



## **INDEPENDENCE DAY ADDRESS BY PRESIDENT UGANDA LAW SOCIETY**

Dear fellow country men and women, I bring you warm greetings from the Uganda Law Society (ULS).

Every year on 9th October, Independence Day is celebrated as a national holiday in Uganda to remember our nation's independence from British rule. On 9th October, 1962, Uganda gained independence after a series of movements in which many freedom fighters (our ancestors) sacrificed their lives. The idea of being an independent nation, where sovereign power lies with us to determine our future, places a huge responsibility on all our shoulders.

As we celebrate independence today, ULS has not abandoned its mission: "To Develop a Skilled and Empowered Legal Profession in Execution of its Statutory Mandate, To Foster and Improve Access to and Administration of Justice as well as Good Governance in Uganda.

Uganda law society is deeply concerned with the unending human rights violations that still continue to befall Ugandans at the hands of security agencies, Arbitrary arrests by police and men in plain clothes moving in drones are a daily doze in Uganda which we highly condemn because it goes against the constitutional rights enshrined in the supreme law of our country.

Article 20 of the 1995 Constitution of Uganda states that "the fundamental rights and freedoms of the individual are inherent and not granted by the state" and therefore these rights and freedoms enshrined in Chapter Four of the Constitution shall be respected, upheld and promoted by all organs and agencies of Government and by all persons. These acts of abducting the citizens under the auspice of security operations to curb schemes of criminality are unconstitutional and such incidences should not be ignored.



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No person should be subjected to any form of torture, cruel, inhuman or degrading treatment or punishment and any person found guilty of an offence should immediately be informed of the nature of the offence, in a language that the person understands, be permitted to appear before a court or, at that person's own expense, be represented by a lawyer of his or her choice per Article 28(3) (b) and (d). Due process should be followed to enable citizens receive fair treatment through the normal justice systems. Any other way de-legitimizes the whole process.

## **BAIL**

The media is awash with opinion about scrapping bail and ULS strongly states that the right to apply for Bail is premised on a fundamental right in our constitution. The Constitutional right of an accused person to apply for bail flows from the presumption of innocence as provided for in Article 28(3) (a) of the 1995 Constitution which states that; "An accused person is presumed to be innocent until proved guilty or until that person has accepted guilt".

The Constitution in this Article recognizes the common law presumption as a fundamental human right or an inherent human right. This therefore means that a person should only lose his or her freedom after he or she has been convicted. Thus in granting bail, courts slightly move away from the strict requirements in the law, and instead are driven more by the need to give maximum effect to the constitutional provisions.

While interpreting the constitutional provisions on bail, Justice Lugayizi observed in the case of Lahan Yahaya V Uganda. Miscellaneous Application No. 96 of 2005 that "where court is considering whether one has a constitutional right to bail, since one is to be presumed innocent until proven guilty, then it would necessarily follow that any court which denies such an accused person bail would be acting unconstitutionally".

The courts have therefore settled for the view that bail is a constitutional right which flows from the presumption of innocence under Article 28(3) (c) of the Constitution.



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This decision has since been followed by similar decisions in agreement like *Aliphusadi Matovu V Uganda – Criminal Application No. 15 of 2005*; and *Dennis Obua V Uganda – Miscellaneous Application No. 18 of 2005*. Therefore, removing bail means you are taking away one of the fundamental rights granted by the constitution which is the supreme law of this country.

We should also err on the side of caution because our prison capacity is already at over 300% meaning that we would be doing a great injustice to the tax payer who shoulders a 2m shilling burden for every prisoner annually. The ills sought to be addressed by this issue can only be addressed by dealing with the systemic challenges in our criminal justice ecosystem. Timely investigations and prosecution and the unconditional release of prisoners who have overstayed the mandatory term period would help solve the problems at hand. We therefore call on the Police, DPP and Prisons to institute reforms in their processes and systems that will ensure alignment with the expectations of the law, and the aspirations of the Ugandan people as regards access to justice, a fair and speedy trial and the presumption of innocence.

## **RULE OF LAW**

The rule of law is the keystone for order, and the key to prosperity, in all our communities. The rule of law is a shared commitment to a set of inter-dependent propositions about how people can live together under arrangements that guarantee fairness in all respects, no matter how different those people might be in any respect. I will state the propositions here:

1. That law, not force, or even the power of a personality, should regulate our lives;
2. That the law that regulates our lives is a body of rules to which at least a majority of us, in any community, has assented, and which are intended, as much as is possible, to balance competing public and individual interests;



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3. That no one, including government, is above the law, meaning that, unless expressly excepted, all rules bind all people to whom they apply;
4. That everyone is equal before the law, meaning that all rules apply the same way to all people;
5. That judges must be impartial and independent, meaning that they must not pre-judge the matters they must decide and that their judgments must result from thoughtful consideration only of the evidence led and arguments made before them;

We applaud the recent speech by His Excellency the President of the Republic of Uganda on the respect for the rule of law but security forces. This sets the right tone for the country right from the top.

As we celebrate this day, we give hope to all Ugandans that ULS has been focused on the issue of rule of law and we shall not stop until every Ugandan is a subject of the law and below it and is being protected by it.

## **ACCESS TO JUSTICE**

Access to Justice is a process which enables people to claim and obtain justice remedies through formal or informal institutions of justice in conformity with human rights standards. Justice is the amount of fairness that people experience and perceive when they take steps to solve disputes and grievances.

ULS with the support of government and other institutions like LASPNET, LASP, and JLOS has been able to address the lack of access to justice through Pro bono scheme to offer legal aid to indigents across the country with over 22 legal aid offices in different regions.

ULS has introduced a toll free call line for indigents who need legal aid services in order to bring access to justice to everyone regardless of where they are and we are determined to ensure all Ugandans access justice conveniently by increasing legal aid offices across the country and in all regions.(0800100150/1)In the end, we cannot merely say that 9th October, is solely about freedom because this day is a plethora of emotions, it



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reminds us of the pain of being enslaved, of the strength in unity, it defines sacrifice, it gives us an example that some wars can be won with non-violence and of all the things, it makes us value and cherish the freedom we have today.

It is our responsibility, as proud citizens of this country, to sincerely perform our duty and progress together for the growth and development of our country and keeping the sacrifices of our ancestors in mind, we should take an oath, to carve a better future for our motherland Uganda, to be found better stewards of power than those that came before us and to be found ready to stand for the cause of Justice because as Martine Luther King Jr stated, injustice anywhere, is a threat to Justice everywhere!

## **For God And My Country**



PHEONA WALL NABASA  
President Uganda Law Society



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