



**THE JUDICIARY OF UGANDA
ANNUAL JUDGES CONFERENCE 2017
COURT OF APPEAL
AND THE
CONSTITUTIONAL COURT
REPORT FOR 2016**

1.0 Introduction

- ❖ The Court of Appeal and the Constitutional Court are provided for by various provisions of the Constitution.
- ❖ **The Court of Appeal and the Constitutional Court are two separate Courts.**



Article 134 provides:

134. Court of Appeal of Uganda.

“(1) The Court of Appeal of Uganda shall consists of-

(a) The Deputy Chief Justice; and

(b) Such number of Justices of Appeal not being less than seven as Parliament may by law prescribe.

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



...Article 134 provides:

135. Composition of the Court of Appeal.

(1) “The Court of Appeal shall be duly constituted at any sitting if it consists of an uneven number not being less than three members of the court.

(2) The Deputy Chief Justice shall preside at each sitting of the court and in the absence of the Deputy Chief Justice, the most senior member of the court as constituted shall preside.



...Article 134 provides:

(3)..."

The Constitutional Court:

Article 137 provides:

Questions as to the interpretation of the Constitution.

“(1) Any question as to the interpretation of this Constitution shall be determined by the Court of Appeal sitting as the Constitutional Court.

(2) When sitting as a Constitutional Court, the court of Appeal shall consist of a bench of five members of that court.

(3) Upon a petition being made or a question being referred under this article, the Court of Appeal shall proceed to hear and determine the petition as soon as possible and may, for that purpose suspend any other matter pending before it.

(4)...

(5)...

(6)...

(7)..."



...Article 134 provides:

Section 66(3) of the Parliamentary Elections Act, No 17/2005 provides:

“Notwithstanding Section 6 of the Judicature Act, the decisions of the Court of Appeal pertaining to Parliamentary Elections Petitions shall be final.”



...Article 134 provides:

From the above provisions of the law, it is clear that the role of the Court of Appeal in the administration of justice is twofold namely:

- To hear both civil and criminal appeals from the decisions of the High Court.
- To sit as the final Court of Appeal in Election Petition Appeals.

The role of The Constitutional Court is to hear and determine Constitutional Petitions and Constitutional References and matters related thereto.



Justices of the Courts.

1. Hon. Justice Steven B.K Kavuma, DCJ
2. Hon. Justice Remmy Kasule, JA
3. Hon. Justice Richard Buteera, JA
4. Hon. Justice Solomy Balungi Bossa, JA
5. Hon. Justice Kenneth Kakuru, JA
6. Hon. Justice Geoffrey Kiryabwire, JA
7. Hon. Justice Fredrick Egonda-Ntende, JA



... Justices of the Courts.

8. Hon. Justice Elizabeth Musoke, JA

9. Hon Justice Cheborion Barishaki, JA

10. Hon. Justice Hellen Obura, JA

11. Hon. Justice Paul K. Mugamba, JA

12. Hon. Justice Catherine Bamugemereire, JA

13. Hon. Justice Simon Byabakama Mugenyi, JA

14. Hon. Justice Owiny Dollo, JA



.... **Justices of the Courts.**

Hon. Justice Simon Byabakama Mugenyi was recently appointed Chairperson of the Electoral Commission.

We congratulate him upon his appointment and wish him well in his new assignment.

Two vacancies therefore remain to be filled to bring the number of Justices to 15.



Registries

- The Courts restructured the Registry into three i.e.
 - » the Constitutional,
 - » the Civil and
 - » the Criminal Registries.



The following were the Registrars;

1. H/W Harriet Ssali, Ag. Registrar
2. H/W Deo Nizeyimana, Deputy Registrar
3. H/W Didas Muhumuza, Assistant Registrar, Criminal Registry
4. H/W Rosemary Bareebe, Assistant Registrar, Constitutional Registry
5. H/W Daniel Lubowa, Ag. Assistant Registrar, Appellate Mediation Project.



Other Court Staff

The Registrars are assisted by;

- Records Assistants,
- Clerical officers and,
- other support staff.
- Research Officers assist their Lordships the Justices in their work.

The total number of support staff at the Court was 131.



The Courts' Performance

For the year under review, the Court of Appeal had a target of **600** cases,

- ❖ **200** civil and
- ❖ **400** criminal.

The Constitutional Court had a target of **20** cases.

