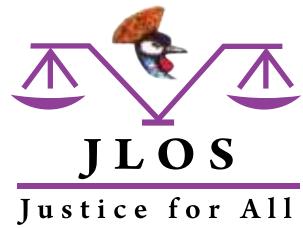
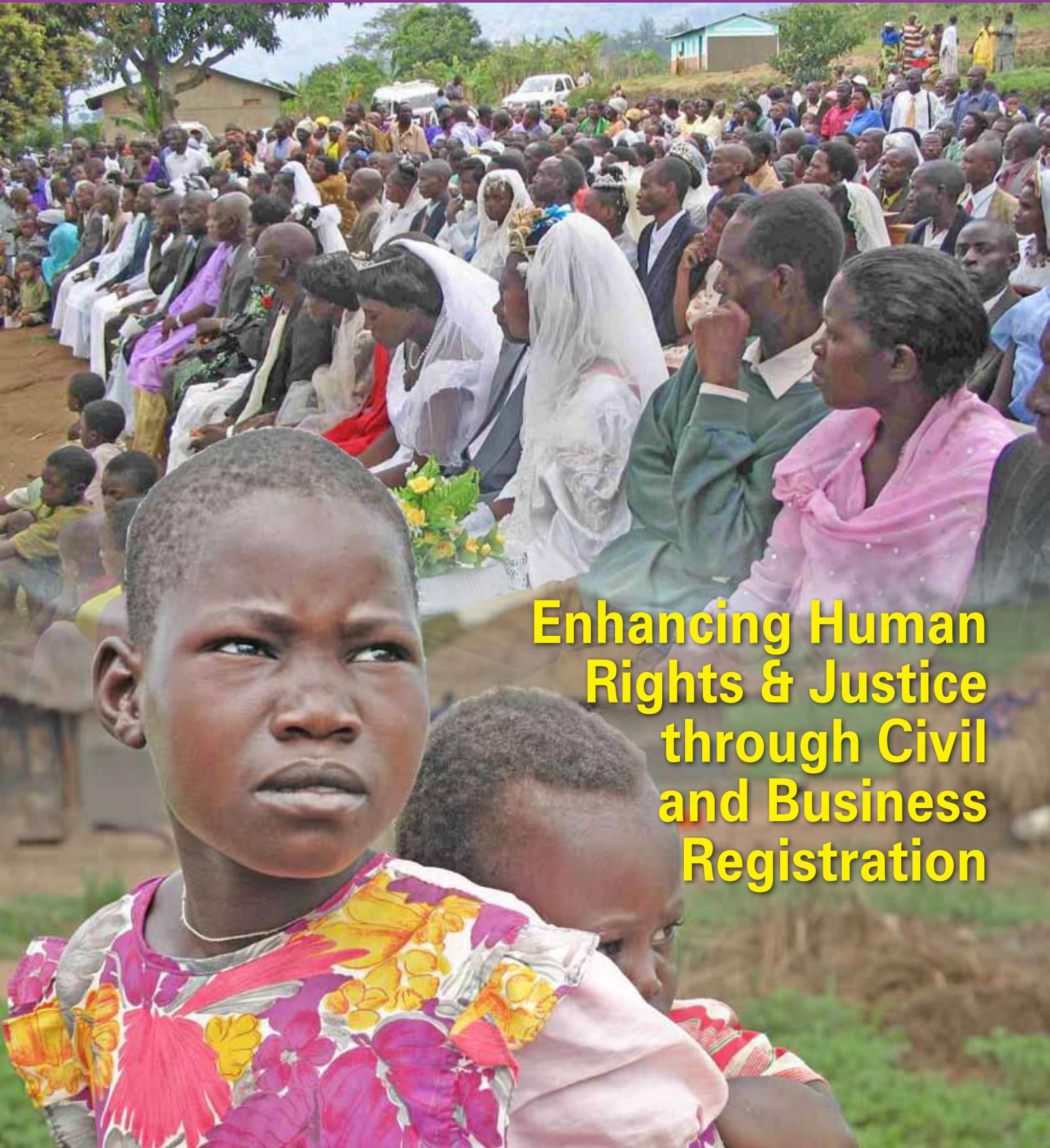




# THE JLOS BULLETIN



THE JLOS BULLETIN ISSUE 003, 2012



**Enhancing Human  
Rights & Justice  
through Civil  
and Business  
Registration**

## THE JLOS BULLETIN

is published by

Justice, Law and Order  
Sector Secretariat  
Plot 1, Parliament Avenue  
Level 4, Queens Chambers  
P. O. Box 7183, Kampala, Uganda  
Tel. +256(414)-253207  
Email: info@jlos.go.ug



### Editorial Board

**Mr. Michael Elubu**  
Judicial Service Commission

**Mr. Frank Baine Mayanja**  
Uganda Prisons Services

**Mr. Vicent Ssekate**  
Uganda Police Force

**Mr. Elias Kisawuzi**  
J Judiciary

**Mr. Gad Tumushabe**  
Uganda Law Reform Commission

**Ms. Jane Okuo Kajuga**  
Directorate of Public Prosecutions

**Mr. Vincent Katutsi**  
Uganda Registration Services Bureau

**Mr. Didas Bakunzi**  
Law Development Centre

**Ms. Florence Munyirwa**  
Uganda Human Rights Commission

**Mr. John Musede**  
Ministry of Local Government

**Ms. Peruth Nshemereirwe**  
Ministry of Justice and Constitutional Affairs

**Ms. Patricia Okumu-Ringa**  
TAT

**Ms. Eunice Kisembo**  
Ministry of Internal Affairs

**Mr. Paul Gadenya Wolimbwa**  
JLOS Secretariat

**Ms. Rachel Odoi-Musoke**  
JLOS Secretariat

**Mr. Sam Wairagala**  
JLOS Secretariat

**Mr. Edgar Kuhimbisa**  
JLOS Secretariat

**Ms. Rose Mary Kemigisha**  
Editor

**Mr. John Wagogo**  
Design & Layout

# Contents

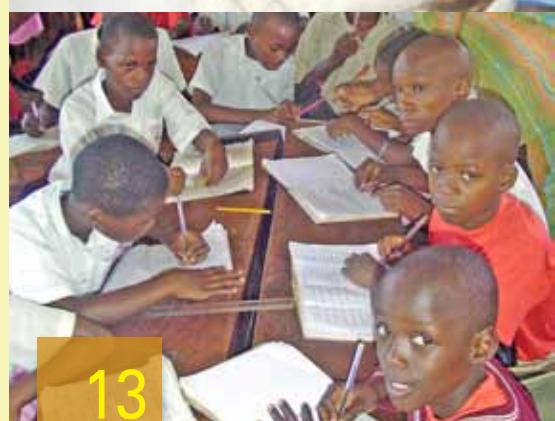
## THE JLOS BULLETIN ISSUE 002

### Inside this issue

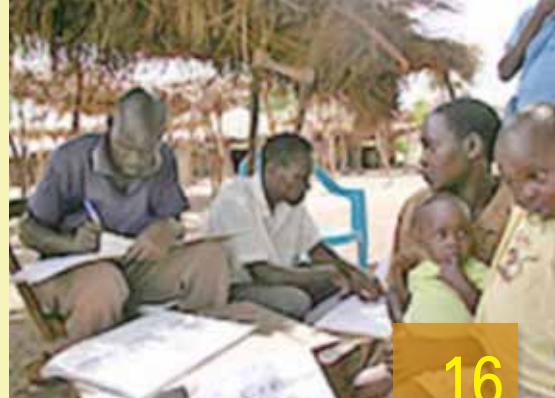
- 01 Word from the Hon. Minister of Justice & Constitutional Affairs
- 01 Editorial
- 02 **OVERVIEW:**  
The contribution of registrations to justice: Overview of business & civil registrations in Uganda
- 05 **INTERVIEW:**  
Registration records are vital for national planning & development – Registrar General
- 09 **ANALYSIS:**  
Civil registration as a human right with a big impact on other rights
- 15 **YOUR VOICE:**  
People's satisfaction or frustration with the registration services in Uganda
- 17 **LAW ENFORCEMENT:**  
Civil and business registration contributes to the resolution of crimes
- 20 **PERSPECTIVE:**  
Why marriage registration is vital
- 17 **NEWS:**  
Government urged to prioritise legal aid provision
- 24 Judicial colloquium on witness protection
- 24 JLOS develops sentencing guidelines
- 25 Enhancing Accountability & Deepening the Impact of JLOS Reforms  
JLOS Holds 16th Annual Review



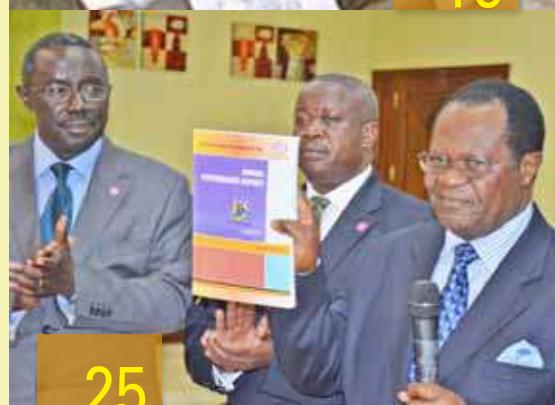
09



13



16



25

**Cover Pictures:** A young girl carries her sister. It is critical that such children are enabled to realise their right to be registered at birth. A mass wedding of 150 couples in Kasese, South Rwenzori Diocese in 2006. Marriage registration is critical for human rights.

## **WORD FROM THE HON. MINISTER OF JUSTICE AND CONSTITUTIONAL AFFAIRS**

### **Dear Readers,**

It is with pleasure that the Justice Law and Order Sector presents the JLOS Bulletin Issue No. 3. The theme of this issue is 'Civil and business registration'. The theme is examined with special emphasis on the role of civil and business registration in the delivery of justice and enhancement of human rights in Uganda.

