

# Violations of the Right to Freedom of Religion or Belief in Uganda

A briefing paper  
February 2022

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# **Violations of the Right to Freedom of Religion or Belief in Uganda**

*A Briefing Paper*

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**Table of Contents**

***EXECUTIVE SUMMARY AND RECOMMENDATIONS* ..... 2**

***BACKGROUND AND INTRODUCTION*..... 4**

***INTERNATIONAL HUMAN RIGHTS LEGAL FRAMEWORK*..... 6**

**Duty to respect, protect and fulfil human rights ..... 6**

**Uganda’s international human rights treaty obligations relevant to the right to freedom of religion or belief..... 6**

**Freedom of Religion or Belief ..... 7**

        Freedom to adopt, change or renounce a religion or belief ..... 9

        Freedom from discrimination on the grounds of one’s religion or belief and the right to equality before the law ..... 11

        The right to manifest one’s religion or belief ..... 13

        The right to freedom of religion or belief and religious minorities ..... 15

**Freedom of expression ..... 16**

**Blasphemy ..... 17**

**Principle of legality..... 17**

***THE RIGHT TO FREEDOM OF RELIGION OR BELIEF IN THE CONSTITUTION OF UGANDA* ..... 18**

***CHALLENGES TO FREEDOM OF RELIGION OR BELIEF IN UGANDA*..... 21**

**Criminalization of blasphemy ..... 21**

        Recommendations ..... 24

**Freedom of assembly and association and the right to freedom of religion or belief in Uganda ..... 24**

        Recommendations ..... 26

**Discrimination against certain religious minorities ..... 26**

        Recommendations ..... 29

## EXECUTIVE SUMMARY AND RECOMMENDATIONS

The right to freedom of religion or belief is guaranteed in a number of core international, including regional, human rights instruments and under customary international law. It includes a broad range of entitlements, such as the freedom to have or to adopt a religion or belief of one's choice, and the freedom to manifest one's religion or belief in worship, observance, practice and teaching, either individually or in community with others, in public or private. The right to freedom of religion or belief also covers the right to freedom of thought and personal convictions, including theistic, non-theistic or atheistic beliefs and the freedom not to disclose one's religion or belief. Moreover, under international human rights law, States must refrain from discriminating against individuals or groups of individuals because of their real or imputed religion or belief, and are obliged to take all necessary measures to prevent discrimination or violence by non-State actors.

Historically, religion has played a major role in Uganda's social and political development, from the coming of Christianity and Islam in the 1800s to the formation of political parties along religious lines when Uganda became independent.

Today, the country's Constitution, adopted in 1995, establishes Uganda as a secular State, and proclaims that the country shall not adopt a State religion.<sup>1</sup> Furthermore, the Constitution protects the right of individuals to practise any religion, and guarantees the right to belong to and participate in the practices of any religious body or organization, and to manifest such practice in a manner consistent with the Constitution. In addition, the Constitution prohibits discrimination on various grounds, including on the basis of one's religion.

In this publication, the International Commission of Jurists (ICJ) addresses and makes recommendations about violations of the right to freedom of religion or belief in Uganda arising from the State's failure to respect, protect and fulfil the right to freedom of religion or belief in the following contexts:

- (a) the criminalization of "blasphemy": Uganda's Penal Code Act effectively criminalizes "blasphemy" by proscribing the following: (i) the writing and utterance of words; and/or (ii) the making of gestures and/or sounds; and/or (iii) the use of objects with the "intention of wounding the religious feelings of another person." Such criminal proscription is thus contrary to international human rights law and standards, including provisions binding upon Uganda, including those guaranteeing the right of everyone to freedom of expression, since it may be used, among other things, to prevent or punish criticism of religious leaders;
- (b) the legitimate exercise of the right of peaceful assembly, the right to freedom of association with others and the right to manifest one's religion through registration of faith-based organizations and churches: there have been reports in the recent past of many churches and faith-based organizations being shut down by the authorities purportedly for failing to comply with the government's registration requirements for faith-based organizations. However, it is unclear what exactly is required of faith-based organizations in order for them to be fully compliant with the government's registration requirements. This is because Uganda currently does not have a clear system outlining the process of registration for faith-based organizations, including for those carrying out "spiritual activities" like churches. This lack of clarity about the law pertaining to the registration of churches and other faith-based organizations leaves them vulnerable to closure by government, which prevents those who attend such organizations from exercising their right to freedom of association and their right to manifest their religion. States have an obligation to ensure that existing registration practices allow people to manifest their religion or belief; and
- (c) discrimination against persons based on their real or imputed religion or belief: the Witchcraft Act of Uganda features several problematic provisions,<sup>2</sup> and it fails to

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<sup>1</sup> Article 7 Non-adoption of State religion "Uganda shall not adopt a State religion." Ugandan Constitution, 1995, available at <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/44038/90491/F206329993/UGA44038.pdf>

<sup>2</sup> Witchcraft Act cap 124

directly define what witchcraft is. As a result, many people who practise “traditional” religions are left vulnerable to discrimination and criminal sanctions.<sup>3</sup> Furthermore, an increase in attacks against “traditional” believers accused of witchcraft by persons belonging to other religions has been reported.

## **Recommendations**

- Repeal all “blasphemy laws”, particularly Sections 122 of the Ugandan Penal Code, which effectively criminalizes blasphemy, or amend them substantially so that they be consistent with international human rights law and standards, including on freedom of expression; freedom of thought, conscience or religion; and equality before the law and equal protection of the law without discrimination, as guaranteed under the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples’ Rights;
- Amend Sections 118-120 of the Penal Code Act to ensure that they are not vague and wide in scope and so that they be compatible with the Uganda’s obligations under international human rights law and fully guarantee the rights to freedom of religion or belief and freedom of expression;
- Implement the provisions of the “National NGO Policy” requiring the government to take measures to provide an appropriate, separate framework for promoting coordination of the “spiritual activities” of faith-based organizations in the country, and make clear the registration requirements for faith-based organizations;
- Ensure that the proposed faith-based organization policy be consistent with international human rights law and standards and ensure its prompt implementation;
- Bring Uganda’s laws and policy in line with international human rights law and standards by ensuring that registration procedures for faith-based organizations be clear and not complicated for ordinary church leaders to follow;
- Provide a clear legal and policy framework for the registration of churches with clear definitions and categories of faith-based organizations and requirements for registration. In particular, the State must ensure that, in accordance with appropriate national legislation and in conformity with international human rights law, the freedom for all persons and members of groups to establish and maintain religious, charitable or humanitarian institutions be fully respected and protected;
- Refrain from arbitrarily closing down churches and faith-based organizations in the absence of a clear framework affording them the possibility of complying with registration requirements;
- Repeal or amend the provisions of the Witchcraft Act with a view to ensuring its consistency with international human rights law and standards, including by providing clear and precise definitions of the conduct proscribed and sanctioned by law; and
- Refrain from implementing policies that unjustifiably discriminate against persons practising “traditional religions or beliefs”, including policies that impose a blanket ban on advertisement and media content associated with “traditional religions and beliefs”.

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<sup>3</sup> Data extracted from 2014 National Population and Housing Census refers to “traditional religions or beliefs” stating that “traditional indigenous beliefs are practiced in some rural areas and are sometimes blended with or practiced alongside Christianity or Islam”

## BACKGROUND AND INTRODUCTION

Currently, the total population of Uganda is estimated to be about 47.1 million,<sup>4</sup> with the majority of the population being Christian, according to the last national census in 2014.<sup>5</sup> Ugandan Christians comprise mainly Roman Catholics, who make up 39 per cent of the population, followed by Anglicans at 32 per cent, Pentecostal Christians at 11.1 per cent, Seventh-day Adventists at 1.7 per cent and Orthodox Christians at 0.1 per cent.<sup>6</sup> It is estimated that about 14 per cent of the population is Muslim (mainly Sunni).<sup>7</sup> A small percentage of the population practise "indigenous beliefs", while 1.4 per cent are Jews, Hindus, Baha'is and the remainder have no religious affiliation.<sup>8</sup> Generally, the various religious groups are evenly distributed throughout the country, with a few areas, in particular the West Nile region, with a high concentration of Muslims.

Religion has been a major part of Uganda's history since the introduction of Islam and Christianity in the 1800s.<sup>9</sup> When Uganda gained independence, religion played a significant role in the lives of Ugandans, with political parties being formed along religious lines.<sup>10</sup>

Yoweri Museveni has been the President of Uganda since 1986. Under his presidency, a new Constitution,<sup>11</sup> enshrining the right to freely practise and belong to any religion, was introduced and adopted in 1995. Among others, the 1995 Constitution guarantees: the right to "freedom of thought, conscience and belief";<sup>12</sup> the "freedom to practice any religion and manifest such practice";<sup>13</sup> and the right to "no[t] be discriminated against on the ground of [...] religion."<sup>14</sup>

The Constitution provides that Uganda shall not adopt a State religion.<sup>15</sup> Accordingly, Uganda is a secular State with a Constitution that protects the right of everyone to freedom of "thought conscience, and belief";<sup>16</sup> "freedom of speech and expression";<sup>17</sup> and "freedom to practice any religion".<sup>18</sup>

In particular, the Constitution provides that, "every person shall have the right to freedom of thought, conscience and belief which shall include academic freedom in institutions of learning";<sup>19</sup> "freedom to practice any religion and manifest such practice which shall include the right to belong to and participate in the practices of any religious body or organization in a manner consistent with the Constitution."<sup>20</sup> The Constitution enshrines the rights to

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<sup>4</sup> UNFPA, World Population Dashboard, Uganda, available at: <https://www.unfpa.org/data/world-population/UG>

<sup>5</sup> 2014 Uganda Census. Embassy of the Republic of Uganda, Religion and Belief, available at: <https://washington.mofa.go.ug/uganda/religion-beliefs>

<sup>6</sup> *Idem*

<sup>7</sup> *Idem*

<sup>8</sup> *Idem*

<sup>9</sup> Dan Mudoola, Religion And Politics In Uganda: The Case Of Busoga, 1900–1962, *African Affairs*, Volume 77, Issue 306, January 1978, Pages 22–35, See also <https://www.britannica.com/place/Uganda/Religion> and <https://etutoring.gayzahs.sc.ug/note/2563>

<sup>10</sup> The Uganda People's Congress (UPC) was led by Milton Obote and was largely a Protestant party; and the main opposition party, the Democratic Party (DP), was catholic in leaning. Louise Pirouet, "Religion in Uganda under Amin," *Journal of Religion in Africa* vol. 11, no.1 (1980), pp. 13-29

<sup>11</sup> Constitution of the Republic of Uganda, 1995, available at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/44038/90491/F206329993/UGA44038.pdf>

<sup>12</sup> Constitution, article 29 (1)(b)

<sup>13</sup> Constitution, article 29(1) (c)

<sup>14</sup> Constitution, article 21(2). Article 21 also provides that "(1) All persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law"

<sup>15</sup> Constitution, article 7

<sup>16</sup> Constitution, article 29 (1)(b)

<sup>17</sup> Constitution, article 29(1)(a)

<sup>18</sup> Constitution, article 29(1)(c)

<sup>19</sup> Constitution, article 29(1)(b)

<sup>20</sup> *Id.*, article 29 (1)(c)

freedom of assembly, freedom of association and freedom of movement.<sup>21</sup> The Constitution also protects the right to take part in cultural life; in particular it provides that, “[e]very person has a right as applicable, to belong to, enjoy, practise, profess, maintain and promote any culture, cultural institution, language, tradition, creed or religion in community with others”.<sup>22</sup>

In this briefing paper, the International Commission of Jurists (ICJ) addresses and makes recommendations about violations of the right to freedom of religion or belief in Uganda, which are of particular concern to organization, arising from the State’s failure to respect, protect and fulfil the right to freedom of religion or belief in the following contexts:

- (a) the criminalization of “blasphemy”: Uganda’s Penal Code Act effectively criminalizes “blasphemy” by proscribing the following: (i) the writing and utterance of words; and/or (ii) the making of gestures and/or sounds; and/or (iii) the use of objects with the “intention of wounding the religious feelings of another person.” Such criminal proscription is thus contrary to international human rights law and standards, including provisions binding upon Uganda, including those guaranteeing the right of everyone to freedom of expression, since it may be used, among other things, to prevent or punish criticism of religious leaders;
- (b) the legitimate exercise of the right of peaceful assembly, the right to freedom of association with others and the right to manifest one’s religion through registration of faith-based organizations and churches: there have been reports in the recent past of many churches and faith-based organizations being shut down by the authorities purportedly for failing to comply with the government’s registration requirements for faith-based organizations. However, it is unclear what exactly is required of faith-based organizations in order for them to be fully compliant with the government’s registration requirements. This is because Uganda currently does not have a clear system outlining the process of registration for faith-based organizations, including for those carrying out “spiritual activities” like churches. This lack of clarity about the law pertaining to the registration of churches and other faith-based organizations leaves them vulnerable to closure by government, which prevents those who attend such organizations from exercising their right to freedom of association and their right to manifest their religion. States have an obligation to ensure that existing registration practices allow people to manifest their religion or belief; and
- (c) discrimination against persons based on their real or imputed religion or belief: the Witchcraft Act of Uganda features several problematic provisions,<sup>23</sup> and it fails to directly define what witchcraft is. As a result, many people who practise “traditional” religions are left vulnerable to discrimination and criminal sanctions.<sup>24</sup> Furthermore, an increase in attacks against “traditional” believers accused of witchcraft by persons belonging to other religions has been reported.

