



**PRESENTATION OF PERFORMANCE OF THE SUPREME COURT
MADE
AT THE
20TH ANNUAL JUDGES' CONFERENCE
AT THE SPEKE RESORT HOTEL, MUNYONYO, KAMPALA
21ST – 25TH JANUARY, 2018**

BY

**HON. JUSTICE JOTHAM TUMWESIGYE
JUSTICE OF THE SUPREME COURT**

- The Hon. The Chief Justice
- The Hon. Deputy Chief Justice

- The Hon. The Principal Judge
- Honourable Justices and Judges
- Your Worships the Registrars and Magistrates
- The Administrative Staff
- The facilitators
- Distinguished Ladies and Gentlemen.

Introduction:

Am pleased to once more share the Performance, Opportunities and Challenges the Supreme Court experienced in the year 2017. The Supreme Court of Uganda is currently housed in rented premises at Kololo, Kampala. The Supreme Court of Uganda is a creation of the 1995 Constitution. It is the final Appellate Court in the country. In matters of Presidential Election disagreements, Section 59 of the Presidential Elections Act, gives the Supreme Court original jurisdiction in the Presidential Election Petitions.

To those of us who have had the opportunity to listen to the previous reports, it will be clear that, the narrative in many aspects remains unchanged. The reason is that the circumstances on the ground have remained the same

especially in as far as the physical challenges the Court faces are concerned.

Composition of the Supreme Court:

The composition of the Supreme Court is laid out under Article 130 of the Constitution. It consists of the Chief Justice and such other numbers of Justices not being less than six, as Parliament may by law prescribe. Currently the prescribed number of Justices, according to the Judicature (Amendment) Act 2007, inclusive of the Chief Justice, is 11. The Current Members of the Court are 11 and they are:

- 1- The Hon. The Chief Justice, Hon. Justice Bart M. Katureebe
- 2- Hon. Lady Justice Dr. Esther Kisaakye-Kitimbo, JSC
- 3- Hon. Lady Justice Stella Arach-Amoko, JSC
- 4- Hon. Justice Eldad Mwangusya, JSC
- 5- Hon. Justice Rubby Opiro Aweri, JSC
- 6- Hon. Lady Justice Faith Mwendha, JSC
- 7- Hon. Lady Justice Prof. Tibatemwa Ekirikubinza, JSC
- 8- Hon. Justice Richard Buteera, JSC
- 9- Hon. Justice Paul Mugamba, JSC
- 10- Hon. Justice Augustine S. Nshimye, Ag. JSC
- 11- Hon. Justice Jotham Tumwesigye, Ag. JSC

In the course of the reporting year, two Justices namely: - Hon. Justice Augustine Nshimye and Hon. Justice Jotham Tumwesigye retired.

However, they were offered a two-year Contract of Service, which they accepted.

The other Members of staff are the Registrar, H/W Isaac Muwata who was recently transferred to the Supreme Court replacing Tom Chemutai, and the Deputy Registrar, H/W Godfrey Opifeni. The various operations of the Court are carried out by several officers who include the Office Supervisor, the ICT Officers, the Librarians, Accounts Assistant, Clerical Officers, Secretaries, Process Servers, Office Attendants, Drivers and Body Guards attached to the Justices of the Supreme Court.

Calendar of Activities:

The Court operates on the basis of an Annual Calendar of activities which is drawn at the beginning of each Year. The Calendar of Activities is drawn in accordance with the Leave Schedule of the Justices of the Supreme Court and Court Vacation dates. At the beginning of the Year, the Registrar captures information on the Annual Leave plans for all the Justices. The Court Vacation runs between 31st July and

1st September of each year. The Court also observes the Annual Christmas Vacation as advised by the Judiciary Administration, which is usually from 23rd December of the current year to 7th January of the following year. There are, however, matters that are registered and disposed of, not in accordance with the Calendar of activities. These include cases such as Presidential Election Petitions and Applications.

Sitting of the Court:

The 1995 Constitution of the Republic of Uganda prescribes the composition of the Supreme Court for the purposes of disposal of matters before it. Under Article 131 thereof, it is provided as follows:

"(1) The Supreme Court shall be duly constituted at any sitting if it consists of an uneven number not being less than five members of the Court.

(2) When hearing appeals from the decisions of the Court of Appeal sitting as a Constitutional Court, the Supreme Court shall consist of seven members of the Supreme Court.

(3) The Chief Justice shall preside at each sitting of the Supreme Court, and in the absence of the Chief Justice, the most senior member of the Court as constituted shall preside."

Jurisdiction of the Supreme Court:

Like in all Courts in the Country, the jurisdiction of the Supreme Court is a creature of statute.

Article 132 provides as follows:

"(1) The Supreme Court shall be the final Court of appeal.

(2) An appeal shall lie to the Supreme Court from such decisions of the Court of Appeal as may be prescribed by law.

