



LASPNET
LEGAL AID SERVICE PROVIDERS' NETWORK

THE LEGAL INFORMATION

TOOLKIT

FOR LEGAL AID SERVICE PROVIDERS



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ACRONYMS

ACTV	African Centre for Treatment and Rehabilitation of Torture Victims
ADR	Alternative Dispute Resolution
CAO	Chief Administrative Officer
CIID	Criminal Investigation Department
DPC	District Police Commander
DPP	Director of Public Prosecution
EOC	Equal Opportunities Commission
FHRI	Foundation for Human Rights Initiative
FIDA Uganda	Uganda Association of Women Lawyers
HRCU	Human Rights Centre Uganda
IECs	Information, Education and communication Materials
IGG	Inspectorate General of Government
IGP	Inspector General of Police
JCU	Justice Centers Uganda
JLOS	Justice Law and Order Sector
LAPD	legal Aid Action for People with Disabilities
LASPNET	Legal Aid service provider's Network
LASPS	Legal Aid Service Providers
LDC	The Law Development Centre
MCJL	Moslem Center for Justice and Law
PLA	Platform for Labour Action
PSU	Professional Standards Unit
RPC	Regional Police Commander
RSA	Resident State Attorney
ULA	Uganda Land Alliance
ULS	Uganda Law Society
RTA	Registration of Titles Act
URA	Uganda Revenue Authority

TABLE OF CONTENTS

ACRONYMS.....	ii
FOREWORD.....	viii
ACKNOWLEDGEMENTS.....	ix
INTRODUCTION.....	vii
CHAPTER ONE	1
CRIMINAL LAW AND PROCEDURES IN UGANDA	
1.1. Definitions for commonly used terms	2
1.2. Who are the different people involved in criminal procedure in the courts of law?	3
1.3. Actors of the Criminal Justice system	3
1.4 Rights of an accused person?	8
1.5. Presumption of innocence	9
1.6. How to bring a criminal case to court	10
1.7. How a criminal case moves through the court	10
1.8. The Court can give several sentences such as:	11
1.9. Appeals and how they are done	11
1.10. Bail	11
1.11. Who is a surety?	14
1.12. The Process flow of a Criminal Case	15
1.13 PLEA BARGAINING	16
CHAPTER TWO	19
THE UGANDAN CHILD: THE LAW AND RIGHTS	
2.0. Introduction	20
2.1. Who is a child?	20
2.2. What is the meaning of children's rights?	20
2.3. The Welfare Principle	20
2.4. The rights of children	21
2.5. Adoption	22
2.6. Legal guardianship	22
2.7. Children in conflict with the law	23
2.8. Which courts should handle children's cases	24
2.9. Diversion of children cases	25
CHAPTER THREE	29
THE SUCCESSION LAW IN UGANDA: WHY YOU SHOULD WRITE A WILL!	
3.0. INTRODUCTION	30
3.1. Testate succession	30
3.2. What is A Will?	30
3.3. Capacity to Make a Will (who can make a will)	30
3.4. What is the Importance of Writing a Will?	30
3.5. Types of Wills	31
3.6. Essential Contents of a Will	31
3.7. The Matrimonial Home	31
3.8. Format of A Will	32
3.10. How to Make Changes to A Will	32
3.11. When is it Necessary to Make Changes to A Will?	32

3.12. How to Cancel a Will	32	5.9. Responsibilities of a Worker	62
3.13. Where to keep a Will	32	5.10. Employers' Rights	63
3.14. When is a will rendered invalid	32	5.11. Employer's Responsibilities	63
3.15. Who to Provide for in a Will?	33	5.12. How does a contract of employment come to an end?	64
3.16. What makes a will Invalid?	33	5.13. Procedure for a fair hearing	65
3.17. Probating A Will	33	5.14. What is a Labour Dispute?	66
3.18. What happens after the death of the testator?	34	5.15. Understanding structures and key terminologies under labour law	67
3.19. Under what grounds would court deny the applicant grant of probate?	34	5.16. Child labour: What Is Child Labour?	69
3.20. What happens if the executor cannot carry out the wishes of the Testator?	34	5.17. TRAFFICKING IN PERSONS	70
3.21. How is A Will Executed?	34		
3.22. What happens if the Executor mismanages the deceased's estate?	35	CHAPTER SIX	75
3.23. Where to apply for a Grant of Probate	35	LAND LAW AND TENURE SYSTEMS IN UGANDA	
3.24. Intestate succession	35		
3.25. Who is entitled to the property of an intestate?	35	6.0. Introduction	76
3.26. What are Letters of Administration?	36	6.1. What Are the Different Land Tenure Systems in Uganda?	76
3.27. How are Letters of Administration obtained?	36	6.2. How to carry out a physical search on a land title	79
3.28. Under what grounds can letters of administration be canceled?	36	6.3. Caveat: What is a caveat?	80
3.29. The Administrator General	37	6.4. How can land registered under the Registration of Titles Act be transferred from one person to another?	81
3.30. What is the role of the Administrator General?	37	6.5. The institutions of land management in Uganda	84
3.31. Under what circumstances can the Administrator General be granted Letters of Administration?	37	6.6 Compulsory Land Acquisition	85
3.32. How is property of an Intestate distributed?	37		
3.33. How is The Matrimonial Home Dealt With?	38	CHAPTER SEVEN	89
3.34. Estates Less Than UGX 10,000,000/=	38	THE ADMINISTRATION OF JUSTICE IN UGANDA	
3.35. Common offences committed under both testate and intestate succession	39		
CHAPTER FOUR	43	7.0. Introduction	90
MARRIAGE AND DIVORCE		7.1. The Judiciary	90
		7.2. The Uganda Police Force	97
4.0. Introduction	44	7.3. Office of the Director of Public Prosecutions	99
4.1. Marriage	44	7.4. Uganda Prisons	99
4.2. Types of marriage that exist in Uganda	44	7.5. The Administrator General	99
4.3. Offences and penalties in a marriage	49	7.6. The Inspectorate of Government (IGG)	100
4.4. Cohabitation: What is cohabitation?	49	7.7. The Uganda Law Council	101
4.5. What is separation?	49	7.8. The Uganda Law Society	102
4.6. Divorce: What is Divorce?	50	7.9. The Government Model on Legal Aid: Justice Centres Uganda (JCU)	102
4.7. How do you petition for divorce?	51	7.10. The Law Development Centre	103
4.8. How is an Islamic Marriage brought to an end (divorce?)	52	7.11 Uganda Human Rights Commission (UHRC)	103
4.9. Consequential orders	52	7.12. Equal Opportunities Commission (EOC)	104
		7.13. Legal Aid Service Providers Network (LASPNET)	105
CHAPTER FIVE	57	ANNEXURES & REFERENCES	109
WORKERS' RIGHTS IN UGANDA: WHAT YOU SHOULD KNOW!			
5.0. INTRODUCTION	58	ANNEXURE 1: PLEA BARGAINING RULES	110
5.1. What is Labour?	58	ANNEXURE 2: A PLEA AGREEMENT	114
5.2. What is a Contract of Employment?	58	ANNEXURE 3: PLEA BARGAIN CONFIRMATION	117
5.3. Who is an Employer?	58	ANNEXURE 4: APPLICATION FOR CUSTODY	118
5.4. Who is an Employee?	59	ANNEXURE 5: APPLICATION FOR MAINTENANCE	119
5.5. Oral and written contracts	59	ANNEXURE 6: STATUTORY WILL FORM	120
5.6. Non-discrimination in employment	59	ANNEXURE 7: WILL TEMPLATE	121
5.7. Probationary Contract	59	ANNEXURE 8: PETITION FOR PROBATE /LETTERS OF ADMINISTRATION	123
5.8. Basic Rights of an Employee	59	ANNEXURE 9: NOTICE OF APPLICATION FOR GRANT OF LETTERS OF ADMINISTRATION	125

ANNEXURE 10: CITATION TO ACCEPT OR REFUSE PROBATE/LETTERS OF ADMINISTRATION	126
ANNEXURE 11: PETITION FOR DIVORCE	127
ANNEXURE 12: PETITION FOR JUDICIAL SEPARATION	129
ANNEXURE 13: SUMMONS TO ANSWER PETITION	131
ANNEXURE 14: ANSWER TO THE PETITION	132
ANNEXURE 15: SEPARATION AGREEMENT	133
ANNEXURE 16: SIMPLE EMPLOYMENT CONTRACT FOR A DOMESTIC WORKER	135
ANNEXURE 17: LABOUR DISPUTE COMPLAINT	137
ANNEXURE 18: MEMORANDUM OF CLAIM TO SUPPORT CLAIM	138
ANNEXURE 19: SUMMARY OF EVIDENCE TO SUPPORT CLAIM	140
ANNEXURE 20: NOTICE OF CLAIM	142
ANNEXURE 21: LAND SALE AGREEMENT	143
ANNEXURE 22: CAVEAT	146
ANNEXURE 23: STATUTORY DECLARATION	147
ANNEXURE 24: LAND TRANSFER FORM	149
ANNEXURE 25: SCHEDULE OF MAGISTERIAL AREAS	150
REFEERENCES	163

FOREWORD

It is a pleasure to share with you LASPNET'S first edition of a harmonized Legal information tool kit. This tool kit has been conceived through previous Information Education and Communication materials developed overtime by various LASPs as well as through research on current legal framework on various aspects of the law which include both criminal and civil justice.

Previously, the design, development and access to Information, Education and Communication (IEC) materials has not been well coordinated leading to costly procedures and duplication hence causing wastage of resources.

IEC are important for continuous knowledge sharing with the public for development and empowerment of communities. LASPNET thereafter came up with a strategy to develop harmonized IEC materials on various legal areas under its clusters. This harmonized version will enable various legal aid service providers get quick reference to simplified information on different legal issues and use it to sensitize their target communities.

The information in the toolkit was provided by LASPNET's partners and several Legal Aid Service Providers under the LASPNET umbrella. These included; Justice Centers Uganda, Uganda Association of Women Lawyers (FIDA Uganda), African Centre for Treatment and Rehabilitation of Torture Victims (ACTV), Uganda Law Society (ULS), Justice Centers Uganda (JCU), Uganda Land Alliance (ULA), The Law Development Centre-Legal Aid Clinic (LDC-LAC), Muslim Center for Justice and Law (MCJL) and Foundation for Human Rights Initiative (FHRI). LASPNET together with these LASPs developed a comprehensive IEC toolkit that will be a resource for the provision of justice to the poor, vulnerable and marginalized.

LASPNET appreciates the contribution of the LASPs and DGF for providing the resources to make the harmonized toolkit a reality.

We strongly believe that it will be a great resource to individuals, LASPs and other stakeholders in improving access to justice in Uganda.

Samuel Herbert Nsubuga

Chairperson, Board of Directors

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LASPNET acknowledges the contributions of the various LASPs in the compilation of this simplified IEC toolkit. These include: Justice Centres Uganda, FIDA-Uganda; African Centre for Treatment of Torture and Rehabilitation of Torture Victims; Platform for Labour Action (PLA); Legal Aid Project of Uganda Law Society; Muslim Centre for Justice and Law (MCJL); Legal Aid Clinic of Law Development Centre; Legal Action for Persons with Disability (LAPD); Uganda Land Alliance (ULA) Foundation for Human Rights Initiative (FHRI).

We further appreciate the input of Mrs. Birabwa-Nsubuga Christine and the Secretariat team who provided the initial text for the tool kit.

We are particularly grateful to the Democratic Governance Facility (DGF) for their continued financial support to LASPNET whose contribution made this publication possible.

We hope that this simplified toolkit will be a useful resource in the daily work of LASPs especially when conducting community outreaches and sensitization. The toolkit is a living document that will be updated periodically with the ever changing context and laws.



Sylvia Namubiru Mukasa

Executive Director

INTRODUCTION

The Legal Aid Service Providers Network (LASPNET) is a member-based non-governmental organization established in 2004 to provide strategic linkages and a collaborative platform for legal Aid Service Providers (LASPS) in Uganda. The network maintains a common front to interface with the Justice Law and order Sectors on issues of access to Justice and the rule of law with a focus on coordination, strategic thinking, learning, capacity development of members, research, documentation and sharing.

LASPNET has a current membership comprising of fifty two (52) members in 70 districts across the country. The members provide a range of legal aid services in one form or another including legal advice and counselling, legal court representation, human rights awareness and advocacy of on key issues in the area of access to justice.

Over the past 14 years, LASPNET has worked to coordinate LASPs to interface effectively with state, non-state and development partners. LASPNET uses a five pronged approach to its interventions which include; research and documentation, networking and partnership, lobbying and advocacy, information data management and capacity building.

With support from Democratic Governance Facility, LASPNET developed standardized and inclusive Information, Education and Communication (IEC) materials in various thematic areas on procedural and substantive laws in the areas of Land Justice, Criminal justice, Gender justice, Juvenile justice, Social Justice and traditional/informal justice into a toolkit. The rationale for developing a standardized toolkit was to strengthen coordination among LASPs in their delivery of legal aid services especially outreach activities while maximizing synergies and reducing duplicity as they contribute to access to justice for the most vulnerable persons in Uganda.

This Legal information toolkit is intended to aid LASPs as a reference tool while conducting outreaches and public awareness sessions. It is composed of seven chapters including Criminal justice law and procedures; Juvenile Justice; Succession law in Uganda; Marriage and Divorce; Labour Laws in Uganda; Land Tenure systems In Uganda and administration of Justice in Uganda. Each Chapter is followed by some annexures and poster charts to assist the reader with further appreciation of the content by way of illustrations. The tool kit has been produced in the most simplified language to enable any person who can read and write to educate themselves about the law and its procedures. The tool kit will be adapted and enhanced with a printed and electronic version which will be updated on an ongoing basis to capture the trends and changes in the law in line with the thematic areas. The tool kit will be disseminated to all LASPs and justice system actors for use during the public awareness sessions.

CHAPTER ONE

*"We need to keep making
our streets safer and our
criminal justice system fairer
- our homeland more secure,
our world more peaceful
and sustainable for the next
generation."*

Barack Obama

CRIMINAL LAW AND PROCEDURES IN UGANDA

CHAPTER ONE

CRIMINAL LAW AND PROCEDURES IN UGANDA

1.1. Definitions for commonly used terms:

Bail: Bail is written permission from Court that allows an accused person to be released from Prison custody while they await their trial. Bail is only given to accused person by the court. Bail can be both cash or non-cash bail.

Crime: Is any act or failure to act that is prohibited by the Law. The main law that that prescribes crimes and punishment is the Penal Code Act.

Criminal case is an unlawful act which is punishable by the state and may be unintentional or intentional. A person who does an act that is illegal commits a crime and may be punished if found guilty. Sources of criminal law for example include the Penal Code Act, Criminal Procedure Act and case law.

Criminal justice system is the set of agencies and processes established by Government to control crime through enforcing the law and punishing those that break the laws in Uganda. For example, the Police, Office of the Director of Public Prosecution, courts, Prisons and the Judiciary or Lawyers.

Criminal law is a body of rules and guidelines that deal with the way everyone in society is expected to behave and how a person that behaves in the wrong way or in a way that is not allowed by the law should be handled. It also establishes punishment to be given should someone commit a wrong or fail to do what is expected of them to prevent a crime being committed. Any wrong without a prescribed punishment is not a crime but a civil

Criminal Procedure is the process through which the criminal laws are enforced. A complaint is filed at the nearest Police station where investigations are carried out by the Police. Where investigations are complete the file is sent to the State attorney who sanctions the file and thereafter the file is transferred to court where the accused takes plea.

Criminal procedure: These are the rules and procedures set by government to enforce criminal law.

Evidence: This is information or facts that prove an allegation against an accused person.

Plead guilty: This means to admit to the offence.

Police Bond: This is a guarantee that the accused person will be released from Police custody and report to the Police station whenever required to until investigations on his/her case are complete. The Police bond is free.




Remand: The accused person is kept custody by the prison authorities until conviction or acquittal.

Sanctioning: Sanctioning a file means making a decision to prosecute the case on the basis of sufficient evidence on the file.

State Attorney: This is a lawyer representing the interests of the state/complainant in a criminal proceeding, typically as a prosecutor.

Surety: This is a person who takes the responsibility to ensure the accused person attends all court proceedings upon certain conditions set by the court.


1.2. Who are the different people involved in criminal procedure in the courts of law?

-  **Complainant-** That is the person against whom a crime was committed. In most cases the complainant is the first witness of the state, i.e. the complainant brings the case to Court.
-  **Witness** is a person who comes to court to give evidence on the case being tried or heard in Court.
-  **Suspect** is the person who is accused of committing a crime.


Note:

A complainant is the one who has brought a criminal case to court. They may be the one to whom something bad (a crime) has been done or the one responsible for the one who has been wronged (the victim)

According to the Constitution of Uganda a person is considered innocent until proven guilty. No one can be found guilty unless they have been fully tried and convicted, or the person has confessed freely that they committed the crime.

-  **A Spectator** is a person who comes to court to see what is going on in Court. The general public is allowed to come to court to hear about any case of their choice unless a particular case is being heard in camera. Cases that may be heard in camera include sexual gender based violence cases, cases involving children or matters of national security.

Note: To hear a case in camera is when a case is heard behind closed doors and the general public is not allowed to listen in. This happens when one of the parties to the case applies to court with good reasons. For example in cases involving children, or of high national security importance etc

-  **Surety** is a person who comes to court to assist the person who has been imprisoned to get bail. You make a commitment to court that you will take up the responsibility of ensuring a person attends court throughout the trial process.

1.3. Actors of the Criminal Justice system

Some of the key actors in the criminal justice system include:

-  The Uganda Police Force
-  The Prosecution
-  Courts
-  Prisons
-  Advocates or Lawyers
-  Paralegals
-  Court Clerks

1.3.1. The Uganda Police Force

The Uganda Police Force (UPF) has the duty to ensure that everybody follows and obeys the law and acts according to the law. This is called enforcement of the law. They also have a duty to arrest and do investigations when the crimes have been committed.

Enforcing the law begins with preventing people from committing any crimes, and once a crime has been committed, conducting investigations to find out who, what, when, how a crime was committed, after a case has been reported or where Police suspects that a crime might have been committed. This is called gathering evidence which the Police must keep well to ensure that by the time the case is brought to court to be heard, the evidence is not spoiled.

The Police has a duty to ensure that all investigations are done and completed before they arrest the one suspected of having committed the crime. Police then must produce the accused person in court to be charged and either released on bail or remanded in prison.

Remember!

Police is not expected to arrest before they have sufficient evidence to produce the accused person in court.

Police has a duty to arrest suspects and hold them in custody if necessary before they are produced in court to be charged. This is when the suspect is brought to court for the first time, and the crimes he or she is alleged to have committed are read to them. At this point the suspect can apply for bail-to be tried while coming from home, the suspect can also plead guilty or not guilty.

The Police is also expected to say what they know about the case (give evidence) in court when the time comes for hearing.

Remember!

Torture is prohibited under the Constitution and no one is allowed to torture a suspect so as to get information out of them.

Remember!

Police is not allowed to keep a person in Police custody beyond 48 hours without either releasing them or taking them to court.

While in custody the suspect is entitled to apply for Police bond. Bond is a written promise signed by a suspect to return to Police when needed instead of being locked up in Police custody. Bond allows the suspect to return home while the Police continues to conduct investigations. If Police

Remember!

Bond is free at all times. If you are asked to pay for it, its corruption! Refuse and report to the Police Standards Unit in Bukoto or call them on these toll free numbers 0800300119 or 0800199199

refuses to issue a suspect with Police Bond, and yet the suspect has been held in Police custody for more than 48 hours you will need a lawyer to apply to court for an Order of release.

i) Handling of suspects

- a) The Police have power to question anyone without arresting them.
- b) The Police may ask people suspected of having committed crimes to identify themselves by giving their full names and addresses, among other personal information.
- c) Any person interacting with the Police during duty, is free to ask the officer to identify themselves before allowing to follow the instructions of the Police office.
- d) Even plain clothed Police must carry identity documents.
- e) Any person under Police questioning is free to choose to remain silent if they do not wish to speak, and cannot be forced by the Police to do so until their lawyer is present.
- f) Whenever possible, it is wise to consult a Lawyer before speaking to the Police.
- g) However, since most people cannot afford the services of lawyers, attempts should be made to get free legal services referred to as legal aid services.
- h) A Police Officer may only arrest a person without a warrant if the Police officer witnesses a crime or is acting upon reasonable suspicion.
- i) The Police may use reasonable force against a person who resists arrest. The force should be reasonable in accordance with the degree of force used to resist arrest.
- j) If the force used in arresting someone is more than necessary, the victim or someone who witnesses the arrest should make a complaint to the Police leadership or the Uganda Human Rights Commission.

ii) Police has powers to search and seize property

- a) 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. Police are also allowed to search a house in the same way.
- b) In the same way and for the same person a Police officer can stop and search any person and seize any property found on the person searched.
- c) The Police are generally required to obtain a search warrant, but the law recognizes situations where searches may be made without a warrant.
- d) 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.
- e) A search may be carried out any day between sunrise and sunset.
- f) Although it is not a legal requirement for Police to inform local council officials of an intended search, it would be advisable that the Police inform LCI officials before they start the search.
- g) Where possible the LC officials should be present if they won't disorganize the search.
- h) Where anything or money is confiscated after the search, the Police must sign acknowledging the property they have taken.
- i) Where they refuse to sign, a report should be made to a higher authority as soon as possible.
- j) It is advisable that a person being searched invites an LC official to be present in case the Police did not do so.

iii) What should happen when one is arrested by the Police?

- a) A person arrested has to be informed of the reasons for his or her arrest
- b) They must be allowed to contact their relatives immediately and informed that he or she has a right to call their lawyer to help them.
- c) The person must be brought to court as soon as possible but not later than 48 hours from the time of arrest.
- d) Where a person is arrested and cannot be immediately taken before a court he or she is entitled to Police Bond.
- e) Police bond is a promise in writing by a suspect detained at a Police station to report to the Police station on a scheduled date and or whenever they are needed by the Police over a particular case.

Remember!





It is a human rights violation for a person to be kept in Police custody beyond 48 hours

1.3.2. Prosecution (The Directorate of Public Prosecutions (ODPP))

The Director of Public Prosecutions (DPP) is responsible for representing the State (Government) in all cases of a criminal nature. The DPP is the representative of Government in all criminal cases. Prosecutors and State Attorneys are the representatives of the ODPP in the different courts around the country.

After investigations are completed by the Police, the Police is expected to send the file to the State Attorney who reads the same to confirm that all the evidence (information) required to take the accused person to court to be charged is on the file. Once the State Attorney is satisfied that the file has sufficient evidence to support the allegations that have been brought against the suspect, then he or she sends the same to court for the court case hearing to start. This process is called **sanctioning**.

1.3.3. The Role of State Attorneys in criminal justice

-  They read investigation files presented by the Police officers from the Criminal Investigation department (CID) to decide whether or not the evidence is strong enough to take to Court.
-  They send the files to court for hearing once the investigations are complete.
-  They represent (speak on behalf of) the State (the victim/complainant) during the trial process. They lead evidence and question the suspect and his or her witness to confirm a case.
-  State Attorneys are found at or near the court in which they work. Every Court has a Prosecutor or State Attorney attached to it. Inquiries at the Court will reveal who and where they sit.

Remember!









You are not expected to pay the State Attorney for anything. Any money they ask you for will be corruption. Whether you pay or not, the file will not be sent to court if it does not have enough evidence.

1.3.4. Courts of law

Courts of law are a major component of the criminal justice system. The role of Courts is to hear cases presented by the DPP's office, ensure that the law is followed, both in trying a case and by the people being tried, granted bail where they are convinced that it should be granted and convict or acquit offenders based on the evidence produced before the Court. Courts of law have their hierarchy that should be followed in case one chooses to appeal their case. (The hierarchy of courts is fully discussed in chapter seven under the Administration of Justice).

a) Who are the Different Staff found in the Courts of Law

The Court has many staff, such as Judges, Magistrates, Registrars, Clerks, Interpreters, Process servers, Cashiers Secretaries and Policemen/women (Court orderlies) among others. They have the following roles:

-  A Judge presides over cases in the High Court, Court of Appeal and Supreme Court. The Judges of Court of Appeal and Supreme Court are called Justices.
-  A Registrar is a judicial officer who is responsible for supervising Court registries, other Court staff, and also performs some judicial functions such as hearing cases for urgent orders ("Interim orders").
-  A Chief Magistrate is the head of the Magistrates Court and is responsible for hearing cases in these Courts and supervising clerks and other magistrates. A Chief Magistrate may try any offence other than an offence that attracts a maximum penalty of death. Examples of offences that attract a penalty of death include murder, treason, rape, aggravated robbery. The criminal jurisdiction of this courts is limited to offences whose maximum penalty is not death or life imprisonment. The civil jurisdiction of Grade 1 magistrate courts is limited to matters where the value of the subject matter does not exceed twenty (20) Million Uganda shillings.
-  Court Clerks register cases brought to Court and help the Judge or Magistrate in the Court room by reading the Court files. They also interpret for people who may not be able to speak English in Court.
-  Process servers are court clerks in charge of delivering communications from Court to Lawyers and people who have cases in Court.
-  Cashiers help to inform people about the fees they are supposed to pay, and also receive evidence of payment of Court fees for cases in Court.
-  Secretaries and copy typists help to type the records for cases that are being heard in Court.
-  Police Officers (Court Orderlies) help to keep order in the Court room.

Other staff may include data entry clerks, systems administrators, office supervisors, cleaners among others. Each of these officers has specific duties assigned by the Registrar or Magistrate.

Remember!

Not everyone you find at the Court can help you with your case! Always insist on meeting the judge, registrar, or magistrate to avoid being taken advantage of!




1.3.5. Lawyers

Lawyers work in many fields, from criminal law to civil law, divorce law and navigating the legal system on behalf of their clients. Lawyers also called an attorneys are advocates, advisors, and counselors to their clients. Lawyers counsel their clients about legal options and represent them in criminal or civil court proceedings. Lawyers work inside courtrooms, but also perform many duties

outside of court, including researching, preparing cases, and offering advice to their clients. The clients are often individuals, but can also be businesses and organizations.

1.3.6. Other Officers of court





An officer of the court is any person who has an obligation to promote justice and ensure effective operation of the judicial system. This includes Advocates, State Attorneys, Social Welfare and Probation Officers, Prison officials are officers of Court but are not part of judiciary staff. These officers are not paid by the Judiciary but they have different roles in the management of justice.

-  Advocates represent people with cases in Court.
-  State Attorneys are Advocates also but they represent the Government of Uganda.
-  Prison Officials help to bring prisoners to Court for hearing their cases.

1.3.7. Uganda Prisons Service

The Uganda Prison Service is part of the criminal justice system and is responsible for safe, secure and humane keeping of prisoners who are sentenced to imprisonment or remanded by court awaiting trial.






a) Role of Prisons


-  To ensure that every person kept legally in a prison is kept in humane, safe custody, provided in court when requires until lawfully discharged or removed from prison.
-  To facilitate the social rehabilitation and reformation of prisoners through specific training and educational programs.
-  To facilitate the re-integration of prisoners into their communities.
-  To ensure performance by prisoners of work reasonably necessary for the effective management of prisons.

1.4 Rights of an accused person?

Remember!

Everyone is innocent until the court has decided that they are guilty either through a full trial or on their own free willed confession.

-  **Right to know the offence** for which one is accused, in the language s/he understand.
-  **Right to access a next of kin** - an accused has a right to contact their family immediately on arrest.
-  **Right to Legal Representation:** An accused has a right to have a lawyer to support them through the process, immediately on arrest. An accused is allowed to keep quiet until his or her Lawyer in present.
-  **Right to a personal doctor:** The accused person has a right to access a doctor on arrest and or medical treatment.
-  **Right to a fair hearing:** When a person is accused of having committed a crime, they must be allowed to tell their side of the story quickly, fairly and in open court unless the issues being discussed are sensitive and need to be discussed in private(Camera). The hearing must be fair, follow all the rules and regulations provided by the law and the Court hearing the case must be fair to both parties.

-  **Right to bail:** An accused person is entitled to apply to the court to be released on bail, and the court may grant that person bail on such conditions as the court considers reasonable. Although bail is at the discretion of the court there are instances where bail becomes mandatory. In the case of an offence by a magistrate court for theft or simple defilement, if that person has been remanded in custody in respect of the offence for 60 days that person shall be released on bail on such conditions as the court considers reasonable. Additionally in the case of an offence triable only by the High Court for example Murder or arson, if that person has been remanded in custody for 180 days before the case is committed to the High Court, that person shall be released on bail on such conditions as the court considers reasonable. This is known as Mandatory Bail.

Remember!

Bail is not automatic. The Court must consider the reasons you have given and if convinced that they are genuine, then bail will be granted! You also need to have a fixed place of abode.

1.5. Presumption of innocence

The Constitution provides that, "Every person who is charged with a criminal offence shall be presumed to be innocent until proved guilty or until the person has pleaded guilty". This right involves **The presumption of innocence**, which means that an accused person is by law presumed innocent, and treated as such, until he/she is pronounced guilty by a competent court of law or unless he or she pleads guilty. Thus the presumption of innocence requires that the Police should thoroughly investigate the cases. **The prosecution bears the burden of proof.** This means that the prosecution has to prove an accused person's guilt beyond reasonable doubt.



1.6. How to bring a criminal case to court

- When someone does something wrong to you or someone you know, you report the matter to the Police, where you will be asked to make a Statement.
- The Police will investigate the matter and send the file to the Prosecutor or State Attorney who work under the Director of Public Prosecutions ("DPP's office"). The Prosecutor or State Attorney will read the file and decide whether there is enough evidence to bring the accused person before Court ("charge") or the matter is left to the Police to do more investigations.
- Once there is enough evidence on the file to charge the person with a specific criminal offence, then a complaint ("charge" or "indictment") is brought before the Court. A charge is a formal accusation made by a governmental authority (usually the public prosecutor or the Police) asserting that somebody has committed a crime. It is a formal accusation that is presented by the prosecuting attorney stating that the accused has a case to answer.

1.7. How a criminal case moves through the court

- Once there is enough evidence on the file to charge the person with a specific criminal offence, then Police will either arrest the person or bring the person from the Police cells to Court to be charged.
- At Court, the charge will be read to the person ("the accused") who at that point can either agree that they committed the offence ("plead guilty") or deny the charges ("plead not guilty"). At that stage the accused is informed of the right to apply for bail.
- If the person denies that they did not commit the offence, the judicial officer can do one of the following: (1) Grant the person bail if the person applies for it and the judicial officer agrees with the application for bail, based on the reasons given; (2) Send the person to Prison until the hearing begins ("remand the person"). If the person pleads guilty, it means that they admit to having broken the law. In this case, there will be no hearing. The person is convicted and sentenced by the court.
- If the person pleaded not guilty, a date for the hearing is set and the accused will either be brought to Court by Prisons officers, if the person is on remand, or be informed of the hearing date by the Court Clerks if the person was granted bail.
- Once the judicial officer has started the hearing of the case, the prosecutor or state attorney will present the case for the State including all the documents and witnesses. Thereafter the accused will also present his/her case together with their documents and witnesses. This may be with the help of a lawyer if the accused has one. These witnesses should have been informed about the hearing date by the Court Clerk ("served summons to appear in Court").
- When the hearing starts, witnesses are called to testify and the accused person is also expected to call witnesses.
- After the judicial officer has heard both sides, they will pronounce a date on which the judgment will be read.
- Written or oral Submissions of the case are given by both parties. When the case is concluded, judgment is expected to be read within 60 days of completion of hearing all witnesses. sentencing follows if the accused is found guilty.
- Once judgment has been read ("delivered"), and the accused found guilty, the judicial officer will either decide their punishment ("sentence") there and then or pronounce it on another day that will be indicated.
- After the sentence is read, the accused will be informed about their right to appeal to a higher Court in case they do not agree with the judgment or sentence. Thereafter the accused is immediately taken to prison to start serving their sentence.

1.8. The Court can give several sentences such as:

- 🏛️ Strong warning ("caution")
- 🏛️ Suspended sentence-is where a person who has been found guilty of a crime is not sentenced to jail but may be sentenced for that crime at a future time if he or she commits another crime during a specified period determined by the court.
- 🏛️ The Court can order the person to pay a certain amount of money ("fine")
- 🏛️ The Court may order the person to do some community work ("Community service")
- 🏛️ The Court may order for the person to be imprisoned for certain period of time.
- 🏛️ If the complainant (the person against whom a wrongful act was committed) does not turn up for the hearing, the Court will continue hearing the case and the complainant's witnesses because the criminal case is brought to Court on your behalf by the Government of Uganda.
- 🏛️ If it is a person against whom the case is brought ("accused") that does not come to court, then the judicial officer will put the case for hearing on another date when the accused person can be brought, or rearrested by the Police. If the accused person is in prison, the judicial officer will order that he is brought to Court on another day.

1.9. Appeals and how they are done

An appeal is the process by which a case that has been heard is forwarded to a higher court through an application to be heard again, by the higher Court. The appeal process is based on evidence produced, or used the law to come to a conclusion of guilty or not guilty or the sentence given.

