

THE JUDICIARY



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A REPORT OF THE CASE BACKLOG REDUCTION COMMITTEE

29th March, 2017



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Top Management



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Acronyms

ADR	Alternative Dispute Resolution
CADER	Centre for Arbitration and Alternative Dispute Resolution
CCAS	Court Case Administration System
CID	Criminal Investigations Directorate
CPR	Civil Procedure Rules
DCC	District Chain Linked Committee
DPP	Office of the Director of Public Prosecutions
ICT	Information Communication Technology
IGG	Inspectorate of Government
JLOS	Justice Law and Order Sector
NAWOJU	National Association of Women Judges of Uganda
RCC	Regional Chain Linked Committee
SCP	Small Claims Procedure
UJOA	Uganda Judicial Officers Association
UK	United Kingdom



EXECUTIVE SUMMARY

The Judiciary together with other JLOS institutions aware of the challenge of case backlog have implemented a number of interventions. The interventions include the session system, the chain linked initiative, establishment of new service points and specialised divisions of the High Court, the JLOS case backlog reduction strategy, mediation, plea bargaining and small claims procedure among others.

In December 2015, a Court Case Census was carried out which established that 114,809 cases were pending out of which 28,864 cases (i.e. 25% of the pending cases) were backlog. The census revealed that 968 of the cases had been pending for more than ten years.

Following the launch of the Court Case Census report in October 2016, the Hon. the Chief Justice constituted a committee whose mandate was to:

Identify the extent of the case backlog.

- a. Identify and document the causes of the backlog.
 - b. Review current efforts to reduce the case backlog.
 - c. Make recommendations to address the existing backlog and stop the growth of a new backlog.
- The committee through a consultative process has established that there are three main factors that contribute to case backlog. These factors have been categorised into 3 components:
 - a. People;
 - b. Systems, laws and procedure; and
 - c. Infrastructure

Included under people are Judicial Officers, litigants, witnesses and advocates among others. Case backlog is also caused by weaknesses in systems, laws and procedures. This is also compounded by the infrastructure available to the people to process cases.

In order to clear the existing case backlog and stem the growth of new backlog the case backlog committee proposes the following strategy-

1. Delivery of overdue pending judgements

The Chief Justice should direct all Judicial Officers with judgements pending beyond 60 days by 30th March 2017 to deliver those judgements by 30th April 2017. After 30th April 2017 all Judicial Officers with judgements pending beyond 60 days should be given a defined time to concentrate only on writing the pending judgements without taking up new cases.

2. Clearance of existing backlog

All cases that are more than two years should be disposed of within 20 months and Judicial Officers should prioritise disposal of older cases.

The Judiciary shall develop an ageing case list to be updated annually and time limits within which court matters should be disposed developed by the Justice Law and Order sector should be adopted.

3. Case management

Each court level shall develop and implement a case backlog clearance plan within 3 months and the Case Backlog Committee shall continue to monitor and supervise the disposal of case backlog in all Courts.

Each Court level shall develop an annual case disposal plan with clear key performance indicators and targets presented at the Annual Judges Conference.

Cause listing of cases should be undertaken jointly by all stake holders.

4. Strengthen existing initiatives

Roll out and strengthen the use of existing case management systems such as mediation, CCAS, Small Claims Procedure, Plea-Bargaining and Case Backlog Quick Win Sessions and advocate for the re-establishment of Local Council Courts.

The case backlog management committee should be strengthened and empowered to oversee reduction and elimination of backlog, take active supervision and make periodic reports on case backlog.

Establish an early plea bargaining scheme in the criminal justice system. Also expand the Justice Centres Uganda to every High Court circuit for purposes of providing legal aid especially in cases that require state brief at High Court and Chief Magistrates' Court level.

5. Anti-corruption measures

Develop and implement a Judiciary specific anti-corruption strategy.

The Judicial training Institute should conduct training on judicial ethics and anti-corruption

The Inspectorate of Courts should be adequately staffed and resourced.

The Judiciary and the Judicial Service Commission should ensure that proper and timely investigations are carried out on complaints against Judicial Officers in cases of corruption and action is taken expeditiously.



6. Human Resource management

Increase the number of Judicial Officers and administrative staff at all levels of Court and appoint Judges to fill the existing posts.

Judicial officers should be recruited by the Judiciary as fulltime mediators.

Fast track the implementation of the judiciary performance enhancement tool and institutionalise compliance monitoring of key performance indicators and targets for Judicial Officers.

7. Review of procedures and advocacy for reform of laws

The rules committee should review all rules and procedures that cause delays and also make recommendations for legal reform to expedite the processing of cases.

Enforce the application of order 12 of the CPR that grants Judicial Officers robust case management powers.

8. Records management system and use of CCAS

Review business processes in the Judiciary and computerise filling and storage of documents and introduce critical indicators that could be flagged once deadlines have been missed.

Implement and upgrade the Court Case Administration System (CCAS) and Judicial Officers shall have the responsibility to ensure that data is entered on the system on a daily basis.

The registry should be the centre for file storage and management and a file movement register/system should be introduced.

Undertake rehabilitation of all case files and provide sufficient filing cabinet in all Courts.

The strategies above are expected to deal with existing backlog and also prevent the future backlog of cases in the Judiciary. It is therefore strongly recommended that the case backlog committee should have powers to supervise and oversee the elimination of case backlog generally for all courts and make recommendations to the Chief Justice and other unit heads in the Judiciary on how to deal with the problem when it arises.

Chapter One

1.0 INTRODUCTION AND BACKGROUND

Under Article 28(1) of the constitution of Uganda, litigants are entitled to fair and speedy trials. Case backlog therefore has to be dealt with for this purpose. The Judiciary together with other JLOS institutions over the years has implemented a number of interventions to stem case backlog. The interventions include: the handling of cases through the session system; establishing new service points; specialising the High Court; improving coordination, communication, and cooperation amongst the duty bearers in the criminal justice chain; the JLOS Case Backlog Quick Wins Reduction Programme focusing on efforts to remove cases that were more than two years old in the system¹; promoting compulsory court-annexed mediation²; small claims procedure³; and plea bargaining⁴.

Though the interventions had been in place, the amount of case backlog as well as the total number of pending cases in the system was not known with certainty.

Against this background, the Judiciary in December 2015 undertook the first ever National Case Census with the general objective of establishing the number of pending cases before the courts and specifically to:

1. Establish the pattern of distribution of the pending cases according to level of court, circuit, division, and region;
2. Establish the case category and age of the case;
3. Establish the number of pending cases per Judicial Officer; and
4. Ascertain the reasons for disparity in court data inaccuracy.

The Census revealed that the total number of pending cases stood at 114,809. It also revealed that 28,864 cases were backlog out of these 968 cases had been pending for more than ten years.

1 This was a case backlog reduction strategy to change the way case backlog had always been handled to one where human and financial resources would be focused on the result rather than processes.

2 A settlement of a dispute or controversy by setting up an independent person between two contending parties in order to aid them in the settlement of their disagreement.

3 The Small Claims Procedure was established to adjudicate over claims whose subject matter does not exceed ten million shillings such as, matters arising out of supply of goods, debts or rent.

4 Plea bargaining is a process between an accused person and the prosecution in which the accused person agrees to plead guilty in exchange for an agreement by the prosecutor to drop one or more charges, reduce a charge to a less serious offense, or recommend a particular sentence subject to approval by Court



According to the Pacific Judicial Development Programme Reducing Backlog and Delay Toolkit 2014 Courts are expected and obliged to dispose of cases in a reasonable time and to conduct a fair trial in those cases that proceed to hearing. Failure of courts to dispose of cases in a reasonable time can affect the public perception of the courts and cause citizens to lose trust if they see a court is functioning too slowly or unpredictably.

This loss of trust can have significant consequences. It can lead to unrest in the community if disputes remain unresolved because the public may perceive the courts as blocking and impeding justice. In criminal law matters it is important that society sees that perpetrators are sentenced within a reasonable time and that a speedy determination of their innocence or guilt is arrived at. Otherwise, communities may be tempted to take the law into their own hands. Additionally, prompt legal certainty is required for an economy to prosper. Delay in the ability of the court to resolve business disputes can therefore, have a negative impact on the degree to which business people are prepared to invest and carry out business. This is recognized in the World Bank Doing Business rankings, which measure the ease of doing business in regulatory environments globally. Two out of ten indicators in the World Bank Doing Business rankings relate to the time it takes court to resolve contractual disputes and insolvency matter

The findings of the census were launched by The Hon. Chief Justice on the 24th October 2016. Following the launch of the census report the Hon. Chief Justice constituted a Case Backlog Reduction Committee whose terms of reference were to:

1. Identify the extent of the case backlog.
2. Identify and document the causes of the backlog.
3. Review current efforts to reduce the case backlog.
4. Make recommendations to address the existing backlog and stop the growth of a new backlog.

1.1 Team Composition

The members of the Case Backlog Reduction Committee are:

Hon. Justice Richard Buteera	Justice of Court of Appeal and Constitutional Court	Chairperson
Hon. Justice F. Egonda Ntende	Justice of Court of Appeal and Constitutional Court	Vice Chairperson
Hon. Justice Dr. E Kitimbo Kisaakye	Justice of the Supreme Court	Member
Hon. Justice Geoffrey Kiryabwire	Justice of Court of Appeal and Constitutional Court	Member
Hon. Justice Mike Chibita	Director of Public Prosecutions	Member
Hon. Justice Stephen Musota	Head Civil Division of the High Court	Member
Hon. Justice Dr. Henry Peter Adonyo	Executive Director, Judicial Studies Institute	Member
H/w. Paul Gadenya	The Chief Registrar	Member
Mr. Kagole Expedito Kivumbi	The Secretary to the Judiciary Member	Member
Mr. Francis Gimara	The President of Uganda Law Society	Member
Mr. Sam Rogers Wairagala	Deputy Senior Technical Advisor JLOS	Secretary
Mr. Andrew Khaukha	Technical Advisor Judiciary	Resource person

The Committee commenced work in November 2016 and gathered views that have informed the proposals in this report. If implemented, the proposals will further augment the Judiciary transformation plan that aims at having an efficient, effective, and accountable institution capable of delivering timely and expeditious justice to all Ugandans.



The Chief Justice, Hon. Bart M. Katureebe (C), in a group photo with members of the Case Backlog Reduction Committee.



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Case Backlog Reduction Committee - Report

Chapter Two

METHODOLOGY

In undertaking the study, the committee employed a number of approaches that informed the report as seen below.

2.1 Review of literature

The Committee reviewed documents and reports on previous efforts to deal with backlog and studies on case backlog which the Judiciary and the JLOS had undertaken. The documents reviewed included:

- a. The Judiciary National Court Census Report 2015.
- b. The Court of Appeal Case Backlog Report 2015.
- c. The Commercial Court Case Backlog Report.
- d. The Report of the Judiciary Case Backlog Committee.
- e. The Justice Law and Order Sector Annual Performance Reports.
- f. Academic Research papers.
- g. Various Legislation.
- h. The Hon. Chief Justice Five Point Programme.
- i. The JLOS Integrated Study on Case Backlog.
- j. The JLOS Case Backlog Quick Wins Report.
- k. The Reports of the Chain Linked Advisory Board.
- l. The Court Users Committee Reports.
- m. Data on performance from the Chief Registrar's office.
- n. A report of the Judicial Commission of Inquiry, 1992.

2.2 Review of Case Census Report

The Committee reviewed the National Court Case Census Report to clearly map out the extent of case backlog, including the Courts and regions where it exists and other relevant information deemed helpful to the committee. The details are summarised in chapter 3 of this report.

2.3 Stakeholder consultations

The Committee undertook stakeholder consultations to gather views on causes of case backlog and proposals on interventions to address the existing case backlog as well as stop the growth of new backlog. The



committee consulted Judicial Officers at all levels of court and administrative staff in the Judiciary. Also consulted were the Ministry of Justice and Constitutional Affairs, DPP, Uganda Police Force, Uganda Prisons Service, JLOS structures, Uganda Law Society, Law Development Centre, Civil Society Organisations, the Judicial Service Commission, Legal Aid Service Providers, IGG, UJOA, NAWOJU, Bailiffs, and private sector among others.

2.4 Comparative study

During the consultations the Committee also undertook a comparative study from other jurisdictions on the issue of case backlog with the intension of getting best practices to inform the Committee recommendations. Many other jurisdictions have implemented measures that have reduced case backlog and increased efficiency. As observed in a study by the World Bank, ...*“several common themes emerge in most efforts to reform legal systems: efficiency, quality, and fairness. An effective, accessible justice system should provide justice and fairness to litigants with reasonable cost and speed, in a transparent and responsive manner and with as much certainty as possible.”*⁵

Some of the problems faced by other countries and the methods they employ are illustrated below.

2.4.1. Comparisons to other jurisdictions

Kenya

In Kenya a court census was carried out in 2013 and it resulted into the development of a case backlog reduction programme.

The following causes of delay were identified:

- a. Lack of Judicial Officers;
- b. Adjournments caused both by inappropriate listing and by deliberate delaying tactics;
- c. Dormant cases clogging up the figures;
- d. Expert witnesses being slow to provide their reports;
- e. Judicial Officers and staff being transferred without proper planning causes cases to be tried *denovo*;
- f. Insufficient prosecutors;
- g. Meetings, trainings, and workshops being held during the court day and in the middle of trials. This drew judges away from court when they should have been sitting; and
- h. Inadequate storage of files at court.

⁵ *Court Performance Around the World: A Comparative Perspective, Volumes 23-430, Maria Dakolias, accessed at https://books.google.co.ug/books?id=glyx5h6-WV8C&pg=PA46&lpg=PA46&dq=world+economic+forum+legal+system+rankings&source=bl&ots=CVg3B39LvL&sig=IyEprAoxQ5KfQAqDEkhACzpsjss&hl=en&sa=X&redir_esc=y#v=onepage&q=world%20economic%20forum%20legal%20system%20rankings&f=false p.-v-*

Kenya implemented a number of measures that included:

- a. **Setting targets for Magistrates.** A pilot programme at Kisumu gave each magistrate a target of delivering at least two judgements a day. Their performance was reviewed monthly at a luncheon meeting hosted every third Thursday of the month, which provided a platform for the judges and magistrates to discuss the operations of the court station, assess their individual performance, and share best practices. The cost of the luncheon was collectively met by the judges and magistrates from their own resources. It was found that the monthly meetings facilitated speedy resolution of emerging obstacles to service delivery. Following the pilot, it was reported that an increased number of cases were concluded at Kisumu court station.⁶
- b. **The implementation of a Judiciary Performance Management System,** so that the efficiency and workload of each judge/court can be accurately assessed on a rolling basis.
- c. The **establishment of an Office of the Judiciary Ombudsman** and a Court Users' Committee, to allow members of the public and other court users to register complaints.
- d. The use of Alternative Dispute Resolution.

England and Wales

In England the methods adopted included:

- a. Judges must sit a minimum number of "sitting days" (currently 210 per year for most criminal judges). Any training or administration they require must be carried out outside of these sitting days.
- b. Robust case management powers. Judges are granted wide-ranging powers under the Criminal and Civil Procedure Rules to manage their cases. This includes the power to extend or shorten deadlines and dispense with procedural requirements.
- c. Compulsory Pre-Action Protocols in civil matters aimed at identifying and narrowing the issues and encouraging settling where possible.
- d. Extensive use of Alternative Dispute Resolution, including mandatory mediation before many types of civil cases can be listed for trial.
- e. An Early Guilty Plea Scheme, whereby a criminal defendant will automatically receive one-third off his sentence if he pleads guilty at the first reasonable opportunity.
- f. Cost sanctions, including the power to order an advocate or lawyer to pay costs for inappropriate applications or causing delays.
- g. The use of a fully electronic case storage system, whereby all Judicial Officers and advocates work from electronic files on laptops. This eliminates the possibility of files being lost or damaged.
- h. The use of pre-trial timetables that must be adhered to except in exceptional circumstances.
- i. All judges must adhere to the "overriding objective", which is to deal with cases "efficiently and expeditiously."
- j. Robust case management powers ensure that judges can overrule technical arguments (e.g. objections that a party has made an application under the wrong provision) and can arrange cases so that they are heard most efficiently.

⁶ http://www.judiciary.go.ke/portal/assets/filemanager_uploads/reports/National%20Case%20Audit%20Report.pdf p.45



- k. Monitoring of courtrooms and their capacity. Cases from busy courts are transferred to courts that are underusing their courtroom capacity.
- l. A strictly imposed custody time limit. A defendant (accused) may be remanded in custody pending trial for a maximum of six months, unless exceptional circumstances apply and the prosecution has acted with all due expedition. Where the prosecution is not ready to proceed to trial after six months, the defendant will be released regardless of whether that release is desirable. This acts both to guard against the extended detention of a defendant before conviction and is a major incentive to the prosecution to act with expedition.

India

India implemented a number of measures that included:

- a. The introduction of a **“Five-plus-zero”** initiative, under which cases pending for more than five years were prioritised until a zero dependency rate is achieved. It has been reported that backlog cases were reduced by 30% since the introduction of this policy.⁷
- b. The establishment of **fast-track courts** to deal with pressing cases (e.g. rape cases) and with minor cases (e.g. bounced cheque claims).
- c. Doubled the number of judges in subordinate courts.

