

COURTS OF JUDICATURE



Judicial Integrity Committee

Report of the 2011 Annual Nation Wide Field Visits

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1.0 Introduction and Methodology

The Judicial Integrity Committee (JIC) is mandated to promote and strengthen Judicial Integrity within the Judiciary and improve service delivery. In fulfilment of this mandate, JIC periodically visits Courts around the country holding meetings with all stakeholders with an aim of getting a first-hand account about the performance of the judiciary and identification of common areas of concern in the administration of justice. This report presents findings from field visits of courts in Northern, Western, Eastern, Southern and Central Uganda by various teams from JIC. In some areas, this was also a follow up to visits conducted in 2010. The teams not only set out to get feedback on service delivery from justice stakeholders, but also to get feedback on improvements in areas previously complained of.

1.1 Composition of teams

The composition of the various teams was as follows;

a) Western team:

- Hon. Justice J. Tumwesigye JSC, Chairman, JIC
- HW H. Twinomuhwezi, Assistant Registrar, Mbarara High Court
- Mr. Wajambuka D, Principal Personnel Officer
- Mr. R. Semwogerere, Senior Assistant Secretary

b) Northern team:

- Hon. Justice A. Nshimye JA
- Her Worship Henrietta Wolayo, Registrar, Inspector of Courts
- His Worship , Didas Muhumuza Assistant Registrar, Gulu High Court
- Mr. Tuhimbise Valerian, Training Officer, Judicial Studies Institute

c) Eastern team:

- Hon. Justice Akiiki Kiza J
- Hon. Justice S. Musota J
- HW T. Chemtai, Deputy Registrar, Research and Training
- Mr. L. Nahabwe, Assistant Secretary

d) Central team:

- Hon. Justice Elizabeth Musoke J
- HW. Godfrey Namundi, Registrar, Planning and Development
- HW Jane Elizabeth Alividza, Deputy Inspector of Courts
- Mr. Felix. Okurut, Economist

e) Southern team:

- Hon. Justice Masalu. Musene J
- HW E.O. Kisawuzi Registrar, Court of Appeal/PRO
- HW Harriet Ssali, Assistant Registrar, Masaka High Court Circuit
- Mr. Richard Juuko, Principal Assistant Secretary

1.2 Geographical Scope

The teams attempted to cover as many Courts as possible and visited the following areas.

i) Northern region:

- Arua High Court
- Arua Chief Magistrate's Court
- Lira High Court
- Gulu High Court.
- Gulu Chief Magistrate's Court
- Kitgum Chief Magistrate's Court
- Lira Chief Magistrate's Court
- Hoima Chief Magistrate Court

ii) Western region:

- Chief Magistrate's Court , Mbarara
- Chief Magistrate's Court, Kabale
- Chief Magistrate's Court, Ibanda
- High Court, Fort Portal
- Chief Magistrate's Court, Fort Portal
- Grade one Court, Kyenjojo

iii) Eastern region:

- High Court, Mbale
- Chief Magistrate's Court, Mbale.
- Grade one Court, Sironko
- Chief Magistrate's Court, Tororo
- Chief magistrate's Court, Kapchorwa
- Grade one Court, Bukedea
- Grade one Court, Kaberamaido

iv) Southern region:

- High Court, Masaka
- Chief Magistrate's Court, Masaka
- Grade one Court, Kalisozo
- Grade one Court, Sembabule
- Chief Magistrate's Court, Mubende
- Chief Magistrate's Court, Luwero
- Chief Magistrate's Court, Nakasongola

- Grade two Court, Rakai

v) Central region

- High Court, Nakawa
- Chief Magistrate's Court, Mengo
- Chief Magistrate's Court, Buganda road
- Chief Magistrate's Court, Nakawa
- Chief Magistrate's Court, Nabweru
- Chief Magistrate's Court Mpigi
- Chief Magistrate's Court Makindye

1.3 Methodology

At every station visited, the team leader introduced members of the team and communicated the purpose of the visit to respondents. The teams held interviews and focus group discussions with various respondents to find out whether:-

- i. Problems previously raised about judicial performance had been solved, such as : Are judgments being delivered in time? Are people getting justice as expected? Are cases being heard? Is there need for improvement?
- ii. Is the Judiciary staff conducting themselves in accordance with the Judicial Code of Conduct? Do the Respondents have any complaints about the ethical behavior of Judiciary staff
- iii. Are the Respondents aware of the channels of forwarding their Complaints in case they are dissatisfied with Judicial Services?

1.4 Category of Respondents / Targeted Groups of Persons

This involved Judiciary staff, Local District Leaders, Justice and Law Order Sector Staff (JLOS) and members of the Public. The category of respondents is elaborated here below:-

- i) **Judiciary Staff:** Judicial and Non Judicial Officers
- ii) **District Leaders:** Chief Administrative Officers(CAO), District Chairperson (LCV) , Resident District Commissioners (RDC) and District Security Officers (DISO)
- iii) **JLOS :** State Attorneys, Criminal Investigation Officers (CID), District Police Commanders (DPC), Probation and Welfare Officers, Prison Officers
- iv) **Members of the Public:** Litigants and / or Court Users (Civil society Groups), Traditional leaders and religious leaders.
- v) Advocates and Bailiffs

2.0 Findings from field visits.

The findings from the field are presented according to the following thematic areas. Recommendations are recorded separately in chapter three.

