



The **ODPP NEWSLETTER**

**Quarterly Newsletter for the Office of the Director of
Public Prosecutions**



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FOREWORD

**By Hon. Lady Justice Jane Frances
Abodo
Director of Public Prosecutions**

It is my honour to issue this third E-Newsletter.

The Office of the Director of Public Prosecutions is committed to the preparation and administration of justice. I wish to express my profound gratitude to the members of Top Management, Senior Management, and all staff of the ODPP, for the immense support that has enabled me to deliver on my critical targets this far. It would not be possible to achieve so much in a short time without you.

I believe that for any institution to function efficiently, teamwork is a must build. However, team work on its own is not sufficient. Staff must be trained and skilled in the fields relevant to their work to enable them execute their tasks effectively and efficiently.

In this regard, we have and continue to skill the ODPP staff. They are already doing well, and with continuous training and peer learning they will function even better.

To the PRO team, thank you for putting this together. I urge all the staff of the ODPP, in your respective capacities to keep up the hard work.



CHIEF EDITOR'S NOTE

Ms. Jacquelyn Okui **Senior State Attorney/Public Relations** **Officer**

This 3rd issue of the ODPP Newsletter contains articles on the ODPP's effort in promoting transparency and accountability, prosecution milestones, a glimpse into the International Crimes Department of the ODPP and mainstreaming gender and child-related cases in the ODPP. It also contains highlights of events that occurred during the quarter.

I extend my gratitude to the members of the ODPP who have contributed to this issue. Special thanks to Ms. Emily Mutuzo Ssendaula who compiled the newsletter, edited it and participated in its design. I also specially thank Mr. Joshua Asiimwe for designing the newsletter.

The editorial team recognizes the importance of the contributions of members of the ODPP to the Newsletter and hopes to receive continuing support from them for the upcoming issues.



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OFFICE OF THE DPP HOLDS THE 2ND JLOS ANNUAL ANTI-CORRUPTION FORUM (JAAF)



Heads of Government Institutions, Development Partners and Civil Society Organisations at the Close of the Second JLOS Annual Anti-Corruption Forum 2020, Convened by the Office of the Director of Public Prosecutions and JLOS Secretariat.

The Office of the Director of Public Prosecutions (ODPP) in partnership with the Justice Law and Order Sector (JLOS) convened the 2nd JLOS Annual Anti-Corruption Forum (JAAF) on 28th October 2020. The JAAF is a platform that affords peer review and critical reflection on the JLOS anti-corruption efforts to identify those that have yielded positive results, highlight the outstanding gaps and devise appropriate strategies aimed at improving and strengthening the fight against corruption.

The virtual meeting was held under the theme

“Technological Readiness for Effective Accountability in Pursuit of a National Middle-Income Status: A Critical Reflection on JLOS Anti-Corruption Legal Enforcement”.

The forum was attended by 25 technical people at Mestil Hotel, Kampala joined by 150 people virtually.

The objective of this online meeting was to examine the readiness of the JLOS anti-corruption agencies’ technical processes, by taking stock of the gains so far made while devising strategies of strengthening the sector approach toward combating corruption.

On the whole, the Uganda Police Force, the Office of the Director of Public Prosecutions and the

Judiciary have made some efforts towards ensuring technological innovations aimed at enhancing the provision of their services to the people.

Challenges raised by the meeting include;

- Internal resistance to change; people are used to handling things manually, thus going digital poses challenges for them in terms of usability and adaptability.
- Inadequate infrastructure, resources and personnel.
- Technology is an enabler. Many criminals are using technology to commit crime.

- Mutual legal assistance delays and lack of cooperation from other states, especially for transnational crimes.
- Lack of enabling legislation. The law requires production of a suspect in court within 48 hours which is often untenable for complex crimes.
- Lack of infrastructural linkages, for example the system for national IDs, driving permits and immigration don't talk to each other. There is need to automate all around and synchronise/link the key systems so that they speak to each other.
- Oftentimes the criminals are ahead of those who are seeking to catch them. They know the systems and the laws that they have offended. Resultantly, the investigators, prosecutors and judges must be at the same level or even ahead of the criminals in order to effectively curb these crimes.
- Human interaction is often a breeder and facilitator of corruption tendencies. There is need to minimise this as much as possible and digitalize functions which do not necessarily require human interaction.
- COVID-19 forced the agencies to change their modes of operation. Limitation breeds innovations.

The forum resolved the following;

- Generally, it was observed that the COVID-19 Pandemic and the attendant challenges including the lockdown proved that technology is the way forward/ tenable alternative. There is need to learn how to live in the new normal. What we used to call the questions and crimes of the future are here now.
- To boost institutional strength and integration through reforming anti-corruption legislation in order to embrace the required technologies.
- Embrace integrated modern hardware and software technologies by applying big data and machine learning to facilitate processes among the criminal justice chain-linked institutions. This can be achieved by ensuring that there is a credible security system against hackers and internal breaches.
- The technological reforms should be matched with specialised human resource skilling and development of expert anti-corruption investigators, prosecutors and adjudicators.
- Admissibility of evidence from artificial intelligence sourced from local and international

jurisdictions using mutual legal assistance procedures is crucial in technological advancement. Therefore, investment in research and innovation in different spheres of technological development and application is key to ensure a holistic transformation.

- Future JAAF should include a slot to hear from the victims. They should be able to come and tell if they feel that they receive justice.
- It is pertinent to make corruption a risky business through the tool of asset recovery.