Singapore

Singapore implemented the following measure:

- a. The setting of **benchmarks and Key Performance Indicators** relating to judges and courts. A requirement that 85% of civil cases must be disposed of within 18 months;
- b. **Monitoring the “clearance rate”** (percentage of cases disposed as against cases filed in a given year). More frequent use of “unless orders” (under which a case will be dismissed unless a party takes a certain step by a given time);
- c. **Automatic discontinuance** where no step has been taken in the case for more than a year. The case can be reissued upon application from the claimant/prosecution, as long as it is not time-barred;
- d. The appointment of **“Judicial Commissioners”** (people drawn from the Bar and academia, appointed to the Bench for a fixed period); and
- e. The allocation of each case to a specific member of the administrative staff, who will handle all matters relating to the cases assigned to them, from the time the cases are commenced to the time the cases are disposed of. Previously, their role was limited to dealing with specific and discrete processes at one particular stage of a case (e.g. issuing court documents or checking draft orders of court). This allows the staff to be familiar with the overall progress and life cycle of the cases assigned to them. They are also involved in tracking timelines, ensuring compliance with court orders and directions, providing case updates, and lending administrative support to move proceedings along.

As a result of these measures, civil cases awaiting trial were reduced from 2,059 to 175 cases within two years. The waiting period for trials was also reduced from five years to six months within two years. The

⁷ <http://timesofindia.indiatimes.com/city/delhi/Case-backlog-shrinks-in-trial-courts/articleshow/21793414.cms>

case backlog, both for civil and criminal cases, was completely eliminated within three years.⁸

The updating of procedural rules, including to allow evidence in certain proceedings to be adduced by affidavit rather than orally, to require written rather than oral submissions in many matters, and to limit skeleton arguments to 20 pages. Implementing an Electronic Filing System, to allow documents to be filed without the attendance of someone at court. This also allows the system to flag when deadlines have been missed.

Malaysia

Malaysia implemented a number of measures that included:

- a. Targets were set for the elimination of older cases with the initial goal being the termination of all cases over a year old by end of 2011 (these were revised up to mid-2012) for High Courts in target districts. To this effect guidelines were issued to all courts.
- b. Introduction of “case management” (pre-trial processing of cases). This was accompanied by the reorganization of High Court judges and staff in the target centres and the designation of “Managing Judges” to oversee the exercise.
- c. Managing judges were selected from among the core reform group, but as they still had to perform their normal duties (on the courts to which they were assigned) they delegated day-to-day oversight to other officials who in turn reported to them.
- d. Registrars were taken out of the courtrooms to which they had been assigned and put them into a Managing Judge Unit (MJU) for each High Court Division where they handled preliminary matters and also closed cases parties were no longer interested in pursuing.
- e. Introduction of a “tracking system” to facilitate the closure of older cases. This involved separation of cases or issues that could be resolved on the basis of affidavits (the A Track) and those that required full trials (the T Track). Judges were assigned to one or the other track and were given weekly quotas of cases by the MJU.
- f. An inventory of cases held in courtroom files throughout the country (not just limited to the targeted courts) and the creation of improved physical filing systems so as not to lose this information or to allow courts to again lose track of their caseloads.
- g. The purging of “closed cases” and the separation of inactive (“hibernating”) cases for rapid closure or further processing (depending on the interest of the parties).
- h. Encouraging mediation of civil cases (so far only partly successful, but it usually takes a while for such practices to gain traction with lawyers and their clients)
- i. The development of an automated queuing system under the IT contract whose purpose is to improve scheduling of hearings and reduce time wasted by lawyers in awaiting hearings that never occur;
- j. Introduction of an e-filing system to save time for lawyers who will no longer have to take documents to courts.
- k. Malaysia has also introduced infrastructure improvements to ensure efficient access to justice in-

⁸ <http://www.aseanlawassociation.org/11GAdocs/workshop2-sg.pdf> p.23



cluding:

- Introduction of Court Recording and Transcription (CRT) equipment for most of the courts in West Malaysia, this is still underway but began as soon as the IT contract was awarded (mid 2009).
- Development of an automated Case Management System (CMS) which automated some manual processes, provided courts and court complexes with Registries of case filings and events, and introduced modules to handle e-filing, programming of hearings, and the like. This was done, along with other ICT elements, under a contract with a single vendor for West Malaysia. East Malaysia which had started earlier with automation, used another vendor to develop a similar software.
- Installation of the CMS (henceforth, CMIS2) in the target judicial centers (partially installed by end January, 2011, with full installation scheduled for end June, 2011).
- Creation of High Court Commercial Divisions to handle more specialized matters (Intellectual Property, Islamic Banking, and Admiralty). The first two had been created prior to the reform, but they, like the new Admiralty Court, were also given targets for speedier processing of cases.
- In target centers, creation of “new” courts (specialized High Court divisions in Civil and Commercial Law, called the NCvC and NCC, respectively) to handle recent cases and their reorganization, eliminating the two tracks (not needed any longer) and the external
- Pre-trial processing of cases as practiced by the MJUs, to the type of software developed by the two firms, and has been adopted by the contractor Formis as the name for its own version. For this reason, the term CMIS (Court Management Information System) will be used below to refer to the *type of system* being developed by the two software firms, Formis and SAINS.
- Managing Judge Unit (JMU), but leaving judges with targets for productivity and delay reduction. Once the backlog is eliminated, all courts will follow the new Organization and procedures.

Canada

Canada adopted the following interventions:

- a. Conduct a “shake out (bring up system)” of cases to ascertain which cases are still active and which are dormant or ended. This involved writing to the parties concerned and their lawyers. Responses revealed that 90% of cases in the backlog were in fact no longer active, either because they had been settled without notifying the court or because the parties had abandoned the litigation.
- b. Put in place a dedicated Backlog Team, i.e. judges and clerks appointed solely to hear backlogged cases. However it was noted that, *“the efforts to eliminate backlog must not be isolated completely from what is being done elsewhere in the system. They must be viewed as a part of the overall strategy for the improvement of the civil justice system and integrated into that strategy. Their costs represent transition financing as part of the global strategy of implementing the new system.”*
- c. Use senior practitioners to conduct pre-trial hearings.

This increased the use of ADR and improved trial scheduling practices including:

- The adoption of consistent and stringent adjournment policies;
- The establishment of optimal trial capacity of the court;
- The separation of long trials from shorter trials by list; and
- The establishment of “disincentives” for the behaviour of counsel which is counterproductive to ensuring firm trial dates.

Hire an additional 8 -10 judges dedicated to hearing backlogged cases.

Appoint law students or associate lawyers to provide case summaries of backlogged cases to assist in identifying the issues and whether those cases would be amenable to settling/ADR etc;

United States of America

The USA developed the following:

- a. Actively monitor the age and status of each case from initiation through disposition by measuring completion of work against appropriate time standards;
- b. Use of electronic filing and electronic case management systems to reduce the risk of paper files being damaged or lost;
- c. Setting firm trial dates and time limits on pre-trial conferences;
- d. Use of speciality courts;
- e. Early intervention of the case process by judicial staff member to ensure cases move according to the set timetables;
- f. Extensive use of ADR, with only 5% of cases proceeding to trial; and
- g. Extensive use of plea bargaining, with only 2-4% of criminal cases proceeding to trial.

Tanzania

In Tanzania the strategies include:

- a. Development of an ICT roadmap for the Judiciary to incorporate more electronic tools;
- b. Development of formal case management systems and improve office processes;
- c. Improving the physical court infrastructure;
- d. Use of televisions to display cause lists; and
- a. Use of court annexed mediation.



The countries and interventions are summarised in the matrix below:

	England	Kenya	Canada	India
Judicial Officer Targets	A minimum number of "sitting days	Setting targets for Magistrates	Conduct a "shake out" of cases to ascertain which cases are still active and which are dormant or ended	The introduction of a "five-plus-zero" initiative
Case Management systems	Robust case management powers	The use of a calendar of meetings and training	A dedicated Backlog Team	Establishment of fast-track courts to deal with pressing cases (e.g. rape cases)
Tracking	The use of pre-trial timetables that must be adhered to		Improve trial scheduling practices including	
Time limits	A strictly-imposed custody time limit			
Court capacity	Monitoring of court-rooms and their capacity		Hire an additional 8-10 judges dedicated to hearing backlogged cases	Doubling the number of judges in subordinate courts
Pretrial procedure	Compulsory Pre-Action Protocols in civil matters			
ADR	Extensive use of Alternative Dispute Resolution	Use of Alternative Dispute Resolution	Increase use of ADR	
Plea bargaining	An Early Guilty Plea Scheme		Use senior practitioners to conduct pre-trial hearings	
Incorporation of advocates	Cost sanctions including the power to order an advocate to pay costs – for inappropriate applications or causing delays.	Establishment of an Office of the Judiciary Ombudsman and a Court Users' Committee	Appoint law students or associate lawyers to provide case summaries of backlogged case	
ICT	A fully electronic case storage system	Introduction of a computerised case management system		

Singapore	Malaysia	USA	Tanzania
Key Performance Indicators relating to judges and courts	Introduction of “case management”	Varies by state and federal courts, some with hard targets and others without	
Allocation of each case to a specific member of the administrative staff who will handle all matters relating to the cases assigned to them	Creation of a Managing Judge Unit	Electronic case management systems and individuals assigned to monitoring case movement	Formal case management system and improved office process
Updating of procedural rules, including allowing evidence in certain proceedings to be adduced by affidavit rather than orally, requiring written rather than oral submissions in many matters, and limiting skeleton arguments to 20 pages	Tracking system to facilitate closure of old cases and dividing cases into affidavit and trial cases	Actively monitor the age and status of each case, from initiation through disposition	
Automatic discontinuance where no step has been taken in the case for more than a year		Firm trial dates and time limits for pretrial conferences	
	Creation of speciality courts	Use of speciality courts	Improving physical court infrastructure with cause lists displayed on televisions
85% of civil cases must be disposed off within 18 months		Early case intervention by Judicial Officer or staff	
ADR and Pre-Action Protocols	Encouraging use of mediation	Extensive use of ADR, with only 5% of cases proceeding to trial	Court annexed mediation
Monitoring the “clearance rate” (percentage of cases disposed off versus cases filed a given year);		Extensive use of plea bargaining with 96-98% of cases resolved through plea bargains	
Frequent use of “unless orders” (under which a case will be dismissed unless a party takes a certain step by a given time).			
Implementing an Electronic Filing System	e-filing system and automated case management system	e-filing and extensive electronic case management systems	Development of ICT roadmap for the Judiciary



There are many similarities in the problems faced by different jurisdictions and the methods implemented to tackle them. Those that appear often are:

- a. A culture of **stretching the timetable**, or putting things off until tomorrow. This culture is characterised by attempts by all parties to avoid holding substantive hearings in court; regular adjournment applications that are easily granted; lawyers being unprepared and failing to adhere to court orders; judges allowing other commitments to interrupt their sitting days; no court user treating the disposal of cases in court as their first priority.
 - b. A culture of form over substance. This culture is characterised by applications being routinely refused or delayed for technical reasons or formalities and judges and lawyers losing sight of the overall aim of the justice system, namely to do justice between the parties.
 - c. Unwieldy procedure, which either does not allow for or provides no incentive for, the diversion of appropriate cases from the justice system and the timely disposal of other cases.
 - d. Poor case storage and retrieval systems, under which paper files are regularly lost or damaged.
 - e. A lack of appropriate resources, including poor court infrastructure and insufficient judges.
- **Case backlog measures common to many of the countries above include:**
 - a. The extensive use of Alternative Dispute Resolution and other diversionary measures.
 - b. The use of law students or junior lawyers to assist in identifying and preparing backlogged cases.
 - c. The establishment of special courts to manage the backlog and the allocation of dedicated staff and Judicial Officers to handle backlog.
 - d. The use of transparent monitoring and benchmarks to ensure that judges and lawyers are dealing with sufficient cases and that their timetables are weighted towards days in court rather than administrative or other matters.

Chapter Three

3.0 THE EXTENT OF CASE BACKLOG IN THE JUDICIARY

In order to determine the extent of case backlog the Judiciary in 2015 carried out the national court case census. Given the passage of time, the results of the census cannot give a true picture of the status of backlog currently, therefore a follow up exercise was undertaken to compare the backlog as at December 2015 and January 2017. The results of the two are presented in 3.1 and 3.2 below.

3.1 National Court Census (December 2015)

According to the National Court Census (December 2015) 114,809 cases were pending disposal in the Judiciary as at 9th December 2015. The census also established that 28,864 cases out the pending cases were more than two years while 22,005 cases were over a year old. Given the Judiciary definition of what constitutes backlog, the committee therefore basing on the census report determined that actual case backlog stood at 28,864 cases while 22,005 cases were potentially backlog if not disposed of within 6months after the census. The committee after analysing the census report determined that 56% of the cases in the system were less than a year old, 19% were under 2 years, and 18.6% were over 2years old but less than 5years old. However 5.64% were over 5 years but less than 10 years while about 1% of the cases were over 10 years. The above is illustrated in the table and graphs below.

Table 1: Actual and potential case backlog in the courts as at 9th December 2015

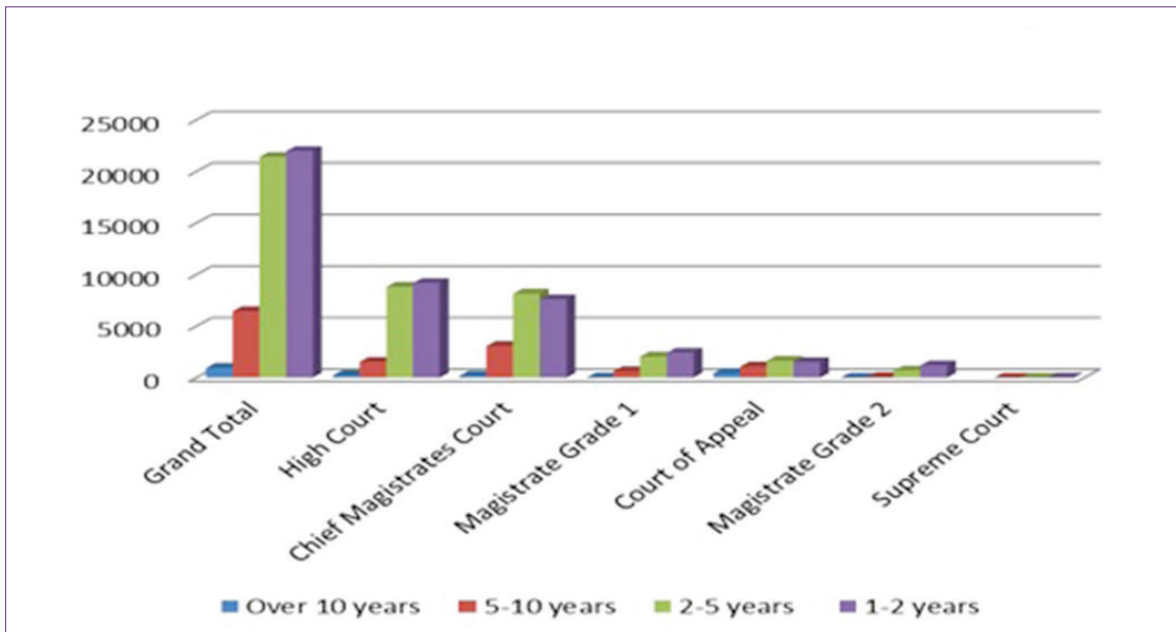
COURT LEVEL	Actual case backlog			Potential case backlog
	Over 10 years	5-10 years	2-5 years	1-2 years
Supreme Court		8	5	21
Court of Appeal	451	1,094	1,656	1,516
High Court	254	1,557	8,821	9,206
Chief Magistrates Court	217	3,086	8,169	7,617
Magistrate Grade 1	33	650	2,064	2,438
Magistrate Grade 2	13	75	711	1,207
Grand Total	968	6,470	21,426	22,005
	0.84%	5.64%	18.66%	19.17%

Source: National Case Census Report 2015



The report further revealed that the majority of the cases that were over 10 years old in the system were in the Court of Appeal and Kampala High Court land division.

Actual and potential cases backlog by level of court



For cases over 5 years but less than 10 years old 47% were in the Chief Magistrates' Courts, 24% in the High Court and 16% in the Court of Appeal. Although statistics show that majority of cases in the Supreme Court were less than two years old, the committee noted the need to recognize that by the time cases reach the Supreme Court, they have been in the system for a very long time.

In terms of numbers the Chief Magistrate's Courts with 11,472 cases had the highest number of backlog cases. However, this number also included Magistrate Grade I Court cases at stations manned by Chief Magistrates. In effect therefore the High Court emerged as the court level with the highest actual case backlog accounting for 37% of the total case backlog.

