

RESEARCH ARTICLE

Judicial Immunity and Corruption in Uganda's Judiciary: A Critical Examination

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ABSTRACT

Judicial immunity, enshrined in Article 128 sub-article 4 of Uganda's 1995 Constitution, is intended to protect judicial independence, but critics argue it can create opportunities for impunity and corruption. This study critically examines the relationship between judicial immunity and corruption in Uganda's judiciary by combining doctrinal legal analysis with secondary empirical evidence from court decisions, institutional reports, and public perception surveys. Guided by Principal-Agent Theory, the paper asks whether and how immunity undermines accountability and public trust. Key findings show that, while immunity remains essential to protect impartial adjudication, gaps in enforcement, limited transparency in disciplinary processes, and systemic inefficiencies have at times allowed misconduct to persist and weakened public confidence in the courts. Reforms such as the Anti-Corruption Division and the Electronic Court Case Management Information System (ECCMIS) have improved processes but have not eliminated corruption because of resource constraints and political interference. The article concludes that preserving judicial independence requires strengthening complementary accountability mechanisms: transparent, time-bound disciplinary procedures; continuous judicial ethics training; guaranteed institutional and financial autonomy; clearer statutory limits on immunity; and improved inter-agency coordination. Implementing these reforms would better align immunity with accountability and restore public trust in Uganda's judiciary.

Keywords: Judicial immunity; corruption; accountability; judiciary; Uganda

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1. INTRODUCTION

Judicial independence is central to the rule of law and democratic governance. In Uganda, the judiciary is constitutionally mandated to administer justice impartially, yet public confidence in the institution has declined significantly due to persistent allegations of corruption, case manipulation, and political interference. Judicial immunity, provided under Article 128, sub article 4 of the Constitution of the Republic of Uganda, 1995, protects judicial officers from personal liability for acts performed in their judicial capacity. While this immunity is intended to secure fearless and impartial decision making, its unchecked application may create opportunities for impunity, weaken accountability, and erode public trust. The relevance of this topic to Uganda cannot be overstated. The judiciary plays a pivotal role in dispute resolution, safeguarding rights, and combating corruption. Yet, Afrobarometer (2024) reports that 56% of Ugandans think most judges and magistrates are corrupt, and 45% have little or no confidence in the courts.¹ Likewise, the Inspectorate of Government (2024) estimates that Uganda loses about UGX 9.1 trillion annually to corruption, with the justice sector contributing significantly through bribery and abuse of office.² These realities raise pressing questions about how judicial immunity interacts with accountability mechanisms and whether the current framework adequately protects judicial integrity. The study is equally relevant in the global context. International debates on balancing judicial independence and accountability continue across common-law jurisdictions such as Kenya and South Africa, which have adopted institutional reforms that Uganda can learn from. Hence, examining Uganda's judicial immunity framework contributes to national reforms and enriches international scholarship on judicial governance.

This introduction integrates the study's justification, research question, objectives, hypothesis, scope, limitations, and methodology. The remainder of the paper is structured as follows: Section 2 presents the conceptual, theoretical, and legal frameworks alongside the contextual literature; Section 3 outlines the methodology; Section 4 sets out the findings; Section 5 provides the discussion; Section 6 identifies the research gap; Section 7 offers the conclusion; and Section 8 presents the recommendations. Although judicial immunity is intended to safeguard judicial independence in Uganda, concerns are growing that its broad and unchecked

interpretation may hinder accountability, permit misconduct, and damage public trust in the judiciary. Empirical evidence explicitly linking judicial immunity to patterns of judicial corruption is limited, particularly regarding disciplinary mechanisms under the Judicial Service Commission and operations of specialized courts like the Anti-Corruption Division.

This paper seeks to answer: To what extent does judicial immunity contribute to misconduct and corruption in Uganda's judiciary, and how effective are existing disciplinary mechanisms in ensuring accountability?

The objective of this paper is to examine the relationship between judicial immunity and corruption in Uganda's judiciary and propose reforms that preserve judicial independence while strengthening accountability. Specifically, the study seeks to:

- Assess how judicial immunity influences judicial accountability in Uganda, as examined in sub-sections 2.1., 2.3., 2.4., 4.1., and 5. of this paper.
- Analyze the effectiveness of disciplinary mechanisms under the Judicial Service Commission, drawing on discussions in sub-sections 2.1., 4.5., 5.6., 6., 8.1., and 8.6. of this paper.
- Compare Uganda's judicial immunity framework with those of Kenya and South Africa, as explored in sub-sections 2.2., 5.7., and 5.8. of this paper.
- Propose recommendations for strengthening accountability while preserving judicial independence, presented in section 8 of this paper.

This text is guided by the hypothesis that judicial immunity in Uganda, while essential for protecting judicial independence, may increase the risk of misconduct and weaken accountability if not balanced by effective oversight mechanisms. The study covers the period 1998-2025, capturing developments in judicial immunity and accountability following the 1995 Constitution of Uganda, the establishment of the Judicial Service Commission's disciplinary procedures, the creation of the Anti-Corruption Division in 2008, and recent digital reforms. The study focuses on Uganda as a whole, with particular analytical attention to developments associated with the Anti-Corruption Division and related reforms that have largely been initiated and documented within the Kampala Metropolitan area.

¹ MAKANGA RONALD KAKUMBA, *Ugandans Dissatisfied with Government Efforts Against Corruption, but Fear Retaliation if They Speak Out*, AFROBAROMETER DISPATCH NO. 942, at 1-3 (2024).

² INSPECTORATE OF GOVT, *The Cost of Corruption in Uganda: 2024 Report*, at 3-8 (2024).

The paper examines the concepts of judicial immunity, corruption, accountability, and institutional reforms, both in theory and practice. The study relies solely on secondary data, lacking primary interviews with judicial officers or litigants. This limits firsthand empirical insights but allows for extensive triangulation across authoritative reports and doctrinal sources. The study uses a qualitative doctrinal approach, examining the Constitution, statutes, regulations, and judicial precedents such as *Attorney General versus Nakibuule*.³ This is combined with secondary empirical evidence from Afrobarometer, Inspectorate of Government reports, judiciary annual reports, and media publications. Principal-Agent Theory is applied to interpret how discretion under immunity may influence judicial behavior. Findings are synthesized through thematic and comparative analysis.