- 🏛️ An appeal from the decision of a Grade One Magistrate and a Chief Magistrate is taken to the High Court.
- 🏛️ An appeal from the decision of a judge of the High Court is taken to the Court of Appeal.
- 🏛️ An appeal from the decision of the Court of Appeal is taken to the Supreme Court.
- 🏛️ An appeal from the decision of the Constitutional Court is taken to the Supreme Court. The Supreme Court is the final Court of appeal.

1.10. Bail









1.10.1. What is bail?

Bail is written permission from Court that allows an accused person to be released from Prison custody while they await their trial. Bail is only given to accused person by the court.



1.10.2. Who is entitled to bail?

Every accused person is entitled to apply to the court for bail while waiting for trial. However, the decision is up to the Court to give or not to give bail to an accused person.




1.10.3. What are the conditions for bail?

-  The accused must have a permanent home.
-  The accused should have substantial surety(ies)
-  The accused person should be in position to report to court without escaping from Uganda or going into hiding.
-  The accused person must not threaten or conflict with the complainant or any of the witnesses once bail has been granted. Or interfere with on going investigations. The court will also consider the criminal record of the accused person. People who commit offences all the time may be denied bail.
-  The court will also consider how serious the crime is.
-  The court will consider how harsh the punishment for the crime is once the person is once the person is convicted.

1.10.4. Where does one apply for bail?

-  For simple offences like threatening violence, obtaining money by false pretenses, malicious damage to property etc, bail is applied for in the magistrate's courts where the accused is being tried.
-  For serious offences like murder, rape, defilement aggravated robbery, the accused applies for bail in the High Court.

1.10.5. How does one apply for bail?

-  For simple offences, the accused person can ask for bail by word of mouth from the trial magistrate and the request will be accepted or rejected there and then. You do not necessarily need a lawyer.
-  For capital offences, by making a written bail application to the High Court. It is better that this application be made by a lawyer.
-  As soon as you are in court you can apply for bail.



1.10.6. What happens if bail is not granted?

The court will give you the reasons for denial and if you are not satisfied you can apply to the High Court which may in turn use its powers to order the lower court to release you on bail or confirm the refusal.

Alternatively, one can re-apply for the bail on the next appearance in the same court.

If the terms/conditions of the bail are harsh you can apply to the judicial officer to revise the terms.

1.10.7. What is cash bail or non- cash bail?

-  Cash bail – is where a sum of money asked by court as security to ensure that the accused appears in court is paid immediately.
-  Non Cash bail - is where the sum of money asked by court is to be paid by the surety only when the accused fails to appear in court.

1.10.8. When is cash bail or non-cash bail granted?

The decision is up to the Magistrate /Judge to give cash or non-cash basing on the circumstances surrounding the case.

1.10.9. What to do incase bail terms are too harsh?

Once bail is granted and the bail conditions are too harsh for example depositing a land title that the accused does not have or paying a sum of money beyond the financial means of the accused, the accused person through their lawyer should write a letter to the judge/magistrate who has granted bail to review the terms of the bail giving reasons why the bail terms are too harsh. The judge/magistrate may then review the terms as they see fit.

1.10.10. When is bail money returned?

Bail money is returned to the accused person upon successful completion of the case that is to say when final judgment is pronounced. This is irrespective of whether the accused is found guilty or not.

1.10.11. When is bail money not returned?

Bail money will not be returned if the accused does not appear in court on the stated date and time or violated any other condition/terms of the bail.

1.10.12. How do you get your bail money back?

Once a case is completed, the litigant formally requests for the refund through a Magistrate, Chief Magistrate or Registrar in charge of a given court station requesting for the refund.

This means that a case must have been decided and judgment made, whether in one's favor or against. This application should have:

- The original bail/bond form
- The original receipt
- The order for refund by the court
- Photocopy of identity card
- Discharge Order
- Claimant's Bank account

Once the judicial officer ascertains that the case was indeed completed, the request will then be forwarded to the accounting officer to release the bail funds directly to the claimant. Where claimant's bank details are not provided, the payment process is delayed, as cash refunds are no longer acceptable.

Bail applicants are reminded to always keep copies of every document submitted to the court during this process. Makes sure to constantly follow up so as to keep up to date about the status of your application

Remember!

It is important to get a receipt and to always present it when asking for refund when the case is concluded

1.11. Who is a surety?

A surety is a person who appears in court and promises that the accused will come to court for his or her trial if released on bail. He or she accepts the responsibility to ensure that the accused does appear before court.

1.11.1. Who is qualified to be a substantial surety?

A substantial surety is a person who meets the following conditions:

- 👤 A responsible person in society
- 👤 One without a criminal record
- 👤 One with a home and has been staying in that place for more than 6 months. The Home should be able to be traced.
- 👤 Aged 21 years and above.
- 👤 One of sound mind (no mental problem)
- 👤 One who is able to monitor to ensure the accused person appear in court for trial.
- 👤 One who is respectable and of good behavior.
- 👤 One who is well acquainted or with close relationship with the accused person
- 👤 It is important to look presentable when appearing in court as a surety.

1.11.2. What does one need to be a surety for an accused person in court?

- A letter of introduction to court from the LC I chairperson of their home area. Signed and stamped.
- A valid identification card which may be a driving permit, passport, national ID.
- Sometimes the court may require that a certain amount of money be deposited in court.

1.11.3. What are the duties of a surety?

- The major duty of surety is to ensure that the accused person appears in court whenever required.
- A surety also has a duty to inform court when the accused is planning to leave the country or run away from court or go into hiding if they learn about it.

1.11.4. When does one stop being surety?

- A person stops being a surety when the court allows a person to stop performing the duties of a surety.

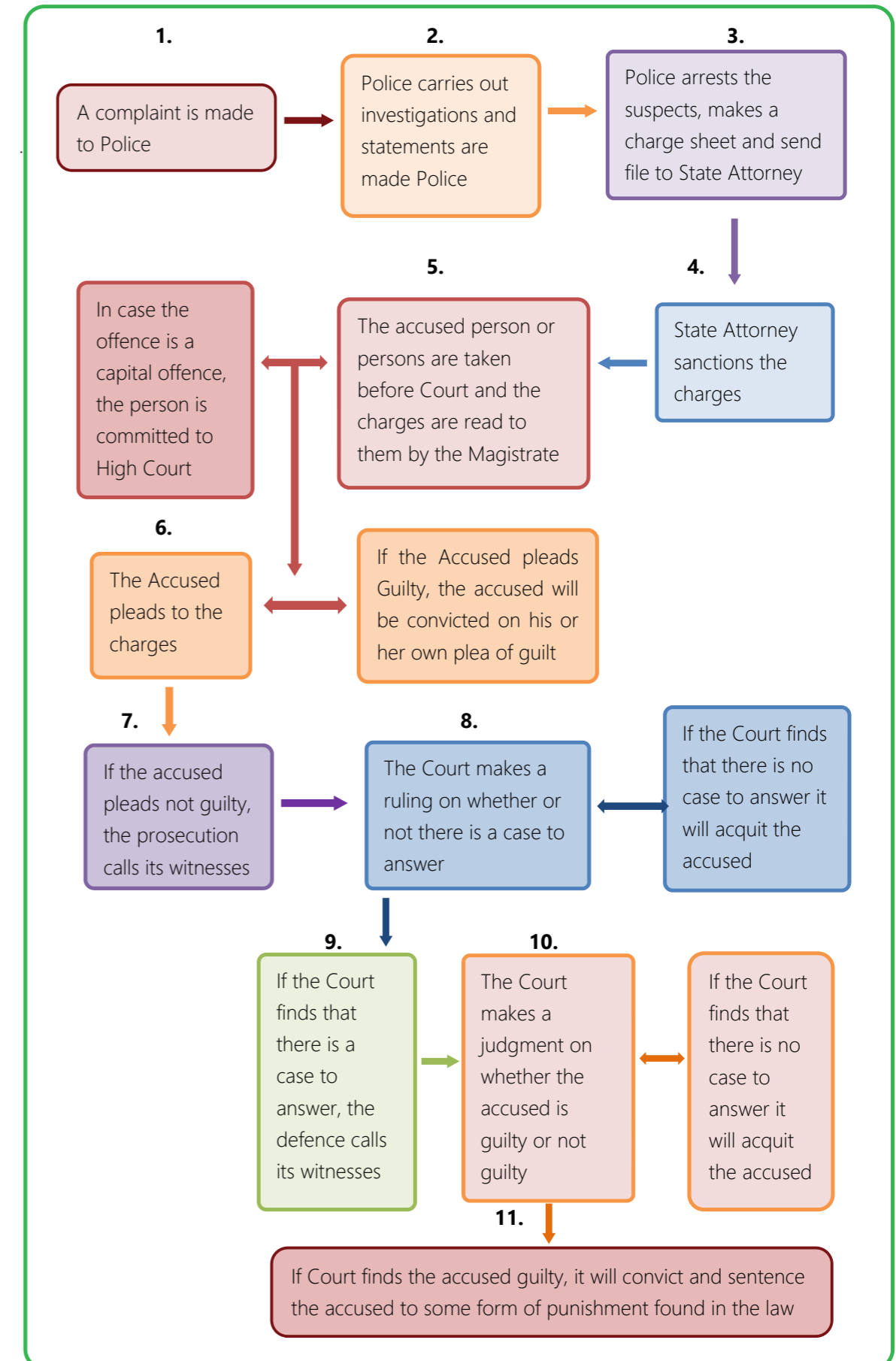
1.11.5. How does one stop being a surety?

- The surety for a person released on bail may at any time request court to stop being the accused's surety.
- The request is made by word of mouth before court.
- The surety produces the released person in court and requests to stop being their surety.

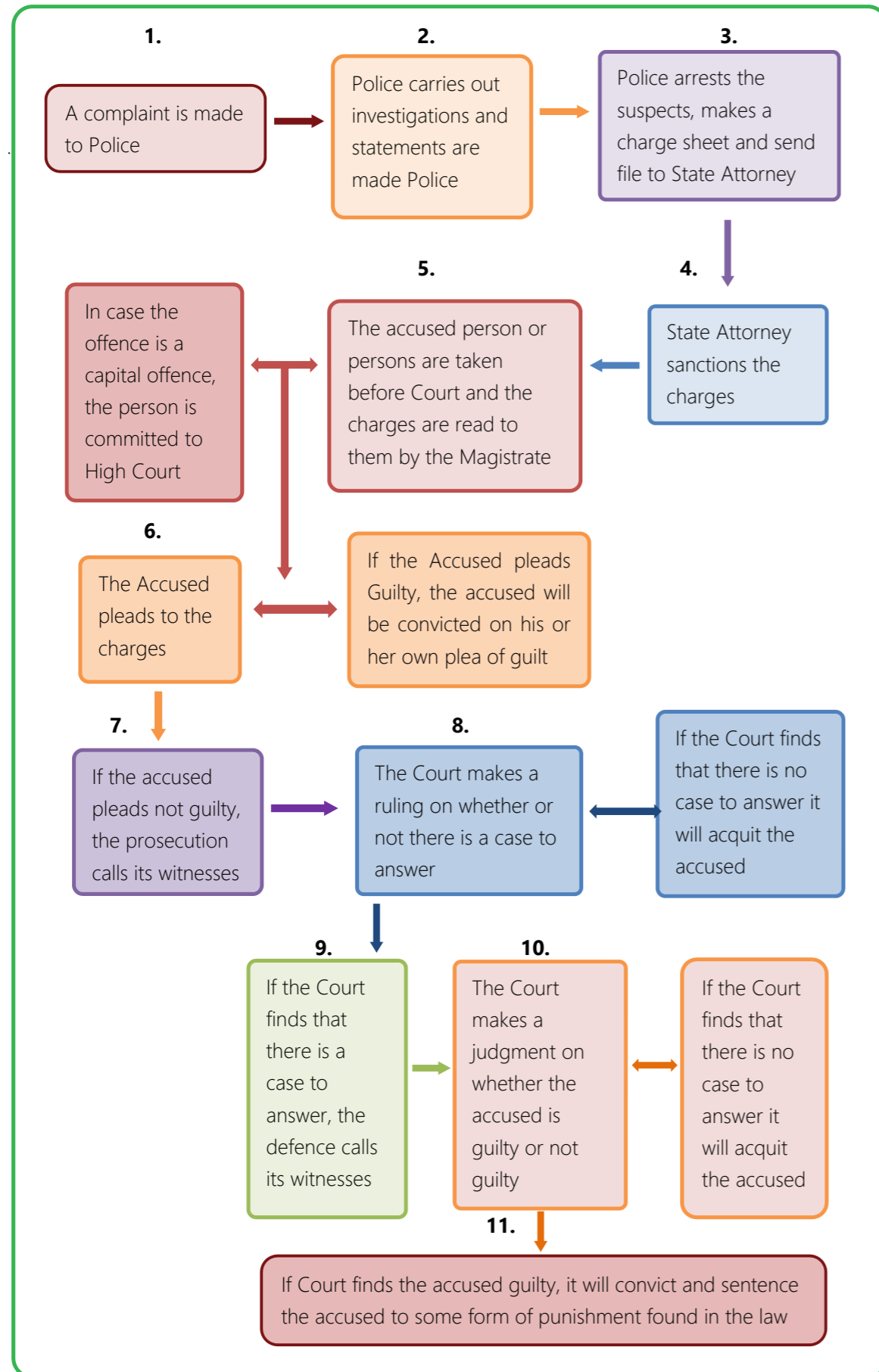
1.11.6. What happens to a surety when the accused disobeys the conditions of the bail?

- The surety is required to bring the accused to court immediately.
- If they fail to bring the accused to court they will be required to pay to court money which was stated on the bail form. If they do not do so, they will be arrested and in prisoned.
- In case there is a good reason for failure of the accused to appear in court, the surety has to inform court why the accused has failed to appear in court.

1.12. The Process flow of a Criminal Case



1.12. The Process flow of a Criminal Case



ASK FOR YOUR BAIL MONEY. IT IS REFUNDABLE

1. Write a letter to the Magistrate asking for the bail money
2. The letter should be accompanied with the following documents which prove you paid this money
 - ◊ Attach the bail form on which you have been reporting to Court
 - ◊ Copy of the accused's ID
 - ◊ Receipt upon which you paid for bail
3. Wait for a response from the Magistrate court!
4. If you don't get positive response from magistrate, write to Inspectorate of courts or Judicial service Commission

COURT WAITING AREA

For help, call the following helplines:

- Justice Centres Uganda (Toll free line): **0800 100 210**
- Inspectorate of Courts: **0414 344 116**
- Judicial Service Commission: **0800 100 222**
- Office of the Administrator General: **0414 341 915**
- Office of Director of Public Prosecution: **0794 332 121**
- LASPNET: **0393 513 733**

LASPNET
LEGAL AID SERVICE PROVIDERS NETWORK

DGF
Democratic Governance Facility

CHAPTER TWO

*“We owe our CHILDREN - the most
vulnerable citizens in any society
- a life free from – VIOLENCE AND
FEAR.”*

Nelson Mandela.

THE UGANDAN CHILD: THE LAW AND RIGHTS

CHAPTER TWO

THE UGANDAN CHILD: THE LAW AND RIGHTS

2.0. Introduction

Children all over the world are supposed to be protected by the International Community, and the Country in which they live, through providing laws that govern how the children should be protected. Many laws have been put in place to ensure that children are protected by the State, the parents and or guardians, the schools and the general public. Examples of Laws for the protection of Children include: The Constitution of the Republic of Uganda Article 34, The UN Convention on the rights of the child, The African Charter on the rights and welfare of the Child, The Children's Amendment Act 2016.

2.1. Who is a child?

A child as any person below the age of 18 years.



2.2. What is the meaning of children's rights?

Children's rights are basic rights and freedoms with particular attention to the rights of special protection and care afforded to minors.

Children are human beings and every human being is born with dignity which must be observed, respected and protected. For example, every human being must be treated equally with others without any kind of discrimination however different they are. Some of the differences include religion, sex, mental and physical conditions or social economic status and background. All people MUST be treated the same way. Because children, are young and still developing, they are considered vulnerable and as such they must be protected even more than adults. Many more entitlements are given to children to ensure that they can develop into well rounded healthy and informed adults. That gives rise to children's rights.

Remember!

Because children, are young and still developing, they are considered vulnerable and as such they must be protected even more than adults. That is why we have specific rights protecting them.

2.3. The Welfare Principle

In every situation where someone is making a decision about a child, it is important to ensure that the best interests of the child are taken care of first. This is called the **Welfare Principle**. For example,

if parents decide to divorce, it's extremely important to consider where the children will best be taken care of, before deciding which of the parents should stay with the children. All laws, court actions and decisions relating to children are expected to take into account this Principle. When raising a child, taking care of a child's property, deciding a case relating to a child or which school to take a child, the welfare principle must be applied. The issues to be considered include the physical and emotional needs as well as the likely effects of any change in the child's life.

All actions by Parents and Guardians, the General Public, the Government, the Courts among others, relating to children, must do everything taking into account the best interests of the child.



2.4. The rights of children

Children are considered too young to help themselves in many aspects, the laws relating to them provide both the rights on the part of the child and the responsibilities on the part of those responsible for protecting those rights, such as the parents and the State.

Every child has a right to:

- Live with his or her parents or Guardian
- Express his or her view, belief or opinion on any matter that affects his or her wellbeing
- Access any information to which a parent, guardian or other person in authority deems critical to the child's well being
- To be registered after birth
- Name and Nationality
- Inherit property where applicable
- Safety, privacy, information and access to basic social services
- Leisure which is not morally harmful and the right to participate in sports, and positive cultural and artistic activities
- To use any social amenities or other resources available in any situation or armed conflict or natural manmade disasters.
- To be treated without discrimination of any kind, irrespective of his or her race, color, religion, belief, age, family status, culture, language, ethnicity, nationality or social origin, citizenship, gender, disability if any, political or social opinion, property or other condition.
- Effective legal aid including representation in all civil, criminal, and administrative proceedings.
- Exercise in addition to all the rights set out in the Children's Act, the rights set out in the United Nations convention on the rights of the Child and the African Charter on the rights of the child with appropriate modifications to suit the circumstances in Uganda.

2.5. Adoption

This is when the non-biological parents of a child take on the full responsibility of a child as if they were his/her natural biological parents. This is normally done for children who are orphans or abandoned. While applying for adoption one should consider the following;

- One of the applicants must be at least 25 years and at least 21 years older than the child.
- A female child cannot be adopted by a male person who is single or has no female spouse. The same applies for a male child in relation to a female intending to adopt.
- The Court requires that the person adopting must have spent at least 12 months with the child while being supervised by the probation and Welfare Officer. S/he must provide a report to the Court to help in decision making.
- Adoption is allowed for both Ugandans and non-Ugandans. For none Ugandans there is a requirement to first stay in Uganda with the child for at least one year, be of good conduct with no criminal record, and provide a report about themselves from their country that they are fit to adopt a child.
- Where the adopting parent is a Ugandan, they go to the Chief Magistrate's court near or around where the person wishing to adopt the child lives. Where the child to be adopted or the one wishing to adopt are non-Ugandan, the application should be made to the High Court of Uganda.

Important!

When someone adopts a child, they become their child by law. The child is even entitled to get inheritance from the adoptive parent!



2.6. Legal guardianship

Is similar to adoption in some respects but has the following differences:

- Only Ugandans can apply to become legal guardians.
- Anyone above the age of 18 years can apply for legal guardianship.
- There is also customary guardianship where family members appoint a guardian to a child. in accordance with the customs, culture or traditions of a particular group.
- An appointed guardian also acts as a trustee in respect of the property of that child.

This is what Court considers before granting a guardianship order;

- That there is no relative or next of kin of the child
- That the next of kin or relative is unable or not willing to take care of the child
- That the child is suffering or is likely to suffer harm in the custody they are currently in.
- That if the child is above the age of 12 years, their consent has been sought.
- That the applicant has continuously lived in Uganda for at least three months and does not have a criminal record.
- That the person applying for guardianship has a recommendation from the probation and social welfare officer.
- Best interests of the child.

2.7. Children in conflict with the law

A child in conflict with the law is one who has committed an offence or is suspected of having committed an offence. In criminal law, children are not supposed to be handled the same way as adult offenders. When a child is in conflict with the law the following is taken into account;

- Anyone below 12 years is considered too young to commit a crime.
- Where a child is in conflict with the law, as soon as possible after arrest, the children's parents or guardians and the secretary of children's affairs of the local government council for the area in which the child resides shall be informed of the arrest by the Police. The Police shall ensure that the parent or guardian of the child is present at the time of the Police interview with the child except where it is not in the best interests of the child.
- Where a child's parent or guardian cannot be immediately contacted or cannot be contacted at all, a Probation and Social Welfare officer or an authorised person shall be informed as soon as possible after the child's arrest so that he or she can attend the Police interview.
- Where a child is arrested with or without a warrant and cannot be immediately taken before a court, the Police officer to whom the child is brought shall inquire into the case and, unless the charge is a serious one, or it is necessary in the child's interests to remove him or her from association with any person, or the officer has reason to believe that the release of the child will defeat the ends of justice, shall release the child on bond on his or her own or entered into by the parent of the child or other responsible person.
- Where a child is not released on bond, he or she is kept with the Police for a maximum of twenty four hours or until the child is taken to court, whichever is the sooner.
- The law does not allow for children to be detained with adults. They should be held in custody separately from the adults.
- A female child should be kept by a female Police officer.
- Where a child has been charged and is waiting to be tried, the Magistrate hearing the case will release the child on bail preferably with the parents or guardians as sureties and without them paying any money. The Magistrate can only leave the child in the hands of the authorities if he or she believes that there may be serious danger likely to happen to the child.
- Children should be kept in remand homes if they are not released on bail. This is only in the case of very serious offences where if a person is found guilty, the punishment would be death.

Important!

A remand home is a place where children are taken care of when they are arrested for being suspected of having committed a serious offence.

- Where there is no remand home within a reasonable distance to the Court, the child should be detained in a safe place where good care will be provided and where he/she will be produced in Court as and when needed. The Court must make sure that this place exists before it orders for the child to be kept there. It is the responsibility of the District Administration to provide this place.
- Where a child commits an offence that is serious enough to attract death, he/she should not be imprisoned waiting for trial for more than six months and where the offence is considered minor that should not be imprisoned awaiting trial for more than three months.
- A child who escapes from a remand home or any other place of safe custody where he or she is held in custody should be arrested and returned to that place.
- Where there are alternatives such as close supervision or custody with a suitable person determined by the court following the recommendation of a probation and social welfare officer, the Court considers those other alternatives compared to the child being imprisoned in a remand home.

Remember!

A child can only be held under incarceration in a remand home as a last resort. Options like diversion, non-custodial sentences should always be first exploited.

2.8. Which courts should handle children's cases

▪ The Family and Children Court

This is the Grade I and or Grade II Magistrates Court which has authority to handle all cases relating to children. This court handles all offences of children in conflict with the law except capital offences punishable by death.

▪ The High Court

The High Court handles offences committed by minors which are punishable by death. This court also handles offences where a minor is jointly accused with an adult.

▪ The Local Council Courts

The Local Council Courts handle minor cases relating to children such as indiscipline, malicious damage to property, prostitution, affray, minor theft, criminal trespass, common assault e.t.c. Local Council Courts are not allowed to detain children. The cases before Local Council Courts must be handled within a period of three months.

Cases involving children at all courts levels must be handled in an informal and child friendly environment.

Court may also decide to remove some cases against a child from the formal legal system to the Community level, Local Council Level or the Police. Such cases are usually similar to those heard by the local council courts above.

2.9. Diversion of children cases

Diversion refers to the turning away cases from the formal criminal of children in conflict with the law. At any point of these processes, all attempts should be made to provide alternatives to formal justice processes for children who admit their wrong acts and have the potential to reform with the help of societal members.

A justice system actor say at Police, a Prosecutor or even at court will decide to divert a case depending on some conditions such as:

- When the child is able to understand and accept the nature of the offence.
- When the child is remorseful and repentant
- The child must also be willing to divert
- The child must have a responsible parent or guardian who must ensure that he/she participates in life skills and is able to report back to the authorities when needed.
- The child must have a permanent place to stay.

Extremely Important

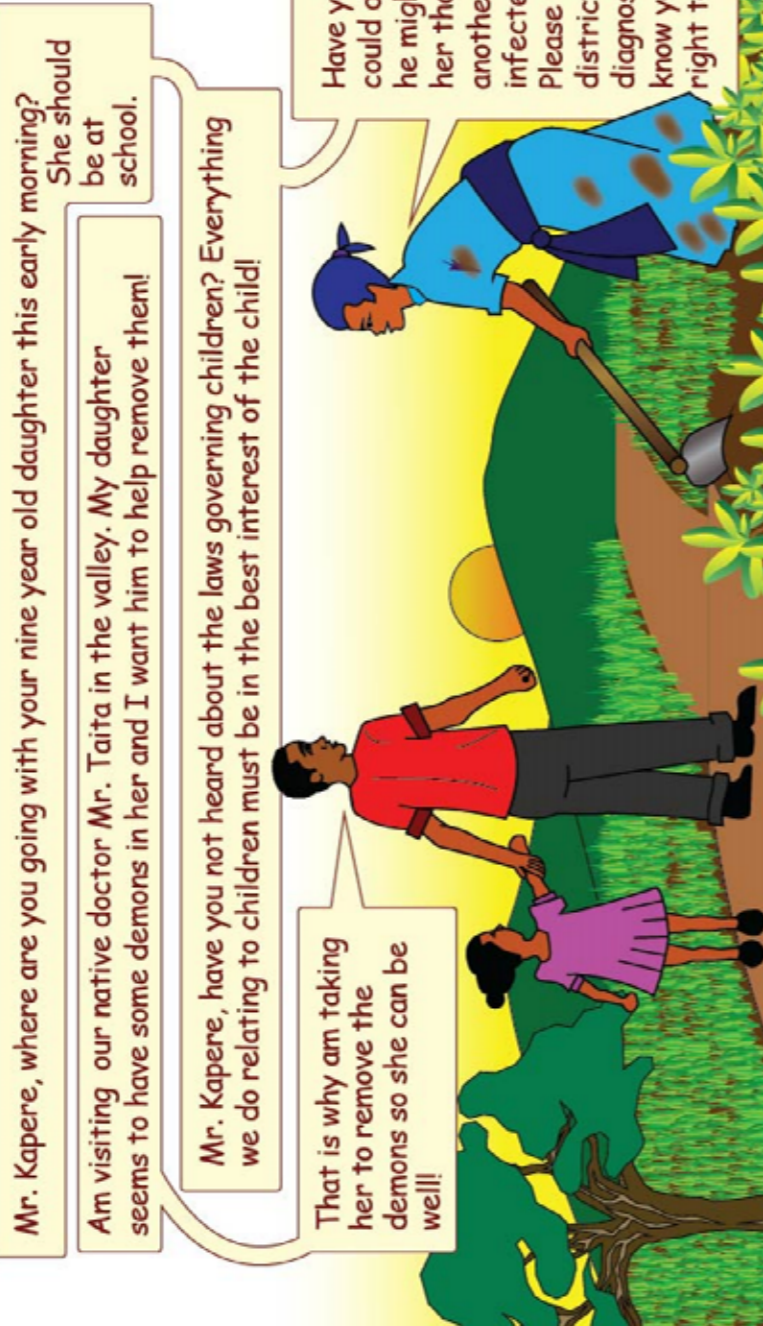
It is important to note that children have rights to be protected but at the same time, they have a duty to respect their parents or guardians and other people in the community, as well as to obey the law and this they do with the guidance of their parents, guardians and the responsible authorities.

2.9.1. Where can cases be diverted

The following are places where the cases for diversion can be reported and necessary redress achieved:

- Local Council courts (LCs)
- Police-Child and Family Protection Unit (CFPU)
- Social Welfare and Probation Officer
- NGOs dealing with Child related matters
- Religious leaders
- Community Based Organizations (CBOs)

PROMOTE RESPONSIBLE PARENTING IN YOUR COMMUNITY



Mr. Kapere, where are you going with your nine year old daughter this early morning? She should be at school.

Am visiting our native doctor Mr. Taita in the valley. My daughter seems to have some demons in her and I want him to help remove them!

Mr. Kapere, have you not heard about the laws governing children? Everything we do relating to children must be in the best interest of the child!

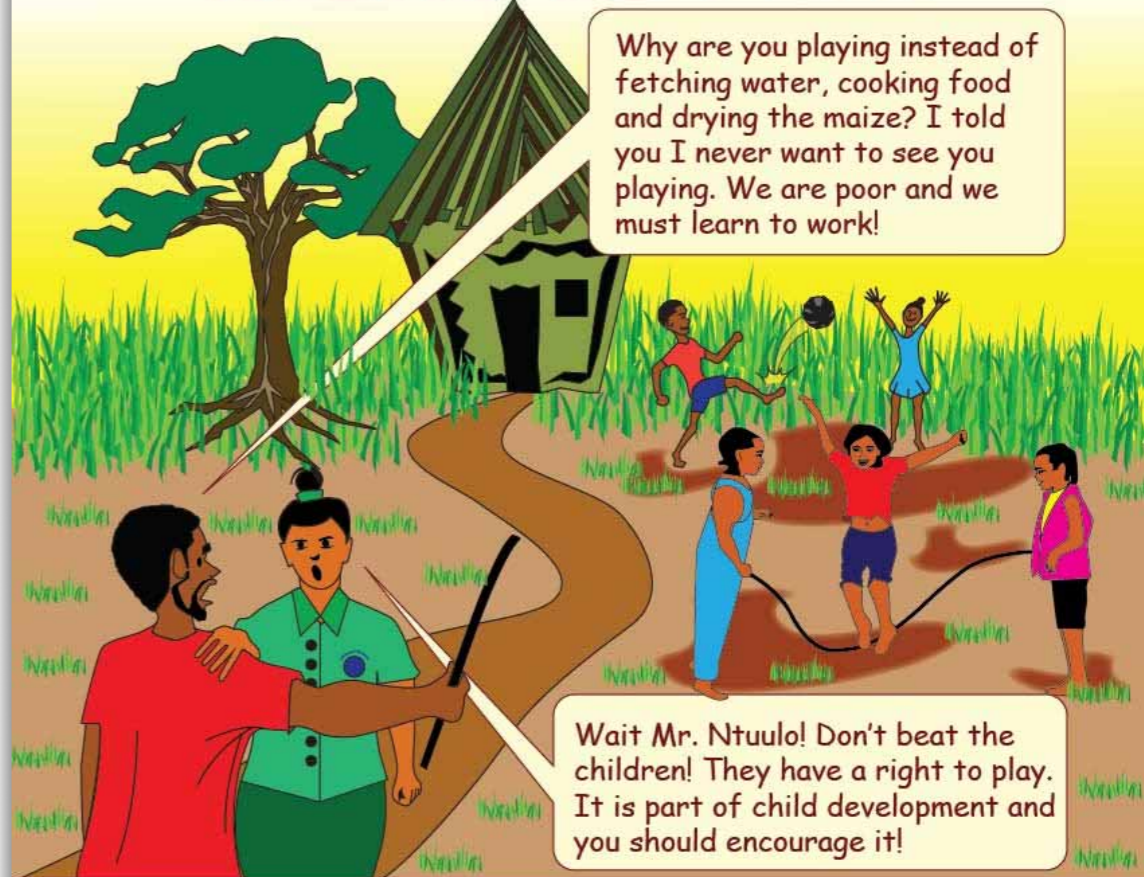
That is why am taking her to remove the demons so she can be well!

Have you considered that he could defile that girl? Or that he might use a razor blade on her that has been used on another person and have her infected with diseases? Please take her to the district hospital for proper diagnosis and treatment. You know your daughter has a right to proper medical care!

For More information contact:
 Sauti Child helpline on 116
 Justice Centres Uganda toll free line: 0800 100 210
 Email: secretariat@laspnet.org
 LASPNET on Tel: 0393 513 733



CHILDREN HAVE A RIGHT TO PLAY



Why are you playing instead of fetching water, cooking food and drying the maize? I told you I never want to see you playing. We are poor and we must learn to work!

Wait Mr. Ntuulo! Don't beat the children! They have a right to play. It is part of child development and you should encourage it!

For more information contact: Sauti Child helpline on 116 or Police on: 0800 300 119, 0800199119
 Law Development Centre Legal Aid Clinic: 0417 101 000
 Uganda Christian Lawyers Fraternity on 0414 534 031
 Uganda Child Rights NGO Network: 0414 534 548 or 0414 532 131
 LASPNET: 0393 513 733



CHAPTER THREE

THE SUCCESSION LAW IN UGANDA: WHY YOU SHOULD WRITE A WILL!

“Our ideals, laws and customs should be based on the proposition that each generation in turn becomes the custodian rather than the absolute owner of our resources - and each generation has the obligation to pass this inheritance on in the future.”

Alberto Moravia

CHAPTER THREE

THE SUCCESSION LAW IN UGANDA: WHY YOU SHOULD WRITE A WILL!

