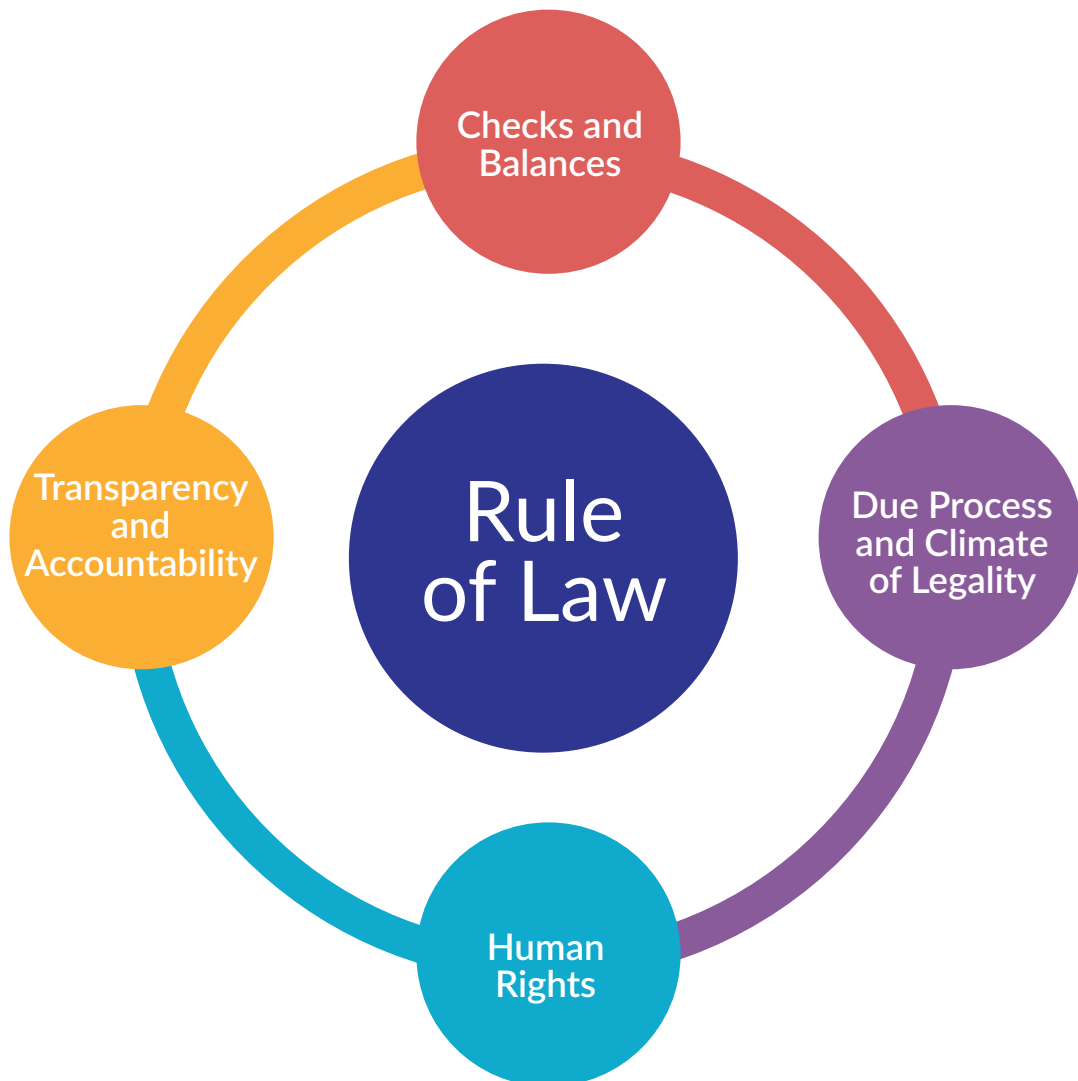




THE STATE OF THE RULE OF LAW IN UGANDA: SECOND QUARTERLY REPORT



APRIL - JUNE 2018

Contents

PRESIDENT’S FOREWORD	4
CHIEF EXECUTIVE OFFICER’S FOREWORD	5
ACKNOWLEDGEMENTS.....	6
INTRODUCTION	7
Overview of issues	8
A.THE STATE OF HUMAN RIGHTS.....	8
a)The Right to Life.....	8
b)The Rights of Children	9
c)The Right to Health	9
d)Freedom of Speech and Press.....	10
e)The Right to Liberty	11
f)The Right to a Free and Healthy Environment.....	12
B.CHECKS AND BALANCES	12
a)Separation of Powers	12
C.TRANSPARENCY AND ACCOUNTABILITY	13
a)The case of thirty billion shillings lost in Local Governments	13
b) Misappropriation of Funds by Ministry of Defence and Veterans Affairs and Uganda Peoples’ Defence Force (UPDF) officials	14
D.DUE PROCESS AND CLIMATE OF LEGALITY.....	14
a)New Legislation to Tax Social Media Users.....	14
b)Threat to Democracy	15
c)Local Council Elections	15
Conclusion	16

