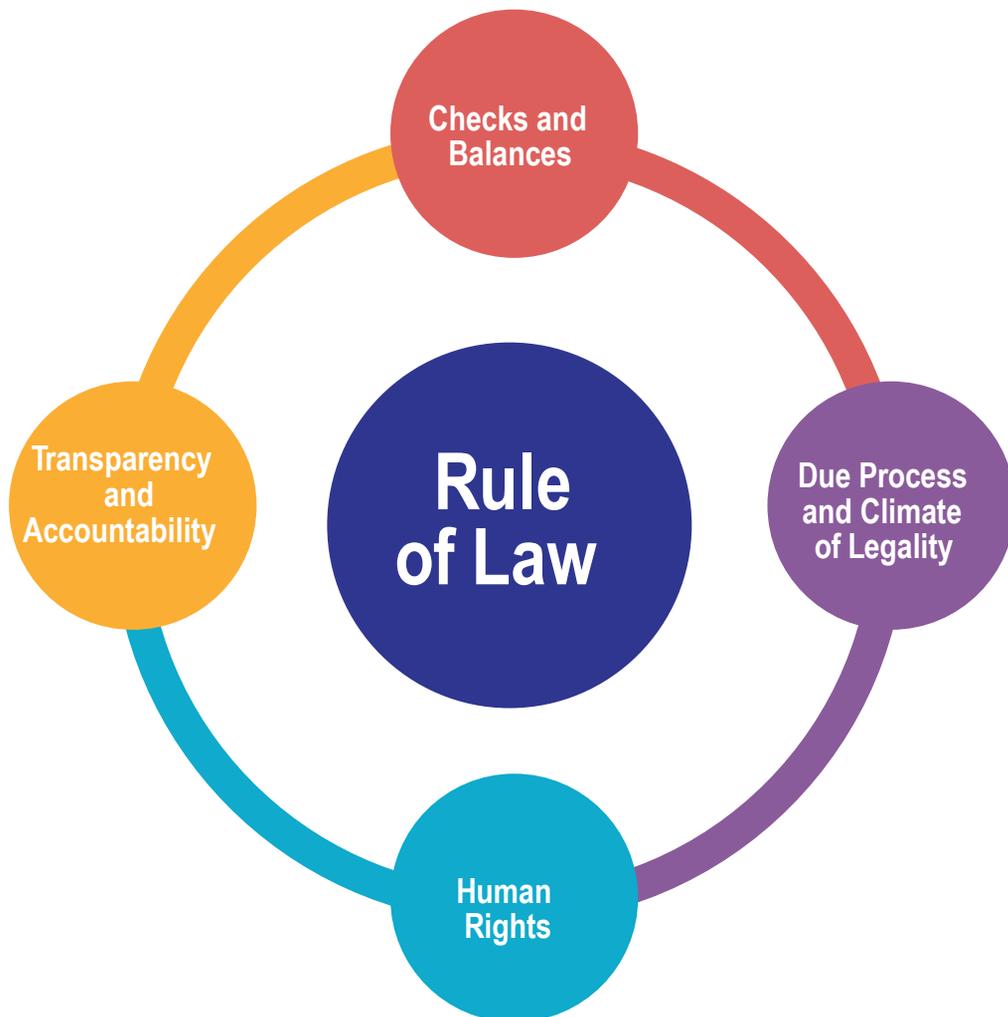




THE STATE OF THE RULE OF LAW IN UGANDA FOURTH QUARTERLY REPORT



OCTOBER - DECEMBER 2017

FOREWORD

We are pleased to present the 4th Quarterly Rule of Law Report compiled by the High Level Advisory Panel. Some of the incidents in this report such as the arrest of suspects in the Kaweesi murder case by unidentified security personnel shortly after their release on bail and the attack on school children by Boda Boda 2010 Association are some of the dark moments in our history captured in this quarter that still reveal that there is much to do to eliminate impunity and lawlessness.

On our part as the Uganda Law Society (ULS), during this quarter we resolved that it is necessary to take additional legal steps to enforce the recommendations of the previous reports; particularly regarding incidents that have reoccurred such as torture. We have instituted an Anti-Torture legal team within the ULS Human Rights Cluster as a response mechanism to prosecute individuals who are carrying out acts of torture under the provisions of the Anti-Torture Act. We are engaging the Director of Public Prosecutions on how we can work together to ensure that the law against torture is effectively implemented. The ULS has also launched three Rule of Law Clubs this Quarter as per the ULS Strategic Plan (2017-2021).

It is also important to note that during the Extra Ordinary General Meeting of the ULS held on the 9th November 2017, the meeting granted the Executive Council a broad mandate to engage in public interest litigation to promote the rule of law. The decision of the General meeting has given us more impetus to redirect our efforts as a Council towards bringing the ULS back into the public interest law arena as a means of promoting the rule of law.

Not all was gloom and doom in the last quarter. The efforts of the Ministry of Lands in taking the bold step to cancel titles issued over forests and wetlands is commended. Similarly, the quick sacking of Resident District Commissioners (RDCs) exposed by the Commission of Inquiry for promoting impunity by the President is commended. We hope that this act plus the prosecution of the police officers will send a message to all public servants that you are only safe when you follow the law.

Allow me once again to thank the High Level Advisory Panel led by Prof. Fredrick Ssempebwa and the ULS Secretariat team in particular Ms. Rita Aligo for compiling this report.

I wish you a merry Christmas and a Happy New Year.



Francis Gimara
ULS President

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This Report was made possible through the guidance of the ULS Rule of Law Advisory Panel. Special thanks go to the Chairperson of the Advisory Panel - Professor Fredrick E. Ssempebwa and the members - Mrs. Gertrude Wamala Karugaba, Professor J. Oloka-Onyango, Mr. Andrew Kasirye, Mrs. Lydia Ochieng Obbo and Ms. Loyola Karobwa.

Additional thanks go to the ULS Secretariat team for their efforts in compiling this report including Ms. Irene S. Kwaga, Ms. Rita Aligo and Ms. Gloria Kisakye.

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INTRODUCTION

This is the Fourth Quarterly Report of the Uganda Law Society (ULS). It highlights the Rule of Law issues that occurred during the months of October, November and December, 2017. As was the case with previous reports, this edition evaluates the various Rule of Law events that have transpired during the reporting period in relation to the main legal authority in Uganda; the 1995 Constitution, existing laws as well as the various regional and international instruments and standards that Uganda has ratified.

During this reporting period, we have witnessed an upsurge in cases of illegality that ultimately led to several human rights violations. This was particularly illustrated in the aftermath of the tabling of the Private Member's Bill to amend Article 102(b) of the Constitution relating to the upper limit to the age at which an individual can contest as a presidential candidate. The right to personal dignity and the freedom from torture, cruel, inhumane and degrading treatment and punishment were also violated with the forceful re-arrest of the mainly Moslem suspects in the Kaweesi murder investigation. The Freedom of speech and of the press as well as the right to personal liberty were also tested during this Quarter, with the arrest of several newspaper editors and managers of the *Red Pepper*, who allegedly published controversial stories. The Report also makes mention of the industrial action by both the Doctors in the Public Health Sector and by State Prosecutors.

