



THE JUDICIARY OF UGANDA

**PRESENTATION ON THE PERFORMANCE OF THE
HIGH COURT OF UGANDA**

BY

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PRINCIPAL JUDGE**

INTRODUCTION

- The High Court of Uganda derives its mandate from the Constitution of the Republic of Uganda 1995 (as amended) and the Judicature Act cap 13.
- In accordance to Article 139 of the Constitution and Section 14 of the Judicature Act, the High Court exercises unlimited original jurisdiction over civil and criminal matters as well as appellate jurisdiction as provided for in Section 16 of the Judicature Act.



Operations of the High Court

The High Court conducts its business through Divisions and Circuits.

There are currently eight (8) Divisions

- Anti-Corruption Division, Civil Division, Commercial Division, Criminal Division, Execution and Bailiffs Division, Family Division, International, Crimes Division and Land Division.
- Outside Kampala, the High Court operates through Circuits. Presently there are 14 Circuits; Arua, Fort Portal, Gulu, Jinja, Kabale, Lira, Masaka, Masindi, Mbale, Mbarara, Mpigi, Mubende, Mukono and Soroti.

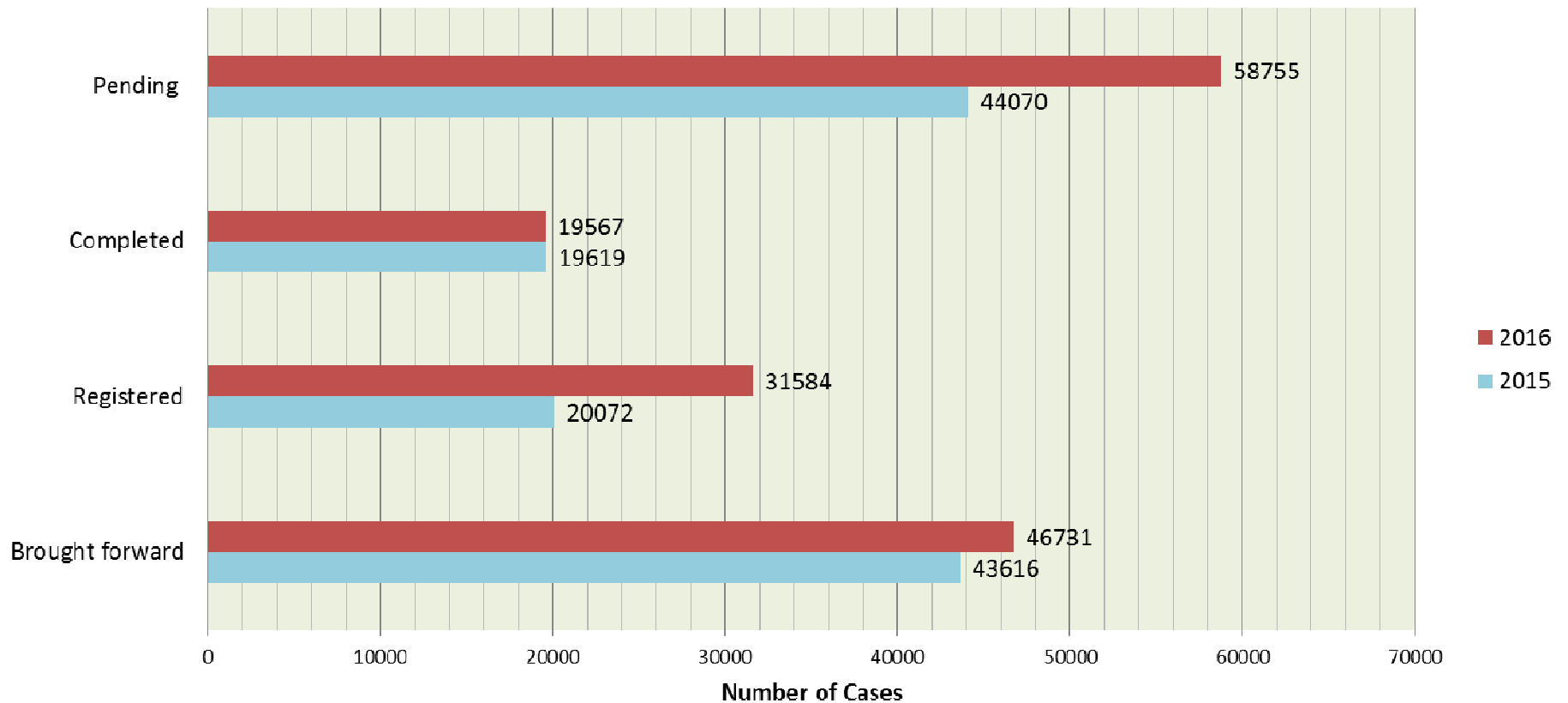


PERFORMANCE OF THE HIGH COURT

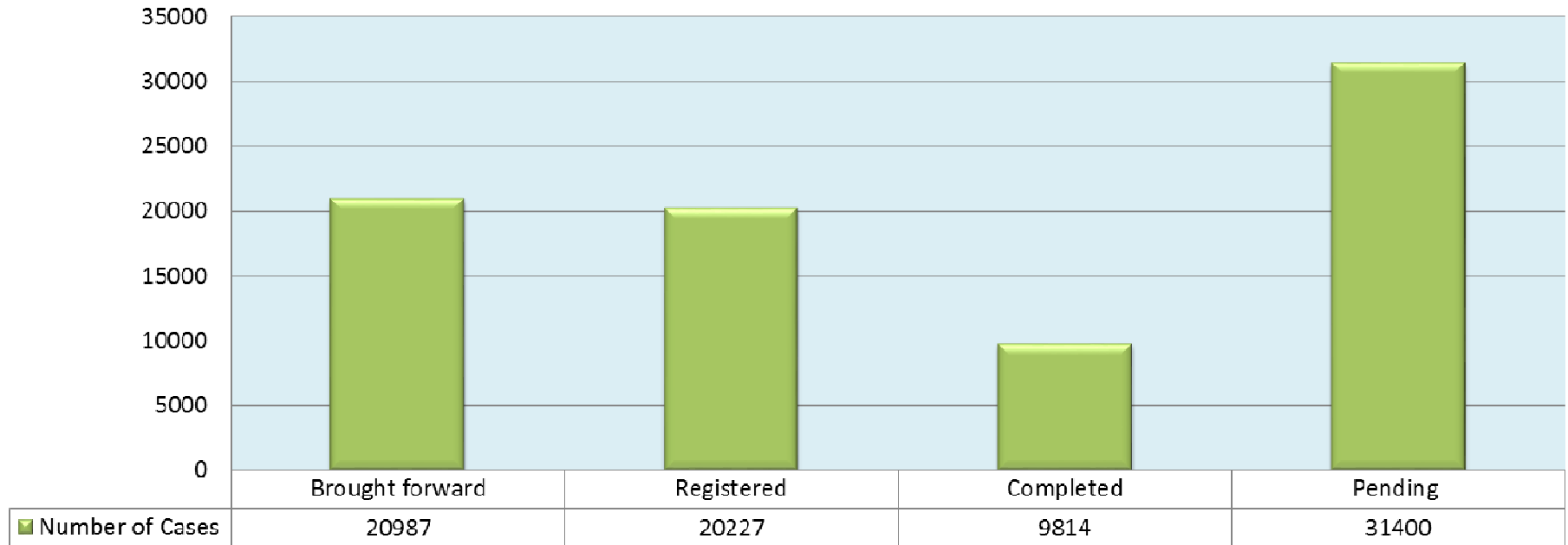
PERFORMANCE OF HIGH COURT DIVISIONS AND CIRCUITS FOR THE YEAR 2016.



