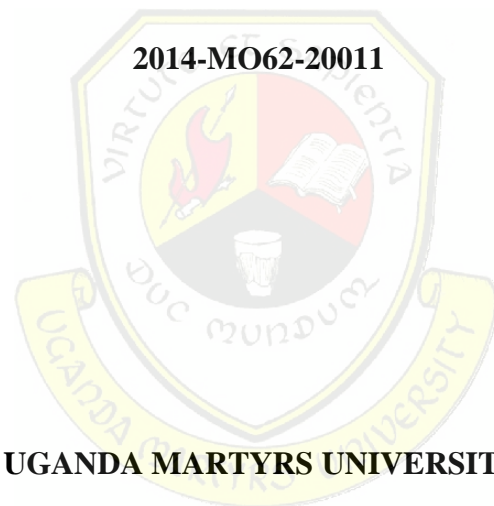


**EXAMINING CIVIL LEADERS' OPINION ON THE REGULATION OF THE FREEDOM  
TO ASSEMBLE AND ASSOCIATE BY THE PUBLIC ORDER MANAGEMENT ACT**

**(2013)**

**CASE STUDY: LIRA MUNICIPALITY, LIRA DISTRICT**

**ODWAR DENIS**



**SEPTEMBER, 2016**

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**A POSTGRADUATE DISSERTATION  
PRESENTED TO  
THE SCHOOL OF ARTS AND SOCIAL SCIENCES, DEPARTMENT OF GOVERNANCE  
AND PEACE STUDIES  
IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR  
THE AWARD OF THE DEGREE OF  
MASTER OF ARTS IN HUMAN RIGHTS**

**UGANDA MARTYRS UNIVERSITY**

**ODWAR DENIS  
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## **Dedication**

This research is dedicated to my dear wife Susan Odwar, my lovely children Ladye Abigail Evon and Omara Nathan Adriel, my parents Mr. Charles Omara - Akello and Mrs. Rosemary Omara and all my siblings and friends, for all sorts of support that enabled me come out with this work.

## **Acknowledgement**

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I am also grateful to my wife Mrs. Susan Odwar and all our children for their constant prayers and support while I was pursuing this academic milestone. Appreciation goes to my parents, relatives and friends for their great encouragements. Also in a mighty way thanks to God for his love, kindness, provision and protection upon me as I was travelling every weekend for the two years in pursuit of this course.

Thanks to all the members, from all the institutions and individuals who constituted the respondents in this research. Your responses, cooperation and opinions greatly contributed to the success of this academic research. I also acknowledge all my lecturers who were very knowledgeable and supportive in imparting knowledge and guidance in all the modules covered for this particular academic programme.

Last but not least, I appreciate all my course mates for being positive and sharing information with one another in the entire course period. The discussions we had also contributed to the success of this research.

## List of Abbreviation and Acronyms

ACHR .....	African Charter on Human Rights
ACHPR .....	African Commission on Human and Peoples' Rights
ACRWC .....	African Charter on the Rights and Welfare of the Child
A.G .....	Attorney General
APESC .....	Additional Protocol to the European Social Charter
CSOs .....	Civil Society Organization
CRC .....	Convention on the Right of the Child
ECHR .....	European Convention on Human Rights
FDC .....	Forum for Democratic Change
FGD .....	Focus Group Discussion
HRCR-U .....	Human Rights Centre –Uganda
HRDU .....	Human Rights Defenders in Uganda
ICCPR .....	International Covenant on Civil and Political Rights
IGP .....	Inspector General of Police
NCC .....	National Consultative Council
NGOs .....	Non -Governmental Organizations

NRA ..... National Resistance Army  
NRM .....National Resistance Movement  
PCA ..... Penal Code Act  
POMA .....Public Order Management Act  
PRA .....Popular Resistance Army  
TACHR .....The American Charter on Human Rights  
UBOS .....Uganda Bureau of Standards  
UDHR .....Declaration on Human Rights  
UFF .....Uganda Freedom Fighters  
ULF .....Uganda Liberation Front  
UFM .....Uganda Freedom Movement  
UMCAT .....United Media Consultants and Trainers  
UN .....United Nations  
UNHCHR .....United Nations High Commissioner for Human Rights  
UPC .....Uganda People’s Congress  
4GC .....For God and my Country

## **Abstract**

The study examined the opinions of Civil Leaders on the regulation of the exercise of freedom to assemble and freedom to association in Uganda by the Public Order Management Act (POMA) (2013). In particular, the study examined the opinion of civil leaders on the intent, interpretation, and enforcement of POMA (2013) on the regulation of the exercise of freedom to assemble and freedom to associate.

A qualitative research approach using in-depth interviews and focus group discussions was mainly applied to obtain information. A sample of 92 respondents was selected using a purposive sampling technique. The data was analyzed using content analysis method.

The findings of the study reveal that 74% of the civil leaders who participated in this research complied with the POMA's requirement of giving notice to the relevant authority before organizing and holding public meetings, and the assemblies. However, only 28% of the civil leaders expressed awareness of the content of the POMA (2013). This may imply that civil leaders have poor interpretation of the Act and also the way it is being enforced. 67% of the civil leaders had the opinion that the Act is interfering with the activities of the opposition politicians of holding public rallies and assemblies in their constituencies.

The study recommends that the procedure required for conducting public gatherings should end with giving notice to the police. The power of allowing or disallowing public gathering is being misused, thus should not be vested in the IGP or the authorized officer, as the Act says. There should be more sensitization on POMA (2013) and the Act should be translated into local

languages for easy access and understanding by uneducated people, and for the POMA (2013) to be enforced and applied in a non-selective manner to all.



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## **CHAPTER ONE**

### **GENERAL INTRODUCTION**

#### **1.1 Introduction**

This study is about the opinion of civil leaders on the regulation of the exercise of freedom to assemble and freedom to association by the Public Order Management Act (2013). This chapter introduces the study and provides background to the study, statement of the problem, objectives and guiding research questions. The chapter also presents the scope of the study, significance of the study, justification of the study, definition of key concepts, and the conceptual framework.

#### **1.2 Background to the Study**

Freedom of assembly and association is at the centre of democracy, it depicts a situation where people gather to engage in common interests through discussions or demonstrate as individuals or organizations.

Right to freedom of peaceful assembly is the right to gather publicly or privately and collectively express, promote, pursue and defend common interests. This right includes the right to participate in peaceful assemblies, meetings, protests, strikes, sit-ins, demonstrations and other temporary gatherings for a specific purpose. Right to freedom of association on the other hand embeds the right to form and or join a group. Freedom of association applies to different types of associations and includes the right of everyone to form and join trade unions for the protection of their interests, the right to form and join political parties. Association in this respect can also

include civil society organizations, clubs, cooperatives, NGOs, religious associations, foundations or even online associations.

The above rights are supported by international, regional and national human rights instruments as indicated below;

Under the International instruments, Article 20 (1) of the UN Universal Declaration of Human Rights provides that, everyone has the right to freedom of peaceful assembly and association

Articles 21 and 22 of the UN International Covenant on Civil and Political Rights (ICCPR) states that, the right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others (Article 21). Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests (Article 22 (1)).

Under the Regional Instruments, Articles 10 and 11 of the African Charter on Human and People's Rights (ACHPR) provides that, every individual shall have the right to free association provided that he abides by the law (Article 10 (1)). Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others (Article 11).

Under the National Instrument, Article 29 (1) (d) and (e) of the 1995 Constitution of the Republic of Uganda provides that, every person shall have the right to freedom to assemble and to demonstrate together with others peacefully and unarmed and to petition; and freedom of association which shall include the freedom to form and join associations or unions, including trade unions and political and other civic organizations.

On the 9<sup>th</sup> of October 1962, Uganda attained independence, marking the end of British colonial rule. The independence was hoped to usher in full enjoyment of fundamental rights and freedoms by all Ugandan citizens in the country in all civic, political, economic, social and cultural spheres. These freedoms and rights include freedom to associate, freedom to assemble, freedom to choose political leaders through democratic processes, right to a fair hearing, rights to be heard, and freedom from torture, inhuman and degrading treatment. However, it is arguable that the independence hope has not yet been achieved in Uganda. Coups and other military takeovers of the governments from 1962 to 1986, abuse of the rule of law, non-respect of border lines between the three organs of the state (executive, judiciary and legislature), restriction of the political space and the promulgation of laws that lead to non-enjoyment of democratic rights and freedoms are some of the conditions that have denied Ugandans to enjoy the hoped fundamental freedoms and rights. There were military takeovers in Uganda among others were; the 1971 Ugandan coup d'état led by General Idi Amin, against the government of President Milton Obote on January 25, 1971, Tito Okello Lutwa staged a coup d'état that ousted president Milton Obote

in 1985 and led the country for six months and in 1986 president Yuweri Kaguta Museveni ousted the government of Tito Okello Lutwa bringing him into power up to date.

There have also been internal civil wars in Uganda from 1986 which includes among others; the holy spirit movement led by Alice Lakwena between 1985-1997, and Lord's Resistance Army led by Joseph Kony between 1986 – mid 2000 and Allied Democratic Forces led by Jamil Mukulu allegedly from 1997 – 2016 ( Heike .B, 2000 [www.ohioswallow.com](http://www.ohioswallow.com)) .

All these wars made it possible to abuses of human rights in the country since there were states of lawlessness in the country.

Between 1894 and 1962, Uganda was ruled by the United Kingdom as a British Protectorate, throughout that period there was no emphasis on the protection and promotion of human rights (John C. Mbangizi, 2014). Instead, the emphasis was on the development of a socio-economic and political system that would tie Uganda into a web of imperialist interests. From 1962 to 1971, this period showed a period of hope, of constitutional development and attempts to promulgate laws that would protect the rights and freedoms of Ugandans. The 1962 Constitution of Uganda, chapter three, guaranteed protection of fundamental rights and freedoms of individuals. These rights and freedoms included;

- Protection of a right to personal liberty
- Protection from slavery and forced labour
- Protection from inhuman treatment

- Protection from deprivation of property
- Protection for privacy of home and property
- Protections to secure protection of the law
- Protection of freedom of conscience
- Protection of freedom of expression
- Protection of freedom of assembly and association
- Protection of freedom of movement

The enjoyment of these rights throughout the country was not possible. According to the Report of the Uganda Commission of Inquiry into Violation of Human Rights (1994), this period was also characterized by mistrust among the political leadership in the country caused by fear of domination of tribes by others, conflicts between Buganda and Bunyoro developed over the lost counties, and suspension of the independence constitution and subsequent replacement by the 1966 constitution known in Uganda as the Pigeon Hole Constitution.

According to Mbangizi (2014), the 1967 constitution abolished the existing kingdoms and declared Uganda a republic. It watered down the bill of rights that had originally been conceptualized and as a result, a state of emergency was declared and all opposition political widely known in parties were banned in 1969, making Uganda a one party state till the overthrow of the first independence government lead by Milton Obote in January 1971.

From 1971 to 1979 came a government Ugandan's history as a military dictatorship under the leadership of Idi Amin Dada. According to the 1994 Report of the Uganda commission of

inquiry into the violation of human rights in Uganda, Amin consolidated his leadership by among others mass murder of his enemies and throughout this regime all categories of violations of human rights was experienced in Uganda.

From 1980 to 1985 hope of enjoying fundamental freedoms and rights was thought to be coming back to Uganda. This hope was also short lived due to guerrilla war, which was launched by the National Resistance Army (NRA) under Museveni. In addition to this guerrilla war, a coup d'état occurred and a military regime took over, which was lead by Tito Okello Lutwa who reigned from 1985 to 1986. In 1986, the guerrilla movement by Museveni took over.

It is significant to note that from 1986 to 1994, the NRA government was led through decrees and legal notices. All the Acts, decrees, statutes, ordinances, statutory instruments and legal notices included in the revised edition, or any volume of any of those documents, shall be deemed to be and shall be taken by all courts and for all purposes to be the laws of Uganda and shall be judicially noticed as such ( Law Revised Edition Act, 1994).

To restore democracy, rule of law and fundamental rights, the National Resistance Army (NRA) formed and adopted the 1995 Constitution of the Republic of Uganda as amended. The process of coming up with the constitution was widely participatory and consultative. In its preamble, the 1995 Constitution of the Republic of Uganda as amended recognizes Uganda's history, which has been characterized by political and constitutional instability.

The National Objectives and Directive Principles of State Policy in the 1995 Constitution of the Republic of Uganda elaborates on guiding all organs and agencies of the State, all citizens,



organizations and other bodies and persons in applying or interpreting the Constitution or any other law and in taking and implementing any policy decisions for the establishment and promotion of a just, free and democratic society. More so, it also noted; democratic principles, national unity and stability, national sovereignty, independence and territorial integrity, fundamental and other human rights and freedoms, gender balance and fair representation of marginalized groups, the right to development among others, as the pillars of the Constitution.

The 1995 Constitution provides for Bill of Rights under chapter four which guarantees protection and promotion of fundamental and other human rights and freedoms to all Ugandans; including, freedom of conscience, expression, movement, religion, assembly and association. The enjoyment of these rights, particularly the freedom of assembly and freedom of association, was maintained by the Constitutional Court in its ruling in the case of Kivumbi Vs Attorney General (A.G).The court was to determine the constitutionality of Section 32 of the Police Act as regards the provisions of Article 20 (1), (2) and Article 29 (d) and (e) of the 1995 Constitution of the Republic of Uganda.

In the above case, the Constitutional Court was determining whether Section 32 of the Police Act which gives the police power to issue orders for the purpose of regulating assemblies and processions, contravenes Article 20 (1) and (2) of the 1995 Constitution of the Republic of Uganda stipulating that the fundamental rights and freedoms of the individuals are inherent and not granted by the state, and the rights respected, upheld and promoted by all organs and agencies of government and by all persons. Another area that the court was adjudicating on is

whether Section 32 of the Police Act contravenes with Article 29 (d) and (e) of the 1995 Constitution of Uganda which provides for the enjoyment of the rights to freedom of assembly, association and also to demonstrate with others peacefully.

It appears that to counter the decision of the Constitutional Court declaring Section 32 of the Police Act unconstitutional, the government enacted POMA (2013) to regulate the manner in which public meetings and assemblies are to be conducted.

Everyone would love to be as free as possible to assemble and associate or socialize with others without restrictions. This is how our society conceptualizes the freedom to assemble and associate, which is a constitutional mandate with very limited regulation if at all, is necessary. In case the freedoms are not respected and adhered to by the state, this may raise conflict of interest between the law enforcement agencies and the citizens.

### **1.3 Statement of the Problem**

According to the Report of the Uganda Commission of Inquiry into the violation of human rights 1994, freedom of association and conscience had started to suffer real suppression in 1967. Total suppression was accomplished in 1969 with the formal banning of all political parties other than UPC. Since then, Uganda's freedom to association has been seriously compromised.

Freedom of assembly and association are rights that cut across individuals and organized groups of people, including political movements. The human rights standard here is that everyone should be free to associate and assemble with others as put under Article 22 (1) of the International Covenant on Civil and Political Rights (ICCPR). The 1995 Constitution of Uganda

as amended provides under Article 29 (1) (d) and (e) for freedom to assemble and to demonstrate together with others peacefully, among others.

“The right to peaceful assembly shall be recognized, no restriction may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of rights and freedoms of others (ICCPR, 1976).”

Ever since the POMA (2013) was passed into a law, there has been an experience of conflict and misunderstanding between the state enforcement agencies and organizers of the public events. This has caused problems leading to possible arrest, litigations, rebellious tendencies, shooting with guns and tear gassing the mob, complaints from the opposition politicians and other individuals who seem to believe that their rights are being abused. It is upon this background that the researcher picked interest to study the opinions of the civil leaders on the enjoyment of the right to freedom of assembly and association in the regime of the POMA (2013).

## **1.4 Objectives of the Study**

### **1.4.1 Major Objective**

To examine the opinion of civil leaders on the regulation of the exercise of freedom to assemble and freedom to association by POMA (2013).

### **1.4.2 Specific Objectives**

1. To examine the opinion of civil leaders on the intent of POMA (2013) on the regulation of the exercise of freedom to assemble and associate in Lira Municipality.
2. To assess the awareness of POMA (2013) by civil leaders on the regulation of the exercise of freedom to assemble and associate in Lira Municipality.
3. To examine the enforcement of the POMA (2013) on the regulation of the exercise of freedom to assemble and associate in Lira Municipality.

### **1.5 Research Questions**

1. What are the objectives of POMA (2013) on the regulation of the exercise of freedom to associate and assemble in Uganda?
2. To what extent are the Ugandan civil leaders aware of the Public Order Management Act (2013) in respect to the regulation of the exercise of the freedom to assemble and associate?
3. How has the provisions of the Public Order Management Act (2013) been enforced on the regulation of the exercise of freedom to assemble and associate in Uganda?

### **1.6 Scope of the Study**

The study is about the opinion of the civil leaders on the regulation of the exercise of freedom to assemble and freedom to association by POMA (2013). It explores the scope of what freedom of association and assembly are, how these rights have been realized, the permitted limitations to

the enjoyment of these rights, how these rights have been regulated in Uganda, and the opinions and perceptions of the civil leaders on the regulation.

Lira Municipality in Lira district is the location where the case study was conducted. Lira Municipality is composed of four divisions of Central division, Ojwina division, Adyel division and Railways division. The categories of respondents in this study are the politicians at different levels, religious leaders, representatives from Non-Governmental Organizations (NGOs) working on human rights, cultural leaders, police and the different special interest groups. The main motivation for a study in this area is because this is an urban centre with many activities that brings people together like; trade, politics, religion, culture, work and others. Furthermore, the language spoken in this area by the majority is clearly understood by the researcher, therefore giving a possibility of interacting with the targeted population to pick their opinions without linguistic barrier. The study period is from the year 2013 when the POMA was assented to up to date.

