

Constitutional rule in Buganda

Issue

The general view is that Buganda has an unwritten constitution, which the Kabaka may review and change as he pleases. The fact that the Kabaka is not appointed on merit or ability or that he enjoyed a victory over our ancestors makes the powers vested in the Kabaka a touch confusing.

We know that messages passed on by word of mouth are infinitely capable of innocent distortion or something far worse. It is therefore not unreasonable to ask the custodians of Buganda's unwritten constitution to meet us half way so that we agree on a written contract between the Kabaka and his people that retains the dignity deserving of a Kabaka representing a civilisation, which is about 800 years old.

We will seek to argue that we need to identify the political and social processes of leadership that should directly fall to the Kabaka and which ones should not be his direct responsibility.

Notably, assuming that when the rule that the constitution of Buganda is the whim of the Kabaka was first devised there were neither powerful external influences to speak of, nor was the population anywhere near 6,000,000 subjects. At the time the Kabaka did not require a cabinet of ministers but needed only the assistance of his Katikkiro, county, sub-county, parish and village chiefs to assist him. He was a sovereign supreme then but interestingly without a standing army to impose his will on the people. And whatever be the truth of that, time has moved on [messages distorted] and we need to revisit our constitution and put in its place a more permanent document rationalised to the needs of the Baganda and freely accessible by every Muganda. We need a predictable future.

Background

We have a saying in Buganda that "*Kabaka tebamutumula mu kamwa*". In other words, the Kabaka's word is final and cannot be challenged. As a matter of ensuring discipline in an isolated community such a rule would be understandable, but as a constitutional principle without qualification, it is simply untenable.

We often forget that Baganda are not a conquered people despite the picture painted by various Uganda Governments. The first Kabaka from whom the current Kabaka descends was *invited* through dialogue to sit on the Nnamulondo. Every Muganda is proud of that fact because the creation of the kingdom of Buganda was not the work of savagery or pillages rather it was an outcome engaged in reason and tolerance, a quality we should continue to emulate. It is self evident that it was not a case of a victor imposing his will on the conquered.

Interestingly the first Kabaka was appointed on grounds of his abilities to arbitrate impartially between and amongst the clan leaders. The Baganda had a lot of confidence in Kabaka Kintu that it was assumed his lineage would forever produce Kabakas in his image, wisdom and demeanour. Needless to say, that was null impossible since the succeeding Kabakas were not clones of Kintu but sons of mothers of whom we know very little. The less said the better.

To add the obvious, the office of Kabaka has been held through inheritance. It follows that if the Kabaka turns out to be the most intelligent man on planet earth that amounts to no more than a bonus.

What we look for in a Kabaka is someone born to a Ssekabaka or a grandson of a Ssekabaka who provides the focal point for every Muganda. Indeed in Buganda the office of Kabaka is greater than its holder, for example, the death of a Kabaka is not a crisis moment in Buganda and that is telling.

The first Kabaka was appointed by the clan leaders assembled, as the Great Lukiiko of Buganda and that is how it remained throughout the ages until the arrival of the colonialists. In 1900, the British decreed a new composition of the Great Lukiiko, namely in addition to the Bataka we now had notables and chiefs of Buganda sitting in the Great Lukiiko.

Matters were further complicated in the recent past that today the Kabaka appoints who sits in the Lukiiko, the same Lukiiko that appoint the Kabaka. Furthermore the Lukiiko should be the institution where every Muganda is represented before the Kabaka and his Government. In other words, technically the Kabaka's Government is answerable to the Lukiiko.

These contradictions and absurdities result from the fact that there is no positive identity of the acclaimed Buganda constitution. In the name of our ancestors and for the good of posterity, we have reached a point where we must agree a permanent constitution for Buganda.

Argument

The Kabaka is the rallying point for every Muganda. The Kabaka should mobilise us for the good causes of Buganda. The Kabaka's role cannot continue as head of the Buganda Administration, which is much beneath him. Neither should he continue as Head Judge, nor as Head of the Lukiiko because that draws him into controversy of from which he should distance himself.

We need not argue about what powers the Kabaka should have. The Kabaka is held in the very highest regard and it would be reasonable to assume that extending him reserve powers on everything would be fitting. However, in practice, the people of Buganda through their representatives in the Lukiiko should nominate/elect the Chief Justice and the Katikkiro of Buganda and advise the Kabaka to appoint them. The Katikkiro would nominate Judges and Ministers who would either be endorsed or rejected by the Lukiiko.

The composition of the Lukiiko would include something like 60 percent of elected members; 10 percent would go to experts and professional bodies in Buganda; while the remaining 30 percent would be reserved for clan leaders and the county chiefs of Buganda. The composition could be any other such percentages, as a majority of Baganda would find agreement with.

The appointment of civil servants would be by a Buganda Public Service Commission and the appointment of heads of public bodies will be by Kabaka's Government in consultation with the Lukiiko.

The lack of clarity in leadership and insecurity of tenure of office in Buganda has stagnated and stunted development in Buganda. It has also created doubts in many minds. The confidence of many of our people has webbed away and some have blamed the Kabaka who has been weighted down by too many responsibilities when in fact his role is to cast a fatherly eye over his people by advising them when they go wrong. He should not be seen as the managing director of Buganda rather he should be the majority shareholder who intervenes only when the Executive exceeds its powers or is short on direction.

Recommendation

We recommend that from our riches of experts we appoint no more than 9 to draft a constitution of Buganda to be deliberated on by the Lukiiko and people of Buganda within a frame time of 12 months and passed into law with a time span of 24 months

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