

Your Lordship, the Chief Justice,
Honourable Minister of Justice and Constitutional Affairs,
My Lord, the Principal Judge,
Honourable Ministers of State,
Your Lordships,
Heads of JLOS institutions,
Members of JLOS institutions,
Representatives from the civil society,
Fellow development partners,
Dear friends, ladies and gentlemen,

It is with great pleasure that I represent my fellow development partners today in the discussion of progress made by the sector in FY11/12. It has been a busy year indeed: we look back at the successful development of the Strategic Investment Plan III, interesting and informative monitoring visits to the 'near west' and 'near east' of the country, a boost in finalising infrastructure projects, the almost completion of the report on the traditional justice and truth telling consultations, the almost completion of the anti-corruption strategy and the almost completion of the M&E plan.

And all of that in addition to the ongoing work in the five key result areas.

Since last year, DPs introduced a new format of assessing progress in the sector. I believe the initiative was welcomed by the sector, as it appears to be a useful basis for discussion. So today, I introduce our assessment of progress. A first draft was discussed during the technical review last week. Like last time, we assess three areas: progress in the Key Result Areas and the additional priorities which is 50% of the total

rating, progress against the undertakings, which is 30%, and progress in planning, budgeting and monitoring , which counts for 20%.

We have changed the rating slightly from last year, where we had three categories good, sufficient and bad, that this is . Green, yellow, red. This resulted in a very yellow document, so therefore we now opt for two colours only: progress is either sufficient or insufficient. Another change from last year is the measuring on both output and impact level. So for example, when a certain committee has held the meetings it had planned for, the output was achieved; however, when this did not result in the desired outcome, such as a certain number of cases heard or a finalised policy document, progress it is still not satisfactory.

How is this assessment used? First of all, I hope it will be a tool to identify and address key bottlenecks that hamper progress in the sector. We are here for the same purpose: improving and strengthening the JLOS. Secondly, DPs will use this assessment to base disbursement decisions on.

DPs have generally appreciated the good quality of the annual report. However, since the M&E framework is not really operational, it remains difficult to track progress and to compare with previous years. We hope that once the M&E framework is approved, reporting becomes easier and more consistent. While we see that for the period under review, in most areas progress is made, the main challenges the sector is facing are related to professionalism, human rights and accountability. The Ambassador already outlined this in his speech and also the Chief Justice has mentioned that. I will come back on these three issues under the different areas of assessments.

Now let us go to part one of the assessment, progress in the key result areas and the additional priorities of transitional justice and the implementation of the PRDP. This counts for 50% of the total weighting.

KRA 1 Promote rule of law and due process

a. Reform and simplification of Laws

There seems to be good progress on the bills that are being passed. However, to what extent are the bills mentioned in the report actually part of and contributing to the JLOS reform programme? How will the Geographical Indications Bill or the Uganda National Commission for UNESCO Bill enhance the sector's performance? And where are the 15 bills that were supposed to have been drafted according to the work plan? What is the status of the bills that are relevant to the sector such as the Amendment

of the Children Act? What action is the sector taking to ensure speedy enactment?

Furthermore, the dissemination of the bills that are being passed and their actual implementation need more attention and elaboration. It is regrettable that the ULRC has not been able to make full use of the internet by publishing laws in e-versions.

b. Due process enforced

DPs are pleased to read that the system of registering NGOs has improved. DPs encourage the sector to amend the NGO Act so that it will be in line with the recently launched NGO Policy. This seems particularly relevant now that public space for NGOs seems to be under pressure. A clear and inclusive policy and act, together with a NGO board that operates in a just and independent way will help the promotion of a vibrant civil society.

The sector has been investing in ID cards. The system of the ID cards should not operate in isolation but be more comprehensive, linked to other systems, for example the birth and death registration at the Uganda Registration Services Bureau. During the technical review, this issue was discussed, and I got from that that the sector would try to establish these linkages.

