

**CRITICAL ANALYSIS OF THE APPLICABILITY OF ARTICLE 4 OF
CONSTITUTION OF THE REPUBLIC OF UGANDA**

**BY
HIMBAZA COLLINES
LLB/41142/133/DU**

**UNDER SUPERVISION
OF
WAHAB AMINA**

**A RESEARCH REPORT SUBMITTED TO THE SCHOOL OF LAW
IN PARTIAL FULFILLMENT OF THE REQUIREMENT FOR
THE AWARD OF BACHELOR OF LAWS DEGREE
[LLB] OF KAMPALA INTERNATIONAL
UNIVERSITY**

JULY 2017

DECLARATION


I, **HIMBAZA COLLINES** hereby declare that this research paper is the result of my own investigation and findings except where stated, and that this paper has not been presented and will not be presented to any other university for a similar or any other degree award.

Signature.....

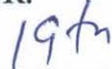
Signed this.....^{19th}.....day of July 2017.

CERTIFICATION

I have read this paper and found it to be in a form acceptable for examination.

Signature: 

SUPERVISOR.

Signed this day of July 2017.

COPY RIGHTS STATEMENT

© Himbaza Collines 2017

All rights reserved. NO part of this research paper may be reproduced, stored in a retrieval system, or transmitted in any form or by any means without the prior permission in writing of the researcher or as expressly permitted by the law.

DEDICATION

I would want to dedicate this fruit of my hard and demanding work to my loved ones with specialty to my family especially my Dad **TUMWIZERE AUGUSTINE MBONYE** and Mum **FLORANCE MBONYE**, MY Siblings **NICODEMOUS** and **PIUS** plus the Beloved twins of the family **ANN MARY** and **ALPHOCINAH** whose endearing desire for me to pursue education; their financial and moral support, did create an enabling environment for me to achieve this cardinal goal.

To my loving Fiancé;

VIVIAN AKULLU who timelessly and generously stood by me during all this period of study. Her never ending encouragement kept me strong throughout this period of study.

MAY THE ALMIGHTY GOD BLESS YOU ABUNDANTLY.

ACKNOWLEDGEMENT

The inscription of this paper and my education as a whole made a considerable demand on different and various that jam more obligated to extend my very appreciation for each and everyone's contribution of any kind given unto me. However Iam limited of my ability to mention everyone individually thus extend my sincere thanks to everyone who assisted me in sphere of life regardless of its antiquity.

First and fore most all the Glory and Honor goes to the Almighty God for his endless love and mercies He has shown ME. This achievement would be impossible without his Strength, Protection, Providence and Glory through my period of study.

He is indeed **EBENEZER!**

Special thanks to my loving family DAD and MUM. It would render it unfair if I failed to acknowledge and appreciate their perpetual unconditional prayers and financial assistance regardless of sacrifices therein asked of them especially my cousins **ELIJAH BASAZA, MUGISHA CHARLES BASAZA, CHIMPAYE CHARITY BASAZA** and my two beloved Aunties **AUNTY HOPE BYARUHANGA and AUNTY JOLLY BASAZA.**

I am not short of appreciation to my supervisor MADAM WAHAB AMINA for encouragement, comment and criticisms which were a positive drive through the progression of each research and a preparation of this paper.

I highly acknowledge my sweet fiancé VIVIAN AKULLU for moral and financial support and all sacrifices she made for me.

More appreciation I send to my companions, classmates, and all who made my academic and social life wonderful and memorable at Kampala international university [kampala-uganda] especially **OCEN GABRIEL and OBILENG PIUS.**

So much I would want to offer but nothing outrages the value of our saying **THANK YOU.**

YOU HAVE BEEN FAR TOO KIND.

ABSTRACT

This research paper consists of the critical analysis of applicability of Article 4 of the 1995 constitution of the Republic of UGANDA.

The First chapter defines and makes an analysis of the problem, its background, the coverage of the study, methodology along with the statement of the problem, objective of the study, Hypothesis, significance of

study, and with the review of the related Literature of the study at hand.

Chapter Two covers the Historical Review of the awareness of the constitution as provided for and Non- Intervention of the constitution. It puts forward the concept of Non- Intervention, constitutional limitation on intervention, colonial Uganda. Post-Colonial, and U GANDA Today [NRM REGIME].

The Third chapter discusses the issue of applicability of ARTICLE 4 of the 1995 constitution with the notion of an awareness, limitation of a wareness, challenges of applicability, Human rights violation due to un a wareness.

Chapter Four discusses the enforcement of Article 4 of the constitution laying down the background of Article 4(1) and (2) of the constitution, enforcements by NGO'S, Enforcement by citizens and stake holders and finally Enforcement by the government.

Chapter Five discusses the Observation, recommendation, and conclusions in respect to the problem illuminated in the work.

ABBREVIATIONS OF TERMS

ALL ER.....	All England Law Report
Art	Articles
Costn.....	Constitution of the Republic of Uganda
DPP	Director of Public Prosecution
Esp.....	Especially
Gov't.....	Government
HCD.....	High Court Digest
HCB	High Court Bulletin
JALO	Judicature Application of the Laws Ordinance
KIU	Kampala International University
KCCA	Kampala Capital City Authority
LRU	Law Reports Of Uganda
OIC	Order-In-Council
PP	Pages
ULR	Uganda Law Report

TABLE OF CONTENTS

TABLE OF CONTENTS	I
CHAPTER ONE.....	1
1.0 INTRODUCTION	1
1.2 Statement of the Problem.....	2
1.3 Purpose of the Study.....	4
1.4 Objectives of the Study.	4
General Objectives.....	4
specific objectives.....	4
1.5 Scope of the Study.....	5
1.6 Significance of the Study.	5
1.7 Literature Review.....	6
1.8 Methodology.....	9
2.9 Hypothesis	10
1.10 Chapterization.....	10
CHAPTER TWO.....	11
2.1 The Concept of Intervention:.....	11
2.2 Constitutional Limitations on Intervention.	12
2.3 Colonial Uganda.....	14
2.4 Post Colonial.....	17
2.5 Uganda Today [Nrm Regime]	20
CHAPTER THREE.....	23
APPLICABILITY OF ARTICLE 4 OF THE CONSTITUTION.....	23
3.1 Notion of Legal Awareness.	23

3.2 Limitation of Awareness	26
3.3 Challenges of Applicability.	29
3.4 Human Rights Violation due to Unawareness of the Constitution.....	33
3.5 Universal Scope of its Applicability.	40

CHAPTER FOUR 43

ENFORCEMENT OF ARTICLE 4 OF THE CONSTITUTION..... 43

4.1 Background of Article 4(2) of the Constitution.	43
4.2 Observation of Article 4(1) of the Constitution.	46
4.3 Enforcement by Ngos.	47
4.4 Enforcement by Citizens	49
4.5 Enforcement by Government/ State Responsibility In Enforcement.	50

CHAPTER FIVE 53

5.1 Observations.	53
5.2 Recommendations	54
5.3 Conclusion.....	58

CHAPTER ONE

1.0 Introduction

Awareness of the condition is based on constitutionalism where in all citizens or all people have known what its all about so that no one is affected by article 2 of the constitution even though article 1 grants powers to people of the country. Before the coming of the British people had customs which they were subjected to and they were aware about these customs which they were subjected to and they were aware about these customs even though these customs were oppressive in one way or the other but they were governing and everyone subjected to them and helped in guarding fundamental intensions of the above rules.

The rationale behind the awareness of the constitution is to limit in lawful excuses violation of the law even limit ignorance of the law which is no excuses.¹ Therefore the law under Article 4 intended to impute knowledge of all laws to all person within the jurisdiction no matter how transiently. Even though it would be impossible, even for some one with substantial legal training to be aware of every law in operation in every aspect of the states activities therefore a mere willful blindness of the law cannot become the basis of exculpation. Thus it well settles that persons engaged in any undertaking whether in schools, institutions military institution even in local communities are meant to be subjected to awareness of the grund norm in sense of engaging in the undertaking and if not they cannot complain if they incur

¹ Wikipedia Ignorantia Juris non excusat.

it difficult in applying Article 4 because of the above challenge of language and the geographical set up of the country.

Traditionally the applicability of awareness of the constitution has been fundamentally neglected. Thus why fundamentally of human rights have been violated because of awareness in the public.

Uganda being an under developed country adopted the provision of a maxim of awareness of the constitution blindly from its colonial masters. Thus Uganda lacks the necessary machinery in the application of the provision and further more poverty is also found in the entire law system as there are a lot of problems associated with the central poverty, illiteracy and gender issues which all make it almost impossible for the provision to be valid.

AS PER Dan M Kahan (Political Economy of the Bankruptcy Reform Act of 1978) October 2003.

"Mistake of law doctrine gives individuals an incentive to be guided instead by their understanding of community, moral, norms and condemns those who fail to learn and obey those norms even when they believe that their conduct is lawful.

Kahan talked of moral norms which are the presumed basis of the Law that people are expected to be aware of. However these moral norms Knowledge is somewhat reasonable to be presumed forms not the basis of the Ugandans Constitution since awareness has not been accorded in Relation to Article 4.

Basing on the research Ugandans cannot be said to know the law as they lack even the basis knowledge of it. Many depend on the authority for the knowledge as they expect their rights to be attained from them and thus those rights to be known by such authority. This is now posing a problem in separation of power as it suggests the judiciary to be the administration of every ones dues in part of the law when it is

moved to do so but people seek this administration from local authorities as due to their ignorance of the law and even the right places to go in first instance.

Awareness of the constitution in Uganda should be made valid accountable to all people because most of the people in rural areas particularly those in villages have no access to the enacted laws passed in the capital areas. It's not only the constitution but even other laws they need awareness of them and this has to be done through a formal way.

1.3 Purpose of the Study.

The purpose of the study is to show the applicability of awareness of the constitution can influence of both the constitution and other subsidiary laws.

1.4 Objectives of the study.

General objectives.

- i. To establish how law has been violated as a result of the influence of awareness.

Specific objectives.

- i. To analyze the law relating to awareness by the constitution and other laws.
- ii. To establish humanitarian intervention in matter of expanding its applicability.
- iii. To examine the violation of the law and how the state has intervened on regional and national basis to promote awareness.
- iv. To recommend possible ways of the applicability of the awareness constitution or law in case where the law has been violated due to unawareness.

1.5 Scope of the study.

The geographical scope of the study will include Uganda at large whether on national basis or regional. As can be gathered from the above stipulations the study deals with the application of the provision "awareness of the constitution" in Uganda and thus I will throughout the paper limit myself to the finding out as to whether the subjects of Uganda's laws are acquainted of the law as indicated thus rendering the application of the provision of the awareness of the law presumed valid to the Ugandan society.

The geographical scope has been chosen because the research will be able to get first hand information from institutions referred to in the article.⁴

1.6 Significance of the study.

Ugandans including human rights activities and NGO's will use the study to map out areas of interest that they can concentrate in as related to their field. The research analyses most different instances of violation of human rights as a result of an awareness of the law.

The results of the study may be useful to future researchers who might be interested in a related field.

There is a great hope also that study may be a source of a greater experience and immense contribution to the academic career of the researcher. The researcher has used various tell of information hence endorsing vast knowledge.