PRESIDENT'S FOREWORD

We are pleased to present the Second Quarterly Rule of Law Report for the year 2018. I am glad to be part of this mechanism that was adopted by the Uganda Law Society under its strategic plan (2017 – 2021) which has provided for the promotion and upholding of the rule of law in Uganda.

The Rule of Law is one of the universal values cherished by humanity today and therefore it should not only be encouraged but should be held sacred and continually fought for. All persons, institutions and agencies, public and private including the state should be accountable to the laws of the land.

The Rule of Law should never be eroded no matter the circumstances and or justification.

In the absence of the Rule of Law, you and me are the next victims. This is regardless of your status or standing in society. It's a vital component for the achievement and enjoyment of good governance.

During this quarter, the ULS has noted cases of innocent people arrested and detained in ungazetted places; while some have been detained beyond the statutory period of 48 hours contrary to Article 23 (4)(b) of the 1995 Constitution. In addition, cases of murder, inadequate public healthcare and child abuse have also been highlighted. Such incidences put the entire country and its democracy dispensation under threat. There is need for effective and thorough investigations of all crimes.

The ULS however notes positive developments during this quarter like the media which has embarked on investigative journalism which has always been a recommendation in our reports. Additionally, the full involvement of the executive in ensuring that those involved in committing crime are put to book as well as security concerns and proposals; awaiting implementation and hopefully the enhancement of the capacity of the police in investigating crimes.

This report has selected specific incidents that affected the rule of law during this period and the ULS is willing to follow-up on the recommendations in a bid to create an environment that promotes and upholds the rule of law.

As I conclude, I want to thank the Rule of Law advisory panel, the Rule of Law Committee/litigation together with the Secretariat in compiling this report.



Simon Peter M. Kinobe
President – Uganda Law Society

CHIEF EXECUTIVE OFFICER'S FOREWORD

The launch of this report serves to reaffirm ULS's commitment to the upholding and promotion of the rule of law as per the ULS Vision. The ULS Strategic Plan (2017-2021) also sought to create a more proactive approach on issues relating to the rule of law through strategic objective three which provides for the promotion of the Rule of Law and Human Rights Protection. It is with this view that, through the guidance of the Rule of Law Advisory Panel, the ULS started launching quarterly Rule of Law Reports, which analyze various rule of law issues for the quarter, taking particular note of Human Rights, Transparency and Accountability, Checks and Balances, as well as due process and the climate of illegality and offering legal recommendations to the issues raised.

In line with its Strategic Plan (2017-2021) and in furtherance of the ULS Vision, the Uganda Law Society has also launched a total of thirty two Rule of Law Clubs, three of which have been launched in the last quarter (April-June 2018). This has been in a bid to reignite the passion for the rule of law within the younger generation. The Uganda Law Society has also continued releasing press statements on eye raising issues that are pertinent to the Rule of Law.

The ULS Secretariat remains committed to the implementation of the ULS Vision and its Strategic Objectives. In this regard, on behalf of the Secretariat, I would like to thank the Rule of Law Advisory Panel chaired by Prof. Fredrick Ssempebwa for their continued invaluable support to the secretariat team during the compilation of this report. I would also like to acknowledge the input of the Rule of Law Strategic and Litigation Committee for their support towards the compilation of this report.

Through the publication of this edition of the quarterly rule of law reports, the ULS Secretariat therefore remains committed to implementing the vision of the ULS in line with its Strategic Plan, to uphold and enhance the rule of law. I therefore urge all the relevant stakeholders to take note of the recommendations made in this report.

For God and my Country.



Joyce Nalunga Birimumaaso
Chief Executive Officer- Uganda Law Society

ACKNOWLEDGEMENTS

This Report was generated with guidance from the ULS Rule of Law Advisory Panel. Special thanks go to the Chairperson of the Advisory Panel – Professor Fredrick E. Ssempebwa and Members - Ms. Gertrude Wamala Karugaba, Mr. Andrew Kasirye, Mrs. Lydia Ochieng Obbo and Ms. Loyola Karobwa.