Every day we contract marriages, children are born, people die and for the business sector; companies are registered daily and as you read this bulletin, somebody somewhere is seeking for a loan from a financial institution. Yet very few of us ever register simple issues like children and yet registration of persons and business is so central to our daily life that it determines how resources are allocated. For a bank, it is most likely to extend a loan to registered company as opposed to an individual. Hence, registration of businesses can be a gateway to self-fulfilment of an individual.

Because registrations carry entitlements with them, they are in themselves human rights and can be used as a tool to facilitate and enhance access to justice and the realisation of other rights. As the Bulletin comprehensively explains, the fulfilment or violation of civil registrations requirements can have very long term, even life-long implications for people, most especially related to their identity and ability to live in dignity as human beings should.

The Government of Uganda has shown its commitment to the observance of human rights and the effective delivery of justice by among others, signing and ratifying several international and regional instruments that provide for this. Not only did government make a commitment in the 1995 Constitution of Uganda to uphold human rights but it also put in place the

requisite policy, legal and institutional framework for their realisation.

These efforts by government will come to nothing if the intended beneficiaries: the people of Uganda do not meet their part of the bargain and fulfil their duties and responsibilities. It is the responsibility of parents to take advantage of the existing frameworks to register their children at birth, as the first guarantee of identity and subsequent enjoyment of many other rights. Marriages ought to be registered because in death or dissolution, confer protection and benefits to the parties and children. Similarly, members of the public have a duty to register their businesses to access the benefits of commerce, legal protection of their rights and expansion of the tax base.

I challenge you to pay keen interest to not only the government obligations in ensuring that civil and business registration result in enhancing the realisation of human rights for all, but also the duties and responsibilities the rights holders have to fulfil in order to enjoy the rights. Together we can then try to tackle the associated challenges each from their own level of accountability.

Let us make civil and business registration accessible and a reachable goal as one way of guaranteeing a stable future for all the people in Uganda.

Major. Gen. Kanhinda Otafire (MP)

**MINISTER OF JUSTICE AND CONSTITUTIONAL AFFAIRS AND  
MEMBER OF THE JLOS LEADERSHIP COMMITTEE**

## **Registrations should be regarded as justice issues**

It is easy to consider registration of births, deaths, marriages, adoptions, companies, businesses as legal requirements that are an end in themselves. Very often, the connection with human rights and justice is not made either because of lack of awareness or perhaps it is just disregarded by duty bearers as well as the rights holders. The implications of civil registrations, particularly birth registration to a citizen at birth and throughout their lives cannot be overemphasised. The lack of birth registration can cause injustices and serious risks to several other human rights for an individual.

The state has an obligation to ensure that every child is registered and to create awareness and mobilise parents or caregivers to ensure that their children are registered. The establishment of the Uganda Registration Services Bureau (URSB) is a welcome step in the right direction. The favourable legal framework and the greater autonomy that the URSB now has should be lauded as a commitment of the government to elevate civil and business registration to a greater level than before.

## **From the Editor**

However, government needs to do much more to ensure that the current institutional framework for registration delivers results; which should be the realisation of the right to be registered thereby ensuring other attendant rights. The URSB is dogged by a number of challenges; mainly inadequate awareness of the critical

importance of registrations. The Bureau should be well facilitated to campaign for this right and to make Ugandans understand it as a justice and human rights issue. The Bureau should also be supported to be fully automated to expedite processes and retrieval of data and to spread out to be accessible at least to the district level.

Rights holders also need to be sensitised to appreciate their part of the bargain – their obligation to register their children. Campaign efforts should be stepped up to help people understand the advantages of registering their children as well as the serious implications of not doing so. Policy makers and implementers should project registration issues as justice and human rights issues so that they can be duly prioritised.

# The contribution of registrations to justice: Overview of business & civil registrations in Uganda

Registration is part and parcel of the everyday life of people in Uganda and it comes in different forms. At a basic level, people are required to register at different offices and institutions like hospitals, schools among others, for purposes of maintaining a record. However, at other levels the purpose takes on a more complex and long term implication, for example, national registrations for identification, planning, elections, businesses etc. Below is an overview of business and civil registration and its importance to the attainment of justice, the rule of law and order which, in effect, contributes to constitutionalism in Uganda.

Civil registration has been defined as the system by which a government records the vital events of its citizens and residents. The primary purpose of civil registration is to create legal documents that are used to guarantee and protect the human rights of individuals. A secondary purpose is to create a data source for the compilation of vital statistics that are useful for instance in informing the national planning process as well as service delivery.

According to the United Nations, civil registration is “the continuous, permanent, compulsory and universal recording of the occurrence and characteristics of vital events pertaining to the population as provided through decree or regulation in accordance with the legal requirements of a country. The primary purpose of civil registration is to establish the legally required documentation as well as being a main source of vital statistics”.

Vital events that are typically recorded include births, deaths, adoptions, marriages among others. The legal documents that are derived from civil registration are birth certificates, death certificates, and marriage certificates.

On the other hand, business registration entails the recording of entities that are authorised to do business. The registered entities acquire legal documents needed to operate businesses. Business registration is important because it establishes the business function of the entity, in the process creating a basic structure for operating legal business; regulates business practices; helps in tax administration; establishes proprietary information thus protecting the individual(s) operating and

owning the business. It is also important as it allows members of the public to know and establish easily the people they are doing business with.

Typical business registrations in Uganda include registering business names, companies, debentures, documents and chattels transfer. It also involves processing the liquidation of companies and bankruptcy matters. Intellectual property registration on the other hand includes patents, utility models and industrial designs, trademarks and servicemarks, copyright and neighbouring rights.

Each country has its specific requirements, institutions and processes for civil and business registration services. In Uganda, this function lies with the Uganda Registration Services Bureau (URSB) which is an autonomous statutory body established in 1998. The Bureau was created to take over the functions previously handled by the Registrar General's Office under the Ministry of Justice and Constitutional Affairs. The URSB was granted its self-accounting status in July, 2010. The Bureau is managed by the Registrar General under the direction of a Board of Directors.

According to the then Ag. Registrar General Mr. Kyomuhendo Biserek, the URSB contributes to two focus areas of the Justice Law and Order Sector, namely, commercial and family justice. He explained that the URSB contribution to commercial justice involves registration of companies, business enterprises, documents and intellectual property rights. To family justice, the Bureau contributes through registration of vital events in life, like births, deaths, marriages and



Businesses like these need to be registered so that owners can enjoy their rights while fulfilling their duties

adoptions. He said the certificates issued for civil registration contribute to protection of the family and individuals while those of business registration enable people conduct commercial transactions to conclude their contracts and market their products. Through these registrations the URSB also collects Non Tax Revenue for the government treasury.

Explaining how the different kinds of registrations would be important to an individual Ugandan as well as the country, the then Ag. Registrar General said the business registration records are important evidence of transactions and they give rights to the owners and obligations to contribute to the tax revenue. “The registration documents are important as evidence in times of dispute; conflicts before tribunals like in the judiciary; before investigative institutions like the Police Criminal Investigations Department, the Inspectorate of Government or the Auditor General”, he said. They are also critical for banks when trying to verify who is responsible for what in a commercial transaction or if it is for processing services like loans. The records are also critical in law enforcement in providing reliable evidence in court when a crime has been committed.

Civil registrations enable persons to acquire identity as every person born is entitled to in accordance with human rights standards spelt out in the International Convention on the Rights of the Child; the African Charter on Human and Peoples Rights; the International Covenant on Economic, Social and Cultural Rights among others. “A person must have a belonging and the first document is the birth certificate. This indicates the parents, where one is born, has implications on one’s citizenship and rights to parentage and lineage. That statistic is vital for national planning for the country to know how many people are born, at what rate they are born and what their health status is. If one wants to get national documents like the national identity card or a passport, the birth certificate is demanded to certify one’s identity and background”, explained Mr. Bisereko.

The marriage certificate gives the legal foundation for the family whereby in case of any eventuality the rights of the parties can be verified. When it comes to inheritance and divorce the rights of those who entered into contract as well as the children in the family can be secured.

He explained that adoptions though are granted by courts of law and the URSB only registers the adoption orders.

“When a child is adopted it means acquiring new parents. This record impacts on inheritance, citizenship, lineage and identity of the child so it should be properly recorded. Adoptions are recorded because it is also necessary to harmonise them with the birth registrations”, the then Ag. Registrar General explained.

Death registration is vital to have a record for national statistics, for health reasons like in the case of an epidemic to help in determining the health response. It is also important for purposes of inheritance to document when one person ceased to exist and when another took over. Death registration is vital to avoid fraud whereby people may fake their own or others' deaths; or after committing crimes in one place may acquire new identities elsewhere. For these reasons, it is therefore important that governments ensure complete coverage, accuracy and timeliness of civil registration in order to get quality essential vital statistics. This is why computerisation and automation of the Bureau is considered very critical to enable quick and easy storage and retrieval of registration data. The URSB believes its mission would be achieved through an effective records management system.

The registration situation has greatly improved with the Bureau since its establishment although there are still some challenges. The JLOS progress report for the period 2010/11 showed the attempts by government to revitalise the registration function. According to the report, the URSB standardised registration documents, printed posters and procured software to facilitate public information dissemination. The Bureau is in the process of developing a draft National Policy on Births and

Death Registration and has proposed amendments to the Birth and Death Registration Act.

Mass registration of births was piloted in 6 sub-counties covering by June 2011 a total of 140,817 people. In the same period the bureau registered through its routine procedures an additional 32,001 births, 2,877 deaths, 3,996 marriages and 23 adoptions against an annual target of 40,000 births; 2,000 deaths; 600 marriages and 50 adoptions.

