



REPORT

ON THE PERFORMANCE OF THE SUPREME COURT OF UGANDA

MADE AT THE

**22ND ANNUAL JUDGES'
CONFERENCE**

MESTIL HOTEL, KAMPALA

27TH - JANUARY, 2020

BY

JUSTICE DR. ESTHER KITIMBO

KISAAKYE, JSC

1. Introduction

Before I get into the detailed report, I wish to take this opportunity to congratulate my Lord the Chief Justice, my Lord the Deputy Chief Judge, my Lord the Principal Judge, colleagues Justices of the Supreme Court, Justices of the Court of Appeal, Constitutional Court, Judges of the High Court, the Permanent Secretary/Secretary to the Judiciary, all Judicial officers, Judiciary staff, our distinguished guests from The Justice, Law and Order Sector, Institutions and other sectors for having successfully completed 2019. I wish you all a Happy New Year.

This is the Report of the Supreme Court of Uganda
Covering the period January 2019 – January 27th 2020.

The Report is divided into 7 parts as follows;

1. Introduction
2. Establishment and Constitution of the Supreme Court
3. Mandate of the Supreme Court
4. Performance of the Supreme Court
5. Pending business Carried forward
6. Current challenges and strategies to tackle them
7. Way forward and Appreciation
8. Conclusion.

2. Establishment and Constitution of the Supreme Court

Article 132 of the Constitution of the Republic of Uganda provides for the establishment and jurisdiction of the Supreme Court. It enacts that:

“(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 decision of the Supreme Court on questions

Article 131 of the Constitution of Uganda provides that:

“(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.”

In 2019, the Court was constituted by the following Justices:

1. The Hon the Chief Justice, Hon. Justice Bart Katureebe
2. Hon Justice Dr. Esther Kitimbo Kisaakye, JSC
3. Hon Justice Stella- Arach Amoko, JSC
4. Hon Mr. Eldad Mwangushya, JSC
5. Hon Mr. Justice Ruby Opio Aweri, JSC

6. Hon Justice Faith Mwendha, JSC
7. Hon Justice Prof Lillian Tibatemwa- Ekirikubinza, JSC
8. Hon Mr. Justice Paul Mugamba, JSC
9. Hon Mr. Justice Richard Buteera, JSC
10. Hon Mr. Justice Augustine Nshimye, Ag. JSC
11. Hon Mr. Justice Jotham Tumwesigye, Ag. JSC

As you may already be aware, Justice Nshimye Augustine and Justice Tumwesigye Jotham were serving on the Court as acting Justices. Their contracts ended in December 2019 and they have since left the Court. Please join me in thanking the two Justices for their service during the year. We wish them a rewarding retirement and continued service to our country in any other capacity they may be called upon to continue serving.

As the two acting Justices were bowing out, a third Justice of the Court Justice Eldad Mwangushya reached his retirement age on 3rd January 2020. He is currently serving the three months as he clears pending work. Once again we congratulate and thank Justice Mwangushya for his service not only to the Supreme Court and Judiciary of Uganda but also to the country at large. We wish him a happy and rewarding retirement and any continued service he may choose to continue to render.

I am also pleased to note that the three Retired Justices were replaced in a timely way by the appointment of the following new Justices to the Court:

- I. Justice Ezekiel Muhanguzi, JSC
- II. Justice Night Percy Tuhaise, JSC
- III. Justice Mike Chibita JSC,

All the three Justices were introduced/sworn in on 14th January, 2020. Justice Chibita has already reported for work, while the other two Justices are expected to assume their duties at the Supreme Court as soon as they wind up at the Court of Appeal/Constitutional Court.

Please join me in congratulating the three Justices on their elevation/appointment to the Supreme Court. We wish you a rewarding experience at the Court and look forward to working with you to serve the people of Uganda.

Please also join me in thanking the Judicial Service Commission, His Excellence The President of Uganda and the Parliament of Uganda for the timely appointment of the three new Justices which will ensure that the business of the Court will not be interrupted by lack of Coram.

