

### **SIP III and JLOS Operating Policy Frameworks**

6. The JLOS Strategic Investment Plan III 2012/3-2016/7 provides a unified policy and programmatic sectoral response to administration of justice and law enforcement in Uganda. SIP III provides a platform and spring board upon which the Government of Uganda, all sector institutions, development partners and Non State Actors shall harness their five year programs, strategies and activities. This is the basis for the unity of purpose that has so far characterized JLOS Sector performance. The strategy also provides a sector wide budgeting and financing framework for JLOS based on the MTEF and bilateral development partner contributions for the purpose of securing sustainable funding for the five year strategy.
7. The framework of the Sector is premised within its cardinal role of undertaking steps that enable all people in Uganda to realize the rights and freedoms enshrined in the Bill of Rights, Chapter 4 of the Constitution-. Through a collectivization of its institutional mandates, JLOS assumes, and through SIP III, seeks to discharge the country's obligation to respect, protect and fulfill universally accepted human rights standards. SIP III content is cognizant of the recommendations of the Universal Periodic Review of Country human rights performance under the following international human rights instruments:
  - i. Universal Declaration of Human Rights;
  - ii. the International Convention on Civil and Political Rights
  - iii. The International Convention on Economic Social and Cultural Rights
  - iv. The United Convention on the Rights of the Child
  - v. The Convention on the Elimination of all forms of Discrimination Against Women
  - vi. United Nations Convention Against Corruption
  - vii. United Nations Convention Against Torture
  - viii. United Nations Convention against slavery and anti-trafficking

And continental and regional human rights commitments including the New Economic Partnership for Africa's Development (NEPAD); the African Charter on Human and People's rights; the African Charter of the Welfare of the African Child; the African Protocol on Advancement of the Rights of Women; of the Juba Peace Agreement and more specifically the recommendations of the African Peer Review Mechanism Report

Article 20 (2) of the Constitution states that "the rights and freedoms of the individual and groups enshrined in this Chapter shall be respected, upheld and promoted by all organs and agencies of Government, and by all persons<sup>47</sup>". By discharging this duty, the Justice, Law and Order Sector dovetails into Objective 7 of the National Development Plan of Uganda 2010/11-2014/2015 that recognizes the Justice, Law and Order Sector as an enabling sector for national development. JLOS is a platform and basis for the performance of the primary growth sectors that directly pursue economic growth, employment and prosperity.

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<sup>4</sup>Article 20(2) of the Constitution of the Republic of Uganda, 1995

JLOS SIP III also takes into account outstanding challenges in the realization of the EAC Customs Union and the Common Market and will seek to rise to the demands of the EAC Monetary Union and Political Federation.

### **SIP III Policy Shifts**

8. SIP III seeks to deepen and broaden access to JLOS services through well targeted interventions aimed at the legal, policy and regulatory framework – both internal and external; enhancing access to JLOS services with an emphasis accorded to the poor and marginalized groups; and mainstreaming human rights and accountability in JLOS service delivery. SIP III calls for the full involvement of every Sector institution; individually and collectively to deliver these results within their mandates and capacities.
9. The character and validity of SIP III lies in the following content policy shifts:
  - ❑ Expansion of legislative reform focus from process and content to include impact of law reforms through proactive pursuit of improvements in the enforcement of the existing legal and rights regime;
  - ❑ Towards a deeper knowledge and understanding of the informal justice systems with a focus on innovations to bridge the gap between formal and informal justice systems;
  - ❑ Deliberate emphasis to fully discharge sector roles and mandate;
  - ❑ Expanded focus on addressing the wider civil and criminal justice while paying special attention to the following:
    - land justice
    - family justice
    - transitional justice
    - Age and Gender based Violence
    - Workers rights
  - ❑ Development and funding of special programs to target gender, age, poverty and other forms of vulnerability;
  - ❑ Tackle the growing concerns of accountability and human rights observance;
  - ❑ Proactive engagement and reaching out to actors outside the constitution of the Sector but with a contribution to Sector goals for instance defence sector (Court Martial); Health and Education sectors; Accountability Sector etc

### **SIP III process shifts:**

- ❑ **Resource focus at the points of service delivery across the Sector**  
-Investments under SIP III will follow the lowest levels of justice service delivery – the sub national implementation levels. This will be balanced with the necessary but lessened focus at the national level legislative, policy and programming functions.

- ❑ Work with both **demand and supply** sides of justice; Under SIP III the Sector will develop clear guidelines and innovative pilots of working with Non State Actors including Private Sector; NGOs; FBO and local communities. In this respect too the Sector will deploy proactive mechanisms to encourage public participation in the administration of justice and enforcement of law and order.
- ❑ **Consolidation of the Sector Management Policies; Systems and Structures:** Under SIP III the Sector will craft, document and broadly disseminate its management policies, systems and structures as a mechanism of stimulating internal action particularly at sub-national points of service delivery; broadening public participation; reinforcing institutional efficiency and accountability; and paying due attention to sector wide institutional capacity development including affirmative action for weak institutions.

### **SIP III Primary Focus 2012/13-2016/17**

10. While maintaining due focus on the national level legislative, policy and programming functions; the thrust of SIP III shifts to the sub-national implementation levels encompassing both demand and supply sides of justice. In the next five years resources will be skewed towards addressing operational level systemic constraints to JLOS service delivery in all spheres of justice civil, criminal and administrative and stimulating discussion, knowledge and application of human rights in JLOS reforms.
11. Whilst sustaining its investments in prioritized and areas of promise continuing from SIP II, in JLOS SIP III JLOS will develop and fund special programs to target gender, age, poverty and other forms of vulnerability and uphold rights through system based and holistic approaches that broaden the definition of justice beyond the formal justice systems. To deepen the reforms JLOS will tackle the growing concerns of accountability and human rights observance – through standard setting; compliance check through Peer Review mechanisms and full implementation of the Sector Anti-Corruption Strategy among others. The Sector will consolidate its management systems and structures, implement a Sector management policy and continue to innovate, generate knowledge and set the pace for justice reforms in the East African Community (EAC) and in the entire African region.
12. A number of objectives are identified to deliver the above outcomes. The Sector will initiate and pursue the enactment into law of the Access to Justice Act; the amendment to the Children Statute, the Witness Protection Law; Review of the Probation Act; the development of service standards; the Oil and Petroleum laws among others. In addition JLOS will disseminate simplified laws to enhance access and awareness by special interest groups. By the end of SIP III, JLOS primary institutions will be physically and functionally present in all districts; the sector will also strive to reduce lead times in service delivery; institutionalize the provision of legal aid services across the country and take stern action against corruption and violation of human rights by its staff. In addition JLOS will staff and retool its institutions, renovate existing infrastructure to ensure full functionality of its institutions.

