

## **OPTIONS IN LAW REVISION — THE UGANDA EXPERIENCE**

A memorandum by the Government of Uganda

### Introduction

It is without doubt that social and economic stability are basic constituents of a sound legal order which is, in turn, a pre-requisite for national development. This has never been so true in the history of Uganda as it is today. The role of the Ministry of Justice in the restoration of the rule of law and maintenance of law and order and the preservation of human rights in Uganda is fundamental and cannot be over-emphasized. The Ministry is only too well aware of its role of being in the vanguard for making available to the public and the law enforcement agencies the legal tools which are indispensable in the achievement of the above objectives. The Ministry is also cognisant of the indisputable fact that the body of legal enactments of any given society must be periodically epitomised, after being brought up to date, and put in a form properly arranged for ease of reference and use by all concerned. The importance and necessity of periodic revision of laws need no elaboration for this is a well-known practice in all countries.

The exercise of revising the laws has always been carried out in Uganda at intervals of approximately ten years. The purpose of the project being to revise all the statutory laws of Uganda, both principal (which are variously called Acts, Decrees, Ordinances, or Statutes depending on the government by which they were made), and subsidiary laws (which as is the modern practice) are called "Statutory Instruments" so as to bring them up-to-date. The laws of Uganda have been previously revised five times, four of them during the colonial era, and once after independence. The last revision, which was in 1964, produced the laws of Uganda which are in use today. Twelve years later Government recognised the dire need for a revised edition of the laws of Uganda, and appointed, in 1976, a Commissioner for that purpose. But due to political instability, technical and economic difficulties, the revision exercise has not been completed yet and it is still an on-going project to which government now attaches great importance.

### History of Law Revision in Uganda

The first revised edition of the laws of Uganda came out in 1910, about fifteen years after the first written laws concerning Uganda had come out. This put together in one volume, Regulations made under the Africa Order in Council, 1889, and Ordinances made under the Uganda Order in Council, plus the Agreements made between the British Colonial Administrators and the various African native administrations. The revised edition of fifty-five enactments was prepared by two Commissioners, both English Judges of the High Court. They were both appointed by administrative instructions, unlike subsequent revisions, when Commissioners were appointed by law enacted for that purpose.

The second revision was undertaken twelve years later. It was prepared under the authority of the Revised Edition of the Laws Ordinance, 1923, by which the then Chief Justice was appointed Commissioner. He was given wide powers of revising and consolidating the laws as were in force at a date specified in the Ordinance. The 136 enactments came out in three volumes. The first two volumes contained the principal legislation while the third contained all the orders, proclamations and other subsidiary laws. This practice of separating the principal legislation from the subsidiary laws was

followed by virtually all subsequent Commissioners. In addition to the powers of the Commissioner contained in the Ordinance to omit certain laws from the revision, there was enacted a General Revision Ordinance specifying certain laws which were to be omitted. This was the first revised edition to be printed by the Government Printer in Entebbe, Uganda.

Twelve years later in 1935, the work of revising the laws was given to Uganda's Attorney General, assisted by a Crown Counsel. Of the six volumes in which the 179 enactments appeared, three were printed in England, while the other three were printed by the Government Printer.

The first non-government employee Commissioner to revise the laws was appointed in 1951. He produced nine volumes which were printed in England, consisting of five volumes of ordinances, three volumes of subsidiary legislation and an index volume of all laws printed. The enabling statute this time omitted the Commissioner's power of consolidation. A list of enactments to be omitted from the revised edition was put as a schedule to the enabling Ordinance, and not as in the earlier case, as a separate enactment.

The 1964 revised edition is the most current, consisting of sixteen volumes of the laws, half of them containing principal legislation bound in red covers, and the other half containing the subsidiary legislation bound in blue covers. It was prepared by an expatriate (British) Commissioner, appointed by an Act of Parliament in independent Uganda. Coming as it did soon after independence from the British Colonial Administration, this revision effected major changes in the law. The laws which had been enacted during the pre-independence period called Ordinances were re-designated Acts. This was to conform to, and attain consistency with laws which had been, and would continue to be passed as Acts of Parliament of the newly independent country. The revision omitted from the statute books, enactments of the United Kingdom Parliament which had been applied to Uganda by the various Orders in Council, which on attainment of independence, ceased to be of application. Also omitted were the agreements entered into by the British with the various African Chiefs, which had constituted the basis of much of British rule over Uganda. Save for the three volumes of the 1923 revision, this was the first revision exercise to be handled to completion by the Government Printer.

