

## About Us:

Muslim Centre for Justice and Law (MCJL) is a Ugandan faith based NGO dedicated to promoting and advancing Justice, Tolerance and Human Rights in Uganda.

MCJL has a primary focus on poor and vulnerable members of the grass root communities and further encompasses the diverse community as a whole.

Empowering local communities to effectively advocate for their rights and duty bearers to deal with dynamic social challenges especially in the Muslim communities in Uganda.



Plot No. 401/2, Basiima Building, Umeme Offices Bwaise Ku Ssatu

P. O. Box 6929, Kampala - Uganda,  
Tel: +256 414 531 084 / +256 709 932 823

Eastern Regional Office: Located in Bugiri Town near CPS  
Tel: 0705 736 377

Mpigi Office: Located near Stanbic Bank  
Tel: 0700 314 922

Fax: 0414 531 088 , Toll Free Line: 0800 256 250 SMS: 0758991422  
Email: muslimjustice41@gmail.com / info@mcjl.ug www.mcjl.ug

QUARTERLY SUCCESS STORIES

July - Sept, 2020

14

# QUARTERLY SUCCESS STORIES

## Bulletin



With Support from



CELEBRATING



**MCJL**

MUSLIM CENTRE FOR JUSTICE AND LAW  
*Justice without discrimination*

ANNIVERSARY

2010-2020

# QUARTERLY SUCCESS STORIES

**2020**

## **Mission:**

To facilitate observance of Human Rights, Justice, Peace, and Good Governance through promotion of public interest, civil liberties and obligations under the law

## **Vision:**

A Ugandan society that upholds universal faith-based principles in ensuring equitable Access to Justice, Human Rights and observance of the Law

## **Core Values:**

-  Tolerance and accommodation of diversity
-  Popular participation and social responsibility
-  Collaboration and Team work
-  High Ethical Standards and professionalism

## **Program Areas;**

-  Youth
-  Empowerment
-  Access to Justice
-  Gender Based
-  Violence
-  Human Rights/ Legal Education
-  Sexual Reproductive Health
-  Rights Environmental Justice

## **EDITORIAL;**

Dear Readers,

I take this opportunity to introduce to you the MCJL Success Stories Bulletin for Quarter 3 (July-September). The Quarter was run on the theme “*towards a new normal*” and MCJL came up with approaches towards overcoming access to justice implications posed by the notorious Covid 19 Pandemic.



I would like to thank the Board, management team, members of staff and paralegals for the collective effort that has enabled us move this far. This edition focuses on selected success stories from our legal aid clinic which have serious implications on access to justice especially during the pandemic. Other outputs by MCJL are not included herein and they will feature in our next issue. The stories are furnished with editorial notes to enable the reader appreciate the context and interventions that can be adopted to enhance access to justice.

Lastly, I extend gratitude to the Democratic Governance Facility (DGF) for funding & supporting our Access to justice program which has brought smiles on faces of many vulnerable persons.

May you enjoy reading this issue and we shall appreciate feedback via [muslimjustice41@gmail.com](mailto:muslimjustice41@gmail.com)

A handwritten signature in black ink, appearing to read 'Umar Nyanzi', enclosed within a circular scribble.

**Umar Nyanzi,  
President**

# Appreciation



**Nambuyaga  
Sharifah**  
Legal Assistant  
(Mediation)



**Nabalwany Ruth  
Sanyu**  
Legal Officer (Litigation)



**Seguya Swaibu**  
Paralegal



**Edriisa Muweesi**  
Paralegal



**Nakyejwe Rashida**  
Paralegal



**Kakembo Amina**  
Paralegal



**Hashimah Amour**  
Legal Officer  
(Mediation)



**Kharuri Annet  
Gyabi**  
Legal Officer  
(Litigation)

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## WIDOW SECURES SHARE FROM THE LATE HUSBAND'S

1

**O**ur client **Sophie** is a widow aged 33 years and a resident of Nateete, Kampala district. Sophie lost her husband a prominent Muslim cleric who passed on in 2010. He left three wives and three children. He also left a big estate which was distributed under shariah law. Sophie was dissatisfied with the distribution claiming that some of the properties distributed did not wholly belong to the deceased since she made a contribution to towards their acquisition.

The appointed guardians of the children had also denied her visitation rights to her children. The family members were also claiming that Sophie was not a widow of the deceased since they had separated at the time of the deceased's death. She walked into our legal aid clinic at Kampala for redress.

The estate had been distributed in her absence since she was working abroad by the time of the death of the husband. MCJL held various meetings with the Muslim clerics, family members and guardians who were involved in the distribution of the late's estate. Parties were sensitized on the law of succession and its comparison with Sharia law. Mediation was held and the family members acknowledged the client as a widow and through a memorandum, the widows were all given and informed of their rightful share.

Sophie was re-instated in her home in Rubaga and she also gained visitation rights to the children when they get holidays. All parties inclusive of Muslim clerics who attended the mediation also acquired knowledge on the succession law both under Shariah and the Statutes.



*MCJL engaging Muslim justice adjudicators on several gender and human rights concerns. The meeting was held at Twin Tower Hotel in August.*

**O**ur client Sophie's success story presents a clash in the application of Shariah law in Uganda. Shariah law is applied in Uganda by virtue of Article 129 (1) (d) of the 1995 Constitution of the Republic of Uganda. According to Article 2(2) of the Constitution, Shariah law practices can be applied as far as they are not in contravention with the Constitution. MCJL has continuously trained Qadhi court adjudicators on their rights and duties under the law to avoid the clash.

The women in most cases are the losers when their marriage is

denied. Women who contribute to the family wealth also find challenges in computing their relative contribution when it comes to inheritance. The relatives of deceased persons in many cases have denied women property rights and in worst cases denied women access to their biological children.

There is need to engage women, duty bearers on these gender aspects in order to end discrimination and injustice against women.