What is the sector's policy on the issuance of ID cards? With the current pace of less than 1200 cards a year, it will take more than 30,000 years.

c. Accountability and ethics in JLOS, and anti- corruption

This is where output and outcome expectations do not meet. Uganda is ranked as the most country in the East Africa Bribery Index. This is about actual corruption, not perception. For the survey, randomly selected people were interviewed and asked whether they had interacted with certain government institutions in the last year. The next question then is: during that interaction, were you at any stage asked to pay a bribe? Respondents indicate that in almost half of the interactions they had with the judiciary, they were asked for a bribe. For police, respondents said they were asked for a bribe in more than 60% of all cases in which they were seeking assistance of the police.

People indicate that the main reason for not reporting corruption cases is that they feel no action will be taken when a case is reported. In 2012 fewer cases were reported than in 2011, indicating that despite JLOS efforts to strengthen the reporting systems, people have less trust in the systems. Only 27% of people who complained to the institutions about corruption are satisfied with the way the complaint was handled. So improving on the complaints and disciplinary systems seems to be an

important remedy to tackle this negative trend.

How did these systems perform in the year under review? According to the work plan, the sector invested heavily in strengthening these systems. Under its Disciplinary Committee the Law Council has organized sittings to reduce the backlog of disciplinary cases. However, the number of meetings is rather large while the number of cases disposed of is relatively small, and the target of 150 cases concluded has not been met. More efficiency is required, and DPs encourage the Council to fast track the development of Guidelines to speed up the disposal of disciplinary cases .

DPs also encourage the Judicial Service Commission to find innovative ways of solving the problem of backlog, which it is still facing. There seems to be an issue not only with low disposal rates, but also low investigation levels – 7 complaints investigated in one year time. When people report that in nearly 50% of all their interactions with the judiciary they are asked for a bribe, the figure of three judicial officers recommended for interdiction per year is difficult to explain to the public.

DPs hope the effort of the DPP to develop performance standards will lead to the development of a comprehensive performance based management system. We were intrigued by the number of public complaints that the DPP had handled: 13,030 in total. Were these all complaints against errant prosecutors? That is ten times more than complaints against errant police officers.

DPs would like to see more information on ethics and accountability of the other institutions: UPF does report on HR-complaints against police officers under a different section of the report, but not on complaints on corruption. There is no information on complaints against errant prison officers. Also, DPs would like to get more insight in the handling of complaints against JLOS officers in Migration and Citizenship, Ministry of Internal Affairs, Ministry of Justice, etc.

Performance of the Anti Corruption Division of the High Court is still quite good. The ACD has high conviction rates, which is commendable, but there is a challenge of growing case backlog. Also, it would be good to look into a division of labour with other courts: it is clear that the ACD can not handle all corruption files, so it could handle the more complicated ones that require specialised knowledge.

Overall, output of the JLOS in this KRA is sufficient, but impact is insufficient especially accountability and ethics in the sector and the growing corruption remain critical issues.

KRA 2 Human rights culture fostered in JLOS

The sector has adopted a human rights based approach, but there is no overall strategy on human rights, and especially political and civilian rights seem to be neglected, though it is appreciated that welfare of staff and clients of UPS have improved.

a. Human Rights awareness and practice

Under the human rights awareness and practice, UHRC reports on human rights trainings conducted with the UPF, specifically the Special Police Constables. According to the work plan, the UPF planned to also train 1000 SPCs; And I believe there were similar trainings the year before, and even before that. Is there any follow up to see if the courses contribute to better performance in terms of human rights observance? Years of training seem not to have led to a reduction on human rights complaints against police officers.

b. Respect for human rights

DPs welcome the enactment of the Anti Torture Bill, and UHRC's outreach activities related to that. But how are JLOS institutions going to implement the act? UPS – e.g. addressing torture by prisoners who are put in charge of others- , UPF – e.g. by using the former RRU's best practice of medical assessment of detainees before and after detention in police cells, I know this might be a bit expensive, but it might be worth investing.

