

**KAMPALA
INTERNATIONAL UNIVERSITY
FACULTY OF LAW**

**CHALLENGES FACED BY THE LITIGANTS IN
ACCESSING JUSTICE IN THE CHIEF
MAGISTRATE'S COURTS**

**A CASE STUDY OF NAKAWA CHIEF
MAGISTRATE'S COURT**

BY

**WACHA MOSES
REGISTRATION NUMBER LLB/10206/81/DU**


**A DISSERTATION SUBMITTED IN PARTIAL
FULFILLMENT OF THE REQUIREMENTS FOR
THE AWARD OF THE DEGREE OF BACHELOR OF
LAWS OF KAMPALA INTERNATIONAL
UNIVERSITY**

JULY 2013

DECLARATION

I, **WACHA MOSES** do hereby declare that this dissertation is my original work and other works cited or used are clearly acknowledged. This paper has never been submitted to any other institution(s) of higher learning for any academic or other related award.

Signed by me:



.....
WACHA MOSES
(STUDENT)

This^{31st}.....day of^{July}.....2013

APPROVAL

I certify that I have supervised and read this study and that in my opinion; it conforms to acceptable standards of scholarly presentation and is fully adequate in scope and quality as a dissertation in partial fulfillment for the award of degree of bachelor of laws of Kampala International University.

Signed by me:



.....
MS. ARYANYIJUKA ANNET
SUPERVISOR

This ^{6th} day of .. August 2013

DEDICATION

This work is dedicated to my wife **Mrs. Caroline Wacha** and my children; **Rhona Adong Wacha, Tyrah Wacha, Henslee Opeto Wacha and Clovis Ogwal Wacha** for the encouragement, support and cooperation they offered to me during the time of compiling this work.

I also dedicate the same to my mum Florence Wacha who struggled so hard to raise me up.

ACKNOWLEDGMENTS

The work has been finally put together as a result of intensive research and reading various materials written by several scholars.

I am indebted to my supervisor Ms Aryanyijuka Annet who read through this work and guided me accordingly.

In the same vein, I appreciate the contributions of my colleagues Mr. Okullo Geoffrey Alok, Opolot Majid and Paskal Opok who encouraged me in the process of preparing this research work.

Special gratitude goes to all my respondents that is to say the litigants, lawyers, magistrates of Nakawa Chief Magistrate's Court and State Attorneys who cooperated so much with me in availing all the necessary information which I needed to enable me accomplish this research work.

I also thank and appreciate Ms. Nantongo Faith who endeavored a lot in typing this piece of work.

Finally and in a special way; I do thank the Almighty God for the wisdom, courage, health and everything that he gave unto me during the difficult times of preparing this research work.

ABSTRACT

The study was conducted to investigate the challenges faced by the litigants in accessing justice in the Chief Magistrates' Courts.

The paper is comprised of five chapters; chapter one analyses the background of the study, statement of the problem, justice in the Chief Magistrate's Court, Chapter two analyses the review of related literature of the topic under study, Chapter three analyses the methodology used in the study, Chapter four analyses the findings of the study and finally Chapter five analyses conclusions and recommendation.

The study found out that the litigants had challenges they were facing in accessing justice in the Chief Magistrates' courts and they were not comfortable with them. These among others include; High case backlog, high illiteracy rates, corruption etc.

Various methods of data collection were used. These included; interviews, observations and documentary reviews.

In conclusion therefore, basing on the finding of the study I strongly submit that much as the litigants have access to justice nonetheless they still face some challenges which calls for attention.

TABLE OF CONTENTS

	Pages
Declaration.....	i
Approval	ii
Dedication	iii
Acknowledgment	iv
Abstract	v
Table of contents	vi
CHAPTER ONE:	1
1.0 Introduction	1
1.1.1 Background of the study.....	1
1.1.2 Statement of the problems.....	8
1.1.3 Objective of the study.....	9
1.1.4 Significance of the study.....	10
1.1.5 Hypothesis.....	11
1.1.6 Scope of the study.....	11
1.1.6.1 Geographical scope.....	11
1.1.6.2 Content scope	12
1.1.6.3 Time scope	12
1.1.6.4 Limitations	12
 CHAPTER TWO	 14
2.0 Introduction	14
2.1. The joint survey on local council courts and legal services in Uganda, 2006	17
2.2 The 1995 Constitution of the Republic of Uganda 1995 as amended.....	20
2.3 Conclusion.....	21
 CHAPTER THREE	 22
3.0 Introduction	22
3.1 Research design.....	22

3.3 Study population	23
3.4 Data collection methods.....	24
3.4.1 Interviews.....	24
3.4.2 Observation.....	26
3.4.3 Meetings/ focus group discussion.....	27
3.4.4 Story telling	28
3.5 Procedure of data collection.....	28
3.6 Data analysis	29
3.7 Data processing.....	29
3.8 Data analysis techniques	29
CHAPTER FOUR:	31
4.0 Introduction	31
4.1 Back ground information	31
4.2 Whether the litigants face challenges in accessing justice in the chief magistrate's courts.....	32
4.3 Causes of the challenges faced by the litigants in the chief magistrates courts.....	38
4.4 Whether and how the above challenges have been addressed	45
4.5 The family and children court	50
4.6 How the challenges can be addressed to improve litigant's accessibility to justice	53
CHAPTER FIVE	55
5.0 Conclusion & recommendations	55
5.1. Conclusion	55
5.1.1. Recommendations	55
5.1.2 Areas for further research.....	58
Bibliography	59
Appendix I.....	62
Appendix II.....	65
Appendix III.....	68

CHAPTER ONE

1.0 Introduction

In all the Chief Magistrate's courts in Uganda, the litigants do face a lot of challenges in trying to access justice in such courts. As a result some of the litigants end up losing interest in following up their cases hence not accessing justice. This study has been motivated by the general outcry about the challenges faced by the litigants in accessing justice in the Chief Magistrate's Court and to ascertain why such challenges are faced by the litigants in accessing justice.

1.1.1 Background of the Study

In the pre-colonial Uganda justice was administered whenever disputes arose with the help of the clan heads; chiefs and kings. Access to justice was very easy and one could access justice any time when faced with a problem. There were no technicalities involved during that time. This was best described by Julius Lewin;

“To an African, law is a well known body of customary rules by which everyone regulated his conduct ... if one infringes another's rights, a triable court will usually award the injured party compensation to be paid by the wrong doers¹”.

¹Lewin Julius, The study in African native law, Oxford Press 1947 pg. 789.

The pre-colonial system encompassed all the principles of justice such as justice should not be delayed; justice should be seen to be done. This is because a case was handled upon receipt of the complaint and it was disposed off immediately. There was no case backlog. Courts were held under trees and were open to everybody.

Different tribes had their own arrangement; which were simple and easy for them to understand and operate. There were many clans in the decentralized societies and each clan had a clan's head that headed the court.

Where a dispute was between different clans, it was settled either by the elders from both clans or through wars².

In the trial procedure, simple cases were tried by the clan heads of both sides who were normally parties to the dispute. Serious cases were decided by the court of elders. Such courts were not courts of arbitration but of judicial decision. It aimed at reconciling the parties but not punishing the offenders as opposed to criminal justice system of today which aims at punishing the offenders³.

