Understanding the JUSTICE SYSTEM in Uganda

A Training Manual for Journalists

With the support of:
Embassy of Finland - Nairobi
Understanding the
Justice System
in Uganda

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Developed by:
Human Rights Network for Journalists – Uganda

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Embassy of Finland - Nairobi
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Preface

Working as a legal officer for Human Rights Network for Journalist – Uganda has exposed me to the legal impediments faced by journalists in Uganda in the course of their work notably among them lack of basic knowledge on the justice, law and order mechanisms. They are bewildered with fear and bullying by mere technicalities and jargons used by the actors in the justice system and have fallen prey to abuse of the law with limited knowledge on guarding against abuse of their rights and freedoms. As public watch dogs, they are exposed to harassment, assault, unlawful arrests and detention by State and non-State actors.

The inadequacy in understanding the justice system and possible remedies available for aggrieved parties necessitates that journalists’ understanding is enhanced by providing them with structured and continuous basic knowledge on the operations of the various actors in the legal arena. Journalists that are aware of the law will not only defend themselves, but also offer legal first aid to colleagues who fall victims of the abuse of the law and human rights violations.

This training manual attempts to fill this loophole and to provide basic information on the justice system and the remedies available. It provides guidance on understanding Uganda's legal system, the judiciary and other stakeholder’s such as the Uganda Human Rights Commission; how to steer through summons, arrest and detention at the police station or police posts; and what remedies exist at the national and international level for human rights infringement. It does not cover every legal substance conceivable, but rather provides participants with the resources desirable to kick start a quest for knowledge.

Catherine Anite
Head-Legal
Human Rights Network for Journalists Uganda
August 2013
Foreword

The quest for justice is not a smooth one. It takes a struggle for someone to have justice adequately and on time. This struggle is most of the time shaped by the ability of someone to demand for it from the agencies responsible for its delivery. This demand has to be built every day amongst citizens, that it is a right and not a privilege to have justice. The centrality of organized information in form of knowledge is key to equipping the people with the skills to demand for justice.

HRNJ -Uganda is optimistic that this manual will provide relevant and adequate skills to Media Practitioners in Uganda to demand for justice and defend freedoms of others, a duty they are called to do.

Robert Ssempala
National Co-ordinator
HNRJ - Uganda
Acknowledgement

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Human Rights Network for Journalists-Uganda thanks the Embassy of Finland in Nairobi for their generous and continued support for this project.
Methodology of Training

The methods of training proposed below, adopted with modification from the Commonwealth Manual on Human Rights Training for Police, 2006 by the Commonwealth Secretariat, are not exclusive. Trainers are at liberty to add, modify and expound on them, depending on prevailing circumstances without losing the form, content and context of the information.

a. ‘Participatory Approach – Getting everyone involved.
A facilitator is required to help each other to learn, make sure that new ideas arise and are shared.

b. Lecture
A lecture is a speech by a lecturer (instructor), with limited discussions. It is an efficient means of transmitting large amounts of factual information and comment to a relatively large number of people at the same time. A lecturer organizes material and presents it in a clear and understandable way. A lecture may be followed by a question-and-answer session, buzz groups or other activity.

c. Brainstorm (Board Blast)
The brainstorm also referred to as board blast is a quick way to get ideas or proposals from a big group. The purpose of a brainstorm is to quickly generate as many ideas on a specific topic and to get ‘first reactions’ so that as many possible ideas are collected. All these ideas are then written down and discussed. Thinking on your own about a problem is not as productive as when a group of people work together in solving it. Collective thoughts are always more stimulating. A brainstorming group is a group with singleness of purpose who apply their creative thoughts to find a solution to a specific problem.

d. Ice-Breakers and Introductions, Warm Ups and ‘Energizers’
The tone to a training group can affect its overall impact, and setting the right tone at the start is very important. ‘Ice breakers’ or introductions are games or activities that can be used to introduce participants or trainees to each other at the start of the activity. By using ice breakers or introductions we can create a warm, friendly, personal learning environment, one in which trainees will feel comfortable to participate in and learn from. Warm-ups and energizers are
quick games (5-10 minutes) that generate a lot of energy and laughter in the group. These get the participants to relax, laugh, connect with each other and learn while enjoying themselves. Games can warm the group up to the topic and create an atmosphere that is ideal for learning. They do not necessarily have any relation to the topic.

**e. Talking Circles or Word Wheels**
Participants are divided into two groups, one sitting in a circle facing outward and the other facing inward so that each person faces someone else. The participants are given a topic or a few questions that they have to work on beforehand and then discuss with each other. These pairs then exchange views on an announced topic or questions. After a set period, the facilitator asks everyone on the inside to move one or two seats to the right and discuss with the new person sitting opposite. The participants can then have the opportunity to discuss different questions with different people. This process continues until each person has changed views with several others.

**f. Simulation Exercises**
These are also role-playing training techniques in which the trainee gets to experience and respond to an environment that is a reproduction of real-life conditions or issues or decisions. A simulation exercise attempts to create realistic situations of the kind that will be faced in practice, and provides an opportunity for exercising the skills required in dealing with them. Through such a simulation one can re-examine previous behaviour, try out behaviours just acquired, or experiment with behaviours that strike trainees as potentially useful.

**g. Role Play**
Role-plays are intended to imitate a real situation and encourage trainees to think about what they would do or feel in that situation. In a role-play, people in the group participate in roles assigned to them without practicing beforehand. They perform the action watched by others, and part of the exercise is to assess afterwards their response to being thrown into a situation. An example is a hypothetical press conference after a crowd control incident that has turned violent. Role-plays can help police officers to see things from others’ point of view. The emphasis is not on problem solving but rather on skill development and attitude change.

**h. Buzz Groups**
So-called ‘buzz-groups’ is a method that can be used at any time in a seminar, training session or workshop, to get people sharing ideas on any topic for a few minutes, before reverting to single group discussion. The name comes from the noise given by the groups or teams at work. For example, a question relating to a human rights issue is given to the entire group and participants
are asked to discuss it with the person or persons next to them (resulting in groups of two or three). Buzz groups are excellent for maximum participation for large groups in a short period of time. In this method, the trainer poses questions or hands out case histories. Then each buzz group work on one problem. Feedback to the group should be given by the groups after the exercise. Some common issues, agreements or themes can be drawn out.

i. Group Discussions

Group discussion is an obvious teaching or training method where the students or participants are divided (for a longer period than with buzz groups) into small groups in order to discuss a specific topic or questions. It is a very interactive process where all the participants are involved and can give inputs. Again, groups should report back to the whole group. One can select a reporter.

Note to the Facilitator:

The facilitator remains with the discretion to allow any of the particular methods mentioned above depending on the context, location, caliber of the participants where the training is being implemented. The aforementioned list is also not exhaustive hence the facilitator has discretion to introduce any other workable methodology to best carry out the training. The above methodologies of the training should be differentiated from the teaching/training aids that are used during the training.
<table>
<thead>
<tr>
<th>SYMBOL</th>
<th>MEANING</th>
</tr>
</thead>
<tbody>
<tr>
<td>![Example Symbol]</td>
<td>The symbol is used to depict an example used to re-emphasize a particular issue under discussion.</td>
</tr>
<tr>
<td>![What Should I Do? Symbol]</td>
<td>The symbol is a representation of a summary of potential points of action a person in a particular situation contextualized can do when confronted with a particular scenario or set of facts.</td>
</tr>
<tr>
<td>![Legal Documents Symbol]</td>
<td>In every stage of criminal justice, there are various legal documents that a person should be aware of and what they entail. The symbol represents these documents all throughout the text of the manual.</td>
</tr>
<tr>
<td>![Team Work Symbol]</td>
<td>The symbol represents group work during the assignments given out in the training.</td>
</tr>
<tr>
<td>![Case Study Symbol]</td>
<td>The symbol is used to depict a case study as an assignment to the participants or as a basis for emphasis by the facilitator.</td>
</tr>
</tbody>
</table>
MODULE I: A Brief on Uganda’s Legal System
The objective of this module is to educate participants on the basics of law, international and national legal systems, sources of law and to enrich their knowledge on the institutions that formulate laws.

1.0 Uganda’s legal system

a) What is law?

Law is a set of rules governing a society. For there to exist harmony in any society, there is need for rules and regulations decided upon by that society to govern their day to day human interactions that are bound to cause friction every day. In Uganda, there various sources of law are provided below.

b) What is a legal system?

This is a system for interpreting and enforcing the laws in a given community or country.

Uganda’s legal system is twofold:

i) It’s derived from the English legal system as a result of her colonial history by the British. This is well written or codified into different laws that govern different aspects of life;

ii) Traditional Legal System centrally based on customary law (values and norms) that were used to maintain law and order, peace and harmony by our great grandfathers before the advent of colonialism. These customary laws or rules which differ from each ethnic group were unwritten, un-codified but known and obeyed and administered in formally established traditional courts presided over by chiefs. Where there was absence of courts, customary rules were used to settle family disputes by the village elders and clan heads. The two systems have continued to exist side by side in a complimentary manner.

c) What is the distinction between civil and criminal law?

Law is mainly classified into civil and criminal.

1. Criminal Law is that branch of law that connotes what conduct amounts to a crime and also provides for the punishment of persons who commit crimes.

2. Civil Law creates and protects rights of individuals in their private capacity as legal persons. Examples of civil law include the law governing formation and enforcement of contracts, the law of marriages and the law of succession among others.
**CIVIL LAW**

- Civil law deals with the disputes between individuals, organizations, or between the two, in which compensation is awarded to the victim.

- Civil law aims at determining rights and giving relief to a party whose rights have been infringed by wrongful acts of another.

- It's initiated by individuals.

- In civil law, the burden and standard of proof is that liability must be shown on the balance of probabilities.

- The burden of proof (the side which must prove their case) lies with whichever party is bringing the case—the plaintiff.

- Defendants in trials are referred to as the defendants or respondents. The wronged party is referred to as the plaintiff or petitioner.

**CRIMINAL LAW**

- Criminal law is the body of law that deals with crime and the legal punishment of criminal offenses.

- The aim of criminal law is to punish the wrong doer and deter others from committing crime.

- Initiated by the state.

- In criminal law, the burden and standard of proof is that guilt must be shown beyond reasonable doubt.

- The Burden lies on the Prosecution to prove guilt of the accused.

- The individual being charged is called the defendant. The wronged party or victim of crime is referred to as a complainant.

The nature of the proceedings, the language or terminology used, the remedies given are generally different. For instance, criminal cases are usually instituted by and in the name of the State on behalf of the wronged party.
d) Who makes laws? Are all laws applicable in the country?

<table>
<thead>
<tr>
<th>Law</th>
<th>Who is responsible for enactment?</th>
<th>Extent of coverage of the law</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Constitution of the Republic of Uganda-1995-Supreme law</td>
<td>This was enacted by the Constituent Assembly of 1994/5.</td>
<td>This is the supreme law governing all people in Uganda at all time all over the country. Every Ugandan is obligated to protect the Constitution and defend its sacred nature.</td>
</tr>
<tr>
<td>2. Acts of Parliament [Other laws] or Statutes or Promulgations</td>
<td>These are enacted or made by the Parliament hence called ‘ACTS’ of Parliament They have to be in line with the Constitution.</td>
<td>They cover a specific issue in society for example Domestic Violence is covered by the Domestic Violence Act. They apply in the whole country.</td>
</tr>
<tr>
<td>3. Decree</td>
<td>Normally issued by a leader, ruler or a small group of people usually without negotiation or discussion by a country’s parliament or assembly.</td>
<td>Such decrees are normally used in states of emergency and they cover and apply to the whole country.</td>
</tr>
<tr>
<td>4. Bye –law or Ordinance</td>
<td>These are laws enacted or created by local authorities for example at the district level or City Council. To have full force and effect of law, an ordinance or bye-law must not be in conflict with the Constitution or Act of Parliament.</td>
<td>These are applied within the district, city, municipality in which it is created. They cannot go beyond the boundaries of the enacting authority. The bye-laws are enforced by the enacting authority in collaboration with law enforcement agents such as police.</td>
</tr>
</tbody>
</table>

Example

In 2008, Kapchorwa district in Eastern Uganda passed a bye-law prohibiting Female Genital Mutilation in the District. This means this law cannot cross the borders of Kapchorwa; it cannot work in Mbale or Jinja districts. It’s a local law for the people of Kapchorwa.
5. Customary Law

This law is derived from traditional customs and norms. It has been in existence for centuries as passed down from generation to generation. For it to be recognized, it should be in tandem with the Constitution of the Country.

This only operates within the particular cultural grouping, kingdom or chiefdom that passes it. Some of these traditional laws that have negative effects on particular sections of the public have been outlawed.

In the Buganda Kingdom during the traditional marriage, the groom has to take to his in-laws Omutwalo, (a token of appreciation) before taking the bride. This is obeyed strictly but only works in Buganda and not other kingdoms. This kind of law is enforced by the Kingdom and the subjects themselves without coercion.

6. Case Law

This is made by the Courts of Law (Higher Courts of law excluding Magistrates’ Courts) through the judgments they make.

These apply to a particular issue and must be obeyed by the whole country.

In Charles Onyango Obbo and Andrew Mujuni Mwenda v Attorney General-Constitutional Appeal No. 2 of 2002, the Supreme Court of Uganda declared null and void Section 50 of the Penal Code. This section created an offence of ‘publication of false news.’ It was used to curtail press freedom. Since that judgment, the case is now law and followed.

Semujju Ahmed is a journalist with BUDDU FM based in Masaka Region. In the past one month, he had developed a habit of planting cameras in hotel rooms without the knowledge of the hotel owners and staff. He would tape couples in their rooms without their knowledge and thereby sell the footage to a leading tabloid in the country. When the district authorities got wind of this development, they passed a bye-law prohibiting journalists from accessing all hotels in Masaka unless they possess valid identity cards from their employers. The bye-law has been working in Masaka. A few weeks ago, Rakai district hotel owners refused journalists from entering their hotels unless they, journalists, obey the bye-law passed in Masaka. The journalists led by Semujju Ahmed are protesting this. Advise them.
e) Sources of law in Uganda

The chart below summarizes sources of law in Uganda and their attributes.

