



# **Economic and Social Rights Advocacy (ESRA) Brief**

November 2020 - Issue 12



## **2021 General Elections: Voting for Quality Service Delivery**



# Acknowledgements

The Economic and Social Rights Advocacy (ESRA) Brief is a publication of the Initiative for Social and Economic Rights (ISER) whose goal is create awareness, encourage and stimulate national debate around social economic rights as well as act as a knowledge exchange platform for stakeholders and the broader Ugandan populace.

To contribute to future editions of ESRA brief, email the editors at [info@iser-uganda.org](mailto:info@iser-uganda.org)

ESRA brief is also available online at [www.iser-uganda.org](http://www.iser-uganda.org)

**Executive Director:** Salima Namusobya

**Editors:** Angella Nabwowe Kasule & Nokukhanya Mncwabe

**Design and Layout:** Opiny Shaffic

The ESRA Brief is published with support from



# Contents

---

**Introduction      Page 1**

**Can Elections Work? The 2020 Annual National Conference on Economic Social and Cultural Rights on Elections and Service Delivery      Page 2**

**Elections as an Accountability Moment: Highlights from Speakers at the 2020 Annual National Conference on Economic, Social and Cultural Rights      Page 8**

**“We Need to Strengthen the Demand Side of Our Politics,” Q&A with President General of the Democratic Party - Hon. Nobert Mao      Page 11**

**Education for the Rich, Schools for the Poor!      Page 15**

**A Look into the Growing Trend of Commercialization of Education under the NRM ahead of 2021 Elections      Page 18**

**“We will Reclaim Public Schools and Pass National Health Insurance”: Q and A with the National Unity Party (NUP) Deputy President Dr. Lina Zedriga and Secretary General David Lewis Rubongoya      Page 21**

**The Right to Adequate Housing Should be Prioritised in the Electoral Agenda      Page 24**

**The 2021 Ballot Choice: Making a Case for Enhanced Health Service Delivery in Uganda      Page 26**

**Analysis of Uganda’s Elections as a Mechanism for Social Justice Accountability      Page 29**

**“Government Must Play a Key Role in Service Delivery”: Q and A with Spokesperson of Forum for Democratic Change (FDC) Party, Hon. Ibrahim Semujju Nganda      Page 31**

**Elections and the Quest for Accountable Governance      Page 33**

**Casting a Vote for Accountable Members of Parliament in Uganda, 2021      Page 36**

**Campaign Financing: Encouraging a Deficiency in Political Competition and Quality Service Delivery      Page 38**

**2021 General Elections: The Impact of Campaign Financing on Quality Service Delivery      Page 40**

**The Justice System as a Mechanism for Redress and Political Accountability      Page 42**

**Fixing the missing link in Foreign Investment      Page 45**

# Introduction

The focus of this 12<sup>th</sup> issue of the Economic and Social Rights Advocacy (ESRA) Brief, produced by the Initiative for Social and Economic Rights (ISER), has as its theme: **2021 General Elections: Voting for Quality Service Delivery**.

The publication of this ESRA Brief is timely, given that the current term of office for Uganda's elected leaders expires on the 12<sup>th</sup> of May 2021. As has become customary, those contesting for different offices/positions will, over the next few months, be laser-focused on ensuring that they campaign successfully and get elected at the next polls scheduled from 10<sup>th</sup> January to 8<sup>th</sup> February 2021.<sup>1</sup>

This edition implicitly asks Ugandans to refrain from getting caught up in the frenetic energy of political campaigning and to critically assess the extent to which incumbent politicians and parties have delivered on the promises made in previous manifestos; whether and to what extent they have been held accountable for failing to deliver on their mandates; it asks citizens to consider the ways in which they may be complicit in entrenching an electoral system that prioritizes short-term patronage over long-term service delivery; and the electoral system itself is critiqued, in the light of the constraints Uganda faces within a global political and economic order, which has budgetary and policy implications for its ability to practically achieve the economic and social rights to which its citizens are entitled.

However, this edition is not only backward-looking: representatives of several political parties, namely: the Democratic Party, National Unity Platform and Forum for Democratic Change were interviewed regarding their respective parties' manifestos, particularly their economic and social rights commitments, which have implications for the provision of education, healthcare and social protection in the country among other pertinent issues key for development.

Finally, highlights of the 7<sup>th</sup> Annual National Conference on Economic, Social and Cultural Rights, which was hosted on 27<sup>th</sup> and 28<sup>th</sup> of September 2020, under the “**Election Promises, Political Accountability and Service Delivery, a Reality Check**” are included, elaborating the various perspectives and observations – from academics, to policy-makers to the common Ugandan – about the wide-ranging social, historical, political and economic factors that have impacted – both positively and negatively – Uganda's political terrain, the manner in which political power is contested, the involvement of citizens in this process, and the ways in which (or not) accountability is understood and ensured.

We trust that this ESRA Brief will be instructive to debates and dialogues in Uganda leading up to the general elections in 2021.

---

<sup>1</sup> Uganda Electoral Commission Strategic Plan and Road Map to the 2021 general elections



## Can Elections Work? The 2020 Annual National Conference on Economic Social and Cultural Rights on Elections and Service Delivery

By Angella Nabwowe Kasule<sup>1</sup>

“We are at that time of year when more than a million people will be... criss-crossing the entire country asking for a mandate to lead. And most... will tell us that they are going to change our lives, and in most cases they won't. For those who are incumbents, the question is going to be: what have you done? And for those who are new, the question is going to be: what can you do? You, as a Ugandan today, you have the power – because the leaders are coming before you to seek your mandate because you have the ballot, if you honour that ballot, you can perhaps add value to your life, community and to your country. But after we have elected our leaders, how many of us go back to ask for that accountability? Yes, we know we deserve better!”

This was the opening statement from Television host, Patrick Kamara, as he kick-started NTV's live broadcast of the first day of the 7<sup>th</sup> Annual National Conference on Economic, Social and Cultural Rights hosted on 27<sup>th</sup> September 2020. In simple terms Kamara's statement explained the conference theme “**Election Promises, Political Accountability and Service Delivery, a Reality Check.**” The conference was organized by the Initiative for Social and Economic Rights (ISER), the Public Interest Law Clinic (PILAC) of the School of Law at Makerere University and the Uganda Consortium on Corporate Accountability (UCCA). The keynote address was delivered by Dr. Kabumba Busingye, Lecturer, School of Law at Makerere University.

Dr. Kabumba's keynote reflected on aspects of Uganda's history, which was described as holding many truths and insights for the country's contemporary electoral experience and service delivery. Dr Kabumba drew viewers' attention to a list of history books – just a sample in his collection – which address Uganda's history. Some of the titles that stand out



include: Mutibwa Muksa's 'Uganda Since Independence - A Story of Unfilled Hopes;' Henry Kyemba 'State of Blood;' ; Martin Alier's 'The Bell is Ringing;' William Pike's 'Combatants;' Daniel Kalinaki's 'Uganda's Unfinished Revolution;' Olive Kobusingye's 'The Patient;' John Kazoor's 'Betrayed by my Leader;' and Sam Njuba's 'The Betrayal.' Dr Busigye noted that the theme running throughout these books is a depiction of crisis, betrayal, and a dream postponed or deferred...

He also referenced a poem by Langston Hughes entitled 'Harlem,' posing a few questions, most notably what occurs to a deferred dream? Does it dry up like a raisin in the sun? Does it stink like rotten meat? Or does it explode? Specifically, in relation to Uganda: what has happened to it's unfilled hopes? What are the implications of Uganda's deferred dreams? In Dr Busigye's view, Uganda is a

<sup>1</sup> Angella Nabwowe Kasule is the Programs Director at the Initiative for Social and Economic Rights (ISER)

country ill at ease with itself; a country in crisis, which has undergone a number of traumas, causing its hopes and dreams to be stifled, deferred.

Dr Kabumba traced the story of the Ugandan project to the deposition of Uganda, the imposed agreements of the 1900s, citing for example the Native Authority Ordinances of 1919, the Bataka risings of 1920s, the 1933 Bunyoro agreement, the deportation of the Kabaka in 1952 and 1953. He noted that Uganda is a story of back-and-forth for various peoples, whose hopes were thwarted at various points. It is unsurprising then that the country held its first elections in 1958, whilst it was still the Ugandan Protectorate, four years shy of independence. This means that for more than half a century Uganda experienced rule without democracy, which is important to note because it signals a dream deferred for so long, perhaps it laid fertile conditions for political foment.

Kabumba narrated a series of elections that ended in the 1962 compact; however, he hastened to add that following Uganda's independence, a downward trend was observed, which was characterized by unfilled hopes – most notably, the 1966 crisis, Idi Amin's coup of 1971, the 1981-1986 war and the period from 1986-to date.

### Unanswered questions

Kabumba notes that reading Uganda's history unearths many questions, a number of which are unsettled... simmering as they await resolution, failing which they may well catalyze social or political explosions. Such questions include *inter alia*: the land question, the Buganda question, the lost counties question, the northern question, the Asian question, the Muslim question, and the military question. While these are older national questions, new ones are constantly arising – such as for example, the oil question, the youth question, the unemployment crisis question. He referred to these as boiling pot questions, which manifest as tensions in various ways.

This begs the question: in a social and political climate fomented by such questions, can elections really work? Is it even proper to speak of elections in a country like Uganda? Kabumba was skeptical, denouncing the ritual of elections as the answer to the country's historical, socio-political and economic challenges. In such a context, are the oppressed genuinely capable of free speech and unconstrained choice? And can elections be considered an effective form of communication for oppressed persons?



Children drawing water from a community well in Kilokole Zone, Ntawo Ward in Mukono Central Division, Mukono District. This community well serves over 600 people. There is no safer source of water in the area.

## “*Tusaba Gavumenti Entuyambe*” – The Presumption of State Power!

Dr. Kabumba’s analysis of Uganda’s problems, tracing back to colonial times, landed on different dimensions and root causes. One dimension of the problem is the presumption of state power, the idea of the state being all powerful, with a popular citizen begging phrase “*Tusaba gavumenti entuyambe*” literally translated as “We ask the government to help us.” He found this problematic on three grounds. Firstly, it fails to take into account the continuing sub-national identities that have persistently struggled for recognition, for example the Buganda question and the Nile Republic issue. Secondly, the financial clout wielded by companies makes it possible for them to exert their corporate muscle in the policy terrain, with MTN presenting a useful case study. Thirdly, the idea of an all-powerful Ugandan government fails to factor the broader influence international structures and forces exert on the government, as attested by Africa’s status as a marginal player on the global stage, contributing only 2 percent of the world’s trade.

Kabumba explained that when we talk about service delivery and try to understand why, for example, there are no drugs in Nakaseke Hospital, or there are students lacking access to learning materials, or teachers who are not paid despite reporting to work...it is fair to say that government has not provided these public goods; however, the story is incomplete if one does not take into account broader international legal and economic relations and regimes. Economic factors in particular, make it difficult for governments to finance the provision of public goods and services. So, the presumption of governmental power is often problematic, overstated, and flawed. Kabumba cited the example of access to medicines in Uganda, explaining that pharmaceutical trade is subject to international agreements, with extensive and aggressively asserted intellectual property rights largely foreclosing more affordable options. As distant as international regimes may appear, they are relevant for, and directly impact, Uganda’s ability to effectively meet its citizens’ needs.

## Can the person at the periphery of the empire speak?<sup>2</sup>

Another question posed by Dr. Kabumba was whether in the context of multi-layered contemporary “slaver,” the person at the periphery of the empire could be understood to have the agency to speak freely on matters of global importance? If they can, should elections be recognized as a form of free speech? Kabumba was of the view that elections are too narrowly focused: they ignore the complexity of the social challenges confronting African states, and have the potential to legitimize problematic situations both at the national and international level.

Kabumba compared elections to the one hour of exercise a prisoner receives – ostensibly to positively maintain their mental and physical health. What, in such a context, should the prisoner focus on accomplishing within that one hour? Should the prisoner fixate on the jailer, on whom one is dependent for release – even though the jailer is himself largely confined to the prison? Or will the prisoner be better served by focusing on the other 23 hours at his disposal? Dr. Kabumba painted a picture of electoral promises made, wherein the population recognizes themselves to be like the prisoner with just one hour of exercise every 24-hours; hence they too grab whatever they can during this window of opportunity – this may assume the form of extorting as much money as possible from politicians to tide them over the “23 hours” (the period in-between elections). Prisoners run around, nominations are held, the prison warders provide buns and bread -in this case it is going to be districts, hoes, operation wealth creation... In this time of Covid-19 it is masks, radios and posho.<sup>3</sup> The bread provided during that one hour of freedom is akin to a school setting, in which school administrators provide pupils with rice and beef on the school inspector or parents’

2 Drawing on Gayatri Chakravorty Spivak’s (1988) ‘Can the Sub-altern speak?’ Basingstoke: McMillan  
3 Maize flour



visitation day to convince them that the children eat well throughout the term.

Elections, similarly, have simply become empty rituals. Dr Kabumba identified Kato Lubwama, Member of Parliament representing Lubaga South Constituency in Kampala, as the only honest politician, because in the previous election campaign he openly disclosed to voters that they should vote for him so that he could have the opportunity to eat [fulfil his personal interests]; whereas in this election campaign season, he is appealing to voters to elect him so that they can eat together [share Parliamentary spoils]. This is an honest account of how the political system really functions, not only in Uganda but in most African countries.