Age of pending cases

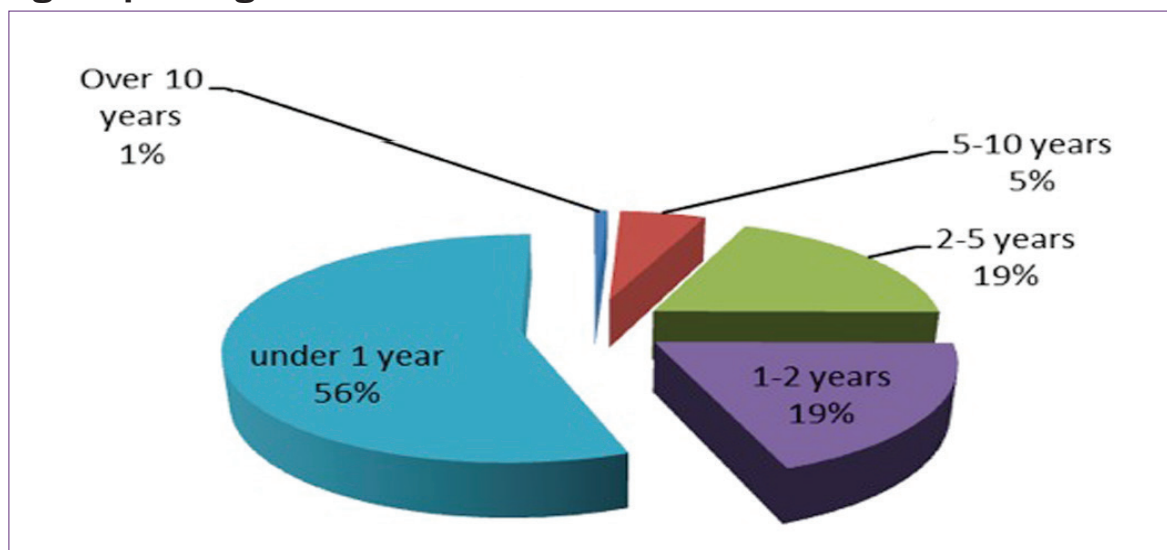


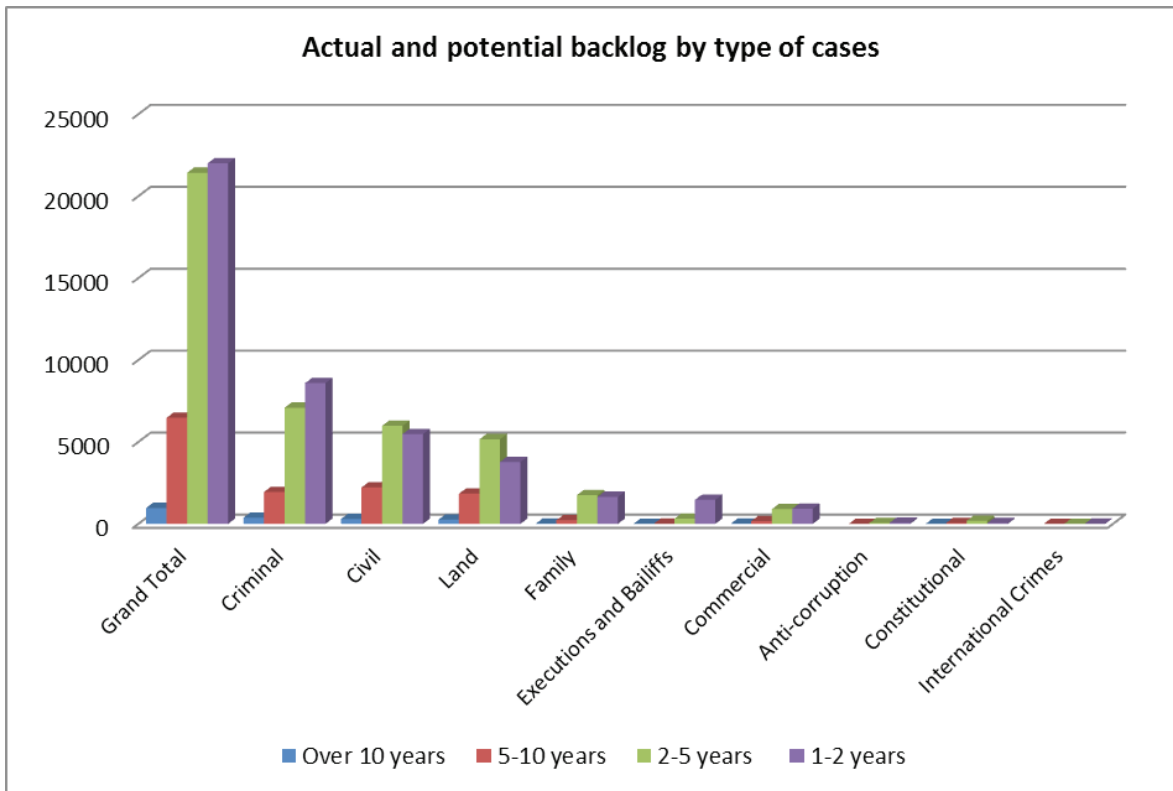
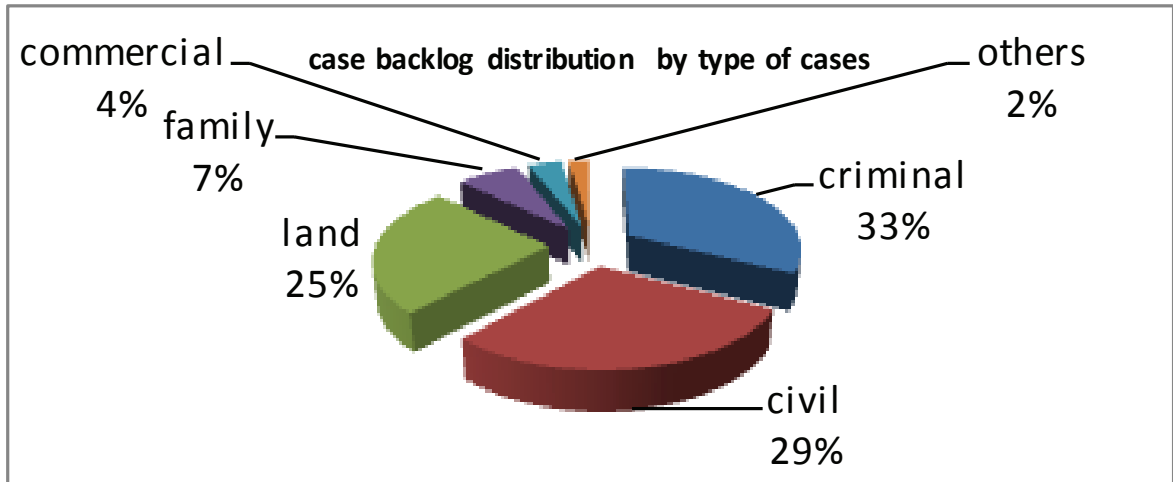
Table 2: Case distribution by category and age 9th December 2015

CASE TYPE	Actual case backlog			Potential case backlog
	Over 10 years	5-10 years	2-5 years	1-2 years
Anti-corruption		2	47	76
Civil	297	2,220	5,977	5,480
Commercial	14	171	897	925
Constitutional	3	58	183	46
Criminal	379	1,946	7,091	8,586
Executions and Bailiffs	2	5	311	1,464
Family	16	223	1,757	1,650
International Crimes		1	1	4
Land	257	1,844	5,162	3,774
Grand Total	968	6,470	21,426	22,005

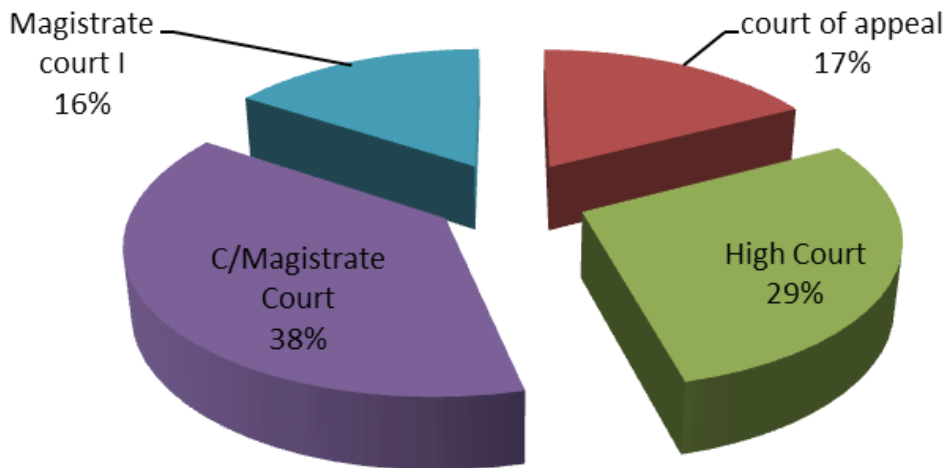
Source: National Case Census Report 2015

In terms of age distribution by case type, Criminal Civil and land cases constitute the majority of cases that are more than 10 years old, while there more civil cases that have been pending for more than five years but less than 10 years followed by criminal and land cases. This is the same trend when cases that have been pending for more than two years and less than five years are considered as shown in table 2 above.

From the census report the committee established that by case type the highest number of backlogged cases were criminal at 32.6% followed by civil cases at 29.3, land cases at 25.2% family cases at 6.9%, commercial cases at 3.7% while anti-corruption cases and war crimes constituted the least backlog.

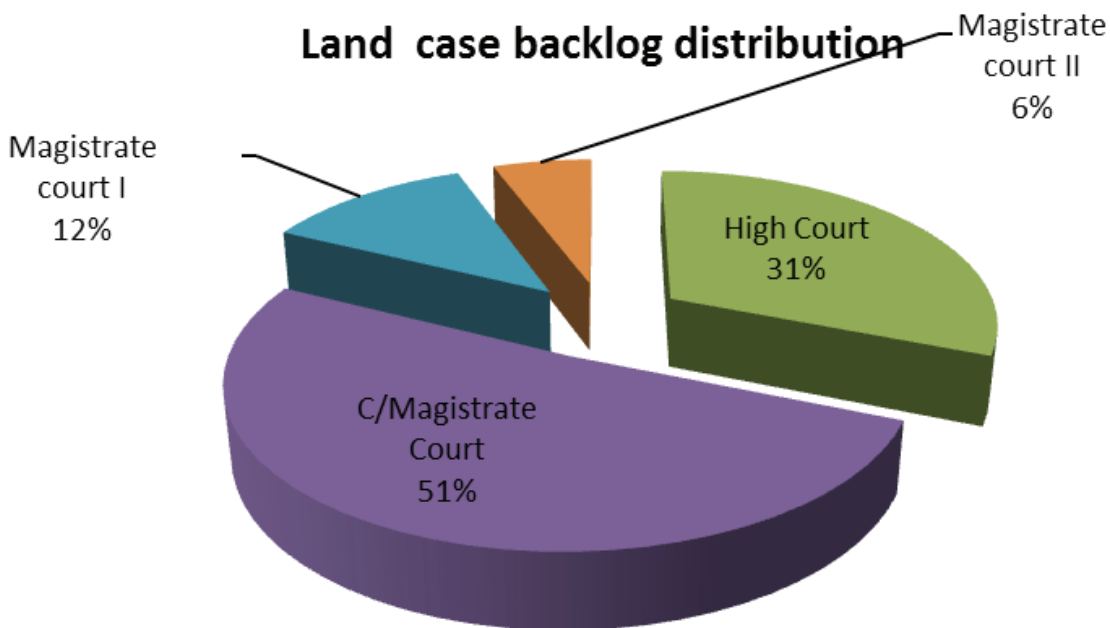


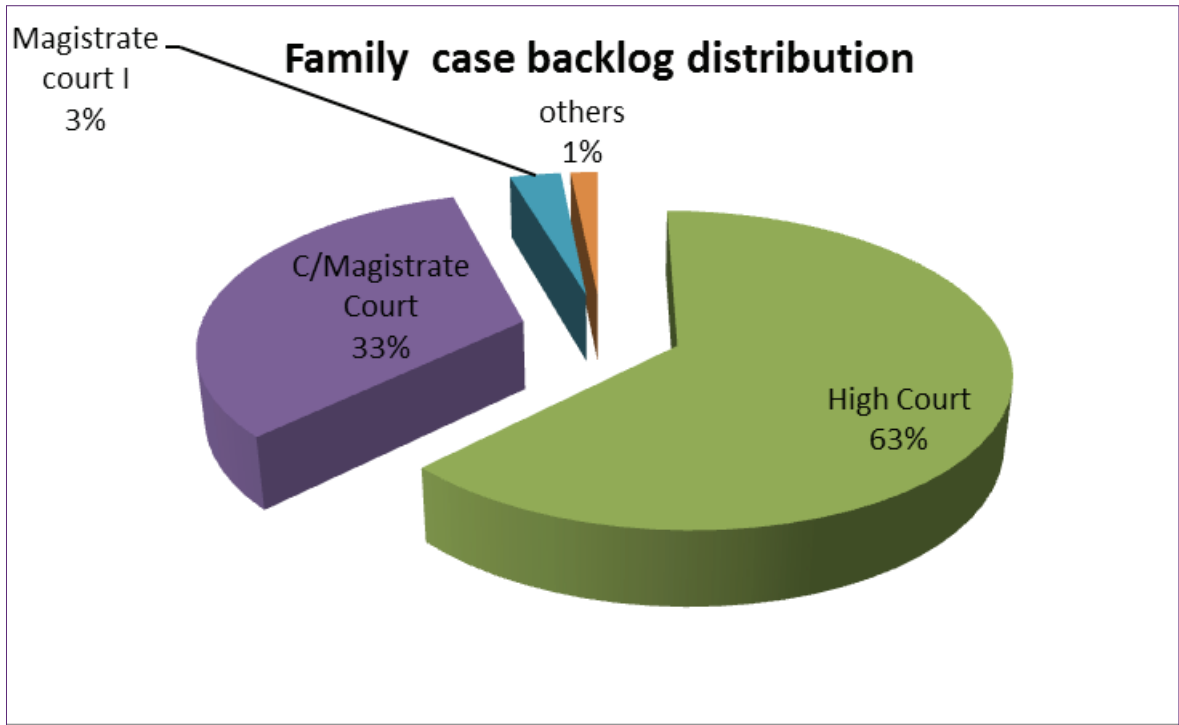
Criminal case backlog distribution



The disaggregation of each case type by Court level was also undertaken and it was established that 47% of the civil case backlog was at the High Court while 37% was at the Chief Magistrate’s Court level. For commercial cases 62% of the backlog was at the High Court. For criminal cases 38% of the backlog was in the Chief Magistrates’ Courts, 28.6% in the High Court, 17.3% in the Court of Appeal while 15.7% was in Magistrate Grade I Courts. Criminal case backlog is negligible in the Supreme Court and Magistrate Grade II Courts.

Land case backlog distribution





The committee also established from the census report that for Family cases 62.7% of the backlog was in the High Court and 32.7% was in the Chief Magistrates Court.

While for land cases 51% of the backlog was in Chief Magistrates' Courts, 30.9% was in the High Court 12% was in the Grade I courts and 5.7% was in the Grade II courts.

Case Backlog Disaggregated By Region

In terms of regional spread the committee established from the report that over 50% of the backlogged cases were in the central region and the least number were in eastern region while the magnitude of backlog were the same in both northern and western regions as shown in table 3 below.

**Table 3: Case Backlog Disaggregated By Region Status by Court Level
9th December 2015**

REGION	An- ti-cor- rup- tion	Civil	Com- mer- cial	Consti- tution- al	Crimi- nal	Execu- tions and Bailliffs	Family	Inter- na- tional Crimes	Land	Grand Total
Central	49	4,425	728	244	3,681	316	1,360	1	3,395	14,199
Eastern		1,434	178		1,616	1	255	1	1,023	4,508
Northern		1,441	106		1,977	1	236		1,395	5,156
Western		1,194	70		2,142		145		1,450	5,001
Grand Total	49	8,494	1,082	244	9,416	318	1,996	2	7,263	28,864

Source: National Case Census Report 2015

According to the census report, it was further established that the Court of appeal followed by Kampala High Court, Nakawa High Court Circuit and then Jinja High Court circuit had the highest number of case backlog. At Chief Magistrates Court level Lira Chief Magistrates Court Masaka, Fortportal and Mbarara had the highest number of backlogged cases. Lira and Entebbe recorded the highest civil case backlog, while Lira and Masaka returned the highest number of backlogged criminal cases as well as family cases. For land cases Gulu, Lira, Fort portal, Kabale, Masaka, Mpigi and Mukono recorded higher numbers of backlog.

Status of Cases

The committee reviewed the report to establish the status of the pending cases by level of court. The status of each of the cases is summarised in table 4 below. 41% of the cases are under hearing 30% were pending hearing, 10% were under mention, 5% were pending action, 2.5% were pending judgement while 1.2% had lost position. The majority of those that lost position were in Lira Chief Magistrate's Court. In the High Court, 55.6% of the cases were pending hearing while 23% were under hearing.

The committee was particularly concerned about the 2854 cases which were pending judgement as well as 1537 cases that were pending ruling.



Table 4: Status of pending cases by Court Level 9th December 2015

Status Of Case	Su-preme Court	Court of Appeal	High Court	Chief Magis-trates Court	Mag-istrate Grade 1	Mag-istrate Grade 2	Grand Total	%
Under hearing		74	8,521	24,652	8,120	6,616	47,983	41.8%
Pending hearing	96	3,012	20,197	8,388	2,271	1,574	35,538	31.0%
Under mention		1	759	6,238	2,814	1,773	11,585	10.1%
Pending Execution			2,901	1,994	1,183	284	6,362	5.5%
Pending action		2,498	1,660	1,229	453	94	5,934	5.2%
Pending judgment		64	948	1,110	430	302	2,854	2.5%
Pending ruling		33	541	646	183	134	1,537	1.3%
Lost position		1	28	1,178	149	25	1,381	1.2%
Not clear		152	236	289	39	50	766	0.7%
Part Heard		1	128	152		6	287	0.2%
Pending Taxation			149	48	4	12	213	0.2%
Under Execution			233	20	3	1	257	0.2%
Pending confirma-tion			1	1	92	6	100	0.1%
Pending order			9				9	0.0%
Pending revision			1	1			2	0.0%
Revision Failed			1				1	0.0%
Grand Total	96	5,836	36,313	45,946	15,741	10,877	114,809	

The committee thus recommends that the Chief justice should demand that all Judicial Officers with cases whose judgement has been pending since December 2015 should submit all their judgements to his office by 30th April 2017 beyond which they should provide an explanation failure do so should attract disciplinary action.

Secondly all judicial with judgement pending beyond the standard should not be allowed to take on new cases until they have cleared all judgements pending.

