

**THE ROLE OF FORENSIC SCIENCE IN THE ADMINISTRATION  
OF CRIMINAL JUSTICE IN UGANDA.**

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**REGISTRATION NO: 2004/HD09/1881U**

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**A RESEARCH REPORT SUBMITTED IN PARTIAL FULFILMENT  
OF THE REQUIREMENTS FOR THE AWARD DEGREE OF  
MASTER OF LAWS (LL.M) OF MAKERERE UNIVERSITY.**

**2008**

## **ABSTRACT**

The need for this study arose from the realization that forensic science plays a very important role in the administration of criminal justice. When an accused person is proved guilty before the courts of law, he / she is subjected to punishment. Thus, there is need to ensure that it is only the guilty that are punished but not the innocent. Forensic evidence, although corroborative, plays a persuasive role in courts' decision making in cases where it is applicable. The main objective of the study, therefore, is to examine the effectiveness of the application of forensic evidence in the administration of criminal justice in Uganda.

The study noted that there is no way the application of forensic evidence in the administration of criminal justice can be effective when the respective actors in the forensic field are deficient of forensic knowledge or have no local ways of enhancing the existing forensic knowledge they possess. The study further revealed that there are a number of persisting factors in Uganda that sometimes culminate into incorrect and misleading forensic examination results that are used in evidence in courts of law. Examples of such factors include corruption / undue influence, poor facilitation and time management, poor forensic facilities / equipment, incorrect methods of forensic evidence collection and examination. It was also found that the small number of forensic experts and the few forensic laboratories that are mostly located within Kampala do not provide a conducive environment for an effective application of forensic science in the administration of criminal justice in Uganda. Worse still, some forensic fields such as voice analysis, image and skeleton reconstruction are found to be non-functional in Uganda as they completely lack both the facilities and expertise. The study further discovered that most of the few existing forensic laboratories are not strategically located to avail privacy to the examiners to conduct interference free, constructive analysis and examination of forensic samples. Most of them play a dual role: they are used as offices and laboratories. The study further revealed that in Uganda there is no centralized body that regulates the functions of forensic experts. Thus, the latter operate in an uncontrolled environment that in effect, is likely to prejudice the process of administration of criminal

justice. Last but not least, it was found that the government does not give sufficient support and recognition it deserves to upgrade the field of forensic science.

The study recommends that government should establish forensic institutions so as to train a good number of forensic investigators and examiners. Their services should be decentralized to effectively cover the whole country. The government should also incorporate forensic science as a course unit within the University curriculum for both undergraduate and post graduate studies as a way to enhance forensic knowledge within the country. There is need for the government to establish and revamp those non-functional forensic fields so as to avail the population cheaper local services instead of hiring foreign experts. The study also recommends that the government should give sufficient support to the field of forensic science and address the issue of facilitation of the forensic investigators and examiners so as to provide efficient services to the public. It is further recommended that the government should establish a regulatory body to oversee and regulate the functions of forensic science in Uganda. The government should further promote cross boarder collaboration to combat the emerging sophisticated information and communication crimes such as online fraud. In order to alienate the fear or likelihood of conflict of interest, the study recommends that the government needs to have forensic bodies independent of criminal investigation and prosecutorial bodies. Last but not least, expert opinion derived from experience should only be admitted by courts in exceptional cases where other more reliable scientific methods are not applicable as experience does not have clear parameters that can be tested.

## **ACKNOWLEDGEMENT**

A number of persons and organizations have contributed, in one way or another, to the successful completion of the study. I wish to thank, in particular, the directorate of the post graduate studies and the Faculty of Law, Makerere University for giving me the opportunity to access the course that has enabled me to carry out this study. I also wish to acknowledge the efforts of Mr. Asiimwe Dennis, Lecturer for Social Research Methods at the Faculty of Law, for imparting the knowledge of social research methods that inspired me to carry out this study. I acknowledge the relentless efforts of my supervisor, Associate Professor Dr. Ben Twinomugisha who brought into sharper focus the inspiration acquired in the course of the postgraduate studies. I thank you very much for the encouraging supervision you tirelessly offered me in the course of this study. I also express my gratitude to all the respondents who managed to furnish the required information for the study. These include the forensic scientists, magistrates, state attorneys and prosecutors, police investigators, medical doctors to mention but a few.

I also thank the Government of the Republic of Austria and the Austrian Organization for Development Cooperation, HORIZONT 3000 for sponsoring me for postgraduate studies at Makerere University.

Last but not least, I do not have to forget the enormous support my family gave me in one way or another during the course of the whole post graduate study.

## **DEDICATION**

I wish to dedicate this study to my dear wife Mrs. Mary Munduni and the family who have tirelessly endured with me in the course of my studies. The same study is also dedicated to my dear parents Mr. Isaac Ako and Mrs. Dinah Ezajoru who brought me up through the struggles in life.

**DECLARATION**

I, RONALD MUNDUNI, declare that this study is my original work and has never been submitted in any University for any degree. With my supervisors' consent, the study has been submitted to the School of Graduate Studies in partial fulfillment of the requirements for the award degree of Master of Laws (LL.M) of Makerere University.

Signed -----

Date -----

Submitted with my consent as Supervisor.

Associate Professor Dr. Ben Twinomugisha

Signed -----

Date -----

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## **LIST OF STATUTES**

The Penal Code Act, Cap 120. Laws of Uganda.

The Evidence Act, Cap 6. Laws of Uganda.

The Magistrates Courts Act, Cap 16. Laws of Uganda.

## LIST OF CASES

1. Grice v. State 151 S.W. 2d 211 (Tex. Crim. Appeal 1941)
2. Uganda v. Paddy William Pampara (1991) HCB 25
3. United States v. Downing 753F. 2d 1224 (Cir. 1985)
4. Uganda v. Suliman Indibarema and another (1982) HCB 4
5. Uganda v. Kulabako Night Jennifer, High Court Criminal Appeal No. 6 of 1993
6. Uganda v. Mugisha and another (1991) HCB 25
7. Ram Dass v. Secretary of State 1930 A.I.R 587
8. Reg v. Secretary of State (1894) 2 Q.B 766
9. United States Shipping Board v. The Ship “St Albans” (1931) P.C 189
10. PC Mulwana and others v. Uganda, Supreme Court Criminal Case No. 3 of 1992
11. Re Govinda Reddy and others v. State A. I. R 1958
12. Kimari v. R (1955) EACA 120
13. Dahibai v. Soonderji Damji 1931 L.R 31
14. Ahmed v. R (1957) EA 528
15. Saqlain Ahmed v. Emperor A.I.R 1936 165
16. State of Vindehya Pradesh v. Krihna A.I.R 1953 21
17. Charles Rwamunda v. Uganda, Supreme Court Criminal Appeal No. 6 of 1993
18. Hassan Salim v. R (1964) EA 126
19. Mukasa v. R (1956-7) ULR 212
20. Abdu Ngobi v. Uganda, Supreme Court Criminal Appeal No. 10 of 1991
21. Hussein v. R (1957) EA 844
22. No: 9193 P/C Nkera v. Uganda (1984) HCB 3