3.0. INTRODUCTION

The Succession law in Uganda provides for the manner in which a person's property is dealt with upon his or her death. It is important that before a person dies s/he makes a Will to clearly show his/her wishes and interests with regard to his property and how the family members should be looked after upon his demise.

Under the Law there is Testate and Intestate succession. The laws governing succession include The Succession Act Cap 162 and the Administrator General's Act of 1873.



3.1. Testate succession

Testate succession occurs where a person dies after having written a valid Will.

3.2. What is A Will?

A Will is a document made during a person's lifetime in which they direct or state how their property and other affairs should be dealt with after they pass away. (A sample of a will is annexed).

A person who makes a Will is called a testator whereas the person who is appointed by the Testator to carry out his/her wishes in a Will is called an Executor (for a man) or an executrix (for a woman).

3.3. Capacity to Make a Will (who can make a will)

Every person, man or woman above 18 years of age and of sound mind can make a will. A deaf, dumb or blind person can make a Will if he or she is of sound mind. Also, a person who is insane or of unsound mind can make a Will during times when he or she is sane. A soldier or a marine may make a will at 18 years of age and older when in war or at sea. The Testator must act voluntarily and must fully understand what s/he is doing at that particular time.

3.4. What is the Importance of Writing a Will?

- A Will spells out clearly how the wishes of the Testator are to be carried out and so provides an orderly estate distribution and succession plan.
- A Will spells out how all the property and assets are to be distributed and dealt with. The property is thus protected from being taken by greedy relatives and total strangers.

- A Will provides for how the minor/ children should be looked after once the testator is gone to ensure continuity of their wellbeing.
- The Testator chooses who will distribute the property (Executor), as s/he knows who among the relatives is most suitable to carry out his last wishes.
- The Testator is able to give property to those who would ordinarily not be considered if there was no will.
- The beneficiaries get what they are entitled to under the Will.
- The Executor is able to collect the debts due to the deceased.
- A will helps to avoid family wrangles/conflict that usually result from failure to agree on what and how much each beneficiary should receive from the property of the deceased.

3.5. Types of Wills

There are two different types of wills and these include written or ordinary Wills and Privileged Wills.

3.5.1. Written or Ordinary Wills

These are Wills made in normal situations by any person above the age of 18 years. A Will is valid if made in writing by a sane person during his/her lifetime. A written Will can be used as evidence in Court.

3.5.2. Privileged Wills

These are Wills made by people who are engaged in dangerous or abnormal situations such as soldiers at war or sailors at sea. In such cases the testators must be at least 18 years of age. Privileged Wills may be written or stated by mouth (oral).

3.6. Essential Contents of a Will

- A proper will should contain the following:
- The full name and address of the Testator.
- Date when the Will was made.
- Names of Executor(s) this could be one or more people.
- Appointment of the heir/heirress.
- Names of the guardian(s) appointed to look after the young children.
- Other wishes may be stated such as the burial place and any other ceremonies to be performed.
- Creditors and whatever is owned should be mentioned.
- An accurate and clear description of all the properties including the size and location.
- Debtors and the amounts due owed to the deceased should be mentioned.
- The Will must be properly signed by the testator and the signature witnessed by at least two people. If a Will is not signed and witnessed then it cannot be valid.

3.7. The Matrimonial Home

What is a matrimonial home?

A matrimonial home is defined as dwelling or property in which both spouses are residing. Both husband and wife have equal possession and rights to live in the house even when the house is owned by one spouse.

The matrimonial home cannot be given out in a Will if there is a surviving spouse and or children below 18 years. It is automatically taken over by the surviving spouse if the Testator was married. The minor children of below age of 18 years and dependent relatives are also entitled to live there.

3.8. Format of A Will

A Will can be written in any form as there is no set format although it must be dated signed or thumb printed by the Testator, attested to (witnessed) by two people in the presence of each other. You can write a Will by filling in a form that is provided by the Administrator General's office or responsible Civil Society Organisation. One can write it on paper using a pen or type it.

3.9. Witnesses to a Will

A Will must be witnessed by at least by two adult witnesses. The witnesses need not know the contents of the Will and must not be beneficiaries to the Will or else they will lose whatever they have been given in the Will.

3.10. How to Make Changes to A Will

One can make changes to a Will anytime by writing another document altering a part or parts of the original Will. This document is called a **codicil**. It must be signed by the testator and must be witnessed by at least two adults. It must make reference to the original Will.

3.11. When is it Necessary to Make Changes to A Will?

- When one acquires more or loses property
- When one wants to change the heir/heirress
- When the heir in the original Will dies
- When any of the persons who was given a share in your will dies
- When any of the witnesses to the Will dies
- When one marries if they were not married at the time of the first Will

3.12. How to Cancel a Will

A Will may be cancelled in two ways:

- By making another Will or writing to declare that the original Will is cancelled.
- By marriage, once one gets married the Will that was made before that marriage is automatically cancelled.

3.13. Where to keep a Will

A Will should be kept in a safe place namely, a bank, the Administrator General's office, with a lawyer, the Registrar of a Court, with a trusted friend or relative, or with a religious leader. A trusted friend or relative should know where the Will is being kept but the contents of the Will should never be revealed until the Testator has died. The person with whom a Will is kept should make it known immediately upon the death of the Testator, which s/he left a Will.

3.14. When is a will rendered invalid

A Will is rendered invalid if it was not signed by the Testator or was not witnessed by at least two people.

3.15. Who to Provide for in a Will?

The Testator must provide for certain essential people in his/her Will including:

- Testator's wife/wives or husband recognized by Law.
- Minor children who are below 18 years of age whether born within or outside wedlock.
- Dependent relatives who were totally or substantially depending on the Testator for survival at the time of his/her death; not those that occasionally received assistance from him/her.
- The testator has the liberty to give his property to other persons of his choice as beneficiaries. These include friends, cohabitees, charitable organizations and legal entities like companies.
- Property may also be left to a person, not for his/her own benefit but for the benefit of others. Such a person upon whom property is conferred is called a **Trustee** and the person it is intended to benefit is a **beneficiary**. Such an arrangement is suitable and proper where the Testator may not wish to confer his/her property directly to his/her young children and the person is expected to manage the property well.
- The executor is accountable to how the property and the other matters in the Will have been handled. He is the person appointed in the will of the deceased person to carry out the instructions in the will.

3.16. What makes a will Invalid?

If a will has been contested (challenged) and is presented before a court of law, the court upon establishing its evidence, may declare such a will invalid for the following reasons:

- The testator was of unsound mind or senile and therefore did not understand what she/he was doing at the time of writing the will. For example, most people who are critically ill may be incapable of making a Will.
- If the will was written under duress (force or threats).
- If the Testator was under age.
- If the Testator married after making the Will.
- If the wife/wives, husband, minor children who are below 18 years of age and dependent relatives are not catered for.
- If the Will is not clear i.e. ambiguous.
- If the whole estate or the subject matter of the Will perishes either before the death of the Testator or before the execution of the Will.
- If the Testator made another Will after the one being contested.
- If the Will was not signed by the Testator or witnessed.

Therefore if a Will is declared invalid, the testator's wishes cannot be followed. The entire estate of the deceased will therefore be treated as if the deceased died without making a Will. The property will then be distributed according to the law which governs situations where a person dies without making a Will called **intestate succession**.

Where the testator expects to die, he or she may give away his or her property as gifts. The testator must be ill and expecting to die shortly of that illness. However, if the testator recovers and does not die, the gift must be returned. Such a gift is called a gift *inter vivos*. A gift given while still alive.

3.17. Probating A Will

Grant of probate refers to the authority given by Court to an executor/executrix- a person named in the Will to distribute the property of the deceased.

Note

It is an offence to deal with or distribute property of a deceased person without obtaining authority from the Court.

3.18. What happens after the death of the testator?

- Whoever has the Will is expected to inform the gathering upon death that s/he has the Will of the deceased.
- The Will is read out to the family at the earliest possible time or according to the wishes of the deceased person and immediate action is taken on matters such as burial place, burial ceremony and funeral expenses.
- The Executor(s) mentioned in the Will must then apply to court for permission or authority called Grant of Probate to carry out the wishes of the Testator.
- An advertisement is made by the Court in the Newspapers for 14 days, calling upon any member of the public who has any objection to the Will or to the Executors who have applied for grant of Probate to raise it. The Will therefore becomes a public document and is laid open for inspection to any member who may wish to examine it.
- If no objection is made within the time given by the Court, the Court grants probate to the Executor(s) upon satisfaction that the person(s) who have applied for probate are the right Executor(s) named in the deceased's Will.

3.19. Under what grounds would court deny the applicant grant of probate?

- If any person who is discontented with the contents of a Will or its genuineness, s/he can lodge or complaint in Court. The protest or complaint is normally in a written form called a **Caveat**.
- Once an objection has been raised, the Court hears the grounds of the objection. If court is satisfied with the evidence brought before it, will declare the Will invalid and the property is distributed as if the person died without a Will (intestate succession).
- The Court may also make alterations or adjustments to the Will to make provisions for the entitled persons who have been omitted in the Will.

3.20. What happens if the executor cannot carry out the wishes of the Testator?

Where there is a Will but no Executor expressly appointed, the person who would be entitled to administer the estate if the Testator had died without a Will can apply to Court for Letters of Administration with the Will annexed (attached) upon being chosen by the family of the deceased. This could be the wife or husband of the deceased or adult children of 18 years and above.

3.21. How is A Will Executed?

The execution of a Will is carried out in the following manner:

- The Debtors pay to the Executor what is owed to the deceased.
- Creditors are paid from the estate in the following order or priority:
- Medication fees and funeral expenses are met.

- Court fees or lawyer's fees are paid, if any.
- Money due to employees and those who rendered services to the deceased within the last month before his/her death.
- All other debts are paid in their order of preference.
- Then the remaining property is distributed according to the will of the deceased.

3.22. What happens if the Executor mismanages the deceased's estate?

Where the Executor mismanages the estate of the deceased, he or she may be prosecuted and imprisoned. Also, where the Executor acts negligently s/he may be made to compensate the estate.

Anybody who interferes with the property of a deceased before probate is granted by Court commits an offence called **intermeddling** and is liable to prosecution. It is also illegal for anybody to tamper with or alter the contents of another person's Will.

3.23. Where to apply for a Grant of Probate

A grant of probate may be applied for;

- In the Magistrate Grade II Court where the total value of the estate does not exceed ten thousand shillings;
- In the Magistrate Grade I, where the total value of the estate exceeds ten thousand shillings but does not exceed 20 Million shillings;
- In the Chief Magistrate's Court, where the total value of the estate exceeds 20 Million but does not exceed 50 Million shillings.
- Only in the High Court where the estate of the deceased is valued at more than 50million.

3.24. Intestate succession

3.24.1. What Happens if a Person dies without making a Will?

Intestate succession refers to how an estate of a deceased person is managed if they died without leaving a Will. It also occurs when a Will is challenged in court and the Court invalidates the Will.

The legal effect of intestate succession is that all the property owned during the time of the deceased becomes part of the estate. The personal representative of the deceased is appointed by court. Only a few recognized categories of people can inherit property and in order to manage the estate, one has to apply to court for Letters of Administration.

3.25. Who is entitled to the property of an intestate?

The following categories of the people can inherit property under intestate succession:

- **Husband or wife;** there must be a legally recognized marriage at the time of death and the husband and wife must have been living together as members of the same household 6 months prior to the death.
- **Children** of the deceased who may either be born during wedlock, outside wedlock and adopted children.
- **Dependent relatives;** relatives who were wholly or substantially dependent on the deceased.
- **Customary heir;** these include relatives or children of the deceased person recognized by the local customs of the ethnic groups or community of the deceased as being the

deceased's customary heir. Therefore in certain instances there may not be a customary heir depending on the local customs applicable.

- **Legal heir;** this is the living relative nearest to the deceased who usually takes over when there is no customary heir.

3.26. What are Letters of Administration?

Before any one deals with the estate of the deceased person who dies without making a Will, one must first obtain Letters of Administration. Letters of Administration are authority granted by the Court to a person to administer the estate of a person who has died without leaving a Will. The following persons have a right to apply for letters of administration in order of priority; wife/wives or husband of the deceased, adult children of the deceased parents of the deceased, siblings of the deceased and close friends of the deceased.

3.27. How are Letters of Administration obtained?

1. Report the death to the Administrator General's Office with all the relevant documents including a letter from the Local Council introducing you and informing him of the death of such a person, a death certificate from National Identification Registration Authority (NIRA). These documents are mandatory to be granted letters of administration.
2. Apply to the Administrator General for a **Certificate of No Objection**. A Certificate of No Objection is clearance which enables you to apply to Court for Letters of Administration. The Administrator General issues a certificate of No Objection after scrutinizing the relevant documents and confirming that the applicant is the right person who should administer the estate. The Administrator General may invite for a family meeting to establish certain facts or in case there is a dispute.
3. The application is filed in court in form of a petition by the applicant requesting to administer the estate. The applicant also signs a document in which he/she undertakes to administer the deceased's estate in a just and proper manner according to the law.
4. The application is advertised in the newspaper for 14 days.
5. If any objections are raised by the public, they are heard and decided by the Court.
6. The Administrator then proceeds to administer the estate and becomes the personal or legal representative of the deceased. After 6 months, the Administrator must inform the Court of all the property and obligations that the deceased had, as well as all debtors and who is entitled to inherit from the deceased. It is called **providing an inventory**.

3.28. Under what grounds can letters of administration be canceled?

Letters of Administration may be cancelled for the following reasons;

- Where the letters were obtained fraudulently by making a false statement or by concealing from court information.
- Where the letters have become useless for example, where the administrator dies or becomes insane or where the administrator used the deceased's estate for their personal gain to the detriment of the beneficiaries.
- Where the person to whom the grant was made has refused to distribute the estate, to file an inventory and or an account.

3.29. The Administrator General

The Administrator General is a public officer responsible for the administration of estates of deceased persons. The Administrator General is represented in every district by the Chief Administrative Officer (CAO). The CAO also recommends to the Administrator General persons to be issued with Certificates of No Objection, holds family meetings and advises families of deceased persons where necessary. However the court can also grant the Administrator general Letters of Administration.

3.30. What is the role of the Administrator General?

- The office of the Administrator General in law is automatically in charge of estates of persons who have died without making Wills.
- Receives reports of death.
- Resolves disputes among the beneficiaries of family members.
- Issues Certificates of no Objection.
- Is a Public Trustee, i.e. ensures that the rights of the beneficiaries especially of the minor children to inherit property are not violated where there is no Will.

3.31. Under what circumstances can the Administrator General be granted Letters of Administration?

- If the deceased person has appointed the Administration General in a Will as executor.
- If the person appointed in the Will renounces executorship.
- If the person appointed as an executor dies before execution.
- If a person dies without making a Will and there is a dispute.
- If the deceased person has not appointed an executor in his will.
- If there is no application that has been lodged for probate or Letters of Administration within 2 months of death of the deceased.
- If the Administrator General establishes that the Executor or Administrator is mismanaging the estate. The Administrator General however has to apply to Court first for revocation of the probate or Letters of Administration.

3.32. How is property of an Intestate distributed?

The Manner of distribution varies according to the categories of beneficiaries left behind. The law provides that the property of the person who has died intestate except his principal residential holding (house) shall be divided among the following classes of the people:

Where the deceased (intestate) is survived by a customary heir wife/wives/husband, children and a dependent relative;

- a) The customary heir
- b) The wife/wives/husband
- c) The dependent relatives
- d) The children

It is expected that fairness is exercised in the distribution of the estate. For example a 50 year old son will receive less than a two year old son.

In practice, the family members and relatives are also free to draw up for their own scheme of distribution. This scheme or arrangement must be approved by the Court.

Where no person takes any proportion of the property as a wife/husband, dependent relative, children or relatives most closely related to the deceased, the whole of the property shall belong to the customary heir. However where there is no customary heir, the customary heir's share shall belong to the legal heir.

Men and Women have equal right to inherit property

Reference is also made to Law & Advocacy for Women in Uganda v. Attorney General where the petitioner, a women rights advocacy group, filed a petition dealing with the Constitutional validity of sections of the Succession Act regarding gender equality in succession and inheritance.

The petitioner challenged the Constitutionality of ss 2(n) (l) (ii), 23, 26, 27, 29, 43 and 44 of the Succession Act in accordance with Articles 20, 21, 24, 26, 31, 33(1) and 44 of the Constitution because it preferred a male heir to a female heir. Moreover, s 27 of the Act provided that, when a man died, his property would be distributed to his heir(s) and provided no such arrangement for inheriting the property of a deceased woman. Furthermore, s 43 of the Act gave only fathers the right to appoint a guardian. In addition, s 44 of Act only allowed male relatives to be guardians refusing female relatives the same right. Under s 15 and 16, a woman could take her husband domicile but a man could not take his wife domicile. Therefore, the petitioners argued that the above sections of the Act were unconstitutional, since such different treatment discriminated against women purely based on gender.

In declaring the Succession Act invalid in part, the Court held that: According to Article 2(1) and (2), the Constitution was the supreme law of the land. It authorized the Court to declare unconstitutional any law which was inconsistent with its terms. Sections 2(n) (l) (ii), 23, 26, 27, 29, 43 and 44 of the Succession Act and Rules 1, 7, 8, and 9 of the Second Schedule of the same Act were inconsistent with Articles 21(1)(2)(3) 31, 33(6) of the Constitution and were declared null and void.

3.33. How is The Matrimonial Home Dealt With?

The matrimonial home should not be distributed and the widow/widows/widower are entitled to stay in the matrimonial home until s/he dies, remarries or voluntarily leaves. The minor children who are below 18 years are entitled to stay in the principal matrimonial home until they attain majority age.

3.34. Estates Less Than UGX 10,000,000/=

Upon death of a person, the family members are to inform the office of the Administrator General, obtain a certificate of no objection and then proceed to court for grant of probate or letters of administration.

Where the property that forms the estate of the deceased is less than Shs. 10,000,000/= one should apply for permission from the Magistrates Court. Upon approval, the property can be distributed. If the property is worth more than Shs. 10,000,000/=, an application is made to the High Court.

3.35. Common offences committed under both testate and intestate succession

- Intermeddling with the property of the deceased
- Failure to give a true account of the inventory to court or exhibits a false account
- Providing false information in evidence on oath.
- Mismanagement of an estate by the Administrator
- Stealing a Will
- Concealing of a Will
- Destroying a Will
- Forgery of a Will
- Eviction or attempt to evict from a residential holding a wife or child of an intestate.

WOMEN HAVE RIGHTS TO INHERIT LAND AND PROPERTY

Eh eh eh! Young men, you have no right to chase her. Widows have a right to inheritance to their husbands' property. She becomes the head of a household upon the death of her husband. She then has the responsibility to manage all property which has been allocated / given to her. The land is passed on to her and her children unless she has passed, thus it shall be given to her relatives if she has no children!

For help, call the following helplines:

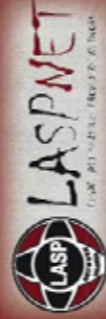
Justice Centers Uganda: **0800 100 210**

Police: **0800 300 119, 0800 199 119**

Office of the Administrator General: **0414 341 915**

Uganda Association of Women Lawyers (UAWL): **0414 530 848**

LASPNET: **0393 513 733**



CHAPTER FOUR

MARRIAGE AND DIVORCE

“Friendship is the marriage of the soul, and this marriage is liable to divorce.”

Voltaire

“Once you do embark upon the separation or divorce process, it is very important to remember three key things: Be kind, be reasonable, be brief. Remember that this person will no longer be your spouse, but he or she will continue to be your co-parent, family member, and perhaps business partner in certain assets or entities”.

Laura Wasser

CHAPTER FOUR

MARRIAGE AND DIVORCE

4.0. Introduction

Marriage is considered an important and essential part of a person's life. There are rules and regulations governing the marriage institution; and there are various legal consequences for not following these guiding principles. That not with standing there are vulnerable groups such as persons with disabilities that are particularly susceptible to abuse before, during the subsistence of and at the dissolution of marriage. This therefore means that parties who are staying together but not in any of the recognized forms of marriage are not legally married. Staying together but without undergoing any of the legally recognized form of marriage (cohabitation) is not marriage and should be avoided. Parties should endeavor to legalize their relationship if they are to find protection within marriage especially when something goes wrong. The different laws that govern Marriage in Uganda include the Uganda Constitution (Article 31); the Marriage and Divorce Act 2009, the Marriage and Divorce of Mohammedians Act Cap 252 (1906); the Hindu Marriage and Divorce Act cap 250 (1961). The Customary marriages such as the "kwanjula" are also recognized under customary law.



4.1. Marriage

What is marriage?

Marriage is the voluntary joining together between man and woman for life to live as husband and wife, to found a family under any of the existing legally recognized forms of marriage.

4.2. Types of marriage that exist in Uganda

There are basically five kinds of marriages recognized under the laws of Uganda namely:

- Civil Marriage
- Church Marriage
- Islamic Marriage
- Customary Marriage
- Hindu Marriage

4.2.1. What is a Church marriage?

This is a marriage celebrated in a licensed place of worship by recognized minister. The marriage must be between a one man and one woman, and it is celebrated in accordance with the Christian faith chosen by the parties themselves. The faith must be legally recognized in Uganda.

a) What is required for a church marriage to take place?

- The marriage is strictly a monogamous marriage i.e. one woman and one man until one of the two dies.
- The man and woman intending to marry must not be in any other relationship or marriage.
- They both must be 18 years and above.
- Both parties must voluntarily agree to the said marriage.
- The consent of parents or guardians is desirable and important although not a mandatory requirement.
- Both parties must not be closely related by blood or otherwise e.g. sisters, brothers, grand children, nieces, nephews, adopted children, parents, cousins etc.

b) What procedure must be followed for a church marriage to take place?

- Parties must appear before a recognized Church Minister who registers the parties upon fulfillment of certain requirements. E.g. in Church of Uganda, the parties must be baptized, must have been confirmed, and must present a consent letter from the bride's parents.
- The Church thereafter announces the banns/notice for three consecutive weeks. The ban/notice shall be published for 21 days before the marriage can be celebrated.
- The Church into which the wedding wants to take place must be licensed to conduct such weddings.

Remember!

Check whether or not the church in which your ceremony will be taking place is a properly recognized church! Many churches in Uganda are not and that will mean that you have to do the marriage ceremony again!

- The Church Minister/Priest/Pastor must be licensed.
- The parties intending to marry must be at least 18 years.
- A marriage must be witnessed by at least 2 people.
- Must be celebrated between 8:00am and 6:00pm in an open Church where people can witness the proceedings.
- The marriage should then be recorded in the register book kept at the church where the marriage is celebrated.
- A marriage certificate is issued and signed by both parties to the marriage and witnessed by two witnesses. After a certificate is handed over to the parties and a duplicate copy is kept at the church.

Did you Know?

Even when you have followed all the requirements of a marriage but fail to ensure that sex between the two parties happens, that marriage can be cancelled!

4.2.2. What is a civil marriage?

A civil marriage is a marriage celebrated before the Registrar of Marriages, who is the Registrar General or someone assigned by him/her to carry the marriage ceremony out. At the District level this function is conducted by the Chief Administrative Officer (CAO).

a) What is required for a civil marriage to take place?

- The marriage is strictly a monogamous marriage i.e one woman and one man until one of the parties dies.
- The man and woman intending to marry must not be in another relationship or existing marriage.
- They must be of majority age i.e. 18 years and above.
- Both parties must voluntarily consent to the said marriage.
- The consent of the parents or guardians is desirable although it's not a mandatory requirement.
- Both parties must not be closely related by blood or otherwise e.g. sister, brothers, grand children, nieces, nephews, adopted children, parents, cousins etc.

Take Note:

If any of the above requirements are breached, then the marriage is void and illegal from the beginning and has no legal consequences.

b) What procedure must be followed for a civil marriage to take place?

Any person intending to marry has to have the following:

- Must appear before the Registrar of Marriages/Chief Administration Officer and express an intention of marriage.
- A notice of marriage is signed before the Registrar of Marriages; it can also be before Chief Administration Officer. The notice is published for 21 days on the notice board of the Registrar or Chief Administrative Officer.
- One of the parties must be a resident within the district in which the marriage is intended to be celebrated, for at least the 15 days.
- The parties intending to marry must be at least 18 years.
- The marriage ceremony has to be celebrated in a licensed place.
- The marriage must be witnessed by at least 2 people.
- It must be carried out between 8:00 a.m and 5:00 pm.

Did you Know?

This is the only marriage where you can agree for it to be for a certain period of time!

c) What are the rights enjoyed under the civil and church marriage?

All partners in these marriages have equal rights when getting into the marriage, during the marriage and even when they decide to end the marriage.

These rights include:

- The bride has a right to use the groom's name even when they are divorced. However the name should not be used for unlawful purposes.
- The parties are expected to look after each other
- Parties have rights to share properties acquired together during the subsistence of the marriage.
- Parties also have a right to own property individually upon agreement.
- Both the parents have rights to have access, enjoyment and company of their children during marriage and upon divorce.
- Both parties enjoy the right of protection with regard to family property. e.g. no person shall sell, exchange, transfer, pledge, mortgage or lease any land; enter into any contract for the sale, exchange, transfer, pledging, give away any land inter vivos, or enter into any other transaction in respect of land- in the case of land from which they derive their sustenance, except with the prior written consent of the Spouse;
- The right to remarry upon the death of the spouse or upon divorce.

Take Note:

Once you choose to marry under church or civil marriages, you cannot marry another person while this marriage is still on going. For example, you can only marry one wife under these two arrangements and cannot marry another woman under the customary marriage such as kwanjula! It would be an offence!

4.2.3. What is an Islamic Marriage (Mohammedan Marriages)?

Islamic marriage is a marriage celebrated according to the Islamic faith and it allows one to marry more than one wife, but on fulfillment of the Islamic requirement of equal treatment of all the wives. In this kind of marriage one man is allowed to marry up to 4 wives but he can choose to marry only one.

a) What is required for an Islamic marriage to take place?

Any person intending to marry under the Islamic marriage has to have the following:

- The marriage is potentially a polygamous marriage i.e. one man can marry up to four women provided he treats them equally in all spheres of life.
- The woman intending to marry must not be in any other relationship or existing marriage.
- The Quran recognizes that a woman can get married at any time when she undergoes the puberty however the Ugandan Constitution provides the majority age of 18 years and above
- Both parties must voluntarily consent to the said marriage.
- The consent of the parents or guardian is a mandatory requirement.
- Both parties must not be closely related by blood or otherwise e.g. sisters, brothers, grand children, nieces, nephews, adopted children, parents or guardian, cousins etc.
- The man must give the woman marriage gifts called MAHARI which may be in form of money or any other property of any given value. This is determined by the woman.
- It's also a requirement that in case of divorce or death of the spouse, the remaining spouse must wait for up to three months before they can remarry.

b) What procedure must be followed for an Islamic marriage to take place?

Under this marriage, the families of the parties play a big and very important role.

- The marriage is entered into after an offer has been made and it has been acceptable. The families of the parties do the negotiations.

- The parties then chooses where they wish to be wedded. The wedding can take place either at home or in a mosque which the parties will have chosen.
- The ceremony is always presided over by an Imam or Family Mwalimu. This ceremony must be witnessed at least by two people including the parties' trustee (wali).

4.2.4. What is customary marriage/Traditional Marriage?

This is a marriage, which is celebrated in accordance to the customs of the parties to a marriage, as recognized by the African community where one or both parties originate or belong.

a) What is required for a customary marriage to take place?

Customary marriage is considered valid;

- If the man is introduced to the woman's family and the marriage ceremony is fully celebrated.
- The parties must not be related
- If the parties have attained the age of 18 years.
- Upon payment of full bride price.
- Upon consummation of the marriage (making sure that sexual intercourse between the parties happens).
- If the parties to the marriage are of sound mind.
- Both parties must not have previously contracted a monogamous marriage, which is still continuing.
- The marriage should be registered with the marriage registrar upon completion of the ceremonies however non-registration of it does not affect the marriage. The marriage can be celebrated in any part of the country according to the rite/customs of the African community to which one of the parties is a member The marriage then can be registered at the Sub County Headquarters where the Sub County Chief acts as Registrar of marriages within a period of six months from the date such ceremony was held. However non-registration does not invalidate the marriage provided all the necessary customary requirements were met.

b) What is the procedure of registering a Customary Marriage?

- Every sub county has the authority to register customary marriages and every sub county chief shall be the registrar.
- Two people who were present at the celebration of the marriage must witness the registration of the customary marriage.
- A certificate of a customary marriage issued shall be conclusive evidence of the marriage.
- It's advisable to have a marriage by custom registered.
- Any adult member of society who may include but not limited to parents, brothers, sisters, uncles, aunts, of either parties, chiefs, clan heads or other understanding person can witness the ceremony.

c) What are the rights enjoyed under customary marriage?

- Right to have sex.
- The husband is allowed to marry more than one wife.
- The wife crosses over and becomes part of her husband's family.
- If a man or woman wishes to convert a customary marriage into marriage by registrar or church he or she should do so with the wife/man married under customary.
- Right to matrimonial property.

- Right of either spouse to obtain letters of administration of the other's estate upon the death of one.

Did you Know?

Once a man chooses to marry more than one woman under customary marriage, he cannot marry under any other form of marriage except if he choose the one he married first under customary to take that same one to church for example.

4.3. Offences and penalties in a marriage

Marriage creates obligations that bind both parties, and the following are offences under the marriage laws:

- Bigamy – this happens when a married person goes through another marriage ceremony with another person while there is a subsisting marriage. The person is liable on conviction to imprisonment for a period not exceeding 5 years.
- An unmarried person, who goes through the ceremony of marriage with a married person, commits an offence and is liable on conviction to imprisonment for a period not exceeding 5 years.
- Making false declarations e.g. false names and age.
- Preventing a marriage by pretence that one's consent to it is required by law, or that any person whose consent is so required does not consent, that there is any legal impediment to the performing of the ceremony of marriage, this is an offence and if convicted liable to imprisonment for a period not exceeding 2 years.
- A minister or person performing or witnessing a marriage knowing that he/she is not duly qualified to do so. This attracts imprisonment for a period not exceeding a period of 5 years.
- Impersonation in marriage, for example pretending to be someone else so as to get married to a particular person. The penalty is imprisonment for a period not exceeding 5 years.
- Going through a ceremony of marriage, knowing that the marriage is invalid. Imprisonment for five years.

4.4. Cohabitation: What is cohabitation?

Cohabitation is an arrangement where a man and woman decide or choose to live together as husband and wife, without undergoing any form of legally recognised marriage.

a) Is cohabitation recognized as marriage?

The law does not recognise cohabitation as marriage. It does not matter how many years a man and a woman have been living together or the number of children that they have. A marriage exists only if they formalize their relationship under any of the recognised types of marriage in Uganda.

4.5. What is separation?

It applies to all types of marriages. Separation refers to is the temporary relief of spouses from their marital duties for a specified period. This can be as a result of the parties' agreement or one of the parties can petition court for separation. At the end of the agreed period, the parties may either get back together or start divorce proceedings.

4.5.1. What are the types of separations?

There are two types of separation namely; Judicial separation and separation by agreement.

a) Separation by Agreement (Mutual Separation)

Separation is when a husband and wife agree to stay away from each other for some time. They may enter into an agreement called a "Separation agreement" which lays out the terms governing the separation. A husband or wife may request for mutual separation on the ground of cruelty, adultery, or desertion without reasonable excuse. In this agreement, both parties agree to separate and they do so without coercion or threat.

b) Judicial Separation (Separation by Court)

This is when a husband or wife applies to court by way of petition for an order of separation on certain grounds.

c) What are the grounds for judicial separation?

Any person applying for separation has to prove:

- Adultery
- Desertion (where a husband or wife abandons the other without good reason for two years or more)
- Cruelty (includes violence, physical abuse, and mental torture among others).

The court being satisfied with the above grounds it may grant an order for separation or dismiss the application if the evidence is not sufficient.

4.5.2. What is the effect of separation?

The effects of both separation by agreement and judicial separation are the same. These are;

- Separation does not end a marriage. During the separation the parties are still considered husband and wife and cannot remarry. It is illegal for a husband and wife to get sexually involved with another man or woman during separation.
- The purpose of separation is to give an opportunity for the parties to reflect and negotiate on better treatment of each other if they consider getting back together.

4.5.3. When does Separation come to an end?

The separation comes to an end when the following occurs:

- The other spouse applying to the court to have it reversed upon proving that the order was obtained in his/her absence or that the desertion was justified.
- The parties voluntarily agreeing to get back together.
- When the period agreed upon being reviewed or coming to end.

4.6. Divorce: What is Divorce?

Divorce is when a marriage is lawfully brought to an end either by court or other competent authority.

4.6.1. How are the Church and Civil marriages dissolved?

These two marriages can be dissolved the same way and it is through Court by a husband or wife filing a petition to Court to dissolve the marriage.