Further more this study will awaken the government of the Republic of Uganda Specifically its ministerial body of constitution of justice affairs on the invalidity of the provision of an awareness of the law and the need of its review and information along with the improvement of the laws accessibility so as to attain both transparency of the law and workability of such laws. Also the government will be

⁴ Article 4 of the 1995 Constitution of Uganda

awakened on the problem of the citizens resulting from inaccessibility of the law especially in rural locates as opposed to commercial cities and urban areas.

Lastly this study will further seek to research to suggest various means by which the legal principle can be reformed if at all cannot be repealed and ways of improving the accessibility of the laws in Uganda so as to attain the actual validity of the legal principle of "awareness of the constitution".

1.7 Literature review.

In a Stanford Encyclopedia of philosophy Kumariha in his first publication of Tue May 2010 basing on the characteristic of the Doctrine of awareness he confers prima facie justification that the doctrine of awareness he confers prima facie justification that the awareness covers interpretation reflecting on the terms exegetical adequacy and this philosophy cogency on ground that all phenomenological provision counter before conclusion is under taken.

Consciousness in Indian Philosophy. Basing on advatic doctrine awareness doctrine in a book Philosophy East and West Volume 61, No 4 October 2014 at page 730-736.

Consciousness is an intentional or non intentional substance, quality to an act which ultimately leads to the crystallization of a remarkable variety of view on the nation of consciousness among individuals consciousness free of any kind of modality or qualification with vitiate reality.

Timalsina an Indian philosopher directed his effort towards the latter those awareness concerns a study consisting of an examination of the bread array of arguments advanced by exponents of classical advatic thought regarding the nature function and scope of knowledge and their bearing on non-dualism. Thus his intension was to call for attention to the diversity of the approaches adopted by the

various thinkers in the tradition thus he covered appositive account of consciousness as being the aim to lead the reader through the thicket of arguments.

Regarding the nature of cognition, self awareness and truth advanced to the establishment of consciousness on ontological ground and conclusion.

Under the Advaitic the cannot be awareness is to know the material factor in its reality from and its appearance thus noting out ignorance. Ignorance is which is understood as lack or absence of Russell's paradox where the emphasis on negation or absence in this interpretation is countered by the Advaitic position that ignorance is most than just the mere absence of knowledge for associates with the acquisition of knowledge is the recognition that one was previously ignorant of that knowledge. Thus knowledge of something is always accompanied as a lack also as a positive entity that serves in effect to clear knowledge.

As to **Brahm** connotes that knowledge cover both metaphysically and epistemologically thus metaphysically which bears the distinction between appearance of reality which destroys the ignorance that produces the empirical word and epistemologically it bears on how objects are cognized where cognition follows upon the destruction of the ignorance that previously concealed the object. Thus cognition is always the result of a modification of the mind, thus a transparency of consciousness guarantees knowledge of the cognition and under scores the nature of consciousness as ever present and secondly cognition is always accompanied by the destruction of the ignorance that was responsible for the concealment of the object.

Moreover as put to the effect by **Alissa Lea Jones (2003)** in her editorial by psychoanalysis of the legal principle of ignorance of being the subject of it, but the ignorance of such fact the legal administrators is in deed inexcusable⁵ and hence be

⁵ Umbra (a) a Journal of the Unconscious, special issue "ignorance of the law" 1(2003). 4-7

corrected. This psychoanalysis suggests that the only inexcusable ignorance is that of the law of administrator's of the fact that there are times that it can be helped for the non- knowledge of the law by its subjects or even being the subjects of the law, such hat the strict, application of the legal principles defeat the ends of justice and its validity all together. In a nut shell therefore a person should be aware of the law that is in position in grounds to avoid violation of that law even other laws since in fact ignorance of law is no defence as in the case of **State vs Fox**⁶ would always have to decide it and it would be very difficult to prove in one way difficult to prove that he did not as it rather easier to prove knowledge than ignorance.⁷

Nearly half a century ago **Hart (1958)** is taking this principle on the knowledge of the law. It is based on an understanding that a person who engages in inherently wrongly at is culpable for failing to know about and a person who is aware of the law is also aware of morality as long as the law and morality are essentially consonant. Hart therefore warned that the maxim should only apply in cases and mala inse crimes where there is societal consumes about the wrongfulness of the prohibited behavior. Thus he highlighted the importance of societal norms for resolving the dilemma of the unawareness.

As on winds of awareness of the law it's paramount. As to **Dan .M Kahan**⁸ he talked of moral norms which are presumed basis of the law that people an expected to be aware of. However does norms knowledge is what is made to be presumed. Forms not the basis of the Uganda's laws even though said to do so such that the condemnation from the failure to adhere to the implications of the which of presumption of knowledge of law is of justice and not what Kahan had in mind in his literature.

⁶ 124 idaho 924 (1993)

⁷ Rice. A "is ignorance a defence?" [http. www. hsoul. Net/bigneg/htm.march](http://www.hsoul.Net/bigneg/htm.march) 2008.

⁸ H.M Hart "Aims of the Criminal Law"23 Law contemporary problems pp 401-414.

In Uganda there is a reason, a purpose even questions why that article was included? Where **Michael Lee Hanks**⁹ said that the America legal system was designed as an advocacy system for a simple reason. No other system of law delivers true justice on a consistent basis. An advocacy system requires by definition, advocates. The only thing that prevent a party in a legal dispute from being an effective advocate for his or her position are greed, self interest, lack of objectivity and ignorance of the law. This lawyer when born. Thus considering un awareness of the laws as the basis of failure for proper advocacy for oneself and due to this in Uganda rights have been violated, laws have been violated due to unawareness or lack of knowledge about the existing laws.

Regarding to the Ugandan Constitution of 1995 under article 4 as it enshrines awareness of the constitution I would stand to say that awareness covers an impressive scholarship that makes use of having knowledge, being alert about something and perceiving something its material form and ending up with the answers its meant to address. Thus when one has a positive or negative reality about the existence of a certain thing he or she is aware regardless of the time , place position even factors. In a nutshell awareness it covers self revealing and a singularity of self awareness bring the degree reality for truth respectively concerning the existing subject matter.

1.8 Methodology.

This research is to proceed in two ways. First an extensive and comprehensive library study at the Kampala International Library (KIU) and Law Development Centre Library (LDC Library) for collection of secondary materials which stipulates the opinions, establishments, arguments and the likes in the field. A number of

⁹ Kahan D. Political Economy of the Bankruptcy reform act of 1978 Oct 2003

websites are visited and will further be visited to attain valuable information to be used in making critical comparisons that are necessary.

Secondly an intensive primary data will be amassed from the field through personal interviews and questionnaires that will aid in providing rigorous milieu of information from the respondents.

2.9 Hypothesis

Research study examines the aforementioned contention in light of the following hypothesis. That the majority of Ugandans are not aware of the constitution as to Article 4 to which they are subjects have little if any access to it can barely interpret and understand it thus the principle "awareness of the constitution" is invalid in Uganda setting.

1.10 Chapterization

Chapter one. This chapter deals with the background of the study, statement of the problem, objectives of the study, scope of the study, significance of the study, literature reviews methodology, hypothesis and chapterization.

Chapter two. It deals with the concept of historical review of the awareness of the constitution as provided for and non-intervention of the constitution.

Chapter three. It will involve the applicability of article 4 of the constitution.

Chapter four. It will deal with the enforcement of article 4 of the constitution.

Chapter five. It will include the observations, recommendation and conclusions.

CHAPTER TWO

2.1 THE CONCEPT OF INTERVENTION:

Despite its early development, there has not yet been a satisfactory agreement among jurists as to the meaning and content of intervention constitutions awareness.¹⁰

The principle of non intervention goes back to the 18th century and the 19th centuries during this time of important historical developments. Vlater has been said to be the 2st person who postulated the person of non intervention in 1758.¹¹

It's a general principle and of great essence that any law in a country should not be interfered with and brought on ground so that every person gets to know the importance of that law, k now its reason, know the limit of that particular law in relation to the political meaning of that particular law and its upon the country to maintain the useful linguistic distinction between interference and intervention¹².

Early scholars defined intervention to constitute the use of armed force thus on this ground of the problem which is Article 4 intervention is generally not being use of armed force but intervention in the internal affairs of state members corporate bodies geographical barriers and other barriers not like how briefly believed that intervention must be backed by threat of force¹³.

Intervention must be distinguished from simple interposition.¹⁴ Thus in actual sense in the reflection of Article 4 its regarded to a right so that every person young, old, mature, minors, disadvantaged people they should not be prevented from knowing

¹⁰ J. Ccrocher: is intervention in the 1980's Boulder Laun der 1989 P.3

¹¹ Encyclopedia of public international law quoting from Droit des gens au principes de la loi natualle 1958 vol 1 p 37.

¹² The Hague: Mistinues Nijnoff 1971) 40

¹³ Briefly principles of Public International Law Oxford London Press at pg 285.

¹⁴ J Hyde International Law, Boston 1947 Pg 246

about the grand norm of their country. Thus the law imputes knowledge of all laws to all persons within the jurisdiction no matter how transiently. Even though it would be impossible even for some one with substantial legal training to be aware of every law in operation in every aspect of a state's activities this minor injustice is the price paid to ensure that willful blindness cannot become the basis of exculpation. Meaning that even though the law is oppressive, exploitative it should not be interfered with but put on ground that people know all about it in other words it should be put on people's attention.

Thus it is well settled that persons engaged in any undertakings whether outside what is common for a normal person in this daily living life whether business, politics, traditional activities they should make themselves aware of the law necessary to engage in that undertaking and if they do not violate Article 2 of the constitution and again violate Article 3 of the constitution incase they are interfered with in matters regarding the knowing of the constitution as to Article 4.

At common law it was reasonable to assume that the people knew Law as it was the law of common usage that is the law that was found footing in the norms and customs of the English people which in turn means people's knowledge of the law was in large pace easy as it was the product of their customs and traditions beliefs whether the law was intervened with or interfered with in times of war or terror people were taken to be aware of the grand norms in existence since Jessup intervention includes non forcible intervention.¹⁵

2.2 Constitutional limitations on intervention.

Generally the constitution of Uganda does not intervene in the awareness as to Article 4 reason being that it is clear that the state shall promote public awareness

¹⁵ Jessup: Modern Law of Nations, New York 1949 P. 221

of this constitution in schools, institutions and translate it into different languages to make it clear for every one therefore there has not basically limited the intervention. The constitution has totally limited intervention under Article 2(2) of this constitution whereby no any law or any custom is inconsistent with any of the provision of the constitution the constitution shall prevail and that any other law or custom shall to the extent o its inconsistency be void. Meaning that as to this provisions the constitution of the Republic of Uganda has limited any intervention from Law or Customs meaning it's a grund norm with clear implication which every person in Uganda should be aware of under the meaning of Article 4 of the constitution.

The 1995 Constitution of the Republic of Uganda under Article 17(2) it provides that among the duties of the citizens that all able-bodied citizens to undergo military training for the defense of this constitution and the protection of the territorial integrity of Uganda whenever called upon to do so and the state shall ensure that facilities are available for such training,. Meaning that every person should have a total want to know the constitution as to Article 4 and be in position to defend the grund norm since it's the mother body of other laws and to this effect the constitution limits interventions but defends itself.