The report also provides several recommendations on the numerous issues raised by these events, in a bid to continue promoting the Rule of Law, respect for fundamental rights and freedoms, and most importantly the quest to uphold respect for constitutional order and democratic governance. Finally, it is hoped that the report will enhance further critical discussions among the relevant stakeholders and lead to constructive reform in both the law and the practice of those implicated.

OVERVIEW OF ISSUES

A) STATE OF HUMAN RIGHTS

During the reporting period, the Uganda Law Society noted with concern that human rights violations continued to be a major feature of the social, political and economic landscape. Among the most prominent of them was the violent re-arrests of several of the suspects in the Kaweesi murder investigation despite a court ruling that they be released on bail.¹ The Quarter also witnessed the continuation of wide-ranging debates concerning the amendment of Article 102(b) of the Constitution (The Age Limit Bill), first tabled in Parliament by Honorable Raphael Magyezi - Member of Parliament for Igara West Constituency. The resultant debate raised issues concerning the Rule of Law, constitutionalism, and the participation of citizens in the processes of democratic governance. However, discussions around the Age Limit debate have culminated into a multitude of human rights violations.²

1 Juliet Kigongo, "Gunmen whisk away freed Kaweesi suspects," *Daily Monitor*, November 8, 2017, at p.3.

2 Hudson Apunyo and James Opinya, "Police fire teargas to disperse opposition meeting in Lira," *New Vision*, October 25, 2017 at p.7; Ashraf Kasirye, "School children beaten up over age limit demonstrations," *New Vision*, October 5, 2017, at p.4; Monitor Team, "One killed in age limit fracas," *Daily Monitor* October 19, 2017, at p.6.

With the arrest of the editors and managers of the *Red Pepper* newspaper on charges of treason, the threat to the freedoms of speech and expression have also been paramount during this Quarter. Increasing threats to the operation of civil society organizations have also been witnessed. The right to personal liberty continues to be threatened with several arbitrary arrests and detentions taking place. This reporting period has also seen an upsurge in Industrial action most notably by Doctors in the Public Health Sector as well as State Prosecutors. Such actions and the government response to them pose a serious threat to access to health services, access to justice, but more importantly they highlight the lack of proper implementation mechanisms by government for addressing concerns of workers in the Public Service. The above issues are further explained below;

a) Human Rights Violations arising out of the Age Limit Debate

This Reporting period has been marked by several human rights violations that occurred in the aftermath of the tabling of the Private Members Bill in Parliament by Honorable Raphael Magyezi for the amendment of Article 102(b) of the Constitution. The right to freedom of assembly was sorely tested with the constant disruption of opposition age limit consultation rallies. We also saw the reemergence of the infamous Boda Boda 2010 Association during the age limit demonstrations, when they beat up school children for dressing up in red- a color that came to be synonymous with those opposing the amendment of Article 102(b) of the Constitution. We also witnessed the death of one citizen who was caught up in a scuffle with the Police concerning an age limit rally. There were also several threats to life of Members of Parliament who were opposed to the Age Limit amendment.

Freedom of Assembly and Association

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

Forceful disruption of opposition Age Limit Rallies

On the morning of October 3rd 2017, seven opposition leaders were either arrested or prevented from leaving their homes as police launched a fierce crackdown on peaceful protests against the lifting of presidential age limits. The arrested were Erias Lukwago (Kampala Lord Mayor), Robert Kyagulanyi (Kyadondo East), Ssemujju Ibrahim Nganda (Kira Municipality), Moses Kasibante (Lubaga North), Muwanga Kivumbi (Butambala) and Ingrid Turinaawe (FDC’s secretary for mobilization).³ Kampala Lord Mayor Erias Lukwago was brutally arrested as he tried to leave his home in Wakaliga, Rubaga division, and driven to Kira Police Station, over his reported plans to lead a demonstration against the tabling of a Bill to remove the presidential age limit. The Police also arrested Forum for Democratic Change (FDC) secretary for mobilization, Ingrid Turinawe, shortly after boarding a taxi in protest of the lifting of the Presidential Age Limit. Police also sealed off Besigye’s home in Kasangati, Wakiso

3 Jonathan Kamoga, “Opposition leaders held in walk to work protest,” *The Observer*, October 4-5, 2017, at p.3.

district.⁴ Both the Uganda Human Rights Commission (UHRC) and the Uganda Law Society (ULS) slammed the arrests, which continued a countrywide trend of attacks on Ugandans' fundamental human rights and freedoms of assembly and expression.⁵

In another related incident, tear gas and live bullets rocked Nateete and Kyengera as Police barred Opposition MPs from attending two consultative meetings on the age limit bill on October 19th, 2017. This was done by the police as part of enforcing the ban against MPs holding joint consultative rallies. The Opposition MPs from other constituencies were blocked from accessing the venues, which sparked off clashes between the Police and Opposition MPs arrived to join. Rubaga South MP Kato Lubwama and Makindye East MP Ibrahim Kasozi were arrested at Nateete, a Kampala suburb, whereas Butambala County MP Muwanga Kivumbi was picked from Kyengera Town Council. In the process of blocking other Opposition leaders from joining the meeting, Police then fired tear gas and bullets in the air to disperse the charging crowd that had joined Kato Lubwama to help MP Allan Ssewanyana.⁶

On October 24th, 2017, the Police also fired teargas canisters and bullets to disperse a joint consultation rally organized by Lango MPs opposed to the removal of the age limit from the Constitution. During the commotion, Dokolo Woman MP, who doubles as Commissioner of Parliament Cecilia Ogwal, Otuke Woman MP Silvia Akello and Ogwal's husband, Lameck Ogwal, reportedly fainted and were rushed to hospital for treatment. The Lira District Police Commander (DPC), Joel Tubanone said that joint consultations were illegal since they were banned by the police.⁷

There also appeared to be discrimination in the treatment of protestors with NRM protestors who are in support of the proposed amendment being allowed to go ahead with their pro-removal demonstrations, whilst those in opposition were denied the same freedoms as has been highlighted above.⁸

Legal Issues

- Whether the continued use of the Public Order Management Act by the Police Force to break up rallies and arrest anti-age limit leaders is in line with Article 29 of the Constitution.
- Whether the right to assembly was violated as a result of the discriminate manner of applying the law.

4 Andrew Ssenyonga, "Lukwago, Turinawe, Bobi Wine arrested in city," *New Vision*, October 4, 2017, at p.6.

5 Ibid 3.

6 Henry Sekanjako and Ashraf Kasirye, "Kato Lubwama, Ssengona rallies blocked in Nateete," *New Vision* October 20, 2017 at p.5.

7 Ibid 2.

8 Ibid 3; Ibid 6.

Recommendations

- A thorough investigation into the inhumane treatment of Opposition Members of Parliament as well as their supporters during the Age Limit Consultations.
- The implementation of the Public Order Management Act ought to be aligned to the values of the Constitution, and with respect to the fundamental human rights.
- The Police must ensure equality before the law during their operations and desist from discrimination.

