Justice, Law and Order Sector Strategic Investment Plan
Mid-term Evaluation 2001/2 -2005/6

VOLUME ONE

Final Report December 2004

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The MTE team expresses its appreciation to all those who supported the team during the process from May to December 2004. In particular, sincere thanks are due to the focal points for the evaluation: Francesco Mascini (Royal Netherlands Embassy, outgoing Chair of J/LOS Donor Group), Dónal Cronin (Embassy of Ireland, in-coming Chair of J/LOS Donor Group), Donald Rukare (Embassy of Ireland), Amanda Serumaga (former J/LOS Chief Technical Advisor) and Valentine Namakula (J/LOS Resource Person), and John Gara Commercial Justice Advisor for providing, and encouraging, active engagement and feedback in the MTE process to date.
List of Acronyms and Abbreviations

BFP  Budget Framework Paper
CA DER  Centre for Arbitration and Dispute Resolution
CCAS  Court Case Administration System
CC  Commercial Court
CCMA  Commercial Court Management Advisor
CCUS  Commercial Court Users Committee
CJA  Commercial Justice Advisor
CID  Criminal Investigations Department
CJRP  Commercial Justice Reform Programme
CLE  Continuing Legal Education
CLI  Chain Linked Initiative
CMC (s)  Case Management Committee (s)
CMI  Chieftaincy of Military Intelligence
CSO (s)  Civil Society Organisation (s)
DANIDA  Danish International Development Assistance
DCY  Department for Youth and Children Affairs
DGG/ D2G2  Donor Group on Democratisation and Governance
DFID  Department for International Development
DISO  District Internal Security Officer
DPP  Directorate for Public Prosecutions
ERP  Economic Recovery Programme
FMA  Financial Management Adviser
FMS  Financial Management Specialist
FY  Financial Year
GDP  Gross Domestic Product
GoU  Government of Uganda
GTZ  German Technical Cooperation
IGG  Inspectorate of Government
ILI  International Law Institute
JL OS  Justice, Law and Order Sector
JSC  Judicial Service Commission
LASPNET  Legal Aid Services Providers Network
LC  Local Council
LC C  Local Council Court
LDC  Law Development Centre
LDU (s)  Local Defence Unit (s)
LRA  Lord’s Resistance Army
LSSP  Land Sector Strategic Plan
MoF PED  Ministry of Finance, Planning and Economic Development
MIA  Ministry of Internal Affairs
MIS  Management Information System
MoJCA  Ministry of Justice and Constitutional Affairs
MoLG  Ministry of Local Government
MPP  Mediation Pilot Project
MTCS  Medium Term Competitiveness Strategy
MTEF  Medium Term Expenditure Framework
NEMA  National Environment Management Authority
NGO  Non Governmental Organisation
NRA  National Resistance Army
NRM  National Resistance Movement
PAF  Poverty Action Fund
PEAP  Poverty Eradication Action Plan
PER  Public Expenditure Review
PMES  Poverty Monitoring and Evaluation Strategy
PPUs  Policy and Planning Units
PRSP  Poverty Reduction Strategy Paper
PSCP II  Second Private Sector Competitiveness Programme
PSFU  Private Sector Foundation of Uganda
RBPP  Regulatory Best Practices Programme
SC  Steering Committee
SDISP  Social Development Sector Strategic Investment Plan
SIP  Strategic Investment Plan
SJP  Strengthening of the Judiciary Project
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<td>Uganda Law Reform Commission</td>
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<td>UNDP</td>
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# J/LOS MID TERM EVALUATION - REPORT OUTLINE

## VOLUME ONE

**Executive summary**

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VOLUME TWO

UGANDA’S LEGAL OBLIGATIONS:
A CHECKLIST FOR J/LOS PLANNING AND EVALUATION

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Executive Summary

Objectives of the evaluation

The purpose of the mid-term evaluation is to review programme management and implementation since the launch in November 2001. The objective of the evaluation is to provide an assessment of the achievements against agreed targets both at process and implementation levels; and an evaluation of the outcomes of the JLOS Strategic Investment Plan 2001-06, half way through the implementation of the first phase.

The report is intended to inform both Government of Uganda and Development partners on how to strengthen programme management through support to the institutional framework for implementation, monitoring and evaluation. It is also to suggest a strategy for increased influence of legal sector reform on the poverty eradication agenda of Government of Uganda.

Scope of work

The five main areas of this evaluation, identified in the Terms of Reference, are:

1. Assess efficiency and effectiveness of J/LOS management structure (programme and financial); including the monitoring & evaluation system

2. Assess J/LOS performance against the current qualitative and quantitative indicators within the themes of access to justice; efficiency and effectiveness and quality of justice

3. Local level: assess effectiveness of, and support for, J/LOS

4. Assess inter-sectoral policies and working relationships with other line Ministries, with donors as well as between J/LOS donors

5. Assess actual/likely J/LOS quantitative/qualitative contribution to the PEAP aims (especially addressing poverty, human rights and good governance)

As a sectoral level evaluation (rather than an evaluation of the performance of individual institutions) it was agreed that the MTE team would focus exclusively on that level, while referring to examples from the institutional level where they illustrate a sectoral issue.

Chapter 1 outlines the methodology used by the MTE team in the process. Annex 11 presents an overview of the reports findings and recommendations chapter by chapter.

\(\Delta\) is used to highlight findings while \(\triangleright\) highlights recommendations.
Overall Findings

Δ The first phase of implementation of SIP has seen considerable achievement. The processes in place lay a solid foundation for further stages of J/LOS implementation, including consideration of this report as part of an on-going learning process. In this context, great credit is due to the leadership of the J/LOS institutions involved as well as the working level officials who have directly contributed to J/LOS management. Enormous effort has been made by the institutions involved, management structures, Secretariat and donors alike.

Δ The central implementation success of J/LOS to date has been the establishment of what are known as, the Three Cs: the practice of increased co-ordination, communication and co-operation through specific mechanisms. These far-reaching changes have contributed to a range of positive results e.g an increased appreciation of each other’s problems combined with an atmosphere conducive to peer review and constructive self-criticism.

Δ An assessment of progress in terms of impact is clearly premature given the short period since implementation of key parts of SIP began; and the lack of a monitoring and evaluation system for the sector. Evidence of J/LOS progress is vital - not only for policy decisions or justifying proposed budgets - but to unite and motivate J/LOS officials at all levels.

At purpose level, a summary of the J/LOS SIP with performance assessment, is provided (Table 3.2.3). In spite of the short period of implementing the SIP and inevitable challenges which have existed, there has been some movement from output to impact, especially from the Chain Linked pilot project
- Reduction in length of stay on remand from an average of 24 months to less than 15 months for serious offences.
- Reduction in the number of persons held on remand beyond constitutional period from 39% to 1% and 23 % to 10%, for serious offences and petty offences respectively.
- Increasing trend of arrest based on evidence, as may be indicated by increasing rate of conviction compared to acquittals.
- Reduction in numbers of lost files between DPP and Police, improved information management.
- Increasing efficiency in the Commercial Court.

Δ Given the overall success of the first phase of SIP in laying the foundations for a sectoral approach, it is recommended that J/LOS be re-invigorated with preparations for SIP II. The scale and timeline required for the SIP policy objectives to be achieved should not be underestimated and the need for ongoing substantive, political and financial engagement between GoU and Donors is paramount.

Δ J/LOS achievements are most clear where it has not been seen by its members merely as a funding mechanism - but as a process through which change is generated. J/LOS is at a watershed at which this must be re-affirmed.
The J/LOS policy objectives set out in SIP are drawn specifically from Uganda’s international legal commitments. The eight objectives use short-hand to refer to well-established legal concepts which are the internationally recognised minimum standards for an effective justice system. These cover all aspects of an effective, efficient, accessible, independent, fair, and corruption-free system of justice for both criminal and civil matters. Compliance requires that the Constitution, national laws, budgets, programmes, policies and practices are not only consistent with these standards on paper but that they ensure these standards are effectively enjoyed by all in practice - including the majority poor.

To give effect to the SIP policy objectives when planning for SIP II or evaluating impact, there is a need to ensure real familiarity of all J/LOS actors and stakeholders (institutions, Ministries, donors, NGOs, technical advisors etc) with the minimum standards underpinning the SIP. Therefore, as part of the on-going learning process of which this MTE is a part, Volume Two elaborates on the content of these standards as an aid to discussion of the MTE recommendations.

For example, the findings of the treaty-based Human Rights Committee (HRC) provide important feedback to J/LOS, identifying areas of progress (such as the Supreme Court finding corporal punishment unconstitutional) but finding progress in addressing inhuman prison conditions inadequate. That feedback should be central to J/LOS priority-setting and planning. The Committee also highlights the urgency of addressing J/LOS reform from the perspective of the human rights change needed in order to maintain Uganda’s international reputation. In May 2004 the international committee of independent experts established under the International Covenant on Civil and Political Rights, to which Uganda is a party, found torture to be widespread.1 Similarly, a Baseline Survey was commissioned by the Uganda Prisons Service to identify human rights violations in prisons including their possible causes and recommendations. It reinforces in stark terms the scale of the challenge and the imperative that there be no complacency.2

From MTE discussions J/LOS is broadly aware of its obligations, with a positive approach reflected in initiatives such as the annual meetings between the DPP, Police and Chief of Military Intelligence, and recent steps towards independent monitoring of places of detention (including those within the ambit of the military and intelligence services). J/LOS, however, has not yet prioritised the issue of torture, nor developed a systematic approach or mechanisms of prevention. The obligation to specifically criminalise torture (and complicity in it) has not been a priority for legislative reform while sectoral indicators of progress J/LOS chose do not address torture, conditions or treatment of detainees.

Thus, while the strong positive reform processes have been ongoing, the relevance, impact and sustainability of J/LOS reforms is placed in perspective by reported torture of perceived political opponents. In any state, some types of violations require prioritised budget allocations for places of detention; while other types of violation are a question of political will. The investigation, prosecution and punishment of any

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1 It does so after careful examination of the Uganda state report on compliance with the treaty and after considering information from other sources (generally such as UN agencies, national and international NGOs etc.) and after a process of oral discussion with a GoU delegation. Crucially, the HRC gave Uganda until May 2005 to report back on action taken by Uganda to comply with its treaty obligations. See further Annex 4.
2 By Windsor Consult, with support of the European Union, August 2004.

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perpetrators of torture is a fundamental step to achieving SIP policy objectives, strengthening the rule of law, due process as well as public and investor confidence.

Based on the human rights standards, the MTE finds that J/LOS can make a powerful case that its objectives are central to the achievement of the GoU Poverty Eradication Action Plan (PEAP). The PEAP recognises the importance of a ‘system of checks and balances based on separation of powers, with independent judicial and legislative branches’ while J/LOS is also central to the PEAP goal of addressing poverty reduction through addressing powerlessness. Thus, J/LOS aims to effectively and fairly regulate power relations between individual Ugandans (enforcement of labour contracts, resolving disputes, protection from common crime etc) while protecting them from arbitrary or abusive use of power by the state (illegal arrest, corrupt law enforcement etc). J/LOS as a whole, and the Commercial Justice Reform Programme specifically, are to contribute to the PEAP by enhancing rule of law to encourage confidence for investment for private sector growth. The MTE finds that all areas of JLOS reform have the potential to contribute to growth, though Uganda’s experience in recent years illustrates that growth in GDP may or may not be applied to address poverty through redistributive policies.

However, to reduce poverty, reform must be holistic, based on the minimum human rights standards. A justice system can be effective and efficient without protecting the interests of the poor. The system may have impressive throughput of cases - but in fact serve only the interest of those who are informed or who can afford to pay or bribe. J/LOS has prioritised efficiency (e.g. in the selection of J/LOS-wide indicators) and needs to reinforce this with the holistic approach illustrated in Volume Two - not least because efficiency alone can be aided by the fact that the poor cannot access the system. Holistic recommendations are outlined below, with a focus on well-defined issues of quality (e.g. fairness of hearings, treatment) and accessibility of justice (e.g. corruption) as well as enhanced public awareness or ‘demand.’

The Direction of Overall Recommendations

Given the overall success of the first phase of SIP in laying the foundations for a sectoral approach, re-invigoration of J/LOS and preparation for SIP II are recommended.

In this context, the MTE emphasises that J/LOS achievements are most clear where it is seen by its members as a process through which change is generated. J/LOS is at a watershed at which this must be re-affirmed. Such is its overriding importance that minimum steps required by Uganda’s treaty commitments to prevent torture are set out as examples in Annex 4 of the Report. These steps should form part of J/LOS preparation to report back to the Human Rights Committee in May 2005. These include the establishment of:

- A reliable baseline so that the instances of torture and their frequency can be properly measured against that baseline; and
- Accurate indicators and sources of verification including for conditions or treatment in detention.

J/LOS must ensure that initiatives are carried through to results. The purpose of baselines and indicators is to ensure that the preventive and remedial action is effective, and where it is not, to adjust that action accordingly.
Positive J/LOS results against torture will be a key measure of the relevance, impact and sustainability of the reform programme - and are of ultimate importance for the future of the justice, law and order system of Uganda.

Overall, MTE recommendations address the need to strengthen both J/LOS management structures and processes in the direction of the themes which follow:

► Strengthen Sector-wide management

- Leadership Committee
- Steering Committee
- Technical Committee (including Working Groups)
- Strengthen permanent sector-wide PPU as an engine of reform (with institutional PPU’s). Key features: independent and impartial with capacity to withstand inappropriate pressures
- Local level Committees
- Streamlining parallel structures into JLOS
- J/LOS Donor Group

► Strengthen sector-wide processes towards SIP policy objectives

- Monitoring and evaluation including local level accountability for impact.
- Evidence-based priority setting and planning, including holistic needs assessment for civil justice reform; and participatory planning for SIP II (Annex 9)
- Timely implementation of the Financial Management Strategy
- Produce evidence to convince GoU of the imperative of more, and better protected, funding for J/LOS by calculating the economic cost of the status quo in the sector and the contribution to PEAP of achieving the SIP policy objectives.³

The manner in which structures and processes are to be strengthened is based on these themes:

► Build change from local to national

- Build an internal constituency for change at all levels by allocating time and resources to enhance the focus on systematic training, motivation, commitment to common goal, feedback and involvement in decision-making, drawing lessons from The Chain Linked Pilot (Annex 4) and Community Service.

- Promote teamwork, motivation and solidarity; personal commitment & accountability; voluntarism and pride and reward creativity for low cost priorities

- Re-focus efforts to address root causes (crime prevention, penal policy e.g. recidivism and prison education, strategy against corruption), low-cost strategies or efficiency savings

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³ All the MTE recommendations tend to help J/LOS assure J/LOS’ contribution to PEAP such as: sector wide participatory planning and M&E; a holistic approach to civil justice reform, an effective strategy to address corruption linked to codes of conduct, local accountability, streamlined complaints system etc. In particular, key to PEAP will be a) Strengthening both demand and supply-sides and b) working with Civil Society organisations, including the private sector.
Encourage united sector-wide:
- advocacy (e.g. public service pay reform, conditions of service)
- solidarity (e.g. political interference or attacks on independence of the judiciary) and
- peer review (especially for urgent matters such as prevention of torture or food crisis in Arua prisons)

Create alliances with other sectors and co-ordinate with other actors as needed

**Enhance local support and impact**

- Strengthen local level accompaniment and communication for J/LOS mechanisms; with local mentoring and monitoring for evidence-based decisions
- Enhance focus on Local Council Courts and local government level. Increase dialogue and partnership between J/LOS institutions and Local Governments - taking place at local level. Create concrete links between local council courts and J/LOS including Community Service; sensitise Local Governments in a systematic way about J/LOS local committees and the importance of their feedback on performance of J/LOS at local level
- Introduce a holistic approach to civil justice reform. Improved efficiency in commercial cases at High Court level should gain momentum through reform at magistrates and lower courts level, including the introduction of a small claims track.

**Promote sustainability by strengthening both 'supply' and 'demand'**

- Foster the greatest catalyst to increased efficiency - accountability - including an informed and organised public demand. Promote inclusion, participation and transparency at all levels; combine 'supply side' strengthening of institutions with strengthening informed public 'demand' for change at local and national level. Promote direct accountability for change locally as part of sectoral monitoring and evaluation; Introduce effective, streamlined complaints and other mechanisms for feedback from the full range of users.

***

The first phase of implementation of SIP has seen considerable achievement. As J/LOS moves to prepare for its second phase the MTE emphasises that there is no doubt at all as to the importance, and the potential impact, of the work ahead.

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4Such as victims and witnesses of crime, those on remand, those serving sentences, civil litigants, etc. as well as mechanisms for wider community feedback, central to planning for SIP II (see Annex 9).
PART A. INTRODUCTION & CONTEXT

Chapter 1. INTRODUCTION

This introductory section presents the purpose and objectives of the evaluation, the scope of work, methodology, limitations encountered by the evaluation team as well as the structure of the report.

The Government of Uganda began work to develop a reform programme for the Justice, Law and Order Sector (J/LOS) in November 1999. The development of this sector was informed in part by the findings of three key studies and a Commission of Enquiry. The Criminal Justice Review in 1997, the Uganda Integrity Survey in 1998 and the Crown Agents Legal Sector Review in 1999, all found that Ugandans, especially the poor, were dissatisfied with service delivery by the justice system. There was a perception of high levels of corruption coupled with a sense of insecurity of the person and property.

Having articulated a commitment to reform, the GoU developed an institutional framework to facilitate the process. A J/LOS sector Secretariat was established in August 2000 to develop a strategic investment plan together with a detailed work plan for the medium-term. A J/LOS Strategic Investment Plan (SIP) (2001-2006) was finalized and launched in November 2001. In order to evaluate progress halfway through implementation of the first phase of the J/LOS SIP, this mid-term evaluation (MTE) was commissioned in May 2004.

1.1 Purpose and Objectives

The purpose of the mid-term evaluation was to review programme management and implementation since the launch of the SIP in November 2001. The objective of the evaluation was to provide an assessment of the achievements against agreed targets both at process and implementation levels and to evaluate the outcomes\(^5\) of the J/LOS Strategic Investment Plan 2001-06, half way the implementation of the first phase.

The report is intended to inform both Government of Uganda and development partners on strengthening programme management through support to the institutional framework for implementation, monitoring and evaluation. It is also to suggest a strategy for increased influence of legal sector reform on the poverty eradication agenda of Government of Uganda.

1.2 Scope of work

The Terms of Reference identify **five main areas** for this evaluation.

1. Assess efficiency and effectiveness of J/LOS management structure (programme and financial); including the monitoring & evaluation system

\(^5\) Outcomes are the extent to which major relevant objectives were achieved efficiently.
2. **Assess J/LOS performance** against the current qualitative and quantitative indicators within the themes of access to justice; efficiency and effectiveness and quality of justice

3. **Local level:** assess effectiveness of, and support for, J/LOS

4. Assess **inter-sectoral policies and working relationships** with: a) other line Ministries such as Local Government; Gender, Labour and Social Development; b) donors; and c) between J/LOS donors

5. Assess actual/likely J/LOS quantitative/qualitative **contribution to the PEAP** aims (especially addressing poverty, human rights and good governance)

As a sectoral level evaluation (rather than an evaluation of the performance of individual institutions) it was agreed from the outset that the MTE team would focus **exclusively on the sectoral level**, while referring to examples from the institutional level where they illustrate a sectoral issue.

### 1.3 Methodology

Addressing the above five areas with the aim of determining relevance and fulfilment of objectives, efficiency, effectiveness, impact and sustainability, the MTE team undertook an independent assessment of the following:

- Sector performance in relation to Uganda’s relevant treaty commitments including sector performance in relation to its policy objectives as set out in the SIP. These are themselves drawn from those treaty standards, including the poverty-reduction and good governance agenda of the GoU.
- Performance in implementation of the criminal and commercial justice reform programmes at the sub-sectoral level.
- Performance in relation to processes and mechanisms for sectoral cohesion.
- Performance regarding relationships with other relevant sectors and other key actors.

**International minimum standards for justice, law and order sector**

Naturally, the SIP policy objectives are specifically drawn from Uganda’s international legal commitments. The eight objectives use short-hand to refer to well-established legal concepts which are the internationally recognised minimum standards for a justice, law and order system. That legal framework provides highly developed guidance to all states engaged in J/LOS reform, and for Uganda in particular based on its specific treaty obligations.

**These minimum standards cover all aspects of an effective, efficient, accessible, independent, fair, and corruption-free system of justice for both criminal and civil matters.** Compliance means not only that the Constitution, national laws, budgets, programmes, policies and practices are not only consistent with these standards on paper - but also that systems are in place to ensure these standards are effectively enjoyed in practice.

To give effect to the SIP policy objectives, there is a need to ensure real familiarity of all J/LOS actors and stakeholders with the content of these minimum standards for the justice, law and order sector (institutions, Ministries, donors, NGOs, technical advisors etc).
Therefore, as part of the on-going learning process of which this MTE is intended to form a part, Volume Two elaborates on some of the content of these standards as an aid to future discussion.

It sets out the constituent elements of the Justice system to which Uganda is committed, in the form of a checklist for J/LOS to examine whether national implementing law, procedures, practices, programmes, budgets and systems achieve these standards in practice. The checklist:

- Provides standards of assessment that have legitimacy that is both deep and wide: they are owned by GoU as it adopted these legal obligations as standards for its people by becoming party to the main human rights treaties; and these are the same treaty standards that development partners have ratified;
- Clarifies that human rights standards underpin all of J/LOS activity – from combating corruption to rehabilitating offenders and demonstrates how integrated they are. It thus unites in their natural framework the various standards to be achieved by both criminal and civil justice (including commercial matters); as well as the standards for both ’Law and Order’ and ’Justice’;
- Emphasises cost-free solutions to human rights problems by drawing attention to items which simply require GoU decision (e.g. the treaty obligation to immediately release of those who have served unreasonable periods on remand);
- Places in context the initial choices made by J/LOS and helps identify missing areas as well as checking whether sectoral monitoring and evaluation (M&I) is asking the pertinent questions;
- Indicates how inter-dependent these standards are and thus the need for a holistic, rather than fragmented, approach to J/LOS.

The evaluation methods used to generate factual information and a wide spectrum of view points included:

- Review of voluminous literature and documentation on the sector including programme documents, literature on the status of implementation of the J/LOS SIP (2001-2004) and study reports, minutes of meetings of the various J/LOS committees, policy documents, and relevant literature pre-dating the launch of the SIP e.g. the Crown Agents reports. In addition, a literature review of the wider Uganda context was conducted.
- Inception Meetings (with the Criminal Justice Sub Committee of the Technical Committee and J/LOS Donor Group). The planned commercial justice inception meeting did not prove feasible.
- Consultations with various stakeholders including members of the Leadership Committee, Steering Committee, various working groups of the J/LOS Technical Committee, Policy and Planning Units, the J/LOS Donor Group, Uganda Law Society, the private sector, commercial lawyers and non-governmental organisations.
- Individual interviews.
- Local level field visits (Mubende and Mbarara).
- Input from other relevant observers of J/LOS such as the Uganda Human Rights Commission, the Ministries of Health, Education, Public Service as well as Local Government and Civil Society actors.
- Team presentation of preliminary findings at the J/LOS Joint GoU-Donor Review June 7th - 8th 2004.
- Dissemination of a full discussion draft of this report to the J/LOS donor and GoU stakeholders inviting comment
- Additional meetings and individual interviews regarding the discussion draft with J/LOS GoU and donor stakeholders
- Provision of individualised feedback from the MTE team to those who provided comments on the discussion draft
- Dissemination of a second draft report and consideration of feedback provided by stakeholders
- Presentation of findings at the Joint GoU-Donor Review meeting on 29 November 2004.

For further details of persons met and consulted see Annexes 2 and 3.

The evaluation did not examine conflict-related matters in-depth. However, a number of such issues are raised in this report and the team met with Mr Barney Afako of Justice Resources who was carrying out a study of J/LOS issues and conflict-affected areas, commissioned by the Netherlands Embassy.

Regarding challenges on the technical side, as outlined above, the scope of work of the MTE was intended to review J/LOS at the sectoral level, whereas various J/LOS members expected their institution to be assessed in-depth. Another challenge was the varying framework for progress reporting used to date by J/LOS. In an effort to synchronise J/LOS with the overall GoU poverty monitoring process the SIP result areas were streamlined into three categories of access to justice, efficiency and effectiveness and quality of justice without accurate definition, as noted in Chapter 2. In recognition of this, the report assesses reported progress along both the thematic areas as well as presenting a summarised assessment of achievements under the original SIP log frame (with focus on achievements of results against the performance indicators).

Finally, the evaluation team were able to alter their timetable for consultation notwithstanding the untimely death of the Attorney General on the first day of the mission.

1.4 Report Structure

The report is presented in nine chapters. Following the current introduction, Chapter 2 sets the evolution of J/LOS into its historical context. Chapter 3 provides an overview of progress towards achieving the SIP policy objectives, noting achievements, lessons identified and some of the constraints J/LOS faces at its midterm.

Chapter 4 concerns the wider coherence of GoU policy and inter-sectoral issues; followed by a focus on the contribution by donors to the achievement of SIP policy objectives in Chapter 5.

Chapter 6 considers the J/LOS contribution to PEAP. Chapter 7 outlines management structures and processes for the sector, while chapter 8 examines the financial context for J/LOS achievements. Chapter 9 outlines issues for a J/LOS monitoring and evaluation system.

Annex 4 outlines low-cost lessons identified from The Chain Linked project and demonstrates their particular relevance in the prevention of torture, while Annex 9
details further the recommendations for a participatory planning process for SIP II, linked to a strengthened monitoring and evaluation system.

Information is up-dated to October 2004.

| In this MTE report, △ is used to highlight **findings**, while ▶ highlights **recommendations**. |
Chapter 2: CONTEXT

This section of the report sets the MTE in context, as well as outlining the evolution of the J/LOS into its historical perspective.

2.1 Uganda’s historical context

The context within which the justice system in Uganda must be addressed is dominated by two factors: the extent of poverty and the impact of decades of civil unrest. After almost two decades (1966-1986) of political, civil and economic regression in Uganda, the country faced a breakdown of the functions of the state including the maintenance of law and order. Lack of civil authority made it impossible for the justice system to function. Consequently there was loss of public confidence in the justice system illustrated by a high incidence of ‘mob justice’. The sector suffered from severe lack of finance, demoralized staff who accepted bribes and delivery of low quality service. Institutions lacked the infrastructure, logistics, personnel and proper legal and policy direction to effectively execute their functions. In these circumstances, there was no effective access to justice for all persons - even the rich had to ‘purchase’ it at high cost.

The 1995 Crown Agents Report (Volume I and II) and the Review of Uganda’s Criminal Justice System 1999 assessed the institutions central to the criminal justice system and identified the factors that constrained the proper functioning of the sub-sector’s institutions.

Overall, the institutional and systemic constraints identified as affecting the ‘supply side’ of criminal and civil justice included corrupt practices, case backlogs, inefficiencies and lack of effective procedural guidelines and court performance standards, lack of effective planning and budgeting, lack of adequate transport, basic office equipment and insufficient or unsuitable office/court accommodation.

Constraints specific to the criminal sub-sector included, inadequate prisons and police facilities as well as antiquated methods and tools of investigation and prosecution. Investigations by police were slow and often incomplete, sentences imposed by the courts were sometimes perceived as too lenient and too slow and both were susceptible to, and plagued by, corruption. Where justice did not appear to be delivered, the public in many instances took the law into their own hands in the form of lynching. Furthermore, because there was a well-founded expectation of ineffective prosecution, there were few guilty pleas by offenders, who preferred to take a chance on the high probability of acquittal. This, combined with lengthy court delays, a high backlog of cases and an ineffectual bail system, resulted in a disproportionate number of remand prisoners and these comprise the majority of those incarcerated in Ugandan prisons.

Similarly, pursuit of civil claims met with long delays, corruption and a low likelihood of enforcement of any judgment obtained. In the case of commercial matters more

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6 J/LOS Strategic Investment Plan, situational analysis, p.5.
particularly, commerce in Uganda has been limited for decades, with an underdeveloped commercial justice system and similar problems of backlogs, inefficiencies, and corruption.

These systemic constraints were compounded by the absence of a clear policy framework and strategic plan for the sector, limited capital and infrastructure investment and decreasing funding levels from GOU, impunity and lack of accountability to the public across the sector for the range of human rights violations by the state, corrupt practices and limited information exchange contributed to serious service delivery problems e.g. the management of suspects from arrest to discharge or operational legal systems to enforce contracts and enable debt collection.

In addition to such institutional and systemic obstacles, others were identified which relate directly to the end-users of the agencies, the ‘demand side’. The status quo remained in part due to weak ‘demand side’, especially by the poor, unable to demand change. Obstacles include illiteracy and ignorance of rights, of the technical procedures, cultural and gender-based obstacles, corruption, and a weak financial and economic base making criminal defence or civil litigation unaffordable. Of crucial importance is the impact of the obstacles summarised above on undermining that public confidence in the state justice system (both criminal and civil). Confidence was severely eroded - contributing to the negative cycle.

The National Resistance Movement (NRM) Government came to power in 1986 and in the following years Uganda became a party to all the major treaties defining an effective system of justice, law and order. A constitution-making process commenced in 1988 and resulted in the Constitution of the Republic of Uganda in 1995. Among other matters, the Constitution set in motion a number of changes and interventions as part of ensuring compliance with the treaty standards undertaken.

Over the past decade various interventions culminated in a sector-wide approach, whose origins are briefly outlined in the next section. In parallel to GoU efforts there have also been interventions by civil society actors working to create awareness of legal rights and procedures for redress.

2.2 The Origins of the Justice, Law and Order Sector

It is important to place the J/LOS concept in context. Since the late 80’s and early 90’s donors had been investing heavily in Uganda and the justice sector was been no exception. However, support was provided to individual agencies and there was little co-operation between institutions. The approach was the traditional institutional approach with different donors working with different agencies as illustrated in the below table.

<table>
<thead>
<tr>
<th>Donor</th>
<th>Agency supported</th>
</tr>
</thead>
<tbody>
<tr>
<td>DFID</td>
<td>Police</td>
</tr>
<tr>
<td>Danida</td>
<td>Judiciary</td>
</tr>
<tr>
<td>Netherlands</td>
<td>DPP</td>
</tr>
<tr>
<td>Germany</td>
<td>Prisons</td>
</tr>
</tbody>
</table>

The term ‘justice sector’ is here used to refer to all of the institutions which carry out de jure or de facto functions relating to law enforcement or the administration of justice. ‘J/LOS’ refers to the 10 institutions currently coordinating through J/LOS structures. This is particularly relevant to the Chapter 4 discussion of inter-sectoral relationships.
Donors met regularly to share information and discuss ways and means of improving the situation. However, it was felt that the investment and effort was extensive but the impact was limited. Studies to analyse the situation and make recommendations for a way forward were commissioned, the most notable of which were:

- The Commission of Inquiry into Judicial Reform, 1995

The reports were helpful in analyzing the situation and mapping the roles of the respective institutions as well as their strengths and weaknesses. Many bottlenecks were identified and the reports (Crown Agents in particular) provided a broad map of the sector, as a basis for priority setting.9

At the same time as the donor group was trying to identify ways to improve the uncoordinated institutional approach, other initiatives were taking place on the ground. The pilot Chain Linked Initiative in Masaka Magisterial area was designed to improve coordination, communication and cooperation across the criminal justice agencies (police, prisons, DPP, Judiciary, probation and welfare services) and identify “best practice”. The individual agencies worked closely co-ordinating and exchanging management information alongside the identification and implementation of performance standards and procedural guidelines.

The Chain Linked Initiative pilot showed that the justice agencies were all part of the same chain that makes up the administration of justice process and that they all stood to benefit from working more closely together and sharing information. Some of the immediate benefits included:

- 600 “deadwood” cases identified and withdrawn with the stroke of a pen by the DPP.
- Joint prison visits with agreed action in relation to priority prisoners identified including release of those found to be imprisoned unlawfully.
- Development and distribution of agreed performance standards for different stages in the administration of justice process.
- Introduction of concept of court ‘open week’.
- Joint meetings to weed out weak cases and co-ordinate the scheduling of trials.

The Chain Linked initiative thus paved the way for the introduction of a co-ordinated approach to planning and budgeting on a national, sectoral level for the J/LOS which later emerged. Some of the factors contributing to the success of the initiative are helpful for evaluating progress at the mid-term of the J/LOS SIP, and are outlined in Annex 4.

A parallel success to the Chain Linked Initiative was the Case Backlog Project that brought the relevant agencies together to exchange information and identify the resources required to reduce the backlog of criminal cases (at the High Court) and

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devise systems and procedures to ensure that the backlog is not repeated. This project has been recognised as having specific relevance to poverty reduction.10

The sector faced similar challenges in the area of civil justice. In the case of commercial matters, the GoU defined the policy framework under the GoU Medium - Term Competitiveness Strategy for the Private Sector (MTCS). Commercial Justice Reform was identified as a priority area for private sector growth under the Medium Term Competitiveness Strategy (MTCS)11 and a study was undertaken.12 The study defined the commercial aspects of the civil justice sub-sector as comprising institutions dealing with commercial matters (courts and registries) and the commercial justice environment (commercial lawyers and laws). The study pointed out key obstacles to the making and enforcement of commercial contracts as including: backlogs in the courts, inefficiencies and corruption in key institutions as well as lack of commercial awareness in the courts. On the basis of this study, a programme was developed for reform of commercial justice with four key areas for intervention13.

2.3 The Strategic Investment Plan of the Justice, Law and Order Sector

In November 1999, a meeting of high level policy and political decision-makers in the justice sector (referred to as the “Mamba Point” meeting) decided to align the justice sector with GoU policy on poverty eradication (PEAP) and to focus on moving forward in two reform areas - Criminal and Commercial Justice reform - in the medium-term. Significantly, one of the prime movers of the initiative was the Ministry of Finance, impatient with each Government institution having separate ‘shopping lists’ without reference to the other inter-related institutions. This followed the successful implementation of sectoral approaches in other areas such as Health and Education.

Having articulated a commitment to reform as GoU policy, in November 1999 some key institutions in the sector formed a budget working group, and began work to foster partnerships with the private sector, NGOs and donors to develop the reform programme in detail. In addition, an institutional framework was developed to facilitate the reform proces. A Secretariat was formally established in August 2000 to develop the strategic investment plan (SIP) with a work plan for the medium-term. For the Commercial Justice Reform Programme, a working group was established and DFID undertook to recruit a Commercial Justice Advisor sitting at MoJCA and a Commercial Court Management Advisor sitting at the Commercial Court.

After a series of meetings and consultancies to determine areas for reform and initiation of pilot projects aimed at realisation of efficiency savings (including the Prison farms, Police Vehicle fleet Management, casebacklog and court awards projects), the J/LOS Strategic Investment Plan was finalized and launched in November 2001. The overall mission of the J/LOS is “to enable all people to live in a safe and just society”.

10 As perceived by MoFPED, this project was the only aspect of J/LOS to qualify for the Poverty Action Fund (PAF) until in June 2004 GoU indicated its intent to extend PAF funding to the SWAP Development Fund and the Commercial Justice Reform Programme for the FY 2004/2005.
The following principles were identified as J/LOS strategic guidelines:

1. To contribute to the PEAP aims and work towards the reduction of poverty
2. To promote knowledge and a respect for governance and human rights principles by:
   (a) Working towards the ideals laid out in the Uganda Constitution;
   (b) Working towards implementation of the Human Rights Principles and Conventions to which Government of Uganda is a signatory;
   (c) Promoting systems of social and financial accountability and transparency across the J/LOS Sector institutions

### 2.4 J/LOS Policy Objectives

The policy objectives to support the Mission statement are human rights (including poverty) focussed as indicated below:

- Fostering a Human Rights culture across the J/LOS institutions
- Promoting the Rule of Law
- Securing access to justice for all people, particularly the poor and other marginalized groups
- Amending all laws and legislation that are discriminatory
- Ensuring a significant reduction in the incidence of crime, particularly crime that is defined by the people as “serious crime”
- Promoting principles of crime prevention, as well as enforcement
- Encouraging grassroots voice and community involvement across all J/LOS institutions
- Strengthening structures for commercial justice, particularly at grass root level

The J/LOS SIP has sought to improve the administration of justice through co-ordinated planning and budgeting of all sector institutions. In the medium term, the reform targets were the priority criminal justice sub-sector and commercial justice (within the civil justice sub-sector).

The Criminal Justice Reform Programme has four key areas of intervention in the SIP, which are the basis for defining its strategic objectives as indicated below:

<table>
<thead>
<tr>
<th>Area of intervention</th>
<th>Strategic Objective</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Legal services -</td>
<td>Legal services reform</td>
</tr>
<tr>
<td>2) Administration of justice -</td>
<td>Strengthened administration of justice</td>
</tr>
<tr>
<td>3) Law reform -</td>
<td>Legal and Law Reform achieved</td>
</tr>
<tr>
<td>4) Civic and legal education -</td>
<td>Civic and Legal Education sustained</td>
</tr>
</tbody>
</table>

Key result areas were defined under each strategic objective with performance indicators and verification tools.

The Commercial Justice Reform Programme in the medium term addresses the inputs needed to make all parts of the system work - the Companies Registry, the Land Registry, the Courts, the enforcement agencies, the legal profession and the regulatory environment.

Under its strategic objective “to improve the ability of the private sector to make and enforce commercial contracts”, results are defined for each area of intervention as indicated below:
Area of intervention                  Expected Result
1. Commercial Courts -               Commercial Courts which are accessible to all businesses, and which process commercial cases expeditiously and justly
2. Commercial Registries -          Improved efficiency and transparency of the Companies Registry and the Land Registry.
3. Commercial Laws -                Key Commercial laws reformed, and sustainable process established for ensuring business-friendly laws and regulations
4. Commercial Lawyers -             A competitive regulatory environment for the legal profession established, and the number of lawyers competent to handle commercial cases increased.

Objectively verifiable indicators and verification tools are also defined as are activities.

2.5. Management and Co-ordination Mechanisms

The J/LOS is comprised of over ten institutions dealing with administration of justice as indicated below.

<table>
<thead>
<tr>
<th>J/LOS Institutions</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>• Ministry of Justice and Constitutional Affairs <em>(Lead Institution)</em></td>
<td>• The Judiciary</td>
</tr>
<tr>
<td>• Ministry of Internal Affairs including:</td>
<td>• Uganda Police Force</td>
</tr>
<tr>
<td>o Government Chemist</td>
<td>• Directorate of Public Prosecutions</td>
</tr>
<tr>
<td>o Immigration Department and</td>
<td>• Uganda Prisons Service</td>
</tr>
<tr>
<td>o Community Service programme</td>
<td>• Judicial Service Commission</td>
</tr>
<tr>
<td></td>
<td>• Uganda Law Reform Commission</td>
</tr>
<tr>
<td></td>
<td>• Ministry of Local Government - Local Council Courts</td>
</tr>
<tr>
<td></td>
<td>• Ministry of Gender, Labour and Social Development - Probation Department.</td>
</tr>
</tbody>
</table>

The J/LOS SIP envisaged certain management and co-ordination mechanisms. During the period under evaluation, what was envisaged in the SIP has in some cases evolved differently as indicated in Table 2.3.1 below:

Evaluation of the Management and Co-ordination mechanisms is discussed in Chapter 7.

In addition to the GoU mechanisms, donors supporting J/LOS have been convened under the J/LOS Donor Group. The Donor Sub-Group serves as a coordination mechanism through which J/LOS donors keep pace with developments. They coordinate on priorities and policy discussion with J/LOS institutions. This coordination takes place in close liaison with the J/LOS Secretariat as well as with participating J/LOS institutions. Regular meetings and mechanisms provide the framework for coordination.
<table>
<thead>
<tr>
<th>Management and Co-ordination mechanisms envisaged under the SIP</th>
<th>Management and Co-ordination mechanisms that were established during the period under evaluation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A National Council for Justice, Law and Order (NC/J/LO):</strong> as the oversight body for the J/LOS programme. It was to provide political support and policy guidance across the sector and ensure coordination, accountability, efficiency and equity of access across the J/LOS institutions. It was to be responsible for presenting the Annual J/LOS Report to Cabinet and Parliament and would meet twice a year. It was envisaged to comprise: All current members of J/LOS Steering Committee; heads of institutions, Permanent Secretaries of Ministries, accounting officers; and the Chief Justice; and CSOs and academics.</td>
<td><strong>The National Council was as such not established. There was established a Leadership Committee comprising, The Chief Justice (Chair), Minister for Justice and Constitutional Affairs, Minister for Internal Affairs. This more restricted committee was intended to provide the political support J/LOS needed.</strong></td>
</tr>
<tr>
<td><strong>A J/LOS Steering Committee:</strong> to be responsible for guiding implementation of the programme towards achievement of the Purpose level performance indicators of the J/LOS logical framework. It was also to have responsibility for monitoring policy coordination across the sector and confirm annual priorities, targets and associated budgets for recommendation to the NCJLO. It was to comprise officials at the highest levels of the institutions in J/LOS and the Ministry of Finance, Planning and Economic Development.</td>
<td><strong>The Steering Committee as envisaged in the SIP has been functioning. Composition includes officials at highest level of J/LOS institutions, including heads and accounting officers (permanent Secretaries for the ministries). The Solicitor General Chairs the meetings with the DPP as a substantive alternative chair. The Steering Committee is the most active level of senior J/LOS decision-making. It takes policy decisions and is tasked with monitoring policy co-ordination, while also directing and guiding the Technical Committee.</strong></td>
</tr>
<tr>
<td><strong>A Technical Committee,</strong> comprising representatives from all the institutions in J/LOS Sector and the Ministry of Finance, Planning and Economic Development was to have responsibility for implementation of the J/LOS programme. The Technical Committee was to delegate specific responsibility for implementing the Commercial Justice Reform Programme to its Commercial Justice and De-regulation sub-committee and implementation of the Criminal Justice Reform Programme to its Criminal Justice sub-committee.</td>
<td><strong>The Technical Committee comprises some forty persons (including Accounting Officers, Under Secretaries, senior management and staff from Policy and Planning Units). As envisaged, has been responsible for implementation. The Technical Committee operates mainly as two separate sub committees for Criminal and Commercial justice. Donors with bilateral programmes are represented by Technical Advisors on the Technical Committee e.g. Danida Support to Judiciary, DFID Support to Commercial Court, and GTZ support to Community Service. The full Technical Committee meets together with donors just prior to the six-monthly Joint GoU-Donor review to discuss progress reports.</strong></td>
</tr>
<tr>
<td><strong>The MoJCA Policy and Planning Unit (PPU) was to be the resource base for implementation of the J/LOS programme. It was to take the lead on all matters concerning the sector wide approach through the Sector Secretariat to be located within the PPU. The Secretariat was to work closely with the Policy and Planning Units in each of the J/LOS institutions.</strong></td>
<td><strong>The MoJCA PPU is headed by a Senior Economist and has a team of staff including economists, policy analysts and statisticians. The Senior Economist has been supporting the Sector Secretariat</strong></td>
</tr>
<tr>
<td><strong>The J/LOS Sector Secretariat</strong> in the MoJCA: was to have day-to-day responsibility for promoting and managing the entire J/LOS programme. Other responsibilities included providing the Steering, Technical and Donor Liaison Committees with quarterly reports on progress against the logical framework performance indicators; taking the lead on behalf of GoU in ensuring donor co-ordination and liaising closely with the SWAP Donor Group of J/LOS; and providing the range of programme</td>
<td><strong>The J/LOS Sector Secretariat has been functioning with a Senior Technical Advisor, a Resource Person and a Commercial Justice Advisor.</strong></td>
</tr>
</tbody>
</table>
A National Forum on Justice Law and Order was to be held annually under the guidance of the National Council (NCJ/LO). This was to bring together primary and secondary stakeholders to debate J/LOS issues and concerns providing an important link between the GoU and civil society.

This has not been convened.

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14 It was also to be the Secretariat for the Criminal Justice Reform Programme and its Technical sub-committee. The Commercial Justice and De-regulation Sub-committee was to have as its Secretariat both the Justice/Law and Order Sector Secretariat in the Ministry of Justice and Constitutional Affairs and the De-regulation Unit in the Ministry of Finance, Planning & Economic Development.
PART B. IMPLEMENTATION

Chapter 3 provides an overview of progress in achieving the SIP policy objectives, noting achievements, lessons identified and some of the constraints J/LOS faces at its mid-term. Chapter 4 concerns the wider coherence of GoU policy and inter-sectoral issues; followed by a focus on donor contribution to the achievement of SIP policy objectives in Chapter 5.

Chapter 3. J/LOS IMPLEMENTATION

Assess J/LOS performance against the current qualitative and quantitative indicators within the themes access to justice; efficiency and effectiveness and quality of justice.

This chapter examines J/LOS performance at the sectoral level broadly under the headings: process, output and impact.

3.1 Progress in terms of Process

Public expenditure management efficiency means moving from projects to systems for planning and sequencing coherent and efficient development with pooled donor support. In principle, the added value of a sector-wide approach (as opposed to institution based service delivery or project support) is a system which is seamless and more than the sum of its parts. Key management processes are the foundation for successfully achieving this.

While specific indicators for these J/LOS processes were not as such envisaged in SIP, various management and coordination mechanisms were established. These included the Committee structure at Leadership, Steering, Technical and Donor levels. J/LOS has also had a Secretariat to facilitate the committee structure and this has worked hand in hand with some institution-based technical advisors, as well as some policy and planning units established. Subject to the issues raised in the assessment of the management structure in Chapter 7, it is noteworthy that the mechanisms have set in motion communication, participation and decision-making processes for J/LOS. These processes constitute a strong foundation for sectoral cohesion.

In addition, mechanisms for planning and assessing progress through Budget framework papers, progress reports and semi-annual reviews with undertakings have been extremely valuable for the sector. A strong foundation of research and studies has been laid during the first phase of the SIP implementation to guide reforms. In addition, a number of surveys have been conducted to contribute to the monitoring of J/LOS progress and its contribution to poverty eradication.

At process level, the central success of implementation of J/LOS to date has been the establishment of the Three C’s: Increased co-ordination, communication and co-operation through specific mechanisms.15

15 These mechanisms are considered in more detail in Chapter 7A and 7B.
Reduced suspicion and resort to mutual blaming between J/LOS-institutions; replaced by increased appreciation and recognition of each other's problems

An atmosphere conducive to peer review essential for accountability as well as openness to self-criticism which is the foundation for effective learning. A strong example of multi-institutional analysis is the 2003 Uganda Prison Census. The data was analysed for some human rights implications as well as for specific implications for improving the criminal Case Backlog Project. One of the conclusions is that Community Service alone will not result in decongestion of Uganda's prisons.

Identification of many J/LOS-wide policy issues for reform, including key studies e.g. legislative reform in both criminal and commercial areas; shortfalls in human resource capacity, financial management.

Strengthened institutions in the areas of strategic planning including preparations for enhanced Policy and Planning Units, development of institutional strategic plans; budgeting; progress reporting; infrastructural investment (including equipment)

Foundations laid for effective data collection for evidence based planning. For example, this foundation includes the initial criminal and commercial baseline surveys; Case Management systems in DPP and Judiciary and the 2003 prison census.

Speedier processes in Commercial Court under new rules of procedure

Establishment of pilot projects e.g. Case backlog, and Mediation Pilot Project in Commercial Court

Recent steps taken to operationalise the Uganda Services Registration Bureau Act that will see the Company Registry transformed into a semi autonomous organisation

Donors

Similar progress has been achieved regarding donor co-ordination as well as strengthened J/LOS-donor communication and relationships. For example GoU-Donor liaison meetings, twice-yearly review process, allocation of development partner to each institution). These are considered further in Chapter 5 on Donor relations.

Finance

There are indications that the J/LOS process has strengthened the collective bargaining position of J/LOS institutions vis à vis GoU. For example J/LOS successfully made the case for criminal Case Backlog budget protection through the Poverty Action Fund. More recently, PAF protection for the SWAP Development fund and Commercial Justice Reform Programme has been announced by GoU for the FY 2004/5.

However, funding for J/LOS has not kept pace with inflation since the launch of SIP, and a sectoral approach should lead to more GoU funding and better efficiency.

The success of these processes has created its own challenges in light of the evolution of the Secretariat and PPUs to date:

- A far heavier burden of work has evolved for the J/LOS Secretariat which has been generally under-resourced in the number of personnel, and particularly regarding financial management.
- Over-due development of PPUs at institutional level (some J/LOS actors have none e.g. DPP)
• Heavy burden of planning and financial reporting (quarterly progress reports, twice annual review, budget framework papers, financial narrative reports, annual audits)
• Linked to the above constraints, progress has been limited in applying a sectoral level monitoring and evaluation system. This is considered in Chapters 7 and 9.

⚠ Overall, the processes developed in the first half of the implementation phase of SIP have been extremely positive. This has been achieved with great individual effort by those involved – and in a relatively short period of time. A great deal of credit is due to each institution, and to each official representing them in J/LOS structures, for their commitment.

While chapter 7.2 considers ways in which the processes can be strengthened, for example in priority setting; evidence-based planning; as well as peer review and mutual accountability, overall a constructive attitude to reform has been encouraged among those directly involved and a frank assessment of current limitations is the norm in discussions. A good example of this is the fact that J/LOS itself produced a policy matrix in October 2003 (some eight months before this evaluation) which identified a number of challenges. The matrix (below) indicated key action needed in the areas of: accountability, co-ordination and monitoring. Whereas progress has been registered in some areas in the short period since then, some issues are outstanding. Each of these issues are considered in detail in later chapters. However that may be, the MTE team emphasises that it is a major achievement that J/LOS processes have proved capable of constructive self-criticism. This is a key finding of the MTE. The processes in place lay a solid foundation for further stages of J/LOS implementation.

<table>
<thead>
<tr>
<th>Action area</th>
<th>Issues</th>
<th>Action</th>
<th>Overall progress to date of MTE: each is considered in detail in later chapters</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ACCOUNTABILITY</strong></td>
<td>High fiduciary risk particularly in recurrent expenditure</td>
<td>Recruitment of a Financial Management specialist</td>
<td>German Embassy currently recruiting for the post to be in post by October 2004</td>
</tr>
<tr>
<td></td>
<td>Irregular collection and verification of non-tax revenue</td>
<td>Training of all Accounting Officers in Public Sector financial management</td>
<td>Completed training carried out by ESAMI</td>
</tr>
<tr>
<td><strong>MONITORING</strong></td>
<td>Irregular reporting on agreed performance indicators</td>
<td>Finalised sector output &amp; outcome performance indicators</td>
<td>Sector indicators in draft form: Working group to be constituted on the use of agreed M &amp; E tools</td>
</tr>
<tr>
<td></td>
<td>Weak inspection and monitoring, &amp; planning</td>
<td>Staffed institutional Policy and Planning Units with</td>
<td>All institutions except DPP have recruited personnel</td>
</tr>
</tbody>
</table>

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16 During the current PEAP revision exercise, J/LOS was required to conform to the format of the PEAP by developing a policy matrix with MoFPED, which was later adopted by the Steering Committee. When the initial PEAP was developed, J/LOS was not yet conceived, so it was missing in the PEAP 1997. The Policy Matrix took into account changes that had occurred as the SIP implementation evolved. For this reason, some areas are omitted and others are introduced. For example, the policy matrix seeks to include issues of management at the sectoral level that were not envisaged at the beginning e.g. coordination, accountability and monitoring.

*J/LOS MTE Final Dec04*
**Factors for success: compare The Chain Linked pilot with J/LOS**

Since 2001, building the process of co-ordination and common planning and budgeting has been time-consuming for all management structures of J/LOS. However, after an early period of clear progress in the co-ordination process, the pace of change has slowed with the enormity of the task.

In this context, as the Masaka pilot of *The Chain Linked* initiative established the central concept underpinning J/LOS, it is timely to reflect on the factors which led to the pilot’s success and which in turn encouraged the institutions to move to the more ambitious J/LOS process. Factors central to the success of the Masaka pilot of The Chain Linked included:

- Teamwork, motivation and solidarity
- Personal commitment & accountability
- Voluntarism and pride
- Local Level
- Mentoring
- Monitoring for evidence-based decisions
- Creativity for low cost priorities

⚠ Beyond encouraging co-ordination - J/LOS institutions needs to highlight evidence of the value of a sectoral approach as a process of generating change, and not merely as a funding mechanism.

▶ To reaffirm J/LOS commitment as a process of change, a more detailed analysis is provided of the lessons identified in the *Chain Linked* process in Annex 4; and their application is recommended as an urgent priority to prevent torture in a low-cost.
3.2 Progress in terms of Output

Beyond the vital process achievements, much J/LOS reporting has naturally focused on outputs in the first half of the SIP implementation.

This section is based on an assessment of J/LOS progress against the Strategic Investment Plan (SIP) based on the paper trail of reports to J/LOS management and the Secretariat.\(^\text{17}\)

In an effort to synchronise J/LOS with the overall GoU poverty monitoring process as developed by the Poverty Monitoring and Analysis Unit, the SIP result areas were streamlined into three categories of access to justice, efficiency and effectiveness and quality of justice. It is against these three areas that progress reporting and budgeting at institutional level has been undertaken. In order to give due attention to each, the assessment in this report presents the Criminal and Commercial Justice Reform programmes separately.

Before considering progress using the three categories in place, three issues should be noted from the outset.

\(\Delta\) The lack of a functional J/LOS monitoring system with baselines and impact indicators (currently under development at the sectoral level) has meant that progress has been measured in terms of outputs J/LOS perceives as contributing to improvements in access to justice, efficiency and effectiveness and quality of justice. In that regard, the outcome tends to be assumed from what was intended, rather than demonstrated through actual impact. For example, it is assumed that improving physical access to J/LOS institutions should in turn result in improved access to justice, especially for vulnerable groups. Such an assumption can only be tested in an impact evaluation that considers the range of other factors that have been identified as impeding access to justice. This issue is discussed in the context of monitoring and evaluation in Chapter 9.

\(\Delta\) Secondly, placement of the SIP result areas under the three themes was not directly aligned to the structure of the SIP.\(^\text{18}\) In recognition of this, immediately following the assessment along the three thematic areas, the report presents a summarised assessment of achievements under the J/LOS SIP log frame with focus on achievements of results against its performance indicators.

Currently, the placing of J/LOS activity under the different headings is not used consistently among J/LOS documents and the meaning of the headings needs to be accurate in terms of the international legal framework (e.g. quality of justice should include fairness of hearings, right to a defence, and not merely abuse by officials of equipment as in the questions used in the Criminal Justice Baseline Survey).

\(^{17}\) Reports and documents reviewed include aide memoires from the semi annual reviews, institutional quarterly and semi annual progress reports, J/LOS budget framework papers and reports from studies conducted in the course of the period under review.

\(^{18}\) Issues from several result areas in the SIP are in some cases consolidated under one thematic area in the policy matrix.
The division of J/LOS aims into three themes (access to justice, efficiency and effectiveness and quality of justice) can prove helpful if the categories are clearly and consistently defined.

3.2.1 PERFORMANCE OF THE CRIMINAL JUSTICE REFORM PROGRAMME

A. Access to justice

J/LOS interventions under this theme aim at protecting the rights of all Ugandans to access functioning courts, especially vulnerable groups such as the majority, who live in poverty. Key action areas in SIP included the improvement of physical access to J/LOS institutions, equitable access for women and juveniles, and civil society involvement in provision of legal aid.

Improving physical access to J/LOS institutions (Result B1 of the SIP)

The major factor focussed on in the first half of SIP implementation has been geographical coverage by key J/LOS institutions. During the first phase of implementing the SIP, there has been some progress in infrastructural development as part of de-concentration of J/LOS institutions. The aim is to limit distances to be travelled to access services. Activities reported include: MoGLSD had a bilateral programme that saw the renovation of Naguru remand home and Naguru reception centre; Judiciary - Construction of Grade 1 Courts at Hoima, Nabweru, and Bugiri and FY 2004-2005 was targeting Pallisa and Mukono; UPS - Construction of 4 wards in Mbarara Prison to decongest Kakiika Prison, 1 ward in Kotido prison, strengthening of security system in Moroto, DPP- Resident State Attorney offices in Mbale, Arua, Soroti, Masindi, Kabale and Mukono. Other infrastructure to be constructed in Kampala includes a new Police HQ, and the planned new maximum security prison.

Although progress in terms of construction was impressive, the need for further de-concentration to address accessibility to services of J/LOS institutions remains enormous especially in Northern Uganda and the Karamoja region- where service delivery has for a long time been hindered by conflict (see chapter 3.4 local level).

Beyond improving physical representation of J/LOS, there is a need to address the ratios of distribution of J/LOS personnel to the population, while taking crime trends into consideration. The sector has therefore prioritized the phased recruitment of staff to achieve the ideal ratios in the long term, and to increase access through faster case investigation, prosecution and adjudication. Progress to date includes recruitment of 500 prison warders/wardresses and 500 police officers per annum. In addition, the Judiciary is to recruit 26 Grade 1 Magistrates per annum, with the DPP recruiting 60 State Attorneys per annum.\(^{19}\)

Overall, positive activity has taken place in construction to expand J/LOS local presence. a) Major further work remains with a need to target the most neglected areas country-wide. In this context, questions arise as to the process of prioritizing construction related to need in light of major construction projects in Kampala (such as new police headquarters). b) Physical access to J/LOS is necessary but alone unlikely to be sufficient to ensure effective access to functioning courts. The

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\(^{19}\) Ministry of Finance, Planning and Economic Development; Uganda Poverty Status Report, 2003 (Achievements and Pointers for the PEAP Revision).

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importance of other factors, such as gender or cultural barriers, needs to be assessed and addressed locally as the nature and importance of factors are likely to vary from place to place. Before and after comparisons of local public opinion would help identify whether, in what ways, and for whom, these construction projects help ensure access to justice in the local communities intended to be served, and whether they need to be combined with a more holistic community approach to achieve the intended effects.

**Equitable access for Women and Juveniles (Result A3 of the SIP)**

The key issues identified in SIP were the limited capacity of Local Council Courts in equitable application of the law; and limited Probation and Welfare staff to address juvenile & family welfare cases.

The Local Council courts are critical to the improvement of access to justice, particularly for women and children. The Children’s Act gives LC courts first instance powers over juvenile justice cases of a non-capital nature. A 1998 Baseline Survey on the operations of these LC courts indicated that they lack systematic or standardized training regarding their roles, functions, jurisdiction and procedures as well as sensitivity to gender and human rights and rules of natural justice. Apart from the comprehensive consultative process toward reform of the law governing these courts (the passing of which remains outstanding), interventions have included development of a Training manual and a separate Reference manual for Local Council Courts. The manuals have been pre-tested under an LC Courts Capacity Building Pilot Project covering six districts.\(^{20}\)

Achievements in the area of juvenile justice include: Out of 549 Family and Children’s courts, 220 are functional, an increased number of probation and welfare officers from one or no officers per district in 2001 to one officer per district and at least two officers in 20 districts at the end of 2003; as well as establishment of separate detention cells for juveniles in 8 districts. A pilot juvenile justice reform programme supported by Embassy of Ireland and implemented by Save the Children UK has resulted in the development of a National Juvenile Justice Code of Conduct and a National Strategy for Juvenile Justice. Although the target was a joint strategy on Gender and Juvenile Justice, the two are being developed separately.\(^{21}\) Development of the strategy on gender and access to justice has been delayed.

\(^{\Delta}\) The definition of vulnerable groups has been limited to focusing on women and juveniles, and has not included others whom the Criminal Justice Baseline Survey found to be the target of discrimination, such as perceived political opponents, the specific vulnerabilities of the 1.5 million displaced Ugandans or 200,000 refugees, living in camps in conditions which are often extremely insecure.

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\(^{20}\) This is under support to the Ministry of Local Government by the United Nations Capital Development Fund.

\(^{21}\) It was expected that the Working Group on Gender would do this with support from the Ministry of Gender, Labour and Social Development (as the parent Ministry for gender and children). The idea was to extract relevant aspects of gender and children from the Ministry’s Social Development strategic plan. It turned out that this was not straightforward and now the two are to be developed separately.

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Civil society involvement in the administration of justice (Result A3 of the SIP)

Key issues identified included limited access to legal aid and pro bono representation, and limited GoU capacity to offer legal representation for all in need. In recognition of the key role of CSOs in ensuring access to justice, J/LOS developed a partnership strategy to guide collaboration with them. This strategy was not implemented for various reasons, including concern that it could compromise the independence of CSO actors. A Baseline Survey on Legal Aid Service Provision has been conducted, sponsored by some members of the J/LOS donor sub group. As part of the results of the survey, a process to establish a Legal Aid Basket Fund is currently under way.

Some of the progress registered includes amendment of the Advocates Act to require all advocates to provide pro bono legal aid services. Enforcement of the Advocates Act requirement for pro bono services, increased geographical coverage of legal aid clinics by civil society organisations, as well as the regulatory framework for legal aid service provision are to be addressed under the Legal Aid Fund.

Given the very limited coverage of legal aid services reflected in the Legal Aid Baseline Survey, it is premature to perceive increased access for the poor to effective representation at High Court and Magistrates courts in the short term.

Role of legal aid NGOs should be strengthened as advocates (not limited to service deliverers) a) as valuable source of systematic data and analysis for m&e of J/LOS as a whole through their work directly with the poor & b) as advocates for needed changes within J/LOS decision-making, taking test cases, etc

B. Efficiency and Effectiveness

Under this theme, J/LOS means improved efficiency and effectiveness within J/LOS institutions as improved throughput of cases at reduced cost to the sector. Key actions planned include organizational development of individual sector institutions, result oriented management, lowering the costs of the administration of justice, operations and infrastructure as well as generation of efficiency gains, in order to increase the resource envelope for operations in real terms.

Organizational development of individual sector institutions (Result B1 of the SIP)

Here, the aim was to develop human resource development strategies - including specialized training such as project/financial management and organizational development.

Progress has been varied as reflected in the summarised J/LOS SIP log frame below. A key achievement has been the development of strategic plans for all J/LOS institutions. Specific training has been undertaken in financial management; and some DPP and CID staff have been trained and attached to specialized squads in South Africa, United Kingdom and USA. Available documentation shows that although technical staff within some of the institutions have benefited from career

23 See Plan of Implementation for NPT Co-operation in Uganda for the J/LOS Sector, September 2003, which details training undertaken in the sector.
progression, the institutions still need to develop human resource development policies to inform training and career development priorities.

