



## THE ULS 10<sup>TH</sup> ANNUAL RULE OF LAW SYMPOSIUM



6<sup>TH</sup> OCTOBER 2017

KAMPALA SERENA HOTEL

**THEMES:**

**“ENVIRONMENTAL RIGHTS AND JUSTICE: ASSESSING THE  
LAW AND PRACTICE IN UGANDA”**

**“THE AGE LIMIT AMENDMENT, POLITICAL, SOCIAL AND  
CONSTITUTIONAL IMPLICATIONS”**



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## SUMMARY OF OPENING REMARKS:

### MRS ALICE NAMULI-BLAZEVIC, VICE PRESIDENT, UGANDA LAW SOCIETY:

*“We want to introduce the Rule of Law culture amongst young leaders.”*

Speaking to a full house in Victoria Hall, Serena Hotel Kampala, Mrs. Namuli-Blazevic highlighted that the ULS is increasing the visibility of its Rule of Law Department and has published 3 quarterly reports concerning the key issues, gaps in the laws and recommendations. She also noted that ULS is targeting academic institutions to introduce the culture of the Rule of Law amongst young leaders. She thanked the keynote speaker, panelists and audience for attending the symposium.



### MR DANIEL M WALYEMERA, AG CHAIRPERSON, UGANDA LAW SOCIETY:

*“Environmental justice operates within the larger issue of the amendment of the Constitution.”*

Mr. Walyemera convened the meeting and linked the day's two themes together with the above quote. He also stated that in the view of ULS, environmental justice has been ignored in Uganda, despite its importance to the country. As the Rule of Law committee, environmental justice should be brought to the forefront.

## SUMMARY OF PROCEEDINGS:

### PANEL 1: ENVIRONMENTAL RIGHTS AND JUSTICE: ASSESSING THE LAW AND PRACTICE IN UGANDA

#### **Keynote Address: The Law, Insights and Emerging Policy on Environment and Climate Change**

Delivered by: Ms. Christine Echookit Akello – Deputy Executive Director, National Environment Management Authority

*“The environment sustains our economy.”*

Ms. Akello highlighted several statistics regarding the contribution of the environment to Uganda’s national development. Firstly, a survey done in 2007 revealed that forests and wetlands contributed 4.9 billion US dollars per year towards Uganda’s revenue. Another survey found that 6.8 billion dollars per year would be lost if the environment was not actively protected. Water resources contribute 3.5% to Uganda’s development.



She then highlighted the current challenges. Forest resources are depleting faster than they are being replenished through deforestation and land use. Water catchment areas are dwindling, which affects water availability and quality. She also made several recommendations both as keynote speaker and as a panelist, which are highlighted in the next section.

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## PANEL DISCUSSION:

The Symposium featured an interactive panel discussion by a selection of distinguished panelists from relevant stakeholder institutions on diverse topics pertaining to the state of our environment, its implications and their impact on the Rule of Law. The panelists included Justice Kenneth Kakuru - Justice of the Court of Appeal; Mr. Frank Tumusiime - Coordinator and Senior Research Fellow for Advocates for Natural Resources and Development; Mr. Onesmus Mugenyi, Deputy Executive Director - Advocates Coalition for Development and Environment and Chemonges Sabilla, Deputy Director Legal and Corporate Affairs, Uganda Wildlife Authority.

The key emerging issues in the panel discussion were the diseases caused by environmental degradation, the sufficiency of the current legal framework, the legal actions that can be taken during land disputes, the role of lawyers in land disputes and the gaps in implementation of the law.



The following were the recommendations made by each panelist.

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## RECOMMENDATIONS FROM KEYNOTE SPEAKER CHRISTINE AKELLO, DEPUTY EXECUTIVE DIRECTOR, NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY:

*“We must make the link between environment and livelihood.” “The environment sustains our economy.”*

1. Always read certificates carefully, to see if a project is indeed NEMA-approved. Many certificates are forged.
2. Waste generation should be minimised.

3. In the National Development Plan II of Uganda, three areas (that are related to the environment) are prioritised namely Agriculture, Tourism and Minerals. However, proper investment must be made in these sectors.
4. The budgetary allocation to the environmental sector is always around 3%, yet sectors that are dependent on environment are allocated so much more. This should be addressed.
5. Industries that are highly dependent on natural capital i.e. the environment, should invest in the environmental sector.
6. We have to rethink the extraction of minerals.
7. Innovative solutions to development issues must be found.
8. Environmental literacy should be promoted.
9. We must invest in infrastructure and electricity to bring in revenue.
10. We must detox our bodies regularly.

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#### RECOMMENDATIONS FROM PANELIST JUSTICE KENNETH KAKURU, JUSTICE OF THE COURT OF APPEAL:

*“What is happening <in environmental justice> is not because of institutions, but because of individuals. You should do more, and lament less.”*

1. The current legal framework is sufficient. Individuals need to get more involved in the enforcement of the current laws. You should take people to court.
2. You should test the legal framework before you judge it.
3. Ugandan lawyers should go online and join other lawyers from all over the world, in discussing these environmental issues.

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#### RECOMMENDATIONS FROM PANELIST FRANK TUMUSIIME, COORDINATOR AND SENIOR RESEARCH FELLOW FOR ADVOCATES FOR NATURAL RESOURCES AND DEVELOPMENT:

*“As humans we have drafted these laws in the context of human rights, not universal rights.” “Climate change is an emerging form of injustice.”*

1. As a lawyer, you should always first look at the environmental impact assessment (EIA) of a project being contested.
2. NEMA needs more qualified environmental inspectors.
3. We should think of new approaches in development. We should especially reduce timber usage.
4. His organization can provide the expertise for testing the contamination of water, and other environmental issues. The evidence can then be used in court.