13. JLOS SIP III will strengthen the justice system and tackle corruption as a key constraint to economic growth, employment and prosperity. In particular JLOS SIP III will increase the pace of legal, policy and regulatory reform, and better tailor the reforms to the needs of the primary sectors of growth. JLOS will formulate and disseminate process standards and also make available to all users, government, institutions and individuals reformed laws, policies, regulations and standards in formats appropriate to the needs of the users. The reform of laws and improvements in the legal, policy and regulatory framework will be demand driven and strategic to promote the attainment of a) national development goals and b) attainment of sector results. JLOS will enter into partnerships with non state actors to disseminate available laws, policies and regulations. JLOS SIP III will also capitalise on the emergence of new information and communication technologies and use them to support improved information exchange and feedback within the different levels of JLOS institutions (vertical and horizontal flow of information).
14. JLOS SIP III will utilize and build upon the SIP II management arrangements including the policy and operational management system and structures; the Medium Term Expenditure Framework; the procurement regime and monitoring and evaluation system. With its strong focus on results in SIP III, JLOS SIP III includes a detailed results framework along with a results matrix. JLOS SIP III envisages three impact studies- one at the beginning to establish baselines; a Mid Term Review and an impact assessment to assess changes in the justice systems and impact on the users disaggregated by gender, age, location and claim.

### **SIP III Results 2012/13-2016/17**

15. At the end of the SIP III in 2016/17; the Sector will deliver to all people in Uganda the following three results:
  - A Legislative, policy and regulatory framework conducive to JLOS operations; promoting rule of law and human rights and enabling national development;
  - More people, particularly the poor and vulnerable groups, will have better access to justice, and live in a safer and secure environment;
  - JLOS institutions that are more responsive to human rights, and are more accountable to service users and the public.
16. By so doing, 70% of population will be satisfied with JLOS services by 2016/7 and public confidence in the justice system will increase by 47% from the current 34% to 50% in 2016/7.



# Section 1: INTRODUCTION

## 1.1 Strategic Context and Rationale

1. The Justice, Law and Order Sector (JLOS) is a priority sector in the Ugandan economy. JLOS features prominently among the Sectors enabling growth, employment and prosperity under the National Development Plan (NDP) 2010-11- 2014/15. In recognition of this role, the Government of Uganda increased its support to the JLOS Sector by 50.3% over the 10 years with the Sector share of the national budget averaging 6.26% over the period. The overall goal of JLOS – the pursuit of the Rule of Law is the centre piece and mainstay of the government in pursuit of its vision of Prosperity for All. This is borne out by development research that affirms that establishment of the rule of law is the bedrock for national development. In lessons derived from development research it is now consensus that “In hindsight, we should have put the establishment of the rule of law first, for everything else depends on it; a functioning economy, a free and fair political system, the development of civil society, public confidence in the police and the courts:<sup>5</sup> This view is widely shared by governments and non government actors alike.
2. At the macro level JLOS contributes directly to structural transformation of the Ugandan economy by promoting the rule of law through effective regulation of economic activity, clarification and affirmation of rights, and strengthening laws, regulations and institutional arrangements that shape daily economic and social activity. The end result of JLOS performance are improvements in economic and social health of the country creating an environment conducive for national investment in the primary sectors driving economic growth, employment and prosperity. Regulations that are transparent, efficient and implemented in the simplest of ways make it easier for poor people to operate within the law and to benefit from the opportunities and protections that the law provides.
3. JLOS SIP III builds upon 10 years of investment in the sector wide programming approach initiated in 1999 and aligned with the principles and aspirations of the people of Uganda laid out in the National Constitution; and a domestication of the Government of Uganda commitments at regional and international levels.
4. The primary sector goal under SIP III is to promote the rule of law. Fundamental to this goal is the establishment and sustenance of a legislative, policy and regulatory framework cognizant of human rights and conducive to national development. In the last two Sector Investment Plans, the Sector has registered significant improvements in the enactment of laws and regulations in commercial, land, criminal and family justice. In dealing with matters of advancing constitutionalism, regional integration, transitional justice, civil, political, socio-economic and cultural rights, JLOS ensures the adoption of an appropriate policy framework for actualization of these rights within the national realm and internationally.

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<sup>5</sup> Herzgovina, Sir Emyr Jones Parry, U.K. Permanent Representative to the U.N., Address to the International Security and Global Issues Research Group and the David Davies Memorial Institute Seminar (Nov. 10, 2004)

5. The second fundamental aspect and also an important JLOS commitment in the SIPIII is to accelerate access to JLOS services for all particularly the vulnerable. This will include bottom up measures to empower people in Uganda to assert their rights and demand their entitlements from JLOS institutions. Lastly the Sector will uphold and maintain through promotion of a rights and accountability culture throughout JLOS institutions as a sustainable response to raise public confidence in JLOS services.
6. Lastly but equally important is the promotion of the observance of human rights and institutional and individual accountability in JLOS institutions.
7. JLOS SIP III strategic focus therefore in the next five years is to enhance the performance of its institutions to deliver three results: i) a rights based policy, legal and regulatory framework for its operations, national economic growth, employment and prosperity, ii) improved access to JLOS services for all particularly the vulnerable, iii) enhanced human rights observance and institutional accountability.

## **1.2 National and Sector Issues- Situational Analysis, Achievements and Challenges:**

8. Performance of the JLOS Sector in the recent years yielded positive results<sup>6</sup>. Improvements in the legal, policy and regulatory framework in the previous SIPs have seen the enactment of over 20 bills into law<sup>7</sup>; formulation of regulations and creation of semi autonomous and one stop units for business-dispute resolution; Centre for Arbitration and Dispute Resolution (CADER); for business registration services; the Uganda Registration Services Bureau (URSB) and the Directorate of Citizenship and Immigration among others.
9. As a result, the ease of enforcing contracts ranking improved to 110 in 2011. Ease of starting a business in Uganda improved to 143 in 2011<sup>8</sup>. Starting a limited liability company in Uganda now takes 45 minutes to conduct a search in the registries; less than 12 hours to register a limited liability company and equally less time to register patents, trademarks and other business instruments. Uganda's overall Doing Business 2011 ranking is 122, recording a 7-point increase from last year. The most significant increase was recorded in the Getting Credit Indicator, where the country jumped 63 spots. According to the latest Enterprise Surveys (2006), the top constraint to firm investment in Uganda is lack of access to electricity. Firms in Uganda report 11 power outages per month slightly higher than the regional average (10.45). Uganda's economic freedom score is 61.7, making it the 80th freest economy in the 2011 Index. Its score is 0.5 point lower than last year due to declines in four of the 10 economic freedoms. Uganda is ranked 7th out of 46 countries in the Sub-Saharan Africa region, and its overall score is above the world average. Tariff barriers have been eased, although non-tariff barriers still constrain overall trade freedom. Uganda continues to attract more foreign direct investment than many other countries in the region. It

<sup>6</sup> This is in accordance with the Medium Term Evaluation, supported by national and international data.

