

# Case Study: Uganda

## Between Resilience and Fragility:

### *Revisiting the ‘Togikwatako’ Citizen Movement against the 2017 Constitutional Amendment to Remove Age Limits in Uganda*

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## EXECUTIVE SUMMARY

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In August 2017, the dominant Ugandan liberation party National Resistance Movement (NRM) led by President Yoweri Kaguta Museveni, sought to amend Article 102 (b) of the Constitution to scrap the age-limit of 75 years for the position of the Presidency. In response, Ugandan citizens launched a coordinated resistance against the constitutional amendment, demonstrating both resilience and fragility as they organized against a well prepared, highly resourced and coercive State. This paper dissects the political and environmental factors that facilitated President Museveni's quest to abrogate the constitutional age limit, while investigating the personal and political motivations that drove him, such as personal economic gain, the preservation of corrupt patronage networks, and personal ambition.

Drawing from interviews with key stakeholders and an extensive desk review, this case study traces the inspiration, rise, growth, central actors, and efficacy of the citizen resistance movement, later dubbed the *Togikwatako* (a local Luganda word that translates loosely to mean 'don't touch it', (*don't touch the Constitution*) Resistance Movement. Driven by a diverse host of leaders, the movement branded itself strategically and coalesced into a unified movement with a strong national character that permeated across regions, social class, and religious and political affiliations, while also mobilizing Ugandans in the diaspora. While no single organization or leader emerged as a central figure within the resistance movement, there is evidence of coordination, learning, and experience-sharing amongst the various groups that mobilized to oppose the constitutional amendment.

As a whole, the resistance movement employed four main strategies to achieve their goal of widespread citizen mobilization. These strategies included

1. Launching a *widespread citizen awareness-raising* campaign to encourage engaged activism;
2. Establishing informal *structures of resistance* that coordinated the various factions of the movement throughout the country;
3. Planning and implementing *non-violent acts of civil disobedience* that were overt and visible, but within the confines of the law;
4. Developing of a *specific and recognizable brand for the resistance* that served to identify all resistance activities with the overarching movement.

These four strategies generated a movement that was accessible to everyday citizens, demystifying the issue from an elite-urbanite agenda characterized with legal jargon to a national issue with tangible ramifications that could be understood regardless of class. Furthermore, this case study details how citizens individually and collectively harnessed the various Constitutional and policy regulatory frameworks to buttress their message of resistance while minimizing the legal exposure resulting from their actions.

In the end, the overall efficacy of the movement can largely be attributed to the savvy application of three core tenants:

1. A flexible and inclusive approach to active resistance;

2. The careful crafting of the core ideology and messaging of the movement;
3. The transformation of traditional settings into areas of resistance.

Of these three tenants, it was the resistance leaders' savvy approach to ideology crafting that proved the most influential in mobilizing widespread popular support for the movement. In particular, resistance leaders extended the scope of their grievances against the Museveni administration beyond the basic set of values and beliefs justifying resistance against the amendment, framing their ideology to resonate strongly with the country's lower class. The Resistance developed and disseminated a narrative that drew a clear connection between the negative impact of prolonged rulership of one individual on state stability and economic growth while highlighting the degrading living conditions of everyday citizens. This narrative became a central rallying point of the movement and proved highly effective in mobilizing citizens of all demographics.

The *Togikwatako* resistance movement presents several lessons learned that could be leveraged or replicated by citizens facing similar attempts to abrogate constitutional norms in other contexts. First, courts proved to be critical arenas of resistance for the movement, especially once the constitutional amendment had passed; however, the resistance experienced limited success in this arena as various factions of the resistance failed to coordinate and collaborate their litigation to avoid duplication. The Ugandan Court case, perhaps, would have been different had there been a more coordinated, strategic forum bringing together all parties to launch one Constitutional Court petition in challenging the amended law.

Finally, it is important to contextualize and define the successes and limitations of the resistance. "Success" must be weighed against several factors, including the political context of the country, the consciousness of the masses, and the robustness of movement. A successful movement should never be defined by 'outsiders,' as what may appear a loss at face value can in reality be a progressive step in a protracted struggle for democratization, as was witnessed in Uganda.

## I. INTRODUCTION

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1.0 On September 27, 2017, the first melee,<sup>1</sup> unseen before in the history of Uganda, broke out in the Ugandan Parliament. This brawl marked the climax of a concerted resistance by opposition Members of Parliament (MPs) to block a bill seeking to scrap Uganda's presidential age limit.<sup>2</sup> This was to be the second constitutional amendment proposed by the Museveni Administration to alter the rules outlining presidential candidates, following the Article 105 (2)-2005 amendment that eliminated the two term limit for the Presidency, effectively opening the way for one individual to rule as long as he/she is elected President.<sup>3</sup> In reaction to the chaos, the Speaker, a member of the NRM-ruling party, Ms. Rebecca Kadaga suspended 25 MPs – mostly from the opposition – holding them responsible for the chaos.

1.1 The suspended MPs rebuffed leaving the house and soldiers from the Special Forces Group of the Uganda Peoples' Defense Forces (UPDF) forcefully dragged the suspended MPs out of Parliament. The brawl that followed is best described by one journalist. It is a historical scene of 'MPs collapsing in shock and some ended up in hospital for months from the kicks and punches from soldiers. When the Bill returned on October 3, 2017, there was no protest because opposition MPs had boycotted. When on December 18, 2017, the minority and main report on the constitutional amendment were presented in Parliament; there was only a whimper of opposition... The opposition's back was broken. The constitutional age-limit was gone.<sup>4</sup> In the afternoon of December 20<sup>th</sup>, 2017, just four days shy of the annual Christmas celebration, Parliament finally passed the age limit bill.<sup>5</sup>

1.2 The passing of this bill ended, at least within Parliament, the protracted people's resistance against the Constitutional amendment. However, the scenes within Parliament represented but a chapter of a much greater resistance movement across Uganda to counter abrogation of the Constitution. Considering previous failed efforts of citizenry resistance in the wake of a weak, stagnated, captured political opposition and a coiled civil society, this particular resistance against the age-limit amendment had been unprecedentedly impactful. The

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<sup>1</sup> A second brawl happened on 18, December, 2017, following protests by opposition MPs of the presence of military officers in the Parliamentary Catholic and Anglican Chapels believed to be overseeing the process of the amendment of the Constitution. See The Observer, '*Age limit: soldiers raid parliament again,*' December 19, 2017, <https://observer.ug/news/headlines/56421-age-limit-soldiers-raid-parliament-again>; The Monitor, '*Archbishop Lwanga shuns Parliament mass over chapel invasion,*' Thursday, December 21, 2017 — updated on January 14, 2021. Accessible at <https://www.monitor.co.ug/uganda/news/national/archbishop-lwanga-shuns-parliament-mass-over-chapel-invasion-1732136>; see also <https://www.youtube.com/watch?v=RhLkq3e4gng> for a video version of the resistance.

<sup>2</sup> The chaotic scenes became a sensation in the world. See The East African, '*Chaos in Uganda Parliament as minister, 25 MPs suspended,*' September 27, 2017. Accessible at <https://www.theeastafrican.co.ke/tea/news/east-africa/chaos-in-uganda-parliament-as-minister-25-mps-suspended-1374202>; see also <https://www.youtube.com/watch?v=cDpzOjplPTI> for a video version of the scenes.

<sup>3</sup> For a detailed discourse on this amendment as it unfolded, see, The Daily Monitor, '*Ten years later: Revisiting term limits drama of 2005 - part I,*' Friday, July 10, 2015 — updated on January 19, 2021. Accessible at <https://www.monitor.co.ug/uganda/news/national/ten-years-later-revisiting-term-limits-drama-of-2005-part-i-1617652>

<sup>4</sup> See an interesting account of the events of the day by Flavia Nassaka, '*2017 year of Togikwatako,*' The Independent Magazine, December 27, 2017. Accessible at <https://www.independent.co.ug/2017-year-togikwatako/>; see also Kenneth Kazibwe, '*2017, The year of Togikwatako,*' The Nile Post, Accessible at <https://nilepost.co.ug/2017/12/30/the-year-of-togikwatako/>

<sup>5</sup> Id.

movement was sustained over several months and had expanded to encompass all religious sects, regions, and classes of citizens – a rare feat in Uganda. But what had inspired this particular anti-age limit amendment citizenry resistance? Who had been the key actors? What strategies had been used to build it into a national ethos? What successes did it score, if any? What lessons does it offer to the world, citizens elsewhere, soon to be in such a resistance position? These and more questions are the subject matter of this paper.

1.3 Conducted in Uganda between May and June 2022, this case study draws from a desk review of literature and field work interactions with some of the key players in the resistance. The study presents findings on five thematic aspects that are central to understanding the movement. The first part provides an overview of the origin of the Constitutional amendment agenda by the NRM ruling party that would later trigger the resistance. Part two discusses the factors and motivation behind the NRM party's quest to abrogate the constitutional term limits. Part three presents an inquiry into the emergence of the citizen resistance, the efficacy of its adopted strategies, and how it coalesced into a united campaign to oppose abrogation of the age-limit. In part four, the paper discusses the diverse factors responsible for the success or otherwise of the citizen-led resistance campaign. It also interrogates the meaning and measure of success in such resistance movements. Finally, part five investigates the main safety and security risks faced by activists, organizations and political entities involved in the resistance, and how activists mitigated these risks. The paper ends with a discussion on the potential lessons that are emerging from citizen-led campaigns in Uganda and how they can be leveraged or replicated by citizens in other countries' contexts in the quest to maintain constitutional term limits sanctity.

## **A) The genesis of the movement to scrap age limits: an overview**

1.4 The narrative surrounding the amendment of Article 102(b) of the Constitution to remove the clause stipulating age limits for presidential candidates started in the immediate aftermath of the 2016 elections in which President Museveni had been declared the winner by the Uganda Electoral Commission. Seemingly innocent, and dismissed off as idle talk by some, the whispers grew and soon permeated through the corridors of Parliament and slowly infiltrated public spaces. By the middle of 2017, it was the talk of the country. At the time, President Museveni was 73 years and, by the end of term in office, would have been ineligible to stand having surpassed the maximum age limit of 75 years for a presidential candidate.

1.5 The NRM MPs passed a resolution to support a private member's bill to have the presidential age limit lifted during a 'consultative meeting' convened on September 12, 2017 and attended by about 246 NRM and NRM-leaning independent MPs, a move that was subsequently endorsed by a resolution of the Cabinet.<sup>6</sup> The meeting was also attended by some members of the Cabinet, a clear signal of where the actual nod for the tabling of the Bill was

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<sup>6</sup> The Daily Monitor, 'NRM legislators resolve to remove presidential age limit', September 12, 2017 — updated on January 14, 2021, Accessible at <https://www.monitor.co.ug/uganda/news/national/nrm-legislators-resolve-to-remove-presidential-age-limit-1717960> [Accessed 24/May/2022]; See also The Observer, 'Now cabinet too endorses move to lift presidential age limit,' September 16, 2017, Accessible at <https://observer.ug/news/headlines/54965-now-cabinet-too-endorses-lifting-of-age-limit> [Accessed 24/May/2022].

emanating from. Consequently, on the October 3, 2017, the Constitutional Amendment Bill No. 2 seeking to scrap the age limit for presidential candidates from the Constitution was tabled for the first reading on the floor of parliament by Igara West Member of Parliament Raphael Magyezi.<sup>7</sup> It was convenient to use a private member to move the motion for the amendment considering that that it was going to appear greedy coming from the Government while the President was the main beneficiary of the Bill.<sup>8</sup>

1.6 As is the procedure, after the first tabling, the speaker of Parliament, Rebecca Kadaga, referred the Bill to the Committee on Legal and Parliamentary Affairs. This was the start of what would later turn out to be an intense resistance and counter-resistance by the citizenry against the bill. Suffice it to note that the age cap of the office of the Presidency was the last hurdle to a life presidency of Mr. Museveni, who had successfully abrogated the term-limits hurdle in 2015 with the first Constitutional amendment that removed restrictions based on terms. But what was motivating this unpopular move by the NRM party? The section below attempts to answer this fundamental question.

