



**21<sup>ST</sup> ANNUAL JUDGES CONFERENCE**

**(28<sup>TH</sup> JANUARY TO 31<sup>ST</sup> JANUARY 2019)**

**A REPORT OF THE COURT OF APPEAL FOR THE YEAR 2018**

**BY**

**THE HON. THE DEPUTY CHIEF JUSTICE**

**JANUARY, 2019**

**Your Excellency the President of the Republic of Uganda,**  
**The Hon. The Chief Justice,**  
**The Hon. The Minister of Justice and Constitutional Affairs,**  
**The Hon. Attorney General,**  
**The Hon. The Principal Judge,**  
**Hon. Justices of the Supreme Court,**  
**Hon. Justices of the Court of Appeal,**  
**Hon. The Judges of the High Court,**  
**Your Worship The Chief Registrar,**  
**The Permanent Secretary/Secretary to the Judiciary,**  
**President of Uganda Law Society**  
**Your Worships,**  
**Distinguished Guests,**  
**Ladies and Gentlemen.**

## **1.0 EXECUTIVE SUMMARY**

Over the calendar years 2018 and 2017, the Court registered a number of improvements in comparison to the previous three years. A substantive Deputy Chief Justice was sworn in on 26<sup>th</sup> September 2017. A number of initiatives have been put in place towards enhancing Case Management, customer care, stakeholder engagement and the overall working environment. Case Backlog Reduction sessions have become regular along with Appellate Mediation and weeding out sessions. The Civil Registry for the Court was also reorganized with support from the International Justice Mission. These factors have enhanced confidence of the litigants in the Court resulting in increased filing of cases. The same factors have greatly improved Disposal of cases at the Court. There is therefore 103% improvement this calendar year.

The Court still faces a number of challenges. The Court has a very high Caseload especially Criminal Cases and Civil Matters. Cases still take a very long time from filing to disposal. On average a Criminal Case completed in the year 2018 had spent 1,472 days before completion while a Civil Matter had spent 1,252 days before completion. This, however, was an improvement from 1,914 days and 1,663 days registered in 2017 for Criminal Cases and Civil Matters respectively.

## **2.0 INTRODUCTION**

The Court of Appeal of Uganda (also constituted as the Constitutional Court of Uganda) is the second-highest judicial organ in Uganda. It derives its powers from Article 134 of the 1995 Constitution. It is an appellate court when hearing cases appealed from the High Court of Uganda. However, it has original jurisdiction when adjudicating matters relating to the interpretation of the Constitution.

This report presents the Court of Appeal Performance for Year 2018 ( January to December) in comparison with the performance of three previous years along four (4) thematic areas namely; Civil Matters, Constitutional Matters, Election Matters and Criminal Cases.

## **2.1 Human Resource**

Although the Constitutional requirement of the Justices of Court of Appeal calls for 15 Justices we still have a shortfall of three Justices. Recently Hon. Justice Remmy Kasule, JA retired, while Hon. Mr. Justice Geoffrey Kiryabwire, JA was assigned duties in East African Court of Justice and Hon. Lady Justice Catherine Bamugemereire, JA is currently chairing the Land Commission of Inquiry since 2017.

Currently there is a total number of 12 Justices.

1. Hon. Justice Alfonse Chigamoy Owiny-Dollo, DCJ
2. Hon. Justice Kenneth Kakuru, JA
3. Hon. Justice Geoffrey Kiryabwire, JA
4. Hon. Justice Fredrick Egonda-Ntende, JA
5. Hon. Lady Justice Elizabeth Musoke, JA
6. Hon. Justice Cheborion Barishaki, JA
7. Hon. Lady Justice Hellen Obura, JA
8. Hon. Lady Justice Catherine Bamugemereire, JA
9. Hon. Justice Ezekiel Muhanguzi, JA
10. Hon. Justice Stephen Musota, JA
11. Hon. Justice Christopher Izama Madrama, JA
12. Hon. Lady Justice Night Percy Tuhaise, JA

### **Registrars**

1. H/W Philip Odoki - Registrar In-charge of Appellate Mediation /Private Legal Secretary to DCJ
2. H/W Dr. Agnes Nkonge - Ag. Registrar
3. H/W Ayebare Tumwebaze - Assistant Registrar

## **Support staff**

Court of Appeal has the following support staff

Office Supervisor	-	01
Communications Officer	-	01
Research Assistants	-	13
Transcribers	-	03
Clerical Officers	-	05
Records Officers	-	06
Cashier	-	01
Secretaries	-	16
Librarian	-	01
Process Servers	-	04
Drivers	-	15
Office Attendants	-	19
Body Guards	-	39

### **3.0 REGISTRIES OF THE COURT**

The Court has four (4) Registries namely;

#### **3.1 Civil Registry**

There is a Civil Registry headed by the Acting Registrar, Her Worship Dr. Agnes Nkonge. It has 15 support staff. Recently, it was re-organized by International Justice Mission this has made it easy to retrieve files.



