

**Speech by the Chargé d’Affaires, Netherlands Embassy, on behalf of the JLOS
Development Partners Group during the JLOS Ministerial Retreat, Serena
Kampala Hotel August 19, 2011**

Your Lordship the Chief Justice, Honorable ministers, Honorable Attorney General, Chairperson of the Law Reform Commission, , heads of the JLOS institutions, members of the JLOS secretariat.

Dear Ministers,

My warm congratulations on your electoral victory in the recent general election and your subsequent appointments to head the sector ministries. You are warmly welcome to the JLOS family! I say a family and mean it in its literal sense because in the past decade of JLOS cooperation and sector wide approach, the institutions and donors on the one hand, and the institutions themselves have become a family. And like a family, we have been growing in terms of gaining more focus areas, increasing sector member institutions, and more donors coming on board.

It is with great pleasure that I have accepted the invitation to address you during your induction retreat. The fact that we, as the Chair and Co-Chair of the JLOS Donor Group are invited to share some thoughts with you at the start of your journey into the JLOS, is telling for the relationship that exists between the JLOS and the donors.

From the donor side we have always appreciated the open, honest, sometimes critical but on the whole, productive dialogue, at both technical and leadership levels. The challenges the JLOS faces are many, but we believe that together and with strong political commitment and backing, we can find some answers and be able to achieve the results the JLOS seeks to achieve.

I’ve been told that the purpose of this meeting is to have an informal and interactive exchange of views, so please allow me to share some thoughts and questions we are grappling with.

First, some background about the way the donors are organizing themselves. As you know, according to the Paris Principles, donors entered a commitment in their development cooperation to streamline their contributions and to jointly enter a dialogue with the host government, ensuring that there are no duplications or parallel structures in the way their programmes are implemented. For the JLOS, the Netherlands is the lead donor/chair of the donor group, while Ireland is co-chairing. This means that we are the primary interlocutors for the JLOS donor group which comprises other donors such as Austria, Denmark, Norway, Sweden, and some UN organizations. As among ourselves, we take the lead in coordinating, communicating and maintaining contacts with the JLOS secretariat and the different institutions. And even where contacts are bilateral , the chair or co-chair are informed to ensure harmony and coordination in line with the Paris Declaration which I cited earlier.

Though relations between the donors and the JLOS have been very warm and good, it has been the wish of some senior JLOS officials to further formalize it. Therefore, in the new Strategic Investment Plan, it is suggested that at technical level, the chair and co-chair represent the sector donors in either the steering or technical committee, while at political level, there will be meetings between the JLOS leadership and the respective chairing and co-chairing ambassadors. With appreciation we note that his Lordship the Chief Justice has already tentatively agreed to have such a meeting soon, and I hereby wish to invite you to the Dutch Ambassador's residence for a first meeting, somewhere at the end of September, to discuss some topical issues. I hope you will accept this invitation, to be followed by a formal communication.

This year is significant to the sector in that we are preparing the Strategic Investment Plan (SIP) III that is as much an important tool to the sector as it is to us. Much of what I am going to say will substantially be on SIP III. The sector has drafted a first version, which has been shared with us. On the whole, we are of the view that it has a lot of potential. Nonetheless, we are concerned that there is a strong emphasis for it to be ready for launch by the deadline of September, whether or not it has the adequate quality to be the basis for implementation and funding.

Our key message is that we rather delay; take the time to prepare a quality strategy, than meet the deadline with a weak SIP III.

