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THE INSURANCE SECTOR OF UGANDA: BEYOND THE LAW

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Abstract

Insurance Penetration in Uganda remains significantly low despite its potential to provide financial security and economic stability. Notwithstanding Uganda's well-regulated insurance sector, it remains faced with unique challenges, that have informed its low insurance penetration rate. Key challenges include inadequate public awareness, mistrust in insurance providers, weak enforcement of mandatory insurance policies, and the financial constraints faced by many Ugandans. This paper analyses the underlying reasons for the low insurance uptake within Uganda, critically examining some of the regulatory gaps and the impact of informal insurance. The paper further proposes policy recommendations aimed at enhancing insurance accessibility and regaining public trust for the Insurance Sector.

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"If you can meet with Triumph and Disaster

And treat those two impostors just the same;

If you can bear to hear the truth you have spoken

Twisted by knaves to make a trap for fools,

Or watch the things you gave your life to, broken,

And stoop and build them up with worn- out tools"[1]

-Rudyard Kipling-

The significance of Insurance in navigating life's uncertainties brings Rudyard Kipling's Poem titled *"IF"* to mind, with its themes of resilience and preparedness in the face of adversity;

This poem forms a great foundation for this paper, Rudyard Kipling emphasizes the need for one to remain calm, focused, and resolute in the face of adversity. Given this current contemporary society, adversity is a given, and generally life will often meet its "Highs and Lows." Therefore, insurance as a form of preparation against adversity becomes of great necessity in preparing for the most difficult and least expected misfortunes. I explore some these aspects in their full context in the following sections.

1.0 INTRODUCTION

Insurance can simply be understood as a means of protection against financial loss.[2] This protection arises from an insurance contract that is defined under Section 2 of the Insurance Act Cap. 191 to mean:

> *"A contract under which one party (insurer) in exchange for a premium, agrees with another party (policyholder) to make a payment for providing a benefit to the policyholder or another person on the occurrence of a specified uncertain event which if it occurs, will be adverse to the interests of the policyholder or to the interests of the person who will receive the payment or benefit."*[3]

1 If, by Rudyard Kipling ('Brother Square- Toes'– Rewards and Fairies)

2 <https://ira.go.ug/cp/uploads/English%20Handbook%20final.pdf> [Accessed on 19th October 2024].

3 Section 2.

This definition has further been stressed through case law, forexample, in *Prudential Insurance Co v Inland Revenue Commissioners,*[4] court defined an insurance contract as one where an insurer promises to pay a sum upon the occurrence of a specified event, potentially adverse to the insured's intrest, for consideration.

On the other hand, insurance penetration is the measure of the relative contribution of the insurance sector to the GDP of a country. It is used as an indicator of the insurance sector development within a country and is calculated as the ratio of total insurance premiums to gross domestic product in a given year.[5] Whereas, it does not specifically indicate how many people actually have insurance coverage, nor does it signify the quality of coverage, insurance penetration together with insurance density collectively analysed provide a key measure used to assess the level of development of a country's insurance sector.

Currently, a total of 139 Insurance players are authorised to carry on Insurance business within Uganda.[6] The players include two (2) Re-insurers, 20 Non-life Insurers, eight (8) Life Insurers, five (5) Micro insures, two (2) Health Membership Organisations (HMOs), four (4) Reinsurance brokers and 50 Insurance Brokers.[7] Despite this, Uganda's Insurance penetration remains too low, currently standing at 0.876%[8] as compared to its neighbours i.e. Rwanda, which stands at 1.6%, Kenya at 2.6%, Ghana at 1.1%, Senegal at 1.7%, Botswana at 2.6%, Namibia at 9.3%.[9]

Uganda's Insurance sector is faced with several challenges perhaps contributing to its low Insurance penetration as compared to some of Uganda's regional peers as highlighted above. Ignorance and glaring insurance knowledge gaps, among other factors, existing within Uganda's

4 Prudential Insurance Co v Inland Revenue Commissioners (1904) 2 KB 658
5 Life and non-life insurance penetration in selected regions globally 2020-2024, published by Jennifer Rudden, June 21st, 2024.
6 As of 3rd January 2024, accessible on the Insurance Regulatory Authority Website, <https://ira.go.ug/> [Accessed on 23rd November 2024].
7 Ibid.
8 The Annual Insurance Industry Market Report, 2022.
9 Atlas Insurance Reports 2024, Africa: Insurance Penetration rate in 2022.

populace are of key consideration while analysing Uganda's low Insurance penetrability. Other social and economic concerns are of further consideration.

Therefore, this paper looks at the purpose of insurance Law, the legal framework governing the insurance business in Uganda and further interrogates both the social and economic aspects that have profusely contributed to Uganda's low Insurance penetration. It proposes some reforms that can be undertaken by regulators and legislators to ensure a much more effective and adequate insurance business in Uganda.

1.1 BACKGROUND TO INSURANCE LAW IN UGANDA

The Insurance Industry in Uganda dates back in the colonial era with branches of foreign insurance companies established in Uganda especially from Britain, America and India.[10] This prevailed until the establishment of the East Africa General as the first local insurance company in 1946.[11]

The Insurance sector remained unregulated until 1964 with the commencement of the National Insurance Corporation Act[12] that established the National Insurance Corporation. This was the off set of subsequent legislation, for example, in 1978 when the Insurance decree came into force. However, this was replaced with the 1996 Insurance statute that established the Uganda Insurance Commission.[13] The Commission had a regulatory mandate, with a specific objective to ensure effective administration, supervision, regulation and control of the business of insurance in Uganda.[14]

In 2011, the Insurance (Amendment) Act was passed which incidentally oversaw the renaming of the Uganda Insurance Commission to the current Insurance Regulatory Authority with the mission of creating an enabling

10 <https://ira.go.ug/cp/uploads/IRA%20FACTS%20Final.pdf> [Accessed on the 19th October 2024].
11 Ibid.
12 Chapter 314, commenced on 30 July 1964.
13 Section 14 of the Insurance Statute.
14 Short title of the Insurance Statute.

