

Development Partners' Assessment of Progress in the JLOS

July 2010 – June 2011

GENERAL REMARKS

This is the first development partners' assessment of progress in the Justice Law and Order Sector. Three areas are assessed: progress in the Key Result Areas and the additional priorities and cross cutting issues which is rated with 50%, progress against the undertakings (30%), and progress in planning, budgeting and monitoring (20%). This year, three categories are used, good progress, sufficient progress and insufficient progress. This rating is borrowed from the JAF pre-appraisal system. However, like in the final JAF appraisal system and following instructions from OPM, next year DPs will limit the ratings to either sufficient (green) or insufficient (red). This report is public. DPs might decide to base disbursement decisions on the rating in this report.

Though DPs highly appreciated the improved quality of the report, it is disappointing that even in the final year of implementing the Strategic Investment Plan II, reporting is not according to M&E Framework. This makes it difficult to assess progress against set targets.

It is worrisome that information provided in the reports, especially on the status of infrastructural investments, is not true. This poses questions to the overall reliability of the information provided in the report.

PART 1: PROGRESS IN FIVE KEY RESULT AREAS AND THE ADDITIONAL PRIORITIES OF TRANSITIONAL JUSTICE AND THE IMPLEMENTATION OF THE PRDP

WEIGHTING: 50%

KRA 1 Promote rule of law and due process

There is sufficient progress on law reforms, though compared to last year fewer bills were enacted, most likely because of the elections. However, it is not clear which laws have been prioritized and why, as the laws that are mentioned in the report, are not the same as in the SIP II. The impact of these law reforms still remains unclear. It is worrisome that implementation or enforcement of laws is behind schedule: it was planned to have 50% of the 31 laws that have been sponsored by the JLOS in the course of SIP III implemented by the end of FY10/11, yet for none of them the process is completed, according to the update on the undertakings.

As to simplification of laws, progress is in line with set targets. Point of attention for this KRA is to measure the actual impact of simplified and translated laws. It is not clear if these laws indeed have had a positive effect on the KRAs and focal areas. In fact, despite many commercial law reforms, the climate for doing in business in Uganda has not improved. Also, it is not clear to what extent the information (translated and simplified laws) are being used by the target groups.

The report is describing the issues around independence of the judiciary in general terms, without reflecting on developments such as the partial implementation of rulings, the relatively high share of appointments from outside the Judiciary to the higher bench, or interference from the State House Land Rights Desk and the RDCs with land disputes, might have affected the independence of the judiciary. It is stated that the judiciary has financial independence. However, the Administration of Justice Bill that is supposed to provide for that, has still not been enacted.

There is no information provided on the target of due process enforced; Under the SIP II, 'due process' was defined as timely delivery of judgments; Enhance supervision of court brokers/ bailiffs and strengthen enforcement of decisions and judgments in Courts, UHRC tribunals, government departments; Enhance capacity of JLOS institutions to enforce the regulations and impose punitive measures for non-compliance in businesses; Sensitize government agencies on breach of contractual obligations; Develop and implement key strategies aimed at enforcing constitutional time limits and standards e.g. right to bail, fair and speedy trial and time limits after committal for capital offences; arrest of suspects after sufficient investigation. The only information that is provided is on licensing of NGOs by the NGO board, but there is no reflection on how the new NGO Act possibly limits the freedom of assembly and movement of NGOs. It is commendable that the Directorate of Citizenship and Immigration Control, in an attempt to improve service delivery, is in the process of automating its services.

Progress on accountability and ethics seems to be mixed. While all disciplinary committees in the JLOS have been sitting to hear cases, it is unclear what the outcome of these cases was. There seems to be a trend to transfer JLOS officers as a way of punishment, while the only people that are punished are the JLOS clients in the new area. There is no communication to the public as to what happens with their complaints.

Performance of the Judicial Service Commission increased slightly, with 88 cases completed in FY10/11, but performance is still behind target. Fewer meetings were held, there is not a full commission in place, so it is strange that expenditure is well above 95%. Also, the cooperation between JSC and the Inspectorate of Courts could improve. It is not clear how many complaints were actually completed by UPF's Professional Standards Unit, nor is any information provided on the conclusion of these cases: out of the 2000+ complaints, only 1% (24 cases) is referred to CID/DDP; What happened to the other cases? Performance in the Anti Corruption Court is promising; UPF's CID could be further encouraged to prioritize investigation into corruption cases, including cases that affect party members of the government party.

