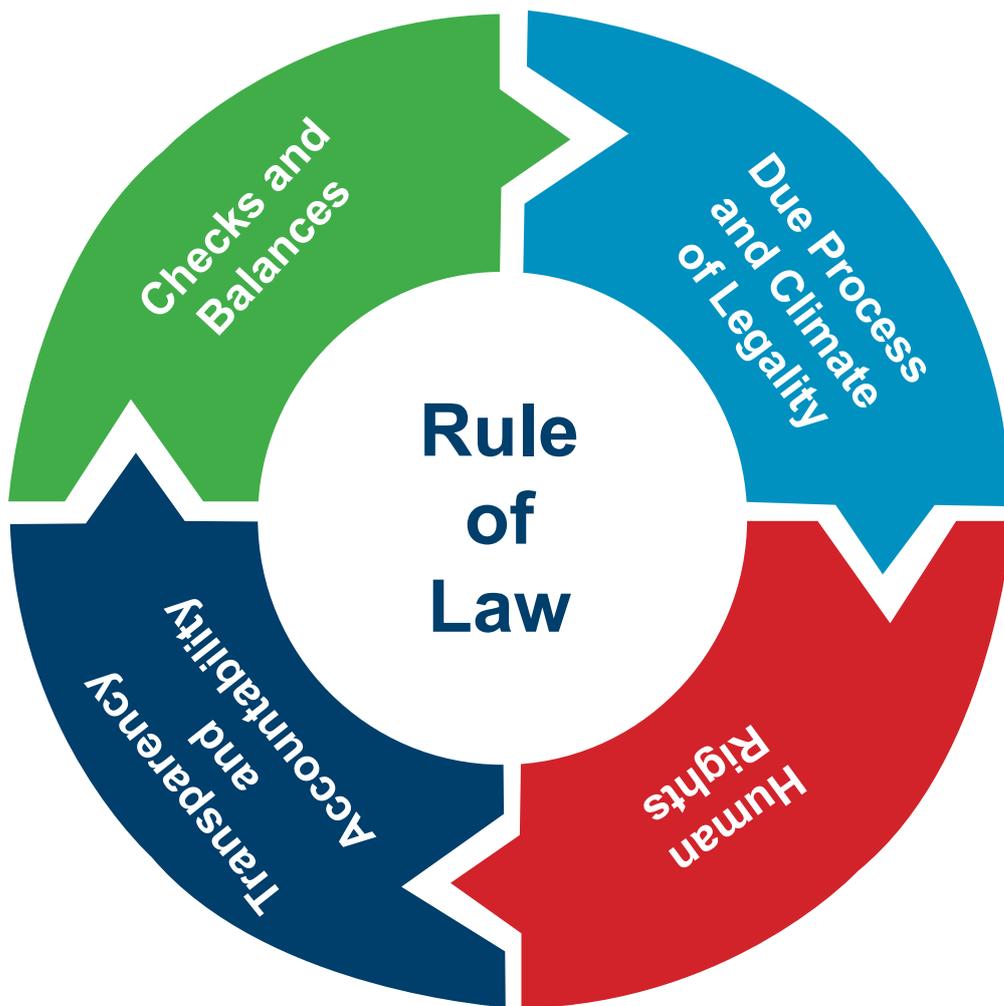




THE STATE OF THE RULE OF LAW FIRST QUARTERLY REPORT



JANUARY -MARCH 2020

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PRESIDENT’S FOREWORD

The rule of law is not just a matter for judges or lawyers,” said William H. Neukom, WJP founder and CEO. “It is the bedrock of communities of justice, opportunity, and peace. We are all stakeholders in the rule of law and therefore we all have a role to play in upholding it.

It is my utmost privilege and honor to present to you the first Uganda Law Society(ULS) Quarterly Rule of Law Report for the year 2020. Uganda Law Society has so far launched 12 reports since the commencement of this event in 2017.

The ULS Quarterly Rule of Law Reports are one of several interventions that the ULS has undertaken to uphold the Rule of Law as per the ULS Strategic Plan (2017-2021). In addition to this, the ULS has made several public interest interventions and engagements as well as launched several Rule of Law Clubs that have informed the Rule of Law.

The Rule of Law remains an important tenet for any society to thrive democratically, economically and socially.

Uganda like many young democracies continues to face challenges with the Rule of Law. Most of these challenges are fueled by individuals who have limited understanding of the need to follow and respect the law to the letter. There seems to be a detachment between the strict application of the law and the need to appease superiors with or without instructions.

The Uganda Law Society takes cognizance of these unfortunate occurrences that could best be avoided if the Rule of law was effectively applied. It is therefore in this same spirit that the ULS has continued to compile reports and document human rights violations such as this, as notice to justice stakeholders with a bid of making sure that excesses and violations are remedied.

We hope that these reports will contribute to the improvement of all aspects of the Rule of Law.

