

PUBLIC DIALOGUE ON THE IMPLICATIONS OF RECENT DEVELOPMENTS IN KAMPALA CITY ON DEMOCRATIC GOVERNANCE

In pursuit of its mandate as an academic centre of human rights under the School of Law at Makerere University, the Human Rights and Peace Centre (HURIPEC) took keen interest in the contestations that have been taking place in Kampala Capital City Authority and what this state-of-affairs implies for democratic governance in Uganda.

HURIPEC not only teaches human rights but also organises seminars, workshops, conferences and publishes working papers as well. The East African Journal of Peace and Human Rights is one of its well-regarded publications.

In the recent past, there have been efforts aimed at “ordering the City, some of which have been initiated by legislative enactments. Some of the efforts have led to clashes between the imperative for service delivery and respect for democratic rights/values of participation and representation.

A number of initiatives at “ordering the city” have their justification embedded in the Kampala Capital City Authority Act 2010 (KCCA Act, 2010). It makes provision for how the Capital City is to be administered by the Central government, pursuant to Article 5 of the Constitution of the Republic of Uganda 1995.

The unintended consequences of this law have farther been tremendous, including frequent friction between the Lord Mayor on the one hand and the Executive Director and some Councillors on the other. Among the outcomes of this has been delays in implementation of policies and service delivery to the people in the City.

It is against the above background that a public dialogue titled: “Ordering the City” With or without the People? Implications of Recent Developments in Kampala Capital City Authority on Democratic Governance”, on 24 April, 2014, to create a platform that draws together academia, practicing lawyers, politicians, students and interested members of the public to objectively discuss the KCCA Act 2010, likely implications of the Lady Justice Bamugemereire Tribunal Report and right(s) such as political participation.

Dr Busingye Kabumba set the pace with his erudite Keynote Address which focused on five questions:

whether Ms Musisi is just a technocrat or a politician as well...and whether the Executive Director, be it the incumbent or any other, is in a position to divorce themselves of the partisan interests of the appointing authority because the obtaining situation looks like more of a contestation between an appointed *politician* and an elected politician.

What the operational definition of development for KCCA is, what it means, for whom, how it should be attained and what may or may not be sacrificed to achieve it et cetera.

How politics, economics, law and power – in the *Foucaultian* sense interact in a situation where there is a fusion of state and ruling political party; and additionally, how do we explain/understand the 2005 Amendment of the Constitution, the 2010 KCCA Act (as legal Acts) within the social, political and economic context that informed their passage, their content as well as their current and/or (mis)application?

Shouldn't we, perhaps, view this situation as political and prescribe a political remedy?

How does the KCCA question reveal the often understated problem of class struggles in Uganda and Kampala?

The first Discussant was Mr Nicholas Opiyo. He argued that what is happening at the KCCA isn't new; it is what has been happening across Uganda only that it is now more prominent since it is happening in the country's Capital.

The contestation between popularly and democratically elected representatives on the one hand and presidential appointees on the other is a phenomenon that has continued unabated amidst the purported decentralization program which was launched during the incumbent regime's early years.

Mr. Opiyo made mention of the fact that Kampala had for long politically eluded the ruling party's control. The intention behind the enactment of the KCCA Act 2010 was to forcibly wrest Kampala from the grip of the Opposition which had won successive mayoral elections.

The second Discussant was Ms Lillian Muyomba-Tamale who noted four things that ought to always be put into consideration whenever "development" of the City is being discussed, namely:

- i) The principle of development must be balanced with the representation of the people:
- ii) Development cannot be divorced from the people's views:
- iii) Where there is conflict between the law and politics, the antidote should be political: political problems cannot be legislated away:
- iv) Particularly for Uganda, the fusion between the State and the ruling NRM party is something that must be undone: That way, Local Governments will be able to actualize the devolution of administrative, revenue collection and legislative functions:

Power shouldn't theoretically belong to the people...it must be seen to functionally lie with the people.

Ms Lillian Muyomba-Tamale was followed by Hon. Medard Ssegona, who, as one of the lawyers at the heart of the litigation, began by disclosing his vested interest in the topic at hand.

The mainstay of Buganda's former Minister of Information was on the question of the substitution of the Rule of Law by Rule by Law and what he referred to as "the individualization of institutions and the institutionalization of individuals."

He decried the deplorable state of constitutionalism which, insofar as KCCA is concerned, manifests itself in the recklessness with which certain arms of government, particularly those that have the backing of the state's coercive apparatus like the Police behave.

Mr Kirunda was the final Discussant who began by interrogating the conceptual understanding under which the technical team at KCCA operates. He wondered whether development implies the impoverishment and maltreatment of other human beings for the benefit of others, often a miniscule minority.

Mr. Kirunda concurred with Mr. Nicholas Opiyo's assertion that power, under the current establishment, does not and cannot be in the hands of the people unless remedial steps are taken to alter the balance of power in favour of the citizen.

Both the Lord Mayor and the Executive Director of KCCA were invited but it was only the Lord Mayor who showed up; he was given a few minutes to make some comments:

Hon. Lukwago stated that the KCCA Act contravenes the Constitution in many ways: Article 5(4) of the Constitution categorises Kampala as the capital city of Uganda.

He decried the fact that the KCCA has unabashedly purported to close the Kampala District Land Board and even confiscated land titles under the board's custody. He reiterated queries raised by the Parliamentary Committee on Local Government about accountability for the Shs148 billion given to the authority for Financial Year 2011/2012.

He stated that the technical team headed by Ms. Musisi has no regard for Article 251(2) of the Constitution which requires her to implement the majority vote. Instead, she runs roughshod over Councillors and the Lord Mayor with impunity.

Hon Lukwago took exception to the apathy of the middle class or the so-called corporate-elite who define themselves as being "apolitical" and as such not concerned about the goings on in Kampala City.