The meeting was attended by Hon. Lady Justice Jane Frances Abodo - Director of Public Prosecutions, Hon. Lady Justice Jane Okuo – Judge of the Anti-Corruption Court; AIGP Grace Akullo - Director of Criminal Investigations in the Uganda Police Force; Mrs. Alice K. Khaukha – Deputy Director of Public Prosecutions; and Dr. Syliva Namubiru - Chief Executive Officer of the Legal Aid Service Providers Network (LASPNET) that explored current trends and gaps that need urgent redress. Dr. Anga R. Timilsina (Ph.D.), the Global Programme Advisor on Anti-corruption at

United Nations Development Programme (UNDP) provided a global perspective to embracing technology in anti-corruption law enforcement. Development Partners from UNDP and the Austria Development Agency. The Forum was coordinated by the JLOS Secretariat, represented by the Senior Technical Advisor, Ms. Rachel Odoi-Musoke and attended by over 150 stakeholders from various government departments, civil society, the academia, development partners, and the general public.

By Irene Nakimbugwe & Emily Mutuzo

ASSET RECOVERY AS AN ANTI-CORRUPTION TOOL

Uganda, like many other countries believes that one of the best and innovative tools to fight crime which is motivated by profit, is to properly trace, identify, freeze and eventually confiscate assets/proceeds of crime acquired by criminals.

Asset tracing is the process by which investigators trace a subject's assets, examine revenue generated by criminal activity, and follow its trail. Asset identification refers to correlating different sets of information about assets. Freezing of assets is the process of blocking bank accounts and other financial assets. And, confiscation of property refers to taking away one's property.

The rationale for the process is that criminals should not receive their custodial sentences, while they and their associates continue to enjoy the profits of crime to the detriment of the victim.

Uganda is thus a signatory to a number of international conventions which require the operationalisation of a process to identify, freeze, seize and confiscate proceeds of crime, for example the United Nations Convention against Corruption (UNCAC).

Asset Recovery in the ODPP

Having recognised Asset Recovery as a tool which can be used to effectively fight crime, the Office of the Director of Public Prosecutions (ODPP) created the Asset Recovery Unit under the Anti-Corruption Department in 2016. In 2020, the Asset Recovery Unit was elevated to departmental status, merged together with the International Cooperation Department, thus being renamed the International Cooperation and Asset Recovery Department.

The department engages in identification, tracing, restraining and confiscation of proceeds of crime/assets. The tracing and identification of assets is carried out in a timely manner because the department has police officers attached to it. Further, the tracing and identification of assets is prosecution-led which allows prosecutors and investigators to work closely and swiftly. Additionally, the department collaborates and coordinates with key stakeholders which provides vital information required in tracing of proceeds of crime.

Gains

Since its inception, a number of successful asset tracing investigations, some of which have resulted in confiscation of proceeds of crime have been carried out. The confiscated proceeds of crime have been used to compensate the victims. Assets/proceeds of crime including luxurious motor vehicles, plots of land, shares and money in banks have been restrained and some have been eventually confiscated.

The following are some of the notable successful asset recovery cases handled by the department:

Pension Scam Cases; Uganda versus Bob Kasango where officials in the Ministry of Public Service conspired to make irregular payments disguised as legal fees.

The department carried out investigations into the assets of the officials which were restrained through court. The assets included several plots of land and shares in companies.

Swedish Embassy Case;

Uganda versus Kamyia Valentino & ors where the former accountant of the embassy pleaded guilty to embezzlement and was ordered to refund the stolen funds to the embassy. In addition, him and his co-accused forfeited cash totalling to Ug. Shs. 429,220,586/= (USD 119,228), USD 400 and 5 luxurious motor vehicles (Mercedes Benz, Mark X,

Land Cruiser) to government. The accused was also ordered to sell the land acquired using the stolen money to compensate the victim.

Equity Bank Case; Uganda versus Serwamba where bank employees were involved in the embezzlement of USD 1,450,000 fraudulently withdrawn from customers' accounts. The accused persons invested the stolen funds in the purchase of land and luxury motor vehicles. The property was timely identified and frozen through restraining orders that were issued by court. The accused persons were eventually convicted and ordered to repay the stolen funds. The illicitly acquired properties were handed over to Equity Bank in partial settlement of the total funds stolen.

The MTN Case; Uganda versus John Paul Basabose & ors, where one of the accused persons pleaded guilty to theft of USD 3.8M from MTN (U) Ltd. He was ordered to pay back USD 215,000.

It suffices to note that the department undertook asset tracing investigations in the first three cases. A number of recoveries have also been made on behalf of numerous banks in Uganda, SACCOs and private companies.

Challenges to Asset Recovery in Uganda

Despite the above achievements, the department is hampered by the following challenges:

- Uganda's asset recovery regime is conviction based. Under the current legislation, crime proceeds can only be confiscated after conviction of an accused person. Resultantly, convicts utilise our protracted appeals process to delay recovery of proceeds of crime. Many cases with recovery orders have not been heard by the appellate courts leaving the department with restrained property for an extended and undetermined period of time.
- Asset recovery laws are scattered in different pieces of legislation. This means that there is no clear-cut process of conducting asset recovery.
- Cash economy which allows for non-documentation of acquisition of assets. This is further aggravated by the use of beneficial owners to conceal proceeds of crime, which in turn complicates asset tracing investigations.
- The increasing use of professionals especially lawyers and accountants, who

advise criminals on concealment of illicit gains. This was reflected in the Swedish Embassy Case.

- Convicts deliberately hide and refuse to hand over proceeds of crime even where court has made orders in respect of the proceeds.
- Lack of asset management regulations to guide in management of restrained or confiscated assets, especially where highly perishable commodities are involved. Coupled with this, is the lack of proper storage facilities for restrained assets especially highly depreciating assets like motor vehicles and highly perishable commodities like rice.
- Lack of valuation services to value assets before restraining and at disposal.
- Corruption. It is important to note that most offenders have resources to manipulate the system and ultimately frustrate the process of restraining and eventually confiscating their property and have done so in some cases.
- Suits that have been brought against the DPP by accused persons challenging the seizure of their illicit gains.
- Most investigations focus more on ingredients of offences ignoring asset recovery and yet it is important

that the investigations are parallel and should commence right from the onset of investigating the predicate offences.