The courts achieved their targets and the details of their performance were as follows:-



The Court of Appeal

The Court of Appeal handles

- criminal appeals,
 - criminal applications,
 - civil applications,
 - civil appeals,
 - election petition appeals and
 - election petition application.
- It was the busier of the two Courts basing on the number of cases registered and completed in the year under review.



Table 1. Registered and Completed Appeal Cases- 2016

CASE TYPE	B/FOWARD	REGISTERED	COMPLETED	PENDING
Criminal Appeals	2,444	553	279	2,718
Criminal Applications	128	115	172	71
Civil Appeals	1,148	292	80	1,360
Civil Applications	1,428	355	209	1,574



... Table 1. Registered and Completed Appeal Cases- 2016

CASE TYPE	B/FOWARD	REGISTERED	COMPLETED	PENDING
Election Petition Appeals	6	110	4	112
Election Petition Applications	20	89	32	77
TOTAL	5,174	1,514	776	5,912



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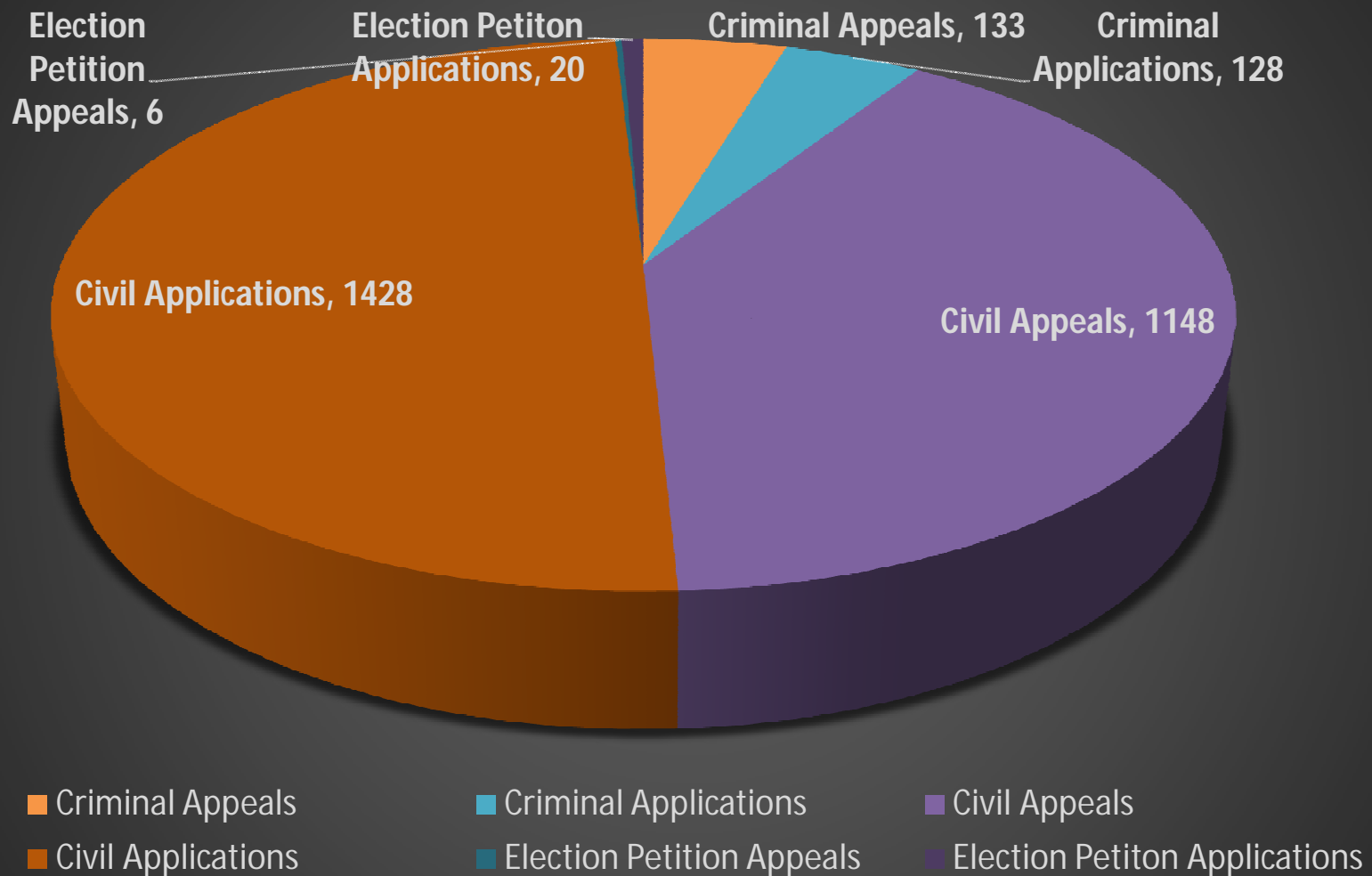
There are 2,311 criminal case files where Notices of Appeal were filed but there are neither memoranda of appeal nor lower court records.

