



The Uganda Law Society Statement Regarding the Age Limit Debate

Article 102 of the Constitution prescribes a minimum of 35 and a maximum of seventy-five as the ages of eligibility to stand for election to the office of President. A move to amend the Article started as a project of some members of Parliament, and has been adopted by a group of MPs of the ruling party, NRM, and reportedly endorsed by the both the Caucus and Cabinet. The ensuing debate within and outside of Parliament raises several issues pertinent to the Rule of Law, constitutionalism, and the popular participation of citizens in their governance.

The first issue concerns the basic principles and structures by which the enactment of the 1995 Constitution was motivated, including the need to avoid “political and constitutional instability” and the establishment of a “durable national Constitution based on the principles of unity, peace, equality, democracy, freedom, social justice and progress.”¹ Although Parliament can singularly run through the entire process of amending Article 102 of the constitution, in the spirit of constitutionalism the exercise must be consultative. That spirit is partly reflected in the *National Objectives on democracy*, and also in Article 38 of the Constitution which guarantees the civic rights of Ugandans. Constitutionalism also derives from the ethos of participatory democracy that developed alongside the making and implementation of the constitution. The constitution is an embodiment of a national consensus derived from wide consultative discussions and debates. It is therefore important that any adjustments take account of the people’s views over their nature and desirability. Government has itself proposed a consultative process through a Review Commission towards a consensus on whether, and how, the Constitution should be amended. Discussions over constitutional amendments should be widely participatory and not restricted to the chambers of Parliament.

¹ Preamble to the 1995 Constitution of Uganda.

This leads to the second issue that concerns the people's civic rights to speak, participate, and influence matters of governance whether individually, or, in association with others. The rights are guaranteed by the Constitution in provisions that guarantee *inter alia*: personal liberty, human dignity, the freedoms of, assembly, association, and expression, plus the right to participate in the affairs of government. It is evident that these rights as sought to be exercised over the current debate are not being respected and protected. Ugandans should be free to assemble and demonstrate in expression of their views, and not be unilaterally prevented from doing so by the security forces.

The police have broken up gatherings of people expressing opposition to the proposed amendment while permitting those in support of the amendment. We have seen the use of excessive force and, degrading treatment of citizens during arrests. Police has laid siege on the premises of Non-Governmental Organizations who have been active in mobilizing citizen debate on issues of good governance. These developments do not augur well for this country and our leaders are advised to review this approach.

Recommendations

1. The basic principles and structure of the 1995 Constitution needs to be given careful consideration in order not to introduce a situation of political instability and constitutional disorder;
2. Steps taken to amend the Constitution should allow for wide consultation and participation of the people, and
3. The rights of Ugandans to peacefully assemble, to demonstrate and to express their views should be respected and protected by the police.

For God and My Country



Francis Gimara

President – Uganda Law Society