



REFLECTIONS ON COVID-19 POLITICS IN UGANDA

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‘Stay still and don’t move, know that I am in charge’: COVID-19, a lease of life for Uganda’s ailing regime and the future civic space

May 2020

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A publication of the Uganda Transitional Scenarios Thought Leadership Group

Introduction: The Global Pandemonium caused by COVID-19

First detected in Wuhan region - China in November 2019, by March 11, 2020, the World Health Organisation (WHO) declared COVID-19 a global pandemic. At the time of writing this opinion, the pandemic had engulfed the entire world with only a handful of countries spared - with over 3 million people infected and over 240,000 deaths worldwide. Millions of people have lost jobs, thousands of companies have temporarily closed, markets have collapsed, and economic models have come under intense scrutiny.

As the world battles this invisible enemy, governments everywhere have adopted visible and, in some cases, extraordinary and extreme measures to contain the virus. In what some think is a necessary evil, critical human and people’s rights have been sacrificed for the greater public good. The debate about saving lives versus livelihoods rages on with some protesters, most notably in the US stressing they have a right to contract the virus and die instead of being locked up in their homes. In Uganda, people have died because of the lockdown measures to prevent the virus than of coronavirus itself.

In this article, we look at some of the COVID-19 measures, the manner of their enforcement and argue that unless citizens and civic groups find creative ways of resisting some of the extreme measures, the temptation to adapt and tolerate them could lead to a ‘new normal’ and renewed wave of clampdown on people’s rights and freedom, worse than in the pre-COVID-19 era.

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Flashback: Civic Space in the pre-COVID-19 era

Civic space, by which we mean the terrain of public participation in the affairs of state, expressing dissent, enjoyment of freedoms of association, assembly and expression, 'is the bedrock of any open and democratic society. When civic space is open and conducive, citizens and civil society organizations are able to organize, participate, communicate and make their contribution to better governance and development of their countries, communities and individuals. In doing so, they can claim their rights and shape the world around them. This can only happen when a state holds by its duty to protect its citizens, respects and facilitates these [fundamental rights](#).

In many respects, the pre-COVID-19 state of civic space was already in peril all over the world. 'In many countries, restrictive laws had already been squeezing civil society before the crisis hit - the pandemic provides a convenient cover for governments to further tilt the balance of power in their favor', a [Carnegie article observed](#). A [Civicus Report](#), 'People Power under Attack' released in December 2019, shows how fundamental freedoms of association, peaceful assembly and expression are regressing across the world. In a year, the report notes, 40% of the world's population lived in repressed countries, more than doubling from 19% in 2018! The top 10 violations of Civic Space were censorship, detention of protesters, harassment, restrictive laws, intimidation, attack on journalists, protest disruption, journalist's detention, excessive force and criminal defamation.

In Uganda, the threat to civic space seen in the form of clampdown on dissent has been widely documented. One of the most blatant abuse of rights of association in 2019, the year preceding COVID-19 were harassment of opposition politicians, imprisonment and disappearance. The attack on the People Power Movement and its leader, Kyadondo East county MP, Robert Kyagulanyi aka Bobi Wine saw Uganda hit global headlines for wrong reasons. As a popular artist, over 200 of his concerts were disrupted, radio stations prevented from hosting him and many People Power Movement supporters arrested, tortured and some even killed. Beyond the People Power, the attack on other political party leaders and change seeking activists in the country continued as in previous years. Civic leaders and civil society organizations have not been spared either. Nearly 12,000 NGOs faced threats of being deregistered following a validation process that wasn't fully understood, while social justice activist and intellectual, Dr. Stella Nyanzi was incarcerated for most of 2019. Other associations of medical professionals, media and civic organisations have historically been targeted and persecuted in Uganda. In short, the right to dissent, freedom of assembly, association and expression were all under severe attack even before the COVID-19 pandemic.

Shrinking civic space in COVID-19 times

There is no doubt that the COVID-19 pandemic is a major threat to global public health. It has spread exponentially across the world, mainly through international travel. The main

medium of transmission for the virus is person-to-person contact and so it is not surprising that governments across the world adopted a range of measures anchored around physical distancing. Many of the preventive measures across the world have been very drastic to say the least. [Following the outbreak](#), the Chinese government required citizens to install software on their smart phones which predict people's health status, tracks their locations and determines whether they can enter public space, with claims that all this information was accessible by the police. In countries like Kyrgyzstan, Iraq, France, Switzerland and South Africa, lockdown measures were announced by governments, even when in some, they were deemed disproportionate. In Italy, there were strict measures requiring people to stay home with the police patrolling the streets and arresting anyone without a permit for essentials. In Kenya, partial lockdowns have been instituted with strict travel restrictions in and out of the capital Nairobi and high-risk regions. The pattern of lockdowns, despite presenting many challenges to people have been common, the world over.

