

Continuing from yesterday's excerpt, we present an exchange during the Besigye trial, where Fredrick Mpanga, a member of Dr Kizza Besigye's defence team, queried Chief State Attorney Joseph Kyomuhendo on the witness protection provisions and definitions. Below is an abridged version of the proceedings.

BY JULIET KIGONGO

Mpanga: Will you agree that it is not the State entitled to those facilities in this matter?
Kyomuhendo: It is not the State on trial.

Mpanga: I repeat the question; did you know that it is not the state entitled to those facilities in this application?

Kyomuhendo: And I have given you an answer.

Mpanga: Okay, I will ask the question, is it the State on trial?

Kyomuhendo: No.

Mpanga: Is it the State entitled to the facilities you have read?

Kyomuhendo: No.

Mpanga: You did speak a lot about the case Sungu Uni Yugu and you mentioned that the exceptional is witness protection. Could you point out the page to confirm if that is the position and point out where it says

Witness protection law queried in Besigye trial



Dr Kiiza Besigye at the High Court last Thursday. PHOTO/ABUBAKER LUBOWA

witness protection is an exception for the State?

Kyomuhendo: My lord, it will require me to sit down and read the entire the case.

Mpanga: We are here for the trial so you can read. You read it from the heart, so you must know what you are citing.

Birivumbuka: Maybe my lord the witness should be given an hour, because of this cross examination. We pray that the witness is given one and a half hours to internalise the judgment.

Mpanga: You have your affidavit in support. Read it to court.

Kyomuhendo: That they are no protection measures in place for all the witnesses at the moment and this application be granted to offer the protection needed.

Mpanga: So, when you say 'in place' where do you mean, what is the location, what do you refer to?

Kyomuhendo: That at the moment?

Mpanga: Yes.

Kyomuhendo: That we cannot expose our witnesses because we do not have measures and it is only this court that can direct on if it so deems fit on which mechanism we can evoke.

Mpanga: So, do you agree that the witness protection in Uganda is not provided for anywhere in this country?

Kyomuhendo: My lord, we have the

International Crimes Division rules of the High Court that provide for witness protection expressly.

Mpanga: You have them?

Kyomuhendo: Unfortunately, I did not carry them but you as an advocate you ought to know.

Mpanga: Oh, do not go there. Is this ICD?

Kyomuhendo: It is High Court.

Mpanga: Is this the International Division of the High Court?

Kyomuhendo: It is not.

Mpanga: Is this the criminal division of the High Court?

Kyomuhendo: It is.

Mpanga: So, do you agree that the ICD and the criminal division are different?

Kyomuhendo: They are not different because I can cite an authority/ a precedent from the ICD before this court and it may or may not persuade the trial judge.

Mpanga: I have not asked about the decision, I am asking about the division. Do you agree the ICD is not the same as the criminal division?

Kyomuhendo: They are the same.

Mpanga: In your view, they are the same?

Kyomuhendo: Yes.

Mpanga: Do you agree that the procedure in the ICD is not the same as

this in the criminal division?

Kyomuhendo: It is slightly different.

Mpanga: So, it is not the same?

Kyomuhendo: No, no. It is the same.

Mpanga: So, it is slightly different and it is the same?

Kyomuhendo: No.

Mpanga: So, slightly means the same?

Kyomuhendo: Yes.

Mpanga: Do the rules in the ICD apply to this court?

Kyomuhendo: Some do, some do not.

Mpanga: Which ones do and which ones do not?

Kyomuhendo: Disclosure of the evidence by the prosecution, witness protection also applies to this court because it has inherent powers to make any kind of order.

Mpanga: Which statute provides for that?

Kyomuhendo: Let me first answer your question, pretrial conferencing.

Mpanga: So which statute provides for as applied to this court?

Kyomuhendo: I did not say that the rules expressly apply but I shared with you the similarity.

Mpanga: I am not asking you what you did not say. The question is simple. From your 15-year practice, do you agree that you do not have a statute

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