



JUSTICE  
ACCESS  
POINT



## FREEDOM OF ASSEMBLY AND ASSOCIATION IN UGANDA DURING THE 'SCIENTIFIC' PRESIDENTIAL AND GENERAL ELECTIONS 2021

*A Quest For A Just Society*

## **ABOUT Justice Access Point (JAP)**

### **Our Vision**

A society where every citizen is able to access and benefit from Justice.

### **Our Mission**

A one stop Justice center of excellence, enabling citizens and citizen organizations in fragile and post-conflict communities in Uganda to effectively and efficiently access and utilize the available justice mechanisms and meet their justice needs.

### **Our Objectives**

- a) To support the realization of the National targets towards the Global Sustainable Development Goals, especially programmes relevant to Access to Justice, Human Rights, Peace and security in Uganda;
- b) To popularize and encourage civil society engagement with the Peace and Justice Architecture within the East African Community, International Conference of the Great Lakes Region, African Union, and the United Nations;
- c) To advocate for State ratification and full Domestication of treaties relevant to prevention of and Accountability for International crimes and mass atrocities;
- d) To advocate for a conducive policy and legal framework for transitional justice for the war affected communities in Uganda;
- e) To build the capacity of citizens, civic groups and citizen organizations in the utilization of the available domestic, regional and international justice mechanism to meet the justice needs of citizenry in fragile and post-conflict communities;

### **Core Values**

- Participation
- Accountability
- Non-discrimination
- Dignity of the person

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AND GENERAL ELECTIONS**

2021

## Acknowledgement

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## Acronyms

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|               |                                                                     |
|---------------|---------------------------------------------------------------------|
| <b>ACERWC</b> | African Committee of Experts on the Rights and Welfare of the Child |
| <b>ACHPR</b>  | African Charter on Human and Peoples' Rights                        |
| <b>AWG</b>    | Advocacy Working Group                                              |
| <b>CMM</b>    | Crowd Management Marshals                                           |
| <b>FDC</b>    | Forum for Democratic Change                                         |
| <b>IEC</b>    | Independent Electoral Commission                                    |
| <b>ICCPR</b>  | International Convention on Civil and Political Rights              |
| <b>ICESCR</b> | International Convention on Economic Social and Cultural Rights     |
| <b>IOC</b>    | Independent Oversight Commission                                    |
| <b>MDAs</b>   | Ministries Departments and Agencies                                 |
| <b>MIA</b>    | Ministry of Internal Affairs                                        |
| <b>NGO</b>    | Non-Government Organization                                         |
| <b>NSIC</b>   | Nalufenya Special Investigations Center                             |
| <b>NRM</b>    | National Resistance Movement                                        |
| <b>NUP</b>    | National Unity Platform                                             |
| <b>POMA</b>   | Public Order Management Act                                         |
| <b>UCC</b>    | Uganda Communication Commission                                     |
| <b>UDHR</b>   | Universal Declaration of Human Rights                               |
| <b>UHRC</b>   | Uganda Human Rights Commission                                      |
| <b>UNNR</b>   | Uganda National NGO Register                                        |
| <b>UPDF</b>   | Uganda Peoples Defense Force                                        |
| <b>UPF</b>    | Uganda Police force                                                 |
| <b>UPR</b>    | Universal Periodic Review                                           |



## Executive Summary

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The report entitled **Freedom of Assembly and Association in Uganda during the ‘Scientific’ Presidential and General Elections 2021**, contains the observations and findings from a human rights monitoring intervention commissioned by Justice Access Point (JAP) from November 2020 to 31st January 2021. The overarching objective of the monitoring intervention was to contribute to enabling State compliance with its obligations to respect, protect and ensure the enjoyment of the freedom of assembly and association as provided under the Uganda constitution 1995, as well as the regional and international human rights treaties that Uganda has ratified. Specifically the intervention sought to monitor and document violations of freedom of assembly and association during and in the aftermath of the COVID19 ‘Scientific’ General /Presidential Elections 2021.

Data was collected from both primary and secondary sources to enable the documentation of the violations of freedom of assembly and association during the course of the enforcement of COVID19 and the ‘Scientific’ Presidential/General election 2021. The data from the primary sources were collected through observation, interview of key informants, a field survey and triangulated with those gathered from open sources such as the print media, and social platforms as well as official documents of government agencies.

Freedom of assembly and association were severely constrained during the enforcement of COVID19 Standard Operating Procedures (SOPs) and the Presidential/General elections 2021. The affected parties included ordinary citizens, citizen organisations such as NGOs, political parties as well as candidates for the different elective positions during the presidential and General elections 2021. The restrictions were disproportionately targeted at the political opposition with the security agencies perceived as having taken a partisan role in enforcing both the COVID19 SOPs and the scientific election guidelines.

The recommendations are directed at six (6) categories of stakeholders including MDAs, the Legislature, Political Organisations/Parties, Development Partners, Civil society and the Media. The recommendations range from legal and institutional reform, capacity building, and advocacy to administrative measures aimed at protecting and promoting freedom of assembly and association.

## CHAPTER ONE:

### THE BACK GROUND TO THE MONITORING /OBSERVATION

#### 1.0 INTRODUCTION

This section of the report encapsulates the context underlying the project, the objective, scope and methodology utilized to conduct the freedom of assembly and association monitoring intervention.

#### 1.1 THE PROJECT OVERVIEW

##### 1.1.1 The project context

One of the overarching challenges that Uganda faces is the consolidation of rule of law, democracy and respect for human rights. One area through which this is manifested is State compliance with its obligations under the International Convention on Civil and Political Rights (ICCPR) especially on freedom of Assembly and association. Indeed, the State received recommendations under the 1st and 2nd cycle of UPR to improve on its human rights record in this area. Uganda has had a bad record of public disorder and chaos in the management of public assemblies. The enactment of the Public Order Management legislation brought hope that this problem would be cured. Regrettably, some of the provisions of the Public Order Management Act (POMA) 2013, applied to undermine freedom of assembly altogether. It was promptly challenged in the constitutional court by some civil society organisations and nullified in *Human Rights Network and four others V.s. Attorney General (Constitutional Petition No.56 of 2020)*.

Uganda set a number of guidelines and SOPs to contain the spread of COVID19 some of which have far reaching implications for the enjoyment of basic freedoms and fundamental human rights. The situation was further compounded by the decision of the Government of Uganda to proceed with the holding of the Presidential and General Elections 2021 under tight restrictions dubbed ‘scientific election guidelines’. Given the record of Uganda in dealing with public order management issues, it was crucial to establish how freedom of assembly and association would be impacted under the context of COVID19 and scientific election 2021.

##### 1.1.2 The overall objective:

The overarching objective was to contribute to enabling State compliance with its obligations to respect, protect and ensure the enjoyment of the freedom of assembly and association as provided under the Uganda constitution 1995, as well as the regional and international human rights treaties that Uganda has ratified.



### **1.1.3 The specific objective**

The specific objective was to monitor and document violations of freedom of assembly and association during and in the aftermath COVID19 ‘Scientific’ General /Presidential Elections 2021 to enable accountability through the national, regional and international mechanisms.

### **1.1.4 The scope**

The observation/monitoring exercise was conducted country wide albeit with quasi-permanent observers in the selected areas of the country especially in the Mukono, Kampala, Wakiso, Arua, Mbale, Kasese, Jinja Kamuli, Masindi and Nakaseke. The specific choice of the districts was informed by identification of the area as a potential hotspot on one hand and the presence of a field partner in the area on the other hand.

