

1st January 2024 Issue 1

THE UGANDAN

# LEGAL

TOP STORY

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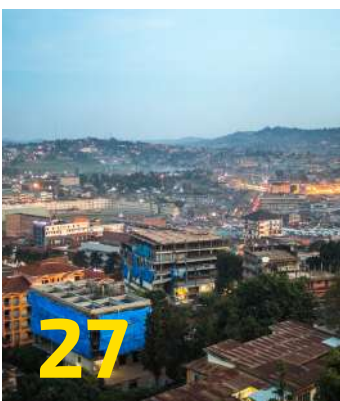
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Published By: TA BRAND



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# Editor's Note

Dear Reader,

Welcome to the inaugural edition of "The Ugandan Legal" Magazine, where we embark on a captivating adventure of the legal intricacies shaping Uganda's dynamic legal industry. In this magazine, we bring you stories that not only unravel the legal tapestry but also celebrate the brilliance of legal minds and firms propelling Uganda's business landscape forward.

As the world becomes increasingly interconnected, the role of lawyers in the corporate and commercial space has never been more crucial. In Uganda, a nation teeming with economic potential and entrepreneurial spirit, the legal landscape is evolving to meet the demands of a rapidly changing business environment. "The Ugandan Legal" stands as a beacon, shedding light on the remarkable achievements and insights of legal professionals and law firms contributing to Uganda's economic growth.

Within these pages, you will encounter astute lawyers navigating the intricacies of corporate law with finesse. We delve into the stories of law firms—pillars of legal excellence—whose commitment to service-

and innovation propels them to the forefront of Uganda's legal landscape.

This magazine is a celebration of legal ingenuity, a platform for thought leadership, and a source of inspiration for aspiring legal professionals. From boardrooms to courtrooms, "The Ugandan Legal" illuminates the individuals instrumental in shaping the legal destiny of Uganda's corporate and commercial arenas.

We express our utmost appreciation to the lawyers propelling Uganda's legal industry to new heights. It is a privilege to present their stories within these pages.

As we unveil this first edition, we invite you to join us on a journey through the legal landscape of Uganda—a journey marked by excellence, innovation, and a shared commitment to shaping a brighter future.

Thank you.

**Disclaimer:** Stories were sourced from legal directories, law firm websites, and online accounts, taking note of the acceptable standards of the legal profession.

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# The Constitutional Court upholds Customary Land Ownership in Constitutional Petition No. 28/2019

In a landmark ruling on February 20, 2023, the Constitutional Court delivered a judgment with far-reaching implications for land ownership in the Acholi sub-region of Uganda. Constitutional Petition No. 28/2019- Hon (Rtd) Justice Galdino Okello Omoro & 4 Others V. Attorney General & 8 Others challenged the management and leasing practices of District Land Boards, specifically focusing on de-gazetted lands and former "public lands" within the region. The ruling declared certain practices as unlawful, reshaping the landscape of land tenure and requiring individuals to demonstrate compliance with customary rules and regulations.

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The Acholi sub-region has a unique history, with a significant portion of its land traditionally under customary and kin-based communal control. This aspect played a crucial role in the Constitutional Court's decision, as it revisited the inclusion of customary tenure in the 1995 Constitution under Article 237, a provision that vests land in Uganda in its citizens.

The Constitutional Court's decision had far-reaching consequences, notably declaring the practice of District Land Boards managing and leasing de-gazetted lands as unlawful. It emphasized that de-gazetted land in the Acholi sub-region, once owned by customary owners, clans, or communities, reverted back to its -

original customary owners under customary tenure, provided ownership could be proved. Furthermore, the Court ruled that such property was no longer under the control of District Land Boards but belonged to the respective community or clan. This declaration prohibited District Land Boards from granting leases on land not vested in them, asserting that clans possessed a comprehensive set of rights, including the right to alienation.

“ The management and leasing of de-gazetted lands by District Land Boards deemed illegal.

This decision underscored the requirement for individuals who acquired land in Acholi to prove that their land purchases adhered to customary rules and regulations.

Subsequent to this ruling, the Lands Office faced a dilemma regarding the handling of pending applications for titling already in their possession. Uncertain about whether to continue with the titling process or suspend it, the Ministry sought counsel from the Attorney General, Hon. Kiryowa Kiwanuka.

In a letter dated December 8, 2023, the Attorney General, referencing the decision in Hon (Rtd) Justice Galdino Okello Omoro & 4 Others V. Attorney General & 8 Others, advised the Ministry of Lands to halt the issuance of titles in the Acholi Sub-Region. This was to allow the Verification Committee and customary institutions to scrutinize the legitimacy and ownership claims of individuals.

The decision by the Attorney General to implement the Constitutional Court ruling highlights the exceptional importance of this case. Despite appealing 80% of cases in 2023, the Attorney General chose to adhere to and enforce the court's decision in this specific instance.

This action underscores the profound significance of the court's verdict in reshaping land ownership dynamics within the Acholi sub-region.

It also signals a commitment to upholding customary principles in land transactions, emphasizing the broader impact on legal practices and the transformative role of this specific case in the region's legal framework.

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# THE GAME CHANGERS

## The Insurance Appeals Tribunal Resolves Six Appeals Worth UGX 2.95 Billion in FY 2022/2023

In a landmark achievement, the Insurance Appeals Tribunal has emerged as a catalyst for efficient dispute resolution, successfully disposing of six appeals in its inaugural years of operation. This accomplishment not only eases the burden on traditional courts but also underscores the Tribunal's commitment to timely justice in insurance-related matters.

As reported by Justice Stephan Mubiru, Head Commercial Court Division of the High Court in 2022, a staggering 1.3 billion Uganda Shillings were entangled in unresolved insurance cases.

The establishment of the Insurance Appeals Tribunal in 2022 and its robust performance in 2023 has played a pivotal role in mitigating the backlog and reshaping the landscape of insurance dispute resolution.

A distinctive feature of the Tribunal's methodology is its adherence to a stringent 30-day resolution timeline, aligning with the dictates of the Insurance Act. This expeditious approach not only ensures swift justice but also unlocks capital tied up in protracted legal battles, fostering economic vitality.

In the Financial Year 2022/2023, under the adept leadership of Chairperson Mrs. Rita Namakiika-Nangono, the Tribunal successfully adjudicated six appeals with a cumulative value of UGX 2,946,314,504/=.

Mrs. Namakiika-Nangono's effective leadership has been instrumental in achieving an exemplary performance, with no reported backlog in 2023.

At the core of the Tribunal's mandate is the handling of appeals arising from decisions made by the Insurance Regulatory Authority. Section 137(3) of the Insurance Act empowers the Tribunal to uphold, reverse, revoke, or vary Authority decisions, or remit cases for reconsideration with or without guidance.

The Tribunal's composition, featuring Mrs. Rita Namakiika Nangono, Mr. George Steven Okoth, Ms. Solome Mayinja Luwaga, Dr. John Bbale Mayanja, and Mr. Isaac Mpanga as the Registrar, reflects a diverse and experienced team. Their collective expertise has been pivotal in ensuring the Tribunal operates with integrity and efficiency.

The success of the Insurance Appeals Tribunal not only marks a transformative moment in Uganda's legal landscape but also establishes it as a credible and efficient institution. As it continues to exemplify principles of justice and expeditious resolution, the Tribunal is poised to set new standards in insurance dispute resolution, bolstering confidence in the judicial system.



## Landmark Victory Achieved as Magna Advocates' Legal Duo, Joseph Kyazze and Jackline Natukunda, Secure Historic Win for City Tycoon Sudhir

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In a groundbreaking legal spectacle, the High Court (Land Division) in Meera Investment Limited versus DFCU Bank and Anor (High Court Civil Suit No. 948 of 2017), under the judicious eye of Hon. Justice Tadeo Asiimwe, handed down a momentous decision on October 24, 2023. The verdict exposed dfcu Bank's unlawful occupation of 48 properties, once the thriving branches of the now-defunct Crane Bank.

The 5-year legal saga, fraught with intricate legal arguments, centered on dfcu Bank's controversial takeover of Crane Bank's assets by the Central Bank. The properties, leased by Crane Bank from its sister company Meera Investments, became the epicenter of a fierce legal battle that questioned the legitimacy of dfcu Bank's possession.

Represented by the formidable legal team of Kyazze Joseph and Natukunda Jackline from Magna Advocates, Meera Investments successfully argued that dfcu Bank's acquisition did not fall under the umbrella of a statutory transfer, as purported by the bank. The Court concurred, asserting that the transaction was a direct sale, unable to override the rights of Meera Investments as the registered proprietor, safeguarded by lease covenants and the Registration of Titles Act (RTA).

Despite dfcu Bank's defense, led by lawyers Fredrick Ssempebwa, Arthur Kunsu, and Ssempebwa Edwin, contending that the acquisition was legitimate under the Financial Institutions Act, the High Court stood firm in its judgment.

The far-reaching implications of this ruling are seismic. The High Court decreed dfcu Bank's occupation of the 48 properties as illegal, mandating the immediate removal of its name from the titles and the restoration of ownership to Meera Investments. As a further blow, dfcu Bank is now obligated to compensate Meera Investments with a staggering UGX 2.4 billion and rehabilitate the properties to a tenantable state.

This landmark decision serves as a stark reminder of the critical importance of procedural adherence in financial transactions and the inviolable nature of property rights. The legal prowess of Magna Advocates, led by Joseph Kyazze, has emerged victorious, solidifying Kyazze's stature as one of Uganda's premier land lawyers.

This case resonates as a cautionary tale, challenging assumptions that statutory transfers can supersede established property rights.



# THE TOP 20 CASES IN 2023

## JURISPRUDENTIAL TAPESTRY

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In a testament to the dynamic evolution of Uganda's legal jurisprudence, we present a discerning examination of the Top 20 cases in 2023 that stood as pillars of influence in shaping the nation's legal landscape.

This formal exposition invites readers to navigate the historical context, where judicial pronouncements have not only interpreted legal doctrines but have also steered the course of legal thought in the nation's jurisprudence.

Through the discerning lens of Mr. Paul Mukiibi, Head of the Department of Law Reporting, Research and Law Reform at LDC, and Chairperson of the Research and Publication Committee at EALS, each case emerges as a cornerstone in the foundation of legal doctrine, addressing critical issues that have resonated with societal, economic, and political dimensions.

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01

### **Syndicated Lending Transactions Between Foreign Banking/Non-Banking Institutions And Ugandans Is Legal**

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**Ham Enterprises Ltd and 2 Ors Versus Diamond Trust Bank (U) Ltd and Anor, Supreme Court Civil Appeal No. 13 of 2021, [Owiny-Dollo CJ; Mwendha; Tuhaise; Chibita and Musota, JJSC] on JUNE 06, 2023**

In this case, Hamis Kiggundu and his companies, Ham Enterprises Ltd and Kiggs International Ltd (Ham), obtained credit facilities from DTB Uganda (DTB-U) and DTB Kenya (DTB-K) and they failed to pay them back. These facilities were secured by mortgages over various properties in addition to personal and corporate guarantees.

As a result, DTB-U commenced a recovery process for the money in early 2020. At this point DTB-K was owed USD \$4,014,444 while DTB-U was owed USD \$6,974,600. In response, Ham filed Civil Suit No 43 of 2020 in the High Court against DTB-U and DTB-K claiming unfair contractual terms and illegal deductions from his accounts. Ham also sought an order directing a full account reconciliation of all financial transactions between the parties. DTB agreed to appointment of an auditor by court and an order to that effect was made by the trial judge. On 10th August 2020, Ham amended his claim and introduced a new claim that the loan agreements were illegal and unenforceable, as DTB-K did not have a Financial Institutions license in Uganda. Ham then asked court for a declaration that the credit facilities given by DTB were illegal, null, void and unenforceable. He further applied to court to stop the appointment of an auditor and for summary judgment on the premise that the defence by DTB-U and DTB-K was a perpetuation of illegalities (lending by a foreign bank without a license).