2. THEORETICAL, LITERATURE & CONTEXTUAL BACKGROUND

2.1. Legal framework governing judicial immunity in Uganda

Judicial immunity in Uganda is rooted in the Constitution and supplemented by statutory and regulatory instruments. Article 128, sub-article 4 of the Constitution of the Republic of Uganda provides that “a person exercising judicial power shall not be liable to any action or suit for any act or omission by that person in the exercise of judicial power,”⁴ thereby insulating judicial decision-making from personal liability and external pressures. The Judicature Act, Chapter 16, Uganda, the Judicial Service (Complaints and Disciplinary Proceedings) Regulations (2005),⁵ and the Judicial Service Commission’s mandate operationalize aspects of judicial appointment, discipline, and removal. Other relevant statutes, such as the Leadership Code Act, Chapter 33, and the Anti-Corruption Act, Chapter 116, establish ethical and criminal norms for public officers but interact complexly with immunity protections when judicial misconduct is at issue. Ugandan jurisprudence has begun to clarify these boundaries: in *Attorney General versus Nakibuule* (2018),⁶ the Supreme Court emphasized that immunity does not preclude disciplinary proceedings under the Judicial Service Commission, pointing to the need for a balance between independence and accountability.

2.2. Comparative perspectives: Regional approaches to immunity and accountability

Comparative experience offers useful models for reconciling judicial independence with accountability. Kenya’s constitutional and statutory framework recognizes judicial immunity while establishing transparent disciplinary procedures and clearer limits on immunity’s scope. Article 160 subarticle 5 of the Kenyan Constitution states that “a member of the Judiciary is not liable in an action or suit in respect of anything done or omitted to be done in good faith in the lawful performance of a judicial function.”⁷ South Africa’s approach similarly preserves judicial immunity for bona fide judicial acts but emphasizes public hearings, reporting, and institutional transparency under its Judicial Service Commission regime. As cited in *De Lange v Smuts Nomine Officii et al.*,⁸ Dickson, Chief Justice of Canada, in the case *Canada v. Beauregard*, summarized the essence of judicial independence as follows:

Historically, the generally accepted core of the principle of judicial independence has been the complete liberty of individual judges to hear and decide the cases that come before them: no outsider, be it government, pressure group, individual or even another judge, should interfere in fact, or attempt to interfere, with the way in which a judge conducts his or her case and makes his or her decision. This core continues to be central to the principle of judicial independence. The ability of individual judges to make decisions on concrete cases free from external interference or influence continues to be an important and necessary component of the principle.⁹

These jurisdictions demonstrate that immunity can be preserved without preventing effective oversight, provided that disciplinary institutions are empowered, transparent, and timely in their processes. Comparative jurisprudence thus suggests policy levers Uganda can consider, particularly publishing disciplinary outcomes and enforcing time-bound procedures.

³ *Attorney Gen. v. Nakibuule*, Civ. Appeal No. 23 of 2018 (High Ct. Uganda 2018).

⁴ UGANDA CONST. art. 128, cl. 4 (1995).

⁵ Judicial Service (Complaints and Disciplinary Proceedings) Regulations, Statutory Instrument No. 88 of 2005 (Uganda).

⁶ *Supra* note 3.

⁷ KENYA CONST. art. 160, cl. 5 (2010).

⁸ *De Lange v. Smuts N.O.*, 1998 (3) S.A. 785, 790 (CC) (S. Afr.).

⁹ *Id.*

2.3. Perceptions and patterns of corruption in Uganda's judiciary

Public perception of corruption in Uganda's judiciary remains deeply concerning. According to the Afrobarometer Round 9 survey (2024),¹⁰ a reputable, pan-African, non-partisan research initiative jointly implemented in Uganda by Hatchile Consult Ltd, in partnership with the Center for Democratic Development (CDD), Ghana, and Michigan State University, a majority of Ugandans question the integrity of the judiciary. The survey was conducted through face-to-face interviews with a nationally representative, stratified random sample of 2,400 adult citizens, covering both urban and rural areas across all four regions of Uganda. With a margin of error of ±2% at a 95% confidence level, the findings are statistically robust and reflective of the wider Ugandan population.¹¹ According to the data, 56% of Ugandans believed that most or all judges and magistrates are corrupt, while 45% expressed little or no confidence in judicial institutions.¹² These results are consistent with previous Afrobarometer rounds and corroborate findings from other governance reports. Institutional data reinforce this perception in the Inspectorate of Government (IG) 2024 estimates that Uganda loses approximately UGX 9.1 trillion annually to corruption, with a notable portion attributed to bribery and misuse of office within the justice sector. Complementing this, Saxton (2022) reports that 67% of public interactions with justice institutions involve some form of bribery, indicating that illicit payments have become normalized in the enforcement chain.¹³ Together, these findings represent a substantial cross-section of Ugandan public opinion and institutional evidence. The widespread perception of judicial corruption undermines the judiciary's legitimacy and weakens its role as a bulwark against corruption. These concerns highlight the need to critically assess how structural protections, such as judicial immunity, interact with accountability mechanisms to influence judicial conduct and public trust.

2.4. Conceptual Clarifications

2.4.1. Corruption

For this study, corruption is defined as the abuse of entrusted power for private gain, encompassing bribery,

favoritism, embezzlement, and procedural manipulation (Transparency International, 2024).¹⁴ Section 2, clause (h) of the Anti-Corruption Act, Cap 116, a person commits the offence of corruption if he or she does any act or omission in the discharge of his or her duties by a public official for illicitly obtaining benefits for himself or herself or for a third party.¹⁵ Within the judiciary, corruption can appear as biased adjudication, solicitation or acceptance of bribes, manipulation of case flows, or misuse of judicial discretion.

2.4.2. Judicial immunity

Judicial immunity denotes the legal protection accorded to judicial officers for acts performed in their judicial capacity.¹⁶ Its core policy rationale is to secure judicial independence by insulating judges from retaliatory litigation or external interference. However, immunity's protective function can become problematic if it is interpreted so broadly that it shields non-judicial misconduct or obstructs legitimate oversight. Evidence from Uganda underscores this connection: although 85% of citizens recognize the courts as legitimate, less than half (46%) express trust in their operations, and a majority (56%) perceive widespread corruption among judges and magistrates (Afrobarometer, 2021).¹⁷

2.4.3. Accountability and transparency

Accountability comprises formal and informal mechanisms, disciplinary proceedings, performance audits, publication of decisions, and civic oversight, through which judicial actors are held responsible. Transparency refers to openness in processes and decisions that enable monitoring and public scrutiny. The interplay between accountability and transparency is central to ensuring immunity does not translate into impunity.