Under chapter twelve of the 1995 constitution on a headline defence and national security it's clear that all the state defence agencies will work in accordance prescribed by the constitution whether Uganda Peoples Defence Force (UPDF), Uganda Police and Uganda Prisons Services plus the security Agencies which work in accordance with this constitution meaning that it has totally limited the intervention which would likely be caused by the above bodies meaning that the law has to be protected, appreciated and ignorance of it set aside as to Hutton Vs Edgerton¹⁶ when it was stated that ignorance implies a total want of knowledge in reference to

¹⁶ (1875) 6 S.C 485

the subject matter thus in this paragraph under Article 4(b) it connects with it meaning there is a limit.

Under article 246 of the 1995 constitution it provides for institutions of traditional or cultural leaders, it totally limits their intervention in regarding to the existence of this constitution and limits their powers where Article 246(b) totally stipulates provision which shall apply to cultural leaders. Meaning that even though there are customs under these institutions and known to their subject's still it should be applied to them and made clear to their subjects not intervene the constitution and know about it. Thus this constitution prohibits these cultural institutions from interfering in the internal affairs of the state in relation to the constitution.

2.3 Colonial Uganda

Before Uganda became a British protectorate in 1894 it is stated clear that people ion the time had customs since the country consisted of a collection of over so many chiefly and non-chiefly societies of which its clear people by that time were well versed with their customs and norms and were aware of their existence because they respected them, protected them and appreciated them since they were not written anywhere but kept in peoples minds. Meaning that all along before Uganda being colonized people were aware of their customs and norms.

Fortunately the over 50 diverse chiefly and non chiefly societies were grouped together to form the new protectorate of which what motivated Europeans to Uganda was its anthropological and geographical curiosity.

In the 1902 order in Council the constitution of the nascent protectorate¹⁷ was promulgated and provision made for the administration of Uganda. In this order in Council there was powers given to the commissioner like executive officer and the

¹⁷ G. W. Kanyeihamba and Political History of Uganda at Page 2 2nd Edition 2010

law maker meaning that all those powers given to him were known to his ex-officials even the chiefs and kings to avoid contradictions meaning that it was made clear and people know of the order in council not on all large ground but they has knowledge of its existence.

Reflecting back in the colonial days Uganda before the Order in Council of 1902. The Europeans had singed many agreements like the 1900 Buganda Agreement the 1901 Toro Agreement and many others where by these Agreements, Land was divided, Kings Powers divided Chiefs Powers were reduced and people who ere subjects to those kingdoms were aware of the existence of such agreements. Meaning that the provision of such agreements were made clear to the people who even cooperated with the leaders to sustain such agreements thus bringing a broad sense of awareness of such existing agreements which tended to be like constitutions.

Basing on Article 12 of the 1902 Order in Council, the commissioner had power to make laws rules and regulation of which those laws were to be applied in Uganda and adopted by Ugandan showing how people where aware of them. Not forgetting that even a foreign jurisdiction Act of 1890 was adopted and modifications made in Uganda and people were subjected to known its existence. Where by this did not stop where Article 15 of the 1902 Order in Council stipulated that the High Court of Uganda be known as His Majesty's High Court and was established with full civil and criminal jurisdiction in al cases and over all persons in Uganda. Therefore as regards to this paragraph it's clear that people were aware of the law that was governing them its applicable and its enforcement in relation to its existence.

In order to make it clear and people under or get to be more advanced with the existing laws the 1920 order in council was put into place whereby it crated non

Executive and Legislative Councils when few Africans were included to enable them extend the awareness to the People and their powers in Uganda whereby the few African chosen as Ex Official were basically to represent their people and in so doing it brings a clean ground that people started being aware of the existing law even though they were not interpreted or translated in peoples language of them but most of these orders contradicted their customs even there were described and dictatorial and despotic not practically but in law because where ware that these laws never favored their customs.

It is on record that as time went on in late 1940s people requested for clear representation because they were aware of the resistance of the law by thy time when in October 1945, the Governor proudly stated that the **administration of the protectorate is primarily for the benefit of its African population no one nowadays seriously challenges** and Africans should have an effective voice and should take an effective part.¹⁸ Meaning that when a number of indigenous legislation councilors who were Africans was increased it gave a right of Africans who are Ugandans to have a voice cause of them were aware of the Law in Place.

It is in 1952 when a responsible government was began outside Buganda and be based on the district rather than on province. Yes it is clear that the British or the Governor was extending its powers and their role in Uganda to all levels but this was appropriated and it made people know the existence of the role they were under and the law that where being administered to them. Meaning that in the colonial government even though things or administration of law was done in stages and phases people were obliged to know their existence not on a large scale but they were aware of it.

¹⁸ Session. 24 of Legco Proceedings

2.4 Post Colonial

On ground of post colonial. This is a time when the British left Uganda to enjoy their country. It's a time when the British union Jack was lowered and the Uganda flag in Black, yellow and Red was raised up meaning that Uganda was declared a state on its own and independence enjoyed which this event was accompanied by many symbols like National Anthem, National monument, emblems and various areas designated for this remembrance like Kololo Independence Grounds of which in doing so people come to know that a now known had come into force and their mind was addressed to it showing the appreciation and awareness of it.

In regards to this period the Uganda Independence Act 1962 was enacted when by under this Act Section 2 it states on consequential modification of British nationality Act. When in the Previous Act of 1945 and those of 1958 all British subject and people in British colonies were regarded as citizens and people when well aware that they were citizens to the colonizing matters and when such Act i.e. the Independence Act of 1962 came into force under S.2 2(2) it states that any person who immediately before the appointment day is a citizen of the UK and colonies shall on that day ceases to be such a citizen if. Under the Laws of Uganda becomes on that day a citizen of Uganda and his or her father's father was born in Uganda. This is clear that when this new change was put on ground all Ugandans were made aware to know the New Law in relation to their living, saying and in regards to their Normal; standards and status showing awareness was a key element.

In relation to the doctrines of awareness. It is made clear that under the 3rd Schedule of the 1962 independence Act under S.3 on amendments reflecting what Uganda is. Most of the cases on all legal documents official documents and state tools when to bear **Republic of Uganda** and this was made clear to all citizens

since it got this mandate from the Constitution. Thus a great time or era since awareness was sufficed to every person.

It on this ground that a discussion can be taken on the 1966 pigeon hole constitution whereby this was Buganda crisis between the executive Prime Minister Obote and the President Sir Edward Muteesa which was regarded a political crisis where this was the first time in Uganda where the state deliberately and systematically turned its guns on its own people whereby this attempt to destroy the Buganda Kingdom and the culture of its people was truly momentous in the country's history band in so doing when this crisis was taking place people's mind where one to the new law which was wining up to abolish or set aside the law that was in place and people where aware of this showing that knowledge can be implied or expressed on certain thing which is a credit on the knowing of such law.

On ground of awareness during this period. It was not only sending military troops onto the them Kabaka's palace that people came to know that there was a new law, No it was when Obote's response and retribution came on February 22nd When he had five of his cabinet ministers Ibingira, Mazeri , Lumu, Kirya and Ngobi J arrested during a cabinet meeting and held them without trial suspended the constitution and assumed all executive powers of which all this was violation of the constitution and on April 13 the Constitution was abrogated formally during a parliamentary session in which Obote was Surrounded by troops and a revolutionary constitution was adopted by MPS who had not even seen it before hand let alone debated its contents. And this constitution later came to be known as the Pigeon Hole Constitution meaning that when it was made people came to know about it and they were aware of the new constitution hence awareness being recognized in this period.

Making the point clear, in September 1969 Obote imposed a new **Republican Constitution** on the nation and declared himself president without first calling an election. All kingdoms were abolished formally in the new constitution mostly under Article 118 and it states that "no action maybe instituted in any court of law in respect of any matter or claim by any person under this article or under any provision made by parliament pursuant thereto" meaning that when kingdoms were abolished and customs set aside peoples were addressed on this issue an came to know and were aware of the new constitution even though it was accompanied by dictatorship and violated people's rights but they were aware.

In this period ordinances and emergency orders where made known to people even though they violated the Law but on their validation people came to know about them taking a hand in the case of **AG vs Commissioner of Prisons Exparte Matovu** where he was released by court of competent jurisdiction but an emergency detention order was passed and made valid and he was re arrested under it, it was clearly observed that immediately after that incident peoples minds were addressed on this particular new law showing or pulling their awareness to the existing laws.

In this period Uganda is believed to have lived under coups and where decrees dominated and this is a period of 1971-1979 under the regime of Amin Dada where it was a period of terror and covered the entire Uganda and people came to know about such decrees take an example a **Land decree** which was passed on ground tht when one is given land or has land he or she must develop it unless that land will be taken away fro him and people were aware. It was a time of terror when Uganda had no **Constitution**. It is clear that when Amin bundied a coup Buganda at large welcomed it. Among the decrees were that Kiswahili was to be Uganda's Official language and he made a decree that most of the recruitments in the Army

were from his own tribe kakwa and only recognized Muslim faith on grounds were he constructed a great mosque on Kampala hill¹⁹ and people were aware of such decrees in the Uganda. This did not stop until when Amin expelled Asians in Uganda after passing that decree people came to know about this and in so doing he crippled the economic growth of the country and people came to address their mind on what was taking place in the country regarding to the decree.

2.5 Uganda today [NRM Regime]

Its under this regime where Uganda has lived for more than 30years when in this regime there has been a unique superstructure of political and constitutional innovation mostly in Uganda whereby this: stressed back in the 1986 whereby the taking of power was also a coup people liked it and welcomed it because they were tired of decrees when by the most of this group was to educate the public and defend the population where by its under this regime where it incorporates local governments legislation and regulations under the National Resistance council where Ugandan men and women of all age, background status where fully brought on board in administrative affairs from village levels to the National level²⁰ and in doing such work people came to know the existence of a new regime whichc came with new laws and people were aware about them.

It's after 19years when this regime came up with the New constitution which is still significant up to date that was in 1995 when this constitution was promulgated this is credited by a number of success in governance several of which have ushered in the country fundamental changes and these changes have been welcomed by the entire population and likely to remain permanent features of governance in Uganda 25 and in so doing people are aware about this government and the constitution of which is under NRM [National Resistance Movement] though not on a large scale.

¹⁹ History of Uganda [1971-1979] Wikipedia

²⁰ G. W Kanyeihamba Constitutional of political History of Uganda pg 195 2nd Edition 2010

Today democracy is exercised every after 5 years and in so doing letting people to participate on all levels even though their exercise is not done in regards to Law when some injustices of malpractices are done this has pulled people to know that they have this right and its open out in constitution a clear grand elaborating awareness taking an example of **Dr Kizza Besigye and his supporters in 2016** people participate in it in regard to the right provided in the constitution which people are aware of

The sowing of the Mustard Seed written by the President of the Republic Of Uganda His Excellency YK Museveni it was been known on large scale since it contains the 10 point programs of NRM meaning that among the such programs then is unity for rehabilitation and recovery of the country this was considered important that all Ugandans are able to see themselves in the NRM as if it were a mirror of which this book has not contradicted the Constitution under Article 2 but it has supported it in relation to the growth of the Laws of which people have appreciated it and are aware of what is ground even though not on a large scale and not translated but it has been.

