



The Republic of Uganda

Judiciary

SPEECH OF THE HON. AG. CHIEF JUSTICE STEVEN. B.K. KAVUMA AT THE CELEBRATIONS MARKING THE OPENING OF THE NEW LAW YEAR, 2015/2016.

The Hon. The Principal Judge,

The Hon. Attorney General,

The Hon. Minister of Justice and Constitutional Affairs,

The Hon. Minister In-Charge of Kampala Capital City Authority,

Your Lordships the Justices and Judges of the Courts of Judicature,

Hon. Members of Parliament,

Members of the Diplomatic Corps,

Members of the Constitution Commissions,

The Secretary to Cabinet,

The Secretary to the Judiciary,

The Chief Registrar,

Religious leaders,

The President of the Uganda Judicial Officers Association,
The President of the Uganda Women Lawyers Association,
Your Worships the Registrars and the Magistrates,
Senior Administrators of the Judiciary and Judiciary support staff,
Members of the Bar,
All invited Guests,
Ladies and Gentlemen.

Welcome and introduction.

I welcome you all to the temple of justice and wish you a prosperous 2015.

Article 126 (1) of the Constitution commands the Judiciary to administer justice in the name of the people and in conformity with the law and with the values, norms and aspirations of the people. **Article 126** (2) directs courts to deliver value laden justice. Accordingly, the article provides:

(2) “In adjudicating cases of both a civil and criminal nature, the courts shall, subject to law, apply the following principal:-

(a) Justice shall be done to all irrespective of their social or economic status;

(b) justice shall not be delayed;

(c) reconciliation between parties shall be promoted and

(e) substantive justice shall be administered without un due regard to technicalities.”

We are enjoined, during the New Law Year celebrations, to ask ourselves whether we administered justice in the previous year in accordance with the above article and to commit ourselves to the continued adherence to it in the New Year. The opening of the new Law Year is, therefore, a very important ceremony in the calendar of the Judiciary. Pronouncements made at this ceremony should, therefore, reinforce and reiterate the important role the Judiciary plays in the lives of the people from whom we derive the judicial power we exercise.

Mandate

The mandate of the Judiciary, is to adjudicate cases between the people on the one part and between the people and the state on the other part. It also adjudicates cases between the various organs of the state. Adjudication of cases requires courage and steadfastness in ensuring that all who appear before the courts, have equal protection of the law and can call upon it without hesitation at any time to guarantee and enforce their rights. The Judiciary, can only carry out its responsibilities if it is independent, trusted and respected by all regardless of their standing in society. At the very minimum, an efficient Judiciary requires competent and well qualified Judicial officers and personnel who are trustworthy and with impeccable record of conduct. The Judiciary also requires sufficient administrative and support staff; adequate resources to meet its professional and administrative obligations; adequate infrastructure and other facilities to carry out its mandate which is rooted in practice and the law. A Judiciary, which does not meet these minimum standards, requires the support of all to rise to the occasion.

Performance.

Despite the constraints and challenges encountered by the Judiciary over the years, it has continued to perform its core function of dispensing justice to all by disposing of more cases every year. In 2014, the Judiciary completed 101,990 cases against 108,584 that were registered in the same year. The courts, on average, completed 9.4 cases out of every 10 registered, which was 0.6 cases short of reaching the threshold for tackling case backlog. I commend all the courts for that impressive performance, especially the Magistrates Grade II and the Chief Magistrates courts that performed exceptionally well. I hope that the courts will clear the 132,555 pending cases to give hope to the many litigants who walk the corridors of judicial premises searching for justice.

Interventions for expeditious case disposal

The Judiciary recognizes the social, economic and psychological cost the delay of cases causes to the individual, the community and the country at large. In 2015, the Judiciary will strengthen the capacity of the courts to dispose of cases more expeditiously. In particular, the Judiciary will implement the following interventions:

It will implement the performance enhancement project as a tool to maximize the performance of the institution. I strongly recommend the following targets for case disposal by individual officers. High Court judges 230 cases; Chief Magistrates 800; Magistrates Grade I, who are more than three years in service, 400 cases; Magistrates Grade I who are less than three years in service, 300 cases while Magistrate Grade II should each complete 300 cases per annum. The Supreme Court, on average, should complete 80 cases while the Court of Appeal, running at the full bench, should complete 800 cases in a year. With the said recommended rates of disposal, we should expect the courts in 2015 to complete an estimated 162,720 cases.