This report covers the quarterly period between January to March 2020 wherein it extensively highlights the current incidents affecting the rule of law in our country. These include; Breach of Economic Rights as well as other civil rights such as the right to life under the East African Community Law; violation of the right to standard health care which has seen an increase in death rates as patients often lack proper medical services; the violation of the right to privacy and data protection; the infringement of the freedom of assembly and association among others. The report additionally identifies concrete steps that may be taken to curtail the numerous violations of the rule of law.

We implore all stakeholders and actors to work together to ensure that we have an environment with a strict adherence to the Rule of Law and good governance. To my colleagues in the legal profession, fight for the Rule of Law and the same will take care of you.

In a special way, I thank the ULS Rule of Law Advisory Panel, the ULS Rule of Law Committee and the Secretariat for their input in the compilation of this report.

For God and My Country


SIMO.....OBE

MESSAGE FROM CEO

It is a new year and the Uganda Law Society is still unwaveringly determined to promote the Rule of Law and protect the Human Rights of Ugandans.

The Rule of Law is a fundamental principle of good governance in which all persons, institutions and entities, public and private, including the State itself are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights, norms and standard. All human beings have the right to be treated with dignity and respect and this can be afforded through the enjoyment of the protection of human rights through the Rule of Law.

In that regard, the Uganda Law Society commends the efforts of the Uganda Government, Civil Society Organisations, Community Based Organisations and the international bodies in ensuring the protection of Rule of Law and human rights in Uganda.

The ULS also continues to support the Rule of Law through the launch of quarterly reports highlighting specific incidents affecting the rule of law; indicating their legal implications and pointing to issues of concern that require additional attention as well as practical recommendations.

This is the thirteenth ULS Quarterly Report on the state of the Rule of Law covering the period January to March 2020. A number of Rule of Law issues have been highlighted in this Report and these including but not limited to; human rights, transparency and accountability.

I sincerely value and appreciate the stakeholders that have partnered with us to support our initiative to promote the Rule of Law. These include but are not limited to the Justice Law and Order Sector (JLOS) and the Public Interest Law Clinic (PILAC); not forgetting our own Rule of Law Advisory Panel, the Rule of Law Strategic and Litigation Committee, the Rule of Law Department who always worked tirelessly towards the compilation of this report and the Management and Staff of the Uganda Law Society.

"The world no longer has choice between force and law; if civilization is to survive, it must choose the rule of law." By Margaret Thatcher

For God and My Country



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Joyce NalungaBirimumaaso
Chief Executive Officer

INTRODUCTION

Rule of Law is defined as the principle that all people and institutions are subject to and accountable to law that is fairly applied and enforced; the principle of government by law. The most important demand of the Rule of Law is that people in positions of authority should exercise their power within a constraining framework of well-established public norms rather than in an arbitrary, *ad hoc*, or purely discretionary manner on the basis of their own preferences or ideology.¹

The Rule of Law is not only applicable to people with authority but it also requires all people to respect and comply with legal norms, even when they disagree with them.

As part of its 2017 to 2021 Strategic Plan, the ULS adopted a more proactive approach in dealing with issues relating to the Rule of Law through the establishment of Quarterly Rule of Law Reports. This is particularly under Strategic Objective 3 which is “to promote the Rule of Law and Human rights protection.”

This is the 13th edition of the ULS Quarterly State of Rule of Law and the first of the 2020 series. Specifically, this report highlights issues of Human Rights, Transparency and Accountability as well as the positive developments that transpired during this quarter.

Additionally, the report highlights legal issues arising from the incidents that accrued in this reporting period and recommendations directed to different government or private actors are made.

HUMAN RIGHTS

“We declare that human rights are for all of us, all the time: whoever we are and wherever we are from; no matter our class, our opinions, our sexual orientation.” – Ban Ki-moon, 2014

Chapter Four of the 1995 Constitution of the Republic of Uganda stipulates the protection of fundamental rights and freedoms including the protection of freedom of expression, assembly and association, and assembly, the right to life, rights of women and children.² Although, these rights are not granted by the state, it should be noted that the state is under obligation to enforce these rights.

During this reporting quarter, the ULS noted with concern that human rights violations continued to feature in the social, economic and political scenery. Among the most prominent are breaches of economic rights under the East African Community Law; inadequate supply and illegal sale of blood in hospitals; continued stifling of dissenting voices in political parties by the security agencies; loss and endangering of lives of civilians by armed security officers as well as the abuse of rights of women.

Breach of Economic Rights under the East African Community Law

The purpose of the East African integration was for these countries to benefit from easy cross-border trade through lowered tariffs and reduced non-tariff barriers as well as speeding up trade across the EAC borders hence lowering the costs and higher competitiveness on regional and global markets.

