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THE REPUBLIC OF UGANDA

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OUR REFERENCE:

24th December 2020

TO ALL OUR CLIENTS;

RESPONSES TO THE ALLEGATIONS AGAINST UGANDA

A number of allegations against Uganda have been circulating on social media. Below are the responses on the issues raised.

1. Alleged attacks on independent media

Article 29 (1) of the constitution of the Republic of Uganda provides for freedom of speech and expression, which includes freedom of the press and of other media. Pursuant to this Constitutional guarantee, the Uganda Communications Act, 2013, provides for the right to publish or broadcast, which has provided a conducive environment for the emergence and thriving of vibrant media, both public and private. As a result, Uganda currently boasts of 310 privately-owned radio stations, 48 television stations, 56 licensed online publishers, and many newspapers with national coverage.

Through these outlets, Ugandans are free to express, and do indeed express, their views with liberties and vitality that few countries in Africa and the rest of the world can match.

Nonetheless, it is provided under article 43 (1) of the Constitution that in the enjoyment of the rights and freedoms prescribed by the Constitution, no person

shall prejudice the fundamental or other human rights and freedoms of others or the public interests.

It is, therefore, in line with the foregoing provision of the Constitution that the Parliament of Uganda enacted the Public Order Management Act, 2013, whose section 5 provides for the notification of the Police of the date and venue of a planned event at least three days in advance for the purpose of ensuring that the event is held in a peaceful and conducive atmosphere.

Further, section 31 of the said Uganda Communication Act, 2013 and Schedule 4 thereto, as well as Schedule 1 of the Press and Journalist Act, Cap. 105, provide for the parameters for content to be broadcast to the public.

Accordingly, the Public Notice that was issued by the Uganda Communications Commission on 7th September 2020 (and which seems to be the basis of the allegation that independent media is under attack in Uganda) was issued by the Commission in exercise of its mandate under the said Uganda Communications Act. Thus, the Public Notice was simply an administrative reminder to all broadcasters, whether online or mainstream, to comply with the requirements of the law, which have been in place since 2013.

It is also important to note that under section 25 of the Computer Misuse Act, 2011 makes it an offence for any person to willfully and repeatedly use electronic communication to disturb or attempt to disturb the peace, quiet or right of privacy of another person with no purpose of legitimate communication.

Therefore, it is erroneous to suggest that any actions that have been taken by concerned authorities in Uganda pursuant to this provision are illegal or politically motivated. This is simply a matter of law enforcement and the guilt or innocence of a suspect can only be declared by Ugandan courts of law in accordance with the Constitution of the Republic of Uganda.

2. Banning of political rallies and concerts

Following the outbreak of the COVID-19 pandemic, the Government of Uganda instituted a number of public health measures like every other country around the globe. In March 2020, the Government came up with strategies and guidelines to fight the pandemic which included suspension of public transport, closure of places of entertainment, schools, places of worship, markets and public rallies. The Anti-COVID-19 National Taskforce was duly established to help with the enforcement of the Ministry of Health guidelines and presidential directives geared towards public safety. The government has gradually lifted some of the public safety measures. However, under the Public Health (Control of COVID-19) (Amendment No.3) Rules, 2020, public gatherings are limited to a maximum of 200 people and music concerts are still banned.

Taking into account the above measures, the Electoral Commission, upon consulting the political parties and all the presidential candidates, issued and published guidelines to be followed by all actors during the electoral campaign period. These measures are not unique to Uganda and therefore, it is erroneous to suggest that they have been put in place to target particular political players in Uganda.

Needless to say, it behooves everyone, and not just the Government, to recognize the magnitude of the danger that COVID-19 poses to mankind and place the safety of others at the forefront of their actions and personal pursuits.

3. Arrest, detention and torture of individuals who dare to challenge the president or the ruling party

In keeping with National Objective and Directive Principle of State Policy II under the Constitution of Uganda, the Government of Uganda, as is well-known, operates on the basis of democratic principles that empower and encourage the active participation of all citizens at all levels in their own

governance. All citizens of Uganda have access to leadership positions at all levels. Accordingly, the incumbent is participating in the general election as a matter of right, and like any of the other 10 candidates.