<sup>7</sup> Including the Law on dual citizenship; the Domestic Violence Act etc

<sup>8</sup> The World Bank et al Doing Business in 2011 Sub National Series: Comparing Business Regulation in Juba and 183 Economies, 2011

is diversifying its productive base, and manufacturing has become more substantial. Investments towards a strong and efficient justice system along with elimination of corruption will accelerate the countries' standing in doing business and attraction of investments.

10. Access to JLOS services increased exponentially. Unified JLOS services are now available in more districts than was the case in 2000. The latter is in spite of the five-fold increase in the total number of districts in the country. In effect, 70% of the Ugandan population that lives in rural areas can now traverse shorter distances and access JLOS services in close proximity to each other unlike the situation in 2000. A comprehensive mapping of density of JLOS physical presence across the country is attached as Annex 1.
11. There is a reduction in lead times for conducting business searches to fewer than 30 minutes, registration of documents in less than 24 hours and registration of companies is done within a day. URSB is currently understudying the possibility of providing services on line. New firms and companies create jobs and foster economic development. Formally registered businesses grow larger and are more productive than informal ones. Similarly the ease of accessing travel permits has improved from 34 days in 2000 to 10 days in 2010 for passports and from 3 months to 21 days for work permits. The Governmental Analytical Laboratory under the Ministry of Internal Affairs improved its service time from an average of 6 months in 2005/6 to 3 months 2010/11.

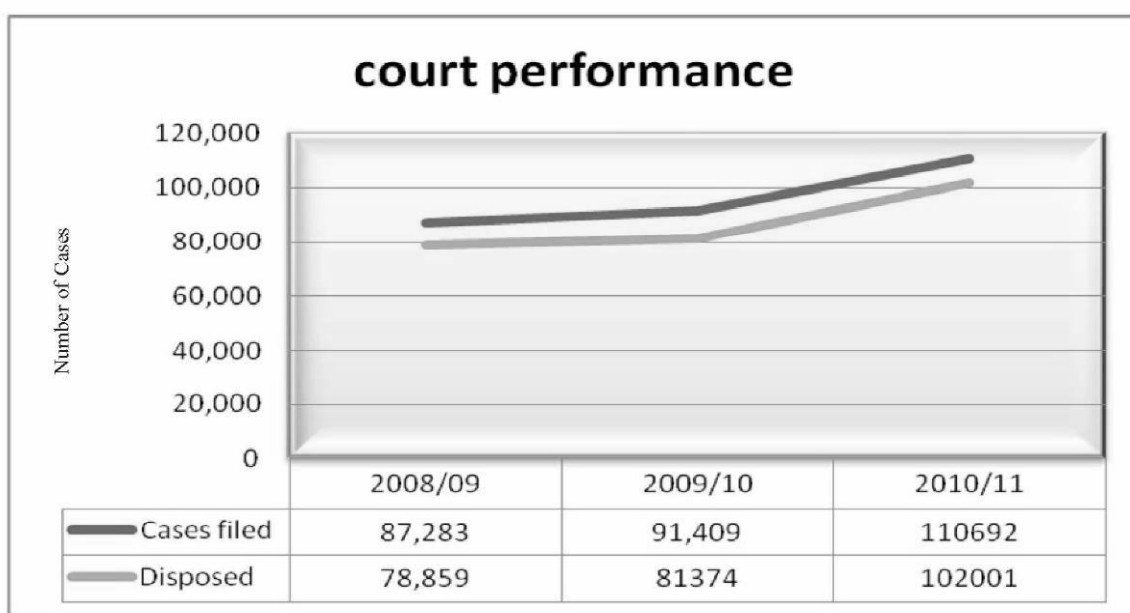
<b>Activity</b>	<b>Lead time 2005/06</b>	<b>Lead time 2010/11</b>
<b>Processing a Passport</b>	30 days	10days
<b>Processing a Work permit</b>	90days	21days
<b>Clearance at borders</b>	15minutes	5minutes
<b>Forensic analysis</b>	6months	3months
<b>Peruse files for prosecution</b>	14days	2days
<b>Register a Company</b>	30days	48hours

*Source: JLOS Annual Report 2011*

12. JLOS has also registered improvements in speed of access to services to JLOS services offered by participating institutions like Tax Appeals Tribunal, Government Analytical Laboratory Services; Uganda Human Rights Commission; Directorate of Public Prosecutions; Criminal Investigation Department of the Uganda Police Force and its special units of family and child protection units and NGO registration.
13. With JLOS emphasis on the promotion of alternative dispute resolution mechanism, the cost of accessing JLOS services has reduced. In the Commercial Division of the High Court, a mediation registry was established and coupled with all ongoing reforms in the Division, case backlog reduced from 44% in 2009 to 34% in 2010. Specialized services in the Commercial, Anti Corruption; Internal Crimes Division (ICD) ; Land and Family Divisions at the High Court have enabled JLOS to increase its case disposal rates from 30.7% for commercial cases in 2007/8 to 48.8% in 2009/10.