However, political differences among partner states between leaders threaten the enjoyments of the Community rights and resultant economic growth. An example is the Rwandan/Uganda disagreements that have led to the closure of the borders since February 27, 2019 to-date.³ This is as a result of counter accusations of murder, torture, espionage, kidnap of each other’s nationals.

In that regard, cases of murder, arrest and kidnap of Ugandan and Rwandan nationals have been reported. Of particular note was the case of a missing Ugandan information and technology expert, Ivan Egesa who was working at *Up Type* in Kigali Rwanda.⁴ The Police under the Criminal Investigations Department and the Ministry of Foreign affairs have been engaged but efforts to find Egesa are, so far, futile. It is alleged that the Ministry of Foreign Affairs

1 Available at <https://plato.stanford.edu/entries/rule-of-law> last accessed on April 23, 2020

2 Articles, 22,29,33 and 34

3 URN, “Ugandan nationals, vehicles denied entry into Rwanda,” *The observer*, March 1, 2019. Available at <https://observer.ug/news/headlines/60008-ugandan-nationals-vehicles-denied-entry-into-rwanda> last accessed on February 26, 2020

4 Vision Reporter, “Uganda’s IT expert still missing in Rwanda,” *New Vision*, January 21, 2020, pg.3

receives a number of families whose relatives are working in Rwanda filing cases of missing family members in the neighboring country.⁵

In addition, a one Teojen Ndagijimana was killed along the Rwanda/Uganda border by soldiers together with two Rwandese nationals near Kumugu trading center in Rwanda.⁶

Since the integration of the East African Community, economic development has been progressive resulting into the establishment of a customs union with a Common External Tariff (CET). The main objective of the CET is to enable free movement of goods, people and labor; the rights of establishment and residence as well as free movement of services and capital across the EAC borders. Despite the progress in trade, there remains a challenge of numerous non-tariff barriers to trade, heterogeneous national legislation and inadequate regulations to enable a balanced economic growth in EAC. Cases of some East African countries seizing consignments of goods causing a negative impact and damage to the economy of another country have been highlighted this quarter. Of particular note was the Kenyan government which seized a consignment of milk and other products from Uganda worth \$360,000 over fears that they are contraband, counterfeit and substandard.⁷ This result of the President of the Republic of Kenya’s issuing a directive to Kenya Bureau of Standards and the Director of Criminal Investigations to impound any powdered milk or dairy products that do not meet Kenyan standards.⁸ It is alleged that the supply of cheap milk from Uganda to Kenya raised concerns on the negative impact of sale for local producers of milk in Kenya. It should be noted that the illegal seizures were executed despite the fact that the goods had been cleared for entry by the Kenyan Ministry of Agriculture, Livestock and Fisheries, the Kenya Revenue Authority, the Kenya Dairy Board and the Kenya Bureau of Standards among others.⁹

This has caused great financial loss to the companies of Ugandan producers of milk. This is in contravention of the Common Market and the Customs Union Protocols which abolish tariff and non-tariff barriers to enable a favorable environment for the development of regional trade.

The ULS takes note of the effort made by the Ugandan and Rwandan Government in ensuring that the discrepancy between the two countries is harmonized. Several meetings have been held and among the most recent was the meeting at Katuna border and the two countries agreed to resume collaboration among security organs, committed to verify the number and the status of nationals of either party detained in each other’s country, observance of the need to protect and respect human rights and the rule of law and international humanitarian law.¹⁰ This adhoc committee meeting was a follow up on the February 2, 2020 summit of the two presidents which transpired in Angola’s capital of Luanda. This has had positive impact were the two countries have witnessed the release of 13 Rwandans who were detained in Uganda and Rwanda announced that it has terminated the prosecution of 17 Ugandans citizens that were arrested in Rwanda.¹¹ That notwithstanding, there is need to determine and construct a powerful and sustainable East African economic and political bloc.

Legal issue arising:

- Whether there are sufficient measures to harmonize the economic and political relationship between the East African Partner states.

Recommendations:

- The East African Partner states, together with the Organs of the Community should review, align and strengthen their structures and so as to effectively implement the Common Market.
- Steps should be taken to strengthen the structures of the East African Community to facilitate the process of dispute resolution among the East African partner states using the framework provided for in the East African Community Treaty.

The Right To Health in regard to Access to blood and standard medical support

The World Health Organization Constitution which was adopted by the International Health Conference which was

5 ibid
6 Ibid
7 Business Daily, “Row as Uganda protests milk seizures by Kenya,” The East African, January 17, 2020. Available at <https://www.theeastafrican.co.ke/business/Row-as-Uganda-protests-milk-seizures-by-Kenya/2560-5421694-14p9gwa/index.html> last accessed on January 27, 2020
8 Ibid
9 Ibid
10 Vision Reporter, “Museveni, Kagame meet at common border,” New Vision, February 21, 2020. Available at https://www.newvision.co.ug/new_vision/news/1515371/museveni-kagame-meet-common-border last accessed on February 26, 2020.
11 Xinhua, “Rwanda terminates prosecution of 17 Ugandans,” New Vision, February 20, 2020. Available at https://www.newvision.co.ug/new_vision/news/1515256/rwanda-terminates-prosecution-ugandans last accessed on February 26, 2020.

held in New York in 1946 envisages the right to attain the highest standard of health as one of the fundamental rights of every human being without distinction of race, religion, political belief, economic and social condition. Understanding health as a human right creates a legal obligation on states to ensure access to timely, acceptable, and affordable health care appropriate quality as well as underlying determinants of health.