All the presidential candidates, including the incumbent, are operating under the same laws as enacted by Parliament and the rules and guidelines issued by the Electoral Commission. Therefore, the enforcement of the laws against any participant in the electoral process that violates or seeks to defy the laws in no way amounts to tilting the ground in favor of the incumbent.

It is important to note that all law-abiding presidential candidates have been, and are, campaigning across the country without any hindrance, with the exception of those who have deliberately violated the law and the Standard Operating Procedures and have openly declared their refusal to abide by the law.

4. Persistent lack of accountability for the arbitrary and extrajudicial killings and torture perpetrated by Ugandan security forces

Uganda is a constitutional democracy. The prohibition of torture and the right to life are guaranteed under articles 22 (1) and 24 of the Constitution of Uganda, a Constitution that was championed by and promulgated under the sitting Government. All Ugandans, including those serving in security agencies are governed by and operate in accordance with the Constitution and other laws.

The Constitution under article 212 imposes on the Uganda Police Force, singularly or in concert with other security organs, the duty to protect life and property; preserve law and order; and prevent and detect crime. Together, these functions place upon the Uganda Police Force the duty to take appropriate action whenever an environment of lawlessness occurs such as during violent riots when criminal elements engage in the wanton destruction of both public and private property, assaulting and robbing innocent civilians, looting, staging of illegal road blocks and attacking security personnel on duty, among others.

It does not matter whether or not the crimes are being committed in the context of a political campaign rally or event.

The law enforcement agencies of the Republic of Uganda always observe and balance the needs of security with ethical concern for the rights and well-being of the people. They operate in a fully transparent and accountable manner. Indeed, during security operations, the use of force is only permitted when strictly necessary, and where proportionate to a legitimate objective – which includes self-defense or the defense of the public, to prevent escape from custody, or where there is physical resistance to a lawful order.

The law enforcement agencies have played, are still playing and will play a vital role in providing security and maintaining the rule of law.

The foundation and basis of the historical struggle of the people of Uganda was to protect the lives and property of Ugandans and the Government is still committed to this ethos. Extrajudicial killings and torture by security forces goes against this ethos and, is therefore, harshly punished whenever it happens.

It is important that both the commitment and the record of the Government on this front is acknowledged, and not causally besmirched in partisan politicking.

5. For several years, the United States has raised concerns about Ugandan government's lack of respect for the civil liberties of its citizens and urged the government to conduct and permit credible investigations into alleged human rights abuses

Chapter four of the Constitution of Uganda elaborately provides for the protection and promotion of fundamental and other human rights. Further, the Constitution further provides for the enforcement of the said rights through the courts of law and bodies such as the Uganda Human Rights Commission. Uganda, by the conscious choice of the sitting Government, is also party to several international and regional human rights instruments. Uganda,

therefore, has rightfully earned itself the right to pride herself in the observance, promotion and protection of human rights.

The Constitution specifically provides for the Uganda Human Rights Commission as an independent national human rights institution. The decision to establish the Commission was in recognition of Uganda's violent and turbulent history that had been characterized by arbitrary arrests, detention without trial, torture and brutal repression with impunity during the pre-and post-independence era. The Commission has jurisdiction over the whole country on all matters related to human rights. It is responsible for monitoring Government's compliance with international human rights standards and has been a watch dog of the state. It is involved in educating, sensitizing and creating awareness on human rights in the country and it has continued to provide an advisory function to the Government.

The Commission has been at the forefront in conducting timely and credible investigations into alleged human rights abuses. This can be confirmed by its annual reports and press statements which are available on its website. The commission reports to the Parliament of Uganda and its reports are available on its website.

Following the riots in November 2020, the Commission issued a press statement in which it addressed the human rights aspect of the said riots by rightly underscoring the need for all stakeholders (including presidential candidate and their supporters) to desist from acts of violence, hate speech, political intolerance, as well as acts of lawlessness such as riots and other criminality. The press statement is available on the Commission's website. The Commission has since received 12 complaints on alleged human rights violations which are still under investigations.

