



19 June 2024

To:

Ms Mary Lawlor, UN Special Rapporteur on human rights defenders

Ms Irene Khan, UN Special Rapporteur on the promotion and protection of freedom of opinion and expression

Ms Margaret Satterthwaite, UN Special Rapporteur on the independence of Judges and Lawyers

Mr Rémy Ngoy Lumbu, ACHPR Special Rapporteur on Human Rights Defenders and Focal Point on Reprisals against Human Rights Defenders in Africa, and Focal Point on Independence of Judges and Lawyers

Ms Ourveena Geereesha Topsy-Sono, ACHPR Special Rapporteur on Freedom of Expression and Access to Information

Mr Mudford Zachariah Mwandenga, ACHPR Commissioner for Uganda

Sent by email to:

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Dear Honourable Special Rapporteurs, Commissioners and Expert Working Group members,

RE: Attacks against the Independence of Judges and Lawyers in Uganda

This is a joint communication from **Lawyers for Lawyers (L4L)** and the **International Bar Association Human Rights Institute (IBAHRI)**.

L4L is an independent and non-political foundation that seeks to promote the proper functioning of the rule of law by pursuing freedom and independence of the legal profession worldwide in accordance with internationally recognized norms and standards.¹ Established in 1995 under the honorary presidency of emblematic human rights defender, the late Nelson Mandela, **IBAHRI** is an institute of the International Bar Association that works to promote, protect, and enforce human

¹ L4L has had Special Consultative status with the UN Economic and Social Council since 2013

rights under a just rule of law, and to preserve the independence of the judiciary and legal profession worldwide.²

We write to express our concern regarding recent judicial orders barring Ugandan lawyers from meeting to discuss alleged threats to the independence of the Ugandan judiciary, and other restrictions, in apparent violation of their rights to freedom of expression, association, and peaceful assembly, and to the independence of the legal profession. The recent orders follow a steady decline in judicial independence through executive interference in the country, particularly in the role of Ugandan judges in matters of public interest. This has now extended to unduly restricting the legitimate activities of the legal profession responding to the illegitimate interference within the judiciary.

We request your honourable mandates to issue an urgent appeal to the Ugandan authorities, calling upon them to take immediate action to address these violations; to create an enabling environment where lawyers can continue their vital contributions to society; and urging the protection of the rights of lawyers to exercise their freedom of expression, and to take legitimate actions to protect the independence of the judiciary, without fear of reprisal. The undersigned organisations also kindly request your participation in an urgent virtual meeting which we will organize at your earliest convenience to provide a platform for Ugandan lawyers and other interested stakeholders to highlight their growing concerns.

Factual Background

In recent months, Ugandan lawyers have become increasingly vocal regarding threats to judicial independence in Uganda. The Ugandan President was reported to have sent a letter to the Chief Justice on 7 December 2023, directing him to intervene in a court matter involving the attachment of property belonging to the Uganda Muslim Supreme Court Council. In another matter—relating to the eviction of project-affected persons in Buliisa and Hoima districts to make way for TotalEnergies’ Tilenga oil infrastructure development project—a High Court judge issued a ruling in favour of the Attorney General within a record four days, while other court proceedings can take years to finalise. In March 2024, the President also allegedly wrote to the Chief Justice on behalf of Francis Ishanga, of New Mugisha Trading Company, requesting intervention in cases involving a contractual dispute with Nile Breweries, and repossession of a property by the Bank of Baroda. The Minister of Justice then allegedly wrote to the Principal Judge calling for recall of the file in the *Francis Ishanga* matter, and directed the police to restore the status quo, in contravention of a court order that had directed New Mugisha’s eviction from the property.

In response to petitions from its members to discuss the alleged judicial impropriety in the Tilenga project matter, the Uganda Law Society (ULS) called for an Extraordinary General Meeting to be held on 12 January 2024. However, the Attorney General then lodged an urgent application asserting that the ULS lacked the appropriate jurisdiction to hold such a meeting pertaining to judicial misconduct. He asserted that the meeting could potentially cause prejudice to the Attorney General and compromise the independence of the judiciary. The High Court granted the application and issued an interim order blocking the meeting.

