

Uganda Human Rights Commission



Statement on Highlights of UHRC's Current Human Rights Concerns and Its Recent Interventions During the COVID-19 Partial Lockdown.

Friday August 21st, 2020

1.0 Introduction

Uganda Human Rights Commission is addressing the nation as the National Human Rights Institution mandated to protect and promote human rights in Uganda. In fulfilment of its constitutional functions, the Commission has been monitoring the human rights situation in the country and is hereby sharing its observations on the current salient human rights concerns as well as its critical interventions and recommendations in the COVID-19 period, since the last address to the nation that was in June this year.

2.0 Emerging Human Rights Concerns

Whereas the Commission commends the efforts made so far by Government, its institutions, civil society, different communities, faith-based organizations, the media and all law-abiding citizens to manage the growing threat of the spread of COVID-19 in Uganda, we have however witnessed with great concern a lot of complacency and negligence by many people in adhering to the Standard Operation Procedures (SOPs) and following the Presidential Directives issued on different occasions. The Ministry of Health continues to report rising community infections and deaths as a result of COVID-19, and government has lately been expressing serious concern in this regard and is therefore contemplating the option of reverting to some of the lockdown measures that had recently been eased. The excitement involved in the current electoral activities has exacerbated the situation, with groups of people, mainly the youth particularly in urban centers, acting in total disregard of the safeguards put in place by the Ministry of Health and the Presidential directives issued for preventing the spread of Covid-19.

The menace of domestic violence, which the Commission pointed out in its address to the nation in June this year, has persisted and spiked moreover, with more serious effects particularly to women, children and other vulnerable people within the families affected and in some cases, with lives even being lost; and new trends are emerging of unfortunate brutal and ruthless land grabbing, illegal destruction of other people's properties as well as incidents of murder and people who are committing suicide by burning themselves.

The Commission has also noted the increasing use of hate speech, propaganda, misinformation and disinformation, violence and defiance of SOPs in electoral activities, in spite of the commendable efforts made by key players in government and related institutions that are spearheading the hybrid general elections to ensure safety of the people within the context of the COVID-19 pandemic. The Commission has further noted that the lockdown measures that were put in place for stemming the spread of corona virus, halted the normal teaching and learning processes in educational institutions and consequently, most of the learners who have been at home since then have experienced various challenges in coping with the new approaches put in place for distance and e-teaching and learning as well as in their day to day social life, with girls and other vulnerable learners bearing the greatest brunt in this respect.

The Commission therefore appeals to all members of the public to carry out their inherent duties and responsibilities of observing other people's rights and liberties as they enjoy their own rights and freedoms; and also, to strictly adhere to the SOPs in order to protect themselves and others so as to stem the spread of COVID-19. The relevant Government departments and security agencies should step up enforcement of public compliance with SOPs during the electoral processes, and the concerned law enforcement agencies should expeditiously act on the cases of human rights violations brought to them without bias, discrimination or being compromised. The Commission calls on all the key players to ensure that we wage a successful fight against the COVID-19 pandemic, and also have a safe, violence-free and credible electoral process.

Furthermore and in accordance with Article 52(1) (d) of the Constitution of Uganda, the Commission has submitted to Government, two Human Rights Advisories in light of some of the aforementioned challenges that have arisen as a result of the COVID-19 situation. One of the two Advisories is on the Right to Vote given the impending general elections of 2021, and the other is on the Right to Education within the aforementioned

context of innovative approaches to teaching and learning that are now being practiced due to the COVID-19 situation.

3.0 The Human Rights Advisory on the Hybrid Electoral Process.

In this Advisory the Commission seeks to guide the Electoral Commission and Government generally as well as the other relevant stakeholders on the obligation to take into consideration the human rights based approaches and standards during all the electoral processes during the current hybrid scientific general elections. Protection of Ugandans from the COVID-19 pandemic is as paramount as their protection from any other underlying human rights violations that may occur in the election process.

The Commission has already submitted the above-mentioned Advisory to the Chairperson of the Electoral Commission, the Speaker of Parliament and the Minister of Justice and Constitutional Affairs who are the principal players in the electoral process, and also sent copies to the Minister of Finance, Planning and Economic Development, the Minister of Gender, Labour and Social Development and the Chairperson of Equal Opportunities Commission who are the other key players in the same process.

