

Speech by Jeroen Verheul, Ambassador of Kingdom of the Netherlands,
Chair JLOS DPG, at the Opening Session of the
16th Joint GoU – DP Justice, Law and Order Sector Annual Review

September 29th 2011, Kampala

Your Lordship the Honourable Chief Justice,
Honourable Minister of Justice and Constitutional Affairs,
Honourable Attorney General,
Honourable Minister of Internal Affairs,
Honourable Ministers of State,
Honourable Members of Parliament,
Heads of JLOS institutions and their representatives,
Representatives from the civil society and the private sector,
Representatives from the media,
Fellow development partners,
Dear friends, ladies and gentlemen,

Today we look back at the achievements and challenges in the past financial year. Today, we also look back at five years of implementing of the Second JLOS Strategic Investment Plan.

A lot has been achieved in the sector. Five years ago, there was hardly any JLOS presence in the north. Five years ago, real coordination among JLOS institutions was only starting and there was not a District Chainlinked Committee in any district – nowadays, the committees are in every magisterial districts. Five years ago, prisons did not have human rights committees. The bucket system was very common in the overcrowded prison wards, and prisoners did not always get sufficient food. Case backlog was what the then Principal Judge used to call an evil monster. Now, it has reduced to the size that is still a challenge, but instead of a monster, it is more like a stubborn dog that refuses to listen. With appropriate measures, with sufficient dedication and performance management, the sector might be able to train the dog, and master the case backlog.

Indeed, progress has been made. Also, there has been progress on how to measure progress or performance. With the coming on board of the JLOS' M&E specialist, a little more than two years ago, we have seen a great improvement of the quality of the reports. From random narratives of events, now, the sector attempts to track progress in a more structured way. We are not there yet, the M&E Framework is still not fully operational, but there is some good progress to show.

For the first time, Development Partners will present today a joint DPs' assessment of progress in the sector. In the DPs' Technical Speech, we will present this assessment on the different key result areas,

on the undertakings, and on the general management of the sector. I believe a power point presentation has been prepared, for each and every section, using colour codes of green, yellow or red to mean respectively good, sufficient, or insufficient progress.

This tool, that DPs developed and already discussed with the stakeholders during the semi-annual review in March, and again last week in the technical review, will help the donors to make more rationalized decisions on disbursements. Also, hopefully, it will help us to identify key bottlenecks or weak areas that need to be further worked on. Thirdly, and maybe most importantly, it will help missions here in Kampala in their discussions with their own governments and parliaments back home, to argue why it is justified to support JLOS.

Why do we need that? As you are aware, the parliament and the general public in our home countries are increasingly demanding value for their tax payer's money, they want to see results and actual impact. I suppose Ugandan tax payers, who provide the majority of the funding, would like to see the same. Especially in a sector such as JLOS in which institutions operate in a politically sensitive environment, DPs are openly followed and criticized by the public. Our parliaments are asking questions to our ministers, and want regular updates on progress in the JLOS. Graphic pictures showing the Uganda police using a lot of force against demonstrating civilians are published in the newspapers back home.

As mentioned, there will be another presentation later today that will walk through the development partner's assessment of the progress under the JLOS in greater detail, but let me mention a few highlights:

I think a considerable change in the period under review has been the sharp reduction in the average stay on remand from 27 months to 15. As a person is presumed innocent until found guilty, this is huge progress indeed. This achievement was made possible because of creative solutions such as the special case backlog sessions, alternative dispute resolutions, community service, sensitization, granting bail, and the like.

As much as the additional case backlog sessions help to weed out old cases, they are a very costly method. Also, DPs fear that underlying causes might not be addressed. A simple mathematical exercise teaches us, that on average, a Chief Magistrate handles 114 cases a month. On average a judge is hearing 22 cases a month – that is only half of the amount of cases he or she handles during a session, where the average is 40. Why? Assuming that the lower benches handle less complicated cases, I was surprised to learn that a Magistrate Grade 1 is handling 15 cases a month and a Grade 2 magistrate is handling less than 8 a month. Why these huge differences? I take the judiciary as an example, but I suppose that we could also look at performance of, for example personnel from the Criminal Investigation Department. Now that the case load per detective is close to international standards, should we not see a sharp increase in successful evidence based prosecution of cases? Instead of having all the additional case backlog session, should we not attempt to increase performance? I was pleased to learn that JLOS proposes for next year's undertakings to pilot a performance based management system, alongside strengthening of inspectorate systems.

Another issue that we need to discuss today is the issue of institutional and personal accountability. This was one of the priorities under key result areas 2, to foster a human rights culture in JLOS institutions. Again, a lot has been done. A visit to a prison in 2011 is not the same as a visit to a prison five years ago.

Prisons personnel have been trained, there are far less incidents of torture reported and human rights committees have been established. That is very commendable.