### **1.1.5 The methodology**

Data was collected from both primary and secondary sources to establish the violations of freedom of assembly and association during the course of the enforcement of COVID19 and the ‘Scientific’ Presidential/ General election 2021. The data from the primary sources were collected through observation, interview of key informants and a field survey conducted among 20 NGOs, while the secondary data was gathered from open sources such as the print media, social media and the records of relevant MDAs.

Tools were developed and utilized to establish the nature and scope of violations in regard to freedom of assembly and association. Data was presented episodically featuring a series of incidents of violations of freedom of assembly and association. The monitors were commissioned in different parts of the country and their observations triangulated with data from other sources.

Data was analyzed using the narrative approach based on episodes relating to freedom of assembly and association gleaned from both the primary and secondary sources.

## CHAPTER TWO

### LEGAL AND REGULATORY FRAMEWORK RELEVANT TO FREEDOM OF ASSEMBLY AND ASSOCIATION IN UGANDA

#### 2.0 INTRODUCTION

This section of the report provides an overview of the international, regional and domestic legal framework underpinning freedom of assembly and association.

#### 2.1 THE INTERNATIONAL LEGAL FRAMEWORK

The universal declaration of human rights article 20 (1) provides that everyone has the right to freedom of peaceful assembly and association. This has been operationalized in the international and regional treaties including the International Covenant on Civil and Political Rights (ICCPR), and the African Charter on Human and Peoples' Rights (ACHPR). Article 21 of the ICCPR provides for peaceful assembly while Article 22 of the ICCPR provides for freedom of association.

The right to peaceful assembly has been provided in article 10 and article 11 of the African charter. The right to freedom of association is guaranteed under article 10 of the ACHPR, article 8 of the African charter on the rights and welfare of the child, and article 12 (3) 27(2) and 28 of the African charter on democracy, elections and governance.

Uganda is state party to numerous international treaties including ICCPR, the Convention Against Torture and Other Forms of Cruel, Inhuman and Degrading Treatment. Uganda has signed, but not ratified, the International Convention for the Protection of All Persons from Enforced Disappearance; and party to the African Charter on Human and Peoples Rights. It is therefore imperative for Uganda to domesticate its obligations to promote and protect human rights.

#### 2.2 THE NATIONAL LEGAL FRAMEWORK ON THE RIGHT TO FREEDOM OF ASSEMBLY

The constitution of the republic of Uganda 1995 enshrines the bill of rights under Chapter Four and these among others include the right to freedom of conscience, expression and assembly under section 29. Article 43 provides that in the enjoyment of rights and freedoms prescribed in charter 4, no person shall prejudice the fundamental or other human rights and freedoms or the public interest. Article 43(2) provides that public interest shall not permit (a) political persecution, (b) detention without trial

(c) any limitation of the enjoyment of the rights and freedoms prescribed in the chapter beyond what is acceptable and demonstrably justifiable in a free and democratic society or what is provided in the constitution.

The Penal Code Act under section 65 defines unlawful assembly to mean; where three or more persons assemble with intent to commit an offence, or being assembled with intent to carry out some common purpose, conduct themselves in such a manner as to cause persons in the neighborhood reasonably to fear that the persons so assembled will commit a breach of the peace or will by such assembly needlessly and without any reasonable occasion provoke other persons to commit a breach of the peace, they are an unlawful assembly. When an unlawful assembly has begun to execute the purpose for which it assembled by a breach of the peace and to the terror of the public, the assembly is called a riot, and the persons assembled are said to be riotously assembled. <sup>1</sup>It also prescribes a punishment for unlawful assembly in that he that commits it is commits a misdemeanor and is liable to imprisonment for one year.<sup>2</sup>

The government of Uganda enacted the Public Order Management Act, 2013 for the regulation of public meetings; to provide for the duties and responsibilities of the police, organizers and participants in relation to public meetings; to prescribe measures for safeguarding public order and related matters. The underlying principle of managing public order is to regulate the exercise of the freedom to assemble and to demonstrate together with others peacefully and unarmed and to petition in accordance with Article 29(1) d and 43 of the constitution.<sup>3</sup> Section 3 of the Act gives the Inspector General of Police the power to regulate the conduct of all public meetings in accordance with the law. The same Act under section 4 defines a public meeting to mean a gathering, assembly, procession or demonstration in a public place or premises held for the purposes of discussing, acting upon, petitioning or expressing views on a matter of public interest.

It was a requirement under the Act for an organizer to give notice of a public meeting signed by the organizer or his or her agent to the authorized officer of the intention to hold a public meeting of the intention to hold a public meeting at least three days but not more than fifteen days before the proposed date of the public meeting.<sup>4</sup>

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<sup>1</sup>Section 65 (3) of the Penal Code Act, Cap 120

<sup>2</sup>Section 66 of the Penal Code Act, Cap 120

<sup>3</sup>Section 2 of the Public Order Management Act, 2013

<sup>4</sup>Section 5 of the Public Order Management Act, 2013

However, on March 26, 2020, Uganda's Constitutional Court annulled the repressive Public Order Management Act, 2013 (POMA) and declared all acts done under the law null and void where in a 4 – 1 decision, the court ruled that the entire law was inconsistent with the 1995 Constitution of the Republic of Uganda. The court, however, struck down section 8 of the law for having the unconstitutional effect thereby rendering the entire law impotent. In the lead judgment, Hon. Justice Cheborion Barishaki, JA/JCC ruled that the provisions of the POMA do not pass the test set out under Article 43(2) (c) of the 1995 Constitution which requires that any limitation of rights and freedoms must be acceptable and demonstrably justifiable in a free and democratic society.

He noted that **“It is only in undemocratic and authoritarian regimes that peaceful protests and public gatherings of a political nature are not tolerated.”**<sup>5</sup>

The powers of the police are derived from articles 211-214 of Uganda's Constitution. The structure, organization and functions of the police are codified in the Police Act of 1994, as amended by the Police (Amendment) Act 2006. Among others, the police are constitutionally mandated to protect life and property, to preserve law and order, and to prevent and detect crime. Section 24 (1) of the Police Act 1994 codifies powers of “preventive arrest” in extremely narrowly prescribed circumstances. Under domestic law, preventive arrest, and subsequent detention, is only justified where a police officer has reasonable cause to believe it is necessary to prevent a person from causing physical injury to himself or herself or to any other person; from suffering physical injury; from causing loss or damage to property; from committing an offence against public decency in a public place; from causing unlawful obstruction on a highway; or from inflicting harm or undue suffering to a child or other vulnerable person. The Police Act under section 32 gives the police such powers to regulate assemblies and processions.

Further still, when an assembly is convened or procession formed, in contravention of a prohibition under section 32, the Inspector General or Officer in charge of police may require the assembly to cease to be held or the procession to be stopped thereby ordering immediate dispersal of that assembly.<sup>6</sup> Therefore, within the meaning of section 65 of the Penal Code Act, Cap 120, any assembly where three or more persons convene or refuse to pay any order for immediate dispersal given under section 33 shall be deemed to be an unlawful assembly.<sup>7</sup>

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<sup>5</sup><https://chapterfouruganda.org/articles/2020/03/29/poma-uganda-court-annuls-public-order-law>.

<sup>6</sup>Section 33 of the Police Act, Cap 303

<sup>7</sup>Section 34 of the Police Act, Cap 303

The associative rights of citizens to constitute themselves into autonomous entities working not for profit is regulated Act2016. The Act has some provisions which can potentially impair the operations of NGOs. For instance, Section (47) the NGO Act 2016 which obligates entities associating or affiliating to a loose or closely connected entity local or otherwise to have it registered can be abused to limit NGOs freedom to associate through loose coalitions for short term action.

