



PRESS STATEMENT

1st February 2021, Time 10:00 am

For Immediate Release

A STATEMENT ON THE PRELIMINARY FINDINGS ON THE IMPACT OF THE 2021 GENERAL ELECTIONS ON HUMAN RIGHTS; ACCESS TO JUSTICE AND RULE OF LAW IN UGANDA

Background

The Legal Aid Service Providers Network is an umbrella organization of 54 Legal Aid Service Providers (LASPs) spread in 80 Districts in Uganda.

In line with its mandate, the Network has been coordinating efforts of Legal Aid Service Providers and a select Pro-Bono Lawyers in response to human rights violations especially meted out on HRDs and activists. Furthermore, through its thematic work of Research and Knowledge Management, the Network took keen interest in election activities and therefore documented election related violence and its impact to inform advocacy for improved Access to Justice; Human rights and Rule of Law in Uganda. It is on this basis that today, LASPNET is releasing a preliminary report and findings on the General election of 2021 to the policy makers and the general public.

First and foremost, the Network wishes to congratulate the Government of Uganda, the Electoral Commission and all Ugandans in your respective capacities for having organized and participated in the election of our leaders for the next 5 years. We are all aware that the 2021 General Elections were declared "*scientific elections*" and in accordance with its mandate, the Electoral Commission issued a press statement dated 11th November 2020 which among highlighted several guidelines to include: **imposing restrictions on public rallies; encouraging use of scientific platforms such as Radios; TVs and Social media to conduct campaigns as well as observing Standard Operating Procedures (social distancing, hand washing, and wearing of masks) and in designated places in a bid to minimize the spread of COVID-19.** Therefore, and despite the enormous challenges and unprecedented COVID19 pandemic, this governance exercise was carried out and concluded within the set timelines by the Commission.

LASPNET THEREFORE takes this opportunity to commend the Electoral Commission for having adhered to the existing legal frameworks in fulfilment of holding the 2021 General elections amidst the COVID-19 pandemic.

Trends and impact of the 2021 Elections on Human rights, Access to Justice and Rule of law

As an entity implementing activities geared towards promoting observance and respect of Human rights; Access to Justice and Rule of Law, LASPNET and its members undertook several initiatives that included documentation of election incidences under the Situational room and Call Centre that is before, during and after elections. This was in addition to deployment of 80 Legal Rapid Response Lawyers and Paralegals within four regions of Central; Western; Northern and Eastern region on the eve, e-day and days after elections.

Whereas LASPNET agrees with the reports from the Media, accredited election Observers and Uganda Human Rights Commission that the elections were generally peaceful with majority of Ugandans having had the opportunity to exercise their rights, the Network through its interventions documented various incidents of human rights violations arising out of the 2021 General elections that negatively impacted on Human rights; Access to Justice and Rule of Law. **We highlight the most affected rights below:**

a) Violation of the right to personal liberty:

The 1995 Constitution of the Republic of Uganda under Article 23 provides that no person shall be subjected to arbitrary arrest and detention, without reasonable cause. The report findings indicate that prior, during and post elections there were increased cases of illegal arrests; unlawful detention and enforced disappearance of civilians. Notably, on 18th November 2020, opposition candidate and National Unity Platform (NUP) flag bearer Hon. Robert Kyagulanyi was arrested for allegedly violating COVID-19 protocols during one of his campaign trails in Luuka district. Similarly, Hon. Patrick Amuriat, the FDC flag bearer was arrested for flouting the COVID 19 guidelines on 2nd January 2021 as he was campaigning in Nakasongola District.

The events preceding the election aside, in the election week alone the field reports from Rapid Response Lawyers indicate a total **of 67** suspects were arbitrarily arrested and detained over allegations such as disobeying lawful orders; inciting violence and interfering with the electoral process. The Central region had the highest percentage of suspects supported with rapid response at **54%** followed by **Eastern Uganda at 17%; Western at 17% while Northern at 12%.**

Notably, the post-election period has been shaped with the continued illegal arrests and unlawful detention of several NUP supporters including the house arrest of the first runner up in the recently concluded Presidential elections, Hon. Robert Kyagulanyi who was only released after a court order. These episodes of violence have continued to generate contention among sections of the public concerning the fairness and credibility of the 2021 General elections.

b) Freedom of Expression, Association and Assembly

Freedom of Expression is universally guaranteed in regional and international instruments ratified by Uganda such as the Universal Declaration of Human Rights among others. Under the Constitution of the Republic of Uganda 1995, Article 29 guarantees protection of these individual rights which include freedom of the press, media practitioners, civil society organizations (CSOs) and all political groupings.

