



The Republic of Uganda

Judiciary

REPORT OF THE COURT OF APPEAL TO THE 17TH ANNUAL JUDGES CONFERENCE 2015

The Hon. the Principal Judge,
The Hon. Justices of the Supreme Court,
The Hon. Justices of Court of Appeal,
The Hon. the Judges of the High Court,
The Secretary to the Judiciary,
The Chief Registrar,
Your Worships,
Distinguished guests,
Ladies and Gentlemen.

1.0 Introduction

This is the report of the Court of Appeal to the 17th Annual Judges conference. The first part of the report deals with the laws establishing the Court, its jurisdiction and its composition.

The second part deals with the court performance for the years 2010-2014, the challenges met, the strategies and/or the way forward.

2.0 The Court of Appeal is established by **Article 134** of the **1995 Constitution of Uganda**. **It provides:-**

"(1) the Court of Appeal of Uganda shall consist of-

a) the Deputy Chief Justice; and

b) such number of Justices of Appeal not being less than seven as Parliament may by law prescribe.

(2) An appeal shall lie to the Court of Appeal from such decisions of the High Court as may be prescribed by law."

Article 135 provides

"the Court of Appeal shall be duly constituted at any sitting if it consists of an uneven number not being less than three members of the court.

(3) the Deputy Chief Justice shall preside at each sitting of the court and in the absence of the Deputy Chief Justice, the most senior member of the court as constituted shall preside."

2.1 The Court of Appeal also doubles as the Constitutional Court of first instance of Uganda,

Article 137 provides-

"(1) Any question as to the interpretation of this Constitution shall be determined by the Court of Appeal sitting as the Constitutional Court.

(2) When sitting as a Constitutional Court, the court of Appeal shall consist of a bench of five members of that court.

(3) A person who alleges that-

(a) an Act of Parliament or any other law or anything in or done under the authority of any law; or

(b) any act or omission by any person or authority, is inconsistent with or in contravention of a provision of this Constitution, may petition the constitutional court for a declaration to that effect, and for redress where appropriate.

(4) where upon determination of the petition under clause of this article the constitutional court considers that there is need for redress in addition to the declaration sought, the constitutional court may-

(a) grant an order of redress; or

(b) refer the matter to the High Court to investigate and determine the appropriate redress.

(5) where any question as to the interpretation of this Constitution arises in any proceedings in a court of law that a field court martial, the court-

(a) may, if it is of the opinion that the question involves a substantial question of law; and

(b) shall, if any party to the proceedings requests it to do so, refer the question to the constitutional court for decision accordance with clause (1) of this article.

(6) Where any question is referred to the constitutional court under clause (5) of this article, the constitutional court shall give its decision on the question, and the court in which the question arises shall dispose of the case in accordance with that decision.

(7) Upon a petition being made or a question being referred under the article, the court of appeal shall proceed to hear and determine petition as soon as the possible and may, for that purpose suspend any other matter pending before it."

2.2 Under Section 6 of the Judicature Act, a decision of the Court of Appeal pertaining to a Parliamentary Elections Petition shall be final.

3.0 The role of the Court of Appeal in the administration of justice is three fold namely:

(a) To hear appeals from the decisions of the High Court both Civil and Criminal.

(b) To sit as a final Court in Election Petition Appeals.

(c) To sit as a Court of first instance in constitutional matters.

4.0 Composition of the Court

The court is supposed to be composed of 15 Justices but currently it has only 12. They are:

1. Hon. Justice Steven B.K Kavuma Ag. DCJ
2. Hon. Justice A.S. Nshimye JA
3. Hon. Justice RemmyKasuleJA
4. Hon Justice EldardMwangusyaJA
5. Hon. Justice RubbyOpioAweri JA
6. Hon. Justice Faith Mwondha JA
7. Hon. Justice Richard Buteera JA
8. Hon. Justice SolomyBalungiBoss JA
9. Hon. Justice Kenneth Kakuru JA
10. Hon. Justice GeoffreyKiryabwireJA
11. Hon. Justice Prof. Lilian.T.Ekirikubinza JA
12. Hon. Justice Fredrick EgondaNtende, JA

4.1 Registrars and Registries

There are three Registries that is i.e the Civil, the Criminal and the Constitutional Registries. The Court's Deputy Registrar is H/W DeoNizeyimana, assisted by H/W Eleanor Khainza and H/W Joyce Kavuma, as Ag. Assistant Registrars in charge of the Criminal and Constitutional Registries respectively.

4.2 ADMINISTRATION STAFF

H/W Daniel Lubowa is the Personal Assistant to the Hon. Ag. Deputy Chief Justice. There are (8) eight Research Assistants and 105 support staff, Ms Caroline Nandawula is the Ag. Office Supervisor.

5.0 Court performance

Background

(A) Court performance over the last five years is shown in the table below:

TABLE (i) COURT PERFORMANCE (2010-2014)

YEAR	CASES B/F	FILED	TOTAL NUMBER OF CASES	DISPOSED	DISPOSAL RATE %	PENDING
2010	2174	846	3020	386	45.6	2634
2011	2634	876	3510	288	32.8	3222
2012	3222	1002	4224	251	25.0	3973
2013	3485	1184	4669	564	47.63	4105
2014	4105	1368	5473	1073	78.43	4400

(B) For the greater part of 2011 – 2013 there were virtually three (3) functional justices of the court instead of seven (7).

TABLE (ii)

(C) COURT PERFORMANCE IN 2014.