...it is therefore important that governments ensure complete coverage, accuracy and timeliness of civil registration in order to get quality essential vital statistics. This is why computerisation and automation of the URSB is considered very critical to enable quick and easy storage and retrieval of registration data.

lead times for conducting searches to fewer than 30 minutes, the registration of documents within less than 24 hours and registration of companies within a day. The bureau is currently understudying the possibility of providing service on line. The URSB was also able to contribute Ug. Shs. 2.479 billion out of the Ug. Shs. 48 billion collected by JLOS as non-tax revenue for government.

Nevertheless, some challenges still remain especially on reducing the time it takes to start or close down a business. The Bureau is targeting to reduce the stages one goes through to start a business from the current 17 to 10 as well as simplifying and reducing the time it takes to close a business. Furthermore, improvement is needed in ensuring automation of services and fighting corruption in government institutions to further strengthen Uganda's competitiveness by reducing transaction costs ■

# Registration records are vital for national planning & development – Ag. Registrar General

**The Uganda Registration Services Bureau (URSB) is a critical institution in the Justice Law and Order Sector contributing directly to the sector's contribution to economic development and indirectly to the other sector results through its civil and business registration. The head of the URSB the Registrar General then Mr. Kyomuhendo Bisereko (pictured) granted an interview to the editor of the JLOS bulletin in which he discusses the relevance of registrations to the attainment of the JLOS investment results. Below are the excerpts.**

## **Why was the URSB created? What kind of situation necessitated its creation?**

The URSB was created as a result of the Public Service Reform Programme where consultants recommended that the functions of URSB were not a core mandate of the Ministry of Justice and Constitutional Affairs (MoJCA) where they were but were a service delivery function. At the same time, the institutional framework of Public Service did not provide opportunities necessary for improvement of service delivery and was not responsive to public and private sector development. To facilitate private sector development required customer care, motivated staff and quick services. Civil registration covers the whole country but in terms of management and funding the opportunities available to MoJCA to do the work was not forthcoming. Autonomous status would give the Bureau the leeway to employ other multi-skilled people other than lawyers like statisticians, Information Technology professionals and social workers. The creation of the URSB was meant to create that flexibility in human resource recruitment and ability to raise funds and change terms and conditions of service to improve service delivery. The URSB was created by the Uganda Registration Services Bureau Act of 1998 CAP 210 as an autonomous self-accounting body. We are supposed to be at the regional level to improve access to our services.



## **How accessible is your institution and your services countrywide?**

We have a national office in Kampala which handles the final registration for business and final certification for civil registrations. Civil registrations are decentralised to the district level, the town council and the sub county; and for marriages to the licensed places of worship. Births and deaths are registered first at the place of occurrence after which the registrars send returns on a monthly basis to the central office here so that the long certificates can be issued. At the hospitals one can get the short certificate with limited data because some information like names may not yet be readily available.

However, all business registration is done centrally.

### **How do you make Ugandans know about your services?**

It is still a challenge. Many people only get to know our services when they are required to register for some specific purpose. A business person goes to the district and wants to put in a tender or wants to get a loan and they are told that they must be registered. That is when they come to us, and because of the monopoly we have they get a bit frustrated. They come to us not because they know about us or that we have sensitised them but because we are a monopoly and they must register.

Nevertheless, we have public awareness programmes which we implement through talk shows on radio and TVs, newspaper supplements, workshops and seminars and technical missions to the districts especially for civil registration. We also have a website from which people can access information.

### **What are you doing to ensure that people embrace your campaign of registrations?**

We are pushing to create awareness, create enough internal capacity, sensitise and train other duty bearers like the town councils, counties, sub counties, hospitals who many times claim ignorance. We are supposed to print and provide them with the registration materials to use so they use it as an excuse when we haven't provided. The registration materials are printed centrally to ensure quality control, standardisation and proper serialisation. Even where we have taken the materials the officials generally do not register and the demand side, for example the parents do not go there to register until there is demand for a certificate for a specific purpose. Registration of birth and death is compulsory by law. However, there seems to be some impunity where people do not want to fulfil their obligations to register births and deaths.

### **The bulk of your business is based on records management. To what extent has the URSB automated its services?**

We have seriously started on automation but it is a big, long-term process which

requires investment. With regard to business registration we started in 1998 with support from USAID. We have computerised the databases of company and business names, trademarks, births and deaths, marriages. However the volume of work is so big since we have no official staff who are professionals in IT. We are using volunteer IT staff who are paid only allowances from JLOS. Now we are able to establish whether a business is registered or not and we can avoid allocating similar names. We do not have to go through the paper files anymore. Our clients can search this information if they are subscribed or pay a search fee and we are going online.

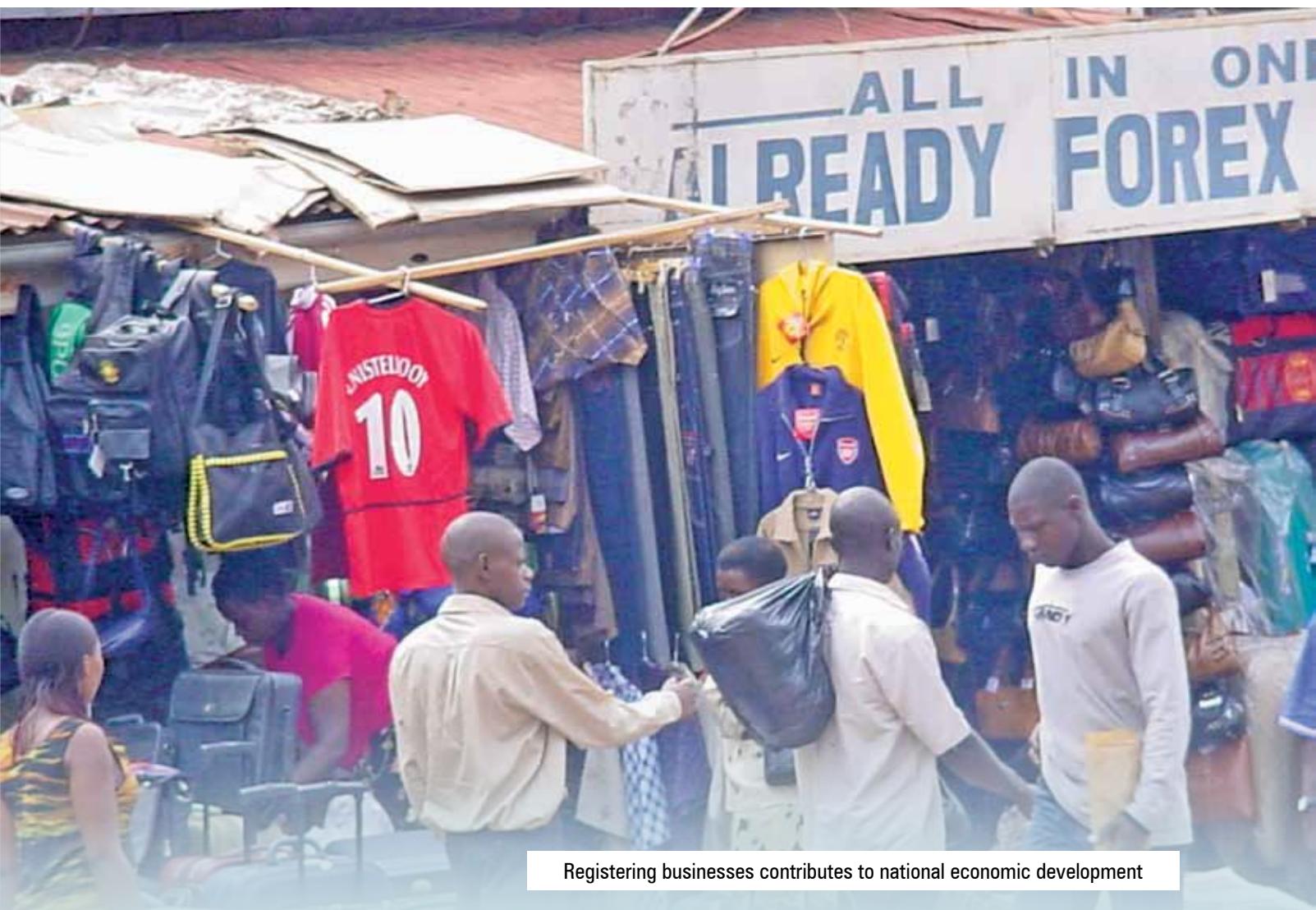
For other registrations particularly the trademarks, we got support from the World Intellectual Property Organisation and we have software that is functional for trademarks. We have finished a needs assessment on information on the patents register.

We have developed software for civil registrations and currently we are entering the manual data we have. We have rolled out this to other districts to which we provided computers and the software and they are now capturing data from the sub counties. However, data entry clerks are not available as they are not part of the district establishment, but where UNICEF supports districts they have supported the employment of a data entry clerk.

We have developed a mobile vital registration system with Uganda Telecom where we have new software we are using with mobile phones whereby any birth or death will be reported immediately. We launched this in Mulago Hospital and we have trained data entry clerks.

### **How is Uganda faring in performance based on international standards and practices on registrations?**

In the latest World Bank Doing Business Index, Uganda was ranked poor and we have been dropping. Other countries have restructured and automated their systems, but here we have not fully automated for someone to do business online.



