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

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**OCTOBER – DECEMBER 2018**



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# PRESIDENT'S FOREWORD

***"I disapprove of what you say, but I will defend to death your right to say it"* Voltaire François - Marie Arouet, 1694-1778**

I welcome you all to the launch of the Fourth Quarterly Rule of Law Report 2018, covering the period of October-December 2018.

The Uganda Law Society has a mandate to promote the rule of law and guide the public and government on issues of law.

The publication of the Quarterly Rule of Law Reports is one of the proactive measures that the Uganda Law Society has undertaken to address issues concerning the Rule of Law in the country. Furthermore, as a follow up to the Quarterly Reports, the Uganda Law Society set up a Litigation department that institutes public interest litigation to address some of the concerns in the report.

As has been the case with prior reports, this edition of the Rule of Law Report offers an in depth analysis of issues of the Rule of Law that have taken place during the period under review, along with possible recommendations/ practical solutions to the issue raised. This is in an effort to further improve the Rule of Law record of Uganda.

This report underscores the importance of human rights and the need to uphold the same by all citizens.

The period under review was marred by several violations of the Rule of Law.

Most notably were;

1. Violations of human rights characterized by an increase in arbitrary arrests, threats to the right to life, infringements on the freedom of assembly and association, as well as constant abuse of the respect for human dignity through torture.

These violations have been perpetuated in the name of the state and others by private citizens.

2. Mismanagement of public funds, the failure to follow due process and the lack of transparency and accountability.
3. Deprivation of Land rights of innocent citizens and,
4. Negligence of both business owners and law enforcement officers causing loss of life

While we have a lot to do in terms of Human rights, the ray of hope and thirst for a better record continue to be an aspiration for most Ugandans.

We should avoid anarchism in the name of propounding our rights. We should avoid

violation of rights in the name of keeping peace. We should also be sensitive to issues that stifle investment and affect the wellbeing of the innocent citizens of this country.

We should harness the culture of tolerance for one another as a means of enhancing democracy.

In closing, I would like to thank the Rule of Law Advisory Panel, The Rule of Law and Strategic Litigation Committee as well as the ULS Secretariat for compiling this report.

FOR GOD AND MY COUNTRY.

A handwritten signature in black ink that reads "SP Kinobe". The letters are cursive and fluid, with the "S" and "P" being particularly prominent.

**Simon Peter M. Kinobe,**  
President – Uganda Law Society

## WORD FROM THE CEO

I am greatly honored to present to you the fourth edition of the Uganda Law Society (ULS) Quarterly Report on the state of the Rule of Law, covering the period October-December 2018. I would like to thank the Rule of Law Advisory Panel chaired by Prof. Fredrick Ssempebwa for their continued invaluable support to the Secretariat team during the compilation of this report. I would also like to acknowledge the input of the Rule of Law and Strategic Litigation Committee for their support towards the compilation of this report.

Rule of law is the foundational stone for the efficient functioning of our democratic governance systems. Only by adhering to the rule of law can we deliver timely and quality justice, reinforce public confidence in the law and the promotion of basic human rights.

A number of rule of law issues have been highlighted in this report and these include but are not limited to; the issue of transparency and accountability, unlawful killings, death of people under unclear circumstances, torture, inhumane and degrading treatment of people by security officers, detention without trial beyond the constitutional 48 hours. This has greatly affected the promotion of rule of law in Uganda.

In reference to the above, this ULS quarterly Rule of Law Report is targeted towards both state and non-state actors to adopt a more proactive approach in dealing with issues relating to human rights and thus promoting the rule of law in the country. In a bid to promote the rule of law, the ULS has continued to involve the youth through rule of law clubs that have been launched in various schools.

In this regard, on behalf of the Secretariat, through the publication of the quarterly Rule of Law reports, the ULS remains committed to implementing its strategic objectives, its vision to promote and uphold the rule of law. I therefore urge all the relevant stakeholders to take note of the recommendations made in this report and make the necessary adjustments to enable us uphold the rule of law in Uganda at all times.