The revision made more readily available the lawyers stock-in-trade, and placed the administration of justice to the forefront in the overall national development of post-independence Uganda.

From the date of this revision the laws have come out as supplements to the official Uganda Gazette. At the end of each year, these are bound together in two annual volumes, one red volume containing the principal laws, and a blue volume containing the subsidiary laws. This is done by the Government Printer. But of course the bulk of the laws are contained in the 1964 revised edition. So that after more than twenty years since the edition first came out, the need has arisen for a new and revised edition of the laws of Uganda.

### The On-going Revision Exercise

#### (a) The need for the Sixth Revised Edition

The realisation that the 1964 revised edition of the laws, which constitutes the bulk of the corpus juris of Uganda, is out of print, inter-alia, makes the need for the sixth revised edition too urgent to brook more delay than has already been experienced. The revision is necessary to effectively facilitate the case law as a tool in the

reconstruction and rehabilitation of the country, and the restoration of law and order. It is a lamentable fact that Uganda has gone through a number of wars in the recent past. These have had their negative effects on the administration of justice in general, and particularly, on the procurement of the necessary materials such as books etc. There is now need to equip the organs of the administration of justice, the courts, legal practitioners, government and public bodies, and law enforcement authorities with up-to-date law books. Even the existing laws now being revised are not readily available to most people who deal with legal matters because the 1964 sets were all bought out many years ago and are out of print; and the annual volumes since then have been too few to meet all the demands.

The need for the revision exercise was immediately felt and an attempt to remedy the situation as far back as 1974 was made when an expatriate Commissioner from Pakistan was appointed to prepare the sixth revised edition. The revised laws were expected to come out in 1975, but because of printing problems this did not materialise. The Commissioner's tour on duty ended in 1978, and the exercise was temporarily assigned to the Commissioner for Law Reform. This seems to be the modern practice in countries where Law Reform Agencies exist. By the middle of 1979, most of the planned twenty volumes had been sent to the Government Printer awaiting galley proofs. Unfortunately, these were all destroyed during the 1979 war, along with much of the machinery of the Government Printer. To date, he is not yet in position to start on the full-scale printing exercise of the revised laws along with the other Government printing. In 1982, it was decided to rejuvenate the revision exercise and for that purpose, an Act of Parliament was passed. The Laws (Revised Edition) Act, 1982, unlike its predecessors, did not appoint a Commissioner. Instead, it empowered the President to appoint one by Statutory Instrument. It is the wish of Government to appoint one soon. However, since 1978, the Law Revision exercise has continued to be handled, not surprisingly at a slower pace, by the staff of the Law Reform Commission. But due to the fact that the Government Printer is not yet fully rehabilitated, he cannot handle the voluminous, complicated and time-consuming exercise of printing the law books. That being the case, the revised laws have yet to be printed. The problems attendant to their preparation and printing are still outstanding.

(b) Format

In the proposed sixth revised edition there has been a departure in the format, that is to say in the arrangement of the laws. It is intended to put the subsidiary legislation together with the principal legislation under which it is made, unlike in the past editions. The laws then will come out in twenty volumes instead of the present sixteen of 1964 edition. The traditional system of separating the principal from the subsidiary legislation was found to be unsuitable for a developing country like Uganda, where experience has shown that there is very little of the latter in the majority of cases. It also tends to isolate the two types of legislation which is supposed to be complimentary. All laws will be grouped under thirty titles. The thirty headings into which all the laws have been grouped which we call titles, will be arranged alphabetically. Under each title, kindred chapters of laws, that is to say enactments, will be arranged chronologically. In this way, the number of chapters under any title is never closed. Every new statute will constitute a chapter under its relevant title, and given the next chronological number, under that title. This will achieve consistency in citation of laws irrespective of when or under what regime they are enacted. Presently, because of the different manner in which different regimes have exercised legislative authority in the recent past, Uganda laws consist of Acts of Parliament, decrees, statutes and ordinances. Following each chapter in the same volume will be the subsidiary legislation made under that chapter. Similarly, each new statutory instrument will be added to the existing ones chronologically. The kindred and relevant laws, both principal and subsidiary, will thus be found in the same volume, making reference easy.

(c) Binding style

The revised laws will not appear in firm binders like the earlier ones. Instead they will be inserted in loose-binders specially made for the purpose. This binding style was selected after a number of considerations had been taken into account. Loose binders are adjustable to changing law production. It is simple and easy to keep the law books up-to-date. Any new law which comes out is simply inserted in the volume of the title under which it falls and repealed law is removed. This facilitates the keeping together of all the kindred laws both principal and subsidiary in one volume, irrespective of the dates such laws were made.