COMPARISON BETWEEN THE PERFORMANCE OF HIGH COURT DIVISIONS AND CIRCUITS FOR THE YEAR 2015 AND THE YEAR 2016.



Graphical representation of the summary of performance of High Court Divisions 2016



- Generally the Divisions performed better at clearance than disposal; with an average 56.7% clearance rate compared to 27% disposal rate.



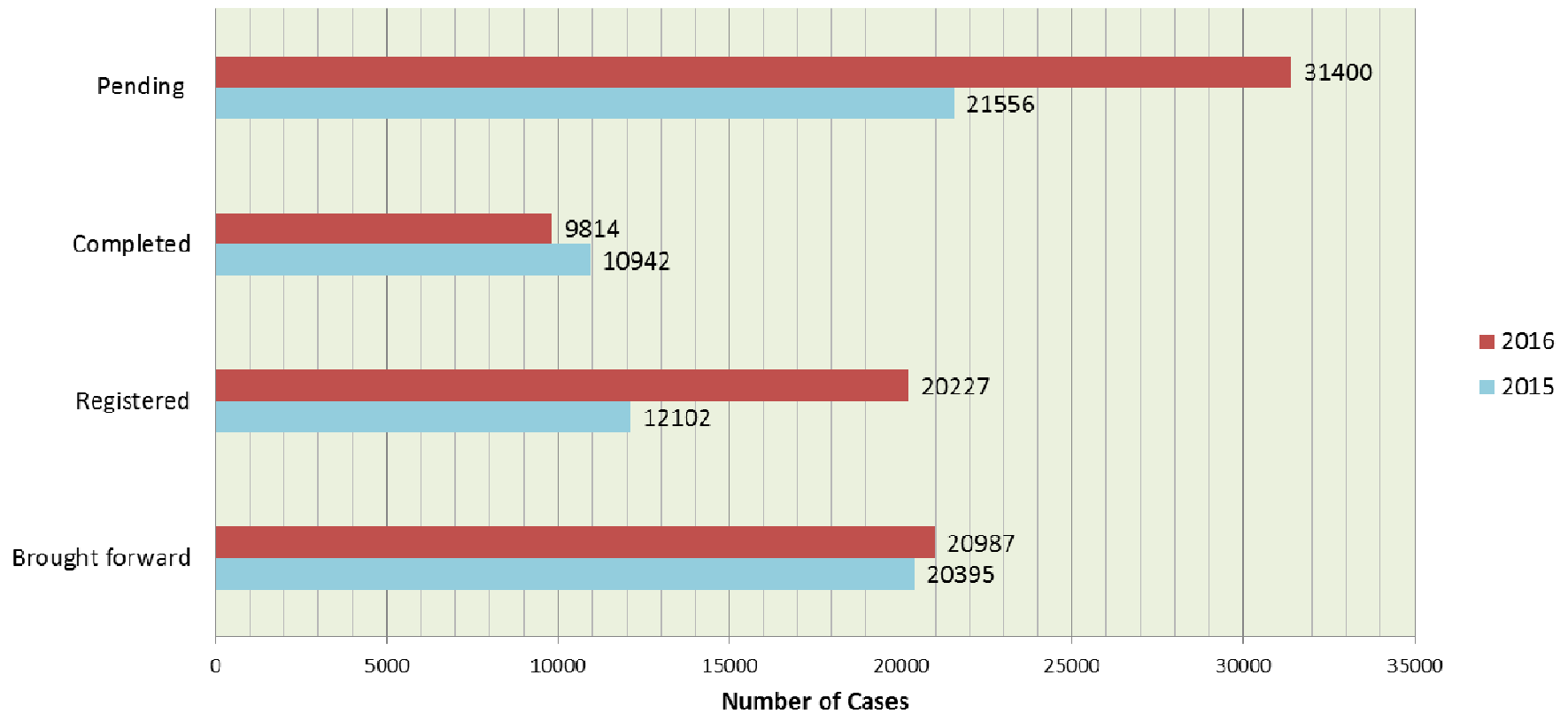
Performance per High Court Division 2016