The High Court issued an order stopping the appointment of an auditor and made a summary judgment that by their illegal lending, DTB-K with the help of DTB-U had breached the law and therefore the credit facilities taken by Ham from DTB-K in the sum of USD \$4,014,444 should not be repaid; DTB-U was also to forfeit USD \$6,974,600 that it had lent to Ham. DTB-U and DTB-K were further ordered to pay Ham the sums of Ugx. 34,295,951,553/= and

USD \$23,467,670.61 being money Ham alleged was unlawfully appropriated from his accounts; and Court further ordered that Ham's properties and all corporate and personal guarantees issued to secure his borrowings were to be unconditionally released. The Trial Court made far-reaching findings on foreign lending and syndicated loans which it found to be illegal and directed Bank of Uganda to take the necessary measures to stop such lending. DTB being dissatisfied with the ruling of the trial court filed an appeal in the Court of Appeal against the decision. On 5th May 2021, the Court of Appeal delivered its judgment, setting aside the orders of the trial court and ordered that the matter be sent back to the High Court for hearing before another judge. Ham then filed an appeal to the Supreme Court challenging the decision of the Court of Appeal. In deciding in favour of DTB-U and DTB-K, the Supreme Court held as follows:

- *The trial judge erred in law in finding that the credit transactions were illegal. In any event, he ought to have accorded DTB-K and DTB-U a hearing to establish the parties' contributory liability and determine the fate of the monies advanced under the illegal credit facilities, and not determine the matter summarily, as he did.*
- *The trial judge having ordered for an audit of the transactions for ascertainment of the status of the loans between the parties was under a duty to determine the aspects of the dispute between Ham and DTB-U, -*

over which the issue of illegality had not arisen. The omnibus finding of illegality of all the transactions was a miscarriage of justice.

- It is incumbent on a superior court, before which any question or issue strictly of law is raised, to exercise prudence and pronounce itself thereon; instead of referring the question of law back to a lower court for determination. This is because the superior court has the overriding competence to make an authoritative and binding decision on the matter. The Court of Appeal ought to have determined the issue of legality of foreign credit facilities and erred in failing to do so.
- The determination of whether one is carrying out a financial institution business lies in establishing whether one is “lending or extending money held on deposit or any part of that money ...” It is clear from the Financial Institutions Act that key to the determination of financial institution business is the holding of money on deposit, from which money is extended or lent out to borrowers. DTB Kenya is not a deposit taking institution in Uganda and did not lend money held on deposit in Uganda, thus taking DTB-K out of the ambit of the Financial Institutions Act.
- The transactions were not governed by the Financial Institutions (Agent Banking) Regulations either. DTB-K is not the type of principal bank envisaged under the Regulations, since it is not licensed to carry out-

financial institution business in Uganda. Similarly, DTB-U is not the type of agent envisaged under the said -Regulations; which only provide for humans operating outlets as agents of financial institutions licensed to carry out banking services in Uganda.

- Accordingly, the relationship between these two banking institutions (DTB-U and DTB-K), and between them and Ham, with regard to the financial credit transactions, were neither governed by the Financial Institutions Act, 2004, as amended, nor the Financial Institutions (Agent Banking) Regulations, 2017. This was a syndicated agency relationship between DTB-U and DTB-K.
- There is no law that forbids the creation of the syndicated agency relationship entered by DTB-U and DTB-K. Similarly, no law forbids foreign financial institutions from extending credit facilities with any financial institution or person in Uganda. If anything, in furtherance of international trade and investment, financial institutions world over are known to engage in global financial business transactions by dealing with, or through, financial institutions based in other jurisdictions. In the case of Uganda, such international financial business transactions are certainly neither governed by the Financial Institutions Act, 2004, as amended, nor the Financial Institutions (Agent Banking) Regulations, 2017. The trial judge therefore erred in holding that-

*the credit agreements between the parties were clothed with illegality.*

- *The issue of illegality having been conclusively resolved in this appeal, High Court Civil Suit No. 43 of 2020, between the parties, which was the genesis of the appeal to the Court of Appeal, and ultimately to the Supreme Court, is remitted back to the High Court for trial before another judge; basing only on issues of fact.*

“

**The Supreme Court upheld the Court of Appeal finding that the High Court awards to Ham were without legal basis (i.e. payment to Ham in the sums of Ugx. 34,295,951,553/= and USD \$23,467,670.61; the order releasing Ham's properties and all guarantees issued to secure his borrowings from DTB; and orders to the effect that the DTB-U loan in the sum of USD \$6,974,600 and DTB-K loan of USD \$4,014,444 should not be repaid by Ham).**

”

02

## Mujuzi Forest Reserve Saved

**Mugerwa Evaresto Kafeero versus National Forestry Authority  
Supreme Court Civil Appeal No. 008 of 2020 [Owiny-Dollo, CJ;  
Mwondha; Tibatemwa; Tuhaise and Chibita, JJSC] on December 6,  
2023**

Supreme Court was of the view that the grant of lease over the suit land, which had been found to be part of Mujuzi Central Forest Reserve, was not illegal. I have reviewed the legislation that existed at the time of the transaction. The Supreme Court reviewed relevant laws on the subject including the Constitution of the Republic of Uganda, 1995 [Articles 274 (1) and (2); The Constitution of Uganda, 1967 [Article 108 (3)]; The Public Land Act, 1969 [Section 11(1), 23(1)]; The Forest Act cap. 246 [Section 13 and 18]. It was of the view that regarding Article 274(1) of the current Constitution, it is clear to that those provisions of the law applicable then on the matter in dispute were not affected.

They are construed with such modifications etc. It noted that the applicable legislation clearly shows that all Public land was vested in the Uganda Land Commission before 1985, which the appellant got the title from, the authority given to the Commission was not unrestricted. It noted that the Public Land Act provided for the powers of the Commission to grant leases over public land subject to the Forest Act and that the Forest Act prohibited expressly grant of leases in Forest Reserves for farming purposes. The Suit land which the Uganda Land Commission; granted lease to the appellant for purposes of farming formed part of Mujuzi Central Forest Reserve and the purpose of farming was prohibited.

The lower Courts concurrently found so.

The Supreme Court therefore held that it is clear that the grant of lease by Uganda Land Commission to the Appellant was illegal and that there is no merit in the appellant's contention that the learned Justices of the Court of Appeal failed to evaluate the evidence on record.

Court further found that the learned Justices of the Court of Appeal did not err

in fact when they upheld the findings of the trial Court that the suit land was part of Mujuzi Central Forest Reserve at the time the lease was granted to the Appellant. Similarly, the learned Justices of the Court of Appeal did not err when they upheld the trial Judge's holding that the grant of lease in a Forest Reserve by Uganda Land Commission was illegal.

03

### **District Land Boards Can No Longer Issue Titles On Customary Land Without The Involvement Of The Traditional Acholi Institutions/Clans**

**Hon (Rtd) Justice Galdino Okello Omoro & 4 Others V. Attorney General & 8 Others, Constitutional Petition No. 28 of 2019 [Egonda-Ntende, Musoke, Madrama, Mugenyi & Gashirabake, JJA/JJCC] on February 20, 2023**

This petition was instituted by Hon. (Rtd) Justice Galdino Okello Omoro, Rev Mcleod Baker Ochola, Hon Okello Okello, Megu Rosalba Oywa and Centre For Public Interest Law against the Attorney General and eight District Land Boards in the Acholi sub-region. The petition sought and raised questions for constitutional interpretation in respect to land held under customary tenure in Acholi sub-region in light of Article 237(1) of the Constitution of Uganda, 1995 which vests land in Uganda in the citizens. The petition (and the decision of the Court) is singularly significant given that the highest percentage of land in the Acholi sub-region remains under customary and kin-based communal control and management.

The petition was to a large extent influenced by the tremendous work done in the Constituent Assembly with the active participation and strategic intervention of transformational leadership offered by key actors such as the then CA Delegate Hon. Owiny Dollo – Chigamoy and people like Hon. Okello Okello who worked behind the scenes to push for the inclusion of customary tenure in the Constitution under Article 237 of the Constitution of the Republic of Uganda, 1995.

These efforts were negatively affected by the wrong formulation of the Land Act 1998, which instead stagnated the rights of customary owners of land thus leading to the filing of this petition.

The Constitutional Court made the following pronouncements in respect to customary land ownership in the Acholi sub-region:

- It declared the practice of District Land Boards managing and leasing de-gazetted lands and former public lands unlawful. The Court declared that de-gazetted land which used to be owned by any customary owners, clan or community in the Acholi sub-region reverted back to original customary owners under customary tenure where such ownership is proved.
- The Court further held that such property is no longer under the District Land Boards' control, but rather belongs to the community or clan. District Land Boards cannot grant leases out of the land which is not vested in them. The clan is presumed to possess the entire set of rights, including the right to alienation.
- Concerning public land, the Court held that following the promulgation of Article 237 of the Uganda Constitution,

1995, there is no public land in Uganda other than that which is held by the government and local governments in public interest, subject to the conditions prescribed by the Parliament for such acquisitions, and land held in trust for the people, for the common good of all citizens.

- Government can only obtain land owned by citizens through compulsory acquisition, as outlined in the Land Acquisition Act. Where the acquisition is for public use or defense, public safety, public order, public morality, or public health, and provided just compensation is paid promptly and fairly before the land is acquired.
- The effect of the above finding is that customary land, that was returned to the communities of the Acholi sub-region by the Constitution, may only be acquired by the government through compulsory acquisition in light of the Land Acquisition Act and Article 26 of the Constitution.

## 04

### **Regulation 13(1) Of The Mortgage Regulations No. 2 of 2012 Is Constitutional**

**Ferdsult Engineering Services Ltd and Anor V Attorney General, Constitutional Petition No. 18 of 2021, [Egonda-Ntende, Cheborion, Bamugemereire, Kibeedi & Mugenyi, JJA/JJCC] on October 06, 2023**

The key issue in this case revolved around the constitutionality of Regulation 13 (1) of the Mortgage Regulations No. 2 of 2012, which required mortgagors to pay a security deposit of 30% of the forced sale value of the mortgaged property or outstanding amount when requesting an adjournment or stoppage of a property sale. The petitioners argued that this regulation violated various constitutional rights, including the right to equality, fair hearing, and access to justice. However, the Constitutional Court found that the regulation was not inconsistent with the Constitution and dismissed the petition, stating that it was necessary to prevent frivolous adjournments and protect mortgagees' rights.

# 05

## Use Of Marijuana Not Legalised

**Wakiso Miraa Growers and Dealers Association Limited v Attorney General (Constitutional Petition No. 1 of 2017) [2023] UGCC 100 [Buteera, DCJ, Musota, Kibeedi, Mulyagonja and Mugenyi, JJA/JJCC] (6 May 2023):**

The Parliament of Uganda passed The Narcotic Drugs and Psychotropic Substances (Control) Act 2016 (herein after referred to as the Act) which set the control of various drugs including marijuana and Catha edulis (Khat) locally known as “miraa” or “mairungi”. The Act repealed sections 26, 29, 47, 49 and 60 (1) (b) and (c) of the National Drug Policy and Authority Act which restricted the supply, possession, use and cultivation of narcotic substances.

The Act created various offences for use and being in possession of the same substances without lawful excuse. In 2017, Wakiso Miraa Growers and Dealers Association Limited filed this petition in the Constitutional Court challenging the enactment of the Act. The grounds of the petition included among others lack of quorum by Parliament during the passing of the Act.

In its finding, the Constitutional Court agreed with the Petitioners and declared the Act null and void for lack of quorum on the part of Parliament contrary to Articles 88 and 89 of the Constitution and Rule 23 of the Rules of Procedure of the 9th Parliament, 2012 made pursuant to Articles 88 and 94 of the Constitution.

# 06

## Decisional Independence vs Administrative Edicts

**John Imaniraguha versus Uganda Revenue Authority, High Court Miscellaneous Application No. 2770 of 2023 [Stephen Mubiru, J] on December 04, 2023**

The application by Notice of motion was made under the provisions of sections 82 and 98 of the Civil Procedure Act, section 33 of The Judicature Act and Order 46 rules 1 (a), 2 and 8 (as amended) of The Civil Procedure Rules. The applicant sought orders that; (i) the Learned Deputy Registrar’s Recall Order dated 30th October 2023 in Execution Misc. Application No. 641 of 2023 be reviewed -

and set aside; (ii) the Garnishee Order Nisi issued by the Learned Deputy Registrar on 27th October 2023 in Execution Misc. Application No. 641 of 2023 be reinstated and (iii) the costs of the application be provided for.

It was the applicant’s case that the Learned Deputy Registrar lacked jurisdiction on 30th October 2023 to recall the Garnishee Order Nisi earlier lawfully -

issued by her on 27th October 2023.

