

**SPEECH BY THE HON CHIEF JUSTICE OF UGANDA, JUSTICE BENJAMIN J
ODOKI AT THE OFFICIAL OPENING OF THE 16TH JOINT GOVERNMENT OF
UGANDA DEVELOPMENT PARTNERS REVIEW HELD ON 29TH SEPTEMBER
2011 AT IMPERIAL ROYALE HOTEL, KAMPALA**

My Lords

Hon Ministers

Your Excellences

Members of the Leadership, Steering and Technical Committee

Invited Guests

Ladies and Gentlemen.

Introduction:

The Justice Law and Order believes that neither economic growth, nor merely providing for peoples basic needs will help them escape poverty. Their empowerment through a human rights based approach is necessary. Equity and non-discrimination are essential, as are accountability and the free, active and meaningful participation of right holders¹ in activities that shape their lives.

It is therefore, gratifying to learn that since the establishment of the Justice Law and Order Sector, the overriding objectives of the sector have been to promote the rule of law, access to justice, human rights, safety of the person and security of property and providing an environment for economic growth which is necessary for sustainable alleviation of poverty. The totality of the JLOS reforms has been justice for all.

It is true that most people who live within the borders of Uganda enjoy a higher level of peace. Out there, people are actively participating in economic activities primarily because of the work of the sector and its institutions. Uganda continues

¹ Office for the High Commissioner for Human Rights

to enjoy sustained economic growth and is on target to achieve most of the Millennium Development Goals, which promises a better future for all.

JLOS is happy to contribute to Uganda's success story by providing an enabling environment for economic and democratization to flourish; which are essential for the wellbeing of society.

Theme:

This year, the theme for the Annual Review is ***“Enhancing Accountability and Deepening the Impact of JLOS Reforms.”*** The theme is pertinent because institutions exist for the benefit of the people and it is important that they demonstrate results and are accountable.

Impact of JLOS Reforms:

JLOS has demonstrated strong results in improving the administration of justice, maintenance of law and order and human rights. We particularly celebrate the elimination of case backlog in all the Magistrates Courts, where we do not have criminal cases which are more than two years old. We are also on course to redefine criminal case backlog in the High Court, to mean all cases which are less than eighteen (18) months old in the court as opposed to twenty four (24) months as previously defined.

We have continued to experience a drop in the cases registered because of the active participation of the community in policing and the resilience of the police in tackling crime. In the Directorate of Public Prosecutions, the conviction rate stands at almost 60%. We have managed to reduce congestion in prisons from five hundred percent five years ago to close to two hundred percent. This is as a result of expansion of prisons facilities, crime prevention, community service and faster disposal of criminal cases.

Uganda has registered a reduction in the growth rate of pending cases attributed primarily to efficiency of the chain of justice and the case backlog reduction program which increased the total cases disposed to over one hundred thousand.

The Sector looks forward to the immediate implementation of the Judicature Amendment Act which increased the number of justices of the Court of Appeal and the Supreme Court in addition to Parliament passing a resolution increasing the number of High Court judges to eighty two for timely disposal of cases.

I salute the institutions, the community, Development Partners and the Government of Uganda for the achievements registered. JLOS institutions have demonstrated that by working together through communication, coordination and cooperation they can overcome formidable challenges. We are always reminded that ***“united there is little we cannot do in a host of uncooperative ventures²”***.

But we are equally cautioned that ***“divided there is little we can do, for we dare not meet a powerful challenge at odds and split asunder”³***. I would like therefore, to thank all the JLOS institutions for remaining together. As a family, we must always remember that dividing an elephant into two does not produce two small elephants. Our collective well-being lies in feeding the elephant rather than scuttling the family.

Challenges and the way forward:

In the coming year, the sector will pay more attention to responding to the needs of the community because we acknowledge that:

² J F Kennedy

³ J F Kennedy

“Government cannot create community. But the government and more specifically, political leadership, can lay the ground work for effective citizen action. People must come to recognize that government is open and accessible and that won’t happen unless government is open and accessible . People must come to recognize that government exists to meet their needs and that won’t happen unless it does. The aim then is to make sure that the government is open and accessible, that it is responsive, and that it operates to serve citizens and create opportunities for the citizenship”⁴.

