

**CENTRE FOR FOOD AND ADEQUATE LIVING
RIGHTS**



**THE HUMAN RIGHTS
ENFORCEMENT ACT
(2019)**

A Simplified Version

For

Justice Actors & Seekers

With support from:

International Development Law Organization

The development of this simplified version of the ***Human Rights Enforcement Act (2019)*** was made possible with the support of the International Development Law Organization (IDLO)

Section 1. How the law is used

- (1) This Law applies for protection from interfering with human rights and freedoms that are listed in Articles 20 to 45 of the Constitution of Uganda.
- (2) This Law applies to applications before Courts for failure to respect human rights.
- (3) This Law does not apply to applications for failure to protect human rights before the Uganda Human Rights Commission or the Uganda Equal Opportunities Commission.

Section 2. Meaning of the words used in this Law

Application: A request made to the Court under Article 50 of the 1995 Constitution of Uganda to decide a complaint of a failure to respect human rights that are mentioned in Articles 20 to 45 of the 1995 Constitution of Uganda.

Court: A High Court or Magistrate Court.

Minister: The Minister of Justice.

Non-derogable rights and freedoms: Human rights that must be respected and observed under all circumstances and are listed in Article 44 of the 1995 Constitution of Uganda. Examples include; (a) freedom from torture, cruel, inhuman and degrading treatment; (b) freedom from slavery or servitude; (c) the right to a fair hearing; (d) the right for a person under arrest to be brought before a judge or into court, especially to secure his or her release unless lawful grounds are shown for his or her detention. This is also known as the right to an order for habeas corpus.

Rules Committee: The Rules Committee of the Judiciary, created by the Judicature Act, Cap. 13.

Victim: A person whose human rights are either directly or indirectly interfered or violated. This includes any immediate family member or dependents or any other person who suffered a human rights violation as a result of a failure to respect the human rights of a violated person.

Section 3. Making applications for human rights cases (1) Any person or organization that claims that there has been a violation of a human right mentioned in Articles 20 to 45 of the 1995 Constitution, even where there is another legal way available to that person or organization, can make an application to the Court for a remedy.

(2) An application to the Court can be made by:

- (a) Any person, on behalf of another who cannot make the application in their name;
- (b) Any person, as part of or on behalf of a group of people or who want to influence public policy or on the basis of particular common interest or concern;
- (c) Any person, for the benefit of the general public;
- (d) An association, based on the benefit of one or more of its members.

Therefore, abuses must be framed as human rights cases for this law to apply on protection of violated rights.

A case study on framing an abuse as a human rights case:

First step: Describe the state of what happened (the abuse), for instance;

- My maize garden equivalent to one acre was grazed on and totally destroyed by three neighbors' cows on 23rd of April 2023 at 4:20pm

Second step: Describe how the abuse violated your rights and/or rights of your family members, for instance;

- The maize garden was to produce food to feed on my family members and also to have a surplus for sale to cater for school fees of my two on-going children.
- Therefore, the act of destroying my maize garden by neighbors' animals, denied myself and my family members the food for consumption and income from sale of the surplus. Therefore, my rights and rights of my family members to;
 - ✓ Food
 - ✓ Survival
 - ✓ Health
 - ✓ Education for my children and
 - ✓ Economic rights have been violated

Important to note:

Success of reported cases or applications depends on facts which are supported with evidences and witnesses. Therefore, it is important to get facts right and gather adequate evidences and witnesses as possible. For instance, taking photos or videos of acts or situations, calling neighbors and local leaders to witness the acts or situations, obtaining recommendations or referrals from local leaders, taking and keeping records on every social and financial transactions and decisions taken such as, receipts, agreements, minutes of meetings etc

Steps for making applications for human rights cases

Step 1: Gather all the facts about the case, obtain evidence and witnesses

Step 2: Develop an oral or written application / petition under the 1995 Constitution of Uganda and the Human Rights Enforcement Act (2019) describing the act or case and the resultant human rights violations and also describe the orders you want the court to give.

