

**Remarks of His Excellency the Royal Danish Ambassador**  
**Dan Frederiksen**  
**On the occasion of the Joint Annual Government of Uganda –**  
**Development Partners Review**  
**Of the Justice, Law and Order Sector**  
**Kampala, 8<sup>th</sup> October 2013**

My Lord the Honourable Acting Chief Justice and Chairperson of the JLOS Leadership Committee,

My Lord the Honourable Principal Judge,

My Lords the Justices and Judges of the Courts of Judicature

Honourable Ministers and Attorney General

Fellow Ambassadors

Honourable Members of Parliament

Heads of JLOS institutions,

Members of the JLOS Steering Committee and Technical Committee

Representatives of Civil Society Organizations,

Invited Guests, Ladies and Gentlemen,

I would like to start by congratulating you on having completed another “JLOS year” in which you have completed new activities, registered major achievements and encountered old and new challenges.

The year under review was special as JLOS carried out its first Joint Government–Development Partner Leadership M&E in March 2013. I was privileged to be part of the team that was led by the then Chief Justice, Benjamin Odoki. The visit took us to Mubende, Kyenjojo, Fort Portal and Bundibugyo, and it allowed me to personally witness the strengths and weaknesses of the Ugandan Justice, Law and Order Sector.

It was in particular, the visits to the police stations and prisons that left me with unforgettable impressions.

While we would like to commend the sector for having committed itself to the promotion and observance of human rights, we would also like to express our serious concern with human rights violations in places of detention.

First and foremost, the observance of the 48-hour rule, limiting custody in police cells before appearing in court is one of the most breached rules. This lack of observance has been confirmed during our Joint Leadership M&E Visit in March, as well as during other M&E visits. Sometimes it is violated by a few days, but sometimes it is even weeks. We have encountered instances in which detainees had been held for up to 3 weeks.

This is a serious concern. On the one hand, we acknowledge the concerns of the Uganda Police Force in terms of the low numbers and capacity of CIID personnel, the challenges in investigations, and the serious lack of police surgeons or pathologists. On the other, we also see arrests that are carried out without or with very limited prior investigations. And this inevitably leads to a pro-longed time in detention before the file is ready to be sent to the prosecution for sanctioning.

Our main plea is that utmost importance be placed on the rights of each individual and the observance of the rule of law in general. Every single day that is spent in detention beyond the constitutional limit is one day too many.

The high Prison congestion levels were another matter of serious concern that I observed.

Part of this problem relates to detainees overstaying on remand. The Constitution provides for 60 days' limit in lesser offences and 180 days' limit in capital offences for remand before trial, upon which the right to bail arises. The reality however contradicts not only the rules, but also the spirit of the law as the average period on remand for capital offences is 11.4 months and 3 months for ordinary offences. In some instances, this period constitutes several years. This means that a person is detained and removed from society

for a prolonged period of time without having established whether she or he is guilty or not. The situation is even worse when it comes to inmates who have been committed to the High Court since there is no time-limit between the time of committal to the High Court and the actual hearing of the case, which is normally scheduled for the “next convenient session”.

Development Partners are equally concerned about inmates who are on remand pending Minister’s Order. There are several instances of individuals who have been tried and convicted as juveniles but were held in prison for a long time without Ministerial Orders directing how, for how long, and where they should serve their sentences. Some remained in limbo longer than their age when they went in. Some were released. Others have not been so lucky. At the moment, the worst cases are inmates of an unsound mind, where many of the affected persons have waited for years for the Minister’s Orders.

One encounter in particular left a lasting impression: In Fort Portal Prison we met an inmate who had been waiting for the Minister’s Order for almost 9 years. 9 years! This problem has persisted for a number of years and the sector needs to address such issues as a matter of priority, and to commit itself to finding an immediate solution to these human rights violations.

Uganda’s rule of law will only remain as strong as those weakest points that allow for such breaches.

The purpose of, and the philosophy behind JLOS, is to have a coherent and chain-linked approach, acknowledging, that problems in one sphere often spills over to the next one. In this regard, the long spells spent on remand are intrinsically linked to the ever growing case backlog in the Judiciary.

Development Partners therefore welcome the appointment of a large number of judicial officers this year. We also note that a large number of the newly appointed Judges and Justices were not only members of JLOS but actually held leadership positions within JLOS institutions and Committees. And on a personal note, I was happy to notice that many of these had undergone training in Denmark. We hope that this exposure to the broader JLOS

operations will translate into new vigour and better coordinated strategies towards the solution of the sector's core challenges.