**Sources of law in Uganda**

- **The Constitution:** (1995) is the supreme law of the land. All other laws must conform to the Constitution. In the event that any law is inconsistent with the Constitution, the Constitution takes precedence.

- **Legislation:** This refers to written law made by a law-making body—that is the Parliament. Legislation may be called various names; it may be called Statutes, Acts of Parliament, Promulgations. In Uganda, they are ACTS of Parliament.

- **Bye-laws, ordinances, rules or regulations:** These are laws made by bodies to which Parliament may delegate its law-making powers, for instance, to a District Local Council, a City Council, a Municipal Council, or a Sub County Local Council. This stops at the district and does not go beyond it.

- **Case Law:** The courts of Uganda apply the doctrine of precedent. This means that when deciding a case with facts similar to those of an earlier decided case, the courts decide the new case by following the principles of law set out in the earlier decision. The earlier decided cases are what are referred to as precedents—hence case law.

- **Common Law and Doctrines of Equity:** Common law was adopted from the English legal system. It entails the decisions of English Judges which were based on the customs of the English communities. **Doctrines of Equity** refers to those principles that were developed to address the unfairness and limitations of the common law. **Equity means fairness.** Common law and the doctrines of equity are applied in Uganda where the written law does not provide a remedy to a given legal problem.
MODULE II: Summons, Arrest And Detention
The objective of this module is to introduce participants to procedures of appearing before police, courts of law and to enhance their knowledge on their rights and freedoms during arrest and detention.

1. What is a summons?
A summons is a formal document (an order) by which a person named in it is required to appear before the court or police at the set time and place, to answer the alleged charges against him or her. Arrest is another way through which an alleged offender may be required to appear in a court of law or before police.

2. Form and content of summons
The summons, which must be in writing, must contain the following;

   a) A brief statement of the offence charged (a statement of the complaint against the summoned person);

   b) Must be in duplicate, issued in two copies—one retained by the suspect and another on which the suspect counter signs is taken back to court as evidence that he or she received it or was served and indeed received the summons.

   c) Signed and sealed by the Magistrate/Judge of the High Court, or any authorized officer by the Chief Justice.

   d) It is directed to the person summoned and requires him or her to appear at the time and place to be appointed in it, before a court having jurisdiction to inquire into and deal with the complaint or charge;

Note to the Facilitator:
The facilitator should emphasize the common practice of police summoning journalists on phone to appear before them without any written documentation or summons. Though it may appear like one is co-operating but it is prudent to always co-operate on documentation issued and not verbal summons. Verbal summons do not exist in law and thus are illegal. When called upon on phone without a written summons, a journalist should be cautious on whether to adhere or not. Prudence demands, that if one is to respond to such verbal summons, he or she should do so with a lawyer or go as a team of journalists for security purposes. Journalists should be wary of co-operating with grossly and manifestly blatant illegal orders—they should not legitimize an illegitimate process.
3. **What is a witness summons?**

An official document that orders a named individual therein to appear before a duly authorized body such as a Court, Tribunal, or Commission at a fixed time and date to give testimony in a particular matter before it. This is different from a summons issued ordering a suspect to appear before the Court or Police.

4. **Who issues summons?**

The Magistrate or Judge or any other officer as the Chief Justice may from time to time direct.

5. **Who enforces a summons?**

Every summons is served by a police officer or by an officer of the court issuing it or by other public servant. A summons is enforced by the Police. That is why if and when the person served the summons ignores it, the Police then resorts to making an arrest. (Sec.45 MCA). It is normally enforced through arrest especially in situation where the person ordered to appear before authorities does not appear and makes no effort of communicating his or her failure to appear.

6. **To who is a summons addressed?**

A summons must be served on the accused personally by delivering or tendering him or her duplicate of the summons. The accused must then sign the summons at the back of the original summons, and if he or she cannot write, then they can make a finger print expression instead.

7. **What if the person cannot be traced?**

If the accused person cannot be traced—that is, where a person cannot be served personally, summons may be served by leaving a duplicate for him or her with an adult member of the family or with his or her servant residing with him or her or his or her employer. Such person (receiving the summons) is also required to sign a receipt thereof at the back of the original summons.

8. **What if all the above cannot be effected?**

If service cannot be effected by the above means, e.g. where premises are closed, then the serving officer shall affix the duplicate of the summons at a conspicuous place (such as at the door or window) or part of the house or homestead on which the person summoned ordinarily resides. By doing this, summons shall be ordinarily deemed to have been duly served. If a person cannot be traced anywhere, a summons may be served in any place in Uganda, for example by way of newspapers, radio announcement or gazette with leave of Court.
9. **What about serving summons on the government and its agencies?**

Service on government servants or corporations can be effected by issuing summons and sending it in duplicate to the Head of Department where the person is employed. Such Head of Department must sign, as evidence of service. While corporations, service on the Corporation Secretary, local manager or other principle officer of the company or by registered letter addressed to the Chief Officer of the corporation at the registered office of such company in Uganda.

10. **What is the repercussion for disobedience of summons?**

If the accused does not obey the summons, the Court may on being duly satisfied that he or she was duly served, issue a warrant of arrest to compel him/her to appear before it to answer charges against him/her. Thus failure to respond to a summons activates an arrest warrant. It is this prudent to respond to a summons other than suffering the often unfriendly means of arrest.

It should also be noted that one can negotiate with the relevant authorities on receipt of the summons on when to appear before them if at the time of receiving the summons; he or she is unable to respond to its demands appropriately due to a reasonable justification. As such, a summons can be negotiated but at the discretion of the issuing or enforcing authority.

11. **What benefits accrue to a journalist if he or she answers or adheres to the summons?**

The law is silent as to what accrues to an obedience to summons, but it is always a mitigating factor to conduct oneself responsibly and obey the law where required, in order to create doubt in the charges to be answered to. In other words, it is prudent to obey summons, so as to;

- Avoid use of force or coercion against oneself by the Police or any authority that might consequently commit assault or battery; which is acceptable (reasonable force) in exceptional circumstances where a person does not adhere to summons, in a bid to ensure justice.
- Adhering to a summons is viewed as co-operation from the Court or Police and it is a sign of subjecting oneself to the procedure of justice in the country which is a trait of a good citizen and shows that you have nothing to hide or fear.
- Easily argue his or her case for bail and police bond.
- Even when one is convicted, the co-operation exhibited when a summons is issued can be used to argue for a lenient sentence by the court.
To learn more about the above notions, see:

- The Criminal Procedure Code Act (Criminal cases)
- The CPA and CPR for Civil cases
- The Magistrates Courts Act (In Magistrates Court- (Sections-44,46- 50 of the MCA)
- The Trial on Indictment Act (In High Court)

**SUMMARY OF THE SUMMONS NOTION BELOW**

**Police receives a complaint that a crime has been committed by 'K'.** It opens a file, register the case by the complainant. The File case is given a Criminal Register Book number (CRB).

**A police summons is issued for the suspect and witnesses if any to come to the police and make statements.** This is served in the ways described above. At this point one can chose to respond positively to the summons or negatively.

**If the accused person does not answer to the summons positively by appearing as requested, the Police can forward the file to a Magistrate who then issues a warrant of arrest for the suspect that denounced the summons.**
Article 23 of the 1995 Constitution of Uganda provides and guarantees the right that no person shall be deprived of personal liberty. However this right to liberty is not absolute—it is subject to exceptions such as restriction of liberty in execution of an order of court, execution of a sentence, purpose of bringing that person before court, among others. One of the prominent such ways is through arrest of a suspect. To ensure the protection of individual liberty, the law provides that an arrest is legitimate or legal only if/when it is carried out under auspices of lawful authority in an appropriate mode and for an appropriate reason. Where authority is deficient, the arrest may possibly be ‘false arrest’, which can provoke a suit in courts of law.

1. **What is an arrest?**

Arrest means apprehension of a person suspected of having committed an offence or it is the deprivation of one’s liberty for the purpose of compelling that person to appear to answer criminal claims of charges or allegations. The right to personal liberty as guaranteed by the Ugandan constitution is to be enjoyed by every citizen of Uganda, except in the circumstances permitted by law. It is therefore a violation of a person’s rights when a person is arrested in circumstances outside those provided for under the law. An arrest involves an actual taking of a suspect of crime into lawful custody-legally gazetted place of confinement. Generally, a person is deprived of their liberty in order to:

   a) Aid a criminal investigation;
   
   b) Prevent a crime from being committed (preventive arrest), or
   
   c) Prevent a further offence from being committed (in the event that the offence is continuous).

The arrested person is/can/must be held at a legally gazetted place of confinement or detention and not ‘safe houses’ or a person’s office or an RDC’s office etc. Such legal places include;

   a) Police station-mainly located at the district level or
   
   b) Police Cell (Which is a holding cell temporarily until a person is transmitted to the Police Station as soon as possible) mainly located at village/sub county level;
   
   c) Jail or Prison, pending arraignment or bail.
2. When should arrest occur?

The law is silent on the particular time when arrests can be effected, however, it implies anytime, an arrest can be executed with or without a warrant of arrest, as long as one is found committing or attempting to commit an offence.

3. Who can arrest?

a) Police officers (These are given these powers under the law that governs them- 4 The Police Act, Cap.303 No. 21 of 2000);

b) Judicial officers (Such as a Magistrate who can arrest or direct the arrest of a person who commits a crime in his/her presence within the local limits of his her area of control)- This can also occur when the person commits perjury (lying under oath) or jumps bail- judicial officers can order or cause his/her arrest;

c) Private persons (Any private person to arrest a person who commits an offence, or arrest a person he/she reasonably suspects of having committed a felony or major offence. The private person then has to transmit/hand over the person arrested to the nearest police station or police post within 24 hours of arrest);

d) Others laws provide that Chiefs can arrest suspects of crime, and also a member of the armed forces can arrest any other member of the armed forces committing an offence or who is wanted to answer to charges, or who is accused of being about to commit a crime.

4. In what way may a person be arrested?

There are two ways by which a person may be arrested:

a) Arrest with warrant; this is normally used by the Police Officers after the warrant is issued by a court of law mainly the Magistrates Court. As a common rule, a police officer must have a warrant of arrest preceding the arrest of any person suspected of committing a crime. The arrest warrant is normally given after the failure of adherence to the summons by the suspect or accused person.

b) Arrest without warrant; this is the most common form of arrest and is a process often abused by the police and other law enforcement agents.
5. **Under what circumstances is police permitted to arrest without an arrest warrant?**

Under the law, a police officer is given power to arrest anytime, without a warrant in the following circumstances:

- Any person suspected upon reasonable grounds of having committed any cognizable offence;
- Any person who commits a breach of peace or crime in the police officer’s presence;
- Any person who obstructs a police officer while in execution of his or her duty;
- Any person suspected upon reasonable grounds of being a deserter from the Armed Forces of Uganda;
- Any person whom he or she finds in the highway, yard or other place during the night and whom he or she suspects upon reasonable ground of having committed or being about to commit a felony.

To learn more about the above notions, see

- The Police (Sec 23 and 24 CPC)
- Magistrates (Sec 19-20 CPC)
- Private persons (Sec 15 CPC)
- Chiefs (Sec 69(3) Local Government Act Cap 243)
- Members of the Army (Sec 185 of UPDF Act 2005)

6. **How should an arrest be executed?**

In making an arrest, the police officer or any other person making it, confines the body of the person being arrested, unless there be a submission to the custody by word or action. However, if a person forcibly resists the endeavor to arrest him or her, or attempts to evade the arrest, the police officer or other person making the arrest may use all means necessary to affect the arrest. This however does not warrant the use of greater force than is reasonably required in the particular circumstance. Therefore, arrest can be forceful as long as the force used is reasonable.

Where the manner of arrest is improper and excessive or otherwise unjustified force is used, the person making the arrest may commit an assault and battery with consequence of civil and criminal liability. Where a proper purpose is lacking, the deprivation of liberty may amount to the offence of ‘abduction or kidnapping’. However, it’s an offence for a person to resist a lawful arrest.
7. What are the rights of a person during arrest and detention?

<table>
<thead>
<tr>
<th>Rights and freedoms during arrest and detention</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. To be informed immediately in a language he or she understands of the reasons for the arrest;</td>
<td>This is provided for by Article 23(3), Article 28(3) (f) of the Constitution and Article 9(2) of the ICCPR which states that;</td>
</tr>
<tr>
<td>2. A right to a lawyer of his or her choice (Legal representation);</td>
<td>‘A person arrested or detained shall be informed immediately, in a language that the person understands, the reason for arrest or detention, the charges against him or her and of his or her right to a lawyer of his or her choice. The person shall also be accorded an interpreter if he doesn't understand the language used.’</td>
</tr>
<tr>
<td>3. Right to be availed an interpreter if he or she does not understand the language used so as to ease communication and avoid incriminating oneself;</td>
<td></td>
</tr>
<tr>
<td>4. Right to keep quiet and not to answer questions about the charge; A person arrested and detained has the right to remain silent. This is to avoid a situation where he or she will give statements that may incriminate him or her. The use of torture and intimidation to extract confessional statement from suspects is wrong and should be exposed when it occurs.</td>
<td>Article 23 (5) (a), (b), (c) of the Constitution provides for the right of the detainee to inform the next of kin about his detention, to access his or her next of kin, or access his lawyer for legal representation and doctor for any medical assistance.</td>
</tr>
<tr>
<td>5. Right to be produced in court not later than 48 hours from time of his or her arrest;</td>
<td>Article 24 of the Constitution provides that no person shall be subject to any form of torture or cruel, inhuman or degrading treatment or punishment.</td>
</tr>
<tr>
<td>6. The right to be treated with respect and dignity, and not be tortured or suffer cruel, inhuman or degrading treatment or punishment;</td>
<td></td>
</tr>
<tr>
<td>7. The right to inform or have the authorities notify the arrested person’s next of kin—that is, family or friends that they have been arrested or detained and the place where they are being kept in custody;</td>
<td></td>
</tr>
</tbody>
</table>
The arrested person must be arraigned before a competent court within the shortest possible time, not exceeding one day from the time of arrest. However, where there is no court of competent jurisdiction within 40 km of the place of the crime, the police are not permitted to detain a suspect beyond the maximum period of 48 hours (2 days);

The right to be tried within reasonable time is the basis of a fair trial- Article 126(2)(b) of the Constitution provides that “justice shall not be delayed”.

