



Center for Constitutional Governance -CCG

Annual Report 2019

Introduction

Center for Constitutional Governance-CCG is a constitutional watchdog established to promote constitutional governance by building a center that empowers citizens to fully enjoy their constitutional rights. CCG key programs include; Constitutionalism and Constitutional Literacy through Hope Initiative a university student's programme, Social Justice Campaigns, Public Interest Litigation, Research and Documentation including citizen's civic engagements. On human rights protection, CCG championed various court processes to challenge the seemingly unfair judgments by courts that oppress and affect the citizens. CCG on public interest litigation took lead to file cases in courts of law. On shrinking civic space issues organized a regional conference for CSO leaders to deliberate on measures to push back governments and advocate for safe operating.

It is worthwhile to note that although CCG received administration support funding only, it was very timely to help in administration operations. However, even with such meager resources, CCG continued to build on existing program initiatives to remain at the center of its work during 2019 reporting period. Below are some of the initiatives that CCG accomplished/achieved for 2019:

Program Progress Highlights

1. YOUTH INVOLVEMENT IN THE NATIONAL DIALOGUE PROCESS

CCG partnered with various stakeholders like Inter-religious council of Uganda, Westminster Foundation, GLISS to implement the consultative process countrywide drawing participation of the public from the youth and women. This exercise intended to have the citizens take on the political situation in the country and capture their voices on issues of concern.

Uganda National Dialogue is both a platform and a process. As a platform, the dialogue is built as an all-inclusive, citizen owned and citizen led non-partisan process with structures and accountability mechanisms set out to take full responsibility for implementing the decisions and agreed outcomes of the dialogue. The National Dialogue platform and process is aimed to provide a space for inclusive voices focused not on positions but on principles that serve common good and interests of the People.

The National Dialogue is rooted in Uganda's Constitutional history, constitutional culture and evolving constitutional practice as evidenced by efforts over the last half a century of

independence. The half century of constitutional instability includes the years of 1969, 1971, 1979, 1980, 1986, 1996, 2005 and 2017.

The National Dialogue process seeks to address the limitations of existing constitutional and informal platforms such as parliament, NCF, IPOD to make an alternative pathway to the future, other than elections which have generated deep contestation, violence and high levels of monetization of electoral processes.

National Dialogue process is also based on the re-establishment of citizen sovereignty through the preamble of the 1995 Constitution of Uganda, "WE THE PEOPLE" and the declaration in Article 1: Power belongs to the people.

Why youth involvement in the national dialogue process?

Statistics in the previously held general elections showed that the youths had 7.7 million votes. The next election is estimated to have over 8 million youths participating. Therefore, their participation in the National Dialogue process enables them to understand, appreciate and contribute to the Uganda they want and through this process, CCG mobilized over 25,000 youth to take part in the exercise through the HOPE Initiative club members.

The future of Uganda depends on what the young people do about governance. Consultative meetings were held to hear youths' aspirations, concerns and draw their collective wisdom, practical solutions to the broader challenges Ugandans are facing today.

Issues that youth voices brought to table:

- a) Uganda cannot attain social transformation without harnessing the economic potential of her youthful population and for this to happen, young people must negotiate and be involved in the National Dialogue process.
- b) The youth were encouraged to promote effective coordination and programming of youth interventions to push for democratic, socio-economic and political development of Uganda. The recommendations from youth leaders also included:
- c) Government of Uganda should establish youth skills centers for excellence in 5 priority regions as per NDP2 objectives. These skills centers institute mechanisms to encourage youth involvement in agriculture and entrepreneurship across the value chain and promote establishment of youth co-operatives.

- d) Government of Uganda should create a special fund for acquisition of land and settlement of families especially women and children displaced by extractives industries.
- e) The youth should make a case for enhanced productivity and employability of fellow youth for sustainable livelihood.
- f) Youth leaders should push for equitable participation in decision making processes that impact youth and the community at large at all levels.
- g) The youth must demand that employers, especially foreigners should have at least 40% of the employees as Ugandans. This also calls for development of local content policies that favor local recruitment and procurement.
- h) The government of Uganda should take steps to develop local workforce by offering internships. The youths should also be given incentives for entrepreneurship like tax breaks and capital funds to support new businesses.