Petty corruption is rampant in some JLOS institutions and other high-profile cases are also well known. One of the outcome indicators of the M+E frameworks says: "80% reduction in the index of perceived corruption in JLOS by 2015". It is not clear how progress on this indicator has been. It is disappointing that the Anti Corruption Strategy that was supposed to be ready in September 2009, was delayed with two years, and the draft version was only recently approved by the technical committee – there is still no final version.

Overall, progress in this KRA is **sufficient**.

KRA 2 Human rights culture fostered in JLOS

On several of the indicators: human rights committees in police and prison service, reduction in the use of the bucket system in prisons, etc. progress seems to be on track. Some of the information provided in the report needs further clarification, such as the 85% compliance with the 48h rule, as this does not reflect the situation on the ground as perceived during M&E visits. Also, though conditions in prisons improved considerably in the course of the SIP II, the picture that is drawn in the report might be too rosy. How many prisoners really regularly get to eat silver fish? Also, the additional food that is supposed to be provided for HIV-affected people does not seem to be there on the ground. There are certainly a number of people in prisons who claim to be juveniles, so the 0% juveniles in prison statistics is not reliable. On the impact level, it should be noted that complaints to the UHRC against UPS staff have decreased during the course of the SIP II, while the UPF is not performing well: the majority of complaints are against UPF including RRUs, while the total number is increasing as well.

It was an objective under SIP II to develop a change management strategy and human development plan to inculcate a positive approach of social responsibility among staff. It is commendable that UPS has been on the forefront in implementing this objective through the establishment of human rights committees. Though it is not clear from the report how effective these committees are, and how they contribute to increased compliance to human rights principles, during discussion in the technical meeting, more details were given. Committees submit quarterly reports, and do discuss issues such as torture and forced labour. DPs urge the JLOS to provide in next year's report more information on the work of the HR committees in JLOS institutions.

Under the SIP II, it was a priority to establish a framework of cooperation with UHRC and other security agencies to minimize occurrence of human rights violations and to promote public confidence in the sector. UHRC since then has become a member of the sector and plays a positive role in addressing human rights issues within institutions. However, UHRC is still facing a huge backlog, though the amount of cases conclusively heard increased from 83 to 266; It is unclear why there is a huge increase in cases referred to other organizations (1711). Also, a more pro-active approach by UHRC on topical human rights issues would be much appreciated. The issue of court awards remains: though the human rights tribunals are prioritized for court awards, there is still insufficient funding available. A system where court awards are paid by institutions, and when relevant, individuals, and not by the Ministry of Justice and Constitutional Affairs, is preferable.

The sector did not make progress in passing the Anti Torture Bill. There has been no reporting on the pilot on model police stations that would promote victims and accused persons rights, as proposed in SIP II.

It was a priority under SIP II to strengthen institutional and individual accountability. Though complaints mechanisms are in place, it remains unclear what happens to the majority of the complaints that are not referred for criminal investigations. While civil society, the

media, and the international community in the period under review have frequently reported on human right abuses during elections and walk-to-work protests, there is no word on this in the report. Impunity of human rights violators and a lack of individual accountability, especially within the UPF, remains a huge concern to JLOS DPs. In the last – extended – year of the SIP II, this will be the focus of DPs' assessment of this KRA. It is therefore recommended to include reports on how individuals are held accountable for human rights violations.

Overall, progress in this KRA is **sufficient**.

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

Progress has been made in terms of physical access to justice, by the construction of new court buildings, DPP stations and police and prison staff barracks, but again, reporting seems not to match the reality on the ground. Mini JLOS in Karamoja was not started in FY10/11, but after. The UPF reports completing of 19 police stations and 34 barracks, yet it remains unclear where these completed buildings are, as during visits to western and northern Uganda, where the majority of construction take place, not one UPF construction was completed in FY10/11. Also, indicate where the 10 ASTU zonal offices that were completed in FY10/11 are located, as the M&E team did not see them on the ground. Some of the DANIDA courts have been named as "being close to completion" for a long time, e.g. Oyam was supposed to be completed in 2008, Aduku in 2009. A comprehensive overview of all constructions planned in the course of the SIP II would be appreciated, with an update on the status. It would be commendable if more reflection on delays and challenges encountered during implementation could be provided, as well as information on the functionality of completed structures.

