A CITIZEN’S HANDBOOK
ON
LAW & ADMINISTRATION
OF JUSTICE IN UGANDA

Third Edition
JSC Citizens’ Handbook

Justice for All

THE REPUBLIC OF UGANDA

A Publication of:
JUDICIAL SERVICE COMMISSION
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Foreword

One of the concerns of members of the public prior to the establishment of the Judicial Service Commission was the lack of information about the law and administration of justice. In order to address this gap, the Constitution gives the Commission the mandate to prepare and implement programmes for the education and dissemination of information to judicial officers and members of the public about law and administration of justice. The Commission developed a Civic Education Strategic Plan to guide the implementation of civic education activities. This Handbook has been prepared for use in the Commission’s civic education activities. It gives a comprehensive coverage of the composition, functions and procedures of the various institutions involved in law and administration of justice. It explains the rights and obligations of members of the public in the administration of justice.

Staff within the Justice, Law and Order Sector (JLOS) should also find this book useful. Non citizens interested in getting an insight into Uganda’s legal system will also find the Handbook very useful.

The Handbook is presented in a user-friendly language and style with limited use of legal terms. Where legal terms are inevitably used, they have been explained in clear and simple language.

It is my sincere hope that this Handbook will go a long way in contributing to the fulfilment of the Commission’s mandate. It is also my hope that the book will contribute to the attainment of the Justice, Law and Order Sector goal of Justice for All.

Hon. Justice Seth T. Manyindo
Chairman, Judicial Service Commission
January 2007
Preface

The Citizen’s Handbook on Law and Administration of Justice in Uganda explains the composition, functions and how to access the services rendered by the various institutions involved in law and administration of justice.

The Handbook covers the work of government institutions under the umbrella of the Justice, Law and Order Sector and other government institutions such as the Court Martial, the Uganda Human Rights Commission and the Inspectorate of Government.

The book also explains the work of non-governmental organisations involved in law and administration of justice such as legal aid service providers and court bailiffs. In addition, the Handbook explains the rights and obligations of members of the public in the administration of justice. It enlightens the reader on how to seek redress in the event of dissatisfaction with the services rendered in the course of administration of justice.

To make the Handbook user friendly, it has been written in simple, clear and straightforward language. Any person with average command of the English language should be able to read and understand the information in this Handbook. To make the reading easy and interesting, short sentences have been used; the book is arranged in chapters, topics and sub topics. Information on criminal justice has been separated from that on civil justice.

The Handbook is intended to benefit all citizens regardless of their legal background. This handbook is not law or interpretation of the law. It is only a useful guide. However, it contains important information about law and administration of justice which all citizens should be aware of.
Acknowledgements

The Judicial Service Commission would like to thank the Justice, Law and Order Sector reform programme for its financial support towards its civic education programmes and in particular the preparation of this Citizen’s Handbook on Law and Administration of Justice in Uganda.

Special gratitude goes to all the Commissioners, Secretary and staff of the Judicial Service Commission, in particular the Department of Education and Public Affairs for their role in the preparation of this Handbook.

The Commission would like to acknowledge all the stakeholders who sent in written comments and those who participated in the stakeholders’ workshop that discussed the draft of this Handbook. Their constructive criticism was an invaluable contribution.

Finally, the Commission would like to thank M/S Property Rights Concern, the consultancy firm that prepared this Citizen’s Handbook.
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CHAPTER ONE

INTRODUCTION TO UGANDA’S LEGAL SYSTEM

Background
Uganda’s legal system is based on the English legal system that was imported into Uganda by the British colonialists. Prior to the establishment of British colonial rule in Uganda, each ethnic group in Uganda followed its own body of customary law. The customary law was unwritten. However, the customary law of various ethnic groups had both similarities and differences in content and in the manner of its administration.

In the centralized kingdoms such as Buganda, Busoga, Bunyoro and Toro, there existed formal courts presided over by chiefs who administered justice according to respective customary rules. Besides the formal courts, the family and clan heads also played a role in resolution of disputes. In the non-Kingdom states, administration of justice was done by family members, village elders and clan chiefs. It is these that were in charge of settling disputes that would arise in their communities.

The introduction of British rule was accompanied by the imposition of a foreign legal system based on the system applied in England. However, the introduction of the English legal system did not completely replace the traditional legal systems. The two systems existed side by side with each operating within their own sphere of jurisdiction. To-date, the traditional ways of settling disputes are still used in our communities.

The British colonialists set up a consular court that applied English written law as well as other principles of law used by English courts. These other principles were derived from the common law and doctrines of equity. English courts also followed principles of natural justice in the resolution of disputes.

Sources of Law in Uganda
Law is a set of rules governing a society. Law performs various functions in a society. For instance, law is used in the maintenance of peace and order through forbidding certain acts like theft, rape and treason. Laws play a very important role in implementation of government policies, for instance, the law governing the protection and conservation of the environment.
There are various sources of law in Uganda.

**i. The Constitution of the Republic of Uganda (1995)** is the supreme law of the land. All other laws must conform to the Constitution. In the event that any law is inconsistent with the Constitution, the Constitution takes precedence. This means that where there is conflict between the Constitution and any other law, the provisions of the Constitution have to be followed.

**ii. Legislation**-This refers to written law made by a law making body. In Uganda, Parliament is the central law making authority. Legislation may be called various names; it may be called Statutes, Acts of Parliament, Promulgations or Decrees.

Currently in Uganda, all legislation enacted by the Parliament is referred to as Acts of Parliament. Laws made during Idi Amin’s regime were referred to as Decrees since there was no Parliament at the time. It was the President who had law-making powers.

In 2000, Government revised all legislation that was in force at the time. By virtue of the revision, all legislation is now referred to as Acts of Parliament. Parliament may delegate its law making powers to other bodies for instance to a District Local Council, a City Council, a Municipal Council or a Sub-county Local Council.

Parliament may also delegate its law making powers to other bodies, for instance, to a District Local Council, a City Council, a Municipal Council of a Sub-county Local Council. Parliament may also delegate its law making powers to a government official, for instance, a Minister. These bodies or persons with delegated legislative powers make laws referred to as bye-laws, ordinances, rules or regulations.

**iii. Case Law**- The courts of Uganda apply the doctrine of precedent. This means that when deciding a case with facts similar to those of an earlier decided case, the courts decide the new case by following the principles of law set out and in the earlier decision. The earlier decided cases are what are referred to as precedents.
The precedents to be followed are those of the three highest courts namely, the Supreme Court, the Court of Appeal and the High Court. A court is supposed to follow decisions of a higher court as well as its own decisions. However, while a court is bound to follow decisions of a higher court, it may decline to follow its own decisions for good cause.

iv. **Common Law and Doctrines of Equity** - Common law is applied in Uganda by virtue of having adopted the English legal system. Common law refers to decisions of English Judges which were based on the customs of the English communities.

Doctrines of Equity refers to those principles that were developed by English Judges to address the unfairness and limitations of the common law. Equity means fairness. Common law and the doctrines of equity are applied in Uganda where the written law does not provide a remedy to a given legal problem. They can only be applied if they are not contrary to Uganda’s written law.

v. **Customary Law** - This refers to the rules of conduct applied by various ethnic groups in Uganda. Customary law is unwritten. For a custom to be applied as law in the courts of Uganda, it must have certain qualities. For instance, it must not be contrary to the Constitution and any other written law. The Constitution outlawed criminal customary law.

**Classification of Law**

Law is divided into a number of classes. The most important classifications of law for purposes of this handbook are civil and criminal law. However, some conduct may be both of a civil and criminal nature. For instance, assault and adultery can give rise to both criminal and civil cases.

**Criminal Law**

Criminal law is that branch of law that stipulates what conduct amounts to a crime and lays down the punishment for persons who commit crimes.
This law is meant to protect the public against wrongs that can be done by individuals.

- Most crimes are defined by a law called the Penal Code Act. For instance, assault, theft, forgery, defilement, rape, murder and treason are some of the offences that are stipulated in the Penal Code Act.
- There are many other Acts of Parliament and other written laws that create offences. For example, the Prevention of Corruption Act creates offences related to corrupt conduct such as soliciting, giving or receiving bribes.
- The Traffic and Road Safety Act creates traffic offences such as reckless driving, drunken driving, driving a motor vehicle without a valid driving licence, among others.
- There are also bye-laws made by bodies such as Local Governments, which create offences. For example, Kampala City Council bye-laws forbid letting animals loiter in the city.
- However, for the offence called contempt of court, the law creating it does not fully stipulate the various acts that are prohibited by law.
  - The offence generally forbids disrupting or showing disrespect for court proceedings.
  - The discretion is left to a judicial officer to determine what conduct in his or her view amounts to contempt of court. For example, talking on a mobile phone or shouting when a judge or magistrate is hearing a case would amount to contempt of court.
  - However, judicial officers are not supposed to abuse their powers by recklessly applying this law. For instance, it would be wrong for a judicial officer to punish someone for contempt of court because he or she has coughed or has come to court in slippers or sandals.
  - A person who is subjected to reckless interpretation and application of the law of contempt of court can lodge a complaint with the Chief Magistrate, the Registrar, the Inspector of Courts, Chief Registrar, Principal Judge or the Judicial Service Commission.

**Civil Law**

Civil law is the law that creates and protects rights of individuals in their private capacity as legal persons. Examples of civil law include the law governing formation
and enforcement of contracts, the law of marriages and the law of succession. Some of the civil law, such as the law of contracts also applies to companies and government since in law they are regarded as legal entities or persons.

**Differences between criminal and civil law**

There are a number of differences between criminal and civil law. These include the following:

- The nature of the proceedings, the language or terminology used, the remedies given are generally different. For instance, criminal cases are usually instituted by and in the name of the State on behalf of the wronged party.
- The wronged party or victim of crime is referred to as a complainant while in civil law, the wronged party is referred to as the plaintiff or petitioner.
- One of the aims of criminal law is to punish the wrong doer while civil law aims at determining rights and giving relief to a party whose rights have been infringed by wrongful acts of another.
- In criminal proceedings, the burden of proof lies on the State to prove the cases against the accused beyond reasonable doubt.
- In civil cases, the burden of proof is on the plaintiff to prove the case against the defendant. However, the plaintiff need only prove the case against the defendant on the balance of probabilities. This means that the plaintiff only has to show that most likely than not, the defendant committed the acts complained of.

**Administration of Justice**

Justice is the upholding of legal rights and the punishment of wrongs by the law enforcement institutions and the courts. Administration of justice is the management and control of the enforcement of laws and dispensation of justice. Dispensation of justice involves the resolution of disputes that arise between individuals, business entities or the State.

There are various methods of resolving disputes, such as, litigation, mediation, arbitration and negotiation.
Litigation

- Litigation is the method of resolving disputes using the court system. Courts dispense justice by receiving complaints from members of the public who allege that their rights have been violated.
- The Courts also receive cases filed by the State when crimes are alleged to have been committed. The Courts then listen to the conflicting parties and make a decision, basing on the law, as to which party is right or wrong.
- The Courts then decide on the remedy to be given to the aggrieved party or the punishment to be given to the party that has committed the wrong. The wrongs may be criminal or civil.

Alternative Dispute Resolution

Apart from referring disputes to Court, there are other methods of resolving disputes. These are referred to as “alternative dispute resolution” (ADR) methods. These methods include negotiation, mediation, arbitration and conciliation.

Not every dispute that arises in society must end up in Court. Many disputes can be solved without the parties going to court. In traditional African society, elders played an important role in the resolution of disputes. However, with the coming of colonialism, the elder’s role in dispute resolution was largely taken over by the courts introduced by the colonizers.

One major disadvantage of using Court to resolve disputes is that the relationship between the parties to the dispute may deteriorate. Yet, the parties might be neighbours, friends, relatives or business partners. Thus people who had a close working relationship end up as enemies because of a court ruling where one party emerges as the winner and the other as the loser.

Negotiation

This is where parties who have a dispute discuss it with a view to finding a mutually acceptable solution.

Mediation

Mediation is a conflict resolution process where the parties to a dispute are assisted by a neutral person known as a mediator to resolve their dispute through
negotiations. The mediator controls the process, but imposes no substantive decision on the parties. The parties retain complete control over the decision. Resolution of the dispute is reached only if the parties reach an agreement that is acceptable to them.

A mediation process usually involves the following stages:
- Introduction of the subject matter of the conflict.
- Identifying the areas of disagreement (issues).
- Brainstorming-developing options for mutual gain.
- Working through the issues, interests and options towards resolution.
- Achieving a settlement or ending the mediation.

**Arbitration**

Arbitration is a process by which parties to a dispute submit their differences to the judgment of an impartial person or group of persons appointed by mutual consent. The neutral person giving the judgment is known as the Arbitrator. The parties to the dispute before an arbitrator give the facts and evidence of their cases but do not participate in determining the outcome of the dispute. Whereas in mediation the final agreement is a win-win decision, in arbitration there is a winner and a loser.

The parties usually participate in the choice of an arbitrator or the arbitrators. The arbitrator’s decision called an award is enforceable as if it is a judgment of court.

One of the institutions in Uganda offering alternative dispute resolution services is the Centre for Arbitration and Dispute Resolution (CADER). For further details concerning CADER, please refer to the chapter on other institutions involved in Law and Administration of Justice.

**Advantages of using Alternative Dispute Resolution Methods**

ADR as a method of resolving disputes has a number of advantages which include:
- ADR processes can be set up as quickly as the parties wish.
- ADR processes are shorter than court litigation and time saving for busy people.
- ADR processes are confidential hence avoid unwanted publicity.
Unlike any other legal process, parties remain in full control of any settlement agreed. Corruption cannot distort the process and the parties can maintain their rights if no settlement is reached.

As well as their legal rights, parties’ commercial or personal interests can influence the resolution.

Parties choose the person to handle the ADR process.

Once a settlement has been reached it is enforceable like any other court order in the manner provided for by the Act.

Institutions involved in Law and Administration of Justice

There are various government institutions involved in law and administration of justice. Presently thirteen of these institutions are working under the umbrella of the **Justice, Law and Order Sector (J/LOS)** in order to enhance coordination, communication and co-operation amongst themselves. Ten of the said thirteen are the **core** JLOS institutions while the three are **associate** institutions.

**Core JLOS institutions**

These institutions are:- Judicial Service Commission, Ministry of Justice and Constitutional Affairs, Uganda Police Force, Judiciary, Directorate of Public Prosecutions, Uganda Prisons Service, Ministry of Internal Affairs, Uganda Law Reform Commission, Ministry of Local Government (Local Council Courts) and Ministry of Gender, Labour and Social Development (Probationary Services rendered by the Department of Youth and Children Affairs) and Uganda Human Rights Commission.

**Associate JLOS institutions**

These institutions are: - Law Development Centre, Tax Appeals Tribunal, Uganda Law Society, and Centre for Arbitration & Dispute Resolution.

JLOS institutions have a secretariat that coordinates reform activities under the sector wide approach to administration of justice and maintenance of law and order. It is housed in the Ministry of Justice and Constitutional Affairs.

In addition, there are other bodies that are involved in law and administration of justice. These include courts that adjudicate special types of disputes such as the
Court Martial, the Industrial Court, District Land Tribunals (under the Judiciary), the Uganda Communications Tribunal and the Electricity Disputes Tribunal. Further, professional bodies like the Uganda Law Society also exercise quasi-judicial powers when making decisions that affect the rights of their members which have a bearing on the administration of justice.

Administration of justice also covers the work of personnel and organizations that participate in the administration of justice such as advocates, court bailiffs and Legal Aid providers that provide free legal services.

They include the Federation of Uganda Women Lawyers commonly known as FIDA, the Legal Aid Clinic of the Uganda Law Society, the Law Development Centre Legal Aid Clinic, the Public Defender Organisation and the Legal Aid Clinic of the Foundation for Human Rights Initiatives.

Of the other institutions involved in the administration of justice, it is worth mentioning the roles of the Uganda Human Rights Commission, the Inspectorate of Government and the Electoral Commission.

Finally, members of the public are key actors in the administration of justice. They are the users of the services rendered by the institutions involved in law and administration of justice. For instance, it is they who report cases to court or whotestify in court as witnesses in courts or other dispute resolution fora.

Each stakeholder involved in law and administration of justice plays a very important role. When one stakeholder fails to perform its duty, or is not efficient in performing its duty, “the wheels of justice” cannot run smoothly.

**Key principles in Law and Administration of Justice**

- In administering justice, there should be respect for fundamental human rights.
- The institutions that are involved in law and administration of justice carry out functions that directly or indirectly affect the rights of the citizens.
- The Constitution of Uganda, prescribes and guarantees the fundamental human rights to be enjoyed by citizens.
Chapter four of the Constitution among others guarantees the following rights:

i. the right to life
ii. the right to equality before the law
iii. freedom from discrimination
iv. the right to liberty
v. the right to a fair trial
vi. freedom of association
vii. right to property

Other rights guaranteed by the Constitution that are important to the administration of justice include:

- promotion of reconciliation and administration of justice without being stopped by technicalities.
- the right to a fair, speedy and public hearing before an independent and unbiased court or tribunal.
- provision of adequate time and facilities for an accused person to prepare a defence.
- right to being represented by a lawyer paid for by the State if the maximum punishment for the offence is death or life imprisonment.
- the right to an interpreter during court proceedings.
- right of access to a lawyer, relatives and to medical treatment when in police custody or in prison.
- some of these principles are based on what are referred to as principles of natural justice.

**Principles of Natural Justice**

In doing their work, the institutions involved in law and administration of justice must adhere to the principles of natural justice. These principles are intended to ensure fairness in the resolution of disputes and determination of rights and obligations. Some of the principles of natural justice were incorporated in the Constitution of the Republic of Uganda.

- For instance, the Constitution provides that in the determination of civil rights and obligations or any criminal charge, a person shall be entitled to a fair, speedy and public hearing before an independent and impartial court or tribunal established by law.
This constitutional requirement applies to the courts sitting in a judicial capacity and to all tribunals with judicial or quasi-judicial powers.

Quasi-judicial bodies are administrative or official bodies or persons that have powers to make judicial decisions that affect the rights of others. For instance, disciplinary committees, such as that of the Law Council, the Police Disciplinary Court, the Public Service Commission, Judicial Service Commission; and the Medical and Dental Practitioners Board have quasi-judicial powers.

The Constitution of Uganda also provides that a person appearing before an administrative official or body has the right to be treated justly and fairly.

This means that principles of natural justice must be observed in the making of administrative decisions. For example, employers must follow principles of natural justice in taking disciplinary action against employees.

The right to natural justice must be observed at all times even if the law or Act of Parliament being applied mentions it or not.

Decisions made in breach of the principles of natural justice can be challenged in court or in a higher body and may be nullified and set aside.

Failure to follow principles of natural justice may result in court legal action being taken against the body in breach. Court may order such a body to pay compensation to the aggrieved party.

The various rules or principles that constitute the concept of natural justice are discussed below:

**Rule against bias**

- There is an old legal principle that “no person should be a judge in his or her own cause.”
- A judicial officer or any person exercising quasi-judicial powers should not preside over a case in which he or she may be biased.
- This rule also extends to cases where the judicial officer may be suspected to be biased.
- For instance, a judicial officer should not hear a case involving a company in which he or she is a director. It would be suspected that the judicial officer is likely to be biased.
Another example could be where a member of a quasi-judicial body participates in a panel hearing a case against another member, for breach of professional ethics when it is he or she is a business rival.

Natural justice demands that the person likely to be biased should step down from determination of the matter.

The guiding principle is that “Justice must not only be done but should be seen to be done.”

The right to be heard

- Another vital element in the concept of natural justice is the right to be heard.
- It is a fundamental requirement that both sides to a dispute should be heard – the accuser and the accused.
- In other words, no person should be condemned unheard. After one side has stated its case, it is a must that the other side should also be heard if a just decision is to be reached.
- However, if a party refuses to attend court after he or she has been notified of the case or matter hearing date, court in such a situation may hear the case in absence of that party.
- Natural Justice is not limited to cases of where there is an accuser and accused.
- It applies in all cases where there is a dispute or determination of rights and obligations.

Right to notice

- In order to ensure a fair hearing, judicial or quasi-judicial bodies must issue notice of accusations to the accused party.
- The accused party must also be given opportunity to prepare a defence.
- This includes giving the accused sufficient time to prepare his or her defence.
CHAPTER TWO

JUDICIAL SERVICE COMMISSION

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Judicial Service Commission
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Introduction

The key functions of the Commission include:
- appointing and disciplining of judicial officers.
- receiving complaints and recommendations from members of the public.
- about law and administration of Justice in Uganda.
- designing and carrying out legal education programs for judicial officers.
- disseminating information about law and the administration of justice to members of the public.
- advising government on improving the administration of justice.

Composition
The Commission is composed of nine members who must all be persons of high moral character and integrity. The members of the Commission are appointed by the President with the approval of Parliament. They are:
- the Chairperson and the Deputy Chairperson, who must be persons qualified to be appointed as Justices of the Supreme Court.
- two members who are Advocates of not less than fifteen years experience nominated the Uganda Law Society.
- one Supreme Court Justice appointed by the President in consultation with the Judges of the Supreme Court, the Court of Appeal and the Judges of the High Court.
two members of the public, who are not lawyers, nominated by the President.
- one member nominated by the Public Service Commission.
- the Attorney General who is an Ex-officio member.

All members of the Judicial Service Commission serve for four years but are eligible for re-appointment for one (1) more four-year term.

**Organisational Structure of the Commission**

- The Chairperson is the head of the Commission and is responsible for the administration of the Commission.
- He or she serves on a full time basis
- The Chairperson presides at all meetings of the Commission.
- In his or her absence, the Deputy Chairperson presides and in case both are absent, the Supreme Court Justice presides.
- The Chairperson monitors and supervises the work of the Secretary.

The Commission has a Secretariat which is headed by a Secretary.

- The Secretary who is at the level of a Permanent Secretary is responsible for carrying out the policy decisions of the Commission
- He or she is responsible for the day-to-day administration and management of the Commission and control of other staff of the Commission.
- The Secretary is the accounting officer of the Commission.

The Commission Secretariat has three departments. These are:

- Education and Public Affairs - headed by a Registrar.
- Planning, Research and Inspectorate - headed by a Registrar.
- Finance and Administration - headed by an Under Secretary.

**Functions of the Judicial Service Commission**

The functions of the Commission are laid out in the Constitution. However, the Commission also performs other functions as assigned to it under various Acts of Parliament.

The specific functions of the Commission are to:

- advise the President on the appointment of the Chief Justice, the Deputy Chief Justice, the Principal Judge, Justices of the Supreme Court, Justices
of the Court of Appeal, Judges of the High Court, the Chief Registrar and Registrars.

- appoint other judicial officers, other than those mentioned above and to confirm appointments.
- advise the Chief Justice on appointment of Chairpersons and Members of District Land Tribunals.
- under the Electricity Act, the Judicial Service Commission in consultation with the Minister responsible for Electricity appoints the Chairperson, the Vice-Chairperson and the Registrar of the Electricity Disputes Tribunal.
- under the Uganda Communications Act, the Commission recommends to the President the appointment of the Chairperson and two other members of the Uganda Communications Tribunal.
- review and make recommendations on the terms and conditions of service of Judicial Officers and Land Tribunals.
- prepare and implement programmes for the education and dissemination of information to judicial officers and the public about law and the administration of justice.
- receive and process people’s recommendations and complaints concerning the Judiciary, Land Tribunals and, the administration of Justice and generally, to act as a link between the people and the Judiciary and the Land Tribunals.
- advise the government on how to improve the administration of justice.
- most of the functions prescribed by Parliament concern the appointment of persons to serve on quasi-judicial tribunals. Such tribunals include District Land Tribunals and the Electricity Disputes Tribunal.
- carry on any other functions which may be given to it by any law.

Conducting Civic Education for the Public

The Judicial Service Commission is mandated by the Constitution of the Republic of Uganda to carry out civic education on law and administration of justice for members of the public.

The Education and Public Affairs Department is responsible for implementing this mandate.
Importance of Civic Education

Civic education is a special type of education organized for specific target groups and audiences to create awareness of their civil rights and civic duties as citizens in a democratic society.

- Civic education helps citizens to make a meaningful contribution to the administration of justice and the development of their communities and the nation.
- It promotes active participation of every citizen, in the administration of justice.
- It helps inculcate national values and democratic culture.
- It promotes responsible citizenship where people are fully conscious of their rights and responsibilities to the nation.
- It empowers people to fully enforce and pursue their rights before the courts of law and other institutions by imparting knowledge about the operations and procedures of courts and other institutions.

Advising Government on Improving the Administration of Justice

The Commission has the constitutional responsibility of advising government on how to improve the administration of justice.

- The Department of Planning, Research and Inspectorate has the responsibility of carrying out research on the administration of justice. It does this by among others carrying out inspections of courts and tribunals in Uganda.
- It also has the duty to gather views and information to enable the Commission make recommendations to Government.

Appointment of Judicial Officers

The term judicial officer refers to Judges, the Chief Registrar, other Registrars, persons presiding over tribunals and magistrates.

The Commission is the only organ of State mandated with the duty of appointing judicial officers.

- In the appointment of judicial officers to the higher bench (Judges of the Supreme Court, Court of Appeal and High Court), the Commission makes recommendations to the President.
The President then nominates from the recommended names.
The list of nominees is then sent to Parliament for approval.
The President then appoints those approved.
For Magistrates and Registrars, the Commission advertises and interviews applicants before making the appointments.
Posting of appointed judicial officers is done by the Judiciary.

Security of Tenure and Disciplinary Control of Judicial Officers
The Judicial Service Commission is responsible for overseeing the maintenance of ethics among judicial officers.
- The Commission has the duty to ensure that the conduct of Judges and Magistrates remains exemplary and above reproach. This helps to ensure that justice is not only done but is seen to be done.
- Judges enjoy security of tenure of office. This means that they cannot easily be removed from office. They can only be removed from office for reasons specified in the Constitution and after compliance with the laid down procedure.
- This procedure involves the appointment of a tribunal by the President to investigate the allegations about the Judge in question.
- It is the responsibility of the Commission to advise the President if it is necessary to set up a Tribunal to investigate a Judge.
- Cabinet may also advise the President to appoint a tribunal to investigate a Judge.
- The grounds for removal of a Judge from office are:
  i. inability to perform the functions of the office as a result of infirmity of body or mind;
  ii. misbehaviour or misconduct, and
  iii. incompetence.
- In case of other judicial officers like Magistrates and Registrars, disciplinary proceedings are normally initiated by the Chief Registrar who places charges against the judicial officer.
- The Chief Registrar thereafter interdicts the officer and forwards the matter to the Commission.
- However, the Commission can also carry out investigations on its own if it suspects that there is or was unlawful conduct by a judicial officer.
The Commission follows the rules of natural justice in conducting disciplinary proceedings.