Additional thanks go to the Chairperson of the ULS Rule of Law and Strategic Litigation Committee - Dr. Daniel Ruhweza, and Mr. Karamagi Andrew (member of this Committee) for their support and to the ULS Secretariat Team including Ms. Rita Aligo, Ms. Mary Nalwoga and Ms. Gloria Kisaakye for their efforts in generating this Report.

INTRODUCTION

This is the Second Quarterly Rule of Law Report of 2018 (April-June). The Rule of Law is and remains a fundamental cornerstone and component of any democratic society. It is in line with the above principle that the Uganda Law Society is launching yet another report to address the prevailing rule of law issues during the review period with particular emphasis on issues concerning Checks and Balances, Transparency and Accountability, Due Process and Climate of Legality as well as the State of Human Rights.

During the review period, human rights violations were once again prominent. These included the increased kidnaps of citizens, the threat to right to life and health, rights to liberty, environmental rights and the freedom of speech and press. The threat to the independence of the judiciary as well as the creation of parallel agencies to perform executive functions constitutionally bestowed on specific entities is also discussed in this report. Wasteful expenditure of state resources by the Ministries and Local Governments as was reported in the Auditor General's report is also highlighted in the report. The controversial passing of legislation to tax Social Media Users, the threat to democracy as well as the Local Council elections are also discussed under the principle of due process and the climate of legality.

However, beyond raising key Rule of Law issues, the report offers legal solutions and recommendations. This is in an effort to enhance dialogue among the various stakeholders of the rule of law, particularly government institutions and civil society organisations. But most importantly, the report endeavors to increase public awareness about rule of law by engaging the public on the importance of the rule of law in line with the issues raised, and the legal ramifications of abuse of the rule of law.

OVERVIEW OF ISSUES

A. THE STATE OF HUMAN RIGHTS

The period under review has registered various incidents on the state of human rights in Uganda. Instances of violation of court orders by the police and other security agencies have been recorded in this period. The ULS has also noted the lack of institutional social amenities like adequate public healthcare, education and social security.

The following issues relating to the observance of human rights arose during the review period.

a) The Right to Life

During the period under review, the ULS has noted an increase in crime ranging from robbery, rape, murder and kidnaps of ordinary citizens especially women and children. Several arrests of senior and junior officers of law enforcement institutions have been carried out in connection with the above mentioned crimes. Among those of most concern were the following.

- A nineteen-year-old Drina Nalule who was reportedly kidnapped on May 6, 2018 and her body later found the following day dumped at Mutundwe.¹
- The murder of former Arua Municipality legislator, Ibrahim Abiriga alongside his bodyguard Sayid Buga that occurred on June 8, 2018.²
- The ULS also noted the death of an employee of an engineering firm at Karuma Power Dam, Ronald Kisitu, who worked as the head of Internal Security. His death is alleged to be the result of gun shots by a UPDF soldier who shot at rioting employees in a guise to disperse them.³
- It was also reported during the period in review that Mr. Denis Alyenyo who was working with the Ministry of Defense was kidnapped and his kidnappers were demanding a ransom of up to Sh. 15m from the family of the victim.⁴
- Rehema Naluzze, an eighteen year old student of Kayindu Secondary School in Luwero District, was also kidnapped in April for a ransom of 10million shillings.⁵

The above mentioned cases bring to mind the high profile murders of Sheikhs Mustafa Bahiga and Abdul Karim Ssentamu, Assistant Director of Public Prosecutions Joan Kagezi, AIGP Andrew Felix Kaweesi, Susan Magara, to name a few, which cases are yet to be conclusively solved by security agencies.

It is gratifying to note that the President is personally concerned with issues of insecurity, and he has recommended a 10 point program to respond to the challenges. The ten points should be analysed and assessed for their effectiveness, and where possible, implemented. For example rapid response to reported criminal attacks, which is the hallmark of a professional police service, needs to be activated.

Legal Issues arising;

- Whether the right to life is adequately protected?

Recommendations

- There is a need for a comprehensive inquiry into the role of the various security agencies in combating crime.