<table>
<thead>
<tr>
<th>8. The arrested person must be arraigned before a competent court within the shortest possible time, not exceeding one day from the time of arrest. However, where there is no court of competent jurisdiction within 40 km of the place of the crime, the police are not permitted to detain a suspect beyond the maximum period of 48 hours (2 days);</th>
<th>9. Right to reasonable access to a doctor and medical treatment;</th>
</tr>
</thead>
<tbody>
<tr>
<td>10. Right to be detained in a place authorized by law; Not confining an arrested person to a place not legally or officially recognized. Any person deprived of liberty must be taken or held in an officially recognized place of detention i.e. a police station.</td>
<td>11. Right to an order of habeas corpus [Produce the person before court at all costs]</td>
</tr>
<tr>
<td>12. Right to be presumed innocent until proven guilty unless the accused voluntarily pleads guilty.</td>
<td>12. Right to be presumed innocent until proven guilty unless the accused voluntarily pleads guilty. According to Article (28) (3) (a) of the Constitution, Article 11 of the UDHR and Article 14(2) of the ICCPR, “Every person who is charged with a criminal offence shall be presumed to be innocent until proved guilty or until the person has pleaded guilty”.</td>
</tr>
<tr>
<td>13. Right to a fair trial</td>
<td>13. Right to a fair trial The 1995 Constitution in Article 28(1), Article 10 of the UDHR and Article 14 (1) of the ICCPR provide for a fair, speedy and public hearing before an independent and impartial court or tribunal established by law.</td>
</tr>
<tr>
<td>14. The right to apply for bail- the release of an accused person from detention pending trial or until Court decides his/her case.</td>
<td>14. The right to apply for bail- the release of an accused person from detention pending trial or until Court decides his/her case. Article 23(6) of the Constitution</td>
</tr>
<tr>
<td>15. Right not to be charged under retrospective penal laws</td>
<td>15. Right not to be charged under retrospective penal laws Article 28(7) of the Constitution provides that no person shall be charged with or convicted of a criminal offence which is founded on an act or omission that did not at the time it took place constitute a criminal offence.</td>
</tr>
</tbody>
</table>
8. What is an arrest warrant?

The most solid authority for effecting an arrest is a warrant issued by Court. A warrant of arrest must:

a) Be in writing,

b) Signed by the judge or magistrate issuing it,

c) Bearing the seal of court,

d) Stating the offence charged and

e) Ordering the person to whom it is issued (mainly police officer), to apprehend the person against whom it is directed and

f) Bring him/her before the issuing court.

A warrant of arrest is issued normally on the ground that a charge has been laid against any person by the public prosecutor or a police officer or has been drawn up by a magistrate on the basis of a complaint and the warrant is required to secure the appearance of the accused or suspect to answer the charge. The warrant may be issued whether or not a summons has been issued for example to arrest a person who has refused to answer summons.

9. To whom is a warrant directed?

A warrant can be directed to a specific police officer or a chief, or generally to all police officers or chiefs and in some cases to private persons to effect the arrest or apprehension of the person sought to appear before the courts of law or a police officer to answer the alleged charges. A warrant remains in force until it is executed or cancelled and may be executed anywhere in Uganda. In some situations, where a warrant is time fixed and is not executed within the time provided, it can be renewed by the Court that issued it.

10. Process of a statement taking at police

When a person is arrested or summoned to appear at the Police station, procedure demands that a statement of that person is taken voluntarily detailing his side of the story or information she or he may know about the particular subject matter under investigation. There are three categories of persons that may make statements.

- Accused
- Witness
- Victim
The procedure of taking statements by the police

1. The police officer is required to first charge the arrested person with the offence, or inform him or her of the nature of the charge which is likely to be brought against him or her or the matter which the police officer is investigating.

2. A caution must be administered. E.g. “You need not say anything unless you wish, but whatever you say will be taken down in writing and may be given in as evidence.”

3. The suspect need not to be cross examined at this time since this is not court;

4. Where there are two or more persons charged of the same offence, statements will be recorded separately.

5. A statement is taken by a police officer literate in the language being used by the accused or be translated to the accused for approval before he or she signs it,

6. Such statement should be read back to the accused for him or her to conform what has been taken down before he or she signs;

7. Care must be taken during statement taking, to ensure that no force or torture is used to extract information from the suspect;

8. These statements are recorded in narrative form and in chronological order;

9. Police statements are recorded on Police Form 2B;

10. A statement must contain; full names, approximate age, occupation, sex, nationality or tribe, residence, postal address, date and time and Police station where the statement is made.

Note to the Facilitator
The facilitator should expound on types of statements, which include among others plain statements and confessions/extra-judicial

Searches

11. What is a search warrant?
A search warrant is a written authority given by a court, ordering the search of the premises, place or vessel named in the warrant, for the purpose of seizing anything therein which is required or material in the investigations of an offence.

A search may be defined as an inspection made on a person or in a building for the purpose of ascertaining whether anything useful in criminal proceedings may be discovered on the body of the person or in the building searched. A search may be carried out in any place whether within premises or outside or in a vehicle.
12. Who issues a search warrant?
A search warrant is issued by a magistrate, if it is proved on oath to the magistrates court that anything which is necessary to the conduct of investigation into any offence is in the building, vessel, carriage, box receptacle or place, the court has power to issue a search warrant authorizing the person to whom it is directed to search such place for such thing. It must be signed and have a seal of the court.

12. What is entailed in a search warrant?
The authority of the searching officer is limited to seizing things which are specified in the search warrant. If he seizes any other things which are not specified, he or she will only be protected if he or she reasonably believes them to be included.

13. Who enforces it?
A police officer enforces the search warrant. At the request of the occupier or owner of the premises to be searched, the police officer must show him the search warrant or else such person is not obliged to allow the officer entrance into the premises. The police officer must announce his authority and the purpose for seeking entry and thus afford the householder an opportunity to submit to the search peacefully before the officer can resort to force.

14. When does a police officer search without a search warrant?

- Where there is a valid arrest, the person's clothing and inside pockets may be examined and any weapons found on his body seized from him, lest he uses them against the arresting officer.

- Where a police officer not being lower in rank than a sergeant, has reasonable grounds to believe that anything necessary for purpose of investigation into an offence which he or she is authorized to investigate may be found in any place and that such thing cannot in his or her opinion be otherwise obtained without undue delay, he or she may search or cause a search to be made for such thing.
The objective of this module is to enlighten participants on the reliefs the criminal justice system offers during incarceration and mechanism through which a suspect can be released pending the conclusion of the case.

Bond

1. What is bond?
Any person arrested and taken to a police station may be released temporarily until police completes its findings or investigations concerning the subject matter for which he or she is charged when the offence is of minor category. If the offence is major, police has the discretion to grant or deny an accused person bond. The guarantee that he or she will turn up whenever required to do so by the police is known as police bond. If the Police does not grant bond, then it must produce that person in court within 48 hours of arrest. Police bond is free.

2. Who issues bond?
The police officer in charge of a police station has power to release a person taken into custody without a warrant if it is not practicable to take that person to court within 48 hours of arrest.

3. Is bond a constitutional right?
A bond is not a constitutional right. The police have discretion to grant or deny a police bond, but will become mandatory where an accused or detainee cannot be produced before court within 48 hours after arrest.
UGANDA POLICE FORM 18: POLICE BOND
(Another form should be secured)
“In a case where court is considering whether one has a constitutional right to bail, since one is to be presumed innocent until proven guilty, then it would necessarily follow that any court which denies such an accused person bail would be acting unconstitutionally”.

Justice Lugayizi

1. **What is bail?**

Bail is a constitutional right given by Article 23(b). It is the discharge from guardianship, custody or safe keeping of an accused by a court of law pending his or her trial or until such a time when the Court enters judgment on his or her case. Bail, therefore, is an agreement between the accused (and his sureties, if any) and the Court that the accused will attend his or her trial as scheduled. At the commencement of the hearing, the Court must advise the accused of his or her right to apply for bail pending trial.

Bail is the catalyst of the notion of presumption of innocence until a person is proven guilty or pleads guilty—it is a guarantor of someone’s rights and freedoms from infringement or wrongful detention pending investigations or trial in court.

2. **What is the importance of bail in the criminal justice system?**

- The release helps the accused person to prepare his or her defence by providing him or her ample time and access to witnesses to build his case;
- The released person is entitled to enjoy all rights and freedoms of a free man subject to the bail conditions set in the bail discharge;
- The Police benefits as well as it is accorded enough time within which to efficiently investigate the case against the accused person.
- It reduces congestion in prisons and saves government expenditure on prisoners. Bail is neither a punishment nor an acquittal—the case continues until a judgment is entered.
3. Who issues or grants bail?
Bail is granted by court. The High Court has power to grant bail in any case including those punishable by death. The Magistrates’ Court also grants bail.

4. What are the types of bail in existence?

Mandatory bail
Where an accused person is remanded in detention before his or her trial starts for a continuous period exceeding 180 days for major offences, and 60 days for minor offences, the Constitution authorizes the Magistrate before whom that accused person first appears to release him or her on mandatory bail. However, the Magistrate may refuse to grant bail to an accused person even if he or she has completed the mandatory days on remand if; the accused person is committed or referred to High Court for trial or the Magistrate thinks that the release of the accused person is a threat to the public.

Bail pending hearing
An accused person can apply for bail immediately after taking plea or any time before judgment is passed.

Bail pending appeal
This is bail granted or available to persons that have been convicted of committing an offence and are serving a prison sentence. When they opt to exercise their right of appeal, they are entitled to apply for bail as they await the Court’s verdict in their appeal case.

5. What are the requirements for bail?
There are several factors Court considers before granting bail. Some of them are:

- The nature of the offence or charge against the accused. If it is an inconsequential charge, there is a great likelihood of granting bail.
- The sternness of the penalty which conviction may necessitate. If the charge draws a light penalty, chances are that court is most likely to grant the bail application.
- The past history (background and character) of the accused also plays a role. If for example the accused person is a first offender he or she stands higher chances of being granted bail.
• Whether the accused has a permanent place of abode or dwelling, within the jurisdiction or control area of the court.
• Whether the accused is likely to interfere with State witnesses and evidence when released (influence peddling).
• The age and health (physical condition and general well being) status of the accused person.
• Whether the accused person has sureties or not-people that can guarantee his or her appearance in Court when required by Court.
• If they have reasons to believe that the suspect might go on to commit another crime if released.

Where bail is not granted to the applicant, the Court has a duty to give reasons for not-granting it and advise the accused person of his or her right to apply for bail in a higher Court.

6. Is bail free?

In order to secure bail, the accused and his sureties must fulfill certain requirements set by Court, which must be reasonable, rational and realistic. The accused seeking bail must enter a recognizance consisting of a cash or non-cash bond-which can be with or without sureties.

7. When can bail be denied?

Even though the law gives the accused person a right to apply for bail, the decision to grant or deny bail is in the discretion of the Magistrate or Judge presiding over the application who, guided by the law, weighs the arguments for and against the application. Most of the time, this discretion is based on whether the accused, if granted bail, will fulfill the conditions that the Court may set. A Magistrates Court, can release an accused person on bail save for the following offences;

• An offence triable by the High Court;
• Offences relating to terrorism;
• An offence under the penal code relating to cattle rustling;
• An offence under the fire arms Act punishable by a sentence of imprisonment of not less than ten years;
• Abuse of office contrary to s.38 of the Penal Code;
• Rape contrary to s.123, defilement contrary to s.129, 130 of the Penal Code;
• Embezzlement contrary to s.268 of the Penal Code;
• Causing financial loss contrary to s.269 of the Penal Code;
• And any other offence in respect of which a Magistrate’s Court has no jurisdiction to grant bail.

8. Under what circumstances can bail be canceled?

Bail can be cancelled by Court when the accused fails to appear before Court for trial as pledged by him or her and his or her sureties without justifiable reasons. If a person breaches the conditions of the bail, chances are, bail will be cancelled.

9. What is jumping bail? What are its implications for a suspect?

If the accused fails to report to Court on the scheduled date or comply with the bail terms he or she may be arrested, remanded till a specified date or until he or she complies with the terms. That act of non-compliance with the conditions prescribed for granting bail is termed as jumping bail. Where this occurs, the surety will lose the bond used to guarantee the appearance of the accused in court to answer charges brought against him.

10. What happens if the accused fulfills the bail terms?

After complying with the terms of bail, the accused and his sureties will fill and sign the bail form which the Magistrate will sign and seal. These forms are then presented to the Prison warders for release of the accused from the Court cells immediately, unless held on some other lawful charge.

11. How does one apply for bail in a magistrate’s court?

An application for bail can be made orally by an accused or his or her lawyer or advocate in Court. Alternatively it can be made in writing and should be supported by an affidavit. An affidavit is a sworn statement made by someone, setting forth the reasons as to why court should consider granting their application and could be used against him or her courts of law.
12. **What does court require of an accused asking for bail?**
- **Sureties** - A surety is a person who guarantees to court upon the grant of bail to an accused that the accused will return to court every time he or she is required.
- **Security** - Refundable payment made by the sureties to the Court.

13. **What are the responsibilities of sureties upon the grant of bail?**
- To sign the bail papers.
- To ensure that the accused honours the bail terms.
- To ensure that the accused returns to court whenever called upon to do so at the time he or she called upon.
- To inform court whenever there is a variance or unreasonable conduct on the part of the accused so as to request for a discharge.

14. **What happens when court refuses to grant bail?**
If a lower court denies an accused bail because of the fact that it has no powers to grant bail to such a person, then it shall record its reasons and inform the accused of his or her right to apply for bail to the High Court. On application by the accused to the High Court, it can order grant of bail for those offences that a Magistrate court is excluded from. The High Court can also order the stay or revision of bail terms set by the Magistrate Court which must be adhered to by the suspect.
MODULE IV: Uganda’s Judicial System
The objective of this module is to educate participants on Uganda’s Judicial System and to enhance their knowledge on the various Courts in Uganda, their mandate and jurisdiction.