- Objector proceedings especially when the property in respect of which an application for execution has been made is matrimonial property.
- Inadequate resources for carrying out Asset Recovery investigations.

In respect of the foregoing challenges, the following recommendations / best practices suffice. The department is already implementing some of the recommendations.

Recommendations

- Coordination and engagement with the appellate courts to ensure that cases which have recovery orders are fast tracked and fixed for hearing.
- Continued coordination with relevant stakeholders in the asset recovery process to ensure that investigations are timely and effective – Multi sectoral/multi agency approach.
- Prosecution-led investigations – ensuring that prosecutors are involved in asset recovery investigations at the earliest stage. This helps to ensure that prosecutors and investigators work closely and in a timely

manner to trace for assets and restrain them.

- Continued capacity building/training of prosecutors and investigators.
- Drafting legislation for non-conviction based asset recovery. The ODDP is currently involved in this process.
- Continued sensitisation of the public on their role in asset recovery.
- Most importantly, in order to ensure that the ODPP as a whole appreciates the importance of Asset Recovery in the fight against crime, the department has carried out a number of sensitisation workshops for all its officers in the country. This will further ensure that asset recovery cases are handled in a timely and efficient manner.

By Kwezi Asiimwe

ENHANCING KEY STAKEHOLDERS KNOWLEDGE AND SKILLS IN ASSET RECOVERY

By Irene Nakimbugwe

In December 2020, with support from the Justice Law and Order Sector (JLOS), the Office of the Director of Public Prosecutions through its International Cooperation and Asset Recovery Department, headed by Senior Asst. DPP, John Baptist Asiimwe carried out several outreach programs. The outreach programme targeted the Resident District Commissioner (RDC)s, Chief Accounting Officer (CAO)s, District Internal Security Officer (DISO)s and their deputies among others, in the regions of Masaka, Mbarara, Jinja, Gulu and Kampala.

A coordination workshop on asset recovery was also held with various stakeholders at Hotel Africana. Participation was drawn from Bank of Uganda (BOU), Uganda Law Reform Commission (ULRC), Ministry of Foreign Affairs (MoFA), Ministry of Justice and Constitutional Affairs (MoJCA), Chieftaincy of Military Intelligence(CMI), Uganda Revenue Authority (URA), Uganda Police Force (UPF), Financial Intelligence Authority (FIA),

), Inspectorate of Government(IG), Uganda People's Defense Forces (UPDF), Uganda Wild Life Authority (UWA), Directorate of Ethics and Integrity (DEI), Uganda Registration Services Bureau (URSB), National Social Security Fund (NSSF) among others.

The objectives of the programme were;

- To sensitize the participants on what Asset Recovery is and its importance in the fight against crime.
- To sensitize the participants on their role in Asset Recovery proceedings.
- To sensitize the participants on how to coordinate and cooperate with the law.

Apart from strengthening coordination and communication between the different stakeholders, the meeting delved into the importance of asset recovery in Uganda.

Prosecution of crimes is one of the ways of fighting criminality and ensuring that people live in a peaceful and a secure environment. Criminals should be deprived of the proceeds of crime, victims of crime should be compensated for what they lost and the government should be able to recover what it lost as a result of crime. This is why asset recovery is very important.

Unfortunately, asset recovery is a new phenomenon in Uganda to both the law enforcement officers and the public at large and yet the public has an important role to play in the recovery of the proceeds of crime.

Importance of Asset Recovery

- The primary aim of asset recovery is to deprive the offenders/or their beneficiaries of the proceeds of their crimes and any related profit (taking the benefit out of crime). When proceeds of crime are recovered, criminals are deprived of the benefits and profits of crime in addition to being punished; it makes the commission of crime worthless and risky.
- When the victims of crime are compensated, it increases public confidence in the judicial process.
- Accountability and legitimacy.
- Social and political stability which ultimately leads to economic growth and development. In addition, when stolen assets are recovered, they are used to fund public sector development.
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- It reduces impunity and promotes rule of law as criminals will be denied safe haven wherever they go.
- It enhances international cooperation between countries.

It should be noted that asset recovery is not only for corruption cases. It covers all kinds of criminal offences from which the offender has obtained benefit.

In Uganda, asset recovery is undertaken by different agencies because of different legislations giving them the mandate and the ODPP is one of them. These include IGG, FIA, URA, UWA, UPF among others.



THE NATIONAL ANTI-CORRUPTION CONFERENCE, 2020

By Nicholas Kawooya

The National Anti-Corruption Conference, 2020 was held physically and virtually on 9th December 2020 to commemorate the International Anti-Corruption Day. The conference was held by the Inspectorate of Government (IG) in collaboration with the Office of the Director of Public Prosecutions (ODPP), Office of the Auditor General (OAG), Public Procurement and Disposal of Public Assets Authority (PPDA), Directorate of Ethics and Integrity (DEI), Justice, Law and Order Sector (JLOS), Criminal Investigations Directorate (CID) and the State House Anti-Corruption Unit (SHACU) with the support of GIZ. The theme of the Conference was “Promoting Social Accountability through active Citizenry.” The Conference brought together Heads of Anti-Corruption Agencies, select Government Officials, Religious and Faith Leaders, Media Practitioners, Civil Society Organisations, Development Partners and the Public to reflect on the fight against corruption and discuss appropriate interventions.