2.5. Theoretical framework: Principal-Agent Theory (PAT)

At the core of Principal-Agent Theory (PAT) is the assumption of rational self-interest and information irregularity: agents (judges) possess more specialized information about their

¹⁰ KAKUMBA, *supra* note 1.

¹¹ *Id.*

¹² *Id.*

¹³ J. SAXTON, *Corruption in Uganda*, BALLARD BRIEF (June 7, 2022).

¹⁴ TRANSPARENCY INT'L, *Corruption Perceptions Index 2024* (2024).

¹⁵ ANTI-CORRUPTION ACT, ch. 116 (Laws of Uganda, Rev. Ed.).

¹⁶ UGANDA CONST., *supra* note 4.

¹⁷ AFROBAROMETER, *A Never-Ending Problem: Ugandans Say Corruption Level Has Increased, Rate Government Fight Against Corruption Poorly*, AFROBAROMETER DISPATCH NO. 435, at 2–5 (2021).

internal decision-making processes than the principals (the public or the state) who oversee them. Because the interests of the agent often diverge from those of the principal, the agent may engage in opportunistic behavior, such as corruption or favoritism, if the costs of detection are low. In a judicial context, this creates a moral hazard where the very protections designed to ensure impartial adjudication, such as life tenure or absolute immunity, simultaneously reduce the principal's ability to monitor the agent's performance. Consequently, the theory posits that unless the principal implements robust bonding or monitoring costs, namely transparency and accountability measures, the agent will prioritize private utility over the public mandate.

The theory was originated by Ross and Mitnick in the 1970s,¹⁸ but its modern application and framework were popularized by Jensen and Meckling.¹⁹ This study applies Principal-Agent Theory to explain potential divergence between judicial mandate and behavior. Under Principal-Agent Theory, the public and the state are principals who delegate adjudicative authority to judicial agents. Judicial immunity increases agents' discretionary autonomy; absent sufficient monitoring and incentives, agents may pursue private interests that deviate from principals' expectations. Accountability and transparency mechanisms operate as monitoring and incentive structures that mitigate agency loss. Principal-Agent Theory thus helps conceptualize how immunity, a mechanism designed to protect independence, may, without countervailing controls, raise the risk of corrupt behavior.

2.6. Link to the research hypothesis and gap in the literature

Building on the foregoing legal, comparative, empirical, and theoretical discussion, this study hypothesizes that judicial immunity in Uganda, while essential for preserving judicial independence, may inadvertently facilitate misconduct and weaken accountability where disciplinary and transparency mechanisms are underdeveloped or poorly enforced. Gumisiriza and Mukobi (2021) in "Anti-Corruption Institutional Multiplicity Façade in Uganda" analyze how overlapping mandates among anti-corruption agencies weaken enforcement but do not explore the judiciary's

internal accountability mechanisms.²⁰ This shows systemic weaknesses in Uganda's justice sector, as there is a relative scarcity of focused empirical and doctrinal analyses that specifically trace how the legal contours and application of judicial immunity interact with institutional accountability to influence corruption outcomes. Similarly, Danida Fellowship Centre (2018), highlights systemic inefficiencies within Uganda's justice sector, including limited inter-agency coordination and resource constraints, without interrogating how judicial immunity shapes or constrains anti-corruption efforts within the courts.²¹ The Transparency International (2024),²² Corruption Perceptions Index (CPI) ranks Uganda 141st out of 180 countries, with a score of 26 out of 100, indicating a high level of perceived corruption across the public sector. The above reports also reveal persistent corruption but fail to link it directly to judicial immunity. This study, therefore, addresses this gap by combining doctrinal review, institutional reporting, and public-perception data to map the nexus between immunity and judicial integrity in Uganda.

3. METHODOLOGY

3.1. Research design

This study adopts a qualitative doctrinal legal research design combined with systematic secondary (documentary and empirical) analysis. The doctrinal component interprets and synthesizes legal texts, judicial decisions, and formal regulations governing judicial immunity and disciplinary procedures in Uganda. The secondary-empirical component triangulates doctrinal findings with published empirical reports and perception surveys to situate legal analysis within observable patterns of judicial conduct and public trust.

Rationale: The doctrinal analysis is appropriate for clarifying legal rules, principles, and judicial reasoning; triangulation with secondary empirical sources (surveys, institutional reports, media reports) enables assessment of the practical effects of legal rules on accountability and public perceptions.

3.2. Data sources and selection criteria

Three categories of data sources were used:

¹⁸ Stephen A. Ross, *The Economic Theory of Agency: The Principal's Problem*, 63 AM. ECON. REV. 134 (1973); Barry M. Mitnick, *The Theory of Agency: The Policing Paradox and Regulatory Behavior*, 24 PUB. CHOICE 27 (1975).

¹⁹ Michael C. Jensen & William H. Meckling, *Theory of the Firm: Managerial Behaviour, Agency Costs and Ownership Structure*, 3 J. FIN. ECON. 305 (1976).

²⁰ Pius Gumisiriza & Robert Mukobi, *Anti-Corruption Institutional Multiplicity Façade in Uganda*, 15 UGANDAN J. MGMT. & PUB. POLY STUD. 91 (2018).

²¹ DANIDA FELLOWSHIP CTR., *Annual Report 2018* (2019).

²² TRANSPARENCY INT'L, *supra* note 14, at 2–3.

