



LEARNING YOUR RIGHTS



FUNDAMENTAL RIGHTS AND THE CONSTITUTION

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FOREWORD

The national effort of creating awareness of our civic duties and rights through civic education requires constant and deserved approaches towards the attainment of the ultimate goal, an informed and confident citizens.

Street law (Uganda) is fully committed to the promotion of civic education. This has led to the preparation of these materials in the “learning the Right Series” in accordance with the mission of working for promotion of the rule of law, democracy and human rights in Uganda.

It is our hope that this medium will help increase the level of awareness of the human rights provision which exists for the benefits of all people without discrimination.

We hope in the nearest future to translate these pamphlets into major Uganda languages, so as to reach the vast number of the population who can not read and write the English language.

This effort should not be seen as an end in itself but it merely as part of the continuing process for creating awareness of human rights principles.

Solomon Webalearaali
EXECUTIVE DIRECTOR

The 1995 Constitution provides for fundamental rights and freedoms.

WHAT IS MEANT BY FUNDAMENTAL RIGHTS?

Chapter four of Uganda's Constitution guarantees fundamental rights and freedom as to every person in Uganda. This is commonly referred to as the **“Bill of Rights”**.

Fundamental rights are basic rights that we are entitled to as human beings. They are called fundamental rights because they are essential for all human beings.

They are not given to us by the state or any body but accrue to us by virtue of being human beings. The role of the state is to recognize, promote and protect them. Infact the state including all state organs as well as any person are obliged to observe, respect and protect these rights.

Fundamental rights were first universally recognized through the United Nation's adoption of the Universal Declaration of Human Rights in 1948.

Chapter four of the Constitution provides for most of these fundamental rights. The chapter also provides various channels through which one can get redress in the event of those rights being violated. The channels of redress include the Courts and the Uganda Human Rights Commission.

Question:

In your opinion, are those channels working effectively? Who is making them ineffective? Cite examples where the executive has rendered those institutions ineffective. What can be done to make them effective?

What are your fundamental rights?

Below is a summary of your fundamental rights and freedoms as set out in chapter four of the Constitution.

The right to equality and freedom from discrimination (Article 21)

1. Every person in Uganda is entitled to equal protection of the law. No matter whether one is rich or poor, woman or man, Minister or peasant,

illiterate or educated, black or white, Catholic or Protestant. All are equal before and under the law. Even political dissidents are entitled to equal protection of the law. No person may be discriminated against because of his or her race, gender, sex, ethnic or social origin, color, disability, religion / conscience, belief, culture, or language. Infact the wording of the Constitution covers non-discrimination in all spheres of life i.e. political, social, religion, economic or cultural etc.



2. While the Constitution prohibits any form of discrimination, it also provides for affirmative action. Affirmative action is meant to address certain historical injustices suffered by some sections of society in the past. The victims of such past injustices include women, girl children, people with disabilities and minority groups or tribes.

The right to life (Article 22)

No person shall be deprived of life intentionally except in execution of a death sentence passed in a fair trial by a Court of competent jurisdiction in respect of a criminal offence and the conviction and sentence must have been confirmed by the



highest appellate Court. In Uganda the highest appellate Court is the Supreme Court.

What is your say on the death sentence? Is it a violation of the right to life?

The right to personal liberty (article 23)

You have the right to be free. You should not, for example, be detained without lawful cause. You are free to move as you wish and in case of arrest and detention, it should be in a place authorized by law.

You should also be only arrested for contravening a written law. The offence with which you are charged should be properly defined and the punishment is prescribed by the law creating the offence. . No body should be arrested for violating a non written law. No body including the President has powers to make a law by word of mouth.

Detainees and prisoners have the following rights;

1. To be presumed innocent until proved guilty or until the accused pleads guilty.
2. To be detained in gazetted places
3. To be informed in a language they understand of the reasons for their arrest.
4. To be kept under humane conditions,
5. To consult with a lawyer of their choice.
6. To be visited by a spouse, next of kin, priest or doctor.
7. To be taken to Court within 48 hours after arrest.

Do law enforcement agencies in Uganda respect and uphold these rights? What can be done to force them to uphold these rights?

The right to human dignity (article 24)

The Constitution provides that no person in Uganda shall be subjected to any form of torture or cruel, inhuman or degrading treatment or punishment. Your body should be respected by every one else. You should be treated with dignity. This right also extends to persons under arrest and convicted prisoners. In this regard Corporal punishment is outlawed.

Property rights (article 26)

All Ugandans have the right to own property. No person maybe arbitrarily deprived of his/her property except in accordance with the law. E.g. the state may compulsorily takeover your land for purposes of putting up a hospital or school on the property. However when that happens, you must be promptly and adequately compensated.

Corporal punishment was a few years declared by the Constitutional Court to be cruel, inhuman and degrading and has since been outlawed by our laws. As such Teachers or other persons who still subject pupils or others to corporal punishment violate the children's rights. They should be reported to police for assault. They can be changed in Court and if convicted may be fined or jailed depending on the circumstances.

The right to Privacy: (Article 27)

Just like the right to dignified treatment, every person has a right to privacy of person or property. In this regard no person should be subjected to searches which are unjustified.