Another Extraordinary General meeting was then called by the ULS to be held on 6 February 2024 to discuss concerns regarding the independence of the judiciary more generally. However, an

² IBA has had Special Consultative status with the UN Economic and Social Council since 1947

urgent application was filed by lawyer Brian Kirima challenging the ULS' governing council's authority to hold the meeting. The application argued that the objectives of the meeting fell outside the society's mandate; and that the meeting would result in resolutions that would embarrass the judiciary and bring it into disrepute. The High Court judge ruled that the applicant had demonstrated a *prima facie* case that the meeting was illegal and granted a temporary injunction banning the meeting. The judge deemed this necessary to prevent alleged risks of irreparable harm being caused, including by the passing of illegal resolutions. An application for judicial review of the decision was filed, but the matter is yet to be set down for a substantive hearing.

Many Ugandan lawyers and citizens have publicly criticised the judiciary for actions that are perceived to fall short of its highest function to check abuse of power and human rights violations. They have also criticised the restrictions on their freedom of expression and assembly, to meet and discuss such matters. They argue that the proposed ULS Extraordinary General meetings fell squarely within the ULS' founding objectives under the Uganda Law Society Act, as highlighted below. Following these decisions, some ULS members called for a boycott of the opening of the New Law Year in protest. During the New Law Year event on 9 February 2024, the Chief Justice and the Attorney General Kiryowa Kiwanuka criticised the ULS and said it has no mandate to discuss independence of the judiciary. Issues were again raised by the ULS during a Bar Bench Forum held on 21 February 2024, which was attended by the Chief Justice and Attorney General. However, the Chief Justice and Attorney General defended their actions, and disputed any inappropriate interference in court matters.

Recent court orders of contempt of court for "scandalizing the judiciary" have also had a chilling effect on legitimate criticisms about the judiciary and judicial officers expressed by court users, particularly on social media. In the absence of a Contempt of Court Act with clear sentencing guidelines in Uganda, judges have wide discretion to punish their critics harshly. Contempt of court orders have resulted in excessive sentences, including the imposition of a three-year sentence by the Supreme Court for courtroom comments by a self-represented litigant, and an 18-month sentence and \$85,000 fine for a self-represented litigant's posts on the social media platform "X" (formerly known as Twitter).

The decline and interference in judicial independence was also reflected in 2023, by the Chief Justice and Attorney General's controversial decisions to reprimand and take [disciplinary action against Justice Esther Kisaakye](#), the second most senior Justice of the Court at the time, following her lawful dissenting judgement in an election dispute case in March 2021. Justice Kisaakye was reportedly obstructed from delivering her dissenting judgement on the order of the Chief Justice, following which armed police guards were deployed to confiscate her court files and reasoned rulings when she attempted to enter the courtroom.

The twofold measures taken against Justice Kisaakye –the prevention of publicizing her judgement, and the subsequent disciplinary measures– were widely criticized as a successful attempt to stifle her independence, to silence her, and to have a chilling effect on other members of the judiciary. Although she successfully contested the disciplinary actions, she has since not been allocated cases. These actions highlight the extent to which judicial oversight has been undermined by executive interference and have served as "[a huge blow to judicial independence](#)". It further exemplifies increasing reprisals taken against dissenting judicial and legal officers, contributing to a steady decline in judicial independence. Public confidence and trust in the judicial

system have further eroded, weakening the separation of powers. This shift has made it more palatable to restrict the legal profession's challenges to continuing executive encroachment, further narrowing the scope of judicial and civil oversight over executive decisions, and in maintaining the rule of law.

Rights violations

[The UN Basic Principles on the Role of Lawyers](#) ('the Basic Principles') calls upon states to respect the autonomy of self-governing professional associations of lawyers (Principle 24). Principle 23 also specifically provides that lawyers, like other citizens, are entitled to freedom of expression, association, and assembly, and have the right to take part in public discussions on matters concerning the law, the administration of justice and the promotion and protection of human rights. Principle 16 of the Basic Principles further states that governments must "ensure that lawyers (a) are able to perform all their professional functions without intimidation, hindrance, harassment, or improper interference...; and (c) shall not suffer... administrative... or other sanctions for any action taken in accordance with recognized professional duties, standards, and ethics."

[The Ugandan Constitution](#) ('the Constitution') also specifically protects Ugandans' rights to freedom of expression, peaceful assembly, and association (Article 29). [The African Charter on Human and Peoples' Rights](#) (ACHPR) (in addition to other international treaties such as the [International Covenant on Civil and Political Rights](#) (ICCPR), to which Uganda is a state party) also protect the rights to freedom of expression, freedom of association, freedom of peaceable assembly, and the independence of the judiciary (Articles 9, 10, 11 and 26, respectively). These rights appear to have been violated by the banning of the proposed meetings.