In term of increase of staff: though 11 new judges were sworn in, the net increase in judges is minimum as 8 judges retired. Recruitment within DPP is on track, though this institution still faces staff shortage. UPS staffing levels are close to the international best practice. UPF recruited many new police constables, while the SPCs that were temporarily recruited for the 2006 elections are still around. This poses the question how to ensure that the UPF has qualified personnel. There is no clear strategy on how to include them in the police force as full-fledged, or how to phase them out.

The average stay on remand per prisoner has greatly reduced over the reporting period, from 27 months in 2009/10 to 15 months in FY10/11. The average stay on remand for juveniles reduced from 13 months at the start of the SIP, to 4 months now, though this is an increase compared to last year (3 months). There has been a reduction in the remand population from 55 to 53% of the prison population. Also, there has been an increase in cases solved through Alternative Dispute Resolution. Great investments have been taken place to encourage community service as an alternative sentence; though in the reporting period, the amount of community service sentences was less than the previous year.

Though the average time that prisoners spend on remand has greatly reduced, the case backlog is still growing, and the sector does not register progress in the total amount of cases disposed of (34,383 versus 81,374 in FY2009/10). The total amount of pending cases increased from 128,057 by the end of FY2009/10 to 148,012 by the end of 2010.

Despite all these efforts, the net case backlog is still growing, and a more sustainable solution is therefore needed. This has to do with behavioral and attitude reforms. While chief magistrates handle 1363 cases per year, which is 114 per month, Magistrates Grade 1 only handle 178 per year, which is 15 per month, and Grade II magistrates 91 per year, 7,6 per month. In a high court session of one month on average 40 cases are heard, while a resident judge only manages to hear 22 per month. For DPs it is no longer justifiable to support a case backlog reduction programme if these issues are not addressed in a sustainable way.

It is disappointing to note that no progress has been made in designing and implementing a legal aid policy, despite the fact that this was one of the key areas identified in the SIP II as pro-poor justice for all. In general, the reporting on legal aid activities is rather poor, Justice Centers which are considered as being part of JLOS (since they are operated under the Judiciary) are not even mentioned.

It is not always clear how performance of individual institutions against minimum standards is. The Tax Appeals Tribunal is performing below target, with 30 cases disposed of in July/December 2010 (no information available for Jan/Jun '11), compared to 229 in FY2009/10.

It is commendable that the sector started with collecting information on performances of Local Council Courts, and carrying out training. Reports on how magistrates supervise these local courts would be welcomed

The progress on KRA 3 is sufficient.

KRA 4 Safety of person and security of property

Though not all M&E indicators are reported upon, the report notices significant increase in criminal cases that are completed and prosecuted. Also, new personnel in prisons and police have been recruited, thus reducing the caseload per detective and increasing the police to population and wards to prisoners ratio. A point of attention is the training of police, especially CID personnel. As the caseload reduces and now almost is up to international standards, the quality of investigations should increase, so this should be reflected in a higher conviction rate – even higher than the set target of 55%. A special focus on crimes that now largely remain unpunished because of lack of evidence, such as rape and domestic violence, would be encouraged. According to the latest Police annual report 2010, of the 8,645 cases of sexual offences reported to police, only 4,012 were taken to court and the Prison data shows that there are only 565 persons convicted of sexual offences. During field visits, the poor training of CID is a recurrent complaint among members of the District Chainlinked Committees. The high number of Special Police Constables who were recruited as a temporarily measure is still a concern. The UPF should start selecting the skilled SPCs, train them and integrate them into the regular police force, while phasing out the other SPCs.

The progress on KRA 4 is **good**.

KRA 5 Enhance JLOS contribution to economic development

There is some progress in all areas under this KRA, with draft regulation being prepared and training going on. On some of the activities, no information is given, e.g. standards for minimum service delivery, customer care, and creation of a business environment in JLOS institutions. In some of the initiatives, such as the small claims procedure, no progress has been made since last report. There is an increase in mediation in the commercial court. The World Bank report shows that Uganda moved 7 steps up in the 'Doing business' index, though the areas where JLOS is (partly) responsible for, starting a business (-5), strengthening rights (good), protecting investors (-1), and enforcing contracts (+3) show that the JLOS contribution to a favorable business climate is mixed. Especially procedures on how to start a business can be further strengthened.

The progress on KRA 5 is **sufficient**.

Additional Priorities:

1. Transitional Justice

The consultations, that were delayed for almost two years, were finally conducted, and - also after a delay of two years - the national and international advisors on Transitional Justice were recruited. However, the sector failed to develop a costed transitional justice strategy. In FY10/11, the International Crimes Division started its first trial.