Each Anti-corruption Agency had an opportunity of presenting its Anti-Corruption achievements in the past two years.

The Director of Public Prosecutions (DPP), Justice Jane Frances Abodo stressed the constitutional mandate of the ODPP; to prosecute all crimes including corruption. The DPP went on to highlight the actions undertaken by the institution in the fight against corruption including the following:

- A specialized fraud unit was originally set up which has morphed into the Anti-Corruption Department sitting at the Anti-Corruption Court solely prosecuting corruption related and money laundering cases.
- A Complaints Desk manned by a Principal Senior Assistant DPP receives complaints against officers that engage in corrupt practices such as refusal to tender in withdrawals.
- The institution has Regional Offices headed by Assistant DPPs; a commitment to take services closer to the citizens and engage them.
- The ODPP has a Directorate of Inspections, Quality Assurance, Research and Training headed by a Deputy DPP whose remit is to ensure quality control in the prosecution of cases and

handle any officers who may intentionally or unintentionally error in their actions in exercise of their duties.

The Office also has a Public Relations Office which deals with the sensitization of the citizenry about ODPP related activities.

- There is a Victims/Witness Protection Program which the Office utilizes to protect witnesses in sensitive cases. In corruption cases, the accused are usually well connected and pose a threat to witnesses. The whistleblower aspect is also promoted under this program. Witnesses are vital to prosecution as the same would fail without them.
- A Cybercrime Unit has also been formed to combat and keep in stride with the technological growth of corruption.
- A Rewards and Sanctions Committee is in place to implement conviction related sanctions such as loss of public office. In the past many public officials would be interdicted and later turn up in other government departments. The committee is tasked with following up on

these sanctions upon conviction and making sure the affected officers vacate office.

- The ODPP has intensified the use of prosecution-led investigations which have culminated in several convictions in court. Some of these cases include the Pension Case, Uganda vs Basabose among others.

The Anti-Corruption Department has achieved a conviction rate of 72% with 128 cases handled. The corruption cases on appeal have also been successfully defended for example the Kashaka Case, Pension Case, Magombe Joshua and others.

The DPP concluded by stating that the fight against corruption can only succeed with coordination between and amongst the Anti-Corruption Agencies and the citizenry because the corrupt are very connected.

A Pastoral Letter to Enhance Voice and Action on Integrity and Ethical Conduct in the Fight against Corruption in Uganda was launched by the Inter Religious Council of Uganda (IRCU).



DPP, Justice Jane Frances Abodo speaking at the Anti-Corruption Conference, 2020.



Inspector General of Government speaking at the Anti-Corruption Conference, 2020.



Heads of Anti-Corruption Agencies answering questions during the panel discussion at the conference.

MAINSTREAMING GENDER AND CHILD-RELATED CASES IN THE ODPD

MANAGEMENT OF FORENSIC EVIDENCE IN SGBV CASES

By Emily Mutuzo and Samali Wakooli



Dr. Edmond Locard (1877-1966), a pioneer in the use of forensic scientific evidence, in his Exchange Principle, posited that “every contact leaves a trace”. In this regard, crime scenes usually contain material that is vital to the successful outcome of a case. Hence the manner in which a crime scene is managed will affect the quality, quantity and integrity of the material gathered.

One of the major challenges that prosecution suffers in the prosecution of Sexual Gender Based Violence (SGBV) cases is failure by the police to retrieve DNA samples or to submit DNA samples for forensic analysis, when retrieved.

In a bid to improve on the quality of evidence gathered from the crime scene to ensure that it supports successful prosecution, the Office of the Director of Public Prosecutions (ODPP) through its Department of Gender Children and Sexual Offences, conducted a training for Scenes of Crime Officers (SOCO) on handling of forensic evidence in SGBV cases. A training workshop was held at the Naguru Forensic Laboratories, for a total of 41 participants drawn from divisions and stations within and around Kampala District.



Participants in the first training of scenes of crime officers, medical doctors and investigators.

Facilitators during this training workshop were from the ODPP, Uganda Police Force (UPF) and Centre for Domestic Violence Prevention (CEDOVIP) and they covered an array of core areas in forensics including; SGBV crime scene management, evidence collection techniques, evidence marking and labeling, evidence preservation and chain of custody, SGBV crime scene documentation, and finally, the role of forensics in management of SGBV cases.

At the end of the training, participants were taken through a practical session on visiting scenes of crime. The exercise entailed a number of activities including cordoning off scenes of crime, identifying fragile exhibits at scenes of crime (e.g. blood and other fluids, finger prints, shoe or foot mark impressions on surfaces), marking and labeling of exhibits, photographing exhibits and the entire scene, wrapping

and preserving exhibits, developing the photographs taken and finally a moot court session was held. The session included all justice actors right from the stage of visiting the scene of crime, involving prosecutors at the earliest stage of investigations (prosecution-led investigations), filling in police forms and presenting the evidence in court. It was meant to demonstrate what actually happens in SGBV proceedings with participants acting as judges, prosecutors, SOCOs, medical officers, assessors, court clerks, victims and accused persons. The activities were engaging and quite enriching for the participants.

From this practical session, lessons were picked including;

- Preservation of a crime scene is of paramount importance, if vital evidence is to be obtained to support successful prosecution of

a case. SOCOs do a lot of important work when they visit scenes of crime.

- SOCO's need to be equipped with the relevant tools and equipment to enable them conduct their tasks effectively.
- All prosecutors need to know how such fragile evidence is collected and preserved, so that they are able to identify what has not been properly done and to guide police on further inquiries if any.
- SOCOs should always take photos that are of evidential value to the prosecution case, not merely take anything found at the crime scene that is of no value at all to prosecution.