2.1 Delay in Disposal of Cases

This was the most common complaint in all the areas visited. Specific concerns were raised as follows;

- There was a public outcry over delay in disposal of cases generally, yet litigants travel long distances to courts only for the case to be adjourned. This happens in all cases whether civil, land , criminal or appeals.
- Delays in delivery of judgments in civil cases continues to be reported.
- In Nebbi, the absence of the CM from the station for long periods had ,at the time of the visit, increased backlog in all cases including criminal

cases for committal to High Court. Prison authorities have had to take measures to prevent riots breaking out in prisons, as a consequence. Nebbi CM court does not have a grade one magistrate at the station, and the only grade one in the magisterial area is stationed at Paidha.

- In Buganda road, it was reported that some suspects are forced to plead guilty in order to serve their sentence so as to be released from prison. Some criminal cases dating as far back as 2005 are still pending in court.
- Civil cases especially land matters take many years to be completed until people become frustrated and take the law into their own hands and then matters become criminal cases.

2.1.1 Causes of Delays in Disposal of Cases.

Some of the identified causes for delays in disposal of cases that have to be addressed were;

- a) Shortage of judicial officers and work overload
- b) Absenteeism of judicial officers and poor time management
- c) Closure of many sub courts all over the Country with the increasing shortage of Grade Two Magistrates. The existing Grade Two Magistrates operate between 2-3 courts ineffectively
- d) Unnecessary adjournments for various reasons including non-appearances of judicial officers, advocates and witnesses.
- e) Over emphasis on criminal justice at expense of civil cases.
- f) One person chambers of advocates that translates into adjournments to accommodate right to legal representation as the advocate cannot be in all the courts at the same time.

- g) Delay in processing court proceedings and judgments. This is sometimes caused by lack of copy typists in many courts, frequent power shortages, and demand for payment by secretaries to type proceedings. This delays the handling of appeals at all levels.
- h) Writing in long hand. This delays hearings and reducing the number of witnesses that a judicial officer handles in a day. In some instances, part heard cases are abandoned by most judicial officers because of illegible handwriting. Typing of such cases takes a very long time.
- i) Shortage of clerks, interpreters, process servers and in some instances prosecutors causes delays. In some courts, Judicial Officers have to hold court in turns.
- j) Failure to serve summons to parties to cases, then giving ex-parte judgments and later re-hearing the case.

2.2 Delivery of Land Justice.

There was a lot of concern expressed by the stakeholders all over the country about land justice. The Judiciary has failed to deliver justice according to the needs and aspirations of the people.

The public complained that a land case can take ten years and more in the court system. Magistrates attributed delays to complex land tenure systems. In Lira, like the previous year, the stakeholders complained that land matters are delayed and yet this was their only means of livelihood. It was making life difficult for the affected parties as they could not use land before court resolves the matter. As it was during the previous visit, it was observed that magistrates were not facilitated to visit locus and this affected the land matters. The reason given for not visiting locus was lack of facilitation. When asked about the

monthly operational fund, magistrates said it was insufficient to cover all expenses of locus visits, e.g. allowance to policemen, and hire of vehicle.

In eastern Uganda, the public complained of frequent adjournments in land cases. Reasons for delays included unwillingness of magistrates to visit locus, absenteeism and high transport costs to attend court hearings.>>>

In western Uganda, politicians noted that judicial officers are deciding cases without visiting the disputed land or consulting local leaders. The public also expressed strong resentment towards judicial officers and support staff for delaying to dispose of land cases. Some land cases had spent over 10 years in the court system.

It was reported that the Luwero court enters many ex-parte judgments in land cases that are resulting into security problems as people take the law into their own hands.

In central Uganda, it was pointed out that, there was lack of manpower in the High Court Land division, *“There were over 5000 pending cases for hearing with only 3 judges who cannot handle all the work. The practice now is to get an interim order which remains in force for very many years giving one side added advantage against the other.”*

2.2.1 Failure to enforce Court Orders and Judgments in Land Disputes

It was noted that it was now a very complex, protracted and expensive procedure to enforce judgments in land cases. This makes the attainment of land justice almost impossible especially for the poor and powerless. The biggest challenge of execution was brought about by the introduction of system of verification of court orders by police headquarters in Kampala. Reports of

police authorities demanding money before approving execution are becoming common.

In western region, it was reported that some RDCs routinely handle land cases and are blocking enforcement of lawful court orders. After bailiffs effect arrests, the judgment debtors contact people in “powerful offices” who intervene and prevent court order from being enforced.

In all areas visited, Court bailiffs complained of the lengthy and costly procedure of enforcing judgments whereby they have to secure approval from Police Protection Unit located in Kampala for land related disputes. In Sembabule, there were reports of heavy weights in government interfering in the administration of justice especially in land cases. It was said that Some RDCs in central Uganda ask for money before giving clearance for execution of warrants.