Registering businesses contributes to national economic development

### **What contribution does URSB make to the achievements of the JLOS objectives?**

We contribute directly to the Key Result Area of enhancing JLOS contribution to economic development. We also contribute indirectly to the other result areas and priority focus areas. Registration records are the source of vital statistics for national planning and development and for realisation of human rights. Last Financial year, we collected and remitted Ug. Shs. 5bn as non-tax revenue to the National Treasury. Our records have been vital for the investigative institutions like the CID, DPP as they are credible data for them to secure successful investigations and prosecutions. On juvenile justice, we have enhanced birth and adoption registration. We have to verify the adoption orders we get from the courts and in so doing we are minimising forgeries and contributing to the fight against human trafficking. In fact embassies seek

verification from the Bureau in order to clear the immigration of adopted children.

### **We are progressing towards the East African Community (EAC); what are the implications of this to the URSB?**

With regard to the commercial justice area, the EAC has adopted the Common Market Protocol which provides for the free movement of persons across the region where one only needs a national identity card to move from one county to another. The URSB becomes very important. We have to work with the Ministry of Internal Affairs to increase our capacity to have people get birth certificates so that they can get national identity cards. Businesses and professionals can register in another partner state on the same footing. Many East Africans are going to register businesses here. We have the obligation to amend the laws to harmonise where there was discrimination between nationals and aliens. The volume

of work will increase and we need a quick mechanism of cross-checking. The minimum standard of identification is that it should be machine-readable to be easily verifiable at border points.

### **What are the general challenges you face as an institution?**

We have a lot of revenue collection but the system is still wanting. Customer care is still wanting. There are so many processes to go through and consequently many queries are raised by our staff and in the process creating suspicion about corruption, whether perceived or real. People who come here are not aware of the processes; there is no proper infrastructure such that clients can be received and taken to the appropriate officer to attend to them; they have to find their way around.

We had been having challenges in awareness and enforcement in collection of this revenue as the licensed churches were not remitting the fees they collected on our behalf. However, we held a workshop with them recently and now they are remitting the fees they collect through marriage registration.

Funding is still insufficient to help us open regional offices, recruit our own staff, transform from the public service way of operating and we become fully autonomous. All business registration is centrally done, so if someone from Kisoro or Kotido wants to register a business worth say Ug. Shs. 25,000, they could end up spending more money in transport fare, accommodation and feeding since the registration is currently only done in Kampala.

As far as the EAC is concerned, we need to change laws especially on business registration and harmonise the provisions. We are the implementing agency.

However, the progress is very slow; we are behind schedule as all this should have been done in 2010. There seems to be no practical work going on in Uganda apart from some international meetings that are being attended by different people.

### **What general recommendations would you make that can improve the compliance of Ugandans with registration requirements?**

There must be adequate investment in the sector. The budget we get is inadequate so institutional funding needs to be increased. If we cannot fund an office in the regions then we cannot improve access to the poor and marginalised. We need to have adequate funds to print and make available

registration materials at all levels. We need to attract people and be nearer to them. We need to be able to speed up the reforms especially of recruiting new multi-skilled staff under new terms different from the Public Service; we need to change our attitude to enhance service delivery.

Ugandans also need to be empowered to change their attitude towards fulfillment of their duties and obligations; they need to take up

their responsibilities in civil and business registrations to respect the law and come for registration but not wait to do it when they are in a fix.

### **And your last word on business and civil registrations?**

We are on the march making institutional reforms, computerizing the system, recruiting staff; we have a new board determined to make sure we improve service delivery. We need the good will and support of government and all Ugandans ■

**“There must be adequate investment in the sector. The budget we get is inadequate so institutional funding needs to be increased. If we cannot fund an office in the regions then we cannot improve access to the poor and marginalised.”**



Joseph Mutebi, one-day old then who was the first person in Uganda to be registered immediately after birth through a new electronic birth registration system at Mulago Referral Hospital in Kampala launched on 14th September 2011. The system was a venture partnered between UNICEF, Uganda Telecom (UTL), URSB and Mulago hospital. Courtesy photo - UNICEF

## Civil registration as a human right with a big impact on other rights

Registration systems are fundamental to safeguarding human rights. Civil registration in particular facilitates the realisation of the right for all children to be registered at birth, which in turn has greater implications for the realisation of individuals' rights throughout their lives.

Civil registration therefore provides the official proof of a child's existence thus representing the starting point for the recognition and protection of everyone's fundamental right to identity and existence. In effect, this right to identity and existence is fundamental for the recognition and protection of all other rights as well. It is a passport to citizenship and participation in society and the foundation for the realisation of many other human rights integral to a child's development and well-being.

The primary objective of birth registration is to provide children with a legal identity and enhance the safeguard of their rights in all circumstances. Registrations provide legal documentation of births, deaths, marriages and divorce; for instance, a birth certificate, which is a personal document issued to an individual by the State. It is the most visible

evidence of a government's legal recognition of the existence of a child as a member of society.

The registration documentation acts as a source of protection for individuals, because they establish identity, nationality, kinship and age, which are key for citizens' legal protection; are necessary proof for securing property rights; and accessing basic services. Its importance continues throughout the life of an individual, for activities ranging from employment and marriage to obtaining a passport, voting and opening a bank account among others. To some extent, registration provides a measure of safeguard against violence, abuse, neglect, exploitation and discrimination.

## Legal framework

The impact that child registration has on recognition and protection of all other rights makes it a critical human rights issue. Consequently, it has been provided for in human rights standards at the international, regional and national levels. The rights of every child to be registered at birth, to acquire a name and nationality, and the responsibilities of the State in this area have been underlined in the following human rights instruments:

- The Universal Declaration of Human Rights (UDHR) provides in Article 15 that “Everyone has the right to a nationality.”
- The International Covenant on Civil and Political Rights (ICCPR) also provides in Article 24 that “Every child shall be registered immediately after birth and shall have a name. ... Every child has the right to acquire a nationality.”
- Article 9 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), provides that women shall be granted “equal rights with men with respect to the nationality of their children.”
- The International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, provides in Article 29 that “Each child of a migrant worker shall have the right to a name, to registration of birth and to a nationality.”
- The UN Convention on the rights of the child (CRC) is the most comprehensive instrument that has significant provisions on child protection of relevance to birth registration. Article 7 of the CRC states that: “The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and as far as possible, the right to know and be cared for by his or her parents”.

It also obliges state parties to “ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless”.

Article 8 of the CRC further obliges state parties to “undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognised by law without unlawful interference”, and to provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity where a child is illegally deprived of some or all of the elements of his or her identity. Therefore, states must make birth registration accessible and available to all children including asylum seekers, refugees and immigrants.

Other articles of the CRC have significant relevance to birth registration, for example, in the case of the right to family reunification, the proof of identity which is offered by birth registration and birth certificates is critical. Other relevant articles include Article 1 on the definition of a child as every human being below the age of 18 years unless, national laws specify otherwise; and article 2 on equality and non-discrimination of every child in rights and dignity.

Article 3 provides for the best interest of the child as the primary consideration in all actions regarding children; and Article 4 obliges the state party to take all appropriate legislative, administrative and other measures for the implementation of children’s rights. Other articles on separation of children from parents, adoption, employment and protection from economic exploitation, prevention of abduction, sale or trafficking of children, and conscription of children



Street children rounded up in an operation by the Kampala city authorities to clean the city.  
Such vulnerable children are unlikely to have birth certificates and this jeopardises realization of many of their rights.

in the armed forces all have a significant bearing to birth registration.

- At the regional level, the African Charter on the Rights and Welfare of the Child states in Article 6 that "Every child shall have the right from his birth to a name ... shall be registered immediately after birth ... has the right to acquire a nationality."

In Uganda, the national Constitution provides for the rights of children under Article 34, including the right to know and be cared for by their parents or those entitled by law to bring them up. It also defines the minimum age at 16 years for work that is not hazardous or that prevents children from going to school. More directly, Article 18 of the Constitution obliges the Uganda government to "register every birth, marriage and death occurring in Uganda".

### **State obligations and individual duties**

Every human right carries with it obligations for the state as the duty bearer as well as duties for the individual as a rights holder. The right of every individual to be registered

at birth obliges states to have a fully functional civil registration system which should be compulsory, universal, permanent and continuous and which should ensure the confidentiality of personal data. Governments have to ensure that this data which has legal and statistical value is collected, transmitted and stored in an effective way. Governments are required to do what is necessary to guarantee the quality and integrity of the data in order to have accurate population statistics to inform planning and service provision. Registry archives must be secured and protected by governments to prevent the loss or destruction of records due to factors such as instability, armed conflict, natural disasters or even crime.

States are required to make birth registrations accessible and available in terms of coverage and affordability. They are required to ensure that all children including asylum seekers, refugees, from minority or marginalized groups that suffer discrimination can access this right. Birth and death registration systems place the obligation on the state to ensure that children's rights continue to be protected once a parent or caregiver dies.

Governments are obliged to conduct effective information and awareness creation campaigns on the importance of birth registration and where registration can be accessed. This is to increase the awareness of populations and enhance their ability to fulfill the duty to register their children. Where the cost or surcharge for registration are cited as barriers, governments may adjust or abolish the fees to increase registration rates.

Individuals on the other hand have a duty to ensure that they embrace the government call for registrations. In Uganda, Article 17 of the national constitution requires citizens to "register for electoral and lawful purposes". The responsibility of adults to register children has been provided for in various constitutional articles on children's rights and the duties of citizens; as well as other Acts on citizenship regarding registration for national identification.

### **Lack of registration as a human rights violation**

Lack of birth registration is a violation of the child's inalienable human right to be given an identity at birth and to be regarded as part of society. Children whose births are unregistered may not be able to claim the services and protections due to them on a full and equal basis with other children. The lack of a birth certificate may put at risk the child's access to basic social services such as education, health care and social assistance. UNICEF reported in 2010 that over 79 per cent of the children below the age of five were not registered and of the approximately 1.5 million babies born in Uganda each year, only one in five got registered under the age of five.

UNICEF has expounded on the impact of registration on human rights from childhood and the implications it can have for the individuals throughout their lives.