Public assemblies or gathering may be regulated depending on the need to protect public health. The Public Health Act is the applicable law regarding the preservation of public health in Uganda. Under Part III of the Public Health Act Cap 281, section 10 gives the Minister Powers to declare notifiable diseases. Therefore, the Minister may by statutory order; declare that any disease shall be a notifiable disease for the purpose of this Act, declare that only such provision of this Act as are mentioned in the order shall apply to any notifiable disease, restrict the provisions of this Act, as regards to notification of any disease, to the district of any local authority or to any area defined.

Section 11 of the Act gives the Minister power to make rules in respect of the notification of any diseases. Further still, the Minister may make rules applicable to all infectious diseases or only to such infectious diseases as may be specified in the rules, regarding matters such as the closing of any school or any place of public entertainment, where deemed necessary for the purpose of preventing the spread of any infectious disease, and the regulation and restriction of school attendance.<sup>8</sup> The minister of Health invoked the powers under the Public Health Act to issue rules and orders aimed at combating COVID - 19 in Uganda. Subsequently the minister issued the **Public Health (Control of COVID -19) Rules, 2020** under which restrictions on public gatherings and meetings was imposed and as a result, the place and the premises and activities, events, meetings and gatherings, as the case may be, shall be closed or banned respectively and among these were public meetings including political rallies, conferences and cultural related meetings.<sup>9</sup>

The manner in which the national processes including elections are conducted has a bearing on how citizens, citizen organisations, and political organisations enjoy freedom of assembly and association. The management of elections in Uganda is the primary responsibility of the Independent Electoral Commission (IEC), (previously the Electoral Commission). The IEC derives its powers from article 60 of the Constitution of the Republic

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<sup>8</sup>Section 27 of the Public Health Act, Cap 281

<sup>9</sup>Rule 9 (e) of the Public Health (Control of COVID -19) Rules, 2020.

of Uganda. The IEC is responsible for voter registration, and the overall regulation of political parties, candidates, and their conduct. Elections themselves, and the IEC, are governed by a legal framework including the Constitution, the Presidential Elections Act 2005 (as amended in 2010), and the Electoral Commission Act 1997 (as amended in 2010).

The Presidential Elections Act 2005 as amended sets out the law governing Presidential “campaigns”, and aspirant “consultations”. The term “consultation” is not defined under the Act, but Section 3(2) of the Act permits Presidential aspirants to carry out nation-wide consultations; prepare his or her manifesto and other campaign materials; raise funds for his or her campaign through lawful means; and convene meetings of national delegates. The imprecise nature of the Presidential Elections Act in relation to consultations fails to meet the requirements of legality in international human rights law. The law is not formulated with sufficient precision for individuals to know how to regulate their conduct and should be reformed.



## CHAPTER THREE

### THE RIGHT TO FREEDOM OF ASSEMBLY DURING THE ‘SCIENTIFIC’ ELECTIONS IN UGANDA

#### 3.0 INTRODUCTION

This section provides a compilation of selected incidents involving violation of freedom of assembly as triangulated from the different sources. The section does not catalogue all the violations but rather the significant incidents that revealed the trend in the violation of freedom of assembly and association. The observations are captured and reported around key incidents (episodes) involving political candidates, the electorates or civic organisations. The Presidential candidates for 2021 included Amuriat Oboi Patrick (FDC), Kabuleta Kiiza Joseph (Independent), Kalembe Nancy Linda (Independent), Katumba John (Independent), Kyagulanyi Ssentamu Robert (NUP), Mao Robert (DP), Mayambala Willy (Independent), Mugisha Muntu Gregg (ANT), Mwesigye Fred (Independent), Tumukunde Henry Kakurugu (Independent) and Yoweri Museveni Tibuhaburwa Kaguta (NRM). This section features only those candidates that faced incidents involving severe violations of freedom of assembly or presented an opportunity for Juxtaposition of episodes.

#### 3.1 THE EPISODES ON FREEDOM OF ASSEMBLY

##### **Episode1: Presidential Candidates’ processions to and from nominations violently disbanded.**

The Independent Electoral Commission designated 2nd and 3rd November 2020 as the dates for the nomination of candidates for the presidential candidates 2021. The nomination exercise was conducted at Kyambogo University sports ground. The exercise followed an earlier press release held on 29th October 2020 at which the electoral commission strongly cautioned aspiring candidates from mobilizing supporters to accompany them to and from the nomination venue.<sup>10</sup> However, upon successful nominations, candidates were free to meet and address their supporters for purpose of launching their manifestos. The attendance was limited to at least 70 persons required to maintain 2 meters social distancing rule while in the meeting. The police was expected to regulate the follow of traffic and maintain law and order during the process of nomination. While the nomination exercise of presidential candidate Yoweri Tibuhaburwa Kaguta Museveni

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<sup>10</sup><https://www.ec.or.ug/sites/default/files/press/EC%20Briefing%20to%20Aspiring%20Presidential%20Candidates%2029.10.20.pdf>

on 2nd November 2021 went on without incident, there was chaos on 3rd November 2021 when the two leading opposition presidential candidates Robert Kyagulanyi Ssentamu candidate for National Unity Platform (NUP) and Patrick Oboi Amuriat Candidate for Forum for Democratic Change (FDC) were blocked from getting to their respective campaign venues before being grabbed detained by security officials. The security forces cordoned off the FDC offices and whisked off with the FDC presidential candidate in an undignified manner that left him barefooted ostensibly to forestall the precession to the nomination venue, the FDC leadership was allegedly planning<sup>11</sup>. On the same day, shortly after his nomination, Honorable Kyagulanyi was brutally arrested and whisked away<sup>12</sup>. The violent clamp down on political candidates and their functionaries by the security agencies was allegedly for fear that they would act in breach of COVID19 SOPs.

### **Episode 2: Independent presidential candidate Lt. Gen (Rtd) Henry Tumukunde's campaigns in Kisoro blocked**

On 11th November 2020 Lt. Gen (Rtd) Henry Tumukunde was blocked from entering Kisoro district where he had scheduled a meeting to address his supporters. He was denied entry into the district because his programme the IEC time table indicated that he was meant to be in Kisoro district on 10th November 2020<sup>13</sup>.

### **Episode 3: The DP Presidential candidate in Kasese district campaign blocked**

On 13th November 2020 the DP Presidential candidate Norbert Mao was blocked by police from conducting his campaigns in Kasese on the ground that he had arrived late and continuation with his rally would contravene the curfew guidelines in force<sup>14</sup>. The candidate had been scheduled to address the rally at Kilembe quarters play ground in Kasese.



*DP Presidential Candidate Norbert Mao blocked*

<sup>11</sup><https://www.youtube.com/watch?v=4sAHE5--jns>

<sup>12</sup><https://www.youtube.com/watch?v=rUETRakzDic>

<sup>13</sup><https://www.independent.co.ug/police-block-tumukunde-from-accessing-kisoro-district/>

<sup>14</sup><https://www.independent.co.ug/police-block-maos-last-kasese-campaign-rally/>

#### **Episode 4: The NUP Presidential candidate in Mbale district campaign blocked**

On 15th November, 2020, the National Unity Platform (NUP) Presidential candidate Robert Kyagulanyi was not allowed to meet his supporters who had assembled in Mbale on grounds that the rally was organized past the campaign time. This sparked off chaos from the supporters forcing the Police to respond with tear gas and live bullets. Many of his supporters and journalists were injured because there was excessive use of force by the security operatives. This is contrary to what the basic principles on the use of force by law enforcement officials in their duty, shall as far as possibly apply nonviolent means before resorting to the use of force and fire arms.