### Disposal rates by level court

Year/court level	2008/09	2009/10	2010/11
Supreme Court	23.8	57.6	57.5
Court of Appeal	11.4	13.9	11.6
High Court	24.4	30.6	24.0
Chief Magistrates Court	38.7	35.0	39.2
Magistrates Court	60.0	57.2	52.0
Magistrate Grade II	62.6	60.8	53.0
Average	40.6	38.9	44.7



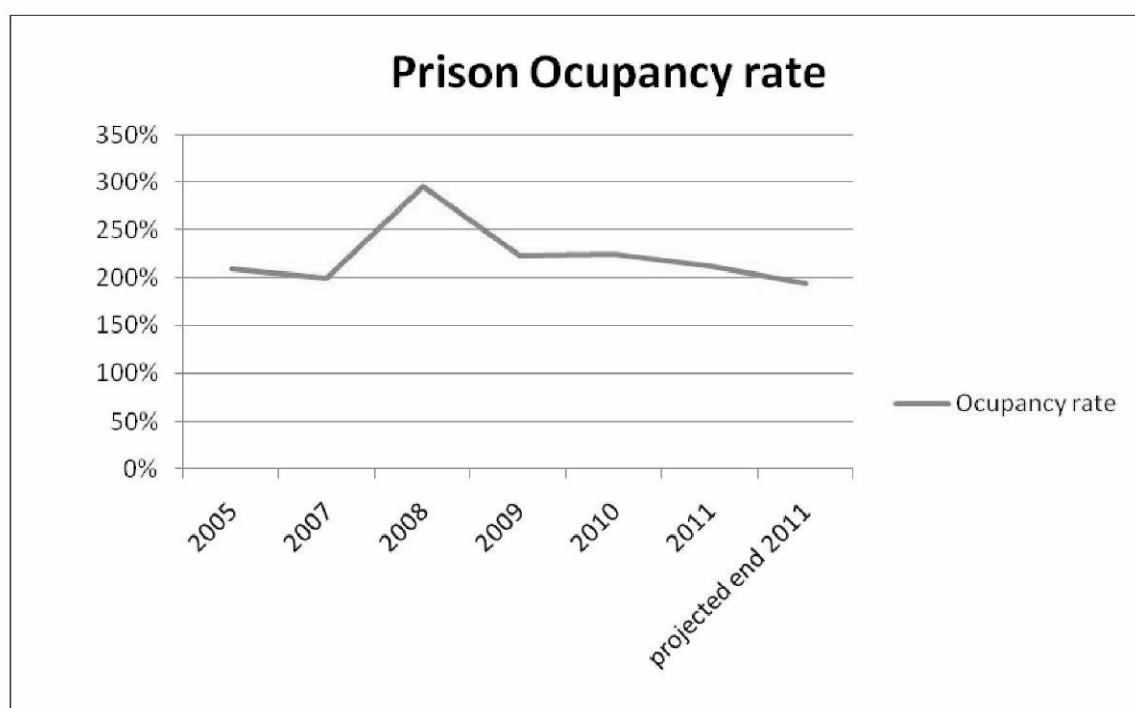
14. **The adjudication of Corruption Cases** has improved. Successful prosecution of corruption cases has happened in the newly created Anti Corruption High Court Division leading to an increased number of convictions. The Sector has accorded support to development of the legal framework- particularly with the enactment of the Prevention of Corruption Act and The Whistleblowers Protection Act 2010. There remain gaps in the legal framework that should be accorded priority by the Sector. These include creation of a legal framework for administrative funds recovery and the plugging of legislative gaps that continuously result into loss of court cases by Anti corruption institutions. The Sector has developed and will implement an anti-corruption strategy to augment its ongoing interventions.

**Case Disposal rates (%) in special divisions of the High court:**

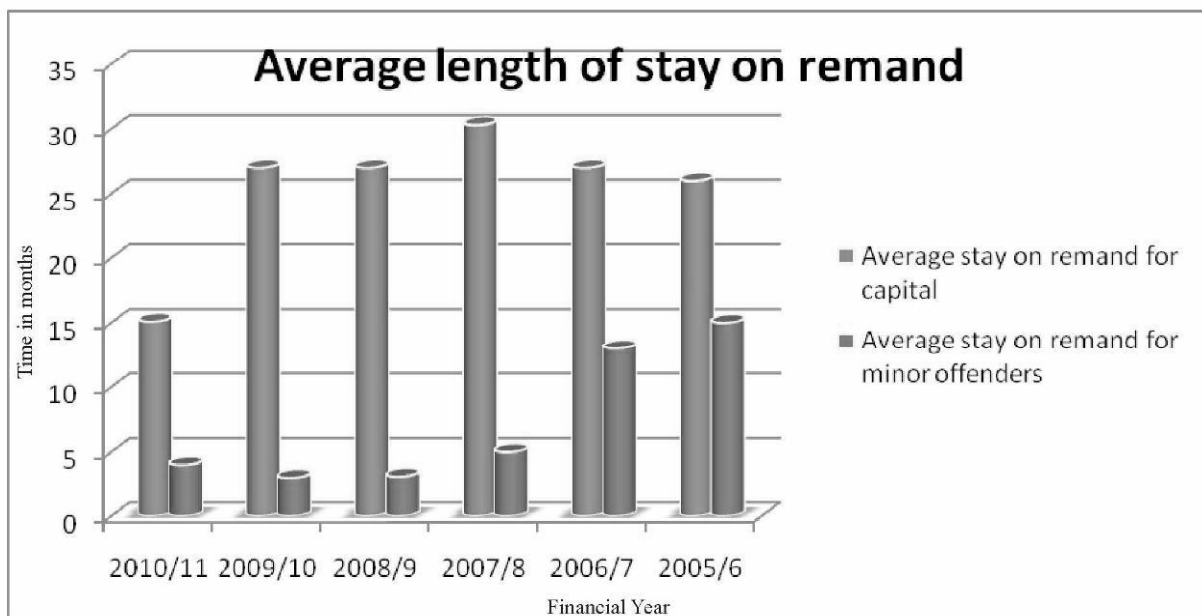
Focus area	2005/6	2007/8	2008/9	2009/10	2010/11
<b>Criminal</b>	33	49.7	48.6	45.7	51
<b>Anti-corruption</b>	NA	NA	NA	80	81
<b>Civil</b>	24.4	33	36.3	28.4	22
<b>Family</b>	27.9	26.9	42.7	39.7	59
<b>Land</b>	18.6	20.5	15.8	21.7	27
<b>Commercial</b>	39.2	30.7	34.2	48.8	44