**Result Oriented Management (Result A2 of the SIP)**

The development of institutional strategic plans for all institutions in the sector has been a significant aspect of performance during the period under review. In addition, there have been efforts to resource institutional Policy and Planning Units (PPUs) with skilled technical staff. The institutional PPUs are however at varying stages of development, with some having a considerable number of skilled staff, such as MoJCA, Police and Prisons (the latter two were already established as Research and Planning Departments) while other institutions have just managed to recruit one staff member (an economist/planner or statistician) and others have none (DPP).

Some institutions such as DPP, Police, the Government Chemist and the Judiciary have developed and disseminated Codes of Conduct and performance standards and have been holding sensitisation workshops on them during annual staff strategic planning retreats.

▶ Codes of conduct could be strengthened by developing their content in a Chain Linked manner, to cover all J/LOS actors. Special versions of the code of conduct adapted for use by the public could be helpful in raising public awareness if disseminated appropriately. These would set out what should be expected in the criminal justice system step by step from the perspective of the individual victim, witness and accused with details of the J/LOS simplified complaints channel (see quality of justice below). There will be a need to assess the degree of compliance with the codes of the conduct and performance standards after they have been in place for about one year, including through peer review.

Implementation of Management Information Systems for key sector institutions is at varying degrees of development. Some institutions such as the DPP and Judiciary have computerized case management systems (PROCAM and CCAS respectively), while Uganda Police Force is developing a crime statistics database, and the Prisons Service still uses a manual system. Despite the fact that these databases are yet to be perfected and upgraded to institutional management information systems, their ability to produce crime statistics, a prison census, and institutional annual reports with statistics (DPP and Judiciary) is commendable.

However, the initial Criminal Justice Baseline Survey aptly notes the absence of an integrated functional management system, and concerns about the reliability of key data. These constrain sector-wide management’s ability to make informed strategic decisions. With the aim of helping to address the limited use of existing data in policy making and planning, a J/LOS-wide web portal was launched in June 2004 with links to websites of relevant J/LOS institutions. The MTE is too early to assess the use, and utility of the site as it was still under construction at [http://www.J/LOS.go.ug/](http://www.J/LOS.go.ug/) at the time of conducting the evaluation. However, the site design does not appear to envisage its use as a much-needed management tool. The J/LOS investment in establishing the website will provide limited return if it has a more public relations role, than as a platform for civil servants and other stakeholders to get access to materials or exchange information within J/LOS, or with colleagues in other jurisdictions.
Key issues to address include the need for systematic monitoring and evaluation of programme implementation, including compliance with established Performance Guidelines/Codes of Conduct, and enhanced use of available data for policy making and planning.

Lowering the costs of the administration of justice (Result D1 of the SIP)

Key issues to address in SIP included the increasing costs of case administration and inaccessible justice for the poor. Planned activities included increasing the jurisdiction of lower courts in order to handle more cases at less cost and training of Local Council Courts to adjudicate cases fairly. The effect of these were intended to be an increased case clearance rate for High Court and Court of Appeal, thus reducing backlog and delays in the delivery of justice. The preparatory work for the Local Council Courts Bill, which includes increased monetary jurisdiction, was completed and it only remains to be passed into law. A similar situation pertains to the amendment of the Magistrates’ Courts Act and Trial on Indictment Decree (to give jurisdiction over defilement cases, a major cause of backlog and cost to the justice system), to Chief Magistrates.

Whereas a lot of efforts have gone into conducting studies and preparing bills for law reform, the ultimate objective of altering jurisdiction remains pending. There is a need to expedite the process of law reform as it is indicated as a key challenge to progress in various areas of the J/LOS.

Another initiative to lower the cost of administration of justice is the reduction of time spent on remand, which in turn reduces the cost of feeding those on remand, while releasing them to become productive in society. The establishment of performance standards for completion of cases has reduced the remand period from five (5) for capital cases to two (2) years. The change in the overall number of prisoners however is very little, due to increased crime rate, the pending change in the law on defilement, and increased efficiency in investigation of criminal activities.

Operations & Infrastructure (Result B1 of the SIP)

Poor terms and conditions for staff including poor infrastructure and lack of rudimentary tools of the trade were key issues affecting staff morale identified in SIP. In response, it was planned to increase budgetary allocations to operations and infrastructure linked to Crime Data and Poverty profiles. The World Bank is set to produce a crime vs. poverty map for the whole country.

There has been some provision of basic infrastructure such as vehicles, communication equipment and housing for Police and Prisons lower cadre staff. The process of procurement of a DNA machine for the Government chemist is also in motion. UPF expanded low cost housing for low rank Police Officers and low cost housing for Luzira training school.

The challenge on operations and infrastructure remains enormous. The Poverty Status Report 2003 indicates that in terms of operations and infrastructure, while the Judiciary has good coverage of the country, other institutions such as the DPP have much more limited coverage. In nine districts, the Uganda police Force lacks
adequate communication equipment, while only 29 of the 46 Prisons have transport. Prisoners walk distances of up to 15Km to attend court.

⚠️ During consultations, the issue of terms and conditions of service for personnel in J/LOS institutions emerged as critical to the success of reforms. The team noted with concern that apart from the inadequate salaries of the majority of personnel in J/LOS institutions, the standard of life is poor for many of them. Accommodation for the rank and file officials in police and prisons needs to be addressed as well as conditions in custody.

► Given that institutions are only as good as the personnel who run them, pay reform and better standards of living for J/LOS personnel are imperative.

*Generate efficiency gains in J/LOS operations, increase the resource envelope for operations in real terms. (Result B1 of the SIP)*

This was intended to be achieved through four pilot initiatives:

a) Criminal *Case Backlog Project & Chain Linked Initiative* - This brought the relevant agencies together to exchange information and identify the resources required to reduce the backlog of cases and devise systems and procedures to ensure that the backlog is not repeated. In terms of progress, the project enabled the arrangement for extra High Court sessions geared at reducing case backlog.

⚠️ The project has been rolled out countrywide at magisterial level. Faster case disposal should be registered (especially petty offences) and reduction in criminal case backlog. However, limited monitoring and follow up undermines assessment of its success and creates a risk of regression. In addition, the ongoing design of a unified case backlog data base under MoJCA is a significant development emerging from the case backlog project. This will include information on other aspects of justice especially the civil sub-sector.

b) *Police Vehicle Fleet Management* - studies were commissioned and a strategy developed and costed. The project is now moving to implementation stage.

c) *Court Awards and Compensations* - there has been delayed implementation because the original study report was not acted upon. A policy decision was taken by the Attorney General in December 2003 to limit the scope of awards. Based on that, a more comprehensive study has just been commissioned. The study is envisaged to yield four (4) outputs: A *Database at the Civil Registry* in the Attorney General's Chambers of all civil suits Pending Against Government of Uganda; A *Legal Opinion* as to the liability of any of the parties in pending civil suits exceeding the amount of USD $50,000, collated in tabular form and arranged by day, month and year; A *Database of all Pending War Debt Claims* as at December 31st 2003; A *Tabular Compilation of Potential Government Liability*, based on the legal opinion given; and A *Tabular Compilation of Current Government Liability* where final judgements have been entered, and there are no pending appeals, including accrued interest.

d) *Prisons Farm Project* - Early stages of the pilot reflected major potential efficiency savings. It was projected that savings of up to Shs. 394, 200, 000 would be realized on the food budget in the first year, and was to be allocated to prisoner and staff
welfare. The project showed measurements of prisoner body mass index as increasing from 1.6 to 2.1. This project has regressed largely due to delayed release of funds. Now some prisoners are reported to be on the brink of starvation as is the case in Arua.

△ Whereas the four pilot projects had a great potential to generate efficiency savings for the sector and increase the resource envelope, progress registered in implementation has been varied in each project. It is therefore not possible to reach a conclusive assessment on the extent to which the objective has been achieved.

➤ Given that the Police Vehicle Fleet management and the Court Awards are at rather early implementation stages, J/LOS should commission evaluations for the Case Backlog and Prison Farm projects to provide a basis for continuation.

C. Quality of Justice

Result areas planned in SIP which are reflected under the theme of ‘quality of justice’ are civic and legal education on one hand, and reform of criminal laws on the other.

Civic and Legal education (Result C1 of the SIP)

The SIP recognized the need to strengthen the ‘demand’ side for justice, especially by increasing the human rights awareness of the poor. In addition, it was recognized that human rights awareness also needed to be raised among J/LOS officials. This is because violations of human rights not only include those that are systemic (e.g. excessive periods detained on remand) - but also arise from attitudes or criminal offences by J/LOS officials. Examples range from arbitrary detention or release based on bribes, assault or mistreatment of prisoners through to lack of a public service mentality when dealing with members of the public. Such behaviour by officials was identified in the Criminal Justice Baseline survey as a key barrier to justice.

The SIP focus was on civic and legal education especially for the poor, legal literacy and observation of human rights by J/LOS staff. To date, interventions for civic education and legal literacy have included a publicity campaign for J/LOS or its institutions through the radio, TV and Print media, spearheaded by the J/LOS Publicity working group. In addition, the Judicial Service Commission has launched a two-pronged civic education campaign covering J/LOS institutions and the public. Implementation with J/LOS institutions is reported to have been carried out through internal workshops.

Some sector institutions have also developed brochures intended as a guide to “Users”. However, the success of these brochures in targeting their intended public audience may in some cases be limited by the technical and complex language and layout used to present information. An example is the two Court Users’ Guide which are not written in “Plain English” and have yet to be translated into indigenous languages.

As regards the establishment of help and complaints desks within each sector institution, some institutions such as DPP, Judiciary, Prisons, Police, have such in place, while others are in the process of developing such systems.
The public awareness strategy needs to be reviewed to ensure it is designed using appropriate language and media to reach the target poor audience, women and other vulnerable groups etc, and to ensure that the content of the message is practical and empowering. Information about J/LOS institutions is not a substitute for knowledge of the minimum standards to expect from inter-acting with J/LOS. Similarly, a law and order emphasis is only part of the J/LOS vision and needs to be balanced by strengthening e.g. its access to justice aspects. The need for co-ordination and collaboration with the National Civic Education Strategy is noted in Chapter 4 concerning inter-sectoral linkages.

The need for a co-ordinated complaints system for the sector cannot be over emphasized. This is addressed in Chapter 9, strengthening the monitoring and evaluation system. Although not yet within their work plan, the JSC has indicated a need for such co-ordination of institutional complaints mechanisms.

J/LOS achievements are diminished due to increased crime rate which results in more cases entering the justice system. There is a need for increased investment in crime prevention strategies, as well as civic and legal education for the public. The challenge on operations and infrastructure remains enormous. J/LOS needs to assess the degree of investment required in infrastructure and match it with the envisaged impact of investment in crime prevention strategies.

As part of improving the behaviour of law enforcement officers, there were plans to implement a human rights education programme. While the police and prisons are receiving human rights training from the UHRC, a sector-wide programme has not been developed, nor does J/LOS have a mechanism for assessing the relevance and impact of the training, in terms of changed behaviour etc.

Overall, the approach to human rights education for officials has been piecemeal, inadequate, and also unsustainable. This is mainly as human rights have been conceived as an ‘add-on’ to training instead of systematically and fully integrated into all routine training, instructions, manuals, operating and disciplinary procedures etc, for all personnel.

J/LOS institutions still need to develop human resource development policies to inform training and career development priorities linked to the recommendations that pay and conditions of lower ranks as a pre-condition to sustainable reform. Effective human rights training for J/LOS personnel should be conducted as part of a strategy of changing perceptions with incentives rewarding positive behaviour. Part of the strategy should be links to independent disciplinary procedures, promotions and other acknowledgement of professionalism, prosecutions for criminal offences where appropriate, sanctions for failing to report misbehaviour by colleagues (and carefully designed incentives for doing so), effective compensation to victims etc. A review of the integrated training should be in close collaboration with other actors such as UHRC. It needs to be based on the minimum international standards Uganda is committed to, whose implementation is the basis for achieving the SIP policy objectives.

A baseline of attitudes and behaviours needs to be established for both the criminal and civil justice sub-sectors, at all levels (some attitudes were in part gathered in the
commercial baseline survey). Without this, and without an effective system-wide complaints mechanism, J/LOS is over-reliant on the UHRC annual report and public perceptions gathered every two years or so, to assess changes in attitudes and behaviour of officials. This is an insufficient basis for establishing action plans and targets for changing attitudes and behaviour.

Crimes perpetrated by other institutions involved in law enforcement but not among the ten J/LOS institutions, also affect the public perception of J/LOS as failing to enforce the rule of law. These have resulted in, for example, in civil suits against the Attorney General (see Chapter 6 regarding economic contribution of J/LOS to PEAP). There is an urgent need for the sector to forge effective working relations to resolve these issues with the military and security agencies responsible. During the drafting of this report, a potentially important initiative on co-ordination was announced by UHRC, DPP and the heads of Uganda’s security agencies - See Chapter 4 on inter-sectoral relationships and Annex 4 on the need for a low cost strategy for prevention of torture and similar urgent matters.

Reform of Criminal Laws (Result D1 of the SIP)

This is intended by J/LOS to promote rule of law; increase respect for human rights and improve quality of justice. Key areas identified for reform include:

- Sentencing and prosecution reform - Progress is that the sentencing guidelines and prosecution guidelines are complete.
- Reform of criminal trial procedures - draft regulations and report are ready pending submission to the Attorney General.
- De-criminalisation of petty offences - work has commenced, target to be completed September 2004.
- Compliance with the 1995 Constitution.
- Simplification of laws for the public - e.g. completed simplification of the Penal Code.
- Community Service Act amendments process started

As noted earlier, the process of conducting studies and consultations towards law reform has been set back by delays in law reform process between Cabinet and Parliament.

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24 For example to provide amnesty to those having served their sentence, but who have only two years remaining; as well as revising the definition of minor offence and considering juvenile offenders.
Table 3.2.1 below presents a summary assessment of the Criminal Justice Reform Programme under the J/LOS SIP at the level of strategic objectives. Performance assessments and comments are made against the set performance indicators.

<table>
<thead>
<tr>
<th>STRATEGIC OBJECTIVE 1: CRIMINAL JUSTICE REFORM</th>
<th>STRATEGIC OBJECTIVE 1A: LEGAL SERVICES - Accountability, efficiency and equity of access sustained across the justice system</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Narrative Summary</strong></td>
<td><strong>Performance Indicators</strong></td>
</tr>
<tr>
<td><strong>Result</strong> A1: Accountability, monitoring and</td>
<td>A1.1 National Council for Justice Law and Order established</td>
</tr>
<tr>
<td>coordination across J/LOS sustained</td>
<td>A1.2 NCJLO agrees Strategy and Implementation Plan (based on SIP)</td>
</tr>
<tr>
<td></td>
<td>A1.3 NCJLO agrees J/LOS Codes of Conduct, Performance Guidelines/Standards</td>
</tr>
<tr>
<td></td>
<td>A1.4 J/LOS policy priorities reflected in sector and institutional budgets</td>
</tr>
<tr>
<td></td>
<td>A1.5 National JLO Forum established (GoU, NGOs, business community)</td>
</tr>
<tr>
<td></td>
<td>A1.6 UHRC, IGG, DEI Annual Reports confirm</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Performance Assessment and comments</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>A1.1 National Council constituted as a merger</td>
<td>National Council constituted as a merger between the Leadership and Steering Committee.</td>
</tr>
<tr>
<td>between the Leadership and Steering Committee.</td>
<td>Meets once a year within the budget formulation process.</td>
</tr>
<tr>
<td>A1.2 Code of Conduct in addition to standing</td>
<td>Code of Conduct in addition to standing orders for DPP, Judiciary, Police, Government Chemist</td>
</tr>
<tr>
<td>orders for DPP, Judiciary, Police, Government</td>
<td>complete</td>
</tr>
<tr>
<td>Chemist complete</td>
<td>Performance standards for criminal justice agencies approved by chain linked advisory board</td>
</tr>
<tr>
<td></td>
<td>and distributed to all Case Management Committees - 2nd half 2002</td>
</tr>
<tr>
<td>A1.3 Information sharing sessions organised</td>
<td>Information sharing sessions organised between J/LOS and UHRC. UHRC training institutions</td>
</tr>
<tr>
<td>between J/LOS and UHRC. UHRC training</td>
<td>such as police.</td>
</tr>
<tr>
<td>institutions such as police.</td>
<td></td>
</tr>
<tr>
<td>Result</td>
<td>A2. Results oriented management in line with Codes of Conduct and Performance Standards/Guidelines</td>
</tr>
<tr>
<td>--------</td>
<td>------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>improvements in performance of J/LOS institutions</td>
</tr>
<tr>
<td></td>
<td>A1.7 J/LOS programme monitoring system operational.</td>
</tr>
<tr>
<td></td>
<td>Not achieved. Criminal and Commercial justice indicators adopted but reporting against sector-wide indicators remains a challenge as indicated in progress report 1st half 2004</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Result</th>
<th>A2. Chain Linked programme integrated into J/LOS institutional practice</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A2.2 Case backlog</td>
</tr>
<tr>
<td></td>
<td>A2.3 J/LOS Management Information System operational</td>
</tr>
<tr>
<td></td>
<td>A2.4 Crime statistics reflect efficiency in crime reporting, recording and investigations through to prosecution cases</td>
</tr>
<tr>
<td></td>
<td>A2.4 DPP’s Office demonstrates consistency within Prosecution Service</td>
</tr>
<tr>
<td></td>
<td>A2.5 Courts demonstrate consistency of adherence to sentencing guidelines</td>
</tr>
<tr>
<td></td>
<td>A2.6 Community Service Scheme rolled out</td>
</tr>
<tr>
<td></td>
<td>A2.7 Length of stay for remand prisoners implemented in line with Constitutional Principles</td>
</tr>
<tr>
<td></td>
<td>A2.8 Positive feedback on performance and service delivery of J/LOS institutions from UHRC and HR NGOs</td>
</tr>
<tr>
<td></td>
<td>A2.9 Public perception surveys reflect improvements in police response to calls, crime reporting, investigations, case throughput and treatment of victims of crime</td>
</tr>
</tbody>
</table>

- Chain Linked is recognized as normal course of scheduling cases. However, there is no effective monitoring of use of performance standards. |
- 2nd half 2002, roll-out to Magistrates courts ongoing |
- Commenced 2nd half 2002 but not yet operational |
- Crime statistics compiled 1997-2001 reflect a need to improve accuracy and timeliness of statistical reporting on crime |
- DPP has developed and disseminated prosecution guidelines 1st half 2004 |
- Sentencing guidelines have just been finalized 1st half 2004 |
- Process of preparing the roll out commenced 2nd half 2003 |
- Reports routinely prepared by prison authorities to courts to have prisoners who are due, released.
<table>
<thead>
<tr>
<th>Narrative Summary</th>
<th>Performance Indicators</th>
<th>Performance Assessment and comments</th>
</tr>
</thead>
</table>
| Result A3: Protection of rights, particularly of vulnerable groups | A3.1 Phase 1 National Legal Aid Service functioning effectively  
A3.2 Local Council Courts development sustained (and in line with National Strategy for Juvenile Justice)  
A3.3. Phase 1 of Justice Services De-concentration programme completed with % of offices (DPP, MoJCA, Courts, GC) and % of police posts established at LC3 to LC1 level.  
A3.4 NCJLO agrees National Strategy on Gender and Access to Justice  
A3.5 Gender and Justice initiatives integrated into mainstream J/LOS institutional changes  
A3.6 National Strategy for Juvenile Justice implemented | ▲ Foundation work built upon with Legal Aid Baseline Survey. Legal Aid Basket fund being established outside J/LOS structures.  
▲ LC Courts not yet supported under J/LOS. UNCDF pilot programme on capacity building & monitoring commenced 2nd half 2002.  
▲▲ De-concentration of justice services has been ongoing. Note that increased upcountry establishment of services does not necessarily result in improved access to justice.  
▲ Gender and Access to Justice study  
An overall strategy for integration of gender issues in the sector is outstanding.  
Gender working group is developing a work plan  
▲ National Juvenile Justice Strategy developed in June 2004. Until recently, representation of Department of Children and Youth Affairs has not been effective. |
| Result A4: Effective strategy to counteract | A4.1 Individual J/LOS institutions develop HIV/AIDS awareness and coping strategies  
A4.2 UPF, MoJCA, Prisons Human Resource data reflects | ▲ Only 4 remand homes nationally. Improvements done on detention centres. Areas with active chain linked CMCs separate juveniles from adults.  
▲ 4 pilot Districts established under the pilot by Save the Children.  
▲▲ Out of 549 Family and Children’s courts, 220 functional.  
18 districts have 2 Probation officers, 38 only one per district.  
▲ Dialogue initiated by MoJCA with Uganda Aids Commission 2nd half 2002. Some institutions like Prisons, DPP and police developing strategies. |

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### STRATEGIC OBJECTIVE 1B: IMPROVED ADMINISTRATION OF JUSTICE

<table>
<thead>
<tr>
<th>Narrative Summary</th>
<th>Performance Indicators</th>
<th>Performance Assessment and Comments</th>
</tr>
</thead>
</table>
| Result B1: Increased staff retention, improved skills levels in the civil service, efficiency savings through cost effective service delivery | B1.1-8 Individual Institutional targets achieved  
B1.2 Institutional Human Resource Development Policies implemented  
B1.3 Institutional Financial Management Systems implemented  
B1.4 Institutional Infrastructure Developments implemented  
(See Individual Institutional Strategic and Implementation | ▲ Career development and specialized training has been undertaken both inland and overseas. A report on an integrated TNA with a HRBA for J/LOS has been produced. Current focus is on police. There is no integrated institutional human resource development policy for the sector  
▲ 1st half 2002 Design of fleet management system by Police, Mid-term plan for prison farms, Review of Court Awards & Compensation, DNA machine procurement commenced 2nd half 2002] |
<table>
<thead>
<tr>
<th>B1.1 UPF</th>
<th>Plans and Budget frameworks</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>B1.2 UPS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B1.3 DPP</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B1.4 Judiciary</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B1.5 MoJCA</td>
<td></td>
<td></td>
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<tr>
<td>B1.6 JSC</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B1.7 ULRC</td>
<td></td>
<td></td>
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<tr>
<td>B1.8 Government Chemist</td>
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</tr>
</tbody>
</table>

**STRATEGIC OBJECTIVE 1C: CIVIC AND LEGAL EDUCATION SUSTAINED**

<table>
<thead>
<tr>
<th>Result</th>
<th>CT: Improved compliance with the law; improved perception of the justice law and order sector; reduction in the incidence of crime</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>C1.1 National Strategy for Legal and Human Rights Education implemented (including integration of juvenile justice principles)</td>
</tr>
<tr>
<td></td>
<td>C1.2 J/LOS Communications and Publicity Strategy designed and implemented</td>
</tr>
<tr>
<td></td>
<td>C1.3 User perception studies reflect increased public awareness of legal rights and acceptance of legal and penal reforms</td>
</tr>
</tbody>
</table>

**Performance Indicators**

<table>
<thead>
<tr>
<th>Performance Indicators</th>
<th>Performance Assessment and Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Inter-sectoral coordination with UHRC on the national civic education strategy has not happened. Although the curriculum will cover rule of law, the Constitution, administration of justice issues, the J/LOS concept is not adequately captured. The collaboration needs to be strengthened.</td>
</tr>
<tr>
<td></td>
<td>▲ JSC undertaking civic education on administration of justice. Only J/LOS institutions covered so far. Note the need to consider relevance of targeting sector institutions about their mandates.</td>
</tr>
<tr>
<td></td>
<td>▲ A National Juvenile Code of Conduct has been developed.</td>
</tr>
<tr>
<td></td>
<td>▲ Draft report considered, some adverts commissioned on mob justice and community service technical sub committee on publicity established. 1st half 2002.</td>
</tr>
<tr>
<td></td>
<td>▲ Baseline survey on Legal Aid reflects very limited coverage of legal rights awareness programmes</td>
</tr>
<tr>
<td>STRATEGIC OBJECTIVE 1D: LEGAL AND LAW REFORM ACHIEVED</td>
<td></td>
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<tr>
<td>------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td><strong>Narrative Summary</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Performance Indicators</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Performance Assessment and Comments</strong></td>
<td></td>
</tr>
<tr>
<td>Result: Achieverment of consistency and transparency in sentencing and prosecution; reduction in the costs of the administration of justice; development of laws responsive to community needs.</td>
<td>D1.1 Sentencing Law Reform completed</td>
</tr>
<tr>
<td>D1.2 Criminal Trial Procedures Law Reform completed</td>
<td>D1.3 Decriminalisation of Offences Law Reform achieved</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Assumption that Parliament would function as law maker</td>
<td></td>
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</table>
3.2.2 PERFORMANCE OF THE COMMERCIAL JUSTICE REFORM PROGRAMME

A. Access to Justice

On the commercial justice side, a number of objectives were identified in SIP to enhance access to justice and these include:

- Developing a Commercial Court Customer Services Management Strategy by:
  - Enhancing dialogue with users of the Commercial Court,
  - Effective management of support staff,
  - Provision of a users guide,
  - Constructing a purpose built court and,
- Promotion of Alternative Dispute Resolution
- Improved enforcement of commercial judgments

Commercial Court (CC)

Under the CJRP, a number of indicators were designed to measure progress of the CC in the area of access to justice including
- Clearance of backlog through: reduction in time taken to process cases, reduction in multiple adjournments, and improved case flow;
- Reduction in user perception of corruption;
- Improved user satisfaction; and
- Increased capacity to enforce commercial judgments.

The Commercial Court was created in 1996\textsuperscript{26} as a division of the High Court to improve service delivery and enhance efficiency and effectiveness in adjudication of commercial disputes. Section 2 (2) of the Practice Direction states that these are disputes that "affect significantly the economic, commercial and financial life of Uganda." Examples were given of business activities under which actions may arise and these include but are not limited to the supply of goods and services, banking, international credit, insurance, operation of stock and foreign exchange markets, carriage of goods, foreign judgements and commercial arbitration questions.

The newly established division was not without its challenges and a study undertaken in 1998\textsuperscript{26} highlighted among others: poor court facilities, limited capacity of the judges in specialised commercial matters, limited awareness by the public, limited use and appreciation of Alternative Dispute Resolution mechanisms. At the time, it was also found that as many as 80% of the cases handled by the CC involved relatively straightforward debt collection matters instead of the complex commercial matters that had been anticipated when the court was established.\textsuperscript{27}

A further study undertaken of the commercial justice system in 1999\textsuperscript{28} recommended a Commercial Justice Reform Programme incorporating the Commercial Court (CC). Since 2000, the CC has been largely supported through the CJRP\textsuperscript{29} and it has registered progress in addressing some of the above challenges and devising innovative ideas in handling commercial court matters. The CC is increasingly recognised for implementing a wide range of reforms and has received

\textsuperscript{25} The Commercial Court Practice Direction, published by Legal Notice Supplement No. 4 of July 1996.
\textsuperscript{26} Uganda Commercial Court, Report to Danida, International Law Institute, 1998.
\textsuperscript{27} Ibid at p.7.
\textsuperscript{28} Commercial Justice Study, 1999, Manuel, Odoki and Hooper.
\textsuperscript{29} Support is through funding and Technical Assistance – an in-house Commercial Court Management Advisor (CCMA).
visits from several judicial systems (including Malawi, Ghana and Zambia) and also offered support to others such as Tanzania. Below is a discussion of measures taken to improve access to justice and remaining challenges.

**Improved Access to Commercial Court**

- **Constructing a purpose built court:**
  Under the CJRP, the Commercial Court (CC) was moved to separate premises from the High Court and with plans to eventually establish a custom made Court through donor funding. While this move was seen as a step in the right direction, the premises are not custom built for a courthouse and this has hampered service delivery (largely due to limited facilities). The process of identifying a location for, and building, a new Commercial Court has however been characterized by delays, though finally an ideal location has been identified near the High Court.  

- **Enhancing dialogue with users of the Commercial Court**
  In a bid to enhance dialogue with its users, the Commercial Court established the **Commercial Court Users Committee (CCUC)**, which has provided a unique forum for frank exchange of ideas between the Court, commercial lawyers, the private sector, academia and donors. The CCUC is also seen as enhancing transparency and accountability of the Court. Minutes of meetings reviewed during this evaluation indicate progressive improvement in user perceptions. In practice, the CCUC meets quarterly and includes a wide range of participants including: commercial lawyers, Private Sector Foundation of Uganda (which represents over 65 organisations), Uganda Investment Authority, Uganda Chamber of Commerce, academics e.g. Faculty of Law Makerere University and Law Development Center and donors e.g. IMF. As of April 2004, some 10 meetings of the User Committee have been held. Issues discussed include the performance of the Court, its role in enhancing private business and investment in Uganda, new initiatives e.g. Mediation Pilot Project, and updates on progress. Presentations on key issues affecting the different stakeholders are also made. For example, the Executive Director of the Uganda Investment Authority presented a paper on The Impact of Operations of the Commercial Court on Investment. She noted that the User Committee provided a valuable forum for the private sector to air its concerns and issues about the commercial justice sector. However, she further noted a) there was still ignorance about the role and existence of the Commercial Court among the wider private sector and b) there was need for the services to be accessed by the public at large countrywide.

The Commercial Court, private sector and lawyers participating, find the meetings useful for discussing key challenges at the commercial court and means of improvement. Complaints are also raised and discussed with follow-up action often taken on key issues. Users committees rely upon the goodwill of those participating and the necessity that they should see some advantage from the process. The forum itself does not appear to be well known among the private sector - including the smaller and medium sized enterprises and even with practicing lawyers. It should

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30 The original location for the Commercial Court had been proposed at Nakawa, where the judiciary owns land and a High Court already exists. However, after several discussions with donors, it was decided that another option be sought for land closer to the High Court. The process of identifying this land has contributed to the delay. It is also clear that the building plans will have to be revised to accommodate the new site.

31 See Minutes of the Commercial Court Users Committee 9th February, April 2004

32 As reported at the meeting on 9th February 2004. According to the UIA, this information is derived from routine surveys of new investors, established companies and medium sized enterprises.

33 It should be noted that the Uganda Law Society is represented at the CCUC.
be noted that the Court has taken steps to educate the private sector on its existence and role, however there are still challenges of limited awareness among some sections of the private sector. To this end, the Court has initiated further steps to explore possibilities of undertaking educational seminars for the private sector.

Consideration should be given to establishing similar committees for other courts and the use of the Chain Linked Case Management Committees for this purpose. Similarly, there is a need for similar mechanisms for communication and transparency on the criminal side of reform.

**Effective management of support staff:**
Other CJRP reforms aimed at improving service delivery include introducing management strategies for support staff as recommended under the Personnel Management System Consultancy (2003). Under this, a training programme has been developed to address identified gaps in key competencies for all support staff at the Commercial Court. Under the Follow up survey34, preliminary findings indicate that there is a slight reduction in user perception of corruption at the Court. This is down from the baseline of 27% to 26% of private sector and 31% to 25% of lawyers interviewed. It is not clear whether this reduction can be attributed to the training programme (which only commenced in July 2004 at the Law Development Centre) or to reforms at the Court.

**Provision of a Users Guide and Rules of Procedure**
The Court is also in the process of publishing Commercial Court Users Guide, which is intended to explain to the users and potential users of the Court in relatively simple terms the procedures adopted by the Court. During this process, there has been coordination with the High Court, which has published two Court Users Guides (see above).

In addition there will be a Court Procedures Manual. The Court is currently reviewing its Rules of Procedure in order to simplify them as far as possible or improve them in other ways. Complex or lengthy court procedures have in the past been seen as contributing to corrupt practices especially among administrative staff.35

**Alternative Dispute Resolution**
The Center for Arbitration and Dispute Resolution (CADER) was established to implement the Arbitration and Conciliation Act 2000 with support provided through the SPEED project. Arbitration is seen often as a cheaper, quicker and simpler process than court procedure. An increase in arbitration in commercial disputes could reduce the workload of the Court accordingly.

In practice arbitration can be as lengthy as the court process, particularly when compared with a faster process in the Commercial Court. It can be quite technical and more expensive bearing in mind that the parties have to pay the adjudicator, bring the arbitrator, and the premises for any hearing.

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34 Undertaken by K2 Research Ltd. April to June 2004.
35 Based on studies undertaken in the sector including consultations with private sector businesses regarding their views of constraints to the creation and enforcement of contracts in Uganda, July 1999, Commercial Justice Study 1999.
Both the international and domestic arbitration market in Uganda is currently immature with a lack of qualified arbitrators who enjoy the trust of the parties. A potential advantage of arbitration is the privacy of the process but this is not seen as an important aspect as balanced against cost, delay and lack of qualification. Further, the arbitration process is intended to be self-enclosed without the opportunity of appeal. This is regarded by practitioners as unattractive. All of these factors have discouraged the use of arbitration.

\[\Delta\] For these reasons, there has not been a substantial growth in arbitration.

Similarly, despite including provisions for arbitration in commercial contracts, the increased effectiveness of the Commercial Court has naturally drawn lawyers away from using CADER. Despite increasing awareness of arbitration, there has been no growth in cases referred to CADER, and in the last year, only 10 cases were handled. With the development of a speedy and less expensive Fast Track procedure use of arbitration may well decrease further.

These perceptions are by no means unique to Uganda. Whilst international arbitration has grown, domestic arbitration, for instance, in the UK has reduced, being replaced in certain respects by other adjudication processes, which are seen as quicker and cheaper. In addition, it is unlikely in the short term that use of international arbitration will increase within the jurisdiction. There are already a substantial number of providers of international arbitration services globally.

There has, however, been significant increase in the number of mediations initiated by CADER over the past year. This increase is due to the introduction in September 2003 of compulsory mediation by the Commercial Court. The Mediation Pilot Project (MPP) started in October 2003 with the result that some 225 cases have been referred to CADER for mediation in the period to May 2004. Of these, the rate of settlement runs at about 25%. This is a relatively low settlement rate but takes no account of cases that may settle at a later stage due to the influence of the mediation process.

\[\Delta\] While compulsory, the project has been resisted by the lawyers who see it as another unnecessary step in the legal process. The mediation process may cause some concern amongst lawyers that it will lead to a reduction in their paying work in the event of disputes settling at an early stage. Other jurisdictions which have adopted mediation more widely have seen a substantial fall in the number of trials.

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36 Note that more and more senior retired judges and prominent legal practitioners such as the Former Chief Justice- Justice Wako Wambuzi are taking on the role of Arbitrators. Rates for these senior practitioners may reach Shs. 1 million per day.

37 Justice Kiryabwire has recently completed a study on the introduction of a fast track system at the Commercial Court, whose recommendations are to be reviewed and discussed by the judiciary.

38 Compulsory adjudication in construction disputes in accordance with Part II Housing Grants Construction and Regeneration Act 1996.


40 Under the MPP, the Commercial Court and CADER entered into a partnership (funded by CJRP) through which all cases registered at the Court will be referred for mediation and costs paid by the CJRP. The MPP is targeted to the poor, and free services would be paid for by the CJRP. However, by the very nature of cases registered and the pecuniary jurisdiction of Shs. 5 Million, only medium to large businesses will benefit from this project.

41 A penalty of Shs. 50,000 is charged where parties don’t use mediation. However, this was viewed as minimal and doesn’t discourage the lawyers from defaulting.

42 The American Bar Association recently held a debate at its Annual Meeting in Atlanta on what is termed “the disappearing trial”. Similarly, in England and Wales the number of proceedings
The mediation process instigated by CADER uses recent law graduates as mediators. Whilst they have recent and good training on the process of mediation, they are not necessarily trusted by senior practitioners. The lack of senior mediators undertaking this work continues to discourage the effective use of mediation and limit the success of the project. This, however, may change over time.

The view was expressed by one practitioner that the larger and more established firms in Kampala may themselves set up an internal system for mediating disputes in which senior practitioners act as mediator. There are also plans to ensure that ADR training is compulsory for all law students at the Law Development Centre. Again, this will produce results in the longer term as these students become practitioners and eventually senior practitioners in which ADR is seen as part of the mainstream litigation process.

▶ In the meantime, trust in the system might be developed by the utilization of current and retired judges and registrars who have more experience in the litigation process than younger lawyers. Additional training, mentoring and development of a core team of arbitrators and mediators who are respected by the private sector and lawyers. Further, there needs to be an education process for the commercial users of the Court (the lawyers’ clients) as to the mediation process and its benefits. There is also need to extend these insights, with those of UHRC’s work on ADR in civil claims, to encourage increased use of ADR and pooling of experience as part of the recommended holistic reflection on civil justice reform.

△ Another key challenge for CADER is to ensure its sustainability and self-funding. Organisations in other jurisdictions that promote arbitration and mediation are generally self-funding. Those funds largely come from membership with such membership indicating the achievement of status for the purposes of arbitration and mediation. Whilst the use of mediation has increased and funds have flowed into such organisations, they still rely heavily on the selling of training programmes. An evaluation carried out at the end of 2003 indicated insufficient progress at CADER and pointed to key issues of sustainability when bi-lateral donor funding ceases. CADER needs to seek integration into the GoU budgetary system if it is to ensure sustained funding. This may, however, require amendment of the Arbitration and Conciliation Act 2000.

**Improved enforcement of Commercial Judgments**

One of the challenges of the Commercial Court has been the delayed delivery and enforcement of judgments. This has been attributed to limited capacity at the Commercial Court, which at most times has been operating with only three full time judges.

The current monitoring system of the Commercial Court largely measures performance on process times for disposal of cases, reduction in multiple adjournment and improved case flow. However, indicators have not been developed for time taken to deliver a judgement. Thus while there has been an increasing disposal rate of cases\(^3\)\(^4\) at the court, delivery of judgements has not been speedy.\(^4\)

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\(^3\) Commenced in the Queen’s Bench Division has fallen by 85% over the past five years. The precise reasons for this fall-off of this element of contentious work has, however, not been properly identified.\(^4\) Disposal of cases at the CC was reported to be up 40% in August 2004 up from the same period in 2001 as reported by Stuart Forster, Commercial Court Management Advisor.\(^4\) Delivery of judgments has been delayed for up to two years in some cases.
This challenge of delayed delivery of judgements is also faced by the entire Judiciary and earlier this year, the Chief Justice passed a practice direction to the effect that all judgements should be delivered within 60 days of end of submissions. In addition, the CC has embarked on a one-month initiative (during the annual Court vacation- July-August) to map out and complete outstanding judgements where possible.

From the user's point of view, a case could only be considered fully complete when judgment has been given and enforcement achieved. The enforcement of judgements is undertaken by Court Bailiffs. The regulation of Court Bailiffs is under review generally since the system is inefficient and corrupt with bailiffs acting largely unsupervised. These factors contribute to poor enforcement of judgments generally. The position in the Commercial Court is slightly better than in other courts due to a number of factors including the nature of the disputes, the nature of the parties and the personal and hands-on approach of the Registrar of the Commercial Court to the enforcement process through the Court Bailiffs. A recent study\(^45\) funded by the CJRP on Court Bailiffs, highlights the current regulatory and legislative framework for Court bailiffs and proposes recommendations on the way forward including a draft Court Bailiffs Bill and regulations. Discussion and implementation of these recommendations\(^46\) should be prioritised.

\[\text{There is a need to develop performance indicators for delivery and enforcement of judgments, and to prioritise legislative and administrative reforms aimed at improving performance of Court Bailiffs since this issue continues to hamper equitable access to justice for users of the court through corruption.}\]

**Key challenges with Commercial court still remain:**

With all the interventions discussed above, the Commercial Court is still faced with some key challenges that limit access to justice. In particular regarding the pecuniary, and geographical jurisdiction of the court, sustainability, judicial capacity and case backlog.

\[\text{\textbf{Pecuniary Jurisdiction of the Commercial Court}:}\]\(^47\) The CC is faced with a key challenge as to at what level to set the jurisdiction for claims to the Court. Current pecuniary jurisdiction is set at Shs. 5 Million\(^48\) which on the one hand limits the reach and scope of the CC for the small and medium sized businesses but on the other, is quite low for the "kind of disputes that affect directly and significantly the economic, commercial and financial life of Uganda."\(^49\) Based on the rationale that an efficient commercial court would encourage investment and lead to economic growth, efforts at setting up a Commercial Court Division were targeted to commercial banks and big

\[\begin{align*}
46&\text{Even with the limited possibilities of passing laws during the transition period up to 2006, it is possible for the Judiciary to embark on reforms aimed at regulating the Court Bailiffs e.g. registration of those who appear in the CC, developing a follow up mechanism, increased supervision by Registrars.} \\
47&\text{The key issue of jurisdiction is one that has been under discussion in the judiciary for a while now. Current jurisdiction levels were set in 1990 and have been eroded by inflation over the years.} \\
48&\text{The Jurisdiction is set by the judiciary and applies to the High Court.} \\
49&\text{As stated in S. 2(2) of the Commercial Court Practice Direction 1996.}\end{align*}\]
However, as noted earlier, two years after establishment of the CC, over 80% of cases handled involved straightforward debt collections and other sub categories of contractual disputes.

The CC, though not a specialist court in international terms, has witnessed an increase in registration and disposal of complex commercial matters. However, the current jurisdiction is still viewed as low both internationally and even in the region and contributes to the growing number of cases being registered and handled by the Court.

However, while the big investors and commercial lawyers argue that the jurisdiction is quite low, the small businesses view it as high. The Commercial Justice Base line survey indicates that up to 80% of business in Uganda are small or micro businesses, the majority being run by women. The majority private sector remains disadvantaged by the existing avenues for resolving disputes, which are largely to be found in the magistrates and local council courts with their attendant problems of slow disposal, high case backlog, inefficiencies, unpredictability and corruption. It is clear however, that if the CC is to serve its original purpose as stated earlier, there will be need to revise the jurisdiction upward.

Studies have been undertaken on this issue of Jurisdiction in the Judiciary, but it is proposed that a more specific study be undertaken to establish the more appropriate jurisdiction for the CC, which may in the long run need to be distinct from the rest of the High Court's level of jurisdiction. See also geographical jurisdiction next.

Other medium term efforts to counter this jurisdiction challenge include efforts to establish a fast track system at the Commercial Court to deal with the ever-growing number of cases registered. A study by Justice Kiryabwire on this system has been submitted to the head of the judiciary and is to be reviewed and discussed. Such a system would effectively cater for the simpler commercial disputes thereby contributing to faster disposal of cases and stem the growing backlog at the Court.

It is recommended that a similar study be undertaken on integrating small claims or a fast track system at the lower level (magistrates and local council courts) to handle the smaller sized civil claims, in a cost-effective and timely manner. This

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50 Uganda Commercial Court, Report to Danida, International Law Institute December 1998, at p.6 it was stated that the banking industry was losing heavily due to the high level of defaulting and poor capacity of the courts to follow up. Also see rationale for establishing the CC under the MTCS August 2000 at p. 24 and 25.

51 Examples of such complex matters were given as protracted franchise disputes, letters of credit, enforcement of foreign judgments (largely from the East African Region), disputes over pre-shipment inspection, Insurance etc. However, complex fraud cases such as the Greenland Bank dealings with the Uganda Commercial Bank are still being handled at Magistrate level.

52 An example is given of Tanzania whose Jurisdiction is currently at $92,000 for movable property and $138,000 for immovable property. However, due to the high jurisdiction the Court has handled a very limited number of cases since it was established. It is proposed to reduce its jurisdiction to $27,400 and $45,674, which would still remain higher than Uganda.

53 During discussions, one sum proposed for jurisdiction of the CC was to at least Shs 20 – 50 million.

54 For example, the Baseline Study on the Operations of the Local Council Courts, Nordic Consulting Group, 1998 and Study on Workload, Jurisdiction, Structure and Finance of the Judiciary, NCG 2002 which both recommend a revision of the pecuniary jurisdiction of the entire judiciary.

55 Lessons can be drawn from the criminal justice system where petty offences are fast tracked through the system under the Chain Linked project. There, fast tracking of petty offences proceeds as follows. A suspect is arrested stealing a bicycle, he is taken to the police station where together with the
raises capacity issues in the Magistrates Courts and Local Council Courts and issues of training.

**Geographical Jurisdiction of the Commercial Court:** The CC is currently located in Kampala, which is one of the limitations highlighted during the consultation process. The CC has mentioned rolling out services upcountry to regional courts by establishing circuit courts. To this end, all Resident high Court judges were recently requested to submit returns of the nature and level of commercial disputes at their courts so as to ascertain the need for commercial court sessions in those regions. Findings from some of the courts (Jinja and Mbale)\(^\text{56}\) indicate that there is need for services of the CC and steps are being taken to set up a sessional system.

However, due to limited capacity at the CC\(^\text{57}\), it may not be possible to achieve two circuits (intended annual target) let alone one per region. Training may be considered for Resident Judges (and later on all judges and magistrates) in commercial matters to ensure effective regional representation of the court. Some immediate shortcomings with this approach however are that this would require major funding, there is need to urgently handle existing commercial cases, Resident judges may be transferred and they also handle other aspects of criminal and civil justice and would therefore not be able to specialise in commercial matters like the CC judges.

**Sustainability:** The CC was established as a pilot division of the High Court and has heavily relied on donor funds to carry out its reforms. Since 2000, the CC has largely been supported through the CJRP for capacity costs such as purchase of equipment, furniture. However, even some operational costs (e.g. paying rent) and contracting of relevant staff (e.g. the IT personnel) have been covered by CJRP. To ensure sustainability, the judiciary has increasingly been undertaking operational costs under its recurrent budget e.g. maintenance of equipment. Substantial further funds are needed. In addition, there is need for closer integration of the reforms in the Commercial Court with those currently taking place in the other Divisions of the High Court, the Magistrates Courts and Local Council Courts, through the wider J/LOS reform programme. This may also have an overflow benefit to other business in front of these courts as Commercial Court practices are adopted.

Furthermore, there is some doubt about the sustainability of reforms bearing in mind the end of the donor technical assistance planned in early 2005. The technical assistant is taking steps to ensure that the work he has been undertaking is sustainable through the Registrars. There must be some doubt, however, whether the additional work can be handled by the Registrars bearing in mind their existing duties.

Consideration should be given to creating a special position of a Registrar in charge of management at the Commercial Court. This position may be aligned to the proposed Planning Department of the Judiciary.

\(^\text{56}\) As discussed with the Head of Commercial Court, now Principal Judge, Justice Ogola.

\(^\text{57}\) There are currently four judges at the CC including the Head of the CC who was recently promoted to Principal Judge but is still handling matters at the court.
△**Judicial capacity.** There is limited judicial capacity at the Commercial Court. Some business has been moved to the Registrar and an Assistant Registrar has been recruited. On the other hand, a recent increase in the number of judges at the Court has been lost as the Head of the Commercial Court moves to become the Principal Judge at the High Court. The Principal Judge is still effectively hearing commercial cases, but this may only be for the short term. The Commercial Court is not alone in suffering from a shortage of judges and there is limited likelihood that newly recruited judges will be transferred to the CC.58

△ **Case backlog.** At the same time that judicial capacity has been reduced, there have been an increasing number of actions issued before the Court. This has led to an increase in the case backlog but an initiative was commenced in July to ascertain the level of the backlog and to address the cases that had not moved for some time. It is anticipated that a number of "dead wood" cases will be removed from the system as a result. This initiative is still ongoing and is commendable.

### B. Efficiency and Effectiveness

With the CJRP, the key issues to be addressed for increased efficiency and effectiveness identified in SIP are clearance of the commercial case backlog, reduction in time taken to process cases (from commencement until enforcement) - and reduction in multiple adjournments. Other intended reforms include improved monitoring and evaluation of the Commercial Court in relation to the Commercial Registries, an improvement in their transparency and efficiency.

**Commercial Court:**

The backlog of commercial cases before the Court was initially reduced. However, there has more recently been an increasing case backlog (an average of 50 cases per month59) and an increase in the number of pending cases. This is partly a source of concern bearing in mind the reforms that have been undertaken but partly positive as it results from the increased success of the Court. The number of cases registered with the Court has increased from 1,323 in 2001 to 1,753 in 2003. That trend is continuing. The Court has suffered at the same time from a reduction in the number of judges.60

There has been a reduction in multiple adjournments (down to an average of 1.69 adjournments per case in May 2004) and faster disposal of cases (average of 9 months taken per case down from 12 months in June 2002).61 However, the recent

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58 In the High Court the Chief Registrar has recently commented on the shortage of judges, particularly with the recently announced absences of Justice Akiiki Kiiza and Justice David Wangutusi.
59 As reported in the J/LOS PEAP Revision Strategy Paper October 2003. However, under the Progress Report for November 2003- June 2004, this was reported to have dropped to an average of 24 cases.
60 In 2001, the head of the Commercial Court was promoted to the Court of Appeal leaving only three judges at the Commercial Court. However, Justice Kityabwire was later appointed in September 2003. A new Registrar was also appointed this year bringing the number of Registrars to two. More recently the Head of the Judiciary at the Commercial Court has been transferred to become the Principal Judge and no replacement has yet been appointed.
61 See Table 3.2.2 regarding Progress against Indicators in SIP log frame. A number of other initiatives are reported at the institutional level such as the Case Management System which allows for up to-date statistics, court recording equipment intended to help with the processing of court proceedings, the law
promotion of the Head of the Commercial Court to Principal Judge is likely to have an impact on the disposal rate in the short term. On the other hand, the cross fertilization between the Commercial Court and other courts is likely to be enhanced by the appointment. There are some expectations that initiatives at the Commercial Court may not be championed by the Principal Judge and rolled out across the rest of the judiciary and down to the magistrates courts. This highlights the need for the Commercial and the Criminal Justice Reform programmes within J/LOS to be mutually reinforcing (see Chapter 7).

△ The Commercial Court has made much progress in developing an efficient, effective and transparent disposal of cases.

**Inspectorate of Courts:**

In an attempt to enhance performance at the Magistrates’ Courts, the CJRP has provided support to the Inspector of Court through provision of vehicles for monitoring and supervision and funding operational costs of the Court Inspectorate. The Inspector, together with the Deputy Registrars at the regional High Court circuits, is engaged in countrywide supervision of the courts and prepares reports for action by the judiciary.

△ However, there are major delays in reaction to, and enforcement of, recommendations in the Inspector’s reports. The Inspector needs increased powers to make on spot decisions with sanctions for failure to act on his recommendations in a timely manner.

► There is a need to strengthen, streamline and coordinate the Inspectorate with other complaints mechanisms in the sector such as that under development at the Judicial Service Commission and those at the Directorate of Ethics and Integrity, the Uganda Human Rights Commission and the Inspector General of Government among others. In addition to the Inspector of Courts, the CJRP is supporting the Judicial Service Commission in developing a complaint system for the judiciary.

The CJRP has also supported the Judicial Service Commission (JSC) in raising awareness of the role of commercial justice for investment promotion in Uganda and the development of a civic education programme.

△ In developing this latter programme, the JSC did not interact with the Uganda Human Rights Committee regarding the National Civic Education Programme it Chairs. The JSC would appear to have limited relevant experience and capacity for undertaking the needed type of awareness raising.

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library, publishing of law reports, procuring and installing IT equipment and recruitment of staff to manage the IT infrastructure. Regarding training of judges, see training of lawyers below.

62 A series of Workshops were organized countrywide (including Mbarara, Fortportal and Mbale, in 2002) by the JSC to raise public and private sector awareness on the role of commercial reform in investment promotion in Uganda. Participants included district representatives of the National Chamber of Commerce, Local Government, and district commercial officers. A number of key topics were discussed including the roles of the key institutions in the CJRP such as the courts, Advocates, JSC, Court Bailiffs etc.
There is urgent need to develop strategic planning to maximise linkages and interaction with others to synchronize approaches, avoid duplication and wastage of resources.

**Company and Land Registries**

The effective and efficient operations of the Companies and Land registries are deemed vital for promoting economic growth. However, both Registries suffer from inefficiency, corruption as well as limited institutional capacity (both in terms of technical capacity and in terms of staff numbers). There is inaccurate record keeping and both need restructuring.

Interventions have largely been based on support through the SPEED project intended to develop computerized systems, procurement of shelves (Company Registry) and folios and reorganizing of the filing system (Land Registry). Under the follow up commercial justice survey preliminary findings (June 2004), no tangible performance has been registered; the status of the registries is not clear. The performance of the Land Registry is considered to have declined from 2001 according to feedback from the private sector and lawyers, which suggests that user perception of corruption in the registries has increased. At the same time, however, both the Land Registry and the Companies Registry have questioned however continuing participation in J/LOS.

More detail of the activity with registries is provided below. However, the experience raises issues of effective integration of bilaterally funded programmes into the J/LOS and questions of M&E which are considered further in Chapter 9.

**The Company Registry:**

Over the last six months, steps have been taken to enhance effectiveness of the Company Registry with a study tour being undertaken to South Africa and Zambia to study the systems there. The key issue is the devolution of the Registry as a semi autonomous, self accounting body as proposed under the Uganda Registration Service Bureau Act 1998. A key step forward is that a political decision has been taken to implement this Act with the recent gazetting of the Uganda Registration Services Bureau Act (Commencement) Instrument 2004. In addition, a Board of Directors has been appointed by the Minister of Justice and is to be approved in October 2004.

Key challenges however still remain regarding the effective implementation and translation into practice of this Act. There is a clear need for considerable resources and key decisions on staffing (who goes, who stays) and operations of the proposed URSB. More fundamentally, the Company Registry is still operationally linked to the MoJCA and relies on its institutional capacity e.g. the Accounting officer. Policies and modalities for transfer of roles and functions are areas being discussed and reviewed. The Company Registry is also actively seeking inclusion in the World Bank funded Second Private Sector Competitiveness Project. Under this, it is proposed that funding for the Registry is to be channelled through the Private Sector

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63 The database created under the SPEED project is not deemed user friendly (by the Registry) and is very limited in application.

64 No. 48. The Act came into force on 16th August 2004.

65 Current estimates for support to the Company Registry under this programme are estimated at US $600,000.
Competitiveness Programme II (PSCP II), which is to be managed by the Private Sector Foundation of Uganda.

➢ It is crucial that the CJRP and Private Sector Foundation enter into effective dialogue on the management and allocation of these funds so as to avoid the mistakes that may emerge from uncoordinated bilateral funding. The private sector is currently not attending the CJRP Sub Committee meetings and this provides an opportunity for entry at that level.

The Land Registry:

There is no doubt of the urgent need for comprehensive reform of the Land Registry to facilitate legal certainty on ownership, land registration, lending etc. Globally, land is widely recognised as a viable collateral for loans and mortgages and a clear factor for economic growth if optimally utilised. However, in a situation like Uganda’s Land registry where there are keys issues of corruption (including forgery and loss of files), poor storage facilities and inefficiency, this is not functioning so. According to the Registrar of Titles, only up to approximately 60% of records are accurate which means that no one can fully rely on these records.

Since 2000, the Land Registry has been a planned area of intervention of the CJRP. However, it was agreed that bilateral funding would be provided through the USAID SPEED project, which identified rehabilitation of the registries as a core priority. Coordination through the CJRP was to be maintained through the Commercial Justice Sub committee. Through this SPEED project, the folios in the Land Registry were organized and there was provision of durable file covers and some computer equipment. However, in the June 2004 Joint Gou-donor review it was reported that the Commercial Justice Reform Programme had ‘less and less interaction with land registry’. The meetings of the sub-committee to the Technical Committee which discusses commercial reform are not well attended by representatives of the Land Registry. To date there appears to have been little or no progress on the land registry through J/LOS. In addition, the SPEED project came to an end in December 2003 and a review to determine the extent and impact of support is said to be underway. At the June 2004 Joint GoU-Donor review an undertaking was made that the CJRP should re-commence communication with the Land Registry.

➢ It is clear that a major injection of funding is required for the land registry. However, before exploring areas for funding from CJRP, it should be recognized that the Land Registry falls under the Ministry of Water, land and Environment under which a Land Sector Strategic Plan (LSSP) is being developed.66 In addition, the World Bank has recently announced a new programme which seeks to include major financial support to the Land Registry for computerization and comprehensive systems reform - outside the J/LOS financial structure.67 Other interventions have also been proposed e.g. Norwegian training of staff in use of computer software and hardware, and attachment of experts to the Land Registry.68 The Land Registry feels

66 The LSSP is in two phases 2001-4 and 2004 – 2011 and is designed to provide the operational, institutional and financial framework for the implementation of the sector wide reforms and land management, including implementation of the Land Act.

67 Under the World Bank Funded Private Sector Competitiveness Programme II- PSCP II, it is proposed to inject up to US $25 Million into the Land Registry.

more at home in the land sector SIP but does not rule out constructive inter-sectoral
dialogue with the J/LOS, in addressing these reforms.

► A key step should be the invitation of the Land Registry and the Private Sector
Foundation of Uganda (which is responsible for managing funds under the PSCP II)
for dialogue with the J/LOS so as to coordinate these reforms.

C. Quality of Justice

For the CJRP efforts towards establishing and maintaining the quality of justice are
identified as reform of the commercial laws (including regulatory impact assessment
in the legislative process) and strengthening the capacity of commercial lawyers.

Commercial Law reform

Reform of the commercial laws of Uganda has been an ongoing project since 1997,
funded initially by the World Bank and Austrian Government. The project examined
44 commercial laws. By June 1998 the project team had proposed appropriate
amendments and new legislation.69 The project was seen to have particular failings
including a cross cultural failing of applying US jurisprudence and standards to the
situation in and legal heritage of Uganda. As at July 1999 little progress had been
made in the passing the recommended statutory changes.

A number of studies carried out after 1999 indicated that the commercial justice
system was still operating under outdated and inadequate laws, which were
highlighted as key constraints to investment.70 Under the Commercial Justice
Baseline Survey, 50% of business respondents selected believed that aspects of
Uganda’s commercial laws have a negative impact on their operations. Under the
CJRP, considerable effort has been input to draft laws with the Uganda Law Reform
Commission taking the lead in this area. A number of laws were selected out of the
original list of 44 and divided into four clusters of:

➢ Business Associations (e.g. the Companies Act, Partnership Act),
➢ Insolvency
➢ Fair Trade Legislation/Consumer Protection, and
➢ Secured Transactions.

Consultants (legal practitioners) were contracted to review and draft these laws and
together with the ULRC a number of stakeholders meetings were held to discuss
working papers and draft bills.71

Over the last couple of years, several laws have been drafted and forwarded to the
relevant ministries for review72, and tabling before Parliament. It is noticeable that the
range of commercial legislation has broadened with developments in the commercial
world and includes for instance an Electronic Transaction Bill and a Plant Variety
Protection Bill (the latter to comply with international treaty obligations).

69 Reid & Priest and Bwengye Tibesigwa & Co.
70 Commercial Justice Study, Manuel, Hooper and Odoki, 1999, Commercial Justice Baseline Survey
71 For more details on the different laws under each cluster see CJRP Progress Report 2001/2002 (First
and Second Quarters) pages 8-10.
72 Some of the Laws drafted include: the Consumer Protection Law and the Anti Dumping Legislation-
sent to Ministry of trade and Industry, the Companies Bill and the Partnership Bill sent to the MoJCA,
the Special Economic Zone legislation sent to the MoFPED, and the Personal Properties Securities sent
to the Ministry of Water and Natural Resources.
Despite the huge amount of work put into this process, there are still over 18 laws pending at different stages of the law enactment process with no commercial Bill currently pending before Parliament.\textsuperscript{73} The Status report presented by the ULRC highlights that much of the work has become entwined in the legislative system and awaits political impetus to pass through the Parliamentary process.

The forthcoming commercial law agenda is likely to be dominated by developments in the East African Community. The on going constitutional review process is also likely to have an impact on the number of Bills presented to Parliament over the next two years. At the June 2004 Government-Donor Review, a small number of “key Laws” likely to have a big impact on improving the justice system were prioritised as requiring urgent attention and support by the Minister of Justice and Constitutional Affairs during this transitional period. One of such laws is the amendment to the Companies Act.\textsuperscript{74}

There is need for systematic lobbying of GoU and Parliament to fast track these crucial Bills. If championed effectively, the Private Sector (through the umbrella organisation of the Private Sector Foundation of Uganda-PSFU) would prove a welcome and powerful ally tool in lobbying for discussion and enactment of these laws. It is proposed that a lobbying Task Force be established comprised of various stakeholders including the private sector to push for the enactment of these prioritised laws\textsuperscript{75}. The Bill tracking system that is being developed by the J/LOS urgently needs to be implemented so as to monitor progress each step of the way. A systematic approach is needed to assess the impact of those laws that have been already enacted.

\textit{Adoption of Regulatory Impact Assessment in the Legislative process -}

It has become a standard international practice in the development of laws affecting the private sector that any proposals should be assessed for their regulatory impact.\textsuperscript{76} This is done to ensure new legislation meets the principles of Regulatory Best Practice (‘RBP’)

- Proportionality. Regulators should intervene only when necessary. Remedies should be appropriate to the risk posed and costs identified and minimised
- Accountability. Regulators must be able to justify decisions and be subject to public scrutiny
- Consistency. Government rules and standards must be joined up and implemented fairly
- Transparency. Regulators should be open and keep regulations simple and user friendly
- Targeting. Regulation should be focused on the problem and minimise side effects

\textsuperscript{73} At the June 2004 Joint GoU-Donor review, a status report of 18 pending Bills was presented by the ULRC.

\textsuperscript{74} See \textit{Aide Memoire} for the 7\textsuperscript{th} Joint GoU Donor Review June 2004. Other crucial laws identified included the Law on Defilement, Domestic Relations Bill and the Law on Local Councils.

\textsuperscript{75} This approach was utilized by the Directorate of Ethics and Integrity to successfully push for the enactment of the Leadership Code 2002.

\textsuperscript{76} See for instance \textit{Doing Business in 2004: Understanding Regulation} (World Bank) and \textit{Gaining Momentum} (Small Business Project South Africa)
Accordingly one of the key indicators under the reform of commercial laws is the adoption of Regulatory Impact Assessment in the legislative process. Its importance has been recognised in the Medium Term Competitiveness Strategy. This should result in establishment of sustainable processes for ensuring business friendly laws and regulations. The Regulatory Best Practices Programme (RBPP) under the MoFPED is charged with this process and several initiatives have been undertaken including raising awareness and creating capacity among parent ministries on the importance of Regulatory Impact Assessment.\(^{77}\) In this regard, it is crucial that there exists coordination and interaction between the RBPP and other key institutions such as the ULRC.