*Civil Appeal Registry before re-organization by International Justice Mission*



*Court of Appeal Civil Registry*



*Part of Civil Registry at the Court of Appeal*

### **3.2 Constitutional Registry /Election Petition Registry**

Due to lack of space the above two Registries are housed in one room. They are not facilitated and need a Registrar and their staff. Currently, it is headed by the Acting Registrar Her Worship Dr. Agnes Nkonge. The same staff under the Civil Registry are also managing the Constitutional Registry.

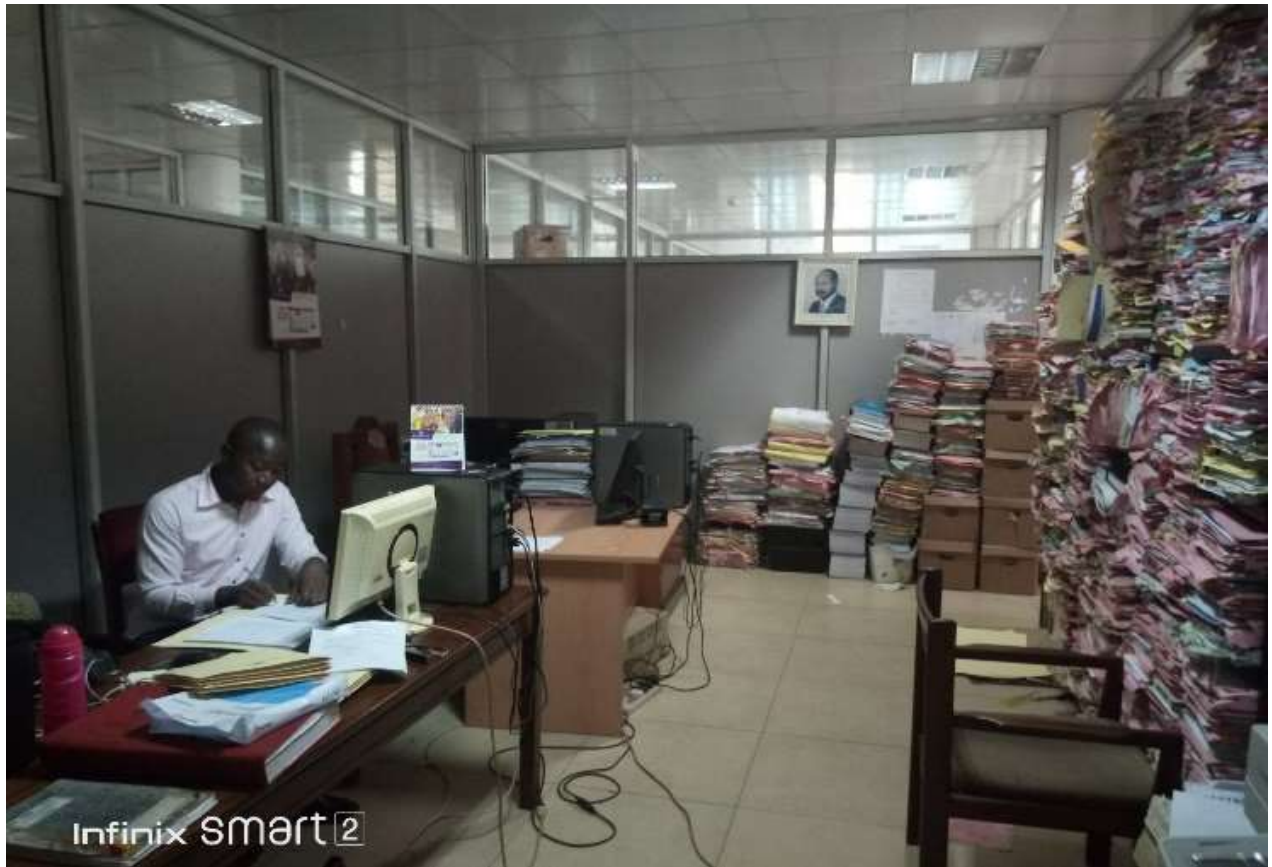


*Constitutional /Election Petition Appeals Registry*

### **3.3 Criminal Registry**

The Criminal Registry at the Court of Appeal is headed by the Assistant Registrar, currently His Worship Ayebare Tumwebaze. There are 11 staff in the Registry it has a challenge of inadequate space.





*Criminal Registry at Court of Appeal*

### 3.4 Appellate Mediation Registry



*Court of Appeal Appellate Mediation Registry*

The Appellate Mediation Registry at the Court of Appeal is headed by a Registrar, currently His Worship Philip Odoki who also doubles as the Private Legal Secretary to The Hon. The Deputy Chief Justice.

The Registrar is directly supervised by Hon. Justice Geoffrey Kiryabwire, JA who is responsible for the implementation of Appellate Mediation at the Court of Appeal/Constitutional Court. The Registry has one Clerical Officer, although often assisted by other Clerical Officers and Process Servers from the Civil Registry. In 2018, CCAS was modified to accommodate cases under Appellate Mediation. A total number of 196 Appellate Mediation matters were disposed of.

Appellate Mediation was introduced in the Court of Appeal/Constitutional Court as a pilot project in the year 2016. So far some of the Justices of the Court have been trained in Appellate Mediation by a team from Strous Institute of Dispute Resolution in partnership with Pepperdine University and the Judicial Training Institute.