Uganda’s policy on blood transfusion is to the effect that there should be availability of adequate supplies of safe blood and blood products from voluntary non-remunerated regular blood donors for management of all patients in Uganda. All hospitals whether Government or private are given blood free of charge.

Therefore, the inadequacy and sale of blood in hospitals which is supposed to be freely given in referral hospitals in Uganda and medical negligence leading to loss of lives infringes on the right to health. During the review period, such cases were noted: below;

- There was a shortage of blood in Arua Regional Referral Hospital leading to death of 10 patients in a period of one week.¹² Dr. Philbert Nyeko, the new hospital director, told New Vision reporter that blood shortage is the leading cause of death in the hospital and those who die are mostly children and mothers who bleed during delivery.¹³
- NBS television released a report on the sale of blood in hospitals. The report showed how medical personnel sell blood at UGX 200,000 through mobile money and further solicitation of transport from relatives of patients to transport the blood¹⁴ This well organized team of medics target women in labor and emergency cases which act has led to loss of lives as a result of relatives not having the money and failed medical attention.¹⁵
- The report further identified a gap where hospitals do not give accountability of the blood taken from the blood bank leading to blood crisis in the country. Additionally, the lack of equipment to collect, treat and to preserve the blood has also led to shortage of blood which supply is also not decentralized in hospitals.¹⁶

Legal Issue Arising:

- Whether the lack of/shortage of blood and medical negligence infringes on the right to health.

Recommendations:

- The Uganda Blood Transfusion with the help of Ministry of Health should reevaluate and come up with innovative ways of ensuring availability of blood and its supply; adopt a decentralized system of blood supply and accountability in referral hospitals.
- The Ministry of Health and other concerned JLOS actors should undertake proper investigations and prosecutions of the culprits who sell blood and are involved in medical negligence as well as exposing acts of corruption.

The right to privacy and security of data

Article 27 of the 1995 Constitution of the Republic of Uganda enshrines the right to privacy which includes correspondence, communication or other property. Though the right to data protection is not specifically provided for in the Constitution, it should be noted that data is processed information that should be protected by the state.

Under Section 2 of the Data Protection and Privacy Act 2019, the interpretation Section defines data to include among others bank accounts, mobile money account details, email address, Internet Protocol (IP) address. During this reporting period, the ULS witnessed an unprecedented upsurge in criminal activity and fraudulent dealings in banks, through mobile money applications, incidents of duplication of SIM Cards and computer aided frauds like crypto-currency as identified below;

- One Edward Mutyaba was arrested for the offence of unlawfully operating a telecommunications apparatus without a license from the Uganda Communications Commission.¹⁷ He was also arrested on the count of using computer devices with GSMA gateway machine, also known as SIM boxing, and MTN cards to intercept and terminate international calls in the country.¹⁸ Mutyaba would disguise such international

12 Robert Ariaka, “Arua Hospital hit by blood shortage,”New Vision, January 11, 2020, pg.4
 13 Ibid
 14 NBS Special Report/Blood for Sale opportunists use shortage to sale blood. Available at <https://www.youtube.com/watch?v=h3eGRKXgxNk> last accessed on March 10, 2020
 15 Ibid
 16 Ibid
 17 Francis Emorut, “SIM boxing fraudsters gets 20 months in jail,” New Vision, January 29, 2020, at 5
 18 Ibid

calls as local ones, thereby defrauding the Government of about Shs. 28 million tax revenue from calls. He further defrauded MTN-Uganda of Shs. 48 million in revenue.¹⁹ It should be noted that this infringed on the right to privacy and communication.

- The period also registered increased cases of financial fraud due to the failure to put in place high-tech controls that match the current kind of innovative products on the market. Mr. Robert Nyamu, the director of forensic and litigation support at Deloitte states that cases of fraudsters targeting cheques and cash and more recently targeting real-time gross settlement systems (RTGS), electronic funds transfer (EFT) and point of sale EFT have increased.²⁰ The Central Bank is mandated to regulate, supervise and discipline financial institutions in order to maintain safety; however fraudulent dealings are increasing ranging from alteration of cheques and counterfeit to skimming or cloning of bank credit and debit cards.²¹
- Deceitful financial schemes have also been highlighted during this quarter the most recent being the cryptocurrency scheme registered in the names of Dunamis Coins Resources Limited. It is alleged to have fleeced billions of shillings from unsuspecting Ugandans.²² The Uganda Police Force arrested and arraigned before court two directors of the company for allegedly defrauding Shs. 10 billion from thousands of Ugandans.²³ The accused were remanded to Luzira by the Law Development Centre, Grade One Magistrate.²⁴

Legal issue arising:

- Whether the Data Protection and Private Act 2019 is fully implemented to protect individual data and information?

