



THE REPUBLIC OF UGANDA

**THE 17TH ANNUAL JUDGES CONFERENCE
2015**

**VENUE: IMPERIAL GOLF VIEW HOTEL
ENTEBBE**

22ND –26TH FEBRUARY 2015

**ADDRESS BY
HON. STEVEN B.K KAVUMA
THE AG. CHIEF JUSTICE**

Your Excellency the President of the Republic Uganda,
The Hon. Minister of Justice and Constitutional Affairs,
My Lord The Principal Judge,
The Hon. The Attorney General
The Hon. The Deputy Attorney General and MSJCA,
My Lords, the Justices of the Supreme Court,
My Lords, the Justices of the Court of Appeal,
My Lords, The Judges of the High Court,
Members of the Diplomatic Corps,
Members of Parliament,
Our distinguished visitors from India, Kenya and Tanzania,
The Secretary to the Judiciary,
The Chief Registrar,
Your Worships The Registrars and the Magistrates,
Invited Guests,
Ladies and Gentlemen.

1.0. It gives me great honour and pleasure to warmly welcome You Your Excellency and all of you our invited guests to the opening ceremony of the 17th Annual Judges' Conference. On behalf of the Judiciary and on my own behalf, I thank Your Excellency and you our guests for finding time to join us at this very important function. Your Excellency's presence here is highly valued and is clear evidence of Government's commitment to the upholding of the rule of law in this country, which you relentlessly struggled to re-establish. It is also evidence of your strong support to the Judiciary.

2.0. The Judges' Conference is an important annual event on the calendar of the Judiciary. It brings together all judges, purposely to consider strategic issues facing the institution and to chart out the way forward for its future.

2.1. Uganda is pursuing policies, programmes and strategies under its Vision 2040 aimed at transforming herself and her people from a largely peasant to a middle-income society. The Judiciary has, therefore, this year chosen as the theme for its conference: ***"The Role of the Judiciary in Accelerating the Transformation of Uganda's Economy"***. This theme is meant to position the Judiciary as an indispensable and active player in the implementation of the Uganda Vision 2040.

2.2. The theme gives us an opportunity to examine and assess the role of the Judiciary in Uganda's national development. We shall also examine the constraints that are standing in the way of the Judiciary in its endeavours to actively participate in Uganda's transformation.

At the end of this conference, we should have identified and agreed upon the necessary strategies to properly anchor the Judiciary into the development path and process Uganda has chosen to take under Vision 2040.

3.0. Uganda's Vision 2040 has set very ambitious targets which Uganda must achieve in order to become a middle- income country. Other targets relate to the achievement of the Millennium Development Goals.

3.1. The achievement of these targets calls for extra-ordinary action on the part the Judiciary in supporting Government's efforts to realise Uganda's transformational set goals. Invariably, new reforms in the Judiciary must focus on improving the efficiency and effectiveness of the courts to reduce the cost of justice and to realistically deepen access to justice by all including the poor, the marginalised and the otherwise vulnerable.

3.2 Uganda's Vision 2040 provides that the Judiciary will be strengthened to make it more independent, proactive, and responsive to the needs of the consumers of its services.

3.3. A properly positioned and adequately facilitated Judiciary undoubtedly plays a crucial role in enabling and accelerating development in a country. It does so through the enforcement and protection of human rights especially the fruits of development, thus helping humanity to continue on its relentless journey for advancement in an orderly manner regulated by law. An efficient Judiciary greatly enhances stability and predictability, both of which are prerequisites for sustainable transformation.

3.4. In equal measure, a strong Judiciary breathes life into democracy by providing timely and informed checks and balances to the Executive and the Legislature in a free and democratic society like that of Uganda.

3.5. A proper positioning of the Judiciary and its role in Uganda's transformation necessarily stems from the constitutional framework on which the institution is premised. That framework in Uganda is firmly anchored into the doctrine of the sovereignty of the people as enshrined in **Article 1** of the 1995 revolutionary Constitution of this Republic. The Article provides:

Sovereignty of the people

"(1) All power belongs to the people who shall exercise their sovereignty in accordance with this Constitution.