It is one of the means through which cases of civil nature are disposed of by mutual agreement of the parties, usually assisted by a Justice of Appeal or a Registrar. Appellate Mediation was recommended by the Judiciary Case Backlog Monitoring Committee Reports and the Case Backlog Reduction Strategy as one of the interventions to tackle case backlog in the Court of Appeal.

#### **4.0 COURT PERFORMANCE**

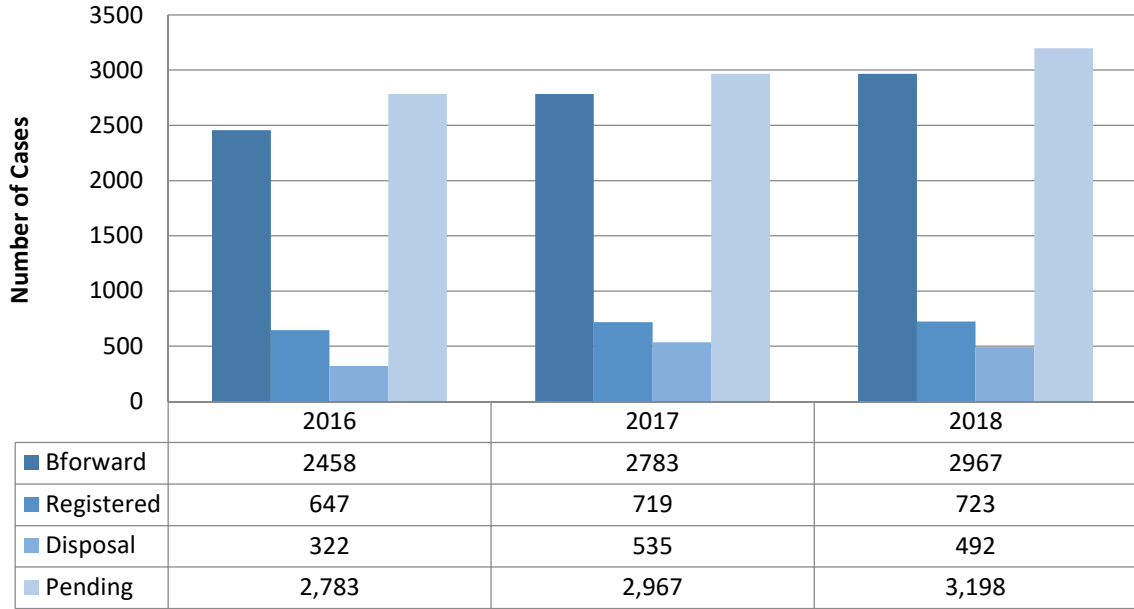
During the year 2018, the court conducted two Caseload/Backlog clearance sessions which yielded relatively high levels of disposal of cases in the backlog category.

#### **4.1 Civil Matters**

Three civil sessions were held in June, October and November, one mini-session in December where a total number of 490 Civil matters were disposed of. Single Justice hearings were also held throughout the year.

- There has been a steady increase in case filing of civil cases at the Court of Appeal for the period under review recording a 723 case filing in 2018 being the highest for the 3- year period.
- Court of Appeal recorded a marginal increase in case disposal of civil cases for the period under review.
- This resulted in a steady increase in the number of pending cases registering a pending figure of 3,198 civil cases in the year 2018 as illustrated in the graph below.