HIGH COURT DIVISIONS	Brought forward	Registered	Completed	Pending	Clearance Rate (%)	Disposal Rate (%)
ANTI-CORRUPTION COURT	268	244	233	279	95 %	46 %
CIVIL DIVISION	2,207	2,057	875	3,389	43 %	21 %
COMMERCIAL COURT	3,726	3,090	2,141	4,675	69 %	31 %
CRIMINAL DIVISION	2,096	2,252	672	3,676	30 %	15 %
EXECUTIONS AND BAILIFFS DIVISION	5,286	2,922	1,347	6,861	46 %	16 %
FAMILY DIVISION	2,118	4,120	1,968	4,270	48 %	32 %
INTERNATIONAL CRIMES DIVISION	19	17	13	23	76 %	36 %
LAND DIVISION	5,267	5,525	2,565	8,227	46 %	24 %

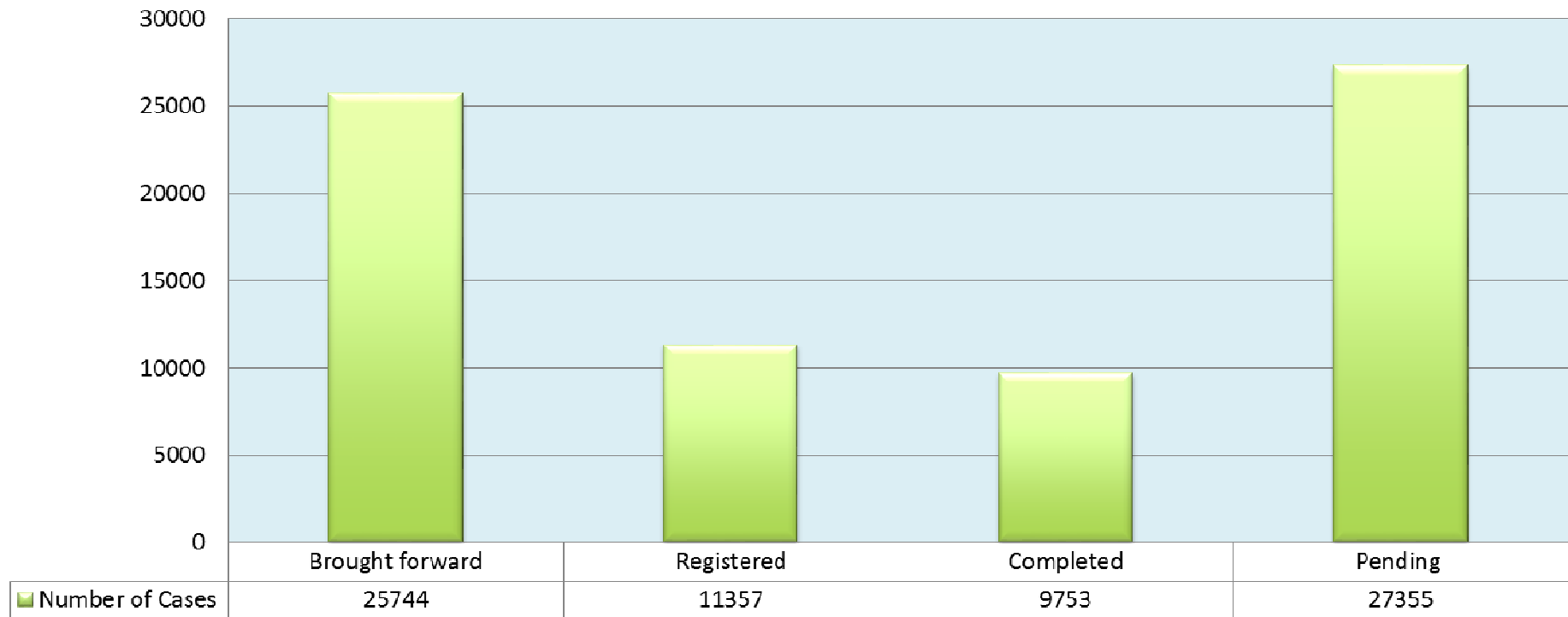
There was a decline in the number of cases completed by the Divisions in 2016 compared to 2015 and yet more cases were registered in 2016