To show that Uganda are aware of the 1995 even though not on a large scale most case have enlightened on this take an example of **Tinyefuza David vs Ag (1999)** where the constitution sets fundamental human rights under chapter 4 and out of this his right was violated under Article 25 on servitude and salary when by that time he was an army officer and later appointed as presidential advisor when he could not run the two offices at one he petitions on grounds of violation of his right showing a ground on how people n aware and have welcomed the constitution.

In relation to the above paragraph people have exercised their awareness of the constitution under Article 29 whereby people have used this ground to have demonstrations rallies, assemblies, association in regard to promote and show to the public that the constitution provides for such and they should be aware. This is done

by few who know about I trying to open the ears and the eyes of those who do not know take an example, the **Makerere University students and Lecturers** are always acting under such Article **UNATU** the same meaning that even though the few do not know or are not aware most of Ugandans are aware especially those uneducated that the grund Norm is in Existence and it supports certain activities.

Women in Uganda have exercised their ability in relation to the awareness of the constitution where by under this constitution under Article 33 it provides for equality for women showing that women are now treated like men share due to the constitution and they aware they have taken big political position like Kadaga is a speaker of Parliament we have ministers of state and cabinet levels among which many are women. Taking an examples of Women Organizations coming up like Forum for Women in Democracy [FOWADE] showing a clear stand how awareness is moving on even though some are not yet aware.

CHAPTER THREE.

APPLICABILITY OF ARTICLE 4 OF THE CONSTITUTION.

3.1 Notion of legal awareness.

Legal awareness sometimes called public legal education is the empowerment of individuals regarding issues involving the Law. Legal awareness helps to promote consciousness of legal culture, participation in the formation of laws and the rule of law²¹. Public legal education sometimes called civil education comprises a range of activities intended to build public awareness and skills related to Law and justice system.

Anna Marie Marshall explains that “in order to realize their rights people need to take the initiative to articulate them this initiative in turn depends on the availability and the relevancy of legal scheme to people confronting problems”.

In this sub topic the term public legal education (PLE) is related to and may encompass several similar terms. The terms public legal information and public legal education and information (PLE) emphasizes a difference between educating and providing information. The term community legal education. This is common in Australia and the United States when it often refers to community based public legal education activities led by legal aid organization where here in Uganda mostly its regarded to as Pro bono done by students who have just finished law school or advocates. The term law related education” [LRE] usually refers to public legal education in primary and secondary schools [and sometimes in higher Education] as opposed to PLE for adults and outside school.

²¹ Wikipedia legal awareness free encyclopedia

According to the American Bar Association commission on public understanding, legal awareness is the ability to make critical judgment about the substance of the law, the legal process and available legal resources and to effectively utilize the legal system and articulate strategies to improve its legal literacy. When the **Canadian Bar Association** 1992 defines legal literacy as the ability to understand words used in a legal context to draw conclusions from them and then to use those conclusions to take action and basing on Multiple Action research groups [MARG an NGO] working for the promotion of legal awareness definition. Legal awareness can be defined as "critical knowledge of legal provisions and processes coupled with the skills to use this knowledge to respect and realize rights of entitlement."

Many philosophers have had different views on legal awareness who consider it as a legal literacy which bare a degree of competence in legal discourse required for meaningful and active life in our increasingly legalistic and litigious culture. When **Author Bilder (1999)** defines legal literacy as a spectrum of functional skill" related to the conduct of litigation when by the continuum approach explains a certain degree of literacy is required for effective participation in modern society but it is not necessary for the average citizen to reach the professional standard of thinking [and writing] like la lawyer.

In Annop Kumar, a researcher of legal literacy mission says in his study the legislature of the state and the parliament while enacting the legislation consider the objective of its some laws laid down the substantive rights of the masses and some torch upon the procedural; aspect of certain laws. But it is sue to lack of awareness of beneficiaries that most of the legislation is ineffective at the stage of their education.

A legal awareness can empower people to demand justice, accountability and effective remedies at all levels legal needs always stand to become crisis oriented

because their ignorance prevents them from anticipating legal literacy people can get intimidated and alienated from law. This may evolve not a situation which results in people coming into conflict with the law or being unable to obtain help from it. Courts have acknowledged the barrier raised by a lack of literacy to asserting guaranteed rights effectively low literacy may block people's access to justice where times literacy requirements have been used to block access to rights and benefits²². In a notion of legal awareness there are goals and objectives to it of which these objectively and goals of the legal literacy programs can be broadly divided in three types namely educational, competency and critical. In reading the legal world, author **Lard Hunter**²³ except legal literacy to achieve "people using the legal system must be able to guide themselves through a process that they understand and at appropriate places along the way and those includes the goals of objectivities of the notion of legal awareness.

- a) Recognizes they have a legal or responsibility in order to exercise or assume it.
- b) Recognize when a problem or conflicts is a legal conflict is a legal conflict and when a legal section is available.
- c) Know how to take the necessary action to avoid problems and where this is not possible, how to help themselves appropriately.
- d) Know how and where to find information on the law and be able to find information that is accessible to them.
- e) Know when and how to obtain suitable legal assistance
- f) Have a confidence that the legal system will provide a remedy and.
- g) Understand the process clearly enough to perceive that justice has been done.

²²

²³ South Carolina vs Kat Zanch

Depending on the goals then can be a number of objectives for legal literacy programs and the following is a list of possible objectives.

- a) Raising awareness and building capacity.
- b) Training of trainers
- c) Community education and empowerment
- d) Exposing law students to social justice work.
- e) Strengthening community solidarity and supporting grass-roots advocacy.

3.2 Limitation of awareness

On ground of limitation it will be wide discussion on grounds why and what has caused awareness of the law mostly the constitution of the 1995 not to be known and to this effect the na re major factor and minor factors that have limited the awareness and these may include the following

According to Lorenzo Cotila laws are usually published in the official gazette, few people outside legal circles fraternity may have access to legal information, illiteracy, economic barriers and lack of the zeal among the legal fraternity may lead to limit in gaining requisite levels of legal literacy²⁴. According to **Hana Hasl- Kelchener** at times of lack of zeal among Lawyers make them prone to saying no and killing a deal rather than working through the issues and find solutions that are both practical and legally sound.

In a note to the UN General Assembly 67th session, the UN secretary General states "the deprivations that persons living in poverty encounter through their lives lack of access to quality education reduced access to information, limited political voice and social capital, translates into lower levels of legal literacy and awareness of their right creating social limitation to seeking redress."²⁵

²⁴ Report of the Special Rapporteur on extreme Poverty and Human rights Pg 6 0/05/2012.

²⁵ Report of secretary General on Extreme Poverty and Human rights for UNGA 67th Session.

Therefore the absence of a legal within and the resulting illiteracy are the main reasons for the large number of cases in the courts if the accused citizen knows that an act is crime punishable by law, they may not do it²⁶.

Basing on the many languages Uganda has got which are more than so languages it has been hard to meet the standard of legal discourse is expressed as well as to the diversity of legal orders and the legal concepts on which those systems are founded and due to this its very hard to exchange legal information since there is no common understanding of one another beyond standard that is highly desirable²⁷.

Government negligence has limited the awareness of the law meaning that most of the laws on ground are clear and due to the government employing corrupt officials, have rendered this not effective when by taking what its on ground the government of NRM has spent over 30years in power and they are the initiator of the 1995 constitution which has spent more than 20 years they have lived top the implementation of Article 4 of the constitution because they do not value the cores of the law they put in place.

Lack of clear judicial powers to exercise their independence as to Article 126 has limited the awareness of the law meaning that on grounds when the Judicial have to expose the law to people its when the government intervenes limiting their independence moreover appointing of judicial officials is done on political ground thus it has limited the expansion of the law taking an example of **AG vs Kizza Besigye and Anor** when the high court was to grant bail to Besigye and was surrounded by Black Mambas and Justice Ogoola held that the temple of justice had been defiled meaning that from that time people lost interest in the law and had no interest to k now what its all about if the judicial or Law practitioners are being defiled.

²⁶ Resisting Anti- intellectualism and promoting legal literacy by Leonard J. Long Retrieved 31st October 2013.

²⁷ Multiple Action Research Group-Justice Through research Empowerment (Accesses on 2/April/2013)

Lack of financial support has limited the awareness of the constitution or law meaning that Uganda which is still a developing country has got financial crisis to meet what it intended in Article 4 when it would translate it into different languages when by there is lack of money to buy stationery to do this law pay employer interpret which has effectively limited the expansion of law.

Geographical set up of Uganda has also limited the awareness of the constitution in the way that as per now Uganda has more than 120 districts of which some are too remote and far from the city centre where infrastructure has not yet been established to enable the transportation of such materials to them take an example of a person from Kampala which is capital city may take more than Six Moths to know what happened in the city due to lack of networks both media and phones and due to this people in these areas have decided to live behind the law and instead some violate it unknowingly.

Cultural differences have limited awareness of the law on grounds that Uganda is multi cultural country with many diverse kingdoms and chiefdoms even others have none. Meaning that people or subjects to those kingdoms end to leave their customs and forget the central government law as if that is not enough people in Local areas who have representatives in government believe hat since their people are in government they have no clear grounds to know what is happening having a bad idea that those people will deliver law at their local communities and this end up with no time to associate and learn something related to the law or look for it.

Uganda has got a bad/ poor education system meaning that most people or students tend to learn what is on curriculum not what is in the society take an example in Uganda some lessons, course units at the university do nor have anything related to law so some one studies entire education without knowing any thing in relation to the law which is limited to the awareness in student even schools dropouts.

3.3 Challenges of applicability.

On grounds on what amount to challenges of applicability and s follow reason being that that this rises on grounds where people have encountered when trying to apply such law or taking it on broad so that people may know about it, when all a challenge an got from www.austlii.edu.au/journal/admin/law F/2010/5

a) Complexity

Many of the problems that people encounter with government or which government encounters with people is the complexity of the government programs. Where the truth is clear that people do not understand the finer details f pages of constitution. This rises on grounds where family or community benefit of such law do not except that this issue or problem will require to deal with such legislation requirements and their legal obligations thus people get confused about legislation requirements and their legal obligations thus taking a wrong choice, they break the rules and they fall between the cracks of different programs. Thus why in Uganda we have got a consolation statement "**Government etuyambe**" in English "**Government help us**".

b) Administrative penalties

Breaching or failing to comply with the law or rules government can attract administrative penalty or as to **Article 2** of the constitution. Your action or encroachment and void as to **Article 3(3)** of the constitution it is treason caused in failure to defend the constitution. When by basing on research conducted by **Australian Law Reform Commission ALRC in 2012** they noted that 70% of the penalty provision in most common wealth legislation were criminal penalties and due to this when addressed and brought to the attention of people the tend to be reluctant on that law because they tend to fear penalties.

c) Consequence that cannot be undone.

Any of the difficulties that people encounter plus the government is that it is believed that their difficulties cannot be repaired within the rule framework applying to the matter. Even where a government agency has erred by mishandling a person's case there may be no description in legislation to accept a late visa application when by mostly in Uganda people do not know that there is a right to appear under a right of personal liberty Under Article 23 of which and things their difference in law are had to be repaired and due to this it takes a big gap to be encountered or applied hence a challenge.

d) Delay and administrative drift.