It is, therefore, not correct to state that Uganda lacks respect for civil liberties of its citizens or that it does not permit credible investigations into alleged human rights abuses.

6. In November 2016, Ugandan security forces massacred over 100 civilians in Kasese

Between the year 2012 and 2016 at different places in the Rwenzori sub region, the royal guards of King Charles Wesley Mumbere Irema Ngoma, the traditional leader of the Rwenzururu Kingdom and others in his palace formed an intention of seceding from the Republic of Uganda by creating a state called Yiira Republic for Lukhonzos through the force of arms. They identified the boundaries of the intended state to include Kasese and the neighboring districts of Kabarole, Kamwenge, Kyenjojo, Kyegegwa, Ntoroko and Bundibugyo and certain parts of eastern Democratic Republic of Congo (DRC).

They organized a rebellion called Bayiira Liberation Movement/Force (BLM/F) under the leadership of King Charles Wesley Mumbere Irema Ngoma. In early 2016, they chased away the officially-assigned Uganda Peoples Defence Forces (UPDF) guards to King Charles Wesley Mumbere and recruited a big number of youth, mobilized resources through agents of Obusinga Bwa Rwenzururu, carried out training, and deployed the recruits in military formations around the slopes of the Rwenzori Mountains and other areas in Kasese, Bundibugyo, Ntoroko and Kabarole districts. The recruits were referred to as Kirumiramutima. They also solicited for and received financial/medical assistance and acquired lethal weapons.

The camps acted as a base for the royal guards to commit crimes such as organized attacks on security personnel or installations, murders, kidnaps with intent to murder, and other crimes in the community around Rwenzori Mountain. They also started attacking security personnel and robbed guns with ammunitions. The civilian population who worked or were suspected to be working with security personnel were either kidnapped or killed.

Following information that all native royal guards of Obusinga bwa Rwenzururu who had launched spontaneous armed attacks on police units at Hiima, Kasese, and Bwera Divisions and other areas in Rwenzori sub region

were hiding in the Palace of King Charles Mumbere at Kasese, a joint operation of Uganda Police and Uganda Peoples' Defence Forces was conducted on 27 November 2016. The royal guards at the palace were armed with lethal weapons and put up serious resistance. At the end of the operation, 137 royal guards were arrested and 100 killed in exchange of fire, while others fled.

A search was thereafter conducted and several documents were recovered from the palace. The documents contained information about massive recruitments and arming of a big militia disguised as royal guards by the King of Rwenzururu who in most briefs was referred to as the Commander in Chief. The documents corroborated witness statements and provided the identity of some of the suspects involved in the coordinated armed attacks on police units in the region who were being praised by the King for a job well-done.

Therefore, the loss of life in Kasese occurred in the context of lawful security operation, following acts of armed rebellion led by Omusinga Charles Wesley Mumbere, the traditional leader of Rwenzururu Kingdom. Most of those that died in the exchange of fire were combatants. A few civilians also died.

Omusinga Mumbere and other suspects were charged with various offences before courts of law and released on bail under the relevant laws of Uganda.

Unfortunately, great efforts have been made to politicize this case and the lawful security operations by the security agencies entrusted with the preservation of law and order and the defence of Uganda's territorial integrity. For example, in January 2017 a request was submitted by some opposition political actors to the Prosecutor of the international Criminal Court (ICC) to conduct an investigation into the said operation, alleging that the operation was a criminal act. Upon examining the available evidence, the ICC in January 2020 came to the conclusion, and pronounced itself, that the operation did not amount to a commission of crimes against humanity or genocide.

It is important that these facts are acknowledged, instead of continuously seeking to propagate a false narrative around this operation for political gain.

7. In September 2017, Ugandan Special Forces forcibly entered Parliament during a debate over whether to remove presidential age limits from the constitution. During the tumult, MP Betty Nambooze suffered serious spinal injuries from which she is still recovering.