3.2.1. Primary legal instruments

These sources collectively establish the legal framework for judicial independence, immunity, and accountability in Uganda. Article 128 of the Constitution of the Republic of Uganda, 1995 guarantees judicial independence and grants immunity to judicial officers for actions performed in good faith,²³ a principle further detailed by the Judicature Act to protect judicial function from external influence.²⁴ Accountability is established through the Judicial Service Commission Regulations and the Judicial Service (Complaints & Disciplinary Proceedings) Regulations (2005),²⁵ which govern the disciplinary process for judicial officers. This is supplemented by the broader anti-corruption laws: the Leadership Code Act²⁶ which requires asset declaration and establishes standards of conduct, and the Anti-Corruption Act²⁷ that criminalizes various corruption offenses, which apply to the judiciary as public officers. The practical application and limitations of judicial immunity were notably tested in the authoritative case law of Attorney General versus Nakibuule (2018),²⁸ which confirmed that immunity is not absolute and cannot shield a judicial officer from criminal liability for actions, like corruption, that fall outside the lawful and good faith performance of a judicial function.

3.2.2. Scholarly and doctrinal literature

Peer-reviewed articles, books, law reports, and working papers on judicial independence, judicial immunity, and judicial accountability in Uganda and comparable common-law jurisdictions, that is, Kenya and South Africa.

3.2.3. Empirical and institutional reports

These primary empirical and institutional reports provide overwhelming evidence of widespread public-sector corruption in Uganda, with specific and often worsening trends documented within the justice sector, thereby establishing the empirical basis for analyzing institutional accountability mechanisms like judicial immunity.

3.2.4. Selection criteria

Sources were included if they: (i) directly addressed judicial immunity, judicial discipline, or corruption in Uganda or comparable common-law jurisdictions; (ii) were published

by recognized institutions, peer-reviewed outlets, or primary legal repositories; and (iii) fell within the study's temporal scope (1998-2025) unless a pre-1998 source was legally foundational.

3.3. Analytical framework and procedures

The analysis was conducted in two complementary strands:

A. Doctrinal/normative legal analysis

Close textual interpretation of constitutional and statutory provisions and judicial reasoning to determine the legal scope, limits, and judicial construction of immunity. Comparative analysis with relevant Kenyan and South African authorities to identify institutional design options and interpretive approaches to balancing immunity and accountability.

B. Contextual/empirical synthesis

Thematic content analysis of empirical reports and survey data to extract recurring patterns, for example, frequency and types of alleged misconduct, and trends in public confidence. Triangulation: doctrinal findings were cross-checked against empirical evidence to evaluate whether legal rules as written are reflected in institutional practice and public perceptions.

3.4. Analytical tools and reproducibility

Manual close-reading and coding were employed for legal and qualitative materials. Simple Python scripts were used to generate two author-created flowcharts, that is, figures 1 and 2, which visualize pathways from immunity to outcomes, that is, independence versus impunity and the balancing relationship between immunity and accountability. The scripts output high-resolution PNG and PDF files; the underlying code and figure files are archived with the author's project materials for reproducibility.

3.5. Reliability, validity, ethical considerations, and limitations

3.5.1. Reliability and validity

Triangulation across doctrinal texts, empirical reports, and

²³ UGANDA CONST., *supra* note 4.

²⁴ JUDICATURE ACT, ch. 13 (Laws of Uganda, Rev. Ed.).

²⁵ *Supra* note 5, NO. 87 of 2005 (Uganda).

²⁶ LEADERSHIP CODE ACT, ch. 33 (Laws of Uganda, Rev. Ed.).

²⁷ ANTI-CORRUPTION ACT, *supra* note 15.

²⁸ *Supra* note 3.

case law strengthens construct validity. Use of established, reputable data sources, that is, Afrobarometer, Inspectorate of Government, and Transparency International, increases the external credibility of empirical claims. Where figures/survey results are cited, the exact source, year, and sample (where provided by the source) are referenced in the text and bibliography.

3.5.2. Ethics

The study relies only on publicly available documents and secondary data; no human participants or primary interviews were involved, so institutional review board approval was not required. Sensitive information drawn from media or institutional reports has been cross-checked against official releases to avoid misreporting.

3.5.3. Limitations

Acknowledging the study's limitations is crucial, particularly the absence of primary fieldwork, meaning that there were no direct interviews or observations of judicial officers and complainants, which inherently limits the ability to capture firsthand, lived experiences concerning judicial immunity and corruption. Furthermore, the necessary reliance on secondary sources introduces the risk of inheriting existing reporting biases; however, this was mitigated by consulting multiple independent reports and deliberately highlighting and contextualizing any inconsistent claims across these sources. Finally, the research's potential geographic emphasis on Greater Kampala, where the specialized Anti-Corruption Division of the High Court is located, may limit the generalizability of findings to the broader, often less-resourced, rural magistracy across Uganda, though the use of national-level reports like Afrobarometer helped broaden the scope of coverage.

4. FINDINGS

4.1. Judicial immunity as a safeguard for independence

Article 128, sub-article 4 of the Constitution of the Republic

of Uganda constitutionally protects judicial officers from personal liability for acts done in the exercise of judicial power;²⁹ this protection is explicitly intended to shield judicial decision-making from external pressures and reprisals. The courts themselves have acknowledged the normative value of immunity while warning against its unchecked application: the Supreme Court in *Attorney General v. Nakibuule* recognized that immunity must not be interpreted so as to frustrate disciplinary oversight and public accountability.

4.2. Manifestations of corruption and weak accountability

Multiple empirical and institutional indicators point to concrete manifestations of corruption within the justice sector. Afrobarometer Round 9³⁰ reports that 56% of Ugandans believe most or all judges and magistrates are corrupt, and 45% express little or no confidence in judicial institutions. Institutional estimates and studies indicate substantial losses to corruption (the Inspectorate of Government estimates that UGX 9.1 trillion annually),³¹ and routine bribery in justice-sector interactions (Saxton reports 67% of public interactions involve some form of bribery).³² Media and Inspector General of Government press releases document arrests³³ and prosecutions of lower court officers (magistrates and court clerks) for soliciting bribes and abusing office, illustrating real-world instances of misconduct.³⁴ These data confirm that corruption is both perceived and materially present in court operations.

4.3. Institutional and legislative reforms undertaken

Uganda has introduced several formal reforms aimed at strengthening integrity in the courts, including: the establishment of the Anti-Corruption Division (ACD) of the High Court;³⁵ the Anti-Corruption Act (Chapter 116);³⁶ Judicial Service Commission regulations and the Judicial Service (Complaints & Disciplinary Proceedings) Regulations (2005);³⁷ and technological measures such as the Electronic

²⁹ UGANDA CONST., *supra* note 4.

³⁰ KAKUMBA, *supra* note 1.

