceptions on six indicators or categories that form part of the broad core aspects of civic space, namely,

- The right of access to information;
- Freedom of expression, media and digital freedoms;
- Freedom of peaceful assembly and to petition;
- Freedom of association;
- Non-discrimination and inclusion; and
- The rule of law.

The above indicators are further structured along sub-indicators to maintain focus on the core elements of the study.

The indicators are assessed along the sub-indicators on whether the legal framework is enabling or progressive and whether the exercise or enjoyment of the rights and freedoms are enabled or hindered. The section on methodology outlines the details of how the data was generated during the research and the extent of the study. For instance, it is outlined that unlike ordinary researches, this Index focused on quantitative data to assess perceptions across the various indicators.

Basing on the scores, the Index provides a brief narrative on the context and highlights major incidents or themes that can help illustrate the finding. This analysis is based on random opinions of the respondents or desk research by the researchers who compiled this report.

This Index is not an annual Index on the state of civic space in Uganda. It therefore does not contain an analysis of past scores and rankings. It is the first Index of this nature published by the National Coalition of Human Rights Defenders Uganda (NCHRDU) that reports on the perceptions, trends and prevailing situation. The data generated from the assessment was used to report on the state of affairs and give projections where possible.

This Index is intended for human rights defenders, civil society actors, policy makers, duty bearers, key stakeholders, development partners and the broader public audience. It is our hope that it provides a useful resource on the attempt to assess the state of civic space in Uganda and that it will be an important addition to the initiatives by other actors such as the CIVICUS civic space monitor.

II. Civic Space Index highlights

Several organisations that monitor civic space rights in Uganda and around the world have published findings that indicate that Uganda is heading in the wrong direction in as far as adherence to civic space rights is concerned. The Freedom House's *Freedom in the World 2021* report notes that Uganda is ranked as "Not free". As at July 2021, the CIVICUS *civic space monitor* rated civic space in Uganda as "repressed" which means that "civic space is significantly constrained" and that "although some civil society organisations exist, their advocacy work is regularly impeded and they face threats of de-registration and closure by the authorities". The World Justice Project's *Rule of Law Index 2020* notes that Uganda dropped by two places on state of adherence to the rule of law to a Global Rank of 117 out of 128 countries. On the state of press freedom, the Reporters Without Borders *2021 World Press Freedom Index* ranked Uganda at number 125 representing a drop in the global score. This section presents highlights from this Index study.

Uganda is heading in the wrong direction on human rights and rule of law observance

To assess the general situation, this Index administered general indicator survey question on observance of human rights and the rule of law. Over 73 percent noted that they believe Uganda is heading in the wrong direction. The key concern was the proliferation of laws with repressive clauses that clawback freedoms originally guaranteed freedoms in the 1995 Constitution of the Republic of Uganda and established under international and regional human rights instruments. Citing the example of the 8-year constitutional challenge against the Public Order Management Act, 2013 (POMA), a number of the respondents expressed concern about the ability of the Constitutional Court to timely deliver judgments in constitutional petitions thereby allowing violations of human rights to go on unchecked under enforcement of the repressive provisions. The ongoing enforcement by the National Bureau for NGOs of sections of the Non-Governmental Organisations Act, 2016 despite them being challenged in the Constitutional Court was also cited by some respondents. Majority of the respondents (over 54 percent) further believe that space for civic participation has narrowed. Over 65 percent of the respondents further feel that the right to participate as citizens has either not changed at all over the past three years or remains uncertain. The respondents further reported that out of the six indicators identified for the Index, the top three abused rights and freedoms are freedom of expression, media and digital freedoms; freedom of assembly; and the rule of law. The respondents attributed the violations of the civic space rights to the Uganda Police Force, Uganda Peoples' Defence Forces (UPDF) and the National Bureau for NGOs.

HRDs continue to face significant challenges in accessing information from government

During the survey, the respondents were asked if they know of any laws in place that guarantee the right of access to information and if yes, whether the law is being enforced in practice. In response, over 73 percent noted that they know about the laws in place while 25 percent noted that they were not aware of such laws or were uncertain about their existence. In a follow up question, over 76 percent of the respondents noted that they face significant challenges in accessing information from the government. Some of the challenges cited include the culture of secrecy, tedious procedures of requesting for information, high costs of accessing information, abuse of discretionary powers by government officials with the mandate to release the information, bureaucracy, ignorance of the law and the protracted complaints mechanism. A recent case in point is the experience of Norah Owaraga, a Ugandan researcher and human rights defender who failed to access information on Tuberculosis prevalence in Uganda's prisons despite efforts to seek clearance.

Criminalising dissent, critical expression and attack on Internet freedoms

The Index findings indicate that over 30 percent of the respondents do not know about the legal framework that provides for the freedom of expression, media and digital freedoms. This impedes their ability to demand and exercise the right. In a follow up question, those who noted that they were aware of the laws said that in practice, critical expressions against the government are not protected. Whereas some people express dissent, the respondents felt the threat of a reprisal attack is very high. This score is an illustration of the chilling impact of the incidents where human rights defenders are brutally attacked while in the line of duty or arbitrarily arrested, jailed or persecuted and prosecuted under spurious charges. The internet shutdowns, Facebook blockade, and actions of the Uganda Communications Commission (UCC) to summon and bar media houses from covering incidents of police brutality live for allegedly violating the minimum broadcasting standards were cited. On press freedom, the top three nature of reprisal attacks against journalists in Uganda include police brutality, obstruction from news sources and public insults or intimidation. In relation to Internet freedoms, over 82 percent of the respondents noted that Uganda's law on cybercrime violate the right of freedom of expression online. Sections 24 and 25 of the Computer Misuse Act were identified as key sections that establish offences that are often used to target people for their expressions online. In relation to the previous internet shutdowns, 100 percent of the respondents believe that another shutdown is inevitable in Uganda because the perpetrators of the previous shutdowns have never been brought to book.

Freedom of peaceful assembly and to petition under attack

In Uganda, police actions to block or violently disperse peaceful assemblies are common place. During the study, the respondents were asked if the police should have the power to allow or block or disperse peaceful assemblies. In response, over 82 percent noted that the police should not have such powers. In this regard, a number of them expressed concern with the government's decision to appeal against the decision of the Constitutional Court annulling POMA, instead of abiding by it and tabling the necessary progressive amendments in the Parliament of Uganda. Further to this, over 67 percent of the respondents noted that citizen participation and peaceful assemblies are overly politicized which makes the civic activities risky. In relation to this, the HRDs noted that they do not organize or go to peaceful assemblies because of fear of arbitrary arrest (93 percent), fear of teargas and bullets (84 percent), and fear of being shot dead (67 percent). This illustrates perceptions of how human rights defenders perceive the threats associated with peaceful assemblies in Uganda. This presents a significant constrain on the ability of citizens to participate in public affairs, especially where other approaches have proved futile.

Irrational and arbitrary enforcement of vague and repressive laws narrowing freedom of association

The findings of the Index indicate that respondents are concerned about the proliferation of laws with vague and repressive clauses and the irrational administrative enforcement. Notably, the respondents listed the NGO Act, 2016 and the Anti-Money Laundering Act, 2013 (as amended in 2017). They expressed concern and challenges with the legal framework for NGO registration citing a requirement to submit a letter of recommendation from the line ministry and signing a memorandum of association before renewing the NGO permit as key issue. The majority of the respondents (79 percent) further believe that the NGO legal operating environment is "very restrictive". The suspension and halting of operations of 54 NGOs and civil society organisations by the NGO Bureau was a major theme, with most respondents noting that the NGO Bureau should have notified any affected organisations to comply with the law instead of the irrational and arbitrary decision to indefinitely close down their operations. The provisions on criminal sanctions of up to three years imprisonment for failing to meet administrative requirements under the law and the strict enforcement of the monthly Ugx. 2,000,000 (USD 572) penalty for operating without an NGO permit also attracted a lot of attention during the survey. Respondents further raised concern with the restriction on CBOs to the geographical coverage of a sub-county. Majority of the respondents felt that CBO permits should cover at least a district to ease the restrictions on the organisations and remove the legal exposure of operating beyond the permit area.

Women, persons with disabilities, LGBTIQ+ community face unique impediments

The majority of the respondents believe that LGBTIQ+ individuals and people with disabilities are not able to exercise their civic space rights on an equal basis with others. Acts of discrimination, homophobia and prejudice are reported to be at the core of the hinderances and violence that LGBTIQ+ persons suffer. During the enforcement of the Covid-19 pandemic restrictions and lockdown, people with disabilities and people with albinism were harassed, shot and trampled upon while LGBTIQ+ shelters were raided and people were arrested. The Index further finds that the information intended for the general public is not always reduced to accessible formats and technologies appropriate to different kinds of disabilities. This denies the members of the community the right to be informed and to participate in public affairs. However, a high number of respondents believe that the government is making an effort to take affirmative action in order to diminish or eliminate conditions that cause of perpetuate discrimination, especially in relation to women and people with disabilities. A lot however still remains to be done on the discrimination against LGBTIQ+ persons.

Abuse of the rule of law

The abuse of the rule of law continues to increase. In the April 2021 State of the Rule of Law in Uganda report, the Uganda Law Society noted that criminalization of the practice of journalism, serial killing of women and disappearances of citizens were dominant. Extrajudicial killings, incommunicado detention, torture and other practices that offend the rule of law are becoming common with little to no consequence for the violators. During the study, over 73 percent of the respondents noted that they feel the police, courts and all agencies of the government strictly adhere to the law "to a low extent". In a follow up question, over 54 percent of the respondents noted that the police "rarely" act in strict accordance with the law while 34 percent noted that they "often" do. On the rights of suspects while in the custody of the police, 63 percent of the respondents noted that the police "rarely" follow the law while 26 percent said that the police "never" respect the constitutional rights of suspects in custody. On the question of accountability, over 60 percent of the respondents noted that police officers who abuse the rights of suspects are "rarely" held to account while 26 percent noted that the police officers are "never" held to account. On corruption in the courts of law, 50 percent of the respondents noted that bribery and other forms of corruption "often" influence court decisions while 37 percent believe corruption "always" influences court decisions. Finally, on whether accused persons are treated as innocent until proven guilty by the criminal justice system (police and the courts), 45 percent of the respondents selected "rarely", 19 percent selected "never" while 32 percent selected "often".

III. Methodology

This *Uganda: Civic Space Index, 2021* presents the first attempt by the National Coalition of Human Rights Defenders Uganda (NCHRDU) to comprehensively assess the state of civic space in Uganda. The Index measures perceptions and lived experiences of human rights defenders and civil society actors to assess whether laws, rules and practices enable or hinder the exercise or enjoyment of the freedoms.

The Index is based on quantitative data collected during the assessment exercise. The methodology of the Index study was inspired by the methodologies of the Freedom House's *Freedom in the World Index Report*, the World Justice Project's *Rule of Law Index*, the *Human Freedom Index*, and The Economist's *Democracy Index*.

The study is structured along six indicators that form the core aspects of civic space as detailed in the conceptual framework to the study.

The scores and rankings are presented in this report along the themes of the indicators and structured in line with the sub-indicators. The data that informed the scores and rankings are generated from surveys conducted with 113 respondents spread across the country. The data was collected through online surveys, physical and phone interviews.

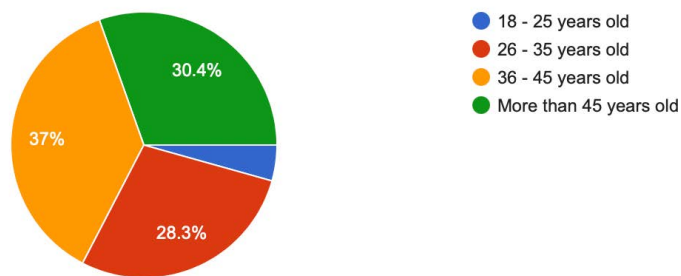


Figure 1: Age group demographic

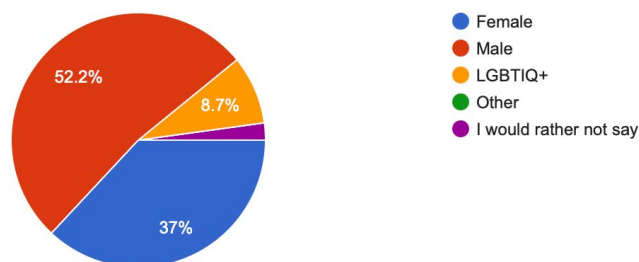


Figure 2: Gender demographic

The majority of the respondents were between the age of 36 to 45 years of age. 4.3 percent were between the age of 18 to 25 years old, 28.3 percent were between 26 to 35 years old, while 30.4 percent were above the age of 45 years old.

The majority of the respondents were male at 52.2 percent while female were 37 percent. 8.7 percent were LGBTIQ+ individuals while 2.2 percent preferred not to disclose their gender identity or sexual orientation.

The survey tool included 27 perception-based and experience-based questions, along with socio-demographic information of all respondents. The closed-ended perception questions and hypothetical scenarios backed with detailed factual assumptions ensured guided Index study. No qualitative information was collected by the tool.