## II. WHY ABROGATE THE CONSTITUTIONAL AGE LIMITS? DEBATING THE FACTORS AND MOTIVATION

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2.0 It is difficult to isolate this debate on the abrogation of the age limit from the person of the President Museveni. Museveni came into power as the leader of a celebrated guerrilla movement that advocated for significant governance reforms in Uganda, including fighting against the trend of extreme longevity in power by past leaders. There was thus a national moral duty for him and his movement not to renege on this fundamental promise. Thus, the overriding question in 2017 was why Museveni, who had publicly rejected and denounced longevity in power just a year after taking over power in 1986, now wanted to remove the age-limit for the Presidency? In his book titled *What is Africa's Problem?*, Museveni concluded that ‘The problem of Africa in general and Uganda in particular is not the people but leaders who want to overstay in power.’<sup>9</sup> His ambition to change the Constitution was in total contrast with his monumental speech, memorialized by many, made on the steps of the Ugandan Parliament on January 29, 1986 at his swearing-in as President after the National Resistance Army guerrilla group – led by Museveni himself – had overrun Kampala and taken power.

2.1 During his speech, President Yoweri Museveni averred, in support of democracy, rule of law and constitutionalism, that ‘No one should think that what is happening today is a mere change of guard: it is a fundamental change in the politics of our country.’<sup>10</sup> Additionally, the

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<sup>7</sup> Raymond Tamale, ‘Ugandan MP tables controversial age limit Bill,’ *The East African*, October 03, 2017. Accessible at <https://www.theeastafrican.co.ke/tea/news/east-africa/ugandan-mp-tables-controversial-age-limit-bill-1374590> [Accessed 24/May/2022].

<sup>8</sup> Respondent interview with a Member of Parliament for the NRM party, central then to the campaign to lift the term limits. May, 23/2022, Kampala.

<sup>9</sup> John Aglionby, ‘Fight to stay in power threatens Museveni’s legacy,’ *Financial Times*, October 3 2017, Accessible at <https://www.ft.com/content/91b49f98-a732-11e7-ab55-27219df83c97> [Accessed 7/June/2022]

<sup>10</sup> See the full speech that day. *The Daily Monitor*, ‘MUSEVENI 24 YEARS LATER: Ours is not a mere change of guard; it is a fundamental change,’ Thursday, January 28, 2010 — updated on February 02, 2021. Accessible at



President had, in a 2012 local TV interview, dismissed the idea of one ruling beyond the age of 75, relying on scientific proof that rendered persons at that age to have lost the necessary vigor needed to run a country. So, why the amendment?

2.2 Later the President said he had no knowledge of the bill, noting that: ‘I hear a lot about it but I don’t follow it because I am busy with my programs... Whoever is talking about the bill is misguided and has no background to it. I don’t have time for speculation.’<sup>11</sup> That denial notwithstanding, various factors that probably motivated the abrogation of the Constitution have been fronted from diverse circles, including the NRM party narrative as discussed below.

### **A) Deep rooted control and patronage over the party agenda: the unspoken motivation**

2.3 The often-undiscussed factor that motivated this amendment was the immense control that Mr. Museveni had over the NRM party, which controlled a strong majority in Parliament. Internally within the NRM party, the president had and continues to maintain a dysfunctional party structure that inhibits the growth of alternative leadership to challenge the Museveni. Within the context of the age limit debate, Museveni’s capture of the party was so strong that any counter-discussion protesting the amendments was unacceptable and considered a direct affront to the party chairman. As party chairman of the NRM, Museveni knew that he could impose his will on the party and coerce the party to endorse his bid for the amendment. One member of the NRM party noted: ‘[Museveni] knew he could cajole them (NRM MPs) into supporting the amendment; after all, this is his party, created by the National Resistance Army. So, the mere fact that he had a vehicle – through which he could run his ambition – was enough motivation for him to push for the amendment. Knowledge by a military general that he controls over 300 MPs is an incentive to try any sort of mischief that requires parliamentary approval. This was such one of them.’<sup>12</sup>

2.4 This patronage and control became more evident later when it was used to curb internal dissent by deploying a very fierce disciplinary policy to stop the NRM MPs from joining the ranks of the resistance. The NRM MPs who were anti-amendment were chased out of one of the caucus meetings on failure to change their stance on the amendment.<sup>13</sup> They were implicitly referred to as traitors planning with “enemies,”<sup>14</sup> and were accused of going against the party position and cabinet resolution of supporting the amendment. This was perhaps one of the clearest manifestations of controlled consent of the NRM MPs to the amendment quest.

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<https://www.monitor.co.ug/uganda/special-reports/museveni-24-years-later-ours-is-not-a-mere-change-of-guard-it-is-a-fundamental-change-1468582> [Accessed 7/June/2022]

<sup>11</sup> Kenneth Kazibwe, ‘2017, *The year of Togikwatako*,’ The Independent Magazine, Accessible at <https://www.independent.co.ug/2017-year-togikwatako/3/> [Accessed 9/June/2022]

<sup>12</sup> Respondent Interview with Opposition Member of Parliament from the Democratic Party then-now a member of National Unity Platform (NUP), 10<sup>th</sup>/June/2022, Kampala (Physical meeting)

<sup>13</sup> Vincent Kasozi, ‘NRM rebel MPs kicked out of caucus meeting,’ PML Daily, October 13, 2017. Accessible at <https://www.pmeldaily.com/news/2017/10/nrm-rebel-mps-kicked-out-of-caucus-meeting.html>

<sup>14</sup> Sadab Kitatta Kaaya & Olive Eyotaru, ‘Police summons MPs over age limit remarks,’ The Observer, September 18, 2017. Accessible at <https://observer.ug/news/headlines/55003-police-summons-mps-over-age-limit-remarks> [Accessed on 18/June/2022]

Earlier, these same outspoken NRM MPs (together with two other independent MPs)<sup>15</sup> had been summoned by the Uganda Police Force for a possible case of offensive communication and inciting violence, further adding to the fear of public dissent.<sup>16</sup>

2.5 The failure of Uganda's institutions to uphold its constitutional norms come into stark relief when compared against a country such as South Africa, where the ideals of the country's liberation movement took precedent over the individual fortunes of its leaders. The African National Congress (ANC) in South Africa is testimony to the ability of a strong party to contain the growing might of individual members over and above the ideals and aspirations of the party. Within the ANC, the former Presidents of South Africa, Thabo Mbeki and Jacob Zuma, both tested the strength of the party, leading to their loss of the presidency on the account of party recall and re-deployment. Hence, with the "NRM lacking independence and strong party structures to subordinate personal ambitions inimical to party aspirations, with the party's brand all incarnate in one individual, there was little the party would do to contend with what was clearly a personal ambition."<sup>17</sup> So, the conducive environment within the NRM characterized with fear of members to antagonize their chairperson, let alone challenge his ambitions, was a very big motivating factor in this quest.<sup>18</sup>

## **B) The Non-entrenchment of Article 102: the elusive gate keeper**

2.6 More fundamentally, we must acknowledge the fact that Article 102 (b)<sup>19</sup> was not an entrenched article in the constitution that would require a higher threshold of amendment. It was not part of those articles that require a referendum of the entire adult populace (Article 259) or those that require a resolution of the district council for the amendment to prevail (Article 260)<sup>20</sup>. To amend Article 102 (b) was solely a job reserved for Parliament, allowing any president with sufficient parliamentary control to push through the amendment without oversight. This was provided for under the Constitution, Article 261 to the effect that 'a bill for an Act of Parliament to amend any provision of the Constitution, other than those referred

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<sup>15</sup> These were Theodore Ssekikubo (Lwemiyaga), Barnabas Tinkasiimire (Buyaga West) and Independent Muhammad Nsereko (Kampala Central) and Allan Ssewanyana (Makindye West)

<sup>16</sup> Sadab Kitatta Kaaya & Olive Eyotaru, 'Police summons MPs over age limit remarks,' The Observer, September 18, 2017. Accessible at <https://observer.ug/news/headlines/55003-police-summons-mps-over-age-limit-remarks> [Accessed on 19/June/2022]

<sup>17</sup> Respondent interview with a senior reporter (who captured the resistance and counter-resistance to the amendment) with the Daily Monitor Paper, 13<sup>th</sup>/June/2022, Kampala (Physical meeting)

<sup>18</sup> Id. This reasoning is not far from that of Patience Atuhaire, 'Uganda's Yoweri Museveni: How an ex-rebel has stayed in power for 35 years,' BBC, 10 May 2021. Accessible at <https://www.bbc.com/news/world-africa-55550932>

<sup>19</sup> The Article 102 provides for the Qualifications of President to the effect that: A person is not qualified for election as President unless that person is -

(a) a citizen of Uganda by birth;

(b) *not less than thirty-five years and not more than seventy-five years of age*; [Emphasis added] and

(c) a person qualified to be a member of Parliament.

<sup>20</sup> There are Articles 260 which provides for particular Article of the Constitution that cannot be amended unless and until at least two-thirds of the members of the district council have voted in favour of the amendment. These are Articles 5, clause (2); 152; 176, clause (1) and articles 178, 189 and 197. On the other hand, Article 259 provides for Articles that require referendum for amendment. These include Articles 1 and 2; 44; 69, 74 and 75; 79 clauses (2); 105 clause (1); 128 clause (1); and Chapter Sixteen.

to in articles 259 and 260 of this Constitution, shall not be taken as passed unless it is supported at the second and third readings by the votes of not less than two-thirds of all members.<sup>21</sup>

2.7 Hence, according to some of the political commentators in Uganda, ‘as long as the Article was not embedded the day it was passed in 1995, the President must have begun harboring the agenda of its amendment. The reality is that the ease of doing something can tempt even the most disinterested party to partake in such an action. The situation is worse when the person was already interested, as in this case the president was.’<sup>22</sup> With a super-majority of NRM MPs in parliament, all of them under the control of President Museveni through either financial incentives or outright coercion, it is safe to conclude that this was a motivating factor to the President. The potential ease of amending non-entrenched articles of the Constitution that do not require referendum was a key consideration in the strategy of the NRM party.