Step 3: For oral applications, applicants are supposed to walk to Magistrate's chamber and report the abuses to the magistrate in any language of their choice. The Magistrate will write it down in English.

Step 4: Submit written applications to court registry where the applicant will be advised to pay court fees NOT more than UGX 6,000/= through the bank or bank agents. Upon submission of bank receipts, the file case will be opened, the file number will be assigned, summons for the defendant(s) will be issued and date for case mediation will be given to the applicant.

Section 4. Human rights applications to the High Court

(1) The High Court must hear and decide applications in cases of: (a) Failure to respect human rights mentioned under Article 44 of the 1995 Constitution that must be respected under all circumstances. The rights that must be respected under all circumstances are:

(i) the right not to be tortured, treated in a cruel inhuman or humiliating way and not to be punished in a similar way; (ii) the right not to be treated like a slave or to work for someone when you cannot leave because they own you;

(iii) the right to a fair hearing which includes the right to:

- be treated as an innocent person until you are found guilty by a court;
- the right to be immediately be informed of the reasons for your arrest in the language that you understand;
- the right to be given time and facilities to prepare your defence;
- the right to appear in court or to pay a lawyer of your choice to appear on your behalf;
- in cases where you are accused of committing a crime that is punished by death or imprisonment for life under the law, the right to be represented by a lawyer that is paid by the Government;

- the right for you to be provided with an interpreter, paid for by the Government;
- the right for you to get a list of the names of witnesses who attended your court case;
- the right for you to appear in person in court for your case unless you choose not to appear, or where the Court orders you to be removed from the Court, because of your behaviour in the Court;
- the right of a person accused of a crime, or a person authorised by a person accused of a crime, to be given the decision of the Court in his or her case, when he or she has paid a fee set by the law;
- the right for you not to be charged with a crime that was not forbidden by law at the time when you carried out the act or failed to do an act, and which amounts to that crime;
- the right for you not to be given a bigger punishment than that which was set by the law at the time you committed the crime;
- the right not to be charged twice with a crime for which you were charged before and found guilty or not guilty, or any other crime for which you should have been charged but were not charged;
- the right not to be tried for a crime for which you were forgiven;
- the right not to be forced to give evidence in your own case and not to be forced to give evidence against your partner;
- the right not to be charged with an offence that is not created by law, except for the offence of offending a court.

(iv) the right to bring a person under arrest before a judge or into Court, especially to secure the person's release;

- (b) Human rights, duties, declarations and guarantees relating to the fundamental and other human rights and freedoms that are not specifically mentioned in Articles 20 to 45 of the 1995 Constitution;
- (c) Human rights that have been limited by Government policies, that would normally not be permitted, but have been limited for the

safety and protection of the citizen, for instance, to deal with a state of emergency;

- (d) Human rights complaints, which under this law must be heard and decided by the Magistrate Court, but where the compensation is more than Fifty Million (50,000,000) Ugandan Shillings.
- (2) Applications to the Court must be made in a way described by the regulations and may be heard in an open court unless the Court orders otherwise.

Section 5. Making human rights applications to the Magistrate Court

- (1) The Magistrate Court must hear and decide applications about failure to respect the right:
- (a) to equality and freedom from discrimination;
 - (b) to protection from the arbitrary deprivation of life;
 - (c) to protection of personal liberty;
 - (d) to protection from deprivation of property;
 - (e) to privacy of person, home and other property;
 - (f) to protection of freedom of conscience, expression, movement, religion, assembly and association;
 - (g) to education;
 - (h) to food;
 - (i) to adequate living
 - (j) to land access
 - (k) to a family life;
 - (l) to affirmative action in favor of marginalized groups;
 - (m) of women;
 - (n) of children;
 - (o) of minorities;
 - (p) to culture and similar rights;
 - (q) to civic rights and activities;

- (r) to clean and healthy environment;
 - (s) to economic rights; of access to information; and (q) to just and fair treatment in administrative decisions.
- (2) Applications to the Magistrate Court can be made in any language, in words, or in writing, or in any form as may be provided for by the Rules made under this law;
 - (3) If an application is made in words or in any language other than English, the Magistrate must record it in English.