Dr. Kabumba noted that the question of elections and service delivery is a peripheral one, assuming as it does that the voting process can be improved; however, in our context, this is deeply problematic. It is not merely procedural changes that are needed, but more deep-seated and fundamental structural, and systemic changes to the structure and functioning of the state, so that it is more self-directed on the international front<sup>4</sup> and more citizen-centred and responsive domestically. The inward and outward-focused processes must converge, otherwise the ritual of self-deception currently played out in the elections will persist as a celebration of marginal freedom that is of little utility.

Dr. Kabumba cautioned that apart from the constraints and flaws of the 5-year ritual [elections] there are deep questions Ugandans must answer – instead of ignoring them in the hope that they, along with the social ills they surface, will simply disappear. Questions of legitimacy and sub-national aspirations and whether it is perhaps time to consider changes such as a federal structure...all of which may contribute to the abatement, or diversion of potential social or political crisis or even civil conflict. More foundational solutions may have to be explored to supplement the five-year ritual whose outcome we know even before it is concluded.

*“Each year, the conference has canvassed contemporary topics. This year’s conference on elections and service delivery is timely in that context. We are also glad that the attendance is mainly of youth who are relevant to this discourse.” Professor Christopher Mbazira, Principal School of Law at Makerere University.*



<sup>4</sup> Which requires a frank discussion on how to more effectively and impactfully bring Uganda and the African continent into international diplomatic, legal and economic structures and processes



***"Persons with disabilities are left out of policy and budgetary decisions. They are not included in many political party manifestos because they lack adequate representation." Florence Ndagire.***



***"Politicians invest in elections and as such when they succeed, their immediate desire is to have a return on investment. Politicians have their own systems of service delivery which is independent of the official government position." Isabella Akiteng, Managing Partner Femme Forte***



***"It is important to recognize the role of patronage in shaping service delivery issues. This makes service delivery issues become secondary. Money injected into election processes also causes inflation which affects service delivery further." Perry Aritua, Executive Director, Women's Democracy Network***



## Elections as an Accountability Moment: Highlights from Speakers at the 2020 Annual National Conference on Economic, Social and Cultural Rights

**Ms. Salima Namusobya – Executive Director, Initiative for Social and Economic Rights (ISER)**

The service delivery challenges Uganda faces cannot be understood in isolation: the prevailing political leadership and how the country exercises accountability is crucial to this insight. Elected leaders wield considerable power: how they exercise this is directly linked to the services citizens can attest to. We need to perceive the election mandate entrusted to public leaders as a social contract: we confer power/authority upon them, and agree to pay taxes, in exchange for the responsible utilization of said revenue for the provision of quality public services beneficial to the majority of citizens, the poor in particular. During election season the poor are in demand, with every leader pandering to them, and boldly making promises that quickly dissipate, along with the leaders in question, once election results are announced. Elected official's policy choices are intrinsically linked to what we, the electorate, receive in the form of public goods and services (both the level, quality and outputs prioritized for service delivery).



You have an ordinary person crowdfunding to be able to pay their hospital bill because they have been detained in Nsambya Hospital; but the elected leader is flying abroad for treatment and the money they are using is tax payer's money or money borrowed externally that tax payers will ultimately have to repay. Many of our elected leaders have run away from the public education system, preferring private or international schools for their children or even sending them to study abroad. Yet, the people who vote them into power, who through their tax contributions are actually the ones paying the fees of politicians' children, must be satisfied with public schools, that are not properly resourced, for their own children.

This is why it is very important to think through the leadership that we bring into office, and this is why we should use elections as an accountability moment, where people start asking these leaders questions about corruption, accountability, failures they have had...and a clear commitment must be made not to re-elect people who consistently fail us.

**Hon. Gerald Karuhanga - Member of Parliament Ntungamo Municipality**

Our country's story reveals that we still have a lot to tackle. We cannot expect accountability to be instituted by a regime that pays MPs 5m shillings to change a Constitution for the benefit of one individual, the President – instead of all citizens; a regime that has invaded Parliament. I have been a member of the Parliamentary Public Accounts Committee for over 7 years, during which time I have seen ugly things. You have a Permanent Secretary, who is





given billions to procure vehicles for all district chairpersons in Uganda: the fellow does not buy even a single tyre for a vehicle for himself, he still walks Kampala's streets. If there is anything that this regime has mastered it is public relations and maintaining good impressions. Give people the impression that we are a caring government, we pursue corruption or corrupt individuals, we make sure that citizens have access to functional healthcare facilities... This is all largely window dressing. The Auditor General writes interesting reports, we write reports as Committees of Parliament – but what is contained in those reports is a completely different picture to what the regime has worked to impress Ugandans.

### **Mr. Edgar Tabaro - Advocate**

A leadership can only be accountable to the extent of its citizenry's civic competence and engagement. If the citizenry does not seek accountability from the leadership, the leadership will act with impunity. There are mechanisms to hold people accountable. Are we engaging the structures enough, are we going to court enough, are we calling MPs to order?



### **Hon. Nobert Mao – Democratic Party President General**



I want to confess that many of the political parties are focused on the election season. They behave like pythons during the election season, they are very busy then they go into hibernation until the next election when they wake up. They are driven by hunger for public office. I want to pledge that that is going to change, especially in the party I lead.

It is true that the demand side of our politics is very low. During election season, citizens have an opportunity to demand

accountability and they can do it more creatively by not waiting for the politicians to convene the meetings. ISER for instance can organize Town Hall meetings for contestants to address a Town Hall, to be held to account publicly. That will make politicians respect citizens. I am for the strengthening of the demand side of politics so that politicians can know who their true masters are.

### **Ms. Sarah Bireete - Executive Director Centre for Constitutional Governance**

Elections in 2021 are likely to be a grand public auction, the highest bidder takes the public seat. Going by the money we saw being distributed in NRM primaries, coupled with the violence, it was an election of guns, goons and money. Leaders, especially NRM leaders, should be concerned by the state of affairs in this country: we do not have an election but a public auction coupled with violence. We need continuous civic education to strengthen the demand side.



### **Hon. Anna Adeke Ebaju - National Female Youth Member of Parliament**

The right of recall does not exist anymore, this should be reviewed.



### **Mr. Andrew Karamagi Human Rights Advocate**

Leaders should be held accountable from the day they step into office until the next election cycle. Elections are not an event but a process.

If we can move beyond a person who has attended the most burials, then we can have outcomes from the people we vote for. What, for instance, is the role of legislators [MPs]?

You will find that the kind of promises they are

making to their voters have nothing to do with what is in the Constitution or the Acts that create the institutions they serve or belong to. No one is talking about legislation, representation, appropriation or oversight. They are all promising things that should be outcomes of their legislative work. They are promising hospitals, buying ambulances, the things look good, they attract the cameras, excite the voters but in fact they do not answer the problems or actual issues that should be of concern to voters. People should be able to debate real issues like what healthcare is best for Uganda: public or private? That is the level of inquiry we should be making as voters, so that we are not short-changed by leaders who offer us one slice of bread yet we could take the whole loaf or even the bakery itself. We need to recall people who do not uphold the mandate for which they were elected.

### **Lwanga Charles Butayi – Voter**

Leaders lie, they have to recover the money they spent in elections. They [make] promises, but do not deliver. If God can help us get good leaders to do good work in our community.



# “We Need to Strengthen the Demand Side of Our Politics,” Q&A with President General of the Democratic Party Hon. Nobert Mao<sup>1</sup>



**Question 1: By offering yourself as a candidate for the next general elections, you are entering into a social contract with the citizens of Uganda. What is your policy on education, health, and social protection as the Democratic Party (DP)?**

**Answer:** Many Ugandans have access to education, what we need to invest in now is quality. Government has invested a lot in hardware by building teachers’ houses, building classrooms – but they also need to invest in software, not just hardware, because the latter alone does not amount to quality education. We believe that we should invest more in teacher training, equipping schools with books, improve the classroom environment and improve physical education. Our policy as DP is all-round education: we must build pupils’ bodies, so that they are healthy; build strong minds capable of analyzing and understanding. We must build the social environment, the spiritual life of pupils. That four-dimensional approach to education is the cornerstone of our policy; build the mind, the body, the spirit and social skills.

Uganda needs an education that is relevant. As DP we want to refocus education to aim at equipping people with practical skills. As a young boy I learnt practical skills, I studied woodwork, learnt how to mend shoes, how to fix a bicycle...because that was the main means of transport in the village where I grew up. I learnt how to stitch.

I would invest more in Polytechnic Education, we need Ugandans to value those who make things; someone who can make shoes, furniture, clothes – that is our focus as DP. In Higher Education, our focus will be on research: you can’t have a university which is a net consumer of knowledge, it must also produce knowledge. Currently the research that is conducted has turned our academics into sub-contractors, you find that they are conducting research which is conceptualized by and useful to people in foreign universities and countries.

**Question 2: What is your position on the proposed National Health Insurance Scheme (NHIS)? What measures would you take to reduce the huge out-of-pocket health expenditure affecting most Ugandans ?**

**Answer:** We are not a very rich country. The DP’s policy prioritizes prevention. We can’t wait for people to get sick. We will fail. So, it means access to water, more than anything else. Dirty water is

<sup>1</sup> Hon Nobert Mao is also former Member of Parliament for Gulu Municipality, Former District Chairperson Gulu and Former Guild President Makerere University.



the main cause of disease like cholera and typhoid. We would take an integrated approach to disease prevention.

We believe in universal access to health. NHIS shouldn't be a one-size-fits-all approach. For instance, I am a chairman of a cooperative society whose members grow sugarcane. When we pay our members for their sugar cane, we deduct some money to cover health insurance. It is possible to do a similar community-based approach. We should be more creative to properly meet the needs of every Ugandan. We also believe that children under 5 years of age should receive state-sponsored, free medical attention. Either you invest in the health of children below the age of 5 or you pay later on in their lives. It is like front-loading prevention: children who are well cared for between the ages of 0-5 become more resilient. As DP, we support health insurance, but we do not believe in one rigid system centered on the state, because this is likely to have many loop holes. We believe it should be mixed: if you have an association of vendors, they should have a way of securing the health of their members. I do not trust over centralized things.

**Question: On social protection?** We believe social protection starts with citizens having access to the means of production; government's role is only to help people with stop gap financing. Land rights are the most important means of social protection and facilitating access to education. DP is studying the Brazilian model of conditional cash transfers, which are paid out as monthly stipends to vulnerable families on condition they perform certain responsibilities. For instance, married couple are more likely to be selected because the state wants to encourage people to have stable families; and if you take your children to school and don't abuse drugs then you are virtually guaranteed to be eligible. This is the route the DP wants to take – we don't believe it should be restricted only vulnerable people.

**Question: Social services including education, health and social protection tend to be over shadowed by defense, security, infrastructure (roads). How can this be corrected to achieve a balance?**

**Answer:** Decision-making on budgets is over centralized, which creates a glaring loophole that leaves the whole process open to corruption. Decision-making on financing and budgeting should be taken to lower levels of government: I would increase unconditional grants rather than relegate expenditure decisions to Kampala. When I was Gulu District Chairperson, I found that we were basically sub-contractors of central government, because they would send us money and instruct that this amount is for teachers' salaries, this amount for building classrooms, this one for road maintenance. I used to ask myself: what is the role of the district council? Just to rubber stamp what is decided in Kampala? We in DP believe in the principle of subsidiarity, that decisions should be made at the lowest possible political levels. I think that is what an empowered society is about. I think central government can even create penalties for those elected leaders who fail to account, because when you are penalized, then society will know that the people entrusted with our public resources are the ones responsible for any mess we find ourselves in.

Improving prioritization is not about how best to allocate what is available, it is also about stopping wastage. I think we can free up a lot more resources, by fighting corruption, for example. Nevertheless, budgeting is also a response to citizens' demands for a society that is organized and capable of demanding answers and accountability from its elected leaders. Look at Kampala, people just say, when will Kampala Capital City Authority (KCCA) fix our roads? I have never heard of a petition to KCCA about bad roads. I have never seen people whose homes get flooded in Bwaise take a petition to the Lord Mayor. The demand side of our politics needs to be strengthened. They say it is the hinge that creaks that gets the grease, if a hinge is too silent, it doesn't get any grease.



**Question: How can we address long term governance problems and structural weakness that COVID-19 has revealed and reinforced as regards health, education and social security and protection?**

**Answer:** I think the most important lesson of COVID is the central role of the state in solving social problems. The policy of the current government is to privatize everything. The government believes that their only job is security and infrastructure, and people have to fend for themselves when it comes to the rest. COVID has shown the severe limitations of the private sector; in fact, COVID has exposed the private sector's weaknesses. Those who underestimated the role of the state have received a rude awakening, even developed countries. I never thought I would ever see America distributing cash to citizens, because this is so contrary to their economic ideology. The role of the state has to be expanded to things like rent control, something which we are not supposed to do because we are a market economy, the role of the state is key in reducing school fees, intervening in what citizens have to pay to get access to private healthcare, all these are things that we never foresaw.

**Question: In recent times, there are ideological debates on which model (private or public) to adopt for effective quality service delivery, particularly in the education and health sector? What is your take on this notion?**

**Answer:** The state has been humbled enough to realize that their optimism about the role of the private sector was exaggerated. COVID has opened our eyes, we cannot rely on the private sector, not even for access. The private sector has failed the test. COVID has strained market forces more than any other thing. Fortunately majority of the most progressive policies come after a crisis: Britain may not have the NHS if not for the Second World War; they may also not have adopted public housing initiatives were it not for Germany bombing London so extensively, motivating the government to build affordable houses...so perhaps COVID will present some silver linings for us in Uganda. Government has discovered that the so-called big companies are actually the most vulnerable to disruptions – the Namanve Industrial Park, for example, is virtually closed because no one is making bulk orders.