The officer is informed of the charges laid against him or her and is allowed to make a defence.

The judicial officer has a right to be represented by an advocate.

The Commission’s proceedings are not open to the public. However, for the benefit of the public, it is the Commission’s policy that its decisions are made known to the public.

**Disciplinary Offences**

The Judicial Service Commission Regulations specify what conduct amounts to disciplinary offences, namely:

i. improper conduct: This constitutes conducting oneself in a manner prejudicial to the good image and reputation of the Judiciary.

ii. corruption and abuse of office: This may constitute practising favouritism, nepotism or bribery whether for personal advantage or gain or personal advantage for another person.

iii. neglect of duty: This may be being late for or absent from duty without permission.

iv. mal-administration of justice: This may be deliberate neglect to ensure that justice is done.

**Receiving Complaints and Suggestions from the Public**

The Commission has the mandate to receive public complaints and suggestions from any person or body of persons aggrieved by improper conduct of a judicial officer.

- The complaint or suggestion need not necessarily be directed at an individual or group of individuals within the Judiciary.
- The complaint or suggestion may be directed at the Judiciary as an institution or at the manner of the administration of justice.
- The complainant need not be personally aggrieved.
- The aggrieved person’s case may be taken to the Commission by a relative, friend, lawyer, NGO or any body keen on the maintenance of the highest standards in the Judiciary.
The complaint must have been made within a period of three years from the time when the act complained of was done.

Where to lodge a complaint

- Complaints may be filed at the headquarters of the Judicial Service Commission or any other place designated by the Commission.
- Where the complainant is able to write, the complaint should be in writing.
- For those unable to write, an oral complaint may be made to the authorized person at the Commission’s offices.
- The person receiving an oral complaint will write it and ask the complainant to thumb print it.
- In case of complaints from outside Kampala, the Commission has a working relationship with some government offices which may receive such complaints on behalf of the Commission. These include offices of:
  i. Chief Administrative Officers (CAO).
  ii. Regional offices of the Uganda Human Rights Commission (UHRC).
  iii. Regional offices of the Inspectorate of Government (IGG).
  iv. Such other places that the Commission may prescribe from time to time.
- Where suggestion or complaint boxes exist in the above places, the complainant should enclose the written complaint in a sealed envelope.
- The complaint should have the name of the complainant, postal and physical address, and where possible the telephone number on which the complainant can be contacted.

Who may be complained against

- A person may submit a complaint to the Commission against any of the following persons:-
  i. a Justice of the Supreme Court, a Justice of the Court of Appeal or a Judge of the High court.
  ii. the Chief Registrar or a Registrar of a court.
  iii. a Chief Magistrate, Magistrate Grade I or Magistrate Grade II.
  iv. a Chairperson or Member of a land tribunal established under the Land Act.
v. the Chairperson or Member of the Communications Tribunal.
vi. the Chairperson or Member of the Electricity Disputes Tribunal.
vii. any other person holding any office connected with the court or tribunal as may be prescribed by law.

- However, in cases of misconduct by junior personnel such as court clerks, messengers, secretaries, accounts officers, etc. employed in the Judiciary, members of the public should not report the misconduct to the Commission but promptly report such misconduct to a Magistrate, Chief Magistrate, Registrar, the Inspector of Courts, Chief Registrar or Judge or the Principal Judge.
- If no disciplinary measure is taken against the person reported, the aggrieved party may seek the intervention of the Public Service Commission.

**Form and nature of complaints**

Complaints to the Commission may be made orally or in writing. However, where the complaint is made orally, an officer of the Commission or an officer acting on behalf of the Commission shall reduce such a complaint into writing. Complaints may be based on any one or more of the disciplinary offences. All written complaints should disclose the facts below:

- The full names, age, address, physical location and occupation (if any) of the complainant.
- If the complainant is not an individual, the organization or institution or group of persons must give their full particulars.
- The complainant must be identified even if he or she wishes to remain anonymous. The Commission shall take measures to protect the identity of the complainant if need be.
- The complainant must allege facts of improper conduct within his or her personal knowledge or verifiable sources of information from identifiable witnesses or documents and dates of the acts complained about must be disclosed.
- The complaint must be written in plain polite language without insults directed at the person or institution complained about. Complaints should not be written in abusive language. Further, the complaint must not be malicious or based on trivial things.
Procedure of Submitting Complaints

- A person or organization may make an oral complaint to the Secretary of the Commission or such other designated person, who shall reduce the complaint in writing.
- The recorded complaint is read back to the complainant who signs or endorses a thumbprint as proof that it is a true and accurate statement.
- The complaint should be in English or in a local language, which should be translated into English; the vernacular complaint is forwarded to the Commission together with the translated copy.
- The complainant may indicate the names and addresses of possible witness.
- The Commission may, before considering a complaint, require the complainant to supply further information and documents relating to the complaint as the Commission may consider necessary.

Procedure for Handling Complaints

- Upon receiving a complaint, the Commission decides whether the complaint is worth hearing.
- In case the complaint is worth hearing, the Commission fixes a date for the hearing.
- The Secretary to the Commission serves a hearing notice on the parties to the complaint. A copy of the complaint should be attached to the hearing notice.
- The parties to a complaint are notified in person about the complaint or hearing date. This is called service.
- Where personal notification is not possible, the person is notified by a registered letter or by putting the notice in a newspaper.
- The hearing of the complaint takes place in not less than 21 days from the date of service.
- The hearing notice may require parties to submit any documentary evidence in their possession ten (10) days before the date of hearing.
- If any of the parties to the proceedings fails to appear on the hearing day, the Commission may, upon proof of service of the hearing notice, proceed to hear and determine the complaint.
Where the complaint has been determined by the Commission in the absence of either party to the proceedings, the party or parties who failed to appear may apply to the Commission for the re-hearing of the complaint.

If the Commission is satisfied that the hearing notice was not duly served or that the party who failed to appear had a valid reason for not appearing, the Commission may hear the complaint again.

Proceedings of the Commission when handling complaints are usually not open to the public.

The decision of the Commission is always in writing.

The Secretary supplies a copy of the decision to all parties to the proceedings. The Commission may upon request and on payment of a prescribed fee, send copies of its decision to any other person or organization having an interest in the matter.

The Commission may publish its decision in a newspaper or announce it over a radio of its choice.

_When a complaint may be rejected_

On receipt of a complaint, an officer or person designated by the Commission may reject a complaint where it:

- has nothing to do with administration of justice or operations of the courts.
- does not deal with the conduct of a judicial officer or any other persons performing judicial functions.
- is manifestly frivolous, vexatious, malicious, unwarranted or unfounded in law.

Where a complaint is rejected, the Commission informs the complainant in writing of the reasons why his or her complaint was rejected. In case the complaint cannot be handled by the Commission, it is forwarded to the responsible Body or Authority.

_Orders that may be made by the Commission_

On finding a judicial officer guilty of a disciplinary offence, the Commission may order any of the following penalties:

i. dismissal
ii. suspension
iii. reduction in rank
iv. a written undertaking from the officer not to repeat the offence
v. reduction in salary
vi. stoppage of increment
vii. postponement of increments
viii. reprimand
ix. compensation
x. recovery of the costs or part of the costs of any loss or damage caused by default or negligence.

Right of Appeal for a Judicial Officer
A judicial officer, who is dissatisfied with a decision of the Commission, may appeal within 30 days after the decision has been made, to a panel of three Judges of the High Court stating the reasons for which he or she is not satisfied.
CHAPTER THREE

JUDICIARY

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Introduction
The Judiciary is that arm of Government that is responsible for the settling of disputes. Uganda has a hierarchy of different courts. The arrangement of courts in order of their hierarchy (from the highest to the lowest) is given below:

i. Supreme Court
ii. Court of Appeal/Constitutional Court
iii. High Court
iv. Chief Magistrates Courts
v. Magistrate’s Courts Grade I
vi. Magistrates’ Courts Grade II.

• Courts have varying jurisdiction. Jurisdiction refers to the power to hear and try cases. When there is a matter to be determined by the courts, it must be heard by the court with the power (jurisdiction) to hear and dispose of the matter in question.

• Some courts have only original jurisdiction while others have appellate jurisdiction. Original jurisdiction is the power of a court to hear or try cases taken to it for the first time without previously having been heard in another court.

• Appellate jurisdiction is the power of a court to hear appeals. An appeal is when a person or a party dissatisfied with a judgment of a lower court asks a higher court to reconsider the decision of the lower court.
• However, some courts enjoy both original and appellate jurisdiction. This means that such a court can hear a case taken to it for the first time or cases referred to it on appeal.
• Jurisdiction may also be determined according to the monetary value of the subject matter of a dispute. This is referred to as monetary or pecuniary jurisdiction. For instance, while the High Court has powers to hear cases of any monetary value, small or big, the magistrate’s courts have their monetary jurisdiction limited by law.
• Jurisdiction may also be limited to a particular geographical area for administrative purposes. While the High Court can hear a case from any part of Uganda, magistrate’s courts only hear matters within their geographical areas.

Hierarchy and Jurisdiction of Courts
The various levels of courts enjoy differing powers or jurisdiction in both criminal and civil matters.

Supreme Court
This is the highest and final court of appeal in Uganda.
• It has appellate jurisdiction and only hears cases on appeal from the Court of Appeal. However, the Supreme Court has original and final jurisdiction in election petitions concerning the election of the President.
• The Court has seven justices.
• The Chief Justice is the administrative head of this court as well as of the entire Judiciary.
• The court is duly constituted to hear a case when composed of an uneven number but in any case, not less than five.
• In hearing cases challenging the election of the President, all the seven judges must sit (full bench).
• The court hears appeals both in civil and criminal matters.
• The Supreme Court hears appeals from the Constitutional Court (Court of Appeal). In this case, the Supreme Court sits as a Constitutional Court of Appeal.
• It can only hear an appeal from the Constitutional Court when duly constituted of a full bench of all the seven Judges.
• Normally the sittings of the Supreme Court are presided over by the Chief Justice and in his or her absence, the most senior member of the remaining judges.
• There is no right of appeal from decisions of the Supreme Court.

Court of Appeal
Like the Supreme Court, the Court of Appeal is an appellate court and not a court of original jurisdiction.
• The Court of Appeal hears appeal cases from the High Court.
• When a party is not satisfied with the decision of this court, the party can appeal to the Supreme Court.
• The court is constituted at its sittings of an uneven number of judges but in any case not less than three.
• The Deputy Chief Justice is the administrative head of this court.
• The Court of Appeal does not have original jurisdiction except when sitting as a Constitutional court.

The Court of Appeal as the Constitutional Court
It is the Court of Appeal that has power to interpret the Constitution when there are disagreements as to the exact meaning of any constitutional provision, or when an Act of Parliament, any other law, or any thing is challenged as being unconstitutional.

Here, the Court of Appeal sits as a Constitutional Court.
• When sitting as a Constitutional Court, the Court of Appeal is constituted of five members of the Justices of the Court of Appeal.
• It is presided over by the Deputy Chief Justice and in his or her absence the most senior member of the Court presides.

The High Court
The High Court has unlimited jurisdiction, both in civil and criminal matters.
• The Principal Judge is the administrative head of the High Court.
• The High Court has Resident Judges in the following areas namely: Kampala, Nakawa, Jinja, Mbale, Gulu, Arua, Fort Portal, Mbarara, Soroti and Masaka. This means that the High Court has judges who are based at those places on a full time basis. These judges often move to other places to hear criminal cases.
- The High Court has powers to supervise magistrate’s courts.
- The High Court has original jurisdiction as well as powers to hear appeals from the decisions of Chief Magistrates and Magistrates Grade I.
- The High Court is fully constituted when presided over by one judge.
- In criminal cases the presiding Judge is assisted by lay people (non lawyers) referred to as assessors.
- There are no assessors in civil cases and during the hearing of criminal appeals from decisions of Chief Magistrates and Magistrates Grade I courts.
- Although the law provides that the number of assessors be two or more, the practice in most criminal trials is to have two assessors.
- In criminal trials, the judge asks the opinion of the assessors before giving his or her judgment.
- Unlike in jurisdictions with a jury system, the opinion of the assessors is not binding on a judge in Uganda. This means that a judge in a criminal trial may make a decision different from the opinion of the assessors.
- In such a case, the judge must note down in writing his reasons for disagreeing with the opinion of the assessors.
- The High Court is the only court with power to hear cases involving capital offences. Capital offences are those for which the maximum punishment is death.
- The High Court has power to pass any sentence or combination of sentences imposed by law.
- The High Court has power to order the transfer of cases from lower courts to itself, or from itself to lower courts.
- The High Court is divided into Divisions namely: Civil, Criminal, Family, Land and Commercial, Anti-Corruption and War Crime.

The Commercial Division of the High Court
The Commercial Division of the High Court is often referred to as the “Commercial Court.” It was established to put in place efficient, expeditious and cost effective machinery for settling commercial disputes.

- The Commercial Court has powers to hear all matters arising out of:
  i. the supply or exchange of goods and services.
  ii. banking, negotiable instruments, international credit, etc.
iii. insurance, reinsurance.
iv. the operation of stock exchange and foreign exchange markets.
v. the carriage of goods-by land, water and air.
vi. foreign judgments and commercial arbitration questions.
vii. general contractual matters.
viii. disputes and matters related to intellectual property.

- The court set up a User’s Committee that is made up of various stakeholders. These include the Uganda Law Society (ULS), the Uganda’s Manufacturers Association (UMA), Private Sector Foundation Uganda (PSFU), Uganda Revenue Authority (URA) and the Attorney General’s Chambers of the Ministry of Justice and Constitutional Affairs.

- The committee holds a meeting with the staff of the court once every four months. During the meetings, the court staff briefs the members of the committee on the work of the court. Issues of mutual interest, complaints and proposals about the running of the court are discussed. This ensures that the voices of the commercial court users are heard. The Commercial Division is situated on the 4th Floor of Crusader House near the Workers’ House, Kampala.

**Magistrates’ Courts**

Uganda is divided into several magisterial areas which are headed by Chief Magistrates assisted by Magistrate Grade I and Magistrate Grade II. Examples of magisterial areas are: Kampala, Nakawa, Mpigi, Entebbe, Mbale, Gulu, Mbarara, Rukungiri, Arua among others.

- Magistrate’s Courts are divided into three grades, namely:
  i. The Chief Magistrates’ Courts.
  ii. Magistrate Grade I Courts.
  iii. Magistrate Grade II Courts.
- Previously there used to be Magistrate Grade III but this level of court was phased out.
- Monetary jurisdiction of various grades of magistrates is determined by Parliament through the Magistrate’s Courts Act.
The Chief Magistrate’s Courts

- The chief magistrate’s court has both original and appellate jurisdiction.
- In criminal matters, a chief magistrate’s court has power to try any offence except those offences for which the maximum sentence is death.
- A chief Magistrate may also pass any sentence authorized by law except a death sentence. A chief Magistrate can therefore pass a maximum sentence of life imprisonment.
- In matters concerning taking of property of another person (conversion), damage to property or trespass, its jurisdiction is unlimited.
- A Chief Magistrate exercises general powers of supervision over all magistrates’ courts within the area of his or her jurisdiction.
- In exercising his or her powers of supervision, a chief magistrate may call for and examine the record of any proceedings before a lower magistrate’s court.
- Chief Magistrates also have powers to supervise the Local Council Courts.

Magistrate Grade I

- A Magistrate Grade I, in criminal cases may try any offence except those offences where the maximum sentence is death or life imprisonment.
- In civil matters, a Magistrate Grade I may try a case where the subject matter has a value of not more than Uganda shillings two million.

Magistrate Grade II

- A magistrate grade II is authorized to try minor criminal offences.
- The Magistrates Court’s Act has a list of offences which cannot be tried by grade II magistrates.
- A magistrate grade II may pass a sentence of imprisonment of not more than three years.

The Family and Children’s Court

Every district in Uganda has a Family and Children’s Court ((FCC). The FCC is presided over by a grade II magistrate.
The FCC is supposed to sit in camera and not as an open court. This means that outsiders who are not parties to the case are not supposed to be present when the FCC is sitting.

- Where possible, the FCC is supposed to be in a separate building away from the usual courts.
- The court conducts its sessions in English.
- The child has a right to ask the court for an interpreter.
- All persons who sit in the FCC should be friendly.
- Children appearing before this court should be given the opportunity to talk.
- The parents or guardians of the child must be present, if possible.
- The Probation and Social Welfare Officer must be present in court.
- The court should inform the child about the right to be represented by an advocate.
- Where the child is convicted, the court should inform the child of the right to appeal.
- The FCC must ensure that its final decision is in the best interest of the child.

The role of the Judiciary in the settlement of land disputes

The settlement of land disputes in Uganda has been given special treatment by the law. The Constitution of Uganda provides for the setting up of District Land Tribunals to settle land disputes.

- The law provides for setting up of district land tribunals for each district.
- These tribunals hear land cases where the value of the land does not exceed 50,000,000/= (Shillings fifty million).
- District land tribunals are under the supervision of the High Court.
- A district land tribunal consists of the chairperson and two other members.
- The chairperson of a district land tribunal is a lawyer qualified to work as a magistrate grade I or to practice as an advocate.
- The other members should not be lawyers. However, they must have knowledge and experience in matters of land.
• The district land tribunals have an administrator called an Assistant Registrar who handles the administrative work of the district land tribunal.

How to file a case in the District Land Tribunal
• To file a case in the District Land Tribunal, one should make a written statement to the Tribunal Assistant Registrar.
• The statement is called a Statement of Claim. If one cannot write, he or she should make an oral or verbal complaint to the Assistant Registrar or other officer of the tribunal.
• The Assistant Registrar or other officer will then write it down and ask the person making the claim to counter sign or put a thumb print on it.
• A person making the claim is referred to as “a claimant” while the one against whom the claim is made is called “a respondent”.
• The Tribunal gives summons which has to be taken to the person against whom the claim was filed.
• The tribunal officers may help a claimant to take summons to the opposite party or parties.

How to respond to summons from the Tribunal
• Upon receiving summons, the respondent should file a defence within a period of fifteen days from the date of getting the summons. In counting the twenty-one (21) days, even weekends and public holidays are included.
• Failure to file a defence in time means that the claimant and the court may continue with the case in the absence of the opposite party.
• After a defence is filed, the Tribunal will make a Hearing Notice informing the parties when the case will be heard.
• The parties should go to court ready with witnesses and relevant documents.
• The Tribunal may visit the land in dispute.
• After hearing both sides, the Tribunal gives a date when it will give its judgment in the case.
• A party not satisfied has a right to appeal to the High Court within sixty days.

The Role of Local Council Courts in Settling Land Disputes
• Under the law governing Local Council Courts, the LCII Court is the Court of first instance for land matters. This means that cases involving land owned customarily should be first filed in the LC II Court.
When a party is not satisfied with the decision of the LCII court, he or she should appeal to the LC III Court. After the LC III Court, a party dissatisfied may then appeal to the District Land Tribunal and thereafter to the High Court. The appeal should be filed within fourteen days. The courts always explain this right of appeal and the time within which an appeal must be filed.

**Power of the High Court to hear land cases**

- The High Court was created with unlimited powers to hear all types of cases whether small or big, involving a lot of money or very little.
- This means that one can file a land case whether for land under customary ownership or not in the High Court.
- The High Court also hears appeals from decisions of District Land Tribunals.
- In case one files a case in the High Court instead of the LCII Court or District Land Tribunal, the High Court may decide to transfer it to the suitable court.
- Only the High Court has powers to order the Registrar of Titles to cancel a certificate of title or to cancel some registration that had been done on a certificate of title.
- However, the proceedings in the lower court are used as the basis for the High Court order.

**Other means of solving land disputes**

The Land Act allows the traditional methods of solving land disputes to continue to be used in cases where land is owned under customary tenure.

- Such methods include the use of family and clan elders or a neutral third person (mediator).
- In addition, the law has provided for the appointment of 2 or more mediators in each district.
- These mediators are appointed by the District Land Tribunal on a temporary case by case basis.
- The role of mediators is to act as neutral third parties who help parties to a land dispute to reach a mutually agreed settlement of their land problem.
CHAPTER FOUR

SPECIAL COURTS

Introduction
Special Courts are courts set up to hear and determine cases of a specific subject matter.

Examples discussed here are the Court Martial, Industrial court, the Electricity Disputes Tribunal and the Tax Appeals Tribunal.

Court Martial
The Laws of Uganda provide for a category of courts known as the Court Martial.

- The court martial is different from the civil courts in that it only hears criminal cases committed by soldiers and officers of the Uganda Peoples Defence Forces and other people subject to military law.
- The court martial courts are established under the law governing the Uganda Peoples Defence Forces.
- According to the law, there are five categories of Court Martial Courts. These are: Unit Disciplinary Committee, the Field Court-Martial, the Division Court-Martial, the General Court-Martial and the Court-Martial Appeal Court.

The Industrial Court
The Court was established as a special court whose main role is to expeditiously resolve labour disputes arising at work places between employers and employees or their organizations (Labour Unions).

- A case may be filed by a Labour Officer, an employee, group of employees, an employer or group of employers.
- The Industrial Court is composed of a Chief Judge, a Judge, an independent member, a representative of employers and a representative of employees.
- The Chief Judge and the Judge are appointed by the President on the recommendation of the Judicial Service Commission.
- The Chief Judge and the Judge must have qualifications similar to those of a Judge of the High Court. They hold office for a term of five years.
• The independent member is appointed by the Minister in charge of Labour from a panel of five eminent Ugandans. The independent member holds office for a term of three years.
• The representative of employers is appointed by the Minister from a panel of five persons nominated by the federation of employers. A separate appointment is done by the Minister for each dispute referred to the Industrial Court.
• The representative of employees is appointed by the Minister from a panel of five persons nominated by the federations of labour unions. A separate appointment is done by the Minister for each dispute referred to the Industrial Court.
• The decision of the Industrial Court is referred to as an award.
• If the Industrial Court is unable to reach a common decision the matter shall be decided by the Chief Judge.
• The Industrial Court has a Registrar and support staff.
• The Registrar is a public officer.
• He or she is the administrative head of the Industrial Court.
• The Registrar works under the supervision of the Chief Judge.
• Parties to a labour dispute before the court may appear in person or be represented by an agent such as a labour union, an employers’ organization or an advocate.
• A party dissatisfied with the decision of the Industrial Court may appeal to the Court of Appeal but only on a point of law.

**Tax Appeals Tribunal**

**Contact Address**
National Insurance Corporation Ltd. Building
9th Floor
Pilkington Road
P.O. Box 7019, Kampala
Tel 041 346150/340470
FAX: 041 346150
Email: taxap@swiftuganda.com
The Tax Appeals Tribunal [TAT] is a special court that hears tax disputes. It is independent of the Uganda Revenue Authority (URA), the Ministry of Finance, Planning and Economic Development and other government agencies. It is created by an Act of Parliament.

It is mandated to review any Uganda Revenue Authority (URA) taxation decision arising out of any taxing law.

The Tribunal handles only tax disputes arising out of the taxing Acts administered by the URA. These are:

i. The Income Tax Act.
ii. The Value Added Tax Act.
iii. The Stamps Act.
iv. The Customs and Excise Act.
v. Any other taxing Act administered by URA.

- The establishment of the Tribunal is part of a process of building a tax culture that ensures that the taxpayer pays fair and correct taxes, while at the same time the Government receives the revenue due to it in a timely and orderly fashion.
- The Tribunal consists of five members one of whom is the Chairperson with qualifications to be appointed a Judge of the High Court.
- A member of the Tribunal shall be a person:
  i. qualified in taxation, finance, accounting or law.
  ii. of high moral character and proven integrity.
  iii. must not have been convicted of any offence involving moral turpitude.
- The Chairperson of the Tribunal is appointed by the Minister for Finance in consultation with the Judicial Service Commission.
- The other members of the Tribunal are appointed by Minister for Finance.
- The Tribunal is empowered to review any tax decision of the URA.
- The Tribunal possesses powers of the High Court and is the first level of appeal for the taxpayer.
- TAT will discharge its functions independently and is not subject to direction or control of any person or authority.
- The Tribunal’s decisions have the same effect as decisions of any court and are enforceable as if they were decisions of a court.
The proceedings before the Tribunal are conducted with as little formality and technicality as possible.

The decisions of the Tribunal can be appealed against to the High Court but only on grounds of interpretation or application of the law.

TAT can award costs but not compensation for loss suffered.

When to apply to the Tax Appeals Tribunal

- An aggrieved taxpayer applies to the Tribunal only after he or she has been issued with an objection decision or a taxation decision.
- The tax payer must exhaust all channels of objection available under the particular taxing law before filing an application to the Tribunal.
- An application to the Tribunal must be filed within 45 days after the date of the decision.
- The Tribunal may however grant an extension of time for the making of an application after the expiry of the 45 days time limit provided it is within the period of six months after the date of the decision.
- The law requires an applicant to deposit 30% of the tax dispute or that part of the tax assessed not in dispute, which ever is the greater.

How to apply

- A taxpayer or a representative of the taxpayer fills a prescribed Form TAT 1 which is then filed with the Tribunal.
- After filing the application, the taxpayer serves a copy to the Commissioner General of URA within five days.
- For the application to be valid, one is required to pay a non refundable fee of UShs. 20,000= (Uganda shillings twenty thousand).
- The Application must contain the following information concerning the applicant:
  i. Full names, mailing address, telephone, fax Number and e-mail address.
  iii. Nature of Business.
  iv. Particulars of dispute and details of the assessment.
  v. Year of income and amount of tax in dispute.
  vi. Reasons or grounds for the appeal.
vii. List of documents or books that will be produced before the Tribunal.
viii. Name and address of witnesses, if any.
ix. Date of application and signature.

- For the Tribunal to be duly constituted there must be three members one of whom shall preside as the chairperson.
- Decisions of the Tribunal must be unanimous.