3. Mandate of the Supreme Court

The Supreme Court has four mandates which we are going to report on. These include the presidential, constitutional, criminal and civil mandate.

4. PERFORMANCE OF THE SUPREME COURT IN 2019

a) The Presidential Elections Petitions Jurisdiction

The Constitution of Uganda and the Presidential Elections Act vest the Supreme Court with jurisdiction to hear Presidential Election petitions.

Under this mandate, the Court heard and disposed of one application Prof Fredrick Ssempebwa & Ors v Attorney General (Civil Application No. 05 of 2019) [2019] UGSC 9.

This application sought a declaration that the Attorney general was officially and personally in contempt of court

orders made in, *Amama Mbabazi vs Yoweri Kaguta Museveni & Others*; Presidential Election Petition No.1 of 2016. The application was dismissed on 25th June 2019.

b) The Constitutional Appeals Jurisdiction

The Constitutional mandate of the Supreme Court is provided for under Article 132 (3) of the Constitution of Uganda which provides as follows:

“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.”

Under this mandate, the Court heard and disposed of one Constitutional application and three consolidated Constitutional appeals arising out of the Constitutional Petitions challenging the law that removed the Presidential age limits.

Among other issues, the Court considered whether the basic structure doctrine was applicable to the instant application and whether it had been altered by the amendment of the constitution.

The appeals were dismissed on the 19th day of April 2019 by a decision of four to three. The judgments are available on ULII.

The consolidated appeals pre occupied the Court for the first four months of the year. The Court was therefore not able to hold any other Constitutional session during the remainder of the reporting period.

However, the Court disposed of two other Constitutional appeals namely:

- i. Christopher Martin Madrama Izama v Attorney General (Constitutional Appeal No. 01 of 2016) which was delivered on 14th February 2019
- ii. Parliamentary Commission v Mwesigye (Constitutional Appeal No. 08 of 2016) which was delivered on 25th July 2019.

The Criminal Appeals Jurisdiction

Article 132 (1) of the Constitution of Uganda provides that the Supreme Court shall be the final Court of Appeal. Section 5 of the Judicature Act Cap 13 provides for appeals to the Supreme Court in criminal matters.

During 2019, the Court held three Criminal Sessions and heard 7 Criminal applications and 60 Criminal Appeals as indicated in the Table attached.

Out of appeals heard in 2018 where judgment was pending, and the appeals that were heard in 2019, the Court delivered 60 Criminal appeal judgments and 7 Criminal application rulings as per the attached matrix.

The Civil Appeals Jurisdiction

The Court was not able to hold Civil sessions during 2019. However, out of appeals heard in 2018 where judgment was pending, and the appeals that were heard in 2019, the Court delivered 18 Civil Appeal judgments and 20 Civil application rulings as per the attached matrix.

5. CURRENT CHALLENGES

- 1) Poorly manned Registries
- 2) Delays/Non-Submission of Records of Appeal in Commercial matters
- 3) Intermittent power supply

4) Advocates conduct

Criminal – state brief lawyers

- Pool is limited
- The few are not always up to mark
Visits to prisons
Faking the brief
- Adjourments.....
- Non – Attendance
- Non – Prioritization of Supreme Court work
- Limited Compliance with Supreme Court rules
Court’s directions especially with respect to
filing pleadings and authourities.
- Quality of Written Submissions filed
- Inadequate and delayed state brief payments

5) Appeals involving multiple convictions

6) Management of criminal appeals

7) Research Assistant’s Remuneration

TABLE "A"

SUMMARY OF APPLICATIONS & APPEALS DISPOSED OF BETWEEN 1ST JANUARY - 31ST DECEMBER 2019

Constitutional Appeals	Constitutional Applications	Civil Appeals	Civil Applications	Criminal Applications	Criminal Appeals	Total
5	1	18	20	7	60	111

TABLE "B"