Other issues of implementation of laws to improve human rights observance include: how to investigate and prosecute domestic violence cases and cases of FGM; for Remand homes: how to ensure provision of meals and humane detention facilities for the children in conflict with the law; and judiciary: how to hear domestic violence and torture cases effectively and efficiently.

c. Welfare of inmates

In the six years of the SIP II, JLOS managed to more than double the prison capacity. However, as Sam has indicated, the prison population has increased with 72%. In the report, the sector indicates how it plans to come up with more sustainable resolutions, such as using alternative dispute resolution mechanisms, sentencing to community service, decriminalising some petty offences, and address the issue of long sentencing. DPs agree with these strategies, and encourage the sector to also focus

on further reducing the time spent on remand for prisoners, especially for vulnerable groups, such as children. When visiting remand homes, you see that children are there for four months or longer for petty crimes, such as stealing a phone. Can such cases not be handled quicker? Or could the cases not be diverted from the formal system? DPs applaud the sector for action taken so far, but more need to be done.

DPs commend the Uganda Prison Service for affirmative action taken to address the needs of HIV-affected inmates. However, DPs understand that contrary to what is reported, extra meals and treatment are not available to all prisoners. More realistic reporting would be appreciated.

It is commendable that the number of deaths amongst inmates in prison is further reducing. How are statistics for inmates in police cells? In the period under review, UPS developed guidelines on prison labour; During M&E visits, DPs have noticed that in many cases these guidelines are being applied, which most likely has led to a significant improvement in the human rights situation and welfare of prisoners. This is commendable.

d. Human rights observance

It was a priority under SIP II to strengthen institutional and individual accountability. However, six years after the start of the SIP, impunity of human rights violators and a lack of individual accountability, remains a concern.

Police seems to have made progress compared to last year in terms of referring cases of human rights violations . There were nearly 1200 complaints about human rights violations by police officers investigated in the course of FY11/12. Of that, around 300 cases were referred to DPP for criminal prosecution. This is an increase from 2010, where only 24 cases were referred for criminal prosecution. This indicates that police is serious in handling cases of serious HR-abuses.

However, that is where accountability stops. There is no information on what happens to the file after it has been referred. In order to assess whether actual accountability is achieved, we need to have feedback from DPP and courts on the prosecution of the errant police officers. It is recommended to share this information also with the general public, as surveys indicate that public trust in the way institutions handle complaints is low. It would be specifically interesting to know whether any of the police officers are referred to DPP because of their involvement in the September riots, Kasubi tombs shootings, and walk to work riots. Many citizens are concerned about the fact that over the past years no serious investigations have been conducted into the killing of citizens by police bullets during the above mentioned riots.

Of the nearly 1200 cases investigated, 232 were referred for disciplinary actions; Is it possible to get feedback on the kind of disciplinary action that was taken? Is (financial) compensation of victims part of the disciplinary sanction, like it is in the UPS system? Why are offences such as death of a suspect and torture of suspects referred for disciplinary action, and not for criminal investigations?

We appreciate the information provided for by police, and encourage UPS and other institutions to do the same.

Overall, output of the JLOS in this KRA is rated as insufficient; there is not sufficient evidence that individual accountability of human right violations has improved in the period under review.

Also, at impact level, progress is insufficient in this KRA.

KRA 3 Access to justice for all especially the poor and marginalized enhanced

a Rationalized physical access and availability

Progress has been made in terms of physical access to justice. It seems that institutions – specifically the UPF - have taken a more realistic approach in relation to the amount of construction projects that they can manage at a time. Meanwhile, an effort has been made to deal with delayed and stalled PRDP projects. JLOS scores well in terms of effective use of the constructed offices: whereas in other sectors, buildings are left empty because there is no personnel, or because housing facilities or sanitation are lacking, generally speaking, all JLOS constructions are fully operational on the moment they are commissioned.