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<sup>21</sup> Id., article 29(1)(d) “Every person shall have the right to – freedom to assemble and to demonstrate together with others peacefully and unarmed and to petition”; and 29(1) (e) “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 organizations”; and 29(2) “Every Ugandan shall have the right (a) to move freely throughout Uganda and to reside and settle in any part of Uganda; (b) to enter, leave and return to Uganda; (c) to a passport or other travel document.

<sup>22</sup> Constitution, article 37

<sup>23</sup> Witchcraft Act cap 124

<sup>24</sup> Data extracted from 2014 National Population and Housing Census refers to “traditional religions or beliefs” stating that “traditional indigenous beliefs are practiced in some rural areas and are sometimes blended with or practiced alongside Christianity or Islam”



## INTERNATIONAL HUMAN RIGHTS LEGAL FRAMEWORK

### Duty to respect, protect and fulfil human rights

With respect to all human rights obligations binding on States, whether because they arise under customary international law or under universal and/or regional human rights treaties, States have a duty to respect, protect and fulfil human rights. The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses perpetrated by non-State actors, and the obligation to fulfil human rights means that States must take positive action to facilitate their exercise and enjoyment.<sup>25</sup>

The fulfilment of the right to freedom of religion or belief requires the State to guarantee other human rights, such as the right to freedom of opinion and expression, the right to equality before the law, the prohibition of discrimination and numerous other human rights as listed subsequently.

### Uganda's international human rights treaty obligations relevant to the right to freedom of religion or belief

Uganda is party to several treaties that are binding on the country and guarantee the right to freedom of religion or belief and whose provisions, relevant for present purposes, are discussed in greater detail below.<sup>26</sup> The relevant international human rights treaties include the International Covenant on Civil and Political Rights (ICCPR), which Uganda ratified in 1995. The ICCPR provides the principal legal basis for Uganda's international human rights treaty obligations to ensure:

- (i) the right to freedom of thought, conscience and religion or belief (Article 18);
- (ii) the right to freedom of opinion and expression (Article 19);
- (iii) the right to equality before the law and the prohibition of discrimination on all grounds including religion (Articles 2(1) and 26);
- (iv) the right to redress in case of violation of rights recognized under the treaty (Article 3); and
- (v) the protection of religious minorities (Article 27).

Uganda is also bound by the Convention on the Rights of the Child (CRC), which it ratified in 1990, and which prohibits discrimination based on religion, and creates an obligation for

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<sup>25</sup> For more detail on these obligations see ICJ Primer <https://www.icj.org/wp-content/uploads/2020/10/Universal-Primer-FoE-religion-belief-Advocacy-Analysis-brief-2020-ENG.pdf>

<sup>26</sup> UN General Assembly, **International Covenant on Civil and Political Rights**, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <https://www.refworld.org/docid/3ae6b3aa0.html> [accessed 21 June 2021] (Article 18), ratified by Uganda in 1995; UN General Assembly, **Convention on the Elimination of All Forms of Discrimination Against Women**, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, available at: <https://www.refworld.org/docid/3ae6b3970.html> [accessed 21 June 2021] (Article 2, 3 and 5), ratified by Uganda in 1985; UN General Assembly, **International Covenant on Economic, Social and Cultural Rights**, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <https://www.refworld.org/docid/3ae6b36c0.html> [accessed 21 June 2021] (Article 2), ratified by Uganda in 1987; UN General Assembly, **Convention on the Rights of the Child**, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: <https://www.refworld.org/docid/3ae6b38f0.html> [accessed 21 June 2021] (Article 14 and 30), ratified by Uganda in 1990; UN General Assembly, **International Convention on the Elimination of All Forms of Racial Discrimination**, 21 December 1965, United Nations, Treaty Series, vol. 660, p. 195, available at: <https://www.refworld.org/docid/3ae6b3940.html> [accessed 21 June 2021] (Article 5) ratified by Uganda in 1985; Organization of African Unity (OAU), **African Charter on Human and Peoples' Rights ("Banjul Charter")**, 27 June 1981, CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), available at: <https://www.refworld.org/docid/3ae6b3630.html> [accessed 21 June 2021] (Article 8), ratified by Uganda 1986; Organization of African Unity (OAU), **African Charter on the Rights and Welfare of the Child**, 11 July 1990, CAB/LEG/24.9/49 (1990), available at: <https://www.refworld.org/docid/3ae6b38c18.html> [accessed 21 June 2021] (Article 9), ratified by Uganda in 1994

States to respect the right of the child to freedom of thought, conscience and religion (Articles 2 and 14).

Furthermore, Uganda is also bound by the African Charter on Human and Peoples' Rights (Banjul Charter), which it ratified in 1986,<sup>27</sup> and which guarantees the right to freedom of conscience and the profession and free practise of religion (Article 8);<sup>28</sup> as well as the African Charter on the Rights and Welfare of the Child (ACRWC), which Uganda ratified in 1994,<sup>29</sup> and which guarantees the right of every child to freedom of thought, conscience and religion (Articles 3 and 9), and provides for the right of children to enjoy rights and freedoms guaranteed by the Banjul Charter without discrimination based on religion.

### **Freedom of Religion or Belief**

The right to freedom of thought, conscience and religion enshrined in Article 18(1) of the ICCPR includes both the right to hold beliefs and the right to manifest them individually or in community with others and in private or public through worship, observance, practice and teaching. Freedom to profess a religion guarantees the right of individuals holding diverse religious interpretations, beliefs or opinions from accepted, traditional religious orthodoxies, and protects their right to hold and manifest their religious beliefs, subject only to the limitations enshrined in Article 18(3).

#### *Article 18 - ICCPR*

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

In addition to Article 18 of the ICCPR, the right to freedom of religion or belief is guaranteed in other international human rights treaties<sup>30</sup> and declaratory standards,<sup>31</sup> including the UN

<sup>27</sup> African Commission on Human and Peoples' rights, State Parties to the African Charter. Available at: <https://www.achpr.org/statepartiestotheafricancharter>

<sup>28</sup> Organisation of African Unity (OAU), African Charter on Human and Peoples' Rights (Banjul charter), 27 June 1981

<sup>29</sup> African Union, List of Countries which have signed, ratified/acceded to the African Charter on the Rights and Welfare of the Child, available at <https://au.int/sites/default/files/treaties/36804-sl-AFRICAN%20CHARTER%20ON%20THE%20RIGHTS%20AND%20WELFARE%20OF%20THE%20CHILD.pdf>

<sup>30</sup> See, e.g., United Nations Educational, Scientific and Cultural Organization (UNESCO), Convention for the Safeguarding of the Intangible Cultural Heritage, 2003, Paris, UN Doc. MISC/2003/CLT/CH/14, Article 2 (C). See also Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3; and UN General Assembly, Convention on the Elimination of All Forms of Discrimination against Women, 18 December 1979, A/RES/34/180

<sup>31</sup> See, e.g., UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, UN GA resolution 217 A (III), Article 18; UN General Assembly, Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, 25 November 1981, UN Doc. A/Res/36/55; UN General Assembly, Combating Intolerance, Negative Stereotyping, Stigmatization, Discrimination, Incitement to Violence and Violence Against Persons, Based on Religion or Belief, adopted by the

General Assembly's Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief of 1981 ('1981 Declaration'). Moreover, the right to freedom of religion or belief has been elaborated on in great depth, among others, by the UN Human Rights Committee,<sup>32</sup> the Special Rapporteur on freedom of religion or belief,<sup>33</sup> the Special Rapporteur on the rights of indigenous peoples<sup>34</sup> and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance<sup>35</sup> in their reports.

The Human Rights Committee has stated that the terms "belief" and "religion" are to be broadly construed and include theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief.<sup>36</sup> Furthermore, it has underlined that Article 18 of the ICCPR is not limited in its application to traditional religions or to religions and beliefs "with institutional characteristics or practices analogous to those of traditional religions", and has expressed concern about tendencies to discriminate against any religion or belief or religious minorities that may be the subject of hostility on the part of a predominant religious community.<sup>37</sup>

The right to freedom of religion or belief is a wide-ranging right encompassing a number of distinct yet interrelated entitlements. International law, including Article 18 of the ICCPR, enshrines and guarantees the right to freedom of thought, conscience, religion or belief broadly, encompassing the right to freedom of thought and personal convictions in all matters, and protecting the profession and practice of different kinds of beliefs, whether theistic, non-theistic or atheistic, and the freedom not to disclose one's religion or belief.<sup>38</sup> International law also guarantees and protects the right not to have a religious confession.

The African Charter on Human and Peoples' Rights ('Banjul Charter') also guarantees the right to freedom of conscience and the profession and practice of religion under Article 8.<sup>39</sup>

***Article 8 - Banjul Charter***

Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.

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General Assembly Resolution 72/176 of 29 January 2018, UN Doc. A/RES/72/176; UN General Assembly, Freedom of Religion or Belief, adopted by the General Assembly Resolution 72/177 of 19 December 2017, UN Doc. A/RES/72/177; UN General Assembly, Freedom of Religion or Belief, adopted by the General Assembly Resolution 71/196 of 24 December 2016, UN Doc. A/RES/71/196; UN General Assembly, Combating Intolerance, Negative Stereotyping, Stigmatization, Discrimination, Incitement to Violence and Violence Against Persons, Based on Religion or Belief, adopted by the General Assembly Resolution 71/195 of 23 January 2017, UN Doc. A/RES/71/195; UN General Assembly, Effective Promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by the General Assembly Resolution 70/166 of 22 February 2016, UN Doc. A/RES/70/166; UN General Assembly, Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, adopted by the General Assembly Resolution 66/168 of 11 April 2012, UN Doc. A/RES/66/168

<sup>32</sup> The UN Human Rights Committee is the body of 18 independent human rights experts established under the ICCPR. The Committee monitors State parties' implementation of the ICCPR and its Second Optional Protocol. The General Comments of the Human Rights Committee provide authoritative guidance on interpretation of the ICCPR. See *Republic of Guinea v Democratic Republic of the Congo*, International Court of Justice (2010), paras 66-68

<sup>33</sup> See, <https://www.ohchr.org/EN/Issues/FreedomReligion/Pages/FreedomReligionIndex.aspx>

<sup>34</sup> See, <https://www.ohchr.org/EN/Issues/IPeoples/SRIndigenousPeoples/Pages/SRIPeoplesIndex.aspx>

<sup>35</sup> See, <https://www.ohchr.org/EN/Issues/Racism/SRRacism/Pages/IndexSRRacism.aspx>

<sup>36</sup> UN Human Rights Committee, General Comment No. 22: The Right to Freedom of Thought, Conscience and Religion (Article 18), 27 September 1993, UN Doc. CCPR/C/21/Rev.1/Add.4, para. 2

<sup>37</sup> *Id.*, para. 2.

