



HUMAN RIGHTS AND PEACE CENTRE

SCHOOL OF LAW

MAKERERE UNIVERSITY

Violence, Excessive Use of Force and Blatant Violations of Human Rights during the Electoral Process in November 2020

Statement by the Human Rights & Peace Centre (HURIPEC), School of Law,
Makerere University

The Human Rights and Peace Centre (HURIPEC), a university based centre at Makerere University School of Law. HURIPEC works for the achievement of democratic values, peace and human rights in Uganda. Based on this, HURIPEC is concerned about the events that the nation has witnessed over the last few weeks during the electoral process of 2020. This is especially in respect of the actions of key State actors following the arrest and detention of presidential candidates Hon. Robert Sentamu Kyagulanyi and Hon. Eng. Patrick Amuriat Oboi on 18 November 2020.

This period has been dominated by a series of disturbing events. We have seen the country's worst unrest in a decade. We have seen the State and its law enforcement agencies respond in a brutal and often excessive manner to citizens' demands for release of, or access to their presidential candidates during the campaign period. During this period, the Police and other security agencies have done the following: (a) restricted some opposition candidates from accessing their campaign venues; (b) used excessive force, including live ammunition and copious amounts of tear gas resulting in the loss of life and injuries; (c) destruction of property in the process; (d) arresting and imprisoning many people, some without charge.

While the State has a duty to ensure law and order, the State is also obliged to respect, promote, protect, and fulfill the rights of its citizens as enshrined in the 1995 Constitution and other regional and international treaties to which Uganda is a signatory.

HURIPEC is particularly concerned about the presence of non-uniformed security personnel shooting at citizens with impunity and in utter disregard of the law. . Article 212 (a) and (b) of the Constitution lists the functions of the Uganda Police Force to include protection of life and property, and preservation of law and order. Similarly, Article 208(2) obliges the Uganda Peoples Defence Forces to be non-partisan, professional, disciplined and subordinate to civilian authority. In fact, the Constitution under Article 209 (c) lists one of the functions of the UPDF as *'to foster harmony and understanding between the defence forces and civilians'*.

We have witnessed actions to the contrary where security forces have been involved in the taking rather than preservation of civilian lives. In attempting to fulfill its obligations of preservation of law and order in the last few weeks, the State has instead used excessive force resulting in the infringement of some of the fundamental rights enshrined in Chapter 4 of the Constitution. The rights include the freedom of assembly (Art. 29 (1)(d), freedom of speech and expression (Art. 29(1)(a), freedom of movement, right to access prompt, fair and timely justice and freedom from inhuman and degrading treatment.

In particular,

Article 22(1) of our Constitution states:

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 actions of law enforcement in a bid to quell demonstrations in different locations in the country resulted into deprivation of lives in circumstances that are questionable. The Spokesperson of the Uganda Police Force put the death toll at 45. A police report indicates that a total of 116 cases involving riots were registered in the country between November 18 and 20 2020. 836 suspects were arrested, of whom 362 suspects were charged, 330 were remanded, 32 released on court bail while one was released on police bond and 633 in police custody pending court (Monitor Newspaper, 24 Nov 2020).

Sadly, one life lost is one life too many.

According to the United Nations Basic Principles on the Use of Force and Firearms by law enforcement officials, whenever the lawful use of force and firearms is unavoidable, law enforcement officials should exercise restraint and use force in proportion to the seriousness of the offence and the legitimate objective to be achieved. They should minimize damage and injury, and respect and preserve human life. Moreover, a threat to property alone cannot justify the use of firearms against another person. In using force, officials should: “as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.”

The same principles guide that:

“Governments and law enforcement agencies should develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms. These should include the development of non-lethal incapacitating weapons for use in appropriate situations, with a view to increasingly restraining the application of means capable of causing death or injury to persons.”

The use of force by security forces during this electoral period indicates a lack of State policy on differentiated use of force and de-escalation. It showed a lack of restraint and precaution which resulted in the arbitrary deprivation of the right to life of many Ugandans.

HUR�PEC has observed the events of the past weeks with deep concern and condemnation on the use of excessive force by the Police, UPDF and other security agencies and we call upon the State to take critical measures to address the key issues raised by the public on the electoral process so as to avert further violence and instability in the country. In particular, we wish to register our deep concern regarding:

1. The use of excessive force and especially the use of live ammunition to quell demonstrations, indiscriminate physical assaults on civilians, spraying of vast amounts of tear gas upon crowds occasioning loss of life and property, severe injuries and pain including upon innocent children, by standers, those at work and

urban dwellers. We are greatly concerned that rather than enjoy state protection, citizens are preoccupied with defending themselves against its wrath;

2. The brutality of officers of the Uganda Police Force, Uganda Peoples Defence Forces and other security operatives in handling the civilian protests;

3. The intimidation of human rights defenders who have spoken out on various issues of concern including the declining space for engagement;

4. The attack on journalists, which has involved beatings, pepper spraying, confiscation of equipment and arrests and detention without charge;

5. Censorship of the media and a curtailing of press freedom and freedom of expression, including intimidation and security threats to journalists and media houses carrying out their duty as a watchdog of the state and provider of information to the public;

6. Contrary to the public appeal for the perpetrators of violence to be brought to justice, the Minister for Security defended the use of brutal force and praised security forces for the "decisiveness" with which they quelled what he called "pre-mediated riots" across the country. Such responses from government risk promoting impunity and provocation.

7. The increased militarization of the State and use of armed forces to enforce law and order and quell peaceful protests which heightens risks of violent conflict and will affect the entire population of Uganda including men, women and children.

HURIPEC calls upon the Government to respect, promote, protect, and fulfill the rights of its citizens as enshrined in the 1995 Constitution. Government must recognize that the language of force and violence is counter-productive to the harnessing of peace and security.

We call upon the heads of security agencies in Uganda to prevail over serving officers to desist from acts of torture, shooting, cruel and inhuman treatment of the people of Uganda. We also caution against the unfair targeting of some politicians involved in their campaign processes as this fuels a trigger for violence and protests. Errant officers should be duly prosecuted.

We further call upon concerned actors within the Justice Law and Order Sector including the Judiciary, Directorate of Public Prosecution and Uganda Human Rights Commission to initiate thorough, prompt and impartial investigations into the human rights violations committed by the security forces.

We also call upon government to thoroughly review the national laws on the use of force and align them with international standards including clear enforcement measures.

Finally, we call upon the public to remain peaceful in the pursuit of various rights during this electoral period and to desist from violent actions and violations of the human rights of others such as undressing women and attacking security personnel.



DIRECTOR, Human Rights & Peace Centre (HURIPEC), School of Law,
Makerere University