(2) Without limiting the effect of clause (1) of this article, all authority in the State emanates from the people of Uganda; and the people shall be governed through their will and consent.

(3) All power and authority of Government and its organs derive from this Constitution, which in turn derives its authority from the people who consent to be governed in accordance with this Constitution.

(4) The people shall express their will and consent on who shall govern them and how they should be governed, through regular, free and fair elections of their representatives or through referenda."

The same Constitution further provides for the Judiciary and its role in the exercise of judicial power, the participation of the people in the administration of justice and for its independence in its **Articles 126, 127** and **128**. The Articles provide:

126. Exercise of judicial power.

"(1) Judicial power is derived from the people and shall be exercised by the courts established under this Constitution in the name of the people and in conformity with law and with the values, norms and aspirations of the people.

(2) In adjudicating cases of both a civil and criminal nature, the courts shall, subject to the law, apply the following principles-

a) justice shall be done to all irrespective of their social or economic status;

b) justice shall not be delayed;

c) adequate compensation shall be awarded to victims of wrongs;

d) reconciliation between parties shall be promoted; and

e) substantive justice shall be administered without undue regard to technicalities.”

127. Participation of the people in the administration of justice.

“Parliament shall make law providing for participation of the people in the administration of justice by the courts.”

128. Independence of the judiciary.

“(1) In the exercise of judicial power, the courts shall be independent and shall not be subject to the control or direction of any person or authority.

(2) No person or authority shall interfere with the courts or judicial officers in the exercise of their judicial functions.

(3) All organs and agencies of the State shall accord to the courts such assistance as may be required to ensure the effectiveness of the courts.

(4) A person exercising judicial power shall not be liable to any action or suit for any act or omission by that person in the exercise of judicial power.

(5) The administrative expenses of the judiciary, including all salaries, allowances, gratuities and pensions payable to or in respect of persons serving in the judiciary, shall be charged on the Consolidated Fund.

(6) The judiciary shall be self-accounting and may deal directly with the Ministry responsible for finance in relation to its finances.

(7) The salary, allowances, privileges and retirement benefits and other conditions of service of a judicial officer or other person exercising judicial power shall not be varied to his or her disadvantage.

(8) The office of the Chief Justice, Deputy Chief Justice, Principal Judge, a justice of the Supreme Court, a justice of Appeal or a judge of the High Court shall not be abolished when there is a substantive holder of that office.”

3.6. The National Objectives and Directive Principles of State Policy.

The National Objectives and Directive Principles of State Policy are also very instructive. As directed by the Constitution, judicial attitudes must also be shaped and inspired by the National Objectives and Directive Principles of State Policy enshrined in the Constitution. The Constitution provides that the National Objectives and Directive Principles of State Policy shall guide all organs and agencies of the state in applying or interpreting the Constitution or any other law and in taking and implementing any policy decisions for the establishment and promotion of a just, free and democratic society.

4.0. It follows, therefore, that in order to ensure that the Judiciary and the Administration of justice are fully and effectively catered for and facilitated, it is

imperative that an appropriate Administration of Justice law is put in place without any further delay to fully operationalize the above constitutional provisions.

