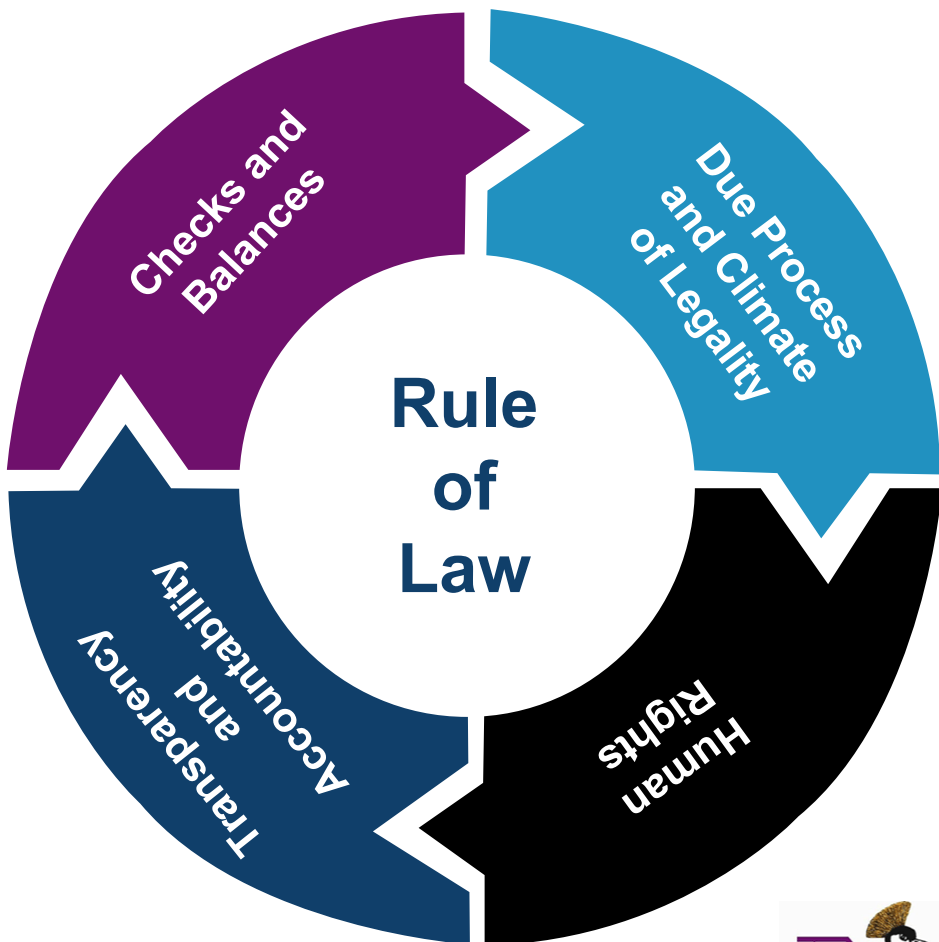




**THE STATE OF THE RULE OF LAW IN UGANDA  
THIRD QUARTERLY REPORT**



**JULY - SEPTEMBER 2020**



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## FOREWORD FROM THE PRESIDENT

*“One of the challenges of a democratic government is making sure that even in the midst of emergencies and passions, we make sure that rule of law and the basic precepts of justice and liberty prevail.” Barack Obama*

As Uganda Law Society, we believe that sustainable social, political, and economic progress can only exist in societies where the Rule of Law is respected. It is on this premise that I am honored to present to you this edition of the Uganda Law Society (ULS) Quarterly Report on the state of the Rule of Law, analyzing the period of July – September 2020.

My sincere gratitude goes to 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 like to acknowledge the input of the Rule of Law Strategic and Litigation Committee for their support towards the compilation of this report.

As a growing democracy, Uganda is one of the countries that has been challenged by the COVID-19 pandemic which continues to unmask the sad truth in our society and the work that lays lies ahead. The Pandemic and the SOP restrictions have only served to exacerbate the violation of the rule of law as various enforcement agencies abuse the power at their disposal in the enforcement of said SOPs.

The recent election violence has seen Ugandans lose their lives and livelihood to the excessive force use by the armed forces to quell civilian uprisings.

We take cognizance of the occurrence of numerous human rights violations that have continued to prevail under this quarter which include; Infringement of the freedom of expression and association, abuse of children’s rights, serial murders, teenage pregnancies, lack of accountability and transparency among others.

The focus of this report provides a critical evaluation of the performance of this country under pandemic times as well as the reduced COVID-19 restrictions in terms of protecting and promoting the rule of law in Uganda. We target both state and non-state actors in ensuring that they adopt a more proactive approach in dealing with the human rights and rule of law challenges in the country.

We as the ULS Secretariat remain religious to the implementation of the ULS Vision and its strategic objectives. In this regard therefore and on behalf of the Secretariat, I wish to urge all the relevant stakeholders to take note of the recommendations made in this report and ensure that we adopt a Faithful, Available and Teachable (F.A.T) approach towards the necessary adjustments to enable us to uphold the rule of law in Uganda at all times.