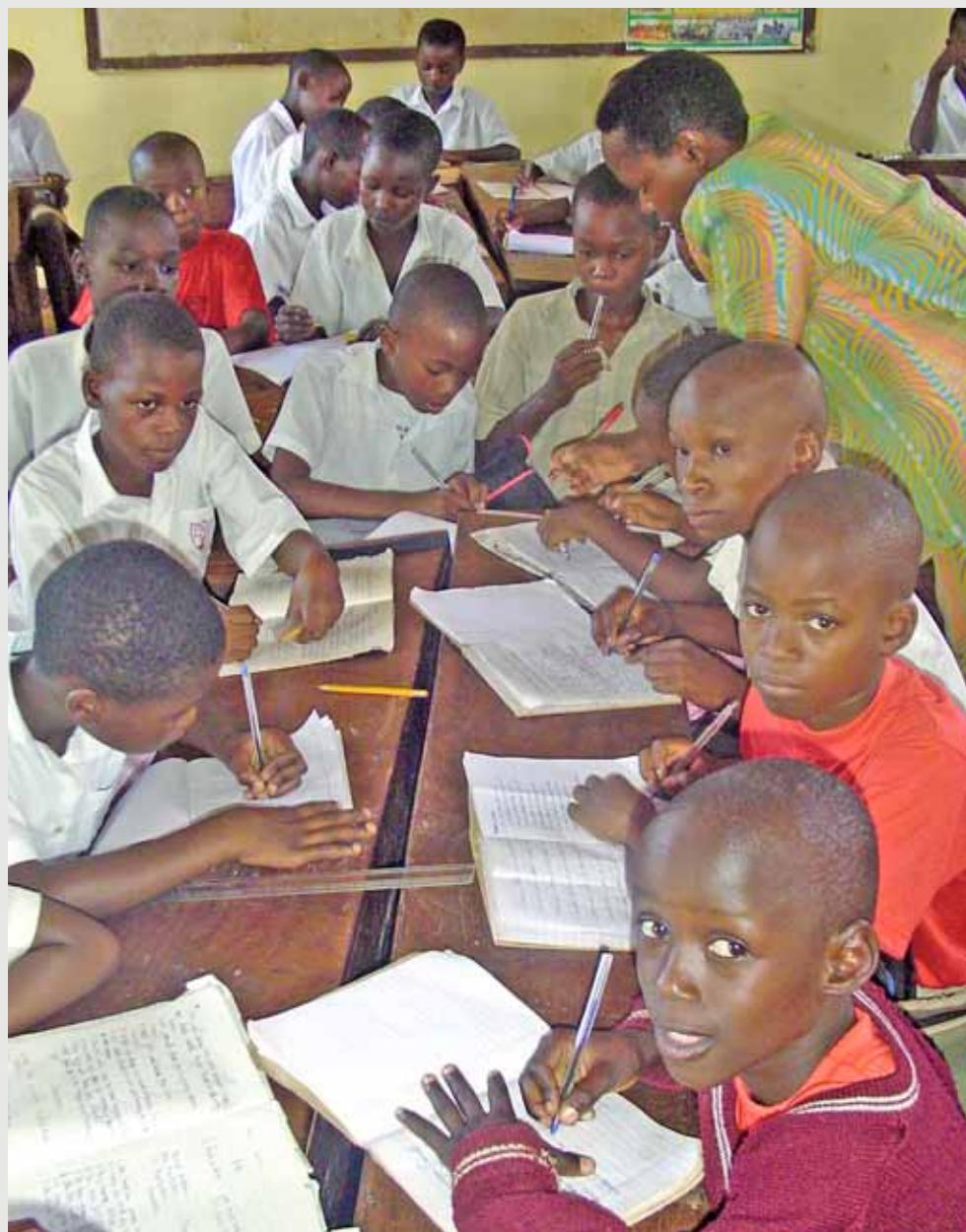
- **Realisation of the child's right to a family.** A comprehensive birth registration system can help to protect children against illicit changes to their identity, such as changes of name or falsification of family ties

especially regarding illegal adoptions or trafficking. A child who has no official identity or proven nationality, who can therefore remain hidden and unprotected, is a more attractive prospect to a trafficker. This also means that geographic areas where registration levels are low are more likely to be targeted by trafficking operations.

- **Securing the child's right to a nationality, at the time of birth or at a later stage.** Identification documents are critical for reuniting children with family and extended family in emergency situations to ensure their safety, security and care as well as for trafficked children who eventually get repatriated to be reunited with family members.
- **Providing access to health care.** Registrations can enable the monitoring of the number of children born, the under-five mortality rate and the number of dead parents/ caregivers and consequently the number of orphaned children. In some countries registrations have a bearing on the child's access to immunisation.
- **Ensuring that children enrol in school at the right age.** While it is only one of the factors that determine whether or not a child attends school, birth registration and a birth certificate – or the lack of one – can be crucial.
- **Enforcing laws relating to minimum age for employment.** When registration systems are not effective, the efforts to prevent child labour get frustrated as there is no proof of age.
- **Effectively countering the problem of girls forced into marriage before they are legally eligible.** The breakdown of social norms and traditions has led to an increase in early marriage, sexual violence and exploitation. Without a birth certificate which is the proof of age it becomes hard to confirm

the girl's age and obtain justice for her.

- **Protecting children from harassment by police or other law enforcement officials and ensuring that children in conflict with the law are given special protection, and not treated legally and practically as adults.** A birth certificate can protect children against prosecution as adults and ensure that they get the special legal protection that should be made available to juveniles; for instance not detaining them with adults. In countries where the death penalty is imposed for serious crimes proof of age can mean the difference between life and death.
- **Protecting young people from under-age military service or conscription.** Boys unable to prove their age have been targeted for recruitment and used as soldiers in militias and the army in some countries. Without proof of age, recruitment may be justified on the basis of physical appearance or oral confirmation of age by the recruits themselves.
- **Providing during emergencies the basis for tracing separated and unaccompanied children.** A child's right to birth registration is equally valid and applicable in times of peace as in times of war when children are most at risk.
- **Accessing services that have age limitations.** Proof of age is required to access services that have age



The right to education can in some instances be jeopardised by the lack of birth certificates

limitations, for example, obtaining a passport or a driver's licence, getting married, opening a bank account, applying for and securing formal employment and inheriting property. A birth certificate may also be needed to obtain family allowances, social security, insurance, credit and a pension.

- **Participation in the democratic processes of the country.** Proof of identity and age is the gateway to

democratic participation in civil society, enabling a person not only to vote in electoral processes, but to stand for elective office.

### **Registrations and national planning**

In addition to issues relating to protection, functioning registration systems are critical for states to have an up-to-date and reliable database, to effectively monitor their citizens and plan for service delivery for the realisation of human rights. Birth registration is crucial in the implementation of national policies and legislation.

Registrations provide detailed information on population growth which allows a government to measure not only overall trends in fertility and mortality, but also differentials among population groups and administrative levels. It allows the analysis of fertility and mortality rates by age, and the development of projections of demographic change and analysis of geographic, social and gender disparities within a country. In turn, accurate population data is crucial for planning, policy formulation, implementation and evaluation as well as equitable allocation of budgetary resources. In effect, this would have a direct bearing on the country's progress in pursuing the development agenda.

### **Challenges**

The main barrier to birth registration is that it is not universally perceived as a fundamental right and consequently it is given low priority. A government and society generally which are facing severe economic difficulties or a family struggling with day-to-day survival may find it very difficult to appreciate the importance of registration for it to become a development priority. Its value is often neglected in the face of problems that are more immediate and tangible and the long-term potential of birth registration to ease such problems is frequently overlooked. The relevance of registration to the development of children and their access to many other rights even as adults may not be immediately appreciated. This is what causes the lack of support for birth registration from national and local authorities as well as little demand from the general public who remain unaware

of its importance.

An effective registration system requires collaboration of different institutions, state and non-state and different sectors of government. When registration is not regarded as a priority by other partners other than the registration institutions, such collaboration becomes difficult. Moreover, when governments get contented with short-cut alternatives like sample registrations and surveys or censuses, the tendency is to divert from the obligations of civil registration. There is also inadequate coordination between institutions responsible for civil registrations, for instance, registration bureaus, national statistics bodies, ministries of health

In Uganda, research done by UNICEF has indicated that most parents either are not aware of the need for a birth certificate, cannot afford the Shs 5,000 plus bank charges for the birth certificate, or are unable to endure the long trips to the Uganda Registration Services Bureau in Kampala. In December 2010, UNICEF reported that not only are registration services inaccessible to most Ugandans, but registration fees and other hidden costs such as transport charges rendered registration too expensive for the majority.

The Head of Civil Registration at URSB has said registration of births and deaths in Uganda has been hampered by limited funding, low levels of awareness among the users who never followed up to process their birth certificates, the cost involved in processing a certificate especially if one has to travel from the rural area to Kampala, and the lack of registration materials at all health centres. He was optimistic that the digital registration strategy the URSB is implementing since September 2011 would improve coverage in terms of affordability and promptness.

**...most parents either are not aware of the need for a birth certificate, cannot afford the Shs 5,000 plus bank charges for the birth certificate, or are unable to endure the long trips to the URSB in Kampala.**



# People speak out

People's satisfaction or frustration with the registration services in Uganda

The Uganda Registration Services Bureau was created to facilitate quick and convenient civil and business registration services for all Ugandans as well as non-Ugandans operating within. We sought to find out what some Ugandans had to say about the URSB. There were mixed reactions from the people who were asked how satisfactory they found the services of the URSB. However, many of those interviewed were reluctant to give their names, while others preferred to give only one fearing the consequences of their comments especially getting their companies blacklisted by URSB. They all declined having their pictures taken.