LASPNET's preliminary report reveals that prior to elections especially during the campaign meetings and on the election day there was deliberate attacks on media by security agencies while executing their role as journalists. Notable cases include the attack on NBS TV journalists Daniel Lutaaya and Thomas Kitimbo while covering Hon. Robert Kyagulanyi Ssentamu in Lira whose equipment like laptops, cameras, and phones were stolen and their car damaged. Ghetto Media's Ashraf Kasirye, sustained injuries on his head and was admitted in critical condition while NTV's Ali Mivule was injured by a teargas canister.

Media and the right to Freedom of Expression was further curtailed ahead of the general elections with irrational government directives and decisions. These among others included stringent guidelines issued by the Media Council related to accreditation of media before covering elections; the shutdown of the internet and social media platforms and all other communications channels before, during and after elections. Prior to the elections, the Uganda Communications Commission also threatened to shut down online blogs affiliated to opposition; however, this request was not granted by Google and Facebook.

It imperative to note that the said restrictions were not only placed on media personalities, but also on opposition candidates when they were denied access to upcountry media outlets throughout the campaign period.

c) Right to protection from torture and other cruel, inhuman or degrading treatment or punishment

LASPNET observes that Uganda has ratified and is party to various international human rights instruments, which outlaw torture and other forms of ill treatment in any circumstances to all human beings. Article 24 of the 1995 Constitution of Uganda provides that no person shall be subjected to any form of torture, cruel, inhuman or degrading treatment or punishment. Relatedly, Article 44 of the Constitution also makes the right against torture and in-human or degrading treatment a non-derogable right.

Despite the law being very stringent on violations with an aim of jealously protecting human rights, torture has continuously been used as a weapon of dealing with political opponents and activists by law enforcement agents during the election period.

Thus, several incidents of Torture were witnessed during the election period, especially against Presidential candidates running on opposition ticket such as Hon. Kyagulanyi Ssentamu (NUP); Hon Patrick Amuriat Oboi (FDC) and Mr. Katumba John (INDP). Journalists also faced acts of torture; cruel inhuman and or degrading treatment. Among them was a freelance journalist, Moses Bwayo, Ashiraf Kasirye (Ghetto media) and Ali Mivule (NTV) who were shot with stray bullets and tear gas canisters to almost claiming their lives. On the other hand, the torture of Mityana Municipality MP elect, Hon. Francis Zzaake as he proceeded to access Hon. Kyagulanyi's home after the election cannot go unnoticed.

d) Violation of the right to life

The International Covenant on Civil and Political Rights under Article 6 and other international and regional framework, guarantee the inherent right to life. Article 22 of the Constitution of the republic of Uganda, 1995 provides that no person shall be deprived of life intentionally except in execution of a sentence passed in a fair trial by a court of competent jurisdiction in respect of a criminal offence under the laws of Uganda and the conviction and sentence have been confirmed by the highest appellate court.

LASPNET noted with great concern the volatile election campaign period preceding the election day under which a **total of 54** Uganda according to the Police report was subjected to extra judicial killings on 18th and 19th November 2020. These mass killings were orchestrated by events preceding the blocking of the campaign trail of Hon. Robert Kyagulanyi Ssentamu to Luuka in Eastern Uganda. Unfortunately, hitherto, no report has been produced by the security agencies to account for the killings neither any suspects have been arraigned in courts of law to answer for the indiscriminate loss of lives. Suffice to note, attempts to disperse the protests attracted all types of security personnel some dressed in civilian clothes, hence making it difficult for Ugandans to appportion, isolate and be in position to seek justice against the perpetrators.

Other incidents that led to loss of lives included the gruesome killing (s) of NUP Supporter Frank Ssentenza who was allegedly knocked down by a speeding army vehicle; kick boxer Zebra Ssenyange who was also allegedly killed by security agencies and many other Ugandans allegedly disappeared with no trace among others. Whereas in the case of Zebra, the President is on record admitting that it was security agencies that killed him, however no arrest to date has been made and the family still await for justice to prevail in vain. As the voice of the people especially the vulnerable, the Network is concerned and worried about the excessive use of force in handling protests by security agents, the use of extra judicial means to arrest suspects as well as the growing impunity with security agencies.

e) Volatile situation of Human Rights Defenders

The United Nations Declaration on Human Rights Defenders under Article 2 provides that, *"States bear the primary responsibility for protecting all human rights and fundamental freedoms."* This position is reinforced under Article 12(2) and (3) of the same Declaration which provides that the States shall take all necessary steps to protect everyone including individuals who in association with others take up peaceful means of objecting to violation of rights. Article 2 of the Universal Declaration of Human Rights (UDHR) enjoins the States parties to protect human rights as well as human rights defenders whose role among others is to advocate for the rights of the vulnerable and marginalized.