The Regulatory Best Practices Programme is also a member of the CJRP. The GoU commitment to RBP is recognised as outstanding in sub-Saharan Africa.\(^{78}\) Although Parliamentary commitment to RBP has been significant with 28 MP’s committed to reviewing legislation for RBP this commitment does not sit well with the failures of the Parliamentary process in relation to commercial laws identified above. Further some regulations have been introduced in the J/LOS that threaten to retard reforms aimed at economic growth. One such example is the introduction of new payment systems at Company and Land Registries, which involve the Uganda Revenue Authority (URA) and the MoFPED.\(^{79}\) In a bid to curb corruption, any payments to these institutions are to be effected at the URA, which process has greatly increased the levels of bureaucracy and may instead foster corruption. Where a company could be registered in under 3 days in the past, it now takes an average of 7-14 days. Such stringent processes (regulations) can be a deterrent to business and an obstacle to growth in poor countries as highlighted under the recent World Bank Study on Doing Business in 2005.\(^{80}\)

▶ CJRP needs effective coordination with the RBPP so as to enhance the process of deregulation in the J/LOS.

**Commercial Lawyers:**

Interventions under this category are geared at strengthening the legal profession and enhancing access to legal advice and representation. In the Commercial Baseline survey of 2001, it was found that over 75% of the formal sector and 11% of the informal sector used lawyers’ services.\(^{81}\) Commercial lawyers are key actors in

\(^{77}\) During the Review mission and after, it did not prove feasible to meet with the RBPP staff to obtain an update on these activities.

\(^{78}\) *Gaining Momentum* (Small Business Project South Africa).

\(^{79}\) Under new regulations, payments are to be effected at designated URA offices and checked and confirmed at the MoFPED.

\(^{80}\) DFID *Output to Purpose Review*, August 2004 draft, p.15. Pursuant to the OPR 2003, a workshop was held between the ULRC and The Regulatory Best Practices Programme (RBPP) to improve awareness of the importance of such regulatory impact assessment. Since then RBPP is to focus on creating capacity for Regulatory Impact Assessment within the parent ministries responsible for policy and for proposing laws to be reformed. Capacity to train in RIA is being built at UMI to target policy analysts in the key ministries.

\(^{81}\) Although possibly arising from a statistical anomaly the use made by commerce of the services of lawyers appears to have reduced. In the “Follow up” Survey (Draft, 2004) it was suggested that only 40% of the formal sector and 13% of the informal sector utilised their services.
the commercial justice system and it is crucial that they should embrace reforms in the commercial justice sector\textsuperscript{82}.

The “Follow up” commercial survey (Draft Report June 2004) suggests that the private sector perception of corruption among lawyers has increased from 38% - 63%. This has occurred during a time when the ULS as the training and regulatory body has been developing its capacity. It remains to be seen whether self-regulation is able to reverse this reported lack of confidence.

Activities funded under the CJRP have included facilitation for the Amendment of the Advocates Act to strengthen monitoring systems and improve capacity of the Law Council\textsuperscript{83} (through development of a strategic plan). This support is pertinent considering the recent policy decision taken by the ULS to promote legal aid amongst lawyers by requiring them to handle a minimum number of pro bono cases before practising certificates can be renewed on an annual basis.

\textbf{To maximise pro bono} compliance, consideration should be given to strengthening monitoring in practice by developing the core capacity of the Law Council e.g. through further training of staff and Council members in supervision and monitoring skills, and increasing the staff component of the Secretariat through secondment of lawyers from the Government or recruitment from the private sector.\textsuperscript{84} A legal Aid Services Providers Network (LASPNET) has been established and it is crucial that the CJRP liaise with this network to improve provision of legal aid in settling commercial disputes.

The CJRP has also funded training of commercial lawyers both in private and public service (including staff from the First Parliamentary Council, Attorney General, Solicitor General and Judges), both locally (at the International Law Institute-Uganda) and Internationally (e.g. at the Centre for American and International Law Institute, USA, affiliations with IDLO in Rome and the International Law Institute- Washington DC). Training programmes have involved specialised training e.g. in public procurement, short courses, and study tours to the commercial courts in the UK.

Selection of lawyers to participate on the programme has largely drawn from the public sector and from the more active members of the ULS. In addition, with the integration of the East African Community, steps are being taken by the East African Law Society to harmonise laws to allow for cross border practice. This too poses its own challenges that should be taken into consideration when developing training and other programmes for the Commercial Lawyers.

\textbf{There is need to develop clear criteria for selection and training so as ensure equal opportunities are provided to all practicing commercial lawyers and to follow-up on evaluating relevance and impact. The ULS is in the process of introducing mandatory Continuing Legal Education programmes that target the entire legal profession, including lawyers practicing upcountry and this programme is already benefiting from support from the CJRP.}

\textsuperscript{82} Recent reforms such as compulsory mediation at the Commercial Court have been met with some resistance from practicing advocates and this is seen to reduce the success rate of the Mediation Pilot Programme. However, steps are being taken to introduce Alternative Dispute Resolution courses at the Law Development Center though the impact of such programmes on advocates will only be realized at a later time.

\textsuperscript{83} The Law Council is the disciplinary body of the Uganda Law Society.

\textsuperscript{84} Currently, the Law Council Secretariat is comprised of two full time staff members and a board comprised of the President of the Uganda Law Society, the Director of the Law Development Center.
Steps have also been taken to develop a resource centre at the Uganda Law Society Headquarters for use by all lawyers through purchase of equipment- computers and accessories, furniture, books, and relevant materials. This is a welcome development and will contribute to the legal profession's ability to acquire new skills.

At this point, it is difficult to ascertain the impact of these reforms and training programmes on the capacity of the lawyers, though under the 'Follow up survey' (draft report 2004), it was indicated that there has been a general improvement in user satisfaction with the legal services provided. No doubt, private lawyers who practice regularly in the commercial field have gained experience over the past years without increased supervision or promotion of the J/LOS aim in this field. A number of professional law firms have also been established. The rise in the market for commercial lawyers has probably partly arisen from domestic short term developments such as work resulting from the privatisation programme, the closure of uneconomic banks and the return of property to the Asian community. It remains to be seen how long this growth can continue.

Key challenges remain in developing professional standards, strengthening monitoring capacity of the Law Council, developing active Pro bono programmes especially for commercial matters, developing capacity of local lawyers in relation to commercial law and effectively implementing the Continuing Legal Education (CLE) Programme given the limited specialised training capacity in the country.

85 Some of the bigger firms have established connections with international firms in the UK, USA, South Africa and the Region.
86 Under the Legal Aid Services Baseline Survey May 2004, gaps were identified in the provision of pro bono services in commercial matters as current legal aid services providers largely lean towards criminal and non-commercial civil justice issues.
Table 3.2.2 below presents a summary assessment of the Commercial Justice Reform Programme under the J/LOS SIP at the level of strategic objectives. Performance assessments and comments are made against the set performance indicators.

<table>
<thead>
<tr>
<th>STRATEGIC OBJECTIVE 2A: Commercial Court Customer Service Improved</th>
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<tbody>
<tr>
<td><strong>Narrative Summary</strong></td>
</tr>
<tr>
<td></td>
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<tr>
<td>Result A1: Court</td>
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<tr>
<td>Accessibility of commercial courts improved</td>
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<td>Processing of commercial cases by courts improved</td>
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<td></td>
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<tr>
<td>Result A2: CADER</td>
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<tr>
<td>Promotion of alternative dispute resolution</td>
</tr>
</tbody>
</table>

1 - considerable progress
2 - fair progress
3 - limited progress
4 - No progress

Note: Limitations of Court to address small claims- but new study undertaken on introducing a Fast Track system at the CC
<table>
<thead>
<tr>
<th><strong>Result A3: Enforcement:</strong></th>
<th>New study undertaken on Court Bailiffs with recommendations on Court Bailiffs Act and Regulations.</th>
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**STRATEGIC OBJECTIVE 2B: Commercial Registries Reform**

<table>
<thead>
<tr>
<th><strong>Result B1: Companies Registry and Land Registry:</strong></th>
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<tbody>
<tr>
<td>Efficiency and transparency of registries improved</td>
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<tr>
<td>Improved users’ satisfaction</td>
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<tr>
<td>Reduction in time for registrations and searches</td>
</tr>
<tr>
<td>Reduction in user perception of corruption</td>
</tr>
<tr>
<td>Improved user’s satisfaction</td>
</tr>
<tr>
<td>No performance registered, status of registries not clear and participation in J/LOS in question. However, recent steps taken to make Companies Registry semi autonomous are positive</td>
</tr>
<tr>
<td>No monitoring systems- no performance indicators/ benchmarks</td>
</tr>
<tr>
<td>Lawyers perception of corruption in registries increased (follow up survey draft 2004)</td>
</tr>
<tr>
<td>Under Follow up survey- Land Registry considered worse off in performance</td>
</tr>
</tbody>
</table>

**STRATEGIC OBJECTIVE 2C: Commercial Law Reform**

<table>
<thead>
<tr>
<th><strong>Result C1: Laws:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Key commercial laws reformed</td>
</tr>
<tr>
<td>Adoption of regulatory impact assessments in legislative process</td>
</tr>
<tr>
<td>Bills drafted but no key legislation passed in the sector since 2000 (up to 18 laws pending. (NOTE only two laws of Workmen’s Compensation and Marine Law passed during this period)</td>
</tr>
<tr>
<td>linkages established between ULRC and Regulatory Best Practices Programme. Capacity Building and awareness raising in regulatory impact assessments in the legislative process for parent ministries</td>
</tr>
</tbody>
</table>

**STRATEGIC OBJECTIVE 2D: Specialized skills for commercial lawyers**

<table>
<thead>
<tr>
<th><strong>Result D1: Lawyers:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Competitive regulatory environment established</td>
</tr>
<tr>
<td>Number of lawyers competent to handle commercial cases increased</td>
</tr>
<tr>
<td>Improved user satisfaction Reformed Advocates Act</td>
</tr>
<tr>
<td>Opening of office in Uganda by at least one international firm of lawyers</td>
</tr>
<tr>
<td>Advocates Amendment Act 2002</td>
</tr>
<tr>
<td>Private sector perception of corruption among lawyers increased from 38% - 63%. Largely attributed to lack of professional standards and limited capacity of Law Council to effectively monitor</td>
</tr>
<tr>
<td>Restrictions on International Lawyers opening offices in Uganda still in force. However, several new firms established including some with associated status with International law firms</td>
</tr>
<tr>
<td>ULS together with the East African Law Society undertaking steps to harmonize East African laws to enable cross border practice</td>
</tr>
</tbody>
</table>
3.3 Progress of J/LOS in terms of Impact

This evaluation takes place at approximately the half-way point for the J/LOS SIP. As reflected above, implementation of a number of activities is in early stages. In the case of the four year timeline envisaged for commercial reform, it was to have been completed at end 2004 - but only effectively commenced in 2001. As such, a significant number of tasks remain outstanding such as legislative reform, sustainability of CADER and comprehensive reform the companies and land registries.

An assessment of progress of J/LOS in terms of impact is clearly premature given the short period of implementation of the SIP and the lack of a monitoring and evaluation system for the sector. However, a reference point for measuring impact is the purpose level of the SIP log frame, which is based on the J/LOS SIP Policy objectives. Table 3.2.3 below presents a summary of the J/LOS SIP at purpose level with performance assessments and comments against the set performance indicators.

In spite of the short period of implementing the SIP and inevitable challenges which have existed, there has been some movement from output to impact, with significant indications of progress. A recent Annual Review workshop of the Chain Linked showed progress over the five years to September 2003 as follows:

- Reduction in length of stay on remand from an average of 24 months to less than 15 months for serious offences.
- Reduction in the number of persons staying on remand beyond constitutional period from 39% to 1% and 23% to 10%, for serious offences and petty offences respectively.
- Reduction in time spent on remand after committal. From 5% of committals that had stayed beyond 3 years, in 1998 down to only 2% as at 2003.
- Increasing trend of arrest based on evidence, as may be indicated by increasing rate of conviction compared to acquittals.
- Reduction in numbers of lost files between DPP and Police arising from improved information management.

In the first phase of implementing SIP, certain key assumptions did not materialize, resulting in weak performance in some of the areas concerned. For example, dynamic efforts for law reform on the part of J/LOS institutions suffered major setbacks when the passage of pending Bills stagnated between Cabinet and Parliament. The progress indicators J/LOS selected based on reduction of the prison population and the ratio of remand to convicted inmates were highly dependent on reform of the law on defilement, the Local Council Courts Bill, and amendments to fees and fines.

Beyond de-concentration of services, indicators on improved use of the formal justice system relied on enhanced participation of civil society in the justice system, especially through provision of legal aid and education. This area registered limited

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87 These statistics were presented by UPS at the Chain Linked Annual Review Workshop, June 2004 and were regarded as the most reliable data.
progress with a map of service providers achieved as well as the design of a national legal aid basket fund. Evidence of impact will therefore become available toward the end of the next phase implementation of the SIP.

Under the Commercial Justice Reform Programme, there has been clear progress in the Commercial Court as regards developing of innovative approaches to reform and speedier disposal of cases (as compared to the general judiciary system).

### Table 3.2.3: Performance Assessments of the J/LOS SIP at Purpose level

<table>
<thead>
<tr>
<th>Purpose:</th>
<th>Performance Indicators</th>
<th>Performance Assessment and Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>To promote the rule of law, increase public confidence in the CJ and enhance the ability of the private sector to make and enforce commercial contracts</td>
<td>Improved reflection of Constitutional Principles 1995</td>
<td>▲ J/LOS sectoral Monitoring system not in place. Other reports providing information relevant to J/LOS institutions especially UHRC and IGG are utilized.</td>
</tr>
<tr>
<td></td>
<td>GoU agrees to increases in J/LOS Budget Framework</td>
<td>▲ Increases in budget framework affected by cuts.</td>
</tr>
<tr>
<td></td>
<td>Improved public confidence in service delivery across the J/LOS institutions</td>
<td><strong>☆☆</strong> However, recent inclusion of Swap Development Fund and CJRP under PAF for FY 2004/5 portends well</td>
</tr>
<tr>
<td></td>
<td>Increased access to justice and to civil redress for poor and vulnerable people</td>
<td><strong>☆</strong> There is a Sector Budget framework paper presented to Cabinet and Parliament. The Criminal Justice baseline Survey showed that the total budget for the J/LOS, adjusted for inflation, has increased by 20% percent over five years whereas the development budget’s proportion of the total budget did not change over the period, ending at a low 6.6%.</td>
</tr>
<tr>
<td></td>
<td>Crime reporting and recording, police response to public, caseloads and completion rates reflect significant improvement in service delivery</td>
<td><strong>☆☆</strong> Commercial justice and criminal justice baseline surveys indicate challenges in service delivery through limited accessibility, capacity, However, draft commercial justice follow up survey indicates improved disposal of cases at Commercial Court</td>
</tr>
<tr>
<td></td>
<td>Courts case throughput, quality of prosecution cases and completion rates increased and reflects significant improvement in service delivery</td>
<td><strong>☆</strong> Some progress registered in efforts to improve access as reflected by the Poverty Status Report 2003. However, real impact will be in the long-term</td>
</tr>
<tr>
<td></td>
<td>Prison population reduced due to improved balance between % remand, % sentenced, crime prevention initiatives</td>
<td><strong>☆</strong> Through case backlog project, extra High court sessions were held each year.</td>
</tr>
<tr>
<td></td>
<td>Legal and policy reforms (sentencing, penal reform, juvenile justice, community policing) to sustain developments in J/LOS implemented</td>
<td><strong>☆</strong> 10% annual increase in prison population recorded. Remand period reduced but balance between remand (62%) and convicted prison population yet to be realised.</td>
</tr>
<tr>
<td></td>
<td>J/LOS HIV/AIDS Strategy implemented across all institutions</td>
<td><strong>☆</strong> Reforms in place on juvenile justice, community policing and community service. However, several key laws drafted but not enacted</td>
</tr>
<tr>
<td></td>
<td>Increased private sector trust in the commercial justice system</td>
<td><strong>☆</strong> Police, DPP and Prisons developing institutional HIV/AIDS strategies</td>
</tr>
<tr>
<td></td>
<td>Improved lenders’ confidence in legal environment</td>
<td><strong>☆</strong> No available data on indicators for the whole sector. However, Commercial Justice follow up survey draft reflects poor private sector perceptions of Land registry and lawyers.</td>
</tr>
<tr>
<td><strong>Improved perception by local and foreign investors of Uganda’s legal environment.</strong></td>
<td><strong>No available data, however consultations with Bank of Uganda indicate an increase in Lending by the Commercial Banks (though not so much to the small and medium sized businesses)</strong></td>
<td></td>
</tr>
<tr>
<td>Businesses prepared to transact with wider networks</td>
<td>World Bank Study on Doing Business in 2004, Uganda compares Uganda’s standing as compared to other countries in a number of areas such as enforcement of contracts, employment relations, and entry regulations, but does not indicate whether perceptions have improved.</td>
<td></td>
</tr>
<tr>
<td>Increased willingness to lend</td>
<td>✴ Routine surveys by UIA indicate improved perceptions of CC but low regard for the legal environment</td>
<td></td>
</tr>
<tr>
<td>Increased number of non-viable businesses subjected to formal insolvency proceedings</td>
<td>No available data</td>
<td></td>
</tr>
<tr>
<td>Increased private sector confidence in their ability to enforce contracts through the Commercial Courts</td>
<td>SMES still encounter problems in accessing credit (information obtained from Enterprise Uganda Networking symposium – 24th September 2004- that covered businesses from around the country)</td>
<td></td>
</tr>
<tr>
<td>Increased private sector satisfaction with speed and transparency and Companies Registries</td>
<td>Insolvency Law not enacted. No readily available data on number of insolvency proceedings</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Minutes of the Commercial Court Users Committee indicate improved Private sector perceptions of CC. However key challenges still with magistrates and Local Council courts</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Follow up survey Draft 2004 indicates worsening perceptions for land registry and no change at companies’ registry. However, new payment systems introduced at both registries are deemed to have slowed down</td>
<td></td>
</tr>
</tbody>
</table>
3.4 Awareness of and support for J/LOS at Local level

The question of whether there is awareness of, and support for, J/LOS at local level has two aspects: firstly, concerning staff of J/LOS institutions at local level, and secondly concerning the communities they are intended to serve, including those affected by conflict.

Feedback from J/LOS officials at local level

During the first phase of implementation of the SIP, the J/LOS Publicity Committee conducted a number of sensitisation workshops for J/LOS staff at national level and was planning to go regional with the exercise.

△ An assessment of local level officials’ awareness and support for J/LOS is not feasible at this stage. J/LOS has not established a baseline, and does not assess internal J/LOS staff understanding of, and commitment to, the SIP policy objectives. Similarly, J/LOS as yet has not assessed the effectiveness of its action intended to achieve this awareness.

► Each of the above need to be introduced.

In terms of feedback, field visits by the team indicated that at the local level, there is awareness about Chain Linked as ‘the face’ of J/LOS. However, a direct flow of information on progress from the local level to the J/LOS mainstream has been affected by some challenges. In the context of an underdeveloped monitoring system, J/LOS relies in part on monitoring by parallel or overlapping structures e.g. those of The Chain Linked initiative, Community Service, Juvenile Justice, and the Inspectorate visits of the Judiciary on both the criminal and commercial aspects. By far the most important J/LOS structures at local level are those which remain in place from the initial pilots for Chain Linked, Criminal Case Backlog, and Community Service. J/LOS institutions report on developments in these structures within J/LOS progress reports.

△ However, the degree to which the ‘three Cs’ (increased co-ordination, communication and co-operation) are sustainably strengthened at District level, or lower, is not clear. Consultations revealed that to an extent, the effectiveness of Case Management Committees (CMCs) varies with the personality of the Chief Magistrate responsible for convening them; and that in some areas allowances for meetings are essential. Composition of the CMCs vary without a policy decision or monitoring by J/LOS e.g. participation of military/intelligence agencies. Perceived political interference through the armed forces and intelligence organs in due process was raised as an obstacle to access to justice in the 2002 survey by the poor and J/LOS needs to ensure the risk is addressed, and seen to be so. 88

Whereas operations under Chain Linked, Case Backlog are part of the normal J/LOS operations at local level, their structures and processes have in some instances worked in parallel to the J/LOS structures. For instance, the Chain Linked Annual

Review workshop held at the end of June was not timed or planned to systematically feed into the Joint GoU-Donor review held earlier in the same month.

There are issues of lack of effective monitoring of CMCs as well as clear lines for flow of information from them to the centre and vice versa.

Under CJRP, feedback has been sourced through a number of ways through the Commercial Court Users Committee where its members raise issues (though not mainly focussed on village level issues), reports of the Inspectorate of Courts, workshops conducted by the JSC, stakeholders’ meetings conducted by the ULRC to obtain views of proposed law reforms as well as mechanisms such as the CC writing to the Resident Judges seeking information on commercial disputes in the various regions.

There appears to be consensus that there is little ‘trickle down’ from the national level J/LOS to regional, district or local level officials (see chapter 3.4 local level awareness and support for J/LOS). Overall, the MTE finds a significant need for more internal awareness-raising among officials of the J/LOS institutions regarding the reform process, and the human rights-based framework of the SIP policy objectives. It has long been recognised that it is imperative to inform, engage and motivate staff at middle and lower levels. To support attitudinal change, internal incentives systems need to be transformed.

A holistic assessment of training needs in J/LOS is recommended:
   a) At all levels - the focus for capacity-building tends to be on middle level managers, to the exclusion of others. At the June 2004 review, the MoJCA highlighted the additional need for capacity-building for J/LOS at Commissioner level and above; and
   b) Not only concerning generic skills, but also substantive issues which need to be understood if SIP policy objectives are to be achieved.

Effective monitoring and information flow from the local level could be strengthened through ensuring direct linkages with the J/LOS Secretariat, the Technical Committee and the Steering Committee.

Feedback from Communities

The foregoing assessment of progress in the J/LOS SIP implementation clearly reflects that J/LOS institutions at local level as well as the communities they serve have benefited in terms of construction, renovation, vehicles purchased and recruitment under J/LOS including the bilateral projects. More specifically benefits and visibility of J/LOS at local level has included:

- Purchase of vehicles and communication equipment for some police and prisons stations.
- De-concentration: There has been renovation and construction of police posts, prisons, court buildings.

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J/LOS MTE Final Dec04
- Case backlog project has increased number of High Court sessions, hence reducing the time spent on remand for some inmates
- The roll-out of chain linked and case backlog has involved dissemination of performance standards for criminal justice agencies
- Community Service awareness raising at community level

What has been the feedback from communities on these developments? At a broader level, user-perception studies were envisaged as the method for receiving feedback. Those conducted so far include the Criminal Justice (March 2002) and Commercial Justice Baseline Survey 2001 and Follow up Survey (draft report June 2004), Private Sector Consultations with Business Sector July 1999.

In 1999, the Private Sector Foundation commissioned a study on the perceptions of the private sector as to the major constraints in the making and enforcement of contracts in the Commercial justice system. The study found that that the private sector had a negative view of the system with big percentages perceiving the laws to be complex, outdated and inapplicable. Lawyers were perceived to be habitually dishonest, conniving and unscrupulous while the commercial registries were found to be corrupt, slow and inefficient. The Commercial Court was found to be slow by 50% of businesses interviewed and corrupt by 72%.

The Commercial Justice Baseline Survey 2001 echoed these findings to an extent. Over 70% of businesses interviewed perceived the Commercial Justice System to be expensive, slow and corrupt. However, three years after intervention of the CJRP, the follow up survey of 2004 (draft findings) indicates that private sector perceptions of the commercial justice sector have largely improved. In particular, the private sector has expressed improved satisfaction with the Commercial Court’s handling of cases up from 58% (baseline survey in 2001) to 65% under the follow up survey. They also perceive corruption in the courts to have declined from 69%- 56% in the Magistrates Courts and from 27% to 26% in the Commercial Court. However, the private sector perception of corruption among lawyers increased (from 38% to 63%). In addition, the private sector perceives that the registries have either stayed the same or worsened in the case of the Land Registry. The Laws were still identified as having a significant negative impact on business and were ranked second to high taxes as key constraints to investment.

In addition, some challenges still remain regarding documentation, publication and awareness of initiatives targeting the private sector in the commercial justice sector. The PSFU acknowledges that the private sector especially the middle and small-scale enterprises may not be fully conversant of the reforms taking place and how they can benefit from these. It is important that awareness raising programmes under the J/LOS also target the small and medium scale enterprises, and this can be achieved through effective coordination of programmes with the PSFU.

Another key survey conducted on the sector has been the Participatory Poverty Assessment on Safety, Security and Access to Justice, June 2002.

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90 Commercial Justice Study- Consultations with Private Sector Businesses on their Views of Constraints to the Creation and Enforcement of Contracts in Uganda, the Ssemwanga Center Draft Report July 1999.
91 This high percentage was attributed to the perception that the administrative/ clerical staff in the court was very corrupt.
92 There is an increasing number of disciplinary cases involving lawyers engaged in professional misconduct at the Law Council though the MTE team was not able to ascertain the backlog.
The Participatory Poverty Assessment on Safety, Security, and Access to Justice, June 2002

Covering six districts representing major regional divisions of the country, pointed out that safety, security and access to justice was felt to have improved during the 1990s, but to have deteriorated since 2000. Poverty is seen to severely constrain safety, security and access to justice, particularly for women. The poor reported that expensive, cumbersome and complex procedures severely reduce the use of formal justice systems by the poor. Constraints highlighted by the poor include:

- Lack of access to legal services (geographical and financial barriers, including their effects on legal representation)
- Corruption especially in the Police Force, thus affecting investigations and strength of evidence
- Poor equipped institutions (police, prisons and courts)
- Abuse and violation of human rights especially in prisons
- Political interference through the armed forces and intelligence organs in due process
- Poor supervision, monitoring and accountability for justice delivery agencies
- Cultural constraints particularly affecting women and girls
- Inadequate legal awareness
- Constraints within commercial justice including outdated laws, limited geographical representation.

Although the Criminal Justice Baseline Survey focused on statistics covering the period 1996-2001, the user perceptions related to 2002/2003, the time when the survey was conducted. Subject to qualifying factors and differences in views from types of respondents, the conclusions on user perceptions emerging from the Criminal Justice Baseline Survey indicated the following as feedback on J/LOS performance.\(^93\)

- Access to J/LOS institutions is inhibited by cost rather than distance from J/LOS units. Cost of access includes a number of elements most of which are arbitrarily determined by J/LOS personnel. Combating corruption and legal aid services for the poor are therefore critical to improving access to justice at local level.
- Another problem is the unsatisfactory manner in which J/LOS personnel deal with complainants, suspects and offenders. This is a strong indicator of compliance with codes of conduct and performance standards.
- Access to justice is also complicated by lack of knowledge and understanding of e.g. the penal code, bail and bonding requirements, sentencing in case of morality crimes or definitions of offences. The survey recorded an exception regarding clarity of Prisons’ administration of visiting rights.
- The LC Courts are a much preferred alternative dispute resolution mechanism in rural areas.
- Perceptions of the quality of justice pointed to consistent, widespread violations of human rights that are abetted by the complacency and apathy of the public. From the information collected through interviews it was clear that there are frequently serious abuses of human rights.
- The perceptions of J/LOS treating complainants and suspects badly or very badly, also being open to bribes and other discriminatory practices.

\(^93\) Justice, Law and Order Sector; Criminal Justice Baseline Survey 1996-2001 at page 18.
Whereas the feedback from the two surveys is not very positive, what is important to note is that J/LOS is undertaking reforms to address a number of the issues highlighted, and that many implementing activities of J/LOS were very new when the public opinion survey was taken. It is important that the sector establish an effective and comprehensive system of monitoring that can capture feedback on how the sector is performing and adjust accordingly (Chapter 9 and Annex 9).

**The Major findings that are relevant to poverty and access to justice under the Commercial Justice Baseline Survey 2002 include:**

- The lack of effective commercial justice delivery mechanisms for the informal sector where the majority of the poor operate
- Limited use of the formal justice system by the informal sector who rely on other dispute resolution mechanisms e.g. the Local Councils,
- Some of the informal sector business activities engaged in by the poor are regarded as criminal hence harassment from law enforcement officers
- Corruption and bureaucracy in the business administration system e.g. licensing
- Un-operational land tribunals that bog down the effective operation of a land ownership system
- A severe taxation system that was regarded as the biggest constraint to business

**Donor field visits**

Local-level donor field visits have been a feature of preparation for six-monthly Joint GoU-Donor reviews. These field visits provide helpful insights for discussion at the reviews.

► Previously J/LOS institutions were also involved in such field visits. Independent of the donor visits, the model should be reinstated as routine with J/LOS multi-institutional fieldwork together with the recommended strengthened Secretariat. These would have clear and agreed guidelines for issues to be focused on and agreed urgent action in appropriate cases. This is linked to the recommended streamlined channel for J/LOS complaints.

**Local strengthening of demand for change**

For as long as J/LOS institutions do not realise more effective and efficient service delivery, there will be limited gains from the sensitization of the general public regarding their rights vis a vis J/LOS. However, the greatest catalyst to increased efficiency is accountability, including an informed and organised public demand. Addressing and engaging with communities as agents of change is an essential foundation for the success of many reform efforts e.g. reform of defilement and to address mob justice.

⚠️ Change is most effective when ‘supply’ and ‘demand’ are supported in tandem at the local level. See above recommendations regarding public awareness-raising.

In principle, J/LOS currently relies on the individual institutions to consult the local level when planning etc. However, whatever the extent of this consultation, there is no systematic process through which local communities provide feedback on J/LOS progress, or propose different solutions at the planning stages of J/LOS.
Local officials and communities prioritise issues of most direct concern to them. Local Council courts are one example, highlighted by the Criminal Justice Baseline survey. If these were strengthened and jurisdiction increased, they would play a significant part in access to justice and in turn lead to the realization of a local level, pro-poor, impact for J/LOS. Similarly, the Participatory Poverty Assessment on Safety, Security, and Access to Justice highlighted corruption as the key obstacle to access to justice - not physical proximity which is prioritized in this first phase of SIP.

► Vertical communication needs to be effective to ensure relevance of J/LOS reform efforts. J/LOS-wide m&e is needed to ensure evidence-based decision-making in J/LOS plans for SIP II.

Conflict affected areas

In 2000, the SIP did not envisage special arrangements for addressing the challenges faced by J/LOS institutions in conflict-affected areas. These areas have expanded since SIP was drafted. J/LOS institutions are not accustomed to providing emergency justice services, especially faced with the challenge of 1.5 million displaced persons in camps, or 200,000 refugees. Recent visits to these areas by the United Nations Under Secretary General for Humanitarian Affairs, Jan Egeland, and the Executive Director of Unicef, Carol Bellamy, highlights the degree of international concern at the worsening humanitarian crisis.

The current challenge is not only immediate justice needs, but also how to address the challenge of preparing for likely scenarios in the next stages of the conflict cycle. A study commissioned by the Netherlands Embassy regarding opportunities for addressing SIP policy objectives in the conflict-affected areas is currently being carried out. At the Joint GoU-Donor J/LOS review in June 2004, an Undertaking was given that each institution would list existing infrastructure, personnel, equipment etc and prepare a post-conflict plan.

⚠️ The situation of conflict in particularly in northern Uganda has rendered it difficult for J/LOS operations to proceed uninterrupted. To date, there has been limited focus on those specific challenges, and limited planning for transition and post-conflict phases. Fully functioning justice institutions will be a key stabilizing factor when a peace breakthrough is achieved.

► Achieving J/LOS-wide planning based on agreed likely scenarios, and through planning with other sectors, is imperative. An inter-sectoral approach is essential, not least as UPDF, in reality, assumes control of policing in conflict-affected areas.

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94 Presentation by Barney Afako, Justice Resources, to Joint GoU-donor review June 2004, preliminary observations.

95 For example, in addition to the general need to sensitisie the public regarding principles underlying J/LOS reform, in conflict-affected areas there is a need to inform the public regarding the invited role of the International Criminal Court, and how it relates to amnesty law, and to the role of J/LOS institutions. Similarly, with post-conflict returnees, a surge of land disputes to be arbitrated, litigated etc is likely. In J/LOS planning, there are opportunities to apply lessons identified elsewhere such as post-1994 Rwanda regarding layers of returnees.
Chapter 4. GoU COHERENCE: INTER-SECTORAL AND OTHER RELATIONSHIPS

Assess inter-sectoral policies and working relationships: a) with other line Ministries such as Local Government; Gender, Labour and Social Development.

‘Adopting a Sector-wide approach is a political process [requiring] a willingness to engage with that process’

4.1 Current inter-sectoral relationships

J/LOS issues cut across the areas of concern to many other sectors, Ministries and Gou programmes such as the Medium Term Competitiveness Strategy (MTCS) in the case of the CJRP. The SIP indicates that inter-sectoral linkages are to be nurtured to ensure that J/LOS policy objectives are included in the objectives of other relevant sectors.  

According to the J/LOS GoU-donor Partnership Principles, in 2001:

The aim should be to take a comprehensive sector wide perspective in order to achieve the GoU mission to enable all people in Uganda to live in a safe and just society. To that end, the intention is that: all GoU activities related to justice, whatever Ministry, agency or level of government is responsible, all other actors, whether they be service providers, advocates or campaigning organization; and the wider community will be included.

What J/LOS has understood to be the scope of the ‘sector’ needed to ensure the SIP policy objectives. It was intended that SIP would be holistic although it would start with medium term priorities and initially involve some ten institutions. In this context, institutions in J/LOS now report progress to their peers regarding all their activity - regardless of who is funding it. J/LOS is intended to plan for inclusion of wider actors and issues for a more holistic approach.

Efforts made to date by J/LOS to develop inter-sectoral linkages and relationships are evident from progress reports, reports of minutes and consultations. J/LOS has made significant efforts toward establishing linkages with various sectors. Efforts include forging relationships with Ministry of Gender, Labour and Social Development on issues of juvenile justice and mainstreaming gender within J/LOS at sectoral and institutional level; Ministry of Local Government regarding Local Council Courts in that in areas of common concern, these Ministries are part of J/LOS.

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97 Prior to the SIP linkages to be pursued were highlighted in the report by Annabel Gerry, 2000.

Relationships have been forged with:

- Ministry of Health - Uganda Aids Commission seeking an effective strategy to counteract human resource losses to HIV/AIDS; protection of prisoners' right to health
- Ministry of Finance, Planning and Economic Development regarding resources allocation and release of funds.
- National Secretariat of the Medium Term Competitiveness Strategy at the MoFPED regarding financial matters of resource allocation.
- Private Sector Foundation of Uganda (and other private sector organizations)
- Accountability sector

How have these relationships evolved so far?

**Gender:** Apart from having a representative from the Ministry of Gender, Labour and Social Development on the Technical Committee, a working group of that committee was set up to focus on gender. Despite various limitations, a key achievement was the commissioning of a *Desk study on Gender and Access to Justice* conducted in 2001. The utilization of the study findings, recommendations and proposed strategy remain outstanding. The Gender Working Group lacks clear terms of reference and a work plan. Its activity has been mainly limited to making comments on terms of reference and reports for studies undertaken under both CJRP and SWAp, seeking to ensure that a gender perspective is integrated. They have also conducted some visits to institutions such as police and prisons and made recommendations for specific actions to be undertaken e.g. regarding accommodation of women prisoners.

Consultations during the evaluation revealed that the process of gender mainstreaming within J/LOS suffers from a number of other weaknesses. The effectiveness of the Ministry's representation on both the criminal and commercial sub committees has been hampered by frequent absences from scheduled J/LOS meetings. In the circumstances, specific institutions such as the Judiciary have independently developed a *Gender and Access to Justice Strategy* covering both the institution and its users without the involvement of the gender-working group. A joint effort to guide all institutions would clearly have been beneficial. At the time of the mid-term evaluation, the Gender Working Group was being revived and is in the process of developing a work plan. In June 2004, an undertaking was made at the Joint GoU-donor review to develop a new work plan by December 2004.

▶ Precise terms of reference as a basis for a comprehensive action plan for the Working Group is critical.

**Juvenile Justice:** As with the experience on gender, there have been weaknesses with regard to inter-sectoral juvenile justice issues within J/LOS. Until recently, due to staffing shortages, representation of the Department for Children and Youth Affairs (DCY) at the J/LOS Technical Committee has been irregular, though such presence would have been essential to ensure effective resource allocation to specific institutions. A Juvenile Justice Plan had been developed prior to the SIP and the contents fed into a Save the Children pilot project in four districts funded by Development Co-operation Ireland, and a Legal Aid Clinic at Law Development Centre funded through J/LOS. The Save the Children project's implementation

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99 By Stella Mukasa, Nordic Consulting (Uganda) Ltd.
structure involves juvenile justice committees at district level as well as a national committee. No apparent linkage has been made between these structures and J/LOS to the detriment of coordination and pooling of experience.

Another challenge affecting juvenile justice has been the fact that many child welfare issues fall under the Social Development Sector’s Strategic Investment Plan (SDIP). The DCY therefore lacks a plan for juvenile justice reform, which could specifically be incorporated in J/LOS. The SDIP was approved by Cabinet on 20th October 2004 and is to form the basis for future support. Among its key features is the aim of improving participation of DCY in J/LOS and SDIP, mainly through a National Juvenile Committee, in parallel with J/LOS management structures. This should be of increasing importance to J/LOS as it focuses more on co-ordination with key actors in the prevention of crime.

- Information flows and synergies need to be clarified vis. the National Juvenile Committee (see existing parallel structures in Annex 5).

According to the J/LOS SIP, there were plans to develop a National Gender and Juvenile Justice Strategy. The two appear set to evolve separately.

**Local Council Courts under the Ministry of Local Government (MoLG):** To date, the main focus of the relationship with MoLG has been the need for J/LOS to integrate operations of Local Council Courts as key providers of accessible justice. To this end, the MoLG has been represented on the J/LOS Technical Committee by the Commissioner for Local Councils Development. The adoption into law of the *Local Council Courts Bill* (aimed at reforming the Resistance Councils and Committees Judicial Powers Statute of 1988) has been pending since 2001. The MoLG has received support from the United Nations Capital Development Fund to strengthen the capacity of Local Councils to execute their judicial functions. A reference manual and training guide have been developed and tested on a pilot basis in six districts.\(^{100}\) The performance of LC courts in the pilot districts was evaluated as having improved and greatly appreciated by members of the community. The evaluation recommended that the pilot project merits being rolled out countrywide. This would require considerable financial support - some of which is expected to be accessed through J/LOS.

User perceptions in the Criminal Justice Baseline Survey reflected 100% rating on efficiency of LC courts as alternative dispute resolution for a, compared to much lower ratings for J/LOS institutions.

- Beyond a funding relationship with J/LOS, given the direct relevance of these courts, it is critical to craft a process by which information on the operations of Local Council Courts is considered and set against strengthened performance standards developed by J/LOS. In turn, such a linkage would ensure that policy developments in J/LOS naturally take these courts into consideration.

Currently, there is only limited interface between J/LOS institutions and Local Governments at district level and below. Often the interventions at those levels are ad hoc and largely depend on the initiative of the individual officials, especially through local Case Management Committees.

\(^{100}\) The six pilot districts included Kayunga, Mukono, Arua, Yumbe, Jinja and Kabale.
Yet the supervisory role of judicial officers over LC courts is critical to their improved performance.

Overall, there is a need for increased dialogue, and partnership between J/LOS institutions and Local Governments at local level. Apart from concretizing linkages between local council courts and J/LOS, Local Governments should be sensitized in a systematic way about J/LOS local committees and the important contribution local governments can make to provide feedback on performance of J/LOS at local level.\textsuperscript{101}

The following actions are recommended:

- J/LOS should continue to lobby for the passing of the bill to amend the composition and jurisdiction of LC courts and streamline their relationship to the formal judicial court system.
- J/LOS should develop a comprehensive strategy for building effective linkages with local governments in general and with LC courts in particular.
- In addition, J/LOS needs to allocate substantial resources toward the roll-out of the UNCDF pilot initiative for capacity building of these courts.

**HIV/AIDS under the Ministry of Health:** The development of an effective J/LOS-wide strategy to counteract human resource losses from HIV/AIDS is still outstanding. The development of a sectoral strategy is intended to be informed by the national strategy to be developed by the Uganda Aids Commission. During the second half of 2002, the MoJCA initiated dialogue with the Uganda Aids Commission. In terms of progress, some J/LOS institutions like Prisons, DPP and Police are developing institutional strategies while Community Service has developed a workplace HIV/AIDS programme.

At the June 2004 Joint GoU-Donor review, the Chair of ULRC offered to liaise with the health sector on HIV/AIDS, and an undertaking was agreed that this would be done.

This process needs to be systematically followed up to avoid further delays, and co-ordination and lessons learning among existing initiatives made routine.

**Relationship with MoFPED:** This is based on formal institutional linkages through the relevant desk officers and the sectoral desk officer and matters relate mainly to budget ceilings for J/LOS, estimates, allocation and releases as well as planning and monitoring. For some time, the relationship between J/LOS and MoFPED has been rather strained with the former blaming the MoFPED of non-prioritization in resource allocation. Despite a good start with senior representation provided at the Joint GoU-Donor Reviews, MoFPED’s participation in J/LOS has become unsatisfactory with lack of high-level official presence at Joint GoU-Donor reviews. It is noted that the timing of the June semi-annual review is not ideal for MoFPED.

However, a number of meetings have been held at the Steering Committee Level aimed at improving the relationship and this has resulted in the inclusion of the J/LOS Swap Development Fund and the CJRP under the Poverty Action Fund for the FY 2004/5.

\textsuperscript{101} This discussion is dealt with in depth in Chapter 8.
At another level, J/LOS has not systematically been able to streamline co-
modation with national monitoring mechanisms such as surveys of Households,
participatory poverty assessments or service delivery surveys conducted by Uganda
Bureau of Statistics under the MoFPED.

It is crucial that data from the J/LOS institutions and the communities be
systematically fed into MoFPED these surveys as they provide the basis for
government policy, planning and resource allocation.

National Secretariat of the Medium Term Competitiveness Strategy: The MTCS
forms the basis for the Government, donors and other stakeholder intervention to
stimulate private sector growth and development. The thrust in the medium term is to
achieve high GDP growth rates through a private sector- led growth strategy. The
Commercial Justice Reform programme was identified as one of the key
components in improving the legal business climate in Uganda and hence spurring
private sector growth. One of the key challenges identified in the commercial justice
sector was the inability to enforce contracts and collect debts, which is acknowledged
to have a severe effect on Uganda’s private sector development.

There is therefore need for close linkages between the CJRP and the MTSC to
coordinate activities (ensuring they are compatible and in sync with other
components of the strategy) and to monitor progress. However, the MTSC
Secretariat based in the MoFPED was only formally established in May 2003 when a
National Coordinator was appointed. Prior to that, there was hardly any linkage
between the two programmes and regular monitoring of progress has not been
effected. The National Coordinator has held a meeting with the CJRP Advisor to
appraise himself of developments. The MTSC Secretariat is also in the process of
recruiting a programme officer in charge of monitoring the various components of the
strategy.

There is however need to enhance the MTSC Secretariat’s awareness of
developments and progress in the CJRP and at the same to develop systematic and
formalized mechanisms for information sharing e.g. through provision of progress
reports, participation in meetings, sector reviews.

It is proposed that the MTCS Secretariat be represented at the CJRP sub
Committee, the Commercial Court Users Committee and the semi annual reviews.

Institutions Support Private Growth.

Other components of Uganda’s private sector growth strategy include: strengthening the financial
sector and improving access, reforms in infrastructure provision, improving the business environment
for MSEs, institutional reforms in procurement, removing export sector impediments and commercial
justice sector reforms.

MTCS - In particular, a dysfunctional commercial justice system is seen to reinforce the bad debt
culture, restrict commercial credit, reduce the benefits of economic structural adjustment and to act as a
disincentive to invest in Uganda. At the time the MTCS was developed, key problems in the
commercial justice sector included huge backlogs and lack of commercial awareness in the courts,
ineficiencies and corruption in the registries, out dated and inadequate commercial laws and poor
services to the private sector. p.24.
Under the Commercial Justice Study 1999 it was deduced that the malfunctioning of Uganda's Commercial Justice System was costing Uganda at least 2% of GDP.\footnote{Manuel, Odoki, Hooper.}

\[\] However, the MTCS has not developed systems for monitoring progress and is not able to indicate or ascertain to what extent the CJRP or J/LOS as a whole has actually contributed to private sector growth. There is reported to be no data analysing the potential of CJRP and J/LOS as a whole to contribute to such growth (see Chapter 6 regarding J/LOS contribution to PEAP).

The MTCS Secretariat is in the process of developing the MTCS II (2005-2010), and input/feedback from the CJRP is crucial to determine which activities are prioritised in the next phase and what resources.

A study should be commissioned to indicate the ways in which J/LOS as a whole contributes to growth and to PEAP, including CJRP.\footnote{A holistic view of laws that affect business would include an effective criminal law system for enforcement of taxation, as well as for its effects on micro businesses. Cultural differences also affect the perception of that which is a positive business legal environment. For example, bankruptcy. The USA view of bankruptcy is pro debtor; the European view of bankruptcy is pro creditor. The Ugandan model is pro creditor, yet an American might view this as hampering economic growth. Finally, it will be difficult to isolate the J/LOS potential contribution to growth, let alone that of CJRP or the Commercial Court in order to measure its contribution. In this case, what is recommended is an informed estimate of the costs of current dysfunction using the kinds of calculations illustrated in Chapter 6.2-6.3.} J/LOS needs to develop this reasoning and analysis to strengthen its case for future GoU resources. The study could be jointly funded by J/LOS, UIA and perhaps other stakeholders. This recommendation is also linked to the discussion regarding contribution to PEAP in Chapter 6.

\textbf{Private Sector through the Private Sector Foundation of Uganda (PSFU):} The private sector (comprising of enterprises, professional bodies and associations) has been dubbed as the “engine for growth and economic transformation in Uganda” and is a key stakeholder in GoU programmes to eradicate poverty. The formal private sector is largely organized under the Private Sector Foundation of Uganda, an umbrella organization with over 65 business associations and corporate members and some public sector agencies supporting the growth of the private sector.\footnote{Examples of PSFU members include big corporations like banks, Uganda Manufactures Association and its members, Uganda National Farmers Association, Uganda Micro Entrepreneurs Association.}

Under the J/LOS SIP, it was envisaged that the private sector would be represented on the CJRP sub-committee. This has not been the case and there has been limited interaction at that level. However, the private sector has been regularly represented at the quarterly meetings of the Commercial Court Users Committee, which they view as a useful forum for exchange of ideas and follow-up of progress in the Commercial Court. This forum could also account for improved perception of the Commercial Court, since the private sector is able to air grievances and follow-up on responses.

However, it is recalled that the great majority of commercial activity takes place in the informal sector not represented in any of the associations of businesses which are
members of PSFU. In addition, the PSFU is often criticised by its members for failing to effectively represent their interests.

Bearing in mind the caveats, as recommended for other non-state actors from civil society, PSFU should be invited to contribute to TC working groups and sector reviews (see Chapter 7) and the proposed participatory planning process. One area where the PSFU can potentially play a role is in the lobbying for commercial laws to be passed. It is proposed that a task force of relevant institutions comprising the PSFU be set up to lobby for the passing of key commercial laws during this transition period.

It is crucial to develop these linkages quickly because of the upcoming World Bank funded Private Sector Competitiveness Strategy II (PSCP II), under which it is proposed to extend major support to institutions in the CJRP, notably the Land Registry (USD$ 25M and Commercial Registry (USD$ 600,000). This support is under the overarching umbrella of the MTCS II but is to be managed by the Private Sector Foundation of Uganda. Ideally, CJRP should lobby to have funding channelled through its programme so as to avoid the challenges that may arise out of coordinating and monitoring bilateral funded programmes (as was the case with prior SPEED support to the Registries). Should this funding remain under the PSFU, it is crucial that they work with J/LOS to ensure coherence with sector plans and effective implementation of activities (see also Chapter 3.2.2 above)

**Accountability sector:** The importance of linkages between J/LOS and actors in the area of anti-corruption emerges at two levels.

On the one hand, corruption has been repeatedly indicated as a major constraint in achieving SIP as an obstacle to accessing justice, equality before the law, non-discrimination, the right to a fair hearing etc. Central to the achievement of SIP policy objectives is the combating of corruption. There are many aspects of J/LOS reforms that may contribute to reducing the incidence of corruption perpetrated by J/LOS institutions such as the plan to fully professionalise the Bench, development of performance standards and codes of conduct, a J/LOS Financial management strategy, improvement of living conditions for police personnel, provision of transport, equipment and logistics to mention a few. Some J/LOS institutions have also undertaken to develop specific anti-corruption strategies and initiatives such as the Judicial Integrity Committee, and the Anti-Corruption strategy of the Judicial Service Commission. However, these are not conceived within a deliberate anti-corruption strategy for the sector.

Addressing corruption with J/LOS as a whole is an imperative if J/LOS is to achieve its policy objectives. It should define a clear strategy using the strengths of a *Chain Linked* approach for doing the same. Ongoing actions and initiatives provide a good foundation.

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108 Including the background studies to the formulation of the J/LOS, the Sebutinde Report on Corruption in the Police Force, both the Criminal and Commercial Justice Baseline Surveys, the Participatory Poverty Assessment on Safety, Security and Access to Justice, as well as the National Integrity Surveys of the IGG.

At another level, a number of J/LOS agencies (DPP, Police, Prisons and Judiciary) as well as some of the donors supporting J/LOS also involved in anti-corruption programmes, within the emerging accountability sector. J/LOS institutions are key players in this sector, under the Inter-Agency Forum, where they are mandated to support the work of the Department of Ethics and Integrity (DEI) and the Inspector General of Government (IGG). A *National Anti-Corruption Strategy* has been developed and a new *Platform for Co-ordination* identifies J/LOS as key partner. Ensuring speedy hearings and trials of cases of corruption is a key mutual concern for both J/LOS and the accountability sector, but this is currently addressed through the *Anti-Corruption Inter-agency Forum* without systematically feeding into J/LOS. The integrity surveys by the IGG are also useful tools for monitoring and evaluation of service delivery by J/LOS agencies.

In elaborating its anti-corruption strategy, J/LOS needs to define mechanisms for co-ordination with the accountability sector. The recent transfer of Mr. Waiswa Bageya who was the Technical Committee Chairman to DEI as PS- this may provide an opportunity for introduction of formal linkages.

### 4.2 Under developed relationships between J/LOS and other relevant actors

The discussion below covers other sectors, institutions and programmes that are highly relevant to J/LOS objectives. The sector should develop effective linkages and co-ordination. These include

- The Education sector
- Ministry of Public Service
- The National Planning Authority
- Parliament
- CSOs are considered in chapter 6 concerning contribution to PEAP

**Education Sector:** Systematic links have not been forged with the Education sector although the areas of common concern are central to J/LOS SIP objectives. These range from conditions of education for police/prison official’s children, an issue for J/LOS terms of service and morale; to crime prevention through education in general as well as specific programmes such as preventing defilement through sex education as piloted in Masaka; education service in juvenile justice strategy, general rehabilitation of prisoners to reduce recidivism; and the essential links with National Programme on Civic Education needed for human rights awareness and local involvement in J/LOS. Instead, the Judicial Service Commission has prepared its proposed civic education programme without coordinating with the national programme Steering Committee chaired by UHRC. The Education sector which has been in existence since 1998 and has a well established sectoral planning unit from which J/LOS could seek to learn. J/LOS needs to seek active linkages with the Education Sector.

Ministry of Public Service (MoPS): Regular contact exists through a desk officer who
normally attends J/LOS meetings. Currently, J/LOS needs to specific linkages with
the MoPS to achieve increased capacity for the institutional PPUs and J/LOS-wide
PPU.

National Planning Authority - the NPA was established to centralize government
planning functions. Linkages have not yet been developed with J/LOS.

Parliament: Whereas law reform is key to the objectives of J/LOS, it has also been
the area where J/LOS has registered marginal results. A number of crucial Bills have
stalled in Ministries, some before Parliament, and others are likely to be delayed due
to the GoU prioritization of the ‘roadmap’ for political transition. At the June 2004 Joint
GoU-donor review, an undertaking to have five Bills tabled before Parliament and two
presented to Cabinet by December 2004 was made. Overall, J/LOS needs to develop
more effective linkages with the legislative arm of government as one of its strategies
for ensuring better performance in legislative reform. A successful Bill tracking
system is dependent on more concrete relations with Parliament and J/LOS should
involve the Parliamentary and Legal Affairs Committee in developing this system.

4.3 Other actors engaged in the administration of justice

The institutions most active in the J/LOS management structures for the purposes of
priority-setting and planning as well as reporting on progress and compliance with
performance standards have almost exclusively been those institutions receiving
funding through J/LOS. Whereas the judiciary is primarily charged with the
administration of justice, there are a range of other institutions who also have
functions and powers in the administration of justice.110 However, not all actors
tasked with dispensing justice (e.g. military justice institutions and UHRC) are
included within J/LOS policy discussions or planning. A number are considered here:

• Uganda Human Rights Commission - regarding the performance of J/LOS
institutions as reflected in the Annual Reports of the Commission.
• Military justice
• Military/Intelligence actors exercising police functions

Uganda Human Rights Commission was originally envisaged as part of J/LOS at an
early planning stage. Its justice mandate, through its own Tribunal, would naturally
form part of a sectoral approach, just as the independent judiciary do.111 This was not
the view of UHRC, which felt, as an independent Constitutional body, it would be
compromised if it participated in other management structures. It felt that J/LOS was
being convened by the MoJCA. This contrasts with the view of their own
independence taken by the judiciary.

110 Administration of Justice in Uganda: Policy developments and Initiatives, FJ Ayume (the late
Attorney-General of Uganda), in The Uganda Living Law Journal, Volume 1, Number 1, June 2003,
published by the Uganda Law Reform Commission.

111 Early efforts to define the ‘sector’ recommended inclusion of the UHRC, the IGG and NGOs
involved in civic education, human rights, the law generally, as well as the provision of legal advice
and assistance. For example HURINET and women’s organisations like Action for Development
(ACFODE), Study for the Proposed New Investment Programme for the Legal and Administration of
UHRC was invited to present a paper at a J/LOS Joint GoU-Donor review in December 2003, and J/LOS will duly consider the annual UHRC report when it is released. However, at times J/LOS institutions see responding to the report more as a matter of self-defence than as an opportunity to design future actions with the benefit of UHRC insights.

There are strong potential benefits for both UHRC and J/LOS from more effective interaction. Both J/LOS and UHRC share common goals based on minimum international human rights standards as encapsulated in the SIP policy objectives.

a) The relevance and influence of UHRC recommendations to J/LOS would benefit from UHRC being better informed regarding reform progress and setbacks in J/LOS;

b) Engagement on a practical level of monitoring is also needed, without compromising UHRC independence. For example, as far back as 1997 it was recommended that UHRC should define and seek to enforce minimum standards relating to prisoner’s diet, safe water, drugs and medical attention. Such standards would be agreed with J/LOS to assess progress, and monitored both by UHRC as part of its own work, and by the J/LOS-wide monitoring and evaluation system.

c) Similarly, UHRC performance in adjudicating cases brought before it should be assessed by reference to performance standards applicable throughout the system of justice. UHRC receives a high proportion of cases which should normally be dealt with by the general civil courts, and has itself acquired a serious backlog of cases concerning for example family maintenance or inheritance. UHRC, like J/LOS, has a large case backlog and problems of enforcement of its judgments (such as awards of compensation to torture victims).

d) It is essential for J/LOS to incorporate UHRC in its needs analysis concerning e.g. a small claims track for the Courts of Judicature.

Concerns regarding the issue of UHRC independence may have reduced with the evolution of J/LOS and with capacity-building within UHRC. With a permanent independent successor to the current J/LOS Secretariat being recommended for SIP II (chapter 7), it is timely to re-explore the J/LOS relationship with UHRC, to ensure optimum benefit for the SIP policy objectives - the common goal of both J/LOS and UHRC.

The Military Justice system has not generally been part of the J/LOS consideration of priorities. The use of field court martial applies the death penalty without minimum guarantees of fair trial or right of appeal. The current use of this mechanism may be unconstitutional, and is certainly in violation of Uganda’s human rights obligations, as confirmed by the international Human Rights Committee in its comments to Uganda May 2004. The ULRC has in effect recommended that the military justice system be included in J/LOS, by providing a right of appeal from the military justice system to courts of judicature. The issue of corruption in the Court Martial was a topic of

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112 In the law as its stands, both the NRA Statute and the Constitution are said to provide for the absence of the right of appeal from a field court martial. Inclusion of right of appeal from military justice system to Courts of Judicature was recommended by Law Reform Commission in the J/LOS Criminal Justice Reform Programme Voices of the People on Trial Procedures, Sentencing and Decriminalisation of Petty Offences, A Draft Field Study report.
concern discussed at a recent meeting of UHRC, DPP and heads of Security agencies announcing new co-ordination against torture, on 9 July 2004.

**Military/intelligence actors exercising police functions:** The work of the Uganda Police Force (UPF) impacts upon several GoU stakeholders and *vice versa*. These include security agencies: The Uganda People’s Defence Force (UPF), the Chieftaincy of Military Intelligence (CMI), the External Security Organisation (ESO), the Internal Security Organisation, Local Defence Units and Local Administration Police.\(^{113}\)

In addition, Local Defence Units (LDUs), militias and vigilante groups have been established as a military reserve force in ‘disturbed areas’.\(^{114}\) These units are said to be under the command and control of the UPDF, which in practice exercises police functions. Funding of this reserve military force has come from the budget of J/LOS under the Ministry of Internal Affairs and is seen to unfairly inflate the sector ceilings.\(^{115}\)

The Inspector General of Police has acknowledged that LDUs ‘*handle situations that would ordinarily be handled by the police as internal matters...they are doing our job because we don’t have the capacity to do it.*’\(^{116}\) This raises a number of grave concerns. The UPF Strategic Plan rightly highlights how the merger of police and military roles in the years 1979 to 1986 had negative consequences that are still felt by the UPF, and Uganda, today.

\(\Delta\) As in the period prior to 1986, today Uganda’s military and intelligence agencies are increasingly performing law enforcement roles normally the preserve of the civilian police. Lack of police capacity, due to chronic under-funding by GoU can be contrasted with large military spending increases over successive years by GoU - at the expense of substantial budget cuts to other Ministries, including J/LOS.

Funding for some Security Sector items appear to be brought within J/LOS without any clear rationale (e.g. demobilization packages for ex-combatants) despite the negative effects for financial management. Yet, Security Sector actors with direct impact on the administration of justice are not included in J/LOS planning, co-ordination and performance monitoring without any clear rationale.

\(\uparrow\) The Inspector General of Police has rightly highlighted the imperative need for a holistic, inter-sectoral approach to the concept of security in Uganda, involving J/LOS and the Security sector. Security sector actors which have direct impact on the achievement of the SIP policy objectives should be part of J/LOS human rights based planning and monitoring.

\(\Delta\) The UHRC and the international Human Rights Committee have found a widespread pattern of forced disappearances and torture by Security Sector actors. Impunity for these crimes has not been addressed by J/LOS actors responsible for

\(^{113}\) Uganda Police Force *Medium Term Strategic Plan.*

\(^{114}\) Various titles include ‘Black Arrows’, ‘Amukas’, ‘Rhinos’, ‘Frontier Guards.’ The Army Bill 2004 envisages 39 civilians at each sub-county as registered volunteers to constitute the reserve force. The idea is said to be that when mobilized, they will know where to report. The militias are volunteers who have been introduced in conflict-affected areas to supplement the army.

\(^{115}\) For in depth discussion of J/LOS financial systems, see Chapter 8.

\(^{116}\) In discussion at the June 2004 Joint GoU-Donor review.
investigating, prosecuting and punishing as appropriate. On the general level, this represents a fundamental barrier to J/LOS achieving the range of SIP policy objectives from strengthening rule of law to due process. It is negative for investor confidence and private sector growth, undermining both criminal and commercial SIP reform objectives. It is a profound challenge to the sustainability of J/LOS reforms. It renders continued donor support to J/LOS difficult to justify to their taxpayers.

On a more specific level, the MTE finds that these allegations have a direct negative impact on the ability of J/LOS to increase access to justice, efficiency and quality of service delivery and public confidence in J/LOS. The essence of J/LOS is rule of law, yet the patterns of alleged torture include alleged complicity by police and prison officials who have custody of torture victims before/after, while no prosecutions have been even initiated. It would be unrealistic and counter-productive for J/LOS to suggest that SIP objectives such as ‘increased of efficiency and quality in service delivery’ can be achieved without addressing this.

▶ From the perspective of the public, and the poor in particular, there must be one set of J/LOS minimum standards to which all agents of the state adhere when they exercise police functions. These must not be less than the minimum treaty standards Uganda is a party to. A holistic planning process and a ‘Chain-linked’ approach to prevent and combat torture is outlined in Annex 4 to help inform discussion around the relevant GoU co-ordination initiative announced in June 2004 by UHRC, DPP and the heads of Uganda’s security agencies.

Overall, UHRC and military/intelligence actors are central to the achievement of SIP policy objectives. Yet, they have only peripheral substantive inter-action with J/LOS policy, planning or monitoring. It is inconsistent with the concept of J/LOS as a process for generating change, if key actors essential to achieving SIP are not effectively engaged in the reform process.

### 4.4 Key issues regarding inter-sectoral linkages and other relationships

Overall, inter-sectoral linkages have been largely ad hoc, with limited development of synergies or co-ordination outside J/LOS institutions. This can partly be attributed to the limited number of personnel in the J/LOS Secretariat. There is enormous scope for mutually beneficial relationships that would improve efficiency, clarify division of labour, pool experience and address gaps in coverage of justice issues. Influencing other sectors towards including considered J/LOS recommendations into their work plans is part of addressing J/LOS objectives - rather than becoming overloaded by trying to spread itself too thinly.

▶ J/LOS will need to prioritise and allocate clear responsibility and resources for nurturing inter-sectoral relationships. The management structure and processes of J/LOS should be designed to be flexible enough to facilitate varied inputs of the kinds outlined above:

   a) Participants in policy, planning, monitoring (e.g. UHRC, military/security actors performing police functions)


J/LOS MTE Final Dec04
b) Inter-sectoral linkages for example with the accountability sector.
c) Alliances (e.g. to pressure for adoption of new defilement law with health/AIDs, education and women’s groups fully informed about the effects of current law).
d) Ad hoc co-ordination needed with others (e.g. opportunities in national monitoring mechanisms such as Household or UBOS Service delivery surveys).
Chapter 5. DONOR RELATIONSHIPS

Assess *working relationships*: a) with donors and b) between J/LOS donors.