On 17 September 2017, the Opposition in Parliament sensing democratic defeat on the motion to remove presidential age limits, plotted to create chaos in order to frustrate the Parliamentary process. Violence broke out in the Parliamentary Chamber during the plenary sitting, with Opposition Members of parliament breaking everything and beating up the Sergeant-at-arms. This compelled the Sergeant-at-Arms, the person charged with the maintenance of order and decorum in the Chamber, to call for the nearest Police reinforcements in order to return normalcy to the chamber. The Police in turn requested for assistance from Uganda Peoples' Defence Forces in accordance with article 212 (d) of the Constitution which provides for the cooperation of the Police with other security agencies in the execution of its mandate.

Accordingly, the entry of the army personnel into the Chamber was neither forceful nor unlawful.

This matter was considered at length by the courts in Uganda in subsequent litigation over the same and the courts came to the conclusion that the role of the army personnel in restoring order to the Chamber and ending the destruction of property and equipment was, in and of itself, not unlawful.

Again, it is important that this fact is acknowledged so that the unhelpful debate around the event, which is based on a false and partisan narrative, is brought to an end.

8. In July 2018, the government imposed a tax on citizens who wished to access social media platforms such as WhatsApp, Facebook, and Twitter – a transparent ploy to discourage anti-government mobilization on the part of youths and dissidents.

The power of the Government to levy tax, including consumption tax, is enshrined in article 152 of the Constitution and other relevant laws. The tax is one of the sources of revenue for provision of services such as health, education, security, transport and infrastructure. The tax is on the consumption of Facebook's products and services on Ugandan territory, seeing that while Facebook and other social media platforms generate revenues by operating in Uganda virtually, they do not pay any taxes to Uganda. Other countries levy taxes and fines on Facebook on the basis of the media company's generating revenues on their territory.

Suffice it to say that the tax applies to everyone, including those who do not subscribe to opposition views and, therefore, it is not correct to suggest that the tax was aimed at discouraging anti-government mobilization on the part of "youths and dissidents".

Moreover, there is no evidence that the imposition has in anyway negatively affected the use or consumption of social media or the internet generally in Uganda.

9. The following month, MP Robert Kyagulanyi and 32 other opposition politicians were arrested and brutally tortured following a by-election in Arua

Following the assassination of Honorable Ibrahim Abiriga, Member of Parliament for Arua Municipality, on 8 June 2018, the Electoral Commission organized a by-election and set a programme to guide nomination, campaigns and polling.

Twelve (12) candidates were successfully nominated to contest. The campaigns were conducted peacefully until the last day of 13 August 2018 which registered acts of hooliganisms and criminality. President Yoweri Museveni campaigned for the NRM flag bearer, Nusura Tiperu, while Mr. Mugisha Muntu and Honourable Kyagulanyi Ssentamu campaigned for the independent candidate, Kassiano Wadri Ezati.

On that day, there was an attempt to block the convoy of President Museveni from Giligili to Arua Hill grounds using a Caterpillar Truck Reg. No. UAP 064R. Security cleared the road and the President made it to the rally venue. After the rally, on his way to Giligili to board a helicopter back to Kampala, his motorcade was blocked by a procession of supporters of Kassiano Wadri Ezati along Arua-Pajulu road. The motorcade was pelted with stones thereby smashing the rear windscreen of the Presidential car and other two cars. The Security Forces exercised maximum restraint when the incident of the attack on the presidential convoy happened to avoid loss of lives. This type of attack on presidential convoy is unacceptable anywhere in the world.

Subsequently, 37 people suspected to have planned and organized the stoning of the motorcade of the President were arrested. They included Honorable Kasiano Wadri, Honorable Robert Kyagulanyi, (MP Kyadondo East), Hon. Zaake Francis (MP Mityana Municipality), Honourable Paul Mwiru (MP Jinja Municipality) and Honourable Gerald Karuhanga (MP Ntungamo Municipality) among others. They were charged with a number of offences including treason. The trial is ongoing.

On the issue of alleged torture of arrested suspects, a general inquiry file was opened by Uganda Police to investigate the matter. The alleged victims have refused to appear before the Police to aid the investigations, something that has frustrated the investigations.