2. CIVIC SPACE AND HUMAN RIGHTS

1.1 Organized Press conferences on various issues as reflected below;

i) Held a press conference with implementing partners on the recall of Ugandan Passports and the issuance of the East African passports by Uganda Government on the 17th of January, 2019

Center for Constitutional Governance convened this press statement as a key stakeholder in the sector of promoting constitutionalism and promoting human rights of all citizens. CCG observation was that the citizens needed to be prepared in this transition by providing awareness programs of citizens as their right. CCG through the press conference, informed the public on the processes it was embarking on to ensure that citizens voices are heard by GoU and taking lead, filed a court case in a matter before Court challenging the recall of Ugandan Passports and subsequent issuance of the East African Passports to the citizens of Uganda without regard to any domestic legal framework and public interest.

Action by GoU under the Ministry of Internal Affairs in December 2018 following the announcement to recall Ugandan Passports and Issue East African Passports to Ugandan Citizens at a fee. The massive roll out would start end of January 2019 and all Ugandans

have only 2 years to surrender their Ugandan Passports and be issued with an East African Passport at a fee.

This presented serious issues that would require citizen's preparation through awareness raising and time to embrace the change.

We found this action by Government of Uganda irregular and therefore decided to seek redress from court in public interest Vide ***Aboneka Michael and Centre for Constitutional Governance V Attorney General (MC. 376 OF 2018)***. The matter was set for hearing on the 19th March 2019 whereas the application for a temporary Injunction (**MA. 796 of 2018**) was set for 4th March 2018.

i) Substantive Statement:

It was noted that various irregularities in this exercise would affect the practice of constitutionalism and good governance of citizens and therefore raised the following issues.

a) Travel documents to ease free movement of persons within the East Africa Community only

Article 7 of the EAC Common Market Protocol provides that States will guarantee the free movement of persons who are citizens of the other Partner States, within their territories. **Article 8** further states that the Partner States shall establish a common standard system of issuing national identification documents to their nationals which shall be the basis for identifying the citizens of the Partner States within the Community. **Article 9 (1)** states that a citizen of a Partner State who wishes to travel to another Partner State shall use a valid common standard travel document. "**Common standard travel document**" means a passport or any other valid travel document establishing the identity of the holder which includes the inter-state passes; this therefore means that any other identification document other than a passport is still valid within the EAC. This therefore means that the EAC passport does not create any special right and in any case, it will only operate within the East Africa Community only.

What then becomes the position of the holders of the East African Passports outside the community? How will the East African Passport within the ambit of the EAC Common Market Protocol be applied outside the community? Will other foreign (outside the community) recognize these passports that have been agreed upon by just 6 East Africa Countries? This remains unclear and as such, we urge the Government to think through these processes.

b) What is the guiding principle(s) for recalling Ugandan Passports?

The Ministry is re-calling Ugandan Passports for the issuance of the East African Passports without regard to any domestic legal framework. There is no guideline that has been issued to this effect. Ugandans have a right to a passport and if it must be recalled, sound reasons which may even need a regulatory framework for enforcement are necessary. We are of the view that recalling Ugandan passports through a mere public statement is irregular and jeopardizes the rights and interests of all Ugandans.

c) It is breach of contract to pay for passports again

The ministry has proposed fees (UGX 250,000 for Ordinary, UGX 400,000 for Officials and UGX 500,000 for Diplomats). By asking Ugandans to return their passports even before their 10 year expiry period at another fee is breach of contract. Ugandans pay for passports to last 10 years and the Ministry has given every Ugandan up to 2021 to have surrendered their passports. This is breach of contract, unfair and untenable.

d) There is no Sovereign State called East Africa

As there is no Sovereign State called East Africa, there cannot be therefore issuance of East African Passports. There are no citizens of East Africa, rather citizens of Uganda. What will be the applicability of East African Passports in non-East Africa Member states? What is the Government's plan on this matter? These and many other questions linger on Ugandan minds and thus need to be adequately addressed.