During M&E visit's a few exceptions were noted: the recently constructed regional remand homes have problems to operate, as they do not have sufficient recurrent budget to feed the juveniles. Gulu Remand Home is about to be closed, as there is no money for food. The car that was purchased for Gulu Remand Home is now used by district officials, because there is no money for fuel. Before constructing more regional remand homes, there needs to be clarity on who is responsible for the running costs of the Home. Is it the districts? Is it the Ministry of Gender? Who is monitoring? I think the sector urgently needs to address this issue, because in the last three years that I have been visiting remand homes in Uganda, we have consistently met children who were hungry, sitting in the dark with no electricity, missing court cases because

of lack of transport, and missing out on valuable months or years of education. DPs urge the sector to take affirmative action.

b Recruitment and training

JLOS has made an effort to recruit additional personnel in order to comply with international standards such as police to population ratios and prisoner to warder ratios. When recruiting, quality is of equal if not more importance than quantity. The so-called special police constables often do not have the required education and did not undergo full training. They do not qualify as a full-fledged police officer and I think they should therefore be excluded from the statistics in the police-population ratio.

DPs remain concerned about the vacancies in the judiciary, and urge the sector to lobby for appointments of new judges, in order to replace the judges who retire, and fill the vacancies that were created when the total number of Judges of the Court of Appeal and Supreme Court was increased, and prepare to fill vacancies for High Court Judges, when it will increase from 50 to 82.

c. Case disposal

Case backlog reduction has been a priority to the sector throughout the implementation phase of the SIP. For the first time, courts have handled more cases than there were filed, which means the courts are catching up with the case backlog. Also, the increase in the percentage of convicts in prison compared to the remand population is commendable.

Let us take a closer look at these statistics. The case backlog reduction is to a certain extent related to a higher production of the courts (15% more), but mainly due to the fact that in 2011/12 there were fewer cases registered (27% less cases). This means that if the amount of new cases would have stayed the same, the amount of pending cases would have still been growing.

Last year during the annual review, there was some discussion on the average case load per judicial officer. Let me show you this slide. Magistrates Grade 2 were on average handling 7 cases per month, and a Grade I around 15 per month; That is less than judges handle, while it can be assumed that the lower courts handle the less complicated cases. A High Court judge on a session handles on average 40 cases, and it is difficult to explain why during a normal working month, this reduces to 22. As sessions are very expensive, is there not a way of increasing productivity of judges outside this session system?

This year, the sector reports on the best performing courts, and the courts that need

further attention. This is very much welcomed, getting the information out there it is a first step in performance management. It would still be interesting to compare average case load per judicial officer per month or year; why is a G1 court in Kagadi handling almost 100 cases per month, while others handle around 15? Are cases before the Kagadi Court less complicated than the ones in Budaka? Does the high productivity of the court put the quality of the judgments in jeopardy?

DPs encourage the sector to prioritize further analysis, especially considering the fact that DPs can no longer support case backlog sessions, as the effectiveness and sustainability is doubtful.

There are many complaints amongst inmates who are committed to High Court, but their cases were referred to the 'next convenient session'. Unfortunately, the next session never seemed to be convenient, leaving them on remand for many years. One suggestion that DPs picked from the field was to involve JLOS institutions, more specifically Prisons in the cause listing, and to make it a rule that a case that is referred to the next convenient session is prioritized above others.

The increase in the amount of community service order issues is commendable. Also, it seems a good development to increase G1 Magistrates mandate to handle family and children matters, and the DPs would like to receive information in the next report on the impact of this innovation. Is there now better access to quality justice for children?

The challenge remains to provide actual access to justice. I think the example that the Ambassador used in his speech is a clear illustration of this. How much do justice services cost in terms of money and time? How often are court cases delayed, are witnesses that take the effort to appear in court promptly heard without delays, do those in need get quality legal assistance, in the form of legal aid or state briefs? Are clients satisfied with the quality of the state briefs?

Overall, output of the JLOS in this KRA is sufficient. The impact is sufficient as well in this KRA. Whereas the physical access has improved, actual access to justice is an area that still needs further attention.

KRA 4 Safety of person and security of property

The sector is on track with most of the targets. The sector invested heavily in the procurement of forensic equipment, such as finger printing and DNA machines. DPs would appreciate if there could be more analysis on the impact of these investments

in the Criminal Investigations Department and the Governmental Analytic Laboratory. For example: is there an increase in cases in which forensic evidence such as finger prints and DNA is used in court? Are there more convictions in cases that highly depend on forensic evidence, such as rape?