3.2 Pending Cases in the Judiciary as at 31st January 2017

According to data collected by the Registry of data, the number of cases pending at all levels of Court as at 31st January stood at 155,471. When disaggregated by case type, criminal cases constituted 44% of the pending cases, civil cases 33%, land cases 14%, family cases 3%, and commercial cases 2% as shown in table 5 below. Table 6 summarizes the pending cases by level of Court

Table 5: Total pending cases by case type in the Judiciary 31st January 2017

CASE TYPE	Over 10 years	5-10 years	2-5 years	1-2 years	Under 1 year	Total	
Criminal	411	2,349	9,303	10,981	45,538	68,582	44%
Civil	458	3,607	13,240	14,621	19,216	51,142	33%
Land	361	2,639	3,669	6,416	9,328	22,413	14%
Executions and Bailiffs	23	93	620	1,881	2,951	5,568	4%
Family	45	183	700	1,202	1,963	4,093	3%
Commercial	32	105	590	792	1,865	3,384	2%
Anti-corruption	0	2	50	80	139	270	0.17%
International Crimes	0	1	1	5	11	19	0.01%
Grand Total	1,330	8,979	28,173	35,978	81,011	155,471	

Source: Registry of Data

Table 6: Total pending cases by level of Court 31st January 2017

COURT LEVEL	Over 10 years	5-10 years	2-5 years	1-2 years	0-1 year	Total	%
Chief Magistrates Court	448	4,433	10,941	12,854	30,603	59,279	38.1%
High Court	549	2,410	11,232	15,080	24,129	53,400	34.3%
Magistrate Grade 1	76	992	2,814	4,085	24,551	32,518	20.9%
Court of Appeal	220	968	1,521	1,824	1,878	6,411	4.1%
Magistrate Grade 2	38	160	992	2,089	465	3,744	2.4%
Supreme Court	2	8	72	19	18	119	0.1%
Total	1,331	8,979	27,517	35,976	81,668	155,471	

Source: Registry of data



Table 7: Cases pending at the High Court Divisions as at 31st January 2017

Case Type	Over 10 years	5-10 years	2-5 years	1-2 years	Under 1 year	Total
Anti-corruption	0	2	50	80	139	270
Civil	30	239	876	968	1272	3,385
Commercial	26	84	472	634	1492	2,707
Criminal	4	23	92	108	448	675
Executions & Bailiffs	23	93	620	1,881	2,951	5568
Family	47	190	726	1247	2036	4,245
International Crimes	0	1	1	5	11	19
Land	132	962	1337	2338	3400	8,169
Grand Total	261	1594	4174	7260	11749	25038

Table 8: Cases pending at the High Court Circuits as at 31st January 2017

	Over 10 years	5-10 years	2-5 years	1-2 years	Under 1 year	Total
Mubende - HCT	5	29	77	134	217	462
Fort Portal - HCT	11	64	169	293	475	1,012
Gulu - HCT	32	194	509	886	1434	3,055
Jinja - HCT	48	295	772	1343	2173	4,630
Mbale - HCT	40	244	640	1113	1801	3,839
Mbarara - HCT	27	164	430	748	1211	2,580
Masaka - HCT	14	87	228	397	643	1,370
Arua - HCT	13	81	212	368	595	1269
Soroti - HCT	9	57	149	260	420	896
Lira - HCT	19	118	308	536	868	1,849
Kabale - HCT	15	91	239	415	671	1,431
Masindi - HCT	18	112	295	512	829	1,767
Mukono High Court	34	208	544	946	1531	3,262
Mpigi High Court	6	37	97	168	272	580
Grand Total	292	1783	4668	8119	13,140	28,002

Source: Registry of data

Case Backlog in the Courts as at 31st January 2017

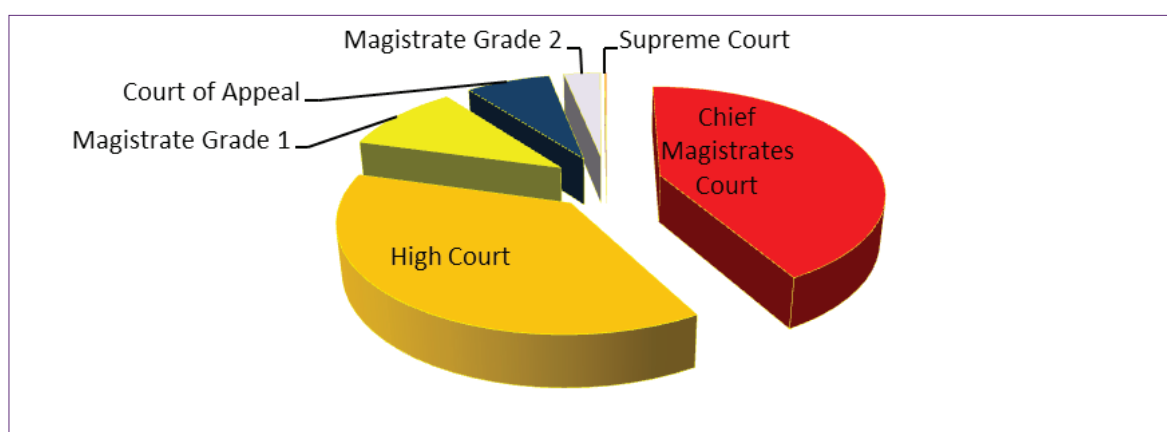
According to the Judiciary case backlog refers to cases that have been in the system for over 2 years. As at 31st January 2017, case backlog in the Judiciary stood at 37,827 cases compared to the 28,864 cases which were backlog as per the 2015 National Court Case Census. In percentage terms backlog cases as a proportion of total pending cases reduced from 25% in 2015 to 24% in January 2017. However the number of cases that are backlog increased by about 8900 cases by January 2017. The table 9 below provides a breakdown of the case backlog by level of Court and is also illustrated in the graphs below-

Table 9: Case Backlog in the Courts as at 31st January 2017

COURT LEVEL	Over 10 years	5-10 years	2-5 years	Total	% Age
Chief Magistrates Court	448	4433	10941	15822	41.8%
High Court	549	2410	11232	14191	37.5%
Magistrate Grade 1	76	992	2814	3882	10.3%
Court of Appeal	220	968	1521	2709	7.2%
Magistrate Grade 2	38	160	992	1190	3.1%
Supreme Court	2	08	72	82	0.1%
Grand Total	1331	8979	27517	37827	100.0%

Source: Registry of Data

Distribution of case backlog by level of court as at 31st January 2017



The highest backlog was in the Chief Magistrates Court accounting for 41% of the case backlog, 37% in the High Court, 10.3% in the Magistrates Court Grade I and 7% in the Court of Appeal as shown in table 6 above and illustrated in the graph and pie chart. An analysis of the backlog by level of Court is presented below for the Supreme Court, Court of Appeal and High Court, while Annex 1 presents the breakdown of backlog in the Magistrates Courts.

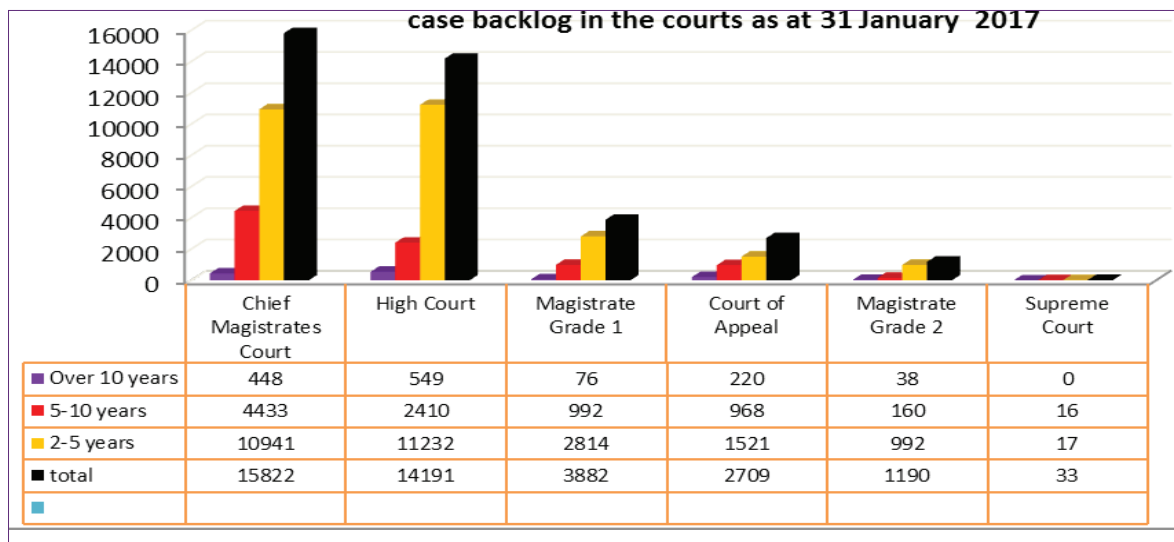


Table 10: Case backlog at the Supreme Court January 31st 2017

	Age	Constitutional cases		Criminal cases		Civil cases		Total
		Appeals	Applica-tions	Appeals	Applica-tions	Appeals	Applica-tions	
Backlog1	Over 10 years	0	0	1	0	1	0	2
	5-10 years	4	0	3	0	1	0	8
	2-5years	2	2	36	0	24	8	72
	Total	2	2	39	0	46	8	82

Source: Supreme Court

At the Supreme Court, 82 of the 119 cases pending are backlog.



Constitutional Court Case Backlog

Table 11: Constitutional Court Case Backlog January 2017

Constitutional matters		
Years pending	Constitutional Petition Cases	Constitutional Cases Applications
Over 10 years	9	3
5-10 years	43	36
2-5 years	65	57
Totals	117	96

Source: Registry of data

In the Constitutional Court out of the 359 cases pending by January 2017, 213 cases were backlog representing 59%. Applications constituted 45% of the case backlog in the Constitutional Court.

Court of Appeal Case Backlog

Table12: Court of Appeal Case Backlog January 2017

Age of the Case	Civil Matters		Criminal		Election		Grand Total
	Applica-tions	Appeal	Applica-tions	Appeal	Applica-tions	Appeal	
Over 10 years	20	22	2	100	23	21	188
5-10 years	67	108	5	471	34	11	696
2-5 years	145	130	10	737	54	21	1,097
Total	232	260	17	1308	111	53	1,981

Source: Registry of data

In the Court of Appeal case backlog was 1981 cases including 232 civil applications, 260 civil appeals, 1308 criminal appeals, 17 criminal applications, 111 electoral applications and 53 election appeals. Most of the backlog is applications and majority are between two and five years. As at March 16, 2017, there were 97 cases pending judgements before the court for more than 60 days. (16 Criminal appeals, 48 Civil appeals, 26 Election Petition Appeals, and 7 Constitutional Petitions).

High Court Case Backlog 31st January 2017

At The High Court, The Case Backlog in Divisions was 6029 Cases, with the highest number of backlog cases in the Land division, followed by Civil division, Family division, Executions, and Commercial divisions. Criminal division had 119 cases, while Anti-corruption had 52 cases. In Land division 132 cases are over two years old, while 47 cases and 30 cases are over 10 years old in Family and Civil Division respectively. Also 26 cases are 10years old in the Commercial Division.

Table 13: Case Backlog at High Court Divisions as at 31st January, 2017

CASE TYPE	Over 10 years	5-10 years	2-5 years	Total	No of Judges
Land	132	962	1337	2431	4
Civil	30	239	876	1145	4
Family	47	190	726	963	3
Executions & Bailiffs	23	93	620	736	2
Commercial	26	84	472	582	4
Criminal	4	23	92	119	4
Anti-corruption	0	2	50	52	2
International Crimes	0	1	1	2	2
Grand Total	261	1594	4174	6029	

Source: Registry of data

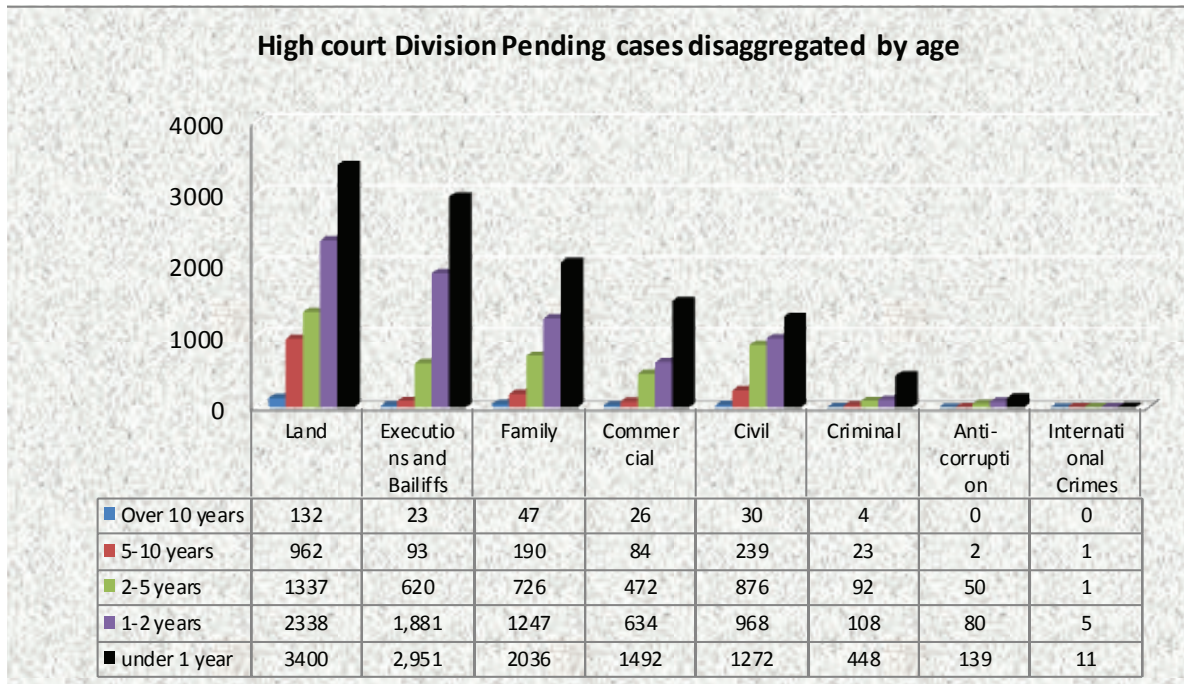


Table 14: Case backlog in the High Court circuits 31st January 2017

	Over 10 years	5-10 years	2-5 years	Total	No of Judges
Mubende - HCT	5	29	77	111	1
Fort Portal - HCT	11	64	169	244	1
Gulu - HCT	32	194	509	735	1
Jinja - HCT	48	295	772	1,115	2
Mbale - HCT	40	244	640	924	2
Mbarara - HCT	27	164	430	621	2
Masaka - HCT	14	87	228	329	2
Arua - HCT	13	81	212	306	1
Soroti - HCT	9	57	149	215	1
Lira - HCT	19	118	308	445	1
Kabale - HCT	15	91	239	345	1
Masindi - HCT	18	112	295	425	1
Mukono High Court	34	208	544	786	1
Mpigi High Court	6	37	97	140	1
Grand Total	292	1,783	4,668	6,741	

Source: Registry of data

Cases pending in the Judiciary by station by case type as at 31st January 2017

Table 15: Pending Cases in High Court Circuits as at 31st January 2017

Circuit	Over 10 years	5-10 years	2-5 years	1-2 years	Under 1 year	Grand Total
Mubende - HCT						
Civil		2	22	24	57	105
Criminal		3	10	12	157	183
Land	2	0	26	59	88	174
Total	2	5	58	95	302	462
Fort Portal - HCT						
Civil	9	35	49	41	124	258
Criminal	1	10	137	186	266	600
Family		0	1	0	3	4
Land		3	60	36	50	149
Total	10	48	247	263	443	1,011
Gulu - HCT						
Civil	16	52	190	220	506	985
Commercial	0	0	16	11	14	41
Criminal	0	3	212	582	781	1578
Family	0	11	16	38	49	114
Land	3	52	82	49	152	337
Total	19	118	516	900	1502	3055
Jinja - HCT						
Civil	27	210	538	502	694	1970
Commercial	0	5	5	2		11
Criminal	0	13	611	340	520	1484
Family	0	8	139	118	252	517
Land	9	49	72	110	408	647
Total	36	285	1365	1072	1180	4629
Mbarara - HCT						
Civil	30	92	313	228	358	1020
Commercial	0	0	7	2	1	10
Criminal	1	14	594	354	369	1332
Family	0	5	12	51	101	169
Land	1	10	15	10	14	49
Total	32	121	941	645	843	2580
Masaka - HCT						
Civil	7	75	198	122	236	638
Commercial	0	1	1	1	4	7
Criminal	1	0	118	175	177	470
Family	0	6	43	19	67	135
Land	1	16	25	35	44	120
Total	9	98	385	352	528	1370
Arua - HCT						
Civil	8	57	164	94	167	489
Commercial				3	2	5
Criminal		6	187	170	276	640



THE JUDICIARY

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Family		5	20	14	32	71
Land		15	14	14	21	64
Total	8	26	221	295	498	1269
Soroti - HCT						
Civil	5	40	116	66	118	346
Commercial		0	0	2	1	3
Criminal		4	132	120	195	452
Family		3	14	10	23	50
Land		11	10	10	15	46
Total	5	58	272	208	352	897
Lira - HCT						
Civil		51	285	112	252	700
Criminal	3	3	61	252	433	751
Family		0	3	18	33	53
Land		5	107	97	135	344
Total	3	59	456	479	853	1848
Kabale - HCT						
Civil	2	28	215	159	301	705
Criminal	2	0	109	251	283	645
Family		0	10	26	40	76
Land		2	2		2	6
Total	4	30	336	436	626	1432
Masindi - HCT						
Civil	1	15	110	97	80	303
Commercial		0	2	12	9	24
Criminal		0	247	213	233	693
Family		11	19	11	26	67
Land	5	52	193	207	223	680
Total	5	78	571	540	571	1767
Mukono High Court						
Civil	20	146	422	241	430	1258
Commercial				8	4	12
Criminal		16	481	438	710	1645
Family		12	51	35	83	181
Land		39	35	35	55	166
Total	20	67	567	757	1282	3262
Mpigi High Court						
Civil	4	26	75	43	76	224
Commercial				1	1	2
Criminal		3	86	78	126	292
Family		2	9	6	15	32
Land		7	6	6	10	29
Total	4	12	101	134	228	579
Mbale-HCT						
Civil	62	161	498	578	733	2,032
Commercial	0	0	24	19	22	65
Criminal	0	24	342	251	621	1,239
Family	2	13	109	64	167	354
Land	6	4	49	41	51	150
Total	70	202	1022	953	1594	3,840

Source: Registry of data

Chapter Four

4.0 PREVIOUS CASE BACKLOG REDUCTION INTERVENTIONS IN UGANDA

For a long time, case backlog has stood out as the elephant in the room in the Judiciary. Many who had attempted to confront it had ended up with mixed results; not the least, in establishing whether they had dealt with the tail, trunk, or chest of the elephant. It was against this background that the Justice Law and Order Sector (JLOS) came up with the case backlog reduction strategy to change the way case backlog had always been handled to one where resources – human and financial would be focused on the result rather than processes. The strategy also emphasized taking deliberate steps to stop the growth of new case backlog. These initiatives were:

4.1 Chain Linked Initiative

In the late 1990s the players in the criminal justice faced with various challenges including delayed trials, poor coordination, missing files to mention but a few came together to identify such problems and also work out common solutions to the problems. This arrangement started in Masaka was baptised the chain linked initiative. The initiative strengthened coordination cooperation and communication among the duty bearers in the chain of criminal justice. As a result of the success of the pilot, the initiative was rolled over to various magisterial areas across the country. The initiative demonstrated the advantage of players working together and gave birth to the Justice Law and order sector (JLOS) in 2001. The sector has created national and subnational structures including the District Chain linked Committees as well as regional chain linked committees and the chain linked advisory board. Whose roles are to oversee and coordinate improvements in the administration of justice and maintenance of law and order; enhance case management and reducing case backlog; be the focal point for JLOS Circuit and district activities; iron out misunderstandings between stakeholders and enhance the 3Cs, strive to remove impediments in the chain of justice; and ensure that all institutions respect, observe and promote the bill of rights in the Constitution with regard to timely delivery of justice, fair trial rights, rights of suspects and persons in detection.

