



TO THE ATTENTION OF THE HON CHIEF JUSTICE, MINISTER OF JUSTICE AND CONSTITUTIONAL AFFAIRS, ATTORNEY GENERAL, DIRECTOR OF PUBLIC PROSECUTIONS, INSPECTOR GENERAL OF POLICE, COMMISSIONER GENERAL OF PRISONS AND CHAIRPERSON UGANDA HUMAN RIGHTS COMMISSION

RE: CLASSIFICATION OF LEGAL SERVICES AS ESSENTIAL SERVICES AMIDST THE ONGOING LOCKDOWN

**Your Lordship the Chief Justice,
The Hon. Minister of Justice and Constitutional Affairs,
The Attorney General,
The Director of Public Prosecutions,
The Inspector General of Police,
The Commissioner General of Prisons,
The Chairperson Uganda Human Rights Commission,**

The Legal Aid Service Providers Network (LASPNET) is a national member-based Non-Governmental Organization of 55 Legal Aid Services Providers (LASPs) spread across 80 districts in Uganda. The Network aims at providing strategic linkages and collaborative support to Legal Aid Service Providers as well as improve Access to Justice for the poor and vulnerable in Uganda. LASPNET together with the undersigned members and strategic partners is pleased to share with the Hon. Chief Justice and Heads of JLOS Institutions an appeal calling for recognition and classification of Legal services as an essential service amidst the ongoing lockdown.

Following the declaration of the Coronavirus Disease (COVID-19) pandemic by the World Health Organization (WHO) on 11th March, 2020, and the subsequent disruptions it has impacted on global economies, the government of the Republic of Uganda put in place measures to mitigate the spread of the virus. These measures include notably, limitation on public movements; scale down on operations of all institutions including Courts and later on lockdown.

We would like to commend the Justice Law and Order Sector (JLOS) for adapting and scaling up innovative approaches in dispensation of justice through virtual video conferencing. This is a clear

demonstration that the sector is alive to technological trends of innovating justice amidst crises. Suffice to note this technology is still bedeviled by certain limitations hence hindering Access to Justice especially for the poor and vulnerable.

The above efforts notwithstanding, LASPNET and its members and strategic partners are deeply concerned about the increasing cases of human rights violations and abuses which justify the need to consider legal services as essential services amidst the ongoing lockdown. We wish to further bring to your attention the fact that the existing lockdown has had a toll on the criminal justice system in different ways. For instance, we have observed the continuous violation of Article 28 of the Constitution concerning the right to counsel as well as speedy and fair hearing where accused persons spend more than the stipulated 48 hours in custody without being produced in the Courts of Law.

Similarly, the Uganda Prisons Service is also grappling with congestion, and yet there are accused persons committed to prisons on a daily basis at a time when hearing of criminal matters is at a minimal. It goes without saying that with minimal hearings of bail applications and other matters, the situation will only worsen. On 27th March 2020, LASPNET together with Avocats Sans Frontières (ASF), Chapter Four and Muslim Centre for Justice and Law (MCJL) issued a Press Statement on the rights of detainees calling upon the government to consider releasing of prisoners nearing the end of their sentences. We are glad that the Commissioner General of Prisons was able to respond to our plea by further appealing to the Attorney General to activate Art 121 on the Prerogative of mercy.

Out of the persons recommended in that statement only three categories of persons have been listed to benefit to include: all prisoners who have completed three quarters of their sentences, breast-feeding inmates and prisoners aged 60 or above. In cognizance that there are other categories of prisoners in custody who include persons who are not serving capital offences but have completed their 120 days in prison; petty offenders who have been arrested in the course of the lock-down; and even those accused of violating the COVID-19 presidential directives prior to their being gazetted into enforceable law. All these categories of persons have a right to apply for bail, but in the absence of legal advice and legal representation, they will continue languishing in Prison.

Your Lordship and Hon Heads of various JLOS institutions herein addressed, in the recent times, the press has been awash with disturbing images and scenes of security agencies that is Local Defence Unit (LDU) meting out violence on Ugandans especially vulnerable women who have no means to pursue legal remedy during this time when legal services are not operational. There is projection of registering more gross human rights abuses and impunity due to absence of a conducive environment that allows legal services to thrive during the lockdown.

Furthermore, the signatories to this petition argue that Lawyers are essential service providers who act as watchdogs for rule of law and human rights compliance. Amidst Lawyers being locked down, Police continue to arrest suspects, take statements from suspects and keeping some under incarceration beyond the 48 hours among whom are children; Courts are arraigning suspects in absence of advocates and remanding them without providing opportunity for bail applications; The Office of DPP is also reviewing and sanctioning files. Needless to say, domestic violence and SGBV cases are on increases and all this is going on in absence of legal representation which is a gross violation of right to fair hearing which is non-derogable under Article 44. In order to

appreciate the essence of Legal services during the prevailing circumstances, we appeal to our Judicial system to benchmark from different jurisdictions such as Kenya under Constitutional Petition No. 120 of 2020 (Kenya Law Society Vs Attorney General & Ors) where court held legal services as essential services under the COVID-19 lockdown situation.

The signatories strongly recommend that the government and specifically the aforementioned JLOS institutions to consider the following measures as critical to enhancing Access to Justice and Rule of Law:

To The Hon Chief Justice, Ministry of Justice & Constitutional Affairs and Attorney General;

- i. Engage His Excellency the President and make a case to recognize legal services as essential and allow emergency legal response during the lockdown;
- ii. Provide for mandatory legal representation and or legal advice for accused persons prior to arraignment in court;
- iii. Prevail over Judicial Officers to uphold the right to fair hearing of cases within appropriate timelines, and allow the suspects exercise their constitutional right to bail.

To Uganda Human Rights Commission

- i. Respond to human rights abuses and violations in a timely manner during the ongoing lockdown.

The Uganda Police Force

- i. Release unconditionally or on Bond, unlawfully detained suspects including those detained beyond 48 hours.

We the undersigned:

1. Legal Aid Service Providers Network (LASPNET)
2. Network for Public Interest Lawyers (NETPIL)
3. Centre for Public Interest Litigation (CEPIL)
4. Chapter Four Uganda
5. Public Interest Law Clinic (PILAC)
6. Legal Aid Clinic of Law Development Centre (LAC)
7. Center for Health, Human Rights and Development (CEHURD)
8. Foundation for Human Rights Initiative (FHRI)
9. Community Justice and Anti-Corruption Forum (CJAF)
10. Uganda Network on Law Ethics and HIV/AIDS (UGANET)
11. Avocats Sans Frontières (ASF)

Dated this **23rd** day of **April 2020**

CC: PRESIDENT UGANDA LAW SOCIETY