1 Eddie Ssenjoba, "Police probes 28 kidnap cases, issues hotlines", *New Vision*, May 11, 2018, at p.5.

2 https://www.newvision.co.ug/new_vision/news/1479386/abiriga-shot-dead

3 <http://www.monitor.co.ug/News/National/688334-4630568-1420t13z/index.html>

4 <http://www.monitor.co.ug/News/National/Freed-colonel-son-narrates-ordeal/688334-4378370-7v0sq6/index.html>; <http://trumpetnews.co.ug/2018/04/04/top-army-officers-son-kidnapped-shs15m-ransom-demanded/>

5 https://www.newvision.co.ug/new_vision/news/1475755/thugs-kidnap-luwero-student-demand-sh10m

- The President’s tenpoint program should be analysed for its practicability and effectiveness and where realistic in particular with regard the establishment of a modern forensic laboratory and the speed of response to reports of crime should be implemented and the public should be kept apprised.
- The Uganda Police Force should reassess its current strategies and tactics to establish whether they are effective under the prevailing state-of-affairs.
- The efforts to reconstruct the Uganda police on the basis of professionalism should be accelerated.

b) The Rights of Children

In 1990, Uganda ratified the convention on the rights of children⁶ and the same rights are further provided for in Article 34 of the 1995 Constitution of Uganda. This means that Uganda has an obligation to ensure that children’s rights are protected without discrimination in any form. However, it should be noted that this quarter has registered cases of violations of children’s rights that have accrued including murders, kidnaps and sexual assault as follows:

- Suspected arsons have occurred targeting school dormitories and university student hostels. Three primary-school-going children have so far lost their lives in separate incidents not forgetting the 19 children who were killed in a fire at Buddo Junior School⁷ and investigations have not been established as to the cause of fires in schools. A security operation at Usafi Mosque was conducted thwarting criminal activity that left two people dead in its wake. Of particular note however is the fact that ninety four children had been rescued during this raid; and that of these several had been rescued during the raid and some had been sexually assaulted and fallen pregnant.⁸ It should be noted that there is no evidence of accountability and not yet clear of what happened to the children thereafter.

Legal issues arising:

- Whether children’s rights have been protected and observed as provided for in the Ugandan Constitution.

Recommendations:

- There is need by the Government to strengthen Children protection policies and planning to be able to protect children from any violations.

c) The Right to Health

During the review period, the Uganda Law Society noted with concern the poor standard of medical services at referral hospitals and junior health facilities in the country. The following pertinent issues regarding the state of the health sector were highlighted in this quarter as below.

- Media reports indicated that Busolwe regional Hospital in Butaleja District has had to operate with dysfunctional plumbing for years.⁹
- The septic tanks at Kiruddu general hospital in Kawempe particularly are overflowing and the hospital’s sewage spills over into the storm water drain along Salama Road.¹⁰ In addition, it was

6 https://www.unicef.org/uganda/Rights_gov_print.pdf

7 <https://ugandaradionetwork.com/story/19-buddo-junior-school-children-killed-in-fire>

8 <http://www.monitor.co.ug/News/National/Seven-girls-rescued-during-Usafi-Mosque-raid-confirmed-pregnant/688334-4549420-vdmsb4z/index.html>

9 YahuduKitunzi, “Butaleja’s main hospital runs without mattresses, water”, Daily Monitor, May 4, 2018, at p.14

10 <http://www.monitor.co.ug/News/National/Sewage-Kawempe-Kiruddu-cholera-garbage-patients/688334-4551706-e9092j/index.html>

reported that the hospital is also experiencing shortage of medical oxygen which has resulted in the deaths of babies at the facility.¹¹

- Kiryandongo regional hospital is also said to have run out of medical supplies in an accident that claimed the lives of twenty three people.¹²

The Daily Monitor newspaper also highlighted a case of health workers collecting bribes from cancer patients at the Uganda Cancer Institute, Mulago hospital before administering radiotherapy treatment, yet this treatment is supposed to be free of charge. It was alleged that patients were charged exorbitant fees which weren't receipted before getting treatment. According to the report, both doctors as well as a number of support staff at the hospital are taking money from the patients to access radiotherapy and surgery.¹³ It should be noted that all these hospitals have remained open and are providing services despite their dilapidated state.

Although the 1995 Constitution of Uganda does not expressly provide for the right to health, it should be noted that Uganda is a party to several international instruments which guarantee the enjoyment of this right; including Article 12 of the International Covenant on Economic, Social and Cultural Rights, Article 16 of the African Charter on Human and Peoples' Rights and Article 25 of the Universal Declaration of Human Rights.