The main donors in the J/LOS are Austria, Denmark, EU, Germany, Ireland, The Netherlands, Norway, Sweden, UNDP/ UNCDF, UK, USA, and the World Bank. They are organized under the J/LOS Donor sub-group. The Chair rotates every year.\(^{118}\) At the time of conducting the evaluation, Netherlands were chairing and were set to hand over to Ireland in July 2004. The J/LOS donor group also has linkages with the broader *Donor Democratization and Good Governance Group* (DDGG), composed of Heads of missions, currently chaired by Denmark. Formal interaction has involved discussion of pertinent issues at the technical level of the DDGG and presentation of reports from J/LOS Donor prison visits to the meeting of Heads of Mission.

The relationship between the donor sub group and the J/LOS is based on the Partnership Principles initially developed with the sector (2001) and later subsumed within the general GoU-Donor Partnership Principles (MoFPED September 2003).\(^{119}\)

5.1 J/LOS-Donor Co-ordination mechanisms

The Donor Sub-Group serves as a coordination mechanism through which J/LOS donors keep pace with developments. Several of the J/LOS institutions continue to receive funding from donors on a bi-lateral basis; in addition to SWAp and the general budget. Bi-lateral donors such as Danida’s *Strengthening the Judiciary Programme* (in the process of evolving to a broader *Access to Justice Programme*) which started in 1995, participate together with J/LOS donors in the management structure. They coordinate on priorities and policy messages they deliver to J/LOS institutions. The coordination is done in close collaboration with the J/LOS Secretariat as well as with participating J/LOS institutions. Regular meetings and mechanisms involving various players provides the framework for coordination. These include:

a) **Donor sub-group monthly meetings:** This is where developments in the sector as a whole and in specific institutions are discussed. A representative from the J/LOS Secretariat attends and more recently, a J/LOS institution has itself been invited to discuss progress and pertinent issues affecting that institution.

b) **Donor Liaison Group meetings:** At these meetings, donors together with the J/LOS Steering Committee identify and prepare issues to be raised at the six-monthly Joint GoU-donor reviews. Within the same forum, donors hold discussions on the Annual Reports of the Uganda Human Rights Commission as they contain information relevant to J/LOS as a sector and in some cases to specific J/LOS institutions.

\(^{118}\) J/LOS Donor Group Terms of Reference, September 2004.

\(^{119}\) The latter are yet to be fully agreed between the Donors and MoFPED.
c) The **Joint GoU-Donor Reviews** take place every June (future planning) and every December (overview of progress). The agenda and format are jointly prepared by the J/LOS Secretariat and the donor group. Likewise, the *Aide Memoire* from the reviews is jointly prepared. These reviews are considered in more detail in Chapters 7 and 9 regarding current M&E.

d) **Donor agencies who have relevant technical advisors** are represented by these advisors at the J/LOS Technical Committee meetings e.g. the Advisor for Juvenile Justice in the Ministry of Gender, Labour and Social Development; the Advisor on Danida Support to Strengthening the Judiciary; the DFID Commercial Court Advisor.

e) **Donor-institutional partnerships**: In a recent development, to strengthen coordination and monitoring, each J/LOS institution has been allocated a donor representative who should visit and track progress and challenges of implementation of programmes within J/LOS. This has raised the issue of sufficient donor capacity for effective substantive engagement (see below on J/LOS perceptions of donors).

△ The number and frequency of these co-ordination mechanisms has placed a strain on the limited resources of J/LOS institutions, the Secretariat and the donor group. The mechanisms generate large volumes of reports and paperwork, yet the time to track implementation of reports has been limited. While the intensive co-ordination mechanisms seeks to address the absence of a functional J/LOS wide monitoring and evaluation system, this approach should be reviewed during planning for SIP II and a strengthened Secretariat (Chapter 9).

### 5.2 Donor Commitment to J/LOS

Within the J/LOS donor sub group, types of support to J/LOS vary. They include specific project support to selected institutions in the sector, a combination of project support with sector budget support, as well as contributions directly as sector budget support to Commercial Justice reform or the SWAp development fund. Donors, in partnership with non-state legal aid service providers, are also developing a Basket Fund on Legal Aid. The table below provides an overview of commitments within the J/LOS donor group.

<table>
<thead>
<tr>
<th>Donor Agency</th>
<th>Budget Support</th>
<th>Project Support $ or € m</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. UK (J/LOS)</td>
<td>Provider of general budget support</td>
<td>$0.4 (CJRP)</td>
</tr>
<tr>
<td>2. Ireland</td>
<td>€ 3.86</td>
<td>€ 3.0</td>
</tr>
<tr>
<td>(Justice Reform)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Austria (CJRP)</td>
<td>$ 0.5(?)</td>
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<td>Austria (SWAP)</td>
<td>$ 0.5</td>
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<td>4. Netherlands (Legal</td>
<td>€ 5.0</td>
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<td>Sector (Justice Reform)</td>
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<td>5. Norway</td>
<td>$ 0.7</td>
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<td>(Justice Reform)</td>
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<td>6. Sweden (J/LOS)</td>
<td>$ 1.33</td>
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<td>7. Germany (J/LOS)</td>
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<td>8. Danida</td>
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Beyond the financial contributions and technical support, J/LOS donors make other important contributions towards the realization of sector policy objectives. At the operational level, J/LOS donors enjoy considerable leverage in ensuring sector performance, including:

- Field visits: The J/LOS donor group makes occasional monitoring visits to J/LOS institutions. In these visits, they encourage accountability and adherence to stated priorities (such as access to justice with a poverty focus). For instance, findings from an unannounced visit to a prison may generate discussion with others such as the Judiciary, DPP and Police in the area visited. See also Chapter 9 for consideration of field visits as part of M&E.

- J/LOS donors have established a dialogue with GoU that enables discussion and follow up actions on serious issues of concern emerging from monitoring visits by donors. Donor reports of their visits are discussed by the TC and Secretariat and follow-up action is taken as needed.

- Donors also raise issues of concern reported to them from independent reliable sources e.g. credible allegations of torture and interference in due process, whether perpetrated by J/LOS institutions or non-J/LOS institutions.

- Joint GoU-donor inspection teams have at times visited police stations and prisons in both arranged and spot check visits to assess conditions and other issues.

- Apart from the functional dialogue, donors engage in discussion with GoU, particularly MoFPED, to raise concerns on financial matters. These include the negative impact of slow disbursements and budget cuts on J/LOS. This has sometimes yielded results. At the June 2004 Joint GoU-Donor review, it was indicated that the SWAp and CJRP development funds for the FY 2004/05 would receive PAF protection.

The J/LOS Donor Group should maintain the various levels of engagement and mechanisms for dialogue with the GoU, which have yielded significant outcomes.

Overall, donors acknowledge and appreciate that J/LOS has made commendable progress in terms of process, output and impact as reflected in Chapter 3. There is acknowledgement within the J/LOS Donor Group that given the wide scope of pressing problems affecting each of the ten institutions involved the sector, plus the challenge of addressing them through a sector-wide approach, the progress made over the past years is commendable.
Although some bilateral funding arrangements still exist, the evolution of J/LOS processes to a level where a number of donors and J/LOS institutions are committed to budget support arrangements is a significant achievement.

△ Outstanding donor concerns include:
- The quest for impact and tangible results necessary as part of accountability to their own taxpayers.
- The concept of direct budget support a challenge where there are credible allegations of torture by military/security forces with apparent acquiescence in their impunity by J/LOS institutions.
- Accountability - value for money, and fiduciary risk management.
- The challenges to respect for the rule of law especially during the period of political transition (2004-2007).

5.3 J/LOS perceptions of donor relationships

J/LOS institutions acknowledge the importance of donor support and strength in negotiations for enhanced sector recognition by MoFPED, as mentioned above.

However, the issue of donor capacity to effectively engage with GoU counterparts has been raised in a number of fora. More recently, the Steering Committee has written to the Donor Group raising concerns regarding the technical capacity of some of the donor representatives.

It is recognized that donor representatives have responsibility for diverse tasks and may therefore not have technical expertise in the legal sector. There is therefore a need for capacity building tailored to donors needs for understanding J/LOS. Members of the J/LOS Donor Group with specialisations in other areas will need targeted capacity building on justice issues contextualized to Uganda, to help them inter-act more effectively with J/LOS. Some have suggested the development of a kind of ‘Nutshell Guide’ with structured briefings by TA from donors who have J/LOS specialisation or from the recommended enhanced J/LOS-wide PPU.

► All of the stakeholders in J/LOS should be encouraged to build their capacity in understanding the J/LOS concept and principles. The J/LOS Donor sub-group should develop a kind ‘Nutshell Guide’ on the sector with structured briefings by TA from donors who have J/LOS specialisation or from the recommended enhanced J/LOS-wide PPU.

5.4 Coherence and consistency among donors

The framework of budget support has contributed to improved coherence among donors in the various sectors supported. In particular, enhanced transparency and co-ordination have fundamentally reduced the risk of double-funding which was prevalent prior to donor coordination arrangements. At the same time, there is enhanced complementarity through open and timely disclosure of commitments. There has been additional donor movement towards sector budget support recently

\[\text{\begin{itemize}
\item Limited peer review or monitoring among J/LOS institutions e.g. misleading and insufficient reporting regarding SPEED support to land and company registry under the CJRP.
\item Some donors who are just commencing support to the legal sector and are therefore ‘outside the loop’ continue to introduce projects, outside disclosed and discussed commitments e.g. the African Development Bank. Such donors need to be encouraged to get more involved in the J/LOS Donor sub-group where they will better appreciate the principles underlying J/LOS as a SWAp.
\item In other scenarios, J/LOS arrangements are also affected by funds coming through other multi-sectoral GoU programmes. For instance, under the MTCS II (World Bank funded), it is proposed to support the Land and Company registries, with considerable amounts of funding channelled through the Private Sector Competitiveness Programme II (PSCP II) to be managed by the Private sector Foundation of Uganda. The need for inter-sectoral co-ordination particularly through MoFPED cannot be over emphasized.
\item There is a challenge of integrating anti-corruption strategies within J/LOS at two levels. Corruption has been indicated as a major constraint in achieving SIP objectives in many reports including (as mentioned in chapter 4). A number of J/LOS agencies (DPP, Police, Prisons and Judiciary) as well as some of the donors supporting J/LOS are also involved in anti-corruption programmes, yet there are no systematic linkages between these initiatives (The Inter-Agency Forum) and J/LOS. Secondly, whereas there are many aspects of J/LOS reforms that may reduce the incidence of corruption perpetrated by J/LOS institutions, these are not conceived within a comprehensive anti-corruption strategy for the sector.
\end{itemize}}\]

Donors naturally have varied interests in different parts of J/LOS. Like the individual J/LOS institutions, the MTE recommendations that they too direct their combined energies towards more truly sectoral approaches to justice reform. All donors interested in support to the legal sector should be encouraged to get more involved in the J/LOS Donor sub-group where they will better appreciate the principles underlying J/LOS as a SWAP. The need for inter-sectoral co-ordination cannot be over emphasized. In this regard, MoFPED has a role to play in highlighting proposed projects outside agreed parameters.

Unlike sectors which many donors are traditionally more familiar with (such as Health or Education) J/LOS is concerned with empowerment. An effective, efficient, accessible, fair justice system is the pivot on which delivery of other human rights depends. It protects the space in which Ugandans can organize themselves to peaceully change their government, to demand the right to health, education, equitable development, a free press and generally hold those with power accountable to Uganda’s international and constitutional commitments. Achieving the SIP objectives is central to sustainable development in Uganda as recognised in the PEAP (see next Chapter)
Donor support to J/LOS should not be limited to actual funding. Donor coherence, consistency and political solidarity with the institutions are all the more important in the context of concern at uncertainty over the future of democratization in Uganda.

Issues of donor financial coherence are discussed in more detail in Chapter 8.
Chapter 6. CONTRIBUTION TO THE PEAP

Assess actual/likely J/LOS quantitative/qualitative *contribution to the PEAP* aims (especially addressing poverty, human rights and good governance)

6.1  Linkages between Good Governance and Poverty Eradication in Uganda

Governance is *the exercise of economic, political and administrative authority to manage a country’s affairs at all levels. It comprises the mechanisms processes and institutions through which citizens and groups articulate their interests, exercise their legal rights, meet their obligations and mediate their differences.* (UNDP, 1997a).

Good governance therefore includes: the existence of political accountability; bureaucratic transparency; the exercise of legitimate power; freedom of association and participation, speech and assembly; freedom of information and expression; sound public financial accountability; respect for the rule of law; a fair, independent, accessible, corruption-free and predictable legal framework and an independent legislature. Respect for these human rights standards is a key element in the process of achieving broad-based social and economic growth. Among other things, this by definition ensures the most efficient utilisation of already scarce resources, promotes development; rule of law and enhances participation, responsibility and accountability. Thus, improved governance structures and processes enhance participation of the poor (and vice versa) by definition, improving their well-being. It is for this reason that reforms in the J/LOS constitute one of the key means to effective poverty reduction.

Uganda has a long-standing commitment to the principle that the enjoyment of all human rights is *both the means and the goal* of development. In addition to the international legal commitments Uganda has undertaken and the Constitution of 1995, GoU has an overall policy of poverty eradication contained in the Poverty Reduction Strategy Paper known as the Poverty Eradication Action Plan (PEAP) launched in 1997, currently under revision.

J/LOS reforms are meant to be in line with this overall framework as defined in the five PEAP pillars. In the latest draft of the revised PEAP, Good Governance and

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120 Uganda is committed to this principle as a party to the UN Charter (as reflected in the 1997 UN Programme of Reform.) The reform programme drew on the UN General Assembly’s Declaration on the Right to Development of 1986 which had indicated that a human rights framework is needed for effective development. This principle underpins the 1990s world conferences on social development, gender, human rights and racism – and more recently in the Millennium Development Goals. This framework applies to a number of development partners from the European Commission to the UN system in their relationship with Uganda (UN Development Programme, World Bank etc). For background, see [http://www.ihrnetwork.org/solutions.html](http://www.ihrnetwork.org/solutions.html); UNDP, Human Development Report, Deepening Democracy, 2002.

121 The J/LOS policy framework and strategic objectives fall mainly within Pillars 1, 4 and 5 of the current PEAP.
Human Development are presented as fourth and fifth pillars respectively.\textsuperscript{122} Safety and security of the person and property as well as access to justice are core goals with J/LOS reform as the primary means for addressing them. Commercial Justice Reform on the other hand, relates to issues in pillar one, Economic Management, and contributes to poverty reduction through an approach that differs from that envisaged under the criminal justice reform programme.

6.2 J/LOS contribution to PEAP

6.2.1 Actual J/LOS contribution to PEAP

A key challenge is providing evidence of the link between the J/LOS and the PEAP so as to justify and ensure increased funding and, protection for funding, to the sector. In this regard, there are concerns that the J/LOS has not been adequately addressed in the Poverty Reduction Support Credit (PRSC) process. There have been attempts by the sector and donors to lobby the World Bank and GoU so as to increase its visibility in order to expand the resource envelope.\textsuperscript{123}

‘The purpose of the PEAP is to provide an overarching framework to guide public action to eradicate poverty, defined as \textit{low incomes, limited human development and powerlessness}’.\textsuperscript{124}

\textbullet\textsuperscript{ On the macro level, the PEAP recognises the importance of a ‘system of checks and balances based on separation of powers, with independent judicial and legislative branches’ which J/LOS is designed to reinforce.\textsuperscript{125} J/LOS is also central to the PEAP goal of addressing poverty reduction \textit{through addressing powerlessness}. On the level of individual powerlessness, J/LOS is intended to effectively and fairly regulate power relations between individual Ugandans (enforcement of labour contracts, resolving disputes, protection from common crime etc) while protecting Ugandans from arbitrary or abusive use of power by the state (illegal arrest, corrupt law enforcement etc).

\textbullet\textsuperscript{ J/LOS as a whole, and CJRP specifically, responds to the PEAP by enhancing rule of law to encourage confidence for investment for private sector growth, which has been a key poverty reduction strategy of the GoU since 1986.

Specifically, under the SIP, J/LOS aims to contribute to the PEAP through the attainment of eight key policy objectives which clearly have a human rights focus for addressing poverty. These form a bridge that links J/LOS to the realisation of PEAP aims (chapter 2.2). The J/LOS contribution to the PEAP will be in proportion to the extent that the PEAP process itself integrates a human rights based approach to poverty reduction - yielding genuine empowerment.

\textsuperscript{122} Ministry of Finance, Planning and Economic Development, \textit{PEAP 2004: Draft for stakeholder workshop} 20 March, 2004
\textsuperscript{123} See \textit{Justice, Law and Order Sector and the Poverty Reduction Support Credit (PRSC) Process}, Discussion Paper March 2004
\textsuperscript{124} The latest revised draft of PEAP (March 2004) p. 1.
\textsuperscript{125} At p.133.

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Δ The SIP policy objectives, if achieved, are key to reducing the poverty and powerlessness which the PEAP aims to address.

Δ Showing the contribution of J/LOS to PEAP is dependant on being able to produce evidence of actual impact in achieving SIP policy objectives, and dis-aggregation of J/LOS effects from those of other interventions such as the Accountability or Decentralisation sectors. Current sources of verification are:

- Enhanced quality of life and ensure that poverty in Uganda is eradicated (Bi-annual Poverty status reports).
- Improved safety of the person, security of property and access to justice that ensures a strong economic environment to encourage economic development and benefits poor and vulnerable persons (Bi-annual Criminal and Commercial Justice case statistics).
- Rule of law, increased public confidence in the justice system and enhanced ability of the private sector to make and enforce contracts (Bi-annual Criminal and Commercial Justice End-user satisfaction surveys).

Δ However, the complexity of the transformation J/LOS has embarked upon should not be underestimated and a lengthy period of time is required to establish that such macro-level results have been achieved. Moreover, J/LOS still lacks a sector-wide monitoring system that would capture this kind of information (Chapter 9). However, additional steps have been taken towards assessing the J/LOS contribution to PEAP:

- Development of indicators for J/LOS contribution to PEAP, January 2003
- J/LOS PEAP Revision Strategy Paper FY 2004/5- 2006/7 October 2003
- Development of a J/LOS Poverty Reduction Matrix- October 2003 (see Chapter 3 above)
- Revision of World Bank PRSC matrix component on J/LOS to better reflect J/LOS contribution to PEAP
- Commissioning of a study for development of sectoral and institutional indicators, which reflects a human rights orientation.126

Δ It may be pre-mature to gauge the impact of J/LOS reforms halfway into the intended implementation of the SIP. Indications of actual contribution of J/LOS to the PEAP, human rights and good governance is in the immediate changes already indicated in Chapter 3, such as reduction of criminal case backlog, significant reduction in time spent on remand from an average of 5-7 years for capital offences to 2-3 years; faster disposal of petty crimes at local level and commercial disputes in the Commercial Court; increased use of Community Service Orders etc. In addition, studies have included capturing voices of the poor on issues of safety, security and access to justice, integration of gender, poverty and human rights in surveys and other assignments commissioned by J/LOS.

Below are some of the wide range of examples of initiatives planned/underway with direct/indirect impact on the majority poor:

126 Reference is made to work carried out by consultants Keith McKigan and Allen Asiimwe on development of sectoral indicators, 2002.

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Examples of current J/LOS initiatives with direct/indirect poverty reduction implications

1. Initiatives to reduce case backlog and promote speedy handling of cases - Case backlog project, Chain-Linked, which have been rolled out countrywide. Also, the Commercial Court to expedite resolution of commercial disputes
2. A process for law reform to change jurisdiction on defilement, and that of Local Council courts and Commercial transactions (e.g. the proposed Amendments to the Company’s Act)
3. Community Service for improved treatment of prisoners and community participation in the administration of justice. This is set to move toward coverage of more serious offences and would contribute to reducing prison population
4. The intention to develop Court user’s guides to address the technical barriers and create awareness about the commercial court, and the High Court, bail etc
5. Some legal and civic education to improve awareness of rights
6. Codes of Conduct, Performance standards for improved service delivery
7. Strengthening LC courts through change of jurisdiction and capacity building.
8. Human rights training for police and prisons to improved observation of human rights in the course of conducting their duties
9. Improved case management procedures reducing opportunities for corruption.
10. Legal and civic education strategy to improve human rights awareness
11. Improving prison conditions including visits
12. Juvenile justice initiatives for effective and efficient handling of cases; and promoting diversion of children in conflict with the law from the formal justice system
13. Promotion of ADR mechanisms and mediation in Commercial matters so as to reduce backlog
14. Investment in Crime Prevention Strategies such as Community policing.

Examples of planned J/LOS initiatives with direct/indirect poverty reduction implications

1. Strengthening LC courts - a pilot project supported by UNCDF, on capacity building of LC courts has been assessed as successful and recommended for rollout countrywide. Given that these courts dispense justice to almost 90% of Uganda’s population, making them more accessible is imperative.
2. Basket Fund on Legal Aid - various donors have made commitments to the fund set to commence in the last quarter of 2004, to be managed under the Danida Good Governance Liaison Office, and Legal aid fund. Lack of funds for representation is reflected as a key constraint of access to justice for the poor.
3. Initiatives for justice in conflict - a study has been commissioned to form a basis for further interventions. There are also plans for the same under the Danida access to Justice Programme, the inception of which will commence in October 2004.
4. The envisaged small claims/fast track system at the Commercial Court- a concept paper has been prepared but should be extended to cover the rest of the Judiciary.
5. Plan to fully professionalise the bench - this seeks to phase out lay magistrates who have been indicated as mainly responsible for the corrupt image of the Judiciary.
6. Comprehensive reform of the Land Registry

6.2.2 Assess potential J/LOS contribution to PEAP

On the Commercial side, as regards likely contribution to PEAP, the Commercial Justice Study estimated that malfunction in the commercial aspects of the civil justice system costs Uganda at least 2% of GDP per annum. The implication is that
improving the investment climate will attract investors and encourage private sector
growth, leading to economic growth which will then be re-distributed to address
income inequality and thus reduce poverty.

Growth and foreign investment in Uganda is affected by many factors, including, but
not limited to, those targeted by CJRP.

The MTE finds that all areas of J/LOS reform have the potential to contribute to
growth from enhancing an individual’s productivity by reducing their time on remand -
through to enhancing political stability by strengthening rule of law. In this context,
criminal justice reform (including a Chain Linked approach to the prevention,
investigation and punishment of torture recommended in Annex 4) can play an
important part in encouraging investor confidence. All of J/LOS has a role in
contributing to a climate favourable to foreign investors.

The MTE also emphasises that growth alone is not sufficient to reduce poverty -
growth needs to be combined with policies designed to reduce inequality. As an
example, DFID recognises this by its policy commitment to ‘broad based economic
growth’. It is true that there is now increasing agreement that higher rates of growth
usually result in more rapid poverty reduction.127 Where the income growth rate rises
faster, the incomes of poor people tend to rise faster as well. However, there is
variation among countries in the relationship between growth and poverty reduction.
These variations reflect differences in what has happened to income inequality.

The direction of the MTE recommendations are intended to enhance the direction
of J/LOS’ PEAP contribution in a range of ways from increased J/LOS focus on crime
prevention, strategy to combat corruption (the primary factor excluding the poor form
access to justice), through to enhancing ‘demand’ with public empowerment vis a vis
J/LOS; and a holistic approach to civil justice reform.

The economic cost of CJRP and Uganda’s dysfunctional justice system as a
whole should be systematically calculated by J/LOS. The human cost of the suffering
behind the statistics is incalculable. However, economic calculation is needed to
strengthen the case for J/LOS. This is the study recommended in Chapter 3.2.2 to
identify the potential contribution of J/LOS to PEAP, including to growth. The
following factors illustrate the kind of calculation which would help establish the likely
savings for Uganda by the achievement of the SIP policy objectives:

- Political risk analysis
- Powerlessness is: injustice caused by poverty
- Compensation awards for human rights violations.
- The economic cost of ‘recidivism’

a) Political risk analysis by international and domestic investors: When considering
the need for a strengthened commercial court, it was surmised that failings in the
commercial justice system made it impossible to enforce contracts, constrained

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foreign and domestic investment, increased the cost of lending, and restricted access to credit. To this can be added the investment lost to Uganda due to the risk of future instability. Impunity for widespread torture of perceived political opponents is a direct indicator of high risk of greater political instability - and makes investors nervous. This is likely to have a calculable depressive effect on growth, including on the value of the assets Uganda is privatizing e.g. the Sheraton hotel, railway system, Uganda Electricity Board. Foreign investors, for example, take account of the increased incentives required to encourage expatriates to base themselves and their families in Uganda and increasingly face questions from shareholders as part of a growing trend of corporate good governance. Similarly, political stability is a central concern for international tour operators in selecting which holiday destinations to market.

As part of the study, or as part of research by other stakeholders such as MTCS, comprehensive baseline surveys are recommended (see Chapter 4) which include an assessment of the extent to which Ugandan and international investors are deterred from investing in, trading with, Uganda due to human rights issues J/LOS is intended to address. This should include capital flight.

b) Powerlessness is injustice caused by poverty: While virtually all improvements of J/LOS institutions are likely to yield greater enjoyment of human rights by all - including the poor, evidence indicates that dysfunction in the justice system disproportionately affects the poor.

Regarding civil justice: The direct cost of inability to enforce or resolve small labour contracts (e.g. tea pickers, hotel workers), family maintenance contracts (with consequent poverty implications for women, child dropout rates etc), inheritance issues etc. Inability to enforce a rightful claim, even though the sum might appear small, can have a catastrophic effect on the incomes of the poor.

In assessing the scale and extent of the effects of a dysfunctional civil justice system on the poor, the study should include the ‘spill over’ effect of claims being taken to UHRC, which now has a large backlog. This is linked to the recommended study to prepare for a small claims track in the lower civil courts, to roll out insights of CJRP.

Regarding criminal justice: The 2003 Uganda Prison Census concluded that of 17,000 in prison, the average prisoner is a male aged 18 to 30 years. The great majority (some 80% of all prisoners) are likely to have poor dependents. He has, at most, basic primary education or none at all and is either unemployed or a peasant. Two-fifths of the prison population had not attained any education at all. Less than 1% has diploma or degree. The census points out that this may be explained by a number of universally recognised criminological factors:

- The more educated one is, the less likely one is, to commit crime and end up in prison
- While those with education do commit crimes, they are more likely to know their rights, be able to successfully defend themselves or to ‘cheat the system’ on the basis of their wealth. The perceptions reported in the

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128 The Human Rights Committee in its 4 May 2004 Concluding Observations to Uganda concluded that torture was widespread.

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Criminal Justice Baseline Survey regarding discrimination based on wealth suggest that this is the major factor behind the overwhelmingly poor population of Uganda’s prisons. For example, the survey indicates that 50% of crimes go unreported, and a great majority attribute this to inability to pay bribes demanded by police.

In summary, poverty understood as lack of awareness of rights and lack of money is a crucial determinant of whether police bonds are accessible or bail affordable for the accused. Poverty, not guilt or innocence, is the key determining factor on whether an accused ends up in prison. It is therefore also a key factor determining whether a victim of crime obtains justice.

c) Compensation awards for human rights violations.

There has been an increase in claims filed with the Uganda Human Rights Commission relating to J/LOS. During the evaluation alone, five awards were made between Shs. 1.8 m to Shs. 25 million. Under a new policy direction from the Attorney General’s office in December 2003, these are to be directly borne by the concerned institution.

Examples of awards made are for torture, for delayed trials, for unlawful detention (in excess of the 48 hour Constitutional provision), and inhuman or degrading conditions of detention. With increased human rights awareness, if claims are made by those entitled to do so, the potential sums are staggering. There are some 11,000 remand prisoners: each of whom are entitled to a presumption of innocence, affordable bail, trial in a reasonable time etc. The number of potential claimants is unknown due to lack of systematic reporting by victims.

While class action suits have not yet been organized for such claims, as envisaged under Article 50 of the Constitution, the potential scale of such compensation awards is immense. Taking an average of awards of up to 14m (between 1.8 m and 25 million) per prisoner for an identified number of 460 who have exceeded constitutional Bail provisions, this could amount to claims of up to 6,440,000,000 - equivalent to the annual budget of the SWAp.

The current low level of execution of such awards by UHRC is a matter of concern. The enforcement of such awards is fundamental to the rule of law and therefore to the achievement of SIP aims (see Annex 4 regarding prevention of torture).

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129 The evaluation included a visit to Mbarara Prison Kyamugorani, where almost all prisoners were suffering from chronic scabies due to the poor living conditions. Similarly, in the recently concluded prison census, over 460 prisoners were being unlawfully detained having exceeded the constitutional remand period and were due for unconditional bail.

130 The average length of stay on remand is down from some 5 to 3 years, and the Constitution requires within 360 days for capital offences. For the purpose of calculation, an arbitrary assumption might be that half of those on remand (6,000) are spending two years more awaiting trial (and acquittal) than they should be. UPS calculates a cost of 3000USh per prisoner per day* X 730 days X 6,000 persons = 13.2bnUSh. *The daily cost is that used by the Community Service Programme presentation made at Joint GoU-Donor J/LOS review, June 2004.

131 As identified under the Prison Census August 2003 and updated December 2003- see above

132 During the evaluation Uganda was criticized by the international Human Rights Committee for failing to meet its treaty obligations, among other issues, due to lack of enforcement of UHRC awards of compensation.
d) **The economic cost of ‘recidivism’** is acknowledged in the PEAP itself and includes the effect of long periods awaiting trial during which innocent individuals or petty offenders on remand become inducted into crime or more serious crime while detained together with hardened criminals. Also keeping able bodied adults on remand for long periods reduces the productive population. Reducing remand periods would result in releasing such persons to become productive participants in the economy. Beyond the ongoing initiatives to reduce the remand population, there is a need to lobby for interventions such as the pending law reform which is bound to significantly reduce the problem.

6.3 **Constraints and gaps**

Based on SIP implementation to date, a number of possible constraints can be identified which need to be addressed in order to maximise the J/LOS contribution to PEAP.

Although pro-poor initiatives have yielded valuable results and lessons for J/LOS, as noted before, the achievements tend to be diminished by an increase in the crime rate as well as improved investigations which generate more offenders entering the J/LOS system, not to mention other challenges affecting the sector.

⚠️ Uganda’s experience in recent years illustrates that growth in GDP may or may not be applied to address poverty through redistributive policies. Similarly, a justice system can be effective and efficient without protecting the interests of the poor. If the poor are not enabled to access justice effectively, the system may have impressive throughput of cases - but in fact serve only the interest of those who are informed or can afford to pay. J/LOS has targeted efficiency (e.g. in the selection of J/LOS-wide indicators) and needs to reinforce this with focus on well-defined issues of quality (e.g. fairness of hearings, treatment) and accessibility of justice (e.g. corruption).

▶ All the MTE recommendations tend to help J/LOS assure J/LOS’ contribution to PEAP, such as by effective sector wide planning and M&E to ensure the SIP pro-poor approach is applied in practice; the recommended strategy to address corruption, linked to codes of conduct, streamlined complaints system etc (see chapter 4). Here, two recommendations are emphasised as key to PEAP: a) Strengthening both demand and supply-sides and b) working with Civil Society organisations, including the private sector. These are outlined below.

a) **Strengthening both demand and supply-sides:**

Whereas a commitment to improving access to justice for the poor and marginalized is among the policy objectives of J/LOS, the main focus of the first phase of J/LOS implementation has necessarily been on strengthening the supply side of the justice system. Initiatives to improve the ability of justice sector institutions to deliver quality and timely services will

Studies and reviews of interventions within the supply side reflect that capacitating justice delivery agencies to deliver timely and quality services does not guarantee access to justice for the poor and marginalized groups in society.
improve access to justice for all. However, the ability of such institutions to deliver such services is only part of what the poor - representing a majority of Uganda’s population - need in order to access effective and quality justice and to enjoy equality before the law.

In the next phase of SIP implementation, interventions to improve the supply side need to be matched by a similar emphasis on strengthening the demand side of a functioning justice system. Obstacles affecting end-users of the system include illiteracy and ignorance of rights and of technical procedures, lack of confidence in the institutions, cultural constraints, gender-based obstacles, corruption, impunity for human rights violations, lack of accountability to the public and a weak financial and economic base making litigation unaffordable. Geographical proximity of J/LOS offices cannot be an end in itself as the services must be demanded and utilized by those who need them.\textsuperscript{133}

Beyond the pro-poor initiatives reflected in the Table above, other efforts should include creating a more user friendly environment at the points of contact (police stations, courts of law, prisons) as well as sensitizing personnel to apply a human rights-based approach to their interaction with users. The interventions should be placed within an overall framework that translates this perspective into practice.

\textit{b) Working with Civil Society organisations, including the private sector:} J/LOS has also developed a partnership strategy to guide collaboration with CSOs\textsuperscript{134} which forms the basis for further developments in this area. Legal aid\textsuperscript{135} has emerged as the main J/LOS activity intended to ensure access to justice for the poor and marginalized. Legal Aid Service Providers have independently organized themselves under the umbrella of the Legal Aid Service Providers Network (LASPNET-U). The Network faces the major challenge of broadening its membership beyond its Kampala-based seven members. One recommendation is to bring community-based initiatives into the network to strengthen them and also make the network more representative.\textsuperscript{136}

Another significant concern about the participation of CSOs is that their role is largely perceived as complementary service deliverers with little attention paid to their \textit{advocacy and feedback} function concerning the status of service delivery by J/LOS institutions. At the same time, CSOs, most of which only came into being after 1986, themselves need systematic capacity-building to strengthen their informed engagement with J/LOS. Opportunities should be sought for this, through liaison with, for example, the new National NGO Forum and the Planned Basket Fund on Legal Aid.

\begin{itemize}
  \item The evaluation also recommends consideration of J/LOS-CSO partnership principles to guide future collaboration (see Annex 6).
\end{itemize}

See chapter 3 where the Commercial Court has developed a partnership with private sector users of the court, engaging in fruitful discussions on key issues. This partnership should be extended to the entire CJRP to ensure programme planning

\textsuperscript{133} Ibid.
\textsuperscript{135} Encompassing representation, legal advice, legal education, and awareness creation, paralegal programmes and advocacy.
\textsuperscript{136} Draft report on \textit{Desk Study prepared as background for the Formulation Mission Phase III} (March 2004), by Stella Mukasa, Nordic Consulting (U) Ltd.

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and implementation is geared towards promoting economic growth; and to J/LOS as a whole for its relationships with other users. These relationships should be accommodated in the J/LOS- CSO partnership principles.
PART C. MANAGEMENT

Assess efficiency and effectiveness of J/LOS management structure (programme and financial): including monitoring and evaluation system

Bearing in mind the context of J/LOS outlined in Part A and its implementation to date as outlined in Part B, this part of the report considers the contribution which management structures and processes are making to achieving SIP policy objectives.

- Management structures as envisaged in SIP and as they are today were outlined in Chapter two.
- Chapter 7A of this section includes a discussion of how the structures have evolved to date; as well as examining key decision-making processes for setting priorities & planning. Chapter 7B gathers the recommendations for strengthening these aspects of management.
- In Chapter 8 financial management structure and processes are discussed, while
- Chapter 9 focuses on J/LOS monitoring and evaluation.
Chapter 7A: MANAGEMENT STRUCTURE

7.1 Programme Management structure

7.1.1 As planned in SIP and as it has evolved

Under the SIP, the Programme Management Structure was envisaged to encompass a number of tiers including the National Council, the Steering Committee, Technical Committee as well as Access to Justice Committees at the Districts. By November 2001 when the SIP was launched, however, some of the J/LOS programmes - CJRP, plus the four pilot projects\(^{137}\) identified under the Criminal Justice reform programme had already begun operating. Some of these pre-existing management structures were not amended to reflect agreed positions subsequently taken in the SIP.

7.1.2 National Council

For implementation and Management of the J/LOS Sector Programme, the SIP envisaged that a National Council would be established to ensure political support and policy guidance across the sector and ensure coordination, accountability, efficiency and equity of access across the J/LOS institutions. The Council was to ensure reform remained on track and to promote accountability for progress to stakeholders. It was planned that the Council would meet twice a year.

The original intention was that the National Council for Justice, Law and Order would comprise:

- All current members of J/LOS Steering Committee: heads of institutions, Permanent Secretaries of Ministries, accounting officers; and
- Chief Justice; and
- CSOs and academics.

\(\Delta\) However, The National Council was never established.

\(\text{Instead, the annual progress of the J/LOS has been presented to Cabinet and Parliament through the annual Policy Paper of the Minister for Justice and Constitutional Affairs. In addition, a Leadership Committee was established comprising:}\)

- Chief Justice (Chair)
- Minister for Justice and Constitutional Affairs
- Minister for Internal Affairs

This committee was intended to provide the political support J/LOS needed. No Terms of Reference were drawn up and in recent times, its three members have convened only to meet jointly with the Steering Committee. There are no minutes of Leadership Committee meetings and during the consultation process it was highlighted that they lack a structured briefing process so that they can be kept up-to-date on developments across the sector.

\(^{137}\) These pilots included: Prisons Farms, Police Vehicle Fleet Management, Case Backlog and Court Awards and Compensation.
The reasons for this different evolution from SIP are apparently two-fold. First, it was felt to be important for administrative managers meeting in the Steering Committee to have a forum for frank exchange of views without undue deference likely to result from presence of the most senior leadership. Secondly, it was felt necessary for political leadership to be involved, in a way that met the challenges of protocol (such as who would convene, and who would chair meetings etc).

Δ Leadership Committee members express a willingness to be more ‘hands on’, to be more routinely briefed regarding J/LOS, and more involved as champions of change. More substantive inter-action is sought with other J/LOS management structures.

Δ While some aspects of the planned NCJ/LOS role are captured by the current Leadership Committee, other aspects, such as encouraging political commitment to J/LOS, are addressed through the Joint GoU-Donor reviews, which take place every six months. However, a significant part of the originally intended role of the NCJ/LOS was routine involvement of CSOs and academics in discussion of progress at the highest level to promote accountability. Currently, CSO or academic input is limited to those invited to Joint GoU-Donor reviews by ad hoc invitation.

7.1.3 Steering Committee (SC)

The SIP envisaged the establishment of a Steering Committee comprising officials at the highest level of institutions in the J/LOS and MoFPED. This would be responsible for monitoring policy coordination across the sector. The Steering Committee envisaged in SIP has been functioning. Under the SIP, it was proposed that the SC meet every two months. In practice, it meets for a half day every two months or as needed, though meetings have not always been as frequent, at times occurring quarterly. Decisions are taken by consensus.

In practice, the Technical Committee (TC) often takes key decisions, which are later ratified or endorsed by the Steering Committee. With the SC meeting less frequently, if key issues are to be discussed, emergency meetings of the Steering Committee are called (e.g. during preparation of Budget Framework Papers and bi-annual reviews). The Steering and Technical Committee do not have joint meetings. A meeting of the SC in practice is proposed when the Technical Committee has gathered a number of key issues that cannot be dealt with at that level. These issues are compiled by the Secretariat who then calls a meeting of the SC.

However, occasionally the TC members represent their heads on the SC thereby presenting an opportunity for exchange of ideas. However, the TC was concerned to avoid a scenario where an institution would be represented by the same individual at working group, TC and SC level to deliberate issues. The TC therefore proposed to the SC that it should be attended by the heads of Institutions rather than by the same representative as they have for TC. Generally, this has been the case.

Once decisions are made in the SC, follow-up and monitoring is largely left to the Secretariat. The Secretariat has played an important role in identifying issues, calling meetings, preparing the agenda and then following up SC decisions with the Technical Committee for implementation. The Secretariat has, however, been overwhelmed by the amount of work and limited staff numbers and this may have contributed to delays in implementation.
Where necessary, a fast-track decision-making procedure has been used. The Secretariat at times fast-tracks issues directly to the Chairman of the Steering Committee and decisions are ratified by the SC later.

The work of the SC is dependent on the work of the Technical Committee and the Policy and Planning Unit which provide it with policy options. These are considered in the following sections.

7.1.4 Technical Committee (Sub Committees and working groups)

The Technical Committee (TC) was envisaged as responsible for implementation of the J/LOS programmes and this has largely been through its two sub-committees (Commercial Justice and De-regulation; and the Criminal Justice). The TC comprises senior and middle management from the institutions with representatives from MoFPED. Donors with bilateral programmes are also represented by Technical Advisors on the Technical Committee e.g. Danida Support to Judiciary, Dutch Support to DPP (Up to 2002), and GTZ support to Community Service.

The TC is supposed to meet every month, though this has not been the case. It operates mainly as two separate sub committees. After the launch of the SIP there were a few attempts to sit as one committee, but this was abandoned. The exception is the full TC meets to present six-monthly progress reports prior to the Joint GoU-Donor reviews.

The necessity of distinct sub committees in the first phase is acknowledged, however, as the sector moves towards SIP II, there is need for closer coordination between the two committees so as to strengthen the sectoral approach.

The sub committees have had the benefit of relatively consistent participation by officials.\textsuperscript{138} The Commercial Justice Sub Committee meets every two weeks for approximately one hour and is chaired by the Registrar of the Commercial Court.\textsuperscript{139} The Criminal Justice Sub Committee meets every two weeks, or weekly as the case may be, and was chaired by the Under Secretary for Police\textsuperscript{140}, who also chairs the Technical Committee meetings.

Uniquely, representatives from the private sector were also planned as members of the commercial sub-committee “as key stakeholders in the commercial justice system (SIP S. 4.6)”. In practice, the Commercial Court Users Committee has been created and meets separate from the sub-committee each quarter. Minutes of meetings reviewed indicate that a wide range of participants attend: including lawyers, private sector representatives, Uganda Investment Authority, Uganda Chamber of Commerce, academicians e.g. Faculty of Law Makerere University and Law Development Center and donors e.g. IMF.

\textsuperscript{138} Some 12 of 18 members who participated in the evaluation workshop had been on the Technical Committee for more than one year.

\textsuperscript{139} This was the case until the former Registrar resigned. Since the new Registrar was appointed, he has declined to chair the meetings and this role is currently played by the Commercial Justice Advisor.

\textsuperscript{140} During the Mission, the Under Secretary for Police was transferred to the Directorate of Ethics and Integrity as Permanent Secretary. He was replaced as Chair by the Under Secretary in Prisons Department.

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The Criminal Justice sub-committee has one non-GoU representative, the Uganda Law Society. It is in principle to represent the network of legal aid providers and has attended meetings as an intended implementer of a programme of legal aid. The Network of Legal Assistance Service Providers (LASPNET) is currently working to clarify the terms under which they are represented at these meetings; to structure their input; and ensure feedback to the Network. However, ULS has not participated as an independent voice systematically representing pro-poor or civil society views as input into J/LOS deliberations.

Δ There is therefore no equivalent input from ‘key stakeholders’ on the criminal side as there is on the commercial justice side at J/LOS national level. Omitted are representatives of victims of crime (including victims of J/LOS officials’ abuse of power etc), vulnerable groups, conflict-affected areas, etc.141

The SIP did not expressly envisage Working Groups for the Technical Committee, but five have evolved142 to address key issues and to support the Technical Committee in follow up and implementation (see Table below). The objective of the Working Groups is said to be:

- To ensure frank discussion at working level, without the protocol of silence in front of more senior civil service supervisors; and
- To ensure that crosscutting issues are addressed.

Thus, in principle, the working groups are supposed to be sectoral. However, their focus is largely on criminal matters. The Gender and Budget Working Groups have maintained some aspects of commercial justice reform largely because of their Chair and composition.143 On the Budget Working Group, each programme largely prepares its work plans and budgets under its respective sub-committee.

Δ However, starting with FY 2004/5, the J/LOS has tried to rationalize budgets so as to avoid duplication. This is an important step given that hitherto an institution might obtain funds from CJRP, SWAp and criminal Case backlog- yet neither the two J/LOS sub-committees regularly sits together to take account of the whole picture (see also chapter 8 regarding financial management).

The quality of policy discussion and process of decision-making varies within the Working Groups. In the case of Gender, a draft work plan was circulated at the Joint GoU-donor review in June 2004. The draft work plan envisaged the Working Group as implementer of gender strategy, as opposed to ensuring that it is mainstreamed through all J/LOS work plans etc. The draft also outlines a budget. It draws somewhat on a study commissioned earlier in 2002.144 While still only preliminary, the draft had not apparently been discussed or agreed in the Working Group level before

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141 However note that for the Chain Linked Committee, at the CMC level, there is representation of the public in principle through civic leaders (LC V and Chief Administrative Officers), Uganda Law Society, CSOs e.g. Save the Children Fund. These are also represented at the national level on the Advisory Board.
143 The Gender Working Group is chaired by Mrs. Mwaka from JSC, who also attends the CJRP meetings.

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implementation was undertaken (at the June 2004 Joint review) for the next review in December 2004.145

<table>
<thead>
<tr>
<th>Technical Committee WG</th>
<th>Current TORs/mandate</th>
<th>Current Composition</th>
<th>Key issues</th>
<th>Recommendation for the short-term146</th>
</tr>
</thead>
</table>
| Budget Working Group (although called the 'Budget and Poverty' WG it addresses mainly accounting matters) | -Develop the SIP financial components  
-Prepare BFP  
-liaise with MoFPED on sectoral issues  
- Contribute to development of ToR for studies e.g. Voices of the Poor | - Accounting officers, PPUs, Under secretaries, Accountants | ToR not clear, Key issues with Capacity to develop BFPs, and under take financial decisions-left heavy burden to Secretariat  
Amorphous membership-difficult for decision making- need a core team to discuss key financial issues | - Clarify TOR  
-Capacity- training and mentoring, including by the new Financial Management Specialist  
- Streamline membership, limited to accounting officers and some legal staff  
- continue with training programme *This Working Group should form the core to support the Technical Committee, to enable it to focus more on substantive issues |
| Gender Working Group | To develop a gender strategy  
Mainstream gender into SIP  
Prepare ToR for studies | - Representatives from some institutions (largely female save for representative from min. of Gender) plus donor rep (gender specialists- Dutch and Danida) | Gender indicators included in PRSC IV and in the revised draft of PEAP, while the Sexual Relations Bill was tabled to Parliament.  
-Study on Gender and Access to justice undertaken  
-No implementation. J/LOS still challenged to integrate gender.148  
- Limited capacity | -Need on the job mentoring  
- Need to refine the draft action plan presented at Joint GoU-donor review June 2004 (see text above) |
| Juvenile Justice Working group | -Not active to date  
-Implementation largely left to a bilateral project funded by Irish Aid and implemented by Save the Children Fund UK | Integrated into Gender Working Group above | Juvenile Justice issues not fully prioritized e.g. construction of remand homes | A more energized working group to focus on this key issue, see also chapter 4 inter-sectoral relationships |
| Publicity | -Increase awareness about J/LOS both internally and externally  
-Organize National Forum | Chaired by JSC | -Not seen as having been effective  
-Issues of content and quality e.g. training for J/LOS institutions, spot | - Need for Clear TOR  
- Quality assurance and content checks for ‘publicity material’, see also chapter 4 inter-sectoral relationships |

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145 The Gender Working Group is revisiting the work plan to take into account comments raised.  
146 Medium term recommendations to strengthen working groups are discussed in Chapter 7B.  
147 Not to be confused with the original Technical Committee which was referred to as the Budget Working Group.  
148 Chair of Technical Committee reporting to June 2004 Joint Gov-Donor Review.
Technical Committee Working Groups: In principle, working groups are a practical addition to the SIP structures. In practice, they need significant strengthening to meet their potential of ensuring frank, hands-on discussion at working level. Overall, as the table indicates, there is a lack of clear TORs, limited capacity, and a need for more strategic planning of the role of Working groups (including identifying most appropriate membership). Awareness of the J/LOS concept, structures etc is generally low at this level. This is so, even among some members of the Technical Committee who feel disempowered by lack of information. A streamlining and strengthening of the Working Groups is required, as is implementation of the staff-awareness raising programme recommended in chapter 3 above. The proposed approach to training set out by the Publicity Committee should be considered in light of this recommendation.

The table above contains proposed immediate action areas to strengthen the Working Groups in the short term. However, in planning for SIP II, it is recommended that the Working Groups be re-energised through the medium term recommendations discussed in Chapter 7B below.

Overall, at the working level, the TC strongly expressed the view that they have inadequate time to explore or discuss policy options for SC or Leadership Committee consideration. Similarly, they felt that their agenda is over-loaded by financial issues, and the reporting process is predominantly focused on reporting to donors - not to each other. Peer review is extremely limited on matters such as priority-setting, work plan and progress reports. For this reason - among others - they expressed the view that it has not been possible to maintain the focus on the implementation of the low-cost solutions identified as far back as 1997. Significantly, one of the reasons identified is the stated independence of institutions - at the outset, they thought they should not be held accountable to each other. However, the institutions are developing a more considered view of the concept of independence and realize that with a sectoral approach they should monitor each other’s performance. To some extent The Chain Linked CMCs contribute to peer review and accountability at local level- however, this is insufficiently monitored and it remains limited at the national level. On the Commercial Justice side, the Commercial Court Users Committee is restricted to the national level.
The two sub-committees of the Technical Committee have seen limited coordination and interaction between the commercial justice and criminal justice side. Commercial reform and criminal justice reform have been largely compartmentalized - with separate budget lines, account, funds, separate progress reports etc. As such, peer review has been particularly limited, with questions arising as to the accuracy of reporting and effectiveness of existing monitoring systems e.g. regarding SPEED support to Company and Land Registries. Similarly, operations of working groups of the Technical Committee, though intended to ensure the integration of crosscutting issues, such as gender and poverty, have been limited.

7.1.5 J/LOS Secretariat

In addition to the intended three-tier management structure, a modest Secretariat was envisaged for J/LOS Programme Management in the SIP:

"The MoJCA Policy and Planning Unit (PPU) will be the resource base for implementation of the J/LOS programme. The MoJCA PPU will take the lead on all matters concerning the sector wide approach through the Sector Secretariat that will be located within the PPU. The Secretariat will work closely with the Policy and Planning Units in each of the J/LOS Institutions. (5.1)

The J/LOS Sector Secretariat in the MoJCA will be the Secretariat for the Criminal Justice Reform Programme and Technical sub-committee. The Commercial Justice and De-regulation Sub-committee will have as its Secretariat both the Justice/Law and Order Sector Secretariat in the Ministry of Justice and Constitutional Affairs and the De-regulation Unit in the Ministry of Finance, Planning & Economic (5.2)

The Sector Secretariat will have day-to-day responsibility for promoting and managing the J/LOS programme covering criminal and commercial justice reform. The team will have responsibility for providing the Steering, Technical and Donor Liaison Committees with quarterly reports on progress against the logical framework performance indicators. The Secretariat team will take the lead on behalf of GoU in ensuring donor co-ordination and liaise closely with the SWAP Donor Group of the Justice/Law and Order Sector. The Secretariat team will provide the range of programme and financial management and commercial and criminal justice advisory skills required to successfully deliver the management of the J/LOS programme. (5.3)"

In practice, the Secretariat for J/LOS has evolved differently in a number of ways for a number of reasons.

The Secretariat has consisted of a Senior Technical Advisor and a resource person who together covered all the criminal reform aspects of J/LOS and a Commercial Justice Advisor covering components of Commercial Justice Reform.

The J/LOS programme has been funded through both the SWAp Development Fund, (for the criminal justice reform programme) and from the Commercial Justice Reform Account for the CJRP. The sustainability of the current workload arrangements has been a topic for discussion for the Steering Committee for some time (especially regarding financial management). The Senior Economist at the MoJCA who handles some of the workload has provided some assistance and is paid an honorarium out of the SWAp fund.

The J/LOS Secretariat is institutionally housed within MoJCA and reports to the Solicitor General. The accounting officer of the MoJCA is responsible for managing and reporting on the SWAp and CJRP development funds - however, the Secretariat
still maintains a measure of independence by reporting to all sector institutions at the Technical and Steering Committees.

The Secretariat compiles Quarterly reports on progress. Originally, progress was reported against the SIP logical framework performance indicators (see chapter 3.1 above). From the documentation reviewed, there is a clear move towards the Policy Matrix developed in October 2003 as a key document supplementing the SIP.

<table>
<thead>
<tr>
<th>Secretariat: Current situation 148</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Overall role:</strong></td>
</tr>
</tbody>
</table>
| **Functions** | o Planning  
o Managing funds (e.g. drafting budget framework paper with the Budget Working Group; triggering funding for institutions from Ministry of Finance)  
o Servicing J/LOS management meetings: Technical, Steering Committee, Leadership Committee, Donor Liaison meetings  
o Supporting preparation of progress reports  
o Following up implementation of undertakings. However, limited M&E: Role extracting information from institutions  
o Drafting papers or statistics as requested by MoJCA  
o Recruiting new staff or consultants (identify research needed, draft ToR, liaise with contracts committee) |
| **Independence (real and perceived)** | • Position within MoJCA insufficient for perceived independence.  
• Control of funds: Undersecretary of MoJCA is accounting officer. Institutions feel they have to lobby for funds they are entitled to.  
• Pressures on the independence of the Secretariat are illustrated by requests to the Secretariat to fund budget shortfalls of the GoU through the SWAp fund and CJRP. As Budget support, these funds are those of the institutions - even if they choose to, in effect, undermine the J/LOS-wide planning process of which they form part. |
| **Skills current plan** | • Project Management skills  
• Strategy development and implementation  
• Finance management skills  
• Institutional development skills incl. change |
| **Personnel Resources** | • Understaffed: J/LOS-wide Secretariat is three substantive persons: the Senior Technical Advisor, Commercial Justice Advisor and the Resource Person. Additional Support is provided by the Senior Economist, the Under Secretary and an Accounts Assistant (all for the MoJCA) who handle GoU work and additional J/LOS work (receiving a top-up allowance under the SWAp development fund).  
• There are other bilaterally funded Technical Advisors for both the Criminal and commercial Justice Programmes who also provide support to the respective programmes, e.g. Danida Advisor (until February 2004), DFID funded Commercial Court Management Advisor, CJRP funded Advisor to FPC  
• Secretariat contracts have been short 1 to 2 year- not conducive to ensuring institutional memory or stability. |

149 Recommended strengthening of a permanent J/LOS-wide PPU is in chapter 7B below.

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• Equity of terms and conditions (for all Secretariat and J/LOS technical assistants) will need to be achieved so as not to jeopardize implementation. For example, the planned recruitment of the FMS who may earn significantly more than new recruits to the future strengthened Secretariat under public service pay and conditions (see Chapter 9).

<table>
<thead>
<tr>
<th>Institutional Alignment/ status and reporting</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Currently report to Solicitor General- Chair of Steering Committee</td>
</tr>
<tr>
<td>• Institutionally aligned under the MoJCA for budgeting and administrative purposes</td>
</tr>
<tr>
<td>• Systems for renewal of contracts not clear.</td>
</tr>
</tbody>
</table>

The management study by Price Waterhouse Coopers\textsuperscript{150} nearly two years ago recommended increased staffing of the Secretariat; enhancement of planning, monitoring and evaluation skills and creation of an independent sectoral Policy and Planning Unit.

➤ A clear mandate and terms of reference are needed for a strengthened J/LOS-wide PPU to enable it function effectively and independently (as distinct from the MoJCA PPU) and to improve transparency on key processes such as prioritization of activities, approval and release of funds to institutions. Further detail in chapter 7B

7.1.6 Policy and Planning Units (PPUs)

The Policy and Planning Units for each J/LOS institution were not developed from the outset of SIP, and a number of them are yet to be established. Their evolution to date is outlined here. During the course of developing the SIP, one of the key issues identified was the need to establish PPUs within the different institutions to spearhead the process of planning and development at the institutional and sectoral level. Some institutions such as the Police and Prisons had well-established planning and research departments. These were already engaged in developing of annual plans, statistics and reports. Other institutions lacked this.

It is now a policy of the Ministry of Public Service and MoFPED that all ministries/institutions should have established PPUS. Over the last few years, a number of institutions have been restructured (including the DPP, JSC, ULRC, and Judiciary) and have gradually provided for the creation of a planning unit or for a planning post. However, in several cases, positions have remained vacant, even for several years after the restructuring was approved e.g. at the DPP, of some approved 600 posts, only approximately 400 have been filled, including support staff. As these vacant positions have been approved, they are budgeted for each year and funds are apportioned to them. Now however, MoPS\textsuperscript{151} intends to take a policy decision from 2005 that once a cleared position has remained vacant for two years, it will be considered that the institution can do without it and the post will disappear.

\[\Delta\] In this context, remaining institutions need to identify key needs, make proposals to MoPS, and implement them without delay. MoPS has indicated that there is no bar to institutions trading unfilled staff places to fund missing positions in the PPUs at institutional and sectoral levels. These are budget neutral solutions to recruitment needs.

\[\Delta\] Other issues have been identified by J/LOS officials as limiting both the current and proposed PPUs in terms of effectiveness.\textsuperscript{152} These relate to lack of clear ToRs, composition, capacity, reporting structures, and interaction with the Secretariat, coordination amongst themselves, facilitation as well as monitoring and evaluation. These are briefly outlined.

Lack of clear TORs/mandate - PPUs generally lack specific TORs or mandates. During the evaluation, the team met with a number of PPU members from different institutions and each identified different responsibilities. In some cases, they claim to have been reduced to “speech writers”, carrying out secretarial tasks. There appears to be a lack of appreciation of the role intended to be played by PPUs.

Composition - Staffing levels. In part because of their varied evolution, there has been a lack of synchronized criteria for establishing PPUs across J/LOS or their staff profiles. At present, some institutions have senior economists (MoJCA, Judiciary, MIA, ULRC), others have planners, and others have analysts (Prisons), lawyers (DPP) and yet others a mix of expertise (MoJCA, Police). In some institutions, the role of ‘PPU’ is being played by the Under Secretary, the accounting officers or one of the senior staff.

\textsuperscript{151} Discussions with J/LOS Desk Officer in Ministry of Public Service.

\textsuperscript{152} For a detailed analysis on PPUs, see Annex 3, Inception Workshop report.

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**Capacity** The education/qualifications for PPU staff has not been synchronized. Some have specialist masters’ degrees, others have a BA, and the range of disciplines/skills needed or present have not been consistently mapped to facilitate J/LOS-wide planning. Current disparity of levels of capacity has knock-on effects on the nature of tasks individual PPUs can undertake - and disparity of staff qualifications/experience means this varies from institution to institution.

In the light of the overall recommendations in chapter 7B regarding proposed thematic Working Groups, a map of current and needed skills profile should be established for PPUs across J/LOS to ensure complementarities, avoid gaps and duplication. As of July 2004 training to enhance capacity of the existing PPUs is planned\(^{154}\) and the PPUs have had basic computer training funded under the SWAp.

Key personal and generic competencies of PPUs recognized as needed to date include: communication, public relations and influencing skills; Management, organizational and administrative skills; Team playing skills; Appreciation of Change management; Negotiation and Leadership skills. However, with policy understood as ‘a general course adopted for the achievement of SIP objectives...an intelligently directed action towards consciously determined goals as opposed to aimless drifting or blind faith’ addressing the continuing ‘glaring shortage of policy analysis skills’ \(^{155}\) will require a more tailored approach.

J/LOS is about *managing change in a very specific direction* - to achieve human rights based SIP policy objectives. In order for PPUs to identify at the earliest possible time a preferred course of action or to investigate the effects of policy alternatives they will need tailored mentoring support. Some concepts needed by PPUs as the basis for their analysis include:

a) Conflicts between policies  
b) Determining relative priorities  
c) Balancing the human rights of various groups  
d) Separating root causes from symptoms

**Reporting structures** - At the institutional level, it is often not very clear to whom the PPUs report (whether the head of the institution, the accounting officer etc.) In some cases, the PPU staff note a degree of resistance from other staff who are not well versed regarding PPUs’ role. In some cases, PPU recruits have taken over roles from existing staff and this has created tensions. In other cases it is unclear to which ministry the PPUs belong and who is responsible for their career development, movement and growth. The Ministry of Public Service has noted that it is not responsible and hence, they tend to look to the Office of the Prime Minister for guidance. However, lack of clarity regarding PPU staff’s status and career paths impacts negatively on motivation.

**Interaction with Secretariat** - The slow development of the PPUs has been a key factor in the over-burdening of the Secretariat, especially in policy formulation and articulation, planning, internal monitoring and financial and report writing. There is a need to clarify the extent to which the PPUs are answerable to the Secretariat, how should they liaise, what roles should be played by each etc.

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\(^{153}\) See Addendum to *Criminal Justice Progress Report* 2004 on status of PPUs.  
\(^{154}\) Consultant, Manpower (Uganda) Ltd engaged.  
**Coordination** - To date, there generally has been limited coordination between the PPUss at institutional levels, other than meeting in the technical sub-committees or working groups (see above).\(^{156}\) PPU staff have not interacted together on key issues highlighted above that concern them all. In the medium-term, recommended strengthening of the Working Groups may help address this (chapter 7B). It is proposed that the PPUss start regular coordination, say every two months to discuss key issues.

**Facilitation** - In light of the above evolution, there has been limited facilitation and recognition of the PPUss in the execution of their work. This has hampered their effectiveness, especially when it comes to data gathering, analysis and monitoring.

**Monitoring and Evaluation** - This proposed role for the PPUss has hardly been fulfilled mainly due to limited facilitation but also due to limited capacity and inadequate TORs.

\(\Delta\) In sum, the delay in building up the PPUss has been a significant constraint to the evolution of J/LOS.\(^{157}\) Thus, while the SC is to be policy-decision-maker, the process of formulating and considering policy options has been limited by delay in J/LOS-wide functioning of PPUss, dominance of financial issues on the Technical Committee agenda - and overload of Secretariat. There is a need to clarify the role and mandate of the PPUss; create a shared vision for PPUss; and clarify working relationships from TC downwards (e.g. in relation to Working Groups and PPUss).

The SC level thus has not been able to build its work on a foundation of robust discussion of options at the TC, Secretariat or PPU level. In the event, overloaded agendas, and under-resourced policy reflection creates a risk for the future of a focus on *activity*, rather than *impact*.

### 7.1.7 National Forum

The SIP envisaged that:

> "**A National Forum** on Justice Law and Order will be held annually under the guidance of the National Council for Justice Law and Order (NCJLO). This will bring together primary and secondary stakeholders to debate J/LOS issues and concerns providing an important link between the GoU and civil society. (6.1)"

To prepare for the establishment of the National Forum, a study trip was organized to Malawi in early 2003, during a National Forum on justice sector reform that was being held there. The Forum in Malawi was regarded as successful even though the Malawi SWAp is relatively under-developed, and its NGO community is relatively less developed than that of Uganda. Some two to three hundred participants took part. The success of the Malawi experience is said to lie in the fact that the Forum debate engaged the public, NGOs and institutions such as the Malawi National Human Rights Commission.