The above may be a challenge in as applicability reason being the most frequent complaint is that people make against government is that it is too slow in making a decision, deciding on application or resolving a problem sometimes the criticism is misplaced because to an unavoidable delay by an agency in obtaining information from the 3rd party or because of inherent complexity in a decision even though the criticism is justified. Common causes of delay are inefficiency, misplaced priorities, within government, movement of difficult files from one officer to another or failure to shift a difficult file to a suitably experienced officer so people ask themselves what is the best solution to combat such delays both on local levels or on national levels so due to these delays it is so hard for a law to be applied effectively.

e) Poor decision making and human frailty

On this point this is always a challenge to play the law to the people and bring it to their attention which is always caused by misinterpreting the legislation, incorrectly analyzing information or evidence where by the constitution in relation to Article 42 of the constitution tends to cure such injuries but people do not know. It is human error but it should never be forgotten that simple errors can have dramatic

consequence which have become a challenge in regard to article 4 of the constitution.

f) Computerization.

This has basically become a greater challenge not only in Uganda but in other African countries where by in African and Uganda at large where there are still grounds of illiteracy most of the particular laws are on line and Uganda is part when by people have found it hard to access such law whereby its difficult to be traced by both people in authority and those in local areas even the monitors and disadvantaged people when this has ended up being a challenge and a globalization error which is a hindrance and problem.²⁸

g) Executive powers.

Under executive powers it is where the government uses executive or non statutory powers to under pin service delivery regulation and benefit allocation and due to this it is always a challenge taking the example of **article 111** of the constitution of Uganda which reflects **Ministerial responsibility** have automatically become a challenge in applicability reason being most of the ministers in Uganda do not know the law instead they contradict the existing laws reflecting back in 2014 when the anti gay bill was passed it was contradicting the grounds Norm which is built on customs of the country thus a challenge still basing on what is in parliament by now on giving contraceptive Pills to young girls who are³ aged 10-19 years it's a contradiction due to those executive powers aware being misused.

h) Out source services.

This has become a challenge on grounds of applying the law in as where friction though to be cores of government functions are discharged by non governmental

²⁸ Administrative review council Automated Assistance in administrative decision making report No 46/2004

bodies where by in process where these non-governmental bodies take up these roles the public find it hard to trust in such law even these non-governmental bodies do not do it effectively. Take an example on the **foundation of Human Rights initiative** which is under **Dr Livingstone Ssewanyana** its clear that most people in villages do not know its existence yet its role is to enforce and advocate for **Chapter 4** of the constitution toward people whose rights are being violated due to this it's a challenge because these bodies are not delivering the services effectively.

i) Multiple agency action

This point has become a challenge on grounds of applying Article 4 even the constitution at large due to the fact that many bodies take up in making laws that favor them and injure other people and due to this they find it not effective to trace what that law is about. Take an example the **KCCA ACT**²⁹

Which most deal is to enforce a physical planning of the capital city but as now it works more than the constitution where by most people have been replaced displaced others their economical rights under Article 40 violated and due to this people find it not effective to believe in laws which are in existence which this has ended up being a challenge in regard to applicability.

j) Diversity of the population.

Basing on the above point Uganda has got a population of over 30 million people basing on the statistic of 2015 population census to this many people and different people have different perceptions about the existing laws and due to this the applicability of law is find challenge since due to many people of different status do not appreciate all law therefore it becomes hard to apply that particular law to them on the matters of knowing its existence.

²⁹ Kampala Capital City Authority Act

3.4 Human rights violation due to unawareness of the constitution.

Basing under this sub topic there is a wide range of discussion when human rights have been violated because of unawareness and at times where they have been violated when people are aware of their rights. The violation of rights or human rights is generally done by the state which has deliberately refused or limited the provision of Article 4 to be on ground or be applicable and at the sometimes citizens violates rights of fellow citizens even though not on the large extent but human rights have been violated and on this round the discussion is going to be broad whether people are aware of their rights or unaware of their rights which are provided for under the 1995 constitution under **chapter four** and they are as follows.

Right to privacy, of a person, home and other property under Article 27 has been violated. This right or article discusses that no person shall be subjected to unlawful search of the person, home or other property of that person or unlawful entry by others of the premises of that person and no other person shall be subjected to interference with the privacy of that person's home, correspondence, communication or other property. This is provided in Uganda every day putting a point clear last year in 2016 after the National General Election Rtd Col Dr. Kizza Besigye was falsely imprisoned in his home denied privacy even denied his property that is to say he could not buy good from outside markets where some well wishers who would like to take food to him would be refused access even the property confiscated showing how the right was grossly violated even though he was aware that he had such right but it's a point of concern that many people in local areas and for districts have experience such violation even though they do not put it on record and some do not know that they have such a right under heir constitution.

The right to education has been violated due to grounds of unawareness and this right is grounded under Article 30 of the Constitution. This violation is mostly done by parents, institution officials even the government on the larger side. His right has been violated by parents in the way that some do not know that it's their children's right to be in school and thus most parents are not ready to give school fees or tuition but are ready to buzz that particular money. It's not only parents who have violated even the institution officials of various schools like primary, secondary have violate this right in matters of giving unnecessary expulsions and suspension even not valuing some documents of students that may be a level they have completed is not of standard compound to their standards taking at hand the case of **Pius Niwagaba vs LDC**³⁰ The applicant petitioned LDC for not allowing or admitting him for a Bar course on ground that Mt. of the Moon University was not accredited to teach law. But the petitioner had qualified for LDC. It was held that his right to education was violated and he was entitled to education. Nott withstanding the above discussion even the Government has denied students or children a right to education where it has no paid teachers in time who end up on sit down strikes hence violating the same, taking an example of **Makerere University Students** who suffer at the expense of their lecture's who go onto strike due to government's inconsistency.

The right to just and fair treatment in administrative decision which is under Article 42. This kind of right is mostly favoring people under administrative tribunals therefore take a point in most cases people like sweepers, cleaners, security officials who are less educated do not know that when they are dismissed from work or there are administrative issues they can paella upon it. These issues have been evidenced in many institutions mostly. KIU. Where workers are dismissed without considering the above Article and mostly those affected are unaware of such a right

³⁰ CA No. 18/2005

even though it be in existence that it can be a remedy to them. Basing on an interview conducted by me and a former employee of KIU last year in June 2016 he was dismissed by KIU disciplinary tribunal on grounds where the decision was unclear and he did not know or was not aware that he can get his remedy under Article 42 hence a violation.³¹

Article 28 of the constitution has been violated by government officials in administrative bodies' even non governmental bodies. It's a right to fair hearing where by mostly people have suffered the above violating because some know they have a right to fair hearing even others do not know that that law or right exists in our constitution due to insufficient applicability of Article 4. This right to fair hearing was put forward in the case of **Mukasa Mbidde vs LDC** where the law school had not heard time to hear from them but was nullifying their practicing certificate. It was held that a right to a fair hearing is fundamental right to all citizens but it's a problem since most people in local areas when this law would be applicable are not aware of such law that it exists in Uganda constitution of 1995.

Article 26 of the 1995 constitution has been violated due to an awareness of the law in most areas of Uganda. Article 26 discussed that a person has a right to own property and many people in Uganda have been deprived of their land where wrongful or illegal possession is taking place. Take an example in Uganda the **Northern region** and **Karamoja region** people are left landless because most of them do not know that the Law which is a grand norm grants them a right to property under Article 26 which is a great violation in Uganda.

Article 37 has been violated in Uganda due to lack awareness. Whereby Article 37 discusses a right to culture and similar rights where by this has not been violated by any other person apart from the government, Take at hand the recent crushes in

³¹ Interview conducted between Himbaza on Mr Innocent Byamukama former employee of KIU.

2016 in Kasese region where more than 100 people died even other being prosecuted by the government on grounds of violation of the law and failure to defend the constitution under **Article 3** where a lot of charges are being taken on treason. Even the King of Rwenzururu **King Charles Mumbere** is on bail application pending his charge of treason where the issue and cause of such crushes was that people did not know that the constitution prevails over their customs and they sought that whatever their culture brought on board for them to do was paramount and they did not know that their king is subject to the constitution and whatever he would say they believe in him little did they know they were contradicting the constitution which they have a right to their culture and the all cause was due to the failure of the government to work towards the promotion of **Article 4** to people in different areas of Uganda.³² This has not happened once even in **2009** there was the **Kayunga Crisis** where now people believe in respecting customs they know better than the constitution which they do not know.

Article 40 has been violated under the influence of most government officials and state agent organization on grounds that people do not know that article 40 exists. This is normally and frequently practiced here in Kampala where KCCA³³ has violated this right to economical right. When this is normally done on people who do small commercial business along capital city streets, down town in Balikudembe market. This has called people to be hawkers due to high rate of unemployment in Uganda to join small scale business even others have opted for Boda Boda but because of state agencies like KCCA it has man located people, displaced them in their business because they are not aware that the law (Constitution) provides for such right in the

³² Interview conducted on the Women MP Kasese region at Nalufenya prisons on 1st of February 2017 by Himbuza Collins.

³³ Kampala Capital city Authority.

Law which this has been a result of unawareness and failure to know that Article 4 has to do this role as initiated in the constitution.³⁴

Article 41 of the constitution has been violated which states that every Ugandan has a right to access information. This kind of right has been violated by the state officials had people reacted upon it because they are unaware that they have a right to information because some do not know that the constitution provides such a right because they do not know anything about the Law. So people have failed to access information because the government has stayed reluctant to extending infrastructural development to this areas so that information can reach maybe Newspapers and News agents when by this accompanied by the state closing most of the Media centers like in the month of **March 2017** the **Red Pepper** was under closure and its is paper with true sources sometimes and its not only that this closure has happened once but it started far back when Amin the **1971-1979** President closed the Munno Publication and this has been an inherited behavior which people still suffer the above when people undergo it because they are not Aare considering the case of Paul Ssemogere versus Ag ³⁵ on grounds when the petitioner wanted to access information in parliament and was denied.

Article 33 of the constitution has been violated by Cultural members, clan leaders and other responsible people taking the advantage because people or ladies (women) do not know that such right is accorded to them may be taken few cases where few known. This is evidence in the case of **Ingrid Turinawe** in 2016 early January when she undressed by the police officers where she was under Dr. Besigye's Convoy to Rukungiri. This has been a violating and its worse to people, who are illiterate about the law which this can be switched back to **Betty Nambooze Vs Ag** (2010) when she was awarded damages when her car was destroyed and her breasts pulled. This does not stop only in courts or in field. Most

³⁴ An interview conducted on one boda boda cyclist called Grace Okechi on 28th/03/2017 in front of KIU gate

³⁵ Resisting Anti-intellectualism of Promoting Legal Literacy by Leonard J. Long Retrieved 31st /03/2013

ladies in Bugisu region their rights as women have been violated on grounds of being subjected to genital mutilation which has caused a lot of injuries to them³⁶ this is not only in customs even in schools and most jobs or job centers ladies have been subjected to sexual harassment, discrimination and many others. Taking an example lectures in most universities subject ladies to sex for marks which are a harassment and violation of their right because most students or people who are ladies do not know that under a constitution there is such a right.