Section 6. Rules for human rights cases in courts

- (1) Where it is possible to do so, an application to a court for a failure to respect a human right, must be made in a court responsible for the area where the failure to respect a human right occurred.
- (2) If you are not sure about the person against whom you must complain, you can complain about two or more persons and allow the Court to decide which person/s is responsible for the failure to respect a human right.
- (3) The Court can allow any person who is an expert on a particular issue before the Court, to provide the Court with his or her knowledge on the issue. Also, any person can apply to the Court to provide his or her knowledge on the issue before the Court, as a friend of the Court. The Court may also request any person to provide his or her knowledge on the issue before the Court, as a friend of the Court.
- (4) Cases under this law are not bound to timeframes for provision of necessary notices as may be procedurally required.
- (5) Applications to the Court made under this law must not be refused by the Court for failing to fulfil any procedural or legal requirement.

Section 7. Human rights cases referred by Magistrate Court

- (1) In any case in a magistrate court, where a complaint relating to the failure to respect a fundamental right or freedom comes to the attention of the Magistrate, the Magistrate must send the complaint to the High Court to be decided.
- (2) The Magistrate hearing the case must suspend the hearing of the case, and first determine the complaint about the failure to respect a fundamental right or freedom.
- (3) The Magistrate hearing the case, may suspend the case, until the complaint relating to the failure to respect a fundamental right or freedom has been concluded, and in criminal cases, may grant bail to the accused person, who may be victim of the failure to respect a human right.
- (4) The Magistrate must decide the case sent to the High Court under section 7 (1) above, in line with the decision of the High Court.
- (5) The High Court must decide the case sent by Magistrate's Court under section 7 (1) above, within ninety (90) days from the date on which the Magistrate Court sent the case.

Section 8. Handling of human rights cases arising in the High Court

- (1) For any case in the High Court, if the lawyer of the person on trial or a person on trial informs the Judge that a human right was not respected by any person, during any stage when the person on trial was under arrest, the Judge must immediately suspend the case on trial and deal with the claim of failing to respect a human right. The judge should only return to the case on trial after the judge has finished dealing with the complaint of failing to respect a human right.
- (2) The Judge may also choose to give bail to a person under trial, where the Court has stopped the trial to deal with a claim of failing to respect a human right.

Section 9. Orders that can be made by the court in human rights cases

- (1) If the Court finds that a human right was not respected or that it should be respected, the Court must make orders it considers suitable, including an order for compensation.
- (2) The Court may also add orders to:
 - (a) return the victim to the same position that she or he was in before a human right was not respected;
 - (b) restore the victim including medical and mental care;
 - (c) provide fulfilment including:
 - (i) taking steps to stop further infringement of victim's human rights;
 - (ii) taking steps to show the realities, accuracy, or validity of truth in public to ensure that those steps do not result in more hurt, or threaten the well-being of other persons that have helped the victim to stop more human rights from being disrespected;
 - (iii) bringing-back the respect, character and rights of the victims, and of persons connected with the victim;
 - (iv) making a public apology, including accepting facts and responsibility;
 - (v) imposing criminal responsibility, legal and other restrictions against a person who failed to respect a human right;
 - (vi) assurance that the human right will not be violated again.
- (3) Any order by the Court to restore something lost or stolen from the victim, or to compensate the victim or to restore a victim to health or normal life, or to make any payment to the victim is a debt owed to the victim.
- (4) Any order made by the Court under this law **Must** be fulfilled within **six months** of the date of the order being made, unless it has been appealed.