Regulatory Environment for a sustainable, Inclusive and Reliable Insurance Industry.[15]

Regardless of this law reform in the insurance sector, the Finscope Report of 2018.[16] seven (7) years later, indicated only a 1% of Ugandan adults to have taken up insurance cover. It is an undeniable fact that Uganda's insurance penetration rate remains significantly low due to various factors that I discuss in detail later in this paper.

1.2 PURPOSE OF INSURANCE

Insurance is a crucial aspect of any modern society that provides financial protection and adequate preparation for disaster. A more pragmatic illustration would be to imagine a billion's worth warehouse burning to ashes, unexpectedly, with all the merchandise, or a life's savings mansion destroyed to pieces by an earthquake. One historic example, in recent history, is the 2008 Hurricane Katrina incident. Insurance companies in the U.S settled claims totalling to $40.6 billion in disbursing rebuilding funds, among other compensation costs, to their policy holders after the hurricane.[17]

Since no one plans sickness or foresees accidents, health insurance, as an example, could be a financial shield to these unexpected medical costs that are often high. Another example could be with property, an expensive car for instance, that may be just an accident away from perishing.

Therefore, insurance becomes more than necessary in meeting Triumph and Disaster, and treating those two imposters just the same, as Rudyard Kipling illustrates above. Given these uncertainties, Insurance thus becomes vital in managing risk, providing financial security and promoting economic stability.

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15 <https://ira.go.ug> [Accessed on the 19th October 2024].

16 Fsduganda; Report on Uptake of Insurance Services in Uganda 2018.

17 <https://www.iii.org/press-release/insurers-paid-more-than-40-billion-in-hurricane-katrina-related-claims-majority-settled-without-dispute-022807> [Accessed on 12th October 2024].

2.0 REGULATORY AND LEGAL FRAMEWORK GOVERNING THE INSURANCE SECTOR IN UGANDA

2.1 LEGAL FRAMEWORK

The insurance sector in Uganda is governed by the Insurance Act of Uganda Cap.191 that expressly provides for the regulatory framework as seen below and, a detailed Insurance complaint handling procedure as shall be discussed at a later stage in this paper. The main objective of the Act is to ensure effective administration, supervision, regulation and control of the insurance business in Uganda.[18]

The necessity for the enactment of the Insurance Act has been buttressed in the decision of the Tax Appeals Tribunal in *Gold Star Insurance Company ltd v Uganda Revenue Authority* were the tribunal made the following observation;

> *"There is need to streamline how the premium is rationed, in order to balance the payment of the insured claims, costs and profitability so that the insured are not left at the mercy of the insurers. In order to protect the customers of the insurance company the Insurance Act was passed to govern the insurance sector."*[19]

In a bid to operationalise the substantive law, different regulations have been enacted such as the Insurance (Licensing and Governance) Regulations, 2020; the Insurance (Reinsurance) regulations, 2020; the Insurance (Index Contracts) Regulations, 2020; the Insurance (Mobile insurance) regulations, 2020, the (insurance Training college) Regulations, 2020; the Insurance (fees) Regulations, 2020; the insurance Appeals Tribunal Regulations, 2019 among others. However, there is the need to enact regulations governing the handling of claims stemming from Motor third-party liabilities as I expound much later in this paper.

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18 Insurance Act Cap 191, Long title.

19 *Gold Star Insurance Company Ltd v Uganda Revenue Authority* Application No.9 of 2013.

2.2 REGULATORY FRAMEWORK

The insurance sector in Uganda is regulated by the Insurance Regulatory Authority (IRA)[20] that was first established under section 14 of the now repealed insurance statute 1996 and has its continued functionality established under section 9 of the Insurance Act Cap 191. The Insurance Act Cap 191 spells out objectives that guide the Authority in the execution of its mandate as follows;

a) to promote and facilitate the maintenance of a sound, efficient, fair, transparent and stable insurance sector;
b) to promote and uphold public confidence in the insurance sector;
c) to protect the interests of persons who are, or who may become, policy holders of insurers or customers of other licensees;
d) to regulate and supervise licensees on a risk-sensitive basis;
e) to promote effective competition in the insurance sector in the interests of consumers, the growth and development of the insurance sector and the development of an inclusive insurance sector.[21]

The Act further expressly provides for the general functions of the Authority and of greater relevance to this paper include the following;

a) To regulate, supervise, monitor and control the insurance sector.
b) To receive and resolve insurance related complaints
c) To promote awareness of, and undertake public education concerning, the insurance sector.[22]

It follows that the Authority has the mandate to safeguard the rights of insurance policy holders and insurance beneficiaries to any insurance contract. That notwithstanding, Uganda's insurance sector is met with constant challenges lying mainly with its market base ranging from legal and

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20 The Background to its establishment was a consequence of the government's adoption of the liberalization and privatization policies which ended its role of directly engaging in the provision of goods and services and taking on the role of supervisor or regulator. (Insurance Regulatory Authority of Uganda, Strategic Plan 2022/23 – 2024/25)

21 Section 10.

22 Section 11.

to social challenges. These challenges, while they are still prevalent, have informed in various ways Uganda's low insurance penetration rate.

3.0 CHALLENGES TO UGANDA'S INSURANCE SECTOR

3.1 HIGH TAXATION ON INSURANCE PREMIUMS

It is imperative to bear in mind from the onset that insurance is a business like any other, that attracts profits and therefore is subject to tax. In order to understand this, it is important to comprehend how the Insurance business operates as summarised below:

> *"In order for a person to get insured, he or she has to pay a premium to the insurance company. A premium is defined by the Black's Law Dictionary 8th Edition p. 1219 as the periodic payment required to keep an insurance policy in effect. It is from the premiums collected that an insurance company indemnifies an insured against any loss or damage including the liability to pay damages or compensation upon the happening of a specified event. An insurance company also receives income from the said premiums to meet its operation costs. In the event the income exceeds expenditure it makes profits. There is need to streamline how the premium is rationed, in order to balance the payment of the insured claims, costs and profitability so that the insured are not left at the mercy of the insurers."*[23]

Insurance Premium Tax (IPT) is a tax that insurers often have to pay on the premiums that they receive from their policy holders. Insurance Premium tax can be related to insurance main in two ways:

> "Firstly, a tax that could be directly imposed on insurance premiums paid whether it is an insurance-specific tax or a general consumption tax, i.e. value-added tax; secondly, part of insurance premiums could be reimbursed through income tax deduction. Insurance premium income tax deductions can vary by product, policy duration, type of beneficiaries, and so on, sometimes with maximum deductible amounts in countries where such deduction is permitted."[24]

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[23] Ibid 19.