However, some progress in solving this problem is being registered in that of the said 2,311 files, **about 1,000 have, according to information availed to court, been traced at the High Court.**

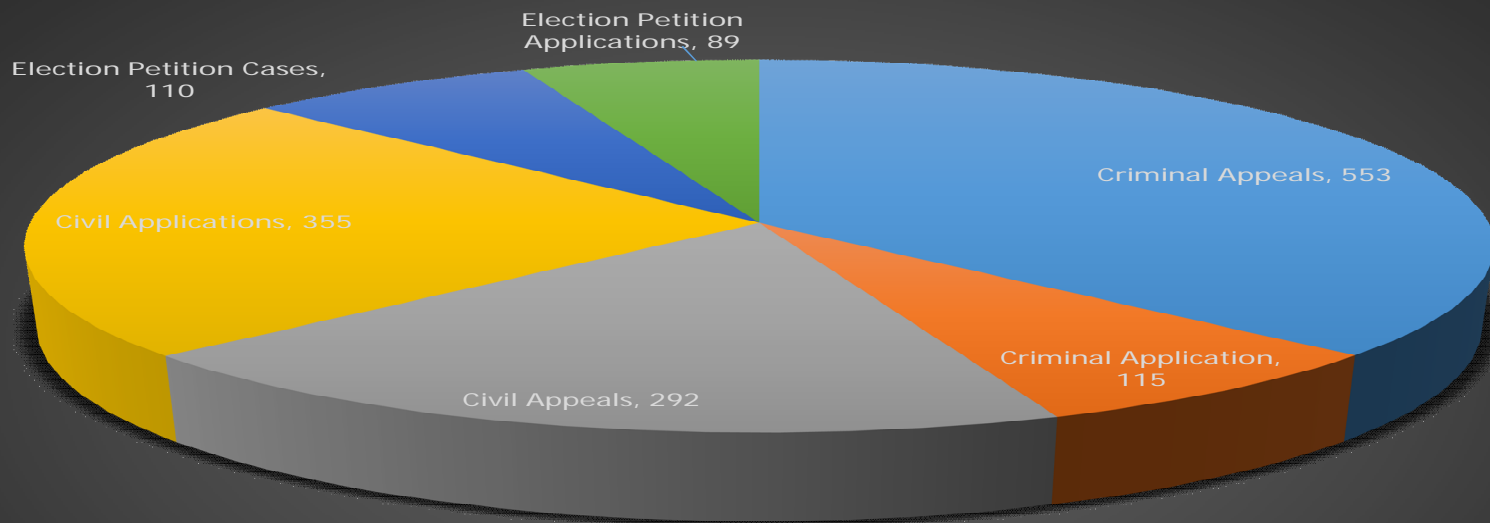
About 181 of these have now been remitted to the Court of Appeal.