### **1.7 Significance of the Study**

This study has a potential of contributing to academia in so far as it will bring out the analysis of how freedom of assembly and association is being realized in the dispensation of the POMA (2013) in Uganda. This may give the readers the opportunity to assess the areas that might have not been exhausted by this work as another area of research.

This work may inform the government on the perception of the study population about the enforcement of the POMA (2013). It is also my hope that it may contribute towards the review of

the POMA, if the recommendations and opinions of the civil leaders are indicating some anomalies that may be revised by parliament of the Republic of Uganda to ensure the right to freedom of assembly and association are enjoyable by all.

### **1.8 Justification of the Study**

This study is justifiable because right to freedom of assembly and association is guaranteed under the international human rights instruments, regional and also the national legal instruments. Human beings value socialization and inclusiveness in solution seeking to make life better and showing solidarity with one another under different circumstances. There is need to analyse the opinion of the civil leaders on the regulation of the exercise of freedom to assemble and freedom to association by POMA (2013).

The beneficiaries from these study findings are; those who would wish to do research in the same area of study by identify the gaps, that this book has not captured and conduct further studies. The citizens of Uganda who have the mandate under the law to be protected from abuses of fundamental rights and freedoms and the government of the republic of Uganda who are the enforcers of the Public Order Management Act (2013).

## **1.9 Definition of Key Words**

Opinion: A belief or conclusion held with confidence but not substantiated by positive knowledge or proof.

Civil leader: A person, who rules, guides or inspires others. Those working to make a difference in the quality of life in the communities by invoking a combination of knowledge, skills, values and motivation to make a difference through political and non-political processes.

Freedom of assembly and association: The right to associate with others, for the purpose of engaging in constitutionally protected activities.

Public Order: It involves people behaving sensibly and rationally, and respecting others.

Management: An act, art, or manner of managing, handling, controlling, or directing.

Act: Law passed by parliament through the legislative processes.

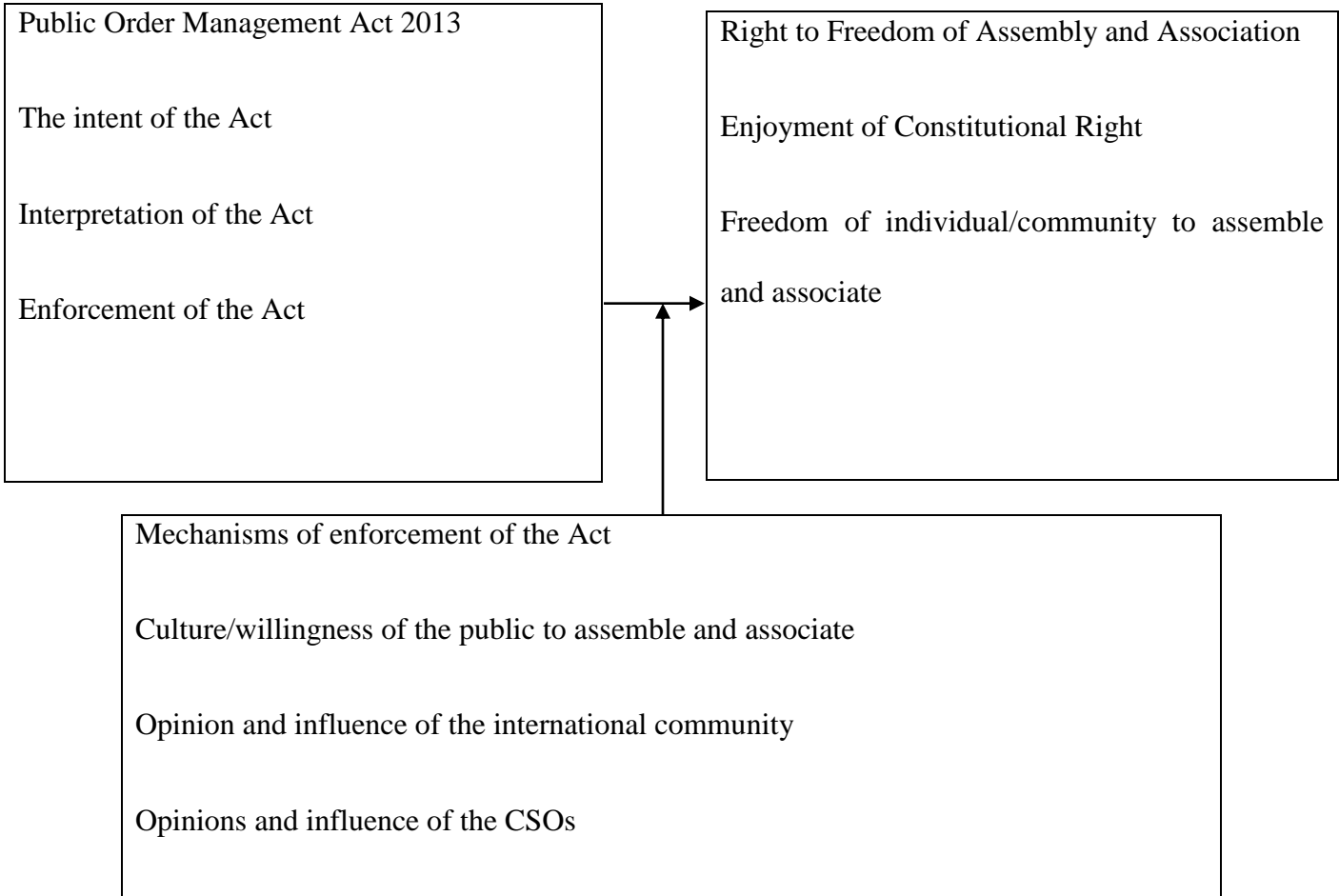
## **1.10 Conceptual Framework**

This study focuses on the opinion of the civil leaders on the regulation of the exercise of freedom to assemble and freedom to association by the POMA (2013). The researcher explores the relationship between POMA (2013) and the enjoyment of the right to freedom of assembly and association. In the conceptual framework, the study is also looking at how the intent, interpretation and enforcement of the Act balance with the right to enjoyment of freedom of assembly and association in Lira Municipality.

**Figure 1: An illustration of the conceptual framework of the study**

**Independent Variable**

**Dependent Variables**



**Intervening Variables**

In the above figure on conceptual framework, the researcher conceptualizes three (3) important variables that could be in interplay to inform the opinion on POMA (2013) and the regulation of the exercise of freedom to assemble and association in Uganda. These are independent variables,



dependent variables and intervening variables. The researcher conceptualizes that independent variables as outlined in the figure above, namely; intent, interpretation, and enforcement of the Act, and the right to enjoyment of freedom of assembly and association, and how it influences the dependant variables like the enjoyment of constitutional right, freedom of individual/community to assemble and associate.

The intention of the Act may influence how the law will be interpreted and also the manner in which the law may be enforced to achieve its objectives. If these independent variables are not handled well, it may affect the independent variables through interference on the enjoyment of the constitutional rights and freedoms like to assemble and associate. This may lead to dissatisfaction on the side of the citizens if the law leans towards violating the constitutional rights and freedoms guaranteed under the 1995 constitution of the republic of Uganda.

However, as indicated above, there are possibilities of other intervening variables influencing the enjoyment of the right to freedom of assembly and association. These include; mechanisms of the enforcement of the Act, culture/willingness of the public to assemble and associate, opinion and influence of the international community and Civil Society Organizations (CSOs).

## CHAPTER TWO

### LITRATURE REVIEW

#### 2.1 Introduction

Literature review is a one of the crucial aspects of an academic research. It helps to narrow down a broad area of study to a manageable level, it informs the researcher about the state of knowledge on a topic and it often stimulates creativity and curiosity of the researcher in the study. Lawrence W.N 2007 and David C, Robert W.C 1948 further emphasizes that literature review serves to indicate previous research conducted in the area of investigation, stipulates the theories developed to explain the phenomenon, and describes methods used to study the topic.

In light of the above importance of literature review, in this study, literature was particularly reviewed covering the following areas relevant to the intent of the study: the human rights legal frame work at the UN and at the African (regional) and domestic levels; how these frameworks guarantee, protect and promote the realization of freedom of assembly and association and how they have interpreted the scope of each of these fundamental rights. It also analyses commentaries by scholars on human rights, with major focus on the regulation of the exercise of freedom to assemble and to associate by POMA (2013).

This is to help analyse the intent of the POMA (2013) and how it is in line with the human rights standards relating to the enjoyment of the exercise of freedom to associate and assemble as espoused by the human rights frameworks superior to it; perception of the general public on the

interpretation of the Act on the enjoyment of freedom of assembly and association, and also the enforcement of the POMA (2013) in respect to freedom of assembly and association.

## **2.2 Overview of Human Rights framework guaranteeing rights to freedom of assembly and association**

### **2.2.1 General overview**

Uganda has ratified both international and regional human rights treaties guaranteeing the enjoyment of the right to peaceful assemblies and association as fundamental rights. Among others are: International Covenant on Civil and Political Rights (ICCPR, 1976), International Covenant on the Rights of the Child (ICRC, 1989), and also the African Charter on Human and Peoples' Rights (ACHPR, 1986).

A right to freedom of peaceful assembly and association is an individual right that is always expressed in a collective manner. A right to assemble and associate is an expression of functioning democratic systems. Most often, it is a right that challenges the dominant views within societies, to protest alternative ideas and opinions, to promote the interest and view of the minority groups and the marginalized sections of the society, and to provide an opportunity for individuals to express their views and opinions in public, regardless of their powers, wealth or status (Sarah Bireete, 2014).

Maina, the UN Special Rapporteur on the right to freedom of association and assembly in his statement during the 69<sup>th</sup> Session of the UN General Assembly on 28<sup>th</sup> October 2014 succinctly

explains the purpose of a right to freedom to associate and assembly as “The ability to freely organize and assemble satisfies people’s fundamental desire to take control of their own destinies. And I emphasize that these rights are indeed fundamental- not simply because they are inscribed in the law, but because they speak to something present inside each and every one of us as human beings.”

In relation to the above, as regards the enjoyment of the right to freedom to assemble and associate, the researcher thinks human beings are born free and are able to use their conscience to determine how they want to be, particularly through the act of assembling and associating with others in the course of arriving at a decision. Having these rights in the international human rights instruments alone without ensuring practicability of the rights by the states may not cause meaningful change. Citizens should be able to enjoy the above freedoms and also genuinely participate in matters that surround them to create a difference.

### **2.2.2 International Instruments**

As stated in Article 20 (1) of the Universal Declaration of Human Rights (UDHR) (1948), everyone has the right to freedom of peaceful assembly and association. By virtue of the universality of human rights, all human beings are therefore enjoined by this particular provision irrespective of one’s religion, sex, race, political opinion or any other differences that may be created by the community. UDHR is in parts legally binding because it has developed into customary international law, even though not a treaty and was therefore never ratified by Uganda.

According to Article 22(1) of the International Covenant on Civil and Political Rights (ICCPR), everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interest. This is also emphasized in the General remarks 4 of the General comment No.34 on Article 19 of the ICCPR on the freedom of opinion and expression, which states that the freedoms of opinion and expression form a basis for the full enjoyment of a wide range of other human rights. In particular, freedom of expression is integral to the enjoyment of the rights to freedom of assembly and association (General Comment No.34 ICCPR, 2011).

Something comes to my mind as I critique the provisions in the UDHR and ICCPR regarding assembly and association; these international instruments are brought on board based on the standard of the universality of human rights where everyone is treated the same way and valued equally by virtue of being humans. But the context within which the states operate is different, leading to abuses of the rights of citizens in pursuit of the right to freely assemble and associate. Individual states should begin to appreciate the value of citizen's involvement in terms of coming together to break the barriers to the enjoyment of the freedoms, which are God's given.

According to Article 21 of the ICCPR, the right to peaceful assembly shall be recognized and no restriction shall be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of rights and freedoms of others.

In addition to the human rights instruments of international nature, there are other soft laws and guidelines codifying human rights standards for policing peaceful assemblies. By international standard, law enforcement officials are obliged to know and apply international standards for human rights (UNHCHR, 2004).

The restrictions placed under the ICCPR Article 21 on the enjoyment of the right to freedom to assemble and associate as in; public safety, national security, public order and law enforcement, is too broad to understand and be appreciated by states. It is important to dissect it more. For instance when one talks of national security, the definition of national security and the situations that are internationally accepted for the right of assembly and association to be deprived in pursuit of the protection of national security should be observed. This gap allows states in their enforcement to have a blanket reason for interfering with the rights of the citizens to assemble and associate, which cannot be substantiated and foreseeable in the circumstance.

A right to freedom of association and freedom of peaceful assembly is also extended to children under Article 15 of the Convention on the Rights of the Child (CRC), for reason that the benefit of associating and assembling is very crucial in the child's learning and development. This is explained and interpreted in the General Remarks 8 of the 35<sup>th</sup> Session (2005) of the Committee on Economic, Social and Cultural Rights, in the CRC General Comment No. 17 (2013) on the Right of the Child to; Rest, Leisure, Play, Recreational activities, Cultural life and the Arts (Article 31).

Under international law, states have a positive obligation not only to actively protect peaceful assemblies, but to facilitate the exercise of the right to freedom of peaceful assembly (Special Rapporteur on Right to Peaceful Assembly and Association Report, 2013).

### **2.2.3 Regional Instruments**

The above international principles are also ratified and emphasized in the regional instrument for implementation by the member states.

The European Convention on Human Rights (ECHR, 1953) is among the regional instruments that have provision for right to freedom of expression, assembly and association under Article 10 and 11. The American Convention on Human Rights (TACHR, 1969) under Article 15 and 16 and also ACHPR (1986) under Articles 9 (2), 10 (1) and 11 has the similar provisions. The human rights standard here is freedom to express what is in the mind and be allowed freely to assemble and associate with others.

The 1988 Additional Protocol to the European Social Charter (APESC) 1961 which entered into force on the 4<sup>th</sup> September 1992 as of 30<sup>th</sup> April, 2002 had ten state parties; under Article 2 has provision for the right to information and consultation. The European Social Charter (Revised, 1996) under Article 29 provides for the right to information and consultation. The human rights standard here is access to information and one of the ways to achieve this is for people to gather together and hear what is being communicated.

The African Charter on the Rights and Welfare of the Child (ACRWC, 1999) provides for the right to freedom of expression Article 7 and also the also the right to freedom of association and

of peaceful assembly under Article 8. The human rights standard here is that everyone has the right to talk, associate and assemble peacefully including the children.

No one can doubt that freedom of association, as a basic mechanism of the democratic process, must receive constitutional protection, and that limitations on such a fundamental freedom must be brought within the scope of constitutional safeguard (Emerson and Thomas, 1964).

The enjoyment of the right to information, speech, consultation, freedom of expression, association and peaceful assembly is dependent on respect of the democratic principles and rule of law by individual states, without exploration of whether the rights emanates from international, regional or national mandate. If states can still enact laws that make it easier to violate the above set of rights then we are still very far from achieving the international standards related to the human rights protections.

#### **2.2.4 National Instruments**

Nationally, Uganda has also domesticated standards from the international instruments relating to the right to freedom of assembly. These indicate Uganda's commitment to go by the international human rights standards. Every person shall have the right to freedom to assemble and to demonstrate together with others peacefully and unarmed and to petition and also to associate (Article 29 (1) (d) and (e), 1995 Constitution of Uganda).

Section 56 of the Penal Code Act (2007) defines unlawful assemblies and society to mean, one which is formed for any of the following purposes or if it encourages or supports any such purpose; levying war or encouraging or assisting any person to levy war on the Government or



the inhabitants of any part of Uganda, killing or injuring or inciting to the killing or injuring of any person, destroying or injuring or inciting to the destruction or injuring of any property, subverting or promoting the subversion of the Government or of its officials, committing or inciting to acts of violence or intimidation, interfering with or resisting or inciting to interference with or resistance to the administration of the law, disturbing or inciting to the disturbance of peace and order in any part of Uganda, if prior to the October 1, 1959, it was declared by an order of the Governor in Council to be a society dangerous to the good governance of Uganda; or if declared by a statutory order of the Minister to be a society dangerous to peace and order in Uganda (Penal Code Act,2007).

The unlawful assembly as being made criminal in the Penal Code Act is to address situations where the offence is already committed, proving the accused guilty of the ingredients of the offence in the court of law. To be guilty of the offense under the Penal Code Act, it must be proved beyond any reasonable doubt that it was formed for the purpose of levying war against the government, killing or inciting to kill, destruction and violence. To my understanding, the key human rights standard here is provided for under Article 29 (1) paragraph (d) &(e) of the 1995 Constitution of the Republic of Uganda, which simply says that everyone is entitled to the rights to assemble and demonstrate with others peacefully. This means that any law being promulgated should be in line with promotion or suggesting the best ways of making the rights as provided by the constitution enjoyable by everyone.

The Police Act under Section 32 (1) provides that any officer in charge of police may issue orders for the purpose of: regulating the extent to which music, drumming or a public address system may be used on public roads or streets or at occasion of festivals or ceremonies; directing the conduct of assemblies and processions on public roads or streets or at places of public resort and the route by which and the times at which any procession may pass. The IGP is mandated, if there is any reasonable ground to believe that the assembly or procession is likely to cause a breach of the peace, to give notice in writing and prohibit the convening of the assembly or forming of the procession (The Police Act, 1994).