Loose-leaf binding helps to do away with having to print annual volumes which would have to be the case if the firm-binding system is adopted. It has always been a costly exercise of having to import covers annually.

Loose binders are practical and convenient, especially for the practitioners and students of law. Legal researchers will find it time-saving. The amended laws are automatically incorporated while the repealed ones do not remain on the statute books. Future laws are easily accommodated. It is like a continuous revision exercise without the necessity of overhauling the whole body of enactments which a revision exercise necessarily entails.

The low-cost element of loose binders is not only in the initial stage but also in the minimising of future costs in terms of labour and time as well as avoiding purchases of different new covers. The loose binders can, it is estimated, serve for over thirty years with good and careful handling. When replacement is needed, it is not for all the volumes in the set, but only for the few which may have been worn out.

Loose-leaf binding in a developing country like Uganda may, among other things, lead to marauding of law books. The complete set of twenty volumes as envisaged, when it comes out, may not cost within the means of all those who would like to have access to them. Consequently, some of the more popular enactments may be pulled out of their respective volumes especially as loose-leaf binding style makes it easy for a leaf to be removed. However, as the laws come out as supplements to the weekly Uganda Gazette, a subscriber or practitioner will find himself, at the end of the year, with a set of laws from the supplements, and another set specially prepared for insertion in his volumes. Apart from its relatively low cost of production, loose-leaf binding is efficient, convenient and professionally suitable and is preferred by the Government Printer.

(d) Volume of work

It is expected that the revised laws will be produced in twenty volumes constituting one complete set. Each volume will contain between 800 to 1000 single-face printed sheets. It has been conservatively estimated that the demand for new law books will be initially three thousand five hundred sets - both local and international. This means producing a total of seventy thousand individual volumes. With a full-time Commissioner assisted by experienced staff, it is anticipated that it would take about 6-8 months to prepare the revised materials and make them ready for printing. Assuming that all his requirements regarding machinery, equipment and personnel are satisfied, the Government Printer is in a position to produce one volume every month. The whole project would then take about twenty months to complete. To date, about one third of the material is ready for printing.

## Problems Experienced in the Revision

### (i) Personnel

While the Uganda Government has all the intentions of fulfilling its obligation to make law books available, it has not been easy to achieve the objective due to problems which might be similar to those being experienced by other developing countries. The revision of laws requires a person of cool mind and experience in the legal profession as Commissioner. These are qualities which are not easy to come by. They are mostly to be found in Judges and long experienced legal practitioners. In Uganda, while we may have a number of such people, law revision appears to be an art that most lawyers are not prepared to tackle. The qualified supporting staff, particularly those with drafting experience, have always been scarce. Consequently, Uganda has had in the past to resort to the services of expatriate staff. Our experience in one particular case has shown that the initial unfamiliarity with the local law has tended to prolong the exercise.

### (ii) Costs

The overall cost of revising the laws has been found to be more than the limited resources of a developing country like Uganda can meet from its own coffers. The problem is compounded by the fact that the Government press has been a victim of the wars of the recent past so that before the Government Printer can embark on the printing of the revised laws, the facilities need to be fully rehabilitated. Virtually all the machinery has to be imported. The covers, whether loose-leaf or firm ones, have also to be imported. If the loose-leaf binding style is adopted, the papers must be punched before they can be inserted into the covers. This can only be done by a drilling machine which also would have to be imported. Even the papers on which the laws are printed may have to be imported. It is intended that the laws should be printed in Uganda and not abroad.

## Conclusion

The exercise of revising the laws is a challenge to our Government in terms of material as well as human resources. But being an essential and necessary exercise, we shall not shun away from the challenge. Our desire and determination to succeed shall, we believe, be supplemented by assistance from our friends abroad, especially from the Member States of the Commonwealth.

We need to train our staff to assist the Commissioner with his work. More importantly, we need the funds to purchase the necessary machinery and stationery for the exercise. Coming more than twenty years since the last revision, this exercise will put together almost four hundred statutes and about two thousand statutory instruments. We believe that after the completion of this exercise, the need for revision will not surface for quite some time. This will enable us to effectively meet the invariably increasing demands for statute books out of print. The on-going revision if completed, will enable Uganda to revive its programme for exchange of legal materials with other Commonwealth member countries many of which, in this respect, have virtually written us off their mailing list. With this commitment, we shall, in the not too distant future, be in a position to offer to whoever may be interested, the sixth revised edition of the laws of Uganda.