



COURTS OF JUDICATURE



The High Court of Uganda CRIMINAL DIVISION

PROGRESS REPORT, 2011

**PRESENTED ON 10TH JANUARY 2012 BY THE HON. MR JUSTICE LAMECK
N. MUKASA, HEAD HIGH COURT – CRIMINAL DIVISION AT THE ANNUAL
JUDGES CONFERENCE 2012**

THE REPUBLIC OF UGANDA
THE HIGH COURT OF UGANDA AT KAMPALA
CRIMINAL DIVISION

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1. STAFF POSITION.

In the course of 2011, the Head Criminal Division Hon. Mr. Justice Lugayizi was transferred. Hon. Justice Lameck Mukasa replaced him in the same capacity. During the same period, a new Deputy Registrar, Elizabeth Kabanda was posted to the Division. The number of Judges for the Division remains at four. They are supported with 24 registry staff. These include research officers, Secretaries, Clerical Staff, Drivers and attendants. Judges are assisted by Body guards.

2. WORK DONE IN 2011

(i) Case Disposal

Dealing with routine criminal matters such as criminal appeals, criminal applications (e.g. bail applications), criminal revisions and related matters from magistrates' courts continued through 2011.

Pending Judgments and Rulings

Am happy to report that there are no pending Judgments and Rulings before Judges of the Criminal Division.

Criminal Sessions.

In all, eight criminal sessions were held at Luwero and Kampala circuits during 2011. Colleagues from other circuits assisted in the area of criminal sessions - Hon Mr. Justice Anup Singh Choudry conducted a juvenile session involving child offenders from eight Magisterial Districts in and around Kampala and Hon. Mr. Justice Andrew Bashaija. We extend our appreciation for their great work.

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There are no juvenile criminal cases pending before the criminal division as of today.

Criminal sessions for terrorism and treason cases could not be conducted because of need for Directions by The Hon. Principal Judge as to which of Criminal Division and the International Criminal Division (ICD) has jurisdiction in domestic related terrorism. The bulk of terrorism cases have reverted to criminal division. We indicate our readiness to handle them and arrangements are under way for a session during February and March 2012, subject to funding.

Criminal Appeals

Of 125 criminal appeals pending, 59 are awaiting lower court proceedings.

Confirmations.

Magistrates' Courts do not forward cases for confirmation of sentences.

Work Load for Criminal Division during 2011

A general picture of work load during 2011 is shown in the table below with 282 cases disposed of (a disposal rate of 50%) during 2011 and 371 matters pending by end of 2011.

TABLE ONE STATUS OF CASES FOR CRIMINAL DIVISION DURING 2011

NO.	Case Category	B/F	Regd.	Completed	pending
1.	Criminal session cases	40	304	179	165
2.	Criminal Misc Applications	10	110	84	36
3.	Criminal Revision	7	10	6	11
4.	Confirmations	00	00	00	00
5.	Criminal Appeals	62	88	25	125
6.	Criminal Misc. Causes	00	00	00	00
7.	Mitigation	14	8	9	13
TOTAL		133	520	303	350

(ii) Weeding cases

The year 2011 began with 1,218 criminal matters shown as pending under the *Court Case Administration System* (CCAS), in relation to 133 physical files pending. The exercise resulted in 536 files being weeded out and 185 files committed and pending trial from magistrates courts to high court during previous years ranging from 2007 to be effectively registered.

Weeding of cases involved the following;-

- Reconciling CCAS with relevant registers and physical files (e.g. by completed files results entry & elimination of double registration of cases)
- Pending physical files count, and
- Registration of all committed files referred from magistrates' courts to the high court for trial.

The weeding exercise is on-going, to reconcile Criminal Division data from 682 cases reflected as pending under CCAS to 371 actual files pending.

(iii) Collaboration and Co-ordination

During 2011, we continued to collaborate with other criminal justice stake holders. In this regard, a criminal division court users committee consisting of 14 representatives from various justice institutions was formed in June 2011 to deal with common problems within the circuit with Judiciary as the lead institution. Others are, DPP, Police, prison, Government Analytical Laboratory, Directorate of Youth and Children Affairs in the Ministry of Gender and Social Development, Community Service, Uganda Law Society and the JLOS sector. Two meetings have been held so far. Funding committee meetings remains a challenge.

(iv) Backlog Reduction

The Division continues to apply the *'first in- first out'* method to cause list cases for criminal sessions. In this regard, backlog stands at 19 cases from Luwero out of 165 session cases pending in the Division. Whereas these have been cause-listed for February 2011,

we request for continuous funding of sessions to avoid a further creation of backlog.

(v) Prison visits

In September 2011, there were visits to eight prison units by the Head Criminal Division, the Deputy Registrar criminal division and Chief Magistrate Luwero. Prisons visited are, Nyimbwa, Bamunanika, Wakyato, Kapeeka, Makulubita, Wabusana, Nakasongola and Butuntumula. Findings include poor living conditions in areas of dressing and health, lack of transport and poor security to court. We intend to visit the remaining remand prisons under the circuit.

2. PROJECTIONS FOR 2012

- A system will be put in place for each Judge to have specific days of the week for hearing of Criminal Appeals, Revisions, and miscellaneous applications and causes, save when one is on session. This will have the end result disposing them as they are registered.
- We project 8(eight) criminal sessions for 2012, two of them at Luwero circuit.
- A system is already in place of mentioning appeals before hearing to weed out those in which parties no longer have interest
- During 2012 the criminal division will liaise with the Judicial Studies Institute (JSI) to have the division staff to undergo training in the relevant skills.
- The weeding exercise is on going to reconcile CCAS with physical files - the number of CCAS entries pending reconciliation with physical files is 186.

3. CHALLENGES

- Rising case load due to other assignments. All Division Judges save one were assigned election petitions which lasted three months from April 2011. Subsequently one was given a criminal session at Arua.
- Committal by DPP of criminal cases a number of which end in Nolles and dismissals.

- Posting to Criminal Division of staff with no background or training in registry work for example computer illiterate staff with no training in CCAS, filing of cases and interpretation.
- Late or non remittal of lower court proceedings for Appeal and bail hearings.
- Lack of court interpreters
- Registry space is not sufficient.
- Lack of enough Court halls- most of them have been turned into registries and offices.

4. **RECOMMENDATIONS**

- There is need for a Law on Plea and Sentence Bargain.
- Training staff in Information Technology (IT), Court recording and transcribing
- Training judicial officers in plea bargaining, the sentencing area (e.g. mitigation), cyber crime, new forms of evidence taking (e.g. electronic evidence).
- Avoid adjournment of part heard cases. If adjournment is necessary, it should be to a definite date before the same Judge.
- For Orderly sessions, we recommend 30 cases for 40 working days.
- The DPP should indicate cases that are unlikely to proceed at the earliest opportunity and before hearing commences
- Recruitment of clerks with competency in records management and interpretation.
- Sensitize magistrates on the law regarding confirmation of sentences.
- A nationwide census of remand prisoners be conducted as a means to give priority to older cases.
- Use of database for inter-linkage of JLOS institutions for information sharing.

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