For God and my Country

**Joyce Nalunga Birimumaaso**

Chief Executive Officer – Uganda Law Society

# ACKNOWLEDGEMENTS

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

Additional thanks go to the Chairperson of the ULS Rule of Law and Strategic Litigation Committee - Dr. Daniel Ruhweza and Mr. Remmy Wamimbi (member of this Committee) for their support and to the ULS Secretariat Team including Ms. Mary Nalwoga and Ms. Leah Bitu Nasasira for their efforts in generating this Report.

# INTRODUCTION

This is the fourth ULS Quarterly Report on the State of the Rule of Law for the year 2018 and the eighth issue in the series of this report. This report highlights the Rule of Law issues that occurred during the months of October, November and December 2018. The Report identifies and evaluates the various Rule of Law events that have transpired during the reporting period in relation to the provisions of the 1995 Constitution of Uganda, various regional and International Instruments as well as Standards that Uganda has ratified.

The ULS quarterly Rule of Law Report was designed to inform both state and non-state actors to adopt a more proactive approach in dealing with issues relating to the Rule of Law in a bid to curb impunity, promote transparency and accountability and ensure the observance of the law at all times.

However, we wish to note that this is the last Report for the year 2018 and in some respects, non-compliance has continued. Throughout the year, issues of transparency and accountability were a common phenomenon; these included mismanagement of public funds by public institutions as highlighted in the 2015/2016 Annual Report of the Auditor General released in 2018. We also noted human rights violations in the country such as unlawful killings, death of people under unclear circumstances, arbitrary arrests and torture, inhumane and degrading treatment of people by security officers, detention without trial beyond the constitutionally mandated forty eight hours, disregard of the right to assemble and associate, abuse of the right to privacy, failure by the state to protect citizens' rights to property and livelihood as well as the deprivation of the right to carry out any lawful occupation. Issues pertaining to legality and failure to observe due process were also noted in this report.

As was the case with the previous editions, the report highlights legal issues from the above highlighted anomalies and offers recommendations on the same. This is intended to strengthen the promotion and observance of the Rule of Law in the country.

## 1) THE STATE OF HUMAN RIGHTS

The Human rights are rights inherent to all human beings, whatever our nationality, ethnicity, gender, place of residence, colour, religion, language, or any other status. All people are equally entitled to human rights without discrimination. The Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights states that everyone has a right to life, liberty and security of person. The Declaration further states that everyone shall be presumed innocent until proven guilty.

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<sup>1</sup>By Office of the United High Commissioner for Human Rights, "What are human rights" retrieved from <https://www.ohchr.org/en/issues/pages/whatarehumanrights.aspx> last accessed on November 26, 2018.

This Declaration was adopted by Chapter Four of the 1995 Constitution of the Republic of Uganda which provides for the protection of fundamental rights and freedoms including the right to life and the rights of the accused under the law.

During the period under review, the ULS noted several incidents of human rights violations. Prominent among these was the brutal arrest and torture of Mr. Yusuf Kawooya by security officers, unlawful detention of persons, unlawful killings and unlawful land evictions.

### **Protection of the right to life**

The 1995 Constitution of the Republic of Uganda provides under Article 22, that no person shall be deprived of life intentionally except in execution of a sentence passed in a fair trial by a court of competent jurisdiction in respect of a criminal offence under the laws of Uganda and the conviction and sentence have been confirmed by the highest appellate court.

The right to life is sacrosanct. That notwithstanding, the ULS noted with great concern the unlawful killing of 11 year old Dickens Okello, a pupil of Alito Primary School in Alito Sub County, Lira District.<sup>2</sup> It is alleged that the pupil was killed by two Indian Nationals later identified as Vayas Fravey and Madmay Gaga. The deceased was with his friends when the two Indian Nationals who were driving a white Toyota Ipsum lured them with biscuits and money; when the children refused the offer, the suspects allegedly chased after them and strangled him.<sup>3</sup> He was later declared dead at Lira Hospital. The suspects were arrested and charged with murder.

The death sparked protests against Indian traders in Lira town and later in Kole village where the deceased was buried. This resulted into injury of three people by the police while curbing the rioters.