To support the achievement of those targets, the Judiciary will expand the structure and service points for justice delivery. Magisterial Areas are expected to be increased from 39 to 89 to reach out to as many people as possible. It is targeted that each district in Uganda will have at least one Magistrate Grade I, while the number of Magistrate Grade one's is expected to be increased from 173 to 250, to take care of Magistrate Grade twos, who are currently being phased out.

We aim at re demarcating High Court circuits and increase them from the current 13 to 18. Nakawa High Court Circuit, Mbarara High Court Circuit, Jinja High Court Circuit, Mbale High Court Circuit and Gulu High Court Circuits, which are too wide and diverse, shall be re-demarcated to create new circuits.

We are considering decentralizing the Court of Appeal initially through circuiting at Gulu, Mbale, Fort Portal, Jinja and Mbarara to hear cases at these points. We shall, in the meantime continue holding up country Court of Appeal session following up on those we have so far held in Gulu, Mbale, Mbarara and Fortportal. However, in the long run the Judiciary plans to have a permanent presence of the Court of Appeal in all the regions of the country.

The Supreme Court, will remain in Kampala but consideration is being given to increasing the number of Justices to a higher level to create multiple Coram for expeditious disposal of appeals.

Performance Management Tool

The expanded structures will be complemented by the adoption of a results based culture centered on Performance Management. With the support of our development Partners and the Justice Law and Order Sector (JLOS), the Judiciary has developed a performance management tool providing for a 360 degree assessment mechanism for Judicial Officers. The overall objective of the performance enhancement system is to provide a scientific criteria for assessing the performance of judicial officers in replacement of the traditional public service performance appraisal system which is, some what, inappropriate for judicial officers. The performance enhancement tool or torch, for the first time, will bring judges under the spotlight of assessment just like other public officers. Our goal is to ensure that Judges deliver and that they can be held to account to the people. The performance management tool shall be piloted to selected circuits, the Court of Appeal and the Supreme Court before it is rolled out to all the courts. In the meantime, the tool will be reinforced by the setting of targets for individual officers. I have no doubt that a culture of targets will inspire judicial officers to take their work more seriously and to reduce the time cases take in courts. Those who excel in performance will be duly recognized.

The Rules of Procedure.

The current Rules of Civil Procedure are to be revised to enable them play their role as true hand maids of justice more effectively. They were last revised in 1998 but are currently undergoing review by the Uganda Law Reform Commission. The Revised Rules are expected to simplify procedures for civil cases, cut down on steps for processing cases, reduce cost and provide incentives for timely disposal of cases while at the same time discouraging delays in case disposal. Furthermore, the revised Rules of Procedure will be harmonized with the Rules of Procedure of the other Partner States in the East Africa Community to promote cross border practice

at a lower level but also at a higher level, to make our legal system a centre of excellence and hopefully, a forum of choice in the region.

Criminal Procedure Reforms.

Consideration is being given to proposing amendments to the Criminal Procedure Code Act, the Magistrate Courts Act and the Trial on Indictment Act, with a view to providing for Alternative Dispute Resolution, Plea Bargaining, reforming of the Committal System and the role of assessors to expedite the resolution of criminal cases in our courts. The Sentencing Committee is proposing guidelines for offences triable by Magistrates' Courts to promote consistence, predictability and severely curtail abuse in sentencing a matter that has attracted a lot of public concern and criticism.

Let me assure the women of this country that the sentencing guidelines will take into account their concerns over rendering suitable sentences to victims of sexual gender based violence and other sexual offences such as defilement and rape. Even in cases of plea bargaining, it is being considered to give opportunity to victims of crime and the community to participate in the sentencing of offenders.