### Court of Appeal Civil Case Load Trends for the Years-2016 to 2018.

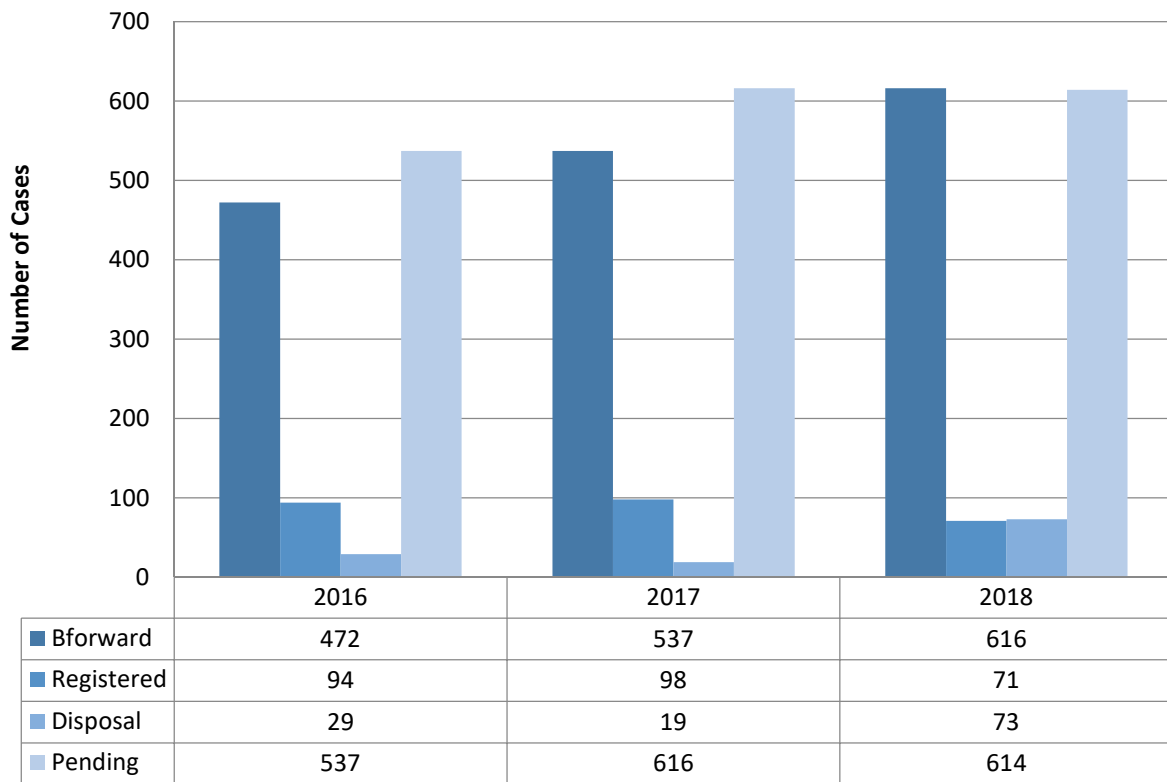


#### 4.2 Constitutional Matters

In the calendar year 2018 two Constitutional sessions were held in April and September where 72 matters were disposed of.

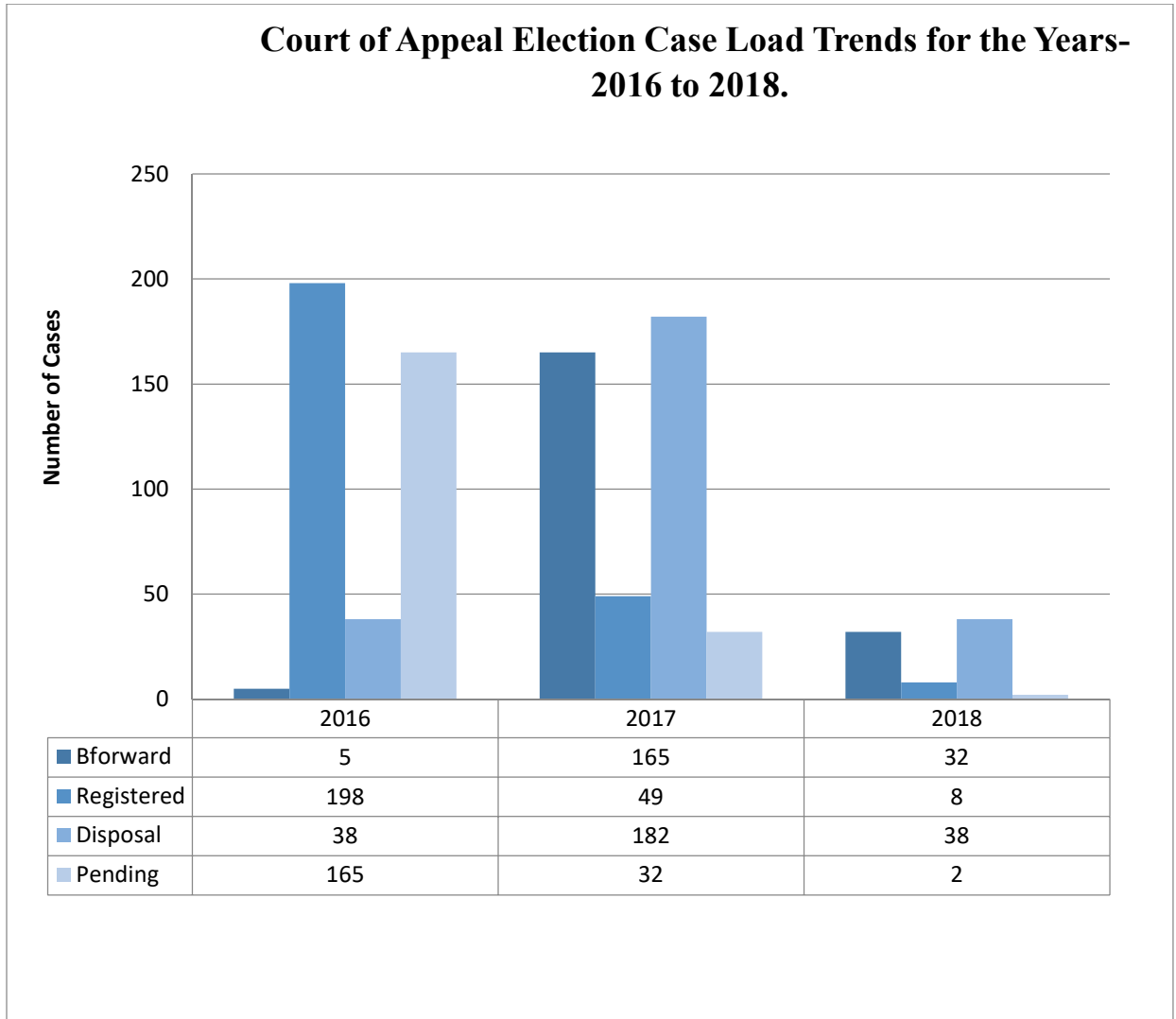
- There has been a marginal decline in case filing of Constitutional cases for the period under review.
- Court of Appeal’s constitutional case disposal has significantly increased recording a 73 cases disposal in 2018 being the 3-year highest for the period under review.
- However, there was a slight increase in the number of pending cases due to the increasing workload of the Court of Appeal as illustrated in the graph below.