### **C) Liberation war heroism and the entitlement spirit of revolutionaries**

2.8 It is very difficult to divorce the move to amend the Constitution from the feelings, opinions and previously expressed views of the NRM party as the liberation party. The National Resistance Army (NRA) guerilla movement that eventually birthed the NRM Party defined itself as a 2<sup>nd</sup> generation liberation movement; it and others alike launched and sustained armed struggles against post-independence African dictators in the early 1980s and 1990s, and have been in power since. According to one respondent;

Since 1986, this movement has used the trump card of their past achievements in dislodging the ruthless regimes of past presidents to hold Ugandans at ransom. In fact, the president and many of his bush war heroes believed and still believe that Ugandans owe them for the peace they enjoy today. Such a person cannot believe that he has to cede power to anyone else. Hence the motivation here is simply, “we redeemed this country, it owes us, we cannot just leave like we are visitors!” They still believe that only they can complete the liberation they commenced and no other.<sup>23</sup>

2.9 There is evidence to support this assertion. In 2017, during the State of the Nation Address in Parliament preceding the budget reading, Museveni averred that being president for a long term had produced tangible benefits for the country. He claimed that ‘being president for a very long time is not a bad thing. That is why I am experienced ... Even if you woke me up at night, I will tell you what is happening.’ In 2016, on the eve of the 2016 general elections, during a campaign rally, the president was quoted saying: ‘This old man who has saved the country, how do you want him to go? How can I go out of a banana plantation I have planted

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<sup>21</sup> See Article 261-Amendments by Parliament.

<sup>22</sup> Respondent Interview with a leading political science academic in Makerere University, 10<sup>th</sup>/June/2022, Kampala (Physical meeting)

<sup>23</sup> Respondent Interview with Opposition Member of Parliament, 10<sup>th</sup>/June/2022, Kampala (Physical meeting); These views find affirmation in some literature such as Alexander Beresford, Marie E. Berry & Laura Mann, ‘Liberation movements and stalled democratic transitions: reproducing power in Rwanda and South Africa through productive liminality, Democratization,’ (2018) DOI: 10.1080/13510347.2018.1461209; Roger Southall, ‘*Liberation Movements in Power Party and State in Southern Africa*,’ (2013)

that has started bearing fruits?’ Later he won his fifth term in office albeit amidst allegations of vote rigging and militarization of the election.

2.10 With almost all of his former NRA peers either dead, compromised, retired, or having parted ways with him over his desire for sustained rule, there was no person of comparable leverage over him that could prevail over his ambition. It was a ‘case of him-maintaining a system sustained by coercive force, and financial transactional politics. But all of this was motivated by his belief in his infallibility as a liberation leader.’<sup>24</sup> This was the state of affairs the resistance had to surmount to realize some meaningful dividends from the struggle.

#### **D) Monopoly of State Coercive Force and Access to State Coffers**

2.11 From the start of the resistance itself, there was certainty that the NRM government was better placed to withstand and counter the citizen resistance, advantaged largely by two factors. One, it had deep coffers, tapped into once before in 2015 as an incentive to the NRM MPs to pass the amendment on term limits. Second, the party/government had a monopoly on extensive coercive force, including this time round an enhanced military force that was already taking up positions in countering demonstrations and assemblies of citizens, frequently even overshadowing the police.

2.12 Any doubts on where the loyalty of the military lay were dispensed of during a statement made by Evelyne Anite – State Minister of Finance for Investment and Privatization – during a press conference. She noted that the constitutional amendment was to sail through regardless of the opposition. After all, they ‘are the ruling party, fully in control, and cannot be intimidated because we have the full support of the majje [army].’<sup>25</sup> The Minister was never castigated by the president for involving the military in what was clearly a political process, contrary to the Constitution that forbids a partisan UPDF (Uganda People’s Defense Force). Whereas financial incentive was used to motivate MPs, the threat of coercive force was used to dissuade citizens. This state of affairs led some sections of the public to conclude that the president’s strong backing from the military motivated him to push the amendment agenda, well knowing that he could rely on them in case of any result not in his favor.<sup>26</sup>

#### **E) The arguments around the Constitution being a living document, and the need to maintain stability and peace**

2.13 Beyond the above motivations, the pro-amendment group of NRM commenced their narrative of justifying the amendment by voicing the usual cliché arguments. These revolved around three aspects listed briefly but herein expanded upon. First was the argument that the Constitution is a living document and is thus susceptible to change – a typical cliché. Advocates argued that the Constitution was the ‘property of Ugandans,’ free to deal with it as

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<sup>24</sup> Respondent Interview with Opposition Member of Parliament, 10<sup>th</sup>/June/2022, Kampala (Physical meeting)

<sup>25</sup> Godfrey Ssali, ‘Do not intimidate us, we have the support of the army’, The Independent Magazine, September 15, 2017. Accessible at <https://www.independent.co.ug/support-army-dont-intimidate-us-age-limit-nrm-mps/>

<sup>26</sup> Respondent Interview with NRM MP, central to the pro-amendment agenda, 26<sup>th</sup>/May/2022, Kampala (Physical meeting)

they wished through their representatives, including amending it as needed. After all, there was no ‘commandment of God that [the Constitution] cannot be changed.’<sup>27</sup> Second was the argument for stability and peace, a narrative premised on the argument that Uganda’s ‘stability and predictable, tested, experienced leadership was more necessary now that the country was fast tracking foreign direct investment to spur the economy than the mantra and cliché of term limits.’<sup>28</sup> Hence, a law should not bar capable candidates from running for the presidency, especially if there they had proven to be ‘able leaders’ by maintaining security; after all, there is ‘still a lot to do’ by such able leaders.<sup>29</sup>

2.14 Interestingly, even as the chief beneficiary of the bill, President Museveni seemed to appreciate and endorse this narrative, as evidenced in his views when he met the Legal and Parliamentary Committee that was undertaking public consultations on the bill. To him, the law should not bar African countries that are just still at the level of state formation and that require all the experience available within the leadership at the country’s disposal. He is reported as having stated that;

‘It took America more than a century and a half while developing their economy and political class to put presidential term limits in their constitution. When they finally did so in 1947, everything they wanted had happened. They had developed, the colonies had integrated...But here (meaning Uganda); what has happened? In Africa you behave like we are running countries and yet we are creating countries.’<sup>30</sup>

President Museveni displayed the conviction that tested leadership – resulting from a longevity in power – was central to the growth of a country, especially for post-conflict States such as Uganda. Indirectly, Museveni embodied and promoted the belief that such experienced leaders as himself should not be barred from leadership by simple constitutional limitations.

## F) Discrimination & Other arguments

2.15 The third justification espoused by pro-amendment advocates, albeit feeble, revolved around discrimination of the elderly. The party functionaries argued that Article 102 (b) was in contradiction with Article 21,<sup>31</sup> which provides for freedom from discrimination and guarantees equality of all Ugandans regardless of age. Other constitutional related arguments

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<sup>27</sup> General Otafiire Kahinda, former Minister of Justice and Constitutional Affairs as quoted in Kenneth Kazibwe, ‘2017, *The year of Togikwatako*,’ *The Independent Magazine*, Accessible at <https://www.independent.co.ug/2017-year-togikwatako/3/> [Accessed 9/June/2022]; the same motivation was fronted almost as a chorus to every NRM party leaning respondent that was interviewed for this paper.

<sup>28</sup> Supra note 25.

<sup>29</sup> Id.

<sup>30</sup> Kenneth Kazibwe, ‘2017, *The year of Togikwatako*,’ *The Nile Post*, Accessible at <https://nilepost.co.ug/2017/12/30/the-year-of-togikwatako/>

<sup>31</sup> Article 21 provides that (1) All persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law. (2) Without prejudice to clause (1) of this article, a person shall not be discriminated against on the ground of sex, race, colour, ethnic origin, tribe, birth, creed or religion, or social or economic standing, political opinion or disability.



revolved around Article 32,<sup>32</sup> which the proponents averred was infringed upon by the age limiting Article-102. Article 32 provides for affirmative action. Farfetched they might be, but the NRM MPs believed and maintained this discrimination and affirmative action related narrative in a hope of ‘drawing in the alliance with the elderly’ who, it was anticipated, would associate with the alleged discrimination based on age.<sup>33</sup>

2.16 The other quite bizarre argument was that, at the enactment of Article 102 (b) in the 1995 Constitution, the life expectancy of the populace was 45 years. This life expectancy had increased with time, and proponents of the amendment argued that it was therefore appropriate that the Constitution be updated to match the improvement in the social well-being of Ugandans. To cap the age of presidency, they maintained, was to effectively lock out the elderly from participating in politics as potential leaders. To this end, they averred, the best process that was fair and just was to let the populace always determine who to govern them regardless of his/her age as long as he/she is elected in a free and fair process.<sup>34</sup> They projected the resistance to the amendment as an insult to the people of Uganda, depicting them as unable and not qualified to effectuate their right to vote and make a decision on who should govern them.<sup>35</sup>

2.17 Other alleged motivation factors, albeit not widely disseminated, revolved around the potential fear that the president would leave power and undergo the possibility of facing accountability-related trials for various crimes, allegedly committed in the 30-year span of his leadership, half of which revolved around war crimes.<sup>36</sup> Other respondents opined that the President was motivated by the need to protect his family and his family’s wealth. This assertion was based on the hypothesis that there exists uncertainty within the ‘ruling family that they would face the wrath of the next leader’ should the president leave power ‘abruptly.’<sup>37</sup> Hence, President Museveni was needed around not only for his own protection, but also, allegedly, that of his family.<sup>38</sup>

2.18 Another motivating factor cited by respondents was the fact that the international community had been largely silent for all the past 20 years about Museveni’s alleged excesses of human rights violations. To Museveni, this perception indicated that the international community would still tolerate him, ‘considering this larger-than-life, sub-Saharan supreme leader responsible for the pacification of Somalia, Burundi and South Sudan.’<sup>39</sup> It is in this

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<sup>32</sup> Article 32 provides that (1)...the State shall take affirmative action in favour of groups marginalized on the basis of ...age...for the purpose of redressing imbalances which exist against them.

<sup>33</sup> Respondent interview with member of the Government Media Centre-the headquarters of government PR entity (Spokesperson for Government), 10<sup>th</sup>/June/2022, Kampala (Physical meeting).

<sup>34</sup> Id.

<sup>35</sup> Id.

<sup>36</sup> Respondent Interview with a Television Political Talk-show journalist, 14<sup>th</sup>/June/2022, Mukono district.

<sup>37</sup> Respondent Interview with Opposition Member of Parliament, Democratic Party, 27<sup>th</sup>/May/2022, Mukono district.

<sup>38</sup> Id.

<sup>39</sup> Respondent Interview with retired high-ranking security officer from the UPDF, 20<sup>th</sup>/June/2022, Wakiso district.