Recommendations:

- The Uganda Communications Commission and the National Information Technology Authority Uganda (NITAU) should review the procedures, practices and legislation to ensure effective implementation of the data protection law.
- The Bank of Uganda and the Uganda Registration Services Bureau should ensure that companies which have been registered are conducting business that is secure to avoid deceitful financial fraud for Ugandans.

Freedom of association, assembly and expression

Article 29(1)(d) of the Constitution of Uganda states that everyone has the freedom to assemble and demonstrate together with others peacefully, unarmed and to petition. Additionally, Article 21 of the International Covenant on Civil and Political Rights also states that the right to peaceful assembly shall be recognized. The incidents below highlight the threat to the above right and freedom;

In pursuance of Article 1(4) of the 1995 Constitution of Uganda, the country is currently preparing for the general elections come 2021. As a result, political parties, politicians, pressure groups the public and the media are all gearing up to intensify their campaigns for the upcoming elections.

However, during this reporting period, the country witnessed cases of the Government restraining the activities of opposition parties:

- Meetings organized by the people power movement led by Hon. Robert Kyagulanyi (a.k.a Bobi Wine) in Gulu, Wakiso and Lira Districts were blocked by the Uganda Police Force despite getting approval to consult from the Electoral Commission ahead of the 2021 elections. Of particular note was the heavy deployment of the army and police officers at the Da Covenant in Gulu on January 7, 2020; to block the People Power movement from making consultations.²⁵
- Another consultation meeting was blocked in Lira and two journalists were arrested for taking pictures at the Pacific Grand Hotel where the meeting was going to take place.²⁶

19 ibid
 20 Tom Malaba, "From 'ebicupuli' cheques to ATM cards," Saturday Monitor, January 11, 2020, at 11
 21 ibid
 22 Nicholas Wassajja, "Speaker probes cryptocurrency saga," New Vision, January 17, 2020
 23 ibid
 24 ibid
 25 Jimmy Komakech, "People Power blocked from consulting in Gulu," Eagle Line, January 7, 2020. Available at <https://eagle.co.ug/2020/01/07/people-power-blocked-from-consulting-in-gulu.html> last accessed on March 2, 2020
 26 Bill Oketch, "Journalists arrested as police block Bobi Wine meeting," Daily Monitor, January 8, 2020. Available at <https://www.monitor.co.ug/News/National/Journalists-arrested-police-block-Bobi-Wine-meeting-/688334-5410902-bjy20wz/index.html> last accessed on March 2, 2020.

- A consultation meeting was blocked at our lady of Good Counsel Church in Gayaza, Wakiso District and Hon. Kyagulanyi was arrested and taken to Naggalama Police Station.²⁷
- In a similar but separate incident, police blocked the Forum for Democratic Change 15th anniversary celebrations in several districts across the country.²⁸

It should be noted that all these consultations were carried out after getting clearance from the Electoral Commission in line with the Presidential Elections Act, 2005. The police and the army have continued to restrain these meetings from taking place by way of misapplication of the provisions the Public Order Management Act of 2013. Whereas rights come with obligations, the Application of the Public Order Management Act should not stifle divergence views and to promote democracy and good governance in the country.

Legal issue arising:

- Whether the right to freedom of expression, association and peaceful assembly is protected by the state.

Recommendations:

- All efforts should be made to guarantee the political neutrality of police and the army as a service for all Ugandans regardless of their political affiliation.

The Public Order Management Act and other measures in place should be applied to maintain law and order in public gathering as opposed to stifling people’s rights.

Protection of the right to life

The right to life is enshrined in the 1995 Constitution of Uganda under Article 22 which provides 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. Nonetheless, during the period under review, the country registered rampant murders and causing grievous bodily harm; and these have involved security officers who are supposed to protect civilians. The cases were highlighted as follows;