### Court of Appeal Constitutional Case Load Trends for the Years-2016 to 2018.



### 4.3 Election Petitions

- There has been a significant decline in filing of election cases at the Court of Appeal for the period under review recording a decline with the lowest level of filing (8 election matters) recorded in 2018.
- The impact of the election year 2016 led to high disposal of election matters in 2017 dropping to 38 election matters which were disposed of in 2018 as illustrated in the graph below.



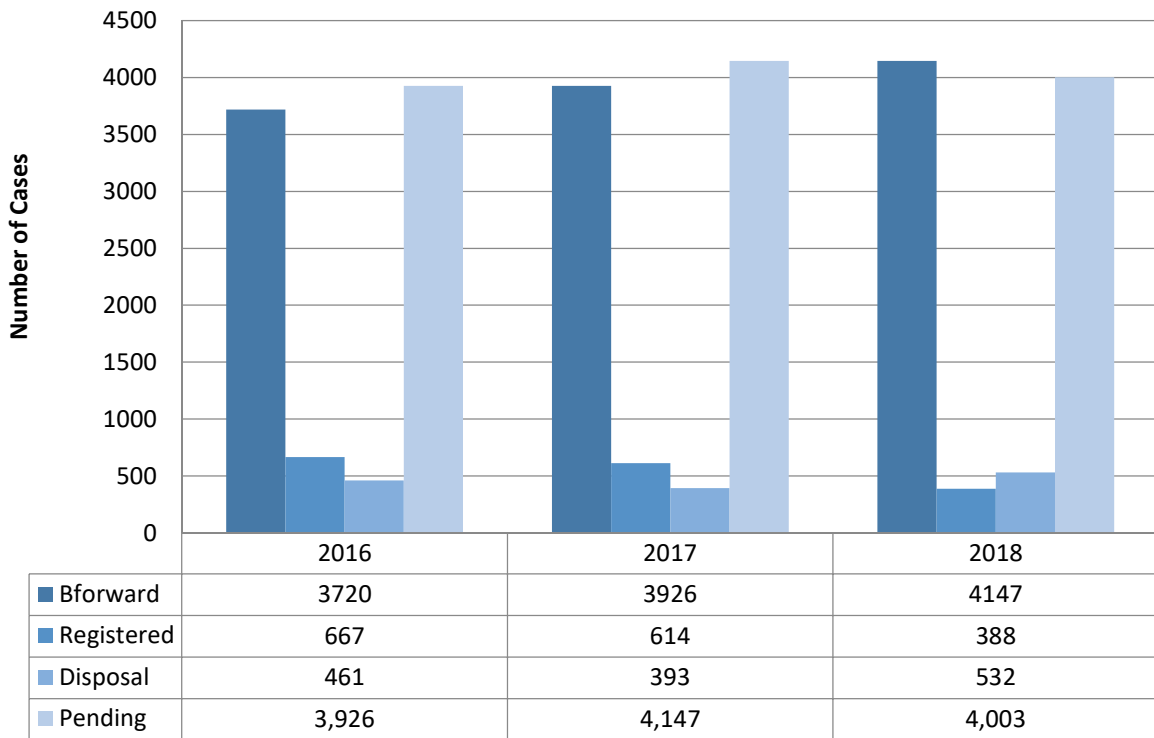
#### 4.4 Criminal Cases

During the calendar year 2018, the Court conducted six (6) out of stations Criminal Sessions, an Anti –Corruption Session and a general session for Criminal Sessions at the Court of Appeal-Kampala. The six (6) out of station sessions were conducted at Jinja, Fort Portal, Masaka, Mbarara and Arua .

More than 400 criminal cases were cause listed for the above mentioned sessions of which the large majority was completed. These sessions have had a great positive impact on reducing Criminal Case Backlog , Reduction of the average time a case takes before conclusion at the Court of Appeal and improving people’ s access to Justice.

- There has been a significant decline in criminal case filing over the period under review with the 388 criminal cases filed in 2018 being the lowest among the three years. This is so because we resolved that the Criminal Appeals shall commence at filing of a Memorandum of Appeal rather than filing a Notice of Appeal as the previous position had been. This has led to a significant decline in levels of filing for Criminal Appeals.
- This notwithstanding, criminal case disposal at the Court of Appeal has generally increased over the years under review. This can be attributed to the enhancement of case management efforts and regularization of case backlog reduction sessions.
- Court of Appeal registered a marginal growth in pending criminal cases for the period under review as illustrated in the graph below.

