



ADMINISTRATOR GENERAL' DEPARTMENT'S PERFORMANCE REPORT PRESENTED AT THE REVIEW CONFERENCE FOR THE JLOS CASE BACKLOG QUICK WINS REDUCTION PROGRAMME, ON the 7th March 2011, AT IMPERIAL ROYALE HOTEL.

Introduction;

The Administrator General/Public Trustee is a department established by the Administrator General's Act Cap 157 and the Public Trustee Act Cap 161 to provide efficient, fair and expeditious machinery for the administration of estates of deceased persons in Uganda. It draws its mandate from Article 247 of the 1995 Ugandan Constitution as amended and the laws abovementioned.

At its inception in 1933, the department handled only a few cases for foreigners who lived in Uganda during the colonial regime. In the post independence era, the department increasingly handled estates of the indigenous people and soon took over estates that were previously administered by the Buganda Kingdom establishment before the abolition of kingdoms in 1966.

The cases reported to the department rapidly increased in the 1970's during the times of political turmoil as this introduced estates of missing persons. The HIV/AIDS scourge too, enormously contributed to the increase in the number of reported cases in the 1980's and 1990s. At the moment the total number of files in the department is approximately **96,023+**. Each file has on average 3 pending issues/cases that may involve; **ownership of properties, establishing who the beneficiaries are, and say, establishing the boundaries of the land**. All these cases emanating from one file may delay the process of dealing with the file and final closure of the same, thereby increasing both the workload and case backlog.

In the past the department gave no special priority to the issue of backlog basically due to limited staff strength, poor facilitation and inadequate funds. This remained the position for many years until 2007 when the department was incorporated in **JLOS SIP 11** under family justice. It was then that the problem of backlog was noted as a major challenge of the department just like the other institutions under the Justice Law and Order sector and, hence this initiative to reduce case backlog in JLOS institutions.

The department under this programme devised several strategies to fight case backlog. To date the department has cleared several cases as shall be highlighted below.

Definition of Case Backlog.

JLOS had no common definition of the term case backlog and therefore each institution had to grapple with defining it. The Sector, however agreed that all cases that were pending in any given institution for a period beyond two years constituted case backlog.

The department defined case backlog in terms of performance timelines set for particular activities. For instance in an activity like Administration of Estates by the Administrator General, where;

- Inventories and accounts were not filed within six Months from the date of the grant of letters of Administration, this qualified as case backlog.
- Estates not wound up within one year from the date of the grant of letters of Administration from court, constituted backlog.

The other activity was Issuance of certificates of no objection where;

- Applicants whose certificates of no objection have been rejected should be informed within 14 days from the date of lodging the application, and any application(s) beyond the prescribed time are considered back log.

- Certificates of no objection should be granted within 28 days from the time the application for the same is lodged with the department, all cases not handled within this time are backlog.

Areas of Backlog in the Dept.

The department identified two focus areas vital in the case backlog reduction programme and these were;

- a) Issuance of Certificates of No Objection to enable beneficiaries apply for Letters of Administration.
- b) Administration of estates by the Administrator General.

It was realized that the reason why the department had a growing case backlog were;

- **It was taking on many estates under its administration.**
- **It was unable to effectively administer some of the estates it was taking on, given its capacity and resources (both human and Capital).**
- **There were also delays in the issuance of certificates of no objection.**

The department then devised the strategies below;

Strategies to reduce Case backlog in the department

The department set timelines for the completion of cases as follows;

- All certificates of no objection are supposed to be issued within 28 days from the date of lodging the application for the same and the unsuccessful ones should be rejected within 14 days.
- Estates should be wound up within one year.
- All payments should be made within 7 days.

The department also came up with a policy of intensifying the issuance of Certificates of no Objection, while reducing the number of estates to be administered, in order to avoid accumulation of more case backlog. We resolved to take on estates only in exceptional circumstances.

The department embarked on the weeding of dead wood files. This exercise was intended to rid the department of inactive files in order to make it easy to locate active files. The exercise commenced in May 2010 and to date we have closed 6174 files, earmarked 413 estates for winding up, identified 34 files under Public Trustees, hence capturing 6621 files.

The department also resolved to windup estates especially those that had been in the department for a long time. However most of our files are still pending before court because of the “**new stringent court requirements**”. The Courts

have asked us to furnish family consents indicating that the beneficiaries agreed to the distribution and to the shares given to them! And that **the beneficiaries should in all cases be invited for a meeting and informed that the Administrator General intends to windup their estate!**

It should be appreciated that most of our earlier distributions were reached, not out of consent, but under the succession Act on intestate distributions. On the issue of contacting the beneficiaries, those who took properties many years back are not willing to incur expenses on this account, and the department has only one vehicle to use to visit most of these very many places, let alone knowing their present contacts!

None the less, the department raised this matter with the courts' representative in its User Committee meeting which took place on 4th March 2011, to discuss how best this issue can be resolved. We are yet to receive Court's response on the matter.

The Status of Case backlog Reduction in the department

Total number of files in the Department

- a) Head office – Kampala)92, 023files
- b) Mbarara Regional office..... 1, 879 files

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| c) Arua Regional Office | 125 files |
| d) Mbale Regional Office | 271 files |
| e) Gulu Regional office | 911 files |
| f) Succession Registry/ Land Division..... | <u>862 files</u> |

96, 071 files

Cases less than two years old 8, 539 files

87, 532 files

Files closed since adoption of the Case Backlog Reduction Programme in the department. (May 2010 to 23rd February, 2011)

Certificate of no objection issued..... 2, 281 files

Letters of Administration Renounced..... 55 files

Estates Wound up200

files(These

have been lodged before courts of law)

Total number of files closed (weeding..... 6174 files

The Backlog has reduced by..... 8710

files

Note: By the close of the financial year 2009/2010; we had issued 2240 certificates of no objection which reduced the backlog by that number. If we

add this to the total number of backlog reduced from May 2010 to date, it is approximately **10, 950 files/estates**.