³¹ INSPECTORATE OF GOVT, *supra* note 2.

³² SAXTON, *Corruption in Uganda*, BALLARD BRIEF (Brigham Young Univ.) (June 7, 2022), <https://ballardbrief/byu.edu/issue-briefs/corruption-in-uganda>.

³³ Press Release, INSPECTORATE OF GOVERNMENT, *Magistrate Resigns over Sh 1.5M Bribe Claims* (June 17, 2016).

³⁴ Magistrate Resigns Over Sh 1.5M Bribe Claims, NEW VISION (Uganda), July 14, 2016.

³⁵ UGANDA CONST. art. 129 (1995) (authorizing creation of High Court divisions).

³⁶ ANTI-CORRUPTION ACT, *supra* note 15.

³⁷ *Supra* note 5, NO. 87 of 2005 (Uganda).

Court Case Management Information System (ECCMIS)³⁸ and toll-free hotlines.³⁹ These measures have produced some improvements (faster case tracking in pilot sites, high-profile investigations), but implementation gaps, limited jurisdictional reach, resource constraints, and inconsistent roll-out have constrained their overall effectiveness.

4.4. Public perceptions and confidence in the judiciary

Public trust indicators remain low and are consistent across multiple sources: Afrobarometer and institutional reports show a persistent majority perception of judicial corruption and low confidence in court institutions.⁴⁰ Transparency International's Corruption Perception Index places Uganda among lower-scoring states (Corruption Perception Index 2024: 141/180, score 26/100),⁴¹ with the justice system singled out as among the least trusted institutions. These perception metrics are important because they undermine the judiciary's legitimacy regardless of formal guarantees of independence.

4.5. Identified gaps in accountability mechanisms

The empirical and doctrinal material reveals several recurring accountability gaps: (a) enforcement capacity of the Judicial Service Commission and other oversight organs is weak (limited funding, procedural delays); (b) disciplinary procedures lack transparency and timely publication of outcomes; (c) political interference and overlapping institutional mandates dilute effective enforcement; and (d) there is a notable scarcity of empirical research specifically investigating how judicial immunity interacts with disciplinary processes to produce (or prevent) corruption. These gaps help explain why statutory protections and reforms have not fully translated into public confidence or consistent reductions in corrupt practices. These findings, doctrinal protection of immunity, concrete instances and perceptions of corruption, partial reforms, and clear accountability gaps, form the empirical basis for the analysis

in Section 5 (Discussion), which interrogates causation, comparative lessons, and policy implications.

5. DISCUSSION

5.1. Summary of key findings

The study finds a persistent tension between the constitutional protection of judicial independence through Article 128 sub-article 4⁴² and the observable weaknesses in accountability. Public perception data by Afrobarometer (2024)⁴³ and institutional reports by Inspectorate of Government (2024),⁴⁴ indicate low public trust in judicial integrity, while case law, notably Attorney General versus Nakibuule (2018),⁴⁵ recognizes the need to prevent immunity from becoming a shield for misconduct. Reforms such as the Anti-Corruption Division and Electronic Court Case Management Information System⁴⁶ have produced improvements but have not closed accountability gaps.

5.2. Interpreting the relationship between judicial immunity and accountability

Judicial immunity is designed to protect decision-making independence by insulating judicial officers from personal suits for acts done in their judicial capacity. In the Ugandan context, Article 128, sub-article 4 of the Ugandan Constitution⁴⁷ performs this protective function. However, the empirical and doctrinal evidence assembled in this study indicates that immunity's protective benefit can become problematic where institutional safeguards are weak or poorly enforced, according to Attorney General Versus Nakibuule (2018).⁴⁸ Public perception data indicate a serious trust deficit wherein a majority of respondents perceive judges and magistrates as corrupt and express low confidence in judicial institutions, according to Afrobarometer (2024),⁴⁹ a reality that weak accountability frameworks struggle to dispel. The doctrinal record, notably the reasoning in Attorney General versus Nakibuule

³⁸ THE JUDICIARY OF UGANDA, *Annual Performance Report FY 2022/2023* (2023) (for data regarding ECCMIS roll-out and case-tracking improvements).

³⁹ THE JUDICIARY OF UGANDA, *Judiciary Client Charter 2020–2023*, at 10, 12 (2020) (reference for toll-free lines).

⁴⁰ AFROBAROMETER, *AD821: Access to Justice? As Public Trust in Courts Declines, Many Ugandans Have Their Doubts*, AFROBAROMETER DISPATCH NO. 821 (July 11, 2024); THE JUDICIARY OF UGANDA, *Annual Performance Report FY 2023/24*, at 55–60 (2024).

⁴¹ TRANSPARENCY INT'L, *supra* note 14, at 2–3, 15.

⁴² UGANDA CONST., *supra* note 4.

⁴³ AFROBAROMETER, *supra* note 40.

⁴⁴ INSPECTORATE OF GOVT, *supra* note 2.

⁴⁵ *Supra* note 3.

⁴⁶ UGANDA CONST., *supra* note 35; THE JUDICIARY OF UGANDA, *supra* note 38.

⁴⁷ UGANDA CONST., *supra* note 4.

⁴⁸ *Supra* note 3.

⁴⁹ AFROBAROMETER, *supra* note 40.

(2018), shows the courts themselves acknowledge the tension between immunity and accountability and suggest that immunity should not preclude internal disciplinary processes.⁵⁰ Together, these strands point to a conditional conclusion that immunity preserves independence only when matched by transparent, effective oversight; absent that balance, immunity can facilitate impunity and erode legitimacy.

5.3. Interpreting the immunity-accountability nexus

Judicial immunity performs two functions: it protects decision-making from external pressures and reduces the chilling effect of litigation against judges. However, where internal oversight is weak, slow disciplinary processes, limited transparency, and inadequate resourcing, immunity can create de facto impunity. In such contexts, immunity reduces external avenues for redress while internal mechanisms are insufficient to deter or punish misconduct. This duality explains why strong constitutional protections for judges can coexist with widespread public perceptions of corruption.