Progress is **sufficient**.

2. Implementation of PRDP:

Progress on the implementation is mixed. It is commendable that the JLOS as a sector is taking responsibility in ensuring that the PRDP/KIDDP plans are implemented, including the 2006/08 UPF Emergency Humanitarian Assistance Programme that was supported bilaterally. However, the JLOS institutions and secretariat should prioritize implementing the remaining activities under the PRDP in 2011/2012.

Progress is **insufficient**.

Focal Areas:

Performance on the focal areas of criminal justice, family justice, commercial justice and land justice is not reported on separately. However, throughout the report, information can be gathered that performance is poor:

- There is an increase in cases disposed of in **family justice**, from 6880 cases in FY2009/10 to 18637 in FY2010/11. Disposal rate in family justice increased from 40% to 53,7%.The recommendations of the family study that was carried out in 2008 have still not been addressed. An integrated approach is lacking.
- In **land** justice, there is an increase in number of cases disposed of, form 3412 to 4308, and the disposal rate increased significantly to 54,4%. Also, there are now land divisions in all High Court circuits. The recommendations of the land study that was carried out in 2008 have still not been addressed. An integrated approach is lacking. Most of the criminal cases up country appear to be related to land disputes.
- In **commercial justice**, the disposal rate decreased from 49 to 28,3%. This is related to increase in number of cases that are filed, but there is also a decrease in the number of cases disposed of, to 28,3%. Progress has been made in drafting regulations for key commercial laws.
- In **criminal justice**, there is still an increase in case backlog, though a lot of progress has been made in shortening the average time prisoners spent on remand, which is now comparable to levels in the region.

In all focal areas, some modest progress has been made, but nowhere it is up to target. It is not clear whether the working groups are actually working. Especially in land, family and commercial justice, it is recommended that the TAs in the JLOS Secretariat can have a stronger role in pushing for reform. With the new TAs that have been recruited, this can hopefully be achieved next FY. It was assessed in the Mid Term Evaluation that the system with focal areas was not really working. DPs agree that there has been a lack of progress and a lack of prioritizing the 4 focal areas.

No separate rating.

PART 2: PROGRESS AGAINST UNDERTAKINGS

Weighting: 30%

NO.	KEY OUT PUTS	ACTIVITIES	DATE	Progress according to GoU	DPs assessment
1.	50% of JLOS sponsored laws enacted during SIP II implemented	1.1 Reviewing the enacted laws to identify what is needed for their implementation	December 2010	Eleven laws ¹ identified commencement instruments for two laws and regulations for the 9 other laws were prepared awaiting laying before Parliament	
		1.2 Drafting and gazetting regulations and commencement instruments	Feb 2011	Commencement instruments gazetted for 2 laws while regulations were prepared for 5 laws and work is on going for the other 4.	
		1.3 Sensitisation of stakeholder	Jan – June 2011	Expected to be undertaken in quarter 3	
2	JLOS M&E Framework Implemented	2.1 Undertaking mini survey	January 2011	Contract awarded. Delay was caused by PPDA that ordered for a review of the procurement process	Though the activities as identified in the FY10/11 undertakings are largely not implemented, DPs acknowledge that a lot of progress has been made in promoting and strengthening M&E systems.

¹ Domestic Violence Act; Trade Secrets Act; Hire Purchase Act; Contracts Act; Trade Marks Act; E-transactions; E-signatures; Computer Misuse Act; Capital Markets (Amendments) Act; Partnership Act; Companies Act.

NO.	KEY OUT PUTS	ACTIVITIES	DATE	Progress according to GoU	DPs assessment
		2.2 Training of PPU's and M&E officers on results matrix	Jan 2011	18 officers from PPU's trained in results management with support from UNICEF 2011. They now fully understand the framework	
		2.3 Needs assessment of PPU's (skills and tools)	Dec 2010	undertaken	
		2.4 Complete development and adoption of client charters	May 2011	MOJCA launched its client charter Funding provided for in 2011/12 work plan	
		2.5 Automating reporting	March 2011	Development of an integrated management system on going. Systems study completed	
		2.6 Undertaking joint monitoring	Dec 2010 and June 2011	Undertaken in April and a follow up of PRDP was to be undertaken in July/August 2011	
		2.7 Sensitizing policy makers in results framework	Feb 2011	JLOS joint leadership steering committee retreat scheduled for August due to busy schedule (election period) and changes in leadership brought about by the new movement.	
		2.8 Developing and piloting JLOS MIS	May 2011	Study undertaken, design of executive MIS ongoing. Follow up study on business processes ongoing.	

