

Impact of laws and regulations on Civic Space in Uganda

Research report



COVIDWATCH
AFRICA



Published under the project ; "Rebuilding Civic Space Intervention in Uganda" implemented by African Youth Development Link (AYDL in collaboration with Covid Watch Africa Initiative (CWAI) and Forum for International Cooperation (FIC).

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Executive Summary

African Youth Development Link (AYDL) is implementing a project named "Rebuilding Civic Space Intervention in Uganda" in collaboration with Covid Watch Africa Initiative (CWAI) and Forum for International Cooperation (FIC). The project's purpose is to increase people's and civil society organizations' freedom of speech and participation in Uganda by advocating for a review of laws, directives, and policies that have resulted in a narrower civic space. The project has been implemented in Uganda, with partners in five districts, namely Arua, Gulu, Soroti, Kasese, and Kampala, pushing for the revision of laws, directives, and policies that have led to the shrinking of civic space. The project's advocacy strategy includes conducting evidence-based research, developing recommendations for review, repealing laws and policies where necessary, and building stronger partnerships with key domestic partners and stakeholders.

One of the specific objectives of this project is to document, analyze and disseminate the impact of laws and policies directly affecting civic space to support advocacy efforts. The research outlined in this report is an integral part of that effort.

The conclusions are based primarily on the real-life experiences and perceptions of the respondents, including human rights defenders and civil society actors involved in the assessment process. This indicator is based on quantitative data collected during the study. The primary objective of this study is to identify and demonstrate how laws and regulations affect Ugandan civic space.

The concept of civic space is broad. However, Article 38 of the Republic of Uganda's 1995 Constitution provides for the fundamental aspects of civic space rights. The Article assures participation in civic rights and activities by stating that every Ugandan citizen has the right to participate in government matters, either personally or through his or her representatives, in line with the law. The Article also establishes the right of every Ugandan to engage in peaceful actions to influence government policies through civic organizations.

The civic space openness should be understood in the context of three fundamental freedoms, namely, expression and association and assembly. It is on the premise of these freedoms that different civic formations, including non-governmental organisations (NGOs) and community-based organisations (CBOs), operate and on which they base their existence as a matter of right. Indeed, freedom of expression has been emphasized as a cornerstone of democracy. Because democracy is inherently based on free and open debate, making decisions and generally participating in debates in public affairs.

Freedom of expression and freedom of association are rights recognized by international and regional human rights frameworks. The International Covenant on Civil and Political Rights (ICCPR) recognizes the right of everyone to express their opinions without interference. The right to freedom of expression includes the right to seek, receive and impart information, including ideas of any kind, in any format. The ICCPR also recognizes the right to peaceful assembly in Article 21 and freedom of association in Article 22. These rights are also protected in the African Charter on Human and Peoples' Rights (African Charter). Suffice to note that these rights are not absolute and can be limited for purposes of security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. However, the restrictions placed on these

rights must be prescribed by law and must be necessary and justifiable in a democratic society.

The Ugandan Constitution is in line with the ICCPR and the African Charter in as far it protects the above rights in article 29 and prescribes allowable limitations on derogable rights. Notwithstanding these constitutional guarantees, civic space in Uganda is circumscribed with CSOs encountering a myriad of obstacles in the course of their operations. These impediments cumulatively reduce the operating room of the CSO. One of the obstacles stems from laws that directly and indirectly regulate the activities of CSOs. Legal obstacles include hurdles in the form of procedural setbacks that hamper his CSO's efforts to promote democratic governance.

In order to fully assess the impact of laws and regulations on Uganda's civic space, the study focuses on his four fundamental elements.

- Freedom of Assembly and Freedom of Petition
- Freedom of Association
- Rule of Law

Key findings include:

I. Demographic Description

a) The sample size was 268 respondents from urban and rural areas, with 47% (126) male respondents and 51.4% (138) female respondents. 1.4% (4) of all responders did not mention their gender. Key informants were carefully chosen, and a total of 20 people were interviewed.

b) The youngest respondents were between the ages of 18 and 25, accounting for 23.1% of all respondents, while the oldest were over the age of 51, accounting for 4.8%. The majority of responders (24.3%) were between the ages of 26 and 30. A sizable proportion of respondents aged 31 to 35 made up 19.8% of the sample total, while 6.0% did not mention their age range.

c) In terms of education, the majority of respondents (46.5%) had completed tertiary and university education, followed by lower secondary (17.4%), those who had not attended school (12.4%), upper secondary (12%), and primary (11.6%).

