



5<sup>th</sup> August, 2013

## CSO'S PERSPECTIVES ON THE PUBLIC ORDER MANAGEMENT BILL

### PRESS RELEASE

As a network of concerned CSOs, we take cognizance of the efforts that the Uganda Government and more particularly the Uganda Police Force have undertaken to protect the Citizens of Uganda and their property as well as their commitment to the prevention and detection of crime of any kind. The above notwithstanding, while we all strive for a safer world to live in, the means of combating and preventing crime and more specifically public (dis) order should be in consonance with the human rights standards universally accepted, binding and domestically provided for under the Uganda Constitution of 1995.

As CSOs in Uganda, we note with great concern and we reiterate our earlier position that the Public Order Management Bill if passed in its current form infringes greatly on a number of human rights and freedoms of Uganda including the following:

1. By legislating to control public assemblies/ meetings rather than regulate them in accordance with the needs of a democratic society and focused on the efficacy of government and its agencies and political organs, the Bill infringes on the constitutional right to freedom of speech and expression, thought and belief, assembly, association and demonstration.
2. The Bill under clauses 7 and 8 undermines the rule of law, constitutionalism and independence of the judiciary by seeking to revive Section 32 of the Police Act that sought to 'prohibit' rather than 'regulate' public assemblies which was held unconstitutional by the Constitutional Court in *Muwanga Kivumbi v. Attorney General*

*(Constitutional Petition No. 9/05)*. Art. 92 of the Constitution forbids parliament from passing any law to alter the decision of court.

3. The Bill gives immense discretionary powers to the authorized police officer, hence is susceptible to abuse under clause 4, 5, 7 and 8. There under, there is no established mechanism that can or should be followed by the police in exercising his power of 'regulation, or 'directing'. It's all upon the police's will, which leaves room for serious ramifications for the rule of law and human rights.

4. The Bill is intimidating, deterrent, and burdensome and fear prone legislation: threatening and shrinking the public space. The Bill under Clause 6 is an infringement on the right to political participation as it seeks to not only control the public gatherings but also what is discussed therein which includes principles, policy, actions or failure of any government; political party or political organization, whether or not that party or organization is registered under any applicable law.

5. The Bill under Clause 15 gives superfluous discretionary powers of the Minister as a lone individual to declare that in any particular area in Uganda, it is unlawful for any person to convene a public meeting if in his opinion it is desirable in interest of public tranquility. This can be abused when and if left to the will of an individual or the executive without any supervision for checks and balances.

6. The inclusion of use of fire arms without strict safeguards under Clause 11 during public assemblies is unwarranted. Indeed, the provision is generally below the standards set in the Police Act which introduces safeguards such as imploring the officer to only resort to fire arms only after exhaustion of other possible ways of fulfilling calming a situation.

7. The Bill erroneously makes meeting organizers criminally liable instead of perpetrators for criminal acts committed by the participants attending the public meeting. Under Clause 12 of the Bill the organizers shall compensate any party that may suffer loss or damage from any fall out of the public meeting and ensure that statements made to the media and public do not conflict with any existing laws of Uganda. The section is misconceived, redundant and defeats legal maxims of personal criminal liability upon which a functional legal framework is constructed.

**Consequently, CSO fraternity calls upon the PARLIAMENT of Uganda consider amending the BILL since:**

- The Bill in its current state is an affront to human rights of all citizens enshrined under Chapter 4 of Uganda's 1995 Constitution.

- The law seems to be dealing with symptomatic offshoots of gatherings gone wrong but does not address the underlying causes..
- The main focus of the Bill should be on building independent monitoring, review and evaluation of public assemblies' mechanism. This should be aimed at evaluating the standards used by the police in the policing of demonstrations with the sole aim of informing the transformation process of the police.
- The POM Bill as it stands now is still wanting and cannot be an enabling piece of legislation as Uganda strives to achieve its democratic aspirations of liberty, equality, rule of law and constitutionalism. The Bill must be amended to ensure it adheres to the Constitution and addresses the concerns set out above.

1. Human Rights Network-Uganda
2. National NGO Forum
3. Foundation for Human Rights Initiative
4. National Association of Professional Environmentalists
5. Oil Watch
6. Commonwealth Human Rights Initiative
7. Human Rights Watch

For Contacts and Inquires write to

HURINET-U +256414286923 info@hurinet.or.ug

NGO Forum-+256414510272-info@ngoforum.or.ug

For Human Rights Watch, Maria Burnett, [maria.burnett@hrw.org](mailto:maria.burnett@hrw.org)