The surveys were administered in the English language. No respondents requested for a translation of the survey tool. The data was collected from August 2021 through September 2021.

IV. Definition and conceptual framework of the Index Indicators

This *Index* is premised on six indicators that form the core aspects of civic space to guide the parameters of the assessment.

a) Right of access to information

Sub-indicators:

- 1.1. The right of access to information is effectively guaranteed under the law.
- 1.2. The laws are publicized and enforced / implemented.

Definition and normative framework

“Every citizen has a right of access to information and records in the possession of the State or any public body, except where the release of the information is likely to prejudice the security or sovereignty of the State or interfere with the right to the privacy of any other person.” – Article 5 (1) of the Access to Information Act, 2005.

The right of access to information is a fundamental human right recognized in international human rights instruments notably the Universal Declaration of Human Rights (UDHR)¹ and the International Covenant on Civil and Political Rights (ICCPR).² At the regional level, the right is enshrined under the African Charter on Human and Peoples' Rights (ACHPR).³ The right is commonly recognized within the scope of the right to freedom of expression.

The four international principles on the right of access to information include the principle of maximum disclosure, obligation of public bodies to publish key information in their possession proactively, promotion of the principle of open government and the principle of limited scope of exceptions on what information can or cannot be accessed.

At the domestic level, the 1995 Constitution of Uganda⁴ establishes the right of access to information by providing that: "Every citizen has a right of access to information in the possession of the State or any other organ or agency of the State..." There are only two exceptions where this right can be limited:

- Where the release of the information is likely to prejudice the security or sovereignty of Uganda.
- Where the release of the information is likely to interfere with the right to the privacy of any other person.

In line with Article 41 (2) of the Constitution, the Parliament of Uganda enacted the Access to Information Act, 2005 to prescribe the classes of information referred to in the Constitution and the procedure for obtaining access to that information. The purpose of the law is to promote an efficient, effective, transparent and accountable government.

The UN Human Rights Committee (HRC) has published its interpretation of the right in General Comment No. 34.⁵ Among other things, the comment notes that the right of access to information includes a right whereby the media has access to information on public affairs⁶ and the right of the general public to receive the media output.⁷ To give effect to the right of access to information, States are required to proactively put in the public domain government information of public interest and take every effort to ensure easy, prompt, effective and practical access to such information.

On the definition of a "public body", the HRC has guided that it includes information held by public body or any other entity when such entity is carrying out public functions. The right is enforceable regardless of the form in which the information is stored, its source or the date of production.

On procedure to access information, the HRC provides that, "The procedures should

provide for the timely processing of requests for information according to clear rules that are compatible with the Covenant. Fees for requests for information should not be such as to constitute an unreasonable impediment to access to information. Authorities should provide reasons for any refusal to provide access to information. Arrangements be put in place for appeals from refusals to provide access to information as well as in cases of failure to respond to requests.”⁸

b) Freedom of expression, media and digital freedoms

Sub-indicators:

- 1.1. Freedom of expression, media and digital freedoms is effectively guaranteed under the law.
- 1.2. HRDs are aware of the legal framework on freedom of expression, media and digital freedoms.
- 1.3. There are no Acts of Parliament that seek to claw back on the constitutional guarantees of the freedom.
- 1.4. Journalists and media workers are no targeted in reprisal attacks.

Definition and normative framework

“It is evident that the right to freedom of expression extends to holding, receiving and imparting all forms of opinions, ideas and information. It is not confined to categories, such as correct opinions, sound ideas or truthful information. Subject to the limitation under Article 43, a person’s expression or statement is not precluded from the constitutional protection simply because it is thought by another or others to be false, erroneous, controversial or unpleasant. Everyone is free to express his or her views. Indeed, the protection is most relevant and required where a person’s views are opposed or objected to by society or any part thereof, as “false” or “wrong”. – Hon. Joseph Mulenga, JSC (RIP), 10 February 2004.”⁹

The right of freedom of expression, media freedoms and the internet are provided for in international and regional human rights instruments and domestic laws.

At the international level, the rights and freedoms are provided for under Articles 19 of both the UDHR and the ICCPR. The UDHR, for instance, provides that, “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

At the domestic level, the 1995 Constitution of Uganda provides under Article 19

(1)(a) that, "Every person shall have the right to freedom of speech and expression, which shall include freedom of the press and other media."

The freedom of expression has three components, namely:

- Freedom to hold opinions;
- Freedom to receive information and ideas; and
- Freedom to impart information and ideas.

Freedom to hold opinions is a prior condition of the other freedoms. It enjoys almost an absolute protection and the standard for any restrictions is very high. In this regard, States are not allowed to indoctrinate or discriminate individuals on the basis of their opinions.

Freedom to impart information and ideas on the other hand is protected in respect of an individual's right to communicate information and ideas and engage in public life and other engagements in political and social life. This aspect of the freedom of expression is the oxygen of any free and democratic state. Without the engagements, there can be no democracy or other related values.

Finally, the freedom includes the freedom to receive information and ideas. This aspect includes the right to gather information and to seek information through all lawful means and sources. This includes the right of the public to be adequately informed, especially on matters of public interest.

Freedom of expression is not absolute. Individuals are expected to exercise the right responsibly and to respect the rights of other people. However, any restrictions must be necessary, proportionate and justifiable in a free and democratic society.

The Human Rights Committee (HRC) has provided general interpretation guidance under General Comment No. 34 on press freedom. In addition to reiterating that a free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression, it is noted that freedom of expression and the media constitutes one of the cornerstones of a democratic society. On internet freedoms, the HRC provided that, "State parties should take account of the extent to which developments in information and communication technologies, such as internet and mobile based electronic information dissemination systems, have substantially changed communication practices around the world... States should take all necessary steps to foster the independence of these new media and to ensure access of individuals thereto."¹⁰

The United Nations Human Rights Council has recognized freedom of expression on

the internet as a human right. On July 5, 2012, the Council approved a resolution affirming that, “The same rights that people have offline must also be protected online.”¹¹

c) Freedom of peaceful assembly and to petition

Sub-indicators

- 1.1. Freedom of peaceful assembly and to petition is effectively guaranteed under the law.
- 1.2. There are no Acts of Parliament that seek to claw back on the constitutional guarantees of the freedom.
- 1.3. There is a presumption of peaceful protests in all assemblies.
- 1.4. Limitations on freedom of peaceful assembly and to petition are necessary and justifiable in a free and democratic society.

Definition and normative framework

“The police have absolutely no authority to stop the holding of public gatherings on grounds of alleged possible breach of peace if such gatherings are allowed to proceed. The police’s duty is to regulate the holding of public gatherings and to ensure there is no breach of peace... The attention of the police must be directed at the individuals causing the breach of peace.” – Hon. Justice Barishaki, JA/JCC; March 26, 2020.¹²

The right to freedom of peaceful assembly and to petition is protected under the law. Article 21 of the International Covenant on Civil and Political Rights provides that: “The right of peaceful assembly shall be recognized.” The right is enunciated in similar terms in other international and regional human rights instruments.

Under domestic law, Article 29 (1)(d) of the 1995 Constitution provides that: “Every person shall have the right to freedom to assemble and to demonstrate together with others peacefully and unarmed and to petition.”

In General Comment No. 37, the UN Human Rights Committee (HRC) elaborates on the right to include the non-violent gathering by persons for specific purposes, principally expressive ones. It therefore constitutes an individual right that is exercised collectively. However, a single protester is also protected under the right.

The law protects assemblies everywhere – including outdoors, indoors, in public or private spaces, online or a combination thereof. Such assemblies may take the form of

demonstrations, protests, meetings, processions, rallies, candlelit vigils, sit-ins, flash mobs, marches, or any other such peaceful gatherings.

The State has a corresponding obligation to respect and ensure exercise of the right to peaceful assembly without discrimination. For the right to peaceful assembly to have meaning, other overlapping rights such as the freedom of association, freedom of expression and political participation must be adhered to.

The HRC has further guided that the right of peaceful assembly entails a two-stage process namely the requirement that the participation amounts to participation in a 'peaceful assembly' and whether any restrictions applied to the exercise of the right are legitimate in the prevailing context. Participation can be in form of organizing or taking part in organizing the assembly or in form of joining an assembly.

Peaceful assemblies are often organized in advance to allow time for organizers to notify authorities and take the necessary actions to prepare for a successful assembly. However, the right also protects spontaneous assemblies where the gathering is responding to current events. The further protects peaceful counterdemonstrations. Non-violent collective civil disobedience or direct-action campaigns can also be protected by the right.

In defining what amounts to 'peaceful', it should be noted that it does not mean the absence of 'violence' which typically entails the use of physical force against others. The HRC has guided that: "Mere pushing and shoving or disruption of vehicular or pedestrian movement or daily activities do not amount to "violence".

Where the violence originates from outside of the peaceful assembly as a result of the actions of the police or authorities or a group opposing the assembly, the assembly should not be declared non-peaceful. Instead, the police should take action to protect the peaceful protesters from the attack. Isolated instances of violence will not taint an entire assembly as violent.

It is fundamental principle of the right that there is a presumption in favour of considering assemblies to be peaceful. Isolated acts of violence by a few participants of the assembly does not and should not be attributed to the organisers of other participants at the assembly. The individual(s) who are involved in violent actions or any other crimes should be safely removed from the crowd and allow the peaceful assembly to proceed.

Where a notification system is established under the local laws to regulate assemblies, the procedures should be transparent, include only proportionate demands, free of charge and not unduly bureaucratic. A failure to notify the authorities of a planned

assembly does not render the assembly illegal.

d) Freedom of association

Sub-indicators

- 1.1. Freedom of peaceful assembly and to petition is effectively guaranteed under the law.
- 1.2. There are no Acts of Parliament that seek to claw back on the constitutional guarantees of the freedom.
- 1.3. There is a presumption of peaceful protests in all assemblies.
- 1.4. Limitations on freedom of peaceful assembly and to petition are necessary and justifiable in a free and democratic society.

Definition and normative framework

The freedom of association is established under article 20 of the UDHR and article 22 of the ICCPR. The right is further articulated under Article 29 (1)(e) which provides that: "Every person shall have the right to freedom of association which shall include the freedom to form and join associations or unions, including trade unions and political and other civic organisations."

The Parliament of Uganda has since enacted a number of laws such as the Non-Governmental Organisations Act, 2016 and the Companies Act, 2012 to provide for a legal framework for the exercise of this right.

The ability of civil society organizations to seek, receive and use resources is inherent to the right of association and essential to the existence and effective operations of associations. State are therefore required under the law to refrain from restricting the means of financing of human rights organisations and other associations.¹³

Whereas this right is not absolute, there are strict grounds under which it may be restricted under the law as detailed by article 22 (2) of the ICCPR. It is provided that: "No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society, in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms or others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right."

"National security" and "public safety" refers to situations involving an immediate and violent threat to the State. The right must create a real and significant risk to the

safety of persons or property. Therefore, limitations imposed on the basis of merely an isolated incident that can be contained by the law enforcement agencies cannot be justified.

The HRC has guided that “public order” refers to the sum of rules that ensure the proper functioning of society, which also entails respect for human rights. “Public order” and “law and order” are not synonyms, and therefore the prohibition of public disorder should not mean undue restrictions on freedom of association.

“Public health” on the hand may permit restrictions to be imposed in exceptional circumstances, for example, where there is an outbreak of an infectious disease like the Covid-19 pandemic.

The freedom of association may also be restricted for “the protection of morals.” The HRC has guided in General Comment No. 37 that such restrictions should not include discriminative practices such as restrictions against the exercise of the right of the freedom of association by LGBTIQ+ individuals.

The interpretation of article 22(2) of the ICCPR and the HRC is further supported by the Siracusa Principles that stress that any limitations imposed on freedom of association must not be used as a pretext for imposing vague and arbitrary limitations, or for suppressing opposition and perpetrating repressive practices. They also make clear that the burden of justifying restriction of a right guaranteed by the ICCPR lies with the state imposing that restriction.¹⁴

Further to this, restrictions can only be imposed if they meet the standards of being necessary in a democratic society, principle of proportionality, be prescribed by law.

e) Non-discrimination and inclusion

Sub-indicators

- 1.1. Equality and non-discrimination are guaranteed under the law.
- 1.2. There are no Acts of Parliament that seek to promote or protect acts of discrimination against certain sections of the community.
- 1.3. There are efforts to enhance inclusion.

Definition and normative framework

The principles/rights of equality and non-discrimination are a cornerstone of the international protection guaranteed by the Convention. Article 7 of the UDHR provides for equality before the law and entitlement “without any discrimination” to equal protection of the law.

Equality and non-discrimination are established under article 3 of the ICCPR as principles and in article 5 as rights. Article 2 (1) of the ICCPR provides for non-discrimination mandating that all rights conferred upon individuals by its terms be applied 'without distinction or any kind...' On 'equal and effective' protection of the law to all persons, the ICCPR codifies under Article 26 the prohibition of selective application of rights standards.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the "Maputo Protocol") further establish comprehensive framework for the realization of equality between women and men through ensuring women's equal access for women in rights, opportunities, and public and political participation.