KNOWLEDGE AND SKILLS ENHANCEMENT IN THE PROSECUTION OF TRAFFICKING IN PERSONS CASES

By Tyler Dunman

The Trafficking in Persons (TIP) Division operates within the International Crimes Division (ICD) of the ODPP. The TIP Division headed by Assistant DPP Rachel Bikhole, handles both transnational and domestic trafficking in person's cases in the International Crimes Division of the High Court and provides support and guidance in TIP cases throughout all ODPP Regions and to police. The TIP Division operates in partnership with the Human Trafficking Institute's (HTI) team – Special Counsel to the DPP Tyler Dunman, Legal Programs Coordinator Lisa Churcher, and Victim Assistance Coordinator Joyce Nakato.

The TIP Division successfully concluded the year 2020 with regional prosecutor trainings, awareness events, and new case filings. In 2020, over 250 prosecutors received training in TIP identification and charging under the Prevention of Trafficking in Persons Act, 2009 (PTIP). The trainings were organized at the regional level and provided the participants with resources and information for more effective TIP prosecutions. Also, at each ODPP station, a TIP Focal Person was established to more



Special Counsel Tyler Dunman training the Top Management on charging TIP cases

effectively share TIP case information and data. These Focal Persons are tracking TIP cases and transferring the data to ODPP Headquarters for reporting to the DPP each month. Going forward, the TIP Focal persons will provide critical information to better understand the challenges and opportunities in prosecuting TIP cases throughout the country.

In 2020, the ODPP charged 202 TIP cases countrywide that included 283 defendants and 342 victims. Most of the victims were children (233) and most were female (235). About 75% of the cases were domestic cases of trafficking and the majority involved sexual exploitation. The most common charge filed was Aggravated Trafficking in Children under the PTIP

Act; Sections 3(1)(a) and 5(a). Many of these cases involved domestic sexual exploitation schemes involving minor female victims being forced into sexual exploitation at the hands of one or more traffickers. Other common cases included forced child marriage, child sacrifice, and localized forced labour cases. In 2020, the most TIP cases were filed in the Kampala Region (45) followed by Mbale Region (34) and Nakawa Region (34).

Although the TIP Division is seeing some successes in energizing and prosecuting TIP within the ODPP, there is still a lot of work to do. In 2021, the TIP Division team hopes to continue to collect and enhance the important TIP data. In cooperation with the TIP Focal Persons, it will be important to

successfully track all TIP cases to final disposition or conclusion. Through effective tracking of cases, we will start to more accurately identify the gaps and roadblocks to successful prosecution of TIP offences. Additionally, the TIP Division plans to engage in widespread police training to ensure that CID investigators are properly identifying, investigating, and charging TIP cases – both domestic and transnational – through a victim-centered process. Similarly, training for the judiciary is expected as we work to inform, train, and equip judicial officers with the resources they need to properly preside over TIP cases and interact with victims in a trauma informed way.

The TIP Division advises all prosecutors to keep in mind a few pointers: 1) Most TIP cases are domestic in nature and are happening within regions in one form or another; 2) TIP victims are highly traumatized and need immediate connection with trained service providers when possible; 3) Be proactive and engage your local CID investigators to get involved in TIP investigations as soon as possible; 4) Keep accurate records on the progression of any TIP cases filed at your station; and most importantly, 5) the TIP Division stands ready to assist all prosecutors in any way we can in these important cases.

Any prosecutor needing additional hard copy resources of the PTIP Act, Charging Manual, or other printed items should contact Rachael Bikhole on +256 794 332126 or Special Counsel Tyler Dunman on +256 770 904 043.



Top Management TIP trainees with the trainers.

INGREDIENTS OF TRAFFICKING IN PERSONS

Trafficking in persons is the crime of committing certain ACTS by certain MEANS for the purpose of EXPLOITATION. §3(1)(a) and §3(1)(b)

INGREDIENT	SECTION	WHAT SATISFIES THE INGREDIENTS?
ACT	§3(1)(a) & §3(1)(b) §3(1)(a) & §3(1)(b) §3(1)(a) & §3(1)(b) §3(1)(a) & §3(1)(b) §3(1)(a) & §3(1)(b) §3(1)(b) §3(1)(b) §3(1)(b) §3(1)(b)	Recruits Transports Transfers Harbours Receives Maintains Confines Hires Facilitates
MEANS	§3(1)(a) §3(1)(a) & §3(1)(b) §3(1)(a) & §3(1)(b) §3(1)(a) §3(1)(a) §3(1)(a) §3(1)(a) §3(1)(a)	Threat Force Other Forms of Coercion Abduction Fraud Deception Abuse of Power or Vulnerability Giving or Receiving Benefits
PURPOSE: EXPLOITATION	§3(1)(b) §3(1)(b) §3(1)(a) & §3(1)(b) §3(1)(a) & §3(1)(b) §3(1)(a) §3(1)(a) §3(1)(a) §3(1)(a) & §3(1)(b) §3(1)(a) & §3(1)(b) §3(1)(a) & §3(1)(b) §3(1)(a) & §3(1)(b) §3(1)(a) §3(1)(a) §3(1)(a)	Prostitution Pornography Sexual Exploitation Forced Labour Harmful Child Labour Use of Child in Armed Conflict Use of Person in Illegal Activities Slavery Involuntary Servitude Debt Bondage Forced or Child Marriage Human Sacrifice Removal of Organs for Sale or for Witchcraft or Harmful Rituals Other Forms of Exploitation

Prosecutorial Milestones Registered

LUWERO'S COBRA CONVICTED OF AGGRAVATED ROBBERY AND SENTENCED TO 50 YEARS IMPRISONMENT

By Jacquelyn Okui

The High Court of Uganda on 13th November 2020 convicted the famous Abdu Karim Senyimba alias Cobra of aggravated robbery and sentenced him to 50 years' imprisonment.