By the same token, we also note that a number of newly appointed Judges was recruited from the level of previous Registrars. This makes the replacement of these Registrars an absolute priority if we are to fight case backlog. We are told that the Judicial Service Commission is in the process of recruiting more Registrars and we hope that this will soon be concluded.

Development Partners would like to commend the sector for having developed a sector-wide Anti-Corruption Strategy and we would like to congratulate the Judiciary on launching its Anti-Corruption Action Plan last week. During the occasion of the launch the Honourable Principal Judge made some very powerful remarks.

He first of all acknowledged that there is a corruption problem in Uganda in general and in the Judiciary in particular, and this shows that the sector has come a long way in terms of opening up to the issue so as to work constructively to find a solution. I would like to borrow the words of the Honourable Principal Judge who appealed to the Judiciary and the public that we have to strive for a situation in which corruption is the exception rather than the rule in the administration of justice in Uganda.

I would also like to take this opportunity to congratulate the sector and in particular the Police, the CIID, the Prosecution, the Prisons and the Judiciary for having successfully and swiftly taken action on a number of cases in the so-called OPM-case. However, the true test for JLOS will be to keep the momentum in terms of ensuring that justice will prevail in all cases.

One of our major concerns is the still widely lacking service-attitude and customer care skills in JLOS institutions. Let me give you the example of a Court Registry, although the very same might also apply to a police station or the office of a Resident State Attorney. When you enter a Court Registry, many times you will not be greeted, you will find people reading newspapers or talking to each other and for some time you will be ignored. Too seldom

somebody will walk up to you and ask “How can we assist you, how may we help you”. If, for example, you want to see a judicial officer, or the Officer in Charge of a station or the Resident State Attorney for that matter, it is not unlikely, that you will just be told “come back tomorrow”. And many times you get the impression that this is just being said without having actually confirmed when the person in question will be back. So you will travel back tomorrow and you will again be told to come back the next day and this game can go on for days until you finally give up, especially if you are a poor litigant who, maybe, already had to take a loan in order to afford the mere transport to court or to the police station. Sometimes you “have to know” someone.

This situation has to change and we have to find a way to entrench a more user-friendly service culture in the sector. It should not be difficult especially given how receptive the Uganda communities and culture are to visitors. Let us treat JLOS clients as if they were visitors to our homes. Let us bring the positive attitude from our homes to the public service. This is what it is all about. Each and every staff of JLOS should be completely aware that JLOS institutions are rendering a service to the public and that the public is entitled to receive timely and high quality services and feedback.

On the issue of the independence of JLOS institutions, we do appreciate that the Judiciary has showed in many ways and through many decisions that it upholds its independence. However, we would like to support the sector in tackling the independence of JLOS institutions in general. The standard should be, that there is no interference from other offices; that court orders are implemented without delay; and that files are sanctioned based on merit. I would like to refer to two instances during the past year which demonstrate that there is room for improvement.

One was the handling of the closure of media houses in which we saw challenges regarding the implementation of court orders. The second was the establishment of the Land Committee which led to many controversies and uncertainties given that the legal quality of its decisions was not certain. We

appreciate that the Committee was suspended and that the sector and in particular the Inspector General of Police have succeeded in upholding the rule of law and due process in that regard.

Transitional Justice is another major priority for JLOS. As Uganda has been working towards the abolition of impunity through the International Crimes Act, the re-instatement of part II of the Amnesty Act after its lapse was a surprise. Not least because it contradicts the very spirit of the International Crimes Act in terms of the need to ensure accountability. While we acknowledge that a draft Transitional Justice Policy is in place, we would like to urge the sector to accord highest priority to this process and to ensure that all processes are highly participatory, victims-centred and built on consensus.

I would like to close by raising two issues that need the Government's urgent attention and action.

One is the elections of the Local Councils I and II. Without these elections Local Council Courts will continue to operate without any legal basis. This will continue to cause disruptions in the administration of justice given that a majority of Ugandans turn to these courts for the resolution of their disputes.

As I speak, the Head of the Judiciary and thus the Chair of JLOS and the JLOS Leadership Committee is *acting*. No final and formal appointment has yet taken place. We appeal to all involved to finalize the appointment of a Chief Justice so as to allow for a smooth implementation of the sector's reform program at the policy level.

I look forward to spending this morning with you, celebrating the sector's achievements and to strengthening our outstanding cooperation through fruitful discussions.

On behalf of all JLOS Development Partners I would like to thank all of you for your committed partnership with us and for your openness and availability to discuss our concerns.

Thank you for listening