4.1. The law I am calling for should, as of necessity, cover all the vital aspects of the Judiciary the people of Uganda put in place for themselves and for posterity in the above referred to constitutional provisions. The people of Uganda decided on this position of the Judiciary within the context of their own aspirations for now and for the future as summarised in the preamble to the 1995 revolutionary Constitution of Uganda which preamble provides:

The Preamble

"WE THE PEOPLE OF UGANDA:

RECALLING our history which has been characterised by political and constitutional instability;

RECOGNISING our struggles against the forces of tyranny, oppression and exploitation;

COMMITTED to building a better future by establishing a socioeconomic and political order through a popular and durable national Constitution based on the principles of unity, peace, equality, democracy, freedom, social justice and progress;

EXERCISING our sovereign and inalienable right to determine the form of governance for our country, and having fully participated in the Constitution-making process;

NOTING that a Constituent Assembly was established to represent us and to debate the Draft Constitution prepared by

the Uganda Constitutional Commission and to adopt and enact a Constitution for Uganda:

DO HEREBY, in and through this Constituent Assembly solemnly adopt, enact and give to ourselves and our posterity, this Constitution of the Republic of Uganda, this 22nd day of September, in the year 1995.

FOR GOD AND MY COUNTRY"

4.2. Your Excellency and our dear guests, we in the Judiciary seriously contend that the time for enacting the long awaited Administration of The Judiciary Act is **NOW** given the undisputable fact that the Constitution, of which we are all proud, was promulgated now nearly 20 years ago.

5.0. As we examine the role of the Judiciary in the transformation of Uganda, I implore you my Lords to focus on the following, *among other things*:

5.1. Delays in case disposal in our courts: Many litigants often complain of persistent delays in the disposal of cases in our court system. They complain about many unnecessary adjournments of cases and frequent absences of judicial officers from courts especially at the lower bench.

5.2. It must be appreciated that every time a court: Adjourns a case represents a lost chance for development. For instance an adjournment of a prisoner's case for a fortnight alone makes it costly for the country because the prisoner needs upkeep. Uganda prisons keep about 40,000 inmates at a cost of Ug Shs: 80,000,000/= just to feed them every day. It becomes more expensive if the cost of prisoner administration is added.

5.3 In civil cases the cost of adjournments can be very grave to the economy. Not only does the economy sack valuable capital but also high litigation costs make our economy uncompetitive because our goods cost more.

5.4 I am advised that about 30,000 judgements are in our registries awaiting execution something that undermines confidence in our justice system. It also locks up wealth that would be used in production. By streamlining and making execution of judgements easy, we stand to free more resources thereby narrowing the capital deficit.

5.5 There are also complaints about corruption in the justice system of the country. All these, unfortunately, whether justified or not, severely undermine public confidence in our justice system and the Judiciary's role in the transformation of Uganda's society and her economy.

6.0. As the country continues to register progresses on the Path to transformation, the Judiciary must remain mindful that new developments inspired by increased household incomes and the influence of globalisation call for new justice products and the diversification of remedies to meet the changed needs of our society. The Judiciary must drop the conservative approach to the administration of justice and be ready to take on new well researched locally and universally sound legal principles and responses to the changing times both within and without Uganda. The Judiciary must now, more than ever before, be more proactive if it is to effectively play its role in Uganda's societal transformation. We in the Judiciary must start to not only fearlessly talk of demystifying the institution we serve and the promotion of its application of revolutionary methods of work whenever the situation warrants, but must also walk the talk.

7.0. New approaches like Alternative Dispute Resolution, Plea-bargaining, giving cases strict timelines, emphasising the pursuit of substantive justice in our courts preference to undue regard to technicalities must now take centre stage in the administration of justice.

7.1. Likewise, intensification of the use of Information Technology, must as of necessity, inform the new developments in the Judiciary. Other necessary reforms

worth mentioning include: finding a solution to the perennial problem of inadequate funding of the courts and to continue improving the Judiciary's relationship with the public and the other arms of the state so as to advance justice for the common good of all in a transforming Uganda. I am certain the public and the court users will lend support to courts only if they see them as allies in advancing their cause through fair and timely resolution of their disputes.

7.2. The private sector, especially the small and medium enterprises (SMEs), will only flourish if the courts provide a conducive environment for the enforcement of contracts and property rights. Timely resolution of disputes, especially land, family and commercial disputes, that tend to hold back the growth of SMEs and constrain efforts to overcome poverty, must be prioritised to boost market confidence and attract more players in the economy who should thereby be persuaded to invest in it.