²Roscue, The Baganda, London Macmillan and Co. Ltd (91)

³Kabaza Rogers; presumption of innocence and administration of justice in Uganda.

It should be noted that during the pre-colonial era, justice was easily accessible, cheap, less costly and the litigants faced no serious challenges in their quest to access justice.

However, when Uganda became independent it experienced several changes in its political governance. The profile of these changes is quite diverse as it ranges from duly elected governments to brutal dictation of military regimes⁴.

Administration of Justice after the promulgation of the 1995 constitution of the Republic of Uganda as amended:

The 1995 Constitution as a legal framework brought into existence a well defined system of the administration of Justice where the people are given the opportunity and room to decide on how they would wish to be governed.

Under the 1995 constitution all power belongs to the people and all authority in the state emanates from the people⁵.

The 1995 constitution therefore improved the administration of justice by empowering the courts to exercise judicial power which is

⁴ The Uganda communication of inquiry into violation of Human Rights 1994

⁵ Article 1(1) of the 1995 constitution of the Republic of Uganda

derived from the people, in the name of the people and in conformity with the laws, values, norms and aspirations of the people⁶.

Judicial power therefore means the power to dispense justice among persons and between persons and the state under the laws of Uganda⁷.

The 1995 Constitution of Uganda acknowledged the existence of different courts and charged them with the obligation to administer justice in the name of the people.

The hierarchy of the courts begins with the Supreme Court of Uganda, Court of Appeal of Uganda also known as the Constitutional Court, the High Court of Uganda and the subordinate courts⁸. The researcher concentrated on the Chief Magistrate's Court with emphasis on the Nakawa Chief Magistrate's Court as a Case Study for this research paper.

Magistrates' Courts

Uganda is divided into several magisterial areas which are not based on the district borders. The Magistrate's Court Act Cap 16 Laws of

⁶ Article 126 (1) of the 1995 Constitution of the Republic of Uganda

⁷ Article 157 (1) (p) of the 1995 Constitution of the Republic of Uganda

⁸ Article 129 of the 1995 Constitution of the Republic of Uganda

Uganda established all magistrates' courts and provides for their jurisdiction.

Section 3 of the Magistrate's Court Act, provides that there shall be established in such places in each magisterial area as the minister may after consultation with the Chief Justice, by statutory instrument designate magistrate courts to be known as the magistrate's court of the area in respect of which it has jurisdiction⁹.

There are three (3) grades of magistrate's courts,

Chief Magistrate, Magistrate Grade I and Magistrate Grade II.

All these magistrates are vested with different jurisdictions imposed upon them by the Magistrate's Court Act which is the governing law for the magistrate's courts.

Jurisdiction of Magistrates

The Chief Magistrate's Court is headed by the Chief Magistrate who must be a person with the qualification of a university degree in law

⁹ Section 3 of the Magistrates' Court Act Cap 16

and a diploma in legal practice obtained from the Law Development Centre Kampala.

The Chief Magistrate as the head of the court amongst other roles also play a supervisory role over the other magistrates under him or her in a station.

In criminal matters, chief magistrates try any offence other than an offence in which the maximum penalty is death¹⁰. However in civil matters, a chief magistrate may try any matter in which the value of the subject matter is Ugshs 50 million and below¹¹.

Under the Chief Magistrate is a Magistrate Grade I whose qualification is a university degree in law with a diploma in Legal Practice obtained from the Law Development Centre.

Magistrate Grade I may try any offence other than an offence in which the maximum penalty is death or imprisonment for life.

However in civil matters, a magistrate grade one has jurisdiction to

¹⁰ Section 161 (1) (a) of the Magistrates' Court Act Cap 16

¹¹ Magistrates' Court amendment Act 2007

try a matter where the value of the subject matter is 20 million and below¹².

Magistrate Grade II falls immediately after Magistrate Grade I. Magistrates Grade II are lay magistrates with a qualification of a diploma in law from the Law Development Centre. They also include; Magistrates Grade III who were elevated to the level of Magistrate Grade II.

Magistrate Grade II may try any offence under the Act; and shall have jurisdiction to administer and enforce any of the provisions of any written law other than the offences and provisions specified in the first schedule to the Magistrates' Court Act.

Justice in the Chief Magistrate's Courts

The situation is that the majority of the individuals and communities in Uganda are vulnerable, socially excluded and unable to enjoy and effectively claim their rights by virtue of their age, physical condition, religion, cultural settings and the socio-economic conditions such as poverty, unemployment illiteracy and ignorance.

¹² Magistrates' Court amendment Act 2007

Access to justice in the Chief Magistrates' Courts is premised on the fact that a big number of the Uganda population live in abject poverty. This therefore limits the access to justice as they can not pursue and /or follow up their cases due to high related costs.

According to National Development Plan, The Justice Law and Order Sector (JLOs) notes that the key barriers to access justice includes; increasing case load, physical distance and marginalized groups. Further it indicates that women experience more stumbling blocks in their quest to access justice due to their high illiteracy levels and lack information about their legal rights. To this end, the prevailing poverty and its attendant restriction on mobility limits access to justice and as such occasion injustice

1.1.2 Statement of the problem

Currently, efforts are being put by the judiciary in trying to improve the administration and access to Justice. Projects such as Justice Law and Order Sector (JLOs) has come up to aid the judiciary by putting up centres within the Chief Magistrate's courts to help needy litigants who may not afford legal representation hence ensuring that the delivery system of the court is improved.

Despite the existence of the Chief Magistrate's courts, clothed with the powers to administer justice, and ensure that justice is not only done but seem to be done, the litigants do not seem to readily access justice. This is due to a number of problems for example traveling long distances to the service centre of justice, court procedures involved technicalities which are adversarial and led to backlog of cases and miscarriage of justice.

These have therefore left so many litigants frustrated, lost trust in the judiciary and some have abandoned their cases in court for example some victims of defilement cases end up losing trust in the courts due to numerous court adjournment and unending police investigations yet the court is the main organ of the state charged with the administration of justice. This appalling state of events thus calls for urgent investigations.

1.1.3 Objective of the study

The General Objective

The study attempts to examine the challenges faced by the litigants in accessing justice in the Chief Magistrate's Courts.

Specific Objectives

- To find out whether the litigants face challenges in accessing justice in the Chief Magistrate's Court.
- To establish the cause of the challenges.
- How the challenges can be addressed.

Research questions

- Do litigants face challenges in accessing justice in the Chief Magistrate's courts?
- Why do litigants face challenges in accessing justice in the Chief Magistrate's courts?
- How have the challenges been addressed?

1.1.4 Significance of the study

There are various factors that affect access to justice, most of which are administrative. This has left many litigants frustrated and as a result lost confidence in the justice system of Uganda and hence lawlessness and mob justice. This study will help high light where the problems are and it's hoped when the final paper is disseminated to various stake holders, appropriate measures shall be taken to address the vice.

1.1.5 Hypothesis

- There are many challenges in accessing justice by the litigants in the Chief Magistrates' Courts than the interventions.
- Much as efforts are being made to address the challenges a lot more needs to be done.

