FOR IMMEDIATE RELEASE

Statement on the General Court Martial

Kampala, Uganda – 16 January 2025: On a date to be agreed with the Judiciary shortly, I will lead a high-level delegation of the Uganda Law Society (ULS) to meet with the Chief Justice of Uganda, Hon Alfonse Chigamoy Owiny-Dollo, **on behalf of countless individuals and families whose lives have been torn apart by the lack of clarity on the legal framework governing military courts.**

This matter has plagued our justice system **for nearly two decades**, resulting in egregious violations of fundamental constitutional rights and **demands immediate redress.**

The Uganda People's Defence Forces Act (UPDF Act), which commenced on 2 September 2005, included section 119 subsection (1) clauses (g) and (h), which have been the subject of endless and chaotic interpretation by the judiciary.

This is what the UPDF Act provides in the aforementioned section:

> ***119. Persons subject to military law***
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> ***(1) The following persons shall be subject to military law—***
>
> ***(g) every person, not otherwise subject to military law, who aids or abets a person subject to military law in the commission of a service offence; and***
>
> ***(h) every person found in unlawful possession of—***
>
> ***(i) arms, ammunition or equipment ordinarily being the monopoly of the Defence Forces; or***
>
> ***(ii) other classified stores as prescribed.***

Forty-two (42) Justices in the Court of Appeal/Constitutional Court of Uganda and the Supreme Court of Uganda **have spent 25 years examining whether section 119(1)(g)(h) of the UPDF Act is inconsistent with Articles 28(1), 126(1), and 210 of the Constitution—in simple terms, whether the trial of civilians in military courts is unconstitutional.**

The initial challenge, **Constitutional Petition 18 of 2005 ULS v. Attorney General (AG)**, resulted in a split decision (by a majority of 3 to 2) in favour of upholding the constitutionality of prosecuting civilians in military courts. In **Constitutional Appeal 1 of 2006, the ULS regrettably abandoned a critical cross-appeal** that could have resolved the issue on 20 January 2009, possibly prohibiting the military from continuing to try civilians.

On 19 June 2013, in **Supreme Court Civil Appeal 4 of 2012 Namugerwa Hadijja v. DPP and AG**, the top court avoided addressing this constitutional question during an ordinary appeal against the denial of a habeas corpus order, thus allowing the military to continue trying civilians, and leading to arbitrary arrests, detention, and torture.

Subsequent cases progressively sought to resolve this pressing issue:

- After a 5-year delay, **Constitutional Petition 45 of 2016 Hon. Michael Kabaziguruka v. AG** achieved a favourable ruling (3:2) on 1 July 2021, declaring an end to civilian trials in military courts.

- After a 7-year delay, **Constitutional Petition 44 of 2015 Captain Amon Byarugaba and 169 Others v. AG** resulted in another favourable decision (3:2) on 15 December 2022, upholding the precedent set by the Kabaziguruka decision.

-After a 5-year delay, **Constitutional Petition 4 of 2018 Ssemujju Abdulnul v. AG** secured another positive outcome (4:1) on 3 February 2023.

No appeals have been filed against the Captain Byarugaba and Ssemujiu decisions.

Unfortunately, judgment in the Attorney General's appeal filed in 2021 against the Kabaziguruka decision has been "reserved" since July 2024, following the most recent hearing before the full coram of seven (7) Supreme Court Justices: Chief Justice A.C. Owiny-Dollo, Lady Justice Lillian Tibatemwa-Ekirikubinza, Lady Justice Percy Night Tuhaise, Justice Mike Chibita, Lady Justice Elizabeth Musoke, Lady Justice Catherine Bamugemereire, and Lady Justice Monica Mugenyi.

According to Canon 6.2 of the Uganda Code of Judicial Conduct, "A Judicial Officer shall promptly dispose of court business...and **where judgment is reserved, it should be delivered within 60 days unless there is good reason for delay.**" ULS is gravely concerned by an unexplained delay of more than 210 days in delivering the judgment in AG vs. Hon Michael Kabaziguruka, an appeal that has spent more than 4 years on the Supreme Court tables.

The experiences of civilians tried in military courts during this delay have left deep scars, causing long-term trauma and psychological distress. The Karamoja region, in particular, has suffered greatly, with communities displaced and marginalized due to military actions against alleged "Karachunas".

Contrary to Articles 28(1) and 126(2)(b) of the Constitution, the top court's excruciating delay has emboldened the military to intimidate and harass advocates, journalists, and human rights defenders who dare to speak out against these violations, creating a chilling effect that silences critical voices and perpetuates a culture of fear and repression.

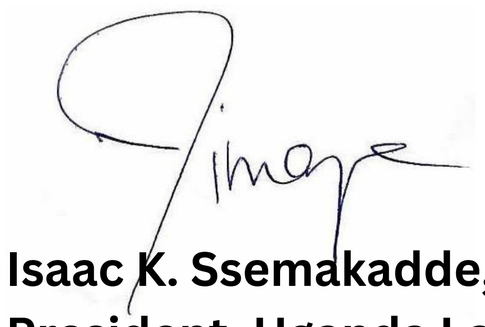
In contravention of Section 7 of the Judicature Act, Rules 20 and 21 of the Supreme Court Rules, and Rule 10* of the Constitutional Court (Petitions and References) Rules 2005**, the Chief Justice's failure to ensure that his colleagues on the Kabaziguruka coram comply with Canon 6.2 of the Uganda Code of Judicial Conduct has undermined the principles of justice, equality, and fairness enshrined in the Ugandan Constitution.**

Accordingly, open, relentless, and severe criticism of Chief Justice Owiny-Dollo's Supreme Court can no longer be avoided. Its curious and culpable delay has eroded trust in the judiciary, perpetuating a culture of disregard for the rule of law. **Due to the Supreme Court's delay in delivering the Kabaziguruka judgment, our Supreme Court is now perceived as an enabler of military repression of political opponents, stifling dissent and perpetuating a culture of fear.**

For the sake of vulnerable communities like those in Karamoja at risk of continued military repression and human rights abuses, **the Supreme Court of Uganda must act with urgency and humanity to deliver the judgment in AG v. Michael Kabaziguruka.**

It is therefore crucial that our meeting with the Chief Justice should result in a judgment date, to arrest public anger and curb long-term harm to our judiciary. We are aware that all appellate judges are in retreat in Mbarara from January 13-17, and from February 3-7 they will attend another calendar retreat known as the Judges' Annual Conference. **We call upon the Supreme Court to find time between January 20-31, 2025, to put a stop to this culpable delay and fix a historical wrong that has undermined the legitimacy of the judiciary and the entire legal system.**

Why should the General Court Martial reconvene on 3 February 2025 without the guidance of the Supreme Court?



Isaac K. Ssemakadde,
President, Uganda Law Society.

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10. Expeditious hearing

(1)The Court shall, in accordance with article 137(7) of the Constitution, hear and determine the petition as soon as possible and may for that purpose, suspend any other matter pending before it.

(2)The Court shall sit from day to day and may, for the purposes of hearing and determining the petition, sit during Saturdays, Sundays and on public holidays where the Court considers it necessary for ensuring compliance with article 137(7) of the Constitution.

(3)In any case, the Court or the Deputy Chief Justice may order that the Registry of the Court shall stay open on Sundays and public holidays to facilitate the filing and service of documents connected with the proceedings of the petition.