Further, a Practice Direction shall be enacted on plea bargaining to streamline and give guidance to all the stakeholders involved in negotiating pleas of guilt. The anticipated Practice Direction follows a successful plea bargaining project which was ably coordinated by the Hon. the Principal Judge. Under the project, the Judiciary, in 2014, disposed of 1,146 cases out of the 7,000 committed to the High Court within a span of three months. Each case disposed of under plea bargaining cost the tax payer approximately Shs. 300,000/= as opposed to the disposal of a normal criminal case which can cost as much as Shs.1, 500,000/= at the High Court. Collectively the Judiciary spent shs.343, 800,000 /= on plea bargaining instead of one billion two hundred million shillings (Shs. 1,200,000,000/=) it would have spent if the cases had gone through the normal full trials. I therefore appeal to all stakeholders in the legal fraternity to embrace and give further support to the Plea Bargain Project as it

appears to us to be a very sure way of combating backlog in our criminal justice system and reducing the cost of justice as well as congestion in the system. It also makes the justice system more participatory in that all the stakeholders get involved in the process which culminates into the final decision. It further, needless to say, to a degree, promotes reconciliation among the parties in terms of **Article 126 (2) (d)** of the Constitution and in terms of **Article, 127** which emphasizes the participation of the people in the administration of justice by courts. That article provides;

127 Participation of the people in the administration of justice.

“Parliament shall make laws providing for participation of the people in the administration of justice by the courts.”

Alternative Dispute Resolution.

With the support of some of our development partners, the Judiciary is studying the possibility of introducing Alternative Dispute Resolution in the Court of Appeal, and the rolling it out in the High Court and all Magistrate Courts in the near future to promote timely resolution of disputes. All parties and participating members of the bar are encouraged to embrace ADR, which has benefits to all and puts the dispute resolution process in the hands of the parties. It minimizes chances of corruption and lowers the cost of dispute resolution.

The Success of ADR will no doubt require the Government to support the Judiciary, to build the necessary infrastructure. Such infrastructure includes continuous training of judicial officers in the art, skill and practice of ADR; sensitization of the public about ADR; construction of customized ADR rooms at all the courts as well as providing the literature and user materials for ADR. Additionally, the Government should support the Judiciary to hire able and retired Judicial Officers, *among others*, to serve as in house mediators to reduce case backlog, mentor and coach judicial officers in ADR and assist in the resolution of disputes.

As for, the Government it is encouraged to consider adopting ADR, as one of the mechanisms of bringing down the high cost of litigation against it.

I also strongly recommend that Government takes interest in seriously considering putting in place legislation that will facilitate the use of ADR to be part of handling litigation against it. Other jurisdictions have done so.

To the private sector, it is encouraged to take on ADR, as one of the revenue generating schemes in the legal sector. The private sector in many jurisdiction the world over is the largest provider of ADR, generating billions of dollars in income for the providers while saving the users more than double the cost of normal litigation. I am therefore encouraging law firms, paralegal organizations, professional bodies and other honest, competent and respected individual Ugandans to explore the opportunities that come with involvement in ADR as another viable avenue for the timely resolution of disputes in this country.

Bail.

With regard to bail, the Judiciary will issue a Practice Direction to give guidance to courts in dealing with bail and to limit abuse by some judicial officers. Like sentencing Guidelines, Bail Practice Directions will ensure that there is consistence and predictability in granting bail in deserving cases as well as ensuring that exercise of judicial discretion promotes public confidence in the administration of justice and the rule of law as a whole.

Training.

To increase the capacity and productivity of the Judiciary to deliver timely and quality justice, it, through the Judicial Studies Institute, will intensify continuous professional training of judicial officers and administrative staff in the Judiciary. Plans are therefore under way to transform the Judicial Studies Institute into a more competent body to provide professional continuing education for all judicial officers and, where necessary, their support staff.

Infrastructure.

