

**SPEECH BY THE HON. THE DEPUTY CHIEF JUSTICE
L.E.M. MUKASA-KIKONYOGO AT OPENING OF THE
TRAINING WORKSHOP IN JUDICIAL EFFECTIVENESS
FOR CHIEF MAGISTRATES AT PREMIER COMPLEX ON
21ST AUGUST 2006**

Protocol

Introduction

It is a great pleasure to have been asked to officiate at this training program. I thank the organizers for their kind invitation. The theme of the training is **JUDICIAL EFFICIENCY**, which is very appropriate and in line with our vision in the Judiciary, namely;

“To establish and maintain an independent, efficient and modern judiciary capable of delivering quality justice, impartially and expeditiously.”

We in the Judiciary attach so much importance to the question of improving the effectiveness of the judicial system.

“What does it take for justice to be effective”?

Judicial effectiveness refers to a sense of providing **“swift”**, affordable and thus accessible and **“fair”** dispute settlement and all these have to be properly balanced.

The rule of law is not upheld where judicial systems do not operate efficiently. Delivering justice not only means

administration of the law through judicial mechanisms, but justice must guarantee the rule of law and immunity from external influence.

Before I proceed, further, with my address, I would like to take this opportunity to recognize and register our appreciation for the commendable job done by the Magistrates' Courts, complaints notwithstanding. There is no doubt that the bulk of both criminal and civil cases are handled by the Magistrates' Courts. Magistrates interact more with the public than the upper bench.

For effective implementation of administration of justice it is, therefore, imperative to give magistrates proper training, facilitate them, give them adequate transport, remuneration and all the necessary requirements.

Despite the efforts of the Magistrates Courts, already mentioned to do right to all manner of people without fear, favor, or ill will, the Magistrates experience a lot of difficulties, criticisms and complaints from the litigants and public at large. Sometimes they are controlled by the advocates who may, for example force them to adjourn cases on trivial grounds. This is common where a client has a weak case or no case at all. You must have heard recently the complaints from the public, Parliament and other corners, of delays of cases by courts of law.

There are also complaints of corruption, of failure to refund bail money or make recovery very difficult. In some areas magistrates sit only on market days. Where courts are held, punctuality is unknown the public is often kept waiting at the convenience of magistrates who think they can sit and close as they wish. In some courts the Magistrates impose harsh sentences especially with regards to fines and damages. Lack of supervision by some Chief Magistrates has in some areas turned Grade II Magistrates into “**Chief Justices**”

The Magistrates as stated earlier on have a heavy responsibility. In fact the public often assesses the State’s administration of justice basing themselves on the performance of the Magistrates Courts, the dignity and restraint with which the Magistrate conduct themselves.

It must be conceded that some of the complaints are valid, but many of them seem to be based on perception. The public often relies on assumption. It is partly for these reasons that training programs of this nature should be organized regularly to address those pertinent issues and to equip the Magistrates with the necessary skills for effective administration of justice.

On close examination of the entire training workshop program, the topics reflect a purposeful discussion of pertinent issues facing the Judiciary today. I wish to briefly comment on some of the issues where complaints are often raised.

I note that the keynote address is focusing on salient issues arising from amendments in some laws of Uganda since 2000: Election laws have been amended and since many of you are handling these petitions it is prudent that you internalize these amendments while taking time off to study the recent Constitutional cases. The keynote address will bring more light on this.

Other important and sometimes controversial topics which may affect life and liberty are: Taxation of costs, Execution Proceedings and Enforcement of Court Execution Orders. Land matters can also be life threatening therefore as a case manager you should be alert to such situations. Your supervisory role as a Chief Magistrate should be emphasized in this area. I further urge you to follow up your cases to appellant courts to avoid making the same mistakes.

On the face of it, principles of bail and other criminal applications seem to be a simple matter but it's an area which should be approached with caution. Besides this is where we receive many complaints. There is so much delay to refund of bail money. Corruption is also implicated. Sometimes clerks employ delaying tactics to frustrate the claimants. We have to look for better practices as they way forward.

Background

Traditionally, the role of the trial Magistrates had been viewed primarily as presiding over trials, hearing and evaluating evidence, finding facts, applying the appropriate legal

standards, making judgments and dispensing justice. The Magistrates today have to move with time and acquire modern and effective techniques.

Judicial reforms

Consequently, a trial magistrate's responsibility today for delivering justice is no longer confined to presiding over trials and acting as arbiter between conflicting positions. They have to do more than that.

Today they are enjoined to individually and collectively be proactive in the delivery of justice. Thus, we need to adapt judicial systems to respond to the changing society and to make sure that justice is not only served but is served efficiently.

Presently, the trial magistrate has assumed the role of an active case manager in an effort to conduct the business of the courts with greater judicial effectiveness.

As a case manager you have to conduct pretrial conferences and enter case management and scheduling orders setting time limits for the progression of the case including a firm trial date. This will create an orderly disposition of cases whether or not the true standards are adopted, I urge you to use them as a yardstick on moving cases along.