This assertion finds resonance with the available literature that examines Museveni’s role in the regional security

complex. For example, Barney Walsh, ‘*Revisiting Regional Security Complex Theory in Africa: Museveni’s Uganda and Regional Security in East Africa*’, AFRICAN SECURITY

2020, VOL. 13, NO. 4, 300–324 <https://doi.org/10.1080/19392206.2021.1873507>

sense that one respondent concluded that the President's motivation lay in the belief that he knew that 'the West still needed his services as a guarantor of their interests within East Africa,' and thus would do nothing to jeopardize the status quo save for their 'usual statements of concern and appeals'.<sup>40</sup>

2.19 Lastly, President Museveni seemingly maintains a conviction that he is East Africa's chief statesman, with a revolutionary mandate of uniting East Africa into one entity. Furthermore, he has crafted a self-image as regional mediator, taking on various roles in neighboring African countries in distress going as far as Mozambique, Central African Republic, and Guinea-Bissau.<sup>41</sup> Through clever marketing, President Museveni has presented his motivations as benign, seemingly clad in pan-Africanist ideals. He has presented himself as a pacifier-father-figure in Africa and protector of the pride of the continent. Despite the veracity of these motivations, one cannot deny Museveni's personal ambition as a key driver of decision-making.<sup>42</sup>

### III. CITIZEN STRATEGIES OF RESISTANCE AGAINST ABROGATION OF THE CONSTITUTIONAL AGE LIMIT

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3.0 The resistance's agenda was defined simply: to stir Ugandans across the political divide and throughout the country's regions to counter the NRM from meddling with the constitutional age limit on the presidency. While one cannot point to a particular coalition named and created as a central agency for all stakeholders involved in the resistance, there is evidence of coordination, learning, and experience-sharing amongst the various groups that mobilized to oppose the amendment. The citizens employed a variety of means to coordinate their efforts and would later adopt four critical strategies to drive their actions:<sup>43</sup>

a) *Raising the consciousness* of the masses using simple, 'close-to-home' messaging that permeated to all citizens regardless of class, literacy levels, region and political inclination. Ultimately, this conscientization bred activism among the populace both individually and collectively;<sup>44</sup>

b) Establishing *structures of resistance* to coordinate efforts across the country. In many instances, MPs provided leadership in these structures, which featured religious leaders, civil society organizations, the private sector, political activists, and the media to create a sustained campaign that was supported by all sectors using their own platforms.

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<sup>40</sup> Id. This view finds affirmation in some of the critiques of Museveni's foreign policy in the past decades. See for example Kristof Titeca & Anna Reuss, 'Museveni and the West. Relationship status: It's complicated,' African-Arguments, January 7, 2021 Accessible at <https://africanarguments.org/2021/01/museveni-and-the-west-relationship-status-its-complicated/>; see also Carey Baraka, 'With Western Support, Uganda's Museveni Won't Go Quietly,' Foreign Policy (FP), February 12, 2021. Accessible at <https://foreignpolicy.com/2021/02/12/uganda-president-museveni-elections-bobivine-opposition-us/>

<sup>41</sup> Id.

<sup>42</sup> Respondent interview with former Member of Parliament for the UPDF, a retired (forcefully) high ranking military officer, 25<sup>th</sup>/May/2022.

<sup>43</sup> Respondent interview with High ranking Opposition Member of Parliament from the Forum for Democratic Change (FDC) party, 10<sup>th</sup>/June/2022, Kampala-Kiira Division.

<sup>44</sup> Id.

c) Planning and implementing *overt resistance actions* that are within the law. As much as possible, these mechanisms were designed to be non-violent, supported by clear legal backing. The actions were largely directed towards the presidency and MPs to desist from executing the amendment.

d) Developing and publicizing *a specific brand for the resistance*, under which all the emerging activities were to be undertaken.<sup>45</sup> This brand created an identity that citizens could easily identify and associate with the resistance. Below, we explore the formation of this brand and how it became a rallying point for the masses.

## **A) Branding the Resistance: birthing the red-ribbon movement and the quest to connect with the common man**

3.1 The resistance adopted a slogan for their movement dubbed '*Togikwatako*'- a local luganda word that translates loosely to mean '*don't touch it*',-don't touch the Constitution. It was strategically coined by the opposition political parties by using the most spoken language in the country by an estimated 3 million people located within the environs of Kampala City and the surrounding districts, which were the epicenter of the resistance. According to the crafters of the slogan, it was one word that 'would connect both the elite and the poor, but more importantly would appeal more to the urban and rural illiterate.'<sup>46</sup> The entire struggle was summarized in that one word, and its impact is captured by one of the people that was behind the resistance:

'It (*the word*) became easy to connect to the urban poor masses using just a word that was part of their daily dialect even long before the amendment campaign. It was a recruiting word, and the movement indeed grew further because of the connection this one word carried. It was in itself a resistance slogan. It was a directive, a demand from the poor and the rich, the owners of the Constitution telling off the Executive not to bother to touch it. It carried an aura of power, might, fight back, resistance and standing up against the powers that be from the point of citizens and not simply passive subjects!<sup>47</sup>

3.2 The *Togikwatako* slogan was complemented by a dress code that would later become the defining fatigue for all persons that opposed the constitutional amendment: the red ribbon, a small cloth that one would tie around the head or the arm as a symbol of defiance and protest. Those who had financial muscle were encouraged to dress entirely in red where possible including suits and caps for emphasis. The simple red ribbon was easy and affordable to make by any person with almost no cost being incurred by the user, hence inclusive even to the most underprivileged.<sup>48</sup> The resistance had created a simple yet easily identifiable brand based on a color and a powerful slogan usable by all. From then on, the movement became the

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<sup>45</sup> Respondent interview with Opposition Member of Parliament from Democratic Party (then) part of the organizers of the *Togikwatako campaign*, 13<sup>th</sup>/June/2022, Kampala-Kawempe Division.

<sup>46</sup> Respondent interview with Opposition Member of Parliament from Democratic Party (then) part of the organizers and architects of the *Togikwatako campaign*, 13<sup>th</sup>/June/2022, Mukono district.

<sup>47</sup> Respondent Interview with Opposition Member of Parliament, former member of the Shadow Member of Cabinet under the office of the Leader of Opposition which offered a semblance of national leadership for the Resistance, 18<sup>th</sup> /June/2022, Mpigi district.

<sup>48</sup> Respondent Interview with a legal academic/political commentator, 20/June/2022, Gulu district-Zoom Meeting.



'*Togikwatako*' Resistance Movement.<sup>49</sup> The movement also targeted Ugandans in the diaspora, leading to the formation of various chapters of *Togikwatako* in countries such as Canada.<sup>50</sup>

## **B) Debating the Efficacy of the Strategies of Resistance Adopted by The Citizens**

The resistance's strategy was crafted around three core tenants. These included flexibility and inclusiveness, ideology crafting, and an intentional defining of the spaces of resistance.<sup>51</sup>

### **I. Flexibility and Inclusiveness**

3.3 The resistance adopted a flexible and inclusive strategy the made the movement accessible and attractive to factions of Ugandans that opposition parties would under normal circumstances not associate with, including members of the political majority. This decision was made based on the realization that there was opposition to the amendment internally within the NRM. Consequently, a focus on inclusive resistance made it possible for both the independent MPs and NRM MPs opposed to the amendment to join a platform through which they could channel their resistance.<sup>52</sup> Coupled with the movement's inclusive stance towards tribe, region, age, and faith, the ability of the movement to incorporate influential MPs of all political backgrounds effectively disarmed the NRM counter-narrative that the resistance was an 'urbanite temporary scratch that would drown with time.'<sup>53</sup>

### **II. Ideology crafting: the flagship message**

3.4 In the early days of the resistance, the movement suffered from poor coordination and a distinct leadership vacuum that lead to that lack of a clear agenda and a coherent ideology to drive the resistance. As one respondent put it, 'it was not enough to simply argue resistance to the amendment. The public needed more. There was need to show what the movement represented and believed in, if not in the amendment. There was need for justification why we believed, and why other members of the public would also do better joining us to believe and act in concert, resisting the same.'<sup>54</sup> Secondly, the resistance faced a formidable challenge providing citizens with a clear and direct connection between the age limiting amendment and the populace's livelihood. In other words, 'people needed to know, how rejecting the

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<sup>49</sup> Respondent Interview with Opposition Member of Parliament, from FDC party, part of the leadership team for the Resistance, 28<sup>th</sup>/May/2022, Jinja district, Zoom meeting.

<sup>50</sup> For example, Morris Komakech coordinated *Togikwatako* Campaign in Canada. See *COMMENT: The Togikwatako campaign*, the Independent Magazine, November 14, 2017. Accessible at <https://www.independent.co.ug/comment-togikwatako-campaign/>

<sup>51</sup> Respondent Interview with Opposition Member of Parliament, former member of the Shadow Member of Cabinet under the office of the Leader of Opposition which offered a semblance of national leadership for the Resistance, 18<sup>th</sup> /June/2022, Masaka district.

<sup>52</sup> Id.

<sup>53</sup> Id.

<sup>54</sup> Respondent Interview with a CSO leader, responsible for providing necessary research to the Resistance, 22<sup>nd</sup>/June/2022, Kampala.

amendment of the Constitution would add value to their lives, with their primary focus being to navigate and escape poverty?’

3.5 The task was to recruit members of the populace – orienting them towards an agenda that went beyond President Museveni – an agenda ‘for a conducive atmosphere of rule of law, of stability and predictability, and peaceful transfer of power which had been elusive in the country. Ultimately, citizens should be able to see the connection between a prolonged rulership of one individual and state stability, economic growth and improved living conditions for themselves and their posterity.’<sup>55</sup> The question then was what key aspects would form the core resistance beliefs? In response, the opposition MPs outlined several aspects that would become the core gospel of the resistance. These are summarized below:

*a) Right to Defend the Constitution as the embodiment of the resistance*

3.6 First, the resistance centered its agenda around constitutional legality. As citizens of Uganda, individuals had the constitutional right to defend their Constitution, which had been built on the need for predictability in the governance of the country and the institutionalization of executive checks and balances, including presidential term and age limits. The resistance branded the amendment as a planned constitutional coup which had to be resisted within the context of Article 2 (4) of the Constitution.<sup>56</sup> Furthermore, it is constitutionally guaranteed under Article 38 of the Constitution that every Ugandan citizen has the right to participate in the affairs of government, individually or through his or her representatives in accordance with the law. The same right, it was explained, is extended to participation in peaceful activities, including protests and demonstrations, to influence the policies of the government through civic organizations.<sup>57</sup> Thus, as long as actions organized by the resistance were *non-violent*, citizens participating in the resistance activities were protected and covered under the Constitution in the aforementioned Articles.<sup>58</sup> This was complemented by Article 1 of the Constitution, which provides that all power belongs to the people who shall exercise their sovereignty in accordance with this Constitution. As a result, resistance leaders sought to make citizens aware of their power to influence the proposed amendment.

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<sup>55</sup> Respondent Interview with Opposition Member of Parliament, 10<sup>th</sup>/June/2022, Kampala (Physical meeting)

<sup>56</sup> Article 2 (4) provides that All citizens of Uganda shall have the right and duty at all times-  
(a) to defend this Constitution, and in particular, to resist any person or group of persons seeking to overthrow the established constitutional order: and  
(b) to do all in their power to restore this Constitution after it has been suspended, over thrown, abrogated or amended contrary to its provisions.

<sup>57</sup> Article 38 Civic rights and activities

(1) Every Uganda citizen has the right to participate in the affairs of government, individually or through his or her representatives in accordance with law.

(2) Every Ugandan has a right to participate in peaceful activities to influence the policies of government through civic organisations.