## MCJL HELPS ELDERLY WOMAN TO RECOVER HER KIBANJA (LAND) FREE FROM ANY CLAIMS

2

Our client Ms. Namatovu is an elderly woman aged 60 years who was married to a one Lubowa and they separated. In 1999, she purchased a kibanja in Mpunga village, Wakiso district. However, her husband introduced himself as the kibanja owner to the land owner. The landowner wrote an agreement confirming that Lubowa was the owner of the kibanja. Without her consent, Lubowa sold part of her kibanja and the new owner destroyed Namatovu's crops. She reported the matter at police, RDC's office and despite the various interventions, she was not helped. Lubowa was in the process of selling the remaining part of her kibanja and Namatovu decided to seek legal services at MCJL.

Mr. Lubowa was invited for mediation at office but later requested that the meditation is held at locus so that the area authorities who have ever been in the matter also attend. MCJL held about 3 mediations and it was established that though Namatovu presented a sale agreement, both parties had contributed towards the purchase. Lubowa claimed that he gave Namatovu money which she used to purchase the kibanja as thus he was entitled to the share. He further claimed that he was forced to sell part of the kibanja because Namatovu and her children had continuously disrespected him and thus sold to enable him settle in another place. The parties agreed that the remaining Kibanja is divided. Namatovu took the plot near the main road where she intends to construct rentals.

Namatovu now has a plot in her names free form any claims and is to commence construction of rentals. She is grateful to have secured a plot in her names and possession.



*MCJL legal officer attending mediation meeting at LCI. These mediations at Local councils empower the structure to handle disputes of a similar nature.*

**T**he issue of joint contribution to property remains a serious access to justice issue. Our laws currently require anyone who asserts contribution to prove the same by producing evidence. Many people especially women make contribution to acquisition of property but this is never documented. In the event of any dispute their property rights are abused. Even where the house is residential, women still face evictions

by their children (heir) upon death of the husband.

There is need to sensitize the community on the need to keep evidence of joint contribution towards acquisition of properties in order to enhance protection of rights of spouses to jointly acquired property. MCJL has conducted sensitizations targeting men during its local aid camps to cause practice change

## FARIDAH GETS USER RIGHTS TO HER KIBANJA INHERITED FROM THE LATE FATHER

3

**O**ur Client Ms Namuyiga aged 48 years and a resident of Kolokola in Butambala district lost her father when she was only 21 years. The father died intestate and was survived by only a daughter. Due to the cultural practices, her male cousin was selected as the heir. The heir took possession of the estate of the deceased including a kibanja in Gomba district which the deceased had given to Faridah. After her father passing, Faridah left the area, whenever she inquired about her father's estate the heir raised the 'traditional heir card' because cultural dictates that the heir is the owner of the deceased estate and has all the rights over it. The heir was dealing with the property exclusively without engaging the beneficiaries. The heir started selling the estate and denied her access to the land.

Faridah approached our paralegal at Mirembe mosque who intervened. Faridah He conducted locus mediation where he met the heir and the relatives. He sensitized the members about the law on intestate succession. The heir had transferred land into his name and was using the kibanja.

After the mediation, the heir signed transfer for-m into the names of Faridah and she has now commenced the process of transferring the land into her names and she is now enjoying quiet possession.



**W**omen are increasingly being affected by patriarchal archaic practices which deprive them of their property rights. Traditionally, women are not allowed to be heiresses to the male intestate person. Any male clan member who is not in the deceased's line will be made heir. These heirs in most cases assume all the rights over the estate of the deceased.

Though the laws are in place where women can utilize to get

property rights, these laws are not known to the women. Even where they have knowledge, there are inadequate redress avenues where they can report and obtain redress. The law considers courts of law as ultimate places where such disputes can be resolved. However, the courts are still inaccessible, expensive and procedurally complex for women especially in rural communities.

There is need for awareness targeting especially vulnerable women to enable them defend their rights.

## KADAMA GETS HER SHARE OF “MATRIMONIAL” PROPERTY

4

Our client Kadama cohabited with Bateganya for over 30 years. They have a home where they lived together for over 25 years. They did not bear a child. Bateganya decided to leave the home, married another woman with whom they have children. In 2018, he attempted to evict Kadama from the home claiming that she was a trespasser. She was referred to MCJL offices by the local council chairperson for redress.

MCJL invited the husband for a mediation meeting and after various meetings, Bateganya agreed to settle the matter with Kadama and agreed to compensate her to a tune of Ugx; 3,000,000 (Three million Uganda shillings) to enable her find alternative place to live. An agreement to that effect was entered in 2019 and the money was to be paid in January 2020. However, Bateganya failed to pay the money as agreed and further engaged him.

Bateganya paid the Ugx; 3,000,000 (Three million Uganda shillings) on 28th July, 2020 to our office which was transmitted to our client Kadama.

Our client has identified land which she is yet to pay and construct a two roomed semi-permanent house.



*L-R, Mr. Phillip Kalibbala (SRO) URSB, President MCJL and Research Advocacy and information officer attending a Radio Talkshow on nbs f.m Jinja. The Talkshow focused on Registration of muslim marriages.*

**R**ealisation of property rights of cohabittees is still a challenge faced by especially women. Many women have made tremendous contribution in relationship despite the fact that they are not in wedlock. The cohabittees end up getting inadequate or no remedy at all. Even when the matter is pursued beyond mediation, the Ugandan laws place the burden of proof on the person who alleges existence of a fact to prove the same to a given standard. This standard is hard to discharge in absence of documentary evidence which is treated as the best evidence.

In many instances, even married women do not have proof of

the marriage. For Muslim marriages which can be celebrated from home and local mosques, there is inadequate documentation of the marriage which deprives women of their property rights at separation and inheritance. MCJL has partnered with URSB to increase the registration of Muslim marriages with URSB. This is done through joint media campaigns, sharing of reports among other avenues.