Comparison between the performance of High Court Divisions for the year 2015 and 2016



Performance of the High Court Circuits – Graphical representation of the summary of performance of High Court Circuits 2016



Like the Divisions, our data shows that the Circuits performed very well at clearance with an average rate of 87.6% compared to an average disposal rate of 30%.



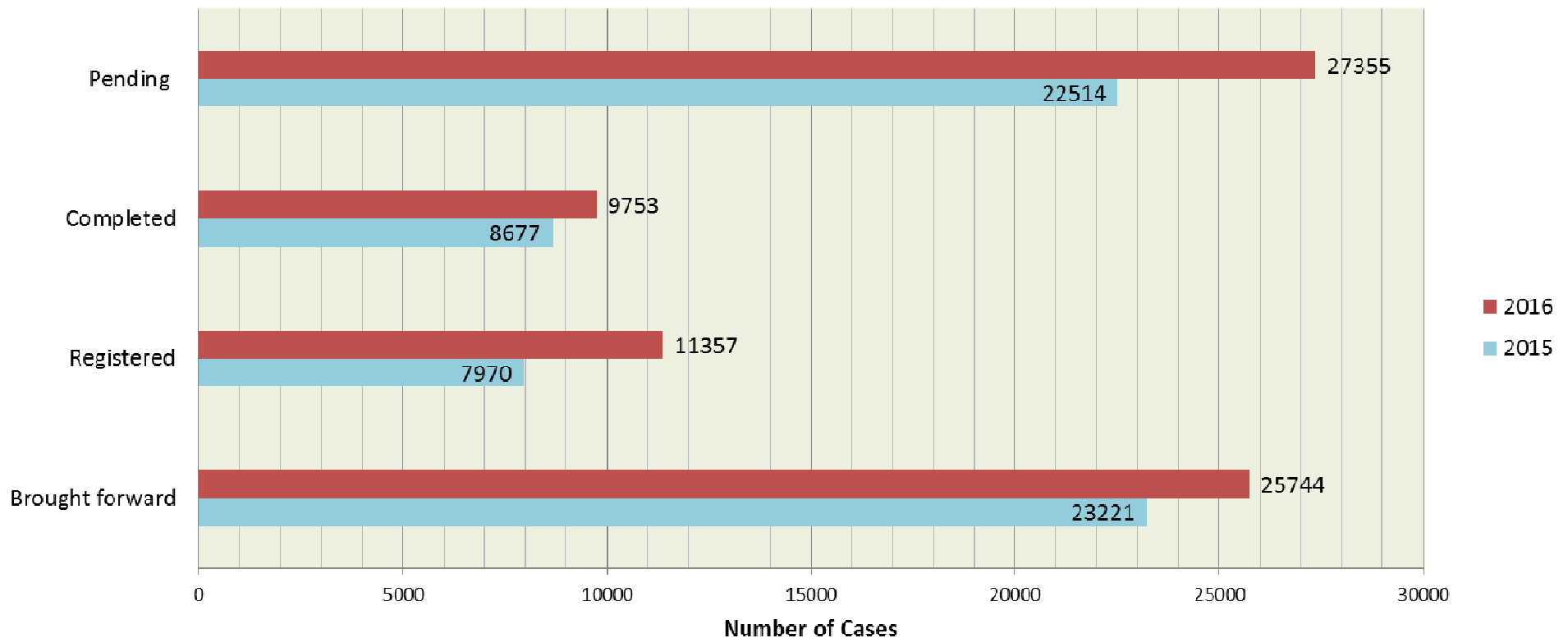
Performance per High Court Circuit 2016

HIGH COURT CIRCUITS	Brought forward	Registered	Completed	Pending	Clearance Rate(%)	Disposal Rate (%)
Arua - HCT	1,035	564	345	1,255	61 %	22 %
Fort Portal - HCT	1,598	651	1,195	1,054	184 %	53 %
Gulu - HCT	1,196	715	410	1,507	57 %	21 %
Jinja - HCT	3,854	1,697	1,145	4,406	67 %	21 %
Kabale - HCT	765	463	540	689	117 %	44 %
Lira - HCT	1,655	251	75	1,831	30 %	4 %
Masaka - HCT	2,084	902	1,587	1,399	176 %	53 %
Masindi - HCT	1,304	769	325	1,748	42 %	16 %
Mbale - HCT	2,347	1,323	907	2,763	69 %	25 %
Mbarara - HCT	5,483	1,540	1,183	5,840	77 %	17 %
Mpigi- HCT	0	825	298	527	36 %	36 %
Mubende - HCT	124	745	514	355	69 %	59 %
Mukono- HCT	3,113	250	211	3,152	84 %	6 %
Soroti - HCT	1,186	662	1,018	829	154 %	55 %

Unlike the Divisions that completed less cases in 2016, the Circuits improved by completing more cases in 2016.



Comparison between the performance of High Court Circuits for the year 2015 and 2016



Registration of cases at the Circuits also increased by 3,387 cases, Circuits keep up this good work.



Specific achievements and shortcomings and or limitations per Division in 2016

1. Anti-Corruption Division

- Court open days
- Disposal of high profile cases
- The limitations at the Division included: complex and sophisticated nature of economic crimes, voluminous documentary evidence, multiplicity of counts and accused persons due to syndicated nature of corruption, multiplicity of advocates in some cases resulting in difficulty in fixing hearing dates.

2. Commercial Division

- The best in average time line for case disposal
- The challenges at the Division included: limited funding for sessions that affected their efforts to clear case backlog; the closure of the Austrian Development Cooperation Grant towards mediation and poor submission of returns on ADR by the various Divisions and Circuits.



Specific achievements and shortcomings and or limitations per Division in 2016 (Cont'd)