This a lesson learned from SIP II, not to sail while we were still building the ship! We think we better finalize the SIP completely and well, so that we have a 5 year programme agreed upon by all stakeholders. You will appreciate why as donors we have these concerns and you might want to take the following preliminary reasons into account:

- For DPs, the SIP III informs all strategic budget decisions related to JLOS in the coming five years. Without a complete, sound and well-designed SIP III, that has a functional M&E framework and rationalized budgets, it will be increasingly difficult for donors to make (substantial) contributions to the JLOS or its institutions.
- Again, support to JLOS has come more and more under pressure from our constituents in our capitals because of limited action on issues of corruption and human rights violations that continually flashed on TV screens globally or on the internet. It is crucial on the basis of those concerns that any reform programme such as SIP III that seeks support from donors, strongly and clearly addresses these issues. It should also have a focus on **behavioral and attitude reforms**, for example through stronger, actionable accountability mechanisms, performance based management supported by an effective implementation of the anti-corruption strategy. Keeping our eyes on those areas will most likely deliver more results than focusing only on the legal framework and legislation on paper as proposed under the current KRA1.

- Moreover, we would like to see a clear definition, prioritization, and elevation of services to vulnerable groups, a stronger access to justice for the poor, vulnerable and marginalized groups through affording them **access to Legal Aid**. The policy is yet to be put in place and the Bill to that effect is still a draft. When these instruments are in place as we foresee, they need to be implemented, but in this draft SIP there seems to be no such provision. So how meaningful is SIP III to vulnerable person in Kaabong or an abused poor single mother of several children in Kanungu whose meager property has been grabbed? It should concretely mean something to these individuals and their likes.
- The other topical and new area of huge importance for a reform programme is **Transitional Justice, esp truth telling, reconciliation and traditional justice**. We have noted that it is not adequately addressed in the SIPIII even though both, the formal post-conflict justice (to be addressed through the International Crimes Court and the attendant International Crimes Act) and the informal approaches to peace and conflict resolution were covered in the Final Peace Agreement (FPA). The latter approach also has deeper indigenous understanding and appreciation. As a sector we promised to go ahead and implement the FPA, put the clauses in implementation whether or not the LRA signed up. We did the formal part, it is only logical that the SIP III provides for the implementation and budget for the informal part

In conclusion, let us strive to make SIP III more value adding and distinct from earlier ones. Since the SIP II has been extended with one year, we think there is still time to work on the new SIP. From the donor side, we will in the meantime look into the possibility to further harmonize our financial commitments and disbursements, to increase predictability.

And speaking of finances, as donors, we are of the view that the **financial performance** of the sector needs to be critically addressed in the new SIP. You might be aware that 10 out of 11 institutional audits as assessed by the OAG in 2009/10 were qualified, which means they did not have a clean audit. The sector had undertaken to implement the audit recommendations, both from OAG and from VfM audit in the last financial year. Some of the recurrent sector audit problems for the last three years include low absorption of funds; unspent balances at year end not disclosed in the Financial statements; Violation of stores management principles – goods used before they are received in store; delays in procurement even when funds had been made available; delayed accountability by many institutions; lack of a fully constituted contracts committee; ; failure to stamp payments made as “paid” as required by regulations; funds reallocated from planned activities ; no documents provided for audit for the expenditure and lack of acknowledgement receipts for payments made in favor of PAYE and withholding tax, among other issues.

Lack of follow up on audit recommendations makes it continually hard for us to justify disbursements especially when our external auditors have to look into Uganda’s own damning audit reports.

So we are interested to see concrete steps taken to address these issues and if there are areas that are challenging and help is required to overcome such hurdles, there is room for sharing the challenges. Hence we are continually looking forward to hearing what has been done so far, and what the road map for a better financial management system would look like.

Another performance issue I'd like to mention is related to **infrastructural investments under the PRDP**. The JLOS team has just returned from a field trip to Karamoja and the North, and has found that of the total of 20 mln – 60bln Shilling - euro that has been invested, from 2006 onwards, not all buildings are completed and handed over. Especially the police buildings are not progressing, with constructions that were meant to finish in 2007 still far from completion. This has to do with management and supervision, as pointed out in the JLOS Value for Money Audit that was published by the OAG recently. I would like to further discuss with you how we can prioritize this, so the 20 mln euro is not wasted, and JLOS services can indeed be delivered to the north.

