

JUDICIAL
ACCOUNTABILITY:
BUILDING TRUST
THROUGH OPENNESS
AND TRANSPARENCY

Ruth Sebatindira SC

Judicial Service
Commission

31 January 2023

INTRODUCTION

The Judiciary Transformation Agenda, enhanced Access to Justice cannot be achieved without Judicial Accountability

Accountability is a trait of being responsible and open to having your decisions and actions scrutinized.

Accountability is more often used as a term of self-governance.

An accountable person keeps their commitments and promises.

If one thing goes wrong, an accountable person is open about their faults and failings.

INTRODUCTION

Accountability is a trait of being responsible and open to having your decisions and actions scrutinized.

Accountability is more often used as a term of self-governance.

An accountable person keeps their commitments and promises.

If one thing goes wrong, an accountable person is open about their faults and failings.

INTRODUCTION

The People entrust each and every Judge with significant power over their lives and liberty

The People should and must be able to trust in the individual Judges and the Judiciary as an institution which wields immense power on their behalf

The general acceptance of Judicial decisions, by citizens and by Government, which is essential for peace, welfare and good government of the community, rests upon public confidence and trust

INTRODUCTION

Transparency is a fundamental characteristic of modern democracies

Ensures citizens' control of and participation in public matters

Ability of citizens to request access to public information and the state's duty to generate information and make it broadly accessible to citizens

Empowers citizens to hold States accountable

INTRODUCTION

Transparency is particularly important in judicial institutions because it promotes accountability, combats corruption, and helps eliminate arbitrariness

Greater judicial independence and enhances public confidence

The open operation of justice systems creates an increased flow of information from the judiciary to society, enabling the public to learn about its performance and Decisions

INTRODUCTION

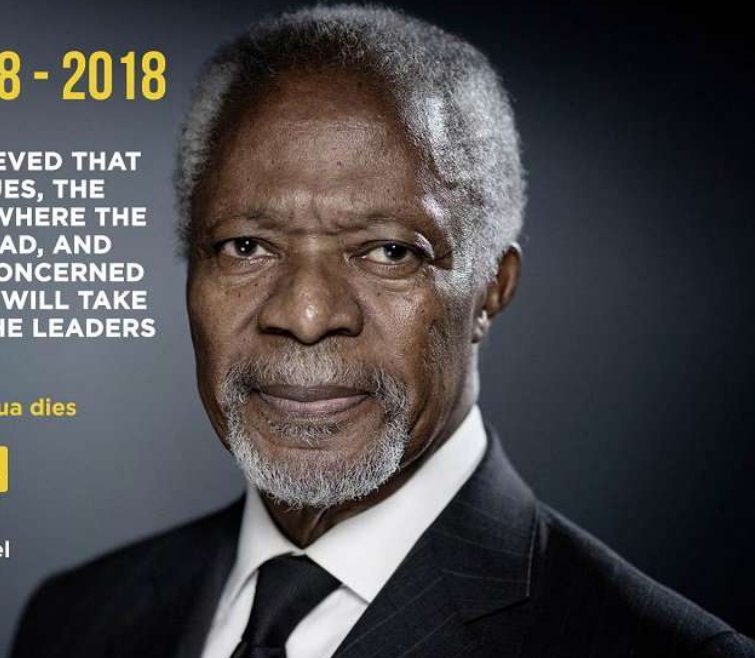
Cry for public Interviews?

JSC to discipline Judges? Amend Constitution

Annual Report to the Public, invite media to ask questions on performance

Public disciplinary hearings of Judges?

PEOPLE WILL TAKE THE LEAD



KOFI ANNAN 1938 - 2018

" I HAVE ALWAYS BELIEVED THAT ON IMPORTANT ISSUES, THE LEADERS MUST LEAD. WHERE THE LEADERS FAIL TO LEAD, AND PEOPLE ARE REALLY CONCERNED ABOUT IT, THE PEOPLE WILL TAKE THE LEAD AND MAKE THE LEADERS FOLLOW."

1991: Twin sister Efua dies

africanews.