**“To be a Proficient Bar Association in Fostering Access to Justice, the Rule of Law and Good Governance in Uganda”**

**For God and My Country**



**Pheona Nabasa Wall**  
**President – Uganda Law Society**

## ACKNOWLEDGEMENT

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Additionally, this report was compiled through the guidance and efforts of the Uganda Law Society (ULS) Management and the entire Secretariat. Special thanks goes to the ULS Rule of Law Department including Ms. Leah Nasasira Bitu, Ms. Mary Nalwoga and Ms. Rita Aligo for compiling the report.

## INTRODUCTION

This is the third Uganda Law Society (ULS) Quarterly Report on the state of the Rule of Law for the year 2020 and the fifteenth issue of the Quarterly Rule of Law Reports. This publication is a ULS initiative in response to Strategic Objective 3 of the ULS Strategic Plan (2017-2021), which is to promote the Rule of Law and Human Rights Protection in Uganda. In this regard, this report takes stock and analyses related issues of the Rule of Law and developments that transpired in the country during the period of July – September 2020. It also explores how the country has fared in relation to the national and international policy, as well as the constitutional legal framework on the Rule of Law and Human Rights.

This Report is intended to foster continuity in the promotion and observance of the Rule of Law in Uganda. It is also envisioned that this report will make way for constructive engagement with relevant stakeholders, in a bid to uphold the Rule of Law in Uganda.

In lieu of this; during the reporting period, the ULS noted several issues in the spheres of checks and balances, human rights, due process and climate of legality as well as transparency and accountability. Of more importance however, are the salient rule of law issues that this report highlights that occurred during the review period, and the possible recommendations.

# CHECKS AND BALANCES

## The Doctrine of Separation of Powers

The doctrine of separation of powers, as is established in the 1995 Constitution of Uganda requires that each arm of government should operate independently without any influence from the others. The three separate arms of government include the Executive, Legislature and the Judiciary and each plays a unique role and are expected to check each other.

The independence of the Judiciary specifically, is guaranteed in Article 128 of the 1995 Constitution of Uganda states that in the exercise of judicial power to the effect that courts are independent and not be subject to the control or direction of any person or authority. Article 128 (2) further states that no person or authority shall interfere with the courts or judicial officers in the exercise of their judicial functions.

These provisions are based on the critical role played by the judiciary towards the socio-economic and political affairs of any democratic system. A system of checks and balances was therefore adopted to ensure equality and fairness in the three arms of government including the Judiciary, as well as equal rights protection for all.<sup>1</sup> In that regard, an independent judiciary is a central pillar for democratic governance.

It is however unfortunate, that despite the above provisions in the Constitution that protect the independence of the Judiciary, the ULS continues to note the recurring intrusion of the Executive in the duties of the Judiciary as was the case during this review period. Instances of intrusion include the following;

On June 6, 2019, Justice Eudes Keitirima made a High Court ruling that the trustees of St. Peter's church in Ndeeba fraudulently acquired land located on Block 7, Plot 305 where the church was situated.<sup>2</sup> The court further ordered for the cancellation of the title which belonged to the church and gave vacant possession to the administrators of the estate. It is against this backdrop that the church was demolished by a one Dodoviko Mwanje on August 9, 2020 who had purchased the land from the administrators.<sup>3</sup> This act aroused wide criticism from the public which prompted the President Yoweri Kaguta Museveni to visit the area and promised to rebuild the church despite the court order.<sup>4</sup>

In yet another incident undermining the independence of the Judiciary, was the order from the Executive particularly the President of Uganda directing the Office of the Director of Public Prosecutions to deny bail to the State Minister for Labour, Hon. Mwesigwa Rukutana, despite the fact that such is the mandate of the Judiciary.<sup>5</sup> Of more worrying concern was the fact that this was done and said during the inauguration ceremony of the current Chief Justice as well as the Deputy Chief Justice respectively at the State House in Entebbe on September 8, 2020.<sup>6</sup>

1 Ibid

2 James Kabengwa, "A senior KCCA official and several police officers arrested over the Sunday night incident that has drawn public condemnation," Daily Monitor, August 11, 2020 at page 4.

3 Eddie Ssejjoba, "Dodoviko vows to raze another," New Vision, August 17, 2020 Page 6.

4 Eddie Sejjoba, "Dodoviko vows to raze another," New Vision, August 17, 2020, Page 7.

5 Opio Daniel, "Museveni orders DPP to block Rukutana bail," Ekyooto Uganda, September 8, 2020. Available at <https://ekyooto.co.uk/2020/09/08/museveni-orders-dpp-to-block-rukutana-bail> last accessed on September 9, 2020.