4.6.2. What are the grounds for divorce for a Church and Civil Marriage?

- Where a spouse commits adultery
- Where a husband has changed his profession of Christianity for the profession of some other religion, and gone through a form of marriage with another woman
- Where a husband commits adultery with a close relative (incest)
- Bigamy
- Where a man remarries another woman
- In cases of rape, sodomy or bestiality
- Cruelty
- Desertion for a period of two years and above
- Irreparable break down of the relationship



4.7. How do you petition for divorce?

A husband or wife can get a lawyer who will help them request the Court for divorce by writing and presenting a petition to Court.

The power to handle divorce cases is before the High Court where either one both of the married people are not Africans. Where both of the married people are Africans, the power to handle the divorce is with the Chief Magistrates Court.

The Court hearing the divorce petition after being convinced that divorce should be allowed will grant you a decree nisi.

Decree nisi/or separation: This is when court grants an order for a period of six months. The purpose is to give parties time for possible reconciliation and during this time no party is allowed to remarry or commit adultery.

After a period of 6 months, if court ascertains that there is no hope of reconciliation it passes a **decree absolute** is granted which dissolves the marriage.

Under customary law, this mainly depends on the customs of the tribe to which the parties belong. The customs must be fair and just. Also one can go to Court by using procedures as those applicable to Church or Civil marriages in as far as it is possible.

4.8. How is an Islamic Marriage brought to an end (divorce?)

There are two types of divorce namely; revocable and irrevocable divorcer under the Islamic marriage.

4.8.1. Revocable Divorce

This is when the husband has a right to reunite with his divorced wife before the expiry of the Iddah period. Under this type of divorce, a husband obtains divorce on the first and second pronouncements.

The wife remains in her matrimonial home for a waiting period within which reconciliation and reunion may take place.

4.8.2. Irrevocable Divorce

This is where the husband can only reunite with the divorced wife after a specific legal requirement. This type of divorce is categorized into minor degree and major degree. Two kinds namely; minor degrees and major degrees

Minor degree irrevocable divorce takes place when the husband fails to reunite with the wife during the waiting period. The effect of this kind of divorce is that it sets the wife free to either reinstate her relationship with her husband but with a new contract or to contract another marriage with another man after observing her iddah. **Major degree** irrevocable divorce takes place after the third pronouncement and the couple cannot reunite except after an intervening marriage. The wife also has a right to dissolve marriage through Khul'u.

4.8.3. What is the procedure through which a wife can dissolve a marriage in Islam?

- i. File a suit with the Qadhi.
- ii. The wife may opt to justify her request or not to justify it.
- iii. The Qadhi summons the husband for consent and defence if any.
- iv. In case of refusal, the wife's right shall override the husband's consent
- v. khul'u shall be granted and dowry shall be paid back.

Qadhi courts can only pronounce themselves on the dissolution of marriage but do not have jurisdiction/ pronounce themselves on the position of custody, property and custody, they have to go to the civil courts/formal courts.

4.9. Consequential orders

4.9.1. What are the rights of the parties during and at divorce?

After court has pronounced and issued a final decree of divorce, either party to the previous marriage is free to contract another marriage and are entitled to the following rights;

a) Custodial rights: Where the couple divorcing have children court may make additional orders in regards to custody of the children. Where the children involved are of infant age (normally 7years and below), court may grant custody to the mother unless there are reasons that put the child at risk and present the woman as an unsuitable mother e.g. drunkenness can be proved. In other circumstances the parents must prove to court that they are capable of taking care of the children and this doesn't include their financial capability. Where a woman is granted custody, it is normally

NB:

According to the Children's Act Chapter 59, the child's welfare and upbringing shall be of paramount consideration. As regards custody, children aged eight years and below are normally expected to stay with their mother, unless she is not physically fit or has no means to take care of the children. However, where the custody of children is taken away from the mother, she should be free to visit them as often as she pleases

followed up with maintenance orders for the children involved.

b) Maintenance of a spouse (alimony): A woman may also be entitled to what is termed as alimony. This is money paid to a wife/husband by the husband/wife during the subsistence of the petition for divorce or upon a decree absolute/ final divorce for her maintenance. It is calculated taking into account the wife's fortune, the husband's fortune and the party that caused the divorce. Alimony normally extinguishes where the wife contracts a subsequent marriage.

c) Marital property: Either party to the marriage may also be entitled to a share in marital property upon grant of divorce. Marital property is the assets and liabilities accumulated during the subsistence of the marriage. Case law dictates that this kind of property should ideally be shared out equally between the man and woman. Court may however make orders depending on the particular circumstances of each case. If they contribute equally, each party takes 50%.

4.9.2. When can divorce be denied?

Divorce can be denied under the following circumstances;

a) Condonation

This is the forgiveness of a marital offence and reconciliation between the parties with full knowledge of all the material circumstances. Under the Divorce Act, adultery shall not be deemed to have been condoned unless conjugal cohabitation has been continued or subsequently resumed. This means that where a husband or wife has sexual intercourse with each other after knowledge of adultery committed by either party must be conclusively presumed to have condoned the offence.

Therefore, mere forgiveness does not amount to condonation. For condonation to exist the forgiveness must be followed by cohabitation and the restoring of the offending party to their former position as husband or wife.

b) Collusion

This is the presenting of a divorce petition by way of a bargain or agreement between the parties. The reason why this is a bar to divorce is that true facts will be hidden from the court and in some case marital offence will be procured or pretended for the purposes of securing a divorce.

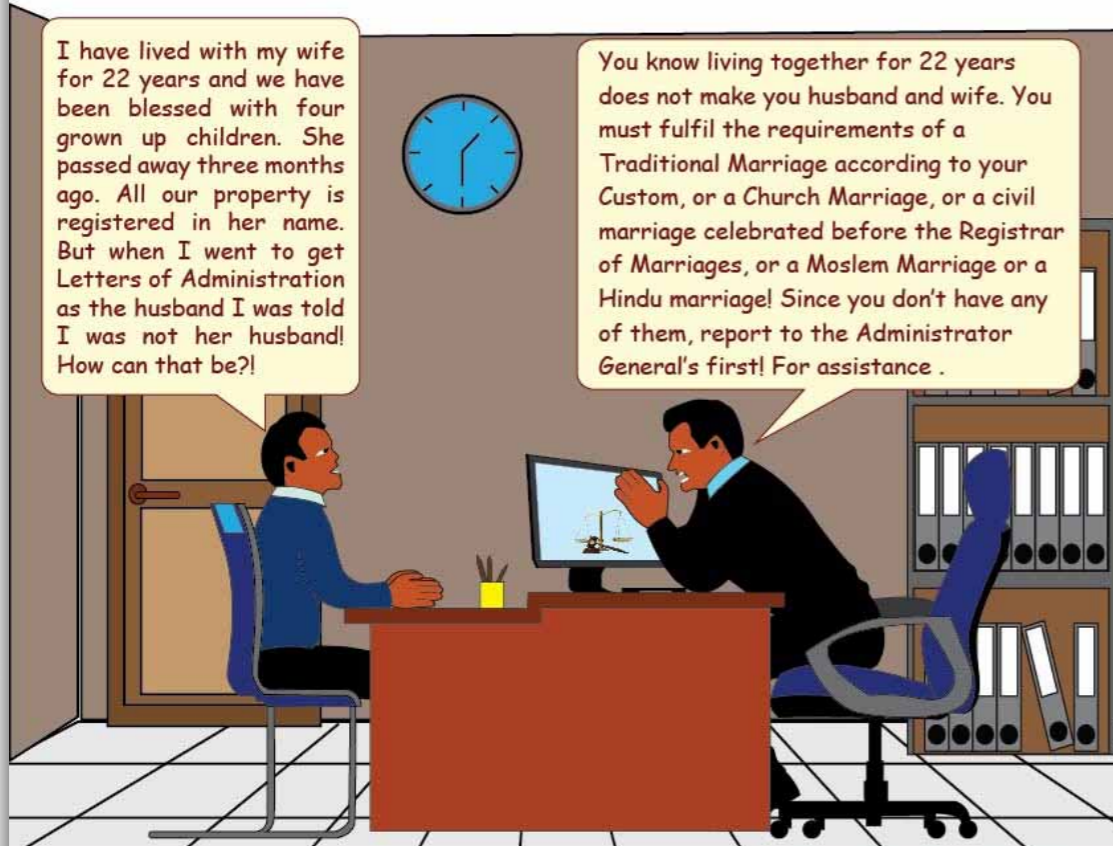
c) Connivance

This where the adultery of one spouse has been caused or has been knowingly or recklessly permitted by the other spouse. In such case the other spouse is an accessory to the adultery.

SECURE YOUR RIGHTS IN MARRIAGE, LEGALISE YOUR RELATIONSHIP

I have lived with my wife for 22 years and we have been blessed with four grown up children. She passed away three months ago. All our property is registered in her name. But when I went to get Letters of Administration as the husband I was told I was not her husband! How can that be?!

You know living together for 22 years does not make you husband and wife. You must fulfil the requirements of a Traditional Marriage according to your Custom, or a Church Marriage, or a civil marriage celebrated before the Registrar of Marriages, or a Moslem Marriage or a Hindu marriage! Since you don't have any of them, report to the Administrator General's first! For assistance .



Contact office of Administrator General: **0414 341 915**

Office of the Chief Administrative Officer at the district Justice Centres Uganda (toll free line): **0800 100 210**

Muslim Centre for Justice and Law: **041 4531084** or **0701 282887**

Uganda Association of Women Lawyers (FIDA): **0414 530 848**
LASPNET: **0393 513 733**



CHAPTER FIVE

WORKERS' RIGHTS IN UGANDA: WHAT YOU SHOULD KNOW!

“Labour rights are at the heart of the fight for human rights. The freedom to associate, to organize and to have equal opportunities in the workplace-every year we see these rights under attack around the world.”

*Kate Allen.
Amnesty International United Kingdom*

CHAPTER FIVE

WORKERS' RIGHTS IN UGANDA: WHAT YOU SHOULD KNOW!

5.0. INTRODUCTION

Worker's rights in Uganda are protected by the Constitution of Uganda, 1995, the Employment Act, No. 6 of 2006, The worker's compensation Act 2000, The occupational safety and health Act of 2006, the Labour Disputes (Arbitration and settlement) cap 224 of 2006, The Employment (Sexual Harrassment) Regulations No. 15 2012, The Employment (Employment of Children) Regulations No.17 2012, The Labour Unions Act No. 7 of 2006 and the NSSF Act Cap 222 of 1985.

The Regional Instruments include statutes such as the African Charter on Human and People's Rights, 1981.

There are also the International Instruments such as the international Labour Organisation (ILO) in particular the Minimum wage Fixing Machinery Convention No. 26 of 1928 ratified by Uganda in 1967 whose main aim is to promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue on work-related issues, the Universal Declaration of Human rights and the International Convention on Economic, Social and Cultural rights among others.

The Constitution of Uganda, Article 29 (1) gives workers the freedom to form or join Labour Unions; Article 40 provides for equal pay for equal work without discrimination, a right to be accorded protection during and after pregnancy for female employees and the right for a worker to withdraw his or her labour according to the law. The Constitution under Article 44 prohibits slavery and servitude, and the Employment Act, prohibits forced labour, discrimination and sexual harassment at the work place.

5.1. What is Labour?

Labour can be defined as any activity involving mental or physical effort done in order to achieve a purpose or result, most commonly as a means of earning income. This income must be commensurate with the work performed. Workers may be from both the formal and informal sector. Formal sector workers include workers like Doctors, Nurses, IT experts, lawyers among others well as informal sector workers include the casual labourers, the boda- boda riders, market women, house maids among others.

5.2. What is a Contract of Employment?

A contract of employment is any agreement whether in writing or verbal, expressed or implied where by one person agrees to employ another as an employee and the other person agrees to serve the employer as an employee in return for remuneration/payment. The agreement explains how the employer and employee will relate or work together. If this Contract is not followed properly, either the employer or employee can use it to get a remedy.

5.3. Who is an Employer?

Employer means any person or a company or corporation, or government Institution or any other institution for whom an employee works or has worked under agreed terms referred to as a contract of employment. A person includes an employer in a domestic setting like a home where house helps and shamba boys are employed.

5.4. Who is an Employee?

An employee may be defined as: A person in the service of another under any contract of hire, express or implied, oral or written, where the employer has the power or right to control and direct the employee except members of the Uganda Peoples' Defence Force.

Remember!

The employer cannot change the terms and conditions of employment unless the employee agrees to it.

5.5. Oral and written contracts

Oral or written contracts of service apply equally and are enforceable under the law. Therefore the absence of a written contract of employment does not stop any party to enforce it or to fulfill their obligations. The only difference is in the means of proving the existence of both contracts.

Very Important:

While the oral contract is recognized by the law, it's important to ensure that an employee has written particulars of employment especially for purposes of proof of employment in case of any dispute.

5.6. Non-discrimination in employment


It is the duty of all parties including the minister of Gender, Labour and social development, Labour officers, and the industrial court to promote equality of opportunity with a view of eliminating any discrimination in employment. In employment, the employment, no one may be discriminated on the basis of race, colour, sex, religion, political opinion, social origin, HIV status or disability.

5.7. Probationary Contract

This is a contract of employment, which is a maximum of six months according to the Employment Law, provided in writing & expressly states that it is for a probationary period. This is a try out period in which an employer would like to know if this is the right person to work for them. Once it expires, the employee must be communicated to in writing as to whether they have passed the trial and are therefore given a full time contract or do not meet the expectations of the employer and would therefore not be given a full time job. The employer may also extend the probation period if according to his judgment, the employee needs more time to perfect their skill. Probation period may extend up to a period of 12 months but may not exceed the 12 months. This period is paid for at market value but may not attract annual leave.

5.8. Basic Rights of an Employee

Knowing your basic rights as an employee can help you to decide if your contract is fair or not.


-  **Written particulars of employment (contract)** - Every employee has the right to be issued with written particulars or the terms and conditions of work. Every worker after three months of work is entitled to written particulars of employment. Male and female employees are entitled to equal compensation for work of equal value and to equal access to promotion and training opportunities.

No employee should be dismissed from work without a just or authorized cause, and only after being taken through clear lawful disciplinary procedures. Just cause refers to wrongdoing committed by an employee which should already be clearly spelt out in the employer's human resource manual or Government Standing Orders, or in the Employment law or in the law as criminal acts.

- ☒ **Payment and related Benefits:** An employee is entitled to a payment /salary /wage in exchange for a piece of work, or service rendered to an employer. Wages may be fixed for a given period, i.e. hourly, daily, weekly or monthly. It may also be fixed for a specified task or a result. This payment must be in time and as agreed with the employer. Wages should be in terms of legal tender and never in kind. The payment should be made at the place of work or where the employee is transferred to work.
An employer cannot make any other deductions from an employee's emoluments without informing and being in agreement with the employee. An Employer can only deduct legally authorized deductions. Other benefits over and above regular payment may include: Medical benefits for sickness/injuries, disability, death, pension and housing or transport allowances. These vary from employer to employer and the employee must find out which ones they are entitled to before accepting the job.
- ☒ **Right to a pay statement/slip every month.** This statement must show the employees gross salary, the deductions made from his/her salary and the net pay.
- ☒ **Length of working hours per day or per week:** The normal hours of work in a day is 8 hours and the maximum working hours for employees is forty eight hours (48) per week. This is according to the Employment Act, but the employer and employee can agree for more or less and this should be followed with additional benefits and compensation. It should be noted that for one to qualify for overtime pay, the employer or the conditions of work must have required the employee to stay working.
- ☒ **Right to annual leave (Rest from Work):** This is the 'paid' rest from work which one is entitled to as an employee. The details vary but it is about 21 working days a year, and this could be slightly more or less. There are also weekly rests, which is one day a week (6 days in a work week, one day of rest). Even during the day entitlement to some hours of rest should be available. I.e. lunch hour. Employees who work in shifts are expected to work for 48/50 hours and not exceed 56 hours a week.
- ☒ **Maternity Leave:** Mothers are entitled to maternity leave of 60 working days upon giving birth or getting a miscarriage. During this period the employer must pay the employee fully. Dismissing a female worker because of pregnancy, a miscarriage or birth amounts to unfair termination which attracts even court action.
- ☒ **Right to paternity leave** of 4 days for male employees/workers upon their wives giving birth or getting a miscarriage. It should be noted that by law a wife is a person who has contracted any of the legally recognized marriages including customary, civil and religious marriages.
Note: A registered spouse (husband) is entitled to paternity leave.
- ☒ **Sick Leave:** Employees are entitled to sick leave, but the employer should be informed, if not well and not simply assume sick leave. This must be applied for as much as practicable before one proceeds on sick leave or during sick leave or immediately after sick leave where it wasn't possible beforehand. An employer can only hold a job for an employee on sick leave up to six months after which they can terminate the same with notice. An employee who has completed not less than one month's continuous service and who is incapable of work because of sickness or injury is entitled to full wages during the first month of absence from work due to sickness or injury. In the second month, the employer to pay half and in the third month, the employer can terminate the contract of employment by giving notice

or paying in lieu of notice. **It should be noted that the first and second months when the employee has been sick do not serve as notice period.**

- ☒ **Safe working Conditions:** Employers must provide workers with every kind of on-the-job protection against injury, sickness or death through safe, healthy working conditions.
- ☒ **Right to be given protective gears and tools of work during work-** the employee should not be charged for tools, materials or protective gears. It is at the expense of the employer. An employee has a right to compensation for injuries and occupational disease suffered at the work place.
- ☒ **Grievance handling procedures:** If any work-related conflicts arise, such as pay or disagreements with supervisors, there must be a defined system at work through which such grievances can be addressed.
- ☒ **Right to form or join a union of his/her choice to promote and protect his work interests.** The employer is mandated to recognise any labour union that any of his/her employees belongs. The employer also has to make monthly deductions from the employee's wages as union dues and submit the same to the union to which the employee belongs.
- ☒ **Right to be heard before decision to dismiss is reached by the employer-** the case should be communicated to the worker, date, place and time of hearing, the worker is free to bring another person and witness during the hearing, the employer must give time to the worker to prepare his/her case. If employer omits these procedures, it will amount to wrongful dismissal and the employer shall be penalized accordingly.
- ☒ **Right to notice before termination of his or her contract of employment-** notice depends on the period of service by the employee with the employer. For probationary contracts, 14 working days or payment in lieu of 7 working days, for an employee who has worked for more than six months but less than year- notice period is 2 weeks or payment in lieu of the two weeks wages, where an employee has worked for more than 12 months but less than 5 years, 1 month, where an employee has worked for 5 years but less than 10 years, 2 months and where an employee has worked for 10 years and above 3 months' notice.
Right to be issued a certificate of service by the employer- this certificate should not reflect the reason why the employee left the work place and should not be detrimental to the worker's future earnings prospects. There is always a misconception between a recommendation letter and a certificate of service- the certificate of service is mandatory whereas the recommendation letter is not. An employer can decline to give a recommendation letter but cannot refuse to issue a certificate of service.
- ☒ **Right to personal liberty;** this includes right to work and freely choose what kind of employment they would like to engage in, freedom of movement e.g. to leave one place to another in search of employment, to visit their family and friends, etc.
- ☒ **Right to be free from being treated as a slave or made to do forced or compulsory labour;** from pain or to cruel, inhuman or shameful treatment or punishment or unlawful interference with their privacy.
- ☒ A right to be protected from all forms of abuse including sexual abuse or harassment at the place of work.

 **Right to severance allowance- the law requires** an employer to pay severance allowance where an employee has been in his or her continuous service for a period of six months or more and where any of the following situations apply:

- The employee is unfairly dismissed by the employer;
- The employee dies in the service of his or her employer, other than by an act occasioned by his or her own serious and willful misconduct;
- The employee terminates his or her contract because of physical incapacity not occasioned by his or her own serious and willful misconduct;
- The contract is terminated by reason of the death or insolvency of the employer;
- The contract is terminated by a labour officer following the inability or refusal of the employer to pay wages;
- Such other circumstances as the Minister may, by regulations, provide.

No severance allowance is payable when:

- Summary dismissal is justified.
- Employee dismissed but unreasonably refuses to accept an offer of re-employment by employer at the same place of work.
- Employee abandons employment or absconds from his or her place of work without leave for a period of more than three days without any explanation to the employer.
- Employer is a partner and employment ceases on the dissolution of the partnership.
- Enters the employment of one or more of such partners immediately after such dissolution; or
- Employee is offered and unreasonably refuses employment on less favourable terms by one or more of such partners.
- Employer dies and employee either:
- Enters the employment of a personal representative, widow, widower, or heir to deceased employer; or
- Where the contract terminated is a probationary contract







5.9. Responsibilities of a Worker

- A worker/an employee, is required to behave in a way that protects both themselves and your employer.
- A worker should be report on time to work and work for the stipulated hours, or produce what you are meant to produce within a stipulated time. The worker should only do lawful assignment and engagements.
- An employee should know and follow your work place health and safety requirements, and use the protective clothing, devices and equipment provided because if you are injured out of negligence, you may not be able to qualify for compensation.
- A worker should follow the lawful rules and regulations of the workplace
- An employee should ask for training before they begin work and should be alert to hazards or potential problems
- To keep secrets of the work place or job
- To respect the employer and fellow employees
- Not to endanger the work place
- Report abusive practices done to him/ her while at work such as sexual harassment, discrimination etc to Police, local leaders, legal aid institutions.
- Follow lawful instructions given to them by the employers at the work place.

- Ask for sick leave whenever they fall sick.
- Requesting for maternity leave during pregnancy. All female workers are entitled to sixty (60) days of maternity leave during pregnancy.
- Negotiate for better working conditions at the work place such as increment in payments for experienced workers














5.10. Employers' Rights

Employers have rights to:





-  Hire and fire without discrimination but termination must be with reason. Industrial court ruling require proof of reason for termination.
-  Ask for facts and personal information concerning the employee.
-  Take disciplinary action against employees and to ensure rules and regulations are clear. S 66 (Employment Act) provides details of the disciplinary action from the time of offence being committed. The action taken must be timely, it should be at least within 15 days. If time passes it is assumed that the employer has lost interest in the matter. Reference can be made to past offences but the penalty has to be for the current offence.
-  Employers have a right to own certain rights (e.g. copy rights) and innovation of their trade.
-  Be notified by employees if they hope to cease employment-this allows employers to plan properly for takeover.
-  Employers are entitled to eight hours of work from each employee

5.11. Employer's Responsibilities

The following are responsibilities of employers

-  Provide a safe and hygienic workplace (sanitizing, aeration etc), provide emergency exits and ventilation
-  A duty to provide work to employees
-  Make timely payment to workers either a salary or piece pay (wages)
-  Provide a written contract for employment that is more than 12 weeks
-  Provide tools of trade and protective gear-overalls, pens, helmets, gloves etc.
-  Provide a leave schedule
-  Provide pay statements (Slips) highlighting deductions as allowed under the law and within the organization.
-  Right to hire and fire
-  Give proper and sufficient notice (according to the law) in case of layoffs
-  Provide service facilities e.g. toilets
-  Keep records pertaining to bio data (Confidential) of the employee e.g. attendance book to facilitate emergencies fire breakouts.
-  Provide appropriate information, instructions, training and supervision.
-  Duties of the Employer under the sexual Harassment regulations of 2012

5.11.1. Under the Sexual Harassment Regulations of 2012, the employer with over 25 staff has a duty to:

-  Put in place a written policy against sexual harassment at the work place.
-  Provide each employee with a copy of the sexual harassment policy.
-  Display the sexual harassment policy in an open and accessible place at the workplace.
-  The employer must also show the names and contacts of the members of the sexual harassment committee.

- Not discriminate against an employee based on the employee's involvement in sexual harassment complaint.



5.12. How does a contract of employment come to an end?

A contract of employment can be terminated or ended by either the employer or the employee in different ways as follows;

- By Notice (Resignation or Termination);** either the employer or the employee can give notice of termination from employment. The notice must be in writing in a language understandable to the party receiving the notice. The Employment Act 2006 provides the different notice periods that can be given to either the employer or employee by the party terminating the contract.
 - Not less than two weeks where one has been employed for a 6 months but less than one year.
 - Not less than one month where one has been employed for 12 months but less than 5 years
 - Not less than 2 months, where one has been employed for 5 years but less than 10 years
 - Not less than 3 months where one has been employed for 10 year and above.
 - If is a probationary contract, 14 days of notice or payment for 7 days wages in lieu of notice.

Remember!

It is important to note that the reason for summary dismissal must be in existence at the time of dismissing the employee.

- Expiration of the fixed term or task;** this contract ends or is terminated upon the completion of the task in the contract or upon the expiration of period provided in the contract. Under such a contract, no notice is given.
- Death of the employee;** a contract of employment can also be terminated or ended when an employee dies. This is because by law, employment cannot be inherited or assigned to another person.

What happens in case of death of an employee?

In the case of an employee dying during the term of a contract of service, his or her heir or legal representatives shall be entitled to the wages & any other remuneration due to the employee at the time of death.

Where an employee dies at his or her work place or on the way to his or her place, the employer is required to notify the death to the District Labour Officer who shall notify the Commissioner.

Where an employee dies while at work or while traveling to his or her place of work, their employer shall be required to transport the employee's body to the place of burial notified by the employee's next of kin.

- By a decision of court;** a contract of service can be terminated by a labour officer on grounds of failure to pay wages to the employee after him/her instituting a claim of non-payment of wages in the labour office.
- During insolvency i.e. when an employer is declared bankrupt (unable to pay their debts).
- Death of the employer
- Attainment of retirement age by the employee.
- Restructuring of the Employer Company or organisation.
- Summary dismissal:** this is when an employer terminated the employment contract without/less notice to the employee for a fundamental breach of the contract.
 - An employee can bring a complaint within 6 months to the labour officer that he/she has been summarily dismissed without justifiable cause.
 - The burden of proving the justifiable cause lies on the employer.

Dismissal happens when employer dismisses an employee after holding a fair hearing for misconduct. Before reaching the decision to terminate the contract of employment on grounds of misconduct, the employer must accord a **fair hearing to the employee**.

Wrongful dismissal occurs when the employer terminates the employment relationship with the employee in a manner that fails to comply with the requirements of the law. That is if it is made without justifiable cause and or without notice.

- Termination of employment is unfair, and therefore unlawful if the principles of natural justice and equity are not followed during the dismissal. Every person deserves a fair hearing before a decision such as termination or dismissal is effected on them.

5.13. Procedure for a fair hearing

- The employer must communicate to the employee about his/her case or misconduct
- Allow her/him time to prepare for his/her case/defence
- Communicate to the employee the time, place and date when the hearing will take place.
- Allow the employee to have representatives or witnesses and to present his/her defence.

5.13.1. Difference between summary dismissal and dismissal

Summary dismissal	Dismissal
No notice is given	Notice is given.
It is as a result of a fundamental breach by the employee	It is a result of simple misconducts by the employee

Important:

Whatever form the dismissal takes, it is important that both parties understand the reason for the dismissal.

The following shall not be the reason for an employer to terminate the services of an employee.

- A female employee's pregnancy or any reason related to her pregnancy.
- The fact that the employee took or proposed to take any leave to he/she is entitled under the law
- Employee's membership or proposed membership to a labour union
- Participating or proposing to participate in the activities of the labour union
- Employee's refusal or proposed refusal to join or withdraw from labour union
- An employee's race, color, sex, religion, political opinion or affiliation, nationality, social origin, marital status, HIV status or disability.
- An employee's initiation or proposed initiation of a complaint against the employer.

5.14. What is a Labour Dispute?



A labour dispute is any dispute between an employer and employee or a dispute between employees relating to terms of employment among other work related issues.

Note:

There are instances where employer or employees relations end in disagreement. The employees can lodge a complaint to the labour officer or take it straight to the industrial court.

5.14.1. Procedure for Settlement of a Labour Dispute

In case an employee fails to resolve a dispute with their employer, they can contact the District Labour Officer from where the matter can be further resolved. By law the labour officer has power/original jurisdiction to handle and resolve labour matters. It is a court of first instance. Any employee who has been aggrieved by the employer can lodge/take a complaint to the labour officer within 3 months of the happening of the labour dispute. If all other methods to resolve the matter including mediation fail, the Labour Officer resorts to referring the matter to the Industrial Court. The Industrial Court operates majorly like any normal Court in Uganda.

5.15. Understanding structures and key terminologies under labour law

5.15.1. What is the Industrial Court

The Industrial Court is a specialized labour/employer- employee disputes settlement Court which specifically hears labour related disputes or disagreements. An employee who has lodged a complaint in the labour office and after 90 days, the labour officer has not made a decision on the matter, she/he can apply to the Industrial court.

IMPORTANT!

When seeking to resolve labour disputes Legal Aid service providers for example Platform for Labour Action (PLA)) have lawyers that provide free legal aid services that including; Legal advice, Mediating on behalf of clients, Court representation and educate the parties and community members on their rights so as to be in position to demand and report abuses.

5.15.2. What is Collective Bargaining

Collective bargaining is a type of negotiation where the essential conditions of employment are determined through a bargaining process undertaken by the representatives of a group of workers known as a Union/ Trade Union to assert their rights. The final agreement is called a collective Bargaining Agreement.

The 1995 Constitution of Uganda and the Labour Unions Act, 2006 allow workers to bargain collectively through their representatives. Article 40(3) and Article 29(1)(e) of the 1995 Constitution guarantee's rights to workers to form and join any union of ones choice for the protection and promotion of their economic rights, for collective bargaining and representation and to withdraw ones labour according to the law.

5.15.3. Casual Labour

A person cannot be in employment as a casual labourer for a period exceeding 4 months. A casual labourer engaged for more than 4 months is entitled to a written contract and is entitled to benefits like a contracted worker. The Law requires an employment card to be issued for the period worked.

5.15.4. What Is A Wage?

The Employment Act defines a wage as remuneration or earnings in terms of money for work done or to be done or for service rendered or to be rendered but excluding any contributions made or to be made by the employer in respect of his or her employee's insurance, medical care welfare education, training, invalidity retirement pension, post –service gratuity or severance allowance.

5.15.5. What Is A Minimum Wage?

A minimum wage is the lowest hourly, daily weekly or monthly remuneration that employers may legally pay to workers. It is generally argued that employers have a social responsibility to pay workers enough for them to live comfortably in any prevailing economic situation.

a) How Does Minimum Wage Help?

- It ensures an acceptable basic minimum standard of living of workers.
- Lifts people out of poverty
- Helps low-income families make ends meet
- Narrows the gap between the rich and poor
- It boosts worker morale and forces businesses to be more efficient.

5.15.6. Workers Compensation

Workers Compensation is compensation expected to be provided for an employee should they get an accident at work which incapacitates them to any degree all the way to death. The Workers Compensation Act provides a formula for calculation of this compensation when it happens. This law is important because one of the duties of the employer is to ensure employees work under a safe environment, which helps to avoid having to compensate workers when injured.

5.15.7. What Are Labour Unions

Labour Unions are workers organizations formed, managed, financed and administered by the workers themselves for purposes of promoting and protecting their interests, working rights through advocacy, negotiation and representation. Every worker has a right to form or join a trade union of his or her choice for the promotion and protection of his or her economic and social interests; to collective bargaining and representation; to withdrawal of his or her labour according to law.

5.15.8. The National Social Security Fund (NSSF)

NSSF is a body set up to save for people in the formal sector under the National Social Security Act Cap 222. Employers with 5 and more workers are legally required to register with NSSF and are supposed to deduct 5% from the gross salary of the employee and the employer contributes 10% monthly which gets remitted to NSSF. The Act Provides penalties in case of late or non-remittance of the same.

a) Conditions under which an NSSF contributor can access their savings

- When one attains 50 years of age and is retired or attains 55 years and is eligible for age retirement.
- If one becomes a Government employee, because Civil Servants do not save with NSSF as they are entitled to Government Pension.
- When one attains 50 years of age and has not been employed for more than one year.
- Invalidation: Mental or physical disability –permanent total incapacity due to diseases such as HIV /Aids and Cancer.
- Immigration grant-returning from a country where Uganda has no arrangements of similar schemes. Transfer of savings to equivalent institution as entitlements when they are leaving Uganda.
- Survivors' benefits-Where a member passes on and a claim is made by the lawful Administrators of the Deceased's Estate.

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5.16.4 Under the Employment of children regulations 2012,

- An employer has a duty to display a list of hazardous work not permitted for employment of children.
- The employer should not employ a child under the age of 14 in any business undertaking or work place.
- An employer who wishes to engage a child between fifteen to 17 years in employment should get permission from the commissioner.
- Employer engaging a child between fifteen and Seventeen should keep a register for names of such children.

5.17 TRAFFICKING IN PERSONS

Trafficking in persons is the illegal/unlawful movement of people from one place to another with the intention of exploiting them. The intention and the purpose behind the illegal and unlawful movement is a key ingredient in the definition.

The Trafficking in Persons Act 2009 No.6 section 2(r) and the UN protocol to prevent, suppress and punish trafficking in persons, especially women and children (2000) article 3 define Trafficking in Persons as the recruitment, transportation, transfer, harboring or receipt of persons by means of threatening, force, or other means of coercion, of abduction, fraud, of deception, of abuse of power or the position of vulnerability or the giving and receiving of payments or benefits to achieve the consent of a person having control over another person for the purposes of exploitation.