2.2.2 Factors that contribute to Delays in Delivery of Land Justice.

Common factors causing delays in delivery of land justice were enumerated as:

- a) Appeals from LC courts are handled by the Chief Magistrates. Most times there is a shortage of Chief magistrates and some cover very big areas and cannot handle all the workload.
- b) Visiting locus was very difficult. Litigants are no longer asked to contribute fuel for ethical reasons. Operational funds are not enough to cover all the court expenses as well as visiting locus. The expense is increased by the need to hire security and vehicles since most Judicial officers do not have official vehicles.
- c) Land cases easily attract interlocutory applications that cause delay. It was reported that sometimes advocates of opposing parties

collude in seeking adjournments, even at the expense of their clients.

- d) There are insufficient judicial officers .
- e) Land cases tend to involve numerous parties and complex issues.
- f) Protracted execution procedure.
- g) Reluctance to bring disputes to an end. Parties will engage in endless appeals and even spend more money than monetary value of the land in dispute rather than concede defeat. The weakness in our appeals system also prolongs cases.
- h) Litigants start in Local Council courts, and on appeal trials are ordered de novo because LC courts do not properly record court proceedings.
- i) A lot of corruption in judiciary emanates from land disputes. Land attracts numerous complaints, files called to Kampala as a result, thereby compounding delays.
- j) Most corruption emanates from land disputes. Land attracts numerous complaints, files are called to Kampala but there is delay in returning them, thereby compounding delays.
- k) The requirement for ‘clearance’ of execution warrants by Land Protection Unit in Kampala contributes to delays in land justice.
- l) Reluctance to bring land disputes to an end and reluctance to use ADR.

2.3 .1 Increased Criminality resulting from failures in delivery of land justice.

Due to failure of the judiciary to deliver justice in a speedy and timely manner, there are increasing reports of breakdown of law and order with increased criminality .

Failure in disposal of land cases has led to increased criminality as parties resort to violence, a direct result of tensions caused by the land dispute. Reports from all regions confirmed the proliferation of criminal trespass, threatening violence, arson, and murder most of which were fueled by land disputes. Litigants generally in land disputes were subjected to violent crimes like arson and malicious damage to foods and cash crops.

2.3.2 Increase Criminality through ‘Mob Justice’

In Central Uganda, it was reported that the reason for increased mob justice is that the public are tired of reporting criminals to police who are arrested and later released by the Court. Many accused persons jump bail and are not re-arrested and this leads to loss of confidence in the formal criminal court system.

2.4 Effective Management of High Court Circuits

The absence of substantive Deputy Registrars in some circuits was cited as one of the reasons for poor performance. Though many Judges work hard and Chief Magistrates try to fill in this gap, the workload is overwhelming.

At the High Court Circuit in Arua, there is no substantive Registrar in the circuit. Without proper supervision, there are cases of missing court files and exhibits.

In Lira, there has not been Deputy Registrar to supervise High Court registry support staff, July 2011. These support staff were described either as incompetent or reluctant to work. Soroti High Court has not had a Registrar for some time now which affects its performance especially management of the Registry. The same position obtains in Kabale High Court .

The workload for the one Judge in Mbale was too much and this has caused a backlog. It was also noted that Mubende had been approved to have a Resident

Judge but there is no judge there yet. Nakawa High Court which controls Mubende is too far (147km away) leading to delays in handling criminal sessions among other things. There are facilities like Muyinaina prison and Mubende central prison which justify having a Resident Judge.

2.5 Corruption and Disciplinary issues within the Judiciary

Corruption in the judiciary continues to dent its image. Stakeholders in all the areas visited confirmed that corruption is still a very big problem in all the Magistrates Courts and some High Courts in Uganda. The general feeling was that the Judiciary is not doing enough to curb corruption and that errant Judicial Officers and support staff are merely transferred as a disciplinary measure instead of punishing them.

Specific instances of corruption and indiscipline were pointed out. They include the following:

- Some support staff especially clerks are in the habit of soliciting bribes from litigants on the pretext that they are doing so on behalf of the Judicial Officers.
- Some Registry support staff have developed a habit of hiding court files and pulling out documents from the files with the intention of extorting money from litigants. There is unlimited access to Magistrates' court registries, files and documents by most Judiciary staff, Court Police officials and prosecutors. This compromises security of documents.
- Some clerks are in a habit of allocating different hearing dates to parties in the same case. The parties therefore appear in court on different days and this leads to unnecessary dismissals of the cases.
- Some Judicial officers get facilitation from court litigants to visit locus in quo.