6 Ibid

The 2020 March issue of the ULS Rule of Law Quarterly Report,<sup>7</sup> also noted that as per the case of Human Rights Network Uganda & Others Vs. Attorney General where section 8 of the Public Order Management Act of 2013 (POMA) was declared unconstitutional, the powers of the Uganda Police Force to prohibit and disperse political gatherings were withdrawn by the court, limiting their powers to preserving law and order during and after public meetings as per Section 9 of the POMA Act.<sup>8</sup> Despite the above positive developments in the law, the police remains obstinate about the rights of citizens to carry out peaceful demonstration. This mentality defeats the purpose of the right to peaceful assembly and demonstration, as the due process concerning peaceful protests has been perpetually disregarded thus leading to a continual breakage in the rule of law. To this end, the ULS has noted several reports during this review period, where the police were seen dispersing peaceful demonstrations despite the POMA Act judgment. These include the following;

- On July 6, 2020, the Uganda Police Force fired live bullets and teargas at the traders and taxi drivers who were protesting against loss of livelihoods during lock down in Busia County.<sup>9</sup>
- On August 19, 2020, police in Busia fired teargas and live bullets to disperse 'boda boda' cyclists who were protesting against the death of their colleague who was allegedly knocked dead by a police patrol car.<sup>10</sup>
- Additionally, six traders in Kampala were arrested by the Uganda Police Force for holding a demonstration concerning the extended closure of arcades.<sup>11</sup> It is stated that the police used live ammunition to disperse the demonstrators.<sup>12</sup>
- The ULS also noted the re-arrest of Dr. Stella Nyanzi on July 16, 2020, together with two students for protesting near the gate of the Parliament of Uganda concerning the death of Emmanuel Tegu, a student at Makerere University.<sup>13</sup> The protest was an attempt to call for an investigation into the student's death, which was reportedly related to mob action.<sup>14</sup>

It should be noted that such incidences not only undermine the mandate of the Judiciary but are also an affront on the Rule of Law in Uganda. Taking cognizance of the critical importance of peace and public order for economic development aspirations, the respect of the judiciary and the Rule of Law therefore remain paramount.

**Legal Issue arising:**

- Whether there is proper adherence to the doctrine of separation of powers.

**Recommendations:**

- I. Clear guidelines as set out in the Constitution should be enforced to limit the Executive from interfering with the duties of the Judiciary.
- II. The Principle Legal Advisor to Government as well as the office of the Attorney General ought to advise the Executive on its role and boundary to avoid interference with the duties of the Judiciary.

7 The State of the Rule of Law in Uganda, First quarterly Report, January – March 2020, Page 15.

8 Constitutional Petition No. 56 of 2013.

9 Monitor Tracking Civic space, "Continued Rights violations reported throughout COVID-19 lockdown and run upto national elections,"Civicus, August 31, 2020. Available at <https://monitor.civicus.org/updates/2020/08/31/continued-rights-violations-reported-throughout-covid-19-lockdown-and-run-national-elections> last accessed on September 3, 2020.

10 David Awori, "Boda Boda cyclist protest over death of their colleague," Daily Monitor, August 20, 2020. Available at <https://www.monitor.co.ug/News/National/Boda-boda-cyclists-protest-over-death-of-their-colleague/688334-5611484-12lvb7w/index.html> last accessed on September 3, 2020.

11 Ibid

12 Ibid

13 URN, "Dr. Stella Nyanzi, two students arrested over Tegu protest," Daily Monitor, July 13, 2020. Available at <https://www.monitor.co.ug/News/National/Dr-Stella-Nyanzi-two-students-arrested-Tegu-protest/688334-5592548-1031mqnz/index.html> last accessed on September 9, 2020.

14 Ibid

III. The Uganda Police Force should be sensitized on human rights and the provisions in POMA. This therefore requires the Justice Law and Order Sectors to support the police on issues of handling peaceful demonstrations whilst ensuring that human rights are respected, so as to highlight their role of maintaining law and order.

## DUE PROCESS AND CLIMATE OF LEGALITY

Due process of law is a constitutional guarantee that prevents governments from impacting citizens in an abusive way. In its modern form, due process includes both procedural standards that courts must uphold in order to protect peoples' personal liberty and a range of liberty interests that statutes and regulations must not infringe.

Objective III of the 1995 Constitution also mandates the State to provide a peaceful, secure and stable political environment, while Objective XIV (a) and (b) provides for social justice and economic development, and obliges the State to endeavor to fulfill the fundamental rights of all Ugandans to social justice and economic development. This enhances access, benefit and participation of all in development processes including voting by citizens in Uganda.

Article 59 of the Constitution of the Republic of Uganda provides for representation of the people, specifically providing for people's right to vote. The Constitution also places a duty upon the state to take all necessary steps to ensure that all citizens qualified to vote, register and exercise their right to vote. This requires that proper procedures are in place to provide for a free and fair election.

Article 68(1) of the Constitution of Uganda also states that at a public election or referendum, voting shall, subject to the provisions of this Constitution, be by secret ballot using one ballot box at each polling station for all candidates in an election and for all sides in a referendum. In addition, General Comment 25 by the UN Human Rights Committee emphasizes that elections must be conducted freely and fairly on a periodic basis, within a framework of laws guaranteeing the effective exercise of voting rights. In addition, Article 68(6) also states that Parliament may by law exempt any public election, other than a presidential or parliamentary election, from the requirements of Clause 68(1) that it shall be held by secret ballot.

