



**SPEECH OF THE HON. THE CHIEF JUSTICE AT THE OPENING OF THE 20TH
ANNUAL JUDGES CONFERENCE, 2018, HELD ON JANUARY 22ND 2018 AT
THE COMMONWEALTH RESORT HOTEL, MUNYONYO**

Your Excellency the President

The Deputy Chief Justice

The Principal Judge

The Honorable Minister of Justice and Constitutional Affairs

The Justices of the Supreme Court

The Justice of the Court of Appeal

The Judges of the High Court

Excellencies the Ambassadors

The Chief Registrar

Permanent Secretaries

Your Worships

Invited Guests

Ladies and Gentlemen:

Good morning and Happy New Year to you all!

It is a great honor for me to address you at the Annual Judges' Conference. The year has just began and it is appropriate for me to wish each of us and our families a blessed 2018. I have no doubt that 2018, will be a consequential year for all of us.

Your Excellency the President, I would like to welcome you in a special way to the Judges' Conference. On behalf of the Judges and the Judiciary, I thank you for always honoring our invitations to officially open the Judges Conference. We do not take this for granted, given that you have enormous responsibilities that compete for your limited time. In this regard, therefore, I would like to thank you for the tireless efforts that you commit to the service of this country to transform it into a self-sustaining, peaceful and proud country. In the Judiciary, we thank you for the support that you have given the courts in the last year especially towards the automation of the courts and efforts to contain case backlog.

To our friends and partners – the invited guests, I thank you for accepting our invitation to attend the official opening of the Conference. We value our partnership because the administration of justice is a partnership that depends on the undivided support of all stakeholders to succeed. To the development partners, I thank you for the support you have given and continue to give the Justice Law and Order Sector (JLOS) and in particular the Judiciary, towards improving justice outcomes for the court users. I hope that in the course of this

year, we shall forge even closer collaboration in uplifting the services of the JLOS.

We have in our midst Mrs. Justice McGowan from the United Kingdom and a team of trainers from EVOLVE UK, who are going to share their experiences with our Judges on Sentencing. I would like to thank them for honoring our request to come to Uganda to share their experiences in a matter that is very fundamental to the sound administration of justice and upholding public confidence in the Judiciary.

I would like to welcome the Judges to their Conference. This Conference is the culmination of the activities of the last year. I would like to thank the Judges for working hard in very challenging, and sometimes, very stressful environments to render justice to all. I am sure that we will use this Conference to reflect on last year's work and most importantly, share experiences on how we can improve the judicial function to serve the public better and in a more satisfactory manner.

The theme of the Conference

Your Excellency, the theme of the Conference is, “***An Inclusive Judiciary for Sustainable Development***”. This theme has chosen to address the conspicuous inequalities that exist in the justice system in Uganda, where many people, hold very strong views that the judicial system favors the rich and strong. The theme is therefore, a relentless reminder of the great work that remains to be done to fully realize the provisions of article 126 of the Constitution. First, article 126 (1) emphasizes that judicial power is derived from the people and is exercised by the

courts in the name of the people and in conformity with the law, values and aspirations of the people. Article 126(2) in summary provides that courts shall administer justice to all without regard to social or economic status, that justice shall not be delayed, that victims of wrongs shall be accorded adequate compensation and that substantive justice shall be rendered without undue regard to technicalities.

The Challenges of the Justice System in Uganda

According to the HiiL Report, the formal justice system is marginal to the experience of justice in Uganda, because most people find the justice system complex to navigate, expensive and in many cases not capable of producing outcomes that reflect their needs. The research conducted found that **most people consider Ugandan courts to be far removed from them. Many believe that the courts protect the interests of the rich and powerful and are biased against the poor and marginalized.**

Your Excellency, available statistics show that: -

- Less than 5% of dispute resolution takes place in a court of law and in less than 1% of the cases, a lawyer is involved.
- Only 5% of the people with a justice need in Uganda are able to access the courts.
- More than one third of the people with a justice need do not take steps to resolve their disputes because they have no faith and hope that they will succeed.

- The most prevalent justice problems are related to land, family matters and crime.
- According to the Doing business Index Report 2017, litigants spend an average of 33% of the claim to pursue it in court. That is to say that it costs 3.3 shillings to recover a claim of 10 shillings.
- On the side of cases in courts, 24% of the cases are backlogged. 1,331 cases are more than 10 years old. 8,979 cases are more than five years old in the system and 27,517 cases are more than two years old.
- Land cases on average take 15 months to resolve and yet according to the report, an estimated 5.1 million land cases occur in Uganda every four years. While judicial officers are doing their best to clear cases before them, the cases are beyond their human capacity. For example, the average case load per judge is 897 cases while that of a Chief Magistrate is 2,756 cases per annum.

