



**INDUCTION OF THE NEWLY APPOINTED AG. REGISTRARS, DEPUTY REGISTRARS, CHIEF MAGISTRATES, AND MAGISTRATES GRADE ONE.**

**17<sup>TH</sup> – 23<sup>RD</sup> MARCH, 2024**

**COLLINE HOTEL, MUKONO**



Seated L-R, the Hon. Lady Justice Damalie N. Lwanga, the Hon. Justice Richard Buteera, and H/W Prossy Katushabe in a group photograph with the participants at the Induction training

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## PICTORIAL



Seated L-R, the Hon. Lady Justice Damalie N. Lwanga, the Hon. Justice Richard Buteera, and H/W Prossy Katushabe in a group photograph with a cross-section of the participants at the Induction training



A cross-section of participants at the Induction training

## **ABBREVIATIONS**

ADR	Alternative Dispute Resolution
AG.	Acting
CCAS	Court Case Administration System
CJ	Chief Justice
CJRP	Commercial Justice Reform Program
CLE	Continuing Legal Education
CM	Chief Magistrate
COA	Court of Appeal
CONO	Certificate of No Objection
CPA	Civil Procedure Act
CPR	Civil Procedure Rules
CR	Chief Registrar
CRC	Convention on the Rights of the Child
DCC	District Chain Linked Committee
ECCMIS	Electronic Court Case Management Information System
GBV	Gender-Based Violence
ICT	Information Communication Technology
IT	Information Technology
JLOS	Justice Law and Order Sector
JO	Judicial Officer (s)
JSC	Judicial Service Commission
JTI	Judicial Training Institute
KPIs	Key Performance Indicators
LC	Local Council
MADM	Magistrates Affairs and Data Management
MCA	Magistrates Court Act
NTSC	Notice to Show Cause
ODPP	Office of the Director of Public Prosecutions
OP	Operational Funds
PB	Plea Bargaining
PJ	Principal Judge
PRO	Public Relations Officer
PS/SJ	Permanent Secretary/Secretary to the Judiciary
PSWO	Probation and Social Welfare Officer (s)
RCC	Regional Chain Linked Committee
RMA	Registrar Magistrates Affairs and Data Management
SCP	Small Claims Procedure
SDG	Sustainable Development Goal
SOPs	Standard Operating Procedures
UJOA	Uganda Judicial Officers Association
ULS	Uganda Law Society
WSD	Written Statement of Defence





## **1.0 INTRODUCTION**

This report details an overview of the one-week residential induction training designed for sixteen (16) Acting Judicial Officers at the rank of Registrar, Deputy Registrar, Chief Magistrate, and Magistrate Grade One, appointed by the Judicial Service Commission within the fiscal year. The training, held at Colline Hotel, Mukono, during the third quarter of the fiscal year 2023/2024, is summarized to highlight key activities and noteworthy moments.

Presented by the Judicial Training Institute, this report aims to provide insights into the effectiveness of the "Programme for Induction of Newly Appointed Acting Registrars, Deputy Registrars, Chief Magistrates, Magistrates Grade One, 2024 Cohort." The residential training, conducted from March 17<sup>th</sup> to March 23<sup>rd</sup>, 2024, at Colline Hotel in Mukono, portrays a significant milestone in the professional development of the recently appointed Acting Judicial Officers.

To maintain the highest standards in judicial training, the Judicial Training Institute conducted comprehensive evaluations to garner valuable feedback on various aspects of the program. Therefore, this report details the collective insights into the performance of presenters, the services offered by Colline Hotel, and the dedication of the Judicial Training Institute staff who facilitated this crucial training with the view of celebrating achievements, recognizing areas for improvement, and, most importantly, charting a course for continuous enhancement in the training programs.

## **2.0 PROBLEM STATEMENT AND JUSTIFICATION FOR THE TRAINING**

Judicial Officers in Uganda come from diverse legal backgrounds, bringing rich experiences to the Bench upon their appointment. However, the public's expectation of judicial service, a right under Article 126 of the Constitution of the Republic of Uganda, is lofty.

Despite their varied legal experiences, new judicial officers may find themselves grappling with the intricacies, challenges, and nuances of justice delivery. This gap could potentially lead to a shortfall in meeting the high expectations of the public, thus risking the reputation of the Judiciary.

In response to this challenge, the Judiciary's top management made a strategic decision not to deploy any judicial officer before undergoing proper induction.

Consequently, the Judiciary, facilitated by its Judicial Training Institute, orchestrated a comprehensive one-week induction training course to equip recently appointed Judicial Officers with the necessary knowledge and skills, ensuring they are well-prepared to fulfill their judicial duties.

### **3.0 TRAINING APPROACH**

The induction training methodology took on a holistic approach, combining practical experiences and expert knowledge to cover vital aspects of court processes, as well as providing guidance on maintaining a healthy lifestyle and planning for retirement. The training sessions featured illustrative presentations by selected trainers, predominantly utilizing PowerPoint slides.

Participants were provided with comprehensive written copies of the presentations after each training session, and these materials were promptly uploaded to the JTI Website in real-time. While some presenters followed prepared scripts, others delivered presentations extemporaneously. The training institute recognized the significance of presenters sharing copies of their presentations, both before and immediately after the sessions, as a best practice for future training endeavours.

Experienced justices, judges, and registrars who facilitated the training contributed valuable recommendations based on the discussions held during the sessions. The overarching objective of the training was to ensure that newly appointed and inducted Judicial Officers are well-prepared to deliver justice effectively and efficiently to the people of Uganda.

To evaluate the effectiveness of presenters in the "Programme for Induction of Newly Appointed Acting Registrars, Deputy Registrars, Chief Magistrates, and Magistrates Grade One, 2024 Cohort," evaluation forms were meticulously designed covering crucial aspects of the presentations.

In addition to presenter evaluations, the tool gathered feedback on the overall training program. Ratings for overall satisfaction, session structure effectiveness, and the Colline Hotel's facilities and logistics were sought. Open-ended questions encouraged participants to provide detailed feedback on specific strengths and areas of improvement for each presenter and the overall training program.

#### **DAY ONE**

The participants arrived and checked in at the hotel on Sunday 17<sup>th</sup> March 2024.



## **DAY TWO**

### **4.0 OPENING CEREMONY**



The Ag. Registrar, Human Resource Development and Training, H/W Prossy Katushabe presided over the opening ceremony at the Induction training of the newly appointed Ag. Registrars, Ag. Deputy Registrars, Ag. Assistant Registrars, Ag. Chief Magistrates and Ag. Magistrates Grade One.

The opening ceremony commenced with a prayer led by H/W Kinobe Rogers Binega, Ag. Deputy Registrar Mubende High Court Circuit.

Subsequently, the participants were afforded an opportunity to introduce themselves to the Chief Guest by stating their names, designations and duty station.

### **4.1 WELCOME REMARKS BY THE EXECUTIVE DIRECTOR, JTI**

The Executive Director, JTI started her remarks by welcoming all the people present to the induction course of the Judicial officers and congratulating the participants upon their appointment. She specially welcomed the Deputy Chief Justice and thanked him for making time to officiate at the opening ceremony of the induction course.

She expressed gratitude to top management for the recruitment noting that the increase in human resource is a key priority and at JTI induction is one of the priorities as per the mandate which is to offer specialized training as required by Policy under the Public Service Standing Orders.



Justice Damalie stated that the purpose of the induction was to refresh professional skills and enhance the participants' skills capacity in handling their new roles and also to create a forum where all the appointed Judicial Officers are formally welcomed into the judiciary.

She implored the participants to listen attentively and take lessons from the training. She further implored them to consult, identify mentors, and seek guidance from administrators whenever faced with any challenges.

She appreciated the top management for supporting the Institute in carrying out the induction training and applauded the facilitators for agreeing to share their experiences with the participants. She thanked the JTI team for organizing the training.



In the middle Seated, The Hon. Lady Justice Damalie N. Lwanga at the Induction training

#### 4.2 OFFICIAL OPENING BY THE HON. THE DEPUTY CHIEF JUSTICE



The Deputy Chief Justice, the Hon. Justice Richard Buteera inaugurated the induction training for the newly appointed Registrars and Magistrates, expressing his honour and gratitude for the invitation by the Executive Director of the Judicial Training Institute (JTI). He congratulated the participants on their appointments, recognizing their hard work and dedication, and commended the JTI team for organizing this crucial training.

Justice Buteera highlighted the significant role of Magistrates and Registrars within Uganda's Judiciary, noting their close contact with the public in need of judicial services. He emphasized that the induction provides an opportunity to acquire practical knowledge and essential skills for their new roles. Reviewing the training program, he assured the participants that the selected topics would equip them with the necessary skills to perform effectively as judicial officers and administrators.

He stressed the importance of timely delivery of judgements and rulings. He underscored that the Judiciary's top management would provide the necessary resources and tools, expecting commensurate output and consistent performance from the officers. He encouraged them to be motivated by the Judiciary's vision of "Justice for All" and to love their work to offer excellent service.

Referring to Article 126(1) of the 1995 Constitution, Justice Buteera reminded the officers that judicial power is derived from the people and must be exercised in conformity with their values and aspirations. He urged the officers to identify and address the justice needs of court users, promoting Alternative Dispute Resolution (ADR) mechanisms to resolve disputes more efficiently and reduce caseloads.

The Deputy Chief Justice emphasized that Registrars and Magistrates are both adjudicators and administrators, playing a crucial role in the administration of justice. He highlighted the importance of maintaining accurate data and proper planning at their respective stations. The officers were also reminded to comply with Public Service Standing Orders and Regulations, setting an example in punctuality and professionalism to prevent case backlog and maintain public trust.

Quoting the late Morgan Scott Peck, Justice Buteera stressed the importance of valuing time to achieve their duties effectively. He warned that neglecting time schedules could lead to case delays, backlog, and a negative public perception of the Judiciary. He urged the officers to value their time and strive for excellence in their work.

Justice Buteera pointed out the Constitutional mandate under Article 28(1) for fair, speedy, and public hearings. He emphasized the frustration caused by delayed judgements and urged the officers to prioritize timely delivery, especially for old cases, juveniles, the elderly, disabled persons, and other vulnerable groups. He advised the participants to take charge of their courts and develop work plans to address pending cases.

The Deputy Chief Justice stressed the need for cooperation with other justice actors, including police, prisons, the Office of the Director of Public Prosecutions, and local leaders, to ensure successful prosecutions and effective civil trials. He called for teamwork and the internalization of the Judiciary's values—independence, impartiality, transparency, professionalism, integrity, equality, and accountability.

Justice Buteera highlighted the importance of meeting key performance indicators and creating a conducive work environment. He emphasized that the Judiciary has no room for lazy, incompetent, corrupt, or arrogant officers. He urged the officers to respect their colleagues and supervisors, promoting harmony and mutual exchange of ideas for a peaceful working environment. He also encouraged senior officers to mentor and coach their juniors.

He also expressed his appreciation to the presenters who allowed to share their knowledge and experiences. He encouraged the participants to implement the lessons learned to meet the justice needs of the people they serve.

He concluded by thanking the JTI team for organizing the induction and officially declared the training open.



The Hon. the Deputy Chief Justice, His Lordship Richard Buteera addressing the participants at the Induction training

## 5.0 PRESENTATIONS

### 5.1 THE STRUCTURE AND FUNCTIONS OF THE JUDICIARY

**Presenter: HW Sarah Langa Siu - Chief Registrar**

Her Worship, the Chief Registrar started her presentation by highlighting the constitutional governing principles of adjudication under Article 126(2) of the Constitution; justice shall be done to all irrespective of their social or economic status, expeditiously, award adequate compensation to victims of wrongs, promote reconciliation between parties, and administer substantive justice without undue regard to technicalities.



She emphasized the judiciary's role in contributing to economic transformation through revenue collection in terms of court fees and fines, creating peaceful societies by keeping away murderers, terrorists, robbers, embezzlers, and all other criminals, and resolution of commercial and land disputes thereby liberating money and other factors of production.

She referred to the Sustainable Development Goal (SDG) 16, which provides for strong and peaceful institutions and also underlined the guiding values of the Judiciary that is; independence, impartiality, transparency, professionalism, integrity, accountability, Equality, and Respect. She emphasized that Integrity is the foundation for us as judicial officers and therefore Equality and respect are very vital in our day-to-day lives.

The facilitator highlighted the operations and structure of the Judiciary as stipulated under article 129 (1) of the Constitution and also emphasized that the Judiciary is made up of the Supreme Court, the Court of Appeal, the High Court (Divisions and Circuits), and Magistrates Courts.

She communicated that the structure of the top management of the judiciary is headed by the Hon. the Chief Justice who is assisted by the Deputy Chief Justice, the Principal Judge, the Chief Registrar, and the Permanent Secretary/ Secretary to the Judiciary.

She stated that the judicial officers are categorized as justices of the Supreme Court, justices of the Court of Appeal, judges of the High Court, registrars, and magistrates. The non-judicial officers' categories include the managers such as the permanent secretary, undersecretary, accountants, commissioners, and other support staff (court clerks, process servers, secretaries, drivers, and security officers, among others). She noted that the Chief Registrar and the permanent secretary are on the same level.

She also communicated the duties of the different Judicial Officers being inducted as nuanced under the schedule of duties and key performance indicators for the Registrars and Magistrates, 2016.

She later took the participants through the Administration of the Judiciary Act. She highlighted that though the Judicial officers are core staff, the Judiciary is supported by 5 departments and 2 units namely: - Finance and Administration, Human Resource Management, Engineering & Technical Services, Information & Communication Technology, Policy & Planning, Internal Audit, Procurement & Disposal Unit.

She discussed the features of the AJA highlighting the numbers per the old structure and the now expanded structure; The performance management system; the Inspectorate of courts, The Judicial Training Institute, The Judiciary Fund, The Judiciary Council

She stated that the key functions of the Judiciary are:- Adjudication of civil and criminal matters, interpretation and defense of the Constitution and the laws of Uganda, promote the rule of law, promotes human rights of individuals and groups, enrollment and license advocates, license and discipline court bailiffs, keeps custody of laws enacted as well as dissemination of legal literature, receiving government revenue accruing from courts and introducing modalities for alternative dispute resolution to reduce the burden of cases on the courts.

She implored the participants to pay attention to the different Practice Directives/ Circulars

She concluded the presentation by sharing some tips with the participants. She advised them to: - Define their brand i.e. what they want to be remembered for, have a good working relationship with all, be good stewards of the resources at their disposal, consult always, and finally encouraged them to always pray.





The Hon. the Chief Registrar, H/W Sarah Langa Siu making a presentation at the Induction training

## PLENARY

It was emphasized that service, stewardship, and always remembering that you are a servant are the 3 values they should have in mind when joining the Judiciary.

What takes precedence between the Law, Rules, and Court Practice Directions?

- The law takes precedence in case of a clash

Highlight the scholarship programme of the Judiciary, if any?

- There is currently no funding for scholarships however Judicial Officers are encouraged to privately sponsor themselves.

It is not possible to reach the KPIs as indicated in the schedule of duties in some courts. How to go about it?

- When submitting performance reports, there should be a column for variance to explain why results are the way they are.



There should be consideration for the administrative duties and roles played in the KPIs.

- There are additional responsibilities not captured under CCAS and in the committee set up to review the 2016 schedule of duties, these are going to be considered.

Need for transport in some courts such as Wabusana Court

- On transport, funding cannot allow every court to get vehicles however they will consider the courts in urgent need first as they work on availing transport to all.

Can the Judiciary offer Support to those who want to study abroad by for example bonding them?

- The judiciary can clear one to go study abroad however they must be confirmed (not serving in an acting capacity).

## **5.2 EXPERIENCE SHARING BY PARTICIPANTS**

Presenter: HW Faisal Mulalira - Deputy Registrar Training, JTI



During a discussion facilitated by HW. Faisal, participants shared their experiences and lessons learned in their respective roles within the judiciary service thus far.

A participant, transitioning from the mainstream public service that is, the Ministry of Justice, emphasized the need to unlearn and learn certain practices. She pointed out that she needed to consult with the Judge on a certain matter, so she carried the file to the Judge's chambers only to be guided that she ought to have asked the clerk to carry the file rather

than do it herself.

Another participant shared to the effect that a colleague's intervention before he could deliver a ruling taught him the importance of seeking formal applications. He said he was hearing a matter and submissions were made for substituted service and he was convinced of the need for substituted service and was about to deliver a ruling however, there was no formal application made to the Court for substituted service.

A participant highlighted the significance of keen attention to detail, especially in Judgement and decree alignment. She revealed that a decree presented to her contained orders of eviction and demolition yet the Judgement only relayed eviction. However, she was swift and asked that the decree extracted should reflect the contents in the Judgement which was complied with.

The participants shared that they had been posted to an area where they did not comprehend the local language and thus had to rely on the clerk for interpretation. However, they noticed that the clerk was having long conversations with the witnesses without interpreting and when they enquired from the public what was happening, they learned that the clerk was asking the witness questions and only interpreting the responses from their questions. They then decided to call a staff meeting and rotated duties for the support staff.

Yet another interesting experience shared was when the Judicial officer passed a sentence of a fine but forgot to pass the default penalty only to be reminded by the clerk in Court.

The importance of aligning Court documents was emphasized.

It was also pointed out that there was a need for building cohesive teams for efficient service delivery.

Another participant's experience underscored the value of mentorship and adaptation to new environments.

Participants discussed best practices such as creating WhatsApp groups for mentoring and maintaining professional standards for court staff.

HW. Faisal concluded by emphasizing the importance of cultivating respectful relationships, maintaining work-life balance, and continual learning in the pursuit of justice.



One of the participants sharing her experience with the group during the Induction training

## **5.30 BREAK OUT SESSIONS**

### **5.31 JURISDICTION AND FUNCTIONS OF A REGISTRAR**

Presenter: HW Rosemary Bareebe - Registrar High Court

HW Bareebe started her presentation by highlighting the mandate of the Judiciary under Article 126 of the Constitution and the structure of the Judiciary under Article 129 of the Constitution.

She took the participants through the office of the Chief Registrar (CR) noting that the CR heads all registrars and is the head of technical matters in the judiciary.

She took the participants through the functions of the Chief Registrar as laid out in the Administration of the Judiciary Act, such as secretary of the Judiciary Council, monitoring and enhancing services of the judiciary among other functions.



The presenter stated that the Chief Registrar is assisted by a management team of Registrars who head technical departments of the Judiciary. She informed the participants that currently they have 10 full Registrars including Registrar Supreme Court; Registrar Court of Appeal; Registrar High Court; Registrar Planning, Research, and Development; Registrar Inspectorate of Courts; Registrar Judicial Training Institute; Registrar Magistrates Affairs and Data Management; Registrar Private Legal Secretary to CJ; Registrar Mediation; and Registrar in charge of Civil Division.

She stated that Deputy Registrars and Assistant Registrars sit at every court of record. They are managers of their respective courts and are responsible for adjudication and day-to-day management of the station. She added that all registrar's report to the CR

She discussed O. 50 of the Civil Procedure Rules for the powers of Registrars such as enforcing judgments in uncontested cases; hearing interlocutory matters, execution matters, taxation matters, matters relating to the performance of undertakings, taxation of bills of costs, etc.; arbitrating disputes arising from two or more administrators of estates; conducting locus visits in land matters before any activity takes place; and handling summons for directions.

The Registrar High Court through an interactive session with the participants took them through what applications they could handle and what they could not handle for example they could not handle applications for stay of execution pending appeal, and judicial review applications, among others.

HW Bareebe stated that registrars are managers of the courts in which they are serving with the main objective of directing, supervising, and coordinating the functioning of their respective courts of judicature to ensure delivery of Justice. She listed some specific functions

like establishment and maintenance of a court registry, issuance and renewal of court process, presiding over taxation proceedings before the court, and analysis of court activities to monitor the performance of courts among others.

She concluded her presentation by noting that the duties and responsibilities of Registrars in Uganda's modern Judicial system go beyond the mundane duties of record keeping and issuing of court processes. Registrars are the Chief Administrators of their respective courts which means that the performance of their court is a direct reflection of their management skills. She added that functions of registrars in administrative registries such as JTI, MADM, and Inspectorate are peculiar to those registries.



A participant seeks clarification during the Induction training

## PLENARY

Experiences on how they can effectively conduct inspections amongst staff and courts under their jurisdiction were shared.

What happens to scheduled activities in a quarter that are not carried out and the quarter ends?

- Ensure to carry out all planned activities for the quarter. If it is a missed locus you can adjourn any court hearing to conduct the locus visit to ensure money given for that quarter is utilized.
- Involve the Judge on the need to conduct the locus visits.



### **5.32 MANAGEMENT OF COURT STATIONS: AND CASE FLOW MANAGEMENT FOR MAGISTRATES**

Presenter: HW Katushabe Prossy – Ag. Registrar Human Resource Development and Training



The presentation delved into various aspects of court management, encompassing supervision, case flow management, and promoting a positive image of the judiciary. Court management involves overseeing the efficient functioning of court operations, including supervising staff, managing case flow, and ensuring the proper arrangement of files. Emphasis was placed on the importance of promoting a favorable image of the judiciary through professional conduct and effective communication with stakeholders. Additionally, the

presentation highlighted the significance of generating accurate and timely reports to monitor court performance and facilitate informed decision-making. Proper file arrangement was underscored as essential for facilitating accessibility and ensuring the smooth conduct of court proceedings.

The presentation highlighted the hierarchical structure of supervision within the judiciary, encompassing various levels such as Magistrates Grade One, Chief Magistrates, Deputy Registrars, Registrars, Judges, Inspectors of Courts, and the Chief Registrar.

The presenter emphasized the authority vested in Chief Magistrates to review and examine proceedings of inferior courts to ensure their correctness, legality, and propriety noting that failure to comply with such requests may lead to charges of insubordination. Additionally, it was pointed out that Chief Magistrates are responsible for file allocations, custody of the court seal, forwarding of files for confirmation, and supervising court clerks and staff stressing that this comprehensive supervision framework ensures adherence to legal procedures and maintains the integrity of court operations.

Her Worship pointed out that Case flow management denotes the procedural journey a case undergoes from its filing to its resolution emphasizing that timeliness in this process is crucial, as justice must be delivered swiftly, efficiently, and without unnecessary costs. She hinted that undue delays often result in dissatisfaction among stakeholders and contribute to the common challenge of case backlog faced by judiciaries globally stressing that proper case management is essential in preventing such backlogs. She further noted that ensuring that cases are tried without undue delay involves adhering to specified timeframes for the commencement and conclusion of trials.

The facilitator added that proper case flow management offers various benefits, including ensuring equitable treatment of all court users and the timely resolution of cases. She stressed

that by organizing case files effectively, the system minimizes the likelihood of wasting court time. Additionally, it provides ample time for case disposal while preventing time wastage.

She noted that effective case management also helps to combat corruption, both in reality and perception, thereby enhancing public trust in the judiciary and promoting accountability. She emphasized that a well-designed system should encourage alternative dispute resolution, reducing litigation costs. Furthermore, it addresses undue delays in court proceedings, improves court attendance, ensures certainty of hearings, and enables the monitoring and evaluation of case backlogs and strategies.

It was pointed out that the key participants in case flow management include the judicial officers handling trials, such as magistrates, registrars, and judges, along with the personnel responsible for file allocation at the station and in the registry. It was noted that litigants, advocates, and lawyers also play crucial roles by minimizing unnecessary adjournments and adhering to timelines, such as summons for directions and disposal of interlocutory applications. Registry staff must ensure the proper handling of files to avoid hiding or misplacing them, while court clerks assist in various administrative tasks related to case management.

The facilitator emphasized that case flow management involves expeditious adjudication and disposal of cases through measures such as conducting locus visits, utilizing small claims for suits within a specified threshold, and promoting alternative dispute resolution (ADR), and reconciliation, among others. Case flow management emphasizes the importance of timely completion of cases. The participants were implored to ensure the quality of judgments by reviewing old files, and consulting with colleagues when necessary, and timely delivery of judgments within the 60-day rule to facilitate the efficient disposal of cases.

The presenter noted that in case flow management, various aspects need consideration. These include procedural planning, efficient management of documents and evidence, conducting case conferences both before and after trial, and thorough pre-trial preparation, ensuring that all interlocutory applications are decided within 28 days of filing ([O12 r 2 CPR SI 71-1](#)). Additionally, it involves issuing summons for directions after pleadings, timely resolution of disputes without undue delay, continuous case monitoring, and conducting stock taking sessions to identify and remove old, abandoned, or non-starter cases from the system (weeding-out).

The participants were advised that to achieve effective case flow management, it's crucial to recognize that an appeal is a litigant's right and not about personal preferences. Therefore, the facilitator encouraged them to ensure court records are readily available for appeals and executions. Additionally, the participants were cautioned against hesitating to enforce court decisions during the execution processes. Furthermore, the participants were encouraged to prioritize the timely and accurate submission of data to the Registry of Magistrates Affairs and Data Management (RMA) for efficient case tracking and management.

Court management involves being actively involved in various aspects of court operations, noted the presenter. It includes ensuring that all registers, such as attendance registers and movement books, are properly established and maintained. She further cautioned that effective time management is essential, and encouraged the participants to work efficiently even on Mondays and Fridays.

