



**PRINCIPAL JUDGE'S REMARKS AT THE OCCASION OF
THE LAUNCH OF THE CONSTITUTION (SENTENCING
GUIDELINES OF COURTS OF JUDICATURE) (PRACTICE)
DIRECTIONS 2013 AT KABIRA COUNTRY CLUB,**

MONDAY 10TH JUNE, 2013

The RT HON SPEAKER OF Parliament;

My Lord the Hon the Chief Justice;

My lords the Justices & Judges of the Courts of judicature;

Commissioner General, Uganda Prisons Service

The Chairperson, and Staff of Uganda Law Reform Commission;

Your Worships;

Representatives of institutions constituting the Taskforce and JLOS
fraternity;

Members of the Diplomatic Corps

Representatives of the Civil Society

Ladies and Gentlemen;

On behalf of the Taskforce on developing sentencing guidelines and on my own behalf, let me take this opportunity to thank you for coming to grace this occasion.

I am happy that we have come to the end of this chapter which we started in August 2010.

The main objective of the taskforce was to develop sentencing guidelines for purposes of promoting uniform and consistent sentences.

Major concerns in this country have been that:

- *The sentencing process does not lead to justice for the victim, the accused and the public.*
- *Most sentences are open ended, unrealistic, inconsistent*

and left to the unguided discretion of court.

- *The public has no direct in-put / participation in Sentencing to allow court get the feeling of the community as regards the seriousness of the offence.*

From the research conducted over the years, the public appreciates the sentencing regime when:

- *The punishment fits the crime.*
- *The criminals get what they deserve, regardless of their station in life.*
- *Sentences deter potential criminals and people feel safer without the offenders amidst them.*

As regards taking the period spent in custody into account when passing sentence, prisoners advocated for court to be definite in its assessment. They felt the need to provide a law on calculation of sentences because some judicial officers have not been taking into account this constitutional requirement, and even when they do one cannot tell that they did so.

On the whole, we were given the task at a time when there was need to develop guidelines to ensure uniformity and consistency in sentencing. The guidelines were to highlight areas of weaknesses of judicial officers since they are human e.g. being prone to emotions when sentencing.

The general feeling was that the guidelines would also set parameters to minimize alleged gender bias by female judges e.g. in defilement cases.

In short, the end result was to be that a sentence passed should compare favourably with the offence committed regardless of where in Uganda one is at the time of sentence.

Disparity is of course inevitable because each case must be treated on its own merits. However, Sentencing should not depend on the mood of the judge. It should be based on some benchmarks not only known to all judicial officers but also to the consumers of the sentences.

We have tried our level best to meet the expectations of the various players in the justice system. It is our hope that henceforth we shall have sentences that are **humane, predictable, uniform** and effective.

We have done this through:

- *Allowing active participation of convicts, victims, public etc in the sentencing process.*
- *Promoting non-custodial sentences, as a departure from the culture of imprisonment even in non-deserving cases.*
- *Guidelines which are well structured, not too long, repetitive or verbose.*
- *Sentences that will be guided by starting points and sentence ranges.*
- *Sentences that will depend on well researched*

aggravating and mitigating factors long before the trial begins.

- *Sentences that will not be rushed but imposed after a reasonable 'cool off' period.*

We think that with the guidelines now in place:

- *Plea bargains will be encouraged*
- *Sentences will be published so that judicial officers who are able to use ICT can easily refer to them.*
- *Courts will be deducting the period spent on remand from the sentence considered appropriate after all the factors, mitigating and aggravating, have been taken into account.*
- *Suspects will be making informed decisions as to whether to plead guilty or not since sentences will henceforth be predictable in a manner similar to that of Dr. Murray in USA.*

In short we now think that sentencing will no longer pose a challenge to most judicial officers whose dilemma has always been:

- How to punish the offender
- How to protect the public
- How to reform and change an offender's behavior
- How to ensure an offender does something to make up for his/her crime
- How to reduce future criminal activity by the offender

I thank all persons who have given undivided attention in developing the guidelines especially:

- ✓ **The Hon. The Chief Justice who offered me the opportunity to chair the taskforce and chaired the Rules Committee.**
- ✓ **The members of the Rules Committee for their attention and resourcefulness.**
- ✓ **Members of the Taskforce for a task well accomplished.**
- ✓ **JLOS Secretariat & Danida for the logistical support.**
- ✓ **All of you invited guests for turning up to witness the launch.**

May God bless you all and bless the guidelines to serve the intended purpose.

JUSTICE YOROKAMU BAMWINE

PRINCIPAL JUDGE

10-06-2013