3. Civil Division

- Timely and expeditious disposal of election petitions. The Division completed 154 petitions within the time frame provided for in the Law. Currently only 4 petitions are pending.

4. Criminal Division

- Regular in house sessions
- Several plea bargain sessions
- Timeline for disposal of cases was high- the timeline for a session reduced from about 4 months to less than one month



Specific achievements and shortcomings and or limitations per Division in 2016 (Cont'd)

5. Execution and Bailiffs Division

- Common standards in execution were adopted
- Reduced complaints
- The short comings include: management; high backlog due to lack of timeline for return of warrants, few Registrars and non return of warrants; taking evidence in execution cases.

6. Family Division

- Installation of Court room technology unfortunately this has now been lost due to change of premises.
- The shortcomings included: inadequate manpower-only one judge is available full time because the rest are working in other Divisions; poor disposal of applications; a lot of fraud; bad state of archives resulting in difficulty in retrieving information



Specific achievements and shortcomings and or limitations per Division in 2016 (Cont'd)

7. International Crimes Division

- Disposed off one of the most difficult trials the terrorism case *HCT-00-ICD- SC-001-2010 Uganda v Hussein Hassan Agad & others*.
- The challenges included; complex and very long trials, numerous objections by defence lawyers especially in the case of Kwoyelo

8. Land Division

- Case disposal improved
- Re-organisation of the Land Registry that resulted in innovations vide Circular by the Head of Division dated 10th January 2017 that provides measures to deal with applications.
- The shortcoming included: the influx of many cases into the Division following the closure of Nakawa High Court Circuit



ON GOING BEST PRACTICES (INNOVATIONS) BY THE HIGH COURT TO IMPROVE PERFORMANCE

1. Plea bargaining:

- Tangible progress in case backlog reduction has been registered through this initiative. A total number of 2614 has been concluded through plea bargaining as at the end of 31st December. We now have in place the Judicature (Plea Bargain) Rules, 2016 that contains among others the format for the plea bargaining agreement.

