



**REMARKS BY HON. JUSTICE DR. YOROKAMU BAMWINE, PRINCIPAL JUDGE, AT THE 19<sup>TH</sup> ANNUAL JUDGES' CONFERENCE, 26 -29 JANUARY, 2017 AT SPEKE RESORT CONFERENCE CENTRE, MUNYONYO**

**Lord Chief Justice**

**Lord Deputy Chief Justice**

**Distinguished Colleagues**

**Fellow Ugandans**

1. I am pleased to be part of this interaction on Investing in the Rule of Law through sustainable Resourcing of the Judiciary.
2. Under the Constitution of the Republic of Uganda, the Judiciary is enjoined to administer justice in the name of the people of Uganda. Judicial power is derived from the people who are therefore at the centre of all our operations.
3. **Rule of law requires that:**
  - *Courts of law be both **accessible** and **affordable**.*
  - *Matters that come before the courts be heard without excessive delay.*
  - *Means be provided for resolving, without prohibitive cost or inordinate delay, disputes which the parties themselves are unable to resolve.*

In other words, rule of law presupposes that the legal process is fair and efficient, and that the Courts operate with independence and integrity.

The importance of access to justice cannot be over emphasized. If it does not exist, Rule of Law becomes nothing more than just a concept, an ideal. Without access to

justice, legal rights cannot be exercised and legal obligations cannot be enforced, public or private bodies cannot be challenged through the courts or individuals brought to *account*<sup>1</sup>.

4. Colleagues, whereas we are enjoined by the Constitution to ensure that justice shall not be delayed, to-date courts have a massive backlog and workload of cases waiting to be disposed of. In the interest of time, I shall not go into figures.

Suffice it to say that we know how the unsatisfactory state of affairs can be averted.

- *Appointment of more judges whenever we see a rise in the backlog of cases.*
- *Changing rules of procedure to empower the courts to be more pro-active in the management of cases.*
- *Appointment of our bright law graduates to serve as research assistants to the Judiciary.*
- *Appointing more Chief Magistrates and Magistrates Grade one, expanding their jurisdiction, and transferring pending cases to them. Imagine if we increased jurisdiction of a Chief Magistrate to say Shs.500 million and we empowered them to hear the bulk of murder and robbery cases.*
  
- *Adopt best practices (pro-people innovations) to improve performance.*
  - ***Plea bargaining** - We have pending agreements but even the few Judges in place cannot be facilitated to complete the cases.*
  
  - ***Mediation** - Despite the many good attributes of this innovation, and it being a mandatory requirement, we still rely on volunteers – after the Austria and DANIDA pull-out.*
  
  - ***Court room technology** – we have court recording and technology tools, no people to manage them on permanent and pensionable terms.*
  
  - ***Small Claims Procedure** – Unlocking locked up incomes especially the poor and vulnerable but thanks to lack of funding we cannot roll it out to all courts.*

Implementation of the above measures would speed up judicial decision making and drastically increase the rate of case disposal.

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<sup>1</sup> *Justice Matters – The importance of access to Justice by Andrew & Caplen at p.7*

Unfortunately, most of these measures are not budget neutral. And the Judiciary is expected to perform miracles with the less than 1% of the national budget allocation.

#### **4. What then can we do?**

There is need to do justice – justice delayed is justice denied. There is also need to be efficient in doing justice – delay increases the potential for injustice.

It prolongs personal anxiety and anguish, and from research also increases the social economic costs for the nation.

In terms of economic cost, a study done by the London School of Economics on the consequences of a slow judiciary on contracting parties<sup>2</sup> shows that a slower judiciary could result in more breaches of contract and reduced access to credit. The World Bank’s “Doing Business” annual surveys also accept that there is a link between judicial efficiency and the competitiveness of the economy. In relation to the indicator to measure efficiency of contract enforcement, the World Bank measures it according to the time in calendar days the court takes to resolve a dispute. The case for establishing the economic cost of delay in the judicial system is therefore straightforward: the longer the time it takes to enforce contracts, the less competitive the economy becomes.

We should realise the potential of having timelines and benchmarks which are in line with international norms.

- 6.** Courts are accountable to the people for the public funds and resources provided to them to discharge functions. Reducing backlogs is therefore synonymous with judicial accountability. The waiting for a hearing date at all levels of Courts is something we should be able to measure and monitor.

We have recently had a 25% increment on the budget and this has enabled us so far to ring fence funds budgeted for sessions. This measure has so far enabled High Court alone to complete close to 40 sessions out of 73 sessions planned for the Financial year 2016/17.

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<sup>2</sup> *Mathieu Chemin, “Does the Quality of the Judiciary Shape Economic Activity?” “Department of Economics, London School of Economics, 11 October 2004*

You may wish to know that in comparison to other jurisdictions and with the little we get (less than 1% of the National Budget), Uganda has of late risen in the index of Judicial independence from 2.8 in 2014/15 to 3.41 in 2015/16. The Country's overall ranking has also improved from position 128 out of 144 countries in 2014/15 to 91 in 2015/16. This is reported in the Global Competitiveness Report of 2016. The World Bank Doing Business Report also noted an improvement in the Doing Business Index from position 135 in 2014/15 to 122 in 2015/16.

This improvement in the global perception of Uganda means that our potential for excellent performance is unquestionable. It also means that more investment in JLOS initiatives would be a real game changer in as far as transforming the judiciary case management system is concerned.

Accordingly, for access to justice to be a reality in this country, for us to talk about justice for all in meaningful terms, there is need for the powers that be to re-orient national priorities so as to place the Judiciary where it truly belongs. My Lords, Your Worships, Distinguished panellists, ladies and gentlemen, our continued begging for more Judges, more Magistrates, more resources, etc and telling people at the same time (those whose cases we have delayed) that judicial power is derived from them and that we exercise it on their behalf is a serious contradiction. It is no longer tenable. The State (the people) should invest more in Rule of Law through meaningful and sustainable resourcing of the Judiciary.

I beg to move so for God and my Country.