A. Judiciary

Article 126 (1) of the constitution of Uganda provides that judicial power is derived from the people and shall be exercised by the courts established under the constitution. Through its judgments, the judiciary restates and clarifies the scope of the constitution and other written law, common law, equity and custom. It helps to protect the rights that are provided for under the constitution. One of the main institutions in any legal system is its judiciary. Courts are places where disputes are settled and justice is administered. The Judiciary is an independent organ of government entrusted to administer justice, settle disputes and offer redress to aggrieved persons through courts of judicature. The functions of the Judiciary are:

1. To adjudicate civil and criminal cases
2. To interpret the Constitution and the laws
3. To promote human rights

In adjudicating courts should act in accordance with the following principles:

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

B. Courts of Uganda
C. Which Court does what?

- **The Supreme Court of Uganda**
  This is established by Art.129 (1) (a) of the Constitution of Uganda. It is the highest court in Uganda and it is the final court of appeal. It is composed of the Chief Justice and not less than six Justices of the Supreme Court.

- **The Court of Appeal of Uganda**
  This is established by Art.129 (1) (b) of the Constitution. It receives appeals from the High Court. It is composed of the Deputy Chief Justice and not less than seven justices of appeal. It is duly constituted at any sitting when composed of an uneven number not being less than three justices. This court may uphold, reverse or vary a decision of a lower court and for purposes of determining an appeal.

- **The Constitutional Court**
  This court deals with interpretation of the Constitution. It is also sits as the Court of Appeal. It is created by Article 137 of the Constitution and duly constituted when it is composed of five members. This court has original jurisdiction in; (a) determining any question relating to interpretation of the Constitution, or (b) determining any matter relating to any act or omission or Act of Parliament or any other law or anything done under the authority of law, that is inconsistent or in contravention of any provision of the constitution. (Art. 137(1) of the Constitution) The constitutional court can make a declaration or grant an order for redress or refer the matter to High Court for investigation with a view of determining the appropriate redress. (Art. 137(4) of the constitution)

- **The High Court of Uganda**
  It is established by Art.138 of the Constitution. It is the superior court of record and has unlimited jurisdiction (power) throughout Uganda. It is composed of the Principal Judge and not less than six judges. The court is however duly constituted by a single judge when hearing criminal cases, although the judge is required to sit with lay assessors when trying an accused person on an indictment. There is one High Court in Uganda but with different circuits or simply-branches across the country. The High Court has various divisions-or units within it as shown below;

  It has jurisdiction to try any offence under any written law. However no criminal case can be brought under the cognizance of the court for trial unless the accused has been committed for trial to the High Court after holding preliminary proceedings. The High Court tries capital offences of murder, treason, aggravated robbery, rape, kidnapping with intent to murder, etc.

  The High Court may pass any lawful sentence, combining any of the sentences which it is authorized by law to pass. The court entertains appeals from decisions of the Chief magistrate and Grade I, as well as second appeals from Chief magistrates’ court. It also has revisionary powers, confirmation of sentences, transfer of cases, etc.
These are established by Section 3 of the Magistrates Courts Act. There are currently three grades of magistrates; Chief Magistrates, Grade I and Grade II.

**a) Chief Magistrates’ Court**

This court may try any offence other than that punishable by death and cannot try cases involving attempt to commit, aiding and abetting or inciting the commission of that offence. This court may pass any sentence authorized by law, i.e. a maximum sentence of imprisonment for life. There is no limit on the amount of fine it may impose. The Chief Magistrate hears appeals from decisions of Magistrate Grade II. It can also hear appeals from the Family and Children’s Court. The court has supervisory powers over all magistrates within the area of jurisdiction. A chief magistrate may transfer a case from any magistrate to him/herself or from one magistrate to another.

**b) Magistrates Grade I**

This court has original jurisdiction to try any offence other than that punishable by death or life imprisonment and had sentencing powers of 10 years imprisonment or a fine not exceeding 1,000,000shs or both.

**c) Magistrate Grade II**

This court may try any offence written under law except offences and provisions specified in Schedule I of the MCA. This leaves cases which are not serious and which fit in its sentencing powers. However, these courts are in the process being phased out.

**d) Family and Children’s Court**

This court has original jurisdiction to hear and determine cases against children except those punishable or where the child is charged jointly with an adult. The Magistrates Court Grade II
sits as the Family and Children’s Court. The sentencing powers are fixed for certain age group of children.

The court can hear appeals from the sub-county local council committee court. However, a child is charged with an adult may be tried in Magistrates court if the offence is triable by Magistrate court and where it’s an offence punishable by death, the child shall be tried in the High Court. Further, the High Court shall remit the file back to the family and children’s court for sentencing or making of an order.

e) Local Council Courts

These courts have jurisdiction over bye-laws made by local councils. Thus a village executive committee has jurisdiction over; affray, idle and disorderly persons, common assault, actual bodily harm, criminal trespass and malicious damage to property. They are the first instance in respect of those offences committed by children and they have sentencing powers to order reconciliation, compensation, restitution, apology or caution.

D. Jurisdiction

Jurisdiction refers to the power of a court to hear and try cases brought before it. When a matter arises to be determined by the courts, it must be and can only be heard by the court with the power (jurisdiction) to hear and dispose of the subject matter under inquiry.

A. Types of jurisdiction by courts

- Original jurisdiction is the power of a court to hear or try cases appearing before it for the first time. Such matters or cases should not have been heard before by any other Court.

- Appellate jurisdiction is the power of a court to hear appeals. An appeal arises when a person or a party is dissatisfied with a judgment of a lower court. In the appeal, he/she sees to ask a higher court to re-evaluate the judgment of the junior court.

- Some courts have both original and appellate jurisdiction (power). This means that such a court can sit in a case that is appearing before it for the first time or cases that have been forwarded to it for re-evaluation (appeal).

- Monetary or pecuniary jurisdiction is also based on the monetary value of the subject matter of a disagreement. For instance, while the High Court has powers to hear cases of any monetary value, small or big, the magistrate’s courts have their monetary jurisdiction limited by law.

- Geographical Jurisdiction may also be limited to a particular area for administrative purposes. While the High Court can hear a case from any part of Uganda, Magistrate’s courts only hear matters within their geographical areas.
f) What is a Court hearing?

A hearing is a proceeding before a court or other judicial decision-making body or officer, such as a government commission of inquiry or tribunal.

g) What is a Court judgment?

The term court judgment is used to refer to the legal document in court which states the decision of the judge after he or she has heard both parties or sides in a suit or trial and states the reasons for a judicial decision. This document is also known as a decree or an order in legal terms.

h) What is a Court ruling?

This is the official proclamation by a Judge(s) that defines the legal relationship between the parties to a suit or trial or an appeal or any other court proceeding.
MODULE V: The Uganda Police Force And Uganda Prisons Services
A. The Uganda Police Force

The Police is the;

- Central department of government tasked with the maintenance of public order and safety and enforcement of the law;

- In all criminal matters that affect the people, the police are the first entry point within the formal criminal justice system that an offender, victim, or complainant FIRST go to before meeting other stakeholders of the Criminal Justice System;

- It is very different from the Military or Army since it is trained to be a civil force stationed and working with and within the communities;

- The body mandated to protect, rather than hold back freedoms and rights of the citizens;

- Legitimized and established by Article 212 of the Constitution of the Republic of Uganda which states that: ‘there shall be a police force to be known as the Uganda police force and such other police forces in Uganda as parliament may by law prescribe.’

- The roles of the UPF are provided for under Article 212 of the Uganda Constitution to include:
  a) To protect life and property;
  b) To preserve law and order;
  c) To prevent and detect crime, and;
  d) To cooperate with the civilian authority and other security organs established under the Constitution.

- The Police Act is the main law that governs the daily operational works of the UPF. The law provides for further roles and functions of the police such as:
  a) Investigate cases and make necessary arrests, detain for a minimum period and produce a suspect in court;
  b) Detection of crime; arrest of suspects; investigation; searches; prevention of crime; prosecution of offenders; protection of life and property, and preservation of law and order.
## Procedure Of Reporting A Crime At Police Station

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<tr>
<th>STEP</th>
<th>ACTIVITY</th>
<th>INSTITUTION RESPONSIBLE</th>
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</table>
| 1.   | Offence is committed Upon receiving a report that an offence has been committed, the Police opens a file and registers the case by giving it a Criminal Register Book number (CRB).                                      | 1. Police  
     |                                                                                                                                             | 2. Local Council       |
| 2.   | Investigations Police starts investigating the case by taking the statement of the complainant, summoning witnesses to the commission of the offence and the accused person and records their statements.                   | 1. Police  
     |                                                                                                                                             | 2. Complainant  
     |                                                                                                                                             | 3. Witnesses        |
| 3.   | Police Summons/Arrest Warrant If the accused person does not answer to the summons, the Police forward the file to a Magistrate who issues a warrant of arrest. This is a document which instructs the Police to look for the person named therein and arrest him forthwith. The purpose of the warrant of arrest is to ensure that the accused person answers to the charges brought against him or her. | 1. Police  
<pre><code> |                                                                                                                                             | 2. Magistrate        |
</code></pre>
<p>| 4.   | Arrest Upon arrest, the accused person is interrogated or asked questions, produced in court for charging and trial. Police should do this within forty eight (48) hours.                                                                                      | 1. Police            |
| 5.   | Step 5: Bond If by the time of arresting the Police have not finalized their investigations and the offence with which the accused person is charged is a minor offence, the Police can release the accused person on Police Bond pending conclusion of the investigation process. The Police has a discretion to grant or deny an accused person bond if he or she is accused of committing a major offence, but nevertheless, they must produce that person in court within 48 hours of arrest. | 1. Police            |</p>
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<tr>
<td><strong>6. D.P.P File Sanctioning</strong></td>
<td>The Police send the file to the State Attorney to sanction the charges against the accused person. Sanctioning is an administrative measure by which the Director of Public Prosecutions assesses whether evidence collected by Police is sufficient to sustain the charges brought against an accused person. If on perusal of the file it is established that evidence is insufficient, the Director of Public Prosecutions sends the file back to Police to gather more evidence.</td>
</tr>
<tr>
<td><strong>1. Police</strong></td>
<td><strong>2. D.P.P</strong></td>
</tr>
<tr>
<td><strong>7. Court Hearing</strong></td>
<td>The accused person is produced in Court, where the Magistrate reads out the offence which the accused person is alleged to have committed and asks him or her to plead. The accused person should tell court whether he or she pleads guilty or not guilty. On doing this the Magistrate remands him or her unless he or she applies for bail and sets a date for hearing the case.</td>
</tr>
<tr>
<td><strong>1. Court</strong></td>
<td></td>
</tr>
<tr>
<td>8. Bail</td>
<td>If the accused person pleads not guilty, the Magistrate informs him or her of his right to apply for bail. The accused person can apply for bail there and then or be remanded and instruct a lawyer or any other person knowledgeable about the procedure to apply for bail on his or her behalf. For offences which are only triable by the High Court, the accused is charged in a Magistrate’s court, but he or she is not allowed to plead to the charges. The Magistrate informs him or her about the right to apply for bail in the High Court and remands him or her. The detainee can then file an application for bail at High Court where the Judge hears it and takes a decision on whether to grant or deny him or her bail. When the prosecution finalizes its investigations, the accused person is committed to the High Court for trial. For cases which are triable by the Magistrates court but are not bailable by them for example embezzlement, when the accused person is presented in Court, he or she takes a plea and is remanded. He or She is informed of his or her right to apply for bail in the High Court which he or she can exercise anytime before the trial process is completed.</td>
</tr>
</tbody>
</table>

Other directorates that are part of the police include:

a) Directorate of Legal and Human Rights which is central to the work of journalists especially in relation to violation of their rights and freedoms of expression and work by the Police.

b) Directorate of Child and Family Protection - protects, promotes the rights and freedoms of children in homes.
1: Commission of a Crime: Its reported to the nearest police station or police post.

2: The case/complaint is recorded in the station diary (SD) and the complainant is given a case reference number. A file is opened up and investigations begin.

3: Investigations are carried out by the Criminal Investigations Department (CID). Investigations may involve a lot of activities including summons, statement taking of witnesses and some times arrests.

4: On conclusion of the Investigations, if police finds the evidence necessary, the file is forwarded to the Directorate of Public Prosecutions (DPP). His role is to analyse the evidence and make an assessment on whether there is enough evidence to sustain an action in Courts of law.

5: After a file is sanctioned, the matter becomes the responsibility of court and the government has the responsibility to appoint a prosecutor to make a case for the victim. Prosecutors are government lawyers.
B. The Uganda Prisons Services

Prisons are institutions;

- Where persons undergoing trial or serving a punishment given by court are confined until such a time when they have served their punishment or been granted bail.

- Through which the legal means of infringing on the right to liberty and movement are carried out since during prison service, one is under detention. There are no separate prisons for convicts as well as persons on remand.

- Where as a result of the imprisonment of convicted criminals from society, it serves to deter further crime that would have been committed by the same criminals;

- Where as a result of the imprisonment of offenders, there is justice and indeed satisfaction to the victims that justice has been done.

- Legitimizied and established by Article 215 of the Constitution of the Republic and also the attendant law of the Prisons Act, 2006 Cap 304. Article 215 provides for a prison service which is to be known as the Uganda Prison Service.

- Tasked with providing safe custody for accused persons in conflict with the law and enabling rehabilitation and reform of such persons to become law abiding citizens.

The Uganda Prisons Service Act, the key objective of UPS is “to contribute to the protection of all members of society by providing reasonable, safe, secure and humane custody and rehabilitation of offenders in accordance with universally accepted standards.’ Among the other functions of Uganda Prison Service include:

a) To ensure that every person detained legally in a prison is kept in humane safe custody produced in court when required until lawfully discharged or removed from prison;

b) To facilitate the social rehabilitation and reformation of prisons through specific training and educational programmes - this explains the introduction of the U.P.E and U.S.E programs in Main prisons such as Luzira Upper prison.

c) To facilitate the re-integration of prisoners into their communities;

d) To ensure performance by prisoners of work reasonably necessary for the effective management of prisons.
**Key Officers in Prisons**

a) Officer in Charge: Head of a prison facility

b) Reception Officer: Responsible for receiving prisoners into the prison facility and ensuring the safe keeping of their property;

c) Warders: Officers in charge of the day to day welfare of prisoners such as food, medication, transport to court, sanitation among others.