[24] Tetsutaro Shindo and Craig Thorburn, Developing Insurance Markets: Do fiscal incentives help long term life insurance development? (June 2020).

This tax is premised on section 4 of the Income Tax which provides that, a tax to be known as income tax shall be charged for each year of income and is imposed on every person who has chargeable income for the year of income.

For context, section 16 is more relevant to this paper, it provides for chargeable income arising from the carrying on of short-term insurance business. Section 16 (3) defines what amounts to insurance business as taxable under the Income Act to mean;

> *Insurance business" means the business of, or in relation to the issue of, or the undertaking of liability under, life policies, or to make good or indemnify the insured against any loss or damage, including liability to pay damages or compensation contingent upon the happening of a specified event.*

Section 16(3) (c) is of necessity to note since it exempts life insurance business from the ambit of short-term insurance business. Whereas taxation may not be a problem, it has an indirect effect on the premiums set by insurance companies. IPT will quite often determine whether to make premium on a certain policy high or low.

It follows that Insurance companies will most likely charge additional costs on premiums issued to cover for taxes levied. Ambrose Tuhairwe, the Head of Tax and Treasury at Old Mutual stresses the impact of tax on insurance premiums issued:

> *"They were forced to increase the cost of insurance services because of taxes citing the recent increase in withholding tax from 6-10 percent at the start of this financial year. Tuhairwe adds that the increase in the cost of insurance policies affected the demand for insurance policies."*[25]

Despite numerous efforts to petition government to reduce the taxation on insurance policies, there has not been fruit yielded as noted by Mr. Ibrahim Lubega Kaddunabbi, the Chief Executive Officer (CEO) Insurance Regulatory Authority (IRA).[26]

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25 Insurance Companies restless over increasing taxation, accessible on <https://www.independent.co.ug/insurance-companies-restless-over-increasing-taxation/> [Accessed on 12th October 2024].

26 Supra.

It is thus crucial to revisit some of these taxation rates in order to make insurance more affordable and thus available to the people. Disregarding the aspect of high Insurance Premium taxes may do so little to improve, if not to continue affecting the insurance penetration negatively.

4.0 THE QUESTION OF PUBLIC TRUST IN THE INSURANCE SECTOR

It shall be the objective of the IRA to promote and uphold public confidence in the insurance sector.[27] In the pursuit of achieving this statutory objective, the Authority is mandated with the obligation under section 11, among several other functions thereunder to regulate, supervise, monitor and control the insurance sector. On numerous occasions, the public trust in the insurance sector of Uganda has faded away due to the failure of insurers to honour their obligations as seen across a number of decided cases for example *Scorpion Holdings Ltd v Lion Assurance Co. Ltd* where Justice Henry Peter Adonyo observes:

> *"From the above, I must point out that that while this case is simply between two parties who are before this court , it actually points to the fact that there is something fundamentally wrong with the insurance industry in Uganda and arising from this decision , it is clear to me that the crucial thing for the insurance industry in Uganda to do is to always honour their obligations under insurance policies issued to avoid the public losing trust in the industry for where an insured discharges his or her burden under an insurance policy contract an insurance company must by necessity meet its obligation without letting matters spiral out of control by the courts coming in to act as referees. The insurance industry must practice the honesty they require from their clients to prove their worth."*[28]

The case as one of the many examples of the failure of honouring obligations concerned the plaintiff Company losing valuable equipment through acts of incendiarism or arson and therefore consequently sought indemnification from the defendant Insurance Company under the Contractors Plant

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27 Section 10(b) of the Insurance Act Cap. 191.

28 *Scorpion Holdings Ltd v Lion Assurance Co. Ltd* Civil Suit No.221 of 2013, Ruling by Justice Henry Peter Adonyo delivered on the 3rd day of March 2015.

Machinery Policy. Court found that the Insurance company had failed to heed to its contractual obligations.

Such acts and omissions gradually rapture the public trust within the Insurance industry and ultimately negatively affects the number of people that take out insurance policies based on insurance companies failing to honour their contractual obligations. Rethinking the role of trust in insurance will with no doubt have significant effects on the growth and development of our insurance sector, which as a result could have encountered a significant rise in the number of people taking out insurance policies as noted below:

> *"Trust has always been at the foundation of the industry, of course; customers buy insurance based on the belief that insurers will honour their commitment to pay out claims promptly and sustain promises over time horizons that can extend across decades. Certainly, high degrees of trust remain a hallmark of the world's top insurance brands. But, today, declining levels of trust in the industry have become a competitive liability."*[29]

In addition to the above, while emphasising the role of trust as the cornerstone to our insurance sector, the Insurance Appeals Tribunal in the case of *Rosette Asiimwe v UAP Old Mutual Life Assurance* further, stated:

> *"At the centre of this dispute is poor customer service from the insurer in the form of lack of issuance of timely premium policy statements and none responsiveness to email correspondence. The tribunal further observed that the insurance sector in Uganda is still fragile and suffers generally from lack of public trust and confidence. The public treats insurance with great suspicion and poor customer service by insurers only erodes the trust in the sector."*[30]

More pragmatic steps have to be taken, especially by the regulatory Authority, to ensure the restoration of public trust within the insurance sector of Uganda. One step in this direction can be deduced from the Insurance Regulatory Report which states as follows under its Strategic Objective 2:

> *"In light of the functions of the authority to promote and uphold public confidence in the insurance sector as well as protect the interest of persons who are, or who may become policy holders of insurers or customers of other licensees, this objective shall be operationalised*

29 EY 2024 Global Insurance Outlook Report, Volume 2.

30 *Rosette Asiimwe v UAP Old Mutual Life Assurance*, Insurance Appeals Tribunal Application No.001 of 2023 (Arising from Complaint No. IRAB/COMP.141/08/22).