**Question: Data collection and management is a critical component for effective planning and budgeting. How do you plan to improve the data collection system?**

**Answer:** The weaknesses I see are not so much related to data collection, but data classification and analysis. I believe the raw data is there. NIRA [National Identification and Registration Authority] has a lot of raw data but I think it is mainly used for security purposes or to classify information which may not be very useful. The Uganda Bureau of Statistics (UBOS) is just there in name. Ideally UBOS should be the entity crunching relevant numbers – such as, for example, the percentage of unemployed Ugandans, the ratio of teachers to pupils in public schools or medical personnel to patients in public healthcare facilities, and so forth. We need to invest in analytics capabilities and infrastructure: raw data is useless just as raw intelligence is useless, unless it is intentionally mined and used for a targeted purpose. In the education sector, for example, it is imperative to know how many teachers we actually have, which could be determined through a headcount (I am sure there we may identify ghost teachers, in the same way we've previously identified ghost soldiers). Health-related data would also be beneficial, for example to guide the procurement of medication, based on a needs/demand analysis. We have heard of drugs being dumped because they just rot in medical stores – this is because we do not do data analysis to determine what is what. Housing is the other area that would be well-served by data: we need a better understanding of the demand and supply side of things so that government can invest in closing the gap identified. Data is central to planning; therefore, we need to close the gap in data availability, classification,

analysis and usage. Data is very useful in helping government to more effectively and efficiently respond to social problems.

**Question: What innovative approaches do you envisage to protect livelihoods and incomes, including programs to address youth unemployment going forward?**

**Answer:** Unemployment is a global phenomenon; it is not unique to Uganda. We can no longer respond to unemployment in the old traditional ways, where companies entice university graduates with offers of cars and mortgages – that time has passed. Permanent employment and pensionability is also a thing of the past. The most important priority now is to learn how to keep on learning. Anybody who is not continually learning is bound to stagnate. I believe Polytechnic Education is one answer to unemployment: we need cottage industries and to teach people entrepreneurship skills.

# Education for the Rich, Schools for the Poor!

By Andrew Karamagi<sup>1</sup>

Education is a common feature on the manifestos of many political parties in Uganda. Frequently the term ‘education’ is accompanied by such words as “quality”, “completion rate” and “capitation grants,” with little attention paid to the commoditisation of what should be an accessible public good.

This article contends that Uganda’s socioeconomic progress is contingent on the strengthening of its formal learning system. For over two decades, since the introduction of Universal Primary Education in 1997, there has been a surge in elementary level enrolments; but this is not matched at tertiary level.

In part, this is attributable to the privatisation of education, which has happened alongside *Bonna Basome* (‘education for all’).

The media’s annual ranking of schools, based on the number of pupils who score the highest grades in the Primary Leaving Examinations, has drawn the dividing line between private schools (still largely a preserve of the middle classes and the wealthy) and public schools (markedly for the less privileged) with the former generally outperforming the latter.

Middle class parents—disdainful of UPE—fork out upwards of five hundred US dollars each school term in comparison to the Government, which allocates an annual capitation grant of three US dollars for each learner in the public primary school system.

Whereas private schools offer two meals a day, practical lessons in laboratories to augment classwork; exposure to electronic learning aids; and a broad spectrum of extracurricular activities and excursions; public school counterparts do not typically supply school meals, offer practical laboratory classes and only a limited number of extracurricular activities and excursions. Yet once the seven years of elementary and intermediate schooling are concluded, both groups sit the same national exam!

Instead of bridging the inequalities rife in Uganda, education has become weaponised, fuelled by the patently callous policy of automatic promotion to the next class, regardless of performance; which is accelerating socioeconomic disparities in the country. It is little wonder then that successive studies by *Uwezo*, an education research publication, present dismal findings regarding literacy, comprehension, and numeracy rates within the public system.

In 2007, the education gamble started at primary level was extended to secondary education. Sadly, it has followed a similar trajectory to its predecessor, presenting no different outcomes from UPE, which has, cynically, been renamed *Bonna Bakone* (‘let them waste away’).



A teacher at Atutur Primary School in Kumi District teaches pupils seated on the floor due lack of desks

<sup>1</sup> The author is a lawyer and social justice activist.

## Today, privatisation has metastasised

According to the website of the Ministry of Education and Sports<sup>2</sup> “since the Government of Uganda’s decision in 1993 to liberalise the education sector, thousands of schools and institutions have been set up by private investors. In the secondary sub-sector, the number of private schools, at about four thousand, is more than double the number of government-funded schools.”

As a consequence, schools are a lucrative business – both for their proprietors, and the incumbent government, which reaps billions each year in corporation tax.

Not even government officials at the higher echelons of public service have resisted the temptation. Notwithstanding the glaring conflict of interest, policy makers own famed private schools rank amongst the best performers, even as public schools suffer dereliction.

Stiff competition between private players has bred fertile ground for examination malpractices. School administrators, under pressure from proprietors (many of whom acquire loans to invest in a school as a business venture) and parents (who part with substantial resources to cover their children’s tuition, and thus similarly expect the highest returns on their investments, namely, the highest attainable marks at Primary, Ordinary, Advanced Levels and University).

Student and teachers are equally incentivised to resort to malpractice – from smuggling chits, to hiring “mercenaries” to sit exams on their behalf, to the solicitation of exam questions ahead of time, and even the more brazen dictation of answers right within the examination room. What incentivises such conduct? The seemingly zero-sum equation of performing well and passing with high marks at all costs.

This trend is not restricted to private institutions, but is increasingly prevalent in public universities and other state-owned tertiary institutions. Recurrent strikes and industrial action by students and lecturers over tuition fee increases and poor remuneration respectively, are emblematic of the challenges facing everyday Ugandans, who lack both means and social capital/connections to galvanise changes to their circumstances.

Prof. Mahmood Mamdani’s publication, ‘Scholars in the Marketplace,’<sup>3</sup> a critique of, and warning against the commercialisation of public universities, outlines the dimensions of the problem that the conversion of education into a commodity (rather than the affordable state funded amenity it ought to be) poses.

A look at completion rates shows how, as a result of the increased cost of education, it is becoming increasingly difficult for Ugandans—despite higher revenue collections—to afford the option of private schooling.

A study has shown that of the one-and-a-half million children who enrolled under UPE in 2005, only five hundred thousand (i.e. one third) sat for Primary Leaving Examinations. Three hundred thousand sat for Ordinary level exams; and, two years later, only one hundred thousand completed the Advanced level.

Every year, forty to fifty thousand students graduate from Uganda’s plethora of universities. However, Uganda’s underdeveloped vocational education system leaves fewer options for the millions of learners haemorrhaged from the formal learning system.

Ugandans have met their social contract obligations by directly and indirectly paying the raft of taxes

<sup>2</sup> <http://www.education.go.ug/private-schools-institutions/> (accessed 23 October 2020)

<sup>3</sup> Mamdani, M. (2007) *Scholars in the marketplace: The dilemmas of Neo-Liberal reform at Makerere University, 1989-2005*. Senegal: Codesria



levied on their meagre earnings and purchases; however, education, which this revenue is supposed to facilitate as a public good, is increasingly, approaching luxury status, and a privilege reserved for the proverbial chosen few. The already evident social costs of a less educated population, which must be met by an already burdened taxpayer, cannot be addressed within the constraints of this paper; but it bears mentioning as it is an urgent and pressing issue requiring prioritisation by the Ugandan government.

In the light of the above, the least all political parties and aspirants can do, is pay attention to this crisis and retool their policy platforms and manifestos towards providing quality education as a social amenity for all.

The justice of the matter requires no less.

## A Look into the Growing Trend of Commercialization of Education under the NRM ahead of 2021 Elections

*Musa Mugoya<sup>1</sup>*



***Musa Mugoya is from a humble background in Bugiri District in Eastern Uganda, he struggled to make it to University. He cautions that commercialization of education is a hinderance to access to education for the majority of children from poor and rural communities.***

Elections are one of the processes through which citizens examine, assess and hold a sitting government accountable for either total failure or poor performance in the delivery of vital social services, including education. The right to education is recognized in Uganda's constitutional and legislative frameworks<sup>2</sup> and also recently in the Constitutional Court case -

*ISER v AG*, in which the petitioner successfully challenged the government Public Private Partnership scheme. Lydia Mugambe, J, pronounced that the implementation of the Universal Secondary Education program [through private actors] was discriminatory and perpetuated inequality.<sup>3</sup>

However over the years, education delivery has faced distortions, such as commercialization, which vitiates its image as both a public and social good.<sup>4</sup> In the 2015 report of the UN Special Rapporteur on the Right to Education, the growing trend towards the commercialization of education was noted, as was its facilitation by international financial institutions.<sup>5</sup> Across the world, commercialization of education manifests through the marketing and sale of educational goods and services to schools for profit purposes;<sup>6</sup> low-fee private schools, found mainly in developing countries, are generally categorized as “edu-business.”<sup>7</sup>

Specifically, for Uganda, commercialized education assumes the following forms: unregulated tuition

<sup>1</sup> Program Officer Right to Education at the Initiative for Social and Economic Rights

<sup>2</sup> See Government of Uganda; Constitution of the Republic of Uganda, Objective XVIII of the National Objectives and Directive Principles of State Policy Article 30, 34(2) and Education Act, S.4

<sup>3</sup> Find the judgement at <https://www.iser-uganda.org/images/downloads/scan0020.pdf>

<sup>4</sup> Ibid, para 43 – 47

<sup>5</sup> See full report of the Special Rapporteur on the right to education: Protecting the right to education against commercialization at [https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/UNSR\\_Report\\_HRC\\_Commercialisation\\_Education\\_2015.pdf](https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/UNSR_Report_HRC_Commercialisation_Education_2015.pdf)

<sup>6</sup> Hogan A & Thompson G (2017), Commercialization in Education, Oxford University Press <https://oxfordre.com/education/view/10.1093/acrefore/9780190264093.001.0001/acrefore-9780190264093-e-180>

<sup>7</sup> Geetha B. Nambissan, “Private schools for the poor: business as usual?”, *Economic & Political Weekly*, 13 October 2012, vol. xlvii, No. 41, p.51

and non-tuition fees in public, government -aided and private schools. The situation is worse in the government aided schools that receive state funding and private schools that discovered education as a business. They require learners to not only pay school fees, but additional payments to cover such things as development, library, laboratory, school bus, and examinations fees, pamphlets, reams of papers and other hardware materials such as cement, spades, barbed wires.<sup>8</sup> Worse still, school administration dictates the brand of the items and scholastic materials that learners have to purchase. Although the National Resistance Movement (NRM), which has been in power for over three decades, has implemented such policies as Universal Primary Education (UPE) and Universal Secondary Education (USE)<sup>9</sup> and grant-aiding of community- and religious- founded schools aimed at enabling access to education for all, it has failed, in the following ways, to control the growing commercialization of education within those same schools and those that are privately owned:

Firstly, there is no standard minimum unit cost for educating a child at both primary and secondary level. Consequently, the government allocation of UGX 14,000 per child per year in UPE schools, UGX 55,000 and UGX 84,000 for O & A level per term per student respectively do not reflect the true cost of education.<sup>10</sup> School administrators have complained of the insufficiency of the funds to run the schools and have resorted to ‘disguised’ non-tuition fees such as those enumerated above (i.e. development, examination, and report card fees) to make up the shortfall.. Similarly, without standard minimum unit costs, the government cannot effectively regulate private schools’ fee structures. Many of the private schools and other government aided schools not only set high fees, but also require learners and their parents to provide unreasonable learning aids (for example, laptops) ostensibly because schools invest in school maintenance and meeting learners’ classroom needs, while they are at school.

Secondly, unregulated liberalization of education has promoted the establishment of for-profit schools, increasing competition not only among private schools, but also top-performing public and government-aided schools, driving up enrollments. This has also shifted the emphasis from learning to optimal exam performance, with learners required to buy and utilize all manner of supplementary and costly examination preparation pamphlets to boost their performance in national examinations. This is further aggravated by media coverage that lauds and provides massive coverage and advertisements for learners and schools obtaining high grades. The blatant conflict of interest inherent in Education Ministry officials not being prohibited from investing in or even assuming an active role in the day-to-day operations of a private schools is especially problematic, as such individuals cannot be expected to self-regulate – especially where they have an earning incentive.

This has had far-reaching implications for the sector: education has been reduced to a mere commodity, with greater emphasis placed on passing exams as opposed to a holistic and life-long approach to learning. Furthermore, the commercialization of education has imposed an excessive financial burden on parents. The National Education Accounts of 2016 indicate that parents were required to pay for 50 school items in addition to school fees. This report further enumerates, however, that household expenditure on education as a percentage of GDP has declined from 3.82% in FY2009/10 to 3.58% in FY2013/14, with primary education averaging 39% of the total household expenditure on education, lower and upper secondary averaging 35%, and public expenditure remaining consistent at 2% over the same period.