Twitter: @africanews
Facebook: Africanews channel
www.africanews.com

DEFINITIONS

Accountability

- Willingness or obligation to explain one's actions or to admit being the cause of a problem
Accountable: Responsible, answerable

Trust

- **a:** assured reliance on the character, ability, strength, or truth of someone or something
b: one in which confidence is placed

Openness Transparency

- State of being clear and be seen through

JUDICIAL ACCOUNTABILITY

Mechanisms

- Aimed at making Judges and Courts responsible for behaviours and decisions contrary to constitutional or legal standards – *Oxford Constitutional Law Dictionary*

Design

- Depending on institutional design, courts and officials can be held accountable by the civil society or by legislative, executive, or other state-level authorities

Obligation

- It is the obligation to give reasons or an explanation for decisions or conduct.

JUDICIAL ACCOUNTABILITY

Sacrificial?

- Perception that the judiciary is unaccountable is grounded in a misconception that accountability must come with a “sacrificial” element: that is, where those reasons or explanations are inadequate, a sanction, penalty, or dismissal must follow

Not Sacrificial

- Except in cases of proved misbehavior or incapacity, Judges are shielded from “sacrificial” accountability by security of tenure, which is the ultimate guarantee of judicial independence, and in turn, the separation of powers.

JUDICIAL ACCOUNTABILITY

Forms of Accountability

- Professor Graham Gee, in the United Kingdom context, has noted that there is also “explanatory” accountability in the sense of a duty to explain or justify,
- “content” accountability in the sense of responsibility to an appellate court for the substance of a decision, and
- “probity” accountability, which includes accounting for the expenditure of money.
- Judges, both individually and collectively, are subject to accountability in all these forms.

ACCOUNTABILITY



THE SET MECHANISMS FOR JUDICIAL ACCOUNTABILITY

To whom is the Judiciary
Accountable?

For What and Why? –
Justice for All

How? Mechanisms

What is Wrong?

Solutions

THE SET MECHANISMS FOR JUDICIAL ACCOUNTABILITY

The Constitution

The Judicial Oath

The Judiciary
Administration Act, 2020

The Judicial Service Act &
Regulations

The Uganda Code of
Judicial Conduct

THE CONSTITUTION

- National Objective XXVI – Accountability
- Article 149 - the Judicial Oath
- Article 126 - Power is derived from the People
- Article 127 - Participation of the People
- Article 128 - Independence of the Judiciary
- Article 28 - Right to a Fair Hearing
- Article 144 - Removal of a Judge
- Articles 147 & 148 - The role of the Judicial Service Commission
- Articles 133, 136 & 141 – Administrative Functions of the Chief Justice, Deputy Chief Justice and Principal Judge

JUDICIAL REVIEW

The judiciary holds other organs of the State accountable. The whole essence of Judicial Review is how the judiciary holds other arms of government accountable through prerogative orders of certiorari, mandamus, and prohibition. Such powers are derived from Article 42 of the Constitution and sections 37 and 38 of the Judicature Act, Cap.13.

DOES THE SUPREME ERR?

The challenge which arises is when the highest appellate court such as the Supreme Court errs, who will correct such an error. The American Author Peter Canellos in his Article "When the Supreme Court Makes a Mistake" dated 06/29/2022, makes the following statements:

"Misguided court decisions have altered the path of the nation in sadly demonstrable ways".

"When justices err, the people suffer the consequences."

"When a cabal of Justices goes astray, they tend to keep on going. Mistake follows mistake, and the boundaries of American freedom get squeezed".



**"When roots are deep, there is no need
to fear the wind."**

- African Proverb -





JUDICIAL LEADERSHIP

Art. 133 - Functions of the Chief Justice

Art. 136- Functions of the Deputy Chief Justice

Art. 141- Functions of the Principal Judge

Leadership Accountability

JUDICIARY ADMINISTRATION ACT

S.3 – Administration of the Judiciary by the Chief Justice

S.4 – Judiciary Council

S.8 – Inspectorate of Courts

S.14- Standard of Service of Judiciary in accordance with the Constitution

14 (c) – promote integrity, honesty and transparency

S.18 - Performance Management System – Chief Justice Shall establish the system



ANY ROGUES?

What happens if
it is the Judge
who breaks the
law?