NO.	KEY OUT PUTS	ACTIVITIES	DATE	Progress according to GoU	DPs assessment
		2.9 Establishing clear outputs and targets in SIPIII	Feb 2011	On going, a draft results framework and SIPIII with clear results prepared ready for further consultations.	
3	Prison congestion Reduced by 20% by June 2011	3.1 Fast tracking the re/construction of 7 prison units	March 2011	13 prison units renovated and 5 out of 8 prisons constructed increasing carrying capacity by 15%. Resulting into 19 percentage reduction in congestion by reducing occupancy rate from 225% to 195%.	
		3.2 Adopting same day hearing of cases	Feb 2011	All provided for under DCC guidelines and 30% of courts have adopted the practice especially for traffic and petty cases.	More information needed
		3.3 Rolling out case backlog quick wins programme to all magisterial areas	Jan 2011	Rolled out to all chief magistrates and magistrates grade 1	
		3.4 Undertaking community policing	Dec 2010	On going	
		3.5 Training of investigators and increasing strength of CID	Nov 2010	Done and work load reduced from 23 to 18 files	
		3.6 Issuing community service orders	August 2011	On track with 4208 orders issued	
		3.7 Reviewing process of handling petty offences	Feb 2011	No progress	

NO.	KEY OUT PUTS	ACTIVITIES	DATE	Progress according to GoU	DPs assessment
4	JLOS anti corruption strategy implemented	4.1 Seeking approval of the JLOS anti corruption strategy	Jan 2011	Strategy finalized and is before the Steering Committee for approval and adoption	
		4.2 Disseminating JLOS ACS	Mar 2011	To be undertaken immediately strategy is adopted	
		4.3 Handling pending complaints against JLOS personnel related to corruption.	Dec 2011	On going	
		4.4 Performance monitoring and naming best and worst performing magistrates	Mar 2011	On going	
		4.5 Undertaking investigations into corruption cases such as CHOGM	Jan 2011	On going	
5.	A draft costed policy framework on transitional justice	5.1 Reviewing and approving study instruments	Dec 2010	Done	
		5.2 Undertaking pre-visits.	Dec 2010	Done	
		5.3 Commence consultations	Jan 2011	completed	
		5.4 Holding Taskforce meetings	Nov 2010	On going	
		5.5 Drafting and costing strategy	March 2011	No yet done	

NO.	KEY OUT PUTS	ACTIVITIES	DATE	Progress according to GoU	DPs assessment
		5.6 Building consensus	May 2011	On going	
6	Audit recommendations arising out of the JLOS 2008/2009 audit report and the Vfm report implemented by June 2011	6.1 Developing an action plan	Dec 2010	developed and discussed at budget working group as well as the technical committee	
		6.2 Establishing audit committee	Oct 2010	Done	
		6.3 Audit committee meetings	Start Nov 2010		
		6.4 Fast tracking Audit of 2009/10	Nov 2010	completed	
7	Mapping of JLOS presence (structures and staffing) nationally	7.1 Undertaking a man power audit	March 2011	On going	
		7.2 Computerizing mapping of JLOS presence	April 2011	Started. Procurement Delayed by PPDA that ordered for a review of the procurement	
		7.3 Lobbying to be in the first phase of the proposed restructuring of MDAs by MoPS.	Dec 2011	Done and JLOS institutions in schedule II of the programme	

PART 3: PLANNING, BUDGETTING AND MONITORING

Weighting: 20%

Below is a summary of agreed procedures between donors and sector; however, so far the sector has not always complied with this schedule. Proposed way forward is to agree with the sector, and assess compliance as of next FY (to be assessed during the annual review 2011/12).

- Annual and semi-annual review held on time (September and March respectively), reports disseminated to donors two weeks before the meeting; DP comments on draft incorporated in final version of the report.
- Work plan approved one month prior to the start of the FY; draft work plans circulated in time, so that DPs have at least two weeks to comment. Comments of DPs sufficiently incorporated in the work plan, outstanding questions sufficiently answered.
- Budget Framework Paper submitted to the MoFPED in time, with DP comments sufficiently incorporated. DPs should have at least two weeks to comment.
- At least two well-prepared joint GoU/DP M&E visits per FY.