MCJL is also creating awareness amongst the duty bearers (imams) to emphasise the benefits of marriage registration.

## RESOLVING TENANCY DISPUTES AMIDST COVID 19

5

**O**ur client Sheikh Hassan aged 53 years and a resident of Nateete, Kampala had paid for a commercial room and he had planned to start a restaurant business. He paid 4 months in advance with effect from March 2020. He delayed to open up the restaurant and at the end of the month, His Excellency the President of the Republic of Uganda declared a national lockdown. By the end of the lockdown, his months had expired and the landlord insisted to enforce the original contract. The landlord demanded further payment on pretext that he was not responsible for the lockdown and that he had a running loan to service.

Shiekh Hassan reported the case to MCJL Paralegal Iddu for assistance. Iddu intervened, invited the parties for mediation at locus, conducted the mediation and negotiated the terms with the landlord Sulaiman. On 25th July, 2020, a memorandum of Understanding was entered under auspices of Iddu, a community paralegal.

Sulaiman agreed to give Hassan two months July and August to enable Hassan commence business and payments will start in September. Hassan who was worried and stressed has now resumed his restaurant business and appreciative to MCJL services. Hassan and Sulaiman also acquired knowledge on force majeure provisions that can be included in the contracts to cover such incidences that had led to misunderstandings between them.



**T**he Covid 19 pandemic brought about access to justice challenges regarding contractual obligations of parties. Whereas the state passed guidelines, the government did not pronounce its self on contractual obligations of parties. Whereas arrangements were made with banks to freeze penalties

and re negotiates loans, the government was silent on small informal contractual obligations that affect the poor and vulnerable members of the community.

There is need to lobby so that the poor and vulnerable persons are considered in covid19 economic recovery measures.

## FRED RECOVERS HIS MEANS OF LIVELIHOOD

6

Our client Fred a resident of Nansana aged 46 years and a motorcyclist was also working as an agent for a Motors Company. He bought 5 motorcycles on credit basis in 2019. He deposited the initial payment and the balance was to be paid in weekly instalments. Out of the 5 motorcycles, Fred only received 4 from the Company, in March 2020, he received a demand note from the Motors Company stating that he had defaulted to pay and thus his 2 motorcycles were to be impounded.

Fred tried to negotiate with the Company but in vain. He received the money and tried to meet the Loans Officer to pay for the motor cycles but refused. He later found out that the Loans Officer had sold on credit the same motorcycles to other persons. He was referred to our offices for legal redress.

MCJL contacted the sales person and Loans Officer in the Motors Company and they had various engagements. An agreement was reached to return the two motorcycles to Fred at the same price as it was in the first agreement. It was further agreed that Fred takes one motorcycle under hire purchase and pays for it in instalments by depositing Ugx; 10,000 daily for 10 months. It was further agreed that he pays Ugx; 2,400,000 for the second motorcycle and the same shall be paid for in instalments but will be released to him after four months from the date of signing the memorandum of understanding.

All the motorcycles were repaired by the Motors Company before they were handed over to Fred. Fred commenced depositing the money as he is so far doing well.



**V**ulnerable persons dealing with big companies have issues in negotiating agreements. The companies impose harsh and unconscionable terms in transactional documents without giving the lay person an opportunity for independent legal advice. The Mortgage Act has clear provision on seeking independent legal opinion before extending loans to the person but these provisions are not available for other transactions. As a result, poor and vulnerable persons lose out because of the harsh

terms. There is need for extending legal advice to such clients before entering into transactions to safeguard them against the likely lead battles when they fail to pay as a result of un conscionable terms.

The situation is worse for illiterate and elderly persons who cannot read, interpret and appreciate the clauses in the contracts.

## SUZAN IS PAID HER SALARY ARREARS AND RECOVERS ACADEMIC DOCUMENTS

7

Our Suzan, aged 26 was working as a pharmacist for a one Miss Nabakkoza. She was however, unfairly dismissed from work by her boss on the 26th June 2020. She had not been paid for the past five months and all her academic papers had been confiscated as a result, her salary arrears were totalling UGX 850,000. She tried to ask for the money and documents from her boss in vain so she later travelled back to her village in Mayuge devastated.

MCJL through one of our paralegals attached to Mayuge district intervened and referred her to head office for further intervention. Suzan was interviewed and MCJL lawyer made several calls to her boss who initially denied not paying her salary. MCJL drafted and sent a demand notice to the employer demanding for payment of salary arrears and return of academic documents.

The Employer agreed and mediation meeting was held. The Employer agreed to pay our client her money and MCJL also helped her retrieve the academic documents that the boss had kept at a friend's place.

Suzan with her academic documents has commenced sending in applications to various medical facilities for a new job. The salary arrears she received helped her rent a place in Kampala because after the termination, she had moved back to her parent's home in Mayuge. Suzan has also acquired knowledge on the importance of signing an employment contract.



*Amour Hashima; MCJL Legal Officer (mediation) handling the client's labour dispute. Labour disputes have been on a rise due to covid19.*

Another challenge that has manifested with the outbreak of Covid 19 is disruption of employment relations. Many clients have reported being unfairly terminated from their work places citing covid19. Majority of persons being laid off are women since they are regarded as less productive as compared to their male counterparts.

The covid 19 also affected women in the informal sector due to increased

transport costs, banning of gatherings where they used to sell their merchandise, strict conditions in the market place among others. Most persons in the informal sector used up their capital to cater for food during the lock down.

Poor and vulnerable women need an entrepreneurial boost in form of capital and business knowledge to enable them overcome adverse effects of Covid 19.

## ROBERT IS COMPENSATED FOR COLLECTIVE TERMINATION

8

Our client Robert is a resident of Kawempe aged 29 years who was working with Camusat Uganda limited. His contract was collectively terminated and he was not satisfied with the benefits Camusat was giving him. He filed a complaint with the Labour Officer Kawempe. He was referred to MCJL Kampala legal aid clinic for legal intervention.