Problems and Challenges faced

There are a number of challenges which favor the rise of case backlog and these are;

a) **Delays by clients;**

Many clients open up files and for one reason or another do not follow their applications within the stipulated time frame. There are always inordinate delays in getting the report from the Chief Administrative Officers (This is due to a number of factors as explained in the user committee meeting of 4/3/2011).

The Public is ignorant of the laid down Procedures of obtaining Certificates of no objection and have not been in position to meet their obligations on time in order to enable the department serve them expeditiously.

b) **Delays by officers;**

Whereas there are new changes, policies and approaches on how best the department can deal with case backlog, there have not been corresponding training to prepare staff for the new changes. This has caused a lot of resistance to changes being made in the department by some members of staff who have not appreciated why the office should not take on

management of estates. This in turn has negatively affected the speed of case backlog reduction in the department.

c) **Political Interference;**

There is a lot of political interference with undue regard to the law.

d) **Court Processes;**

- Court processes of compelling the Administrator General to take over estates where there are irreconcilable differences between beneficiaries, thereby dragging the department into cases whose particulars aren't known or those which take long to be resolved.
- Requirement that we file the individual consent of the beneficiaries that they received their shares as per entries in the final accounts.
- Requirement that AG be identified before issuance of letters of administration. (This is not provided for under the Administrator General's Act).

e) **Failure to Restructure the Department and /or make it autonomous;**

The department needs to be upgraded to a directorate level (or made autonomous like the **DPP** or **URSB**), if it is to fully realize its dreams of effective management of cases and reduction in case backlog.

With restructuring we hope to set up a Public Relations desk which will be in charge of speaking for the department and handling the many complaints that often interfere with work schedule and set timelines. Restructuring would also enable the department to create new posts, recruit more staff and establish an estate management unit to over see the estates' management functions.

f) **Difficulty in Winding up of Estates;**

Whereas several estates have been earmarked for winding up, we have since established that for all the old files we need to advertize and call the beneficiaries, take inventories of these estates before embarking on the winding up exercise. Some estates were not fully distributed; other files lack records, thereby making them difficult to windup.

The Winding up exercise is also expensive. It requires making inventories, advertising in the Newspapers and filing them in courts. The funding for this exercise is still insufficient and the disbursement is not timely.

g) **Inadequate funds;** There are inadequate funds to notify the clients on the progress of their applications. Several certificates of no objection remain in our offices for months before the clients come for them.

Administration of estates involve identification of beneficiaries, inspection of properties , making searches in land registries, distribution and transferring the

properties into the names of the beneficiaries. The department does not have sufficient funds to discharge the above obligations.

h) Ignorance of the Law on Succession Matters;

Both the elite and the illiterate are ignorant of the law of succession. Quite often the RDCs, local officials and the IGG have questioned the mandate of the Administrator General in several cases, there by delaying their dispensation.

i) Perceived and Actual Corruption;

The elaborate procedures, processes and systems are often construed to imply a corrupt system. Some clients who open files do not return to follow up their files due to stringent legal requirements and perceive these as corruption.

J) Obsolete Laws and Slow Reform Process

The statutes relating to Succession matters i.e. the Administrator General's Act, Administration of small estates Act, Public Trustee Act, Succession Act, Estates of Missing Persons Act and Estates of persons of unsound mind Act, are archaic and require amendments to cope with the modern practices. The reform process is still too slow. In **Law & Advocacy for Women in Uganda v Attorney General, Constitutional Petition no. 5 of 2006**, Section 27 and other important sections of the Succession Act, were nullified, leaving a vacuum on intestate distribution! **There is no law at the moment providing for distribution of property of an intestate.**

K) Succession Wrangles;

Wrangles between the family members normally delay distribution and winding up of estates. These cases are at times difficult to resolve and often end up in courts, hence delaying closure of the file.

L) Succession Registers;

These registers contain records of estates of Baganda who died before the abolition of Kingdoms in 1966 and had been administered by the then kabaka's government. Some of the land exist on paper but cannot be identified physically. There are also problems of succession certificates which are not recognized by Lands yet the department is mandated by **Statutory Instrument No. 150 of 1967** to issue to the beneficiaries under these estates.

m) Difficulty in detection of rightful persons;

Identification of the rightful beneficiaries is still difficult due to lack of National Identity Cards. Impersonations and fraudsters are rampant.

n) networking

Weak linkages with other bodies like Lands, Courts and the Police.

o) Computerization; Failure to embrace automation of the entire department affects fast tracking of files.

Recommendations for effective administration of the case backlog reduction programme.

- Strengthening linkages with other institutions like Police, land office, Court.
- Training of staff (in estate management, investigative skills, ADR, change management) to be able to solve family wrangles that delay distribution and winding up.
- Complete computerization of the department to ensure easy retrieval of information on files and tracking down the same.
- Field tours to neighboring countries or to Countries where this strategy has been successful to get ideas on their implementation.
- Push for faster law reform process.
- Awareness creation and civic education of the role and responsibilities of the department.
- Lobby for establishment of National identity card.
- Increased budget allocation and timely disbursement.
- Restructuring of the department or giving it autonomous status.

THANK YOU.