

Speech by Alphons Hennekens, Ambassador of Kingdom of the Netherlands,  
Chair JLOS DPG, at the Opening Session of the  
17th Joint GoU – DP Justice, Law and Order Sector Annual Review

September 27<sup>th</sup> 2012, Kampala

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Your Lordship, the 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,  
Members of JLOS institutions,  
Representatives from the civil society and the private sector,  
Representatives from the media,  
Fellow development partners,  
All protocol observed,  
Ladies and gentlemen,

It is an honour for me to address this august gathering today also on behalf of my fellow development partners. We gather today to mark the end of the Strategic Investment Plan II, and to look back on the achievements and challenges in the Justice Law and Order Sector. The achievements have been many. His Lordship

the Chief Justice, in his key note address during the Commonwealth Magistrates and Judges Association Conference two weeks ago in Munyonyo, outlined some impressive statistics.

Congestion in prisons reduced from 500% in 2005 to close to 200% in 2011; Crime rate reduced from around 500 reported crimes per 100,000 people in 2007 to around 300 reported crimes in 2012. Conviction rate for the Directorate of Public Prosecutions increased from 22% in 2000 to 53% in 2012, due to both improved prosecution skills and strengthened investigation methods.

My Lord, ladies and gentlemen, the JLOS concept is working.

Today, we look back at the achievements of the period under review, in order to draw lessons from it, and to learn. As you might be aware, I arrived in this country less than two months ago so I am still very much a student when it comes to knowing the sector. As a student, I like to learn not only from the books but also from practice. That is why I travelled to Gulu the other day, to learn how the JLOS system in that district is working in practice. I attended a DCC meeting and met with magistrates, prosecution, police, prisons, human rights representatives and social workers. I visited the Gulu prison and the remand home.

Having discussed the JLOS with a number of Ugandan citizens, I want to share with you today the true story of let's call him Peter, a man whose case I was told about on one occasion. It is not a special case, there is nothing extraordinary about his story. In fact, I am sure many of you know of similar stories.

Peter and his wife had an argument. A week later, his wife consulted with her brother, who works at a police station, and he advised her to report a case of assault. She had told her brother that Peter had hit her during the fight. Peter was

asked to come to the police station, where he was arrested. He denied the charge, subsequently he was asked to pay 50,000UGX and was released on a police bond – that should be free of charge. A week later, when he reported again to the police station to answer the police bond, he was re-arrested. The charge against him had increased at this stage to grievous harm.

This was on a Wednesday morning. After 48 hours, it was now Friday morning, Peter was still in his cell, with no news about investigations or a court hearing. Only after paying 20,000UGX the police agreed to bring his file to the prosecution. His relatives had mobilized a lawyer to represent him during the bail hearing. He reported to the court at 10am. When they were waiting at the court premises, they were approached by some people who were asking for money. I am told they are called 'hangers-on'. Otherwise, the magistrate would not have time to hear the case. The relatives refused, they had spent all the money they had already on police fees and lawyers. Time passed as they were waiting. It was 2pm, 3pm, 4pm. In the mean time, the magistrate was busy with her paperwork. At around 4.30pm, the lawyer became nervous: would the magistrate still have time to hear the case? To his big surprise, the court clerk informed him that the magistrate had decided to send Peter on remand to Luzira prison without plea taking or bail hearing. So while the magistrate was driving away in her car, the prison bus filled up with the last detainees, including Peter, and set off to Luzira. This all happened a few months ago. Since then, Peter has been out on bail, but is seriously indebted, and is at risk of losing his job. Every week, he reports to the court. Every time, he needs to take leave from work. Court hearings were postponed several times now, because the main witness, his wife, did not show up. Because he could no longer afford the services of the lawyer, he agreed to pay

the resident state attorney 600,000 UGX. In exchange, the RSA would help him with his file. He made a first down payment, but has no money to pay the rest of the amount. He hopes that despite this, the RSA will still be on his side.

Why do I share this story with you? Because this story taught me an important lesson about the main bottlenecks in the justice system for an everyday person to access justice or have his day in court. Peter may or may not be guilty of assault, grievous harm, or domestic violence. That is not the point in case. The case is that despite all man hours spent, the money that has changed hands, the anguish and frustration, and worst still corruption and violations of rights either way – despite all that, there is no justice done, not to Peter and not to his wife. The story is important for us to reflect as we look into the end of SIP II, which was anchored on access to justice.

