

**3 September 2021**

**Clement Nyaletsossi Voule**

**UN Special Rapporteur on The Freedom of Association and Peaceful Assembly,**

**Mary Lawlor**

**The UN Special Rapporteur on the Situation of Human Rights Defenders**

**C/O OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS,**

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**RE: COMMUNICATION CONCERNING THE SUSPENSION OF 54 NGOS IN UGANDA**

**Dear Ms. Lawlor; Dear Mr. Voule,**

**I am writing on behalf of the International Commission of Jurists (ICJ) to bring to your attention a grave development with profound implications for the protection of freedom of association and the work of human rights defenders in Uganda.**

**The International Commission of Jurists is a non-governmental organization composed of 60 distinguished jurists from all regions of world dedicated to advancing the rule of law and the legal protection of human rights.**

On 20 August 2021, the Ministry of Internal Affairs in Uganda, through the National Bureau for Non-Governmental Organizations (NGO Bureau), held a press conference in Kampala, at which they released a statement<sup>1</sup> indicating that they had indefinitely suspended the operations of 54 NGOs, on grounds that those organizations had failed to comply with the country's NGO Act.

Included in this group of 54 NGOs<sup>2</sup> were some of the leading human rights organizations in Uganda, including Chapter Four Uganda,<sup>3</sup> whose focus is providing strategic legal response to the abuse of civil liberties in defence of human rights. It has in the past criticized the government for human rights violations and has represented many individuals whose rights were allegedly violated by the State. The Citizens' Coalition for Electoral Democracy in Uganda (CCEDU),<sup>4</sup> which advocates for integrity, fairness, equitability and transparency in the country's electoral process has also been suspended.

As a consequence of these measures, most of the targeted NGOs have announced that they would be halting their operations, at least temporarily. Chapter Four Uganda has asserted publicly that

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<sup>1</sup> Available at: <https://ngobureau.go.ug/sites/default/files/news-notices/2021/08/STATEMENT%20ON%20HALTING%20OF%20OPERATIONS%20DUE%20TO%20NON-COMPLIANCE.pdf>

<sup>2</sup> Ibid.

<sup>3</sup> See, <https://chapterfouruganda.org/>

<sup>4</sup> See, <https://www.ccedu.org.ug/>

they were fully compliant and challenged the basis on which they have been indefinitely suspended. They have made public documentation of compliance,<sup>5</sup> which goes to challenge the grounds provided to them by the NGO Bureau as the reasons for the suspension.

The government of Uganda has a poor record of protecting the important work of civil society and human rights organizations in the country and has frequently adopted measures to impede their work.<sup>6</sup> The abrupt halting of the functioning of these targeted NGOs poses an overwhelming impediment to the exercise of the right to freedom of association protecting the right to form and sustain professional and organized organizations. The restrictions on NGOs cannot be considered to be necessary or proportionate to any legitimate purpose as set out in Article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Uganda is a party.<sup>7</sup> As much as it is required that the organizations respect the laws governing NGOs in a particular country, there is still a requirement that the laws regulating the actions of NGOs are not used to oppress, or interfere with the operations of these organizations. The abrupt suspension of the 54 NGOs in Uganda is contrary to the country's obligation to protect and facilitate the work of human rights defenders, as affirmed in the Human Rights Defenders Declaration, and to ensure that NGOs operate in a favorable environment.<sup>8</sup>

While organizations generally have a responsibility to respect the laws governing NGOs in a particular country that comply with the rule of law, those laws become non-compliant with human rights and the rule of law where they establish arbitrary barriers that are used to harass or persecute members, or interfere with the operations of these organizations. The actions of the Bureau are also ultra vires its powers as provided for in the NGO Act,<sup>9</sup> under section 7(2), which requires the Bureau to "**give the organization the opportunity to be heard**" before it halts the operations of said organization. In this case, staff at some organizations have stated that they were not given the opportunity to be heard, before the Bureau halted their activities, even when there is a legal requirement for the Bureau to do so.<sup>10</sup> This is an indication that the suspension of these organizations does amount to harassment and is an attempt to shrink civic space in the country.

The putative grounds for halting the activities of these 54 NGOs were, varyingly: 23 for operating with expired permits;<sup>11</sup> 15 for their alleged failure to file annual returns and audited books of accounts to the Bureau;<sup>12</sup> and 16 for operating without registering with the NGO Bureau.<sup>13</sup> These grounds and their respective penalties<sup>14</sup> are all intended to, and certainly have the effect of, unduly

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<sup>5</sup> Available at: <https://twitter.com/nickopiyo/status/1428633853254582279?s=20>

<sup>6</sup> Freedom House, "Uganda: Suspension of Democratic Governance Facility Highlights Growing Concerns," 4<sup>th</sup> February, 2020. Available at: <https://freedomhouse.org/article/uganda-suspension-democratic-governance-facility-highlights-growing-concerns>

<sup>7</sup> Uganda acceded to the ICCPR on June 21, 1995.