*Security used tear gas in Mbale town to disperse NUP supporters*

#### **Episode 5: The Arrest of Hon. Robert Kyagulanyi and his colleagues in National Unity Platform (NUP) in Luuka District**

On 18th November 2020, Hon. Robert Kyagulanyi and his colleagues in National Unity Platform (NUP) were arrested as they conducted their campaigns in Luuka District for allegedly flouting the COVID-19 Standard Operating Procedures (SOPs). Our observers in Luuka District reported to have witnessed the security operatives indiscriminate spraying of tear gas and shooting live bullets to disperse the people that had gathered to listen to the NUP presidential candidate. The arrest provoked nation-wide protests and disorder<sup>15</sup>. In the process there were several human rights violations including limitations on freedom of assembly and association. This incident provoked other four presidential candidates including two former military generals to suspend their campaigns and to demand for the release of their opposition run mate. Hon. Kyagulanyi Robert Sentamu was remanded in police custody and detained at Nalufenya Special Investigations Center (NSIC) of the Uganda Police Force.

<sup>15</sup><https://www.youtube.com/watch?v=N2UloXXNzZA>

## **Episode 6: The arrest of FDC Presidential candidate in Kitgum District**

On 18th November 2020, Patrick Amuriat was arrested in Kitgum District northern Uganda<sup>16</sup>. He was arrested for allegedly defying police orders not to hold his campaign rally in that region where Candidate Yoweri Tibuhabwe Kaguta Museveni was conducting his campaigns, but instead proceed to Lamwo District. Throughout these incidents violent force and tear gas were used by the security operatives. While the blockage of the FDC presidential candidate's campaigns in Kitgum violated his rights and denied his supporters freedom to assemble and associate, the collision in Kitgum district points to a weakness in the calendaring of the political candidates by IEC on the one hand and the manner of arrest of the FDC candidate revealed fault lines in the public order management on the other hand.

## **Episode 7: Partisan enforcement of COVID 19 SOPs at assemblies organized by president Museveni's campaign agents**

On 19th November 2020, Moses Ssali aka Bebe Cool a local musician together with other artists serving as agents and promoters of President Museveni's Candidacy organized a mammoth gathering in Kitgum District where they staged music performances and campaigns to attract audience ahead of Museveni's arrival<sup>17</sup>. While these gatherings were out rightly in breach of COVID19 SOPs, they were left to proceed without any hinderance from security agencies. This pattern was repeated elsewhere in Arua<sup>18</sup>, Kotido<sup>19</sup> and Nebbi<sup>20</sup>

## **Episode 8: Shoot to kill orders targeting demonstrators**

The security officers made partisan and evidently politically-skewed pronouncement that were construed to give allegiance to one of the candidates in utter disregard of professional codes of conduct and relevant laws. On 20th November 2020, General Elly Tumwine contended that the police had a right to kill if attacked and asserted that he was not apologetic for any person killed during the fracas that ensued after the arrest of Honorable Robert Kyagulanyi<sup>21</sup>

## **Episode 9: Police disrupted NUP Presidential candidate rallies in Kyegegwa and Kyenjojo district**

On 23rd November 2020 the supporters of the opposition NUP leader Hon. Robert Kyagulanyi Sentamu scuffled with police as he held his campaign

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<sup>16</sup><https://www.youtube.com/watch?v=pJjxbmA90dw>

<sup>17</sup>Mao to sue NRM mobilizer Bebe Cool for violating COVID-19 guidelines (independent.co.ug)

<sup>18</sup>LIVE: BEBE COOL IN ARUA #BEBECOOL #NRM - Bing video

<sup>19</sup>Bajo Events, Catherine Kusasira, Bebe Cool & Big Eye Forced to Dance During Museveni Campaigns - Bing video

<sup>20</sup>Bebe Cool, Bajo Events, Kusasira, Big Eye & Isma Olex Disorganize Nebbi Town During NRM Campaigns – Bing video

<sup>21</sup><https://www.independent.co.ug/gen-tumwine-police-has-a-right-to-kill-if-attacked/>



events in the Kyenjojo and Kyegegwa Districts in western Uganda. Police fired tear gas to disperse his supporters who had gathered to meet him at Humura primary school playground in Kyegegwa town council and redirected them to a more remote sight at Kibuye primary school playground<sup>22</sup>.

### **Episode 10: The FDC Presidential candidate blocked from holding campaigns in Rukungiri town.**

On 1st December 2020, police in Rukungiri fired tear gas at Rukungiri FDC offices to block Presidential candidate Patrick Amuriat Oboi and former presidential candidate Col. Dr. Kizza Besigye from holding a procession in Rukungiri municipality. Amuriat was campaigning in Kigezi sub-region addressed his supporters in Kanungu District and Bikurungu town council in Rujumbura County, Rukungiri district. However, when he entered Rukungiri town, Patrick Amuriat Oboi found that a heavily armed anti-riot police had blocked all the roads that connect to Rukungiri Municipal stadium where the public rally was to be held. Patrick Amuriat Oboi had attracted hundreds of supporters was additionally blocked from accessing the party Head Quarters and police fired tear gas and live bullets in the air to disperse his supporters.

According to the police the campaign activities as planned by Patrick Amuriat Oboi and FDC were apt to disrupt business in town and therefore harm the rights of others<sup>23</sup>. Ironically when police took action the whole town was enthralled in a smoke ball of tear gas indiscriminately spread against all including those that the police claimed they wanted to protect. This episode lays bare the challenge of public order management in Uganda.

### **Episode 11: The NUP Presidential candidate blocked, shot at in Kayunga district and several wounded as police clash with supporters.**

On 2nd December 2020 Presidential Candidate Robert Kyagulanyi suspended his campaigns after police shot one of his aides and wounded a police bodyguard identified as Wilfred Kato Kubai. Honorable Robert Kyagulanyi's right-hand man Daniel Oyerwot, aka Dan Magic, survived with mutilated lips as police fired teargas and rubber bullets to disperse Hon. Robert Kyagulanyi's supporters at Kyampisi Trading Centre, Kayunga District.<sup>24</sup> The clamp down by police resulted in a number of injuries to innocent citizens including school going children when the police spread tear gas in residential areas and schools<sup>25</sup>. The police took action against

<sup>22</sup><https://www.independent.co.ug/kyagulanyis-campaigns-in-tooro-amid-tight-security/>

<sup>23</sup><https://ugandaradionetwork.net/story/pictorial-teargas-rocks-rukungiri-as-police-block-amuriat-and-besigye->

<sup>24</sup><https://www.monitor.co.ug/uganda/news/national/bobi-fears-for-life-calls-off-campaigns-3215954>.

<sup>25</sup><https://www.youtube.com/watch?v=N-BhaYu-obQ>

Hon. Robert Kyagulanyi and his supporters for allegedly ignoring routes assigned to them. The NUP entourage contended that the routes assigned were rural and designed to short change them out of access to the general public.

Later in the day, Hon. Robert Kyagulanyi's car was shot at as he attempted to bypass a blockade raised by the security operatives at the old Nile Bridge. The police and military personnel who were heavily deployed attempted to divert him and his entourage towards Budondo Village in one of the sites where he was set to address his supporters. When Honorable Kyagulanyi insisted to access Jinja City through one of the roads that had been blocked by police and the army, the army instantly shot at his car tyres and shattered the windscreen.