<sup>58</sup> Respondent Interview with Opposition Member of Parliament, 10<sup>th</sup>/June/2022, Kampala (Physical meeting)

## *b) Duty of the Citizens to stand up against Constitutional abrogation*

3.7 Leaders of the movement further sought to convince citizens of their duty to speak up against tendencies that would undermine peace and stability in their country, including the proposed amendment. For the movement, this belief tied in organically with Objective XXIX (a) of the Constitution that enjoins all citizens to be patriotic and loyal to Uganda and to promote its well-being; (f) to promote democracy and the rule of law; and (g) to acquaint himself or herself with the provisions of the Constitution and to uphold and defend the Constitution and the law. Performing these duties thus becomes a noble, protected action that was available to everyone, reinforced by the preamble of the Constitution which reads 'Recalling our history which has been characterized by political and constitutional instability; Recognizing our struggles against the forces of tyranny, oppression and exploitation; Committed to building a better future by establishing a socio-economic and political order through a popular and durable national Constitution based on the principles of unity, peace, equality, democracy, freedom, social justice and progress.'<sup>59</sup>

This message became the foundational focus of many of the press statements that were released by the opposition MPs and the sympathetic forces within the NRM, and it was relayed actively in the various CSOs advocacy and awareness-raising materials that were disseminated to members of the public and in meetings of the MPs, at least before they were halted by the combined force of the police and the military. It is this message that would later become the rallying point for the citizen protests that characterized the resistance across the country and professional bodies' discussions. One prominent example was the Annual Rule of Law Symposium of the Umbrella body of the lawyers in Uganda held in October, 2017 attracting over 2000 attendees including Advanced level students. The symposium was aptly organized around the exact theme-'*Defending the Constitution: the Role of the Citizen*', as influenced by the Movement.<sup>60</sup> The media community too picked up this narrative, giving it further prominence in their coverage of the age-limit bill characterized by interviews of the notable resistance movement members, such as musician turned politician-Bobi Wine (a.k.a Hon. Sentamu Kyagulanyi).<sup>61</sup>

Another example was the protests by the students of Makerere University, Uganda's oldest public university, clad in red gowns and held on September 21, 2017. Outside their halls of residence, they marched, blowing vuvuzelas and whistles while denouncing the proposed amendment. One of the leaders of the protests reaffirmed the movement philosophy, quoted saying:

"We shall not allow this indirect dictatorship of President Kaguta Museveni...We are here to defend our rights. Every hope has been taken by President Museveni. The NRM Kingdom is

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<sup>59</sup> Preamble of the 1995 Constitution of Uganda.

<sup>60</sup> NTV, '*Age Limit Debate: Uganda Law Society calls on lawyers to defend the constitution*,' 6<sup>th</sup>, October, 2017. A visual audio accessible at <https://www.youtube.com/watch?v=RDrmC1gi4e8>

<sup>61</sup> The Independent, '*BOBI WINE: I am here to defend the Uganda Constitution*,' July 12, 2017. Accessible at <https://www.independent.co.ug/bobi-wine-defend-uganda-constitution/>

taking away our rights, so we have to defend, we have to defend, we have to fight for our constitution."<sup>62</sup>

The students sought to march to the Parliament to hand over a petition against the amendment to the Speaker, but were stopped by heavy police and military presence and tear gassed before they left the university. The point however had been made, standing up against the amendment and its negative ramifications.

The same basic philosophy motivated the covert urban activists who, in the middle of the night, would pin hundreds of posters around buildings in urban centers in cities such as Kampala denouncing the amendment, calling upon citizens to say ‘yes to age limits.’ The police and media always categorized these activists as ‘Unidentified people – a sizeable group that worked for hours in many places.’ However, the reality was that these actors were defenders of the Constitution as indicated by the wordings they used on the posters. This covert activism became even more widespread in the month of July 2017, with posters pasted on streets, walls, pavements and electric poles in Kampala city, ‘denouncing the move to lift the presidential age limit from the Constitution.’<sup>63</sup> The poster was described as having ‘a photograph of President Yoweri Museveni, clad in a deep blue suit with his trademark hat and yellow tie taking the presidential oath while holding a Bible in his raised right hand. On the top of the poster are printed in red the words "Youth Against Dictatorship." At the bottom of the poster are the words "Say Yes to Age Limits" in dripping red color’.

### *c) Standing up against the concept of the lifelong Presidency and its repercussions*

3.8 The careful crafting of the resistance’s ideology expressly depicted the constitutional amendment as the wholesale endorsement of the lifelong presidency of President Museveni, which thus had to be resisted. The removal of the age limit, coupled with the previous 2005 removal of presidential term limits, would aid in the consolidation of authoritarianism of President Museveni. Citizens were guided to the conclusion that this eventuality would digress the country to the dark old days of state fragility characterized by a lack of rule of law and reminiscent of the reign of General Idi Amin who declared himself a life President.<sup>64</sup>

3.9 In a way, this message was a reminder to President Museveni and the NRM party of their basic and foundational argument that Africa’s instability was caused by the long stay in power by African leaders. As such, amending the Constitution to allow long tenures in power represented a fundamental departure from the aforementioned historical argument of the party. The resistance further argued that the peaceful transfer of power, which had eluded the country since independence, had been one of the original motivating factors of the NRA guerilla war and was thus a central pillar of their transformative agenda for Uganda. Hence,

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<sup>62</sup> Halima Athumani, ‘Proposed Changes to Uganda’s Presidential Age Limit Hit Roadblock,’ VOA, September 21, 2017. Accessible at <https://www.voanews.com/a/proposed-changes-ugandas-presidential-age-limit-hit-roadblock/4038715.html>

<sup>63</sup> The Observer, ‘Age limit: Anti-Museveni posters plastered in Kampala,’ July 12, 2017. Accessible at <https://observer.ug/news/headlines/53819-age-limit-anti-museveni-posters-plastered-in-kampala.html>

<sup>64</sup> Respondent Interview with Journalist-that covered the resistance working with the Independent Magazine, 10<sup>th</sup>/June/2022, Kampala-Zoom Meeting.

according to one respondent, the amendment was nothing short of a betrayal of this cause and of the numerous persons that had been killed in the 1981-1986 war. This message was meant to appeal to the older generation in the hope that appealing to their lived experience would resonate with them and provide motivation to support the resistance movement.<sup>65</sup>

#### *d) Citing comparable evils in countries with constitutional amendments*

3.10 The last messaging strategy employed by the resistance was to point to other countries in the region where authoritarian leaders had succeeded in realizing constitutional revisions to consolidate power, all while demonstrating the negative impact that this campaign had on everyday citizens in those countries. Leaders of the resistance movement pointed specifically to the elimination of term limits in Guinea (2001-President Lansana Conte); Burundi (2015-President Pierre Nkurunziza); Cameroon (2008-President Paul Biya) and South Sudan (2015-President Kiir). At the same time, resistance leaders promoted examples of countries where the people had successfully resisted these amendments, such as in Burkina Faso, where the people had rejected President Blaise Compaoré of Burkina Faso in October 2015 when Compaoré had attempted to amend the Constitution to stand for election and circumvent the Constitutionally prescribed two term limits for the Presidency. On October 30, 2014, a national citizen resistance launched in Burkina Faso dubbed “revolution 2.0,” characterized by protests partly fueled by social media. The protests lasted two full days and prompted President Blaise Compaoré and his party to abandon the move, thereby leaving the Constitution intact. Channeling this powerful example, Ugandans were told that if ‘others in Burkina Faso had done it, then even so in Uganda it was possible.’<sup>66</sup>

### **III. Defining and Marking the ‘Arenas and structures of Resistance’**

3.1 Leaders of the movement outlined four distinct arenas where resistance against the constitutional amendment would take place. These four arenas included: 1) Parliament – largely because this was the chamber where the legal process of amendment would take place; 2) the streets and other public spaces to include churches, funerals etc.; 3) online forums; and 4) through a potential Court proceeding to challenge the amendment, if it were to be passed and signed into law by the president. We in turn inquire into each of the four arenas and the justification for employing such a strategy.

#### *a) Within Parliament – the restrictive legalistic resistance ground*

3.2 In Parliament, the resistance movement worked to counter the amendment proceedings themselves. The engagement in this arena was planned at parliamentary debate engagement with the NRM MPs to decry the negative aspects that would come with the amendment with a view of appealing to at least a few NRM progressive MPs to see reason and oppose the

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<sup>65</sup> Id.

<sup>66</sup> Respondent Interview with Opposition Member of Parliament from the National Unity Platform-one of the 25 suspended for chaos, 15<sup>th</sup>/June/2022, Kampala.



amendment.<sup>67</sup> The Leader of Opposition in Parliament (LOP) was to be ‘key in accentuating this debate on the floor of Parliament, providing signals and directions spoken or by gesture communication.’<sup>68</sup>

3.3 Second was the strategy of ‘*Walk-aways*’ or ‘*Walkouts*’ that was to be undertaken at the discretion of the LOP, who would assess the situation and give a signal for his colleagues to join him in walking out of Parliament, as a gesture of last resort.<sup>69</sup> This was first a sign of protest whenever Parliament was perceived as engaging in digressive legislative discourse. Secondly, it publicized the opposition’s resistance to the amendment to citizens and, in the process, garnered public support and strengthened the emerging citizen resistance.

3.4 The third strategy involved disrupting proceedings within the chambers of Parliament itself. On one occasion, the opposition decided to disrupt the amendment bill readings through repeatedly singing the National Anthem as they held Parliament in check. This action was forged to ensure that ‘we do not leave the house and let them sail through easily. The cameras were on, and so we thought this would trigger further resistance within the populace or at the least, for the people to know that they had leaders in this struggle in the house standing up to this abrogation.’<sup>70</sup> The MPs were well aware of the potential repercussions – the most immediate being suspension from Parliament. On December 18, 2017, the Speaker of Parliament, Rebecca Kadaga, suspended six opposition MPs – namely Allan Sewanyana, Semuju Nganda, Gerald Karuhanga, Mubarak Munyagwa, Jack Odur and Antony Akol – for ‘disrupting plenary proceedings.’<sup>71</sup>

3.5 The censure of the 6 MPs was carried out during the parliamentary session to receive the House Legal and Parliamentary Affairs Committee on the Constitution Amendment Bill No. 2 of 2017 report for debate. The opposition MPs decried the manner in which the Speaker had handled the chamber during the tabling of the aforementioned report, rejecting all points of procedure that were raised by those dubbed oppositional to the amendment. This brings to the forefront the role of the Speaker during this resistance. Would she have performed any differently in the way she handled the chambers during the plenary and debate of the Bill? The doubts in her favor, however, are brought to rest when later she boasted of having helped the president with the passing of this amendment and as thus deserved a political reward.<sup>72</sup>

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<sup>67</sup> Respondent Interview with member of the CSOs that was embedded with the Resistance in LOP’s office to provide research for the MPs, 17<sup>th</sup>/June/2022.

<sup>68</sup> Id.

<sup>69</sup> Respondent Interview with Opposition Member of Parliament from the National Unity Platform-one of the 25 suspended for chaos, 15<sup>th</sup>/June/2022, Kampala.

<sup>70</sup> Id.

<sup>71</sup> See also Kennedy Oryema, ‘*House on fire as Kadaga suspends 6 opposition MPs,*’ Accessible at

[https://www.newvision.co.ug/new\\_vision/news/1467715/house-kadaga-suspends-opposition-mps](https://www.newvision.co.ug/new_vision/news/1467715/house-kadaga-suspends-opposition-mps)

<sup>72</sup> In 2020, during the NRM party Central Executive Committee [CEC] meeting convened to vet candidates to fill part positions, Ms. Kadaga laid bare her partisan way she handled Parliament when she asked that the party recognizes her efforts in amending the Constitution in 2017 and re-elect her as the 2<sup>nd</sup> National Vice Chairman of the NRM. In her own words:

‘In very difficult circumstances, I facilitated the amendment of the constitution under article 102 to enable continuity of the NRM ideology, but most importantly our national chairperson to continue leading the country

*b) Outside Parliament: the crafting of a public spaces' citizen resistance*

3.6 The resistance also targeted and categorized several classes of public spaces as arenas of resistance. These were defined as any places which are, under normal circumstances, avenues of convergence of large groups of people, whether for commerce, celebrating life or sorrow, sporting events, religious occasions, burial ceremonies, weddings, and funerary functions, among others. These venues became hotspots for citizen awareness-raising activities to draw attention to the proposed constitutional amendment. By expanding the arena to include virtually all public spaces, large and diverse swathes of the population could become a potential agitator for the sanctity of the Constitution.