<sup>38</sup> *Id.*, paras 1 – 2

<sup>39</sup> The African Commission has provided guidance on actions that would be in violation of the rights under Article 8 of the Banjul Charter. Such actions include, for example, States who forcibly subject persons to Sharia law, expel and arbitrarily arrest, detain, or harass persons based on their religion or belief, and States who indiscriminately ban churches; these actions violate the provisions of the Banjul Charter according to the African Commission. African Commission on Human and Peoples' Rights, Comm. No. 48/90, 50/91, 52/91, 89/93 (1999), para. 83

Article 8 of the Banjul Charter, unlike Article 18 of the ICCPR, guarantees the right to freedom of religion or belief without express reference to limitations. However, the African Commission on Human and Peoples' Rights (the African Commission) has opined that there are circumstances where States may legitimately impose limitations on the exercise of the right to freedom of religion or belief. Those circumstances are discussed in greater detail below.

*African Commission on Human and Peoples' Rights v. Kenya*

In the case of the *African Commission on Human and Peoples' Rights v. Kenya*,<sup>40</sup> addressing the scope of and interpreting the right to freedom of religion under Article 8 of the Banjul Charter, the African Court on Human and Peoples' Rights held that:

*"The right to freedom of worship offers protection to all forms of beliefs regardless of denominations: theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief."*

The right to freedom of thought, conscience, religion, or belief does not exist in a vacuum, but along a continuum with other rights. These include the right to be free from discrimination on the ground of religion or belief; the right to adopt, change or renounce a religion or belief; the right to manifest a religion or belief; and the right to freedom of expression.

The ICCPR and the Banjul Charter, for example, provide that everyone has the right to enjoy the rights recognized in these instruments without discrimination based on religion.<sup>41</sup>

*Freedom to adopt, change or renounce a religion or belief*

According to international human rights law and standards, the right to freedom of religion or belief guarantees and includes the right to adopt a religion of one's choice, as well as the right to change religion, and the right to retain a religion. These entitlements are core elements of the right to freedom of thought, conscience, religion or belief, and they have an absolute character and are not subject to any limitation whatsoever. This reflects the nature of the right to freedom of thought, conscience, religion or belief guaranteed under international law. Indeed, to do otherwise would constitute a violation of the right not to "be subject to coercion which would impair [one's] freedom to have or to adopt a religion or belief of [one's] choice", guaranteed, *inter alia*, by Article 18(2) of the ICCPR.<sup>42</sup>

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<sup>40</sup> *African Commission on Human and Peoples' Rights v. Republic of Kenya*, ACTHPR, Application No. 006/2012 (2017), paras 6-9; 157 and 163

<sup>41</sup> Banjul Charter, Article 2 "Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, color, sex, language, **religion**, political or any other opinion, national and social origin, fortune, birth or other status.". ICCPR, Article 2 "Each State Party to the present Convention undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the present Covenant, without distinction of any kind, such as race, colour, sex, language, **religion**, political or other opinion, national or social origin, property, birth or other status." In the case of *Amnesty International and Others v. Sudan* (see also below), the African Commission held that freedom of religion should be read in light of Article 2 of the Banjul Charter, *Amnesty International and Others v. Sudan*, para 72.

<sup>42</sup> For more on this see <https://www.icj.org/wp-content/uploads/2020/10/Universal-Primer-FoE-religion-belief-Advocacy-Analysis-brief-2020-ENG.pdf>

Amnesty International and Others v. Sudan

In the case of *Amnesty International and Others v. Sudan*,<sup>43</sup> where the African Commission dealt with alleged human rights violations in Southern Sudan, including the suppression of Sudanese Christians and those who subscribed to traditional beliefs, through arbitrary arrests, blocking their access to aid and relief food, and harassment of the religious leaders, the African Commission found that Article 8 of the Banjul Charter had been violated. In particular, the Commission considered that Article 8 guarantees the right to freedom of conscience, as well as the profession and the practice of religion, and that this provision had to be considered together with Article 2 of the Banjul Charter, which guarantees the enjoyment of all rights provided for by the Charter without distinction based on any ground. The Commission held that: "While fully respecting the religious freedom of Muslims in Sudan, the Commission cannot countenance the application of law in such a way as to cause discrimination and distress to others."<sup>44</sup>

The African Commission has made it clear that coercion impairs the right to freedom of religion and belief guaranteed under Article 8 of the Banjul Charter. In *Amnesty International and Others v. Sudan*, interpreting Article 8 in relation to Article 2 of the Banjul Charter, the African Commission considered the application of Sharia Law to non-Muslims and held:

*"There is no controversy as to Shari'a being based upon the interpretation of the Muslim religion. When Sudanese tribunals apply Shari'a, they must do so in accordance with the other obligations undertaken by the State of Sudan. Trials must always accord with international fair-trial standards. Also, it is fundamentally unjust that religious laws should be applied against non-adherents of the religion. Tribunals that apply only Shari'a are thus not competent to judge non-Muslims, and everyone should have the right to be tried by a secular court if they wish."*<sup>45</sup>

The Commission further found that the State had not responded convincingly to accusations of harassment of non-Muslims and the selective distribution of aid on the ground of religion.<sup>46</sup> In light of this the Commission therefore declared a violation of Article 8 and 2 of the Banjul Charter.<sup>47</sup>

Domestically, the Ugandan courts have also confirmed that coercion impairs the freedom to have or to adopt a religion or belief of one's choice.

Butime Tom v. Muhumuza David

In the case of *Butime Tom v. Muhumuza David*,<sup>48</sup> the Court of Appeal had to decide whether a non-Christian, non-Jew or non-Muslim could make an oath or swear affidavits. The appellant in this case had refused to swear by the Bible or the Quran before the High Court, and had chosen to affirm, a right guaranteed under section 8 of the Oaths Act that allows for an affirmation in lieu of taking an oath.<sup>49</sup> However, the High Court judge held that his evidence was invalid. This led to the appellant claiming before the Court of Appeal that the High Court judge's ruling had violated his freedom of religion, since he belonged to the religious group known as the "Faith of Unity", which does not subscribe to the Bible or Quran, and requiring him to swear by either would be against his religious beliefs. The Court of Appeal in reaching its decision highlighted that: "taking an oath or affirmation is an act of manifestation and practice of one's beliefs and religion and as a right is constitutionally protected".

The Court of Appeal further held that, "Given the non-restrictive language, spirit and intent of

<sup>43</sup> *Amnesty International and Others v. Sudan*, African Commission on Human and Peoples' Rights, Comm. No. 48/90, 50/91, 52/91, 89/93 (1999)

<sup>44</sup> *Amnesty International and Others v. Sudan*, para. 72

<sup>45</sup> *Amnesty International and Others v. Sudan*, para. 73

<sup>46</sup> *Amnesty International and Others v. Sudan*, paras 74 and 75

<sup>47</sup> *Amnesty International and Others v. Sudan*, para. 76

<sup>48</sup> *Butime Tom v Muhumuza David & Anor* (Election Petition Appeal 11 of 2011) [2012] UGCA 12 (21 May 2012); [2012] UGCA 12, available at: <https://ulii.org/ug/judgment/court-appeal-uganda/2012/12>

<sup>49</sup> Uganda Oaths Act of 1963, Chapter 19, section 8



Article 29(1)(b) and (c) of the Constitution, Section 5(1)(a) of the Oaths Act must be interpreted in such a way that the holy books enumerated therein are not exhaustive, so that, depending on one's faith, another appropriate holy book or article can be used for making an oath or affirmation as one's religion may require.<sup>50</sup> This decision made it clear that compelling individuals to make oaths using holy books that they do not consider sacred would violate their Constitutional right freedom of conscience, thought and religion enshrined in Article 29 of the Constitution of Uganda.

Finally, while the freedom to manifest one's religion in principle comprises the right to attempt to convince and convert other people, including through teaching, the right to freedom of thought, conscience, religion or belief does not protect "improper proselytism", such as the offering of material or social advantage or the application of improper pressure with a view to gaining new adherents.<sup>51</sup>

*Freedom from discrimination on the grounds of one's religion or belief and the right to equality before the law*

One of the bedrock principles of international human rights law is that States must not engage in prohibited discrimination, such as on the basis of religion or national origin. The non-discrimination principle is one of the pillars of international law, being enshrined in, among others, the UN Charter and the Universal Declaration of Human Rights. The non-discrimination principle,<sup>52</sup> the right to equality before the law and equal protection of the law without any discrimination,<sup>53</sup> together, constitute fundamental principles of human rights protection.<sup>54</sup>

The non-discrimination principle applies and is integral to all human rights, whether civil and political or economic, social and cultural. Thus, it applies to the right to freedom of thought, conscience, religion or belief. Furthermore, as the Human Rights Committee has noted, even if the ICCPR allows States to take measures derogating from certain obligations under the Covenant in times of public emergency,<sup>55</sup> such "measures should not involve discrimination solely on the ground of [...] religion [...] Furthermore, article 20, paragraph 2 [of the Covenant], obligates States parties to prohibit, by law, any advocacy of [...] religious hatred which constitutes incitement to discrimination."<sup>56</sup> Other international instruments, including the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC), by which Uganda is bound as a State party to these treaties, and the 1981 Declaration provide similar protections against discrimination on the grounds of religion or belief.<sup>57</sup>

<sup>50</sup> *Butime Tom v Muhumuza David & Anor* [2012] UGCA 12

<sup>51</sup> See, for example, *Larissis et al v. Greece*, Applications nos. 140/1996/759/958960, judgment, European Court of Human Rights, 24 February 1998

<sup>52</sup> The UN Human Rights Committee has stated that the term "discrimination" as used in the Covenant, including in Article 26, should be understood to imply "any distinction, exclusion, restriction or preference which is based on any ground...which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms." UN Human Rights Committee, General Comment No. 18: *Non-discrimination*, 10 November 1989, available at: <http://www.refworld.org/docid/453883fa8.html>

<sup>53</sup> Article 26 of the ICCPR guarantees equal protection of the law: "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, **religion**, political or other opinion, national or social origin, property, birth or other status." (**emphasis added**)

<sup>54</sup> See, e.g., Human Rights Committee, General Comment No. 18: *Non-discrimination*, 10 November 1989, para. 1

<sup>55</sup> Under Article 4(1)

<sup>56</sup> Human Rights Committee, General Comment No. 18: *Non-discrimination*, 10 November 1989, para.2. Article 20(2) of the ICCPR reads as follows: "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law."

<sup>57</sup> E.g., ICESCR Article 2(2): "The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind such as [...] religion"; CRC, Article 30: "In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be

International human rights law also guarantees the right of women to freedom of religion or belief, including the right not to “to be subject to coercion which would impair [their] freedom to have or to adopt a religion or belief of [their] choice”.<sup>58</sup> Provisions of international human rights instruments that guarantee the right to freedom of thought, conscience, religion or belief, including Article 18 of the ICCPR, do not specifically or expressly mention the equality of women with men in the practice of religion or belief. Similarly, international human rights provisions guaranteeing and protecting women’s equality, including, chiefly, those enshrined in the CEDAW, do not expressly mention religion or belief. However, every major international human rights instrument affirms the non-discrimination principle, the right to equality before the law and equal protection of the law without discrimination, and contains provisions that prohibit discrimination on the basis of sex or religion. These include, for example, Article 2(1) and 3 of the ICCPR and Article 2(2) and 3 of ICESCR. Non-discrimination both on grounds of sex and religion or belief, therefore, must necessarily be read into human rights provisions related to the right of freedom of thought, conscience, religion or belief.

States, therefore, have the duty to refrain from discriminating against individuals or groups of individuals because of their real or imputed religion or belief, as well as the obligation to take necessary measures to prevent discrimination on such grounds by non-State actors. In this context, it is important to recall that multi-level, intersecting and compounding forms of discrimination, including in respect of age, gender, socioeconomic status, racial or ethnic background, national origin, citizenship, migration status, language, health status, particularly HIV/AIDS and disability, as well as poverty and sexual orientation or gender identity or expression, are all factors that may exacerbate or otherwise influence the nature of discrimination on the grounds of one’s real or imputed religion or belief.