MCJL wrote a demand letter to Camusat which shared all the documentary evidence relating to the matter. It was revealed that the company had followed all the legal procedures before it terminated Kabogoza's contract. It was also revealed that Kabogooza had been given an opportunity to seek for independent legal advice but because he did not have the money to engage a lawyer, he filed a complaint at the Labour office. Camusat had responded to the summons and replied with all the documents but failed to attend any meeting at the Labour office which had frustrated Kabogooza. With such information, Kabogooza was met and advised to accept his money since it is what he was legally entitled to.

Kabogoza accepted the money and picked his cheque from Camusat Uganda limited. The represented the total amount of money he was legally entitled to. Kabogooza was now content with the money because before he felt Camusat was cheating him but after advice on the law governing his claim from MCJL lawyer, he was happy that Camusat had followed the procedure.



**I**n conducting legal aid services, MCJL puts emphasis on understanding the problem than taking the client's story as is. In instances where a client is wrong, our lawyers frankly advise the client with an option of seeking a second opinion from another LASP in the event dissatisfied with the opinion. This fosters value-for-money and ensures that donor funds are not spent on frivolous and vexatious cases.

Secondly, when a contract is terminated most employees believe that they are entitled to payment of the salaries for the remaining contractual period. This has caused many labour complaints even where the termination or dismissal was done lawfully. Employers should explain to their employees the contents of an employment and their impact.

Employees are also advised and encouraged to seek legal advice from an independent lawyer or legal aid service provider before signing the employment contracts.

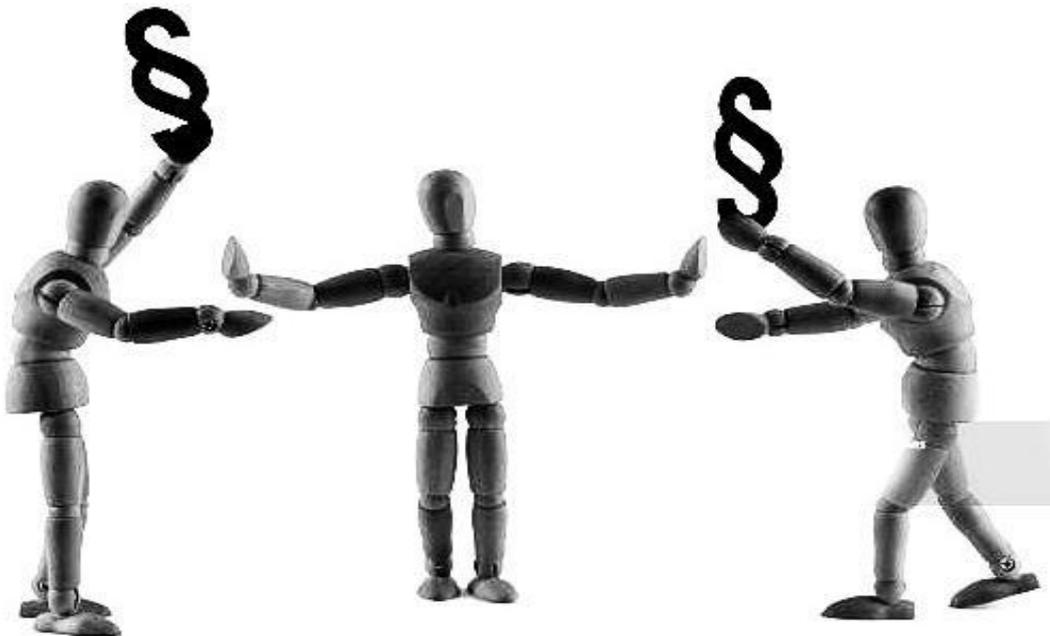
## CLEOPHUS GETS PAID FOR HIS WORK DONE.

9

**O**ur client Cleophus is a welder residing at Katwe in Kampala district. He was contracted to weld doors and windows for a residential house at a cost of Ugx 3,000,000. He finished the job and delivered the goods to the owner, however, he was never paid despite the several demands. He approached the paralegal working in his area to help him recover his money.

Cleophus informed MCJL Paralegal that the debtor was his customer and thus did not want to sue him but inquired whether it was possible to settle the matter amicably. Cleophus had bought some materials on credit which develop the windows and doors. Cleophus had stopped going to his work station because the owner of the materials had threatened to arrest him. Paralegal invited the debtor for mediation where the debtor agreed to pay the money in instalments since he claimed that he had been in prison for 4 months and that's why he failed to pay Cleophus.

The Debtor paid Ugx 1,000,000 to Cleophus and the balance was to be paid within 2 months. Cleophus returned to his workshop and proceeded with his work. He was able to pay his debt. By end of September, Cleophus confirmed receipt of his balance and is grateful to MCJL. He also committed to issue documentation to his customers whenever he does any transaction. He informed MCJL that it was a learning that documentation is important in transactions as he had no documentary evidence to indicate that he had ever delivered any furniture.



**C**ontractual obligations of prisoners have to target in Access to justice interventions. Many people do not draft sale of goods agreements despite the statutory provision that all contracts of Ug 500,000 and above must be in writing. However, for those who do, most contracts do not have *force majeure* clauses which would protect debtors in such

events. Prisoners have reported instances where their property is being sold without their consent. They cannot report the cases to police or court because they are detained.

Programmes should specifically address civil and property rights of prisoners since they are equally poor and vulnerable.

## PARALEGAL SECURES COMPENSATION FOR THE FAMILY OF THE DECEASED ACCIDENT VICTIM.

10

**O**ur client Fahad aged 28 years and a resident of Nateete approached Munaaba Iddu a community paralegal working with MCJL complaining that His father was knocked down by a speeding car at Katikamu, Luweero district. The deceased left 7 children, 3 of which are minors.