Accordingly, at this moment there is no verifiable basis for the allegations that the Members of Parliament were brutally arrested or tortured.

10. Earlier this year, MP Francis Zaake was brutalized for disturbing supplies to needy citizens during the coronavirus lockdown

On 19 April 2020 Honourable Francis Zaake was arrested from his residence in Mityana Municipality on allegations of distributing food and other items to the residents in the area on 17 and 19 April 2020 in violation of the COVID-19 Standard Operating Procedures (SOPs).

After his arrest and detention at Mityana Police Station, arrangements were made to transfer him to Kampala but he refused to board the motor vehicle. The police had to use reasonable force to get him to enter the motor vehicle and, in the scuffle, he sustained some minor injuries which were subsequently treated by the Police medical team.

He was later charged in court with disobedience of lawful orders and negligent acts likely to spread infectious disease.

Honourable Zaake raised a complaint of alleged torture by the police. Investigations were carried out and it was found that his complaint was largely based on falsehoods. Camera footage is available to prove this finding.

Accordingly, the arrest of Honourable Zaake was on the basis of the law and the allegation that he was brutalized is baseless.

11. In November 2020, at least 45 people were killed by Ugandan security forces following protests in Kampala

Honourable Robert Kyagulanyi, a presidential candidate for the National Unity Platform (NUP) Party, was arrested on 18th November 2020 in Luuka District, in the eastern part of Uganda, for repeatedly organizing mass rallies in breach of the restrictions on gatherings imposed by the government to curb the spread of COVID-19.

Upon his arrest, premeditated violent demonstrations broke out, with rioters and criminal elements burning tires on the roads, mounting illegal roadblocks, attacking and beating innocent people and robbing them. This took place in the heavily populated Central Business District of the city of Kampala and its suburbs and in a few other parts of the country. The violent rioters also stoned and destroyed government motor vehicles and attacked security personnel. The Magistrate's court in Wobulenzi town and the Katwe Market Police Post were burnt down.

Faced with rioters that were armed with clubs, fire bombs, rocks and hammers threatening to grievously harm security personnel and innocent members of the public, law enforcement agencies took action which resulted in the arrest of 1,014 suspects, 843 of whom have been charged in courts of law. 93 suspects were released on court bail and 699 were remanded in prison. 113 suspects were released on police bond.

Unfortunately, 54 Ugandans lost their lives during the premeditated, unwarranted and violent riots and ensuing chaos. The Government of Uganda regrets the senseless loss of lives and, consequently, it has extended condolences to the affected families and undertaken to compensate the families of those who were not part of the riots but lost their lives, and those who lost their properties to criminals and/or rioters. In addition a thorough investigation into each of the deaths is ongoing to ensure accountability where it will be established that the loss of life was avoidable.

It is important to underscore that the law enforcement agencies of the Republic of Uganda recognized the sanctity of life and have always upheld human rights in the execution of their constitutional duties, balancing the needs of security with ethical concerns for the rights and the well-being of the people. Indeed, during security operations, the use of force is only permitted when strictly necessary, and where proportionate to a legitimate objective, which includes self-defense or where there is a clear threat to the lives of the members of the public.

It is also worth noting that the use of teargas and water cannons is an internationally accepted method of non-lethal management of public order.

The loss of lives, some of which were of innocent Ugandans, therefore, happened in the context of extreme lawlessness and criminality characterized by attacks on both civilians and security personnel with lethal weapons following the lawful arrest by the Police of Honorable Kyagulanyi and should be viewed and understood in that context.

12. That violent incidents reflect a highly disturbing trajectory for the country, thus ensuring that the environment for general elections in January 2021 has been fundamentally tilted in favor of an incumbent who has been in power since 1986

All the presidential candidates, including the incumbent, are operating under laws and guidelines including those relating to measures aimed at containing the spread of COVID-19. The enforcement of those laws and guidelines against the wishes of a particular candidate or candidates in no way amounts to tilting the ground in favor of the incumbent. There are 11 presidential candidates who are operating under the same laws except those who are deliberately breaking the law and the SOPs in furtherance of their campaign slogan of “defiance”.

