

**PUBLIC DIALOGUE ON DEMOCRACY, GOOD
GOVERNANCE AND THE RULE OF LAW IN
UGANDA**

Makerere University Convocation

KEYNOTE ADDRESS

Topic: The Rule of Law, Where is Uganda Heading?

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The Rule Of Law, Where Is Uganda Heading

The struggle for Rule Of Law, which has its roots in Democratic values, and respect for human rights did not drop suddenly nor was it just granted as a favor by benevolent people or governments. It is a result of accumulated struggles. Some visible others silent, some armed and others peaceful.

Rule of Law can only be brought about and sustained by an enlightened population that ensures that there is enlightened leadership. Let us look at the 1995 constitution.

There were other constitutions but the 1995 had the broadest consultations, debates by democratically elected people for that purpose. It took a long time to debate and complete. Its highlights relevant to the topic today are: -

1. Independence of parliament. The safest guarantee of any public officer is security of tenure. MPs are secure in parliament for the whole five years. Parliament cannot be dissolved. There was an attempt during the last major surgery on the constitution to give the President powers to dissolve Parliament but it failed. Secondly, Parliament has a lot of leeway in deciding when to convene and decides its own business. In some countries the executive can keep Parliament in recess for long in order to avoid it convening when certain crucial things are happening. Parliament also has powers to vet Presidential appointments and even has powers to impeach a President. Therefore the executive powers of the President are limited compared to the 1967 constitution where the President had powers to appoint even Parish Chiefs and, a Minister had powers to appoint all district councils.
2. The second provision critical for the rule of law is the independence of the Judiciary. The Judges have security of tenure, and a well set out retirement age. Whether Judges have used this security of tenure in exercising their judicial mind is not for me to judge today.

3. The third and the fourth is the provision for the Human Rights Commission and the office of the Inspector General of Government respectively.

The shortcomings are:

First, the constitution has been in place for a relatively short time.

Second, institutions are still young. In some cases the same people have not yet changed, a critical part in institution building.

Third, most critical institutions are not yet adequately facilitated in form of the requisite resources both in terms of manpower and finance. In terms of the constitution and broad policy, advances have been made in: -

- a) The field of women participation and involvement.
- b) Broadening both formal and informal education at primary, secondary and tertiary.

An enlightened women folk and an educated and economically well off population, are critical in advancing Democracy and rule of law, checking the activities of governments and demanding respect for laws.

Another relevant issue is that all political parties are generally weak especially the opposition parties in terms of infrastructure, resources and policy development to which party leaders should adhere. The opposition parties are further constrained by administrative harassment and occasionally open hostility by the very organs that are supposed to administer the law impartially. Even the party in power is not as organized as it appears in terms of independent resources, adequate personnel and party policy. It is saved by leaning on the state. However, its members are constrained, except that the state organs of coercion have not yet focused on them. But it is a question of time.

There are crucial observations I wish to make before we comment on where Uganda is heading.

First, Ugandans liberated themselves through various political organizations and other instruments. The critical instrument was through the original NRM as a liberation instrument. It is the people

who sheltered the struggle, gave their children as fighters, food, information and support. The people were yearning for a change. That is why NRM was sheltered in Luwero and Rwenzori.

The people's yearning for change, for freedom, for security, was at the center. That is why the penetration of the movement had difficulties in other parts of the country especially the north, if it was just a question of guns. We did not carry out a good study, take into account all aspects of the terrain and adjust one's approach accordingly.

So the people of Uganda are the owners of the peace that is enjoyed in the larger part of the country. It is a result of a concerted and collective effort. It was not granted or a gift from some people to whom we should forever be grateful. And it is the people to demand and fight for peace and rule of Law to prevail through out the country. Freedom is never a gift or a grant. He, who giveth, can also taketh. It is sweated for. Governments can never grant rule of law and other rights. They can only observe then.

The current NRM party is very different from the movement in terms of policy, outlook, substance, ideology character, composition and attitude. The only thing in common is the name and its chairman. Besides, one belonged to the movement system and the others to the multiparty political system.

My second observation is that, for the rule of law to prosper, you need economic prosperity, gainful employment and a good standard of living. To achieve this, the state policies on this and resources available should be open to all for competition for the allocation on well known criteria. Areas critical to pull the country out of poverty should be debated and agreed upon and be known to all. For example on industrialization, should priority be textile industry, leather technology, and machine manufacturing or sugarcane expansion. Once agreed upon, those capable can apply and the most competent get the resources. They are monitored by a competent team ensuring the rules are followed and money properly used and paid back for the next in line to access.