Compiled by Vicky Wandawa.

#### **Joseph Ssonko, a business man.**

I think their services are very efficient because when I was registering my company, it took me one day to process all the necessary documents and my certificate was out.

#### **Lomindah Achola**

I have had no problem with them, I am always here but I get what I want and when they say I should return say after three or two hours, when I return, I am served as they had promised.

#### **Joe, a lawyer**

I was registering a company and it has taken me one day to get a certificate. I think getting a certificate is much easier if you have a friend within the registrar's office, like I do. If you have money, your documents can be processed immediately and you get a certificate within two days but if you follow the official procedure, you can delay and take like three weeks to get a certificate.

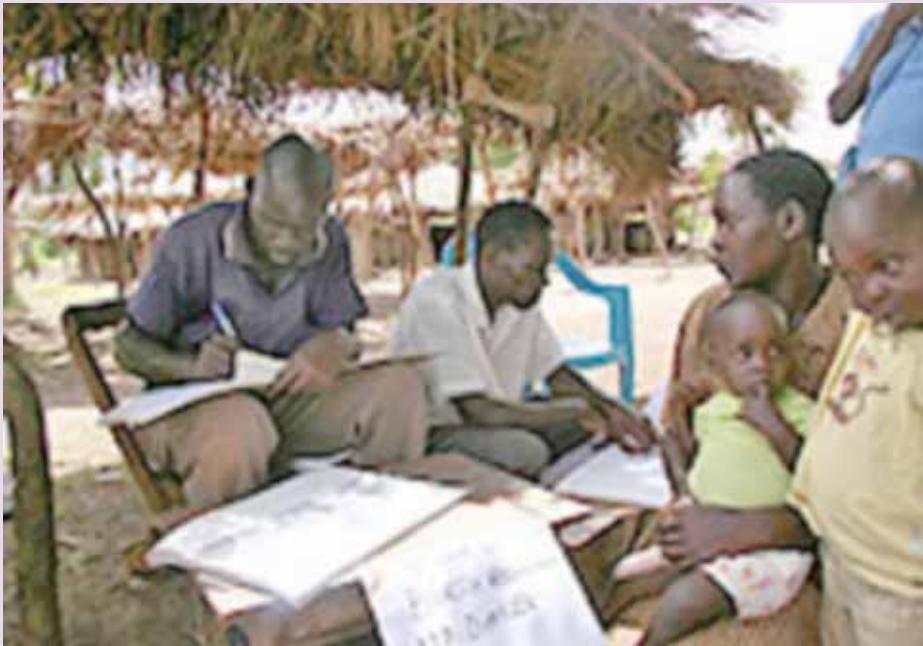
#### **Jackie Nansikombi, a business woman**

For two weeks now, I have failed to get birth certificates for my three children because I refused to bribe one of the registrars who had asked for 10,000/= for each child. She told me

that money was going to pay the person who was going to sign and move the files fast. I would also receive the certificates within two days if I paid in time. She warned that I would not get results soon if I followed the correct procedure.

#### **Rogers**

These officials keep misplacing their files. On several occasions, I hand my documents in for approval and I am asked to return after a specified period, which is okay. However, on returning, and waiting a while, I am told that a file has gone missing and my documents may have been in there. I then have to write to the registrar detailing the loss of the document. What is more, when one returns on the day they were asked to and the official is able to trace the document, it is not a guarantee that it will be worked upon, they will still keep saying, "Check on us later." I suggest that they open up a lodgement book, whereby each and every document handed in is registered, and as well as information of the official who last handled it, and how far they went, so that cases of disappearing files are no more.



Registration of children undertaken in Eastern Uganda in a campaign to increase national coverage of birth registrations.  
Courtesy photo - UNICEF.

### **Gentleman who declined to give his name**

I am not happy with this new system they just introduced. Earlier on, we would not have to pay for the assessment forms from the bank. However, now we do. We get the forms here and go to the bank, pay and return with a receipt. However, many a time I return and after going through the queues at the bank, the officials here cannot go on to process my documents because the internet is off! If they cannot sustain the internet, they should get back to the old system that did not require the internet.

### **Mark, a Lawyer**

Officials here first attend to faces they know, I have a relative here so I do not suffer much, but I have seen people attaching money to their documents to quicken the processing. My biggest issue is with the officials who tend to leave their work stations after lunch, even after they have told some clients to meet them. In the afternoons, there are rarely more than two registrars. They should respect their working hours that are displayed right here at their offices.

### **Olivia Muheki**

I am here for the first time but it is so confusing, I do not know where to go, they should spell

out clearly where to go or one keeps moving from floor to floor.

### **Gentleman who declined to give his name**

There is absolutely no order here. They should pin up details on each and every document one wants to apply for. I want a birth certificate. My documents have been here for over three weeks. I was asked by the receptionist to have them dropped off and when I returned, I was told that I had left them at the wrong floor, yet I was asked to do so by an official here. So how was I supposed to know it was the wrong floor? If they cannot ably explain, they should pin up instructions pertaining to the different applications.

### **Nathan Katende, a pastor**

It is a long process if you are registering for a church. I think they should go back to the old system and let go of the assessment forms because you can move for almost a full week without receiving the assessment forms from any registrar. However, some people pay money to process their documents. I also do not know the specific place where pastors are supposed to register their churches because registrars here often refer us to the Ministry of Internal Affairs while at the ministry they refer us here.

**John Ssekana, business consultant**

There are so many registrars but it seems as if they are only interested in attending to and talking to their relatives. The registrars often keep themselves busy yet they are doing nothing. It took me more than two weeks to get a certificate for my company.

**Patrick Oucha**

I think they would recruit more IT assistants who can retrieve and track people's files which are lost. Although it is also easy for an existing company to register, it is hard to estimate how long a person will take to get a certificate because at times getting a certificate depends on 'technical-know-who' and bribery.

**Florence Nampewo, a student**

If it is not the printer down, it is the internet. I have moved for a full week without getting my birth certificate yet I cleared all the necessary requirements. The internet is often down at the registrar's office and sometimes when I come to pick my certificate, the registrars advise me to come another day claiming that the printer is faulty.

**Stella Mirembe, a journalist**

It took me a month to get my birth certificate. A friend who directed me to the registrar's office advised me to insert a twenty thousand shillings note in the envelope when am submitting in my documents. However I followed the official procedure because I never had money then. Indeed, it took me four weeks. This should change. It is unfair that when one follows the right procedure, they are frustrated.

**Solomon Muhangi, businessman**

When I first came here, I realised that first-come-first-served was not the case; it was about who you know and how much you were ready to part with. It would annoy me that when in a queue, some people would just walk in and when an official recognizes them, they are attended to first. There should be equality in service ■

# Civil and business registration contributes to the resolution of crimes

By **Vicent Ssekate**

Crimes can be difficult to solve when there is no trace of the paperwork which can evict and also prosecute criminals. Facts for evidence can be derived from transactions made, as well as contracts drawn up by people or companies. Behind all these transactions will be records from registrations. Civil and business registrations are key processes which have spearheaded the success of prosecution of crimes.

Registration has helped in finding evidence for anti-corruption action. The anti-corruption unit works closely with the procurement units because they deal with documentation of companies that entities contract to do business. In cases where companies deliver substandard work, evidence to do with legal ownership and obligations can be got from registration documentation.

Police reports indicate that, out of 195 cases of corruption handled by the anti corruption unit of police, in the month of August 2011 for example, 100 have been solved on evidence derived from registrations. These included serious cases. Company registration and bank documents have been critical in solving some of these cases. For example, the 12-year conviction of former NSSF Chief Executive David Chandi Jamwa for embezzlement and the 28-year conviction of a former Director at External Security Organisation Teddy Seezi Cheeye for embezzlement of Global Fund money in the

ant-corruption court were made possible by evidence from registration documentation.

Police would ordinarily examine the registration documentation to establish the legal status of companies, the directors, when the company was registered; the articles and memoranda of association and minutes of the meetings with resolutions on directors to solve certain information needs during investigations. This information is required to be in registers in the company premises as well as at the office of the register of companies. Any discrepancies in the records in the two sources could be a pointer to potential criminal activity.

Registration documentation provides evidence to the existence of the company and proof of the directors. Police has found that in some companies 'silent' directors who are not directly involved in the company were registered only for their credentials and qualifications; and they may just be paid for these. These so-called

directors have often become witnesses when the companies were involved in fraud because they were ordinarily not party to fraudulent transactions. This has happened even in cases where these silent directors were paid for these periphery services.

In Uganda there is a lot of fraud in land ownership registrations especially upcountry and these disputes often result in evictions, lawful or otherwise. However, the different registrations have helped in establishing true ownership thus facilitating legal evictions and the requisite compensations where necessary.

Since the establishment of the Police anti-corruption unit, police has been getting anonymous letters whistle blowing on forgery, fraud and embezzlement. In this case Police follows up the registration of the companies involved to establish if they exist legally. In cases of money transactions the police anti-corruption unit has referred to the requirements of the law on deposit-taking financial institutions to crack some cases. For instance, the Care for the Orphan, Women and Elderly (COWE) saga which happened mainly in western Uganda where scores of people lost their money through scam deposits with a non-existing credit institution. When most clients realised they had fallen prey to a con- racket, they raised complaints through the Governor, Bank of Uganda.

Police swung into action, followed up registration records as well as bank records where it was established that COWE was not lawfully operating. This helped police to arrest the so-called officials of the company.

Car registration and property ownership registrations have enabled police to track stolen vehicles and robbed property and return them to the rightful owners. Justice has been seen if people show registration and records of their lands and property. Land disputes have been settled after paper



A campaign for mass registration of children to increase national coverage. Birth registrations is vital in crime prevention and resolution. Courtesy photo - UNICEF.



