

**PRESENTATION OF PERFORMANCE OF  
THE SUPREME COURT MADE  
TO THE  
19<sup>TH</sup> ANNUAL JUDGES' CONFERENCE  
AT THE SPEKE RESORT HOTEL,  
MUNYONYO, KAMPALA  
26<sup>TH</sup> – 30<sup>TH</sup> JANUARY, 2017**

**BY**

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

## **Introduction:**

The Supreme Court of Uganda is currently housed in Kololo, Kampala. The Supreme Court of Uganda is a creation of the 1995 Constitution. It is the final Appellate Court in the country. In the matters of Presidential Election Petitions, Section 59, of the Presidential Elections Act, gives the Supreme Court original jurisdiction in the Presidential Election Petitions.

## **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 the Chief Justice, is 11.

The Current Members of the Court are:

- 1- The Hon. The Chief Justice, Hon. Justice Bart M. Katureebe
- 2- Hon. Justice Jotham Tumwesigye, JSC
- 3- Hon. Lady Justice Dr. Esther Kisaakye-Kitimbo, JSC
- 4- Hon. Lady Justice Stella Arach-Amoko, JSC

- 5- Hon. Justice Augustine S. Nshimye, JSC (Retired)
- 6- Hon. Justice Eldad Mwangusya, JSC
- 7- Hon. Justice Rubby Opiyo Aweri, JSC
- 8- Hon. Lady Justice Faith Mwendha, JSC
- 9- Hon. Lady Justice Prof. Tibatemwa Ekirikubinza, JSC

The other Members of staff are the Registrar, H/W 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 31<sup>st</sup> July and 1<sup>st</sup> September of each year. The Court also observes the Annual Christmas Vacation as advised by the Judiciary Administration, which is usually 23<sup>rd</sup> December of the

current year to 7<sup>th</sup> January of the next year. There are, however, matters that are registered and disposed of not in accordance with the Calendar of activities. These include cases such as the Presidential Election Petition No.1 of 2016 and Applications based on pending cases.

### **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:

I deemed it appropriate to quote the Constitutional provisions that lay out the Jurisdiction of the Supreme Court:

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](mailto: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](http://www.ulii.go.ug) and to feed the Law Reporting Committee with the information on Judgments delivered at the Supreme Court. This website is freely available.

### **Work handled at the Supreme Court in 2016:**

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 1<sup>st</sup> January and 31<sup>st</sup> December, 2016.

It is worth noting that we had the Presidential Election Petition No.1 of 2016, in March this year.

The Petition required concerted effort and long hours of work in order for the Court to meet the time-lines set out for its disposal.

The sheer volume of work involved and long hours taken to peruse the proceedings took a heavy toll on the Justices. This therefore affected the disposal of other matters on our Calendar of Activities.

Nevertheless, we made an effort to hold Sessions for other matters registered in the Court.

At the beginning of January 2016 we had a workload of 97 cases brought forward. During the same period we registered 70 matters. Out of this we held Sessions in which we heard 83 matters in all. At the moment we have 76 matters in all categories pending before the Supreme Court. **I would like to point out that as we stand now the Supreme Court has no backlog of cases as we know it.**

In this regard, I would like to commend all my colleagues and the staff at the Supreme Court for their effort in disposing of the workload that we did.

Let me therefore expound on the work disposed of, dates and number of cases heard. The information is as presented there under:

**TABLE I – SESSIONS HELD**

<b>Session</b>	<b>Dates Held</b>	<b>No. Of Cases Heard</b>
Constitutional Appeals/Applications	22 <sup>nd</sup> February – 3 <sup>rd</sup> March, 2016	10
Presidential Election Petition	7 <sup>th</sup> – 31 <sup>st</sup> March, 2016	1
Criminal Appeals	9 <sup>th</sup> – 19 <sup>th</sup> May, 2016	18
Civil Appeals/Applications	19 <sup>th</sup> – 29 <sup>th</sup> July, 2016	27
Constitutional Appeals/Applications	12 <sup>th</sup> – 13 <sup>th</sup> October, 2016	2
Constitutional/Civil Appeals & Applications	22 <sup>nd</sup> November – 9 <sup>th</sup> December, 2016	25
<b>TOTAL</b>		<b>83</b>

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 40 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	4
Constitutional Applications	2
Civil Appeals	23
Civil Applications	11
Criminal Appeals	32
Criminal Applications	4
<b>TOTAL</b>	<b>76</b>

**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. This again compounds the issue of security.
  
- 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 as well makes no special provision for persons with disability.
  
- 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.
  
- No Archive:  
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 to access for Support Staff  
The location of the Supreme Court at Kololo, makes it hard for the support staff to access 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.

I hope that the Judiciary administration shall address this problem in this year, 2017.

- The Court is housed in rented 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 property.

## **Way Forward:**

We hope to hear all the Matters pending at the Supreme Court in this Year. By the end of this year, 2017, we hope to register 100% success in hearing Matters registered currently.