In the 1995 Constitution of Uganda, Article 21 provides for equality and freedom from discrimination. The Constitution go ahead to define "discriminate" to mean to give different treatment to different persons attributable only or mainly to their respective descriptions by sex, race, color, ethnic origin, tribe, birth, creed or religion, or social or economic standing, political opinion or disability.

Despite the challenges in realization of the objectives of the provisions, discrimination against women, persons with disabilities and other groups listed in the 1995 Constitution are rather well understood. One of the most contentious issues is discrimination based on sexual orientation. There has been progressive interpretation in this area as well as illustrated below.

In the landmark case of *Toonen v Australia*,¹⁵ the U.N. Human Rights Committee held that the term 'sex' in Article 2(1) of the ICCPR encompasses sexual orientation. In the case of *Francois Ayissi et al. v. Cameroon*,¹⁶ the U.N. Working Group on Arbitrary Detention, relying on the *Toonen* case, declared that detention on the basis of sexual orientation constitutes an arbitrary deprivation of liberty as guaranteed under the ICCPR.

The ICESCR provides for the protection of the right to self-determination, the right to freely determine one's political status, the right to take part in cultural life, among other rights. Article 2 (2) further provides that the above protections and other rights under the Covenant should be exercised with discrimination of any kind. Whereas the ICESCR does not mention sexual orientation expressly in its provision against discrimination, the U.N. Committee on Economic, Social, and Cultural Rights (CESCR) has determined on three separate occasions that Article 2 (2) protects against the deprival of rights established under the ICESCR in all forms, including that which is based on sexual orientation.¹⁷

At the regional level, the African Charter on Human and Peoples' Rights (ACHPR)

mirrors provisions in the ICCPR on provisions on the right to equality before the law, the right to equal protection of the law, and the right to respect for human dignity. Whereas the Charter does not make a direct reference to sexual orientation, the African Commission on Human and Peoples' Rights observed in the case of *Zimbabwe NGO Human Rights Forum v Zimbabwe*¹⁸ that the principle of equality under Article 2 of the Charter includes sexual orientation.

f) Rule of law

Sub-indicators

- 1.1. The laws are clear, publicized, stable and are applied evenly.
- 1.2. The government is accountable under the law.
- 1.3. The legislative process is open, fair, accessible and efficient.
- 1.4. Fair trials and due process rights are respected.
- 1.5. Criminal justice system is free of corruption, discrimination and improper government influence.

Definition and normative framework

The concept of rule of law is similar to civic space in as far as it is notorious to define and measure. According to the United Nations, the rule of law is a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards.

The state of rule of law in a country therefore depends on four core universal principles as outlined by the World Justice Project:

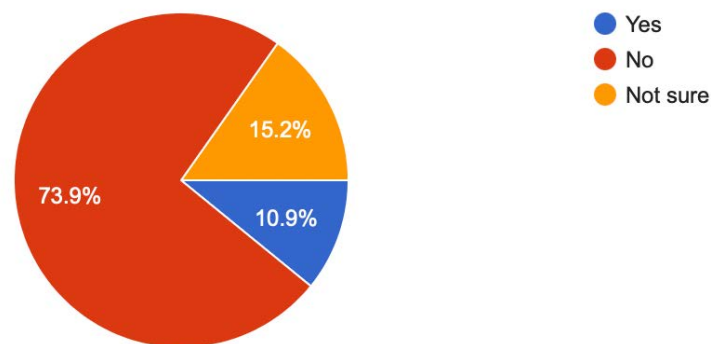
- **Accountability:** The government and private actors are accountable under the law.
- **The existence of just laws:** The laws are clear, publicized, and stable; are applied evenly; and protect fundamental rights.
- **Open government:** The process by which the laws are enacted, administered and enforced are accessible, fair and efficient.
- **Accessible and impartial dispute resolution:** Justice is delivered by competent, ethical and independent representatives and neutrals who are accessible, have adequate resources and reflect the makeup of the communities they serve.

SECTION II: SCORES AND RANKINGS

I. Preliminary findings on general context

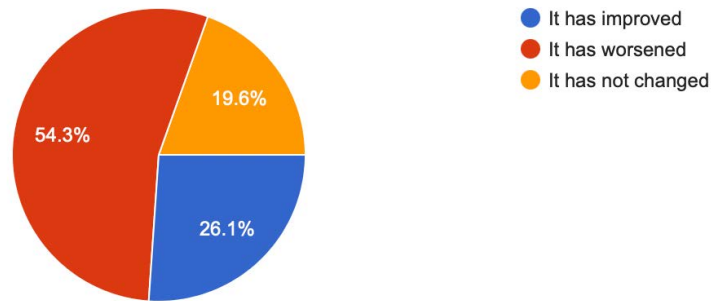
During the assessment, respondents were asked preliminary questions on human rights and the rule of law to assess the general context. In this section, we report findings on these assessments.

Figure 3: Uganda is heading in the wrong direction on respect for human rights and the rule of law



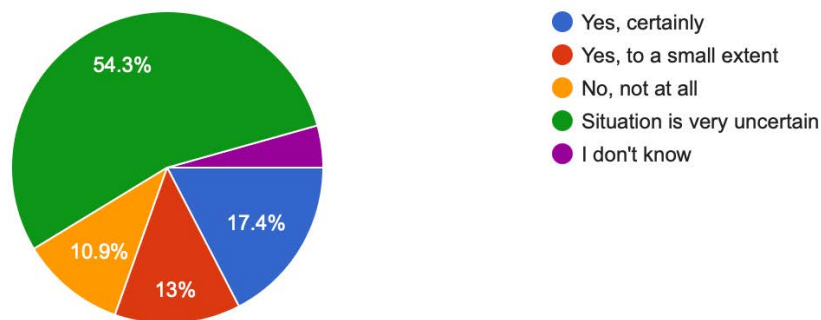
The respondents were asked about what they thought about the direction that Uganda is taking on respect for human rights and the rule of law. While 10.9 percent of the respondents noted that they believed that Uganda was heading in the right direction, the majority at 73.9 percent noted that they believed the country was heading in the wrong direction. 15.2 percent noted that they were “not sure” about the direction in which the country is heading. Most of the respondents cited enactment and increased enforcement of repressive laws that curtail civic space, increased disregard of the rule of law especially fair trial and due process rights, and impunity for crimes for lack of accountability for reported abuses. The majority of the respondents therefore do not have hope that the situation is going to get better in the near future.

Figure 4: Spaces for participation rights are closing because of enactment and enforcement of repressive laws and Covid-19 pandemic control rules and presidential directives



To monitor trends over the past few years, the respondents were asked to rate their perceptions on the freedom to exercise their right to participate as citizens over the last three years. The majority at 54.3 percent noted that they believe that the situation “has worsened” and they face more restrictions in the exercise of their participation rights while 19.6 percent noted that the situation over the past three years “has not changed”. The respondents referred to the increased enforcement of repressive provisions in the NGO Act 2016, Anti-Money Laundering Act, and the Public Health Control of Covid-19 Rules and Presidential directives as factors that have curtailed their civic space rights. 26.1 percent of the respondents noted that the situation “has not changed” generally on the basis that the repressive laws have always been around and accountability for crimes has always been a challenge in Uganda.

Figure 5: Most HRDs feel uncertain about their right to participate as citizens



In a follow up question, the respondents were asked about what they thought and felt about the future in as far as their ability to exercise the right to participate as citizens is concerned. The scores indicate that most HRDs and civil society actors believe Uganda is in uncertain times. The majority (54.3 percent) noted that the “situation is very uncertain” that they do not know what the future holds while 17.4 percent noted that they believed that “yes, certainly” the situation will improve. 13 percent of the respondents noted that they believe the situation will improve “to a small extent”

while 10.9 percent noted that the situation will not improve “at all”. 4.3 percent of the respondents reported having challenges in rating the situation. Most of the respondents expressed concern with contradictions in Uganda where there appears to be hope and then the situation deteriorates rapidly in unclear circumstances. A few respondents raised concern about the rise of the “shadow state” and informal militarized power structures/centers as the formal government appears to wield increasingly less control on government response to Ugandans who are critical of the government.

Figure 6: Freedom of expression, assembly and the rule of law top three abused rights

The respondents were presented with the six civic space dimensions identified for this Index and were invited to rank them according to what they believed were the top three most abused rights or freedoms. From the score, the respondents noted that the freedom of expression, media and digital freedoms is the most abused freedom while freedom of peaceful assembly and to petition came second. Rule of law was ranked as the third most abused while the freedom of association came in at fourth.

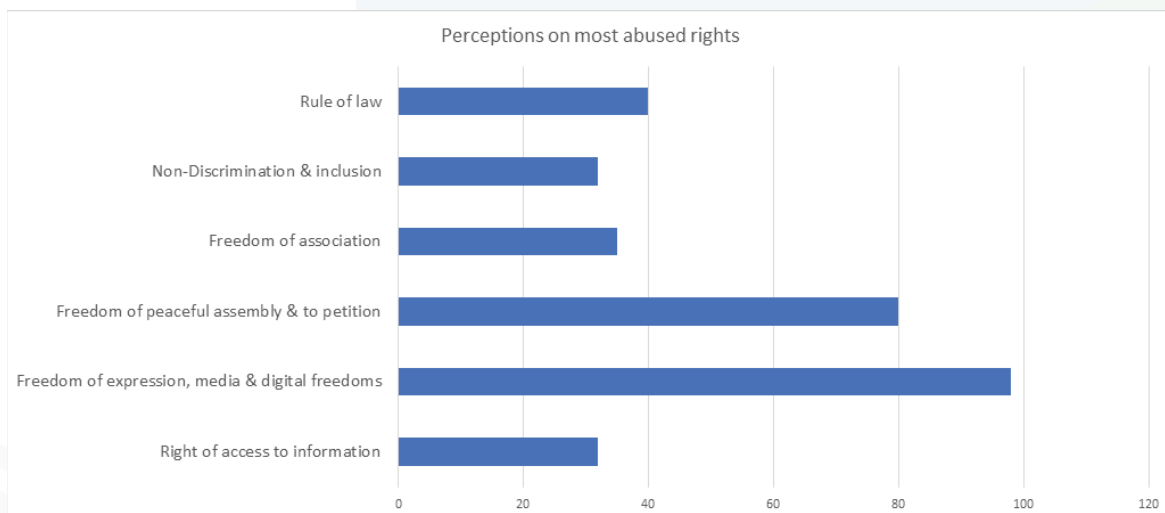


Figure 7: HRDs consider participating in community meetings and raising issues at local level as most important activities in the exercise of participation rights in public affairs

To rate what the respondents consider most important activities in the exercise of the right to participate in public affairs, the study presented a list of 11 activities and invited them to rank them. The top three most important activities are participating in community meetings, raising issues with leaders at the village and parish levels, and seeking access to information from government agencies. Respondents felt the least important activities are posting on social media on an issue of interest, creating

and promoting safe spaces for LGBTI individuals in their communities, and signing of petitions (both online and offline).

1. Participating in community meetings – 67.4 percent.
2. Raising issues with leaders at the village and parish levels – 60.9 percent.
3. Seeking access to information from a government agency, department or local government – 52.2 percent.
4. Starting up an event or group to address a common challenge – 50 percent.
5. Take action to ensure participation of women, PWDs and LGBTI individuals – 50 percent.
6. Peacefully protest for a cause you care about – 43.5 percent.
7. Organising a peaceful protest/assembly on an issue that you care about – 39.1 percent.
8. Raising issues about my community with my MP – 39.1 percent.
9. Posting on social media about an issue of interest – 37 percent.
10. Creating and promoting safe spaces for LGBTI individuals in the community – 34.8 percent.
11. Sign a petition (online or on a physical document) – 32.6 percent.

Figure 8: HRDs least likely to participate in peaceful protests, create or promote safe spaces for LGBTI individuals in their communities

In a follow up question, the respondents scored differently between what they considered to be most important activities and what civic space activities they are likely to organize or participate in. For instance, while the respondents indicated that signing petitions was not considered very important, they are likely to do it. The respondent however maintained that they are more likely to participate in community meetings and raise issues with their local leaders at the grassroots as the top two activities. Organizing a peaceful protest/assembly on a cause that they care about and creating and promoting safe spaces for LGBTI individuals were ranked the least likely in this section.