What happens after filing the application

- The Act allows the Commissioner General 30 days from the date of service within which to file a response with the Registrar of the Tribunal.
- A hearing date is thereafter fixed, giving both parties to the application fourteen days notice. On the date fixed for hearing, both parties appear before the Tribunal.
- The applicant may appear in person or may be represented.
- The burden is on the applicant to prove his/her/its case.
- Hearings before the Tribunal are open to the public, but may upon the request of either party be held in camera.
- The Tribunal offers each party ample opportunity to present its case.
- The Tribunal is required to give its ruling in writing giving reasons in support of its decision.
- The decision of the Tribunal can be appealed against to the High Court.
- Appeals should be made within thirty days after being notified of the decision or within such further time as High Court may allow.

The Electricity Disputes Tribunal
The Electricity Disputes Tribunal was established by the Electricity Act.

- The Chairperson and Vice-Chairperson of the Tribunal are appointed by the Minister in charge of Energy.
- This appointment is done on the advice of the Judicial Service Commission.
- Other members of the Tribunal are appointed by the Minister on recommendation of the Public Service Commission.
- The members are persons with experience in at least one of the following areas, namely: generation, transmission and distribution of electricity, law or administration, finance or economics, the energy industry or environment.
- The members of the Tribunal hold office for a term of five (5) years but may be re-appointed.
• The Minister in consultation with the Judicial Service Commission may remove a Tribunal member from office on grounds contained in the Electricity Act.
• The day-to-day running of the affairs of the Tribunal is by a Secretariat that is headed by a Registrar. The Registrar is assisted by support staff.
• The Tribunal has a mandate and powers to hear and determine all matters related to the electricity sector which are referred to it.
• The Tribunal cannot hear matters that have been settled by the parties. No criminal matters are handled by the Tribunal.
• The Tribunal must sit for its hearings in such places and at such times that make it convenient and not very expensive for people who have lodged complaints with it.
• Quorum at the Tribunal’s sittings is three members.
• When conducting its proceedings, the Tribunal must not follow technical rules of procedure. However, it must always follow principles of natural justice.
• Decisions of the Tribunal are based on a majority vote. In order for the Tribunal to effectively carry on its duties, it was given powers like those of the High Court. Such powers include the power to summon witnesses.
• The Tribunal may, pending the hearing of a matter, make orders to stop any actions until a complaint is handled by the tribunal.
• Decisions and orders of the Tribunal have force like those of a court of law.
• Where a party to a dispute is not satisfied with a decision or judgment of the Electricity Disputes Tribunal, he or she can ask the Tribunal to revisit or review the decision.
• A party dissatisfied with the decision of the Tribunal may appeal to the High Court within a period of thirty days.
CHAPTER FIVE

UGANDA POLICE FORCE

Contact address.
Uganda Police Headquarters
Parliament Avenue (Former British High Commission)
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Tel. 041 4340611
Inspector General of Police Fax No. 041 4255630
E-mail: genpol1@utlonline.co.ug

Introduction
The Uganda Police Force is the principal state body constitutionally charged with the responsibility of preserving law and order. Its other constitutional functions include: the protection of life and property, the prevention and detection of crime and cooperation with the civilian authority; other lawful security organs and the population in general for the maintenance of order, peace and tranquillity in Uganda.

- The Uganda Police Force is headed by the Inspector General of Police (IGP).
- The IGP is assisted by the Deputy IGP.
- Below the Deputy IGP are the Assistant IGPs who are the Heads of Directorates.
- The Force has eleven Directorates all of which have headquarters in Kampala:
  i. Directorate of Criminal Investigations and Criminal Intelligence (CID).
  ii. Directorate of Special Branch.
  iii. Directorate of Operations.
  iv. Directorate of Administration.
  v. Directorate of Interpol and Peace Operations.
  vi. Counter Terrorism.
  viii. Engineering and Logistics.
ix. Research and Planning.
x. Welfare and Duty Free shop.
xi. Political Commissoriate.
xi. Kampala Metropolitan Police

Below these Directorates are Departments headed by Commissioners and Specialised Units who all report to the IGP.

- The Uganda Police Force has regional and district offices all over the country.
- For administrative purposes, Uganda is divided into regions namely: Kampala Metropolitan (East, North and South), Central Region, South Western, Western, Mid Western, North Western, Mid Eastern, Karamoja, South Eastern and Eastern and others.
- Each region is headed by a Regional Police Commander. Regions also have Regional Criminal Investigations Officers and Regional Counter Intelligence Officers.
- At the district level, it is the District Police Commander (DPC) who heads the Force.
- Each district has a District Criminal Investigations Officer (District CID Officer) and a District Counter Intelligence Officer.
- In addition there is a Community Liaison Officer, an Officer in Charge of Traffic and Child and Family Protection Unit.
- At the district, the Uganda Police Force has Police Stations and Police Posts.
- Police Posts are the smallest units and they are attached to particular Police Stations.
- The administrative head of a Police Station is called the Officer-in-Charge of Station (OC Station) while the head of a Police Post is referred to as the Officer-in-Charge of Post (OC Post).
- Each Police Station and Police Post has an Officer in Charge of Criminal Investigations (OC CID) and an Officer in Charge of Counter Intelligence.
- The CID officers are in charge of investigating crimes.
• The Community Liaison Officers from the Directorate of Operations are responsible for linking the Police with the public. They do this by:
  i. collecting views, complaints and any other information from the public and passing them on to the relevant Police authorities for action.
  ii. passing on information from the Police to the public.
  iii. organising meetings between the Police and members of the community to address any concerns.
  iv. The Child and Family Protection Unit (CFPU) is responsible mainly for matters relating children and family issues.

Powers of the Police
To enable the Police fulfil its constitutional obligations, the Force has been given wide ranging powers under the Police and Criminal Procedure Acts.
• These powers must be exercised within the limits of the law.
• Police officers may be subjected to disciplinary action or even prosecution if they abuse these powers.
• They may even be sued in their private capacities for any wrong-doing committed while acting beyond their lawful powers.

Handling of suspects
• The Police have the power to question anyone without arresting them.
• The Police may ask people suspected of having committed offences to identify themselves by giving their full names and addresses.
• However, a person may ask the officer for his or her identity document, showing his name and photograph before answering.
• Even plain clothes Police must carry identity documents.
• If the Police officer identifies himself or herself, the person must give his or her name and address. Failure to do so may result into being detained.
• The person questioned, after giving his or her name and address need not say anything if he or she does not wish to and the Police may not force such a person to answer further questions.
• The person may agree to answer further questions or agree to do so only in the presence of his or her lawyer.
• Whenever possible, it is wise to consult a lawyer before deciding.
• However, since most people do not have money to hire lawyers, attempts should be made to get free legal services referred to as legal aid services,
where that is possible. Refer to the chapter on other Organisations involved in Administration of Justice.

- A police officer may ask the person to go to a police station to make a statement.
- The police may arrest a person if they have reasonable legal grounds to do so. The police are not allowed to assault people for any reason.
- Arrests by the Police may be done with or without a warrant. A warrant of arrest is a document giving a Police Officer power to arrest a person and to take him or her before a court.
- A Police Officer may only arrest a person without a warrant if the Police Officer witnesses a crime or is acting upon “reasonable suspicion.” Reasonable suspicion means that based on some facts, that the person has committed a crime.
- The Police may use reasonable force against people who resist arrest. The force should be reasonable in accordance with the degree of force employed to resist arrest and the nature of the offence committed.
- If the force used in arresting someone is more than necessary, the victim or someone who notices the torture should make a complaint to someone in authority.

**Power to stop motorists**

- The Police may ask a driver to stop at any time, produce his or her driver’s licence (permit), and give his or her name and address, to which the driver must oblige. The Police can enforce this by signalling the driver to stop, or by erecting a road sign, or a roadblock.
- This may be done as routine check by a Traffic Police Officer.
- Routine checks by Traffic Police Officers are done with the aim of finding out if a motorist is complying with traffic laws for instance, whether he has a valid driver’s licence, third party insurance cover, motor vehicle licence or to find out the mechanical condition of the motor vehicle.
- The Police may stop a motorist suspected to have committed or to be committing an offence, for instance carrying smuggled or stolen goods.
- Failure by a driver to stop a vehicle, give his or her name and address, or present a driver’s licence at the request of the Police, may result in the driver being prosecuted for committing a crime.
In case a motorist is not in possession of a driver’s licence at the time he or she is asked to produce it, the law allows him or her to present the licence (permit) within a period of 48 hours.

**Arrest by citizens**

Citizens or private people may arrest people who commit or attempt to commit serious crimes in their presence or whom they reasonably suspect of having committed serious crimes.

- Private citizens may arrest people fighting, maliciously damaging property, committing public violence or those who try to escape arrest.
- Where an offender resists arrest by ordinary people, the force used by ordinary people to carry out the arrest should be reasonable.
- The person being arrested should not be assaulted by the person arresting or by members of the public.
- The malpractice of members of the public assaulting suspects (mob justice) is a criminal offence.
- The arrested person should be handed over to the Police as soon as possible.

**Arrests by a Magistrate**

- A Magistrate may order the arrest of a person who commits an offence in his or her presence, within the limits of his or her jurisdiction and a person for whom he or she has the power to issue an arrest warrant.
- It is a legal obligation for citizens to help a Magistrate effect an arrest whenever he or she requires such help.
- Refusal to assist a Magistrate effect a lawful arrest is a criminal offence.

**Rights of people under arrest**

Persons under arrest also have rights under the law. Being under arrest does not deprive the arrested person of his or her fundamental rights considered essential for a person’s dignity and right to humane treatment.

The Constitution of Uganda provides that an arrested person shall:

- be kept in a place authorized by law.
- be entitled to apply for an order of habeas corpus; an order of habeas corpus is a court order directing the person or authority detaining a person, to produce that person before the court giving the order. The body of the
person must be physically produced. On production, court looks into the reasons for the detention and if the reasons are illegal, the court orders to have the person freed.

- not be kept in custody for more than 48 hours before being produced in court.
- be informed immediately in the language the person understands the reasons for his or her arrest.
- be informed of his or her right to a lawyer of his or her choice at the arrested person’s expense.
- be allowed access to medical treatment including private medical treatment, at the request and cost of the detained person.
- be entitled to apply to the Police Officer-in-Charge of the Station or Post to be released on Police Bond.

**Police Bond**

Police Bond is a guarantee by a suspect detained at a police station or post that he or she will, if released, report to the police whenever required. Police Bond is granted free of charge. The suspect must sign the bond document. The suspect must have at least one person to be a surety. The surety must also sign the Police Bond.

**Powers to search and seize property**

- The law allows a Police Officer to stop, search or detain a vehicle, vessel or aircraft if he or she has reason to suspect that it contains stolen property or property unlawfully obtained.
- In the same way and for the same reason a Police Officer can stop and search any person and seize any property found on the person searched.
- The Police are generally required to obtain a search warrant, but the law recognizes situations where searches may be made without a warrant.
- A search warrant is a court order obtained from a Magistrate who has been persuaded that there is “a reasonable suspicion” that a crime has been committed and that he or she should allow the search.
- A search may be carried out any day between the hours of sunrise and sunset.
• The Police should loudly demand entry into any property where they wish to conduct a search.

• However, if the aim of the search would be defeated by the Police announcing their intention to enter, they need not to do so.

• Police Officers carrying out a search should identify themselves.

• During a search, the Police may use reasonable force to overcome resistance to the search or entry of property.

• But the Police must first demand to be let into the property. They must also state the reason for the search.

• As long as the Police produce a search warrant, one should not resist the search.

• Although it is not a legal requirement for the Police to inform local council officials of an intended search, it would be advisable in some cases that the Police informs LC I officials of an impending search.

• Where possible, the LC officials should be present.

• Where the involvement of LC officials may prejudice the objective of the search, then they should be excluded.

• Where any articles or money are confiscated after the search, the Police must sign acknowledging the confiscation.

• Where they refuse to sign, a report should be made to a higher authority as soon as possible.

• It is advisable that a person being searched invites an LC official to be present in case the Police did not do so.

The Police Professional Standards Unit

• This is a new creation which has replaced what was formerly the Police Human Rights and Complaints Desk. With its Headquarters in Kampala suburb of Bukoto, it has been extended to the three Regions of Masaka, Jinja and Arua. It provides redress in case of dissatisfaction with its services.

• Any member of the public who is dissatisfied with the services of the Police may file a complaint. This does not affect any other legal means of redress available to the complainant. The Unit has among others the following mandate:

  ➢ To promote respect for Rule of Law and observance of Human Rights in Uganda Police Force and the Community.
➢ Act as an in-house mechanism for addressing the complaints against the Uganda Police Force.
➢ Initiate and develop proper professional standards, policies and practices for the Police Force
➢ Monitor and evaluate other departmental operations for purpose of ensuring transparency and accountability.
➢ Handle specific Investigations into alleged professional misconduct within the force as assigned by the IGP or from the public.

- The Unit is headed by a Commissioner who reports to the IGP and below him are two Assistant Commissioners plus other staff.
- The complaints against Police can be categorized as follows:-
  i. human rights violations, for example, torture of suspects.
  ii. corrupt practices.
  iii. general unprofessionalism such as neglect of duty.
- A complaint can be made at a local police post, police station, District Police Headquarters, Regional Police Headquarters and at Police Headquarters itself.
- In cases where the complaint is against the highest ranking officer of the administrative unit, then the complaint should be taken to a higher unit. For example, where an abuse is committed by the officer-in-charge of a police post, then the complaint should be taken to a higher officer at a police station to which the Police Unit is answerable.
- Complaints against lower ranks should be made to higher ranks.
- The Police Force encourages the public to report abuses by the Police officers to the Unit.
- A person can make a complaint on behalf of another person.
- However, complaints should be made on genuine and established facts.

At the PSU, a complaint can be made:
  i. Orally as one walks in to PSU Bukoto offices
  ii. In writing
  iii. Using toll free lines: 080020019, 0800199199, 0800199299 and the Hotlines 0414595133,0414595136 and 0414533608.
  iv. Filling in the Uganda Police Complaint Form (PF) 105
  v. By email:psuhqrtrs@yahoo.com.
- The complainant is at liberty to give his particulars or not.
• Where the complainant wishes to be anonymous, he must provide sufficient information on the matter.

• On receipt of a complaint, the following is done:-
  i. The complaint is registered in the register book.
  ii. Investigations or inquiries are conducted.
  iii. A report of findings is made with recommendations on the necessary course of action.

Points to note
• You do not need an LC letter to report a case to the Police. It is however not bad if you have one.
• It is not true that the first person to report a case to Police is the only one listened to and assisted by the Police.
• The Police operates 24 hours a day, 7 days a week.
• Whenever you report a case or any matter to Police, make sure you get a Reference Number called the Station Diary (SD) Number. Keep it very well and present it when following up your case or matter.
• Arrests should not be resisted.
• Police Bond should not be paid for.
• Once given Police Bond, make sure you keep reporting as instructed.
• Grant of Police Bond is not the end of the case reported.
• The surety forfeits the sum of money once the person bound under the bond does not report as instructed.
• Forfeiture is upon order of court on application by police.
• Citizens have an obligation to assist Police in the administration of justice.
CHAPTER SIX

GOVERNMENT ANALYTICAL LABORATORY

Contact Address
Plot 2 Lourdel Road
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P.O. Box 2174, Kampala, Uganda
Tel. 041 4250474

Introduction
The Government Analytical Laboratory (GAL) (formerly known as the Government Chemist), is a department of the Ministry of Internal Affairs. It is headed by a Commissioner.

GAL is mandated to carry out specialized and sophisticated forensic and general analytical work. The laboratory plays a big role in the administration of Justice both in civil and criminal cases by providing scientifically backed evidence.

Main functions
- To help in the investigation and prosecution of crime by providing scientific evidence through examination, testing, analysis and comparison of exhibits and samples.
- To provide analytical services to support enforcement and regulation of public health and safety, environmental protection, protection of government revenue and consumer protection.
- To impart scientific training to investigating officers for example on how to handle scenes of crime (Scenes of Crime Officers-SOCO).
- The Government Analytical Laboratory carries out these functions at the request of investigating institutions like the Uganda Police Force.
- Services may also be provided to private individuals at a fee.
- The Government Analysts write reports after analysis and forward them to the department or individual that requested for the analysis.
- These reports are used in court as scientific evidence.
- The Analysts are in most cases called to testify and defend their findings in court.
Functions of the various Divisions
The Government Analytical Laboratory has five Divisions, namely:

i. Forensic Division
ii. Food and Drugs Division
iii. The Scientific Aids Laboratory
iv. Water and Environment Research Laboratory
v. Pesticide Residue Laboratory

Forensic Division
This Division is divided into two major sections namely; Toxicology Laboratory and DNA Laboratory.

- The Toxicology section deals with analysis of human, animal and environment samples. It also deals with physical and chemical analysis of exhibits in arson, motor vehicle collision, acid attacks and other cases of a forensic nature.
- The DNA Laboratory carries out the general blood grouping as well as the DNA finger printing to determine identity of a person.
- This section supports investigations in cases of rape, defilement, murder, assault, burglary, paternity and any other case where identification of persons, dead or alive, is required.
- For example, in a murder case, the police can request the DNA Laboratory to examine whether blood found on a suspect is of the dead person.
- In sexual offences like defilement and rape, the DNA Laboratory can be called upon to examine the semen found on a rape or defilement victim to determine whether it is from the suspect.
- Paternity tests are used to verify parentage, where it is in dispute.

Food and Drugs Division
- This Division carries out both forensic and general analysis on foods and drugs to determine suitability for human and animal consumption.
- For instance, the quality of medical and veterinary drugs and of foods such as tinned foods, chicken feed and tomato sauce.

Water and Environment Research Laboratory
- This Division carries out analysis of water for its suitability for human consumption, industrial and/or agricultural purposes such as irrigation.
• The laboratory also carries out investigations on waste-water, solid water and emission of gases to monitor compliance with set standards.
• It examines and analyses environmental samples for contaminants.
• The department works hand in hand with other authorities like the National Environmental Management Authority (NEMA).

**Pesticide Residue Laboratory**
• This Laboratory analyses pesticide residues in foods and environmental samples for both local consumption and export.
• For instance when there were reports of suspected fish poisoning, this laboratory was used to carry out analyses on the fish to determine whether the allegations were true.

**Scientific Aids Laboratory**
This Division consists of two sections namely Ballistics and Questioned Documents.
• The Ballistic Section deals with examination of exhibits that are recovered in cases involving fire arms, shooting and explosives or explosions. This could be in cases of assault, murder or robbery.
• In such investigations they examine the type of firearms, whether such arms are capable of firing, look out for the tool marks, for example on firearms, among others.
• The Questioned Documents section has experts who examine writings, typescripts, graffiti, stamps and embossment impressions, security features on documents.
• This is done to ascertain the authenticity, and authorship of documents to be questioned in Courts of law.
• Such documents could be cheques, letters, wills or engine numbers.

**Expectations from Police and other users**
The success of the work of the GAL depends on the samples and exhibits that are forwarded to it by the requesting department or institution.
• It is therefore the duty of a respective investigating officer to collect the relevant evidence and handle it carefully.
• The investigating officers must ensure that the chain of custody of exhibits or samples is not broken at any one time.
• Breaking the chain of custody of exhibits may lead to weakening or rejection of the forensic evidence by court.

**Expectations from the members of the Public**

• The department expects local leaders and members of the public to help in the preservation of scenes of crime by not tampering with the things found at the scenes of crime.
• Failure to preserve the things found at scenes of crime may lead to insufficient evidence at the trial.
• Loss, wrong identification, poor handling and packaging of exhibits from scenes of crime often leads to failure by the prosecution to prove criminal cases in court
• The department also expects members of the private sector and in particular, the business community to make use of the various services offered by the department. This would help in avoiding disputes and settling those that inevitably arise.
• Disputed exhibits and samples should be forwarded in writing by an independent person or body such as Police, an advocate, doctor or company to avoid any conflict of interest.
• The request for examination or analysis of exhibits or samples should clearly spell out the description of the exhibits and samples, the examination required and a brief history of the case.
CHAPTER SEVEN

DIRECTORATE OF PUBLIC PROSECUTIONS

Contact Address
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Pilkington Road, Kampala
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Tel. 041 342461
Website: www.dpp.go.ug
Email: admin@dpp.go.ug

Introduction
The Directorate of Public Prosecutions (DPP) is a public office. The Directorate is established by the Constitution of Uganda. The Directorate is responsible for the prosecution of all criminal cases in the country. The directorate has power to direct the Police to investigate any information of a criminal nature and report back to the Directorate.

The DPP has offices in many of the districts of Uganda. These offices are referred to as offices of the Resident State Attorney (RSA). One can find out the location of offices of the Resident State Attorneys from any Court, Police, District Administration offices or any other Government office.

Administrative structure
- The head of the Directorate is the Director of Public Prosecutions (DPP).
- The DPP is appointed by the President on the recommendation of the Public Service Commission with the approval of Parliament.
- According to the provisions of the Constitution, the DPP is completely independent and not subject to the control of any person in the exercise of his or her duties.
- The DPP once appointed is not subject to removal like any other civil servant.
• He or she has security of tenure. Security of tenure in office gives him or her the confidence to act independently without fear of removal in case his or her decision is not popular with the appointing authority.
• The DPP is assisted by two Deputy DPPs and three Assistant DPPs.
• Other officers of the Directorate include Senior Principal State Attorneys, Principal State Attorneys, Senior State Attorneys, Resident State Attorneys, State Attorneys and State Prosecutors.
• These officers are collectively referred to as Prosecutors. Their work is to prosecute criminal cases on behalf of the Director of Public Prosecutions (DPP).

Functions of the Directorate of Public Prosecutions
The functions of the DPP are laid out in Article 120 of the Constitution of the Republic of Uganda and these are;
• to direct the Police to investigate any information of a criminal nature and to report to him or her expeditiously.
• to institute criminal proceedings against any person or authority in any court with competent jurisdiction other than a court martial.
• to take over and continue any criminal proceedings instituted by any other or authority.
• to discontinue, at any stage before judgment is delivered, any criminal proceedings to which this article relates, instituted by himself or herself or any other person or authority.
• The DPP can only discontinue proceedings commenced by another person or authority with the consent of the court;
• To appoint or approve prosecutors.

Role of prosecutors in the administration of justice
The DPP may personally appear in court. However, he or she is not personally involved in the prosecution of every criminal case.
• He or she is assisted by prosecutors responsible for day- to- day prosecutions of criminal cases in all categories of courts throughout the country except the court martial.
• The Prosecutor’s primary function is to assist the court in arriving at a fair and just decision and, in the event of a conviction, a fair sentence based upon the evidence presented.
• They are supposed to ensure that the interests of victims and witnesses of crime are promoted, without compromising their obligation to act in a balanced and honest manner.

Specific roles of prosecutors include:
• perusing police files to determine sufficiency of evidence against a suspect;
• sanctioning or ordering the institution of criminal proceedings against suspects;
• deciding whether to or not to prosecute a suspect when there is insufficient evidence in a matter not yet filed in court;
• recommending to the DPP, cases already in court, suitable for withdrawal;
• assisting court in determining whether to or not to grant bail;
• deciding crimes to charge an accused with;
• deciding in which court a suspect should be tried;
• deciding on the evidence to present during trial;
• appearing in court on behalf of the DPP and leading prosecution witnesses in giving evidence; and
• appealing to a higher court when there is justification.
• representing the State in appeal cases.
• participating in the revision process.

Decision to prosecute or not to prosecute
• The process of establishing whether to prosecute or not usually starts when the Police present a case file to the prosecutor.
• This often happens after preliminary investigations. The case is then studied and directions given to ensure that it is properly investigated.
• The steps prosecutors are likely to take after reading a Police file are to:
  i. request the Police to investigate the case further after charging the suspect.
  ii. have the suspect taken to court to answer the charge.
  iii. decline to prosecute and have the file closed.

• In deciding whether or not to institute criminal proceedings against an accused, prosecutors first assess whether there is sufficient and admissible evidence that gives reasonable prospect of a conviction by court.
• In the absence of such evidence, the prosecution may not be commenced.
• In case prosecution had already started, the proceedings may be discontinued by the DPP if it is discovered that the available evidence is not sufficient to give reasonable chances of a conviction by court.
• The DPP in exercising his or her powers must have regard to public interest, the interest of administration of justice and the need to prevent the abuse of the legal process.

Relationship between the Judiciary and the DPP
• The office of the DPP is part of the Executive arm of government. It is charged with the duty of prosecuting criminal cases in all courts of law other than the Court Martial.
• In carrying out its duties, the office of the DPP is independent of any authority.
• The DPP conducts prosecutions in Courts of law on behalf of the public just like defence lawyers defend the interests of the persons charged with criminal offences in the same Courts of law.
• The Courts then make independent decisions after hearing evidence from both sides.
• The DPP is not part of the Judiciary.
• Though the Directorate is not part of the Judiciary, prosecutors are referred to as “officers of court”. This is because the role of prosecutors and defence lawyers who appear in courts of law on behalf of their clients is to assist the courts arrive at fair decisions.

The relationship between the DPP and the Police
• Under the Constitution of Uganda, the DPP can direct the Police to investigate any information of a criminal nature and to report to him or her the results expeditiously.
• The DPP also has power to direct the Police to institute criminal proceedings against any person or authority in any competent (lawful) court apart from a court martial.
• However, these powers of the DPP do not mean that the Police is under the DPP.
• The DPP and the Police are different organs of the Executive.
The Police are only required to forward police case files where offences have been committed to the office of DPP for advice on who should be prosecuted and for what offence.

Once the office of the DPP has taken this decision, the police carry out more inquiries if required, summon witnesses and the office of the DPP conducts the prosecution.

**Assistance by the DPP in cases of wrongful arrest**

- The relatives, friends or any other concerned member of the public can lodge a written complaint to the DPP or Resident State Attorney or prosecutor regarding any case of arrest by Police.
- The one complaining should have a police file reference number, know the place where the person is detained, duration of detention and any other relevant information.
- The office of the DPP can then call for the Police file for perusal.
- If they find no evidence, then they advise Police to release such a person or persons who are the subjects of wrongful arrest.

**Role of a complainant or victim during investigation and prosecution**

- During investigation, the complainant or victim is expected, at the earliest opportunity to report the case to the nearest LC, Police post or Police station.
- It is very helpful if in the report the complainant or victim includes details such as identity (if available) of the suspect or description of the offender.
- During trial, the complainant or victim is expected to respond to court summons to come to court and give evidence.
- The complainant is also expected to assist the Police where he or she is in a position to do so. For instance, to trace the whereabouts of the witnesses so that the Police can summon them to come to court and give evidence.

