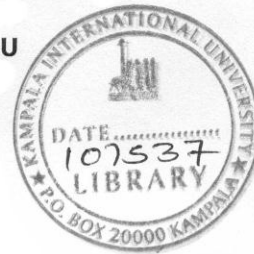


A CRITICAL APPRAISAL OF THE RIGHT TO BAIL UNDER UGANDAN LAW

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ABSTRACT

This study critiqued the right to bail under Uganda's law. The following objectives guided the study: i) to analyze the effectiveness of the laws on bail in Uganda; ii) to examine how bail is administered in Uganda; iii) to assess the right to bail in Uganda; and iv) to come up with appropriate recommendations and reforms on the laws of bail in Uganda. Qualitative methodology was used in this study since it was assumed to be more preferable to other methods. Data analysis was done by studying legislation, jurisprudence, policy documents, transcripts of proceedings, and other Court records which address the question of right to bail and the legal system of Uganda. The results were later coded in to different research themes for further interpretation. The study found that although all offences areailable under the current Ugandan law, the laws relating to bail have been characterized by two distinct and not necessarily compatible sets of concern. First, a recognition of the hardships of custodial remands and a corresponding desire to ensure that they are imposed only where strictly desirable; and second, anxiety in connection with the perceived incidence of offending carried out by the offenders granted bail. The study concluded that just like most rights in the Constitution, the right to bail is subject to a number of challenges which ultimately render it a sham. Some of these challenges were discussed. A number of recommendations were made towards a rights sensitive approach to bail. This include among others: the need to amend the M.C.A to incorporate within its provisions the condition of magistrate's Courts granting bail in exceptional circumstances as it is in the T.I.A; the need to fix the amount of bail according to personal income so that every accused is able to afford it; and the need to grant bail as a right for misdemeanors in Courts and not to be denied as a form of secret punishment to the accused, but in all cases the interests of justice must prevail.