Source: JLOS Annual Reports

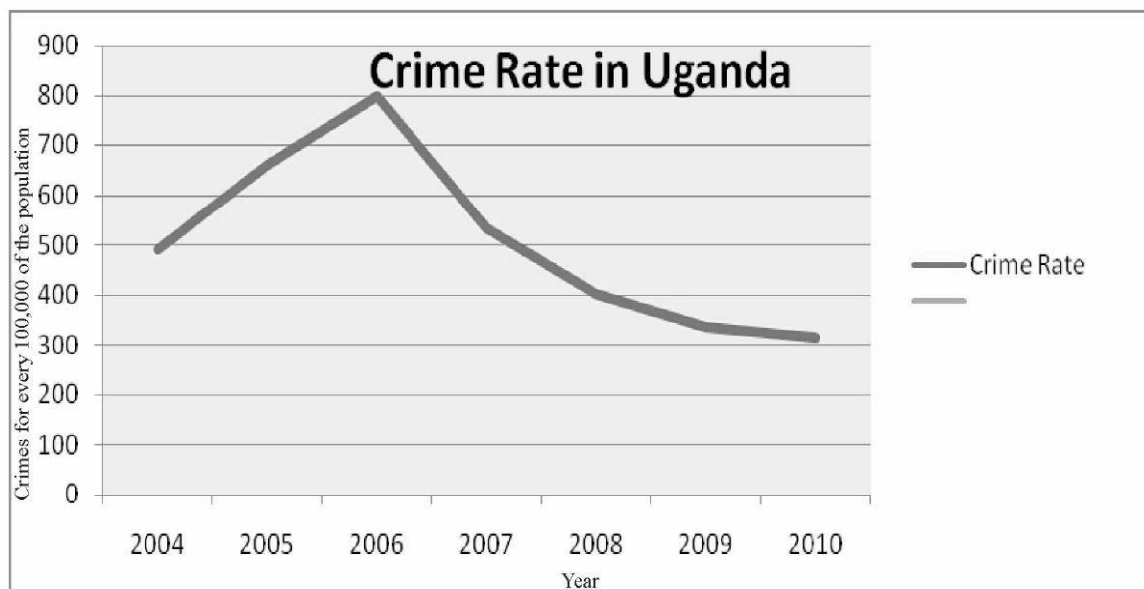
15. The observance of human rights in the provision of JLOS services too has greatly improved. Through JLOS interventions, Uganda Prisons Services for the first time in 10 years reversed the proportion of remand to convict population from 62:38 in 2003 to 53:47 in 2011.



16. The average stay on remand for minor offences reduced from 15months in 2003/4 to 3months in 2010. Human rights violations in prisons decreased with improvements in prisoner access to education, health services, improved diets, complaints mechanisms and a 22.4% overall increase in prison physical holding capacity. JLOS has improved its capacity to respond to public complaints both in terms of speed and action.

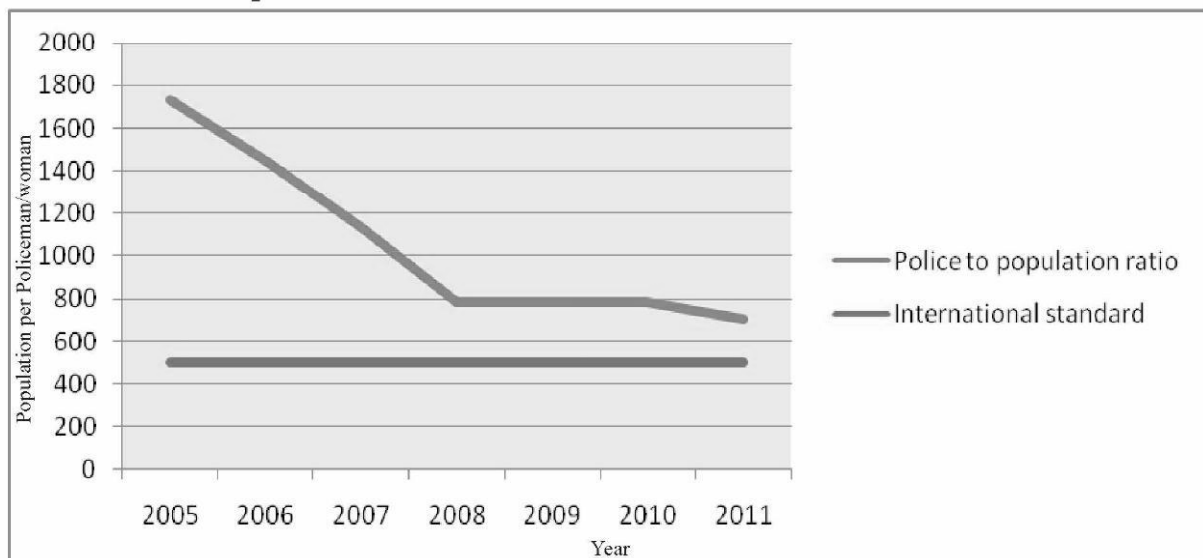


17. JLOS registered successes in improving personal safety and security of property. Reported cases reduced to 282,401 in 2010 a crime rate reduction of 16% from 2009 whilst the volume of crime decreased by 13%. Human resource ratio to population served, has improved over the years. For instance the Police to population ratio improved from 1:1734 in 2005 to 1:786 in 2008<sup>9</sup>.



<sup>9</sup> Source: UPF administrative records, 2010

### Police Population ratio



18. The Sector response to fire, road accidents and small arms proliferation and all identified threats to personal safety and security of property has considerably improved over the 10 years. The road accident severity index stands at 15 to 2000 while the accident fatality risk is at 9.3. The fatality rate per 10,000 vehicle population fell from 71.4 in 2007 to 46.5 in 2010. The accident death rate per 100,000 people however increased slightly from 9.1 in 2007 to 9.3 in 2010. With sector improvements in police fire brigade response times, fires in schools have dropped by 75%. The increase in police personnel numbers, is a very significant achievement. The only challenge remains skills development and professionalisation of the police force.
19. The above achievements have translated into a number of positive developments at the national level:

### JLOS contribution to poverty reduction and National Development:

20. In recent years Uganda has witnessed high economic growth fuelled by foreign direct investments and an expanded internal revenue base with real GDP growing by 7.1 % for FY 2008/9 and 5.8% in 2009/10<sup>10</sup>. The existing and steadily improving legal framework has offered direct support to the formulation and implementation of macro-economic reforms; poverty reduction; wealth creation and service delivery policies. Country progress to halve the proportion of people whose income is less than one dollar is on track<sup>11</sup> with statistics on poverty reduction, including among rural Ugandans showing a significant reduction from 38% in 2002 to 31% in 2009. Uganda is increasingly seen as having potential for both local and foreign direct investment attracting investments worth USD 1.7 billion in FY2010/11, licensing a total of 340 projects with 130,732 jobs created. Increased investor confidence in the country is suggestive of positive improvements in the legal, policy and justice

<sup>10</sup> And this notwithstanding the impact of the global economic and financial crisis.

<sup>11</sup> UNDP, Millennium Development Goals Report for Uganda, 2010, Accelerating Progress towards Improved Maternal Health, September 2010

administration system. This is borne out by the 2008 Evaluation of the Poverty Eradication Action Plan that pointed to overall growth in GDP per capita in the period from 1992-1997 seems to have been particularly effective in fuelling growth in per capita consumption. The Evaluation recognizes the PEAP prioritized expenditure since 1997 to improve personal security and access to primary education, health care and water, which alongside continued robust economic growth, probably helped reduce poverty.