Legal issues arising;

- Whether the state of healthcare in the country meets the standards required for the protection of the right to health including the right to a clean and healthy environment as stipulated by Article 39 of the 1995 Constitution of Uganda.
- Whether the Government has taken adequate measures to ensure that National Referral hospitals are properly facilitated with drugs, medical equipment and medical personnel.

Recommendations

- The budgetary allocation to Health should be increased in accordance with parameters recommended in international instruments such as the Universal Periodic Review of the United Nations as well as that of the Abuja Declaration, and to ensure that the budget is efficiently managed to avoid abuse and misappropriation.¹⁴
- The Government through the Ministry of Health must ensure protection of the rights of patients and health workers.

d) Freedom of Speech and Press

On 25th June 2018, the Kabale District Local Council 5 Chairperson, Mr. Keihwa Patrick Besigye was on the spot for allegedly slapping a Voice of Kagezi radio journalist, Mr. Arinitwe Emmanuel.¹⁵ The genesis of the assault arose from a story he had earlier covered at the District Council meeting, during which District Councilors tasked Mr. Keihwa to explain what actions he had taken against the former Acting District Engineer, Mr. Kiganda James; who was believed to have embezzled about about Ug.Shs. 40,000,000 that was meant for the construction of four roads within the District.¹⁶

11 <http://www.monitor.co.ug/News/National/Mulago-probes-baby-deaths/688334-4370930-s77asnz/index.html>

12 <http://www.monitor.co.ug/News/National/Gaaga-bus-accident-Kiryandongo-hospital-out-medical-supplies-688334-4586860-v9ys1kz/index.html>

13 <http://www.google.com/amp/www.monitor.co.ug/News/National/Medics-fleece-patients-cancer-machine-breaks-down/688334-4599342-view-asAMP-4jgkhhz/index.html>

14 <https://www.upr.inf.org/database/index.php?limit=O&f-SUR=182>

15 <http://capitalradio.co.ug/kabale-district-chairman-beats-journalist-investigating>

16 See the Press statement by Human Rights Network for Journalist – Uganda on the assault of a journalist over an

Legal issues arising;

- Whether the right to freedom of speech and press was observed.

Recommendations:

- The authorities should expeditiously investigate the allegations of human violations at Kabale District Council and those found culpable should face the extended arm of the law.

e) The Right to Liberty

The Uganda Law Society has noted with great concern the consistent pattern of violations of the rule of law and good governance by the security organs and intelligence agencies in Uganda. In this period under review, the following cases were captured.

- On 13th June 2018, the former Inspector General of Police, Gen. Edward Kale Kayihura, together with four senior police officers were arrested and have spent more than two weeks without any appearance in the courts of law.¹⁷
- The quarter has once again noted repeated cases of the rearresting of persons released by the courts of law. Case in point was the rearrest of a Muslim cleric, Dr. Ismail Kalule; who had been released on bail despite the advice of Justice Mukibi for security organs to respect court orders.¹⁸ This could be either due to ignorance of constitutional rights of the people, or, a deliberate disregard of court orders.
- Mukono Municipality Member of Parliament Hon. Betty Nambooze was also arrested, released on bond, and shortly rearrested on allegations that she posted inciting comments on social media in the wake of the murder of Arua Municipality MP Hon. Ibrahim Abiriga. She was in detention for a period exceeding the constitutionally mandated period of forty-eight hours.¹⁹
- The ULS therefore strongly condemns the continuous disregard for the right to liberty and calls for urgent action in this regard.

Legal issues arising;

- Whether the rearrest of Dr. Ismail Kalule was lawful?
- Whether the continued detention of suspects beyond the required 48 hours as provided for in the Constitution adheres to the principles of fairness a speedy trial as well as the appearance of a suspect before an independent and impartial court or tribunal.
- Whether detaining suspects beyond the required time and rearrests amounts to violation of the fundamental rights granted by the Constitution or by law.

Recommendations

- The Law enforcement agencies should comply with the law and orders of court.
- The Rule of law and human rights should form a critical component of training of security agencies.
- Individuals involved should be held personally accountable for the violations.

embezzlement story.