### **Episode 12: Partisan enforcement of COVID 19 SOPs at Hon Nansubuga Rosemary Sseninde's campaign at St. Paul's Church in Entebbe Wakiso district**

On 9th December 2020, The Minister for Primary Education and Woman Member of Parliament, Hon Nansubuga Rosemary Sseninde held a campaign at St. Paul's Church in Entebbe Wakiso district where she hosted a big crowd of supporters specifically women SACCO groups. Whereas people gathered in large numbers, there wasn't strict observance of COVID-19 SOPs. The event moved on without any interference from the police operatives and was fully protected by the police notwithstanding the fact that it started quite late. While the manner of gathering violated the SOPs, the approach to management of the assembly, contrasted sharply with forceful disbandment of similar assemblies elsewhere. Such incidents underlined the perception that COVID19 SOPs were being applied selectively and in a partisan manner.

### **Episode 13: FDC Presidential candidates' campaign rally in Mbale district blocked**

On 11th December, 2020, the Uganda Police Force blocked a political gathering of FDC Presidential flag bearer Patrick Oboi Amuriat in Mbale district. The candidate was also blocked from accessing his accommodation at Kanos Hotel and his supporters were obstructed from accessing the campaign grounds. When Patrick Oboi Amuriat returned to Mbale on 28th December 2020 his rally was disrupted again as police officers threw tear gas canisters at him and his supporters. He had to go for hospitalization before resuming his campaign trail.





*FDC Presidential Candidate POA campaigning in Mbale town*



*Security operatives in control of POA campaigns in Mbale town*

#### **Episode 14: Electoral commission suspension of public rallies in selected districts**

On 26th December 2020 the electoral commission suspended the General election campaign meetings in specific areas of the Country<sup>26</sup>. The suspension was premised on the need to control the spread of COVID19. The districts affected included Mbarara, Kabarole, Luweero, Kassese, Masaka, Wakiso, Jinja, Karungu, Kazo, Kampala and Tororo. This directive was viewed with suspicion by the opposition candidates who resolved to defy the directive and to continue with their public rallies in those districts thereby setting the stage for confrontation with the security agencies enforcing the directive. For instance on 28th December 2020 while on his way to Lwengo district through Masaka town Hon. Robert Kyagulanyi and his entourage were violently disbanded resulting to the injury of at least two local journalists covering his campaigns.<sup>27</sup>

#### **Episode 15: FDC Presidential candidate Patrick Oboi Amuriat blocked in Sembabule District.**

On 27th December 2020, security personnel blocked the FDC presidential candidate from conducting his campaigns in Sembabule District. He was scheduled to campaign in Bukomansimbi, Sembabule and Masaka districts.<sup>28</sup> The security operatives insisted that the candidate go through a different route to avoid confusion in the urban centers which the candidate rejected. Amuriat decried the disruptions of the campaign schedules by security forces, actions put their little resources to waste.

#### **Episode 16: Police blocked the NUP Presidential candidate in Kalangala district.**

On 31st December 2020 at Kankyanga Kalangala District landing site security operatives were heavily deployed and blocked the NUP Presidential candidate to carry out his campaigning mission in Kalangala and was later arrested and airlifted back to Kampala.<sup>29</sup> During his arrest, Police claimed that they 'restrained' him from holding massive rallies on Kalangala Island due to increased threats of COVID19. His arrest came barely 15 days to January 14th 2021 President Elections.

#### **Episode 17: The arrest of FDC Presidential candidate in Nakasongola District**

On 2nd January 2021, the FDC Presidential candidate Patrick Amuriat Oboi together with three party members were arrested in Nakasongola District

<sup>26</sup><file:///C:/Users/USER/Desktop/Electoral%20Commission/Press%20Statement%20on%20Suspension%20of%20General%20Election%20Campaign%20Meetings%20in%20Specified%20Areas.pdf>

<sup>27</sup>[https://www.youtube.com/watch?v=rXZdjnd3Trc&has\\_verified=1](https://www.youtube.com/watch?v=rXZdjnd3Trc&has_verified=1)

<sup>28</sup><https://www.independent.co.ug/amuriat-blocked-in-sembabule-vows-to-defy-suspension-of-campaigns/>

<sup>29</sup><https://www.monitor.co.ug/uganda/news/national/police-airlifts-bobi-wine-from-kalangala-to-kampala-3243112>

by the Police in the region. The DPC claimed that Amuriat had no business to campaign in the area and directed him to proceed to other campaign venues located along the Kampala-Gulu highway<sup>30</sup>. Amuriat disembarked from his car and attempted to walk but he was stopped until he decided to sit on the ground. This saw Policemen bundle him into the police van and drove him to Nakaseke district for the campaign rally.

### **Episode 18: Radio mediated assemblies and addresses interfered with**

On November 15, Hon. Robert Kyagulanyi's talk show on Eastern Voice Radio in Bugiri was blocked by Uganda Police Force and the army, allegedly for attempting to hold it past 6 pm in breach of curfew guidelines. This pattern was repeated on 26th November 2020 Hon. Robert Kyagulanyi was denied access to a radio talk show at SPICE FM in Hoima City and was chased, and forced out of the studios<sup>31</sup>. These encounters were equally experienced by Presidential candidate Patrick Amuriat Oboi, who was denied access to radio stations including Etop, Delta and KyogaVeritas where he had booked for talk shows. The management of these radio stations declined to host him citing directives from security agencies. These developments impacted not only freedom of express, but also radio-mediated meetings and assemblies, especially since radio campaigns constituted a major plunk in the scientific campaigns approach mooted by government for the Presidential and General Elections 2021.

### **Episode 19: Blockage of social media and outage of internet**

On 12th January 2021 Ugandan Internet Service Provider (ISPs) confirmed the blocking of social media platforms and online messaging applications following a directive from the Uganda Communication Commission (UCC)<sup>32</sup>. The blockage of internet and social platforms affected technology mediated assemblies and the communication of messages to aid the organizing and convening of public assemblies.

### **Episode 20: The reaction of the Uganda Human Rights Commission to the Violations**

It should be noted that prior to the electoral processes, the different political actors had raised reservations about the capacity of both the UHRC and the IEC to discharge their work in the context of COIVD19. The UHRC lacked leadership at the strategic level since the president had not appointed a substantive Chairperson following the demise of the former

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<sup>30</sup><https://ground.news/article/amuriat-arrested-in-nakasangola-by-dpc-namara>

<sup>31</sup><https://www.monitor.co.ug/uganda/special-reports/elections/bobi-forced-out-of-radio-talk-show-after-3-minutes-3211856>

<sup>32</sup><https://ooni.org/post/2021-uganda-general-election-blocks-and-outage/>



Chairperson Mr. Meddi Kaggwa in November 2019. Nevertheless the UHRC issued some statements relating to enforcement of COVID19<sup>33</sup> and the presidential and general elections 2021<sup>34</sup>. The UHRC did not provide comprehensive human rights guidelines for the different stakeholders in respect of the COVID19 context and the Presidential/General elections 2021. This was crucial given that both COVID19 SOPs and the scientific election campaigns entailed severe restrictions on freedom of assembly and association; and a lacuna had been created by the annulment of the Public Order Management Act 2010.