21. Peace and stability have also been re-established across most parts of the country. Government recognizes that personal safety and security of property are crucial for national development. The over two decades of insurgency in Northern Uganda deprived the people of the right to participate in development processes; transplanted institutions and deepened levels of vulnerability particularly among the poor and marginalized groups. The re-establishment of JLOS presence under the framework of the Peace, Recovery and Development Programme (PRDP)<sup>12</sup> has provided the required stability and given communities confidence to return to their homes, resettle and the courage to embark on the long process to recovery. The establishment of a specialized War Crimes Trial system has strengthened the operational capacity of the Police to enhance public safety, prevent crime and deal sensitively with all forms of violence. JLOS is in the process of supporting the dialogue on transitional justice and the revitalization of the capacity of the entire justice system (both formal and informal) in Northern Uganda with particular sensitivity to the needs of women and children.
22. A new agenda in relation to **regional integration** for competitiveness came into play with the formal implementation of the EAC Common Market Protocol on July 1<sup>st</sup> 2010. The fast tracking of the approximation of laws and policies in the region to facilitate the free movement of labor, goods and services across the region is predicted to translate into less expensive consumer products and services and more efficient and competitive companies in the global market.
23. **Human Rights:** There is an improvement in the country's human rights situation. Uganda recently concluded the Universal Periodic Review that affirmed country progress in establishing the policy, legislative and institutional framework for the promotion, protection and fulfillment of human rights.

### **Outstanding Challenges.**

**Despite the improvements,** there are a number of areas in which the sector performance has not been as robust and or where new challenges have emerged.

24. **Enforcement of laws:** To improve predictability and certainty of the legal framework, law reform should go hand in hand with the enforcement of laws. As pointed out "the rule of law is not just about the enactment of laws, nor about their simplification, it is the enforcement of the law in practice that counts." The Universal Periodic Review on the situation of human rights in

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<sup>12</sup> The PRDP supports the political dialogue including the commitments agreed upon; the promotion and restoration of peace and security and mobilization of additional resources to support development efforts that will reduce economic disparities between the North and the South.

Uganda noted the widening gap between the legal framework on paper and the law on paper and the law in practice. Of concern here are four outstanding challenges to the sector. One is the systematic domestication, implementation and fulfillment of international, regional and national human rights obligations. Two relates to the timely enactment of key bills into law particularly those that have faced excessive process delays. Three is the creation of legal and procedural awareness and lastly the provision of resources necessary for the effective enforcement of enacted legislation.

25. **Access to legal and rights information:** The levels of legal and rights awareness among the population served by JLOS institutions remain low.
26. Procedures of access and mechanisms to obtain redress remain largely unknown to users. This limits the demand side ability to assert and claim their due entitlements from the JLOS system. Levels of knowledge and empowerment of users to access JLOS services will be prioritized in SIP III. The JLOS sector is mandated to bring the legal and policy framework to popular appeal within which all people including the poor and marginalised groups may assert their rights. One of the key mandates of the Ministry of Justice and Constitutional Affairs is the dissemination of legal information to the public.<sup>13</sup> Popularization of the laws and massive education of the public on their constitutional rights and legal protections are part of the process of entrenchment of the rule of law entrusted to the Sector. This is a marginally discharged role by the sector. Presently there is no comprehensive system of simplification and dissemination of laws to the population and also to the justice actors.
27. **Institutional barriers to access to JLOS Services:** Attempts to improve access in the last two SIPs have improved physical access to the office of the Administrator General. There is need to address technical, cost and related barriers to access the services of the Administrator General, Directorate of Citizenship and Immigration; Uganda Registration Services Bureau; NGO Registration Services; National Identification and Uganda Human Rights Commission.
28. **JLOS Service Delivery and institutional productivity** remain low. In the initial years JLOS investment mainly focused on “stabilization reforms” including reconstruction, retooling and staff development. This was largely driven by the dire need arising out of the many years of institutional neglect and decay. Now the opportunities for addressing the functionality of institutions are opening up calling for the high attention of JLOS to institutional and individual performance accountability. The Auditor General’s audit of Ministries, Department and agencies (MDAs) 2009/10 data showed that arrears within the sector continued to be a significant problem and a sign of weaknesses in financial management. The Ministry of Justice and Constitutional Affairs ranked highest as the MDA with the highest arrears of UGX 96.96 billion, a situation that must be remedied. JLOS services remains largely inaccessible outside of urban settings and particularly for socially and economically disadvantaged groups.

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<sup>13</sup> [www.mojca.go.ug](http://www.mojca.go.ug)

29. **JLOS service delivery is also affected by the policies and performance of other sectors.** Under decentralization, the proliferation of districts (112 count) is adversely affecting the capacity of institutions to deliver services concurrent with the increasing demand for services (both monetary and personnel). Part of human resource management for the JLOS sector depends on a separate agency – the Ministry of Public Services, which provides oversight of all civil servants as well as public employees apart from judicial officers; police and prisons personnel. Provision of health services for suspects and victims of crime depends significantly on the provision of health services by the Health Sector, just as land justice outcomes depend largely on policies driven externally by the Land Sector. For JLOS service delivery to improve area it is clear that a holistic approach will be required: one that accounts for a comprehensive understanding of the challenges that confront it and a wide-ranging set of initiatives to address them.

### **Other issues of Priority**

30. **Gender Justice:** Efforts to develop a JLOS Gender Strategy have taken place, and a JLOS Gender Strategy is in draft. There is a genuine effort to ensure gender mainstreaming in the Sector's objectives, programme and activities as well as in staffing and human resources<sup>14</sup>. Gender champions exist in the Sector with apparent commitment and value to address gender within the work of the Sector- the challenge for JLOS is to learn how to adopt a pragmatic and systematic approach to gender mainstreaming. SIP III presents this opportunity and will concretise progress in legislation, policy and analytical work improving the pace of transformation. JLOS will improve its collection and analysis of data, and capacity development in gender analysis to inform the establishment of priorities and the implementation of activities.
31. **Justice for Children:** Since JLOS SIP 1 in 2000, JLOS engaged in discussions at various levels to ensure access to justice for all particularly the poor and vulnerable groups, children inclusive. However service delivery to children remained fragmented at institutional level. A number of promising initiatives have been limited in scope - mainly serving children in conflict with the law and over shadowing equally important claims of children in the justice system for instance, in the areas of management of estates, custody, guardianship, protection of victims of crime and related services. Many of the justice system practitioners have had to adopt a make **"do approach"** dictated by resource limitations, rather than need, priority or statutory and internationally ratified obligations. The gaps are most evident within the Probation and Social Welfare Services where policy, staffing and structural challenges have to be addressed in a systematic manner as a matter of urgency. The Judiciary needs to address issues of jurisdiction to handle children matters in alignment with the phasing out of Grade II Magistrates under the Professionalization of the Bench policy. The Sector needs to upscale and harmonise the implementation of good practices and concepts like diversion – that are only important and meaningful to children only if applied consistently across the system. The Justice for Children Program promises to integrate all these pockets of good

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<sup>14</sup> JLOS Gender Audit, October 2010

practices into an interrelated, coherent and integrated service for children, shifting approach from institution to system wide planning, implementation and accountability for results for children.