1.1.6 The scope of the study

1.1.6.1 Geographical scope

The geographical scope of the study was in Nakawa Chief Magistrate's Court. This is because Nakawa is proximate to both my residence and Kampala International University making it easier for me to collect data and meet my supervisor and also because it handles both civil and criminal cases therefore giving room for me to handle both aspects.

Majority of the cases are handled in the chief magistrates courts.

1.1.6.2 Content scope

The study focused on the challenges faced by the litigants in accessing justice in the Chief Magistrate's Courts, the cause of the challenges and what needs to be done to improve access to justice by the litigants in the Chief Magistrate's court at Nakawa.

1.1.6.3 Time scope

The study covered a period of 2005 - 2012 in order to make it short otherwise it would be too lengthy. In order to limit the study, a case study was conducted at Nakawa Chief Magistrate's Court.

1.1.6.4 Limitations

The researcher encountered resistance especially from the court staff of the judiciary as some of them were not cooperative to avail the researcher with the required information since they feared the research targeted them. Language barrier also posed a big challenge due to the fact that the researcher is only knowledgeable in English and Luo yet the population of this study was mainly Luganda speaking and many of them were illiterates.

Financial problems were also encountered because there was no external funding and therefore the researcher had to depend on his limited resources.

However, much as the above limitations existed, the researcher had to make sure they are averted and in doing this, the researcher engaged the services of an interpreter who was well versed with Luganda and as such helped the researcher in gathering the

necessary information. The researcher further addressed financial problems by operating within the available resources that was within his means.

CHAPTER TWO

LITERATURE REVIEW

2.0 Introduction

This chapter will review the literature to the topic of study which shall be reviewed to establish the challenges faced by the litigants in accessing justice in the Chief Magistrates Courts.

Access to justice is a fundamental Human Right. Every court litigant struggles to access justice. Justice therefore should be done to all since every one is equal before the law and human efforts are to be undertaken to achieve the desired objectives.

A lot of literature has been written about the administration of justice in Uganda but do not address the challenges faced by the litigants in accessing justice in the Chief Magistrates courts as seen below.

J.F Ayume in his criminal procedure and law discusses criminal trial procedures in courts but does not discuss the challenges faced by the litigants in accessing justice in the Chief Magistrate's courts¹³.

¹³ J.F Ayume - Criminal Procedure and Law in Uganda

Benjamin Odoki's guide to criminal procedure in Uganda handles the law of criminal procedure in Uganda and ignores the challenges faced by the litigants in accessing justice in the Chief Magistrates Courts¹⁴.

J.W Harris in his legal philosophies page 259 said,

“If law is a system of rules, then some aspects of procedural and of formal justice may be inherent to it. If a rule stipulates that all motorists exceeding a speed limit shall be fined but those exacting fines take no steps to find out whether people have fulfilled the condition of the rule, then both formal and procedural justice is violated”.

He therefore discusses much about the law, violation of both formal and procedural justice but fell short of discussing the challenges of the litigants in the Chief Magistrates' Courts¹⁵.

However, in his book, images of law, Zenous Bank Owski tends to identify the challenges faced by the litigants in trying to access justice from the courts.

He pointed out intimidation meted upon the litigants as one of the challenges.

¹⁴ Benjamin Odoki – A guide to criminal procedure in Uganda

¹⁵ J.W Harris Legal Philosophies

At page 101-102 Zenon wrote;

“The more important actors will often proceed without even looking to the dock or acknowledging the accused presence. The accused therefore continues to feel powerless and are even less willing to speak out than when arrested, believing that any attempt to do so will be taken by the bench as dissect and aggression. This may well be the case since the whole of the court room is aimed at intimidation with the procedure quietly emphasizing. You may not be guilty, but you are one of them, you look and speak like one of them and you had better respect this court and take home your experience as a warning”¹⁶.

This attitude beams out of court officials right down to the way the man on the door treats any public who come to listen to the case and look like an ally of one of them in the dock.

Furthermore, the survey carried out by the Refugee Law Project in 2008¹⁷ on enhancing access to justice and improving law and order. Focuses on the formal justice system delivery as a precursor to the observance of the basic human rights. However, the report does not address anything relating to the challenges of the litigants in accessing justice in the Chief Magistrates Courts.

¹⁶ Zenom Bankow Images of Law

¹⁷ Survey Report Refugee Law Project 2008

2.1 The joint survey on Local Council Courts and Legal Services in Uganda, 2006

This joint survey noted that justice providers should engage Justice Law and Order Sector (JLOS) at a strategic level by translating achievements and challenges registered in the service provision at community level into policy advocacy issues.

The survey also demonstrated the need for the appreciation of the opportunities available to create linkages with the courts. All in all, basing on the findings of this reports there are still a number of loopholes in the existing efforts by the stake holders to enhance access to justice through the provision of legal services to the litigants¹⁸.

Furthermore, the survey carried out by the refugee project in 2008 on enhancing access to justice and improving law and order, noted that general ignorance of the law and confusion between the informal and the formal system of justice delivery need to be addressed as a stepping stone to observance of the basic human rights. The findings show that the entry points should be identified

¹⁸ Legal Aid Service Providers Network Mapping Report, Legal Aid Service Provision in Uganda 2009 pg 15

so that the justice system can be supported. It suggests that legal education can go a long way into enhancing access to justice for the different categories of people but falls short of addressing the challenges faced by the litigants in accessing justice in the Chief Magistrate's Courts.

E.C.S Wade in his Constitutional and Administrative Law examined the characteristics and functions of the administrative bodies which exercise powers of adjudication and also the various procedures which assist in the settlement of disputes between the citizens and the administration. He went on to discuss that the disputes arising out of the state services and controls may be settled by three main ways that is to say by conferring new jurisdiction on one or other of the ordinary courts, creating ad hoc machinery in form of special tribunals and by empowering the appropriate minister to make the discussions¹⁹.

It should however be noted that much as the writer talked about the exercise of Administration and settlement of disputes, his argument left some gaps and fell short of identifying and addressing the

¹⁹ Constitutional and Administrative Law by E.C.S Wade 9th Edition Chapter 37 page 635

challenges faced by the litigants in accessing justice in the Chief Magistrate's Court.

In his book the Modern Law of Evidence page 2 Keane Adrian wrote about matters relating to truth and the fact finding process which is normally executed by the courts in reaching a fair conclusion in the matter before the court.

Keane Adrian in his book Modern Law of Evidence at page 2 had this to say;

“In most litigation, the parties will dispute the facts. In an ideal world, perhaps the court inquiring into those facts would take accounts of all evidence which is relevant to the dispute to prove or disprove the existence of those facts and would thereby get to the truth of the matter”²⁰.

It should be noted that the writer dully acknowledged that there are practical constraints inherent in the fact finding process and this common to all legal systems; that is to say; consideration of time , cost and the need to finality to litigation. This therefore, implies that the writer acknowledged the fact that litigation as such involves some many complex issues which at the end of the day affect the litigants in accessing justice.

²⁰ The Modern Law of Evidence by Keane Adrian 9th Edition page 2

2.2 The 1995 Constitution of the Republic of Uganda as amended

The 1995 Constitution of Uganda embodies human rights freedom, principles of the rule of law, good governance and the due process as enshrined in the major human rights treaties. The constitution guarantees equality before the law to all citizens²¹.