8.0. Need for the transformation of the Judiciary

An effective and properly functional court system can have a positive impact on the climate of doing business in a transforming Uganda. When government adequately invests in the adjudication of cases, the country can reap benefits with ripple effects in its economy.

The Commercial Division of the High Court of Uganda offers a living testimony to this, thanks to Government's commendable investment in that Division. The lessons learnt from the Division's improved performance offer invariable insights and best practices that can be emulated in reforming the rest of our court system especially the land courts, to promote and expand property rights and commerce in a sustainably transforming Uganda.

8.1. Transforming the Judiciary into an enabler of development calls for a change in thinking and attitudes in the adjudication of disputes. As observed by Aristotle,

"...excellence is never an accident. It is always the result of high intention, sincere intention, sincere effort and intelligent execution. It represents the wise choice of alternatives, choice – not chance, to determine your destiny".

8.2. We intend to pay more attention to transformational training in the Judiciary to change the mind-set of all our staff, professional and otherwise. As rightly observed in Vision 2040, Uganda will only be able to achieve its vision if the public service, including the judicial service, has a change of attitude. Judicial staff must be transformed into problem solvers to exploit the many opportunities that abound in the Judiciary.

8.3. Having a business and a cost cautious approach coupled with a results-based attitude to justice can have a liberating effect on a judge when faced with dealing with delay in case disposal. A change of attitude in our staff can turn around the public sector to make it long-term in vision, people centred in policy formulation and strong in implementation of government programmes.

8.4. Therefore, the Judiciary will, through the Judicial Studies Institute, spare no efforts in investing in mind-set changing and transformative training to change judicial officers into more proactive agents of change and enablers of development.

9.0. Achievements and the Way Forward

Notwithstanding the many challenges faced by the Judiciary, it has taken bold steps to turn around the institution in line with Uganda's Vision 2040, which places great responsibility on the Judiciary in as far as strengthening the rule of law is concerned.

9.1. We have, in the past, improved on our case disposal rate and we intend to continue doing so in 2015 by increasing it from the current 120,000 to 162,000 cases per annum. Targets and timelines will be set to reduce the time cases spend in the court system. These reforms are to be supported by a Performance Enhancement System that the Judiciary will pilot in the appellate courts, four circuits of the High

Court, before it is rolled out to all our courts. Furthermore, we shall continue to promote mediation, plea bargaining, small claims procedure courts and the use of Justice Centres to minimise delays in dispute resolution.

9.2. We intend to continue expanding structures by creating more service points and by enhancing supervision of staff to ensure that judicial services meet the highest possible standards. We shall also continue to vigorously implement the Judiciary Anti Corruption strategy we put in place to eliminate the vice in both its real and perceived forms from wherever it shall be detected in our court systems. We shall also continue to deepen our co-operation with all the other anti-corruption agencies in the country.

9.3. We ask government to continue investing in automating court processes to make them faster and cheaper. In particular, with Government support, we shall continue to roll out court recording equipment to Magistrates Courts and to popularise greater use of I.T. in the Judiciary.

9.4. The Judiciary is also in the process of rebranding as a way of making a fresh and bold promise to all the stakeholders that associate with the institution and its services. Rebranding will help us develop better strategies to deliver justice to the people.

9.5. Your Excellency, we greatly appreciate the recent Government's positive moves towards improved funding of the Judiciary in terms of Judicial officers' emoluments and its infrastructural development. However, many of the reforms the Judiciary is undertaking and those it intends to embark on in the near future require more money. The Judiciary does not have a purse of its own. It relies on the Government for funds to run its activities. Budgetary releases from the Treasury are still inadequate and often come late. This perennially adversely affects our planning and our output in our core function of dispensing timely justice. I call upon Government to invest in the Judiciary the much needed resources for the common good of us all.