3.7 To further reinforce these public spaces, resistance MPs undertook public consultative meetings on the bill within their constituencies, as legally prescribed in legislative procedures. These activities were dubbed '*Togikwatako campaigns*,' aimed at raising citizen awareness of the constitutional amendment, and were organized throughout the country, albeit not without incident. In Lwengo district in Central Buganda (part of Greater Masaka), one opposition political party, the Democratic Party (DP), led the campaign. The campaign leveraged the DP party's historic strength in the region to bolster its impact, effectively adapting the global resistance strategy to the local context.<sup>73</sup> These meetings focused on reaching the lowest level of the decentralized system in Uganda – the subcounty – taking advantage of small trading centers and drinking joints where people converge after a long day's work.

**TABLE 1: A Summary of the Members of Parliament Resistance Arm Strategic Actions Both in and Out of Parliament**

IN PARLIAMENT	OUT OF PARLIAMENT
Collectively and individually Engage In:	Collectively and Individually Engage In:

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after the end of the present term. I have demonstrated my commitment to the party throughout...I have enacted all the necessary legislation and I have been available for work in the party throughout.' See The Independent, '*KADAGA: Vote me, I helped push 'Age Limit' debate*,' August 12, 2020. Accessible at <https://www.independent.co.ug/kadaga-vote-me-i-helped-push-age-limit-debate/> [Accessed 9/June/2022]; See also The Daily Monitor, '*Kadaga vends age limit role as CEC vets top NRM leaders*,' Wednesday, August 12, 2020 — updated on August 14, 2020. Accessible at <https://www.monitor.co.ug/uganda/news/national/kadaga-vends-age-limit-role-as-cec-vets-top-nrm-leaders-1918780> [Accessed on 12/June/2022]

In fact, whereas the NRM MPs had sought to introduce the Bill on Thursday, September 14, it decided that this is postponed to Thursday, September 21, a date they were should Speaker Kadaga would be around to preside over Parliament 'whom the NRM MPs prefer (ed) to handle the Bill.' See Gaaki Kigambo, '*Kadaga on the spot as presidential age cap debate returns to Uganda parliament*,' The East African, September, 16, 2017. Accessible at <https://www.theeastafrican.co.ke/tea/news/east-africa/kadaga-on-the-spot-as-presidential-age-cap-debate-returns-to-uganda-parliament--1373662> [Accessed 8/June/2022] Gaaki sheds a spot light into the role of the speaker as an individual in such debates that have a national bearing on a country's democratization and constitutionalism trajectory. Whereas it may appear that it would be unfair to critique an arbiter, but that's precisely the very reason why they should be, how well they let all parties to play their game cards without unfair infringement.

<sup>73</sup> Id.

<ol style="list-style-type: none"> <li>1. <i>Actual debate</i> based on Uganda’s history and the quest for stability and certainty of peaceful transfer of power;</li> <li>2. <i>Diplomatic disruptions</i>: peaceful but with the ability to disrupt and, if possible, halt parliamentary proceedings-e.g. repeated singing of the national anthem, repeated point of procedure, point of order requests by different MPs;</li> <li>3. <i>Adjournment pleas</i>: to be led by the leader of opposition should the situation demand (retreat, re-group, re-assess and counter);</li> <li>4. <i>Walk-outs</i>, on the signal of the leader of opposition, as and when the situation demanded in an effort not to legitimize the process;</li> <li>5. <i>Stay-in</i>, take the vote, but insist its open voting as a last measure of transparency to, at the least, reveal the complicit MPs on national television;</li> </ol>	<ol style="list-style-type: none"> <li>1. <i>Joint ‘Togikwatako’ rallies</i> guided by proximity of constituencies to portray solidarity &amp; tap into each other’s’ strength and skills at communication;</li> <li>2. <i>Radio talk-shows</i>: especially community radios that are region specific and conduct programming in local languages to appeal to the rural poor and television appearances (at least before they were censored);</li> <li>3. <i>Attendance of local functions</i>: using funerals, burials, weddings, and religious functions (at churches, mosques, temples etc.) as platforms of citizenry awareness-raising and recruitment;</li> <li>4. <i>Offer support and ‘political weight’</i> to activists in detention, aiding their release. Employ a ‘leave no fighter behind’ policy.</li> </ol>
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### c) *Joint Consultative Campaigns for Solidarity*

3.8 In order to bolster the resistance, MPs adopted the policy of conducting their legally mandated consultations with their respective constituencies in public, open for all citizens to attend, as had been directed by the Speaker. MPs undertook joint rallies, moving as a group from one constituency and region to another, denouncing and undertaking citizen recruiting and awareness-raising for the movement. This approach signaled MPs solidarity and unity to the populace while providing a chance for the articulate MPs to raise awareness of the future negative impacts of the constitutional amendment, should it pass. The Police moved to disrupt this strategy by arbitrarily outlawing joint consultation rallies. As a result, most opposition rallies were barred and disrupted, with police chasing away the MPs that were not from a particular constituency. Such disrupted rallies included those that had been planned mainly in Central region, in Kampala Metropolitan, and in Western Uganda, in Rukungiri district where one person was shot dead by police. This would later have a negative impact on the campaign agenda to recruit masses to the cause.

### d) *Citizen-MP phone calls and outreach agenda: unpacking the ‘Togikwatako Week’*

3.9 In addition to the joint consultative campaigns, the resistance MPs planned a secondary, more robust campaign of resistance. In the week preceding the tabling of the Committee on Legal and Parliamentary affairs report on the Constitutional Amendment No.2 Bill 2017, the MPs launched the ‘*Togikwatako Week*,’ consisting of a series of protest activities to be implemented over the seven days.<sup>74</sup> A key component of the campaign included mobilizing members of the public to reach out directly to their constituent Members of Parliament –

<sup>74</sup> Respondent Interview with Butambala MP Muwanga Kivumbi, one of the organizers of the Week protest events. At the time, Hon. Muwanga was the Shadow Minister for Internal Affairs.



mainly through phone calls—and warn them of the dangers the amendment posed to the democratization process of Uganda. Where possible, citizens were encouraged to visit these MPs in person and wear the color red daily. At the same time the resistance MPs conducted daily press conferences.<sup>75</sup>

3.10 To conclude the week, resistance leaders organized a citizen parade along Parliamentary Avenue for the day the Committee report was to be tabled before Parliament. Hence, every MP who was to enter parliament would have no choice but to walk through ‘a guard of honor by Ugandans telling them to resist the proposed amendment.’<sup>76</sup> To increase the pressure on Parliament in the leadup to this day, resistance members publicly disseminated on social media all known telephone numbers and email addresses of the MPs who were in support of the amendment, encouraging citizens to reach out to these MPs directly with messages of opposition to the amendment. It was not shocking for a person on social media (especially WhatsApp) to receive the same message more than twice a day in the run-up to the parliamentary debate on the amendment.

#### *e) Online Strategy: tapping into the energy of the Youth*

3.11 The resistance sought to take advantage of the demographic slant in the country where, at the time, almost 70% of the total population was below 30 years of age. The majority of these young Ugandans were unemployed or under-employed and frustrated with a political leadership that they perceived as older and out of touch, especially concerning the challenges facing a young, technologically oriented generation. To appeal to this demographic, the resistance relied on the new Members of Parliament, young and daring, to become the face of the struggle within Parliament. To this end, Hon. Kyagulanyi Sentamu (a.k.a Bobi Wine), Hon. Zaake and Hon. Ssewanyana Allan, all below 40 years of age, became key leaders of the movement, motivating youth throughout the country to engage in the debate surrounding the amendment. It is unsurprising, then, that these young MPs were also the ones most targeted by security forces who correctly perceived the influence of these leaders on the Under-40 generation that was resisting the amendment.

#### *f) Engagement with the Clergy*

3.12 As the resistance movement grew, various faith communities began emerging as important points of convergence for resistance leaders. The most prominent faith-based group to emerge was the Inter-Religious Council of Uganda, which opted for an alternative method to engage in the anti-amendment movement. They implored the president to take the question of the amendment to the people in a national referendum, preceded by a national dialogue, as a reflection of the peoples’ will. They argued in one of their press statements that:

‘The debate on the removal of the presidential age limit is not a partisan issue to be monopolized by politicians and/ or Members of Parliament ... people have divergent

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<sup>75</sup>Id.

<sup>76</sup>Id.

views on the matter, hence the need to soberly listen to all sides without favoring one side and intimidating the other.<sup>77</sup>

3.13 In a country where over 95% of citizens are either Christian or Muslim, the backing of these faith communities added substantive moral weight behind the resistance movement. The Inter-Religious Council of Uganda proved to be particularly influential, calling out the security agencies for their brutality against protesters, beseeching them to “stop harassing one side and favoring another (i.e. those for lifting the age limit and those opposed to it)”<sup>78</sup>. Akin to a veiled mockery of his professed democratic ideals, the Council called on President Yoweri Museveni to ‘assert true statesmanship on this matter’, a statement that would have been interpreted in a hundred ways but all with one underlying thread: halt the amendment.<sup>79</sup> The resistance picked up this message and circulated it sarcastically, calling on the president and NRM to ‘listen to the men of God, if they could not listen to other sinful Ugandans.’<sup>80</sup>

### *g) Citizen resistance through street protest and demonstrations*

3.14 On September 21, 2017, the Police banned all anti-amendment protests in the country, claiming to have intelligence that the protests were only a cover for intended rioting, with protestors’ real intention being to cause violence and mayhem.<sup>81</sup> The Police instead suggested that protestors express their opinion in controlled, indoor meetings. The ban did not stop the eruption of protests in other parts of the country which, by September 26, had spread to other parts of the country including Mbale and Kumi districts in eastern Uganda; Masaka district in Central Uganda; Arua district situate in West-Nile, Lira, and Pader districts in Northern Uganda; and some parts in Western Uganda.<sup>82</sup> These protests were all characterized by demonstrators and protestors from all walks of life holding placards and chanting diverse slogans denouncing the scheme to scrap the presidential age limit. In certain instances, protestors burned old car tires and blocked roads in urban trading centers, activities that attracted the wrath of the police which responded with tear gas, rubber bullets, and live bullets.<sup>83</sup> Patience Nitumwesiga, in tandem with the narratives collected from interviewees by the author, corroboratively provides a very vivid reconstruction of what transpired in one of

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<sup>77</sup> Ismail Akwei, ‘Ugandan clergy wants referendum to decide presidential age limit,’ Africanews, 23/09/2017, Accessible at <https://www.africanews.com/2017/09/23/ugandan-clergy-wants-referendum-to-decide-presidential-age-limit/>

<sup>78</sup> Id.

<sup>79</sup> Id.

<sup>80</sup> Respondent Interview with Opposition Member of Parliament from FDC, 12<sup>th</sup>/June/2022, Kampala.