CONSTITUTIONAL APPLICATIONS AND APPEALS DISPOSED OF BETWEEN 1ST JANUARY - 31ST DECEMBER 2019

NO.	CONST. APPEAL. NO.	PARTIES	DATE RULING WAS DELIVERED
1	03/2018	Male H. Mabirizi Kiwanuka v Attorney General	11/01/2019
2	02/2018	Male H. Mabirizi Kiwanuka & Others v Attorney General	18/04/2019
3	02/2018	Hon. KaruhangaKafureeka Gerald 7 Others v Attorney General	18/04/2019
4	04/2016	Uganda Law Society v Attorney General	18/04/2019
5	08/2016	Parliamentary Commission v Mwesigye Wilson	25/07/2019
6	01/2016	Christopher Martin Madrama Izama Ug	14/02/2019

TABLE "C"
CIVIL APPLICATIONS DISPOSED OF BETWEEN 1ST JANUARY - 31ST DECEMBER 2019

NO.	CIVIL APPN. NO.	PARTIES	DATE RULING WAS DELIVERED
1.	29/2017	Elizabeth Nalumansi& Ors Vs Jolly Kasekende& Ors	17/01/2019
2	16/2018	URA Vs Nsubuga& Anor	08/02/2019
3.	18/2016	Kasoma Fred Vs Senbatya James	07/02/2019
4.	31/2018	Lweza Clays Ltd & Anor Vs Tropical Bank Ltd & Anor	19/02/2019
5.	34/2018	Lionel Muhangi Vs Francis Drake Lubega & Ors	
6.	04/2019	Katungulu John Matovu & Anor Vs Godfrey Rwabuganda	
8.	06/2019	General Industries (U) Ltd Vs NPART & Ors	
9.	09/2019	China Road & Bridge Corp Vs Welt Machine Ent. Ltd	02/09/2019
10.	11/2019	China Road & Bridge Corp Vs Welt Machine Ent. Ltd &ANor	27/11/2019
11.	28/2015	IsayaKalya& Ors Vs Moses MacekenyuIkagobya	12/12/2019
12.	23/2019	Byampangi John & Ors Vs Kigoora John	28/11/2019
13.	12/2019	KigayazaEldadiSsentongo Vs Kakooza Jonathan & Anor	12/12/2019
14.	25/2019	Attorney General v Bumero Estates Ltd	03/12/10

NO.	CIVIL APPN. NO.	PARTIES	DATE RULING WAS DELIVERED
15.	32/2018	Francis Drake Lubega v A.G & Ors	08/08/10
16.	15/2019	Lutalo Moses Lemmey vs Ojede Abdallah Bin Cena	10/07/2019
17	26/2019	Michel Robert Mugenyi Vs Irene Kalibala	27/11/2019
18	19/206	Kasoma Fred Vs Sembatya	07/02/2019
19	18/2017	Mohammed Vs Roko Construction Ltd	24/01/2019
20	05/2019	Ssempebwa& Ors v Attorney General	25/06/2019

TABLE "D"**CIVIL APPEALS DISPOSED OF BETWEEN 1ST JANUARY AND 31ST DECEMBER 2019**

	CIVIL APPEAL NO.	PARTIES	DATE JUDGMENT WAS DELIVERED
1.	06/2016	Sunday Edward Mukooli Vs Administrator General	17/01/2019
2.	04/2018	Otim Talib & Ors Vs U.R.A	01/03/2019
3.	15/2017	Hilda Wilson Namusoke & Ors Vs Owalla's Home Investment Trust (E.A) Ltd	25/04/2019
4.	05/2018	Kinalwa Fred & Anor Vs Albert Bond Kamulegeya	11/03/2019
5.	05/2017	Duncan Turyatunga Rujojo & Ors Vs A.G	05/09/2019
6.	08/2018	Betty Kizito Vs David Kizito Kanonya & Ors	19/09/2019
7.	07/2018	UTODAVs U.R.A	19/09/2019
8.	01/2018	Christopher Kisembo & Anor Vs Co-op Bank Ltd	26/09/2019
9.	03/2016	Ali Singer Vs Margaret Nankabirwa	07/11/2019
10.	09/2017	James Bwogi & Sons Enterprises Ltd Vs K.C.C & Anor	28/11/2019
11.	09/2016	Dr. Shiek Ahmed Kisuule Vs Greenland Bank Ltd (In Liquidation)	28/11/2019
12.	14/2016	Asuman Mugenyi Vs M.	28/11/2019