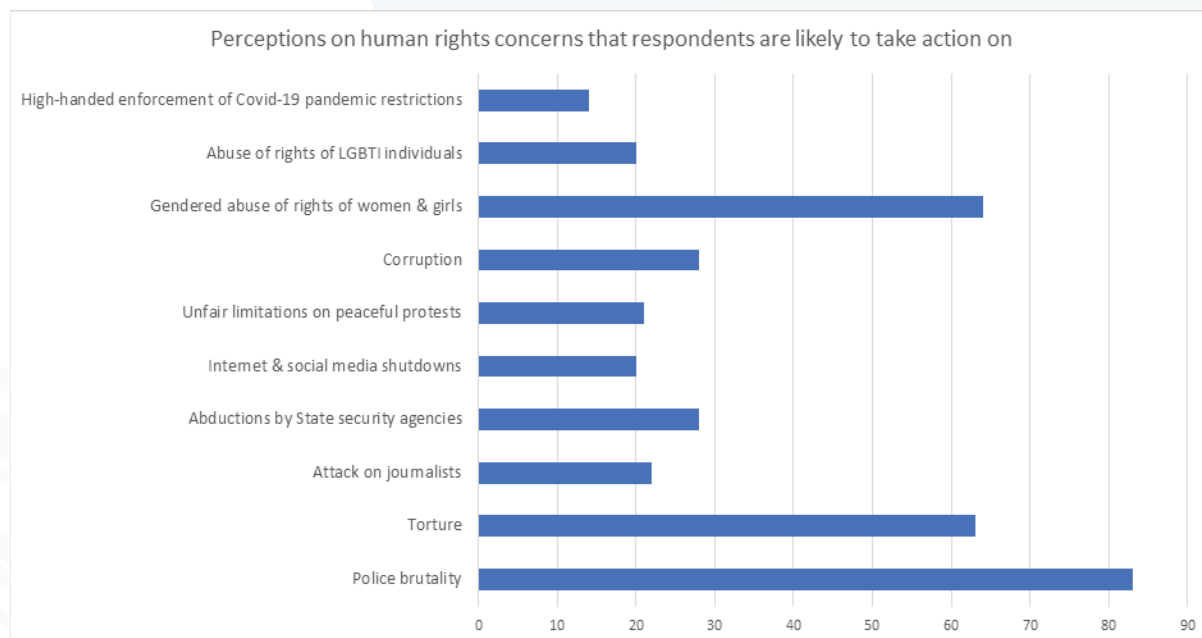
1. Participating in community meetings – 63 percent.
2. Raising issues with leaders at the village and parish levels – 60.9 percent.
3. Sign a petition (online or on a physical document) – 45.7 percent.
4. Starting up an event or group to address a common challenge – 45.5 percent.
5. Seeking access to information from a government agency, department or local government – 37 percent.
6. Posting on social media about an issue of interest – 37 percent.
7. Take action to ensure participation of women, PWDs and LGBTI individuals – 34.8 percent.

8. Raising issues about my community with my MP – 34.8 percent.
9. Peacefully protest for a cause you care about – 30.4 percent.
10. Organising a peaceful protest/assembly on an issue that you can about – 23.9 percent.
11. Creating and promoting safe spaces for LGBTI individuals in the community – 23.9 percent.

Figure 9: HRDs are likely to take action on the following human rights concerns

The abuse of civic space manifests in many forms. In Uganda, there are familiar patterns. During the study, the respondents were presented with a list of human rights concerns and violations and invited to rank those that are likely to make them take action by speaking out or taking any other action to stand up for human rights. From the assessment, it was observed that respondents are more likely to push back against human rights abuses where the incidents involve police brutality, torture, gender abuse of rights of women and girls, abductions by State security agencies and corruption.

Figure 10: Police, UPDF and NGO Bureau ranked top violators of civic space

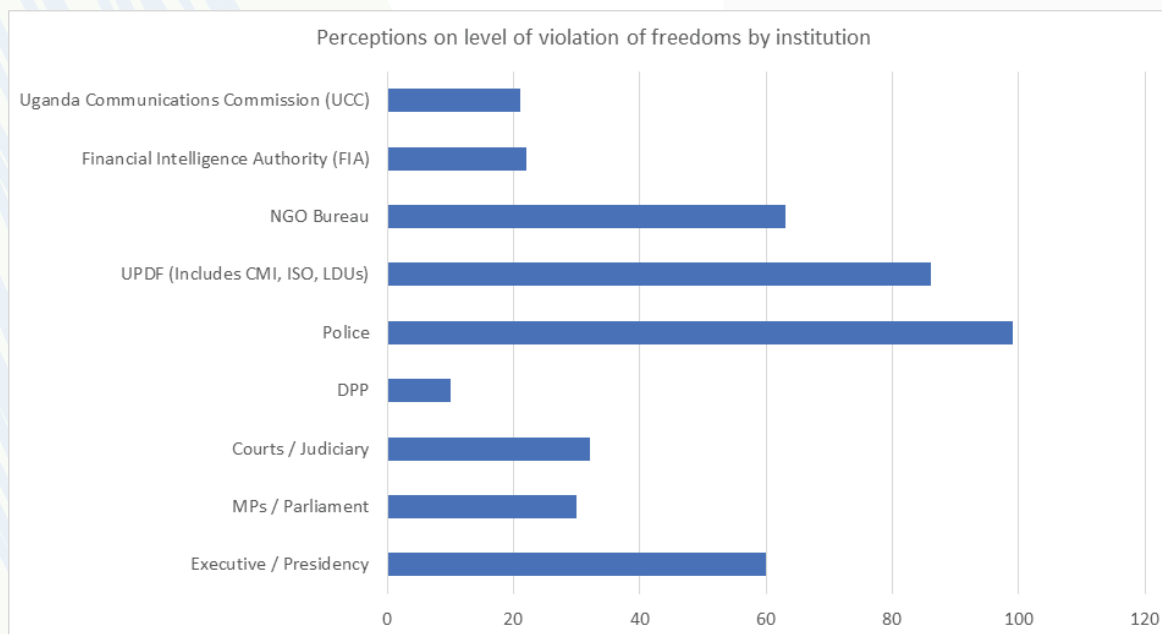


The respondents were presented with a list of institutions and requested to select the top three institutions that they feel contribute the most to the violation of civic space rights in Uganda. The top three institutions that were selected are the Uganda Police Force (82.6 percent), UPDF (63 percent) and the Executive arm of government (56.5

percent). The National Bureau for NGOs and the Uganda Communications Commission (UCC) tied at 30.4 percent each.

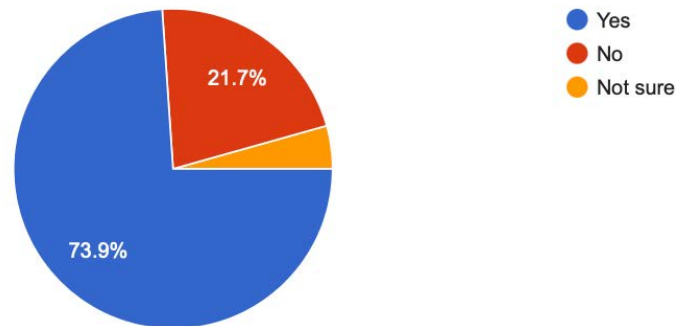
Some of the respondents that expressed concerns with the Executive arm associated their grievances with the Resident District Commissioners (RDCs) who are representatives of the President of Uganda at the district levels. RDCs are known for being notorious in narrowing civic space at the local levels.

The respondents who mentioned the National Bureau for NGOs (NGO Bureau) made reference to the high-handed nature of regulation approach adopted by the institution which has seen operations of over 50 NGOs indefinitely suspended/halted over issues that could have been resolved administratively. They also decried the strict enforcement of the monthly penalty of Ugx. 2,000,000 for organisations that delay to renew their NGO permits because of a number of factors.



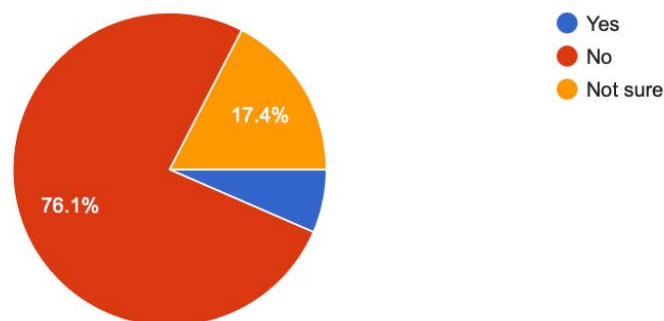
II. Right of access to information

Figure 11: Over 25 percent of HRDs do not know about the Access to Information Act



At the onset of the survey, the respondents were asked if there is a law in place that guarantees the right of access to information in Uganda. The majority (73.9 percent) noted in the affirmative, 21.7 percent said “no” while 4.3 percent said that they are “not sure” about any such law.

Figure 12: HRDs face significant challenges in accessing information from government



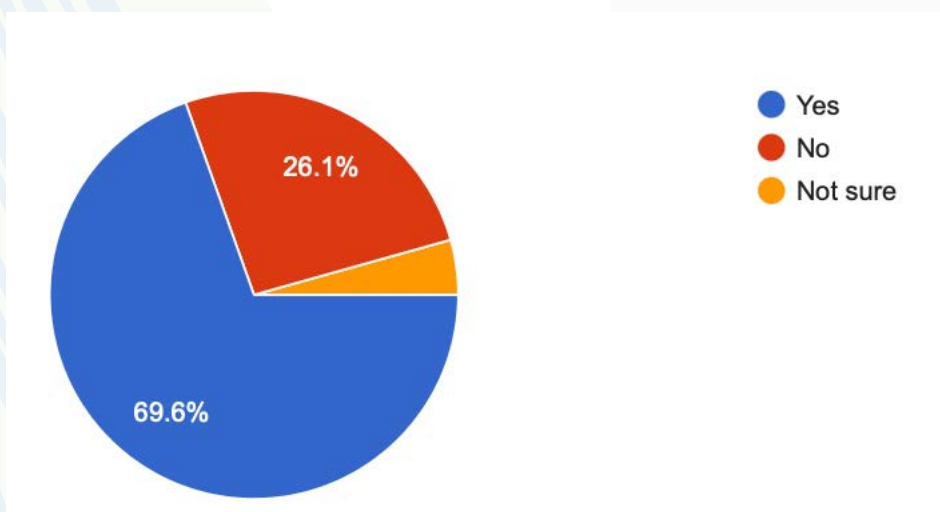
The respondents who answered “yes” above were further asked a follow-up question. This question sought to get the perception and views of the respondents to know whether citizens are able to access information and records in the possession of government in practice. The majority (76.1 percent) noted that citizens continue to face significant challenges in accessing information in the hands of government while only 6.5 percent noted that it was easy to access the information ad provided by the

law. 17.4 percent of the respondents noted that they were “not sure”.

Some of the issues cited by the respondents include the vague provisions in the law which give the government wide discretionary powers, bureaucracy, ignorance of the law and procedure by HRDs and other citizens and a protracted complaints mechanism.

III. Freedom of expression, media and digital freedoms

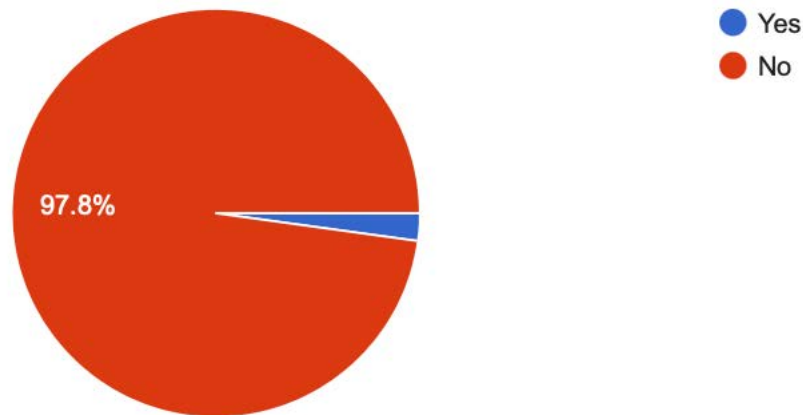
Figure 13: Over 30 percent of HRDs do not know about the legal framework that provides for freedom of expression, media and digital freedoms



The first question under this section was the assessment of whether the respondents are aware that the freedoms of expression, media and digital freedoms are guaranteed under the law in Uganda. In response, the majority of the participants (69.6 percent) said yes while 26.1 percent said ‘not’. 4.3. percent of the respondents noted that they were “not sure” about the laws that guarantee the freedoms.

Figure 14: HRDs believe that, in practice, critical expressions are not protected in Uganda

A follow up question was then asked to assess whether, in practice, the freedom of expression, media and digital freedoms are enjoyed by citizens – particularly where the expression is critical of the government and individual government officials. In response, 97.8 percent of the respondents said “no” while only 2.2 percent said “yes”.



This can be viewed as a demonstration of the chilling impact the arrests and other reprisal attacks have had on journalists and other HRDs in Uganda. HRDs believe that the freedom of expression online and offline and press freedom are not respected when the expression is critical of the government.

Whereas freedom of expression, media and digital freedoms appear to be generally fair, therein lies Uganda's contradictions. In addition to the direct blockades and direct reprisal attacks to obstruct the freedom, the respondents considered the chilling effect that the attacks have on the freedom. Self-censorship was a major theme. Some of the other common reasons given by the respondents include the total social media and internet shutdown during the recent elections, increased censorship and clampdown on media houses by the Uganda Communications Commission for covering incidents of police brutality (UCC accuses the media houses of "inciting violence" by relaying live images of police's actions), police brutality against journalists for doing their work and lack of accountability thereafter, increased arrests and prosecutions under the Computer Misuse Act for critical expressions online, and increased targeting of NGOs and CSOs in reprisal attacks for their expressions.