3.1 Critical Issues of Concern and Relevant Recommendations on the Hybrid Scientific Elections:

In the aforementioned Advisory the Commission observes that the Electoral Commission needs to ensure that the election guidelines issued are comprehensive and human rights based in order to facilitate free and fair elections, the threat of COVID-19 notwithstanding. Accordingly, in this respect the following recommendations are made:

- **Effective Voter Education.**

The Electoral Commission has been strongly urged to intensify and maintain voter education by among other measures, widely disseminating the new electoral procedures to be followed in the context of the COVID-19 pandemic, including the use of innovative strategies for a wide reach to all arears of the country. All political parties and organisations are urged to take on the duty of implementing the health guidelines during their respective party activities in order to guarantee the safety of all election officials and the electorate. All the voter education methods used must of necessity be inclusive, and should particularly target the vulnerable persons among the electorate.

- **Nomination of Presidential, Parliamentary and Local Council Candidates.**

The Electoral Commission has been advised to increase the number of nomination centres which should also be spread to the lower local government levels, so as to address the challenges of availability and accessibility that may be faced by candidates, particularly those who are vulnerable. The various political parties have also been urged to apply mechanisms that can guarantee free, fair and transparent primaries internally, in order to facilitate democracy at party and national levels. They have also been particularly urged to ensure strict observance of the COVID-19 SOPs for the safety of all the people involved during the nomination process.

- **Inclusion of People with Disabilities and Other Vulnerable Persons.**

The Electoral Commission and other relevant accredited bodies have been advised to ensure that voter education is delivered in formats that are accessible to the People With Disabilities (PWDs), such as the use of Braille for the people with visual impairments and sign language for those with hearing impairments. The Electoral Commission has also been urged to make special arrangements for easing access of PWDs and all other vulnerable persons to polling stations on polling day, for instance by allowing voters with visual impairment to access the polling stations with their aides as long as they all follow the SOPs. Political parties have also been urged to entrench in their respective party

constitutions and manifestos, provisions that encourage PWDs to take up leadership positions.

- **Impact of Digital Elections on Gender Inequality.**

Government has been strongly reminded and urged to mainstream the policies that promote affirmative action for female candidates many of whom are also currently experiencing heavy care burdens especially domestically during the lockdown, and who are also constrained by limited economic ability to access technology and electronic gadgets in their respective homes. The Electoral Commission has therefore been advised to make its electoral processes more responsive to the needs of vulnerable groups such as pregnant women, the elderly and the other marginalized persons especially in view of the concerns about the lengthy duration of time that is spent in queues waiting to vote on polling day, and which is likely to be exacerbated by the elaborate SOPs and the curfew measures that are currently in place. In addition, the Electoral Commission has been encouraged to ensure timely delivery of election and health materials to all polling stations, and to also consider the possibility of extending the time for voting on polling day where this becomes necessary.

- **The Cost of Conducting the 2021 Elections.**

Addressing and mitigating the impact of the COVID-19 pandemic on elections will inevitably increase the cost of the election exercise in view of the additional requirements such as protective gear and equipment that must be provided countywide; sensitisation and confidence building in the processes owing to the threat posed by the pandemic; and the disrupted supply chains for voter materials due to the recent global lockdown measures. Therefore, the Ministry of Finance, Planning and Economic Development has been urged to increase budgetary allocation to the Electoral Commission and the Ministry of Health factoring into its consideration the aforementioned likely additional costs.

- **Use of Media Platforms for Campaigns in line with the Guidelines of the Electoral Commission and the Uganda Communications Commission.**

The Uganda Communications Commission (UCC) was strongly urged to issue guidelines to both state and non-state/private media houses in order to ensure equitable access to their platforms by all candidates, as well as free access to state media houses by all candidates. UCC has also been urged to work closely with the Ministry of ICT and National Guidance to monitor and enforce compliance with the media guidelines in addition to observing the relevant professional standards. Government has been encouraged to fast track the process of procuring radio sets and battery cells as was promised recently in relation to distance education, and to ensure timely delivery and equitable distribution of the same, paying special attention to the most vulnerable persons among the electorate, such as the poor, the elderly, PWDs, ethnic minority communities and the persons living in remote areas.

- **Campaigns on Social Media Platforms.**

Government has been urged to consider urgently the possibility and feasibility of amending the appropriate law in order to temporarily suspend payment of the Over-the-top (OTT) tax during the electoral period in order to make internet more affordable and accessible. Government has also been advised to explore the possibility of expanding urgently the internet network in the country, and to engage the telecommunications service providers with the aim of convincing them to review the high cost of internet in Uganda in order to make it more affordable for majority of the citizens. UCC has also been urged to issue guidelines to candidates and the electorate on the responsible use of social media during the electoral period.