Section 3 of the [Uganda Law Society Act](#) also expressly gives the Society the mandate to maintain and improve the standards of conduct of the legal profession in Uganda; to represent, protect and assist members of the legal profession in Uganda regarding conditions of practice; and to assist in all matters affecting the rule of law in Uganda. Contrary to this Act, and Principle 24 of the UN Basic Principles, the Society's autonomy appears to have been unlawfully restricted.

Further, the constitutional framework in Uganda clearly stipulates the function of the judiciary, in accordance with international standards, to be designed to operate independently, free from external pressures and influences. Article 128 of the Constitution explicitly guarantees judicial independence and protects judicial officers from interference, providing that "a person exercising judicial power shall not be liable to any action or suit for any act or omission by that person in the exercise of judicial power".

The targeting of Supreme Court Justice Kisaakye exemplifies the broader issue of executive overreach impacting the independence of the judiciary specifically through the security of tenure of judges and public chastisement. Article 28 of the Constitution of Uganda provides the right to a fair hearing and under Article 14 of the ICCPR and Article 7 of the African Charter, Uganda has an obligation to ensure all persons shall be equal before the courts and be granted due process during judicial proceedings. Principle 19 of the UN Basic Principles on the Independence of the Judiciary further states that "all disciplinary, suspension or removal proceedings shall be determined in accordance with established standards of judicial conduct."

Further, Section 11 of the [Judicial Service Act](#) of Uganda defines the required process for disciplinary proceedings and removal of a judicial officer, noting specifically that the judicial officer concerned is to be informed about the particulars of the case against them, as part of their right to defend themselves. It clearly underscores their right to a fair hearing as follows:

“In dealing with matters of discipline, and removal of a judicial officer, the [Judicial Service] commission shall observe the rules of natural justice; and, in particular, the commission shall ensure that an officer against whom disciplinary or removal proceedings are being taken is—
(a) informed about the particulars of the case against him or her;
(b) given the right to defend himself or herself and present his or her case at the meeting of the commission or at any inquiry set up by the commission for the purpose;”

Section 10(1) of Uganda’s Judicial Service (Complaints and Disciplinary Proceedings) Regulations further provides procedures to be followed by the JSC upon receiving a complaint of misconduct. It states that “The respondent shall be served the copy of the complaint and shall be required to file a reply within fourteen days from the date of service.” In Justice Kisaakye’s case, none of the disciplinary procedures were complied with.

Interferences with the principle of judicial impartiality by the executive has far-reaching implications for the administration of justice in Uganda. Such actions jeopardize the integrity of the legal system, erodes separation of powers, diminishes the role of lawyers in public discourse and the judiciary’s role as a check on executive decisions. This trend, if left unchecked, could lead to a systematic weakening of human rights protections and the rule of law in Uganda.

Urgent Appeal

We kindly request your honourable mandates to urgently address the plight faced by lawyers and judges in Uganda by issuing an urgent appeal to the Ugandan authorities to:

- Refrain from actions that may constitute undue interference in the work of judges, and lawyers, or their professional associations.
- Take urgent measures to guarantee lawyers’ rights to freedom of expression, association, and assembly, including online, as well as the independence, integrity, and freedom of the legal profession and judiciary in Uganda.
- Take specific measures to guarantee lawyers’ and the Uganda Law Society’s right to hold public discussions on matters concerning the law, the administration of justice and the promotion and protection of human rights, including threats to the independence of the judiciary.
- Take immediate steps to guarantee the safety and protection of lawyers and judges in Uganda, ensuring a safe and enabling environment conducive to their work without fear of reprisals or intimidation.
- Recognize that an independent judiciary is a prerequisite for the realization of the rule of law, urge all relevant authorities to thoroughly investigate any allegations of interference in court processes and the obstruction of judicial decisions, and facilitate appropriate action to safeguard the independence of the judiciary.

Finally, we request an urgent virtual meeting between your honourable mandates and concerned members of the Uganda Law Society, to allow Ugandan lawyers and other relevant stakeholders to highlight their concerns regarding alleged escalating threats to the independence of judges and lawyers in Uganda. We are prepared to support the organisation of this meeting at your earliest convenience.

We thank you in advance for your urgent assistance.

Yours faithfully,

**International Bar Association
Human Rights Institute**

Lawyers for Lawyers