	CIVILAPPEAL NO.	PARTIES	DATE JUDGMENT WAS DELIVERED
		Buwule	
13.	06/2018	SophatiaBeithi& Ors Vs Nangobi Jane & Ors	10/12/2019
14.	17/2015	Simon Tendo Kabenge Vs Barclays Bank (U) Ltd & Anor	28/11/2019
15	06/2016	Mukooli Vs Administrator General	17/01/2019
16	29/2017	Nalumansi Vs Kasande&2 Ors	17/01/2019
17	15/2017	Estate of Magdalene Scott Nambi Vs Owalla's Home Investment Trust Limited &Anor	25/04/2019
18	08/2018	Kizito Vs KizitoKanonya& 7 Ors	18/09/2019

TABLE "E":
CRIMINAL APPLICATIONS DISPOSED OF BETWEEN JANUARY - 31ST
DECEMBER 2019

	CRIM. APPN NO.	PARTIES	DATE RULING WAS DELIVERED
1.	08/2019	Uganda Vs Ntambi Vincent	04/10/2019
2.	12/2019	Kimeze Jeremiah Vs Ug	29/11/2019
3.	05/2019	Segujja Dan & Anor Vs Ug	31/10/2019
4.	01/2019	Sumbu Jean Louis Vs Ug	17/04/2019
5.	09/2019	Serunkuma Edirisa Vs Ug	20/11/2019
6.	08/2019	Kitaka Robert Nsubuga Vs Ug	20/11/2019
7.	04/2019	Uganda Vs Ogwanga Patrick & Ors	11/11/2019

TABLE “F” SHOWING CRIMINAL APPEALS DISPOSED OF BETWEEN 1ST JANUARY AND 31ST DECEMBER 2019

	CRIM. APPEALS NO.	PARTIES	DATE JUDGMENT WAS DELIVERED
1.	16/2015	Mutatina Godfrey & Anor Vs Ug	10.01.2019
2.	05/2016	Kyamanyi Nicholas & Ors Vs Ug	11.01.2019
3.	31/2014	Opolot Justine & Anor Vs Ug	24.01.2019
4.	10/2016	Baingana John Paul Vs Ug	28.06.2019
5.	69/2018	Batesa Malijani Vs Ug	5.07.2019
6.	02/2017	Bakabulindi Ali Vs Ug	18.07.2019
7.	32/2017	Odong Sam Vs Ug	20/06/2019
8.	42/2015	Kasaga Boaz Vs Ug	20/06/2019
9.	40/2010	Bahemuka William Vs Ug	25/06/2019
10.	55/2018	LwamazaEronda Vs Ug	03/07/2019
11.	64/2016	Matovu Darius Vs Ug	02/07/2019
12.	90/2018	Byera Denis Vs Ug	03/07/2019
13.	42/2018	Yen Magot Yen Vs Ug	04/07/2019
14.	34/2017	Olupot Sharif Vs Ug	04/07/2019
15.	53/2015	Ivan Ganchev& Ors Vs Ug	09/07/19
16.	65/2015	Sabila Herbert & Ors Vs Ug	16/07/2019
17.	08/2017	Okello Lawrence, Mujuni Denis Vs Ug	17/07/2019
18.	01/2019	Sumbu Jean Louis Vs Ug	17/04/2019