People expect JLOS to deliver efficient and effective justice regardless of the conditions in society. In the coming year therefore, the sector will prioritize the following actions:

Legal Aid:

The Sector will push for the adoption of a policy and law on legal aid , which will ensure equality of arms of all before the law. It is unacceptable that while, society has made advances in science and other disciplines, in Uganda, a suspect is only able to meet his lawyer in court on the day of the hearing of the case. We all know that suspects are not angels and are therefore not expected to fully open up to their advocates. In the same way, the advocate cannot fully and effectively represent his or her client except if the client opens up to him. Provision of legal services to the most deserving should therefore be part of a deliberate Government policy to protect the vulnerable, the poor and marginalized. With a good legal aid scheme we hope to eliminate opportunistic corruption, oppression of the weak and poor by the rich and powerful and accountable justice for all. We hope to create a justice system which cherishes ultimate justice tempered with compassion but with the firmness of what is right and just. As said by President Kennedy, **if a free society cannot help the many who are poor, it cannot save the few who are rich**⁵. Legal aid must therefore be provided at the time a

⁴ Robert Denhardt and Janet Vinzant, The new public service: serving rather than steering at page 555

⁵ J F Kennedy

person is charged at the Police Station and throughout his trial. Likewise, legal aid should be offered to victims of crime, who unfortunately, are only useful to the legal system when it requires them to give evidence.

Land Justice:

We recognize that the delay to handle civil cases, especially land cases is responsible for a multiplicity of murders, assaults and even, witch craft in the country side. Land is a vital source of livelihood for most people in Uganda and a failure by the legal system to expeditiously conclude land cases greatly undermines the livelihood of the people. We shall soon establish specialized Land Courts in Mbarara, Masaka, Jinja, Mbale, Soroti, Lira, Gulu and Fort Portal in addition to the ones at Mengo and Nakawa, to exclusively handle land cases. Other districts will be considered as and when we have adequate resources and magistrates to handle the cases. The proposed Land Court, will be expected to handle land cases on a day to day basis and render their decisions without delay. I urge the litigants and counsel, to effectively use these courts and avoid time wasting through uncalled for adjournments. I also urge Government to urgently constitute the Judicial Service Commission to appoint judicial officers to improve the administration of justice.

Public Order Management:

Management of public order situations remains a challenge because of the absence of statutory law to regulate holding of demonstration. Demonstrators and victims of demonstration have been subjected to violation of their fundamental rights by agents of the State in contravention of the Constitution. Article 1 of the Universal Declaration of Human Rights reminds us that **All human beings are born free and equal in dignity and rights** and shall as such, be treated with fairness and dignity. The State and its agents must therefore, refrain from the brutal treatment of demonstrators and victims of

demonstrations. Likewise, those who want to demonstrate must equally refrain from harming and disrupting the activities of those outside the demonstrations because rights come with obligation not to interfere with the rights of others.

The legal system must ensure that **equal and exact justice is rendered to all men (and women), whatever state or persuasion, religious or political**⁶, as the barest minimum of ensuring equal protection of the law.

I would like therefore, to urge the State to consider translating the Guidelines on Managing Demonstration developed by the Uganda Human Rights Commission and all the political players in 2006 into law to guide public order situations in Uganda. I have no doubt that since the guidelines were developed in the spirit of bi-partisanship, they will be accepted, respected and applied to all without bias.

I hereby direct all courts to expeditiously conclude all cases arising out of the recent walk to work protests because there is no moral or legal justification to delay these cases.

The Judiciary is in the process of installing court recording equipments in all Courts of record and automating the collection of data in all courts to expedite the delivery of justice.

Human Rights:

Observance of human rights still remains a challenge for the sector. When JLOS institutions violate rights this becomes a threat to the well-being of Uganda and are costly to the community. It is therefore easier and cost effective to respect rights than to violate them. We shall therefore, continue to promote the observance, enjoyment and protection of human rights through zero tolerance to

⁶ Thomas Jefferson

human rights violations. We shall implement the recommendations of the Uganda Human Rights Commission without exception.

As we continue to strengthen and promote the independence of the Judiciary, the court shall continue to decide disputes before them without fear or favour or ill will except in accordance with the evidence and the law.

I would like therefore to assure the nation, that the courts will consider and grant bail in most deserving circumstances, taking into account the gravity of the offence and the need to protect the community as whole.

Appreciation:

I would like to thank our Development Partners for their continued support, engagement and advice. With your support, we have been able to make great strides in promoting the rule of law and making the justice system responsive to the needs of the people.

Commitment:

The Justice Law and Order Sector will ensure that justice reigns in the country and particularly to the weak, marginalized and poor who sometimes are seen to be excluded by the legal system.

Last but not least, let me remind the country at large that :

To build for a man a world without fear, we must be without fear. To build a world of justice, we must be just. And how can we fight for liberty if we are not free in our minds?... Only in true surrender to the interest of all can we reach that strength and independence , that unity of purpose , that equality of judgment which are necessary if we are to measure up to our duty to

the future , as men of a generation to whom the chance was given to build in time a world of peace⁷.

I wish you fruitful deliberations.

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Dag Hammarskjöld