The mandated authority seems to enforce the law with uncertainty as to whether their decisions are within or outside the law. To assemble, associate and demonstrate is a right, which is guaranteed by the 1995 Constitution of the Republic of Uganda. It is the responsibility of the police to provide maximum security and guidance to the people who are assembling or demonstrating, to prohibit the exercise of such constitutional rights by the police is as well abusing the rights of the citizens' right to participation.

## **2.3 Intention of POMA (2013) on the regulation of the right to freedom of assembly and association**

The POMA (2013) came into force on 2<sup>nd</sup> of October 2013 and the intention is to provide for the regulation of public meetings; to provide for the duties and responsibilities of the police, organizers and participants in relation to public meetings; to prescribe measures for safeguarding public order; and for related matters. These are analysed below;

### **2.3.1 Providing regulation of public meetings**

The Act provides for the regulation of public meetings. It defines public meetings in section 4 (1) as a gathering, assembly, procession or demonstration in a public place or premises held for the purpose of discussing, acting upon, petitioning or expressing views on a matter of public interest (POMA, 2013). According to Section 2 (1) of the Act, the underlying principle of managing public order is to regulate the exercise of the freedom to assemble and to demonstrate together with others peacefully and unarmed and to petition in accordance with the 1995 Constitution of Uganda Article 29 (1) which has provisions for the protection of freedom of speech and expression, thought, conscience and belief, religion, assemble and demonstrate and to associate; and also Article 43 which covers the general limitation on fundamental and other human rights and freedoms. The Act under Section 2 (2) explains the concept 'regulate' to mean ensuring that conduct conforms to the requirements of the constitution.

Even where restrictions are applied by states, they have to be lawful and necessary in a democratic society for such purpose as national security, the prevention of disorder and crime,

and the protection of health and moral and so forth. But even when the restrictions are deemed necessary, they must be proportionate to the legitimate aim pursued (Jeremy et al. (2001).

Article 29 (1) is clear on protection of freedoms among others, to assemble and associate. Even though Article 43 (1) provides that no one shall prejudice the fundamental or other human rights and freedoms of others or the public interest by inter alia limiting the enjoyment of the rights and freedom beyond what is acceptable and justifiable in a free and democratic society, the challenge is that the perimeter of judging the limitations of acceptable and justifiable limits in a free and democratic manner is not very clear in the provisions of our law and the discretion is always left to those in authority to agree on the level of acceptability, which is more probably abused at a decision level.

And also the underlying principle of managing public order as stipulated under Section 2 (1) of the POMA (2013), regulate the exercise of freedom to assemble and to demonstrate is to the researcher a “good principle” only if the exercise of the regulation is not aimed at excluding the citizens from the enjoyment of their rights to freedom to assemble and associate. The definition of the term “regulate” under Section 2 (2) of the POMA (2013) should be improved upon, not to mean merely ensuring that conduct conforms to the requirements of the constitution. It should also include the mode of regulation, which is acceptable by the human rights standard, to foster democracy and human rights protection.

According to Section 4 (1) of POMA (2013), a ‘public meeting’ means; a gathering, assembly, procession, or demonstration in a public place or premises held for the purpose of; discussing, acting upon, petitioning or expressing views on a matter of public interest.

The Act, in section 4 (2) disqualifies the following kinds of meetings from the definition of a ‘public meeting’; meeting convened and held exclusively for a lawful purpose of any public body, meeting of members of any registered organization, whether cooperate or not, convened in accordance with the constitution of the organization and held exclusively for a lawful purpose of that organization; meeting of members of a trade union; meeting for a social, religious, cultural, charitable, educational, commercial or industrial purpose and; meeting of the organs of a political party or organization, convened in accordance with the constitution of the party or organization and held exclusively to discuss the affairs of the party or organization.

Under Section 4 (3) of the Act, the definition of a ‘public meeting’ also excludes a public meeting convened by a group, body or leader in a group or body at the ordinary place of business of that body, group or leader or any other place, which is not a public place, in the course of lawful business of the group, body or leader, unless the meeting spills over into a public place.

Section 4 (4) of the POMA defines a ‘public body’ to include government or any department of government, a local government, a body established by the constitution or an Act of parliament, a registered political party or political organization or a registered trade union.

The Act demands notice to be given for any public meeting to be conducted. Section 5 (1) provides that an organizer shall give notice in writing signed by the organizer or his or her agent

to the authorized by an officer, if there is an intention to hold a public meeting, at least three days but not more than fifteen days before the proposed date of the public meeting.

Under Section 5 (2) of the Act notice in Form A schedule 2 of the Act shall include; full name and physical and postal address of the organizer of the proposed public meeting and his or her immediate contact; indication of the consent of the owner of the venue for the proposed public meeting; the proposed date and time of the public meeting between 7:00 am and 7:00pm, the time limit not applicable to a town hall meeting; the proposed site, estimated number of persons expected and the purpose of the public meeting; and other relevant information. As an exception, under Section 5 (3) the organizers shall give notice in writing containing the information required under Form A, in the absence of the form. The notice shall be in triplicate and copies given to the applicant and the proprietors of the venue where the public meeting shall be held as indicated under Section 5 (4) of the POMA (2013).

Section 5 (5) provides that the organizers commit an offence where a public meeting is held; without the notice being given; date, time and route differs from the one in the notice. Failure to comply with the above as an organizer or his or her agent attracts a penalty punishable under Section 116 of the Penal Code Act as prescribed under Section 5 (8) of the POMA (2013).

The IGP or the authorized officer under Section 6 (1) of the POMA (2013), where it is not possible to hold the proposed public meeting for reasons that; the notice of another public meeting on the date, at the time and at the venue proposed has already been received by the authorized officer or the venue is unsuitable for the crowd or the traffic control or will interfere

with other lawful businesses, shall in writing within forty eight (48) hours after receipt of the notice notify the organizers or his or her agents of the impossibility to hold the proposed public meeting. The Act under Section 6 (2) provides opportunity for the organizers or his or her agent shall be invited to identify an alternative and acceptable venue to reschedule the public meeting to another date or venue.

Once the organizer or his or her agent feels aggrieved by the decision of the authorized officer, Section 6 (4) says he or she can appeal within 14 days to the area magistrates' court in which jurisdiction the public meeting was scheduled to take place.

As provided under Section 7 (1) and (2) of the POMA (2013) the notification required under Section 5 shall not apply to a 'spontaneous public meeting.' These are meetings that are unplanned, unscheduled, or unintended public meetings, according to the Act.

In sub-section (2) of section 7, an authorized officer may direct any person participating in a procession meeting to disperse where the notice of another public meeting at the same venue, date and time has already been received by the authorized officer; or the venue is considered unsuitable for purposes of traffic or crowd control; or will interfere with other lawful business.

As a researcher, the requirement of giving notice in writing within three days under Section 5 (1) of the POMA (2013) interferes with the enjoyment of the mandatory right to freedom of assembly and association under Article 29 (1), (d) and (e) which is an entitlement to everyone. And also the provision of Section 7 of the Act so much contravenes the human rights standards that relate to freedom to assemble for a right course by the organizers of the assemblies and the

people willing to assemble and associate. The authority should ensure that, in taking decision, they are not compromising with the rights of the citizens.

### 2.3.2 Providing for the duties of the police, organizers and participants to public meetings and prescribing measures for safeguarding public order

The powers of the authorized officer is provided for under Section 8 (1) of the POMA (2013), where the IGP, an authorized officer or any other police officer of or above the rank of inspector, may stop or prevent the holding of a public meeting if it is contrary to the Act. An authorized officer under subsection (2) may issue orders including an order for the dispersal of the public meeting, as are reasonable in the circumstances.

Section 8 (3) of the POMA (2013) provides that the authorized officer shall, in issuing an order under subsection (2), have regards to the rights and freedoms of the persons in respect of whom the order has been issued and the rights and freedoms of other persons.

Neglect or refusal to obey an order issued under Section 8 is punishable under Section 8 (4) of the POMA (2013) and amounts to disobedience of lawful orders, liable on conviction to the penalty for that offence under Section 117 of the Penal Code Act.

Powers given to the IGP or his designate under Section 8 (1) to stop any public meeting not convened in respect to the Act is too much and subject to abuse. To say that the meeting is unlawful just because the authority is not notified is wrong. The power to stop should be exercised examining the intention of the meeting rather than the technicality involving the procedure. And the power of discretion under sub section (2) to disperse the gathering as are



reasonable in the circumstances is indistinct since there is no clear perimeter to determine the reasonableness in a given circumstance. Even though Section 8 (3) considers orders to be given in regards to the rights and freedom of persons, how possible is it to confine the order within the enjoyment of the rights yet the boundary is not defined by the law? This is yet the dilemma, which needs to be rectified if people are to enjoy their rights to assemble and associate at all.

The duties of the police are provided for under Section 9 (1) of the POMA (2013) to preserve law and order before, during and after a public meeting. To execute the duties, the police under Section 9 (2) of the Act shall provide security for both participants and other members of the public likely to be affected by the public meeting; ensure fairness and equal treatment of all parties by giving consistent responses to organizers of public meetings, or their agents in similar circumstances; carry out risk assessment on all factors before the public meeting, and notify the organizers or his or her agent accordingly; identify an appropriate traffic plan to allow the flow of both vehicles and human traffic; direct traffic and other routes to and from the event to prevent obstruction of pedestrians or vehicle traffic or any other lawful business; disperse defiant or unruly crowds or individuals at a public meeting in order to prevent violence, restore order and preserve the peace.

Section 10 (1) of the POMA (2013) provides for the responsibilities of the organizer or his or her agent to be responsible for adhering to the required criteria for holding the public meetings; inform all participants of the traffic or assembly plan and provide sufficient stewards proportionate to the number of participants in the public meeting who shall be clearly identified

with name tags; coordinate and cooperate with the police to ensure that all participants unarmed and peaceful; ensure that statements made to the media and public by the organizer do not conflict with any law; ensure that the public meeting is concluded peacefully by 7:00pm; be present at the public meeting and coordinate and cooperate with the police to maintain peace and order.

Section 10 (2) of the POMA (2013) compels a person who participates in a public meeting to act in a manner that ensures obstruction of traffic, confusion or disorder is avoided.

Under Section 10 (3) and (4) of the POMA (2013), a person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding 24 currency points or imprisonment not exceeding 12 months or both. A person convicted of an offence under subsection (3) shall pay compensation to a party or person who has suffered loss or damages as a result of the conduct of the convicted person.

#### **2.4 Perception of the public on the regulation of the exercise of freedom to assemble and association**

In Uganda, there appears to be a view that there are increasing threats to freedom of expression, assembly, and association. This view raises serious concerns about Uganda's respect for the rule of law. It is argued that security forces continue to enjoy impunity for torture, extrajudicial killings and the deaths (World Report 2013, Uganda events of 2012).

This state of affair makes Ugandans hold the opinion that POMA 2013 was enacted to restrict and narrow the political operational space. Amnesty International (2015) in their reports, observe

that the police have disrupted peaceful opposition gatherings using excessive force, arbitrarily arrested opposition politicians, and tortured individuals aligned with the opposition. Restrictions on the freedom of assembly hindered the ability of Ugandans to receive information and engage with politicians before presidential campaigns started in November 2015.

The police interference in, and unlawful obstruction of, public gatherings remains a significant problem, often accompanied by arrests and detentions of organizers and participants. For example, in March 2012, police stopped opposition leaders from touring a public works project in Kampala. It is also significant to note that in the same year, the Attorney General banned political pressure groups Activists for Change, which organized the April 2011 “walk to work” protests labelling the group an unlawful society (Ibid).

Citizens’ participation in governance of their country is a fundamental right, which is usually exercised through speech, expressing opinions, ability to assemble, demonstrate and engage with stakeholders. It is through such actions that the citizens are able to hold the government accountable and offer alternative solutions including offering leadership in different positions. A number of events have shown that civic space in which to freely enjoy and exercise these rights is narrowing. Since the enactment of the POMA (2013), there has been a disproportionate targeting of meetings organized by members of the opposition and/or civil society representatives (HRCR-U, 2015).

Amidst the implementation of the Public Order Management Act in Uganda, there has been a challenge realized by the political actors, journalists and human rights defenders especially when

seeking for assembly or peaceful demonstration. Although efforts have been made for constructive dialogue between human rights defenders and state authorities, restrictions on the exercise of the right to freedom of peaceful assembly and association continued to be imposed against political opponents (HRCR-U, 2012).

The operating space for different actors in the community to freely assemble, demonstrate and associate is the political and democratic maturity that each and every state should reach, if the enjoyment of the right to freedom to assemble and associate is to be attained. State suppression to the masses not to allow them show their point of disagreement or share their challenges together, is not only unsustainable but short lived because human beings have the intellect and ability to think and come out with alternative solutions, whether peaceful or violent, depending on the circumstance that they are facing.

The freedom of political parties to participate in the politics of the country cannot be exercised without the right to freedom of assembly and association. The right to assemble should be understood in both its individual and collective sense, meaning that it applies both to individuals and groups and organizations participating in public gathering (HRDU, 2013).

In a letter written to the Inspector General of Police in Uganda, it states “I thank you for the effort made towards training police officers, however I wish to express my dissatisfaction with the way in which our men and women in uniform treat matters of governance. Just society is where all the people are free to express their whims and aspirations without undue interference from state organs or if that form of interference should occur, then it should apply to all people

involved. If I am to consider POMA (2013), people would not condemn this behaviour if there was evidence that it was applying to both National Resistance Movement (NRM) members as it is to the members of the opposition and the civil society(Saturday Monitor Paper, August 1 ,2015).”

The leader of opposition in the Uganda parliament Mr.Wafula Oguttu said “you have NRM people wearing yellow shirts carrying the coffin of Hon. Amama but not stopped by the police. Why the double standard when it comes to others doing the same? (Daily Monitor Friday, July 10, 2015).

Preventive measures for the occurrence of any public gathering or demonstration cannot be a good defence for prohibiting the right to assemble. The Constitutional Court found that prohibiting protests before they occur was not a proper limitation on the right to assembly (Constitutional Court –petition, 2008).

If law is to be respected and be used as a means of guiding and regulating certain affairs within the state, then it should not be made focusing on a section of the people and enforced selectively. In regards to the right to enjoyment of freedom to assemble and associate, the laws should not be used to breach the rights of the citizens to gather for a right cause. The governments, which are formed for the people and by the people, should be ready to listen to the citizens and allow them to exercise their freedoms without fear.

## **2.5 Enforcement of the POMA (2013) and the regulation of the exercise of freedom to assembly and association**

Under Section 4 of the POMA (2013) the definition of ‘public meeting’ is meant to exclude a meeting convened for a lawful purpose of any public body, a meeting of members of any registered organization, a meeting of members of a trade union, a meeting for a social, religious, cultural, charitable, educational, commercial or industrial purpose and a meeting of the organs of political party or organization convened in accordance with the constitution of the party or organization.

The enactment of the Political Parties and Organizations Act in June 2002 caused controversy and in March 2013 the constitutional court nullified Sections 18, 19 and 21 after filing of a petition by Dr. Paul Kawanga Ssemogerere. The Sections imposed unjustifiable restrictions on the activities of political parties and organizations. They included, for instance, prohibition to campaign against the current presidency, to hold public meetings and to carry out any activity that may interfere with the operation of the movement of the political system (Alternative Report to the Government of Uganda’s First Periodic Report, 2004).

Political participation and active involvement of the existing political parties promote tolerance, development and human rights. Any government that does not want to hear any challenging or dissenting opinion is static and not ready to incubate democratic processes leading to citizen’s enjoyment of the right to assemble, associate and demonstrate together with others. This would

be a symptom of dictatorship, which is always resisted by the minority or the majority with alternative and vibrant opinions.

The underlying principle of managing public order is to regulate the exercise of the freedom of assembly and to demonstrate together with others peacefully and unarmed and to petition in accordance with Articles 29 (1) (d) and 43 of the constitution (POMA, 2013).

In Mbale, when Mr.Mbabazi, one of the presidential aspirants had planned to conduct a consultative meeting with his supporters, there was heavy police deployment along the street, alleys, hotels and all the suburb of the town. The police commander for Bukedia Sub- Region, Mr. Sam Omalla however responded that “the deployment was to continue because they suspected some hooligans planned to take advantage of the situation to cause mayhem and the group had not sought for police clearance to hold the meeting (Daily Monitor Paper Friday, July 10, 2015).”

It makes no sense for one to say that we are dispersing the gathering or assembly because we have got reliable information on hooligans with bad intentions, it is the work of the security to identify the potential hooligans and arrest them as the lawfully constituted public assemblies continue. The POMA (2013) should not be used as a means to destroy the challenging political parties and arrest of individuals who do not support the ideology of the government in power. This law should be able to serve the interest of both the opposition politicians and the government.

In the Alternative Report to the Government of Uganda's First Periodic Report before the UN Human Rights Committee, entitled "Uganda: a systematic violations of civil and political rights" 2004 on page 15 it is unveiled that many illegal arrests occurred in relation to the presidential elections that took place in 2001. It is widely believed that the military engaged in indiscriminate and arbitrary arrests of civilians who were not in support of the incumbent presidential candidate then.

On the arrest and detention of Mr. Amama Mbabazi on the move to hold the consultative meeting in Mable, the police spokes person Fred Enanga said, "the former NRM Secretary General was detained on charges of disobeying lawful order contrary to Section 117 of the Penal Code Act which says, any person who disobeys any order, warrant or command duly made, issued or given by any court, officer or person acting in any public capacity and dully authorized in that behalf commits a misdemeanour (Daily Monitor Paper Friday, July 10 ,2015 )."

Legal rules are a reflection of social standards and the current interest in the international protection of human rights is the result of a profound change in individual and governmental attitudes. The greater the concentration of power in the hands of government the greater is the need for effective safeguard to protect the rights of the individual citizens (Robertson and Merrills, 1992).