32. **Transitional Justice:** **Transitional Justice** has emerged as one of the key thematic areas for the Sector in that it aims to promote justice and accountability for past human rights violations and war crimes; to enhance access to justice and basic services for victims in Uganda's conflict-affected areas, with emphasis on the rights of vulnerable groups (women, children); and to contribute to strengthening the rule of law across the country, especially in areas where justice sector institutions and service delivery have been weakened by conflict. This will require the adoption of a relevant policy and legal framework accompanied by institution building and strengthening to give effect to the respective policy and laws. The signing of the annexure to the Final Peace Agreement at Juba on Accountability and Reconciliation offers JLOS the opportunity to fulfill Government commitments to achieving justice, accountability, reparations and reconciliation in response to the two-decade war in Northern Uganda. The Agreement embodies a broad concept of justice, calling on the Government to promote both formal justice and alternative justice mechanisms, such as traditional justice mechanism, truth-telling and reparations, to promote sustainable peace and reconciliation. It emphasizes a comprehensive, holistic, integrated, participatory and victim-centered approach to post-conflict justice. Special attention to the rights, welfare and participation of women and children in TJ mechanisms is also a key feature of the Juba annexure.
33. In the spirit of the Juba Peace Agreement, JLOS has embarked on a process to adopt a national transitional justice policy that will set forth the GoU's goals and strategy towards achieving justice and reconciliation post conflict areas, and which will be accompanied by relevant legislation creating necessary mechanisms to implement the policy. The Sector has therefore launched a national consultative process to inform the policy, which will serve as the overarching policy framework for Uganda on post-conflict justice and reconciliation. In so far as transitional justice is cross-cutting, the introduction of new mechanisms, policies, laws and related reforms by the Sector will seek to be complementary and mutually reinforcing. The process by which the policy will be developed and implemented will be participatory, with victims, affected communities and civil society as key stakeholders in the process. Special attention will be placed on consultation and participation of women and children in the policy development process. Finally, the transitional justice policy seeks to complement the initiatives by the Office of the Prime Minister, in particular the development of the Policy on Peace-building and Conflict Prevention and the corresponding post-conflict recovery-development programs (PRDP).
34. **HIV/AIDS:** The Health Sector points to an end to the previously heralded decline in HIV prevalence from peak of 18% in 1992 to 6.1% in 2011. Prevalence has stabilized presently between 6.1% and 6.5% whereas behavioral indicators have worsened revealing 43% of new infections per annum among monogamous relationships and 46% among persons reporting multiple relationships and their partners. The Sector recognizes its obligation to mainstream HIV/AIDS

into policies and strategies; mobilize and ensure availability and appropriate management of resource for HIV/AIDS activities as stipulated in the Uganda National AIDS Policy (UNAP). The Sector will continue to design programs and activities in accordance with the National HIV/AIDS Monitoring and Evaluation Framework (NAMEF) and will adopt a multi-sectoral approach to the implementation of HIV/AIDS activities. In mainstreaming of HIV/AIDS interventions, the Sector focuses on the reduction of the prevalence of HIV infection, providing care and support to the infected and affected staff.

35. **Land** is a key strategic resource to Uganda's population and is a core primary factor of agricultural production, ecosystem stability, and climate resilience. Prevalence of land conflicts at household level is high at 34.9% and is slightly higher amongst rural households(36%) compared to urban households (33%). Only 20% of land conflicts are not reported to any dispute resolution option. With a dispute resolution rate of 59.9% for land conflicts at first instance and an average dissatisfaction rate of only 13.3 % the land justice system is rated fair<sup>15</sup>. Though the majority of cases are handled in semi-formal fora, the sector needs to strengthen oversight and set standards while clarifying mandates of the different fora. Taken together, the situation of the land administration environment has significant implications for the Justice, Law and Order Sector to regulate and govern relations relating to the management of water resources, food security, forests, natural resource management, human health, infrastructure, and livelihoods. Land related wrangles and conflicts continuously flow into the criminal justice system. This situation has the potential to affect the country's development and growth trajectory. The high rate of population growth together with poor environment management practices means that more pressure will be exerted on the natural resource base, even if only to maintain the current quality of life, much less to contribute to economic growth and deliver environmental benefits. The role of the Justice, Law and Order Sector to protect, promote and enforce the environmental legal, policy and regulatory framework working together with other sectors is important.

#### **National Level Exogenous Factors:**

36. **The Climate Change Crisis:** The country economy and the welfare of the population are intricately linked to the natural environment and therefore highly vulnerable to climate variability and change. Even if the national evidence base is still weak and modeling the impact of the changes in climatic conditions is fraught with great uncertainty, there is little doubt that climate change could jeopardize the Government's economic and social development goals including the MDGs. Immediate impacts are visible in the increase in the frequency of droughts, extreme weather conditions exposing communities to harsh living conditions and deepening poverty in others, and increasing the pressure on land; spiraling into land related wrangles and conflicts.
37. **Youth Justice and Employment Creation:** Looking forward, a central pillar of the GOU development strategy is the creation of employment; and the creation of quality jobs remains a central development challenge for the country. There are several interacting constraints including low labour productivity, the

<sup>15</sup> JLOS: Final Integrated study on land and family justice

inequalities between men and women, and weak linkages between education and the job market. The National Development Plan envisages improvements in employment levels and labour market condition through a mixture of measures that include: implementation of the national youth employment policy and other laws; policies and guidelines on labour productivity and employment; strengthening of labour market information systems; establishment of a minimum wage; provision of non-formal skills development targeted at women and youths; and enhancement of opportunities for medium sized businesses through improved access to finance, entrepreneurship training and promotion of value chains.