CASES BROUGHT FORWARD 2016- COURT OF APPEAL



REGISTERED CASES 2016- COURT OF APPEAL

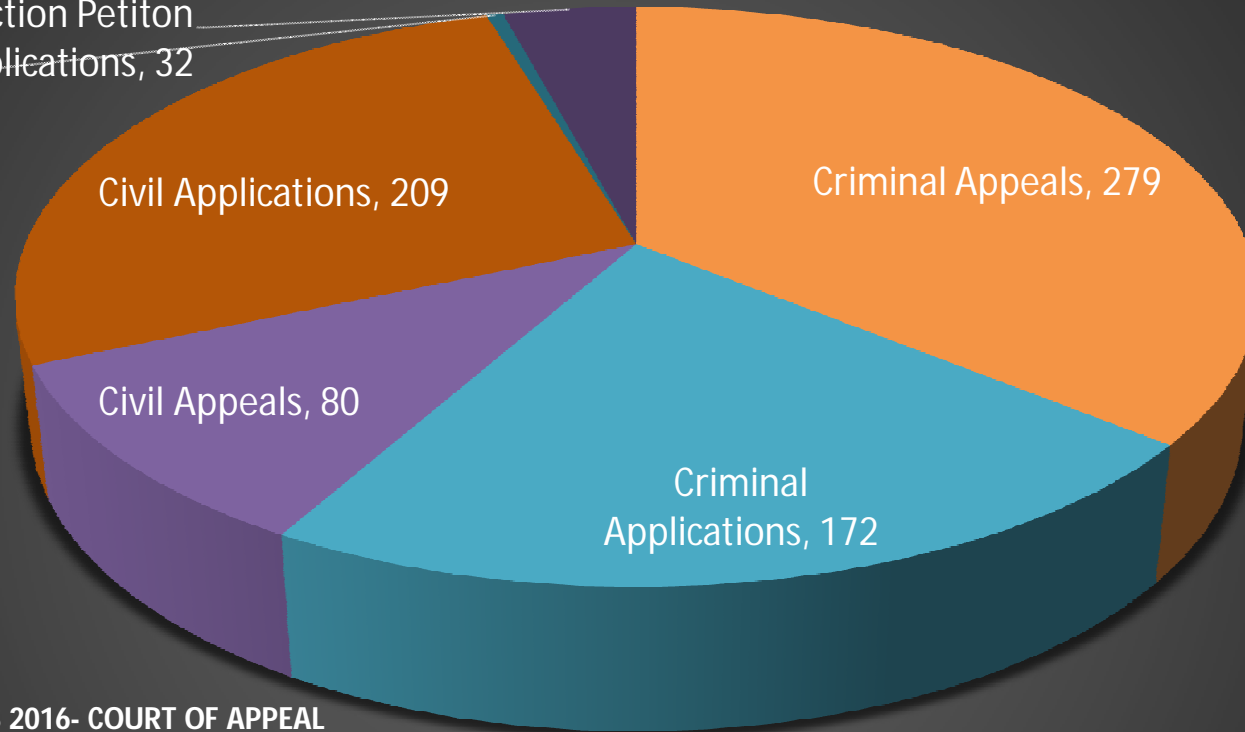


REGISTERED 2016- COURT OF APPEAL



COMPLETED CASES 2016

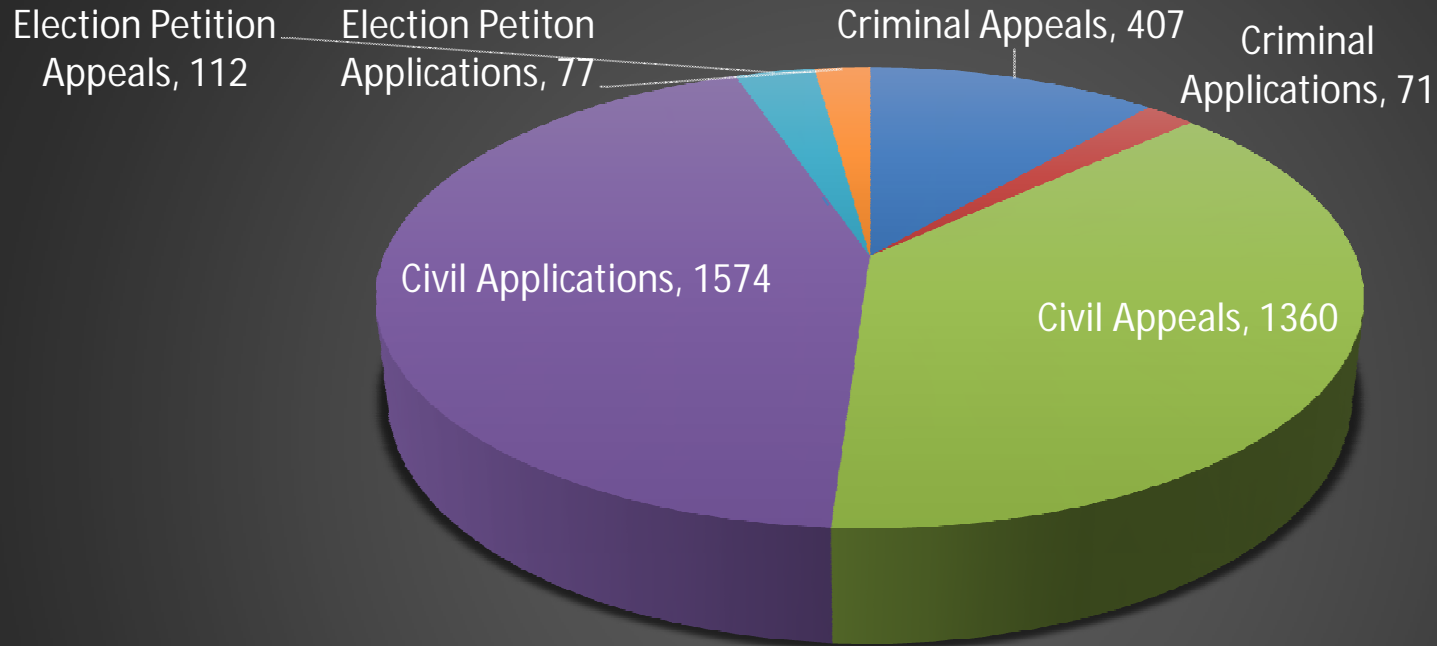
Election Petition Applications, 32
 Election Petition Appeals, 4