Continuous arrests and threats to the opponents in politics is a sign of unfavourable ground to fair and democratic elections. This affects the right of the people to elect their rightful leaders, get information, expression and associate. The attitudes and power of the government, also the



culture that may be developed over a period of time in leadership need to be checked and also resisted. Using power to violate the rights of the citizens is not only challenging in terms of human rights protection, but also makes the government and the individuals actively involved responsible before the court of law for human rights abuses.

In Mbabazi's opinion, he is quoted to have said "there is that shallowness of that reason that I did not get permission from my party to aspire, there is no law about someone's aspirations. When I was arrested, police told me it was preventive arrest, later in the evening they charged me with disobedience of lawful orders. The argument that the meeting was illegal is just hollow because Dr. Kizza Besigye was also arrested the same time, yet the Forum for Democratic Change (FDC) has a party programme, the on-going campaigns for party presidential flag bearer (Saturday Monitor Paper July 11, 2015)."

By relaying this range of opinion, not only within political institutions but also with the help of the media at all levels of social life, political parties make an irreplaceable contributions to political debate, which is at the very core of the concept of a democratic society (Clare and Robin , 2002).

Participation of the political parties should be looked at in a broader perspective, including the free political space given to all parties, protection of the individuals who speak out from being intimidated, ensuring a free and fair process of election, the population being able to assemble, listen to the candidates and make their independent choices without being bribed. If all these can happen, then a state is moving rightly to the path of democracy and respect for human rights.

The police have either lawfully or unlawfully dispersed planned rallies in many incidences leading to the arrest of Rt. Dr. Kizza Besigye and other FDC leaders (Daily Monitor, Friday July 10, 2015). Dan Mugarura FDC Electoral Commission Chairperson however said, “we wrote to the police and attached the campaign programmes for both candidates and the police received and even signed in our book but still claim Dr. Besigye Violated Section 5 (1) of the Public Order Management Act, 2013 (Ibid).”

To summarize the findings from the literature above, there exist instruments that provides for the protection of the right to assemble and associate from the international, regional and national level. The human rights instruments also have provisions that allow some lawful and meaningful regulation of the rights to assemble and associate.

With the above, the question is how the human rights framework is guaranteeing the protection of the right to assemble and associate? There is need to respect and protect the view of the people who seems to be having different dimensions of thinking, and a platform should be guaranteed for people to exercise their democratic rights without fear or intimidation from the state authorities. It is a right to everyone to freely exercise their freedom to associate, demonstrate, assemble and be able to express and participate at all level.

## **CHAPTER THREE**

### **RESEARCH METHODOLOGY**

#### **3.1 Introduction**

This chapter presents the research design, area of the study, study population, sample size and sample techniques, data collection methods and instruments, quality control methods, data analysis techniques, ethical consideration, and the limitation of the study.

#### **3.2 Research Design**

This study aims to get the opinion of the civil leaders on the regulation of the exercise of the freedom to assemble and association by the POMA (2013). Given the aim of identifying the purpose of the study will also suggest some research designs and information gathering strategies (David, C. and Robert, C. 1948). Qualitative research design is the most suitable for this study because the study has to bring out the individual opinion through the data collected in the field as it emphasizes the social context of the study. ‘...Qualitative data collection involves field research and historical-comparative research’ (Lawrence, W. 2007). To accomplish this study, the researcher used a case study survey research adopting qualitative design to meet the desired objectives, because of its flexibility in allowing interactions between the researcher and the respondents. Qualitative methods are typically more flexible; that is, they allow greater spontaneity and adaptation of the interaction between the researcher and the study participant/respondent (Stake, 2010). The choice of qualitative design was not accidental because the researcher’s aim was to get the perceptions of the civil leaders on the enjoyment of the right

to freedom of assembly and association as far as the enforcement of the POMA (2013) is concerned. For a qualitative researcher, the main purposes are; obtaining unique information or interpretation held by the person interviewed, collecting a numerical aggregation of information from many persons, and finding out about “a thing” that the researchers were unable to observe themselves(Stake, Ibid).

Stake further recognizes that the choice of qualitative study does not mean that it has no challenges, qualitative research is subjective, it is personalistic...it often takes a long time to come to understand what is going on, how it all works...is labour intensive and the cost are high. More so, these are personal studies, “...the issues of other human beings quickly become issues of the present researcher, privacy is always at risk ...” (Silverman, 2000).

### **3.3 Area of the Study**

The study was conducted in Lira Municipality, in Lira District, northern Uganda. The Municipality has four divisions namely Central, Ojwina, Adyel and Railways. The researcher chose Lira Municipality because of the easy access to the respondents, it is the centre where active businesses are operating and most of the offices and institutions are based, this is also an area where many public gatherings are organized including demonstrations and crusades, most of the civil leaders relevant to this research are domiciled within the area of Lira Municipality, the researcher is also familiar with the local language spoken in Lira and able to dig deeper in the local dialect where the respondents are not able to clearly bring a point out in English.

### **3.4 Study Population**

According to the National Population and Housing Census Report (UBOS, 2014) Lira Municipality has a population of 99,176 people: Central division has 22,708 people out of which 10,669 male and 12,033 female, Ojwina division 38,903 people and out of this number 18,159 are male and 20,724 are female, Adyel division 31,934 out of which 15, 057 are male and 16,869 female, and Railways division has a population of 5,631 people out of which 2,724 male and 2,910 female.

Given the purpose of this research, civil leaders were chosen as participants. According to Robin .H et al. (2009), civil leadership is broadly categorized into those who are in political leadership and those who are civil servants. Those who are political leadership include those who are elected by citizenry. The civil servants include those who are in managerial leadership like public servants appointed by local authorities, central government and third sector organizations to plan and manage public services and promote community wellbeing. From that perspective, this research's study population included;

Political leaders, including the politicians who represent the population at Lira district council, Lira municipal council, division level and local council I chairpersons.

Cultural leaders, these comprise of clan heads and ministers in the different clans in Lango.

Civil servants, among the civil servants interviewed were members from the Uganda Police Force, and teachers.

Non-Governmental organizations (NGO) representatives selected for interviews were from organizations that are doing work related to human right activities.

Leaders of special interest groups, these were composed of political leadership of the people with disability at the district, municipality and division and also youth leaders representing the youths from the divisions to the district level.

Religious leaders, those involved in the data collected were from the denominations of Catholics, Anglican, Islam, Seventh Days Adventist and the Pentecostals.

The reason for selecting the participants above is that they are people with responsibilities and experiences in promoting human rights in the society and as such they have ability to provide the necessary information about the subject of research.

### **3.5 Sample Size and Sampling Techniques**

The target population was one hundred (100) people from the study population. This is because the time schedule for conducting this research was narrow and also the need to conduct detailed in-depth interview with the selected respondents. Out of that target population, the sample size was 92 respondents selected as representatives of the different categories who were involved in the study within the municipality. This number was considered because the methodology of data collection chosen needed more time with the respondents in order to get the detailed information.

Purposive-sampling techniques were applied in selecting the sample. This is because the researcher intended respondents interviewed having experiences in their related areas of

responsibilities, holding positions of leadership at the community level and those with roles related to gathering the public, which is relevant to the topic of the study.

**Table 1: Sample Size and Selection of Respondents**

<b>Category</b>	<b>Target Population</b>	<b>Sample</b>	<b>Sample Technique</b>
Focus Group Discussions			
FGDs with local council I chairpersons and local council III Councillors in Adyel, Ojwina, Railway and Central Divisions, Lira Municipality.	60	52	Purposive
In-depth Interviews			
Special Interest Groups – leaders	12	12	Purposive

(PWDs and Youth)			
Representatives from Human Rights Based Organizations	9	9	Purposive
Religious leaders	5	5	Purposive
Cultural leaders	5	5	Purposive
Politicians at District and Municipality level	4	4	Purposive
Police Officers	5	5	Purposive
<b>Total Number of Respondents</b>	<b>100</b>	<b>92</b>	

**Adopted from: Krejcie and Morgan (1970)**



### **3.6 Data Collection Methods and Instruments**

A case study research is applied in this work. Case study as such is best defined as an intensive study of a single unit with an aim to generalize across a larger set of units, (Gerring, 2004). In a case-study research, a researcher examines, in depth, many features of a few cases over duration of time with very detailed, varied, and extensive data in a qualitative form... (Lawrence W.N, 2007). In this work, the researcher used the following methods of data collection;

Interviews: structured interviews were conducted with the individual target population. The categories of the respondents interviewed were the politicians, cultural leaders, religious leaders, representatives from NGOs working within the thematic areas of human rights, police officers, leaders of the special interest groups, like people with disability and the youths. These choices were made due to the roles of the respondents, which connect to assembling people for different purposes. The importance of the interview is that the respondents were able to give their informed opinions on the topic of the study. All interviews were designed to take not more than 30 minutes with a respondent. It was an informal talk with open-ended questions directed to the respondents in a conversational manner.

Another data collection method applied was Focus Group Discussion (FGD). The discussions were based on themes generated from the objectives of the research. The themes for discussions included the intent of the POMA (2013) on the enjoyment of the right to freedom of assembly and association, interpretation, and enforcement of the Act. The FGDs were conducted with four (4) groups and 52 participants were reached composed of the councillors at local council III and

chairpersons' local council I as follows: FGD No.1 Adyel Division, Council, 12 participants; FGD No.2 Ojwina Division, with 14 participants; FGD No.3 Central Division, with 13 participants and FGD No.4 Railways Division, with 13 participants.

The researcher used FGD because it is quite engaging as the respondents give their views the way they think and the researcher can still ask questions where certain things are not answered clearly. Also important is the fact that the voices during the discussion were recorded and helped to put information collected clearly as they are being transcribed.

Throughout the process, the researcher used a recorder to capture all the discussions and was observant to the responses from the respondents. The above tools were very instrumental in coming out with quality and in-depth opinion of the civil leaders on the enforcement of the Public Order Management Act (2013) and the regulation of the exercise of freedom of assembly and association.

### **3.7 Quality Control Methods**

To ensure quality work, the instruments were further pre-tested to observe whether the responses are consistent and also ambiguous questions restructured. The interviews were later conducted in a way that gives the detail on the data required for the study and proper analysis of the data was done to ensure the quality of this work.

### **3.8 Data Analysis Techniques**

The data, after collection, has to be processed and analysed in accordance with the outline laid down for the purpose at the time of developing the research plan...the term analysis refers to the computation of certain measures along with searching for patterns of relationship that exist among data-groups (Kothari C.R,2004). The analysis of qualitative research begins in the field, at the time of observation, interviewing, or both, as the researcher identifies problems and concepts that appear likely to help in understanding the situation (Denzin N, 2002). Revising the notes gathered or transcripts is an advance towards analysing the information. In analysing the data, the followings were exhausted; description right from the field experience, the data recorded was transcribed and double checked to eliminate what would be irrelevant to the objective of this study. During the data analysis, themes and sub-themes were developed and statements depicting the inner feelings and understanding of the respondents were attached to the themes according to the objectives. The researcher also sat together with an assistant during the analysis for guidance towards good analysis of the data.

### **3.9 Ethical Considerations**

Social scientists, perhaps to a greater extent...have an ethical obligation to their colleagues, their study population and the larger society; the reason for this is that social scientists delve into the social lives of other human beings [...] researchers must ensure the rights, privacy and welfare of the people and communities that form the focus of their studies (Bruce L. Berg, 2001). The American Marketing Association (2003), stipulates that ethical guidelines and principles for conducting research with human participants (and non human ones as well) are clearly needed.

To adhere to ethical standards, consent was taken from the respondents so that they can willingly give the information or opinion needed. The respondents' names and identities were not published in the report. The researcher conducted himself in a dignified way with honesty and respect for the feelings of the respondents. The data collected was interpreted according to the objectives of the study and irrelevant information was removed from the report.

At the time of conducting interviews, the voices were recorded and saved in the computer and the voices deleted from the recorder. The information collected was treated as confidential, transcribing the information was done by the researcher himself, and the data collected was kept safe in the computer with a hidden password, which no other person could access.

### **3.10 Limitation of the Study**

The constraints in this study have been unavailability of literatures that are directly studying POMA (2013) and the regulation of the exercise of freedom of assembly and association in Uganda. To overcome this, the researcher searched for literature from the articles, journals, newspapers and some writings that could be found in books related to the area of the study.

There were also security fears from some of the respondents in giving direct views on the enforcement and application of the law. To overcome this, the researcher explained to the understanding of the respondents that the study is purely academic and not political. They were also made to know that their names would be excluded from the report if they do not feel comfortable being exposed with their opinions.

## **CHAPTER FOUR**

### **PRESENTATION, INTERPRETATION AND DISCUSSION OF THE FINDINGS**

#### **4.1 Introduction**

The focus of the study was on the opinion of civil leaders on regulation of the exercise of freedom to assemble and freedom to association by the POMA (2013), taking Lira Municipality as a case study. This chapter presents, interprets and discusses the research findings. The chapter begins with presenting response rate and background characteristics of the respondents. This is followed by analysis and discussions of the findings based on the research objectives as follows:

The opinion of civil leaders on the intent of POMA (2013) on the regulation of the exercise of freedom to assemble and associate in Lira Municipality.

The awareness of POMA (2013) by civil leaders on the regulation of the exercise of freedom to assemble and associate in Lira Municipality.

The enforcement of POMA (2013) on the regulation of the exercise of freedom to assemble and associate in Lira Municipality.

#### **4.2 Response Rate**

Out of the intended 100 respondents, 92 participated, i.e. a response rate of 92%. The 08 respondents could not be reached because of their busy schedules within the time of this research. The respondents interviewed, provided adequate information to answer the research questions.

### 4.3 Background characteristics of the respondents

The results in table 2 shows, the background information on the respondents consulted.

#### 4.3.1 Title and Qualification of the respondents

The respondents were drawn from the different categories of civil leaders holding different titles as indicated in the table below;

**Table 2: Showing Background Information of the participants**

Categories of the respondents	Planned population	Actual Respondents			Level of Education /Qualification				
					P.L.E	Cert	Dip	Bach.	Mast
		M	F	Total					
Leaders of the Special Interest Groups –PWDs and Youth	12	8	4	12	0	5	4	3	0

Participants from the Human Rights Based NGOs Representatives (Administrator & Transitional Justice Officer, Coordinator, Head of Office, Programme Manager, and Director)	9	5	4	9	0	0	0	7	2
Religious leaders (Pastor, Reverend, Imam, Bishop and Priest)	5	5	0	5	0		3	2	0
Cultural leaders (Secretary education, Clan Head, Prime Minister, Speaker, secretary women affairs)	5	4	1	5	0	0	2	3	0
Politicians at district and municipality level (District councillors,	4	3	1	4	0	0	1	2	1

Mayor)									
Police Officers (Regional police commander, District police commander, Community liaison officer, Criminal Investigation officer, Officer in-charge crime)	5	4	1	5	0	0	2	3	0
Local Council I Chairpersons & Local Council III councillors in four divisions.	60	34	18	52	2	6	4	0	0
<b>Total</b>	<b>100</b>	<b>63</b>	<b>29</b>	<b>92</b>	<b>7</b>	<b>36</b>	<b>26</b>	<b>20</b>	<b>3</b>

**Source: Data collection in the field**

From table 2 above, 63 males and 29 females participated in this study. More males were interviewed compared to females due to the fact that in Lango, there are more males holding civil leadership positions than females. For example, most of the cultural leaders are males, the same with religious leaders.



Participants were drawn from different institutions, backgrounds and responsibilities. Namely, Local council 1 chairpersons, councillors local council III, Police officers holding different offices, district councillors, Mayor, Secretary for education in the Lango Cultural Institution, Clan Heads, Prime Minister of Lango Cultural Institution, Speaker Lango Cultural Institution, Pastors, Reverend, Imam, Bishop, Reverend Father, Administrator and NGO Officers, Coordinators, Head of Office, Programme Manager, Director, Youth leaders and District Chairperson for people with disability. These leaders, in accordance with the respective mandates of their institutions or organizations, have the roles related to holding meetings in communities. Therefore, they were able to answer the questions during the interviews based on their experiences.

In regard to participants' levels of education and qualifications, out of the 92 respondents, 07 had ended their education in the primary level, 36 have certificates, 26 are diploma holders, 20 have bachelor degrees and 3 are master's degree holders. This is another indicator to the fact that the respondents were knowledgeable enough to give their opinions on the regulation by the Public Order Management Act (2013) on the freedom to assemble and associate. The respondents understood the needs of the research and they gave valuable information with their level of experiences in terms of informed opinions, which so much contributed to this final work.

#### **4.3.2 Working Experience of the Respondents in Years**

The respondents involved in this study are people with experience in the different kinds of service they are engaged in the community as shown in the table below;

**Table 3: Showing working experience of respondents in years**

<b>Years in Service</b>	<b>Frequency</b>	<b>Percentage</b>
01 – 05	15	16.3%
06 – 10	24	26.1%
11 – 15	13	14.1%
16 – 20	16	17.4%
21 – 25	17	18.1%
25 – 32	7	8%
<b>Total</b>	<b>92</b>	<b>100%</b>

**Source: Data collection in the field**

From the table 3 above, 16.3% of the respondents have working experience of between 01-05 years, 26.1% have between 06-10 years, and 14.1% have between 11-15 years, 17.4% have between 16-20 years, 18.1% have between 21-25 years and 8% have between 25-32 years.

This means that over 80% of the respondents have working experience of 5 years and above, with necessary experiences in their responsibilities and able to give the required opinions in line with this research.

#### **4.3.3 Roles the respondents are engaged in the community**

The respondents selected have different roles in the community, which gives them the opportunity to assemble and gather people together.