The facilitator advised the participants that weekly cause lists should be prepared and shared with relevant stakeholders such as the police, the Director of Public Prosecutions (DPP), and advocates. Additionally, she pointed out that registry and archives management, as well as the management of funds and court property, are crucial responsibilities. Regular meetings, including staff and finance committee meetings, should be held to discuss pertinent issues. It's also important to manage the inventory of judiciary assets, prepare management reports, submit case returns, and promote adherence to COVID-19 standard operating procedures (SOPs). Finally, displaying the court fee structure prominently and actively collecting fees is also part of effective court management.

Her Worship pointed out that utilization of operational funds encompasses the oversight of various court aspects. This includes managing court staff, chambers, and the overall office environment. Additionally, implementing the small claims procedure and conducting locus in quo visits are essential elements. Ensuring proper supervision of the office and maintaining guard allowances, with a register and attached force number, are also crucial responsibilities in effective court management.

The presenter cautioned the participants noting that it's crucial to enhance the judiciary's public image as the courts are constantly under public observation or scrutiny, and that our effectiveness is judged by the absence of negative feedback.

She proceeded to share some of the strategies that could be embraced to achieve a good image of the judiciary including raising awareness about court proceedings such as the bail process and session schedules, implementing an open-door policy to foster transparency, establishing a consistent approach to handling complaints, and engaging stakeholders like District Chain-linked Committees (DCCs) in justice administration. Additionally, special consideration should be given to cases involving vulnerable individuals to ensure access to justice for the marginalized. Hosting court open days can also contribute to this goal by promoting transparency and community engagement.

Various reports play a crucial role in judiciary operations. These include monthly statistical reports on individual and court performance, which are forwarded to [RMAstatistics@judiciary.go.ug](mailto:RMAstatistics@judiciary.go.ug), financial returns concerning NTR fees and fines, management reports submitted to the CR, time management reports also sent to the CR, and quarterly accountabilities covering areas such as guard allowances and DCC meetings. Additionally, there's a process for handling bail refunds, where claims are submitted along with corresponding orders.



The facilitator made mention of case disposal targets noting that Chief Magistrates have an annual case disposal target of 450 and an average monthly case disposal target of 38, Magistrates Grade One have an annual case disposal target of 400 and an average monthly case disposal of 34, and lastly, that Magistrates Grade 11 have an annual case disposal target of 250 and an average monthly case disposal target of 21.

Each Judicial Officer is required to submit case statistics by the 31st of each month, including key details such as the type of case (e.g., Criminal, Land, Family, Civil, Small Claims), case category (e.g., Civil Suits, Criminal Capital, Criminal Offence, Miscellaneous Applications), the number of cases brought forward, registered, reallocated, and completed by various modes of disposal (e.g., Judgment written, dismissal), as well as cases pending at different stages (e.g., hearing, Judgment), and the backlog status.

The facilitator concluded by advising that all documents placed in the file are meticulously recorded on the left side of the folder in chronological order based on their filing dates. Each document brought is meticulously noted on the folder, ensuring thorough documentation. In case a document is tendered, it is appropriately labeled with a format such as "Annexure 1— Land Title," facilitating easy retrieval when requested by an advocate or any concerned party. Exhibits are securely tied on the right side of the folder, labeled with the exhibit name, and aligned with the exhibit list for clarity and organization.



A cross-section of participants listening in to the presentation.

## **PLENARY.**

The challenge of time management by advocates and litigants at the station.

- Condemn lawyers to costs.
- Understand your jurisdiction.
- Utilize the bar-bench relationship and DCCs.

How to handle adjournments sought by junior counsel on behalf of senior counsel?

- Make rulings on record.
- Appraise oneself with the law.

Mediation – referred someone for mediation but where?

- Write to the High Court for a mediator
- Appoint a mediator.
- Parties can agree to a mediator.
- Always monitor the process to avoid abuse.

Challenge with state attorney yet the bulk of the work is criminal.

- Do not receive files without a state attorney.
- Seek an appointment with the CR.

How to handle plea-taking in the absence of a state attorney?

- Communicate the charge to the accused and communicate why e.g No state attorney

How to access CCAS?

- Engage the systems administrators for help.

## **5.4 INDEPENDENCE OF THE JUDICIARY AND JUDICIAL ACCOUNTABILITY**

Presenter: Dr. Ginamia Melody Ngwatu, Deputy Registrar, Judicial Service Commission

During her presentation, Dr. Ginamia Melody Ngwatu, representing the chairperson of the Judicial Service Commission, congratulated participants on their appointments and emphasized the importance of resolving complaints promptly.

The presentation focused on the legal framework governing judicial independence and accountability, examining key concepts and exploring opportunities for improvement. It discussed various mechanisms for promoting judicial independence and accountability, addressing potential conflicts between these concepts and highlighting the Judicial Service Commission's stance on the matter.



The presentation underscored the pivotal role of the Judiciary as a government institution entrusted with several key responsibilities. These include adjudicating disputes, safeguarding human rights and freedoms, providing judicial review for administrative actions, ensuring the proper administration of justice, and upholding the rule of law.

The facilitator outlined the comprehensive legal framework governing judicial independence and accountability in Uganda. This framework encompasses various laws and regulations, including the Uganda Constitution, the Judicial Service Act of 2005, the Judicial Service Commission Regulations SI No. 87 of 2005, the Judicial Service Commission (Complaints and Disciplinary Proceedings) Regulations, SI No. 88 of 2005, the Administration of Judiciary Act, 2020, the Public Service Act, 2008, the UN Basic Principles on the Independence of the Judiciary, the Uganda Code of Judicial Conduct, the Uganda Public Service Standing Orders, 2021, the Code of Conduct and Ethics for Uganda Public Service and the Administrative instructions.

Dr. Ngwatu highlighted the foundational principles underpinning the independence of the judiciary in Uganda, as enshrined in Article 128 of the Constitution. These include the assertion of courts' independence, protection against interference with judicial functions, assistance rendered to courts for their effectiveness, and protection of judicial officers from personal liability. Additionally, administrative expenses are charged on the consolidated fund, granting financial autonomy, while the self-accounting status of the Judiciary ensures further financial independence. The Constitution further safeguards judicial officers from adverse changes in their terms of service and protects against the abolition of their positions when substantively occupied, reinforcing job security. The enactment of the Administration of the Judiciary Act, the Judicial Oath, and the Uganda Code of Judicial Conduct also bolster the foundations for judicial independence in Uganda.

The presenter tasked the participants to scrutinize the Judicial Oath that they took before assuming office and urged them to continue making reverence to it in the course of their duties. She added that the Judicial code of conduct lays a clear distinction between Institutional independence and individual independence.

In the presentation, it was emphasized that judicial immunity serves as the cornerstone for the independence of the Judiciary, providing full protection to Judicial Officers in carrying out their judicial duties without fear or favor. This immunity, derived from the judicial oath, ensures that judicial officers can discharge their functions impartially and honestly, regardless of external pressures or influences.

She implored the participants to study the case of H/W Aggrey Bwire vs. AG & Judicial Service Commission, SCCA No. 8 of 2010, in which Justice Kitumba, JSC, emphasized that judicial independence and immunity are not personal privileges but rather obligations imposed on every judicial officer. These obligations empower them to impartially and honestly adjudicate disputes based on the law and evidence, free from external pressures or influences, and without apprehension of interference from any quarters.

The presentation highlighted various threats to judicial independence, including adverse press coverage of cases handled by the judiciary, public condemnation of judges and judicial officers from some quarters of Government, adverse social media coverage and commentary on court decisions, and lawyers discussing ongoing cases in the media. Additionally, peer pressure among judicial colleagues, pressure from stakeholders, donor influence, and inadequate funding for activities such as locus visits were identified as challenges. It was also noted that the rating of judges' performance through private scorecard reports e.g. the Judiciary Scorecard Report 2019 compiled by the Centre for Public Interest Law, an institution outside the Judiciary using statistical methods that are not significant or reliable and poor professional conduct among lawyers as officers of court undermine the independence of the judiciary and its ability to impartially administer justice.

The presenter emphasized the Constitutional provision enshrined under Article 126, which underscores the principle of judicial accountability. It states that judicial power is derived from the people and must be exercised by the courts in accordance with the law and the values, norms, and aspirations of the people.

Dr. Ngwatu stressed the accountability principles outlined in the Uganda Code of Judicial Conduct, including impartiality, integrity, propriety, equality, competence, and diligence, which are fundamental to the judicial function. She also highlighted the Constitutional provisions empowering the Judicial Service Commission to exercise disciplinary control and render advice to the President regarding specified officers in the Judiciary. She pointed out Article 147(1)(a) which empowers the Judicial Service Commission to advise the President on the exercise of disciplinary control and removal from office of specified officers in the Judiciary and Articles 148 and 148A which grant the Judicial Service Commission authority to exercise disciplinary control over other judicial officers and Judiciary staff. She also drew the participants' attention to the Administration of the Judiciary Act, specifically Section 14, which aligns the standards of service with the Constitution and mandates the promotion of honesty, integrity, and transparency in the judiciary service.

She informed the participants that the JSC plays a crucial role in promoting judicial independence and accountability through various functions. Firstly, she noted that it is responsible for the appointment and disciplinary actions, advising the President on the appointment of specific judicial officers and overseeing the discipline and removal of such officers. Additionally, she pointed out that the JSC conducts reviews and makes recommendations on the terms of service for judges and judiciary staff. It also undertakes educational initiatives to educate judicial officers and the public on legal matters and the justice system. The JSC manages complaints related to the judiciary and administration of justice, receiving and processing recommendations and grievances. Finally, the JSC serves an advisory role, guiding the government in enhancing the administration of justice in the country of improving the administration of justice.

The facilitator observed that the disciplinary process within the JSC is governed by a specific legal regime. Upon appointment, Judicial Officers are bound by several legal instruments, including the Constitution, the Public Service Act Cap 282, the Judicial Service Act Cap 14,

and regulations made thereunder, the Public Service Standing Orders, and Administrative instructions. She noted that these provide the framework for the disciplinary procedures and ensure that Judicial Officers adhere to established standards of conduct and professionalism.

She further noted that provisions regarding the conduct of judicial officers are outlined in various legal instruments. Article 144(2) of the Constitution specifies grounds for the removal of higher bench judicial officers, encompassing misbehaviour, misconduct, and incompetence. Additionally, the Judicial Service (Complaints and Disciplinary Proceedings) Regulations No. 88/2005, Regulation 5(3), delineates the grounds for lodging complaints against judicial officers, which include improper conduct, corruption, abuse of office, neglect of duty, and maladministration of justice.

Dr. Ngwatu noted that the Judicial Service Commission's Regulations SI 87 of 2005 under Regulation 23 outline 14 disciplinary offences applicable to judicial officers. These offences include conduct detrimental to the service's reputation, practising favouritism, nepotism, or corruption, practising discrimination, habitual tardiness or absenteeism, insubordination, rude, abusive, disrespectful, using vulgar language, laziness, producing poor quality work, untrustworthy and lack of integrity, unauthorized disclosure of official information, violation of judicial conduct or oaths, criminal convictions, disregarding the chain of command, abuse of judicial authority, and contravention of laws or government orders.

She outlined examples of disciplinary offences against judicial officers including delayed delivery of judgments and rulings, delays in refunding cash bail, solicitation or acceptance of bribes, lack of integrity in private financial transactions, insubordination, and absenteeism.

She articulated the sanctions for disciplinary offences as per Regulation 31(1) of the Judicial Service Commission Regulations No. 87/2005 including dismissal, suspension, reduction in rank, written undertakings to refrain from repeating the offence, salary reduction, stoppage or deferment of increments, severe reprimand, order for payment of compensation, and recovery of costs for losses or damages caused by default or negligence, through deductions from salary or gratuity or other means.

The participants were informed that the JSC has undertaken several initiatives to promote judicial independence and accountability including proposing amendments to the JSC Act and related regulations, conducting regular inspections of courts and JLOS institutions such as prisons, operationalization of the Administration of Judiciary Act, establishment of the JSC Anti-corruption Committee and the implementation of an anti-corruption policy and strategy, and the provision of education and training programs for judicial officers and the public to enhance awareness and empowerment.

In addition, she notified the participants of the proposed measures by the JSC to promote judicial independence and accountability including enhancement of linkages between the Commission and the internal disciplinary mechanisms of the Judiciary, reviewing the composition of the Commission to make it more permanent, formation of alliances with anti-

corruption agencies, establishment of a JSC academy for stakeholder training, and the implementation of profiling of judicial officers to gather evidence for disciplinary actions.

The presenter further pointed out institutional measures needing attention including the operationalization of Article 127 of the Constitution for public participation in justice administration, ensuring the Constitutional guarantee of funds for the Judiciary, reinforcement of judicial independence by upholding the sub judice rule, and the involvement of the JSC in monitoring judicial officers' performance.

Dr. Ngwatu affirmed that the Commission acknowledges the delicate balance between judicial independence and accountability, ensuring fairness and transparency in its processes. She added that Complaints once received are carefully assessed against set criteria to determine admissibility and it is not a matter within the exercise of a judicial officer's discretion, for which a remedy is an appeal or review, or revision process (See: Regulation 11 of the JSC Regulations No. 88/2005). She stressed that a complaint must pass the admissibility criteria as set out that is, it must: relate to the administration of justice or operations of the courts; deal with the conduct of a judicial officer or any other persons performing judicial functions; or not be manifestly frivolous, vexatious, unwarranted or unfounded in law. She added that a complaint must be rejected if the complainant can secure a remedy for the complaint through court by way of appeal of judgement or review or revision of orders.

It was further pointed out that the nature of the complaint and its thorough investigation indicate what the purpose or intention of the complainant is. The participants were advised that upon consideration, the Commission then decides whether there is a prima facie case established against the Judicial Officer before a disciplinary hearing is conducted. Rules of natural justice apply (Section 12 of the JSC Act).

The presenter also alluded to Regulation 18 which provides for the right of appeal to a panel of three judges of the High Court against a decision of the Commission and were also informed that the Uganda Code of Judicial Conduct has an important safeguard for the promotion and enforcement of the Code.

The facilitator acknowledged the need to afford protection to Judicial Officers because of the nature of the judicial office from vexatious or unsubstantiated accusations and to afford them due process in the resolution of complaints against them.

In conclusion, she stressed that members of the public, stakeholders in the Justice Law and Order Sector, and the Commission have a critical role to play as we all work to regulate judicial conduct.



Dr. Ginamia Melody Ngwatu making a presentation at the Induction training

## PLENARY

How does JSC start the case /complaints in general process?

- They carry out an evaluation of the complaint, and if adheres to admissibility procedure is investigated and prosecution relies on this to prosecute. If there's no merit, the case is closed. Where there's merit the respondent alleged to have been involved in misconduct is then invited.

In terms of acting appointments, why should it apply to promotions?

- Referred this issue to the Chairman of the Commission.

## DAY THREE

### 5.5 TERMS AND CONDITIONS OF SERVICE AND THE ADMINISTRATION OF FINANCES IN THE JUDICIARY

Presenter: Dr. Pius Bigirimana - Permanent Secretary/Secretary to the Judiciary





Dr. Pius Bigirimana commenced his presentation by underscoring the critical importance of time management, asserting that it directly impacts the Judiciary's vision and mission.

He delineated the structure of the Judiciary, highlighting its reliance on judicial officers supported by various departments. These departments, headed by the Permanent Secretary, encompass Finance and Administration, Human Resources Management, Engineering and Technical Services, Policy and Planning (upgrading to a Department), Procurement and Disposal,

and Internal Audit.

Dr. Bigirimana elucidated the responsibilities of each department, emphasizing their roles in financial management, human resources, infrastructure development, ICT, internal control, and policy formulation.

He outlined the hierarchical structure within the Judiciary, comprising the Top Management Committee and the Senior Management Committee.

Dr. Bigirimana stressed the importance of aligning expenditure requests with the work plan and ensuring timely accountability for funds received.

He highlighted the financial management responsibilities of the participants and emphasized the need for goal-setting, resource requisitioning, and performance evaluation.

Dr. Bigirimana underscored the disciplinary role of supervisors and the significance of managing physical assets and cash bail funds effectively.

He outlined the terms and conditions of service for the participants and emphasized the imperative of integrity and the avoidance of corrupt practices.

Dr. Bigirimana concluded with a quotation from President J.F. Kennedy, emphasizing courage, judgement, dedication, and integrity as pivotal qualities for effective service.



Dr. Pius Bigirimana - Permanent Secretary/Secretary to the Judiciary making a presentation at the Induction training

## PLENARY.

The participants expressed gratitude towards the PS/SJ for the assistance extended, for solar, and internet services availed to their stations.

What is the status of scholarships in the judiciary considering that sister agencies have schemes to support their employees?

- The PS/SJ expressed his support towards acquiring higher qualifications. However, the challenge of the availability of funds was highlighted.
- He noted that training calls for reports to be integrated to assess demands and see how to help and that the course must be relevant.

A concern on managing the service of process where money is directly given to process servers.

- The PS/SJ hesitated to comment on the issue noting that the decision to do so had been taken at a different forum and, therefore, could not be revised in this forum.

Is the judiciary procurement plan institutional or on a case-by-case basis?

- The procurement plan is for offices and chambers.

- He urged the participants to plan for the chambers and institution where they are.
- He noted that there are things one can buy individually. The big ones such as furniture are done by the procurement unit.

A concern about High Courts sharing premises with Chief Magistrates Courts where there is a donation of land for the construction of the courts.

- If considered by finance, we will have construction going on. Gulu and Mbarara, Courts of Appeal will start next financial year.

How to address the issue of transfer of support staff with deployments/replacements that do not tally creating lacunas?

- Transfers without replacements are an anomaly. The participants were urged to put the issue to the attention of the responsible officer.

Utilization of funds allocated, window to have activities done in the preceding quarter?

- Seek permission to move to the next quarter. Reduce it to writing. Inform immediate boss.

Insurance, money allocated to optical and dental not enough requiring top up. Can something be done about it?

- Still negotiating with the insurance companies.



A participant makes an inquiry at the Induction training

## **5.60 BREAKOUT SESSIONS**

### **5.61 HANDLING OF INTERLOCUTORY APPLICATIONS BY A REGISTRAR**

Presenter: Hon. Justice John Eudes Keitirima - Judge / Head Family Division

Justice Keitirima started his presentation by congratulating the participants upon their appointment and elevation.

He noted that with the amendment of the Civil Procedure Rules, the majority of the applications now fall under the docket of Registrars, which has reduced the workload before Judges.

He defined interlocutory application as a motion for equitable relief sought before a final decision. He added that it presupposes a pending suit and that a right to obtain an interlocutory injunction is not a cause of action and cannot stand on its own.



The presenter further added that the right to an interlocutory injunction is incidental to a pre-existing cause of action and cited the case of *The Siskina* (1979) A.C 210 at 256.

He took the participants through the different types of interlocutory reliefs including anticipatory injunction, temporary/interim injunction, mandatory injunction, prohibitory injunction, and quia timet injunction.

He referred the participants to 0.50 CPR on the functions of a registrar which includes hearing interlocutory applications and specifically cited Rule 3 which provides that all formal steps preliminary to the trial, shall be handled by the Registrar.

He added that under 0. XIA Rule 1, Registrars deal with summons for directions.

He went ahead to discuss some of the applications they could hear such as; Consolidation of suits; transfer of suits to Magistrates Courts; Amendment of Pleadings, plaint, and WSD unless it is already before the judge; inspection of documents and interrogatories; admissions; reference for arbitration; discussing of survey reports; attachment before judgment; withdrawal and adjournment of suits; suits by paupers, attachment before judgment, temporary injunctions and enlargement of time.

He stated that any application of an interlocutory nature filed after scheduling is the business of a judge except where the judge refers the matter back to you.

He shared some of the principles to consider when granting interlocutory injunctions referring the participants to order 41 of the Civil Procedure Rules which provides for prima facie case / Probability of success, maintenance of the status quo, and balance of convenience. He however advised them to avoid going into the probability of success of the matter and instead consider if there are any triable issues. He referred them to the case of *Kiyimba Kaggwa V Haji A N Katende* (1985) HCB 43

He noted that the rules require a registrar to handle interlocutory matters within fourteen days of the filing of an application.

The presenter took them through how it can practically be possible to conclude an interlocutory application within 14 days stating that when an application is filed on day 1, a reply is expected like on day 4, a rejoinder is made on day 5, visiting locus on day 6 and a ruling made. He encouraged the Registrars to always visit the Locus in quo before they make a ruling as it will help them determine the status quo.

He also took the participants through injunctions against the government stating that previously injunctions could not be issued against the government however, with coming into force of the 1995 Constitution which provides for compensation by the government before compulsory acquisition of Land, and Jurisprudence from some cases such as *Uganda National Roads Authority V Irumba Asumani & Ors* SCCA No.2/2014 wherein the court ruled that the Land Acquisition Act (Cap 26) was unconstitutional in so far as it provided for the compulsory acquisition of property before payment of compensation to the owner.



He concluded by noting that the intention of the legislature to allow Registrars to handle such applications was the need for expedition. He highlighted O.11 that even when such applications go before a Judge, they should be finalized within 45 days and encouraged the participants to dispose of these applications within the required time frame.



The Hon. Justice John Eudes Keitirima - Head Family Division making a presentation at the Induction training

## PLENARY

Do you consider circumstances under which the respondent has taken possession during locus visits? Expectations at locus visits

- On top of taking pictures, you are expected to determine the status quo (who is in possession, what is on the land and take note of all observations)

The 14 days are likely to be prejudicial to justice as the defendant / respondent may not have enough time to file their response.

- The nature of the application is that they are urgent and lose meaning if they delay. However, they are directory not mandatory so where unable to meet deadlines it is not fatal. In addition, you can give extempore judgments.

How to deal with organizations like UNRA & URA which threaten Judicial Officers about not interrupting the works

- As Judicial Officers ensure the other party has at least been paid something before issuing any order that may affect them.

Do you have leeway to grant an Interim order under S. 98 of the CPA vis a vis the amendments in the rules

Mortgages versus administrative order of 3 days versus regulation 13 which requires payment of 30%.

- Trial judges are not bound by the 3 days' rule of interim orders. Once a judgment has been delivered, an affected party may apply review, appeal and apply to set it aside

Practicability of ex parte interim / How does the applicant move the court to hear the oral application

- One can seek audience before the registrar, explain their case, and if the Registrar deems it fit to issue one, an order is made to stop a certain act.

Can you issue an order even when it has not been pleaded?

- Parties are bound by their pleadings, if one wants a particular order they must have pleaded it however in rare circumstances even when not pleaded you can order that an action be mandatorily made.





A participant raises a concern during the Induction training

## 5.62 JURISDICTION OF CHIEF MAGISTRATES & MAGISTRATES GRADE ONE

Presenter: HW Kisakye Mary Kaitesi - Registrar Planning, Research and Development



H/W Mary Kaitesi Kisakye, the Registrar Planning, Research, and Development commenced her presentation by congratulating the participants upon their appointment to the Judiciary Service.

The facilitator shared the outline of her presentation which included the definition of jurisdiction, types of jurisdiction, Jurisdiction of Chief Magistrates and Magistrates Grade one in Criminal, Jurisdiction of CMs and G1s in Civil matters, and the conclusion. She went on to define Jurisdiction and stated thus;

that include, Exclusive, Concurrent, Geographical (Reference was made to Section 2 of the Magistrates Courts Act, and the Magistrates Courts (Magisterial Areas) Instrument, S.I No. 11 of 2017), Pecuniary, and Appellate with a specific focus on the jurisdiction of Chief Magistrates

and Magistrates Grade One in both criminal and civil matters to provide a comprehensive understanding of the key concepts, ultimately contributing to a broader knowledge of the legal framework.

H/W Mary vividly expounded that jurisdiction is determined by the explicit provisions of a statute (*Owners of Motor Vessel Vs. Caltex Oil Kenya Limited [1989] KLR 1*; *David B. Kayondo Vs. Co-operative Bank (U) Ltd S.C.C.A No. 10 of 1991*) and cannot be granted or revoked through the agreement or consent of the parties involved (*Edith Nantumbwe Kizito & 3 Ors vs. Miriam Kuteesa Court of Appeal Civil Application No. 294 of 2013*). The presenter cautioned the participants that the lack of jurisdiction could not be cured under Article 126 (2) of the Constitution of the Republic of Uganda (*Mulindwa George William Vs. Kisubika Joseph Civil Appeal No. 12 of 2014 Supreme Court of Uganda*).

The presentation also addressed the laws conferring jurisdiction on Magistrates Courts in Uganda, providing insights into the legal framework surrounding their jurisdiction. It was pointed out that Ugandan Courts have jurisdiction over offences committed in Uganda or connected to Uganda (Section 4 of the Penal Code Act) except for specific offences mentioned under Section 4(2), such as intent to alarm, annoy or ridicule the president, concealment of treason, and promoting war on chiefs.

She noted that the Constitution of the Republic of Uganda, 1995 under Article 129 (1) (d) empowers the establishment of subordinate Courts, including Magistrate's Courts, as designated by Parliament. In addition, she alluded to the Magistrates Court Act (MCA), Cap. 16 stressing that Section 5 of the MCA details the constitution of Magistrate's Courts and that it was considered duly constituted when presided over by a legally empowered magistrate.