> *through five strategies. These are promoting Good Governance in Insurance Business; Enhancing IRA's board capacity; Undertaking constant engagements with relevant stakeholders; advising the government on insurance-related matters; and protecting the interests of policy and beneficiaries."*[31]

4.1 INSURANCE FRAUD AND PUBLIC TRUST

On the flip side, persistent insurance fraud continues to undermine public trust and deter wider insurance uptake in Uganda. While the sector grapples with issues of awareness and regulation, the internal integrity of insurance operations presents an equally significant challenge. Insurance fraud manifests in various forms: staged motor accidents, ghost health claims, inflated hospital bills, insider collusion, and fake documentation. In Uganda, IRA noted a 15% spike in suspicious claim activity between 2021 and 2023.[32]

The implications are wide-reaching: genuine claimants experience delays, premium costs are inflated to cover fraud-induced losses, and the credibility of insurers is questioned. Combating this will require not only strict enforcement under the Insurance Act but also technological innovation such as blockchain technology and AI-powered fraud detection systems, which have shown promising results in India and the UK.

Unless insurance fraud is tackled decisively, efforts to expand coverage and public confidence will remain limited, regardless of regulatory or educational interventions.

5.0 GLARING INSURANCE KNOWLEDGE GAPS

This can be argued two-fold, the first limb of the argument covering the numerous cases that end up in courts of law arising from technicalities involved in the insurance policies taken. The second arm of this argument centres on the focal point to this paper – the low Insurance penetration. It can be argued, as I will discuss later, that the perception biases surrounding the Insurance sector is a limiting factor to very many people getting insurance policies.

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31 Insurance Regulatory Authority Strategic Plan.
32 IRA Annual Report (2023).

5.1 TECHNICALITIES INVOLVED IN HANDLING INSURANCE CONTRACTS

Firstly, it is trite law that Insurance Contracts are governed by a higher standard of utmost good faith (uberrimae fidei) which is not the case with other contracts. This position has been buttressed in a number of cases, however for this context, the decision of Lord Mansfield is of great relevance as here below noted:

> *"If the true facts are concealed in any way, whether fraudulent or not, then the risk taken by the insurers may be different from the risk they intended to take in which case the policy would be void. This was seen as a natural consequence of an imbalance of knowledge under which the Insured (usually) has sole knowledge of most of the key information which should form the basis for a risk assessment by the Insurer."*[33]

It should however be noted that this duty is reciprocal as observed in the instant case. Lord Mansfield went on to hold that if an insurer withheld material facts, then the policy holder could declare the policy void and recover the premium.[34] The qualification to the duty of disclosure was observed as follows:

> *"either party may be innocently silent, as to grounds open to both, to exercise their judgment upon.... An under-writer cannot insist that the policy is void, because the insured did not tell him what he actually knew.... The insured need not mention what the under-writer ought to know; what he takes upon himself the knowledge of; or what he waives being informed of. The under-writer needs not be told what lessens the risque agreed and understood to be run by the express terms of the policy. He needs not to be told general topics of speculation."*[35]

This duty was further emphasised in the case of *Orient Insurance Brokers Ltd v Transocean (U) Ltd,*[36] were court stressed the applicability of section 16 of the Marine insurance Act 2002, which provides for the principle of good faith, to be applicable to the ordinary insurance business in Uganda. This being the case presents rather a challenge while handling insurance claims. This is

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33 *Carter v Boehm* (1966) 97 ER 1162.

34 Ibid.

35 Ibid.

36 *Orient Insurance Brokers Ltd v Transocean (U) Ltd* ACCA 55/1995.

because, the general duty of good faith manifests itself in at least two important Aspects; the first being a positive duty to disclose material information and the second being the duty not to make any material misrepresentation.

However, it appears that the good faith duties are significantly more onerous for the insured than the insurer which may require a review of our Insurance Law to do away with the many unfair aspects of the current law.[37] The Hon. Justice Stephen Musota (as then was) in *National Insurance Corporation Ltd v Kakugu Sylvan,*[38] further gives reasons for this position as seen below:

> *The Insured can be unaware of their duty to volunteer information not specifically asked for by the Insurer on the proposal form.*
>
> *The law requires the Insured to assess whether information would be relevant to the assessment of risk by a "prudent underwriter." This test of materiality, which underlies the rules on disclosure and misrepresentation, assesses the Insured by reference to the professional knowledge of the Insurer which is unfair.*
>
> *The Insured can still be in breach even if their error was reasonable in the circumstances; for example, if a question was unclear or required specific technical knowledge which they did not have.*
>
> *The only remedy for breach of good faith duties is retrospective avoidance of the entire contract which is unfair too.*
>
> *The Insurer is not required to show that the non-disclosure or misrepresentation had any causal link to the claim in order to avoid the contract, for example, if the claim was submitted relating to flood damage the Insurer could avoid the whole contract if Insured had failed to disclose that their alarm system was not functioning.*
>
> *Intermediaries, including brokers, are generally treated as being agents of the Insured. As such the Insured is held responsible for any failings on their part. That is so even where in practice, the intermediary is most closely connected to the Insurer.*

It is thus arguable that such legal requirements put an onerous duty of disclosure on the part of the policy holder. This turns out to be problematic

[37] *National Insurance Corporation Ltd v Kakugu* (Civil Appeal No. 040 of 20150 (2016) UGHCCD 136 (8 November 2016).