### **Deaths under unclear circumstances**

On November 24, 2018, a boat capsized on Lake Victoria leaving 32 people dead under unclear circumstances. It is alleged that over 100 people were on board and only 26 were recorded to have been rescued.<sup>4</sup>

In a separate incident, on November 12, 2018, eleven (11) students of St. Bernard Secondary School Many in Rakai District died and 39 injured as a result of the fire that broke out in their dormitory. The circumstances leading to the fire break out are also not clear.<sup>5</sup>

<sup>2</sup> A *Daily Monitor*, "Pupil's death: Police accused of forging postmortem report," November 16, 2018 retrieved from <https://www.monitor.co.ug/News/National/Pupil-death-Police-accused-forging-post-mortem-report/688334-4851864-e3yubmz/index.html> last accessed on November 26, 2018.

<sup>3</sup> Hudson Apunyo, "Two men held over the death of a pupil," *New Vision*, November 12, 2018, Available at [https://www.newvision.co.ug/new\\_vision/news/1489351/indians-lango-allegedly-strangle-death](https://www.newvision.co.ug/new_vision/news/1489351/indians-lango-allegedly-strangle-death) last accessed on November 26, 2018.

<sup>4</sup> Stuart Yiga and Martin Kitubi, "ISO, Police hunt for killer boat captains," *New Vision*, November 29, 2018, P.8.

<sup>5</sup> Joseph Kato, "Stop burglar-proofing dorms, police tells schools," *Daily Monitor*, November 14, 2018, P.5.

**Legal issue:**

Whether the right to life is respected in accordance with the 1995 Constitution of Uganda?

**Recommendation:**

- i) The person accused of killing Dickens Okello should be presented for trial as soon as possible and prosecuted to finality.
- ii. The circumstances that led to the occasion of the unexplained deaths should be investigated.

**Freedom from torture, respect for human dignity and protection from inhuman treatment**

Article 24 of the 1995 Constitution of Uganda provides that no person shall be subjected to any form of torture or cruel, inhuman or degrading treatment or punishment. Article 44(a) states that freedom of torture is non-derogable. The Prevention and Prohibition of Torture Act 2012 reinforces the constitutional freedom against torture.

Without regard to the provisions under the law, on October 18, 2018, the country woke up to news of the brutal arrest and torture of a man identified as Yusuf Kawooya. Mr. Kawooya was manhandled and gun-butted near Christ the King Church in Kampala by some state functionaries later identified as Daniel Senkungu, Moses Rwamwenge, Omara, Nickson and Simon Kiryahika.<sup>6</sup> After the beatings, Mr. Kawooya was shoved into a passenger service vehicle with tinted windows, bearing a number plate that was later reported to belong to Edith Kanjogera and driven off to an unknown destination. Media reports indicated that the gun-wielding men were linked to the Chieftaincy of Military Intelligence and that they coordinated this mission of kidnapping Mr. Kawooya with operatives from the Flying Squad unit of the Uganda Police Force based at the Central Police Station.<sup>7</sup> It is alleged that the suspect is an opposition activist belonging to the Democratic Party.<sup>8</sup>

Mr. Kawooya was not given chance to get immediate medical attention. It should be noted that Kawooya's perpetrators were not tried in the courts of law but rather by a UPDF Disciplinary Unit which is not a court. To-date, no charges have been preferred against Mr. Kawooya. The ULS in response to this incident issued a statement condemning the brutal arrest of Mr. Kawooya.

In a separate but similar incident, the ULS has noted with concern that to date the individuals alleged to have committed acts of torture while brutally arresting the "Arua 33" have not been brought to book.<sup>9</sup>

The ULS has also noted with great concern the continued practice of producing critically ill suspects to police stations and courts of law to answer to charges preferred against them. These include Honorable Francis Zaake who was summoned to appear before the

<sup>6</sup> Franklin Draku, "Family fail to trace Kawooya," *Daily Monitor*, October 22, 2018, at p.4.