However, when asked about accountability and human rights violations, the average Ugandan will immediately picture the use of force by security personnel around the September 2009 riots, and the recent walk-to-work protests. Not only the footage on TV and the internet but also, and maybe more specifically, the silence thereafter. The public is yet to receive a report on the status of investigations into the September 2009 riots. Who has been held accountable? Who has been tried for allegations of excessive use of force, and indeed lethal force? Feedback to the public on these events of national importance, and also on the outcomes of investigations and hearings, internally and through the justice system, will help a great deal in showing progress to the general public, in and outside Uganda and ultimately raise the confidence in the sector's ability to deliver service – justice and accountability. People gain trust in the JLOS system when they hear that errant JLOS personnel are indeed personally held accountable for human rights breaches. Even if actions are based on orders one has to bear in mind that by law, a person is always individually responsible for human rights violations. An order from above is never an excuse. Making the right judgment in the field is a difficult call indeed, and we can only prepare police officers by equipping them with sufficient training. It would be interesting to hear your assessment of the impact of these trainings. In this regard, I also look forward to hear how the police are planning to phase out the special police constables, who did not receive the full police training, and might not be sufficiently equipped with the requisite skills and knowledge to make these difficult decisions in the field.

Indeed, people will also gain trust when they see ownership of the JLOS on difficult policy issues, such as public order management. Even without the POM Act, it is good to engage the different JLOS institutions, and the general public to discuss the right to freely assemble. I believe everyone acknowledges that this is a constitutional right indeed. We also know that police needs to be informed. What if the police disagree with the location of demonstration? What if the demonstration infringes on the right to move from A to B without getting stuck in a huge traffic jam? What if there is the impression – quotes or maybe misquotes in the newspaper - that the police only allows manifestations that are a-political? What is the price the general public is willing to pay for the right to freely assemble, as this might lead to some disruption of their everyday lives? This is a difficult discussion and only the JLOS in consultation with the political parties and civil society can come up with a solution.

A good example of taking more ownership on a difficult policy issue is transitional justice. After consulting the public, JLOS drafted the International Criminal Court Act and established the International Crimes Division of the High Court. Earlier this year, the trial against an alleged LRA-commander started. The factual reality that we cannot address any of the transitional justice mechanism in an isolated manner became clear during the course of the trial, where issues of amnesty were raised. Formal justice, amnesty, but also traditional justice, truth telling and reparations need to be looked at in an integrated way, I believe the nationwide consultations on transitional justice that were held early 2011 will result in a draft policy outlining how to deal with post-conflict justice issues in a holistic way.

The true mission of the JLOS is to enable all people to access justice, whether this is through the formal system, informal systems, or through alternative dispute resolutions. When using the formal system, people should feel confident that their case is presented in the best possible way. Access to legal aid is essential for that, and I was pleased to learn that legal aid service providers, mainly civil society actors, have successfully provided legal assistance to more than three million people in the last five years. On the other hand, we know that there are still challenges in ensuring that pro bono services are provided,

and that state briefs are of sufficient quality. If you meet your client for the first time in the court room, and you have to look around to identify who your witnesses are, you are not presenting your clients case in the best possible way. As much as we recognize the need for civil society actors to continue delivering legal services to clients, it is important that the Government takes the lead in outlining the framework in which legal aid can be provided, and I am happy to hear that JLOS has started to implement its promise made in SIPII to develop a legal aid policy.

There are many more highlights that I could mention, but I am aware that presenters after me will walk you through the very informative and detailed progress report. So let me conclude by raising one more issue. The third Strategic Investment Plan.

Next year, JLOS, being one of the most advanced justice sector in the region, will roll out its third five-year strategic plan. A lot of discussion has been going on as to what priorities and outcomes to focus on, and I think JLOS is on the right track indeed. What might be good to bear in mind though, is that for DPs, in order to be able to fund such a plan, it is important that the plan embeds re-orientation towards real reforms with a focus on tangible results, and not only on process oriented outputs. It is crucial to show how JLOS contributes to fighting poverty, to reducing corruption, to reaching out to vulnerable groups, such as children, widows, or disabled. Also, a focus on behavioral and attitude reforms in which sector service recipients are treated as clients would be welcomed, for example through stronger, actionable accountability mechanisms, performance based management, an effective implementation of the anti-corruption strategy, and strong disciplinary and inspectorate committees, that dare to hold individual officers accountable for human right abuses.

Your lordship, honourable ministers, I have made these observations in the spirit of a constructive partnership. Let me assure you that we as DPs see the JLOS as a strong and robust structure, and we believe that JLOS, even in a more difficult political context, is progressing, and can progress even more in the future. However, commitment at all levels is needed. We need committed staff at district level that is willing to solve emerging issues on the ground in the District Chainlinked Committees. And we need a committed team of leaders at the highest political level, who can set the agenda for policy change, for example through prioritizing women and children. I am therefore very pleased to see that the JLOS leadership committee has made a flying start, and already has set in process a number of important actions: the issue of Minister's orders, and the issue of civilians that are tried by courts martial, to name a few examples. On behalf of the JLOS DPG, the Netherlands Embassy, as the current chair, accepts with both hands the invitation made last week, during a first informal dinner, to have regular discussions between the leadership and DPs heads of mission.

With these few remarks, let me wish you successful deliberations today. I thank you.