She never accorded the applicant a hearing prior to the recalling of the Garnishee Order Nisi. The order was a nullity for lack of jurisdiction. These were errors apparent on the face of the record, sufficient to justify the grant of the application. In this case, the court addressed the principle of *functus officio*, emphasizing that once a court has rendered a final decision, it cannot re-open, vary, or retract it except in specific exceptional situations. These exceptions include instances of fraud, nullity, mistaken belief, absence of jurisdiction, proceedings depriving the decision of legitimacy, or fundamental irregularity. The doctrine of *functus officio* limits a court's power to correct errors, and corrections are allowed only for specific circumstances such as errors in drafting, manifesting the court's express intention or statutory authorisation.

The court explored the slip rule, distinguishing between clerical mistakes and errors arising from accidental slip or omission, emphasising that substantive errors must be corrected through the appeal process.

The court also delved into the issue of exempt funds, stating that certain funds, such as those deposited under the Uganda Revenue Authority Act, are not exempt from attachment.

The court rejected the recall of a Garnishee Order Nisi, emphasizing that a judgment or order cannot be changed by administrative edict. In conclusion, the court set aside the order recalling the garnishee order and instructed the Deputy Registrar to re-issue the Garnishee Order Nisi with costs forming part of the recovery of the decretal sum.

The case raised concerns about decisional independence when the Deputy Registrar recalls an order based on a directive from the Principal Judge. Court noted that decisional independence is deemed crucial to preserving the integrity of judicial power, and administrative interference in adjudications is strongly discouraged.

07

## **The Jurisdiction Of National Partner States' Courts In Handling EALA Election Petitions**

**Agaba Gilbert and 3 Others versus The Attorney General and 11 Others, Court of Appeal Election Appeal No. 5 of 2023 [Buteera, DCJ, Bamugemereire and Mugenyi, JJA] on November 29, 2023:**

Court of Appeal heard this election appeal challenging the jurisdiction to interpret the East African Community (EAC) Treaty, specifically related to disputes over the election of East African Legislative Assembly (EALA) representatives. Court emphasized that the exclusive authority for interpreting the EAC Treaty rests with the East African Court of -

Justice (EACJ). The Court criticised the trial judge for dismissing the petition solely on jurisdiction grounds without utilising the EACJ's preliminary reference mechanism, highlighting the importance of such rulings for uniform Treaty application.

The Court upheld grounds 1 and 2, emphasizing the need to use the EACJ's preliminary reference mechanism for Treaty interpretation, and allowed ground 3, recognizing the public interest nature of the case as a valid reason to deviate from the general rule on costs.

The case was deemed of considerable public interest in guiding principles for the election of EALA representatives.

Court was of the view that regional court's jurisdiction as outlined in Articles 27(1) and 30(1) of the Treaty would not extend to electoral disputes in respect of partner states' EALA representatives that, without raising any question for Treaty interpretation, not only contest the conduct of the election but also seek reliefs touching on the respective partner states' EALA representation. Such electoral disputes are exclusively reserved to the domain of partner states' domestic courts.

08

## **Religious Question Doctrine. Courts Should Not Resolve Cases That Turn On Questions Of Religious Doctrine And Practice**

**The Most Reverend Dr. Steven Samuel Kazimba Mugalu versus Maui Joyce and 5 Ors High Court Miscellaneous Application No. 036 of 2023 [Dr. Flavian Zeija, Principal Judge] on October 25, 2023**

In this case, Court held that the general rule is that religious controversies are not the proper subject of civil court inquiry (See *Serbian E, Orthodox Diocese v. Milivojevic*, 426 U.S. 696, 713 (1976)). It is therefore, taken as a constitutional gospel in all the commonwealth jurisdictions and also the United States that courts have no business handling religious questions. In other words, courts should not resolve cases that turn on questions of religious doctrine and practice. This is popularly referred to as the "religious question" doctrine. That means that courts cannot resolve "controversies over religious -

doctrine and practice (See: *Presbyterian Church in the US. v Mary Elizabeth Blue Hull Mem'l Presbyterian Church*, 393 U.S. 440, 449 (1969)). As a result, courts will dismiss claims that hinge on religious questions even if no other religious institution is waiting in the wings to resolve the religious dispute.

In this way, the religious question doctrine prohibits courts from addressing a wide set of claims even though dismissing such claims will leave plaintiffs without any forum that has the authority and ability to provide redress of serious cognisable harms.

Religious institutions should be empowered to resolve internal disputes that "involve matters of faith, doctrine, church governance, and polity (See: Bryce v. Episcopal Church in the Diocese of Colo., 289 F.3d 648, 655 (10th Cir.2002)). Court further noted that Article 29 of the Constitution of the Republic of Uganda (as amended) provides for freedom of worship.

It goes without saying that it provides for religious freedom to subscribe to certain faith and to unsubscribe. Once you subscribe to a certain faith, you must go by its tenets. In this case, the respondents subscribe to the Anglican faith. The Anglican Church in Uganda has certain canons it follows.

Without a doubt, the canons provide for how a Bishop is appointed in the church. It also provides for how the disputes relating to election of Bishops are resolved. It is not the business of this Court to entertain disputes relating to consecration of a Bishop. Courts cannot appoint the Bishop for the Church. That is a spiritual matter for which courts cannot claim to be competent. The Anglican Church in Uganda has all the necessary bodies to resolve such a dispute.

09

## Operation Of Crypto-Currencies Is Illegal

**Silver Kayondo Versus Bank of Uganda, High Court Miscellaneous Cause No. 109 of 2022 [Musa Ssekaana, J] on April 24, 2023**

The applicant sought to challenge the circumstances surrounding the issuance of the respondent's directive to all licensees under the National Payment Systems Act, 2020 facilitating the trade in crypto assets.

The respondent in that circular warned all the licensed entities under the National Payment Systems Act 2020, to desist from facilitating crypto currency transactions. The entities were also warned that the respondent would not hesitate to invoke its powers if they were found in breach of the directive. It was court's considered view that this was a decision whose processes could be reviewed by the very court.

The applicant contended that the respondent acted ultra vires in reaching this decision which the respondent opposed. Court was of the view that the argument of the applicant's counsel that crypto currencies are unregulated under the law or Uganda's legal regime and should be allowed to operate freely is fallacious, totally misleading and baseless. Being unregulated does not mean that the applicant can operate without sanction or contrary to the present and existing currency system.

The respondent should not look on as the applicant contends without ensuring stability of the currency by admitting -

It is clear that the applicant intended to legitimize digital assets as being tradable in the digital economy so that they are legalized via the national payment system. Court further held that crypto currencies are indeed digital assets that are designed to effect electronic payments without participation of the central authority or intermediary as a Central Bank or a licensed financial institution. Crypto- Currencies under the current National Payment System is illegal or unlawful and they are not accepted as a general payment instrument. The respondent, therefore, had the mandate to issue directives to the licensees under the National Payment System Act hence the circular was neither illegal nor irrational. The applicant who is unrecognized by the legal system cannot demand to be heard before a directive or a guideline is issued.

Court further held that Crypto currency transactions by consumers or investors are not protected by government regulations or oversight. The current regulatory framework was not designed with crypto currencies in mind and the respondent was only advising the public generally without any specific stakeholders in mind who may be operating in Uganda illegally.

# 10

## **Consent Judgments, Loans To Friends On Interest (Money Lending) Not Illegal**

**Olara Denis Michael versus Omony Stephen Khesmodel (High Court Miscellaneous Application Number 01 of 2022) [George Okello, J] on October 05, 2023**

In this case, Court addressed key legal issues related to consent judgments, money lending, and the capacity of a defendant to compromise a suit. The judge emphasized that consent judgments must meet specific conditions, including voluntariness and lawful agreements, as regulated by Order 25 Rule 6 of the Civil Procedure Rules in Uganda. It was clarified that money lending, when not conducted as a registered business, does not require a license. The case also underscored that parties do not need to file a defense to consent to a suit, and the burden of proof lies with those seeking to challenge a consent judgment.

The application to set aside the consent judgment was dismissed, emphasizing the importance of adhering to lawful agreements and the validity of consent judgments. It is important to note that in this case, it was stated that there is no law in Uganda that bars individuals from lending to their acquaintances, friends, or persons belonging to a group, among others, and charging some interest on the loan, as may be mutually agreed and that where the interest payable in a lending agreement is neither charged as a percentage nor a fixed interest sum, the agreement ceases to be a money lending contract.

## Use Of Pseudonyms/Anonymity Or Identifiers Allowed In Divorce Matters

**In the Matter of an Application by Stephen Tumwesigye for Leave to Introduce a Divorce Petition with Initials for Parties to the Petition and In the Matter of an Application for Sealed Divorce Proceedings in Respect of the Divorce Cause Sought to be Filed by Stephen Tumwesigye, High Court Miscellaneous Cause No. 0051 of 2023 [John Eudes Keitirima, J] on August 18, 2023:**

In this case, court held that divorce actions are intensely personal proceedings. The issues that are central to divorce may have great import for the parties and their families but have little or no effect on the public at large. This type of application is therefore made when parties want to protect their privacy as it is indicated in this application. Court referred to the case of *Kartz versus Kartz* 514 A.2d 1374-in which the Supreme Court of Pennsylvania held "that divorce hearings are the type of proceedings which courts may close to protect the rights of the parties".

The discretion of the court to close a divorce hearing however, is not absolute. Good cause must be established before proceedings can be closed. What constitutes good cause may well depend upon whether the right of access is a common law right or a right guaranteed by law. The institution of marriage is most certainly constitutionally protected and the issues that arise within the institution of marriage encompass our most protected privacy rights. Court further relied on the case of *Re S (A child) (Identification: Restrictions on Publication)* [2005/ IA. C 593 in which court held that anonymity orders could be granted in family matters.

In deciding whether to allow or grant applications of such orders, the court would use a balancing test weighing the need for public involvement in the justice system (the principle of open justice) versus the needs of the parties (including -

any harm those parties might be subjected to). Court observed that in applications of this nature, parties desire to protect their identity due to a combination of factors for example where matters in a suit are particularly private, stigmatising, or so unpopular that the parties fear retaliation. For example, a disclosure of details of adultery which is a common ground of divorce may cause another divorce proceeding if the adulterous party (co-respondent) was a married person.

The disclosure of details in a ground of cruelty may stigmatise the children in the affected marriage which could also cause them to be ridiculed by their peers at school. Publicity of a medical condition of a party involved in a divorce petition may stigmatise the party affected or even cause the party to lose a job if they consider the medical condition a threat to their organisation.

Private facts that have absolutely no -

impact on the public may be of devastating effect to the parties who want to protect those facts from public knowledge.

Court further relied on the case of Doe versus Diocese Corp, 1994 WL, 174693, where it was held that; "Anonymity can be justified only in cases involving a substantial privacy interest. The ultimate test for anonymity is whether the party has a substantial right which outweighs the customary and constitutionally embedded presumption of openness in judicial proceedings." It was further held in the said case that embarrassment and humiliation do not, in themselves, create a substantial privacy interest there must be a highly sensitive subject matter, the disclosure of which may lead to social stigmatisation or damages of physical harm.

At times the unproven allegations may still harm the party's reputation and damage the public trust in the affected party. Divorces involving child custody as it is intended in the application before court, anonymity should be granted since much more is at stake for the child. The judicial system has traditionally protected the privacy of children. The guiding factor of such proceedings must be the welfare of the children who are innocent parties to the matter and who are unable to protect themselves.

Court further relied on the case of Roe versus Wade, 410 Vs. 113 (1973), in which the Supreme Court of the United States found a fundamental right of privacy under the Constitution in matters relating to marriage, procreation, family relationships, child rearing and education.

The above notwithstanding, court was of the considered view that the burden of showing good cause for anonymity must rest with the applicant. In this application the intended petitioner for divorce stated some of the grounds to justify the application and these are; the proposed petition involves a user of mental treatment diagnosed with bipolar II disorder whose symptoms involve suicidal tendencies. Accordingly court granted the application.

12

### **Caller Tunes (Copyright Infringement)**

**Garfield Spence a.k.a Konshens vs. Airtel Uganda Limited and 2 Others, High Court Civil Suit No. 545 of 2015 [Patricia Mutesi] on August 21, 2023**

In 2015, Konshens filed this case claiming that Airtel, alongside Onmobile Global Limited and Mtech Limited, distributed his songs ('Simple song', 'Gyal a Bubble', 'So Mitani', 'Stop Sign', 'Jamaican Dance', 'Konshens Jazz Version', 'No Retreat' and 'Jah Love Me'), without his consent, and refused to pay any royalties to him.