5.4. Conceptual relationship between judicial immunity and accountability

Judicial Immunity Pathways: Independence vs. Corruption

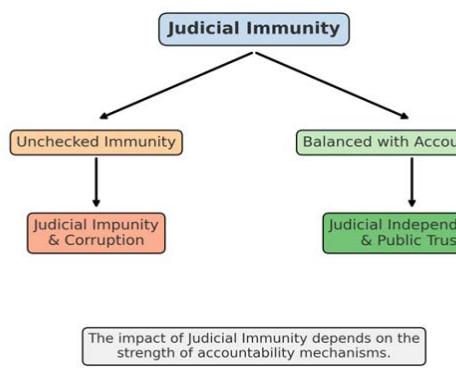


Figure 1: Author-generated conceptual model showing how judicial immunity interacts with institutional accountability mechanisms in Uganda's judiciary.

Figure 1 illustrates two potential outcomes of judicial immunity. The first pathway, “Unchecked Immunity”, leads to “Judicial Impunity & Corruption”. The framework supports this, stating that unchecked judicial immunity may foster impunity and shield corrupt practices. The article further

notes that the Supreme Court of Uganda has cautioned that an unchecked application of immunity can undermine public accountability (Attorney General versus Nakibuule (2018)).⁵¹ The second pathway, “Balanced with Accountability”, leads to “Judicial Independence & Public Trust”. The framework highlights that the impact of judicial immunity depends on the strength of accountability mechanisms. This aligns with this article, which emphasizes that judicial immunity, while essential for independence, must be complemented by reforms to enhance judicial accountability. The study further points out that public trust is low in Uganda's judiciary, with many citizens perceiving judges as corrupt and lacking confidence in judicial institutions (Afrobarometer, 2024).⁵² The study concludes that a restructured governance framework with transparent accountability mechanisms is essential to balance independence with transparency and restore public confidence.

5.5. Theoretical interpretation (Principal-Agent Theory)

Applying Principal-Agent Theory clarifies the mechanism: judges (agents) act with broad discretion under immunity; principals (citizens/state) require monitoring and sanctioning mechanisms to align agent behavior with public interest. Weak monitoring and costly sanctions increase incentive misalignment and raise the risk of corruption. Thus, enhancing monitoring, reducing enforcement costs, and increasing sanction credibility are normative priorities.

5.6. Analytical model based on Principal-Agent Theory (PAT)

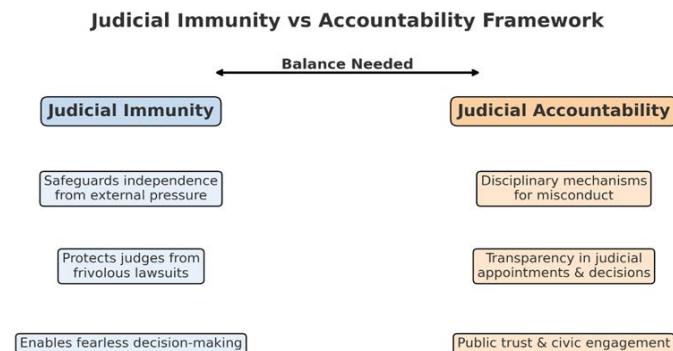


Figure 2: Author-generated analytical model illustrating the principal-agent relationship between judicial officers (agents) and the public/state (principals), showing where corruption risks arise under conditions of broad immunity and weak monitoring.

⁵⁰ *Supra* note 3.

⁵¹ *Id.*

⁵² AFROBAROMETER, *supra* note 40.

Figure 2 outlines the balance between judicial immunity and judicial accountability. Judicial immunity is a constitutional safeguard intended to protect the judiciary's independence from external pressure and frivolous lawsuits. The study confirms that in Uganda, Article 128, sub-article 4 of the Constitution of the Republic of Uganda, 1995 provides judicial officers with immunity from personal liability for acts performed in their official capacity.⁵³ This provision is meant to enable fearless decision-making. However, the study highlights the need for a balance. While immunity is vital for independence, its unchecked application can undermine accountability and foster impunity. The study notes that critics suggest this provision may shield corrupt practices, and the Supreme Court of Uganda in the case of Nakibuuule (2018), paragraph 25, cautioned against its unchecked application.⁵⁴ It states that "Institutions such as the Judicial Service Commission, which are legally mandated to discipline judicial officers, cannot be prevented from doing their work by a judicial officer citing judicial immunity."⁵⁵ This is because proceedings before the Judicial Service Commission do not constitute an action or "suit" envisaged under Article 128, sub-article 4 of the Constitution, from which a judicial officer is protected.⁵⁶ According to the framework, accountability involves disciplinary mechanisms for misconduct and transparency in judicial appointments and decisions. The analysis shows that public perception of corruption is high: 56% of Ugandans believe judges are corrupt, and 45% lack confidence in judicial institutions, indicating a need for greater public trust and civic engagement.⁵⁷ This study discusses specific reforms in Uganda, such as the Anti-Corruption Division and the Electronic Court Case Management Information System (ECCMIS), which have aimed to mitigate corruption in Courts. Despite these efforts, systemic inefficiencies and political interference have limited their effectiveness.⁵⁸ The study concludes that to restore public confidence, safeguarding independence must be complemented with reforms that enhance judicial accountability.

5.7. Comparative lessons from Kenya and South Africa

Comparative practice demonstrates feasible ways to

reconcile independence and accountability. Kenya's recent jurisprudence and institutional reforms emphasize that immunity applies narrowly to bona fide judicial acts while subjecting conduct to open disciplinary processes, for example, published Judicial Service Commission proceedings (Karani v Judicial Service Commission, 2021).⁵⁹ South Africa has likewise enhanced public trust by making disciplinary processes more transparent and by institutionalizing performance-reporting mechanisms for judicial officers (De Lange versus Smuts Nomine Officii et al., 1998).⁶⁰ These comparative models yield two operational lessons for Uganda: (1) clarify the boundary between protected judicial acts and disciplinary matters so immunity cannot be invoked to frustrate oversight; and (2) increase the transparency and public accessibility of disciplinary outcomes to rebuild legitimacy. When translated into law and practice, these measures reduce the scope for discretionary abuse while protecting judicial decision-making from undue external pressures.

5.8. Comparative lessons and their implication for Uganda

Comparative examples show how countries reconcile protection and oversight. In Kenya, transparent disciplinary procedures and publication of Judicial Service Commission⁶¹ outcomes strengthen accountability without removing immunity for bona fide judicial acts. In South Africa, public hearings and reporting requirements for judicial conduct cases increase legitimacy and public confidence. These models demonstrate that procedural transparency, timely adjudication of complaints, and published outcomes are effective complements to immunity. Uganda can selectively adapt these features to strengthen legitimacy while safeguarding independence.