School children beaten up by Boda Boda 2010 Association over Age Limit demonstrations

On October 3rd, 2017, pupils of Westland Primary School, who were travelling to Nkumba University to perform at the annual Police Week celebrations, were intercepted around Busega roundabout.⁹The 27 pupils, accompanied by 10 security guards, two teachers plus two drivers of the bus in which they were travelling were allegedly attacked by members of the Boda Boda 2010 Association, headed by NRM chairperson of Rubaga Abdallah Kitatta. The Pupils were allegedly stopped and asked to change the dressing code from red to any other color so that they do not look like they were part of a section of Opposition MPS who were demonstrating against the Bill to purge presidential age limit from the Constitution. It was also alleged that some of the men approached the driver and asked him to pay money so that they could proceed, and when the driver did not heed to this call, the attackers started beating the driver, pupils and their teachers who kept on calling for help.¹⁰During the scuffle, one Jamil Kitaka, a crime preventer who was accompanying the children sustained head injuries and was bed-ridden as a result.¹¹

Boda Boda 2010 Association is a loose organization operating in Kampala, comprising riders of motorcycles and it is allied to the police and National Resistance Movement Party. It was alleged that the association also helps the police to crack down on civil disobedience, especially incidents that involve the opposition.¹²This was witnessed in August 2016 when they stormed court and attempted to lynch lawyers that had taken the Inspector General of Police, Gen Kale Kayihura, and six other police officers to Makindye Magistrate’s Court for torturing Opposition supporters.¹³ Subsequently, Several Civil Society Organizations (CSOs) called on the Government to disband the operations of Boda Boda 2010 Association and its members who battered people during the incident.¹⁴ Police have also since then distanced themselves from the association. Since this attack, a case was filed at Busega Police by a Police Officer, Abraham Bbale, who was with the children on the bus.¹⁵ It should however be noted that following the attack on the school children,

9 James Kabengwa, “Children beaten up over red ribbons,” *Daily Monitor*, October 5 2017, at p.8.

10 Ibid 2.

11 Martin Kitubi, “CSOs want Bodaboda 2010 disbanded,” *New Vision*, October 9, 2017, at p.8.

12 Lillian Namagembe, “Police disown Boda Boda 2010 group,” *Daily Monitor*, October 6, 2017, at p.8.

13 Ibid 9.

14 Ibid 11.

15 Jackie Nalubwama and Vivien Nakitende, “Policeman files case against Bodaboda 2010,” *Saturday Vision*, October 7,

the Boda Boda 2010 Association shows no plans of backing down on their resolve to confront groups opposed to the removal of the presidential age limit.

Since the assault, the leader of Boda Boda 2010, Mr. Abdullah Kitatta as well as Inspector General of Police Kale Kayihura has also been sued before the High Court in Kampala for the alleged assault on the children. The lawsuit was filed by Mr. Jamil Kiragga, a food vendor, Mr. Daniel Mayombwe, the area LC1 chairperson, and Mr. Evarist Kalungi, a coordinator of crime preventers. Through their lawyer Ladislaus Rwakafuuzi, the petitioners want court to declare that the members of Boda Boda 2010 Association are a danger to society and that they must be punished for all their crimes.¹⁶

Legal Issues

- Whether the actions of the Boda Boda 2010 Association infringed the right to dignity and humane treatment of the occupants of the bus, as per Article 24 of the Constitution as well as the Children's Act.
- Whether the Boda Boda 2010 Association is a lawful organization.
- Whether the failure of the Police to take action against the Boda Boda 2010 Association is an affront to the Rule of Law.
- Whether the subsequent activities of the Boda Boda 2010 Association, following its establishment are within the confines of the law.

Recommendations

- The perpetrators of the said violence should be apprehended and subsequently prosecuted in accordance with the law.
- The Government and other stakeholders ought to evaluate the legality of the Boda Boda 2010 Association, and whether its activities have since its inception, been in line with the promotion of fundamental human rights as per the Constitution.
- The Police should be held accountable for failure to take effective action against the Boda Boda 2010 Association.

Infringement to Right to life

Article 22 of the Constitution guarantees the right to life. Article 22(1) of the Constitution specifically states that no person shall be deprived of life intentionally except in execution of a sentence passed in a fair trial by 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. Article 6(1) of the International Covenant on Civil and Political Rights also guarantees the inherent right to life.

2017, at p.3.

16 Anthony Wesaka & Juliet Kigongo, "Boda Boda 2010 leader sued over beating pupils," *Daily Monitor*, October 25, 2017, at p.6 ; Michael Odeng and Barbra Kabahumuza, "Kayihura sued over assaulted schoolchildren," *New Vision*, October 25, 2017, at p.10.

This Quarter has seen increasing trends to the threat of the right to life. One Edson Nasasira was caught up in crossfire of teargas and bullets when police were trying to disperse opposition supporters in Rukungiri district, where the former Presidential Candidate Rtd Colonel Kizza Besigye had gone to carry out age limit consultations.¹⁷

A casual labourer in Rukungiri Town was killed on October 18th, 2017 in a violent showdown between Opposition supporters and Police. Four-time presidential challenger Kizza Besigye and Mr. Patrick Amuriat, a contender for FDC Party Presidency, were among Opposition big shots gathered there to buoy mass support aimed at forcing lawmakers to retain 75 years as upper age for a President. Residents identified the deceased as Edson Nasasira alias Kakuru, who lived in Kafunjo Cell in Eastern Division. The acrid smell of teargas suffocated the town in the day and deafening gunshots rang out in sustained clashes as anti-riot police tried to stop a planned rally at Rukungiri Stadium to launch Opposition activities against scrapping of the Presidential Age Limit. Police moved in to prevent the rally, firing teargas and bullets to disperse them, in the process killing Nasasira.¹⁸ The postmortem carried out on Mr. Nasasira's body confirmed that he was shot, contrary to Police claims that he was hit by a stone.¹⁹ It should also be noted that six people sustained injuries during the riot.²⁰

The lives of some Opposition Members of Parliament were threatened when grenades were thrown at their houses on the night of Tuesday, October 3rd, 2017. Two grenades were hurled by unknown assailants at the residences of MP Allan Ssewanyana (Makindye West) and MP Robert Kyagulanyi, alias Bobi Wine (Kyadondo East), at about 1am. The grenades were detonated within a space of one hour and in close succession, suggesting that the explosions were coordinated. The week prior to this, another grenade attack happened at the home of MP Moses Kasibante (Rubaga North) in Rubaga Division. These attacks took place on the back of the events that took place in Parliament the week prior, when MPs on the Opposition and government side fought in Parliament in ugly scenes that saw the legislators throw chairs and other objects at each other in a fist-fight when a motion was passed to amend the Constitution that left several opposition MP's injured.²¹ A number of opposition legislators were then forcibly ejected from the House by unidentified strangers who manhandled and assaulted them causing grievous bodily harm that led to the hospitalization of some Members of Parliament.²²

17 Ibid 2.

18 Ibid.

19 Felix Ainebyoona & Alfred Tumushabe, "Report pins police on Rukungiri killing," *Daily Monitor* October 27, 2017, at p.5.