**Right of a complainant to reconcile with an offender**

- In the Magistrates’ Courts, a complainant or victim has a right to reconcile with the offender for an offence of a personal nature such as assault.
- In respect of all other cases in the Magistrates’ Courts and in respect of all cases triable by the High Court, the complainant has no discretion or option to ask the DPP to discontinue the prosecution by reconciling with the offender.
• However, if for any reason the complainant or victim does not wish to continue with a case in the High Court or in lower courts, he or she can write to the DPP.
• The DPP will study the case and advise the complainant accordingly.
• The DPP may write to the Court requesting a withdrawal of case.

What to do in case of dissatisfaction with the outcome of a criminal prosecution
A person is advised to seek advice from the office of the DPP. This should always be done before expiry of two weeks within which an appeal is supposed to be filed under the law.

Relationship between the DPP and IGG in prosecution of criminal cases
• The office of the Inspectorate of Government like that of the DPP were created by the Constitution.
• The office of the DPP handles all criminal cases whereas the office of the IGG specializes in corruption cases.
• Though both the IGG and the DPP have powers to prosecute, their roles do not overlap. This is because the IGG prosecutes cases investigated by its own staff. These cases are not submitted to Police for investigations or DPP for perusal or prosecution.
• On the other hand, the DPP mainly deals with cases investigated by Police.
• It is also the practice that the IGG and Police (CID) do not concurrently investigate the same case or cases.

Complaints system within the Directorate of Public Prosecutions
Any member of the public may lodge a complaint with the Directorate of Public Prosecutions. The nature of the complaint may arise from dissatisfaction with the prosecution of a particular case to professional misconduct by the staff of the Directorate.

Complaints may be made against any of the officials below;
• State Attorneys
• Public Prosecutors.
• Police Officers (on matters related to investigation of criminal cases).
• Any other officer of the Directorate.
How to make a complaint to the Directorate
There are three ways in which complaints to the Directorate may be made. These are:

i. Using suggestion boxes.
ii. Using the website.
iii. Personal appearance.

Complaints boxes
- All upcountry offices of the Directorate have complaints boxes. A complaint may be written and dropped in these boxes.
- The officers upcountry cannot open the boxes.
- The keys of the boxes are kept by a senior officer of the Directorate at headquarters in Kampala. He often travels upcountry and opens the boxes and brings the complaints with him to Kampala.
- It is advisable that complainants give their names and addresses in case more information may be required from them.
- However, even complaints without names or addresses will be attended to.
- A person may also lodge a complaint by writing to the Director of Public Prosecution at the address at the end of this chapter.

Using the website
- The Directorate has a website which is www.dpp.go.ug
- The website has a page for filing complaints.
- People who are computer literate may use this method to lodge their complaints.
- Those who are not computer literate can ask a computer literate person to help them send their complaint.

Personal appearance
- A person may also lodge a complaint against an officer of the Directorate by personally appearing at the office of the Directorate of Public Prosecution and making an oral complaint.
- In upcountry offices where the complaint is against a junior officer, a complaint may be made before a Resident State Attorney.
• However, where the person complained of is the Resident State Attorney himself or herself, then it is advised that the complaint be taken to Headquarters in Kampala.
• There is a Principal State Attorney in Kampala responsible for complaints from the public.
• A person making a complaint orally will be asked to reduce it in writing.
• In case the complaint cannot write, then he or she will be helped by an officer of the Directorate who will reduce the complaint into writing.
CHAPTER EIGHT

CRIMINAL TRIAL AND SENTENCING PROCESS

Introduction
Criminal trial is the process of taking an accused person to court, hearing the case against him or her and deciding whether he or she is guilty or innocent. Sentencing is the determining and giving of a punishment to an accused person who has pleaded guilty or has been found guilty by a court of law.

- Criminal proceedings are instituted by the State and in the name of the State. For instance, Uganda Versus Kivebulaya. The victim of crime is a complainant.
- The accused in a criminal trial has a right to legal representation by an advocate of his or her choice.
- However, where an accused is on trial for an offence punishable by death or life imprisonment the law requires that the State should hire a private lawyer to represent the accused.
- A person accused of a criminal offence is presumed innocent until proved guilty or until he or she pleads guilty.
- It is the duty of the State to produce evidence in court to prove the guilt of the accused beyond reasonable doubt. Should a judicial officer trying a case be in doubt as to the guilt of the accused, he or she should acquit the accused.
- If the State fails to produce sufficient evidence to prove that the accused is guilty, the court dismisses the case and sets the accused person free.

Steps in a Criminal Trial
- A trial begins by an accused person being brought before court, informed of the accusations against him or her and then asked to plead to the allegations.
- To plead to an accusation is to be asked by a judicial officer whether one admits or denies the accusation against him or her or not. This means that they must say whether they plead “guilty” or “not guilty”.
- The accused may also plead that “he has previously been acquitted or convicted, or pardoned by the President” on the same offence.
Where the accused pleads guilty, the Magistrate must record the words of the accused in pleading guilty.

The Magistrate should ensure that the accused has understood the nature of the charges.

If the Magistrate is satisfied that the accused is guilty, he may find the accused guilty on what he or she has said. There is no need for a further trial. If the Magistrate is not satisfied, he or she will record a plea of “not guilty.”

Where the accused pleads not guilty, the Magistrate continues with the trial process.

Where the accused pleads not guilty but the case cannot be concluded on the same day, or if the magistrate has no powers to hear the case, the accused person will be sent to prison for remand.

An Accused person who pleads not guilty has a right to apply for bail.

It is also a legal duty under the Magistrates Courts Act, for magistrates to inform the accused of their right to bail where the magistrate has powers to grant bail.

The application for bail before a Magistrate should be made promptly before the Magistrate makes the decision to remand the accused person.

For cases where bail can only be given by the High Court, it is the duty of the Magistrate to inform the accused person that he or she has a right to apply for bail in the High Court. (Details on bail are discussed below)

Where the accused has pleaded not guilty but the prosecutor states that investigations are not yet completed, the court will fix the case for mention. Mentioning a case is when the accused comes back to Court and is informed about the status of his or her case, for instance, whether investigations have been concluded or not.

Where investigations are completed, the court fixes the case for hearing.

On the hearing date, the prosecution will begin by calling witnesses for the State to show that the accused committed the offence with which he or she is charged.

The prosecutor will ask each witness to tell the Court what he or she knows about the case, that is to give evidence.

After each prosecution witness’ evidence, the accused or his or her lawyer will have a chance to ask each witness questions (called “cross examination”).
The aim of cross-examination is to obtain evidence from the witness to support the accused’s case, or to show that the witness is not telling the truth.

- After cross-examination of each of the State’s witnesses by the accused or His or her lawyer, the prosecutor may ask the witnesses further questions (called “re-examination”). The aim of re-examination is to clear up or explain answers that were made to look untrue or unreliable in cross examination.
- The court may also ask questions to get clarifications.
- After the prosecutor has called all the State witnesses and each has been cross-examined and re-examined, the prosecutor closes the State’s case. This means that the prosecutor thinks that he or she has proved the State’s case and it is the turn of the accused to present his or her case.

**Procedure at close of prosecution case**

- After the prosecution has stated and closed its case and it appears to the court that the facts stated do not seem to prove or support the charges against the accused, the court dismisses the case without putting the accused to his or her defence.
- In other words, the court will be of the view that the accused should not be bothered making replies to charges that have not been proved by the State.
- If it appears to court that a case is made out against the accused person the court shall inform him of the three options available to him that is;
  i. a right to give evidence on oath of the witness box and if he or she does so will be liable to cross examination.
  ii. to make a statement not on oath from the dock.
  iii. a right to remain silent.
- An accused person has a right to call witnesses.
- Court shall ask the accused if he or she has any witnesses to examine or other evidence to give in his or her defence.
- The accused or his or her lawyer then calls witnesses to give evidence for the defence. The first witness to be called will usually be the accused if he or she is going to give evidence.
- The prosecutor may cross-examine each witness and then the accused (or defence lawyer) may re-examine each witness. The Court may also ask questions. After the defence witnesses have been called, cross-examined, and re-examined, the accused (or the defence lawyer) closes the case for
the defence. This means that the defence does not intend to call any more witnesses.

- The prosecutor sums up the State’s case giving reasons why the accused should be found guilty.
- The accused (or the defence lawyer) then presents arguments, giving reasons why the accused should be found not guilty.
- The Magistrate then gives a judgment. Where the magistrate finds the accused guilty, then he or she proceeds to convict, the accused. Where the accused is not found guilty, then he or she is acquitted.
- Where the accused is found guilty, the prosecution addresses Court on what nature of punishment the accused should receive.
- The court has a duty to ask him or her what the court should take into account before passing sentence (punishment). It is at this stage that the accused pleads for mercy and leniency from court in deciding the kind of punishment.
- The accused may beg for mercy by stating any or all of the following reasons, as may be applicable to his or her situation:
  i. that he or she regrets committing the offence.
  ii. that he or she is a first offender.
  iii. that he or she has young children to look after who will suffer if he or she is sent to prison.
  iv. that he is of poor health.
  v. giving any other good reason.

  By giving any or all of the above reasons, the accused is said to be mitigating his or her sentence.
- The Magistrate then sentences the accused taking into account the mitigating and aggravating factors.
- If the accused is dissatisfied with his or her conviction and or sentence he or she can file an appeal to a higher court within 14 days.
- By filing an appeal, the convicted person wants a higher court to look at the case again.
- Where an accused is acquitted, the State may also appeal.

**Preliminary procedure in cases to be tried by the High Court**

Cases that carry a death penalty can only be tried by the High Court. Such cases
include treason, murder, Aggravated defilement and rape.

- However, before the trial in the High Court, the accused must be charged in a Magistrate’s Court.
- This is when the statement of the offence is read out to the accused.
- The written statement of the offence in a case to be tried in the High Court is referred to as an indictment
- The Magistrate’s Court explains to the accused that it has no powers to hear the case.
- The Court advises the accused not to say whether he or she accepts or denies having committed the offence.
- The magistrate’s court also informs the accused that if he or she wants to apply for bail, the application must be made to the High Court. The accused is then remanded.
- After charging of the accused, the DPP must prepare a summary of the case that he or she proposes to produce at the trial in the High court.
- The summary of the case is read out to the accused in the Magistrate’s Court. These proceedings also show that all Police investigations are complete and the State is ready to try the accused. This is referred to as committing the accused to the High court.

Bail
This is the release of an accused person by court before completion of the case on the written undertaking that the released person will turn up for his or her trial or whenever required. The law requires an accused person to be informed of the right to apply for bail.
- The right to bail is based on the legal principle that an accused person is innocent until when proved guilty.
- The accused will be required to give security. The security may be in form of cash or some other property.
- In most cases the accused will be required to have sureties before being released on bail. Court however, can grant bail without sureties.
- Bail is given on terms imposed by court, for instance payment of money as a security to the court.
- An official receipt called a General Receipt must be issued upon payment
of bail money. This receipt must be kept safely because it is required when claiming a refund of the bail money.

- Bail money is refundable upon completion of the trial, if the accused complied fully with the terms of the bail.
- Bail should be applied for in the court that has powers to hear the case with which the accused is charged.
- A magistrate court does not have power to grant bail in certain cases such as: murder, treason, rape, defilement, embezzlement, causing financial loss and corruption.
- Where an accused has been remanded without trial for 60 days in non-capital offences or 180 days for capital offences, Court shall release him or her on bail

**How to apply for bail in a Magistrate’s Court**

It is the duty of a Magistrate before whom an accused person appears to inform him or her of the right to apply for bail.

- The accused or his or her lawyer may request the Magistrate for release on bail.
- In deciding whether to grant bail or not, certain factors have to be considered:
  i. the nature of the offence.
  ii. the seriousness of the offence and the how severe the likely punishment for such offence is.
  iii. the character of the accused, in particular, whether the accused is likely to report to Court whenever required.
  iv. whether the accused has a place of abode within the Court’s jurisdiction.
  v. whether the accused is likely to interfere with State witnesses

- In order for an accused to be granted bail, Courts usually require that the accused person produces sureties.
- However, bail may be granted to the accused with or without sureties.
- Sureties are people who give a guarantee to Court and have the duty to ensure that the accused will turn up for his or her trial if released on bail. Sureties undertake to pay the money specified by Court in the event that the accused person fails to appear for trial.
• In most cases, courts require two(2) sureties. Sureties must be adults of sound mind and of good reputation in society. A good reputation does not mean being rich.
• Sureties will be called upon by the Court to explain the whereabouts of the accused if he or she absconds.
• If the accused absconds, and sureties fail to give reasons satisfactory to Court that they were not negligent in keeping the accused, they will pay and forfeit the money they undertook to deposit in Court.
• On appearing before Court to stand surety, such a person should be in possession of:

  i. a letter from the LC I Chairperson where he or she regularly resides. This requirement is not a legal requirement. However, in practice, most Courts ask for it.
  ii. a surety should have in his or her possession a valid identity card indicating the surety’s place of work, business or residence.
  iii. If one has a passport, or driving permit they can be used for identification.

• Sureties should know their duties. Court may ask them to prove this.
• When Court is satisfied that the accused qualifies for bail, he or she makes the order for bail. The order specifies the terms that must be complied with before the bail papers are signed.
• Usually the accused is required to make a cash payment to the court as security.
• The accused may also be required to deposit his or her passport.
• After complying with the terms of the bail, the accused and sureties should sign the bail form.
• The magistrate then signs and seals the bail forms. The signed bail forms must be presented to the Prison warders for the release of the accused person from the court cells.
• If bail is not granted or the accused fails to comply with the terms on which the bail was granted, the accused will be remanded until a specified date, or until he or she complies with the terms.
• The accused can be produced in court for purposes of his release on bail even before the specified date upon an application for a production warrant by applying for a production warrant. This application can be made by the accused, his relatives or a lawyer.
What to do if a Magistrate refuses to grant bail

- The power of the magistrate to grant bail is discretionary.
- Where the court declines to grant bail on grounds that the considerations for bail have not been met, then the accused can apply again to the same Court when he or she is in position to meet the conditions.
- For instance, if bail is denied because of lack of sureties, when sureties are got, the accused or his or her lawyer can re-apply for bail to the same Court.
- If the court again declines to grant bail, the accused person can apply to a higher Court.
- If the decision not to grant bail was made by a Grade 1 or Grade 11 Court, the accused or his or her lawyer can apply for bail to the Chief Magistrate of the area.
- If the decision was made by a court presided over by a Chief Magistrate, then an application for bail should be made to the High Court.
- The application to the higher court is not an appeal but an ordinary application.

Bail in High Court

- Only the High court has powers to grant bail for cases such as murder, rape, treason, defilement, aggravated robbery, abuse of office, corruption.
- The conditions under which the High Court grants bail are; when Court is satisfied of the existence of exceptional circumstances justifying the release of an accused on bail.
- Exceptional circumstances mean any of the following;
  i. serious illness certified by a medical officer of the prison or other institution or place where the accused is detained as being incapable of adequate medical treatment while in custody.
  ii. A certificate of no objection signed by the Director of Public Prosecutions.
  iii. The infancy or advanced age of the accused.
- The second condition is that the accused will not abscond or jump bail when released.
- Generally, the procedure for applying for bail in the High Court is similar to that used in magistrate’s courts.
- The High Court usually requires the accused person to present substantial sureties.
• In case the above conditions are not proved to the satisfaction of court it may refuse to grant bail to the accused.
• In addition to sureties, the Court may ask the accused to deposit with it an important document such as a passport, a valuable document such as a land title or any article it deems valuable or important enough to compel the owner to turn up for trial.
• The court also usually orders the accused to deposit a specified sum of money in court.

Implications of bail
Granting bail to an accused person does not mean that he or she has been cleared of the case against him or her. Bail is given on an undertaking that the accused person will report to court whenever required to do so.

• An accused person who is on bail should always appear in court at the stated time - usually not later than 9 O’clock in the morning.
• It is important that one knows early enough exactly in which room the court handling his or her case is sitting.
• If the accused person does not appear in court on the stated date and at the stated time, his or her bail will be cancelled and an order for his or her arrest will be issued by court to the Police.
• Where one has a good reason that prevents him or her from appearing, in court, for example if he is sick and admitted in hospital, a representative should be sent to court with the proof of sickness.
• Bail may also be cancelled or withdrawn if court finds it necessary.
• An accused person who fails to appear before Court when required stands to lose whatever he or she has deposited with court such as the bail money.

Refund of bail money
• Bail money paid to Court is supposed to be returned to the accused or his or her representatives. This refund is made either when the accused is set free or when he or she is convicted.
• The court has to make an order for refund of the bail.
• The person who was on bail or his or her representative must present bail forms and the original General Receipt (official Government of Uganda receipt).
Sentencing
After a court has found an accused guilty of the offence, it convicts him or her. The accused becomes a convict. After conviction, Court passes a sentence against the convict. Sentencing is when the court decides on the punishment to be given to a convict.

- In deciding the punishment, the court will take into account the accused’s mitigating factors, earlier criminal record, social, medical, educational and employment background, as well as recommendations for sentencing by the prosecution and accused or his lawyers.
- Mitigating factors are those reasons that are given by or on behalf of a convicted person to a magistrate or judge before he or she passes a sentence.
- This is done with the aim of persuading the judicial officer to give a lenient sentence.

Aims of sentencing
Sentencing in criminal cases is used for a number of reasons, namely:

i. Punitive to the criminal for his or her wrongful act.
ii. Deterring the criminal from committing another crime in future.
iii. It may also act as an example to deter other people from committing crimes.
iv. Encouraging criminals to become responsible members of society. For example, a criminal may be given vocational training or psychological treatment while in prison.
v. Rehabilitation of offenders.

Types of sentences
The law which creates an offence also stipulates the punishment to be given to an offender upon conviction.

The punishment may mandatory or discretionary. If it is mandatory, the judicial officer has no choice but to impose the prescribed sentence. If it is discretionary, the judicial officer passes a sentence bearing in mind the aims of sentencing and the best interests of society.
The sentences that can be imposed by court include the following:

i. Caution and discharge: Here, the criminal is warned that he or she should not commit the offence again and is set free without any penalty.

ii. Suspended sentence: Here, a sentence is given but the convicted person is not required to serve, provided he or she is not guilty of a similar crime during the period of the suspension.

iii. Fine: A fine is the amount of money that a criminal must pay to the court. Sometimes a convicted person may have to pay a fine in addition, or as an alternative to a prison sentence. Fines collected form part of Government revenue and are not money to be paid to the complainants or victims of crimes where a convict fails to pay a fine, he or she will serve a sentence of imprisonment.

iv. Compensation and restitution: Where the crime has caused damage or loss of property such as money, the victim may ask the court to order the criminal to pay compensation for the lost property or money, or to return the property.

v. Imprisonment: Here the criminal is sent to a prison a specified period of time. This may range from hours, days, months or years or even for life.
   - For example a court may sentence a person “until the court rises”. This means that the person is imprisoned until the magistrate or judge leaves the courtroom. It is used as a very lenient sentence.
   - The maximum prison sentence is life imprisonment. Life imprisonment however means a period of twenty years.
   - A prisoner who behaves well may have his sentence made shorter through a process called remission.

vi. Community service: Where a person is convicted of a minor offence, the court may, instead of sentencing that person to a term of imprisonment, order the convict to undertake community work.
   - The complainant or victim of the offence must consent to the order.
   - The character of the offender and nature of the offence are taken into consideration by the court before issuing a community service order.
   - The offender must consent to the order.
Should the offender fail to comply with all the contents of the order, the court may withdraw the order and sentence the offender to a term of imprisonment as the court may have earlier imposed in respect of the offence.

The community service order cannot be served for more than six months and the offender should not work for more than 8 hours a day.

The offender should also be under a supervisor who shall be named in the order.

Community service as a form of punishment is a new method of punishment.

vii. Committal to an institution: A criminal who is mentally unstable or a danger to society may instead of or in addition to any other sentence, be detained at a rehabilitation centre.

viii. Death sentence: Only the High Court has power to impose a death sentence.

ix. The Death sentence has to be confirmed by the highest Court of the Land (Supreme Court)

- The death sentence must be ordered in all cases of murder, kidnap with intent to murder, treason and armed robbery.
- In cases of rape and defilement, the death sentence is not mandatory but is discretionary. The law gives the judges the discretion whether to sentence a convicted person to death or to another form of punishment such as imprisonment.
- The death sentence is implemented by the Prison staff.

Prerogative of Mercy
The Constitution gives the President powers to pardon any person convicted of an offence.

- The pardon may be granted with or without conditions.
- There exists a committee on the Prerogative of Mercy, chaired by the Attorney General, that advises the President on who deserves to be pardoned.
Points to note

• Some people fear going to Court to be witnesses. It is your duty as a good citizen to help State machinery in the administration of justice. Sometimes offenders go unpunished because citizens are reluctant to be witnesses.

• Court is a place that serves the interests of justice. Do not be scared while in court. Show confidence and tell the truth as your know it.

• Whenever going to Court, go early and study the court environment and courtrooms: Get to know early the room where you are supposed to appear. Your bail may be cancelled on grounds of your absence when you are actually present but in a different courtroom.

• When you are not sure about something, ask a court clerk or any other Court official. It is their duty to help you.

• It is advisable to visit court and observe case proceedings and learn what goes on in court. No one can chase you away.

• Do not succumb to intimidation while in court.

National Community Service Programme

Contact address
Ministry of Internal Affairs Headquarters
Jinja Road
P.O.Box 7191 Kampala,
Tel. 0414-236467

Introduction
The National Community Service Programme was introduced in Uganda in 2001. It derived its mandate from the Community Service Act 2000 and Community Service Regulations of 2001. The main programme stakeholders are: Judiciary, police, Probation officers, Offenders, Supervisors, Community, Development partners and Non Governmental Organisations. The Programme Goal is to promote the human treatment and rehabilitation of offenders in Uganda.

There is a national Secretariat at the headquarters headed by a Commissioner. It is located at the Ministry of Internal Affairs Headquarters – Jinja Road. The secretariat handles the administrative work of the programme. Contact: P.O Box 7191 Kampala, Tel. 0414-236467
For effective service delivery regional secretariats were opened in Mbarara (Contact 0485-420151), Gulu, Mbale (all at Chief Magistrate’s Court) and Kampala (at the National Secretariat – Tel. 0414-232253) The creation of regional offices aims at effective services delivery, quick decision making and policy analysis, activity coordination, effective programme monitoring and evaluation.

At the districts, there is a district community service committee that replicates the National Community Service Committee which manages the district operations with the senior magistrate being the chair and the District Probation and Social Welfare Officer handling the coordinate.

What is Community Service?
“Community service” means non-custodial punishment by which after conviction the Court with the consent of the offender makes an order for the offender to serve the community rather than undergo imprisonment.

Objectives of Community Service
- To rehabilitate the offender in his/her community and preserve his/her family.
- To reduce the rate of recidivism.
- To promote the respect for human rights and dignity of offenders.
- To avail offenders opportunities to do productive work for the benefit of the community.
- Reconciling victims and offenders.
- Facilitate decongestion of prisons.
- Fulfilment of International Norms and Obligations like the Universal Declaration of Human Rights, UN measures for non-custodial treatment of offenders and the adoption of the Rights-based-Approach in respect of the global trend.

Criteria for Community Service Order
- The offence should be a minor offence
- The offender should in most cases be a first offender
- Offenders should be able to consent to Community Service
- Offender should be remorseful
- Has the offender committed offences before?
- Will the community around the offender and the victim accept a Community Service Order?
- Is there a placement available
- Can the required hours be completed within 6 months taking into account the offer offender’s employment situation and availability.

**What is a Placement Institution?**
Placement Institution is an area from where the offender performs his/her sentences. This area should be:

(i) One that is a body providing service to the community e.g. public schools, hospitals and health centres, fosters homes and orphanage.

(ii) The institution should not be one that is run for commercial profit.

(iii) The institution should be within reasonable travelling distance for prospective offenders on community service or be able to provide suitable travelling facilities.

(iv) The institution should have work available that would be in the range of competence of prospective offenders on community service.

(v) The institution should have responsible staff available to instruct and supervise offenders on community service.

(vi) The institution should be willing to provide any tools and protective equipment necessary for the tasks to be undertaken safely.

Note:
Wherever possible the tasks required of the offender should lead to tangible results rather than just slashing or cleaning.
CHAPTER NINE

UGANDA PRISONS SERVICE

Contact Address
Century Building
Plot 13/15 Parliament Avenue
P.O. Box 7182, Kampala
Tel 041 256751/2
FAX 041 343330
Email: compris@utl.co.ug.

Introduction
Uganda Prisons Service is part of the integrated justice system responsible for the safe, secure and humane custody of prisoners who are sentenced to imprisonment and individuals who are remanded by the Courts of Uganda. The institution derives its authority from the Constitution of the Republic of Uganda and the Prisons Act. The Local Government Prisons which were previously run by the Local Government authorities are now put under the control of the Central Government Prison administration after the enactment of the Prisons Act of 2006.

Besides custody, the Prisons Service is responsible for providing social rehabilitation of prisoners in preparation for their integration back to their communities upon completion of their sentences. Rehabilitation includes providing prisoners with industrial and agricultural skills they will find useful once out of prison.

The role of the Prisons Service
- Safe and secure custody of prisoners.
- Rehabilitation and reformation of prisoners.
- Imparting vocational training skills to inmates.
- Fostering close collaboration with other organs of the criminal justice System.
- Observance of human rights of prisoners.
- Ensuring that Prisoners are produced before competent Courts of Law when required.
- Identifying convicted prisoners who have conducted themselves well while in prison and who qualify for remission of their sentences.
Visiting Prisoners
The only persons other than prison officers entitled to enter prisons are:

- **Visiting Justices**- These consist of Cabinet Ministers, Ministers of State, Judges of the High Court and Supreme Court, Chief Magistrates, Officers of the Uganda Human Rights Commission, Magistrates Grade I and II and Chief Administrative Officers who are visiting Justices to the Prisons situated in their areas.

- **Official Visitors**- Which term includes officers of other departments having business with the administration of the prison, persons calling on the officer in charge with regard to business with the administration of the prison.

- **Visitors to prisoners**- Which term includes relatives or friends authorized by law to visit individual prisoners, voluntary visitors authorized by the Commissioner General of Prisons, Prisoners’ advocates, Non-Governmental Organisations, after care officers and members of the clergy or religious teachers.