The plaintiff contended that the defendants unlawfully accessed his songs and used them as caller tunes to Airtel's subscribers at Shs600 per download. The Jamaican singer had contended that by doing so, the defendants had severally infringed his copyright in the suit songs. Court held that an owner of a copyright has the exclusive right to sell and commercially exploit them or authorize others to do so on his behalf. The distribution and sale of the suit songs as caller tunes without the plaintiff's authorization or consent amounted to an infringement of his copyright in the said works.

Court noted that Copyright law recognizes that it is also necessary to provide owners with protection against those who aid and abet the primary infringement. Such accessorial infringement is known as secondary infringement. The 2nd Defendant's actions of recording the caller tunes and uploading them onto the Atlantis Platform was for the purpose of offering them for sale to the public. The plaintiff was awarded general damages of USD 180,000 as compensation for infringement of his copyright in the suit songs.

# 13

## Abuse Of Juvenile Justice Procedures

**Uganda versus W.J in HCT-00-CR-JSC-0483 of 2021 [Margaret Mutonyi, J] on November 20, 2023:**

This case involved a juvenile, WJ, indicted for aggravated defilement. The charges were based on an alleged sexual act with a 12-year-old girl. Before the plea, the defense raised concerns about the violation of the child's constitutional rights. The court proceedings revealed numerous violations, including failure to explain the statutory penalty, absence of a parent or social officer during the proceedings and improper handling of the case.

The court noted that WJ, despite being a juvenile, was treated as an adult, remanded in an adult facility and denied his right to bail.

The magistrate failed to follow proper procedures and the case dragged on for over three and a half years without a trial. Court declared the trial null and void due to the blatant violations of WJ's non-derogable right to a fair hearing. The court emphasized the importance of upholding the specific laws governing child offenders and criticised the reckless conduct of the judicial officer.

The ruling directed the immediate release of WJ and highlighted the need for improved adherence to juvenile justice procedures. In this case, the Trial Judge protected the identity of the juvenile by using a pseudonym (WJ) throughout the entire decision.

## Watoto Church [Bylaw Relevant To Declare Any Property Within The Geographical Limits of KCCA a National Heritage Site]

**Watoto Church Ministries & Anor Versus Kampala Capital City Authority (KCCA) and National Physical Planning Board (NPPB) Judicial Review, Miscellaneous Cause No. 207 of 2022, High Court Civil Division, [Douglas Karekona Singiza, J] on July 07, 2023**

Some time ago, the Kampala Capital City Authority (KCCA) decided not to approve the mixed-use development plans of the Watoto Church Ministries on plots No. 87 & 89 Kampala Road and plots No. 28, 30, 32, 34 & 36 Buganda Road.

That decision fundamentally limited the ways in which Watoto Church Ministries had wished to use and make plans for their private property.

The complaint before court dealt with alleged interference with the applicants' right to develop their private property by the 1st and the 2nd respondents, because the latter had purportedly refused to approve their mixed-use development plans.

This application was seeking for orders among others that; extension of time within which to file the application for judicial review and to validate the filing of the application for judicial review.

Court held that in the absence of any bylaw by the Kampala Capital City Authority listing the Watoto Church as a national heritage, it is unreasonably wrong for the KCCA and the NPPB not to approve the mixed-use development plans of the Watoto church.

The idea that they could hide behind the 'wings' of other government bodies to reject the Watoto church and Kampala Playhouse mixed use development plan was not only illegal but manifestly irrational.

Court went ahead and made the following orders among others;

- *The decision to reject the mixed-use plans of the Watoto church and Kampala Playhouse by the KCCA and the NPPB, was reviewed and set aside on account that the decision was procedurally illegal and improper.*
- *A writ of mandamus was issued against the respondents to reconsider the Watoto Church mixed-use development plans application 3 months from the date of the ruling.*
- *In future should the KCCA wish to declare any property within its geographical limits, a national heritage site, a bylaw should first be enacted to give it effect.*
- *The role of the NPPA, in the planning and controlling of land use in the KCCA should be minimised given the provision of the NPPA which is self-executing.*
- *The KCCA should, within a period of 3 years, enact a bylaw, listing all the properties within the capital city that should be protected as national heritage sites.*

# 15

## Order Of Exhumation For DNA Testing

**Tendo Sunitah (Through Next Friend Kiconco Janet) versus Annet Tumwebaze Mugasha (Administratrix of the Estate of the Late Frank Mugasha), High Court Miscellaneous Application No. 957 of 2023, [Celia Nagawa] on September 15, 2023**

The dispute revolved around establishing paternity for the purpose of estate administration. The applicant claimed to be a beneficiary of the late Frank Mugasha's estate but needed proof of paternity.

Both parties agreed to a paternity test, but disagreed on the methodology, with the respondent opposing exhumation. The court, considering the child's constitutional right to know her parents and the necessity for estate administration, ordered exhumation for DNA testing. It emphasized that genetic truth is better than relational fiction, and the order aimed to resolve the issue proactively and avoid multiple cases. The court found merit in the application, highlighting the importance of balancing the interests of the parties and the need for a just decision in accordance with the law.

# 16

## The International Criminal Court Act, No. 11 Of 2010 Was Never Intended To Be A Codification Of Customary International Criminal Law Applicable In Uganda

**Uganda versus Kwoyelo Thomas also known as Latoni, High Court International Crimes Division, case Number HCT-00-ICD-SC-02 of 2010 [Michael Elubu, Presiding Judge; Duncan Gaswaga, J; Stephen Mubiru, J and Bashaija K. Andrew, Alternate Judge] on December 21, 2023**

In this case, Kwoyelo, a former LRA commander, faced grave charges, including 20 counts of crimes against humanity, 14 counts under the Geneva Conventions, and numerous other serious offenses.

These alleged crimes span a period from 1987 to 2005 and are said to have occurred in the tumultuous context of Northern Uganda. The defence team contested the applicability of the International Criminal -

Court Act to the purported offences, arguing the charges were not valid due to the timing of the Act's enforcement. However, the court sided with the prosecution, ruling that there is a prima facie case against Kwoyelo. Court ordered that;

- *In respect of Counts 4, 7, 9, 18, 19, 25, 27, 28, 29, 30, 32, 38, 59 and 83 the accused has no case to answer and he is hereby acquitted.*

- *With the exception of Count 46 which is a repetition of Count 45, the accused has a case to answer in respect of the remaining 78 Counts. The Court orders that he shall be put to his defence on those Counts.*

Accordingly, Kwoyelo has to present his defence against 78 out of the initial 93 counts brought against him.

# 17

## **Students Should Not Use The Court Simply As A Tool To Intimidate Their Academic Institutions Into Giving Them What They Want**

**Logose Florence Judith versus Law Development Centre, High Court Miscellaneous Cause No. 190 of 2021 [Ssekaana Musa, J] on April 06, 2023**

The applicant brought this application under Article 42, 21(3) of the Constitution and Section 36 of the Judicature Act and Rules 3(1) (a) and 3A of the Judicature (Judicial Review Rules) 2009 seeking for an order for Mandamus to retrieve and mark scripts for examinations sat in between December 2018 and April 2019 and to verify her script in Civil Litigation for the 1st term sat in a supplementary session in between December 2017 and February 2018.

Court stated that while courts have a duty to all, nothing under judicial review laws empowers the courts to take over the standing mandate of Law Development Centre, or any other academic institution to determine who has passed or failed. That save for instances of clear violations of Constitutional rights, bias or bad faith, courts will always defer to the examination authorities to apply the relevant rules for passing a course, which students accede -

to when they join the programme.

The court will always normally exercise restraint to interfere unnecessarily. Court held the same view and re-echoed the position that students must adhere to the requirements of their institutions. They cannot use the court simply as a tool to intimidate their academic institutions into giving them what they want.

They must adhere to laid down rules and only seek court's intervention when there is a clear violation of the law or unfairness.

It was court's considered view that an order directing the respondent to retrieve and mark the applicant's scripts would be irregular, academic, and seen to delve into the functions of the respondent. The respondent has a set down procedure according to the rules governing the bar course that are the proper avenue to seek an order for remarking.

In this case, court found that the Director of Public Prosecutions (DPP) should never be used to cause a miscarriage of justice as its constitutional mandate is very clear under Article 120 (5) of the Constitution of the Republic of Uganda where it provides that; “In exercising his or her powers under this Article, the DPP shall have regard to the public interest of the administration of justice and the need to prevent abuse of the legal process”. The functions of sanctioning charges and committing accused persons for trial is usually delegated to officers in the field at different offices of the DPP under Article 120(4) (a) who are lawyers by profession and expected to know the law pertaining to criminal justice.

Before sanctioning the charges against any suspect, the learned State Attorney must be satisfied that the evidence on record proves all the essential ingredients of the offence for they are aware that to establish a prima facie case, all the essential ingredients of the offence must be proved. Where they don't have evidence, to prove a serious offence, they should opt for a lesser cognate offence like attempted robbery instead of robbery or attempted defilement or indecent assault instead of the capital offence.

Where the evidence is not sufficient, they have every right to refer the matter for more inquiries. The office of the DPP is protected under Article 120(6) in that: “in the exercise of functions conferred on him or her by this Article, the DPP shall not be subject to the direction or control of any person or authority”. There is nothing as frustrating to the complainant as learning later that the police actually never investigated their case.

The office of the DPP should be mindful of the Ugandan criminal justice system which revolves around the police which is very ill equipped in most cases for the task, courts of law which are pro incarceration of suspects as much as the law presumes them innocent and the Uganda Prison Service which is full of remand prisoners and over congested as a result. It should be mindful of our delayed criminal trials where suspects especially those committed for trial before the High court spend more than three years without trial like in the instant case where the accused have been on pretrial remand since 21/11/2019 and the fact that Uganda does not have a robust legal aid policy.

The office of the DPP should be reminded that it is a very important stake holder in the administration of criminal justice whereby the Constitutional liberty of Ugandan citizens should be at the centre of every criminal investigation and prosecution and should not be violated by officers who are charged with the duty to guide and direct prosecutions in this country. Sanctioning an indictment without sufficient evidence where by a suspect is remanded certainly amounts to an intentional tort of false imprisonment because the State Attorney who has the police file under his or her custody knows the truth but chooses to act contrary to the principles of justice.

This application was by Notice of motion made under the provisions of Articles 28 and 126 of *The Constitution of the Republic of Uganda, 1995*; sections 33, 82 and 98 of *The Civil Procedure Act* and Order 46 rules 1 and 8 of *The Civil Procedure Rules*.

The applicant sought different orders, among which that; the sale of properties comprised in LRV Folio 8 Plots 7A 1-9A 1 & 10, Lugard Road and Plots M32, M 183 & 2E Nakasero Hill Road, Kampala, be stayed until further orders of this Court. The applicant contended that the values of the suit property in the report by M/s Land Point Associates are manifestly low and a gross undervaluation. It further contended that not only does the report not provide for the value computation of the valuation approach, but it also does not particularise the specific values of the different property components. It further contended that the report does not provide the criteria/mathematical computation of how the above formulas and computations were applied and the figures/values arrived at.

It is apparent that the “Cost approach,” envisages the depreciation cost which is not indicated in the report. The applicant cannot tell at what rate the properties were depreciated. In the affidavit in reply, the Respondent averred that by its ruling dated 22nd September, 2023, this Court ordered the applicant as Judgment Debtor to deposit with it the duplicate -

(Owner’s Copy) Certificate of title to the land under attachment. The applicant, however, disobeyed the Court’s order and deliberately refused to avail the Certificate of Title as directed. On 14th November, 2023, this Court issued a further Order further directing the applicant to deposit with it the duplicate (Owner’s Copy) Certificate of Title within seven (7) days.

The second/further Order was served on the applicant’s Chairman, the deponent of the applicant’s affidavit in support, on the 20th November, 2023 and on the applicant’s advocates, Messrs. G.S. Lule Advocates, on 22nd November, 2023 however, the applicant still deliberately refused to obey the Court’s orders by depositing the Certificate of Title with the Court and is accordingly in contempt of court and the respondent had already filed an application to that effect vide HCMA No. 2863 of 2023. Accordingly, the applicant is not entitled to be heard on the instant application unless and until it purges itself of the contempt in issue.