An eye witness had written down a car registration number of the trailer and now Fahad wanted help to approach the Trailer owner for compensation. The paralegal conducted research and approached Katikamu police station officer in charge and invited the manager of Balimwezo Group of company for mediation. Paralegal had found out from the police station that the Car had been released by the police by a person from Balimwezo Group. Paralegal had approached the Manager who was aware of the accident but no person had come up to claim.

Mediation was conducted at Katikamu Police Station on 23rd July, 2020 and Balimwezo Group of companies agreed to compensate the family of the Late Ugx 25,000,000 being compensation for burial expenses, loss of expectancy and medical bills. The money was paid in cash in full and final settlement of the claim.

The family bought piece of land with rental houses to collect and pay school fees for the minors.



*Rachael Kabala, Litigation and Complaints manager facilitating during a lobby meeting with leaders of transport associations organised by MCJL at Hotel Triangle. Participants discussed way forward to improving the Insurance regime regarding motor third party*

Accident claimants still face challenges of identifying the perpetrators at the scene of the accident, tracing them and getting through the legal procedures like obtaining police report, PF3, post-mortem report, quantifying the loss among others. The situation is worse where the bread winner is the victim of the accident. The women and children lack the capacity to follow up such cases.

MCJL has continuously advocated for a better third party

compensation regime. This will ensure that victims can get redress in Insurance without the hustle of following up with negligent perpetrators.

The current insurance regime fixes the maximum compensation to UGX 1,000,000/= regardless the injury/death which provision MCJL has petitioned in the Constitutional court for infringing on the right to access to justice.

## PARALEGAL SETTLES BOUNDARY DISPUTE BETWEEN NEIGHBOURS.

11

**O**ur client is Rose is female aged 50 years and a resident of Kawempe, Kampala. She is a divorcee who stays with her grandchildren. She wanted to renovate her house and the neighbour prevented her from accessing the exterior part of house in the whole plot and did not leave any space thus she could not allow Rose to use her plot to renovate her house.

Rose had taken the matter to LC 1 of the area for redress. Amina, MCJL paralegal attached to Kiti LC1 mediated the dispute. Mediation was held and later Rose apologised to Ann and calmly requested her to access her house through her plot given the fact that she had no automatic right to access the neighbours premises.

The parties agreed and Ann allowed Rose to access and renovate her house. Rose has now commenced renewal and the neighbours are now in good terms. Rose and her neighbour had stopped talking but this changed after the mediation and Rose's grandchildren freely interact with the neighbour's. Rose also learnt that when constructing a house, it is good practice to leave metres or space to enable a person access all the interior and exterior parts of her house.



*After a successful mediation, MCJL legal officer and a beneficiary planting boundary marks in a land dispute case.*

**B**oundary disputes are on the rise due to the increasing population which has led to land fragmentation. In Muslim communities, the fragmentation is worsened by the fact that Imams distribute property without knowledge of current property development standards to the extent of dividing rooms in a house left by the deceased amongst the children. The methods of demarcation of boundaries are still

rudimentary where people plant some crops as boundary marks.

The cost of the well-built boundary marks is high for the poor and vulnerable persons. As a result, land disputes manifesting in boundary wrangles have manifested. There is need for awareness in property development, formation of companies where beneficiaries can take shares, development of condominiums, lobby local governments on land fragmentation among other avenues.

## BUILDING BRIDGES WITH LOCAL STRUCTURES IN RESOLVING DISPUTES

12

**O**ur client Debora is an elderly woman who resides in Kiwazi, Wakiso district. A beneficiary referred her to our Kampala legal aid clinic for redress. Debora owns a kibanja in Kiwazi and was claiming that the land owner is threatening to evict her from the kibanja. She was also having conflicts with her neighbors. An invitation letter was sent to the parties concerned and the local chairperson requested that the mediation is conducted at his office.

The first mediation was held at locus and it was revealed that Debora had conflicts with most of the neighbors in the area and she wanted to relocate to another place. Kibanja boundaries were also opened and Debora claimed that the neighbors were threatening to kill her because of the kibanja. It was resolved in the meeting that Debora nominates a person to help her in the process. She nominated her sister a one Nankanja who agreed and parties entered into a memorandum of understanding.

Nankanja has now commenced the process of sale and transfer and Debora is now in good terms with her neighbours.



**R**esolving disputes at locus is an approach that worked well during the Covid 19 pandemic to resolve disputes at locus so as to reduce movement of people given the high transport costs and Covid 19 SOPs that discourage movements. The model ensures participation of members of the community and leaders at a local level. Before mediation takes off, the participants are sensitized on their rights and

redress pathways. This model however, requires preparation in form of mobilization and good transport means to navigate the bad roads.

The model empowers local council authorities with mediation skills which fosters sustainability.

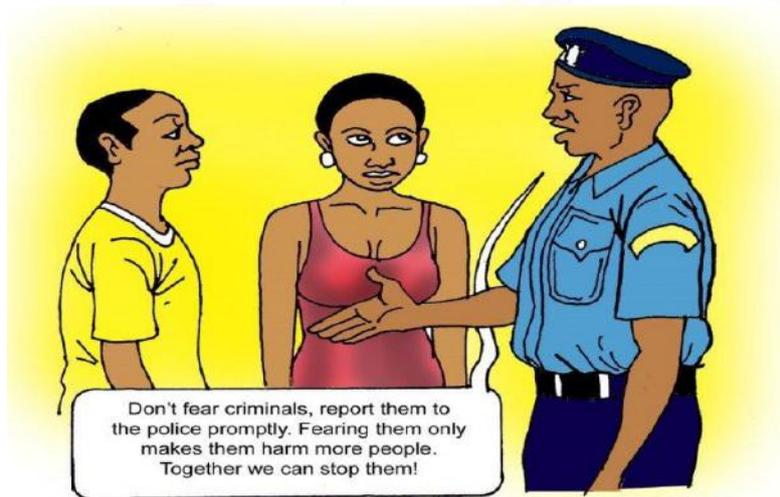
## RESTORING BONDS AMONGST NEIGHBOURS

13

**O**ur client Kibazzi is a resident in Butambala district aged 50 years. He has never been to a police station neither as a complainant nor as a suspect. He received police summons from Kibibi Police Station to answer a case of causing malicious damage to property. Kibazzi was suspected of having destroyed his neighbor's bean plantation. He did not know what to do and thus approached the paralegal at Masjid Aya for advice.