**Classification of Offenders**

Prison classifies offenders and these are kept separate from others; the main Luzira prison is divided into four units namely:

a) Murchison Bay prison- those convicted of or charged with non-capital offences;

b) Upper prison- maximum security prison where persons convicted of or charged with capital offences are held. Condemned prisoners-prisoners under death row (those sentenced to death) are kept apart from all other prisoners;

c) Kampala Remand prison for prisoners who are still on trial for non capital offences. and

d) Luzira Women’s prison for Women prisoners with its own remand unit, a maximum security unit for condemned women prisoners and a unit for those convicted of noncapital offences. Most of the other prisons within the region follow a similar trend of classification in relation to remand and convicted sections.

Uganda Prisons Services is an important institution for journalists as part of their general work of being public watch dogs over the conditions in prisons and whether they meet international and national human rights standards such as better conditions of sanitation, adequate food for inmates among others. Being a prisoner does not mean that one has no rights and freedoms whatsoever. It simply means his or her rights have been limited. Indeed prisoners too have rights as summarized below;

<table>
<thead>
<tr>
<th>Rights and freedoms of prisoners</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Prisoners have the right to proper medical care. The law requires every prisoner on reception, to be medically examined and his or her state of health recorded;</td>
</tr>
<tr>
<td>2. Prisoners have the right to private medical treatment provided at the expense of the prisoner.</td>
</tr>
<tr>
<td>3. Pregnant women prisoners have the right to receive ante-natal medical care;</td>
</tr>
<tr>
<td>4. Prisoners are entitled to visits from their relatives and spiritual/religious advisors.</td>
</tr>
<tr>
<td>5. Proper sanitation;</td>
</tr>
<tr>
<td>6. Adequate food and water as part of their diet.</td>
</tr>
</tbody>
</table>
MODULE VI: Basic Principles of Human Rights
The objective of this module is to equip participants with knowledge on human rights, the history, key human rights instruments, the State’s obligation in protecting and respecting these rights and the distinction between a violation and a crime.

A. What are human rights? Where do human rights come from? From documents, tradition, governments or God?

Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible.

Universal human rights are often expressed and guaranteed by law, in the forms of treaties, customary international law, general principles and other sources of international law. International human rights law lays down obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.

B. Classification of human rights

Despite the fact that Human rights are indivisible and interdependent, they are classified into three distinct groupings or ‘generations’.

1. Civil and political rights (‘first generation’)

- This is the first category—the civil and political rights, sometimes depicted as the core of human rights.
- They generate principally a ‘negative’ obligation on States not to violate them. The State by and large respects the right if and when it does not meddle with it. It may possibly also necessitate the state to take some positive action in an effort to ensure that the right is not interfered with by any other people.
- They include civil liberties such as the right to equality before the law, to a fair trial, to not be arbitrarily detained or tortured, to know the charges made against one, etc.
- ‘Political’ rights detail rights that facilitate citizens to partake significantly in the politics and governance of their country. These include the right to vote and the right to assembly and association.
2. **Social and economic rights (‘second generation’)**

- These rights are social and economic rights. These rights deal with continued existence and development. They include the right to access basic education, the right to health care and the right to basic shelter.

3. **Environmental and developmental rights (‘third generation’)**

- These are the so-called ‘green’ rights, least developed and often dismissed as aspirational and not rights per se. They are characterized by the debate of who is the duty bearer? Who should develop Uganda? They are part and parcel of the sphere of journalism.

C. **Human Rights Instruments**

The International Bill of Rights

The ‘International Bill of Rights’ is the term used as a collective reference to three major human rights instruments as named below and discussed further under the notion of brief history of Human rights:

1) Universal Declaration of Human Rights;

2) International Covenant on Civil and Political Rights-1966. The ICCPR provides for the right to life, liberty and security of the person, the right not to be subjected to cruel, inhuman or degrading treatment or punishment, and the rights of detained and arrested persons, protects freedom of religion and expression, assembly and association.

3) International Covenant on Economic, Social and Cultural Rights of 1966. The ICESCR details with socio-economic aspects including the right to education, health care, housing and shelter, water, food and social services.

**Regional Instruments**

1. African Charter on Human and Peoples Rights

2. The East African Treaty
The Uganda Bill of Rights and Freedoms available to all Ugandans is provided for under Chapter Four of the Constitution of Uganda under the heading, ‘Protection and Promotion of Fundamental and Other Human Rights and Freedoms.’ The Constitution re-emphasizes that:

a) Fundamental rights and freedoms of the individual are inherent and not granted by the State;

b) The rights and freedoms of the individual and groups enshrined in the Chapter shall be respected, upheld and promoted by all organs and agencies of Government and by all persons.

c) All persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law. A person shall not be discriminated against on the ground of sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability.

d) No person shall be deprived of life intentionally except in execution of a sentence passed in a fair trial by a court of competent jurisdiction in respect of a criminal offence under the laws of Uganda and the conviction and sentence have been confirmed by the highest appellate court.

e) No person shall be subjected to any form of torture or cruel, inhuman or degrading treatment or punishment.

f) No person shall be subjected to—(a) unlawful search of the person, home or other property of that person; or (b) unlawful entry by others of the premises of that person. No person shall be subjected to interference with the privacy of that person’s home, correspondence, communication or other property.

g) In the determination of civil rights and obligations or any criminal charge, a person shall be entitled to a fair, speedy and public hearing before an independent and impartial court or tribunal established by law.

h) Every person shall have the right to—(a) freedom of speech and expression which shall include freedom of the press and other media; (b) freedom of thought, conscience and
belief which shall include academic freedom in institutions of learning; (c) freedom to practice any religion and manifest such practice which shall include the right to belong to and participate in the practices of any religious body or organization in a manner consistent with this Constitution; (d) freedom to assemble and to demonstrate together with others peacefully and unarmed and to petition; and (e) freedom of association which shall include the freedom to form and join associations or unions, including trade unions and political and other civic organizations.

i) Every Ugandan shall have the right— (a) to move freely throughout Uganda and to reside and settle in any part of Uganda; (b) to enter, leave and return to, Uganda; and (c) to a passport or other travel document.

j) Every Uganda citizen has the right to participate in the affairs of government, individually or through his or her representatives in accordance with law. (2) Every Ugandan has a right to participate in peaceful activities to influence the policies of government through civic organizations.

k) Every citizen has a right of access to information in the possession of the State or any other organ or agency of the State except where the release of the information is likely to prejudice the security or sovereignty of the State or interfere with the right to the privacy of any other person.

l) There shall be no derogation from the enjoyment of the following rights and freedoms— (a) freedom from torture and cruel, inhuman or degrading treatment or punishment; (b) freedom from slavery or servitude; (c) the right to fair hearing; (d) the right to an order of habeas corpus.

m) The rights, duties, declarations and guarantees relating to the fundamental and other human rights and freedoms specifically mentioned in this Chapter shall not be regarded as excluding others not specifically mentioned.

n) Enforcement of rights and freedoms by courts-(1) Any person who claims that a fundamental or other right or freedom guaranteed under this Constitution has been infringed or threatened, is entitled to apply to a competent court for redress which may include compensation. (2) Any person or organization may bring an action against the violation of another person’s or group’s human rights. (3) Any person aggrieved by any decision of the court may appeal to the appropriate court.
Tracing Human Rights to traditional norms and values before codification

The belief that everyone, by virtue of her or his humanity, is entitled to certain human rights is fairly new. Its roots, however, lie in earlier tradition and documents of many cultures; it took the catalyst of World War II to propel human rights onto the global stage and into the global conscience.

Throughout much of history, people acquired rights and responsibilities through their membership in a group – a family, indigenous nation, religion, class, community, or state. Most societies have had traditions similar to the “golden rule” of “Do unto others as you would have them do unto you.” The Hindu Vedas, the Babylonian Code of Hammurabi, the Bible, the Quran, and the Analects of Confucius are five of the oldest written sources which address questions of people’s duties, rights, and responsibilities. In addition, the Inca and Aztec codes of conduct and justice and an Iroquois Constitution were Native American sources that existed well before the 18th century. In fact, all societies, whether in oral or written tradition, have had systems of propriety and justice as well as ways of tending to the health and welfare of their members.

Precursors of 20th Century Human Rights Documents

Documents asserting individual rights, such as the Magna Carta (1215), the English Bill of Rights (1689), the French Declaration on the Rights of Man and Citizen (1789), and the US Constitution and Bill of Rights (1791) are the written precursors to many of today’s human rights documents. Yet many of these documents, when originally translated into policy, excluded women, people of color, and members of certain social, religious, economic, and political groups.

Contemporary international human rights law and the establishment of the United Nations (UN) have important historical antecedents. Efforts in the 19th century to prohibit the slave trade and to limit the horrors of war are prime examples. In 1919, countries established the International Labor Organization (ILO) to oversee treaties protecting workers with respect to their rights, including their health and safety. Concern over the protection of certain minority groups was raised by the League of Nations at the end of the First World War before it finally collapsed.

The Birth of the United Nations

The idea of human rights emerged stronger after World War II. The extermination by Nazi Germany of over six million Jews, Sinti and Romani (gypsies), homosexuals, and persons with disabilities horrified the world. Trials were held in Nuremberg and Tokyo after World War II, and officials from the defeated countries were punished for committing war crimes, “crimes against peace,” and “crimes against humanity.” Governments then committed themselves to establishing the United Nations, with the primary goal of bolstering international peace and preventing conflict. People wanted to ensure that never again would anyone be unjustly denied life, freedom, food,
shelter, and nationality. The calls came from across the globe for human rights standards to protect citizens from abuses by their governments, standards against which nations could be held accountable for the treatment of those living within their borders.

The Universal Declaration of Human Rights; The Blueprint of Human Rights

Member states of the United Nations pledged to promote respect for the human rights of all. To advance this goal, the UN established a Commission on Human Rights and charged it with the task of drafting a document spelling out the meaning of the fundamental rights and freedoms proclaimed in the Charter. The Commission, guided by Eleanor Roosevelt’s forceful leadership, captured the world’s attention. On December 10, 1948, the Universal Declaration of Human Rights (UDHR) was adopted by the 56 members of the United Nations. The vote was unanimous, although eight nations chose to abstain.

The UDHR, commonly referred to as the international Magna Carta, extended the revolution in international law ushered in by the United Nations Charter – namely, that how a government treats its own citizens is now a matter of legitimate international concern, and not simply a domestic issue. It claims that all rights are interdependent and indivisible. Its Preamble eloquently asserts that:

‘Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world.’

The International Bill of Rights

With the goal of establishing mechanisms for enforcing the UDHR, the UN Commission on Human Rights proceeded to draft two treaties: the International Covenant on Civil and Political Rights (ICCPR) and its optional Protocol and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Together with the Universal Declaration, they are commonly referred to as the International Bill of Human Rights. The ICCPR focuses on such issues as the right to life, freedom of speech, religion, and voting. The ICESCR focuses on such issues as food, education, health, and shelter. Both covenants trumpet the extension of rights to all persons and prohibit discrimination.

Subsequent Human Rights Documents

In addition to the covenants in the International Bill of Human Rights, the United Nations has adopted more than 20 principal treaties further elaborating human rights. These include conventions to prevent and prohibit specific abuses like torture and genocide and to protect especially vulnerable populations, such as refugees (Convention Relating to the Status of Refugees, 1951), women (Convention on the Elimination of All Forms of Discrimination against Women, 1979), and children (Convention on the Rights of the Child, 1989). As of 1997 the United States has ratified only these conventions: The Convention on the Elimination of All Forms of Racial Discrimination; The Convention on the Prevention and Punishment of the Crime of...
Genocide; The Convention on the Political Rights of Women; The Slavery Convention of 1926; The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In Africa, regional documents for the protection and promotion of human rights extend the International Bill of Human Rights. For example, African states have created their own Charter on Human and People’s Rights (1981), and Muslim states have created the Cairo Declaration on Human Rights in Islam (1990).

Source: Adapted from David Shiman, Teaching Human Rights, (Denver: Center for Teaching International Relations Publications, U of Denver, 1993): 6-7

**D) Fundamental principles of human rights**

Human rights have various underlying principles central to its promotion, protection and fulfillment by the state. These include:

1. **Equality** which expresses the notion of respect for the inherent dignity of all human beings as provided for in Article 1 of the Universal Declaration of Human Rights, it is the basis of human rights: “All human beings are born free and equal in dignity and rights.”

2. **Non-discrimination** which is integral to the concept of equality. It ensures that no one is denied the protection of their human rights based on notions as listed in international human rights treaties such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability, or other status. The criteria identified in the treaties, however, are only examples; it does not mean that discrimination is allowed on other grounds. Positive discrimination is acceptable aimed at correcting historical imbalances that may have been occasioned by a particular group on another.

3. **Inalienability:** the rights that individuals cannot be taken away, surrendered, or transferred. They can only be limited but even then with the law and not in an ambiguous or arbitrary manner.

4. **Individual responsibility:** Every individual has a responsibility to teach human rights, to respect human rights, and to challenge institutions and individuals that abuse them. Other responsible entities: Every organ of society, including corporations, non-governmental organizations, foundations, and educational institutions, also shares responsibility for the promotion and protection of human rights.

5. **Universality:** Certain moral and ethical values are shared in all regions of the world, and governments and communities should recognize and uphold them. The universality of rights does not mean, however, that the rights cannot change or that they are experienced in the same manner by all people.
6. Human dignity; The principles of human rights are founded on the notion that each individual, regardless of age, culture, faith, ethnicity, race, gender, sexual orientation, language, disability or social class, deserves to be honored or esteemed.

7. Indivisibility; Human rights should be addressed as an indivisible body, including civil, political, social, economic, cultural, and collective rights.

8. Interdependency; Human rights concerns appear in all spheres of life -- home, school, workplace, courts, and markets-- everywhere! Human rights violations are interconnected; loss of one right detracts from other rights. Similarly, promotion of human rights in one area supports other human rights.