She went on to discuss the jurisdiction of Magistrates in civil cases and referred the participants to Section 207(1) of the Magistrates Courts (Amendment) Act, 2007, which provides that Chief Magistrates have jurisdiction when the pecuniary value of the subject matter does not exceed UGX. 50,000,000, Magistrates Grade One have jurisdiction when the pecuniary value of the subject matter does not exceed UGX. 20,000,000 and Section 207(2) of the MCA which establishes that when a cause or matter is governed solely by civil customary law, the jurisdiction of a Chief Magistrate and a Magistrate Grade One is unlimited. She added that Civil Customary Law is defined under Section 1(1) (a), MCA.

The presentation referenced the case of *Koboko District Local Government Vs. Okujjo Swali Misc. App. No. 001 of 2016* which emphasizes the unlimited jurisdiction of Magistrates Grade One in disputes governed by civil customary law. She noted that Section 207(3), MCA stresses that the plaintiff shall fix the value of the subject matter in the plaint and that where the Court thinks the relief sought is wrongly valued, the Court shall fix the value and return the plaint for amendment.

She cautioned the participants that in suits where the subject matter's value cannot be determined, no decree should exceed the pecuniary limits of the Court's jurisdiction and referenced Section 207(4), MCA.

The presenter generally noted that as provided under Section 208 of the MCA, Magistrate's Courts have powers to try all civil suits, except those explicitly or implicitly barred by the law.

The presenter also addressed the issues related to general damages, costs, and interest awards in the context of Magistrate Courts in Uganda; It was highlighted that a Magistrate cannot award damages that exceed their pecuniary jurisdiction and referenced the case of *Joseph Kalingamire Vs. Godfrey Mulugusi HCCA 37/2003*. It was also stressed that Magistrates have the authority to award costs that go beyond their pecuniary jurisdiction as illustrated in the case of *National Medical Stores Vs. Penguins Ltd. HCCA 29/2010*; and clarified that the award of interest is not limited by pecuniary jurisdiction.

In her presentation, she also covered aspects of criminal jurisdiction and sentencing powers of Chief Magistrates and Magistrates Grade One in Uganda. The presenter noted that a Chief Magistrate could try any offence other than an offence in respect of which the maximum penalty is death and could impose any sentence authorized by law (Section 161 (1)(a) and Section 162 (1)(a) MCA), a Magistrate Grade One is empowered to try any offence, except those for which the maximum penalty is death or imprisonment for life (Section 161(1)(b)), MCA, and could impose a sentence of imprisonment for a period not exceeding ten years or a fine not exceeding four million eight hundred thousand shillings, or a combination of both imprisonment and a fine (Section 162(1)(b), MCA).

The presenter also pointed out that any sentence imposed by a Magistrate's Court, other than one presided over by a Chief Magistrate, is subject to confirmation by the High Court. This requirement for confirmation specifically applies to sentences involving imprisonment for two years or more, as well as preventive detention under the Habitual Criminals (Preventive Detention) Act (See: Section 173 of the Magistrates Courts Act).

It was also emphasized that Section 164 (1) outlines the procedure for committal for sentence where if a Magistrate Grade One, after convicting a person, believes that severe punishment is warranted for the offence, beyond their jurisdiction, they can commit the individual to a Court presided over by a Chief Magistrate who has the necessary jurisdiction for sentencing. The participants were urged to remand the accused persons in custody to appear before a Court that has the jurisdiction to try the offence in instances where a charge is brought against a person in a Court that lacks jurisdiction to try the offence they are charged with (Section 166 MCA).

The presenter pointed out Section 75, MCA which discusses the powers of Magistrates to grant bail in criminal matters and highlighted "The Constitution (Bail Guidelines for Courts of Judicature) (Practice) Directions, 2022," which were launched by the Chief Justice in July 2022 that provide a framework for granting bail in accordance with Constitutional principles.

The presenter equally provided insights into the key aspects of jurisdiction and procedures related to civil cases under the Civil Procedure Act (Cap. 71) in Uganda. She noted that Section

4 of the Civil Procedure Act establishes the pecuniary jurisdiction of Courts and cautioned that unless otherwise expressly provided, the Act does not grant any Court jurisdiction over suits exceeding the pecuniary limits of its ordinary jurisdiction. This ensures that courts handle cases within their prescribed monetary limits.

She emphasized Sections 11 and 12 on the geographic and subject-matter-based jurisdiction of civil courts, Section 17 on the power to transfer suits that may be instituted in more than one court, Section 27(3) empowers the court or judge to grant interest on costs at a rate not exceeding 6 per cent per annum, Section 33 which grants the court the authority to execute transferred decrees passed by another court, and Section 82 of the Civil Procedure Act which allows individuals who are aggrieved by a decree or order, whether appealable or not, to apply for a review of judgement to the court that issued the decree or order, and Section 99 which provides a mechanism for correcting clerical or mathematical mistakes in judgments, decrees, or orders, or errors resulting from accidental slips or omissions. The court can make these corrections at any time, either on its initiative or upon application by any party.

The presentation delved into the key aspects of jurisdiction under the Children Act (Cap. 59). It was stressed that Section 93 of the Children Act addresses the criminal jurisdiction of the Family and Children Court which has the authority to hear and adjudicate on all criminal charges against a child, except offences punishable by death and offences for which a child is jointly charged with an individual over eighteen years of age. It was emphasized that Section 44(1)(a) of the Act clarifies that Family and Children Courts do not have jurisdiction to handle adoption matters. It was noted that Section 73 highlights that Magistrates Grade One have the jurisdiction to entertain custody matters.

The presenter considered the aspect of Jurisdiction under the Divorce Act Cap. 249. She hinged on Section 3 which provides that where all parties to a proceeding under the Act are Africans or where a petition for damages only is lodged following Section 21 of the Act, jurisdiction may be exercised by a court over which presides a magistrate grade I or a chief magistrate and cautioned the participants to always pay close attention to orders being sought in divorce petitions to ascertain whether the court has the necessary jurisdiction to adjudicate on the case.

The facilitator discussed the jurisdiction of granting probate or Letters of Administration under the Administration of Estates (Small Estates) (Special Provisions) Act (Cap. 156) in Uganda. Reference was made to Section 2(1)(a) and (b) of the Administration of Estates (Small Estates) (Special Provisions) Act, which propounds that the jurisdiction of the participants applies where the total value of the estate does not exceed 50 million shillings and 20 million shillings before Chief Magistrates and Magistrates Grade One respectively.

The participants were informed that under Section 55 of the Parliamentary Elections Act, 2005 candidates can request a vote recount within seven days after a returning officer has declared the candidate with the highest number of votes as elected. To initiate this process, any candidate may apply to the Chief Magistrate for a recount.

Citing Appeals and Supervision in Local Councils Act, 2006, the facilitator pointed out Section 32 (2)(c) which provides that Appeals from the judgments and orders issued by a town, division, or sub-county local council court can be taken to a court overseen by a Chief Magistrate and Section 40 that propounds that the general supervisory powers over Magistrates' Courts that are given to the High Court by the Judicature Act can be exercised by the Chief Magistrate over local council courts, acting on behalf of the High Court.

The presentation also highlighted the jurisdictional aspects of trying offences under the Anti-Corruption Act, of 2009. It was noted that jurisdiction to try offences under this Act is granted to specific levels of courts in Uganda as per Section 51(b) of the Anti-Corruption Act, that is, the High Court, a Magistrates Court presided over by the Chief Magistrate and a Magistrates Court presided over by a Grade One Magistrate.

The presenter also alluded to the Judicature (Small Claims Procedure) Rules of 2011, specifically Rule 5, which stipulates that Chief Magistrates and Magistrates Grade One have the jurisdiction to preside over cases whose subject matter does not exceed Ten Million Uganda Shillings. This rule equally defines the scope of cases that can be handled by these magistrates within the Small Claims Procedure framework.

Looking at the supervisory powers of Chief Magistrates, the presenter highlighted Section 221 of the Magistrates Courts Act (MCA) which authorizes a Chief Magistrate to review the records of proceedings within their jurisdiction to ensure the accuracy, legality, and propriety of any finding, sentence, decision, judgment, or order made. However, she cautioned that this provision does not grant Chief Magistrates the authority to revise orders issued by Magistrates Grade 1. If a revision is necessary, the file should be transferred to the High Court for further review.

**Power to Transfer Cases.** The participants were informed that Under Section 171 of the Magistrates Courts Act (MCA), a Chief Magistrate has the authority to transfer cases to another magistrate within their magisterial jurisdiction. However, it was also pointed out that according to Section 217 MCA, the power to transfer civil cases is vested in the High Court. Consequently, if a magistrate encounters a civil matter beyond their jurisdiction, the correct course of action is to dismiss the case for lack of jurisdiction rather than transferring it to the High Court.

She vehemently cautioned the participants stating that Magistrates should be aware that various statutes, such as the Uganda Wildlife Act, the Fish Act, the National Environment Act, 2019, the National Forestry and Tree Planting Act, among others, vest jurisdiction in them to adjudicate cases related to these specific areas.

She emphasized that while some statutes provide magistrates with the authority to handle cases and may prescribe the sentences within their jurisdictions, others may exclude magistrates from trying certain cases despite falling within their jurisdiction. Magistrates need to be well-informed about the specific jurisdictional provisions of these statutes when handling cases related to these areas.

In conclusion, she noted that it's crucial to understand that jurisdiction is strictly prescribed by the law and cannot be implied. Jurisdiction serves as both a shield and a sword for judicial proceedings. Handling a matter without the necessary jurisdiction can lead to disciplinary proceedings. Continuous learning and consultation are essential because learning never ends in the legal profession. It's important to note that the power to transfer a case is only vested in the High Court. Therefore, when a magistrate realizes that they lack jurisdiction in a particular case, the appropriate remedy is to dismiss the case for want of jurisdiction.



H/W Kisakye Mary Kaitezi - Registrar Planning, Research and Development making a presentation during the Induction training

## **PLENARY**

Comment on Civil Customary Law and the Jurisdiction of Magistrates.



- Advised to avoid handling matters where the subject matter value is not disclosed and encouraged to always use the court fees rules.

Can a Magistrate order costs, interest, and damages beyond their jurisdiction?

- The participants were advised that the decree should not be beyond their Jurisdiction, and encouraged to always give interest at court rate, or commercial rate, and that should one opt to go beyond the court rate or commercial rate, they should state their reasons for doing so. Costs are generally awarded in the cause or always follow the event.

Can a decree be changed before it is executed?

- The participants were advised against stating amounts in order not to curtail themselves.

Can a Magistrate award general damages beyond their Jurisdiction?

- The participants were cautioned against awarding damages beyond their pecuniary jurisdiction. They were further advised that Jurisdiction is determined at the point of filing. Specific damages – award costs and interests that cannot be determined there and then.

Found a divorce petition ongoing but the property involved is beyond jurisdiction. How to handle such a matter?

- When you find an anomaly, cure it there and then. Dismiss the matter citing lack of Jurisdiction.

What do you do after awarding costs of the day and you discover the person cannot pay?

- Advise to be moved to vary the order. Let the record speak for itself, always write everything.



In set, H/W Kisakye Mary Kaitezi - Registrar Planning, Research and Development making a presentation at the Induction training

## **5.70 BREAKOUT SESSIONS**

### **5.71 CASE FLOW MANAGEMENT BY REGISTRARS**

Presenter: Hon. Lady Justice Immaculate Busingye - Judge, Land Division

The Hon. Lady Justice Busingye started by describing the Case Management system as the process through which a case passes from the date it is filed to the final disposition of the case.

She stated that effective case flow management guarantees that a matter advances efficiently and effectively through the judicial system.

She took the participants through ECCMIS, an automated system that keeps track of all case file details from the first step of filling out through the disposition, taxation, execution, and appeal according to the specific case.



She explained that a registrar is in charge of the day-to-day administration of the court and record keeping and listed the roles to include; establishment and maintenance of a registry, ensuring proper storage of court documents and archives, proper storage of court proceedings, proper supervision and management of court staff.

The presenter shared the benefits of effective case flow management stating that it guarantees fair treatment of court users; prompt case resolution; curbs corruption; improves attendance of parties and their witnesses in court; monitors caseloads; ensures hearing certainty; encourages Alternative Dispute Resolution; enhanced trust in courts of law; facilitates non-trial options; provision of sufficient time to a case for its disposal, and certainty. Poor case flow management, according to the presenter, causes case backlog.

She added that one of the Judiciary's biggest challenges is case backlog noting that improper case management breeds case backlog. She added that undue delay is an abuse of the court process which hinders access to substantive justice. She went on to identify crucial stakeholders in case management such as litigants, lawyers, registrars, registration workers, court clerks, and magistrates or judges.

Her Lordship took the participants through the elements of case management and advised them to always follow these elements to ensure proper case flow management, such as procedural planning, document, and evidence management, ensuring that exhibits are signed, dated, and marked, and determining whether or not the evidence contained therein is admissible or not, case Directions such as summons for directions, prompt resolution, case monitoring, she also urged participants to weed out cases that have been sitting in Court for two years with no recourse to trial.

Justice Busingye stated that a court case is considered closed after the Bill of Costs is taxed and a certificate of taxation is issued. She referred the participants to the Advocates Act and Section 27 of the Civil Procedure Act, which states that costs are at the Court's discretion.

In her conclusion, she emphasized that case management is an important feature of the legal process, particularly in complicated cases, because it ensures that cases are managed efficiently, resources are distributed effectively, and all parties' rights are respected and protected.



The Hon. Lady Justice Immaculate Busingye - Judge, Land Division making a presentation at the Induction training

## PLENARY

The participants shared experiences on how to avoid corruption and how to be good administrators so that the staff at the courts can also avoid corrupt tendencies. They also encouraged each other to involve themselves in small activities of the court and be up to date with provisions of the standing orders, and circular standing instructions to duly facilitate staff what is payable to them.

How do you go about witness statements that have been filed but are not compliant with the Rules?

- You can ask the witnesses to redo the witness statements and bring those that are compliant with the rules

How to practically weed out a file that has an arbitration clause on it, do you close it or refer it to the Judge?

- You must know the judge you are working with, some will allow you to take action, and some will advise that you take a certain step such as referring to arbitration or any other step.

When you get a file you think should be before mediation and after mediation, the parties are in agreement. How do you go about it?

- Mediators at the court can file a report and also they can appear before the court and it is recorded in the form of consent. It is recorded as a consent judgment under order 50.

Can you give instructions (summons for directions) to the parties on ECCMIS without them appearing?

- You can handle all preliminary applications in your docket before forwarding the file to the judge.
- It is advisable for them to appear before you and make the directions physically.

How to deal with administration files that have been in the system long before 2019

- For matters before the amendment that have been in the system before May 2019 (the amendment), you can dismiss them under Order 17. You are expected to treat the files the way they were filed. However, they were cautioned to first cause list the cases to give opportunity for the parties to show up.



A participant asks a question during the Induction training

## 5.72 CRIMINAL TRIAL PROCEDURE AND PRACTICE (Plea Taking up to Sentencing / Acquittal)

Presenter: Hon. Justice Alex Mackay Ajiji - Judge/Deputy Head Criminal Division



The Hon. Justice Alex Mackay Ajiji commenced his presentation by congratulating the participants upon their appointment to the judiciary service.

He then delved into the aspect of Jurisdiction in Criminal Matters, highlighting the procedure and practice before the High Court, Chief Magistrates Courts, and Magistrate Grade One Courts.

The facilitator noted thus about the High Court:

- Original Jurisdiction: The High Court can hear any offence under any written law after the accused has been committed for trial. It typically handles serious offences like murder, treason, aggravated robbery, rape, and kidnapping.
- Sentencing Powers: The High Court can impose lawful sentences, combining different types of sentences as permitted by law.
- Appellate Jurisdiction: Hears appeals from decisions of Chief Magistrates and Magistrates Grade ones.
- Other Powers: Includes revisionary power, confirmation of sentences, withdrawal and transfer of cases, and determination of reserved questions of law.

He pointed out the following aspects of the Chief Magistrate's Court:

- Criminal Jurisdiction: Chief Magistrates Courts can hear any offence other than those punishable by death.
- Sentencing Powers: Chief Magistrates can impose any sentence authorized by law, including imprisonment for life and fines.
- Power to Transfer Cases: They can transfer cases as necessary.
- Appellate Jurisdiction: Hears appeals from decisions of Magistrates Grade 2 or 3.
- Supervisory Powers: Chief Magistrates have general supervisory power over all magistrates within their jurisdiction.

He also noted the following about Magistrates Grade 1 Courts:

- Criminal Jurisdiction: They have original jurisdiction only and may try any offence except those punishable by death or life imprisonment.
- Sentencing Powers: They can impose sentences of imprisonment up to 10 years or fines up to four million eight hundred thousand shillings, or both.



The facilitator further delved into the stages in the Trial Process in the High Court as noted below:

- **Pre-Trial:** His Lordship noted that the trial process in the high court begins with preliminary proceedings, including the drafting of an indictment and a summary of the case by the Director of Public Prosecutions (DPP). Once signed, these documents are presented to the magistrate, who reads them to the accused and provides them with a copy. The accused is then committed to the next high court criminal session. The record is sent to the registrar of the crimes division of the nearest high court, who schedules the case for trial and notifies the accused. The trial starts with the selection of assessors, lay persons chosen by the chief magistrate, as required by the Trial Indictment Act and the Assessors Rules. Once the assessors are assigned to a criminal session, the trial begins.
- **Plea Taking:** The facilitator pointed out that the procedure for taking a plea in the High Court is governed by section 60 of the Trial on Indictments Act. He added that according to the TIA, an officer of the court must read the indictment to the accused person and explain it if necessary, with the help of an interpreter if required. The accused person is then required to plead instantly to the indictment. The accused have five (5) pleas available: guilty, not guilty, autrefois acquit, autrefois convict, or pardon. If the accused pleads guilty, the court records the plea and may convict the accused accordingly (Section 63 TIA). However, it's established through court decisions that after a guilty plea, the prosecution must present the facts of the case. Only after the accused admits the accuracy of these facts can the court proceed with the conviction (See: **Adan v Republic (1973) EA 445**). If the accused does not plead guilty, the trial proceeds, and the court records the plea and proceeds with the hearing.
- **Hearing of the prosecution case.** The presenter noted that when the accused pleads not guilty, the next stage involves the State attorney calling or scheduling the case for a hearing. During this phase, the State attorney will summon all pertinent witnesses related to the case to establish the accused's presence at the scene of the crime and prove their involvement in committing the offense. These witnesses undergo examination by the State attorney, cross-examination by the accused or their defence counsel, and potentially re-examination by the State attorney.
- **Ruling on Prima Facie Case:** Following the testimony of all prosecution witnesses, the prosecution will conclude its case. At this juncture, the court will determine whether there exists a prima facie case or a "no case to answer." A prima facie case is established when, upon review of the law and evidence, a reasonable tribunal could convict if no defense explanation is provided, as outlined in **Bhatt v Republic [1957] EA 332a**. According to Section 73(2) of the TIA, if the court finds sufficient evidence indicating the accused committed the offence, each accused person must be informed of their right to present evidence, make a sworn or an unsworn statement, keep quiet, or call witnesses in their defence. If no prima facie case is established, the court will dismiss the case, leading to the acquittal of the accused.
- **Commencement of Defence Case and Proceedings:** He noted that upon establishment of a prima facie case, the accused will commence their defence. They will be appraised

of their rights, including the option to remain silent, testify under oath with the possibility of cross-examination by the state attorney, or provide unsworn evidence. Regardless of the choice made, the accused retains the right to summon witnesses to support their case.

- Submission Phase: That following the conclusion of the accused's testimony and that of their witnesses, the defence will formally conclude their case. Subsequently, both the prosecution and defence will present their arguments to the court concerning the evidence and applicable legal principles relevant to their respective positions.
- Upon completion of the final submissions from both sides, the judge will summarize the evidence and relevant legal aspects for the assessors, who will then provide their opinions. Subsequently, the judge will deliver the judgement in the presence of both parties, with its validity unaffected by either party's absence (See: Section 85 TIA). The judgement may entail finding the accused either guilty, convicting them or not guilty and acquitting them, thereby releasing them from custody.
- Allocutus, Mitigation, and Sentencing: In the event of a guilty verdict, the court will request the state attorney to present the accused's record to aid in determining an appropriate sentence, a process known as allocutus. The accused will also have the opportunity to provide mitigating factors for consideration. Following this, the judge will impose a sentence deemed suitable based on the circumstances of the case.
- The presenter pointed out that the court has the discretion to apply various types of sentences, including the death penalty; Imprisonment for life; Imprisonment for a specified period; A fine; Community service; Probation; A caution and discharge without punishment; and Any other lawful sentence option.

Justice Ajiji submitted that when sentencing an offender, the court has the authority to issue the following orders:

- Conditional discharge
- Imposition of costs
- Awarding compensation
- Ordering restitution
- Imposing forfeiture
- Any other lawful sentencing order.

In addition, His Lordship pointed out to the participants that upon conviction, the court has specific procedures for determining the appropriate sentence for the offender as detailed below:

- The court grants a reasonable period, not exceeding seven days, to decide on the sentence.
- The court may ask both the offender and the prosecution to suggest suitable sentences.
- Before passing a sentence other than death, the court conducts inquiries to inform itself about the proper sentence. This may include examining the character and past actions of the accused, with the accused having the opportunity to confirm, deny, or explain any statements made about them.

- Only offences for which the accused has been convicted can be considered in determining the sentence unless the accused agrees otherwise.
- If the sentence is later set aside, the accused cannot use a prior sentence consideration as a defense.
- The court considers various factors, including the offender's background, employment, financial situation, and any benefits derived from the offense.
- Testimonies from relevant individuals regarding customs, community lifestyles, or the context of the offense may be considered.
- The court takes into account any time spent in remand.
- Both the prosecution and defense are given a chance to make brief submissions on the appropriate sentence.

The facilitator noted that the court is responsible for informing the losing party of their right to appeal, typically within 14 days of sentencing. An appeal can be made against the conviction, the sentence, or both.

The participants were guided that for appeals from Magistrates Grade I and Chief Magistrate Courts to the High Court, Section 204 of the MCA applies and that an appeal to the High Court is permitted for any individual convicted in a trial presided over by a Chief Magistrate or a Magistrate Grade I, on matters of both fact and law.

He also noted that if an accused person is acquitted by a Magistrate's Court, the Director of Public Prosecutions may appeal to the High Court. Similarly, any party to an appeal decided by the Chief Magistrate can appeal against the decision to the High Court, specifically on matters of law but not on matters of fact. The Director of Public Prosecutions also holds the right to appeal to the High Court from the decision of a Chief Magistrate if it is deemed erroneous in law.

He also added that an accused person has the right to appeal to the Court of Appeal from a conviction and sentence by the High Court, exercising its original jurisdiction, on matters of law, fact, or mixed law and fact (See: Section 132, TIA). With the Court of Appeal's leave, an accused person may appeal against the sentence imposed by the High Court, except for sentences fixed by law.

The facilitator noted that if the High Court acquits an accused person, the Director of Public Prosecutions has the right to appeal to the Court of Appeal on matters of law, fact, or mixed law and fact. The Court of Appeal may confirm, vary, or reverse the conviction and sentence, or confirm, vary, or reverse the acquittal. If an acquittal is reversed, the accused person will be convicted and sentenced according to the law.

However, no appeal is allowed for a person who has pleaded guilty in their trial by the Chief Magistrate or Magistrate Grade I or on appeal to the High Court and has been convicted on their plea of guilty, except regarding the legality of the plea or the extent/legality of the sentence.

He concluded by emphasizing that during an appeal, the Court of Appeal may reassess the evidence, draw inferences of fact, and, if necessary, take additional evidence. The Court of Appeal may confirm, reverse, or vary the decision of the High Court, remit the proceedings to the High Court with appropriate directions, order a new trial, or make any necessary orders. On a second appeal, the Court of Appeal can appraise the inferences of fact drawn by the trial court but cannot hear additional evidence. On a third appeal, the Court of Appeal decides the question of law presented to it.



The Hon. Justice Alex Mackay Ajiji - Judge/Deputy Head Criminal Division making a presentation at the Induction training

## **PLENARY:**

The participants first expressed gratitude to His Lordship following the elaborate and insightful presentation and then sought clarity on the following concerns;

Can a judge handle a case of grievous harm or attempted murder?

- He can but practice dictates otherwise.
- The participants were also encouraged to ascertain the Jurisdiction and authenticity of the charges once presented with a charge sheet. They were particularly advised to pay close attention to the particulars of the offence given that facts speak to the statement of the offence. They were cautioned to avoid contradictions between the charge and facts.

When the accused does not respond to the charge, it is a plea of not guilty?

- The participants were advised to record a plea of not guilty where the accused opts to remain silent.

Challenge with the state attorneys. Can the suspect be remanded in the absence of a state attorney?

- The participants were advised not to take a plea without a state attorney nor entertain bail without a state attorney.
- Make a case to the DPP to provide a state attorney.

Can a judicial officer grant a court bond without a state attorney?

- Do not act without a state attorney, only handle in exceptional circumstances. Discretion is to be used judiciously and the case treated on its own merits.