(3) Any party aggrieved by a decision of the Court of Appeal sitting as a constitutional court is entitled to appeal to the Supreme Court against the decision; and accordingly, an appeal shall lie to the Supreme Court under clause (2) of this article.

(4) The Supreme Court may, while treating its own previous decisions as normally binding, depart from a previous decision when it appears to it right to do so; and all other courts shall be bound to follow the decisions of the Supreme Court on questions of law.”

Publication and Circulation of Court Judgments and Rulings:

The Supreme Court has designated a specific ICT officer to publish on-line its judgments and rulings. The Supreme Court conducts an online dispatch of its Judgments and Rulings to all the recipients registered under the following E-mail address – judgments@judicature.go.ug. The recipients there-under include all the Justices, Judges and other Judicial Officers. Also captured are other interested stakeholders such as the Office of the DPP. The Law Reporting Officer is on the list of Recipients. The role of the Law Reporting Officer, is among others, to upload the decisions of the Supreme Court to the website www.ulii.go.ug This website is freely available. In addition, hard copies are available, in collaboration with the Law Reporting Officer and the Registry.

Work handled at the Supreme Court in 2017:

As stated earlier, the Supreme Court operates on the basis of a Yearly Calendar of Activities that stretches from January to December of the particular year.

The information I am going to present, is therefore, that of the period between 1st January and 31st December, 2017.

At the beginning of January 2017 we had a workload of 76 cases brought forward. During the same period we registered 77 matters. Out of this we held Sessions in which we heard 75 Appeals. We also handled 4 Applications before a single Judge. At the moment we have 74 matters in all categories pending before the Supreme Court. The current pending cases do not indicate any backlog at the Court.

The information is as presented below:

TABLE I – SESSIONS HELD

Session	Dates Held	No. Of Cases Heard
Criminal Appeals/Applications	7 th – 24 th March, 2017	26
Civil Appeals/Applications	16 th May – 8 th June 2017	24
Criminal Appeals/Applications	18 th - 22 nd September, 2017	13

Civil Appeals	26 th September – 5 th October, 2017	12
TOTAL		75

Of all the Cases heard in the several Sessions, Judgments have been delivered in some cases, while Judgment writing is still progressing in others. So far we have delivered 75 Judgments. The rest shall be delivered very soon.

Currently, the total number of cases pending for hearing at the Supreme Court is as follows:

TABLE II

Constitutional Appeals	3
Constitutional Applications	2
Civil Appeals	21
Civil Applications	22
Criminal Appeals	22
Criminal Applications	4
TOTAL	74

Evaluation of the Performance of the Supreme Court:

The number of cases before the court may appear few but it is not so. As indicated earlier, Article 132(4) of the Constitution requires all courts to follow the decisions of the Supreme Court on questions of law. Therefore, the Supreme Court has a duty to hand out well researched and properly reasoned judgments. In cases where a panel consists of seven or five Justices of the court, a case before the panel may be one but each member treats the case as his or her case which he or she must properly read and internalize before the panel delivers the judgment. In doing this, members have a duty to carefully consider the law and the record of proceedings of the courts below.

It is therefore not proper to assess the work of the Supreme Court in terms of numbers of cases disposed of as a major yardstick of its performance. We ought, instead, to focus on the quality of the judgments delivered and the time the court takes to handle the cases brought before it.

Challenges:

The Supreme Court is housed in rented premises which were not designed for conduct of Court business. It therefore presents a host of challenges of which I will name a few:

- **Absence of Holding cell for Prisoners:**
The Court has no holding cells for prisoners during Court Sessions. This presents a serious security threat at the premises.

- **One Entrance and Exit:**
All the Court Users, staff and the Justices use one entrance and exit at the premises which is a security risk.

- **One Court Hall:**
The Court has one Court Hall hence limiting the number of Sessions which can be held concurrently.

- **Unfriendly structure:**
The Court has no Lifts for persons who may not be able to climb the stairs. It makes no special provision for persons with disability or the aged.

- **Limited Space in the Registry:**
The Registry of the Supreme Court is severely limited in space. There is no room for creation of a proper Registry.

This therefore makes storage and retrieval of Files problematic.

- Closely related to the issue of Registry is the absence of an Archive. We have no storage facility for completed and/or old files. For the Supreme Court, an Archive is of utmost importance as, by the nature of our work, we always refer to past Decisions.

- Costly access for Support Staff:
The location of the Supreme Court at Kololo, makes it hard for the support staff to access it using the usual modes of transport.

There are neither taxi nor "*boda boda*" means of transport near the Court. The implication of this is that the staff have to spend a good portion of their income on transport costs.

- The Court is housed in premises whose facilities breakdown every now and then. The time taken to make repairs disrupts Court programs.

We look forward to the day when the Supreme Court shall sit in its own properly designed building.

Way Forward:

With the Court currently fully constituted, it is hoped that the pending matters will be disposed of faster.

Thank you for listening to me.