Police detectives attending a Human Rights training workshop. Police officers find registration data very critical for effectiveness in their operations.

evidence has been presented. The Uganda Police Force was able to save about 500 cars in August 2011 through tracking them using registration records. Many phone cases have been solved by proof of ownership through registered receipts that bore the buyers' names and signatures, serial numbers and other details.

On the other hand civil registration has helped police in rape and defilement cases especially on proof of age. Marriage registrations have helped to sort out rights of the parties especially property within the marriage. It has helped in cases where there was imminent eviction of widows from land and property co-owned by their late husbands. Family courts have been able to solve land wrangles between partners and also ownership of property depending on the marriage oaths of the parties.

However police is still concerned about forgery in education documents, work permits and driving permits as there is increasing expertise and sophistication in forgery and duplication of documents. Acquisition of forged academic award documents and driving permits through back door is rampant and needs to be checked.

Police advises that people should take registrations seriously as they are vital in solving problems of fraud. They also caution people against allowing their registered companies to be used in shady businesses. They appeal to people to be vigilant and check any document thoroughly before signing to save themselves headaches of criminal activity in future ■

**Vicent Ssekate** is Public Relations officer of the Uganda Police Force.



A traditional marriage ceremony

## Why marriage registration is vital

By Peruth Nshemereirwe

Marriage is a legally binding relationship between a man and a woman of consenting age. The age of consent in Uganda is 18 years. There are four types of recognised forms of marriage in Uganda: The civil marriage, customary marriage, the Hindu marriage and the Marriage under the Muhamadan law.

Civil marriages are those solemnised in licensed places of worship in this case churches as well as the marriages conducted by the Registrar of marriages at Uganda Registration Services Bureau (URSB). Customary marriages are solemnised in accordance with the customs of the parties to the marriage and the woman's custom is followed in that regard. This form of marriage is regulated by the Customary Marriages' Act. The Hindu marriage is entered into by the people who profess the Hindu faith and are mostly Indians regulated by the Hindu Marriages' Act. The Muhamadan Marriage is contracted by the people who profess the Islamic faith and it is regulated by the Muhamadan Marriages Act.

In Uganda, marriage is regulated by several laws. The Constitution provides under the rights of the family Article 31 the right to

marry. Every man and woman of 18 years and above is entitled to marry and found a family and to equal rights at, and in marriage, during marriage and at its dissolution. Marriage is specifically provided for between a man and a woman. The Constitution of Uganda expressly prohibits same-sex marriages.

Other laws on rights and obligations in marriage include: The Marriages Act Chapter 251, the Customary marriage registration Act chapter 248, the marriage and divorce of Mohammedan Act chapter 252, the Hindu marriage and divorce Act 250, the Divorce Act chapter 249, the marriage of Africans Act chapter 253, the Marriage and Divorce of Mohammedans (Appointment of Registers) Order S1 252-1, the Marriage and Divorce of Mohammedans (Fees) Order S1 252-2. Others are: The marriage and divorce of Mohammedans jurisdiction in matrimonial

causes instrument S1 252-3, the customary marriage registration prescription of forms and fees regulations S1 248-1, the divorce rules S1 249-1, the Hindu marriage and divorce (marriage registration) rules S1 250-1 and the marriage (districts and registrars) order S1 251-1.

When any marriage is solemnised, a certificate of registration is issued by the presiding official. This is done immediately for the civil marriages conducted in churches and before the Registrar of marriages at URSB. For customary marriages, parties can register their marriage at the URSB after 6 months and obtain a customary marriages certificate of registration. It is important to note that with or without a customary marriage registration certificate, a customary marriage remains valid and can still be proved in case it is disputed.

Civil marriages are monogamous whereas customary marriages are potentially polygamous. This means that persons who contract civil marriages can only marry one woman or one man and during the subsistence of that marriage no any other marriage can be entered into by the same persons to that marriage as long as that marriage subsists. A person, who enters into a monogamous (civil) marriage, cannot again enter into a customary marriage with another person.

It is common to hear that Mr. G. contracted a civil marriage with Ms. H and after a year or two and without divorcing Ms. H, he (Mr. G.) purports to contract a customary marriage with Ms. J. The marriage of Ms. J and Mr. G in not a valid marriage under the Customary marriage's Act and not even under any other laws of Uganda. However if Mr. G had first contracted a customary marriage with Ms. H, he would under the law i.e (Customary Marriages' Act) be able to undergo another customary marriage with Ms. J and that second marriage would be valid.

### **Rights and obligations in marriage**

The registration of marriage and or contracting

a valid marriage under the laws of Uganda guarantees the parties to the marriage equal rights during the subsistence of that marriage. The parties can own property together and have custody of their children together. The parties are also expected to enforce their conjugal rights and to respect and love each other.

For a person to contract a valid marriage the following are the requirements:

1. A person must be 18 years and above
2. A person must freely and voluntarily enter into that marriage (no one should be forced to get married to anyone)
3. The marriage must be solemnised in a licensed place, if it is a place of worship it must be authorized by Government to conduct marriages and issue certificates of marriage (it should be noted that marriage registration in Uganda is a preserve of Government).
4. The Marriage must be conducted by a licensed person.
5. The marriage must be conducted between 8:00am and 6:00pm.

### **Issues of Divorce**

Divorce refers to ending the life of a marriage. The law allows parties to separate and even to divorce. Divorce can be done under custom, Islamic Law, Hindu marriage and civil marriage. Any party that feels dissatisfied with his or her spouse, he or she can file a divorce petition in court specifying the grounds of divorce. The other party must respond. The grounds of divorce are dissertation, cruelty and adultery. Divorce under customary marriage is done according to the customs under which the marriage was contracted.

When a divorce petition is filed in court, the other party (the respondent) is given time to respond to the grounds specified in the petition, and the court gives the parties what

is referred to as a cooling period for 6 months. After 6 months the marriage will be annulled. The party petitioning must prove that she/he did not connive with her/his spouse to create any of the grounds of divorce. Or that she/he did not know that the other party was acting a way that is not consistent with the marriage.

Divorce of marriages contracted under Muhamadan and Hindu law are governed by the specified laws.

However, nothing takes away the Jurisdiction of the of courts of law to entertain a divorce petition.

Any marriage that is not contracted under the lawfully provided procedures remains void. If a marriage is contracted by an unauthorised individual or institution, or is contracted beyond the stipulated time or in an unauthorized venue, it can be declared void. The churches, mosques and other places of worship contract marriages on behalf of the government and therefore they must be approved.

It is important for parties intending to marry to do some research to establish the eligibility of the intending partner to contract a marriage; the authority of the entity or individual that will solemnise the marriage and to get valid marriage certificates after the ceremony as they are the safeguards for the rights in and after the marriage ■

## Government urged to prioritise legal aid provision

The first ever National Conference on Legal Aid was held at Speke Resort Munyonyo on October 27-28, 2011 with a call to government to prioritise legal aid provision as a right as well as a necessity for promotion of public order and rule of law.

The participants recommended that the conference discussions should inform the on-going process of developing and reforming the policy and legislative framework, in particular, the National legal aid policy and the Legal aid Bill.

The objectives of the conference were to bring together key players and stakeholders in the legal aid field to share experiences, engage each other to form a common vision for the future of legal aid and to bring legal aid to the forefront of the pursuit of justice. The conference also aimed at keeping key players and stakeholders informed of developments in the field as well as to share emerging challenges and best practices.

The conference discussions were centred on legal aid as a constitutional right, legal aid in criminal and civil matters and the South African experience in implementing the constitutional right to legal aid shared by a visiting judge.

The Chief Justice in his keynote address applauded the great work being done by various legal aid service providers in Uganda saying that statistics showed that close to three million people received some sort of legal aid in the previous years alone. Justice B J Odoki while thanking the development partners for funding legal aid programmes further requested them to continue offering funding to the legal aid service providers and the Justice Law and Order Sector under the Legal aid Basket Fund. He also urged them to continue engaging with the country to expand the definition and scope of legal aid to cover both legal representation and assistance for civil and criminal matters.

At the end of the conference the stakeholders in attendance made the following recommendations:



The Chief Justice His Lordship Benjamin Odoki (right) and the Minister of Justice and Constitutional Affairs Hon. Kahinda Otafiire at the closing of the national conference on Legal Aid held in October 2011.

1. Legal aid provision should emphasise civil matters to address the overwhelming need brought about by the increasing disputes related to land, family and contractual matters, among others.
2. The proposed legal aid scheme should be comprehensive and holistic to address equality and non-discrimination as well as vulnerability and exclusion due to technicalities in the justice processes.
3. Government should establish and adequately resource an independent government agency/body to coordinate and enhance legal aid provision. The proposal for government to commit a specific percentage of the GDP to financing legal aid should be pursued.
4. Government should support and enhance the existing mechanisms of legal aid provision to reach the wider population.
5. The issue of quality of legal aid should be seriously and specifically addressed

focussing on reforming attitudes of providers; law reforms to address the limitations in the existing law regarding motivation and remuneration; on enhancing human resource capacity and instituting an effective case management flow system to increase accountability, transparency and monitoring; as well as computerising data by government agencies among others.

6. Impact litigation should be explored as an option.
7. There should be comprehensive public awareness programmes on human rights awareness and legal education to sensitise people about legal aid as a right and how to access it.
8. The option of legal insurance should be explored to determine its viability.

On the same occasion, a documentary film titled *Bringing Justice Home: The Real Story* was premiered ■



## Judicial colloquium on witness protection

The Justice, Law and Order Sector in partnership with the Office for the High Commissioner for Human Rights (OHCHR) on August 1-3, 2011 held a judicial colloquium witness protection in Gulu. The colloquium was officially opened by the Deputy Chief Justice Mpagi Bahigeine. The LCV Chairperson of Gulu closed the event.