<sup>7</sup> Vision Reporters, "Who kidnapped DP's Kawooya?" *Sunday Vision*, October 21, 2018, at P.3.

<sup>8</sup> Ibid

<sup>9</sup> Rosebell Kagumire, "Bobi saga: Tortured women narrate ordeal," *The observer*. Available at <https://observer.ug/news/headlines/58533-bobi-saga-tortured-women-narrate-ordeal.html> last accessed on November 26, 2018.

Criminal Investigation Department at Kibuli Police Station to make a statement on charges against him as a result of the aftermath (torture incidences) of the Arua Municipality by-election; despite his critical health condition.<sup>10</sup> In another incident was the requirement of the “Arua 33” to appear in Gulu Court to answer to charges of treason. Many were severely beaten by unknown security officers, some were moving on clutches and unable to support themselves. In addition, Honorable Betty Nambooze Bakaleke was required to appear at Jinja police station to answer to a media statement she released on social media that was alleged to be inciting violence. While in police custody at Nagalama, she fell ill. Despite her deteriorating health, she was served with a court order demanding to seize her phones, computers and tablets while she was battling with her life in Kiruddu hospital.<sup>11</sup> This is inhumane degrading treatment that should not be accommodated in a free and democratic society.

Article 28 (3) (a) of the 1995 Constitution provides that every person who is charged with a criminal offence shall be presumed to be innocent until proved guilty. In addition, Article 24 of the Constitution and Prevention and Prohibition of Torture Act 2012 prohibit any form of torture or cruel, inhuman or degrading treatment or punishment.

### Legal Issue:

Whether the Government has taken adequate and appropriate measures to curb the increasing cases of torture by security agencies.

### Recommendations

- i. The ULS notes the commitment of the Uganda Peoples Defense Force (UPDF) to investigate, arrest and prosecute those who have been implicated in the Kawooya incident. However, the results of this process should be made public and consequential action commenced.
- ii. The Uganda Human Rights Commission, the Office of the Director of Public Prosecutions, the Uganda Police Force and the UPDF should be more decisive in handling reported cases of torture in the country.
- iii. All persons arrested on suspicion of criminal activity should be presented in court within the 48 hours mandated by law.

### Detention without trial

Article 23(4) of the Constitution of Uganda grants suspects under detention a right to be brought before court not later than 48 hours from the time of their arrest. This constitutional right should not be violated regardless of the circumstance of the offence committed by the suspect.

<sup>10</sup>Nelson Bwire Kapo, “Zaake to sue Government for torture, labels charges against him ‘bogus’,” *Nile Post*, December 3, 2018. Available at <https://nilepost.co.ug/2018/12/03/zaake-to-sue-government-for-torture-labels-charges-against-him-bogus> last accessed on December 5, 2018.

<sup>11</sup> Monitor Reporter, “Court orders hospitalized MP to hand over her phone, computer to police,” *Daily Monitor*, Friday June 22, 2018. Available at <https://www.monitor.co.ug/News/National/Court-orders-hospitalized-MP-Nambooze-handover-her-phones/688334-4625054-isylmi/index.html> last accessed on December 5, 2018.

<sup>12</sup>Herbert Zziwa, Thursday October 25, 2018, NTV News. Available at <http://www.ntv.co.ug/news/national/Government-investigating-photographer-s-disappearance--Minisiter/4522324-4822898-i027jkz/index.html> last accessed on December 5, 2018.

<sup>13</sup>[http://www.uls.or.ug/site/assets/files/1352/uls\\_statement\\_on\\_illegal\\_detentions.pdf](http://www.uls.or.ug/site/assets/files/1352/uls_statement_on_illegal_detentions.pdf)

However, during the period under review, the ULS has noted incidents of arrest and detention of citizens beyond the prescribed 48 hours. The citizens are held in unknown places and places not gazetted by law. A case in point was the disappearance of a one Sulaiman Senfuka, a photographer and a resident in Kazo-Agola, Kawempe Division. Media reports indicated that Senfuka was found in his studio and arrested by plain clothed security operatives moving in a taxi.<sup>12</sup> It is alleged that Senfuka left a family of five children in the care of a 17 year old child who were not informed of his whereabouts for a period of two weeks after his arrest.