[38] Ibid.

to policy holders especially in cases where they might lack technical knowledge. An attempt to such a situation was evident in the case of *Nakisenyi & Anor v Insurance Company of East Africa (U) Ltd,*[39] wherein the defendants (insurance company) argued that cause of death of the assured in the instant case appeared to be related to HIV/AIDS, which was inconsistent with the medical examination results that formed the basis of the insurance policy and the only logical explanation is that it was fraud and misrepresentation. Court held the defendant insurance company had failed to prove fraud and misrepresentation on part of the Assured and the plaintiffs who were the beneficiaries of the insurance policy. The reason was simply because there was no clear and convincing medical evidence to prove the facts that the assured died as a result of ISS and PCP that the defendants claimed.

It is further important to note that the current law makes payment of premium a condition of the existence of a valid Insurance contract under section 62(1) of the insurance Act Cap 191 which specifically provides:

> Subject to subsection (2), the insured shall pay in full the premiums payable under the insurance contract on or before the date of inception of the policy or renewal of the policy.

The intention behind this position of the law is to protect the solvency of the Insurance industry and curtail the exposure of insurers to liability for premiums which have not been received.[40]

However, the IRA is mandated by law to regulate payment of premiums.[41] Additionally, provides that, an insurer or Health Membership Organisation (HMO) shall not issue any policy of insurance if the premium rates and commission rates contravene any regulations made by the Authority under

39 *Nakisenyi & Anor v Insurance Company of East Africa (U) Ltd* (Civil Suit No.652 of 2013) (2016) UGCommC38 (16 March 2016), Judgment by Hon. Lady Justice Elizabeth Jane Alvidza delivered on the 16th day of March 2016.

40 *Tropical Bank Limited v Goldstar Insurance Company Ltd,* in the Insurance Appeals Tribunal of Uganda at Kampala Appeal No. 4 of 2023. The case further emphasised that Payment of premiums by an insured is generally governed by the terms and conditions of the insurance policy and relevant statutory regulations. The specifics may vary based on the type of insurance and the terms outlined in the policy. In this case, the policy document premium payment was a condition precedent to the validity of the contract. The consequences of the failure to pay premiums by the insured within the stipulated time would render the policy null and void.

41 Section 62 (2).

subsection (2).[42] Further, the Act stipulates that the Authority may prescribe minimum premium or maximum commission rates for any class or type of insurance business.[43]

This statutory duty becomes of great importance in as far as regulating the insurance sector is concerned to ensure that insurers comply with such statutory requirements. This ultimately prevents the over exploitation of insurers in the bid of maximising profits that many times will instead hold back people from getting insurance policies and thus keeping the penetration levels low.

5.2 PERCEPTION BIASES AND KNOWLEDGE GAPS SURROUNDING THE INSURANCE SECTOR

It has been widely observed that most people in Uganda think insurance companies do not pay claims and avoid it altogether.[44] Which is a common negative attitude among the very many stereotypes surrounding Uganda's insurance sector. This is primarily as a result of loss of public trust of the sector as discussed in depth above, but also low awareness levels of the insurance sector as highlighted by the Insurance Regulatory Authority Strategic Plan of 2022/23-2024/25.

Uganda's informal sector is widely untapped into, yet people face insurable risks daily. Policy holders should have an adequate understanding of the risks associated with the technicalities involved in insurance transactions. Such knowledge gaps met with the wide perception biases surrounding this sector end up having significant effects on the general insurance uptake and penetration rates.

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42 Section 63 of the Act.

43 Subsection (2) of the Act.

44 Daily Monitor article, Perceptions about insurance industry, on January 02, 2021, accessible online via <https://www.monitor.co.ug/uganda/business/insurance/perceptions-about-insurance-industry-1722366> [Accessed on 12th October 2024].

This notwithstanding, there is a great projection into the growth of Uganda's Life insurance market to about US $ 1.01 bn in 2025.[45] This stride has been attributed to the growing middle class and the increasing awareness of the importance of financial protection.[46]

6.0 THE QUESTION ON MOTOR THIRD PARTY INSURANCE IN UGANDA

Motor third party insurance is by far a classical example of perception biases if not the ignorance in general about insurance law and its benefits in Uganda. Motor third party insurance is a type of insurance policy which pays the legal liabilities of a motorists to the third-party bodily injuries including death while the vehicle is being driven on public roads.[47]

This type of insurance is governed by the Motor Vehicle (Third Party Risks) Act, and makes it compulsory for any vehicle, van or motorcycle for private or commercial use to undertake this third-party insurance cover. Insurance of such a person, or persons or classes of persons as may be specified in the policy in respect of liability which may be incurred by him or her or them in respect of death or bodily injury to another person (third party) caused by or arising out of the use of a vehicle on the road.[48] This same position has been emphasized in case law for example in *Agua Plumbing (U) Ltd v United Assurance Co. Ltd*, where court noted:

> *"On the other hand, 'a Third-Party motor vehicle insurance policy" (here in Uganda) covers the insured only in respect of death or personal injury occasioned to a third party as a result of an accident which the motor vehicle of the insured causes. It does not cover the insured in respect of damage to his/her motor vehicle sustained on*

45 Statista, Life insurance – Uganda, accessible via <https://www.statista.com/outlook/fmo/insurances/life-insurance/uganda> [Accessed on 12th March 2025].
46 Ibid.
47 Definition as provided by the Uganda Insurers Association website accessible on <https://uia.co.ug/faq/what-motor-third-party-insurance> [Accessed on 12th March 2025].
48 Section 3 of the Act.

> *the road or, damage his/her motor vehicle may cause to any other motor vehicle or property."*[49]

This insurance is paid every year and renewed by law however most people look at it as a coercive measure as opposed to its intended purposes. Speaking of coercion brings to mind the painful story of Elvis Basudde;[50] a victim of the 9th of March 2019 road traffic accident, that involved a collision of an Isuzu truck and a commuter taxi, leaving him fractured and admitted to international hospital Kampala. His story speaks to the so many Ugandans that find trouble in seeking compensation from insurance companies arising from accident claims made under the third-party policy. His story further speaks to the many Ugandan road users who don't know the use and aim of paying for Motor third party insurance, especially where he notes:

> *"I decided to look for the owner of the vehicle that caused the accident. When I eventually found him and shared my frustrations, he agreed to report to NIC. However, he didn't even know that he had an insurance cover with NIC. He did not even know where NIC was located. He said further that he had just bought the third-party insurance from a certain petrol station. We just buy it because the police will arrest you if you don't have one, he added. But do people ever get this money from insurance? It seems to be their deal to eat free money, he told me."*[51]

This is a perfect example of the very many road users that pay for this insurance but do not know exactly understand how it operates. In the 2023 Traffic Accident report, a total of 432 accidents were recorded, with 97 being fatal accidents, 202 being serious accidents, 133 being minor accidents. In all these a total of 100 victims lost lives while 324 sustained injuries.