Table 4: Showing categories of the respondents and their roles in the community

<b>Categories of the Respondent</b>	<b>Their Roles in the Community</b>
Special Interest Group (PWDs and Youth).	Lobbying and advocating for PWDs, training of PWDs to be productive, community engagement in government programs, news anchor, imparting knowledge as a teacher, youth representation, and community mobilization.
Human Rights Based NGOs	Rehabilitating war victims through enforcing rights to health;

Representatives	capacity building, advocacy and community sensitization; research and documentation; human rights education; reduction of corruption, child protection and education; bringing NGOs &CBOs together and partnership with other institutions to promote civil and political rights.
Religious leaders	Help people to mature in Christianity, preaching the word of God, advocating for government programme, praying for the sick, burying the dead, teaching the Quran, conducting weddings, organizing crusades, and others.
Cultural leaders	Overseeing the issues of education in the clan, creating unity in the clan, handle issue of land disputes, oversee the clan activities, administration and ensure that resolutions are implemented, call for the meetings and ensure that matters discussed and resolutions guided etc.
Politicians representing people at district and municipality	Mobilize the constituency, engage the people in decision making and lobby for development, monitoring government programmes, taking electorates' views to council, initiate policies, chairing executive

level	meetings, supervision of civil servants etc.
Police officers	Detecting and Investigating crimes, administration, ensure that laws are followed, bringing those who violates the law to court, coordination of communication from regional to police headquarters, sensitization on the law and creating good relationship between civilians and the police, etc.
Local Council I & III in 4 Divisions of Lira Municipal Council.	Settling disputes, calling for community meetings, promoting government programmes, settling petty cases in the community, child neglect cases, promoting child education, working together with law enforcement agencies to ensure peace and security, helping the community to come out with bye laws etc.

**Source: Data collection in the field**

Table 4 above shows, the different roles played by the respondents in their communities.

The different roles played by the respondents indicate how frequently they gather and associate with the population. This made them able to respond to the interview questions positively and their ability to present their views during the focus group discussions was registered. The choice

of the responsible respondents therefore helped very much in coming out with the information in this research.

The roles are listed as below: lobbying and advocacy, training and teaching, youth leadership, community mobilization, rehabilitating war victim's rights to health (physically and psychosocially), research and documentation; human rights education; reduction of corruption, child protection and education, partnership building with other institutions to promote civil and political rights, helping people to mature in Christianity, preaching the word of God, advocating for government programme, praying for the sick, conducting burial services, creating unity in the clan, handling issues of land disputes, general administration, call for and moderating public meetings, mobilizing constituencies, engaging the people in decision making, monitoring government programmes, taking electorates' views to council, initiating policies, chairing executive meetings, supervising civil servants, detecting and Investigating crimes, ensuring that laws are followed, bringing those who violates the law to court, coordinating communications, sensitizing on the law and creating good relationship between civilians and the enforcement, Settling disputes, calling for community meetings, settling child neglect cases, promoting child education, working together with law enforcement agencies to ensure peace and security, helping the community to come out with bylaws and others.

#### 4.4 Opinion of Civil Leaders on the intent of POMA (2013) on the regulation of the exercise of freedom of assembly and association

The research collected the opinions of the respondents on the intent of the POMA (2013) as far as the regulation of the right to freedom of assembly and association is concern. The questions asked intended to find out: Whether the work of the respondent relates to holding public meetings and how often? Whether the respondent has ever engaged and participated in matters related to civil and political rights? And whether the respondent’s work related to public meetings involve giving notices to the police. Table below shows their responses.

**Table 5: Showing respondents’ responses on the intent of POMA (2013) on the regulation of the exercise of freedom of assembly and association.**

S/n		Yes		No		Not sure		Total	
		Freq	% age	Freq	% age	Freq	% age	Freq	% age
1	Do you perform any work that relates to assembling and associating with the people?	84	91.3%	8	8.7%	-	-	92	100%

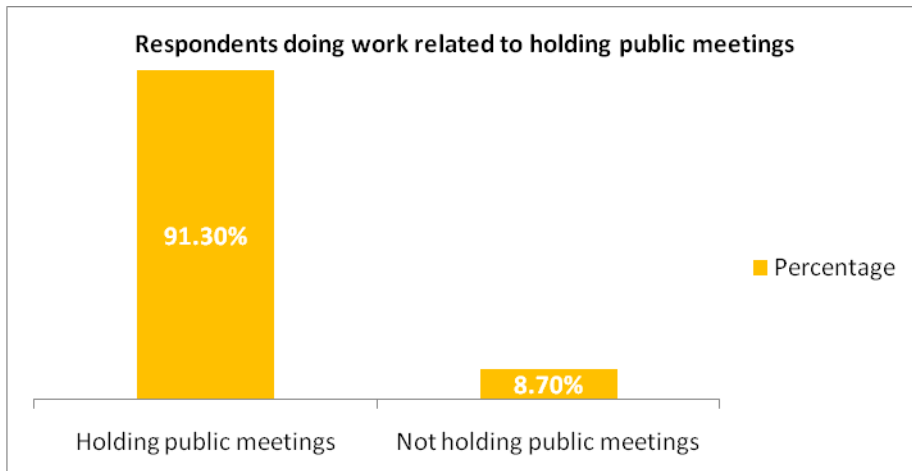
2	Do you assemble people quite often?	43	46.7%	49	53.3%	-	-	92	100%
3	Have you ever engaged and participated in matters related to civil and political rights?	25	27%	67	73%	-	-	92	100%
4	In your work relating to public meetings with communities have you notified the police?	68	74%	20	22%	04	4%	92	100%

**Source: Data collection in the field**

Work relating to assembling and holding public meetings: From the table above, 91.3% of the respondents were engaged in this work and 8.7% were not. This is illustrated in the bar- graph below;



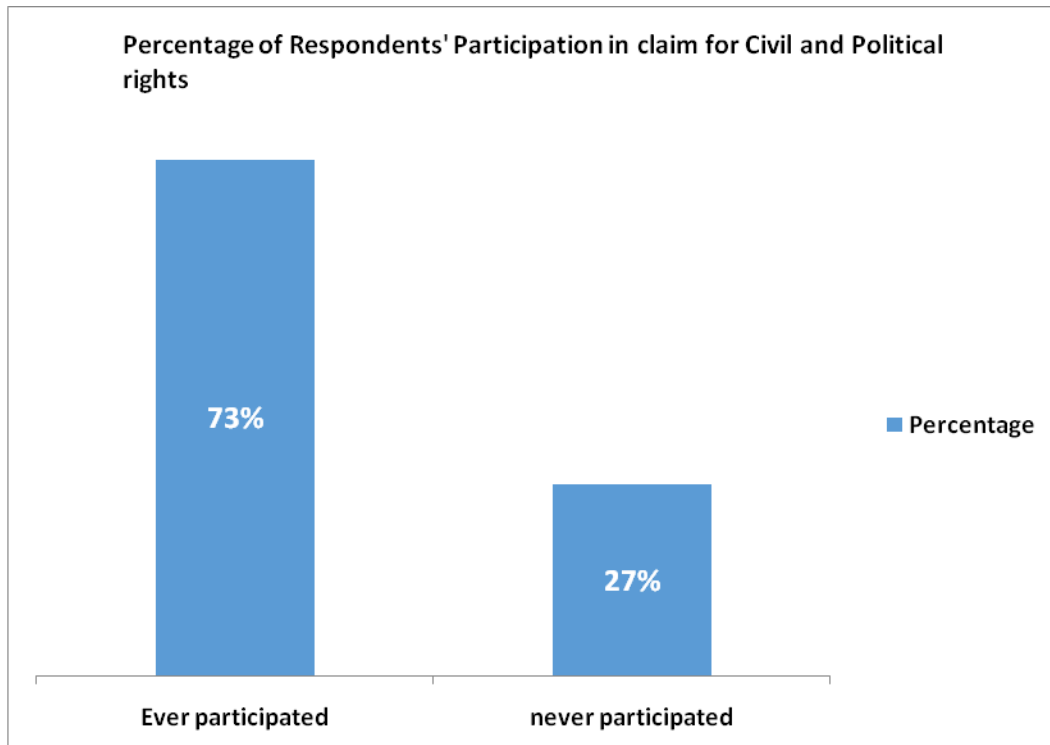
**Bar-graph 1: Respondent’s work related to holding public meetings**



On how often they gather people, 46.7% said they gather people quite often (at least on a monthly basis) and 53.3 % gather people not very often (quarterly and annually).

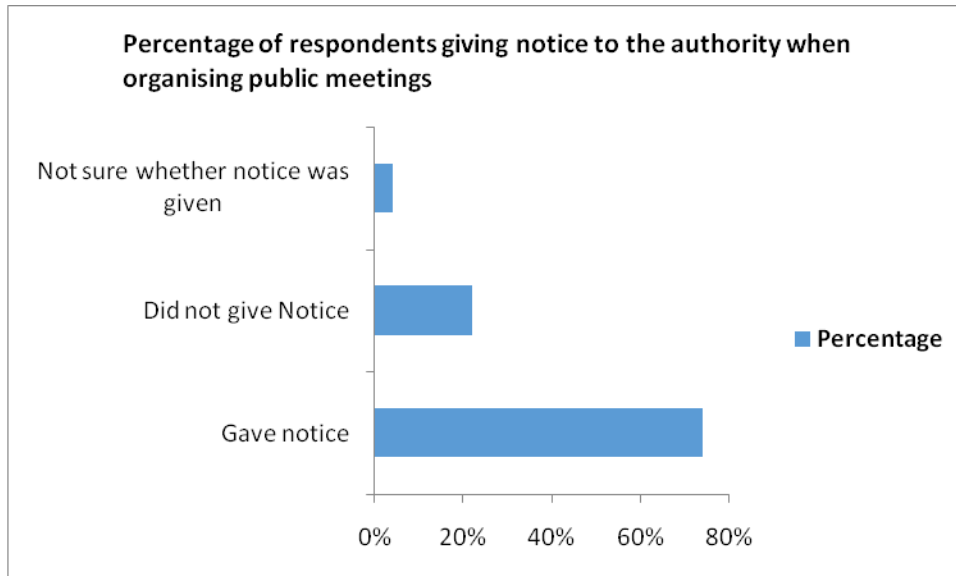
The table also indicates that 27% of the respondents have participated in issues related to civil and political rights like peaceful demonstration and 73% have never participated in advocating through peaceful demonstration for such rights. This is illustrated in the bar- graph below;

Bar-graph 2: Percentage of respondent’s participation in claim for civil and political rights



Regarding notifying the police, 74% of the respondents stated they notify the police while organizing public meetings, 22% have conducted public meetings without giving any notice to police and 4% were not sure whether the organizers of the public gatherings, which they were part of, had notified the police. This is illustrated in the bar-graph below;

Bar- graph 3: Percentage of respondents giving notice to the authority when organizing public meetings



The findings above imply that the civil leaders in Lira Municipality gather people and the majority of them follow the requirement of notifying the police, in case of any public gathering or meeting.

Section 2 (1) of the POMA (2013) provides that, the underlying principle of managing public order is to regulate the exercise of the freedom to assemble and to demonstrate together with others peacefully and unarmed, and to petition in accordance with Article 29(1) and 43 of the 1995 Constitution of the Republic of Uganda.

Article 29 (1) of the 1995 Constitution of the Republic of Uganda has provision for the protection of freedom to assembly and association inter alia, while Article 43 provides for the general limitation on fundamental and other human rights and freedoms.

To regulate means to ensure that conduct conforms to the requirements of the constitution (POMA Section 2 (2)).

It should be realized that earlier in 2005, the Police Act was petitioned in the case of Mwanga Kivumbi Vs Attorney General (Constitutional Petition, 2005) where the Court was to determine the constitutionality of Section 32 of the Police Act which provides for the power to regulate assemblies and processions by the police, in controversy with Article 20(1) and (2) of the 1995 constitution of the Republic of Uganda. Article 20 (1) which says that the fundamental rights and freedoms of the individual are inherent and not granted by the state, (2) which provides that the rights and freedoms of the individual and groups shall be respected, upheld and promoted by all organs and agencies of the government and by all persons, and Article 29 (1) (d) and (e) of the 1995 Constitution of the Republic of Uganda, provides for the freedom to assemble and demonstrate with others peacefully and freedom of association. Five justices decided unanimously that, as long as there is no contravention of Article 43 of the Constitution and the rights are exercised within the confines of the law, there would be no justification for invoking the powers under Section 32 (2) of the Police Act, there is no convincing reason for restricting or stopping convening rallies or assembly or demonstration. As already pointed out, the police have powers under the provisions of the law to maintain law and order or deal with any situation for instance the one envisaged under Section 32(2) of the Police Act. The Court declared that Section 32(2) of the Police Act is inconsistent and contravenes Articles 20 (1) (2) and 29 (1) (d) of the Constitution and hence is null and void.

From the findings of this research, it is confirmed that the majority of the civil leaders propose regulation of the right to freedom of assembly and association. A respondent is quoted to have said,

*“I believe that assemblies and association should be regulated because it makes the state to be aware of what is happening where and at what time? I think this is done to guarantee protection to the people assembling, you know these days we have terrorists killing people and they like where people are in big numbers. The notice and presence of the police in any gathering protects the people from possible attacks.”*

Regulation of the right to assemble and associate, if done in good faith to the true definition of unlawful assembly without depriving the organizers of their freedom is not bad. The role of the police to protect the people from imaginable attack should, however, not be the defence for the denial of this fundamental right.

In Brazil in 1955, in the extraordinary Appeal No. 26,350 regarding the freedom of thought, assembly and association, it was stated that these rights could be restricted in relation to the armed classes for the sake of military discipline. However, the Supreme Court ruled that, if the entire house of the sergeant of Bahia was the meeting point, where offenses were practiced against the military law, it would not be illegal for the commander to order the closure of the club (Castor-Transport, 2002 and Love-Parade, 2001).

The basic law of Oman normally guarantees the right to peaceful assembly, but requires that this right must be “within the limits of the law”. Unfortunately, according to human rights expert,

these limits are quite restrictive, to the point where they often annul the essence of the right (Report by UN Special Rapporteur on the right to freedom of peaceful assembly and association, 2015).

One of the respondents raised this concern on regulating the right to assemble and associate during the interview and is quoted to have said,

*“I think the right to freedom of assembly and association should be regulated but not to the extent that makes the enjoyment of the rights a mere impossibility, government should be flexible enough to adjust in such a way that enhances the enjoyment of peoples’ right to assemble and associate without attaching too much conditionality, otherwise the enforcement shall be curtailing the enjoyment.”*

The above thought was also supported by another respondent during the interview, he had the view that,

*“People should be given freedom to enjoy the right to freedom of assembly and association, why restrict? The POMA even came later in 2013, how were the assemblies being governed before? I see that the law is too political in its application, and aims at blocking and disorganizing any opinion that seems to open the understanding of the people about some of the messes that already exist within the country. There should be no restriction, the government should let people free and the police should only do their role of protecting the people who assembles and demonstrates from interfering with other people’s rights.”*

It should be noted, however, that the manner and level of restrictions on the enjoyment of the right to freedom to assemble, associate or demonstrate may vary from one state to another. For instance in Malaysia, people aged below 21 years are prohibited from organizing a peaceful public demonstration and children below the age of 15 cannot even participate (UN Special Rapporteur, Report 2015).

Picking from the above, the right to freedom of assembly and association is one of the rights that should be enjoyed by the people under the law. Association with others enables the community to be in a position to discuss any issue at hand and come out with possible ways forward, in the case of demonstrations the people are able to bring their concerns out which is also a right. It is also important to recognize that in every rule there are exceptions and in this sense there should be some positive regulation, in that the regulation should not be to defraud the people from enjoying their constitutional rights under Article 29 of the 1995 constitution of the Republic of Uganda. This indicates that the enforcement of the law should be balanced and respectful to the people's rights.

The POMA (2013) under Section 3 gives the Inspector General of Police (IGP) or an authorized officer the mandated to regulate the conduct of all public meetings in accordance with the law. The powers given to the IGP above, includes delegated powers.

The concept of "right to association", as it has been employed, eliminates the possibility of creating and applying precise and concrete legal rules capable, in practical administration, of

controlling government power in the interest of individual freedom. The concept is essentially obscurantist (Thomas, I. 1964).

The issue on the authority also came out during a round table discussion about the protest in Venezuela, where Maina, a UN Special Rapporteur on the right to freedom of assemblies and association, is quoted to have said "...as a general principle, authorities should not resort to use of force during peaceful assemblies..." (UN Special Rapporteur report January, 2015).

To one of the respondents quoted here, the powers that the POMA (2013) gives to the IGP and the delegated officer is too much, he said,

*"There is a provision in the POMA (2013) that should be challenged and amended, especially the one that gives excessive powers to the IGP or the authorised officer to stop a public gathering or meeting...The police should play their role and other actors should also play their role so that everyone enjoys the right to freely associate and assemble."*

If those in authority could follow the law strictly as they are, and make decisions informed by the law, the aspect of too much power to the police may not arise in the enforcement of the POMA (2013). This would so much improve on the level of enjoyment of the right to assembly and association.

The right to freedom of assembly and association is to be enjoyable by all, this means that everyone has the duty to participate or demand for a platform to exercise this rights. Participation is a human right and realization of human rights is inclusive. People must be given



the chance to participate. At the same time, people also have the responsibility to participate and contribute ideas and solutions for the realization of human rights (Jan. P Strijboslean, 2007).

Participation should be active and informed where people have all the necessary information presented in a way and of a nature that enables to participate effectively. People should be allowed the space and context where they can actively participate. Participation should be real and not only symbolic, meaning that it is not enough to have a physical presence of persons in a meeting but that steps are taken so that their contributions can come out (Ibid).