Cases Completed

Criminal Appeals	192
Criminal Applications	424
Civil Appeals	124
Civil Applications	241
Constitutional Petitions	52
Constitutional Applications	33
Election Petition Appeals	3
Election Petition Applications	4
TOTAL	1,073

(D) The total number of cases disposed of was 1,073 and those filed were 1,368. Compared to the previous year 2013 the Court's disposal rates increased from 47.63% to 78.43%. The Court of Appeal is now able to dispose of most of the cases filed during its year of operation.

- (E) The increase in the number of justices helped to increase the case disposed rate among other things. Thanks to the appointing authority for responding to the long standing request to appoint more justices to the court. We look forward for more justices though. There should be 15 but ultimately 32 to enhance court's visibility and work outside Kampala.

6.0 Challenges

During the year under review, the court encountered various challenges particularly:

6.1 Backlog

As of 31st Dec 2014 approximately 2174 civil and 1533 criminal appeal cases were designated as backlog. Delays in transmission of records from the High Court and other Courts, particularly in Criminal appeals, greatly contributes to the backlog. In a total of 2218 files at the Court of Appeal under the backlog category, there are no records provided by the High Court in spite of persistent and repeated demands for them. 2218 files have been in our system for 20 years plus but are not trial ready.

6.2 Finances

The Court of Appeal is the Second Highest court in

Uganda and doubles as the Constitutional Court of first instance. It has 3 Registries. The increase in volume of work is a big challenge. There is need for adequate funding of the Court.

Funds provided are equivalent to those of High Court Division!!!

6.3 Lack of space

There is no archive, no room for counsel, no chambers for the Registrars and no office space for Research Assistants. The increased number in the workforce to 105 led to a challenge of insufficient office space, furniture and other office equipment. The concerned Judiciary officers are aware and we await their response.

6.4 Staffing

The Court of Appeal has 2 transcribers and 4 clerks. This is insufficient given that there are 12 justices. Some Justices have no Secretaries and no Research Assistants.

Most of the support staff are on local contracts.

Poor remuneration of staff demotivates them and affects their performance. Many have left court service because of this.

6.5 Transport

Lack of transport for support staff, registrars and a standby vehicle for the Honorable Justices is a challenge too. The lack of a motorcycle frustrates service of court process resulting in many unwanted adjournments.

6.6 Facilitation

The Justices' Chambers are not fully furnished, some of the chambers lack the most basic requirements to do their job including some of the necessary basic books and materials. The Secretary to Judiciary is encouraged to act faster on this matter.

7.0. STRATEGIES FOR IMPROVING PERFORMANCE

The Court strategy for 2014-2015 is to hold at least 3 sessions every quarter. Court proposes to handle 40-50 cases per session. This will increase justice to the people including to those upcountry.

(A) A good example of commendable work for the court through upcountry sessions is shown in the table below.

TABLE (iii) **COURT'S UP COUNTRY SESSIONS PERFORMANCE**

COURT STATION	YEAR	APPEALS CAUSE ELISTED	COMPLETED	ADJOURNED TO NEXT SESSION	DISPOSAL RATE
GULU	2010	51	51	-	100%
MBARARA	2010	79	77	2	97.5%
MPALE	2011	76	76	-	100%
FORTPORTAL	2014	30	30	-	100%

- (B) This is a short term strategy but in the long term we aim at regionalizing the Court of Appeal hence our requirement of an ultimate increase of Justices to 32.

7.1. Backlog clearance sessions.

The Court drew up a work plan and budget in 2014 for clearing backlog. This was submitted to the Secretary to the Judiciary and the Court still expects a positive response to the request by way of providing the necessary funds. This financial year experienced shortfalls in funding to court operations to various reasons.

7.2 Court Committees.

The court has now established 4 committees and their activities need funding.

8.0 Condition of Retired Justices

(A) We note that retired justices are not satisfactorily cared for. There is need for the expeditious passing of a law on retired judicial officers. I am informed there is a Bill in the pipeline on this. I ask Government to expeditiously oblige and do the needful.

(B) There has also been unprecedented delays in paying retirement dues to the retired justices some of whom are sick and need the money to care for their health. Government is called upon to always settle these payments without undue delay.

9.0 Obituary

The Court lost Justices recently, retired Justice Berko and Justice Connie Kategaya Byamugisha. The Court proposes to hold a special court session in honor of each of the departed Justices this year.

Their Lordships Justices Richard Buteera and Fredrick Egonda-Ntende lost their mothers and HW Eleanor Khainza Ag. Asst. Registrar lost her father. Some support staff also lost their relatives. May their souls rest in eternal peace.

10.0. THE WAY FORWARD

The Court of Appeal is underfunded and understaffed. It is, therefore, necessary the Judiciary allocates adequate funds to enable it do its work. The staff gaps should also be filled.

11.0 CONCLUSION

- (A)** I commend their Lordships all the Justices of Court of Appeal for their hard work and team spirit exhibited during the year. I thank them for the efforts they have put in to ensure that work is properly done.
- (B)** The senior management of the Judiciary is thanked for facilitating the court's improved performance but there is a lot of room for improvement.

I thank the AG, DPP, the Uganda professional Bar and all the JLOS agencies for their cooperation without which court would not have performed the way it has done.

Last but not least, I thank all the Court of Appeal support staff for their hard work amidst the many challenges they encounter in their work.

Courts' challenges notwithstanding however, it shall continue to serve the people of Uganda, Yes we can and

Yes we shall.

Best wishes during the New Year 2015.

Thank you.

God's blessings

Steven B. K. Kavuma

**AG. DEPUTY CHIEF JUSTICE
HEAD OF COURT OF APPEAL/
CONSTITUTIONAL COURT OF UGANDA**