## 5.8 THE PLEA BARGAINING PROCEDURE

Presenter: Hon. Lady Justice Jane Okuo Kajuga – Judge, Anti-Corruption Division of the High Court

The Hon. Lady Justice Jane Okuo stated that plea bargaining (PB) was introduced in 2016. She made emphasis on the presumption of innocence enshrined in Article 28 (3) (a) of Uganda's Constitution.

She referred the participants to the case of *Agaba Emmanuel & 2 Or's v Uganda CA No. 139/2017* where court defined plea bargain.

She discussed the objective of plea bargaining under Rule 3 which is to enhance the efficiency of the criminal justice system. The presenter stated that plea bargaining is a plea of guilty, therefore, once the accused pleads guilty, the court follows the



procedure for recording the plea of guilty set out under section 124(2) MCA and in *Adan v Republic (1973) EA 445*.

She encouraged the participants to sensitize accused persons before them, about the option of a Plea Bargain. She also cautioned that in semi-capital offences legal representation is mandatory and innocent people should not take part in a plea bargain.

Justice Okuo explained that plea bargain is initiated by the prosecutor/accused orally or in writing at any stage of proceedings before the sentence is passed (Rule 5). She stated that as it is in other procedures, disclosure is relevant (See Rule 7) except for cases that may involve state security (see. *Soon Yeon Kong Kim v Attorney General (Const. Ref 6/2007)*). She added that disclosure should be done whether there is legal representation or not. She referred the participants to the case of *Inensiko Adams v Uganda Mukono Criminal Appeal No. 263/2017* for the duty of the court at this stage.

In a case involving a Joinder of Persons, a Plea bargain may be entered with any of the accused persons (Rule 6). She referred to the July 2010 bombings case. She implored the participants to maintain a proper record of file and the parity principle on sentences imposed on offenders, for similar offences committed in similar circumstances.

She added that it is important to incorporate a victim-centred approach (Rule 11; UN Declaration of Basic Principles for Victims of Crime and abuse of power A/RES/40/35 of 1985) because it helps the court come to a just sentence, and gives justice to victims. She implored the participants to look at the Matoput procedure practised in the Northern Region.

She also drew attention to Compensation Orders under Section 197 MCA) in cases of material loss or injury, and advised that these can be ascertained from Victim or community impact statements.

On the issue of the sentencing, she argued that the plea bargaining procedure does not abrogate the court of its duty to ensure an appropriate sentence in each criminal case (See Rule 15). The court can reject a Plea Bargain where it is of the view that a more severe sentence than the one recommended in the plea bargain agreement is deserved. But also cautioned them against sentencing outside the agreement.

She highlighted that the court may participate in plea bargain discussions (Rule 8) but cautioned that a judicial officer who participates in a failed plea bargain cannot preside over a trial concerning the same case due to bias/perceived or real. She implored the participants to record negotiations, consultation and recommendations concerning possible sentences before the agreement is brought for approval, to record and always ensure the plea bargain agreement is properly executed (Rule 12) by paying special attention to the following: - The agreed facts; The aggravating and mitigating factors; Additional factors e.g. illness; and Victim's forgiveness of the accused or other interests among others (See schedule 2).

She listed the areas that are common grounds of appeal in many plea bargained files. These included- Failure to adhere to the procedure in Schedule 2, Failure to record a plea of guilt



(Adan case), Passing a sentence not agreed upon (enhancing), Failure to include time spent on remand when passing a custodial sentence- Constitutional Requirement. This makes the sentence illegal, confirming a sentence where the accused's plea was unequivocal, and Failure to inform the accused of his Constitutional rights

She gave the participants the actual procedure of plea bargaining which is as follows: -

Party called, Representatives introduced, State introduces the PB Agreement, Defence confirms the PB Agreement, informs the accused of his or her rights in a criminal trial and the effect of a plea of guilty (Rule 12), Court informs the accused that in accepting the PB agreement he/she is waiving the rights in Rule 12, Court finds out if the accused understands the nature of the charge he is pleading and the possible penalty including imprisonment, fines, community service orders, and Forfeiture (Any rights to order compensation or restitution), Court informs the accused that he or she has waived the right to appeal against the conviction, the ability to appeal against the legality/severity of the sentence or if the court sentences him/her outside the agreement. If the court accepts the agreement, the same is received on record but it becomes void and inadmissible in any subsequent trial or trial of any matter on similar facts. The charge is read and explained to the accused in the language he/she understands. If he/she confirms understanding, he is invited to plead, the plea is recorded. If he/she pleads guilty. The state summarizes the facts, if accepted to be true by the accused, he/she is found guilty and convicted on his plea of guilty, the state is heard in aggravation, Defence is heard in mitigation, the convict is heard in allocutus, The Victim or complainant's views on the sentence are heard, The Convict is sentenced.

The facilitator noted that in cases involving children, the agreement is executed by the parent, guardian, probation officers, and the legal representatives of the child (Rule 9). She invited the participants to always ensure the best interest of a child.

She invited the participants to look at the following decisions: *-Agaba and 2 others v Uganda CACA 139/2017; Katumba Alawi v Uganda CACA 540/2015* (the court cannot substitute an agreement, the only option is to reject it); *Aria Angelo v Uganda CACA 439/2015* (accused must make an informed decision in the plea bargain); *Lwere Bosco v Uganda UGCA No 531/2012* (mitigating factors are part of the negotiations, appellant in PB can't fault court for the severity of the sentence, the importance of court consultation); *Kayongo Saddam v Uganda UGCA No 524/2016; Swaliki Gupta v Uganda UGCA No 231/2016; Luwaga Suleman aka Katongole UGCA No 532/2016.*

She concluded by emphasising following schedule 2 of the Plea Bargaining Rules as everything concerning plea bargain is captured there under.



The Hon. Justice Jane Okuo Kajuga – Judge/Focal person for plea bargain making a presentation at the Induction training

## PLENARY

Does the requirement to have all the necessary documents on the file at appeal affect files which only have an indictment and the Plea Bargain Agreement?

- You send it as it is however this has created a challenge at the Court of Appeal as there is usually nothing on the record to guide the court on arriving at a certain conclusion. it is recommended that the Judicial Officer puts on record everything relevant to the case.

The requirement for Consultation as per the case of Lwere is likely to impact on a number of decisions to be made, at what point should it be made?

- It is difficult to record the entire consultation process however you can summarize it to just prove that there was a consultation.

What measures are being taken in terms of reforms to ensure those who agree to plea bargain have actually committed the offence.

- The requirement for agreed facts and the police file is to help in determining this. Also as a JO, you should be able to probe and ensure the accused has had disclosure and the entire process has been explained to him.

Where negotiations have commenced but there is no evidence on file according to the judicial officer, how do you go about it?

- It was emphasized that all convictions must be evidence-based in all cases so in a case where there is no evidence she recommended avoidance of accepting the plea bargain.

What is the best way of involving victims in plea bargain

- The role of Victim preparedness and acceptance of the outcome of the PBA falls on the Office of the DPP (prosecution). However, their opinion does not bind the court.

## **DAY FOUR**

### **5.9 CIVIL TRIAL PROCEDURE**

Presenter: Hon. Justice Musa Ssekaana - Judge / Head Civil Division



The Hon. Justice Ssekaana Musa began by congratulating the participants on their appointments and then went on to demystify Civil procedure as a set of regulations that govern the processes and conduct of civil proceedings within a legal system.

He articulated that civil procedure lays down the methods for initiating proceedings, outlines the actions to be taken at various stages, and specifies how these actions should be carried out.

Additionally, he observed that civil procedure delineates the methods for enforcing court decisions and urged the participants to note that civil and criminal procedure, on the one hand, and the rules of evidence, on the other hand, collectively form what is known as adjective law in contrast to substantive law. The presenter asserted that substantive law defines the legal rights, duties, and obligations of individuals and entities, whereas adjective law focuses on the procedural aspects of legal proceedings and trials.

The facilitator noted that sources of civil procedure are diverse and essential in governing civil proceedings. These include The Constitution, the Judicature Act, the Civil Procedure Act, and the Magistrates Courts Act, the Civil Procedure Rules, and Rules established under the Judicature Act. He stressed that various courts, including the High Court and Magistrates Courts, rely on the Civil Procedure Rules to govern their proceedings. However, it's important

to note that specific tribunals may also have the authority to apply these rules with necessary modifications.

He further pointed out that there exists a Rules Committee, consisting of the Chief Justice, the Attorney General, the Deputy Chief Justice, the Principal Judge, and two representatives from the Uganda Law Society, as well as the Director of the Law Development Centre whose crucial role is to create rules that regulate the practice and procedure within the legal system, ensuring that civil proceedings are conducted efficiently and fairly (Reference was made to Section 40 and 41).

His Lordship highlighted the issue of Jurisdiction as a fundamental concept in legal proceedings, signifying the court's power and authority to both hear and make determinations in a given case or matter. He emphasized that for a court to proceed with a case, it must be thoroughly convinced that it possesses the requisite jurisdiction. The court's assessment of jurisdiction typically involves an examination of several factors, including the subject matter at hand, which may encompass pecuniary jurisdiction or territorial jurisdiction, especially in the context of magistrates courts. It's noteworthy that the High Court enjoys an expansive jurisdiction in civil matters, often described as unlimited.

He stressed that jurisdiction is not something that parties involved in a case can confer upon a court themselves. Instead, it is a construct established by statutory law, and parties cannot independently grant or bestow jurisdiction upon a court.

He further observed that in certain situations, the High Court possesses the prerogative to transfer a case to a lower court. However, it's important to recognize that this process is unidirectional – the lower court does not hold the authority to transfer a case to the High Court.

The facilitator cautioned the participants that in civil suits, it is crucial that the correct parties are involved, and these parties must have the legal standing or locus standi to bring a matter before the court. He gave examples of natural persons, as well as non-natural entities such as partnerships, companies, associations, or non-governmental organizations. The presenter cautioned the participants that when dealing with natural persons of unsound mind or minors, the lawsuits are initiated through a next friend or can be sued through a guardian ad litem, ensuring their legal rights are protected.

He pointed out that the government, according to Article 250, can either bring a lawsuit or be a defendant in a case, with such actions being represented by the Attorney General. He added that public bodies that are established by Acts of Parliament and granted corporate status may also initiate or defend legal actions.

He stressed that a deceased person cannot initiate or participate in legal proceedings. Similarly, unincorporated non-statutory bodies, associations, individual members, or clubs are not recognized as legal entities in this context.

The presentation stressed that a cause of action is simply a complaint against the defendant. He cautioned that for a person to initiate a legal action, there must be a cause of action, which is

based on the presence of specific essential facts. In essence, it is a set of circumstances that, when proven to exist, grants one individual the legal right to seek a remedy against another individual. He pointed out the key elements that constitute a cause of action thus; the plaintiff having a legal right, the violation of that right, and the resulting liability of the defendant (the case of *Auto Garage v Motokov* was referenced). He emphasized that a cause of action is solely determined from the plaint and its annexures.

The participants were notified that suits can be instituted through various methods as may be prescribed by the rules which include the use of a Plaint (including Specially Endorsed Plaint), Originating Summons, Notice of Motion, Petition, Chamber Summons, or a Complaint on Oath and in response to such actions, parties may file a Written Statement of Defence (WSD), an affidavit in reply, or an Answer to Petition, depending on the situation and the rules applicable. The facilitator further observed that pleadings are formal written statements prepared and submitted by each party involved in a legal case, serving to either assert claims or respond to allegations, and are required to clearly and precisely outline the actual points of contention between the parties, thereby providing a comprehensive framework for the proper course of the trial.

The issue of service of summons was expounded upon by the presenter. He noted that the defendant or respondent to a lawsuit must be notified or served with process when a suit is filed. In addition, the facilitator stressed the responsibility of each party to prepare, produce, and serve pleadings to the opposite party. He observed that the primary method of serving summons is through personal delivery, either directly to the individual or, if not feasible, to their agent, a family member, or at the place of business. In the modern context, service may also be carried out electronically, using methods like email, Twitter/X, or WhatsApp, as long as both parties have the means to communicate electronically.

He added that in cases where the traditional means of service are impractical, the court has the authority to order alternative methods, known as substituted service, within its jurisdiction. Notably, in the current era of Electronic Court Case Management Information System (ECCMIS), electronic service of legal documents may be automatic and more commonly employed.

It was highlighted that when a suit has been initiated through a plaint, the plaintiff is required to take out a summons for directions for the court to deal with any interlocutory matters and give directions for fair, efficient, and effective disposal of the matter. The participants were further guided that the summons for directions must be taken out within 28 days and if not taken out within that time, the suit shall abate or shall be removed from the list of pending suits.

In the event of abatement, the plaintiff, subject to the law of limitation, retains the option to file a fresh suit. The court, as part of its duty, is tasked with considering all relevant aspects of the case and evaluating the status of the action. This includes the potential consolidation of appropriate matters and the examination of any interlocutory applications. Additionally, the court must make determinations on whether evidence related to specific matters will be presented through affidavits, oral testimony, or witness statements. Furthermore,

considerations such as the inclusion of expert witnesses and the admission of uninspected exhibits into evidence are to be addressed by the court. This comprehensive approach ensures a thorough examination and management of the legal proceedings.

The presenter emphasized that a scheduling conference in legal proceedings should encompass several essential elements such as examination of the pleadings in the case, leading to the extraction of case summaries for each party involved. The Scheduling conference also involves the identification of mutually agreed-upon facts, issues, and documents between the parties. Furthermore, the process entails exploring the potential for out-of-court settlement through methods such as arbitration, mediation, negotiation, or reconciliation. Additionally, the parties may consider settling certain aspects of the case through a consent judgement. The scheduling conference serves the purpose of providing directions and establishing a timetable for the trial proceedings. An option presented is the agreement between the parties to document the outcomes of the scheduling conference in a written joint scheduling memorandum, duly signed by all involved parties, covering the mentioned elements.

The culmination of legal proceedings is the trial, where all issues of fact are examined based on the evidence presented. The order of proceedings dictates that the party burdened with proof begins, calling their first witness and conducting an examination in chief or admitting a witness statement as evidence. Subsequently, the witness undergoes cross-examination, with the opportunity for re-examination by the plaintiff's counsel. It is emphasized that parties must adhere to their pleadings when presenting evidence. Cross-examination serves to challenge the opponent's case and address the witness's credibility. The plaintiff concludes their case, and the defendant then presents evidence in support of their defence. The court holds the authority to question witnesses for clarification during the trial and can adjourn if deemed necessary for justice. Both written and oral submissions are permitted, and the court is obligated to render a decision based on the evidence, even in the absence of party submissions.

The facilitator also cautioned the participants against stopping a cross-examination in the middle for better management.

A case to answer in civil cases. A party elects to lead evidence in defence or chooses to say there's no case to answer. The court proceeds to write a decision.

The delivery of judgement or ruling marks the conclusive phase of the trial proceedings. The court's decision, whether pronounced in open court or delivered through electronic means, serves as the reasoned and binding judicial outcome. It can be conveyed through email or by the court registrar based on the judge's instructions. A crucial aspect of any judgement is its demonstration of impartial consideration of all properly raised and heard issues, showcasing a dispassionate analysis. The judgement should explicitly show that the court weighed the evidence, placing it on an imaginary scale to determine the successful party. The immediate effectiveness of the judgement is standard, taking effect from the moment it is pronounced or delivered unless specified otherwise by the court. He urged the participants to write decisions most simply and avoid the legalese. He also hinted at the judgement writing tool that is in the offing.



The execution of court decisions is a crucial post-judgment phase, and extremely contentious typically overseen by a registrar. Various modes of execution exist, each tailored to the specific circumstances of the court order. Execution may involve the delivery of specifically decreed property, attachment and sale (or sale without attachment) of property, attachment of debts, arrest, and detention in prison of individuals, or the appointment of a receiver. The chosen mode depends on the nature of the relief granted by the court. This multifaceted approach ensures the effective enforcement of court decisions and the realization of the intended legal outcomes. The participants were cautioned against using arrest and detention as a first recourse and, to avoid excessive attachment or over-attachment. They were encouraged to always apply their mind, be careful about garnishees, and not to act in haste.

The award of costs in legal proceedings is governed by Section 27 of the Civil Procedure Act (CPA). This provision outlines the principles governing the allocation of costs, ensuring that costs awarded to advocates serve as remuneration for their professional expertise, while litigants in person are reimbursed for their work and disbursements. Additionally, interest on costs may be granted at a rate not exceeding 6% per annum.

In conclusion, he noted that the study of Civil Procedure, while extensive, serves as a catalyst for further exploration into its intricate principles. The primary aim of this paper was to ignite interest in the subject and provide foundational insights and checkpoints for potential deeper investigations.

Key takeaways emphasize the crucial role of judges in understanding the entire procedural journey from case filing to court practices for efficient case resolution. The court's inherent powers, as outlined in Section 98 of the Civil Procedure Act, underscore the court's authority to manage its proceedings. The clarity of court orders is paramount, as an unclear order hampers enforceability, making the entire decision ineffective. Therefore, a judicious and meticulous approach to procedural matters is essential for successfully administering justice.



The Hon. Justice Musa Ssekaana making a presentation at the Induction training

## PLENARY.

The participants applauded His Lordship for the elaborate yet insightful presentation. This was followed by concerns and issues faced imploring the judge for clarity as captured below:

How to handle cases of delay of proceedings attributed to lawyers, practices such as summons for direction, and counsel holding brief?

- The participants were encouraged to take charge of their courts and brand themselves.
- A scheduling can be concluded with or without the lawyers.
- Disallow applications for amendment.

How to handle matters that proceeded ex parte where the parties appear at taxation?

- The facilitator guided that a default judgement should rarely result in a conclusion of a case unless it is for a liquidated sum or an ascertained claim.
- He further pointed out that nothing precludes the other party from appearing at any stage and encouraged the participants to always insist on proper service at all stages.
- One may proceed but always act on the side of caution.

How to best handle Garnishee proceedings?

- Tread carefully when faced with garnishee proceedings.
- Ensure you have the original file with you when handling garnishee proceedings.
- Acquaint yourself with the facts. People allege arbitral awards, unfortunately, the court allows for the filing of the same.
- Decree nisi may be issued but exercise due diligence before making it absolute. Attempts to clear the exact amount on the account.

Do registrars have powers to transfer files citing arbitration clauses, in matters filed in court?

- Leave the matter to the judge.
- Interrogate the matter and make a ruling.



A cross-section of participants following the presentation being made

## 5.10 AWARD OF DAMAGES AND TAXATION OF COSTS

Presenter: Hon. Justice Boniface Wamala - Judge, Civil Division

The Hon. Justice Wamala started his presentation by congratulating the participants upon joining the bench.

He introduced the first part of his presentation with the emphasis that; every civil cause ends with the issuance of a particular order(s), issuance of a clear and final order is the epitome of any judicial proceeding, and final orders are manifested in the making of awards, usually, though not always, in damages. He stated that if parties come back to get further and better particulars about a judicial officer's decision, that means that the officer was not concise and precise



He stated that the primary function of damages is to place the plaintiff in as good a position as he/she was before the wrong. He defined damages, therefore as a sum of money awarded by a court as compensation for a tort or breach of contract, but not as a punishment to the party in breach, except in a few cases.

The facilitator classified damages into three (3) broad categories; special damages, general damages, and nominal damages.

He explained that special damages are ascertainable, and quantifiable before the action, but must be specifically pleaded and strictly proved. He stated that proof can be by documentary or oral evidence.

General damages are the direct natural or probable consequence of the act complained of, implied in every breach of contract and infringement of a given right (for example, in a personal injuries claim, general damages include anticipated future loss, damages for pain and suffering, inconvenience and loss of amenity).

Nominal damages constitute some unquantifiable monies that courts use as a peg to hang the costs they award. A plaintiff is entitled to nominal damages where; his/her rights have been infringed but has not sustained any actual damage from the infringement, or has failed to prove any such actual damage; or where the plaintiff is not concerned with the question of actual loss but brings the action simply with the view of establishing his/her right.

The facilitator underlined that other ancillary/supplementary damages flow from the major categories mentioned earlier.

He began with exemplary damages. He stated that these are sums of money that were awarded as punitive or exemplary remedies for the loss or suffering occasioned by a plaintiff. They are not compensatory. Their aim is not to enrich/ compensate the plaintiff, but to punish the defendant and deter him or her from repeating the wrongful act. Exemplary damages are awarded in three categories of cases; where there has been oppressive, arbitrary, or unconstitutional action by the servants of the government, where the defendant's conduct has

been calculated by him or her to make a profit that may well exceed the compensation payable to the plaintiff, and where law in force authorizes the award of exemplary damages. A judicial officer ought to bear in mind that the plaintiff cannot recover exemplary damages unless he or she is the victim of punishable behaviour. Therefore, the power to award exemplary damages should be used with restraint, taking into consideration the means of the parties in the assessment of these damages.

He also mentioned aggravated damages. He noted that these damages are awarded as “extra compensation” to a plaintiff for injury to his feelings and dignity that was caused by how the defendant acted. He observed that there is a thin line between exemplary damages and aggravated damages. He, however, recalled the succinct distinction between these related damage clusters that was laid by SPRY, V.P. in the decision of *Obongo v Kisumu Council*.

He ended with liquidated damages. He explained that these are uniquely construed as claims for breach of contract, where the parties to the suit might have agreed in their contract that a particular sum is payable upon the default of the contract of one of them. These awards can also extend to monies that are prescribed as damages under a statute. He noted that damages should be construed as ‘unliquidated’ where the court has to quantify or assess the damages or loss, whether pecuniary or non-pecuniary.

The Facilitator went on to highlight general principles for the assessment of damages. These included: - Loss or damage; The *Restitutio in Integrum* principle; Causation and Remoteness; Aggravation and Mitigation.

He noted that it is a well-established rule of common law that unlike in tortious claims where a plaintiff is not bound to spend money to minimize his damages, in contractual actions, the plaintiff must mitigate damages. He or she should not claim any part of the damage that is due to his/her neglect to take such steps that would have had the effect of reducing his/her loss.

He took the participants through an assessment of damages on appeal stating that this is principally the duty of the trial court. He added that the role of the appellate court in the province of damages was well articulated by *Greer LJ in Flint v. Lovell*.

He stated that there are other orders such as - award of interest which is governed by section 26 of the CPA; Orders for costs under section 27 of the CPA; Advocates’ costs; Execution Orders; Permanent injunctions; Election Petition Remedies; Specific Performance; Order of Reinstatement and Interlocutory orders.

Justice Wamala then went to the second part of his presentation which was on taxation of costs. He started by defining costs as pecuniary allowances, made to the successful party, and recoverable from the losing party, for his/her expenses in prosecuting or defending an action (suit) or a distinct proceeding within an action (suit).

He added that Costs are awarded to advocates as remuneration for the exercise of their professional skill and to litigants in person strictly for work and disbursements

He stated that costs are at the discretion of the court and lack of jurisdiction does not bar the grant of costs (See section 27). He added that costs follow the event unless the court shall for good reason otherwise order and are given at a rate of 6% p.a. (See section 27 of CPA).

The facilitator gave some of the Common terminologies used in the taxation of costs.

He stated that *Costs in the cause* is an order made upon an interlocutory determination of any matter within a suit. It means that the costs of such a matter shall be paid by the overall loser in the main case.

*Costs in any event* is an order passed during the pendency of a proceeding. The party granted such an order is entitled to the costs of the matter whether he/she wins in the main case or not.

*Costs Reserved* means that the court will make the order as to costs after hearing the whole case and, in such a case, the costs are usually awarded to the successful party.

*No order as to costs* means that each party will bear its own costs of the proceeding.

*Advocate-Client costs* means where the client pays all the charges of the lawyer, the client will be entitled to take the taxed costs after the case; but where he only paid filing fees and part of instruction fees, counsel is entitled to take the costs, less the disbursements due to the party.

The facilitator highlighted that a party that would ordinarily be entitled to costs may get disentitled to costs due to failure to serve a notice of intention to sue the intended defendant or when the file is handled by an advocate without a valid practicing certificate.

He also highlighted some of the general principles governing the award of costs (see SPRY VP in *Premchand Raichand Ltd v Quarry Services of EA Ltd (No. 3) [1973] EA 162*).

- Costs should not be allowed to rise to such a level as to confine access to courts to the wealthy;
- A successful litigant ought to be fairly reimbursed for the costs he/she has had to incur;
- The general level of remuneration of advocates must be such as to attract recruits to the profession
- In so far as practicable, there should be consistency in the awards made;
- The court will only interfere when the award of the taxing officer is either so high or so low as to amount to an injustice to one party;
- An allowance may be made for a fall in the value of money;
- Costs follow the event unless the court orders otherwise



He stated that the major purpose of costs is to reimburse the litigant for costs incurred during litigation [*Total (U) Ltd v Uganda Revenue Authority Civil Ref. No. 26/2003*].

He advised that Taxation and execution of interlocutory awards should await the final result; unless otherwise specifically ordered by the court [*Homi Dara Adriwalla v Jeanne Hogan & Anor [1966] EA 290*].

He cautioned that no costs are recoverable for acts constituting an offence under the Advocates Act; whether the prosecution has taken place or not [Section 69 Advocates Act];

The facilitator advised that in public interest litigation, courts should exercise restraint when considering whether or not to award costs. [*Hon. Gerald Kafureeka Karuhanga v Attorney General Constitutional Petition Number 0039 of 2013*].