17 <http://observer.ug/news/headlines/57927-kayihura-arrested-on-museveni-s-orders-un-pressure-html>

18 https://www.newvision.co.ug/new_vision/news/1475496/uganda-law-society-condemns-kalule-arrest ; <https://www.youtube.com/watch?v=JwQNBcngxX0>

19 <https://chimpreports.com/mp-nambooze-hospitalised-inside-police-cell/>

f) The Right to a Free and Healthy Environment

The ULS also notes the ineptitude of Government agencies such as National Environment Management Authority (NEMA), Kampala Capital City Authority and Ministry of land which allow degradation and only comes in a late hour when harm has already been done. A case in point was the eviction of destitutes from Lubigi wetland in Kampala District by a joint task force of Police, NEMA and Ministry of water and Environment for purposes of restoring wetlands which settlements had caused flooding in the North West of Kampala.²⁰ Media reports indicated that some rich people had acquired land titles²¹ yet only the destitute were evicted from the land and their crops destroyed. In this reporting period, it has also been noted that NEMA has further cancelled six hundred land titles that were acquired in Kampala wetlands after the 1995 Constitution of Uganda. Some of the land tiles that were cancelled are located in Ntinda, Kinawataka, Kyambogo, Bukoto, Nakawa, Bugolobi and Namuwongo.²² This has raised questions as to whether there are effective and efficient measures to protect wetlands by government agencies.

In addition, the poor state of Kiruddu general hospital in Kawempe has also contributed to the continued pollution of the environment due to the smell of the sewage as well as the uncollected garbage which condition has exposed patients and health workers to unsanitary conditions, particularly infections and respiratory diseases.²³

Legal Issues arising;

- Whether the right to a clean and healthy environment is adequately protected.
- Whether the agencies established to oversee the protection of the environment are adequately empowered to discharge their mandate.

Recommendations

- Although there are reports that the titles issued over wetlands have been, or are in the process of being cancelled, greater focus should be given to prevention rather than purported cures after the degrading events have passed.
- All government agencies in their respective roles should ensure that environment protection law is applied and not undermined.
- The government should take urgent steps to revamp and empower the environment protection agencies so as to be effective in discharging their function

B.CHECKS AND BALANCES

a) Separation of Powers

Under the doctrine of separation of powers, the power to govern is distributed among three organs namely; the Executive, the legislature and Judiciary to avoid one group having all powers. In this quarter, the ULS noted creation of parallel agencies to perform executive functions constitutionally bestowed on specific entities. For example

- Investigation of crimes is a function of the police, yet there have been incidents in which the army

20 <http://www.ntv.co.ug/news/national/NEMA-evicts-Lubigi-wetland-encroachers-/4522324-4599374-4ndfya/index.html>

21 <http://www.monitor.co.ug/News/National/NEMA-begins-Lubigi-wetland-restoration/688334-3110232-vtfoj3/index.html>

22 <http://www.monitor.co.ug/News/National/Nema-600-land-titles-Kampala-wetlands-Ntinda-Kinawataka/688334-4621268-l2t9xn/index.html>

23 *ibid*

was called in to carry out duties and investigations meant for the police force; the most recent incident being the arrest and detention of General Kale Kayihura by the army and detained in military barracks.²⁴

- Oversight of land matters is a function within the Ministry of Land, the Uganda Land Commission, and local authorities. Although the land commission of inquiry is doing a commendable job probing matters of land administration and governance, its creation by the President raises the issue of the relevance and usefulness of the key designated land agencies particularly the Ministry of Lands as well as the Uganda Land Commission who are the designated administrators of land in Uganda.
- The President's condemnation of the courts over granting bail to suspects is an affront on the independence of the Judiciary. This occurred during the President's State of the Nation address.²⁵ It is commendable that the Chief Justice issued a statement stating that courts will continue to be guided by the Constitution and the law on matters of bail.²⁶
- In the same State of the Nation address, the President doubted the ability of the Inspectorate of Government to combat corruption, and, announced a parallel agency with similar functions.

Legal issues arising;

- Whether the separation of powers doctrine is being observed.

Recommendations;

- The respect of court decisions ought to be emphasized within government institutions and the other arms of government.
- The Executive should cease to interfere with the functions of other organs of state.
- The Executive should respect, empower and support constitutionally established organs to discharge their respective mandates rather than creating parallel bodies or institutions to play the same role.
- The Judiciary and the Executive arms of government respectively should interface with each other with the objective of delineating their mandates so as to avoid conflict and collisions.