- Two police officers, a one Ben Ojiong and one Corporal Alex Opito got into a heated argument on whether to enter a case in the station diary as criminal or civil. As a result of failure to disagree, Ojiong picked his gun and shot Opito several times killing him instantly and then shot himself as well.²⁹ Two LDU’s tried to intervene and one was injured in the process which led to his death bringing the total number of the dead to three.³⁰
- In another incident a Local Defense Unit (LDU) officer shot and injured a one Saleh Kinaalwa who was working at a butcher located at Matala trading center in Buikwe District.³¹ It is alleged that Kinaalwa was suspected of assaulting Richard Ssekitooleko, a fellow vendor on December 31, 2019.
- Also an unidentified civilian in Moyo District grabbed a gun from a police officer and shot him dead.³² This happened when the police officer was trying to rescue someone who was accused of poisoning two of his farm workers and was being lynched by an angry mob.³³
- In another incident, Lt. Col. Juma Seiko was detained at Kawempe station for allegedly shooting at three people causing bodily injuries.³⁴ It is stated that he caused an accident and when the two drivers came out to ascertain the incident, a fight ensued; and shots were fired from a gun belonging to Col. Seiko leading to the injury of a one Ali Juuko, Kasirye Zimula, and Joseph Lule.³⁵

27 JjaviraSsemwami, “Bobi Wine transferred to Naggalama as police maintains heavy presence in Kasangati Town Council,” PML Daily, January 6, 2020. Available at <https://www.pmeldaily.com/news/2020/01/bobi-wine-transferred-to-naggalama-as-police-maintains-heavy-presence-in-gayaza-town-council.html> last accessed on March 2, 2020.

28 Vision Reporters, “FDC celebrations blocked party president detained,” New Vision, January 21, 2020 Pg.7

29 Stuart Yiga “Police officer kills colleague, self,” New Vision, February 11, 2020. Available at https://www.newvision.co.ug/new_vision/news/1514850/police-officer-kills-colleague-self last accessed on March 5, 2020.

30 Ibid

31 Jackie Nambogga, “LDU shoots, injures trader,” New Vision, January 28, 2020 pg. 10

32 Benedict Okethwengu, “Moyo civilian grabs gun, shoots dead police officer,” New Vision, January 7, 2020. Available at https://www.newvision.co.ug/new_vision/news/1513020/moyo-civilian-grabs-gun-shoots-dead-police-officer last seen on March 5, 2020.

33 ibid

34 Andrew Bagala, “Juma Seiko detained for shooting three people car crash,” Daily Monitor, February 9, 2020. Available at <https://www.monitor.co.ug/News/National/Juma-Seiko-detained-shooting-three-people-in-Kampala/688334-5449480-145d7r1/index.html> last seen on March 5, 2020

35 ibid

- In the same quarter, unclear deaths occurred allegedly implicating police. Of particular note was the death of Ritah Nabukenya who was involved in an accident where she was the passenger on a motor cycle which is alleged to have collided with a police patrol pick-up truck.³⁶
- Then there was the death of Daniel Kyeyune who was allegedly shot dead by the police when trying to control a procession by the “People Power” activists who were returning from the burial of their colleague, Ritah Nabukenya in Kiboga District.³⁷ It is alleged that Kyeyune was killed by one of the police officers under unclear circumstances.³⁸
- Lowana Nankya a senior six student at Lugazi Mixed School was shot in the mouth by the police as they dispersed rowdy vendors and hawkers at Kajja next to old taxi park while she was on her way to school accompanied by her mother.³⁹ The mother of Nankya sustained a broken arm in the fracas and Nankya lost seven of her teeth.⁴⁰ This is alleged to have happened as result of the law enforcement officers from the Kampala Capital City Authority which made a surprise operation with police in a bid to arrest the vendors and hawkers in Kampala business center.
- Some unclear deaths have also been highlighted around the country and these include the death of four and, the injury of two people after gunmen attacked three villages in separate incidents in Kotido District.⁴¹ During the raid, a number of cows were stolen by suspected rustlers from Kenya.⁴² It was reported that this came after a suspected combination of Turkana-Matheniko, a Kenya based gang carried out a raid on a Kraal in Losilang grazing area in Kotido Municipality, killing two UPDF soldiers and injuring one. It is said that cattle rustling has escalated with armed attackers outnumbering the security officers as stated by Kotido District chairperson, Ambrose Lotukei.
- Yet another incident was the murder of Noah Nabende a pastor of Jesus of Grace church in Kitamiro village on Buvuma District.⁴³ It is alleged that Nabende went fishing and never returned, a case of a missing person was reported to police. His body was later discovered by other fishermen with injuries indicating that he was tortured.⁴⁴ It was reported that the police in Buvuma arrested two suspects in connection of the stated murder.

Legal issues arising:

- Is the right to life guaranteed in Uganda?
- What can be done to help people appreciate/value the right to life?

Recommendations:

- The Government should institute specific inquiry into above death and those culpable should face the full force of the law.
- Psycho social counselling should be provided for those with guns including victim of *post-traumatic stress disorder* by the necessary organs in the Ministry of Health.
- Stringent measures should be instituted among security officers especially on the use of guns and dangerous weapons among the public.

36 Nelson Naturinda, “Police explain death of People Power supporter,” *New Vision*, February 24, 2020. Available at https://www.newvision.co.ug/new_vision/news/1515461/police-explain-death-people-power-supporter last accessed on March 9, 2020.

