

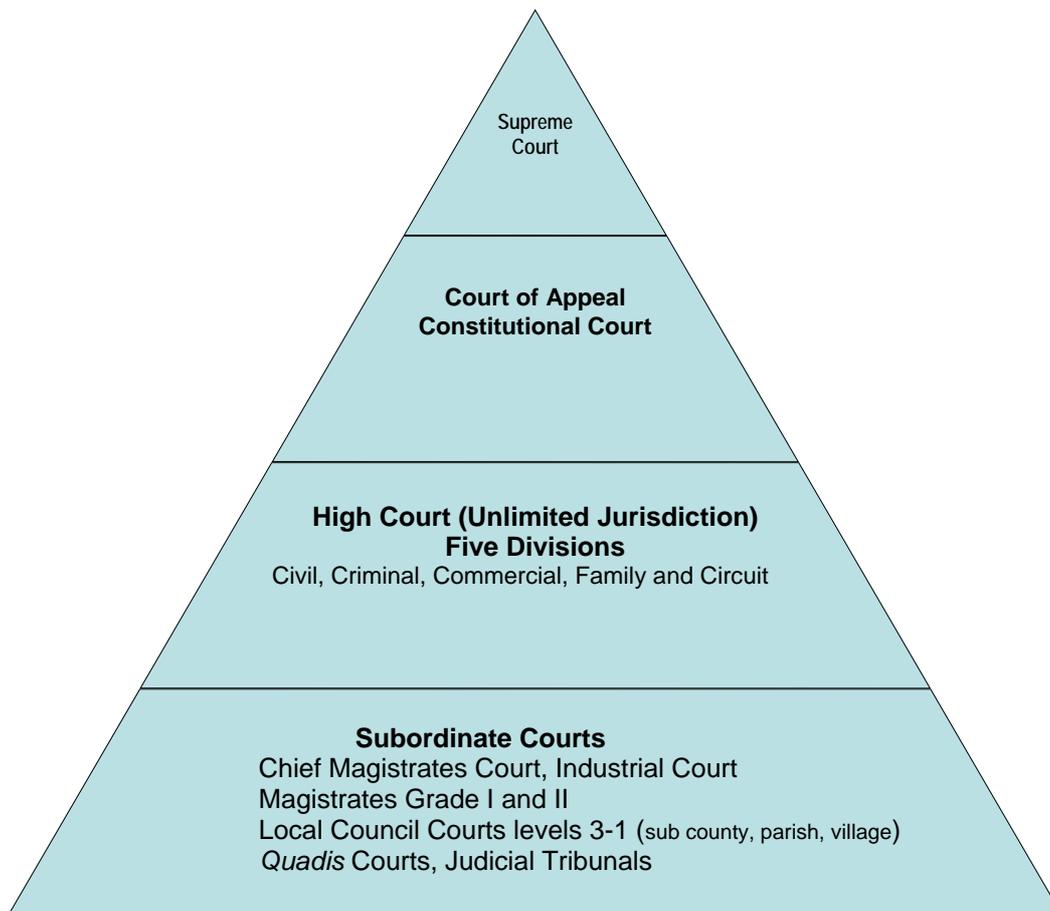
Courts of Law in Uganda

The Judiciary is an independent organ of government entrusted to administer justice through courts of judicature including the Supreme Court, the Court of Appeal, the High Court and other courts or tribunals established by Parliament. Subordinate Courts include Magistrates Courts,¹ Local Council Courts,² *Qadhis'* courts for marriage, divorce, inheritance of property and guardianship, and tribunals such as those established under the Land Act (Cap 227), Communications Act (Cap 106) and Electricity Act (Cap 145). The relationship between the different courts is illustrated in the pyramid below. In addition, Uganda also makes extensive use of the military courts system, which is also in some cases used to charge civilians.³

¹ Established under the Magistrate's Courts Act.

² Established under the Resistance Council (Judicial Powers) Statute No.1 of 1988.

³ Established under the Uganda Peoples' Defence Forces Act (UPDF Act, see www.defenceuganda.mil.ug/law_order.php.) The military court system lack in independence, has a limited appeal procedure and weaker protection of the right to a fair trial. During the first 8 months of 2004 at least 1,100 suspects were arrested and detained, including civilians tried by court martial for possession of military property. (<http://www.state.gov/g/drl/rls/hrrpt/2004/41632.htm>)



The functions of the Judiciary are;

- To adjudicate civil and criminal cases
- To interpret the Constitution and the laws
- To promote human rights, social justice and morality

The judiciary is established under Chapter eight of the constitution.⁴ The constitution states that judicial power is derived from the people and shall be exercised by the courts in the name of the people and in conformity with law and with the values, norms and aspirations of the people. It also sets out principles that the courts are to follow when deciding cases:⁵

- Justice must be done to all irrespective of their social or economic status;
- Justice must not be delayed;
- Adequate compensation must be awarded to victims of wrongs;
- Reconciliation between parties should be promoted and
- Substantive justice must be administered without undue regard to technicalities.