The constitution further articulates the principles upon which the government of Uganda is to construct the mechanism for governance and improve personal security and access to justice.

The rights and freedom enshrined under chapter four of the constitution to wit; Protection and promotion of fundamental rights and freedoms are to the government and by all people²². Furthermore, chapter four empowers parliament to enact laws necessary to implement policies and programs aimed at redressing, social, economic and other imbalances in society.

²¹ Article 21 of 1995 Constitution of the Republic of Uganda

²² Article 20 (2) of the 1995 constitution of Uganda

However, despite the fact that these rights and freedoms are guaranteed under the constitution coupled with the fact that the said constitution enjoins the courts when adjudicating cases of both civil and criminal nature to apply the principle that justice shall be done to all irrespective of their social or economic status, the challenges faced by the litigants in accessing justice in the Chief Magistrate's Courts remain a problem.

2.3 Conclusion

As seen from the above text, a lot has been written about the administration of criminal justice but all fall short of addressing the challenges faced by the litigants and its attendant effects on the administration of justice in the Chief Magistrates courts.

CHAPTER THREE

METHODOLOGY

3.0 Introduction

This chapter concerns the practical aspects of the study. It comprises the study design, data collection methods, study population, procedure of data collection, data analysis and presentation.

3.1 Research Design

In this study the researcher used qualitative research method.

This is where the researcher is interested in the generalization of the study population and as such the issues of random sampling and representativeness may not arise. Qualitative data is the type of information that the respondents have said in their own words about their experiences and interaction in natural settings. It provides useful and in depth answers to the research questions, it also provides details that come from direct quotations from the exact words said by the respondents in order to get the above, the researcher will let the respondent talk about things which he or she thinks about are central to him or her

The purpose of this approach is to learn what, where and how litigants face challenges in accessing justice in the Chief Magistrate's Courts.

3.2 Study Area Location of the Study.

The study was conducted at the Chief Magistrate's Court of Nakawa which is located in Kampala, Nakawa Division about 5 kilometers away from Kampala City Centre.

3.3 Study Population

The study dealt with litigants, staff of the judiciary especially those under the Chief Magistrate's Court Nakawa, lawyers, police and staff of the Directorate of Public Prosecutions. These are chosen because they work with the Chief Magistrate's Courts in their day today work and have direct link with the litigants when they are struggling to access justice.

Litigants are chosen because they know better about the challenges they face when accessing justice in the Chief Magistrates' Courts.

3.4 Data Collection Methods

The researcher used survey based and non-survey based methods of data collection.

Survey based methods included observations, interviews, meetings/focus group discussions and story telling.

Non survey based methods; here the researcher made use of reports, articles, work plan and other publications.

3.4.1 Interviews

The researcher used both structured and unstructured interviews that targeted the Litigants, Magistrates, State Attorneys, Lawyers and staff of the Judiciary. This involved face to face interviews which were conducted by the researcher and this helped the researcher because through this method the researcher was able to get in-depth information about the challenges faced by the litigants in accessing justice in the Chief Magistrate's Court. This can be exemplified by the fact that of the 15 litigants the researcher interviewed in a group ten of them were of the view that the problems faced by the litigants in accessing justice in the Chief Magistrate's court of Nakawa keep multiplying on daily basis.

The interview guide was also used by the researcher to ensure consistence in the interview process. Interview guide was also used by the researcher to gather new ideas and information using questions guided by the specific objectives of the study.

This was done in a way that the researcher would put specific questions which would require specific answers being given by the respondents by the researcher and this helped the researcher insuring irrelevant information.

The researcher also found out that much as this method had several advantages, it was also discovered that the method has its own shortcomings. This was felt due to the fact that some of the respondents interviewed in a group were shy to speak out their minds to the researcher, other respondents ended up agreeing and backing the information which had already been brought forwarded by their colleague respondents.

In structured interviews the respondents must be asked the same questions. Here the researcher put the same questions to different respondents whose answers were useful since the researcher was able to make comparison to the answers. Unstructured interviews provide only a frame work of key points around which the investigative discussion is built. Interview can be used for non-literate respondents the researcher is able to repeat questions that are not clear during the interview the researcher may come across new ideas that require follow up and the researcher may notice and record a lot of information from the respondent's factual expression.

3.4.2 Observation

This method required the researcher to sit quietly in the court room of the Chief Magistrate's court during court proceedings and was able to observe real life situation of what the litigants face in accessing justice in such courts. Through this method, the researcher observed that some litigants do come late during court proceedings, attend court without following and understanding the proceedings at all.

The researcher through the method of observation established that some litigants were not well versed with the location of the various court rooms and the Magistrate's chambers that exist in Nakawa Chief Magistrate's Court. This affected the litigants in that some of them would come to court early but wasted a lot of time inquiring about the court and the magistrates handling their cases and would reach the proper court room when their case is already dismissed.

3.4.3 Meetings /Focus Group Discussion

This involved the researcher engaging into a meeting with a large number of court litigants so as to identify the challenges they face in accessing justice in the Chief Magistrate's Court. This method was used because it saved time and the researcher was able to reach a number of people within a short period of time.

In using this method of focus group discussion, the researcher encountered the problem with some respondents due to the fact that some of them expressed fear to talk out their minds in the presence of their colleagues yet some of those respondents would have given further useful information.

3.4.4 Story Telling

This involved the researcher telling the litigants and /or respondents a story of how the informal court system used to work in the pre-colonial days where the elders and clan heads would sit under the trees to administer justice amongst the parties without delays and comparing with the formal

This method was very useful and helped the researcher to gather the information needed for the purpose of this research. The researcher benefited out of this method because through story telling, the researcher created a friendly environment with the respondents who later on became close and friendly with the researcher and were able to cooperate and avail all the necessary information.

3.5 Procedure of Data Collection

The researcher introduced himself to the respondents as a student of Kampala International University. This enabled the researcher to get the necessary help from the respondents during the process of data collection. The researcher made appointments with the respondents; judicial officers (Magistrates), Court clerks, lawyers, State Attorneys for conducting interviews. The rest of data analysis was done by the researcher at the University.

3.6 Data analysis

The data collected through interview guide were analyzed using qualitative data analysis techniques. This involved the researcher sorting out law data that were not necessary and indentifying some of the major information. This was advantageous to the researcher because the researcher was able to analyze the data assembled with a lot of ease.

3.7 Data processing

This involved the researcher sieving the information that was gotten from the field and was able to utilize them appropriately.

3.8 Data analysis techniques

Qualitative method was used. Qualitative data is the type of information that the respondents have said in their own words about their experiences and interaction in natural settings. It provides useful and in-depth answers to the research questions; it also provides details that come from direct quotations from the exact words said by the respondents.

The researcher used this method by allowing and giving time to the respondents to talk about things they considered central to them in relation to the study.

This method was advantageous because the researcher was able to get in-depth information and details that came from direct quotations from the exact words said by the respondents assisted the researcher so much in compiling this research work.

CHAPTER FOUR

PRESENTATION OF RESEARCH FINDINGS

4.0 Introduction

This chapter entails the presentation of research findings about the challenges faced by the litigants in accessing justice in the Chief Magistrate's Courts of Nakawa.