Good and customized infrastructure for all courts is an indispensable pre-requisite in the effective administration of justice. Research shows that customized buildings enhance court user's comfort, inspires public confidence in the administration of justice and provides a conducive atmosphere for enhanced performance by staff and their safety. It also greatly facilitates good court room environment and experience for all the court users. The Judiciary, with the support of Government and development partners has therefore prioritized construction of suitable court houses. As at December 31st 2014, the Judiciary owned 81 court houses. Sixty seven court houses were either being rented or shared with other government institutions. The Judiciary had a shortage of 43 court houses necessary to meet its current office demands and this requires an estimated Shs. 77 billion. This cost would be spread over a period of five years within which to construct the buildings.

I am happy to report that the procurement of service providers under Public Private Partnership to build the Headquarters of the Judiciary, the Supreme Court, Court of Appeal and the High Court is ongoing under the framework of JLOS. Construction is expected to begin in the last half of 2015. The current High Court building will be preserved during the construction to keep its historical and symbolic value to the Judiciary. The construction will add approximately 25,000 square meters of office space, with appropriate office, green and intelligent technology. We expect that this innovation will bring integrated justice in one building with the resultant advantages of speed, reduced cost of accessing justice and better coordination of services.

I am also happy to disclose that in 2014 the Judiciary completed the construction of Justice Centers (court, police and DPP) at: Kayunga; completed the construction of the Registry of Planning offices; completed the construction of the Judicial Studies Institute at Nakawa. Kabale High Court is virtually completed. The Magistrates Court buildings at Ngora and Koboko were completed during the same year.

There are also on going construction works on Justice Centers at Ibanda, Wakiso, Mityana and Lamwo. Court houses are being constructed at Kibuku and Bulambuli with

the support of our development partners. Furniture will be provided this year to all the Justice Centers that were constructed and completed in the last two years.

I urge Government to provide the necessary funding to build the remaining court houses, renovate those requiring rehabilitation and carry out regular maintenance of the existing physical infrastructure, construct Masindi High Court, complete the Family Court at Masindi and make all our buildings Disabled Compliant.

Technology (IT)

The increasing case load, complexity and reduction in real funding for the Judiciary as well as the need to reduce the cost of justice, promote transparency and eliminate corruption in the chain of justice, all call for increased deployment of technology in the administration of justice and the promotion of E justice. Consequently, the Judiciary has, in the past year, installed ICT systems in various courts to expedite court processes, provide easy court access to the public in order to enable the Judiciary serve the people better.

We have installed court recording and transcription services in all the High Courts across the Country. This facilitates the production of a transcript of the court proceedings within, currently, about 12 hours. This transcript assists in the quick preparation of the case judgment. The digital recording on the computer servers is accessed by the assigned judicial officer (s) or court in case of an appeal, which facilitates a quick dispose of the case. These technology platforms include:

Video Conferencing facility: In preparation to hear cases involving witnesses across the country, the Judiciary has installed a state-of-the-art Video Conferencing Facility. Cause listing of such cases is expected to start soon after the legal enabling environment for the operation of the facility is complete.

Electronic Display Boards: The Judiciary has installed and continues to install Electronic Display Boards in its Courts. These provide information to the public like

schedule of case hearings, the particular court room in which the case will be heard and the presiding Judicial Officer etc.

The Judiciary has developed a ULII App accessible by using Samsung phones and tablets. With the help of this facility appearing as an icon on ones' Samsung mobile devices (phone, tablets), one can quickly access all judgments passed in the Uganda' Courts of Record (Supreme Court, Court of Appeal and the High Court).

A team of well trained and motivated judicial officers has been identified to prepare materials for publication on site and to expand the Law Reporting function of the Judiciary. In the very near future, the Judiciary intends to commence publication of a monthly Law Report and eventually, on a fortnight basis, to increase access to legal materials for both internal and external stakeholders. The law report will be supplemented by the establishment of a Judiciary National Documentation Centre to act as a permanent source of judgments from all the Courts of Record to ease legal research and preserve the jurisprudence of the Uganda Jurisdiction.

The Judiciary has continued to maintain its website from which information is accessed by the public. The information includes, *inter-ali*, Cause Lists and Lists of updated Advocates and Bailiffs. Soon we shall be launching an E Justice Portal to provide information to the public on how to use services in our courts. Commonly used legal forms and documents will be put on the website to enable unrepresented litigants and paralegals to use our services. The portal will also provide for online complaints handling mechanism and act as a Service Centre to respond to queries about the administration of justice.