The challenge in the performance of these structures has been failure to hold regular meetings and implementation of the recommendations from the meeting. Money has become toxic and now undermines the success of most initiatives the chain linked initiative inclusive. Sometimes extra resources have become the problem rather than the solution. There is therefore need to harness the original ideals at operational level and promote coordination. Stakeholders should ensure accountability, proper reporting and ownership.



4.2 Case backlog programme

Under the criminal justice reform programme a case backlog component was funded and focused on stabilising and building the capacity of key players in the chain of criminal justice, through the provision of equipment, training, transport facilities among others. There was however no focus on the cases disposal. The programme also left out institutions involved in management of civil cases, besides no effort was made to understudy the magnitude of the problem of case backlog. Against this background the sector in 2006 undertook a specific study to document case backlog and develop a case back log programme. Under the program a quick win programme was adopted among other recommendations and was implemented. The programme removed cases that were more than two years old from the system in the High Court and Magistrates Courts in Western and parts of Central and Eastern Uganda; also tackled were civil cases which are more than two years old in all the Division of the High Court. Weeding out of unmeritorious cases from all Courts, Directorate of Public Prosecutions and the Criminal Investigation Department of the Uganda Police Force in the country was also undertaken.

The programme was extended to cover the Law Council, Administrator Generals Department, Uganda Human Rights Commission, and the Judicial Service Commission, to adjudicate and remove from the system old disputes and acceleration of granting letters of no objection and winding up of estates for deceased persons in the case of the Administrator General's department. In the Uganda, Human Rights Commission, the programme empowered the Commission to resolve old cases and complete investigations of cases and complaint within the system.

The programme was largely successful and there was near elimination of case backlog in the High Court and total elimination of criminal case backlog in the magistrates courts. The JLOS case backlog programme succeeded in reducing case backlog through the adjudication, quality assurance, and weeding out of cases.

To sustain the momentum it was proposed that the following be undertaken -

- a. Increase the power of Registrars to adjudicate all applications preliminary to the trial.
- b. Speed up the resolution of civil cases through alternative dispute resolution.
- c. Strengthen inspectorate divisions and inspections units within institutions to support timely adjudication of disputes.
- d. Strengthen the District Chain-linked Committees in removing impediments in the chain of justice.

It is however regrettable that not much progress has been made in implementing the above recommendations.

4.3 Creation of High Court Circuits, Divisions and Magisterial Areas

Judicial access points have been increased to deepen access to justice and improve the administration of justice in Uganda. Under The Judicature (Designation of High Court Circuits) High Court circuits increased to 12 and recently an additional 8 were also created with the aim of taking services closer to the people and

also deal with the challenge of delays in the disposal of cases. The new circuits are: Mukono, Mpigi, Luwero, Moroto, Tororo, Hoima, Rukungiri, and Mubende. The Mubende, Mpigi, and Mukono High Court Circuits are now fully operational.

Also in the number of Magisterial Areas where increased from 38 to 81 but many of the access points are yet to be operationalized. In addition, the process of transferring files from one circuit to another has also contributed to loss and misplacement of files, thus causing delays in the handling of cases. This was evident in the formerly Central circuit that covered Mpigi, Nakawa, Mubende, Entebbe and Kiboga that was dissolved to create Mpigi High Court Circuit and Mubende, with all the criminal, Land, Family and Civil matters that were previously in the central circuit save for those in Mpigi and Mubende being referred to the respective divisions of the High Court⁹. This has contributed to increase on backlog in these divisions.

Creation of Divisions: Under the Judicature Rules the Hon the Chief Justice created Eight Divisions of the High Court i.e. the Commercial Division establishing the commercial court to hear commercial matters, Criminal Division to handle criminal matters, Civil to handle Civil matters, Land to handle land matters, Anti-corruption Division to handle corruption related matters and the international crimes division to handle international war crimes. These divisions enhance specialisation and division of labour though the challenge is that they are Kampala based with few judges. In addition to these divisions, the Executions division was created with the view to centralise executions in the whole country to deal with the abuses arising from warrants of execution at the time executions were decentralised.

4.4 The session system

The session system is as old as the High Court in Uganda. With limited number of Judges, the session system was seen as the only way in which criminal and civil cases could be handled. Later when resident judges were posted they handled civil cases on a day to day basis except for criminal cases. In the session preliminary work is done by the magistrates' court for the High Court. Pre-session meetings are expected to be held with key players before the judge is sent to handle the session. This ensured that all duty bearers were sure that cases were ready before the judge came for the session. Sessions were scientifically budgeted for depending on the number and nature of cases. The system worked well with a very high success rate. However the sessions today are not producing the same results due to various challenges including;

- a. Poor management of cases
- b. Poor planning and execution of sessions leading to part heard cases and many cases are just dismissed.
- c. Poor pre-session preparation
- d. Un-predictability of the sessions (they are not regular; are hardly planned)
- e. Poor supervision and lack of accountability by duty bearers
- f. Session shopping, because they are viewed as an avenue for additional income

⁹ Administrative circular on operation and reorganisation of the newly designated circuits of the High Court dated 13th July 2016



4.5 The Court Case Administration system (CCAS)

This is an online system designed to enable Judicial Officers, process and manage cases in their courts. It was designed to provide real time information on the status of each cases, the workload available and also track judicial performance. It was expected that at any given time the managers in the judiciary would be able to get information on the status of case backlog so that corrective action would be undertaken.

The system however has not performed to its billed expectation, because it works along the manual registers, and is hardly updated. It only covers 13% of the courts and lacks adequate staffing. Judicial Officers rely on clerks to enter data into the system some of whom are not even official staff of the judiciary. Many of such clerks are temporal staff and their employment is not streamlined. Despite the several revisions the system remains unreliable and is hardly used by courts. It does not capture what is regularly needed by Judicial Officers and is not real time focused.

The Judiciary must be fully committed to computerising its case data and processing with all courts finally turning to an electronic register in a definite period. CCAS must be firmly established as the lynch pin of case data, processing and administration system. The Judiciary has not devoted enough resources and commitment to see that it is firmly established. The case census was because we ignored CCAS. Had CCAS not been ignored the story would be different. All courts must be connected to CCAS within the next 2 years, without fail.

4.6 Mediation

In 2003, the Commercial court launched a two-year Pilot Project to introduce compulsory court-annexed mediation at the Commercial Court. This was done by the enactment of *The Commercial Court Division (Mediation Pilot Project) Rules 2003, S.I. No. 71 of 2003*. The effect of the Pilot Rules were to make mediation an integral part of the Commercial Court case administration system. After the pilot period, new Rules were promulgated, *The Judicature (Commercial Court Division) (Mediation) Rules 2007, S.I. No. 55 of 2007*. The objective of introducing these Rules was to assist in the efficient and effective dispute resolution and disposal of cases at the Commercial Court. Under these rules mediation become a permanent feature of the Commercial Court processes and the Court became a multi-door courthouse where mediation was to be attempted by the parties before a case could be fixed for hearing.

There were some challenges experienced during the pilot stage of rolling out mediation and these included:

- a. The Court Accredited mediators used by CADER were very young persons whose prior experience in mediation was lacking and were shunned by parties and advocates; thus need for standards to be set for mediators
- b. There were no trained mediators in Uganda who could be asked to assist.
- c. The Advocates had negative attitudes to mediation (i.e. late coming, non-attendance, appearing without clients etc.)

- d. Parties regularly avoided mediation
- e. There was no tracking mechanism for mediated cases in the court (Court Case Administration System (CASS) did not recognize mediation as a case category)
- f. Although there was a monitoring and evaluation Committee, its powers were limited to the Commercial Court and did not sit regularly.
- g. Lack of clear and transparent complaints procedure
- h. Lack of knowledge of mediation by Judicial Officers, advocates and clients thus need for training and sensitization.

In 2010, it was evident that the Commercial Court had achieved its objectives and, in the process, had developed some of the best practices of court-annexed mediation on the African continent. These processes have been the envy of many courts in the East African Region and beyond including Tanzania, Rwanda, Malawi, Zambia, Nigeria, Lesotho, Ghana, Kenya, South Africa etc. By 31st December 2012, the successful completion rate of all cases referred to court stood at 26%.

Riding on the back of these successes, the Judiciary decided that time was ripe enough for the rolling out of the best practice of mediation to all courts. After two years of rigorous work, the draft Rules were submitted to the Rules Committee chaired by the Hon. Chief Justice and the draft Rules have now been passed into law and are cited as the Judicature Mediation Rules 2013. Through these rules mediation is now mandatory in all civil cases.

Mediation has been rolled out to all the Courts through countrywide sensitization and posting of mediators at the Courts. The success rate for cases that go to ADR is 55% and the Court of Appeals has successfully resolved 100 Appeals through appellate mediation. The challenges now are providing adequate mediators, facilities, and continuous capacity building programmes for court-annexed mediation.

Challenges

Notwithstanding the achievements, a monitoring and evaluation exercise conducted by the mediation Committee in 2016 identified a number of challenges, including:

- a. Land matters often require locus, yet the mediators lack funding to travel to the villages to meet with the communities.
- b. High failure rates caused by negative perceptions of mediation from the public and lawyers.
- c. A lack of skilled staff to manage the registries in some Courts.
- d. Some Advocates do not file mediation summaries and cause delays during mediation.
- e. Some Courts are faced with language barriers and funds to pay for interpreters.
- f. Some stations had not seen or heard about the Judicature (Mediation) Rules 2013.
- g. Some wrong procedures were being used in Registries and mediation files were being mixed with Court files.
- h. There was limited space to conduct mediations, especially at Courts upcountry.



- i. There are negative perspectives by Advocates and the public towards mediation. Many Advocates prefer litigation because they feel that they will not earn enough money through mediation.

4.7 The Small Claims Procedure

The law governing the Small Claims Procedure (SCP) flows from the Constitution of the Republic of Uganda, The Judicature Act, and The Judicature (Small Claims Procedure) Rules No.25 of 2011. The Rules were created by the Rules Committee on the 5th May 2011 in exercise of the powers conferred upon it under S. 41 of the Judicature Act. The Rules came into force on 30th May 2011. Implementation of Small claims Procedure commenced in 2012 with 6 pilot Courts and has been rolled-out to an additional 20 Courts as of December 2015.

The Small Claims Procedure experienced a steady growth in case registration resulting into a total of 1,786 cases filed. While a total of 1,600 cases were disposed of in 2016. Consequently, the total value of claims concluded by the Courts for the period of January to August 2016 was UGX. 5,239,363,000/= which translates into a monthly average of UGX 654,920,412/= reabsorbed into the economy.

Preliminary findings from the baseline study on the SCP monitoring and evaluation framework revealed that:

- a. A majority of respondents were satisfied with the services provided by the SCP. 37.0% rated their satisfaction as very good, 27.1% as good, and 16.9% as excellent. 11.3% rated it as fair and 7.8% as poor.
- b. During the Financial Year 2015/16, Small Claims Procedure had 62% of claims finalized within 30 days of filing.
- c. The SCP has reduced the filing of Civil Suits under 10 million in the Ordinary Court by 58%.
- d. About half of cases (47.6%) were lodged by Plaintiffs within a short radius of Court, less than 5Km, while the farthest distance reported was about 30Km away. This suggests that distance from Court could be an impediment to use of the SCP services. Some potential users of the SCP who live further away may not even be aware that the SCP services exist.
- e. Most of the Litigants interviewed (98.1%), including those with minimal education, reported that they were able to obtain necessary and accurate information on the SCP from Court Registries and received practical assistance on procedure for initiating it from Court officials.

Challenges

- a. Service of process: There is an apparent problem with service of process by a party in person. Yet it is also clear that the facilitation of the Court process servers by the parties will make the Procedure expensive and unaffordable to some of the parties. Service to parties who cannot easily be traced is also a problem.

- b. Court fees: The Rules are silent about Court fees which means the usual Court fees structure shall apply, this will likely make the procedure expensive to the indigent.
- c. Manipulation of the Rules: There is a possibility that the parties or their advisors may manipulate the process so that their cases can fit into the SCP when actually they are not meant to go there. That is likely to cause backlog.
- d. Re-opening of cases by way of review: The Rules, in Rule 30, give a party up to a maximum period of one year within which he/she is at liberty to seek review of the Court Judgment in instances set out therein. This is likely to be used by parties to derail the SCP.
- e. Execution process: No doubt, this is a likely minefield of problems to the SCP. Our people do not have a culture of willingly paying their debts even when ordered. Yet it is clear that the application of the CPR in this regard is also likely to bring a sour test to the SCP.
- f. Gazetting: The Chief Justice may by notice published in the gazette designate a Court where the Rules shall apply and under Rule 7, the Chief Justice may assign a Judicial Officer to preside over a case in a Small Claims Procedure and carry out any other duties incidental thereto. The Challenge is that the designation by the Chief Justice limits application of the procedure to a court building not a magisterial area.

4.8 Plea Bargaining

The Judiciary commenced a pilot initiative on plea bargaining in May 2014 and since then has disposed of 6000 cases from the High Court Circuits. This was against the background that remands in prisons outweigh convicts serving sentences. The average cost of feeding a prisoner per day is about Shs. 3700, which in a year it translates to about Shs. 1,350,500. When there are more than 40,000 people in the detention centres, it accounts for more than Shs.54 billion per year.

Because the Judges expected to dispose of these criminal cases are the same Judges expected to dispose of civil cases, which are also in the thousands, the Judges are severely overburdened. Also, when Judges leave or are reassigned to a different Court, they are not easily replaced.

For the above reasons the Judiciary opted for Plea Bargaining among other strategies to manage case backlog and decongest prisons. This process is regulated under the Judicature Plea Bargaining Rules Statutory Instrument NO.46 of 2016.

Under the Rules the prosecution and an accused person or his/her representative may negotiate and enter into a Plea Agreement¹⁰. An accused pleads guilty to a lesser charge instead of pleading not guilty to a more serious one. The negotiations may result in:¹¹

- a. A plea of guilty to a minor and cognate offence;

¹⁰ Rule 4 of the Judicature (plea bargain) Rules No.46 of 2016

¹¹ Rule 6



- b. A plea of guilty to a charge in exchange to a withdrawal of any charge in the case of multiple charges;
- c. A plea of guilty to a charge on a promise by the prosecution to stay another charge or the promise by the prosecution not to institute other possible charges; or
- d. The promise to plead guilty to a charge in exchange for a recommendation by the prosecution for a lighter sentence.

The initiative aims to decongest prisons and to make it possible for suspects who want to plead guilty to do so at the earliest possible opportunity. It is also one way of promoting reconciliation between parties in accordance with Art.126 (2)(d)- Constitution.

In the United States, close to 90% of criminal cases are plea bargained throughout the country. Even though the U.S. has many Prosecutors and Judges, they still find the need for plea bargaining. For example, Los Angeles County in California has 1000 State Attorneys with over 200 Judges and many resources, yet they still plea bargain most of their cases. While in Uganda, we conduct full trials and look to the U.S. and other countries for financial assistance to manage our own overcrowded jails. We should instead be looking to the U.S. and other countries for strategies to reduce backlog, such as plea bargaining, that have been successful in other jurisdictions.

Benefits

- a. The accused persons, assisted by their lawyers, bargain for the possible sentence of imprisonment and the accused actively participate in the sentencing process, which is not the case with ordinary trials.
- b. The victims and/ or relatives of victims have the opportunity to participate in the sentencing process. Willingness to receive defendants back in society after serving the sentence is very important. The guilty plea is clear evidence of remorsefulness.
- c. Accused persons promise not to commit offences again, which is good for society as whole and future generations.