<sup>8</sup> See ISER’s Presentation to the Parliament Committee on Education and Sports on the petition on the High Tuition and Non-Tuition Fees Charged by Government–Aided Schools. Available at [https://www.iser-uganda.org/images/downloads/Presentation\\_to\\_the\\_Parliament\\_Committee\\_on\\_Education\\_and\\_Sports.pdf](https://www.iser-uganda.org/images/downloads/Presentation_to_the_Parliament_Committee_on_Education_and_Sports.pdf)

<sup>9</sup> The introduction of UPE & USE was informed by research findings by government and other agencies that fees were a barrier to access education by children of the poor. See Ministry of Education & Sports, “A Comprehensive Report on Universal Post Primary Education & Training (UPPET/USE) & Universal Post O-Level Education & Training (UPOLET) National Headcount Exercise 2013”, Kampala, Education Planning and Policy Analysis Department, 2013

<sup>10</sup> The National Planning Authority in its recent report on Evaluation of the UPE program has recommended a unit cost allocation of UGX 63,546 for urban schools and UGX 59,503 for rural schools per child per year in UPE schools.

The result has been discrimination and widening inequality, as many children from poor backgrounds are increasingly either denied the opportunity to enroll in the school of their choice or are forced to drop out of certain schools due to their parents' or guardians' inability to afford the charges levied over and above school fees. The National Household Survey 2016/17 reports that 35% of school drop outs are attributable to excessive school charges.

In the light of the above, Uganda's forthcoming general elections present an opportunity for citizens to examine and hold NRM accountable for its deliberate policy of promoting the commercialization of education. The commercialization of education has undermined and eroded the utility of education as a public good, which has served to overburden citizens with high costs associated with access to education. Citizens thus need to ensure that no political platform contesting elections and seeking to secure political power takes them for granted, especially with regards to education trends, which this writer contends are promoting economic inequality and classism.

Government must invest in public education to continue guaranteeing access for all. Government should live up to its commitment to provide free universal primary and secondary education by providing the necessary resources to run schools.



## **“We will Reclaim Public Schools and Pass National Health Insurance”: Q and A with the National Unity Party (NUP) Deputy President Dr. Lina Zedriga and Secretary General David Lewis Rubongoya**

**Question 1.** *By offering yourself as a candidate for the next general elections, you are entering into a social contract with the citizens of Uganda. What is your policy on education, health, and social protection?*

**Answer:** The National Unity Party (NUP) believes everyone, regardless of gender, age, income or sexual orientation should have access to affordable, quality healthcare. To achieve this, NUP plans to design a healthcare plan that will help underserved communities to access healthcare services; pass the National Health Insurance Scheme; regulate private health facilities; train health workers; and ensure that every Parish has a health facility. On the issue of the unacceptably high rates of maternal mortality, NUP states that ‘no woman should die while giving life.’

**Question 2.** *What is your position on the proposed National Insurance Scheme (NHIS)? What measures would it take to reduce the huge out of pocket expenditure on healthcare?*

**Answer:** NUP will champion the passage of the NHIS Bill 2019, so as to give every Ugandan increased options and reduce out-of-pocket expenditure.

**Question 3.** *Social services including education, health and social protection tend to be overshadowed by defense, security, infrastructure (roads) in the National Budget. How can this be corrected to achieve a balance?*

**Answer:** As NUP, our manifesto seeks to address five key areas, including health, education and governance. Our aspiration is for a well-functioning health system. We believe, that the country has enough resources, and we aim to prioritize resource allocation instead of spending huge percentages of state resources on military and teargas.

**Question 4:** *How can we address long term governance problems and structural weakness that COVID-19 has revealed and reinforced?*

**Answer:** With COVID-19, the inequality between private and public schools has been brought to the fore. The lessons from COVID-19 is that every human being counts. Which is why there should be education for all. We must instill human values of inclusivity, participation. *Ubuntu* will be at the core of



our activities and programs. Analyzing the current affairs, continued learning during COVID-19 has not been achieved in a manner upholding *Ubuntu* (poor people were disproportionately disadvantaged in comparison to wealthier classes who had access to technological devices and connectivity). We must have research-based, evidence-based discussions and consultations. We are polishing our manifesto. Education is very key. Our priority is a holistic education agenda. Early talent identification is very critical rather than the colonial system we've traditionally subscribed to. We hope to put in place facilities that will nurture talent growth. Our education is human-, and needs-centered, prioritizing community; it is human-centered, transformational and not transactional, it is about reclaiming and decolonizing education. A true **pedagogy of the oppressed**,<sup>1</sup> where education is liberative; it is time to re-write Uganda's education narrative.

**Question 5: Teachers and health workers are among the worst paid professionals, and with COVID-19 exposure, we are likely to see a declining interest in teaching among young people, what is your take on this?**

**Answer:** The pandemic has been devastating for teachers, with its impact felt profoundly not only by teachers but also others in the education value chain. The pandemic is eroding teaching careers, with many having to resort to farming and bricklaying. And if teachers ultimately return to teaching, it is potentially to a disrupted sector, which may be misaligned with their newly acquired economic and social ventures, which may prove more appealing.

**Question 6: In recent times, there are ideological debates on which model (private or public) to adopt for effective quality service delivery, particularly in the education and health sector? What is your take on this notion?**

**Answer:** We stand for a robust, well-resourced public education system in Uganda! The push for strong public schools is so fundamental to NUP, and we see them as the backbone for inclusive education – the majority, if not all of the people in the executive, are products of public schools. This is why we are convinced that it is in public schools that real and true investment in all children happens. It is in public schools that we will have an orientation that is not about money-making or profiting from the education of our children, especially the poor and vulnerable, but rather an investment in their capacity and future.

Thus, strong, well-functioning public schools (and hospitals) are one of NUP's highest priorities. We plan to allocate more resources to Uganda's public education system. All private schools must be held accountable through the same mechanism, and to the same standard as public schools, which implies across the board transparency. Above all, no private school can be set up in a community at the expense of a public school.

For education, we constantly need to be asking: whose interests are private schools serving – an exclusive and small elite or does it also positively impact more impoverished communities? The school – public or private – that is more inclusive will always be prioritized and supported. The transactional privatization model has eroded public service delivery. NUP does not promise to close private schools; rather it will heavily regulate and monitor their operations. Together, we will reclaim public schools that are well monitored, have reasonable teacher-student ratios and produce positive learning and development outcomes.

---

<sup>1</sup> Freire, P. (1972). *Pedagogy of the oppressed*. New York: Herder and Herder.

**Question 7: How can you strengthen accountability for social service delivery at both the local and nation level?**

**Answer:** First of all, NUP as a party, and People Power as a movement, have a very functional disciplinary committee. We are actually entrenching public and institutional audits so for NUP, accountability is a non-negotiable. Moreover, it must be participatory and inclusive. At the national level, NUP has instituted accountability desks that are people-informed. This is why we have the public audit.

# The Right to Adequate Housing Should be Prioritised in the Electoral Agenda

Tuhairwe Herman<sup>1\*</sup>



Katanga Slum in Kampala City

With just five months remaining until Uganda hosts general elections, prospective candidates are actively campaigning, largely using media outlets and social media platforms in the light of the COVID-19 pandemic.<sup>2</sup> A perusal of the campaign manifestos shared by these candidates, indicates that there little attention, if at all, is paid to the fundamental right to housing. Most candidates have focused on infrastructure development, eradication of corruption and improved economic growth.<sup>3</sup> The indifference towards ensuring adequate housing is consistent with existing societal perceptions that housing is a personal aspiration or commodity acquired by individuals with the financial capacity to do; it is not perceived as a human right.<sup>4</sup> Weighed against urbanisation trends, political apathy towards housing as a human right is disconcerting and needs to be seriously addressed.

Increased rural-urban migration in Uganda has contributed to the expansion of existing urban areas, and prompted the demarcation and development of new residential zones to accommodate burgeoning demand. On 1<sup>st</sup> July 2020, five new cities came into operation,<sup>5</sup> while several towns were “upgraded” into municipalities, their elevation a partial response to their increased population numbers.<sup>6</sup> While urbanisation is generally associated with progress and development, what is less frequently discussed is the rise in inequality and access to housing with which urbanisation is associated. Many who migrate from rural to urban areas do not necessarily choose to do so, but are motivated by distressing situations such as unemployment, development-based displacement and natural disasters, among others. However, in the absence of access to stable income once they reach urban areas, they are often compelled to reside in informal settlements. Government’s failure to effectively address inequality has led to the growth of economically divided towns and cities, with decent housing the preserve of the middle classes and wealthy but neighbouring informal

1 \* Research and Publications Officer, Law Development Centre [htuhairwe@ldc.ac.ug](mailto:htuhairwe@ldc.ac.ug) [hermantuhairwe@ldc.ac.ug](mailto:hermantuhairwe@ldc.ac.ug)

2 The large outdoor gatherings, known as rallies, are still banned by the Ministry of Health because the COVID-19 pandemic. See The Public Health (Control of COVID-19) (Amendment) Rules, 2020 Statutory Instrument No. 57 of 2020.

3 Kenneth Kazibwe, ‘Joseph Kabuleta Announces Presidential Bid for 2021 General Election - Nile Post’ (Nile Post, 2020) <<https://nilepost.co.ug/2020/07/01/joseph-kabuleta-announces-presidential-bid-for-2021-general-election/>> accessed 1 August 2020.

4 Amon Katungulu, ‘For Shs47m, You Can Build a Three-Bedroomed House with Basic Finishes’ (Nile Post, 2020) <<https://nilepost.co.ug/2020/08/02/for-shs47m-you-can-build-a-three-bedroomed-house-with-basic-finishes/>> accessed 2 August 2020.

5 Lira, Gulu, Fortportal, Masaka, Mbale and Jinja

6 Dr William S Kalema and Duncan Kayiira, *Overview of the Housing Finance Sector in Uganda* (Habitat for Humanity 2020) <[https://www.habitat.org/lc/CISF/pdf/C2a\\_Access\\_to\\_Housing\\_Finance\\_in\\_Uganda.pdf](https://www.habitat.org/lc/CISF/pdf/C2a_Access_to_Housing_Finance_in_Uganda.pdf)> accessed 1 August 2020.

settlements.<sup>7</sup> The COVID-19 pandemic has merely aggravated the housing crisis, with the extensive loss of income resulting from the economic downturn translating into many being unable to afford decent housing (particularly in the light of increased demand for more affordable housing stock). Informal settlements and inadequate housing are testament to the fact that the existing legal and policy framework does not adequately protect this fundamental human right.

It is important to note, however, that while a roof over a person's head is a necessary condition of the right to adequate housing, it is insufficient to assert realisation of the right. The right to adequate housing implies that a person has a dignified, peaceful, secure place of residence, which has access to available municipal services, for example waste management, power, water and sanitation.<sup>8</sup> The right to adequate housing implies access to broader public goods and services, such as transportation, employment opportunities, healthcare, schools and other such amenities.<sup>9</sup> The right to adequate housing is a cornerstone right, which is indivisible from other human rights. It is a right to which all persons are entitled, irrespective of arbitrary distinctions such as their age, gender or economic status.<sup>10</sup> Secure and safe housing shields individuals from inclement weather and provides a refuge from external physical threats. It offers a material base from which to build one's livelihood and participate in the affairs of both community and state. Importantly, adequate housing also provides a space through which an individual's psychological needs can be met.<sup>11</sup>

Because it is within the larger cluster of socio-economic rights, the right to housing is only expected to be progressively realised, nevertheless supported by means of the maximum available resources.<sup>12</sup> In Uganda, the different campaign manifestos seen thus far do not feature provision of the right to adequate housing as a campaign priority. By treating housing as a market commodity instead of a fundamental right and social good, candidates fail to capitalise on the electorates' sustained demand for government prioritisation of policy responses to address systemic inequality, including access to housing, which is a missed opportunity. Prospective government officials would do well to give the right to housing a paramount position within their manifestos.

It is imperative to adopt a human-rights based approach to current urbanisation trends, if Uganda is serious about tackling systemic inequality, of which inadequate access to housing is a consequence. This approach should view "economic growth" and urbanisation not just as a demographic or economic phenomenon, to be measured by the number of brick and mortar houses owned by the middle class and the rich, but as fulfilment of a primal need fundamental to all humanity, to have access to decent shelter. A rights-based approach to housing ensures adequate shelter for all citizens, whatever their income levels. This is in recognition of the fact that they all meaningfully contribute, through the social contract, both to the establishment, maintenance and sustainability of urbanisation processes. A human-rights based approach to housing makes it possible to address structural inequality and exclusion, so that cities become places of well-being for everyone. "Economic growth," the principle agenda being championed by political candidates, may lead to greater inequality and a consequential rise in inadequate housing if it fails to incorporate the right to adequate housing.

<sup>7</sup> Fred Bidandi and John J. Williams, 'The Terrain of Urbanisation Process and Policy Frameworks: A Critical Analysis of the Kampala Experience' (2017) 3 *Cogent Social Sciences*.

<sup>8</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant), 13 December 1991, E/1992/23, available at: <https://www.refworld.org/docid/47a7079a.html> [accessed 1 August 2020]

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

<sup>11</sup> For example, the desire for safety and security, personal sanctuary, a stable and relatively predictable environment, physical integrity, etc.

<sup>12</sup> UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <https://www.refworld.org/docid/3ae6b36c.html> [accessed 2 August 2020]



## The 2021 Ballot Choice: Making a Case for Enhanced Health Service Delivery in Uganda

*Labila Musoke*<sup>1</sup>

Elections have profound implications for human rights, serving as a powerful tool through which voters can influence prioritization of socio-economic rights such as health as part of their elected officials' social contract commitment.

Election campaigns, similarly, are frequently characterized by competing aspirations on issues voters care about. While most literature emphasizes the procedural element of elections, it is equally important to look at the substantive aspect of elections, namely the often neglected- issue of quality service delivery.