- Some support staff were also in a habit of drafting court documents for court users at exorbitant rates. There were some impostors who pretend to be judiciary staff and extort money from court users.
- False service of summons: Some process servers have a habit of not effecting service of summonses and thereafter would swear false affidavits which would lead to ex-parte judgments.
- Weak supervision of support staff by Judicial Officers. By not supervising judiciary staff, judicial officers let the staff engage in corrupt practices.
- It was reported that some Judicial Officers take bribes and accept gifts of different kinds.
- Money paid in Court is sometimes never receipted.
- It was reported that Advocates charge their clients extra fees claiming that money is needed for bribing the judicial officers.
- It was reported that magistrates are given bribes for favorable bail terms.
- There is a common perception that corrupt Judicial Officers and support staff are transferred to other courts instead of being disciplined .
- The salaries for all judicial employees are very low and this may contribute to corruption.
- Transfer of files to High Court for execution is a good idea but clerks are using this to get money from litigants, allegedly to follow up files.
- It was reported that some money lenders connive with magistrates and clerks to defraud members of the public.
- People fear to complain because there is no clear complaints system, and secondly there is no system to protect them from victimisation of judicial officers and support staff.

- Litigants are made to pay for looking up court files.
- The presence of bush lawyers and tricksters around some court premises who prey on innocent and vulnerable court users fuels corruption.

2.6 Recognition of Excellent Performance of Judicial Officers.

Stakeholders pointed out the need to recognize excellent performance of some Judicial Officers. Some of the names mentioned include HW Karemani CM - Kitgum, H/W Joan Aciro, Grade one- Gulu and H/W Elias Kakoza, Grade one- Kyenjojo. In central region, advocates also singled out Grade One Magistrates W Susan Abinyo- Mwanga Two , Ereemye James-Mengo and HW Joyce Kavuma CM , HW Mugabo –Buganda Road, HW Esta Nambayo-Mengo, HW Joyce Kavuma Makindye, HW Atukwasa , Nabweru, HW Angwalia –Tororo.

2.7 Supervision of Registries and Support Staff.

There were many reports of poor management of Court registries which greatly impacted on the efficiency of the Courts. Specific incidences include:

- Poor record keeping. In Arua, advocates complained of poor records keeping, as most of the documents are loose and are at the risk of being lost. So far three files had gone missing and yet some of them are part-heard cases. Nobody appears to be in charge of the registry and movement of files. Strangers can enter the registry and leave at will. Most of the court clerks have no respect for advocates and are reluctant to avail them access to Court documents. The Court staff however, denied the allegations of missing court documents and poor public relations with advocates.
- . Hiding files. In Kapchorwa, clerks were accused of hiding files and pulling out documents with the intention of extorting money from litigants.

- Disappearance of court records. In Mbale High Court registry, disappearance of court records was rampant only to reappear at a cost to litigants.
- Back-dating court documents. There was also a growing habit of back-dating Court documents reported in some courts like Mbale and Mengo Chief Magistrates Courts.
- Disorganized registry and archives. In Nakawa Chief Magistrates' court, there was a big challenge of a disorganized registry and archives that made it difficult to locate court files. The High Court circuit registry was reported to be disorganized as files can get lost for a whole month. Prisoners are produced only to be informed that files are lost.

2.8 Time Management and Absenteeism.

This has been a consistent problem. The situation has not improved in 2011. Stakeholders complained that courts in most areas did not start on time at 9.00 a.m. as scheduled and as reflected in Court summons and hearing notices. In some courts, priority was not given to criminal cases thereby subjecting prisoners to long waiting hours in hot prison cells or containers without food and water.

Magistrates have explained that court sittings were affected by prosecutors who at times did not keep time. Sometimes witnesses and Advocates arrive late due to transport challenges and so Court starts and ends late. Some Magistrates especially in hard to stay areas commute to work and arrive late.

Some magistrates were accused of lack of commitment to duty. Stakeholders were concerned that there are no sanctions for judicial officers who do not keep time. They were concerned that as Christmas approaches, courts will be closed as police cells become crowded.

In Lira magisterial area, most sub courts with a few exceptions like Amolatar were accused of starting late and were not effectively supervised. Sub courts were further accused of delaying in submitting files to the Chief Magistrates resulting in detention of inmates for as long as 6 months before appearing before the Chief Magistrate Courts for plea.

It was also reported that although there are two Chief Magistrates in Nakawa, there were times when both were absent from the station. In most stations visited, stakeholders complained of judicial officers being absent on Mondays and Fridays respectively as most of them traveled to visit their families.

Concern was raised about unplanned training of judicial officers. Sometimes judicial officers fix cases but when litigants and advocates come to court, they are made to wait for long periods only to be informed later that magistrates are away in training. Participants wondered why judicial officer cannot be courteous to inform court users in advance.

Judicial Officers explained that a lot of time is spent in Kampala, following up on administrative issues at the Judiciary headquarters, yet Kampala based judicial officers are given priority.

2.9 Access to Court information

Concerns were raised by the public in all the regions about the difficulty of accessing court information. The following specific issues were raised.

2.9.1 Failure to produce Cause list and Lack of information about Court Business.

As a means of communication of court business to the public and court users, the cause list is an essential mechanism for all courts. Yet in most courts visited, there was a marked absence of cause lists. This was in spite of similar findings reported in previous JIC reports.

In Lira, the public complained of lack of information about fixtures. They loitered on the premises and pleaded with court staff to advise them about fixtures and venue. Concerned staff pleaded lack of stationery to print the cause list, a fact denied by the Chief Magistrate who was prevailed upon by JIC team to ensure publication of weekly cause list in time.