Child trafficking is one of the most horrible forms of violence against children, which denies them the right to lead a dignified life. It violates their rights to development, education and health and makes them lose their roots and cultural identity. Trafficked children as young as seven years are trafficked in country for purposes of exploiting them in agriculture, cattle herding, mining, stone quarrying, brick laying, car washing, scrap metal collection, bars, restaurants, early marriages, domestic work and prostitution.

Trans-national human trafficking, also known as cross-border trafficking is defined as the trafficking of humans between countries. Uganda serves as a source, transit and to a lesser extent, destination point for victims of trafficking in persons at transnational level.

5.17.1 Reasons for human trafficking in Uganda

- According to the Ministry of internal affairs annual report on human trafficking in Uganda, 2013, the highest number of registered victims of transnational trafficking in persons was related to incidents of Labour exploitation, mostly in form of domestic work and sexual exploitation
- Some victims of transnational trafficking from Uganda have also been used in illegal activities such as rebel activities according to 2013 UN group of experts report on the democratic Republic of Congo (DRC).
- Some children from DRC, Rwanda, Burundi, Kenya, Tanzania and South Sudan are subjected to forced agricultural labour and prostitution in Uganda. Children in Rwanda based refugee camps

are trafficked to Uganda at the hands of other refugees or Rwandan and Ugandan “sugar daddies” for use in the sex trade.

5.17.2 Factors contributing to Human Trafficking

- Poverty
- Unemployment/ Just seated at home
- Unbalanced Economic development between countries and regions
- The demand for cheap labour and commercial sex
- Ignorance which makes it easy for victims to be hoodwinked by the perpetrators
- School drop outs who are desperate to venture into marriage and into regional and international labour markets.
- Better employment and terms of work
- Advice from other relatives and friends
- Peer pressure
- Little pay at the job
- Free visa and air ticket
- Advice from friends who are out of the country

5.17.3 What you need to know when seeking to go and work abroad

- The company taking you must be registered and approved by the Ministry of Gender, Labour and Social Development. Ask for the name of that company and their license Number and ensure to cross check it with the ministry
- Avoid being recruited by a travel bureau
- Avoid being recruited by individuals
- Find out if the company that you are going to work for in the country you are going to exists.
- Check whether the job you are taking on is actually available abroad.
- Know the salary you will be getting
- Know the location and the contacts of the Ugandan Embassy in the country where you are going to work.

PROTECT LABOUR RIGHTS OF CASUAL EMPLOYEES

I have worked for his factory for eight years and today he asked me to leave saying that since I am a casual labourer, he no longer has work for me!

The law is clear that any casual labourer that works for the same company / factory for more than six months is presumed to be employed on permanent terms and cannot be simply asked to leave without notice or without following requirements under the employment laws of Uganda.



Report your labour case to your District Labour Officer or
The Industrial Court on: 0414 289 974, 0414 289 975 or
Platform for Labour Action on: 0393 260 196,
Toll free line: 0800 200 867



CHAPTER SIX

LAND LAW AND TENURE SYSTEMS IN UGANDA

*“Our deep respect for the land
and its harvest is the legacy of
generations of farmers who put
food on our tables, preserved our
landscape, and inspired us with
a powerful work ethic.”*

James H. Douglas, Jr.

CHAPTER SIX

LAND LAW AND TENURE SYSTEMS IN UGANDA

6.0. Introduction

Land has always been an important factor in all societies as well as a catalyst for national development. Even before colonization, it played an important part in social relations of the different Kingdoms and Peoples in Uganda.

According to the 1995 Constitution of Uganda, all land in Uganda belongs to the people and can be owned according to the different land holding (Tenure) systems set out in the Constitution. Land can be owned by an individual, a family, friends, an organization or company and even Government.

Everyone is free to choose the type of land holding through which they would like to own land. The different laws that govern land in Uganda include the 1995 Constitution Article 237, The Land Act of 1998, The Registration of Titles Act 230 of 1924, The Mortgage Act of 2009 and its regulations (2012) which regulate the ownership of mortgages.

6.1. What Are the Different Land Tenure Systems in Uganda?

The following four types of land tenure systems are recognized by the laws in Uganda.

- Mailo
- Freehold
- Leasehold
- Customary

6.1.1. The Mailo Land Tenure System

The Mailo system of land ownership is where the owner of the land is registered on a title deed and can pass on the same title as they deem fit. Therefore, a person owning a Mailo piece of land can sub divide it, sell it or give it away to anyone they please at any time. They can use the same to borrow money from a bank. The Mailo system is commonly found in the Buganda region and some parts of Bunyoro. It is a very secure system because one holds a Certificate of title of the land they own and it cant be taken away unless the owner agrees to it.

Did you know?

The name Mailo came from the miles of land that the Colonialists were distributing to different categories of people. It took on Luganda meaning but now to mean titled land.

a) How does one transfer Mailo Land from one person to another?

- The one who wishes to have land transferred must have in his possession a fully completed set of transfer forms, two Consent forms, a photocopy of the Certificate of Title and two authentic passport photographs one of the buyer and one of the seller.
- The Applicant presents the documents to the Government Valuer for valuation and assessment for Stamp duty. When the Assessment is ready in about three days, one is required to pay for stamp duty which is about 1% of the value of the land. Seek support

in this regard from the District land office within which the land is located. The Fees must be paid in the bank and a receipt provided and the Transfer form stamped (embossed)

- Submit all documentation together with your original Certificate of Title, receipts and photocopies of all documents to the Mailo Land Registry.

Remember!

Keep a copy of all the documents you submit to the land registry and ensure that your copy is stamped "received" to ensure that you can follow up!

- You should normally wait for about 10 working days before you can pick your new Certificate of Title.
- You must present an identification of yourself and the Photocopy of your submitted documents to collect the new Certificate of Title.
- You are expected to sign for the Title and your Photocopy will be stamped "Returned" once the transaction is completed.

6.1.2. Freehold Land Tenure system.

Freehold is a system of owning land that is similar to Mailo land. This means that someone owns a registered piece of land permanently but there may be some restrictions applied. One such restriction is that a non-Ugandan citizen cannot hold land under the freehold system. Free hold is normally created when one applies to acquire land that may have previously been public or government land. Once the application is allowed, then the land becomes freehold for one to own forever.

Important!

Freehold tenure can be created on customary land by processing a title from the Land Office, if all the family/clan members agree to the same and the title is registered in the names of those chosen as trustees to the said land on behalf of the rest.

Freehold can be sold, sub divided or inherited by the beneficiaries who if subdivided get separate freehold titles. Most of the land owned from formerly public land is land held under the free hold tenure system.

6.1.3. Leasehold Land Tenure System.

The Leasehold Land Tenure refers to a system of owning land for a given period of time from a specific date, on such terms and as may be agreed upon by the one leasing and the one being leased to. Lease hold can be created on any of the other forms of land holding. Its advantage is that land is given to someone for a given number of years usually for development purposes and once those years elapse; the land and everything on it return (revert) to the original owner.

Leases can be held for 49 or 99 years depending on the agreement of both parties and this is renewable if the parties agree.

NOTE!

The Leasehold tenure system is the only system under which foreigners can acquire land in Uganda. Any other way is against the law!

a) How to transfer land under Leasehold & Freehold Land Tenure systems

- The Applicant must have in his possession a fully completed set of Transfer forms which include a Transfer form and two Consent forms, A photocopy of the Certificate of Title and two authentic Passport photographs of the buyer and seller.
- The Applicant presents the documents to the Government Valuer for valuation and Stamp duty assessment. The Government Valuer will inform the applicant when to be back for the completed process.
- Both the Stamp duty of 1% of the value of the land as assessed by the Chief Government Valuer and the registration fees should be paid in the Bank and a receipt issued and the Transfer form stamped(Embossed).
- Get a signed consent from the Controlling Authority of the Leasehold Title whether individual or Institution. Submit all documentation together with the Certificate of Title, receipts and photocopies of all documents to the Leasehold/Freehold Registry.

The photocopy is stamped 'Received' and returned to you. You are then informed when to return. You must present identification when you return to pick the documents

6.1.4. Customary Land Tenure

Customary Land is land which is owned by groups of people that have historical ties to it and existed before the land was registered in any way, and that land is managed according to their customs.

Most land in Uganda and particularly in the north, East and many parts of Western Uganda is held under customary tenure. This means the owners have no documents to prove ownership of their land, but they are still the legal owners of the land. The law in Uganda says that this kind of land must be governed according to whatever rules people have always accepted in that region. This means that land under customary tenure is still subject to customary law, as well as being recognized officially under the laws of Uganda.

Customary laws vary a little from place to place in Uganda, for example those in Kigezi are not the same as those in Acholi, but most systems are based on the same principles.

Usually, customary land is owned by a community and is passed on from generation to generation and this group of people are usually relatives.

a) Rights and Responsibilities in Customary Ownership of land

The right to customary land is derived by membership to the clan and to be a member, one may obtain that status either by birth or marriage into the clan, or by movement into the clan area with approval and consent of the clan. In customary ownership, those who have land do not really "own it" because it is passed on from generation to generation.

b) What are the characteristics of customary tenure?

- The land is held permanently (forever) by the members who have claim to it.
- It may be individually owned or held by a community (communal land)
- Where it is held as a community, there may be distinct sub divisions belonging to a person, family or traditional institution
- Land is acquired according to the customary norms and practices of that community.

c) What are the Rights under Customary Tenure?

An owner of customary land may:

- Acquire a certificate of customary ownership however, non-acquisition of the certificate does not take away the right of the owner of the land. The certificate is recognised by financial institutions, bodies, authorities as a valid certificate and evidence of title. For example for purposes of obtaining a loan from a bank.
- Give others rights to use and derive benefits from his/ her land
- Lease the land or part of it.

d) Who may apply for a certificate of customary ownership?

An individual person, family, Clan or community.

e) What is the Procedure of Acquiring a Certificate Of Customary Ownership?

- The applicant submits an application Form 1 to the District Land Board offices and a fee of 5,000/=is paid.
- The applicant has to fill in the forms in triplicate (the same form in three copies) and submits them to the Recorder at the Sub-county who is the sub-county chief.
- The Area Land Committee puts a notice in a known place on behalf of the District Land Board of the applicant's intention to acquire a customary certificate.
- The Area Land Committee goes ahead to mark the boundaries, right of way and other forms of easements. The Committee also makes a sketch map of the area.
- The Committee makes a decision of the legitimacy of the application and sketch using customary law as their guidance.
- The decision of the Area Land Committee is put into writing. Three copies are made. The original is forwarded to the District Land Board together with a sketch map of the area.
- It is the recommendation which the board considers either to accept or reject with reasons for rejection. When the Board accepts, its acceptance is put into writing and it is sent to the recorder who then issues a certificate of customary ownership at the sub county.A customary identification number is given to each certificate of customary ownership

6.2. How to carry out a physical search on a land title

A person intending to carry out a search on any of the different land tenure systems must follow the requirements as below;

- Make a written request for a search addressed to the Commissioner, Land Registration, giving the description of the Land:
 - ✓ For Mailo; County, Block & Plot no;
 - ✓ For Leasehold: leasehold Register Volume and Folio Number
 - ✓ For Freehold: freehold Register Volume & Folio No

- The application is presented to the Office of the Commissioner Land Registration and stamped 'received' and approved by a Registrar of Titles on behalf of the Commissioner.
- The application is forwarded to the Records Section to retrieve the file's availability, then the bearer is sent to the Ministry's Cashier to pick a pay slip and pay Ushs 10,000/= . The Cashier informs the bearer which bank to make the payment.
- The bearer pays that amount in the bank and obtains a receipt that is presented to the Land Office. On verification of the receipt, the registry copy is retrieved and a search letter signed by a Registrar of Titles is issued to the bearer within three days after presenting the Bank receipt.

6.3. Caveat: What is a caveat?

A caveat is a warning in form of a written document that any person with a legal interest in property can lodge. It appears on the title giving prospective buyers notice that a third party might have rights over the property.

6.3.1. How to Register a Caveat

- The Applicant must have in his possession two sets of embossed caveat documents duly witnessed by an Advocate and signed by the person who is placing the Caveat (Deponent) and dated; Statutory/ Declaration signed by the Deponent and a Commissioner for Oaths; Two Passport photographs of the person placing the caveat.
- The Applicant presents the full set of original documents and a photocopy of the same to the Office of Titles for processing. The photocopy is stamped 'Received' and returned to the Applicant.
- The Applicant checks with the Office of Titles after 10 working days to confirm entry of the Caveat upon the Register.

6.3.2. How to remove a caveat based on a request by another person

- The Applicant must have in his/her possession an embossed letter called 'Withdrawal of Caveat' or 'Removal of Caveat', one passport photo, description of the land affected, and general receipts of payment of stamp duty and registration fees.
- The Applicant presents the documents together with a photocopy of the same, to Department of Land Registration for processing. The Photocopy is stamped 'Received' and returned to the Applicant.
- The Applicant checks with the Department of Land Registration after 10 working days for the 60 day Notice to the person who placed the Caveat, to give reasons why the caveat should not be removed. Notice to the Caveator is posted and a receipt obtained, that is placed on the file.
- The Applicant writes a letter notifying the Land Office that the 60 days have ended (lapsed) without communication from the person who placed the caveat and therefore seeking removal of the said caveat.
- The Applicant checks with the photocopy stamped on 'Received' at the Department of Land Registration after 10 working days to confirm that the caveat has been removed from the Register

6.4. How can land registered under the Registration of Titles Act be transferred from one person to another?

Land can be transferred under different situations which include the following:

- a) When the registered proprietor is willing to transfer the land into another under sale or purchase agreement.
- b) When claiming title by possession (vesting order).
- c) When the beneficiaries to an estate wish to transfer the land into their own names from the deceased's name.

6.4.1. Transfer of the land either under sale/purchase agreement

The purchaser should inquire from land offices about the existence of the land. i.e the description, ownership and encumbrances on the land if any.

A search is conducted upon payment of the prescribed fee.

The person should visit the land to ascertain any existence of squatters on the land and the boundaries as reflected in the certificate of title.

The consent of a spouse must be obtained in case the land in question is family land.

After obtaining spousal consent, a sale agreement is signed between the purchaser and vendor. It must be signed, attested by the parties and witnessed.

The land is then surveyed such that boundaries are opened and ascertained. (This does not necessarily have to be done but it is only prudent that one surveys the land before transfer"

The transfer forms are then signed accompanied by the consent forms and passport photos of both the vendor and the purchaser. Transfer forms are obtained from ministry of land offices.

Then documents are present to URA for assessment of stamp duty payable and after together with the payment receipts lodged in ministry of land for registration. Another fee for registration has to be paid as per the RTA (Fees) Rule SI-3 of 1998.

6.4.2. When claiming land by possession (vesting order)

A person who purchased land and cannot find the registered proprietor to have the land transferred into his/her names may apply to court for a vesting order.

A vesting order is granted when a person claiming to have acquired land by possession applies to the registrar to have the land in his or her name.

In order for a vesting order to be granted, the applicant must prove the following

- i) That there was a sale of land.
- ii) The land is registered under the RTA.
- iii) The whole purchase price was paid.
- iv) The purchaser is in possession of the land.
- v) Entry and possession was acquiesced by the vendor.

- vi) Transfer has never been executed.
- vii) The owner cannot be obtained by reason of death, or is residing outside the jurisdiction or cannot be found.

a) Procedure for obtaining vesting order

- An application is made in writing to the registrar the form prescribed in the 6th Schedule to the RTA.
- It must be signed by the applicant and attested by at least one witness.
- It must be supported by a statutory declaration of the applicant supported by a survey plan (filed notes) of the land.
- If the application is not rejected, the registrar will advertise the notice of the application in the gazette at the expense of the applicant and serve the notice on the people deemed to have interest in the said land.
- The registrar causes the notice to be posted in conspicuous place on the land or at such other places as the registrar shall direct for not less than three months before prior to granting the order.
- A person claiming interest may lodge a caveat forbidding the granting of the application.
- Subject to the foresaid, the registrar if satisfied that the applicant has acquired title by possession shall cancel all other existing certificates of title and issue the applicant a new certificate of title.

6.4.4. Transfer by beneficiaries to an estate of a deceased person

- Apply for letters of administration.
- Apply to the registrar by formal letter supported by the letters of administration to be registered on the land.
- For an executor or administrator to transfer land, he/she must first get registered in his or her name before transferring it.

6.4.5. When can title or entry be challenged?

A certificate of title cannot be defeated owing to any informality or irregularity in the proceedings or application leading to the issuance of the certificate of title. A certificate of title or entry in the certificate can only be defeated or successfully challenged on grounds of fraud.

6.4.6. What is fraud?

Fraud means dishonest dealing in land which affects registration. In all cases, the fraud must be attributable to the transferee whose registration is sought to be challenged. Such person must have got registered on the land without notice of fraud.

For example if a person buys from thugs who acted fraudulently in transferring the title, it does not mean that the transferee's title was acquired through fraud.

A person registered through fraud is one who becomes a registered proprietor through fraudulent act by him or to which he is a party or with full knowledge of fraud.

Actual or constructive notice: Actual notice refers to a situation where a person has knowledge of the circumstances surrounding the land, whereas constructive notice is knowledge of facts which if one acted prudently he or she would have known.

If a purchaser, despite knowledge of the occupation of the land under a contract of sale proceeds with the transfer of title in his names in order to defraud the occupiers this would be evidence of fraud.

The law is clear that if a person purchases an estate which he knows to be in the occupation of another person other than the vendor, he is bound by all the equities which the parties in such occupation may have on the land.

6.4.7. Procedure for cancellation of title

File a suit by an ordinary plaint to the high Court. Only the Court has original jurisdiction to order for cancellation of title.

Fraud must be generally pleaded proved as mandated under section 6 of the civil procedure Rules.

6.4.8. Third party claims on the land. What are third party claims on land?

These are rights granted to another person by a land owner. Some of these claims on land include the following:

i) Licenses

A license is permission given by the occupier of the land which, without creating any interest in the land, allows the licensee to do some act which would otherwise be a trespass. Licenses fall into four categories:

a) Bare license- This is a license granted otherwise than for valuable consideration. For instance gratuitous permission to enter a field for view or permitting a neighbour to pour their building material on your land as they undertake construct on their own land. Even though granted by deed, this kind of license can be revoked at any time by the licensor without being liable in damages and it is not assignable.

b) License coupled with an interest- This is where a person is give permission by the owner to enter on the land with some interest or chattels there on. For example a right to enter into another man's land to hunt and take away the deer killed involves two things e.g. the license to enter the land and the grant of interest in the deer.

Under common law, this kind of license was irreversible and assignable, but the interest had to be legal. The legal interest could be created by deed or long enjoyment. However in equity, effect is given to an enforceable agreement to a grant of interest so that an injunction may be granted to protect a license couple with interest granted merely in writing.

c) License for value- this is between a bare license and a license coupled with interest. At common law, this kind of license was not assignable and it could be revoked at any time even though it had been granted for a fixed period which had not expired.

Although the licensee can recover damages for breach of contract for any premature revocation, he becomes a trespasser if he enters and remains on the land after the license has been revoked reasonable time to remove himself and belongings has lapsed except where there is a specifically enforceable contract express or implied not to revoke the license. For example should you hire a place to conduct a cinema for a week and the licensor revokes the license before executions of your intended duties, you may not only be entitled to the refund of the hire price but also damages. Hence a license is not a separate entity but rather part of the contract.

d) License by estoppel- it is an irrevocable license to occupy or use land resulting from the operation of an equitable doctrine akin to estoppel and known as "proprietary estoppel". It applies where the land owner stands by and allows a person to spend money improving his own or the land owner's land in the expectation that some covenant will not be revoked. For example if a father encourages a son to build a house on his land, court refuses to allow the trustees of the father's will to dispossess the son. Or where A builds a house on his own land which is accessible only over B's land and B had acquiesced in the building of the house, purchasers of B cannot revoke the license which A had acquired to gain access to his house.

However where an irrevocable license becomes too much of a burden to the land owner, the court may impose a lien on the land for the outlay, with the consequence that the license may be revoked on repayment of the expenditure.

6.4.9. Mortgages

A mortgage is conveyance of land as security to another as security for repayment of money. Once the money is repaid, the conveyance becomes void. A mortgage is always a mortgage and can never act as a transfer "Once a mortgage always a mortgage"

Mortgages are either legal or equitable mortgages. A legal mortgage is created by the deed which spells out the terms and conditions and remedies available to the mortgagee. The deed must be registered under the RTA

An equitable mortgage on the other hand is created depositing the certificate of title to the mortgagee as security. The mortgagee must lodge a caveat on the certificate of title.

Spousal consent (a wife is a 3rd party claimant), third party claims in reference to lawful and bonafide claimants on registered land

6.5. The institutions of land management in Uganda

The Land Act 1998 sets out a number of institutions concerned with the management of land tenure and settlement of land disputes in Uganda. These include;

a) Uganda Land Commission: is in charge of all Central Government public land.

b) The Land Fund; Its function is to assist disadvantaged people throughout Uganda to buy land. The Fund is empowered to acquire land and also to resettle landless people.

c) District Land Boards; the 1995 Constitution provides for the establishment of a land board for every district in Uganda. The Boards are deemed to own all land within a district which does not belong to anyone else and are given the sole power to sell, lease or otherwise deal with such land. The Boards are also charged with facilitating the registration and transfer of issuance of land in their district, surveying and valuing the land and issuing certificates related to it. The District Land Boards are independent of both the Uganda Land Commission and the local district council. The District Land Tribunal's are the highest authority for appeal in the District after which cases can be taken to the High Court. Cases worth over 50 million shillings can be brought directly to the District Land Tribunal.

d) Area Land Committees; The Land Act 1998 provides for the appointment of Land Committees in each parish, gazetted urban area and city division. The main function of each Committee is to determine, verify and mark the boundaries of customary land within the locality when an application for a Certificate of Customary Ownership is made. The committee is expected to carry out its tasks

in collaboration with traditional institutions and also to advise members of the district land board on the applicable customary law in the area.

e) Land Tribunals; the creation of Land Tribunals is also provided for in both the 1995 Constitution and the Land Act 1998 whose jurisdiction includes determination of disputes relating to the grant, lease, repossession, transfer or acquisition of land by individuals, the Uganda Land Commission or other authority with responsibility relating to land.

6.6 Compulsory Land Acquisition

6.6.1. What is Compulsory land acquisition?

This is the power of government to acquire private rights in land without the willing consent of its owner or occupant in order to benefit society.

6.6.2. Which law governs compulsory land Acquisition?

The Registration of Titles Act Cap 230 governs land acquisition and leasing of registered land. However, the Land Acquisition Act Cap. 226 govern the compulsory acquisition of land for public purposes in addition to the 1995 Constitution of Uganda and the Land Act.

6.6.3. What are the reasons as to why government can compulsorily acquire private land.

- For public use for example to settle internally displaced people
- In the interest of defense e.g. if the land is strategic and the army needs to use it to protect the country.
- Public safety for example if there is toxic waste, or landslides in the case of mountainous areas, or a serious earthquake envisaged.
- Public order; if the place is being used for assembling riotous crowds, thieves, etc
- Public morality; if the place was being used for immoral acts
- Public health; if there is an outbreak of a serious disease e.g. the tsetse fly.

NOTE

In case any of the above exceptions is proved or justified, the Government has to make a prompt payment of a fair and adequate compensation to the affected person before acquisition and taking possession of the affected land mindful of the fact that compensation should be based on the actual market value of that land at the time of acquisition of which courts have pronounced themselves on this issue and its well settled.

6.6.4. What is the procedure of compulsory land acquisition?

1. The Minister responsible for lands authorizes any person to find out the suitability of land for the purpose it is being acquired which includes surveying the land, digging or boring the land for samples, etc. If damage occurs on the land, Government compensates the land owner for the damage (Section 2 of the Land Acquisition Act).

2. The Minister then makes a declaration by statutory Instrument (by law) that the land is suitable and a copy of the declaration given to the owner of the land (Section 3 of the Land Acquisition Act).
3. The Assessment officer (this is a public officer appointed by the Minister) orders the marking, measuring of the land and a plan of the land to be made (Section 4 of the Land Acquisition Act).
4. A notice of not less than 15 days is given inviting all people having interest in the land to the assessment officer on a day, time and place specified in order to determine the nature of their claims, the amount of compensation to be paid and any objections they may have to the plan for the land use (Section 5 of the Land Acquisition Act).
5. The Assessment officer on the day specified hears the claims and makes an award specifying the true area of the land and the compensation which should be paid to each person having an interest in the land (Section 6(1) of the Land Acquisition Act).
6. Compensation is paid basing on the current market price of the land in the area prepared annually by the District Land Board. (Section 59(1) (e)&(f) of the Uganda Land Act).
7. Any person aggrieved by the award of the Assessment officer may appeal to the District Land Tribunal or the High court if the Value of the land exceeds 50,000,000/= (Section 76 1(b) &(c) of the Land Act)
8. The Uganda Land Commission then pays compensation for the value of the land if no appeal is made to the Courts of law (Section 6(4)(b) of the Land Acquisition Act).
9. It is only after all people having interest in the land have been fully and adequately compensated that Government then takes possession of the land and the land is then managed by the Uganda Land Commission (Section 7 of the Land Acquisition Act, Article 26(2)(b)(i) of the Constitution).

CHAPTER SEVEN

THE ADMINISTRATION OF JUSTICE IN UGANDA

“In its proper meaning equality before the law means the right to participate in the making of the laws by which one is governed, a constitution which guarantees democratic rights to all sections of the population, the right to approach the court for protection or relief in the case of the violation of rights guaranteed in the constitution, and the right to take part in the administration of justice as judges, magistrates, attorneys-general, law advisers and similar positions”.

Nelson Mandela

CHAPTER SEVEN

THE ADMINISTRATION OF JUSTICE IN UGANDA

7.0. Introduction

Administration of Justice is the way in which laws and justice are implemented and enforced. It involves keeping law and order, dealing with those that have broken the law according to the way the law says they should be treated and helping people to resolve conflicts that arise between them and ensuring that all people live in a safe, secure and peaceful society. In Uganda the administration of justice Institutions are formed together into the Justice Law and Order Sector (JLOS) with eighteen institutions and many programs and Projects, in order to enhance coordination, communication and co-operation amongst themselves.

For purposes of this toolkit we will discuss the following institutions: the Justice law and order sector (JLOS); A few institutions under JLOs namely : Judiciary, The Uganda Police Force, The Directorate of Public Prosecutions (DPP), The Administrator General's Office, Local Council Courts, The Inspector General of Government (IGG), The Law Council, Uganda Human Rights Commission (UHRC), the Judicial Service Commission , Uganda Law society and Legal aid service provider's Network.

Justice Law and Order Sector is a sector wide approach adopted by Government bringing together institutions with closely linked mandates of administering justice and maintaining law and order and human rights, into developing a common vision, policy framework, unified on objectives and plan. It focuses on a holistic approach to improving access to and administration of justice through the sector wide approach to planning, budgeting, program implementation, monitoring and evaluation.






7.1. The Judiciary

The Judiciary (Courts of Judicature) is one of the three arms of Government together with the Executive (President's Office) and the Parliament. In 1995 a new Constitution was enacted as the supreme law of Uganda. It spells out more specifically the key obligations of the Judiciary. Article 126(1) of the Constitution states that "Judicial power is derived from the people and shall be exercised by the courts established under this Constitution in the name of the people and in conformity with law and with the values, norms and aspiration of the people". In addition, Article 128(1) states that; "In the exercise of judicial power, the courts shall be independent and shall not be subject to the control or direction of any person or authority"








Uganda's Court system is as follows:

-  The Supreme Court

-  Court of Appeal/ Constitutional Court
-  High Court
-  Chief and other Magistrate courts






7.1.1. The Supreme Court

This is the highest and final Court of appeal in Uganda.

-  The Chief Justice is the head of this Court as well as the head of all Courts in Uganda.
-  It only hears cases on appeal from the Court of Appeal.
-  The only cases that start and end in the Supreme Court are in election petitions concerning the election of the president. In other words, if a presidential election has taken place and someone is not satisfied with the results, they can take a matter straight to the Supreme Court which will hear it and decide it once and for all. One cannot appeal to any other Court in Uganda after this.
-  A hearing in the Supreme Court involves seven justices (Judges) at the same time.
-  The Court hears appeals both in civil and criminal matters
-  The Supreme Court hears appeals from the Constitutional Court as well. In this case, the Supreme Court sits as a Constitutional Court of Appeal.
-  One cannot appeal from decisions of the Supreme Court. It is the final Court of Uganda.





7.1.2. Court of appeal/Constitutional court

This Court hears appeals both civil and criminal from the High Court

-  It is headed by the Deputy Chief Justice. The Court of Appeal, also the Constitutional Court hears cases that have a question about what the meaning of the Constitution was on a particular issue. In this Court three (3) judges have to sit together to hear a case. When someone has a matter that concerns the Constitution, which is the highest law in Uganda, they go straight to this Court and not any other court.
-  When one is not satisfied with the decision of this court, they can appeal to the Supreme Court.
-  Cases can only be started in this Court when they are relating to the Constitution and therefore when it is sitting as a 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.
-  When sitting as a Constitutional Court, five members of the Court (Justices of the Court of Appeal) sit in hearing of the case.

7.1.3. The High Court

The High Court is the main court when it comes to cases in Uganda. It can hear any case for the first time, whether civil or criminal. It has unlimited Jurisdiction.

-  The Principal Judge is the head of the High Court. He handles all complaints relating to this Court and he also manages this Court.
-  The High Court hears appeals from the Chief Magistrates Courts as well as hear all civil cases whose monetary value is fifty(50) million and above or cases of a criminal nature that are capital offences such as murder or rape.
-  The High Court has power to order the transfer of cases from lower courts to itself, or from itself to lower courts.
-  In order to bring services nearer to the people, the High Court is spread around the Country as circuits and there are currently up to 20 circuits in the different parts of Uganda.

For more efficiency, the High Court is also divided into Divisions including the Family division currently sitting in Makindye, the Criminal Division sitting at the Original High Court building in Kampala, the Commercial Division on Kyaggwe Rd, the Land and Civil Divisions sitting at Twed Towers on Kyadondo Road, Execution and Bailiffs Division, the Anti-Corruption Division and the International War Crimes Division. Each Division and or Circuit is headed by a judge of the High Court. The High Court is also decentralised into circuits at Fort Portal, Arua, Masindi, Gulu, Jinja, Masaka, Mbale, Mbarara, Soroti, Lira, Nakawa, Masindi and Kabale.

High Court Divisions or circuits and what they do

The High Court has eight Divisions:-

1. **Anti-Corruption Division-** The Anti-corruption Division of the High court was established in July 2008 as a specialized Division to adjudicate corruption and corruption related cases. It was established in response to demands by Government and other institutions engaged in fighting corruption, to take drastic action against the corrupt by strengthening the adjudicatory mechanism for fighting corruption.
2. **Civil Division-** The functions of the civil Division include:
 - Hearing appeal cases from the Magistrates' courts in connection with torts committed against the person,
 - Defamation,
 - Bankruptcy and company winding up matters,
 - Partnership matters,
 - Companies matters,
 - Real and personal property.
3. **Commercial Division-**The Commercial Court was established in 1996 as a division of the High Court of Uganda devoted to hearing and determining commercial disputes, including company cases, bankruptcies and Intellectual property. This court aims at delivering to the commercial community an efficient, expeditious and cost-effective mode of adjudicating disputes that affect directly and significantly the economic, commercial and financial life of Uganda.
4. **Criminal Division-** This is Responsible for hearing all serious criminal offences referred to it by the Magistrates' Courts. It hears criminal offences such as:
 - Murder manslaughter,
 - Rape,
 - Defilement,
 - Treason and other offences carrying death sentence or life imprisonment.
5. **Execution and Bailiffs Division-** This Division works on all actions arising out of or connected with enforcement of Court orders through execution, it also supervises and performs an oversight over the operations of Court Bailiffs. They exercise functions including but not limited to;
 - Issuing Warrants of Execution including Warrants of Attachment, Warrants of Arrest, Warrants to give vacant possession/eviction under Order 22 of the Civil Procedure Rules and garnishee orders under Order 23 of the Civil Procedure Rules;

- Issuing of other execution orders as may be required by any court;
- Carrying out quality assurance audits of Bailiffs offices and stores to ensure compliance with industry and institutional standards;
- Formulation and review of guidelines on execution of Court decisions consultation with the Management structures of the Judiciary as well as stakeholders;
- Monitoring and coordinating executions with other stakeholders;
- Supervision of executions including random on spot visits to sites of executions;
- Keeping and maintaining inventory of executions;
- Conducting regular meetings with Bailiffs and other stakeholders to review the performance of executions and making recommendations to guide policy reforms;
- Ensuring the safety in movement and storage of files for execution and returning them to their Divisions/Courts after execution;
- Coordinating with the Judicial Studies Institute and development partners to provide trainings and other capacity building assistance to the Division staff in best practices in execution of Court orders;
- Oversee the discipline of Court Bailiffs and recommendation of errant Court Bailiffs to the Disciplinary Committee for Bailiffs for punitive action;
- Evaluate and recommend applicants for appointment as Bailiffs, serving ones for renewal of their licenses;

6. Family Division- the Division handles:

- Administration causes,
- Family cases, (Adoption, Guardianship, Affiliation/maintenance),
- Civil appeals,
- Civil suits,
- Divorce cases.

