

THE HUMAN RIGHTS DEFENDERS' PROTECTION BILL, 2016

MEMORANDUM TO THE BILL

Human rights defenders encounter a lot of challenges while promoting or protecting human rights of other members of the community. Article 50 (4) of the Constitution of the Republic of Uganda provides that Parliament shall pass laws for the enforcement of rights and freedoms. Human rights defenders face threats, intimidation and assaults while promoting other people's rights. There is no specific law providing for their protection. Therefore, the object of this Bill is to provide a framework for the protection and realization of the rights of human rights defenders.

The Bill provides for the establishment of a Human Rights Defenders Council, its functions and powers. The Bill also states the role of government in ensuring the security of human rights defenders and promotion of respect for fundamental human rights and freedoms. Under the Bill, the human rights defenders also have an obligation to be law abiding and respect the rights and freedoms of other people.

Other provisions of the Bill relate to meetings, notices, quorum and voting at meetings.

Minister of Justice & Constitutional Affairs or MP

THE HUMAN RIGHTS DEFENDERS' PROTECTION BILL, 2016

ARRANGEMENT OF CLAUSES

Clause

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DRAFT OF A BILL FOR AN ACT

Entitled

THE HUMAN RIGHTS DEFENDERS' PROTECTION ACT, 2016

AN ACT to provide for the protection and promotion of human rights defenders, to establish a human rights defenders protection council, to provide for its powers, functions management and provide for other related matters

BE IT ENACTED by Parliament as follows:

PART I – PRELIMINARY

- Short title* 1. This Act may be cited as the Human Rights Defenders’ Protection Act, 2016.
- Commencement* 2. This Act shall come into force on a day appointed by the Minister by statutory instrument.
- Interpretation* 3. In these Directions, unless the context otherwise requires,
“Association” means the Defenders Protection Initiative;

“Council” means the Council established under section 4 of this Act;

“human rights defender” means a person, agency, organisation or association legally constituted not for profit to promote, protect and defend the universally recognized fundamental human rights and freedoms;

“Minister” means the Minister responsible for justice.

PART II – ESTABLISHMENT, FUNCTIONS AND POWERS OF THE HUMAN RIGHTS DEFENDERS’ COUNCIL

- Establishment of the Human Rights Defenders’ Council* 4. (1) There is established a council to be known as the Human Rights Defenders’ Council which shall be a body corporate in that name, with perpetual succession and a common seal and may sue or be sued in its corporate name.
- (2) The Council shall consist of
(a) a Chairperson,

- (b) a Director appointed under section 8,
 - (c) a Deputy Director appointed under section 8,
 - (d) a Secretary appointed by the Council, and
 - (e) five other persons appointed from the public.
- (3) The Chairperson and the members appointed under subsection (2) (e) shall be appointed by the Minister.
- (4) The Minister shall ensure that at least a third of the membership of the Council consists of women.
- (5) The members appointed under subsection (3) of this section shall be in office for three years but shall be eligible for reappointment for one more term.

Objectives

5. The objectives of the Council are
- (a) to promote human rights and freedoms;
 - (b) to provide a framework and procedures for giving protection to human rights defenders; and
 - (c) to ensure that human rights defenders can acquire equipment, store, maintain and control information related to their work.

Functions of the Council

6. The functions of the Council shall be
- (a) to ensure that human rights defenders benefit from financial, material and technical support from the government or any other person or development partner in order to accomplish their aim of promotion and protection of human rights;
 - (b) to determine the type of protective measures required;
 - (c) to advise any government Ministry, department, agency or person on the adoption of strategies and measures for the protection of human rights defenders;
 - (d) to determine the membership and subscription fees;

- (e) to appoint staff it deems necessary for the administration of the Association;
- (f) to perform such other functions as may be necessary for the better carrying out of the purposes of this Act; and
- (g) to perform such other functions as may be provided by law.

Powers of the Council

7. In the performance of its functions the Council shall have the power
- (a) to control and supervise its staff in the promotion and furtherance of the objectives of this Act;
 - (b) to enter into association with other persons, organisations and agencies as it may consider necessary for the furtherance of the objectives of this Act;
 - (c) to enter into agreements with relevant foreign authorities, national or regional entities or organisations relating to protection of human rights defenders;
 - (d) to collect, analyze, store and disseminate information related to human rights defenders;
 - (e) to take any legal action in defence of violations of rights of a human rights defender; and
 - (f) to do anything for the furtherance of the objectives of this Act.

Appointment of a Director and Deputy Director

8. (1) There shall be a Director and Deputy Director of the Human Rights Defenders' Council who shall be elected by the human rights defenders at their annual general meeting and serve on such terms as may be determined by the annual general assembly.
- (2) A person shall not be elected as a Director under this section unless the person
- (a) is a citizen of Ugandan,
 - (b) is of high moral character and integrity, and
 - (c) has at least five years' experience in administrative matters.

- (3) The Director shall hold office for a period of five years subject to renewal for one term.