With the closing of the SIP II, and the start of implementation of SIP III, the JLOS puts more focus on actual access to justice, instead of physical access to justice. I believe rightly so. Where investments in infrastructure were very much needed, now, most districts have the full justice chain present within a reasonable distance. Where this is not the case, the sector will continue to invest in getting JLOS services closer to the people.

However, the main focus of the SIP III, as I read it, is delivering actual services to people. And that is what the story of Peter is all about.

While acknowledging the great progress the sector has achieved in the period under review – for example the increased case disposal by courts, progress on the transitional justice policy, and many completed infrastructural projects, specifically in the north, are just a few of the highlights – I am under the

impression that the main bottlenecks for the sector relate to professionalism, a lack of human rights observance and corruption.

In Peter's case, he was detained in a police cell for more than 48 hours, which is against the constitution. He was sent to prison without seeing a magistrate, which again is a violation of his rights. He was asked for a bribe by the police on two occasions, by court on one occasion, and by the DPP on one occasion. He doesn't dare to file a complaint, because his faith is still in the hands of the very same people who asked for a bribe. Moreover, this simple case is consuming valuable time in court, wasting time and money for the magistrate, the DPP, the police, prison, the lawyer, and from Peter himself.

I believe this case touches upon the main challenges that lay before you today, as members of the JLOS family: how can you make sure that the investments made lead to better access to justice for the common people, for women and men who are victims of domestic violence; for children who are in contact with the law?

When the JLOS builds a facility, such as a remand home for juvenile offenders, it is advisable to have a commensurate recurrent budget for staffing and maintenance purposes. I believe it is not too difficult to address this challenge. The challenge of the case backlog in the sector could be reduced by addressing existing inefficiencies in the operation of the courts, as Peter's example shows us.

Some challenges do need the commitment of all institutions to address them. For instance in fighting corruption, one needs to ask oneself on how best to change attitudes? How to overcome the fact that in 60% of all cases, the police asks their clients for a bribe. In almost half of all cases, people report that the judiciary had asked their clients for a bribe as was shown in a recent survey. On human rights,

the Uganda Human Rights Commission report 2011 showed that police is still the number one violator of human rights.

I am confident that the JLOS institutions are trying to address these huge challenges. 1. By asking the Uganda Human Rights Commission to train Special Police Constables. 2. By setting up inspectorate systems, and conducting joint JLOS inspections. 3. By strengthening complaints mechanisms and disciplinary systems. 4. By piloting performance based management in the judiciary.

I have been informed that after initial delays, the Judiciary is committed to develop a performance management system by early next year. Prisons already volunteered to follow suit. On this same note we would like to encourage the sector to invest in a professional and independent NGO board that will promote an open, inclusive, and vibrant civil society.

The proposed information desks in courts are an important innovation. In Peter's case, his relatives could have gone there to ask at what time the hearing was scheduled for, to ask if it is within the law to be sent to prison without seeing a magistrate, and to ask whether a prosecutor should be paid. Obviously, the functioning of the information desks of course will depend fully on the quality of its staffing.

However, more needs to be done. People still don't have confidence in the complaints management system across the sector's institutions. One should be concerned about the current disposal rate of complaints; The backlog and lack of feedback to complainants might be reasons for people not to trust the JLOS complaints systems. Both the Law Council and the Judicial Service Commission, that deal with complaints against lawyers and judicial officers respectively, both

have huge backlogs. There is hardly any feedback to the public about what happened to complaints against errant JLOS officers. When 40 people were killed during the September riots three years ago, it is difficult to explain to the public that there were no investigations carried out into these events, or what action has been taken. I would like to discuss with you how the JLOS can improve in these areas. The theme 'making reforms count' as was introduced by the chair would only be fully realized if people have confidence in the judicial system; if officers are held accountable; and if people can access justice without a bribe.

My lord, ladies and gentlemen, I will come to a closure. Looking back at the implementation of SIP II, and looking back at last year's performance, I must conclude that progress in the sector is significant. Also, JLOS's contribution to strengthening the enabling environment for Uganda's economic development is important. Stories that I heard about the need to facilitate the administrative procedures are distressing indeed. Uganda went down a few steps on the competitiveness index in the period under review. I trust, however, that the concrete and innovative plans of JLOS will reverse this trend.

Later today, during the development partners' speech at technical level, DPs will present their joint assessment of progress made. In most areas, progress is assessed as sufficient. It is mainly in the areas of professionalism, accountability and human rights that the impact does match the investments made. If the objectives of the JLOS SIP III are to be achieved: more people satisfied with JLOS services, and public perception of the justice system improved, these are areas where more attention is needed.

I thank you for your kind attention and I wish you successful deliberations today.