Despite this being the unfortunate truth, it is argued that the Motor Third Party insurance remains under-utilised ranging from lack of awareness to the

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49 *Agua Plumbing (U) Ltd v United Assurance Co. Ltd* Civil Suit No. 431 of 2002, Judgment by Hon. Justice F.S Lugayizi (as then was) delivered in the commercial court on the 15th day of March 2004.

50 Getting 3rd party insurance compensation, a camel & needle affair, New Vision Sep 22, 2020, accessible on <https://www.newvision.co.ug/category/business/getting-3rd-party-insurance-compensation-a-ca-NV_5676> [Accessed on 12th March 2025].
The Article further explains how very many insurance companies make money off frustrating settling claims and generally making payments, especially where it mentions that in general the insurance business is believed to be a multi-million business, thriving on dodging payments.

51 Ibid.

deliberate efforts by Insurance companies to frustrate the payment of Victims/settlement of claims.[52] It is remains evident, as argued before, that the level of awareness among motorists concerning motor third party insurance is low which significantly affects their ability to file claims to their insurers following an accident.[53] A Survey conducted by the Uganda Insurance Regulatory Authority[54] indicated a general concern by Players, Vehicle Owners and transport associations that the increment of stamp duty on all the non – life premiums is a major deterrent to the development of the sector as this led to non- compliance. The survey findings indicated a number of 'boda boda' cyclists were reluctant to purchase the Motor Third Party Policy due to these increments.

7.0 ENFORCEMENT MEASURES IN PLACE

It remains a general observation that the current enforcement measures of the Motor Third Party Liability Insurance (MTPL) are made less effective especially due to the bureaucratic procedures involved in making this nature of claims, on the one hand.

On the other, however, the general enforcement by the traffic police is seen as a coercive measure to ensure compliance of road users in as far as having Motor Third Party Insurance policies is concerned. It has been argued however, that an establishment of a clear framework governing the Motor Third Party Liability through introduction of clear compensation guidelines and implementation of claims of settlement practices on the part of the insurers would be key in fulfilling the objectives of Motor Third Party Insurance.[55]

52 Influence of awareness on the usage of motor third party insurance: case study of Kampala district.
53 Ibid.
54 Baseline Survey on the Insurance Industry in Uganda by the Uganda Insurance Regulatory Authority (June 2014).
55 Ibid.

8.0 THE POSITION ON MICROINSURANCE AND INFORMAL INSURANCE IN UGANDA

Microinsurance can be simply understood as a financial arrangement to protect low-income people against specific perils in exchange for regular premium payments proportionate to the likelihood and cost of the risk involved.[56] This definition has further been broken down as:

> *"Firstly, micro can be understood as a characteristic of the financial situation of the clientele, i.e., an insurance targeted at low-income (and financially marginalised) people in developing countries. Secondly, micro can be understood as characteristic of the product, i.e., an insurance offering limited benefits for small premiums. Thirdly, micro can be understood as characteristic of the process by which the schemes are created and administered."*[57]

Thus, a broad conclusion from these definitions can be made that Microinsurance is a type of insurance mode specifically designed for low-income groups. Uganda's Insurance Act gives providence for microinsurance under section 1 to mean insurance for the protection of low-income people against specific perils in exchange for regular premium payments proportionate to the likelihood and cost of risk involved. The Act further defines a microinsurance organization to mean a person holding a microinsurance organization license. Section 34(d) stipulates further that a microinsurance license authorizes the holder to carry on microinsurance business only.

The crux of microinsurance is to mitigate the risks of low-income earners. This is often made possible through offering affordable and low priced microinsurance products in order to encourage low-income earners to take up such policies. It is important to note that Uganda's microinsurance, even when it has been referred to as the "Industry's Silver bullet" is not as developed as the regional counterparts regardless of its enormous potentials.[58] In addition, the FINSCOPE Survey indicates an acute possibility

56 Churchill C., ed. (2006). Protecting the Poor: A Microinsurance Compendium. Geneva: ILO.

57 Dror, David & Piesse, David, What is Microinsurance? SSRN Electronic Journal. 10.2139/ssrn.2434501.

58 Uganda Insurer's Association Report, Insurance Today (May 2024).

of development of Uganda's microinsurance sector, however this has to be met with deliberate consumer sensitisation into the products, identification of the different distribution channels and regulating Uganda's informal sector.[59]

While speaking at a stakeholder meeting organised by the Bank of Uganda and the United Nations Capital Development Fund (UNCDF), Principal and managing director at the Microinsurance Centre in Miliman, Micheal McCord expounded on Uganda's microinsurance industry by making the following remarks;

> *"We must make microinsurance that works for both insurers and the insured. Our regulations have not facilitated microinsurance, yet it has the potential to grow up take in the country. For instance, many taxi drivers and boda bodas in Kampala have informal insurance but who regulates them?"*[60]

He further observed the need for insurers to generate products that speak to the needs of the ordinary customer and also ensure that pricing and distribution of the product do not add extra costs.[61] It is necessary to focus on the growth of the microinsurance sector of Uganda especially were 41.93% people in Uganda still live in poverty.[62] What this essentially means is that nearly half of Uganda's population is still in poverty and thus the need to prioritise microinsurance which might be more affordable as compared to traditional insurance covers.

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59 FINSCOPE Uganda 2023 Findings published on 11th April 2024 in Kampala.