In lieu of the above provisions, over the review period, the following incidents pertaining to the due process of law and legality arose;

## NATIONAL RESISTANCE MOVEMENT PRIMARIES

### Electoral Irregularities

As per Article 68(6) of the Constitution, the ruling party of the National Resistance Movement (NRM) through its Central Executive Committee changed the party constitution from voting by secret ballot to accommodate voting by lining behind the candidate.<sup>15</sup> This however sparked fears among party members that such a method would fall short of the tenets of a transparent election was introduced.<sup>16</sup> In response, there were a notable number of human rights violations that were reported including the flogging of opposition voters as well as the use of government apparatus to subdue opponents within the party. Some voter names also went missing in voter registers.<sup>17</sup> As a

15 Daily Monitor team, "NRM violence points to a volatile 2021 general election," *Daily Monitor*, September 7, 2020. Available at <https://www.monitor.co.ug/News/National/NRM-violence-points-volatile-2021-general-election--Kutesa-/688334-5620232-w863tk/index.html> last accessed on September 18, 2020.

16 *Ibid*

17 *Ibid*



result, some citizens were deterred from participating in the election which negatively impacted on their constitutional right to vote.

To this effect, several election irregularities were witnessed during the NRM party primaries around the country. Such procedural irregularities disenfranchise people from voting. This climate of procedural irregularity ultimately impeded the due process that is supposed to aid elections and voting in particular, therefore aiding and abetting the inhibiting of the Rule of Law.

### **Election Violence**

The numerous election irregularities ultimately culminated into several incidents of harassment, arrest, intimidation of voters as well as violent clashes between protesters and security forces.<sup>18</sup> Some specific cases of violence during this period which were reported included the following;

- a. On Saturday 5th September 2020, an infamous video made the rounds on social media showing the State Minister for Labour Hon. Mwesigwa Rukutana picking a gun from his bodyguard and allegedly shooting at a vehicle of his rival candidate supporter in Ntungamo District.<sup>19</sup>
- b. The Serere District Member of Parliament Hon. Patrick Okabe was reportedly involved in a fist fight with Mr. Samuel Otaala a fellow contestant in Ojama village in Ocapa town council.<sup>20</sup>

Several other related incidents were reported in the various parts of the country.<sup>21</sup>

### **Legal issues arising:**

- Whether the requisite processes and procedures were undertaken to ensure electoral fairness and objectiveness.
- Whether enough was done to avert the electoral violence cases that ensued during the NRM primaries, which soon disintegrated into a climate of illegality.

### **Recommendations:**

- I. The Electoral Commission of Uganda and the authorities of the NRM Central Executive Committee should expeditiously investigate the allegations of the human rights violations and the election irregularities that occurred to avoid future reoccurrence, with those culpable facing the full arm of the law.
- II. Objective XXVI requires that all persons in positions of leadership and responsibility shall, in their work, be answerable to the people; therefore, leaders who were responsible in a shooting incident at their rivals and frustrating the electoral process in their favor should face the full arm of the law.

## **DISCONNECT BETWEEN SECURITY OFFICERS AND CITIZENS**

The National Objectives and Directive Principles of State Policy; Objective XXIX of the 1995 Constitution of the Republic of Uganda provides for the duties of the citizens in the enjoyment of rights and exercise of their rights and freedoms. Objective XXIX (e), (f) and (g) states that the exercise and enjoyment of rights and freedoms is inseparable from the performance of duties and obligations; and, accordingly, it shall be the duty of every citizen to foster national unity and live in harmony

18 *Ibid*

19 Opio Daniel, "Museveni orders DPP to block Rukutana bail," Ekyooto Uganda, September 8, 2020. Available at <https://ekyooto.co.uk/2020/09/08/museveni-orders-dpp-to-block-rukutana-bail> last accessed on September 9, 2020.

20 Monitor team, "Violence persists as NRM party goes to elections," Daily Monitor, September 3, 2020. Available at <https://www.monitor.co.ug/uganda/news/national/violence-persists-as-nrm-party-goes-to-elections-1933044> last accessed on September 18, 2020.

21 *Ibid*

with others; promote democracy and the rule of law; and to acquaint himself or herself with the provisions of the Constitution and to uphold and defend the Constitution and the law.

The ULS noted a growing distrust for security officers by citizens arising primarily from the many instances where some security officers including police officers and the army, have abused their office. During this review period, there have been a few media reports highlighting this trend. These include the following;

On July 7, 2020, the Local Defense Unit (LDU) officers were spotted in Mityana District assaulting the Mityana District LC5 chairperson, Joseph Luzige.<sup>22</sup> This happened after Luzige was allegedly confronting the LDUs for beating up a woman who was riding on a motorcycle beyond curfew hours.<sup>23</sup> This was in addition to a report that three people had been shot by counter-terrorism police officers attached to the Uganda National Roads Authority in Kakiika Division, Mbarara District.<sup>24</sup>

To this end, it is no surprise that there have been growing reports highlighting the increased disregard for security officers. Moreover, there have also been mounting reports of citizens attacking police officers whilst on duty. This has led to a clash between the security officers and citizens that has resulted into a notable breakdown in the processes and procedures that govern the relationship between the state and its citizens, therefore posing a challenge to the Rule of Law. On August 16, 2020, a civilian was captured in a video clip grabbing a gun from a police officer, at the traffic police checkpoint in Buloba, Mityana road where a civilian was captured in video clip grabbing a gun from a police officer, Constable Tonny Ogwang.<sup>25</sup> This incident was marred with violence that included fighting with police officers and shooting<sup>26</sup> hence putting the lives of the people around in danger. This implies that some citizens have also neglected their own obligations that are separate from just their rights as nationals, as the 1995 Constitution provides. There has therefore been a notable breakdown in the relationship between the state and its citizens with both sides, failing to adhere to their respective obligations and responsibilities.