Abdu Karim Senyimba alias Cobra (convict) was the head and member of a self-styled gang christened B-13, that had terrorised parts of Luwero District for more than five years. He was indicted for aggravated robbery according to S. 285 and 286 (2) of the Penal Code Act, Cap 120.

It was alleged by the prosecution that Cobra and others still at large at around 2:00 am on the 31st day of May 2018 at Mabale in Luwero District robbed Jjombwe Medi of Ug. Shs 1,050,000/=, a T.V flat screen, two solar batteries, two Itel mobile phones, a set of hoofers, a pair of black shoes, two watches, and a Star Times decoder. During the said robbery Abdu Karim Senyimba alias Cobra, using a panga, inflicted

grievous injuries on the head and several other body parts of Jjombwe Medi (victim). He did this with the aid of other B-13 members still at large.

Prosecution comprising Ms. Beatrice Alok, Resident Chief State Attorney, Luwero and Ms. Najjuko Brenda, State Attorney led evidence of six witnesses including the victim, the medical officer who examined the victim, and Mr. Saulo Walugembe who identified the accused and tried to arrest him in vain.

Defence Counsel conceded that there was theft and that a dangerous weapon was used which occasioned grievous harm to the victim. Therefore, what remained in issue was the participation of the accused.

The trial court found that Cobra was properly identified committing the offence by the victim and Mr. Saulo Walugembe with the aid of torch light. The Hon. Judge Anna Bitature Mugenyi held that there were no significant unfavorable circumstances which could have negatively affected the ability of the witnesses to see and recognize the accused. She stated that the evidence of the witnesses on record was free from the possibility of mistake or error.

Having found that the prosecution had proved all the ingredients of aggravated robbery against Abdu Karim Senyimba alias Cobra beyond reasonable doubt, the Hon. Judge convicted Cobra and sentenced him to 50 years' imprisonment.

As indicated earlier, the convict was the head and member of a self-styled gang christened B-13, that had terrorised parts of Luwero District for more than five years.

Paragraph 5 of the Constitutional (Sentencing Guidelines for Courts of Judicature) Practice Directions, Legal Notice No. 8 of 2013, urges courts to pass sentences aimed at; deterring a person from committing an offence; to separate the offender from society where necessary, providing reparation for harm done to a victim or to the community, and promoting a sense of responsibility by the offender, acknowledging the harm done to the victim and the community.

The convict and his gang caused untold harm and suffering to the community of Luwero District. We applaud the prosecutors for the successful prosecution of this matter.

The Hon. Judge is also applauded for meeting a sentence of 50 years' imprisonment on the convict.

This will no doubt separate the offender from the society of Luwero, serve as a deterrent sentence to him and other would be offenders, including his gang, and also serve as proof of service of justice to the community of Luwero.

**MATHEW
KANYAMUNYU
ENTERS PLEA
BARGAIN
AGREEMENT WITH
THE STATE**

**By Emily Mutuzo &
Jacquelyn Okui**

Matthew Kanyamunyu Munyogoma and Cynthia Munywangari were indicted of murder of Akena Kenneth Watmon, which occurred on the 12th of November 2016 along Kampala-Jinja Highway near Malik Car Bond. The prosecution case was that on the night of 12th November 2016 while Matthew Kanyamunyu and Cynthia Munywangari were driving to their home in Luzira, their car and that of the deceased accidentally brushed against each other. This led to a confrontation that resulted into the shooting of the deceased by Matthew Kanyamunyu. The trial commenced in January 2020 and prosecution led 13 witnesses to prove its case.

During the trial, before the plea bargain, the issue of suspension of the main trial in order to participate in and undergo the mato oput reconciliation process arose.

Matthew Kanyamunyu made a formal application (Misc. Crim. App. No. 151 of 2020) to the court under Section 53 of the Trial on Indictments Act, and Rule 2 of The Judicature (Criminal Procedure) (Applications) Rules, seeking an order that the court adjourns or suspends the trial to enable him conclude a process of reconciliation initiated under the Acholi Traditional Justice Mechanism so as “to enable a more meaningful and judicious plea bargain to be undertaken.”

In determining this matter, court found that international, regional and domestic instruments provide for fair trial guarantees in criminal cases. Whereas article 126(2) (d) of The Constitution of the Republic of Uganda, 1995 requires courts to promote reconciliation between parties when adjudicating cases of a criminal nature, this has to be “subject to the law.” That in the instant case, asking court to defer to traditional justice mechanisms by advancing an argument largely premised on the court’s duty to uphold the values, norms and aspirations of the people in the administration of justice, the applicant sought to halt a trial that was at an

advanced stage, a trial that was governed by well-established substantive and procedural laws, in preference for a reconciliatory traditional justice mechanism that had no regulatory framework for ensuring that it complied with domestic, regional and international human rights standards relating to criminal trials.

Court went ahead to say that the applicant had not produced any empirical evidence of the reconciliatory potential of mato oput. It had not been demonstrated that the applicant had the leverage and that the persons in charge of the mato oput had skills and clout necessary to curb inclination to delay the process, when it arose. According to the court, the process was not regulated by any laws, rules or standard guidelines and thus lacked proper mechanisms for accountability. Deferring the continuation of the trial to such a process would occasion a miscarriage of justice.