The failure to display the weekly cause list resulted in litigants not knowing where to go and sometimes, cases losing position. This shortcoming was reported in all areas visited, attributed to power shortages that constrained typing and retrieval from CCAS, e.g. Arua and Lira.

2.9.2 Public sensitization

In all the areas visited, it became apparent that the public is not aware of court procedures. This is why shortcomings in other JLOS institutions are attributed to the judiciary. It was strongly recommended that the judiciary should sensitize the public about court procedures and readily avail information about the judiciary activities to the public.

Members of the public welcomed the ‘ Unrepresented Litigant’s Manual’ and asked for more copies.

2.9.3 Public Relations Function

The impact of the public relations office is not felt in areas beyond the central region. It was reported the PRO Function is not being felt beyond the central region , and that the judiciary should strengthen and decentralise the office to other regions .

2.10 Customer Care Issues

It was observed that handling of litigants and other court users was poor and there was a lot of uncertainty as to when court business would start.

A related challenge is court users not knowing where to seek information about court business, and where to sit as they wait for their cases thereby exposing them to conmen/women. Most of the courts visited lack a reception or customer care desk. Some courts lacked public toilets , while others were in a very sorry state, e.g. Nakawa, Mengo , Mwanga Two, and Kyenjojo.and Lira. Other courts, did not have waiting rooms for court users. Persons with disability were not catered for.

Some judicial officers and support staff were reportedly rude to Advocates and the public, while others were insensitive.

In all regions, it was reported that audibility in Courts is a big problem as most court users do not hear what the Judicial Officers are saying. It was suggested that judicial officers should communicate better by speaking loudly or public address systems be installed in Courts.

2.11 Uniforms and Identification Tags for all Court Support Staff

A related issue of customer care is uniforms for clerks. While some clerks were availed uniforms, others were not. There is need to rationalise distribution of uniforms for all support staff to ease identification and eliminate impostors who mislead litigants. However, some staff complained of oversee or under size uniforms and proposed local tailors be contracted to supply these uniforms. Overall, stakeholders welcomed the initiative.

However, some support Staff refuse to wear uniforms hence the need for Judicial Officers to enforce the policy.

2.12 Human Resource Issues

Support staff complained of non-confirmation in service in spite of submission of appraisal forms.

Another point raised by support staff was under staffing and hence having one clerk working with more than one magistrate and at the same time attending to registry work.

Salaries of support staff have remained low despite the increasing cost of living.

Poor registry management was attributed to understaffing .

In all areas visited, stakeholders were concerned that there were no Grade two Magistrate to handle family matters. That the Chief Magistrate, Grade one Magistrate and Grade two were overwhelmed by three stations i.e. Kapchorwa, Bukwo and Kween Courts and as a result the backlog had escalated. The Magistrates had failed to allocate time to attend to people's complaints because of a busy schedule.

Since October 2011 Mbale has not had a Grade one Magistrate and the Chief Magistrate was overloaded. Bupoto court also had no Magistrate and Bulukyeki court did not have a clerical officer.

In Nakasongola there is lack of magistrates in the area therefore lack of Family and Children Courts as well as no remand homes for juveniles. Lack of magistrates leads to very many adjournments. Nakasongola is very vast for the Chief Magistrate who only has one court; a recommendation was made for opening of courts in Kalongo, Nakitooma, Mijeera, Rwamanga and Nabisweera.

A shortage of magistrates led to the closing of courts in Nyimbwa, Wachato and Kapeeka causing great hardship to the locals there. Nakaseke was recommended to be elevated to a Chief Magisterial area as it was too big stretching to Ngoma, Wakyato, Kapeeka and other areas.

There is only one Grade one magistrate H/W Kule in Sembabule yet the area is wide. He was commended for doing a good job. Courts have been closed in Lwemiyaga, Ntusi, Lwebitakuli, Mateete and Mawogola sub counties causing a public outcry among locals. This means the grade one is burdened with all land suits, in addition to criminal cases and other disputes, making it humanly impossible for him to be efficient.

The lack of a fulltime Grade one magistrate in Koboko and Yumbe means the grade one based at Arua is overstretched.

In Kanungu district, there is no court yet it is a vast area. Kyangwale in Hoima district lacks a court yet there is dire need for one.

2.13 Transfer of Magistrates

Magistrates expressed dissatisfaction with short notice given for transfers without giving them time to complete cases in advanced stages, write judgments, prepare hand over reports and plan for their families.

2.14 Children Justice.

The policy of professionalizing the lower bench has meant that grade two magistrates who retire or upgrade are not replaced yet, only these courts have jurisdiction in Family and Children matters. The result is an ever decreasing number of magistrates grade two in magisterial areas or none at all in others. The effect of this trend on children justice is that children's access to justice is constrained and so are women seeking maintenance for their children.

A related issue is the absence of child reception centers in most magisterial areas. This means children charged with serious crimes are released back to the communities at the risk of being lynched or are remanded in adult prisons.

2.15.0 Estate Management Challenges

Key issues identified under estate management are poor accommodation of courts. Many grade one magistrates improvise, while sanitary situation is in a sorry state.