Article 34 has been violated by most of parents in areas of the country. This is a right of children when by most children are mistreated by parents with corporal punishment burnt, yet they have a right to be treated fairly. This is evidenced in the case in Masaka where a lady burnt his child and that child survived and she is now under the custody of Frank Gashumba, this is shown that some parents do not know that their children in the constitution have rights. It is not only this point of burning in Kampala along streets, there are street children who have been chased in their homes, even others f given birth to by prostitutes and thrown away in latrines and on then streets. All this has caused children's rights to be violated thus Article 4 of the constitution has not been put to use.

Article 29 has been violated because people do not know that they have a right to association and even religion, assemblies and others as provide in Article 29. This is mostly done by the government and to have it work a public management Bill of 2010 was enacted which has totally violated this right. Few people now about it taking an example Dr. Kizza Besigye has been denied this right yet he is educated what about those who are uneducated its worse on their side. Taking an example of Early June 2016 when Besigye supporters were beaten up by police officers and later the IGP was summoned to Makindye court but he did not attend. It is a

³⁶ An interview with a mugisu

continuous ground that even though some police officers were suspended it was not appropriate because the victim who are boda-boda cyclists do not know that they had such a right until when few Ugandan Lawyers and Human Rights Organization activities took up such a case that helped them to open their eyes hence the absence of Article 4 in use to the Public.³⁷

Article 25 has totally been violated by stated organizations the government even the Non governmental organizations when by this is because most people do not know that there is a constitution which prohibits it and it's the constitution, Mostly people have lived under slavery, servitude and forced labor but they do not know. This is evidence in most industrial areas where people are paid less salary because payment is attached to hours one work therefore for one to get a high pay he had over work so that he earns a living which this is exploitation and slavery and they do not know anything³⁸this was evidenced in the case of **Tinyefuzza David vs Ag 1997 HCB** when it was held that the appointment to different offices was forced labour and violation of his right. It was going to be worse if he never knew his right or the law because Article 4 has not been applied appropriately.

Article 23 has totally been violated by the state because it has utilized this chance that people do not know the law. When by this has been done in matter by police when a person is denied personal liberty and detained for more than 48 hours³⁹ in police custody even police bond is sold to certain members bail is denied to certain individuals in some cases and most people do not know that they have a right to personal liberty and this is worse when someone does not do anything about such right. This is evidenced in the case of **Ag versus Michael Kabaziguruka and Anor 2016** at court martial where they were denied bail which is a personal liberty

³⁷ A report of Foundation of Uganda Human Rights released on 15th October 2016.

³⁸ An interview conducted on Gerald Karuhanga a worker in Kakira Sugar factory.

³⁹ A research done at Kabalagala police station on one detained Felix Odongo on 17th March 2017.

and is worse. This right has been violated because people do not know what the law or constitution provides about it hence is inconsistent with Article 4.

Article 22 of the constitution has been violated mostly by the state and at times courts of law. Where by it states that a person has a right to life. This has been evidenced like in the cases of **Susan Kigula and others vs Ag [2008] kalr** whereby the petitioner sought had been on death row but had not been executed. They prayed court to accord to them that their overstay on death row amounted to inhuman treatment hence against the right to life enshrined in the constitution.

3.5 Universal Scope of its applicability.

It's important for the sake of constitutional awareness to be respected under all circumstances. In modern situation of the 21st century when faced with a challenge of constitutional unawareness which is ground norm of the country what about other subsidiary laws and parliamentary statues. It's a question of facts. The citizens of Uganda as defined under Article 9-13 of the 1995 constitution. The state as under Article 5 of the constitution should re-affirm their collective responsibility to "respect and to ensure respect for this constitution in all circumstances. However the question arises whether these should be limited to diplomatic demarches and the adoption of resolutions or extended to the use of section and force in order to stop the illness of unawareness this may be answered by looking at when the constitution should be brought into operation regardless of the situation whether in potential conflicts, political elections, economic activities or on religious matters.

On the biding in point the constitution which drives its mandate under Article 2(1)" of the constitution it should be a point that if Article 4 is to be effectively applied then people should know and the sate should bring Article 2(1) in relation to Article 2(2) of the constitution in order to maintain its importance and bring Article 1 at hand. Because when there is a binding effort it becomes extremely difficult to revert

to the legal path and when this is at hand the law or there will be rare cases of violation of the law even Human rights will be protected and this will have adverse positive impact on citizens and even the state at large.

The period of applicability of awareness of the constitution is also subject to change often the actual violating of the Human rights are brief and lightening the 3 arms of the Government ⁴⁰ that they should emphasize on state or constitutional autonomy.⁴¹ When this observed it may last for several years and many cases of amendments are reduced and the citizen population loving what it holds hence Article 4 being emphasized on a large scale in regards to its provisions.

The question of applicability to be significant the constitution should refer back to the purpose and its functions. Meaning that if it wants to be known as a large scale each and every provision should be independent on its own. Whereby the issue of diluting it not being of hand. And when this is upheld it will challenge all its obstacles like unawareness because people will find it interesting towards development gross. The 1995 constitution has been amended more than 2 times yet some countries which are like Uganda have never amended their constitution so people want to have a law that will totally not be diluted but will put its purpose at hand and be in position to defend its self.

The constitution to be applicable and Article 4 put at hand there should be an important distinction from other laws or subsidiary laws. Take an example of Kampala people they well know the KCCA Act ⁴² more than the law or the constitution because its always silent on grounds where its meant to support or oppose and due to this many people do not know its existence but Article 4 will be

⁴⁰ Article 77 of the Parliament of Uganda, 126 covers the judiciary and 98 covers executive

⁴¹ Autonomy Blacks Law Dictionary p. 145 defines it a right of self governing states

⁴² Kamplaa Capital City Authority Act

more applicable when it totally distinguishes itself from the above laws and stand to defend itself and local people of different capacity engaged in to support and address the particular issue.

CHAPTER FOUR

ENFORCEMENT OF ARTICLE 4 OF THE CONSTITUTION

4.1 Background of Article 4(2) of the Constitution.

This chapter will look at the enforcement of Article 4 of the constitution which this will be responsible for the strict observance of the grund norm of non-intervention in Uganda which due to non-observance has led to massive abuses of Human rights, mis-use of power, rule of law set aside in Uganda hence necessitating a legal intervention to restore human dignity, rule of law [constitutionalism and observation or respect of rule of law. This chapter will basically limit itself on how the provision of Article 4 will be reinforced and the rigid reluctance of the state be examined. Whereby Article 2 of the constitution will prevail and Article 4 taken at hand.

The 1995 constitution of the Republic of Uganda is an aftermath of the birth of the notion of string liberation of Uganda from the hands of dictators to where it is now under the NRM. At that time there was need for Uganda to re assert themselves in order to express the Ugandan citizen being able to know and be aware of any legal change. This can only be achieved through autonomy and bring districts at common since the districts in Uganda are at the same pace of development. The idea of a strong liberation therefore was an emotive and cohesive supernatural based on Ugandan citizen consciousness with shared history of general discontent⁴³.

It was under this time when Uganda's sought to know and have a law recognized that would regulate monitor the welfare of the country and a heavy need to define Ugandan Unity as precisely as possible however there is still great problem because the intension has not yet been achieved. On this ground there were a number of

⁴³ The preamble of the constitution

groups but the major group was the constitutional commission of 1980⁴⁴. Which was comprised of the then Justices like Benjamin Odoki, George W, Kanyeihamba Senior citizens like Miriam Matembe and others who were generally known as the radicals and the aim of enacting the constitution was to promote democracy in a broad day light and make known to the citizens since they were given a task force to research read and come with a draft of the constitution.

The background of Article 4 are clearly discussed basing on the process of the making of the constitution where the uniqueness of the process influenced the content of the constitution and in turn produced a unique output and this introduced many innovations which did not exist in the previous three Ugandan Constitutions and which are rarely found in the constitutions of other countries and that is Article 4 of the constitution of the Republic of Uganda. This outcome was inevitable because the objectives of formulating a new constitution was to provide a constitutional framework based on the views of the people of Uganda and one which reflected their values norms and aspirations for the future,. Where it was to be a constitution which was to be hoe grown and socially relevant addressing their historical past and the development goals and challenges not a copy cat constitution of another country and in reflect to this peoples of Uganda agreed basing on the views of Mwalimu Julius Nyerere.

"We refuse to adopt institution of other countries even when they have served these countries well because it is our conditions that have to be served by our institution" Meaning that the constitution was to be up taken and Article 4 of the 1995 constitution properly enforced.⁴⁵

When Article 4 was being included in the constitution of the 1995 there was a vision which was to be accorded up of which this was a fundamental reason why even the

⁴⁴ Political History of Uganda and constitutionalism G.W Kanyeihamba

⁴⁵ S.4 of the Ugandan Constitution commission statute of 1988.

preamble covers because this was a manifesto by the people of Uganda on what direction they wanted the development of their country to take. This portrays an ideal state of being at a future point and what kind of society the people want to create. A vision must be forward looking progressive prophetic idealistic speculative and even romantic. But it must also portray a realistic credible and objective of the condition spelt out in Uganda constitutional omission statute.⁴⁶ And all these vision would be effective when Article 4 of the constitution takes effect.

A point of unity brought Article 4 to be enacted reason being promoting unity is critical to nation building in a country consisting of different ethnic groups with different languages and religions brought together as one nation by the colonial administration and no development could take place unless the people accepted one another and when prepared to live together in Unity with diversity. As it is clear that peace is not merely the absence of war but the presence of justice since even Article 79⁴⁷ it mandate parliament to make laws on any matter for peace order development and good governance of Uganda and this was to be effective when people are aware of the Law which they are operating under this Article 4 up taken. When the constitution was emphasizing on Article 4 of the constitution there was a strong ground of awareness so that people or the country reflect the pillar of democracy. Democracy which as been defined to mean a government of the people by the people and for the people but generally it's a form of government in which the people in a given country but generally it's a for of government in which the people in a given country have the power to govern themselves either directly or through their representatives meaning that political authority is anchored in the will of the people and therefore the pillars of democracy could be preached to people when they are aware as to Article 4 since the constitution covers democracy of which the pillars are sovereignty of the people government based on consent of the

⁴⁶ S.4 of the Constitutional commission statute of 1988

⁴⁷ 1995 Constitution of the Republic of Uganda

governed majority rule minority rights guarantee of basic human rights free and fair elections equality before the law due process of law c constitutional limits on government social economic and political pluralism and values of tolerance pragmatism and cooperation and this brings prosperous people harmonious nation and beautiful country⁴⁸ meaning that all above could be achieved when people are aware and law the supreme law of the land.

4.2 Observation of Article 4(1) of the constitution.

Since the inception of the constitution, it has turned a blind eye to the internal affairs of the civilian population. As to Article 2 of the 1995 constitution it accepts the principle of non-intervention basing on its supremacy and it goes ahead to encourage and obliges citizens law makers judiciary executive and traditional centers to refrain from interference and respect the sovereignty and territorial integrity and its inalienable rights to independent several arguments have been raised against this article.

It is no question that due to unawareness of and failure of Article 4 it has led to violation of Human rights in various districts and towns around Uganda because the preparation of such violation are protected by chapter 4 of the constitution whereby this is a reason that people are not aware that the constitution provides for such rights. These rights have been violated by citizens themselves, soldiers who are meant to be trained in such law government bodies and Non Governmental organizations in reflection mostly taking up the example of the case of Ag vs Tumushabe Joseph.