II. Research highlights

To assess the general situation of Civic Space openness in Uganda, the main research tools was the collection of data on the key indicators through survey questionnaires. Over 83 percent noted that they believe Uganda is heading in the wrong direction. The key concern was the proliferation of laws with repressive clauses that clawback freedoms originally guaranteed freedoms in the 1995 Constitution of the Republic of Uganda and established under international and regional human rights instruments. Citing the example of the 8-year constitutional challenge against the Public Order Management Act, 2013 (POMA),

several respondents expressed concern about the ability of the Constitutional Court to timely deliver judgments in constitutional petitions thereby allowing violations of human rights to go on unchecked under enforcement of the repressive provisions. The ongoing enforcement by the National Bureau for NGOs of sections of the Non-Governmental Organisations Act, 2016 despite them being challenged in the Constitutional Court was also cited by some respondents.

The majority of the respondents (more than 64 percent) also believe that the space for citizens' participation in has decreased. More than 65 percent of the respondents believe that rights to participate as citizens have not changed at all or remain uncertain in the last three years. Respondents further reported that of from the main indicators identified, the three most abused rights and freedoms were freedom of expression, media and digital freedoms; freedom of assembly; and the rule of law. respondents attributed civil rights violations to the Uganda Police, the Uganda People's Defense Force (UPDF) and the National Bureau of Non-Governmental Organizations.

A. Information access challenges

During the survey, the respondents had been requested in the event that they recognize of any legal guidelines in area that assure the proper of get entry to government data and if yes, whether or not the regulation is being enforced in practice. In response, over 70 percent referred to that they recognize approximately the legal guidelines in area whilst 25 percent referred to that they had been now no longer aware about such legal guidelines or had been unsure approximately their existence.

In a follow up question, over 75 percent of the respondents referred to that they face huge demanding situations in having access to statistics and data from the authorities. Some of the demanding situations stated encompass the way of life of secrecy, tedious tactics of asking for for statistics, excessive fees of having access to statistics, abuse of discretionary powers through authorities' officers with the mandate to launch the statistics, bureaucracy, lack of knowledge of the regulation and the protracted court cases mechanism. A current living proof is the revel in of Norah Owaraga, a Ugandan researcher and human rights defender who didn't get entry to statistics on Tuberculosis incidence in Uganda's prisons regardless of efforts to seek clearance.

B. Restrictions on Internet Freedom

Internet Dissent, Criticism, and Criminalization of Freedom Attacks indicates that there is no Media and Digital Freedom. This interferes with your ability to claim and exercise your rights. In a follow-up question, those who said they knew the law said they were, in fact, not protected against speaking critical of the government. risk is assessed as very high. The score shows the appalling impact of cases in which human rights defenders have been brutally attacked in the line of duty, or arbitrarily arrested, detained, prosecuted and falsely charged.

These included the shutdown of the internet, the blockade of Facebook and the issuance of subpoenas by the Uganda Communications Commission (UCC) to prevent the media from reporting live police brutality, allegedly in violation of minimum broadcasting standards. Regarding press freedom, his three most common reprisals against journalists in Uganda include police brutality, media obstruction, and public insults or threats. When it comes to

online freedom, more than 82% of his respondents say Uganda's cybercrime laws violate their right to freedom of expression online. Sections 24 and 25 of the Computer Misuse Act have been identified as key provisions that govern crimes commonly used to target people for what they say online. Regarding previous internet shutdowns, 100% of her respondents believe that another shutdown in Uganda is inevitable as the perpetrators of previous shutdowns have never been held accountable.

C. Freedom of Peaceful Assembly and Petition Under Attack

Police actions to disrupt or violently disperse peaceful assembly are common in Uganda. During the research, the respondent was asked whether he should have the authority to allow, prevent, or disperse peaceful assemblies of the Police. In response, 85 percent of the respondents said the police should not have such powers. In this regard, many of them appealed the Constitutional Court's decision to invalidate the POMA, instead of complying with it, and expressed concern about the government's decision to introduce the necessary incremental amendments to the Ugandan parliament. Additionally, more than 67 percent of respondents feel that civic participation and peaceful assembly are overly politicized and endanger civic activism.

In this regard, human rights defenders fear arbitrary arrest (93 percent), tear gas or bullets (88 percent), and fear being shot (83 percent). They said he would not organize or participate in peaceful gatherings because of this. This shows how human rights defenders perceive the threats associated with peaceful gatherings in Uganda. This represents a significant constraint on the ability of citizens to participate in public affairs, especially when other approaches have proven futile.

D. Unreasonable and Arbitrary Enforcement of Vague and Repressive Laws

Laws Restricting Freedom of Association Shows concern. In particular, the respondent cites his 2016 NGO Law and his 2013 Anti-Money Laundering Law (amended in 2017). They expressed concern and criticized the legal framework for NGO registration, citing the need to submit letters of recommendation from ministries and sign Letter of Intent before an NGO's accreditation could be renewed. I put it out. A majority of respondents (79 percent) believe that the legal framework for NGOs is 'very restrictive'. NGO Office Suspension and Cessation of Activities of 54 NGOs and Civil Society Organizations Pointing out that it should have been notified, is unreasonable and an arbitrary decision to suspend operations indefinitely.