An election is accorded credibility and fairness where all citizens are allowed to exercise their rights to participate through voting and observation of the processes and outcome. Therefore, election observation is intended to harness transparency and accountability in an election. This time around LASPNET noted with concern that CSOs and HRDs' work on election observation was curtailed by government in particular the Electoral Commission without justifiable reasons provided. It is during the 2021 that a number of local civil society members like LASPNET, Citizen's Coalition for Electoral Democracy (CCEDU) and international observers who sought accreditation from the Electoral Commission were denied accreditation without an official response giving reasons why their applications were rejected. This was in addition to declaring illegal and disbandment of NEW-U, a coalition of various CSOs which had been established to observe elections.

Important to note is that in the run-up to the 2021 General elections, two organizations that is Uganda Women Network (UWONET) and Uganda National NGO Forum (UNNGOF) had their bank accounts frozen by the Financial Intelligence Authority (FIA) for allegedly financing subversive activities specifically terrorism. These allegations are believed to have instilled fear and self-censorship among many CSOs in the Governance and Accountability sector.

Further actions intended to curtail the work of HRDs were evident with the unprecedented arrest of a prominent Human Rights lawyer Nicholas Opiyo of Chapter Four Uganda was clandestinely arrested on 23rd December and detained on baseless allegations of money laundering (released on bail pending trial), an action that instigated fear and self-censorship among other HRDs ahead of the elections. The situation was exacerbated on the election day of 14th January 2021 when some accredited CSOs leaders Perry Aritua; Isabella Akiteng and 28 Data clerks were arrested at Hotel Africana and disrupted by Police from undertaking their election observation work through gathering information.

f) The right to Access to Justice

Access to Justice is a human right guaranteed under international and regional human rights instruments. Specifically, Article 21(1) and 28 of the 1995 Constitution provide for equality and freedom from discrimination before the law as well as the right to fair and

speedy hearing respectively. According to the Rapid Response field reports, Lawyers report and agree that prior to the General elections, that they were accorded access Police and courts and this has continued throughout the post-election evidenced by some of the election petitioned that have handled and disposed of. However, Lawyers noted there were limitations and difficulty in accessing some places of detention like the Standards Investigation Unit of Kireka where lawyers were pushed back unprofessionally when they turned up in large number to offer legal support to HRD Nicholas Opiyo. Prior to the elections, Lawyers noted with concern that some police officers especially in Masaka; Lira; Ntungamo; Gulu; Tororo and Sheema were not forthcoming in regards to allowing suspects to access their constitutional right to bond especially where such suspects had spent more 48 hours in custody.

Related to the above, on 4th January 2021, we also witnessed the re-arrest of 49 opposition supporters by the Military. These had been initially granted bail by the Masaka Chief Magistrate Court and the Prison officer in charge continued to hold them in contempt.

The above notwithstanding, the Network’s Legal rapid response lawyers have been vigilant and able to handle several matters and or cases related to election offences and human rights violations among others. A total of 511 (425 Males, 86 Females) clients have been supported to access justice by LASPNET Rapid Response Lawyers and Paralegals since October 2020 to January 2021. To further respond to violations such kidnaps; unlawful arrests and enforced disappearances, LASPNET issued a Public Notice in the Daily Monitor and Bukedde urging the public to report such cases.

Below is a summary table of nature of clients handled per each region

				Number of Individuals supported	
Sn	Region	No of districts visited	No of Police stations accessed	Male	Female
1	Central Region	6	75	231	50
2	Western Region	8	42	69	11
3	Eastern Region	4	24	75	15
4	Northern Region	5	39	50	10
Totals		23	180	425	86

Concluding observation and recommendations

We contend that despite Uganda having a robust legal framework on elections, implementation of such laws by institutions responsible remains weak due to political interference and growing impunity amongst security forces. This report makes cognizance of the fact that the 2021 General elections fall short of international standards in ensuring promotion and protection of human rights, many Ugandans especially opposition leaders; political supporters and activists mainly the youth, HRDs and other victims had their rights violated and not safeguarded.

The state has a duty to promote and protect human rights, in all circumstances. We aver that the state and its actors undermined its responsibility such as what happened during election period and the fact that we went into the elections without a substantive Chairperson of the Uganda Human Rights Commission despite the calls to have one. This was therefore demonstration of lack of commitment by the responsible authorities to ensure a safe and peaceful election period for all Ugandans.

It is premised against the above context and findings that LASPNET submit that despite the relative peace witnessed on election day and after, it's equally important to examine the impact of those elections on human rights; access to justice and rule of law.