Visits to Prisoners

- It is the right of prisoners to make contact and remain in touch with their family members, relatives and friends.
- Besides relatives and friends, prisoners have the right to be visited by their lawyers and personal doctors.
- Generally, a prisoner can be visited on any working day- Monday – Friday between the hours of 8.00 o’clock in the morning and 5.00 o’clock in the evening.
- However, there is no standard system for each prison to follow in receiving private visitors. Each prison is allowed to make its own regulations with regard to visitation.
- Other types of visitors such as researchers require special authorization from the prisons authorities.

Visits to Murchison Bay Reserve

- The Murchison group of prisons has a special status amongst other prisons. It includes the country’s maximum security prison; UG Upper Prison.
- The general provisions regarding prison visits, may therefore, not be applicable to the Murchison Bay prisons because of their special status.
The reserve is divided into four units namely; Upper Prison, Kampala Remand, Luzira Women and Murchison Bay Prison.

The official visiting days are as below:

i. UG Upper Prison - Monday, Wednesday and Friday.

ii. Kampala Remand - Monday to Friday

iii. Luzira Women - Tuesday and Thursday.

iv. Murchison Bay - Tuesday, Wednesday and Thursday.

Weekends and Public holidays are not visiting days.

However, in exceptional cases, visits on Weekends and Public holidays may be allowed with authorization from the Commissioner General of Prisons.

It is important that relatives who wish to visit know the offence their prisoner is charged of or the reason for the prisoner’s imprisonment and the stage at which the case is.

Involvement of Prisoners in the provision of Labour

- Prisoners on remand for criminal and civil cases are supposed to carry out minor duties like cleaning their own utensils and surrounding and to exercise for health reasons. They are not to be subjected to labour.

- Prisoners on remand may also be given other work upon their own request. On the other hand, every convicted prisoner is required by law to engage in useful work taken as part of the rehabilitation process.

- A prisoner can only be made to work after being certified as fit by a Medical Officer.

- The work engaged in must be for the good of the public and not for the benefit of a private individual or concern.

Medical Care

- Prisoners have the right to proper medical care.

- Every person sent to prison should be medically examined and his or her state of health recorded upon arrival at the prison.

- A prisoner should not be allowed to mix with other prisoners until he or she has been medically examined.

- Prisoners also have the right to private medical treatment if they can pay for it. However, permission to receive such treatment must be sought from the Prisons authorities.
Pregnant women prisoners are required to receive antenatal medical care and may only be subjected to work when found to be medically fit.

The children of female prisoners, born or brought to prison because of being under age are entitled to medical care.

**Condemned Prisoners**

- Prisoners sentenced to death (condemned prisoners) should be kept separate from other prisoners.
- They are entitled to visits from their relatives and spiritual or religious leaders.
- A condemned prisoner may not receive more than three visitors at a time but is allowed to write and receive letters from friends and relatives.
- All condemned prisoners are entitled to exercise for two hours a day.
- Condemned prisoners who are executed in the prison are buried by the State.
- Bodies of condemned prisoners who die before they are executed as well as bodies of other prisoners may be claimed by their relatives and taken for burial at their own cost.
- Unclaimed bodies are disposed of by the state.
- Post-mortems to show cause of death are always carried out where the death is not by hanging.

**Handling of complaints of prisoners**

- The law requires that every prisoner on admission be provided with written information regarding:
  - regulations in regard to the treatment of prisoners.
  - the disciplinary requirements of the institution.
  - the authorized methods of seeking information.
  - what to do in case they have complaints.
  - all such other matters that are necessary to enable a prisoner understand both his or her rights and obligations.
- The law requires prisoners to be given opportunities to talk to the officers in charge of the prison, prison inspectors or any other inspecting authority.
- The prison staff like warders should not listen to what the prisoners are telling the inspectors.
- Prisoners are therefore encouraged to exercise their right to raise complaints.
Right to confidentiality when talking to lawyers

- The practice is for prisoners to talk to their visitors in the hearing of a prisons official.
- However, prisoners have the right to talk to their lawyers outside the hearing of a prisons officer.

Prisons Farms and Industries

- Uganda Prisons Services has a number of farms and industries scattered in various parts of the country.
- These farms and industries are supposed to rehabilitate prisoners by imparting agricultural and industrial skills in carpentry and joinery, metal works, crafts and brick laying which they can gainfully use after release so as to turn themselves away from the life of crime.
- The Farms and Industries are also supposed to generate revenue to offset the cost of running prisons.
CHAPTER TEN

CIVIL LITIGATION

Introduction

Civil litigation is the resolution of disputes involving the determination of civil rights using the Court system. Civil litigation may be initiated by an individual, organization, government or group of people seeking a legal remedy from a court of law. In civil litigation one goes to court to seek remedies like compensation, an injunction or declaration of his or her rights.

For one to file a civil case, they must have a cause of action. A cause of action is a situation that entitles a person or group of persons to legal redress in courts of law. For instance, a cause of action would arise if a business partner fails to fulfil a contractual obligation or if a person encroaches on another’s land. When one initiates civil litigation against another in a court of law, he or she is said to have filed a civil suit.

How to file a Civil Suit

- In the situations above, the affected person has a legal right to seek for a remedy from a court of law by suing the wrongdoer.
- If the affected person has the money to employ a lawyer, he or she goes to the offices of a lawyer and requests the lawyer to handle the matter.
- In case the affected person is unable or unwilling to use the services of a lawyer, he or she can go to court and seek the assistance of court officials like a magistrate or Court clerk who can help him or her.
- The person may also seek free legal services from organizations that provide free legal services such as the Legal Aid Project of the Uganda Law Society or the Foundation for Human Rights Initiative Legal Aid clinic (refer to the chapter on Other Organizations involved in Law and Administration of Justice).
- Before filing a case, the person intending to do so should send to the wrongdoer a letter of claim or intention to sue.
- The case is started by filing a plaint or a statement of claim. A plaint or statement of claim is a written statement made by a person filing the case.
- The statement spells out the facts of the case and the remedies being sought from court. The statement is filed in court.
• Where the person suing is below the age of eighteen years, the case must be filed through an adult person referred to as next friend.

• A Statement of claim or plaint should contain the following:
  i. name of the court in which the case is filed
  ii. name, description, place of residence of the person filing the case (plaintiff or claimant)
  iii. place where the plaintiff can be found
  iv. a description of the plaintiff indicating whether the plaintiff is male or female, adult or minor, of sound mind or not
  v. name, description and address of the person being sued (defendant) if they can be ascertained and the place where the defendant can be found.
  vi. facts of the case. Photostat copies of all relevant documents must be referred to and attached
  vii. a statement that the court before which the case is brought has power to hear the case. Some courts do not have powers to hear certain cases (see Chapter on Judiciary)
  viii. what the plaintiff wants court to do for him or her as a remedy
  ix. estimated value of the subject matter of the case, if this can be estimated
  x. signature of the plaintiff or claimant or the thumb print

• On receiving the plaint, the court will ask the plaintiff to pay some money as filing fees. The amount of filing fees is determined by the court officers.

• The filing fees must be paid at the cash office and a General Receipt which bears an emblem of the Government of Uganda is given to the person filing the case.

• A court officer must stamp and sign the plaint as proof that it has been received. The case is registered, a number is allocated and case file is opened.

• A copy of the plaint is sent to the judicial officer in charge of the court. The judicial officer checks to see if the plaint is complete and signed. He or she also checks if court fees have been paid.

• The judicial officer issues two copies of summons to file a defence. This summons is an order issued by court to the defendant to file a defence.

• Two copies of the summons together with two copies of the plaint are given to the plaintiff.
• The plaintiff must take to the defendant a copy of the summons and the plaint. A plaintiff may request a court clerk (process server) to deliver the summons to the defendant on his or her behalf.
• The defendant must sign on one of the copies of the summons as proof that he or she has been served (acknowledgement of service).
• The person receiving summons should after signing write the date on which he or she received the summons. This is because the period for filing a defence is counted from the date of receiving the summons.
• The signed copy of the summons must be returned to court as proof to court that the defendant received the summons.

How to respond to summons to file a defence
• A defendant should not refuse to receive Court summons. The defendant should not abuse, fight, threaten or quarrel with the person delivering the summons.
• The fact that a court has issued summons does not mean that it has decided a case against the defendant. It means that the Court wants the defendant to respond by giving his or her side of the case. Court summons like all other Court orders should therefore be obeyed.
• Upon receiving the summons and plaint, the defendant should proceed either to a lawyer or to court to help him or her file a statement of defence.
• A defendant may even approach the plaintiff or the plaintiff’s lawyer for negotiations on settling the case out of court (refer to chapter one for more information about Alternative Dispute Resolution).
• However, whatever option he or she takes, the defendant must file a defence within the time indicated in the summons. This is usually fifteen days from the date of receipt of the summons.
• A defendant will not be allowed to appear in Court and defend the case orally without filing a written statement of defence within the stated time.
• The Court may proceed and hear the case without the defendant being allowed to defend the case.
• If the defence contains new matters not covered by the plaintiff in the statement of claim, the plaintiff has a right to file a response to the defence.
Failure to file a Written Statement of Defence

- Where no written statement of defence is filed and it is proved that the defendant was properly given summons, Court will proceed to hear the case in the absence of the defendant.

What follows after filing the defence

- After the defence has been filed, the Magistrate or Registrar allocates a date for hearing the case. A hearing notice is signed and issued. The hearing notice is served on both the plaintiff and the defendant.
- The plaintiff should contact the Court clerks, Magistrate or Registrar to ensure that his or her case is fixed for hearing.

Scheduling Conference

- For cases filed in the High Court, Chief magistrate’s Court or a court presided over by a magistrate Grade I, the rules require that before the hearing, the parties to the case and their lawyers hold a meeting (scheduling conference) to discuss the case.
- The conference is chaired by the Judge, Chief Magistrate or Magistrate Grade I handling the case.
- The parties to the case together with their lawyers sit to identify the facts and points of disagreement.
- Parties also agree on the documents and witnesses to be relied on by each party at the trial.
- At the end of the conference, both the Court and the parties to the case have a clear picture of what is at stake.
- That background information is important for the quick disposal of the case. Revelation of all the facts, points of disagreement (issues), documentary evidence and available witnesses makes the parties reconsider the case and weigh their chances of failure or success.
- The meeting gives an opportunity to the parties to a dispute to talk to each other and discover opportunities of settling the matter without going through a full trial.
- A number of cases are concluded at scheduling conferences. This approach is encouraged by courts because it has a number of advantages such as avoiding delay of justice, case backlog in Court and expensive litigation.
Procedure at hearing

- At the hearing both the plaintiff and defendant appear with their witnesses (if any). The plaintiff will be the first to testify and then call his or her witnesses one by one.
- For every witness, the opposite party is allowed to ask them questions aimed at weakening or destroying the evidence given.
- All witnesses are supposed to be out of court when evidence is being given. This is to ensure that the witnesses do not give their testimony basing on what has been said by the other witnesses or the parties themselves.
- When a party is represented by a lawyer, the lawyer guides the parties and the witnesses by asking them questions. The opposite party or his or her lawyer is allowed to ask questions to the witnesses of the opposite party.
- The questioning of a party and his or her witnesses by their lawyer is called examination in chief.
- The questioning of the opposite party and his or her witnesses is called cross-examination.
- After cross examination, the lawyer for the party that has been cross examined is allowed to re-examine his or her witnesses to clarify on those aspects of the testimony that could have been weakened during cross examination.
- The Court may also put questions to a witness in order to get clarifications on the case.
- Parties who are not represented by a lawyer are also allowed to lead their witnesses, cross-examine the witnesses of the opposite side and to re-examine their witnesses.
- After the examination of witnesses, both parties make closing arguments called submissions where each party attempts to persuade Court to decide the case in its favour.
- The court may inform the parties of the date of the judgment or it may promise to inform them when the judgment is ready.
- On the day of judgment, the Court gives its judgment by reading it out. The court usually explains that there is a right of appeal for the party that is dissatisfied with its judgment.
- The Court must also inform the parties of the time within which to appeal.
Enforcement of Court Orders

- Court judgments should be complied with. In case a party is dissatisfied with the judgment, they should file an appeal and also ask Court to postpone the enforcement of the Court order.
- In the absence of a court order to postpone (stay) enforcement of the judgment, the unsuccessful party (judgment debtor) must comply with the Court judgment.
- The unsuccessful party can also negotiate with the successful party (judgement creditor) on how he or she can comply with the Court order.
- If there is no compliance, the court will, on the application of the successful party, order forceful implementation. The order is made by issuing a warrant of execution.
- The process of forceful enforcement of Court orders is called execution.
- This is done by attaching the judgement debtor’s property.
- If the unsuccessful party has no property, the execution can also be done by arresting the judgement debtor and detaining him or her as a civil prisoner. The successful party has to pay the subsistence costs of keeping the civil prisoner while in prison.
- The warrant is issued by a Magistrate or Registrar in case of the High Court, Court of Appeal and the Supreme Court.
- The warrant is directed to an officer called a court bailiff. Court bailiffs are law enforcement officers appointed by the court to enforce court orders.
- Bailiffs have to comply with the orders of court as contained in the warrant given to them. They should show a copy of the warrant duly signed, sealed or stamped by court to the person against whom the order is to be enforced.
- Court orders should only be enforced during day time. They should not be enforced at night and on weekends.
- If the order is to attach movable property, such property is usually listed in the warrant
- Bailiffs are empowered to demand for and to forcefully seize property and take it.
- They are however, not allowed to carry away items like beddings and cooking utensils which are very necessary for the basic survival of the judgment debtor.
- Usually bailiffs are accompanied by armed police officers whose role is to keep law and order during the execution process.
• Once satisfied that the bailiffs have a court order, they should be allowed to enforce it peacefully.

• It is an offence to obstruct the court bailiffs from enforcing a court order. The person obstructing them may be arrested by the Police and charged in a court of law.

• While there is a duty to comply with court orders, one has a right to demand that he or she is showed the warrant by the bailiffs.

• One has a right to cross check with the court that issued the order. In case, the bailiffs take more property than they were ordered to, this should be reported to court.

• In case the property taken does not belong to the judgement debtor, the owner of the property should complain to court preferably with the help of a lawyer.

• Bailiffs who misbehave or use unreasonable force or who refuse to hand over the proceeds of execution should be reported to the Police, the magistrate or Registrar giving the order or to the Chief Registrar.

• Also bailiffs who act in excess of their instructions can be sued. An aggrieved party can also complain to the Uganda Bailiff’s Association.

Civil cases against the Government, Local Governments and Scheduled Corporations

• The Government of Uganda can sue and be sued in court like an ordinary person. However, it is mandatory that a statutory notice of forty five days be given before filing a case against Government.

• Suits against Government must be filed against the Attorney General who is the Legal representative of Government.

• The statutory notice of intended suit must be served on the Attorney General.

• The statutory notice is also used in cases against local governments and scheduled corporations.

• Scheduled corporations are those corporations in which the Government has an interest and which are listed as such, for example, the National Social Security Fund, Makerere University, Bank of Uganda and Uganda Revenue Authority.

Limitation Periods

• There is a time limit for filing cases in courts of law. The time limit depends on the nature of the claim
• The time limit also depends on the nature of the person or entity to be sued, for instance whether it is an individual, Government, Local Government, scheduled corporation, among others.
• The law sets special time limits within which to file cases against the Government, Local Government and scheduled corporations.
• Cases against the Government, Local Governments and scheduled corporations should be filed within a period of two years from the time the civil wrong was committed.
• In contract, no action may be brought against the Government or Local Government after an expiry of three years from the time the breach arose or was discovered.
• Where the defendant is neither a central Government body, Local Government nor a scheduled corporation, cases such as defamation, assaults or breach of contract should be filed within a period of six years.
• Land cases should be filed within twelve years from the date the claim arose.

Procedure in Magistrate Grade II Courts
The procedure followed in Magistrates’ grade II courts is slightly different from that applicable to Courts presided over by a Magistrate grade I, Chief Magistrate or Judge of the High Court.
• A person who wants to institute a suit, but who is not represented by an advocate, can state his or her claim orally or in writing.
• If the claim is stated orally, the Magistrate puts the claim in writing.
• The defendant is notified of the claim against him or her. The Statement of Claim is sent to the defendant together with summons.
• The summons requires the defendant to attend the Court on a given date and place for the hearing of case against him or her.
• The plaintiff is also notified of the hearing date, place and time.
• Parties may request the magistrate to issue summonses to their witnesses.
• Parties are responsible to meet the costs of travel and other costs of their witnesses.
• Before the hearing, the Magistrate may ask the defendant whether he or she admits the claim.
• In case the defendant admits or accepts the whole claim, the Magistrate gives judgment for the plaintiff.
• If there defendant denies the claim whether partly or entirely, the court proceeds to hear the evidence of the parties.
• At the hearing of the claim, the plaintiff has the right to start followed by his or her witnesses.
• The defendant has a right to cross examine the plaintiff and his or her witnesses.
• The defendant and his witnesses then give their evidence. At the close of their evidence, the plaintiff is given an opportunity to cross examine each of them.
• Court may at any time ask either party or the witnesses questions related to the case.
• The Magistrate has to record the evidence of both sides
• The court may at the request of either party summon the assistance of two assessors who assist in deciding the case.
• Assessors are only used in suits involving land disputes, divorce proceedings in customary marriage, custody of children under customary law or the recovery of bride price.
• The Magistrate shall deliver judgement after hearing all evidence and submissions of the parties.
• In case assessors were used, judgement is delivered after receiving and recording the opinion of the assessors.
• A party dissatisfied with the decision of a grade II magistrate may appeal to the Chief Magistrate
CHAPTER ELEVEN

LOCAL COUNCIL COURTS

Introduction
The Local Council Courts (LC Courts) are courts established by the Local Council Courts Act. They are set up at village, parish, sub county, town and division level. There are three grades of local council courts namely; Local Council Court I, Local Council Court II and Local Council Court III. There are no LC IV and LC V courts. These courts are presided over by persons who are not necessarily lawyers.

- However, these courts are expected to follow the key principles that must be observed in the administration of justice, such as principles of natural justice, equality before the law and fairness.
- In handling cases arising out of customary practices, local council courts should be mindful that the Constitution forbids customs or practices that discriminate against people on the grounds of sex, religion, clan, race, colour, ethnic origin or social or economic standing, political opinion or disability.
- Among the LC Courts, only the LC I Courts have original jurisdiction.
- This means that when a person has to file a case in the LC court, he or she should begin in the LCI court.
- LC II and LC III courts only have power to hear appeals.
- When a party to a case is not satisfied with a decision of the LC I court, the party may appeal to the LC II court.
- If one is still not satisfied with the decision of the LC II court, he or she is free to appeal to the LC III court.
- Should one of the parties still not be satisfied with the LC III court, such a party has the right to appeal to the Chief Magistrate’s court.

Composition
- The Local Council Court of a village or parish is composed of all members of the executive committee of the village or parish.
- The LC Court of a town, division or sub-county consists of five members two of whom are women appointed by the respective councils.
- It is necessary before the LC Court sits to see that the necessary members of the Court are present.
• For a village or parish, at least five members must be present at the hearing of a case. Two of the five members present must be women.
• In case of a town, division or sub-county the quorum shall be three members, one of whom shall be a woman.
• The quorum shall be maintained throughout the Court sitting. If the quorum is lost for any reason, the court shall adjourn to another time.
• The court shall be presided over by the Chairperson.
• Where the Chairperson is absent, the Vice-Chairperson presides.

Jurisdiction or Powers of Local Council Courts
• LC courts mainly have powers to hear and determine civil cases. They do not have powers to hear criminal cases except those arising from breach of Local Council bye-laws and ordinances. LCI courts also have powers to hear civil and criminal cases involving children.
• LC Courts are empowered to handle the following matters:
  i. debts,
  ii. contracts,
  iii. assault or assault and battery
  iv. conversion
  v. damage to property
  vi. trespass
  vii. Civil cases governed by customary law, namely, matters about land, marital status of women, fatherhood or paternity of children, customary heir, and cases involving entrusting one’s property with another person according to customary practices.
• The jurisdiction of the LC Courts in respect of matters and causes stated in (i-vi) above is restricted to where the value of the subject matter in dispute does not exceed two million shillings.
• In regard to civil cases governed by customary law there is no limitation pertaining to the monetary value of the subject matter in dispute.
• The LC Courts also have jurisdiction to hear causes and matters arising out of infringement of bye-laws and ordinances duly made under the Local Government Act.
• The LC Courts also have jurisdiction to hear matters relating to land.
• The LCI courts have powers to hear cases against children suspected of committing any of the following offences; fighting in public, causing
bodily harm, theft, criminal trespass and malicious damage to property. Where Members of the LC Court give a compensation of more than Uganda Shillings five hundred thousand, the case must be taken to the Chief Magistrate’s court for confirmation and enforcement of the order.

Commencement of proceedings

- All cases should be filed in the LC 1 Court where the defendant lives or act complained of was committed.
- A case is started by informing the chairperson orally or in writing about the claim one has against another.
- The claim is signed by the claimant and the chairperson.
- If it is oral, it is then written on behalf of the claimant and signed or thumb-printed by the claimant and chairperson.
- The chairperson files the complaint, issues summons against the defendant and informs him or her of the case.
- The chairperson fixes a date for the hearing and notifies other members of the Court.
- Lawyers are not allowed to represent any body in an ordinary case before the LC Courts except where the case is about a breach of a bye-law.

Hearing of the case

- Before the LC Court starts to hear any evidence, an objection may be raised. Once an objection is raised then the Court must first hear what it is. For instance, a defendant may object that the LC court does not have powers to hear the case or that one of the members is an interested party likely to be biased.
- If the Court accepts the objection, the court has to make a decision on the objection and make an appropriate order for example, the case to be sent to a higher court in case the objection was that the court has no jurisdiction or is impartial.
- However, if it rejects the objection, the objection and reasons for refusal are recorded and the case continues.
- When there is no objection or an objection has been refused, the Court proceeds to hear the case.
- The language that is used in the Court is the language that the majority of the people attending the court understand.
• Where one of the parties to the case does not understand the language, an interpreter may be provided. It is better to inform the court in advance that one will need an interpreter.

• The L.C Court does not follow technical rules of evidence like the ordinary courts therefore the Court must proceed as soon as possible and finish the case.

• The L.C. Court is to see that justice is done. It is important therefore that each party is given opportunity to prepare for their case and to be heard and to call their own witnesses to give evidence.

• When a member of the LC Court is related to the people before the Court or has an interest in the matter he or she should declare this to the other members of the LC Court.

• Such person should not sit as a member of the Court because this would be against principles of natural justice.

Handling cases involving breach of Bye-Laws

• In the cases of breach of bye-laws, any person who has reasonable and probable cause to believe that an offence has been committed by any person through breach of a bye-law may make a complaint to the LC Court; and that complaint may be made orally or in writing signed by the complainant.

• If made orally, it shall be reduced in writing by the chairperson or a person appointed by the chairperson and then signed by the complainant.

• The chairperson or the secretary of the local council draws up a charge sheet. The charge must contain information about the accused, date, place and nature of the breach.

• The charge is read and signed by the complainant and countersigned by the chairperson.

• The summons is served on the accused personally.

• Where the accused cannot be seen or found, the court can give permission to have it served to an adult member of the family or some adult person residing with the defendant or by leaving a copy of the court document where it can easily be seen by the accused.

• A witness is ordered to come to Court by sending him or her summons or may be informed orally.

• A witness can also be required to bring documents or any information she or he has on the case.
• Court proceedings are held in an open place where members of the public can listen to the proceedings. This could be under a tree or in a house and is held during the day.
• In special circumstances, court may stop members of the public from entering the court. This usually applies to domestic or family matters.

**How to reach a decision**
• The law requires that decisions be made by agreement of all the members (consensus).
• Where the members fail to agree, then the members vote and the majority’s decision becomes the judgment of the court.
• Where voting is used to determine the decision of the court, the Chairperson only votes when the votes are equal on both sides.
• The Chairperson will then vote to break the tie in votes.

**Court records**
• The LC Court is required to record its proceedings so that there is a systematic and orderly follow up. In the event of an appeal, properly kept court records assist a higher Court to have a proper picture of what went on in the Lower Court.
• The Secretary records the following:
  i. names of the parties.
  ii. case number.
  iii. hearing date.
  iv. names of the witnesses.
  v. statement of claim and the description of the case.
  vi. testimonies of witnesses.
  vii. exhibits, if any
  viii. judgment or final orders of the court and the date of the judgment or final order date of payment of judgment date.

**Judgments**
When the Court delivers a judgment or has made a decision, it cannot reopen the case for hearing again. The Court’s hands are said to be tied so the matter is sent on appeal. For this situation to happen the following circumstances should be present:

i. the case was taken to court before and judgment given
ii. the parties are the same as in the earlier case  
iii. the new persons before court are claiming under the parties to the already decided case.

In such a situation, the court must not hear the case again. An example is if two neighbours have a land dispute and one of them takes the case to court and it is decided, their children can not take the same case to court. The situation above can be used as one of the grounds of objections to a court hearing a case.

**Reliefs and remedies an LC court may give**

When a judgment is given, the party who has won the case expects the court to give an appropriate relief or remedy. The court has many options.

- **Reconciliation:** The court may encourage the parties to forgive and forget the incident and not to harbor any bad feelings.

- **Declaration:** The court may decide who is entitled to the subject matter of the case. In a dispute over land, the court may declare that the land in dispute belongs to the defendant not the complainant or vice versa.

- **Compensation:** The court may order the person who wronged the other to make good the loss or repair the damage, harm or injured feelings of the person who was wronged. It could be in form of money or a refund of an article. For example, in a case where cows have destroyed one’s crops, the Court may order the defendant to compensate the complainant by giving him/her a sack of beans.

- **Restitution:** The court may order the person who is in the wrong to return the property taken. It can also apply to a case where someone is ordered to put the person wronged or injured, back to the position he or/she would have been in had it not been for the loss or harm.

- **Costs:** The person who loses may be ordered to reimburse or pay the expenses incurred by the person who wins the case.

- **Fines:** Where the court has found an accused guilty of breaking a bye-law, the Court orders payment of a fine, or any other punishment that is provided under the bye-law.

- **Apology:** The person who is in the wrong is asked to say he or she is sorry for the wrong done to the other.
Attachment and sale under LC courts

• Attachment and sale is usually the last process the Court will resort to after the Judgment debtor has refused to comply with the Court order. Before any attachment of property is taken the court has to make sure certain steps are taken.

• Property to be attached must belong to the Judgment debtor and any other person
  i. When the judgment debtor is a partnership all the partners must first be informed.
  ii. The property in a Corporate Company is only attached if the Company was a party to the suit and was declared a Judgment debtor.