**Legal issues arising:**

- Whether there are adequate and appropriate measures by the government to protect both the police officers while on duty and the public.
- Whether there has been a notable breakdown in the relationship between the Ugandan Security Forces and Citizens.

**Recommendations:**

- I. The Government, the Civil Society Organizations as well as the Justice Law and Order Sector Institutions should intensify sensitizations to increase awareness on the duty of citizens in promoting human rights and freedoms in the country. Article 4 of the 1995 Constitution of Uganda notes that, the State shall promote public awareness of the Constitution by translating it into Ugandan languages and disseminating it as widely as possible; this should be done to enhance awareness.
- II. The security personnel attacking citizens and shooting them leading to death should face the full arm of the law.
- III. Citizens who are caught obstructing justice and attacking security personnel in their line of duty should also be apprehended and made to face the full might of the law.

22 Kenneth Kazibwe, "LDUs in the spotlight again for assaulting Mityana LC5 Chairman," Nile Post, July 8, 2020. Available at <https://nilepost.co.ug/2020/07/08/ldus-in-the-spotlight-again-for-assaulting-mityana-lc5-chairman> last accessed on August 18, 2020.

23 *Ibid*

24 Monitor Team, "Man shot by counter-terrorism police narrates ordeal," Daily Monitor, August 20, 2020, page 3.

25 *Ibid*

26 *Ibid*

## HUMAN RIGHTS

The 1995 Constitution of the Republic of Uganda places a mandate on all organs, agencies of government, security agencies and all persons to respect, uphold and promote human rights in Uganda. Uganda is also a signatory to many international and regional treaties on human rights, rule of law and good governance. The same provisions have been incorporated in the national laws including the 1995 Constitution of Uganda to ensure adherence. That notwithstanding, violations of human rights in Uganda have continued to suffice regardless of sex, gender and vulnerability by security agencies and among Ugandan citizens. These include infringements to freedom of expression, movement, assembly and association. There has also been a marked increase in the violation of children's rights particularly since the outbreak of the COVID-19 pandemic.

### PROTECTION OF FREEDOM OF EXPRESSION, MOVEMENT, ASSEMBLY AND ASSOCIATION

Uganda is a signatory to several international and regional human rights instruments. Article 19 of the International Covenant on Civil and Political Rights particularly states that everyone has the right to assemble and to demonstrate peacefully, hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers. This right should be exercised with regard to the rights of others. Objective II of the 1995 Constitution also provides for the democratic principles of the country with Objective II (i) specifically stating that the State shall be based on democratic principles which empower and encourage the active participation of all citizens at all levels in their own governance. This therefore mandates the state to allow citizens contribute to good governance and the rule of law in the country through any form of media to enable sharing of information and ideas.

However, during the reporting period, the ULS noted cases where freedom of expression and assembly was suppressed by the State through the use of security organs. This has therefore led to the incessant disregard for the rule of law as is highlighted below;

- **Musicians, comedians, journalists arrested for content touching on politicians, governance**  
During this review period, it was noted that freedom of expression in the country was constantly stifled as they were constant arrests and interrogations of media practitioners and artistes for allegedly producing content which was going against the government. Many of them were subsequently arrested on charges of offensive communication, promoting sectarianism and inciting violence.<sup>27</sup> The reported cases include the following;
  - Four comedians under the name Bizonto comedy group were arrested on July 24, 2020 and detained by security forces on allegations of promoting sectarianism and offensive communication.<sup>28</sup> This was because of the group's video clip that went viral on social media platforms allegedly satirizing the Ugandan government and heads of government bodies mentioning that power is concentrated within the officials from the Western region of Uganda.<sup>29</sup> The group was later released on July 29, 2020.<sup>30</sup>
  - Relatedly, a journalist and television host known as Basajja Mivule was arrested on charges

27 ACME Statement, "Recent arrests are an attack on right to freedom of expression," African Centre for Media Excellence, July 29, 2020. Available at <https://acme-ug.org/2020/07/29/recent-arrests-are-an-attack-on-right-to-free-expression> last accessed on September 11, 2020.

28 Andrew Bagala, "Bizonto, Kiweewa arrested," <https://www.kfm.co.ug/entertainment/bizonto-singer-gerald-kiweewa-arrested.html> last accessed on September 11, 2020.

29 *Ibid*

30 *Ibid*

of promoting violence and sectarianism.<sup>31</sup> The arrest was allegedly in connection with a video that was widely shared on social media, where Mivule made direct statements concerning the concentration of power within the senior military and government official from the Western region of Uganda.<sup>32</sup> Mivule was later released on bond on July 29, 2020.<sup>33</sup>

- In yet another incident, was the arrest of musician Gerald Kiwewa in relation to a song he released. It allegedly suggests a relationship between two well-known politicians.<sup>34</sup>

He was arrested on charges of offensive communication against the female politician in question on July 23, 2020 and later released on July 29, 2020.<sup>35</sup>

**Legal issue arising:**

- Whether the continued arbitrary arrests of citizens and media practitioners is in line with the International Human Rights Instruments, National Objectives and Directive Principles of State Policy and Article 29 (1)(a) of the 1995 Constitution of Uganda.

