



TALKING POINTS BY THE ULS PRESIDENT, MR. FRANCIS GIMARA THE ANNUAL JUDGES CONFERENCE ON THE TOPIC "COMBATING REAL AND PERCEIVED CORRUPTION IN THE JUDICIARY"

The Honorable Chief Justice

The Honourable Justice Carl Singh, Chancellor of the Courts, Guyana

The Honourable Justices and Judges of the Courts of Judicature

The Chief Registrar, Courts of Judicature

Prof. Hugh Corder, Department of Public Law, University of Cape Town

Your Worships, Registrars present

Distinguished guests, ladies and Gentlemen

The Uganda Law Society is honored to be invited to participate at the annual Judges Conference since its inception. We thank the Judiciary for selecting the theme: "***The Uganda Judiciary as the Guarantor of the Rule of Law***". The appropriateness of this Conference theme cannot be overstated considering the recent developments in the country.

Last year the ULS celebrated its 60th birthday with the theme: *Celebrating our History: Rekindling Ethical Legal Practice*. We used this occasion to begin a difficult

conversation on how to recommit our profession to ethical practices so as to win public trust and confidence in the legal profession and by extension Judiciary.

This year, as the leadership of ULS, we will focus on; *"Eradicating corruption in the Judiciary and Upholding the Rule of Law."* My Lords part of our work this year will be to resuscitate Bell the cat project and to as well enable lawyers review the strategies of combating Judicial corruption. I have so far held meetings in Gulu, Mbale and on Wednesday we were in Mbarara

According to the CEPIL Report 2016 on the State of the Judiciary and Corruption Index 2014 by Transparency International the ***'most common forms of corruption within the judiciary relate to; payments of bribes either sought after by clerks and magistrates or offered by the accused, the litigant or the lawyer as an inducement to make certain decisions, the swearing of false documents, soliciting and getting favorable treatment and forging of court documents especially at the court registries'***.

My Lords we have lamented on the issue of corruption for a long a time and like I have told the Lawyers this issue of corruption is going to eat the entire legal fraternity.

As far as real corruption in the Judiciary is concerned most instances from several reports reveal that most of the corruption is in the magistrates' courts, this is not to say that there is no corruption at the higher level. From the High Court to higher levels, the corruption is concealed because the key players are unwilling to expose the participants. The truth of the matter is that real corruption exists but very few persons especially from the bar are willing to come out with evidence

against the allegedly corrupt judicial officers for ostensible/real fear of victimization by the judicial officer/s. You hear stories of Judicial officers who have partnered with some lawyers to promote unethical practice. In my circles it is now normal to hear of lawyers who are known never to lose cases before particular judges.

There have been reports that advocates request for money from clients allegedly to be given to the judicial officer. There is need for us to work together to identify those lawyers collecting money on behalf of Judicial officers by exposing them. We need to overcome the concealment disease if we are to fight corruption. The highlight of this concealment happened during the hearing of one of the election petition appeals after the 2011 elections when some Justices of the Court of Appeal revealed that they had been approached during the hearing of an election petition by one of the litigants with a bribe and that they had rejected it. Surprisingly, to date, none of the culprits who attempted to bribe the country's second highest court of record have been prosecuted.¹

Perceived corruption mainly encompasses how society understands the rules and what constitutes its deviation. The efficacy of the judiciary mainly depends on the credibility that it commands from the citizenry and in their view as long as the Judiciary is perceived as corrupt, it will be treated as such whether justified or not. This perception maybe due to how registries are managed, how long cases take to be resolved in a court and it could also be read in inefficiency in handling cases before that court. Corruption will always have more devastating effects on the judiciary since it generates a culture of distrust. .

¹ CEPIL Report on the State of the Judiciary, 2016

It quite common to schedule cases at 9:00am and the judicial officer reports to work at 11:00am. Other stakeholders are left to wait at the court premises without any idea of what time the judicial officer will report and attend to matters scheduled for 9:00am. Some upcountry courts operate between Tuesday and Thursday. This unaccountability should be checked in our court system. We applaud judicial officers who keep time as well as communicate their absence to court users or at least counsel on record in due time.

We must fiercely deal with these perceptions because they contribute greatly to the image of the judiciary. Where there is evidence of real corruption, let us use lawful means to rid ourselves of this vice. We need to look inward and examine areas where this vice is thriving and use measures within the Judiciary to curb any unwanted perceptions.

Some quick Thoughts

- i. An internal structure and practices to investigate corruption, a system for certifying judicial processes and sensitizing of membership should be created. There should also be increased transparency around different types of transactions like filing of cases, allocation of cases to judges. Procedures that reduce the scope for individual discretion reduce the opportunities for judicial officials to levy fees or conveniently lose files.
- ii. Organizing Anti-corruption campaigns in the judicial sector and in the public encourages rejection of corruption and warning the public about negative consequences of corruption deters them from engaging in such activities.

- iii. *The principle of Rule of Law.* The existence of the Rule of Law guarantees legality of actions, equality before the law and rights of citizens to legal remedies.
- iv. *The Principle of zero tolerance for corruption.* This involves indiscriminate application of the law in all forms of corruption.
- v. *Principle of accountability and efficiency.* We are all obliged to conduct anti-corruption measures within one's powers and to conduct training for both legal officers and judicial officers for purposes of improving efficiency in the fight against corruption.
- vi. *Transparency.* Citizens of Uganda should be able to access information in accordance with the law. Improving citizen's access to legislation. Access to justice involves free intellectual access to sources of information on relevant laws to ensure that rights are effectively and predictably taken advantage of.
- vii. Reforming and watching both the appointments and disciplinary process.

The Judicial Service Commission (JSC) is now duly constituted and should be allowed to do its constitutional mandate by provision of the necessary information/evidence.

The ULS has engaged Parliament to open up the vetting process of Judicial officers to enable ULS participate in the process of appointment. We also together with the leadership of the Judiciary do more in following up cases before the JSC.

Conclusion

Corruption is a vice that we have been at for some time now and needs our concerted effort because once an individual has participated in receiving bribes; it is in my opinion quite difficult to change such individuals, but should rather be let off judicial service once identified.

If these perceptions are created by a few individuals, we should make every effort to openly and transparently handle the individuals, just like the parable of the lost sheep where the shepherd left the 99 sheep in an open field and went to look for the one that had gone astray, when he found it, he put it on his shoulder and came back with it rejoicing.

Let us look for the lost sheep and bring them back to the fold. Through this am sure we can begin scaling the fight against corruption.

Thank you for your attention.

Gimara Francis
PRESIDENT – UGANDA LAW SOCIETY