Your Excellency, a highly unequal and less inclusive justice system and which is not very effective and efficient is a serious drawback to development. The presence of many unresolved crimes and cases as well as a poorly resourced Judiciary in terms of human resource and funding and therefore inefficient discourages investment, savings and self-improvement which are the seedlings for personal development. Furthermore, the threat of crime diverts resources to protection efforts and increases health costs through increased stress, and generally, creates an environment that is not conducive to productive activity, which discourages investment and stifles long-term growth of a country.

An efficient and inclusive Judiciary is a bonus for economic growth. According to the Doing Business Index for 2017,

Efficient contract enforcement is essential to economic development and sustainable growth. Economies with an effective judiciary in which courts can effectively enforce contractual obligations have more developed credit markets and a higher overall development.

The Report goes on to say that:

A stronger judiciary is associated with more rapid growth of small firms and enhanced judicial system efficiency can improve the business climate, foster innovation, attract foreign direct investment and secure tax revenues’.

A strong and effective Judiciary guarantees safety and security. According the Uganda Police Force, last year, the country registered 4,315 homicides, 17,395 defilement cases and 13,132 domestic violence cases. Several newspapers reported several cases of women who were murdered in the areas surrounding Entebbe and in Masaka area, most cases of these homicides have remained unresolved. Research confirms that unresolved family and land cases can lead to homicides on the one part and poverty and broken families are a recipe for sexual gender based violence cases that include domestic violence and defilements. Many of the cases, were as a result of unresolved land and family cases that the justice system could not handle.

What Uganda needs to do to build an inclusive Justice System

Uganda is marching forward with zeal towards a middle-income country and there is urgent need therefore to deal with constraints in the justice sector that are hampering and slowing the country's development efforts. To be able to achieve the set development goals, there must be peace and harmony in society. A strong and efficient system of adjudication of disputes in society is a sine qua non for development.

Therefore as a country, we need to invest extra resources to revamp the administration of justice in Uganda. As a minimum, we must aim at having a complete chain of justice agencies in every district. We must have a fully functional police station, prosecution services and court services to fully address the justice needs of the community. I have had occasion to travel to various parts of the country at Open Court Days. In all places for example Gulu, Arua, Lira, Fort Portal, Soroti, Mbale, Mbarara, Masaka; political and civil leaders demand for the appointment of more judicial officers.

In this regard, therefore, Government should consider lifting the recruitment ban on the Judiciary so that it can address the justice needs of 95% of the population that lacks access to justice services. Lifting the ban will enable the Judiciary to fill 40% of the vacancies in its structure. Your Excellency, may wish to note that out 532 Magistrates Grade I, we have only 192, leaving a gap of 340 Magistrates. We have provided for 82 magisterial areas in the country and we need 100 Chief Magistrates but we have only 42- leaving a gap of 58. We need

82 High Court Judges, but we have only 50. There is need to increase the Court of Appeal to 32 Justices.

Furthermore, the limited number of Judges in Uganda is to blame for the exclusiveness of the Judiciary. While the population of Uganda is over 38 million people, Uganda has only got 51 High Court Judges, with a judge to population ratio of 1:545,455. Kenya on the other hand has 130 High Court Judges with a judge to population ratio of 1:372,769. On the side of case load, a judge of the High Court has an average case load of 789 cases, against an annual target of 320 cases. So a judge has an extra 469 cases in a year that he/she cannot complete.

The number of cases per judge is likely to hit more than 1,000 cases in the next 2 years given that case filings are increasing at an annual rate of 10%. Because of the low numbers of Judges, the remand population ratio in prison as compared to the convicts is 55:45 against the international best practice of 45:55. In real time, the prisons are holding 27,500 inmates as pretrial remands and spending a colossal sum of UGX 82.5 million per day feeding them, some of which could be saved, if Uganda had adequate judges.

That however goes for the formal sector which, as I have already pointed out, does not even reach the large percentage of the people of Uganda. Local Council Courts at level I and II, should be established by rapidly rescheduling the postponed elections to supplement the formal justice system. Local Council Courts I and II, offer a form of justice that is more accessible to the most

impoverished people of Uganda. People who go through Local Council Courts experience fewer negative emotions, such as stress, anger, frustration and humiliation than people who go to police and courts. At their level, they are most effective. Local Council Courts should be reestablished to address millions of unmet justice needs that the formal system cannot handle. It cannot be forgotten that the LC Courts were an innovation of the NRM Government. It would be sad if this promising institution in the delivery of justice were to simply fade away. Resources must be prioritized for this.