COMPLETED CASES 2016- COURT OF APPEAL

- Criminal Appeals
- Civil Applications
- Criminal Applications
- Election Petition Appeals
- Civil Appeals
- Election Petition Applications

PENDING CASES 2016-COURT OF APPEAL



PENDING CASES 2016-COURT OF APPEAL

- Criminal Appeals
- Criminal Applications
- Civil Appeals
- Civil Applications
- Election Petition Appeals
- Election Petition Applications



4.2 The Constitutional Court

The Constitutional Court handles both Constitutional Petitions and Applications.

The Justices of the Court of Appeal are the same Justices of the Constitutional Court.

Details of the performance of the Constitutional Court were as follows:

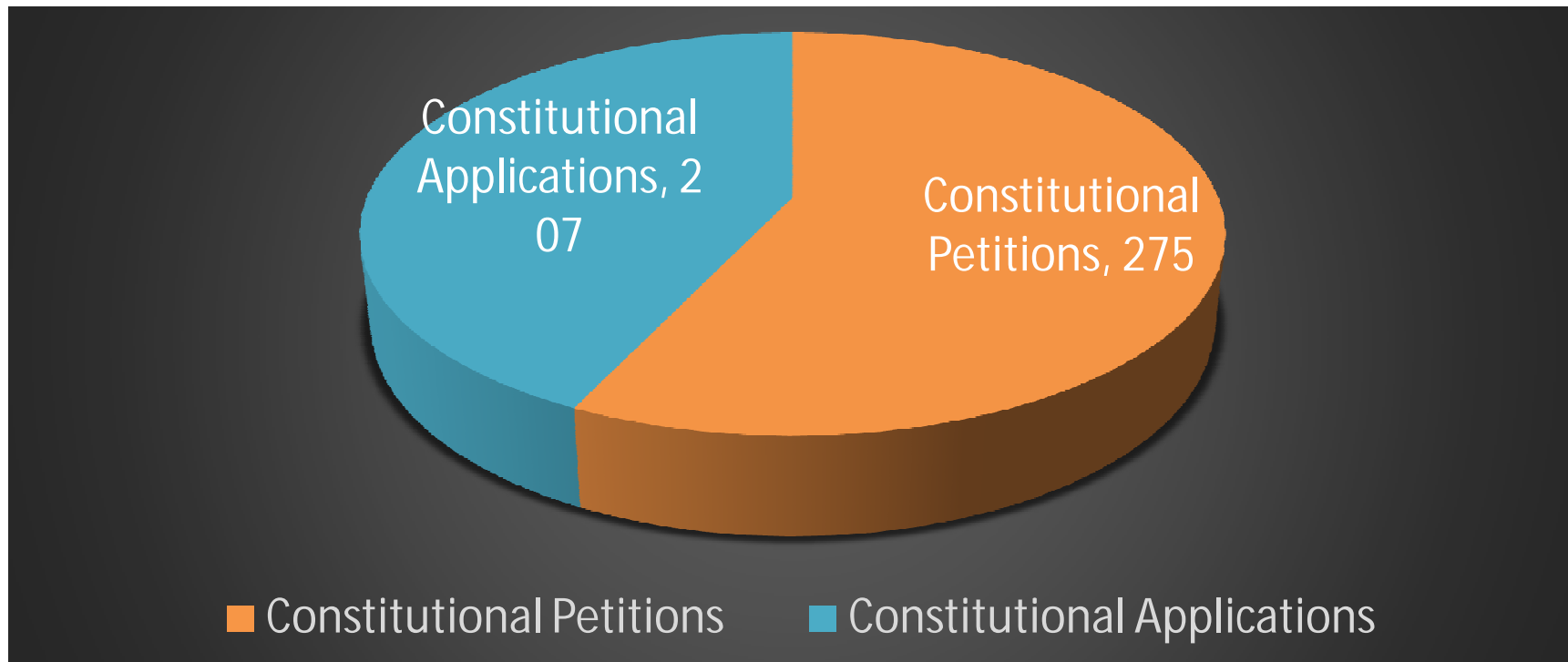


Table 2. Registered and Completed Constitutional Cases- 2016

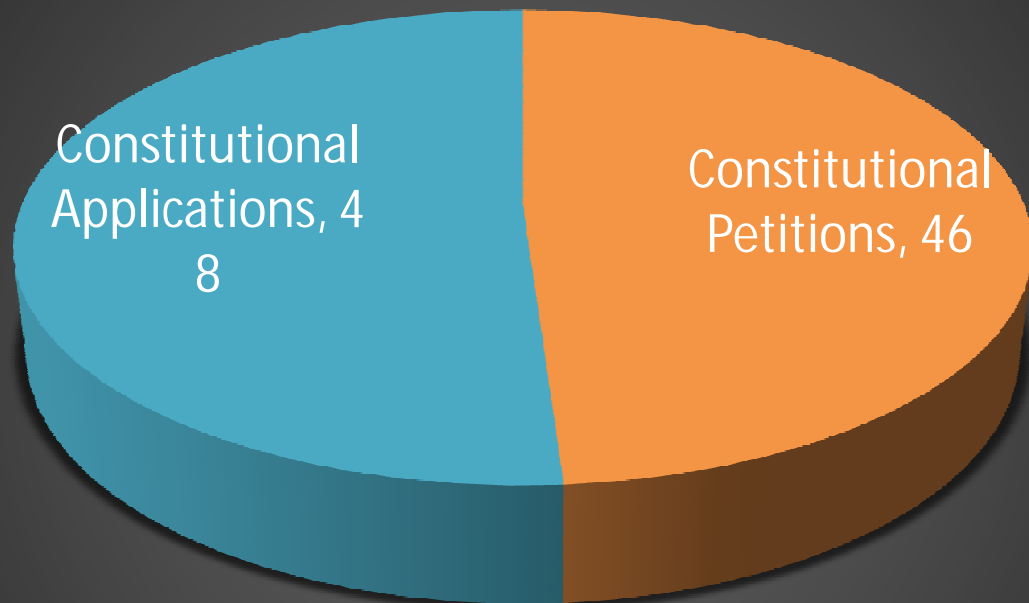
CASE TYPE	B/FOWARD	REGISTERED	COMPLETED	PENDING
Constitutional Petitions	275	46	12	309
Constitutional Applications	207	48	14	241
TOTAL	482	94	26	550