The policies are regularly reviewed at agreed times to see whether there is need for emphasis or need for adjustment. The situation where

unknown people access unknown resources for not well defined purposes, that are not monitored, can only create dependant and insecure rich men who fear change and exposure. Yet these could be honest entrepreneurs in search of business but an eschewed system compels them to behave that way. Both them and the resources, material, natural and financial that are allocated need to be rescued.

A clear policy has to be made in the area of developing the relevant and necessary human resource in for the chosen economic areas. Relevant education and skills development, trained both at home and abroad where necessary are critical. The selection for the beneficiaries must be open and on merit, through a well established body and criteria.

We need a policy to encourage and facilitate nationals to participate in the development of the economy and industrialization. They should form partnerships among themselves and or with foreign investors. A serious and genuine long-term foreign investor will be most at home when in partnership with serious and confident citizens. I find it contradictory to argue that parastatals and government are poor at doing business yet sell the very parastatal to a parastatal from another country. Where there is an effective rule of law, the law should be clear and applied consistently, transparently and to the latter.

My third observation is that for the rule of law to prosper, not only do we need institutions but also the institutions need to be supported and their opinions and decisions respected. They need change of personnel at regularly agreed periods, so that institutions are not personalized, but start the process of growth and nourishment.

Because of our history, some people think that the rule of law is the absence of extra judicial kills, stealing of property and state inspired murders. That is very rudimentary. All big things start small. Those who don't obey and respect small laws will eventually forget and break the big ones too.

The final observation is on institution building at the top. Regular and orderly change of leaders is critical in moving from peace to stability, cementing investor confidence in the system than just depending on the individual, which has been a non-ending or the ever re-occurring

problem for Uganda. That only the person in power is the only one arikubasa (who can manage).

I recall in 1978, meeting a person in London who was prominent in that regime, as it was falling apart, he told us that “Amin niwe wenka akusobola”. That only Amin can manage. This person is now prominent in the current Government and was one of the promoters of amending the constitution on the guise that only one man can manage Uganda.

Had we kept the term limits and for the first time had a peaceful hand over, there would not have been creation of numerous districts at a go, there would not be black mambas and club wielding chaps, there would be no hand over of national assets arbitrarily, there would be no atmosphere of expectation and today’s topic probably wouldn’t have been relevant.

Districts are being created arbitrarily and irrationally on the basis that we are taking services closer to the people. What is closer to the people than the office of the President? In that case, Africa which has the highest number of states and hence Presidents would be most advanced and Gambia and Djibouti where every citizen can glance at the President and state house would be the most advanced. In the case of Uganda, Sebei and Madi Districts, which were created in the sixties and were fairly small, would have been the most advanced areas of Uganda. Today instead, they have been further divided to bring services closer to the people.

Term limits are crucial in the advancement of Democracy, rule of law and the stability of a nation. Some people erroneously ask the question that “before you criticize us, remember where we came from”. The question should be “how and why did we end there in the first place” and more than once.

When a leader stays in power for long, the longer that person persists in staying and sees himself/herself as the solution, the less that person remains part of the solution and slowly but surely becomes part of the problem and can eventually in reality or perception become or be seen to be not just part of the problem but the problem.

I have stated elsewhere that part of Africa 's problem is not because of bad laws but that regimes don't respect the very laws themselves have enacted. They, by not obeying the rules and laws of the parties that brought them into power, disorganize the very parties and eventually the state. The building of Democracy and the rule of law, takes time. The eating away of the same takes time too. As one Law Lord in Britain said in 1989,

*“Loss of freedom seldom happens overnight....
Oppression does not stand on the doorstep with a
toothbrush moustache and a swatika armband. It creeps
up insidiously; it creeps up step by step; and all of a
sudden the unfortunate citizen realizes that it has gone.”*

I was asked to answer a question; where is Uganda heading? The achievements in the field of Democracy and rule of law have been a collective effort, some people playing a visibly more prominent role than others but all contributing to the cumulative results.

The rule of law is not just the open activities of police, security forces etc but also observance of all laws established. There is need to enhance the struggle to ensure that laws are obeyed and institutions are accountable. There is need to ensure that the emerging attitude of some leaders both in the public and private sector of I have done it or if I do it, what can u do, is not allowed to flourish.

The issue of democracy, good governance and the rule of law is not partisan. When things go wrong even those who thought that they were beneficiaries pay the price too. We all need to work hard to ensure that what has been achieved is maintained and that we move steps further and establish higher benchmarks on which Democracy, the rule of law, and Human Rights is anchored.

In this paper I have pointed out the broader achievements, some shortcomings and major issues and challenges at hand. My intention is to provoke a spirited, informed and objective debate/discussion not just on **where Uganda is going but where Uganda should go.**

Let me hope that a general consensus will be built on where Uganda should go and what the various stake holders in their respective

capacities can do to ensure that the goal is achieved and no individual or group interest can divert us.