Challenges

- a. Departure by the Courts from the agreed sentences;
- b. Non effective representation by Advocates, as a result accused persons end up signing agreements without understanding the implications;
- c. Limited understanding of plea bargaining amongst stakeholders, such as some believe that plea bargaining means going home without serving a sentence;
- d. Non representation of accused persons in non-capital offences;
- e. Absence of a public defender scheme.

Chapter Five

5.0 CAUSES OF CASE BACKLOG IN THE JUDICIARY IN UGANDA

The committee following the methodology under chapter 2 established the following as the causes of backlog in the Judiciary:

1. Poor work attitude and poor performance by some judicial and non judicial officers in the judiciary

Judicial staff: The committee was informed by stakeholders especially from Uganda Law Society, civil society and court users that poor work ethic, lack of integrity and inefficiency coupled with lack of skills in new and emerging areas of law by judicial officers contributes to delayed disposal of cases. The majority of stakeholders consulted highlighted the following as causes of backlog in relation to judicial officers. The aspects raised were also echoed by judicial officers and the inspectorate registry.

- Absence of judicial officers from stations without notifying court users
- Unofficial absence¹² of judicial officers from some work stations on Mondays and Fridays.
- Corruption
- Some judicial officers are very slow as manifested in delayed delivery of Judgments
- Lack of skills and lack of know how
- Poor case management including lack of control of court processes and management of requests for adjournment.
- Ineffective support supervision.
- Leadership vacuum for prolonged period

The committee agrees with the stakeholders that judicial officers play a pivotal role in case disposal and their ineffectiveness caused by absence from work, limited speed, limited skills limited experience, and limited know how, corruption, poor supervision and poor case management may lead to build up of many pending cases. A review of literature including the JLOS case backlog study 2006, and comparative studies from UK, Canada, Kenya, Singapore and Malaysia also raise many of the above as indeed aspects that cause case backlog.

¹² *"The Judiciary is not very well supervised, and there is a culture of not putting in sufficient hours. Some Magistrates work only three days a week and are sometimes absent from court with no real reason. (Uganda Law Society)*



To resolve the above the stakeholders recommended that set standards for Judicial officers spelling out the following be developed and enforced: -

- Monitoring Judicial Officers strictly regarding time spent at work every day to ensure that Judicial officers perform and complete their duties on time.
- Ensure the enforcement of the rule on timely delivery of judgements, as well as meeting other deadlines and standards.
- Discipline for violation of Court standards. The disciplinary tools should include (1) warning, (2) private reprimand, (3) publication of reprimand, (4) withholding of a when there is a gross failure to perform an important function in a timely manner such as delivering a judgment.
- Relevant training programmes for Judicial officers should be identified and those who should attend the training notified with a standard for the maximum number of trainings being set.
- Committee meetings be held at lunch or after regular Court hours, unless the Presiding Judge specifies otherwise.
- Specifying the number of required sitting days. This could be done by setting a minimum number.

Non Judicial Staff: During the consultations, the committee established that administrative staff contributes to delays in the dispensation of cases. This is due to: (1) disorganisation or incompetence, (2) hiding and losing files, (4) absence from work, (5) insufficient staffing, and (6) corruption. Stakeholders during the consultations stated that the administrative staff are a problem because they are the conduits of corruption on behalf of the Judicial officers and solicit for bribes from litigants in order to have cases fixed for hearing. In addition it was stated that they lack basic training in management of registries, case management, customer care and public relations because quite often they are not receptive to litigants thus causing some litigants to lose interest in following up on their cases.

The Committee observes that although Judicial Officers are professionals and deserving of respect for their authority, everyone should expect to be held accountable for his or her conduct, and professionals should be held to a higher standard than non-professionals.

- **The committee therefore recommends that there is need to strengthen support supervision at all levels of court and establishment of an effective staff monitoring system that does not stifle innovation.**
- **Secondly the Chief Justice should issue a practice directive requiring all judicial officers to communicate their absence to litigants in advance.**
- **The Judiciary should expeditiously issue a clear schedule of duties and key performance indicators to every judicial officers.**

2. Lack of optimal staff numbers

The committee established that the number of staff in some of the courts is low compared to the case load. For example, the ratio of staff to the pending cases in the High Court is 1: 1287 and in the magistrate courts it is 1: 560

At the High Court there are 51 Judges for the whole country with a population of approximately 37million giving a ratio of one Judge for 750,000 Ugandans. Also, the abrupt transfers of Judicial Officers cause disruption. Many times Judicial Officers are transferred with little notice and they leave behind part-heard cases that are often heard all over again by the incoming judicial offices. This is made worse by insufficient number of prosecutors in some magisterial areas resulting into judicial officers queuing up for prosecutors. The office of the Director Public Prosecutions has a staffing of 300 prosecutors serving the population of 37 million people giving a ratio of 1: 124000 with the current crime rate standing at 278 for every 100,000 with instances of sophisticated crime including white collar crime and terrorism.

The committee concluded that effective justice delivery is a function of adequate numbers among other variables. The lack of optimal staff numbers within the chain of justice remains a key impediment to expeditious case disposal and leads to case backlog.

3. Litigants and witnesses

Litigants: Judicial officers, other officers of court and members of the civil society, consulted noted that delays are sometimes caused by litigants who either frustrate cases from proceeding or lack knowledge of the processes in court. Some file multiple cases as a way of forum shopping. The committee established from the consultations that litigants are insufficiently prepared for hearings, sometimes are not present at court whether deliberately or in ignorance, while some are unrepresented and incapable of presenting their case expeditiously.

Witnesses: stakeholders also reported that cases delay because of failure of witnesses to attend court. This they attributed to a number of factors including-

- Failure to trace the witnesses because at times many of them do not have fixed places of abode and keep transferring from one place to another
- Loss of interest by witnesses to pursue their cases without notifying the court.
- Failure to serve witnesses and falsification of affidavits of service by advocates.
- Failure by the advocates, state attorneys to prepare witnesses.
- Cause lists are not shared or publicly displayed

A JLOS case backlog study 2006 established that on average in every criminal session of 40 cases there is a 25% witness absence.



The committee concluded that the handling of a trial is facilitated by effective witness preparation and Court attendance. It was noted that when witnesses lose interest in the cases they don't turn up to testify. These factors deliberately and unjustifiably cause delays and promote use of unnecessary adjournments to buy time especially by prosecution and defence lawyers.

It was recommended that courts should establish information desks to guide litigants and the public who come to court. Cases cause listed should be displayed a month in advance for the High Court, Court of Appeal and the Supreme Court and at least 2 weeks in advance for the Magistrates Court.

4. Advocates

Judicial officers and officers of court reported that delays and ultimately case backlog some times is as a result of inadequate case preparation by advocates, lawyers double-booking to different courts at the same time, engaging in formalities and technicalities, growing culture of advocates resorting to the use of unnecessary constitutional references¹³, applications, appeals and seeking unnecessary adjournments. Some law firms are one man chambers.

Committee findings revealed that the Constitutional Court has a backlog of constitutional references and therefore the cases from which these references arise cannot be handled without disposing of the references. The delay by the constitutional court to dispose of the constitutional references aggravates the delay in handling the affected cases.

Judicial officers and prosecutors reported that on average out of every four (4) cases involving eight (8) lawyers on a daily basis, four lawyers will request for adjournments for either reason of unpreparedness or any other reason. This they reported was made worse by failure of some judicial officers to scrutinise the applications for adjournments and willingness by judicial officers to grant such adjournments. It was established during the consultations that some judicial officers simply accept such requests for adjournment for fear of being perceived as biased.

The committee agrees with the stakeholder view that many times the behaviour of advocates causes case backlog. The committee therefore recommends that judicial officers should be firm in rejecting practices intended to delay case disposal and where necessary refer matters of flagrant abuse of court process by advocates to law council.

There is also need to strengthen the bar-bench committee and where it is absent to rejuvenate the same.

13 'There are lots of unnecessary references to the Constitutional Court mostly constitutional references, possibly used as a stalling device. As a result, the higher court then gets bogged down with these cases, and the lower court has to wait for a decision before it can continue.' (Justices of the Court of Appeal)

5. Delays in the criminal justice system

The committee established from submissions by the stakeholders that delays in the criminal justice system too cause case backlog. It was submitted by respondents that the police are too slow in conducting investigations¹⁴, do not provide evidence to the prosecution/defence, some investigators are incompetent, while others are corrupt. Given the quality of investigation some of the cases that go to court end up being dismissed or withdrawn after clogging the system. The following were presented as cause of delays in the criminal justice system-

- Lack of adequate number and quality of investigators. For example out of 14,000 CID staff only 3552 have been trained in CID courses since 2008;
- Corrupt tendencies amongst some investigators and prosecutors;
- Poor public police relations
- Insecurity of witnesses. This is made worse by the lack of a witness protection system;
- Complexity of some cases involving a series of networks;
- Inability of CID to pay for the expensive fees of auditors to audit private entities in fraud cases;
- Failure by police officers to testify in the courts;
- Political interference and influence in investigations;
- Inadequate use of ICT and scientific evidence in managing and tracking cases;
- Inefficient cases management due to improper indexing;
- Lack of cooperation between institutions of Government and police;
- Registering of civil cases with police as criminal cases;
- Delays in releasing expert reports and unwillingness of experts to testify.

The committee notes the need to strengthen coordination and communication among the players within the chain of criminal justice. The committee proposes that use of prosecution led investigations should be increased.

6. Infrastructure

The committee established from the Estates and ICT departments that out of 212 courts the Judiciary owns only 80 while the rest are either rented or in substandard buildings. Computer coverage is at 45% and only 13.2% of the courts are interconnected. Sometimes the courtrooms available to hear cases are not enough while in some cases superior courts have displaced other lower courts. Some court buildings are unsuitable and in others Judicial Officers share a courtroom. In addition, power supply is irregular with no backup systems and the internet band width is wanting. All these slow down the disposal of cases in some courts.

¹⁴ The Director CIID stated that; " Our Funding is limited and therefore we cannot be able to perform as expected and in some instances the witnesses disappear and can't be traced, our staff are few as well and therefore may not be able to reach and follow up on some of these cases, currently each investigating officer is handling 100 case files contrary to the United Nations Standard of 12 case files per detective"



7. Poor Storage and Record management

The committee established that the mode of storage and record keeping in the judiciary is largely manual. In some courts files are on the floor, in chambers of judicial officers among other places. The registry is no longer the central place for file storage and retrieval. This renders the retrieval of a file very difficult. The absence of a files leads to adjournment of cases. This system also lends itself to corruption. Files can “go missing” when in fact they have been deliberately destroyed and it is difficult to prove otherwise. In most courts there is no system for file tracking as such records are not kept. Many times active files are found in the archives and vice versa.

8. Lack of prioritisation

The study revealed that the lack of a continuous system of ‘weeding out’ of cases has caused backlog because it is unclear how many pending/backlogged cases are still active and suitable for litigation.

One of the respondents stated thus:

“There exists a suspicion that many of these cases are probably no longer suitable for litigation because all or some of the parties have died or the dispute has been settled already, but without “weeding out” such cases this cannot be ascertained”.

The committee notes that when courts do not carry out continuous ‘weeding out’ unmeritorious cases clog up the system and litigants in such cases find it easy to file cases in the system before they are ready.

9. Poorly planned and executed Session System

The Committee established that the hearing of criminal cases especially in the High Court is based on a session system. The stakeholders reported that sessions are held irregularly, are poorly planned, funding is sporadic, and the cause list is not released sufficiently in advance. The DPP is served a cause list sometimes 14 days before the session making it practically impossible to trace for the police files and witnesses.

The committee however notes that the session system is not the cause of backlog but rather the way the sessions are planned and executed.

10. Jurisdiction

The committee established that the current provisions of the law on jurisdiction of Judicial Officers could be contributing to case backlog because some cases are limited by the jurisdiction of the Court and as a result too much is reserved to higher courts. At a focus group discussion the respondents stated that:

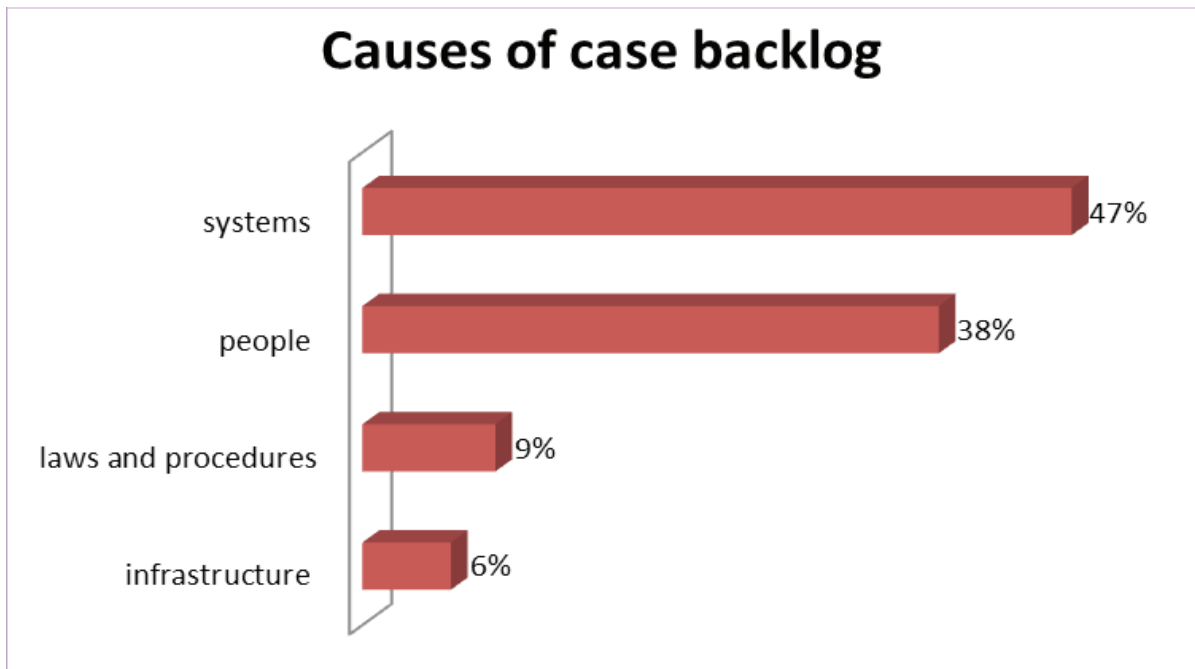
“There is need to reform the law to increase Jurisdiction of the Magistrates Courts so that the High Court ceases to be a trial court but an appellate court.”

The committee recommends that clear criteria for rationalisation of jurisdiction should be explored.

Conclusion

In order to understand the root causes of delay and inefficiency in any justice system, it is necessary to understand the different components and how they work together. This helps identify where delay and inefficiency arise and how best they might be removed. During the consultations, the committee established a number of factors that cause delay and inefficiency thus contributing to case backlog. These factors can be categorised into three components: (1) people, (2) infrastructure, (3) systems, laws and procedure.

People	Infrastructure	Law/procedure and system
<ul style="list-style-type: none"> • Litigants/witnesses/defendants • Admin/support staff • Judicial officers • Advocates • Investigators/police • Recruiting, instructing and remunerating Advocates ; • Recruiting and remunerating judicial officers and support staff; 	<ul style="list-style-type: none"> • Buildings; • Electricity/utilities; • ICT • File storage and retrieval 	<ul style="list-style-type: none"> • Case management powers; • Timetables / hearings required; • Diversion from trial • Procuring evidence and witnesses • Cause listing • Sessions



The Committee established that each component depends on the others. The people implement laws and procedures using the infrastructure and the systems that are in place. A flaw in any one of these components will cause overall inefficiency and delay. The Committee has therefore considered it necessary to look carefully at each component and ascertain how each of these has contributed to case backlog in Uganda. Based on stakeholder consultations the committee concluded that 47% of the case backlog is caused by weaknesses in the system, 38% by people 8.8% by weaknesses in laws and 5.8% by infrastructural challenges.

Chapter Six

6.0 STAKEHOLDER PROPOSALS ON MEASURES TO ELIMINATE THE CURRENT CASE BACKLOG AND STOP GROWTH OF CASE BACKLOG

The various stakeholders either individually and or collectively submitted the following as interventions to address the problem of case backlog –

1. **Maximise time spent in court:** stakeholders recommended that Judges should spend their time more in the court room/chambers handling cases. As such any events which take judges out of court should happen in a specific season to avoid disrupting the ordinary working of court.
2. **Improve performance of Judicial Officers and officers of court:** it was recommended that attendance by Judicial Officers and officers of court must be strictly monitored and work ethic improved. That judiciary should put in place a system of rewards and sanction e.g. Judicial Officers who have not cleared their backlog should not be promoted. A reward might be in the form of a plaque recognising the achievement made to the institution or different individuals involved.
3. **Strengthen Inspectorate:** Joint Inspection Teams should be established to ensure that there is sufficient supervision of judges.
4. **Discipline of the Bar:** It was recommended especially by the Uganda Law Society that steps should be taken to harmonise the disciplinary mechanism so that lawyers who practice unethically are all subjected to the same disciplinary process. Currently, state lawyers and private lawyers are subjected to different disciplinary mechanisms.
5. **Allocate backlog cases:** Judges should be specifically allocated to backlogged cases, with permission to deviate from the list only when urgent matters arise.
6. **Staffing and Placement:** More judges should be appointed and Judges should be allocated with more reference to their area of expertise. Judges should not be transferred at short notice to avoid leaving part heard cases.
7. **Computerise Storage and case processing:** this will enable records to be stored electronically and can easily be retrieved. Such a system would also be capable of flagging deadlines on cases.