Court held that in matters of valuation, the Court has no power or jurisdiction to exercise any appellate functions over the report. It is not a valuer nor does it have the necessary skills or expertise. It cannot substitute its own opinion for that of the valuer. Its jurisdiction is supervisory, not appellate. Court further clarified that an explanation on the valuation methodology applied to arrive

at a specific valuation and the selection of any particular method or for disregarding any approach should ideally always be included in a valuation report. The valuer should clearly share the logic and understanding behind the selection of valuation methodology and assignment of weightage in his Valuation Report. This surely helps when the Valuation Report is being tested by the Court. Before a Court can set aside a valuation report, the objector has to show that the valuation is ex-facie unreasonable, i.e., so unreasonable that it cannot on the face of it be accepted, the valuation methods adopted by the valuers are unacceptable, or are based on patently erroneous assumptions and lastly if the valuations are vitiated by fraud or malafide.

20

### **ECCMIS Is Automated Thus It Is Practically Impossible For The Notification To Be Selectively Sent Out Only To One Party**

**Mwesigye Nicholas versus P&A Credit Investment High Court Miscellaneous Application No. 1677 of 2022 [Anna B. Mugenyi, J] on August 29, 2023:**

This application was brought under section 98 of the Civil Procedure Act Cap 71, Order 36 Rule 11, and Order 52 Rules 1 and 3 of the Civil Procedure Rules seeking that the Order of dismissal of Miscellaneous Application No. 1066 of 2022 and the resulting judgment be set aside, that the application for leave to appear and defend be reinstated and heard on its merits and or be granted, and for costs of the application to be in the cause.

The application was supported by the affidavit of the applicant that the Applicant filed Miscellaneous Application No. 1066 of 2022 on 9th August 2022 for leave to appear and defend, and they were told to wait for a hearing date. That they never received any notifications until November 2022 when they found out that the matter was set for call mentioning scheduling session on 25th October 2022.

That the system showed that the matter had been adjourned but showed no date and they only found out from the clerk -

that it had been dismissed for want of prosecution. That there was a technical error which led to miscommunication between court and the applicant's lawyers, and that since the applicant is still interested in prosecuting the matter on its merits, it is in the interest of justice that the application be allowed and the Applicant's prayers granted. The Respondent opposed the application and averred that the application is incurably defective, incompetent and ought to be dismissed.

That the Court had issued hearing notices in respect of Miscellaneous Application No. 1066 for 25th October 2022 and that the Respondent Counsel appeared by virtue of that notice and he added that it is therefore impossible that the applicant's lawyers did not receive the said notice.

That information in paragraphs 4 to 12 of the affidavit in support are hearsay as told to the deponent by another person and that he does not have the capacity to assert matters concerning ECCMIS as

he does not own an account. On whether there are grounds to merit the setting aside the dismissal order and reinstating the application. Court noted that ECCMIS system is automated and therefore, it is practically impossible for the notification to be selectively sent out only to one party thus it was negligence on the part of the applicant and his lawyer not to attend Court when the matter was set down for hearing.

In this case, the applicant stated that he was informed by his lawyers that upon filing the application on 9th August 2022, they were told to wait for a notification on their ECCMIS account. That the application status by early October was pending action and that the I.T, personnel also told them the same thing. He added that the lawyers later failed to

access their ECCMIS account which would show that they have entered a wrong username or password yet they never changed.

That the ECCMIS technician later told them that the matter had been fixed for mentioning scheduling session on 25th October 2022. That the lawyers never received a signed copy of the application for them to effect service of the same on the Respondent, and that they never even received any update on the case on their registered email address. That despite the system showing that the matter had been adjourned, the Court Clerk informed them that the physical file showed that it has been dismissed and judgment entered against the applicant.

Also, the system was updated on 24th November 2022 to reflect the dismissal. From the above evidence, I find that the ECCMIS system is clear that the hearing-

notice was issued on 14th October 2022 for a Call mentioning on 25th October 2022; even the applicant learnt of it from the ECCMIS technician as deposed in paragraph 10 of the affidavit in support. Court observed that under Order 9 Rule 22 of the Civil Procedure Rules, a suit can be dismissed when only the defendant appears, therefore on the 25th October 2022, Miscellaneous Application No. 1066 of 2022 was rightfully dismissed as the applicant did not have good cause for not attending Court on that day as notifications were sent out. Court observed that being that the system is automated, it is practically impossible for the notification to be selectively sent out only to the Respondent. This also supports the Applicant's case that by early October, the status of the application was "waiting for your action."

This therefore means that after 14th October 2022 when the hearing notice was issued and notifications sent, the applicant's lawyer did not check their notifications; which probably explains why the Applicant and his lawyer did not appear in Court on the 25th October 2022 when the matter had been fixed.

The lawyer's failure to access the system stated in paragraph 8 does not stand as they still got to know of the date from the ECCMIS team as stated by the applicant under paragraph 10 of the affidavit in support.

Court found that it was outright negligence on the part of the Applicant and his lawyers. It is trite law that it is the duty of the party who files the suit to follow up on the same until its logical conclusion.

# UGANDA'S LEGAL EXCELLENCE UNVEILED: THE SIGNIFICANCE OF LEGAL DIRECTORIES IN SHAPING THE LEGAL INDUSTRY

Distinguished law firms are listed in well-defined global rankings published by legal directories. They also highlight exceptional lawyers involved in crucial domestic and international transactions.

Uganda has 1,171 approved law firms comprising of indigenous and multinational firms operating in multiple countries. Of these, a handful are internationally recognised.

We delve into the ranked law firms by three major legal directories; IFLR1000, Chambers & Partners, and The Legal 500.

Legal ranking directories are pivotal for clients when selecting legal advisors and offer an effective way to gain a comprehensive evaluation of the firm's legal practice and secure global visibility.

According to the SwissChinese Law Review, these rankings may also be referenced in the tender criteria for future service providers, especially when entering unfamiliar markets. The criteria also relies on peer advice which plays a crucial role in determining which law firms can be relied upon.

These rankings employ a combination of qualitative and quantitative assessment criteria. IFLR1000 focuses exclusively on financial law.

It conducts independent research, relying on transactional evidence, peer feedback, and client input. The 500 Legal comprises two distinct parts: the editorial section and the directory section. The editorial section offers a blend of factual information and commentary, including a general overview of law firms' areas of expertise and those recognised by clients and peers for having a strong reputation.

The directory section features professional cards with information supplied and approved by the firms, covering market share, historical performance, client satisfaction scores, innovative practices, use of technology to enhance client services, and client referee feedback. Legal rankings cultivate a competitive reputation and robust brand positioning, essential for brand development. More firms should participate in these rankings to tap into the readership that encompasses global corporations and financial institutions.



# Chambers AND PARTNERS

## 2023 LAW FIRM RANKINGS

Band 1	Band 2	Band 3
<b>ENSafrica</b> 11 Years Ranked	<b>ABMAK Associates</b> 8 Years Ranked	<b>Ligomarc Advocates</b> 8 Years Ranked
<b>Katende, Ssempebwa &amp; Co</b> 17 Years Ranked	<b>Kampala Associated Advocates</b> 17 Years Ranked	<b>Byenkya Kihika &amp; Co Advocates</b>
<b>MMAKS Advocates</b> 17 Years Ranked		<b>H&amp;G Advocates</b>
<b>S&amp;L Advocates</b> 17 Years Ranked		<b>K&amp;K Advocates</b>
<b>Shonubi, Musoke &amp; Co</b> 17 Years Ranked		<b>Mukumbya Musoke Advocates</b>
<b>AF Mpanga Advocates</b>		<b>Nangwala, Rezida &amp; Co Advocates</b>

Source: Chambers and Partners Website.

# 2023 INDIVIDUAL RANKINGS

## Senior States People



**Dr. Alan Shonubi**

Shonubi, Musoke & Co  
23 Years Ranked



**Edward Frederick Ssempebwa**

Katende, Ssempebwa & Co  
23 Years Ranked



**John W Katende**

Katende, Ssempebwa & Co  
23 Years Ranked

## Band 1



**Barnabas Tumusingize**

S&L Advocates  
18 Years Ranked



**David FK Mpanga**

AF Mpanga Advocates  
18 Years Ranked



**Phillip Karugaba**

ENSafrica  
23 Years Ranked



**Rachel Musoke**

ENSafrica  
13 Years Ranked



**Sim Katende**

Katende, Ssempebwa & Co  
17 Years Ranked

## Band 2



**Andrew Kibaya**

Shonubi, Musoke & Co  
11 Years Ranked



**Nicholas Ecimu**

S&L Advocates  
13 Years Ranked



**Noah Edwin Mwesigwa**

Shonubi, Musoke & Co  
13 Years Ranked



**Oscar Kambona**

Kampala Associated Advocates  
17 Years Ranked



**Timothy Kanyerezi Masembe**

MMAKS Advocates  
23 Years Ranked



**William Kasozi**

AF Mpanga Advocates  
13 Years Ranked



**Blaisie N Paulsen**

Byenkya Kihika & Co Advocates



**James Nangwala**

Nangwala, Rezida & Co Advocates



**Julius Mukumbya Musoke**

Mukumbya Musoke Advocate

**Band 3**



**Aisha Naiga Wamala**

ABMAK Associates  
8 Years Ranked



**Apollo N Makubuya**

MMAKS Advocates  
4 Years Ranked



**David Mpanga**

Dentons  
12 Years Ranked



**Denis Kusaasira**

ABMAK Associates  
8 Years Ranked



**Donald Nyakairu**

ENSAfrica  
9 Years Ranked



**Francis Gimara**

ALP Advocates  
7 Years Ranked



**Innocent Kihika**

Shonubi, Musoke & Co  
6 Years Ranked



**James Mukasa Sebugenyi**

S&L Advocates  
21 Years Ranked



**Joseph Matsiko**

Kampala Associated Advocates  
10 Years Ranked



**Kabiito Karamagi**

Ligomarc Advocates  
7 Years Ranked



**Andrew Kasirye**

Kasirye Byaruhanga  
& Co Advocates



**Dennis Lubega Wamala**

H&G Advocates



**Ebert Byenkya**

Byenkya Kihika &  
Co Advocates

**Band 4**



**Alice Namuli Blazevic**

Katende, Ssempebwa & Co  
4 Years Ranked



**Arthur K Ssempebwa**

Katende, Ssempebwa & Co  
3 Years Ranked



**Bruce Musinguzi**

Kampala Associated Advocates  
4 Years Ranked



**Festus Akunobera**

ABMAK Associates  
4 Years Ranked



**Fiona N Magona**

MMAKS Advocates  
3 Years Ranked



**Joshua Ogwal**

Ligomarc Advocates  
5 Years Ranked



**Moses Segawa**

S&L Advocates  
10 Years Ranked



**Ruth Sebatindira**

Ligomarc Advocates  
3 Years Ranked



**Alex Rezida**

Nangwala, Rezida & Co  
Advocates



**Cephas Birungyi**

Birungyi, Barata & Associates

**Up and Coming**



**Diana Ninsiima Kibuuka**

Mukumbya Musoke Advocates



**Kenneth Muhangi**

KTA Advocates & Solicitors



## 2023 LEADING FIRMS

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### FIRMS TO WATCH



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Source: The Legal 500 website.

# The LEGAL 500

## Leading Individuals



**Gertrude Karugaba**  
S&L Advocates



**Phillip Karugaba**  
ENSAfrica



**Andrew Kibaya**  
Shonubi, Musoke & Co  
Advocates



**Fiona Nalwanga Magona**  
MMAKS Advocates



**Apollo Nelson Makubuya**  
MMAKS Advocates



**David Mpanga**  
AF Mpanga Advocates



**Rachel Musoke**  
ENSAfrica



**Noah Edwin Mwesigwa**  
Shonubi, Musoke & Co  
Advocates

## Next Generation Partners



**Hellen Nakiryowa**  
Shonubi, Musoke & Co  
Advocates

## Rising Stars



**Jonathan Kiwana**  
AF Mpanga Advocates



**Mercy Odu**  
AF Mpanga Advocates



**Sheila Ann Pacuto**  
ENSAfrica

Source: The Legal 500 website.