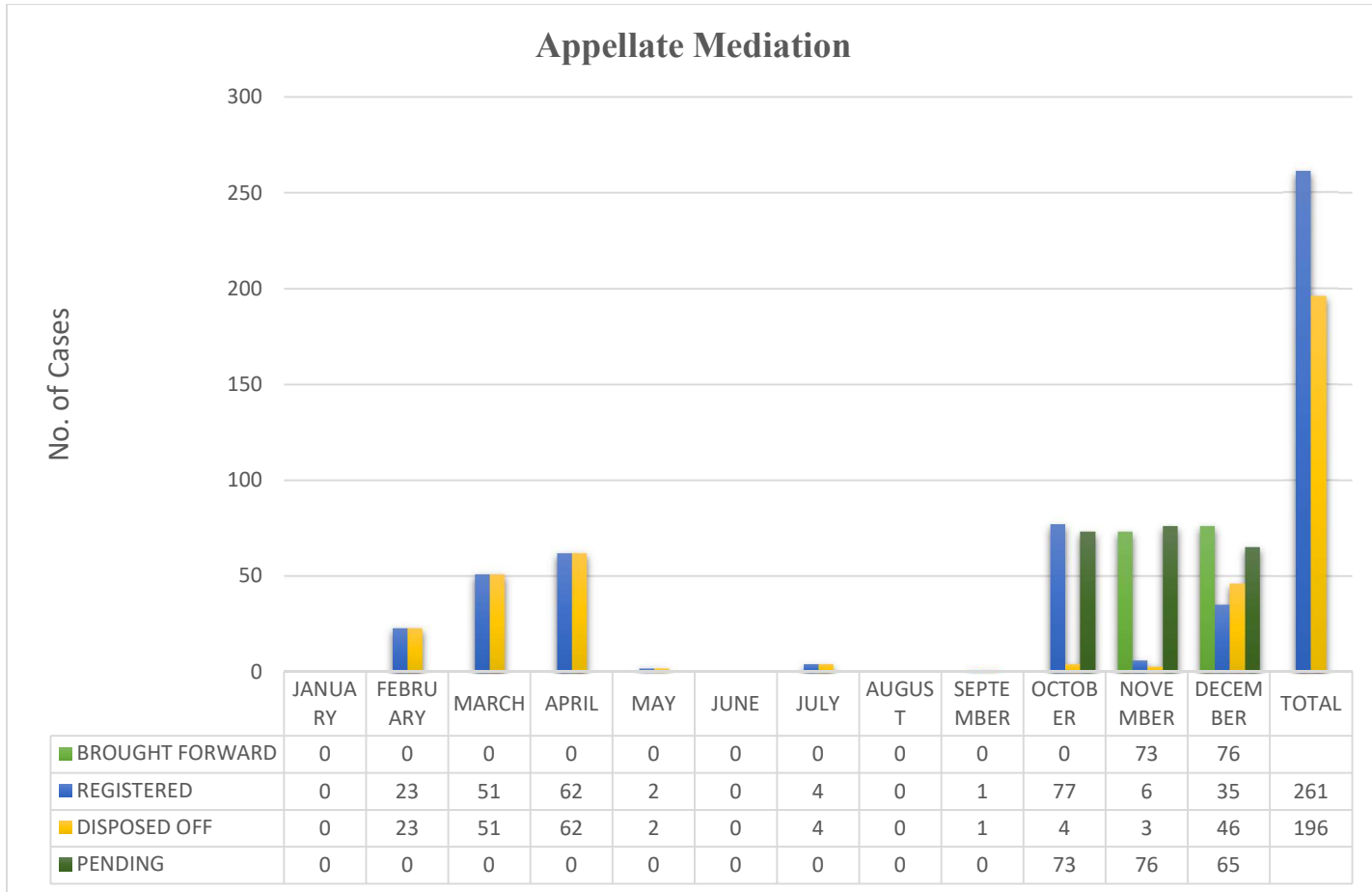
## Court of Appeal Criminal Caseload Trends for the Years- 2016 to 2018





#### 4.5 Appellate Mediation

This is a new Case management initiative which was operationalized at the Court of Appeal in 2018. In the same year, 261 cases were registered from February 2018, 196 were disposed of and the pending cases are 65 as illustrated in the graph below.



## **5.0 KEY HIGHLIGHTS FOR THE YEAR 2018**

### **5.1 Court of Appeal hears Age Limit petition in Mbale**

The Hearing of the Constitutional Court petition challenging the amendment of Article 102(b) to remove presidential age limits commenced in Mbale on 9th April, 2018.

A panel of five Judges headed by the Deputy Chief Justice Alfonse Owiny-Dollo heard the petitions at Mbale High Court. The other Justices on the bench included; Remy Kasule, Elizabeth Musoke, Cheborion Barishaki and Kenneth Kakuru.



*Left to Right-Hon. Mr. Justice Cheborion Barishaki, Hon. Mr. Justice Alfonse Owiny-Dollo-The Deputy Chief Justice, Hon. Mr. Justice Kaneth Kakuru and Hon. Lady Justice Elizabeth Musoke preside over the Constitutional Court Petition at Mbale.*

The hearing commenced with submissions of the petitioners including Uganda Law Society and Counsel Elias Lukwago, who represented a section of Members of Parliament challenging the amendment.