38. **Oil Wealth Management:** With Uganda's oil production expected to start in the next two years –there is already urgency for the JLOS sector to upend the legal, regulatory and institutional framework for oil exploration and management. This is an urgent requirement to manage the impact on the fiscal stance and the threat of the Dutch disease in oil management. Also of importance are key issues of skills development for JLOS advisory, and law enforcement services to government, mitigation of land alienation and environmental degradation, containing the threat of local and regional conflicts<sup>16</sup> and addressing issues of governance and accountability in oil management in the context of entrenched corruption.
39. **Performance-based Management Approaches.** The Ministry of Public Service has instituted Results Oriented Management (ROM) and Client Charters as part of a comprehensive integrated performance management system aimed at improving performance monitoring for results and productivity in delivery of public services. JLOS will assist its institutions in customizing and rolling out the implementation of ROM and Client charter; strengthen Performance Appraisal and systems for Recognition, Reward and Sanctions; and initiate and support application of performance contracts in the Sector. Further JLOS will support the scaling up of social accountability mechanisms like the user satisfaction surveys at community level for JLOS service delivery.
40. **Regional Integration:** Despite the challenges, regional political ambitions to progress to a common market and even a monetary union have resulted in a resurgence of commitments to Regional Integration presenting diverse opportunities for JLOS intervention. Article 6 of the EAC Treaty is emphatic in its proclamation to the effect that underlying this commitment are values of good governance and human rights. Under Article 6 (d) of EAC Treaty good governance includes “adherence to the principles of democracy, the rule of law, accountability, transparency, social justice, equal opportunities, gender equality, as well as the recognition, promotion and protection of human and peoples’ rights in accordance with the provisions of the African Charter on Human and Peoples’ Rights”. Demands on JLOS include approximation of laws; reengineering of institutional operations; creation of awareness of EAC demands and removal of non tariff barriers.
41. **Policing and Rule of Law in emerging Democracies:** Democracy requires the realization of human rights. The right to political participation is guaranteed,

<sup>16</sup> Military scuffles already took place near Lake Albert at the common border with DRC and the Government of Uganda is already in Court over oil tax disputes.

among other ways, through the Constitution of Uganda ; the UN Covenant on Civil and Political Rights Article 25 that stipulates that each citizens has the right to take part in the conduct of public affairs either directly or through chosen representatives. For an emerging democracy like Uganda, nurturing political participation is a function of legislative, executive and administrative powers. Increasingly JLOS has suffered negative public reviews in the exercise of its powers in management of public demonstrations including arrests and arbitrary prosecutions. JLOS will accord priority to the articulation, highlighting and counteracting of structural obstacles that influence JLOS response,

42. **Population Growth and its impact on JLOS service delivery:** The population growth rate of 3.1% is unmatched by growth of sector services. Other exacerbating factors include a youthful population of approximately 60% of the total Ugandan population of 32 million; a productively employed labor force growing minimally at only 3.1% and 31% of the population living below the national poverty line and approximately 400,000 new graduands per year entering the labor market.

### **1.3 Lessons Learned and Reflected in the design of SIP III**

43. **Justice, Law and Order are a key public good.** Justice, Law and Order Services are core and primary factors of economic growth, employment and prosperity. In the Voices of the Poor, safety of person and security of property constitute part of the basket of value items to improve the situation of poor people in the protection of their property rights, and liberty. Similarly SMEs, large investors- local and foreign point to the investment climate, enforcement of contracts and security as core components easing doing business in Uganda. Despite this importance, delays, technical, cost and other related barriers to access continue to exist in the Sector service delivery. These constraints are amplified by antiquated methods of work largely unaided by technology, placing challenging demands on JLOS personnel. Taken together, the situation has significant implications for the strategic choices of JLOS SIP III.

Overall, there is significant potential for the JLOS SIP III to groom the results realized in the last ten years into results that matter to the people of Uganda. Significant improvements were recommended in the areas below;

44. **Full engagement of Development Partners and Non state Actors** is critical to ensure that the sector continues to play its part in sustainably promoting pro-poor growth in Uganda. Development partners have been engaged in this phase of justice, law and order sector reforms since the beginning in 1999. DPs are engaged in dialogue with GoU at both implementation and policy levels. This dialogue has often resulted in adjustments to the reforms in an effort to strengthen reform implementation. The JLOS MTE recommended strengthening of relationships with development partners to address levels of representation and mitigate effects of high staff turnover.

On the other hand JLOS relationships with **Non State Actors** call for “exploration of new ways to engage and interact effectively”. Important aspects related to the structuring of these relationships include establishment of effective participation structure for NSAs, the division of labor and clarity of roles.

45. **Strengthened role and engagement of the middle and lower JLOS ranks in JLOS Planning and Implementation.** The need for more effective and better institutionalized linkages at all levels was identified in JLOS SIP II MTE as a weakness affecting the field level impact and implementation. JLOS SIP III will build upon and further strengthen the institutional and implementation structures of JLOS SIP III through development of a seamless system from institutional implementers with emphasis on the District Chain Linked Committees, middle level management; policy makers and the JLOS structures.
46. Looking forward, a central pillar of the JLOS SIP III strategy is the **transformation of institutions into results based service oriented institutions.** There are several constraints to the adoption of the results orientation and service focus in JLOS institutions. These include i) institutional culture b) lack of basic skills in the sector and iii) weak linkages between implementers and higher level managers and policy makers within the institutions. These interacting factors keep Sector performance in a low level equilibrium. Notable progress has been made on the institutional retooling and re-equipping side of the equation but there remains much room for improving productivity and fully exploiting the potential of the institutions to invoke the law and optimally discharge their mandates.
47. **Focusing on Service Delivery:** Institutional productivity is also hampered by inadequate structures and staffing. Structures that are not responsive to implementation needs; incomplete restructuring of institutions, and; absence of optimal staffing norms raise service delivery costs in all institutions.
48. **Slow adoption of appropriate technology and its integration into service processes by JLOS institutions.** SIPI and SIPII promoted automated management information systems in the Directorate of Public Prosecutions and the Judiciary. Yet the impact of these efforts remains small even at institutional level, partially because of fragmentation and the modest overall efforts thus far in spreading out at all levels; linking and integrating the system. JLOS SIP III will build on, link and integrate management information systems to promote a more robust and integrated management information system.

### **Sector Management Processes.**

49. Three process related lessons were drawn from the Medium Term Review of JLOS SIP II performance. These relate to the Sector management policy; the alignment of Institutional to Sector SIPs and the sector management of cross cutting issues.  
With regard to the Sector Management policy the MTE recommended the “development of a sector management policy to define, inter alia, the sector relationships, institutional management reforms, resource allocation and use.” This recommendation has been adopted and integrated into the JLOS SIP III