Figure 15: Police brutality, obstruction from news sources and public insults/intimidation top list of nature of reprisal attacks against journalists and media workers in Uganda

To assess the operating environment for journalists and media workers, the respondents were presented with a list of human rights abuses that a journalist or media worker can suffer. The objective was to hear from them what abuses they rank most common and what they consider as less common. The findings show that the top three forms of violations that journalists and media workers face in Uganda are police brutality

(beating, slapping, kicking et cetera), obstruction from news sources/venues, and public insults and intimidation. According to the Human Rights Network for Journalists *Press Freedom Index Report, 2020*,¹⁹ a total of 174 cases of press freedom violations were reported in 2020. Of these, 69 were assault cases, 40 incidents were related to blocked access and 29 cases of arbitrary arrests.

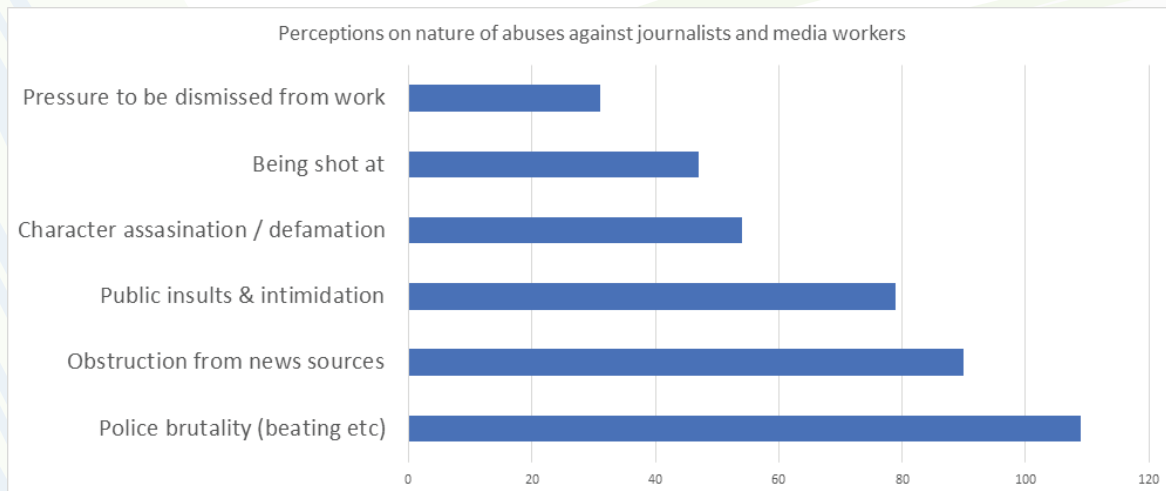
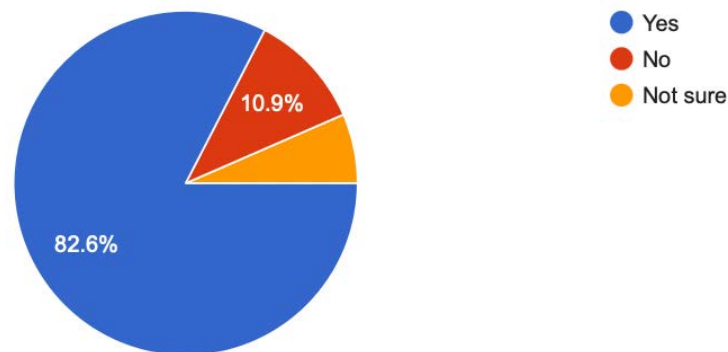


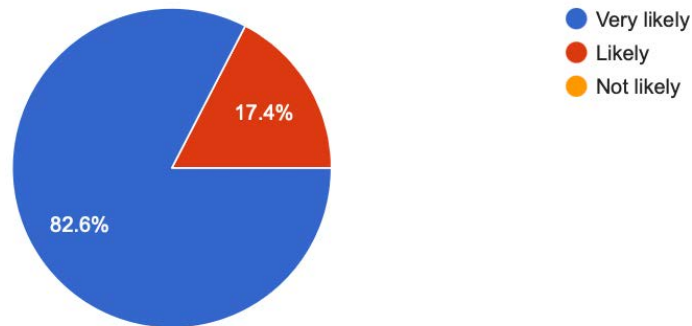
Figure 16: Laws against cybercrimes violate the right to freedom of expression online



The law requires that the right of freedom of expression offline must also be protected online. In Uganda, digital freedoms are under attack through the shutdowns, absence of a law to protect net neutrality, surveillance and high costs of data. For purposes of this section, respondents were asked if there are any laws against cybercrime that violate the right to freedom of expression online. The findings indicate that 82.6 percent of the respondents said yes while 10.9 percent said no. 6.5 percent said they were “not sure”. Most respondents referred to the existence and increased enforcement of section 24 (cyber harassment) and section 25 (offensive communication) of the

Computer Misuse Act, 2011.

Figure 17: HRDs believe there is a very high likelihood of another internet shutdown in the near future because of lack of accountability and political context



Uganda has so far had one major internet shutdown in addition to at least three social media shutdowns. Although some civil society organisations have gone to court seeking declarations that the blanket shutdowns were illegal and violated rights, there has been no real accountability. A question was put to respondents on whether they think Uganda will have another internet shutdown in the near future. 100 percent of the respondents believe that another internet shutdown is inevitable in Uganda. 82.6 percent noted that it is “very likely” while 17.4 percent noted that Uganda will have yet another internet shutdown. The concerns raised by the respondents include the lack of accountability for the past internet and social media shutdowns which emboldens impunity for the illegal actions. They attribute challenges in pursuing accountability to the deteriorating political environment.

IV. Freedom of peaceful assembly and to petition

The right to freedom of peaceful assembly and to petition has been under attack for a while in Uganda. While the 1995 Constitution provides for the freedom and establishes very strict standards under which it may be limited, the Parliament of Uganda has enacted laws that claw back on the freedom. For example, while enacting the Police Act, Parliament of Uganda included section 32 which gave police powers to block peaceful assemblies. The section was challenged in *Muwanga Kivumbi v Attorney General*²⁰ and the constitutional court unanimously found that the section was unconstitutional.

Instead of implementing the decision of the court, the government enacted the Public Order Management Act in 2013²¹ – reintroducing the same police powers that were declared unconstitutional by the constitutional court. Yet again, in *Human Rights Network Uganda & Ors v Attorney General*, the constitutional court has declared section 8 of the new law unconstitutional.²² This time around, the government has appealed against the decision in the Supreme Court.

In the wake of the Covid-19 pandemic in March 2020, the government enacted rules under the Public Health Act apparently to slow and stop the spread of the novel coronavirus. These rules introduce severe restrictions on gatherings, presenting significant challenges in the operations of HRDs and other all sectors of society.

The questions under this indicator sought to assess perceptions on the law, practice of the police in managing assemblies, and assess why HRDs do not exercise the right in their work.

Figure 18: Police should not have powers to “allow” or “block” peaceful assemblies

One of the most contentious issues in Uganda on the right of peaceful assembly is whether the police has the power to allow or block of disperse a peaceful assembly. During the assessment, respondents were asked whether they believe the police should have powers to allow or block peaceful assemblies, considering the constitutional provisions on the freedom. The majority (82.6 percent) noted that the police have no such powers while 15.2 percent said “yes”. 2.2 percent of the respondents noted that they were “not sure”.

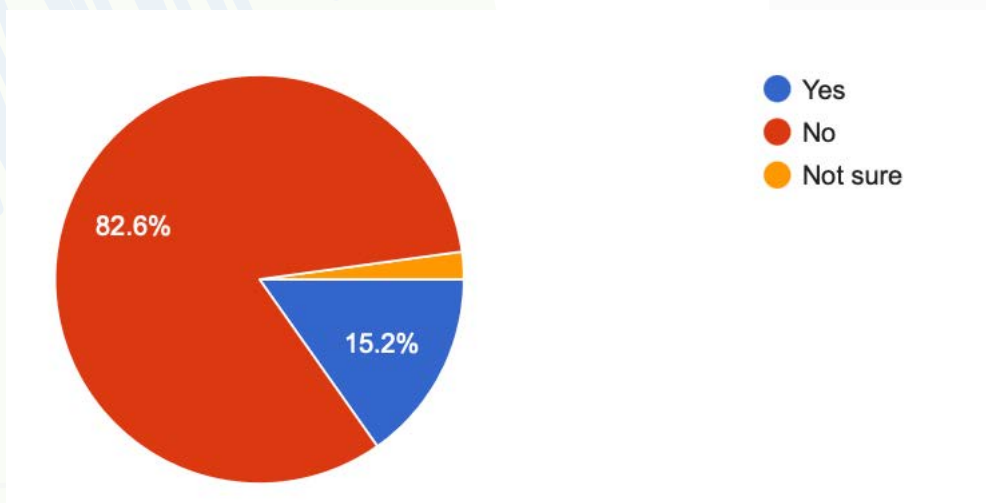


Figure 19: Majority of HRDs feel that citizen participation and peaceful activism are overly politicized

There is a general perception that many citizens in Uganda do not actively participate in political activities, peaceful activism, or seek to participate in public affairs because they feel that such activities are overly politicized and may attract violence. A question was put to the respondents and 67.4 percent agreed with the perception while 26.1 percent disagreed with it. 6.5 percent noted that they were “not sure”.

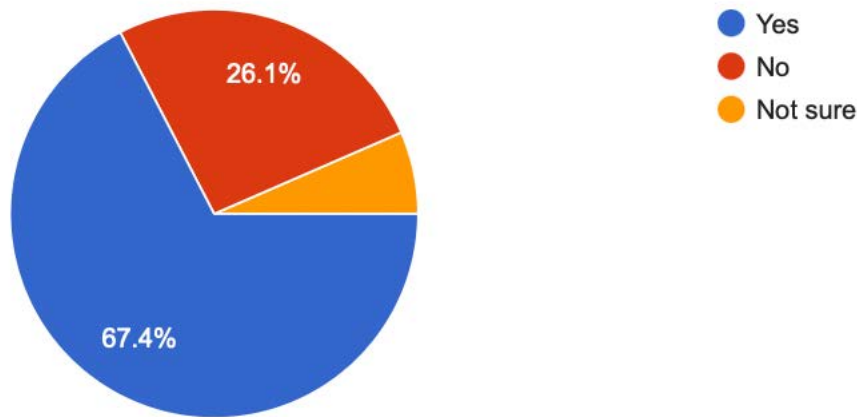


Figure 20: HRDs do not organize or go to peaceful protests because they fear arbitrary arrests or being shot at during the almost inevitable violent dispersal by police

Respondents were asked to rank the key concerns that discourage them from organizing or going to a peaceful assembly or protest. The majority of them listed the fear of arbitrary arrests (93 percent), fear of teargas and bullets (84 percent), and fear of being shot dead (67 percent). Out of a score of 1 to 10, all the respondents ranked the statements that proposed that ‘there is nothing very serious to make me protest’ and ‘protests are for trouble makers’ at 0 percent which means they strongly disagree with the two statements. The following are the rankings in detail.

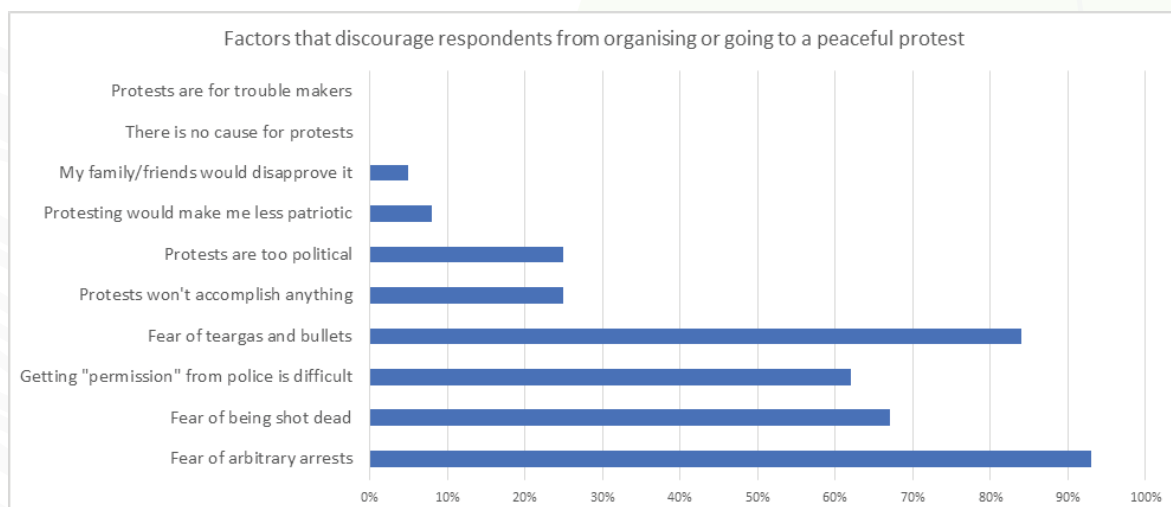


Figure 21: Majority of HRDs feel that the restriction imposed by the government on freedom of assembly in response to the Covid-19 pandemic is not reasonable

In an effort to slow the spread of the Covid-19 virus, the government has put in place a number of Covid-19 control rules in addition to other presidential directives. Assemblies have for example been suspended on several occasions and where they are permitted, there are strict restrictions on numbers of people who can assemble together. As a result, a number of activities that require a group of people to gather such as schools, churches, mosques, and large conferences have been suspended.