CASES BROUGHT FORWARD 2016- CONSTITUTIONAL COURT



REGISTERED CASES 2016-CONSTITUTIONAL COURT

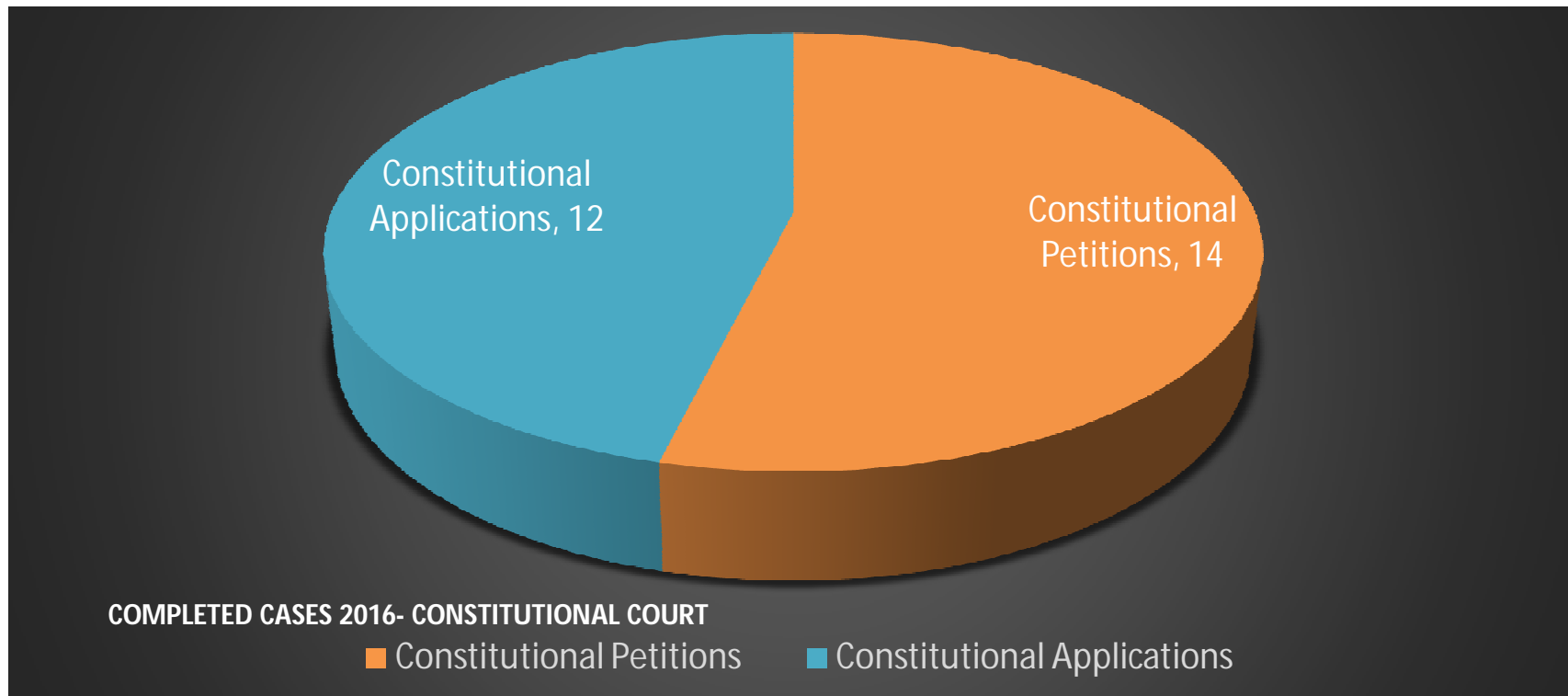