<sup>81</sup> The East African, ‘One killed as Uganda bans protests over presidential age limit bill,’ October, 18, 2017. Accessible at <https://www.theeastafrican.co.ke/tea/news/east-africa/one-killed-as-uganda-bans-protests-over-presidential-age-limit-bill--1375692>; The Independent, ‘Uganda bans protests over presidential age limit bill,’ October 18, 2017. Accessible at <https://www.independent.co.ug/uganda-bans-protests-presidential-age-limit-bill/>

<sup>82</sup> A vivid recount of these protests is captured by various media houses that sustained a reporting about them. Some of them include: The Daily Monitor, ‘Age limit protests spread to Mbale, Arua, Mbarara, Masaka and Pader,’ September 26, 2017 — updated on January 14, 2021. Accessible at <https://www.monitor.co.ug/uganda/news/national/age-limit-protests-spread-to-mbale-arua-mbarara-masaka-and-pader--1719844>

<sup>83</sup> Id.

the districts of Lira, which would later become a replicate in part or in whole in other parts of the country.<sup>84</sup>

During the early morning hours of September 21, nine young activists — all in their twenties — hauled a coffin toward a police station in the northern city of Lira. The coffin was draped with posters of Ugandan dictator Yoweri Museveni and a number of his other allies in government. Written across the coffin on one side were the words “Change the constitution and bury Uganda” — a reference to a proposed constitutional amendment that would do away with the presidential age limit. At 6.30 a.m., when they arrived at a major intersection, they set the coffin down and lit it on fire. By the time the police station came alive to start the day, the protesters had already left. Not knowing who they were looking for, the officers nevertheless set out on a hunt to find them. Over the next 12 hours, the young people invaded street after street in Lira, chanting anti-constitutional change slogans, lifting up placards and even setting some tires on fire. The small group soon grew into large crowds in all corners of Lira. The protesters had allies everywhere, and as soon as the police set out to stop a protest on a given street, someone would call the protesters and inform them. They would quickly disperse and reorganize at a different place, and the police would arrive too late, finding no one to arrest.

3.15 The other group of the resistance was the student’s movement, mainly based at Makerere University, the oldest public university in the country, a renowned political hot bed especially opposing government excesses. The students, with their petition in hand, defied the police ban and attempted to undertake a procession to the Parliament and hand it over to the speaker.<sup>85</sup> They were stopped in their steps by a ruthless volley of tear gas, rubber bullets and police arrests, hence disrupting the entire student movement. But the message had been made that the students – averaging 23 years old – were firmly anti-amendment.

### *b) Turning to the Courts of Law: Between Legitimacy and Resistance*

3.16 The resistance anticipated the possibility of the amendment passing, owing to the obvious dominance of NRM numbers in Parliament, and hence decided to develop a Plan B. The next arena of resistance became the Constitutional Court, where resistance leaders would challenge the newly enacted law. Of course, the apprehensions and mistrusts in the Ugandan Courts were prevalent among the opposition MPs and later within the local populace owing to the subtle capture and influence that the president had asserted over the judicial officers that he personally appointed. This led to an internal debate within the movement leadership on whether it was feasible to even attempt a court challenge.<sup>86</sup>

3.17 Three reasons were advanced for a court challenge. First, if the court were ever to reject the amendment on legal grounds, they needed to be pushed to do so by having a case

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<sup>84</sup> Patience Nitumwesiga, ‘Uganda Rises Up in Unprecedented Opposition to 31-Year Dictator,’ *Toward Freedom*, November 27, 2017. Accessible at <https://towardfreedom.org/global-news-and-analysis-global-news-and-analysis/uganda-rises-up-in-unprecedented-opposition-to-31-year-dictator/>

<sup>85</sup> The Daily Monitor, ‘Student shot over anti-age limit protests,’ Thursday, September 21, 2017 — updated on January 14, 2021. Accessible at <https://www.monitor.co.ug/uganda/news/national/student-shot-over-anti-age-limit-protests-1719140>

<sup>86</sup> Respondent Interview with one of the lead lawyers of the opposition parties-that led the legal challenge, 21/June/2022, Kampala.

submitted formally to the Court.<sup>87</sup> Secondly, there was consensus that history must record that the resistance went up to the last known legal means of protest to protect the constitution – that is the Court.<sup>88</sup> Thirdly, there was need to tap into the potential benefits and possible low hanging fruits that would come from the Court. The reasoning was that, even should the Court upheld the amendment, there may be other legal benefits that could result from the case and strengthen the overall trajectory of democratization in the country, such as denouncing the partisan nature of the military and police.<sup>89</sup> Fourthly, there was need to test the level of independence, non-partisanship and decisiveness of the Court in dealing with key national issues that shape its democratization process without fear or favor from the Executive.<sup>90</sup> The findings would inform strategies for future democratization struggles to come. As a result, a challenge was filed and ultimately did produce certain wins; though the age limit amendment was not struck down as unconstitutional, the Court did throw out an amendment that had sought to extend the parliamentary term from five to seven years, an act the Court said manifested greed on behalf of the members of Parliament.<sup>91</sup>

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#### IV. MEASURING THE SUCCESS OF THE MOVEMENT

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4.1 Even though the resistance did not ultimately succeed in blocking the age limit amendment from passing, the movement did realize a number of important milestones. First, they were able to show the full extent to the militarization of politics in Uganda, as well as the very extensive reach and influence of the army on the governance of the country. The beating of MPs before cameras and the overwhelming military deployment at and around Parliament clearly demonstrated the extent of military influence, laid bare for citizens to appreciate and understand the centrality of the institution of the military in perpetrating the misrule in Uganda.

4.2 Second, the resistance had clearly illustrated that a majority of Ugandans opposed constitutional changes that would allow President Museveni and the NRM party to remain in power indefinitely. The resistance effectively laid bare a legitimacy crisis that confronts the president and NRM party after ruling the country for over three decades. It renewed the national ethos on peaceful transition of power, a discourse that still continues in the country to this day.

4.3 The resistance aroused a national consciousness that had been in abeyance in Uganda's politics. This same awakening of the populace partly explains the emergence and vibrancy of

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<sup>87</sup> Id.

<sup>88</sup> Id.

<sup>89</sup> Id.

<sup>90</sup> Id.

<sup>91</sup> Male Mabirizi & ors v Attorney General (Constitutional Appeal 2 of 2018) [2019] UGSC 6 (18 April 2019) before the Supreme Court of Uganda and Male Mabirizi & Ors v Attorney General () [2018] UGCC 4 (26 July 2018)-at the Constitutional Court of Uganda. For a summary of the Court findings, see CEPIL, 'A Summary Of The Age Limit Case: Mabirizi Kivanuka & Other V Attorney General-Constitutional Appeal No.02 Of 2018,' accessible at <https://cepiluganda.org/news-blog/a-summary-of-the-age-limit-case-mabirizi-kiwanuka-other-v-attorney-general/>; see also Donald Kiirya, 'How the age limit ruling was delivered,' The New Vision, Jul 26, 2018. Accessible at <https://www.newvision.co.ug/news/1482091/age-limit-eyes-mbale>

the People Power Movement (PPM), borrowing largely from the red ribbon resistance movement of the amendment. The PPM, though largely confined to central Uganda, emerged as the main opposition block against Mr. Museveni in the 2021 general elections under Hon. Kyagulanyi Sentamu, who was among the most vocal advocates of the *Togikwatako Resistance* within Parliament. The PPM gave rise to the National Unity Platform, which is now the largest opposition party in Parliament following the 2021 elections. It is difficult to divorce the vibrancy in Uganda’s 2021 general elections and the massive involvement of the youth from the anti-amendment resistance.<sup>92</sup>

4.4 Relatedly, there is consensus among the majority of politicians in Uganda that the aforementioned awakening amongst the populace, especially among the youth, is responsible for the shocking voting patterns for MPs that emerged in the recently concluded 2021 general elections. According to the analysis by the Daily Monitor- a reputable media house, more than half of the MPs who voted for removal of the presidential age limit from the Constitution on December 20, 2017, lost in the elections.<sup>93</sup> They assert that, of the 433 elected MPs, 379 voted on the controversial motion with at least 169 of them losing their seats, to what is partly attributable to people’s awakened voting patterns.

4.5 The resistance revealed the ‘make, nature and model’ of the NRM political party as an entity bought and maintained by financial incentive, conformism and fear of divergent opinions with little or almost no allegiance to a unifying ideology.<sup>94</sup> This revelation alone is powerful for the opposition political parties in Uganda, who identified novel, yet impactful strategies to use against the NRM as they contend for power.

## V. SECURITY RISKS FOR THE RESISTANCE AND MITIGATION MEASURES

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5.1 Open resistance to President Museveni’s efforts to abrogate the age limit was never without implicit risk. Indeed, even as the resistance was mounted, Uganda continued to operate a very oppressive policy and legal framework complimented by captured institutions – namely the police and military – to enforce this legal framework. These laws were targeted towards restricting civic space in general, but more specifically the freedom of assembly, association and expression. These included laws such as the Non-Governmental Organizations Act, the Public Order Management Act, and the Police Act among others. Below, we investigate how some of these laws and enforcement institutions polarized the political and civic environment and rendered it a significant security and safety risk for the resistance to mobilize, and how the resistance mitigated these challenges.

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<sup>92</sup> Respondent Interview with one of the founders of the PPM, currently an opposition MP under the NUP, 21, June, 2022.

<sup>93</sup> See The Monitor, ‘*Half of MPs who backed age limit Bill lose seats*,’ January 25, 2021. Accessible at <https://www.monitor.co.ug/uganda/news/national/half-of-mps-who-backed-age-limit-bill-lose-seats-3268652>

<sup>94</sup> Id.



*a) Stifling CSO Solidarity: Deployment of Counter Terrorism Financing and Anti-Money Laundering Legal frameworks*

5.2 To counter the resistance, the State unleashed well-choreographed inter-agency tactics targeting all the pillars of the resistance. Though the tactics had a legal backing, they were perceived by many as an abuse of power. The State increased its use of administrative harassment as a tool to target NGOs that were actually or were perceived to be in support of the resistance. Putting this harassment into action, on October 11, 2017, the Ministry of Internal Affairs, acting through the NGO Bureau under Regulation 17 of the NGO Regulations of 2017, directed 27 NGOs to submit specific ‘financial information’ to the NGO Bureau within a week. The NGO Bureau wanted information including bank statements spanning three years, sources of funds from 2014 to 2016 detailing the activities upon which the funds had been spent, all bank account numbers, and lists of all members of the organization’s governance structures including the directors and executive directors. The targeted organizations included those operational in human rights, rule of law and general governance, a sphere that had almost become a no-go-zone for NGO operations. These included Citizens Coalition for Electoral Democracy in Uganda (CCEDU) and the Great Lakes Institute for Strategic Studies (GLISS).

5.3 To break personal resistance, the State focused on individual harassment of CSOs leaders, summoning them repeatedly to the police bureau (the Criminal Investigation Directorate (CID) to supposedly record statements on their subversive activities. For example, on October 4, 2017, Mr. Arthur Larok, then Country Director for Action Aid Uganda (AAU), and Mr. Bruno Semaganda, then Head of Finance at AAU, were summoned for interrogation by police on October 6, 2017, and later on October 10, 2017. Interestingly but not surprisingly, they were not charged with any offence. This surveillance over NGOs did affect the resistance overall, as some entities opted to slow or rescind their participation in the resistance movement to ensure their survival from State surveillance and harassment.