C. TRANSPARENCY AND ACCOUNTABILITY

During the period under review, the Uganda Law Society noted several incidences of misappropriation of funds and these were as follows

a) The case of thirty billion shillings lost in Local Governments

Previous reports for the ULS have indicated incidences of corruption in Government Ministries, Agencies and Local Government. Media reports once again highlighted theft of thirty billion shillings in the Local Governments in the 2015/2016 financial year as revealed by the Local Governments Public Accounts Committee.²⁷ The report was based on the reports of the Auditor General and investigations by the Committee charged with Local Governments Accounts. The Committee Chairperson, Hon. Reagan Okumu noted that in their assessment as a Committee, there are leaders who frustrate proper

24 Ibid 16.

25 <https://www.google.com/amp/www.monitor.co.ug/News/National/State-of-the-nation-address-2018/688334-4598544-view-asAMP-4v6tgiz/index.html>

26 <https://www.redpepper.co.ug/chief-justice-rejects-musevenis-no-bail-directive>

27 Moses Mulondo and John Odyek, "Sh. 30b has been stolen in local Government", New Vision, April 5, 2018 at p.4

accountability for public funds and these were chairpersons in the Districts of Mbale, Apac, Pader and Mayuge. The Committee has since made a total of seventy-nine referrals to the Director of Public Prosecutions to prosecute accounting officers who are accused of one or other form of impropriety. The Committee decried poor service delivery in local governments majorly due to underfunding, and implored Government to reinvigorate the decentralization model so as to make local governments more effective and responsive.²⁸

b) Misappropriation of Funds by Ministry of Defence and Veterans Affairs and Uganda Peoples' Defence Force (UPDF) officials

Senior UPDF officers and officials from the Ministry of Defence and Veterans Affairs were summoned before the Parliament's Public Accounts Committee (PAC) to answer queries raised by the Auditor General for the 2015/16 Financial Year, in regards to misappropriation of funds and lack of accountability. They came under scrutiny for failing to account for Shs3b ostensibly spent on car tyres, fuel and land transactions. The report by the Auditor General for the 2015/16 financial year further showed that the UPDF had paid Shs823m as part of Shs1b deal to buy tyres for manning security during the 2016 polls; which declaration made Members of Parliament to conclude that procurement related corruption was rife in UPDF's Chieftaincy of Logistics and Engineering.²⁹

Legal issues arising;

- Whether the Government is doing enough to curb misappropriation of funds and ensure accountability at all levels.
- Whether the Parliament is effectively discharging its role with regard to reports of the Auditor General.

Recommendations

- The Government should empower all the relevant government agencies charged with fighting corruption to ensure that they are effective.
- Parliament should consider the auditor general's reports on a timely manner so as to enable corrective measures to be taken.

D.DUE PROCESS AND CLIMATE OF LEGALITY

The concept of due process is interpreted as the right to be treated fairly, efficiently and effectively by the administration of justice. During the period under review, the ULS noted that there were legality incidents that arose as illustrated below:

a) New Legislation to Tax Social Media Users

First, the amendment of the Excise Duty Act with a view to taxing social media usage and mobile money transactions.³⁰ The amendments initiated by President, have, besides the revenue measure, have the announced objective taxing the use of social media to curtail consumption of foreign content and use of subversive foreign mobile applications³¹ in addition to reducing unproductive rumormongering (olugambo)³²

This measure has multiple implications and implications that ought to have been the subject of extensive and intensive consultation. These include double taxation of the public using mobile money

28 Ibid

29 Solomon Arinaitwe and Risdell Kasasira, "UPDF fail to account for Shs3b", Daily Monitor, May 9, 2018, at p.5.

30 <http://www.monitor.co.ug/News/National/MPs-okay-taxes-social-media--/688334-4588030-a8vtnc/index.html>

31 <http://observer.ug/news/headlines/57385-social-media-taxation-aimed-at-promoting-local-content-tumwebaze.html>

32 Ibid

transfers, deterring, curtailing of access to information, suppression freedom of speech and expression and unequal treatment arising out of the effect on the ordinary person's financial transactions through mobile money transfers.

Despite public outcry in opposing the amendment of these new taxes, this did not stop the Legislature from amending the legislations irrespective of their consequences.

Legal issues arising;

- Whether due process was followed while enacting the amended tax laws
- Whether the tax amendments will adversely affect the enjoyment of freedoms of expression and access to information.

Recommendations

- The Government should stay the implementation of the taxes to allow for proper evaluation on light of the potential impact of human rights and economic empowerment of individuals.
- The Parliament should always take into account the views of stakeholders and the public generally before enacting revenue measures that affect the public generally.

b) Threat to Democracy

Objective 11 of the 1995 Constitution of Uganda provides for democratic political participation of all citizens at all levels in their own governance. Subsection (v) of the above objective specifically states that all political and civic associations aspiring to manage and direct public affairs shall conform to democratic principles in their internal organisations and practice. Article 1 also gives power to the people to exercise their sovereignty in accordance with the Constitution.