REGISTERED CASES 2016- CONSTITUTIONAL COURT

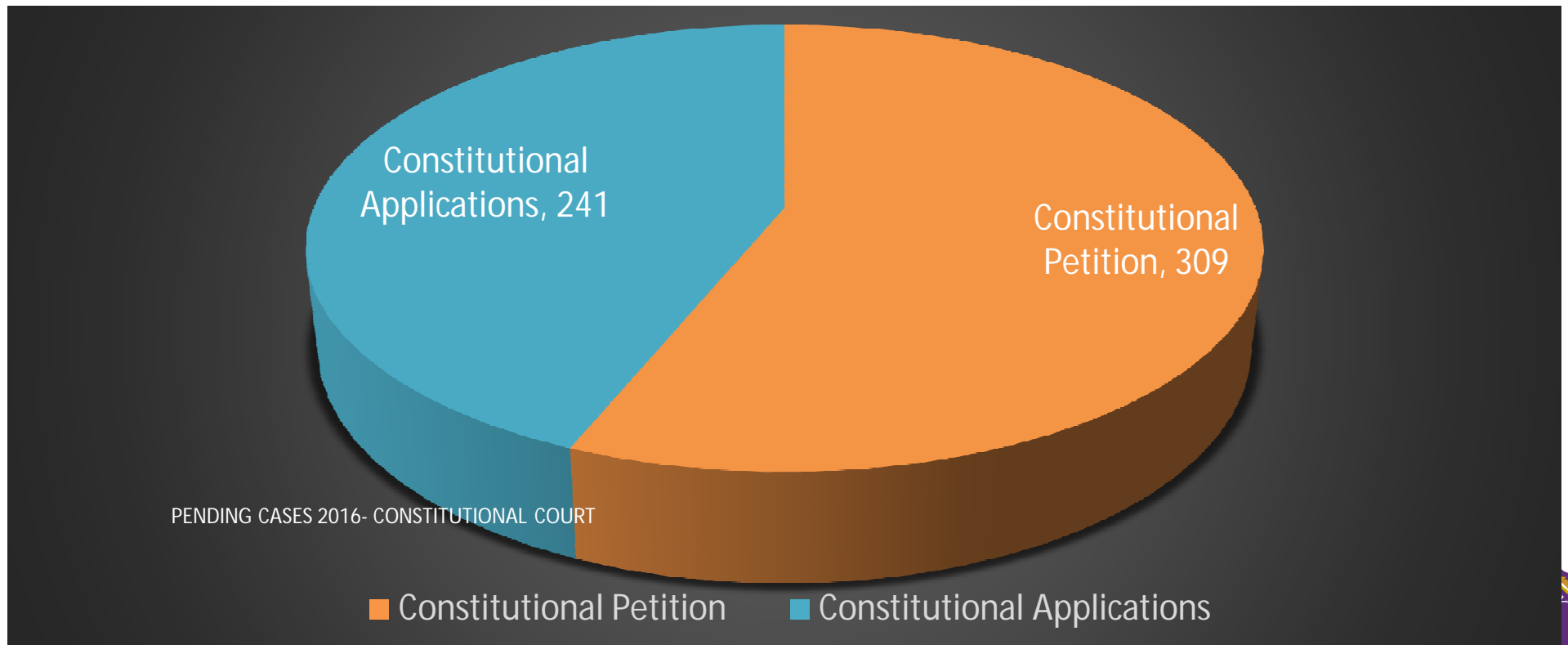
■ Constitutional Petitions ■ Constitutional Applications