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\(^{156}\) There are however some examples of effective coordination, including the joint effort of the Prisons and MoJCA PPUss together with the Secretariat in conducting the Prison Census 2003.

In the case of J/LOS, the lead for organizing the National Forum was undertaken by the Judicial Services Commission as chair of the Publicity Working Group of the J/LOS Technical Committee. However, before organizing a National Forum, it was decided that Institutions comprising J/LOS first needed internal awareness raising regarding the J/LOS process. A series of Friday workshops for officials of J/LOS institutions was organized with input from JSC and the J/LOS Secretariat including presentations on the J/LOS process, structures etc.

To date, there has been no National Forum on J/LOS. Given the scale of the J/LOS process undertaken in the first phase, and the challenges faced by all concerned, it is perhaps not surprising that the Forum was not seen as a priority. Some of its intended functions might be seen as covered by the Joint GoU-donor reviews. However, the Forum should be understood as an opportunity for debate, to develop awareness of the importance of J/LOS reform among the wider public, to work towards an informed constituency in support of reforms and to encourage GoU to allocate the necessary resources. While, publicity is important, the Forum should understood be in wider terms, as part of a strategy to involve local level officials and communities, and enhance vertical communication through J/LOS management structures.

The omission of the Forum, combined with the changes to the concept of the National Council (7.1 above) mean that there is a notable lack of structured, routine, independent input from civil society advocates into J/LOS priority-setting, planning, or monitoring and evaluation such as from Women's groups or CSOs working on poverty issues.

At the start, the Technical Committee had invited guests, and the Joint GoU-Donor reviews currently do so. However, some suggest that the input originally intended would be inappropriate or would lack sustainability, as J/LOS is a ‘GoU planning process’. This does not reflect the intentions agreed in the SIP, nor the general GoU-Donor Partnership Principles or the specific J/LOS Partnership Principles of 2001. More importantly, its fails to take account of the fact that J/LOS would benefit from such input in seeking to meet the SIP policy objectives. Active recognition is needed that J/LOS officials at all levels are public servants and should expect to be transparent with, and accountable to, the public.

In this respect J/LOS can be contrasted with experience elsewhere. For example, CSOs contribute to the equivalent Steering and Technical Committees in both Malawi and Sierra Leone. They vote and speak on the same terms as other members. Decisions are made by consensus in a spirit of seeking ways to achieve a common goal.

A number of factors have contributed to the situation regarding CSO input in Uganda. For example, in a self-perpetuating cycle, CSOs, even those directly concerned with J/LOS (such as through legal aid service provision), are poorly informed regarding

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158 At the June 2004 GoU –donor J/LOS review, the MoJCA highlighted the need for a forum at which the public can be informed of J/LOS concepts and progress; a communication strategy with additional aspects like a magazine to add to the new website which is less accessible to the masseses (launched at review www..J/LOS.go.ug).

159 With the limited exception of commercial court User Committee which has some representation of the private sector, and apart from some limited feedback from baseline user surveys.

160 In the event, these were not signed.
how J/LOS works and how to influence it. In addition, they have a weak understanding of their own role in representing their indigent clients in J/LOS deliberation processes, addressing issues at a systemic level.

In this context, CSO capacity needs to be built so they and other specialist colleagues can make an effective substantive contribution. The recommended strengthened Secretariat and PPUs in chapter 7B is intended to conduct outreach to inform and engage CSOs so as to develop effective interaction. A participatory planning approach is also recommendations in detail in Annex 9.

Overall, given the context, it is not surprising that the evolution detailed above suggests a risk that insufficient space has been allowed for focus on J/LOS SIP policy objectives. Integrated recommendations in Chapter 7B address strengthening J/LOS management structures and processes. Local level input to management is considered with the monitoring and evaluation process in chapter 9.

7.2 Key Management Processes

This section briefly considers the key management processes of:
- Priority setting
- Evidence based planning
- Peer review and mutual accountability

Chapter 7B outlines integrated recommendations for strengthening these processes as well as J/LOS management structures (previous section). Monitoring and evaluation (including progress reporting) is considered in detail in chapter 9.

7.2.1 Priority setting

The foundation for future priority setting and planning has been laid, given that the important routines such as the ‘Three C’s’ set out in Chapter 3.1 have been established. Of particular importance is an atmosphere conducive to peer review, essential for accountability. Foundations have also been laid for effective data collection for evidence based planning (e.g. criminal and commercial baseline surveys; crime data base in Police, Case Management systems in DPP and judiciary; prison census).

However, the experience of implementation to date and the constraints which management structures have faced leave ample scope to strengthen planning and priority-setting for SIP II. It is recommended that, through the proposed planning process in Annex 9, J/LOS can:

a) Increase systematic input from independent voices at national/local levels.

b) Plan SIP II by sectoral, rather than institutional priorities. This is illustrated throughout this report and by the following examples:

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The cross-cutting issue of gender: when the Ministry of Gender, Labour and Social Development did not participate in the Technical Committee for a period, the issue did not appear to be raised by others. Members of the TC highlight that if you were not at meetings to argue your case for funding (supported by submissions) there was no mechanism for ensuring important items or cross-cutting issues were prioritised.

- Institutional strategic plans formed the basis for defining areas for support and priorities for inclusion in the SIP - SIP largely reflected an amalgamation of institutional priorities. Instead what is needed is a process to define sectoral priorities, then followed by planning of institutional contributions to realize those priorities.

- Prioritise low-cost: Construction and procurement have been central priorities, rather than low-cost opportunities for improvement (see Annex 4 for examples of such urgently needed low-cost steps).

- Increase attention to inter-sectoral co-ordination and opportunities for efficiency savings through collaboration (chapter 4).

- Increase focus on prevention of crime: Such as through mainstreaming J/LOS concepts in national curriculum or National Programme on Civic Education; or through addressing need for juvenile remand homes, probation staff or social workers with resulting impact on rehabilitation and recidivism.

In effect, the above constraints reduced the pro-poor focus of the sector and reduced the focus on conflict-affected areas (see also chapter 6 regarding the J/LOS contribution to PEAP).

### 7.2.2 Evidence based planning

J/LOS appreciates the need for accurate, timely data to J/LOS management for decision-making. Before considering the quality of the current flow of information, consideration is required as to the extent to which information already possessed by J/LOS is being used as basis for planning.

**Access to justice:** end-user perceptions overwhelmingly identify cost as the main inhibiting factor in accessing the justice system. J/LOS actions have focused on distance from J/LOS units (by building some more rural posts) or planning more legal aid. In contrast, an evidence-based approach would at least combine this with addressing “the manner in which J/LOS personnel deal with complainants, suspects and offenders” as identified by the Criminal Justice Baseline Survey. Steps recommended address this evidence e.g. addressing corruption through inter-

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161 The Ministry of Gender, Labour and Social Development indicates that its absence from the TC was due to capacity limitations. However attendance has greatly improved.

162 The Juvenile Justice Reform Programme was largely left to Development Co-Operation Ireland (DCI) through Save the Children Fund. Some renovation of remand homes was carried out e.g. rehabilitation of Naguru remand home. However, the key issue of provision of additional facilities was not undertaken during the first phase of SIP implementation even though it has focused on construction and procurement.

163 See for example, *Criminal Justice Baseline Survey*, p.113.
sectoral J/LOS strategy with the Accountability sector (chapter 4); streamlining and simplifying J/LOS complaints procedures (chapter 9);\(^{164}\) a strategy of raising awareness among J/LOS officials and addressing apathy of public combined with more effective disciplinary mechanisms of police and prosecutions where appropriate (chapter 3).

**Prison treatment/conditions:** J/LOS interventions have focused on construction/rehabilitation of buildings, yet, prison conditions/treatment of prisoners is not only a question of the structural condition of the building. The 2000/2001 Annual report of the UHRC, documents conditions in 22 of the Central Government’s prisons. This includes detail of an overwhelming lack of compliance with minimum standards regarding bedding and uniforms, inadequate food, unsafe water, excessive work schedules and physical abuse of prisoners. The UHRC concluded that “Adherence to human standards of treatment did not appear to be related to the structural condition of the prison. Notably, the newly rehabilitated prison in Masaka featured poorly in this respect.\(^{165}\)

In this context, it is significant that the new prison census 2003 was not designed to provide data regarding treatment of prisoners, their conditions (other than overcrowding), or whether minimum procedures are in place in prisons for the prevention of torture.

Preliminary findings of the second Commercial Justice Baseline Survey being carried out concurrently with this evaluation indicate that of the four areas of intervention of the current CJRP, inadequate laws were identified by respondents as having the biggest negative effect on business.\(^{166}\) There has been progress in drafting necessary laws, however, more effort needed to strategically lobby for their deliberation and enactment by Parliament, including through alliances with stakeholders (see chapter 3 Taskforce recommended on lobbying).

### 7.2.3 Peer review and mutual accountability

Management structures have had limited space to exercise peer review, to report to *each other* and debate common solutions. Examples of the effects of this limited quality assurance include:\(^{167}\)

**Text and presentation of JSC ‘Court User’s Guide’:** the guide is of limited relevance to its target audience. A separate User’s Guide is being developed specifically for the Commercial Court in what has been described as “user friendly language”. Discussions are to take place between the Commercial Court and the Inspectorate of Courts once the first draft is out. It is important that lessons be identified as regards utility of the earlier guide; and the need for complementarity.

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\(^{164}\) For example regarding powers, mandate and performance: whether they may compel documents-people, act on complaints &/or *ex officio*, who and how and what they may investigate/prosecute/award compensation/make policy recommendations/publish reports.

\(^{165}\) Criminal Justice Baseline Survey, at p. 113, emphasis added.

\(^{166}\) Preliminary results were previewed at Joint Gou-Donor Review in June 2004 by the K2 consulting team.

\(^{167}\) Here the term quality assurance refers to ensuring the SIP policy objectives are met, especially through ensuring the relevance, efficiency, effectiveness, impact and sustainability of work undertaken.
**J/LOS publicity spots:** focus on public relations rather than empowering radio listeners with knowledge of their human rights in the justice system.

**Gender work plan process:** A draft work plan was circulated and a GoU Implementation Undertaking made by the Working Group on Gender after only limited substantive discussion within Working Group (or TC or SC).  

**Complaints procedure proposed by JSC:** covers only the judiciary, with limited analysis of J/LOS-wide complaints issues. These include current strengths/weaknesses in the array of J/LOS complaints channels existing on paper. Addressing complaints in context of individual institutions, rather than J/LOS-wide approach, may limit coherence, accessibility and efficiency savings which a streamlined approach to complaints across all JLO/S institutions could offer.

**New Police HQ building:** other J/LOS members suggest they questioned the merits of this as a priority, but felt their concerns could not be effectively debated within current management arrangements. Similarly the HQ was not a priority identified in the UPF Strategic Plan prepared with independent consultant's input. Instead it emphasized the need for improved quality and content of the police training as well as pay, working and living conditions for police force.

**Codes of Conduct:** drafted separately by individual institutions without synchronised disciplinary offences etc. or combined monitoring.

⚠️ **J/LOS decision-making can be strengthened by ensuring that peer review is routine, robust and systematic.** To be effective, peer review processes must ensure that evidence is systematically used as the basis for decision-making with supply of relevant data to management.

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168 At Joint GoU-Donor review, June 2004.

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Chapter 7B. MANAGEMENT STRUCTURE AND PROCESSES- RECOMMENDATIONS

The first phase of implementation of SIP has seen considerable achievement, laying the foundations for a sectoral approach. Enormous effort has been applied by the institutions involved, management structures, Secretariat and donors alike far beyond what it has been possible to achieve in many countries. This mid-term evaluation naturally raises concerns, constraints and challenges. For some, J/LOS has been seen as a funding mechanism, for others it has always been understood as a process through which change is generated. J/LOS is at a watershed at which this must be clarified.

The primary MTE finding is that moving forward with J/LOS is now more important than ever, and it is strongly recommended that all involved choose not only to stay engaged but to deepen their commitment.

The MTE recommendations focus on consolidating gains made to date so that as the J/LOS moves towards SIP II, the challenge identified by the Chief Justice of Uganda is met: “The vision must be to transform, not just to rehabilitate”.

Building on the foundations in place, for a truly sectoral approach the following can now be contemplated to ensure that transformation is achieved. The scale and timeline required for this change should not be underestimated and the need for ongoing substantive, political and financial engagement between GoU and Donors should be planned for.

Recommendations made in this report form an integrated whole and should be considered as a whole. The recommendations recall the insights of the Masaka pilot project, a key step in the process of developing J/LOS (see Annex 4). It highlighted the need for:

- Teamwork and motivation
- Personal commitment & accountability
- Voluntarism and pride
- Local Level
- Mentoring
- Monitoring for evidence-based decisions
- Creativity for low cost priorities

Strengthen programme management structure

Leadership Committee

There is a resource of leadership which could be tapped more consistently by the J/LOS. At the GoU-donor review of June 2004, both the Chief Justice and the MoJCA highlighted the need to strengthen the Leadership Committee in its role so that it can offer informed guidance to help the sector move forward beyond output towards its policy objectives. An undertaking was made so that ‘J/LOS undertakes to engage high level policy makers in the reform process through quarterly retreats to ensure J/LOS objectives successfully met’.

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Consideration should be given to an expanded Leadership Committee, adding to the current three leaders. This strengthened Leadership Committee would “provide political support and policy guidance across the sector and ensure coordination, accountability, efficiency and equity of access across the J/LOS institutions” which the SIP intended for the National Council. The following composition is proposed.

- Chief Justice (Chair)
- Minister of Internal Affairs (existing member)
- Minister of Justice (existing member)
- Attorney-General (proposed new member) in his role as chief legal advisor to GoU on compliance with international treaty standards of national law, policy, procedures, national budget priorities etc.
- Minister of Finance, Planning and Economic Development

The terms of reference for the Leadership Committee should be developed through discussion. However, central aspects of its role include:

- Guardian of SIP policy objectives: ensuring the move towards sector priority-setting, low-cost solutions etc. Acting as key champion of SIP policy objectives while remaining aloof from day-to-day management and discussions over access to funds. Fostering sector-wide approach to common goal together with Secretariat
- Planning/priority setting process: guiding J/LOS structures towards SIP policy objectives, together with Secretariat (see Volume II)
- Formally convening the National Forum and ensuring open debate regarding J/LOS progress and challenges in achieving SIP policy objectives (Annex 9 sets out proposed participatory planning process).
- Providing guidance through routine interaction with the Steering Committee and J/LOS PPU

Meetings should be convened by an enhanced sector-wide PPU. It is recommended that the meetings be chaired by the Chief Justice. Decisions should be by consensus and not necessarily involve public statements.

➤ **Steering Committee**

The Steering Committee has been quite active in developing policy for the sector. It is however clear that the Steering Committee has not been able to meet as often as scheduled in the SIP.

There is a need to ensure that the SC meets at least once every two months or more frequently as needed, to give guidance to the Technical Committee. This is necessary to give impetus to the development of J/LOS over the coming crucial phase involving discussion of these recommendations and re-vitalising planning for SIP II. More frequent meetings should help ensure that there is adequate flow of information between the different tiers of management and that key issues are not left pending for long periods.

With more frequent meetings, it is recommended that the SC consider reserving every second meeting exclusively for discussion of substantive impact issues, reserving budget/finance-related matters for the following meeting.
It is recommended that **parallel structures be streamlined**. This means where possible, new parallel structures are to be avoided and current structures synchronized with J/LOS structures (Annex 5 outlines existing situation, more detail is provided below). This has implications in particular for the SC and the TC levels. In the case of the SC, it may need to include SC-level representatives of e.g. the *Chain Linked* and the Community Service Programme in order to merge them into J/LOS for tighter information flow. This should ensure commitment to J/LOS on the part of these programmes which is crucial both for their successful implementation and for streamlined M&E and resulting efficiency savings. The other side of this symbiotic relationship is that J/LOS needs structured input from these programmes to help ensure more focus on impact and holistic, evidence-based planning.

The creation of thematic Working Groups or Sub Committees at the SC level can be considered where necessary for limited periods where it perceives an issue requires more discussion. However, it is intended that the in-depth discussion would take place at the strengthened Working Group level of the TC (below).

- Chapter 3 recommended a systematic process of capacity-building for J/LOS officials at all levels to strengthen decision-making towards e.g. low-cost human rights based justice reform.

- **Technical Committee (and working groups)**

Working Groups need to be strengthened to ensure frank discussion and minimising protocol that leads to polite silence before more senior civil service supervisors. Not uniquely, J/LOS management structures tend to be top-heavy, with a need to encourage working level energy from newer generation of officials. Capacity-building for new Working Groups is recommended regarding their own role and the wider SIP policy objectives. This is to stimulate creativity for sectoral policy and priority setting as well as monitoring and evaluation of impact.

There should be a single Technical Committee (without separate sub-committees on commercial or criminal matters). Work should be organized around *impact* to be achieved. A small number of Working Groups can cover core issues effectively, with a mechanism for close co-ordination among them. Here, five are proposed (including the existing Finance Working Group). A map of proposed parameters of each theme would emerge from discussion, with most items forming natural clusters of closely related issues:

1. **Administration of criminal justice**: For example, clearing criminal backlog/reducing remand congestion/fair trial including criminal defence, public awareness to enhance expectations and ‘demand’ side. All criminal justice agencies, military or other actors exercising police functions, MoFPED, etc. This includes *Preventing crime*: For example, National Juvenile justice Committee, community policing, education and awareness raising, focus on repeat offenders through experience in prison, incorporating Community Service (links for example with Education sector).

2. **Preventing torture (including conditions of detention)**: For example, deterrence through prosecution, compensation and other low cost actions of the type outlined in Annex 4; and reducing inhumane or degrading treatment or conditions (other than congestion) such as prison farms etc, with issues of health HIV/AIDS, rehabilitation of offenders.
3. **Access to civil justice ‘roll out’ including commercial**: For example, small claims track, civil legal aid, strengthening Local Council Courts; reducing civil case backlog for effective access to courts/public awareness of all civil aspects of J/LOS developing small claims track, bailiffs effective enforcement of judgments etc. Representatives would include CJRP institutions plus other programmes such as the Private Sector Foundation, PSCP II Secretariat, MTCS Secretariat, MoFPED, Deregulation Programme (RBPP) Also incorporating those members of J/LOS not currently captured under SIP e.g. Administrator General, Directorate of Civil Litigation.

4. **Finance and Budgeting**: accounting officers/ under-secretaries plus legal officers to ensure financial decisions are taken with consideration of access and quality of justice and not only on efficiency and effectiveness.

5. **Monitoring and Evaluation**: composed of Policy & Planning Units staff (see PPU below).

**Cross-cutting issues**: to be incorporated into all deliberations. Capacity will need to be built for the Working Groups to systematically achieve this with the support of the strengthened Secretariat (below). These issues: gender, Juvenile Justice, poverty, HIV/AIDS strategy implementation, corruption strategy implementation, conflict affected areas, public awareness raising to demand change, streamlined complaints channels/procedures; codes of conduct/performance standards. At times, a topic such as conflict affected areas will need concentrated focus, such as to carry out current post-conflict scenario planning. Otherwise, a focus on conflict-affected areas will need to be routinely integrated in all Working Group discussions.

➤ Each Working Group would integrate these ten approaches identified by the MTE as stimulants to J/LOS success. These are central findings of the evaluation, and have strong links to lessons identified from the Masaka Chain Linked Pilot.

1. Generate new ideas to **inform, motivate and engage with staff** at all levels
2. Focus on **pro-poor priorities**
3. Place a premium on **low-cost** ideas for reform
4. Focus on **vulnerable groups** (using evidence-based definition to include gender, juveniles, perceived political opponents, the poor)
5. Address **root causes** (including needs of staff: selection, training, retention, discipline, pay, welfare, career development, transfer policy)
6. Generate ideas to **address corruption** of all types (including nepotism)
7. Create channels of communication (or re-vitalise existing ones) for action on **urgent individual cases** (to enhance sense of joint and individual responsibility for real people beyond statistics; to encourage examples of impact not dependent on funds)
8. Liaise as needed with inter-sectoral contacts, create linkages, alliances and **outreach in a flexible, results-oriented way** (first creating a map of the most appropriate linkages for each thematic Working Group’s issues, see Chapter 4 for example)
9. Link with **local level staff within, and the ‘demand’ side outside J/LOS institutions** e.g. field trips to seek local input into deliberations as well as into M&E; strengthen internal communication downwards and upwards through streamlined local committees based on Working Group themes

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170 Undertaken at June 2004 joint GoU-Donor Review.
10. Move consciously to **focus on impact** using Volume II of this report as a tool.

**Terms of reference** for the Working Groups would be designed, once the list of themes and the parameters of their content had been agreed. Working Groups would pool ideas through each interacting with the J/LOS-wide PPU and through meetings of the Technical Committee as a whole.

**Meetings:** It is recommended that the TC as a whole would need to meet monthly, with Working Groups meeting every two weeks. Reports from the Working Groups to the Technical Committee would be according to the goal to be achieved, not by individual institution. The TC may designate every second meeting to be focused **exclusively on policy/impact**, while the alternate meetings focus on budget/finance matters, as proposed above for the SC.

The **core membership** of the Working Groups would be the PPUs of J/LOS institutions with senior staff at Under Secretary level. However, this can be expanded and criteria for membership established based on expertise, representatives of other linked sectors, staff representatives of institutions etc. Membership would also be actively encouraged for those with a **relevant substantive contribution** to make (from UHRC, private sector, civil society, academia, users, and representatives of local government) and to encourage accountability and transparency. It is proposed to have open WG sessions where members of the **public** are invited to engage in meaningful discussion and feedback sessions with the Sector.

- The Working Groups would be closely mentored by the strengthened J/LOS-wide PPU and institutional PPUs to systematically integrate these approaches in their work. To energise the process at new Working Group level, **capacity needs to be built** regarding the human rights basis on which J/LOS reform, and thus the Working Groups, are designed. Consideration should be given to developing the capacity of the Working Group on M&E to in turn support the other Working Groups together with the strengthened J/LOS-wide PPU.

- Linked to the recommended streamlining of parallel structures at national level, similar issues arise at the **local level**. The roll-out of the CMCs with expanded components of commercial and civil justice would benefit from accompaniment by the strengthened J/LOS-wide PPU. In light of the proposed themes of the Working Groups of the TC, it would be timely to up-date the aims and composition of the CMCs. The CMCs may be able to adapt to act as the local committees for a number of the Working Groups. However, other local mechanisms will be needed for the other themes which are finally mapped, with participants from outside J/LOS as needed.

While local input to the Working Groups would be wider than staff of J/LOS institutions (as it would also at national level), it would be necessary to rationalize the

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171 Combining the proposed local Court Users Committees with existing CMCs would be a better strategy than establishing new committees at the local level.

172 It is not clear whether confidentiality is the rationale for case scheduling meetings of CMCs being limited to J/LOS officials. This needs to be weighed against the possible benefits of local, independent, trained lay persons being invited to participate, such as those proposed by ULRC as appropriate persons to be present when a confession is being taken, see note 7, Annex 4 regarding prevention of torture. Examples of those who may be understood as independent witnesses: persons in authority such as the clergy; probation officers/Counsel lawyers; somebody of the accused’s choosing; retired civil servants; persons from human rights based NGOs; LC Chairman I and III; Sub-county chief; opinion leaders; Elders.
time which would be needed by J/LOS officials whose presence would be needed on
more than one local committee e.g. Magistrates. It is recommended that the Working
Group on M&E capacity-building process (above) be used to identify local solutions,
which do not over-load scarce local resources.

**J/LOS-wide PPU and institutional PPUs**

It is recommended that the most important mentor and support to institutional PPUs
be an enhanced J/LOS-wide PPU, to emerge from the current Secretariat. Like the
Decentralization sector, but unlike Education or Health, J/LOS encompasses a great
variety of entities from two Ministries, to constitutionally independent actors, to other
institutions. The future of the current J/LOS Secretariat will need to be budget neutral
regarding posts, be independent of all the institutions but still be able to maintain
working relations and daily interaction with the institutions, outreach to other sectors
etc. Key aspects include the following:

**Independence:** The evaluation found strong consensus around the need for the future
J/LOS-wide PPU to be, and be seen as, independent of the institutions and
Ministries. Full functional independence is seen as requiring its own accounting
officer. This however is not feasible given the GoU and MoFPED approved
institutional structures. The J/LOS has to utilise existing accounting mechanisms
within the institutions, in this case the Accounting Officer of the MoJCA. However as
already seen, he is already managing several accounts including MoJCA, SWAp
Development Fund, CJRP, and Case Backlog and does not have sufficient capacity
to allocate efficient time to each programme. There are current efforts to enhance this
capacity with recruitment of additional accounts assistants. Some of these should be
allocated to support the J/LOS PPU and the expected Financial Management
Specialist will to some extent ease the workload on the PPU. However, J/LOS should
continue, in negotiations with MoFPED, to explore opportunities for own accounting
officer (under MoFPED requirements and regulations).

**Staffing:** A minimum of four core staff are likely to be needed on a permanent basis to
give consistency over time. The Ministry of Public Service has confirmed one method
of doing so in a budget neutral, sustainable, way while also encouraging all
institutions to feel ownership of the process. Each institution should be invited to offer
‘cleared posts’. These are vacant positions, which have been cleared by MoFPED
with funds allocated. For the senior staff the J/LOS-wide PPU will require a number of
such posts to be rolled together to recruit each of the four core officials.

In addition, institutional PPUs would be invited to second staff for six months to a
year to the J/LOS-wide PPU. This ensures institutions get a chance in the medium
term- on a rotating basis. This is to encourage real communication between the two
levels of PPU. It would strengthen the J/LOS-wide PPU by having the perspective of
the institutions, while PPU staff contribute the sectoral view to their institutions on
their return.

If the recommended thematic focus of TC Working Groups is agreed, a nominated
staff member of the J/LOS-wide PPU could specialise in accompanying the
substantive Working Groups.

It is recommended that the Technical Committee pool data on the cleared posts
available in each institution, and explore modalities (e.g. what proportion each
institution would contribute etc). A study may be helpful to map these posts and plan
submissions to the Ministry of Public Service. This plan would cover availing of these
posts to enhance institutional PPUS and also to create the permanent, J/LOS-wide, PPU.

**Sustainability:** As members of the public service, the J/LOS PPU staff will be liable to transfer to and from other departments. This works against the accumulation of skills and experience in addition to discouraging investment in specialized training. It also undermines actual and perceived independence of the team. Like the proposal by the judiciary to the Constitutional Review Commission to de-link court clerical officers and interpreters from the public service, consideration should be given to ways of **de-linking the J/LOS PPU** to address these concerns.  

**Functions:** The Chief Justice at June 2004 Joint GoU-Donor review echoed the view of many in J/LOS when he said that the future Secretariat should be strengthened in this direction. The MTE recommends that it:

- Monitor and evaluate implementation
- Provide policy and research services to Steering Committee, Technical Committee as well as Leadership Committee
- Support programme and financial oversight
- Follow-up decisions and oversee implementation of undertakings
- Mentor PPUs and new thematic Working Groups of TC
- Lead J/LOS outreach to public, other sectors and all secondary stakeholders
- Lead preparation of Forum every 3 years synchronized with MTEF (see Annex 9)
- Ensure quality assurance from human rights based perspective
- Ensure co-ordination, co-operation and communication with local level staff and communities

**Staff profiles:** Head of J/LOS-wide PPU needs to be senior, technically competent, have proven commitment to the substance of the SIP policy objectives and be mandated to lead debate through exercising their initiative. S/he would represent J/LOS with external actors. Ideally, the level of staffing should not be lower than **Under Secretary** level, with ToRs, pay and conditions modelled on the civil service. It is envisaged that by end 2005 at the latest, the arrangements for staffing of a sector-wide permanent PPU would be complete. This would become fully functional in SIP II, if not in the crucial SIP II planning stages during 2005.

**Reporting lines for the J/LOS-wide PPU:** Reporting to Steering Committee as a whole and not just to its Chair (the Solicitor General) to reinforce independence of the J/LOS-wide PPU. However, for day to day management, it is recommended to maintain the supervision of the Solicitor General or the current Chair of the Steering Committee.

**Institutional alignment** maintain current positioning at the MoJCA, which remains the lead institution for J/LOS.

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<thead>
<tr>
<th><strong>Recommended:</strong> Permanent J/LOS-wide PPU</th>
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<td><strong>Overall role</strong></td>
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173 See for example, under the proposed Administration of Justice Act, the judiciary seeks to de-link from the public service to copper-fasten administrative independence. Precedents include: IGG, Parliament, Makerere University, Electoral Commission, UHRC, Mulago Hospital, Amnesty Commission, and NRM Secretariat.
- Guardian of SIP policy objectives, together with Leadership Committee
- Ensure focus on the ten issues (above) to be integrated in the approach of strengthened J/LOS management structures and processes (especially working with Working Groups of TC and SC). Help to ensure issues are proactively raised and solutions proposed; mentor, give support and direction to PPUs.

| Functions | • Add to current role, enhanced mandate as engine of sector reform and as mentor to PPUs:
  - Monitor and evaluate implementation
  - Provide policy and research services to Steering Committee, Technical Committee as well as Leadership Committee
  - Support programme and financial oversight
  - Follow-up decisions and oversee implementation of undertakings
  - Mentor PPUs and new thematic Working Groups of TC
  - Lead J/LOS outreach to public, other sectors and all secondary stakeholders
  - Lead preparation of Forum every 3 years synchronized with MTEF (see Annex 9)
  - Ensure quality assurance from human rights based perspective
  - Ensure co-ordination, co-operation and communication with local level staff and communities |

| Independence (real/perceived) | • Strengthen independence through ToR of staff, reporting lines and position within MoJCA for administrative purposes (see status/reporting above)
• Funds go to MoJCA as ‘mother’ institution, control of the funds is within J/LOS-wide PPU: seek own accounting officer if de-linking feasible. |

| Skills | • In addition to current skills, ensure capacity in:
  - Human rights basis of the SIP policy objectives
  - Proven commitment to transformation
  - MIS/IT
  - Communication strategy skills
  - Organizational change (incl. active selling of the J/LOS inside the institutions to local level of staff and communities) |

| Personnel | • Ensure four core permanent staff, most likely combination:
  - Head of J/LOS PPU (high level representation role)
  - Financial specialist (currently planned)
  - Substantive specialist in human rights based processes and impacts
  - M&E, management of change, participatory processes
• Contracts (subject to performance) for minimum 3 years; plan to use cleared posts.
• Protect institutional memory, including from transfer.
• Ensure clear lines of responsibility for personnel management.
• Add rotating secondment for 6-12 months from institutional PPUs
• Systematic strengthening of PPUs e.g. from cleared posts |

| Status/reporting | • Attach to MoJCA as its ‘mother’ institution within J/LOS
• Direct reporting to Steering Committee as a whole with day to day reporting to the Solicitor General or current chair of the Steering Committee
• Ensure clear lines of authority and responsibility |

The training needs of PPUs are beginning to be addressed through training in generic competencies like policy-advice, management functions etc. However, this needs to be conducted in a manner that fully integrates the human rights basis for J/LOS.

In the Working Group on M&E, the PPUs would meet regularly to discuss key issues. Their role includes supporting J/LOS-wide PPU in all aspects of the sector:
- Monitoring and evaluation of sector programs
- Analysing and submitting technical reports on programs
- Collecting and analysing data relating to any program
- Conducting feasibility studies
- Analysing budgets and budgetary trends
• Identifying, evaluating and designing new initiatives

► National Forum

It is recommended that the SIP Forum should be re-vitalized and planned for 2005 as part of the SIP II planning process (see Annex 9). It would form part of a three-year planning process linked to MTEF. It would have a preparation lead-in of at least a year. The monitoring and evaluation tools/processes would be scheduled to inform the Forum debate.

The recommended National Forum is an opportunity to focus on building an external constituency for J/LOS - essential to sustainability of reform. This is not a matter of ‘publicity’ but of informing and engaging local leaders and CSOs, the range of secondary stakeholders, in debate about the J/LOS role, priorities, progress, resources, impact. The Forum would be designed:

• To enhance profile of J/LOS, showcasing reform commitment, ideas and progress both nationally and internationally
• To motivate and encourage team spirit at all levels of J/LOS, a sense of belonging to a common enterprise that is both noble and exciting174
• To enhance routine sense of accountability to the public
• To test and refine ideas, such as priorities proposed by the sector by ‘selling’ them to public
• To encourage exchange of experience with international counterparts and motivate for further progress
• To ensure an inclusive forum as a focus for local efforts, to review progress, report back to staff, officials and communities (to enhance vertical communication through management structures)
• To encourage links to other initiatives, other sectors etc

Overall, the objective is to: catalyse public interest and awareness of the human rights issues at the heart of the J/LOS approach - why they matter to individuals, to relieving poverty and to ensuring checks and balances in the democratisation process in Uganda.

It is to stimulate debate about priorities; encourage input at all levels to hold J/LOS accountable for progress; engage CSO, Private Sector and public support for agreed goals and indicators by which it will be held accountable for progress; and build sufficient trust so that new allies are identified in the J/LOS to lobby for adequate funds from GoU. The Forum format and agenda should be designed and planned through the Secretariat, with input into the design from CSOs, Court Users and Case Management Committees, CBOs, private sector, local government, UHRC, etc (see below regarding local level). This will require the Secretariat to plan a process of confidence building with non-state actors that this is a genuine Forum for active listening.

The rapporteur for the Forum should be the Secretariat, as part of the proposed SIP II planning process during 2005 (see Annex 9).

174For example, a number of motivational approaches were mentioned in 6.2.2 e.g. local communities nominating a J/LOS office for outstanding service etc. A national prize-giving or similar approach could be incorporated into the Forum. See also the lessons identified from the Chain Linked pilot in Annex 4.
Streamline parallel structures & address local level

It is recommended that streamlining parallel structures should be addressed at national (as mentioned above regarding membership of TC, SC and their Working Groups) as well as local levels.

At the national level, the following are options which merit more in-depth exploration by J/LOS in seeking ways of streamlining parallel structures, while retaining, as far as possible, strengths of the current structures.

J/LOS will need to be pro-active in finding mechanisms that work and that as far as possible merge into the proposed impact-oriented Working Groups at TC level, and as needed at SC level (as outlined in 7.3 above regarding recommended structures).

a) The Chain-linked, Case backlog and Court Users Committees: In 2002, a policy decision was taken to combine the Chain Linked and the criminal Case Backlog into one committee sitting as a sub committee of the J/LOS Technical Committee. It is clear that integration has not fully taken place, with the Case Backlog and Chain Linked Technical Committees continuing to sit separately and work plans and budgets not yet been rationalised. The Chain Linked Advisory Board (covering also criminal Case Backlog) should be fully integrated into the mainstream J/LOS structures with the Principle Judge on the Steering Committee. The Chain Linked Technical Committee is in principle already a sub committee (not working group) of the J/LOS Technical Committee and was supposed to have been merged with the Case Backlog. Similarly, consideration should also be given to inviting the senior judge of the Commercial Court to the SC.

b) Community Service parallel structures: Members of the CSP Secretariat attend J/LOS Technical Committee meetings and the Budget Working Group. The Chair of the Community Service Committee attends meetings of the Steering Committee. However, at times Community Service appears to be under the misapprehension that effective relationships with J/LOS would somehow detract from the independence of statutory bodies, rather than serve to enhance their operations. This may have contributed to delay in its integration into J/LOS co-ordination mechanisms to the detriment of the pilot’s sustainability while fragmented steps are taken without streamlining them with J/LOS (such as on HIV/AIDS).

c) Judiciary: Under the proposed Danida Access to Justice Programme, it is planned that its International Advisor on Access to justice (to be recruited) will attend J/LOS Technical Committee. As is the case with other Advisors, this opportunity should be taken to systematize channels of communication through their input in the relevant strengthened Working Groups (above).

The Commercial Court Management Advisor will be leaving the programme early 2005 and has already taken steps to train one of the Registrars at the Commercial Court to take over his duties. It is proposed that that a new position of Registrar in charge of Court Management be established under the proposed Judiciary Planning and Research Department. This Registrar would also ensure effective linkage of reforms in the Commercial Court with the mainstream judiciary, and through TC Working Group participation.
d) **Juvenile Justice**: When formalized, the national juvenile justice committee may be invited to send a representative to J/LOS, most likely from Ministry of Gender to the Technical Committee Working Group.

e) **Legal Aid**: New proposed structures are under development and again it is recommended that the strengthened Working Groups provide structured reporting lines for substantive issues to reinforce communication. Another structured opportunity is the recommended National Forum and planning process (Annex 9). CSOs, including, but not limited to legal aid service providers are recommended to participate in these structures.

► **Planning process**

It is recommended that, through the proposed planning process in Annex 9, J/LOS plan for SIP II to:

- Increase systematic input from independent voices at national/local levels.
- Plan SIP II by sectoral, rather than institutional priorities.
- Prioritise low-cost (see Annex 4 for examples of such urgently needed low-cost steps)
- Increase attention to inter-sectoral co-ordination and opportunities for efficiency savings through collaboration (chapter 4).
- Increase focus on prevention of crime
Chapter 8: FINANCIAL MANAGEMENT STRUCTURE

8.1 Financial Management Structure

The pursuit of a sector-wide approach to justice reform in Uganda takes place in the context of a number of financial management challenges which are outlined in this section.

8.1.1 Financial Context: Government policies and MTEF

The national development strategy for Uganda is enshrined in the Poverty Eradication Action Plan (PEAP). As noted in chapter 6, the PEAP has guided the formulation of Government policy since its inception in 1997. It provides a key part of the policy framework for poverty reduction as well as the underpinnings for GoU’s resource allocation to poverty reduction. Government has put in place a number of reforms aimed at improving the public service delivery and efficiency and effectiveness of the Public Expenditure Management in a bid to achieve sustainable economic growth and attain a stable macro economic environment.

Public expenditure in Uganda is jointly financed by the Government and donors. Under the GoU/ Donor Partnership principles, there are a number of funding modalities including general budget support, PAF budget support, ear marked budget support (e.g. to a sector), basket funding (e.g. proposed donor support to legal Aid), bilateral support normally through project aid etc. GoU preference is for general budget support, where donors place funds in the general GoU budget and this is allocated according to Government priorities.

In this regard, Government allocates resources through its Medium Term Expenditure Framework (MTEF) covering 3- 5 years and the Long Term Expenditure Framework (LTEF) covering 5-10 years. The medium term plan implements the priorities of the PEAP. It covers decisions covering all public expenditures, including those that are donor-financed, and works at three levels: macro economic consistency, inter-sectoral allocation and efficient use of resources to achieve objectives within each sector. The MTEF is central to poverty reduction strategies since it determines the overall resource availability - ability to address poverty is pegged to the “resource envelope”. In practice therefore, it is not the funds actually available or needed by a sector that determine resource allocation, but rather the ceiling set through the macroeconomic framework.

The MTEF ceiling caps the resources that can be made available to J/LOS, regardless of need and regardless of whether additional resources are made available by donors.

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175 Following and using the UPPAP findings, the PEAP has undergone subsequent revisions. The process of revising the PEAP from the year 2000 has commenced.
176 The total “resource envelope” is funded through government revenue, development partners grants and loans, and government’s internal and external borrowing.
177 The latest version of the GoU/ Donor Partnership Principles is dated September 2003
178 The discussion on the MTEF process draws on “Experience of funding the Government of Uganda’s Poverty Eradication Action Plan (PEAP): implications of budget support, sector-wide approach and programme support”. Draft Background Paper prepared by Muhowo Ndung’u for Ireland Aid (2001), as Development Co-Operation Ireland was then known.
Sector-wide approaches are still constrained by varying degrees of capacity within planning and development units, operating within public sector management systems. There are challenges in shifting from tracking individual donor contribution to review of overall sector management systems.

Faced with these challenges, efforts by donors and their counterparts in ministries/sectors are at times directed towards finding mechanisms for disbursing their funding “outside of MTEF” or “in addition to MTEF”. This continues to be an issue of debate in all sectors in Uganda, including J/LOS. However, it should be noted that donors are increasingly rejecting this approach.\textsuperscript{179}

\subsection*{8.1.2 Financial planning in the MTEF and Sectoral Working groups}

The Ministry of Finance, Planning and Economic Development (MoFPED) guides overall economic policy and makes recommendations to Cabinet through the Budget Framework Paper regarding about the overall resource envelope as well as allocation of resources across different sectors. It is also tasked with ensuring that sectoral strategies are consistent with overall national objectives, including the eradication of poverty. Under the MTEF, decisions about the allocation of resources are based on a broad framework of sectoral working groups in which line ministries play a leading role but other groups, including civil society and donors, also participate. Sectoral working groups recommend a budget allocation within the sectoral ceilings provided by MoFPED through the sector budget framework paper. In the case of J/LOS, the Law and Order sector-working group is part of the J/LOS Technical Committee. The Budget Directorate of MoFPED prepares the budget in a broad consultative process\textsuperscript{180} and integrates the work of Sectoral Working Groups into a coherent MTEF.

Priorities for J/LOS are agreed in the sector budget framework paper (prepared each financial year and projecting over a three-year time span).\textsuperscript{181} These priorities are based on the five-year strategic investment plan (SIP). The day to day management of the public sector budget is under the MoFPED, which disburses funds on a monthly basis to Ministries and sectors against expenditure and performance targets. In the case of J/LOS each institution receives funds through its line ministry under the recurrent and development budgets as well as through J/LOS swap development fund, CJRP account and for some, Case Backlog Project. For this communication, each Ministry/sector has a liaison desk officer based at the MoFPED.

Annual budget allocations to Ministries and sectors are not cash commitments. Budget estimates are \textit{honoured only when projected revenue targets are met}. Tax revenues are the most predictable of the revenue sources, though even tax revenue growth targets have consistently fallen short over the last three years. In addition, development partners’ commitments have in some cases been unstable, with significant resource

\textsuperscript{179} This was recently evidenced in the statement by the Development Partners on the Macro Economic Framework FY 2004/5 - 2006/7 which was read at the Public Expenditure Review on May 13\textsuperscript{th} 2004.

\textsuperscript{180} This budget process starts in October with the Sectoral Working Groups and culminates in May the following year with the \textit{Public Expenditure Review} and final Budget in June.

shortfalls when commitments are not disbursed within the indicated financial year or in time to contribute to cash flow.\textsuperscript{182}

Unpredictability of development partners’ disbursement commitments is particularly significant since they cover nearly 50% of the national budget. Contributions from the World Bank and IMF tend to match Government draw down requirements more closely than bilateral funding, making the latter more volatile. Disbursements from some donors are not synchronized with GoU’s financial year, or come late in the financial year, which in turn affects disbursements from MFPED to sectors and ministries. For instance, under the CJRP Financial Narrative Report 2004, J/LOS was reported as operating at a 20% release with three months to the end of the FY2002/2003. As of June 2004, it was indicated that J/LOS (SWAP Development Fund) was operating at 47%, in the last month before the end of the FY.\textsuperscript{183}

Budget allocation is also influenced by the distinction between \textbf{Poverty Action Fund} (PAF) services, which are designated as directly reducing poverty - and those which are not so designated.\textsuperscript{184} The PAF was established in 1998 as a means of channeling debt relief and donor resources towards named poverty-reducing initiatives. PAF areas are protected from budget cuts (which non-PAF areas experience due to revenue shortfalls) and receive supplementary expenditures to some votes. Overall, there has been an increase in the PAF budget from 18% in 1998 to 35% in 2002. However, a cap had been put on what can be included in the PAF so as not to end up protecting the entire budget against cuts. Hitherto, being almost entirely non-PAF, J/LOS has been affected by these budget cuts thus resulting in a disruption of programmed activities.\textsuperscript{185}

8.2 As J/LOS financial management has evolved

The Budget Working Group (BWG) of the Technical Committee of J/LOS participates in the budgeting process and prepares the budget framework paper with the support of the

\textsuperscript{182} See for example EU release of 2 million Euros to CJRP more than two years after the commitment was initially made under the 8\textsuperscript{th} EDF.

\textsuperscript{183} Reported to the pre-review meeting, 2 June 2004. In the November 2004 review the Chair of the Donor Group presented the following analysis: “The JLOS Release Performance for 2003/04 was 122.64%, representing of course a sizeable deviation from the allocated amount. This was caused by an excess in court awards and compensations, the payment of militias, LDUs and ex-rebels from JLOS, and emergency prison feeding. The JLOS Donor Group is concerned with the lack of \textit{budgetary discipline} when it comes to JLOS, and the fact that the expenditures that are taking up the extra space are not, for the most part, related to the development of the sector or its institutions. In 2003/04, for example, even though the overall performance was almost 123%, the domestic development performance was only 61.27%. We have been calling for remedial measure including (a) the removal of militia and LDU payments from JLOS to Defence, (b) a more adequate JLOS allocation for the actual work of the sector, and (c) the conclusion of the audit into court awards and compensations which will provide some clarity in order to aid the planning process. We have also been calling for a more timely release of funds, which requires, on the part of JLOS, the timely submission of work plans and accountability.”

\textsuperscript{184} The criteria for defining PAF areas are included in PEAP Volume 3: \textit{Building Partnerships to implement the PEAP}, Dec, 2001.

\textsuperscript{185} J/LOS is among the sectors affected by the 23% budget cuts across non-PAF sectors during the FY2002/2003.

This process is described in more detail in the paper developed by the STA- J/LOS- Introduction to a sector wide approach.

As discussed below, the sector has tried to handle this issue e.g. by having members of the BWG attend training in Financial management abroad. Also, the sector has developed a financial management strategy and is in the process of recruiting financial management specialists to mitigate the risk.

Note that during the Joint GoU- Donor review in June 2004, it was announced that PAF had been extended to cover the SWAP Development Fund and the CJRP fund for the FY 2004/5.

J/LOS is among the sectors most affected by the 23% budget cuts across non-PAF sectors during the FY2002/2003.

These include preparation of a PEAP matrix highlighting key areas in the sector and lobbying the World Bank to recognize J/LOS as a poverty focused sector.

The PAF will not guarantee 100% budget outturn for JLOS. The overall PAF needs to be expended at a level of 95% or above. However, some PAF budget lines may go above this and some below (as long as the overall figure is 95%).

8.2.1 Budget allocations/ cuts and the Poverty Action Fund

For J/LOS, only the criminal Case Backlog project has been designated as PAF to date. As such, J/LOS strategic planning and implementation has been heavily affected by budget cuts - resulting in a disruption of programmed activities.

There have been several attempts by the J/LOS and donors to increase the profile of the sector as a core poverty-reducing sector and these have yielded some results. For instance, the J/LOS profile under the World Bank-led PRSC process has been enhanced with the addition of new indicators in the matrix and the attachment of two World Bank officials to the J/LOS donor sub-group.

There are several examples of the increased leverage of J/LOS institutions working together with donors. At the joint GoU donor review in June 2004, there was positive news confirmed by the MoFPED that:

a) CJRP and SWAP will have PAF protection from budget cuts for next FY 2004/5; therefore there should be greater budget outturn for these two funds.

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187 This process is described in more detail in the paper developed by the STA- J/LOS- Introduction to a sector wide approach.
188 As discussed below, the sector has tried to handle this issue e.g. by having members of the BWG attend training in Financial management abroad. Also, the sector has developed a financial management strategy and is in the process of recruiting financial management specialists to mitigate the risk.
189 Note that during the Joint GoU- Donor review in June 2004, it was announced that PAF had been extended to cover the SWAP Development Fund and the CJRP fund for the FY 2004/5.
190 J/LOS is among the sectors most affected by the 23% budget cuts across non-PAF sectors during the FY2002/2003.
191 These include preparation of a PEAP matrix highlighting key areas in the sector and lobbying the World Bank to recognize J/LOS as a poverty focused sector.
192 The PAF will not guarantee 100% budget outturn for JLOS. The overall PAF needs to be expended at a level of 95% or above. However, some PAF budget lines may go above this and some below (as long as the overall figure is 95%).
suggests that all donor contributions could be accommodated which would be an important step forward.
b) Budget ceiling for J/LOS SWAP, CJRP and (case backlog) was 16.69bn USh this year, and is to be increased for next year by approx 2bnUSh to 18.56bnUSh. The sums for J/LOS as a whole is 162.5bhSh, increased to 168.2bnSh. The increase may go to militias, constitutional process- law reform, and referendum.

There are significant caveats that accompany the MoFPED announcement regarding how this may be implemented in practice.

Δ While it remains to be seen how this commitment is delivered, the prospects are positive.

8.2.2  on rationalization of budgets/ inefficient utilization of resources-

There are multiple funding sources used by the J/LOS institutions including the SWAP development fund, the CJRP, the criminal Case Backlog project as well as GoU recurrent and development budgets and bilateral funding to some institutions e.g. the Netherlands to DPP and Danida to the Judiciary. Illustration: the Judiciary receives funds from all the sources mentioned. Within these sources there has been emphasis on development components under the SWAP and CJRP to supplement the limited development funds under the GoU mainstream budgets.

All institutions in the sector receive funding from at least three of these sources with no apparent harmonization of the entire resource envelope. The result is to the detriment of recurrent costs such as maintenance funds e.g. for the numerous vehicles purchased and buildings constructed. In this case, a lopsided approach often leads to inefficient use of resources. At the same time, institutions have to prepare several categories of work plans, budgets and reports to meet requirements of different funding arrangements. This has put quite a strain on the institutional resources. Further, at the Joint GoU-Donor review of December 2003, the MoFPED raised the need to rationalize and regard all the resources under one envelope as one of the key reasons why the J/LOS did not yet qualify for increased resources or placement under the PAF.

In 2004 the Steering Committee took a decision that expenditure on development components should be made in light of availability of funds on the recurrent budget. In addition, during the budgeting process for the financial year 2004/5, the sector attempted to list all funding resources and rationalize budgets so as to streamline utilization of funds.

Δ The need to rationalize budgets so as to obtain an overview of total funds available for both recurrent and development expenditure has been acknowledged as well as the need to ensure that budgets are earmarked to overall priorities, without focusing on one aspect to the detriment of other areas. In this financial year, steps have been taken to summarize and coordinate all budget inflows in the sector, including the GoU recurrent and development expenditure, SWAp development fund, criminal Case Backlog, Commercial Justice reform Programme and any other bilateral projects. The financial management specialist to be recruited to support the Secretariat is expected to take forward the rationalization process.
8.2.3 Delays in releases and low outturns

As indicated, J/LOS has to work within the overall GoU institutional and funding framework with all the attendant constraints. In particular, the GoU budget is a cash budget largely sourced from tax revenue and up to 51% financed by the donors. Tax revenue growth targets have fallen short over the last three years while GoU has at the same time increased military expenditure. The recently concluded Defense Review has also contributed to a shortfall in the available resource envelope for the medium term. This is because once the review was completed, the military budget took precedence over all others and J/LOS was affected since it was not PAF protected.

Low outturns and resource shortfalls are at times attributed to donors, some of whose commitments have not always been disbursed within the indicated financial year or on time to contribute to cash flow. There have been attempts by donors to improve reliability of their contributions by making tentative commitments to J/LOS annually at the June Joint GoU-Donor review. At the same time, GoU has been blamed for increasing expenditure on defense and public administration at the expense of other sectors and this is seen as the real reason for resource shortfalls.

Unpredictable revenue outturn and cash flow particularly impacts on J//LOS as it has not been PAF protected to date and results in delayed releases of funds. Around half of funds are usually disbursed in the last quarter of the financial year (April to June). For example, in the FY 2002/3 for the Commercial Justice Reform Programme- 56% of the total budgetary releases were made in the last quarter.

8.2.4 Artificial increases in J/LOS budget ceilings

On several occasions, items have been funded through J/LOS which have not been part of its Medium term SIP, or among priorities expressed in the annual sector budget framework paper. These items give the impression that the J/LOS has received greater sums, although J/LOS ceilings or budgets have not in fact been increased. Instances of where funding is presented as an increase of funds to the sector include: the settlement packages for former Uganda National Rescue Fund II combatants (Shs. 4.2 billion in 2003). This was brought under the J/LOS ceiling by virtue of the fact that the Amnesty Commission falls under the Ministry of Internal Affairs. Funding to military reserve forces established as Local Defense Units has also been brought under the J/LOS ceiling, artificially creating an impression that more funds are going to the sector.

An apparent inconsistency emerges. These practices drain resources from J/LOS institutions, but have not been effectively prevented by peer review in the J/LOS management structures. The sector has to seek measures for engaging in discussion

193 The MTEF is defined in October, but it may not be until the following February that a donor announces a financial commitment.
194 In 2004 it was announced that the total contribution to the CJRP and SWAP will be USD $12 million through budget support. Danida also proposes to launch its Access to Justice Programme in 2004 and could add to this sum.
195 At the Public Expenditure Review in May 2004, Donors revealed that GoU spending on Defense had risen by 19% in 2004/5 after a 48% increase in the preceding two years.
with MoFPED to either have such activities reflected and accommodated openly under J/LOS during the budgetary process (which may result in raising of the sector ceiling) or funded through other sectors such as Defense say for the Militias. In contrast, war debt court awards are being addressed as a matter of concern to J/LOS (as they directly drain resources from MoJCA).

8.2.5 Projects Not originally Prioritized in the SIP

J/LOS strategic planning and implementation has at times been affected by projects not originally identified as priorities under the SIP. These are often referred to as “parachute projects” within the sector since they are recommended or made in interest of National Security or under political pressure. Examples that were presented include the recent decision to purchase fire engines for the Police Force as decided by the National Security Committee for Shs. 2.2 Billion and the decision to construct a maximum-security prison currently being designed to contain high security prisoners.

It should be noted that some of the projects may be in the long-term plans of the sector or institutions, but may not be easily funded under normal procedure due to the heavy costs of investment involved. These are a significant distortion of the priority setting and planning process in J/LOS since they draw out of existing resources without any additional funding from the National Treasury.

On the one hand, there is clearly a need for the J/LOS to adhere to agreed priorities to avoid such occurrences and to resist political pressures for inclusion of such projects. J/LOS clearly does not have sufficient capacity in its management structures and processes to resist pressure to accept such projects, which distort its priorities, planning and financing. J/LOS should ensure that taking on these projects should not be at the expense of others, which have been planned for and which may not be implemented due to inadequate funds. On the other, this should not, however, rule out flexibility to adapt as a programme evolves and to take into consideration emergency situations.

This scenario is common in planning for all GoU institutions and sectors and lessons can be drawn from other sectors on how to approach such sensitive matters. For instance, the Education sector is engaged in discussions with the GoU and Donors regarding the proposal to provide meals for school-going children under Universal Primary education Scheme (UPE). This activity was not originally planned for under the Education Strategic Investment Plan and it had the potential to seriously distort funding. During consultations with the Education Sector Planning Unit, it was revealed that alternative funding was being sought away from the SIP so as not to interfere with implementation of planned activities. This issue is by no means settled, but at least discussions on alternatives are taking place. Another example is the transfer of health education units to the education sector mid-way through the implementation of the Strategic plan 1998-2003. The sector sought alternate bilateral funding outside the SIP.

\[196\] During the consultation process, the Term “Parachute Projects” was used to describe projects that were not originally prioritized or identified in the SIP but which were seen as being promoted for political reasons.
Overall, J/LOS faces a number of constraints that have limited progress in relation to service delivery. The sector is large and complex and requires substantial management capacity and funding. The ceilings for the J/LOS are fixed, based on negotiations between donors and GoU.

In spite of the successes of the processes which J/LOS has got underway, there are also constraints to working within a GoU institutional framework, budget support and bureaucratic systems. Yet a number of these set-backs could be mitigated if J/LOS develops a strong public constituency committed to its reforms; and more systematic solidarity for the political lobbying required in national budgeting processes).

The Criminal Justice Baseline Survey rightly pointed out that, even with increases in the resource envelope for the sector:
‘...there is no indication that the funding problem is going to be solved in the immediate or medium term. Constraints caused by the lack of funds are so numerous and systemic that the J/LOS should seriously focus on the efficient and effective use of available funds.’

It is recommended that J/LOS work to marshal its potential constituency committed to the importance of its reforms from the private sector to local communities; it also needs more systematic lobbying required in budgeting processes. Examples of specific recommendations for this include the public awareness-raising recommended in chapter 3; streamlining of parallel structures at local level; wider participation in TC Working Groups, and Annex 9 regarding participatory planning process.

Specifically, it is recommended that J/LOS and donors continue seeking enhanced dialogue with MoFPED especially to ensure that PAF protection is carried forward for the medium term and to streamline processes for improved disbursements; to enhance inter sectoral linkages with PPDA on specialized training for contracts staff in the sector and to ensure more regular sittings of the contracts committees.

8.2.6 Internal support for a sectoral approach

The launch of the SIP in 2001 represented a policy decision by the institutions to move away from seeking bilateral projects not falling within the sector priorities. In addition, institutions were requested to notify the Secretariat and seek sectoral consent (from the Steering Committee) where they (institutions) were approached by bilateral donors to implement projects. There has been a gradual shift towards implementation of this policy, in addition a number of donors are phasing out existing bilateral projects e.g. the Dutch support to the DPP will end in 2004, while Danida which has traditionally supported the Judiciary is seeking to move to sectoral support.

However, this shift to a sectoral approach is under pressure from the limited resource envelope as well as reduced GoU funding through budget cuts and fixed ceilings under

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197 At p.115.
the general budget support. In addition, MoFPED is largely seen as failing to reward the huge effort which has gone into the J/LOS process by all concerned. For example, efficiency savings originally made by the Prisons Farm and Police Vehicle Fleet management projects have not been recognized, neither has the increased revenue generated by the sector through fines and fees or the sale of revised laws by the ULRC been attributed to the sector. Instead it is perceived that the MoFPED is not responsive to the sector's progress through its limited participation in key J/LOS decision-making processes (e.g. absence from the most recent GoU/Donor review in June 2004).

8.2.7 Financial management systems

The day-to-day financial management of the SWAP and CJRP has largely vested in the hands of the two technical advisors. They benefit from the support of the Senior Economist and the Accounting officer at the MoJCA. The latter, together with his support team, disburses funds against expenditure and agreed work plans, reconciles accounts and prepares narrative reports. However, the original ToR’s for the two Technical Advisors made no mention of financial management duties.

Δ The Secretariat has been under-staffed for this major added responsibility but has coped well (as evidenced by the regular Budget Framework Papers, financial Narrative reports and clean annual audits).

Δ However, this limited capacity has meant constraints leading to delays in processing funds between acceptance of work plans by the Technical Committee and actual disbursements to the recipients. This has contributed to delays in programme implementation and has been a cause of concern in all institutions. The MoJCA, which is responsible for accounting for all funds including the SWAP, CJRP and case backlog has also been overwhelmed and has taken steps to recruit additional support staff in the accounting section to make work more efficient.

Δ In addition, there have been delays with procurement, which is largely attributed to technicalities and processes in the institutions. Delays in purchase of furniture for the commercial court, equipment for the Uganda Law Society Resource Centre or DNA equipment for the Government Analytical laboratories have been cited as examples. This is a significant constraint given that the first phase of SIP implementation has in large part focused on capital investment (see chapter 3). There is a need to streamline procurement processes and calls for closer linkages with the Public Procurement and Disposal of Assets Authority (PPDA) to ensure the sector benefits from reforms such as continuous training programmes for staff on contracts committees (see Chapter 5).

198 This is more so when it comes to activities that require major investment such as computerization, construction of headquarters, renovation of offices (including police cells and prisons), where institutions or the sector may be tempted to seek bilateral funding. This has not been the case so far.
199 Audit reports prepared by the Auditor General through an external international firm (Deloitte and Touche).
200 Deloitte and Touche in 2002/3 indicated a heavy leaning towards construction, renovation and purchase of capital items e.g. vehicles. This raised issues of: procurement processes; capacity of contracts committees within the institutions; limited capacity of MoJCA accounting personnel to ensure value for money and authenticity as well as a need to develop closer linkages with Public Procurement and Disposal Authority (PPDA).
A However, root problems still persist with the financial management systems, highlighted by the Financial Management Baseline survey of J/LOS systems that was carried out in 2002, Deloitte and Touche.\textsuperscript{201} The aim was to describe the financial management systems in place, analyze the key weaknesses and propose a strategy for monitoring and evaluating fiduciary risk. Key findings indicated a high level of fiduciary risk arising especially from the recurrent and non-taxable revenue components. This was mainly because of the volume of transactions, lack of controls and low level of monitoring. In addition, the sector was found to be generally lacking in financial management skills both at the institutional and the J/LOS-wide level.

Considering the magnitude of these auditors findings, and the high risk associated with budget support, J/LOS took immediate steps to discuss the findings within the sector and with various stakeholders including MoFPED. A strategy was developed including recruitment of a financial management specialist and team to revamp the internal audit system, particularly for the Prisons, Police and Judiciary.\textsuperscript{202} This is intended to be implemented at the same time as the recruitment and training of accounting officers in all institutions under the EFMP II project of the MoFPED. As J/LOS was not selected as a pilot sector under this project, implementation has been affected by delays in training of accountants. The sector seeks to fast-track training of this category on a private basis and is still negotiating this with the MoFPED- Public Expenditure Review Committee.

A Donors and GoU need assurance that there are adequate processes and procedures in place to manage the successful implementation of the SIP and to ensure value for money in terms of end-user benefits. The financial management study\textsuperscript{203} found that Government financial accounting and audit systems are in place. There are however, weaknesses which lead to a high fiduciary risk for budget support especially in areas of non tax revenue and non rationalization of budgets.

The following is recommended regarding the strategy for a financial management system.

- Recruitment of the financial management specialist without further delay.
- Align the structure for the implementation of the strategy with the existing, and then recommended, J/LOS structure. The FMS proposal had envisaged to create, for the first time, a sub-committee of the Steering Committee comprised of the Financial Management Specialist, a representative of the Public Expenditure Review (PER) Committee and donors to oversee the implementation of this strategy. There was no indication of how the specialist would with the

\textsuperscript{201} Deloitte and Touche /\textit{J/LOS Baseline study on Financial Management System Final Report Vol 1 and 2}, November 2002

\textsuperscript{202} A phased approach has been outlined by the sector for the implantation of this strategy and is contained in the Progress Report July to November 2003, Book of Annexes. The main proposal is to recruit a Financial Management Specialist (based at the Secretariat) and a team of three support contract staff to handled issues of Budgeting, Expenditure and Non-Tax Revenue (based at Prisons, Police and Judiciary respectively).