During the assessment, the respondents were asked about what they thought about the restrictions on freedom of assembly. 52.2 percent disagreed with the restrictions noting that the Standard Operating Procedures (SOPs) should be sufficient to allow more relaxed restrictions on assemblies. However, 39.1 percent noted that the Covid-19 restrictions on assemblies were reasonable while 8.7 noted that they were “not sure”.

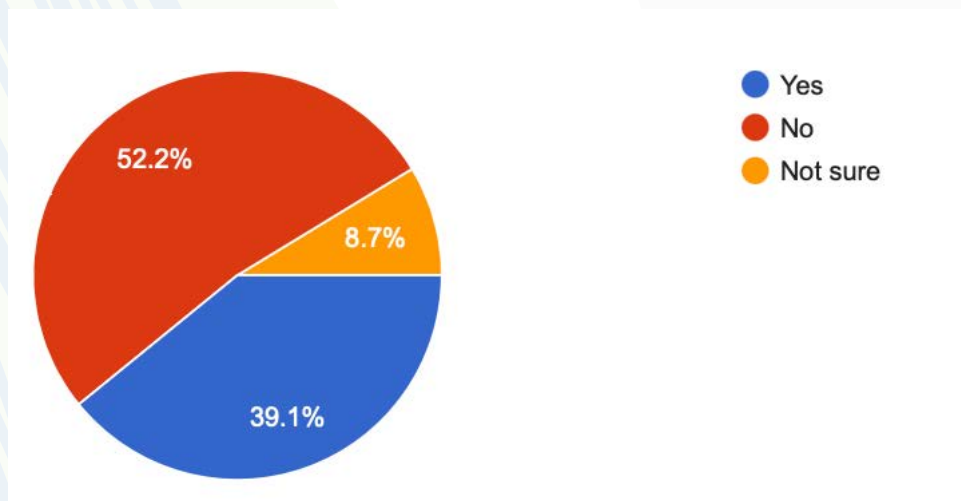
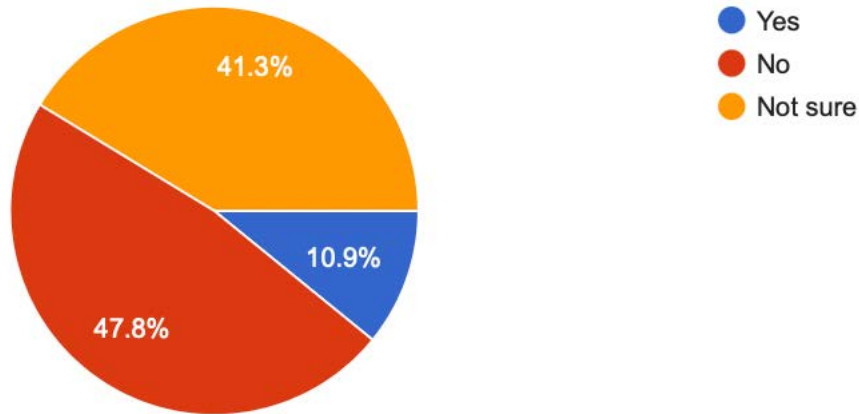


Figure 22: HRDs fear the government may maintain the Covid-19 restrictions beyond the pandemic

As a result of the Covid-19 pandemic, the government moved to enact a number of rules under the Public Health Act. These rules introduce severe restrictions on freedom of assembly and other freedoms. Respondents were asked if they believe the government will lift the restrictions on freedoms when the pandemic gets under control. 47.8 percent expressed concern that the government may try to maintain some of the restrictions to further narrow civic space. 41.3 percent expressed uncertainty on what the government will do. Only 10.9 percent believe the government will ease the restrictions when the pandemic is under control.



V. Freedom of Association

The freedom of association is increasingly narrowing down with the enactment and enforcement of the NGO Act, 2016, the Anti-Money Laundering Act, 2013 (as amended in 2017) and the desire by the State to control associations and funding resources. The right of civil society organizations to seek, receive and use resources is under pressure. On January 2, 2021, the government of Uganda suspended the operations of the Democratic Governance Facility (DGF), a Facility that provides financial and technical support to both State and nonstate actors in the program areas of strengthening democracy, human rights and rule of law. President Museveni stated that DGF funds were “used to finance activities and organisations designed to subvert [the] Government under the guise of improving governance.” The suspension of Uganda’s biggest funding facility for civil society threatens the existence and effective operations of associations.²³ This situation compounds an already poor funding base for civil society organisations in Uganda.

Over the past few years, NGOs and the NGO Bureau have been meeting under the quarterly dialogue meetings to discuss pertinent issues in the sector. During the meetings, civil society leaders interacted with the Minister of Internal Affairs. However, instead of the engagements helping to amicably resolve issues in the sector, the NGO Bureau is suspension NGO permits and halting of operations without a call to rectify any gaps and due process.

Internal weaknesses in the sector are also posing a challenge. Whereas the civil society sector is broad, including NGOs, CBOs, churches and other religious institutions et cetera, the lack of cohesion is affecting the ability of the sector to demand for an

enabling legal and operating environment. This has also affected the level of public trust and constituent building.

Figure 23: Do you think the current law makes it easy to register an NGO in Uganda?

In Uganda, the law that provides for the procedure of registering an NGO is the NGO Act, 2016. The law establishes a number of requirements for associations to meet to register with the National Bureau for NGOs. During the study, the respondents were asked to rate on each option on whether the law makes it easy to register an NGO in Uganda. The majority of the respondents (83 percent) noted that the law makes it easy “to some extent” while 40 percent selected “not at all” on grounds that the registration process is complex with several layers of processes. 10 percent noted that they were “not sure” while no respondent scored “yes, definitely”.

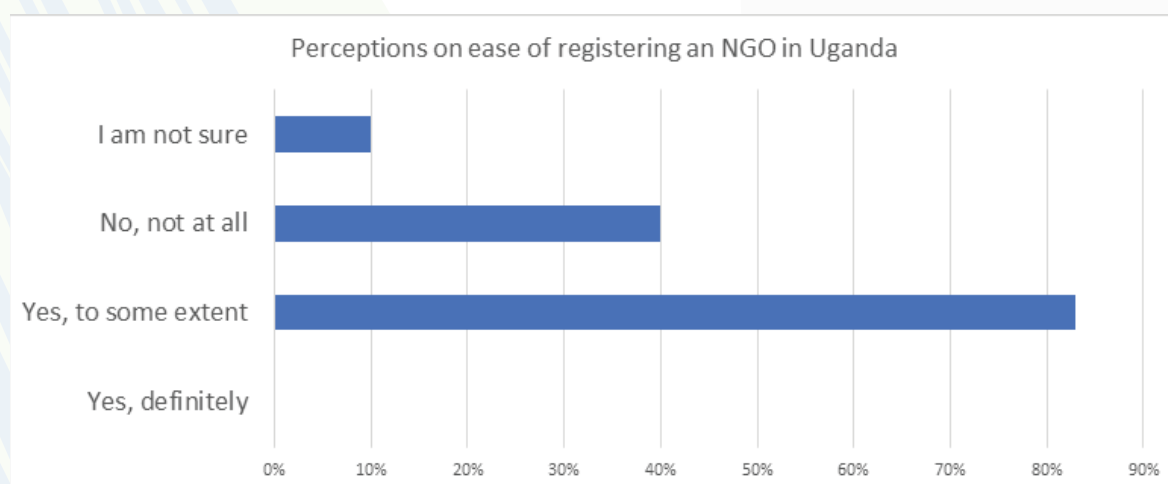


Figure 24: Letters of recommendation from government ministries and mandatory MOU requirement biggest impediments in NGO registration / renewal process

In a follow up question, respondents were asked to rate how the following legal requirements enable or obstruct NGO registration process with the National Bureau for NGOs. Respondents reported having the highest impediments with processing letters of recommendations from the line ministries and signing Memorandum of Understanding (MOU) with the local authorities.

Some of the challenges cited included limited awareness of the law among local government authorities and line ministries. As a result, officers at the line ministries or government agencies often consider issuance of the letters and signing of the MOUs as a discretionary function that is purely administrative yet it is a legal obligation that

is supposed to be honored unless the ministry has legally justifiable reasons to decline to issue the recommendation letter. For instance, unless the ministry has reason to believe that the organisation is seeking to engage in illegal or criminal activities, it is required under the law to grant the letter provided the promoters of the organisation have proved their identity, declared their interest, and propose activities that would fall under the ministry’s mandate.

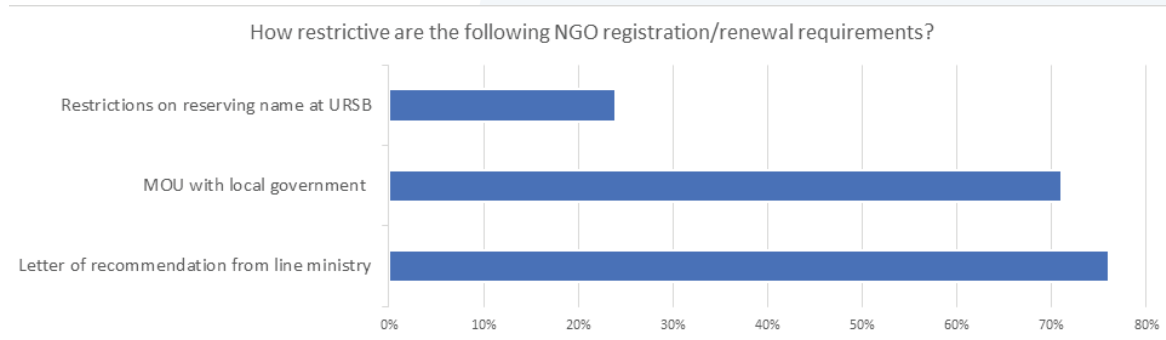


Figure 25: HRDs feel the current NGO legal operating environment is “very restrictive”

The core legal framework for NGOs in Uganda are the Companies Act 2012, the NGO Act 2016, the Anti-Money Laundering Act 2013 and the tax laws. During the assessment, respondents were asked to score on what they think about the state of the NGO legal environment in regard to the operating environment. The majority (79 percent) noted the legal framework is “very restrictive” on NGO operations while 67 percent noted that it was “restrictive”. Most of the respondents expressed concern with the numerous reporting obligations which expose them to legal issues for failing to meet a reporting obligation. NGOs in Uganda are required to report to the Uganda Registration Services Bureau, NGO Bureau, Financial Intelligence Authority, District NGO Monitoring Committee, District Technical Planning Committee, Uganda Revenue Authority, NSSF, among others.

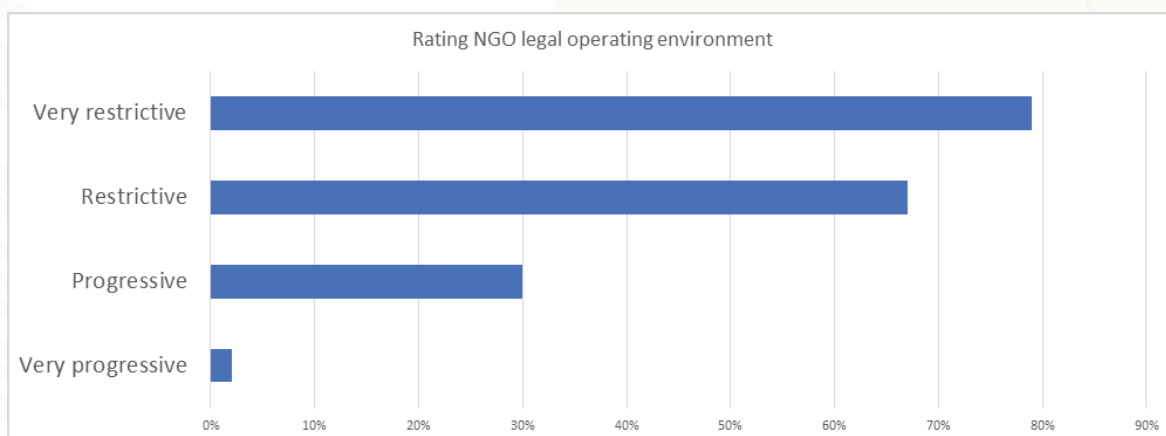


Figure 26: HRDs believe the criminal sanctions under the NGO Act, 2016 are “very restrictive”

The NGO Act, 2016 provides under section 40 for offences and penalties for engaging in any activity that is prohibited by the Act. Any person who contravenes the section commits an offence and is liable to a fine not exceeding Ugx. 1,440,000 or to imprisonment for a term not exceeding three years or both. During the study, the respondents were asked for an opinion about the impact of the provisions. 76 percent of the respondents noted that the criminal sanctions are “very restrictive” while 17 percent noted that the sanctions are “restrictive”. 3 percent noted that it was “fair”.