**Recommendations:**

- I. While enforcing the duty of setting standards, monitoring and enforcing compliance of what should be communicated on radios and television, including social media, the Uganda Communications Commission and the Government should adhere to the right to freedom of speech and association.
- II. Section 25 of the Computer Misuse Act, 2011 states that a person who wilfully and repeatedly uses electronic communication to disturb or attempts to disturb the peace, quiet or right of privacy of any person with no purpose of legitimate communication commits the offence of offensive communication. The ULS recommends that this section is inconsistent with Article 28 (12) of the 1995 Constitution and, therefore, it should be outlawed and no person should be convicted over the offence of offensive communication.

## INFRINGEMENT OF CHILDREN’S RIGHTS

Article 6 of the Convention on the Rights of the Child (CRC) 1989 recognizes the inherent right to life of every child, and obliges States to ensure children’s survival and development to the maximum extent. Articles 19 and 34 respectively of the convention also prohibit all forms of child abuse including sexual abuse, and charge the State with the responsibility to take appropriate measures to protect children from sexual inducement, coercion, exploitation and use of pornographic performances and materials. Article 27 (1) and (2) respectively also entitle every child to a standard of living adequate for their physical, mental, spiritual, moral and social development making the parents or caregiver primarily responsible to secure, within their abilities and finances, the necessary living conditions. Article 34(7) of the 1995 Constitution of Uganda also states that the law shall accord special protection to orphans and vulnerable children.

That notwithstanding, there were several instances during the review period where rights of

31 By International Press Institute, “Ugandan TV host Basajja Mivule arrested,” July 27, 2020. Available at <https://ipi.media/ugandan-tv-host-basajja-mivula-arrested> last accessed on September 11, 2020.

32 *Ibid*

33 *Ibid*

34 Daily Monitor Team, “Comedians, public rise up over arrest of Bizonto,” Daily Monitor, July 26, 2020. Available at <https://www.monitor.co.ug/uganda/news/national/comedians-public-rise-up-over-arrest-of-bizonto-1909134> last accessed on September 11, 2020.

35 *Ibid*

children were infringed. These were seen in the form of increased cases of defilement as well as the rise in child marriages among others. Many of these cases were further instigated by the COVID-19 pandemic which saw many school going children being forced to stay at home as a result of the closure of schools. The Ugandan government in close collaboration with Civil Society Organisations as well as Non-Governmental Organisations need to reassess and reevaluate their strategies and initiatives on issues concerning children. Some of the reported highlights in this regard include the following;

- **Increase in Child defilement cases**

Since the closure of schools was instigated on March 18, 2020 in response to the nationwide lockdown due to the COVID-19 pandemic, several girls have been victims of child marriages and early pregnancies.<sup>36</sup> In Bukedi Region alone within the Tororo region, the Child and Home Protection Officer, Ms. Margaret Adoa reported that since the beginning of the lockdown in March, the office had received a total of 100 cases of defiled girls including two cases of aggravated defilement of girls aged between the three and six years.<sup>37</sup> It was further reported that such cases were mainly committed by relatives of the children.<sup>38</sup>

- **Forced Child Marriages**

In addition to the increased cases of child defilement as a result of the lockdown, there has also been increased reports of child marriages that were also perpetuated by the closure of schools. On July 27, 2020, it was reported in the Daily Monitor newspaper that 2300 girls were impregnated in the Districts of Kyegegwa, Kasese, Kitgum, Ngora and Lyantonde during lockdown.<sup>39</sup> It further highlighted that 128 school girls were married off with 48 cases registered in Kyegegwa, 60 in Rakai and 20 cases recorded in Kamira Sub-County, Luwero District.<sup>40</sup>

On August 12, 2020, it was also reported in Iganga that the Uganda Police Force in Nakalama Parish in Bukyaye Village arrested Abdu Akim, Zawunja Naigaga, Fahad Musa and Sheikh Ismael Addulnoor for conducting a marriage ceremony involving a minor.<sup>41</sup> It was stated that the prospective husband, Akim had paid UGX 50,000 to Naigaga the mother of the girl aged 12 years, and that Akim had allegedly spent one week with the girl in a lodge prior to the marriage ceremony.<sup>42</sup>

- **Child Adoption Corruption Scheme**

In perhaps one of the more controversial cases during this reporting period was the financial sanction as well as visa restrictions that were placed on four Ugandans including judges and lawyers by the United States administration for allegedly being involved in a child adoption corruption scheme.<sup>43</sup> In a statement issued on August 17, 2020 by the United States Government, it was mentioned that Justices Moses Mukibi and Wilson Musalu Musene as well as Advocate Dorah Mirembe and her associate Patrick Ecobu were involved in a corruption scam where children were allegedly removed from their families and placed into a corrupt network, aided by Ugandan officials.<sup>44</sup>

36 Elizabeth Kamurungi, "UN Chief urges gov't to reopen schools," Daily Monitor, August 23, 2020 at page 3

37 *Ibid*

38 *Ibid*

39 Monitor Team, "2300 girls conceive, 128 married off during lock down," Daily Monitor, July 27, 2020. Available at <https://www.monitor.co.ug/News/National/2-300-school-girls-conceive--128-married-off-during-lockdown/688334-5599830-dvcs9/index.html> last accessed on August 24, 2020.