⁴ Article 129 of the 1995 Constitution of Uganda

⁵ Article 126(1) of the 1995 Constitution of Uganda.

Structure of the Judiciary

As shown above Uganda has a pyramidal judicial structure with the Supreme Court, the Court of Appeal and the High Court of Uganda being superior courts of record.

Supreme Court

The Supreme Court stands out at the top of the judicial pyramid as a final court of Appeal in Uganda. With one exception, it only decides cases on appeal from lower courts.⁶ The exception is presidential election petitions, where the Supreme Court has original jurisdiction, which means that an aggrieved candidate in a presidential election may petition the Supreme Court directly.⁷

The Supreme Court is constituted by the Chief Justice and not less than six Justices. Five Justices are sufficient to hear most cases, but when hearing appeals from decisions of the Court of Appeal, a full bench of seven justices has to be present. The decisions of the Supreme Court form precedents that all lower courts are required to follow.

Court of Appeal / Constitutional Court

The Court Appeal is a child of the 1995 Constitution. It is an interposition between the Supreme Court and the High Court and as the titles suggests has appellate jurisdiction over the High Court. It is not a Court of first instance and has no original jurisdiction, except when it hears constitutional cases. In that case it sits as a Constitutional Court, in accordance with the constitution, which requires that: *"Any question as to the interpretation of the Constitution shall be determined by the Court of Appeal sitting as the Constitutional Court."*⁸

The Court of Appeal consist of: the Deputy Chief Justice and such number of Justices of Appeal not being less than seven as Parliament may by law prescribe.⁹

Cases coming before the Court of Appeal may be decided by a single Justice.¹⁰ Any person dissatisfied with the decision of a single Justice of Appeal is, however, entitled to have the matter determined by a bench of three Justices of Appeal, which may confirm, vary or reverse the decision.¹¹ Most case decided by the Court of Appeal can also be appealed to the Supreme Court, but the Court of Appeal is the final court in election petitions filed after Parliamentary elections or elections provided for by the Local Government Act. When deciding cases as a Constitutional Court it sits with a bench of five justices.

⁶ Established by article 130 of the 1995 Constitution of Uganda

⁷ Article 104 of the Constitution, 1995 and Section 57 of the Presidential Elections Act, Cap 142 of the Laws of Uganda.

⁸ Established by article 137(1) of the Constitution.

⁹ Article 134 of the 1995 Constitution of Uganda

¹⁰ Section 12(1) of the Judicature Act.

¹¹ Section 12(2) of the Judicature Act.

High Court

The High Court of Uganda is the third court of record in order of hierarchy and has unlimited original jurisdiction, which means that it can try any case of any value or crime of any magnitude.¹² Appeals from all Magistrates Courts go to the High Court. The High Court is headed by the Honourable Principal Judge who is responsible for the administration of the court and has supervisory powers over Magistrate's courts.

The High Court has five Divisions: the Civil Division, the Commercial Division, the Family Division, the Land Division and the Criminal Division. Most of the business of the High Court is conducted at its headquarters in Kampala, but with the decentralisation of the High Court, its services are now obtained at its circuits at Fort Portal, Gulu, Jinja, Masaka, Mbale, Mbarara and Nakawa. There are plans to create more circuits in the nearby future.

Magistrates Courts

Magistrate's Courts handle the bulk of civil and criminal cases in Uganda. There are three levels of Magistrates courts: Chief Magistrates, Magistrates Grade I and Magistrates Grade II. These are subordinate courts whose decisions are subject to review by the High Court. Presently the country is divided into 26 Chief Magisterial areas administered by Chief Magistrates who have general powers of supervision over all magisterial courts within the area of their jurisdiction.

Local Council (Executive Committee) Courts

These are established under the Executive Committees (Judicial Powers) Act.¹³ They basically entertain light civil matters that arise out of daily activities in their areas of jurisdiction and matters arising out of infringement of byelaws duly made under the Local Government Act.¹⁴ The Executive Committee Court is duly constituted when it is sitting with not less than five members.¹⁵ There are three levels of the Committee courts – “sub county” (level 3), “parish” (level 2) and “village” and appeals from the highest of the Committees, (Sub County executive) lie to the Chief Magistrate and, if the appeal involves a substantial question of law or appears to have caused a substantial Miscarriage of justice, to the High Court.¹⁶

¹² Established by Article 138 of the Constitution.

¹³ Cap 8

¹⁴ See s.5 of the Executive Committees (Judicial Powers) Act, op cit

¹⁵ s. 4(1) ibid

¹⁶ s. 28 ibid