20 Caleb Bahikaho, "Rukungiri victims of last week's riots discharged," *New Vision*, October 26, 2017, at p.12.

21 Monitor Team, "Grenade attacks rock MPs' homes," *Daily Monitor* October 4, 2017, at p.5.

22 Ibid.

Legal Issues

- Whether the right to life is being duly enforced and implemented as per the Constitution.

Recommendations

- The Police Officers, who were involved in causing the death of Mr. Edson Nasasira, should be investigated and brought to justice.
- The unrestrained use of firearms and teargas to disperse peaceful assemblies should be rethought.
- The Government should compensate the family of the late Edson Nasasira.

b) Right to Personal Liberty

Article 23(3) of the Ugandan Constitution states that a person arrested, restricted or detained shall be informed immediately, in a language that the person understands, of the reasons for the arrest, restriction or detention and of his or her right to a lawyer of his or her choice. Article 23(4) of the Constitution further states that if a person arrested or detained is not earlier released, they should be brought to Court as soon as possible but not later than forty-eight hours from the time of his or her arrest. Article 9 of the International Covenant on Civil and Political Rights supports this right by stating that everyone has the right to liberty and security of person.

Violent Re-arrests of Suspects in Kaweesi Murder Investigation

Twelve suspects in the murder of former AIGP and Police Spokesperson Andrew Felix Kaweesi along with his bodyguard and driver spent six months in detention without trial. Such action was against Article 23 of the Constitution which states that a person who spends six months on remand without being committed for trial is entitled to mandatory bail. On the morning of November 8th, 2017, eight of the twelve suspects were granted the mandatory bail by Grade One Magistrate Noah Sajjabi. However, in a sudden turn of events, four of the suspects were forcefully rearrested by Armed Security Operatives as they were leaving the court premises. The gunmen pounced on the suspects and plucked them off a Boda Boda. A scuffle ensued in which one of the suspects was undressed during the incident, an action that was condemned by the Uganda Law Society by stating that the arrests did not follow due process and consider the rights of the accused.²³

Legal Issues

- Whether the rearrest of the four suspects was an illegality and amounted to the violation of their human rights.
- Whether during the process of the rearrests, due respect and attention was given to the dignity and humane treatment of the suspects.

23 Ibid 1; http://www.uls.or.ug/site/assets/files/1320/uls_statement_on_the_re-arrest_of_kaweesi_suspects.pdf

- Whether the force used in effecting the re-arrests was commensurate to the threat if posed by unarmed suspects if any.

Recommendations

- The forceful manner in which the four suspects in the Kaweesi Murder investigation were rearrested should be thoroughly investigated, and the perpetrators duly brought to book.
- The suspects should be compensated for the inhumane treatment that they were succumbed to during the re-arrest.
- The DPP should provide thorough oversight to the investigation of the Kaweesi murder case to ensure a stop to the increase of human rights violations arising from this murder case.

Cruel and Inhumane Treatment of Former Member of Parliament - Dr. Lulume Bayiga during Arrest

Former Buikwe South Member of Parliament Dr. Lulume Bayiga, a member of the Democratic Party has accused the Police of assault during his arrest while at Ngogwe sub-county headquarters, where he and other doctors were treating the elderly people at a health camp organized by the Rotary Club of Mukono. Dr. Lulume has claimed that due to the assault by the Police, he has sustained multiple injuries which prompted a magistrate to rule that he be taken to a hospital attached to Prisons for further treatment till December 8, 2017. On December 4, 2017, Dr. Lulume was charged in court and remanded to Luzira Prisons for assaulting a Police officer while on duty causing malicious damage and conspiracy to commit a felony.²⁴

Legal Issues

- Whether the manner of Dr Lulume's arrest infringed on his right to dignity and humane treatment and right to personal liberty as is stipulated by Articles 24 and 23 respectively of the 1995 Constitution of Uganda.

Recommendations

- Investigations into the manner of Dr Lulume's arrest should be carried out and perpetrators held liable if found guilty.
- The Police Force ought to reevaluate the manner in which force is used during arrests, and whether it is always warranted.

²⁴ Eddie Ssejoba and Mukasa Kivumbi, "Lulume in Luzira over assault of cop," *New Vision*, December 5, 2017, at p.6.

c) Freedom of Speech and the Press

Article 29(1) (a) of the Constitution guarantees that every person shall have the right to freedom of speech and expression which shall include freedom of the press and other media. The International Covenant on Civil and Political Rights further entrenches this provision in Article 19(2) where it states that everyone has the right to freedom of expression which includes freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of their choice.

However, this Quarter has witnessed a striking increase in the crackdown on the freedom of expression, especially the intimidation of journalists. Such a development is reflective of a broader tendency noted in the World Press Freedom Index which ranks Uganda in the 112th place out of 180 countries. In 2016, Uganda was ranked 102nd and 97th in 2015.²⁵ The editors of several different media outlets have been questioned by the Police over contentious stories that they have published, or stories that involve high profile figures for example IGP Kale Kayihura and President Museveni. Some of the incidents concerning the issue of freedom of press include the following;

Quite clearly, the deterioration in the respect for press freedoms is linked to the ongoing debate about the Constitution. Thus, the Police charged Charles Bichachi Executive Editor of the Daily Monitor and Richard Kintu of the Red Pepper with libel and offensive communication over stories published about the removal of the Presidential Age Limit.²⁶ Both editors were later released on Police bond and told to return to CID headquarters the following day. The Daily Monitor story was about the budget of the Parliamentary Committee for consultations on the proposed presidential age limit amendment. The editors were interrogated for hours by Commissioner for Media Crimes, Isaac Oketcho, and CID officer, Emmanuel Mbonimpa. The basis of the allegations/ charges is section 25 of the Computer Misuse Act 2011 on offensive communication which makes it criminal, with a punishment of one year or a fine of Shs480,000 or both, for any person who uses electronic communication to disturb or attempts to disturb the peace, quiet or right of privacy of any person.²⁷

These charges came on the heels of a September 26th 2017 order by the Uganda Communications Commission (UCC) to broadcasters, especially television stations, to refrain from broadcasting live feeds of the debates in Parliament over the age limit which had culminated in a fist fight in the chambers of the House. The National Association of Broadcasters however petitioned Executive Director, Godfrey Mutabazi, asking him to lift the ban.²⁸ UCC soon after lifted the ban following a meeting with the National Association of Broadcasters held on October 5th, 2017. The ban was soon lifted on condition that media houses have live broadcast pre-editing software hence delaying feed of live coverage, a condition which a one Catherine Anite, a media rights advocate argued stifled the citizens right to access of information since the delayed feed of live coverage denies people information on issues of public interest. This condition would thus contravene Article 41 of the 1995 Constitution of Uganda.²⁹