E) What is the State's responsibility towards human rights?

Human rights entail both rights and obligations. States assume obligations and duties under international law to respect, to protect and to fulfill human rights.

- The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights.
- The obligation to protect requires States to protect individuals and groups against human rights abuses.
- The obligation to fulfill means that States must take positive action to facilitate the enjoyment of basic human rights.
- At the individual level, while we are entitled to our human rights, we should also respect the human rights of others.

F) Human Rights complaint handling mechanisms

There are various international, regional and national mechanisms that address complaints of human rights violations. These mechanisms can be used by the journalists incase their rights have been violated by the State by lodging their individual complaints for determination.
United Nations

There are three main procedures for bringing complaints of human rights violations before the UN mechanism—individual communications; state-to-state complaints; and inquiries. This section focuses on individual communications. Individual communications or complaints are lodged before what are called “treaty bodies” (Committee) of experts to monitor implementation of the treaty provisions by countries that have accepted to be bound by the particular treaty. The bodies are established by the particular treaties. These mechanisms include:

a) The Human Rights Committee (CCPR) may consider individual communications alleging violations of the rights set forth in the International Covenant on Civil and Political Rights by States parties to the First Optional Protocol to the International Covenant on Civil and Political Rights;

b) The Committee on Elimination of Discrimination against Women (CEDAW) may consider individual communications alleging violations of the Convention on the Elimination of All Forms of Discrimination against Women by States parties to the Optional Protocol to the Convention on the Elimination of Discrimination against Women;

c) The Committee against Torture (CAT) may consider individual complaints alleging violations of the rights set out in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by States parties who have made the necessary declaration under article 22 of the Convention;

d) The Committee on the Rights of Persons with Disabilities (CRPD) may consider individual communications alleging violations of the Convention on the Rights of Persons with Disabilities by States parties to the Optional Protocol to the Convention;

e) The Committee on Enforced Disappearances (CED) may consider individual communications alleging violations of the International Convention for the Protection of All Persons from Enforced Disappearance by States parties who have made the necessary declaration under article 31 of the Convention.

Special procedures of the United Nations

The UN provides for this mechanism on a three tier basis involving:

- An individual (called “Special Rapporteur” or Independent Expert
- A working group composed of five members, one from each of the five United Nations
regional groupings: Africa, Asia, Latin America and the Caribbean, Eastern Europe and the Western group all of which are appointed by the Human Rights Council and serve in their personal capacities.

They perform their role in the following ways:

- They undertake country visits to analyze the human rights situation at the national level;
- Act on individual cases and concerns of a broader, structural nature by sending communications to States and others in which they bring alleged violations or abuses to their attention-these are called urgent appeals or letters of allegation;
- Conduct thematic studies and convene expert consultations;
- Engages publicly on issues of concern, including through press releases.

Some of the relevant UN and AU Special Rapporteurs include the following:

<table>
<thead>
<tr>
<th>UNITED NATIONS SPECIAL RAPPORTEURS</th>
<th>MANDATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association</td>
<td>Whose mandate is: to gather all relevant information, including national practices and experiences, relating to the promotion and protection of the rights to freedom of peaceful assembly and of association, to study trends, developments and challenges in relation to the exercise of these rights, and to make recommendations on ways and means to ensure the promotion and protection of the rights to freedom of peaceful assembly and of association in all their manifestations.</td>
</tr>
<tr>
<td>2. United Nations Special Rapporteur on Contemporary forms of slavery</td>
<td>Whose mandate is: to gather all relevant information, including national practices and experiences, relating to contemporary forms of slavery includes but is not limited to issues such as: debt bondage, serfdom, forced labour, child slavery, sexual slavery, forced or early marriages and the sale of wives. As a legally permitted labour system, traditional slavery has been abolished everywhere, but it has not been completely stamped out. There are still reports of slave markets. Even when abolished, slavery leaves traces. It can persist as a state of mind- among victims and their descendants and among the inheritors of those who practiced it –long after it has formally ended.</td>
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</table>
**Point Tip**

An aggrieved journalist whose human rights have been violated can ably use the above mechanisms - engage the Special Rapporteur as an individual or in a group and present their or his or her issues of concern. This is yet another platform of pushing for one’s human rights at the International level either with the UN or The African Union-AU.

**African Union**

There are similar procedures for bringing complaints of human rights violations before the AU.

<table>
<thead>
<tr>
<th>AFRICAN UNION SPECIAL RAPPORTEUR</th>
<th>MANDATE</th>
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<tbody>
<tr>
<td>1. African Union Special Rapporteur on Freedom of Expression and Access to Information in Africa</td>
<td>Whose mandate is to</td>
</tr>
<tr>
<td></td>
<td>• ‘analyze national media legislation, policies and practice within Member States, monitor their compliance with freedom of expression and access to information standards in general and the Declaration of Principles on Freedom of Expression in Africa in particular, and</td>
</tr>
<tr>
<td></td>
<td>• Advise Member States accordingly; undertake fact-finding missions to Member States from where reports of systemic violations of the right to freedom of expression and denial of access to information have reached the attention of the Special Rapporteur and make appropriate recommendations to the African Commission.’</td>
</tr>
<tr>
<td>2. African Union Special Rapporteur on Human Rights Defenders established in June 2004.</td>
<td>The mandate calls for the Special Rapporteur to:</td>
</tr>
<tr>
<td></td>
<td>• ‘Seek, receive, examine and act upon information on the situation of human rights defenders in Africa;</td>
</tr>
<tr>
<td></td>
<td>• Cooperate and engage in dialogue with Member States, National Human Rights Institutions, relevant intergovernmental bodies, international and regional mechanisms of protection of human rights defenders and other stakeholders;</td>
</tr>
<tr>
<td></td>
<td>• Develop and recommend effective strategies to better protect human rights defenders and follow up on his/her recommendations.’</td>
</tr>
</tbody>
</table>
The Uganda Human Rights Commission (UHRC)

The Uganda Human Rights Commission (UHRC) is a constitutional body, established under the 1995 Constitution of the Republic of Uganda. It has the mandate to receive complaints, hear them and pass judgment as well as offer compensation awards to the aggrieved party, victim or complainant. Journalists can use it as a source of information, sanctuary and can pass on information to the Commission concerning human rights violations.

- It is a permanent body to monitor the human rights and freedoms situation in the country was in recognition especially in view of Uganda’s brutal and tumultuous history that had been characterized by arbitrary arrests, detention without trial, torture and brutal repression with impunity on the part of security organs during the pre and post-independence era;

- Article 52 (1) of the Uganda Constitution lays down the functions of the Commission to include;

  a) To investigate, at its own initiative or on a complaint made by any person or group of persons against the violation of any human right;

  b) To visit jails, prisons, and places of detention or related facilities with a view of assessing and inspecting conditions of the inmates and make recommendations;

  c) To establish a continuing programme of research, education and information to enhance respect of human rights;

  d) To recommend to Parliament effective measures to promote human rights including provision of compensation to victims of violations of human rights, or their families;

  e) To create and sustain within society the awareness of the provisions of the Constitution as the fundamental law of the people of Uganda;

  f) To educate and encourage the public to defend this Constitution at all times against all forms of abuse and violation;

  g) To formulate, implement, and oversee programmes intended to inculcate in the citizens of Uganda awareness of their civic responsibilities and an appreciation of their rights and obligations as free people;

  h) To monitor the Government’s compliance with international treaty and convention obligations on human rights; and
i) To perform such other functions as may be provided by law.

j) The Commission also publishes periodic reports and submits annual reports to Parliament on the state of human rights and freedoms in the country.

**Complaint handling units in the relevant institutions**

There are other mechanisms in the various institutions which can be used as platforms to promote and protect human rights. They can be used as avenues for filing complaints on matters concerning rights and freedoms of journalists especially if violated by the particular institution as discussed herein.

**The Professional Standards Unit-Uganda Police Force**

Uganda Police Force encourages anyone with a legitimate complaint concerning the conduct of a police officer in execution of his/her work to report the case to the Professional Standards Unit (PSU). PSU has various regional offices that a person can take advantage of where ever he/she may be to lodge the complaint. These include regional offices in Jinja, Mbale, Gulu, Arua, Hoima, Fort Portal, Mbarara, Kabale, Masaka and Kampala Metropolitan. The complaint can be lodged via various mechanisms including:

<table>
<thead>
<tr>
<th>Email Address Through Which You Can Lodge A Complaint</th>
<th>Telephone Lines to Call &amp; Lodge A Complaint</th>
<th>Physical Address To Lodge A Complaint (Headquarters)</th>
</tr>
</thead>
<tbody>
<tr>
<td><a href="mailto:psuhqtrs@yahoo.com">psuhqtrs@yahoo.com</a></td>
<td>Toll Free Phone Numbers</td>
<td>Plot 1303, Serumaga Road, Bukoto, Kampala.</td>
</tr>
<tr>
<td></td>
<td>0800909199</td>
<td></td>
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<td></td>
<td>0800200019</td>
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**The Judicial Service Commission (JSC)-The Judiciary**

The Judicial Service Commission (JSC) is a permanent independent Commission established by the Constitution of the Republic of Uganda, 1995. The key functions of the Commission include: appointing and disciplining of judicial officers. It also has the mandate to receive
public complaints and suggestions from any person or body of persons aggrieved by improper conduct of a judicial officer. The complaint or suggestion may be directed at an individual or group of individuals within the Judiciary, at the Judiciary as an institution, or at the manner of the administration of justice. The complainant need not be personally aggrieved and as such the aggrieved person’s case may be taken to the Commission by a relative, friend, lawyer, NGO or anybody keen on the maintenance of the highest standards in the Judiciary.

<table>
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<tr>
<th>Email Address Through Which You Can Lodge A Complaint</th>
<th>Telephone Lines to Call &amp; Lodge A Complaint</th>
<th>Physical Address To Lodge A Complaint (Headquarters)</th>
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<tr>
<td><a href="http://www.jsc.go.ug">www.jsc.go.ug</a></td>
<td>Toll Free Phone Numbers</td>
<td>Judicial Service Commission</td>
</tr>
<tr>
<td></td>
<td>0414 311600/344154</td>
<td>Ground Floor, Farmers House,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>P O Box 7679, Kampala</td>
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<td>Plot 6/7 Parliament Avenue.</td>
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**Prisons Authority and Prisons Council Disciplinary Platforms**

Being a prisoner, does not connote that someone has ceased to be a human. Rather, it means his or her rights have been limited to a certain acceptable standard constitutionally prescribed. Therefore, the law provides for various rights of a prisoner including but not limited to treatment with the respect due to his or her inherent dignity and value as a human being; not to be discriminated against on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status; entitlement to health services and freedom of worship among other rights and freedoms. Should the prisoner be mistreated in any way by the prisoner officers in a manner that goes below the professional standards prescribed for such officers, there is mechanism established to complain about such an officer. It should be noted that;

a) The power of disciplinary control of a prison officer of or above the rank of Senior Superintendent of Prisons vests in the Prisons Authority; and
b) Below the rank of Senior Superintendent of Prisons vests in the Prisons Council.

c) The Prisons Authority and the Prisons Council can empower the Regional Prisons Commander and the officer in charge to handle disciplinary cases on behalf of the Prisons Authority or Prisons Council as the case may be.

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<tbody>
<tr>
<td><a href="mailto:info@prisons.go.ug">info@prisons.go.ug</a></td>
<td>Toll Free Phone Numbers</td>
<td>The Uganda Prisons Service</td>
</tr>
<tr>
<td></td>
<td>0800144144 &amp; Others 256-41432136; 256-414256751</td>
<td>Plot 13/15 Parliament Avenue</td>
</tr>
<tr>
<td></td>
<td></td>
<td>P.O.Box 7182 Kampala</td>
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<td></td>
<td>Fax(1): 256414343330</td>
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**Tip Point**

*If, as an aggrieved journalist serving a prison sentence, your human rights have been violated by a particular prisons officer, you can have a hearing or complain before the Prisons Authority or Prisons Council or at the Regional level –before the Regional Prisons Commander.*

**National laws with a direct impact on journalists**

The first and most preferred guarantor of any freedoms and rights of any group of persons is the law. Where the law is conducive and facilitative of protection and enjoyment of human rights and freedoms, the operation environment space for citizens to express themselves is enhanced. In the same vein, the importance of a conducive legal framework for the media fraternity cannot be over-emphasized. The law should be the firm foundation upon which the safety and security of journalists rests. It is breach of these laws that can lead to prosecution and or persecution of journalists. It is thus vital for journalists to understand them-where favorable, obey them and where they are unconstitutional, join the campaign against them.
<table>
<thead>
<tr>
<th>The law</th>
<th>What the law provides for</th>
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</table>
| The Constitution of the Republic of Uganda  | • The Constitution of Uganda guarantees free speech and freedom of the press under Article 29(1) (a) to the effect that: Every person shall have the right to freedom of speech and expression, which shall include freedom of the press and other media.  
• Article 41 states:  
  1) Every citizen has a right of access to information in the possession of the State or any other organ or agency of the State except where the release of the information is likely to prejudice the security or sovereignty of the State or interfere with the right to the privacy of any other person;  
  2) Parliament shall make laws prescribing the classes of information referred to in clause (1) of this article and the procedure for obtaining access to that information.  
• Article 43 states:[Limiting Rights and Freedoms-They are not absolute.]  
  1) In the enjoyment of the rights and freedoms prescribed in this Chapter, no person shall prejudice the fundamental or other human rights and freedoms of others or the public interest;  
  2) Public interest in this article shall not permit – (a) political persecution; (b) detention without trial; (c) any limitation of the enjoyment of the rights and freedoms prescribed by this Chapter beyond what is acceptable and demonstrably justifiable in a free and democratic society, or what is provided in this Constitution. |
| The Press and Journalist Act (2000) (formerly Statute 1995) | • The Act maintains provisions that place restrictions on the identity of a journalist. To be a journalist, one has to be in possession of a practicing certificate attainable upon registering with a statutory Media Council which is supposed to issue practicing certificates. Alarmingly, the certificate is subject to suspension for a period of up to 6 months should a journalist be found ‘guilty of professional misconduct.’ |
| The Official Secrets Act 1964               | • In Uganda, Public officials still swear an oath of secrecy when one is appointed in the civil service. The Official Secrets Act weakens the Access to Information Act since it bars government officials from releasing certain information to the public. According to this Act, they can only release the information after seeking authorization/ consent of the permanent secretary of a ministry or Chief Executive of a public institution. |
| The Penal Code Act (1950) (Amended in 2007) | - The Penal Code is perhaps the most frequently applied law in curtailing press freedom and freedom of expression. It has several provisions with adverse implications for reporting public affairs in general and the state in particular.  
- According to section 41 of the Penal Code: a person who prints, publishes, makes or utters any statement or does any act which is likely to (a) degrade, revile or expose to hatred or contempt; (b) create alienation or despondency of; (c) raise discontent or disaffection among; or (d) promote, in any other way, feelings of ill will or hostility among or against any group or body of persons on account of religion, tribe or ethnic or regional origin commits the offence of promoting sectarianism and is liable on conviction to imprisonment for a period of no more than five years. This offence was however declared unconstitutional by the Constitutional Court of Uganda and is therefore no longer law.  
- Others are sections 179 and 180 on libel and defamation respectively. In 2010, 4 journalists were charged with this offence. The Penal Code provision criminalizing the publication of false news was annulled by the Supreme Court in 2004, while the one on sedition was in 2010 declared unconstitutional by the Constitutional Court. The government is appealing the decision. |
| The Uganda Communications Act (2013) | - It provides for the restructuring of the communications industry in Uganda by establishing the Uganda Communications Commission (UCC), providing for its functions and administration. The UCC is charged with regulating the communication industry, through issuing of radio, TV and telephone frequencies, licensing telephone operators, monitoring the use of frequencies and generally regulating the communication sector. UCC has powers over all modes of communication including postal, electronic and others as a regulatory and licensing body. In practice, the distinction between the mandate of the UCC and the Broadcasting Council has never been clear. In 2010, the government gazetted a bill to merge the two regulatory authorities. |
### The Access to Information Act (2005)