On the aspect of plea bargaining as a justification for halting a criminal trial, the court held that plea bargaining was primarily instituted to decongest courts and

improve court efficiency, and had resulted in reduction of cases aged over three years. Regarding the timing of plea bargains, court relied on the case of *Inensiko Adams v. Uganda*, H.C. Criminal Appeal No. 004 of 2017, cited with approval in *Luwaga Suleman alias Katongole v. Uganda*, C.A. Criminal Appeal No. 858 of 2014, where it was stated that:

“...ideally plea bargaining should be at the time of plea taking to enable the state, the accused and defence agree on amending the charge sheet or indictment where necessary with the view of dropping some counts if they are multiple, reducing the charge to a minor and cognate offence, using accused as state witness or taking responsibility of the criminal conduct early enough etc. ... the court is obliged under the rules to embrace plea bargaining any time before sentence when either party before it expresses interest in the process unless it is intended to pervert the course of justice.”

That although the court should not presume that an application for adjournment is made with the design to deliberately delay the trial or on account of mala fides, however, a relatively belated application for adjournment in order to consider the possibility of

an election to plea bargain raises concerns of a possible abuse of the process by using it as a delaying tactic.

A delaying tactic is any reason or excuse given to intentionally prevent a trial from proceeding at an ideal pace. The usual purpose of delaying tactics is to postpone the resolution of the case or to confuse the court about the merits of the case, or trigger a reason for its eventual stay. Because delaying tactics are contrary to one of the goals of a trial (an expeditious resolution of the case), they tend to be perceived negatively. By prolonging the process, they increase costs and expenses and often the anxiety of all participants. When delaying tactics are used, there is usually little doubt of their occurrence.

Therefore, when stays are granted in cases involving allegations of serious criminal offences, such as murder, it shocks the conscience of the rightful thinking members of society. They represent a failure to properly prosecute crimes and thereby protect our society. The reputation of our criminal justice system is at stake. The right to an expeditious trial as guaranteed to all accused by article 28(1) of The Constitution of the Republic of Uganda, 1995 is of paramount

consideration for the court in balancing whether or not to proceed. Decisions that improperly or unjustifiably prolong the trial should be avoided. The court should be seen to strike a delicate balance of the rights of all parties, including those of accused persons, to a speedy and equitable trial, particularly in cases, as in the present one, where there is more than one accused person. In joint trials, each accused person is accorded the same rights as though he/she were being tried separately.

An adjournment of the nature proposed by the applicant would prejudice the co-accused who does not stand to benefit at all from that process, by exerting undue emotional and mental stress from having the charges hanging over her for so long.

In the circumstances court was not satisfied that the applicant's intention to plea bargain upon conclusion of the on-going process of mato oput, which was speculatively expected to be concluded before the end of December, 2020 in light of the inevitable indeterminate delay that would be occasioned by the adjournment or suspension sought was sufficient to outweigh the constitutional right of the accused to an expeditious trial. The application was accordingly dismissed.

Accordingly, Matthew Kanyamunyu opted to enter into a plea bargain with the Prosecution for a lesser offence of manslaughter. A term of imprisonment of 6 years was agreed upon by the parties including the victims (family of the deceased). In passing sentence, the High Court deducted the 11 months he spent on remand prior to him being granted bail in October 2017 and sentenced him to serve a term of imprisonment of 5 years and 1 month. Criminal proceedings against Cynthia Munwangari were discontinued.

This Office of the DPP applauds Mr. Jonathan Muwaganya, Chief State Attorney and Ms. Anna Kiiza, Chief State Attorney for dedicatedly and successfully prosecuting the high public interest matter.

A GLIMPSE INTO THE INTERNATIONAL CRIMES DEPARTMENT OF THE OFFICE OF THE DPP



**Mr. Lino Anguzu, Assistant DPP/Head,
International Crimes Department**

The War Crimes Division was established in the Office of the Director of Public Prosecutions (ODPP) in 2007 to handle international crimes. However, after the establishment of the International Crimes

Division of the High Court at Kololo in 2010, there was a restructuring process in the ODPP that morphed the division into the International Crimes Department (ICD).

The department which is currently under the stewardship of Mr. Lino Anguzu, Assistant DPP conducts prosecution-led investigations in respect of and prosecutes international crimes including crimes against humanity, war crimes, terrorism; transnational organized crimes including trafficking in persons, drug trafficking and piracy. It is also actively involved in conducting stakeholder engagements and outreach programmes relating to international crimes.

Within the department is the Trafficking in Persons Division, headed by Ms. Rachel Bikhole, Assistant DPP, which coordinates and handles trafficking in persons' cases.

Most of the cases investigated and prosecuted by the department are tried at the International Crimes Division (ICD) of the High

Court. This implies that such cases are first committed to the High Court through the ordinary committal proceedings.

The hearing of cases at the ICD of the High Court is governed by the High Court (International Crimes Division) Practice

Directions, 2011 and commences with a pre-trial by a single pre-trial judge. At this stage, the court conducts a pre-trial conference to streamline and verify issues of disclosure and witness and victims' protection measures where necessary. Disclosure may be full disclosure or subject to witness protective measures of redacted disclosure, delayed disclosure but prior to the witness testimony and disclosure to restricted or limited persons.

Witness and victims' protection measures are granted by the court after a party seeking for them has made an application to the court. The protection measures include proceeding in camera, video audio link, camouflage, use of pseudo names, redacted disclosure, delayed disclosure but prior to the witness testimony and disclosure to restricted or limited persons among others. The measures may be varied depending on the circumstances at the pre-trial hearing or before the trial panel.

The charges are then read to the accused but plea is not taken. If the accused has any objection or issue to the charge, it is raised and the same is dealt with. Any evidence or facts admitted by the parties are reduced in writing and admitted as evidence or exhibits by the court.

Both parties will make submissions on whether there are sufficient grounds to believe that the accused committed the offence(s) he or she is indicted for which is the evidential threshold required at this stage. Court will then make a ruling confirming or dismissing the indictment.