In the recent past, Uganda has registered significant improvement in the percentage of national suffrage and multiparty political parties. Such democratization has witnessed increased multiparty representation at both district and parliament level; however, there hasn't been a similar advancement in quality service delivery of public goods and services such as healthcare, education, welfare services, etc. especially for poor and marginalized segments of the population. Thus, the incoming Ugandan government should be cognizant that the majority of the populace, which is in dire need of healthcare, is often beset by multiple, underlying health conditions. The poor, elderly, persons with disabilities and children fall into this segment of socially vulnerable and marginalized. Government should, therefore, ensure the effective alignment of its party manifestos with issues pertinent and important to voters.

With the forthcoming 2021 general elections, different election manifestos featuring health system strengthening look appealing to voters. Relatedly, the idea of investing in Primary Health Care (PHC), as opposed to treatment, makes financial sense and promotes economic and social development. The 1978 Alma-Ata Declaration<sup>2</sup> describes PHC as essential healthcare that addresses the main health needs of individuals, families, and communities through comprehensive, protective, curative, and rehabilitative care.



A mother with her sick children on the floor at Amudat Health Centre IV in Amudat District. The facility has few patient beds

<sup>1</sup> Labila Sumayah Musoke is a litigation fellow at Initiative for social and economic rights.

<sup>2</sup> World Health Organization. Declaration of Alma-Ata: International Conference on Primary Health Care, Alma Ata, USSR 6-12, September 1978. Available at: [https://www.who.int/publications/almaata\\_declaration\\_en.pdf?ua=1](https://www.who.int/publications/almaata_declaration_en.pdf?ua=1), last accessed 8 July 2020. The declaration expressed the need for urgent action by all governments, all health and development workers, and the world community to protect and promote the health of all people of the world.

The idea of issue-based campaigns is a strategy Uganda's ruling party, NRM, has adopted to gain voter support and it has overtime won the electorate ballot choice by pledging improved healthcare service delivery. For instance, during the 2016 presidential elections, NRM promised to increase budget allocation to the health sector, improve health infrastructure and raise salaries for medical practitioners. Despite these promises, qualitative and efficient health outcomes remain low.

## **What next?**

In a country recovering from the most serious global healthcare crisis in contemporary history, in the form of the COVID-19 pandemic, Uganda's crippled health system – characterized by critical health worker shortages, drug stock-outs, and the like – exacerbated a dire situation. In such a context, it is unsurprising that voters yearn for democratically elected leaders; who hold true to their electoral promises and deliver quality services. However, the majority of voters appear confused listening to repeated election manifestos that fail to deliver efficient and effective healthcare, which the country so clearly needs. When such services are delivered, it is neither effectively nor efficiently, to the detriment of poor and marginalized groups who are disproportionately reliant solely on public healthcare.

## **What the next government should do to enhance health service delivery**

As the 2021 national elections continue to receive greater attention, at both national and international levels, it is crucial that political aspirants devote particular attention to strategies geared towards enhancing quality health service delivery. Voters are eager to hear what strategies political candidates are proposing for quality healthcare delivery. They also want to know how politicians plan to achieve their manifestos within the next five years?

Below are key recommendations through which to strengthen Uganda's health system and ensure its preservation for the service not only of present but also future generations.

### **Increase investment in human resource for health**

Investment in Human Resources for Health (HRH) is central to a country's sustainable development. It is a truism that healthier people contribute to increased labor productivity (which, by implication, improves job security and diminishes the need for employment-related social protection), and reduce school absenteeism. Over the years, however, Uganda's health system has consistently suffered from a shortage of HRH, which has serious consequences for a number of health indicators, disproportionately affecting the full realization of the right to health for all, and adversely affecting development.

To effectively achieve Sustainable Development Goal 3 and Universal health coverage, the World Health Organization recommends 4.45 skilled health workers for every 1,000 people. Uganda, according to the IntraHealth database,<sup>3</sup> has only 1 doctor or nurse for every 714 patients – with the majority of practicing doctors and specialists based in the capital city, Kampala, whose residents account for only 20% of the total population, leaving rural and hard-to-reach areas substantially underserved.

<sup>3</sup> IntraHealth International, database, 2019. See: <https://www.intrahealth.org/projects/strengthening-human-resources-for-health-project>, last accessed 14 July 2020.

## Reduce out of pocket expenditure on healthcare and regulate healthcare fees

According to the World Bank,<sup>4</sup> Uganda's current health expenditure is 6.9% of its total budget, well below the 15% recommended by the 2001 Abuja declaration,<sup>5</sup> to which African countries committed themselves. Out of pocket expenditure (OOP) has, consequently, increased to 40%. The detention of patients over the non-payment of fees has become common place in both private and public health facilities.<sup>6</sup> This unlawful and unethical detention raises serious human rights concerns,<sup>7</sup> unconscionably compromising the healthcare access of the poor and marginalized. Continued government inaction has given health facilities leeway to unlawfully detain vulnerable patients and subject them to inhumane treatment, which is contrary to Article 23(2)<sup>8</sup> of the 1995 Constitution and international human rights standards. Thus, health service delivery has to reach poor and marginalized patients living in resource-limited areas. The next government administration should note that Uganda's commitment to achieve Universal health coverage<sup>9</sup> cannot be achieved if patients continue to incur catastrophic healthcare expenditure. Relatedly, it is imperative to make bold commitments to regulate private medical practice so as to protect patients' right to healthcare. Such critical steps include *inter alia*, developing fees schedules for both private and public health facilities.

## Conclusion

Uganda's health system is confronted with a combination of challenges, including a shortage of qualified health workers, high out-of-pocket expenditure, poor health infrastructure and inadequate drug stocks. Without deliberate political commitment to enhance health service delivery, Uganda stands to fail to deliver on most of its national and international health targets aimed at achieving healthy lives and well-being for all. Election campaigns and manifestos are a great game changer. It is imperative that political aspirants harmonize and align their manifestos to address the myriad challenges obscuring quality health service delivery to ensure that no one is left behind.

4 The World Bank data. Current Health Expenditure. 2017. See: <https://data.worldbank.org/indicator/SH.XPD.CHEX.GD.ZS?contextual=aggregate&end=2017&locations=UG&start=2017&view=bar>, last accessed 15 July 2020.

5 African Union. Abuja Declaration on HIV/AIDS, Tuberculosis, and other related infectious diseases. Abuja, Nigeria. 24-27 April 2001. OAU/ SPS/ ABUJA/3. In 2001, African Heads of state pledged to spend 15% of their annual budget to improve the health sector. See: [https://au.int/sites/default/files/pages/32904-file-2001\\_abuja\\_declaration.pdf](https://au.int/sites/default/files/pages/32904-file-2001_abuja_declaration.pdf), last accessed 15 July 2020.

6 Hospital detains 4mothers, babies over medical bills. See: <https://www.monitor.co.ug/News/National/Hospital-detains-4-mothers-babies-over-medical-bills/688334-5311144-ev7iogz/index.html>, 14 October 2019; It is illegal for hospitals to detain patients over bills, see: <https://www.monitor.co.ug/Magazines/HealthLiving/Illegal-hospitals-detain-patients-bills/689846-3458948-11spvftz/index.html>; Hospital detains patient over shs 20million debt, see: <https://www.monitor.co.ug/News/National/Hospital-detains-patient-over-Shs20m-debt/688334-3911666-iint3yz/index.html>

7 Among rights violated include; right to health, right to personal liberty and freedom from inhumane and degrading treatment;

8 1995 Constitution of Uganda. Laws of Uganda. Article 23(2) "A person arrested, restricted, or detained shall be kept in a place authorized by law". Thus, the reading of the section restricts detention to places authorized by law. And the hospital is not a gazetted place that the law envisioned.

9 Target 3.8 of the Sustainable Development Goal 3 addresses the issue of universal health coverage.

# Analysis of Uganda's Elections as a Mechanism for Social Justice Accountability



**Brenda Nanyunja - Human Rights Lawyer**

## Introduction

While running for office in 2015, Uganda's President Museveni promised to provide school-going girls with sanitary pads to enable their stay in school, thereby supporting access to education. However, in 2020 this is yet to be realised, constituting yet another empty election promise that will likely be repeated in the 2021 presidential race.

Sadly, the phenomenon of hollow electoral campaign promises is a common tendency among Uganda's aspirant political elites, highlighting public officials' utter lack of concern about accountability. In turn, Ugandans resign themselves to accepting campaign hand-outs instead of aggressively demanding the public goods that would fundamentally improve communities. This is unsurprising, however: Ugandans contending with poverty are preoccupied with survival on a daily basis, detracting from their ability to insist on accountability and just measures. Instead of the human entitlement it is, social justice becomes a charitable hand-out conferred at the discretion of those in power, largely in exchange for votes. The president has repeatedly attributed the denial of social services to 'poor choice at the ballot,' which deflects from the fact that these services are tax-payer funded and hence every citizens' due under the social contract.

Elections provide citizens with an opportunity to participate in political life and contribute towards the determination of their social wellbeing. Elections also provide an avenue for accountability, with citizens able to deny public officials who have failed to fulfil their mandate a resumption of office, serving as an example to incumbents who may be tempted not to deliver on their promises and obligations.

The media, Civil Society Organisations (CSOs) and Non-Governmental Organisations (NGOs) have been at the forefront of sustaining societal pressure for accountability measures against public officials. However, there are also many members of civil society who have been subdued and are now wary of making demands that will provoke government. Of late, many youth and elites are resorting to social media to demand accountability. More often than not, however, their demands are dismissed as attention seeking, anti-government strategies.

Social justice, which strives to ensure that communities are able to make informed decisions about issues affecting their lives and to hold government accountable for the same, is, unfortunately, a rights-centred discourse frequently dominated by political and economic elites. As such, society bears a responsibility to positively influence citizens on their civic duty to hold elected representatives accountable for their professional conduct – which implies not only ensuring that they do what they're mandated to, but also that they don't perceive their office as a being for personal benefit and self-enrichment.

Greater accountability of political candidates and incumbents will send the message that in fact it is the electorate that wields the greater share of power than politicians, who once elected tend to prioritise the ambitions of the regime rather than promoting the interests of those who elected them into office. We have seen this so clearly with the Constitutional Amendment that removed the age limit for the President in the polarized 'age limit' saga that showed the intent of many. In this instance, the populace put up a fight along with their Parliamentary representatives and the Judiciary; sadly, however, these efforts came to naught.

## Holding leaders accountable

Engaging citizens in civic education is key to the pursuit of accountability. A prevailing focus of social justice has been on economic factors and less so political dimensions; yet it is the political conditions which catalyse or constrain economic growth. Hence, equal attention should be applied to the social and economic arenas, with the participation of citizens in both promoted through discourses and practices underscoring a citizen-oriented conception of democracy.

Where political power is genuinely in the hands of the electorate, it becomes possible for them to sway politicians away from self-enrichment towards service delivery. Currently this is not the case: during campaign season, people will signal their allegiance for a candidate or political party by wearing its defining colours; however, this is often not a show of support, but simply to ensure that they receive whatever benefits are promised (cash, in-kind handouts, positions, etc.) This short sightedness is bringing many undeserving people to power and keeping those who do not perform in office. The opposition has expressed discontent with this state of affairs and sought to push for change and influence voters away from this short-termist and self-serving allegiance to under- and non-performing political representatives. However, opposition parties will have to be more strategic than merely critiquing if they want to succeed in materially changing the status quo.

## A close look into the status quo

Economic inequality is glaring in Uganda, with the gap between the wealthy and poor continuing to grow. The poor are overwhelmingly excluded from decision-making, notwithstanding the fact that they are disproportionately denied their basic needs, making it difficult to survive. While income is the predominant indicator of poverty, its determinants are multiple, including among others: high mortality rate, malnourishment, poor health services, illiteracy and life expectancy – all of which need to be addressed to materially improve the plight of the poor.

Economic growth does not always translate into improved circumstances for the impoverished: this requires policy intervention and the pursuit of social justice.

Other necessary conditions for improving the condition of poor people is branches of government – executive, legislature and judiciary – that independently and jointly work efficiently, effectively and accountably. Government should also prioritise the mass sensitisation and education of citizens, to ensure their full participation in public decision-making processes affecting them and to capacitate them to both uphold their civic responsibilities and assert their fundamental rights. The youth have embraced social media as a public platform on which to participate in political discussions and to air concerns and grievances about social phenomena affecting them, for example high rates of unemployment and the unequal distribution of wealth. However, government has imposed punitive measures, such as Uganda's recently-imposed social media tax and Public Order Management Act of 2013 (empowering state agencies from prohibiting public gatherings), both of which have been used to stifle dissent and criticism of political administrations and elites. In *Human Rights Network and four others v Attorney General, Constitutional Petition no. 56 OF 2013*, Uganda's Constitutional Court declared the applicable provision of the Public Order Management Act unconstitutional.

## Conclusion

It is a societal duty to hold political/governmental leaders accountable. This is because they possess inordinate power within the democratic systems. However, this power, which is most often held with reckless abandon, needs to be checked if citizens aspire for more than small handouts and cheap promises. Citizens need to learn from the past if they are serious about altering society for the better and achieving a more fair, equitable and just society.