- This law guarantees citizens the right of access to all information and records of government ministries, departments, local governments, statutory corporations and bodies, commissions and other government organs and agencies as provided for under Article 41 of the Constitution of the Republic of Uganda. The main purpose of the act is: ‘to empower the public to effectively scrutinize and participate in Government decisions that affect them.’
- The law also provides for the classes of information that are obtainable; the procedure for obtaining that access to the sought after information, and matters incidental or related thereto. Ideally, if well implemented, the Act is meant to provide a safe haven for journalists for other engage in the often dangerous investigative journalism to flush out government secret information in issues of national importance, one would rely on the Act.
- A major set-back of this law and its potential to soften the burden of being government watch dogs on journalists has been the failure by the drafters to repeal the Official Secrets Act. This Act is a direct contradiction of the Access to Information Act 2005 and provides for the protection of ‘official information’ more specifically that information concerning national security.

### The Anti-Terrorism Act (2002)

- The Anti-Terrorism Act was passed on the heels of the 2001 Al Qaeda Terrorist attacks on the United States. The Act also tackles the media in a way –albeit negatively–in particular under section 9 (1) which criminalizes the publication and dissemination of news materials “that promote terrorism”, a terminology that is not precisely defined.
- Any person convicted of this offence is liable “to suffer death”, imprisonment not being an option. Additionally, under section 3 (1) c of the Third Schedule of the Act “journalistic material which a person holds other than documents” is exempted from the list of items that are subject to legal privilege during terrorist investigations thereby infringing on journalism ethics of source confidentiality and protection.
| **The Police Act (1994) (Amended in 2005)** | • The Police Act mandates the police to: “protect the life, property, and other rights of the individual; maintain security within Uganda; enforce the laws of Uganda; ensure public safety and order; prevent and detect crime in society; perform the services of a military force when empowered to do so by the Police Authority and perform any other functions assigned to it under the Act.”
• The Police Act retains the outdated colonial model of policing that emphasizes the need for the police to prevent and control crime and maintain security. Service oriented functions and respect and support for the rights and freedoms of Ugandans are absent. |
| **The Regulation of Interception of Communications Act (2010)** | • The Regulation of Interception of Communications Act 2010 comes as a counter-terrorism legislation aimed at tracking, intercepting and monitoring communications (telecommunications and any other related mode of communication) of suspected criminals in pursuit of their illegal agendas.
• The Minister of security, under the Act is mandated to establish a Monitoring Centre and has ‘final responsibility over the administration and functioning’ of this Centre. The Act also gives a provision for an ‘interception warrant’ to be issued by a judge when he or she receives an oral application from government if that agency has ‘reasonable grounds’ to believe that: a) felony has been or will probably be committed; b) the gathering of information concerning an actual threat to national security or any national economic interest is necessary; c) the gathering of information concerning a potential threat to public safety, national security, or any national interest is necessary; or d) there is a threat to the national interest involving the state’s international relations or obligations.
• The Act has been received with mixed reactions from the journalists who rightly believe that with interception of their communications, their safety and that of their sources who are supposed to be confidential cannot no longer be certain. |
| **Computer Mis-use Act 2010.** | • The Act Makes provision for the safety and security of electronic transactions and information systems; to prevent unlawful access, abuse or misuse of information systems including computers and to make provision for securing the conduct of electronic transactions in a trustworthy electronic environment and to provide for other related matters. |

For more information on the above, see African Centre for Media Excellence, ‘FREEDOM OF EXPRESSION FACT SHEET’, October 2010. For further reading on this matter refer to the Legal Framework for Media in Uganda published by EAMI-Uganda
Offences journalists may commit in their course of duty

One of the fundamental notions in the practice of journalism is to endeavour to be aware of and abide by the several different laws, rules and standards of conduct in the country. During the execution of their duties, journalists must ensure that they adhere to all the legalities. In exceptionally extraordinary conditions, an overwhelming story of public interest may prompt undertaking measures of accessing information using ways that may be construed as illegal. This can only happen after all legal means of obtaining the necessary information must have been exhausted. Additionally, it is good practice that such decisions are a reserve of the highest editorial level. The social and legal responsibility of the journalist is to act in accordance with both the ethical standards and the law. Breach of the latter may result into prosecution. Some of the potential offences that can be committed by Journalists unknowingly or knowingly include the following:

1. **Defamation**: Defamation is a broad term describing the statement to a third party of words or other matter containing an untrue imputation against the character of another. Libel covers publication (including TV and radio broadcasts, Internet, email, blogs, chat-rooms, and so on) and slander covers the spoken word. Related to publication of information that can offend or humiliate a person. Such information published may be far from being truthful and unbiased. Generally, defamation is the publication of a statement which ‘tends to lower the claimant in the estimation of right-thinking people.’

2. **Impersonation/Misrepresentation**: When gathering information, journalists sometimes misrepresent themselves or impersonate as different persons to access information.

3. **Invasion of privacy**: Materials obtained by means of illegal tapping of communication devices (voicemail and email hacking) should not be published for that is an infringement on the right to privacy of a person. The same applies to publication of nude/half nude pictures of persons in the privacy of their hotel rooms or homes as a result of planted cameras by journalists. The journalist should not photograph citizens in private environment without their consent. Photographs or pictures of people in their daily lives that could offend or humiliate them should not be published.

4. **Extortion and obtaining money by false pretence**: Journalists who solicit money from people so that they do not run stories about them.

5. Similarly, the Computer Misuse Act prohibits unauthorized access to a computer for the purpose of obtaining data. A reporter who hacks a celebrity’s laptop for evidence of a
sexual affair obviously commits an offence. But so does a journalist who secretly accesses a computer to obtain evidence of abuse at a hospital or children’s home.

6. Discriminatory language and stereotypes
   Discrimination is an infringement on the rights of people. Thus, journalists must avoid inappropriate references to gender, ethnicity, religion, culture, appearance; age-language used should be neutral and natural.

7. Bribes and other inducements: apart from a bribe (both giving and receiving) being a grave breach of the ethics and values that govern journalists, it is also a crime under the laws of Uganda-Anti-Corruption Act.

8. Contempt of court involves interference with the administration of justice – either in a particular case or more generally with the judicial process. What constitutes an act of contempt depends on the law of the jurisdiction. It can cover a multitude of sins from scandalizing the court (e.g. by being rude to the judge) to making an unauthorised recording in a courtroom.

9. Trespass; Breaking into private premises without any implied or express permission of the owner in pursuit of a story.
JOURNALIST CODE OF CONDUCT

Participants must be reminded of the professional standards and when followed, it can contribute to the reduced friction and eventual protection of journalists from breaking the law or falling victims of break of the law.

Journalism Code of Ethics

PREAMBLE
We the media practitioners in Uganda:
Conscious of the central role of the press freedom in a free and democratic Uganda;
Aware that an independent and honourable profession is indispensable to the maintenance of press freedom;
Recognising our role in the preservation of democracy in Uganda;

Aware of our professional responsibilities requiring us to maintain highest standards of professional conduct;

Resolve to have this Code of Ethics to govern the conduct and practice of all media practitioners, media owners and media institutions and as a basis for adjudication of disputes between the press, the public and government in Uganda by the Independent Media Council of Uganda.

1. Scope
This code shall apply to media practitioners involved in all stages of sourcing, processing media content for print, graphic and electronic platforms.

2. Professional Integrity

2.1 A journalist shall assist and participate in establishing, maintaining, enforcing and observing high standards of conduct so that the integrity and independence of the profession is preserved.

2.2 A journalist shall always identify him/herself and the media house where he/she works. Use of undercover or subterfuge methods to gain entry into restricted places or access to information shall be done only as matter of public interest and with the permission of the editor.

2.3 A journalist shall not tape or record anyone without the person’s knowledge. An exception may be made only if the recording is necessary to protect the journalist in a legal action or
for some other compelling reason. 2.4 A journalist shall not solicit, accept bribes or any form
of inducement meant to bend or influence professional performance. However, facilitation
by third parties to enable a journalist to perform a bonafide assignment in specific situations
shall not be deemed as an inducement provided that the assigning editor sanctions such
facilitation.

3. Conflict of Interest

3.1 A journalist shall always declare to the editor any conflict of interest that arises in the
execution of duty and may request for leave to disqualify him/herself from such assignment to
avoid the conflict. 3.2 A journalist shall endeavour to remain free of associations and activities
that compromises personal integrity or undermines the reputation of the profession.

4. Accuracy, Fairness and Balance

4.1 A journalist has the responsibility for the accuracy of the information he/she disseminates.
The journalist shall also ensure that such information is fair and balanced. Journalists shall not
indulge in unfair comment, falsification, distortion or misrepresentation of facts.

4.2 A journalist and the employing media house shall endeavour to thoroughly investigate
allegations affecting individuals and institutions before disseminating them.

4.3 In the spirit of fairness and balance, the journalist shall endeavour to seek and include
comment from the affected individuals or institutions in the same story or as quickly as
practicable. Fairness shall also include reporting facts in the proper context. Where the affected
party declines to comment or where the media house genuinely tries but fails to extract a
comment, such position shall be explained in the story published or broadcast.

4.4 Whenever it is recognised that an inaccurate, misleading or distorted story has been
published or broadcast, it shall be corrected or clarified promptly, without waiting for a
complaint to be raised first.

4.5 Corrections should also be reasonably proportional to the error in terms of impact.

4.6 Corrections shall be clear and shall carry an apology to affected parties. For purposes of
clarity, corrections shall apply to errors of fact and inaccuracies while clarifications shall apply
to misleading or distorted information.
5. Right of Reply

5.1 Media houses shall accord aggrieved parties the right of reply to material published or broadcast about them.

5.2 Journalists shall distinguish clearly in their reports between comment, conjecture and fact. News shall remain objective but a journalist may be partisan in commentaries and opinion pieces.

5.3 A comment shall be a genuine expression of opinion relating to fact. Comment or conjecture shall not be presented in such a way as to create the impression that it is an established fact.

6. Social responsibility

6.1 A journalist shall, in the dissemination of information, bear in mind his/her responsibility of educating and informing the public on matters affecting them and their responsibility in society. The journalist’s responsibility shall include monitoring government and other centres of influence and power on behalf of the public; and this responsibility shall not be abused for whatever reason.

6.2 A media practitioner shall at all times defend the principle of the freedom of the press and other mass media by striving to eliminate unjustified news suppression and censorship.

7. Respect for privacy and human dignity

7.1 The public’s right to know shall always be weighed vis-à-vis the individual’s right to privacy.

7.2 Publications about the private lives of individuals, without their consent, are not acceptable except where public interest overrides the right of privacy.

7.3 It is justified to publish information about individuals where this is for: detecting or exposing criminal conduct; detecting or exposing seriously anti-social conduct; protecting public health and safety; and preventing the public from being misled by some statement or action of that individual where such a person is doing something in private which he or she is publicly condemning.
7.3 Journalists shall seek to understand the boundaries of public and private space. In this regard, journalists can legitimately report about activities of individuals in a public place but not in a private environment.

8. Letters to the Editor

8.1 For purposes of the Code, Letters to the Editor shall include normal letters sent physically or electronically.

8.2 An editor who decides to open columns on a controversial subject is not obliged to publish all the letters received in regard to that subject. The Editor may select and publish only some of them either in their entirety or the gist thereof. The Editor shall, however, present a fair balance between the pros and cons of the principal issue and reserve the discretion to decide at which point to close the debate.

8.3 In case of radio and TV discussion programmes, hosts shall make reasonable effort to reach out for comment from persons mentioned. Hosts shall also encourage and balance comments from the audience sent by any of the modern means of interactivity.

9. Plagiarism

9.1 No media practitioner shall engage in plagiarism. Plagiarism consists of making use of another person’s material or ideas without proper acknowledgement and attribution of the source of those ideas or material.

9.2 Words directly quoted from sources other than the writer’s own reporting shall be attributed. In general, when other work is used as the source of ideas for stylistic inspiration the final report shall be clearly different from the original work.

9.3 The editor shall take final responsibility to ensure that published or broadcast content in stories or programs does not contain plagiarised material and that any borrowed content is properly attributed to the rightful author.