Although several cases of pre-trial injustice have been highlighted in previous reports; including the detention of former Inspector General of Police, Kale Kayihura, Honorable Betty Bakaleke Namboze, and Honorable Robert Kyagulanyi Sentamu,<sup>13</sup> attempts to curb this injustice have proved futile.

Whereas the ULS acknowledges the fact that there are prevailing security challenges, we take note that this should not be a ground to violate fundamental human rights and civil liberties guaranteed by the Constitution without due process.

#### **Legal issue:**

Whether the presumption of innocence, and the right to due process are respected.

#### **Recommendation:**

- i. The Government should investigate cases of pretrial injustice and come up with a conclusive solution.
- ii. All state functionaries carrying out arrests should always be in uniform, identify themselves, and perform their functions in a humane manner in accordance with the law.

#### **Freedom of Assembly and Association**

According to Article 19 of the International Covenant on Civil and Political Rights, every one shall have the right to assemble and to demonstrate peacefully, hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers. This right should be exercised responsibly with due regard to the rights of others. In a free and democratic society, it is important to share information and ideas to help inform political debates and create fairness in the country.

This right is guaranteed under Article 29 (d) and (e) of the 1995 Constitution which states that every person shall have the right of freedom to assemble and to demonstrate together with others peacefully and unarmed and to petition; and freedom of association which shall include the freedom to form and join associations or unions, including trade unions and political and other civic organizations.

<sup>14</sup> NTV news, "MP Semujju Nganda locked in his home, blocked from holding a rally in Kira," November 16, 2018. Available at <http://www.ntv.co.ug/news/national/Police-deploy-at-MP-Semujju-Nganda-s-home-ahead-of-rally-4522324-4854830-ppm7u7z/index.html> last accessed on December 3, 2018.

<sup>15</sup> Vision Reporter, "FDC's Amuriat blocked from holding Kasese rallies," New Vision, October 15, 2018. Available at [https://www.newvision.co.ug/new\\_vision/news/1487779/fdcs-amuriat-blocked-holding-kasese-rallies](https://www.newvision.co.ug/new_vision/news/1487779/fdcs-amuriat-blocked-holding-kasese-rallies) last accessed December 3, 2018.

However, the ULS noted the violation of this right during the review period as discussed below;

On November 16, 2018 the Honorable Member of Parliament for Kira Municipality, Semujju Ibrahim Nganda was blocked from holding a rally by security officers.<sup>14</sup> The purpose of the rally was to address his constituents. It was reported although he informed police prior to the rally as is required by the Public Order Management Act of 2013, he was prevented from addressing his constituents in the designated place.

In a separate incident, the opposition Forum for Democratic Change party president, Patrick Oboi Amuriat's planned mobilization visit to Kasese was blocked by police officers on October 15, 2018.<sup>15</sup> It was reported that the police refused him to hold rallies due to failure to comply with the Public Order Management Act 2013.

In addition, on Monday 26, October 2018, police blocked a planned rally organized by the Forum for Democratic Change in Mbarara.<sup>16</sup>

#### **Legal issue:**

Whether the continued invoking of the Public Order Management Act 2013 by the police to block assemblies is in line with Article 29 of the 1995 Constitution.

#### **Recommendations:**

- i. The implementation of the Public Order Management Act ought to be aligned to the provisions of the Constitution with respect to the fundamental human rights.
- ii. The police should respect the people's right to assemble and associate.

#### **Right to Privacy of Person, home and other property**

During the period under review, assets belonging to senior public officials were made public via social media. Some of the information was obtained from disclosures made to the office of the Inspector General of Government without due regard to the right to privacy.<sup>17</sup> Article 27 of the 1995 Constitution of Uganda protects the right to privacy of person, home and other property. However, the ULS has noted the abuse of this right by the media publishing assets, incomes and liabilities without due regard to the constitutional rights.

#### **Legal issues:**

- i. Whether digital media is clearly regulated when conducting its work?