25 <https://rsf.org/en/ranking>

26 Andrew Bagala, "Monitor editor quizzed over age limit story," *Daily Monitor*, October 17, 2017, at p7.

27 Ibid.

28 Andrew Bagala, "Monitor editor quizzed over age limit story," *Daily Monitor*, October 17, 2017, at p7.

29 <https://acme-ug-org/2017/10/06/live-tv-coverage-ban-lifted-but-conditions-dont-satisfy-ugandan-broadcasters/>

In yet another incident, the Directorate of Criminal Investigations was investigating four journalists from different media houses for disturbing the peace of the Inspector General of Police, Gen Kale Kayihura.³⁰ The journalists were alleged to have written about General Kayihura's health or security. Stanley Ndawula, director of online publication, The Investigator was detained at Kira Road Police Station on charges of offensive communication against Gen Kayihura. The story in question concerned investigations into the Kaweesi murder.³¹ On Tuesday October 31st, 2017, *New Vision* editor Felix Osike, was also questioned by detectives for having allegedly published a story about the state of security around the home of Gen Kayihura, which allegedly disturbed his privacy, peace and quiet.³² In another incident, Mr. Richard Kayiira, an editor of *Bukedde* newspaper, was released on Police bond following his arrest for the publication of an article was published about Gen Kayihura's visit to Turkey in June, 2017. The Police refuted the allegations and claimed that the story infringed on the privacy of the Police Chief.³³ The detectives also interrogated *Red Pepper* Managing editor, Mr. Ben Byabaraha, for articles related to Gen Kayihura's visit to Turkey.³⁴ At the time *Daily Monitor* printed the piece CID spokesperson, Vincent Ssekate, stated that three more media houses that had published stories about Gen Kayihura's health were still under investigations.³⁵

On November 21st, 2017, Police also arrested and later charged five directors and three editors of the Pepper Publications Group. The eight were charged with treason, offensive communication and disturbing the peace of President Yoweri Museveni, _ Security Minister Henry Tumukunde and Operation Wealth Creation chief Gen.Salim Saleh.³⁶ All eight were initially detained at Nalufenya Prison in Jinja district, following publication of a story entitled "M7 plotting to overthrow Kagame-Rwanda in the November 20th, 2017 edition of the paper.³⁷ They were later remanded to Luzira prison in Kampala.³⁸ On December 5th, 2017, Buganda Road Court Chief Magistrate James Ereemye Mawanda further remanded the accused to December 19th, 2017 when they will find out their bail fate, so as to grant both the prosecution and the defense lawyers' time to scrutinize the various submissions.³⁹

The above developments represent a disturbing retreat in the respect afforded to press and media freedom. In the 2004 case of, *Charles Onyango Obbo and Andrew Mujuni Mwenda vs. Attorney*

30 Andrew Bagala, "Police probe 4 journalists for disturbing Kayihura's peace," *Daily Monitor*, November 3, 2017, at p6.

31 Ibid.

32 Ibid; Vision Reporter, "Vision editor charged over Kayihura story," *New Vision*, November 1, 2017, at p.4; Billy Rwothungeyo, "CID summons New Vision editor over Kayihura story," *New Vision*, October 31, 2017, at p.5.

33 <http://www.monitor.co.ug/News/National/Red-Pepper-directors-editors-charged-treason/688334-4199806-7lr0gkz/index.html>

34 Ibid.

35 Ibid.

36 Ibid.

37 <http://www.monitor.co.ug/News/National/Red-Pepper-directors-editors-charged-treason/688334-4199806-7lr0gkz/index.html>

38 Juliet Kigongo, "Red Pepper bosses remanded to Luzira," *Daily Monitor*, November 28, 2017, at p.5 ; Farooq Kasule and Michael Odeng, "Red Pepper journalists remanded to Luzira Prison," *New Vision*, November 28, 2017, at p.4.

39 Farooq Kasule and Michael Odeng, "'Red Pepper' editors sent back to Luzira," *New Vision*, December 6, 2017, at p.9.

General,”⁴⁰ the Supreme Court declared the Penal Code provision on “publication of false news” unconstitutional. Through a raft of provisions in different laws such as the Computer Misuse Act, the State has reintroduced offences which run against the spirit of this landmark decision, and reinforce a situation in which freedom of expression and of the media is under sustained attack.

Legal Issues

- Whether the arrest and extended detention of the Red Pepper journalists and the varied actions against numerous other journalists amount to a violation of their rights to freedom of speech and expression under Article 29 of the 1995 Constitution of Uganda.
- Whether the Computer Misuse Act conforms to the numerous provisions in the 1995 constitution relating to freedom of expression and the protection of media rights.

Recommendations

- That the media must be allowed space to operate freely considering the cardinal importance of the press in the promotion of democratic ideals.
- The Police must speed up investigations into the aforementioned media personalities ensuring that they adhere to the principles relating to a fair and speedy trial.
- The Police should refrain from being deployed as an instrument to protect the interests of persons in authority and ensure that they stick to professional standards of investigation and prosecution.

d) The Raids on NGO Offices

Article 38(1) states that every Ugandan Citizen has the right to participate in the affairs of government, individually or through his or her representatives in accordance with law. Subsection 2 of this Article further states that every Ugandan has a right to participate in peaceful activities to influence the policies of government through civic organizations. Article 25(a) of the International Covenant on Civil and Political Rights reaffirms the position that every citizen shall have the right and the opportunity, without unreasonable restrictions to take part in the conduct of public affairs, directly or through freely chosen representatives.

In this regard, it should be noted that the last Quarter witnessed an increasing threat to the functioning of civil society organisations, thus raising questions of attempts by government to stifle civil society. The Criminal Intelligence and Investigation Directorate (CIID) allegedly wrote to the Non-Government Organization Bureau (NGOB) about the civil society organizations it is investigating, namely Action-Aid International- Uganda, the Uhuru Institute for Social Development and the Great Lakes Institute of Strategic Studies (GLISS).⁴¹ The Directorate claimed that the three were funding opposition political projects that the government believed were intended to cause unrest in the

⁴⁰ Charles Onyango Obbo and Anor v Attorney General ((Constitutional Appeal No.2 of 2002)) [2004] UGSC 1 (10 February 2004)

⁴¹ Andrew Bagala, “Police probe three NGOs over funding,” *Daily Monitor* October 9, 2017, at p8.

country.⁴² In addition, the Police investigators demanded the work plans and budgets of several organisations.⁴³

The NGOB was established under the NGO Act of 2016 to register, regulate, and oversee all NGO operations in the country. Another CSO, Solidarity Uganda in Lira District, was raided and its workers arrested on September 21st 2017.⁴⁴ In a later development, Bank of Uganda on the request of the Police froze over five accounts of Action Aid Uganda, frustrating its work.⁴⁵

Several political parties and civil society organizations have since voiced their disapproval of the proposed amendment. Interestingly (and as a clear demonstration of the mala fides of the Police) no charges were laid against the targeted organisations. The affected NGO's are still open, but their operations have been constrained since their financial departments were disrupted by the detectives.⁴⁶

Legal Issues

- Whether there has been an infringement of the NGOs' right to participate in peaceful activities to influence the policies of government as per Article 38(2) of the Constitution.
- Whether the investigations of the NGO organizations are taking cognizance of the right to a fair, speedy and public hearing before an independent and impartial court as is provided for by Article 28(1) of the Constitution.
- Whether the targeting of NGOs was legitimate and in accordance with the law.
- Whether the above stated raids have had an adverse effect on the marginalized people of society.