*b) CSOs financial paralysis: freezing bank accounts*

5.4 The other institution deployed to counter the resistance of organized CSOs was the Financial Intelligence Authority and Bank of Uganda, both key entities used to destabilize CSOs by freezing their bank accounts, de-legitimizing their work and branding them as funders of illegal activities. The two organizations targeted any and all organizations that had expressly taken part in the anti-amendment campaign, including AAU and GLISS. Consequently, on the October 13, 2017, the Bank of Uganda directed the freezing of the five accounts held by AAU. The police said these were being investigated for ‘conspiracy to commit a felony’ and ‘money laundering,’ further accusing them of sabotage and engaging in criminality.

5.5 To further overwhelm the resistance NGOs, on September 20, 2017, the Uganda Police Force raided the premises of AAU and GLISS and the house of one of their directors, Mr. Godber Tumushabe. In each instance, the premises were sealed off and treated as crime scenes, with security forces accusing the organizations and individuals of engaging in ‘illicit

transfer of funds for funding unlawful activities.’ Staff were held within these premises for hours with their phones confiscated. Even while under siege and with a lot to lose, the CSOs remained firm. Following the siege of GLISS and AAU, these organizations issued a statement that affirmed their solidarity and determination, stating that:

‘We would like to send a reminder to (President) Museveni and all government actors in support of lifting the presidential age limit that it's [treasonable] to try to overthrow the Constitution as laid down in Article 3 of the 1995 Constitution of the Republic of Uganda and, as such, is punishable by law.’

### *c) Stifling Assemblies: The use of the public order management legal framework*

5.6 Under the Public Order Management Act (POMA), the Police and other security agencies found a very convenient and formidable tool that they deployed across the country to crush all the rallies and campaigns that were planned by the resistance. In addition, the controversial *preventive arrest provision* of the law allowed the police to arrest persons suspected of committing a crime and hold them for an indefinite time at their discretion. This tactic was used against FDC member Kizza Besigye and other MPs who were detained in their own homes, further demobilizing the movement. The other example happened on September 21, 2017 when the military and the police prevented several political leaders from leaving their homes, including the mayor of Kampala city, Erias Lukwago, a popular figure in the resistance. He was arrested at his home in Wakaliga, Rubaga district in Kampala. The Mayor and other politicians at the Kampala City Council Authority had organized a procession that was to take place from their City Headquarters to the Constitutional Square, a green belt in the middle of the capital city that was historically a platform of expression of discontent. Their procession was part of their campaign *'Togikwatako Drive.'*

5.7 Through the implementation of these laws, the resistance found itself overwhelmed by the arrests of its members, rendering insufficient its earlier planned rapid response strategy for legal aid in cases of arrests. As such, protests in the various parts of the country were later hampered by the consistent arrests of resistance leaders, detained and charged with incitement of violence under the Penal Code Act, while others were charged with unlawful assembly. While efforts were undertaken to offer legal representation to those arrested on a pro-bono basis, it was not well thought out, relying largely on lawyers of good will and thus limited commitment. This threat of arrest paralyzed the movement in some ways, as activists feared arrest and detention without immediate legal redress, hence a demotivating factor.

### *d) Controlling the airwaves: the emergence of the Uganda Communications Commission (UCC)*

5.8 The State employed two specific tools to black out public involvement in the parliamentary debates on the amendment, out of fear that public involvement might inspire demonstrations. The first was the use of the Uganda Communications Commission (UCC), the main regulatory authority of communication in Uganda, and the second was to stop media from providing live coverage of the protests that were spreading. At the height of the resistance in Parliament against the bill, the UCC sprang into action, issuing a stern warning to radio and TV stations

to desist from broadcasting live content that they claimed ‘promotes a culture of violence among the public.’ Any broadcast that was deemed against the issued directive was to incur suspension or revocation of their broadcasting licenses. This action effectively curtailed access to information on the subject matter, a necessary catalyst to public discourse.

5.9 Further reinforcing the ban on live coverage, the security forces began employing the deliberate strategy of targeting journalists that were covering and relaying information on the demonstrations to the populace. Many journalists were arrested in the course of their work, detained and released without charge.<sup>95</sup> Some were harassed and assaulted physically as a means of barring them from accessing news sites where the anti-amendment demonstrations were ongoing.<sup>96</sup> The journalists’ tools of trade, including cameras, stands, and phones, were in some instances confiscated by the security agents. Examples include: September 13 in Entebbe-Wakiso district where the opposition politicians had staged an anti-amendment rally that was dispersed with tear gas<sup>97</sup>; September 20 during the youth protests and press conference against the amendment;<sup>98</sup> and the September 26 protests.<sup>99</sup>

#### *e) Militarization as a blockade to the Resistance*

5.10 The Resistance was also overwhelmed by the overbearing militarization of the constitutional amendment process. Whereas the resistance leaders and opposition MPs had anticipated that the security agencies (at the time headed by a Military General-Kayihura who was deployed in Police as the Inspector General) would play a critical role in fighting back the resistance efforts of protests using the POMA, they did not expect that the state would deploy the army, and specifically the Special Forces Command (SFC), an elite unit within the UPDF. Resistance leaders had no plan for combating the might that came with the military. Shockingly, they did not even expect it in the Parliament, where it appeared in complete violation of the law, which bars strangers from entering into the chambers of Parliament.

5.11 The ruthlessness of the army and the SFC was shocking, though not entirely surprising. It appears in hindsight that the President, drawing from history, had anticipated that such a time would come when he may rely on the military to change the Constitution. If such a moment came, he had to be sure of who was in command of the military at the various levels. Hence, the 5 years preceding the amendment, he had purged the military of all the senior officials that had credence, ties and speaking power, including many that had taken part in the liberation war with him. Thus, by the time the need for coercive force of the military came in, the president was sure of loyalty, as the army was now in command of personnel that was in

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<sup>95</sup> Respondent Interview with leader of human rights network operational in protecting the rights of journalists, 10<sup>th</sup>/June/2022, Kampala

<sup>96</sup> Id.

<sup>97</sup> Affected journalists included Ssebalamu Kigongo of Bukedde TV station-a government entity and Sande Ssebagala of NBS TV – a private entity whose camera was confiscated and shirt torn.

<sup>98</sup> Five journalists were arrested and detained-later released without charge. They included Akatuhurira Nelson and Livingstone Matovu of B24 TV, Bulegeya Ronnie of Dream Television, Kyambadde Lawrence of Salt Media and Titus Jjemba of BBS TV.

<sup>99</sup> Four journalists were arrested including Denis Engena with NBSTV, freelance journalist Martin Ongom, Robert Kalibongo, and Isaac Otwii, a freelance journalist with the Daily Monitor.



their early 40s with no ties to the liberation and war narratives, but rather allegiance to the president in his individual capacity. More specifically, the elite and well-equipped special forces unit of the military was commanded by the president's own son, General Muhoozi Kinerugaba. It is this unit that was deployed into the chambers of Parliament forcing the amendment under their watchful eye.

5.12 This strategy was perhaps informed by the previous internal dissent within the military ranks experienced in 2005 when the Parliament amended eliminated term limits clause within the Constitution limiting the president to 2 terms in power of 5 years each. At the time, some members of the military High Command had parted ways with the president in protest of what they called a betrayal of the liberation agenda. These included high ranking military officers and politicians, personal friends to the president including the late prime minister and NRM co-founder Eriya Kategaya, former Assistant Minister of Defense Amanywa Mushega, and Mugisha Muntu, Uganda's longest youngest ever army commander who would later join Col. Rtd. Kizza Besigye in the Forum for Democratic Change (FDC) party. Others including former coordinator of national intelligence, Gen. David Sejusa, went rogue and became subject to what many perceived as a state witch hunt including threats of court martial. Majority of such military personnel were retired on the eve of the 2017 amendment, and potential resistance in the military was no more.

5.13 Whereas the Resistance movement had envisaged a verbal confrontation in Parliament, and had devised strategies of '*walk-aways*' and remaining within the chambers of Parliament while disrupting the debate proceedings on the Bill, they had not foreseen a physical confrontation, particularly with the SFC. As such, the confrontation that happened on September 27, 2017 threw many MPs and resistance leaders off-guard. Some of the MPs, including Ms. Betty Bakireke Nambooze of Mukono municipality and Francis Zaake of Miyana municipality in central Uganda, sustained life-threatening injuries that prevail to date.<sup>100</sup>

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<sup>100</sup> See Baker Batte Lule, '*MPs Zaake, Nambooze: How we were beaten,*' The Observer, October 4, 2017. Accessible at <https://observer.ug/news/headlines/55247-mps-zaake-nambooze-how-we-were-beaten> [Accessed on 11/June/2022] Herein, the two MPs tell their tale of the events of the September 27, 2017, when they were assaulted by the security operatives of the Special Forces Elite Group as they protested the passing of the motion to table the Bill during Parliamentary debate. Nambooze insisted that: 'All the cameras were inside focusing on those fighting, that's when they dragged me to the basement where they held me kandoya style [hands tied at the back]. Someone put his leg on my stomach. They never slapped me or boxed me but these were real killers who knew which part of the body to touch and send pain all over.' On his part, Hon. Zaake, then only 26 years, punched by the then UPDF MP and State Minister for Works, Gen Edward Katumba Wamala during the melee captured live on national television, noted that 'It was nasty but I don't regret it because I was fighting to defend the constitution of Uganda so that it is not degraded and raped. Given an opportunity, I will do it again.' The two were later airlifted to India for specialized treatment.

## **VI. LESSONS LEARNED FROM THE ‘TOGIKWATAKO’ RESISTANCE**

- a) For countries with two tier limitations to executive power (e.g. term limits and age limits), it is critical that the resistance to the first attempt is robust and successful. Uganda’s experience shows that once the first amendment is undertaken, the incumbent is often emboldened to attempt the second amendment, increasing the likelihood that it becomes a matter of ‘when’ not ‘if.’
- b) There is need to establish a two-tiered legal strategy in such a resistance movement. The reality is that the street protest will likely continue to result in the arrest and detention of activists, regardless of the success or lack thereof of the movement. A rapid response legal team should be established and facilitated in advance to offer free legal services to the victims. In Uganda, though this existed through NGOs and some lawyers of the political parties, it was not well established, coordinated, sustained, or sufficiently robust.
- c) The other angle of the resistance – at the Court level – points to the need for coordination amongst the various forces of change that may want to file petitions against the amendment – if it eventually passes. In the Ugandan case, the court resistance was also an indicator of the extensiveness of collaboration that had existed in the resistance. This came to bare at the uncoordinated number of petitions challenging the amendment that were filed at the Constitutional Court. These, which were later consolidated, included petitions from opposition MPs and the Uganda Law Society, which is the umbrella body for the lawyers in Uganda and civil society groups.
- d) Success is contextual, and must be weighed against several factors, including the political set-up of the country, the consciousness of the masses and the robustness of movement. A successful movement should never be defined by ‘outsiders,’ as what may appear a loss at face value can in reality be a progressive step in a protracted struggle for democratization.
- e) A unifying ideology is bigger and more impactful than the greatest of individuals without direction. This resistance in Uganda was arguably one of the first non-partisan protest and demonstration against State power in history, and was galvanized on ideology surpassing all sections of the public including religious leaders and non-governmental organizations. It may be easy for people to join an ideological struggle than individual narrated opinions.