

## UGANDA LAW SOCIETY STATEMENT ON 10<sup>TH</sup> AUGUST 2016 ATTACK ON THE COURTS AND MEMBERS OF THE LEGAL PROFFESSION

The Uganda Law Society has learnt, with dismay, of the unfortunate siege of the Chief Magistrates Court at Makindye yesterday morning 10<sup>th</sup> August 2016. A multitude of demonstrators, armed with placards, stormed the court premises in a furious attempt to frustrate the impending trial of the Inspector General of Police Chief General Kale Kayihura and other officers. Whilst any member of the society has the right to demonstrate under the Constitution, we are concerned that the angle this demonstration took was nothing but an attack on the Judiciary and the members of the legal profession.

We respond as follows in respect to the events of yesterday:

## 1) REGARDING THE ATTACK ON THE JUDICIARY

The Courts are the custodians of Law and of Justice and for this reason, the rule of law depends both on the proper performance of their mandate and on the public's acceptance, compliance, and support of the said mandate. The weight of their office inevitably demands a high level of respect and dignity. Art 128 (3) of the Constitution requires all organs and agencies of the State to accord to them such assistance as may be required to ensure their effectiveness.

Whereas it is generally accepted and constitutionally preferred that criminal trials be heard in open court, Art 28 (2) of the Constitution creates a legal exception to the extent that the public may be excluded from the proceedings of court for reasons, inter alia, of public order. This is because court process should as much as possible not be disrupted by noise or disorder. The constitutional mandate to preserve law and

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order and to protect life and property is unquestionably vested in the Uganda Police Force.

The Uganda Law Society is therefore deeply concerned by reports that the chaos that erupted at the Chief Magistrates Court of Makindye yesterday proceeded under the indifferent watch of officers of the Uganda Police Force.

We understand that demonstrators chanted and run wildly around the court premises in an apparent attempt to dissuade and intimidate the Chief Magistrate, His Worship Richard Mafabi from presiding over the scheduled trial.

We are constrained by these unfortunate events to remind the State, its agencies and members of the public that the Independence of the Judiciary is one of the greatest indicators of the Rule of law. Art 128 (2) of our Constitution expressly prohibits any person or authority from interfering with the courts or judicial officers in the exercise of their judicial functions.

The Uganda Law Society therefore condemns in the strongest term possible the acts of unlawful interference with the court process orchestrated by the said demonstrators on the 10<sup>th</sup> of August 2016 under the watch by police officer. The Courts of Judicature should be allowed to perform their judicial functions without interference and threats.

## 2) ATTACK ON THE MEMBERS OF THE LEGAL PROFFESSION

Art 40 (2) of Uganda's Constitution preserves the right of every Ugandan to practice his or her profession and to carry on any lawful occupation. In addition, the Constitution guarantees for all citizens the right to property, liberty and life. Indeed these rights are operationalized by Art 20(2) and Art 221 of the Constitution which impose on the Uganda Police Force the duty to observe, respect, uphold and promote the rights and freedoms guaranteed under the Constitution.



We have been informed that the demonstrators of yesterday's attacks carried out various acts of intimidation and violence upon the persons and property of some of the lawyers who instituted criminal charges against a section of officers. Members of the legal profession were threatened with lynching, temporarily blocked from accessing court premises and trapped in the Magistrate's chambers in fear of their own safety. Indeed, the fray resulted in the stoning of a car belonging to one of our members Advocate Abdallah Kiwanuka of Lukwago & Co. Advocates.

It should be remembered that the Government of Uganda, as a member of the United Nations, has by the Art 16 of the "1990 United Nations Basic Principles on the Role of Lawyers" committed to;

'ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

The 1990 United Nations Basic Principles on the Role of Lawyers (Art 17) further require that 'where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.'

We wish to remind both the Police and the members of the public that:

- a) The legal profession is an occupation like any other; the exercise whereof is motivated, inter alia, by prevailing justice.
- A lawyer has a professional duty to represent his or her client and it is his or her right to do so.
- c) Lawyers do not necessarily share the opinions of their clients and should not, under any circumstances, be targeted or victimized based on the identity of these clients.
- d) It is the constitutional right of every person to participate in and ascribe to any given thought, conscience or belief and it is illegal and unconstitutional to discriminate against any person on these grounds.

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We acknowledge and applaud the Chief Magistrate of Makindye Richard Mafabi for protecting the legal community in his chambers as we mobilized for their exit from the Court. We also thank the Police especially the commander of the Kampala Metropolitan Police Frank Mwesigwa for providing safe passage that ensured the safe exit of our members from the court premises.

We however insist that happenings of yesterday morning should never have happened at all if Police had acted professionally and lawfully from the beginning.

In the premises, Uganda Law Society demands:

- a) That all persons and authorities should respect the sanctity of the courts, support the due process of the law and allow both judicial officers and lawyers as officers of court to perform their respective duties without intimidation or harassment.
- b) An expeditious and thorough inquiry into the circumstances surrounding this unfortunate development be conducted and measures be taken to bring perpetrators to book.
- c) The police should ensure that it does not waiver from its constitutional mandate to protect life, property and liberty of citizens at any one given time even when the case is against its officers.

The Uganda Law Society on its part undertakes to:

a) Ensure compliance by all organs and persons with the Constitution and all laws of Uganda We intend under our rule of law project to investigate and compile a list of notorious human rights' violators and trangressors of the law for possible legal and political action.

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b) Consult with all the stakeholders on the next steps the legal profession should take should there be a repeat of the above unfortunate incident.

FRANCIS GIMARA

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