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<sup>33</sup><https://www.jlos.go.ug/index.php/document-centre/covid-19/423-press-release-state-of-human-rights-and-the-fight-against-covid-19-in-uganda-april-24-2020/file>

<sup>34</sup><https://www.uhrc.ug/download/statement-on-violent-riots-nov>

## 3.2 SUMMARY OF OBSERVATIONS ON FREEDOM OF ASSEMBLY

1. The following are some of the key observations gleaned from the reported episodes on freedom of assembly and related incidents:

- a) The Electoral Commission issued many contestable directives that engendered protestations and possible defiance while opening the way for violent confrontations between the security agencies and the political activists who rejected the restrictions imposed on them; and;
- b) The security officers made partisan and evidently politically-skewed pronouncement that were construed to give allegiance to one of the candidates in utter disregard of professional codes of conduct and relevant laws;
- c) That there was a phenomenal increase in the level of hate speech in relation to the presidential campaigns from the different political camps;
- d) The partisan application of the COVID19 Standard Operating Procedures (SOPs) was undermining the implementation of the COVID19 control measures and leading to the aggravating the health situation arising from the spread of COVID19;
- e) The increased securitization of COVID19 control measures and the relegation of a well tried and tested public health education approach hitherto worked very well for Uganda;
- f) The repeated clamp down on public assemblies and political campaign rallies by security operatives and incessant warnings by security officers that any such assemblies would be violently crushed gravely endangered public assemblies.
- g) The blockage of social media platforms and internet outage which not only interfered with the internet-mediated public assemblies but also with freedom of expression and access to information.
- h) The outlawing of public rallies in over twelve districts perceived to be strongholds of the opposition thereby limiting not only freedom of assembly but also fomenting electoral violence arising out of the defiance of the opposition.

- i) The Uganda Human Rights Commission was not able to respond to the many grave human rights violations. In part as a result of the scale of the problem but also because the commission lacked strategic leadership during this critical time since the president had not yet appointed a new chairperson for the commission following the passing on of the former chairperson of the commission.

### **3.3 CONCLUSION**

While the episodes captured in this section are not a complete catalogue of all violations of freedom of assembly, the few shared are epitomic of the freedom of assembly challenges encountered during the course of enforcing COVID19 SOPs and the scientific election guidelines.



## CHAPTER FOUR

### THE RIGHT TO FREEDOM OF ASSOCIATION DURING THE ‘SCIENTIFIC’ ELECTIONS IN UGANDA

#### 4.0 INTRODUCTION

The section contains the findings on the status of freedom of association (with particular emphasis on NGOs) during the course of enforcement of the Ministry of Internal Affairs’ directive for all NGOs to go through mandatory verification, and ensure strict adherence to the NGO Act 2016, Anti money laundering Act 2017, Anti-terrorism Act 2015, Electoral Commission Act CAP 140 and other relevant legislations in the context of COVID19 and Scientific Presidential and General elections 2021. The observations are presented in an episodic format.

#### 4.1 EPISODES ON FREEDOM OF ASSOCIATION

##### **Episode 1: Operations of unregistered loose coalitions and social formations**

On 22nd October 2020 the National Bureau of NGOs in Uganda invited the Uganda National NGO Forum (UNNGOF) for a meeting with a purpose of ascertaining the legal status of New-U in Uganda. The UNNGOF is an umbrella organization for all NGOs in Uganda, and was coordinating New-U a loose coalition comprising of 60 organisations set up to observe the General and Presidential Elections 2021. Shortly after the meeting the National Bureau of NGOs came out with the following findings<sup>35</sup>.

- a) That there are 65 subscribing organisations rather than the 60 reported by UNNGOF
- b) Only 42 of these organisations were duly registered with the NGO Bureau, possessed valid permits of operation, updated and therefore appeared in the updated Uganda National NGO Register (UNNR)
- c) Six (6) Organisations registered and have valid permits of operation but are updated hence not in the UNNR
- d) Six (6) NGOS registered but do not poses valid permits of operation hence not in the UNNR.

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<sup>35</sup>Livenewschatroom is Uganda’s and East Africa’s leading independent online news portal

Based on the above, the National Bureau of NGOs directed that the operations of NEW-U be halted with immediate effect and there would be no further activities and statements. The Bureau further communicated that action would be taken on NGOs found to have participated in such an illegal arrangement.

The crux of the matter was that NEW-U was not duly registered under the Ugandan laws and only 42 organisations within the ranks of NEW-U were duly registered with the Bureau., possess valid NGO operating permits and duly validated. The Bureau cautioned that NGOs operating without regularizing their status risked closure and that action would be taken against those that are known to have participated in any illegal association.

### **Episode:1 Police raid on the NGOs situation Room at Hotel Africana**

On 14th January 2021 the police raided Hotel Africana in Kampala where NGOs had setup an election observation center and arrested 25 data clerks and 2 NGO staff from Femme Forte and Women's Democracy Network Uganda. The Police action was prompted by their intelligence indicating that NGOs had setup a parallel tally center with the intention of undermining the integrity of the electoral outcomes<sup>36</sup>. NGOs as autonomous institutions are within the law to gather electoral data for purposes of advocacy and accountability.

### **Episode 2: Freezing of NGO accounts**

On 12th December 2020 the Financial Intelligence Authority (FIA) froze the bank accounts of two NGOs namely Uganda Women's Network (UWONET) and UNNGO. In directing the freezing of these accounts, the Executive Director of FIA Sydney Asubo revealed that the Agency relied on intelligence from one of the security agencies indicating that the two NGOs were engaged in terrorism financing activities and accordingly invoked section 17 (a) 1 of the anti-terrorism amendment of 2015 to freeze the accounts of these NGOs. The accounts frozen contained funds for community projects in different parts of the country and not for the alleged illegal activities according the leadership of the affected NGOs.<sup>37</sup> The freezing of accounts affected the work of NGOs and the communities which they serve<sup>38</sup>.

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<sup>36</sup><https://www.monitor.co.ug/uganda/news/national/police-raid-hotel-africana-scores-arrested-over-illegal-vote-tallying-3257848>

<sup>37</sup><https://www.youtube.com/watch?v=ZQCZwoLbnU8>

<sup>38</sup><https://www.youtube.com/watch?v=icTFfRIsf3w>

### **Episode 3: Accreditation of NGOs to monitor the Presidential/ General elections 2020/2021**

Section 16(1)(a) of the Electoral Commission Act gives the commission power to accredit representatives of political parties, Civil society organisations, media and any other duly registered institutions to observe electoral activities. According to the Deputy Chairperson of the Electoral Commission as at 30th December 2020 the accreditation committee had approved 49 national and international organisations. Several NGOs reported to have applied for accreditation and their requests were pending without clear explanation accounting for the delay. Indeed, many local NGOs waited for their accreditation to no avail. This was particularly concerning as the accreditation requirement potentially determines whether Civil Society Organization(s) would or not observe the electoral processes considering that Section 16 (4-6) imposes accreditation upon every electoral observer and a penalty for breach of the same. Accreditation ought not to be used to limit citizens' oversight electoral processes but rather to enhance the credibility of the electoral process which inevitably suffers when citizens' capacity or opportunity to observe the electoral processes is thwarted. Equally concerning was the late commencement of the accreditation process. The accreditation process commenced much later during the electoral process thereby limiting the ability of the accredited observers to report on the entire electoral process.