4.1 Background information

Under the concept of access to justice, it is imperative to note that justice should be accessible to all equally, effectively and conversely, that; no one should suffer an injustice simply because he can not afford to have or is deterred from seeking due justice. The need for access to justice may be said to be two fold; first, we must ensure that the rights of litigants should be recognized and made effective otherwise they would not be real but merely illusory and secondly, we must enable legal disputes, conflicts and complaints which inevitably arise in society to be resolved in an orderly way according to the justice of the case, so as to promote harmony and peace in society, lest they foster and breed discontent and disturbance in society.

4.2 Whether the litigants face challenges in accessing justice in the Chief Magistrate's courts.

The respondents including Litigants, Lawyers, State Attorneys and the Court Staff were interviewed to find out whether the litigants do face challenges in accessing justice in the Chief Magistrates' courts. The study carried out by the researcher found out that they do as per the views and information availed by the respondents as presented herein below: -

Among the 20 respondents interviewed, 15 of them were of the view that one of the challenges faced by the litigants in accessing justice in the Chief Magistrate's Court is the ever increasing desire by the public to access justice in the Chief Magistrate's courts. This has in turn led to the increased number of backlog of cases which have ultimately overwhelmed the magistrates in such courts thereby slowing down the level of the effective service delivery of justice hence giving room for the sustenance of the notion

"Justice delayed is justice denied".

One of the respondents (litigant) had this to say;

“The courts are ever congested with big number of people since it is the only place where one can get justice”

The researcher also found out that the ever increasing crime rates around the urban areas and for purposes of this research, the rate continues to be a challenge being experienced by the litigants in the Chief Magistrates’ Courts as some of the cases get frustrated and messed up due to lack of proper police investigations hence leaving a litigant very disturbed and very un-dissatisfied with the justice he/she gets from the courts. This was pointed out by one of the respondents (litigant) who had this to say:

“I registered in this court a defilement case which has so far taken 2 years. I see nothing being done and every time I come to court, am informed police is still going on with investigation. I wonder when this so called investigation will come to an end.”

There is also a problem of delay of cases as from the time the cases get registered in court to the time of disposal of the cases. Out of the 15 litigants interviewed 7 of them were of the view that some cases which were filed in court way back as 3 years ago are still pending trial before the courts. This view lends credence to what some respondents called “*to much backlog*”.

limited to part heard cases where some pieces of evidence are already taken. This therefore implies that such cases remain pending as they wait for a new magistrate to be brought to such a station and subsequently take over the management of such pending cases.

The study found out that the situation is made worse in that even when the new magistrate comes, still he or she has to be given time to peruse such pending files so as to acquaint himself or herself with the gist of the matters involved in such cases hence the common saying by the court officers to the litigants that;

“Your case has been reallocated to the new magistrate who needs time to peruse the file so as to handle the matter effectively²³”.

These kind of statements end up paining a litigant who travelled several kilometers away from the court’s jurisdiction with all the vigours to have his case heard only to be let down by such statements.

It has also been observed through this study that, owing to the nature of the people who seek justice, delivery of justice is no longer just a legal function. It involves counseling and some form of social work

²³ One of the interview and notes on 7th Sept. 2012

The researcher found out that there are over 1500 cases registered in the Chief Magistrate's Court of Nakawa and pending disposal yet this is made worse by the ever increasing number of cases which are filed in the court on a daily basis. This therefore has affected service delivery because the number of cases outweighs the available human resource and at the end of the day it's the litigants who suffer.

The researcher also established that women litigants can't access justice despite their ever increasing number of challenges as far as access to justice in the Chief Magistrate's Court are concerned. In support to this, out of the 10 women litigants interviewed 6 were of the view that women are looked at as human beings of less value to men yet under the law, men and women are equal.

The study further revealed that frequent transfer of the judicial officers especially the magistrates from one station to another is a major stumbling block to the litigants in their quest to access justice in the Chief Magistrate's Courts. This study found out that when a magistrate is transferred from one station to the other, he / she leaves behind some pending and / or unfinished cases including and not

activity yet; the lawyer and magistrates are essentially trained to handle the legal issues thereby leaving the social aspects of the legal problem identified in abeyance.

The study also noted that the majority of the litigants who seek justice in the Chief Magistrates courts are ignorant of their rights and even the few who know their rights do not understand and appreciate some of the legal terms hence they lack the necessary vigilance to pursue their cases. This therefore leads to unnecessary adjournments and delays in cause listing their matters to be heard in court which acts as a source of discouragement to the magistrates already handling their cases²⁴.

One of the magistrates interviewed had this to say;

“The law and its provisions are so complex that much time is consumed in explaining some of the terms to the litigants who may not be in a position to appreciate and understand therefore, making adjournments of some cases a necessary evil”.

The study also revealed that lack of translation of the legal framework into the local languages as well as ineffective awareness strategy have hindered access to justice.

²⁴ Interview conducted on 18th Sept. 2012

The study also noted that public administration is also a major challenge faced by the litigants in the accessing justice in the Chief Magistrate Courts. This is so because while public servants are meant to serve the public, they more often than not believe they are assisting or helping the litigants as a favour. The typical public officer is educated and probably not highly paid. Because of this they feel distant from the poor litigants and often do not want to engage with them. One of the lawyers interviewed at the Nakawa Chief Magistrate's Court had this to say;

"It is a common thing to find several litigants roaming along the court corridors of the Chief Magistrate's court Nakawa struggling to engage the clerks but at times to no avail".

The study also revealed that there is lack of monitoring and evaluation across the Chief Magistrate's Courts and this remains a challenge as noted by this study. Out of the 15 practicing lawyers interviewed 8 of them were of the view that there is a weak monitoring and evaluation processes in place which further complicates the already deplorable situation. When this is married with the above challenges, the picture becomes blique.

The researcher found out that efficient use of resources is a big problem. Some of the respondents interviewed revealed that when the expenditure patterns are critically examined; it will be quickly realized that the question of efficient resources utilization is lacking.

In addition to this there is a problem of inefficiency of the system.

One of the litigants had this to say;

“While it is easy to build infrastructure people must be able to access efficient, certain and predictable service”.

Therefore in order to have an improved public administration, it is essential to have a motivated accountable and self driven public administration that is closely and constantly monitored.

4.3 Causes of the challenges faced by the litigants in the chief magistrates’ courts

The various respondents were interviewed to find out the causes of the challenges the litigants face in accessing justice in the Chief Magistrate’s Courts, and this is what the study revealed.

One of the respondents revealed that the courts of law relies so much on the legal procedures so as to administer justice. The legal and procedural requirements have with it the legal and procedural

technicalities which have caused so much pain to the litigants to an extent that some of them have had their cases thrown out of court and or judgment entered against them without being heard. Because of the reliance by court on procedure some litigants go to courts, to access justice and then access is blocked due to non compliance with the procedural requirements of the law. This is however contrary to the provision of the 1995 Constitution of the Republic of Uganda which is to the effect that substantive justice shall be administered without undue regard to technicalities.