e) Applicability of the exercise

The Ministry has not demonstrated how best this exercise will be conducted without causing great inconveniences and loss to Ugandans. For Example, how many Ugandans know about this move? Has the mass sensitization taken place? What happens to Ugandans in Diaspora with running Visas in their current Passports? What happens when they surrender their passports for the issuance of another passport? Will the Embassies, consulates and High Commissions have the capacity to issue these passports? All these are unanswered questions about this process and the Ministry has to clearly spell out how each of these will work before they issue an ultimatum to Ugandans.

f) The legality for the Exclusive use of the National ID

One of the documents Ugandans have to present for the issuance of the East Africa Passport is the National ID. There are questions regarding the legality of the National ID as there is no law that makes the National ID a primary and exclusive identification Document. We are also aware that there are Ugandans who have never obtained their National IDs, what then happens to them? Will they be denied a passport to Travel simply because they have no National ID? This again is illegal, irregular and unacceptable.

g) The state of East Africa Community

East African integration is about the People of East Africa. It is unfortunate that the so called integration is "taking shape" without the involvement and participation of the peoples of East Africa. The people of East Africa have been participated in all processes. The treaty establishing the EAC is clear on what amounts to a valid decision of the Council. This is by way of consensus by all member states. Did Tanzania, Burundi, South Sudan agree to this council decision? Are they implementing it? Was there consensus on this matter therefore? This poses challenges of implementation of such decisions and therefore the ministry has to tread carefully.

h) What then happens to the AU Passports

The AU through its council announced issuance of African Union Passports to citizens of Africa and member states will commence its implementation. What then becomes of Ugandan citizens? Are we going to see another call for recalling "East African" Passports and subsequent issuance of the African Union Passports moreover at another fee? This will not only be unfair and inconvenient to Ugandans but will lead to great financial loss to Ugandans. The ministry has to carefully study these events and come up with a clear strategy on how the country will embrace these regional decisions and their applicability in Uganda bearing in mind the principle of sovereignty.

All we did was in Public interest and we therefore called upon the Government of Uganda to slow down, suspend the exercise and strategize on how best this issue can be taken forward without jeopardizing the rights of Ugandans and also the constitutional Governance of this Country. We went on with the matters filed in court and we hope that Court can pronounce itself on the issues raised so that we move in harmony with the rule of law.

We also called upon the Ministry of East African Affairs to involve Ugandans in the East African community affairs as much as possible because there can never be Integration without the full participation of the people of Uganda.

ii) CCG held another press conference regarding the violation of human rights in which Major Matayo Kyaligonza's assaulted a female traffic cop, Sgt Ester Namaganda and UBC Journalist, Mr. Peter Otai - a threat to rule of law in Uganda for violating traffic laws. - A press conference held on 25th February, 2019

CCG mobilized female activists from across the center to address the public and inform citizens that such human rights violations by those in the public eye and who should be observing and protecting the same gives a bad signal to citizens and should not be tolerated.

As activists for human rights and rule of law, that act was condemned, in the strongest terms possible several women voices echoed about the incident that happened in Seeta, Mukono where Maj General Matayo Kyaligonza and his bodyguards manhandled a female traffic officer when she stopped their car, after making a U – turn. The violent army men further assaulted a journalist, a one Peter Otai, who took pictures of the incident.

The concept of rule of law is the principle that all people and all institutions are subject to and accountable to law that is fairly applied and enforced. The rule of law demands that all individuals, groups or government must submit to, obey and be regulated by law, and not arbitrary actions by an individual or group.

Article 33 of the Constitution mandates all institutions, groups and individuals to accord women full and equal dignity with men. This article further mandates the state to protect women and their rights as well as equal treatment with men. Further to this, the Constitution in **Article 24** prohibits any form of cruel, inhuman and degrading treatment.