## International Financial Law Review: 2023 Rankings

### Financial and Corporate

#### Tier 1

AF Mpanga  
ENSAfrica  
MMAKS Advocates  
S&L Advocates  
Shonubi Musoke & Co

#### Tier 2

ABMAK Associates  
Kampala Associated Advocates  
KATS - Katende Ssempebwa  
Advocates  
Mukumbya Musoke Advocates

#### Tier 3

Byenkya Kihika & Co  
Engoru Mutebi Advocates  
H&G Advocates  
K&K Advocates

#### Tier 4

Birungyi Barata & Associates  
Bytelex Advocates  
Cristal Advocates  
KTA Advocates  
Kyagaba & Otatiina Advocates  
Ligomarc Advocates  
Nangwala Rezida & Co

#### Notable

AB & David  
CR Amanyia Advocates  
Ivory Advocates  
Kasiye Byaruhanga & Co  
Ortus Advocates  
Signum Advocates  
TASLAF Advocates

### Project development

#### Tier 1

ABMAK Associates  
AF Mpanga  
ENSAfrica  
Katende Ssempebwa Advocates  
MMAKS Advocates  
S&L Advocates  
Shonubi Musoke & Co

#### Tier 2

Byenkya Kihika & Co  
Mukumbya Musoke Advocates

#### Tier 3

H&G Advocates

#### Tier 4

Engoru Mutebi Advocates  
K&K Advocates  
Nangwala Rezida & Co

#### Notable

AB & David  
Cristal Advocates  
Ivory Advocates  
Kampala Associated Advocates  
Kasiye Byaruhanga & Co  
KTA Advocates  
Ortus Advocates  
Signum Advocates

Source: IFLR 2023 Website



## No. 1 Top Tier Firms



### Financial and Corporate



**David FK Mpanga**

**Practice area:** Capital markets, Banking, M&A

**Industry sector:** Energy, Oil & gas

**Rating:** *Highly regarded*



**William Kasozi**

**Practice area:** Banking, Project finance

**Rating:** *Highly regarded*



**Daniel Gantungo**

**Practice area:** M&A

**Industry sector:** Energy, Oil & Gas, Mining

**Rating:** *Highly regarded*



**Jonathan Kiwana**

**Practice area:** Financial and corporate

**Rating:** *Rising star*



### Project development



**Aisha Naiga Wamala**

**Practice area:** Project development and Finance

**Industry sector:** Energy, Oil and gas

**Rating:** *Highly regarded*



**Denis Kusaasira**

**Practice area:** Project development and finance

**Industry sector:** Energy, Mining

**Rating:** *Highly regarded*



**Hakim Muwonge**

**Practice area:** Project development

**Industry sector:** Energy, Oil and gas

**Rating:** *Highly regarded*



**Joshua T. Byabashaija**

**Practice area:** Project development and finance

**Industry sector:** Energy

**Rating:** *Notable practitioner*

Source: IFLR 2023 Website

## ABMAK Associates advises on the first cross border Energy project between Uganda and Tanzania

ABMAK Associates continues to solidify its position as a project development firm, achieving the remarkable feat of being ranked as the No. 1 top-tier firm for a fifth consecutive year according to the IFLR1000. The firm has also maintained its unparalleled standing as a general business law firm for an impressive eight consecutive years, as recognised by the Chambers and Partners in their 2023 rankings. The projects development firm, specialises in energy and infrastructure projects including oil and gas, mining, project and corporate finance, tax advisory, and dispute resolution. The five partners of ABMAK, all masters of their craft, have earned acclaim from the major legal directories, cementing the firm's reputation locally and internationally.

A celebrated ally to both local and foreign investors has advised on the largest deals in Uganda's mining and energy sectors. ABMAK is the principal Ugandan counsel for the EACOP, counsel for Total Energies EP Uganda, and other major contractors in oil and gas sector. It is also for counsel Wood cross Resources, Rwenzori Rare

metals, all major mining companies.

In 2023, two strategic energy projects ABMAK advised on were commissioned.

The first project was the Kikagati-Murongo HPP, under the Kikagati Power company Limited. It was the first cross-border energy project between Uganda and Tanzania located along the Kagera River at the boundary of Uganda and Tanzania. The project boasts a capacity of 14 Megawatts. The official commissioning ceremony was presided over by H.E Kaguta Museveni and H.E Samia Hassan of the United Republic of Tanzania. ABMAK also advised ARPE Limited and Berkeley Energy on the ACHWA I and ACHWA II Hydro Power Projects, which have a combined capacity of 83 MW. These projects were commissioned in December 2023.

Situated in the opulent quarter of Kololo, ABMAK chambers now radiates renewed brilliance and stewardship with the appointment of Aisha Naiga Wamala as the Managing Partner in August 2023. Aisha assumed the helm, succeeding Denis Kusaasira, who led the firm for a remarkable 12-year tenure.





## David Kaggwa, Elevates Construction Law to New Heights in 2023

In 2023, Mr. David Kaggwa, a prominent legal figure in Uganda, solidified his status as arguably the country's best Construction Lawyer. Known for his adept handling of complex construction disputes, Kaggwa has been at the forefront of the legal arena, making significant contributions to the field.

Mr. Kaggwa's journey into the specialized realm of construction law began with a Master of Laws Degree in Construction Law and Arbitration from the prestigious Robert Gordon University in Aberdeen, Scotland. As one of the pioneering Ugandan lawyers in this niche, he ventured into the practice at a time when many deemed it less lucrative. His dedication and expertise have since set him apart, accumulating over 15 years of experience in managing intricate Construction and Engineering disputes.

A Fellow of the Institute of Construction Claims Practitioners (FICCP) and a Member of the Society of Construction Law (UK), Kaggwa's professional accolades are complemented by his successful handling of diverse construction disputes.

Prior to concretizing his practice in Construction Law, David had over the years successfully litigated ground breaking commercial disputes. His pivotal role in shaping legal precedents is exemplified by his involvement in the landmark case of Emerald Hotel Ltd & Ors vs Barclays Bank of Uganda Ltd & Ors (HCCS 0170-2008), which continues to serve as a touchstone in Ugandan jurisprudence.

In 2023, Kaggwa demonstrated his visionary leadership by establishing the Construction Law Institute, a dynamic think tank that unites professionals from various sectors within the construction industry. Collaborating with experts such as Victor B. O. Odongo, Eng. Bakiza Ian Paul, Advocate Joan Kyomugisha, Advocate Kenneth Akampurira, and Advocate Ronald Tusingwire, the institute orchestrated successful training sessions on Construction Adjudication and the Practice of FIDIC Contracts

Throughout the year, Kaggwa showcased his legal prowess by handling groundbreaking construction disputes.

Notably, he represented Ambitious Construction Company Limited in a civil suit against the National Housing Construction Company, securing a confirmation of an arbitration award amounting to US \$2,663,600, stemming from a claim seeking the recovery of US \$6,102,886.5. The dispute arose from a contract executed by both parties for the construction of 162 Housing Units, along with the associated project infrastructure at Namungoona, referred to as the "Impala Housing Estate."

Beyond his contributions to construction law, Mr. Kaggwa is highly regarded in the Alternative Dispute Resolution (ADR) space. As a Fellow of the Chartered Institute of Arbitrators (UK), he currently serves as the Chairman of the Chartered Institute of Arbitrators – Uganda Chapter and holds a directorial position at the Chartered Institute of Arbitrators – Kenya Branch.

In recognition of his expertise, Mr. David Kaggwa was in 2023 sought after as a speaker and educator, sharing his knowledge on emerging trends in Construction Law at various platforms, including the Africa Construction Law Training Academy, King's College London, and HKA. His impact extends to local professional bodies, such as the Uganda Law Society, East Africa Law Society, the Institution of Surveyors of Uganda, and the Surveyors Registration Board, where he has imparted valuable insights on construction law.

**Disclaimer: We did not speak to Mr. David for this story or solicit for his comments. We wrote it from observation, and by speaking to advocates who have met him and those he has worked with. The story is based on his notable work.**



# BBA CELEBRATES 20 YEARS



In 2003, Birungyi Barata & Associates, now arguably Uganda's leading Tax Law Firm, was founded by two lawyers, Mr. Cephas Birungyi and Mr. Enoch Barata. Initially named Birungyi, Barata & Co. Advocates, the firm began on the 1st floor of Bauman House, Parliament Avenue. Over the years, it expanded, evolving into Birungyi Barata & Associates. In 2023, the firm marked 20 years of excellence.

Birungyi, Barata & Associates made its first mark in the tax litigation arena in 2007 when it successfully argued that the Commissioner General of Uganda Revenue Authority can be sued, and that a statutory notice of intention to sue was not a prerequisite. (Commissioner General (URA) v Meera Investments (Civil Appeal no.22 of 2007). BBA currently handles over 35% of tax matters before the tax appeals tribunal. The team has won a number of game-changing tax cases to the extent that the law has been amended for the tax man to catch up.

These include;

- Amendment of the definition of dividends under the Income Tax Act (ITA) to include brokerage services. (AON Uganda Limited (HCT - 00 - CC - OS - 04 - 2008)
- Repeal of Section 106 of the ITA by Section 31 of the Tax Procedure Code Act (TPC) to provide for notification of taxpayer when a third-party agency notice is issued. While the ITA provided that a taxpayer and third party should be served simultaneously, the TPC provides for service of a taxpayer but does not specify when it should be done. (Housing Finance Bank Ltd v. Uganda Revenue Authority (HCCS NO. 259 OF 2014)
- Repeal of Section 161(1) of the ITA by the TPC to provide for circumstances under which a Commissioner may reject an application for a private ruling. (Birungyi, Barata & Associates V URA, TAT No.16 of 2011
- Amendment of the definition of dividends under Section 2 of the ITA to include issue of bonus shares to shareholders but they are only taxable upon disposal (Down Town Forex Bureau V URA TAT No. 4 of 2012)



# Two Decades Strong!

AF Mpanga Advocates  
formally Bowmans  
celebrates 20 years.

*Founded in* **2003**

In 2023, AF Mpanga marked a momentous milestone, proudly celebrating two decades of unwavering commitment and excellence. Established as a trailblazing full-service corporate-commercial law firm in Uganda and the broader region, the firm has consistently set industry benchmarks.

Distinguished by its outstanding performance, AF Mpanga has earned prestigious accolades, including being perennially ranked in Band 1 by Chambers and Partners, holding a Tier 1 status by IFLR1000, and securing recognition as a Leading Firm by Legal 500. These accolades underscore the firm's stellar credentials and its pivotal role in shaping the legal landscape.





## LIGOMARC ANNIVERSARY

In 2023, Ligomarc Advocates, arguably the foremost Insolvency Law practice firm in Uganda, celebrated its remarkable 20-year anniversary. Founded as a sole practice in 2003 by the esteemed Ruth Sebatindira SC, the firm has evolved into a powerhouse, marked by its exceptional performance and commitment to legal excellence. The expansion of Ligomarc Advocates into a partnership was a pivotal moment in its history when Mr. Kabiito Karamagi joined the firm in 2006, followed by Mr. Joshua Ogwal in 2011, Mrs. Olivia Kyarimpa Matovu in 2015, and Mr. Moses B. Mwase in 2023, contributing to the firm's growth and success.

Ligomarc Advocates has consistently earned prestigious accolades, solidifying its reputation in the legal industry. Notably, the firm has over the years achieved ranking by Chambers and Partners, IFLR1000, and recognition as a Leading Firm by Legal 500.





# The Oldest Law Firm in Western Uganda marks **44 Years**

In the legal realm of Western Uganda, one name stands out, echoing a tradition of trust, reliability, and excellence—Katembeko and Co. Advocates. Founded in 1979 by the distinguished Barrister Hillary Katembeko, the firm has become a cornerstone in the legal landscape of the region, celebrating an impressive 44 years of commitment to justice and client satisfaction in 2023.

## **44 Years of Excellence**

In 2023, the firm proudly celebrated 44 years of legal excellence, a testament to its enduring commitment to serving clients and the community. The anniversary served as a moment of reflection on the firm's growth, accomplishments, and the countless legal victories that have shaped its history. The journey from its founding in 1979 to the present day reflects a story of resilience, dedication, and a relentless pursuit of justice.

## **A Celebrated Legacy Continues**

The firm, recognized as the oldest law firm in Western Uganda, faced a somber moment in 2023 with the untimely demise of its visionary founder, Barrister Hillary Katembeko. However, the legacy lives on under the able leadership of Advocate Allan Musasire, the current Managing Partner. Advocate Allan Musasire, not only steering the firm to new heights but also serving as the Uganda Law Society Western Region Representative to Council, has shown exceptional leadership. Under his guidance, Katembeko and Co. Advocates continue to uphold its tradition of trustworthiness and reliability, cementing its status as a premier law firm in the Western region.