5.9. Implications for judicial integrity and policy

The interaction between immunity and accountability in Uganda has three principal implications. First, legitimacy risk: the observed perception that judges are corrupt, according

53 UGANDA CONST., *supra* note 4.

54 *Supra* note 3.

55 *Id.*

56 UGANDA CONST., *supra* note 4.

57 AFROBAROMETER, *supra* note 40.

58 HIGH COURT OF UGANDA (ANTI-CORRUPTION DIVISION), *Anti-Corruption Division Annual Report 2022/2023*, at 12 (2023); THE CONSTITUTION (ELECTRONIC COURT CASE MANAGEMENT SYSTEMS) (REGISTRATION AND USE) RULES, S.I. NO. 82 (2021) (Uganda).

59 Karani v. Judicial Serv. Comm'n, [2021] eKLR (Kenya).

60 *Supra* note 8.

61 KENYA CONST. art. 171 (2010).

to Afrobarometer (2024), undermines the judiciary's moral authority and reduces compliance with judicial rulings.⁶² Second, enforcement gap: statutory instruments like the Constitution of Uganda, 1995,⁶³ Judicature Act, Chapter 16,⁶⁴ the Leadership Code Act, Chapter 33,⁶⁵ and the Anti-Corruption Act, Chapter 116⁶⁶ exist but are ineffectively applied to sitting judicial officers because of procedural bottlenecks, limited enforcement capacity, and, at times, political interference. Third, systemic spillovers: weak disciplinary systems and opaque case management practices, including bribery-linked delays in case handling, corrode broader anti-corruption efforts and disincentivize civic participation in judicial oversight. Collectively, these consequences show that immunity without commensurate accountability mechanisms produces negative externalities that harm the rule of law and public trust.

5.10. Balancing independence with accountability

Principal-Agent Theory clarifies the normative logic behind the empirical findings. The public and the state (principals) delegate adjudicatory authority to judges (agents) and expect impartial execution of that authority. Immunity increases agent discretion to act without fear of personal litigation, a necessary feature to prevent external influence, but it simultaneously raises monitoring costs for principals. Where monitoring and sanctioning mechanisms are weak or nontransparent, the agent's private incentives may diverge from the principal's public interest, producing opportunistic behavior (corruption, case-manipulation). Thus, from a Principal-Agent Theory perspective the policy imperative is to lower information and enforcement asymmetries through (a) clearer legal boundaries around immunity, (b) timely and transparent disciplinary processes, (c) institutional resource strengthening, for example funding and autonomy for the Judicial Service Commission, and (d) procedural innovations that increase external oversight, that is public reporting,

Electronic Court Case Management Information System usage for case-tracking. These measures reduce the agent's discretion to act opportunistically while preserving the pro-independence benefits of immunity.

5.11. Synthesis and transition to reform proposals

In synthesis, the findings support a calibrated view that judicial immunity is necessary but not sufficient to secure a trustworthy and accountable judiciary. The balance point lies in institutional design; immunity must be embedded within a regime of accessible, timely, and transparent accountability mechanisms. The following section (Section 6) examines the specific reforms Uganda has already adopted, that is establishment of the Anti-Corruption Division of the High Court,⁶⁷ the Electronic Court Case Management Information Systems,⁶⁸ anti-corruption laws, like Constitution of Uganda, 1995,⁶⁹ Judicature Act, Chapter 16,⁷⁰ the Leadership Code Act, Chapter 33,⁷¹ and the Anti-Corruption Act, Chapter 116⁷² and assesses their limits and implementation shortfalls in light of the interpretive points developed here.

6. IDENTIFIED RESEARCH GAP

6.1. What literature covers

Existing studies and institutional reports document: (a) broad corruption trends in Uganda's public sector; (b) operational deficiencies in the justice sector; and (c) public perceptions of judicial integrity. Works such as Gumisiriza & Mukobi (2021),⁷³ Danida (2018),⁷⁴ Transparency International (2024),⁷⁵ and survey data by Afrobarometer (2024)⁷⁶ provide descriptive and sectoral analyses.

6.2. The specific gap this study highlights

However, there is a distinct and under-explored empirical and doctrinal nexus on how judicial immunity, as a legal doctrine and practical shield, concretely affects the incidence,

62 AFROBAROMETER, *supra* note 40.

63 UGANDA CONST., *supra* note 4.

64 JUDICATURE ACT, ch. 16 (Laws of Uganda, Rev. Ed.).

65 LEADERSHIP CODE ACT, *supra* note 26.

66 ANTI-CORRUPTION ACT, *supra* note 15.

67 HIGH COURT OF UGANDA (ANTI-CORRUPTION DIVISION), *supra* note 58.

68 THE CONSTITUTION, *supra* note 58.

69 UGANDA CONST., *supra* note 4.

70 JUDICATURE ACT, *supra* note 64.

71 LEADERSHIP CODE ACT, *supra* note 26.

72 ANTI-CORRUPTION ACT, *supra* note 15.

73 GUMISIRIZA & MUKOBI, *supra* note 20.

74 DANIDA FELLOWSHIP CTR., *Annual Report 2018* (2019), <https://dfcentre.com/annual-reports/> (last visited Nov. 21, 2025).

75 TRANSPARENCY INT'L, *supra* note 14, at 2–3.

76 AFROBAROMETER, *supra* note 40.

detection, and sanctioning of corrupt conduct within the judiciary. Existing literature stops short of systematically linking immunity's legal dimensions to measurable accountability outcomes, for example, complaint processing times, conviction/disciplinary rates, and changes in public trust following published outcomes. Key missing elements in the literature:

- Comparative empirical measures that correlate variations in the scope/operation of immunity with disciplinary effectiveness.
- Case-level tracing of how immunity claims have altered investigation or prosecution trajectories in judicial misconduct cases.
- Longitudinal analysis of whether reforms like Electronic Court Case Management Information Systems, Anti-Corruption Division, and relevant laws have changed the practical operation of immunity in disciplinary contexts.