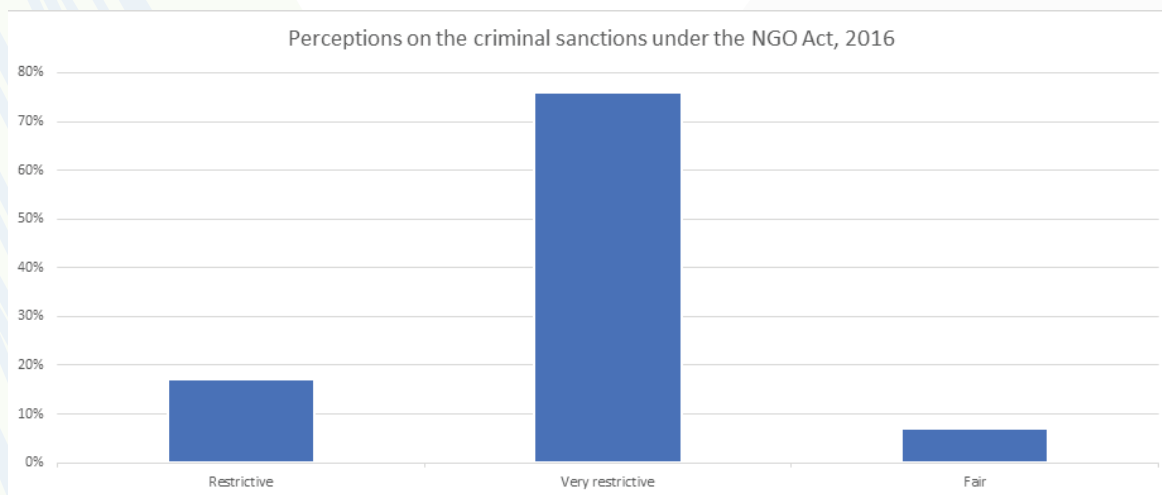


Figure 27: The permit for CBOs should cover the district, not sub-county

Under the NGO Act, 2016, it is provided that a Community Based Organisation (CBO) shall operate at sub-county level. This means that whereas the organisation is registered by the Chief Administrative Officer who has the mandate to monitor operations across the district, the operations of the CBO are restricted to one sub-county, unless they register again for other sub-counties. During the assessment exercise for this Index, the respondents were asked to score on whether the geographical restriction on CBOs has an impact on organizing at the district and sub-county levels. The majority noted that the provision is “very restrictive” as illustrated in the table below and proposed that the organisations should be granted district status on registration.

VI. Non-Discrimination and Inclusion

Under this indicator, the respondents were asked to assess the past three years and rate the following statements. The scores range from 1 to 10, where 1 signifies “the statement is false” and 10 signifies “the statement is accurate”.

Figure 28: LGBTIQ+ individuals are not able to exercise their right to freedom of association, assembly and expression on an equal basis with others

The respondents were asked to score on whether LGBTIQ+ individuals are able to exercise their right to freedom of association, assembly and expression on an equal basis with others. The respondents disagreed with the statement. LGBTIQ+ individuals face impediments in exercising the right of freedom of association, with many of them being forced to abandon the preferred organisation names, some are forced to operate in hiding to avoid attacks and being “outed”. During the Covid-19 pandemic, several LGBTQ shelters were raided and over 50 LGBTIQ+ individuals were outed.²⁴ In regard to freedom of assembly, LGBTIQ+ individuals are often blocked from convening annual pride parades and other gatherings yet other people freely gather in more numbers for their events.

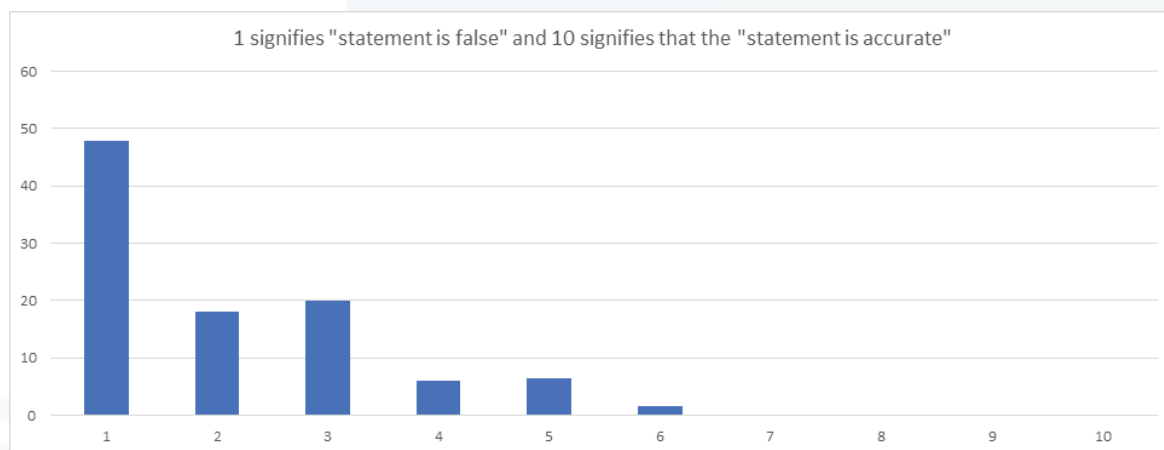


Figure 29: People with disabilities are able to freely exercise their right to freedom of association, assembly and expression on an equal basis with others

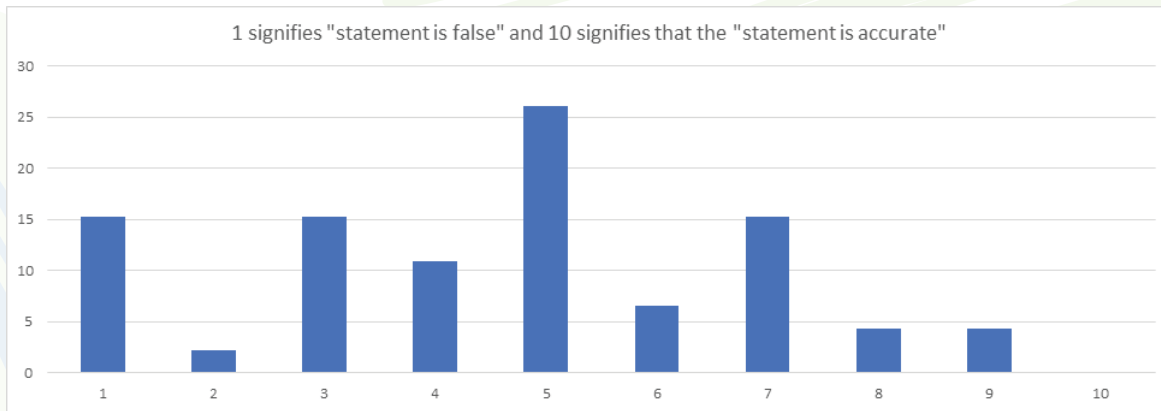


Figure 30: Information intended for the general public is reduced to accessible formats and technologies appropriate to different kinds of disabilities

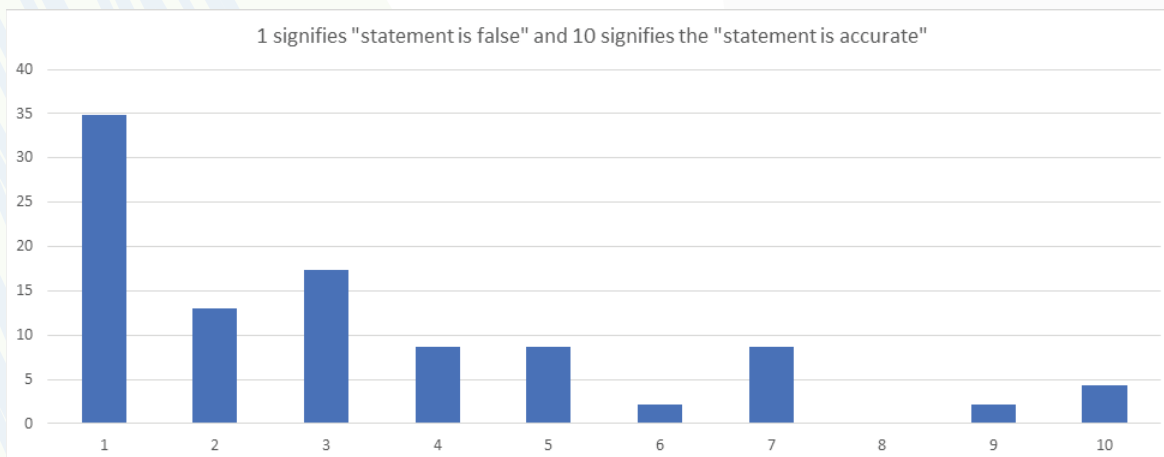


Figure 31: Sign language, braille and other accessible formats of communication are made available to people with disabilities in all official communications

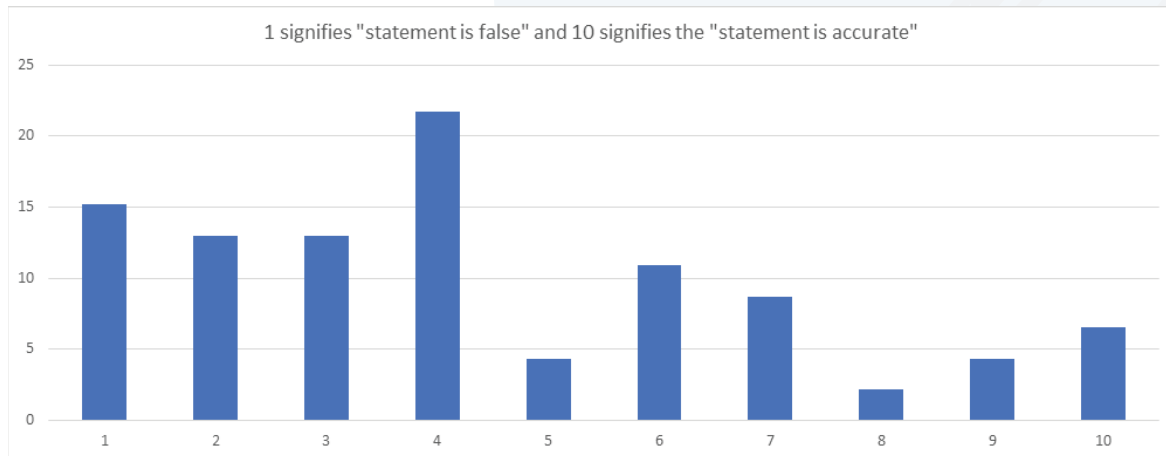


Figure 32: The State takes affirmative action in order to diminish or eliminate conditions that cause or perpetuate discrimination

VII. Rule of Law

Figure 33: Do you feel the police, courts and all agencies of the government follow the law while doing their work and taking decisions?

On the rule of law, over 73 percent of the respondents noted that they feel the police, courts and all agencies of the government follow the law "to a low level" while 26.1 percent noted that the agencies do not follow the law.

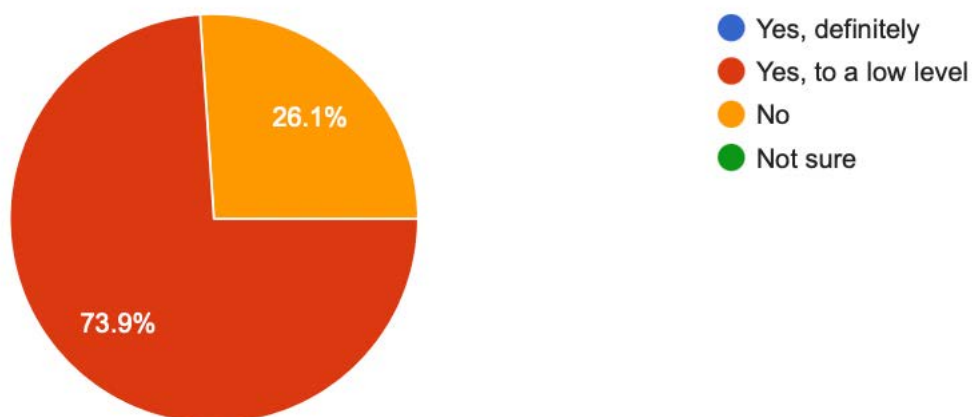


Figure 34: Perceptions on whether the police act in accordance with the law

Over 54 percent of the respondents noted that the police "rarely" act in accordance

with the law while 34 percent noted that they “often” do. 10.9 percent noted that they “never” do.