9.6. In terms of infrastructure, I urge the Government to support the construction of the Judiciary Headquarters, the Supreme Court, the Court of Appeal and the High Court

though the Public Private Partnership arrangement under the framework of the Justice Law and Order Sector (JLOS). Given the nature of the Judiciary's work, there is need to review the policy on Institutional Houses for judicial officers throughout the country. The now prevailing situation where courts and judicial Officers are, to a great extent, housed in rented premises offends some of the most fundamental principles of the proper administration of justice. Furthermore, the Judiciary needs Ushs 77 billion over the next five years to renovate and expand its structures at the levels of the Magistrates Courts and the High Court throughout the country.

9.7. Your Excellency, we thank you for your intervention in the year 2013/ 2014 when a number of Justices, Judges and Magistrates for the upper and the lower bench respectively were appointed. However, the Judiciary still needs more judicial officers to reduce the judicial staff gaps. Our request is to have the number of Supreme Court Justices raised from 8 to 11; Court of Appeal Justices to be increased from 12 to 32; High Court Judges to be increased from 49 to 82. We need 40 extra Chief Magistrates and 50 extra Magistrates Grade I this year. If these numbers are provided, the judge population ratio will improve from 1:94000 in 2014 to 1:72,000.

9.8. We are further grateful Your Excellency that recently; through your personal intervention there was some increase in the salaries of judicial officers at different levels. We encourage Government to continue in that direction and to also improve the other working conditions of all the Judiciary staff. This would go a long way in enabling the Judiciary to more effectively play its role in the transformation of our society.

9.9. There is still great need for transport for Magistrates in the districts to enable them to more effectively administer justice, especially land justice, which requires judicial officers to visit the land in dispute. Provision of 102 pick-ups will meet this need.

10.0. Your Excellency let me now thank the judicial officers of this country and their support staff who have dedicatedly continued to serve this country in spite of the many challenges they face on a daily basis.

Our policy and approach at the Judiciary is that, yes there are challenges we face as we serve, but those challenges should never be allowed to derail us from serving the people of this country. The challenge such challenges pose is to dialogue over them with those with capacity to resolve them without disrupting our service to the people.

10.1. In the same spirit and vein, I thank the development partners that we work with. We appreciate their support to the Judiciary and to the people of Uganda through the contribution they make to the institution. Yes, now and again there may be challenges in our relationship with them, or with some of them, but such should never be allowed to disrupt our common dedication to the mutually beneficial service to the people of this country. We are all members of a globalised community where a problem to one is a problem to all.

10.2. We in the Judiciary appreciate the great responsibility that is placed on us to support the Executive and the Legislature to push Uganda's transformation agenda forward. Collectively, we can ensure that Government fulfils its constitutional duty of managing the affairs of the State for the benefit of the population, ever mindful that neither the Executive, the Legislature nor any other organs of the State has the capacity to exhaustively and single-handedly resolve all the problems that confront the people we serve. Fortunately, the Ugandan Judiciary is a vibrant and Independent institution. It has well trained and experienced judicial officers. It is ever implementing wide ranging reforms. It is totally committed in spirit and body to actively participate in the transformation of Uganda's economy. In our quest for a more effective institutional role in the transformation of Uganda, we shall continue to be inspired by what *Mohammed Bin Rashid Maktoum* once said when asked to explain why Dubai had succeeded in such a short time. He responded:

"Most people talk, we do things. They plan, we achieve. They hesitate, we move ahead. We are living proof that when human beings have the courage and commitment to transform a dream into reality, there is nothing that can stop them".

The Judiciary starts its journey into the 2015/2016 year with firm determination to do exactly what the quotation says. We shall not only talk but we shall walk the Talk.

It is now my singular honour and pleasure to invite Your Excellency, the President of the Republic of Uganda to address the 17th Annual Judges Conference and open the same.

I thank you for your kind attention.

May God bless you all.

For God and my country.

Steven B.K.Kavuma

AG. CHIEF JUSTICE