Basing on Article 4 of the constitution few would dispute that there should be no secret laws that is the very notion of the law to some extent entails transparency.

⁴⁸ See Vision 2025 Vol.1 pg 75 MFDED 1999.

There are two reasons for this the first focusing on the right to legal subject and the second on the of the objectives pursued by the law maker. This firstly the need for transparency arises to protect the individual from being punished or made liable for something she could not have known about,. This is a matter of fairness and fundamental justice. Thus there is a high rate of non compliance in Uganda because people do not know which law overpowers their actions then Article 4 basically would encourage individuals to familiarize themselves with their legal obligations. "The rule against secret law ensures that individuals could if they wanted to find out about their legal obligations prospectively". Whether they actually do so is upon them.

Secondly and perhaps at Kimis overlooked⁴⁹ transparency of legal norm is generally also necessary in term of making law efficient that is achieving the out come they are designed to achieve. This requires not one hundred percent compliance but widespread compliance presupposes that people know about the law take an example the law in Uganda which prohibits drivers from using mobile phones whilst driving is designed to reduce the number of accidents caused by distracted drivers. This aim can only be achieved if most drivers comply with the law, which in turn depends on them knowing about the prohibition in advance⁵⁰.

4.3 Enforcement by NGOs.

Generally enforcement means to give effect or force to the law or enforcement is an act process of complying with the law, mandate command decree or agreement⁵¹.

⁴⁹ InC Peter W. Martin Legal information. A strong case for free content. Illustration of how difficult "free" may be to define, Release of Sustain (2000)at <https://www.4.law.cornell.edu/working-papers/open/martin.free.html>.at para II A Whatever goals the law is pursuing and through whatever immediate means the prime instrument is communication efforts to make law more accessible more understood able more clearly expressed and ultimately efforts to make more effective in democracy more accountable.

⁵⁰ At times the law's objective may also be achieved by leaving margins of safety for under compliance which penalizes those who comply with a law at the expense of those who do not.

⁵¹ Blacks law Dictionary pg 569

Therefore enforcement to be done by NGO's, it automatically saves hand how the law will have effect in people it clearly discussed that most population know about their objectives is to let people or the massive population know about the Law thus like the Foundation of Human Rights under the directorship of Dr. Livingstone Sswanyana should uptake this role and ensure that people are aware of the law so that compelling to it is made paramount. Generally 75% in relation to regard of their objective they have achieved the enforcement taking of the case f Ali vs Joyce Tumuheirwe⁵² where the defendant's Lawyer Mr Rwakafuzi represented the accused and helped or directed court on Law when he was acting and advocating for her rights hence a great role in enforcing the law and it should continue and work with other NGO's like ACTION AID which also have taken an initiative to enforce such law so that Article 4 takes effort and effect in the country.

NGO's can enforce the law though having interactive work shops or crash programs on essential and elementary legal laws whereby this has been reflected in the activates undertaken by Action Aid and Anti Corruption Coalition of Uganda discussing on corruption in relation to the taxes collected by URA⁵³ under this workshop there was an effect and pronouncing of laws which can eliminate corruption whereby through undertaking such initiative the law is made clear and known to the public hence a great enforcement tool that will enable Article 4 to be enforced.

NGO's can enforce the Law mostly Article 4 of the constitution through arranging literacy legal events. Meaning that through these arrangements these NGO's can help print, translate the constitutional materials and distribute them to people who will attend and in so doing there will be an effect of letting people know the Law.

⁵² case 2015

⁵³ The June New Vision 2016. Workshop held at Golf Course hotel between Action Aid and Anti Corruption coalition and URA on tax collection and how corruption can be reduced in URA offices.

This can be done mostly by financing road shows, radio talks, television talks, arranging for street and theatre plays and in so doing above the will be an effect of law and people will know the law even though Article 4 is not put into effect so long as people will have where to refer and in doing so it will reduce the saying **"ignorance of the law."**

4.4 Enforcement by citizens

As already discussed enforcement is to bring effect or make something act. Therefore on regard to the enforcement by citizens i.e. precise and clear that citizens have to abide to regular programs like attending campus or law workshops or law camps and those who will be privileged to attend share wit those who never attended. This will automatically bring the effect of law or Article 4 to the public. Legal sharing can be done by Chairman LC I II and III through community outreach and thus a create enforcement of the law and making people aware of the law as to Article 4.

Citizens can enforce the law through taking legal lectures meaning that the citizens who are literate take legal lecture and later translate the legal objectives to those who are illiterate. It's a case in Uganda that few Ugandans are educated and those who are not should be catered for by those who are literate and in so doing they will bring the law to use have effect even appreciate the principles of such particular law.

Citizens can enforce Article 4 through listening to legal public scholars what do I mean here is that citizens can attend public rallies when the law is being aired out so that they take these impact to their local societies take an example most areas in Uganda are far from major towns therefore those who come from the far reaching areas and are lucky to be in areas when there are always legal public lectures should attend and latter take such impact to their communities this will make sense

and at the end people will come to know that customs are under the grund legal norm and it will be of impact.

4.5 Enforcement by government/ state responsibility in enforcement.

Basically the government can enforce Article 4 since as per now it has failed to enforce Article 4 (1) through putting or pressing or strategically locating display boards in Public places e.g. railway, tax stages, bus stations, market places, in front of major government offices and police stations to help the citizens know the law even help government officials, public workers, police to understand the spirit of law. Whereby in doing so people will know that the law is in existence and will learn more about it. This can also be used as a tool to emphasize people to go look for the remaining provisions of such law hence a critical enforcement of the law and promotion of awareness in the country.

The government can enforce the awareness of the constitution as to Article 4 (1) of the constitution 1995 through distribution of pamphlets, brochures and stickers display of paintings and illustrations in places and other ways to ensure publicity for various legal mobilization activities this can be done basically through getting financial support from government institutions or working hand in hand with different embassies to support the publication and in so doing the government will bring the effect of Article 4 at hand in support of enforcement as a tool in the public. The government or state can enforce article 4 of 1995 constitution through publication of relevant books, Periodicals, posters and charts that deal with particular laws and make them accessible by the public on a cheap prices or free or without monetary attachment. Meaning that when the government publishes such laws it should not be with the intention of being only applicable to particular persons but to the public at large⁵⁴. As in reflect of the case of Polyukhovich vs The common

⁵⁴ Benjamin odoki. The making of the 1995 Uganda constitution pg 289 chapter 12

wealth of Australia whereby in the matters of publication every person should access the publication without discrimination so that there is a notion of law demand. Thus the government should put the governmental publishing services⁵⁵ and government departments at use. To make sure that the law is published and propagated in the public hence awareness will be of effect.

The government can enforce law through legislators who people's representatives as to Article 98 of the 1995 constitution can take charge to take the law to the people since law makers who are parliamentarians do not disregard special characteristic of the group subjected to a set of rules. Since as to the case of **Incorporated Council of Law reporting from England and Wales vs Ag and anor (1972) 3 ALL ER 1029 PP103**. Where Russel notes that "in many instances the ordinary members of the public either does not attempt to or cannot be study arrive at a true conclusion of their import or because the true understanding is largely limited to persons engaged professionally or as public servants in the field of any particular enactment or otherwise interested in that field". This idea that different laws require different approaches in bringing them home to their intended subjects is reflected in the words of Lord Donaldson in *Meerqur Island Shipping Corp vs Laughton*⁵⁶ in the context of clarity of legal norms;

"My plea is that parliament when legislating in respect of circumstances which directly affect the man or woman in the street or the man or woman on the shop floor should give as high a priority to clarity and simplicity of expression as the refinement of policy."

Meaning that after parliament legislating they should always take such laws or communicate such laws to the people they represent hence a great ground of enforcement by government.

⁵⁵ S..4 of the Uganda constitution commission statute of 1988

⁵⁶ 1995 constitution of the republic of uganda

The government can enforce Article 4 through making the law accessible to the public through internet drawn. The dawn sizing of the transnational actor goes hand in hand with a smaller capacity to access a wide variety of legal norms. Meaning that the changing demographic make up of transnational publishes and the changing technology available to law makers cannot but effect the content of the law makers obligation to provide access to their law. Meaning since teaching in primary and secondary schools and institutions is becoming difficult as to Article 4(1) and 1 of the constitution the government can put such laws on internet and people access them since computer studies are being undertaken on all levels of education. Otherwise we might as well as go back to town criers.

"In medieval times the law was a public process. It was disseminated from the pulpit or by means of the town crier to a largely illiterate public. Because of the size of communities, juries were self governing bodies. The invention of the printing press was of advantage only to those communities during and after the industrial revolution raised concerns about access of the law"

As the demise of the village raised new imperatives for ensuring the accessibility of law so does the rise of the global village create new imperative for making at least certain domestic legal norms accessible worldwide ad the government should take the initiative.

CHAPTER FIVE

5.1 Observations.

The principle of awareness as to Article 4 should be of a universality principle as set out in the preamble of the UDHR⁵⁷ has an enthusiastic support of many prominent human rights figure including Kofi Anani the 7th Secretary General of the UN High commissioner for Human right Mary Robinson she says:-

"University is in fact the essence of human rights all people are entitled to them all government is bound to observe them all state and civil actors should fend for them." The goal is nothing less than all human rights for all.

Meaning that the law is universal its of great importance that people know the law and be aware of it and appreciate it thus its not contrary to say that people have a right to know the law which is grund norm to them.

Even if not many districts representatives were present or represented at the drafting of the 1995 constitution they have all subsequently shown adherence to it and to its principles by their participation in the subsequent standard setting with characterized the period since the commencement of the 2995 constitution on the 8th October 1995 a day before the recognition and remembrance of 1962 9th October independence day when Uganda was declared a democratic government/ country.

Awareness should be universal thing since neighboring countries; colonial powers cannot determine what is universal? In other words universalism was another function of imperialism with a few but dominant regions presuming to prescribe principles of life for the rest of other regions.

A number of arguments can be identified. First that since civilization and culture vary both in the geographical location too will their life worlds vary. On this basic human rights are not simply European or Western Norms which are being imposed

⁵⁷ See vision 2025 vol. 1 pg MFPED 1999

upon all other contemporary cultures a for all time and people should know them in relation with knowing and being aware of the given legal norm.

A second variation of the idea ins that even if there were to be agreed that awareness which have universal acceptance , its impossible to attach similar value or weight to them irrespective of location and circumstances.

Thirdly although there are some laws which not need to be known universally and every one and do not require universally acceptance, others not being negotiable in the light of the prevailing cultural historical or other values applicable to any given time or place its paramount that the constitution should be known and people should be aware of such particular law and enforced accordingly and beyond Article 4.

Fourthly in any event the nature of society and of the world is such that there is a multiparty of cultures and values and these have to e respected and known since they provide an essential starting point for any understanding of societal norms it is therefore unnecessary to assert their existence of a monochromatic society and it is possible to value difference. Each culture has its own ways of interpreting and understanding the legal norm which must be value only in bread terms.

5.2 Recommendations

Despite the fact that most Ugandans know their duty and rights to know the laws 22.5% of them use the laws in their existence or lives while the reminder know nothing on the use of the law as subjects in a given locality society or their country. The problem of the principle of awareness of the 1995 constitution has impacts to the society and should be immediate dealt with. It would be unfair to assume that people have knowledge on the law when in fact there are no sources provided from which they are to acquire the specific knowledge. Though they have been attempts by the judiciary, government the parliamentarians and civil society to raise

awareness and regards knowledge on law such attempts have not been effective to the extend of solving the problem of unawareness.