During this period, the ULS has noted intimidation of voters and candidates during elections. It was reported that the President and Chairman NRM, H.E Yoweri Kaguta Museveni made intimidating statements to voters while addressing a rally in Rukungiri to the effect that voting opposition candidates would deter development in their District.³³

In yet another incident was during the by-election in Busoga sub-region where the President while addressing a rally at Bulungo Primary school in Jinja District mentioned that "should the electorate blunder and vote for opposition whom he said he doesn't want in Parliament, they will be the ultimate losers." He cemented the threat by vowing that should Kagoma voters vote for an opposition candidate, their wishes for good roads and other crucial utilities such as electricity shall be no more."³⁴

It should be noted that it is a Constitutional duty for the Government to ensure equal and adequate distribution of resources at all levels irrespective of people's political affiliation.

c) Local Council Elections

On 19th June 2018, the Electoral Commission released a press statement informing the public the period during which the willing residents will register to participate in the Administrative Unit (LC1), Women Councils and Committees Elections. The Commission stated that the elections will be conducted on July 10, 2018 and the process shall be done by a voter lining behind their candidate or representative. The statement further indicated that public servants are eligible to contest as chairpersons without

³³ <https://www.softpower.ug/rukungiri-election-museveni-campaigns-for-matsiko-warns-against-sectarianism/>

³⁴ <http://www.monitor.co.ug/News/National/I-don-t-want-opposition-in-parliament--says-President-Museveni/688334-3919496-71atniz/index.html>

resigning from their offices.³⁵ Media reports also indicated that the elections shall take place within a period of 30mins.³⁶

We take note of the effort by the electoral Commission to conduct these elections which have not been held for a period of 15 years. However, the ULS condemns the proposed electoral. The process contradicts the international and national rules of good governance and human rights observance. During the election, the process is likely to suppress democratic freedom of the vulnerable groups especially the disabled and pregnant women. Article 68 of the 1995 Constitution of Uganda provides that voting shall be conducted by a secret ballot which has been disregarded by the commission.

It should also be noted that Section 5 of the Code of Conduct and Ethics for Uganda Public Service prohibits public servants from engaging in politics.

Legal issues arising:

- Whether the campaign threats of deprivation of resources infringe the right to participation in public affairs?
- Whether the public is entitled to equitable distribution of resources as provided for under Objective XI and XII of the 1995 Ugandan Constitution regardless of political affiliation.
- Whether the published rules for forthcoming LC elections comply with requirements of the Constitution.

Recommendations

- The ULS strategic plan (2017 - 2021) provides for the promotion and upholding of the rule of law and good governance and therefore commends for a free democratic society in the country.
- The executive should be deliberate about inculcating the culture of democracy and tolerance.
- Political affiliation should not be a basis for allocation of resources.
- The electoral commission should ensure that the LC elections are free, fair and confidential.

Conclusion

This report has made observations about the review period (April-June) with an aim to give a voice to the voiceless by addressing public and institutional concerns raised about the state of affairs in the country in the areas of security of life and property; healthcare; rights and liberties like speech, expression and access to information; socioeconomic rights; disaster/crisis response and the functionality of the Justice Law and Order Sector.

It is the aspiration of Uganda Law Society that the responsible and mandated institutions take seriously the areas of funding, staffing, equipment and facilities as well as political will so that the welfare and dignity of citizens (who are in equal measure taxpayers and voters) is guaranteed. This is the essence of the Social Contract. The contributions by the Fourth Estate towards exposing flaws and indiscretions (for example NTV's *Panorama* programme) cannot be gainsaid. Actors from the fraternity of civil society such as religious organisations, cultural institutions, NGOs and the academia among others are also encouraged to participate more vibrantly, not stifled.

35 <http://www.ec.or.ug/sites/default/files/press/Press%20Statement%20on%20Progress%20of%20Administrative%20Units%20and%20Women%20Councils%20and%20Committees%20Elections%202018.pdf>

36 <http://www.ntv.co.ug/news/national/Foreign-envoys-on-Age-limit-judgement/4522324-4632112-vn8ydp/index.html>

Only in an environment of stability, certainty, quality public healthcare, law and order can progress be secured and sustained. Institutional dysfunction, corruption and lawlessness impede growth, and ultimately, development.



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