10. Non-disclosure of sources

10.1 A journalist shall protect the confidentiality of his/her sources of information and shall only divulge them at the demand of a competent court of law.
10.2 Journalists shall follow the in-house rules and get the editor’s consent before granting confidentiality. Once such confidentiality has been granted, both the journalist and the media house shall honour it. It shall be the ultimate responsibility of the Editor to ensure that such protection is granted and guaranteed.

10.3 In order to have the clarity of mind and the confidence, the editor, being the final editorial authority, shall have liberty to demand of the journalist the source of the story. But the editor shall under no circumstances disclose the said sources to a third party.

10.4 The Editor shall also have the privilege to reject use of any story where he/she doubts the journalist’s sources.

10.5 For the sake of the integrity and security of the profession, journalists shall not allow to be used as Police witnesses in the investigation of crime simply because the journalists covered the events where such crime was allegedly committed. Such compliance would erode the trust the public holds in the profession of journalism.

11. Intrusion into grief

11.1 Journalists shall not intrude into personal grief. Stories and pictures that may aggravate grief or cause distress to relatives and friends of the dead shall not be published. Any reports about the dead and gravely ill shall be carried out with utmost discretion and due sympathy.

11.2 Journalists and media houses shall not profiteer from deliberate exploitation of the misfortune of those afflicted by grief. The media shall also avoid re-use of file pictures of situations of death and grave illnesses of persons likely to resurrect distress among relatives and friends.

12. Innocent relatives and friends

12.1 The media shall generally avoid identifying relatives or friends of persons convicted or accused of crime unless the reference to them is necessary for the full, fair and accurate reporting on the crime or legal proceedings and where such identification adds value to the story.
13 Victims of sex crimes

13.1 Media Institutions shall not identify victims of sexual assaults or publish or broadcast material likely to contribute to such identification unless the victims have given informed consent to such publications.

13.2 A journalist shall endeavour to explain to the concerned person the implications of such disclosure. In cases where consent is given subject to certain conditions, then such conditions shall be respected.

13.3 The journalists need to understand that ordinarily such publication does not serve any legitimate journalistic or public need and may bring social opprobrium (public disgrace and shame) to the victims and social embarrassment to their relations, family, friends, community, religious order or the institutions to which they belong.

13.4 Children shall particularly not be identified as victims, however remotely.

14. Protection of children

14.1 Children shall not be identified in cases concerning sexual offences, whether as victims, witnesses, or defendants.

14.2 Except in matters of public interest, e.g. cases of child abuse or abandonment, journalists shall not normally interview or photograph children on subjects involving their personal welfare in the absence of, or without the consent of a parent or other adult who is responsible for the children.

14.3 Children shall not be approached or photographed while in a formal institution without the permission of the institution’s authority.

15 Children in criminal cases

Media institutions shall not publish or broadcast the names of any underage offenders (below 18 years) arrested by Police or tried in the criminal courts. Where such identification must be made, the media house shall explain the overriding reasons that led to such an editorial decision.
16 Publication of adults-only material

16.1 Out of respect to values of common decency, the media shall take extra care when dealing with adults-only material.

16.2 A media house, which publishes or broadcast adults-only material, shall ensure such material is not accessible to the underage (minors) and shall provide restricted places or time where willing adults can access such material.

16.3 Television stations shall also schedule adult movies later at night when children are in bed. Such programs shall be properly labelled with appropriate advisories including in the TV schedules published in newspapers.

16.4 Radio stations shall air adults-only programs late at night when children are in bed and they shall make appropriate promotional advisories to that effect.

17 Use of pictures

17.1 The Media must exercise due caution when using pictures. Choice and use of pictures should not cause unnecessary harm to persons concerned e.g, exploiting minors and people with disabilities. Special care shall be taken when using pictures of disasters.

17.2 The use of grisly, grotesque and gruesome pictures should be avoided except where there is overriding public interest. Illustrations accompanying stories of adult material shall be measured both in content and in caption.

18 Hatred

18.1 Media Institutions shall not publish or broadcast material that is intended or is likely to cause hostility or hatred towards persons on the grounds of their race, ethnic origins, nationality, religion or political affiliation.

18.2 Media institutions shall take utmost care to avoid contributing to the spread of ethnic hatred when reporting events and statements of this nature.

18.3 Media shall endeavour to regulate and balance debate and discussion of sensitive issues, like corruption, nepotism, favouritism so that they do not degenerate into hate literature.
19. Disadvantaged and marginalized groups

19.1 The media shall not publish material that is intended to ridicule, or impute ridicule of persons on grounds of their gender or physical disabilities.

19.2 The media shall also take steps to ensure that content for publication or broadcast, including paid-for content, is free of such contemptuous material.

20 Covering conflicts

20.1 The media shall exercise a high sense of individual and corporate citizen responsibility when covering conflict and while commenting on sectarian disputes. Covering conflict shall be done in a manner that is conducive to the creation of an atmosphere congenial to national harmony, amity and peace.

20.2 News, views and comments shall be backed by facts and measured in language and tone. But it shall be the responsibility of the media to highlight potential conflicts before they explode and seek to help society heal wounds after conflict.

21. Undue pressure or influence

Media owners, publishers and practitioners shall not suppress or distort information about which the public has a right to know because of undue pressure or influence from commercial, political or social interest.

22. Payment for Information

22.1 Media Owners, Publishers and Practitioners shall not publish, broadcast or suppress an editorial report or omit or alter vital facts in that report in return for payment of money or for any other gift or reward.

22.2 This ethic shall, however, not apply to advertisements or advertorials. Media houses shall clearly distinguish between editorial content and advertisements or advertorials.

22.3 Media owners, publishers and media practitioners shall not pay people to act as information sources unless there is demonstrable public interest value in the information.

24 Advertisements

24.1 The media shall strive to preserve the sanctity and impartiality of news. As such media houses shall not allow news bulletins to be sponsored.

24.2 Journalists shall always be seen to remain independent and shall not dress in corporate branded wear when presenting programs or covering sponsored events.
Glossary of terms in the justice system

The justice system uses specific terms to represent processes, procedures, and policies unique to the justice system. Many people find these terms confusing, especially if they have not been involved with the justice system before. It is helpful for people who encounter the justice system to understand what these terms mean, so they can best understand the processes as they occur.

a) **Accused:** A person or persons formally charged but not yet put on trial for committing a crime;

b) **Acquittal:** A legal judgment, based on the decision of either a jury or judge, that a person accused of a crime is not guilty of the charges for which he/she has been tried;

c) **Admissible Evidence:** Evidence that is relevant and proper for consideration in reaching a decision in court. Pre-trial hearings are often held to allow the judge to make this determination;

d) **Affidavit:** A written, sworn statement in which the writer swears that the information stated therein is true;

e) **Appeal:** A request by either the defense counsel or prosecutor in a case to have a higher court resolve a dispute with a judge's decision;

f) **Arraignment Hearing:** A hearing in which a person charged with a crime is brought before the court to plead either guilty or not guilty to the criminal charges alleged in the indictment or information, and is advised of his/her constitutional rights under law. By definition, arraignment hearings are considered pre-trial hearings;

g) ** Arrest Warrant:** An order made on behalf of Oregon, based on a complaint and signed by a judge, authorizing law enforcement to arrest a person who is thought to have committed a crime. A person who is arrested on a warrant stays in custody until bail or bond is posted, or until released by an order of the court;

h) **Bail Hearing:** A hearing to determine whether or not an incarcerated defendant or convicted offender will be released from custody and to determine what amount (if any) he/she must pay as a bond to assure his/her presence at future proceedings (e.g., trial). This may also include specific conditions of bail, e.g., no contact with the victim or witness, must attend treatment programs, etc. (Also referred to in some jurisdictions as a bond hearing.);

i) **Bench:** Where the judge sits during court proceedings. The term is often used to refer to the judge;
Beyond a Reasonable Doubt: The degree of proof needed for a judge or jury to convict a person accused of a crime;

Burden of Proof: Oregon (represented by the prosecuting attorney) carries the burden of proof to establish “beyond a reasonable doubt” that the defendant committed the offense for which he/she is charged;

Case Law: The law as formed by past court decisions, opinions, interpretations, or traditions;

Charge: A formal accusation filed by the prosecution that a specific person has committed a specific crime. (Also referred to as “pressing charges.”)

Confidentiality: A requirement that certain facts about a proceeding or the nature of a proceeding will be withheld from the public.

Contempt of Court: This is usually thought of as someone attacking the integrity of the court. This can be done by refusing to obey a court order;

Conviction: A judgment of the court, based either on the decision of a jury or judge, that the defendant is guilty of the crime for which he/she was tried.

Corroborating Witness: A person who is able to give information that supports the statements made by the victim, defendant, or a witness.

Count: Each separate offense listed in a complaint or indictment accusing a person of committing a crime.

Crime: A violation of any Ugandan law—written in laws of Uganda;

Criminal Justice System: The entire network of government agencies charged with law enforcement, prosecution, defense, trial, incarceration, and supervision of people arrested and/or convicted of having violated Ugandan criminal law;

Criminal Trial: A judicial proceeding before a court to determine if a person charged with a crime committed that crime;

Cross Examination: When a witness is questioned by the opposing party (the prosecuting attorney or defense counsel);

Defendant: A person who has been formally charged by a court with committing a specific crime;
x) **Enforce:** To compel obedience to a law, rule, or order. To enforce a victim’s or defendant’s right means to put that right into practice;

y) **Evidence:** Testimony and objects used to prove or disprove the statements made by the victim, the defendant, or other witnesses;

z) **Exercise:** To make use of. Thus, to exercise a right or power means the person who has that right chooses to have it fulfilled in/by the court;

aa) **Felony:** A serious crime potentially punishable by incarceration.

ab) **Dismissal:** A judge’s decision to end a case, with or without prejudice, for legal or other reasons.

ac) **Guilty:** A verdict of a judge or jury that a person accused of committing a crime did commit it.

ad) **Habeas Corpus:** A Federal process and proceeding in which a prisoner challenges the lawfulness of his/her imprisonment.

ae) **Hearing:** A legal proceeding where a judge hears arguments, witnesses, and/or evidence.

af) **Hearsay:** Testimony of an individual that is not from his/her personal knowledge, but from what the witness has heard another person say.

ag) **Indictment:** A formal charging document presented by the prosecution to a grand jury. The grand jury may then issue the indictment if it believes that if the accusation is proved, it would lead to a conviction.

ah) **Jail:** The local facility where people are held in custody. Defendants awaiting trial and people convicted of lesser crimes are held in jail, as opposed to prison.

ai) **Judge:** An officer of the court who presides over cases and decides questions of law.

aj) **Misdemeanor:** A crime that is less serious than a felony, and for which the conviction can mean imprisonment for one year or less, usually in a jail or other local facility, and/or a fine.

ak) **Mistrial:** A trial that is invalid because of some fundamental error in procedure or other wrongdoing.

al) **Motion:** A verbal or written request made by the prosecuting or defense attorney before, during, or after a trial that the court responds to by issuing a rule or an order.
am) **Not Guilty:** A verdict by a judge or jury that a person accused of a crime did not commit it, or that not enough evidence exists to prove beyond a reasonable doubt that the defendant committed the crime.

an) **Notice:** An official means of providing information, in oral or written form, to an identified party regarding his/her rights or interests.

ao) **Objection:** A protest or argument made concerning the activity of the other party (prosecuting or defense attorney) in court. The judge can “overrule” (disregard) or “sustain” (uphold) an objection.

ap) **Pardon:** An official release from responsibility and consequences for a crime, usually only granted by the President of Uganda.

aq) **Parole:** Release of a prisoner from imprisonment, but not from legal custody and supervision. People under parole supervision are subject to conditions of supervision that are designed to reduce recidivism and promote public safety, and are supervised by a parole officer.

ar) **Parole Revocation:** When probable cause is found that a person under parole supervision violated his/her conditions of supervision, parole is revoked and the offender is returned to custody (jail or prison);

as) **Guilty Plea:** An admission of guilt by the defendant in open court.

at) **Preliminary Hearing:** A legal proceeding before a judge in which arguments, witnesses, and/or evidence are presented to determine if there is sufficient probable cause to hold the accused for trial. It is sometimes called a probable cause hearing.

au) **Present, Right to Be:** The right to be present equates to being physically present in the court/hearing room during the course of criminal proceedings.

av) **Probable Cause:** The degree of proof needed to arrest and begin prosecution against a person suspected of committing a crime. The evidence must be such that a reasonable person would believe that this specific crime was committed, and that it is probable that the person being accused committed it.

aw) **Proceeding:** Business conducted before a court or judicial officer (e.g., hearings, trials, conferences, etc.).

ax) **Prosecutor:** A lawyer employed by the government or elected by the people to represent Uganda’s interests in court proceedings against people accused of committing crimes.
Uganda’s prosecutors’ offices have victim/witness programs that are designed to inform victims of their rights, help them understand the criminal justice process, and provide them with information about and referrals to services that can help.

*ay*) **Recusal:** An action taken by any court official, including a judge, to disqualify or withdraw him/herself from a case where his/her impartiality might be questioned.

*az*) **Restitution:** A court order requiring a convicted offender, as a condition of a sentence, to repay the victim money or services to compensate for the monetary losses that resulted from the commission of the crime.

*ba*) **Restraining Order:** An order issued by a court that forbids a person from doing something. In the context of victim protection, often an order forbidding the alleged or convicted offender to have any contact with the victim (or other people connected to the victim) or witnesses. (Sometimes referred to as: stay away order, no contact order, or protective order.)

*bb*) **Sentence:** A sentence is what a judge or jury formally pronounces after a criminal defendant has been found guilty; the sentence is the legal consequence of the crime.

*bc*) **Sentence, Concurrent:** Sentences that are served at the same time.

*bd*) **Sentence, Consecutive:** Sentences that are served one after the other.

*be*) **Testimony:** Evidence given by a competent witness under oath, as distinguished from evidence derived from writings and other sources.

*bf*) **Transcript:** The official record of a trial or hearing.

*bg*) **Trial:** A judicial process that examines the evidence of a case.

*bh*) **Waiver:** The voluntary surrender of a right, claim, or privilege.

*bi*) **Warrant:** A court order directing a law enforcement officer to make an arrest, a search, or a seizure.