International instruments to limit civic freedoms

[Article 21](#) of the International Covenant on Civil and Political Rights (ICCPR) states that the right to peaceful assembly shall be recognized...no restrictions may be placed on the exercise of this right, other than those imposed in conformity with the law and which are necessary in a democratic society or in the interest of protection of public health. As the International Centre for Not-for-Profit Law (ICNL) notes, during emergencies-whether caused by an epidemic, terrorist attack or otherwise, countries tend to give vast power to the executive branch of governments. To a certain extent, this is understandable because officials are operating with imperfect information and need flexibility to address emerging threats. But generally, states and security institutions will find emergency powers attractive because they offer shortcuts and as a result, they tend to persist and become permanent.

So, while international law allows governments to impose restrictions to protect public health, there are limitations - each restriction must meet a strict test including conformity with the law (legality principle) but the law itself must be sufficiently precise. Secondly, such restrictions must be legitimate (legitimacy test) and should not be used to conceal illegitimate aims. Third, restrictions must pass the necessity and proportionality test. In other words, governments must demonstrate that restrictions are necessary and appropriate, and tailored to achieve its protective function.

However, many states are doing exactly the opposite - a [Civicus report](#) issued earlier in April 2020 documents alarming civic space trends in the context of the COVID-19 response including: unjustified restrictions on access to information and censorship; detention of activists for disseminating critical information; crackdown on human rights and media outlets; violation of the right to privacy and overly broad emergency powers. There have been several cases of police and other security agencies' abuse during the lockdown in countries all over the world from Philippines, Kenya, India, South Africa and Uganda

where those arrested are treated in very inhumane ways, often outside the law. Suspects accused of violating curfews are brutally beaten, kicked, caged or even sprayed with tear gas prompting the UN to warn that COVID-19 should not be used by states to suppress [human rights](#).

Uganda's COVID-19 Response

Uganda registered its first official coronavirus case on March 21st, 2020. By Labor Day on May 1, 2020, there were 83 confirmed cases of infection and no death had been reported. On the surface, in comparison to her immediate neighbors Kenya, DRC, Tanzania and Rwanda, Uganda is a [shining light of hope](#), even when there are claims that baseline figures may be questionable because of limited testing capabilities and potentially several false positive cases. But Uganda's track record in handling epidemics has been commendable as seen in the response to ebola, yellow fever, measles, Marburg, Crimean-Congo hemorrhagic fever, among others. Besides the standard medical response that revolve around testing, contact tracing, treatment and isolation, Uganda announced a raft of public health and other measures, including a ban on passenger aircrafts to limit "importation" of the virus. After dramatically declaring "a state of war", President Museveni took over the command of the "war effort" announcing a range of measures including banning social, religious and political gatherings, a total lockdown of the country and on overnight curfew to last until May 5, 2020. He has essentially told everyone to stay still as he is in charge of winning this "war". Millions of Ugandans simply in a state of siege.

The civic space test of Uganda's response

It is in the context of the pre-COVID-19 state of affairs in Uganda, the constitution as well as limits prescribed by the international law and obligations such as the ICCPR, as well as good practices from other countries that Uganda's raft of measures should be examined. Under statutory Instrument Supplement No.11, dated 24th March 2020 titled, '[The Public Health \(Control of COVID-19\) Rules 2020](#)' outlines control measures for public gatherings, bans or pause restrictions of access to schools and institutions of higher learning, bars and cinema halls, prayers in churches and mosques, marriage ceremonies, wedding parties, funerals, public meetings including political rallies, indoor and outdoor concerts and sports events, among others.

In terms of conformity to the law and the legality principle, one may argue that the raft of measures adopted are lawful even when there remain big concerns about the constitutionality of many of Uganda's legislations relating to civic freedoms, including those concerning the media, NGOs or public order management. The Public Health (COVID-19 Control) Statutory Instruments suggests that most of Uganda's response measures are backed by the law. However, in a country where public officials more often circumvent the



law than observe it, it is important to analyze the pronouncements by the president which in many ways are more publicly known and enforced by state authorities.

The ban on travel and restriction of movement

In a series of public pronouncements in his addresses to the nation, public transport including air, water and roads were banned, the only exception being cargo transporters, who have incidentally become the major carriers of the virus from across Uganda's borders. These public transport measures were followed a few weeks later with tighter measures banning private use of vehicles unless one possesses a sticker given to essential workers by the Ministry of Works and Transport. Previously, private vehicles were allowed if the occupants did not exceed three. Effectively Ugandans were stopped from leaving home unless they were riding bicycles or walking to work. For many, this meant no income, inability to access hospitals for patients, including those with chronic diseases. Cases have been documented of women giving birth by the roadside, patients dying from homes or being pushed in wheelbarrows to hospitals. Government's affirmative measures such as offering ambulances or special permission for use of private vehicles were largely ill-conceived and too little too late. The process of applying for day permit to take a patient to hospital is a nightmare of lining up at the offices of resident district commissioners for hours and sometimes the officials ask for prior letters from doctors even for new ailments in what is simply unreasonable.