The information on children in contact with the law is much appreciated. Though the number of juvenile offenders reduces, DPs agree with the sector that the amount of children who are a victim of a crime remains very, very high. DPs look forward to discuss with the sector possible ways to address this. Also, DPs urges the sector to address the issue of age determination of detainees who claim to be juveniles, e.g. by training medical officers, police surgeons and other competent authorities.

Also, more attention needs to go towards improving the quality of probation services. The Probation Office is responsible not only for children in conflict with the law, but also for protecting children whose rights have been violated. In Kampala, there are no probation officers at all at the moment. In other areas, probation officers are poorly facilitated and not always meet the quality standards.

The output of the JLOS in this KRA is sufficient; The impact is sufficient as well in this KRA.

KRA 5 Enhance JLOS contribution to economic development

There is an increased disposal rate in the commercial court. Uganda dropped 4 steps in The Doing Business Index, partly because of reasons outside the sector (tax administration) and partly because of issues that are the responsibility of the sector (trade licensing). There are many areas within the JLOS that could be further improved, for example the costs and time of enforcing a contract. It is appreciated that the sector already indicates in what other areas more innovative approaches are needed. The high levels of corruption within the JLOS are likely to have a negative impact on economic development.

The output of the JLOS in this KRA is sufficient; The impact stay a bit behind, and more action is needed. Insufficient

Transitional Justice

There is sufficient progress in the area of transitional justice: after years of delay, the report on consultations is nearly finalized. DPs encourage the sector to look back on this bumpy road to see if there are any lessons learnt from this experience. The sector now plans to have a Transitional Justice Policy developed by the end of 2012, and DPs look forward to receive the first draft soon.

There are delays in developing a witness protection policy. Also, more attention should be paid to outreach. After the lapse of parts of the Amnesty Act, many people especially in the North of the country are concerned about the faith of the formally abducted children. Firm and pro-active outreach to the public is needed to respond these concerns and explain the sector's policy on prosecution versus reconciliation.

Implementation of PRDP

It is commendable that the JLOS and more specifically UPF have improved management of the PRDP-contracts, resulting in the completion of many of the stalled and delayed constructions. Hopefully, all PRDP projects – some of which dating back to 2007 – will be completed by the end of 2013.

Let me now move to the progress against undertakings:

Looking back at the past couple of years, performance against the undertakings has not been optimal and also this year, there are concerns.

1. Develop and pilot implementation of a performance management system for the judiciary

This undertaking is still at the procurement stage and Development Partners would like to express their concern regarding the substantive delays in implementation of this undertaking. It would be paramount to identify the responsible center for the activity and to develop a roadmap and timelines for completion, otherwise funding for this undertaking will be withdrawn. I believe some positive steps were taken last week by the Chief Justice.

2. Develop and pilot implementation of an integrated sector management information system

Though this seems a technical project, the importance of proper data management cannot be overestimated. With a proper system in place, it is easy to exchange information between for example the ministry of Gender, Police and Local Government – which will enhance the juvenile justice system. Although there is a first report on the integrated information management system, the actual implementation has not yet started. DPs would like to encourage the sector to ensure that all sector institutions are involved in this undertaking and that regular meetings with the respective IT specialists of the institutions are held to ensure the success of this crucial undertaking.

3. Strengthen inspectorate function in the sector

An inspectorate forum has been established and joint inspectorate missions have been carried out.

Overall, progress is insufficient.

Finally, the planning, budgeting and monitoring.

-Reports were produced in time and of good quality. Sufficient.

The work plan was delayed considerably; the budget working group was not the leading forum for developing the work plan, and the process of commenting on the work plan was not clear. Insufficient.

Again, the process of developing the BFP started too late, leaving insufficient time for commenting. However, the sector produced a final version that incorporated most of the comments made by stakeholders, including DPs. Sufficient.

DPs highly appreciate the informative and well-organised joint M&E visits. Sufficient

All in all, to summarise the joint assessment, we conclude that in the first area, progress is sufficient (50%), the second one insufficient (30%), and the third one is sufficient (20%), leading to a total score of 70% sufficient.

Ladies and gentlemen, these were the main highlights of the assessment. I want to thank you for your attention.