The definition of the term “participate” in relation to enjoyment of the right to assemble and associate means, being at full liberty to engage meaningfully in person or as a group without unnecessary restrictions or fear inserted by the state authorities.

The law under Section 5 (1) of the POMA (2013) is that an organizer of a public meeting shall give notice in writing signed by the organizer or his or her agent to the authorized officer of the intention to hold a public meeting, at least three days but not more than fifteen days before the proposed date of the public meeting.

Where it is not possible to hold the proposed public meeting for reasons such as, there is notice of another public meeting on the date, that the time and the venue proposed has already been received by the authorized officer or the venue is unsuitable for the crowd or the traffic control or will interfere with other lawful businesses, the authorities shall in writing within forty eight (48) hours after receipt of the notice notify the organizers or his or her agents of the impossibility

to hold the proposed public meeting and thereafter reschedule the meeting to another date or change the venue (POMA Section 6(1) & (2) ).

In respect to the above, one of the respondents during the information gathering was quoted in his words saying,

*“I do not feel very comfortable as a leader of the people to get permission to meet my electorates from someone else. I am a, law-abiding citizen but did not like the whole process, as long as the meeting is not for a bad motive it should not be interfered with. The exercise is time consuming, programming is also difficult since you may not be sure that the police shall allow the meeting, these are the challenges, said one of the respondent.”*

This is further emphasized by another respondent by saying,

*“The Act is not bad as such; the police should be sensitized on the Act. One day, a senior police officer when I submitted the notice for a meeting said ‘your letter is not right, you have not requested but informed us’, then I told him to go and read the POMA (2013) well since we are required only to give notice. The enforcers of the law are not also informed about the law and this is serious.”*

Once the law provides for a particular procedure to follow, people are demanded to follow because failure to do so would be infringing on the law. The issue that should be looked at critically is after writing the notice, how does the police handle the organizers? If people feel the law is being applied selectively it kills their reliability to follow the procedure. One would

believe that even though he or she applies, the police would not allow them to assemble; this is what brings conflict of interest between the organizers of the public meetings and the police. In this circumstance, people have their constitutional rights to reclaim their stolen rights through forceful assemblies or demonstration.

As observed from the POMA (2013) there is need to appreciate and make the best use of both Section 5, which requires the organizers to only give notice in writing about their meeting to the police, and Section 8, which mandates the IGP or the authorized officer to stop the meeting if it is contrary to the law. Stopping the gatherings should be based on lawful and honest grounds, there are instances where the reasons seems not sufficient enough in the eyes of the people; it may be motivated by malice and intention to frustrate the meetings especially by those whose ideology is different from the government in power.

The POMA (2013) also in Section 8 (1) and (2) give authority to the IGP or an authorized officer or any other police officer of or above the rank of inspector, to stop or prevent the holding of a public meeting if it is contrary to the Act and may issue an order for dispersal of the public meeting, as are reasonable in the circumstances.

According to Jeremy et al. (2001), police officials have a special responsibility to safeguard the vital democratic rights of freedom of speech and the manifestation of belief without which a democracy cannot work. The companion right to freedom of peaceful assembly is of equal importance. Both are cornerstones of human rights provisions.

People have different perceptions on how the police are handling those exercising their rights to assemble, associate and demonstrate. A respondent is quoted saying,

*“The police have always tried to balance in their enforcement but in most cases they use tear gas and a lot of force once dispersing the crowd, there is no cooperation between them and the organizers of public gathering and processions. Many people end up getting injured, being arrested for failure to follow lawful orders and the nearby community also suffers as witnessed during the campaigns and election periods and also during the conflicts between the cross section of the cultural leaders. I have witnessed people being tortured during political rallies or other meetings as a result of the POMA (2013), the powers of the IGP and the police should be checked if people are to fully enjoy their right to freedom of association and assembly.”*

Being an enforcer of the law does not mean that one is above the law, the enforcement officers should know respect human beings, whose right to assemble and associate is fully guaranteed under Article 29 of the 1995 Constitution of the Republic of Uganda. It is not right to stop a non-violent public meeting; this may provoke the citizens to counter act, hence conflict of interest. The police are under the mandate to protect rather than embarrassing people discussing matters of importance. The officers seem to have intentionally abused the power of determination given to them under the Act by acting in violence and intimidation. If the enforcers choose violence, the organizers of the public gathering may also act violently and fail to cooperate with the police.

As quoted in the book written by Jeremy et al.(2001),“while it is the duty of the contracting states to take reasonable and appropriate measure to enable lawful demonstrations to proceed

peacefully, they cannot guarantee this absolutely and they have a wide discretion in the choice of means to be used”.

The POMA (2013) itself is good, but sometimes the police use excessive force while dispersing unlawful assemblies, which even violates the rights of the people more. It is true that human beings sometimes do not want to go by certain rules, but the police should use appropriate force to a given circumstance and also be able to listen and understand the need of the politicians who are in the opposition, they are crying foul play, said an interviewee.

The enforcement section should be highly trained and have the capacity to understand what the law says and also have the goodwill to apply the law without fear or favour. This however may be a problem since the police use orders from above; a junior officer would just go ahead and enforce the Act as has been instructed by a senior officer.

The discussion as to whether the police are complying with Section 9 of the POMA (2013) to preserve law and order before, during and after a public meeting, providing security for both participants and other members of the public likely to be affected by the public meeting, ensuring fairness and equal treatment of all parties, is questionable. During the data collection process, one of the leaders in Lira Municipality is quoted to have said,

*“As a leader I cannot claim ignorance or total authority over the law because I have not read it thoroughly, but I have some ideas. I think the law has a good intention because a society without order is a doom society and a chaotic one, but in streamlining order in society the police should act within the true spirit of the law. When the law is implemented with subjective positions it*

*derails the law from achieving its objective and the law should not be seen to be discriminatory. Where the provisions of this law are seen to be shrinking the enjoyment of civil rights and liberty of the people, I think the law is not static but flexible, amendments should be done however we need that POMA in place.”*

The above position was backed up by another respondent who said,

*“The enforcement of POMA (2013) in Lira is going on well, but there are some circumstances that bring conflicts between the organizers of the public gathering and the police due to failure on their side to comply with the agreed ground rules. I remember when Jonathan Odur (Currently the M.P for Erute South) organized the community of Amach to come to court when they were ruling his case, the police advised him to go in the court with few people and let the rest wait from out so that they can celebrate from out after the court ruling. He picked some people and entered court. After the ruling they started celebration with his supporters and intended to pass from the middle of the town, which was against the arrangement with the police. The police then came in and ask them to follow the order, which was violated and making the police to disperse the crowd with tear gas and the ring leaders were arrested and taken to police to make a statement and were released later in the day.”*

There were categories of the respondents who feel that the police brutality is as a result of the organizers failing to cooperate. A respondent said,

*“In Lira Municipality, the police are enforcing POMA (2013) well and that is why there are no rampant demonstrations and chaotic assemblies without any cause, I must also confess that the*

*greater percentage of people living in this municipality is law abiding. However in every rule there are exceptions, some people feel the police are inhuman in their actions, but this action comes after trying all the options with the organizers of the public gathering and they do not cooperating with the police. Very many assemblies have taken place here in Lira Municipality and even for the whole of this week there is crusade going on at the Mayors' Garden, why are the participants not dispersed? What the police want is for the people to be law abiding. If we follow the law and respect the guidance from the police, everything is normal and the enjoyment of the right is perfect.''*

Laws are brought in place to control human behaviours. For a successful enforcement of the law, there should be maximum cooperation between the enforcement agents and the public in all the processes of implementation. There could be no rampant public demonstration in Lira Municipality, but this may not signify that people are enjoying the right to assemble, associate and demonstrate to the fullest. Impartiality in enforcement is desired, this builds the confidence in the people about the clear intention of the law. The organizers of public meetings should work closely with the police and the police should show the willingness to serve the interest of all.

#### 4.5 Awareness of Civil Leaders on POMA (2013) on the regulation of the exercise of freedom of assembly and association

The civil leaders who participated in this research were able to give their opinion through responding to questions directed on the awareness on POMA (2013) and the regulation of the

exercise of freedom of assembly and association. The responses were rated as indicated in the below table;

**Table 6: Showing Awareness of the respondents on the POMA (2013) on the regulation of the right to freedom of assembly and association**

S/n	Questions on the awareness of Civil leaders on the POMA(2013)	Yes		No		Not sure		Total	
		Freq	% age	Freq	% age	Freq	% age	Freq	% age
1	Have you ever heard of the POMA (2013)?	74	80%	18	20%	-	-	92	100%
2	Have you read the Act?	26	28%	66	72%	-	-	92	100%



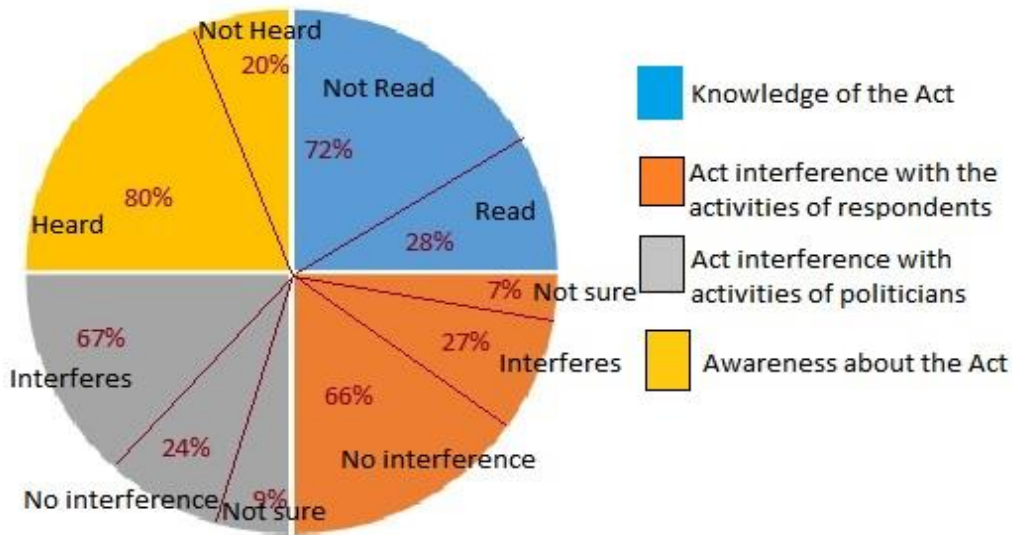
3	In your view, has the Act interfered with the implementation of your activities?	25	27%	61	66%	6	7%	92	100%
4	In your view, has the POMA interfered with the activities of politicians, individuals and institutions in mobilizing and assembling people?	62	67%	22	24%	8	9%	92	100%

**Source: Data collection in the field**

From the above table, 80 % of the respondents have heard about the POMA (2013) and 20 % said they have never heard of this law. In regards to reading the Act, 28% of the respondents acknowledge to have read the Act, while 72% of the respondents said they have not read the Act. When the respondents were asked about whether POMA (2013) interferes with their activities relating holding mobilizing the communities and holding communality meetings, 27% stated that the operation of the Act interferes with the implementation of these activities, 66% said the Act has not interfered with these activities and 7% of the respondents were not sure whether the Act interferes with these activities or not. On whether in the respondent's opinion the POMA (2013)

interferes with the activities of politicians in their constituencies, 67% of the respondents felt that, the operation of the Act interferes with activities of politicians, 24% felt it does not and 9% of the respondents were not sure as to whether the Act interferes with the activities of politicians or not. This is illustrated in the below pie-chart;

Pie-Chart 1: Illustrating the awareness about the Public Order Management Act (2013)



The findings above imply that the majority of civil leaders in Lira Municipality do not have substantial understanding of what POMA (2013) provides for. Through interviews and focus group discussions, it was evident that, many of civil leaders presume what the law says and basically depends on what they hear through the media and interactions amongst themselves. However, 67% of the respondents felt the Act interference with the political activities of

organizing people and holding political rallies in their constituencies. This response may imply that there is poor interpretation of the law.

The interpretation and the enforcement of the Act seem to be a challenge in the political sphere. The majority of the respondents had opinion that the law could have been promulgated to restrict and narrow the political operational space. The police have disrupted peaceful opposition gatherings using excessive force, arbitrarily arrested opposition politicians, and tortured individuals aligned with the opposition...restrictions on the freedom of assembly hindered the ability of Ugandans to receive information and engage with politicians before presidential campaigns started in November 2015(Amnesty International, 2015). The challenges related to the enforcement of the POMA (2013) begin with how the law is interpreted by the enforcement agents.

According to the Report of the Special Rapporteur on the Rights to Freedom of peaceful Assembly and Association, 2013 on page 4, it states that the right to freedom of peaceful assembly and of association is pertinent to democratic process, both during the election period and between elections. These rights are essential components of democracy since they empower women, men and youth to express their political opinions, engage in literary and artistic pursuits and other cultural, economic and social activities, engage in religious observances or other beliefs, form and join trade unions and cooperatives, and elect leaders to represent their interest and hold them accountable.

One of the respondents is quoted during the study saying,

*‘The problem I see with the enforcement is that there is poor interpretation of the law; the POMA (2013) should be interpreted well because if not, the police would use much force on the people. In Lira Municipality here, I see people using their position and authority to depress others and I feel that everyone should be treated equally if the right to freedom of association and assembly should be fully enjoyed. The police are enforcing Act on particular people, we have seen other section of the politicians under NRM who are even gathering assemblies past time required by the law and the police does not act. But when the opposition politicians are meeting or assembling, the police uses a lot of force, I wonder whether they are peoples’ police or they are working for only a section of Ugandans.’*

In the actual sense, good interpretation of the law needs some knowledge and ability to understand what the law says wholly not in part. Law should not be interpreted in an angle that makes the enjoyment of the rights impossible to the people or favour any party being powerful; it should be able to treat people equally regardless of their status. In regards to the POMA (2013) the interpretation by the enforcers and the community at large means a lot on how the law can be useful or regarded bias in the thinking of the public.

As reported by Amnesty International, 2015, the police interference in, and unlawful obstruction of, public gatherings remains a significant problem, often accompanied by arrests and detentions of organizers and participants. In the same year also, the Attorney General banned political pressure groups Activists for Change, which organized the April 2011 ‘walk to work’ protests labelling the group an unlawful society under the penal code.

As quoted during the interview, a respondent had this to say,

*“What I have seen is that, this Act give certain categories of the people upper hand depending on whether you support the ruling party or the opposition, when you are in opposition mostly you write to notify the police but in the last minute you are denied on the grounds like terrorism or security threat. During latest political campaigns in 2016, the presidential candidate Hon. Amama Mbabazi came to campaign in Lira, he was denied access to golf course ground which could accommodate a larger crowd and he had to adjust and address the rally at Akii- Bua Stadium. But when the incumbent and the presidential candidate Yuweri Kaguta Museveni came to campaign in Lira, he was allowed to address the rally at the golf course ground without any issue arising. This is the manifestation of the selective application and enforcement of the law, which interferes with the political endeavours of the opposition.”*

In many instances, the police claims late notice as the reason to deny the public gathering which seems to be unsatisfactory to other people interviewed. During the interview, one of the respondents said,

*“Politicians have been affected by this Act, like for instance Dr.Kizza Besigye’s rights to assemble and associate with the people have been violated many times before, during and even after the elections. The politicians in the opposition have been affected, even though they notify the police, in most cases they are denied the access to assemble and communicate to people.”*

The element of giving notice under the Act and authorizing the public gathering, if not handled appropriately can bring mistrust and misunderstanding. This is practically narrowing the space

and in some instances eliminating the enjoyment of these constitutional rights. It is like the enforcers granting the right to freely associate, assemble and demonstrate. This has the potential of making the law political and applying the law to narrow the activities of opposition political parties. The notice would be sufficient but the authority to stop activities of the registered political party is illegal and against the practice of a free and democratic society.

As stressed by Jeremy et al. (2001), a demonstration annoys or gives offence to persons opposed to the ideas or claims that it is seeking to promote. The participants must, however, be able to hold the demonstration without having to fear that they will be subjected to physical violence by their opponents, such a fear would be liable to deter associations or other groups supporting common ideas or interest from openly expressing their opinions on highly controversial issues affecting the community.

Citizens' participation in governance of their country is a fundamental right which is usually exercised through speech, expressing opinions, ability to assemble, demonstrate and engage with stakeholders...it is through such actions that the citizens are able to hold the government accountable and offer alternative solutions including offering leadership in different positions; a number of events have shown that civic space in which to freely enjoy and exercise these rights is narrowing since the enactment of the Public Order Management Act,2013, there has been a disproportionate targeting of meetings organized by members of the opposition and/or civil society representatives( Human Rights Centre Uganda,2015).

Amidst the implementation of the Public Order Management Act in Uganda, there has been a challenge realized by the political actors, journalists and Human Rights Defenders especially when seeking for assembly or peaceful demonstration. Although efforts have been made for constructive dialogue between human rights defenders and state authorities, restrictions on the exercise of the right to freedom of peaceful assembly and association continued to be imposed against political opponents (UHCR, 2012).

This view was also supported by a respondent during the interviewed by saying that,

*“This POMA (2013) is being enforced as a suppression law, in Lira it is not very common but people have been restrained from expression of their feelings and it hinders the freedom of assembly and association. At one time people in Lira Municipality had started demonstrating peacefully to show their dissatisfaction on the failure of UMEME in supplying power; they wanted to attract the attention of the duty bearers but were stopped and suppressed. This scares the people from participating in matters that need expression of feelings through demonstration. The enforcement of the POMA (2013) is so much associated with force and brutality by the police.”*

It is a right for everyone to give their personal expression and opinion about things that happen around them. For this right however to be fully enjoyed, the researcher thinks, force should not be applied. Coming together for a common goal is positive and should be encouraged by the state, because it is the one of the most effective way of sharing of information.