Technical Committee, which deals with financial issues (as opposed to the Steering Committee as the FMS proposed). The Steering Committee should remain focused on overall policy while a strengthened Technical Committee would best be suited to oversee implementation, see recommendations in Chapter 7.

- Address the delay in recruitment and training of accounting officers under the EFMP II. Meanwhile, parallel training may lead to duplication, wastage and limited learning from experiences of other sectors.

- Focus on currently neglected low-cost procedures identified by the Financial Baseline. Examples include budget expenditure reviews and peer review that could already be introduced with supervision by the Budget Working Group of the Technical Committee for example. This is an example of the wider recommendation that substantive peer review needs to be encouraged.

- Sustainability: The strategy envisages core personnel on a contract basis: the financial management specialist and team of three consultants being recruited on Budgeting (Prisons), Non Tax Revenue (Judiciary) and Expenditure (Police). This may not effectively transfer best practices to the institutions. In addition, the non-permanence of support staff to the J/LOS (such as accountants) threatens the success of the programme. Public Service officials may be transferred without being replaced by similarly trained staff. Further discussions are recommended with MoPS regarding de-linking. At minimum, if staff are transferred negotiations should seek to ensure it is within J/LOS to retain expertise. It is also recommended that the team should be part of the Budget Working Group of the TC and ensure support is spread to all the institutions.

- The external monitoring function proposed in the FMS strategy is adequately handled by the external auditors appointed annually by the Auditor General. Their role could be extended to encompass a half-yearly audit.

### 8.2.8 Appropriate compensation awards against J/LOS institutions

As already discussed under Chapter 6 of the PEAP, the potential contribution of J/LOS to PEAP is being constrained by potential, appropriate, awards of compensation. This raises significant potential costs arising from suits brought by suspects or prisoners whose rights have been violated in the justice system. The sums concerned could exceed even the SWAp funds. This should be approached as a significant incentive to address urgent, preventable, violations - many of which involve low-cost solutions such as taking a coordinated chain linked approach in ensuring faster disposal of cases.

### 8.3 J/LOS Financial Status as at time of the Evaluation

Since the launching of the SIP in November 2001, the J/LOS has received considerable funding from the GoU and donor partners. In the first year, the total J/LOS SIP budget was initially presented at USD 24 million- which was considered too expensive and totally beyond the absorption capacity of the J/LOS. The latter because sectoral systems
were being developed and almost all institutions lacked capacity to effectively plan and budget- most lacked strategic plans, and had no Policy and Planning Units. Actual release in the first year came to Shs 2.4bn and over the years, there have been progressive increments in funding to the sector. Proposed donor contribution to J/LOS for FY 2004/5 and FY 2005/6 is USD$ 12m.

Both the SWAP development fund and the CJRP have been audited regularly and both have prepared Financial Narrative Reports for the FY 2002/3. Audit reports have been generally clean. A big percentage of funds has been allocated to capital investments including construction, purchase of equipment, vehicles, and payment for studies and consultancies on reform areas. Key issues regarding expenditure in the J/LOS since the launch of the SIP have been addressed above and are presented in Annex 8.

Annex 8 contains
- Table 8.3.1 Financial Narrative Report 2004 - for SIP from inception to FY 2002/3 and
- Table 8.3.2 Breakdown of expenditure (SWAP): 2002/3
Chapter 9. MONITORING AND EVALUATION

Assess the J/LOS Monitoring and Evaluation System

Part B of this report outlined J/LOS implementation, while Chapters 7 and 8 outlined management structures and processes. The processes for priority-setting and planning; together with monitoring and evaluation are central to the success of J/LOS. This chapter focuses specifically on the elements currently in place for J/LOS-wide monitoring and evaluation processes (M&E).

J/LOS needs a very strong emphasis on evidence-based decision-making as outlined in chapter 7.2. This is due to the need for:
- A rational basis for resource allocation
- To show impact, especially its contribution to PEAP so as to convince MoFPED, the Cabinet etc of the merits of supporting J/LOS reform process.
- To inform and motivate J/LOS staff
- To provide information for the Ugandan public and to strengthen the ‘demand’ side for J/LOS reform.
- To encourage donors and their taxpayers to maintain support for J/LOS.

A sector-wide monitoring and evaluation system constitutes the basis for realising the above. The J/LOS M&E system is discussed along the following elements:
- Monitoring structures
- Monitoring indicators and tools
- Monitoring processes.

9.1 Monitoring structures as planned in SIP and as they have evolved

As outlined previously, a number of J/LOS management structures have varied from those intended by the SIP. In some instances this has implications for J/LOS-wide M&E.

The primary structures envisaged in the SIP as responsible for M&E were the J/LOS Secretariat and PPU’s, District Access to Justice Committees and the other management structures. These are considered in turn.

The J/LOS Secretariat was to undertake day to day monitoring (supported by institutional PPU’s to be developed within institutional work plans). In spearheading the M&E functions of the sector, the J/LOS Secretariat has faced some constraints. The key constraint has related to the fact that the institutional policy and planning units which should have facilitated the work of the secretariat have developed at a much slower pace and some institutions do not yet have them. Secondly, as noted in previous chapters, the sector has evolved and grown in terms of the issues covered, yet the secretariat has not grown accordingly, and is therefore overstretched. The 2003 Uganda Prison Census has been noted as a good example of technical interaction between the Secretariat and the PPU of the Uganda Prison Service and the MoJCA. It is a foundation for the future with
transparent methodology, clear reasoning and most importantly, reflective and self-critical analysis for future management decision-making.

**District Access to Justice Committees** were envisaged to feed local responses and concerns into J/LOS progress reports. At local level, these committees were not as such established to provide the planned local level feedback. The roll-out of the Case Management Committees as part of *The Chain Linked* initiative was seen as sufficient to serve this purpose. However, it has already been indicated that although Chain Linked was the face of J/LOS at local level, systematic flow of information into the J/LOS mainstream has not been effective thus limiting the opportunities for facilitating the J/LOS M&E. This is further discussed below.

The **other management structures** in place such as the National Council (in part now covered by the Leadership Committee), the J/LOS donor group, the Steering Committee, and technical committee were envisaged to participate in the M&E process especially the consideration of progress reports. The **National Forum** to include public and civil society debate of J/LOS issues has not been held (as discussed in chapter 7.1 above).

**Parallel Structures:** The SIP did not appear to envisage the continuance of such parallel or over-lapping management structures from earlier pilot initiatives, nor that they might be created in new projects. While there are some links between the structures (e.g. committees tend to be comprised of the same individuals), information flow for the purposes of J/LOS monitoring progress has been limited. For instance the Chain Linked, criminal Case Backlog, Juvenile Justice and Community Service each have separate reporting mechanisms while the basket fund on legal aid proposes yet more reporting mechanisms under the Legal Aid Services Providers Network. The challenges and opportunities which a number of these raise are highlighted in Annex 5.

Parallel structures have led to overlaps between their membership and the J/LOS mainstream structures. Some of the parallel structures access, or in some cases are intended to access, funds through J/LOS. However, there appear to be no clear mechanisms for systematically feeding their reports and policy issues into J/LOS management debate. For example, *The Chain Linked* CMCs are the face of J/LOS at local level, with J/LOS reported as often being seen as a separate project. J/LOS needs information from *The Chain Linked* to monitor its performance indicators as well as overall impact of the J/LOS approach on access to justice, for planning, priority setting and strategy development. Experiences from various CMCs should provide useful lessons on innovative and replicable approaches to improve access to justice.

Similarly, information from the criminal Case Backlog project has a direct bearing on key challenges for J/LOS e.g. reduction of backlog, remand periods as well as remand population. Yet, information on the activities of the Case Backlog Committee on Prerogative of Mercy or the State Brief scheme are not systematically reflected in J/LOS reporting and planning.

▶ Chapter 7B outlines the key structural recommendations for strengthening sector-level M&E. Of particular importance here are the following.

**Parallel structures** should be streamlined. In practice, such structures risk reducing the efficiency of information-flow through fragmentation; duplication of effort, inefficient use
of scarce time by managers and reducing prospects for efficient evidence-based planning and M&E.

**Strengthening of PPU's**: The common vision for PPU's is part of the strengthened management processes proposed here. The training needs of PPU's are beginning to be addressed through training in generic competencies like policy-advice, management functions etc. However, this needs to be conducted in a manner that fully integrates the human rights basis for J/LOS, which underpins these recommendations.

The most important mentor and support to institutional PPU's is an enhanced J/LOS-wide PPU, to emerge from the current Secretariat.

▸ The development of an M&E system should be a major undertaking in the second half of implementing the SIP. This is linked to the need for evidence-based planning for SIP II (see Annex 9).

### 9.2 Monitoring Indicators and Tools

In addition to the monitoring structures outlined above, the SIP also envisaged other elements intended to monitor and evaluate progress.

Evaluation and monitoring was to focus on the performance indicators at the Purpose level\(^{204}\) of the J/LOS programme as well as progress towards the Outputs (chapter 3 above). The Secretariat was to be responsible for producing key statistical and management information for the J/LOS Monitoring System, including reporting on purpose-level performance indicators. In implementing this, there has been a process of developing J/LOS-wide indicators, and institutional indicators, and discussion of the need for a sectoral-level system to monitor them.

△ In June 2003, the Steering Committee adopted J/LOS sector-wide indicators for monitoring progress.\(^{205}\) Progress was achieved in that it was agreed that reporting under both criminal and commercial justice programmes should be against three thematic areas of *Access to Justice, Efficiency and Effectiveness and Quality of Justice*.

However, as yet only some of the indicators of June 2003 have agreed baselines and targets to match (see annex 7). The intended reporting against these sectoral level agreed indicators has not been implemented. Key factors in the delay were discussed in chapter 7.1 regarding PPU's and over-burdened Secretariat.

\(^{204}\) SIP purpose level: To promote the rule of law, increase public confidence in the CJS and enhance the ability of the private sector to make and enforce commercial contracts.

\(^{205}\) It took some time to get agreement as to whether indicators should be at *output or outcome* level. Annual reporting was also queried given that it might be several years before there is a reduction in the number of people on remand. During the discussion the DPP proposed that the key issue is not so much the number on remand, as the *time spent* on remand.
In any event, there are key concerns regarding the indicators selected in this process. The indicators selected are not sector-wide but focus on **areas where performance is intended to improve**. This will not capture unintended negative effects on other parts of the justice system. For example, it is assumed that if J/LOS improves performance of the Magistrates courts, the DPP, Police, Prisons, and MoJCA, then by virtue of the fact that the same institutions handle civil matters, civil cases ought to improve - or at least not be negatively affected. This assumption is not tested as no baseline, indicators or monitoring is conducted to assess J/LOS impact on civil cases. Not only would unintended effects be missed, but planning for SIP II would be constrained by the parameters of what was being measured - i.e. the areas of intervention used in SIP I.

J/LOS sector-wide indicators need to assess not just the areas targeted by interventions but to seek a holistic picture. The capacity-building recommended for J/LOS PPUs (7.1) should have a specific focus on developing in an interactive way (with the help of specialist facilitators) agreed sector-wide indicators. This should build on the three themes clustered to date, and accurately define their content using Vol II as a guide to their parameters. The indicators selected by J/LOS in June 2003 need to be comprehensively strengthened using Vol II as a guide to the meaning of the terms used in the SIP policy objectives.

A second concern is that the indicators selected contains a risk of perverse indicators, and do not adequately or comprehensively address the SIP policy objectives. For example, no sectoral level indicators have been chosen for the conditions or treatment of prisoners. The importance of this omission cannot be over-stated. Indicators need to be combined in a way that minimises the risk of perverse incentives for example for corruption or illegal arrests.

In addition, a wider set of J/LOS-wide institutional and sectoral indicators had been included in the (earlier) Budgetary Framework Paper for the FY2003/04. In principle, accountability in the budgeting process will be measured against those indicators for that year.

There is therefore a commitment by J/LOS to report on two sets of indicators regarding sectoral level progress (one wide and one narrow set). Preparation and systems are not apparently in place to support either. Key concerns are well-known regarding validity and reliability of data bases and statistics.

A range of **monitoring tools** were planned in SIP, and have been used, to measure progress:

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**206** A factor contributing to this is the choice of say, the *Chain Linked* performance standards, which recommend day to day hearings. In this context, it is to be expected that CMCs focus on the criminal cases **because performance indicators create that incentive**. The Case Backlog project also aimed initially at criminal cases backlog. When it was rolled out to the Magistrates Courts, it was supposed to handle civil cases too.

**207** This was based on the work of consultants Allen Sophia Asiimwe and Keith McKiggan. Subsequently, the institutions selected indicators on which they would report for J/LOS-wide impact.
a) Public perception and user satisfaction measured by Baseline User Surveys, carried out at the start of the Programme.\textsuperscript{208}

Two initial baseline User Surveys have been conducted - Criminal and Commercial. A follow-up survey on commercial justice has just been concluded. User surveys are an essential element of an effective M&E system supplementing institutions’ own justice sector statistics. While there may be a time-lag before improvements are perceived by the public, the subjective view of itself important as a human rights issue - human rights standards explicitly require not only that the justice system is functioning effectively and fairly, but that the public sees this and has confidence in it.

Although both the commercial and criminal Baseline Surveys were conducted after completion of the programme documents, they made a substantial contribution to the design of monitoring indicators for the two programmes. The Criminal Justice Baseline Survey 2003 provided a statistical baseline on the situation for 1996-2001, before the commencement of the SIP, while user perceptions were gathered in a survey in 2002/2003. This information provides a strong basis for assessing progress at statistical level and in terms of user perceptions at the time of the subsequent survey. User perceptions provide a means by which to check what is reflected in the statistics and vice versa. The Commercial Justice Baseline survey also served to ascertain baselines and also set targets for the programme. Likewise, the follow-up baseline survey should be conceived as part of the monitoring process.

The ongoing process of developing agreed sector-wide M&E indicators needs to be completed to add value to subsequent surveys (as outlined above in the discussion regarding indicators). Accurate parameters, content and consistent use of each of the three themes is essential.\textsuperscript{209}

b) Random user studies during implementation do not appear to have been used to date. These are critical to assess impact, public opinions and perceptions and to focus upon problems of access to and delivery of services, perception of corrupt practices and other matters of public concern.

c) Short quarterly progress reports were planned by the Secretariat, for approval by the Steering Committee. The intention was that these would identify issues requiring guidance from the National Council (now in part covered by the role of the Leadership Committee) or Steering Committee. The SWAp Donor Group of the J/LOS was intended to confirm the progress reports and discuss any delays in the programme.

Progress reporting to date has focused on activity at the institutional level, rather than impact at either institutional or sectoral levels. In part this is due to the fact that it is too early to gauge impact on a number of issues, but also because the M&E framework is not in place. In practice, institutional quarterly reports have been produced and provided to donors, then compiled into half yearly progress reports which are considered at the

\textsuperscript{208} Two Surveys: (1) Commercial Justice (November 2001); and (2) Criminal Justice (K2 Consult 2002).

\textsuperscript{209} For example, quality of justice under international law includes fair hearings, right to a defence etc. However, in the Criminal Justice Baseline survey the questions were focussed on whether the public thought officials might misuse the photocopier. The answers were misleadingly analysed as if they shed light on ‘quality of justice’, while leaving crucial questions unasked.
pre-review meeting of the institutions (TC) and donors in advance of the Joint GoU-donor reviews in December and June of each year.

The pre-review meeting is oriented towards reporting to donors, yet it has a potential to also serve as a mechanism for peer review among the J/LOS institutions on progress reports.

At the institutional level, improving under-developed information systems and institution-level use of indicators is a long process. Progress was evident at the pre-review in June 2004 in that institutions were increasingly reporting against institutional indicators. However, the validity of these reports/ progress cannot be easily ascertained due to poor data systems. The system relies on self-reporting by the institutions, with limited peer review of their content - such as potential DPP questions regarding Police figures based on its own registers.

In this context, accuracy of reporting in progress reports has been identified as a concern. CADER was reporting near self-sufficiency in December 2003, information found to be inaccurate and misleading when it emerged that it faced bankruptcy in the months which followed. Progress reporting appears to have been inadequate to prevent significant lapses, such as those reported from SPEED. Even when the problem is drawn to the attention of management structures, peer review appears completely absent: it was reported at the Joint GoU-donor Joint review of June 2004 that an ‘internal’ SPEED review had been conducted. There appears to be no mechanism for J/LOS-wide supervision of progress and a limited sense of collective responsibility to learn from experience (see Chapter 7.2 and chapter 8, and Annex 4 for varied examples).

Of concern also is completeness of reporting, for example at the same pre-review meeting, CJRP reported on progress for the commercial court and the Uganda Law Reform Commission but not for CADER or Company Registry, areas of the programme where monitoring is critical (see chapter3).

Self-assessment needs to involve a Secretariat with a clear role in verifying quality of data provided by institutions and encouraging a more self-critical analysis through peer review and an enhanced sense of collective responsibility by holding the sector to collective performance standards i.e. sector-wide indicators. Such a process requires close mentoring and accompaniment by the Secretariat with capacity and resources to match (see detailed recommendations in Chapter 7B).

A J/LOS-wide integrated Management Information System (MIS) is acknowledged as being needed, but the most immediate need is to achieve this for the key institutions.

The current web of official complaints mechanisms regarding J/LOS available to the public includes: the Inspector of Courts, the Judicial Services Commission, Inspector-General of Police, the Inspector General of Government, Human Rights Desks of the Police, Prisons and UPDF - as well as suggestion boxes apparently available in each J/LOS institution. These are highly fragmented and information they generate is not routinely used by J/LOS as part of its M&E. With the very limited exception of UHRC annual reports, complaints are not used to track J/LOS performance. There is a need for streamlining with clear division of labour, consolidation of mandates, powers and
resources and ideally a single entry point for the complaints system. In principle, this is also an overall constitutional role of UHRC. Currently, it receives complaints regarding J/LOS but its work is subject to backlog, its capacity is being built - and J/LOS institutions do not actively encourage the public to channel complaints to UHRC.

Chapter 3 recommended the streamlining of complaints mechanisms. In sum, there is a need for a simple, cheap, accessible complaints procedure which effectively and independently processes complaints against any J/LOS actor (covering J/LOS actions and omissions). Such a system needs to be widely publicised and designed so as to function as an aid to J/LOS reform. One option is for a pilot to be developed in which UHRC monitors performance of a streamlined J/LOS complaint mechanism.

Overall, management structures from local through to national level need to be designed to facilitate structured input from voices of the poor, advocacy groups etc. Addressing this would encourage local ownership and supervision of the J/LOS reform process. One aspect is the need to streamline current parallel structures as recommended earlier, streamline complaints system and a key recommendation is the participatory planning process outlined in Annex 9.

9.3 Monitoring Processes

This section considers the planned and actual role of output to purpose reviews; Joint GoU-Donor reviews; field visits, user Committees; donor institutional partnerships.

Output to Purpose reviews (OPRs)
The timing of Output to Purpose Reviews during the programme were intended by SIP to be confirmed through Donor Liaison meetings. A number of OPRs have been undertaken by DFID regarding CJRP. This take place annually to meet DFID project support requirements. A key issue is to what extent they feed into the overall J/LOS monitoring processes.

An annual review meeting of donors and GoU was intended to consider and approve the Annual Report from the (SIP planned) National Council and a Financial Performance Report from the Steering Committee. The Financial Performance Report was to be designed so as to meet both GoU and donor regulations. The Minister of Justice and Constitutional Affairs was to present the Annual Report to Cabinet and Parliament. As noted in Chapter 7.1, this report was replaced by the annual MoJCA Policy Statement to Cabinet and Parliament which highlights progress and constraints in institutions aligned to the Ministry.

In practice there are Joint GoU-donor reviews every six months. The reviews are seen as an opportunity for:
- Discussion of policy /process issues over and above the work plans;

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210 For example, one OPR which reviewed the development process was undertaken by Annabel Gerry in 2000, before the launch of the SIP.
• High level GoU and donor reaffirmation of commitment to J/LOS; and
• Highlighting contextual issues affecting J/LOS e.g. legal reform, impact of armed conflict.

At the outset in 2001, these reviews lasted some five days involving field trips and were therefore quite costly and difficult to sustain. Discussions were tightly focused on the issues of performance of the J/LOS. For both commercial and criminal reform, the reviews were initially based on the general review process model used in other sectors (e.g. Education). The December meeting usually identified undertakings for action along with financial narrative; the June one tended to be forward looking with work plans.

The seventh review was held during the evaluation in June 2004, and illustrated how they have evolved into a J/LOS specific approach. This is outlined following three stages: pre-review steps; during review and follow-up.

**Pre-review**

As mentioned above regarding progress reports, a TC working level session is held with donors where progress reports of institutions are discussed in detail. This is intended to help the Joint GOU-Donor review focus on more macro issues.

As the early reviews included field visits by donors in the days leading up to each pre-review meeting, these perspectives were incorporated into the review discussion. This provides donors’ input with a hands-on perspective and enhances the quality of pre-review interaction. Field visits should also be carried out by the strengthened J/LOS wide PPU and Technical Committee Working Groups in multi-disciplinary teams. This would increase coverage during the year with more time to synthesize and discuss what is observed (see also Annex 9 regarding proposed planning process).

The agenda of the Joint review is decided in a fluid process of input from the Secretariat and donor group (sometimes inspired by topics of current media interest etc). The draft programme is agreed by the Technical Committee and the Steering Committee (and often the Donor Liaison Group).

**During review**

There tends to be stimulating presentation of issues regarded by J/LOS Secretariat/donors as ‘missing’ from current J/LOS activities: e.g. papers on juvenile justice; Community Service; Legal Aid Service Providers. This helps give legitimacy to having the issue brought up again. However, the agenda of the two day meeting now tends to be very intensive with a format that does not facilitate in-depth discussion.

In June 2003 it was decided that human rights should be on agenda of each review. While all J/LOS reform concerns the enjoyment of human rights (see chapter 1.3 methodology and Volume Two) this included a commitment to structured dialogue regarding the annual report of the UHRC. This report is not timed to synchronize with the J/LOS review discussion as it is presented to Parliament. In 2004, the report appeared in November and was available for discussion at the Joint GoU-Donor review on 29-30 November.

Issues raised in papers presented may be followed through to next review, or not. This may be illustrated by the example of Court Awards. Paid through MoJCA, these were
seen as a burden on funds available for J/LOS. To date the following sequence has been used to address the issue:

a) June 2002 review - Attorney General presented the issue and undertook to outline policy options to cabinet.

b) December 2002 review - AG reported back that the Cabinet had approved action and the policy steps decided upon were reported back to review. As the sums involved are still not known, it was decided to do an audit

c) June-November 2004 preliminary up-dating and organisation of files so that consultancy can begin auditing court awards and war debts, so that the policy issues at b) can be addressed.

On the other hand, some matters are less consistently followed through e.g. juvenile justice. Chapter 7.2 outlined the need to rehabilitate remand homes but this has not been addressed among construction/procurement priorities, apparently due to lack of effective representation of this issue on the Technical Committee. This suggests the importance of being at TC meetings and raises concern that they have acted in effect as a forum for negotiating resources among institutions - rather than addressing common J/LOS-wide goals.

At reviews, there is the possibility of an undertaking being made, which can in turn be followed up at next review. Undertakings are in principle intended to be realistic, achievable, targeted. They are mutually agreed actions to be taken within a certain time period. In June 2004, the timeframe envisaged for implementation of undertakings was expanded to one year where an issue was seen as needing a medium term perspective rather than compliance for the next six-monthly review. Undertakings are seen as important for four main reasons:

- Planning and prioritization
- As a mechanism through which donors can justify releases (along with financial and audit reports as trigger mechanisms)
- J/LOS Joint review undertakings must be fulfilled as criteria according to the Poverty Reduction Support Credit Aide memoire. This is the mechanism through which the World Bank and others provide budget support to Uganda.
- Partnership: donors now also make express undertakings at reviews, which are recorded along with those of the institutions (usually political lobbying). This is seen as important to address perceived asymmetry in the relationship

Decision-making on Undertakings is by consensus with an Aide Memoire noting decisions taken. Undertakings tend to be drafted during final coffee breaks then presented to the plenary. They are then amended on the spot based on individual interventions. The time pressure this entails means that the process does not ensure adequate consideration of the appropriateness and feasibility of the undertakings made. This contrasts with the four reasons compliance with undertakings is seen as important. Examples from the June 2004 review include undertakings made to:

- Undertaking to implement gender work plan. The draft work plan was circulated on the last day of the review and the Working Group on gender does not appear to have discussed it in advance (as mentioned in chapter 7.2). The draft raises risks of duplication with others e.g. the Gender Working Group of the TC proposes to undertake Civic Education. It is not clear whether or how the draft will be refined after the review, how peer review will ensure this is checked against criteria such as low-

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cost, avoidance of duplication, maximization of synergies or incorporating all sector views on this cross-cutting issue.

- **Undertaking to liaise between J/LOS and health sector on HIV/AIDS.** The offer to liaise was made spontaneously in plenary by the Chair of the ULRC. This allocation of responsibility for liaison on a cross-cutting issue requires consideration as to the most appropriate actor, given the range of related health, prison management and other issues involved with clear ToR as to what is expected of them to fulfil the undertaking; clarity as to how other institutions will play their role feeding into deliberations etc. Chapter 4 above underlined the need for a systematic approach to inter-sectoral and other relationships to strengthen J/LOS efficiency.

- **Undertaking to assess each institution's current capacity in conflict-affected areas and plan for post-conflict situation.** The undertaking did not specify what agreed scenarios the institutional plans will be based on - to help ensure J/LOS prepares a mutually consistent plan. Agreed planning scenarios would help the process if based on the best information available, synchronised with others' plans (e.g. UN and other humanitarian relief co-ordinators, the Donor Group on the North/conflict affected areas, the Security sector).

- **Undertaking to incorporate the Land Registry fully into J/LOS by 1 December 2004.** This does not appear to reflect the views held by the Land Registry as to whether it fits appropriately in the J/LOS or in the Land Sector SIP (chapter 3 above).

The process of agreeing the undertaking, if it allowed more advance consideration and debate, would improve the quality of the implementation of the Undertakings ultimately made. Consideration could usefully be given to a discussion of draft undertakings prepared in advance of the working level TC-donor pre-review meeting. Undertakings agreed by that pre-review would then be the basis of discussion at the review, with sufficient time allocated to reach a common understanding of what they involve, who will be required to do what, by when etc.

A final outcome of a Joint-review is a letter noting 'satisfactory progress' which triggers financial releases from donors to MoFPED as part of the GoU-donor Partnership Principles.

It is recommended that sustained high level engagement by MoFPED be sought by other Ministries as a key to the utility of Joint reviews.

*Follow-up to Joint reviews*

The Secretariat generally takes the initiative to remind donors and institutions of undertakings. However, this is not formal monitoring of implementation of undertakings. In principle the quarterly progress reports by the institutions, TC meetings Donor Liaison meetings, and visits carried out by the Secretariat to institutions - all contribute to monitoring progress at least once every 6 months.

*Field visits:* These were not explicitly envisaged in the SIP, but as mentioned above, they evolved as part of the Joint GoU-Donor review process. At the start they involved
combined Donor-GoU teams, but more recently field visits have been by donors only in preparation of the pre-review meeting with the TC.

The use of field visits was an important, creative innovation which built on the experience of The Chain Linked pilot in Masaka (outlined in Annex 4). Previously, the multi-disciplinary, multi-institutional teams conducting field visits compared their observations, discussed issues with local CMCs and got a direct sense of reality on the ground. Teams had the seniority to act on the spot to address urgent issues. This active form of peer review was an important opportunity for senior and middle managers to recall why J/LOS matters and assess progress together. It also reinforced a joint sense of commitment and enhanced personal responsibility.

However, now field visits feeding into discussion are carried out by donors only. Identifying lessons from the experience to date, it is felt by many that the evolution of J/LOS as a whole (and the Joint reviews in particular) has lost some of its connection with local issues. While it is important for donor teams to engage hands-on, the risk is that their ‘solo’ visits do not catalyze J/LOS managers by having them directly participate in GoU-donor partnership.

J/LOS Working Groups at TC level should reinstate as routine, these types of field visits. Whether or not, some of these visits are conducted jointly with donors, donors should in any event continue their own field visits. In doing so, as Chapter 5 highlighted, there is a need for a wider circle of donors to be actively engaged on these field visits. This is part of enhancing their own capacity to engage with J/LOS and avoiding overloading the embassies who currently lead J/LOS donor-co-ordination.

e) User Committees: The commercial justice reform programme has established a User Committee, but it is recommended (chapter 3) that the merits of this model be explored for reform on the criminal side, and the expanded focus on civil justice reform. The CJRP Committee provides feedback mainly on the commercial court progress, but is not specifically designed as part of a M&E system.

f) Donor-institutional partnerships: the recent innovation pairing one donor with a particular institution is considered in Chapter 5 above, and is potentially very helpful for enhancing donor capacity and closer accompaniment of J/LOS issues.

Other Opportunities for Monitoring J/LOS Performance: In addition, the following present good opportunities for monitoring J/LOS performance:

1. Nation-wide surveys - UPPAP, Household Surveys, Service Delivery Surveys, National Integrity Surveys, Surveys by Uganda Investment Authority
2. Annual Reports of relevant bodies such as the Uganda Human Rights Commission
3. Reports of relevant Commissions of Inquiry
4. Independent research and reports on activities of relevant civil society actors such as Legal Aid Service providers, human rights organisations and Networks, the private sector, the World Bank studies on investment in Uganda etc

As mentioned in chapter 4 regarding coherence and inter-sectoral linkages, J/LOS needs to define linkages and collaboration with the responsible actors.
Overall, to move to a J/LOS-wide monitoring and evaluation system with J/LOS-wide indicators of performance requires that key issues be addressed. This involves not only improving the supply of appropriate data to management - but improving the use of that data for evidence-based decision-making. The key will be to strengthen the link between M&E and priority-setting and planning into a single cyclical process. The recommended planning process outlined in Annex 9 is designed to feed into M&E as part of an on-going J/LOS learning process.

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Finally, the first phase of implementation of SIP has seen considerable achievement. As J/LOS moves to prepare for its second phase the MTE emphasises that there is no doubt at all as to the importance and the potential impact of the work ahead.
ANNEXES
Terms of Reference
Mid-term Evaluation of the Justice, Law and Order Sector (JLOS) Strategic Investment Plan for the Medium Term 2001-06

Background
The decision to develop a sector programme for the Justice Law and Order Sector was, in part, informed by the findings from three key studies and a Commission of Enquiry. The Criminal Justice Review in 1997, the Uganda Integrity Survey in 1998 and the Crown Agents Legal Sector Review in 1999 all found that the poor were dissatisfied with the service delivery by criminal and commercial justice agencies, and that there was a perception of high levels of corruption coupled with a sense of lack of security of the person and property.

These constraints were compounded by the absence of a clear policy framework and strategic plan for the sector, limited capital and infrastructure investment and decreasing funding levels from GOU. Thus in November 1999, there was meeting of high level policy and political decision-makers in the Sector, referred to as the “Mamba Point” meeting, at which there was an official policy shift to re-align the Sector with the current GOU policy on poverty eradication (PEAP) and to focus on two key areas - Criminal and Commercial Justice reform - in the medium-term.

The Government of Uganda has an overall policy of poverty eradication contained in the Poverty Reduction Strategy Paper known as the Poverty Eradication Action Plan (PEAP), which is now under revision. It is, thus, a requirement that sectoral programmes are in keeping with this overall policy and must demonstrate integration into one or more of the four PEAP pillars. The JLOS policy framework and strategic objectives fall within Pillar 2 of the current PEAP.

Having articulated a commitment to reform, as official Government of Uganda policy, the Sector began work in September 2000 to foster partnerships with the private sector, NGO’s and donors to develop a reform programme. In addition, it was necessary to develop the institutional framework that would facilitate the reform process. A Sector Secretariat, was thus established in August 2000 to develop the strategic investment plan, and develop a detailed work plan for the medium-term. A JLOS Strategic Investment Plan was finalized and launched in November 2001.

Policy Framework and Strategic Objectives
The Justice Law and Order Sector mission is “to enable all people to live in a safe and just society”. The expected outcome of the JLOS reform strategy is the improved safety of the person, security of property and access to justice that ensures a strong economic environment to encourage private sector development and benefits poor and vulnerable people. The Sector mission and policy objectives are derived and supported by institutional mandates and policy objectives.

The Justice Law and Order Sector is composed of the:
- Ministry of Justice and Constitutional Affairs
- Ministry of Internal Affairs
- The Judiciary
- Uganda Prisons Service
- Uganda Police Force
- Directorate of Public Prosecutions
- Judicial Services Commission
- Uganda Law Reform Commission
- Ministry of Gender Labour and Social Development - Probation Services
- Ministry of Local Government - Local Council Courts

The Justice Law and Order Sector (JLOS) Strategic Investment Plan for the Medium Term (2001-06) has as a broad policy objective the maintainance of law and order, and the increase of access to justice for all persons through infrastructure reform, law reform, improved legal
services and civic education. The policy objectives are translated into component programmes grouped into three thematic areas namely - Access to Justice, Efficiency and Effectiveness and Quality of Justice.

**Programme development and implementation**

The JLOS currently has a Leadership Committee headed by the Honourable Chief Justice and the Ministers of Internal Affairs and Justice and Constitutional Affairs as members; A Steering Committee headed by the Solicitor General with membership of permanent secretaries of each member institution; A Technical Committee composed of senior/ middle level management of the member institutions and working groups, which are in essence sub-committees with specific time limitations and terms of reference and a Sector Secretariat housed within the Ministry of Justice.

The current development partners are the governments of Austria, Denmark (Danida), Germany (GTZ), Development Cooperation Ireland (DCI), Netherlands, Norway (Norad), Sweden (Sida), United Kingdom (DFID), the United States of America (USAID) and the European Commission, the World Bank and UNDP/UNCDF. In terms of donor coordination, there is a JLOS Donor Group which brings together all contributors to the JLOS and serves as a contact point for JLOS institutions. The Donor group has a chairperson, currently the Netherlands, and meets regularly with government through GOU-Donor Liaison Meetings, Sector Reviews and amongst themselves to concretize issues and speak with one voice. Most donors are budget support donors and contribute to the SWAP Development Fund (Criminal Justice) and the Commercial Justice Reform Programme. However other donors, like Danida, have separate arrangements, like 'The Strengthening the Judiciary Project'. Those projects are integrated in the Strategic Investment Plan. Donors are also developing a Civil Society Partnership with Legal Aid Service Providers

**Key Issues**

1. **Linking Legal Sector Reform to Poverty Eradication**

Regardless of the whether supports interventionist or non-interventionist government, there has been consistent recognition that the state is necessary to provide key core functions without which a market economy cannot thrive. In its’ 1997 report on development, the World Bank argued that there were five fundamental tasks, which ‘lie at the core of every government’s mission’.

Including, “establishing a foundation of law, maintaining a non-distortionary policy environment, including macroeconomic stability, investing in basic social services and infrastructure, protecting the vulnerable; and protecting the environment.”

A key issue is whether in fact safety, security and access to justice do have relevance for the poor. Studies indicate that the poor identified this issue as their number one priority. Current GoU policy, however, is more focused elsewhere. The Sector has tried to make the argument that without the maintenance of Law and Order, that without the foundation of Good Governance, interventions in health, education and water may be irrelevant as the poor will be unable to maximally access these services in the context of civil unrest.

The need for state intervention with regard to the maintenance of law and order, and improving the administration of justice can be understood through examination of the effects of lawlessness on poverty. The “lawlessness syndrome” developed by the World Bank, 1997 posits that “markets cannot exist without effective property rights,” which depends on fulfilling three conditions namely: “protection from theft violence and other acts of predation, protection from arbitrary government actions - ranging from unpredictable, ad hoc regulations and taxes to outright corruption - that disrupt business activity; and a ‘reasonably fair and predictable judiciary’.”

It can be argued that the poor are the least able to protect themselves from injury when the three above mentioned conditions are not met. “In countries all over the world, the poor are more likely to be victims of police violence than the rich...and to be ignored or mistreated by

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bureaucrats [or] left vulnerable to destitution by petty corruption.”\textsuperscript{213} Where the poor are located in situations of endemic insecurity, they are also more disposed to short-term decision-making and lack an environment conducive to investment or risk taking, such as in Northern Uganda, which inevitably hinders development.

The linkage between legal sector reform and poverty eradication must be supported by evidence, which is a challenge to collate for a programme in its infancy.

2. Measurement of Performance
Given the need to appropriate a budget annually, based on evidence of institutional gains and need, the Ministry of Finance, Planning and Economic Development tends to primarily focus on quantitative performance indicators, showing linkages between financial inputs and quantitative outputs such as number of crimes, or number of prisoners rather than a medium-term assessment of the qualitative impact of legal sector reform.

In addition, the absence of baseline data at the very initial stages of developing the Sector Strategic Investment Plan hampered the ability to clearly articulate the rationale for the reform programme in the first instance. The Sector also continues to be faced with chronic systemic constraints that hamper improved service delivery, effective planning, budgeting and monitoring and evaluation, thereby rendering it difficult to develop an evidence base of the benefits of reform. In June 2003, however, JLOS completed both quantitative and qualitative indicators along the three thematic areas - Access to Justice, Efficiency and Effectiveness and Quality of Justice.

- The challenge is now the implementation of monitoring mechanisms, and production of progress reports against agreed indicators.

The Consultancy

Purpose and Objectives
The purpose of the mid-term evaluation is to review programme management and implementation since the launch in November 2001. The objective of the evaluation is to provide an assessment of the achievements against agreed targets both at process and implementation levels; and an evaluation of the outcomes\textsuperscript{214} of the JLOS Strategic Investment Plan 2001-06, half way the implementation of the first phase.

The report is also intended to inform both Government of Uganda and Development partners on how to strengthen programme management through support to the institutional framework for implementation, monitoring and evaluation; and to suggest a strategy for increased influence of legal sector reform on the poverty eradication agenda of Government of Uganda.

Output
A report, not more than hundred pages with a clear executive summary of maximum five pages, that will clearly address each aspect of the Terms of Reference and makes recommendations which will be considered by both the JLOS donor group as well as the JLOS Steering Committee.

Scope of work
The scope of work must comprise, but is not restricted to, the following:
- Provide an assessment of the Sector’s performance during the 2001--04 period measured against the quantitative and qualitative indicators which have been developed for both the criminal as well as the commercial justice reform programme and within the framework of the three aforementioned thematic areas - Access to Justice, Efficiency and Effectiveness and Quality of Justice:

\textsuperscript{213} Ibid.
\textsuperscript{214} Outcomes are the extent to which major relevant objectives were achieved efficiently
- Assess the actual or likely qualitative/quantitative contribution of JLOS towards the attainment of the PEAP aims (particularly the reduction of poverty, the improvement of human rights and the establishment of good governance in Uganda);
- Assess the efficiency and effectiveness of programme and financial management structure, including the monitoring and evaluation systems in place in JLOS;
- Assess the effectiveness of and support for JLOS reform programme at local level (measure trickle down effect);
- Evaluate intersectoral policies and working relationships with other line ministries, especially the Ministries of Local Government and Gender, Labour and Social Development, as well as with and between the donors supporting JLOS;

Methodology

Selection of Consultants
The evaluation will be commissioned by the Netherlands and Irish Embassy. Representatives of both embassies will make the final selection of the consultant team, in consideration of views advanced by Government of Uganda.

Assessment and Reporting
The team of consultants will be expected to operate independently, and to work closely with the Netherlands and Irish Embassy and the Sector Secretariat in the Ministry of Justice and Constitutional Affairs.

An evaluation committee, established in joint cooperation with Government of Uganda and the Development Partners, shall act as a sounding board for the team and will be provided adequate opportunity to consider the interim and final report. The consultant team shall record the evaluation committee’s comments as an annexure to the report.

A desk study on the Justice Law and Order Sector will be conducted, prior to field work, to review existing studies/reports. The output shall be an overall analysis of the basic constraints, the progress made during the recent years - including an overview of existing initiatives (and donor funding). Part of that work has already been done by a team of Danida consultants last year, but that study could be updated by one of the team members.

During field work, the consultant is expected to use a participatory approach to the assessment including interviews, field trips and workshops, where necessary. The field work shall be conducted in two teams, one to evaluate the commercial justice reform programme and the other one the criminal justice reform programme. Both teams will participate in the JLOS review on June 7th and 8th, 2004 and if feasible make preliminary presentations of their findings. The final report shall be presented to and jointly and separately discussed with the JLOS donor group and the JLOS Steering Committee.

Documentation
All background documentation will be made available to consultants through resource persons below mentioned.

Resource persons are:
- Francesco Mascini, Netherlands Embassy and chair JLOS donor group
- Donal Cronin and Donald Rukare, Development Cooperation Ireland
- Amanda Sserumaga and Valentine Namakula, Sector Secretariat (Criminal Justice)
- John Gara, Sector Secretariat (Commercial Justice)
## JUSTICE LAW AND ORDER SECTOR - SIP
### MID TERM EVALUATION (MAY 17TH - JUNE 11TH 2004)

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<tr>
<td>5.30 Am</td>
<td>KK Arrives</td>
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<td>9.30 Am</td>
<td>Stuart Foster/ AA</td>
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<td>Stuart Foster</td>
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<tr>
<td>10.00 Am</td>
<td>Amanda Sserumaga</td>
<td>JLOS Secretariat</td>
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<td>Senior Technical Advisor, JLOS</td>
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<td>Thursday 20th</td>
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<td>The Hon. Justice Benjamin Odoki</td>
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<td>Flavia Anglin</td>
<td>High Court</td>
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<td>Henry and Bart Katureebe</td>
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<td>Andrew Kasiyre -</td>
<td>M/S Kasiyre, Byaruhanga and Co. Advocates</td>
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<td>Commercial Court</td>
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<td>Henrietta Wollayo</td>
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<td>William Kasazi</td>
<td>Stanbic Bank</td>
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<td>Head of Legal; Stanbic Bank, Uganda</td>
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<td>Mrs. Florence Kuteesa, Norah Katumba +</td>
<td>MoFPED</td>
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<td>Tim Masembe Kanyerezi</td>
<td>Messrs. Mugerwa &amp; Masembe, Advocates</td>
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<td>Jimmy Muyanja</td>
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<td>Royal Netherlands Embassy</td>
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<td>Ag. Executive Director CADER</td>
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<td>Resource Team (JLOS MTE)</td>
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<td>JLOS Donor Group</td>
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<td>Bisereko Kyomuhendo</td>
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<td>Registrar General of Companies</td>
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<td>Prof. J.M. Kakooza/ Jean Kyazze, Jovah Kamateeka</td>
<td>Workers House, 8th Floor</td>
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<td>Martin O’Fainin</td>
<td>Irish Embassy</td>
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<td>Michael Opagi</td>
<td>Privatisation Unit</td>
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<td>Mr. Tibisasa</td>
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<td>Mr. Bafaki Mr. Bisobye</td>
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<td>Jane Mwesiga</td>
<td>Desk Officer JLOS</td>
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<tr>
<td>10 - 12.00</td>
<td>Amanda Serumaga</td>
<td>STA</td>
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<td>12.00 am</td>
<td>Policy Planning Units for JLOS</td>
<td>MOJCA &amp; Police</td>
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<td>Mrs. Sekagya</td>
<td>Chairperson UHRC</td>
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<td>2.30 pm</td>
<td>Mr. Gilbert Mujalya</td>
<td>Planning Unit Ministry of Education</td>
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<td>Frans Mikael</td>
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<td>Rufina/Simone</td>
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<td>Mr. Richard Buteera</td>
<td>Min. of Gender</td>
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<td>12.00 noon</td>
<td>Diego Angemi</td>
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<td>Chief Justice</td>
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<td>Barney Afako</td>
<td>Justice Resources</td>
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<td>Mr. Waisswa Bageya</td>
<td>Ex- Chair, JLOS TC/ Under Secretary, Min. of Internal Affairs</td>
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<td>12.30 am</td>
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<td>Mr. Obbo</td>
<td>Under Secretary Prisons/ Chair JLOS TC</td>
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<td>Donor Resource Team,</td>
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<tr>
<td>11.00am</td>
<td></td>
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</tr>
<tr>
<td><strong>Sunday 6th</strong></td>
<td>Judith Olij</td>
<td>ACTV</td>
</tr>
<tr>
<td></td>
<td>Ruth Ojambo</td>
<td>ISIS WICCE</td>
</tr>
<tr>
<td></td>
<td></td>
<td>FAIRWAY</td>
</tr>
<tr>
<td><strong>Monday 7th</strong></td>
<td>Team meetings</td>
<td>Fairway</td>
</tr>
<tr>
<td>9.00am</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Monday 7th</strong></td>
<td>JLOS GoU/ Donor Review</td>
<td>Munyonyo Speke Resort</td>
</tr>
<tr>
<td>9.00am</td>
<td>Karen Kenny</td>
<td>Presentation of Team</td>
</tr>
<tr>
<td></td>
<td>Team discussions</td>
<td>Findings</td>
</tr>
<tr>
<td></td>
<td>with various persons</td>
<td></td>
</tr>
<tr>
<td></td>
<td>attending the review</td>
<td></td>
</tr>
<tr>
<td><strong>Tuesday 8th</strong></td>
<td>JLOS Review</td>
<td>Munyonyo Speke Resort</td>
</tr>
<tr>
<td>9.00am</td>
<td>Team discussions</td>
<td>Munyonyo, Gaba</td>
</tr>
<tr>
<td></td>
<td>with persons</td>
<td></td>
</tr>
<tr>
<td></td>
<td>attending the review</td>
<td></td>
</tr>
<tr>
<td><strong>Wednesday 9th</strong></td>
<td>Public Holiday Team</td>
<td>Fairway</td>
</tr>
<tr>
<td></td>
<td>Meeting</td>
<td></td>
</tr>
<tr>
<td><strong>Thursday 10th</strong></td>
<td></td>
<td>Fairway</td>
</tr>
<tr>
<td></td>
<td>Team Meeting</td>
<td></td>
</tr>
<tr>
<td><strong>Friday 11th</strong></td>
<td>KK Departs</td>
<td></td>
</tr>
</tbody>
</table>

**Additional Meetings Held**

<table>
<thead>
<tr>
<th>Date/Time</th>
<th>Institution/Title</th>
<th>Venue</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tue 31st August</td>
<td>John Gara</td>
<td>Commercial Justice Advisor</td>
</tr>
<tr>
<td>2.30pm</td>
<td></td>
<td>JLOS Secretariat, 4th Floor</td>
</tr>
<tr>
<td></td>
<td></td>
<td>MoJCA</td>
</tr>
<tr>
<td>Wed 1st August</td>
<td>Beatrice Ngonzi</td>
<td>Advocate</td>
</tr>
<tr>
<td>3.00pm</td>
<td></td>
<td>NCG</td>
</tr>
<tr>
<td>Mon 13th Sept.</td>
<td>Moses Adriko</td>
<td>President, Uganda Law</td>
</tr>
<tr>
<td>4.00pm</td>
<td></td>
<td>Society</td>
</tr>
<tr>
<td>Mon 13th Sept.</td>
<td>Cathy Nabirye</td>
<td>Investment Executive Legal</td>
</tr>
<tr>
<td>6.00pm</td>
<td></td>
<td>Investment Authority</td>
</tr>
<tr>
<td>Tue 14th Sept.</td>
<td>Ida Wanendeya</td>
<td>Vice Chairperson Public</td>
</tr>
<tr>
<td>11.00am</td>
<td></td>
<td>Sector Foundation Uganda</td>
</tr>
<tr>
<td>Tue 14th Sept.</td>
<td>Abid Alam</td>
<td>CEO Casements (U) Ltd,</td>
</tr>
<tr>
<td>4.00pm</td>
<td></td>
<td>Chairperson Uganda</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Manufacturers Association</td>
</tr>
<tr>
<td>Wed 15th Sept.</td>
<td>Kakembo Katende</td>
<td>Partner, Katende,</td>
</tr>
<tr>
<td>9.00am</td>
<td></td>
<td>Sempewba and Co. Advocates</td>
</tr>
<tr>
<td>Wed 15th Sept.</td>
<td>Dr. Peter Ngategyeize</td>
<td>National Coordinator-</td>
</tr>
<tr>
<td>3.00pm</td>
<td></td>
<td>Medium Term Competitiveness</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Strategy</td>
</tr>
<tr>
<td>Thur 16th Sept.</td>
<td>Apollo Makubuya</td>
<td>Partner, Central Law Offices</td>
</tr>
<tr>
<td>Mon 20th Sept.</td>
<td>Stuart Foster</td>
<td>Commercial Court Management</td>
</tr>
<tr>
<td>3.00pm</td>
<td></td>
<td>Advisor</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Commercial Court</td>
</tr>
<tr>
<td>Date/ Time</td>
<td>Institution/Title</td>
<td>Venue</td>
</tr>
<tr>
<td>---------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>--------------------------------</td>
</tr>
<tr>
<td>Tue 21\textsuperscript{st} Sept 2.00pm</td>
<td>Candy Kajugira Baati Enterprises T/A- Gaba Supermarket (SME)</td>
<td>Gaba</td>
</tr>
<tr>
<td>Wed 22\textsuperscript{nd} Sept 5.30pm</td>
<td>Justice Ogola Principal Judge and Head of the Commercial Court</td>
<td>High Court Chambers</td>
</tr>
<tr>
<td>Fri 24\textsuperscript{th} Sept 9.00am- 12.00</td>
<td>Small and Medium Scale Entrepreneurs Symposium</td>
<td>Nile Conference Center</td>
</tr>
<tr>
<td>Fri 24\textsuperscript{th} Sept 3.00pm</td>
<td>Ruth Mubiru Advocate- Ligomarc Advocates</td>
<td>4\textsuperscript{th} Floor King Fahd Plaza</td>
</tr>
</tbody>
</table>
# List of people Met

<table>
<thead>
<tr>
<th>Name</th>
<th>Institution/Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hon. Justice Benjamin Odoki</td>
<td>Hon. Chief Justice</td>
</tr>
<tr>
<td>Hon. Janat Mukwaya</td>
<td>Minister of Justice and Constitutional Affairs</td>
</tr>
<tr>
<td>Flavia Anglin</td>
<td>The Inspector of Courts, Judiciary</td>
</tr>
<tr>
<td>Amanda Sserumaga</td>
<td>Senior Technical Advisor, JLOS</td>
</tr>
<tr>
<td>Andrew Kasiirye</td>
<td>Member Law Council, EX- president ULS</td>
</tr>
<tr>
<td>Bafaki Earnest</td>
<td>Under Secretary, MOJCA</td>
</tr>
<tr>
<td>Barney Afako</td>
<td>Justice Resources</td>
</tr>
<tr>
<td>Bart Katurebe</td>
<td>Advocate, Kampala Associated Advocates</td>
</tr>
<tr>
<td>Bagoya Waisswa</td>
<td>Ex- Chair JLOS TC/ Under Secretary Police</td>
</tr>
<tr>
<td>Bisereko Kyomuhendo</td>
<td>Ag. Registrar General of Companies</td>
</tr>
<tr>
<td>Byakusaaga - Bisobyé</td>
<td>Senior Economist - Policy &amp; Planning Unit Min. of Justice and Constitutional Affairs</td>
</tr>
<tr>
<td>Buteera Richard</td>
<td>Director of Public Prosecutions</td>
</tr>
<tr>
<td>Florence Kuteesa, Norah Katumba, other officers</td>
<td>Development</td>
</tr>
<tr>
<td>Frans Mikael</td>
<td>Head of Programmes, Danida Good Governance</td>
</tr>
<tr>
<td>Francesco Mascini</td>
<td>Chair JLOS Donor Group, First Secretary RNE</td>
</tr>
<tr>
<td>Donal Cronin</td>
<td>New Chair JLOS Donor Group, DCI</td>
</tr>
<tr>
<td>Donald Rukaare</td>
<td>Development Cooperation Ireland</td>
</tr>
<tr>
<td>Gilbert Mujalya</td>
<td>MoE - Education Planning Unit</td>
</tr>
<tr>
<td>Jane Mwesiga</td>
<td>Min. of Public Service - Desk Officer JLOS</td>
</tr>
<tr>
<td>Jimmy Muyanja</td>
<td>Ag. Executive Director, CADER</td>
</tr>
<tr>
<td>John Gara</td>
<td>Commercial Justice Advisor</td>
</tr>
<tr>
<td>Justice Manyindo/</td>
<td>Judicial Service Commission</td>
</tr>
<tr>
<td>Mrs. Mwaka</td>
<td>Judicial Service Commission</td>
</tr>
<tr>
<td>LASP Network</td>
<td>Members of the Network (FIDA, LAP, LAC, FHRI, PDAU, UGRC)</td>
</tr>
<tr>
<td>Margaret Sekagya</td>
<td>Chairperson UHRC</td>
</tr>
<tr>
<td>Martin O’Fainin</td>
<td>Charge d’affaire - Development Cooperation Ireland</td>
</tr>
<tr>
<td>Masembe Mugerwa</td>
<td>Advocate, Mugerwa, Masembe and Co. Adv.</td>
</tr>
<tr>
<td>Michael Opagi</td>
<td>Director, Privatization Unit</td>
</tr>
<tr>
<td>Margaret Kigozi</td>
<td>Exec Director- Uganda Investment Authority</td>
</tr>
<tr>
<td>Obbo Gideon</td>
<td>Under Secretary Prisons</td>
</tr>
<tr>
<td>Olij Judith</td>
<td>ACTV</td>
</tr>
<tr>
<td>Prof. J.M. Kakooza/ Jean Kyazze</td>
<td>Uganda Law Reform Commission</td>
</tr>
<tr>
<td>Rosette Nabumba</td>
<td>Poverty Monitoring Unit</td>
</tr>
<tr>
<td>Rufina Ocago/Simone</td>
<td>Min. of Gender</td>
</tr>
<tr>
<td>Ruth Ojambo</td>
<td>ISIS-WICCE</td>
</tr>
<tr>
<td>Stuart Foster</td>
<td>Commercial Court Management Advisor</td>
</tr>
<tr>
<td>Tibisasa</td>
<td>Registrar of Titles, Land Registration</td>
</tr>
<tr>
<td>Beatrice Ngonzi</td>
<td>Advocate</td>
</tr>
<tr>
<td>Moses Adriko</td>
<td>President, Uganda Law Society</td>
</tr>
<tr>
<td>Cathy Nabirye</td>
<td>Investment Executive Legal</td>
</tr>
<tr>
<td>Ida Wanendeya</td>
<td>Vice Chairperson Public Sector Foundation Uganda</td>
</tr>
<tr>
<td>Abid Alam</td>
<td>CEO Casements (U) Ltd, Chairpersons Uganda Manufacturers Association</td>
</tr>
<tr>
<td>Name</td>
<td>Institution/Title</td>
</tr>
<tr>
<td>-----------------------------</td>
<td>-----------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Kakembo Katende</td>
<td>Partner, Katende, Sempebwa and Co. Advocates</td>
</tr>
<tr>
<td>Dr. Peter Ngategyeize</td>
<td>National Coordinator- Medium Term Competitiveness Strategy</td>
</tr>
<tr>
<td>Apollo Makubuya</td>
<td>Partner, Central Law Offices</td>
</tr>
<tr>
<td>Candy Kajugira</td>
<td>Baati Enterprises T/A- Gaba Supermarket</td>
</tr>
<tr>
<td>Justice Ogola</td>
<td>Principal Judge and Head of the Commercial Court</td>
</tr>
<tr>
<td>Small and Medium Scale Entrepreneurs Symposium</td>
<td>Organized by Enterprise Uganda for entrepreneurs from all over the country</td>
</tr>
<tr>
<td>Ruth Mubiru</td>
<td>Advocate- Ligomarc Advocates</td>
</tr>
</tbody>
</table>
List of People Met in Mubende 1st June 2004

<table>
<thead>
<tr>
<th>Name</th>
<th>Organisation/ Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. P. Barisigara</td>
<td>Police/ DPC</td>
</tr>
<tr>
<td>2. John Agaba</td>
<td>Judiciary/ Chief Magistrate</td>
</tr>
<tr>
<td>3. Ninyonzima Vincent</td>
<td>DPP/ Resident State Attorney</td>
</tr>
<tr>
<td>4. Rev. Enock Kasirabo</td>
<td>District Speaker</td>
</tr>
<tr>
<td>5. Mugabi Robert</td>
<td>District Internal Security Officer</td>
</tr>
<tr>
<td>6. Mpaimwe Obadiah</td>
<td>DPP/ State Prosecutor</td>
</tr>
<tr>
<td>7. Kurwa Charles</td>
<td>Rep. For Resident District Commissioner</td>
</tr>
<tr>
<td>8. Kato Joseph</td>
<td>Police/ District CID Officer</td>
</tr>
<tr>
<td>9. Odong Justine</td>
<td>DPP/ State Prosecutor</td>
</tr>
<tr>
<td>10. Byekwaso Law</td>
<td>Police/ DSBO</td>
</tr>
<tr>
<td>11. Mukuza</td>
<td>Police/ Community Liaison Officer</td>
</tr>
<tr>
<td>12. Abbassi Ssenyonjo</td>
<td>Prisons/ Officer in Charge</td>
</tr>
<tr>
<td>14. Ojikhan Francis</td>
<td>Judiciary/ Grade II</td>
</tr>
<tr>
<td>15. Wakula Yovan</td>
<td>Clerical Officer, CMC</td>
</tr>
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List of People Met in Mbarara 1st June 2004

<table>
<thead>
<tr>
<th>Name</th>
<th>Organisation/ Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Charles Ngahirano</td>
<td>DPP/ RSA</td>
</tr>
<tr>
<td>2. Ampaire Jennifer</td>
<td>State Attorney</td>
</tr>
<tr>
<td>3. Natamba Esau</td>
<td>State Prosecutor</td>
</tr>
<tr>
<td>4. Muzinga Bernard</td>
<td>State Prosecutor</td>
</tr>
<tr>
<td>5. Mukozi Patrick</td>
<td>State Prosecutor</td>
</tr>
<tr>
<td>6. OC Prisons and Team</td>
<td>Kyamugoroni Prison</td>
</tr>
<tr>
<td>7. OC Prisons and Team</td>
<td>Mbarara Central Prison</td>
</tr>
<tr>
<td>8. Kwanya</td>
<td>Police/ District Police Commander</td>
</tr>
<tr>
<td>9. Turyasingura Michael</td>
<td>Police/ Deputy OC CID</td>
</tr>
</tbody>
</table>
ANNEX 3
J/LOS MID TERM EVALUATION

J/LOS Criminal Justice Sub-Committee215
Thursday 27th May 2004
Fairway Hotel, Kampala

Agenda:

1.0 Introductions of participants

1.1 Aims / Objectives of the JLOS MTE-

- Assessment of Programme and financial management
- Assess the monitoring system- indicators
- Contribution and linkages to the PEAP
- Local Level effectiveness and support for JLOS
- Intersectoral linkages

2.0 Session I:

Write (in priority...) 3 Positive Aspects and 3 Negative Aspects of the JLOS

(Methodology- individual cards, clustering and plenary discussion)

3.0 Session II:

Group clustering

1) Financial Structure
2) Policy and Planning Units and the Secretariat
3) Monitoring and Evaluation

4.0 Session III:

Quotation from Crown Agents Study 1997 about sector coordination

215 The meeting was called for the criminal Justice sub committee, but also contributing were some members of the Commercial Justice Sub Committee e.g. Judicial Service Commission, Uganda Law Reform Commission.
### Session I: Assess the positive and negative aspects of JLOS

<table>
<thead>
<tr>
<th>Positive Aspects of the JLOS since inception</th>
<th>Plenary Discussion</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Harmonization - members and donors “one voice”</td>
<td>All members largely in agreement that there has been increased coordination and coherence among the institutions in the justice system as a result of the JLOS</td>
</tr>
<tr>
<td>• Generated real interest toward the sector/ institutions by both the Gov’t and development partners</td>
<td></td>
</tr>
<tr>
<td>• JLOS created an important team on justice issues</td>
<td></td>
</tr>
<tr>
<td>- Uniting</td>
<td></td>
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<tr>
<td>- Formation of sector understanding/ identity</td>
<td></td>
</tr>
<tr>
<td>- Sector wide + long term strategy</td>
<td></td>
</tr>
<tr>
<td>• Facilitative</td>
<td></td>
</tr>
<tr>
<td>• Speeding</td>
<td></td>
</tr>
<tr>
<td>• It has improved working relationship among members</td>
<td></td>
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<tr>
<td>• Improved coordination among members (6 cards)</td>
<td></td>
</tr>
<tr>
<td>• Effective communication among institutions</td>
<td></td>
</tr>
<tr>
<td>• Minimizes duplication</td>
<td></td>
</tr>
<tr>
<td>• Promotes knowledge about each other’s institutions</td>
<td></td>
</tr>
<tr>
<td>• Good at planning</td>
<td></td>
</tr>
<tr>
<td>• It is easy to identify the needs in different JLOS sectors</td>
<td></td>
</tr>
<tr>
<td>• It is a forum for sharing best practices and to compare where one institution stands in relation to others</td>
<td></td>
</tr>
<tr>
<td>• It has made it possible to pursue development of sector institutions in a coordinated, sustainable and more meaningful manner</td>
<td></td>
</tr>
<tr>
<td>• Planned and organized implementation of activities</td>
<td></td>
</tr>
<tr>
<td>• Team spirit - respect for others - collective goal achievement</td>
<td></td>
</tr>
<tr>
<td>• Joint effort towards resource mobilization</td>
<td></td>
</tr>
<tr>
<td>• Sustained funding for planned programmes</td>
<td></td>
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<tr>
<td>• Increased funds for good governance</td>
<td></td>
</tr>
<tr>
<td>• Better improved bargaining position of weaker institutions</td>
<td></td>
</tr>
<tr>
<td>• Bridge funding gaps within institutions</td>
<td></td>
</tr>
<tr>
<td>• Allow institutions to mutually discuss and agree on their problems, priorities etc</td>
<td></td>
</tr>
<tr>
<td>Positive Aspects of the JLOS since inception</td>
<td>Plenary Discussion</td>
</tr>
<tr>
<td>--------------------------------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>• Act as a lobbying medium with Government for the sector</td>
<td></td>
</tr>
<tr>
<td>• Reduced on case backlog</td>
<td></td>
</tr>
<tr>
<td>• Improvement on timely delivery of justice</td>
<td></td>
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<tr>
<td>• Great improvement in quality of justice</td>
<td></td>
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<tr>
<td>• Improved efficiency and effectiveness</td>
<td></td>
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<tr>
<td>• Improved on transport for all institutions</td>
<td></td>
</tr>
<tr>
<td>• Created more public awareness</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Negative Aspects</th>
<th>Plenary Discussion</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Too much expectation has been raised</td>
<td>Key issues on budgeting and smaller institutions</td>
</tr>
<tr>
<td>• Too much assumptions were taken into account- VS reality</td>
<td>Perception raised that smaller institutions don’t benefit as much as the larger institutions and that funds are allocated long before proposals are put before the Technical Committee</td>
</tr>
<tr>
<td>• Detailed procedures but slow implementation</td>
<td></td>
</tr>
<tr>
<td>• Mechanisms for sharing resources not well defined</td>
<td></td>
</tr>
<tr>
<td>• Transparency in resource sharing</td>
<td></td>
</tr>
<tr>
<td>• Bureaucratic to some extent</td>
<td></td>
</tr>
<tr>
<td>• Decentralized services are not easy to monitor on time</td>
<td></td>
</tr>
<tr>
<td>• It has created additional work for institutions in terms of the additional reporting and standards to conform to</td>
<td></td>
</tr>
<tr>
<td>• Location of the secretariat- needs to be independent</td>
<td></td>
</tr>
<tr>
<td>• Definition of uniform standards- quantitative focus</td>
<td></td>
</tr>
<tr>
<td>• Less flexibility- indicators, strategy, single activities</td>
<td></td>
</tr>
<tr>
<td>• It has robbed institutions of independence in budgeting, sourcing of funds and their utilization</td>
<td></td>
</tr>
<tr>
<td>• Difficulty in coordinating 11 institutions</td>
<td></td>
</tr>
<tr>
<td>• Clashing priorities</td>
<td></td>
</tr>
<tr>
<td>• Ignored needs if not sold properly</td>
<td></td>
</tr>
</tbody>
</table>

• Noted that each institution is invited to the Budget Working Group to present and discuss programmes and activities that it wishes to undertake. In the BWG, institutions are asked to draw work plans basing on available funds- each institution will receive funds according to agreed work plans and within the available resource envelope.