The following are the recommendations that may be helpful:

It should be noted that there is no requirement in any law that demands for anybody or institution to provide knowledge of the law to the people but our constitution of 1995 of the Republic of Uganda does it making a unique constitution or legal norm which makes it at least fair to assume that knowledge of the law exists on the part of society hence forth I recommend the law appoints out a body which will have a duty to pass knowledge to the society.

Educate the people about the law from the lowest level as possible. The lowest level being the people in remote villages through speeches conducted in villages meetings and written handouts to those people who can read also the people may know their rights and therefore not be ignorant on the knowledge of the law as this would also make them understand the law and eradicate fear which is brought about by not knowing the law.

The government should make the law available to people cheaply or even freely when possible considering how poor our society is as this would make people have easy access to know the laws. This can be done through public meeting and the media especially radios and Newspapers depending on how quickly the Newspaper can reach people.

The law should be transmitted to the people by verbal means as most people in Uganda are illiterate and they cannot write read or understand English. Hence the laws should be translated into local languages or if its not easy as Uganda is a member of the East African Community where this community is legalizing Kiswahili to be a second official language to English which is a common language which is almost known by everyone and this would be easier awareness and benefit the

public if members of the public can read a statute written in Swahili it would save him the cost of legal aid.

Members of parliament should communicate laws to their subjects it is the duty of the Members of Parliament to bring development to their respective constituencies and this development also includes education on the knowledge of the law to their subjects and not just the basic infrastructure. Mps should not only enrich themselves but their people also and the best way is giving them knowledge on the laws which enable them to know their rights and fight for justice.

The government should make programs of making sure that the laws reach the intended subjects once they are in the care of the local leaders. They should allocated time and make follow ups as to when and how the local leaders like the district commissioners and local governing board should educate people on the law and the proper channels of how those laws reach the subjects once they are in the care of the local leaders. This should not be a matter of discretion to the local leaders.

The government should offer training to the various NGO's in the country especially in areas of the organizations systems and procedures, projects design and strategic planning. The organization should also find ways to limit donors from imposing their own program objective as this may blur out the already set objectives of the organization. This is because funds for these organizations so as to be able to spread the knowledge of the law more easily and quicker as their time are bent on reaching people.

Newspapers, newsletters and Journals should be widely distributed all over Uganda Newspaper articles should not be vague on the law but should be precise clear and widely written so as people can understand more on the law enacted or the particular law discussed. Articles concerning the law should be written by lawyers or

students taking law at the University so as to bring clarity and certainty of the published position of the law as they are in a better position to know more about the law than an ordinary author.

I recommend that certain authors of articles on law should not be changed as this disturbs the flow of the Idea one had intended to write, the message becomes distorted. It would be much easier to deliver the knowledge from one author who had a plan of what should be much easier to deliver the knowledge from one author who had a plan of what should be the priority and what shall come after that. There should be a general plan for any such author to follow. I also recommend that other bodies or institutions to write articles such as the faculty of law of universities in the country, legal aid organizations and other bodies.

Therefore when Newspapers articles are being written it should always be on the mind of the author that the people who are going to read the article are illiterate on the matter written hence the author writing the Article on Law should be precise, use ordinary language as much as possible and avoid any legal jargons and scientific terminologies based on law as this creates confusion misunderstanding among readers.

Television and radio programs should be aired for a longer time than they are for instance an hour is plenty of time for people to understand the issue being discussed and at the same time more programs concerning the law should be aired on this too. The media and people should be given a chance to ask questions and recommend on the said topics. More so the programs should be aired during the times when most people are at home preferably evening hours and not during the day as this will reach more people hence more will know about their rights and duties to the society and also have the knowledge of the law on different angles of the law.

I recommend and urge the society to create government libraries in every locality especially in the villages which have in store the laws that they have enacted and in case of new laws they shall be put in the said library which will be accessible to the local people of the area therefore enabling them to now and have the knowledge of the law. This library should have free access to all people in the local areas and if costs are to be incurred they should be as cheap as possible so that the people in that particular area can afford to be able to read these laws.

The society should have experts for the purpose of educating the people on the law these people should be given the funds and support by the government and allowed to travel all over the country especially the remote areas and be able to educate people on the laws of the country. At the same times these experts sole work should be only to educate inform find out areas which most people do not know anything about the knowledge of the law through asking questions linking the government to the people of the society by giving information to them on what areas of the law should be emphasized and how much their people know them.

The government should provide an online national website which provides a detailed information on the domestic laws of the country mostly the constitution so that foreigners who are interested in doing any sort of venture in Uganda can be aware of what is expected of them.

5.3 Conclusion.

The role of this paper was to analyze the applicability and enforcement of Article 4 and basically the effect of the presumption on the knowledge of the law and in Uganda this presumption is carried by the rule: awareness of the constitution.

The rationale behind the rule is mainly to avoid floods of cases even violation of Article 2 of the constitution which sets out the supremacy of the constitution when

every man must be taken to be cognizant of the law. Otherwise there is no knowing of the extent to which the excuse of ignorance of the law might be carried.

Basing when awareness is accorded to the public it limit the defence of ignorance of law which is always no defence since the plea of ignorance is always denied since it would be difficult to prove that the accused did in fact know of the law. Another reason is that most offences are based on moral wrongs hence the society is expected to know the law.

From the finding of this research based on the fifty (50) questionnaires distributed in Kasese District in Nyambwaba region where each had fifteen questions it was discovered that 99% of the people that know the mother law of Uganda have never laid eyes on it. Another 99% not only have they never seen the constitution but reading it also. In this case how would these people know their rights even know how to distinguish their customs with the legal Norm since only 1% have and read the constitutions which leaves the majority in a loop hole?

75% of the people that know the government gazette have heard it and actually seen the alleged gazette seem to have a misconception of it as most who have heard of it seem to think of the local Newspaper that the government owns like New Vision. At the same time 100% of the people that have heard of the government gazette do not know where to find them.

Despite the fact that most Ugandans know their duty and right to now the Law 22.5% of them know the use of the laws in their existence or lives which the reminder know nothing on the use of the law as subjects in a given locality society or their country.

This problem is largely due to lack of the villages get their newspapers three days after the News is out due to inaccessible roads that lead to the villages and farness therefore rendering the people ignorant on some of the latest News on the Laws.

The same applies to radios in remote areas sometimes is difficult to get news on the air especially at night and during the rainy season. It becomes impossible for the people to learn about the law or even know the new laws enacted as in most rainy seasons, the roads are completely inaccessible and no services can reach such places and radio frequency waves are also disrupted for those using the radios. This adds to people not knowing anything that is happening in the outside world therefore rendering them ignorant of the law as this rainy season can last up to six months.

Therefore most people in Uganda are not aware of the basic law or principles based on the finding some of these people are not even able to differentiate between civil and criminal law. Basically they are unable to identify the major branches of law; hence the people are not knowledgeable on the laws of the land as was stated in the hypothesis instead a great fear settled among the people as they associate the law with mistreatment (jail time).

To make the law workable and efficient it sometimes has to rely on legal fiction and such fiction is the presumption that everyone knows the law- a presumption driven by the need to give subjects an initiative to inform themselves of their legal obligations and which is justifiable and fair in so far as everyone could know about it as it is published. But of course even the latter fact is to some extent a fiction given that many people could not get out about the law at least through its official sources since much law in its technical detail is inaccessible to the ordinary people.

Nevertheless their fiction is in the domestic context hardly troublesome as people can know about their legal obligations and infract do broadly know about them either through the media or common knowledge.

I hereby conclude that the majority people of Kasese and Uganda at large do not have the knowledge on the law/ are not aware about the constitution and hence to

assume that they do is nothing far from fair this also applies to the literate group of students in schools, institutions and Universities when most do not know the knowledge of the law and its even more surprising to find some law students do not know the most basic principles of law. Further more there is no set of mechanism that is adopted for the purpose of ensuring that the society is equipped with the basic awareness knowledge of the law as the role has more negative impact than positive to the people of the society.

LIST OF STATUTES

The 1995 Constitution of the Republic Of Uganda

Kampala Capital City Authority Act

The Constitution Commission Statutes Of 1988

LIST OF CASEES

1. AGVs Commissioner of Prisons Expart Matovu [1966]HCB
2. AG Vs Kizza Besigye and Anors 2007
3. AG VsMichael Kabaziguruka and Anors 2016
4. AG Vs Joyce Tumuheirwe 2015
5. Betty Vs AG 2012
6. Hutton Vs Edgerton (1875)6 SC 485
7. Incorporated council for England and WalesVs AG and Anor (1971)3 ALL ER 1029 PP103
8. Joseph Tushambe Vs AG
9. Mukasa Mbidde and Anor Vs LDC
10. Merkur Island Shipping Corp Vs Laughton (1983)2 AC 570 pp 595
11. Pius Niwagaba VsLDC CAC No.18/2005
12. Polyukhovich Vs The Common Wealth of Australia (1991) 172 CLR 501 Para 30
13. Susan Kigula and Anors Vs AG [2008] KALR
14. South Carolina Vs Katzenbach
15. Tinyefuza David Vs AG (1999) HCB

SELECTED BIBLIOGRAPHY

BOOKS.

Autonomy: Black's Law Dictionary.

Benjamin Odok: The making of the 1995 Constitution Uganda.

Black's Law Dictionary.

Encyclopedia of Public International Law Quoting 1958.

G.W.Kanyehamba: Constitutional and Political History of Uganda 2nd edition 2010.

J.Cchroeher US Innervation's in the 1980. Boulder Launder 1989.

J. Hyde. International Law Boston 1947.

Jess up. Modern Law of Nations, New York 1949.

Principles of Public International Law Oxford London Press 1966.

Thomas Pakenham: The Scramble for Africa Abacus 1991.

The Hague Mistinues Nijnoff 1971.

Vision 2025 Vol 1 MFPED 1999.

RESEARCH PAPERS/REPORT PAPERS:

Administrative Review Council Report of 2004.

A Report of Foundation of Uganda Human Rights of 2016.

Multilingual Legal Information Access on Overview Geneva of 2013.

Multiple Action Research Group 2013.

New Vision Of 2016.

Report of Secretary General on Extreme Poverty and Human Rights for UN GA 67TH Session.

Resisting Anti-Intellectualism and Promoting Legal Literacy 2013.

Report of the Special Rapporteur on Extreme Poverty and Human Right.

Social Science Research Network Nation Legal Literacy Mission by Kumar Anoop.

The Business Guide to Legal Literacy by Hasl-Kelchner Hanna 2006.

UNDP-Human Development Report of 2000.

WEBSITES:

<http://www.4.law.cornell.edu/working-paper/open/martin/free.html>.

<http://www.hmso.gov.uk/about/hmso.htm>.

[http://www.law.auckland.ac.nz/learn/it law/free pub.doc.pp l](http://www.law.auckland.ac.nz/learn/it%20law/free%20pub.doc.pdf).

[http://www.lawforlife.org.uk/introduction/Cambodian community](http://www.lawforlife.org.uk/introduction/Cambodian%20community).