FIGHT CORRUPTION IN THE JUDICIARY





JUDICIAL CORRUPTION

23

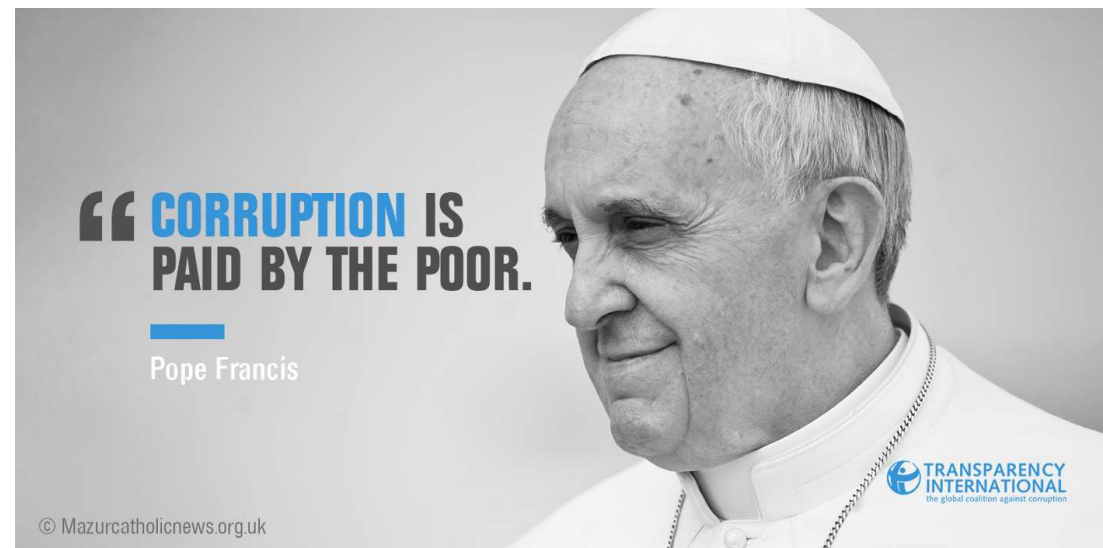
Corruption is now being reported as the number one concern by citizens, causing more concern than globalisation or migration – OECD Public Integrity Report, 2022

Inequality, exclusion and disillusionment is the real cost of corruption- OECD Public Integrity Report, 2022

CONSEQUENCES OF CORRUPTION

Ruth Sebatindira SC- Judicial Accountability

24



31-Jan-23

SECTION 2 (1).
CORRUPTION
ANTI-
CORRUPTION
ACT OF
UGANDA

(i) Neglect of Duty

A person has not done that which it was his duty to do.

Type of:

carelessness, neglect, negligence, non-performance

failure to act with the prudence that a reasonable person would exercise under the same circumstances

THE PUBLIC IS UP IN ARMS USE OF SOCIAL MEDIA

The public name and shame on some forums.

Demands more accountability from Judicial officers. This explains why almost every court in Uganda has a social media platform (WhatsApp group) to ease communication and as a measure of accountability.



The information age has also brought a generation which is impatient, insensitive, and fickle. This explains the wide spread of “news” which turns out to be fake. This imposes a higher obligation on each judicial officer and the judiciary as a whole to thoroughly explain and clarify every act or omission.

PROBLEMS CAUSED BY LACK OF ACCOUNTABILITY

A Bad Reputation

Low Quality Work

Decreased Productivity

High Turnover (not in the Judiciary), why??