*Duties of a
Director*

9. The Director shall be the executive officer of the Council and shall
 - (a) execute the policy decisions of the Council;
 - (b) carry out the administration and management of the council and its staff;
 - (c) ensure that in conducting its affairs, the Council is guided by the laws in force in Uganda and other international best practices; and
 - (d) perform any other function as may be assigned by the general assembly of the human rights defenders.

*Termination of
service of a
Director*

10. (1) The Director may be removed from office
 - (a) for inability to perform the functions of the office due to physical or mental infirmity;
 - (b) due to incompetence;
 - (c) gross misconduct or misbehaviour;
 - (d) where he or she is convicted of a criminal offence and sentenced to more than six months imprisonment without the option for a fine; or
 - (e) where he or she resigns.
- (2) Where the removal of the Director arises under subsection (1) (a), (b) or (c), the Council shall appoint a tribunal consisting of three persons who are conversant with human rights defenders' work.
- (3) The tribunal appointed under subsection (2) shall investigate and hear the parties concerned and give a report to the Chairperson and Secretary of the Council within thirty days of its appointment.
- (4) The Secretary of the Council shall, upon receipt of the report, give notice of an extra-ordinary meeting of the human rights defenders to

decide on the issue involving the Director's removal.

**PART III – RIGHTS AND DUTIES OF HUMAN RIGHTS
DEFENDERS**

*Rights of a human
rights defender*

11. Subject to the provisions of other laws in force in Uganda, a human rights defender is entitled to
- (a) promote, defend and protect fundamental human rights and freedoms;
 - (b) develop and discuss new human rights ideas and to advocate for their acceptance;
 - (c) submit to government bodies and institutions views that may hinder promotion, protection or realisation of fundamental human rights and freedoms;
 - (d) communicate with persons or associations pursuing human rights protection;
 - (e) freedom from defamation and stigmatization; and
 - (f) research, obtain and keep publish or disseminate information on fundamental human rights and freedoms.

*Duties of a human
rights defender*

12. Subject to the provisions of other laws in force in Uganda, a human rights defender shall
- (a) exercise his or her rights and freedoms with due respect for the rights of others, public safety, ethics, morals and good conscience;
 - (b) promote and protect universal human rights of all persons regardless of sex, race, tribe or religion;
 - (c) promote the rule of law and constitutionalism in Uganda;
 - (d) monitor human rights compliance with the national laws and other regional and international instruments; and
 - (e) promote social justice.

**PART IV – ROLE OF THE GOVERNMENT TO HUMAN RIGHTS
DEFENDERS**

*Role of the
government*

- 13.** Subject to other provisions of the laws in force in Uganda, the government shall
- (a) protect human rights defenders from acts of intimidation, threat or danger;
 - (b) avail financial, material and technical support to human rights defenders;
 - (c) combat impunity for threats and violations aimed at human rights defenders by carrying out inquiries and ensure that perpetrators are prosecuted or dealt with under the law;
 - (d) ensure that acts of intimidation and reprisals against human rights defenders are prosecuted and dealt with; and
 - (e) provide training of security personnel about protection and promotion of fundamental human rights and freedoms.

PART V – MISCELLANEOUS PROVISIONS

*Application for
membership*

- 14.** (1) A person may apply for membership of the Human Rights Defenders Association by filling in the application form in the First Schedule of this Act.
- (2) The Secretary shall, upon receipt of the application lodged under subsection (1) of this section, convene a meeting of the Council within thirty days of receipt of the application.
- (3) The Secretary shall, within fourteen days of the decision of the Council, inform the applicant of the decision of the Council.
- (4) Where the application for membership is granted, the Secretary shall inform the applicant about the membership and subscription fees payable by the applicant.

*Meetings of the
Council*

15. (1) The Council shall hold quarterly meetings every year.
- (2) The Secretary shall, in consultation with the Chairperson, convene a meeting of the Council.
- (3) The Council shall hold extra-ordinary meetings where circumstances deem necessary.

*Role of a
Chairperson at
meetings*

16. (1) The Chairperson shall preside over a meeting of the Council.
- (2) In the absence of the Chairperson, any member of the Council chosen by the other members shall preside over a meeting of the Council.

Notices

17. The Secretary of the Council shall give a fourteen days notice of a meeting and serve a member at the member's last known address of service or by electronic mailing service.

Quorum

18. (1) The quorum for a council meeting shall be five of the members.
- (2) The quorum for an annual general or extra-ordinary meeting shall be two-thirds of the paid up members.

Voting

19. (1) The Council shall make a decision by majority vote and the Chairperson shall have the casting vote in case of equity of votes.
- (2) At an annual general meeting, only a member who has paid the annual subscription fee shall have a right to vote at the meeting.

Application Form

1. Name of Applicant
2. Address of the Applicant
3. Gender: Male Female(*tick one*)
4. State your profession
5. Are you a member of any organisation involved in human rights advocacy? Yes or No (*tick one*)
6. If the answer to 5 is in the affirmative, please explain briefly
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7. Are you willing to abide by the laws of Uganda? Yes or No (*tick one*)
8. Are you willing to abide by the Constitution of the National Human Rights Coalition (U)? Yes or No (*tick one*)