The Small Messaging System (SMS).

The Judiciary will soon launch a **Small Messaging System (SMS) and the Unstructured Supplementary Service Data (USSD)** services for use by the Court Users. Using these services, court information, for example case positions and court sitting results will be sent to court users on their mobile phones and they will also be able to send SMS messages to the court for any information.

Payments of Court:

The Judiciary is considering introducing a Mobile Money facility for payment of Court fees and other litigation related payments like bail money. This will enhance value for money as at times the cost of payment is even more than that of the real amount being paid. This will also enable a quick turnover of court transactions with the public. The Judiciary is in advanced stages of negotiations with one bank in country to establish banking services at the court premises. When established, the bank will operate until 7.00 pm to ensure that nobody granted bail is remanded because the banks are closed and they could not pay the cash bail money.

On-Line Filing System: The Judiciary is planning to introduce an on-line filing system (e-filing). The public, and the Law Firms will no longer need to walk to court premises to file their cases but will file them in the comfort of their chambers or places of their choice and convenience. This will not only save time for both the Law Firm and the court, but will also eliminate unnecessary human contact that may result into unprofessional conduct by the involved parties.

Development of software to assist in writing judgments: A type of software is being developed by the Chief Registrar's Research Office to break through the hassle of judgment writing. The programme maintains a template judgment format with fields where evidence is inserted and the system automatically generates related selected authorities via the internet facility to analyze and evaluate such evidence in accordance with the applicable legal principles. A draft judgment is then commanded for minor editing.

Corruption.

It is undeniable that corruption severely undermines the performance of any public institution. The Judiciary is not insulated against this. When it happens in the Judiciary, corruption jeopardizes the rights of all, but especially the vulnerable, to pursue justice in our courts. According to the Doing Business Index and the Rule of Law Index, judicial

corruption is one of the key reasons for escalating the cost of doing business and in our case, the cost of accessing justice in Uganda. Corruption manifests itself in lost judicial time through absenteeism, inordinate delays in conducting trials, extortion, compromising and or loss of judicial records and out right cases of bribery by different actors in the system. The Judiciary condemns corruption in the strongest terms and has therefore taken the following action to eliminate it from its ranks.

- The Judiciary adopted a zero tolerance to corruption policy and has put in place an anti corruption strategy which it is implementing.

We have established an Inspectorate to monitor and evaluate the performance of Judicial Officers and other staff and court facilities. In the performance of the above mandate, the inspectorate performs the following functions:

- Investigates and evaluates complaints from the public.
- Conducts regular court inspections.
- Evaluates the performance of Magistrates and other judicial staff.
- Identifies performance bottlenecks that impede effective delivery of justice.
- Analyzes court returns to determine the efficiency of court operations.
- Produces and disseminates information to the public about the operations of the courts.

The Inspectorate has been strengthened by deployment of more staff and will continue to be strengthened at Regional Offices to carry out timely inspection of the judicial function.

The Judiciary is considering the establishment of an ombudsman to promote good governance and give a voice to the public in the effective management of the Institution.

Insufficient funding for judicial activities:

While we continue to note with appreciation the Government recent positivity towards the improvement in funding the Judiciary, we are duty bound to express our concern

over the fact that whereas the three arms of the State, of which the Judiciary is one and the 3rd, are complementary to one another, the current National resource allocation to it is still far from being satisfactory. While the Executive and Parliament got 95% and 4.4% share of the National Budget in the Financial Year 2013/2014 respectively, the Judiciary got a miserable 0.6% share to cater for all its financial needs in terms of salaries and wages, capital development and re-current expenditure. The funds provided could not meet even a half of the basic needs of the Institution. Important aspect of urgent needs like court sessions; sufficient funding of land justice; and for payment of rent; and utilities, building of new courts and investing in technology and anti-corruption efforts could not be adequately funded because of the limited resources. If we want the Judiciary to perform and deliver, Uganda needs to invest in the Judiciary by giving the institution the tools to do its work. The above pathetic position in the share of the National Budget by the Judiciary must be drastically altered. For a start we would propose at least a modest share of 2% of the national budget in the next financial year.