On December 20, 2017, Parliament passed the Constitutional Amendment Act, 2017 effectively removing presidential age limits provided for under Article 102(b) of the Constitution.

In the same amendment, parliament removed age limits for local government leaders, restored presidential term limits which had been removed in September 2005 and extended the term of office of the president and parliament from five to seven years.

The amendment was a climax to an acrimonious three-month debate that saw chaos inside parliament including security forces invading the chambers to remove some of the MPs who had been suspended for what Speaker Rebecca Kadaga called indiscipline. It's on this basis that the amendment was challenged in court.

The petitioners challenged the legality of amending the Constitution in regard to age limit for a presidential candidate, the presence of security personnel in Parliament as well as the extension of the terms for both the President and MPs from five to seven years.

## **5.2 Court of Appeal's Revamped Civil Registry**



*The Hon. The Deputy Chief Justice (left) and representative of IJM launching the reorganized Civil Registry*

The Deputy Chief Justice on July 23, 2018 commissioned the newly revamped Court of Appeal Registry.

Formerly likened to "a grave yard" or "a village rubbish pit", the now reorganized Registry is open for public use. Presiding over the event, Deputy Chief Justice, Hon. Justice Alfonse Owiny-Dollo, assured Court Users that service delivery at the Court of Appeal is going to be a lot quicker and timely.

He hailed International Justice Mission (IJM) for the job well-executed.

IJM, working with a team of law student volunteers, has over the past six months been reorganizing the formerly shabby Court of Appeal Registry as part of the support initiatives under a Memorandum of Understanding it signed with the Justice, Law and Order Sector (JLOS). The team worked closely with Hon. Justice Geoffrey Kiryabwire (project coordinator) and the Court Registrar, HW Esta Nambayo.

The event was attended by several judges from the Supreme Court, Court of Appeal and High Court, JLOS members, senior officials from the International Justice Mission. Others were registrars and magistrates from various courts, among other stakeholders.

IJM is also set to work on the registries of Family Division and Mbale High Court to make them more functional.

## **6.0 CHALLENGES**

During the year under review, the Court encountered various challenges particularly the retirement of Hon. Mr. Justice Remmy Kasule, JA which has led to the reduction of a number of Justices at the Court of Appeal.

### **6.1 Infrastructure**

The Court has been renting a few floors at Twed Towers which has also been costly for the judiciary, hence we need a home for the Court to avoid sharing premises and lifts generally with businessmen in the building.

### **6.2 Funding**

The Court of Appeal, despite the enhanced performance, the Court is underfunded. The court with its four Registries is only allocated Ugshs.25m/- for in-house sessions, when conducting external sessions, only Ugshs.170m/- is appropriated which is insufficient given enormous task at hand.

### **6.3 Transport**

The court is faced with a challenge of lack of transport especially for all the Registrars. The Court also lacks motorcycles for service of court process. This has made the work of Process Servers difficult which has affected the efficiency of service due to various firms and litigants in different geographical areas.

There is need for a Court of Appeal van to ease transportation of staff locally and for external sessions for materials and staff. Due to the location of the court, staff without private transport find it difficult to access the court.

### **6.4 Staffing**

There is inadequate staffing. There is need for more Justices, Registrars, Secretaries, Process Servers, Clerks for the Court for efficient and effectiveness of the Court operations.

### **6.5 Office Equipment**

There is shortage of computers at the Court. All Research Assistants have no computers and situation worsens when part of the Court staff move out for external court sessions.

## **6.6 Lack of staff training**

No single training has been conducted for support staff in a long time and yet some of the staff at the Court have come from outside the Judiciary.

## **6.7 Congestion in the Criminal Registry and Civil Registry Archives**

The Criminal Registry at the Court is very congested. Files are littered all over, thus need for shelves and funds to organize this registry to reflect the image of Court of Appeal and to ease access to justice by the court users.

However, the archives are undergoing re-organization by Court of Appeal staff to ease tracing of files and records in sequences at an extra cost, despite the earlier efforts by International JM to organize the registry.

## **6.8 Need for Legal Framework for Appellate Mediation**

Appellate Mediation is still being conducted under restrictive legal framework at Court of Appeal to guide its implementation, unlike in the High Court and subordinate courts. There is need for rules to guide the process and enhance output in this important

More still, the concept of Appellate Mediation is not appreciated by many people. This is due to inadequate training and sensitization of Judicial Officers, Court Administrators, advocates and members of the public on how Appellate Mediation works.