#### **Recommendations**

The media should be effectively regulated so that they comply with standards set under the law and respect people's rights to privacy.

<sup>14</sup>Adolf Ayoreka, "Police block FDC rally in Mbarara," *New Vision*, November 27, 2018. Available at [https://www.newvision.co.ug/new\\_vision/news/1490291/police-block-fdc-rally-mbarara](https://www.newvision.co.ug/new_vision/news/1490291/police-block-fdc-rally-mbarara) last accessed on December 3, 2018.

<sup>17</sup>Ibid

## Protection against deprivation of property

Article 26 (2) (b) of the 1995 Constitution states that no person shall be compulsorily deprived of property or any interest in or right over property of any description except where the compulsory taking of property is made under law which provision provides for prompt payment of fair and adequate compensation, prior to the taking of possession or acquisition of the property.

In this regard, the ULS has noted with great concern reported cases of unlawful land evictions around the country especially in urban areas. In all these cases there are seemingly competing interests.

### Legal issue:

- i. Whether the Government of Uganda has duly exercised its duty to protect citizens' rights to property and livelihood.

### Recommendations:

- i. The competing interests over land should in all cases be resolved in accordance with the law.
- ii. The Commission of Inquiry into Land Matters that was set up to investigate, inquire and review land matters should expedite its mandate so that its recommendations can be implemented.

## Economic Rights

Article 40 (2) of the 1995 Constitution states that every person in Uganda has the right to practice his or her profession and to carry on any lawful occupation, trade or business. The International Covenant on Economic, Social and Cultural Rights to which Uganda is a party under Article 6(1) provides for the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and the state will take appropriate steps to safeguard that right.

However, the ULS has noted incidents of disregard of this right by the state. During this quarter, Kyadondo East Member of Parliament, Honorable Robert Kyagulanyi Sentamu alias Bobi Wine had planned to hold a musical concert slated for October 20, 2018. Despite the fact that he had booked the venue and made payments to the same, it is alleged by media reports that efforts to get clearance from police to hold the concert were futile.<sup>18</sup> Similarly, police blocked the same Kyarenga concert that was slated for December 2, 2018 in Gulu District.<sup>19</sup> It is alleged that police stated that the organizers of the event had not got clearance from police to hold the concert. Therefore, the anti-riot police officers destroyed several banners and posters within Gulu Municipality that were used to advertise Bobi Wine's concert.<sup>20</sup> It should be noted that funds had been spent to prepare the concert and the proceeds from it were beneficial to the legislator and his family as well as a source of income to the organizers of the concert. However, the

<sup>18</sup> Monitor Reporter, "Kyarenga concert: Bobi Wine dares police to state position," *Daily Monitor*, October 16, 2018. Available at <https://www.monitor.co.ug/News/National/Kyarenga-concert-Bobi-Wine-police-Namboole-IGP-688334-4807740-14m7cncrz/index.html> last accessed on November 5, 2018.

<sup>19</sup> Julius Ocungi, "Police blocks Bobi Wine's concert in Gulu," *Daily Monitor*, December 3, 2018. Available at <https://www.monitor.co.ug/News/National/Police-blocks-Bobi-Wine-concert-in-Gulu/688334-4878490-12u95w9z/index.html> last accessed on December 5, 2018.

opportunity to enjoy the living was hindered by police and hence unconstitutional. No reasonable explanation for this conduct has been given so far.

### **Legal Issue:**

Whether the right to practice one's profession and to carry on any lawful occupation is respected by the Police.

### **Recommendation:**

The Police should protect and respect Constitutional rights as well as keep law and order rather than interfere with the rights of individuals who are lawfully earning a living.

## **2) TRANSPARENCY AND ACCOUNTABILITY**

Simply put, transparency is honesty in all dealings while accountability is taking responsibility, explaining and justifying one's actions.<sup>21</sup>

It is worth noting that Uganda is a signatory to numerous International Anti-corruption Conventions and works in collaboration with some international organizations in an attempt to fight corruption globally, including Transparency International-Uganda, the African Peer Review Mechanism, Freedom House and Global Integrity.