• The Judgment debtor must be informed and given an opportunity to say why he or she or it has failed to pay.

• The attachment is made only after the expiration of the days within which the party who lost the case is given to file an appeal. The number of days provided is 14 days. After the above conditions have been fulfilled then the court issues a warrant of attachment which is the document authorizing the sale.

• The person to attach and sell the property is appointed. The warrant is addressed to the person appointed by Court to attach the property of the Judgment debtor. The warrant must specify the property to be attached. After the property has been attached, the person authorized to sell reports, back to Court on whether he sold the property if he did not, why he did not do so.

• The sale of the attached property is by Public Auction. It therefore requires the members of the Public to know. Members of the public are then invited to bid for the property. Members of the LC. Executive and most specifically those who have presided over the proceedings are not supposed to buy the auctioned items.

• Once property has been attached and sold the person who has sold the property is paid for the expenses incurred. These may include costs for advertising for the sale, hiring of Policemen (in cases where they may be violence) and his or her fees.

• The judgment creditor is paid according to the Court orders and the balance is then paid back to the Judgment debtor.
Appeals

- A party begins the case in the LC I Court, however if a party is dissatisfied with the decision of the LC I court he or may appeal to a higher court.
- The party that is dissatisfied files his or her appeal with the LC II Court and from the LC II court to the LC III Court. If a party is still dissatisfied with the decision of the LC III court, the appeal goes to the Chief Magistrate.
- The party may appeal from the Chief Magistrate’s Court to the High Court. In a case where one has to appeal to the High Court, the Chief Magistrate’s Court gives permission first and the appeal has to be on a point of law.
- Such an appeal has to be made in a specified time otherwise it will not be allowed. Leave to appeal has to be made 30 days from the decision of the Chief Magistrate or within 14 days after the Chief Magistrate’s refusal to allow you to appeal.

An appeal is made by presenting to court a document called a memorandum of appeal. This document contains the reasons for the appeal and is signed by the appellant.
CHAPTER TWELVE

MINISTRY OF JUSTICE AND CONSTITUTIONAL AFFAIRS

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Introduction
The Ministry of Justice and Constitutional affairs provides legal advice and legal services to the government. It also gives support to the legal framework for good governance as well as technical advice on matters of government and interpretation of the Constitution and other laws.

The Ministry has three directorates and three departments. They are; the Directorate of Administrator General, Directorate of Civil Litigation, Directorate of First Parliamentary Counsel, Department of Law Council, Department of Legal Advisory Services and the Department of Finance and Administration. The Finance and Administration department provides support services to the other departments. It is headed by an Under Secretary.

The Uganda Registration Services Bureau, which is handled in the next chapter, is still a department of the Ministry of Justice and Constitutional affairs. However, there are plans to make it an autonomous institution. This is why it has been discussed in its own chapter.
Administrator General’s Department

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Tel. 041 341915

Introduction
The main role of the office of the Administrator General is the management of estates of deceased persons, who die without leaving a will, or where a will has been left but disputes arise in the management or distribution of the deceased person’s property.

The department has offices in Kampala and plans to open more offices in other regions of Uganda. However, the offices of the Chief Administrative Officers have some limited powers to act on behalf of the Administrator General.

Main functions of the office of the Administrator General
In carrying out the above said functions, the following activities are undertaken, among others:

• instituting legal proceedings in Courts of law against intermeddlers, fraudulent administrators of deceased’s estates, unscrupulous relatives and others for the recovery of the deceased’s properties from wrong hands.
• distributing properties of deceased persons to the beneficiaries of their estates and winding up of estates.
• managing the interests or properties of minors and persons of unsound mind, which come under the control of the Public Trustees in accordance with the Public Trustee Act.
• giving legal advice and arbitrating in succession matters to resolve Conflicts.
• issuing Certificates of No Objection to persons intending to apply to Court for Letters of Administration.
Administration of an estate where there is a will

The general principle is that nobody is entitled to deal with property of a deceased person unless he or she has first obtained authorization from court. This principle applies whether the deceased left a will or not.

- The management or distribution of a deceased person’s estate according to a will left by the deceased is known as testate succession.
- A Will is a written document that specifies how one’s property should be dealt with upon his or her death.
  
  i. A will must be in writing.
  
  ii. It must be signed by the maker and must be witnessed by two persons who must both sign at the same time and must be 21 years and above.
  
  iii. It should name the person to implement the wishes of the maker (executor).
- A will comes into force upon the death of its maker.
- In law there is a difference between how the estates of people dying testate and those dying intestate should be managed.
- For testate succession, the authority to manage the estate of the deceased is obtained from court after requesting it (petitioning) for permission with the Will of the deceased attached.
- Where the Will has named an executor, the named executor applies for what is known as a “grant of probate”.
- The main advantage of testate succession is that the maker of the Will (testator) clearly states how he or she wishes his or her property to be dealt with.
- The law requires the executor or executrix (female executor) to follow the deceased’s wishes except in those cases where the Will is very unfair to some of the legally entitled beneficiaries. For example, if a Will did not cater for a spouse, child or dependant relative who deserves to benefit from the estate. The aggrieved person can apply to court to have his or her interests catered for.
- For testate succession, probate shall be granted to the person or people named as executor(s) in the Will. These people then administer the estate according to the Will of the deceased.
Procedure for applying for a grant of probate

- Where the person intending to apply to court to administer an Estate is an Executor appointed by Will, he or she does not need a Certificate of No Objection from the Administrator General.

- He or she should apply to court for a grant of probate. A copy of the Will should be attached to the application. The application is called a petition.

- The petition should be signed and verified. A death certificate should also be attached.

- A notice of application is obtained from court and must be advertised in a newspaper of wide circulation within the area or gazette.

- After 14 days, a copy of the newspaper is filed in Court and the applicant is presented before a Court Registrar or a Magistrate for identification if no caveat is lodged.

- A caveat is a document filed in court objecting to the application for probate.

- After identification, the Court file is presented before a judge or Magistrate for signing the grant of Probate.

Intestate succession

Intestate succession on the other hand is the opposite of testate succession, that is to say, a situation where there is no will. Where there is no Will, the law has provisions to ensure that the deceased’s estate reaches the hands of those entitled by law to benefit from it. The deceased person will be deemed to have died intestate if he or she either left no Will at all, or left a Will which is invalid or of no effect.

- In order for one to administer an estate of a person who died intestate, one has to apply for Letters of Administration.

- Letters of Administration may granted to the following persons:

  i. a person or persons close to the deceased either by marriage or by blood. First priority is given to the widow or widower or to the person entitled to the greatest proportion of the estate.

  ii. a creditor may be granted letters of Administration if no person connected to the deceased by marriage or by blood exists or is willing to act.
iii. a beneficiary.
iv. Administrator General.
v. a friend of the deceased.

• The Succession Act lays down rules to be followed in the distribution of property of a person who dies without a will. For instance, if the deceased was survived by a widow or widower, children, customary heir and dependant relatives, the widow/widower will get 15%, children 75%, dependant relatives 9% and customary heir 1%.
• The distribution varies depending on the nature of beneficiaries.
• The law also clearly provides for who qualifies to be referred to as a dependant relative and a customary heir. It also explains under what circumstances a widow or widower may not share in an intestate property.
• A dependant relative for example must be a wife, husband, son or daughter under eighteen years or son or daughter, a parent, a brother or sister, a grandparent or grandchild who on the date of the deceased’s death, was wholly and substantially dependant on the deceased for the provision of the ordinary necessities of life, suitable for a person of his or her status in life.
• A widow or widower may not benefit from the estate of a deceased spouse if he or she had separated from the deceased, without a good reason for a period of two(2) years after the death.
• The law protects the family home from distribution. The principal residential house together with the household items remain in the house for the benefit of those who will continue occupying it, for example, widow or widower and children under 18 years.
• Children include both born within (legitimate) and outside marriage (illegitimate)

Procedure for applying for letters of administration

The procedure to administer a deceased person’s estate starts with applying for letters of Administration or Probate, where there is a Will.
• The first step in intestate succession is to report the death to the Administrator General. This is done by filling a Report of Death form obtained from the office of the Administrator General.
• The report of death should be accompanied with a Death Certificate and a letter from the area LC 1 of the place where the deceased used to reside or was buried.

• If the people reporting the death want to administer the estate, they should accompany the Report of Death with a request for a Certificate of No Objection.

• A widow or widower does not need a certificate of No Objection from the Administrator General

• The Administrator General will examine the application and decide whether or not to grant the Certificate of No Objection. The Administrator General may refuse to give a Certificate of No Objection where the persons intending to apply do not qualify or where the family members are not in agreement.

• Having obtained a Certificate of No Objection, an application for letters of administration is filed in Court.

• The application for Letters of Administration must be in English giving details of time and place of death. It also states the capacity in which the applicant is applying for the Letters of Administration and the approximate monetary value of the property to be administered.

• The application must be accompanied by a death certificate and a letter from the area LC1 of the place where the deceased used to reside or was buried.

• A notice of application is obtained from court and must be advertised in a newspaper of wide circulation within the area or in the Gazette.

• After 14 days of the publication of the notice, if no caveat has been lodged, a copy of the newspaper or Gazette is filed in court and the applicant is presented to a Court Registrar or Magistrate for identification.

• After identification, in case of the High Court, the court file is forwarded to a judge who decides whether to grant the Letters of Administration.

• If the Judge decides to grant the Letters of Administration, he or she then signs the grant.

• It is advisable to request the court to certify some copies of the Letters of Administration.
Duties of a legal representative

After a grant is made, the administrator or executor is supposed to collect all the deceased’s property, credits and pay from the estate, all the genuine debts left by the deceased. Other duties of the administrator or executor may include;

- to perform the funeral rites of the deceased in a manner suitable to his or her conditions, if the deceased left property sufficient for that purpose;
- exhibit an inventory within six months to court, containing full and true estimate of all property, all credits and all debts owing by any person;
- exhibit an account of the estate showing the assets which have come into his or her hands and showing the manner in which they have been applied or disposed of.

The administrator or executor becomes what is known in law as the personal representative of the deceased and has wide powers including the following:

- all property of the deceased vests in the personal representative and his or her assent is required before any title can pass;
- the assent of the executor or administrator may be verbal and it may be either express or implied from the conduct of the executor or administrator;
- the executor or administrator may sue and be sued in his or her name for any matter related to the deceased’s estate.

Liability of an executor or administrator

- Should the executor or administrator misuse, misappropriate the property of the deceased, or negligently cause loss to the estate of a deceased person, he or she is liable to compensate the estate for the loss or damage occasioned.
- In all other cases however, the executor or administrator has powers to use the funds accruing from the estate for the benefit of the estate and all the beneficiaries Powers of the Administrator General prior to a grant of Letters of Administration or Probate
- The Administrator General is by statutory right, the administrator of all small estates in Uganda and as such may take over a small estate and administer it without Letters of Administration. A small estate has been defined as an estate the value of which does not exceed shillings one hundred thousand.
- The Administrator General may takeover the property of the deceased
person when he or she is of the opinion that it is in danger of being lost, stolen or destroyed.

- He or she may charge any person who, without authority of court or of the Administrator General interferes with the property of the deceased person or refuses to deliver such property to him or her.
- A person who has been carrying on business with the deceased who fails to report details of a partnership to the Administrator General commits an offence.
- The Administrator General, even after letters of administration have been issued, may petition court to revoke Letters of Administration or Probate where there are reasons to do so.

From the above, it is advisable that all people above the age of 21 years make Wills where they have property that will need to be disposed on the person’s death.

**Meaning of the terms widow and widower**

- There must have been a marriage recognized by the law for a person to be recognized as a widow or widower.
- Staying together (cohabiting) with a man or woman for a long time, say thirty years and having children together, does not make one a wife or husband.
- Therefore, for a person to be recognized as a widow or widower his or her marriage must have been celebrated under one of the types of marriages mentioned below.

**Types of marriages in Uganda**

There are six types of marriages recognized under the law in Uganda. These are;

i. Christian or church marriage.
ii. Marriage celebrated and registered by Registrars of Marriages. (The Registrar General and all Chief Administrative Officers are Registrars of Marriage).
iii. Customary Marriage.
iv. Islamic Marriage
v. Hindu marriage
• For a Christian or church marriage to be valid, it must have been celebrated in a registered church.
• A customary marriage is not valid unless it has been celebrated according to the customary practices of one of the spouses.
• The requirements for a valid customary marriage under the respective custom must have been fully complied with, for example payment of full bride price.

Meaning of a child
A child means a biological or an adopted child of the deceased. The law of Succession gives equal treatment to all children whether adopted, born inside or outside marriage (legitimate or illegitimate).

Directorate of Civil Litigation

Introduction
The Directorate of Civil Litigation is one of the directorates of the Ministry of Justice. It is this Directorate that handles all civil matters in litigation where the government is a party.

According to the law, the government can sue or be sued in civil claims. Such claims may arise out of civil wrongs, contractual obligations or constitutional matters. Government may also bring civil claims against individuals where it feels that its civil rights have been infringed.

Civil proceedings by or against the government can only be instituted by or against the Attorney General. However, the Attorney General does not personally handle all the matters arising out of such claims. These claims are handled by the department of Civil Litigation.

Functions of the Department of Civil litigation:
• Receiving notices of intention to sue government and allied institutions and acting upon them.
• Attending to cases instituted by or against the government and allied institutions in court.
• Defending constitutional cases and election petitions against the Government.
• Conducting arbitration proceedings on behalf of government.
• Appearing before the Uganda Human Rights Commission and other Tribunals on behalf of Government.
• Receiving and acting upon compensation claims against the government.
• Negotiating out of court claims by and against the government.
• Advising the Attorney General on all matters relating to civil litigation by or against the government or its allied institutions.

**Directorate of First Parliamentary Counsel**

**Introduction**
This is the government department responsible for the drafting of laws. The power to initiate the making of a law may be exercised by:-

1. the executive Arm of Government through a Ministry or Department.
2. a member of Parliament by moving a private member’s Bill.
3. a standing Committee of Parliament.

Any of the above can request the First Parliamentary Counsel to draft a bill to be presented to Parliament. It is Parliament that has the power to make laws.

**Functions of the Directorate of First Parliamentary Counsel**

- Receiving and responding to instructions from cabinet to draft bills.
- Preparing Cabinet Memoranda about proposed new laws.
- Drafting Private Members’ bills for presentation to Parliament.
- Drafting statutory instruments, legal notices and parliamentary resolutions.
- Drafting ordinances and bye-laws for Local Governments.
- Providing advice on the interpretation of existing or proposed laws.

**Department of Law Council**
The Law Council is a department of the Ministry of Justice and Constitutional Affairs. The Council was established under the law governing Advocates in Uganda (Advocates Act). It is responsible for the professional conduct of advocates in Uganda.
Membership of the Law Council

The Law Council is composed of the following members:

i. A Judge who is also the chairperson.
ii. The President of Uganda Law Society (Ex-Officio).
iii. The Director of the Law Development Centre (Ex-Officio).
iv. The Dean of the Faculty of Law, Makerere University (Ex-Officio).
v. Two practising advocates elected by the Uganda Law Society.
vi. One Officer with legal qualifications in the service of the Government, appointed by the Attorney General.

The Chairperson and all members of the council other than ex-officio members hold office for three years and are eligible for re-appointment.

Functions of the Law Council

The functions of the council are to:

i. Exercise general supervision and control over professional legal education in Uganda.
ii. Approve courses of study and to provide for the conduct of qualifying examinations for any of the purposes of this Act.
iii. Advise and make recommendations to the Government on matters relating to the profession of advocates.
iv. Exercise disciplinary control over advocates and their clerks.
v. Supervise and control the provision of legal aid and advice to persons who can not pay for private legal services.

In the exercise of its statutory functions, the Law Council has powers to prosecute any advocate who breaches the Advocates’ Code of Conduct.

Members of the public with complaints against any advocate may lodge a complaint at the Law Council offices in the Ministry of Justice and Constitutional Affairs.

Disciplinary Committee

The Disciplinary Committee of the Law Council is established under the Advocates Act. Members of the Disciplinary Committee are drawn from members of the Law Council.
Handling complaints

- A complaint against an advocate has to be made in writing addressed to the Secretary Law Council.
- The complaint should be signed or a thumb-printed by the person making it.
- The Disciplinary Committee may however, accept complaints that are not in writing.
- The complaint should have a brief statement of the facts.
- A complaint once filed can not be withdrawn without the consent of the Committee.
- The Committee has to consider whether a complaint shows that the advocate could have broken the law governing the conduct of advocates. In order to do so, the Committee may ask the advocate complained against or the complainant to give it further information such as copies of relevant documents.
- The Committee decides whether the complaint should be heard or it should be dismissed.
- In case the Committee finds that the complaint should be heard, it fixes a hearing date and gives to the complainant and the advocate a copy of the hearing notice.
- The case can not be heard until after twenty one days from the date of giving the notice.
- In case a party has documents that he or she may wish to use as evidence, that party must send a copy of such documents to the Committee fourteen days before the hearing date.
- The Committee has a lawyer who handles cases on behalf of the complainant.
- The advocate is entitled to be represented by a lawyer of his or her own choice and at his or her own expense.
- If any party to the proceedings is absent on the day of the hearing, the Committee may hear the case in his or her absence.
- Evidence may be given on oath. However, a party may apply to ask questions to a witness who testified on oath.
- The Committee may call any other person to give evidence.
- After the hearing, the Committee makes its decision. Decisions of the Committee are made by majority vote.
The Secretary to Law Council may give a copy of the decision of the Committee to any party at a fee.

Orders that can be made by the Disciplinary Committee

- The Committee may, on finding an advocate guilty, order any or a combination of the following:
  i. Removal of an advocate’s name from the list of advocates.
  ii. Suspension of the advocate from practicing.
  iii. Return by the advocate of any property to the rightful owner.
  iv. Payment of a fine.
  v. Compensation of the complainant.

Any person who is not satisfied with the decision or order of the Disciplinary Committee may appeal to the High Court within fourteen days of receiving the order.

Directorate of Legal Advisory Services

The Directorate is headed by a Director and is comprised of three Commissioners.

Functions of the Directorate

The role of the Directorate is to provide legal support to the Attorney General and the Solicitor General in their functions as the Government top legal advisors.

The main functions of the Directorate include:

- Providing legal advisory and consultative services to the Government, ministries, and public bodies.
- Handling legal assignments for the Attorney General and the Solicitor General.
- Providing legal support to Government organs and Commissions as requested.
- Undertaking research into legal issues in order to develop guidelines for policy formulation and handling legislature.
- Giving legal interpretation to policies for formulated by other ministries and Government organs.
- Undertaking negotiations and drafting of contracts on behalf of Government and its Agencies.
• Handling legal assignments and negotiations and contracts for the Attorney General and Solicitor General.
• Providing the support negotiation machinery both of local and international proceedings.
• Conducting arbitration proceedings.
• Providing legal support to Government organs and commissions on matters of contracts and negotiations as requested.
• Giving legal interpretations to contracts required by stakeholders.
CHAPTER THIRTEEN

UGANDA REGISTRATION SERVICES BUREAU

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Tel 041 235915

Introduction
The Bureau is a government department independent of Ministry of Justice and Constitutional Affairs. The Uganda Registration Services Bureau was formerly known as the Registrar General’s department.

The Bureau is commonly referred to as the Company Registry. However, the Bureau has a number of other Registries and performs many other duties apart from handling company matters.

The various registries are:

i. Registry of Companies.
ii. Registry of Births and Deaths.
iii. Registry of Marriages and Adoptions.
v. Registry of Business Names.
vi. Registry of Documents.
vii. The office also handles matters of companies that are being wound up.

The Bureau also plays an important role in the registration of Non Governmental Organisations (NGOs).

Registry of Companies
Meaning of a Company
A company is a type of business organization that exists as a legal entity independent of its officers and shareholders. A company can sue and be sued in its own name. This is important because the assets of individual shareholders cannot be sold to pay the debts of a company.

**Types of companies**
There are two main types of companies that can be registered in Uganda:

**Company Limited by Shares and Company Limited by Guarantee:**

**Company Limited by Shares**
This is a company that raises its capital through sale of shares. Most companies are limited by shares.

- In the event of the company coming to an end when it has debts that it cannot pay shareholders who have not fully paid for their shares are called upon to pay the balance on the purchase price of the shares allocated to them.
- Shareholders who have paid for all their shares cannot be called upon to pay.

**Company Limited by Guarantee**
This type of company does not raise capital through sale of shares. Instead, it raises its capital through other means such as membership fees, subscription fees and donations.

- For this type of company, members agree on how much money to contribute in the event of the company coming to an end when it has debts that it is not able to pay.
- Companies of this nature are usually not profit motivated, for example Non-Governmental Organizations.

**How to register a company**
To register a company, the people who intend to do so need to take the following steps:-
Apply by a letter for reservation of the proposed name of the company. When a name is reserved, it means that for a period of six months, other people can not register the same name.

Submit the following documents to the Registrar of Companies:-

i. At least three copies of the Memorandum and Articles of Association bound together. The memorandum among other things specifies the name, type and objectives of the company. The Articles of Association specify the rules governing the management of a company.

ii. A statement of money expected to be raised by the company through selling shares. It is done on a standard form called Company Form No. A1.

iii. A statement on oath by an advocate engaged in the formation of the company, or by a person named in the Articles of Association as a director or secretary to show that the registration requirements have been followed. This is done on a standard form called Company Form No. A2.

The Memorandum and Articles of Association of a company must be drawn up either by a practising advocate or a person named as a director or secretary of the company in the Articles.

Upon registering a company, the Registrar issues a certificate of incorporation. It is at this stage that the company comes into legal existence.

**Steps to be followed after registration**

The company is required to file the following company documents after its registration:

i. A statement indicating the physical location and postal address of the registered office of the company. This should be filed within two weeks. It is done on a standard form called Company Form No. A9.

ii. A statement of appointment of Directors. This should be done within fourteen days. It is done on Company Form No.7.

iii. A statement on the Allotment of Shares. This should be done within sixty days. This requires filling Company Form No.A3.
Requirements for carrying on company business

- In order to do business, a company needs a trading licence which is issued by a Local Authority such as Kampala City Council, a Municipal or Town Council.
- For companies in rural areas, they should get their trading licences from the office of the district Chief Administrative Officer.
- The Company also may need to open bank accounts by making a special resolution selecting the bank and the signatories to the account. The resolution has to be registered with the Registry of Companies.
- The Company is also required to register with Uganda Revenue Authority for tax purposes.

Management of companies

- The administration and management of a company is done by the Board of Directors and the shareholders.
- The directors run a company through Board meetings while the shareholders do so through General meetings.
- Ultimate control of the company lies with the general meeting.
- Every private company must have at least one director and a secretary. Public companies must have at least two directors.
- A director can serve as the secretary provided he or she is not the only director of the company.
- A company should follow its rules when appointing directors.
- The Registrar of Companies must be notified whenever directors or the Secretary are changed.
- The shareholders have the authority to remove a director at a general meeting. Special notice must be given of any such resolution and the affected director must be given a copy of such notice.
- Decisions made by a company at meetings are referred to as company resolutions.
- The Companies Act provides for three types of resolutions at meetings: ordinary, extraordinary and special. An ordinary resolution is passed by a simple majority of those voting while a special resolution must be passed by a three quarter majority.
Winding - Up

Upon registration, a company becomes a legal entity separate from its owners. Even if a company stops carrying on business for example because of the death of all its shareholders, the company remains in existence until it is dissolved through a legal process. The process of bringing the existence of a company to an end is referred to as “winding up.”

A company may be wound up upon the request of:

- The company itself.
- Its creditors.
- Its contributories.
- The official receiver.
- By order of court, under any of the following circumstances:
  i. The company has passed a special resolution that court should dissolve it.
  ii. Failure to deliver the statutory report to the Registrar of Companies or to hold a statutory meeting. This only applies to public companies. Only a shareholder can initiate dissolution of a company on this ground.
  iii. The company does not start doing business within one year of its incorporation, or it suspends its business for a whole year.
  iv. When the number of members is reduced to below the legal minimum, that is, two for a private company and seven for a public company.
  v. The company is unable to pay its debts.

Registry of Business Names

Apart from companies, other types of business organizations that can be registered to do business in Uganda are sole proprietorships, partnerships and Cooperative Societies. Co-operative Societies are registered by the Registrar of Co-operatives in the Ministry of Tourism, Trade and Industry. They are not discussed in this book.

In order for sole proprietorships and partnerships to carry on business, it is advisable that they do so under a business name, for example, Kampala United Traders or Ngeye and Sons.

It is a legal requirement that business names are registered. Non governmental organizations are also required to register their names with the Registrar of Business
Names. Companies may also register business names. Business names are registered with the Registry of Business Names.

**Sole Proprietorships**

In a sole proprietorship, one individual owns the business and he or she is personally liable for all debts. It is advisable that the individual registers a business name.

**Partnerships**

A Partnership is a business organization between two or more people for the purpose of doing business.

- There must be at least two people and a maximum of twenty.
- Partnerships are created by agreement between the partners.
- Unlike a company, a partnership does not have a legal identity separate from that of its partners.
- Partners can also be held personally responsible for the debts of the partnership.
- To register a partnership, the partners have to register a business name.

**Steps in registering a business name**

- To register a business name, a Statement of Particulars, often referred to as business name registration form, must be filed with the Registrar of Business Names at the Uganda Registration Services Bureau.
- This should be done either before the start of business or within 14 days of the start of business.
- The statement must include the following information:
  i. Proposed business name.
  ii. General nature of business.
  iii. Principal place of business.
  iv. Names, nationalities, residences and occupation of the individual or partners; or the corporate name and registered office of the corporation(s).
  v. Date the business started.
  vi. Age(s) of the individual or partners.
- For a sole proprietor or business owned by one person, the statement should be signed by the individual. The person signing must also swear an
oath before a Commissioner for oaths (an advocate appointed as a Commissioner for oaths or a magistrate).

- The oath is attached to the registration form. For a firm or partnership, the statement should be signed by all partners.
- The registration form can be got from the Registry, the Uganda Bookshop or from any post office at a fee.
- Upon filing the application for registration of a business name, the officer handling the matter makes a search to find out if the name is suitable for registration.
- A name may be unsuitable for registration if it is already registered or if it is thought to be immoral.
- Upon registration, a Business Name Registration Certificate is issued.
- The certificate must be openly displayed at the registered place of business. Failure to do so is an offence.
- The Registrar keeps a record of all registered business names. These records can be inspected by the public upon payment of a fee.
- If there is a change in the information contained in the statement of particulars, this change must be filed with the Registrar within 14 days of the change. Failure to comply with this requirement is an offence.
- When an individual, a firm or a corporation ceases or stops doing business, it must send a notice of cessation of business to the Registrar within three months of cessation. Failure to comply is an offence.