Recommendations

- The Police should work with the line regulatory bodies to carry out investigations without disrupting the work of the NGOs as was noted in this case.
- The Police should speed up their investigations into the alleged offences committed by the Civil Society Organizations, bearing in mind Public Interest.
- The high handed manner in which the raids on the NGOs were conducted, particularly the draconian measures adopted by the Police should be thoroughly investigated, and steps taken to ensure that such incidents are not repeated.

42 Ibid.

43 Ibid.

44 Ibid.

45 <http://www.monitor.co.ug/News/National/Bank-of-Uganda-freezes-Action-Aid-accounts/688334-4139336-whadng/index.html>

46 Andrew Bagala, "Police raid fourth civil society body," *Daily Monitor* October 3, 2017, at p5.

e) Right to Economic life

Article 40 of the Constitution states that Parliament shall enact laws to provide for the right of persons to work under satisfactory, safe and healthy conditions and to ensure equal payment for equal work without discrimination. Article 40(3) of the Constitution also states that every worker has a right to form or join a trade union of his or her choice for the promotion and protection of his or her choice for the promotion and protection of his or her economic and social interests, and to collective bargaining and representation. Article 25 of the Universal Declaration of Human Rights, Article 11 of the International Covenant on Economic, Social and Cultural Rights, as well as Article 15 of the African Charter on Human and Peoples' Rights, also guarantees the right to work and to a reasonable standard of living.

During the reporting period, Ugandan doctors under their umbrella body, the Uganda Medical Association (UMA), indefinitely laid down their tools after the government failed to respond to their grievances. UMA demanded an increase in salaries and duty allowances, a review of the supply chain and management of medicines, vaccines and medical supplies, as well as disbandment of the State House Medicine and Health Service Delivery Monitoring Unit.⁴⁷ The action by the Doctors was later extended to Interns,⁴⁸ resulting in a general collapse in the provision of medical services in several hospitals around the country. Several patients were left stranded or sent away, as there were no medical workers to assist them.⁴⁹

In October, State Prosecutors resumed their indefinite strike after government failed to honour an agreement made regarding their salaries and other emoluments within the 90-day deadline agreed between the two parties.⁵⁰ Three months prior, the Prosecutors had gone on strike for about a week demanding salary enhancement and various allowances.⁵¹ The prosecutors strike paralyzed the Court system, as several criminal cases have been put on hold, thus slowing down on the dispensation of Justice.⁵²

Legal Issues

- Whether the Industrial Action by the Doctors as well as the State Prosecutors highlights a consistent infringement of their right to economic life and reasonable standard of living.
- Whether the Government by not addressing the grievances of the affected public servants to stem the strikes, they are by extension also infringing on the rights of the victims to life/ medical care, as well as the right to a speedy trial.

47 Vision Reporters, "Thousands stranded as doctors strike," *New Vision*, November 8, 2017, at p.5

48 Emmanuel Ainebyoona, "Intern doctors join strike, want Shs2.5m allowance," *Daily Monitor*, November 14, 2017, at p.4.

49 Ibid 40.

50 Anthony Wesaka and Betty Ndagire, "Prosecutors resume strike over pay raise," *Daily Monitor*, October 11, 2017, at p.2.

51 Ibid.

52 Vision Reporters, "Prosecutors' strike: Over 500 criminal cases stall," *New Vision*, October 12, 2017, at p.4 ; Ephraim Kasozi, "How prosecutors' strike is affecting Judiciary," *Daily Monitor*, November 13, 2017, at p.6.

Recommendations

- We reiterate our position in the Third Rule of Law Report that Parliament must enact a law establishing a National Remuneration Commission to set, periodically review and harmonize the salaries and remuneration of all public servants⁵³
- Government should in the same way it has negotiated with the Doctors undertake similar negotiations with the prosecutors to bring an end to the industrial action that is negatively affecting the criminal justice system.

⁵³ https://www.uls.or.ug/site/assets/files/1303/uls_2017_-_rule_of_law_3rd_quarterly_report_september_2017.pdf

B) DUE PROCESS AND THE CLIMATE OF LEGALITY

During the reporting period, the ULS noted a significant shakeup within the Security Organs in general and the Police Force in particular, with several senior officers being investigated for crimes that include but are not limited to kidnapping, armed robbery and murder.⁵⁴

Following on from the above action, questions have also been raised as to the effectiveness of the disciplinary process within the Police System, particularly given the return to action of several plain-clothed security operatives who were convicted in February of this year of beating Opposition supporters.⁵⁵ Several police officers were also implicated in a drug smuggling ring that has allegedly been running at Entebbe Airport for decades.⁵⁶ In the following section of the report, we consider the implications of these developments on the operation of the Police, and its impact on the overall operations of the security arm of the state.

a) Concerns about Uganda's Security Organs

During the period October to December, several developments of concern affected the operations of the Ugandan Security Forces. To begin with, on November 2nd, 2017, a raid was carried out by the officials of the Uganda Police Flying Squad unit on the Criminal Intelligence and Investigation Directorate (CIID).⁵⁷ *The Observer* reported that the officials arrived at Kibuli at around 9am and demanded to search the offices of the Superintendent of Police, one Tinka Zerugaba, the acting Head of Narcotics at CIID headquarters, and an assistant inspector of police only identified as Benon. After a long wait at the offices for CIID Director Grace Akullo to give them clearance, Akullo's deputy Obwona later gave the officials clearance, although they were still unable to proceed since the offices remained firmly closed.⁵⁸ By the end of the day, the targeted officers in question did not show up although the flying squad operatives remained at the premises.⁵⁹

In a further development relating to the confused roles of security organs, it was reported that the Chieftaincy of Military Intelligence (CMI) and the United States Federal Bureau of Investigation (FBI) took over the investigations into the several recent murders of women in Entebbe and Wakiso districts.⁶⁰ It should be noted that the Police were initially the lead investigators in this case and that the case is primarily a criminal matter.⁶¹ Coming after the CMI action noted above, questions arise regarding the authority and jurisdiction of the various security agencies particularly that of the CMI, the flying squad and the police with regard to the process of arrests, investigation and

54 Vision Reporters, "CMI probes another 41 top cops," *Saturday Vision*, November 4, 2017, at p.3 ; Vision Reporters, "9 more Police bosses arrested," *Saturday Vision*, November 4, 2017, at p.3.

55 Stephen Kafeero, "Age limit debate: Stick officers back in action," *Sunday Monitor*, October 1, 2017, at p4-5.

56 Stephen Kafeero, "Inside the rot at Entebbe airport," *Sunday Monitor*, November 12, 2017, at p.4-p.5.

57 Zurah Nakabugo, "Flying Squad raids CIID Police," *The Observer*, November 3-5, 2017 at p.3.

58 Ibid.

59 Ibid.

60 Vision Reporters, "CMI takes over probe in Wakiso women murders, six arrested," *New Vision*, November 1, 2017 at p.5; Vision Reporter, "FBI investigates women murders," *New Vision*, November 7, 2017 at p.5.