- **The Impact of the Measures Put in Place to Curb the Spread of COVID-19.**

The Commission has also urged the Electoral Commission to ensure that in spite of the COVID-19 pandemic, it is still mandated by the Constitution to deliver a credible election upholding the principles of fairness, transparency, credibility and freedom of speech and

expression which also includes freedom of the press and other media. Therefore, the Electoral Commission has been strongly encouraged to adopt special measures to safeguard the health of the voters, the election officials and the election observers, in order to prevent further the spread of COVID-19 during the various electoral activities. In this regard the Electoral Commission has been encouraged to work closely with competent public health authorities and experts; while the Uganda Police Force has been urged to enforce the relevant health guidelines without any discrimination, or violating people's rights as they do their own enforcement work. The Electoral Commission has also been urged to work with the Ministry of Health to put in place mechanisms that will facilitate eligible voters under quarantine to exercise their right to vote.

- **The Voting Rights of the Ugandans in the Diaspora and in Detention Facilities within Uganda.**

Previously and up to now, these two categories of Ugandans have not enjoyed their right to vote during elections. However, now following the recent court ruling on this matter, the Electoral Commission has been urged to deliberately work towards making appropriate arrangements and putting in place the necessary guidelines to enable the two categories of Ugandans to vote during elections. While we recognise the fact that this may not be feasible in the coming general elections of 2021, the Electoral Commission has nevertheless been urged implement the aforementioned court ruling without fail in the subsequent general elections.

4.0 Human Rights Advisory on the Right to Education in the Context of COVID-19.

The Commission has provided this Advisory to Government on the Right to Education in response to the human rights concerns that have arisen as a result of the aforementioned disruption of Uganda's normal academic calendar for about 15 million learners. Our Advisory provides guidance on human the rights-based responses and

interventions that are necessary for minimizing the adverse effects of the lockdown on learners, teachers and the education system generally. The Advisory was submitted to the Hon. Minister of Education and Sports as well as the Rt. Hon. Speaker of Parliament, and copied to the Ministers of Gender, Labour and Social Development, Finance, Planning and Economic Development, and Justice and Constitutional Affairs as well as the Chairperson of Equal Opportunities Commission for necessary action and/or follow-up.

4.1 Critical Issues of Concern and Recommendations on the Right to Education During the Covid-19 period.

The Commission monitored the impact of the national response to the COVID-19 pandemic on the right to education, bearing in mind that human rights exist in a nexus and must therefore always be protected as such. Whereas the COVID-19 pandemic has seemed, on the face of it, to be a purely health issue, it has however and inevitably caused other grave consequences some of which have resulted into unexpected harm on other human rights and freedoms, including the right to education.

All educational institutions at all levels had to be closed in March 2020 in line with Government's lockdown measures to forestall the spread of COVID-19, and this therefore put the right to education in jeopardy. Some of the concerns that have emerged as a result of closure of educational institutions include the following:

- Exploitation and abuse of learners, including physical, psychological and sexual abuse while they are in their homes and within their communities outside the normal formal protective environment of the educational institutions.
- Anxiety, stress and such other forms of negative impact on the mental health of learners and even their teachers, parents and guardians.
- Limited coverage, availability and affordability of the self-study educational materials expected to be used by the learners while at home.

- Exclusion of children and learners with disabilities from the innovative initiatives introduced to ensure that distance and e-teaching and learning continues while the learners are at home.
- COVID-19 messaging not contextualized or adequately targeted to the learners of different age groups, learning abilities and socio-economic background or environment.
- Challenges of inadequate parental support to learners for home or distance and e-teaching and learning.
- Balancing the educational rights and family responsibilities of children during the COVID-19 lockdown period.
- Affordability on the part of parents, guardian and some of the learners, of the internet facilities necessary for effective distance and e-learning programmes, especially for the poor and the people living in remote areas.
- Inability to afford the high and in some cases prohibitive charges levied by educational institutions and online service providers during closure of educational institutions.

4.1.1 The Proposed Re-Opening of Educational Institutions for Candidate Learners.

Government has been considering the possibility of re-opening the relevant educational institutions to allow learners who are candidates for various examinations to return to their respective institutions to complete their syllabi, prepare for examination and finally sit for the examination without experiencing the possibility of a dead year.