7. International Crimes Division-The International Crimes Division is a special Division of High Court of Uganda which was established in July 2008. Its establishment was a way of fulfilling the Government of Uganda's commitment to the actualization of Juba Agreement on Accountability and Reconciliation. Considering the civil wars and a series of other internal conflicts, which Uganda has experienced in the recent past, it decided to establish the International Crimes Division to try the perpetrators of war crimes and crimes against humanity including commanders of the LRA and other rebel groups.

Under section 6 of The High Court (International Crimes Division) Practice Directions, Legal Notice No. 10 of 2011, the division is intended to deal with those who have committed serious crimes which are:

- War Crimes
- Crimes against Humanity
- Genocide
- Terrorism
- Human trafficking
- Piracy and other international crimes.

8. Land Division-The Land division charged with the responsibility of supervising the work of Land Tribunals and the adjudication of all land related dispute falling under this Division. The Division has jurisdiction to entertain all actions arising out of or connected with any land transaction, including but not limited to:

- Sale,
- Purchase and transfer of real property;
- Leasing and rental of real property;
- Destruction or degradation of land;
- Compensation paid for the compulsory acquisition of land;
- Minerals and mineral rights and Environmental disputes or causes.

7.1.4. The Industrial court

The Industrial Court was established under the Labour Disputes (Arbitration and Settlement) Act, 2006 Cap 224, Laws of Uganda, and section 7. 2006. The Court's jurisdiction domain are labour disputes referred to it by a party to a dispute where a labour officer has failed to dispose of the dispute within 08 weeks under the court's regulations as requested under the act, disputes referred by the Labour officer at the request of the party or on the officer's own volition when is unable to resolve the dispute; or by responsible Minister on notice of an intended withdrawal of labour within 05 days. Appeals can also be filed against labour officers' decision under the Employment Act. The Court has no original jurisdiction over Labour disputes.

The functions of the industrial court are:

- To arbitrate labour disputes referred to it under the Act.
- Adjudicating questions of Law arising from references to it by any other law.
- Dispose of the labour disputes.

7.1.5 Magistrates Courts

Magistrate's Courts handle the bulk of civil and criminal cases in Uganda. These are lower Courts whose decisions are subject to review by the High Court. Presently, the country is divided into 39 Chief Magisterial areas administered by Chief Magistrates who have general powers of supervision over all Magistrates Courts within their area of operation.

There are three levels of Magistrates Courts:

a) Chief Magistrates Court

These Courts are found in several areas of Uganda called "magisterial areas". A magisterial area covers many districts. There are currently 39 Chief Magistrates Courts. The jurisdiction of the Chief Magistrate's Court is determined by law. The Chief Magistrate's Court is headed by a Chief Magistrate and a Chief Magistrate has the authority to hear both civil and criminal cases. For Civil cases, a Chief Magistrate can hear a civil case where the sum of money involved is not more than UGX 50,000,000/=. For criminal cases, a Chief Magistrate can hear a case where the punishment involved is not death, and a Chief Magistrate is not allowed to give the punishment of death to a person who has been found to have done an act which is not allowed by the law.

b) Magistrates Grade I Court

The Magistrate Grade One is based at the Chief Magistrate's Court. A Grade one Court may also be located at the district or sub - county level. A Grade One Magistrate has authority to hear both civil and criminal cases. For Civil cases, a Grade One Magistrate can hear a civil case where the sum of money involved is not more than UGX 20,000,000/=. For criminal cases, a Grade One Magistrate can hear a case where the punishment involved not more than imprisonment for 10 years death, and a Chief Magistrate is not allowed to give the punishment of more than 10 years to a person who has been found to have done an act which is not allowed by the law.

This Court also sits as a Family and Children Court to hear family and children related cases as established under the Children Act.

c) Magistrates Grade II Court

This Court has limited authority in criminal cases and a few civil cases of a customary nature. The grade two Magistrate's Court is based at county level and also sits at the Chief Magistrate's Court or grade one Magistrate's Court. These Courts are gradually being phased out of the Court system in Uganda.

7.1.6. Tribunals

Tribunals are specialized Courts which are part of the judicial structure. Some of these include;

a) Tax Appeals Tribunal

This Tribunal hears tax issues between the Uganda Revenue authority and Tax payers.

b) The Uganda Human Rights Commission Tribunal

This Tribunal is established to hear and decide cases where human rights have been violated or abused.

c) District Land Tribunals

These are established under the Land Act to be chaired by a person fit to be a Magistrate Grade One and the Tribunal members are appointed by the Chief Justice on advice from the Judicial Service Commission. However, these were suspended in 2007 due to limited resources and their functions transferred to the Magistrates Courts.

7.1.7. Local Council Courts

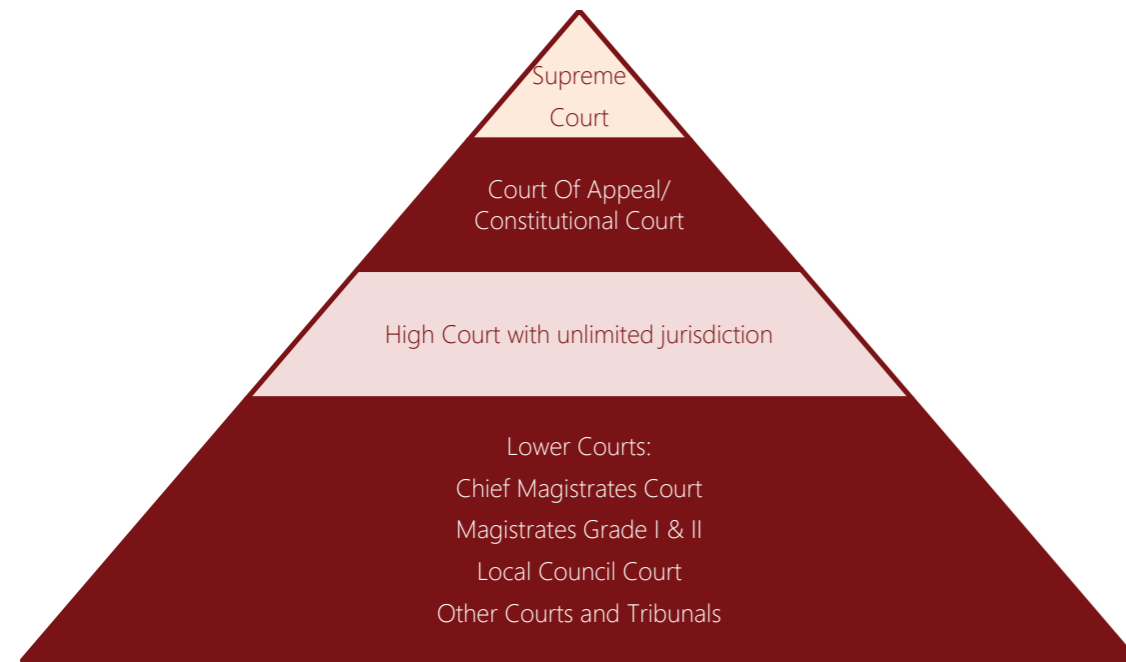
These are also called Executive Courts established by the Local Council Courts Act to bring justice closer to the people. They are supervised by the Chief Magistrates Courts. They are found at every village (LCI) every Parish (LCII) and every Division or sub county (LCIII). Cases start in LCI Courts which are appealed to LCII then LCIII except Land Cases, which start at LCII. The Executive is also the Court and at least two of the members must be women. The members are expected to be people of integrity and able to speak the local language. Some of the cases they handle include: Debts, Contracts, Assaults, theft, damage to property, Trespass, disputes relating to customary land ownership, Family matters, and offences involving children.

The Executive Committee Court is duly constituted when it is sitting with not less than five members.

a) How do I report a case at a Local Council Court?

- a) Any person may make a complaint to the Local council court;
- b) The complaint may be made orally or in writing
- c) The complaint must be signed by the complainant;
- d) If made orally, the Chairperson or the Secretary of the Court or a person appointed by the Chairperson writes it down and then it is signed by the complainant.

Figure 1: Pyramid indicating hierarchy of Courts



7.1.8. Informal Justice Dispute mechanisms

This involves the resolution of disputes and the regulation of conduct by adjudication or the assistance of a neutral third party that is not a part of the judiciary as established by law and /or whose substantive procedural or structural foundation is not primarily based on statutory law. One of the common forms of Informal Justice Dispute mechanisms in Uganda is Alternative Dispute Resolution.

a) Alternative Dispute Resolution

Alternative Dispute Resolution (ADR) is the procedure for settling disputes without litigation, such as arbitration, mediation, or negotiation. ADR procedures are usually less costly and more expeditious. They are utilized in disputes that would otherwise result in litigation, including high-profile labor disputes, divorce actions, and personal injury claims.

One of the primary reasons parties may prefer ADR proceedings is that, unlike adversarial litigation, ADR procedures are often collaborative and allow the parties to understand each other's positions. ADR also allows the parties to come up with more creative solutions that a court may not be legally allowed to impose.

b) Terms to Know:

Arbitration - A process similar to an informal trial where an impartial third party hears each side of a dispute and issues a decision; the parties may agree to have the decision be binding or non-binding

Binding and Non-Binding - A binding decision is a ruling that the parties must abide by whether or not they agree with it; a non-binding decision is a ruling that the parties may choose to ignore

Arbitrator - An impartial person given the power to resolve a dispute by hearing each side and coming to decision

Hearing - A proceeding in which evidence and arguments are presented, usually to a decision maker who will issue ruling

Mediation - A collaborative process where a mediator works with the parties to come to a mutually agreeable solution; mediation is usually non-binding

Even though Alternative Dispute Resolution is intended to reduce the costs, stress, and formality associated with going to court, many parties still hire attorneys to represent them at ADR proceedings. They also seek out pre-proceeding consultations about possible solutions or strategies. Just as with any legal dispute, you should hire an attorney with experience in your particular legal issue who also is familiar with the collaborative process of ADR.

Additionally, arbitrators and mediators are often lawyers. Rather than hiring a lawyer to represent each party in an ADR proceeding, some parties agree to hire a single lawyer to act as an impartial third party to guide the resolution and ensure that all solution proposals are legal.

7.1.9. The Inspectorate of Courts.

The Inspectorate of Courts is situated at the High Court of Uganda premises. The Inspectorate of Court is currently manned by 3 Registrars namely; the Inspector of Courts, the Deputy Inspector of Courts and the Assistant Inspector of Courts.

The mandate of the Inspectorate is to monitor and evaluate the performance of Judicial Officers and other staff and court facilities. In the performance of the above mandate, the Inspectorate performs the following functions:-

- i) Investigate and evaluating of complaints from the public.
- ii) Conducting regular court inspections.
- iii) Evaluating the performance of Magistrates and other judicial staff.
- iv) Identify performance bottlenecks that impede effective delivery of justice.
- v) Analyzing court returns to determine the efficiency of court operations.
- vi) Producing and disseminating information to the public about the operations of the courts.

7.2. The Uganda Police Force

The Uganda Police force is derives its mandate from Article 211 and 212 of the Constitution of the republic of Uganda.

i) The Uganda Police Force has the responsibility to keep law and order in the whole of Uganda.

The functions of the Police include;

- a) The protection of life and property
- b) To maintain security in Uganda
- c) To enforce the laws in Uganda
- d) To ensure public safety and order
- e) To prevent and detect crime in society
- f) The maintenance of order, peace and tranquility in the country.
- g) To cooperate with the civilian authority and other security organs established under the Constitution and with the population generally.

The Uganda Police has various Directorates including Criminal Investigations and crime Intelligence (CIID), Counter Terrorism, Human rights and legal services, Interpol and peace operations among others.

ii). Powers of the Police.

To enable the Police fulfill its Constitutional obligations, the Police has been given wide ranging powers under the Law. These powers must be exercised according to the law. If the Police goes beyond what they are expected to do with their powers, they may be subjected to disciplinary action or even taken to court and tried.

iii) The Police Structure

The Police Structure is headed by the Inspector General of Police (IGP) who is the chief executive and chief in command. The IGP is appointed by the President on the public service commission's recommendation. He reports to the Minister of Internal Affairs and the President. He is deputized by the Deputy Inspector General of Police. The different Directors heading the directorates report to the Inspector General of Police. At the Divisional level are the different Regional Police Commanders (RPC) and regional Criminal Investigation officers who report to the Directors of the different directorates. At the district level there are the District Police Commanders (DPC) and the District Officers in Charge of Criminal Investigations (OCCIID), The Child and Family protection Unit and the officers in charge of the different stations (OC station) report to their regional heads. They sit at the Police stations in the different districts across the country. The Police posts headed by the Officer in Charge of Station (OC station) also feed into the various District Police Stations.

iv) The Police Professional Standards Unit (PSU).

2.5.1 The Police Professional Standards Unit is where 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. It provides redress in case of dissatisfaction with Police services. This includes if a Police Officer asks you for a bribe.

How do I lodge a Complaint at PSU.

- a) You may walk into any of their offices and make an oral complaint or in writing.
- b) Use the following toll free lines: 080020019 ; 0800199199; 0800199299 ; 0414595133; 0414595136 ;0414533608
- c) Filling in the Uganda Police complaint form (PF) 105
- d) By email : psuhqrtrs@yahoo.com

Take Note!

- The complainant is at liberty to give his particulars or not
- Where the Complainant wishes not to disclose his or her name, s/ he must provide sufficient information on the matter to aid the Police.
- The Police will let you know how long it will take to get feedback on your complaint.

7.3. Office of the Director of Public Prosecutions

- a) The Director of Public Prosecutions (DPP) is responsible for the prosecution of all criminal cases in Uganda on behalf of the Government. The Directorate has power to direct the Police to investigate any information of a criminal nature and report back to the Directorate.
- b) The DPP has offices in many of the Districts of Uganda; these offices are referred to as offices of the Resident State Attorney (RSA). These are sometimes called Prosecutors. The job of the RSA is to read files from the Police and decide whether or not there is enough evidence on the file to be tried on Court. The second job is to prosecute the case against the accused person.
- c) In prosecuting cases, the DPP acts on behalf of the victim of the crime. It is presumed that when a crime is committed against an individual, the State is responsible for holding the criminal accountable. The case is instituted by the State against the accused person, e.g. Uganda Vs Mukasa Kiggala.
- d) The Prosecution Performance Standards and Guideline of 2014 provide guidance for the victim to lodge a complaint against a prosecutor, if dissatisfied with the prosecution of a particular case or if the conduct of the staff of the Directorate is unbecoming / unprofessional.





7.3.1. Complaints mechanism under ODPP

The Complaint must be reduced into writing and delivered to the DPP's complaints desk.

- a) All complaints should be formally received by a registry official with the Directorate stamp immediately upon receipt.
- b) It is expected that every complaint is responded to within one week. Feedback may be verbal or in writing.

7.4. Uganda Prisons

The Uganda Prison Service is part of the criminal justice system and it is established under Article 215 of the Constitution of the Republic of Uganda. It is responsible for safe, secure and humane keeping of prisoners who are sentenced to imprisonment or remanded by court awaiting trial. The role of prisons is to:

-  To ensure that every person kept legally in a prison is kept in humane, safe custody, provided in court when requires until lawfully discharged or removed from prison.
-  To facilitate the social rehabilitation and reformation of prisoners through specific training and educational programs.
-  To facilitate the re-integration of prisoners into their communities.
-  To ensure performance by prisoners of work reasonably necessary for the effective management of prisons.

7.5. The Administrator General

The Administrator General/Public Trustee is a department under the Ministry of Justice & Constitutional Affairs that was established in 1933 to provide help in the administration of estates of deceased persons.

7.5.1. What are the functions of the Administrator General?

- a) The Administrator General is the Administrator of all small estates (Valued not more than 50M/=) and may take over and administer them without Letters of Administration.
- b) The Administrator General may take over the property of the deceased person when he is of the opinion that it is in danger of being lost, stolen or destroyed.
- c) He 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 the Administrator General.
- d) The Administrator General, even after letters of administration have been issued may ask court formally, to cancel those Letters of Administration or Grant of Probate where there are good reasons to do so.
- e) He has powers to distribute properties of deceased persons to the beneficiaries of their estates and winding up of estates.
- f) He can institute legal proceedings in a court 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.
- g) He manages the interests or properties of minors and person of unsound mind, which come under the control of the Public Trustees
- h) He gives legal advice and mediation in succession matters to resolve conflicts.
- i) He issues Certificates of No Objection to persons intending to apply to court for letters of Administration.

Under Ugandan law, when a person dies the estate is entrusted with the Administrator General. He has powers to delegate this Authority by granting permission to an eligible person and 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 applies whether the deceased left a will or not. This is done through applying for letters of Administration from court where a person died without leaving a Will, or a Grant of Probate where a Person left a Will behind.

7.6. The Inspectorate of Government (IGG)

The Inspectorate of Government is established under article 223 of the Constitution of the Republic of Uganda with the responsibility of eliminating corruption, abuse of authority and public office. It is not a direct Administration of Justice Institution but it is very closely connected as it holds government servants accountable on how well they deliver services to the people. The powers of the Inspectorate of Government include investigations, arrests, prosecution and giving directives on related issues.

7.6.1. What are the functions of the Inspectorate of Government?

- (a) To promote and foster strict adherence to the rule of law and principles of natural Justice in administration;
- (b) To eliminate corruption, abuse of authority and of public office;
- (c) To promote fair, efficient and good governance in public offices;
- (d) To supervise the enforcement of the Leadership Code of Conduct;
- (e) To investigate any act, omission, advice, decision or recommendation by a public officer or any other authority to which this article applies, taken, made, given or done in exercise of administrative functions; and

- (f) To stimulate public awareness about the values of Constitutionalism in general and the activities of its office, in particular, through any media and other means considered appropriate.

7.7. The Uganda Law Council

The Law Council is established to regulate private practicing lawyers through ensuring that they handle their clients cases properly. It is under the Ministry Justice and Constitutional Affairs, and is located at George street, Georgian House, 7th floor. You can contact the on Tel: 0414255382.

7.7.1. What are the functions of the Law council?

- a) To provide general supervision and control over professional legal education in Uganda, including continuing legal education for persons qualified to practice law in Uganda;
- b) To advise and make recommendations to the Government on matters relating to the Legal profession;
- c) To exercise, disciplinary control over advocates;
- d) To provide general supervision and control over the provision of legal aid services to people who cannot afford the services of paid lawyer;

When an advocate representing a client conducts himself or herself in an unprofessional manner e.g. by absenting himself in court for no reason and a case is dismissed, or misuse of the clients rewards e.g. compensation, land money e.t.c, the client may file a complaint before the Law Council which will hear the complaint and make a decision.

7.7.2. What do I do if I have a grievance against an advocate?

If you feel that your advocate is acting unprofessionally in handling of your matters such as not carrying out your instructions, or has failed to remit money received on your behalf, etc. then you can file a complaint. Before filing you may wish to seek advice from the Law Council offices.

7.7.3. Steps to take to file a complaint

- a) Lodge 2 copies of the complaint and copies of supporting documents with the Law Council. These should preferably be in English.
- b) A file is opened and you are given a file reference number for future reference of the case.
- c) Your file will be perused by the Secretariat and a letter written to the person against whom you are complaining requesting him to reply to your complaint within 21 days.
- d) If s/he replies, your complaint and his reply will be studied to see if something went wrong. If so, charges will be drafted against the lawyer. You and the respondent will be summoned on a stated date to the Committee for hearing.

7.7.4. What to expect at the completion of the case

At the completion of your case, the Committee will give orders on what is to follow which may include:

- a) Disciplinary action against the Advocate which may include:
- b) A caution
- c) Suspension from practice

- d) Disbarment (disqualified from practicing as an advocate again)
- e) An order that he pays all the money due to you which may be accompanied by a, b, or c above.
- f) Any other orders that the Committee deems fit in the circumstances
- g) The case may be dismissed where evidence on the record is not sufficient to support the complaint or if the Advocates conduct was proper in the circumstances.

7.8. The Uganda Law Society

The Uganda Law society is an association of lawyers established under the Uganda Law society Act. It is charged with ensuring high levels of professionalism among lawyers in Uganda. Its statutory objectives include;

- ☒ To maintain and improve the standards of conduct and learning of the legal profession in Uganda.
- ☒ To facilitate the acquisition of legal knowledge by members of the legal profession in Uganda as regards conditions of practice and otherwise.
- ☒ To represent, protect and assist members of the legal profession in Uganda as regards conditions of practice and otherwise.
- ☒ To protect and assist the public in Uganda in matters touching, ancillary or incidental to the law.
- ☒ To assist the Government and the courts in all matters affecting legislation and the administration and practice of the law in Uganda.

7.8.1. The role of Uganda Law society is to:

- To maintain and improve the standards of conduct and learning of the legal profession in Uganda.
- To protect and assist the public in Uganda in matters touching, ancillary or incidental to the law.
- To strengthen collaboration with the Government of Uganda, the Judiciary and the Legislature on all matters affecting Legislation, Human Rights, Rule of Law, Good Governance and the Administration and Practice of law in Uganda.
- To promote networking, collaboration of local and international stakeholders and legal fraternities by building linkages and exchange of expertise in the legal profession.

7.9. The Government Model on Legal Aid: Justice Centres Uganda (JCU)

Justice Centres Uganda (JCU) is a Project of the Justice, Law and order Sector (JLOS) established in 2009 to provide Legal Aid to the poor, marginalized and vulnerable people in Uganda. It is hosted by the Judiciary and established by Circular Instruction No. 1 of 2010, by the Chief Justice to ***"to enhance, deepen, and widen access of the poor, the marginalized and vulnerable groups of the population in Uganda to justice, in line with the JLOS strategic objective of providing justice to all."*** This is the Government of Uganda Project responsible for providing legal aid services to those that cannot afford the services of a paid lawyer.

The services they provide include:

- Legal Advice

- Counseling
- Legal representation,
- Alternative dispute resolution (ADR)
- Referrals,
- Legal awareness creation and outreach.
- Toll free phone line.

Justice Centers Uganda (JCU) currently operates seven Centres including: Mengo, Hoima, Lira, Tororo, Jinja , Masaka , FortPortal. Justice centers National Coordination office is found at Chambers F6 High Court Building at Plot 2, the Square, Kampala.

Should an employee of JCU ask you to pay for any service provided by JCU or any other form of bribe; report the same to nc@justicecentres.go.ug, mp@justicecentres.go.ug, or Tel: 0414256626, 0776194895

7.10. The Law Development Centre

The Law Development Centre is a multi-purpose training, research, scholarship, publication and law reform institution established by an Act of Parliament in 1970 under the Law Development Centre Act Cap 132. The LDC Legal Aid Clinic was founded in 1998 and started its activities in 1999. The Legal Aid clinic was established with two purposes of providing Clinical Legal Education to Postgraduate students and providing legal aid to juveniles, the vulnerable and indigent persons.

7.11 Uganda Human Rights Commission (UHRC)

The Commission is established by the Constitution of the Republic of Uganda 1995 and the Uganda Human Rights Commission Act, Cap 24, Laws of Uganda, 2000. The Commission has its headquarters in Kampala and regional offices are currently located in Arua, Central Kampala Naggulu ,Fort portal ,Gulu Jinja Mbarara Moroto and soroti.

7.11.1. Functions of UHRC

The Commission has the following functions;

- a) Investigating at its own initiative or on a complaint made by any person or group of persons against the violation of any human rights;
- b) Through tribunal hearings, determining complaints of violations of human rights
- c) Visiting jails, prisons and places of detention or related facilities with view to assess and inspect conditions of the inmates and make recommendations.
- d) Creating and sustaining within society the awareness of the provisions of the Constitution as the fundamental law of people of Uganda.

7.11.2. Procedure of instituting complaints at the UHRC

Anyone claiming a violation of human rights may bring a complaint before the Commission for a solution. It does not have to be the victim: it could be anyone concerned about the violation, an organization, institution, a relative, a friend or anyone authorized by the Victim to bring the complaint.

7.11.3. Mode 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.

7.11.4. How is the complaint dealt with at UHRC?

- a) The complaint is registered by the Commission after it has been ascertained that it contains elements that constitute a human rights violation.
- b) A complaint file is thereafter opened and assigned to an officer of the Commission for handling and the complainant is issued with a complaint number and a card for ease of identification and tracking of the file.
- c) 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.
- d) 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.
- e) The Tribunal observes the principle of natural justice such as hearing parties, impartiality and the right to legal representation.
- f) 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.

7.11.5. Appeals

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

7.11.6. 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,

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

7.12. Equal Opportunities Commission (EOC)

The Equal Opportunities Commission is a statutory body established by an Act of Parliament to effectuate Article 32(3) and Article 32 (4) of the Constitution of Uganda. The Equal Opportunities Commission is mandated to eliminate discrimination and inequalities against any individual or group of persons on the ground of sex, age, race, colour, ethnic origin, tribe, birth, creed or religion, health status, social or economic standing, political opinion or disability, and take affirmative action in favor of groups marginalised on the basis of gender, age, disability or any other reason created by history, tradition or custom for the purpose of redressing imbalances which exist against them, and to provide for other related matters.

The functions of the Commission are to monitor, evaluate and ensure that policies, laws, plans, programs, activities, practices, traditions, cultures, usages and customs of: organs of state at all levels; statutory bodies and agencies; public bodies and authorities; private businesses and enterprises; non governmental organizations, and social and cultural communities, are compliant with equal opportunities and affirmative action in favour of groups marginalized on the basis of sex, race, colour, ethnic origin, tribe, creed, religion, social or economic standing, political opinion, disability, gender, age or any other reason created by history, tradition or custom.

The offices of the Equal Opportunities Commission are located at Plot 7 Luthuli Close Bugolobi, Kampala . Tel: +256 414 223 234 or +256 414 223 253 Toll Free Line 0800100440

7.13. Legal Aid Service Providers Network (LASPNET)

The Legal Aid Service Providers Network is a national membership based organization established in 2004 to provide strategic linkages and a collaborative platform for legal aid service providers (LASP) in Uganda. LASPNET has 52 member LASPS and is spread over 70 districts country-wide. The network maintains a common front to interface on issues of access to Justice and the rule of Law. It targets three critical aspects of coordination; bringing together different LASPS for solidarity in strategizing, sharing lessons and experiences while minimizing duplication; capacitating them through collaborative research and analysis; as well as documenting, providing feedback and amplifying their voice on key issues regarding access to justice/ legal aid at regional, national or international level. LASPNET utilizes coordination, research, advocacy and lobbying, capacity development and other strategic mechanisms to promote access to justice and influence the legal aid agenda in Uganda.

The secretariat for the legal Aid Service Provider's Network is located at Plot 10, Block 75, Balintuma Road, Mengo In Kampala.

Telephone: +256 (0) 39513733 Email: secretariat@laspnet.org

ASK FOR PROOF OF PAYMENT FOR ANY COURT SERVICE

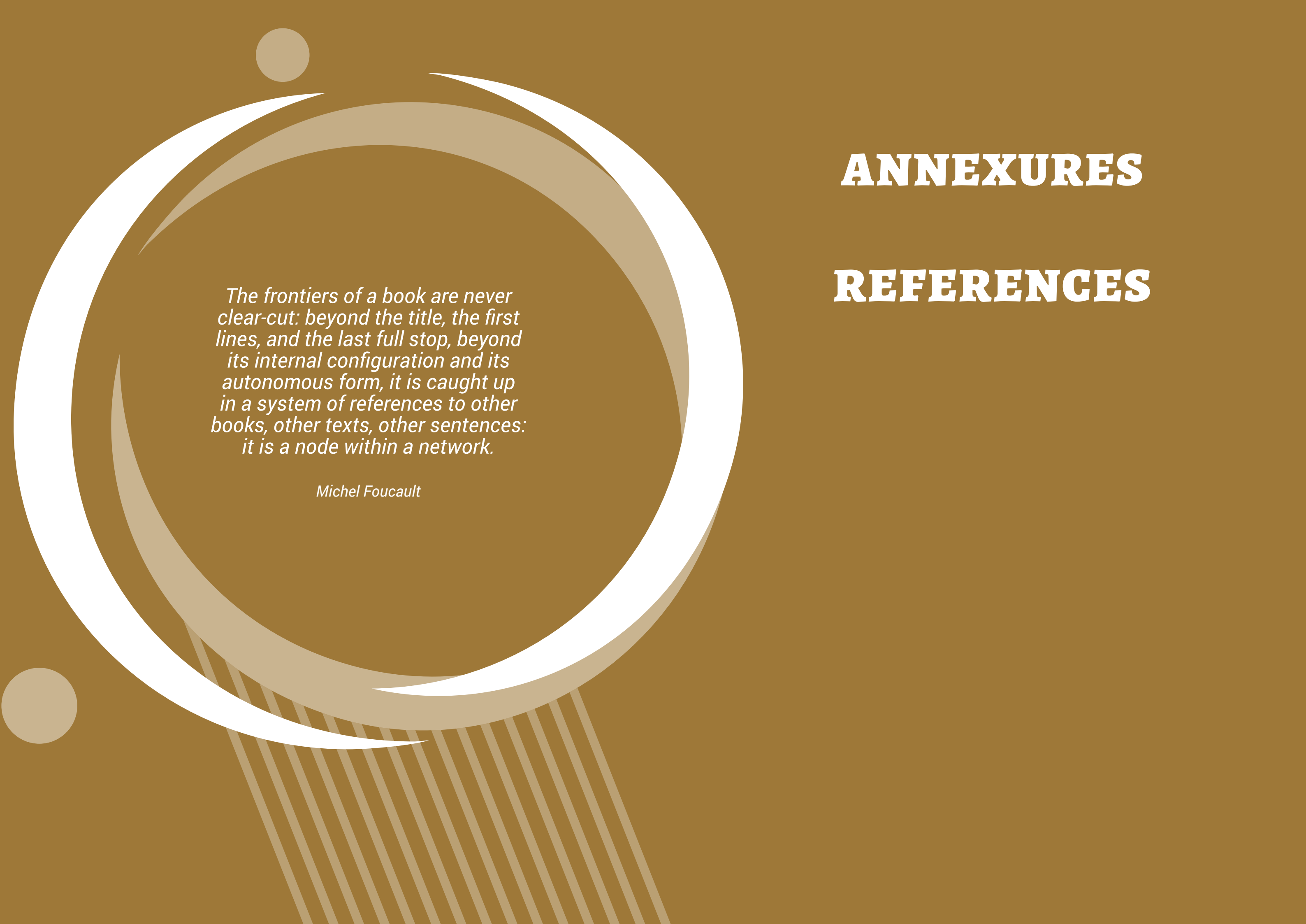
My daughter, I sold three cows and gave the money to a young man at the court to help me get the judge to hear my case.

Oh no! That was wrong, you don't have to give a judge money to hear your case. In fact, most Administration of Justice Institutions like courts, Police, Prisons, Administrator General's Office, Law Council, Office of Director of Public Prosecutions and others are free to access and if there is any fee to pay, it will be assessed, and you will have to pay in the bank and get a receipt! If anyone asks for money from you, call to inquire before you give the money!



For more information call the following helplines:
Inspectorate of Courts: **0414 344 116**
Judicial Service Commission: **0800 100 222**
Justice Centres Uganda (Toll free line): **0800 100 210**
Muslim Centre for Justice and Law: **041 4531084**
LASPNET: **0393 513 733**





The frontiers of a book are never clear-cut: beyond the title, the first lines, and the last full stop, beyond its internal configuration and its autonomous form, it is caught up in a system of references to other books, other texts, other sentences: it is a node within a network.

Michel Foucault

ANNEXURES

REFERENCES

ANNEXURES & REFERENCES

ANNEXURE 1: PLEA BARGAINING RULES

The Judicature (Plea Bargain) Rules, 2016 (Under section 41(1) and 41(2) (e) of the Judicature Act, Cap.13)

IN EXERCISE of the powers conferred upon the Rules Committee by section 41(1) and 41(2) (e) of the Judicature Act, these Rules are made thisday of April, 2016.

PART I – PRELIMINARY

1. Title.

These Rules may be cited as the Judicature (Plea Bargain) Rules, 2016.

2. Application.

These Rules apply to all the courts of judicature.

3. Objectives.

The objectives of these Rules are-

(a) to enhance the efficiency of the criminal justice system for the orderly, predictable, uniform, consistent and timely resolution of criminal matters; (b) to enable the accused and the prosecution in consultation with the victim, to reach an amicable agreement on an appropriate punishment; (c) to facilitate reduction in case backlog and prison congestion; (d) to provide quick relief from the anxiety of criminal prosecution; (e) to encourage accused persons to own up to their criminal responsibility; and (f) to involve the victim in the adjudication process.