8. Invest in proper physical storage facilities, such as indexed filing cabinets.
9. Develop and implement a multi-year infrastructure development plan
10. Review session system with a view to reforming or abolishing it in its current form. At the least, each High Court judge should hold a session once a quarter. Also quantitative targets (e.g. 40 cases to be heard in 40 days) should be reconsidered.
11. Avoid unnecessary adjournments that stall cases and guidelines should be produced to guide Judicial Officers when adjournments should and should not be granted. There should be tougher measures against adjournments, including penalising lawyers who are found to be at fault. Judicial Officers must scrutinise applications for adjournments carefully and adjournments should be the exception rather than the norm.
12. **Weed out nonstarter cases:** Backlog cases should be reviewed to ascertain whether they are still relevant. Those that are no longer relevant should be dismissed. Also Prosecution must put more effort into weeding out cases that have no chance of success
13. **Court Users' Committee:** It provides an opportunity for the court to receive feedback from the Community about its operations. The experience of the Commercial Court suggested that if a court establishes a Court users committee that gets stakeholders on board and that the same meets regularly to discuss what is going at the court, this could raise stakeholder commitment to and participation in the improved performance of the.
14. **Jurisdiction;** Expand the jurisdiction of the Magistrates' Courts so that they can handle more cases.
15. **Witnesses:** It was proposed that the budget for witnesses be moved to the DPP. Witness absence is a major cause of adjournments.
16. Strengthen and roll out initiatives such as plea bargaining, small claims and ADR
17. **Establish a backlog court:** The backlog will not be tackled without a dedicated effort. Once a weeding effort has been carried out, a special project on case backlog managed by the case backlog committee with the priority to hearing cases involving children, cases older than five years, and cases in which the accused has already spent an amount of time on remand that is close to or greater than the likely sentence he would receive upon conviction.
18. **Better planning:** The haphazard and last-minute nature of cause-listing creates difficulties for the prosecution in securing evidence and witnesses, and for the defence in preparing their case.

Chapter Seven

7.0 PROPOSED CASE BACKLOG ELIMINATION STRATEGY

The Committee agrees with stake holders that Judicial Officer play a pivotal role in case disposal and a lot depends on their performance for quick disposal of cases. For the Judiciary to be effective and efficient, however, there is need for all stakeholders to play their different roles and offer the necessary support that will enable Judicial Officer deliver justice to the Ugandan public.

The Ministry of Justice and Constitutional Affairs and the Office of the Attorney General, the Directorate of Public Prosecutions, the Uganda Police Force, Uganda Prison Services and all the others institutions in the Justice, Law and Order Sector plus the Advocates, litigants, witnesses, local leaders and all members of the public need to play their different roles adequately in support of the Judicial Officer to enable them deliver justice to the Ugandan population. The Judiciary is eventually responsible for case disposal and needs to improve on case management, planning of Court work, setting its priorities properly in the management of and deployment of Judicial Officer and funds, inspection and supervision of all Judiciary staff and assessment of Court performance to be able to handle case backlog, the current case work load as well as in coming case work in an effective and efficient manner.

The Committees recommends the following measures in forms of a case backlog elimination strategy to tackle the existing case backlog and stop growth of new backlog. In designing the strategy, the committee took note of the fact that not all actions can be implemented at the same time. The Committee therefore categorized the interventions into the following.

- **Immediate:** (0 to 06 months)
- **Short term:** (06 months to one year)
- **Medium term:** (One year to 2 years)
- **Long term:** (Over two years)
- **Best practice:** (Interventions that apply to all the periods)

CASE BACKLOG ELIMINATION STRATEGY

7.1 Strategy 1: Delivery of overdue pending Judgements

7.1.1 The Chief Justice should direct all Judicial Officers who had Judgements pending as per the census report of December 2015 to deliver those Judgements by 30th April 2017. Copies of the delivered Judgements should immediately be submitted to his office. This shall also apply to panels in appellate Courts. (*Immediate*)



7. 1.2 All judgements pending beyond 60 days as at 30th March 2017 should be delivered by 30th April 2017. After 30th April 2017 all Judicial Officers with more than 15 Judgements pending beyond 60 days should be given a definite period for which they do not hear new cases but concentrate only on writing the pending Judgements. They may commence hearing new cases when the pending judgements are concluded. This should also apply to panels in appellate Courts (*Immediate*)
7. 1.3 Judicial Officers that have three months to retire should only take up new cases in a limited number so that the delivery of pending judgements is manageable within three months after their retirement. (*Best practice*)
7. 1.4 Disciplinary action should follow in respect of Judicial Officers who fail to write their pending Judgements as recommended in 1.1 to 1.3. (*Best practice*)
7. 1.5 The case backlog committee should continue to monitor and ensure the timely delivery of pending Judgements by all Judicial Officers. (*Best practice*)

7.2 Strategy 2: Clearance of existing backlog

- 7.2.1 A multi stakeholder case backlog monitoring committee should be established with clear terms of reference to assist the Chief Justice implement the strategies in this report and also continue to oversee the reduction and elimination of case backlog in the Judiciary.
- 7.2.2 The clearance of backlog should give priority to the oldest of cases. Cases that are more than five years old should be disposed of within six months of this report. (*Immediate*)
- 7.2.3 All cases that are more than two years old should be disposed of within 18 months. (*Immediate*)
- 7.2.4 The Judiciary shall develop an ageing case list to be updated every six months and cases on the list shall be prioritized for hearing including having special clearance sessions. Each Court/ Judicial Officer shall report to the case backlog committee on a quarterly basis, progress on the clearance of the cases on the aging list. (*Immediate*)
- 7.2.5 Backlog cases should be disaggregated by each Court unit and it should be ascertained which cases are still active. The dormant cases where no action has been taken for over 2 years should be dismissed in accordance with the law. The Case Backlog Management Committee should oversee the implementation of this. (*Immediate*)
- 7.2.6 Time limits within which Court matters should be disposed of had been developed by the Justice Law and Order sector. These should be adopted for implementation. They should be issued out as practice directions. (*Immediate*)

7.3 Strategy 3: Case management

- 7.3.1** Court level case backlog clearance plans: Every supervisor of each court level and unit should cause to be prepared a case backlog elimination plan and programme in a format developed by the **Case Backlog Monitoring Committee**. The programme should be submitted to the Chief Justice within 2 months. Judicial Officers at every station should handle the backlog of their station. Where that is not possible they should with justification ask for support from the headquarters. The different units will be monitored by their overall supervisors at each court level, i.e. Chief Magistrate, Chief Registrar, Principal Judge, Deputy Chief Justice and the Chief Justice. *(Immediate)*
- 7.3.2** There should be a work plan at the beginning of each year adopted by each Court to be presented to the Chief Justice for all Courts. The work plan should be presented at the annual Judges conference in respect to the High Court, Court of Appeal and the Supreme Court. *(Best practice)*
- 7.3.3** Each Judicial Officer should have a clearly defined targets and key performance indicators. *(Short term)*
- 7.3.4** Monthly returns should disaggregate and reflect the work of each Judicial Officer at his/her station. *(Immediate)*
- 7.3.5** The different Court user committees should be reactivated and made to work. The office of the Chief Registrar should study their minutes and ensure that their decisions, where practically possible are implemented. *(Immediate)*
- 7.3.6** Files should be availed to Judicial Officers and parties be notified early of the court work schedules to avoid short notices that lead to inadequate preparations. *(Best practice)*
- 7.3.7** Courts should spend more time handling substantive matters rather than interlocutory matters. *(Best practice)*
- 7.3.8** Cause listing of cases should be undertaken jointly by all stake holders. In criminal cases the Judiciary, the office of the Director of Public Prosecutions and the Prisons should be involved. *(Best practice)*
- 7.3.9** In principle, the oldest cases should be cause listed first. Cases that give raise to exceptional circumstances, for example those involving terminally sick witnesses or accused persons, Juvenile offenders or victims, very old accused persons or witnesses, prisoners who are breast feeding mothers and any other on an agreed criteria may be considered during pre-session meetings. *(Best practice)*
- 7.3.10** DCC and RCC meetings should be held monthly and quarterly respectively. The minutes of their meetings should be submitted either electronically and or in hard copy to the chief registrar who should endeavour to ensure that their decisions are implemented. *(Best practice)*



7.3.11 Also Judicial Officer should visit places of detention within their jurisdiction at least once a quarter. *(Best practice)*

7.3.12 Legislation should be introduced to decriminalize petty offences to stop undeserving cases from coming to court. *(Long term)*

7.4 Strategy 4: Strengthen existing initiatives

7.4.1 Roll out and strengthen the use of existing case management systems such as mediation, CCAS, small claims, plea-bargaining and quick wins. *(Immediate)*

7.4.2 Advocate for the re-establishment of Local Council Courts. *(Immediate)*

7.4.3 Court sessions should as far as possible be presided over by Judicial Officers at each station to dispose of the work at their station. In case of special circumstances including volume of work special sessions could be arranged to be conducted by Judicial Officers from other stations. *(Best practice)*

7.4.4 In all cases sessions should be properly planned and budgeted, be predictable and all relevant stakeholders at each station should be involved in the pre-session meetings before a Judicial Officer commences a session hearing. *(Short term)*

7.4.5 Justice Centres Uganda should be expanded out to every High Court circuit to handle cases that require state briefs at High Court and Chief Magistrates' Court level. *(Short term)*

7.4.6 Establish an early plea bargaining scheme. The state attorney at a station could for example, commit an accused person in a capital offence to the High Court for trial on the day of plea at the magistrates court and the case may be concluded before a resident judge using plea bargain immediately. *(Short term)*

7.4.7 Institutionalise the state brief scheme and the pro-bono scheme to provide legal aid to the indigent persons along the framework of a public defender system and involve the Law Society to sensitize the advocates. *(Medium term)*

7.5 Strategy 5: Anti-corruption measures

7.5.1 Develop and implement a Judiciary specific anti-corruption strategy. *(Short term)*

7.5.2 The Judicial training Institute should incorporate more anti-corruption training programmes in its training schedules with emphases on Judicial ethics. *(Short term)*

7.5.3 The inspectorate of courts should be adequately staffed and resourced. It should plan and carry out routine and ad-hoc inspections and also quickly follow up on complaints from the public and regular court users. *(Short term)*

7.5.4 The Judiciary and the Judicial Service Commission should have consultations and ensure that proper and timely investigations are carried out on complaints against Judicial Officers in cases of corruption and action is taken expeditiously *(short term)*.

7.5.5 Provide name tags for each judicial staff at a station. *(Immediate)*

7.5.6 Install CCTV in registries and Court corridors. *(Immediate)*

7.5.7 Provide signage in the Court premises. *(Immediate)*

7.5.8 Provide a help desk and establish a robust complaints system in the Judiciary including hot lines, and complaints boxes. *(Immediate)*

7.5.9 Remove loiterers including bush lawyers, middlemen, '*professional sureties and assessors*', operating from Courts premises. *(Immediate)*

7.5.10 Eliminate conducting of private businesses at and in Court premises. *(Short term)*

7.5.11 Establish an ethics committee to oversee the implementation of the strategy *(short term)*

7.6 Strategy 6: Human Resource management

7.6.1 a) Advocate for increase in the number of Judicial Officers and administrative staff at all levels of Court. *(Short term)*

b) Judges should be appointed to fill the existing posts. *(Short term)*

c) The existing Judicial Officers should plan their work schedules in such a way that they handle backlog and current cases at their stations and only seek for additional man power for those stations with overwhelming case backlog. *(Best practice)*

d) Take advantage of the expansion of the lower bench structure and recruit Judicial Officers some of whom should be used as mediators and encourage court annexed mediators. *(Short term)*

7.6.2 a) Strengthen support supervision at all levels of Court and establish an effective staff monitoring system. E.g. Resident Judges should supervise all Courts in their circuits, Chief Magistrates all Courts within their magisterial areas. Their roles should be clarified to them at induction and other subsequent training programmes. *(Short term)*

b) The Registrars and administrative staff should ensure that there is proper day to day administration



- of each station with monthly reports submitted for each station to the headquarters. *(Short term)*.
- c) Strengthen staff appraisal system that promotes innovation. *(Short term)*
 - d) Institutionalise a staff reward and recognition system to encourage performance. *(Short term)*

7.6.3 Fast track the implementation of the Judiciary performance enhancement tool.

7.6.4 Institutionalise compliance monitoring of key performance indicators and targets¹⁵ for Judicial Officers. *(Short term)*

7.6.5 The Chief Justice should issue a practice direction requiring all Judicial Officers to seek permission from supervisors and communicate their absence to all their staff, counsel and litigants in advance. Judicial Officers should not cause list cases for the days their absence from stations. They should follow standing orders should be implemented and attend to work at their work stations. *(Short term)*

7.6.6 Introduce system that records attendance by all Court staff with penalties for those who do not comply. *(Short term)*

7.6.7 Rationalise training calendars which ensure minimum disruption to hearing of court cases. *(Short term)*

The Judiciary should publish a Judiciary wide annual performance report covering case data to influence decision making. *(Short term)*

7.6.8 The deployment of existing Judicial Officers should take into consideration the workload, court functionality and case backlog. This will address gaps such as the situation at the family division where for over all the Judges engaged in work outside the division and no Judge is available at the division in the months of February and March 2017. This is a very busy High Court division judging by its case backlog and the existing work load. *(Immediate)*

7.7 Strategy 7: Review of procedures and advocacy for reform of laws

7.7.1 The rules committee should review all rules and procedures that cause delays by October 2017. *(Short term)*

7.7.2 Mandatory requirement for locus visits should be reviewed in cases involving registered land, where boundaries are not in dispute and where the property in dispute is definite. *(Short term)*

¹⁵ Magistrates Grade II and Magistrates Grade I, who have served for less than three years have a target of 300 cases per annum; senior Magistrate Grade I, 400 cases; Chief Magistrates 600 cases; High Court Judges 320 cases; Court of Appeal 800 appeals and the Supreme Court 80 appeals.

7.7.3 Introduce a system of automatic allocation of cases on a day to day basis using the principle of first in first out, with defined exceptions. *(Short term)*

7.7.4 Enforce the application of order 12 of the CPR that grants Judicial Officer robust case management powers including how to handle applications. *(Short term)*

7.7.5 Fast track hearing of civil cases by adopting use of witness statements, affidavits and written submissions limited to a number of pages while limiting oral submissions. *(Short term)*

7.7.6 The rules committee should make recommendations for reform of laws that cause delays and should recommend changes to the law which will expedite the processing of cases. *(Medium term)*

7.8 Strategy 8: Records management system and use of CCAS

7.8.1 The Judiciary should Implement and upgrade the Court Case Administration System (CCAS). Judicial Officer should be made aware of their the responsibility to ensure that data is entered on both the automated and manual CCAS and the record cards for daily court performance are provided and filled on a daily basis. *(Immediate)*

7.8.2 Undertake rehabilitation and indexing of all case files to ensure tracing and access to files. *(Immediate)*

7.8.3 Provide adequate number of filing cabinet to all court all registries. *(Immediate)*

7.8.4 Procure and distribute durable uniform case registers to all courts as a backup to the computerised registers. *(Immediate)*

7.8.5 Review business processes in the Judiciary and computerise filling and storage of documents and introduce critical indicators that could be flagged once deadlines have been missed. *(Short term)*

7.8.6 Enforce the use of the Court Case Administration System in decision making and disciplinary action should be taken for non-compliance. *(Short term)*

7.8.7 Make the registries the central places for file storage and remove all files from chambers except for on-going cases into the central registry at each Court and introduce a file movement register/system. *(Short term)*

7.8.8 Recruit professional records officers, archivists and properly trained court clerks and consider recruitment of lawyers in trained this category *(medium term)*



7.9 Court Level strategies

7.9.1 The Supreme Court,

7.9.1.1 Files for planned sessions should be availed to justices early before the commencement of sessions and parties given at least one months' notice to avoid short notices that lead to inadequate preparation. (*Immediate*)

7.9.1.2 There should be a work plan at the beginning of each year adopted by the Court presented at the annual Judges conference. (*Short term*).

7.9.2.3 All pending Judgements beyond 60 days should be delivered by 30th May 2017.

7.9.1.4 Backlog cases pending in the court for more than 2 years should be disposed of within 6 months.

7.9.2 The Court of Appeal

7.9.2.1 Files should be availed to Justices and parties should be given at least one months' notice for the hearing of their cases to avoid short notices that lead to inadequate preparation. (*Immediate*)

7.9.2.2 The allocation of cases to panels should be done by an automated system and the panels should operate on a semi- permanent basis for a session.(*Immediate*)

7.9.2.3 There should be a work plan at the beginning of each year adopted by the Court and presented at the annual Judges conference. (*Short term*)

7.9.2.4 In matters where a notice of appeal has been lodged in criminal matters, the trial Courts should avail records of proceedings to the Court of Appeal and litigants 14 days after the notice of appeal is filed and served on the trial court. (*Short term*)

7.9.2.5 Review the Court of Appeal rules so that a notice of appeal in civil matters does not constitute an appeal until a memorandum of appeal or statement of the basis of the appeal, including facts and law is filed. (*Medium term*)

7.9.2.6 Conduct quarterly sessions of the Court upcountry in the short run and Deconcentrate the Court to regional level in the medium term. (*Short term-medium term*).

7.9.2.7 All court judgements pending beyond 60 days should be delivered by 30th May 2017.(*Short term*)

7.9.2.8 Where majority Court judgements for specific cases have been ready but the same have not been delivered because a minority judgment has not been availed, such judgements should be delivered as the courts judgements by 30th April 2017.(*Short term*)

7.9.2.9 Presiding Justices are responsible for delivery of Judgements for the panels over which they preside. They should ensure the delivery of judgements by the panels over which they preside.

7.9.2.10 Presiding Justices and their panel members with more than 15 cases pending beyond 60 days should be directed by the Chief Justice to cease taking up new cases for a defined period (two months) and concentrate on writing and delivering pending judgements. They may resume hearing new cases thereafter.