40 *Ibid*

41 Moses Bikala, "Police stop marriage of 12-year-old," New Vision, August 12, 2020 page 40.

42 *Ibid*

43 Charles Etukuri, "America sanctions four Ugandan judges, lawyers over adoption scam," New Vision, August 18, 2020 @ page 7.

44 US Department of State, Press Statement, August 17, 2020. Available at <https://www.state.gov/financial-sanctions-and-iv>

It is alleged that the above stated individuals engaged in corruption to arrange the adoption of Ugandan children by unwitting parents in the United States. It is further alleged that Mirembe's law firm used the services of intermediary parties to seek out vulnerable families in remote Ugandan villages, promising their parents that the children would be moved to Kampala to further their education. American prospective adoptive parents then traveled to Uganda to adopt children from an unlicensed children's home in Kampala.<sup>45</sup>

**Legal issue arising:**

- Whether the rights of children in Uganda are being protected.
- Whether the current legal framework on the rights of children in Uganda is being sufficiently implemented.

**Recommendations:**

- I. The ULS recommends that all laws protecting the rights of children in Uganda should be operationalized to create a conducive environment that protects the physical, mental, social and psychological development of a child in communities.
- II. The government should set aside funds for the development of low cost assistance technologies for computers and mobile phones to enable communities report immediate cases of child abuse and the culprits should face the full arm of the law.
- III. The Ministry of Gender, Labour and Social Development, Ministry of Education and Sports, as well as the Local Government should institute specific inquiries into the rise in the cases of child abuse and streamline measures to reduce the cases.

## THE RIGHT TO LIFE

Article 4 of the African Charter on Human and Peoples Rights (ACHPR) declares that every person is inviolable by virtue of the right to life and integrity. Article 6 of the International Covenant on Civil and Political Rights further recognizes the inherent right of every person to life noting that this right "shall be protected by law" and that "no one shall be arbitrarily deprived of life".

The 1995 Constitution of the Republic of Uganda also guarantees and protects the life of every citizen in Uganda. This is clearly indicated under Article 22 of the Constitution which states that no person shall be deprived of life intentionally except in execution of a sentence passed in a fair trial by a court of competent jurisdiction in respect of a criminal offence under the laws of Uganda and the conviction and sentence have been confirmed by the highest appellate court.

However, despite the above provisions in the International instruments of which Uganda is a signatory as well as the Constitution which is the grand norm, great concerns continue to be raised regarding the respect of the right to life. Some of the cases in this regard highlighted below include the following;

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sa-restrictions-against-ugandan-individuals-involved-in-corrupt-adoption-scheme last accessed on August 18, 2020.

45 *Ibid*

On August 1 2020, Violet Kakai, a nurse at International Hospital Kampala was hacked to death by her husband a one Simon Shimanyi.<sup>46</sup> This gruesome act was allegedly committed before their children on allegations of infidelity between the couple.<sup>47</sup> In a similar but unrelated incident, a three year old child was brutally killed by a one Nuwashaba Joseph.<sup>48</sup>

The culprit was found at the entrance of Parliament in possession of a box which had a head of a child.<sup>49</sup> Upon interrogation, Nuwashaba mentioned that he was delivering a gift to the Speaker of Parliament.<sup>50</sup> The Criminal Investigations Department carried out investigations and found out through DNA, which the head of the child matched with that of the headless body of a child found in Namajjuzi swamp near the National Water and Sewerage Corporation plant in Masaka city.<sup>51</sup>

Legal issue arising:

- Whether the right to life is protected as per Article 22 of the 1995 Constitution of Uganda.

**Recommendation:**

- I. The Government as well as the Civil Society Organizations should intensify awareness on the protection of the right to life with the assistance of media, computers and mobile phones to reduce the increasing wave of murders by citizens.
- II. Those found guilty of the offence should face the full extent of the law.

## TRANSPARENCY AND ACCOUNTABILITY

Transparency and Accountability entail that legal frameworks include basic principles of open government including fiscal transparency, access to information, disclosures related to public officials, accountability, remedies and oversight mechanisms, protection measures for whistle-blowers and witnesses, and public engagement in policy and decision-making, with such legal frameworks ultimately being effectively implemented.<sup>52</sup>

In that regard, the Ugandan National Objective XXVI of the 1995 Constitution stipulates that all lawful measures shall be taken to expose, combat and eradicate corruption and abuse or misuse of power by those holding political and other public offices. Additionally, Article 223 of the Constitution and Section 14(7) of the Inspector General of Government (IGG) Act task the IGG to prosecute or cause prosecution in respect of cases involving corruption, abuse of authority or of public office and foster the elimination of corruption.