## “Government Must Play a Key Role in Service Delivery”: Q and A with Spokesperson of Forum for Democratic Change (FDC) Party, Hon. Ibrahim Semujju Nganda



**Question 1: By offering yourself as a candidate for the next general elections, you are entering into a social contract with the citizens of Uganda. What is your policy on education, health, and social protection?**

**Answer:** On education, our policies have not changed over the last four election cycles. Our highlight has been to increase scholarships at higher learning institutions to reach the poor and vulnerable. We also plan to improve education infrastructure and increase teacher and education administrators’ salaries. We assigned ourselves the task to close the service delivery gap between private and public education. Our policy in education is that government should play a key role.

On Health, government should not only honor its international and regional budgeting commitments, but should also participate in the construction of state-of-the-art health facilities. Our proposal is to increase the national health budget and monitor its allocation and spending, improve infrastructure and increase healthcare workers’ salaries, ensuring that funds are not abused but accountably utilized. Our position on the National Insurance Scheme is also clearly elaborated in our manifesto: the extremely vulnerable must be placed first, as is the case in Rwanda. Government must support the NHIS as it will expand healthcare access in Uganda. However, it will surely be a gradual process.

On social protection, FDC will make reforms. The first proposal is to reform the whole pension sector and make sure the informal sector is protected. This we intend to achieve through rigorous liberalization of the informal sector and adjustments to current labor laws.

**Question 2. What is your assessment of government compliance with obligations in the NDP II priority investment area No.5 on human capital development especially as it relates to improving quality of education and healthcare at all levels?**

**Answer:** I think, the government seems to be drawn by electoral pressures; and that is why it never fulfills most of the promises it makes during election campaign season. Plus, government is persuaded by statistics. The investment in human capital is low as per the national budget and this is worsened by government officials’ selfish (corrupt) interests.

**Question 3: Social services including education, health and social protection tend to be overshadowed by defense, security, infrastructure (roads) in the National Budget. How can this be corrected to achieve a balance?**

**Answer:** Investing in social services under this current government is difficult. This is because the prevailing pre-occupation is on power, which means most funds are allocated to security and finance. A critical evaluation of funds allocated to defense and security will reveal that resources do not necessarily strictly support defense-related activities, but rather are channeled through defense

(procurement, service expenditure, etc.) making misappropriation hard to identify. For instance, the recent budget has increased, with the police budget at 1.2 trillion; yet the living standards of ordinary police officers remains dire.

**Question 4: How can we address long term governance problems and structural weakness that COVID-19 has revealed and reinforced?**

**Answer:** On social security and protection, we need reforms. At the moment, parliament is considering a review of the National Social Security Fund (NSSF) Act. But the broader question is, how do we ensure that Uganda's social security is inclusive (taking Kenya as our benchmark)?

**Question 5: What innovative approaches do you envisage to protect livelihoods and incomes, including programs to address youth unemployment going forward?**

**Answer:** The trouble with employment in Uganda is that we have not determined the priority pillars on which we need to build our economy. For instance, the United Arab Emirates took a decision to build its economy on 3Ts, that is, Transport, Tourism and Trade. What Uganda needs it to invest in agro-processing and agriculture. In the interim, we need intentional investment in agriculture and to make it an attractive professional option for the youth.

**Question 6: In recent times, there are ideological debates on which model (private or public) to adopt for effective quality service delivery, particularly in the education and health sector? What is your take on this notion?**

**Answer:** I think you can pursue both. Government cannot afford to negotiate itself out of these processes. We cannot leave a fragile economy like ours in the hands of the private sector alone.

**Question 7: Data collection and management is a critical component for effective planning and budgeting. How do you plan to improve the data collection system?**

**Answer:** Yes, it is true and it cuts across all sectors, not just education and health. We plan to commission a human resource study to understand and identify gaps to make it easier to direct resources in a more targeted manner. Most of the statistics presently available are speculative. There is a pressing need to strengthen the Statistics Bureau and to make it function more effectively and efficiently, which requires the deployment of statistics professionals at all tiers of government to oversee the generation, analysis and use of relevant data.

**Question 8: How can you strengthen accountability for social service delivery at both the local and nation level?**

**Answer:** You can only achieve accountability by undertaking political reforms. At the moment, nearly 90% of political leaders are preoccupied with contesting and winning the next elections – and the president cannot call officials to order! Because they are in the service of the head of state, it is in the president's interests to have representatives of his party secure an optimal number of seats. Until you have an accountable legislature, executive and judiciary, there is very little you can materially achieve at the local level.

# Elections and the Quest for Accountable Governance

*Lawrence Jjumba & Eliezer Edwin Ayebare<sup>1</sup>*

## Introduction:

General elections are premised on the principle of universal suffrage, which is defined as the right of all eligible, adult citizens to vote in an election.<sup>2</sup> This principle traces its origins to natural law as posited by Thomas Aquinas, who viewed it as an inherent right and a consequence of the social contract.<sup>3</sup> Elections are one of the most pronounced features of democracy and play an important role in conferring legitimacy to a government. Elections serve not only to facilitate the formalized selection of preferred political candidates, but are also mechanisms through which to hold political leaders and parties accountable; the latter purpose tends not to receive as much attention nor to function quite as effectively as the former. This is attributable to corruption, apathy, limited agency and cognitive abilities, among other things. Hence, elections cannot be the sole measure through which to hold public officials accountable: other actors, like civil society and an independent and proactive judiciary, also have an important accountability role to play.

A panel from the 2020 Annual National ESCR Conference that discussed Promoting Accountability



for Electoral Promises. From L-R Principal School of Law at Makerere University Prof. Christopher Mbazira, Activist Irene Ikumu, Lawyer Ivan Bwowe, Deputy Lord Mayor KCCA Doreen Nyanjura and Lecturer School of Law Makerere University Dr. Daniel Ruhweza)

## The 1995 Constitution of the Republic of Uganda

The theoretical foundations of elections can be traced in several articles of the Constitution. Article 1(1) vests power in the people who exercise their sovereignty in accordance with the Constitution.<sup>4</sup> Article 1(2) recognizes all authority in the State as emanating from the people of Uganda, who shall

<sup>1</sup> LLB (Hons) (MUK), Dip LP (LDC)

<sup>2</sup> <https://www.merriam-webster.com/dictionary/universal%20suffrage> (last accessed on 21/03/2020 at 5:00PM)

<sup>3</sup> Waller James Shepard. 1912 .The theory of the nature of the suffrage, Proceedings of the American Political Science Association, Vol.9, Ninth Annual Meeting, pg.108 accessed at <https://www.jstor.org/stable/3038493>

<sup>4</sup> Constitution of the Republic of Uganda, 1995 (as amended)

be governed through their will and consent.<sup>5</sup> Implicit in this provision is the exercise of this will and consent through regular, free and fair elections or referenda.

## Uganda's experience with elective politics

Uganda has experienced a turbulent and chequered political and constitutional history. As a British protectorate, Uganda was subject to authoritarian rule. Ascension to office was strictly by appointment (a deliberately calibrated patronage); it was not until the late 1950s, as colonialism was shortly to be supplanted, that elections to the Legislative Council were hastily organized. Many historians note that the elections, especially in Buganda, were marred by violence, intimidation and other malpractices. These unfortunate events were to set the blueprint upon which subsequent elections would be held: election violence, sloganeering and disinterest in discussing the pertinent issues at hand.

## Elections and accountability

Political scientists have long viewed elections as a mechanism for accountability, an appraisal tool to assess the performance of incumbent political parties and leaders.<sup>6</sup> This “retrospective theory” of voting views “*the electorate in its great and perhaps principal role, as an appraiser of past events, past performance, and past actions.*”<sup>7</sup> This “folk theory” of democracy, as defined by Achen and Bartels, views elections as an avenue through which citizens select and remove government representatives thus giving politicians an incentive to do right by their constituents.<sup>8</sup>

While idealists believe in a logical voter capable of analyzing candidates’ and parties’ policies and past performance, research has shown that this is far from the case. According to Walter Lippmann, these issues are rather complex and vast for the human mind to compute and evaluate.<sup>9</sup> We are simply limited by our cognitive abilities; as such, our voting decisions tend overwhelmingly to be impulsive and based mostly on illogical reasons.<sup>10</sup> Therefore, in Uganda, the casting of a vote, is less about accountability than it is about partisan loyalties. At the poll, Ugandan voters don’t necessarily concern themselves with the state of hospitals or the absence of clean water in their community – all they care about is electing a person who will solve their immediate, material needs, which can be in the form of wedding contributions, funeral expenses, hospital bills and even food items! It is an unspoken strategy of the ruling elite to deny citizens their most basic needs, as a way of maintaining their loyalty through patronage. Therefore, the case could be made that the more deprived a person is, the less likely they are to act logically during polls.

The effectiveness of elections to hold political parties and leaders accountable is further undermined by the limited agency of voters.<sup>11</sup> Ugandan voters are generally uninformed and very poor, bordering on indigent. The limited access to information and poor social and economic conditions whittle down their agency, undermining the prospects of their being able to make informed decisions about their political parties and leaders.

---

5 Ibid

6 Achen, Christopher. H and Larry M. Bartels. 2016. Democracy for realists: why elections do not produce responsive government. Princeton University Press

7 Ibid pg.2

8 Ibid pg. 1 See, also <https://www.vox.com/mischiefs-of-faction/2018/10/30/18032808/what-good-are-elections> (last accessed 19/03/2020 at 4:00 PM)

9 See, Lippmann, Walter. 1922. Public opinion. New York: Harcourt, Brace and Company accessed at <https://archive.org/details/publicopinion00lippgoog/page/n316/mode/2up>. See, also Achen, Christopher H., and Larry M. Bartels. 2016. Democracy for realists: why elections do not produce responsive government. Princeton University Press at pp.11

10 Ibid pg.16

11 <https://www.vox.com/mischiefs-of-faction/2018/10/30/18032808/what-good-are-elections> (last accessed 19/03/2020 at 4:00PM)

Voter apathy also undermines the efficacy of general elections. Statistics released after elections tend to show support for a consistent trend towards low voter turnout, which is attributed to voter apathy. The same is true in Uganda's case: there has been a consistent and gradual decline in voter turnout over the years. In 1996 and 2001, voter turnout stood at 72.6% and 70.3% respectively. In 2006, it dropped to 69.7% and in 2011 it fell to 59.3%.<sup>12</sup> A marginal increase was recorded during the 2016 polls, which saw a 67.62% voter turnout.<sup>13</sup> This phenomenon cuts across developed and developing countries. The reasons for this disinterest vary from society to society; however, the consequences are such that the outcome of elections do not reflect a "genuine" mandate from the populace.

## Conclusion:

Elections are an imperfect tool by which to assess political parties and leaders' performance in delivering social and economic services. Notwithstanding the well-founded arguments and theories underpinning elections, we cannot turn a blind eye to the challenges affecting their efficacy. However, this should not be understood to mean that they serve no purpose whatsoever: they are an integral part of any democratic society. The authors therefore propose that instead of utilizing one accountability tool, we ought to develop multiple mechanisms by which to assess political representatives' and parties' service delivery. We further recommend that the judiciary and civil society should assume an active role in assessing the performance of our political parties and leaders.

---

<sup>12</sup> <https://www.theguardian.com/global-development/2015/oct/30/uganda-presidential-elections-february-2016-apathy-scepticism-yoweri-museveni> (last accessed on 3/14/2020 at 5:09PM)

<sup>13</sup> Report on the 2015/2016 General Elections accessed at <https://www.ec.or.ug> (last accessed on 3/14/20 at 5:17 PM)



# Casting a Vote for Accountable Members of Parliament in Uganda, 2021

By Edrine Wanyama<sup>1</sup>

## Introduction

Uganda's Parliament is established by Article 77 of the Constitution of 1995. The term of Members of Parliament (MPs) is prescribed as five years from the date of Parliament's first sitting after a general election.

In terms of Article 79 of the Constitution, MPs' main function is to make laws, with additional responsibilities including among others: on an annual basis, analysing and passing the national budget; monitoring expenditure and exposing misuse of public funds; exposing abuse of the rule of law and lawlessness; representing constituents and presenting their views and matters of concern to Parliament; and updating constituents on the activities and business of Parliament.<sup>2</sup> MPs are, moreover, responsible for holding the Executive arm of government accountable for decisions affecting citizens, scrutinising business referred through the Sectoral Committees, and vetting persons appointed by the President into public offices.<sup>3</sup>

## Reflection on the past leadership

Over the past years, there has been a wide misconception regarding the roles of MPs, with this misconception in some instances caused by MPs themselves. For example, MPs often unscrupulously present themselves as solutions to: the establishment and restoration of defective transport; responsible for the construction of hospitals and effecting improvements to the health sector; paying school fees for pupils and students; sponsoring weddings; meeting burial expenses and sponsoring community events and functions; and facilitating constituents' access to the President.<sup>4</sup>

These false assumptions have been the basis for voter bribery, designed to influence voter support for MPs perceived as capable due to the leverage of money and hand-outs to illiterate, naïve or opportunistic voters. This has in turn commercialised politics, leading to the election of incompetent leaders with the deep pockets or material benefits needed to unduly sway the electorate.

It should also be noted that while some MPs have previously contributed to their constituencies – for example, by acquiring ambulances, helping patients to clear their healthcare bills, and the like – these efforts are not sustainable. For instance, even where ambulances are procured for constituencies, they will, more often than not, make further demands for fuel when the ambulance is needed.