The paralegal advised Kibazzi on the elements of the offence, the procedures involved in criminal cases as well as the remedies available to him which included obtaining police bond in case of arrest and reconciliation with the complainant at police. The paralegal contacted the complainant a one Ms. Nakatende and a reconciliation meeting was conducted at Kibibi police station.

Paralegal escorted Kibazzi to police station and met the officer investigating the case and requested to have a reconciliation meeting with the complainant and the accused. Kibazzi and Nakatende are relatives and had been having land wrangles for quite some time. During the mediation, the parties agreed on the land boundaries and the matter was amicably settled. Kibazzi apologised for destruction of Nakatende's property and promised to compensate her after harvest. Kibazzi and Nakatende shared the kibanja and they both utilise it happily.



Being summoned at police or court remains one of the biggest fears of many Ugandans. The police and courts are regarded as places where wrong doers are punished. This thinking unfortunately is contrary to the presumption of innocence guaranteed under the 1995 Constitution. Many people especially the youths fear going to police stations for fear of being arrested.

There is need to organize learning events between the police Officer and the people especially the youth to

remove instances of suspicion on either side.

There should be lobby campaigns on use of excessive force by the police while effecting arrests which spoils the image of police and resultantly makes people fear to visit police. CSOs should closely work with Directorate of community policing, Uganda Police Force.

MCJL has since incorporated a model of having sensitization in attendance and with participation of Community Policing.

## 1 YEAR OLD BABY GETS NECESSITIES OF LIFE

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**O**ur client Ms Birungi is a resident of Kyabadaza aged 22 years. She has a child aged 1 year. Ms. Birungi and Mr. Sanyu were cohabiting and a child was born. The partners had serious misunderstandings and therefore separated. After separation, Sanyu abandoned Birungi with the baby in the rental house and refused to maintain the child. Birungi contacted Sanyu's relatives and even reported the matter at the LC1 but without success. Mr. Sanyu is an area chairperson where he resides in Mityana district. Sharifah approached the paralegal who had presented on the community radio.

The paralegal called Mr. Sanyu and through call conferencing, mediation was conducted. Mr. Sanyu agreed to maintain the child and to pay UGX 300,000/= to enable Sharifah start up a matooke business to support her.

Mr. Sanyu sent Ugx 100,000 to Birungi's mobile number and the balance was to be paid within the following week. It was agreed that Mr. Sanyu shall provide monthly maintenance for food and shelter to his child and pay medical expenses whenever they arise. Birungi believes that when she starts up her own business, it will reduce dependency on Mr. Sanyu and she will be able to take care of herself and the child.



*Ms. Nambuyaga Sharifah, MCJL Legal Assistant (mediation) handing over money to our client after a successful mediation in a family matter*

**T**he children are mostly affected in the event of separation by spouses. Maintenance of children has become a big problem. Most men leave all the responsibility to women. The women unfortunately have to look for means of the survivor at the same attend to natural demands like breastfeeding which increases their vulnerability.

The legal mechanisms of seeking maintenance in the family and children court have proved, expensive, lengthy and burdensome to vulnerable women. Even where court grants an order of maintenance, enforcement of the same has remained a challenge. Men always ignore the court orders

especially those who are aware that court neither can attach property nor salary as most earn daily from the informal sector.

Women have given up and raised their children single heartedly while others have abandoned them at their grandparents. MCJL suggests Economic empowerment of women as a solution to maintenance challenges since it reduces over dependency of the women.

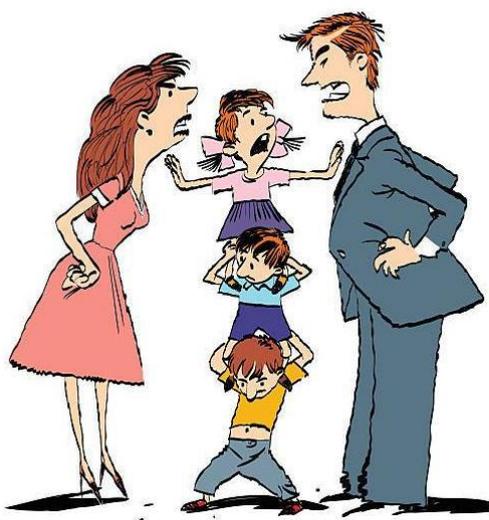
In our mediations, we have endeavoured to advise women to come up with economic models where dependency is reduced.

## SARAH RECEIVES MAINTENANCE OF HER CHILD AND PREGNANCY

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**O**ur client Sarah aged 28 years was six months pregnant and with a child of 1 and half years. Her partner had refused to provide maintenance. The father of the minor Yiga wasn't supporting her as regards the pregnancy and also the child. Sarah had missed antenatal checkups because she did not have the money. Sarah was worried as she had complications while delivering her first child. Her child was malnourished and was in and out of the hospital. She could not afford to buy the medicine as prescribed by the doctors which had affected the growth of her child. Her medical documents indicated that her pressure was high which was likely to affect the pregnancy. Sarah had tried to reach Yiga but kept on promising to send her money which he didn't.