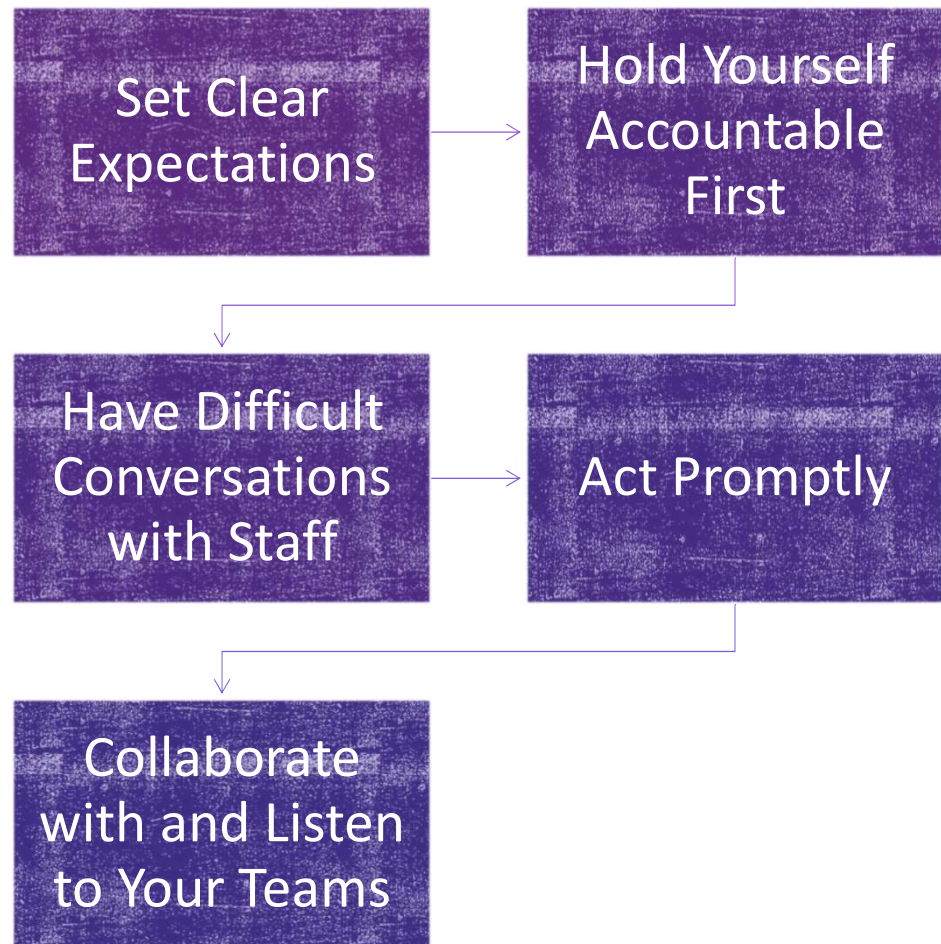
Disengaged Employees

Low Morale

Unhappy Clients/Users/Stakeholders

Lack of Workplace Consequences

5 WAYS TO SOLVE LACK OF ACCOUNTABILITY



WAYS TO CHECK IN WITH TEAMS

One on Ones

Workshops

Performance Reviews

Employee Engagement Surveys

5 KEY COMPONENTS OF PERSONAL ACCOUNTABILITY

Obligation

Willingness

Intent

Ownership

Commitment

PERSONAL ACCOUNTABILITY



HAVE THE COURAGE

PERSONAL
ACCOUNTABILITY
REQUIRES MINDFULNESS,
ACCEPTANCE, HONESTY,
AND COURAGE.

•••

Shelby Martin

www.liberonetwork.com

WHAT IS TRUST?

Trust means that you rely on someone else to do the right thing

You believe in the person's integrity and strength, to the extent that you're able to put yourself on the line, at some risk to yourself

Trust is essential to an effective team, because **it provides a sense of safety**



HOW TO BUILD A CULTURE OF TRUST IN THE JUDICIARY

Ruth Sebatindira SC- Judicial Accountability

34

Lead by
Example

Treat Everyone
Equally

Communicate
Openly

Tell the Truth

Stop
micromanaging

Care for All
Employees

Give
Employees a
Voice

Discuss Trust
Issues

Discourage
Cliques

31-Jan-23

WHAT NEEDS TO IMPROVE TO ACHIEVE JUDICIAL ACCOUNTABILITY

1. ACCESS TO THE COURTS

2. PERFORMANCE
INFORMATION

3. PUBLISHING JUDICIAL
DECISIONS

4. PUBLICATION OF COURT
STATISTICS

5. JUDICIAL FINANCIAL
RESOURCES

WHAT NEEDS TO IMPROVE TO ACHIEVE JUDICIAL ACCPOUNTABILITY

6. JUDICIAL DISCIPLINE

7. JUDICIAL SELECTION AND
APPOINTMENTS

8. PUBLISHING JUDICIAL
DECISIONS

9. PUBLICATION OF COURT
STATISTICS

10. JUDICIAL FINANCIAL
RESOURCES

WHAT NEEDS TO IMPROVE TO ACHIEVE JUDICIAL ACCPOUNTABILITY

11. STRENGTHEN LEADERSHIP
ACCOUNTABILITY

12. FIGHT JUDICIAL CORRUPTION

13. UNDERSTANDING OF COURT
PROCESSES BY THE PUBLIC

IMPOROVE PERSONAL/INDIVIDUAL
ACCOUNTABILITY

SYNERGIZE WITH THE JSC ON
DISCIPLINE, TRAINING, INSPECTION



STRENGTHEN LEADERSHIP ACCOUNTABILITY

The global research by Lee Hecht Harrison, a talent development and transition company, confirmed that a leadership accountability gap is a dragging down many institutions. Solutions:-

1. Leadership is a decision, and individuals have to be sure that they want to be defined as leaders.
2. Leadership is a solemn obligation, and that all leaders need to step up and live up to those obligations every day to make their organization stronger.