An advocate in private practice had this to say;

“A case in point is where a defendant is served with court summons to enter appearance and makes a physical appearance in court instead of appearance as envisaged by the rules. Such defendants go to court as in the summons, it is stated, you are required to enter appearance in the said suit within 15 days from the date of service of summons on you. After 15 days the defendant goes to court in answer to the summons and on getting to court for the said purpose, he / she is referred to the notice board where the cause list is pinned up to find out whether his / her case is on the list. Such cases are not classified and the defendant ends up going back anticipating to be called back at a later date but afterwards only to be approached by the court brokers in the early morning with a warrant of attachment issued in execution of an ex parte judgment and decree²⁵”.

The study also found out that the litigants do face the challenges in the Chief magistrate’s courts due to the lack of effective administration and supervision in the Chief Magistrate’s courts. This

²⁵ Interview conducted on 19Sept 2012

has resulted into poor delivery of service to the litigants who go to such courts in search for justice but end up getting frustrated.

The study also revealed that the above challenges are brought about by the fact that some magistrates report to work very late others at times once a week and this has in turn greatly affected the due administration of justice thereby undermining public confidence in the courts. This was observed by the researcher at Nakawa Chief Magistrate's Court where some magistrates come late and leave the duty station early before 5:00pm.

Poor remuneration of the judicial officers was also found out as one of the causes of the challenges the litigants face in accessing justice in the Chief Magistrate's. This is so because of the poorly paid magistrate feels not adequately motivated to perform his function which leads to a big number of case backlogs where some cases have lasted for over 5 years in the courts without being heard and concluded. In worse situation some litigants have died leaving their cases pending in courts and the relatives of such litigants who could take over have lost morale hence justice not accessed.

One of the litigants interviewed had this to say;

“My father had a case in court which lasted for over 4 years. Because of the bureaucracy in the court system, he died without realizing the fruits of his litigation”.

Lack of human resource at the Chief Magistrate’s courts is a responsible factor in bringing up the challenges the litigants do face in such courts.

The study found out that the available human resource at the courts do not much the number of cases pending hearing in the courts and yet the cases keep on increasing as they are registered on a daily basis.

The study discovered that there are over 1500 pending cases in the Chief magistrate’s court Nakawa yet the station has less than 10 magistrates who are tasked with the responsibility to handle such cases. The cases therefore out weighs the available human resource hence leading to the low level of service delivery at the Nakawa Chief magistrate’s Court.

One of the respondents (court clerk) interviewed at Nakawa Chief Magistrate’s court had this to say;

“The cases are so many pending trials. This is aggravated by the fact that much more are filed in the court on a daily basis. The magistrates at the station are so few to much up the increasing number of cases²⁶”.

Corruption related issues have been found by this study to be one of the breeding grounds posing the challenges faced by the litigants in the Chief Magistrate’s courts. The study found out that the lower cadres of the judiciary like the court clerks do demand for bribes from the litigants and this has greatly affected the public confidence in the courts.

9 out of the 12 respondents interviewed revealed that the perpetrators of corruption related issues in the judiciary are the clerks who at times act as the conduits of corruption in judiciary since some of them are used by the magistrates to negotiate and receive money from the litigants. This is corruption and nothing else.

The study thus found out that corruption tendencies have led to the cases of missing files in the Chief Magistrates court where the court clerks hide some of the files and demand for money from the

²⁶ Interview conducted on 17th Sept. 2012

litigants under the pretext that a litigant should pay facilitation towards the search for a missing file.

Kaggwa Tom (not real name) a litigant who had a case in Nakawa Chief Magistrate's court had this to say;

“My file got lost from the registry and when I asked the court clerk, he informed me that my file is not lost but misplaced and needed money to enable him search for the file²⁷”.

The study also revealed that poverty is also a responsible factor for the challenges faced by the litigants in accessing justice in the Chief Magistrates Court. Majority of the litigants in the Chief Magistrates courts are so much poverty stricken to an extent that some litigants fail to even transport themselves to the court let alone hiring the services of a lawyer.

Kato (not real name) a litigant at Nakawa Chief Magistrate's court had this to say;

“We are very poor; I have my case which has been going on in court. Every time I come to court, the case is adjourned or the magistrate is absent. I have sold most of my properties to enable me persue this case which is just dragging. My lawyer has abandoned me because I can no longer pay for his services²⁸”.

²⁷ Interview conducted on 21st Sept. 2012 at Nakawa Chief Magistrate's Court

²⁸ Interview conducted 15 August 2012

Interview conducted 22/sept.2012

The study also revealed that some of the cases in the Chief Magistrates court of Nakawa are delayed and others dismissed as a result of poor investigation carried out by the police which is charged with the responsibility of investigating cases. More often than not the so called investigating officers demand for so much money from the litigants to enable them do a perfect investigation. If a litigant (complainant) turns a deaf ear to their pleas then the investigation is frustrated and a good case which should have earned the state a conviction ends up being dismissed because of lack of evidence resulting from poor investigation as noted by a State Attorney attached at Nakawa Chief Magistrate's Court.

The study also revealed that the communication gap between the magistrate and the litigants appear to be wide. As such some of the litigants end up not understanding the correct explanation of the magistrate as regards his / her case much as there exist the availability of the court interpreters in the court room. This was found to be a problem because the court system involves the use of technical terms which are at times even difficult for the court

interpreters to understand and translate accurately. This has therefore seen situations where a litigant fails to take a sensitive step in the trial of his or her case because of the wrong interpretation made by the clerks.

The study also found out that some magistrates indulge themselves in unethical conduct while performing their judicial functions. Out of the 6 respondents interviewed 3 of them revealed that some magistrates become so friendly to some litigants that one is left wondering what quality of justice the other party to the case before such magistrate can bring. Such conduct has prejudiced the public confidence in the courts.

4.4 Whether and how the above challenges have been addressed.

The justice institutions in the early 1990's were supported in an ad hoc manner by a handful of development partners. Around the year 1999, the idea of setting up a Justice Sector Wide Approach (SWAP) was borne by some development partners. They took the line from the government of Uganda's stated preference for Sector Wide Approach as the most favourable modality of service delivery

as opposed to projects and as a result a number of studies were undertaken to assess the situation on the ground so as to form the creation and direction of the justice law and order sector SWAP²⁹.

The review of Uganda's criminal justice system 1999 assessed the institution central to the criminal justice system and identified the factors that constrained the proper functioning of the institutions.

Overall, the institutional and system constraints were compounded by the absence of a clear policy framework and strategic plan for the sector; limited capital and infrastructure investment and decreasing funding levels from government of Uganda; impunity and lack of accountability to the public across the sector for the range of human rights violations by the state; and corrupt practices and limited information exchange contributed to a serious service delivery problems e.g. management of suspects from arrest to discharge.

In order to ensure that the above challenges faced by the litigants in the Chief Magistrates courts are addressed. Justice Law and Order sector (JLOs) whose aim is to support the promotion of the rule of

²⁹ For detailed background account see pages 16 – 23 of the Medium Team evaluation Report of JLOs

law and enhancing access to justice in the Chief magistrates has been put in place.

In a bid to achieve the desired goal of enhancing access to justice for the litigants, the sector has undertaken to do the following in order to minimize financial bottle necks hampering access to justice.