Management of a Partnership

- A partnership should be governed by a written partnership agreement also referred to as a partnership deed. It is also advisable that the deed be registered.
- It is however not compulsory that partners make and register a partnership deed.
- A partnership agreement should spell out the following:

  i. Name of the partnership.
  ii. Date of commencement of business.
  iii. Contribution of partnership capital.
  iv. Sharing of profits and losses of the partnership business.
  v. Day-to-day management of the business.
vi. Signatories to bank accounts.

vii. Borrowing powers of partners.

viii. Dissolution or winding up of the partnership.

- The deed is registered as a document under the Registration of Documents Act.
- A partnership can be sued either in its firm name or through the individual partners.
- However, even when sued in the name of the firm, the partners must appear in their individual capacity, and enforcement of the court order can be against both the individual partners, and the firm.
- Partners may not expel one another from the firm without an express agreement giving them the power to do so, and any expulsion may lead to the dissolution of the firm.
- Partners can resign from the firm but are expected to give notice.

Requirements for carrying on partnership and sole proprietor business

- Operating a partnership business or sole proprietor business requires:
  i. A trading licence.
  ii. A tax registration to get a tax identification number (TIN)
  iii. Opening a bank account.

- For partnerships, a bank account will be opened using the partnership deed, statement of particulars and the business Name registration certificate.
- For a sole proprietorship with a registered business name, a bank account is opened using the statement of particulars and the certificate of registration of business name.

Always make sure you have certified copies of these documents.

Registry of Births and Deaths

This registry is in charge of registering births and deaths. Under the Law, every birth and death should be registered.

- When a birth is registered a document called a birth certificate is issued. Similarly, when a death is registered, a death certificate is issued.
- There are two types of certificates that can be issued for birth or death. These are the Short and Long birth or death certificates.
• The office of the Registrar General is the only one that issues the long birth or death certificates.
• All the other offices issue short birth or death certificates.
• The short Birth or Death certificates are not legally recognized in some instances.
• However, when one presents the short birth or death certificate to the office of the Registrar of Births and Deaths, he or she will be issued with the long birth or death certificate.

How to obtain a birth certificate
A birth certificate is an official document issued in respect of a person’s birth. It is the duty of the parents to make sure that when a child is born, the office of the Registrar of Births is notified and a birth certificate is issued. An adult whose birth was not registered at birth may also have his or her birth registered and a birth certificate issued.

In order to have a child’s birth registered:
• One needs to fill a Declaration of Birth form. The offices of the Chief Administrative Officers, the Town Clerks, City Division Offices and the offices of Sub-County Chiefs all have these forms.
• If the birth happened in a gazetted or officially recognized hospitals or medical centers, such hospital will issue short birth certificates.
• These are then filed at the Registry of Births and Deaths to get the officially recognized Long Birth Certificates.
• After filling the Declaration of Birth form, you should take it to the office of the Registrar of Births nearest to you.
• The Registrar at the district is the Chief Administrative Officer, at the Sub-County it is the Sub-County Chief, in a Municipality or Town Council it is the Town Clerk and in a City Division it is the Division Principal Assistant Town Clerk.
• At the National level, the Registrar General and his assistants are the Registrars of Births.
**Importance of a birth certificate**
A birth certificate is used as proof of:

i. The parents of the person named in the certificate.

ii. Age of the person named in the certificate. This helps in court cases, for instance in a case of defilement or in civil cases for claiming loss of dependency by a child whose parents died as a result of wrong act of another person.

iii. Citizenship of a person. This is useful in applying for a Uganda passport or other travel document.

iv. Life expectancy of a deceased person: how much longer a person would have worked or lived if he or she was not killed by the wrongful acts of another. This is used in determining compensation to relatives of a deceased person killed in a motor accident as a result of negligence of another driver.

v. Age of candidates being nominated to stand for political posts such as Member of Parliament.

vi. Age of retirement from Public Service or other service.

**Death certificate**
A death certificate is a document that is issued by the office of the Registrar of Deaths or its representative to officially show and confirm that some died.

- This document is different from a Medical Certificate of Cause of death that is issued in hospitals or clinics to show what led to the death of the deceased.

- This medical certificate however, can be used to obtain the official death certificate from the Registrar of Births and Deaths.

- Two types of death certificates can be issued. The Long Death Certificate is issued by the office of the Registrar of Births and Deaths at the Uganda Registration Services Bureau.

- Short death certificates are issued by the offices of the Chief Administrative Officer, Principal Assistant Town Clerk in charge of a Division in Kampala, a Town Clerk or a Sub-County Chief.

**Importance of a death certificate**
The death certificate can be used in a number of ways such as:

i. Obtaining Letters of Administration or Probate to the take care of the affairs of deceased person.
ii. Obtaining payments from the National Social Security Fund in case the deceased person was registered with the Fund or in getting payments from similar insurance schemes.

iii. Proving death in criminal cases of murder and manslaughter and in civil cases where there is need to prove death.

iv. Determining that one is an orphan, widow or widower where that is necessary.

How to obtain a death certificate

• Whether the dead person died from a hospital or at home, a death certificate can be obtained.

• In case the deceased died from hospital, the hospital will have given to the relatives a medical certificate of cause of death. This should be signed by a doctor and stamped with an official hospital stamp.

• This certificate of cause of death should then be filed at the office of the Registrar of Births and Deaths together with a filled Declaration of Death form. Gazetted or officially recognized hospitals or medical centres also issue short birth and death certificates.

• Alternatively, one should file the Declaration of Death form at the offices of the Chief Administrative Officer, the City Division, the Town Clerk or the Sub-County Chief.

• In case the person died in hospital but either no medical certificate of cause of death was issued or the one issued is lost, one should fill in the Declaration of death form which has to be endorsed by the Hospital Registrar.

• In case the person died at home, the following should be done.
  i. Fill in the Registration of death form.
  ii. Attach a letter from the area Local Council 1 Chairperson
  iii. Take the form and letter to the Sub-County Chief. The letter from the LC I Chairperson helps the Sub-County Chief to confirm that the person whose death is being registered actually died.
  iv. The sub-county issues a short death certificate.

NB: All the standard registration forms used by the Uganda Registration Services Bureau can be obtained at a fee from any of the following places:-

• Uganda Registration Services Bureau headquarters.
• Ministry of Justice and Constitutional Affairs offices in Kampala, Mbarara, Mbale and Gulu.
• Uganda Bookshop branches.
• Any Post Office.
• An advocate’s office.

Role of the Bureau in registration of Non-Governmental Organisations

A Non–Governmental Organisation (NGO) is a voluntary body whose main aim is not to make profits but to offer social or charitable services.

An example of an NGO is the Federation of Women Lawyers (FIDA) that offers free legal services to people who can not afford to pay for private legal services.

• An NGO can be registered as an Association or as a company limited by guarantee.
• The Bureau plays an important role in the registration of NGOs.
• Every organization should reserve its name with the Bureau. This is done by writing a letter to the Registrar of Business Names.
• Upon receipt of the letter requesting to reserve the name, an officer checks the Register to see if the proposed name is not already registered or reserved for another organization.
• If they find that the name is not registered or reserved, they then reserve it for the applicant.
• It is important that after reserving the name, the organization applies to have it registered by the Bureau as its business name. A Certificate of Registration of the Business Name is then issued.
• In case of an NGO that is to be registered as an association, it then proceeds to apply to the National Board for NGOs for registration as an NGO.
• For NGOs that are to be registered as companies limited by guarantee, they need to reserve the name and then proceed to register with the NGO Board.
• After a certificate is issued to the organization by the NGO Board, the organisation should then apply to register as a company limited by guarantee.
• The Registrar General cannot register a company limited by guarantee before such company is registered by the NGO Board.

All registrations attract a fee which is assessed by the staff of the Bureau. Some registrations also attract a tax known as stamp duty.
CHAPTER FOURTEEN

UGANDA LAW REFORM COMMISSION

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Web site: www.ulrc.go.ug
E-mail lawcom@infocom.co.ug

Introduction
The Uganda Law Reform Commission (ULRC) was first established by an Act of Parliament in 1990. The Commission was later given the status of a constitutional Commission under Article 248 of the Constitution of the Republic of Uganda.

Prior to the creation of the Commission, law reform was the responsibility of a department of Law Reform/Revision in the Ministry of Justice and Constitutional Affairs.

Composition of the Uganda Law Reform Commission
- The Commission consists of a Chairperson and six Commissioners, all of whom are appointed by the President on the advice of the Attorney General.
- The law provides that the Chairperson and four of the Commissioners are persons who are lawyers who, in addition, must be:
  i. either retired or sitting judges of the Court of Appeal or High Court of Uganda.
  ii. qualified to be appointed as judges of the Court of Appeal or High Court of Uganda.
  iii. senior practising lawyers or senior teachers of law at a university or a similar institution of law in Uganda.
• The law requires that two of the commissioners should be non-lawyers who have distinguished themselves in disciplines relevant to the functions of the Commission.
• The office of the chairperson is a full-time position while commissioners are part-time.

Functions of the Uganda Law Reform Commission
• The main function of the Commission is to study and keep under constant review the laws of Uganda.
• The Commission has the mandate to make recommendations for the reform of the laws.
• The Commission is required to publish periodic reports on its work and submit annual reports to Parliament.
• In carrying out the above function, the Commission is supposed to be guided by the need to achieve the following:
  i. Elimination of anomalies in the law.
  ii. Repeal of obsolete and unnecessary laws.
  iii. Simplification of the law.
  iv. Translation of the law.
  v. Making the laws of Uganda reflective of the customs, values and norms of the society in Uganda as well as international human rights standards.
  vi. Making the laws responsive to the changing needs of the society in Uganda.
  vii. Adoption of more effective methods for the administration of the law and justice.
  viii. Integration and unification of the laws of Uganda.

Organisational Structure of the Commission
The Commission carries on its work through two departments, namely the department of Law Reform and the department of Law Revision.

The Commission has a Finance and Administration department that gives support services to the other departments.
Law Reform Department

The department is headed by a Commissioner in charge of Law Reform deputised by an assistant commissioner. The department has 2 principal legal officers. The department is divided into 3 sections:

i. Law reform and research
ii. Education, Documentation and Training.
iii. Sociology

A Senior Sociologist heads the Sociology Section while the other sections are headed by Principal Legal officers.

The main objectives of the department are to:

i. Study, document and make proposals for the repeal of obsolete and non necessary laws.
ii. Simplify and translate laws to all users.
iii. Document and make proposals for the integration and verification of the laws of Uganda.
iv. Identify and make proposals for the improvement of methods in the administration of law and dispensation of justice.
v. Analyse the social impact of the proposed laws.
vi. Operationalize international and regional legal instruments which Uganda has ratified

Law Revision Department

- The Law Revision department is also referred to as the Law Revision Centre.
- This department is headed by a Commissioner Law Revision who is deputised by an Assistant Commissioner.
- The department also has a Principal Legal Officer, Senior Legal Officer, a Legislative Drafting Expert and a Research Assistant.
- The department is charged with the duty of revising the laws of Uganda.
- In carrying out the revision of the Laws the department aims at keeping them up-to-date on a continuous basis and ensuring that they are easily accessible by the users.
Functions of the Law Revision Department

The functions of the Law Revision Department are to:

- Manage the data base of the revised laws by constantly updating it as new laws are made from time to time.
- Have in place a permanent and specialised organ to constantly update the laws of Uganda.
- Ensure that the laws of Uganda are regularly revised and annual supplements are produced and disseminated to the public.
- Maintain a website for facilitating the accessibility to the law and all related information.

One of the major achievements of the department was the preparation and production of the revised edition of the Principal Laws of Uganda, 2000. The outstanding features of the revised edition are:

i. decrees, statutes and ordinances were re-designated as Acts.
ii. chapters were renumbered
iii. formal alterations were added to names, localities, officers and otherwise as necessary to bring the law into conformity with the circumstances of Uganda.
iv. head notes replaced marginal notes.
v. laws were made gender sensitive.
vi. cross references, grammatical and typographical errors were corrected.

- The Commission has now produced a 2006 version of the Constitution and Revised Principal Laws of Uganda to take into consideration the recent changes in the law especially the 2005 amendment of the Constitution.
- The Commission has also produced the Revised Subsidiary Laws of Uganda.

The Role of the Public in Law reform

- The Commission encourages and promotes public participation in law reform.
- By encouraging grass root voices and community participation in the law making process, the Commission will enable Uganda to have laws that reflect the customs, values and aspirations of the people of Uganda.
• The Commission conducts consultative meetings, awareness creation workshops in order to get views from the members of the public concerning law reform.
• The Commission expects the public to:
  i. Make contributions on areas for reform of laws.
  ii. Actively participate in the law making process since they are the end users.
  iii. Make suggestions for new areas for law making.
  iv. Follow up measures or laws that have been put in place to ensure implementation.
CHAPTER FIFTEEN

THE DEPARTMENT OF YOUTH AND CHILDREN AFFAIRS
(Probation Services)

Contact Address
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Tel 041 347854

Introduction
The Department of Youth and Children Affairs is one of the departments in the Ministry of Gender, Labour and Social Development. This department was formerly known as the department of Probation and Social Welfare. The department plays a very important role in the administration of justice and maintenance of law and order by offering probationary services. Probationary services involve the supervision of the behavior of a young or first-time criminal offender by a probation officer.

The department is responsible for the youth and for care and protection of children in Uganda, with special responsibility towards those in vulnerable situations such as those who have broken the law.

The mandate of the department is carried out by Probation or Welfare Officers found at district level. At subcounty level, the Community Development Officers are charged with responsibilities relating to children. In carrying out their work, these officers are guided by the Constitution and the Children’s Act, the Probation Act and the Community Service Act.

Duties of Probation and Welfare Officers
- Probation and Social Welfare officers play a very important role in the protection of the rights and welfare of children not only in criminal matters but also in civil matters. These roles include:
  
  i. attending courts in cases involving children.
  ii. carrying out inquiries about children as required by courts.
  iii. submitting social inquiry reports for the courts especially about child offenders and child protection cases.
  iv. supervision of probationers and children placed on supervision orders.
v. supervision of young people after release from the National Rehabilitation Centre
vi. supervision of Approved Children and Babies Homes.

vii. tracing, resettlement and follow-up of Children from Children’s and Babies Homes.
viii. investigating reports about abuse of children and taking steps to protect them.

ix. these officers are under the Community Service Service Act charged with additional duties (**see chapter 8 on criminal trial and sentencing process**).

- Supporting families or children in difficult circumstances.
- Sensitization of the community on matters concerning child care and protection.
- Creating systems or mechanisms for the care and protection of vulnerable children.
- Providing a link between non-governmental organisations engaged in child welfare programmes.
- Providing professional information about child care and protection.

**Key Values in Juvenile Justice**

In working for the care and protection of children, Probation or Welfare Officers are guided by six values. These are:

i. The respect for children’s rights.

ii. Community responsibility for child care and protection.

iii. The best interests of children.

iv. not subjecting children to the rigorous procedures court system.

v. The family and the community as the best place for a child’s growth and development.

vi. Avoiding of delaying cases involving children

**Children’s rights and Responsibilities**

The department of Youth and Children Affairs has a duty to ensure that children’s rights are protected. In order to do this, the department has to educate the community about the rights of children. The department is also responsible for educating the community about the responsibilities of children.
Children have the following rights:

1. right to shelter provided by their parents or guardians.
2. right to food and clothing.
3. access to medical care.
4. education.
5. to have a name.
6. play and leisure.
7. right to practise a religion.
8. right to practise their culture.
9. not to be involved in armed conflict.
10. protection from child labour.
11. protection from sexual abuse.
12. protection from drug abuse.
13. protection from torture.
14. freedom of expression.
15. right to join associations or clubs that deal with child-related matters.

Responsibilities of Children

Children do not only enjoy rights but also have responsibilities. These responsibilities include:

1. going to school and being obedient while at school
2. being disciplined at home and giving respect to parents, elders and fellow children
3. participating in domestic work
4. being responsible at home, school and in the community where they live
5. not to commit any crimes.
6. To use the right (opportunity) given positively

Helping children in conflict with the law

- One of the statutory duties of Probation or Welfare Officers is to help young offenders (juveniles) who have committed or are suspected of having committed criminal offences.
- Such children are said to be in conflict with the law.
- The offences might be minor such as fighting. The offences may also be serious ones like murder or robbery.
- In most cases the offences children and juveniles commit are minor. This may not require taking the children through the rigorous court procedure.
- Such cases should be settled within the community with the assistance of Local Council officials or at the Police Station or Police Post with the Family Protection Unit.
• The law also requires that child offenders must not be accommodated in the same detention room with adult offenders.
• Secondly, a female child offender must be under the care and supervision of a female officer.

**Recommended ways of settling cases involving children**
There are various ways of handling cases involving children without using court namely;

• Mediation – this means that a neutral person trusted by both the offended person and the offending child and his or her family helps to settle the dispute arising out of the child’s offence. A friendly settlement is reached through negotiations.
• Reconciliation – this means that through the intervention of other people, such as family members, the two parties are helped to pardon each other.
• Restitution – this method is used where a child offender has damaged or destroyed or stolen an item.
• Restitution involves the replacement of the damaged item with a similar or equivalent one.
• If a child has stolen a chicken, the chicken is returned if it can still be found and if not then a chicken of an equivalent size is given to replace the stolen one.
• Compensation – means paying back for what has been damaged.
• Like in the above case, instead of paying back another chicken, the offender is asked to pay the equivalent value of the stolen chicken in terms of either money or other material item.
• Another alternative is to make the child to perform some tasks as a way of paying for the damaged item

All the above methods of settling disputes involving children are possible in the community without involving the police and courts.

• **Court** - Taking children to court is one of the methods of settling cases involving children. This method should however be used only for serious offences and as the last resort.
• This may involve arresting, trial and giving orders to the child if found to have a case. In order to protect the rights of children in conflict with the law, there are special procedures that must be followed from the time of arrest.
• Under the law, cases involving children breaking the law are handled by the Family and Children’s Court.
• However, where the child is charged with an offence that carries a death sentence, the case has to be handled by the High Court.
• Secondly, where a child is charged together with an adult, the case is handled by the court having powers to try the adult.

It’s only in serious offences that children in conflict with the law are taken to courts

Arrest of a child
When a child is arrested for breaking the law, the following should be done:-
• The child’s parents or guardians must be informed.
• The LC Secretary for Children Affairs who under the law is the Vice Chairperson of the LC, must be informed.
• A child once arrested has a right to make a statement about what happened.
• The child’s parents or guardians should be present at the police station or post when the child is being interviewed.
• In the absence of both the parents and the LC Secretary for Children Affairs, the Probation and Social Welfare Officer must be informed and be present during the interview of the child.
• The police settle the case without sending it to court.
• In case the police do not settle the case, the child may be released on police bond free of charge.
• If the child is not given bond, he or she is kept in police cells and then taken to court within twenty-four hours.
• Child offenders must not be accommodated in the same detention room with adult offenders.
• A female child offender must be kept separately from males and must be under the care and supervision of a female officer.

Charging a child
• This refers to taking a child to court, reading the case to the child asking him or her whether he or she accepts having committed the offence.
• In case the child denies the offence, the child is put on trial.
• If the child accepts having committed the offence, the child will be given an order by the court.
• The law prohibits charging children below twelve years of age because it considers them too young to have the mental capacity to commit a crime.
Rights of an accused child
An accused child is one who has been charged. The accused child has rights to:

i. be informed of the offence committed.

ii. be present at the time of his or her trial.

iii. a speedy trial.

iv. be represented by an advocate. If the child or its parents can not afford the services of a lawyer, there are organizations that offer free legal services. These include the Legal Aid Clinic of the Law Development Centre, FIDA, the Legal Aid Project of the Uganda Law Society and Public Defender. According to the Childrens Act, the Local Government must provide the legal services to the child

v. ask questions to witnesses testifying against him or her.

vi. have parents or guardians present at the trial.

vii. be treated in a humane way.

viii. be released on bail by court.

The right to bail
An accused child has a right to bail. This means that the accused child is allowed by court to go home and return to court on the stated date and time.

- Bail for children is free of charge.
- The child should obey the conditions of the bail.
- The court may require sureties (preferably the child’s parents or guardians) with valid identification and a letter of introduction from LCs.
- In the absence of sureties, the child may also be released on bail on its personal undertaking to obey the bail conditions.
- It is not only the parents or guardians or lawyer of a child who can ask for bail for the child. The accused child can personally request court for bail.

Remand homes
- A remand home is a government institution where children whose cases are being investigated or who are under trial are kept before conclusion of investigations or the trial. Children should not be remanded with adults.
- Children who are denied bail are remanded in such institutions. An example is Naguru Remand Home in Kampala, Mbale Remand Home, FortPortal Remand Home Gulu Remand Home.
- Remand homes also provide shelter and care for children in need of care and protection.
- They also provide shelter for homeless children referred to as lodgers.
Rights of a child on remand

Children on remand are entitled to enjoy their basic rights both as children and human beings except those that can not be enjoyed by virtue of their being on remand. These include:

i. female children should be separated from male children.
ii. a female child offender must be under the care and supervision of a female officer.
iii. a child on trial for a capital offence should not be on remand for more than six months.
iv. a child on trial for a non capital offence should not be on remand for more than three months.
v. if the case is not concluded within the stated time, the court should release the child.

National Rehabilitation Centre

when a case is proved against a child in a criminal offence and sentenced to imprisonment, he or she is taken to the National Rehabilitation Center. This however, can only be done after a probation and social Welfare officer has written a social background report about the child.

- The National Rehabilitation Centre is charged with the responsibility of rehabilitating the convicted children into useful citizens.
- Presently, the only National Rehabilitation Centre is found in Kampiringisa, along Kampala-Masaka road.
- While in detention at the Centre, children underwent training in vocational skills.
- Children in the centre have a right to be visited by their parents and relatives.
- A child under six years should not be detained for more than three months while a child above sixteen years should not be detained for more than twelve months.

However, in case a child was convicted of committing an offence punishable by death, the child is detained for not more than three years.
CHAPTER SIXTEEN

DIRECTORATE OF IMMIGRATION

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Directorate of Citizenship and Immigration Control
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Introduction
This directorate is responsible for facilitating legal orderly movement in and out of Uganda by both nationals and foreigners. The directorate is under the Ministry of Internal Affairs.

The National Citizenship and Immigration Board
The National Citizenship and Immigration Board is the policy-making organ of the Immigration Directorate.

The functions of the Board are clearly spelt out both in the Constitution and in the law governing Citizenship and Immigration. These are:

i. registering and issuing national identity cards to citizens of Uganda.

ii. issuing passports and other travel documents.

iii. granting and cancelling citizenship by registration and naturalization.

iv. granting and canceling immigration permits.

v. registering and issuing identity cards to foreigners.

vi. determining any questions which may arise in the implementation of the law governing Citizenship and Immigration and such other questions that may be referred to the Board by the Minister of Internal Affairs.

It should be noted that the Directorate of Citizenship and Immigration Control carries out the functions of the Board on its behalf.

Appeals to the Minister against the decisions of the Board
• Under the law, any person dissatisfied with a decision of the Board may appeal to the Minister of Internal Affairs.
• This has to be done within 30 days after the decision is communicated to the person. The Minister may, however extend this period.
• The Minister has powers to confirm or reverse the decision of the board or refer the matter to the board for reconsideration.
• If one is still dissatisfied, he or she may, within 30 days after the Minister’s decision is communicated to him or her, appeal to the High Court. The decision of the High Court shall be final.

Citizenship
• The Constitution of Uganda and the Citizenship and Immigration Control Act provide for who may or may not be citizens of Uganda.
• Ugandan citizenship is acquired by:
  i. Birth
  ii. Registration
  iii. Naturalization.
• The status of being a citizen by birth can not be taken away except by renunciation of the citizenship. However, citizenship by registration and naturalization may be taken away from a person.
• A citizen by birth cannot be forced out of Uganda or be deported to a foreign country under any law.

Citizenship by Birth
According to the law the persons below are citizens by birth:
  i. every person born in Uganda one of whose parents or grandparents is or was a member of any of the indigenous communities existing and residing within the borders of Uganda as at the first day of February 1926.
  ii. every person born in or outside Uganda one of whose parents or grandparents was at the time of birth of that person a citizen of Uganda by birth.
  iii. a child of not more than five years of age found in Uganda whose parents are not known is presumed to be a citizen of Uganda by birth.
Citizenship by Registration

The following categories of persons can apply to be registered as Ugandan Citizens:

i. Every person born in Uganda, at the of whose birth neither his or her parents and none of his or grandparents had diplomatic status or were refugees in Uganda and has continuously lived in Uganda since 1962.

ii. a person married to a Ugandan citizen, upon proof of a legal and subsisting marriage of five years or more.

iii. One who has legally and voluntarily migrated to and has been living in Uganda for at least ten years.

iv. a person who, on the commencement of the Constitution had lived in Uganda for at least twenty years.

Citizenship by Naturalization

The law allows people who have lived in Uganda for a period of not less than twenty years to apply to be registered as citizens by naturalization. Such persons must meet the following qualifications:

i. has resided in Uganda for an aggregate period of twenty years.

ii. has resided in Uganda throughout the period of twenty–four months immediately preceding the date of application.

ii. has adequate knowledge of a prescribed vernacular language or of the English language.

iv. is of a good character.

v. intends to continue to reside permanently in Uganda.

Dual Citizenship

- This is where a person is a citizen of two countries.
- The constitution of Uganda allows a citizen of Uganda of 18 years and above, who voluntarily acquires the citizenship of another country to retain the citizenship of Uganda.
- The Law further allows a non citizen who acquires Ugandan citizenship to retain the citizenship of another country.

Deportation

- The Minister of Internal Affairs may in writing signed by him or her, order any prohibited immigrant to be deported out of Uganda, either indefinitely or for such period as may be prescribed.
• Prohibited immigrants are barred from entering Uganda and their presence is unlawful and these include: a destitute, a person suffering from mental disorder or a mental defective, any prostitute or any person who is living, or who, prior to entering Uganda, was living on the earnings of prostitution.
• The Minister may also order the deportation of a person whose presence in Uganda is unlawful.
• A person aggrieved by a deportation order made by the Minister may appeal to the High Court within 15 days after the date of the order.
• If aggrieved by the decision of the High Court a person may appeal against it to the Court of appeal.
• A person against whom a deportation order has been made shall be deported to the place he or she came from, or with the approval of the Minister to some place in the country he or she belongs or to any place he or she consents to be deported.