In addition, under international human rights law, everyone has the right to a remedy for human rights violations, such as being discriminated against on the grounds of religion or belief. In this context, States have duties to act to prevent, prohibit, eradicate and remedy prohibited discrimination on the grounds of religion or belief.

### *Discrimination on the grounds of sexual orientation and gender identity in Uganda*

Increasingly, the human rights of sexual and gender minorities are under serious threat in Uganda.<sup>59</sup> In this context, many people in the country have advocated for harsh laws that criminalize consensual same-sex sexual relations justifying their advocacy on their religious beliefs.<sup>60</sup> International human rights law, however, including treaty provisions binding on

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denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language;” and the 1981 Declaration of the General Assembly, Article 2(1): “No one shall be subject to discrimination by any State, institution, group of persons, or person on the grounds of religion or other belief.”

<sup>58</sup> Article 18(2), ICCPR

<sup>59</sup> Young Park and Onen Cylus, Stigmatisation and Criminalisation of LGBT persons in Uganda during the COVID-19 pandemic, *Opinio Juris*, 30 June 2021. Available at: <http://opiniojuris.org/2021/06/30/stigmatization-and-criminalization-of-lgbt-persons-in-uganda-during-the-covid-19-pandemic/>

<sup>60</sup> Jason Burke and Samuel Okiror, Parliament seek to resubmit bill to introduce capital sentence for gay sex, October 2019. Available at: <https://www.theguardian.com/world/2019/oct/15/ugandan-mps-press-for-death-penalty-for-homosexual-acts>. See also Gyaviira Kisitu, Religion and homosexuality criminalisation in Uganda: The contribution of the American anti-homosexual evangelicals towards 2014 anti-homosexuality law, September 2018, available at: <https://ukzn-dspace.ukzn.ac.za/handle/10413/7263/browse?type=author&value=Kisitu%2C+Gyaviira>; Drazen Jorgic, Phillipa Croome, New law drives Uganda’s embattled gays deeper into shadows, 9 March 2014, <https://www.reuters.com/article/us-uganda-gays-idUSBREA2806420140309>; *Sexual Minorities Uganda v. Scott Lively*, No. 17-1593. Available at: [https://ccrjustice.org/sites/default/files/attach/2018/08/SMUG%20Appeal%20Order%20August%2010%202018\\_0.pdf](https://ccrjustice.org/sites/default/files/attach/2018/08/SMUG%20Appeal%20Order%20August%2010%202018_0.pdf); Mariah Blake, Meet the American Pastor behind Uganda’s Anti-gay crackdown, March 2014, available at: <https://www.motherjones.com/politics/2014/03/scott-lively-anti-gay-law-uganda/>; see also Brandon Ambrosino, The story behind how American Evangelicals exported homophobia to Uganda, May 2014, available at: <https://www.vox.com/2014/5/19/5724166/the-story-behind-how-american-evangelicals-imported-homophobia-to>

Uganda, guarantees the right to be free from prohibited discrimination to every human being, including, therefore, lesbian, gay, bisexual and transgender (LGBT) individuals. Moreover, exercising one's right to freedom of thought, conscience, religion or belief, as a right guaranteed by international human rights law, cannot be used as grounds to justify prohibited discrimination against LGBT individuals. In this context, it is worth noting that the UN Human Rights Committee has held that "sex" in Articles 2(2) and 26 of the ICCPR includes sexual orientation,<sup>61</sup> while the Committee on Economic, Social and Cultural Rights has also indicated that discrimination on the grounds of sexual orientation is prohibited by Articles 2(2) and 3 of the ICESCR.<sup>62</sup> Both the Human Rights Committee and the Committee on Economic, Social and Cultural Rights have also expressly addressed discrimination on the basis of gender identity.<sup>63</sup>

*The right to manifest one's religion or belief*

The ICCPR guarantees the right to manifest one's religion or belief as a fundamental aspect of the right to freedom of religion or belief. Article 18(1) of the ICCPR affirms that the right to freedom of religion or belief includes "freedom, either individually or in community with others and in public or private, to manifest [one's] religion or belief in worship, observance, practice and teaching." Article 27 of the ICCPR guarantees the right of persons belonging to religious minorities to profess and practise their own religion in community with the other members of their group.

*African Commission on Human and Peoples' Rights v. Kenya*

In the case of *African Commission on Human and Peoples' Rights v. Kenya*,<sup>64</sup> the respondent State sought to evict the Ogiek Community from the Mau Forest, their ancestral land. The State argued that the basis for its interference with the Ogieks' right to freely practise their religion was based on their religious practice being "a threat to law and order."<sup>65</sup>

The Ogieks contended that they "practiced a monotheistic religion closely tied to their environment and that their beliefs and spiritual practices are protected by Article 8 of the [Banjul] Charter and constitute a religion under international law".

On the scope and interpretation of the right to freedom of religion in Banjul Charter and, in particular addressing the right to religious worship, the African Court on Human and Peoples' Rights held that:

*"The right to manifest and practise religion includes the right to worship, engage in rituals, observe days of rest, and wear religious garb, allow individuals or groups to worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes, as well as to celebrate ceremonies in accordance with the precepts of one's religion or belief."*<sup>66</sup>

Moreover, the Court found that Article 8 "requires states to fully guarantee freedom of conscience, the profession and free practice of religion."<sup>67</sup> Furthermore, it held that "the right to freedom of worship offers protection to all forms of beliefs regardless of denominations: theistic, non-theistic beliefs, as well as the right not to profess any religion or belief."<sup>68</sup>

The Court further noted that "in the context of traditional societies, where formal religious

<sup>61</sup> *Toonen v. Australia* (488/1992) CCPR/C/50/D/488/1992, 1-3 IHRR 97 (1994), para 8.7

<sup>62</sup> See CESCR, General Comment No. 14 (right to the highest attainable standard of health), 2000, para. 12; General comment No. 15 (right to water), 2002, para. 18; General comment No.18 (right to work), 2005, para. 12; and, General Comment No. 20 (Non-discrimination in economic, social and cultural rights), 2009, para. 32.9. See, e.g., Concluding observations of the HRC on Ireland (CCPR/C/IRL/CO/4), para. 7, and on the United Kingdom (CCPR/C/GBR/CO/6), at para. 5; and, CESCR, General Comment No. 20 (n 8), para. 32

<sup>63</sup> See, e.g., Concluding observations of the HRC on Ireland (CCPR/C/IRL/CO/4), para. 7, and on the United Kingdom (CCPR/C/GBR/CO/6), at para. 5; and, CESCR, General Comment No. 20 (n 8), para. 32.

<sup>64</sup> *African Commission on Human and Peoples' Rights v. Republic of Kenya*, ACTHPR, Application No. 006/2012 (2017), paras 6-9; 157 - 163

<sup>65</sup> *Id.*, para. 157

<sup>66</sup> *Id.*, para. 163

<sup>67</sup> *Id.*, para. 163

<sup>68</sup> *Id.*, para. 163



*institutions often do not exist, the practice and profession of religion are usually inextricably linked with land and the environment. In indigenous societies in particular, the freedom to worship and to engage in religious ceremonies depends on access to land and the natural environment. Any impediment to, or interference with accessing the natural environment, including land, severely constrains their ability to conduct or engage in religious rituals with considerable repercussion on the enjoyment of their freedom of worship.*<sup>69</sup>

The Court accordingly declared that the State had violated Article 8 of the Banjul Charter.

States may, pursuant to article 18(3) of the ICCPR, in certain circumstances legitimately impose limitations on certain aspects of the right to freedom of thought, conscience, religion or belief, namely on one's freedom – either individually or in community with others and in public or private – to manifest one's religion or belief in worship, observance, practice and teaching. The limiting measures must be proportionate in that they must only restrict the right to manifest as demonstrably necessary and proportionate to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others; and must not put the right itself in jeopardy. Additionally, restrictions must not be overbroad – they must conform to the principle of proportionality and must be the least intrusive instrument among those capable of achieving their protective function and proportionate to the interest to be protected; proportionality encompasses reasonableness. The principle of proportionality must be respected not only in the law that frames the restrictions, but also by the administrative and judicial authorities in applying the law.<sup>70</sup>

Even when the circumstances are such that, under international human rights law, States may legitimately impose limitations, the limiting measures chosen must not restrict the exercise and enjoyment of the right to manifest one's religion or belief more than absolutely necessary in any given context. In addition, States may only impose such limitations when they can demonstrate that the restrictions to which they wish to resort are both prescribed by law and necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others, as per Article 18(3) of the ICCPR.

The African Court on Human and Peoples' Rights has also clarified the circumstances under which States may lawfully limit the exercise and enjoyment of right to freedom of religion or belief. In its decision in the above-mentioned case of *African Commission on Human and Peoples' Rights v. Republic of Kenya*, the Court held:

*"Article 8 of the Charter however allows restrictions on the exercise of freedom of religion in the interest of maintaining law and order. Though the Respondent can interfere with the religious practices of the Ogieks to protect public health and maintain law and order, these restrictions must be examined with regard to their necessity and reasonableness. The Court is of the view that, rather than evicting the Ogieks from the Mau Forest, thereby restricting their right to practise their religion, there were other less onerous measures that the Respondent could have put in place that would have ensured their continued enjoyment of this right while ensuring maintenance of law and order and public health. These measures include undertaking sensitisation campaigns to the Ogieks on the requirement to bury their dead in accordance with the requirements of the Public Health Act and collaborating towards maintaining the religious sites and waiving the fees to be paid for the Ogieks to access their religious sites.*<sup>71</sup>

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<sup>69</sup> Id., para. 164

<sup>70</sup> UN Commission on Human Rights, The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, 28 September 1984, E/CN.4/1985/4, available at: <http://www.icj.org/wp-content/uploads/1984/07/Siracusa-principles-ICCPR-legal-submission-1985-eng.pdf>

<sup>71</sup> *African Commission on Human and Peoples' Rights v. Republic of Kenya*, para. 167

*Carolyn Turaytemba v. A.G and Uganda Land Commission*

In the case of *Carolyn Turaytemba v. A.G and Uganda Land Commission*,<sup>72</sup> the Constitutional Court of Uganda had to decide whether the allocation and granting of ownership of land in the neighbourhood of All Saints Cathedral to third parties, to the exclusion of the appellants -- a church in Uganda (despite their express demonstration of interest) -- amounted to an infringement of their fundamental human rights in the Ugandan Constitution, including their right to non-discrimination, their right to practise, manifest, enjoy, profess, maintain and promote their religion, and whether, as such, it was therefore inconsistent with Article 29(1)(c) and 37 of the Constitution.

In arriving at its decision, the Constitutional Court emphasized that freedom of thought and conscience is an absolute right. It highlighted that, in contrast, "the freedom to manifest one's religion or belief on the other hand, is not absolute. It is subject to such limitations that are necessary in the public interest, which limitations have to be prescribed by law and are necessary in a democratic society." In this regard, the Constitutional Court stated that "a careful analysis of Articles 29(1) (c) and 37 of the Constitution, as well as the other considered International Instruments providing for the freedom of conscience and religion, shows that there is a distinction between the right to freedom of thought, conscience and religion, on the one hand, and the right to manifestation of religion and belief on the other." In this regard, the Constitutional Court held that, when considering limitation "the test is of what is 'necessary in a democratic society' is the ultimate safeguard against interference with the enjoyment of a person's fundamental freedoms, that cannot possibly be considered necessary in society that is pluralistic and tolerant."

The Constitutional Court accordingly found that the right to freedom of thought and conscience had not been violated by the respondents. It held that "the respondent's actions in allocating the suit lands to the various third parties were not inconsistent with article 29(1)(c) and 37 of Constitution." This was because the petitioners had not proven that they were denied allocation of the suit lands or that the said lands were allocated and leased by the respondent to third parties on the basis that denied the petitioners to belong to, enjoy, practice, profess, maintain and promote their religion.

*The right to freedom of religion or belief and religious minorities*

With respect to religious and ethnic minorities, Article 27 of the ICCPR clarifies that, "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language."