2.15.1 Lack of maintenance of courts

Another issue is maintenance of court structures. Although regional engineers were posted to different parts of the country, they are not visible and minor repairs like electrical repairs, sewage works, are unattended to thereby constraining court operations.

In Lira, for example, the sewage system in the Chief Magistrate court is defective but reports to the Estates Department have not yielded success, in spite of posting Regional Engineers to the regions.

2.15.2 Poor accommodation

The magistrate grade 1 Wobulenzi shares premises with welders and artisans (jua kali) therefore the working environment isn't conducive. Renting the whole building costs Ushs. 700,000/= yet only Ushs. 500,000/= is available from the High Court. Therefore the balance must be topped up by other tenants. Kyenjojo is in a rented building located by the roadside, and when court is in session, the road is closed and the public complains.

In Ibanda, the court hall is very small.

The Mityana court operates from a rented place that's too noisy in the middle of town, yet the district has given land for construction of a court.

The Kamuswaga of Kooki has offered land for the construction of a court and the title hasn't yet been processed by High Court. Rakai being far from Masaka deserves to be a chief magisterial area in order to improve access to justice.

In a number of places, land had been offered for construction of court premises but there was no follow up. For instance, Kyenjojo, Sembabule , Mityana, and Rakai.

The sub courts of Byakabanda, Kyotera and Lwamagwa were closed without informing the public and district administration.

2.16 Power Shortages

The current load shedding by Umeme has affected operations of courts especially with regard to typing proceedings , cause lists and performance of CCAS. It also means secretaries /typists in some courts have to work at odd hours e.g. after 6:00 pm when power is available.

Arua court had gone without power for the last three months due to non payment of electricity bill . This means proceedings cannot be typed in time and cause lists cannot be generated. Chambers are dark and therefore not conducive for effective disposal of cases. Shortage of power has adversely affected service delivery. Sironko and Amur courts are not connected to national grid , neither are they provided with solar energy or generator.

2.17 Information, Communication and Technology (ICT) Issues

Magistrates expressed the need for computers and internet access.

In many magisterial areas, for instance In Lira, and Arua, performance of CCAS is not functional.

Many courts lack computers to provide basic functions. Facilities like photocopying, automation of court recording, communication facilities are non-

existent in most courts. Reports indicate that proper maintenance of equipment is wanting. This affects the quality of effective judicial service delivery.

2.18. Finance Management Issues

Several issues involving finances were brought to the attention of JIC. These include the following:

2.18.1 Bail Refunds.

It was reported that the issue of bail refund was a critical problem in most areas. Apart from the procedure not being known, the process of refund is so cumbersome and frustrating with the result that most people are forced to abandon the bail money.

Payment of bail money through the bank is not working well for court users especially in Kampala where there is only one bank authorized to collect money. At times the lines are very long or the bank systems are malfunctioning. It was suggested that more banks be used to collect court revenue and bail money.

Court users also complained that sub-courts were in the habit of not issuing receipts pleading that they did not have receipt books. Those in cases where receipts were issued, the amount reflected would be less than the actual amount paid.

2.18.2 Mismanagement of session funds

It was reported that registrars mismanaged session funds. In some cases, witnesses are not paid, delayed payments to advocates on state briefs .

2.18.3 Delays in Remittance of Operational and State Briefs Funds

Magistrates complained of irregular remittance of these funds which affected court operations. The reason for these delays was reported to be failure to submit accountability for previous payments. While it is good financial practice

to demand accountability, this should be done in such a way that it does not impact negatively on court operations. In any case, many courts denied this allegation.

2.18.4 Failure of Witnesses to testify in criminal cases

In most magisterial areas, it was suggested that cases delay or are unfairly dismissed because of failure of witnesses to attend court to testify in criminal cases. Most complainants lack the means to transport and feed witnesses. It was recommended that a witness fund be established to cater for transport refund to enable the poor access justice in courts of law.

2.18.4 Service of summons

Process servers complained of long distances covered to effect service and attendant dangers in land cases where the process server must quickly leave after service. They pleaded for motor cycles to alleviate transport challenges. These sentiments were expressed by support staff in most areas visited, and in particular, Gulu, Mbarara, Lira, Hoima, Kibale and Kagadi, Kanungu, Bundibugyo, Nakasongola.

2.18 .5 JLOS Related Issues

It was reported that Shortage of staff in Director of Public Prosecutions (DPP) departments directly affected court operations. In some places, magistrates have to sit alternately because they share one prosecutor.

Lack of Probation Officers and Community Service Officers in some areas hampered children justice and supervision of community service, respectively.

In most areas visited, there were complaints of inadequate prison facilities including, accommodation .In Kapchorwa, the prison is small and impacts on the performance of the courts which are forced to release accused people on bail because there is no space in the prison.

It was reported that some prisons are located far from the courts, and with no means of transport. For example, prisoners walk 12km from Butuntumula prison to Luwero Chief Magistrate's Court . This results in prisoners walking at night and increases risk of escape. The same concern was raised by stakeholders in Lira, and Kyenjojo courts.