Objective XXVI of the 1995 Constitution of Uganda states that public offices shall be held in trust for the people and all persons placed in positions of leadership and responsibility shall in their work be answerable to the people. It further states that lawful measures shall be taken to expose, combat and eradicate corruption and abuse or misuse of power by those holding political and other public offices.

That notwithstanding, the ULS noted continued cases of corruption in government ministries, departments and agents as follows;

On October 25, 2018, while the Parliament's Public Accounts Committee was seeking response to the Auditor General's Report of 2015/2016 on the Youth Livelihood Programme that was rolled out in 2014, it was alleged that there was misappropriation of funds among the implementing entities.<sup>22</sup> The report noted that over 527 million shillings was not traceable and the Ministry of Gender, Labour and Social Development failed to wipe out corrupt officials within the Ministry and local government administrative units who ask for kickbacks from the beneficiaries. It was alleged that the Permanent Secretary in the Ministry Mr. Pius Bigirimana and his team failed to give an up-to-date status on the fund and plausible explanation why the Ministry failed to wipe out ghost beneficiary groups registered for the fund.

In a separate incident, the ULS further noted cases of fraud and mismanagement of funds among government ministries, departments and agents. Of particular note was

<sup>20</sup>bid

<sup>21</sup>Christine B. Ayebazibwe, "Transparency and Accountability: The missing link between Uganda and vision 2020," Uganda Debt Network. Available at <https://www.udn.or.ug/udn-media/news/117-transparency-and-accountability-the-missing-link-between-uganda-and-vision-2020.html> last accessed on November 27, 2018.

<sup>22</sup>Moses Kyeyune, "Bigirimana grilled over youth funds," *Daily Monitor*, October 25, 2018 p.2

the misuse of funds meant for the construction of the Akii-Bua memorial stadium in Lira District.<sup>23</sup> It is alleged that over 665 million shillings was released to build an access road to the stadium as well as complete works on temporary play grounds which had not been worked upon with only a pavilion erected.<sup>24</sup> Media reports stated that the Commissioner for Physical Education and Sports in the Ministry of Education and Sports Peter Omara, while appearing before the Parliamentary Committee on Statutory Authorities and State Enterprises, failed to account for the funds. The Committee learnt that the District officials like the Chief Administrative Officer Mr. Mark Tivu and the District Engineer Mr. Hudson Omok started the construction of the stadium without architectural plans as required by law.<sup>25</sup>

We note that corruption has a serious undermining effect on the ability of any Government to ensure citizens' social and economic rights.

#### **Legal issue arising:**

Whether there are adequate measures to curb corruption and abuse of office in Uganda.

#### **Recommendations:**

- i. There is need for strong political leadership, commitment and goodwill from the highest office to slay the dragon of corruption.
- ii. The offices of Directorate of Public Prosecutions and the Inspector General of Government should be strengthened to effectively perform their functions in curbing corruption.
- iii. Civil society organizations should advocate for institutional reforms and create more awareness campaigns against corruption like the once popular Black Monday Movement.

### **3) DUE PROCESS AND CLIMATE OF LEGALITY**

In the review period, issues arose pertaining to due process and legality as illustrated below;

On October 26, 2018, the Commission of Inquiry into land matters led by Lady Justice Catherine Bamugemereire issued a press release indicating how some judicial officers, in the performance of their functions, facilitate acts of land grabbing and environmental degradation.<sup>26</sup> She pointed out cases lost by National Forestry Authority and other invoking of court orders to acquire forest land. However, this created a clash between the Judiciary and the Commission of inquiry regarding the channel of communication used by the commission to communicate loopholes in the Judiciary to the public.