Under **Article 208** states that the UPDF shall be professional, disciplined, productive and subordinate to civilian authority as established under this constitution. A range of other laws, regional and international protocols that Uganda has ratified, prohibit all acts of violence against women in public spaces (physical, sexual, psychological).

Sgt Ester Namaganda experienced physical assault, cruel inhuman and degrading treatment which violated her physical integrity, mental health and human dignity. The same was vested on the UBC Journalist, a one Peter Otai who took the pictures of the incident and a one Okurut even attempted to stab him.

Maj Gen Matayo Kyaligonza is a Diplomat with no single entitlement to a right of way. He faulted traffic rules and then commanded his guards to assault a traffic cop on duty.

The police and army have both instituted investigations in the matter and appreciate the developments. CCG is closely following up and waits to share with the public the outcome of the respective investigations being carried out until their logical conclusions.

However, we would wish to highlight the fact that the person involved in assaulting a public officer in the course of her duties in non-other than a member of the UPDF High Command, NRM's highest ruling organ – the Central Executive Committee (CEC) and a top diplomat (Ambassador). His conduct is contrary to the conduct expected of persons

occupying top leadership offices in the country including representing the country abroad.

CCG and other stakeholders in activism demanded that;

1. That Ambassador Kyaligonza resigns with immediate effect
2. That he should be arrested and prosecuted for the violence and the assault he occasioned on Sgt Namaganda yesterday
3. His two bodyguards who should have been arrested should be tried in public courts as a deterrent action and not the army disciplinary courts
4. The army and police officers in the nude arrest of the unidentified woman should be arrested and prosecuted
5. All impunity by security officers should not be tolerated, in all spaces.

iii) Press conference on more attacks of women by security officers in Public Spaces

The country witnessed the army and police in a nude arrest of an unidentified woman. The media clearly reported what was on ground and showed elaborate pictures and videos how woman was undressed, manhandled, and bundled under the chair of the police pick up.

Relatedly due to active political trends especially concerning election malpractices were some MPs lost their seats and such constituencies organized by-elections, the country witnessed several acts of Officers in security organs (UPDF and Police) beating up civilians on the streets. CCG noted that this was unconstitutional and was a mistreatment of citizens. Notable among such actions is the clobbering of People Power supporters after Arua, Bugiri and Hoima districts with high incidences.

3. CAMPAIGN AGAINST SEXUAL HARASSMENT AT WORKPLACES.

Center for Constitutional Governance did collaborative work with Chapter Four Uganda, through the Women's Movement on 20th May, 2019 about allegations in media of sexual harassment in the Ministry of Justice and Constitutional Affairs to demand for decisive action on sexual harassment against women in Uganda after Ms. Samantha Mwesigye released a heart-breaking statement (on 9th May, 2019) detailing her sexual harassment

ordeal spanning 14 years, allegedly at the hands of her supervisor. After seeking for justice through established structures at no avail, she was compelled to the media to give voice to her concerns.

According to the Employment (Sexual Harassment) regulations 2012, sexual harassment involves a direct or implicit request to an employee for sexual intercourse, sexual contact or any other form of sexual activity; use of language whether written or spoken of a sexual nature such as unwelcome verbal advances, sexual oriented comments, request for sexual favors, jokes of a sexual nature, offensive flirtation or obscene expressions of sexual nature such as display of sexually suggestive pictures, objects of written materials or sexually suggestive gestures; and or showing physical behavior of a sexual nature such as unwanted and unwelcome touching, patting, pinching or any other unsolicited physical contact.

However, despite presence of legal provisions outlawing sexual harassment in employment, the vice remains and is rarely reported for fear of retaliation and victim blaming. The framework falls short in effectively protecting female employees as the Employment Act, 2006 puts obligation only on employers with more than 25 employees to put in place measures to prevent or investigate sexual harassment in their workplaces.

Laws on sexual harassment in Uganda are not effectively implemented thereby creating a culture of impunity since perpetrators are rarely held to account. As a result, employees choose to remain silent and are forced to work in hostile environments consequently impacting on their work productivity and undermining their psychological and physical wellbeing.