To address the gaps and ensure redress to Ugandans and victims of various violations We, call upon the government and relevant institutions to take the following actions;

a) Recommendations to Government

- The Parliament to take deliberate measures to protect the rights to Freedom of Expression and peaceful assembly to ensure a free and peaceful election process that guarantees the right of the people of Uganda to participate in their country's public affairs, including by taking measures such as amendment of election laws to prevent instances of future electoral violence.
- The Executive is urged to respect the autonomy of the media practitioners and institutions as this forms the basis of an open society which is pertinent in fostering a democratic society.
- The Police and ODPP is urged to investigate and prosecute extra-judicial killings perpetrated by members of the armed forces and other security agencies.
- The Executive to desist from putting in place militaristic forces for surveillance during elections as these only curtail the conducive environment for people to freely and fairly participate in the electoral process because of intimidation.

The institutions as mentioned below have a responsibility to take deliberate action to avert further and or future violations as hereby further recommended;

b) Parliament

- To fast track the passing of all electoral reforms for especially Presidential elections by overhauling the Electoral Commission to ensure independence and impartiality in the management of elections. In addition, Parliament to fast-track the enactment of the Human Rights Defenders law to protect HRDs in the course of their work.
- To demand from law enforcement agencies a report accounting for lives lost the pre- election violence.

c) Electoral Commission

- To in future accord all candidates equal protection; resources; time and a conducive environment to campaign so as to freely and fairly compete amidst the pandemic and/or any situation which may warrant curtailing of the rights to Freedom of Expression Assembly and Association.
- To resist from withholding accreditation to Citizens and CSOs election observers without a just cause, in situation where such application is rejected to communicate with reasons to affected entities.
- To in future adhere to the prescribed 48-hour timeframe for delivery of materials as provided for in the Electoral Act when distributing election materials to polling stations to avoid disenfranchisement of voters.
- To put in places measures to ensure that election officials who commit election offences are prosecuted in their individual capacities and not as the Electoral Commission.

d) Judiciary

- To expedite hearing of the election petitions and other related cases so that justice can prevail.
- To exercise fairness and impartiality in adjudication of the election petitions and cases for victims of election violence.

e) Security agencies (Police, UPDF and auxiliary forces)

- To adhere to Article 221 of the 1995 Uganda Constitution which requires security agencies to respect human rights in the execution of their duties.
- To investigate all cases of individual liability and ensure that errant security officers are held culpable of their action. The killings of 18th and 19th November 2020 should be accounted for and perpetrators brought before courts of law.
- To avoid establishing axially forces not backed up by law during and after elections
- To encourage the citizens to report cases of disappearance and account for every Ugandan lost during election period. A report should be availed to parliament.

f) Uganda Human Rights Commission

- To document all human rights violations and make a report to the legislature in order to take appropriate action
- To mainstream capacity building trainings on Human Rights Based Approaches (HRBA) for all Security agencies.
- To conduct regular on-spot assessments of detention centres and also check on the conduct of law enforcements agencies and take appropriate action.
- To push for appointment of the Chairperson and have the commission fully constituted to hear any application related to human rights violations which arose during and after elections.

Recommendations to Non-State Actors and the Public

e) Media

- To continue broadcasting issues of human rights violations during and post elections in addition to informing the public about the electoral process.
- To be impartial and avoid disseminating fake news to the public.
- The media houses should support their journalists who were injured during elections and or lost property to seek legal redress in courts of law.

g) The Contestants and Supporters (Public)

- To remain calm and peaceful in the post-election period and utilize peaceful channels to seek legal redress for any emerging disputes.
- To seek legal remedies before courts of law and or human rights tribunal for any human rights violation meted out on members of their family and supporters.

h) Legal Aid Service Providers (LASPs)

- To continue to respond to victims of electoral violence including cases of arbitrary arrests; unlawful detention; enforced disappearances among others.
- Support Public Interest Litigation cases by documenting human rights violations and providing legal support.

i) Development Partners

- We appreciate development partners like the DGF who have continued to fund democratic programmes in Uganda. The legal rapid response project of LASPNET is owed to their generous support.

- We continue to request support towards the democratisation process in Uganda through financial and diplomatic means. There is need to fund long impacting programmes and or actions with strategic impact such as public interest cases that are intended to cause legal and practice reforms.

As a Network of Legal Aid Service Providers, **WE REAFFIRM OUR COMMITMENT and RESOLVE TO STAND** and support the Public in accessing justice for human rights abuses.

FOR GOD AND MY COUNTRY

Arthur Nsereko



Chairperson, BOARD OF DIRECTORS

Date: 1st February 2021

For more information regarding this statement

Please contact: Chief Executive Officer on +256 (0)77246565 or LASPNET Secretariat on Toll-Free line 0800100155