### **Episode 4: NGOs ability to register, renew permit and go through validation exercise**

#### **Accreditation**

As at 31st July 2019, the National NGO register indicated 14,207 registered NGOs, out of which 3,810 had valid permits, while 10,397 had expired permits. Only NGOs with valid permits were validated. By 19th October 2020 only 2257 NGOs had successfully gone through the verification and validation exercise, and only a few were into mainstream advocacy work on governance. The directive apparently affected NGOs variably ranging from engagement from their constituencies, resource mobilization, advocacy, and demand for accountability from Government, safety and security of human rights defenders, morale of staff to ultimately freedom of association as revealed from the views of NGOs sampled. (See perceptions of NGO practitioners in table 1)

**Table 1: The perceptions of the Respondents**

| No. | Issue                                                                                                                           | Comment                                                                                                                                                                                                                                                                                                                                                                                                      |
|-----|---------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1   | Awareness of the NGO Act and regulations                                                                                        | 50% respondents strongly agreed that the current registration status of NGO was affecting their resource mobilization; 22% agreed that the current registration status affects their resource mobilization; While 14% disagreed that the registration status had not affected their resource mobilization; 7% neither Agreed nor disagreed with the statement; and 7% strongly disagreed with the statement. |
| 2   | Awareness of the process of validation and verification as required by the ministry of internal affairs directive.              | 43% of respondents agreed that they understand what was required of their organization to go through the process of validation and verification as required by the ministry of internal affairs directive to do so; 36%% strongly agreed with the statement; and 21% neither agreed nor disagreed with the statement                                                                                         |
| 3   | The perception of respondents on the requirements for registration of an organization as an NGO are (burdensome too demanding?) | 57% of the respondents strongly agreed that the requirements for registration of an organization as an NGO were burdensome and too demanding; 29% agreed to the requirements being burdensome and too demanding; and 14% neither agreed no disagreed with the statement.                                                                                                                                     |
| 4   | The perception of respondents on the requirements for the renewal of an NGO permit (burdensome and too demanding?)              | 64% of the respondents strongly agreed that the requirements for the renewal of an NGO permit were burdensome and too demanding, while other 36% agreed with the statement.                                                                                                                                                                                                                                  |

|   |                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                             |
|---|------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 5 | The effect of the current registration status of the NGO on its resource mobilization                                        | 43% respondents strongly agreed that the current registration status of NGO is affecting their resource mobilization; 29% agreed that the current registration status affects their resource mobilization; 14% disagreed that the registration status had not affected their resource mobilization; and 14% neither Agreed nor disagree with the statement. |
| 6 | The effect of the current registration status of the NGO is affecting its community mobilization work                        | 42% neither disagreed nor disagreed; 29% respondents strongly agreed that the registration status affected community mobilization work; 21% agreed with the statement; and 7% disagrees with the statement.                                                                                                                                                 |
| 7 | The effect of the current registration status of the NGO affecting its advocacy work with government                         | 30% strongly agreed with the statement; 29% of the respondents neither agreed nor disagree that the current registration status of NGO was affecting its advocacy work with government While 14% agreed with the statement and 7% disagree with the statement                                                                                               |
| 8 | The current registration status of the NGO affecting legitimacy to demand accountability from government for its performance | 50% respondents do strongly agreed that the current registration status of NGO was affecting their legitimacy to demand accountability from government for its performance; 36% agreed with the statement while' 14% neither agreed nor disagreed with the statement.                                                                                       |
| 9 | The current registration status of the NGO greatly affecting the safety and security of its staff                            | 29% the respondents strongly agreed that the current registration status of NGO was greatly affecting the safety and security of its staff; 29% agreed to the statement; 21% neither agreed nor disagreed; 14% disagreed; and 7% strongly disagreed                                                                                                         |

|    |                                                                             |                                                                                                                                                                                                                                           |
|----|-----------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10 | The current registration status of the NGO affected the morale of its staff | 43% the respondents strongly agreed with the statement;<br>29% agreed to the statement;<br>21% disagreed that the current registration of NGO had affected morale of their staff; and 7% neither agreed nor disagreed with the statement. |
|----|-----------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

### Comments from key informants

During the course of the survey, key informants were interviewed to obtain additional information to elucidate the finding from the survey. One of the key informants opined that the NGO Act 2016 was conscripting them into a category that they were comfortable with. In his words, he revealed that:

**Box 1: Key Informant cited misnomer and wrong categorization upon renewal of operating permit**

*“Our organization failed to be validated because they needed it to register as an International organization and yet it is not in that category. This has hindered the operations of our organization since it is not registered as an International organization as per the National bureau of NGOs.”*

Another interviewee alluded to lack of coordination between the validation process and the issuance of the operating permits which has created some lacuna in the legal status of some NGOs. The interviewee reported thus:

**Box 2: Key informant cited lack of coordination and synchronization between renewal and validation process**

*“Our organization is duly registered and incorporated as a company limited by guarantee It was validated but the work permit expired during the COVID 19 lockdown. When the permit expired and not renewed, we were removed from the list of validated organizations. Due to COVID 19 restrictions, the transport costs, lack of funds and the burdensome of validation process, the organization has not applied for the work permit. The organization is constrained with lack of funds to carry its programs.”*

The experience of NGOs from upcountry as revealed from the interview was that going through the validation process was burdensome and involved additional costs associated with transport. One interviewee from upcountry asserted thus:



### Box 3: Key informant cited logistical burdens associated with validation as being cumbersome

*“Although our organization has been finally validated the process has been challenging for us. For starters, we had to produce a new set of documents akin to what we had already provided to the National bureau on NGOs to the validation team. And then the process was not entirely online as we had to deliver the physical copies to the validation team. This is a burden for an organization that had just gone through a comparable process to procure the operating permit.”*

One key informant with vast experience in the NGO sector argued that a situation faced by the NGOs was multifaceted and required a multi-pronged approach to address. In his words he opined thus:

### Box 4: Key informant cited lack of coordination and solidarity within the NGO sector as affecting their resilience

*“The problems we face as a sector are many and varied...they are known but our answers to them are not coordinated. We are sometimes preoccupied with self-survival of our organization... we undermine each other! But all is not lost we could strengthen our solidarity response to each other and speak out with one voice on things that affect us as a sector.”*

## 4.2 SUMMARY OF OBSERVATIONS ON FREEDOM OF ASSEMBLY WITH PARTICULAR FOCUS ON THE NGOS:

1. Some of the NGO Act 2016 were opportunistically used to stifle civil society activism and oversight electoral processes including observation; while other legislations such as the Anti-Terrorism Act and the Anti-money rendering Act were deployed criminalize, delegitimize, scandalize and stigmatize critical NGOs as agents of terrorism.
2. The accreditation process was not properly handed and synchronized with the timing of the 3 known phases of the electoral process but instead it was narrowly focused by the electoral commission towards the Election Day and the accreditation was limited to a few local NGOs. This limited the NGOs to participate in the electoral observation process in view of the dictates of the Electoral Commission Act.

3. The NGOs perceive the current requirements imposed on the NGO sector by the ministry of Internal affairs was burdensome and expensive especially for the small and intermediate organizations; posed some challenges for NGOs including safety and security concerns as well as in their operations; denied them the right to observe the 2021 Presidential/General elections or were unable to secure accreditation from the Independent Electoral Commission. The process was burdensome and demanding as it involved moving back and forth to follow up on documents submitted and establishing the status of the application which required the applicant to physically visit the offices of the National Bureau of Non-Government Organization based in Kampala.
4. That some NGOs are not sufficiently aware of the contents of the NGO Act 2016 and the Anti-Money Laundering Act.
5. The sector regulatory directive of mandatory validation was not sensitive to realities of small upcountry NGOs by providing for online verification and validation. Internet was neither readily accessible nor affordable especially for the upcountry NGOs.
6. NGOs especially at the stage of renewal of permit or registration reported experiencing over securitization and monetization of the process as they were required to be screened by Parish Internal Security Officer (PISO), Gombolola Internal Security Organ (GISO), and District Internal Security Officer (DISO). These officers often demanded 'facilitation' from applicants to process their documents or else drag feet on them.
7. The COVID-19 SOPs impaired the efforts of NGOs to regularize, legalize and operate especially during the electoral period for instance the first 6 months of 2020 when the country was under a lock down.

### **4.3 CONCLUSION**

The state has used both legal and administrative measures to curtail the freedom of association of citizens especially through the national bureau of Non-governmental organisations and the Financial Intelligence Authority (FIA). These restrictions have undermined the effectiveness of the Non-governmental organisations in community mobilization, the morale of its staff, the safety and security of its staff, NGO resource mobilization, and advocacy work with government.