60 New vision, Insurers eye Digital innovations to grow Micro-Insurance (May 07, 2024), accessible online; <https://www.newvision.co.ug/category/business/insurers-eye-digital-innovations-to-grow-micr-NV_187443> [Accessed on 12th March 2025].

61 Ibid.

62 Statista, Statistics report, Uganda 2024. The Report indicates the total population in Uganda is forecast to amount to 49.92m inhabitants in 2024 and of these the share of the population in Uganda who earn less than $ 2.15 per day is forecast to amount to 41.93% in 2024, the share of the population in Uganda who earn less than $3.65 per day is forecast to amount to 72.15% in 2024, and the share of the population who earn less than $6.85 per day is forecast to amount to 91.78% in 2024.

9.0 THE GROWING AND SEEMINGLY OPERATIVE INFORMAL INSURANCE

Informal Insurance can be understood to mean alternative actions taken by people with the intention of protecting themselves against any form of financial risk. This usually takes many forms among which commonly include opening memberships with Savings and Credit Cooperative Organisations (SACCOs), Community Self-help groups, and friendship investment clubs among others. According to the FSDU thematic Report on Insurance, findings revealed that the informal insurance sector was largely dominated by adults who are likely to be females living in rural areas.

It has been widely observed that some causes to the continued preference of informal insurance to formal insurance is based on a number of factors as revealed by the FINSCOPE III Survey (2013)[63] to include:

> *"Preference for informal insurance products and services over formal ones was because: informal insurance schemes are easier to join (48%), cannot afford formal insurance (15%), never heard about formal insurance (11%), never thought about formal insurance (10%), and don't know where to buy formal insurance (17%)."*[64]

The Report further indicated that despite the figures, Uganda's informal insurance is quite faced with challenges ranging from dishonesty by members thereby causing financial loss, poor administration, and death occurring to members, non-payment of contributions, members pulling out and loss of money through theft or fraud arising from committee members among other challenges.

This was further confirmed by the findings of a report published by the project of Financial Inclusion in Rural Areas – PROFIRA[65] which indicated that about 312 of the savings and credit cooperative Organisations in Uganda are victims of fraud. It was also noted that 64 out of the 453 registered SACCOS in the

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64 Uganda 2013 FINSCOPE III Survey Key Findings, Unlocking Barriers to Financial Inclusion, (November 2013).

65 Project for Financial Inclusion in rural Areas, Project Completion Report Validation, as validated by IOE (March 2023).

year 2023, had collapsed while 312 were struggling due to fraud and poor governance among other challenges.

Arising from the above, greater formalisation which implies a rules-based business trading environment which offers greater protection for consumers and businesses, is desirable. This is so, especially where it has been observed that informal insurance mechanisms are typically weak and do not provide sufficient protection to households.[66] Informal insurance evidently has the potential to be harnessed to further develop the insurance sector in Uganda.[67]

10.0 RECOMMENDATIONS

A robust framework governing the settlement of claims arising from Motor Third Party Insurance will be instrumental in addressing some of the existent biases among policy holders. Secondly, the current law governing Third Party Motor Insurance needs to be amended especially section 3(b) of the Motor Vehicle Insurance (Third Party Risks) Act Cap 214 to include insurance of a person in respect of liability which may be incurred in respect of damage to a motor vehicle of another. In addition, as the law stands, it doesn't permit institution of claims against insurers by third parties, which is detrimental to third parties especially when the policy holders do not follow up in seeking indemnity by the insurance companies.

Additionally, Part III of the Act which includes Section 34 that previously provided for compensation under the Act has been suspended under Section 42, effectively rendering the statutory compensation mechanism inoperative.

In response, the IRA stepped in to issue administrative guidelines and directives[68] that suggest more realistic payouts. Based on current regulatory practice, compensation for death now typically ranges between UGX 5 million and UGX 10 million, while varying levels apply for partial or permanent

66 Jonathan Morduch; Between the state and the Market; Can informal insurance Patch the Safety Net? The world Bank Research Observer, Vol. 14, no.2 (August 1999).

67 Uganda Insurance Regulatory Authority, Leveraging on Informal insurance platforms and Group dynamics to upscale Formal Insurance in Uganda, "The voices of the informal sector" (December 2015).

68 The Motor Vehicle Insurance (Third Party Risks) Regulations.

disability.[69] However, these guidelines are not legally binding and may differ in application across insurers, leaving a dangerous gap in protection and predictability for victims.

While the IRA's interventions are a commendable stopgap, they lack the force of law. This underscores a critical legal-policy gap between regulatory practice and legislative authority. Uganda should move to codify these regulations, especially through amending the current Act to ensure that compensation scales are legally enforceable and uniform.

More stringent measures ought to be employed by the Uganda Insurance Regulatory Authority to ensure the restoration of public trust within the insurance sector and enable compliance of with the laws in place. This could be done through ensuring swift and adequate settlement of insurance claims by insurance companies.

More attention needs to be placed on the Microinsurance sector through provision of affordable services and products to ensure adequate growth and development of Uganda's Microinsurance sector.

Continued advocacy and sensitisation will be instrumental in addressing the existing knowledge gaps among the general populace regarding insurance.

Lastly, a revision on the tax levied on Insurance premiums would be of great benefit to the insurance sector. Tax reductions on insurance products and premiums will lower the cost of insurance premiums. This in turn will make insurance for affordable to all people including low-income earners. It should however be noted that tax reductions should be wholesomely addressed with other factors affecting the insurance sector to ensure positive consumer attitudes towards the insurance sector as indicated below:

> *"Even if the tax deduction of insurance premiums has some positive effect, it appears that it is not a panacea but just one of a number of factors motivating consumers. If a country is considering introducing*

69 Ibid.

a policy which allows the tax deduction of insurance premiums, it is recommended to combine it with other interventions."[70]

It is thus noteworthy that a reduction in the taxes levied on premiums could be a positive incentive to attract customers and ultimately increase the insurance up-take in the country.