The freedom of political parties to participate in the politics of the country cannot be exercised without the right to freedom of assembly and association. The right to assemble should be understood in both its individual and collective sense, meaning that it applies both to individuals and groups and organizations participating in public gathering (The human Rights defenders in Uganda, 2013).

From the civil society perspective, a respondent is quoted to have said;

*“There is little enjoyment of the right to freedom of assembly and association in Lira Municipality. Non Governmental Organizations (NGOs) are facing challenges as they carry on with their activities. Many members of the NGOs have been arrested in the enforcement of the POMA (2013). In the year 2013, the Executive Director for Lira NGO Forum was arrested among others, while having a meeting to distribute the Black Monday Papers; they were given police bond even though there were complexities. I remember also when we organized a meeting on the election reform, the then RDC said ‘if you dare organize that election reform campaign, you will not see your ash’, these even made many organizations to shy away. The enforcement of the POMA (2013) has been bad and discouraging people from enjoying their right to freely assemble and associate.”*

NGOs are partners in development; they contribute towards the development of a nation. Once a registered civil society Organization is performing task related to what they have been registered to do in a non-harmful or unlawful manner, no interference is warranted. The POMA (2013) should not be used by the law enforcement agencies to scare or interfere with their work.



Interference with the registered activities of the NGOs is abuse of citizen's right to assemble and participate in building the nation.

In a letter written to the Inspector General of Police in Uganda, it states ' I thank you for the effort made towards training police officers...however ,I wish to express my dissatisfaction with the way in which our men and women in uniform treat matters of governance... just society is where all the people are free to express their whims and aspirations without undue interference from state organs or if that form of interference should occur, then it should apply to all people involved (Saturday Monitor Paper, August 1 ,2015).

As stated in the Report of the Special Rapporteur on the Right to Freedom of Assembly and Association presented before UN General Assembly 2013, all peaceful assemblies held during the electoral process, whether or not in support of the ruling party or the incumbent government should be entitled to equal treatment. Such assemblies should receive equal protection and facilitation from the state, in fulfilment of its positive obligation in this regard, irrespective of which category or group the demonstrators belong to.

Preventive measures for the occurrence of any public gathering or demonstration cannot be a good defence for prohibiting the right to assemble. The constitutional court found that prohibiting protests before they occur was not a proper limitation on the right to assembly (Constitutional Court –petition, 2008).

During the data collection process, one of the respondents is quoted to have said,

*“In Lira Municipality, to a reasonable extent where the procedures of the law are followed, the right to assemble and associate has been enjoyed, but where the meetings are deemed to be a threat to the security then they are denied. Even though the frequency of denial is few, even with the few, it is still abuse of their rights to assemble and associate. I believe that peaceful demonstration for expression of political dissatisfaction is lawful. The fact that a person holds a different opinion from yours does not mean that his planned meeting should be interfered with. I see this happening in this municipality, especially with some opposition politicians who do not agree politically with the ruling party, I have this on record.”*

Matters of governance are all inclusive, and that is why the enjoyment of the freedom to associate, assemble and expression contributes to streamline development, constitutionalism and the rule of law in a country. Stopping people from contributing to the governance issues through meetings and consultations are not the best way of regulating the enjoyment of the right to freely assemble and associate.

Regulating the right to freely assemble and associate if necessary at all should be within the prescription of the law. One of the interviewee asserted that,

*“Civil unrest is all over the world and no government will tolerate, there will always be force applied to normalize the situation. However, the regulation of the enjoyment of the right to freedom of assembly and association should be to a smaller extent and should not stop people from assembling and expressing themselves.”*

Applying preventive measures in regards to assembly in a free and democratic society is a ‘wrong principle’. The government should strengthen the enforcement institution to have the capacity to manage and control the public gathering if the right to freedom of assembly and association is to be enjoyable by everyone.

#### **4.6 Opinion of the Civil Leaders on the enforcement of POMA (2013) on the regulation of the right to freedom of assembly and association**

The intention in this regard is find out the opinions of the civil leaders on the enforcement of POMA (2013) on the regulation of the freedom of assembly and association. The responses are indicated as below in the table;

**Table 7: Showing distribution of respondents according to their responses on the enforcement of POMA (2013) on the regulation of the right to freedom of assembly and association in Lira Municipality**

S/n		Yes		No		Not sure		Total	
		Freq	% age	Freq	% age	Freq	% age	Freq	% age
1	In your opinion, is the right to freedom of	65	71%	27	29%	-	-	92	100%

	assembly and association being enjoyed in Lira Municipality? Explain your opinion								
2	In your opinion, are there limitations to the enjoyment of the right to freedom of assembly and association? Explain your response	62	67%	30	33%	-	-	92	100%
3	Is the POMA (2013) being enforced in Lira Municipality? Your comment on the enforcement?	78	85%	-	-	14	15%	92	100%
4	Should the right to freedom of assembly and	56	61%	36	39%	-	-	92	100%

	association be regulated? If so to what extent?								
5	Do you have any other information or comment to make in relation to the enjoyment of the right to freedom of assembly and association?	39	42%	53	58%	-	-	92	100%

**Source: Data collection in the field**

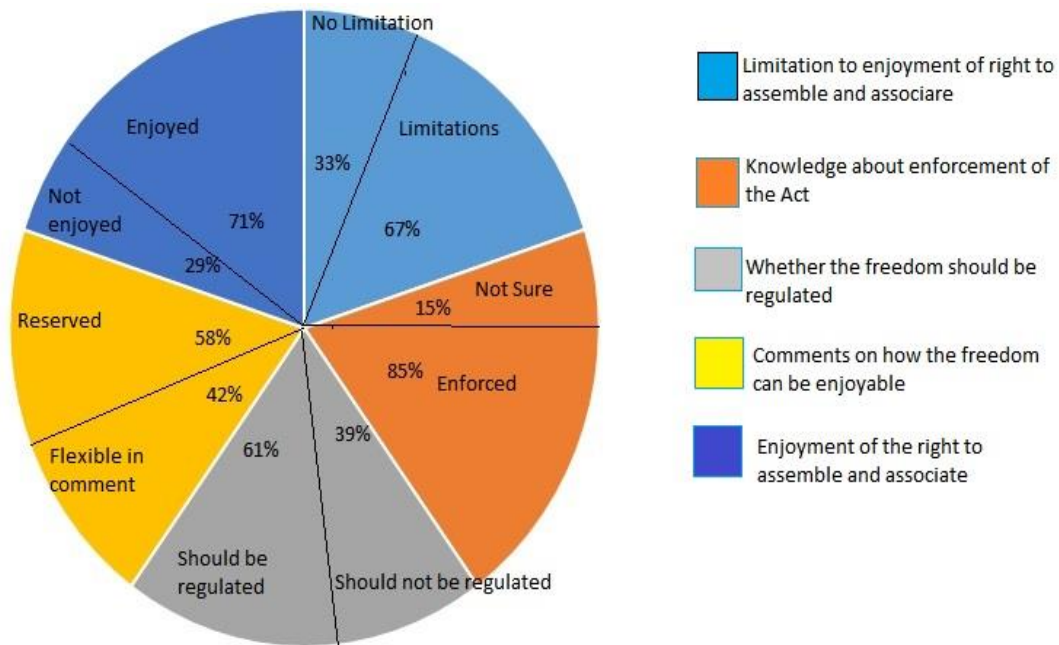
From the above data on the relationship between enforcement of the POMA (2013) and the enjoyment of the right to freedom of assembly and association, some questions were asked with the respondents. When asked about whether the right to freedom of assembly and association is being enjoyed in Lira Municipality, 71% of the respondents agreed that there is enjoyment of the rights, while 29% said the rights were not being enjoyed. On whether there are limitations to the enjoyment of the right to freedom of assembly and association, 67% confirm that there are some limitations, 33% of the respondents however said that there were no limitations. In response to the question on whether POMA(2013) is being enforced in Lira Municipality, 85% agreed that there is enforcement of the Act, while 15% of the respondents were not sure whether the Act is being enforced or not. On the question of whether the right to freedom of assembly and

association should be regulated, 61% of the respondents said the rights should be regulated mean while 39% of the respondents disagreed by proposing that the right to freedom of assembly and association should not be regulated.

To crown it all, in the comments of the respondents in relation to the enjoyment of the right to freedom of assembly and association, 42% were flexible enough to give their views while 58% were reserved.

The above is illustrated in the Pie-Chart below;

**Pie- Chart 2: Illustration on the enforcement of Public Order Management Act (2013)**



The implication of the above percentages is that, in Lira Municipality freedom of assembly and association is being enjoyed to a greater extent in the dispensation of the POMA (2013). However, there are limitations that have been attached to the enjoyment of the right to assemble and associate. From the above, the civil leaders in Lira Municipality need peace and are also law abiding, they believe that there should be some level of regulation of peoples' behaviour and also the manner in which assemblies should be conducted.

It is important to understand that the right to freely assemble and associate is worth respecting and guarding by everyone including the enforcement agents.

Those who won our independence believed that that freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth; that without free speech and assembly discussion would be futile; that with them, discussion affords ordinary adequate protection against the dissemination of noxious doctrine, that the greatest menace to freedom is an inert people; that public discussion is a political duty; that should be a fundamental principle (John , D. 2010).

Freedoms to assemble, associate, express and demonstrate are core in democratic pillars of the state. This does not mean that everyone should be left at large to do what endangers the rights of others, it is important to well demarcate the level at which the freedom can be tampered with to ensure that the enjoyment of one is not a violation of the right of the other. Importantly to note is that violence during the enforcement should be avoided as much as possible to the citizens; they need protection from the enforcement as the exercise of their rights goes on.

As indicated in the Alternative Report to the Government of Uganda's First Periodic Report before UN Human Rights Committee, 2004 , police forces dispersed violently and forcefully some demonstrators. In an incident related to freedom of the assembly on January 12, 2002, Jimmy Higenyi, a journalism student at the United Media Consultants and Trainers (UMCAT) institute was shot dead by the bullets fired by the police in Kampala while covering a demonstration organized by UPC.

Under the multiparty political dispensation in place since 2005, few human rights and freedoms have been more the subject of infringement than the freedom to assemble, oppose, demonstrate and associate for causes in which one believes. Particular damage has been by the police and other security forces in either thwarting or disrupting assemblies of opposition political actors or of those who the state considers to be working contrary to the dominant political authority. For the ten years preceding the transition to a multiparty system, opposition political actors were the target of all manner of intimidation, molestation and repression (Onyango J. Oloka, 2013).

Enjoyment of the freedom of assembly and demonstration, continued to pose challenges in the year 2013 with some assemblies being denied and others dispersed by police. The country also witnessed some incidents of combative and violent behaviours by some demonstrators culminating into scene of violence, including indiscriminate use of tear gas and the use of excessive force by the police. Some of the chaotic assemblies inevitably led to loss of livelihood, destruction of property, injury to persons, loss of lives and deprivation of personal liberty, among other human rights concern (Annual Report of UHRC to Parliament of Uganda, 2013).



In the Report by UN Special Rapporteur, January 2015 on the right to freedom of peaceful assembly and of association, Chaloka in a statement on behalf of UN independent expert said in page 9 that, “ We are horrified by what has been happening in Kiev. We strongly condemn the excessive use of force by the security forces against the protesters.”

In relation to the above, a respondent is quoted to have said,

*“Some cross section of the people in Lira Municipality is enjoying the right to assemble and associate, especially those on the side of the government. But it is sad to note that those in opposition and individuals who do not support NRM as a party are not enjoying these rights. They are not allowed to conduct gatherings, because the police always suspect that they could be spreading information that attacks the government in power (NRM), it has happened with many opposition politicians and their supporters; people have been assaulted, arrested and dispersed forcefully. This has so much affected the enjoyment of the right to freedom of assembly and association, the rights are under attack and I see no enjoyment on my side.”*

In line with the above, the POMA (2013) should not be used on a political ground to ensure that some section of the people should find it very difficult to operationalize their activities. Law should be applied and enforced as they are with good conscience and should serve the interest of all without boundaries. Everyone should come out to condemn to the strongest term, the use of excessive force to those exercising their constitutional rights to assemble, associate and demonstrate.

The police officers in many occasions have acted violently on the demonstrators and those who held public gathering without being granted authority. This is evidenced by a photo in appendix five (5) as attached.

To conclude this chapter basing on the findings on the opinion of the civil leaders on the regulation of the exercise of freedom to assemble and freedom to association by the Public Order Management Act (2013) in Lira Municipality, the samples were taken from the active civil servants with the roles related to assembling and associating with the people at different intervals as the data reveals. From the study, there is an indication that majority of civil leaders in Lira Municipality do follow the requirement under POMA (2013) of notifying the police in case of any public gathering. Another significant concern is that the majority who were involved in this study have heard of, but lack knowledge on the provisions of the POMA (2013). The majority believes that the Act does not interfere with their activities. Many of the civil leaders recognize that the right to freedom of assembly and association is being enjoyed with some limitations attached to the enjoyment. In their opinion, there should be some regulation on the enjoyment of the rights to freedom of assembly and association.

## CHAPTER FIVE

### SUMMARY, CONCLUSION AND RECCOMENDATIONS

#### 5.1 Introduction

This research study has discussed the opinion of civil leaders on the regulation of the exercise of freedom to assemble and freedom to association by the Public Order Management Act (2013), focused on; the intent, interpretation and enforcement of the Act in as far as the enjoyment of the aforesaid rights are concern. This chapter presents the summary, conclusions and the recommendations of the study.

#### 5.2 Summary of the Findings

Everyone has the right to freedom of peaceful assembly and association as put under Article 20 (1) of the UDHR, ICCPR Article 22(1) and CRC Article 15. These rights include; right to form and join trade unions for the protection of the workers' interest. Under Article 21 of the ICCPR, restrictions may be allowed in conformity with the law and which are necessary in a democratic society in the interests of; national security or public safety, public order, the protection of public health or morals or the protection of rights and freedoms of others.

Uganda also embraces the right to freedom of assembly and association (Article 29 (1) (d) and (e) of the 1995 Constitution of the Republic of Uganda). It guarantees every person the right to freedom to assemble, demonstrate together with others peacefully and unharmed and also to

petition. The regulation of the enjoyment of the right to freedom to assemble and associate would be exercised when the assembly is not peaceful and harmful to the community.

### **5.2.1 Summary on the Intent of the POMA (2013) on the regulation of the right to freedom of assembly and association**

In summary, POMA (2013) was passed to control the activities that are related to gathering and assembling people by different stake holders. From the study, 91.3% of civil leaders who do work related to assembling people are majorly following the guideline under the POMA (2013). It is also worth noting that 74% of the civil leaders are law abiding, they follow the requirement of notifying the police for any public gathering as mandated by the POMA (2013).

And also based on the manner in which the authority handles the people, the findings reveals that 73% of civil leaders fear being involved in claims for civil and political rights for example demonstrations for some of the service providers like the UMEME, election reform calls, poor roads, torture by the police officers and many others.

### **5.2.2 The interpretation of POMA (2013) on the regulation of the right to freedom to assemble and associate in Lira Municipality.**

The study reveals lack of knowledge and understanding of the POMA (2013) by 80% among the civil leaders. However 66% of the civil leaders do agree that the operation of the law itself does not interfere greatly with their activities, except for categories composed of 27% like; the politicians, some fraction of the cultural leaders and the representatives from the Human Rights Organizations who indicated some level of interference.

### **5.2.3 The relationship between enforcement of the provisions of the POMA (2013) on the regulation of the right to assemble and associate.**

The summary on the enforcement, indicates that there is 85% awareness among the study population about POMA (2013) being enforced by the authority. By 71%, the study reveals that there is relative enjoyment of the right to freedom of assembly and association in Lira Municipality. However, this does not nullify the fact that there are limitations towards the enjoyment, as raised by 67% of the respondents.

As revealed from the study, 61% of the respondents acknowledge the relevance of regulating the enjoyment of the right to freedom of assembly and association. They believed that if the enjoyment of the right to freedom of assembly and association is not regulated, it may affect the rights of others in the community, especially when it comes to demonstrations where it may turn to be unlawful.

### **5.3 Conclusion**

To conclude on the intent of the POMA (2013) on the enjoyment of the right to the freedom of assembly and association, there is requirement of giving notice under the POMA (2013) which is for the purpose of controlling public gatherings. This is being complied with as indicated by the greater percentage of the respondents consulted in Lira Municipality. However the manner in which the enforcement handled the formality of clearing for the public meeting is a big concern according to some of the respondents. It tends to interfere with the people's enjoyment of the right to assemble and associate.

The knowledge on POMA (2013) is still very low among the civil leaders. This is confirmed during the study as the majority of the respondents testified to have not read POMA (2013). The respondents also revealed by a greater percentage that the operation of the POMA (2013) does not interfere with their enjoyment of the right to freedom of assembly and association.

On the enforcement of POMA (2013) as indicated in the study, the bigger percentage of the respondents are enjoying their rights to freedom of assembly and association, however this does not rule out the limitations that are related to the enjoyment of the rights. The majority of the respondents also affirm that the enforcement does not interfere with their planned activities. By the greater percentage, the respondents said that the enjoyment of the right to freedom of assembly and association should be regulated.

In general, the public should understand that requirement under the POMA (2013) is worth complying with since it is already a law and if ignored, it makes the gathering illegal. Peoples' knowledge on the provisions of the Act should be elevated with the civil servants and enforcement agents like the police officers, to reduce on the high level of ignorance on the Public Order Management Act (2013). If the entire above are observed, people of Lira Municipality and Uganda at large shall improve further on the level of enjoyment of the right to freedom of association and assembly.