6.3. Why filling the gap matters

Understanding the operational mechanics of immunity is essential for a policy that preserves judicial independence without permitting impunity. Without this evidence, reforms risk remaining symbolic, focusing on procedures without altering incentives or outcomes. Filling this gap would provide evidence-based guidance for legislative refinements, Judicial Service Commission procedural reform,⁷⁷ and targeted capacity investments.

6.4. Suggested empirical priorities for future work

- Compile and analyze Judicial Service Commission disciplinary case data (complaints received, timelines, outcomes)⁷⁸ and test correlations with public trust metrics.
- Case studies of instances where immunity was invoked to assess whether and how it impeded accountability.
- Comparative empirical analysis with jurisdictions

that publish disciplinary outcomes to identify best practices for reconciling immunity with transparency.

7. CONCLUSION

This study examined the relationship between judicial immunity and corruption in Uganda's judiciary and tested the proposition that immunity, while essential to judicial independence, can weaken accountability where oversight is ineffective. The analysis of constitutional provisions, notably Article 128 sub-article 4,⁷⁹ the Judicature Act, Chapter 16,⁸⁰ Anti-Corruption Act, Chapter 116,⁸¹ Administration of Judiciary Act, and related instruments, case law like Attorney General versus Nakibuule (2018),⁸² institutional reports, and perception data, for example Afrobarometer (2024),⁸³ Inspectorate of Government (2021),⁸⁴ and available anti-corruption laws, show that Uganda possesses the formal architecture for balancing independence with accountability but struggles with implementation. Empirical indicators, low public confidence, reported instances of bribery in court processes, and limited transparency in disciplinary outcomes demonstrate that unchecked or opaque application of immunity may create space for misconduct and entrench perceptions of impunity. Applying Principal-Agent Theory by Ross and Mitnick (1970s) clarifies how insufficient monitoring and weak enforcement enable agent opportunism despite legal safeguards designed to protect impartial adjudication.⁸⁵ Corruption can be analyzed as a problem of asymmetric information and divergent interests between a principal, who delegates authority, and an agent, who is supposed to act on the principal's behalf but may instead pursue personal gain.⁸⁶ Accordingly, protecting judicial independence requires complementary reforms that enhance transparency, strengthen the Judicial Service Commission's capacity and autonomy, clarify the limits of immunity, and expand civic oversight. Only by marrying robust accountability mechanisms to constitutional safeguards can Uganda preserve fearless adjudication while restoring public trust in the judiciary.

⁷⁷ JUDICIAL SERV. COMM'N, *Annual Report 2023*, at 8 (2023).

⁷⁸ *Id.*

⁷⁹ UGANDA CONST., *supra* note 4.

⁸⁰ JUDICATURE ACT, *supra* note 64.

⁸¹ ANTI-CORRUPTION ACT, *supra* note 15.

⁸² *Supra* note 3.

⁸³ AFROBAROMETER, *supra* note 40.

⁸⁴ INSPECTORATE OF GOVT, *supra* note 2.

⁸⁵ Ross, *supra* note 18; Mitnick, *supra* note 18.

⁸⁶ Nico Groenendijk, *A Principal-Agent Model of Corruption*, 27 CRIME, L. & SOC. CHANGE 207, 210 (1997).

8. RECOMMENDATIONS

8.1. Reforming judicial accountability mechanisms

- Adopt transparent, time-bound complaint procedures at the Judicial Service Commission, with published timelines for investigation, hearing, and disposition.
- Require the Judicial Service Commission to publish summaries of decisions in misconduct cases (redacting personal data where necessary) to increase institutional transparency and public confidence.
- Create an independent oversight unit (or strengthen an existing unit) within the Judicial Service Commission with dedicated investigative capacity and protected funding to reduce political and administrative interference.

8.2. Strengthening judicial ethics and professional development

- Institutionalize a mandatory judicial ethics curriculum as part of continuous professional development (CPD), covering conflicts of interest, financial disclosure, case-management ethics, and anti-corruption standards.
- Require annual declarations of assets and interests for all judicial officers, subject to periodic verification by an independent body.
- Introduce peer-review and mentorship programs for newly appointed judicial officers to inculcate professional norms.

8.3. Guaranteeing institutional and financial independence

- Establish and operationalize a Judiciary Fund, as envisaged under Article 128 sub-article 5,⁸⁷ with autonomous budgetary control to minimize financial leverage and political manipulation.
- Ensure multi-year budgetary allocations and transparent procurement processes for court administration, reducing discretionary influence over judicial operations.

8.4. Enhancing civic oversight and public participation

- Launch nationwide civic education campaigns (in collaboration with Inspectorate of Government, civil society, and media) to inform citizens of complaint

channels, their rights in court, and protections for whistleblowers.

- Introduce secure, anonymous reporting mechanisms (for example, hotlines, online portals) with clear follow-up procedures to protect informants and improve detection of corrupt practices.

8.5. Clarifying the scope and limits of judicial immunity

- Pursue legislative clarification or authoritative interpretation (judicial or constitutional guidance) that delineates immunity's coverage, explicitly distinguishing bona fide judicial acts from abuse or non-judicial conduct, without undermining lawful independence.
- Require that invocation of immunity in disciplinary or investigatory contexts be subject to procedural review so that immunity cannot be used to frustrate legitimate oversight.

8.6. Strengthening Judicial Service Commission's autonomy and enforcement capacity

- Reform the Judicial Service Commission's enabling regulations to guarantee operational autonomy, secure funding, and streamlined procedures for handling complaints and enforcing sanctions.
- Empower the Judicial Service Commission (or an independent judicial disciplinary tribunal) with clear sanctioning powers and the administrative mechanisms to implement rulings promptly.
- Foster institutional cooperation (Memorandum of Understanding) between Judicial Service Commission, the Inspectorate of Government, the Office of the Director of Public Prosecutions, and relevant agencies to ensure timely information exchange and coordinated action in cases involving judicial misconduct.

AI Use Disclosure

The author used artificial intelligence (AI) tools solely to identify grammatical errors, refine sentence structure, and ensure linguistic precision. The AI tools did not contribute to the research design, analysis, interpretation, or intellectual content of the manuscript. The author retains full responsibility for the content of the work.

Disclosure of interest

The author has no competing interests to declare.

⁸⁷ UGANDA CONST., *supra* note 4.