

Uganda Police News

The Monitor (Uganda) June 17, 2008. The recent Constitutional Court ruling on the role of the police force in organised public assemblies and demonstrations has attracted mixed reactions and varying interpretations from the public. The public and the leadership of the police force are at loggerheads over whether the police have any role left in policing public assemblies and peaceful demonstrations. This misunderstanding can also best explain the events of last week when opposition members of Parliament walked out of the Budget presentation session in protest of police brutality. The MPs action was justifiable given the manner in which highhanded police officers bundled two female legislators in a very indecent manner. From press reports and television images, surely the police officers involved in the fracas with the MPs acted unprofessionally. The Constitution Court specifically examined the powers of the police under section 32 (2) of the Police Act which hitherto, allowed the Inspector General of Police to prohibit (stop) the convening of public assembly or processions. The petitioner in the case expressed worry that the police was becoming increasingly partisan by blocking the political activities of political opposition parties. The petitioners argued that the unfettered discretion on the part of the police contravened the freedoms of equality, expression, movement and assembly. On the other hand, the Attorney General argued that the police powers as provided for under Article 212 of the Constitution read together with Article 43 allowed for restrictions on the enjoyment of fundamental rights and freedoms in public interest. Court rejected the AG's arguments because Article 20 of the Constitution provides that fundamental rights and freedoms of the individual are inherent and not granted by the State. And that the rights and freedoms of the individual and groups shall be respected, upheld and promoted by all organs and agencies of the government and by all persons. The court noted that for the police to evoke Article 43 to limit individual freedoms the grounds for such limitations must be sufficiently important and they should not be arbitrary, unfair or based on irrational considerations. The court also noted that a society, especially a democratic one, should be able to tolerate a good deal of annoyance or disorder so as to encourage the greatest possible freedom of expression, particularly political expression. So, did the Constitutional Court ruling bar the police from exercising their duties to maintain order at public rallies and during demonstrations? No. In fact, the court noted that the right to a peaceful protest is not absolute. The police have a wide range of powers to control and restrict the actions of protesters. But the court stated that the police powers should not be exercised in an unaccountable and discriminatory manner. In a nutshell, the meaning of the ruling is that the police powers should be regulatory but not prohibitive. This same notion is captured in international legal instruments that govern civil policing. In a democracy, the police should serve to protect and not impede civil liberties.