The UN Special Rapporteur on freedom of religion or belief has stated that religious minorities remain the main victims of violations of the right of freedom of religion or belief and other acts of religious intolerance.<sup>73</sup> Religious and belief minorities face various forms of discrimination, including with regard to official registration procedures or undue limitations with respect to religious teaching, dissemination of religious materials and displaying religious symbols. Moreover, when religious minorities are groups that follow "a so-called non-traditional or newer religion", the members of these communities may be the object of suspicion and, consequently, may suffer greater limitations of their right to freedom of religion or belief.<sup>74</sup>

Some religious minorities are also adversely affected by intolerance, threats or acts of violence perpetrated by non-State actors, which are often tolerated or encouraged by the authorities.<sup>75</sup>

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<sup>72</sup> Constitutional Petition no. 15 of 2006, available at: <https://ulii.org/ug/judgment/court-appeal-uganda/2011/6>

<sup>73</sup> Report of the Special Rapporteur on freedom of religion or belief, U.N. Doc A/61/340, 13 September 2006, pp. 49-51

<sup>74</sup> Report of the Special Rapporteur on freedom of religion or belief, U.N. Doc A/61/340, 13 September 2006, pp. 49-51

<sup>75</sup> Interim report of the Special Rapporteur on freedom of religion or belief, U.N. Doc A/64/159, 17 July 2009, para. 29

## Freedom of expression

Article 19(1) of the ICCPR guarantees the right of everyone to hold opinions without interference, and article 19(2) guarantees the right of everyone to freedom of expression including to impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of their choice.<sup>76</sup>

### **Article 19**

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others;
  - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

The Human Rights Committee has observed that, all forms of opinion are protected, including opinions of a religious nature, and that harassment, intimidation or stigmatization of people, including through their arrest, detention, trial or imprisonment for reasons of the opinions they may hold, constitute a violation of Article 19(1).<sup>77</sup>

Freedom of expression is, however, not an absolute right and may be subject to State regulation for the furtherance of those purposes set forth in Article 19(3) of the ICCPR, for example. These include the respect of the rights of reputations of theirs and the protection of national security, public order or public health or morals. However, protection of a particular religion or religious belief per se, or someone's religious sentiments for that matter, do not constitute legitimate grounds recognized under international human rights law and standards for the lawful imposition of certain restrictions on the exercise of the right to freedom of expression.

Additionally, the Human Rights Committee has stated that criminalizing the holding of an opinion, no matter what the opinion, is incompatible with Article 19 of the ICCPR.<sup>78</sup>

Conversely, there may be instances in which someone's freedom of expression may be lawfully restricted, including for the protection of certain religious communities, particularly minorities, from discrimination. However, such restrictions should be permissible by law, for the purposes recognized by the ICCPR, and be strictly necessary for and proportionate to the protection of interests set forth in Article 19(3).<sup>79</sup>

In terms similar to Article 19 of the ICCPR, the Banjul Charter guarantees the right to freedom of expression, in accordance with the law.<sup>80</sup>

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<sup>76</sup> ICJ primer

<sup>77</sup> UN Human Rights Committee (HRC), General Comment 34: Freedoms of Opinion and Expression (Article 19), UN Doc. CCPR/C/GC/34, (2011), para. 9, available at: <http://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf> [accessed 24 April 2018]

<sup>78</sup> *Id.*, para. 9

<sup>79</sup> *Malcolm Ross v. Canada*, Human Rights Committee Communication No. 736/1997, UN Doc. CCPR/C/70/D/736/1997 Views of 26 October 2000, see paras 11.1 – 11.6

<sup>80</sup> Banjul Charter, Article 19

### **Article 9**

1. Every individual shall have the right to receive information.
2. Every individual shall have the right to express and disseminate his opinions within the law.

### **Blasphemy**

With respect to forms of expressions that may constitute blasphemy, expounding on Article 19 of the ICCPR, the UN Human Rights Committee has specifically stated: "Prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant".<sup>81</sup> The Committee has further clarified that it is impermissible for any such laws to discriminate in favour of or against a particular religion or belief system, or their adherents over another, or religious believers over non-believers. It is also impermissible for such prohibitions to be used to prevent or punish criticism of religious leaders or commentary on religious doctrine and tenets of faith.<sup>82</sup>

### **Principle of legality**

A key precondition to a fair trial recognized globally is that criminal offences must be prescribed by law and must conform to the principle of legality.<sup>83</sup> This means that the laws proscribing acts or omissions as criminal must be formulated clearly and precisely to ensure individuals can regulate their conduct accordingly. Crimes must be classified and described in precise and unambiguous language that narrowly defines the punishable offence. This means that there must be a clear definition of the criminalized conduct establishing its core elements and the factors that distinguish it from conduct that is permissible.<sup>84</sup> Vague laws undermine the rule of law because they leave the door open to selective interpretation, enforcement, and prosecution, including based on discriminatory policies of government officials and the personal predilections of judges.

The UN Human Rights Committee has emphasized that laws must not confer unfettered discretion to those responsible for their execution and must provide sufficient guidance to enable law enforcers and the general public to determine what kinds of expression are restricted.<sup>85</sup>

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<sup>81</sup> UN Human Rights Committee, General Comment No. 34, Article 19: freedoms of opinion and expression, UN Doc. CCPR/C/GC/34, 2011 (Human Rights Committee, General Comment 34), para 48. Under Article 19(3) of the ICCPR, certain restrictions on the exercise of the right to freedom of expression may be permissible, for the purpose of ensuring respect for the rights of others, or the protection of national security or of public order, or of public health or morals. However, such restrictions must be precisely formulated through legal provisions that comply with human rights; they must be demonstrably necessary and proportionate to the one of the above-stipulated purposes; and must not put the right itself in jeopardy. Additionally, restrictions must not be overbroad – they must conform to the principle of proportionality and must be the least intrusive instrument among those capable of achieving their protective function and proportionate to the interest to be protected; the principle of proportionality must be respected not only in the law that frames the restrictions, but also by the administrative and judicial authorities in applying the law

<sup>82</sup> Human Rights Committee, General Comment 34, para. 48

<sup>83</sup> See, Human Rights Committee, *Nicholas v Australia*, UN Doc. CCPR/C/80/D/1180/2002 (2004), para. 7.5; and UN Human Rights Committee, General Comment No. 32, UN Doc. CCPR/C/GC/32, 2007 (Human Rights Committee, General Comment 32), para. 30. In addition, the presumption of innocence requires that the prosecution proves each element of the crime to the required legal standard, namely beyond a reasonable doubt in criminal cases

<sup>84</sup> See, *Castillo Petruzzi et al v Peru*, Judgment of the Inter-American Court of Human Rights (1999), para. 121

<sup>85</sup> Human Rights Committee, General Comment 34, para. 25

## THE RIGHT TO FREEDOM OF RELIGION OR BELIEF IN THE CONSTITUTION OF UGANDA

### Article 29 of the Constitution of Uganda of 1995

#### ***Protection of freedom of conscience, expression, movement, religion, assembly and association***

(1) Every person shall have the right to-

(a) freedom of speech and expression, which shall include freedom of the press and other media;

(b) freedom of thought, conscience and belief which shall include academic freedom in institutions of learning;

(c) freedom to practice any religion and manifest such practice which shall include the right to belong to and participate in the practices of any religious body or organisation in a manner consistent with this Constitution;

(d) freedom to assemble and to demonstrate together with others peacefully and unarmed and to petition; and

(e) 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 Constitution of Uganda<sup>86</sup> stipulates that Uganda shall not adopt a State religion.<sup>87</sup> It further states that one of its political objectives is to "integrate all the peoples of Uganda while at the same time recognizing the existence of their ethnic, religious, ideological, political and cultural diversity".<sup>88</sup>

The Constitution features several provisions that relate to the right to freedom of religion or belief, including the right not to be discriminated against based on religion<sup>89</sup> or political opinion.<sup>90</sup> The text further prohibits discrimination in participation in Ugandan political life based on religion. In particular, it provides that "membership of a political party shall not be based on sex, ethnicity, religion or other sectional division".<sup>91</sup>

The Constitution of Uganda guarantees the right of every person to freedom of conscience, expression, religion, assembly and association.<sup>92</sup> In particular, it guarantees that "every person shall have the right to freedom of thought, conscience and belief which shall include academic freedom in institutions of learning; freedom to practice any religion and manifest such practice which shall include the right to belong to and participate in the practices of any religious body or organization in a manner consistent with the Constitution."<sup>93</sup>

The Constitution also guarantees the right to practise and manifest any religion; it guarantees the right to freedom of assembly and freedom of association.<sup>94</sup> It further

<sup>86</sup> Constitution of the Republic of Uganda, 1995, available at: [https://statehouse.go.ug/sites/default/files/attachments/Constitution\\_1995.pdf](https://statehouse.go.ug/sites/default/files/attachments/Constitution_1995.pdf)

<sup>87</sup> Constitution, article 7 "Uganda shall not adopt a State religion."

<sup>88</sup> National Objectives and Directive Principles of State Policy (III) (ii), Constitution of the Republic of Uganda, 1995, available at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/44038/90491/F206329993/UGA44038.pdf>

<sup>89</sup> Discrimination is defined as "to give different treatment to different persons attributable only or mainly to their respective descriptions by religion" Constitution, article 21(3)

<sup>90</sup> Id., article 21(2)

<sup>91</sup> Constitution, article 71(b)

<sup>92</sup> Constitution, article 29

<sup>93</sup> Id., article 29 (1)(b)(c)

<sup>94</sup> Id., article 29(1)(d) and (e), and 29(2)

guarantees the enjoyment of "the right to culture and similar rights"; in particular the Constitution guarantees the right of "every person" "to belong to, enjoy, practise, maintain and promote any culture, cultural institution, language, tradition, creed or religion in community with others".<sup>95</sup>

These rights are subject to the limitations clause of the Constitution.<sup>96</sup> The Ugandan courts have given guidance on the limitation of these rights.

*Dimanche Sharon and Others v. Makerere University*

In *Dimanche Sharon and Others v. Makerere University*,<sup>97</sup> the Ugandan Supreme Court considered and interpreted the right to freedom of religion or belief in the Constitution. The Supreme Court gave judgment in an appeal against a lower court's decision holding that Makerere University's policy of scheduling lectures and examinations on Saturdays -- to which the applicants as Seventh-day Adventists objected as they worshiped on Saturdays -- did not violate the right to freedom of conscience, expression, religion, assembly and association guaranteed by Article 29 of the Ugandan Constitution. The applicants had therefore appealed the lower court's decision to the Supreme Court seeking a declaration that the above-mentioned policy was unconstitutional, inconsistent with and contravened Articles 20, 29 (1) (c), 30 and 37 of the Constitution.