10.1 HARNESSING ARTIFICIAL INTELLIGENCE IN INSURANCE

To modernise operations, build consumer trust, and close Uganda's insurance penetration gap, the sector should urgently adopt Artificial Intelligence (AI) as a strategic enabler. AI is transforming the global insurance industry by introducing automation, precision, and real-time decision-making in areas such as underwriting, claims processing, and fraud detection.

In the United States, Lemonade Inc. has pioneered the use of AI in peer-to-peer insurance, using bots to settle claims within seconds while allocating unclaimed premiums to social causes.[71] In China, Ping An Insurance employs AI to analyze over 30,000 health and financial data points to optimize policy recommendations and improve customer targeting. In the United Kingdom, Aviva uses machine learning to flag potentially fraudulent motor insurance claims with over 75% accuracy before human review. These companies demonstrate the far-reaching potential of AI in increasing operational efficiency and improving consumer experience.

Ugandan insurers should consider deploying AI-powered tools to automate customer onboarding, perform intelligent risk assessment, and provide predictive analytics for portfolio management. Regional firms such as Jubilee Insurance Kenya and Britam have already introduced AI-driven chatbots and

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70 Developing Insurance Markets: Do fiscal incentives help long term life insurance development? Tetsutaro Shindo and Craig Thorburn, June 2020

71 Generative AI in Insurance: Lemonade Case Study | Devoteam. (n.d.). Retrieved June 15, 2025, from <https://www.devoteam.com/expert-view/innovation-in-insurance/> [Accessed on 12th March 2025].

claims assistants, offering a blueprint for domestic adoption.[72] The IRA should also incentivise innovation sandboxes to allow experimentation with such technologies under regulatory oversight.

By leveraging AI, the Ugandan insurance sector stands to improve efficiency, reduce fraud-related losses, and regain public confidence, an essential foundation for long-term industry growth.

10.2 INTEGRATING CYBER INSURANCE IN A DATA-DRIVEN ECONOMY

As Uganda's digital economy expands with fintech, mobility apps, and e-commerce platforms becoming central to service delivery, the need for cyber insurance has never been more urgent. Cyber insurance covers the losses relating to damage to, or loss of information from, IT systems and networks. It covers a direct financial loss to you or your business arising from a cyber event. A cyber event is simply any actual or suspected unauthorised IT system access, electronic attack, or privacy breach[73]. The vast majority of financial losses are first party loss and include theft of funds, theft of data and or damage to digital assets. Cyber insurance covers the liability actions that might be brought against you, arising out of a cyber event (third party loss), such as investigation and defence costs, civil damages, compensation payments to affected parties[74].

The SafeBoda data breach in August 2020[75] exposed the personal data of thousands of users, including names, contact details, and trip histories, demonstrating how vulnerable even the most trusted platforms can be to cyber threats. On a global scale, the Cambridge Analytica scandal revealed

72 Artificial Intelligence: Matters Arising for the African Insurance Industry. (n.d.). Retrieved June 15, 2025, from <https://actuview.com/news/9579> [Accessed on 12th March 2025].

73 What does Cyber Insurance cover? | Cyber insurance | Choosing the right insurance | ABI. (n.d.). Retrieved June 15, 2025, from <https://www.abi.org.uk/products-and-<issues/choosing-the-right-insurance/cyber-insurance/what-does-cyber-insurance-cover/> [Accessed on 12th March 2025].

74 Ibid.

75 Safeboda Found In Breach Of Data Privacy Laws. (n.d.). Retrieved June 15, 2025, from <https://afmpanga.com/safeboda-found-in-breach-of-data-privacy-laws/> [Accessed on 12th March 2025].

how data harvested through digital platforms was misused to influence democratic elections, leading to massive legal and reputational consequences.[76]

Despite these risks, Uganda's uptake of cyber insurance remains negligible. Most digital start-ups and various online lending platforms operate with little to no coverage for data-related liabilities. This is partly due to a lack of awareness and partly due to the underdevelopment of such products in the local market.

Drawing lessons from markets like Germany, where cyber insurance is standard among SMEs, or South Africa, where insurers like Hollard offer dedicated policies for small businesses, Uganda's insurance industry should urgently develop tailored cyber insurance products. These should align with obligations under Uganda's Data Protection and Privacy Act Cap. 97 and offer coverage for legal defence, regulatory fines, customer notification costs, and public relations remediation.

The IRA should collaborate with the Ministry of ICT and National guidance to enforce cybersecurity standards and promote cyber risk insurance as a key pillar of national data resilience. In a world increasingly governed by data, protecting that data through insurance must no longer be optional.

11.0 CONCLUSION

Given the contemporary society we live in, where risk is an inherent part of life often surrounded by forces that threaten our financial well-being through different factors such as health, business, death, education, and travel among other things, Insurance Law becomes of core value to human existence in contemporary society as it is today. Its importance is most significant in dealing with management of risk and uncertainty.

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76 Revealed: 50 million Facebook profiles harvested for Cambridge Analytica in major data breach | Cambridge Analytica | The Guardian. (n.d.). Retrieved June 15, 2025, from <https://www.theguardian.com/news/2018/mar/17/cambridge-analytica-facebook-influence-us-election> [Accessed on 12th March 2025].

The insurance sector of Uganda presents positive ambitions and hope for the people of Uganda especially those with lower income levels. It should however be noted, as seen above, that the sector is still met with a number of challenges lying from the general lack of public trust to an under-developed microinsurance sector among so many others as discussed in detail.

Significant efforts have to be taken especially by the Uganda Insurance Regulatory Authority as the main regulator so as to ensure the restoration of public trust within the insurance sector, take progressive steps to ensure regulatory compliances by the different insurance stakeholders within in the industry. On the other hand, continued advocacy for a favourable insurance environment such tax reductions especially on the premiums charged would make insurance services far more affordable to the Ugandan Market.

Addressing the existing knowledge and Regulatory gaps, especially with handling claims and the efficient settlement of claims by insurance companies will play a key role in the growth and restoration of public trust within the insurance sector of Uganda. This, without a doubt, will increase the general insurance up take and penetration rates within the country.

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