Further, as a case manager to ensure effectiveness take time off to determine the status of the case. Take the cases file by

file. This is often left to the clerks but your supervision of this exercise will help you to determine why cases are pending and what needs to be done with them. The good news is that you are all computer literate and have the knowledge of Court Case Administration system. **(CCAS)**. Computerization of the court cases (CCAS) has primarily increased transparency and accountability concerning judicial procedures.

As a case manager you have to prioritize your cases. I think any diligent judicial officer has to be concerned about efficiency and expeditious disposal of cases and must be concerned about the general rules and standards. However, as a judicial officer you have to use your mind judiciously to come to a just decision, general rules and standards notwithstanding, each case must be addressed on its own merit and circumstances.

The aforesaid notwithstanding the individual Magistrate also has a role to play if effective justice is to be administered. Here I have in mind the following;

Delays

It is of paramount importance that a magistrate should be prompt in disposing of the cases that come before him. Justice delayed is often justice denied. The public is entitled to be impatient if a magistrate is unduly dilatory in his work. Justice should be as swift as it can be while remaining sure.

Magistrates should guard against delivering judgments on notice. In the past, it was unheard of.

Punctuality

Punctuality is a quality that a magistrate must cultivate. The lay public often complains that they are kept waiting at the convenience of the Magistrate.

Attitude to superior courts

Magistrates must cultivate a sensible attitude to orders made by higher courts reversing or altering their decisions. In most cases a magistrate will have been demonstrably wrong and he will learn by his mistake. He will not, in any event, be a good magistrate if he regards himself as all-knowing and infallible. He is not likely to be so, and it must be remembered that even experienced lawyers and judges make mistakes. Though a case must stop somewhere, it is something to feel proud of that our system of justice allows for appeal and review by superior courts so that there is little chance of an injustice remaining uncorrected.

Assisting the parties in a trial

In many cases handled by Magistrates upcountry the litigants cannot afford advocates so they are unrepresented. It is the duty of the Magistrates, therefore, to ensure that no injustice is done. Silence is the golden rule for Magistrates- some seem to say more in their courts than do the witnesses. However, if a witness is not cross-examined at all, you should ask the accused or the party in a civil suit whether he

realizes that the court is likely to take the evidence given as un-challenged unless questions are put in cross-examination regarding those pieces of evidence that not accepted as being the truth.

Personal Conduct

If the courts are to be respected, magistrates must be beyond reproach in their characters. Much of the working life of a magistrate is taken up in pronouncing judgment on those who have transgressed the law. Personal integrity is vital and judicial officers should quit arrogance.

Courtesy and Consideration

In the words of Fuad J. as he then was, he had this to say;

“If the court behaves with courtesy it will be very rare that the court will be treated with disrespect or obstruction.....”

Magistrates should always show courtesy to witnesses, litigants, the accused and to all those who have dealings with them. Do not behave in a truculent and oppressive manner to an accused person merely because he is in the dock. In the same vein this courtesy must be extended amongst yourselves as judicial officers. This is what is commonly referred to as collegiality. In case of any disputes there are systems in place of channeling complaints. For instance the Chief Registrar is always available for you. During your deliberations I would request you to look for the best practice for resolving conflicts and solving problems internally, without washing the Judiciary dirty linen in public.

Further more, I am happy to report that we have the Public Relations Office to bridge the gap between the public and the Judiciary. I urge you all to make use of it. In your chain linked meetings encourage all stakeholders' i.e media, prosecution, police to make use of this office to avoid uninformed media reports.

As Chief Magistrates handling disputes you should always exercise caution in your dealings with the media. The Judiciary has a spokesperson in place to handle this. In the recent past there has been tendency of judicial officers making uninformed statements in press.

Public confidence

Public confidence is necessary for the effective performance of your judicial duties. **Article 126 (1) Constitution** envisages a judiciary that is socially relevant and accountable to the people.

The Executive is politically accountable to Parliament and the latter in turn accountable to the electorate. The Judiciary is accountable to the court users through quick disposal of cases and delivery of judgments. Thus the court users have the constitutional right to demand easier, wider and affordable access to courts and quick disposal of cases and delivery of justice.

Conclusion

Learning is a life time process. You have been for various training programs and I do believe you know your strengths and weaknesses.

I urge you to participate fully; you have resource persons with a wealth of experience lined up for this training. Do not leave any stone unturned!

Let me take this opportunity to thank you all for finding time to attend this training workshop. Training programs like the present one give judicial officers opportunity to acquire new techniques, approaches and attitudes in dispensing higher standards of justice.

I am confident that at the end of this training the participants will be saturated with skills that will enhance judicial effectiveness, which is crucial to maintaining and fostering the rule of law.

I thank the Judicial Training Institute for organizing this workshop, the resource persons and your Worships for the interest shown. I wish you fruitful and meaningful deliberations.

Thank you for your attention.

It is my distinct pleasure to declare the workshop open.

May God bless you all.

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