

**ANNUAL JUDGES CONFERENCE- HELD AT HOTEL AFRICANA  
14<sup>TH</sup> -17<sup>TH</sup>JANUARY, 2013**

**Theme: 'Managing a Modern and Responsive Judiciary'**  
*"Performance of the International Crimes Division (ICD) in 2012: Opportunities  
and Challenges"*

**INTERNATIONAL CRIMES DIVISION ANNUAL REPORT 2012**

The establishment of the International Crimes Division (ICD) of the High Court of Uganda has underscored Uganda's aversion to impunity; and therefore her determination to hold accountable all persons responsible for the gravest crimes that shock the conscience of mankind; such as genocide, sexual offences, terrorism, piracy, human trafficking, drug trafficking, money laundering, and a host of other crimes characterized by cross border or international component; and all these, whether committed during war time or otherwise. The establishment of this Division, seized with universal jurisdiction, has placed Uganda in the forefront in Africa; and countries such as Botswana and Kenya are seeking to emulate Uganda in this regard.

**COMPOSITION OF THE ICD**

The Division has four (4) Judges: Dan Akiiki-Kiiza (Head), Elizabeth Ibanda Nahamya (Deputy Head), Alfonse Chigamoy Owiny - Dollo, and Ezekiel Muhanguzi. It has a Registrar: Tadeo Asiimwe; and 20 support staff.

**UPDATE ON THE CASES BEFORE THE ICD**

**1. Human Trafficking cases**

The ICD has so far handled three matters. In one, a Nolle Prosequi was entered by the DPP. In another, bail has been granted. One is currently undergoing trial.

## **2. RELIEF ASSIGNMENTS**

The Hon. Principal Judge has also placed Judges of the Division in other Divisions of the High Court to relieve these Divisions. In addition to this, Judges of the Division have also taken up Criminal and Civil sessions in various Circuits. Accordingly, the workload of the Judges of the ICD in the year under review was as follows: **Cases completed were 301. Cases pending are 242.**

## **3. War Crimes**

The 2006 amendment to the Amnesty Act of 2000 expired on 23<sup>rd</sup> May 2012. The Minister of Internal Affairs has, through Statutory Instrument No. 34 of 2012 declared that Part II of the Amnesty Act Cap. 294 has lapsed. This means there is the real possibility that this Court could be inundated with cases that would not suffer the challenge raised by Thomas Kwoyelo.

## **TRAINING AND EXPOSURE:**

### **1. MAURITIUS:**

The Institute for Security Studies (Pretoria South Africa) and the International Commission of Jurists (ICJ) Kenya organized a training program in Mauritius for judicial officers in the region, with special focus was on Counter-Terrorism, Transnational Crimes, and International Criminal Justice, which judges of the I.C.D and the Registrar benefited from. Participants were availed with very useful resource materials both in hard and soft copies; thus boosting the ICD database.

### **2. BANGLADESH:**

The Judges of the Division and the Registrar had a very successful official trip to Bangladesh which has the oldest national tribunal known as the Bangladesh War Crimes Tribunal (now known as the International Crimes Tribunal) charged with the trial of those accused of committing war crimes in the period of the split between Bangladesh and Pakistan in 1971. We

interacted with various officials such as the Chief Justice, Judges of the Tribunals, Prosecutors, and investigators; and greatly benefited from their wealth of experience in this field. We were fortunate to attend a sitting of one such trial.

Bangladesh has devised some very useful innovations. They have provisions for retrospectivity of the war crimes legislation; given that it was passed after the war. It has Rules of Procedure specific to this Tribunal. For instance, *Rules of Evidence. S. 19 (1) of International Crimes Tribunals - 1 Rules of Procedure* states: - "A Tribunal shall not be bound by technical rules of evidence; and it shall adopt and apply to the greatest possible extent expeditious and non-technical procedure, and may admit any evidence, including reports and photographs published in newspapers, periodicals and magazines, films and tape-recordings and other materials as may be tendered before it, which it deems to have probative value."

### **3. KENYAN JUDGES' VISIT:**

Judges of the High Court of Kenya paid the Division a one day visit to learn from our experience. They expressed great appreciation upon being briefed on the set up and workings of the Division

### **CHALLENGES FACED BY THE ICD**

The Division met with a number of challenges in the course of the year 2012.

#### **1. Inadequacy of space:**

The ICD has no home of its own in spite of its high standing profile. It is housed in the premises of the Anti-Corruption Division. There is inadequate space for the Judges' Chambers, the Registry, the library, and the Courtrooms. There is virtually no office accommodation for staff members. The best practices dictate that there be a Registry with a Court Management Unit responsible for keeping records; as well as an Archive. These are sadly not available.

**2. Deficiencies in facilities, Need for Repairs & Renovations:**

Judges' chambers have no curtains; thus exposing the Judges to the outside. The Courtroom has no windows, no witness stand, and no air conditioning. The Courtroom is in need of immediate repairs.

**3. Need for a stand-by Generator:**

Operation of the Division virtually comes to a standstill when power goes off. There is therefore need for a stand-by generator.

**4. Transfers of ICD staff:**

Transfers of staff in ICD including the Registrar, without due consideration of the experience gained in various training, takes the Division back each time. This is the same for the DPP's office and Investigative Units of the ICD. The Police officers working as Investigators are even in a worse position.

**5. Lack of Witness Protection Law:**

There is need to expedite the passing of the Witness Protection Bill considering the nature and gravity of the crimes handled by this Division. This however should not undermine by the rights of the accused to a fair trial. A calculated balance must be struck so that each party's rights are upheld.

**6. Capacity building/Training needs:**

All trainings that the Division has benefitted from have come outside agencies. The Judges have got some very useful training; but there is need for more specialized training so that the ICD is abreast of the latest developments in the field. The Prosecutors and Investigators in the ICD Units have also received some training; but considering the complexity of cases falling under the remit of the Division, there is need for enhancement of prosecutorial and defense capacity to meet the requisite international standards to ensure that justice is done to all. There is also a need to train the ICD support staff such as Legal Assistants and Clerks

in research methodology and record keeping respectively. There is thus need for a holistic approach to training.

**7. Inadequate Staffing:**

- There is need for Magistrates in the Division to handle lesser matters.
- No Secretary for Justice Ezekiel Muhanguzi.
- No Secretary for Assistant Registrar.
- No Office Attendant for Justice Owiny-Dollo.
- No driver for Registry.
- No Librarian

**WAY FORWARD**

- The ICD should be given greater support by the administration of the Judiciary and Government of Uganda. There is serious need for upgrade of the Court to international standards. It is the face of Uganda in the international fora; and as such, she has reason to be proud of hence the need to properly bolster it. It has the great potential to earn Uganda a place as a regional centre for trials of international crimes in Africa, in the manner the Netherlands has done in Europe.

THANK YOU.



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Hon. Justice A. C. Owiny - Dollo

For: Head of Division

16<sup>th</sup> January 2013