UNWANTED WITNESS
"Amplifying Voices, Changing lives"

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Position Statement by Unwanted Witness on Public Concerns Arising from the Application of Data Protection Laws in Uganda's Electoral Context

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Unwanted Witness, as a civil society organization dedicated to advancing digital rights, privacy, and data protection in Uganda, issues this position statement in response to emerging public interest concerns regarding the intersection of data protection laws and electoral processes. We speak out to highlight patterns in the application of data protection frameworks that could, if unaddressed, undermine constitutional principles and civic engagement, particularly in the lead-up to national elections.

In the context of Uganda's evolving digital electoral landscape, concerns have arisen about the potential use of data protection laws in ways that may inadvertently affect democratic oversight and participation. Voter registers, as established under electoral laws such as the Electoral Commission Act (Cap 140), have historically been treated as public information to facilitate transparency, verification, and accountability in elections. Data protection frameworks, including the Data Protection and Privacy Act, 2019 (Cap 97), were enacted to safeguard personal data against misuse, not to hinder legitimate civic activities or suppress public scrutiny of electoral systems.

We express concern that ambiguities in the interpretation and enforcement of these laws could lead to patterns where criminal provisions are applied in electoral contexts, potentially deterring civil society oversight, intimidating political actors, and shrinking civic space. Such patterns, if they emerge, would raise questions about regulatory consistency, the proportionality of enforcement, and the equal application of legal obligations to all entities public and private. The Data Protection and Privacy Act imposes clear duties on data controllers and processors, including registration with the Personal Data Protection Office (PDPO), the adoption of privacy policies, and the implementation of accountability mechanisms. These obligations are essential for fostering trust and preventing vulnerabilities in data handling, yet institutional compliance gaps could exacerbate risks if not addressed uniformly.

These concerns are anchored in the public interest, as they relate to upholding constitutional rights under the 1995 Constitution of Uganda (as amended), including freedoms of expression and participation (Article 29), and align with international standards such as the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples'

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Rights. Ensuring that data protection laws enhance rather than restrict democratic processes is vital for maintaining public confidence in elections and governance systems.

Unwanted Witness's prior advocacy in 2025, including our training workshops for political parties and stakeholders on ethical data handling and our advisories on compliance with the Data Protection and Privacy Act, underscored the importance of proportional enforcement to avoid misuse. These efforts were aimed at promoting responsible practices across all actors, highlighting potential risks in digitized elections involving biometric data and voter profiling, and advocating for preventive measures to protect civic engagement.

Principles Unwanted Witness Is Defending

In raising these issues, Unwanted Witness seeks to defend core principles that underpin a healthy democracy, including:

- **Legal certainty**: Laws should be clear and predictable to avoid unintended applications that could chill public discourse.
- **Proportionality in criminal law**: Enforcement measures must balance data protection goals with the need to preserve electoral transparency and participation.
- **Equal application of the law**: All institutions handling personal data, regardless of their status, should adhere to the same standards of accountability.
- **Regulatory accountability**: Oversight bodies must lead by example in compliance to build systemic integrity.
- **Protection of civic space**: Frameworks should enable, rather than constrain, citizen-led monitoring of public processes.

These principles are essential for ensuring that data protection serves as a tool for empowerment, not a barrier to accountability.

Calls to Action

To address these public concerns and strengthen Uganda's data governance framework, Unwanted Witness calls for the following institutional actions:

- **On the Personal Data Protection Office (PDPO) and relevant regulators**: Issue clear guidance on the handling of electoral data, including distinctions between public verification tools and protected personal information, to promote consistent and proportional

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application of the law. Additionally, undertake comprehensive audits to ensure all major data-holding institutions comply with registration and policy requirements under the Act.

- **On Parliament**: Initiate a timely review of the Data Protection and Privacy Act, 2019, to address any vagueness that could potentially be exploited to prosecute voices of dissent or hinder legitimate oversight. Such a review should prioritize amendments that enhance clarity, proportionality, and safeguards for public interest activities, while aligning with constitutional and international human rights standards.
- **On all stakeholders, including government agencies, political parties, and civil society**: Renew efforts to comply with data protection obligations and respect constitutional limits on the use of laws, fostering an environment where electoral data supports transparency rather than division.

Unwanted Witness stands ready to collaborate with all parties in these efforts, offering our expertise in digital rights to support reforms that protect data while advancing democracy.

In conclusion, by focusing on these systemic issues, we aim to contribute to a future where data protection laws reinforce, rather than undermine, Uganda's democratic foundations. We urge collective action to ensure that governance systems remain accountable, inclusive, and resilient in the digital age.

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