Section 10. Circumstances under which a person is held individually liable or responsible for not respecting human rights

- (1) Any person who has been elected or appointed to a government office or any person who works for the Government, who on his/her own or together with others fails to respect a human right or contributes to human right violation will be personally held responsible for failing to respect a human right rather than the Government for whom s/he works.
- (2) Whenever a court makes an order for payment by State to a victim or an order to return the victim to the state the victim was in before his or her human right was not respected, the Court must also order the person, who has been elected or appointed to a Government office or any person who works for the government who caused or failed to respect the victim's human right, to pay some money towards the Court order.

Section 11. Failing to respect human rights that must be respected under all circumstances

- (1) It is a crime not to respect the human rights that, as mentioned under Article 44 of 1995 Constitution of Uganda, must be respected under all circumstances. The human rights that must be respected under all circumstances are:
 - (a) the right not to be tortured, treated in a cruel inhuman or humiliating manner or punished in a similar way;
 - (b) the right not to be treated like someone owns you. For example, as his or her property or slave, or to work for someone when you cannot leave or stop, because someone owns you;
 - (c) the right to a fair hearing which includes:
 - (i) the right to be treated as innocent until you are found guilty by the Court,

- (ii) the right to be immediately informed of the reasons for your arrest in a language that you understand;
- (iii) the right to be given time and facilities to prepare your defence;
- (iv) the right to appear in Court or to pay a lawyer of your choice to appear on your behalf;
- (v) in cases where you are accused of committing a crime that under the law is punished by death or imprisonment for life, the right to be represented by a lawyer that is paid by the Government;
- (vi) the right to be provided with an interpreter paid by the Government;
 - (vii) the right to question witnesses and to get a list of the names of witnesses who attended your court case;
- (viii) the right for you to appear in person in Court in your case, unless the you choose not to appear, or where the Court orders you to be removed from the Court because your behavior in Court;
- (ix) the right of a person accused of a crime or a person authorized by a person accused of a crime, to be given the decision of the Court in his or her case where that person has paid a fee set by the law;
- (x) the right not to be charged with a crime that was not forbidden by law at the time when you committed the act or failed to do an act which amounts to a crime;
- (xi) the right not to be given a bigger punishment than that which was set by the law at the time the crime was committed;
- (xii) the right not to be charged twice with a crime for which you were charged but found guilty or not guilty or any other crime for which you should have been charged but were not charged;
- (xiii) the right not to be tried for a crime for which you were forgiven;
- (xiv) the right not to be forced to give evidence in your case or not to force your partner to give evidence against you;
- (xv) the right not to be charged with an offence that is not created by law, except for the offence of offending a court.

- (d) the right for an order to bring a person under arrest to be brought before a judge or into Court, especially to secure the person's release.
- (2) In any criminal case (*a case where someone's conduct is considered to be illegal according government's laws*) before the Court, where the Court finds that a failure to respect a human right that must be respected under all circumstances has occurred against the person who is being charged with a crime, the Court must cancel the trial of the person being charged with a crime and set free that person.
- (3) A criminal case can be brought in a court against any person who fails to respect the human rights that must be respected under all circumstances, even where a case to ensure compliance with the human rights that must be respected under all circumstances has not been taken to court.
- (4) A criminal case against any person who fails to respect the human rights that must be respected under all circumstances can be brought to Court by either the Director of Public Prosecution or any person.
- (5) A case brought before a court for a failure to respect a human right that must be respected under all circumstances must not be disallowed by the Court on the basis of failing to fulfil the legal requirements that are often considered essential to start a case in the Courts of Law.
- (6) Any person who is found guilty of the crime of failing to respect human rights that must be respected under all circumstances, if there is no other law that sets the punishment for this crime, must be sentenced to not more than fifteen (15) years of imprisonment.