- Promote alternative disputes resolution mechanisms and innovative approaches to enhance access to justice.
- Strengthen the capacity and the role of the Chief Magistrates Courts.
- Enhance the quality of justice and minimize technicalities that affect access to justice.

To achieve the above key results, JLOs intends to adopt the following strategies;

- Reduce case backlog through an agreed strategy.
- Strengthen the chain link program at the local levels.
- Strengthen the Chief Magistrates court

Reduce case backlog through an agreed strategy.

Attempts have been made to achieve this strategy by setting up in the Chief Magistrates' courts programs where a number of cases are fixed and heard by the visiting magistrates from other stations in what they called "session". This involves listing up a number of cases which are to be handled and disposed off by such visiting magistrates which in a specified period of time.

Hence helping to clear the backlog of cases which are pending trial.

Strengthening the chain link programe at local levels.

This is done through the process of having and conducting chain link meetings within a Chief Magisterial area where the judicial officers sit together with the local leaders within the court vicinity to chart away forward in as far as case disposal is concerned. This meeting normally involves the magistrates, police, RDC and the Local Authorities. It is chaired by the Chief Magistrate of the court.

Strengthen the chief magistrate's court

The Chief Magistrate's Court have been strengthened by JLOs through availing the courts with funds which are intended to boost

the morale of the magistrates in a bid to try and clear up the pending cases.

Also a number of efforts to address the challenges have been made by Justice Law and Order Sector (JLOs) in supporting and opening up a number of courts and justice institutions up country so as to bring services closer to the litigants though much more needs to be done.

The study also revealed that civil society organization have formed as umbrella body of legal service providers with the view to enhance access to justice by the litigants in the Chief Magistrates courts. These includes; legal advice and legal counseling, rights awareness, legal representation, alternative dispute resolution (ADR) etc.

This study also found out that as a means to address the challenges faced by the litigants in the Chief Magistrates Courts, the Uganda Human Right Commission was established. This is an independent body established by the Constitution of the Republic of Uganda 1995 as amended³⁰.

³⁰ Article 51(1) of the 1995 constitution

The Uganda Human Rights Commission has the power of a court as provided under the Constitution to; summon or order any person to attend before it and produce any document relevant to any investigation by the commission.

All these are done by the commission so as to ensure that the fundamental rights of the citizens are kept under protection and due respect for it maintained hence increasing the accessibility of justice by the litigants who may choose to channel their problems through the Human Rights Commission.

4.5 The family and children court

The family and children court is a court that has been created in all Chief Magistrate's Court. The court also exist in Nakawa Chief Magistrate Court. This court is vested with the power to administer justice in matters involving family issues that relate to children. The court derives its existence from the children Act Cap 59 with the power to hear criminal cases against a child except those offences which carry the maximum of death sentence such as murder, defilement and rape.

On the other hand, it is important to note that the usage of this court may be difficult for particularly complex cases as pointed out by the Grade I Magistrate of Nakawa Chief Magistrates Court;

“Cases are usually not reported to the family court as a support network and the putting of emphasis on seeking resolution through the local council courts. Many family disputes have arisen over children born during the political insurgency but these are largely handled by the clan elders”. However, there has been a lot of extensive training of the Local Council Officials on issue of children rights and protection by the government³¹.

The study also noted that there is a lot of legal assistance offered by the various government service providers as a means of enhancing access to justice.

Catalogue of the service providers.

Institution	Office /department	Service
The Judiciary	<ul style="list-style-type: none"> - Chief magistrates court - Justice centres 	Handle and settle disputes between parties as a means of administering justice
Directorate of Public	<ul style="list-style-type: none"> - Resident state Attorney - State prosecutors 	Guide and advice the police on

³¹ Date from interview conducted on 17 Sept 2012

Prosecutions		investigations
Human Rights	<ul style="list-style-type: none"> - Criminal investigation department - Police protection unit 	<p>Investigate crimes and provide Protection to the public</p>

The study also revealed that in an attempt to address the problem of backlog of cases, the Justice Law and Order Sector (JLOs) in partnership with the judiciary has ushered in the program of “**QUICK WIN**” where a magistrate is assigned a duty at a different magisterial area where there is much backlog to conduct the hearing and disposal of a specific number of cases within a specific period of time. This is done in what they call special session with the aim to reduce case backlog. This has greatly helped to reduce backlog of cases in the chief Magistrates’ courts.

4.6 How the challenges can be addressed to improve the litigants accessibility to justice in the chief magistrate courts

The researcher engaged with the respondents through the conduct of interviews and several litigants were interviewed to suggest solutions on how the challenges faced by litigants in accessing justice in the Chief Magistrate's court can be addressed to improve the access to justice by the litigants in the Chief Magistrates Courts. The majority of the respondents made their suggestions as presented below.

A section of the respondents interviewed were of the view that provision of education and conduct of training to the litigants would go along way in equipping the litigants with the necessary information about the court procedures. This would help because majority of the litigants who seek justice in the courts are ignorant about the court procedure.

It was also found out that if the litigants can be sensitized about their human rights. This would also go a long way into improving their level of access to justice in the Chief Magistrates courts. This is so because the litigants know very little about their rights yet some of these rights are inherent as provided and are recognized as such by the Constitution which is the Supreme Law of the land.

The study results also discussed that sensitization of the community members was the major way of helping the litigants access the service of the Chief Magistrates' courts. This was supported by the litigants who were interviewed. This was further supported by the fact that alertness by the court staff about the services offered and how they can be attained in combination with human rights awareness can help the litigants hence ease access to justice.

It was also revealed by the study that the government needs to increase funding of the judiciary so as to motivate the magistrates who are the custodian of law to deliver and administer justice to all hence easy access to justice by the litigants who were crave for the same.

CHAPTER FIVE

5.0 Conclusion and Recommendations

5.1 Conclusion

In a nutshell therefore basing on the findings of this study, I strongly submit that much as the litigants in the Chief Magistrates' courts do access justice, nevertheless they still face some challenges which they are not comfortable with. This therefore implies that the judiciary as an institution under which the Chief Magistrates courts fall, should try to monitor and evaluate the services offered by magistrates in the Chief Magistrate's Courts as they try to deliver justice and ensure that every litigant is at least comfortable. This can act as a motivation factor for the magistrates who are involved in the day today administration of justice.

5.1.1 Recommendations

Basing on the study findings, the researcher recommends the following:-

The study found out that delays in handling and disposal of cases is a challenge faced by the litigants in accessing justice in the Chief

Magistrates courts. Therefore the researcher recommends that since the delay appears to be caused by the increasing number of the cases filed in the courts, then the government should invest into recruiting more magistrates so as to address the problem of the ever increasing demand for the man-power needed to arrest the already unfortunate situation.

The researcher found that one of the major challenges facing the litigants and chasing them far away from the justice centres is corruption which is meted upon the unsuspecting public litigant by the lower carder of the magistrates courts that is to say the court clerks who demand a lot of money from the litigants under the disguise that they will forward the same to the magistrates. The research therefore recommends that the government should improve the welfare of the court clerks by increasing their pay so as to enable them withstand the prevailing high cost of living. In this way corrupt in the courts will reduce.