Provisions for criminal penalties of up to three years imprisonment for failure to comply with administrative requirements under the Act and strict enforcement of the Monthly Ugx. A fine of of 2,000,000 TZS

(USD 572) for operating without NGO approval also attracted a lot of attention during the investigation. Respondents also expressed concern about the geographic scope of the CBOs being restricted to sub-districts. A majority of respondents believed that a CBOs permit should cover at least one district in order to ease restrictions on organizations and eliminate legal status for activities outside the permit area.

E. Persons with disabilities face unique barriers

Majority of respondents believe that persons with disabilities cannot exercise their rights on an equal footing with others in public . Discrimination and prejudice are reported to be at the core of disability.

People with disabilities and people with albinism harassed, shot, and trampled . The responders also notes that information intended for the general public is not necessarily limited to accessible formats and technologies suitable for different types of disabilities. This denies community members the right to be notified and participate in public affairs. However, many respondents believe that governments are willing to take positive action to reduce or eliminate situations that allow discrimination to persist.

F. Abuse of the Rule of Law

Abuse of the rule of law continues to increase. In its April 2021 State of the Rule of Law in Uganda report, the Uganda Law Institute found widespread criminalization of the practice of journalism, serial disappearance of citizens. Extrajudicial killings, incommunicado detention, torture, and other acts that violate the rule of law are becoming commonplace, with little or no consequences for violators. During the survey, more than 63 percent of the respondents said police, courts, and all government agencies strictly complied with Law "to some degree." In a follow up question, over 54 percent of the respondents noted that the police "rarely" act in strict accordance with the law while 34 percent noted that they "often" do.

On the rights of suspects while in the custody of the police, 63 percent of the respondents noted that the police "rarely" follow the law while 26 percent said that the police "never" respect the constitutional rights of suspects in custody. On the question of accountability, over 60 percent of the respondents noted that police officers who abuse the rights of suspects are "rarely" held to account while 26 percent noted that the police officers are "never" held to account. On corruption in the courts of law, 50 percent of the respondents noted that bribery and other forms of corruption "often" influence court decisions while 37 percent believe corruption "always" influences court decisions. Finally, on whether accused persons are treated as innocent until proven guilty by the criminal justice system (police and the courts), 45 percent of the respondents selected "rarely", 19 percent selected "never" while 32 percent selected "often".

About African Youth Development Link

African Youth Development Link (AYDL) is a dynamic not-for-profit, nonpartisan youth-led development organization with head office in Kampala and satellite offices in the North and Northeastern Uganda. The organization was established in 2008 to provide a link between youth and governance policy processes in Uganda so that we are each part of something larger than ourselves. AYDL strives to advocate for implementation and reform of laws and policies for increased young people's participation in leadership and democratic governance process in local and national levels for progress and change.

Our Focus Areas :

- Democracy and Governance
- Gender and Human Rights
- Youth Social Economic Justice.

Our Vision

To promote and mobilize the young people to proactively participate in development processes together with other similar minded organisations and stakeholders such as the government ,CBOs,FBOs,NGOs and development partners both locally and internationally.

About Covid Watch Africa

Covid Watch Africa Initiative (CWA) is a not-for-profit organisation with its headquarters in Johannesburg, South Africa. CWA was initially developed and launched in April 2020 to cope with the COVID-19 pandemic as a credible alternative information hub on the pandemic in Africa. The organisation undertakes continental wide research to document, monitor and disseminate the social and economic measures taken by different African governments during the COVID-19 pandemic, such as travel restrictions, Civic restrictions, and use of official governments' resources in order to promote access to information and accountability. Among the flagship projects, there are efforts towards accountability in the use COVID-19 relief funds in West Africa and strategic litigation before regional courts in East Africa on Digital Rights violation amidst the pandemic. This intervention will further CWA's work in providing credible information about the pandemic to the public which can be used for advocacy and programming.

About Forum for International Cooperation

Forum for International Cooperation (FIC) has been working in East Africa since 2005 significantly contributing to combating poverty and improving the living conditions for poor and vulnerable social groups. The organization has also worked with CSOs in promoting the rights of young people to access vital information necessary for their livelihoods. FIC uses the Human Rights Based Approach to development and works with and through partners as a catalyst for development. The organization ensures that right holders are actively involved and participate in the whole project cycle, remains transparent and accountable to donors and the right holders'/target groups, promote non-discrimination in all her operations and upholds gender equality. FIC has experience in partners' capacity building and development, coordination and networking, project planning and management, financial management, grant management, documentation, and communication. The shrinking of civic space poses a great threat to the realization of FIC's mission of strengthening people's social, economic, and democratic rights.