Section 12. Obeying orders and instructions of the court

- (1) Apart from orders to pay money made by the Court against the Government, all other orders, instructions or suggestions made by the

Court under this law must be obeyed within the period set by the Court, except where the order is appealed.

- (2) The Government must take all reasonable steps, to obey orders for payment of money made by the Court, within a reasonable period.
- (3) Whenever an order of the Court is not obeyed within the time given by the Court, a person whose human right was not respected or any other person can apply to the Court to bring the person who was supposed to obey the order of the Court, to be brought to the Court, to explain why she or he should not be sent to prison for disobeying the order of the Court.
- (4) The application mentioned in section 12 (3) above, must be made to the Court that made the order.
- (5) When a person has made an application under section 12(3) above, the Court can make orders that it considers right to obey its orders.

Section 13. Gradual realization of human rights

- (1) Any person who has a reason to believe that the Government is not making enough effort to realize respect for the human rights under the 1995 Constitution of Uganda or international agreements that Uganda has signed, can apply to the Court to order the Government to make the effort required.
- (2) When an application is made to the Court under section 13 (1) above, and the Court finds that the Government has not made enough effort towards achieving respect for human rights, the Court must order the Government to make measurable steps towards protection and promotion of human rights.
- (3) The Government must, every year, report to Parliament on the efforts it has made towards fulfillment, protection and respect of human rights.

Section 14. Loss of exemption from trial

- (1) No person is exempted from trial under this law.
- (2) Apart from the President of Uganda, and only during his or her time as President, any other person who is exempted from trial by any law will lose his or her immunity if the person is found by the Court to have failed to respect any human rights listed in Articles 20 to 45 of the 1995 Constitution of Uganda.
- (3) If a person who is exempted from trial by any law loses this exemption as stated in section 14 (2) above, that person can be brought to Court or answer for what he or she did as part of his or her job.
- (4) A person who has been found to have failed to respect a human right listed in Articles 20 to 45 of the 1995 Constitution of Uganda by the Court, is also deemed to have been found guilty of misbehaviour and misconduct under any law, such a person must be terminated or removed from his or her employment or office.

Section 15. Release of unjustly detained persons without any condition

- (1) Any person who believes that another person is being unjustly detained can apply to the High Court, for the release of that person without any conditions.
- (2) A person who is in charge of a prison, police, station or any other detention centre who believes that a person has been unjustly detained in that prison, police, station or detention centre, must release or apply to the Court or any other responsible person or establishment for the release of that person from detention
- (3) If the High Court finds that a person is unjustly detained, it must:
 - (a) order for that person to be brought to the High Court;

- (b) order the person who is in charge of the prison, police, station or any other detention centre where that person is detained to carry out its orders; or
 - (c) order for the release of that person on its terms and conditions.
- (4) A person is unjustly detained when:
- (a) she or he has been detained beyond forty-eight (48) hours after arrest and has not been taken to court;
 - (b) she or he is being charged with a crime to be tried by a magistrate court but has been held on remand in prison, for more than one hundred and twenty (120) days before her or his case starts;
 - (c) she or he is being charged with a crime to be tried by the High Court but has been held on remand in prison, for more than three hundred and sixty (360) days before her or his case starts;
 - (d) she or he is waiting to be tried by the High Court, but has spent more than half of the period for the punishment that should be received if the person is found guilty of the crime she or he is being charged with;
 - (e) the manner in which she or he was detained did not follow the rules set by the law or was not permitted by the law;
 - (f) there is no reason under the law for her or his continued detention;
 - (g) her or his rights that must be respected under all circumstances have not been respected;
 - (h) she or he is being detained or punished for a crime that she or he did not commit.
- (5) An order of the High Court made under section 15 (3) above, must be sent to the Attorney General or any person in charge of the prison, police, station or any other detention centre, and must be respected immediately.
- (6) It is a crime for a person in charge of a prison, police station or any other detention centre to:

- (a) refuse to receive or ignore an order of the High Court made under section 15(3) above;
 - (b) after receiving an order of the High Court made under section 15 (3) above, act in a way that fails to respect that order.
- (7) If a person in charge of a prison, police station or any other detention centre disobeys section 15 (6) above, any person can make an application to the Court to make relevant orders.
- (8) If the Court finds that a person has committed a crime under section 15 (6), the Court must send that person to prison for not more than ten (10) years.
- (9) It is a crime to detain a person in any of the ways listed under section 15 (4)(a), (e) or (g). The Court may send a person who commits this crime to prison for a period of not more than five (5) years.

Section 16. Appeals

- (1) Any person who is not satisfied with the decision of the Court can:
- (a) appeal the decision of the Magistrates' Court at the High Court;
 - (b) appeal the decision of the High Court at the Court of Appeal;
 - (c) appeal the decision of the Court of Appeal at the Supreme Court.
- (2) The Court that has received an appeal under section 16 (1) above must decide on the appeal within three (3) months of receiving the appeal. The Court may suspend any other matter before it in order to deal with this appeal.
- (3) The law relating to civil (*disputes between two people in which one person sues another e.g damage to property, family issues, landlord & tenant disputes*) appeals may, with the required adjustments, apply to this law.

Section 17. The Civil Procedure Act Cap.71

The Civil Procedure Act Cap.71, and its rules as they have been amended, will be used in any application to the Court, for respecting human rights under this law.

Section 18. Rules that must be used for this law

- (1) The Rules Committee may make rules to be used in this law.
- (2) The Rules Committee under section 18 (1) above, may make Rules:
 - (a) that set the fees to be paid under this law;
 - (b) that set time for application and references under this law;
 - (c) for evidence and taking action under this law;
 - (d) for bringing a number of cases under one case (joinder), joining or uniting cases together (addition), replacing persons in the case (substitution), and removing all or some of the complainants or persons complained against (striking out parties);
 - (e) for allowing persons that assist the Court, as a “friend of the Court”, with information or advice regarding questions of law or fact;
 - (f) for actions to be taken in and ensuring observance of or compliance of service;
 - (g) for notifications, warrants and other processes;
 - (h) for orders for witnesses to appear before the Court;
 - (i) for facts to be proved during any stage of the case in the Court;
 - (j) for the method or manner in which facts must be given in Court;
 - (k) for sending and exchanging documents relating to a complaint about failure to respect human rights;
 - (l) for replying to applications to the Court;
 - (m) for combining two or more cases;
 - (n) for what should be contained in the applications to the Court;

- (o) for guiding the Court in deciding complaints for failure to respect human rights;
- (p) for fees to be paid;
- (q) for withdrawing applications made to the Court;

- (r) Any other matter that the Rules Committee finds necessary.

Section 19. Actions that hold human rights back

- (1) An application to a court for respecting human rights must be brought before the Court within ten (10) years from the date when the failure to respect human rights occurred. However, an application for failure to respect the human rights that must be respected under all circumstances (described under section 11 (1) above) may be brought before a court anytime, including after ten (10) years from the date when the failure to respect human rights occurred.
- (2) A court can allow an application for failure to respect human rights to be brought after ten (10) years if the victim can prove to the Court that she or he was unable to make an application within the ten (10) years.
- (3) The Civil Procedure and Limitation Act, Cap. 72 will not apply to any application that is brought to the Court under this law.

Section 20. Provision on handling pending cases filed before the beginning of this law

All applications for a failure to respect the human rights listed under Articles 20 – 45 of the 1995 Constitution, made to a court before 15 November 2019 when this law was passed, but have not been decided by the Court, must be transferred to the High Court if the hearing of the case has not started.

This law must be read together with:

The Magistrates Courts Act, Cap. 16;
Civil Procedure Act, Cap. 71;
The Judicature Act, Cap. 13;
The Local Council Courts Act, 2006.