#### **5.4 Recommendations**

The study reveals that only 27% of the respondents involved themselves in matters related to claim for civil and political rights, which mean 73% of the respondents had never engaged in

claims for civil and political rights for example demonstrations for some of the service providers like the UMEME, election reform calls, poor roads, torture by the police officers and many others. The researcher recommends for more capacity building of the civil leaders and the community at large by the government through Uganda Human Rights Commission and Civil Society Organizations on human rights and other laws including POMA (2013).

As the findings reveal that, 74% of the civil leaders followed the procedure required under the POMA (2013) of notifying the police once there are meetings or assemblies being conducted. But 26% went ahead to conduct public gatherings without following the requirement of giving notice to the authority. The researcher recommends that as the POMA (2013) is being enforced by the police officers, there should be balanced enforcement of the law, no person or an institution should be allowed without following the procedure provided for in the POMA (2013) of giving notice to the police. The IGP or the authorized officer, in denying any public gathering should be able to give a clear reason to the satisfaction of the organizers and also be willing to discuss the way forward and agree on the alternative solution.

In response to the fact revealed from the study that 80 % of the respondents have heard about the existence of the POMA (2013), but 20% of the participants have never read the Act. This means that there is very little knowledge of the POMA (2013) among the civil leaders. The researcher recommends for mass awareness of the POMA (2013), so that the population is educated about the Act through routine sensitization so that their understanding about POMA (2013) is improved. POMA (2013) should also be translated in the local languages so that those who are

not able to read English can also access the law in their local languages to avoid the ear say and exaggeration of what the law says.

The findings reveal by 66% that the operation of the POMA (2013) does not interfere greatly with the activities of the civil leaders and 27% of the respondents confirms that POMA (2013) interferes with their activities, followed by 7% of the respondents who were uncertain about whether the Act interferes with their activities or not. Those who claimed the POMA (2013) affected their activities majorly included the politicians, and the representatives of the NGOs who are working within the thematic areas of human rights. The researcher recommends that the POMA (2013) should not be applied to affect the rightful activities of the registered Civil Society Organizations and political parties who are fully registered with the government, through the Ministry of Internal Affairs. The government should clearly check before registration the aims and objectives of a particular organization. And the enforcement should be ready to stop the gathering only if it is going outside its intended objectives.

The study also revealed that 67% of the respondents confirmed that there are limitations to the enjoyment of the freedom to assemble and associate. In the opinion of the civil leaders who were involved in this study, 61% said the right to freedom of assembly and association should be regulated. The researcher recommends that the police officers in enforcing the POMA (2013) should not eliminate the Act while, regulating the public gathering using POMA (2013). The enforcers should stick to Article 29 (1) of the 1995 Constitution of the Republic of Uganda which gives permission to restrict when the gathering turns to be unlawful or harmful to the



community. The citizen who feels any of the provision of POMA (2013) interferes with his or her rights to assemble or associate, may challenge through a normal court procedure and that particular section eliminated through a court order.

### **5.5 Suggestion for further research**

The following areas are suggested for further research;

- The impact of the application of POMA (2013) on the performance of the registered political parties in Uganda.
- The government's role in promoting the enjoyment of the right to freedom of assembly and association.

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## **APPENDIX 1**

### **INTERVIEW GUIDE FOR FOCUSED GROUP DISCUSSIONS (FGD)**

I am Mr. ODWAR DENIS a second year student at Uganda Martyrs University, offering Masters of Arts in Human Rights. One of the requirements for this Masters study is for a student to do research in the area of her /his interest in the field of human rights. My research is on the enjoyment of the Right to Freedom of Assembly and Association in Uganda.

I thank you for accepting to be interviewed as one of my respondents. I therefore seek your consent for this interview to be tape recorded.

This is an academic research and any discussions between us are for purposes of this research only and will be treated with at most confidentiality it deserves. This includes, not revealing the identity of the respondent in the research report. In case of any information that you do not want to be recorded feel free to let me know so that I turn the recorder off, document it without identity or not to be documented at all.

SECTION 'A': Bio data

Category/ Group of the respondent?

Number of the respondents?

What are the roles you play in your communities?

How long have you served in your positions?



SECTION 'B': Intent of POMA on the enjoyment of freedom of assembly and association

How many people among you perform work related to assembling and associating with the people?

How often do you assemble people?

How many people among us have ever engaged and participated in matters related to civil and political rights?

How many people have ever given notice to the authority for the public assembly/ meeting? How was the process?

SECTION 'C': Interpretation of POMA (2013)

How many people among us have ever heard about POMA (2013)?

How many among us have read POMA (2013)?

Has the Act in any way interfered with your activities?

How about the activities of politicians, institutions and other individuals in your opinion?

SECTION 'D': Enforcement of the POMA (2013)

In your opinion is the right to freedom of assembly and association being enjoyed in Lira Municipality? If yes or no, describe?

Are there limitations to the enjoyment of the right to freedom of assembly and association? What do you consider as the limitations?

Is the POMA (2013) being enforced in Lira Municipality? What are your opinions on the manner of enforcement?

In your opinion, should the right to freedom of assembly and association be regulated? If so, to what extent?

Any information or comment you would like to give in relation to the enjoyment of the right to freedom of assembly and association?

*Thank you very much for giving your valuable time to me in this research*

## **APPENDIX 2**

### **INDIVIDUAL RESPONDENTS' INTERVIEW GUIDE**

I am Mr. ODWAR DENIS a second year student at Uganda Martyrs University, offering Masters of Arts in Human Rights. One of the requirements for this Masters study is for a student to do research in the area of her /his interest in the field of human rights. My research is on the enjoyment of the Right to Freedom of Assembly and Association in Uganda.

I thank you for accepting to be interviewed as one of my respondents. I therefore seek your consent for this interview to be tape recorded.

This is an academic research and any discussions between us are for purposes of this research only and will be treated with at most confidentiality it deserves. This includes, not revealing the identity of the respondent in the research report. In case of any information that you do not want to be recorded feel free to let me know so that I turn the recorder off, document it without identity or not to be documented at all.

SECTION 'A': Bio data

Category/ Group of the respondent?

What is your Title?

What is your role in the community?

How long have you served?

SECTION 'B': Intent of POMA on the enjoyment of freedom of assembly and association

Do you perform any work that relates to assembling and associating with the people?

How often do you assemble people?

Have you ever engaged and participated in matters related to Civil and Political rights?

Have you ever notified the police while organizing public assemblies/ meeting? If so, how was the process?

SECTION 'C': Interpretation of POMA (2013)

Have you ever heard of POMA (2013)?

Have you ever read the POMA (2013)?

Has the Act in any way interfered with the implementation of your activities?

How about the activities of politicians, individuals and institutions in mobilizing and assembling people?

SECTION 'D': Enforcement of the POMA (2013)

Is the right to freedom of assembly and association being enjoyed in Lira Municipality?

Describe in your opinion?

In your opinion, are there limitation to the enjoyment of the rights to freedom of assembly and association? What do you consider as the limitations?

Is the POMA (2013) being enforced in Lira Municipality? What is your opinion on the manner of enforcement?

Should the right to freedom of assembly and association be regulated? If so, to what extent?

Do you have any other information or comment to give in relation to the enjoyment of the right to freedom of assembly and association?

*Thank you very much for giving your valuable time to me in this research*

**APPENDIX 3**

**CONSENT FORM FOR RESPONDENTS**

**CONSENT FORM FOR THE RESPONDENTS DURING THE DATA COLLECTION**

**FOR THE ACADEMIC RESEARCH**

I am Mr. ODWAR DENIS a second year student at Uganda Martyrs University, offering Masters of Arts in Human Rights. I am doing a research on the enjoyment of the Right to Freedom of Assembly and Association in Uganda, A case study Lira Municipality, Lira District.

I thank you for accepting to be interviewed as one of my respondents. I therefore seek your consent for this interview to be tape recorded, if it is okay with you.

This is an academic research and any discussions between us are for purposes of this research only and will be treated with at most confidentiality it deserves. This includes, not revealing the identity of the respondent in the research report. In case of any information that you do not want to be recorded feel free to let me know so that I turn the recorder off, document it without identity or not to be documented at all.

If you accept this interview to be recorded, please sign this form as indicated below;

Name of the Respondent: ..... Date: .....

Signature: .....

Name of the Researcher: ..... Date: .....

Signature: .....

**APPENDIX 4**

**SAMPLE FORM- NOTICE OF INTENTION TO HOLD A PUBLIC MEETING**

**Act** *Public Order Management Act* **2013**  
**SCHEDULE 2**  
**FORM A** *Section 5*

**THE PUBLIC ORDER MANAGEMENT ACT, 2010**  
**NOTICE OF INTENTION TO HOLD A PUBLIC MEETING**

*(To be filled in triplicate)*

**To: The Inspector General of Police.**

I/We hereby give notice to the Inspector General of Police of the intention to hold a public meeting.

1/ Particulars of organisers

Name: .....  
Physical address: .....  
Postal address: .....  
Immediate contact: .....  
Occupation: .....  
Age: .....  
Nationality:.....

2. Proposed venue of public meeting (give full details).....

3. Date of public meeting: .....

4. Time of commencement of public meeting: .....

5. Duration of public meeting: .....

6. Estimated number of persons expected: .....

7. Purpose of public meeting: .....

8. Did the organizer obtain consent of the owner of the venue?  
(yes/no/not applicable)

9 Other relevant information: .....  
.....  
.....

*NB: This notice should be received by the Inspector General at least three and not more than fifteen days before the date of the public meeting.*

.....  
**Signature(s) of Organiser(s)** **Date**  
**or agent**

## APPENDIX 5

### UGANDA POLICE OFFICERS ARRESTING ONE OF THE DEMONSTRATORS



Source: From a journalist who covered the event



## APPENDIX 6

**TABLE FOR DETERMINING SAMPLE SIZE FROM A GIVEN POPULATION**

N	S	N	S	N	S	N	S	N	S
10	10	100	80	280	162	800	260	2800	338
15	14	110	86	290	165	850	265	3000	341
20	19	120	92	300	169	900	269	3500	346
25	24	130	97	320	175	950	274	4000	351
30	28	140	103	340	181	1000	276	4500	351
35	32	150	108	360	181	1100	285	5000	357
40	36	160	113	380	186	1200	291	6000	361
45	40	180	118	400	196	1300	297	7000	364
50	44	190	123	420	201	1400	302	8000	367
55	48	200	127	440	205	1500	306	9000	368
60	52	210	132	460	210	1600	310	10000	373
65	56	220	136	480	214	1700	313	15000	375

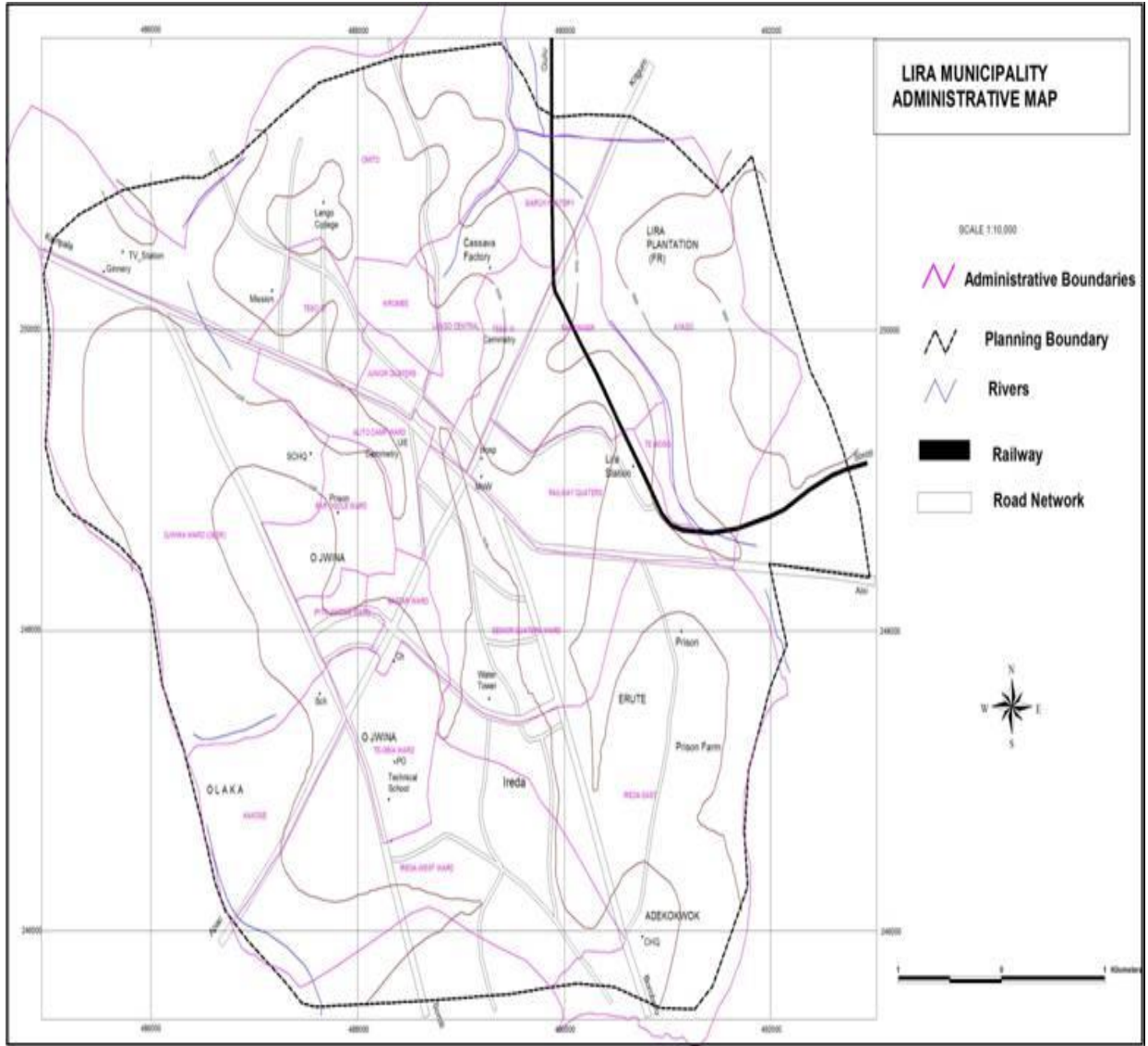
70	59	230	140	500	217	1800	317	20000	377
75	63	240	144	550	225	1900	320	30000	379
80	66	250	148	600	234	2000	322	40000	380
85	70	260	152	650	242	2200	327	50000	381
90	73	270	155	700	248	2400	331	75000	382
95	76	270	159	750	256	2600	335	100000	384

**Source: R.V Krejcie and D.W Morgan (1970)**

Where N is the population and S is the sample size.

# APPENDIX 7

## MAP OF LIRA MUNICIPALITY



## APPENDIX 8

### REQUEST FOR INTRODUCTON LETTER FROM THE UNIVERSITY

C/O UGANDA MARTYRS UNIVERSITY  
RUBAGA CAMPUS  
KAMPALA.

20<sup>th</sup> April, 2016

To:

THE DIRECTOR,  
INSTITUTE OF GOOD GOVERNANCE,  
UGANDA MARTYRS UNIVERSITY,  
NKOZI CAMPUS.

THR:

DR. EMONG PAUL,  
LECTURER (SUPERVISOR),  
UGANDA MARTYRS UNIVERSITY,  
RUBAGA CAMPUS.

Dear Sir/Madam;

**RE: REQUEST FOR AN INTRODUCTORY LETTER FOR RESEARCH DATA  
COLLECTION**

In reference to the above, I write to request for the introductory letter through my supervisor for the data collection for my research that will be done in Lira Municipality.

I am a year two (II) student by the names ODWAR DENIS offering Masters of Arts in Human Rights (M.A HR) with the registration number; 2014 – M062 - 20011 at Uganda Martyrs University.

This comes as a result of good progress with my research proposal on the topic of “Opinion of Civil Leaders on the Public Order Management Act (2013) on the enjoyment of the Right to Freedom to Assemble and Associate in Uganda: A case study of Lira Municipality”.

I plan to begin the data collection soon as the tools for data collection is in the final process of correction with my supervisor.

It is my appeal that the administration will act expeditiously on this request, since delay in response shall definitely affect the data collection exercise as planned, hence late submission of the final research paper.

Thanks.

Yours Sincerely,

Odwar Denis

(M.A HR-II Student)

APPENDIX 9

LETTER OF INTRODUCTION FROM UGANDA MARTYRS UNIVERSITY



making a difference

School of Arts and Social Sciences

Department of Governance and Peace Studies

Email: [lghr@umu.ac.ug](mailto:lghr@umu.ac.ug)

Your ref:

Our ref: rec: ma pt field introduction letter 15-16

Nkozi, 05<sup>th</sup> July, 2016

Dear Sir / Madam,

**Ref: Letter of Introduction.**

This is to introduce to you **ODWAR Denis No. 2014-M062-20011** who is a postgraduate student in the Department of Governance and Peace Studies at Uganda Martyrs University.- Nkozi. He is required to carry out Research on the topic:

*“Opinion of Civil Leaders on the Public Order Management Act(2013) on the enjoyment of the Right to Freedom to Assemble and Associate in Uganda: A case study of Lira Municipality.”*

This is a requirement for the award of a Masters degree in Human Rights.

I would like to request you to render him assistance in collecting the necessary data for writing his Dissertation.

Thanking you in advance for your assistance.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Musinguzi Denis'.

**Dr. MUSINGUZI Denis**  
Head of Department