MCJL Mpigi clinic wrote a mediation letter to Yiga inviting him for a mediation meeting at office. Yiga responded to the mediation notice and he attended. He agreed to take up his responsibility as a father. Memorandum of Understanding was entered into wherein Yiga agreed to provide a monthly amount for the welfare of the minor and the mother of Ugx; 120,000 and also to pay for maternity bills as and when they arise. For the month of August, he paid the money and our client acknowledged receipt of the same. Sarah also obtained money for antenatal care.



**S**exual and Health Reproductive rights have serious connotations to access to justice. The parenting roles of mothers prevent them from working and providing maintenance to their children. Sarah's story presents a mother who is 6 months pregnant with a one and half years baby. Lack of child spacing increases the vulnerability of a woman and reduces her productivity.

There is need to integrate family planning sensitizations in access to justice. This requires the lawyers in legal aid to have a special training in SRHR to build their capacity to handle such cases.

Access to Justice Interventions should also integrate livelihood support to reduce dependency syndrome of vulnerable women.

## ACCESS TO JUSTICE FOR THE UNBORN

16

**O**ur client Jenifer aged 33 years residing in Mpigi approached our office stating that she was eight months and three weeks pregnant. Jenifer was cohabiting with a one Kawooya who after finding out that she was pregnant abandoned her in the house and left. Jenifer was selling second hand clothes along Mpigi road. Due to COVID 19, Jenifer was no longer earning and when the lock down was lifted, due to the pregnancy she could no longer sit for long and conduct business as she had previously done. Jenifer had used all her small savings to take care of herself during the lockdown. She had tried to contact Kawooya but in vain. She started her antenatal visits late and missed a number of medical appointments as sometimes she did not have transport.

At eight months, the doctor informed Jenifer about her due date and the need to prepare. She had to buy things for the new born as well for herself. She had not bought the maama kit and need money for the maternity bill. She wanted the person responsible for the pregnancy to give her money to pay for maternity bills as she was due on the 19th day of August, 2020 according to her doctor.

Mpigi legal officer invited the father to be Mr. Kawooya for mediation. Kawooya honoured the invitation and agreed to pay for the maternity bills of Ugx; 150,000 which was paid. Kawooya also agreed to pay for maintenance of Jenifer before and after birth and also to provide for his baby. Jenifer gave birth to a healthy baby girl.



**M**others still face challenges in giving life. Whereas government hospitals provide low cost or free maternity services, they do not provide for transport, feeding of the baby and the mother among other necessities. As a result of lack of money to cater for the pregnancy,

many women have resorted to unsafe abortion where lives have been lost. There have been reports where children are dumped immediately upon delivery.

All this is as a result of failure to address SRHR of this vulnerable category.

## MULWASIRA RECONCILES WITH HIS SISTER-IN-LAW OVER LAND BOUNDARY

17

**O**ur Client Mulwasira is an old man aged 71 years residing in Bugiri who was sued for trespass on land by his sister-in-law. When he received court summons, he did not know how to proceed until when the area chairperson referred to Bugiri legal aid clinic. The case went for mediation at court and the mediation failed. So the matter was sent back to court for hearing. During hearing, It was revealed that Mulwanira had cut down boundary marks from the sister-in-law's land and was claiming ownership of an access road. At the hearing, MCJL lawyer applied to Court to allow to have the mediation meeting at locus so that further prospects of settling the matter can be exploited. MCJL arranged a meeting at the suit land which was attended by over 15 members of the family. MCJL mediated between the parties and they agreed settle their case out of court.

Boundary marks were planted to demarcate both the plaintiff's land and defendant's land. Consent was signed and parties reconciled. At the end of the meeting, both parties were happy and able to speak to each other which they had not done for over three years.

The court matter was thus settled within a short period of time and at the end, each party knew the boundaries of their kibanja.



*MCJL legal officer, Annet Gyabi facilitating signing of consent settlement at locus in .....subcounty, Bugiri District.*

Court annexed mediations were equally being exploited by MCJL to resolve disputes. Unfortunately, court annexed mediations are conducted at court. For land matters and boundaries disputes, MCJL has insisted to conduct the mediation at locus so that the concerned parties get justice. Locus visits for land matters should be done at the earliest

stage possible to enable court get the dispute at hand. Many people especially the rich have changed the statusquo by constructing on the suit land and by the time the case is concluded, (after like 5 years), the statusquo is different from that appearing in the pleadings.

This is common in cases of illegal evictions.

## ACCESS TO JUSTICE THROUGH NON-CUSTODIAL REMEDIES

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Our Client Lawrence is a resident of Nsangi bought a plot of land in 2018 from a one Resty at a consideration of ugx 3,100,000. Lubowa used to visit his plot and had stopped in February 2020. When the lockdown was enforced, Lubowa could not visit his plot and was surprised when he visited the plot at the end of June and found out that Resty had sold the plot to another person and she refused to refund Lawrence's money. Lawrence was referred to our offices by a beneficiary MCJL had assisted earlier. Lawrence had lost his business due to COVID 19 and now wanted to start new life at his plot in Kitemu.

Resty was contacted and admitted that she resold the plot to another person due to covid19 financial constraints and agreed to refund the money. Lubowa wanted 5 million Uganda shillings and the parties later agreed to Ugx; 4,500,000. Lawrence was paid his money in full. Lawrence has used the money to revamp his business. Both parties were happy since Resty survived criminal charges and a civil suit that could have led to not only financial constraints but also time.

Lawrence was also able to obtain his money within a short period and had spent on only transport in seeking justice.



Covid19 financial constraints have pushed many people to commit illegalities including selling properties that do not belong to them. Whereas this can be treated as obtaining money by false pretence which attracts a prison sentence, MCJL lawyers look at the matter holistically and assess the circumstances under which the offence of committed. For cases where compensation can adequately

provide redress and atone the damage, we have encouraged compensation and reconciliation as opposed to custodial sentences. This approach reduces the ramifications of the debtor's family suffering as a result of imprisonment of the bread winner.

MCJL alongside other LASPs has been campaigning for decongestion of prison especially during covid19.