61 Ibid.

conclusion of these kinds of criminal affairs.⁶² The ULS is gravely concerned about the multiplicity of security agencies in Uganda, which has created a situation of considerable inter-agency tension due to the uncoordinated movement of troops, as well as public apprehension, about this state of affairs. Uganda's history of such confusion and the creation of bodies which parallel and undermine the established organs of security is a largely negative one, and bodes ill for the effective execution of the mandate of the established security agencies.

Senior Police, OPM officials implicated in refugee abductions

Whilst giving their testimonies, refugees fleeing countries neighboring Uganda for political persecution accused a number of senior police officers and employees of the Office of the Prime Minister (OPM) of abducting and handing them over to their home countries' authorities in exchange for money.⁶³ Several refugees alleged that there is a network of government officials and Police officers involved in arresting asylum seekers and surrendering them to authorities in their home countries, particularly Rwanda and the Democratic Republic of Congo.⁶⁴ In this regard, seven police officers who included, two Senior Police Commanders namely- Joel Aguma and Nixon Agasiirwe were among the persons charged before the General Court Martial sitting at Makindye over kidnapping Lt. Joel Mutabazi, a former bodyguard of President Paul Kagame in 2013 and handing him over to the Rwandan government.⁶⁵ A number of refugees have further claimed that some of the top Police and OPM officials are closely working with intelligence operatives from neighboring countries to hunt for perceived opponents seeking asylum in Uganda.⁶⁶

Arrest of Police Officers for various offences including Kidnap, Murder, and Fraud

Several Police Officers have been interrogated by the CMI on various offences, including kidnap, murder, fraud and armed robbery as well as the murder of former Assistant Inspector General of Police, Andrew Felix Kaweesi.⁶⁷ Some of the murders involve foreign nationals with significant business interests in Uganda, who were kidnapped and some murdered before their money, in billions of shillings, was withdrawn from their bank accounts.⁶⁸ In one case involving an Eritrean businessman, Daniel Weldo Okbamichael, billions of shillings was withdrawn from his bank account after which he was found dead.⁶⁹ During the month of November, Police Officers were also arrested

62 Ibid.

63 Pascal Kwesiga, "Senior Police, OPM officials implicated in refugee abductions," *New Vision* October 30, 2017, at p.5.

64 Ibid.

65 Vision Reporter, "New Twist as Military widens Police Probe," *Sunday Vision* October 29, 2017, at p.3; Ibid 8; Michael Odeng and Chris Kiwawulo, "Top Police officers charged at Army Court," *Saturday Vision* October 28, 2017, at p.3.

66 Ibid 63.

67 Ibid 54.

68 Ibid.

69 Ibid 65.

for the theft of cocaine valued at sh13b in 2015.⁷⁰ The commandant of the Very Important Persons Protection Unit (VIPPU), Lodovic Awita, who formerly headed the narcotics department was arrested in this regard, alongside Tinka Zarugaba and eight other senior Police officers. The arrest was made by a team from the Police Flying Squad Unit led by its boss Herbert Muhangi. A police report indicated that 80kg of seized cocaine was reportedly stolen from the aviation Police stores in 2015.⁷¹

In a separate incident, two Interpol Officers were suspended over allegations that they extorted \$80,000 (sh300m) from a Ugandan doctor returning from Namibia.⁷² Dr. David Mugimu of Nalukolongo filed a complaint at the Interpol Headquarters in Kampala on October 8th, 2017 alleging that two officers, Edson Bukoli and Chris Musana, extorted money from him. Mugimu claimed that the two officers forced him to confess that he was bringing in stolen cars into Uganda from Namibia. Vincent Sekate, the Professional Standards Unit (PSU) spokesperson stated that the two officers named above were later arrested and are being probed alongside other Police officers for the alleged extortion of \$80,000.⁷³ This case is still being investigated with new developments indicating that Namibia is also investigating the doctor in question.⁷⁴

Police officers running Drug Cartels at Entebbe International Airport

On November 12th, 2017, the *Sunday Monitor* carried a report detailing the existence of a smuggling cartel at Entebbe Airport allegedly being run by Police officers who have for decades dealt in drugs and other contraband.⁷⁵ It was reported that these officers were an organized group including senior police officers and commanders. The largest enterprise involved the smuggling of narcotic drugs in and out of the country, trafficking in humans, the sale of ivory, prized rhino horn, aiding and abetting tax evasion and extortion from airport users.⁷⁶ Multiple sources also linked officials of the immigration, clearing and cargo handling, as well as officers of the Civil Aviation Authority (CAA) and other airport staff. These revelations followed the arrest of at least eight police officers by the Flying Squad Unit.⁷⁷ Six of the police officers have been charged in court for their alleged role in the smuggling cartel that deals in drugs and other contraband and have since been granted bail. They were each granted Shs10m non-cash bail and the case was adjourned to December 11th, 2017 when they are expected to appear again before court.⁷⁸

The actions of the Uganda Police Force in trying to clean up its image and address internal problems within the institution are commendable. This is especially the case since it would appear that many

70 Ibid 54.

71 Ibid.

72 Glorias Musiime, "Interpol suspends officers over theft," *Saturday Vision*, October 28, 2017, at p.6.

73 Ibid.

74 Glorias Musiime, "Namibia investigates Ugandan doctor over money laundering," *Saturday Vision*, December 2, 2017, at p.11.

75 Stephen Kafeero, "Inside the rot at Entebbe airport," *Sunday Monitor*, November 12, 2017, at p4-p5.

76 Ibid.

77 Ibid.

78 Stephen Kafeero, "Police changes narcotics team at Entebbe Airport," *Saturday Monitor*, December 2, 2017, at p.4.

of the problems which led to the establishment of a Commission of Inquiry led by Justice Julia Ssebutinde in 1999 have re-surfaced.⁷⁹

Legal Issues

- Whether there is a need for an overall reform of the number, relationship and authority of the various security organs currently involved in the systems of criminal investigations and general police work in the country.
- Whether Security Agencies are being utilized as organs to commit human rights violations in contravention of Chapter Four of the 1995 Constitution of Uganda.
- Whether the authority levels within the various security organs have been clearly stipulated, in order to prevent the prevalent mix-up of roles between the various security agencies.

Recommendations

- There is need for an urgent review of the proliferation and blatant conflict of roles and responsibilities between the various security organs involved in policing.
- The roles and functions of the Security agencies should be clearly and legally defined, so as to avoid clashes and conflict of interest, and to ensure the rule of law and effective protection of human rights.
- As was suggested in the Third Uganda Law Society Quarterly Report, there is an urgency for the complete overhaul of the entire police system, so as to promote a more efficient and effective system.⁸⁰
- All the Police Officers involved in crimes of a serious nature should be thoroughly investigated, and the perpetrators prosecuted.