As JLOS is putting human rights, access to justice and due process high on the agenda, I'd like to propose some issues for discussions related to this. One topic is the role of **courts martial in administering justice for civilians**: this has been proposed as one of the topics to discuss during the first joint leadership/ambassador's meeting in September, so let me not go into it in detail, but the main point is, that many civilians are still be tried by the military court, despite the fact that there is a clear ruling from the constitutional court in which the practice of trying civilians before a military court is deemed illegal. There is a need to work with UPDF and UPF (RRU) to avoid civilians being referred to court marshals in the future, but also to discuss what should be done with the existing backlog, and how to deal with old cases.

The second topic that is proposed to be discussed during the first leadership meeting is **public order management**. I think in the last issue of the JLSO newsletter, the chief justice and several others have made it clear that there is an urgent need for a legal framework for public order management. Without such a framework, people do not know what their rights and obligations are, and it is easy to abuse powers. There is a court ruling that says that you should only inform, not seek permission. But how does this work in practice? How do we come to some concessions from either side to ensure that everyone can use the right to demonstrate, while peace and order are maintained, so that other people are not affected? How to ensure that security officers that violate the rights of people are hold accountable? We are looking forward to further discuss this with you.

Honorable Minister of Justice and Constitutional Affairs, on this point I wish to address you from my heart. You might have been briefed about the issue of long detention of juveniles and people of unsound mind, because they are awaiting ministerial orders as a procedural requirement for finalizing their trials and sentencing. Until January this year, several former juvenile detainees had been in detention for between 9 and 17

years awaiting a ministerial action. Many of those went into detention in Luzira when their ages ranged between 13 and 17 years, making them unable to be sentenced by the High Court where they were convicted. JLOS and donors have been working hard to address the dire situation of those who are awaiting **ministerial orders**. Your office and your person are very critical in addressing this challenge. Allow me at this juncture to pay homage to your colleague Honorable Minister of State of Justice and Constitutional Affairs, Fred Ruhindi for the instrumental role he played in facilitating the release of the 12 juveniles earlier this year, but like Oliver Twist, we come to you with a plea, a very humble plea that you take personal interest on issues of juvenile detention or other detentions that require your intervention. Inordinate delays in addressing their detentions to the extent that some of the affected juveniles spend more than half their ages in detention are frankly heart rending. More others along with detainees who are mentally ill are still in various prisons especially Luzira prison, and the need for some administrative action on those still remaining in detention, and a policy change in the long run, have already been acknowledged by most of us in the sector. Your guidance on these issues would mean a lot to those affected or who have been suffering in prison for 10 years or more.

Finally, let me briefly mention the issue of **Court awards**. These claims are still being made against the Attorney General, while it was strongly recommended to individualize and/or decentralize financial penalties so that awards are made against liable individuals or responsible institutions to avoid accumulation of domestic arrears by the Attorney General and for the court awards to have a deterrent effect on the individuals and institutions concerned.

Let me conclude by drawing your attention to some of the pending legislation, such as the **Administration of Justice Bill** that needs to be enacted into law.- The bill is intended to strengthen the independence and functional role of the Judiciary in the administration of justice and to de-link the Judiciary's core operational staff from the Ministry of Public Service . This bill also seeks to give financial autonomy to the Judiciary so that it's able to implement its mandate efficiently and effectively.

Finally I was very pleased to hear that the Attorney General has publicly supported the **Anti Torture Bill**. This bill is the domestication of international treaties that Uganda has signed off to, and we hope that the government will strongly support this bill. There are other bills of importance to the JLOS in order to fully fulfill its mandate, the Marriage and Divorce bill, the amendment to the Children's Act, but let me stop here, so we can use the remaining time for discussion.

Once again, on behalf of the donors, we appreciate this opportunity to share some thoughts with you, and I truly look forward to a constructive relationship. Thank you.