## **Looking to the Future**

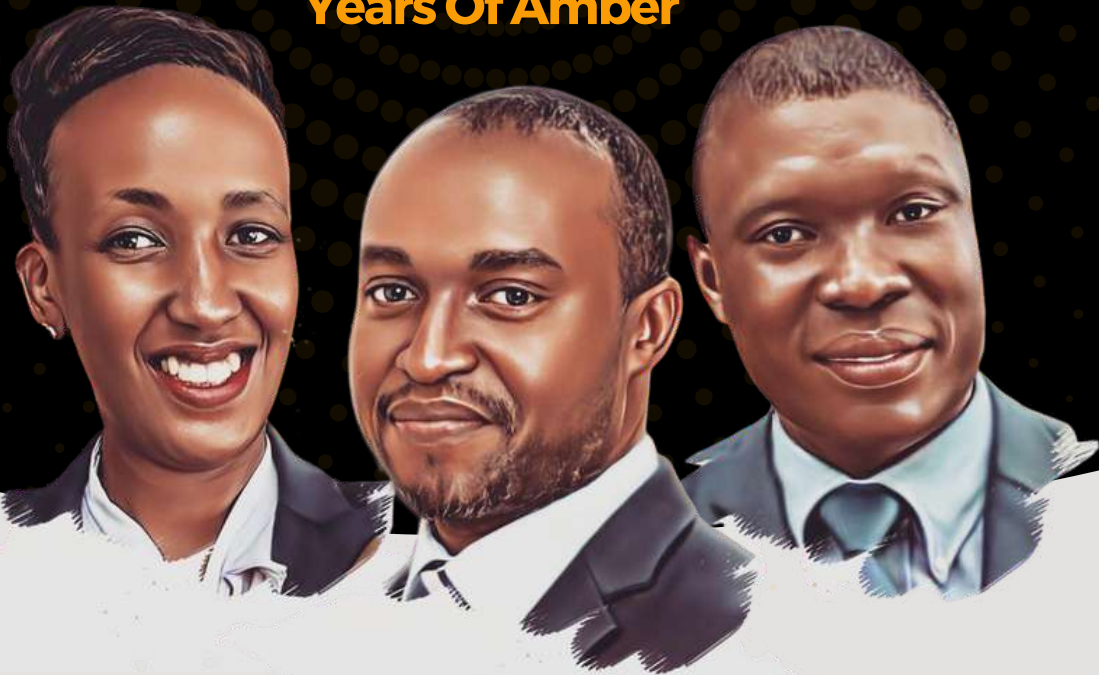
As the firm charts its course into the future, the commitment to client satisfaction and legal excellence remains unwavering. Katembeko and Co. Advocates, with Advocate Allan Musasire at the helm, continues to be a beacon of legal expertise, setting the standard for law firms in Western Uganda.



Advocate Allan Musasire (Left) together with Barrister Hillary Katembeko (Right)

# 13

## Years Of Amber



In the year 2001, Advocate Kenneth Akampurira harbored a visionary ambition – to establish a law firm in Kampala that would eventually be considered among the premier law firms in Uganda. As time progressed, the firm underwent a transformation, rebranding itself as Amber Solicitors & Advocates, a name that resonates with distinction to this day.

At the core of the firm's 13 years of success stand visionary partners namely; Mr. Kenneth Akampurira, Mrs. Linda Alinda-Ikanza, affectionately known as "Nalongo" among her legal peers, and Mr. Samuel Ejoku.

The partners at Amber Solicitors & Advocates have made significant contributions to the advancement of legal excellence and professional development within Uganda.

Mr. Akampurira, the Managing Partner, has carved a niche in ADR and currently serves as the Hon. Secretary at the Chartered Institute of Arbitrators (Uganda Chapter). He also serves as a Faculty member at the Construction Law Institute and has participated in various panels discussing emerging trends in Insolvency law practice in Uganda.

"Nalongo" Alinda Ikanza is celebrated as a trailblazer in Trail Advocacy. Over the years, she has played a pivotal role in training advocates and law students in Trail Advocacy skills at the Justice Advocacy Uganda (JAU) Institute and the LDC.

Mr. Samuel Ejoku is equally lauded for his contributions to legal education, impacting knowledge on students at the LDC.

# LAWYERS ON CORPORATE BOARDS

**The League of East African Directors (LEAD) recognized top Non-Executive Directors in 2023**

On November 23, 2023, the League of East African Directors (LEAD) recognized exceptional individuals for their impactful contributions as Non-Executive Directors, influencing the strategic direction and governance of enterprises in Uganda.

Notably, distinguished lawyers were among the honorees, acknowledged for their significant achievements as non-Executive Directors, playing pivotal roles in driving the success and growth of businesses in Uganda and the wider East African region.

Hon. Elly Karuhanga, a Partner at Kampala Associated Advocates, received the prestigious Lifetime Achievement Award. Hon. Elly is the Founding Chairman of the Uganda Chamber of Mines & Petroleum and the Founder President and Chairman of the Governing Council of the Uganda Centre for Arbitration and Alternative Dispute Resolution (CADER), established in 1998. Additionally, he has served in a diplomatic capacity as the Honorary Consul General of the Republic of Seychelles to Uganda since 2005.



## **FINANCIAL SERVICES SECTOR AWARD WINNER**

**DR. WINNIE TARINYEBA  
KIRYABWIRE**

Non- Executive Director of  
DFCU Bank, MTN Uganda Ltd  
and Jubilee Allianz General  
Insurance Ltd



# TOP FEMALE LAWYERS IN 2023 RECOGNISED BY THE LAW SOCIETY

## BEST FEMALE MANAGING PARTNER



**Asmahaney Saad**  
Managing Partner,  
KTA Advocates

## BEST FEMALE ACADEMIC LAWYER



**Dr. Winifred Mary  
Tarinyeba-  
Kiryabwire**

## BEST HUMAN RIGHTS FEMALE LAWYER



**Primah Kwagala**  
CEO, Women's  
Probono Initiative

## TRAIL BLAZER AWARD



**Brenda Akia (PhD Law)**  
Member UN-CEDAW  
Committee





# PIONEERING EAC REGIONAL COOPERATION IN 2023

## ALP East Africa Breaks New Ground with Inaugural Annual CSG Scan Report

In a historic move that underscores the spirit of regional collaboration, ALP East Africa, a regional law firm, launched the first-ever Annual Capital, Services, and Goods (CSG) Scan Report for the years 2022-23. This groundbreaking initiative assessed the compliance of legal and regulatory measures in the East African Community (EAC) Partner States with the CSG commitments outlined in the EAC Common Market Protocol.

Despite the EAC comprising seven Partner States, the comprehensive 2022-23 scan focused on five nations, namely Kenya, Rwanda, South Sudan, Tanzania, and Uganda. The report, unveiled country by country, scrutinized the movement of capital, services, and goods—the three key freedoms outlined in the EAC Common Market Protocol.

The launch events took place across Tanzania, Kenya, Rwanda, Uganda, and South Sudan, with the ALP East Africa team, led by Francis Gimara SC and Dr. Henry Onoria, collaborating with key government bodies responsible for trade and regional integration in each country.

The CSG Scan Report holds particular significance, as it not only highlights compliance levels but also shapes the development of law in regional integration. The character of the three freedoms within the Common Market was articulated by the East African Court of Justice in the case of *British American Tobacco (U) Ltd v. Attorney General of the Republic of Uganda*, EACJ Application No 13/2017.

At a launch event in Tanzania, held at the prestigious East African Community Secretariat in Arusha, Hon. (Dr.) Peter Mathuki, East African Community Secretary-General, commended ALP East Africa for its pioneering efforts. He emphasized the significance of the CSG Scan in advancing regional cooperation and acknowledged the firm's commitment to upholding the development of the law in East African integration.

ALP East Africa's innovative approach and the success of the Common Market CSG Scan have left an indelible mark on the legal landscape, earning the firm respect for its brilliance and dedication to fostering regional integration in East Africa. The CSG Scan Report stands as a testament to the firm's commitment to excellence and its pivotal role in shaping the future of legal and regulatory frameworks in the EAC.

# The big mind behind ALP East Africa

Francis Gimara SC



In a year (2023) that epitomized his steadfast dedication to justice, the rule of law, and legal innovation, Francis Gimara SC, the former President of the Uganda Law Society (ULS), continues to imprint an enduring legacy on the legal landscape. His tenure at the helm of the Uganda Law Society is fondly remembered for catalyzing pivotal reforms, thereby fortifying the ULS's reputation. Gimara's presidency marked the initiation of the ULS Publishing Rule of Law Reports, the establishment of the Annual Law Conference, enhancements to the Advocates Remuneration Rules, the revival of the Senior Counsel title, and a transformative overhaul of the ADR framework, laying the foundation for robust ADR institutions like ICAMEK and CIArb we have today.

Building on his legacy of groundbreaking initiatives, 2023 proved to be another remarkable year for Gimara, with achievements ranging from significant court victories to influential roles in shaping legal policies both locally and internationally.

Some of the notable Milestones in 2023;

- Lead Counsel in the case of Omoro & 4 Others v. Attorney General & 8 Others in which the Constitutional Court clarified that District Land Boards can no longer issue leases over customary land, underscoring the importance of recognizing and preserving the rights associated with such land.
- Lead Counsel in the case of Watoto Church Ministries & Another v. Kampala Capital City Authority (KCCA) in which court made an order mandating KCCA to enact a by-law within three years, listing properties within the capital city that should be protected as national heritage sites.
- Successfully defended Watoto Church Ministries in the Constitutional Court in a case which sought to challenge what was termed to be tough and harsh wedding conditions set by Watoto Church. The case was dismissed.
- He has been involved in several top legal consultancy assignments including the formulation of the Uganda National ADR Policy and The Alternative Justice System (AJS) Strategy for the Judiciary of Uganda.
- Contributing as one of the key consultants to the production of the Litigator's Manual—a comprehensive reference for effective litigation before the East African Court of Justice (EACJ)—and a Sourcebook on Good Governance and Rule of Law in the East African Community, providing valuable insights into EACJ jurisprudence. This builds on his past tremendous work at the EACJ and his successful litigation track record of arguing key cases, including one that, for the first time in history, led the EACJ to award 1 million dollars in general damages.
- Recently appointed to the Global Advisory Council of the Commonwealth Enterprise & Investment Council (CWEIC) a non-profit organization dedicated to promoting trade and investment among the 56 member nations of the Commonwealth.

# Chronicles of a Legal Explorer

*Mr. Paul Mukiibi's commendable contributions to disseminating knowledge within the legal fraternity throughout the year 2023.*

**I**n the realm of justice, the lawyer's quill is his sword, but knowledge is the armor that shields him from uncertainty

In the intricate tapestry of the Ugandan legal landscape, every lawyer has encountered the illuminating Legal Alerts from the Law Development Centre (LDC) and delved into the profound Legal Insights published by the Uganda Law Society. The credit for this invaluable resource goes to none other than Mr. Paul Mukiibi, a beacon of legal wisdom.

A familiar figure in countless WhatsApp groups, Mukiibi's Legal Alerts flutter onto every Ugandan lawyer's phone screen, providing a succinct snapshot of groundbreaking cases and legal developments.

In the bustling corridors of legal practice, the year 2023 witnessed Mr. Mukiibi's works ascend to new heights, playing a pivotal role in shaping legal policy at both the bar and the bench.

Within legal circles, the commendations for Paul Mukiibi are resounding. Colleagues hail him not only for his exhaustive knowledge of the law but also for his ability to distill it into practical, accessible insights. His contributions have not only elevated the discourse within the legal community but have had a tangible impact on the day-to-day practice of law.

In a world where the legal landscape is ever-evolving, Paul Mukiibi stands as a steadfast guide, an architect of legal enlightenment, and a catalyst for positive change within the Ugandan legal community.

## A highlight of Mr. Mukiibi's contributions in 2023

### Earlier Works With Impact In The Profession

- E-Justice: How digitalization of Courts will spur rule of law in East Africa. The Observer November 2-8, 2022. Vol. 17. Issue: 44. p. 23. Available on <https://www.observer.ug/viewpoint/75722-digitisation-of-courts-will-spur-rule-of-law-in-e-africa>. Uploaded on November 02, 2022.
- Technology Transformation in Legal Practice. The Use of E-Systems in Adjudication. The Digitisation of Court Processes in Uganda. Prospects and Challenges of ECCMIS to the Ugandan Bar. Presented to Members of the Uganda Law Society (ULS) at the Pre-Annual General Meeting Conference. Organised by ULS Secretariat at Imperial Resort Beach Hotel, Entebbe, Uganda on 09 September 2022. **NB. Some of the recommendations in this presentation have already been implemented. Validation has been removed and Rules on e-Courts are under way.**
- It's time for Judiciary to embrace electronic signatures. The Observer October 19-25, 2022. Vol. 17. Issue: 42. p.23. Available on <https://www.observer.ug/viewpoint/75560-time-for-judiciary-to-embrace-electronic-signatures>. Uploaded on October 18, 2022. **NB. This resulted into some Divisions of High Court implementing e-signatures.**

### Professional Journals Editorial Board Membership, 2023

- Editor, Insolvency Journal of Uganda, Uganda Registration Services Bureau (URSB) Editorial Board.
- Editor, Uganda Law Focus Journal (ULFJ) Editorial Board, Law Development Centre.
- Editor, Uganda Law Society Law Journal (ULSLJ) Editorial Board.
- Board Member, Uganda Living Law Journal (ULLJ) Editorial Board.
- Secretary, Editorial Board, Uganda Law Reports (ULRs), Uganda's Official Law Reports).