• Release of funds tagged to other factors like accountability- authenticated- deliveries- invoices, contracts committee approval, audits-,

• Institutions then implement and request for more funds

• Noted that on the contrary, JLOS has assisted smaller institutions to put their issues on the table. However,
<table>
<thead>
<tr>
<th>Negative Aspects</th>
<th>Plenary Discussion</th>
</tr>
</thead>
<tbody>
<tr>
<td>• No provision/ contingency for new entrants</td>
<td>some of these institutions don’t attend the BWG despite being invited</td>
</tr>
<tr>
<td>• Disadvantage to small institutions</td>
<td>• Some members joined half way when the SIP had already been established- may not appreciate issues- Agreed upon priorities / reform areas in the SIP- are criminal and commercial justice- in this regard, Teething problems with other administrative justice etc which may not be funded</td>
</tr>
<tr>
<td>• No clear system of integration</td>
<td>• Not possible to have equal allocation of resources. Process of budgeting and allocation of resources not only under JLOS- has to be under the MTEF which limits the resource availability</td>
</tr>
<tr>
<td>• Articulation of institutional problems</td>
<td><strong>What is the process by which institutions sit down together and synchronize work plans? Do they take into consideration implications of one institution’s activities on another</strong></td>
</tr>
<tr>
<td>• Too many institutions for limited resources</td>
<td>• These are discussed by TC which goes through all the work plans- each institution tries to defend its submission-ranked according to EE, A2J, QJ</td>
</tr>
<tr>
<td>• Not applicable to new institutions</td>
<td><strong>Does the coordination actually work in practice?</strong></td>
</tr>
<tr>
<td>• It has created competition for the little funds that are put in a small basket</td>
<td>• Coordination is there in practice- e.g. when prisons rehabilitated Mbarara Prison, decongestation of Kakiika, other institutions also benefited</td>
</tr>
<tr>
<td>• More funding is needed</td>
<td></td>
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<td>• Funding is still not enough to meet the requirements</td>
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<td>• Pressure on MoFPED for funds</td>
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<td>• MoFPED uses JLOS to avoid solving institutional budget problems</td>
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<td>• Management/ staffing of PPUs has not been fully addressed</td>
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<td>• Very few areas of institutional service delivery are addressed</td>
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<td>• Budget cuts instituted by MoFPED</td>
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<td>• It does not take consideration of interests of donors</td>
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<td>• The community is yet to feel the impact on poverty eradication</td>
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<td>• Sensitization is still lacking</td>
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<td>• There is still needed to take justice to rural areas</td>
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<td>• Grass root population is not well familiar with all JLOS institutions</td>
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Session III:

A. Group III- Feedback from PPUs/ Secretariat

Issues for discussion:

1. Current degree of development of institutional PPUs
   - TORs of PPUs
   - Capacity and needs
   - Staffing levels and skills profiles
   - Constraints

2. Current interaction with Secretariat
   - Support and supervision relationship
   - Role of the secretariat
   - Developing work plans
   - Monitoring and evaluation

3. Relationship between SIP and work plans
   - Resources- availability/ adequacy
   - Data collection, management
   - Independence

1. Capacity and Needs

Weaknesses

- Lack of proper structures
- Existing structures/ personnel are not in harmony
- MPS should address this
- Lack of coordination between PPUs and technical people in the ministry/ institution
- Staffing levels not adequate

Strengths

- TORs are well spelt out in all institutions
- PPUs to start meeting once in every two months- so as to exchange notes on operations, coordinate activities, exchange experiences

2. Current Interaction with Secretariat

- For some institutions interaction is on an ad hoc basis- no clear guideline, fixed guidelines or well coordinated manner/ streamlined
- Need to organize induction course for secretariat as to how civil service works- PPU first and foremost will respond to PS of institution and not to Secretariat
- Institutions plans and SIP to be incorporated- should be harmonized/ merged so as to avoid new activities being smuggled in. Reason given is that the JLOS doesn’t handle recurrent budgets of the institutions - at times annual work plans deviate from institutional SIP- who monitors this? Some institutions created their SIPS after the JLOS SIP had been launched- some mandates carried out by some institutions are not captured under the SIP as priorities i.e. At the Technical Committee only activities that are funded under JLOS - what of institutions that are in two sectors- e.g. local Gov’t and Gender- how to harmonize the plans and activities? Under CJRP- members
share and update each other on activities that are funded both within and outside J/LOS

- Need for appreciation of the role of PPUS as opposed to being an intruder in the system (threat to other people in the institution who were undertaking PPU activities- especially when it comes to sharing resources)
- Need for sensitization for members of staff as to the role of PPUs in relation to the PPU of the institution- should also sensitize management of institutions on role of PPUs- These don’t usually appreciate the sectoral approach and do things in the traditional way e.g. ambush budget with new programme not prioritized at the sectoral level- possibility for tension- is there a possibility of PPUS being open to pressure from management? Technical Com and secretariat has created a check and balance system- a number of issues have not been implemented for being inconsistent with the sector work plan e.g. issue of maximum security prison which was not taken onto board- hadn’t been identified as a priority under the SIP (note that this is a priority of the security council of Uganda and may still be funded from other sources- MoFPED this FY put in some resources for commencing- has been accepted by JLOS for it has come from above- work of Tech Com has been overwritten by higher sources). HOWEVER, Tech com may revise work plan in accordance with wishes of steering committee- dynamic and flexible approach. Some activities such as the Community service may be taken on board. Another example of activities not undertaken on board e.g. setting up MIA PPU- costs were not accepted. NB there are fewer requests that are bounced - these come midstream of the budget- it is a control tool- it is not looked at as a rigid committee

Examples of where TC took into consideration impact issues before taking a decision;
- Judiciary/ DPP in construction of courts- judiciary has to make sure DPP’s interests are taken into consideration- however Prison’s concerns are not taken on board usually
- ULRC- made proposal to introduce a consumer protection law- where cases would be handled by small claims court- commercial court came back and indicated it wasn’t ready to handle small claims and this idea was put aside for a while

Other issues on PPUs:

- There is need to adequately staff and equip PPUs- these are new units
- The PPU is seen as a facilitator of the institution in which they work- so it is in the interest of the institution to feed and facilitate these PPUs
- Role of secretariat in organizing meetings for PPUs and organizing
- Single most important function of the PPU- monitoring and Evaluation of programmes
- However, PPUS are not facilitated to monitor implementation of programmes on a a quarterly basis- but how to access these funds from the programmes - required to report at 2 levels- top the sector secretariat and to the institutions- but problem of who facilitates is not clear

Users and independent voices- how involved are these in the JLOS?

Is there a possibility of adding others at the table who are not directly benefiting from the JLOS so as to keep the focus on the impact of the poor
- On the Commercial Justice Report Programme Sub Committee- others involve include Uganda Law society, Investment Authority, private Sector at times attend the Sub Committee meeting
- Why hasn’t this happened on the criminal side? And yet they are envisaged as being part of the SIP. TC meetings are quite technical and the agenda is quite tough-does it make sense to involve other people there? What of at the sub committee level? Also, when implementing the work plan, various stakeholders are brought on board e.g. at ULR- task forces, stakeholders meetings etc so as to capture other voices. What of other institutions?- Community Service, DPP- regional workshops which combine CID, Judiciary, probation officers, CMI etc UPF- system in place for interaction with community at grass roots level- community policing
- Juvenile justice committee- also looks at community issues
- Prisons monthly Coordination meetings- where different stakeholders are involved-issues of torture, congestion of prisons raised here
- Voices of the poor report- informs decision making
- Bi- annual reviews of JLOS

**Inter institutional accountability? How accountable are institutions to each other?**
- Technical Committee considers such issues- e.g. looking at data on baseline survey
- Each institution is answerable to the TC- e.g. why are prisoners not fed or clothed, slow investigation? Follow up- each institution has to give feed back and report back to the TC within a reasonable time
- TC is more homogenous and friendly and are able to bring each other to account.
- Example of issues raised by donors when they go on upcountry visits to institutions- visitation team sent to find out what is happening
- Team also visited institutions to determine whether resources are going where they are meant to go- visited prisons in Mubende
- Does the committee expect to use reports of the UHRC on its agenda?- TC will look at this- same as Human Rights Watch report

**Who determines the agenda for the TC?**
- Secretariat puts across issues based on minutes of the last meeting
- TC takes these issues on and can amend them
- TC needs to reflect on its TORs- can have a bigger impact if they go into issues of human rights and evidence based activities

**Group II- Monitoring and Evaluation**

**Issues for discussion:**
- a) Evidence of Impact
- b) who should monitor on sectoral level
- c) how to ensure Accurate, timely and comprehensive data
- d) Partication in monitoring
- e) Monitoring at local level

**A) Evidence of Impact**

**Strengths**
- More public awareness of JLOS due to radio spots, news papers
- Facilitation of development of infrastructure- courts, DPP,
- Improved coordination, coordination among the stakeholders e.g. programme like Chain Linked, Community Service and Case backlog
- Facilitation of clearance of case backlog at the courts
- Recruitment of staff into the sector e.g. JSC, Prisons, MIA- Internal Affairs

Weaknesses
- Lack of facilitation to undertake monitoring
- Delays in establishment of PPU5s
- Lack of appropriate training for monitoring and evaluation

Opportunities
- Specialized training of staff in sector institutions
- Good government will and donor support for JLOS

Threats
- Sustainability of sector without donor support will be very hard
- Varying institutional interests vis a vis sector interests
- Growing number of institutions against limited resources from MoFPED

B. Who should monitor on the sector level

Internal monitoring- PPU5s and Secretariat

External monitoring-
- National Planning Authority
- Donors
- Civil Society
- Private Sector

C. How to ensure accurate, timely, comprehensive data
- By facilitating the sector to collect data
- Central data base should be developed for the JLOS

D. Who should participate in monitoring JLOS?
- See above under external monitoring

E. At the local level?
- District Planning Units
- Community Based Organizations
- NGOS
- Local leaders
- General Public

Is there a harmonized complaints procedure for JLOS? Not yet developed, however institutions have developed complaints desks but there is not scope for sharing

What of the Chain Linked committees on inspection- at CMC level and at the sectoral Technical Inspection level- can play a big role in monitoring- have now been moving in the North- these reports are brought before the technical committee of the JLOS for discussion

Group I- Financial Structure
Issues to be discussed

- Process flows e.g. time lag between decision making and implementation
- Rationalizing of budgets- including delays in releases and budget cuts
- Sustainability
- Decision making- priorities and choices on how to apportion funds
- Programme implementation-
- Reporting mechanisms

A. Process Flows

Strengths

- Easy to requisition for money for it is already budgeted for
- Existence of a costed work plan
- The funds are rolled over
- Priorities are adhered to

Weaknesses

- Delay in processing requests for funds due to the combined roles by the fund managers- Accounting officer for SWAP also same for MOJCA
- Release of funds does not allow the time frame in the work plans e.g. prison farms have lost out for delays in releases
- Delay in accounting and yet have to account month per month for recurrent budget

Opportunities

- The secretariat to be independent of the MOJCA with own Accounting officer
- Donor pressure
- Value for Money

Threats

- Macro economic imbalance/ policies by MoFPED
- Arbitrary Budget Cuts by MoFPED- without consultation of institutions

B. Rationalizing of Budgets

Strengths

- Prioritisation of activities
- Avoids Duplication

Weaknesses

- Rigidity in the budget- can't move funds from one vote to another- funds lying idle on account- un planned activities- also note tender procedures and bureaucracy of government procedures e.g. in purchasing DNA machine, police fire engines

Opportunity

- Benefit of funding from other institutions- institutions that would normally not get funding from anywhere else now get from JLOS

Threats

- Fear of bigger institutions taking all the resources
- Clash between institutional and sector priorities
C. Sustainability

Strengths
- Donor goodwill
- Proper utilization of funds
- Sustained infrastructure- of implementing institutions
- Viability of the programme
- Strong advocacy
- Government policies

Weaknesses
- Reliance on good will/ dependence on donors
- Perceived absence of the link between JLOS activities and poverty alleviation

Opportunities
- Donor conviction in JLOS’ contribution to poverty eradication
- Government structures

Threats
- Change in government Policy
- Donor fatigue

Crucial issue of JLOS having an impact on PEAP, improved HRs/

a) How can JLOS protect itself from reduced funding? By showing clear reliable evidence of what it is doing- however, there are no systems, structures etc to show this- need for sectoral monitoring and Evaluation

b) Question of clash of priorities between institutions and the sector- how does the sector set its priorities? Is this based on evidence of how and what impact these programmes will have on poverty alleviation and improving HRs? - is there an objective set of criteria to choose priorities between a new police headquarters and is the process making sure the debate is an informed one.- perception that bigger pictures/ issues for development can be pushed to the sector. Learning phase for the JLOS- if institution can support its deviation to show that it is making a change, it should be allowed to present its case. There should be flexibility in decision making and change should be taken into account. In the beginning the assumptions that were taken were that institutions would be at the same level, however this wasn’t the case, also all institutions still talk at institutional level (need for change management) hence need for an independent secretariat that will look at the main issues and consolidate them independent of the institutions- have not attachment to the institutions. Are institutions ready for this as a sector? E.g. agreeing that reducing the remand population is the single most important activity and that all funds should be diverted to that for the next year- will institutions put aside agenda and agree? SILENCE

For example, fire trucks identified as key priority- all other vehicles not purchased, instead bought trucks. Institutions should look at various options- coordinated approach- all activities somehow interlinked, e.g. instead of purchasing more buses to take prisoners to court, can instead take the magistrates to the prisons to release the prisoners

Is the remand population the single most important matter?
These are policy issues that should be handled at a steering level??
For example, where proactive approach has been taken- Law on defilement-proposal on law which has been approved by Cabinet and has now been taken to Parliament- it is a bill- jurisdiction of magistrates to be reduced

Other back yard activities taking place
  • In 1998- remand for 5- 7 years
  • Today- remand for 2 years on average

Because of the size of institutions- can't pin down on one priority

Is this framework going to work for all priorities that are identified at the sector- have one mechanism that will deal with all these issues that are cross cutting- but should also be able to look at institutional priorities

*When you attend the Technical Committee meetings, what is the mechanism to report back to the institution on priorities and how do you influence policy decisions*

All institutions have top management committees at which they report- there must be a link between the different levels. Can the PPU's constitute this link?

  • In MOJCA- management committee that holds meetings and Top Management Committee
  • In Prisons- accounting officer on Tech com and on top management of Prisons- issues raised and discussed
## Attendance List for Workshop Participants

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<thead>
<tr>
<th>Name</th>
<th>Institution/ Designation</th>
<th>Role on Technical Committee/ working Group Membership</th>
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<tbody>
<tr>
<td>1. Monica Kalembe</td>
<td>DPP- Under Secretary</td>
<td>Member, also on BWG</td>
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<tr>
<td>2. Simone Morschul</td>
<td>MGLSD- Technical Advisor</td>
<td>Member-TA</td>
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<tr>
<td>3. Rufinah A. Ochago</td>
<td>MGLSD- PPWO</td>
<td>Member</td>
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<tr>
<td>4. Grace Katushabe</td>
<td>MGLSD- PSDO/R</td>
<td>Member</td>
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<tr>
<td>5. Rebecca Nyonyi</td>
<td>Community Service Programme- Coordinator</td>
<td>Member</td>
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<td>6. Kyewalyanga Edward</td>
<td>Community Service Programme- Admin. Secretary</td>
<td>Member</td>
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<tr>
<td>7. Halango Timothy</td>
<td>Uganda Police Force-Economist/ PPU</td>
<td>Member- BWG</td>
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<tr>
<td>8. Echeret James</td>
<td>Judiciary- Senior Economist</td>
<td>Member- BWG</td>
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<td>9. Christine Kassajja</td>
<td>MoJCA- PAS</td>
<td>Member</td>
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<td>10. Obbo Gideon</td>
<td>Police- Under Secretary</td>
<td>Chair Person, and on BWG</td>
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<td>11. Muhumuza Eli</td>
<td>Prisons- PPU</td>
<td>Member- BWG</td>
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<td>12. Lugudo ABM</td>
<td>Government Laboratories- Analytical Assistant Commissioner</td>
<td>Member</td>
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<td>13. Irumba Henry</td>
<td>MoJCA- Policy Analyst PPU</td>
<td>Member</td>
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<td>14. Wamwa Jackson</td>
<td>MoJCA- Systems Analyst</td>
<td>Member</td>
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<td>15. Luswata Francis</td>
<td>MoJCA- Systems Analyst</td>
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<td>16. Ochen Tom</td>
<td>Prisons- PPU</td>
<td>Member- BWG</td>
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<td>17. Kasolo Yahaya</td>
<td>Judicial Service Commission</td>
<td>Member</td>
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<td>18. Rachel Odoi Musoke</td>
<td>ULRC</td>
<td>Member</td>
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<td>19. Wairagala Sam</td>
<td>ULRC</td>
<td>Member</td>
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<td>20. Onduri M. Fred</td>
<td>Ministry of Internal Affairs- PPA</td>
<td>Member</td>
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<td>21. Busagwa Prossy</td>
<td>MoJCA-Economist, PPU</td>
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<td>22. Jean Kyazze</td>
<td>ULRC</td>
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<td>23. Jovah Kamateeka</td>
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<td>24. Bisobe</td>
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<td>25. Stella Mukasa</td>
<td>JLOS Mid Term Evaluation Team</td>
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<td>26. Allen S. Asimwe</td>
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<td>27. Karen Kenny</td>
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<td>Team Leader, J/LOS SIP evaluation</td>
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ANNEX 4
Annex 4: Recommend: Apply the lessons from *The Chain Linked*
In a strategy for Prevention of Torture

This annex outlines factors for success which contributed to the positive impact of the *Chain Linked* pilot project in Masaka; and recommends that J/LOS adapt those insights and applies them to a current challenge: *preventing and combating torture.*

A. **Factors for success: compare *The Chain Linked* pilot with J/LOS**

Since 2001, building the process of co-ordination, common planning and budgeting has been time-consuming for all management structures of J/LOS. There is a widespread feeling that the process has been under-resourced and over-burdened with detail, paper-work and the essential budget planning and reporting.

The substantive focus of J/LOS has been mainly on the national roll-out of *The Chain Linked* and the Criminal Case Backlog Project on the one hand, and the energizing of the Commercial Court on the other. After an early period of clear progress in the co-ordination process, the pace of change has slowed, and a sense of some frustration has followed. Beyond encouraging the co-ordination of those institutions - J/LOS institutions **need to highlight evidence of the added value of a sectoral approach.**

The Masaka pilot of *The Chain Linked* initiative established the central concept underpinning J/LOS so it is timely to reflect on the factors which led to the pilot’s success - and which in turn encouraged the institutions to move to the more ambitious J/LOS process. Factors central to the success of the Masaka pilot of The Chain Linked included:

- Teamwork, motivation and solidarity
- Personal commitment & accountability
- Voluntarism and pride
- Local Level
- Mentoring
- Monitoring for evidence-based decisions
- Creativity for low cost priorities

While there are clear differences between the scale and complexity of J/LOS and the well-defined pilot project in Masaka, comparing the two experiences provides useful insights.

**Teamwork, motivation and solidarity:** The far-reaching change in attitude being sought from J/LOS officials should not be under-estimated. Key to motivation is public service pay reform to provide a minimum level of dignity, particularly needed by police and prison officials and their families. Motivation is also about other factors such as feeling informed, involved and sharing in a common goal. Feeling that they are listened to when they provide feedback was emphasised to the MTE, underlining the importance of strong vertical communication in J/LOS. Furthermore, some officials directly involved (such as Technical Committee level) are not always clear on the J/LOS concept and see it as a budgeting process while others, such as the Land Registry explicitly share this view. Extra emphasis is needed on skills to manage this change process, and to inform and involve officials at all levels of the institutions.
J/LOS needs to help the institutions *build an internal constituency for change* in their institutions.

► In the context of the financial challenge posed by budget cuts the pressure for institutions to act individually for self-preservation is increased. Instead, the institutions need to consciously develop *mutual solidarity* so that pressure on any one of them is addressed as a challenge to them all. This applies to budget cuts as well as to challenges to the independence of the judiciary, or challenges to the integrity of the police, if, for example, tortured detainees are presented to them by other state agents. An enhanced sense of ‘all for one and one for all,’ is reflected in these MTE recommendations:

- Codes of conduct for the institutions inter-linked with effective disciplinary procedures designed and streamlined in collaboration with their J/LOS peers.
- Synchronized content of training, including details on how officials are to work together with J/LOS colleagues.
- Peer review providing added quality assurance to J/LOS: e.g. improving in advance a draft of the Court User Guide produced by the Inspector of Courts to ensure a simple, clear text relevant to its target readers
- Peer review to ensure effective allocation of funds to cross-cutting J/LOS issues (rather than recurrent day-to-day items) e.g. the Ministry of Internal Affairs was supplied with furniture and equipment for the PPU. When this was used for other things, a second set of equipment was provided from J/LOS.
- Pooled allocation of resources at District level e.g. introduction of shared ‘J/LOS’ painted cars which can be utilised for inspections, and emergency actions- e.g. visiting a scene of crime. Illustration: in Masaka pilot, a Chain Linked vehicle was under the control of the Chief Magistrate but was utilised by all agencies.

J/LOS is fundamentally about people, and a *social element* is invaluable for ‘getting to know each other’. A J/LOS soccer league should be considered among the institutions from local to national level etc.; or better, inter-institutional J/LOS teams from one District pitted against another District. Similarly, friendly competition through a ‘League Table’ of Districts progress towards SIP objectives e.g. clearing case backlog to motivate competition among ‘J/LOS teams’.

Additional ideas applied in other jurisdictions include *incentives* like competitions for innovative approaches with international models provided e.g. regarding community policing; a J/LOS award scheme, perhaps with local communities nominating officials based on their outstanding service to J/LOS objectives. Other incentives which can be structured include overseas training, secondment and career enhancement being linked to initiative shown. Similarly, morale can be boosted by media involvement in highlighting innovations e.g. soaps in other countries used to highlight awareness of social/HR issues; and through a staff and community newsletter to publicise efforts at local level.

⚠️ **Personal commitment and accountability:** Motivation of managers at middle-ranking level throughout J/LOS institutions is central.
Incentives should be identified to reward effort towards SIP objectives, combined with personal accountability by management for pushing through (especially low-cost) reform.

One of the ways in which accountability can be promoted is by strengthening inclusion, participation and transparency in J/LOS at all levels. For example, the process of setting priorities in J/LOS has had limited input from independent voices at national or local levels. The input of CSOs in the management structures is viewed exclusively in terms of whether they are being funded, not in terms of whether they have policy insights to share e.g. as legal aid providers (see chapter 6 of the report). Local communities have no channels for feedback on their view of the performance of individual officials, on matters of promotion or discipline.

MTE recommendations explore a number of ways in which new voices might be more effectively heard.

‘Keep it real’ local level: J/LOS officials find themselves focused on a rather abstract, national level. They express the need for less talk and more hands-on action so they feel more involved with real people behind the statistics.

Local level roll-out of J/LOS needs to be accompanied by strong accompaniment from the Secretariat and Technical Committee together, using multi-institution field trips, including unannounced ones. Teams should include officials with seniority to take immediate remedial action on any problems found, and examples of positive practice should be gathered and rewarded. Field visits could then report back to the whole Technical Committee. Individual report forms could include anonymous comments with facilitated discussion in a short (e.g. half-day) workshop as part of peer review. Local level accompaniment will in part be enhanced by identification of pilots at local level such as those proposed by the new Access to Justice Programme funded by Danida.

Mentoring: The Secretariat and PPUs have been recognized as under-staffed. They have not been in a position to provide the kind of in-depth substantive accompaniment which this process of change needs.

An enhanced Secretariat is needed as the engine to closely mentor and monitor the process in a labour-intensive way. The Secretariat needs to be resourced, positioned and expected to take initiative and encourage others to do likewise: to propose topics, to co-ordinate with other sectors e.g. on the National Curriculum and National Programme on Civic education to find economies of scale through working with others etc (chapter 4). The Policy and Planning Units of the institutions need to be strengthened so that an enhanced Secretariat can concentrate on sector-wide issues, guiding and mentoring them the PPUs, but not carrying out their role.

Monitoring for evidence-based decisions: Evidence of J/LOS progress is vital - not only for policy decisions or for justifying proposed budgets - but to unite and motivate J/LOS officials at all levels.

J/LOS-wide learning from experience: Examples of positive practice found through previous pilots like The Chain Linked, new field visits, etc need to be systematically harvested for replication elsewhere. See Chapter 7.2 and Chapter 9 on M&E.
**Creativity for low cost priorities:** The budgeting process of J/LOS has led some institutions to feel that J/LOS is solely a vehicle for negotiating their institution’s portion of the budget. With over-stretched management capacity in J/LOS (especially PPU’s and Secretariat) the budget process and reporting have dominated deliberations. Creative ideas for low-cost change tend to be squeezed from committee agendas (see Chapter 7A). The Technical Committee has sought to address this somewhat by creating a sub-committee on Budget matters. This has, for example, assisted preparations of the Budget Framework Paper and annual work plans and the expected new Financial Management Specialist in the Secretariat should be able to offer technical support to the Working Group. However, discussion of substantive progress at Technical Committee level, pooling good practice and peer review of performance needs to be strengthened.

To many, the J/LOS committees have become a forum where members come to look for money to identify how to increase their institutional resource envelopes. This appears to apply now to the national roll-out of *The Chain Linked* as well as criminal Case Backlog and Community Service committees. These committees do not meet unless they are facilitated, and these issues are felt to over-shadow substantive issues. This contrasts with *The Chain Linked* pilot where allowances were not paid to members - they were understood to be doing their ordinary work.\(^{216}\) It is also noted that with the J/LOS, regular attendance at meetings increased once allowances were introduced. Issues of motivation, voluntarism and personal commitment are linked to public service pay reform and the way institutions try to enhance basic pay with allowances, standard night duty etc. The Ministry of Public Service is undertaking a study of the issue of reconciliation/ consolidation of actual payments so as to propose a living wage to GoU, see inter-sectoral issues in Chapter 4.

While there is a deep need to address years of under-funding many within and outside J/LOS, question the construction priorities chosen by several institutions. A new police headquarters or a maximum security prison illustrate the point. It might be questioned whether and how in the short or medium term these investments merit prioritization in terms of achieving SIP policy objectives (see discussion on efficiency and effectiveness in Chapter 3).

However, the more fundamental issue is whether priority-setting and planning has functioned at the level of J/LOS, as opposed to the level of the individual institutions. From feedback received in this evaluation, it is clear that J/LOS peer review needs to be more systematically applied to ensure that sectoral priorities are chosen to meet SIP policy objectives, rather than to meet individual institutional priorities. The focus has therefore tended to be on high cost infrastructure and logistical support to institutional limitations rather than low cost reform initiatives related to the administration of justice process.

Thus, while a key J/LOS achievement to date has been in enhancing the ‘three Cs’, the process has yet to move decisively from individual institutions to J/LOS wide priority-setting for achieving SIP policy objectives together. Similarly, in the first phase of the implementation of the SIP there has been a predominant focus on a selected number of the ‘supply-side’ justice institutions. It would be expected that in the second phase, with strengthened interaction in the process of priority-setting, that the focus would turn significantly towards low cost action and towards strengthening...
public awareness (‘demand’) for achieving the SIP policy objectives at local and national level e.g. synchronize with National Programme on Civic Education.

- Strengthened accountability for J/LOS priority-setting would enhance its pro-poor focus, see Chapter 6 regarding contribution to PEAP.

- Recommendations in Chapter 7B address strengthening both J/LOS management structures and processes in the direction of lessons such as these identified in the Masaka pilot, the early origins of J/LOS.

Overall, the challenge for J/LOS partners is to clarify that the purpose of the enhanced cooperation, co-ordination and communication achieved is not just to divide funding - but to find common solutions to common challenges.

**B. Recommended: Apply these lessons for a Chain Linked Prevention of Torture**

Finding common solutions to common challenges: *The Chain Linked* insisted on reform of the law on defilement as one of the ways to achieve real impact on improved performance delivery by the sector. The Masaka Case Management Committee had done what they could, for little or no cost, to increase throughput etc but they realized that they were not fundamentally addressing the problem. There was a limit to the impact they could achieve without reform of the law on defilement.

Similarly, in 1997, a Crown Agents report identified some thirty actions which were urgently needed. These were not considered as project possibilities - because they were low-cost steps relying more on efficient management.  

Yet, there has been little progress regarding these low-cost actions as they have not been prioritized. These items are no less urgent, seven years on.

The watershed for J/LOS partners is to clarify that the purpose of the enhanced cooperation co-ordination and communication is not just to divide funding among them - but to find solutions to challenges with or without funding. An urgent example of such a challenge is the May 2004 assessment of Uganda’s justice system by the treaty-established international Human Rights Committee. It provides important feedback on J/LOS progress, identifying areas of progress (such as the Supreme Court finding corporal punishment unconstitutional) but finds progress in addressing inhuman prison conditions inadequate. That feedback should be central to J/LOS priority-setting and planning.

The prevention of torture is arguably the **most immediate of the challenges** facing J/LOS in achieving the SIP policy objectives. Why?

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217 section 7, page 57-60
a) J/LOS institutions have ‘front line’ responsibility to protect Ugandans from arbitrary arrest, disappearance and torture - whether by VCCU within J/LOS or CMI or other state agents.

b) This is not an issue of resources alone.

c) The existence of these credible allegations, including so-called ‘safe houses’ is openly acknowledged not only by the international Human Rights Committee in May 2004, the reports of the UHRC over the years - but by GoU in its own poverty reduction documents. Yet, these crimes by state agents have been carried out with complete impunity from J/LOS institutions over the last years, without effective investigation, prosecution and punishment of perpetrators nor enforcement of awards of compensation to victims from UHRC as required under international, and national, law. Action is needed to demonstrate that J/LOS institutions, and Uganda, are not tolerating these acts, and to regain public confidence.

d) The appearance of acquiescence by J/LOS institutions in these crimes is pivotal to rule of law and public confidence in the willingness and ability of the institutions to protect them.

e) The prohibition and prevention of these acts is an absolute obligation for Uganda under the treaties it is party to. There are no circumstances, including insecurity, which justify its use.

f) Torture is an international crime, including for those who are complicit in it. It is within the jurisdiction of the International Criminal Court, as well as any national court in the world which chooses to take jurisdiction when an alleged Ugandan torturer arrives on their territory. This was the basis for the recent convictions of Democratic Republic of the Congo (DRC) army officers in Danish and Dutch courts.

g) The J/LOS commercial justice reform was designed primarily to reassure international investors. Based on political risk analysis the widespread pattern of torture will reduce international investor confidence in Uganda.

h) The widespread pattern of torture found by the Human Rights Committee will make it more difficult for donors to defend direct budget support.

In 1999, the Chain was ‘linked’ to address the backlog of criminal cases in Masaka. Now the challenge for J/LOS is to Link the Chain to prevent torture.

Since 2001, some of the J/LOS actors have met with other concerned agencies. This first took the form of an annual conference of top management of DPP and CID. Later, the Chieftaincy of Military Intelligence (CMI) was invited to participate in what is

218 Concluding observations of the Human Rights Committee: Uganda. 04/05/2004, CCPR/CO/80/UGA. 4 May 2004. The Committee “remains concerned that State agents continue arbitrarily to deprive persons of their liberty, including in unacknowledged places of detention, in particular in northern Uganda. It is also concerned about the widespread practice of torture and ill-treatment of persons detained by the military as well as by other law enforcement officials (arts. 7 and 9)” para 17, 18 and 21. The Uganda Poverty Status Report, 2003 by the Ministry of Finance, Planning and Economic Development (Achievements and Pointers for the PEAP revision) includes as a challenge “Reducing the emerging and worrying pattern in which some government officials act with impunity knowing that they will not be held personally liable for their acts or omissions that violate human rights” p.57; See also the draft revised Poverty Eradication Action Plan, draft for Stakeholders Workshop, Chapters 1-7, Ministry of Finance, Planning and Economic Development, 20 March 2004 p.134.

219 Especially International Covenant on Civil and Political Rights (see Human Rights Committee ibid.) and the Convention against Torture.
now known as a workshop and held twice a year. VCCU is recent addition. The purpose, expectations of participants, or impact, of these meetings is unclear but the impunity continues.220 At a meeting on 9 July 2004 between UHRC, DPP and head of Security agencies, the main issues discussed were: torture by Security Organizations, the use of Safe Houses by CMI and Violent Crime Crack Unit (VCCU) and corruption in the Court Martial. A potentially important co-ordination initiative was announced. Similarly, recent steps towards effective independent monitoring of all of Uganda’s places of detention have been taken.

► JLOS should design a strategy to combat torture on several fronts in close co-operation with UHRC and the international mechanisms which Uganda is party to. The report on implementing the strategy should form part of Uganda’s report back to the international Human Rights Committee on these urgent items for May 2005.

► A multi-pronged J/LOS strategy to combat torture on several fronts should include the following.221


<table>
<thead>
<tr>
<th>Prevent</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Police and prisons systematically apply medical checks on receipt of a suspect or prisoner from another state agency (Form 3). Start in high risk places e.g. Kigo prison and at-risk detainees such as those accused of treason.</td>
</tr>
<tr>
<td>• The Law Reform Commission has recommended independent persons should be present during the taking of confessions.222</td>
</tr>
<tr>
<td>• Habeas corpus: The first hours after disappearance are crucial in prevention of torture. Prioritise legal aid for habeas corpus in alleged disappearance cases, with 24 hour phone line e.g. for relatives. Arrange system of on-call judges for night settings if needed.</td>
</tr>
<tr>
<td>• UHRC and multi-disciplinary teams from J/LOS institutions co-ordinate to ensure systematic, unannounced visits to any alleged place of detention, with systematic procedures to minimize risk of reprisal against detainees etc.</td>
</tr>
</tbody>
</table>

Prosecute and deter

220 For example, the following are typical of plea published during the evaluation: ‘Paul Lubowa and Jane Lubowa of Bwaise are under arrest. Their son Kevi Lubowa has since been constantly harassed. Can those concerned produce the parents in court in case this can give Kevi some peace.’ In another example “Allow me to express my anger at those who should be protecting citizens, writes Mafabi Peter a concerned resident of Mbale. ‘Christian Nalunkuma of Naboko Mbale was arrested some time back. Her crime seems to have been campaigning for exiled Col Kizza Besiye who contested the 2001 elections. Could those concerned please have her produced in court.” The Monitor, 29 May, 2004 p. 7.

221 Volume Two of this report is a resource for identifying practical steps which have proven effective elsewhere and which now form part of the international minimum standards for the prevention of forced disappearances, torture etc.

222 The Law Reform Commission’s important report Voices of the People on Trial Procedures, Sentencing and Decriminalisation of Petty Offences, A Draft Field Study report, p.36. The following may be understood as independent witnesses: persons in authority like the clergy; probation officers/Counsel lawyers; somebody of the accused’s choosing; retired civil servants; persons from rights based NGOs; LC Chairman I and III; Sub-county chief; opinion leaders; Elders. Independent witnesses should be agreeable to both parties.
• Ensure investigation of allegations, prosecution and punishment as well as enforcement of compensation awards, including by UHRC, beginning with cases of recommended prosecution by UHRC.
• Ensure risk of reprisals against victims are minimized, witness protection etc.
• Sensitise decision-makers regarding torture as an international crime. Request embassies to apply this concern when considering Ugandan’s visa applications.
• Draft and lobby for adoption of legislation to fully implement Convention against Torture (Law Reform Commission).

<table>
<thead>
<tr>
<th>Track patterns to identify complicity and to measure progress</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Identify scale and patterns of torture through 2004 second Criminal Justice Baseline Survey, working group with CSOs and UHRC on data. Disaggregate data regarding alleged victims by all vulnerable groups to include perceived political opponents to track confidence in reporting alleged torture to J/LOS institutions. Track number of successful prosecutions disaggregated by seniority of perpetrator convicted, category of victim targeted, success in enforcement of award of compensation, etc</td>
</tr>
</tbody>
</table>

⚠ Preventing torture is primarily a political decision. A key indicator of that political will is prosecutions starting with those recommended by UHRC and the other steps above. During the drafting of this report, some positive signs and initiative have been announced, steps to be welcomed. To apply the lessons of the Chain Linked pilot, a holistic strategy is needed and to demonstrate commitment to the SIP policy objectives, J/LOS should report back frankly on progress and constraints to the international Human Rights Committee in May 2005.
ANNEX 5
### Key structures parallel to J/LOS management

<table>
<thead>
<tr>
<th>The Structure</th>
<th>Level and Mandate</th>
<th>Who is involved</th>
<th>Communication and Linkages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chain-Linked Initiative</td>
<td>At national level, there is an Advisory Board, chaired by the Principal Judge.</td>
<td>The Advisory Board is composed of the heads of the criminal justice agencies at national level, including Uganda Law Society as representative of CSOs. Resident Judges from magisterial areas with High Court Circuits represent the up country magisterial areas.</td>
<td>The Advisory Board meets bi-monthly and this has largely been the case. Majority of members of the board sit on the JLOS Steering Committee.</td>
</tr>
<tr>
<td></td>
<td>Its role is to advise on policy issues, represent the interests of the criminal justice agencies as the need arises in the course of implementing The Chain Linked, and to oversee implementation.</td>
<td>Below the National Advisory Board is the Chain Linked technical Committee composed of senior technical staff representing the criminal justice agencies. It is responsible for the planning, expansion, and monitoring the activities of The Chain Linked nationwide.</td>
<td>The technical committee has mandated a visitation sub-committee with the responsibility for monitoring Chain Linked activities nation wide. Majority of members of the chain linked technical committee sit on the JLOS technical committee.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>At district level, are the Case Management Committees composed of representatives of the criminal justice agencies at this level and chaired by Chief Magistrates. The common practice is to have representatives of NGOs, district authorities and district commissioners as members.</td>
<td>Case Management Committees at district level are expected to meet more often (at least monthly) but this varies in each magisterial area.</td>
</tr>
<tr>
<td>Case Backlog Project</td>
<td>At national level, there is a Case Backlog Committee with a mandate to bring relevant agencies together to exchange information and identify the resources required to reduce the backlog of criminal cases.</td>
<td>The Case Backlog Committee at National level has a membership that includes representatives from Police, DPP, Ministry of Justice, Prisons and Judiciary.</td>
<td>The returns from the various institutions involved are given routinely as part of JLOS progress reports. However, an indication of how many more cases have been handled as a result of the project facilitation is given in explanatory notes.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>At district level the project conducts district liaison meetings chaired by the Principal Judge with representatives from DPP, Police and Prisons.</td>
<td></td>
</tr>
<tr>
<td>National Community Service</td>
<td>There is a National Community Service Committee established under the Community service Act 2000.</td>
<td>Members of the National Community Service Committee who are Iso members of JLOS include Ministry of Internal Affairs, Prisons.</td>
<td>Community Service reports separately at JLOS reviews. There is a need to develop co-ordination and linkages between</td>
</tr>
</tbody>
</table>

*ANNEX 5 - Parallel Structures*
<table>
<thead>
<tr>
<th>Programme</th>
<th>Ministry of Gender, Labour and Social Development, Judiciary, among others.</th>
<th>Community Service and JLOS such that statistics from CS are rationalized within JLOS for their actual implications on backlog.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Juvenile Justice Reform</td>
<td>Members presently include representatives from DPP, Police, Ministry of Gender, Labour and Social Development, Judiciary, and Prisons, yet these are also JLOS members.</td>
<td>Still being developed.</td>
</tr>
<tr>
<td>Legal Aid Basket Fund</td>
<td>Ministry of Justice, Law Council, Uganda Law Society, Donors, representatives from CSOs including those involved in legal aid service provision.</td>
<td>Still being developed</td>
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</tr>
</tbody>
</table>

J/LOS MTE Final Dec04
Key Issues to note

1. Overlaps in membership of the parallel structures and the JLOS structures

2. Some of the parallel structures access or in some cases are intended to JLOS funds, yet

3. No clear mechanisms for systematically feeding reports and policy issues into J/LOS. *The Chain Linked* is seen as the face of the sector at local level. Access to information from chain linked is essential for monitoring both performance indicators as well as overall impact of JLOS approach on access to justice. Information needed for planning, priority setting and strategy development. Experiences from various CMCs etc should provide useful lessons on innovative and replicable approaches to improve access to justice.

Information from criminal Case Backlog project has a direct bearing on key challenges to the sector e.g reduction of backlog, remand periods as well as remand population. Activities of Committee on Prerogative of Mercy under Case Backlog not adequately reflected in J/LOS reporting. Information on the state brief scheme is under Case Backlog but clearly not systematically retrieved and utilized by J/LOS management structures. A rapid assessment survey under Case Backlog recommended establishment of a policy unit located at MoJCA that was envisaged to cover the whole sector.223 The needs of Case Backlog project should contribute to formulation of the permanent J/LOS-wide PPU.

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223 Case Backlog Project and State Brief Scheme: Summary three year workplan, July 2000.  
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ANNEX 6
DISCUSSION DRAFT

J/LOS/CIVIL SOCIETY PARTNERSHIP
PRINCIPLES

This discussion draft should be read together with the integrated recommendations in Chapters 7 and 9 of Volume I of the MTE report.
1. BACKGROUND

The Justice, Law and Order Sector (usually referred to as J/LOS) aims to be a holistic strategic framework for contributing to eradicating poverty through justice reform.224

Based on the Strategic Investment Plan 2001, the vision of J/LOS encompasses both the relevant GoU institutions, the users of the J/LOS services and civil society advocating reform. The eight SIP policy objectives are:

The J/LOS SIP (2001 to 2005) identifies these areas of intervention:

The development of these partnership principles between civil society and GoU derives its basis and emphasis from the strategies and principles that have been reaffirmed in the J/LOS SIP. The J/LOS SIP outlines the basis of a J/LOS-CSO Partnership Principles. It states that:

“......civil society organizations particularly those that seek to increase access to justice for vulnerable groups and the protection of human rights and freedoms are viewed as part of the sector reform process. To this end, partnerships will be sought with civil society organizations that address access to justice for the poor, legal education, gender equality, strengthening of the commercial enabling environment and support to the legal profession.”

Civil Society Organizations and the J/LOS: Civil Society here includes NGOs, CBOs, Faith Based Institutions, media organizations, Unions, private sector, National and District Women and Youth Councils, professional bodies and associations that are involved in, or concerned by the promotion of effective and sustainable delivery of justice. Since the mid-1980s, there has been phenomenal growth in the number of NGOs, CBOs and other categories of Civil Society Organizations. Current estimates put their number above 3000 with considerable diversity in terms of their focus and are of operation. This diversity is reflected in their scale, objectives, capabilities and activities. Within this diversity, some CSOs are moving more into service delivery and/or into policy engagement. J/LOS values the work of CSOs in helping to articulate needs, priorities and feedback amongst marginalized sections of society, their work in remote locations and communities, and in principle their role in enhancing effective delivery of services. Civil Society is already a key player in the design and implementation of programmes financed under the Poverty Action Fund.

Rationale for formalizing J/LOS-CSO Partnership Principles: Notwithstanding their flexible structure and autonomous nature, there remains a need for effective mechanisms to raise civil society

224 This discussion draft draws with appreciation on the model provided by the PMA/Civil Society Partnership Principles of June 2003. This discussion draft is adapted to the needs of J/LOS in a number of respects. For more information regarding the Plan for the Modernisation of Agriculture, see The PMA Secretariat, 3rd Floor Mukwasi House, Plot 39A Lumumba Avenue, P.O. Box 5675, Kampala. Tel: 041-252263/4, Fax: 041-252262, e-mail: J/LOS@utlonline.co.ug
awareness and delivery of services together with challenges for effectively operationalising CSO engagement in the J/LOS.

By its very nature, the sectoral approach of the J/LOS advocates for and requires a good relationship between the various J/LOS players from private sector, CSOs, public sector and research institutions. The successful transformation of the justice sector demands that there is coordination amongst the various players to maximize resources and support. Therefore given this approach to the J/LOS, and the multiplicity of actors involved, a partnership principle is imperative to clearly define role and responsibilities. In so doing the various breadth of knowledge, skills resources and power amongst the players can effectively be utilized. This principle is an effort to consolidate and improve partnerships for CSO and GoU and development partners to work together to ensure the achievement of the J/LOS SIP policy objectives.

2. PARTNERSHIP PRINCIPLES

2.1 Partnership Vision
Government of Uganda and Civil Society working together to ensure poverty eradication, social transformation and achievement of J/LOS SIP policy objectives.

2.2 Partnership Goals and Purpose
To ensure that the policy objectives of the J/LOS SIP are achieved, and that the poor benefit from J/LOS programmes and maximize their participation in its implementation.

2.3 Partnership Objectives
The main objective of this J/LOS/CSO partnership principles is to improve the existing linkages and partnership among CSOs, GoU and development partners, so as to capitalize on, and harmonize skills, knowledge and resources towards the achievement of J/LOS SIP policy objectives.

2.4 Partnership Outcomes
- Strengthened J/LOS structures that ensure decision making is human rights based and thus, pro-poor
- Accountability of both CSOs and J/LOS institutions to each other
- Collective action by society towards achieving J/LOS objectives
- Increased contribution by CSOs of their efforts, resources and skills towards the J/LOS SIP policy objectives.

2.5 Partnership Principles
Based on the experience during the last three years in the implementation of the J/LOS, the following Partnership Principles and standards are proposed:
• **Human rights based poverty eradication** - This is an objective of all efforts in the J/LOS

• **Empowerment, Ownership and Participation** of beneficiaries is a key principle of the J/LOS SIP to be promoted in this partnership. This to enhance the sustainability and ensure the J/LOS SIP beneficiaries are involved J/LOS implementation.

• **Collaboration will be active and constructive** - CSOs should be able to provide constructive criticism to the GoU on J/LOS issues and develop ability to take action in the community, and vice versa.

• **Member-based institutions** - It is important that organizations are representative of a good number of people with common concerns and legally recognized.

• **Focused** - To be effective, civil society actors must have a clear focus and targets they aim at towards achieving J/LOS SIP policy objectives.

• **Transparency** - Transparency on part of CSOs and Government is a challenge in the implementation of programmes. In order to ensure the effective flow of information with regard to the J/LOS, the Partnership will work towards ensuring accountability and a disclosure policy in the J/LOS.

• **Integration** - J/LOS emphasizes the need to integrate CSO development initiatives into the district planning processes. Therefore, all NGO plans should in principle, be reflected in the district plans. This is to ensure that programmes are harmonized and well coordinated. The benefits of these include reduction in the duplication of efforts, reduction in waste of resources and enhanced monitoring of activities at that level.

• **Accountability** - It is important that both GoU and CSO adhere to the principle of accountability to beneficiaries and to each other.


1. **General: CSO Roles in J/LOS SIP**

There are a number of functional areas in which J/LOS and NGOs/CSOs would benefit from more effective co-operation and responsibilities in the way they work. Involving civil society in the mobilization of public awareness and resources for J/LOS is dependent on taking CSO inputs seriously in dialogue and on building partnerships with J/LOS at local levels.

Enhancing cooperation with a rapidly expanding Civil Society sector in a period of declining real resources represents a significant challenge for the J/LOS. It will require a joint effort to set priorities, adhere to roles and responsibilities and mobilize the necessary resources.

"J/LOS MTE Final Dec04"
For government and CSOs to have effective partnership in the implementation of the J/LOS SIP, it is important to understand the different areas that civil society can contribute to J/LOS. These areas can be broadly summarised as follows.

1. In the delivery of support justice services (e.g. legal aid, human rights awareness raising)
2. Providing feed back to J/LOS on access, effectiveness and efficiency as well as quality of services delivered
3. In policy advocacy and dialogue

It is noted that CSOs change roles over time and play these roles simultaneously depending on circumstances. One of the challenges is the generation of awareness of these roles and the professional methods employed.

GoU will continue to support the empowerment of organizations, targeting women, youth and local communities and also ensure their participation in justice reform. Public sector resources will be used in building the capacity of the civil society, and facilitating their participation in public sector activities.

2. Sector wide working and coordination
In the past, there have been various capacity development projects independently targeting institutions within the law and order sector. On a parallel front, there has been other projects targeting other players (civil society) external to the sector but interacting with it, especially as users. This fostered piecemeal approaches rather than comprehensive strategic sector wide investment programmes. Apart from the limited domestic ownership and sustainability, it also lacked adequate coordination among the stakeholders, resulting in duplication of efforts and inappropriate sequencing of projects. J/LOS aims to be a sector wide approach, involving participation of all stakeholders in a genuine partnership.

For effective coordination, a multi-sectoral coordination mechanism comprising of all above stakeholders, is essential. Co-ordination would be through the J/LOS National Forum, Leadership Committee, Steering committee, Technical Committee (and the various Working Groups that have been established), and District Level Access to Justice Committees. These structures aim at ensuring a harmonious implementation, vertical and horizontal coordination as well as linkages and between the centre, district and sub-county levels. Civil Society Organisations are expected to integrate and harmonize their programmes with those of other J/LOS players especially at local government level, to allow for ease in monitoring the impact of their activities.

3. Information Sharing and Networking
Building better communication between Government and CSOs in implementing the J/LOS is not only an important aspect of work in its won right but also a pre-requisite for a successful implementation of the J/LOS SIP. NGOs, media etc play a leading role in information and education programmes, sensitizing public opinion to the challenges of addressing J/LOS reform issues. These experiences and their outreach in this area are immense.
4. **CSO engagement in Policy Issues**

The policy objectives of the J/LOS SIP cannot be attained solely through the service delivery and development type activities alone, but it also requires policy dialogue with all partners to ensure that priorities identified are addressed and consensus is built around key issues. Although NGOs contribute to the formulation of the J/LOS technical strategies and programmes in various ways, this role needs to be nurtured and improved. For cooperation of this kind to be effective, NGOs need to carry out consultation and feed into J/LOS Technical Committee Working Groups, and other J/LOS fora where they participate.

In areas where there is conceptual divergence on key issues both partners will work towards achieving consensus based on human rights concepts underpinning J/LOS SIP policy objectives and document these issues for further reference.

5. **National/Local level service delivery**

As mentioned, NGOs and CBOs are in principle involved in a wide spectrum of J/LOS-relevant activities from assisting and building capacities of J/LOS users to organising to the provision of human rights awareness programmes at the community level.

Although there is decentralization, J/LOS institutions are among the few government functions not decentralized. They however deliver services at local level through their representative offices e.g Resident Judge, Chief magistrates, Resident State Attorney, District Police and Prisons etc. LC courts are not perceived as part of formal J/LOS. Programme planning and implementation is expected to be consultative and inclusive of all stakeholders. For this to occur, LGs, local level representation of J/LOS institutions and CSOs are expected to work together and integrate their efforts. NGOs/CBOs are key allies of Local Government and Local Councils in participatory planning. According to the Planning guidelines of lower Local Governments, which is expected to assist in the planning process for all government programmes at the lower level, NGOs and CBOs are expected to play a key role in planning and budgeting process.

6. **Monitoring and Evaluation**

J/LOS implementation is to be monitored and evaluated in a participatory manner. Generic areas for monitoring and evaluation are set out in the (future) J/LOS M & E framework and includes (insert once finalised).

The role of CSOs in holding Government accountable and bring in the voices of poor in the monitoring and implementation of programmes is seen as vitally important by Government.

J/LOS strives to ensure effective funding levels are realized centrally and at the local level for J/LOS implementation. Ensuring funds are well utilized and desired outcomes are realized is key to J/LOS. However, resource flows to end-users and accountability for funds spent remain a challenge. Actively making information available to stakeholders on approved plans and resource allocation to J/LOS institutions will enable them to provide feedback on the extent to which service delivery has been improved.
### Table Commitments by GOU and CSOs

<table>
<thead>
<tr>
<th>Government agrees to …</th>
<th>CSOs agree to …</th>
</tr>
</thead>
</table>
| Invite relevant CSO representatives onto each of the J/LOS management structures and processes (J/LOS National Forum, J/LOS Leadership Committee, J/LOS Steering Committee, J/LOS Technical Committees and its Working Groups, as well as District Level Access to Justice Committees) and others as and when they are created. | Be informed and engaged with substance of J/LOS SIP  
Feedback to their constituents, members and networks that they belong to and/or run, information and decisions emanating from these meetings/processes on a regular basis (and not more than 1 month after the meetings itself). |
| As part of the on-going monitoring and evaluation system of J/LOS, to review the performance of CSOs in J/LOS structures with a view of replacing positions with effective CSO representatives. | Insert |
| Recognize the autonomy of CSOs participating in the J/LOS and respect their individual views. | Deal professionally and responsibly in resolution of differences to achieve consensus. |
| Through the permanent J/LOS PPU, and in co-ordination with others, maintain a data bank of J/LOS relevant CSOs/CBOs - at national and local levels. | Ensure they fairly and effectively represent community and district based civil society organization views at J/LOS meetings. |
| Keep civil society informed of J/LOS activities through effective implementation of a J/LOS Dissemination Strategy. | Those CSOs represented on J/LOS institutions will hold regular fora with network members on progress in J/LOS implementation. |
| Share openly information on the J/LOS with civil society organizations. | Ensure voices of the poor are fed back to the J/LOS. |
| Invite openly information on the J/LOS from civil society organizations. | Engage professionally and honestly with J/LOS on joint monitoring exercises. |
| Act on feedback received from CSOs and other partners on J/LOS related issues. | |
ANNEX 7A
**Annex 7A. EXISTING INDICATORS - CRIMINAL JUSTICE REFORM PROGRAMME**

<table>
<thead>
<tr>
<th>CRIMINAL JUSTICE COMPONENT</th>
<th>INDICATORS</th>
<th>BASELINE</th>
<th>MEDIUM TERM TARGET FY 2006/07</th>
<th>FY 2003/04</th>
<th>FY 2004/05</th>
<th>FY2005/06</th>
</tr>
</thead>
<tbody>
<tr>
<td>CRIME STATISTICS</td>
<td>Crime rate disaggregated by gender, age and value of loss</td>
<td>30 cases/10,000 people</td>
<td>20 cases/10,000 people</td>
<td>27 cases per 10,000 people</td>
<td>25 cases per 10,000 people</td>
<td>23 cases per 10,000 people</td>
</tr>
<tr>
<td></td>
<td># of convicts on custodial sentences</td>
<td>3534</td>
<td>3000</td>
<td>3,300</td>
<td>3,000</td>
<td>3,000</td>
</tr>
<tr>
<td></td>
<td># of convicts on Non-custodial sentences</td>
<td>TBC</td>
<td>1000 (community service) per annum</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**EFFICIENCY AND EFFECTIVENESS**

| Geographical allocation of resources based on crime data | 60% population, 20% poverty, 20% area | To be agreed | |

**ATTRITION RATES**

| % of crimes reported to police | 50% | 80% | 60% | Not applicable | 70% |
| % of crime forwarded for prosecution | TBC Police | 80% | 60% | 65% | 70% |
| % of crimes sanctioned for prosecution | TBC DPP | 80% | 60% | 65% | 70% |
| % of case resolved on merit | TBC DPP or Judiciary | 80% | 60% | 65% | 70% |
| % of crimes committed resulting in conviction | TBC DPP or Judiciary | 80% | 60% | 70% | 70% |
| Average time spent on remand | 2 years for capital cases 1 year for other matters | 1 year for capital cases 6 months for others | 20 months 10 months | 18 months 8 months | 16 months 6 months |
| % of prisoners on remand | 60% | 45% | 55% | 50% | 45% |

---

228 Agreed at J/LOS Steering Committee Meeting June 2003, completion of benchmarks and targets outstanding, along with monitoring of compliance at J/LOS-wide level.
## ACCESS TO JUSTICE

<table>
<thead>
<tr>
<th>Actual time and financial cost of accessing JLOS institutions disaggregated by Gender &amp; age</th>
<th>To be determined through case studies</th>
<th>To be agreed</th>
</tr>
</thead>
<tbody>
<tr>
<td>% of HH “easy access” to JLOS institutions gender and age</td>
<td>25% of HH believe access to be easy</td>
<td>45%</td>
</tr>
</tbody>
</table>

## CRIMINAL JUSTICE COMPONENT

### QUALITY OF JUSTICE

<table>
<thead>
<tr>
<th>CRIMINAL JUSTICE COMPONENT</th>
<th>INDICATORS</th>
<th>BASELINE</th>
<th>MEDIUM-TERM TARGET FY 2006/07</th>
<th>FY 2003/04</th>
<th>FY 2004/05</th>
<th>FY 2005/06</th>
</tr>
</thead>
<tbody>
<tr>
<td># of Criminal Appeals upheld</td>
<td>TBC</td>
<td>70%</td>
<td>To be agreed</td>
<td>To be agreed</td>
<td></td>
<td></td>
</tr>
<tr>
<td># of Criminal Appeals reversed</td>
<td>TBC</td>
<td>30%</td>
<td>To be agreed</td>
<td>To be agreed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>% of suspects held beyond 48 hours w/o charge</td>
<td>TBC</td>
<td>50%</td>
<td>To be agreed</td>
<td>To be agreed</td>
<td></td>
<td></td>
</tr>
<tr>
<td># of prisoners exceeding statutory remand period</td>
<td>660</td>
<td>450</td>
<td>600</td>
<td>550</td>
<td>500</td>
<td></td>
</tr>
<tr>
<td>% Rate of recidivism</td>
<td>40%</td>
<td>30%</td>
<td>34%</td>
<td>36%</td>
<td>38%</td>
<td></td>
</tr>
<tr>
<td>Proportion of HH feeling safe from crime and violence</td>
<td>65.8% in rural areas and 61.5% in urban areas</td>
<td>85% in rural areas and 80% in urban areas</td>
<td>No applicable</td>
<td>70% in rural areas and 65% in urban areas</td>
<td>Not applicable</td>
<td></td>
</tr>
</tbody>
</table>
ANNEX 7B
### Annex 7B. EXISTING INDICATORS - CRIMINAL JUSTICE REFORM PROGRAMME

<table>
<thead>
<tr>
<th>Impact</th>
<th>Indicator</th>
<th>Baseline</th>
<th>Target</th>
<th>Means of verification</th>
<th>1.5 Frequency</th>
<th>Critical assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Efficiency And Effectiveness</td>
<td>1.1 Extent to which geographical allocation of resources is made on the basis of need.</td>
<td>Need to calculate resource allocation; compare to PMAU figures for 'need' (80% population, 20% poverty, 20% area).</td>
<td>To be agreed</td>
<td>Agencies' annual reports (staffing levels) and budgets. PMAU figures for 'need'.</td>
<td>Annual</td>
<td>Agencies calculate figures for resource allocation on regular basis.</td>
</tr>
<tr>
<td></td>
<td>2.2 Level of use of Commercial Courts.</td>
<td>Commercial Justice Baseline Survey November 2001</td>
<td>To be agreed</td>
<td>Court statistics.</td>
<td>Annual</td>
<td>Internal capacity to collect statistics.</td>
</tr>
<tr>
<td></td>
<td>2.3 Level of use of ADR</td>
<td>Uganda Commercial Justice Baseline Survey, November 2001</td>
<td>Increase in number of cases at CADER.</td>
<td>CADER Statistics.</td>
<td>Annual</td>
<td>Internal capacity to collect statistics.</td>
</tr>
<tr>
<td></td>
<td>2.4 Actual time and financial cost to businesses of accessing commercial justice system institutions, disaggregated by size and formal/informal</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

---

226 Agreed at J/LOS Steering Committee Meeting June 2003. Completion of benchmarks and targets outstanding, along with monitoring of compliance at J/LOS-wide level.
<table>
<thead>
<tr>
<th>Sector</th>
<th>Activity</th>
<th>Date of Baseline Survey</th>
<th>Objective of Survey</th>
<th>Data Collection Method</th>
<th>Frequency</th>
<th>Funding Source</th>
</tr>
</thead>
</table>
| 2.4.1 Commercial Court | a) Clearance of Case Backlog  
b) Reduction in time taken to process cases  
c) Reduction in multiple adjournments  
d) Improved case flow | Commercial Justice Baseline Survey, November 2001 | a) Halving of backlog growth rate to average 10 cases per month.  
b) Reduce time taken to process a case to 10 months.  
c) Average 2.0 adjournments per case.  
d) Increase percentage of case flow cited in Survey to 25% | Retrospective or ‘live’ tracking case studies of selected cases. | Annual | Availability of funds (to contract consultants) or internal capacity (to carry out case studies). |
| 2.4.2 Improved service at the Land Registry and Companies Registry | a) Time taken for searches and registration.  
b) Number of registrations per day. | Commercial Justice Baseline Survey, November 2001 | a) Ability to obtain information from records (better record keeping).  
b) Decreased time for registrations and searches. | Retrospective or ‘live’ tracking case studies of selected cases. | Annual | Availability of funds (to contract consultants) or internal capacity (to carry out case studies). |
| 2.5 Access to legal advice and representation | | Commercial Justice Baseline Survey, November 2001 | Improvement in informal sector’s perception of the legal profession to formal sector levels at the time of the Nov. 2001 Baseline Survey. | Commercial Justice Follow-up Surveys. | Every two years. | Availability of funds. |
| 3 Quality of Justice | 3.1 User perceptions | a) Professionalism | Commercial Justice Baseline Survey,  
All institutions achieving | Commercial Justice Follow-up survey; | Every two years. | Availability of funds. |
<table>
<thead>
<tr>
<th>3.2 Corruption levels</th>
<th>Commercial Justice Baseline Survey, November 2001</th>
<th>Reduction to level of Government institutions perceived to be the least corrupt in the National Integrity Survey.</th>
<th>Commercial Justice Follow-up Survey; anecdotal reporting from Commercial Court Users Committee and statistical information from people who used the services of the institutions.</th>
<th>Every two years.</th>
<th>Availability of funds.</th>
</tr>
</thead>
</table>
ANNEX 8
ANNEX 8

Annex 8 contains
- Table 8.3.1 Financial Narrative Report 2004 - for SIP from inception to FY 2002/3; and
- Table 8.3.2 Breakdown of expenditure (SWAP): 2002/3

8.3.1 Financial Narrative Report 2004 - for SIP from inception to FY 2002/3

| Criminal Justice Reform Programme- SWAP Development Fund (shs in Billion) |
|-----------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| USD 24m | 2.41bn | 2.045bn | 8.917bn | 5.6bn | 4.88bn | 10.132bn | 4.734bn |

| Commercial Justice Reform Programme- CJRP Account |
|---------------------------------|-------------|-------------|-------------|-------------|
| Total Budget Allocation 2001/2 | Released funds | 2002/3 | Actual Release | Expenditure 2003/4 Allocation | Release |
| Expenditure-0.798bn |

<table>
<thead>
<tr>
<th>Case Backlog 2001/2</th>
<th>Released funds</th>
<th>2002/3</th>
<th>Actual Release</th>
<th>Expenditure 2003/4 Allocation</th>
<th>Release</th>
</tr>
</thead>
</table>

*Source: Financial Narrative Reports 2002/3 and MoJCA PPU*

8.3.2 Breakdown of expenditure (SWAP): 2002/3

<table>
<thead>
<tr>
<th>Item</th>
<th>Activities/ components</th>
<th>Cost (UG SHs)</th>
<th>% Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Improved Administration of Justice</td>
<td>Construction, renovations, implementation of Police Vehicle fleet Management and some components of Financial management strategy, human resources and organizational capacity building e.g. recruitment and training of staff</td>
<td>4.283bn</td>
<td>81%</td>
</tr>
<tr>
<td>Improved Civic and Legal Education</td>
<td>Civic Education plan (JSC), information dissemination workshops</td>
<td>0.091bn</td>
<td>2%</td>
</tr>
<tr>
<td>Legal Services Reform</td>
<td>Institutional codes of conduct and performance standards, institutional policies</td>
<td>0.969bn</td>
<td>8%</td>
</tr>
<tr>
<td>Criminal Law reform</td>
<td>Drafting of sentencing legislation, implementation of recommendations on criminal trial procedures, studies on decriminalization of petty offences, pre-constitution legislation</td>
<td>0.161bn</td>
<td>1%</td>
</tr>
<tr>
<td>Administrative Costs</td>
<td>Secretariat, long term consultants</td>
<td></td>
<td>8%</td>
</tr>
</tbody>
</table>

*Source: Financial Narrative Report 2002/3*
### 8.3.3 Break down of Expenditure- Commercial Justice Reform Programme: FY 2002/3

<table>
<thead>
<tr>
<th>Item</th>
<th>Activities/ components</th>
<th>Cost (U SHs)</th>
<th>% Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Accessibility to Commercial court Improved</strong></td>
<td>Rent for commercial court and construction, case backlog clearance and CCAS, personnel management systems, court recording, training, library</td>
<td>1.513bn</td>
<td>40%</td>
</tr>
<tr>
<td><strong>Commercial Law Reform</strong></td>
<td>Advocacy workshops, intellectual property, accountants, participation in EAC meetings, project equipment e.t.c.</td>
<td>0.313bn</td>
<td>35%</td>
</tr>
<tr>
<td><strong>Capacity Building and other Activities</strong></td>
<td>Inspectorate of courts, judicial service commission, first parliamentary counsel</td>
<td>1.372bn</td>
<td>25%</td>
</tr>
</tbody>
</table>
ANNEX 9A
Annex 9: Recommendation

J/LOS wide Participatory Planning Process
for SIP II from 2005

*Annex 9B illustrates the proposed process in Diagramme format.