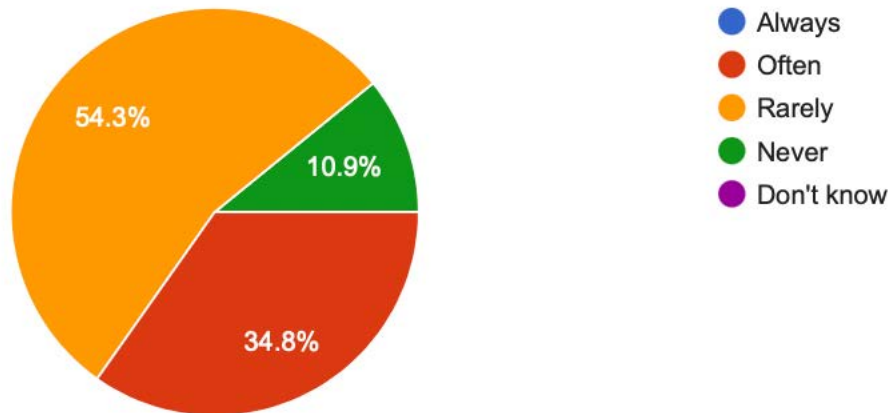


Figure 35: Perceptions on whether the rights of suspects are respected by the police, including ensuring that they are not detained beyond 48 hours

63 percent of the respondents noted that the police “rarely” follow the law on the rights of suspects while in detention while 26 percent selected “never”. 10.9 percent of the respondents expressed confidence that the police “often” follows the rights of suspects as provided under the 1995 Constitution.

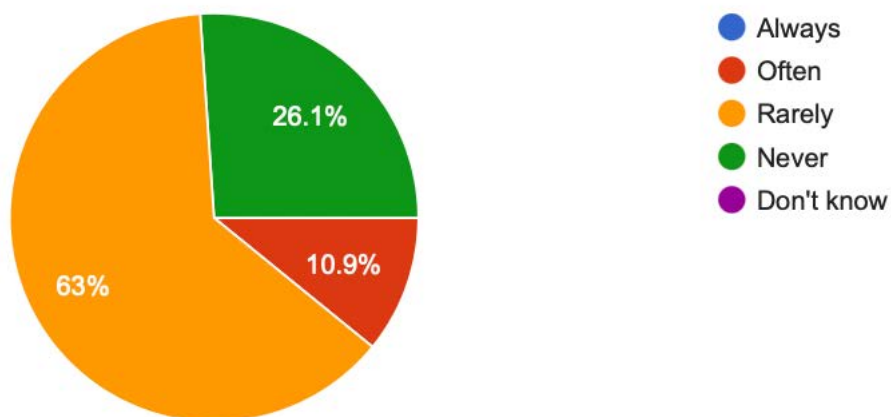


Figure 36: Perceptions on whether police officers who abuse the rights of suspects are held to account

On the question of accountability, over 60 percent of the respondents noted that police officers who abuse the rights of suspects are “rarely” held to account while 26 percent noted that they are “never” held to account. A number of the respondents expressed concern with failure to produce the officers in criminal courts for prosecution instead of the administrative disciplinary court. 2.2 percent selected “always”; 6.5 percent selected “often” while 4.3 percent selected “don’t know”.

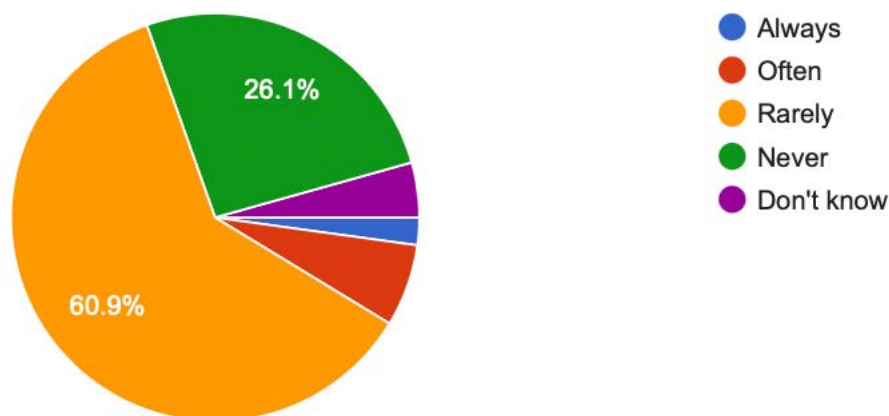


Figure 37: Perceptions on whether accused persons are guaranteed a fair and speedy trial

On this sub-indicator, over 69 percent noted that accused persons are “rarely” guaranteed a fair and speedy trial while 8.7 percent noted that the fair and speedy trials are “often” guaranteed. 21.7 percent of the respondents selected “never”.

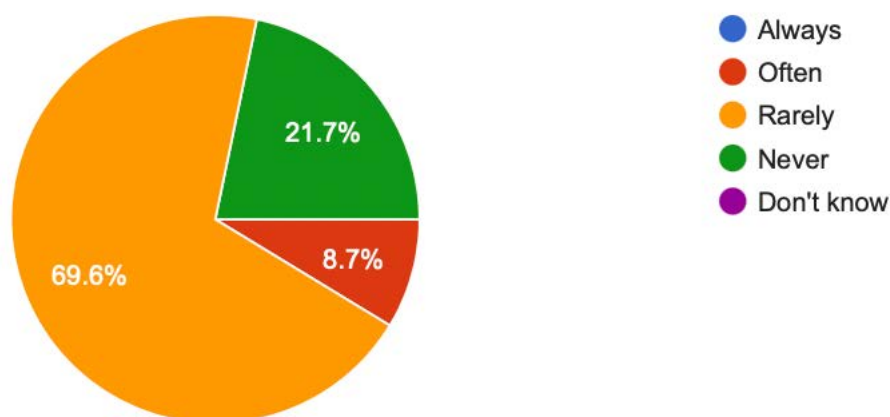


Figure 38: Perceptions on whether corruption in court influences decisions

On corruption in the courts of law, 50 percent of the respondents noted that bribery and other forms of corruption “often” influence court decisions while 37 percent said corruption “always” influences court decisions. 2.2 percent of the respondents selected I “don’t know”.

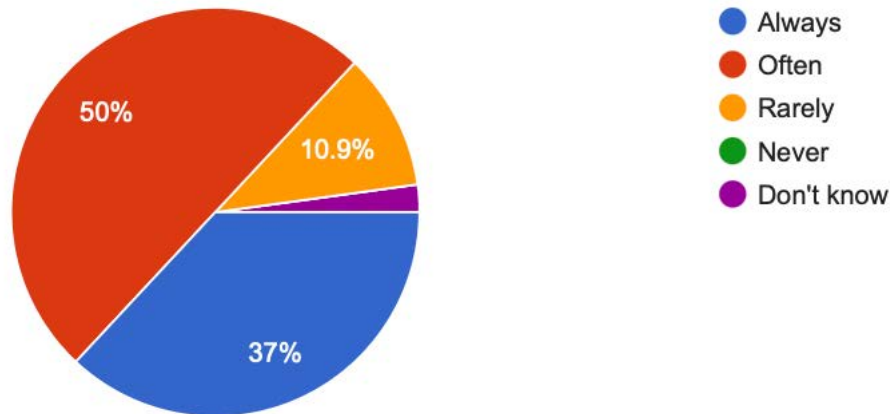
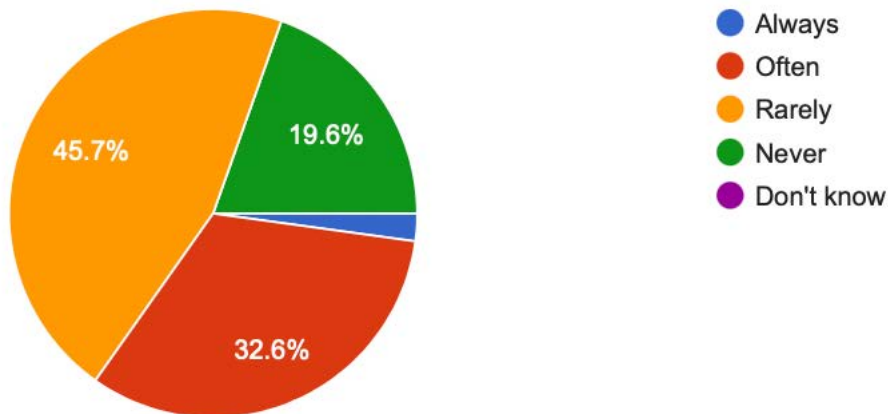


Figure 39: Perceptions on whether the police and courts treat accused persons as innocent until proven guilty

On whether accused persons are treated as innocent until proven guilty by the criminal justice system (police and the courts), 45 percent of the respondents noted selected “rarely”, 19 percent selected “never” while 32 percent selected “often”. 2.2 percent selected “always”. According to Penal Reform International’s *Global Prison Trends 2021*, by June 2020, the number of people in remand increased to 55 percent from 47 percent in December 2019.²⁵



Endnotes

- 1 Article 19
- 2 Article 19
- 3 Article 9
- 4 Article 41
- 5 See General Comment No. 34 of the Human Rights Committee on Article 19: Freedoms of opinion and expression, <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>
- 6 See communication No. 633/95, *Gauthier v. Canada*.
- 7 See communication No. 1334/2004, *Mavlonov and Sa'di v. Uzbekistan*.
- 8 See General Comment No. 34 of the Human Rights Committee on Article 19: Freedoms of opinion and expression, <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>
- 9 See Charles Onyango Obbo and Anor v Attorney General, <https://ulii.org/ug/judgment/supreme-court-uganda/2004/81>
- 10 See General Comment No. 34 of the Human Rights Committee on Article 19: Freedoms of opinion and expression, <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>
- 11 See article, <https://www.apc.org/en/news/un-recognises-freedom-expression-internet-human-right>
- 12 Chapter Four Uganda, *POMA: Uganda court annuls public order law*, <https://chapterfouruganda.org/articles/2020/03/29/poma-uganda-court-annuls-public-order-law>

- 13 UN General Principles, *Protecting civic space and the right to access resources*, <https://www.ohchr.org/Documents/Issues/FAssociation/GeneralPrinciplesProtectingCivicSpace.pdf>
- 14 See, <https://www.hrw.org/legacy/backgrounder/africa/uganda/UgandaNGOfinal-01.htm>
- 15 Toonen v. Australia, U.N. Human Rights Comm., Communication No. 488/1992, U.N. Doc. CCPR/C/50/D/488/1992 (1994), http://www.unher.org/refworld/docid/48298_b8d2.html
- 16 U.N. Working Group on Arbitrary Detention, No. 22/2006, Opinion (Aug. 31, 2006) (Cameroon), *reprinted in* U.N. Human Rights Council, *Opinions Adopted by the Working Group on Arbitrary Detention*, at 91, U.N. Doc. No. A/HRC/4/40/Add.1 (Feb. 2, 2007).
- 17 *Committee on Economic, Social and Cultural Rights, General Comment No. 14*, UN Doc. E/C.12/2000/4, 11 August 2000, at 18; General Comment No. 15, UN Doc. E/C.12/2002/11, 20 January 2003, at 13; and General Comment 20, UN Doc. E/C.12/GC/20, 10 June 2009, at 32.
- 18 Communication 245/2002, Zimbabwe Human Rights NGO Forum v. Zimbabwe, 21st Activity Report, EX.CL/322(x), Annexure III, at 1 169.

- 19 Human Rights Network for Journalists (HRNJ), *Press Freedom Index Report 2020*, <https://www.hrnjuganda.org/download/reports/Press-Freedom-Index-Report-2020.pdf>
- 20 Decision available at, <https://ulii.org/ug/judgment/constitutional-court-uganda/2008/34>
- 21 See, <https://www.refworld.org/pdfid/5200a77c4.pdf>
- 22 Decision available at, <https://chapterfouruganda.org/articles/2020/03/29/poma-uganda-court-annuls-public-order-law>
- 23 Freedom House, *Uganda: Suspension of Democratic Governance Facility highlights growing concerns*, <https://freedomhouse.org/article/uganda-suspension-democratic-governance-facility-highlights-growing-concerns>
- 24 Washington Blade, *Uganda police arrest 44 people at LGBTQ shelter*, https://www.washingtonblade.com/2021/06/02/uganda-police-arrest-44-people-at-lgbtq-shelter/?_cf_chl_managed_tk__=pmd_6gQqAbR20THaIDzsvh5xotHyldEwFvVQ0PVHWCdKBwA-1632425331-0-gqNtZGzNAzujcnBszRJ
- 25 Penal Reform International, *Global Prison Trends 2021*, <https://cdn.penalreform.org/wp-content/uploads/2021/05/Global-prison-trends-2021.pdf>



NATIONAL
COALITION OF
HUMAN
RIGHTS
DEFENDERS
UGANDA

UGANDA:

CIVIC SPACE INDEX, 2021



Plot 148 Ssemawata Road, Ntinda

P. O. Box 302 Ntinda
Kampala, Uganda



www.hrdcoalition.ug



info@hrdcoalition.ug



0800100250 (Toll Free)



National Coalition of
Human Rights Defenders



[NCHRD_UG](https://twitter.com/NCHRD_UG)