## Exploring the future

As of 2020, Uganda has started implementing the Third National Development Plan (NDP III) 2020/21 – 2024/25, which is focussed on increasing incomes and improving the quality of life of

<sup>1</sup> Edrine Wanyama is a Lawyers and Human Rights Expert

<sup>2</sup> Parliament of the Republic of Uganda, "What is the role of an MP?," available at <https://www.parliament.go.ug/faq/1187/what-role-mp> (accessed March 9, 2020); Parliament of the Republic of Uganda, "The Roles of Members of Parliament," available at <https://www.parliament.go.ug/sites/default/files/THE%20ROLES%20OF%20A%20MEMBER%20OF%20PARLIAMENT.pdf> (accessed March 9, 2020).

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

Ugandans.<sup>5</sup> Uganda also subscribes to the Sustainable Development Goals (SDGs), which aim to end poverty, improve health and education, reduce inequality, and spur economic growth while at the same time tackling climate change by preserving natural resources.<sup>67</sup>

Accordingly, citizens should vote for candidates who will contribute to the realisation of the NDPIII, the SDGs, democracy, the rule of law and human rights etc, by *inter alia*:

1. Regularly consulting constituents, collecting their views on issues affecting their day-to-day lives and presenting said issues to Parliament for discussion and redress;
2. Garnering government support to address the most pressing needs of their constituents, including among others, healthcare provision, quality public education and public transport infrastructure;
3. Proactively monitor the proper use of funds allocated by the Central government to government departments, agencies and local governments;
4. Effectively mobilising constituents to support and comply with government programmes, including in education, health, agriculture and defence of the Constitution;
5. Seeking to ensure the collaboration of government to establish sustainable programmes to consistently address citizens' needs, for social and economic advancement;
6. Promise concretely deliverable services, as opposed to hollow promises not even aligned with their mandates;
7. Desist from bribing constituents with material things such as salt, sugar, alcohol, food and money hand-outs.

Constituents should, accordingly, embrace candidates/leaders who exhibit transparent and accountability leadership.

5 Third National Development Plan (NDPIII) 2020/21 – 2024/25, available at <https://www.fowode.org/publications/research/40-national-development-plan-3/file.html>

6 Sustainable Development Goals, available at <https://www.un.org/development/desa/disabilities/envision2030.html>

7 Ibid.

# Campaign Financing: Encouraging a Deficiency in Political Competition and Quality Service Delivery

By Leila May Nabatanzi<sup>1</sup>



Panel from the 2020 Annual Conference on ESCRs that discussed Campaign Financing and its Impact on Service Delivery. From L-R Women's Democracy Network ED Perry Aritua, Pan African Movement Uganda Executive Chairman Daniel Rugarama, Femme Forte Managing Partner Isabella Akiteng and Alliance for Election Campaign Finance Monitoring ED Henry Muguzi. The discussion was moderated by UCCA Coordinator Arnold Kwesiga)

Political financing includes financial resources raised and spent by parties in the process of political competition.<sup>2</sup> The commercialization of politics and electoral processes is denounced by most politicians as Uganda braces for general elections in 2021, for which electoral campaign spending is projected to reach unprecedented levels. If the 2015-2016 election campaigns were described in a word as, Money, then all hell will likely break loose in 2021. Most political leaders consider politics as employment, exposure and opportunities rather than leadership or service to the electorate.<sup>3</sup>

Money poses a barrier to people who might possess the appropriate skills, knowledge, attitudes and experience but not the financial resources to enter the electoral arena. Thus, the quality of Uganda's political leaders depends on aspirants' ability to pay their way into office, as opposed to their **potential to become leaders and high-level decision makers**.

Since the restoration of multi-party politics, competition for the relatively limited electoral positions has intensified. As with MPs in other multi-party systems, Uganda's parliamentarians dedicate large shares of their campaign funds to personalized networks. **Those who end up winning parliamentary seats do so not on the basis of the attractiveness of their manifestos, but because they out-do their rivals insofar as "buying votes" is concerned.** This has profound implications, both for voters and the wider political system. For the voters, selling one's vote literally absolves the buyer of responsibility as a representative who goes to parliament to represent their views and interests. **For the wider political system, it excludes otherwise capable, experienced and knowledgeable**

<sup>1</sup> East Africa Emerging Advocates Public Interest Litigation Program Fellow.

<sup>2</sup> Money In Politics: Sound Political Competition & Trust In Government at page 4

<sup>3</sup> Unregulated campaign spending & its impact on electoral participants In Uganda at page 8

**people who, owing to lack of resources, are unable to contest and ultimately make a contribution.**<sup>4</sup> This offers voters a limited pool of capable and competent prospective leaders to choose from; which in turn negatively impacts the quality of service delivery.

Campaign financing takes the form of either public or private financing. Donations from the private sector take the form of private financing. But how does corporate money influence election outcomes? How does it influence the behavior of elected politicians?<sup>5</sup>

Political financing or campaign financing has a tremendous adverse effect on potential voters, which manifests as unresponsive leadership. Citizens have long watched helplessly as their elected leaders, at different levels, adopt policies that are not resonant with the needs and aspirations of voters.<sup>6</sup> Unregulated electoral and campaign spending affects the quality of service delivery to the electorate.

It is highly recommended that government should abstain from influencing elections. Experts agree abusing government resources to promote reelection or unilaterally subsidizing political parties unfairly skews the playing fields of political contestation.<sup>7</sup> There is a need to enact standalone legislation regulating election campaign finance, in accordance with good practices for mandatory public disclosure requirements, contribution limits, spending limits and reporting on pre-campaign and campaign spending by or on behalf of political parties and candidates.<sup>8</sup>

The cost of financing election campaigns has risen exponentially in Uganda since 2006, when the country returned to multiparty politics. Money has become a major motivation for political socialization and electoral participation, turning the relationship between voters and political leaders into a transactional one.<sup>9</sup> Such a transactional relationship robs the electorate of more capable leadership in instances where eligible participants lack sufficient funds to sway the electorate's vote in the manner to which they have become accustomed (through the payment of incentives and bribes). Once this transaction is completed, the new elected leader feels absolved of all responsibility towards the electorate and alas! poor service delivery is the end result.

4 Cost of Politics In Uganda; by Fredrick Golooba Mutebi at page 1

5 Money In Politics: Sound Political Competition & Trust in Government at page 14

6 Unregulated Campaign Spending and its impact on Electoral Participants in Uganda at page 9

7 Money In Politics: Sound Political Competition & Trust in Government at page 12

8 Unregulated Campaign Spending and its impact on Electoral Participants in Uganda at page 11

9 Ibid at page 95

## 2021 General Elections: The Impact of Campaign Financing on Quality Service Delivery

By Timothy Etiang<sup>1</sup>

It is now common place in Uganda that many politicians pay voters to win their support<sup>2</sup>. Former candidates interviewed said that they found it easier to campaign using money with 79% of the people interviewed saying that they think money influences the outcomes of the electoral process. In the 2016 elections, at least 2.4 trillion shillings was spent by political parties and candidates on presidential and parliamentary election campaigns countrywide<sup>3</sup>.

Researchers from the Alliance for Finance Monitoring (ACCFIM) in monitoring the expenditure of political parties, and candidates during campaigns, found out that election campaign spending has been growing exponentially since 1996. The general study indicates that a person aspiring to be a Member of Parliament needs in excess of 500 million to 1 billion shillings to contest in the forthcoming 2021 General Election<sup>4</sup>. At the local government level, the district chairperson is expected to spend between 300 million to 500 million shillings. These figures represent a growing appetite to spend more and more to win political offices in Uganda. The direct impact of this is poor service delivery. Unregulated electoral and campaign spending affects the quality of service delivery to the electorate.

First, this nature of campaigning has created situations whereby politicians are overly dependent on funding from a small number of donors. The party candidates are then made indebted to funders for contributions made during the campaign season thus promulgating policies or agendas that can be labelled as gifts, bribes or simply lobbying. It is this expectation of reciprocity that involves abuse of state resources leading to the diversion of funds originally meant for improvement of services to personal use by the politicians supported into their positions.

In discouraging the youth from participating in the commercialisation of elections, the Archbishop emphasized that the commercialisation of politics is cheapening since the same politicians will be involved in corruption cases in office.<sup>5</sup>

Second, since the exchange that takes place is between voters and candidates with one side offering money and the other accepting it as a basis for their vote, the electorate's capacity to hold MPs to account is undermined. This closes an important avenue for learning what MPs ought to do on their behalf. The room to engage the electorate in issues pertaining to government's overall performance is compromised since the elected MP only had to give out money in order to acquire their position. It also opens up a gap for the wealthy to buy their way into power and use it for their own interest at the expense of the public at large.

Third, politicians elected in office become short sighted in their ventures because the focus becomes

1 Human Rights Lawyer

2 Mbanga, Jeff. n.d. "Commercialisation of Politics and its Impact on an Already Strained Economy.", Center for Policy Analysis, available at: <file:///C:/Users/sumayah/Downloads/300460175-Commercialisation-of-Politics-and-its-Impact-on-an-Already-Strained-Economy.pdf>, Feb 25 2016, (last accessed 23 October 2020).

3 Ibid, No. 1

4 Nakirigya, Shabibah. 2019. "Unregulated campaign spending has ruined political field - report." Daily Monitor, October 5, available at: <https://www.monitor.co.ug/uganda/news/national/unregulated-campaign-spending-has-ruined-political-field-report-1851528>, (last accessed 23 October 2020).

5 Namara, Natasha. 2020. "Youth told to shun commercialisation of politics." New Vision, March 23, available at: <https://www.newvision.co.ug/news/1515235/youth-told-shun-commercialisation-politics>, (last accessed 23 October 2020)



retaining the position in the round of election and not on the duties that they were elected to do. Campaigning for the next term starts immediately after assuming office, in various forms like; having to support members of their constituency with their personal problems such as burial, weddings among others, otherwise they risk being voted out or not being voted back the following electoral season.<sup>6</sup> The elected leaders hardly perform any acts without their party paying them. Such as National Resistance Movement (NRM) which people primarily see as a vehicle for getting rich. The people demand for increased payments each election and NRM has to increase spending for each election in order to mobilize the vote.<sup>7</sup>

Lastly, election spending has also created wider economic effects, as in the case of the 2011 election, which was characterised by a record increase in inflation. The rise in food and fuel prices greatly angered the public leading to opposition protests in the form of “walk to work.” Though the crisis was rectified within a year, the downstream effects of the commercialisation of politics was illustrated. This effect cannot be overlooked this coming campaign season given ACCFIM’s increased campaign expenditure.

The lack of electoral laws containing provisions that require political parties participating in the election campaigns to declare their sources of income and expenditure as well as the absence of limits to campaign spending has discouraged talented and competent leaders who are financially disadvantaged from running for office.<sup>8</sup> This implies that the quality of Uganda’s legislators depends on aspirant MP’s being able to buy their way into office, and not on the strength of their potential to serve as strong legislators and public decision-makers<sup>9</sup>. It can therefore be asserted that the executive is able to use cash to manipulate the parliamentarians into taking or abandoning certain positions due to their poor quality or the financial burden associated with being an MP.

In conclusion, campaign financing influences elected leaders to focus more - once they are in office - on recouping monies expended to secure their positions, than in service of their electorate.

6 *Ibid*, No. 6

7 Rakner, Svein-Erik Helle and Lise. 2016. “The Impact of Elections: The Case of Uganda.”, available at: <https://www.cmi.no/publications/6434-the-impact-of-elections-the-case-of-uganda>, (last accessed, 23 October 2020)

8 Commercialisation of Elections from the inside out: Uganda’s First Money Trail Exposes Weakness in the Regulatory Framework for Campaign Financing. Accessed at <https://www.dgf.ug/case-story/commercialisation-elections-inside-out-uganda%E2%80%99s-first-money-trail-exposes-weakness>

9 Golooba, Mutebi, et al. Cost of Politics in Uganda. Background Paper, Westminster Foundation For Democracy, available at: <https://www.wfd.org/wp-content/uploads/2017/09/Cost-of-Politics-Uganda.pdf>, (last accessed, 23 October 2020).

# The Justice System as a Mechanism for Redress and Political Accountability

By Julianne Mwebaze<sup>1</sup>

## Introduction

Every five years, Uganda practically implements its principle of representative democracy by holding general elections. Through polling stations, citizens are able to manifest their choice of political leadership, electing officials whose tenure in government is specifically intended to ensure that their respective interests are represented. This selection is typically preceded by protracted periods of campaigning and canvassing; in many instances, aspirant candidates make exaggerated pledges to improve their supporter's living standards. More often than not, however, once they are elected into power, they conveniently forget or abandon their electoral promises, most of which remain overwhelmingly unfulfilled.

It is important to hold political representatives accountable for their conduct: not only does this promote fulfilment of their constitutional mandate, ensuring that constituents receive meaningful public service delivery; but it also engenders greater confidence in the democratic process if citizens are assured that public officials walk their talk.

In the narrowest sense, accountability can be understood as the act of justifying one's conduct to the individuals, groups or organisations concerned or affected thereby – irrespective whether said actions is ostensibly negative or positive. Public accountability mechanisms, which are varied and extensive, can serve to address service delivery-related issues and injustices. Judicial forms of accountability are legally enforceable, imposing punitive penalties intended not only to punish errant conduct but equally importantly to deter similar future action.

This paper assumes the existence of a constitutionally-entrenched, vibrant, effective, established rule of law, which is capable of dispensing prompt citizen-centric justice aimed at addressing personal as well as structural grievances. This paper will focus specifically on accountability systems for public officials' violations of socio- economic rights, since these were aggressively advocated for and only recently conceded in Uganda.