### Professional Leadership, 2023

- Chairperson, Research and Publication Committee, East Africa Law Society (EALS).
- Deputy Chairperson, Uganda Law Society (ULS), ECCMIS Committee.
- Head, Department of Law Reporting, Research and Law Reform, Law Development Centre.

### Peer-reviewed Publications, 2023

- The East African Court of Justice and Adjudication of Human Rights: Prospects and Challenges. East Africa Law Society Human Rights and Rule of Law Journal, Volume 3 (2023). A Peer-reviewed publication of the East African Law Society (EALS).

- The Implications of the Coffee between the Government of Uganda and Uganda Vinci Coffee Co Ltd on the Socio-Economic Rights of the Supply Chain Players in Uganda's Coffee Industry. Journal of Anti-Corruption Law (JACL), 2023, Volume 7, Pages 66-95. A Peer reviewed publication of the Faculty of Law, University of Western Cape, South Africa. Also available at DOI: <https://doi.org/10.14426/jacl.v7i.171>
- Legal Issues on Admissibility of Electronic Signatures under the Electronic Signatures Act in Uganda's Civil Proceedings. African Journal of Legal Issues in Technology and Innovation, Volume 1, Number 1, 2023. Pages 67-93. A Peer-reviewed publication of the International University of East Africa, Faculty of Law.
- Prospects of Prioritisation of Legal Services during Natural Disasters in Uganda: Lessons from Covid-19. The Uganda Law Society Journal (ULSJ), 2023, Volume 1 (2023), Pages 17-32. A Peer-reviewed publication of the Uganda Law Society (ULS).
- [Law Reporting](#)
- Part of the Team that introduced LDC Legal Alerts.
- Reported more than 200 Cases in 2023 using the LDC Legal Alerts Forum.
- Part of the LDC Team that introduced the Audio Legal Alerts currently running in both English and Swahili languages.
- Part of the LDC Team that introduced LDC Case Transcripts.
- Part of the team that introduced the LDC flashback Friday reflecting old decisions in Uganda.

#### Conference, Presentations and Seminar Papers, 2023

- Digital Transformation of Court Processes and Effectiveness of Delivery of Justice in Uganda. Presentation at the 23rd Academy of African Business and Development (AABD) Annual Conference, University of Eastern London, United Kingdom (UK), 16-20 May 2023.
- Emerging and Evolving Jurisprudence from Superior Courts of Record and their effect on Pleadings and Proving Fraud in Land Litigation. Analysis of selected decisions from the Supreme Court and Court of Appeal of Uganda. A presentation to the Court Users' Committee Meeting at the High Court of Uganda at Kampala (Land Division), Twed Towers, Court Hall, Level 6, 03 April 2023.
- Introduction to Legal Information and its Management in Uganda. Presentation at the training of Research Magistrates Grade One in Case Digests and Law Reporting, Mestil Hotel Kampala, Sheraton Kampala Hotel, 04 July 2023.

Administration of Justice by the Family Division of the High Court of Uganda, the Lawyers' Perspective. Presentation at the Family Division Court Users' meeting, Grand Imperial Hotel, Nile Avenue, 16 June 2023. (Among others)

**Disclaimer: We did not speak to Mr. Mukiibi for this story or solicit for his comments. We wrote it from observation, and by speaking to advocates who have met him and those he has worked with. The story is based on his notable work.**

## INSPIRATION

# From ULS President to LEAD CEO

## Pheona Nabasa Wall's Impact on LEAD Mirrors Growth in East African Corporate Landscape



In the realm of legal and corporate leadership, Pheona Nabasa Wall has emerged as a trailblazer, leaving an indelible mark during her tenure as the President of the Uganda Law Society (ULS). Today, she continues to shape the landscape of East African businesses as the CEO of the League of East African Directors (LEAD), a not-for-profit organization dedicated to the advancement of corporate governance in the region.

Under Pheona's stewardship, the League of East African Directors has become a beacon of excellence, striving to equip boards for the challenges and opportunities in the ever-evolving business environment. Her leadership philosophy, encapsulated in the mantra "Faithful, Available, Teachable," resonates not only with the legal fraternity but also with corporate leaders across East Africa.

Pheona Wall assumed the role of CEO in 2023, and her impact was immediate. Membership statistics soared, reflecting the trust and enthusiasm the business community placed in her vision for LEAD. Recognizing the need for a consolidated reference point in the selection and training of directors, Pheona set out to revolutionize the way East African companies approach board-level appointments.

Working in tandem with Gertrude Wamala Karugaba, the Chairperson of the LEAD Board of Directors and Head of Corporate and Commercial Practice at S&L Advocates, Pheona orchestrated two groundbreaking events that have become pivotal in the corporate calendar—the LEAD Convention and the NED (Non-Executive Director) Awards.

The LEAD Convention served as a nexus for industry leaders, fostering collaboration, and providing a platform for the exchange of ideas on corporate governance best practices. The NED Awards, celebrated excellence in non-executive directorship. This prestigious event recognized individuals who have demonstrated exceptional leadership, strategic insight, and commitment to the advancement of East African businesses.

Pheona Nabasa Wall's journey from the helm of the Uganda Law Society to the forefront of corporate governance in East Africa is a testament to her unwavering commitment and vision. As LEAD continues to grow under her leadership, it stands as a symbol of progress and innovation in the boardrooms of East African companies.

## A Radiant Legal Mind that kindles sparks of Inspiration

*Tonny Tumukunde*



In an era where digital platforms serve as powerful tools for inspiration and information sharing, Tonny Tumukunde, the founding Partner of Tumukunde and Co. Advocates, stands out not only for his legal acumen but also for his unwavering commitment to youth empowerment and generosity.

His online presence has earned him the reputation of being the advocate of young lawyers, a sentiment echoed by The Observer Newspaper in their article published on May 30, 2023.

In the spirit of the proverb, "The generous will themselves be blessed, for they share their food with the poor," Tumukunde's benevolence towards aspiring lawyers echoes the sentiment of shared prosperity. Known for his inspirational posts and commitment to uplifting others, in 2023, Tumukunde captured public attention with a heartwarming announcement on his social media platform, X, where he officially commissioned the support of three Law Development Centre (LDC) students each academic year. Tumukunde pledged a substantial contribution of Ugx. 1.5 million towards the first-term tuition of each student, ensuring that financially challenged individuals have the opportunity to join and complete their legal education. True to his word, Tonny Tumukunde successfully realised his promise, currently sponsoring three LDC students who faced challenges in raising tuition at the time of admission in 2023.

Beyond his role as a benefactor for aspiring lawyers, Tonny Tumukunde is recognised for his

pivotal support to young legal professionals within his law firm. Tumukunde and Co. Advocates, a thriving workspace led by dynamic young lawyers, boasts a team of over 20 legal professionals, with a special emphasis on nurturing the next generation practitioners.

In addition to his contributions within the legal realm, Tumukunde's dedication to youth empowerment is evident in his directorship roles in various organisations. Serving as a board member of Youth Alive Forum, a non-profit organisation committed to uplifting young individuals, and contributing to Divine Schools for the Physically Disabled, Tonny underscores the importance of holistic community service.

Tonny Tumukunde's online presence also serves as a valuable resource for legal enthusiasts, as he regularly shares the latest court decisions and legal highlights on his X account.

Tonny Tumukunde's multifaceted contributions to the legal profession and youth empowerment make him a noteworthy figure, exemplifying the positive impact an individual can have on both professional and community spheres.

As the saying goes, "A generous person will prosper; whoever refreshes others will be refreshed."

# BEYOND THE GAME: THE RISE OF SPORTS LAW AS A LEGAL SPECIALTY

In 2023, the legal landscape in Uganda underwent a significant transformation with the enactment of the National Sports Act, marking a pivotal moment for lawyers specializing in sports law. The National Sports Act of 2023 replaced the National Council of Sports Act, Cap 48, which had been in force since 1964.

This landmark change has opened up new opportunities and challenges for legal professionals passionate about sports law.

The National Sports Act, assented to by the President on August 17, 2023, provides a modern and comprehensive legal framework for the regulation of sports in Uganda.

This development reflects a proactive approach to address the evolving dynamics of the sports industry, aligning the legal framework with contemporary issues and international standards.

In particular, the efforts of a select group of lawyers deserve commendation for their dedication to the field of sports law in Uganda.

These individuals have actively contributed to shaping the legal landscape and navigating the challenges associated with the transition from the old legal regime to the new one.

## Notable Sports Lawyers in 2023



**Dr. Donald Rukare**  
President, UOC & Vice  
President Elect,  
Commonwealth  
Games Association



**Mr. Moses B. Mwase**  
President, Uganda  
Swimming Federation.  
Partner, Ligomarc  
Advocates.



**Nasser Serunjogi**  
President, Federation of  
Basketball  
Magna Advocates



**Denis Lukambi**  
Head of Legal  
Department, FUFA



**Shadia Nakamanya**  
Head Legal, National  
Council of Sports



**Ivan Ojakol**  
Partner Matrix Advocates

# Phillip Munaabi, Makes Waves in Sports Law Practice in 2023



In the dynamic realm of Sports Law, Munaabi Phillip, a Partner at Diadem Advocates, emerges as a formidable figure, garnering attention not only locally but also on the international stage. Phillip's recent achievements have placed him at the forefront of sports law activism and practice in Uganda.

## **Release of Julius Sekitoleko**

Phillip's commitment to the cause was evident in his successful fight for the release of weightlifter Julius Sekitoleko. Facing criminal charges after escaping the Olympic Village during the Tokyo 2020 Olympics, Sekitoleko found an advocate in Phillip, who navigated legal challenges to secure his release from incommunicado detention by the Criminal Investigations Directorate.

## **Leadership in Sports Law Committees**

Phillip actively contributed to the field through his roles in various committees. Serving as the Vice Chairperson of the East African Law Society (EALS) Sports Law Committee and participating in the Sports Law Committees and Cluster of the Uganda Law Society (ULS), he demonstrated his commitment to shaping the future of sports law in the region.

## **Prolific Year in Training and Education**

In the past year, Phillip's dedication to advancing sports law knowledge has been evident through numerous online and physical training sessions. Serving as a key-

figure in organizing over six sports law online trainings, including the annual ULS Sports Law Workshop, he has explored topics such as the "Merging Trends: The National Sports Act 2023 and the East African CAF BID 2027."

## **Physical Training Sessions Across East Africa**

Phillip's influence extends beyond the digital realm, as he spearheaded physical sports law training sessions throughout East Africa. Notable events include the Vinnare Legal Chambers 2nd Edition Sports Law Conference in Dar es Salaam and the Inaugural East African Community Sports Law Workshop in Nairobi.

## **Promoting Mental Wellness Through Sports**

Phillip's holistic approach to sports law was evident in the "Inaugural EALS Sporting and Mental Wellness Event." This groundbreaking initiative, featuring various physical activities, took place at the 28th EALS Annual Conference in Bujumbura, promoting well-being and camaraderie among legal professionals.

Munaabi Phillip's multifaceted contributions to sports law, from legal advocacy to educational initiatives, underscore his unwavering commitment to the field.

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# Oldest law firm in Uganda, H&G Advocates gears up for the 120th Anniversary celebration in 2024

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## The History

In 1903, about nine years after the British had declared Uganda a British Protectorate, a law graduate from the University of Dublin who had recently been called to the English Bar, Dr. Henry Hamilton Hunter and Mr. George Greig set up a law practice initially at Entebbe under the name Hunter & Greig Advocates.

This practice is widely recognised as the first law practice to be set up in Uganda. This law practice would later evolve into Kateera & Kagumire Advocates in 1994 and H&G Advocates in 2021. For a period of over 100 years, the law practice has stayed true to the same values of precision and excellence in the provision of legal services sector.

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1st January 2024 Issue 1

THE UGANDAN  
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