3.0 Conclusion

The findings indicate the following;

- There was some marked improvement in some areas as compared to findings from previous JIC field visits though the overall performance has not improved in most areas. Overall, the team got the impression that there was marked reduction in complaints of corruption, extortion and bribery by clerks or magistrates.
- The Judiciary is not performing well due to poor case management that leads to delays in disposal of cases. There is apparent lack of customer care, inadequate judicial officers and support staff, court facilities, poor financial management and service delivery. It also clearly emerged that although the causes of delays were known, Judiciary was perceived as not making sufficient effort to address these issues.

- Observance of the Judicial Code of Conduct still remains a challenge especially as regards issues of integrity, diligence and commitment to work ethics.
- Majority of the respondents were not aware of the channels of forwarding complaints in cases where they were dissatisfied with judicial services. In some cases fear and lack of money to travel long distances to the chief magistrate or inspectorate in Kampala acts as barriers to complaints channels.

What stood out clearly was the public outcry over delays in delivery of land justice. This calls for interventions both in the short term and long term. While short term interventions like additional funds for locus visits are welcome, a sustainable strategy is imperative. The current situation is alarming because of evidence of increased criminality as a result of tensions in the community caused by unresolved land disputes.

Lastly, another glaring challenge in delivery of land justice is the confusion surrounding jurisdiction of local council courts to handle land disputes. While some chief magistrates have relied on proceedings of LC courts to dispose of appeals, without looking into the issue of their jurisdiction, some have made it a point to order retrials or fresh suits irrespective of LC decisions. Their reasoning is that LC courts ceased to exist when the Constitutional Court ¹ ruled that fresh LCs should be elected under a multi- party dispensation.

Another recent decision by High Court at Mbale ruled that LC courts exist in law except that suits start in LC I court contrary to the position in the Land (Amendment Act) 2004 that suits start in LC II². There is need for clarity in this

¹ Constitutional petition 21 of 2006 Rubarambira Ruranga v Electoral Commission and Attorney General

² Mbale CV-CR-7 of 2011 Mutonyi Margret Wakyala v Titto Wakyala . (www.searchulii.org)

area to prevent anarchy in the rural areas especially when magistrates' courts are failing in delivery of land justice for many reasons.

Added to this challenge, is the existence of multiple centres of adjudication – State House , and RDCs.

Overall the negative public perception towards the Judiciary continues to exist thus the urgent need to improve the delivery of judicial services in order to increase public confidence and trust in the judiciary.

4.0 GENERAL RECOMMENDATIONS AND THE WAY FORWARD

Recommendations to the identified challenges were extensively discussed by JIC at a retreat in Rider Hotel, Seta. Below are the recommendations.

4.1 Dissatisfaction with Land Justice.

A special approach to dealing with land disputes is essential. The perspective of some JIC members was that land tribunal records were not properly kept, and some tribunal members acted unprofessionally. These cases constitute the biggest percentage of the case backlog in most courts. It is proposed that in the short term, magistrates be assigned specifically to land cases only, like the initiative introduced at Mengo Court. Special sessions should be planned with adequate funding to enable land magistrates visit locus and complete these pending cases. Funds should be made readily available to enable magistrates to visit locus.

The High Court land division needs to develop a strategy to deal with backlog.

4.2 Reduction of Delays in Disposal of Cases

Shortage of judicial officers needs to be urgently addressed with appointment of judicial officers at all levels of courts hierarchy. There is urgent need for appointment of registrars, magistrate grade ones and chief magistrates.

Judiciary should develop a master human resource plan for management of its human capital. Issues of shortage of employees should be dealt with proactively.

Judicial training should be planned well in advance and steps taken to ensure that it does not disrupt court work. In case there is need to attend training or be away from the workplace, efforts should be made to ensure that court users are notified in advance to avoid unnecessary expenses. No judicial officer should attend training without written permission of immediate supervisor.

Committee meetings also contribute to delays as a judicial officers are away for days to attend these meetings. There is need to plan for such meetings. It is recommended that some of these meetings and training should take place on weekends.

To curb unnecessary adjournments, it is incumbent on individual judicial officers to firmly control the proceedings of their courts.

The issue of failure to provide records of court proceedings and other court documents should be dealt with through the provision of alternative forms of energy, namely solar and generators with fuel and supply of reliable equipment.

In the transfer of magistrates, reasonable notice of three months should be give to allow magistrates complete cases in advanced stages , write judgments and plan for their families is recommended.

4.3 Disciplinary matters

Wilful absenteeism of judicial officers including judges should be dealt with. Disciplinary measures should be strictly enforced where necessary.

Cases of misconduct such as drunkenness, drunk driving , wilful absenteeism, in -subordination, lateness, should be dealt with under Code of Conduct , Public Service Standing orders and Judicial Service Regulations.

Poor standard of work, delayed delivery of judgments, rudeness to advocates and court users, sexual harassment are other cases of misconduct that should be dealt with firmly. There is need for a sexual harassment policy in the judiciary.

It is recommended that the office of the Inspector of Courts be strengthened.

4.4 Remuneration of support staff

It is recommended that increased the judiciary addresses the issue of inadequate remuneration of support staff .