Procedures of applying for a passport
• A passport is an official document that is given to citizens of a country for purposes of enabling them to travel to and from their country.
• Citizens of Uganda have a constitutional right to apply for and be issued with a Ugandan passport.
• The acquisition of a Ugandan passport by a Uganda citizen on application is a constitutional right and not a privilege from the State.

The procedures for obtaining a passport depend on whether one is applying for the first time, applying for renewal of an expired passport or is applying for replacement of a lost passport.

Procedure for fresh applicants
• The applicant has to fill two forms namely:
  i. Application for a Uganda Travel Document (Form A)
  ii. Citizenship Verification form (Form B).
  The applicant must personally sign or put a thumb print on it.
• The applicant must be recommended by a person of good standing in society who knows the applicant. Form B has a section which must be completed by the recommender.
• The forms must be stamped or endorsed by the LC1, LC11, LC111 chairpersons and the Resident District Commissioner
• The applicant is required to submit four passport photographs of a specified size. The recommender must also sign on the photographs of the applicant. 
• A covering letter explaining why the applicant requires a passport.
• If the passport is needed urgently, this must be stated in the covering letter. Proof of the urgency must be given. This fact should in addition be drawn to the attention of the Front Office staff at the time of submitting the application.
• The forms are submitted in person to the Front Office at the headquarters of the Immigration directorate at Jinja Road, Kampala.
• In case one is upcountry, the forms should be submitted to the nearest Regional Immigration Office. Regional offices are found in Mbale, Arua, Mbarara, Jinja, Hoima, Masindi and Gulu.
• Upon submitting your application, you are given forms for making payments in the bank.
• After making payments, the applicant is required to appear for an interview and is then advised to pick the passport after ten working days with a copy of the bank payment slip and his identity card.

Procedure for renewal of passports

• A passport has an expiry date. The pages in a passport may also be used up as a result of frequent travel even when the passport has not yet expired.
• This is because every time one travels using a passport, the immigration officers in his or her country will put a stamp allowing the person to depart the country.
• The Immigration officers of the country where a person is going, will also put a stamp to allow him or her to enter their country.
• Where a passport has expired or the pages are filled up, the passport holder has a right to renew or get a replacement. Such applicants should:
  i. fill Form A and B.
  ii. submit two recent passport size photographs.
  iii. a covering letter explaining whether the application is for renewal or replacement.
Procedure for replacement of lost passports

- Passports must be kept safely. However, if a passport gets lost or destroyed, for example by fire, the holder is entitled to apply for a replacement. The applicant should do the following:
  i. fill in Form A.
  ii. fill a questionnaire obtained from the Passport office.
  iii. make an oath to confirm the loss or destruction.
  iv. attach two recent passport size photographs.
  v. a Police Report of the loss or destruction.
  vi. a covering letter, explaining how the passport got lost.
  vii. pay a fine of Uganda shillings one hundred thousand at the time of submitting the application for replacement of the passport.

- When the passport has been approved, you are given forms for making payment in the bank.
- Uganda shillings eighty thousand is paid for the replacement of the lost passport. This is in addition to the fine.
- upon payment the bank gives the applicant one copy of the payment forms.
- after nine working days, the applicant should present the copy of the bank payment form to the Passport Front Office for his or her passport.
CHAPTER SEVENTEEN

LA W DEVELOPMENT CENTRE

Contact address:
Off Makerere Hill Road
P.O Box 7117, Kampala
Tel: 041-532884,041-530246
Fax: 041 532866
Email: ldc@starcom.co.ug

Introduction
The Law Development Centre (LDC) is an educational institution that offers Post Graduate Diploma in Legal Practice, Diploma in Law course and other short Law courses. The centre also performs non-teaching functions namely research, law reporting, law reform, publication and community legal services.

The LDC has a policy making body called the Management Committee appointed by the Attorney General. It is responsible for policy formulation and management of the centre. The Management Committee is chaired by a Justice of the Supreme Court. The policies are implemented by the Centre administration which is headed by the Director.

The law governing the Centre mandates it to carry out a number of functions including the following:

i. legal training to lawyers and non lawyers.
ii. research into topical legal issues and recommend proposals for law reform.
iii. provide law reports and legal publications.
iv. provide community legal services

Organisational Structure
The Director is the administrative head of the Law Development Centre. The Director is assisted by a Deputy Director. The LDC is composed of a number of departments which are charged with different responsibilities. These are the department of Administration, Postgraduate Legal Studies, department of Law, department of Research, Law Reform and Publications, department of Continuing Legal Education and legal Aid and the Library Department. The Centre also runs a Legal Aid Clinic for provision of free legal services to members of the public.
Department of Administration
- The department of administration is headed by the Secretary and is responsible for the general administration of the Centre.
- The department is responsible for the recruitment, appointment, promotion, discipline and welfare of staff and students.
- The Secretary also acts as the Registrar.

Department of Post-Graduate Studies
- This is a teaching department.
- It conducts a one year Bar programme (course) leading to the award of a post-graduate diploma in Legal Practice.
- Completion of the Bar programme is a prerequisite for practising law in Uganda.
- To qualify for admission to the Bar programme, an applicant must possess a degree in law of a university from a country that applies the common law legal system. In addition the applicant must pass a pre-entry law examination set by the Centre. Most former British colonies apply the common law legal system for instance, Uganda, Kenya, Tanzania, United Kingdom and India.
- The university must have been approved by the Law Council.

Department of Law
- This department trains paralegals who desire to know basic principles of the law.
- The department runs two programmes leading to the award of a Diploma in Law.
- The department has both day and evening classes.
- Participants are drawn from institutions such as the police, prisons, local government and the Army.
- The programme is also open to holders of Uganda Advanced Certificate of Education.
- The programme is for a duration of one year.

Department of Continuing Legal Education and Legal Aid
- The department is charged with the duty of providing legal education in form of long and short courses to para-legals and the general public.
It also coordinates legal aid to indigent persons which are provided by the Legal Aid Clinic.
The short courses for the public officers and other persons are organized with a view of introducing the course participants to the administration of justice and law enforcement in the country.
The courses also aim at promoting better understanding of the law and improving on the efficiency of the participants in the performance of their law related duties.
Short courses target the following:
   i. Administrative Officers
   ii. State Prosecutors
   iii. Court Brokers, bailiffs and Auctioneers
   iv. Law Clerks and Court Clerks
   v. Company Directors and Company Secretaries

The department also organizes in-service training and refresher courses for LDC members of staff.

Department of Law Reporting
- This department is charged with the following duties:
  i. compiling, editing and publishing law reports of Uganda
  ii. publishing bulletins and digests.
- The department compiles and edits the High Court Bulletin (HCB) which contains digests of judgments from the superior courts of record that is the High Court, Court of Appeal and Supreme Court.
- Digests of decided cases are referred to by advocates and judicial officers when deciding cases with similar facts.

Department of Research, Law Reform and Publications
- The department is responsible for the following:
  i. Assisting any commissioner appointed in the preparation and publication of a revised edition of laws of Uganda.
  ii. Assisting the Law Reform Commission in the performance of its functions.
  iv. Undertaking research into any branch of law.
  v. Collecting, compiling, analyzing and abstracting statistical information on legal and related matters.
vi. Publishing periodicals, bulletins or other written materials on legal and related matters, for example the Handbook for Magistrates.

**Library Department**

- The LDC has one of the best stocked law libraries in Uganda.
- The stock includes law reports, bulletins, text books, periodicals, research papers and statute books for both local and foreign legislation.
- The library is open to LDC students, staff, judicial officers, lawyers and the members of the public.
- All other users who are not LDC students or staff are required to pay a user fee.
CHAPTER EIGHTEEN

OTHER INSTITUTIONS INVOLVED IN LAW AND ADMINISTRATION OF JUSTICE

Introduction
There are other institutions involved in law and the administration of justice. These include the Centre for Arbitration and Dispute Resolution, Uganda Human Rights Commission and the Inspectorate of Government. There are also institutions that provide free legal services such as the Federation of Women lawyers (FIDA) that provides legal aid especially to women and children. These too play a very important role in ensuring access to justice especially for the poor and marginalized people in society.

CENTRE FOR ARBITRATION AND DISPUTE RESOLUTION (CADER)

Contact Address
Centre for Arbitration and Dispute Resolution (CADER)
3rd Floor
Commercial Court Building, Nakasero,
P.O. Box 25585, Kampala
Tel. 041-349515, 254460
E-mail: cader@spacenetuganda.com

The Centre for Arbitration and Dispute Resolution (CADER) was established under the Arbitration and Conciliation Act. It is a corporate body capable of suing and being sued. It was established with a view to promoting the use of alternative methods of resolving disputes through the use of methods such as arbitration, mediation and conciliation.

The Arbitration and Conciliation Act provides for the functions of CADER as being to:

i. perform the functions specified in UNCITRAL Arbitration Rules of 1976.

ii. make appropriate rules, administrative procedure and forms for effective performance of the arbitration, conciliation or alterative dispute resolution process.
iii. establish and enforce a code of ethics for arbitrators, conciliators, neutrals and experts.

iv. qualify and accredit arbitrators, conciliators and experts.

v. provide administrative services and other technical services in aid of arbitration, conciliation and alternative dispute resolution.

vi. appropriate qualifications for institutions, bodies and person eligible for appointment.

vii. establish a comprehensive roster of competent and qualified arbitrators, conciliators and experts.

viii. facilitate certification, registration and authentication of arbitration awards and conciliation settlements.

ix. establish and administer a schedule of fees for arbitrators; to avail skills, training and promote the use of alternative dispute resolution methods for stakeholders.

**CADER’s role in resolution of disputes**

The services of CADER are open to the public. Consequently, individuals, companies or any organization may refer any civil dispute to CADER resolution.

- Once the dispute is filed with the CADER registry, CADER decides the appropriate ADR method to use in resolving the dispute. This may be mediation or arbitration.
- The opposite party is notified of the complaint in writing.
- If the case of arbitration, it will appoint an arbitrator while for mediation it will appoint a mediator.
- To assist it arrive at a settlement, CADER may ask the parties, on the day the dispute is to be heard, to come with the necessary documents in their possession and their witnesses or any other form of evidence to support their case.

**Compulsory mediation of Commercial disputes**

In order to facilitate the expeditious resolution of commercial disputes, a law was passed that made it mandatory for the Commercial Division of the High Court to refer cases to CADER for mediation.

The case is first filed in the Commercial Division of the High Court which then refers the matter to CADER.

- Parties filing cases in the Commercial court are required to indicate whether they consent or oppose referring the matter to mediation.
Where all parties do consent to mediation, the case is referred to CADER for mediation.

This is done by the Registrar of the Commercial Court after he or she is satisfied that the case is a suitable one to be referred to mediation.

Mediation proceedings must be completed within thirty (30) days from the date of the order directing mediation.

However, if one gives a good reason, the Registrar of the Commercial Court may increase the number of days.

Where all the parties agree to mediation, CADER provides the parties with the names of all their qualified mediators for them to choose.

Should the parties fail to agree on a mediator within ten (10) days, CADER chooses a mediator for them.

Mediators are drawn from CADER’s lists of mediators which includes retired judges, senior and junior advocates, distinguished businessmen and seasoned politicians.

By accepting appointment to the list of arbitrators, each arbitrator undertakes to adhere to CADER’s Code of Conduct for arbitrators.

Thereafter the mediator makes the necessary arrangements for the mediation such as organizing the venue and dates for the mediation sessions.

They may also organize exchange of facts of the case and the issues identified.

Each party in the mediation agreement is supposed to state the name of the person or persons that will be the lead negotiator(s).

The agreement should also provide the names of any other persons, such as professional advisers or lawyers, that will participate in the negotiations.

Where an agreement is reached solving the issues raised, the agreement is recorded and sent to the Commercial Court where it is registered as a consent judgment.

A consent judgment is as valid as any judgment made by a judicial officer and may be enforced by attachment.

In the event of failure to reach an agreement, the mediator refers the matter back to court for hearing by a judge.

In a situation where the mediation fails, the record of mediation proceedings is not relied upon during the hearing before a judge.
This is so to ensure that parties do not fear to disclose anything during the mediation for fear that it may be used against them should the mediation process fail and the parties are referred back to court for a trial.

UGANDA HUMAN RIGHTS COMMISSION

Contact Address
Head Office
Regional Offices
Uganda Human Rights Commission Arua Central
Fort portal Gulu
Jinja Mbarara
Moroto Soroti
Plot 20/22/24
Buganda Road, Kampala,
P. O. Box 4929, Kampala.
Tel.: 0414 348 006/7
Fax: 256 041 255261
Email: uhrc@uhrc.ug
Website: www.uhrc.ug

Establishment
The commission has its headquarters in Kampala and regional offices are currently located in Arua, Central Kampala (Kibuye), Fort portal, Gulu, Jinja, Mbarara, Moroto and Soroti.

Functions of the commission
The commission has the following functions

- Investigating at its own initiative or on a complaint made by any person or group of persons against the violation of any human right;
• Through tribunal hearings, determining complaints of violations of human rights. The Tribunal decisions have the force of decisions of courts of Law.
• Visiting jails, prisons and places of detention or related facilities with a view to assess and inspect conditions of the inmates and make recommendations;
• Establish a continuing programme of research, education, and information to enhance respect of human rights;
• Recommend to parliament effective measures to promote human rights, including provisions of compensation to victims of violation human rights or their families;
• Create and sustain within society the awareness of the provisions of the constitution as the fundamental law of people of Uganda;

Procedure of instituting complaints at the UHRC
Anyone claiming a violation of a fundamental right may bring a complaint before the commission for redress. It need not be the victim; it could be anyone concerned about the violation, an organisation, institution, a relative a friend or anyone authorised by the victim.

UHRC Admissibility Criteria

- The commission cannot receive and handle complaints against human rights violations that occurred before October 8, 1995 when the commission came into force.
- A complaint shall not be brought before the commission after the expiration of five years from the date on which the alleged violation of a human right to which the complainant relates occurred.

There are, hoever, exceptions to this rule, that is to say, where a person has been incapacitated from bringing the complainant within five years by reason of:
- age,
- infirmity of body or mind,
- detention or
- other just causes whether similar to the foregoing or not.
Even where the exception applies, the complaint must be brought within five years after the incapacity ceases or after the person entitled to bring the complaint dies.

- The Commission shall not investigate any matter which is pending before a Court or judicial tribunal or any matter already adjudicated upon by a court of law or judicial tribunal.
- The Commission cannot handle complaints involving the Government of Uganda and any other foreign government or an international organisation.
- The Commission cannot handle matters relating to the exercise of the prerogative of mercy.

The prerogative of mercy is solely at the discretion of the president of Uganda who may act on the advice of the Advisory committee on the prerogative of mercy. This prerogative is exercised with regard to persons who have been convicted and sentenced for an offence or crime committed. This prerogative may take the form of a pardon, a respite, substitution for a less severe punishment or remission of the whole or part of the punishment.

**Modes of reception**

Complaints to the Commission can be made at any of the Commission’s regional offices. Complaints may be received in person (walk-in), by letter, by email, fax or telephone call.

The following procedure is followed upon receipt of a complaint:

- The Complaint is registered by the Commission after it has been ascertained that it contains elements that constitute a human rights violation.
- In the event that the complaint does not fall within the jurisdiction of the Commission, the complainant is advised accordingly and referred to an appropriate institution.
- The commission uses a complaint form to capture all relevant information on the complaint, which information is read to the complainant who is thereafter required to sign the form.
- The complainant is issued with a complaint number and a card for ease of identification and tracing of the file.
• A complaint file is thereafter opened and assigned to an officer of the Commission for handling
• As part of the investigation process, the person or institution complained against (respondent) is notified of the complaint and required to respond to the allegations within 21 days of receipt of the notification.
• The investigation process also involves recording statements from witnesses in order to have substantial evidence to support the complaint. When investigations are complete, recommendations are made on whether the complaint should be forwarded to the Commission’s Tribunal or closed due to lack of sufficient evidence.
• The tribunal observes the principles of natural justice such as hearing both parties, impartiality and the right to legal representation.

Appeals

External

Any person dissatisfied with the decision of the Tribunal has a right to appeal to the High Court.

Internal

An appeal against the decision of the Director Complaints, Investigations and Legal Services lies with the Chairperson whereas an appeal against the decision of a Regional Human Rights Officer lies with the Director Complaints, Investigations and Legal Services.

Powers of the Commission

The Commission has powers of a court to;

• Order the attendance of any person and the production of any document or record relevant to any investigation.
• Question any person and require any person to disclose any information within his or her knowledge relevant to any investigation.
• Commit person for contempt of its orders.
Remedies that can be granted by the Commission
The commission if satisfied that there has been an infringement of a human right or freedom may order;

- The release of a detained or restricted person
- Payment of compensation to the victim or relatives of the victim of a human rights violation.

INSPECTORATE OF GOVERNMENT

Contact Address
Inspectorate of Government
JIC building, Kampala (former IPS building),
Parliament Avenue, Kampala.

Introduction
The Inspectorate of Government was set up by the Constitution of Uganda 1995. Its main duties include fostering the elimination of abuse of office and corruption in public offices. The inspectorate investigates reports or complaints of corruption and abuse of office among public officers. The IGG has branch offices in Arua, Mbale, Jinja, Gulu, Soroti, Masaka and Mbarara.

Functions of the Inspectorate of Government
- The Inspectorate is generally charged with the duty of taking all lawful measures to fight and eliminate corruption in Uganda.
- The office also handles the criminal prosecution of persons suspected of committing acts of corruption, abuse of office or of authority.
- The inspectorate is also charged with the duty to ensure that people holding government offices do comply with the Leadership Code Act. The Leadership Code Act is aimed at ensuring that leader in government offices do certain things that help to minimize corruption. An example is the requirement for such leaders to declare their wealth.
LEGAL AID SERVICE PROVIDERS

Introduction
These are organizations that provide free legal services to members of the public who can not afford to pay for services of private lawyers. These bodies also pay court fees for their clients. There are a number of these organizations in Uganda.

Legal Aid Project of the Uganda Law Society

Contact Address
Legal Aid Project of the Uganda Law Society
P.O Box 426
Plot 5A Acacia Avenue,
Kampala -Uganda
Tel: 041-342412
Fax 041-342431
Email: ULS@ULS.ORG.UG

The Legal Aid Project (LAP) was established by the Uganda Law Society in 1992, with assistance from the Norwegian Bar Association to provide legal assistance to very poor (indigent) and vulnerable people in Uganda. To-date the project has helped and continues to help thousands of indigent men, women and children. LAP has branches in Kabalore, Kabale, Masindi, Jinja, Gulu and Luzira, with its head office in Kampala.

The project was established on realizing that there was limited legal aid provision in Uganda despite the fact that a large part of Uganda’s population lives below the poverty line and without means to access justice.

The objectives of LAP are to:
- provide high quality legal aid services to indigent men, women and children.
- promote the respect of rights and the rule of Law in Uganda.
- lobby and advocate for legislation and policies to act in favor of the poor at national, district and lower level.
- develop and strengthen management systems as well general organizational development of LAP.
• strengthen the governance of LAP in order to ensure good strategic leadership and direction by the board of trustees of the Legal Aid Project.
• build mechanisms and aggressively mobilize resources to ensure financial sustainability of legal aid services in Uganda.

LAP offers the following services:
• Provision of legal information and advice
• Court representation
• Conducting of legal and human rights awareness programs
• Alternatives Dispute Resolution services for instance mediation, negotiation
• Lobbying and advocacy for pro poor laws.
• Training paralegals in areas where there is limited supply of advocates.

LEGAL AID SERVICE PROVIDERS

Introduction
These are organizations that provide free legal services to members of the public who can not afford to pay for services of private lawyers. These bodies also pay court fees for their clients. There are a number of these organizations in Uganda.

JUSTICE CENTRES UGANDA
Justice Centres Uganda
National Coordination Office
Chambers F6 and F8 High Building
P. O. Box 26365, Kampala.
Phone: 075 950 0440/1
Toll Free Phone 080 010 0210
email: info@justicecentres.go.ug
Website: www.justicecentres.go.ug
The government of Uganda through the Justice Law and Order Sector (JLOS), together with the Legal Aid Basket Fund (LABF) composed of five donor countries including Austria, Ireland, Denmark, the Netherlands, and Sweden set up this programme to enable vulnerable societies to access quality legal services and realize their rights. The programme is housed and supervised by the judiciary with the Registrar High Court as the Chairperson of the Steering Committee for the programme.

The program covers the districts of;

Lira, Amolatar, Pader, Apac, Kitgum, Oyam, Dokolo, Kaberamaido, and Kotido districts, Tororo, Bukwa, Bududa, Manafwa, Busia, Pallisa, Butaleja, Namutumba, Bugiri, and Iganga.

Justice Centres are a one-stop-shop legal aid service delivery model that seeks to bridge the gap between the supply and demand sides of justice by promoting legal aid services across civil and criminal areas of justice to indigent, marginalized and vulnerable persons, while at the same time empowering individuals and communities to claim their rights and demand for policy and social change.

Justice Centres represent the beginning of fundamental efforts to restructure the provision of legal aid in Uganda and the singular objective of making legal aid easily available and accessible at the right time to the most deserving population and at the right place.

**OBJECTIVES OF THE JUSTICE CENTRES:**

- To enhance awareness of human rights and empower communities to claim their rights.
- To enable vulnerable individuals and communities to effectively resolve disputes using both litigation and Alternative Dispute Resolution (ADR).
- To pilot Justice Centres as a suitable model for delivery of legal aid services in Uganda.
SERVICES OFFERED:
1. Legal Advice
2. Legal Representation
3. Alternative Dispute Resolution (ADR)
4. Counselling
5. Legal Awareness Sessions
6. Referrals
7. Toll free phone line

WHO QUALIFIES FOR SERVICES?
For you to qualify for Justice Centres services, you must be one of the most indigent persons in Uganda and either reside or have the cause of action arising from one of the listed district

LEGAL AID CLINIC OF LAW DEVELOPMENT CENTRE

Contact Address
Legal Aid Clinic
Law Development Centre
Off Makerere Hill Road
P.O Box 7117
Kampala-Uganda
Tel: 041-540127/8/9

Legal Aid Clinic (LAC) is a public defender project of the Law Development Centre started in 1998 with assistance from Ford Foundation and USAID. Its main aim is to improve the level of education of law faculty graduates of recognized universities by integrating clinical Legal education into LDC curriculum. The project also plays the public defender role by offering free legal assistance to indigent petty criminals, juvenile offenders and children in need of care and protection.

Project activities of LAC are:
- Education: Students participate in mock trails, negation sessions and Conceptual problem solving in order to learn how to solve problems, advocate, negotiate and draft pleadings while dealing with clients and other cases in real world.
• Legal assistance: LAC provides free legal advice, counselling and court representation.
• Advocacy: LAC helps in implementing the Children Act
• Networking: work with courts, probation officers and relevant social services agencies
• Research and production of Information, Education and Communication materials
• LAC conducts workshops, meetings and conferences for various stakeholders.

LEGAL AID PROJECT OF FIDA

Contact Address
FIDA-U
Bukoto Street, Kamwokya
P.O Box 2157, Kampala
Tel/Fax: 256-041-530848
Email: fi daug@africaonline.co.ug.

Introduction
The Uganda Association of Women Lawyers, FIDA–U is voluntary nongovernmental, non-discriminatory and non profit making women’s human rights membership organisation. It was founded basically to assist women and children, especially widows and orphans to attain effective protection under the law. It was established in 1974 to meet professional and intellectual growth needs and development of female lawyers in Uganda and their social interaction.

It provides free legal aid services especially to women and children. FIDA-U has branches in Mbarara, Mbale, and Arua with its head offices in Kampala.

Objectives
i. To increase access to justice and legal protection of the poor and vulnerable groups particularly women and men.
ii. To disseminate the law and order to sensitize and educate communities.
iii. To provide a platform for the social and professional development of women lawyers in Uganda.

iv. To improve the legal status and promote the empowerment of women through advocacy for gender responsive legislation and administrative practices.

- FIDA-U offers free legal aid services to indigent persons and in particular women and children under the conflict and Dispute Resolution department.
- The legal officers offer counseling services, advice, arbitration and mediation and where necessary court representation.
- Issues dealt with range from property rights, inheritance, affiliation and marital disputes to business and land matters.
- The clinics are run like a law firm except that their services are free.
- However a client may contribute a nominal fee of 0.5 of a dollar to assist in general running of the clinic.
- Most of the cases are resolved by utilization of Alternative Dispute Resolution (ADR) methods.
- Cases that cannot be resolved using ADR methods are taken for litigation.

**Refugee Law Project of the Faculty of Law, Makerere University**

**Contact address**
Refugee Law Project
Plot 10 Perryman Gardens
Old Kampala
P.O. Box 33903, Kampala
Tel 041 343556
E-mail: RLP@Infocom.co.ug
Website: www.REFUGEELAWPROJECT.ORG

- The Refugee Law Project (RLP) was established in November 1999 with a view of protecting and promoting refugee rights in Uganda.
- The project operates as an autonomous project within the Faculty of Law at Makerere University.
- The project runs a legal aid and counselling department which offers free information and advice to asylum seekers and refugees who seek help from its offices.
Public Defender Organisation

Contact Address
Public Defender Organisation
Plot 89, Bukoto Street, Kamwokya
P.O. Box 27352, Kampala.

The Public Defender Organisation of Uganda is a non-governmental organization that was established in 1997. The organization provides legal aid to the poor who are charged with criminal offences in courts of law. The Organisation has a head office in Kampala and a branch office in Jinja.
JUSTICE, LAW AND ORDER SECTOR

- Judicial Service Commission
- Ministry of Justice and Constitutional Affairs
- Uganda Police Force
- Judiciary
- Uganda Law Reform Commission
- Ministry of Gender, Labour and Social Development
- Ministry of Local Government (Local Council courts)
- Directorate of Public Prosecutions
- Uganda Prisons Service
- Ministry of Internal Affairs
- Uganda Human Rights Commission

ASSOCIATE JLOS Institutions
- Law Development Centre
- Tax Appeals Tribunal
- Uganda Law Society
- Centre for Arbitration & Dispute Resolution

A Publication of:
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