In dismissing the applicants' case, the Supreme Court ruled that the University had not deliberately or discriminatorily denied the applicants the right to education or their freedom of religion, but that the University had taken measures to accommodate the applicants' "special concerns by allowing them to retake examinations".<sup>98</sup> "The appellants' rights and freedoms were affected in some measure by these policies and regulations in order to protect the interests of others or the public interest in accordance with Article 43 of the Constitution."<sup>99</sup> The Supreme Court further stated that, "the policy and the regulations neither prevent students from practising their religion, nor deprive or deny any student the right to education. The Appellants, who profess the religious faith of Seventh Day Adventists, joined the University with full knowledge that under the said regulations they would be required to attend lectures and take mandatory tests and examinations on any day, including the Sabbath day. In my view, the admission of the appellants into the University did not create or impose on the respondent any constitutional obligation to adjust its programs to conform to the appellants' religious practices."<sup>100</sup>

The Court held that, when subsequently Makerere University had failed or refused to make special arrangements for the appellants to sit the tests or examinations scheduled for the Sabbath Day outside the official hours, it did not thereby violate their freedom to practise faith as they prefer. The appellants had the choice to join the University and adjust their religious practices to abide by its regulations; or to pursue their education where they could adhere to their strict observance of the Sabbath.<sup>101</sup>

The Supreme Court stated that *it is necessary to ascertain what is acceptable and reasonably justifiable in a free and democratic society*. A proportionality test involving the balancing of different interests must be applied. Such a process would take into account, *inter alia*, the nature of the right to be limited; its importance to an open and democratic society based on freedom and equality; the extent and effectiveness of the limitation; and whether the desired ends could reasonably be achieved through other less damaging means.<sup>102</sup>

Accordingly, in this case the Supreme Court made it clear that the right to practise religion is

<sup>95</sup> Constitution, article 37

<sup>96</sup> *Id.*, Article 43 General limitation on fundamental and other human rights and freedoms (1) In the enjoyment of the rights and freedoms prescribed in this Chapter, no person shall prejudice the fundamental or other human rights and freedoms of others or the public interest. (2) Public interest under this article shall not permit- (a) political persecution; (b) detention without trial; (c) any limitation of the enjoyment of the rights and freedoms prescribed by this Chapter beyond what is acceptable and demonstrably justifiable in a free and democratic society, or what is provided in this Constitution

<sup>97</sup> Constitutional Appeal No. 2 of 2004, [2006] UGSC 10, available at: <https://old.ulii.org/ug/judgment/supreme-court/2006/10>

<sup>98</sup> *Id.*, para. 30

<sup>99</sup> *Id.*, para. 30

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*, para. 46-47

<sup>102</sup> *Id.*

not absolute and that institutions, such as Universities, that have policies that could affect people's religious practice, should communicate such policies to individuals so that they can consent to being bound by such policies. This had been the case with Makerere University, which had made no secret of being a secular institution, and whose policies had been in place before the students involved in the case had enrolled there.

In light of the above, it is clear that the Ugandan Constitution protects the right to freedom of religion or belief in accordance with international human rights standards.

The Constitution guarantees the right of children not to be deprived of medical treatment, education or any other social or economic benefit by reason of religious or other beliefs.<sup>103</sup> The Ugandan Parliament enacted the Immunization Act in 2017, making it compulsory for children to be immunized; parents who fail to vaccinate their children are liable to a jail term of over six months and/or to a fine.<sup>104</sup> This compulsory immunization is meant to be enforced regardless of the religious beliefs of the parents. The Ugandan authorities have enforced this provision and related domestic laws by arresting those allegedly responsible for depriving children of medical treatment and other services based on religion or belief.

There have also been reports of cult leaders being arrested for rallying their followers not to get involved in national programs, such as registration for national identity cards and immunization, claiming that their adherents' participation in such programs would go against their religious norms, values and practices.<sup>105</sup>

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<sup>103</sup> Constitution, article 34(3)

<sup>104</sup> Amy Fallon, Uganda Rolls Out Compulsory Immunization to Dispel Anti-Vaccine Myths, June 2016. Available at: <https://reliefweb.int/report/uganda/uganda-rolls-out-compulsory-immunization-dispel-anti-vaccine-myths>

<sup>105</sup> All Africa, Cults Hinder Uganda Identity Card Project, 29 May 2014. Available at: <https://allafrica.com/view/group/main/main/id/00030661.html>; See also BBC, Uganda to jail parents over missed vaccinations, 25 March 2016, available at: <https://www.bbc.com/news/world-africa-35898715>



## CHALLENGES TO FREEDOM OF RELIGION OR BELIEF IN UGANDA

### Criminalization of blasphemy

Section 122 of the Ugandan Penal Code Act<sup>106</sup> makes it an offence to write or utter words with the intention of wounding religious feelings.<sup>107</sup>

#### **122. Writing or uttering words with intent to wound religious feelings**

Any person who, with the deliberate intention of wounding the religious feelings of any other person, writes any word, or any person who, with the like intention, utters any words or makes any sound in the hearing any other person or makes any gesture or places any object in the sight of any other person, commits a misdemeanour and is liable to imprisonment for one year.

While the provisions of Section 122 do not expressly refer to terms such as blasphemy or blasphemous or any similar terms, in effect, they criminalize "blasphemy". This is because Section 122 criminally proscribes any writings, uttering of words, gestures, objects (e.g., signs) and sounds that are spoken, written or made by anyone with the "deliberate intention of wounding the religious feelings of another person". The offence under this provision is punishable by imprisonment for one year.

The crime is committed whether or not the "religious feelings" of the person who was the target of such expression/s were in fact wounded. This is contrary to international human rights law and standards and violates the right of everyone to freedom of expression, including the right to impart information and ideas of all kinds. The UN Human Rights Committee has clarified that "prohibitions of displays of lack of respect for a religion or other belief system, including "blasphemy laws" are incompatible with the ICCPR, except where such laws are geared at preventing advocacy for religious hatred or incitement to discrimination.<sup>108</sup> Furthermore, it is impermissible for such prohibitions to be used to prevent or punish criticism of religious leaders or commentary on religious doctrine and tenants of faith.<sup>109</sup>

Under Chapter III, Sections 118-121 of the Ugandan Penal Code Act, destroying, damaging or defilement of a place of worship "with the intention of causing insult to religion" is a criminal offence.<sup>110</sup> The Penal Code Act also makes disturbance of lawful religious worship engagements a crime.<sup>111</sup> Furthermore, trespassing of any place of worship or interfering with burial processes with the intention of "wounding feelings" or "insulting the religion" of another person, is also a criminal offence under the Penal Code Act.<sup>112</sup>

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<sup>106</sup> Uganda Penal Code Act, 1950

<sup>107</sup> Id., Section 122

<sup>108</sup> UN Human Rights Committee, Concluding Observations on the United Kingdom of Great Britain and Northern Ireland-the Crown Dependencies of Jersey, Guernsey and the Isle of Man, 25 April 2000, UN Doc. CCPR/CO/79/Add.119, HRC, GC 34, para. 48. Article 20(2) of the ICCPR relates to the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. This prohibition does not necessarily mean censorship or stifling of freedom of expression but possibility of civil remedies. See Commission of Human Rights, Travaux Préparatoires of Article 20 of the International Covenant on Civil and Political Rights, UN Doc. E/CN.4/SR.377,10, cited at, Michael G. Kearney, *The Prohibition of Propaganda for War in International Law*, 2007, New York, Oxford University Press, p. 111

<sup>109</sup> ICJ Primer page 7

<sup>110</sup> Penal Code Act, Section 118, available at: <https://ulii.org/akn/ug/act/ord/1950/12/eng%402014-05-09>

<sup>111</sup> Id., Section 119

<sup>112</sup> Id., Sections 120-121



*Kifampa Siraje and anor v. A.G*

The Ugandan Courts have also considered a case in which Section 118 of the Penal Code Act applied. In *Kifampa Siraje and anor v. A.G*,<sup>113</sup> a case concerning the raid of a mosque by security forces on 27 December 2016, the Court had to decide whether there had been a violation of Section 118 of the Penal Code. In this case, security forces had raided a Mosque after the killing of one of Uganda's high ranking Muslim clerics and Army man Major Kiggundu and his driver. The security forces claimed that the Daawa Assalafiyah community of the Nakasero Mosque were suspected of having planned this killing, and hence they were acting legally when they broke into the mosque at about 12:30am to collect evidence and other exhibits that were to aid in the investigation of this crime.

The applicants argued that the search was illegal and a violation of their freedom of religion, but also that the actions amounted to an insult on their religion, in contravention of Section 118 of the Penal Code Act.<sup>114</sup>

The Court largely based its decision on the fact that the search violated the State's obligation to respect places of worship, and this violated Section 118 of the Penal Code. The above provision underscores the importance of preserving places of worship. Places of worship are an essential element of the manifestation of the right to freedom of religion or belief to the extent that the great majority of religious communities need the existence of a place of worship where the members can manifest their faith.

The Court therefore concluded by stating that the State had violated the rights enshrined in Articles 29 and 32 of the Constitution relating to freedom of conscience and religion, as well as the right to the enjoyment and practice of religion. This was because the manner in which the search had been carried out had violated the State's international obligation to respect the right to freedom of religion and belief, which includes respect for places of worship. Accordingly, the Court granted damages, both specific and general, to the Muslim community that had been attacked, and made an order that all the confiscated property be returned to the mosque leadership.

While Section 118 has been used to hold the State accountable for violations of the right to freedom of religion and belief, *Kifampa Siraje and anor v. A.G* is the only case known in which offences against religion as described in Chapter 13 of the Penal Code have been litigated.<sup>115</sup>

A violation of these provisions amounts to committing a misdemeanour. As regards sanctions for misdemeanours, the Penal Code Act provides as follows at Section 22 "when in this code no punishment is specially provided for any misdemeanour, it shall be punishable with imprisonment for a period not exceeding two years."<sup>116</sup> The sentencing court does have the alternative of not imposing a sentence of imprisonment on the person convicted of the offence. In the case of *Namata v. Uganda*,<sup>117</sup> the High Court upheld an order for payment of a fine, rather than imprisonment for the defendant who had been convicted of a misdemeanour. Therefore, a sentence of two years' imprisonment is a maximum, but the minimum is to be determined by the sentencing court.

As regards definitions, Section 118 does not define what 'defilement of places of worship' refers to, and the courts have not specifically addressed 'defilement', but largely focused on the damage and destruction of the places of worship. However, from cases like *Kifampa v. AG*,<sup>118</sup> dealing with Section 118, an inference may be drawn that defilement under Section 118 means dealing with a place of worship in a manner that is not consistent with the practices of that religion and degrades the sanctity of the place. If the term 'defilement' is

<sup>113</sup> Miscellaneous cause no. 154 of 2017

<sup>114</sup> "**118. Insult to religion** Any person who destroys, damages or defiles any place of worship or any object which is held sacred by any class of persons, with the intention of thereby insulting the religion of any class of persons, or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to its religion, commits a misdemeanour..

<sup>115</sup> Sections 118-122.

<sup>116</sup> Section 22. General punishment for misdemeanors. When in this Code no punishment is specially provided for any misdemeanour, it shall be punishable with imprisonment for a period not exceeding two years

<sup>117</sup> (criminal appeal 2015/35) [2015] UGHCCRD 73 (24 August 2015)

<sup>118</sup> Miscellaneous cause no. 154 of 2017

interpreted too broadly, it could give rise to the criminalization of legitimate forms of expression that are permissible under international human rights law. In the absence of a clear definition of these terms, there is a risk that this provision could be interpreted in a manner that violates the right to freedom of expression.

Section 119 in the same Chapter of the Penal Code Act also gives rise to concern from a human rights perspective. This Section makes it a misdemeanour to cause disturbance to any lawful assembly of those engaging in religious worship or religious ceremony.<sup>119</sup> This Section does not clarify what 'disturbance' means. As a result, this Section could be subject to an overly broad and abusive interpretation. For example, in the absence of a definition of disturbance in Section 119, the magistrate court in the case of *Uganda v. Kaddu Solomon Herbert*<sup>120</sup> defined disturbance as follows: "Disturbance does not mean that a worship of a religious assembly should actually be stopped or interrupted or prevented from being carried out. What it means is that the peace or quiet should not be interfered with whether by discordant sound, noise or otherwise."

However, as mentioned above, there is a risk Section 118 could be misused because, similar to Section 122 discussed above, the crime is committed whether or not the "religious feelings" of person who was the target of such expression/s were in fact wounded.<sup>121</sup> In addition, "insulting religious feelings" could also be misinterpreted in the absence of clear definitions of these terms. Similarly, vague terms such as "wounding feelings" have no certainty, and do not clearly articulate which actions would contravene these provisions.

As highlighted above, a key precondition to the internationally recognized right to a fair trial is that criminal offences must be prescribed by law in a manner that complies with the principle of legality. As a result, criminal offences must be formulated clearly and precisely to ensure individuals can regulate their conduct accordingly. Vague laws undermine the rule of law because they leave the door open to selective interpretation, enforcement and prosecution, including based on discriminatory policies of government officials and the personal predilections of judges. While the jurisprudence of the Ugandan courts has provided limited guidance with respect to the definitions of the conduct the above-mentioned provisions of Penal Code Act proscribe, the risk of abusive interpretation persists.