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RECOMMENDATIONS FROM PANELIST ONESMUS MUGYENYI, DEPUTY EXECUTIVE DIRECTOR, ADVOCATES COALITION FOR DEVELOPMENT AND ENVIRONMENT:

*“The law is not being enforced.”*

1. The issue is not the law, but the custodians of the law. The biggest challenge is that law is not being enforced by either the institutions or individuals in authority.
2. The penalties are not equivalent to the offence. There is no incentive for people to do the right thing.
3. We need adequate punishments and fines.

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RECOMMENDATIONS FROM PANELIST CHEMONGES SABILLA, DEPUTY DIRECTOR LEGAL AND CORPORATE AFFAIRS, UGANDA WILDLIFE AUTHORITY:

*“Every Ugandan has an obligation to protect the environment and natural resources.”*

1. There are gaps in the laws and policies but overall the laws are fine, if goodwill and enforcement is there.
2. Ugandans should take more interest in issues of environment.
3. Ugandans should protect the environment and natural resources of the country.

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KEY EMERGING ISSUES IN PLENARY:

The plenary included questions from the audience, which were later addressed by the panelists, about the following issues: immunity and impunity of foreign investors; how non-lawyers can enforce the law as recommended; seemingly conflicting constitutional articles (land usage laws and ownership laws).

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RECOMMENDATIONS FROM GENERAL PLENARY:

1. It is very important for all Ugandans, especially those born in the city, to seek out knowledge about the different types of trees that should or should not be planted in different areas, in order to minimize destruction of the environment while farming.
2. Common knowledge about the environment is important.

## PANEL 2: THE AGE LIMIT AMENDMENT, POLITICAL, SOCIAL AND CONSTITUTIONAL IMPLICATIONS

### Address by Moderator Bruce K. Kyerere, Uganda Law Society:

Mr. Kyerere welcomed the audience and panelists, then gave informative historical context to the topic at hand. Key quotes from his address include:

“A constitution is a set of guiding principles by which society is governed. It is a social contract between constituents and the leaders we elect.”

“Uganda’s history of <leaders over throwing leaders> reigned on the conscience of the constituent assembly, so the 1995 Constitution was based on avoiding those past actions.”

He also quoted one of America’s ‘founding fathers’ Thomas Jefferson as saying, during the creation of the American constitution that, “The people have two enemies: criminal and the government.”

Mr. Kyerere then made the link that, “The Constitution is a limiter of exercise of power.”



### PANEL DISCUSSION:

The key emerging issues in the second panel discussion were whether the Constitution should be altered, the extent to which the Constitution can be altered, the due process involved in altering the Constitution, and the ways in which the Constitution and the concept of ‘due process’ have not been upheld during arrests of protestors.





The following were the recommendations made by each panelist:

RECOMMENDATIONS FROM PETER WALUBIRI, CONSTITUTIONAL LAWYER AND PARTNER AT KWESIGABO, BAMWINE & WALUBIRI ADVOCATES:

*“The Constitution was written and sustained under a dictatorship, and was never meant to be durable. When shall we as a nation sit down to write a proper, durable Constitution?”*

1. The most enlightened people in society such as lawyers and the media, must be at the forefront of the liberation of their people.
2. We need to collect affidavits of all those who have been arrested and battered while challenging the bill.
3. Lawyers should get out of their chambers.

RECOMMENDATIONS FROM IRENE OVONJI-ODIDA, EXECUTIVE DIRECTOR AT FIDA UGANDA:

*“As lawyers, we know that the process is as important as the outcome. Should you dare touch the Constitution, do it through due process.” “The ULS is a privileged group but other NGOs have been raided.”*

1. The spirit of the Constitution must also be considered. It should not be touched.
2. Lawyers should look at the processes of arrest, detainment of recent protestors and other actions in past few weeks. We should go to court and challenge these processes.
3. Lawyers should also look at the process of the Speaker throwing out the Opposition.

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#### KEY EMERGING ISSUES IN PLENARY:

During the plenary, audience members including Lord Mayor Erias Lukwago, legal practitioners and students had strong opinions on the topic and offered the following recommendations:



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## RECOMMENDATIONS FROM GENERAL PLENARY:

1. An extraordinary meeting should be held regarding this issue, today was not sufficient.
2. Lawyers need to address this issue seriously and act in the spirit of those who wrote the Constitution. The ULS needs take a unified stance.
1. Women should unite against this age-limit removal. (ULS and Judicial Service Commission)
2. The ULS should go beyond statements to name and shame errant officials. (Lord Mayor Erias Lukwago)
3. As the ULS, we should protect everyone whether for or against the bill.
4. As a legal fraternity, we should isolate those defiling the Constitution. We should not represent them. (Moderator David Rubongoya)
5. The ULS needs to isolate the lawyers working on the bill (President of Makerere University Law Society).
6. We should make provisions that in case the bill is passed, the Opposition should at least be strong enough in the upcoming elections.
7. The ULS should set up a fund to fight the age-limit removal.
8. The ULS should adopt the tactics of the President i.e. using private members to enforce an agenda.
9. We need a country with proper laws (student)
10. Someone above 75 years cannot lead a nation (student)
11. Term limits should be restored.