## Avenues for redress

Public interest litigation has proven to be one of the most effective and utilised methods of ensuring that elected officials are held accountable for their conduct. This form of litigation is Constitutionally entrenched by Article 50(2)<sup>2</sup> of Uganda's Constitution, which makes provision for any person, group or organisation to bring a legal action in response to the human rights violation of another. Public interest litigation should not be construed as a whimsical tool aimed at satisfying people's curiosity: it is legitimately instituted pursuant of the public good.<sup>3</sup> Hence the matters taken forward through this judicial avenue tend to prioritise justice for vulnerable and socially marginalised individuals and groups, whose recourse to legal remedy is overwhelmingly constrained.

Public interest litigation is predominantly instituted by Civil Society Organisations (CSOs), who are motivated to restrain the unlawful conduct of political representatives or to compel them to take

<sup>1</sup> Law Student

<sup>2</sup> Article 50

<sup>3</sup> *Kimpi v AG & Anor* (Miscellaneous Cause No 23 of 2017)

positive action that is beneficial to individuals and community groups not possessing substantial social clout. Some of the more prominent public interest cases brought before Ugandan courts include among others, petitions to: legally constrain arbitrary mass evictions, encourage the provision of social services, enhance access to health and education rights, etc.

In *Initiative for Socio-Economic Rights (ISER) v AG*, Civil Suit No. 353 of 2016<sup>4</sup> ISER successfully petitioned the High Court, arguing that the government's policy on the public financing of secondary education in Uganda infringed rights to equality and non – discrimination; and quality education guaranteed under Articles 21, 30 and 34(2) of the Constitution respectively. The court directed that the government must ensure that the design and implementation of public education programs facilitates equity for all children; moreover, the government should assume the lead position in regulating private actors' involvement in education to ensure adherence to minimum standards.<sup>5</sup>

In *Centre for Health, Human Rights and Development (CEHURD) v ED, Mulago Referral Hospital & Anor*<sup>6</sup>, the state was found to have abrogated its responsibility to provide pregnant women with adequate and affordable health-care and -facilities. In this landmark ruling, the court invoked structural interdicts, requiring the government to periodically report to the court on the progress made towards improving the health sector.

More recently, civil society has not restricted its focus to formal courts, making greater recourse to quasi-judicial bodies such as the Uganda Human Rights Commission (UHRC) and the Equal Opportunities Commission (EOC). These quasi-judicial institutions encompass responsibilities from dispute resolution and the facilitation of mediation, to enforcing professional codes of conduct, to scoping and making recommendations on the status of human rights, etc. In many instances, these entities rely on contracted personnel as opposed to judicial officers with constitutionally guaranteed security of tenure. Nevertheless, the substantive, procedural and structural foundations of such bodies are generally based on statutory law, conferring upon them a clear and legal mandate.<sup>7</sup> The accessibility and responsiveness of informal justice mechanisms is contributing to their increased popularity.

The quasi-judicial body utilised most extensively for service delivery-related cases has been the Equal Opportunities Commission (EOC); with the majority of matters brought concerned with discriminatory access to social services. For example, in **Initiative for Social and Economic Rights (ISER) Vs Attorney General, EOC/CR/038/2017**, ISER proved discrimination in the implementation of a government programme for cash transfers to older persons. For over ten years, implementation of this programme was restricted to a few districts, despite politicians' repeated promises to expand coverage. Consequently, there were no clear criteria elaborating how districts could become enrolled on the programme, increasing the number of older persons able to access the pension pay-outs to which they were entitled. In a decision handed down by the EOC on June 14<sup>th</sup> 2019, the Government was ordered not only to factor gender and equity considerations when rolling out the program into different areas, but also to prioritize and ensure the adequate allocation of state funds to ensure sufficient coverage. Moreover, the National Identification and Registration Authority (NIRA) was tasked with registering and rectifying the national ID details of older persons at no cost, throughout the country (at the parish level). The Government was instructed to submit to the Commission periodic reports (every 12 months) outlining the progress of the national rollout

4 Civil Suit No 353 of 2016

5 See further: <https://iser-uganda.org/news-events/notable-developments/408-initiative-for-social-and-economic-rights-iservs-ag,-civil-suit-no-353-of-2016> (accessed 21 October, 2020)

6 Civil Suit No 212 of 2013

7 UNDP. (2009). *Informal Justice Systems*. Accessed on 22 March, 2020, from <http://www.undp.org>

of the SAGE programme.



A teacher conducts a lesson under a tree at Kadami Primary School in Kumi District due to lack of enough classrooms and desks

ISER has also facilitated petitions to the EOC by the Island communities of Sigulu in Namayingo District and Tisaai in Kumi District on the lack of access to social services, particularly health facilities, schools and clean water.

The constitution calls for citizens' grievances to be addressed promptly and efficiently; and for justice to be dispensed speedily and effectively to avert frustrations regarding access to justice. Informal justice systems have been credited with significantly enhancing the ease of access to justice, and successfully addressing the specific interests and most pressing needs of different community groups. This reinforces that if correctly engaged, such systems go a long way towards holding public leaders accountable and improving service delivery.

Many CSOs supplement their public interest litigation efforts with extensive community empowerment. Communities are empowered to participate in the nation's budgeting process, by for example tracking and monitoring public expenditure against public service delivery. Their contribution to social service delivery and redress is therefore twofold; community awareness of rights and the responsibility to advocate for and safeguard the same, and holding elected officials accountable for their failure to properly address citizens' needs. Both of these functions are essential, particularly considering that the electorate comprises substantial numbers of vulnerable and impoverished persons whose livelihood and well-being becomes greatly compromised if state funds are not used for their benefit as intended, compelling them in such instances to demand accountability from those they elect to government to serve and develop their constituencies.

## Conclusion

While public interest litigation and informal justice mechanisms, particularly quasi-judicial bodies, have served to substantially enhance marginalised and vulnerable social groups' access to justice, there remains scope for improvement. Investing in and ensuring the independence, legitimacy and effectiveness of accountability mechanisms, both judicial and otherwise, is thus an important priority for all relevant stakeholders in Uganda who wish to ensure that political leaders do not engage in unlawful and unethical conduct with impunity.

# Fixing the missing link in Foreign Investment

*Tonny Raymond Kirabira<sup>1</sup>*

In recent years, Uganda has experienced an unprecedented increase in Foreign Direct Investment (FDI), with China accounting for the majority of this, which has cemented its position as an increasingly influential force in domestic matters.<sup>2</sup> Almost all political party manifestos highlight plans to contribute to the foreign investment industry as a path towards economic growth and development. This points to the importance of interrogating the *nature* of FDI and its holistic impact on people's lives, beyond economic goals. One important element relates to FDI and its impact on the full realization of socio-economic rights within Uganda.

FDI is defined as an investment by a resident of one economy into another economy, which is of a long-term nature or “lasting interest” in which “the investor has a ‘significant degree of influence’ on the management of the enterprise.”<sup>3</sup> This definition is also reflected in the way foreign investors operate in Uganda. Besides Uganda's open-door policy for investors, it could be argued that the growing FDI in Uganda, predominantly from China, is partly propagated by economic realities such as low wages, as well as incentives such as new special economic zones.

Research conducted by the Uganda Consortium on Corporate Accountability (UCCA) into the State's capacity to regulate corporations<sup>4</sup>, including FDIs shows that FDI implicitly impacts labour standards, for example the right to just and favorable conditions of work, as well as the right to form and join trade unions. In some cases, local workers employed by international companies complain about mistreatment and harassment – particularly where the labour conditions and expectations between the local and international actors are not aligned.<sup>5</sup> Investments in critical fields like mining and energy, usually have adverse impacts on vulnerable groups, such as women, children and indigenous peoples; especially where the groups in question are proximate to these resources and previously enjoyed some level of access to them, giving rise to contestation over companies' assertion of legal rights over the resources, perceived by limited or ineffectual dialogue and engagement. Similarly, such companies failure to conduct operations consistently with prevailing norms and standards also leads to environmental and social fall-outs negatively impacting communities living proximate to operations. The role of political leaders is particularly important in such situations, not only to inform communities of their rights but importantly to contextualise how policy decisions affect them. Such leaders play a pivotal role in protecting and enforcing local communities' socio-economic rights against foreign investors.

Uganda has explicit legal obligations to protect, respect and fulfil the human rights of all the people within its borders. In some instances, the government is called upon to work closely with investors to ensure that their operations are respectful of and enforce human rights.

Together with the foreign investors, the Ugandan government needs to implement globally recognized principles under non-binding instruments, such as for example, the United Nations Global Compact,

<sup>1</sup> Socio-Legal Researcher and Advocate: [Tonny.kirabira@myport.ac.uk](mailto:Tonny.kirabira@myport.ac.uk)

<sup>2</sup> Taddeo Bwambale, 'China tops investments in Uganda in 2018' (New Vision, 24 September 2019) <https://www.newvision.co.ug/news/1507462/china-tops-investments-uganda-2018> accessed 16 July 2020

<sup>3</sup> United Nations Conference on Trade and Development, Division on Investment and Enterprise, FDI Flows and Stocks, UNCTAD TRAINING MANUAL ON FDI STATISTICS AND THE OPERATIONS OF TNCs 35 (2009), p.35 available on [https://unctad.org/en/docs/diaeia20091\\_en.pdf](https://unctad.org/en/docs/diaeia20091_en.pdf) accessed 09 July 2020

<sup>4</sup> <https://ucca-uganda.org/wp-content/uploads/2020/03/18-11-20-Capacity-of-the-State-to-Regulate-Corporations.pdf> accessed 2 November 2020

<sup>5</sup> Isaac Imaka, 'CNOOC: Staff complain of mistreatment, poor pay' (Daily Monitor, 25 June 2014) <https://www.monitor.co.ug/News/National/CNOOC--Staff-complain-of-mistreatment--poor-pay/-/688334/2360658/-/doq!xp/-/index.html> CNOOC accessed 16 July 2020



which requires businesses to “uphold the freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced and compulsory labour, the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation.”<sup>6</sup>

The UN Guiding Principles provide further conceptual and operational clarity under the ‘Protect, Respect, Remedy’ (PRR) Framework.”<sup>7</sup> This entails three components of policy commitment, human rights due diligence and provision of remedies to people whose rights have been violated as a consequence of business conduct.

The government should consider innovations in investment agreements, as a way to improve international company’s fulfilment of domestic labour standards. FDI is usually developed through investment treaties, which involve numerous stakeholders. In the context of East Africa, there are regional agreements, within the Common Market for Eastern and Southern Africa (COMESA), as well as Bilateral Investment Treaties (BITs) or regional free trade treaties.

In 2018, Uganda opened up a Free Preferential Trade Area to produce minerals for COMESA.<sup>8</sup> In order to develop the project, the government signed BITs with the Chinese government, under the Uganda-China (Guangdong) Free Zone of International Industrial Cooperation. Such a project employs myriads of both skilled and non-skilled workers. This heightens the need to protect their rights before and during the negotiation of the underlying investment agreements.

Besides the emphasis on labour rights, the government should equally address other socio-economic rights including *inter alia* education, health and adequate standards of living. Labour rights cannot be realized in isolation of these other rights; hence human rights are conceived as interconnected and interrelated. FDI, similarly, has multiple effects on various aspects of a worker’s livelihood, for example, their environment, health, etc.

In addition to work safety and decent working conditions, workers also require decent wages in order to enhance both their productivity and standard of living. It is, therefore, vital for political actors and campaign manifestos to prioritize labour enforcement in fiscal plans alongside FDI initiatives. Uganda should increase its budgetary allocation towards policies regulating and implementing FDI. This will promote and support activities such as for example, workplace inspection in factories, farms, mines and other occupational facilities. Additionally, local leaders need to learn about the policies and regulations pertaining to labour standards and FDI so that they are able to monitor and enforce compliance with the same.

Finally, political leaders should seek to develop a strong FDI protection and regulation regime at the regional level. East African countries should share best practices among themselves, to enhance protection of socio-economic rights within FDI.

6 See UN Global Compact, Principles 3, 4, 5 and 6, available at <https://www.unglobalcompact.org/what-is-gc/mission/principles> accessed 13 July 2020. The United Nations Global Compact is a non-binding United Nations pact to encourage businesses worldwide to adopt sustainable and socially responsible policies, and to report on their implementation.

7 Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework (Guiding Principles), UN Doc. HR/PUB/11/04 (2011), (hereinafter GP) (available at [www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf) accessed 13 July 2020)

8 New vision, ‘President commissions Tororo Sukulu Phosphate Project’, 24 October 2018, [https://www.newvision.co.ug/new\\_vision/news/1488309/president-commissions-tororo-sukulu-phosphate-project](https://www.newvision.co.ug/new_vision/news/1488309/president-commissions-tororo-sukulu-phosphate-project) accessed 16 July 2020





# ISER

Facilitating Social Justice

## About the Initiative for Social and Economic Rights - Uganda

*ISER is a registered national Non - Governmental Organisation (NGO) in Uganda founded in February 2012 to ensure full recognition , accountability and realization of social and economic rights primarily in Uganda but also within the East African region.*

## Contact information

Initiative for Social and Economic Rights (ISER)

Plot 60 Valley Drive, Ministers' Village, Ntinda

P.O Box 73646, Kampala - Uganda

Email: [Info@iser-uganda.org](mailto:Info@iser-uganda.org)

Website: [www.iser-uganda.org](http://www.iser-uganda.org)

Tel: +256 414 581 041

Cell: +256 772 473 929

Follow us:



@ISERUganda



@ISERUganda