COMPLETED CASES 2016- CONSTITUTIONAL COURT



PENDING CASES 2016-CONSTITUTIONAL COURT



Explaining Performance

The two Courts surpassed the set targets by 165 and 6 cases respectively

- Two of their Lordships did not have chambers up to December 2016.
- No induction course has been arranged for the promoted Justices.
- Some Justices serve in other Regional Courts, while others were required to undertake other assignments outside their judicial duties at the Courts.



...

- Inadequate funding of the Courts coupled with delayed release of funds to them have negatively impacted on their performance.
- Between September and November 2016 the Court of Appeal could not handle Election Petition Appeals for there were no funds for the Court work which was scheduled to start in September.
- In November the Court had to utilize the upcountry sessions' funds to start handling Election Petition Appeals.
- To date the borrowed funds have not yet been refunded with the result that the originally planned upcountry sessions have not been held.



Other Challenges

During the year under review, the courts encountered additional challenges notably:

- Many of their Lordships the Justices went without the necessary tools to do their work.
- There is increased volume of work reflected in the number of the new cases filed in both Courts.
- Delayed transmission of records by the lower courts to the Court of Appeal.
- Inadequate remuneration continued to demotivate judicial officers and support staff thereby negatively affecting their performance.
- The limited number of trained Research Assistants, Court transcribers and Secretaries poses a serious challenge to the effectiveness of the Courts.



Inadequate Funding

At the High Court, a session is funded to the tune of shs30 million but the Court of Appeal and the Constitutional Court are allocated shs. 20million only to do their work in a session.



Achievements

- Improvements were made in the number of Justices
- and some of the staff at the Courts although.
- The Justices and staff of the courts received some training in Appellate Mediation during the year under review.



Proposals and efforts for improvement of the performance of the Courts.

The Courts established the following functional Committees to improve on their work.

- » Finance and Welfare
- » Information Technology
- » Rules
- » Peer
- » Court Users
- » Library and Training



... **Proposals and efforts for improvement of the performance of the Courts.**

Given the courts current workload and the backlog,

- The number of Justices should be raised to at least 21 Justices.
- The court plans to hold more up-country sessions, at least two in every one of its four circuits in the coming year for both Civil and Criminal cases depending on the availability of adequate funding.
- We intend to use more appellate mediation now that the pilot use of the same at the Court of Appeal has been a success.



...

- The Court plans to continue holding in house sessions
- to eradicate case backlog subject to availability of adequate funding.



Appreciation

- The Justices of the two Courts
- Senior management
- The members of the Bar
- The Director of Public Prosecutions,
- The Inspector General of Government,
- The Attorney General and all the other
- Members of the JLOS family
- The staff of the courts at all levels



Conclusion.

- It is imperative that the two courts are given adequate funds and facilities in a timely manner to enable them to fulfill their Constitutional mandates.
- My best wishes to the Judiciary and to all of you here during the new Judicial year we are about to enter.
- Thank you for your kind attention.