Although Government has not finally and firmly pronounced itself conclusively on this proposed arrangement, the Commission found it necessary and useful to discuss it and to provide appropriate recommendations through the aforementioned Advisory, on additional measures that could be considered for adoption in order to minimize the risks of corona virus spreading in educational institutions once they are re-opened. The Commission's recommendations in this respect include the following:

- a) The Ministry of Education and Sports to institute mechanisms for close collaboration between education institutions, child protection systems, health systems, local authorities, community structures and families in order to ensure strict adherence by all the people in the educational institutions and any people visiting them for whatever reason, to SOPs; as well as restricted co-curricular and social activities during the period of partial re-opening of the educational institutions, in order to avoid gatherings or crowds that can facilitate the spread of the corona virus.
- b) The Ministry of Education and Sports and the Ministry of Health to regularly monitor and inspect the re-opened educational institutions to ensure strict compliance with the SOPs, and also continuously provide up-to-date information and guidance to the educational institutions on the new developments regarding the COVID-19 pandemic and how to cope with them; in addition, to generate and provide to the relevant authorities and stakeholders, timely reports on the status of compliance with the SOPs and other relevant directives and guidelines by educational institutions.
- c) Government to provide the necessary and relevant support to teachers, parents, guardians and learners on the use of the relevant digital tools for teaching and learning, and to carry out a learners mapping exercise with a view of grouping the learners according to age and level of education, and to prepare teachers to enable them to eventually provide support to small groups of learners, while taking into consideration the SOPs in place.

4.1.2 Other Recommendations

- a) Government urged to acknowledge and strengthen the existing child protection and mental health services that are essential and lifesaving, including the provision of facilitating them adequately, as well as mainstreaming and/or incorporating them into all the national COVID-19 response plans.

- b) The Ministry of Gender, Labour and Social Development together with the Uganda Police Force to strengthen and adequately resource their child protection structures and reporting systems, including the provision of increased investment in the Sauti 116 National Child Helpline system.
- c) Government to encourage and facilitate parents, guardians, community and opinion leaders to report cases of child abuse to the relevant authorities, and to do so as expeditiously as possible.
- d) The Ministry of Education and Sports to ensure that its initiatives and programmes for providing self-study educational materials to learners also cover the learners in pre-primary and nursery levels of education and those with disabilities who should also be included in the social protection programmes for guaranteeing access to food, relevant health and therapy services and other relevant government support programmes.
- e) The Ministry of Education and Sports to support the families of learners in the various vulnerable categories, by providing them with the relevant necessary gadgets as well as internet data and connectivity wherever possible.
- f) Uganda Communications Commission to oblige all state and private media houses to include programming and messaging on child protection risks, referral pathways and mitigation provisions; and ensure that all the COVID-19 messages disseminated by all media houses are targeted and contextualized for the different age groups and learning abilities.
- g) Government urged to seriously endeavor to provide increased support to child-friendly government-led Risk Communication and Community Engagement (RCCE) campaigns, in the formats that can appeal to all learners such as music, dance, drama, and animations, as well as the use of child-focused local radio and TV productions; and Government to further ensure that all Information, Education and Communication (IEC) materials on COVID-19 are accessible to all learners including those with special needs.

- h) The Ministry of Education and Sports as well as the other relevant governmental and non-governmental service providers to endeavor to continuously sensitize parents and guardians on their obligation to ensure that in whatever they do, the best interests of their children and learners remain paramount, and also to ensure that the rights of their children are respected and protected all the time.
- i) Government strongly urged to enforce the laws that provide for the duty of parents or guardians to ensure that their children's rights are protected and promoted while the children also in reasonable balance carry out their relevant responsibilities within their respective families and homes even during the current COVID-19 period.
- j) The Ministry of Education and Sports and the Uganda Communications Commission urged to engage the various telecommunication companies to convince them to consider the necessity for, and the benefits of, providing free or affordable internet facilities to support distance and e-learning education during the COVID-19 period.
- k) The Ministry of Education and Sports urged to plan the distance learning initiatives taking into consideration the peculiarities of each district or local areas, the different levels of education and the peculiar needs of the different categories of learners and parents who are involved in using them.
- l) The Ministry of Education and Sports urged to ensure equal access to education for all learners during the COVID-19 period, by enforcing regulatory measures that can prevent schools from exploiting the current situation by levying unreasonable charges for the education programmes that are provided during the COVID-19 period; and the Ministry advised to aim at ultimately moving deliberately towards fulfilling the State responsibility to provide free access to all long distance teaching and learning programmes.

In conclusion, I would like to stress that the aforementioned two Advisories and particularly the recommendations that are made in them, are purposely and deliberately

intended to make a serious contribution to the realization of our Commission's and Government's historic mission of ensuring the achievement and sustainability of Uganda's rapid development towards the middle income and national socio-economic status, as well as the assurance of sustainable peace, stability, tranquility and security in Uganda.

Finally, I would like to inform you the journalists who have been listening to me, and through you and the media houses that you represent, also to inform the wider public, that all of you can access the detailed Human Rights Advisories that I have summarized in the media statement that I have read out during this media conference, by visiting our official website which is: www.uhrc.ug

FOR GOD AND MY COUNTRY!

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