- **Bribery**

That notwithstanding, cases of corruption still suffice in Uganda. On August 6, 2020 in Mbarara,

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46 Adolf Ayoreka, "Husband to slain IHK midwife arrested, narrates family woes," August 14, 2020 at page 4

47 The Grapevine News, "IHK hospital nurse brutally cut into pieces by husband in front of her kids," August 3, 2020. Available at <https://www.thegrapevine.co.ug/ihk-hospital-nurse-brutally-cut-into-pieces-by-husband-in-front-of-her-kids> last accessed on August 20, 2020.

48 Simon Masaba and Dismus Buregyeya, "Man kills child, takes head to Parliament," New Vision, September 16, 2020. Available at <https://www.newvision.co.ug/news/1527159/man-kills-child-takes-head-parliament> last accessed on September 21, 2020.

49 Andrew Bagala, "CID grills man found with human head at Parliament," Daily Monitor, September 15, 2020. Available at <https://www.monitor.co.ug/uganda/news/national/cid-grills-man-found-with-human-head-at-parliament-2010298> last accessed on September 21, 2020.

50 *Ibid*

51 *Ibid*

52 *Supra*



employees of the Uganda National Bureau of Standards at the Mbarara regional office were arrested for allegedly receiving a bribe from the managers of Mukamanayamba Health Products Company in Sheema District.<sup>53</sup> It is alleged that the officials went to the company and informed its managers that they were making substandard products, thereafter demanding UGX 6 million from the managers of the company.<sup>54</sup> The same people later demanded UGX 6 million from the same company which prompted one of the managers to report the matter to the police that led to their arrest as stated by Mr. Martial Tumusiime, the greater Bushenyi Police Spokesperson.<sup>55</sup>

- **Embezzlement**

A media bulletin also recently reported a case of embezzlement and conspiracy to defraud UGX 10.8 Billion meant for the teachers' Savings and Credit Organization Societies (SACCOS).<sup>56</sup> These funds were given to teachers by H.E President Yoweri Kaguta Museveni to enable teachers acquire loans to create side incomes.<sup>57</sup> The culprits who are allegedly the bosses of the Uganda Microfinance Support Centre were remanded by the Grade one Magistrate at the Anti-Corruption Court to Kitalya prison on September 8, 2020, bail pending.<sup>58</sup>

Transparency and Accountability are critical for the efficient functioning of a modern economy and for fostering social well-being. A government with effective and efficient transparency and accountability will always win trust from the public. As a result, the country enjoys the fruits of social stability and a conducive environment for social, economic and political growth. However, this cannot be achieved in Uganda if government agencies are still tainted with corruption. Therefore, the Inspector General of Government consequently has a duty to foster strict adherence to the Rule of Law and to ensure that corruption related offences are prosecuted to the full extent regardless of the magnitude of the case.

**Legal issues arising:**

- Whether there is progressive improvement of transparency and accountability.

**Recommendations:**

- I. Thorough and wide spread investigations ought to be conducted to address irregularities of transparency and accountability in Government agencies.
  
- II. The Finance Intelligence Authority should work hand in hand with the Office of the Inspector General of Government in checking accounts and dealings of the officials involved in handling finances received by an institution.

53 Milton Banduhlo & Alfred Tumushabe, "3 UNBS staff held over bribery," Daily Monitor, August 14, 2020 at Page 12.

54 *Ibid*

55 *Ibid*

56 Michael Odeng, "Microfinance bosses charged over UGX 10b SACCOS funds saga," New Vision, September 9, 2020. Available at <https://www.newvision.co.ug/news/1526644/microfinance-bosses-charged-sh10b-saccos-funds-saga> last accessed on September 21, 2020.

57 *Ibid*

58 *Ibid*



## CONCLUSION

The ULS commends the Ministry of Health for the positive steps and endeavors to ensure that the right to health is maintained. This is in lieu of the suspension of health workers who were absent from duty at Kawempe National Referral Hospital.<sup>59</sup> This step was propelled by increased cases of maternal and infant death at the hospital.<sup>60</sup>

In addition, the ULS welcomes the appointment of the Hon. the Chief Justice, Alfonse Owiny Dollo who replaced Justice Bart Katureebe following his retirement on June 21, 2020. The ULS also applauds the appointment of the Inspector General of Government, Justice Lydia Mugambe after Justice Irene Mulyagonja was appointed to the Court of Appeal in October 2019.

However, there is still a lot to be desired particularly regarding the promotion and protection of human rights by all organs, agencies of government, security agencies and all persons in Uganda. Specifically, during the period in review notable; cases of infringement of the right to freedom of expression and assembly as well as cases of abuse of children's rights were highlighted. Additionally cases pertaining to due process of law and legality arose and therefore the ULS recommends to address the loopholes especially before the election period.

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59 N Robert Atukunda, "Atwine suspends absent health staff," Daily Monitor, August 24, 2020, page 3.

60 *Ibid*

**Uganda Law Society**  
**Plot 5A John Babiha Road**  
**P. O. Box 426, Kampala**  
**Phone: +256 312 262420;**  
**0800100150/1 (Toll Free)**  
**[www.uls.or.ug](http://www.uls.or.ug)**