Your Excellency, I am glad to report that the automation of the courts is on course, following the fulfillment of the Government pledge to automate the courts to reduce the burden on the judges, streamline information management and reduce the transactional costs of accessing judicial services. Your Excellency, this year, we received 10 percent of the funds and we trust that the Government will go on to provide the remaining 90 percent of the funds in the medium-term expenditure framework. We are currently at the procurement stage of the project.

Your Excellency,

Judicial independence is fundamental to every democracy, both as the guarantor of the separation of powers in the state and the rule of law. It ensures justice and equity through the predictability of court decisions that cannot be over ruled by a political establishment. In practical terms ...it promotes economic development because investors feel more secure if they have access to an independent

judiciary to resolve any disputes against the state or against competitors favored by the government.

Inherent in this concept is the need to respect the decisions made by courts. Where one disagreed with a decision of court, there are procedures and avenues for it. It is unacceptable to have other functionaries questioning court decisions.

Furthermore, at the heart of judicial independence is the need to secure adequate resources for the courts. And here, we must be reminded of the words of Billings Learned Hand, US Judge and judicial philosopher, who said that – **if we are to keep our democracy, there must be one commandment: though shall not ration justice.**

In this regard therefore, I would like to request your Excellency , that serious consideration should be given to fully implementing Constitutional provisions on the financing of the Judiciary. Article 128(6) of the Constitution provides that:

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

There are other provisions like Article 155(2) and 155(3) which emphasize Judiciary autonomy. We trust that the Judiciary Administration Bill which is meant to operationalize the autonomy of the Judiciary will soon pass into law.

Your Excellency, we are fully aware that resources are scarce and we need to make appropriate priorities. In my humble view, the justice needs of the community are not receiving the priority they deserve. For example as we expand the numbers in Parliament, let us consider expanding the number of Judicial Officers. There is urgent need for regular meetings between the Executive, the Legislature and the Judiciary, which your Excellency promised on several occasions as one avenue of addressing prioritization of budgetary issues and strengthening democracy in Uganda. The above provisions of the Constitution give a basis for such consultations. As your Excellency observed in your address to us last year, the Judiciary has been left out in budgetary planning.

Progress on the Presidential Commitments made during the Judges Meeting with the President in September 2015.

You may recall, Your Excellency, that in September 2015, you held a six-hour productive meeting with the Judges at State House. At that meeting, you made a number of commitments to the Judges. I am glad to report that a number of the commitments have been fulfilled but the following still remain outstanding:

- The Retirement benefits for Judicial Officers, have not yet been secured into law following delays for cabinet to consider the Administration of the Judiciary Bill. Your Excellency, you have directed Cabinet on numerous occasions to consider the Judiciary Administration Bill. However, to date, not much progress has been registered in processing the Bill in Cabinet. I would like to urge and request that the Bill be expeditiously cleared and sent to Parliament by the Cabinet.

- Funds have not been provided for construction of institutional houses for judicial officers;
- The Ministry of Finance Planning and Economic Development has not provided funds to purchase functional vehicles for magistrates to handle land disputes;
- Lastly, we are still awaiting the ten billion shillings you promised the Uganda Judicial Officers Association SACCO.

Relatedly, we are anxiously awaiting the speedy and full implementation of the recommendations of the Judicial Service Commission and the Salary Review Commission regarding the terms and conditions of service of judicial officers, that are long overdue for review.

We live in challenging times and the International Bar Association has therefore recommended that:

Judicial salaries must be set at a comparatively high public service level in order to remove both the temptation to corruption and public contemplation of the possibility of such temptation. It is equally recommended that, **the guarantee of minimum salary is not meant for the benefit of the judiciary. Rather financial security is a means to the end of judicial independence, and is therefore for the benefit of the public.**

Conclusion

As I conclude my remarks, I would like to remind all the Judiciary staff that the lack of trust in justice is lethal for democracy and development and encourages the perpetuation of corruption. Therefore, we must do our work as diligently and efficiently as we can and we must all refrain from acts that lend credence to real or perceived corruption because courts must inspire trust and confidence in those that are brought before them. Any conduct, such as corruption; unfair procedural processes; unequal standing in court; inefficiency and ineffectiveness in court must be overcome to make the Judiciary effective and inclusive, so as to guarantee sustainable development in Uganda, as envisioned in Vision 2040. Let us all strive to build a Judiciary that we as Judges as well as the people of Uganda can feel proud of.

It is now my honor and pleasure to request H.E The President to address and officially open the Judges Conference.

Bart M Katureebe

CHIEF JUSTICE