7.9.3 The High Court

7.9.3.1 Files should be available to Judges and parties in time. A notice of 30 days for the hearing of cases should be given to facilitate adequate preparation. *(Immediate)*

7.9.3.2 The Judiciary should deploy the existing Judges in such a way that some deal with backlog while others continue with the day to day hearing of cases.

7.9.3.3 The induction of Judges should be undertaken immediately after appointment. *(Immediate)*

7.9.3.4 There should be a work plan at the beginning of each year adopted by the Court presented at the annual Judges conference. *(Short term)*

7.9.3.5 Creation of and staffing of circuits should be informed by workload and availability of infrastructure and resources. *(Short to medium term)*

7.9.3.6 Advocate for the immediate recruitment of High Court Judges to fill existing vacancies and have 82 High Court Judges as recommended by the Legal and Parliamentary Committee of Parliament.

7.9.3.8 The Committee recommends that the Judiciary should use the new Judges and the existing Judges in place to handle backlog and existing backlog rather than the appointing acting Justices for the purpose. The training, experience and facilities remain with the Judiciary after the backlog is cleared and the handling of backlog is long term exercise.

7.9.3.8 Institute early plea bargain schemes. State Attorneys should for example be encouraged to immediately commit accused persons to the High Court for trial when they indicate their willingness to plead guilty. The circuit Judge should handle such cases on a day to day basis.

7.9.4 The Magistrates' Courts

7.9.4.1 There should be a work plan at the beginning of each year adopted by the Court presented to the Chief Registrars' office. *(Immediate)*



- 7.9.4.2** Operationalise the new magisterial areas and move files from the mother stations within 2 months to the new stations. *(Immediate)*
- 7.9.4.3** Induct Judicial Officer as soon as they are appointed. *(Immediate)*
- 7.9.4.4** Inspection and monitoring of performance of all Magistrates Courts should be done on a regular basis and the performance of each magistrate assessed. *(Immediate)*
- 7.9.4.5** Funds for locus should be separated from operational funds and should be requisitioned for when locus visits are due and budgeted so that they are paid for per locus visit. *(Short term)*
- 7.9.4.6** Provide the requisite administrative staff for each Court with the requisite standard human resource kit for each level. *(Medium term)*

Annexes

Annex 1: Cases pending in Magistrates Courts as of 31st January, 2017

Chief Magistrates Court

Court Name/Type Of case	Over 10 years	5-10 years	2-5 years	1-2 years	Under 1 year	Grand Total
Arua						
Civil		22	27	27	55	132
Criminal		34	204	245	716	1199
Family		0	3	3	43	48
Land	14	75	93	50	61	293
Total	14	131	327	325	875	1672
Buganda Road						
Criminal	0	6	124	102	524	756
Bushenyi						
Civil	1	21	36	34	146	237
Commercial	3	4	12	5	40	63
Criminal	0	4	172	163	601	939
Family	0	3	5	15	46	70
Land	1	23	58	39	55	177
Total	5	55	283	256	888	1486
Busia						
Civil		1	12	10	39	62
Commercial		1	23	61	88	173
Criminal		1	13	14	361	390
Family			1	12	21	34
Land		26	41	54	50	172
Total		26	90	151	559	831
Entebbe						
Civil		32	148	129	288	597
Commercial		0	0	0	9	9
Criminal		14	26	61	395	495
Family		0	1	3	10	14
Land		17	50	59	75	201
Total		63	225	252	777	1316
Fort Portal						
Civil	4	18	36	21	293	372
Commercial	0	3	6	10	108	128
Criminal	3	379	356	205	617	1560
Family	0	1	1	34	66	102
Land	4	67	186	95	135	488
Total	11	468	585	365	1219	2650



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Case Backlog Reduction Committee - Report

Court Name/Type Of case	Over 10 years	5-10 years	2-5 years	1-2 years	Under 1 year	Grand Total
Gulu						
Civil	3	4	15	6		28
Commercial	0	4	45	40	79	168
Criminal	1	8	98	241	850	1199
Executions and Bailiffs	0	0	0	0	1	1
Family	0	1	53	48	85	187
Land	13	326	243	101	201	884
Total	17	343	454	436	1216	2467
Hoima						
Civil		1	14	15	81	112
Commercial		0	0	3	9	12
Criminal		53	57	95	632	837
Family		0	3	15	26	44
Land	10	34	77	62	88	271
Total	10	88	151	190	836	1276
Ibanda						
Civil	1	3	13	48	83	147
Criminal	3	0	27	49	486	565
Family		1	3	10	30	44
Land		4	21	28	39	92
Total	4	8	64	135	638	848
Iganga						
Civil	1	6	25	13	63	108
Commercial	1	15	39	84	236	375
Criminal	0	4	52	89	817	961
Family	0	3	5	9	32	49
Land	9	40	85	79	99	312
Total	11	68	206	274	1247	1805
Jinja						
Civil		31	92	89	249	461
Commercial		9	15	18	112	155
Criminal	1	4	23	54	552	635
Family				9	26	35
Land	1	22	48	31	101	203
Kabale						
Civil	4	36	55	57	152	304
Commercial				1	28	30
Criminal		3	68	116	586	773
Family			4	5	31	40
Land	14	59	138	77	205	494
Kapchorwa						
Civil		12	21	36	84	152
Criminal		15	39	58	339	452
Family				4	10	14
Kasese						

Court Name/Type Of case	Over 10 years	5-10 years	2-5 years		Under 1 year	Grand Total
				1-2 years		
Civil		4	4	13	105	125
Criminal		0	1	10	275	286
Family		0	3	4	49	55
Land	1	21	17	9	84	132
Kiboga						
Civil		4	85	43	114	245
Commercial					3	3
Criminal			40	79	431	550
Family			3	4	23	30
Land		12	53	26	45	135
Kitgum						
Civil	1	17	71	111	213	413
Commercial				1	9	10
Criminal			19	49	526	595
Family			3	53	148	204
Land		3	21	22	32	77
Kotido						
Civil			10	12	1	23
Commercial			1	0	5	6
Criminal			12	25	179	215
Family					6	6
Land			1	1	14	17
Lira						
Civil	32	694	284	84	120	1214
Commercial	6	43	17	5	8	79
Criminal	1	253	679	550	1551	3033
Executions and Bailiffs		1				1
Family		90	105	65	114	373
Land	23	147	141	70	101	481
Luwero						
Civil		5	52	70	182	308
Commercial					3	3
Criminal		3	105	94	285	486
Family		3	84	45	150	281
Land	1	12	105	86	174	378
Makindye						
Civil		31	112	120	372	635
Commercial		0	3	0	50	53
Criminal		8	165	206	1373	1752
Family		1	15	21	103	141
Land		44	138	68	107	357
Masaka						
Civil	1	63	170	90	270	595
Commercial		4	86	27	55	173
Criminal		67	418	267	849	1601



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Case Backlog Reduction Committee - Report

Court Name/Type Of case	Over 10 years	5-10 years	2-5 years	1-2 years	Under 1 year	Grand Total
Family	1	1	166	61	129	359
Land	6	61	213	123	262	664
Masindi						
Civil	1	17	76	79	191	364
Commercial		0	3	4	9	15
Criminal		0	25	99	458	582
Family		9	32	9	39	89
Land	8	25	145	67	105	348
Mbale						
Civil	8	41	76	59	103	288
Commercial	1	10	23	15	54	105
Criminal		19	46	65	454	584
Executions and Bailiffs			1			1
Family		10	65	25	89	188
Land	4	21	53	62	71	210
Mbarara						
Civil	9	55	90	59	151	365
Commercial					12	12
Criminal		6	95	119	1106	1326
Family	1	4	8	4	9	26
Land	22	74	62	23	58	239
Mengo						
Civil	3	92	319	481	1515	2409
Commercial				1	93	94
Criminal					4	4
Family		1	3	8	22	34
Land		6	67	44	132	249
Mityana						
Civil		5	119	92	157	373
Commercial					1	1
Criminal		1	14	76	361	453
Family			3	5	37	45
Land		13	85	77	90	266
Moroto						
Civil			9	21	12	41
Criminal		10	43	22	161	236
Family			3	6	8	17
Moyo						
Civil		3	8	5	58	74
Criminal			32	32	126	191
Family					39	39
Land		4	18	21	13	55
Mpigi						
Civil	3	18	106	125	173	424
Commercial			5	1	4	10

Court Name/Type Of case	Over 10 years	5-10 years	2-5 years		Under 1 year	Grand Total
				1-2 years		
Criminal		1	55	62	276	395
Family	1	3	27	23	37	92
Land	6	46	221	124	254	652
Mubende						
Civil	3	9	37	50	105	204
Commercial				5	14	19
Criminal			137	95	399	631
Family			3	4	48	54
Land		15	72	84	170	342
Mukono						
Civil	1	19	126	125	270	542
Commercial				1	31	32
Criminal			49	99	711	859
Executions and Bailiffs				1		1
Family		4	27	53	139	223
Land	4	71	230	170	363	837
Nabweru						
Civil		19	132	70	243	463
Commercial					32	32
Criminal		1	74	99	667	841
Family		1	54	25	89	169
Land	1	39	89	35	107	271
Nakasongola						
Civil		10	28	31	53	123
Commercial				1	1	3
Criminal		6	27	32	209	275
Land			4			4
Nakawa						
Civil	5	62	175	312	889	1444
Commercial			1		23	25
Criminal			88	145	479	711
Family	1		15	23	155	195
Land		17	43	34	126	219
Nebbi						
Civil		9	27	9	6	52
Commercial			6	9	28	44
Criminal		3	57	99	333	492
Family			3	1	3	6
Land	8	50	159	83	75	374
Pallisa						
Civil		3	5	6	27	41
Commercial		3	8	10	28	49
Criminal		6	18	86	347	458
Family					72	72



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Court Name/Type Of case	Over 10 years	5-10 years	2-5 years	1-2 years	Under 1 year	Grand Total
Land		8	40	26	43	116
Rukungiri						
Civil		3	19	8	102	132
Commercial			3	8	36	46
Criminal			57	71	568	695
Family			3	1	23	27
Land	3	14	25	37	66	145
Soroti						
Civil		5	25	22	12	63
Commercial					41	41
Criminal		6	68	79	462	615
Family				54	132	186
Land	12	40	79	86	77	294
Tororo						
Civil		1	12	13	55	81
Commercial		3	1	5	36	45
Criminal	1	5	108	103	391	609
Family			1	10	54	66
Land	5	13	59	34	54	165
Chief Magistrates Court Total	280	3982	10540	9827	34651	59279

d) Magistrate's Courts Grade I

Court Name/Type Of Case	Over 10 years	5-10 years	2-5 years	1-2 years	Under 1 year	Grand Total
Adjumani						
Civil			8	25	52	85
Criminal		2	21	31	362	415
Family					2	2
Land			17	35	39	91
Amolatar						
Civil			8	12	17	37
Criminal			2	45	207	254
Family			2			2
Land		4	12	35	19	70
Amuru						
Civil		6	10	23	25	64
Commercial			2	2	2	6
Criminal			43	128	762	934
Land	2	4	101	116	103	326
Apac						
Civil		2	8	6	6	23
Criminal		126	351	132	328	938
Family	2				35	37
Land	6	6	29	33	48	122

Court Name/Type Of Case	Over 10 years	5-10 years	2-5 years	1-2 years	Under 1 year	Grand Total
Apala						0
Civil			8	6	14	29
Criminal			29	14	21	64
Bugiri						0
Civil			2	6	70	79
Commercial					2	2
Criminal			2		126	128
Family					31	31
Land	2	21	39	17	45	124
Buhweju						0
Civil				4	35	39
Criminal			2	6	107	116
Land		6	2	8	14	31
Bukedea						0
Civil			4	2	76	83
Criminal				12	149	161
Family					33	33
Land		8	23	35	130	196
Bundibugyo						0
Civil			2	6	76	85
Commercial			2		39	41
Criminal				6	314	320
Family			2	4	50	56
Land			6	6	76	89
Busembatia						
Civil				2	25	27
Commercial					6	6
Criminal					43	43
Family					14	14
Land			12	35	19	66
Buwama						
Civil					14	14
Criminal				2	215	217
Family	2				4	6
Land				2	29	31
Buyende						
Civil					2	2
Criminal			2		153	155
Land					2	2
City Council						
Criminal			14	62	572	649
Family			2	2	2	6
Isingiro						
Civil			6	10	19	35



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Court Name/Type Of Case	Over 10 years	5-10 years	2-5 years	1-2 years	Under 1 year	Grand Total
Commercial			2			2
Criminal			91	76	779	946
Family			0	4	2	6
Land		2	39	23	25	89
Kajjansi						
Civil			4	2	33	39
Criminal			8	43	326	378
Land				17	14	31
Kalangala						
Civil				4	43	48
Criminal					68	68
Kalisizo						
Civil			4	58	138	200
Commercial			2	4	2	8
Criminal		25	14	6	217	262
Family		2	4	8	60	74
Land		14	48	48	147	256
Kamuli						
Civil		2	31	35	23	91
Commercial			31	19	37	87
Criminal			8	70	647	725
Family			10	10	41	62
Land	25	39	184	101	126	475
Kamwenge						
Civil				8	35	43
Commercial		4	29	33	130	196
Criminal			6	6	281	293
Family				4	39	43
Land		10	31	14	48	103
Kanungu						
Civil				2	2	4
Commercial			14	29	56	99
Criminal			12	95	576	684
Family			2	4	89	95
Land			35	10	45	91
Kasangati						
Civil		2	21	54	74	151
Criminal			31	254	521	806
Family			4	12	39	56
Land		6	89	45	126	266
Katakwi						
Civil		4	29	17	25	74
Criminal		2	76	140	481	700
Family			4	23	29	56

Court Name/Type Of Case	Over 10 years	5-10 years	2-5 years	1-2 years	Under 1 year	Grand Total
Land		4	76	43	93	217
Kayunga						
Civil			8	41	132	182
Commercial					8	8
Criminal		2	17	25	605	649
Family				37	145	182
Land		10	48	54	54	165
Kibale						
Civil		12	83	50	45	190
Criminal		107	114	124	514	859
Family		4	17	4	2	27
Land	6	8	17	8	4	43
Kiryandongo						
Criminal					4	4
Kisoro/Chahi						
Civil			6	23	64	93
Criminal		17	52	149	353	570
Family			10	35	93	138
Land		6	91	37	87	221
Kumi						
Civil				8	21	29
Commercial	2	10	12	12	12	50
Criminal	4	562	380	101	178	1225
Family			2		114	116
Land	2	14	29	39	48	132
Kyegegwa						
Civil			2	4	14	21
Commercial				2	81	83
Family					74	74
Land		4	19	45	74	143
Kyenjojo						
Civil	4	8	33	31	79	155
Commercial		2				2
Criminal	2		77	161	1064	1304
Family					35	35
Land	4	41	79	29	52	204
Civil			4	136	116	256
Lugazi						
Civil		4	33	54	138	229
Commercial					4	4
Criminal			8	35	246	289
Family			4	2	19	25
Land		29	81	70	79	258
Lyantonde						



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Case Backlog Reduction Committee - Report

Court Name/Type Of Case	Over 10 years	5-10 years	2-5 years	1-2 years	Under 1 year	Grand Total
Civil			4	2	19	25
Commercial				79	39	118
Criminal				4	85	89
Family					6	6
Land			6	10	29	45
Mayuge						
Civil			6	58	198	262
Criminal			2	6	395	403
Family					8	8
Land			10	23	27	60
Mbarara Municipal Council						
Civil	2	2	66	21	10	101
Criminal			33	23	37	93
Executions And Bailiffs					2	2
Family			45	39	217	302
Land		4	29	12	4	50
Mengo						
Civil		4		4		8
Mwanga II Road						
Civil			6	6	41	54
Criminal	2	6	52	50	673	783
Family					29	29
Land				2		2
Nakapiripirit						
Civil					6	6
Criminal		4	99	50	217	370
Family			6	4	6	17
Land				6	6	12
Namayingo						
Commercial			2	4	19	25
Criminal				6	205	211
Family					4	4
Land				2	6	8
Ntungamo						
Civil			23	116	147	285
Criminal			39	64	915	1018
Family			2	6	87	95
Land		4	112	95	122	333
Otuke						
Civil					8	8
Criminal			2	27	130	159
Family					4	4
Land			6	27	45	79
Pader						
Civil			2	4	14	21
Commercial					4	4

Court Name/Type Of Case	Over 10 years	5-10 years	2-5 years	1-2 years	Under 1 year	Grand Total
Criminal		103	188	184	409	884
Family		2	2	2	41	48
Land		6	89	39	60	194
Paidha						
Civil		8	4	31	31	74
Criminal			64	29	275	368
Land					2	2
Patongo						
Civil			19	17	81	116
Commercial			2			2
Criminal		39	207	184	442	872
Family			29	6	48	83
Land		4	134	50	109	297
Rakai						
Civil				4	122	126
Criminal			2	23	248	273
Family					8	8
Land				2	48	50
Sembabule						
Civil					4	4
Commercial			2	2	105	109
Criminal				17	236	252
Family					19	19
Land		4	8	14	85	112
Serere						
Civil					2	2
Commercial					45	45
Criminal			6	64	419	490
Family					14	14
Land				10	29	39
Wakiso						
Criminal					2	2
Family				2	2	4
Land				2	2	4
Wobulenzi						
Civil			2	23	130	155
Criminal					157	157
Family					25	25
Land			2	33	138	174
Yumbe						
Civil		4	2	6	39	52
Criminal				10	103	114
Family					4	4
Land			6	17	43	66
Magistrate Grade 1 Total	68	1,343	4,264	5,036	21,807	32,518

The Case Backlog Committee in Pictures



The Case Backlog Committee in Pictures





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