Those who think that empowering and facilitating the Judiciary of this country is unjustifiably too expensive and unnecessary should carefully consider the cost implications, both in human, financial and physical property terms the injustice, the chaos and the instability that would engulf the country as a result of a brake down of the Rule of Law and a crippled Judiciary.

Judicial Staff Position.

Currently the Judicial Service Commission is conducting interviews and we expect five (5) new Judges at the High Court, three (3) new Justices at the Court of Appeal and four (4) at the Supreme Court. However, much as this will be an improvement on the prevailing situation, there will still not be enough Judges and Justices to handle the ever increasing workload. We will still need more Judicial Officers. The High Court now has 49 Judges, the Court of Appeal 12 Justices and the Supreme Court 8. Current needs stand at 82 Judges at the High Court 32 Justices of Appeal at the Court of Appeal, which also doubles as the Constitutional Court of first instance and 11 Justices of the Supreme Court. This obvious shortage has resulted in a situation where a High Court

Judge has an average of over 500 cases to handle per year, to say nothing about the adverse effects to the effective dispensation of justice at both the Court of Appeal and the Supreme Court. This is indeed a disastrous situation which we urge the powers that be to effectively tackle or else the Judiciary is being asked to do the impossible.

Conclusion : If we are to go by the Doing Business Index and World Rule of Law Index for 2015 and the yearning both within and without the Judiciary for improved service delivery, 2015, must be a year of hard work, determination and one which should see the Judiciary undertake wide ranging reforms to improve the administration of justice. The areas for improvement are well cut out and include adequate funding for the Judiciary, reducing the delay in the disposal of cases, avoiding unnecessary adjournments of cases, demystifying the institution, recruitment of additional judicial staff, better and competitive pay for all judiciary staff, elimination of absenteeism by Judiciary staff from their work stations and offices, strengthening the independence of the Judiciary by mainly passing into law the long awaited Administration of the Judiciary Bill, prioritizing of land and family justice, delivering justice from the perspective of the litigants and strengthening the integrity of the judicial process.

The development of the Judiciary, however, requires the collective effort and supports of all, most especially the public, on whose behalf the Judiciary administers justice, the Executive which is responsible for funding and enforcing judicial decisions and the Legislature which makes the laws and has a duty to ensure that the Judiciary is well funded.

On our part, we are well advised to take cognizance of the words of Peter Drucker, who says that ***“for Government has to regain a modicum of performance capacity. It must abandon things that do not work, things that have never worked or have outlived their usefulness and capacity to contribute. It should concentrate on things that work, things that produce results - paying attention to analyzing half successes and the half failures.”*** Substitute the Judiciary for Government and the analogy is complete.

Basing from the above quotation and taking into account all the prevailing circumstances pertaining to the status and work of the Judiciary in this country, I see the need now, more than ever before, for all concerned to drastically adjust their current perception of the status of the Judiciary and its empowerment and facilitation levels. I see the need for all the judicial officers at all levels of our system to be more pro-active in their work and where necessary, adopt revolutionary methods of work, if the Judiciary is to be able to render to the people of this country and all those that relate to it, the services it is commanded to offer by the Revolutionary Constitution of 1995. It is only then that the year 2015 can be a year of results and satisfactory transformation to the Judiciary to enable it to deliver timely and quality justice to the people, the intended legitimate consumers of its services.

I thank those Judicial Officers and support staff who have, amid severe challenges, kept the Institution of the Uganda Judiciary functional. To all those that need improved performance I say, pull up your socks for come rain or sunshine the Judiciary of Uganda must continue to serve the people of this country and those from beyond who come to seek justice from it, without fear or favour.

Thank you for listening to me and May God bless you all throughout the Judicial Year 2015 – 2016 which I now have the honor, pleasure and privilege to declare open.

STEVEN B.K. KAVUMA

AG. CHIEF JUSTICE