He added that Champertous remuneration agreements are not enforceable; while remuneration agreements are acceptable, they have to comply with sections 50 and 51 of the Advocates Act to be lawful [*Shell (U) Ltd & 9 Ors v Muwema & Mugerwa Advocates & URA, SC Civil Appeal No. 02/2013*].

He noted that Parties must endeavour to mitigate costs. E.g. a party cannot be reimbursed for unnecessary attendance by family members.

He highlighted that particular categories of lawyers are not entitled to instruction fees; Lawyers from Attorney General's Chambers and other In-house lawyers who earn a monthly salary are not entitled to Instruction fees. They can only receive disbursements for expenses incurred. [*Total (U) Ltd v Uganda Revenue Authority, CA Civil Ref. No. 26/2003*]

He clarified that VAT is not payable as a matter of course. For one to qualify for VAT disbursement, he/she must prove that he/she is a registered VAT payer and or must present evidence of payment of the VAT charges. Secondly VAT is not chargeable on the whole Bill but only on instruction (professional) fees. [*Total (U) Ltd v Uganda Revenue Authority, CA Civil Ref. No. 26/2003*].

He cautioned that interest is not awarded by the taxing master if not awarded by the trial court. [*H&G Advocates v International Vaccine Initiative 7 2 Others, MTA No. 5&6/2021*]

The facilitator guided the participants on how to assess taxation of costs. He stated that taxation is done in accordance with The Advocates (Remuneration and Taxation of Costs) Regulations, SI 267-4 (the principal regulations); as amended by The Advocates (Remuneration and Taxation of Costs) (Amendment) Regulations, SI No. 7 of 2018. He stated that the most important highlight of the amendment is the repeal of the schedules in the principal regulations and their replacement by the schedules in the amendment regulations [Regulation 5 of the Amendment Regulations]. He stated that the scale of fees in court matters is provided for under the 6<sup>th</sup> schedule.

The facilitator stated that the taxation process is commenced by lodging at the court registry a bill of costs together with such supporting documents as may be required. He stated that the bill should be prepared in the manner prescribed by the regulations [Rule 4 of the Amendment Regulations sets out the manner of drafting the Bill of Costs].

He added that the taxing officer shall hold a pre-taxation meeting of advocates or parties to jointly identify the costs, fees and expenses on which they agree, if any, before the taxation of the bill of costs [Regulation 3 of the Amendment Regulations introducing Regulation 13A into the principal regulations].

He also stated that the taxing master shall ensure service of the bill and the notice of the date of taxation on all concerned parties [Regulation 9 of the principal regulations].

He added that if either or both parties do not appear, the taxing officer has the power to proceed ex parte or to adjourn for sufficient cause [Regulation 54 of the principal regulations].

He cautioned that in cases where a new advocate is employed at a later stage in the case, two separate bills of costs would have to be presented detailing the work of each advocate.

The facilitator gave some of the factors to be considered by the taxing master and these were:

-

- The instruction fee should cover the advocate's work; taking instructions as well as other work necessary for presenting the case for trial.
- The instruction fee should not be excessive. An instruction fee is said to be manifestly excessive if it is out of proportion with the value and importance of the suit and the work involved.
- Instruction fees should depend on the value of the subject matter and as per the scale of fees under the appropriate schedule.
- Where instruction fees require to be assessed off-scale, there is no mathematical or magical formula to be used by the taxing master to arrive at a precise figure. Each case has to be decided on its own merit and circumstances.
- The taxing master has the discretion in taxation of the bill of costs but he/she must exercise the discretion judicially and not whimsically.
- The particular complexity of the matter or the difficulty or novelty of questions raised.
- The skill, effort, specialized knowledge and responsibility involved; the time spent on the case
- The place where and the circumstances in which work or any part of it was done; consider hard-to-reach areas.

- The importance of the matter to all parties concerned.
- The conduct of all the parties including conduct before as well as during the proceedings and the efforts made, if any, before and during the proceeding in order to try and resolve the dispute. Parties ought to consider ADR proposals made by the other side.

The facilitator advised participants to reject or tax without an allowance for counsel for attending taxation meetings or drafting the bill if it grossly offends the taxation law [See: *Patrick Makumbi & Anor v Sole Electric (U) Ltd Supreme Court Civil Application No. 11 of 1994*]

He concluded his presentation by noting that a taxation that did not properly apply principles of law of taxation of costs can be challenged [*Kasim v Habre International Ltd [2000] EA 98 (SCU)*] however, this is not a stay of execution. [Section 62(5) of the Act].



The Hon. Justice Boniface Wamala making a presentation at the Induction training

## PLENARY

Is it in order to award both mesne profits and general damages

- The principle for obtaining mesne profits is different from that of general damages, in law mesne profits are supposed to be claimed as special damages whereas general damages depend on the loss the person has suffered.

#### Pecuniary and general damages

- Pecuniary refers to claiming actual loss of money whereas non pecuniary are those that court has to quantify because at the time of claiming you were not sure how much was lost.

#### Bills filed by bailiffs when there is an appeal

- A bailiff is supposed to file a bill which is left on the file, if after the appeal the matter is successful the bill will be taxed together with any other. However, if the appeal is set aside then bailiff cannot recover as everything is set aside.

#### How does court arrive at taxing disbursements considering they are not provided for in the Rules?

- In principle, the law allows that a successful litigant shall be fairly reimbursed with costs. It is an entitlement in principle therefore it depends on the evidence given and the discretion of the filing master.

#### How do you tax when it comes to appeals?

- After the appeal if the court upholds judgement with costs, a bill is filed in the High Court and the Registrar files it for purposes of appeal then sends it back to the trial court for taxing and execution. Where the High Court reverses the finding of the lower court, it means execution will be done by the Registrar of the High Court.

#### Is it a requirement to make taxation ruling?

- One is supposed to make a taxation ruling however it is not a detailed ruling, you just indicate briefly what was agreed and that you find it fair and reasonable or unfair. Indicate reasons for why you allowed a particular sum.



Participants keenly listening in to the presentation during the Induction training

## 5.11 MEDIATION

Presenter: HW Kisawuzi Elias Omar - Registrar, Alternative Dispute Resolution



H/W Kisawuzi Elias Omar highlighted the significance of Alternative Dispute Resolution (ADR) as a rapid initial intervention aimed at preventing the escalation of disputes and mending working relationships. He specifically defined mediation as a process in which a neutral third party facilitates communication between disputing parties, assisting them in reaching a mutually agreed resolution. He noted that Section 9 of the Judicature (Mediation) Rules 2013 SI No. 10 of 2013 provides the authority for

participants to conduct mediation and emphasized that the mediator does not necessarily need to be a judicial officer.

He also pointed out various advantages of mediation, such as its speed, efficiency, and cost-effectiveness compared to adjudication. Mediation's simplicity, flexibility, and the opportunity

for maintaining or restoring relationships were highlighted. It was noted that mediation is conducted in an informal, confidential, and conducive environment, facilitating better communication between the parties. The participatory and voluntary nature of mediation was underlined, allowing parties to opt out at any stage if they find it unhelpful.

The facilitator pointed out that not all cases are suitable for mediation. Matters that cannot be mediated were discussed, including disputes challenging a statute, cases where parties lack faith in mediation, and those with criminal elements or public interest considerations.

H/W Kisawuzi also introduced different mediation styles, namely evaluative, facilitative, and transformative mediation, noting that a mediator may employ a mixed style. Evaluative mediation involves the mediator playing an advisory role with focus on legal rights. Facilitative mediation, the most common style, centres on the parties' interests, maintaining neutrality, and guiding them toward a mutually agreed settlement. Transformative mediation views conflict as crises in communication, empowering parties to resolve conflicts, understand each other better, and reach a natural resolution.

The mediation process was detailed, covering pre-mediation and the mediation itself. Pre-mediation activities included initial meetings, information exchange, signing the Agreement to Mediate, and setting up the mediation room. The mediation process comprised five phases: introduction, joint session, private sessions, agreement finalization, and closing. Each phase's purpose and procedures were explained, emphasizing the importance of maintaining confidentiality and neutrality throughout the process.

H/W Kisawuzi concluded that the mediation process involves various steps, starting with greetings and seating arrangements, followed by introductions, joint sessions, private sessions with each party, agreement finalization, and returning records to court in the case of court-annexed mediation.





Participants at the Induction training listening to the presentation by H/W Kisawuzi Elias Omar - Registrar, Alternative Dispute Resolution

## 5.12.0 BREAKOUT SESSIONS

### 5.12.1 INVESTIGATION AND MANAGEMENT OF COMPLAINTS BY REGISTRARS

Presenter: HW Festo Nsenga - Deputy Registrar, Criminal Division

H/W Nsenga started his presentation by citing Section 43 (1) of the Judicature Act, Cap 13/2000, which provides for the appointment of Registrars at all levels, including the Chief Registrar, Registrars, Deputy Registrars, and Assistant Registrars. He added that the duties of Registrars flow from those of the Chief Registrar, and include overseeing all court operations, monitoring and enhancing the quality of services, and assisting the Hon. the Chief Justice, the Hon. the Deputy Chief Justice, and the Hon. the Principal Judge in supervision of Courts.





He stated that both Judicial and Support staff, form part of the Judiciary Service, managed by the Judicial Service Commission, and are accordingly expected to uphold the Judicial Code of Conduct and to promote honesty, integrity, and transparency. He stated that all Staff of the Judiciary are expected to adhere to the following 6 Principles laid down in The Judicial Code of Conduct: Independence, Impartiality, Integrity, Propriety, Equality, competence, and Diligence.

He defined a complaint to mean an objection to something unfair, unacceptable, or otherwise not up to normal standards. He stated that complaints received will usually be Informal complaints against systemic challenges such as delayed fixture of cases, misplacement and or loss of files and records; Formal complaints against systemic challenges such as delayed fixture of cases, misplacement, and or loss of files and records, and the likes; formal complaints against individual management of cases, including interestingly, the management of cases by Judges; Informal complaints against individuals, especially against Support Staff, in respect of management cases; Formal complaints against individual Officers, especially against Support Staff, in respect of management cases and General complaints, usually driven by lack of knowledge, or a misunderstanding of procedure.

He noted that the investigation and management of complaints largely depend on the nature of the complaint; informal complaints will usually only require informal approaches, while formal complaints may require formalities but both formal and informal complaints are usually investigated and settled by calling for the relevant file, and summoning the relevant Support Staff.

The presenter added that what the Registrar needs to do is to minute an Instruction or comment on the complaint itself, and as said, rarely will it be necessary, feasible, or advisable to make formal responses. He added that it is wise to consult about complaints over matters before Judges, especially where the Registrar is uncertain of the most appropriate remedy.

On the management of complaints, he stated that a complaint which is severe and is likely to lead either to disciplinary proceedings, criminal proceedings, or both, then it must be handled formally, in writing. That in case of a Support Staff member, then Section f-t (on pages 127-133) of The Public Service Standing Orders, 2021 will have to be followed and in case of a Judicial Officer, then Regulations 28 - 29 of The Administration of the Judiciary (Inspectorate of Courts) Regulations, SI 92 of 2023 will have to be followed.

HW Festo stated that in management of these kinds of complaints, and in line with the above provisions, there are 3 cardinal principles that have to be borne in mind which are: Everything has to be done formally (in writing); the Officer being accused must be accorded a fair hearing (accorded the right to respond) and due process has to be emphatically followed.

The facilitator took the participants through indoor complaints. He noted that Registrars are the managers of their respective Stations, and are also Sub-Accounting Officers of these Units, inevitably complaints will arise by staff, between staff, on all sorts of issues, but invariably over management of funds, from even Judges themselves. He commented that the most practical way of redressing these kinds of complaints is through informal engagements, by way of simple meetings and face to face engagements. He added that occasionally it may be necessary to take remedial action to redress in-house complaints, especially those emanating from Judges against their own Staff, and these kinds of situations are quite common.

He further stated that it may be necessary to have a Staff moved away, following persistent complaints, or at the insistence of a senior Officer such as a Judge and in such a situation, it will be imperative to engage the Office of the Commissioner Human Resource, especially as it is quite often difficult to take formal action, as that may amount to premature initiation of disciplinary action.

He took the participants through ways of minimizing complaints such as operating an open door policy; holding internal meetings; transparent management of resources; regular, formal and informal communication; delegation of duties; adhering to procedures; promoting efficient service delivery, effective communication among others.

His Worship Nsenga concluded his presentation by pointing out areas for reform such as continuous advocating for reforms in the administration of justice, especially as the Judiciary continues to undergo a radical transition and advocating for the re-establishment of the proper and appropriate chain of command and the blurred disconnect between the lower and higher bench which needs to be effectively abridged.



H/W Festo Nsenga - Deputy Registrar, Criminal Division making a presentation during the Induction training

### **5.12.2 THE LAND LAWS, PRACTICE, AND CHALLENGES IN HANDLING LAND MATTERS AND LOCUS VISITS**

Presenter: H/W Ereemye Jumire James Mawanda - Registrar / Public Relations Officer



H/W Ereemye congratulated the participants on their deserved appointments into the judiciary service. He then commenced his presentation with an introduction outlining the purpose and objectives of the presentation, followed by an exploration of the applicable laws concerning land matters. The presentation also covered and defined crucial concepts such as practice, jurisdiction, land, disputes, and locus visits to provide a foundational understanding. The presenter also delved into the jurisdiction of Chief Magistrates and

Magistrates Grade 1, delineating their respective roles and authorities in land-related cases, identifying challenges, and suggesting ways to counter them.

The facilitator stressed that the induction training aimed to empower Chief Magistrates and Magistrates Grade 1 with comprehensive knowledge of land laws, the practice (jurisdiction in land matters), and associated challenges. He emphasized the significance of conducting locus visits in land matters to ensure informed decision-making. He further noted that the presentation also aimed to reorient the participants to legal frameworks governing land issues and hone their skills to effectively manage land cases at their duty stations. The overarching objective was to enable participants to fulfill their mandates, duties, and responsibilities within the bounds of the law and hoped to draw a way forward and recommendations to the judiciary.

The presentation highlighted the Judiciary's pivotal role in administering justice, as mandated by the Constitution of Uganda (See: Articles 28 and 126). Stressing the need for new strategies and innovations to achieve the vision of "justice for all," the facilitator deemed the training a timely tool, especially as Uganda unveils "THE NEW JUDICIARY." and referenced *Sarah Langa Siu. CR 2021*. The presenter also articulated the mission of the Judiciary as "*to efficiently and effectively administer justice*," underscoring the overarching objective of the training session.

In his presentation, he outlined the legal framework applicable to land matters in Uganda, encompassing various statutes and regulations. These include Constitutional provisions concerning Land and Environment (Chapter 15, Articles 237-245), as well as legislation such as the Magistrates' Courts Act (Sections 207-219, 221), which delineate jurisdiction and procedures for locus visits.

Additionally, key laws such as the Civil Procedure Act, the Registration of Titles Act, and the Land Act were highlighted for their relevance in land disputes.

The presentation also emphasized the importance of precedents and legal authorities in interpreting and applying these laws effectively.

The presenter provided clear definitions of fundamental concepts relevant to land matters to wit; practice (Jurisdiction), land, dispute, and locus visit.

The presentation provided a comprehensive understanding of the concept of practice (jurisdiction) in the legal context, particularly concerning land matters. It emphasized that jurisdiction is the capacity or power of a magistrate to hear and determine a matter within specific geographical and pecuniary limits defined by law. Key points highlighted include:

Jurisdiction is a creation of the law and cannot be assumed. Legal precedents, such as **Friends in need SACCO Ltd v Lulume Nambi Norah Civil no. 89 of 2019** and **Baku Ralphael Obudra and another v Attorney General SCCA no. 1 of 2005**, underscore the importance of statutory authority for jurisdiction.

It was noted that both geographical and pecuniary jurisdiction are essential in land matters. Geographical jurisdiction is established if the disputed land is within the local limits of the court, while pecuniary jurisdiction pertains to the value of the subject matter.

Pecuniary jurisdiction extends to the value of the land, even in cases of joinder of causes of action or parties. However, the award of costs and interest is not limited by pecuniary jurisdiction.

Jurisdiction in interim applications related to land matters lies with the magistrate handling the main land suit. In cases of concurrent jurisdiction, where the land is located in multiple magisterial areas, any magistrate can hear the matter.

Unlimited jurisdiction is conferred upon the High Court, emphasizing its role in adjudicating complex land disputes beyond the scope of magisterial jurisdiction.

He pointed out that Section 209 of the Magistrates' Courts Act allows for the suspension of legal proceedings, often referred to as a "stay of suit." Section 210 of the Magistrates' Courts Act outlines the principle of *res judicata*, which refers to a matter that has already been adjudicated and therefore cannot be pursued again in court. Section 211 of the Act establishes a bar to further legal action on matters that have already been conclusively determined by a court.

Land, as defined by Black's Law Dictionary, refers to the tangible material of the Earth, encompassing various substances such as soil, rock, or other natural elements. In an economic context, land represents the natural resources utilized in production processes.

A dispute, according to the Oxford Dictionary of English, can entail a disagreement, argumentation, or competition to attain victory.

A locus visit refers to a court or another entity visiting the location, particularly in land cases or crime scenes. Derived from the Latin phrase "*Locus in Quo*," meaning "Place" or "Scene of the event," it is a common practice in legal proceedings. In land cases, courts typically conduct locus visits before finalizing trials, as evidenced in various legal precedents such as *Deo Matsanga Vs. Uganda* and *Acar & 3 ORS VS. Alfred Acar*. During these visits, courts cross-check the evidence presented during the trial, with the proceedings recorded, cross-examined, and attached to the case file. The purpose is not to fill gaps in evidence but to ensure a thorough understanding of the case. Courts have the power to inspect properties or items related to a case at any stage, as outlined in Order 18 r 14 CPR, with additional guidance provided in practice directions like P. D No. 01 of 2007 specifically addressing locus visits.

The presenter noted that the jurisdiction of Chief Magistrates, as outlined in sections 207 and 208 of the Magistrates' Courts Act, covers civil matters with a monetary limit not exceeding 50 million. Additionally, Chief Magistrates possess unlimited jurisdiction in cases involving trespass, conversion, or destruction of properties, as stipulated in section 207(1)(a).

Grade One Magistrates have jurisdiction over civil matters with a monetary limit not exceeding 20 million, as per Section 207(1)(b) of the Magistrates' Courts Act.

The Chief Magistrate and Magistrate Grade 1 possess unlimited jurisdiction in cases solely governed by civil customary law, according to Section 207(20).

Before proceeding to register a case, the Magistrate must verify that they have the jurisdiction to adjudicate the matter. This can be accomplished by following these steps:

Review the pleadings, especially the complaint or counterclaims.

Determine the value of the land involved in the case prior to registration or hearing.

Ensure that the location and value of the land are clearly stated in the complaint, and consider obtaining a valuation report if necessary.

Pay close attention to the orders sought in the suit, as certain orders may not be within the jurisdiction of the Magistrate's court, such as cancellation of title or vesting orders.

Confirm that the appropriate fees have been paid per Section 207(3).

He noted that there are several challenges encountered when handling land matters including:

- Inadequate understanding of legal principles and jurisdiction.
- Limited training and awareness regarding evolving legal practices, particularly concerning locus visits.
- Complex cases involving land fraud.
- External interference from both institutional and individual sources.
- Security concerns.
- Insufficient funding for travel to and from the locus.
- Lack of suitable technology for trials, evidence assessment, and evaluation, particularly at the scene of the incident.
- Inadequate staffing levels at courts.
- High caseloads.

The path forward involves:

- Studying legal statutes and precedents concerning jurisdiction.
- Seeking guidance from colleagues or legal experts when uncertain.
- Embracing adaptability and adopting effective research techniques.
- Upholding strong work ethics and maintaining integrity.
- Taking proactive measures in addressing challenges and improving practices.
- Embracing a continuous journey of improvement and growth.

The facilitator concluded by noting that the evolving judiciary demands judges who are well-versed in the law and jurisdictional matters. Exceeding one's jurisdiction signifies indiscipline and hints at corruption. Upholding ethical conduct and prioritizing the interests of clients are paramount. Ultimately, our commitment remains to serve with integrity and dedication to our nation and its citizens.



H/W Ereemye Jumire James Mawanda – Ag. Registrar, Magistrates Affairs and Data Management / Public Relations Officer making a presentation during the Induction training.

## **PLENARY**

How to go about cases beyond jurisdiction found in advanced stages?

- The participants were advised that the court bears the duty to point out illegalities.
- Raise the issue to the parties, and dismiss the matter.

The participants sought clarification on pecuniary jurisdiction and damages.

- The participants were informed that if damages exceed the pecuniary jurisdiction, they do not have jurisdiction to entertain such matters.
- Costs unlimited.

How many Practice Directions are there?

- Quite many such as one on locus visits, execution, evictions, etc



When writing a judgement must we refer to the locus visit?

- Yes. Locus is part of the proceedings.

### **5.13.0 BREAKOUT SESSIONS**

#### **5.13.1 EXECUTION OF COURT ORDERS e.g Distress for Rent**

Presenter: Hon. Lady Justice Margaret Mutonyi - Judge, Criminal Division

The Hon. Lady Justice Margaret started her presentation by defining Execution as a process of realizing the fruits of a judgment by enforcing the Decree against the unsuccessful party through any one of the various modes of execution as prescribed by the law.

She stated that there are two types of judgments i.e. local and foreign judgments. And that before execution of any judgment, a litigant must extract a decree which is a formal expression of an adjudication which so far as regards the court expressing it, conclusively determines the rights of the parties concerning the matters of controversy in the suit finally or if the suit ended through a preliminary hearing. (Section 2 of the CPA defines both the decree-holder and judgment debtor).



Justice Mutonyi informed the participants that in the High Court, the successful party is mandated to prepare the decree in consultation with the other party before submission to the registrar, and in the Magistrates Court, the decree is drawn and signed by the trial magistrate who pronounced it or her/his successor. She added that it is also important to ensure that by the time the court issues an execution order, taxation, and extraction of the decree is complete.

She noted that a successful litigant must apply to have the Decree executed promptly as there is a limitation after 12 years unless it can be proved that the judgment debtor fraudulently frustrated execution.

She referred to Order 22 of the Civil Procedure Rules which lays down clear guidelines on how executions should be handled stating that the decree-holder is the only person who may apply for execution against the judgment debtor but under exceptional circumstances, an assignee or transferee may apply. Execution may also be against the legal representatives in case of death of the judgment creditor and the court must ensure that it is dealing with the legally authorized transferee or assignee and the administrator of the estate.

She added that O.22 rules 4 and 6 provide for situations where a Magistrate or High court may have to transfer its decree to another court for execution stating that it must ensure that relevant information is given to the court where execution is to be handled like a certified copy of decree and information that the trial court has not executed.

On execution of Foreign judgments, the presenter stated that they are enforced based on reciprocity or participation in treaties. She listed the laws that provide for reciprocity of judgments in Uganda that is: The Reciprocal Enforcement of Judgments Act Cap 21; The Foreign Judgments (Reciprocal Enforcement) Act Cap 9; The Foreign Judgment (Reciprocal Enforcement) Rules S.I 9-1; The Judgment Extension Act. CAP 12; and The Maintenance Orders Enforcement Act Cap 17 and Rules thereunder.

She informed the participants that execution can be by way of attachment and sale of the judgment debtor's property; attachment of his funds in the bank through garnishee proceedings; eviction and handing over vacant possession; demolition of structures; arrest and detention as civil debtor; distress for rent which has its procedure and that whatever form is used, different stakeholders in the criminal justice system play an important role.

She listed the different stakeholders and their different roles in the execution process including Judicial Officers, Advocates, Bailiffs, Police Officers, Prison Service, and local council authorities.

She shared some challenges in execution such as Execution against the Government which has a different procedure and O.22 of the CPR is not applicable; execution against Local Government as The Local Government Act CAP 243 prohibits execution against Local Government for enforcement of a money Decree against its fixed assets and statutory transfers; execution against parastatals; diplomats; objection to attachment which takes long and fraudulent judgment debtors taking advantage of the requirement of issuing notice to show cause to transfer attachable properties or withdraw money on accounts.

She briefly took participants through distress for rent noting that previously a landlord could adopt a self-help approach and impound property belonging to a tenant and if the rent arrears are not paid, apply to court to have them sold however the Landlord and Tenant Act of 2021 abolished distress for rent but instead the Landlord is to apply to court to recover unpaid rent and reasonable costs as provided under Section 29 of the Act and Section 29(4) provides for The Judicature (small claims Procedure) rules 2011 to apply to any application to recover rent arrears under this section but only if the claim does not exceed the amount specified for small claims in The Judicature (small claims Procedure) rules 2011.

Justice Mutonyi concluded her presentation by reminding the participants that execution is at the tail end of litigation hence the unsuccessful party may just wish to frustrate the whole process. She appealed to them to remember that appealing against the decision alone is not sufficient ground for stay of execution, so when faced with an application for stay, consider the grounds and use discretion judiciously.