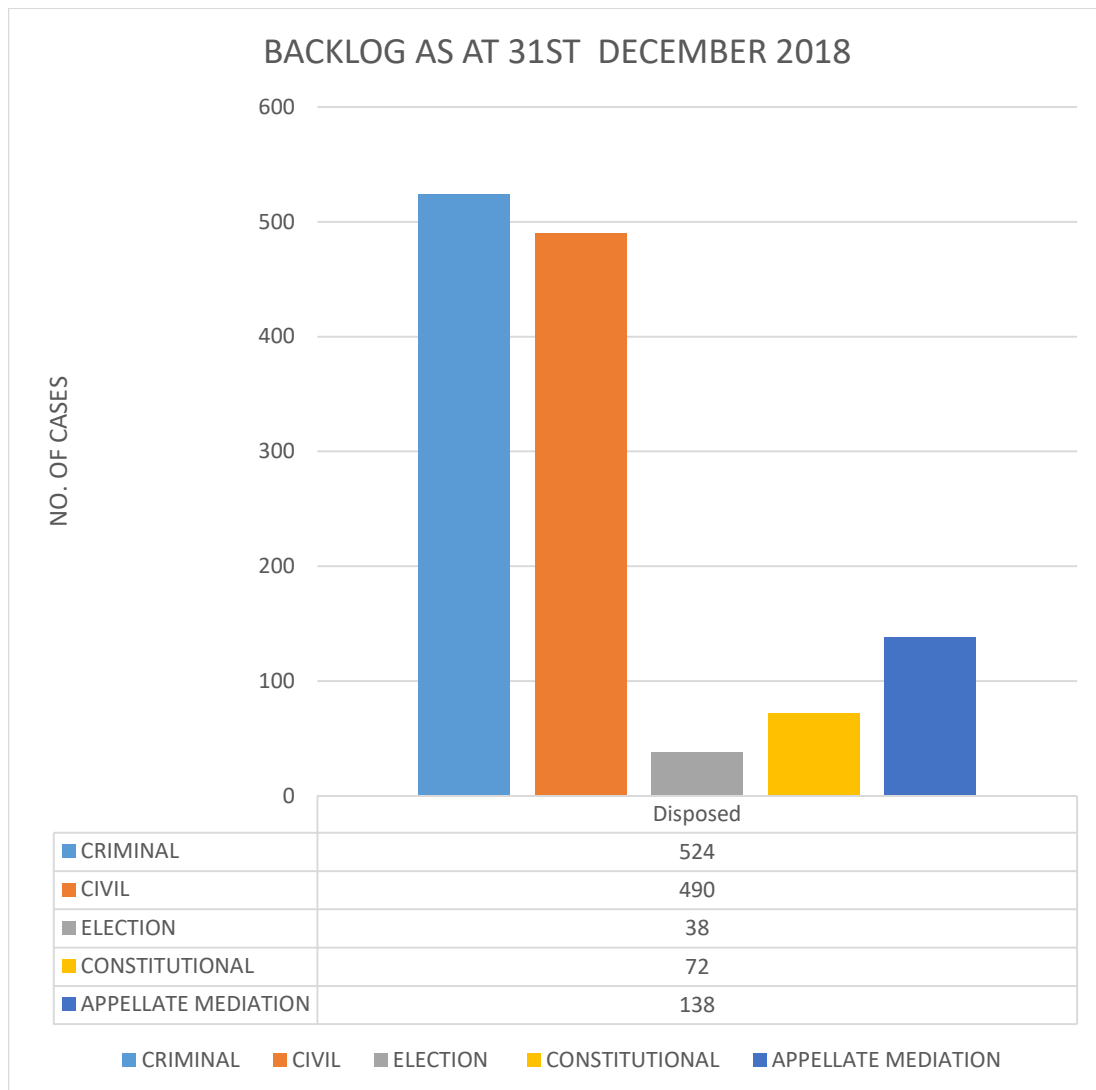
It is often difficult to find available Justices at the Court of Appeal to assign Appellate Mediation cases. This is due to the limited number of Justices at the Court of Appeal. Even at the Registry, there are hardly any staff directly assigned to Appellate Mediation Registry.

## **6.9 Lack of sufficient security**

Security check point machines should be provided urgently at the entrance at the court premises to ensure safety of judicial officers and court users.

## 7.0 Backlog at Court of Appeal

In the year under review efforts have been undertaken to clear the case backlog, however, due to some shortcomings. The total number of Civil Matters disposed of in 2018 were 490; Constitutional Matters disposed of were 72, Appellate Mediation 138, Criminal Matters 524, and Election Matters 38. The total number of cases completed in 2018 were 1262 compared to the Court set target of 620 cases. This means that the Court surpassed by 103% of the target that was set for it as illustrated in the graph as below.



## **9.0 Strategies for Improving Performance**

Given the courts current workload and the backlog, there is need to work on the following areas;

The number of Justices should be increased to 15 Justices. We are of the considered view that if a minimum of 18 are deployed to this court it will enhance the disposal rate of case backlog. Similarly, another Registrar should be deployed to manage specifically the Constitutional Registry which also needs facilitation, human resource for efficient and effective management given the heavy workload at the Court.

More funds should be availed to the Court for better operation. There is need to hold more up-country sessions, at least two of them sessions in every quarter. This will help in reducing backlog.

The court intends to use more appellate mediation now that the pilot use of the same at the Court of Appeal has been a success. Although some funds were allocated for Appellate Mediation in the last quarter, it's inadequate which calls for more resource allocation.

## **10.0 Conclusion**

It is imperative that the Court should be sufficiently and effectively funded to enable it fulfill its Constitutional mandate.

My best wishes to the Judiciary and to all of you here during the New Judicial Year we have already started.

**FOR GOD AND MY COUNTRY**

**Alfonse Chigamoy Owiny-Dollo  
DEPUTY CHIEF JUSTICE**



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