



**LASPNET**  
LEGAL AID SERVICE PROVIDERS' NETWORK

## PRESS STATEMENT

### A CALL FOR THE RESPECT OF CONSTITUTIONALISM, RULE OF LAW AND ACCESS TO JUSTICE BY ALL

29<sup>TH</sup> FEBRUARY 2016

Mengo, Kampala

#### PREAMBLE

The Legal Aid Service Providers Network (LASNET) believes that the development of an accountable society and a culture of human rights are crucial to the long-term peace and security of Uganda. The democratic election of a head of state does not necessarily lead to improved human rights, if law enforcement institutions are weak or if a culture of human rights and democratic governance has not been cultivated.

On 18<sup>th</sup> February 2016, Ugandans went to the polls to exercise their fundamental human right to vote for their leaders, in accordance with Articles 59 and 69(1) of the 1995 *Constitution*. These rights are further emphasized in international covenants such as the *Universal Declaration of Human Rights* (Article 21), the *International Covenant on Civil and Political Rights* (Article 25), the *International Covenant on the Elimination of All Forms of Racial Discrimination* (Article 5), and the *Convention on the Elimination of all forms of Discrimination Against Women* (Article 7). Uganda is a signatory to all of the above documents.

LASPNET is a national network of organizations advocating for equal access to justice through legal aid services to the poor, vulnerable and marginalized. To support and ensure that Ugandans exercise this right in an environment free from violence, intimidation, coercion and abuse of due process, LASPNET deployed 23 Legal Aid advocates in various parts of the country drawn from its membership of 47 organizations. This recent deployment is part of LASPNET's Rapid Legal Response, an initiative to provide surveillance in selected areas to support those who may need legal representation during the 2016 general elections.

This Press Statement highlights the issues emerging and encountered by the Rapid Legal Response advocates. To date, the team has reported over 260 election-related arrests, in the districts of Iganga, Kibaale, Kampala, Mukono and Oyam. It is important to note that many of the cases supported involve agents and or supporters of opposition parties, with a few isolated cases from the ruling party. The team has secured the release of 15 persons on police bond. Charges included: unlawful assembly, voter bribery, rigging, failure to comply with police orders, and assault.

LAPSNET notes with concern the increasing infringement of rights and freedoms of people in Uganda. This situation has caused an indictment to the rule of law, good governance and democratization and is in total contravention of international and national legal framework and standards. Our specific areas of concern include:

**Arbitrary arrests by the Police:** The media has been awash with stories of arbitrary arrests prior, during, and after the 2016 elections. Our team has confirmed some of these stories. For instance, on 19<sup>th</sup> February 2016, Police raided the head offices of the opposition Forum for Democratic Change (FDC) where they arrested 33 FDC supporters allegedly for failure to comply with Police instructions, the FDC Mobilization Secretary, and 5 other officers on grounds that they did not have identification as staff of the FDC. They were held until 11:00pm with no charges, contrary to Article 28(b) of the Constitution, which states that if a person, is arrested he or she should be informed immediately of the charges.

LASPNET also notes with concern instances where youth were arrested without charge before voting and released after voting was finished. This being in clear violation of their right to vote. For example, eight youth were arrested from Kisalosalalo zone in Kyebando on 18<sup>th</sup> February 2016 based on allegations that they were disrupting the tallying process disguised as polling agents. They were detained at Kira Road police station. Luckily for them the Rapid Legal Response team advocate was able to secure their release on police bond on Tuesday 23<sup>rd</sup>.

The case of 6 journalists arrested on 27<sup>th</sup> February while on official duty covering events in Kasangati, at the home of the former FDC Presidential candidate. This was an assault on press freedom and intended to instill fear among journalists to independently do their work.