37 URN, “One shot dead as police battles Bobi Wine supporters in Nansana,” *The Observer*, February 26, 2020. Available at <https://observer.ug/news/headlines/63683-one-shot-dead-as-police-battles-bobi-wine-supporters-in-nansana> last accessed on March 5, 2020.

38 *Ibid*

39 Monitor Reporter, “Student shot in the mouth in operation to arrest vendors,” *Daily Monitor*, March 11, 2020. Available at <https://www.monitor.co.ug/News/National/Student-shot-mouth-operation-arrest-vendors/688334-5486934-asr07yz/index.html> last accessed on March 11, 2020.

40 *Ibid*

41 Olandason Wanyama, “Four dead, two injured in Kotido cattle raids,” *New Vision*, January 21, 2020, Pg.9

42 *Ibid*

43 Jessica Sabano, “Two arrested over pastor’s murder in Buvuma,” *Daily Monitor*, January 23, 2020, pg.3

44 *Ibid*

Women’s rights

Article 32 and 33 of the 1995 Constitution of Uganda, the State has a constitutional obligation to protect women and their rights, taking into account their unique status and natural maternal functions in society. However, over the reporting period, the following women’s rights abuses were identified.

Sexual Assault

The social and cultural disparities in Uganda have made women and girls vulnerable to sexual abuse. Sexual and gender-based violence has been on the rise and defilement is one form of sexual violence. The ULS notes the effort made by the different stakeholders like the UN Women who have stood against all odds to fight against gender-based violence especially for women and girls.

Despite the efforts, cases of defilement have been highlighted this quarter. Most prominent was the reported case of defilement of two teenagers aged 16 and 17 years and indecent assault of girls in Wamala Mixed Day and Boarding Secondary School, by the school director and proprietor of the school.⁴⁵The matter is before the High Court of Mpigi Grade One. The medical evidence so far adduced indicates that the victims were sexually assaulted.⁴⁶

Female Genital Mutilation (FGM)

FGM is a procedure performed on women and it involves cutting or altering the female genitalia.⁴⁷ This is practiced apparently for purposes of preparing girls for marriage, and initiation into adulthood. It is also alleged to be a sign of respect and acceptance into the community. Unfortunately, the procedure comes with consequences of bacterial and viral infections, obstetrical complications and psychological torture for girls.⁴⁸ Efforts to curb this largely cultural practice amongst tribes in the Eastern region of Uganda have been made and, Uganda Demographics and Health Survey (UDHS, 2016) indicate that prevalence of FGM has come down from 1.4 percent in 2011 to 0.3 percent.⁴⁹ However, these positive strides have been marred by an upsurge in Districts of Amudat and Moroto despite the increased awareness against this cultural practice and the implementation of the FGM Act 2010.

During this quarter, it was reported that about 100 girls from Amudat and Moroto were taken into Kenya’s North Pokot to undergo FGM during the festive season.⁵⁰ This was revealed by Martin Ambae, the District County Commissioner for North Pokot during the dialogue that was organized at the District headquarters in Amakuriat town in Kenya.⁵¹ Ambae mentioned that Sabiny and Pokot communities in Uganda respect their culture and therefore difficult to separate them from it.

FGM is a harmful practice that is cruel, inhuman and degrading treatment; rightly inconsistent with the 1995 Constitution of Uganda and the FGM Act 2010 which prohibits the act. The same practice was declared to be inconsistent with the provisions of the Constitution and thus declared the custom void in the case of *Law & Advocacy for Women in Uganda Vs. Attorney General*.⁵²

Legal issues arising:

- Is there adequate protection of women and girls against sexual assault and abuse?

Recommendations:

- The Ministry of Gender, Labour and Social Development, the Ministry of Education and Sports and Ministry Health should carry out a thorough investigation into the cause of abuse of rights of women.
- Additionally, the communities and girls should be sensitized, informed and educated on their rights in schools.

45 Sadat Mbogo, “Mpigi school boss set for trial on defilement,” Daily Monitor, January 23, 2020. Pg.3

46 Ibid

47 https://www.hindawi.com/journals/ogj/2018/7365715/?utm_source=google&utm_medium=cpc&utm_campaign=HDW_MRKT_GBL_SUB_ADWO_PAID_DYNA_JOUR_X&gclid=EAlaIqobChMlo7q2iPKI5wIViZntCh3U1QfPEAAYASAAEgLOk_D_BwE last accessed on January 28, 2020.

48 Catherine Byaruhanga, BBC Africa, Uganda. Available at <https://www.bbc.com/news/world-africa-47133941> last accessed on April 3, 2020.

49 Admin, “Unleashing youth power to attain zero Female Genital Mutilation by 2030,” New Vision, 6, February 2020. Available at https://www.newvision.co.ug/new_vision/news/1514536/unleashing-youth-power-attain-zero-female-genital-mutilation-2030 last accessed on April 3, 2020.