Criticism of any particular religious sentiment or of a religion itself does not necessarily limit or threaten the right of others to exercise their freedom to have, adopt or manifest their religion, any more than criticism, mockery, etc. of any particular political belief or opinion. The right to freedom of religion or belief does not, either expressly or by implication, place a duty on all persons to have respect for everyone's religion or belief at all times, nor does it include the right to have one's faith elevated to a status over and above others and/or where it is free from criticism or even insult.<sup>122</sup>

In conclusion, Uganda's blasphemy provisions violate the right to freedom of expression for the above-mentioned reasons and fail to comply with the principle of legality.

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<sup>119</sup> Section 119. Disturbing religious assemblies Any person who voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremony commits a misdemeanour.

<sup>120</sup> CO: 199 OF 2018

<sup>121</sup> A similar concern exists regarding the wording of Section 120 of the Penal Code which reads as follows: **120. Trespassing on burial places** Every person who with the intention of wounding the feelings of any person or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or in any place of sepulture or in any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the purpose of funeral ceremonies, commits a misdemeanour

<sup>122</sup> Asma Jahangir, Special Rapporteur on freedom of religion or belief, and Doudou Diène, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Report on Incitement to Racial and Religious Hatred and the Promotion of Tolerance, UN Doc. A/HRC/2/3, (2006), para. 36

## Recommendations

- Repeal all “blasphemy laws”, particularly Sections 122 of the Ugandan Penal Code, which effectively criminalizes blasphemy, or amend them substantially so that they be consistent with international human rights law and standards, including on freedom of expression; freedom of thought, conscience or religion; and equality before the law and equal protection of the law without discrimination, as guaranteed under the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples’ Rights; and
- Amend Sections 118-120 of the Penal Code Act to ensure that they are not vague and wide in scope and so that they be compatible with the Uganda’s obligations under international human rights law and fully guarantee the rights to freedom of religion or belief and freedom of expression.

## Freedom of assembly and association and the right to freedom of religion or belief in Uganda

In 2017 the Minister of State for Ethics and Integrity informed Parliament that he would be formulating a Faith-Based Organization Policy (FBOP) “whose other role will be to register and deregister those religious organisations depending on how genuine their practice is.” The Minister went on to say: “Hence, be sure that we are going to identify them, know their operations and origin so that this country can be safe and not be misled in the guise of religiosity.”<sup>123</sup>

While it appears that this FBO Policy has not yet been finalized and implemented by the government, there have been reports of closures of churches and faith-based organizations as part of the Ugandan government’s “validation exercise”.<sup>124</sup> The validation exercise appears to be geared at verifying whether each church or faith-based organization is registered according to government requirements. In this regard, the Uganda Registration Service Bureau (URSB) has issued “Compliance Notices for Faith-Based Organizations”, including “born again churches”, Catholic Churches, the Church of Uganda, “other denominations” and “Seventh Day Adventist Churches”.<sup>125</sup> The Compliance Notices appear to list the name of the church/faith-based organization, its location as well as its date of registration. The Notice also highlights those churches who “never filed”, but it is unclear what was never filed by the churches, and what the consequence of such failure is. The URSB has also issued an information guide on how churches can be licenced to celebrate marriages, but the same document does not contain any information on how churches go about registering to operate legally in Uganda.<sup>126</sup>

According to the National Bureau for Non-Governmental Organizations, the Non-Governmental Organizations Act, 2016 applies to the registration of FBOs.<sup>127</sup> The National NGO Policy, 2011<sup>128</sup> provides for two types of FBOs: (1) those that carry out “NGO type activities”; and (2) those that only carry out “spiritual activities”. FBOs that carry out “NGO type activities” must register with the Bureau and are regulated by the NGO Act, 2016. Neither the NGO Act, 2016 nor the NGO Policy describes what “NGO type activities” are. The process for registration of organizations with the National Bureau of NGOs is set out in Section 29 of the NGO Act.<sup>129</sup>

<sup>123</sup> Minutes from Parliamentary meeting held 7 September 2017, Parliament House Kampala, available at: <https://www.parliament.go.ug/cmis/views/3a1575e2-5a3c-4cd7-aed3-cfe32e955a2a%253B1.0>

<sup>124</sup> <https://religionunplugged.com/news/2019/11/25/ugandan-government-closes-12000-churches-faith-based-ngos>

<sup>125</sup> URSB, Compliance Notice for Faith-Based Organizations, December 2019. Available at: <https://ursb.go.ug/2019/12/03/compliance-notice-for-faith-based-organizations/>

<sup>126</sup> URSB, Information Guide, August 2018, available at: <https://ursb.go.ug/wp-content/uploads/2018/08/URSB-INFORMATION-GUIDE-NEW.pdf>

<sup>127</sup> URSB FAQs, available at: <https://www.ngobureau.go.ug/en/faqs/frequently-asked-questions>

<sup>128</sup> Available at: <https://www.mia.go.ug/sites/default/files/download/National%20NGO%20Policy%202010.pdf>

<sup>129</sup> Section 29. Registration of organisations with the Bureau (1) Any person or group of persons incorporated as an organization shall register with the Bureau. (2) An application made under subsection

According to the National Bureau for Non-Governmental Organizations, the Ugandan government “is developing a separate policy and law to regulate FBOs engaged in purely spiritual activities and they will be required to abide by the policy and law that regulates them.”<sup>130</sup> The National NGO Policy provides that “Until Government takes measures to provide an appropriate separate framework for promoting coordination of the spiritual activities of Faith Based Organisations in the country, the existing arrangements shall obtain.”<sup>131</sup> While it is unclear what “existing arrangements” means in the NGO Policy, it is assumed to mean: (1) registering as a company limited by guarantee and consequently applying to the NGO bureau for a certificate of registration and operational permit; or (2) appointing trustees whom they register under the Trustees Incorporation Act (for example, the Church of Uganda and the Uganda Muslim Supreme Council are registered through the Trustees Incorporation Act).<sup>132</sup>

Overall it appears that in Uganda, the procedure for registering a church is complex, and it is not always clear which avenue of registration which faith-based organization ought to follow. Furthermore, it appears that there is a gap in law and policy with respect to FBOs engaged in purely “spiritual activities”. Neither the NGO Act, 2016, the National NGO Policy, the National Bureau for NGOs nor the Uganda Registration Services Bureau set out a clear framework for the registration of FBOs engaged in “spiritual activities”. This is concerning in light of the mass closure of faith-based organizations reported in Uganda between 2018 and 2019.<sup>133</sup> In the absence of a clear framework for compliance with registration requirements, faith-based organizations cannot be clear on how to comply and are, therefore, constantly at risk of non-compliance and, consequently, closure. Furthermore, in the absence of a clear definition of “NGO type activities”, the government can decide that certain “activities” of churches constitute “NGO type activities” at any given time.

As mentioned above, in the absence of clear and precise laws, individuals and, in this case, faith-based organizations, cannot regulate their conduct accordingly. Vague laws undermine the rule of law because they leave the door open to selective interpretation, enforcement, and prosecution, including based on discriminatory policies of government officials and the personal predilections of judges.

Furthermore, the Constitution guarantees the right to practise and manifest any religion; it guarantees the right to freedom of assembly and freedom of association.<sup>134</sup> Effectively, individuals belonging to those churches that are not able to register or that are deregistered based on unclear laws and policies will not be able to exercise their rights to practise and manifest their religion, not their rights to freedom of assembly and freedom of association. In addition, congregants who attend such churches will no longer be able to do so and exercise their right to manifest their right to freedom of religion or belief through worship in community with others.

The proposed FBO Policy also has problematic requirements, including, for example, a requirement that pastors must have official training before opening or operating in a church.<sup>135</sup> This requirement has met the resistance of some religious groups, in particular,

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(1) shall be accompanied by- (a) evidence of statements made in the application as the Minister may prescribe by regulations; (b) a certificate of incorporation; (c) a copy of the organisation's constitution; and (d) evidence of payment of the prescribed fee. (3) Upon compliance with the requirements of sub (2) the Bureau shall register the organisation. (4) An organisation that has been registered remains registered until- (a) its registration is cancelled in terms of this Act; (b) the organisation is voluntarily deregistered; or (c) the organisation is wound up or dissolved

<sup>130</sup> NGO Bureau FAQs, available at: <https://www.ngobureau.go.ug/en/faqs/frequently-asked-questions>

<sup>131</sup> Id., page 11

<sup>132</sup> Afias Eliab Naturinda, Why regulatory mandate of RFBOs should be given to NGO Bureau, 23 Aug, available at: <https://www.afias.co.ug/why-regulatory-mandate-of-rfbos-should-be-given-to-ngo-bureau/>

<sup>133</sup> John Semakula, Ugandan Government Closes Nearly 12000 Churches and Faith Based NGOs, Religion Unplugged, November 2019. Available at: <https://religionunplugged.com/news/2019/11/25/ugandan-government-closes-12000-churches-faith-based-ngos>

<sup>134</sup> Id., article 29(1)(d) and (e), and 29(2)

<sup>135</sup> Africa News, Uganda's new policy requires all pastors to obtain theological training, December 2018. Available at: <https://gatewaynews.co.za/ugandas-new-policy-requires-all-pastors-to-obtain-theological-training/> and John Semakula, Ugandan Pastors Reject Policy Requiring Training to Start A church,

the “born again churches” (also referred to as Pentecostal churches), who have campaigned against the FBP Policy<sup>136</sup> as they argue that they “have a more difficult time registering because they have either no denominational structure or smaller denominations.”<sup>137</sup> International human rights law provides that “the practice and teaching of religion or belief includes acts integral to the conduct by religious groups of their basic affairs, such as the freedom to choose their religious leaders, priests and teachers.”<sup>138</sup>

### *Recommendations*

- Implement the provisions of the “National NGO Policy” requiring the government to take measures to provide an appropriate, separate framework for promoting coordination of the “spiritual activities” of faith-based organizations in the country, and make clear the registration requirements for faith-based organizations;
- Ensure that the proposed faith-based organization policy be consistent with international human rights law and standards and ensure its prompt implementation;
- Bring Uganda’s laws and policy in line with international human rights law and standards by ensuring that registration procedures for faith-based organizations be clear and not complicated for ordinary church leaders to follow;
- Provide a clear legal and policy framework for the registration of churches with clear definitions and categories of faith-based organizations and requirements for registration. In particular, the State must ensure that, in accordance with appropriate national legislation and in conformity with international human rights law, the freedom for all persons and members of groups to establish and maintain religious, charitable or humanitarian institutions be fully respected and protected; and
- Refrain from arbitrarily closing down churches and faith-based organizations in the absence of a clear framework affording them the possibility of complying with registration requirements.

### **Discrimination against certain religious minorities**

Reportedly, only about one per cent of Ugandans practise traditional religions, and according to the Ugandan authorities “traditional indigenous beliefs are practiced in some rural areas and are sometimes blended with or practiced alongside Christianity or Islam.”<sup>139</sup> In Uganda, traditional religions largely refer to the worship of spirits, an example being the Buganda indigenous religion, where people believe in spirits and have a number of practices to ensure the goodwill of these spirits in their day-to-day lives.<sup>140</sup> Just like the modern religions, traditional religions have priests and diviners who act as intermediaries between the spirit world and the living.<sup>141</sup> Since the colonial era, these religions have faced discrimination and were labelled as satanic, leading to the adoption of laws such as witchcraft laws<sup>142</sup> that

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November 2019. Available at: <https://religionunplugged.com/news/2019/11/5/ugandan-pastors-reject-policy-requiring-official-training-to-start-a-church>

<sup>136</sup> John Semakula, Ugandan Pastors Reject Policy Requiring Official Training To Start a Church. Available at: <https://joynews.co.za/ugandan-pastors-reject-policy-requiring-official-training-to-start-a-church/>

<sup>137</sup> John Semakula, Ugandan Government Closes Nearly 12000 Churches and Faith-Based NGOs, November 2019. Available at: <https://religionunplugged.com/news/2019/11/25/ugandan-government-closes-12000-churches-faith-based-ngos>; See also Alexander Paul Isiko, State regulation of religion in Uganda: Fears and dilemmas of born-again churches, *Journal of African Studies and Development*, August 2019. Available at: <https://academicjournals.org/journal/JASD/article-full-text-pdf/222D4B962201>

<sup>138</sup> Human Rights Committee General Comment 22, para 4

<sup>139</sup> Permanent Mission of the Republic of Uganda to the UN, Religion, available at: <https://newyork.mofa.go.ug/data/smnu/4/Religion.html>

<sup>140</sup> Buganda’s Indigenous Religion, available at: <http://www.buganda.com/eddiini.htm>

<sup>141</sup> Alexander Paul Isiko, State Regulation of Religion in Uganda: Fears and dilemmas of born-again churches, October 2019, available at: <https://academicjournals.org/journal/JASD/article-full-text/222D4B962201>

<sup>142</sup> For example, the Witchcraft ordinance of 1912 and the witchcraft law of 1957, which was a revision of the ordinance

proscribe the practice of certain activities carried out by those who practise traditional religions and beliefs.<sup>143</sup>

Currently, the principal law governing “witchcraft” in Uganda is the Witchcraft Act.<sup>144</sup> The Act does not directly define what witchcraft is, but states what it is not. Section 1 states that “For the purposes of this Act, “witchcraft” does not include bona fide spirit worship or the bona fide manufacture, supply or sale of native medicines.” Section 1 read with Section 2 of the Act,<sup>145</sup> which outlines the offences and penalties in relation to witchcraft, appears to distinguish between bona fide traditional religious practice and other conduct that it deems harmful.