4.6 Enforcement of Court Orders and Judgments.

Delays in long delays and protracted police procedures undermines the administration of justice. The current practice of police sanctioning and giving ‘clearance’ before court orders are executed undermines the authority and independence of the Courts. It also makes the execution process lengthy, complex, expensive and subject to abuse. It is recommended that the Chief Justice raises this issue with the authorities concerned.

It is recommended that the process of developing a regulatory framework for bailiffs be completed and implemented. It is recommended that the Execution and Bailiffs Division of the High Court should be strengthened.

4.7 Children Justice Issues.

In light of the phasing out of Grade Two magistrates, it is recommended he Chief Justice designates Grade one courts as Family and Children Courts. Responsibility of establishing reception centres was placed on local governments but this is unrealistic in view of the limited resources that local

governments face. It is recommended that this responsibility be transferred to central government as a long term measure.

Appeal should be made to JLOS to help in the establishment of children centres in each sub region as follows: Masaka, Mbarara, Kabale, Kasese, Fort portal, Hoima, Arua, Kitgum, Lira, Soroti, Jinja, Luwero.

It is recommended that children reception centres be established at regional level to supplement Kampiringisa reception centre.

4.8 Customer Care Issues.

All employees of the Judiciary should undergo continuous training in this area. In addition to weekly publication of cause list on notice boards, publication of cause lists in newspapers should be revived. Establishment of information desks and proper amenities for users should be a core concern in the delivery of quality services.

Persons with disabilities should be enabled to access courts buildings.

Court users open day, an initiative witnessed in Kyenjojo grade one court be replicated in all courts.

It is recommended that prisoners be provided with meals while at court premises.

4.9 Public sensitization

PRO should partner with JSC to increase public awareness of courts and court procedures.

It is recommended that the Unrepresented litigants' manual be circulated widely to facilitate access to information.

It is recommended that the judiciary avails standard court forms to all courts to facilitate court users.

More channels of communications be utilised to increase public communication.

4.10 Public Relations Function

The Public Relations Office should be strengthened, restructured , strengthened and well facilitated to ensure that all parts of the country have access to this office. The public need constant information in order for the public understand how the judiciary functions and improve the judiciary image.

It is recommended that the Communication Strategy be operationalized.

4.11 Delays in Processing Bail Refunds

Noting the increasing complaints about the long delays and sometimes outright failure in remitting bail refunds by judiciary the following interventions are recommended for immediate implementation.

1. Publish the procedure for bail refund
2. Indicate steps to be taken and time frame to expect a refund
3. Original receipts be retained on court record while copies be given to depositor. This is to avoid rejection of requests for refund due loss of original receipts.
4. Whoever is issued a receipt, is given a guidelines on claiming a refund.
5. A chart of these guidelines be made available in all courts.
6. Sensitize magistrates and registrars on their role.

4.12 Management of sessions and session funds

Registrars should be required to manage session funds in a proper manner. The Registrar of the High Court should ensure that session funds are managed properly and that the use of these funds is accounted for in the prescribed time. Sanctions for mismanagement of these funds or for failure to account should be imposed on errant officials promptly and firmly. Judges should take interest in how session funds are managed.

It is recommended that the judiciary should involve other stakeholder in the planning for court sessions.

4.13 Location of Courts in relation to Access to Justice Issues.

JIC has confirmed that there are expansive areas with no Courts. This affects access to justice to a considerable number of Ugandans who are located far from the current operating Courts. Creation of districts calls for establishment of courts in these areas.

The judiciary should consider splitting expansive high court circuits e.g. Mbarara Gulu and Jinja; creation of more chief magistrates and grade one courts to ensure that people access justice easily. Judicial Officers and other judiciary staff posted “to hard to reach and stay areas” should be given extra facilitation to ensure that they ably perform their duties.

4.14 Other Recommendations

Below are some more recommendations.

- It is recommended that in future, magistrates and clerks be facilitated to attend JIC meetings during its annual field visits.

- The bar –bench forum initiative should be supported by the judiciary as a means to resolve issues of concern to both courts and the bar.
- Issues of Weigh Bridge cases have been a source of abuse of court process as evidenced in Mbarara and Luwero. It was recommended that such cases be brought under express uniform penalty scheme to remove them from jurisdiction of magistrates courts.
- The recognition of magistrates for excellent performance by stakeholders signals that it is time for the judiciary to recognize its own in a special way. It is recommended that a reward system be developed to recognise excellence in performance.
- It is recommended that process servers be provided with motor cycles to carry out this task.

5.0 Report Conclusion

The Judiciary as one of the arms of the State is empowered to promote the rule of law, democracy and protection of human rights. Over the years, the judiciary has undertaken numerous reforms in the administration of justice. However the delivery of judicial services has not fully met the expectations of the public and stakeholders.

There is need for the judiciary to review its strategy to ensure that quality justice is dispensed to the majority of Ugandans. This will ensure that the Judiciary plays its rightful role in the promotion of a modern state especially in issues of economic, social and political development of the country.

Issues raised in field visit reports especially the recommendations of the Judicial Integrity Committee should be implemented.