4. Interpretation.

In these Rules, unless the context otherwise requires-

“court” means a court of judicature established by or under the authority of the Constitution;

“minor and cognate offence” means a lesser offence that is related to the greater offence and shares several of the elements of the greater offence and is of the same class or category;

“plea bargain” means the process between an accused person and the prosecution, in which the accused person agrees to plead guilty in exchange for an agreement by the prosecutor to drop one or more charges, reduce a charge to a less serious offense, or recommend a particular sentence subject to approval by court; and

“plea bargain agreement” means an agreement entered into between the prosecution and an accused person regarding a charge or sentence against an accused person.

PART II – PLEA BARGAIN

5. Initiation of plea bargain.

A plea bargain may be initiated orally or in writing by the accused or the prosecution at any stage of the proceedings, before sentence is passed.

6. Scope of plea bargain.

(1) A plea bargain may be in respect of-

(a) A promise to plead guilty to a charge in exchange for a recommendation for a lesser sentence;

(b) A promise to cooperate as a witness for the prosecution in exchange for reduced charges or a reduced sentence, or both; or

(c) A plea of guilty to-

(i) a minor and cognate offence; (ii) a lesser offence; or (iii) some charges or counts in exchange for a withdrawal of one or more charges or counts, in case of multiple charges.

(2) Where there is more than one accused person, a plea bargain may be entered into in respect of any one of the accused persons and the subsequent plea agreement shall apply and be binding only on the accused person who entered into the agreement.

7. Disclosure.

(1) The prosecution shall, in the interest of justice, disclose to the accused all relevant information, documents or other matters obtained during investigations to enable the accused to make an informed decision with regard to plea bargain.

(2) Disclosure under sub rule (1) shall not compromise State security, security of witnesses or the integrity of judicial process.

8. Court participation in plea bargain.

(1) The court may participate in plea bargain discussions.

(2) The parties shall inform court of the ongoing plea bargain negotiations and shall consult the court on its recommendations with regard to possible sentence before the agreement is brought to court for approval and recording.

(3) Subject to sub rule (1), a judicial officer who has participated in a failed plea bargain negotiation may not preside over a trial in relation to the same case.

PART III – PLEA BARGAIN AGREEMENT

9. Form of plea bargain agreement.

(1) Where the parties are voluntarily in agreement, a plea bargain agreement shall be executed as prescribed in the Form set out in the Schedule1 and filed in court.

(2) Subject to sub rule (1), where the plea bargain agreement involves a child, the agreement shall be executed by either the parent, guardian, probation and social welfare officer or the legal representative of the child.

10. Plea bargain agreement to be explained to accused person.

A plea bargain agreement shall, before being signed by the accused, be explained to the accused person by his or her advocate or a justice of the peace in a language that the accused understands and if the accused person has negotiated with the prosecution through an interpreter, the interpreter shall certify to the effect that the interpretation was accurately done during the negotiations and execution in respect of the contents of the agreement.

11. Interests of victim, complainant and community to be taken into consideration.

The prosecution shall, before entering into a plea bargain agreement, take into consideration the interests of the victim, complainant and the community and shall have due regard to—

(a) the nature of and the circumstances relating to the commission of the offence; (b) the criminal record of the accused if any; (c) the loss or damage suffered by the victim or complainant as a result of the offence; (d) the interests of the community; and (e) any other relevant information.

12. Recording of plea bargain agreement by the court.

(1) Subject to the procedure prescribed in the Schedule 2, the court shall inform the accused person of his or her rights, and shall satisfy itself that the accused person understands the following— (a) the right — (i) to plead not guilty, or having already so pleaded, the effect of that plea; (ii) to be presumed innocent until proved guilty; (iii) to remain silent and not to testify during the proceedings; (iv) not to be compelled to give self-incriminating evidence; (v) to a full trial; and (vi) to be represented by an advocate of his or her choice at his or her expense or in a case triable by the High Court, to legal representation at the expense of the State; (b) that by accepting the plea agreement, he or she is waiving his or her right as provided for under paragraph (a); (c) the nature of the charge he or she is pleading to; (d) any maximum possible penalty, including imprisonment, fines, community service order, probation or conditional discharge; (e) any applicable forfeiture; (f) the court's authority to order compensation and restitution or both; and

(g) that by entering into a plea agreement, he or she is waiving the right to appeal except as to the legality or severity of sentence or if the judge sentences the accused outside the agreement.

(2) The charge shall be read and explained to the accused in a language that he or she understands and the accused shall be invited to take plea.

(3) The prosecution shall lay before the court the factual basis contained in the plea bargain agreement and the court shall determine whether there exists a basis for the agreement.

(4) The accused person shall freely and voluntarily, without threat or use of force, execute the agreement with full understanding of all matters.

(5) A Plea Bargain Confirmation shall be signed by the parties before the presiding Judicial officer in the Form set out in the Schedule 3 and shall become part of the court record and shall be binding on the prosecution and the accused.

13. Rejection of plea bargain agreement by court.

(1) The court may reject a plea bargain agreement where it is satisfied that the agreement may occasion a miscarriage of justice.

(2) Where the court rejects a plea bargain agreement- (a) it shall record the reasons for the rejection and inform the parties; (b) the agreement shall become void and shall be inadmissible in subsequent trial proceedings or in any trial relating to the same facts; and (c) the matter shall be referred for trial, subject to sub rule 8(3).

PART IV - WITHDRAWAL AND PROTECTION OF PLEA BARGAIN

14. Withdrawal from plea bargain agreement.

Either party may, at any stage of the proceedings before the court passes sentence, may withdraw from a plea bargain agreement.

15. Protection of plea bargain process.

(1) Any statement made by an accused person or his or her advocate during plea bargain discussions is not admissible for any other purpose beyond the resolution of the case through a plea bargain.

(2) The court shall not impose a sentence more severe than the maximum sentence recommended in the plea bargain agreement.

(3) Where the court is of the opinion that a particular case is deserving of a more severe sentence than that recommended in a plea bargain agreement, the court shall reject the plea bargain agreement

ANNEXURE 2: A PLEA AGREEMENT

PLEA BARGAIN AGREEMENT

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT.....
HELD AT.....
UGANDA
VERSUS
.....
High Court Criminal Session Case No.....
Originally Magistrate Court Case No...../.....)
DPP case NO.
Court case no.

Fill this form if you wish to plead guilty or do not contest the charges against you.

Initial the box for each applicable item only if you understand and agree with it and sign where the form provides "ACCUSED'S SIGNATURE."

If you have any questions about anything on this form or about your case, ask your advocate or the judge.

RIGHT TO ADVOCATE AND WAIVER (WHERE APPLICABLE)

I understand that I have a right to be represented by an advocate of my choice throughout the proceedings. I further understand that if I cannot afford an advocate, the court will appoint one to represent me at no cost to me. I hereby waive and give up my right to be represented by an advocate of my choice.

CONSTITUTIONAL RIGHTS

I understand that I have the following Constitutional rights;

- (a) The right to plead not guilty.
- (b) The right to be presumed innocent until proved guilty or until I plead guilty.
- (c) The right to remain silent.
- (d) The right not to be compelled to give self-incriminating evidence.
- (e) The right to full trial.
- (f) The right to be represented by an advocate of my choice at my expense but in case I cannot afford an advocate, the court will assign me an advocate on state brief.

WAIVER OF CONSTITUTIONAL RIGHTS

I hereby waive and give up, for all the charges against me, my right to a full trial, my right to cross-examine witnesses, my right against self-incrimination, and my right to produce evidence and put up a defense, including my right to testify on my own behalf.

The following agreement is undertaken by the prosecution or other authorized officer and the accused person or the accused person's advocate on the accused's behalf. The parties have agreed to a mutual satisfactory disposition, as herein stated subject to the approval of court.

PLEA BARGAIN AGREEMENT

Offence(s) charged in indictment:

.....

Amended offence(s) charged:

.....

1.0 Biographical information on accused person

1.1 Names:.....

1.2 Sex:.....

1.3 Marital status:.....

1.4 Age:.....

1.5 Place of birth:.....

1.6 Educational history:.....

1.7 Employment history, if any:.....

1.8 Employment history of family member, if any:

.....

1.9 Place of residence/household description on date of arrest (who live in the same home, etc):

.....

2.0 Case Information

2.1 Date of arrest:.....

2.2 Date of preferring charges:.....

2.3 Offence(s) charged:.....

2.4 Date of admission in prison:.....

2.5 Date of committal:.....

2.6 Date of grant of bail, if any:.....

2.7 Description of prior arrests/convictions, if any:.....

2.8 Medical history prior and after detention:

.....

.....

3.0 Summary of the case/agreed facts (between prosecutions and the defense)

.....
.....
.....

4.0 Relevant Information

4.1 Aggravating factors, if any:

.....
.....
.....

4.2 Mitigating factors, if any:

.....
.....

4.3 Post-release information: if released where the accused would go and what would he or she do?

.....
.....

4.4 Any additional relevant information:

.....
.....
.....

PLEA OF ACCUSED PERSON

I hereby freely and voluntarily plead.....guilty.....to the charge(s) above and agree to be sentenced to within the range of.....and that:-

- (a) Prior to entering this plea, I have had a full opportunity to discuss with my advocate the facts of my case, the elements of the charged offence(s) any defenses that I may have, my Constitutional right and waiver of those rights, and the consequences of my plea.
- (b) I offer my plea of guilty freely and voluntarily and with the full understanding of all the matters set forth in the charges and in this form and that no one has made any threats, used any force against me, my family or loved ones, or made any promises to me except as set out in this form, in order to convince me to plead guilty.
- (c) I stipulate and agree that there is a factual basis for my plea(s) and admission(s)
- (d) I am not under the influence of any substance or suffering from any medical condition, that is or may be impairing my ability to enter into this plea agreement.
- (e) I understand that a plea of guilty will not be a bar of liability in any civil law suit.
- (f) I have no further questions of the court or counsel with regard to my plea(s) and admission(s) in this case.

.....
Name and signature of the accused

Date.....

ANNEXURE 3: PLEA BARGAIN CONFIRMATION

PLEA BARGAIN CONFIRMATION

THE REPUBLIC OF UGANDA

IN THEHIGH.....COURT OF UGANDA AT.....

UGANDA

VERSUS

.....CASE NO.

I before this Honourable Court confirm that I freely and voluntarily sign the plea bargain agreement.

.....
ACCUSED PERSON

In the presence of:-

.....
ACCUSED'S ADVOCATE

.....
STATE ATTORNEY

Dated this.....day of.....2016

Before

.....
JUDGE

ANNEXURE 4: APPLICATION FOR CUSTODY

THE REPUBLIC OF UGANDA

IN THE FAMILY AND CHILDREN COURT AT.....

FAMILY CAUSE NO: OF 20.....

IN THE MATTER OF (Name of the child and age)

AND

IN THE MATTER OF AN APPLICATION FOR CUSTODY

APPLICATION FOR CUSTODY

Under Rule 19(3) of the children (family and children court Rules) S.I 59-2

I, (Name, address and relationship to the child) hereby apply for a custody order against (Person with the child and relationship to the child) on the following grounds:

1. That I am (relationship to the child)
2. That I am a fit and proper person to take care of the child.
3. That the respondent (give reasons as to why the respondent is not fit to stay with the children)

DATED at Kampala this Day of 201.....

APPLICANT

(Attach affidavit in support of the application)

ANNEXURE 5: APPLICATION FOR MAINTENANCE

THE REPUBLIC OF UGANDA

IN THE FAMILY AND CHILDREN COURT AT.....

FAMILY CAUSE NO: OF 20.....

IN THE MATTER OF (Name of the child and age)

AND

IN THE MATTER OF AN APPLICATION FOR MAINTENANCE

APPLICATION FOR MAINTENANCE

Under Rule 19(3) of the children (family and children court Rules) S.I 59-2

I, (Name, address and relationship to the child) hereby apply for a custody order against (Person with the child and relationship to the child) on the following grounds:

1. That I am (relationship to the child)
2. That I am a fit and proper person to take care of the child.
3. That the respondent (give reasons as to why the respondent is not fit to stay with the children)

DATED at Kampala this Day of 201.....

APPLICANT

(Attach affidavit in support of the application)

ANNEXURE 6: STATUTORY WILL FORM

7. Name of person making will	Name	
	Address	
2. Names of executors		
3. Appointment of heir		
4. Name of guardian or guardian of young children		
5. Names of persons who are given specific gifts in this will (which can be money, land or other property)	Names	Property given
6. Names of persons who are given a share in the will maker's property or if gifts have been given in paragraph 5 the property left after the gifts have been given	Names	Shares given
7. Signature or mark of will maker		
Signatures or marks of two witnesses and their names, addresses and occupations	Witness 1	
	Signature or mark	
	Name	
	Address	
	Occupation	
	Witness 2	
	Signature or mark	
	Name	
	Address	
	Occupation	

ANNEXURE 7: WILL TEMPLATE

THE REPUBLIC OF UGANDA

THE WILL AND LAST TESTAMENT OF
DISPOSITION OF [INSERT YOUR NAME]
ESTATE OF [INSERT YOUR HOME
SUBCOUNTY AND DISTRICT]

This is the will and testament of disposition of [YOUR NAME]'s estate of [YOUR LOCATION][YOUR HOME DISTRICT], [YOUR AGE] and is made this [DATE] and I hereby revoke all earlier wills and testaments of disposition of my estate whether written or verbal made by me in my previous perfect mind.

The people left behind as part of my family are as hereunder:-

1. [WIFE/ WIVES IF ANY]
2. [NUMBER OF CHILDREN]

Children [IF ANY]

1. e.g JOHN OPIO
2. JUMA KYEYUNE
3. ETC

Property left behind as part of my estate I have left behind property

- (a) [INSERT PROPERTY] e.g house
- (b) 12 heads of cattle etc
- (c) ETC

[DESCRIBE AND DISTRIBUTE PROPERTY IN DETAIL IN THE NEXT SECTION]

e.g The Land located at KCC grounds is for my three sons (1) SON 1, (2) SON 2 ETC ETC

My bicycle should be given to my brother,

My other house in the village should be given to my daughter,

[AFTER DISTRIBUTING PROPERTY, THEN MOVE TO THIS SECTION]

That I have made this will willingly, consciously in a sober mind without due regard to duress or harassment in presence of my lawyer and no one should tamper with my will or alter it unless the whole family consents to the same.

[THE NEXT SECTION IS VERY IMPORTANT BECAUSE IT LISTS A PERSON/ PEOPLE YOU VERY MUCH TRUST TO CARRY ON YOUR WISHES AFTER YOUR DEATH]

Executors: The following people shall be the executors of my will the caretakers for my children and my family after my death.

1. MARY JANE KAFURISI
2. JOHN SMITH KAPERRE

Signed by the said

[YOUR NAME] [DATE]

.....
TESTATOR

Witnesses

.....
.....
.....

.....
.....
.....

All of whom have signed in presence of

.....

WITNESSING – ADVOCATE

ANNEXURE 8: PETITION FOR PROBATE /LETTERS OF ADMINISTRATION

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT PROBATE AND ADMINISTRATIVE CAUSE NO: OF 20.....

IN THE MATTER OF AN APPLICATION FOR PROBATE BY
(Executor) OF THE ESTATE OF LATE (DECEASED)

PETITION FOR PROBATE

1. I, (Name and address of the petitioner) hereby apply to this honourable court for the grant of probate of the will of the late (Deceased) who died on (Date) at (Place).
2. That the writing annexed to this application is the last will and testament of the deceased executed by him on the Day of 20.....
3. That the deceased was married to (Name and place).
4. That the deceased is survived by the following children:
 - a) (outline the children by name)
5. The deceased left the following properties:
 - a) (outline the properties)
6. The deceased had the following liabilities:
 - a) (outline the liabilities)
7. That at the time of his death, the said (Deceased) had a fixed place of abode at within the jurisdiction of this court.
8. This application is made by (State the applicant and his relationship to the deceased) named as executor in the will.
9. That I do hereby solemnly and sincerely declare that what is stated herein is true to the best of my knowledge and belief and I make this solemn declaration consciously believing the same to be true by virtue of the provision of the statutory declaration Act, 2000.

Declared at Kampala by the said this day of20.....

PETITIONER

BEFORE ME:

COMMISSIONER FOR OATHS

VERIFICATION

I, (Name) the petitioner in the above petition declares that what is stated in it is true to the best of my information and belief.

PETITIONER

BEFORE ME

COMMISSIONER FOR OATHS

ANNEXURE 9: NOTICE OF APPLICATION FOR GRANT OF LETTERS OF ADMINISTRATION

NOTICE OF APPLICATION FOR GRANT OF LETTERS OF ADMINISTRATION - This is to notify the public in case of an application for letters of administration

THE REPUBLIC OF UGANDA

IN THECOURT OFHOLDEN AT.....

ADMINSTRATION CAUSE NO.....OF 20.....

IN THE MATTER OF THE SUCCESSION ACT (CAP 162)/ ADMINISTRATION OF SMALL ESTATES ACT AS AMENDED)

IN THE MATTER OF THE ESTATE OF (DECEASED) FORMERLY A
RESIDENT OF..... (Village/Sub-county/County/District)

AND

IN THE MATTER OF AN APPLICATION FOR GRANT OF LETTERS OF ADMINISTRATION BY
..... (Name, description and place of residence)

NOTICE OF APPLICATION

TO WHOM IT MAY CONCERN

TAKE NOTICE that an application for Letters of Administration to the Estate of the late

..... (Deceased's Description)

This court will proceed to grant the same if no caveat is lodged with this Honourable court of Uganda within (14) fourteen days from the date of publication of this notice, unless cause has been shown to the contrary.

DATED at Kampala this Day of20.....

DEPUTY REGISTRAR

ANNEXURE 10: CITATION TO ACCEPT OR REFUSE PROBATE/LETTERS OF ADMINISTRATION

CITATION TO ACCEPT OR REFUSE PROBATE/LETTERS OF ADMINISTRATION

THE REPUBLIC OF UGANDA
 IN THE MAGISTRATE'S COURT OF AT
 ADMINISTRATION CAUSE NO: OF 20.....
 IN THE MATTER OF THE ESTATE OF THE LATE
 (Deceased) OF (Village/Sub-county/County/District)
 AND
 IN THE MATTER OF AN APPLICATION FOR PROBATE/ LETTERS OF
 ADMINISTRATION BY (Executor/Widow/Son, E.T.C of
 the deceased)

CITATION TO ACCEPT OR REFUSE PROBATE/LETTERS OF ADMINISTRATION

To: _____

WHEREAS it appears by the statement on oath of _____ (Name), sworn this
 _____ day of _____ 20__ that

_____ (Deceased) of _____
 (Village/Subcounty/County/District) died on _____ (Date) having made and duly executed his
 or her last will and testament dated _____ (Date) (now remaining in this court) and in it named
 you, _____, sole executor (and residuary legatee and devisee in trust).

AND WHEREAS it further appears from that statement on oath that

_____ is one of the residuary legatees and devisees named in the will.

NOW this is to command you, _____ (Name) that within twenty-one days after
 service of this citation on you, inclusive of the day of that service, you cause a statement to be filed
 in this court, and accept or refuse probate of the will, or show cause why letters of administration,
 with the will annexed, of all the estate which by law devolves to and vests in the personal
 representative of the deceased, should not be granted to
 _____.

AND TAKE NOTICE that, in default of your so appearing and accepting and extracting probate of
 the will, this court will proceed to grant letters of administration, with the will annexed, of the estate
 to _____, your absence notwithstanding.

DATED at _____ this _____ day of _____, 20__

MAGISTRATE _____

ANNEXURE 11: PETITION FOR DIVORCE

DIVORCE PETITION

THE REPUBLIC OF UGANDA

IN THE COURT OF UGANDA AT

DIVORCE CAUSE NO: OF 20.....

..... PETITIONER

VERSUS

..... RESPONDENT

PETITION FOR DIVORCE

The humble petition of Of (Address) shoes:

1. That the petitioner is a female/male adult Ugandan resident of (Village/Sub-county/County/District). The petitioner will effect court process personally.
2. The respondent is a female/male Ugandan resident of (Village/Sub-county/County/District). The petitioner undertakes to effect service to her/him.
3. That the petitioner was married to the respondent on in a church ceremony at Church and/or customary marriage under Custom at (Village/Subcounty/County/District).
4. The petitioner shall aver that since the solemnization of the marriage, the respondent has deserted him/her or committed adultery or been cruel (state acts of cruelty).
5. That all steps by relatives were done to settle differences have failed.
6. The petitioner shall aver that due to irrevocable differences, the marriage to the respondent has irretrievably broken down.
7. That in (date), the respondent started being cruel to the petitioner by denying him/her conjugal rights claiming that the blessed virgin had told him/her not to indulge with petitioner as result the petitioner suffered mentally and psychologically. (**outline all the other particulars of cruelty**)
8. The cause of action arose in which is in this court's jurisdiction.
9. That this petition is not prosecuted in collusion or connivance with the respondent or with any other person connected in any way with the proceedings nor is your petitioner guilty of condemnation.
10. The petitioner humbly prays this Honourable Court for orders that:
 - a. The marriage to the respondent be dissolved by this court and a decree nisi be granted.
 - b. Custody orders be made for the children.(give the names)
 - c. Orders on disposal of matrimonial property.
 - d. Any other remedy that this Honourable Court may deem fit.

DATED at this Day of 20.....

PETITIONER

VERIFICATION

I, certify that the statements above are true to the best of my knowledge and belief.

PETITIONER

(Attach list of witnesses and list of documents to support the petition)

ANNEXURE 12: PETITION FOR JUDICIAL SEPARATION

THE REPUBLIC OF UGANDA

IN THE CHIEF MAGISTRATE'S COURT OF AT

MATRIMONIAL CAUSE NO: OF 20.....

..... PETITIONER

VERSUS

..... RESPONDENT

PETITION FOR JUDICIAL SEPARATION

(Under Section 14, 30, 31, Divorce Act)

THE HUMBLE PETITION OF (Name) SHOWETH THAT:

1. The petitioner is an adult female/male Ugandan of sound mind and resident of (Village/Sub-county/County/District), whose address for purposes of this petition shall be
2. The respondent is an adult male/female Ugandan believed to be of sound mind and the petitioner undertakes to effect service of court process on him/her.
3. The petitioner was in (Year) lawfully married to the respondent at and the marriage was solemnised under the provisions of the marriage Act in force. (The marriage certificate should be attached).
4. That these are the issues to the marriage:
 - a) (give the names of the children)
5. That since the solemnisation of the said marriage:
 - a) The respondent has changed his faith from Christianity to Islam.
 - b) (outline the other reasons)
6. That since the celebration of the said marriage, that the respondent has treated the petitioner with cruelty forcing her to leave their home. **(give particulars of cruelty)**
7. That no collusion, connivance, or condonation exists between the petitioner and the respondent.
8. That both parties are Africans domiciled in Uganda and the cause of action arose in (Place) within the jurisdiction of this honourable court.

WHEREOF, the petitioner prays for a decree:

- a) That the petitioner shall be judicially separated from the respondent.
- b) That the petitioner shall be granted custody of the issue(s) of the marriage.
- c) That the respondent shall provide maintenance for the petitioner.

DATED at this..... day of20.....

PETITIONER

VERIFICATION

I, (Name) certify that the statements herein are true to the best of my knowledge and belief.

PETITIONER

BEFORE ME:

COMMISSIONER FOR OATHS

ANNEXURE 13: SUMMONS TO ANSWER PETITION

THE REPUBLIC OF UGANDA

IN THE COURT OF UGANDA AT

DIVORCE CAUSE NO: OF 20.....

..... PETITIONER
VERSUS

..... RESPONDENT

SUMMONS TO ANSWER PETITION

To:

.....

.....

WHEREAS the above named petitioned this court for a decree of dissolution of marriage (a copy of which petition is attached hereto),you are hereby summoned to appear in this Court in person or by an agent on the day of 20..... at

..... O'clock in the fore/afternoon or as soon thereafter as the case can be heard, to answer the above petition and for such further orders as the Court may make for the disposal of the suit.

FURTHER TAKE NOTICE that in default of your doing, the petition will be heard and determined in your absence.

Given under my hand and seal of this Court this Day of 20.....

MAGISTRATE/DEPUTY REGISTRAR

ANNEXURE 14: ANSWER TO THE PETITION

THE REPUBLIC OF UGANDA

IN THE COURT OF UGANDA AT.....

DIVORCE PETITION NO: OF 20.....

..... PETITIONER
VERSUS

..... RESPONDENT

ANSWER TO PETITION AND CROSS-PETITION

1. The respondent is an adult female/male of (Address) and resident of (Village/Sub-county/county/District).
2. The respondent admits that a valid marriage subsisted with the petitioner and confirms that there are Children in the marriage.
3. The respondent denies acts of cruelty or desertion or adultery and the petitioner shall be put to strict proof.
4. The respondent cross-petitions for divorce/judicial separation or nullity. (select the relevant one)
5. (state grounds or reasons for the cross petition)
6. Your respondent submits to the jurisdiction of this court.
7. The respondent prays for:
 - a) Decree nisi
 - b) Judicial separation
 - c) Custody and maintenance order
 - d) Division of matrimonial property
 - e) Any other relief Court deems fit.

SIGNED

RESPONDENT

ANNEXURE 15: SEPARATION AGREEMENT

THE REPUBLIC OF UGANDA

THE CONTRACT ACT No. 2/2010

SEPARATION AGREEMENT

THIS AGREEMENT IS MADE THIS DAY OF 20.....

BETWEEN

..... (Details of the first party) (Hereinafter referred to as the wife)

AND

..... (Details of the second party) (Hereinafter referred to as the husband)

AND WHEREAS the parties were blessed with Children (outline the names).

(Hereinafter referred to as the children)

AND WHEREAS the relationship between the parties has been broken down the reasons are not mentioned.

NOW THEREFORE, THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. Non molestation
The parties mutually agree that there shall be no molestation of one of the other during the continuance of the agreement and in case of breach.
2. Maintenance of wife and children
 - a) The husband shall provide for the maintenance of the children and the wife.
 - b) The maintenance of the wife shall continue subsisting on condition that she remains chaste.
3. Live a part
The parties agree that they shall continue to live separately in consideration for having each other's consortium.
4. Dum casta clause
None of the parties to the agreement shall be at liberty to have sex outside marriage or with another person during the subsistence of this agreement.
5. Agreement relating to property
 - a) Each party shall be entitled to take property which constitutes necessary wearing apparel.
 - b) Other property shall be shared equally by the parties.
6. Duration
This agreement shall unless otherwise agreed upon by the parties run for Years from the date of execution, save herein, this agreement can be terminated by mutual consent.

7. Custody

The parties agree that the custody of the children shall go to the wife and the husband shall have access to them provided that he visits at reasonable time.

8. Amendment

The agreement may be amended anytime upon the agreement by the parties hereto and amendments shall be reflected in writing and duly signed by the parties and witnessed.

IN WITNESS WHEREOF, the parties have set their hands hereto on the date and year first mentioned above;

Signed by the said:

WIFE

In the presence of

Signed by the said

HUSBAND

In the presence of

ANNEXURE 16: SIMPLE EMPLOYMENT CONTRACT FOR A DOMESTIC WORKER

THE REPUBLIC OF UGANDA

IN THE MATTER OF THE EMPLOYMENT ACT

AND

IN THE MATTER OF THE CONTRACT ACT, 2010

EMPLOYMENT CONTRACT

THIS CONTRACT OF EMPLOYMENT is made this..... Day of.....20..... ,

BETWEEN

.....of.....

AND

..... of

1. DESIGNATION, STARTING DATE AND DURATION OF THE CONTRACT.

- a) The employee shall work as.....(specify the job to be done)
- b) This contract of employment shall begin on the Day of..... 20.....
- c) The contract of employment shall be for a period of six months.

2. WORK/DUTIES TO BE CARRIED OUT BY THE EMPLOYEE UNDER THE JOB DESCRIBED.

- a).....
- b).....
- c).....
- d).....
- e).....
- f).....
- g).....
- h).....

3. PAYMENT FOR WORK.

The employer shall pay the employee a salary of Ushs.per month.

4. ANNUAL AND WEEKLY LEAVE:

The employer shall give 21 days' leave and a weekly day off to the employee and the employee shall put into consideration the interests of the employer while taking leave. In the event that the employer requests the employee not to take leave when required to do so, he/she shall pay a sum commensurate with a days' pay for the time he or she is working as if he/she was not on leave.

5. SICK LEAVE:

- i) The employer shall undertake to grant sick leave to the employee for the first month with full pay for the period he/she is absent from work if he endeavored to communicate and on production of a medical form to him/her.

- ii) Where the employees' sickness extends into the second month, the/she employer is entitled to terminate the contract of service on complying with all the terms of the contract of service up to the time of termination of employment.
- iii) The employer shall undertake to grant a period of maternity leave to the employee if she is female and paternity leave for the male employee.

Obligations of the Employer;

- a) Provide decent accommodation to the employer
- b) Provide food to the employee
- c) Provide medical care
- Provide descent work to the employee

ANNEXURE 17: LABOUR DISPUTE COMPLAINT

THE REPUBLIC OF UGANDA
 IN THE INDUSTRIAL COURT OF UGANDA AT KAMPALA
 LABOUR DISPUTE REFERENCE NO. Of 20.....

(Arising From Labour Dispute No. of 20.....)

BETWEEN

PX:.....CLAIMANT

AND

OD:.....RESPONDENT

AFFIDAVIT IN SUPPORT OF MEMEOARANDUM OF CLAIM

I PX of Kampala solemnly swear and state as follows;

1. That I am an adult male/female Ugandan citizen of sound mind and the claimant in this matter.
2. That I was employed by the respondent as
3. That during my term of employment with OD, I.....
4. That on.....I was terminated/dismissed on allegations that.....
5. That on I reported the matter to the labour office at
6. That on.....the labour officer wrote the first letter inviting OD for mediation but he did not appear.
7. That on the labour officer wrote the second letter inviting OD for mediation but he did not appear.
8. That onthe matter was referred to the Industrial Court.
9. That I swear this affidavit in support of my claim for
10. That I believe that the facts stated herein above are true and correct to the best of my knowledge.

SWORN at Kampala this..... Day of2018.

SWORN BY THE SAID:

PX

 DEPONENT

BEFORE ME

 A COMMISSIONER FOR OATH

DRAWN AND FILED BY:

ANNEXURE 18: MEMORANDUM OF CLAIM TO SUPPORT CLAIM

THE REPUBLIC OF UGANDA

IN THE INDUSTRIAL COURT OF UGANDA AT KAMPALA

LABOUR DISPUTE REFERENCE NO./20.....
(Arising From Labour Dispute No. of 20.....)

BETWEEN

PX:.....CLAIMANT

AND

OD:.....RESPONDENT

MEMORANDUM OF CLAIM

(Pursuant to S.40 (2) of the Labour Disputes (Arbitration and Settlement) Act 2006 and Rule 5 of the Labour Dispute (Arbitration and Settlement) Industrial Court Procedure Rules 2012

1. The Claimant is an adult male/female Ugandan of sound mind whose address of service for purposes of this claim is Kampala.
2. The Respondent is whose address shall be
3. The Claimant's claim against the Respondent is for.....
4. The facts from which this claim arose are as follows:
 - i) The Claimant was employed asby the respondent on.....at an agreed monthly salary of..... (Copy of employment contract and appointment letter attached and marked.....)
 - ii) During his term of employment with OD, the claimant.....
 - iii) On.....the claimant was terminated/dismissed on allegations that.....
 - iv) Onthe claimant reported the matter to the labour office at
 - v) The labour officer wrote letters inviting OD for mediation but he did not appear/mediation was conducted but failed.
 - vi) On.....the Labour Officer at.....referred the matter to the Industrial Court
5. The Claimant shall aver and contend that the Respondent's actions violated his right to for which he will claim from the Respondent.

6. An affidavit of service is hereby attached for OD the Respondent for you to file your memorandum of reply accompanied by an affidavit of service within Seven (7) days from receipt of the accompanying affidavit of service by the claimant.
7. Failure of the respondent to file a memorandum in reply as accompanied by an affidavit of service will result in the claim being resolved ex parte.
8. The claim arose within the jurisdiction of this Honorable Court and this court has the jurisdiction to determine this case.
9. Wherefore, the Claimant prays for an award to be entered in his favor for:

- a.
- b.
- c.
- d.

DATED at Kampala this..... day of 2018.

.....
COUNSEL FOR THE CLAIMANT

FILED in this Honourable Court this..... Day of2018

.....
REGISTRAR

DRAWN AND FILED BY:

ANNEXURE 19: SUMMARY OF EVIDENCE TO SUPPORT CLAIM

Dated at Kampala this _____ day of _____ 2018

THE REPUBLIC OF UGANDA

IN THE INDUSTRIAL COURT OF UGANDA AT KAMPALA

LABOUR DISPUTE REFERENCE NO./20.....
(Arising From Labour Dispute No. of 20.....)