The Act makes it illegal to (i) threaten another person “with death by witchcraft”;<sup>146</sup> (ii) to threaten “to cause disease or physical harm using witchcraft”;<sup>147</sup> and (iii) to hire anyone to practise witchcraft for evil purposes.<sup>148</sup> Each of these offences attracts a harsh penalty, life imprisonment and between 10 and five years’ imprisonment, respectively.

These provisions are vague in that witchcraft itself is not defined; nor is the term “supernatural means”. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has warned that “defining witches and witchcraft is not an easy task”, and the term “denotes many different practices or beliefs at different times and in diverse cultures”.<sup>149</sup> The Special Rapporteur has further stated that “the available evidence from human rights sources also counsels against the criminalization of witchcraft” because of “the difficulty of defining with any accuracy the conduct being proscribed”; “the difficulty of ensuring respect for other rights, including cultural rights and freedom of speech and religion in such contexts”; and because “the vaguely defined elements of the ‘crime’ can easily operate to permit those with a personal grudge or enmity to accuse others of having practised witchcraft”; and because “empirical evidence, which shows that, in most instances, the criminalization of witchcraft is interpreted as legitimizing the punishment of accused witches in vigilante-like fashion, with no regard for specific details of the alleged conduct, no due process protections being accorded to the accused and no evidentiary burdens being met”, “instead, there is usually a flagrantly discriminatory approach that results in the signalling out of those who are simply different, feared or disliked. The accused witches are then often killed by vigilantes or mobs.”<sup>150</sup>

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<sup>143</sup> Alexander Paul Isiko, State Regulation of Religion in Uganda: Fears and dilemmas of born-again churches, October 2019, available at: <https://academicjournals.org/journal/JASD/article-full-text/222D4B962201>

<sup>144</sup> Witchcraft Act cap 124

<sup>145</sup> Section 2 reads as follows “Offences and penalties in relation to witchcraft –

1. Any person who directly or indirectly threatens another with death by witchcraft or by any other supernatural means commits an offence and is liable on conviction to imprisonment for life.
2. Any person who directly or indirectly threatens to cause disease or any physical harm to another, or to cause disease or harm to any livestock or harm to any property of whatever sort or another by witchcraft or by any other supernatural means commits an offence and is liable on conviction to imprisonment for a period not exceeding ten years.
3. Any person who practises witchcraft or who holds himself or herself out as a witch, whether on one or more occasions, commits an offence and is liable on conviction to imprisonment for a period not exceeding five years.
4. Any person who hires or procures another person to practise witchcraft or who for evil purposes consults or consorts with another who practises witchcraft or holds himself or herself out as a witch commits an offence and is liable on conviction to imprisonment for a period not exceeding five years.”

<sup>146</sup> Section 2(1)

<sup>147</sup> Section 2(2)

<sup>148</sup> Section 2(4)

<sup>149</sup> Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, 27 May 2009, A/HRC/11/2, para. 45, available at: <https://www2.ohchr.org/english/bodies/hrcouncil/docs/11session/A.HRC.11.2.pdf>

<sup>150</sup> Id., para. 55



The African Commission on Human and Peoples' Rights has also underscored the harmful association of older persons with witchcraft,<sup>151</sup> and the human rights violations of persons with disabilities for the purposes of witchcraft.<sup>152</sup>

Another concern is that government policies in relation to witchcraft demonstrate blanket discrimination against those practising traditional religions and beliefs. For example, there is currently a blanket ban on "advertising witchcraft", which was announced by the Uganda Communications Commission in 2018.<sup>153</sup> The Commission has stated that the ban and suspension of licenses of various media outlets advertising witchcraft was based on the Commission's advertising standards for media outlets, which prohibit the advertisement of everything referenced under Section 2 of the Witchcraft Act.<sup>154</sup> In practice, this ban has had the effect of prohibiting any broadcast and advertisement of matters pertaining to traditional beliefs.

As mentioned above, the Witchcraft Act vaguely defines what witchcraft is not,<sup>155</sup> and does not precisely describe what witchcraft is.<sup>156</sup> Traditional healers have approached the courts regarding the Uganda Communications Commission's ban, alleging that this policy banning the advertisement of witchcraft does not differentiate between "witchdoctors" and "traditional doctors", and further that the Commission did not know what witchcraft was before issuing the directive, and as such it was vague and ambiguous.<sup>157</sup>

The Act further allows for "a person in authority" to impute the use of witchcraft to another.<sup>158</sup> This too presents a risk of abuse as authorities can subjectively impute witchcraft without objective evidence and without having to discharge any burden of proof. It has also been argued that this provision allows prosecutors to adduce evidence that the accused is known as a witch.

The principle of legality requires that the law be clear and ascertainable. Furthermore, "persons belonging to national or ethnic, religious and linguistic minorities have the right to enjoy their own culture, to profess and practise their own religion and to use their own language, in private and in public, freely and without interference or any form of discrimination."<sup>159</sup>

Section 3 of the Witchcraft Act is vague and ought to be found unconstitutional as it violates the principle of legality.<sup>160</sup> The Witchcraft Act does not conform to the principle of legality because it creates criminal offences that are not formulated clearly and precisely. Therefore individuals cannot regulate their conduct accordingly. The Act fails to describe prohibited conduct in a precise and unambiguous language. It does not narrowly define the punishable offence in a language that can be understood by ordinary citizens. It lacks clear definitions of

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<sup>151</sup> Statement of the Working Group on the Rights of Older Persons and Persons with Disabilities in Africa of the African Commission on Human and Peoples' Rights, at the occasion of the 26<sup>th</sup> International Day of Older Persons – 1 October 2016, . available at: <https://www.achpr.org/news/viewdetail?id=52>

<sup>152</sup> Protocol on the Rights of Persons with Disabilities in Africa, Article 5 – "on extrajudicial, summary or arbitrary executions."

<sup>153</sup> Kenneth Kazibwe, UCC suspends licenses for over 20 radio stations for promoting witchcraft, March 2018. Available at: <https://nilepost.co.ug/2018/03/27/ucc-suspends-licences-for-over-20-radio-stations-for-promoting-witchcraft/>

<sup>154</sup> Annexure 21, para. 5 of the UCC advertising standards, available at: <https://www.ucc.co.ug/wp-content/uploads/2018/05/Advertising-standards.pdf>

<sup>155</sup> Section 1, Witchcraft Act

<sup>156</sup> JLOS, A Study on Sentencing and Offences Legislation in Uganda, available at: <http://www.gsdr.org/docs/open/ssaj87.pdf>

<sup>157</sup> Tony Bath, Herbalists Drag UCC to Court over Media Ban, July 2014, available at: <https://ugandaradionetwork.com/story/herbalists-drag-ucc-to-court-over-media-ban>

<sup>158</sup> Section 3, Witchcraft Act - Imputation of witchcraft "Any person who, other than to a person in authority, imputes the use of witchcraft to another, if any harm results to that other as a result of the imputation, commits an offence and is liable on conviction to imprisonment for a period not exceeding five years."

<sup>159</sup> UN General Assembly Declaration 47/135, Art 2(1), available at: <https://www.ohchr.org/en/issues/freedomreligion/pages/standards.aspx#24>

<sup>160</sup> JLOS, A Study on Sentencing and Offences Legislation in Uganda

the proscribed conduct and therefore undermines the rule of law by leaving the door open to selective interpretation, enforcement, and prosecution, including based on discriminatory policies of government officials and the personal predilections of judges.

In addition, under Section 3 of the Witchcraft Act, the evidence required may simply be subjective beliefs of the public that a person is practising witchcraft.<sup>161</sup> But as noted earlier, there is no clearly articulated and precise difference between what is called "bona fide spirit worship" and "witchcraft", meaning an individual practising "bona fide spirit worship" if found in possession of articles of "witchcraft", may be found guilty of witchcraft under the law even without proof that they were using these articles for harmful traditional religious practices. This is because Section 4 of the Act, in turn, makes it a crime to be in possession of articles used in witchcraft. An example is that in the indigenous Buganda religion, many families have baskets in which they place offerings like money and coffee beans to appease the spirits.<sup>162</sup> The current wording of the Witchcraft Act allows for these baskets to be construed as articles used in witchcraft, and essentially persons engaging in "bona fide spirit worship" can be considered as criminals under Section 4, and may thus be liable to a conviction and to imprisonment for a period not exceeding five years.

Furthermore, the Witchcraft Act has contributed to discrimination against people practising traditional religions and beliefs within communities, and it has been linked to an increase in attacks against traditional believers by persons belonging to other religions like Christianity.<sup>163</sup> These attacks have involved the destruction of property belonging to the supposed "witchdoctors",<sup>164</sup> and sometimes even to their death.<sup>165</sup> The government has been criticized for not openly condemning such acts, and for failing to develop policies to protect the minority traditional believers.

However, Uganda has the duty to refrain from discriminating against individuals or groups of individuals because of their real or imputed religion or belief, as well as the obligation to take necessary measures to prevent discrimination on such grounds by non-State actors. The continued enforcement of the Witchcraft Act violates this obligation.

Article 27 of the ICCPR guarantees the right of persons belonging to religious minorities to profess and practise their own religion in community with the other members of their group. Furthermore, the Ugandan Constitution guarantees the right to enjoyment of "the right to culture and similar rights"; in particular, the Constitution guarantees the right of "every person" "to belong to, enjoy, practise, maintain and promote any culture, cultural institution, language, tradition, creed or religion in community with others".<sup>166</sup> The provisions of the Witchcraft Act are not in line with this Constitutional guarantee.

### *Recommendations*

- Repeal or amend the provisions of the Witchcraft Act with a view to ensuring its consistency with international human rights law and standards, including by providing clear and precise definitions of the conduct proscribed and sanctioned by law; and
- Refrain from implementing policies that unjustifiably discriminate against persons practising "traditional religions or beliefs", including policies that impose a blanket ban on advertisement and media content associated with "traditional religions and beliefs".

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<sup>161</sup> Id.,

<sup>162</sup> Buganda's Indigenous Religion, available at: <http://www.buganda.com/eddiini.htm>

<sup>163</sup> Edward Bindhe, One Person Killed, Church and Shrine Burnt in Kalangala Clashes, March 2012. Available at: <https://ugandaradionetwork.net/story/one-person-killed-church-and-shrine-burnt-in-kalangala-clashes>

<sup>164</sup> Daily Monitor, Angry Locals Burn Witchdoctor's Shrine, August 2017. Available at: <https://www.monitor.co.ug/uganda/news/national/angry-locals-burn-witchdoctor-s-shrine-1714144>

<sup>165</sup> Uganda v. Marani and Anor (Criminal Session case -2012/33)

<sup>166</sup> Constitution, article 37



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