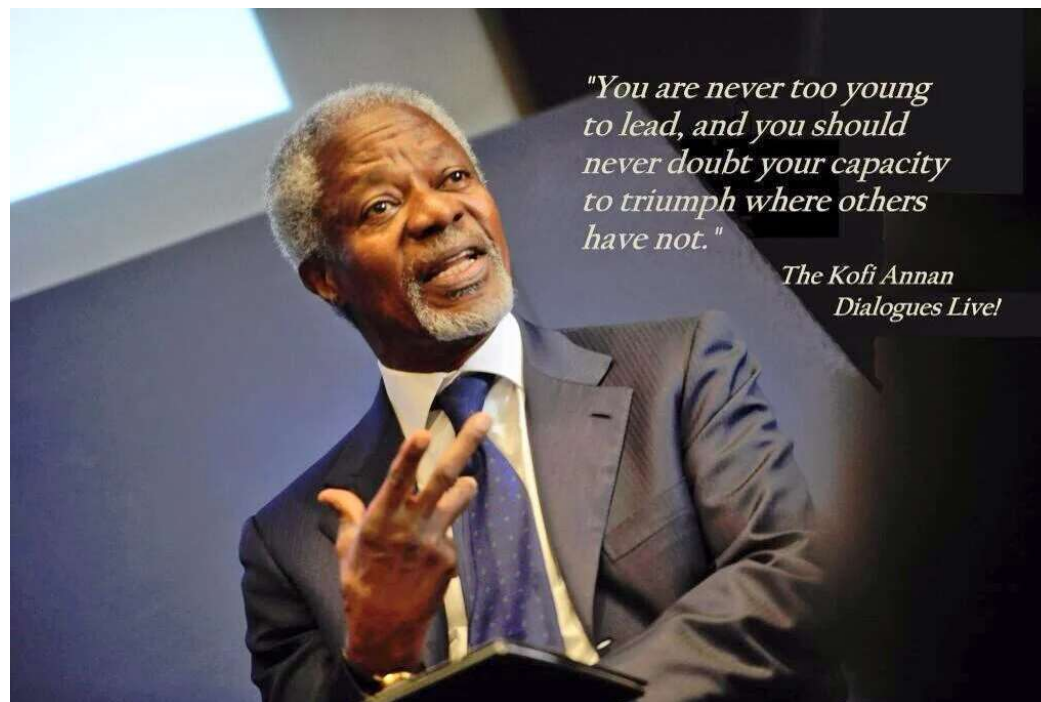


STRENGTHEN LEADERSHIP ACCOUNTABILITY

3. Leadership is hard work and you have to get tough to tackle it. Far too many leaders only like tackling the easy tasks of leadership. In fact, being a leader requires you to make unpopular decisions, give frank feedback to colleagues, and call out unproductive behaviour. These are hard things to do, but necessary if our organizations are to succeed.

4. Leadership is a community and you need to connect with your fellow leaders. Too many leaders are isolated and disconnected from one another. To be an effective leader, you must build relationships and network to share ideas and solutions.

BE ACCOUNTABLE WHEREVER YOU ARE IN THE JUDICIARY





FIGHT JUDICIAL CORRUPTION

Keeping Judges who are corrupt has consequences. It absolutely empowers Corrupt Judges to operate with impunity

It sends the message to other Judges and staff of the Judiciary that you are prepared to tolerate corruption in the Judiciary.

It also disengages high performers, who are truly accountable, as their contributions are minimized.

There has never been a more important time to build a strong culture of fighting corruption.

As a result, we see resentment, anger, lack of social cohesion.

OPEN GOVERNMENT

The Open Government Partnership is based on the idea that an open government is more accessible, more responsive, and more accountable to citizens, and that improving the relationship between people and their government has long-term, exponential benefits for everyone.

OGP is a broad partnership that includes members at the national and local level and thousands of civil society organizations. Through the Partnership, these powerful forces work together to co-create two-year action plans with concrete steps – commitments – across a broad range of issues.

<https://www.opengovpartnership.org>



OPEN GOVERNMENT

The OECD defines open government as; “a culture of governance based on innovative and sustainable public policies and practices inspired by the principles of transparency, accountability, and participation that fosters democracy and inclusive growth.”