2. Court Room Technology

- The Judiciary has implemented a number of ICT initiatives aimed at reducing delay and backlog; and improving communication between courts, litigants and the general public. These initiatives include:-



ON GOING BEST PRACTICES (INNOVATIONS) BY THE HIGH COURT TO IMPROVE PERFORMANCE (Cont'd)

3. Taking Evidence by Audio-Visual Systems:

- In 2016, the Judiciary launched the Audio-Visual System that enables courts to take evidence by an audio-visual link. With support from UNICEF, the Judiciary has installed Audio-Visual Systems in five High Court Stations (Kampala, Mbale, FortPortal, Gulu and Mbarara).
- Three sets are planned for High Court – Arua and Masindi as well as Makindye Family and Children's Court.
- These Systems are being utilized as Child Witness Protection Systems to get evidence from Child witnesses at a location away from the Court Room.



ON GOING BEST PRACTICES (INNOVATIONS) BY THE HIGH COURT TO IMPROVE PERFORMANCE (Cont'd)

4. Court Recording and Transcription Systems:

- In an effort to minimize manual recording of evidence by Judges, Court Recording and Transcription Systems have been installed in all the Circuits and the trial High Court Divisions.
- A transcript of the Court Proceedings is available within 48 hours to enable the Judicial Officers take decision on the course of the case.
- During Appeals, the records both Audio and hardcopy transcripts are available for Court of Appeal purposes. Plans are underway to install these systems in the newly operationalized High Court Circuits.



ON GOING BEST PRACTICES (INNOVATIONS) BY THE HIGH COURT TO IMPROVE PERFORMANCE (Cont'd)

5. Video Conferencing Systems:

- The Judiciary has a Video Conferencing Facility that enables evidence to be given by parties from remote sites (even outside the Uganda). The Family Division has utilized the system in some of its cases.

6. Screened Court Room Proceedings:

- With the use of ICT, Court Sessions have been screened in other Court Rooms away from the Live Court Room. For example in the case of the Muslim clerics HCT-00-ICD-SC-0004/2015 *Uganda v Sheik Siraje Kawooya Kamoga & others*, court proceedings are relayed from Court Room number 1 using giant screens to court room number 3 where the other court users sit and follow the court proceedings. Comments from these users have been received for example: - freedom of movement in and out to attend to calls, verbally comment on any party's submission etc that would result into contempt of Court in the live Court Room



ON GOING BEST PRACTICES (INNOVATIONS) BY THE HIGH COURT TO IMPROVE PERFORMANCE (Cont'd)

7. Installation of CCTV as a supervisory tool for Registrars:

- CCTV cameras were installed in the Registries of all Divisions. Some Registrars have reported that the CCTV has enabled them to effectively supervise their staff, improve service delivery in their registries as they monitor the time it takes for court users to receive a service and reduced on the number of 'bush' lawyers who enjoy loitering around the courts looking for whom to devour.



ON GOING BEST PRACTICES (INNOVATIONS) BY THE HIGH COURT TO IMPROVE PERFORMANCE (Cont'd)

8. Sentencing Guidelines

In 2013, the Sentencing Guidelines were issued with several objectives including providing a mechanism for promoting uniformity, consistency and transparency in sentencing. Through these guidelines we have seen a reduction in disparity of sentences.

Functions of the Guidelines

- Develop guidelines, principles and ranges for sentencing
- Review the guidelines and provide a framework for settling penalties and ranges of sentencing
- Revise penalties
- Conduct public awareness on sentencing
- Advise on the use of the guidelines
- Establish a research, monitoring and development programmes on sentences and their effectiveness and
- Monitor the implementation of the guidelines
- The committee is also mandated to study the sentencing guidelines of the High Court that were issued in 2013 as Legal Notice No.8 and is expected to submit a draft before the Rules Committee before by March 2017.