The Hon. Lady Justice Margaret Mutonyi making a presentation at the Induction training

## PLENARY

Should execution be for the original court which determined the matter or at the appellate court in cases where the lower court had no jurisdiction.

- Where any court acts without jurisdiction the order is null and void so there was nothing to execute. A retrial should have been ordered,

How do you go about a matter where a notice to show cause was issued there was no response and the property was mortgaged

- Before you do anything endeavour to peruse the file. Look at the value of property, you can attach property that is mortgaged however it is subject to the interest of the bank. The bank gets priority

Execution of transferred decrees, how do you go about it?

- The Judicial Officer can proceed to execute however, if there is anything that needs to be resolved, the file is sent back to the trial court.

### 5. 13.2 THE SMALL CLAIMS PROCEDURE

Presenter: HW Mulondo Mastulah - Assistant Registrar, Small Claims



The presenter, H/W Mulondo Mastula commenced with an introduction, providing a foundation for the discussion on the Small Claims Procedure (SCP).

The background of SCP was explored, detailing its establishment and the contexts in which it is applied. The core of the presentation delved into the practical aspects of SCP, elucidating its real-world applications and procedures.

The presenter addressed long-standing criticisms of Uganda's judiciary, including accusations of favoring the wealthy, prolonged case durations, complicated procedures, and high costs, which have collectively eroded public confidence in the justice system, especially among the poor and illiterate majority.

Against this backdrop, the speaker introduced the SCP as an innovative measure aimed at enhancing efficiency and effectiveness in case resolution. Specifically targeting commercial disputes with a monetary value of 10 million Ugandan Shillings or below. In addition, Her Worship noted that SCP aligns with other initiatives like plea bargain, community service, and alternative dispute resolution methods to address systemic challenges in the legal system.

She stressed that the SCP in Uganda has its roots in a commercial justice study tour conducted by the Honourable Judges of the Commercial Division in London in July 2003, as part of the Commercial Justice Reform Program.

During this visit, the judges explored the SCP in the UK, which was praised for its fast-track access to commercial justice but criticized for its limited coverage and perceived focus on larger corporate entities.

In response, Hon. Justice Geoffrey Kiryabwire drafted a concept paper for the introduction of SCP in Uganda upon his return, garnering widespread acceptance among the Justice Law and Order stakeholders. The idea gained further momentum with the establishment of a collaboration tripartite task force in January 2005, chaired by Justice Kiryabwire, and later taken over by the Registry of Planning and Development in collaboration with the Danida Strengthening Judiciary Project. The final report in November 2008 paved the way for the establishment of Small Claims Courts in Uganda.

The facilitator observed that the SCP in Uganda was formally established through the SCP Rules, which were enacted by the Rules Committee of the Judiciary on May 5, 2011, following the powers granted by Section 41 of the Judicature Act. These rules came into effect on May 30, 2011.

The initial pilot phase of the SCP Rules was implemented in Chief Magistrate's Courts in Arua, Mbale, Masaka, Lira, Kabale, and Mengo, commencing in November 2011. Subsequently, additional courts were included in the pilot program, such as Jinja, Nakawa, Makindye, Nabweru, and Mbarara, as announced by General Notice No. 472 of 2013.

The expansion continued in 2015, incorporating 15 more Chief Magistrates' courts. In 2017, the SCP Implementation Committee decided to conclude the pilot phase and extend the procedure nationwide, resulting in the current presence of SCP in 182 courts across Uganda.

The speaker noted that the SCP in Uganda is applicable to matters where the subject matter does not exceed ten million Uganda shillings. SCP specifically addresses ascertainable monetary claims arising from various situations, such as debts related to the supply of goods on credit, disputes over rental payments, and friendly loans.

Additionally, she pointed out that Rule 5(2) outlines certain matters excluded from the operation of SCP, including disputes related to the management of estates, the validity of wills, claims against the government, torts (defamation, malicious prosecution, wrongful arrest, and imprisonment), divorce, separation or nullification of marriage, contracts of service, and services, among others.

In terms of parties involved, the presenter stressed that only natural persons can be plaintiffs, while corporate bodies can only be defendants and cannot initiate legal action. She further implored the participants to note that legal representation is prohibited according to the rules; however, a recent Constitutional Court ruling declared certain provisions unconstitutional (See: ***Israel Ssejemba v Attorney General, Constitutional Petition Number 37 of 2017*** that declared Rs. 8(2) and 24 unconstitutional). Nevertheless, this decision is under appeal by the Attorney General, pending a hearing by the Supreme Court in ***Attorney General v Isreal Ssejemba SCCA NO. 0008 of 2021***.

The presenter emphasized that jurisdiction in the SCP in Uganda is defined by Rule 5(1), 9, 10, 12, 13, 18, and 19. SCP applies to claims not exceeding Ug. Shs. 10,000,000 in value and these claims must be instituted within the local limits of the jurisdiction where the cause of action arises. For rental disputes, the claim can be instituted where the property is situated or where the defendant resides. The rules prohibit the splitting of claims but allow the joining of claims if they originate from different causes of action, provided they fit within the monetary limits of SCP.

She advised the participants to pay close attention to the following aspects before the hearing including serving a demand notice to the defendant, with a lifespan of 14 days. The claimant or a designated process server must serve the summons upon the defendant, filing an affidavit within 7 days. Upon receipt of the summons, the defendant must satisfy the debt, and deliver a written statement of defence and counterclaim.

Furthermore, she advised that during the hearing, parties must appear in person, and witnesses in support of their case should be present. The participants were encouraged to promote Alternative Dispute Resolution (ADR) while maintaining simplicity and a non-technical approach.

She articulated that Cross-examination is not permitted, but the Judicial Officer may inquire into any aspect of the evidence. She urged the participants to observe the rules of natural justice, ensuring a fair hearing for both parties.

The participants were enjoined to make the judgement immediately or not later than 14 days from the closure of evidence. She made it known to the participants that expenses are assessed immediately after pronouncing judgement, and an inquiry into the ability to pay is conducted, drawing a payment schedule. If the debtor does not respect the payment schedule, formal execution follows using the Civil Procedure Rules (CPRs).

The facilitator noted that the practical aspects of the SCP involve the use of customized registers and templates, including Demand Notices, Claim Forms, Defence Forms, summonses, affidavits, and judgments.

That the SCP process begins with the issuance of a demand notice with a lifespan of 14 days. Judgement is given instantly or within 14 days. Expenses are assessed immediately, and payment schedules are agreed upon or execution follows, adhering to the civil procedure rules.

She urged the participants that data should always be captured and updated promptly for accuracy. The SCP and Demand Notice Registers, along with the Small Claims Data Management System, are harmonized. The clerk should update registers by closing demand notices 14 days after issuance, paying attention to small details. Statistics are reviewed by the Head of the Court before submission to the SCP Registry.

The facilitator once more cautioned the participants against cross-examination during SCP hearings and advised that summons are served with a copy of the defence. Review applications are entertained, and there is no legal representation; parties represent themselves. Matters are resolved within 30 days, and there is no room for appeal. SCP is known for its speed, simplicity, and affordability, with judicial officers avoiding bill of costs.

She recommended the designation of a specified judicial officer to manage SCP matters, making administration and case management easier and noted that the low number of reviews is attributed to strict adherence to effective service.

To address execution costs, standardized costs ranging from Ug. Shs. 200,000 to 300,000 are recommended. Judicial officers quarterly weed out non-starter SCP files, and the rules prohibit splitting claims but allow joining if they fit within SCP's monetary limits.

Common pitfalls in the SCP include registering claims that have not originated from a demand notice, which may lead to the process being hijacked by unauthorized individuals. Some templates, especially for judgments and affidavits, are not used as intended. Failure to adhere to the timelines set in the rules, neglecting the inquisitorial adjudication process, and arbitrary fixing of refundable expenses are also identified pitfalls.

Registering claims not suitable for the small claims procedure and skipping the procedure for assessing the ability to pay are additional challenges. Some judicial officers may refuse to review decisions, contrary to the conditions for review, which include *ex parte* judgments, judgment is void or obtained by fraud or mistake common to parties, the discovery of new and important matters, and correction of errors. Addressing these pitfalls is crucial for maintaining the effectiveness and integrity of the SCP.

Small Claims Procedure (SCP) in England:

- Introduced in 1973 with a monetary limit of £75, now increased to £5000.
- Cases cover various disputes like product sales, debt recovery, property damage, landlord-tenant disputes, etc.
- Adjudicated by district judges in an informal setting.
- Advocates can appear, but legal costs are not recoverable, following a no-cost rule.
- Winning parties can recover fees and expenses.
- Eligibility for the SCP track is determined by the district judge based on case complexity and amount.

SCP in South Africa:

- Established in 1984, with monetary jurisdiction increasing from R1,000 to R20,000 by 2019.
- Presided over by Commissioners appointed by the Minister, drawn from legal professionals and academics.
- No legal representation allowed.
- SCP operates within Magistrate courts, handling cases after regular court hours.
- Judgments are not appealable but can be reviewed by the High Court for jurisdictional issues, bias, or procedural irregularities.
- Similarities between jurisdictions emphasize simplicity, cost-effectiveness, and an inquisitorial approach in SCP.



The facilitator, in conclusion, noted that despite the challenges encountered in the SCP, there are significant opportunities for its growth and increased usage. The formal evaluation of the procedure is conducted annually, and the reports are readily available for stakeholders. It is essential to continually provide best practices for benchmarking, periodically reviewing, sharing, and standardizing them. Ultimately, the responsibility lies with each stakeholder to contribute to the continued improvement and effectiveness of the SCP.



H/W Mulondo Mastulah - Assistant Registrar, Small Claims making a presentation at the Induction training

## **PLENARY.**

Found many default judgments, how to proceed?

- Proceed to execution.

How to handle Taxation in small claims matters?

- Always have the physical file.

Can I proceed using the small claims procedure where it has not been launched?

- Yes, the Small claims procedure was rolled out in the country.

How does one proceed when there are many demand notices from money lenders with agreements?

- Close them under wrongly registered since they are money lenders.

## **DAY FIVE**

### **5.14.0 BREAKOUT SESSIONS**

#### **5.14.1 THE ROLE OF REGISTRARS IN THE JUDICIARY PLANNING CYCLE**

Presenter: Ms. Destiny Letasi - Judiciary Senior Economist

Ms. Destiny made this presentation on behalf of Mr. Simon Opolot who was indisposed. She started the presentation by discussing the Planning and Budgeting Framework stating that Vision 2040 forms the overall guiding framework for Uganda's planning process through the implementation of five-year National Development Plans (NDPs). She added that MDAs are responsible for developing policies, plans, and priority interventions which must be aligned with the NDP citing the fifth Judiciary Strategic Plan (JSP V); and S. 13 of the Public Finance Management (PFM) Act.



She listed some of the applicable laws in planning and budgeting such as the Constitution, the Public Finance Management Act, Treasury Instructions 2017, and PFM Regulations 2016.

She informed the participants that the Judiciary budget must be aligned to Uganda Vision 2040, SDG goals No. 16, the third National Development Plan, The NRM Manifesto and the Presidential Directives, The Administration of Justice Programme and the Judiciary Strategic Plan V.

She went on to define a budget as a statement of revenues the government expects to collect and how it plans to spend those resources over the financial year.

She listed taxes, non-tax revenue, loans and grants as the sources of funding to the budget and took the participants through the budget process/cycle. She stated that the budgeting cycle has five key stages and these include the planning stage; preparation stage; approval stage; execution stage and the Reporting stage.

She further took the participants through the budget preparation timelines under the PFMA noting that submission of Sector Budget Framework Papers to MOFPED is by 15th November; submission on National budget framework paper (NBFP) to Parliament by 31st December; Approval of National Budget Framework Paper by Parliament by 1st February; Presentation of the Ministerial Policy Statements to Parliament by 15th March; Presentation of the Annual Budget and Tax Bills to Parliament by 1st April; Approval of Annual Budget by 31st May; and finally budget comes into operation by 1st July.

The facilitator highlighted the process of budget implementation/allocation of funds stating that expenditure depends on the resource envelope and you spend what was collected/received. She added that the PPD together with accounts prepares a draft quarterly allocation in line with the approved quarterly work plan and the draft quarterly allocation is then submitted to the finance committee for discussion and approval.

The presenter concluded by noting that budget preparation is a very participatory process involving many stages and stakeholders. She added that Judicial officers need to participate to generate consensus on interventions/activities; provide reliable information regarding the needs of the courts; identify needs; prepare and submit quarterly reports on the progress of implementation of the budget; prepare and submit annual reports on the performance of the registry and finally to prepare and submit accountability of funds advanced for the various activities.



Ms. Destiny Letasi - Judiciary Senior Economist delivering a presentation at the Induction training

## **PLENARY.**

Are emergencies and eventualities budgeted for?

- Emergencies such as treatment abroad affect many activities, however, medical insurance has come in to reduce the effects of these emergencies on planned activities.

What happens if there are budget cuts for the wage bill?

- A cut in the wage bill does not affect holders in service, it only affects the projected recruitment

Does the judiciary fund all activities involved in sessions even when other stakeholders are involved?

- All stakeholders have availed funds for the sessions so the Registrar just has to be cautious and inquire under what circumstances officers from DPP are requesting for money for example process service
- However, for in-house sessions where DPP is not aware, Judiciary should at the planning stage consider other players such as private lawyers and ensure they are catered for. The Judiciary cannot plan for other government entities however they are supposed to coordinate with other government entities.



A cross-section of participants listening in to the presentation by Ms. Destiny Letasi - Judiciary Senior Economist

## 5.14.2 THE LAW AND PRACTICE IN SUCCESSION AND ESTATES MANAGEMENT

Panelists:

### 5.14.2.1 Mr. Charles Kasibayo - Administrator General



Mr. Charles Kasibayo, Administrator General, outlined the functions of his office as established by the Administrator General's Act Cap 157, and noted his office is mandated to manage estates, issue Certificates of No Objection, and verify beneficiaries, among other duties.

He clarified that his office operates as a body corporate with perpetual succession and an official seal, capable of engaging in legal proceedings. The government, represented by the Attorney General, remains vicariously liable for the Administrator General's actions or omissions.

He added that the office is led by the Administrator General, who also serves as the Public Trustee, and is supported by the Deputy Administrator General and Assistant Administrators General.

The facilitator pointed out that the Administrator General's operations are governed by several laws including;

- Constitution of Uganda (1995)
- The Administrator General's Act (Cap 157, as amended)
- The Succession Act (Cap 162, as amended by Act 3 of 2022)
- The Public Trustee Act (Cap 161)
- Administration of Estates (Small Estates) Special Provisions Act (Cap 156, as amended)
- Trustee Act (Cap 164)
- The Missing Persons (Management) Act (Cap 159)
- The Administration of Estates of Persons of Unsound Mind Act (Cap 155)

Addressing the participants on the recent amendments on the succession laws prompted by the Constitutional Court's ruling in **Law Advocacy for Women in Uganda v Attorney General**, which declared several provisions of the Succession Act unconstitutional for discriminating based on sex.

Kasibayo emphasized the need to ensure equal rights between men and women in property division, aligning the Succession Act with the Constitution.

He defined an estate to include all property owned by a deceased person or to which they were beneficially entitled before their death.

He stressed that estate management is regulated by law and is categorized into testate succession (where a valid will exists) and intestate succession (where no valid will exists) and detailed the grants available for estate management, focusing on probate for testate succession and letters of administration for intestate cases.

The Administrator General went on to categorically state the types of Grants and instances when they are issued as detailed below;

- Probate: Granted when a deceased person leaves a valid will. The will must be signed by the testator and at least two witnesses. The court grants probate to the appointed executors/executrix if the will meets all legal requirements.
- Letters of Administration with Will Annexed: Issued when a deceased person leaves a will but does not appoint an executor, or the appointed executor does not act. A Certificate of No Objection (CONO) from the Administrator General is required before applying to the court.



- Letters of Administration: Issued when the deceased dies intestate. Preliminary steps include reporting the death to the Administrator General and obtaining a CONO. The family nominates a person to apply for administration, and the nominated person proceeds to file a petition in court.

Kasibayo delved into the application procedure, he stressed the importance of documentation accuracy and compliance with legal requirements noting that for probate or letters of administration, the petition must detail the deceased's death, family, the petitioner's claim, and the deceased's property within the court's jurisdiction. It should include proof of death, the will (if applicable), a CONO, marriage certificates, family meeting minutes, LC introductory letters, identification documents, and passport photos.

The presenter notified the participants that the Administrator General may apply for letters of administration if:

- The deceased appointed the Administrator General as the sole executor.
- The deceased omitted to appoint an executor.
- Named executors predeceased the testator, renounced probate, or failed to apply within two months.
- The deceased died intestate.

He further pointed out that a grant makes the executor/administrator the deceased's legal representative, responsible for managing the estate in trust for the beneficiaries. The grant is valid for two years, extendable by the court. In specific cases, such as those involving minors or pension estates, the grant's validity is adjusted accordingly. Kasibayo urged participants to stay informed about amendments, particularly regarding consent requirements and grant expiry. He emphasized the significance of annexures in applications and encouraged reporting any abuse of powers by his office.

He concluded by encouraging the Judicial officers to stay informed about amendments to succession laws to ensure proper estate management and uphold justice.





Mr. Charles Kasibayo - Administrator General making a presentation at the Induction training

#### **5.14.2.2 HW Kintu Simon Zirintusa - Ag. Registrar, Civil Division**

H/W Kintu Simon Zirintusa commenced his presentation with an outline of the legal framework governing succession and estates management in Uganda, which he noted is primarily governed by the Succession (Amendment) Act, 2022.

He also pointed out other relevant legislation to include the Administrator General's Act, Cap. 157, the Probate (Resealing) (Amendment) Act, 2021, and the Administration of Estates (Small Estates) (Special Provisions) (Amendment) Act No.5 of 2022. Furthermore, laws such as the Children Act, Cap 59, the Persons with



Disabilities Act, 2020, and the Magistrates Courts Act, Cap 16, the Customary Marriages Registration Act, the Estates of Missing Persons (Management) Act, Cap 159, the Marriage Act, the Births and Deaths Registration Act, the Civil Procedure Act, Cap 71, and the Civil Procedure Rules, S.I 71-1 play significant roles in the legal framework. These statutes provide a comprehensive framework for managing succession and estates, ensuring adherence to legal procedures, and safeguarding the rights of beneficiaries and dependents.

The presentation delved into the historical background of the law of succession and estate management in Uganda, highlighting its evolution from colonial-inspired legislation to a more culturally sensitive and equality-driven framework.

It was noted that the law of succession and estates management has roots in the Succession Ordinance of 1906, derived from English law but lacking comprehensiveness and effectiveness.

Subsequent amendments, such as the Succession (Amendment) Decree of 1972, aimed to address deficiencies but still contained gender-based discrimination hence the enactment of the Succession Act, Cap. 162 which consolidated previous legislation but faced challenges due to gaps and anomalies, leading to some of its provisions being declared unconstitutional by the Constitutional Court (See: **Law Advocacy for Women in Uganda v Attorney General, Constitutional Petition No. 13 of 2005 and 05 of 2006**). The presenter then emphasized the significance of the Succession (Amendment) Act 2022 which addressed these shortcomings and advanced towards a more equitable legal framework for succession and estates in Uganda.

The presenter further highlighted the significant reforms introduced by the Succession (Amendment) Act 2022, aimed at modernizing and equalizing the law of succession in Uganda. The key reforms included the use of gender-neutral language (Section 5 and Section 69), the removal of discriminatory terms such as 'legitimate' and 'illegitimate' (See: Section 1(e)), and substituted sections that used derogatory language for persons with hearing, speech or visual impairments (Section 21(b)(3)).

It was stressed that the Act expanded the grounds for voiding a will to include instances of abuse, fraud, and coercion (Section 30), while also requiring witnesses to write their name and sign each page of the will in the presence of the testator (Section 31) and provides for gifts given in contemplation of death and allows the donor to recover any such gift, within 6 months of their recovery (Section 35).

Furthermore, the Act recognized various forms of guardianship (Sections 24 to 26 and Section 28) and prioritized the surviving spouse for estate administration (Section 42).

Moreover, it empowered persons with mental illness to administer estates under certain conditions (Sections 37 and 39). It was stressed that the Act also gives the court the power to remove or defer the appointment of someone granted probate or letters of administration if they are found unfit for the role (Section 39(c)) and streamlines and provides for the different percentages according to which the estate of an intestate is divided, based on various circumstances and relationships in (Section 14) and introduced measures to protect the

matrimonial home from distribution (Section 13 and 21). Additionally, the Act also introduced a requirement for the consent of spouses and lineal descendants before the disposal of estate property by administrators and noted that the same Act also empowers the executor or administrator to apply to the court for redress where consent is unreasonably withheld by the spouse and descendants (Section 58).

The facilitator further elaborated that the Act protects the rights of a surviving spouse who remarries before the estate of the deceased is distributed, and provides that they shall be entitled to the share they would be entitled to under the law.

In addition, it was stressed that the Act provides that a surviving spouse of an intestate shall not take any interest in the estate of the intestate if, at the time of death of the intestate, the surviving spouse was separated from the intestate. He, however, noted that there are exceptions to this provision (See: Section 17).

Another reform pointed out is that the application for probate shall be made within one year from the date of death of the testator. It was observed that the Act provides that where a person named as executor in a will does not apply for probate within one year, a beneficiary under the will may, with the will annexed, apply for letters of administration (Section 50).

The presentation also outlined various offences stipulated under the Succession (Amendment) Act 2022, aimed at ensuring the protection and proper management of the estates of deceased persons in Uganda. These offences include intermeddling with the estate of a deceased person (Section 57), evicting or attempting to evict a beneficiary entitled to occupy the residential property (Section 13 and 21), misapplying or causing loss to the estate before the grant of letters of administration (Section 38 and 40), misappropriating or failing to account for estate proceeds by an executor, executrix or administrator (Section 65), and negligently causing loss to the estate by an executor, executrix or administrator (Section 66). Additionally, the act prohibits knowingly providing false information or making false statements in estate-related petitions or declarations (Section 51) and misappropriating the property of a minor by a guardian (Section 28). Furthermore, the participants were enlightened that it is an offence to willfully withhold revoked probate or letters of administration from the court without reasonable cause.

The presenter elucidated the process of applying for grants of letters of administration or probate, particularly focusing on scenarios where letters of administration are sought. These instances include cases where the deceased passed away intestate, where the deceased left a will without nominating an executor, or where the nominated executor declined to apply for probate or has passed away. Additionally, the presentation highlighted jurisdictional considerations as per the Magistrates Courts Act and also considered the subject of arbitration in estates management.

The facilitator concluded his presentation by providing a comprehensive overview of the procedural aspects involved in estate administration and dispute resolution within the judicial system. He hinted at the process for obtaining letters of administration or probate, highlighting essential steps and requirements. These he noted include recording minutes of the family

meeting to select administrators, obtaining a death certificate of the deceased, and acquiring a Certificate of No Objection from the Administrator General, though not mandatory for small estates.

He noted that a petition listing beneficiaries and properties of the deceased need to be lodged with the courts, and advertised in a widely circulated newspaper for 14 days. The petition is then presented before a judge or magistrate.

Additionally, the facilitator in his presentation addressed the lodging of caveats by parties opposing the grant (Section 52) and stressed that the Court shall not take any step to process the grant unless the caveat has been vacated voluntarily, or where the Court makes a decision that the caveat should be vacated.

He further pointed out that both the caveator and or the petitioner are required to commence a civil suit challenging the petition or the caveat within six months of the caveat being lodged and that if either of them fails to institute the suit within six months of the caveat being lodged, both the caveat and the petition shall lapse. And where the caveator fails to sue and their caveat lapses, they are barred from lodging another caveat in respect of the same estate (Section 53).



H/W Kintu Simon Zirintusa - Ag. Registrar, Civil Division making a presentation at the Induction training

## JOINT PLENARY

Issue on selling part of the estate to educate the grandchildren, the deceased passed on in 1989. No Letters of Administration were ever issued. How do you deal with such a scenario?

- Infer limitation before 1972.
- After 1972, the limitation is difficult to infer, it is best to interrogate or assess whether there is a residual estate or not.
- Few people get Letters of Administration (Section 19 and 20 Succession Act).
- Section 5 of the Limitation Act was invoked by the COA. Application of the Limitation Act. Right accrues when letters of administration are issued.
- Grand children are not beneficiaries of the estate. The estate must be shared first by the direct lineal descendants. Then if they want to donate, they can donate.

Mediation and Jurisdiction.

- Arbitration and Mediation have no limit on subject matter value.
- Mediation will be done when the CJ issues a practice direction to guide the process where Letters of Administration are issued, and administrators fight.

Intermeddling as an offence within the first three months of death, is it tenable?

- Depending on the evidence and a lot of factors. It may exist or may not exist.
- Assess the nature of facts if they have gone beyond the limits.
- The participants were cautioned that the beneficiary can dispose of beneficial interest without letters of administration (Dr. Diana Kanzira's case, in contrast with the case of *Israel Kabwa v Martin Banoba Musiga*).

## 5.15 CHILDREN IN THE JUSTICE SYSTEM

Presenter: Hon. Lady Justice Damalie N. Lwanga - Judge/Executive Director, JTI



The Hon. Lady Justice Damalie started her presentation by defining a child as a person below 18 years under the Uganda Children Act. She stated that children get into the justice system when they get in conflict with the law and when they get in contact with the law to testify.