The colloquium underscored the need to protect witnesses and victims in all crimes especially war crimes and crimes against humanity cases; the need to have immediate protection guidelines

for witness and victims and the long term need to have a law on victim and witness protection.

The colloquium was attended by sector institutions, civil society organizations, the Office for the High Commissioner for Human Rights and was facilitated by among others Justice Julia Sebutinde of the Special Court of Sierra Leon, Justice Moloto of the International Criminal Tribunal for Yugoslavia (ICTY), Mr. Karegyesa, the Chief Prosecutor of the International Criminal Tribunal for Rwanda (ICTR) and Mr. Richard Buteera- the Director of Public Prosecutions ■

## JLOS develops sentencing guidelines

Sentencing in Uganda has been described as erratic, unscientific and uncertain, drawing complaints of why sentences are too soft, harsh or why the poor receive disproportionately higher sentences than the rich. Individual judicial officers have often described sentencing as one of the most difficult aspects of adjudication because of limited guidance on arriving at appropriate sentences.

The public hardly appreciates why certain sentences are imposed. Last year, when the International Criminal Division sentenced to 25 years imprisonment a confessed mastermind in the Kampala terrorist bombing which killed more than 60 people, the media were awash with public complaints against the judiciary for being insensitive to the needs of those who lost their dear ones in the bombing.

It is against this background that the Chief Justice and the Justice Law and Order Sector

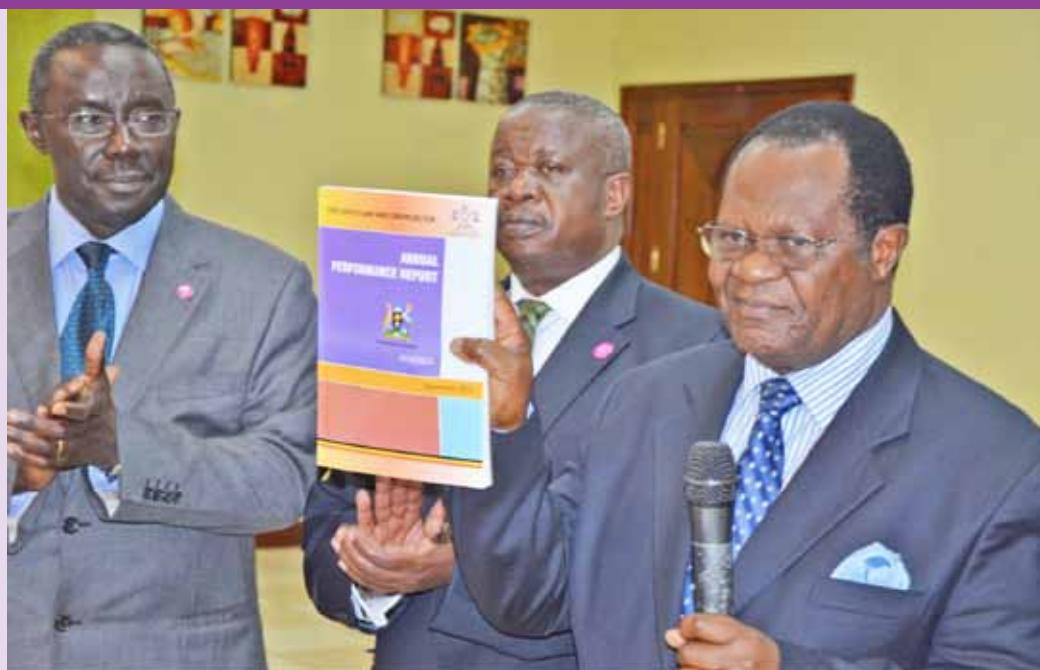
in conjunction with DANIDA are developing sentencing guidelines to regulate and provide for standardisation of sentencing in Uganda.

The sentencing guidelines would provide for sentences which reflect the seriousness of the offense bearing in mind the degree of harmfulness or risked harmfulness of the offences, prevailing circumstances and the degree of culpability. They would ensure that judicial officers take into account the rights of the victim and the community in arriving at the appropriate sentence. Under the reforms, it is proposed to establish a sentencing council to inter alia be responsible for developing sentencing guidelines for all courts in Uganda, developing a national sentencing policy, sensitising the public about sentencing processes to enhance public confidence in the criminal justice system ■

# Enhancing Accountability and Deepening the Impact of JLOS Reforms

## JLOS Holds 16th Annual Review

The Justice, Law and Order Sector will over the next year focus on strengthening performance and service delivery not only in terms of physical access but also in quality and effectiveness by ensuring that all institutions are fully empowered and able to execute their mandates.



This was the pledge made during the 16th Annual Government of Uganda – Development Partners' Review held on September 29th 2011 under the theme 'Enhancing Accountability and Deepening the Impact of JLOS Reforms.' The Honourable Chief Justice and Chair of the JLOS Leadership Committee, Justice Benjamin Odoki pledged that the sector would ensure that justice reigns in the country and particularly to the weak, marginalised and poor who sometimes are seen to be excluded by the legal system.

In the coming year, the sector would prioritise the adoption of a policy and law on legal aid; establish specialised Land Courts in Mbarara, Masaka, Jinja, Mbale, Soroti, Lira, Gulu and Fort Portal in addition to the ones at Mengo and Nakawa, to exclusively handle land cases; strengthen and promote the independence of the Judiciary and focus on the implementation of an integrated justice information system. The Chief Justice further acknowledged that observance of human rights still remains a challenge for the sector and pledged that JLOS would continue to promote the observance, enjoyment and protection of human rights through zero tolerance to human rights violations.

The Chief Justice His Lordship Benjamin Odoki officially launches the JLOS Annual Performance Report 2010/11 during the sector's 16th Annual Government of Uganda – Development Partners' Review held in September 2011. On his right is the Minister of Justice and Constitutional Affairs Hon. Kahinda Otafiire and the Attorney General Hon. Peter Nyombi.

H.E Jeroen Verheul, the Ambassador of the Kingdom of the Netherlands and Chair of the JLOS Development Partners said the sector had over the years proved itself as a strong and robust structure even in a more difficult political context but was progressing with hope of more progress in the future. He however, called for more commitment to solving emerging issues and challenges at all levels right from district chain linked committees to leaders at the highest political level.

JLOS in the past year demonstrated strong results in improving the administration of justice, maintenance of law and order and human rights, for instance, case backlog was eliminated in all magistrates' courts. JLOS witnessed a drop in cases registered due to active participation of the community in policing and the efficiency of the chain of justice and the case backlog reduction programme ■

# Registration requirements at a glance

## Company Registration

The checklist is a general description of the steps that a start-up company may follow. Fees apply.

1. Decide on the type of business entity that you wish to form – a CC or a Company.
2. Think about your enterprise's name and think about at least 2 other alternatives.
3. Undertake a name search on URSB's website to ensure that your preferred name has not been reserved by another enterprise.
4. Reserve your name, by completing the relevant forms, available from URSB.
5. Draw up your business plan.

6. Await your enterprise registration number from URSB.
7. After receiving your enterprise number, apply for your VAT number, income tax number, PAYE, SDL and UIF number from SARS.
8. Register your logo as a trademark with URSB.
9. Ensure that all of the enterprise's intellectual property has copyright on them.
10. If you have a unique product that you would like to patent, register this as a patent with URSB.

## Business names registration Requirements

- Name Search
- Statement of Particulars Registered
- Notice of change of Particulars
- Fees apply

## Foreign companies

- Certified copies of Memorandum and Articles of Association/Charter/ Constitution and Certificate from the country of origin.
- Registration forms
  - A19 – Particulars of Directors and Secretary
  - A20 – Statement of all subsisting charges
  - A21 – List of Names and Address of Persons Resident in Uganda authorized to accept service on behalf of the Company
  - A22 – Address and Principal Office of the Company. **Fees apply.**

## A Brief about the Justice Law and Order Sector

Following almost two decades (1966-1986) of political, civil and economic regress in Uganda, there was an extensive breakdown of functions of the state including the maintenance of law and order. To address this challenge the Justice Law and Order Sector (JLOS) was born.

### What is JLOS?

It is a sector wide approach adopted by Government bringing together institutions with closely linked mandates of administering justice and maintaining law and order and human rights, into developing a common vision, policy framework, unified on objectives and plan over the medium term. It focuses on a holistic approach to improving access to and administration of justice through the sector wide approach to planning, budgeting, programme implementation, monitoring and evaluation.

### JLOS objectives

1. To promote the rule of law and due process
2. To foster a human rights culture across the JLOS institutions
3. To enhance access to justice for all especially the marginalized and the poor

4. To reduce incidence of crime and promote safety of the person and security of property
5. To enhance JLOS contribution to economic development

### JLOS institutions

The Ministry of Justice and Constitutional Affairs; Ministry of Internal Affairs; The Judiciary; Uganda Police Force; Uganda Prison Service; Directorate of Public Prosecutions (DPP); Judicial Service Commission; The Ministry of Local Government (Local Council Courts); The Ministry of Gender, Labor and Social Development (Probation and Juvenile Justice); The Uganda Law Reform Commission; The Uganda Human Rights Commission; The Law Development Centre; The Tax Appeals Tribunal; The Uganda Law Society; Centre for Arbitration and Dispute Resolution and The Uganda Registration Services Bureau.

### Priority areas of focus

Land Justice,  
Family Justice,  
Criminal Justice,  
Commercial Justice

## Justice, Law and Order Sector Secretariat

Plot 1, Parliament Avenue  
Level 4, Queens Chambers  
P. O. Box 7183, Kampala, Uganda  
Tel. +256 (414) 253207  
Email: [info@jlos.go.ug](mailto:info@jlos.go.ug)