## CHAPTER FIVE

### RECOMMENDATIONS

#### 5.0. INTRODUCTION

This section contains the recommendations arising out of the observations and findings from the monitoring exercise. The recommendations have been given to six (6) categories of stakeholders including MDAs, the Legislature, Political Organisations/Parties, Development Partners, Civil society and the Media.

#### 5.1 RECOMMENDATIONS TO THE EXECUTIVE/MDAS

a) The Ministry of Internal Affairs (MIA) should:

- i) Initiate the process to amend Section (47) the NGO Act 2016 which obligates entities associating or affiliating to a loose or closely connected entity local or otherwise to have it registered should be amended as it undermines freedom of association;
- ii) Initiate the process to amend Section (36) of the Police Act 1994 which opens to use and abuse of force by the police officer in dispersing assemblies;
- iii) Initiate the process to amend the police Act 2005 to provide for the establishment of an Independent Police Oversight Authority
- iv) Develop guidelines to provide for Crowd Management Marshals (CMM) in Public Order Management rather than relying on the para-military or ungazetted groups in the enforcement of order during public assemblies and accordingly support in the capacity building of the CMMs nominated by public assembly organizers such as business associations, students' movements, Trade Unions, cultural associations, and so on to assist events organizers and police to maintain order at public assemblies;
- v) Build the capacity of National Bureau of non-government organisations to support and monitor the NGOs as one of its mandate rather than applying a restrictive control approach that threatens to stifle the NGO sector or improvisations such as the current mandatory validation and verification procedures with which NGOs are burdened;

vi) Raise awareness of government officials through National Bureau of non-government organisations especially at district level on the legitimate requirements for NGO registration as provided for in the NGO Act 2016 to address the apparent lack of knowledge in that regard.

vii) Develop and operationalize an early warning electoral violence and atrocity prevention system. There should be away of triggering, utilizing, synchronizing and synergizing the interventions of the early warning unit in the MIA and the National committee on Prevention of Genocide Mass Atrocities to prevent electoral violence.

b) Ministry of Defense should:

i) Initiate the process to amend section 199(1)(h) of the UPDF Act 2005 which authorizes the trial of civilians in military courts should be amended as it is open to abuse leading to violation of basic freedoms and fundamental rights;

ii) Investigate and take disciplinary action against its officers for unprofessional conduct during the enforcement of COVID-19 SOPs and the presidential and general elections 2021;

iii) Ensure UPDF does not usurp the public order management role of Uganda Police as their training and weapons are not suited for the purpose.

c) Ministry of Foreign Affairs should initiate the process of ratification and full domestication of the International Convention for the Protection of All Persons from Enforced Disappearance.

d) The Attorney General should ensure the Presidential Elections Act is amended to provide for precise definition of the consultation of aspirants to political office that meet the requirements of legality in international human rights law. The law is not formulated with sufficient precision for individuals to know how to regulate their conduct and should be reformed.

e) Uganda Human Rights Commission (UHRC) should:

i) Be fully constituted with the appointment of Chairperson of the UHRC so that the commission is not in a lame duck position and is able to hold tribunals;

- ii) Conduct comprehensive and consistent human rights education and civic education targeting the general public;
- iii) Expeditiously investigate all human rights violations that have been brought to its attention relating to COVID-19 context and the general /presidential elections 2021

f) The Uganda Communication Commission (UCC) should:

- i) Conduct public awareness on computer crimes and online hate speech;
- ii) Restrict blocking and filtering demands from government to specific justifiable requests where infringement on freedom of expression is minimized.

## 5.2 RECOMMENDATIONS TO THE LEGISLATURE

The legislature should:

- i) Investigate the human rights violations that have taken place during the enforcement of COVID19 SOPs and the General/ Presidential elections 2021 including the killings; kidnappings; torture and other human rights violations that were perpetrated during and in the aftermath of the presidential elections 2021; the role of different security actors including plain-clothed gun-wielding street fighters that sprayed bullets at civilians and civilian objects in utter disregard of all tenets of civilian policing.
- ii) Review and amend section (36) of the Police Act 1994 as it is open to abuse by the police in dispersing assemblies with wanton and unbridled force;
- iii) Enact a new Public Order Management legislation that is in line with regional and international human rights standards on freedom of assembly;
- iv) Review and amend the Police Act 1994 to provide for the establishment of an Independent Oversight Commission (IOC). The IOC will among other things:
  - Investigate deaths and serious injuries caused by police actions;
  - Investigate police misconduct;
  - Monitor, review and audit investigations and actions by the professional standard unit, the police disciplinary court, and the Directorate of Human rights in Uganda Police Force;



- Monitor and investigate policing operations and deployments.
  - Issue and submit to parliament and other arms of government an annual report on the state of policing featuring areas of concern and recommendations
- v) Review and amend Section (47) of the NGO Act 2016 obligating loose or closely connected entity or coalition to register as it undermines freedom of association;
- vi) Review and amend Section 16 (4-6) of the Electoral commission Act 1997 as it interferes with the mandate of registered NGOs to monitor human rights where this is their core business. Breach of the conditions of accreditation should not be criminalized but rather result in the termination of the rights and privileges of the accredited observer(s);
- vii) Review and amend section 199(1) (h) of UPDF Act 2005 as it authorizes the trial of civilians in military courts and is open to abuse leading to violation of basic freedoms and fundamental rights.

### **5.3 RECOMMENDATIONS TO THE POLITICAL ORGANISATIONS /PARTIES**

The Political Organisations /Parties should

- i) Develop guidelines against hate speech and sensitize their membership against hate speech
- ii) Play a pro-active role by training crowd management marshals to help in the manning of their public assemblies and campaigns
- iii) Explore and expedite the convening of a national dialogue to address the heightened level of discontent and disunity that Uganda is currently faced with.

### **5.4 RECOMMENDATIONS TO THE DEVELOPMENT PARTNERS**

The Development Partners should:

- i) Develop and fund a fully devoted facility to offer technical support to the small NGOs or such NGOs could be connected to existing national networks for support or existing formations such as the Independent Development Fund (IDF) be retooled, resourced and refocused to serve that purpose.

- ii) Support a comprehensive civic education program to empower the different stakeholders on their rights and duties.
- iii) Support and fund the design and implementation of an integrated conflict early warning system for Uganda.

## **5.5 RECOMMENDATIONS TO THE CIVIL SOCIETY**

The Civil Society Organisations (CSO) and the general public should:

- i) Campaign for amendments in the NGO Act 2016, Police Act, UPDF Act to guarantee greater protection for the basic freedoms and fundamental human rights.
- ii) Campaign for the enactment of legislation protecting human rights defenders in Uganda
- iii) Undertake public awareness raising on human rights
- iv) Reinvigorate existing civilian oversight mechanisms including the Civil Society Coalition on Police Accountability; and the National Alliance against Atrocity Crimes in Uganda.
- v) Institute an annual civil society human rights monitoring and reporting program to augment the Uganda human rights report.

## **5.6 RECOMMENDATIONS TO THE MEDIA**

The Media should:

- i) Ensure that journalist are sensitized on the challenge of offline and online hate speech and how it can be avoided while protecting freedom of expression;
- ii) Endeavor cultivate linkages with HRD safety and security networks to ensure prompt protection assistance in case of need.

## **5.7 THE CONCLUSION**

The monitoring report has shown that freedom of assembly and association, and indeed human rights and rule of law are in a precarious situation requiring urgent, comprehensive, coordinated and consistent efforts for their promotion, protection in order that the citizens may be able to enjoy their fundamental rights and basic freedoms.

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