She explained the need for child-friendly laws and practices stating that they are informed by age, vulnerability, child development process and needs, and the nature of justice delivery.

She stated that Uganda domesticated the International and regional instruments on children through the Constitution, The Children Act, and the Judicature (Visual -Audio link) Rules. She added that the welfare principle and the best interest of the child are the important guiding principles in children cases.

Justice Damalie described juvenile justice as a system or manner of dealing with cases of children who get in conflict with the law and the emphasis of the juvenile justice system is to rehabilitate the young offenders, to reform them into useful and responsible members of society rather than become bigger problems to the community.

She informed the participants that the Family and Children Court has jurisdiction to hear all criminal charges against a child except offences punishable by death and where a child is jointly charged with an adult. She took them through the power of the police who are to release the child on bond and when it is not granted the child can only be detained for 24 hours. She further discussed the jurisdiction of LCs stating that it can hear cases of affray, common assault, actual bodily harm, theft, criminal trespass, and malicious damage.

She took the participants through important decisions and considerations for court such as age, atmosphere, pretrial detention, decision to remand, duration of cases, mode of trial, privacy at court, PSWO's report, and court language among others.

She discussed the orders by court in juvenile cases stating that the maximum is detention for 3 years.

Justice Damalie noted that just like the rights of children in conflict are protected, child victims and witnesses are also protected under S. 40 of the MCA and also under the Judicature (Visual-Audio Link) Rules.

She discussed best practices such as a child-friendly environment at court; the child should not be kept waiting for long; ensuring the child has eaten before giving his/her testimony; allowing the child to be accompanied; protecting the child from unfair questions; using anatomical dolls where necessary refer the child for psychosocial or other support where necessary and conducting of voire dire among many others.

She noted that where a child gives unsworn evidence court cannot base a conviction on it unless it is corroborated.

She concluded her presentation by stating that child-centred procedures and decision-making are key tenets of children rights in the administration of justice in cases involving children in the justice system.



In set, The Hon. Lady Justice Damalie N. Lwanga making a presentation at the Induction training

## PLENARY

Juvenile justice is not paid so much attention. There is a need to step in more to protect children (Juvenile Offenders from picking up worse behaviour)

The Administration of Justice Program should consider programs and projects such as identifying fit persons who can take charge and care of these juvenile offenders to rehabilitate them. Remand homes are overcrowded and Kampiringisa is not responsive to the unique needs of the children.

The Ministry of Gender needs to pay more attention to the issue of remand homes.

On the issue of difficulty in transportation, the Judiciary has gazetted Remand Homes and the Instrument is yet to be signed. Judicial Officers will be deployed at the different remand homes.

The sessions organized do not cater to the peculiar needs of juveniles such as sufficient feeding. The Judiciary should think of special sessions that capture the needs of juveniles such as availing probation officers.



## 5.16 JUDICIAL ETHICS

Presenter: Hon. Commissioner Judicial Service Commission, Senior Counsel Ruth Sebatindira

Senior Counsel Ruth Sebatindira was indisposed and unable to make it. Justice Damalie N. Lwanga the Executive Director, JTI used the opportunity to take the participants through another topic, The Administration of Justice through the Gender Lens.

Justice Damalie started her presentation by stating that the term gender must be understood to be different and distinguishable from the term sex.

She defined sex to mean the biological traits and differences between males and females. She gave examples including sexual and reproductive organs, specific hormones, distribution of muscle mass and fatty tissue, voice pitch, etc.

She defined gender as defined by the World Health Organisation as the social-cultural construction of roles, behaviour, activities, attributes, and opportunities that any society considers appropriate for girls and boys, and women and men. She described it as differences between men and women as defined by society.

She went on to discuss the concept of gender and power noting that it is important to understand the concept of power concerning gender. She defined power as the influence we have in our lives and the lives of others. She described it as the ability to control and access resources, opportunities, privileges, and decision-making processes. She added that everyone has power that can be positive or negative depending on how it is used.

She took the participants through the different forms of power as often influenced by gender norms. The forms of power include power over which derives from assigned authority and control over human and other resources. It refers to the capacity of more powerful people to affect the actions and thoughts of people with less power.

The second form is power to, which refers to the potential capacity of any individual to act independently and to make free choices, to exercise agency.

The facilitator also talked about power within which is power seated within an individual and it relates to a person's sense of self-worth, confidence and awareness which are a requirement for agency and action.

She discussed power within, as the fourth form of power to mean power focused on building collective strength and finding common ground among different interest groups.



Justice Damalie concluded her presentation by highlighting other concepts in gender such as gender roles, gender stereotypes and patriarchy. She appealed to the participants to be alive to these concepts and be gender sensitive when adjudicating matters before them.



A cross section of participants listening in to the presentation

### 5.17 CUSTOMER CARE IN THE JUDICIARY

Presenter: HW Dr. Nakibuule Gladys Kisekka - Deputy Registrar, Research, JTI



In her presentation, H/W Nakibuule Gladys Kisekka discussed the basic concepts of customer care and customer service. She noted that a customer is defined as an individual or entity who utilizes or benefits from a product or service. She added that according to *Mahatma Gandhi*,

“A customer is the most important visitor on our premises, he is not dependent on us. We are dependent on him. He is not an interruption in our work. He

is the purpose of it. He is not an outsider in our business. He is part of it. We are not doing him a favour by serving him. He is doing us a favour by allowing us to do so.”

The facilitator went on to define customer care as the provision of assistance and support to customers before, during, and after their interactions with a product or service and customer service as the delivery of products or services to meet the needs and expectations of customers.

She pointed out that in the context of the Judicial Service, customers are the individuals involved in legal proceedings, including litigants, lawyers, and other stakeholders. The Judicial Business encompasses the activities and processes involved in administering justice and resolving legal disputes. To provide the best care and service, it is essential to prioritize understanding and meeting the needs of customers, maintaining professionalism, efficiency, and fairness in all interactions, and continually striving for improvement in service delivery.

The presentation on customer care was based on Werner Hüttenrauch's theory, which emphasizes the importance of understanding and addressing customer needs with warmth and courtesy. The presenter noted that instead of focusing solely on technical efficiency, this approach advocates for hospitality and attentiveness to foster positive interactions.

The theory highlights the significance of perceiving customer behaviour as indicative of unmet needs rather than faults on their part, emphasizing the need to listen and empathize to resolve frustrations. Anger is viewed as a signal of unmet needs, and addressing these needs is key to alleviating customer dissatisfaction.

The theory further suggests that attempting to change customers' attitudes or engaging in arguments is counterproductive, advocating instead for a focus on service-ability and purposeful engagement to meet organizational goals.

She also pointed out that customer care in the judicial context underscores the broad spectrum of individuals and entities who interact with the judiciary, categorized as internal or external customers. Internal customers include advocates, litigants, community members, and various justice actors such as prisons, the Office of the Director of Public Prosecutions (ODPP), police, and local government personnel, all of whom contribute to the justice chain. External customers encompass those outside the judicial system who engage with its services or processes. Emphasis was placed on recognizing and addressing the diverse needs and concerns of these stakeholders with warmth, courtesy, and attentiveness, fostering positive interactions and ultimately enhancing the delivery of justice.

The presenter stressed that the essence of the concept of customer care is captured in Matt Ward's description as "that feeling that stays a long time, and as such is sustainable." She added that customers may forget what you said but they'll never forget how you made them feel. It was noted that this succinctly encapsulates the enduring impact of effective customer care, emphasizing the importance of creating positive and memorable experiences for customers.

The concept of customer service was defined as extending beyond mere assistance to encompass the creation of positive experiences through relationship-building, understanding customer needs, and offering personalized solutions.

Citing Forbes, H/W Gladys emphasized the importance of going beyond transactional interactions to foster meaningful connections with customers, thereby enhancing satisfaction and loyalty.

The presentation also focused on the integration of customer service principles into judicial service, stressing the foundational principles outlined in the Constitution. It highlighted that judicial power is derived from the people and must be exercised by the courts per the law and the values of society.

Emphasis was placed on the principles of justice, including fairness to all regardless of social or economic status, promptness in delivering justice, adequate compensation for victims, promotion of reconciliation, and prioritization of substantive justice over technicalities as enshrined under Article 126 of the Constitution.

Additionally, the facilitator underscored the importance of enabling people's participation in the administration of justice as envisaged under Article 127 of the Constitution.

The presenter delved into the alignment of customer service principles with judicial service, highlighting the mission, vision, and core values of the judiciary. The mission statement stresses the judiciary's commitment to independence, competence, trustworthiness, and accountability in administering justice to all. Likewise, the vision statement aims for universal justice. The core values include independence, impartiality, transparency, professionalism, integrity, accountability, and equality, reflecting the judiciary's foundational principles.

In her presentation, five cardinal characteristics of good customer service that can significantly impact customer care were highlighted. Firstly, responsiveness which emphasizes the importance of being available and quick to address customer inquiries and complaints, showcasing dedication to their needs. Secondly, professionalism involves maintaining a courteous and knowledgeable demeanour, fostering trust and credibility with customers. Thirdly, empathy helps build connections by understanding and addressing individual customer needs, thereby enhancing loyalty and satisfaction. Fourthly, patience which demonstrates care and willingness to go the extra mile, contributing to positive experiences and referrals. Lastly, problem-solving showcases a commitment to resolving customer issues promptly and effectively, potentially turning negative experiences into positive ones and fostering loyalty and recommendations. It was echoed that these principles when applied within the judicial system, can improve the judiciary's image and enhance customer satisfaction.

She concluded her presentation by outlining additional key aspects that enhance customer care during service interactions. Firstly, adopting a welcome/open door policy that fosters a welcoming environment, encouraging customers to feel comfortable and valued. Secondly, greeting customers in their local dialects which demonstrates cultural sensitivity and makes

customers feel at home, enhancing rapport. Thirdly, being attentive and maintaining proper posture which conveys respect and attentiveness to customers' needs, even amidst other tasks. Additionally, promptly acknowledging customers upon their arrival, accompanied by a smile, establishes a positive initial impression. Furthermore, establishing eye contact and introducing oneself in an official capacity helps build trust and transparency. Lastly, asking how one can assist and providing undivided attention demonstrates a commitment to meeting customers' needs effectively. These practices contribute to an overall positive customer experience and satisfaction.



H/W Dr. Nakibuule Gladys Kisekka making a presentation at the Induction training

## PLENARY.

What point not to cross the line and not come off as Biased?

- Be aware of what to do, its mission, and core values but be responsive as well. Balance.

How to strike the balance between empathy and maintaining independence?

- The way we communicate is very important.
- There are customer care officers at courts, make use of them.
- Emphasize customer care in your courts.
- Take note of your audience and clients.





Participants listening in to the presentation being delivered

## 5.18 ICT IN THE JUDICIARY

Presenter: Mr. Kikabi David Sunday - Principal Information Technology Officer

Mr. Kikabi commenced his presentation by introducing the concept of the 4th industrial revolution, highlighting its transformative impact on human life.

He emphasized that this revolution, marked by technological advancements, is comparable to previous industrial revolutions.

The speaker discussed the perspectives of various court users in the digital age. Judicial officers anticipate instant access to information, court service staff look forward to streamlined processes with fewer errors, lawyers expect remote appearances to save time, and litigants seek online access to court schedules.



Addressing the challenges in the administration of justice, Mr. Kikabi noted that delays and case backlogs are global issues. He asserted that the application of Information and Communication Technologies (ICTs) offers a partial solution to these problems.

The role of ICT in justice administration was explored, covering text creation, storage, retrieval, improved legal access, recording court proceedings, case management, data production for administrative purposes, continuing education, and communication. Mr. Kikabi emphasized the need for technological shifts, including digital participation notifications, identification of participants, self-serve access to court files, digital file and document management, connectivity, procedural education, and electronic filing.

Tools for ICT, such as personal computers, internet access, communication, and online presence, were discussed. Specialized tools like Electronic Case Management systems, recording and transcription tools, video conferencing/audio-visual systems, and legal research databases were also highlighted.

Challenges to e-justice tools were outlined, including high costs of hardware and software, bandwidth expenses, infrastructure issues, resistance to IT adoption, lengthy procurement procedures, and a shortage of ICT staff.

In conclusion, Mr. Kikabi emphasized that the efficient application of ICTs and e-tools in dispute adjudication can modernize, professionalize, and enhance the effectiveness of the courts.



A participant making an inquiry at the Induction training



## **PLENARY.**

Courts like Mubende and Fort portal suffer network issues and interruptions, can modems be provided?

- The facilitator acknowledged that indeed the cables do pass down hence prone to suffer interruptions.
- Funding to maintain the data on the modem may present a challenge. However, the participants were encouraged to put the request to the PS/SJ.

How to handle Old ICT staff who do not want to do their work, creating a parallel system within the system?

- The participants were advised to shape their staff noting that transferring them would come with implications.
- The participants were urged to try and minimize them.
- Notify us of misbehavior. Those on contracts indicate at renewal of the contract. Recommend for transfer.
- Express your interest.

Are LexisNexis Licenses given to all judicial officers and if so, what then is the criterion?

- We buy licenses, and we are in the process of getting licenses for you to access.

Can the system indicate the time when the case was first registered peculiar to Bushenyi?

- When transferring cases from Mbarara High Court to Bushenyi High Court, the case files will be assigned transfer dates.
- The filing date will remain with Mbarara or the original Court.
- Dates of the exercise to be communicated.

Appeal to get laptops as soon as possible.

- Lengthy procurement procedures contribute to the delay.
- Availability of funding is another factor to consider.
- In the process of procuring 100 laptops, thought we could have them by December 2023. Signed the contract in February, and should come towards the end of April.
- He emphasized the directive from the PJ to the effect that data should be generated from CCAS or ECCMIS thus all reporting will be generated from the system and encouraged the participants to always update the system.
- Acquaint themselves with CCAS or ECCMIS.
- He also noted that SADs are assigned different roles like court clerking and urged the participants not to assign them such roles.

- He pointed out that as regards computers, 8 computers had been dispatched to Kasese, 6 to the High Court, 1 from UNDP, the Library, and 1 to the CM. 6 computers had been dispatched to Kitgum, 4 to the High Court, 1 to the CM and 1. He also added that Mubende had received Computers. Printers and photocopiers would come and laptops to follow.

## DAY SIX

### 5.19 JUDGMENT WRITING

Presenter: Hon. Justice Lawrence Gidudu - Judge/Head Anti-Corruption Division



Hon Justice Lawrence Gidudu started by highlighting that the main function of a judicial officer is hearing cases and writing judgments. He stated that scholarly research shows that delayed writing and delivery of judgments/rulings is partly due to a lack of judgment writing skills. The facilitator called upon the participants to avoid writing judgments on notice.

He listed some of the duties of a registrar including judicial administration, adjudication, decision-making, and judgment.

The facilitator shared the following reference. *“I could get on very well hearing one side only, but when both sides have been heard, upon my word, I know not which is right”* King James 1 of England speaking to Chief Justice Edward Coke after failing to deliver a judgement.

He pointed out that Judgment writing is the most difficult role of any judicial officer and is different from writing a legal opinion since it involves making sense of the truth after hearing both sides.

He opined that a judicial officer, therefore, needs the skill to sieve out lies, truths, and exaggerations. He stated that this skill is acquired over time. The facilitator cautioned the participants to desist from practicing any form of corruption. He stated that officers are normally led by corruption to write biased judgement.

He also advised them to avoid delaying judgements since it makes the public perceive that an officer will only deliver a judgement after being bribed. The facilitator also warned the participant to avoid giving opinions to people before hearing from the other side.

He gave various definitions of a judgement. The first is a judicial act of a court by which it accomplishes the purpose of its creation. He also stated that a judgement can be defined as a judicial declaration by which the issues are settled and the rights and liabilities of the parties are fixed as to the matters submitted for decision (B.N. Chaudhuri, The Art of Writing

Judgments, 1984, p.3). He also stated that judgment is the mental ability to understand something, form an opinion and reach a decision. (Conscious decision).

The facilitator highlighted that the legal requirement for judgment writing in Uganda is provided for under Sections 133 MCA and 82(2) TIA and Order 21(1) CPR

The facilitator stated that the purpose of a judgment is to communicate. He stated that a judgment should therefore have qualities for effective communication. He emphasized parties are not interested in one's legal writing skills but to know who is right and who is wrong. He referred to a quotation "*A judgment must be clear, precise, and say everything that needs to be said as to why a decision was reached and no more*" Lady justice Roslyn Atkinson. Judgment writing paper presentation, 13th September 2002. He also gave other importances of judgement writing which include-

- To determine the guilt or innocence of an accused person.
- To settle matters in controversy.
- To communicate reasons to the parties for the decision. (public and Appellate Court).
- To provide accountability by Judicial Officers.
- To serve as precedents.
- To develop Jurisprudence.
- To promote checks and balances under the rule of Law.
- The purpose of writing judgment on appeal is to guide the lower courts.

He warned that before writing a judgment, it is very important to read both sides' evidence. He stated that one could then go on to summarize the facts while avoiding re-writing the entire record of proceedings.

He added that if you are to make a decision based on demeanor, you must have interacted with the witness on the record, or else it will come off as an afterthought.

The second part of Justice Gidudu's presentation was about writing a judgment. The facilitator stated that a judgement must have a structure. The highlighted structure included- a caption, an introduction, findings of fact, a statement of issues, a legal analysis, and a conclusion.

He stated that a caption contains the court's/tribunal's name, the number and title of the case decided, the parties' names, the name of the judge or Coram, and the date (usually at the bottom).

He added that an introduction has the parties, summarize the determinative facts and essential procedure and briefly state the issues.

He stated that the finding of facts discusses the parties' facts accurately, precisely, and impartially.

The facilitator stated that the statement of issues has the issues to be resolved against the burden and standard of proof (trial) or standard of review for appeal purposes.

He stated that the application of the law analyses the issues by applying the law to facts. The facilitator advised that a written judgment should not address every issue the litigants raise but only those necessary to decide the case.

The facilitator stated that the conclusion has the Court's final decision. The facilitator stated that a judgment must be written in the language of the Court. (English). He added that it must have points for determination, the decision thereon, and the reason for the decision. He also stated that it must be dated and signed by the person who has written it (see Sections 136 of the MCA and Order 21 of the CPR).

He discussed the contents of a judgment stating that substantive and procedural laws provide basic contents of a judgment which are: - it must be written, in the language of court, points of determination, decision thereon, dated and signed.

Justice Gidudu went ahead to discuss the identification of issues, questions, and ingredients.

He stated that determining the issues is important in the judgement writing process since one cannot distinguish relevant facts and arguments from pointless digressions until they have determined precisely what questions before the court. He highlighted that participants should separate issues from one another to avoid a judgement that will be devoid of direction.

The facilitator stated that issues of law may dispose of the case and may be tried first (especially Preliminary Objections). He stated that issues are mainly framed at conferencing (See O.12 CPR) however he added that they can even arise during or after taking evidence (See O.15 Rs. 3&4 CPR)

The facilitator warned that questions might arise during adjudication. He stated that these are similar to issues but usually arise after evidence has been adduced. He stated that these are framed during judgment writing and are mainly sub-issues. He highlighted that questions are common in applications supported by affidavits.

He informed the participants that issues in interlocutory matters are whether to preserve the status quo or not, whether there is a likelihood of irreparable damage, and whether on a balance of convenience, an injunction should be granted or not.

He took them through the evaluation of evidence stating that evaluation is about weights that a judge attaches to evidence adduced by parties. He mentioned the tools of analysis to include demeanor, consistency, and other independent evidence in support.

On affidavit evidence, he stated that most applications before registrars are supported by affidavit evidence which is written evidence given on oath. He referred to affidavit rules under O. 18 CPR.

Justice Gidudu concluded his presentation by advising the participants to write in a style they are comfortable with, to ensure the judgment covers the facts, the law, the analysis, and a decision /conclusion. He added that timely delivery of judgments is important for the credibility of courts and confidence in the judicial system.



The Hon. Justice Lawrence Gidudu making a presentation at the Induction training

## PLENARY

Elaborate more on independent witnesses

- Expert evidence is opinion evidence. If the court is not satisfied they can disregard it with reasons or even seek a second opinion.

While assessing evidence of different witnesses, do you have to write all the evidence even if what is being said is the same

- If evidence of one witness can resolve the issue you do not have to reproduce what the other witnesses said especially if it is the same.



Participants listening in to the presentation made by His Lordship Lawrence Gidudu.

## 5.20 BAR BENCH RELATIONSHIP; EXPECTATIONS AND CHALLENGES

Panelists:

### 5.20.1 The Hon. Justice Tadeo Asiimwe - President UJOA

Justice Asiimwe commenced his address by highlighting a growing concern among judicial officers: the development of diseases related to prolonged periods of sitting. This sedentary lifestyle has resulted in various health issues. He emphasized the importance of regular exercise to mitigate these health risks. Justice Asiimwe urged judicial officers to incorporate physical activity into their routines to maintain their well-being and effectiveness in their roles.



Justice Asiimwe went on to elaborate on the crucial relationship between the judiciary (the bench) and lawyers (the bar). He noted the occasional issues where judicial officers proceed alone in matters which then necessitate intervention by the Judicial Service Commission (JSC) for disciplinary action. Despite these challenges, he

affirmed that there is a generally healthy and mutual relationship between judges and lawyers, built on a deep understanding and appreciation of each other's duties.

He delved into the duties of the Bar and Bench noting that Lawyers are expected to deal with facts and evidence honestly, presenting their cases with integrity and professionalism whilst Judges should strive to write quick and summarized decisions to expedite the judicial process and free up space for other cases. He added that Judicial officers are expected to be well-grounded in the law and to maintain a demeanor and conduct befitting their roles. This includes upholding the judicial oath and embodying the core values of judicial conduct.

He described the relationship between the bar and the bench as symbiotic, characterized by mutual respect and collaboration. He stressed that this give-and-take relationship is fundamental to the administration of justice. He emphasized that the strength of this relationship cannot be underestimated, as it is essential for the smooth functioning of the judicial system.

In his presentation, Justice Asiimwe reiterated the core values that should guide judicial conduct as detailed below:

- **Integrity:** Judges must demonstrate honesty and uphold the highest ethical standards.
- **Impartiality:** Decisions should be made based on facts and law, without bias or prejudice.
- **Competence:** Judges are expected to be knowledgeable and well-versed in legal principles.
- **Diligence:** Judicial officers should be thorough and timely in their work, ensuring justice is delivered efficiently.

Justice Asiimwe concluded by reinforcing the importance of the judicial oath and the responsibilities it entails. He called on all judicial officers to uphold these principles to maintain public trust and ensure the effective administration of justice. Through continued mutual respect and adherence to core judicial values, the relationship between the bar and the bench will remain strong and productive.





The Hon. Justice Asimwe Tadeo, Deputy Head, Land Division and President of the Uganda Judicial Officers Association delivering a speech at the Induction Training.

#### 5.20.2 Senior Counsel Bernard Oundo Malingu – President, Uganda Law Society



Senior Counsel Bernard, reflecting on his tenure as the President of the Uganda Law Society (ULS) for four years, delivered a poignant address regarding the bar-bench relationship. His insights covered the diverse characteristics of the ULS membership, the challenges of maintaining decorum in court, and the broader implications of timely justice.

Senior Counsel Bernard began by acknowledging the diversity within the Uganda Law Society, which comprises approximately 5,000 members. This diversity encompasses various characters, attitudes, and behaviours, including occasional rudeness. He noted that such diversity presents a challenge in maintaining professional decorum and mutual respect between the bar and the bench.

One significant challenge he highlighted was dealing with uncourteous individuals in the courtroom. Bernard emphasized the importance of judicial officers remaining calm and composed, thereby maintaining control over the courtroom without engaging in unnecessary exchanges with lawyers. He stressed that judges should lead by example, ensuring that proceedings are conducted with the utmost respect and professionalism.

Bernard pointed out a recent incident where a section of lawyers considered boycotting the new law year. This situation underscored the occasional friction between the bar and the bench and highlighted the need for continuous dialogue and mutual understanding to address grievances and maintain harmony within the legal community.

Lawyers, Bernard noted, come to court not only to seek justice for their clients but also to earn a living. This dual role necessitates that justice be dispensed promptly. Delayed judgements can adversely affect both the quest for justice and the livelihoods of lawyers.

He elaborated on the challenges posed by delayed judgements, including the negative impact on public confidence in the judicial system. Bernard urged judicial officers to reflect on whether they are fulfilling their duty to dispense justice promptly. He reminded them of their judicial oath and the fact that justice is a calling, requiring dedication and efficiency.

Senior Counsel Bernard discussed several issues affecting the judiciary such as:

- Delayed Disposal of Cases: Prolonged case durations can lead to injustice and frustration among litigants and lawyers.
- Dismissals and Inconsistencies: He highlighted the problem of inconsistent and contradictory decisions by courts, which undermine the doctrine of precedent and lead to confusion and unpredictability in the law. The doctrine of precedent, which ensures consistency and reliability in judicial decisions, must be upheld.

Bernard stressed the need for courtesy and respect between the bar and the bench. He urged Judicial Officers to be mindful of their decisions and ensure they are well-grounded in legal principles.