<sup>8</sup> ACHPR, "Guidelines on Freedom of Association and Assembly in Africa." Available at: [https://www.achpr.org/public/Document/file/English/guidelines\\_on\\_freedom\\_of\\_association\\_and\\_assembly\\_in\\_africa\\_eng.pdf](https://www.achpr.org/public/Document/file/English/guidelines_on_freedom_of_association_and_assembly_in_africa_eng.pdf)

<sup>9</sup> Available at: <https://www.mia.go.ug/sites/default/files/download/The-Non-Governmental-Organisations-Act-2016%20comp.pdf>

<sup>10</sup> Human Rights Watch, "Uganda: Harassment of Civil Society Groups", August, 2021. Available at: <https://www.hrw.org/news/2021/08/27/uganda-harassment-civil-society-groups>

<sup>11</sup> Section 31(1) and 32(1) of the NGO Act, 2016.

<sup>12</sup> Section 39(2) and (3) of the NGO Act, 2016.

<sup>13</sup> Section 29(1), 31(1) and 31(2) of the NGO Act, 2016.

<sup>14</sup> Section 40 of the NGO Act, 2016.

restricting the operations of NGOs and civil society groups, and they are representative of the greater threat that NGOs face in the country.

As the Special Rapporteur on the rights to freedom of peaceful assembly and of association has repeatedly underscored, the obstacles entailing burdensome administrative requirements can impose an unjustifiable impediment to freedom of association and registration must not generally become a precondition to the exercise of freedom of association. In this case, the Bureau has used the registration requirement as a precondition to the exercise of the freedom of association, with organizations like the Great Lakes Institute for Strategic Studies (GLISS), which identifies as a policy think-tank rather than an NGO,<sup>15</sup> having its operations halted on grounds that it is carrying out “NGO activities” (said activities are not clearly outlined)<sup>16</sup> without registering with the Bureau. However, this determination is made in total disregard of the fact that the think-tank is actually registered as a limited company.<sup>17</sup> Therefore the measures taken by the Bureau and the provisions of the NGO Act that they are based on to summarily halt the operations of these organizations do not appear to be compliant with the country’s international legal obligations to protect the right to freedom of association.

Uganda has also not fully respected their obligation to provide for an effective remedy in line with Article 2(3) of the ICCPR. While generally judicial in character, this remedy can be administrative, such as in the form of a grievance mechanism, for certain kinds of violations, as long as the administrative body is functionally independent and the remedy is prompt, accessible and compliant with fair hearing standards. Currently in Uganda, the NGO Act provides for the establishment of the Adjudication Committee<sup>18</sup> which is meant to handle appeals by persons aggrieved by a decision of the Bureau, and it further provides that the decisions from the Committee may then be appealed to the High Court.<sup>19</sup> However, this Committee is yet to be established by the government.<sup>20</sup> In addition, since the Minister is unilaterally tasked with appointing its Members and establishing rules and guidelines governing its work, it is doubtful that such a mechanism could be considered to be functionally independent. Since there is no properly established administrative mechanism, the organizations are left with the two options. The first is to appeal the decisions of the Bureau for reconsideration to the Bureau itself, which cannot constitute an effective remedy. The second is to choose judicial litigation, a process that is both time consuming and costly, and not consonant with the requirement of accessibility and affordability. It is therefore important that the government is called upon to establish an adjudication committee that is independent and can meet the standard of functional independence.

In light of the above, the ICJ requests the Special Rapporteurs to urge the Ugandan government to reinstate the status of the NGOs, and to take measures to revoke or amend the NGO Act and revise the onerous registration requirements so as to remove undue burdens on the functioning of independent NGOs and human rights defenders and to bring them in line with international standards, particularly in respect of the freedom of association. In addition, the process of appointments and rule setting by the Adjudication Committee should be amended to ensure its independence.

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<sup>15</sup> See, <https://www.glissafrika.org/about-us>

<sup>16</sup> Available at: <https://twitter.com/GodberTumushabe/status/1428690280484638720?s=20>

<sup>17</sup> Available at: <https://twitter.com/GodberTumushabe/status/1429678890402951169?s=20>

<sup>18</sup> Section 53 of the NGO Act, 2016.

<sup>19</sup> Section 53(5)

<sup>20</sup> Human Rights Watch, “Uganda: Harassment of Civil Society Groups”, August, 2021. Available at: <https://www.hrw.org/news/2021/08/27/uganda-harassment-civil-society-groups>

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Jeewa', with a large, sweeping flourish above the name.

Tanveer Rashid Jeewa

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International Commission of Jurists

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***On behalf of:***

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