



THE ALLIANCE FOR NATIONAL TRANSFORMATION (ANT)

Statement on the further shrinking of the rule of law in Uganda

Thursday 30th September, 2021

The Alliance for National Transformation political party notes with serious concern the further deterioration of the rule of law, and abuse of human rights in Uganda.

This follows the recent incidents in which two Members of Parliament, the Hon. Allan Ssewanyana, and the Hon. Muhammad Ssegirinya were brutally rearrested shortly after Court had granted them bail, worsened by the unfortunate campaign mounted by - none other than the President to have - of all things, the Bill of Rights in the Constitution amended to remove the right to apply for bail (for suspects of capital offences). This was not helped by a disturbing utterance by the Chief Justice that the President is the final Appellate Court in some matters. It is unfortunate that all these have come in the week when the country was commemorating the 4th annual Ben Kiwanuka memorial lecture - an icon of justice and rule of law!

1. Brutal rearrests of Hon. Allan Ssewanyana and Hon. Muhammad Ssegirinya

The ANT notes that it has become a norm for security agencies to defy the Constitution of Uganda, international rule of law practice, and insult the sanctity of Court by - in a thuggish style, immediately re-arresting suspects to whom Court has granted bail - at times on Court premises!

ANT categorically states that these actions are illegal, arbitrary, embarrassing and an affront not just on the Constitution of Uganda but our very humanity as a people. It is difficult to understand what the security agencies seek to score by exhibiting such total disregard of the law. No wonder, not even the Prime minister or Attorney were able to explain these unfortunate events on the floor of Parliament when tasked.

We would like to warn and counsel that even where a suspect has further charges to answer, the State is clothed with the right to amend the charge sheet, and introduce new charges or evidence. We further guide that by the

time Court releases a suspect on Bail, there are safeguards of such a person being accessible, and available to answer to the authorities. There is therefore no justification for security agencies to exhibit such unbecoming conduct.

We therefore demand the following:

- Immediate release of the Honourables Allan Ssewanyana and Muhammad Ssegirinya in line with the Bail granted by Court.
- Immediate ceasing of unnecessary use of force and brutality on citizens by security agencies followed by bringing the perpetrators to book.
- An immediate stop on the arbitrary rearrests of suspects granted bail by Court.

2. Campaign by the President to abolish bail for suspects of capital offenders

ANT notes that whenever opposition leaders are arrested on –often tramped up criminal charges, the President curiously returns the debate on bail!

On Wednesday 22nd, September, 2021 while swearing in new Judges, the President condemned granting bail to suspects of capital offences, and has since mounted a campaign to cause amendment to the Constitution and remove the same.

We would like to commend the members of Parliament in the NRM caucus that rejected this proposal at ago, and warn them not to fall into the trap of budging to aid, and cause such a draconian Amendment. No body, not even those in the NRM would be safe with such a law that is apparently calculated to witch-hunt, persecute and settle political differences.

The debate on bail was settled in 1215 B.C! The right to apply for bail is not just a Constitutional right but an internationally and regionally settled principle that guarantees the right to a fair hearing, and is grounded in the Constitutional principle that a suspect is innocent until they are proven or plead guilty. It should be noted that bail is a remedy that Courts grant very sparingly and judiciously which settles all the excuses fronted by the President. Such an amendment would be taking Uganda so many steps backwards. The suggestion should be abandoned immediately!

3. Statement by the Chief Justice that the President is the final Appellate Court

The ANT notes that there was a statement by the Chief Justice that could potentially mislead and wreak havoc for democracy and rule of law in

Uganda. Such a statement threatens the independence of the Judiciary, and can further erode the shaky public confidence in the administration of justice in the country. We would like to believe that the statement was quoted out of context and clarify as follows.

The President is not a Court and does not hold judicial powers under the laws of Uganda. The Constitution of the Republic of Uganda creates an independent judiciary, clearly separated from the other arms of government. Whereas under the prerogative of mercy, the President following recommendations of the committee on the same can pardon someone under a death sentence, this does not make the President a Court, neither does the President review nor revise the Judgment passed by the Courts. This is just a humanitarian allowance given the gravity of a death sentence to give its victims a second chance at life.

As ANT we reassert our strong commitment to democracy and the rule of law, and assure the country that such events would be unheard of during our administration.

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