Why strengthen the J/LOS priority-setting and planning process?

△ A gap has evolved between the Technical Committee (time dominated by financial matters) and the Steering Committee (needing stronger institutional PPUs and Secretariat to support its policy deliberations). Progress to date suggests that many aspects necessary for J/LOS success (such as pro-poor focus, focus on root causes and low-cost solutions) risk falling into this gap.

▸ Recommendations regarding management structure in Chapter 7B are designed to help address this while the holistic approach to M&E recommended in Chapter 9 is intended to provide a more comprehensive evidence-base for decision-makers. As part of a J/LOS cycle of learning, that strengthened M&E system should form the basis of a strengthened J/LOS planning process as outlined here.

▸ It is recommended that the proposed planning process for moving towards SIP II start in early 2005. Planning should be envisaged as a rolling three-year round tied to the Medium Term Expenditure Framework (MTEF) timeframe. Synchronised with this round of priority-setting and planning would be up-dated baseline surveys and the holding of the National Forum.

For example, SIP II would move to an annual comprehensive Joint GoU-Donor review in June. Every three years the (June) review would be part of the preparation for the National Forum (early September). Throughout, local level feedback would be channelled to prepare for Forum input. The three year rolling MTEF round would aim to produce a J/LOS-wide sequenced and costed set of priority actions. This would be designed to minimize the current problem whereby plans have to be reduced three or four times in the yearly budgeting process.

▸ The process will be supported and facilitated by the strengthened J/LOS-wide PPU mandated and resourced to ensure that SIP policy objectives are central. This requires, in addition, capacity building for the enhanced Steering and Technical Committees given that a common understanding of the J/LOS concept is essential (Volume II is a tool to facilitate discussion of this common goal).

▸ The following steps are recommended in the proposed new J/LOS-wide planning process:
<table>
<thead>
<tr>
<th>Step</th>
<th>Actor</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Working Groups of Technical Committee with J/LOS PPU</td>
<td>Analyses progress based on M&amp;E data and identify initial topics for consideration as priorities. Select proposed priorities based the human rights framework of the SIP policy objectives (see Volume II of this report).</td>
</tr>
<tr>
<td>2</td>
<td>Technical Committee with J/LOS PPU</td>
<td>Refines short-list of proposed priorities for submission to SC.</td>
</tr>
<tr>
<td>3</td>
<td>Steering Committee, Donor Group, with J/LOS PPU</td>
<td>Input from Donor Group. SC finalises proposed shortlist, or asks for clarification from TC. Proposed shortlist, with its human rights based justifications, agreed and submitted to Leadership Committee.</td>
</tr>
<tr>
<td>4</td>
<td>Leadership Committee with J/LOS PPU</td>
<td>Considers the proposed priorities. Ensures the criteria and focus are based on M&amp;E evidence and the human rights framework of the SIP policy objectives. LC, together with J/LOS PPU, prepares for the National Forum. In the lead-in to the National Forum, the J/LOS PPU holds a series of briefing sessions for CSOs, legal profession, academics, donors, MoFPED etc.</td>
</tr>
<tr>
<td>5A</td>
<td>J/LOS PPU with local committees (on pilot basis)</td>
<td>J/LOS PPU informs local level of the proposed priorities (see streamlining parallel structures at local level). Local committees facilitate discussion on the proposed J/LOS direction, ensure local level perceptions of needs are encompassed. Prepares reasoned justification for any suggested refining of the priorities, and/or set out alternative solutions.</td>
</tr>
<tr>
<td>5B</td>
<td>National Forum</td>
<td>Leadership Committee convenes National Forum, J/LOS PPU as rapporteur. Results of M&amp;E debated, proposed J/LOS priorities tested in discussion and refined as needed. Possible adjustment of draft priorities based on debate, confirmed by Leadership Committee in follow-up to the Forum.</td>
</tr>
<tr>
<td>6</td>
<td>Working Groups of Technical Committee, Institutional Heads, with J/LOS PPU</td>
<td>Each Working Group identifies how each institution can contribute to the final priorities that have now been set for the sector. Between WG meetings, each institution discusses internally and outlines how it can contribute. J/LOS sector priorities take precedence over institutional priorities because of their nature after this process of refining priorities: they directly address impact on human rights for Ugandans.</td>
</tr>
<tr>
<td>7.</td>
<td><strong>Technical and Steering Committees with J/LOS PPU</strong></td>
<td>Both committees confirm the outline of institutional contributions to the J/LOS priorities, ensuring that all the steps necessary have been identified, and that input is envisaged from all relevant actors (within or outside J/LOS).</td>
</tr>
<tr>
<td>8A.</td>
<td><strong>Working Groups of TC with J/LOS PPU</strong></td>
<td>Lead internal planning and detailed preparation of joint J/LOS workplan to achieve the joint J/LOS priorities, with the institutional heads. Priority placed on items which have low budget implications. Where necessary, budgets prepared, normally on a joint basis.</td>
</tr>
</tbody>
</table>
| 8B. | **Technical Committee with J/LOS PPU** | Reviews the J/LOS workplans and budgets within priorities. Endorses J/LOS-wide workplans and budgets and send them to Steering Committee for approval.  

> Implementation starts, and the *learning cycle* starts again. |

For the individual institutions, their planning and implementation of matters which are *not* J/LOS-wide priorities would continue to be covered by their Institutional Plans.

> Institutional plans will need to be *consistent with* J/LOS-wide priorities and to fit in with SIP II timeline for synchronized planning. Recommendations made in Chapter 3 address the need to strengthen vertical communication with staff so that they are informed and engaged with the J/LOS-wide process - and see its priorities as their own.
ANNEX 9B
Key Actions

1. Technical Committee
   Working Groups with J/LOS PPU and PPUs

2. Technical Committee

3. Steering Committee

4. Leadership Committee

5. National Forum

6. Technical Committee - Working Groups, PPUs, Institutional Heads

7. Technical and Steering Committee

8. Technical Committee

**a. To analyze progress based on M & E data and identify initial topics for discussion as proposed priorities based on the human rights framework of the SIP policy objectives.**

**Note:** In order to ensure involvement of independent voices, strengthened TC Working Groups envisaged.

*This process is for the start of every planning cycle for the MTEF and not, as such, annual. It requires at least six months, and the process should be commenced by January 2005 for the next SIP.

**1. Technical Committee**

- Working Groups with J/LOS PPU and PPUs

**2. Technical Committee**

- The proposed priorities are submitted to Leadership Committee. It again ensures the criteria and focus are based on the M & E evidence as well as the HR framework of the SIP policy objectives.

- Local committees facilitate discussion on the proposed direction.

- National Forum discussion convened by Leadership Committee with J/LOS PPU as rapporteur.

- Results of M & E debated, proposed J/LOS priorities tested in discussion and refined as needed.

- J/LOS PPU informs local level of the proposed priorities.

**3. Steering Committee**

- Working Groups of TC take the refined priorities and discuss how each institution can contribute to that priority for the sector.

- Between WG meetings, each institution discusses internally between the technical people and the PPU staff (members of the Working Groups).

- Through the Working Groups, institutional contributions to the priorities are identified in outline.

- J/LOS-wide priorities take precedence over institutional priorities due to their nature after this process: they directly address impact on human rights for Ugandans.

**4. Leadership Committee**

- Technical and Steering Committees discuss and confirm the outline of institutional contributions to the J/LOS priorities, ensuring that all the steps necessary have been identified, and that input is envisaged from all relevant actors (within or outside J/LOS).

- Implementation starts and the learning cycle starts again.

**5. National Forum**

- The proposed priorities are refined and discussed in J/LOS-wide priorities to ensure they meet the criteria and focus.

- Leadership Committee approves the final priorities.

- Working Groups of TC, with support of J/LOS PPU, lead internal planning and detailed preparation of joint J/LOS work plans. Priority placed on items with no budget implications. Budgets prepared.

**6. Technical Committee - Working Groups, PPUs, Institutional Heads**

- Working Groups of TC take the refined priorities and discuss how each institution can contribute to that priority for the sector.

- Between WG meetings, each institution discusses internally between the technical people and the PPU staff (members of the Working Groups).

- Through the Working Groups, institutional contributions to the priorities are identified in outline.

- J/LOS-wide priorities take precedence over institutional priorities due to their nature after this process: they directly address impact on human rights for Ugandans.

- Implementation starts and the learning cycle starts again.

**7. Technical and Steering Committee**

- Technical and Steering Committees discuss and confirm the outline of institutional contributions to the J/LOS priorities, ensuring that all the steps necessary have been identified, and that input is envisaged from all relevant actors (within or outside J/LOS).

- Implementation starts and the learning cycle starts again.

**8. Technical Committee**

- Working Groups of TC, with support of J/LOS PPU, lead internal planning and detailed preparation of joint J/LOS work plans. Priority placed on items with no budget implications. Budgets prepared.

- TC as a whole reviews the J/LOS work plans and budgets within priorities. They endorse work plans and budgets and send them to Steering Committee for approval.

*Implementation starts and the learning cycle starts again.*
ANNEX 10
Process Action Plan  
discussed at  
Joint GoU-Donor Review  
Munyonyo, November 29th 2004.

The Table below is an initial draft of a Process Action Plan presented to J/LOS for discussion. It does not include the working level recommendations which are more comprehensively summarized in Annex 11’s Overview of Findings and Recommendations.

### Proposed Process Action Plan for implementing MTE Recommendations

<table>
<thead>
<tr>
<th>Thematic Area</th>
<th>Action points</th>
<th>Process/ Activity</th>
<th>Responsibility</th>
<th>Time Frame</th>
</tr>
</thead>
</table>
| **Building Change** | Strengthened, permanent sector-wide PPU as engine of reform (with institutional PPUs). Key features: independent and impartial with capacity to withstand inappropriate pressures | • Staffing to comprise at least four senior substantive posts and staff seconded from institutional PPUs on a rotating basis. To be independent: located within MoJCA, reporting to all members of the SC  
  • De-linking to be explored with MoFPED | Steering Committee  
  Short term  
  Medium term |                                                                                   |
|                   | Build management of change at all levels by allocating time and resources to enhance the focus on motivation, commitment to common goal, feedback and involvement in decision-making |  
  • **Codes of conduct** should be strengthened: to ensure they address not only throughput of cases, but quality of justice. J/LOS should develop Codes linked to performance standards for the sector in a *Chain Linked* manner, with peer review. Assess compliance with the codes of the conduct/ performance standards after one year, linked to training strategy.  
  • SIP policy objectives: A **baseline of attitudes and behaviours** needs to be established for officials in criminal and civil justice sub-sectors for establishing action plans and targets. | Steering Committee & Secretariat  
  Medium term  
  Short term |
<table>
<thead>
<tr>
<th>Thematic Area</th>
<th>Action points</th>
<th>Process/ Activity</th>
<th>Responsibility</th>
<th>Time Frame</th>
</tr>
</thead>
<tbody>
<tr>
<td>Re-focus on addressing root causes (crime prevention, penal policy e.g. recidivism and prison education), low-cost strategies or efficiency savings</td>
<td>• <strong>Crime prevention strategy</strong> is recommended</td>
<td>A study setting out a holistic picture of <strong>civil justice reform</strong> is needed to found appropriate options for a <strong>small claims</strong> track for the lower level courts, and to inform planning for SIP II. As part of this reflection, and building on previous studies, the <strong>pecuniary jurisdiction</strong> of the CC may need to be adjusted.</td>
<td>Leadership &amp; Steering Committees, Technical Committee &amp; Secretariat</td>
<td>Short - medium term</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Efficiency Savings: J/LOS should commission evaluations for the Police Vehicle Fleet Management, Case Backlog and Prison Farm projects to provide a basis for continuation.</td>
<td>Secretariat</td>
<td>Short - term</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• <strong>Establish a Task Force</strong> for systematic lobbying of GoU and Parliament to fast track crucial Bills: The Bill tracking system urgently needs to be implemented so as to monitor progress each step of the way; and a systematic tracking of laws already enacted.</td>
<td>Leadership &amp; Steering Committees</td>
<td>Short - medium term</td>
</tr>
<tr>
<td>Encourage united sector-wide cohesion:</td>
<td>• advocacy (e.g. public service pay reform, conditions of service, Sector-wide Human Resource development Strategy)</td>
<td></td>
<td>Leadership and Steering Committees</td>
<td>Short -medium term</td>
</tr>
<tr>
<td></td>
<td>• solidarity (e.g. political interference or attacks on independence of the judiciary) and</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• peer review (especially for urgent matters such as prevention of torture or food crisis in Arua prisons)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thematic Area</td>
<td>Action points</td>
<td>Process/ Activity</td>
<td>Responsibility</td>
<td>Time Frame</td>
</tr>
<tr>
<td>------------------------</td>
<td>--------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------</td>
<td>------------------------------</td>
</tr>
<tr>
<td></td>
<td>Create alliances and co-ordinate with others as needed</td>
<td>Specific recommendations on coherence and inter-sectoral linkages are made for:</td>
<td>Secretariat to spearhead. JLOS Donor group to be involved.</td>
<td>Short - medium term</td>
</tr>
</tbody>
</table>
|                        |                                                                                |  • Uganda Human Rights Commission  
  • Gender  
  • Juvenile Justice (as part of supporting crime prevention strategy)  
  • HIV/AIDS  
  • MoFPED  
  • MTCS and Private Sector  
  • LC courts and councils  
  • Uganda Bureau of Statistics  
  • PPDA  
  • Accountability (a clear anti-corruption strategy is recommended linked to performance standards; with mechanisms for co-ordination with the accountability sector).  
  • Security Sector: Building upon ongoing initiatives. An inter-sectoral approach to the concept of security is recommended., and specific steps needed by J/LOS are outlined in Annex 4. A ‘Chain-linked’ approach to prevent and combat torture are recommended to help inform the co-ordination initiative announced in June 2004 by UHRC, DPP and the heads of Uganda’s security agencies. |                              |                              |
| Strengthening Sector-  | Restructuring of the Committees  
  • Leadership Committee  
  • Steering Committee  
  • Technical Committee and working groups  
  • Local level committees  
  • Streamlining parallel structures |  • Review composition, ToR and operational framework.  
  • This is for J/LOS to achieve consolidated planning and impact assessment. Positive aspects need to be retained e.g. lead role of judiciary in Chain Linked. | Secretariat to spearhead       | Short term (2005-2006)        |
<p>| wide Management        |                                                                                |                                                                                  |                              |                              |</p>
<table>
<thead>
<tr>
<th>Thematic Area</th>
<th>Action points</th>
<th>Process/ Activity</th>
<th>Responsibility</th>
<th>Time Frame</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Enhancement of permanent sector-wide PPU.</td>
<td>See above under building change</td>
<td>Secretariat and institutions</td>
<td>Short term</td>
</tr>
<tr>
<td></td>
<td>Strengthening of institutional PPUs</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| Strengthening sector-wide processes towards SIP Policy Objectives | Sector-wide monitoring and evaluation. | • Adopt the recommended M&E system in chapter 9. This includes participatory, local input and is linked to strengthening public awareness of J/LOS reforms. (see local level). The development of a sectoral M&E system should be a major undertaking in the short-term through, strengthening the structures, indicators, tools and processes. | Secretariat and Institutional PPUs | Short -medium term |
| | | • Develop Management Information systems | Institutions and Secretariat | Medium term |
| | | • Establish and/or streamline Complaints mechanisms | | |

<p>| | Sector-wide evidence-based priority setting and planning, including holistic needs assessment for civil justice reform; and participatory planning for SIP II (Annex 9) | • Adopt recommended planning process - see Annex 9. |
| | | • It is recommended that J/LOS plan for SIP II should: |
| | | a) Increase systematic input from independent voices at national/local levels. (see relevant recommendations on CSOs, court user committees) |
| | | b) Plan SIP II by sectoral, rather than institutional priorities. |
| | | c) Prioritise low-cost initiatives |
| | | d) Increase attention to inter-sectoral co-ordination and opportunities for efficiency savings through collaboration | Secretariat to spearhead JLOS Donor Group to be involved | Short term |</p>
<table>
<thead>
<tr>
<th>Thematic Area</th>
<th>Action points</th>
<th>Process/ Activity</th>
<th>Responsibility</th>
<th>Time Frame</th>
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</table>
| Timely implementation of the Financial Management Strategy | - Implement Financial Management Strategy  
- Accelerate recruitment of the financial management specialist and accounting officers  
- Continue seeking enhanced dialogue with MoFPED |                                                                                  | Secretariat, Steering Committee and Donors | Short - medium term              |
| Catalyzing Supply through demand      | More inclusion, participation, transparency: Combine ‘supply side’ focus on strengthening institutions in tandem with ‘demand’ for change at local and national level | - Legal Aid: Develop co-ordination mechanisms with the Legal Aid Basket Fund.  
- It is essential that ‘supply’ side reform of institutions be accompanied by systematic strategy for informing and enhancing public expectations of J/LOS so that the ‘demand’ for efficiency, accountability, accessibility, and lack of corruption etc is increased when people interact with J/LOS. This is central to sustainability of J/LOS reforms, and to an effective M&E system. | Steering Committee and Legal Aid Basket Fund, Secretariat | Short term (2005-6)  
Medium term (2006-2010) |
| Enhancing Local level: support for and impact of J/LOS | Effective monitoring and accompaniment of CMCs  
Public Awareness  
Conflict: | - Direct linkages are needed from local level to the Secretariat, the Technical Committee and the Steering Committee. This should be routine as part of the M&E system and should include regular J/LOS multi-institutional field visits together with the strengthened Secretariat should work with clear and agreed guidelines and agreed urgent action in appropriate cases.  
- Public Awareness: Review current J/LOS approach to public awareness and develop comprehensive strategy. Co-ordinate and collaborate with the National Civic Education Strategy, See catalyzing supply through demand above.  
- Follow up and implement recommendations from Justice in | Secretariat and Technical committee, Secretariat and Technical committee, Steering | Short - medium term  
Medium term |
<table>
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<tr>
<th>Thematic Area</th>
<th>Action points</th>
<th>Process/ Activity</th>
<th>Responsibility</th>
<th>Time Frame</th>
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</thead>
<tbody>
<tr>
<td>Local Government and Local Council Courts</td>
<td>Conflict study. A multi-sectoral approach is essential</td>
<td></td>
<td>Committee and JLOS Donor Group, Steering Committee, Secretariat &amp; Technical Committee, UIA and MTCS II</td>
<td>Short - medium term</td>
</tr>
</tbody>
</table>
| Contribution to PEAP and Cost of dysfunctional system | - Strengthen Local Council courts through support to capacity building and supervision.  
- A study should be commissioned to indicate the ways in which J/LOS as a whole contributes to growth and to PEAP. The economic cost of CJRP and Uganda’s dysfunctional justice system _as a whole_ should be systematically calculated by J/LOS. The following factors illustrate the kind of calculation which would help establish the likely savings for Uganda by the achievement of the SIP policy objectives:  
  - Political risk analysis  
  - Powerlessness is: injustice _caused by poverty_  
  - Compensation awards for human rights violations.  
  - The economic cost of ‘recidivism’ J/LOS needs to develop this reasoning and analysis to strengthen its case for future GoU resources.  
- Strengthening both demand and supply-sides (_see above_)  
- Work with Civil Society organisations, including the private sector to adopt _draft J/LOS-CSO partnership principles_ | Technical Committee and Secretariat | Medium term |
| | | | | Short term |
ANNEX 11
## ANNEX 11 - OVERALL FINDINGS AND RECOMMENDATIONS

<table>
<thead>
<tr>
<th>MTE Findings</th>
<th>MTE Recommendations</th>
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<tr>
<td><strong>OVERALL</strong></td>
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<tr>
<td>△ The first phase of implementation of SIP has seen considerable achievement. The processes in place lay a solid foundation for further stages of J/LOS implementation, including consideration of this report as part of an on-going learning process. In this context, great credit is due to the leadership of the J/LOS institutions involved as well as the working level officials who have directly contributed to J/LOS management. Enormous effort has been applied by the institutions involved, management structures, Secretariat and donors alike.</td>
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<tr>
<td>△ The central success of implementation of J/LOS to date has been the establishment of the Three C’s: the habit of increased co-ordination, communication and co-operation through specific mechanisms. This far-reaching change has contributed to a range of positive results (below), e.g. an increased appreciation of each other’s problems combined with an atmosphere conducive to peer review and constructive self-criticism.</td>
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<td>△ An assessment of progress of J/LOS in terms of impact is clearly premature given the short period since start of implementation for key parts of SIP; and the lack of a monitoring and evaluation system for the sector. Evidence of J/LOS progress is vital - not only for policy decisions, or for justifying proposed budgets - but to unite and motivate J/LOS officials at all levels. Table 3.2.3 presents a summary of the J/LOS SIP at purpose level with performance assessment. In spite of the short period of implementing the SIP and inevitable challenges which have existed, there has been some movement from output to impact, especially from the Chain Linked.</td>
<td></td>
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<tr>
<td>• Reduction in length of stay on remand from an average of 24 months to less than 15 months for serious offences.</td>
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<td>• Reduction in the number of persons staying on remand beyond constitutional period from 39% to 1% and 23% to 10%, for serious offences and petty offences respectively.</td>
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<td>• Increasing trend of arrest based on evidence, as may be indicated by increasing rate of conviction compared to acquittals.</td>
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<td>• Reduction in numbers of lost files between DPP and Police, improved information management.</td>
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<tr>
<td>• Increasing efficiency in the Commercial Court.</td>
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<tr>
<td>△ J/LOS achievements are most clear where it has not been seen by its members merely as a funding mechanism - but as a process through which change is generated. J/LOS is at a watershed at which this must be re-affirmed. Thus, while the strong positive reform processes have been ongoing, the relevance, impact and sustainability of J/LOS reforms is placed in perspective by credible reports of torture, inhuman or degrading treatment, including reported targeting of perceived political opponents found by the international Human Rights Committee in May 2004. In any state, some types of violations require prioritised budget allocations; while other types of violation are a question of political will. The investigation, prosecution and punishment of perpetrators of torture is a fundamental step to achieving SIP policy objectives, strengthening the rule of law, due process as well as public and investor confidence. Through MTE discussions it is clear that J/LOS is aware of its obligations, with a positive approach reflected in some recent initiatives.</td>
<td></td>
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<tr>
<td>► 3.1 It is recommended that a Chain Linked process to prevent torture be urgently prioritised by J/LOS using low-cost insights gained from the original Chain Linked.</td>
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</table>
**MTE Findings**

Linked pilot (Annex 4). J/LOS should report back frankly on progress and constraints to the international Human Rights Committee in May 2005 as has been requested of GoU by the Committee.

**MTE Recommendations**

► 3.2 A primary MTE finding is that moving forward with J/LOS is now more important than ever, and it is strongly recommended that all involved chose not only to stay engaged but to deepen their commitment. To give effect to the SIP policy objectives when planning for SIP II or evaluating impact, there is a need to ensure real familiarity of all J/LOS actors and stakeholders (institutions, Ministries, donors, NGOs, technical advisors etc) with the content of the minimum standards underpinning the SIP. Therefore, as part of the on-going learning process of which this MTE is a part, Volume Two elaborates on the content of these standards as an aid to discussion of the MTE recommendations.

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**Chapter 3 PROGRESS IN IMPLEMENTATION**

**Output - criminal programme**

Access to justice

Delta Positive progress on physical proximity of J/LOS, constructing more J/LOS posts and efforts to expand staff.

Delta Gender analysis conducted, strategy for implementation not yet achieved.

Delta Better co-ordination needed on juvenile justice with new National Committee.

Delta Definition of vulnerable groups too narrow focus on women and juveniles.

Delta NGO legal aid baseline survey done, programme close to starting.

However,

a) Priorities not always based on evidence of how the activity will advance SIP aims e.g. Kampala construction.

b) Major work still needed for the most neglected areas country-wide.

c) Other barriers to access remain e.g. Cost of access including corruption.

**Output**

► 3.3 A J/LOS personnel strategy is recommended (Recommendations 3.3 to 3.5). Institutions are only as good as the personnel who run them, pay reform and better standards of living for J/LOS personnel are imperative, including inter-sectoral efforts (chapter 4). Human resource development policies needed to inform training and career development priorities.

► 3.4 It is imperative to inform, engage and motivate staff at middle and lower levels (see Annex 4). Significant internal awareness-raising is needed on the reform process, and the human rights-based framework of the SIP policy objectives. To support attitudinal change, internal incentives systems need to be transformed. A baseline of attitudes and behaviours needs to be established for officials in criminal and civil justice sub-sectors for establishing action plans and targets. Effective human rights training needs to be part of a strategy of changing perceptions with incentives rewarding positive behaviour.
### MTE Findings

**Efficiency & Effectiveness**

- **Organisational development**: varied. A key achievement is strategic plans for all institutions; some developed Codes of Conduct/performance standards with sensitisation workshops; some PPUs have been created/strengthened. Databases yet to be upgraded to institutional management information systems, but very positive production of crime statistics, a prison census and institutional annual reports with statistics (DPP and Judiciary). Key issues to address include the need for systematic m&e of programme implementation and enhanced use of available data for policy making and planning.

- **Lowering costs**: To alter court jurisdictions studies conducted and Bills drafted, but still outstanding. Achievement: standards for completion of cases helped reduce remand from five (5) for capital cases to two (2) years. Little change in the overall number of prisoners, factors include increased crime rate, delay in adopting Bill on defilement, and increased efficiency in investigation of crime.

- **Operations and infrastructure**: some procurement commenced but a large-scale challenge remains. Staff terms & conditions of service are critical to the success of reforms.

- **Generate savings**: Two of four pilot projects are at studies stage. Case Backlog and Chain Linked rolled out. However, limited monitoring and follow up creates a risk of regression at local level. Prison Farms project indicated early success with major potential efficiency savings & prisoner benefits. This project regressed largely due to delayed release of funds, some prisoners reported to be on the brink of starvation (e.g Arua).

- **Crime prevention strategy**: J/LOS efforts to tackle causes of crime include Bill on defilement. More focus on root causes a sound investment in context of huge scale of operations and infrastructure needed.

- **'Trickle down'** from the national level J/LOS to regional, district or local level officials limited

### MTE Recommendations
### MTE Findings

#### Quality of justice

- **Information** should empower the public to help reform J/LOS by raising their expectations. Similarly, a law and order emphasis is only part of the J/LOS vision and needs to be complete with access to justice aspects etc.

- **A key obstacle identified by the poor is J/LOS officials’ attitudes and behaviour.** To assess changes in attitudes and behaviour of officials J/LOS is over-reliant on the UHRC annual report and public perceptions gathered every two years or so. No detailed baseline for official’s attitudes and behaviours, a fragmented web of complaints mechanisms for difference institutions, and no systematic input from independent advocacy NGOs gathering data. **J/LOS officials human rights based education:** has been piecemeal and unsustainable with HR conceived as an ‘add-on’ to current training. Local community involvement is needed to establish action plans and targets for changing attitudes and behaviour.

- **Reform of laws:** studies and consultations conducted but delays in law reform process between Cabinet and Parliament.

#### Output - commercial programme

**Access to justice**

- **Developing Commercial Court Customer Services Management Strategy** by: a) Enhancing dialogue with users of the Commercial Court through regular meetings of Commercial Court Users Committee (CCUC). This is a unique forum for frank exchange of ideas between the Court, commercial lawyers, the private sector, academia and donors. Further outreach is planned by the CC; b) Effective management of support staff has recently resulted in some training c) Provision of a users guide and manual planned with simplification of procedures to reduce opportunities for corruption; d) Constructing a purpose built court: temporary premises at present, site identified e) Review of Rules of Procedure underway.

#### Output - commercial programme

- **3.10** A study setting out a holistic picture of civil justice reform is needed to found appropriate options for a small claims track for the lower level courts, and to inform planning for SIP II. As part of this reflection, and building on previous studies, the pecuniary jurisdiction of the CC may need to be adjusted.

- **3.11** The positive experience of the CCUC feedback from users and others should be considered for adaptation to other civil courts, including Local Council courts. Similarly, J/LOS needs to draw input on the criminal side from CBOs, victims representatives, independent visiting mechanisms (e.g UHRC regional officials), representatives of prisoners, prison officers, local authorities, local private sector interested in crime prevention etc.
<table>
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<tr>
<th><strong>MTE Findings</strong></th>
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<tbody>
<tr>
<td><strong>Promotion of Alternative Dispute Resolution:</strong> There has not been, and is unlikely to be, an increase in use of arbitration for a number of reasons. Disputes handled through mediation at CADER have however increased though with relatively low settlement rate. Sustainability of CADER after donor project funding is an issue.</td>
<td>Strengthened Working Groups at TC level are recommended with such input, while pilot local level input from such groups should be tested (chapter 7).</td>
</tr>
<tr>
<td><strong>Improved enforcement of commercial judgments:</strong> indicators of delivery &amp; enforcement of judgement not used. The CC has a one-month initiative to complete outstanding judgements during summer vacation 2004.</td>
<td><strong>3.12</strong> CJRP should develop and apply performance indicators for delivery and enforcement of judgments and consider the Code of conduct approach used on the criminal side. A priority is legislative and administrative reforms aimed at improving performance of Court Bailiffs (see 3.7 above).</td>
</tr>
<tr>
<td><strong>The CC is still faced with some key challenges</strong> that limit access to justice: pecuniary and geographical jurisdiction, sustainability, judicial capacity and case backlog. A small claims track is being discussed.</td>
<td><strong>3.13</strong> To enhance trust in ADR: consider using current/retired judges/registrars who have more experience of litigation process than younger lawyers; raise awareness among clients regarding benefits of ADR. Consider lessons of ADR in civil justice needs assessment.</td>
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<tr>
<th><strong>Efficiency &amp; Effectiveness</strong></th>
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<tr>
<td><strong>Significant progress by the Commercial Court</strong> in developing an efficient, effective and transparent disposal of cases.</td>
<td><strong>3.14</strong> Streamline and coordinate the Inspectorate of Courts with other complaints mechanisms in the sector such as that under development at the Judicial Service Commission and those at the Directorate of Ethics and Integrity, UHRC and the Inspector General of Government and the proposed JSC complaint system for the judiciary. Maximise links to simplify for the public, avoid duplication and waste of resources. Powers should be increased where needed e.g Inspectorate of Courts to make on spot decisions and sanctions for failure to act on recommendations in a timely manner.</td>
</tr>
<tr>
<td><strong>Inspectorate of Courts:</strong> procurement support provided. Major delays in implementation of their recommendations.</td>
<td><strong>3.15</strong> Companies and Land Registries: Dialogue needed between Companies Registry, CJRP and Private Sector Foundation (under PSCP II) to avoid uncoordinated bilateral funding. For the Land Registry, similar dialogue needed with the Foundation to coordinate reform.</td>
</tr>
<tr>
<td><strong>Proposed civic education plan</strong> developed by JSC. The JSC would appear to have limited relevant experience and capacity for undertaking the needed type of awareness raising. Interaction needed with the National Civic Education Programme.</td>
<td><strong>3.15</strong> Companies and Land Registries: Dialogue needed between Companies Registry, CJRP and Private Sector Foundation (under PSCP II) to avoid uncoordinated bilateral funding. For the Land Registry, similar dialogue needed with the Foundation to coordinate reform.</td>
</tr>
<tr>
<td><strong>Land and companies registries:</strong> Improvements not gained, and both registries question whether they should be in J/LOS. The experience raises issues of effective integration of bilaterally funded programmes into the J/LOS and M&amp;E (Chapter 9).</td>
<td><strong>3.15</strong> Companies and Land Registries: Dialogue needed between Companies Registry, CJRP and Private Sector Foundation (under PSCP II) to avoid uncoordinated bilateral funding. For the Land Registry, similar dialogue needed with the Foundation to coordinate reform.</td>
</tr>
<tr>
<td><strong>MTE Findings</strong></td>
<td><strong>MTE Recommendations</strong></td>
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<tr>
<td><strong>Quality of justice</strong></td>
<td><strong>Quality of justice</strong></td>
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<tr>
<td><strong>Reform of the commercial laws:</strong> Under the CJRP, considerable effort made in drafting Bills with ULRC. Despite this, over 18 bills pending and no commercial Bill currently before Parliament. A recent undertaking by J/LOS and donors to prioritise a small number of “key Laws” is a very positive step.</td>
<td><strong>3. 16</strong> Clear criteria needed for selection and training of lawyers to ensure equal opportunities; and evaluate relevance and impact of training. For legal aid pro bono compliance, monitoring needed by ULS and CJRP.</td>
</tr>
<tr>
<td><strong>Regulatory impact assessment in the legislative process enhanced and training provided to commercial lawyers.</strong></td>
<td><strong>Lobbying for passage of Bills, see 3.7 above.</strong></td>
</tr>
<tr>
<td><strong>J/LOS at local level: awareness and support</strong></td>
<td><strong>3. 17</strong> Effective monitoring and accompaniment of CMCs at local level is recommended: to ensure local confidence in the process. Direct linkages are needed to the Secretariat, the Technical Committee and the Steering Committee. Routine J/LOS multi-institutional <em>field visits</em> together with the strengthened Secretariat should work with clear and agreed guidelines and agreed urgent action in appropriate cases.</td>
</tr>
<tr>
<td><strong>An assessment of local level officials’ awareness and support for J/LOS is not feasible without baselines etc. at this stage.</strong></td>
<td><strong>3. 18</strong> A systematic process is recommended through which local communities can participate in planning stages of J/LOS and provide feedback on J/LOS progress (chapter 9 &amp; Annex 9).</td>
</tr>
<tr>
<td><strong>Effectiveness of Case Management Committees (CMCs) varies with factors like the personality of the Chief Magistrate, the effects of allowances for meetings, and composition of CMCs varies from place to place, without clear J/LOS policy decisions e.g input from military and security agencies. Vertical communication needs to be made effective.</strong></td>
<td><strong>3. 19</strong> Streamlining of parallel management structures is recommended at national and local level. This is for J/LOS to achieve consolidated planning and impact assessment. Positive aspects need to be retained e.g. lead role of judiciary in Chain Linked (see also 7.6 below).</td>
</tr>
<tr>
<td><strong>Change is most effective when ‘supply’ from institutions and ‘demand’ from communities are supported in tandem at the local level, for mutual-reinforcement.</strong></td>
<td><strong>3. 20</strong> Conflict: J/LOS-wide planning based on agreed scenarios, and through planning with other sectors, is imperative. An inter-sectoral approach is essential, not least as UPDF, in reality, assumes control of policing in conflict-affected areas (see also chapter 4).</td>
</tr>
<tr>
<td><strong>Conflict affected areas:</strong> The situation of conflict particularly in northern Uganda has rendered it difficult for J/LOS operations to proceed. To date, there has been limited focus on those challenges, and limited planning for transition and post-conflict phases. Fully functioning justice institutions will be a key stabilizing factor when a peace breakthrough is achieved. Planning to be undertaken based on recent GoU-Donor Undertaking.</td>
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**Chapter 4  GOU COHERENCE: INTER-SECTORAL AND OTHER RELATIONSHIPS**
### MTE Findings

**Δ Inter-sectoral linkages** have been largely ad hoc, with limited development of synergies or co-ordination. Factors include limited number of personnel in the J/LOS Secretariat. There is great potential for mutually beneficial relationships that would improve efficiency, clarify division of labour, pool experience and address gaps in coverage of J/LOS issues.

Relationships considered include: Juvenile Justice, HIV/AIDS, Education sector, Gender, Ministry of Public Service, the National Planning Authority, Parliament, CSOs including the private sector (chapter 6). The **Social Development Sector**’s SIP aims to improve participation with J/LOS through a National Juvenile Committee, in parallel with J/LOS management structures. Relations with MoFPED at times have been difficult, but the inclusion of the J/LOS Swap Development Fund and the CJRP under the Poverty Action Fund for the FY 2004/5 is very positive. **Private sector and MTCS**: There is a need to enhance the MTCS Secretariat’s awareness of developments and progress in the CJRP. **Accountability sector**: Addressing corruption with J/LOS as a whole is an imperative if J/LOS is to achieve its policy objectives.

**Δ Other actors in the administration of justice**: UHRC and Security Sector actors are both central to the achievement of SIP policy objectives for different reasons. Military and intelligence agencies are increasingly performing law enforcement roles normally the preserve of the civilian police, while chronic under-funding of UPF by GoU can be contrasted with large military spending increases over successive years. Yet, they and UHRC have only peripheral substantive interaction with J/LOS policy, planning or monitoring. From the perspective of the public, and the poor in particular, there must be one set of J/LOS minimum standards to which all agents of the state adhere when they exercise police functions. These must not be less than the minimum treaty standards which expressly underpin the SIP. To apply the concept of J/LOS as a process for generating change, key actors essential to achieving SIP must be effectively engaged in the reform process.

### MTE Recommendations

**►4.1** To make scarce human and financial resources go further, J/LOS should prioritise and allocate clear responsibility and resources for nurturing inter-sectoral relationships in a strategic way. Influencing other sectors, their workplans etc. is essential for addressing J/LOS objectives. The overall spearhead for this activity should be the strengthened Secretariat (chap 7).

**►4.2** Specific recommendations on coherence and inter-sectoral linkages are made for:
- Gender
- Juvenile Justice (as part of supporting crime prevention strategy).
- HIV/AIDS
- MoFPED
- MTCS and Private Sector
- LC courts and councils
- Uganda Bureau of Statistics
- Accountability (a clear anti-corruption strategy is recommended linked to performance standards; with mechanisms for co-ordination with the accountability sector, see 3.3 to 3.5 above).
- Security Sector: An inter-sectoral approach to the concept of security is recommended. Security sector actors which have direct impact on the achievement of the SIP policy objectives should be part of J/LOS planning and monitoring founded on the legal framework applicable (see Volume II). A holistic planning process (Annex 9) and a ‘Chain-linked’ approach to prevent and combat torture (Annex 4) are recommended to help inform discussion around the co-ordination initiative announced in June 2004 by UHRC, DPP and the heads of Uganda’s security agencies.

**►4.3** A study should be commissioned to indicate the ways in which J/LOS as a whole contributes to PEAP including through encouraging growth; identifying the scale of the cost of dysfunction. This reasoning and analysis is to strengthen the J/LOS case for future GoU resources. The study is also to help strengthen inter-sectoral relationships; identify stakeholders e.g. for the proposed Taskforce on Lobbying (3.7 above). The study could be jointly
### MTE Findings

#### Chapter 5 - DONOR RELATIONSHIPS

- **Donor engagement**: The process to date has seen highly positive engagement for financial and political support to J/LOS.

- **Range of donor co-ordination mechanisms**: The mechanisms generate large volumes of reports and paperwork, yet the time to track implementation of reports has been limited. These mechanisms developed in the absence of a functional J/LOS wide m & e system, but strain limited resources of J/LOS institutions, the Secretariat and the donor group. Mechanisms should be reviewed during planning for SIP II.

- **Outstanding donor concerns include**:
  - Seeking impact as part of accountability to their own taxpayers (chapter 9 M&E).
  - Direct budget support is a challenge in light of credible allegations of torture by military/security forces and apparent inaction of J/LOS institutions (Annex 4).
  - Value for money and fiduciary risk management (chapter 8).
  - Other challenges to respect for the rule of law especially during the period of political transition (2004-2007).

- **Progress in donor consistency towards J/LOS but a number of limitations identified e.g. poor reporting from SPEED project; and J/LOS funded through other multi-sectoral GoU programmes such as MTCS II.**

### MTE Recommendations

- Funded by J/LOS, UIA and perhaps other stakeholders.

#### Chapter 6 - CONTRIBUTION TO PEAP

- **By definition**: J/LOS is essential to the PEAP.

- **5.1 All donors interested in support to the legal sector should be encouraged to get more involved in the J/LOS Donor sub-group, to better appreciate the principles underlying J/LOS as a SWAP. The need for inter-sectoral donor co-ordination cannot be over emphasized. For example, Security Sector, or MoFPED role in highlighting proposed projects outside agreed parameters.**

- **5.2 All stakeholders in J/LOS should be encouraged to build their capacity in understanding the J/LOS concept and principles. For example, the J/LOS Donor sub-group could develop a *Nutshell Guide* to the sector with structured briefings by TA of donors who have J/LOS specialisation or from the strengthened J/LOS-wide PPU (7.4 below).**
### MTE Findings

- On the individual level: It addresses poverty reduction through addressing powerlessness. J/LOS is moving to effectively and fairly regulate power relations between individual Ugandans (enforcement of labour contracts, resolving disputes, protection from common crime etc) while protecting Ugandans from arbitrary use or abuse of power by the state (illegal arrest, corrupt law enforcement, torture etc).
- On the macro level: All areas of J/LOS reform have the potential to contribute to growth. Examples range from enhancing an individual’s productivity by reducing their time on remand - through to enhancing political stability by strengthening rule of law. J/LOS has a role in contributing to a climate favourable to foreign investors.

The SIP policy objectives, if achieved, are key to reducing the poverty and powerlessness which the PEAP aims to address.

**Δ Indications** of actual contribution of J/LOS to the PEAP are in the changes seen in Chapter 3 above. The MTE also identifies a myriad of examples of current or planned J/LOS initiatives with direct/indirect PEAP implications from reducing time on remand, case backlog, community service, legal aid, reformed land registry more efficient Commercial Court, etc.

**Δ Evidence** of the contribution of J/LOS to PEAP is dependant on evidence of actual impact in achieving SIP policy objectives, and dis-aggregation of J/LOS effects from those of other interventions such as the Accountability or Decentralisation sectors. Transformation will be slow, and although steps have been taken, the M&E system is not yet operational.

**Δ Growth** in GDP may or may not be applied to address poverty through redistributive policies. Similarly, J/LOS could effective and efficient without protecting the interests of the poor. If the poor are not enabled to access justice effectively, the system may have impressive throughput of cases - but serve only the interest of those who are informed or can afford to pay. J/LOS has focussed on the efficiency aspects in the selection of J/LOS-wide indicators and needs to reinforce this with focus on well-defined issues of quality (e.g. fairness of hearings, treatment) and accessibility of justice (e.g.

### MTE Recommendations

- The direction of the **MTE recommendations** as a whole are intended to enhance the direction of PEAP contribution: such as through increased J/LOS focus on crime prevention, evidence-based planning, strategy to combat corruption as the primary factor excluding the poor form access to justice, to enhancing ‘demand’ with public empowerment vis a vis J/LOS; and a holistic approach to civil justice reform.
- A study was recommended above to assess the **contribution of J/LOS as a whole to PEAP** including through encouraging growth (see 4.3).
- **6.1 In this chapter two recommendations are emphasised as key to PEAP:**
  a) Strengthening both demand and supply-sides and b) work with Civil Society organisations, including the private sector. To advance discussion, **draft J/LOS-CSO partnership principles** are in Annex 6. The commercial court user committee is a model to consider expanding to all of CJRP, as well as to the criminal reform range of users. These users should be identified according to issue and invited to contribute through the proposed TC working groups, the streamlined CMCs at local level, or through the proposed planning process for SIP II (Annex 9).
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<tr>
<th>MTE Findings</th>
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<tr>
<td>It is noted that the Leadership Committee is not currently involved in setting strategies to improve the efficiency of the programme.</td>
<td>7.1 The MTE recommends consideration be given to an expanded, more engaged Leadership Committee, Primary role: Champion of SIP policy objectives while remaining aloof from day-to-day management and discussions over access to funds. Would ensure move towards sector priority-setting, pro-poor low-cost solutions etc.</td>
</tr>
<tr>
<td>The Secretariat stimulates debate but lacks clear mandate to propose, initiate and catalyse or for quality assurance or M&amp;E. In practice, has been pivotal in carrying out these roles wherever possible within resource constraints.</td>
<td>7.2 Steering Committee should meet at least every two months to: give impetus to discussion of these recommendations; plan for SIP II; ensure that there is adequate flow of information between the different tiers of management and that key issues are not left pending for long periods. Consider reserving every second meeting to substantive issues only. Parallel structures should be streamlined into J/LOS SC and TC where feasible (see below).</td>
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<td>Limits of current and proposed PPU are not clear identified by officials: lack of clear ToRs, composition, capacity, reporting structures, interaction with the Secretariat, co-ordination amongst themselves, facilitation, as well as monitoring and evaluation.</td>
<td>Chapter 3 recommended a systematic process of capacity-building for J/LOS officials at all levels.</td>
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<td>7.3 There should be a single Technical Committee. Immediate action areas are proposed for TC Working groups for the short term. In the medium term, work should be organized around impact to be achieved. A small number of Working Groups can cover core issues effectively with a mechanism for close co-ordination among them. Five are proposed. A map of parameters of each theme would emerge from discussion, with most items forming natural clusters of closely related issues.</td>
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<td>6. Administration of criminal justice including preventing crime</td>
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**Chapter 7 - PROGRAMME MANAGEMENT STRUCTURE & PROCESSES**

**Management structures**

- The Leadership Committee members express interest in being more routinely briefed & involved as champions of change, working with other J/LOS management structures.

- At the working level, the Technical Committee strongly expressed the view that they have inadequate time to explore or discuss policy options for SC or Leadership Committee consideration; to focus on low-cost solutions; to engage in peer review.

- Criminal reform and CJRP will need closer coordination between the TC sub-committees to strengthen the sectoral approach; to assess needs of civil justice reform using insights from all J/LOS experience to date (including possible small claims track); as small claims idea evolves and civil justice addressed holistically; and to rationalise budgets.

- The Secretariat stimulates debate but lacks clear mandate to propose, initiate and catalyse or for quality assurance or M&E. In practice, has been pivotal in carrying out these roles wherever possible within resource constraints.

- Limits of current and proposed PPU are not clear identified by officials: lack of clear ToRs, composition, capacity, reporting structures, interaction with the Secretariat, co-ordination amongst themselves, facilitation, as well as monitoring and evaluation.
### MTE Findings

**Δ** Delay in building up the PPU's a significant constraint to the evolution of J/LOS: the SC is to be policy decision-maker, but the process of formulating policy options has been limited by delay in J/LOS-wide functioning of PPU's, dominance of financial issues on the Technical Committee agenda - and overload of Secretariat.

**Δ** CSO, private sector or academic input is limited to those invited to Joint GoU-Donor reviews by ad hoc invitation, and private sector input to commercial court user committee. Omission of the planned SIP Forum and changes to the concept of the National Council mean that there is a notable lack of structured, routine, independent input from civil society advocates into J/LOS priority-setting, planning, or M&E such as from Women’s groups or CSOs working on poverty issues. A number of factors: CSOs, even those directly concerned with J/LOS (such as through legal aid service provision) are poorly informed regarding how J/LOS works and how to influence it. In addition, they need a stronger understanding of their own role representing their indigent clients in J/LOS deliberation processes, addressing issues at a systemic level. However, the current situation does not reflect the intentions agreed in the SIP, nor the general GoU-Donor Partnership Principles or the specific J/LOS Partnership Principles of 2001.

J/LOS would benefit from enhanced civil society, including private sector, input in seeking to meet the SIP policy objectives. Active recognition is needed that J/LOS officials at all levels are public servants and should expect to be transparent with, and accountable to, the public.

### MTE Recommendations

7. Preventing torture (including conditions of detention, prison farms etc)
8. Administration of civil justice (‘roll out’) including commercial:
9. Finance and Budgeting
10. Monitoring and Evaluation

Each Working Group would integrate cross-cutting issues and prioritise ten approaches identified by the MTE as stimulants to J/LOS success. The core membership would be the PPU’s of J/LOS institutions and senior staff at Under Secretary Level with representatives of other linked sectors, staff representatives of institutions etc. Membership would also be actively encouraged for those with a relevant substantive contribution to make (from UHRC, private sector, civil society, academia, users, representatives of local government, conflict areas, victims of crime) to encourage accountability and transparency. It is proposed to have open WG sessions where members of the public are invited to engage in meaningful discussion and feedback sessions with the Sector.

The WGs would be closely mentored by the strengthened Secretariat. To energise the process at the new WG level, capacity needs to be built. Consideration should be given to developing the capacity of the Working Group on M&E to support the other Working Groups in turn. CSO capacity also needs to be built to make an effective contribution. The strengthened Secretariat and PPU’s should conduct outreach to inform and engage CSOs so as to develop effective interaction (see also planning process Annex 9).

▶ 7.4 A permanent sector-wide PPU is recommended. Staffing to comprise at least four senior substantive posts created from cleared posts pooled by the institutions; and staff seconded from institutional PPUs on a rotating basis. It is recommended to be independent: located within MoJCA, reporting to all members of the SC, and de-linking to be explored with MoFPED.

Functions:
- Monitor and evaluate implementation
- Provide policy and research services to Steering Committee, Technical Committee as well as Leadership Committee
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<th><strong>MTE Findings</strong></th>
<th><strong>MTE Recommendations</strong></th>
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<td>• Support programme and financial oversight</td>
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<td>• Follow-up decisions and oversee implementation of undertakings</td>
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<td>• Mentor PPU and new thematic Working Groups of TC</td>
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<td>• Lead J/LOS outreach to public, other sectors and all secondary stakeholders</td>
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<td>• Lead preparation of Forum every 3 years synchronized with MTEF (see Annex 9)</td>
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<td>• Ensure quality assurance from human rights based perspective</td>
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<td>• Ensure co-ordination, co-operation and communication with local level staff and communities</td>
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It is recommended that in the Working Group on M&E the PPU would meet regularly. Their role includes supporting J/LOS-wide PPU in all aspects of the sector:

• Monitoring and evaluation of sector programs
• Analysing and submitting technical reports on programs
• Collecting and analysing data relating to program
• Conducting feasibility studies
• Analysing budgets and budgetary trends
• Identifying, evaluating and designing new initiatives

The training needs of PPU include training in generic competencies like policy advice, management functions etc but also needs to fully integrates the human rights basis for J/LOS.

➤ **7.5** It is recommended that the SIP National Forum be re-vitalized and planned for 2005 as part of the SIP II planning process (see Annex 9). It would form part of a three-year planning process linked to MTEF and have a preparation lead-in of at least a year. The monitoring and evaluation tools/processes would be scheduled to inform the Forum debate. This an opportunity to raise the J/LOS profile and build an external constituency for sustainability of reform.

➤ **7.6 Local level**: streamlining parallel structures should be addressed at
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<th><strong>MTE Findings</strong></th>
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<td><strong>Key Management Processes</strong></td>
<td>National as well as local levels. Consideration should be given to up-dating the aims, composition and working methods of the CMCs at local level. This would need to be done as part of the recommended closer local monitoring &amp; accompaniment recommended in chapter 3.</td>
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<td>△ J/LOS needs strong emphasis on evidence-based decision-making as:</td>
<td><strong>7.7 Planning process</strong> It is recommended that through the proposed planning process in Annex 9, J/LOS plan for SIP II to:</td>
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<td>• Rational basis for resource allocation</td>
<td>a) Increase systematic input from independent voices at national/local levels.</td>
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<td>• To show impact, especially contribution to PEAP so as to convince MoFPED, the Cabinet etc of the merits of supporting J/LOS reform process.</td>
<td>b) Plan SIP II by sectoral, rather than institutional priorities.</td>
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<td>• To inform and motivate J/LOS staff</td>
<td>c) Prioritise low-cost, such as a strategy for prevention of crime (see Annex 4 for examples of such urgently needed low-cost steps)</td>
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<td>• To inform the public and to strengthen the ‘demand’ side for J/LOS reform</td>
<td>d) Increase attention to inter-sectoral co-ordination and opportunities for efficiency savings through collaboration (chapter 4).</td>
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<td>• To encourage donors and their taxpayers to maintain support for J/LOS.</td>
<td>△ In the context of the overall success of the initial period of the ‘Three Cs’ outlined above, the MTE finds <strong>key areas</strong> where J/LOS needs to strengthen: priority setting; evidence based planning; peer review and mutual accountability</td>
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**Chapter 8: FINANCIAL MANAGEMENT STRUCTURE & PROCESSES**

△ Overall, J/LOS faces constraints inherent in working within GoU systems. Efforts to increase J/LOS profile as a core poverty-reducing sector have yielded some results: J/LOS profile in World Bank PRSC process enhanced; PAF protection announced for the next financial year. | △ **Enhanced profile** of the sector as a core poverty-reducing sector is needed. Chapter 6 recommended a study of the actual and potential effects of J/LOS on growth, as well as contributing to the framework in which broad based economic growth enhances equality. |
| △ Initially most institutions lacked strategic plans; and PPU. The absorption capacity of the sector has progressively increased through sustained effort. | △ **8.1 J/LOS should** marshal **constituencies** committed to the importance of its reforms from the private sector to local communities; and systematically |
### MTE Findings

△ The Secretariat has been **under-staffed in financial mgt** but has coped well (as evidenced by the regular Budget Framework Papers, financial Narrative reports and clean annual audits).

△ GoU financial accounting and audit systems are in place according to the financial study. Weaknesses still lead to high **fiduciary risk** for budget support especially in areas of non tax revenue and non rationalization of budgets.

△ Donors and GoU need: **assurance** on processes and procedures in place to manage the successful implementation of the SIP and value for money in terms of end-user benefits.

### MTE Recommendations

lobbying in the legislative and budgeting processes. Interlinked recommendations include public awareness-raising; streamlining of parallel structures at local level; wider participation in TC Working Groups, and Annex 9 regarding participatory planning process.

- **8.2** Specifically, it is recommended that J/LOS and donors continue seeking enhanced dialogue with **MoFPED**: for PAF protection to be carried forward for the medium term; to improve disbursements; to enhance inter sectoral linkages with PPDA on specialized training for contracts staff in J/LOS; and to ensure more regular sittings of the contracts committees.

- **8.3** The strategy for the **financial management system** should be strengthened by: ending delay in recruitment of the financial management specialist and accounting officers; aligning the structure for the implementation of the strategy with the existing, and then recommended, J/LOS structure; and focus on currently neglected low-cost procedures identified by the Financial Baseline.

### Chapter 9 - MONITORING & EVALUATION

Current J/LOS M&E is considered: **structures; indicators and tools**; as well as processes.

**Structures**

△ The role of Secretariat, District Level Access to Justice Committees, National Forum and parallel structures. MTE findings reflect those in chapter 7.1 regarding management structures.

**Indicators and Tools**

△ SC adopted J/LOS sector-wide indicators for monitoring progress against three thematic areas of *Access to Justice, Efficiency and Effectiveness and Quality of Justice*. Some of the indicators have agreed baselines and targets to match (annex 7). The intended reporting against these has not been

- **9.1** The development of a sectoral M&E system should be a major undertaking in the second half of implementing the SIP. This chapter recommends strengthening the structures, indicators, tools and processes. This is not only to improve the supply of appropriate data to management - but to **improve the use of that data** for evidence-based planning (Annex 9).

- **Key recommendations for strengthening management structures** are in chapter 7. Of particular importance here: streamline **Parallel structures**: strengthen PPU s., and enhance a J/LOS-wide PPU.

- **9.2** Sector-wide **indicators** need to be comprehensively strengthened using Volume II as a guide to the meaning of the terms used in the SIP policy objectives. The capacity-building recommended for J/LOS PPU s should
### MTE Findings

implemented. Key factors in the delay were discussed in chapter 7.1 regarding the need to strengthen PPU’s and over-burdened Secretariat.

**Δ** More discussion needed regarding indicators selected: Accurate parameters, content and consistent use of each of the three themes is essential. Indicators should provide a holistic picture. The chosen indicators a) are not sector-wide but focus on areas where performance is intended to improve. Unintended effects on other parts of justice system would be missed; b) They are not adequate or comprehensive for the SIP policy objectives e.g no indicators for the conditions or treatment of prisoners and c) other indicators need to be combined so as to minimise the risk of perverse incentives e.g an exclusive focus on throughput can enhance incentives for corruption or arbitrary arrests.

**Δ** Improving information systems and institution-level use of indicators is also a long process. Progress shown in June 2004 with institutions increasingly reporting against institutional indicators. **Key issues:** accuracy and comprehensiveness of reports uncertain due to poor data systems; self-reporting by the institutions with limited peer review of their content.

**Processes**

**Δ** Creative and positive evolution of Joint GoU-Donor reviews, including field visits; new donor-institutional partnerships.

### MTE Recommendations

include developing agreed sector-wide indicators (chapter 7); up-dating of baseline survey questions etc to match the agreed sector-wide indicators.

- **Self-assessment** should be combined with J/LOS PPU having a clear role in verifying data, encouraging self-critical analysis through peer review and collective performance standards i.e sector-wide indicators. Such a process requires close mentoring and accompaniment by the J/LOS PPU with capacity and resources to match (see chapter 7).

- **Streamline complaints procedures:** for a simple, cheap, accessible complaints procedure which effectively and independently processes complaints against any J/LOS actor (covering J/LOS actions and omissions); or channels it appropriately. Such a system needs to be widely publicised and designed so as to function as an aid to J/LOS reform; combined with staff incentives and disciplinary procedures. One option is for a pilot to be developed in which UHRC monitors performance of a streamlined J/LOS complaint mechanism (see chapter 3).

- **M&E from local through to national level needs to be designed to facilitate structured input from voices of the poor, advocacy groups including the private sector** etc. This should encourage local level ownership and supervision of the J/LOS reform process. Specific related recommendations: streamline current parallel structures at local level; enhance J/LOS officials’ vertical communication; streamline complaints system for public and participatory planning process (Annex 9).

- **Field visits** should be used by strengthened TC Working Groups, and user committees expanded to other areas of J/LOS from CJRP (chapter 3).

- **9.3 GoU-donor undertakings:** more advance consideration and debate could enhance quality of implementation of the Undertakings ultimately made.

- **9.4 It is recommended** that sustained high level engagement by MoFPED be sought by other Ministries as a key to the utility of Joint reviews.