The Government of Uganda was called upon to;

1. Revise Regulation 13(2) of the employment (sexual harassment) Regulations, 2012 Regulation to scrap out the option of temporary transfer of persons accused of harassment pending the completion of the investigations. The provision is problematic because it overlooks the danger the accused might pose to employees at the new station of duty.
2. Revise the law on Sexual Harassment to (a) include comprehensive steps and measures to prevent and respond to sexual harassment in the workplace: (b) remove limitation on the number of employees required before an employer can put in place measures to prevent or investigate sexual harassment in their workplaces. (c) clearly describe the procedure through which an employee can

file a complaint of sexual harassment and (d) emphasize full confidentiality to prevent and address retaliation that could arise from reporting cases of sexual harassment.

3. Conduct regular trainings of relevant stakeholders, including judicial officers, police and prosecutors to build their capacity on how to effectively respond and handle cases of sexual harassment.
4. Conduct sensitization programmes to empower employees with knowledge on the reporting procedures. And conduct regular audits of workplaces to assess, examine and capture the extent of sexual harassment in the workplace, respond to sexual harassment complaints, address root causes and devise ways to build healthy and safe working environments where employees- women and men can thrive.

4. ELECTORAL REFORMS

CCG participated in different electoral reform processes as below;

- Review of the laws and proposed amendments engaging citizens countrywide to communicate the process and how it feeds into the national level program.
- CCG as a key stakeholder was among the team that presented the outcomes from the process to parliament through the Legal Parliamentary Affairs committee

5. REGIONAL AND INTERNATIONAL COLLABORATIONS

In an effort to continue the civic space program, CCG was able to participate at national, regional and international levels. The civic space has become a determining factor in the governance sector and continues to be a great concern by stakeholders in CSO. Thus CCG participated in Arusha -Tanzania, Nairobi -Kenya, Thailand and in the Neitherlands where other CSO leaders shared the future of civic space realities in their countries and how other CSO's around could prepare to survive while doing their work in democracy.

Challenges faced during the reporting period

During the 2019 reporting period, CCG faced many challenges as below;

1. Limited funding for its programs forced CCG to scale down on existing program initiatives.
2. The changing operation civic space in Uganda made the work by CCG very critically scrutinised by government agencies. This has forced the administration to institute security measures and installed cameras at the premises
3. The human rights abuses escalated in the country as the media reports indicate the high incidences and CCG would have had several citizens helped but the probono services was limited because facilitation to lawyers to follow up on places where the people were being imprisoned was costly. This made it almost impossible to extend legal services for the youth activists because of the limited pool of probono lawyers and the risks associated on their personal security.
4. Due to limited engagements with the university students through the HOPE Initiative clubs, there were transitions because some student club members had completed their courses and others needed to be elected in leadership creating a leadership vacuum.

Lessons Learnt

- Embracing partnership working arrangement, builds synergies and brings out strong abilities in each of the organisations. This has to be continued for all CCG programming.
- Restricted Civic space is a reality for CSOs working on governance and democracy and this has to be work in progress to identify survival tactics in a harsh working environment.

CCG 2019 YEAR IN PICTURES



A cross section of youths attending a National Dialogue consultative process in Kampala



Youth attending a National Dialogue consultative process in Lira



Women attending a National Dialogue consultative process in Soroti



Women attending a National Dialogue Consultative Process in Kabale



CCG participation in the campaign against sexual violence at the work place



Campaign against sexual violence at the workplace



Twitter online dialogue against sexual violence at the workplace moderated by Ms. Sarah Bireete, Executive Director, CCG



Civil society leaders press conference on delayed enactment of electoral reforms



Civil society leaders' presentation on proposed electoral reforms before the legal and parliamentary affairs committee led by Ms. Sarah Bireete.



Press conference on assault of Sgt Namaganda by Amb Kyaligonza hosted by CCG



Press conference at High Court after filing of the case against UCC suspension of 43 media bosses over live coverage of Bobi Wine arrest



End of year civil society press conference in Entebbe with Ms. Sarah Bireete addressing the press on civil and political rights in Uganda