**Use of excessive force by the security operatives:** The Uganda Law Society in their statement released 23<sup>rd</sup> February 2016 highlighted “cases of use of force by the police and other security officials, who have used tear gas, fired of live rounds of ammunition in multiple locations in Wakiso, Kasese, Mukono, Kampala, Omoro and Jinja.” This led to death and injuries, such as a supporter who the media reported to have been beaten unconscious and another supporter, whose hand was broken as they made attempts to visit their candidate in Kasangati.

**Continued abuse of due process:** The repeated arrest of the former FDC Presidential candidate without charge is a violation of his right to freedom of movement and association (Article 29 of the Constitution) and his right to liberty (Article 23 of the Constitution), both of which are tenants of a democratic society. We take great concern that since the elections, the lead opposition candidate has been arrested over 6 times without formal charge or appearance in the courts of law.

That aside, many supporters of opposition candidates have been detained beyond the statutory period of 48 hours as stipulated in Section 25 of the *Police Act Cap 303*. Further, they are being coerced to release DR forms by security personnel. These actions infringe on the right to freely associate and to access justice. As a country, we have to uphold the right of to a presumption of innocence (Article 28(3)(a) of the Constitution), as well as ensure fair and fast public hearings before impartial court (Article 28(1)). We are concerned that the lead opposition candidate has been subjected to immeasurable psychological torture contrary to Section 2 of the *Prevention and Prohibition of Torture Act, 2012 and that the continued denial of access to his lawyers is a violation of his constitutional rights under Articles 28(3)(c) and (d) of the Constitution. This is the time when such rights should be upheld and guaranteed by all law enforcement agents.*

We have also taken note that some people have been arrested and continuously moved from one police station to another. This leaves peoples far from where their initial arrest took place, meaning that they cannot access to legal representation, which is in violation of their right to fair trial (Article 28 of the Constitution). A case in point is where a group of over 150 supporters of one MP candidate were arrested in the early morning hours of 18th February 2016, at Goma in Mukono District while they were being allocated polling stations to work as party agents. 36 were arraigned in court while others were later released without charge.

**IN LIGHT OF THE ABOVE AND IN RECOGNITION** of the statements made by other institutions, such as Uganda Law Society and Various Election Observer Missions, LASPNET calls upon all law enforcement officers and agencies to observe the following rights of persons arrested or constrained on suspicion of having committed offences, including the rights to be:

- Presumed innocent until proved guilty by a competent court of law
- Detained in a gazetted place of detention within jurisdiction of where the offence was allegedly committed
- Access a lawyer and a medical doctor
- Make statement and to be charged of an offence provided under the law and reasonably known to have been committed with sufficient information that the suspect was involved. The notion of preventive arrest without justifiable circumstances is a mockery of justice and an abuse of court process
- Have information related to the case
- Not be exposed to duress or torture used to extract evidence or information
- Appear before a competent court within 48 hours of arrest
- Have a fair and speedy trial

### **WE ARE SPECIFICALLY CALLING UPON**

The **Government / Executive** to respect the Constitution, which provides for the recognition that all power belongs to the People and the authority of government and its organs derive their power from the people (Articles 1(1) and (3)).

The **SECURITY FORCES** to desist from indiscriminate arrests and respect the dignity of people (Articles 24 and 28 of the Constitution) and respect human rights and freedoms in performance of their functions (Article 221 of the Constitution).

**THE POLICE** to observe Section 25 of the *Police Act Cap 303* that provides for the release of persons arrested within 48 hours after arrest.

**THE JUDICIARY** to exercise impartiality and expeditiously handle matters as guided by Articles 28 (1), 126(2)(b) and Article 126(2)(e) of the Constitution.

**THE UGANDA HUMAN RIGHTS COMMISSION** to exercise its mandate in accordance with Article 52(1) and follow up leads of missing persons and those being held incommunicado or under the preventive arrest without justifiable grounds

**THE PUBLIC** to provide us with information on those who they believe have been arrested and whose whereabouts remain unknown, and to keep calm, follow lawful instructions and avoid being on the wrong side of the law

FOR GOD AND OUR COUNTRY

**THE BOARD OF DIRECTORS**