The right to fair hearing: (Article 28)

It is believed that this is perhaps the most important Article in the Constitution. It is very broadly enacted and covers aspects such as trial in public, undue delays in trial,



presumption of innocence, entitlement to legal representation trial during your presence, trial for an offence for which is defined and punishment therefore prescribed as well as double jeopardy i.e. trial for an offence for which one was earlier punished etc. etc.

The rights to religion, belief and opinion (Article 29)

You have the right to practice whatever religion you wish without interference including African traditional religions.

You also have the right to freedom of conscience, thought, belief and opinion.

You may not unlawfully be forced to do some thing against your conscience.



The right to freedom of speech and expression (Article 29(1) (b))

This is the right to say what you like, even speaking out against the government, or putting forward a view that is not popular provided that you do not break the law. For example, you may not spread false rumors about some body or insult their character. If you do so, you may be sued for defamation. However you may not be punished for openly stating that you do not like the president.

Freedom of expression also includes freedom of the media (news papers, radio and television), artistic and creative works (Artists, singers, actors and performers) and scientific research.



The rights to freedom of assembly, (Article 29(i)d)

All people are free to have speak and air their views or to express their feelings, meetings, demonstrations and present petitions as long as they do so peacefully. Insistence by the government and police that people should get permission of the police before demonstrations is unconstitutional.

The rights to freedom of association [Article 29(1) (e)]

You have the right to join any lawful organization of your choice. In the past, certain political parties were banned by the party or government in power. This is no longer allowed and people are free to join political groups of their choice as long as they act within the law.

The rights to freedom of movement [Article 29(2) (b)]

All Ugandans have the right to move freely in and out of Uganda. The right of freedom of movement includes the rights to leave and return to Uganda without hindrance. You may choose to live any where in Uganda. No one can stop you

from living in any place because of your ethnicity and no part of Uganda is reserved for people of a single ethnic group. There is no such a thing that land in a given district belongs to the indigenous people of a particular district.

The right to a passport (Article 29(2)(C))

As a Ugandan citizen, you have a right to a passport or other travel document to enable you travel out and return to Uganda.

Women's rights (Article 33)

Women have the right to be accorded full and equal dignity of the person with men.

Children's rights (Article 34)

Children offenders who are detained must be treated in a manner that takes into account their young age and should be kept separately from adult offenders lest they catch the bad habits of the adult offenders and become hardened Criminals. It should be noted that the rights of women and children rights above are brain children of the disadvantaged



sections of society which the position the 1995 Constitution addresses in what is termed “affirmative action”.

Culture (Article 37)

All people have the right to a language, culture, custom and tradition of their choice. However all cultural practices and customs must be in conformity with the principles of justice, equity and good conscience.

Economic activity (Article 40)(1)(a)

All Ugandans have rights to work under satisfactory, safe and healthy conditions. In this regard a number of Laws are in place to guarantee this right e.g. the occupational safety and Health Act, the Employment Act etc.

Labour relations. (Article 40)(3)

You have the right to just labour practices at the place of work. This means that you may not be unfairly dismissed or treated unjustly in the work place. For example you may not be deprived of your pay during sick leave. Ugandan workers have a right to join trade unions as well as the right to go on strike. What are some of the unsafe and unhealthy conditions under which government employees’ work in Uganda?

What about employees in the private sector?

Administrative justice (Article 42)

Government officials must act fairly and lawfully towards you. You are entitled to reasons for administrative decisions. For example if there is a decision by a municipal authority to withdraw your license or permit for your business, you have the right to observance by the administrative organ to principles of natural justice i.e. to be heard, to be represented, and to ask for a written explanation for their action. If they are found in the wrong. The High Court may review their decisions in which case they may be compelled to grant the

licence to you.

FUNDAMENTAL RIGHTS THAT CAN NEVER BE TAKEN AWAY EVEN UNDER STATE OF EMERGENCY (Article 44)

Although some rights may be taken away during a state of emergency for purposes of restoring law and order, there are certain fundamental rights that should not be taken away even under the state of emergency. These are otherwise referred to as non-derogable rights and these include;

- Freedom from torture and cruel, Inhuman or degrading treatment or punishment.
- The right to a fair hearing.
- The right to an order of habeas corpus.
- Freedom from slavery or servitude.

THE UGANDA HUMAN RIGHTS COMMISSION

Article 51 of the 1995 Constitution established the Uganda Human Rights Commission headed by a person qualified to be a judge of the High Court. The functions of the Uganda human rights commission are;

- To investigate human rights violations in occurring in any part of the Uganda.
- To visit prisoners in any detention Centre for purposes of assessing the conditions of the detained persons and making recommendations.
- To educate the public about human rights.
- To hear and preside over cases of victims of human rights violations.
- To monitor the governments' compliance with international treaty and

convention obligations on human rights.

POWERS OF THE COMMISSION

- To question any person in respect of any subject matter under investigation before the commission.
- To issue summons requiring the attendance of any person before the commission to answer charges of human rights violations.
- To jail any person for disobeying its orders.
- To order the release of any body unlawfully detained by another person or authority or institution.
- To order payment of compensation to a victim of human rights violation

Access to Court (Article 50)

Every person who feels that their fundamental right or freedom guaranteed under the Constitution has been or is threatened to be infringed has a right to apply to a competent Court for redress.

The Courts must serve all Ugandans equally and fairly. It is your right to have your disputes settled by an independent and impartial organ, the Court.