The so-called violent incidents are blown out of proportion by those intending to taint the image of Uganda for political purposes.

The Electoral Commission which is an independent institution is managing the elections in full compliance of the Constitution and other laws of Uganda and following the riots, the Electoral Commission of the Republic of Uganda on 19 November 2020, issued a pronouncement:

a) underscoring that it was a violation of the Campaign Guidelines for a candidate and his/her agents to mobilize and/or encourage supporters to gather at campaign venues in large numbers in contravention of the Public Health (Control of COVID-19) (Amendment No. 3) Rules, 2020, issued on 9th November 2020, which provides that gatherings for purposes of political meetings should not exceed two hundred (200) persons; and

b) cautioning candidates that it was against the Guidelines to conduct and/or participate in processions and/or hold campaign meetings in non-designated venues as per the harmonized campaign programme.

The conduct of Honourable Kyagulanyi and his supporters before and after he was nominated as presidential candidate has been characterized by the

flouting of the COVID-19 rules, defying of the Electoral Commission campaign guidelines and programmes, defying lawful orders, confrontation with the police and other security agencies, inciting the public through negative propaganda, sectarian hate speech, incitement to genocide against particular section of the Uganda population, rejecting scheduled venues earlier agreed on with his campaign managers, committing criminal offences such as robberies and assaults, violating traffic and road safety regulations, holding illegal processions and utilizing the services of defiant and confrontational private personal security team, among others.

Hon. Kyagulanyi's arrest on 18 November 2020 was, therefore, in context of the above facts. He was accordingly charged in court with doing an act likely to spread the infection of disease and released on bail on 20 November 2020. The bail conditions included strict adherence to Standard Operating Procedures (SOPs), not having more than 200 people at a rally, the people gathered at the rally wearing masks, observance social distance of two metres and the organizers having to put in place hand washing facilities.

Needless to say, Hon Kyagulanyi and his team have continued to violate the law and the bail conditions in the hope of being arrested again in order to make him appear to be a victim of constant harassment and to touch off another round lawlessness whose stated objective is to make "Uganda ungovernable".

Nobody is above the law in Uganda, whether they are a presidential candidate or not, and therefore the arrest of Hon. Kyagulanyi, which any other Ugandan would be subjected to, must not be attributed to his candidature.

13. Desire to see a better human rights record in Uganda firmly rooted in the country's own constitution and legal code, which prevent torture and enshrine the right to freely assemble and express viewpoints

Uganda is party to and adheres to various regional and international instruments on human rights. Pursuant to these instruments, and in accordance with its Constitution, Uganda places the respect for, and

observance of, human rights at the centre of governmental policy. In recent times, the Government has initiated or actively supported the enactment of a number of legislations aimed at enhancing the protection of human rights in the country, including the Prevention and Prohibition of Torture Act, 2012 and the Human Rights (Enforcement) Act, 2019. Uganda has deliberately adopted the Human Rights based approach in its National Development Plan. Accordingly, the record of the Government of Uganda in placing the observance and promotion of human rights at the forefront of national policy and conduct of national affairs speaks for itself.

Nonetheless, this is not to suggest that under Uganda's legal framework, citizens, including political actors and those aspiring for elective public office, are free to operate outside the law. Everyone is equal under the law. Moreover, as already mentioned, under article 43 of the Constitution, while enjoying the rights and freedoms prescribed in the Constitution, no person is to prejudice the fundamental or other human rights and freedoms of others or the public interest.

It is in line with the foregoing that whenever occasion has demanded, law enforcement agencies have taken action to ensure that the right to assemble is exercised in accordance with the law so that the rights and freedoms of others are observed and respected too.

It is because of Uganda's well-known observance of human rights, the rule of law, democratic freedoms, and fighting of terrorism that Uganda has enjoyed peace, steady economic progress, and a secure future; and is a safe haven for refugees fleeing lawlessness and political instability in neighboring countries.

Needless to say, it has been and will continue to be the responsibility of the people of Uganda to ensure their own democratic freedoms and security.



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