Where charges are confirmed, the pre-trial judge forwards the file to the trial panel of three judges or a trial judge for the hearing of the confirmed charges. The proceedings are the same as in any other High Court criminal trial save for where there are three judges and the participation of victims. Also, the ICD Rules of Procedure allow admissibility of hearsay evidence.

Where the proceedings end with a conviction and sentence of the accused, the court will have a proceeding for reparation of the victims (for their losses and suffering). This is strictly for the victims affected by the offence(s) the accused is convicted of.

Some of the ICD cases under prosecution include;

Thomas Kwoyelo: the case involves war crimes and crimes against humanity that he allegedly committed in Northern Uganda between 1994 and early 2000 when he was one of the LRA

Commandants. The case is at the stage of further hearing of the prosecution case before a panel of three judges and one alternate judge.

Jamil Mukulu and 37 others: the accused are under prosecution for terrorism, murder of the Muslim sheiks and police officers in Eastern Uganda between 2012 and 2014, aggravated robbery and belonging to a terrorist organisation. Jamil Mukulu and two others were arrested from Tanzania and extradited to Uganda for trial. The indictment was confirmed by the Pre-trial Court. The main trial is scheduled to take place in 2021.

King Charles Wesley Mumbere and 220 others: these accused persons are being prosecuted for terrorism, treason, murder, aggravated robbery among others during the Rwenzururu uprising between March and November 2016. The case is for pre-trial hearing.

It is important to note that victims are allowed to participate in ICD proceedings either directly or through their legal

representatives. An application is made to court and a ruling is made after deliberation. If allowed, victims' participation for the entire trial stages up to the conclusion of the trial.

Since most of the ICD cases are transnational in nature involving violent extremism, it is crucial to co-ordinate with the Department of International Cooperation and Asset Recovery for mutual legal assistance and assets tracing when handling the cases. The department also coordinates with the Witness Protection and Victims' Empowerment Department for purposes of witness protection. Sexual and Gender Based Violence (SGBV) in conflict situations is another important aspect in international crimes cases for which the ICD coordinates with the Department of Gender, Children and Sexual Offences as and when the need arises.

By Lillian Omara Alum & Jacquelyn Okui

PICTORIAL OF OTHER ODPP ACTIVITIES WITHIN THE QUARTER

Training Judicial Officers, Prosecutors, and Police (Investigation Officers) in Key skills for Communicating with and Prosecuting Children's Cases, 5th to 6th October 2020 at Hotel Triangle, Mbarara



This training was organized by the Office of the Director of Public Prosecutions (ODPP) in partnership with Freedom House and targeted judicial officers, prosecutors (ODPP staff) and police in charge of investigations. The training was aimed at improving their skills in interviewing child victims of crimes and other child witnesses, especially traumatized children in order to have successful prosecutions.

Skills Enhancement for Prosecutors and Other Justice Actors in Handling Cases of SGBV in a Victim Friendly Manner



Soroti Region participants



Fort Portal Region participants

Two trainings of district state attorneys, investigators, police doctors were conducted in Soroti and Kasese Regions. Soroti Region covers Amuria, Kotido, Moroto, Nakapiripiriti, Kumi, Soroti, Kaberamaido, Kabong, Karenga, and Amudat. Fort Portal Region covers the districts of Kabarole, Bundibugyo, Kyegegwa, kyenjojo, Kamwenge and Kasese.

The Trainings took place at Sandton Hotel in Kasese and Hussey Hotel in Soroti from 7th to 10th December. The participants pledged to be ambassadors of gender sensitivity.

Establishment of child-friendly rooms

Child-friendly rooms were established in Kabale Regional Office and Mukono Regional Office.



**Child-friendly room in
Kabale Regional Office**



**Child-friendly room in
Mukono Regional Office.**

COURTESY CALLS ON THE DPP

Courtesy call by the Executive Director of NITA-U and Director of Information Security

On 21st October 2020, the Executive Director of NITA-U, Mr. Hatwib Mugasa and the Director of Information Security, Mr. Arnold Mangeni paid a courtesy call on the DPP.



Courtesy call by members of the Human Trafficking Institute

On 24th November 2020, the DPP welcomed two new members; Lisa Churcher and Joyce Nakato to the Human Trafficking Institute's Uganda team.



Lisa Churcher, Rachel Bikhole-Head, Human Trafficking Division, DPP, Joseph Kyomuhendo (CSA) and Tyler Dunman-Special Counsel to the DPP from HTI.

Courtesy call by the Chief Executive Officer, FIDA

The CEO FIDA-Uganda, Ms. Lillian Adriko and the Head of the Legal Aid Clinic, Ms. Lydia Namuli paid a courtesy call on the DPP on 25th November 2020.



Courtesy call by the Dutch Ambassador

On 16th December 2020, the Dutch Ambassador in Uganda, Her Excellency Karin Boven paid a courtesy call on the DPP. They discussed several issues including improving the ICT status of the ODPP, and ensuring investigation into human rights violations.



Courtesy call by the EU Delegation

On 17th December 2020, the DPP hosted the EU delegation comprising the EU Ambassador, His Excellency Attilio Pacifici, the Irish Ambassador, His Excellency William Carlos, the German Ambassador, His Excellency Mathias Schauer and the Representative of Austria to Uganda, Dr. Roswitha Kremer. Among the issues discussed was access to justice, ensuring the observance of human rights and enhancing the use of ICT in the ODPP.







VISION

"A crime free society."

MISSION

"To handle and prosecute criminal cases in a just, effective and efficient manner."

GOAL

To handle and prosecute criminal cases in the whole country.

MANDATE

The constitutional mandate of the ODPP is to prosecute all criminal cases in any court in Uganda except the court martial, and to direct police to investigate information of a criminal nature.

OUR PARTNERS