50 Olandason Wanyama, “100 girls undergo FGM during festive season,” New Vision, January 13, 2020 Pg. 49

51 Ibid

52 Constitutional Petition No. 8 of 2007 [2010] UGCC 4 (28 July, 2010)

TRANSPARENCY AND ACCOUNTABILITY

Transparency and accountability are critical for the efficient functioning of a modern economy and for fostering social well-being. Those responsible for actions taken should be able to explain, clarify and justify these actions. Transparency and accountability form an integral feature of the Rule of Law.

During this quarter, the ULS has noted negative developments as detailed below;

- A District Service Commission in Sheema District was suspended on allegations of corruption.⁵³ The Commission members were accused of corrupt practices by councilors which included recruiting relatives without declaring conflict of interest, recruiting into service of external applicants without following the right procedures, dismissal and victimization of public officers without being given a fair hearing, setting up additional requirements for some positions in public service without the approval of the Ministry of Public Service and soliciting bribes from job applicants.⁵⁴
- The District Education Officer, Mr. Abraham Wagwasala and the department accounting officer, Ms. Judith Nagudi were arrested for swindling government money worth Shs. 50 million from the office of the Prime Minister.⁵⁵ It is alleged that they swindled money that was meant to implement projects at the resettlement site in Bunambutye Sub-county in Bulambuli District to benefit resettled landslides victims.⁵⁶ The money was also meant for coding of a school, paying teacher’s salaries, and accommodation but the culprits instead withdrew and shared it.⁵⁷

Legal issue arising:

- Whether there are enough deterrent measures to curb corruption and misappropriation of funds in government institutions.

Recommendations:

- Thorough investigations on the misappropriation of funds should be done and culprits to be brought to book.

Positive developments

Human Rights

Article 35 (1) and (2) of the Ugandan Constitution of 1995 states that persons with disabilities have a right to respect and human dignity, and the State and society shall take appropriate measures to ensure that they realize their full mental and physical potential. It further provides that Parliament shall enact laws appropriate for the protection of persons with disabilities.

- Efforts directed to Government to harmonize the policies to address the needs of persons living with albinism have been futile over the years. However, during this reporting period, the Speaker of Parliament Rebecca Kadaga urged Government to carry out a national census of persons living with albinisms.⁵⁸ This is geared towards helping the Government to draw up programs for effective support and protection. The Speaker is reported to have said this in her remarks during the event that was organized to flag off Parliament week which enables the public to interface with law makers.⁵⁹ The walk generated Shs. 54 Million in cash and pledges of Shs. 50 billion directed to the rehabilitation center for persons living with albinism.⁶⁰
- The ULS takes note of the effort that was made by the Uganda Police Force in arresting 13 suspects, including three women linked to resurgent car theft around Kampala.⁶¹ It was stated by the Kampala Metropolitan Police Spokesperson, Patrick Onyango that some of the suspects were linked to the murder

53 Felix Aionebyoona, “Sheema service commission on the spot over corruption,” *Daily Monitor*, January 23, 2020, Pg.11

54 *ibid*

55 Fred Wambede, “Bulambuli officials over misappropriation of OPM resettlement funds,” *Daily Monitor*, January 30, 2020. Available at <https://www.monitor.co.ug/News/National/688334-5437614-n8lmdfz/index.html> last accessed on March 11, 2020

56 *Ibid*

57 *ibid*

58 Paul Kiwuuwa, “Kadaga wants census of albinos,” *New Vision*, January 21, 2020.

59 *ibid*

60 *ibid*

61 Simon Masaba, “13 suspects arrested, eight stolen cars recovered,” *New Vision*, January 28, 2020. Pg.3

of a one Nakisingo at Kyetume in Mukono District.⁶²

- Also notable is the Constitutional Court's decision which nullified section 8 of the Public Order Management Act (POMA) of 2013 in the case of *Human Rights Network Uganda & 6 others Vs. Attorney General*,⁶³ The section had given absolute powers to police to prohibit and disperse political gatherings under suspicions that the intended gathering would cause a breach or disruption of peace. Specifically, several incidents of the police using section 8 of POMA to abuse the right of freedom to assemble and associate have been highlighted in ULS quarterly reports⁶⁴ and we hope that with the nullification of that specific section, such cases will stop.

Conclusion

During this reporting period, the ULS noted some positive development towards observance of human rights and the Rule of Law in the country. However, the issue of the fight against COVID-19 is ongoing. It is hoped that, in the context of the Government's action to prevent the spread of the pandemic, people's rights and freedoms shall be respected and that the spirit of protecting and promoting the Rule of Law is upheld.

62 ibid

63 Constitutional Petition No. 56 of 2013

64 The state of the rule of law in Uganda: fourth quarterly report of 2018 and third quarterly report of 2018

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