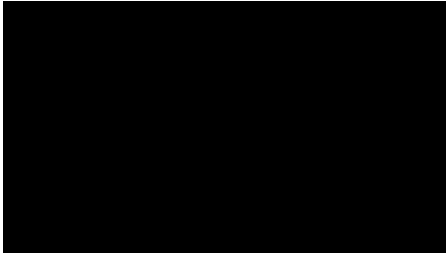


Flygtningenævnets baggrundsmateriale

Bilagsnr.:	254
Land:	Uganda
Kilde:	The Embassy of Sweden, Kampala
Titel:	RE: Arrest warrants
Udgivet:	09-08-2013
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9th August 2013

THE EMBASSY OF SWEDEN

KAMPALA

RE: ARREST WARRANTS.

The Swedish Migration Board sought to obtain general information regarding arrest warrants. They specifically sought like to have a copy of an arrest warrant and the following information in respect to it:

- ✓ *how such a document is filed out;*
- ✓ *what data should always be on the document;*
- ✓ *whether such documents have to be registered somewhere to be valid;*
- ✓ *whether such registration order has to be publicly posted;*
- ✓ *whether there is a limited number of Magistrates authorized to issue arrest warrants at Buganda road magistrates court Kampala and their names if possible;*
- ✓ *whether it is possible for the embassy to validate whether an arrest warrant has been issued on individual basis*
- ✓ *further information on how it works.*

APPROACH/ METHODOLOGY.

The methodology employed to acquire the above information included a visit to the institution or authority that is responsible for issuing the arrest warrant (where a copy of the document was requested) and a list of officers at the institution who have the authority to issue the document. A legal

audit of the process leading to the final grant of the document was also undertaken.

An analysis of the various laws (statutes) of Uganda containing the various provisions concerning an arrest warrant was also undertaken.

The intention of the above method was to establish authenticity or genuineness and issuance in accordance with the law and to further render guidance in identifying documents which prima facie appear genuine but were actually obtained improperly or fraudulently in disregard to laid down procedure.

ARREST WARRANT.

I visited the magistrate's court, Buganda road where I commenced a register search for a copy of an arrest warrant. Register records confirmed that the aforementioned court is one of the institutions that are responsible for the issuance of arrest warrants.

The Chief magistrates clerk also rendered assistance in availing the physical file containing the entire record of a list of Buganda road judicial officers as at the 23rd day of July 2013 who as part of their duties, are authorized to issue arrest warrants. I have attached the above document for your attention.

However please be informed that issuance of arrest warrants is not limited in application to specific Magistrates. Any Magistrate presiding over a case may issue such warrant of arrest whenever need arises. The Magistrate has got discretionary powers to issue the said warrant.

Please find enclosed a copy of an arrest warrant for your attention.

TIME OF ISSUANCE OF AN ARREST WARRANT.

Section 54 of the Magistrates courts Act provides that notwithstanding the issue of summons, a warrant may be issued at any time before or after the time appointed in the summons for appearance of the accused.

Section 55(1) further provides that if the accused person other than a corporation, does not appear at the time and place appointed by the summons, and his or her personal attendance has not been dispensed with, the court may issue a warrant of arrest to apprehend the accused person and cause him or her to be brought before the court.

The court may issue a warrant of arrest at any time to secure the attendance of the accused person.

Please note that warrants may be issued anytime court is conducting its business. As such this excludes weekends (Saturday and Sunday).

FORM, CONTENTS AND DURATION OF A WARRANT OF ARREST.

Every warrant of arrest shall be under the hand of the magistrate issuing it and shall bear the seal of the court.¹

Every warrant of arrest shall state shortly the offence with which the person against whom it is issued is charged and shall name or otherwise describe that person, and it shall order the person or persons to whom it is directed, to apprehend the person against whom it is issued and bring him or her before the court to answer to the indictment mentioned in it and to be further dealt with according to the law.²

Every warrant of arrest shall remain in force until it is executed or until it is cancelled by the court which issued it.³

WARRANTS, TO WHOM DIRECTED.

A warrant of arrest may be directed to one or more police officers or chiefs named in it or generally to all police officers or chiefs.

Any court issuing the warrant may, if its immediate execution is necessary and no police officer or chief is immediately available, direct it to any other person, and that other person shall execute the warrant.⁴

¹ Section 56(1) of the Magistrates court Act cap 16(1).

² Section 56(2) *ibid*

³ Section 56(3) *ibid*

When a warrant is directed to more officers or persons than one, it may be executed by one or any more of them.⁵

A warrant directed to any police officer may also be executed by any other police officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed, and similarly a warrant directed to any chief may be executed by any other chief whose name is endorsed on the warrant by the chief to whom it is directed or endorsed.⁶

The police officer or other person executing a warrant of arrest shall notify the substance of the warrant to the person to be arrested and, if so required, shall show him or her, the warrant.⁷

Section 20 of the Criminal Procedure Code Act provides that any magistrate may at any time arrest or direct the arrest in his or her presence, within the local limits of his or her jurisdiction, of any person for whose arrest he or she is competent at the time and in the circumstances to issue a warrant.

Section 11 of the Trial on Indictments Act further provides that a warrant of arrest may be executed at any place in Uganda.

TAKE NOTE OF THE FOLLOWING;

A warrant of arrest is a public document and does not require to be registered somewhere in order to be valid. Any person who may be interested in the authenticity of such a document may visit the institution that issued the document and check for the records in the register.

An arrest warrant does not require to be publicly posted or made public in any way.

On account of the above it is possible to validate and certify a copy of a warrant of arrest given that it is issued as a result of legal proceedings that form a public record.

⁴ See section 58 of the magistrates courts act cap 16

⁵ *ibid*

⁶ Section 8 of the Trial on Indictments Act.

⁷ Section 9 of the Trial on Indictments Act

I hope you the above report satisfactorily addresses the questions relating to a Warrant of arrest.

THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATE'S COURT OF BUGANDA ROAD AT KAMPALA
CRIMINAL CASE NO. 786 OF 2009
WARRANT OF ARREST

TO:
.....

Whereas of Nakuwade stands
charged with the offence of.....
contrary to

You are hereby directed to arrest the said and
produce him before the court of on
.....

Herein fail not.

Dated at this day of

.....
MAGISTRATE

4th September, 2013

THE EMBASSY OF SWEDEN

KAMPALA

**RE: ADDITIONAL REPORT IN RELATION ASSIGNMENT ON ARREST
WARRANTS**

Further to our assignment report dated 9th August 2013 in which the question relating to the **existence of special courts of law in Uganda to try hbtq related crimes** was inadvertently omitted, I wish to respond as follows:-

There are no courts in Uganda specially set up to try hbtq related crimes.

It must be noted that the Penal laws in Uganda did not even envisage the existence of hbtqs. As such no specific reference or regard is given to individualized categories of offences. The law categorizes hbtqs collectively as un-natural offences or offences against the order of nature. In this regard, no special training or literature in relation to hbtqs is available to the trial judge/ magistrate. Once it is established that the offence has been committed then a sentence is automatically expected to be passed.

Please note that there are hardly courts set up to specifically handle criminal matters. What happens is that civil courts re-constitute themselves into criminal courts. A judge sitting in a civil matter is later called upon to attend to a scheduled criminal session.

The specialized courts which exist to handle criminal matters are Anti-corruption court (for matters relating to corruption only) and the war crimes court.

On account of the above, an hbtq related crime is prosecuted in a general criminal court alongside other unrelated criminal offences.

Yours faithfully,