The researcher also noted that majority of the litigants are the illiterates who are ignorant of the existing laws, don't know their rights and yet it is trite law that ignorance of the law is no defence. I would therefore recommend that, the government should initiate sensitization programs which aim at increasing the public awareness about how the public can access certain legal information and from which authorities. This will go a long way into solving the problem and enable the public persue for the protection of their rights thereby enhancing access to justice.

There is also need by the government to create awareness aimed at rebuilding the long gone public confidence in the justice system. This is because the study revealed that some litigants end up loosing the trust in persuing their cases because of the false belief that justice is bought and never free and for one to access it, one must part with money. Therefore the public needs to be informed so that the long gone confidence in the justice system is reinstated. This will go a long way in enhancing access to justice.

5.1.2 Areas for further research.

The study findings revealed inefficiency and ineffectiveness of the Chief Magistrates courts. Therefore the future researchers can research on challenges faced by the Chief Magistrates courts in administering justice to all categories of people.

The study focused on the challenges faced by the litigants in accessing justice in the Chief Magistrates courts. Therefore future researchers can research on the challenges faced by the poor people in accessing justice in the Chief Magistrates courts in comparisons to the rich.

BIBLIOGRAPHY

A) Books

1. Ayume Francis, *Criminal Procedure and law in Uganda*
2. Kabanza Rogers, *Presumption of innocence and administration of justice in Uganda.*
3. Kanyehamba G.W; *Constitutional Law and Governance in Uganda.*
4. Lewin Julius; *Study in African Native Law, Oxford Press 1947*
Pg. 7,8,9
5. Morris and Roads; *Indirect Rule and search for Justice.*
6. Odoki BJ, *A guide to Criminal Procedure in Uganda.*
7. Walubiri Peter, *The Constitution at Cross Roads*

B) Reports /laws / policies

8. Centre for Basic Research, *African Governance Report 2002,*
“Country Report: Uganda 2002” Kampala
9. Human Rights watch 1999, *Hostile to Democracy. The movement system and political repressions in Uganda 1999.*

10. Internal Human Rights Network and Nordic Consulting Group December 2004, *Justice, Law and Order Sector Strategic Investment Plan. Mid term evaluation 2001 / 2002 – 2005/ 2006. Volume I and II.*
11. Justice Law and Order Sector March 2002, “*A Desk review of Gender and Access to justice in Uganda*” Kampala.
12. Justice Law and order sector November. *Semi Annual Progress Report June to November 2005.*
13. Justice Law and Order Sector – *Strategic investment plan II. Outlines the policy focus areas for JLOs and the key result areas.*
14. Ministry of Finance, Planning and Economic Development June 2006. *Medium term expenditure framework. This reflects the budget projections and ceilings for all sectors and government institutions for a financial year.*
15. Pearl of Blood. *1994 Summary of the report of the Uganda Commission of inquiry into the violation of Human Rights.*
16. Save the children UK 2003.
Towards a strengthened Juvenile Justice and the family and children courts in Uganda Kampala.

17. *The 1995 Constitution of the Republic of Uganda as amended.*
18. *The Magistrate's court Act Cap 16.*
19. Magistrates Court Amendment Act 2007
20. J.W. Harris Legal Philosophies
21. Images of the law by Zenom Bankow

C. Key Websites

22. Human Rights watch <http://www.hrw.org>
23. Justice Law and Order Sector <http://www.jlos.ug>
24. Foundation for Human Rights Initiative
<http://www.fhri.org.ug>
25. Parliament of Uganda <http://www.parliament.org.ug>
26. The Judiciary of Uganda <http://www.judicature.org.ug>
27. The Uganda Association of Women lawyers'
<http://www.fida.uganda>
28. The Uganda Human Rights Commission
<http://www.uhrc.co.ug>

APPENDIX I

INTERVIEW GUIDE FOR THE LITIGANTS

Good morning/ afternoon Sir/ Madam.

My name is Moses Wacha. I am a law student of Kampala International University. I am carrying out a study on the challenges faced by the litigants in accessing justice in the Chief Magistrate's court.

Any information given is for academic purposes and shall be treated as such which confidentiality. I therefore kindly request you to give your honest opinions.

1. What is your name?

Where do you reside?

2. How accessible is justice in the Chief Magistrate's Court Nakawa?

3. Do you encounter some challenges in accessing justice in the Chief Magistrate's courts?

4. If yes what challenges do you encounter when accessing justice in the Chief Magistrates courts?
-

5. How do you rate the challenges?

- i) Very serious
- ii) Moderate
- iii) Serious
- iv) Weak

6. What are the major sources of challenges you face originate from?

- i) Community
- ii) Court staff
- iii) Magistrates
- iv) Government

7. Do you think the problems faced by the litigants in accessing justice in the Chief Magistrate's courts can be improved?
-

8. What can be done to improve on the accessibility of justice by the litigants in the Chief Magistrates' courts?

APPENDIX II**INTERVIEW GUIDE FOR PRIVATE LEGAL PRACTITIONERS**

Good morning/ afternoon Sir/ Madam.

My name is Moses Wacha. I am a law student of Kampala International University. I am carrying out a study on the challenges faced by the litigants in accessing justice in the Chief Magistrate's court.

Any information given is for academic purposes and shall be treated as such which confidentiality. I therefore kindly request you to give your honest opinions.

1. What is your name?

2. What is the name of your firm?

3. Please provide your physical address and contact information

Plot number

Town or village

Email address _____

Postal address _____

Website _____

Telephone number _____

How long have your firm existed in this area?

4. Do you represent litigants in the Chief Magistrates courts?

5. If so do you encounter some challenges in trying to ensure your client's access justice in the Chief Magistrates court?

6. Which of the following services below are or may be of interest to you when providing services to the litigants?

i) Research and advocacy

ii) Alternative dispute resolution

iii) Strategic litigation

iv) Rights awareness

v) Any other specify

7. Are the Chief Magistrates' Courts efficient in the delivery of justice?

8. If not what should be done to improve on the service delivery in the Chief magistrates courts?

9. Do you have any further comment (s) and / or advice that could be useful for this study?

Thank you for your corporation.

APPENDIX III
INTERVIEW GUIDE FOR : MAGISTRATES/STATE
ATTORNEY

Good morning/ afternoon Sir/ Madam.

My name is Moses Wacha. I am a law student of Kampala International University. I am carrying out a study on the challenges faced by the litigants in accessing justice in the Chief Magistrate's court.

Any information given is for academic purposes and shall be treated as such which confidentiality. I therefore kindly request you to give your honest opinions.

1. What is your name?

2. What is your role in the justice system of Uganda?

3. Do you think the litigants do encounter challenges in accessing justice in the Chief magistrate's courts?

4. What kind of challenges do they face in your court?

5. Do you encounter any challenges in the administration of justice?

6. In your opinion, what key gaps exist in the provision of justice with regard to:

- i) Content or quality of service _____
- ii) Geographical coverage _____
- iii) Service mechanisms _____

7. How can the access to justice in the Chief Magistrates courts be improved?

8. Do you have any other comment(s) that you think will contribute to the outcomes of this survey?

Thank you for your corporation.

Check out
The spelling of Co-operation
Its not Corporation.
You can use the write out
or phone out the page
and correct it.