	CRIM. APPEALS NO.	PARTIES	DATE JUDGMENT WAS DELIVERED
19.	07/2010	Bireete Sarah Vs Ug	17/07/19
20.	23/2016	Karisa Moses Vs Ug	18/06/2019
21.	24/2016	Kaija Stephen Vs Ug	09/08/2019
22.	70/2018	MusedeNankya Vs Ug	22/08/2019
23.	72/2018	KadduKavulu Lawrence Vs Ug	22/08/2019
24.	20/2018	Oumo Ben Alias Ofwono Vs Ug	06/08/2019
25.	63/2018	BwembiLameck Vs Ug	05/09/2019
26.	34/2017	Ojangole Peter Vs Ug	29/08/2019
27.	42/2017	Wafula Robert Vs Ug	05/09/2019
28.	29/2014	Kyoreko Denis & Anor Vs Ug	05/09/2019
29.	21/2016	ArinaitweAmon Vs Ug	29/08/2019
30.	22/2018	Muhungire Emmanuel & Ors Vs Ug	26/09/2019
31.	82/2018	Bashasha Sharif Vs Ug	05/12/2019
32.	37/2017	MategaBalamu Vs Ug	05/12/2019
33.	08/2017	Alyenyo Marks Vs Ug	07/11/2019
34.	02/2018	David Chandi Jamwa Vs Ug	29/11/2019
35.	10/2014	Mwanga Moses Vs Ug	21/10/2019
36.	01/2016	Aurien James Peter Vs Ug	15/11/2019
37.	71/2018	WanyangaEremiya Vs Ug	05/12/2019

	CRIM. APPEALS NO.	PARTIES	DATE JUDGMENT WAS DELIVERED
38	18/2011	Maliro Vs Ug	10/12/2019
39	61/2015	Mutatina Godfrey Vs Ug	10/01/2019
40	08/2015	Alenyo Mark Vs Ug	29/05/2019
41	53/2015	Ivan Ganchev 7 2 Ors Vs Ug	09/07/2019
42	600/2016	Mwesigye Richard Vs Ug	15/10/2019
43	27/2017	Katumba Gerald Vs Ug	28/11/2019
44	290/2017	KulobaMaube& Anor Vs Ug	15/11/2019
45	25/2016	Musimenta Jasper & 2 Ors Vs Ug	27/11/2019
46	34/2016	Akugizibwe Adolf Vs Ug	02/06/2016
47	05/2017	Kagwa Jackson Vs Ug	15/10/2019
48	04/2016	Kyaterekera George Vs Ug	28/11/2019
49	04/2017	Sowedi Abdul Vs Ug	21/11/2019
50	48/2017	Okello Alfred & 2 Ors Vs Ug	05/12/2019
51	28/2011	Gwapa Samson Vs Ug	16/10/2019
52	36/2011	Okurut David Vs Ug	15/10/2019
53	410/2016	Katureebe Boaz & Munereza Bosco Vs Ug	27/11/2019
54	16/2016	Oyirwoth Charles Vs Ug	16/10/2019
55	07/2019	Alenyo Mark Vs Ug	07/11/2019
56	02/2012	Mukasa Joseph Kadu Vs Ug	29/11/2019

	CRIM. APPEALS NO.	PARTIES	DATE JUDGMENT WAS DELIVERED
57	05/2016	Kyamanyi Nicholas & Ors Vs Ug	20/11/2019
57	31/2014	Opolot Justine & Anor Vs Ug	24/01/2019
58	29/2014	Muhoozi& Anor Vs Ug	05/09/2019
59	31/2017	Latif Buulo Vs Ug	05/12/2019
60	18/2011	Maliro Abasi alias Mabale Vs Ug	10/12/2019

TABLE “G”
SHOWING THE SUPREME COURT OF UGANDA STATUS
REPORT AS AT 27TH JANUARY 2020

Category	B/F From 2018	Registered in 2019	Disposed of in 2019	Pending Judgment/ Ruling	Pending Hearing	Backlog
Constitutional Appeal	5	0	5			
Constitutional Application	2	1	1			
Civil Appeals	17	16	18			
Civil Applications	18	43	20			
Criminal Appeals	39	82	60			
Criminal Applications	3	20	7			
Total	84	172	111			

Notes

1. Numbers for appeals brought forward are computed from 2018 Report
2. These are mostly Notices for intended Criminal Appeals. In most cases, the Criminal Appeals have not been filed, are higher