BETWEEN

PX:.....:CLAIMANT

AND

OD:.....: RESPONDENT

SUMMARY OF EVIDENCE

The claimant shall at the hearing of the claim adduce evidence to show

LIST OF WITNESSES

1. PX (Claimant)
2.
3.
4. Any other with leave of court

LIST OF DOCUMENTS

1. Employment contract
2. Appointment letter
3. Performance appraisals
4. Termination letter
5. Pay slips
6. Bank statements
7. NSSF statements
8.
9.
10.
11. Any other with leave of court

LIST OF AUTHORITIES

1. The Constitution of Republic of Uganda, 1995.
2. The Employment Act No.6 of 2006
3. The Civil Procedure Act Cap 71
4. The Civil Procedure Rules, S.I 71-1
5. The Evidence Act Cap. 6.
6. Case law
7. Any other with the leave of court.

(Counsel for the Claimant)

Drawn and Filed by:

ANNEXURE 20: NOTICE OF CLAIM

THE REPUBLIC OF UGANDA
IN THE INDUSTRIAL COURT OF UGANDA AT KAMPALA
LABOUR DISPUTE REFERENCE NO. /20.....
(Arising From Labour Dispute No. of 20.....)
BETWEEN
PX:.....CLAIMANT
AND
OD:.....RESPONDENT

NOTICE OF CLAIM

1. TO: OD.

TAKE NOTICE that a memorandum of claim has been filed in the Industrial Court at Kampala in Claim No.....of, in which you are named as Respondent.

Service of the summons on you was ordered to be by this Notice.

A copy of the summons and the Memorandum of Claim is herewith attached.

Unless you file a response within seven days from the date of receipt of this notice, the suit will be heard and determined in your absence.

Dated at Kampala this Day of2018

.....
REGISTRAR

ANNEXURE 21: LAND SALE AGREEMENT

THE REPUBLIC OF UGANDA
THE REGISTRATION OF TITLES ACT CAP 230
IN THE MATTER OF SALE OF LAND
COMPRISED IN.....(State the location of the land description)....
.....

LAND SALE AGREEMENT

THIS LAND SALE AGREEMENT is made thisday of ...(month).... 20....

BETWEEN

.....(Seller's name) of Uganda (Seller's Physical address),

(hereinafter referred to as the **VENDOR** which expression shall where the context so admits include his nominees, assigns and successors in title) of the one part; (where the land is not registered indicate that the seller is the rightful owner of the land ie delete "registered owner")

AND

(.....Buyer's name and address.....) (hereinafter referred to as the **PURCHASER** which

expression shall where the context so admits include his nominees, assigns and successors in title) of the other part;

WHEREAS the **VENDOR** is the registered proprietor / rightful owner of the land of land comprised in where the land is registered include block and plot number where the land is unregistered include the location and measurements of the land) (hereinafter referred to as 'the land');

WHEREAS the **VENDOR** is desirous of selling the land, and the **PURCHASER** having duly negotiated the terms as contained herein with the **VENDOR** is willing to purchase the land, from the **VENDOR** subject to the terms and conditions herein;

NOW THIS AGREEMENT witnesseth as follows;

1. CONSIDERATION

In consideration of the sum of UGX./= (Uganda shillings (write in words.....)), the **VENDOR** agrees to sell and hereby sells and the **PURCHASER** agrees to buy and hereby buys the land from the **VENDOR**.

2. TERMS OF PAYMENT

a. The **PURCHASER** has paid to the **VENDOR** a sum of UGX./=

(Uganda shillings.....write in words), as deposit on the purchase price and by signing this agreement the **VENDOR** acknowledges receipt of the said sum.

b. The final balance of UGX/= (Uganda shillings write in words) shall be paid on the by way of cash to the **VENDOR**.

- c. (Where the amount has been paid in full, delete paragraph (b) above and indicate under (a) that the purchaser has paid the indicated sum as the total purchase price of the land)

3. DUTIES OF THE VENDOR

By this agreement the vendor undertakes as follows;

- a. That he has authority to sell the land herein sold and is not precluded from doing so by any person or authority.
- b. That the land herein is sold as is, free from any encumbrances and third party claims whatsoever **PROVIDED** that if there shall arise any claim or anything that shall prevent the purchaser from acquiring good title to the land herein sold, the vendor shall fully indemnify the purchaser against any loss and damage suffered, by refunding the full purchase price herein paid plus other monies spent under this agreement.
- c. To deliver vacant possession of the land after payment of the deposit. (**or immediately where the money has been paid in full**)
- d. To furnish all documents relating to the transaction, to the purchaser to enable the purchaser transfer the land purchased into his name, after payment of the second installment.
- e. To introduce the buyer to the area L.C Executives as the new owner of the land herein sold and the buyer shall be responsible for any dues required by or payable to the said L.C Executives, after payment of the last installment.
- f. To meet all the legal fees incurred in the preparation of these presents.

4. DUTIES OF THE PURCHASER

By this agreement the purchaser undertakes as follows;

- a. To pay the balance on the purchase price within the time stipulated in this agreement. (**If applicable**)

5. DISPUTES & LAW APPLICABLE

This agreement shall be governed by the Laws of Uganda.

IN WITNESS WHEREOF the parties hereto have appended their signatures hereunder on the day and year first above written.

SIGNED & DELIVERED by the said

(seller's name)

VENDOR (seller's signature)

In the Presence of

WITNESS

(witness' name and signature)

(Buyer's name and Signature

(PURCHASER)

SIGNED and RECEIVED

BY the said

In the presence of

WITNESS (witness' name and signature)

ANNEXURE 22: CAVEAT

THE REPUBLIC OF UGANDA
THE REGISTRATION OF TITLES ACT, CAP 230

IN THE MATTER OF LAND COMPRISED IN

..... BLOCKPLOT LAND AT..... REGISTERED
PRORIETOR;

AND

IN THE MATTER OF A CAVEAT FORBIDDING REGISTRATION OF ANY
CHANGE IN PROPRIETORSHIP OR ANY INSTRUMENT AFFECTING THE SAID LAND

CAVEAT

TAKE NOTICE that I/we,(Insert Caveator's name) WASSWA of (Insert Caveator's address) claim an equitable interest over the above captioned property and forbid the registration of any person as transferee or proprietor of the land or any instrument affecting the said property or estate until after notice of such registration is given to us at the address hereafter mentioned, or unless such instrument be expressed to be subject to our claim thereon or unless we consent in writing thereto.

I/We appoint as the address at which notices and proceedings relating to the caveat may be served

Dated at this day of.....2014.

SIGNED by the said

Name

Signature

ANNEXURE 23: STATUTORY DECLARATION

THE REPUBLIC OF UGANDA
THE REGISTRATION OF TITLES ACT, CAP 230

IN THE MATTER OF LAND COMPRISED IN

..... BLOCKPLOT LAND AT..... REGISTERED
PRORIETOR;

AND

IN THE MATTER OF A CAVEAT FORBIDDING REGISTRATION OF ANY
CHANGE IN PROPRIETORSHIP OR ANY INSTRUMENT AFFECTING THE SAID LAND

STATUTORY DECLARATION

I, (Caveator's name and address) do solemnly and sincerely declare as follows:

1. That I am a female/male adult Ugandan of sound mind with an equitable interest in the captioned property and I make this declaration in that capacity.

Indicate the nature of the caveator's interest in the land eg;

2. That on the the above described land was allocated to me by the Administrator General as beneficiaries to the estate of the late (Attach documents (if any) proving the caveator's claim) eg; Attached is a copy of the transfer form.
3. That i/we would like to register a caveat over the above land to protect our equitable interest therein.
4. That I swear this Statutory Declaration in support of a caveat forbidding the registration of any person as transferee or proprietor of the said land and any instrument affecting the said estate or interest until after notice of such registration is given to me at the address mentioned in the caveat or unless I consent in writing thereto.
5. That I make this solemn declaration by virtue of the Statutory Declarations Act Cap 22 conscientiously believing the same to be true.

DECLARED at Kampala this.....day of.....2014] _____
by the saidCaveator's name)..... DEPONENT

BEFORE ME:

A COMMISSIONER FOR OATHS

ANNEXURE 24: LAND TRANSFER FORM

THE REPUBLIC OF UGANDA

THE REGISTRATION OF TITLES ACT CAP 230

.....(Insert Property Description

TRANSFER

I / We..... (Insert Name and Address of transferor) being the being the owner and or registered proprietor of the lands comprised in the above described property

IN CONSIDERATION of the sum of/= (Amount in words) paid to us by
..... (transferee)of P.O

BOX.....on or before the execution of these presents the receipt whereof we acknowledge

I/WE DO HEREBY transfer the said land and all our estate and interest in the land to....., the Transferee on thisday of20.....

Signed by;
SELLER/TRNSFEROR

In the presence of:
WITNESS

Signed by the said
TRANSFEEE

In the presence of:
WITNESS

ANNEXURE 25: SCHEDULE OF MAGISTERIAL AREAS

STATUTORY INSTRUMENTS
SUPPLEMENT No. 4

27th January, 2017

S T A T U T O R Y I N S T R U M E N T S
S U P P L E M E N T

to The Uganda Gazette No. 5, Volume CX, dated 27th January, 2017

Printed by UPPC, Entebbe, by Order of the Government.

S T A T U T O R Y I N S T R U M E N T S
2017 No. 11.

THE MAGISTRATES COURTS (MAGISTERIAL AREAS) INSTRUMENT, 2017.

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation
2. Interpretation
3. Magisterial areas
4. Magistrates courts
5. Revocation of S.I. 45 of 2007

SCHEDULE

MAGISTERIAL AREAS AND MAGISTRATES COURTS

S T A T U T O R Y I N S T R U M E N T S
2017 No. 11.

The Magistrates Courts (Magisterial Areas) Instrument, 2016
(Under sections 2 and 3 of the Magistrates Court Act, Cap.16)

IN EXERCISE of the powers conferred upon the Minister by sections 2 and 3 of the Magistrates Courts Act, and in consultation with the Chief Justice, this Instrument is made this 13th day of September, 2016.

1. Citation.

This Instrument may be cited as the Magistrates Courts (Magisterial Areas) Instrument, 2017.

2. Interpretation.

In this Instrument, unless the context otherwise requires—

"magisterial area" means any one of the areas into which Uganda for the time being is divided under section 2 of the Magistrates Courts Act.

3. Magisterial areas.

For purposes of the Magistrates Courts Act, the areas specified in the Schedule to this Instrument are magisterial areas—

- (a) designated respectively by the name specified in column 1; and
- (b) comprising the areas corresponding with the designated area in column 2.

4. Magistrates Courts.

There is established in each magisterial area referred to in paragraph 3, magistrates courts in the places within the limits of the jurisdiction of the magisterial area as designated in column 3 of the Schedule.

5. Revocation of S.I. 45 of 2007.

The Magistrates Courts (Magisterial Areas) Instrument S.I.45 of 2007 is revoked.

SCHEDULE

Paragraphs 2 and 3

MAGISTERIAL AREAS AND MAGISTRATES COURTS

No.	Name of Magisterial Area	Extent of Magisterial Area	Magistrates courts
1.	Alebtong	Alebtong and Otuke Districts	Chief Magistrate - Alebtong Magistrate Grade 1 - Abako Magistrate Grade 1 - Adwari Magistrate Grade 1 - Alebtong Magistrate Grade 1 - Aloï Magistrate Grade 1 - Amugo Magistrate Grade 1 - Apala Magistrate Grade 1 - Okwang Magistrate Grade 1 - Olilim Magistrate Grade 1 - Omoro Magistrate Grade 1 - Orumu Magistrate Grade 1 - Otuke
2.	Anaka	Nwoya and Amuru Districts	Chief Magistrate - Nwoya Magistrate Grade 1 - Amuru Magistrate Grade 1 - Anaka Magistrate Grade 1 - Atiak Magistrate Grade 1 - Kilak Magistrate Grade 1 - Koch-Goma Magistrate Grade 1 - Lamogi Magistrate Grade 1 - Nwoya

3.	Apac	Apac District	Chief Magistrate - Apac Magistrate Grade 1 - Aduku Magistrate Grade 1 - Apac Magistrate Grade 1 - Chawente Magistrate Grade 1 - Chegere Magistrate Grade 1 - Ibuje Magistrate Grade 1 - Inomo Magistrate Grade 1 - Nambieso
4.	Arua	Arua District	Chief Magistrate - Arua Magistrate Grade 1 - Adumi Magistrate Grade 1 - Arivu Magistrate Grade 1 - Arua Magistrate Grade 1 - Logiri Magistrate Grade 1 - Madi- Okolo Magistrate Grade 1 - Rhino Camp Magistrate Grade 1 - Odravu
5.	Bubulo	Manafwa and Bududa Districts	Chief Magistrate - Bubulo Magistrate Grade 1 - Bubulo Magistrate Grade 1 - Bududa Magistrate Grade 1 - Bupoto
6.	Budaka	Budaka and Kibuku Districts	Chief Magistrate - Budaka Magistrate Grade 1 - Budaka Magistrate Grade 1 - Iki Iki Magistrate Grade 1 - Kibuku
7.	Buganda Road	Central Division of Kampala	Chief Magistrate - Buganda Road Magistrate Grade 1 - Buganda Road Magistrate Grade 1 - City Hall Magistrate Grade 1 - Law Development Centre (LDC)
8.	Bugiri	Bugiri District	Chief Magistrate - Bugiri Magistrate Grade 1 - Bugiri Magistrate Grade 1 - Lugala Magistrate Grade 1 - Namayingo Magistrate Grade 1 - Sigulu Island Magisterial Courts
9.	Buhweju	Buhweju District	Chief Magistrate - Buhweju Magistrate Grade 1 - Nsiika
10.	Buliisa	Buliisa District	Chief Magistrate - Buliisa Magistrate Grade 1 - Biiso Magistrate Grade 1 - Buliisa Magistrate Grade 1 - Butyaba Magistrate Grade 1 - Wanseko

11.	Bundibugyo	Bundibugyo District	Chief Magistrate - Bundibugyo Magistrate Grade 1 - Bubandi Magistrate Grade 1 - Bundibugyo
12.	Bushenyi	Bushenyi Town Council, Rubirizi, Sheema Districts	Chief Magistrate - Bushenyi Magistrate Grade 1 - Bushenyi Magistrate Grade 1 - Kagango Magistrate Grade 1 - Kibingo Magistrate Grade 1 - Kitagata Magistrate Grade 1 - Rubirizi
14.	Butambala	Butambala District	Chief Magistrate - Gombe Magistrate Grade - Bulo Magistrate Grade - Gombe Magistrate Grade - Kibibi
15.	Dokolo	Dokolo and Amolatar Districts	Chief Magistrate - Dokolo Magistrate Grade - Agwata Magistrate Grade - Amolatar Magistrate Grade - Aputi Magistrate Grade - Awelo Magistrate Grade - Bata Magistrate Grade - Dokolo Magistrate Grade - Kangai Magistrate Grade - Kwera Magistrate Grade - Namasale Magistrate Grade - Muntu
16.	Entebbe	Entebbe Municipality and Katabi sub-county of Wakiso-District	Chief Magistrate - Entebbe Magistrate Grade - Entebbe Magistrate Grade - Nkumba
17.	Fort Portal	Kabarole District	Chief Magistrate - Fort Portal Magistrate Grade - Fort Portal Magistrate Grade - Hakibaale Magistrate Grade - Kibiito Magistrate Grade - Rwimi
18.	Gomba	Gomba District	Chief Magistrate Kanoni Magistrate Grade - Kabulasoke Magistrate Grade - Kanoni Magistrate Grade - Kiriri Magistrate Grade - Maddu
19.	Gulu	Gulu District	Chief Magistrate Gulu Magistrate Grade - Aswa Magistrate Grade - Bobi Magistrate Grade - Gulu Magistrate Grade - Omoro

20.	Hoima	Hoima District	Chief Magistrate - Hoima Magistrate Grade - Buseruka Magistrate Grade - Hoima Magistrate Grade - Kabwoya Magistrate Grade - Kigorobya Magistrate Grade - Kyangwali
21.	Ibanda	Ibanda District	Chief Magistrate - Ibanda Magistrate Grade 1 - Ibanda Magistrate Grade 1 - Ishongororo
22.	Iganga	Iganga and Luuka Districts	Chief Magistrate - Iganga Magistrate Grade 1 - Busembatia Magistrate Grade 1 - Iganga Magistrate Grade 1 - Kaliro Magistrate Grade 1 - Kiyunga Magistrate Grade 1 - Makutu Magistrate Grade 1 - Namungalwe Magistrate Grade 1 - Namutumba
23.	Isingiro	Isingiro District	Chief Magistrate - Isingiro Magistrate Grade 1 - Bukanga Magistrate Grade 1 - Isingiro Magistrate Grade 1 - Kabingo Magistrate Grade 1 - Kikagate Magistrate Grade 1 - Rugaga
24.	Jinja	Jinja District	Chief Magistrate - Jinja Magistrate Grade 1 - Budondo Magistrate Grade 1 - Bugembe Magistrate Grade 1 - Busedde Magistrate Grade 1 - Butagaya Magistrate Grade 1 - Jinja Magistrate Grade 1 - Kagoma Magistrate Grade 1 - Kakira
25.	Kabale	Kabale District	Chief Magistrate - Kabale Magistrate Grade 1 - Kabale Magistrate Grade 1 - Kaharo Magistrate Grade 1 - Kamwezi Magistrate Grade 1 - Muko Magistrate Grade 1 - Rubanda Magistrate Grade 1 - Rubaya
26.	Kaberamaido	Kaberamaido District	Chief Magistrate - Kaberaido Magistrate Grade 1 - Kaberaido Magistrate Grade 1 - Kalaki Magistrate Grade 1 - Ocheru Magistrate Grade 1 - Otuboi

27.	Kajjansi	Ssisu and Kassanje. sub-counties of Wakiso District	Chief Magistrate - Kajjansi Magistrate Grade 1 - Kajjansi Magistrate Grade 1 - Kasanje
28.	Kalangala	Kalangala District	Chief Magistrate - Kalangala Magistrate Grade 1 - Bukasa Magistrate Grade 1 - Kalangala
29.	Kamuli	Kamuli and Buyende Districts	Chief Magistrate - Kamuli Magistrate Grade 1 - Bugaya Magistrate Grade 1 - Buyende Magistrate Grade 1 - Kagulu Magistrate Grade 1 - Mbulamuti Magistrate Grade 1 - Namasagali Magistrate Grade 1 - Namwendwa Magistrate Grade 1 - Nawanyago Magistrate Grade 1 - Kamuli
30.	Kamwenge	Kamwenge District	Chief Magistrate - Kamwenge Magistrate Grade 1 - Kamwenge Magistrate Grade 1 - Kahunge Magistrate Grade 1 - Nkoma Magistrate Grade 1 - Kicheche
31.	Kanungu	Kanungu District	Chief Magistrate - Kanungu Magistrate Grade 1 - Kanungu Magistrate Grade 1 - Kihhi
32.	Kapchorwa	Kapchorwa, Bukwa Sub-county and Kween Districts	Chief Magistrate - Kapchorwa Magistrate Grade 1 - Bukwa Magistrate Grade 1 - Kapchorwa Magistrate Grade 1 - Kapraron Magistrate Grade 1 - Ngenge
33.	Kasangati	Nangabo Sub-county, Kyadondo and Busukuma of Kyadondo, Wakiso District	Chief Magistrate - Kasangati Magistrate Grade 1 - Kasangati
34.	Kasese	Kasese District	Chief Magistrate - Kasese Magistrate Grade 1 - Bwera Magistrate Grade 1 - Kasese Magistrate Grade 1 - Lake Katwe
35.	Katakwi	Katakwi and Amuria Districts	Chief Magistrate - Katakwi Magistrate Grade 1 - Acowo Magistrate Grade 1 - Amuria Magistrate Grade 1 - Kapelebyong Magistrate Grade 1 - Katakwi Magistrate Grade 1 - Obalanga Magistrate Grade 1 - Orongo Magistrate Grade 1 - Wera Magistrate Grade 1 - Toroma

36.	Kayunga	Kayunga District	Chief Magistrate - Kayunga Magistrate Grade 1 - Bbaale Magistrate Grade 1 - Busaana Magistrate Grade 1 - Galilaya Magistrate Grade 1 - Kangulumira Magistrate Grade 1 - Kayunga
37.	Kibaale	Kibaale District	Chief Magistrate - Kibaale Magistrate Grade 1 - Kagadi Magistrate Grade 1 - Kakumiro Magistrate Grade 1 - Kibaale Magistrate Grade 1 - Muhoro Magistrate Grade 1 - Nyalweyo Magistrate Grade 1 - Mabaale
38.	Kiboga	Kiboga and Kyankwanzi Districts	Chief Magistrate - Kiboga Magistrate Grade 1 - Bukomero Magistrate Grade 1 - Bukwiri Magistrate Grade 1 - Busunju Magistrate Grade 1 - Butemba Magistrate Grade 1 - Kiboga Magistrate Grade 1 - Kyankwanzi Mulusozi Magistrate Grade 1 - Ntwetwe
39.	Kira	Kira Town Council, Kyadondo and Wakiso District	Chief Magistrate - Kira Magistrate Grade 1 - Bweyogerere Magistrate Grade 1 - Kira
40.	Kiruhura	Kiruhura District	Chief Magistrate - Kiruhura Magistrate Grade 1 - Buremba Magistrate Grade 1 - Burunga Magistrate Grade 1 - Kashongi Magistrate Grade 1 - Kazo Magistrate Grade 1 - Kinoni Magistrate Grade 1 - Kiruhura Magistrate Grade 1 - Sanga
41.	Kiryandongo	Kiryandongo District	Chief Magistrate - Kiryandongo Magistrate Grade 1 - Bweyale Magistrate Grade 1 - Karuma Magistrate Grade 1 - Kigumba Magistrate Grade 1 - Kiryandongo
41.	Kiryandongo	Kiryandongo District	Chief Magistrate - Kiryandongo Magistrate Grade 1 - Bweyale Magistrate Grade 1 - Karuma Magistrate Grade 1 - Kigumba Magistrate Grade 1 - Kiryandongo

42.	Kisoro	Kisoro District	Chief Magistrate - Kisoro Magistrate Grade 1 - Bunagana Magistrate Grade 1 - Kisoro Magistrate Grade 1 - Kyanika
43.	Kitgum	Kitgum and Lamwo Districts	Chief Magistrate - Kitgum Magistrate Grade 1 - Atanga Magistrate Grade 1 - Kitgum Magistrate Grade 1 - Kitgum Matid Magistrate Grade 1 - Lamwo Magistrate Grade 1 - Madi Opei Magistrate Grade 1 - Namokora Magistrate Grade 1 - Padibe Magistrate Grade 1 - Pajule Magistrate Grade 1 - Palabek
44.	Koboko	Koboko and Maracha Districts	Chief Magistrate - Koboko Magistrate Grade 1 - Koboko Magistrate Grade 1 - Lodonga Magistrate Grade 1 - Maracha Magistrate Grade 1 - Nyadri Magistrate Grade 1 - Oleba
45.	Kotido	Kotido, Abim and Kabong Districts	Chief Magistrate - Kotido Magistrate Grade 1 - Abim Magistrate Grade 1 - Kabong Magistrate Grade 1 - Kotido
46.	Kumi	Kumi, Ngora and Bukedea Districts	Chief Magistrate - Kumi Magistrate Grade 1 - Bukedea Magistrate Grade 1 - Kachumbala Magistrate Grade 1 - Kanyum Magistrate Grade 1 - Kumi Magistrate Grade 1 - Mukura Magistrate Grade 1 - Ngora
47.	Kyenjojo	Kyenjojo and Kyegegwa Districts	Chief Magistrate - Kyenjojo Magistrate Grade 1 - Bufunjo Magistrate Grade 1 - Butiti Magistrate Grade 1 - Kyarusozzi Magistrate Grade 1 - Kyegegwa Magistrate Grade 1 - Kyenjojo Magistrate Grade 1 - Mpara
48.	Lira	Lira and Kole Districts	Chief Magistrate - Lira Magistrate Grade 1 - Barr Magistrate Grade 1 - Aboke Magistrate Grade 1 - Adekokwok Magistrate Grade 1 - Alito Magistrate Grade 1 - Amach Magistrate Grade 1 - Bala Magistrate Grade 1 - Kole

			Magistrate Grade 1 - Lira Magistrate Grade 1 - Ayer Magistrate Grade 1 - Ogur
49.	Lugazi	Buikwe District and Buvuma Islands	Chief Magistrate - Lugazi Magistrate Grade 1 - Buikwe Magistrate Grade 1 - Buvuma Magistrate Grade 1 - Lugazi Magistrate Grade 1 - Njeru
50.	Luwero	Luwero and Nakaseke Districts	Chief Magistrate - Luwero Magistrate Grade 1 - Bombo Magistrate Grade 1 - Luwero Magistrate Grade 1 - Nakaseke Magistrate Grade 1 - Ngoma Magistrate Grade 1 - Semuto Magistrate Grade 1 - Wobulenzi Magistrate Grade 1 - Zirobwe
51.	Makindye	Makindye Division of Kampala; and Makindye Ssabagabo Sub- county of Kyadondo, Wakiso District	Chief Magistrate - Makindye Magistrate Grade 1 - Ggaba Magistrate Grade 1 - Kabalagala Magistrate Grade 1 - Makindye Magistrate Grade 1 - Namuwongo Magistrate Grade 1 - Zaana
52.	Masaka	Masaka District	Chief Magistrate - Masaka Magistrate Grade 1 - Bukomansimbi Magistrate Grade 1 - Kalungu Magistrate Grade 1 - Kyanamukaka Magistrate Grade 1 - Kyazanga Magistrate Grade 1 - Lukaya Magistrate Grade 1 - Lwengo Magistrate Grade 1 - Masaka Magistrate Grade 1 - Mbirizi
53.	Masindi	Masindi District	Chief Magistrate - Masindi Magistrate Grade 1 - Budongo Magistrate Grade 1 - Bwijanga Magistrate Grade 1 - Kafu River Magistrate Grade 1 - Masindi
54.	Mayuge	Mayuge District	Chief Magistrate - Mayuge Magistrate Grade 1 - Baitambogwe Magistrate Grade 1 - Kigandalo Magistrate Grade 1 - Kityerera Magistrate Grade 1 - Mayuge
55.	Mbale	Mbale District	Chief Magistrate - Mbale Magistrate Grade 1 - Bungokho Magistrate Grade 1 - Busiu Magistrate Grade 1 - Mbale

			Magistrate Grade 1 - Mbale Municipal Council Magistrate Grade 1 - Nakaloke Magistrate Grade 1 - Wanale
56.	Mbarara	Mbarara District	Chief Magistrate - Mbarara Magistrate Grade 1 - Bwizibwera Magistrate Grade 1 - Mbarara Magistrate Grade 1 - Mbarara Municipal Council Magistrate Grade 1 - Ndajja
57.	Mengo	Rubaga Division of Kampala	Chief Magistrate - Mengo Magistrate Grade 1 - Kasubi Magistrate Grade 1 - Mengo Magistrate Grade 1 - Nateete Magistrate Grade 1 - Ndeeba Magistrate Grade 1 - Rubaga
58.	Mitoma	Mitoma District	Chief Magistrate - Mitoma Magistrate Grade 1 - Mitoma
59.	Mityana	Mityana District	Chief Magistrate - Mityana Magistrate Grade 1 - Bulera Magistrate Grade 1 - Butayunja Magistrate Grade 1 - Kakindu Magistrate Grade 1 - Mityana
60.	Moroto	Moroto and Napaka Districts	Chief Magistrate - Moroto Magistrate Grade 1 - Moroto Magistrate Grade 1 - Moroto Municipality Magistrate Grade 1 - Napak
61.	Moyo	Moyo and Adjumani Districts	Chief Magistrate - Moyo Magistrate Grade 1 - Adjumani Magistrate Grade 1 - Aliba Magistrate Grade 1 - Alur Magistrate Grade 1 - Moyo Magistrate Grade 1 - Pakele
62.	Mpigi	Mpigi District	Chief Magistrate - Mpigi Magistrate Grade 1 - Bujuuko Magistrate Grade 1 - Buwama Magistrate Grade 1 - Kayabwe Magistrate Grade 1 - Mpigi Magistrate Grade 1 - Nsangi

63.	Mubende	Mubende District	Chief Magistrate - Mubende Magistrate Grade 1 - Bukumira Magistrate Grade 1 - Kasambya Magistrate Grade 1 - Kassanda Magistrate Grade 1 - Kiganda Magistrate Grade 1 - Mubende Magistrate Grade 1 - Myanzi
64.	Mukono	Mukono District and Koome Islands	Chief Magistrate - Mukono Magistrate Grade 1 - Goma Magistrate Grade 1 - Kasawo Magistrate Grade 1 - Koome Islands Magistrate Grade 1 - Mukono Magistrate Grade 1 - Nakifuma Magistrate Grade 1 - Nakisunga
65.	Nabweru	Kawempe Division of Kampala; and Nabweru, Kyadondo and Gombe Kyadondo, sub-counties of Wakiso District	Chief Magistrate - Nabweru Magistrate Grade 1 - Kawempe Magistrate Grade 1 - Matugga Magistrate Grade 1 - Nabweru
66.	Nakapiripirit	Nakapiripirit and Amudat Districts	Chief Magistrate - Nakapiripirit Magistrate Grade 1 - Amudat Magistrate Grade 1 - Nakapiripirit Magistrate Grade 1 - Namalu
67.	Nakasongola	Nakasongola District	Chief Magistrate - Nakasongola Magistrate Grade 1 - Kakooge Magistrate Grade 1 - Lwampanga Magistrate Grade 1 - Migyera Magistrate Grade 1 - Nakasongola
68.	Nakawa	Nakawa Division of Kampala City Council Authority	Chief Magistrate - Nakawa Magistrate Grade - Kyambogo Magistrate Grade - Luzira Magistrate Grade - Nakawa Magistrate Grade - Ntinda
69.	Nebbi	Nebbi and Zombo Districts	Chief Magistrate - Nebbi Magistrate Grade - Nebbi Magistrate Grade - Pakwach Magistrate Grade - Parombo Magistrate Grade - Phaidha Magistrate Grade - Zeu Magistrate Grade - Zombo
70.	Ntoroko	Ntoroko District	Chief Magistrate - Ntoroko Magistrate Grade - Karugutu Magistrate Grade - Ntoroko Magistrate Grade - Rwebisengo

71.	Ntungamo	Ntungamo District	Chief Magistrate - Ntungamo Magistrate Grade - Rwashamire Magistrate Grade - Bwongyera Magistrate Grade - Ntungamo Magistrate Grade - Rubaare Magistrate Grade - Ruhama
72.	Oyam	Oyam District	Chief Magistrate - Oyam Magistrate Grade - Aber Magistrate Grade - Acaba Magistrate Grade - Anyeke Magistrate Grade - Icheme Magistrate Grade - Ngai Magistrate Grade - Otwal Magistrate Grade - Oyam
73.	Pader	Pader and Agago Districts	Chief Magistrate - Pader Magistrate Grade - Adilang Magistrate Grade - Agago Magistrate Grade - Corner Kilak Magistrate Grade - Kalongo Magistrate Grade - Pader Magistrate Grade - Parabong Magistrate Grade - Patongo
74.	Pallisa	Pallisa District	Chief Magistrate Pallisa Magistrate Grade - Butebo Magistrate Grade - Pallisa
75.	Rakai	Rakai District	Chief Magistrate - Rakai Magistrate Grade - Kakuuto Magistrate Grade - Kasagama Magistrate Grade - Kifamba Magistrate Grade - Kyotera Magistrate Grade - Lyantonde Magistrate Grade - Mutuukula Magistrate Grade - Kaliilo Magistrate Grade - Kalisizo Magistrate Grade - Rakai
76.	Rukungiri	Rukungiri District	Chief Magistrate - Rukungiri Magistrate Grade - Nyarushanje Magistrate Grade - Kebisoni Magistrate Grade - Rukungiri
77.	Sembabule	Sembabule District	Chief Magistrate - Sembabule Magistrate Grade - Lwebitakuli Magistrate Grade - Mateete Magistrate Grade - Ntuusi Magistrate Grade - Sembabule

78.	Sironko	Sironko District	Chief Magistrate - Sironko Magistrate Grade - Bulambuli Magistrate Grade - Buwalasi Magistrate Grade - Kamu Magistrate Grade - Mutufu Magistrate Grade - Sironko
79.	Soroti	Soroti and Serere District	Chief Magistrate - Soroti Magistrate Grade - Bugondo Magistrate Grade - Kyere Magistrate Grade - Serere Magistrate Grade - Soroti
80.	Tororo	Tororo and Butaleja Districts	Chief Magistrate - Tororo Magistrate Grade - Butaleja Magistrate Grade - Buteba Magistrate Grade - Malaba Magistrate Grade - Mukuju Magistrate Grade - Mulanda Magistrate Grade - Nagongera Magistrate Grade - Tororo
81.	Wakiso	Kakiri, Wakiso Town Council, Masulita and Namayumba sub- counties, Wakiso District	Chief Magistrate - Wakiso Magistrate Grade 1 - Kakiri Magistrate Grade 1 - Nansana Magistrate Grade 1 - Wakiso
82.	Yumbe	Yumbe District	Chief Magistrate - Yumbe Magistrate Grade 1 - Omugo Magistrate Grade 1 - Yumbe

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