Redeployment of Criminal Elements in Security Operations

The Uganda Law Society is concerned about the extensive use of unidentified and non-uniform security operatives in a variety of Police actions. During the quarter under consideration, it was reported that security forces of unclear identity were used to engage in police action. These forces were at the centre of operations against Members of Parliament (MPs) and Opposition Politicians in Kampala, culminating in the siege of the premises of Parliament on September 26th, 2017.⁸¹ Of particular note was the fact that the individuals in question were plain-clothed and included previously convicted individuals who should have been serving their prison sentences. Of particular concern was the case of a one Dan Tandeka, who was convicted in February, 2017 by a Police Court alongside

79 Tabu Bitagira, "Was Justice Sebutinde's Commission a Waste of Time?" *Sunday Monitor*, November 20, 2011, at <http://www.monitor.co.ug/Magazines/PeoplePower/689844-1275794-rhflnfz/index.html>

80 https://www.uls.or.ug/site/assets/files/1303/uls_2017_-_rule_of_law_3rd_quarterly_report_september_2017.pdf

81 Ibid 55.

eight other officers, including three Senior Superintendents of Police for beating Opposition Supporters on July 13th, 2016.⁸² The Police Court chaired by Senior Commissioner of Police, Mr. Denis Odongpiny had recommended to the Police Council to dismiss Mr. Tandeka from the Force and that he should never associate himself with the institution for at least 20 years.⁸³ However, despite these recommendations, it appears that no action has been taken on Mr. Tandeka, his other fellow convicts, and many other Senior Police Officers named in the beating of Opposition Supporters last year.

The group of plain-clothed operatives also included one Yusuf Lubowa, who was unmasked for kicking a Dr Besigye supporter in a recorded video clip by NTV Uganda, also continues to work with the Police Force.⁸⁴ It is of great concern to the ULS that Mr. Lubowa not only continues to work with the police force, but that he has continued to engage in criminal and illegal activities without sanction.

Legal Issues

- Whether the involvement of known convicts such as Mr. Tandeka and Mr. Lubowa is in conformity with police standing orders and with the broader respect for the Rule of Law and accountable governance in Uganda.
- Whether given the criminal history of the above two stated plain clothed operatives, their redeployment infringes on the respect for human dignity and protection from inhuman treatment as per the Constitution.

Recommendations

- Immediate disciplinary measures should be taken against the officers in the Police Force responsible for the illegal deployment of these kinds of operatives and clear instructions must be issued to prevent the recurrence of this.
- The Police Force should dismiss Mr. Tandeka and Mr. Lubowa, as well as other police operatives who have pending criminal cases against them.
- The dismissal should be in addition to some form of sanctions either by way of the finalization of the criminal matters against them to punish them appropriately, as well as condemning them to personally pay compensation to their victims.
- Measures should be taken on the part of the leadership of the Police Force to apologise to those persons who have adversely been affected by the actions of these operatives and to ensure adequate compensation is paid to them.

82 Ibid.

83 Ibid.

84 Ibid.

C) TRANSPARENCY AND ACCOUNTABILITY

During the review period, the following occurred:

Court Officials steal Billions of Cash

According to a report of the Auditor General, Mr. John Muwanga, billions of shillings consisting of the deposits for bail in the courts of law are stolen. The Auditor General also reported that cash bail refunds to undisclosed claimants could not be accounted for in various courts across the country. The incidence of the theft of bail money deposited by criminal suspects is high and rampant across courts in the country. This scam prompted the Judiciary's Permanent Secretary, Mr. Kagole Kivumbi, to close all bail deposit accounts in various commercial banks, interdict the thieving court officials and centralize the payment system. The bail account has Shs23b of which Shs3b is unclaimed because many people don't know that such money is refundable to suspects. It is this ignorance of the law that some court officials have exploited to abuse bail money.⁸⁵

Legal Issues

- Whether the principle of accountability has been duly exercised by the Judiciary, Ministry of Finance and Bank of Uganda, as per Article 164(2) and Objective XXVI (iii) of the Constitution.

Recommendations

- The Court Officials liable for the thefts should be duly prosecuted in the courts of law.
- The Public should be robustly sensitized on the rights of suspects, as regards to bail money.
- More lawful measures should be developed to stamp out the vice of corruption that is steadily increasing within the judiciary as is necessitated by Objective XXVI (iii) of the Constitution.
- The Ministry of Finance, Planning and Economic Development (MOFPED) should come up with measures to curb the vice by ensuring that all cash bail is paid into a special bank account directly and not at the courts accounts offices. Similarly the refund of bail cash should be by direct transfer to the depositors' bank account using the IFMIS payment system to avoid loss to the unsuspecting public and the Government.

Bribery Case involving Foreign Affairs Minister Sam Kutesa

Uganda's Foreign Affairs Minister Sam Kutesa has been implicated in a bribery case being prosecuted in the United States. It is alleged that Hon. Kutesa received a bribe of \$500,000 to obtain business advantages for an energy company linked to Chinese investor.⁸⁶ This follows the charging in the New York court of Patrick Ho, 68 and a former Senegalese Foreign Minister, Cheikh Gadio, 61, over

⁸⁵ Yasiin Mugerwa, "Court officials steal billions of bail cash," *Daily Monitor*, October 19, 2017, at p5.

⁸⁶ Frederic Musisi, "Govt defends Kutesa in Shs1.8b bribe case," *Daily Monitor*, November 22, 2017, at p.4.

allegations that they had paid a bribe to Hon. Kutesa and the Chadian President, Idriss Deby.⁸⁷ It is alleged that the bribe was used to secure contracts and ventures in Uganda's financial and energy sectors. Mr. Ho also provided Mr. Kutesa as well as the President of Uganda, with promises of future benefits including proposing to partner with both officials' family businesses in potential joint ventures.⁸⁸ The US Department of Justice in the southern district of New York charged Ho and Gadio, in a criminal complaint over violations of the Foreign Corrupt Practices Act, international money laundering and conspiracy to commit the crimes.

Legal Issues

- Whether Hon. Kutesa has infringed upon the principle of accountability and public interest as per the Ugandan Constitution.
- Whether Hon. Kutesa's international dealings were in accordance with the law.

Recommendations

- We recommend that Hon. Sam Kutesa steps down so that investigations are conducted and if he is found culpable he should be put on trial for corruption related crimes.
- That the law should be amended to require public officials to step aside from their positions as soon as verifiable allegations are made against them to allow proper investigation into the allegations brought against them.

87 David Lumu, "Kutesa explains sh1.7b US bribery allegations," *New Vision*, November 22, 2017, at p.4

88 *Ibid* 49.

D) CONCLUSION

The ULS commends the Ministry of Lands for cancelling titles issued over forests and wetlands, and for dismissing the RDCs who were exposed by the Land Commission of Inquiry. However, there is still a lot to be desired particularly regarding the observance of the rule of law by state organs and individuals alike, as was seen by the notable violations of the freedom of assembly during the age limit debate, the numerous instances of the infringement of the right to free speech and civil liberties.

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