9. Alternative Dispute Resolution



ON GOING BEST PRACTICES (INNOVATIONS) BY THE HIGH COURT TO IMPROVE PERFORMANCE (Cont'd)

10. Court User Committees

- Regular stakeholder engagements through User Committees have been one of the best practices for improving the performance of the High Court. During such meetings many issues that are pertinent in the administration of justice are discussed. Some of the Divisions with functional and vibrant User Committees are the Anti-Corruption Division where the launch of plea bargain in May 2016 was a recommendation by members of the Court User Committee. To them plea bargain is the best strategy for asset recovery. Other Divisions include Land Division and the Commercial Division.

11. Other initiatives that have enhanced the performance of the High Court are:-

- The establishment of a performance board in the office of the Principal Judge
- Follow up on pending judgments by the Principal Judge thus reducing on the number of pending judgments
- Advisory Board



GENERAL CHALLENGES FACED BY THE HIGH COURT (Cont'd)

1. Shortage of Judges

- The ideal situation is that each Circuit should have two judges and each Division 5 judges. Currently there are only 49 Judges way below the required 82. The performance of Masaka High Court Circuit as the best is evidence of adequate manpower against workload.

2. Inadequate funds

- We need more funds for sessions. We have conducted 38 sessions out of 73 planned sessions by June 2017.

3. Case backlog

- The High Court Divisions and Circuits are estimated to have had a backlog of 24,065 cases as at 31st December 2016. This represents 41% of the Total Number of pending Cases as at the same date.



GENERAL CHALLENGES FACED BY THE HIGH COURT (Cont'd)

4. Abuse of court process

- Some parties are in the habit of abusing court process through multiple applications and 'forum' shopping from one Division to another yet we lack an internal mechanism of dealing with this challenge.

5. Interim orders

- Part of the backlog at some Divisions of the High Court is as a result of exparte interim orders issued by superior courts and other Division staying proceedings. The Anti-Corruption Division suffered most in this area with varied orders from the Constitutional Court, Civil Division and Jinja High Court Circuit. For example the following cases were stayed by the Constitutional Court over 4 years ago: *HCT-00-AC-SC-0141-2012 Uganda v John Paul Basabose & Another*, *HCT-00-AC-SC-0147-2012 Uganda v John Paul Basabose & Another*, *HCT-00-AC-SC-0147-2012 Uganda v Prof John Okedi & 7 others* and *HCT-00-AC-SC-0147-2012 Uganda v Hassan Basajjabalaba & Another*.

5. Inefficiency in the management of the Registry of the High Court



WAY FORWARD

1. Ring fence session funds

2. Embrace innovations

- Judiciary generally and individual Divisions like Land, Anti-Corruption have come up with measures and best practices which we should embrace not only to improve the performance of the High Court but to deal with backlog as well.
- We should also consider having a standby Judge and Registrar in the Divisions to deal with applications instantly so that we do away with the problem of accumulated applications that now account for 60% of the case backlog in the High Court. Allow me to reproduce verbatim the proposed measures by Land Division for dealing with interlocutory matters.

3. Institutionalize plea bargaining

4. Monitoring and evaluation mechanism for the session system

5. Improved case management

6. Performance meetings



CONCLUSION

- I thank the Judges for the work done, the Judiciary Administration and support staff. Despite the challenges, as the custodians of the justice system, the Courts owe a duty to the community to ensure the timely disposal of cases within the financial and manpower resources allotted to them by the state. We are accountable to the people for the public funds and resources provided to us to discharge functions. Reducing backlogs is a necessary means by which the courts can live up to King John's promise: "to no one will we refuse or delay right or justice"



Thank you all for listening to me.

**God bless you and bless me too!
For God and my country**