

## **JUSTICE LAW AND ORDER SECTOR**

### **DEVELOPING AND MANAGING AN EFFECTIVE TRANSITIONAL JUSTICE SYSTEM**

The Justice Law and Order Sector is developing a comprehensive transitional justice system for Uganda that will promote accountability and reconciliation. After over 20 years of conflict in northern and eastern Uganda, establishing these mechanisms will contribute to peace in Uganda.

#### **Understanding what transitional justice is**

This is justice that includes a range of processes, approaches and mechanisms that societies can take to address widespread or systematic abuse of human and legal rights as it moves from a period of violent conflict toward peace, rule of law and respect for human rights. Transitional justice therefore aims at ensuring accountability, serve justice and achieve reconciliation. The positive indications for peace in the north mean that the JLOS should also focus on transitional justice as one way of enhancing justice.

#### **The sector wide approach as an improved way of creating change and ensuring improvements in the delivery of justice to the people**

The JLOS has been implementing reforms since 2000 using a sector wide approach; which has made it possible for all the institutions that are involved in the maintenance of law and order as well as in the administration of justice to closely collaborate and coordinate policy formulation and improvements in practice. Developing and managing the transitional justice system will also be achieved through the sector wide approach.

#### **Registering impact through the Justice Law and Order Sector**

Over the years, following the diverse interventions, the JLOS has recorded successes such as

- an increase in public confidence in the justice system;
- higher perceptions of independence of the judiciary;
- improved police performance as it prevents and responds to crime;
- reduction in the average time a suspect is kept on remand;
- stronger commercial registries and dispute settlement institutions
- law reform in criminal and commercial justice

## **Conflict affected northern and eastern Uganda as a priority geographical area of focus for the JLOS**

Although successes have been registered, inadequate justice delivery and civilian policing particularly in the north and east of Uganda remain a concern. In view of its responsibility to ensure access to effective remedy for the people who have been affected by over 20 years of conflict, the JLOS will strive to address this in the next three years.

As such, greater focus and more tailored interventions for the conflict affected areas has been prioritized by the JLOS. Not only will the interventions be responsive to those directly affected by the conflict, but they will also enable the JLOS to provide access to justice equitably.

## **Increasing presence of key JLOS agencies and improving service delivery in the Conflict Affected Areas**

The Hon. Chief Justice of Uganda, his Lordship Benjamin Odoki on February 29, 2008 officially launched the JLOS interventions in the conflict affected areas under the national framework of the Peace Recovery and Development Plan. Other interventions under the JLOS Strategic Investment Plan that begun in FY2006/2007 are ongoing since the JLOS will continue to allocate a minimum of 30% of its development budget for their implementation.

Reconstruction of post conflict areas is long term and the JLOS will implement its interventions in a phased approach depending on the resources it has. However, it is expected that there will be improvements in the currently weak judicial, legal, police and police services in the area following:

- increased presence of key justice agencies such as the Ministry of Justice and Constitutional Affairs, Magistrates Courts, DPPs offices and remand home, and improvements of prisons
- increased community awareness and empowerment of the people on the importance of respecting the rule of law and human rights
- increased efficiency and effectiveness of the justice system by increasing staff, equipping and retooling institutions and regular chain linking within the JLOS district coordination committee.

## **Deepening JLOS interventions to address the effects of conflict through transitional justice**

JLOS has also recognized that while reconstruction in the region is important, there are wider concerns on transitional justice that should also be addressed within the overall legal and justice system in anticipation of the end to the conflict in the north.

As part of the ongoing peace process, Government of Uganda and the Lord's Resistance Army/Movement agreed to promote accountability and reconciliation. Government committed to expeditiously prepare and develop the necessary legislation and modalities for implementing the Principal Agreement and the Annexure to Agenda Item 3 on accountability and reconciliation.

The areas to address here include the legal and institutional framework for investigations, prosecutions, legal aid and trial within the formal justice system, reparations and alternative justice approaches. The JLOS is the responsible sector of Government that will implement the agreement by developing and effectively managing a transitional justice system.

### **Positioning transitional justice within the ongoing reforms in the JLOS**

As one form of justice, the JLOS will play a central role in spearheading the establishment of transitional justice mechanisms. The existing management structures and processes will be used to develop these mechanisms. The preference for an integrated framework for criminal jurisdiction and complementary alternative justice mechanisms for war crimes will enable JLOS to have a shared and common approach towards implementing the transitional justice system alongside the ongoing reforms.

A Working Group has been established by the JLOS under the leadership of the Hon. the Principal Judge to analyze the practical issues that have to be addressed before the transitional justice mechanisms on accountability and reconciliation can be implemented by Government.

To make the planning process for the system more effective, the Working Group includes core agencies whose mandates are directly linked to promoting accountability and reconciliation. They are:

- the Judiciary
- the Ministry of Justice and Constitutional Affairs,
- the Ministry of Internal Affairs,
- the Ministry of Finance, Planning and Economic Development
- the Directorate of Public Prosecutions,
- the Uganda Police Force
- the Uganda Prisons Service,
- the Uganda Law Reform Commission,
- the Uganda Human Rights Commission
- the Amnesty Commission,
- the Uganda Law Society

This year, the third National JLOS forum that will run from July 30 to August 1, 2008 gives another platform for the JLOS to develop the system in a participatory and consultative way because it will draw on the views and recommendations from other departments of Government, Members of Parliament, civil society organizations, the private sector. In this case, the JLOS will also identify good practice from Rwanda, South Africa and Sierra Leone.

### **Processes, approaches and mechanisms of emphasis in transitional justice**

With support from the UNDP, the JLOS conducted a TJ study in 2007 to establish the people's views from twelve districts in Acholi land, Lango Teso and West Nile on what TJ mechanisms should include.

As the JLOS develops the transitional justice system, these findings will also inform the discussions and final proposals on:

- An appropriable legal framework and effective institutional mechanism for criminal trial of war crimes in Uganda considering that 70% of the respondents recommended that those who are responsible for human rights violations they should be tried in the Ugandan courts
- The role and jurisdiction of traditional justice mechanisms in promoting reconciliation and accountability especially so that that 31% of the respondents consider them to be very appropriate for reconciliation.
- The relevance and scope of truth telling and national reconciliation approaches in promoting reconciliation & accountability and appropriate institutional arrangements. This will respond to 76% of the respondents who called for a national truth telling process for reconciliation
- An effective integrated system for formal criminal jurisdiction and complementary alternative justice mechanisms for war crimes

### **Conclusion**

The JLOS Working Group will regularly consult with stakeholders and periodically provide information on its progress as it continues to complete its assignment within four (4) months ending October 2008.

A report with concrete proposals on an integrated, coherent and robust transitional justice system for Uganda will be presented to a joint leadership and steering committee meeting for adoption before it is table in Cabinet.

Transitional justice mechanisms are usually costly especially because they should discharge their functions for a specified period of time. The JLOS calls for political

commitment and good will from all stakeholders to ensure that the transitional justice system follows through as a way of enhancing accountability, reconciliation and peace in Uganda.

Contact details: Justice Law and Order Sector Secretariat  
Ministry of Justice and Constitutional Affairs  
4<sup>th</sup> Floor, Queens Chamber,  
Plot 1 Parliament Avenue  
P.O. Box 7183,  
Kampala

Tel: 0414-253207