Whether or not the ban on public and private transportation is legal, and notwithstanding the obvious benefits of reducing imported cases of the virus through the airport, the scale of impact on ordinary people raises questions about these measures, which arguably fall short of the proportionality principle to safeguard civic space. Further, the enforcement of these measures by Uganda's security forces have in some instances been very violent and extreme with cases of brutality on pedestrians and motorists by the Ugandan military and its allied militia the Local Defense Units (LDUs).

Banning and Restricting Public gatherings

The other measure enforced in Uganda as part of the lockdown is the restriction of public gatherings including religious ones, social functions like weddings and burials, being restricted to less than five people and sometimes with special permission gatherings of not more than 30 people. Most notably all political events are subject to the same restriction and so for the entire duration of the lockdown, political parties cannot assemble or hold rallies, politicians are not even allowed to distribute relief items like food with the government arguing their distribution of these items would attract crowds and become a conduit for the transmission of the virus. Those that have gone on to distribute food in their constituencies have been arrested, tortured and detained. The president has frequently

directed that such leaders should be charged with attempted murder! And all this, at a time when lawyers are not included as part of essential workers means access to legal support is constrained.

Again, while these measures may be legal, there are serious questions about whether they are legitimate or if they meet the proportionality test. On the question of whether politicians can distribute relief items, the reasons advanced are not strong enough and in fact may be a cover to deny politicians access to the voters. The government itself has not demonstrated capacity to distribute these items effectively and their choice to start in locations known for their strong opposition to government may be read as creating an unfair advantage in the run up to the general elections next year. Given the number of cases in the country and the clearly predictable patterns, the extreme measures taken by government may not be justified. In fact, one may argue that these measures are being used a cover for the ruling regime to restrict its political competitors while remaining the only actor reaching out to Ugandans, sometimes using partisan means.

Restriction to Freedom of Expression

Since the lockdown started nearly a month ago, the only political leader with unrivalled airtime on all TV stations has been the President. While this fits in the pattern of what is happening in other countries, the way the COVID-19 broadcasts have been delivered has given the president, also a perennial political competitor undue airspace at the expense of others. Unlike other countries, the ambience around the president's address to the nation is akin to a father addressing his children. Media isn't around to ask questions and only censored questions by officials in the president's office are occasionally permitted. Instead they are invited to the president's office to video record him performing physical exercises that are replayed on national television. Suddenly, an embattled president, presiding over an ailing, corrupt and uninspiring regime, desperate to stay connected to the population by recruiting artists and ghetto kids, only a few months ago is now rejuvenated.

His addresses to the nation are riddled with stories about his liberation struggle and how he was victorious in other battles, justifying most of Uganda's COVID-19 response as tactics he has used in the past in the bush war that shot him to power in 1986. Hours and hours are spent explaining the most obvious things repeatedly. While many elites have taken this as a joke and made fun of it on social media, the political advantage the president is getting is unprecedented. Meanwhile all other would be political opponents are locked up in the lockdown, resorting to online social media messaging that hardly gets heard by the people who matter in politics. More worrying however is the restriction of media and practitioners from expressing views and/or interviewing "survivors" of COVID-19 virus discharged from quarantine centers. The NBS talk show host Bashir Kazibwe comes to mind. By restricting access to information, the government is not just denying accurate and authentic stories but also showing worrying lack of transparency.

Conclusion and the future of civic space

There is no doubt that COVID-19 remains a deeply worrying pandemic and extraordinary measures ought to be taken to prevent its spread in a country like Uganda where public health services are acutely limited. However, in many respects, Uganda's response has been disproportionately harsh. The manner of enforcement of some of the measures has been brutal and dehumanizing and with lawyers not designated as essential workers, access to justices is more difficult. Meanwhile the ban on gatherings undermines the ability for citizens to associate and restricting relief distribution to government only is suspect.

The pattern of infections in Uganda have been very predictable, largely imported cases and it is possible for the government to have contained the spread of the virus without imposing the drastic measures it has enforced with colossal impact on lives and livelihoods. It is our recommendation that Civil society should consider challenging some of the measures imposed as part of the lockdown and lock-up package against COVID-19 before they become a new normal. Risky as it may be, Ugandans may need to slowly start defying and resisting extreme lock-down measures which have left the population to live in a state of siege. Silent compliance or adaptation may give the regime the confidence that future lock-downs with even less justification can just be imposed.

It remains unknown when the lockdown will end but when it eventually does, Ugandans may have gotten accustomed to renewed restrictions on basic freedoms in what may become a new normal. Civic space was already constrained before this pandemic, but COVID-19 could just be the virus that elevates Uganda's civic space rating from repressed to closed.

About the Uganda Transition Scenarios Thought Leadership Group – UTSTLG

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