S.3 Judicial Service (Complaints and Disciplinary Proceedings) Regulations 2005 provides that a person or organization aggrieved by improper conduct of a judicial officer or

<sup>23</sup> By URN, "Police opens probe into misuse of Akii -Bua stadium funds", *The Observer*, November 7, 2018. Available at <https://observer.ug/news/headlines/59138-police-opens-probe-into-misuse-of-akii-bua-stadium-funds> last accessed on November 8, 2018

<sup>24</sup> Parliament of the Republic of Uganda, October 31, 2018 <https://www.parliament.go.ug/news/2865/mps-detain-ministry-official-over-akii-bua-stadium-funds> last accessed on November 8, 2018

<sup>25</sup> Nixon Segawa, "Lira District officials handed over to police over Akii-Bua stadium", *Soft Power News*, November 7, 2018. Available at <https://www.softpower.ug/lira-district-officials-handed-over-to-police-over-akii-bua-stadium> last accessed on November 8, 2018

with a complaint concerning the judiciary or the administration of justice generally may make a complaint to the Judicial Service Commission. This complaint can be in writing or oral. In that regard, the Commission of Inquiry into land matters floated the complaints procedure. The Commission of Inquiry into land matters is mandated to evolve policy over land use, tenure, and management. so long as it exists, it is part of the executive and bound to interact with other organs of government in the context of respect for the functional integrity of each organ.

### **Legal issue:**

Whether the press release by the Commission of Inquiry into land matters was within its terms of reference.

### **Recommendation:**

Legitimate processes should be followed when making complaints between state agencies.

## **CONCLUSION**

The duty to protect and observe the rule of law does not solely rely on the state but upon all relevant actors ranging from civil society, the academia, the business sector to members of the general public; among others. We note that mismanagement of public funds by public servants and abuse of human rights in particular, arbitrary arrest and torture has reoccurred in our Rule of Law quarterly reports for the year 2018. Recommendations have been given for necessary action but some relevant stakeholders are reluctant to implement them. Notably, the recommendations in this report emphasize a more proactive stance to avoid re-occurrence of abuse of the Rule of Law.

On a positive note, during the review period the report highlights positive developments and these include; response on the implementation of the Exercise Duty (Amendment) Act which has reduced the tax on the mobile money transaction from 1% to 0.5%.<sup>27</sup> This development at least considered the views of the general public. However, we still advocate for the total removal of such taxes on mobile money to be able to achieve total financial inclusiveness and economic empowerment as was recommended in the ULS second Rule of Law quarterly report 2018.<sup>28</sup>

Additionally, we commend the installation of Closed Circuit Television (CCTV) cameras in urban centres, borders and highways as one of the measures to improve security in the country; yet to assess its impact.<sup>29</sup> This proposal came in following the gruesome murder of AIGP Andrew Felix Kaweesi which prompted the President of Uganda to order for CCTV cameras to beef up security in major towns and busy highways.<sup>30</sup>

<sup>26</sup>Howwe Editor, "Judiciary, Land Commission clash over Fraudulent judges," Howwe Biz, October 29, 2018. Available at <https://m.howwe.biz/21783/judiciary-land-commission-clash-over-fraudulent-judges.html> last accessed on December 5, 2018.

<sup>27</sup><http://www.ntv.co.ug/news/national/Museveni-signs-new-Mobile-Money-law/4522324-4840088-3py0d/index.html>

<sup>28</sup> [http://www.uls.or.ug/site/assets/files/1338/uls\\_2018\\_-\\_rule\\_of\\_law\\_2nd\\_quarterly\\_report\\_june\\_2018-1.pdf](http://www.uls.or.ug/site/assets/files/1338/uls_2018_-_rule_of_law_2nd_quarterly_report_june_2018-1.pdf)

<sup>29</sup>Andrew Bagala, "CCTV Cameras finally arrive," *Daily Monitor*, August 3, 2018. Available at <https://www.monitor.co.ug/News/National/CCTV-cameras-Police--Kampala-Huawei-Kayima/688334-4694862-x2y7tpz/index.html> last accessed on December 7, 2018.

<sup>30</sup>Kenneth Kazibwe, "Kampala to be installed with over 3000 new CCTV cameras soon," Nile Post, August 6, 2018. Available at <https://nilepost.co.ug/2018/08/06/kampala-to-be-installed-with-over-3000-new-cctv-cameras-soon> last accessed on December 7, 2018.

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