Reflecting on the shared relationship between the judiciary and the legal profession, Bernard cited the Chief Justice of the United States, John Roberts thus,

*“Sorry to say, but I hope you will be lonely from time to time so that you don’t take friends for granted.*

*I wish you bad luck, again, from time to time so that you will be conscious of the role of chance in life and understand that your success is not completely deserved and that the failure of others is not completely deserved either.*

*I hope you'll be ignored so you know the importance of listening to others, and I hope you will have just enough pain to learn compassion.*

*Whether I wish these things or not, they're going to happen. And whether you benefit from them or not will depend upon your ability to see the message in your misfortunes"* encouraged the participants to draw lessons from these experiences.

He urged judicial officers to "put themselves in the lawyers' shoes" to foster empathy and improve the bar-bench relationship.

In conclusion, Senior Counsel Bernard called for a united approach to addressing the challenges facing the legal profession. By maintaining decorum, dispensing justice timely, and respecting each other's roles, both the bar and the bench can work together to uphold the integrity of the judicial system and ensure justice is served effectively.



Senior Counsel Bernard Oundo Malingu, President of the Uganda Law Society delivering a speech at the Induction Training

## 6.0 EVALUATION, RESOLUTIONS AND RECOMMENDATIONS

NO.	PROPOSED RECOMMENDATIONS	ACTION PERSON
1.	Judiciary should consider sponsoring Judicial Officers for further studies for both short and long term studies.	Judiciary top management
2.	A need for consideration of programs and projects such as identifying fit persons who can take charge and care of juvenile offenders to rehabilitate them and be responsive to the unique needs of the juveniles.	The Judiciary in conjunction with other members of the Administration of Justice Program
3.	Judicial Officers should set and communicate in clear terms the expectations, targets, and goals to staff at their respective stations.	Participants
4.	The judicial officers should pay close attention to the issue of jurisdiction both pecuniary and territorial to avoid handling matters outside their jurisdiction.	Participants
5.	Judicial Officers should develop checklists for use in court matters to ensure adherence to procedure and proper record-taking	Participants
6.	Specific peer groups to be created for mentoring the new Judicial Officers	Judiciary top management
7.	Judicial Officers should always cross-check documents and decisions submitted by advocates to avoid relying on non-existent authorities	Participants

## **7.0 CLOSING CEREMONY**

The closing ceremony, presided over by H/W Prossy Katushabe, Ag. Registrar Human Resource, Development and Training commenced with an opening prayer led by H/W Pepera Edith Anne, Ag. Magistrate Grade One, Kihhi.

The participants then had the opportunity to introduce themselves to the Hon. the Principal Judge, creating a forum for interaction and acknowledgment.

H/W Kinobe shared his reflections on the induction training he has been attending since Sunday. He expressed no regrets about being away from his station, thanking the management and the Judicial Training Institute (JTI) for organizing such a timely training session.

Kinobe expressed gratitude to the Executive Director of JTI and highlighted the diverse range of topics covered during the training. He praised the selection of facilitators as excellent and noted that the venue was perfect, fostering concentration and learning.

He mentioned that he has learned a great deal from the well-structured program and emphasized the importance of using both the brain and the heart in their work. Kinobe shared that the experiences gained during the induction were unmatched and invaluable and believes will significantly enhance his professional capabilities.

The informal and participatory nature of the introductions set the tone for the concluding session, fostering a sense of engagement and connection among the participants.



### **7.1 Remarks by the Executive Director, JTI**



The Executive Director started her remarks by welcoming the Principal Judge. She thanked him for gracing the occasion and giving the participants another opportunity to interact with them despite how busy the week had been for him.

She informed the Principal Judge that the one-week induction course had been well spent with fruitful deliberations taking place.

She added that the participants were happy so was the JTI team as the participants had participated actively and engaged the facilitators. She was positive that the knowledge, skills, and best practices learned here would be helpful in their work.

The Executive Director stated that the induction training had taken place several months after deployment, which means the participants had already tasted the waters which enabled them to benefit from each other's experience.

She noted that the induction training is usually conducted for two weeks however it was not possible because of constraint of funds but the unique roles of the different Judicial Officers had been catered for as they incorporated breakout sessions in addition to the general sessions. She encouraged the participants to implement what has been learnt at the induction course training.

Justice Damalie concluded her remarks by thanking the top management for supporting the Institute in carrying out the induction training. She also thanked the facilitators for agreeing to share their experiences with the participants, the participants for actively participating, and finally the JTI team for organizing the training.

She implored the participants to decide their brand, know the kind of Judicial Officer they would want to be known for and wished the participants the best in their judicial career.





The Hon. Lady Justice Damalie N. Lwanga, The Executive Director of the JTI making her remarks at the Induction Training.

## 7.2 Closing Remarks

The Hon. the Principal Judge, His Lordship Flavian Zeija delivered an insightful address at the closing ceremony of the induction training for newly appointed and promoted judicial officers.

His Lordship Zeija began by thanking H/W Kinobe Rogers for the summary and expressed his gratitude to the Chairperson of the Governing Council, the Executive Director, and all staff of the Judicial Training Institute (JTI) for organizing the induction training. He congratulated the participants on their appointments and promotions, highlighting the induction's goal to enhance their efficiency, effectiveness, and overall performance in delivering judicial services.



He noted that the induction aimed to familiarize the judicial officers with the corporate culture of the Judiciary, instill necessary skills and experiences, and remind them of the ethics, values, traditions, and culture associated with their honoured positions.



His Lordship Zeija reviewed the induction program and was pleased with the wide range of topics discussed, including substantive and procedural law, and case management techniques, which are essential for reducing case backlogs and managing workloads.

The Principal Judge urged the officers to apply the knowledge and skills acquired during the induction to improve justice delivery. He also emphasized the importance of unlearning any bad practices highlighted during the training. He noted that the Judiciary expects improved performance and better returns from the officers, which will simplify the appraisal process.

He reminded the officers that under Article 126(1) of the Constitution of Uganda, judicial power is derived from the people, and courts must promote access to justice for all. The National Objectives and Directive Principles of State Policy, particularly objective XXVI, mandate that public offices are held in trust for the people and leaders must be accountable. The officers were encouraged to live up to their judicial oaths, serving the people with integrity and honour.

He stressed that the Judiciary's transformation agenda aims to provide exemplary justice services and become a center of excellence. His Lordship Zeija called upon the officers to be ambassadors of this agenda, staying informed about new rules and practices. He noted that the Judiciary relies on their commitment to achieve its vision and mission.

Highlighting the public's expectation for high moral turpitude and integrity, Judge Zeija stressed that integrity is the foundation of justice administration. He cautioned the officers to avoid real or perceived corruption and to conduct themselves with professionalism and dignity. As role models for their support staff, they should lead by example in hard work and integrity.

The Hon. the Principal Judge advised the officers to deliver well-researched and reasoned judgements and rulings, which reflect competence and enhance the Judiciary's image. These judgements should withstand scrutiny and reduce unnecessary appeals. The officers' actions inside and outside of court should garner public respect and trust.

The officers were urged to be sensitive to the needs and feelings of their colleagues and subordinates, promoting harmony and mutual exchange of ideas. Abiding by the Uganda Judicial Code of Conduct principles—independence, impartiality, integrity, propriety, equality, competence, and diligence—will help them perform their roles judiciously.

His Lordship Zeija identified critical areas needing attention: delayed judgments, trial date uncertainties, corruption, poor customer care, delays in providing certified copies of judgements, absenteeism, and laziness. He encouraged the officers to avoid these bad practices and implement strategies to reduce delays, manage workloads, and create organized working environments. These strategies include developing case management work plans, prioritizing old cases, fast-tracking pending judgements, strengthening anti-corruption measures, and utilizing innovations like small claims procedures and mediation.

He concluded by reminding the officers that learning is an ongoing process. He encouraged them to consult with seniors, supervisors, and experienced colleagues to minimize mistakes. Collaboration with other justice actors and government institutions is crucial for understanding and meeting the justice needs of the people.

The Hon. the Principal Judge officially declared the induction closed, wishing the officers success in their new roles and emphasizing their responsibility to uphold the Judiciary's name and image.



The Hon. the Principal Judge, His Lordship Flavian Zeija (PhD) delivering the closing remarks at the Induction training.

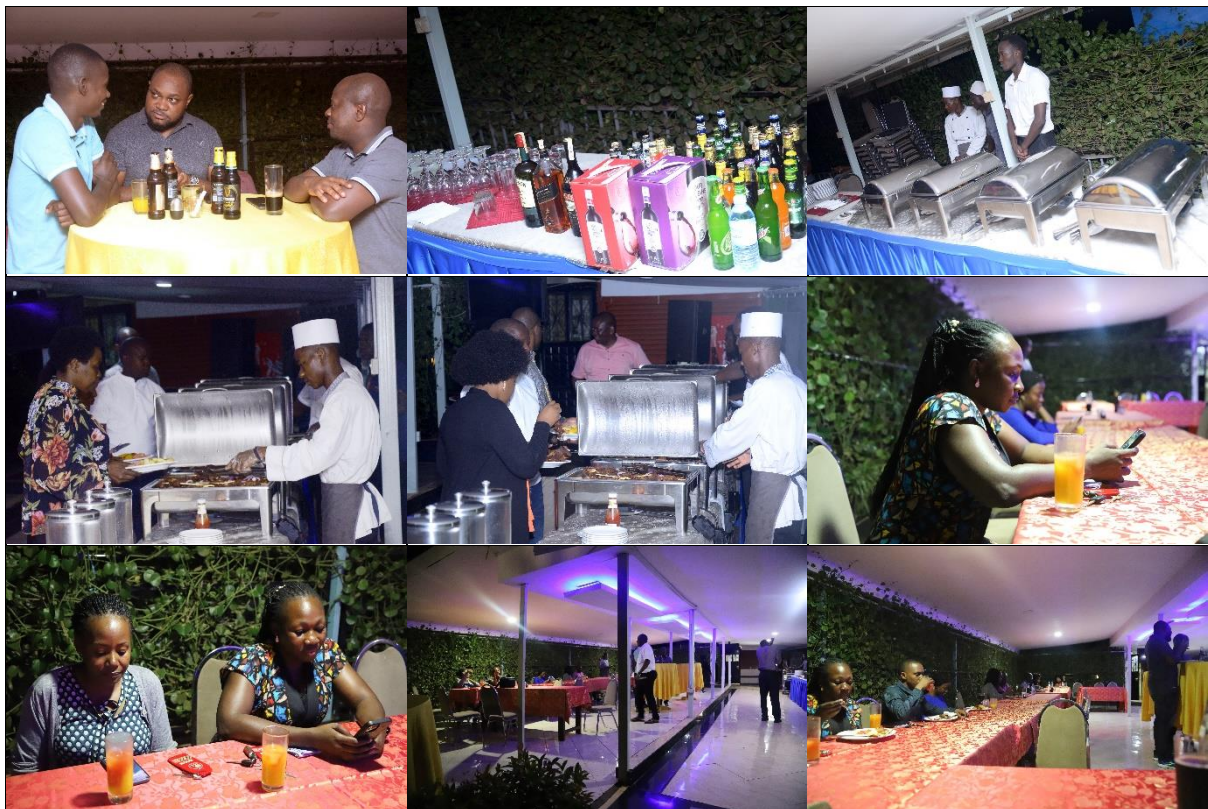
### 7.3 Award of Certificates.





## 8.0 OTHER ACTIVITIES

### 8.1 COCKTAIL







## APPENDICES

### Appendix One



#### **PROGRAMME FOR INDUCTION OF NEWLY APPOINTED REGISTRARS, DEPUTY REGISTRARS, CHIEF MAGISTRATES, MAGISTRATES GRADE 1, 2024 COHORT**

**DATES: 17<sup>TH</sup> – 24<sup>TH</sup> MARCH 2024**

**VENUE: COLLINE HOTEL, MUKONO**

**MODE: RESIDENTIAL TRAINING**

<b>DAY ONE – 17<sup>TH</sup> MARCH 2024</b>	
<b>TIME</b>	<b>ACTIVITY</b>
<b>4:00 pm</b>	Arrival and Check-in of the participants at the hotel
<b>DAY TWO: MONDAY 18<sup>TH</sup> MARCH 2024</b>	
<b>TIME</b>	<b>ACTIVITY</b>
8:00 am – 8.30 am	Registration
8:30am – 9:00am	Administrative Announcements – Registrar, JTI
9:00am – 10:00am	<b>OPENING CEREMONY</b> <ul style="list-style-type: none"><li>- Welcome Remarks by The Executive Director, JTI</li><li>- Remarks by The Hon. The Principal Judge</li><li>- Official Opening by The Hon. The Chief Justice</li></ul> <b>Chair:</b> The Chief Registrar
10:00 am – 10:30 am	<b>GROUP PHOTO AND HEALTH BREAK</b>
10:30am – 11:30am	<b>Topic: EXPERIENCE SHARING BY PARTICIPANTS</b> <b>Facilitator:</b> HW Faisal Mulalira – DRT, JTI

11:30 am – 12:30 pm	<b>Topic: THE STRUCTURE AND FUNCTIONS OF THE JUDICIARY</b>
12:30 pm – 1:00 pm	<b>Presenter:</b> HW Sarah Langa Siu – Chief Registrar <b>Plenary</b>
1:00 pm – 2:00 pm	<b>LUNCH BREAK</b>
2:00 pm – 3:00 pm	<b>BREAK OUT SESSIONS</b>  <b><u>REGISTRARS</u></b>  <b>Topic: JURISDICTION AND FUNCTIONS OF A REGISTRAR</b>  <b>Presenter:</b> HW Rosemary Bareebe – Registrar High Court.  <b><u>CHIEF MAGISTRATES &amp; GRADE ONE MAGISTRATES</u></b>  <b>Topic: MANAGEMENT OF COURT STATIONS: AND CASE FLOW MANAGEMENT FOR MAGISTRATES</b>  <b>Presenter:</b> HW Katushabe Prossy – Registrar JTI
3:00 pm – 3:30 pm	<b>Plenary</b>
3:30 pm – 4:30 pm	<b>Topic: INDEPENDENCE OF THE JUDICIARY AND JUDICIAL ACCOUNTABILITY</b>  <b>Presenter:</b> Judicial Service Commission
4:30pm – 5:00pm	<b>Plenary</b>
<b>5:00 pm</b>	<b>EVENING TEA AND END OF DAY TWO</b>
<b>DAY THREE: TUESDAY 19<sup>TH</sup> MARCH 2024</b>	
8:30am – 9:00am	<b>Registration</b>
9:00am – 10:00am	<b>Topic: TERMS AND CONDITIONS OF SERVICE AND THE ADMINISTRATION OF FINANCES IN THE JUDICIARY</b>  <b>Presenter:</b> Dr. Pius Bigirimana – Permanent Secretary/Secretary to the Judiciary
10:00 am – 10:30 am	<b>Plenary</b>
10:30am – 11:00am	<b>HEALTH BREAK</b>

11:00 am – 12:00 pm	<b>BREAK OUT SESSIONS</b>  <b><u>REGISTRARS</u></b>  <b>Topic: HANDLING OF INTERLOCUTORY APPLICATIONS BY A REGISTRAR</b>  <b>Presenter:</b> Hon. Justice John Eudes Keitirima – Judge/ Head Family Division  <b><u>CHIEF MAGISTRATES &amp; MAGISTRATES GRADE ONE</u></b>  <b>JURISDICTION OF CHIEF MAGISTRATES AND MAGISTRATES GRADE ONE</b>  <b>Presenter:</b> HW Kisakye Mary Kaitesi – Registrar Planning & Development
12:00 pm – 12:30 pm	<b>Plenary</b>
12:30 pm – 1:30 pm	<b>BREAK OUT SESSIONS</b>  <b><u>REGISTRARS</u></b>  <b>Topic: CASE FLOW MANAGEMENT BY REGISTRARS</b>  <b>Presenter:</b> Hon. Justice Immaculate Busingye – Judge, Land Division  <b><u>CHIEF MAGISTRATES &amp; MAGISTRATES GRADE ONE</u></b>  <b>Topic: CRIMINAL TRIAL PROCEDURE AND PRACTICE (Plea Taking up to Sentencing/Acquittal)</b>  <b>Presenter:</b> Hon. Justice Alex Mackay Ajiji – Judge/Deputy Head Criminal Division
1:30 pm – 2:00 pm	<b>Plenary:</b>
<b>2:00 pm – 3:00 pm</b>	<b>LUNCH BREAK</b>
3:00 pm – 4:00 pm	<b>Topic: THE PLEA BARGAINING PROCEDURE</b>  <b>Presenter:</b> Hon. Justice Jane Okuo Kajuga – High Court.
4:30 pm – 5:00 pm	<b>Plenary</b>
<b>5:00 pm</b>	<b>EVENING TEA AND END OF DAY THREE</b>



<b>DAY FOUR: WEDNESDAY 20<sup>TH</sup> MARCH 2024</b>	
8:00am – 9.00am	<b>Registration</b>
9:00am -10.00am	<b>Topic: CIVIL TRIAL PROCEDURE</b>  <b>Presenter:</b> Hon. Justice Musa Ssekaana – Judge/Head, Civil Division
10:00 – 10.30 am	<b>Plenary</b>
10:30 – 11.00 am	<b>HEALTH BREAK</b>
11.00 – 12.00 pm	<b>Topic: AWARD OF DAMAGES AND TAXATION OF COSTS</b>  <b>Presenter:</b> Hon. Justice Boniface Wamala – Judge, Civil Division
12:00 pm – 12:30 pm	<b>Plenary</b>
12:30 pm – 1:15 pm	<b>MEDIATION</b>  <b>Presenter:</b> HW Kisawuzi Elias Omar – Registrar, Mediation
1:15pm – 1:40pm	<b>Plenary</b>
1:40 pm – 2:40 pm	<b>LUNCH</b>
2:40 pm – 3:40 pm	<b>BREAK OUT SESSIONS</b>  <b><u>REGISTRARS</u></b>  <b>Topic: INVESTIGATION AND MANAGEMENT OF COMPLAINTS BY REGISTRARS</b>  <b>Presenter:</b> HW Festo Nsenga – Deputy Registrar, Criminal Division  <b><u>CHIEF MAGISTRATES AND MAGISTRATES GRADE ONE</u></b>  <b>Topic: THE LAND LAWS, PRACTICE, AND CHALLENGES IN HANDLING LAND MATTERS AND LOCUS VISITS</b>
3:40 – 4:10pm	<b>Presenter:</b> HW Ereemye Jumire James Mawanda – Registrar/Public Relations officer  <b>Plenary</b>

4:10 pm – 5:00 pm	<b>BREAK OUT SESSIONS</b>  <b><u>REGISTRARS</u></b>  <b>Topic: EXECUTION OF COURT ORDERS, e.g. DISTRESS FOR RENT</b>  <b>Presenter:</b> Hon. Justice Margaret Mutonyi – Judge, Criminal Division  <b><u>CHIEF MAGISTRATES AND MAGISTRATES GRADE ONE</u></b>  <b>Topic: THE SMALL CLAIMS PROCEDURE</b>  <b>Presenter:</b> HW Mulondo Mastulah – Assistant Registrar, Small Claims  5:00 pm – 5:15 pm  <b>Plenary</b>
5:15 pm	<b>EVENING TEA AND END OF DAY FOUR</b>
<b>DAY FIVE: THURSDAY 21<sup>ST</sup> MARCH 2024</b>	
8:30am – 9:00am	<b>Registration</b>
9:00am – 10:00am	<b>BREAK OUT SESSIONS</b>  <b><u>REGISTRARS</u></b>  <b>Topic: THE ROLE OF REGISTRARS IN THE JUDICIARY PLANNING CYCLE</b>  <b>Presenter:</b> Mr. Simon Opolot – Principal Economist  <b><u>CHIEF MAGISTRATES AND MAGISTRATES GRADE ONE</u></b>  <b>PANEL PRESENTATION:</b>

10:00am – 10:30am	<p><b>Topic: THE LAW AND PRACTICE IN SUCCESSION AND ESTATES MANAGEMENT</b></p> <p><b>Panelists:</b></p> <ol style="list-style-type: none"> <li>1. Mr. Charles Kasibayo – Administrator General (30 minutes)</li> <li>2. HW Kintu Simon Zirintusa – Ag. Registrar, Civil Division (30 minutes)</li> </ol> <p><b>Plenary</b></p>
10:30 – 11:00 am	<b>HEALTH BREAK</b>
11:00 – 12:00 pm	<p><b>Topic: CHILDREN IN THE JUSTICE SYSTEM</b></p> <p><b>Presenter:</b> Hon. Justice Damalie N. Lwanga – Judge/ED JTI</p>
12:00 – 12:30	<b>Plenary</b>
12:30 pm – 1:30 pm	<p><b>Topic: ETHICS, INTEGRITY, AND THE JUDICIAL CODE OF CONDUCT</b></p> <p><b>Presenter:</b> Commissioner Ruth Ssebatindira – Judicial Service Commission</p>
1:30 pm – 1:45 pm	<b>Plenary</b>
1:45 pm – 2.45 pm	<b>LUNCH BREAK</b>
2:45 pm – 3:30 pm	<p><b>Topic: CUSTOMER CARE IN THE JUDICIARY</b></p> <p><b>Presenter:</b> HW Dr. Nakibuule Gladys Kisekka</p>
3:30 pm – 4:00 pm	<b>Plenary</b>
4:00 pm – 4:45 pm	<p><b>Topic: ICT IN THE JUDICIARY</b></p> <p><b>Presenter:</b> Mr. Kikabi David Sunday – Principal Information Technology Officer</p>
4:45 pm – 5:00 pm	<b>Plenary</b>
6:00 pm	<b>COCKTAIL</b>

**DAY SIX: FRIDAY 22<sup>ND</sup> MARCH 2024**

8:30am - 9:00am	<b>Registration</b>
09:00am – 10:00am  10:00 am – 10:30 am	<b>Topic: JUDGMENT WRITING</b>  <b>Presenter:</b> Hon. Justice Lawrence Gidudu – Judge/Head Anti-Corruption Division  <b>Plenary</b>
10:30am – 11:00am	<b>BREAK TEA</b>
11.00 pm – 12.00 pm  12.00 pm – 12.30 pm	<b>Topic: JUDGMENT WRITING</b>  <b>Presenter:</b> Hon. Justice Lawrence Gidudu – Judge/Head Anti-Corruption Division  <b>Plenary</b>
12:30 pm – 1:10 pm  1:10 pm – 1:30 pm	<b>PANEL PRESENTATION:</b>  <b>Topic: BAR BENCH RELATIONSHIP; EXPECTATIONS AND CHALLENGES</b>  <b>Panelists:</b> <ol style="list-style-type: none"> <li>1. Uganda Law Society (20 minutes)</li> <li>2. Hon. Justice Tadeo Asiimwe – President UJOA (20 minutes)</li> </ol> <b>Plenary</b>
1:30 pm – 2:15 pm	<b>LUNCH BREAK</b>
2:15 pm – 2:40 pm	<b>EVALUATION, RESOLUTIONS AND RECOMMENDATIONS</b>  <b>Presenter:</b> Rapporteurs
2:45 pm – 3:45pm	<b>CLOSING CEREMONY – THE HON. THE PRINCIPAL JUDGE</b>  - <b>Remarks by the Executive Director</b>
3:45 pm – 4:00 pm	- <b>Award of Certificates</b>  - <b>Closing Remarks</b>  - <b>Group Photo</b>

4:00 pm	<b>EVENING TEA</b>
	<b>DAY SEVEN: SATURDAY 23<sup>RD</sup> MARCH 2024</b>
9:00 am	<b>DEPARTURE</b>

## Appendix Two: List of Participants

<b>REGISTRARS</b>	
<b>HW Edoku John Paul</b>	<b>Kampala</b>
<b>HW Atingu Beatrice Stella</b>	<b>Kampala</b>
<b>DEPUTY REGISTRARS</b>	
<b>HW Arinaitwe Goretti</b>	<b>Bushenyi</b>
<b>HW Nkwasiwe Ivan</b>	<b>Kasese</b>
<b>HW Aisia Suzanne Musooli</b>	<b>Kitgum</b>
<b>HW Kinobe Binaga Rogers</b>	<b>Mubende</b>
<b>HW Mutatina Natukunda Angella</b>	<b>Kiboga</b>
<b>ASSISTANT REGISTRAR</b>	
<b>HW Juliet Komugisa</b>	<b>Family Division</b>
<b>CHIEF MAGISTRATE</b>	
<b>HW Hilda Bakanansa Walaga</b>	<b>Soroti</b>
<b>HW Seruwo Benjamin Martin</b>	<b>Kiruhura</b>
<b>MAGISTRATES GRADE ONE</b>	
<b>HW Nasasira Alison</b>	<b>Lira</b>
<b>HW Omara Joseph Sabiti</b>	<b>Nakapiripirit</b>
<b>HW Asha Nakiwate</b>	<b>Hima</b>
<b>HW Pepera Edith Anne</b>	<b>Kihihi</b>
<b>HW Derrick Kamanzi</b>	<b>Kibaale</b>

<b>HW Kembabazi Ackline</b>	<b>Wabusana</b>
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