## IVAN RECOVERS HIS MONEY.

19

**O**ur client Ivan a resident of Katwe in Kampala district lent UGX 2,000,000 to one of his work mates in 2019 but he refused to pay despite several reminders. Ivan had agreed with the debtor to have the money paid within three months but this was not done. Ivan had gone to Katwe police station to report the matter and met a beneficiary who referred him to MCJL Paralegal. Ivan approached MCJL paralegal at Katwe mosque to help him recover his money.

Paralegal invited the parties for mediation. The debtor disclosed that he had borrowed the money to start up another business to increase his earnings but the same was affected by the lock down thus failure to repay the money. In the mediation, it was agreed that the monies shall be paid in instalments of Ugx 500,000 and on that day, the debtor paid Ugx; 500,000 and the balance was to be paid in 3 months. The money was to be paid in cash to Ivan himself.

Mediation is a win-win justice pathway and the debtor was given more time within which to pay the money and Ivan was also assured that he will get all his money since the memorandum of understanding was a document he obtained that can be enforced in courts of law.



**R**ecovering small amounts of money can be costly for court processes. Though the small claims procedure is in place, the litigant has to pay filing fees and the matter goes to the

execution process which is costly for small lenders. Paralegals can be utilized to demand and mediate disputes involving small monies which in turn promote reconciliation between the parties.

## SESANGA AND ISMAIL ARE RELEASED ON POLICE BOND

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**O**ur clients Sesanga aged 32 and Ismael aged 46 were on the 31st day of July, 2020 arrested and detained at Kawempe police station on allegation of theft. It was alleged that they stole car tires and boxes of car oil from a Chinese national worth 10 million Uganda shillings. Their relatives came to MCJL offices seeking legal assistance since they had now spent 6 days in police cells.

At police, they claimed that they bought the boxes of car oil and tires from a colleague and also paid for the same. they had evidence to that effect but the police wanted them to lead them to a person from whom they had bought the oil from. However, this person had gone into hiding with others and only Sesanga and Ismael had been arrested. Sesanga and Ismael were later granted bond after spending 12 days in police cells and the charge was reduced to being in possession of stolen property.

Since the 2nd relative had no original ID, the police conditioned MCJL lawyer to stand surety in order to secure the release. Investigations are still ongoing.



**T**he Constitution, Police Act prescribes that a person shall be produced in courts of law in 48 hours. This helps the person know the charges against them, and a right to apply for bail. However this provision is abused by police especially for poor and vulnerable clients who have no lawyers to advocate for their constitutional rights. As a result, suspects are forced by the long detentions to enter into concessions

on duress in order to get out of prison.

In representing the poor, sureties sometimes do not have all the preconditions for bail/bond, and lawyers have to think outside the box to secure their release.

There is need to increasingly engage the Uganda Police Force on the 48 Hour rule in order to protect the rights of the vulnerable

## NKONGE IS RELEASED ON POLICE BOND AND CHARGES DROPPED.

21

Our client Nkonge who operates a parking lot in Nansana was arrested and detained in an unknown place for two weeks before MCJL was contacted by the family relatives. The relatives claimed that one police officer had also started operating a parking lot in Nansana and had ordered Nkonge to close his which he refused. One day, police officers impounded two motorcycles from Nkonge's garage and arrested him with his workers on charges of being in possession of goods suspected of being stolen.

When MCJL followed up at Nansana police, the officers claimed that they did not have the suspects in their custody since they had been taken to Kireka. MCJL wrote letters to Nansana Police Station and CID Headquarters and the suspects were traced at Kireka. The owner of the motorcycles also went to police with proof of ownership of the motorcycles. MCJL also engaged the DPC on the issue of the police officer using his office to further his personal interests.

Nkonge and his workers were released on bond and the charges were later dropped since they had no basis. The police have since then not disturbed Nkonge and his business.



**A**rticle 28 of the Constitution requires any one arresting a suspect to inform him of the charges and immediately notify his relatives, lawyer or doctor of the place of detention. Detentions incommunicado are still a practice especially where detaining officers have personal interests in the matter. Whereas the constitution and the Judicature Act provide for a writ of Habeas corpus which would order the state produce a person, the process of getting the order in the High court may take longer especially during the

Covid19 time when courts are operating at a limited capacity. MCJL lawyers have utilized administrative channels with in police to secure release of persons illegally detained. Due to the fear, such clients fear to instruct lawyers to proceed with cases of torture or false imprisonment.

There is need to lobby for putting in place a specific office in Uganda police designated to handle incommunicado detentions. This will avoid the red tape processes in tracing and securing bond for vulnerable persons who cannot meet the cost of follow up.

## CLOSING NOTE

**A**ccess to justice is a right each person should enjoy whenever he/she faces any justice issue. Increasingly, community members have sought for justice as result of legal and human rights awareness. Most people are aware of their rights and know when they have been infringed. However, people still face impediments when accessing justice which include the fees involved in raising a justice claim, the transport costs, cost of a lawyer, time spent seeking for a remedy, the complex procedures and bureaucracy and the corruption rate (extortion, abuse of office, bribery among others) that is high in the justice centres.



Women seek justice either personally or through their relatives and others through neighbors and local area authorities. When a woman reports a justice issue at any justice centre, most abandon them while others occasionally follow up because of pre occupation with domestic work. Police stations, courts of judicature and legal aid service centres do not have dedicated children spaces where a mother can safely leave her child(ren) while attending to a matter at the justice centre and this affects reporting and follow up of cases.

Justice centres should be brought closer to the people and informal justice mechanisms like local council courts, Muslim justice centres, cultural institutions should be strengthened and streamlined with the formal justice systems to curb some of the challenges the poor and vulnerable face in accessing justice.

A handwritten signature in black ink, appearing to read 'Hadijah Nansubuga'.

Hadijah Nansubuga  
**Legal Aid Manager**